

**CITY OF JACKSONVILLE
MOBILITY FEE AND CREDIT
CONTRACT**

(Eisenhower/Braddock)

Chapter 655, Part 5, *Ordinance Code*

THIS MOBILITY FEE AND CREDIT CONTRACT (the “Contract”) is filed with the City of Jacksonville and is entered into on this _____ day of _____, 2023, between the **CITY OF JACKSONVILLE**, a municipal corporation and a political subdivision of the State of Florida in Duval County (“City”) and **EISENHOWER PROPERTY GROUP, LLC**, a Florida limited liability company (“Developer”) herein collectively referred to as “the Parties.”

BACKGROUND FACTS and EXHIBITS

- A. Developer has proposed to commence a development as more specifically described herein and located on real property described in **Exhibit “A”** attached hereto (the “Property”).
- B. The Property is subject to Site-Specific Policy 4.3.18 of the Future Land Use Element of the City’s Comprehensive Plan (the “Policy”).
- C. Pursuant to the Policy, Developer may develop a maximum allowed residential density of 2,350 dwelling units and a maximum allowed non-residential intensity of 700,000 square feet on the Property (the “Proposed Development”).
- D. The Mobility fee applicable to the Proposed Development through the term of this Contract is \$10,003,367.00, as set forth in Mobility Fee Calculation Certificate number 118541.0, attached hereto as **Exhibit “B,”** obtained by the Developer (the “Mobility Fee”). The Mobility Fee is subject to annual inflation adjustments beginning one year after the Effective Date of this Contract based on the then most recent edition of Transportation Costs published by the Florida Department of Transportation (“FDOT”), Office of Policy Planning, and updated periodically.
- E. In connection with the approval of the companion PUD rezoning Ordinance 2023-658-E for the Proposed Development (attached hereto as **Exhibit “C”**), Developer has agreed to the transportation conditions set forth in **Exhibit “F”** attached hereto. The Mobility Fee creditable improvements for the Developer (the “Improvements”) consist of: (i) the conveyance to the City, in an instrument satisfactory to the City, at no cost to the City, of that portion of the Property needed for a future 4-lane extension (with landscaped median, safety shoulders, multi-use path, sidewalk and appropriate drainage and stormwater management facilities) of Braddock Road from its current intersection with Lem Turner Road to the eastern boundary