

**SUMTER COUNTY BOARD OF COMMISSIONERS  
EXECUTIVE SUMMARY**

**SUBJECT:** Road and Fire Impact Fee Review Hearing for Florida Grande Motor Coach Resort, Inc. (Board's option).

**REQUESTED ACTION:** **Board determination of appropriate imposition and collection of road and fire impact fees for Florida Grande Motor Coach Resort**

Work Session (Report Only)    **DATE OF MEETING:** 12/8/2009  
 Regular Meeting                       Special Meeting

**CONTRACT:**  N/A    Vendor/Entity: \_\_\_\_\_  
Effective Date: \_\_\_\_\_    Termination Date: \_\_\_\_\_  
Managing Division / Dept: Planning

**BUDGET IMPACT:** \_\_\_\_\_  
 Annual                      **FUNDING SOURCE:** \_\_\_\_\_  
 Capital                      **EXPENDITURE ACCOUNT:** \_\_\_\_\_  
 N/A

---

**HISTORY/FACTS/ISSUES:**

On November 4, 2009, the County received a request from David R. Brittain, on behalf of Florida Grande Motor Coach Resort, Inc. (Developer), for a review hearing with the Board regarding the imposition of County road impact fees for the Florida Grande Motor Coach Resort (Project) located in the City of Center Hill. This request is made pursuant to Section 20-47 of the County's Road Impact Fee Ordinance.

On November 10, 2009, the Board set the review hearing for December 8, 2009, for road and fire impact fees. In order to allow the Developer to move forward with the construction of the clubhouse and associated amenities, the Board approved for the Developer to pay the road impact fees for Phase I of the Project (215 lots) under protest (\$74,510.40) and fire impact fees for the Project's clubhouse not under protest (\$13,464). On November 12, 2009, the Developer paid the County, under protest, \$74,510.40 in road impact fees and \$13,464, not under protest, in fire impact fees for the clubhouse and received their building permit.

On November 23, 2009, Mr. Arnold, County Administrator, Mr. McAteer, Hogan Law Firm, County Attorney, and Diane Lamb, Center Hill City Clerk, met with representatives of the Developer to discuss development of a potential road and fire impact fee agreement to resolve the dispute. The result of the meeting was for the County to prepare, by December 2, 2009, a proposed road and fire impact fee agreement for consideration by the Developer. The proposed road and fire impact fee agreement was completed by County staff on December 2, 2009, and transmitted to the Developer.

The proposed road and fire impact fee agreement is attached for the Board's consideration. The following provides a brief summary of the agreement:

1. The Project is a subdivision under Florida Statutes;
  2. The County's road impact fee ordinance provides that the obligation to pay road impact fees runs with the land;
-

3. The County's fire impact fee ordinance allows for the collection of unpaid fire impact fees as authorized by law;
4. The Developer shall pay the County a road impact fee of \$571.00 for each lot sold after the effective date of the agreement (the road impact fee rate is the current road impact fee rate that went into effect on October 12, 2009);
5. The Developer shall provide the County with monthly reports of lot sales to confirm payment of road impact fees;
6. The Developer is released of the obligation of paying the road impact fees for lots sold prior to the effective date of the agreement, since the obligation for payment of the road impact fees runs with the land;
7. The County shall pursue collection of the road impact fees from the current owners of lots sold prior to the effective date of the agreement at the rate of \$346.56 (road impact fee rate in effect at the time of the platting of the subdivision in 2007);
8. The \$74,510.40 of road impact fees paid by the Developer under protest is refunded to the Developer, in full, without accrued interest subject to the condition: the clubhouse shall only be used by lot owners and their invited guests and not rented out to third parties;
9. Fire impact fees shall be assessed for accessory structures (i.e. "Grand Suites") that include a connection to a wastewater disposal system. For accessory structures already permitted and constructed, the County will pursue collection of fire impact fees against the current lot owner;
10. The County and Developer agree to hold each other harmless from future liability and grant a release for any liability stemming from paid or unpaid road or fire impact fees.

As of December 2, 2009, at 12:00 p.m., staff has not received confirmation from the Developer that they agree to the proposed road and fire impact fee agreement. If the Developer agrees and executes the proposed road and fire impact fee agreement prior to or at the December 8, 2009, Board meeting, then the hearing process is not necessary and the only required action of the Board is to execute the proposed road and fire impact fee agreement. However, if the Developer does not agree to the proposed road and fire impact fee agreement, then the Board will need to hold the hearing.

If the hearing is held, staff's recommendation is for the Board to impose the road and fire impact fees consistent with the proposed road and fire impact fee agreement.

---

Prepared by:  
Derrill L. McAteer, Esq.  
The Hogan Law Firm  
20 South Broad Street  
Brooksville, FL 34601

Return to:  
Sumter County Administration  
Attn: Ms. Tina Chavez  
910 North Main Street  
Bushnell, FL 33603

---

Space above this line for recording purposes only.

## **FLORIDA GRANDE MOTOR COACH INC.**

### **ROAD AND FIRE**

#### **IMPACT FEE AGREEMENT**

**THIS IMPACT FEE AGREEMENT** (“Agreement”) is made and entered into this \_\_\_\_\_ day of December, 2009 (“Effective Date”), by and between **FLORIDA GRANDE MOTOR COACH, INC.**, whose address is 200 Second Street South, Number 463, St. Petersburg, FL 33701 (hereinafter called “Developer”), and **SUMTER COUNTY**, a political subdivision of the State of Florida, whose address is 910 North Main Street, Bushnell, Florida 33513 (hereinafter called the “County”).

#### **RECITALS**

**WHEREAS**, on or about February 12, 2007, at Plat Book 9, Page 31 of the Public Records of Sumter County, the Developer recorded a 499 lot plat for a Recreational Vehicle Park subdivision in the incorporated boundaries of the City of Center Hill (the “Subdivision”), the lots in which have been or shall be sold to third parties in fee simple and;

**WHEREAS**, “Phase I” of the Subdivision consists of 215 lots, with the remainder of the lots designated as “Phase II”, and;

**WHEREAS**, subsequent to the recording of the plat, the City of Center Hill and Sumter County agreed via execution of an Interlocal Service Boundary Agreement that all building services for the City of Center Hill shall be administrated by Sumter County, and;

**WHEREAS**, pursuant to Section 20-54 of the Sumter County Code in effect at the time the Subdivision was developed, and Sections 20-42 and of the current Sumter County Code, the obligation to pay road impact fees runs with the land, and;

**WHEREAS**, as to Fire Rescue Impact Fees, Section 8-43(c) of the Sumter County Code states “In the event the fire rescue fees are not paid prior to the issuance of a building permit for the affected fire rescue impact construction, such fees shall be collected at the

issuance of a certificate of occupancy or by any other method which is authorized by law, unless otherwise exempted pursuant to this article”, and;

**WHEREAS**, on or about October 1, 2009 the Developer applied for a building permit to construct a clubhouse, which triggered a review of the Subdivision’s permit history by Sumter County and the discovery that, contrary to Sumter County’s Road and Fire Rescue Impact Fee ordinances, no road or Fire Rescue Impact Fees had been paid to the County at the time the Subdivision was developed, and;

**WHEREAS**, Sumter County has attempted to collect the Road Impact Fee component of the unpaid fees, and;

**WHEREAS**, under protest, the Developer has paid the County \$74,510.40 in road impact fees so that construction of the Subdivision’s clubhouse and amenities associated therewith could continue unabated until an administrative hearing before the Sumter County Board of County Commissioners could be held; and;

**WHEREAS**, this agreement is intended to resolve all disputes between the parties and establish a payment schedule by which Sumter County recoups all unpaid impact fees related to the project.

**NOW THEREFORE**, accepting the above recitals as true and incorporating them as if stated herein, and in consideration of the mutual covenants herein contained and other good and valuable consideration, the parties agree as follows:

**Section 1. Acknowledgement of Subdivision Status:**

The County hereby acknowledges and agrees that the Subdivision meets all requirements for a subdivision as that term is defined by Florida Statutes.

**Section 2. Reimbursement of Road Impact Fees:**

As to Road Impact Fees, the Developer shall pay to the County the amount of \$571.00 upon the sale or rental of each lot in the Subdivision which occurs after the Effective Date of this Agreement. The Subdivision shall provide the County with monthly reports concerning the number of lots sold or rented to third parties. As to lots already sold or rented to third parties in the Subdivision for which a Road Impact Fee has not been paid as of the Effective Date of this Agreement, Sumter County shall assess the unpaid fee at the rate of \$346.56 against the fee simple owner for each individual lot. Failure to pay the assessed fee shall result in the recordation of liens and the County shall otherwise pursue all remedies available at law related to collection of the unpaid fee. The \$74,510.40 paid to the County “under protest” on or about November 12, 2009 shall be refunded in full to the Developer without accrued interest, so long as the Developer agrees that the clubhouse shall be used only by Subdivision owners and their invited guests and shall not be rented out to third parties for events which have no relationship or connection to lot owners or renters.

**Section 3. Reimbursement of Fire Rescue Impact Fees:**

Each lot in the Subdivision upon which an accessory structure of any sort has been constructed that contains an integrated toilet or urinal or is otherwise connected to a sewer, cistern, or septic system shall be assessed Fire Rescue Impact Fees pursuant to and in accordance with the fee schedule found in Section 8-42 of the Sumter County Code. As to structures already permitted or fully constructed and/or occupied, the County shall assess the Fire Rescue Impact Fee against the fee simple landowner of record as of the Effective Date of this Agreement.

**Section 4. Release:**

Upon the parties' agreement to the covenants stated herein, as evidenced by mutual execution of this Agreement, and to the extent not conflicting with the terms stated herein, the County and the Developer agree to hold each other, their agents, officers, elected officials and employees harmless from future liability and hereby grant a release, each to the other, for any liability stemming from paid or unpaid Fire Rescue Impact Fees or Road Impact Fees.

**Section 5. General Provisions**

1. The effective date of this Agreement is the date upon which the Agreement is executed by the County;
2. Any notice or demand that must or may be given or made in connection with this Agreement must be in writing and will be delivered by personal delivery, or when mailed by certified or registered mail, return receipt requested, addressed to the parties as follows:

**DEVELOPER:**

**COUNTY:**

Sumter County  
Attn: Mr. Bradley Arnold  
County Administrator  
910 North Main Street  
Bushnell, FL 33513

3. The parties agree that venue and jurisdiction for any disputes arising out of this entire Agreement shall only be in a court of competent jurisdiction in Sumter County, Florida.

4. The parties warrant that the undersigned have read and fully understand this Agreement, have sought the advice of counsel, and have full authority to bind their respective party.
5. If any provision of this Agreement shall be found inconsistent with state, local or federal law, that provision shall be considered severed and the remain provisions shall remain binding upon the parties.

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement on the day and year above first written;

**GLORIA HAYWARD  
CLERK OF THE COURT  
OF SUMTER COUNTY, FL**

**BOARD OF COUNTY COMMISSIONERS  
SUMTER COUNTY, FLORIDA**

**ATTEST:**

\_\_\_\_\_  
Douglas Gilpin, Chairman

\_\_\_\_\_  
Deputy Clerk

**FLORIDA GRANDE  
MOTOR COACH, INC.**

\_\_\_\_\_  
**By:** \_\_\_\_\_

**Its:** \_\_\_\_\_

**Notary to be inserted.**

November 4, 2009

*Via Electronic Mail  
and FedEx*

Brad Cornelius, AICP  
Planning Manager  
Sumter County  
910 N. Main Street, Suite 301  
Bushnell, FL 33513

RE: Florida Grande Motor Coach Resort, Inc.  
--- Impact Fees Claimed By Sumter County, Florida  
Our File No. 07-2034

Dear Mr. Cornelius:

This firm represents Florida Grande Motor Coach Resort, Inc. ("**Florida Grande**") in connection with the above matter. Please let this letter serve as the request for a review hearing described in Section 20-47 of Sumter County Ordinance 2009-14.

Florida Grande, whose contact address is 200 2<sup>nd</sup> Avenue South, #463, St. Petersburg, Florida 33701; attn: Mr. Bill Maloney, is the developer of Florida Grande Motor Coach Resort, a development of 499 platted subdivision lots which have been designed for recreational vehicle use and are being marketed for sale in fee simple to consumers (the "**Project**"). The project is located at 9750 SE 48<sup>th</sup> Street, City of Center Hill, Sumter County, Florida 33514 and is legally described in Exhibit "A" attached to this letter. Approximately 220 of these 499 lots have already been sold to consumers as of this date.

We understand from our discussions with Florida Grande and its consultants that Sumter County has advised it that it owes approximately \$173,000 in lump sum, County-mandated transportation impact fees, in addition to fees and expenses that Florida Grande has paid under a Development Agreement with the City of Center Hill. We further understand that the County bases the claim for impact fees on the terms of Ordinance No. 2009-14, which was adopted by the BOCC on July 14, 2009.

To summarize the background facts, although the Project was annexed into the City of Center Hill in 2006 and the City has performed most of the permitting and inspections until recently, Sumter County has been well aware of the various steps in development Project since

its inception. For example, in or around late 2005 or early 2006, the BOCC heard a petition at one of its meetings regarding acceptance of the Project into unincorporated Sumter County. The county planning director at the time was involved in those discussions. However, the BOCC made no decision at that hearing because Florida Grande had elected to allow the annexation of the Project into the City of Center Hill, thereby eliminating the need for county involvement. In numerous other ways since the inception of the Project, Sumter County has been made aware of the permitting status of the Project, as well as the activities of Florida Grande and the City of Center Hill in issuing the permits.

In or around March, 2006, the then-President of Florida Grande, Mr. David Peterson, negotiated a Developer Agreement with the City of Center Hill to allow the project to proceed. In connection with that agreement, the City permitted Florida Grande to pay a lump sum of \$200.00 in connection with the sale of each residential lot in the Project (to date, resulting in payments totaling approximately \$40,000 to the City), along with a lump sum payment of \$50,000, to be used for City improvements as determined by the City Council upon application for the first building permit submitted. The City subsequently issued multiple building permits to Florida Grande, including an initial permit for construction of the clubhouse (CH2006) on August 8, 2006. The City thereafter issued permits for construction of improvements to each lot as the lots were sold. In each case, Florida Grande remitted the sum of \$200.00 to the City in accordance with the Development Agreement.

The City of Center Hill informed Florida Grande that, effective on October 1, 2009, it outsourced all building inspections within its limits to Sumter County. Unfortunately, the clubhouse building permit that had initially been issued to Florida Grande had expired, so Florida Grande applied to Sumter County for a new building permit. Review of the clubhouse permit progressed normally through the County and Florida Grande's contractor attempted to pick up the permit.

At that time, however, the County informed Florida Grande that although its new impact fee ordinance, Ordinance No. 2009-14, applied to the Project, rather than require payment of the new impact fee of \$571.00 per lot it would collect impact fees at the rate under the previous ordinance of \$347.00 per lot. However, the County stated that it would require lump sum payment of the *entire impact fee based on all 499 lots in the Project* (totaling approximately \$173,000) as a condition of issuing the new clubhouse building permit. This application of the impact fee is a major shock to Florida Grande (particularly in view of the history outlined above) and will significantly disrupt both its construction program and Project financing.

Florida Grande therefore respectfully files this request for hearing review by the BOCC by reason of its disagreement with the application or calculation of road impact fees, as provided in Section 20-47 of the Ordinance. At the outset, we want to be clear that Florida Grande believes that, legally, it and the Project are exempt from the Ordinance or, alternatively, that

Sumter County has waived or is estopped to collect any impact fees against it or the Project by virtue of (1) the Development Agreement, (2) the actions of the City of Center Hill, and (3) the knowledge of the County and its employees of the foregoing as well as County participation in other ongoing development and sales activities of Florida Grande. Moreover, during the period from May 15, 2007 to the present, Florida Grande has been the subject of a reorganizing bankruptcy under Chapter 11 of the federal Bankruptcy Code (Middle District of Florida Bankruptcy Court, Case No. 07-bk-04022-CPM), previous to which filing approximately 59 lots already had been sold to consumers. Even assuming that impact fees to Sumter County were due, the confirmation of Florida Grande's Chapter 11 Plan of Reorganization on June 26, 2008 (as modified by Orders of December 31, 2008 and August 31, 2009) would have discharged the impact fees payable with respect to all lots sold prior to the bankruptcy.

However, Florida Grande, in the interest of maintaining a cooperative and amicable relationship with Sumter County, would be willing to accept a determination of the BOCC with respect to County impact fees due under the following reasonable parameters:

1. The fees would be calculated at the rate of \$347.00 per lot applicable under the former Sumter County impact fee ordinance, rather than the \$571.00 per lot that is applicable under the new ordinance.

2. With respect to unsold lots still owned by Florida Grande, it would collect the impact fees for each lot at closing of sale, based on the old impact fee ordinance rate, consistent with Florida Grande's current practice of collecting fees for the City. However, Sumter County would waive collection of all the impact fees at the old or new impact fee ordinance rates from all lot owners who have already closed and accepted a deed to their lots. This would affect approximately 220 lot owners as of this date, who would be hurt by imposition of the unexpected impact fees and have already paid, at their closings, a \$200.00 per lot sum to the City of Center Hill, as mentioned above.

3. Sumter County would issue a building permit for the resort clubhouse and any other on-site amenities, without payment of any impact fees at time of issuance, since these facilities are non-residential, used only inside the park by park residents, and therefore have no net "impact" on transportation infrastructure. These are not appropriate "triggering" events for transportation impact fees. Collecting impact fees on a "pay-go" basis in connection with sales of lots protects the reasonable interests of both Florida Grande, which may not be able to sell many additional lots during the current recession economy (or sell them very slowly), and Sumter County, which will eventually receive the impact fees in time to cover actual transportation impacts generated by actual lot sales.

The above is a good faith proposal to resolve the current difference of opinion between Florida Grande and Sumter County that attempts to do justice to both sides. It also recognizes

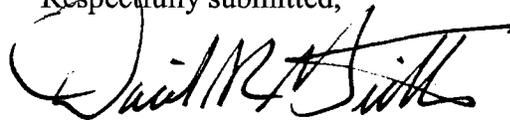
Brad Cornelius, AICP  
November 4, 2009  
Page 4

---

the substantial out-of-pocket expense that Florida Grande that has incurred to date in the form of payments to the City of Center Hill (approximately \$90,000.00) and off-site traffic improvements constructed by Florida Grande in front of the project (turn-lane work and related improvements costing approximately \$200,000.00). The total of these costs to date is more than \$290,000.00.

If Sumter County is unwilling to accept the above interpretation for application of its impact fee ordinances, then Florida Grande reserves its legal rights with respect to the validity and application of the impact fee ordinance.

Respectfully submitted,



David R. Brittain  
Trenam Kemker  
101 E. Kennedy Boulevard  
Suite 2700  
Tampa, Florida 33602  
Attorneys for Florida Grande

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

PARCEL 1:

Lots 1 through 499, inclusive, of FLORIDA GRANDE MOTOR COACH RESORT, as depicted on the Plat thereof as filed in Plat Book 9, Pages 31, 31A to 31U, inclusive, of the Public Records of Sumter County, Florida

And

PARCEL 2:

Tracts identified as Tracts "A" through "H", inclusive, and "J" through "N", inclusive, and "P" through "V", inclusive, of FLORIDA GRANDE MOTOR COACH RESORT, as depicted on the Plat thereof as filed in Plat Book 9, Pages 31, 31A to 31U, inclusive, of the Public Records of Sumter County, Florida, and as further described in the Declaration of Covenants, Conditions and Restrictions of FLORIDA GRANDE MOTOR COACH RESORT, recorded at Official Records Book 1720, Page 429, as amended.

TOGETHER with all easements appurtenant to the above-described property created by that certain Easement and Use Agreement recorded in Official Records Book 1720, Page 410, of the Public Records of Sumter, County, Florida.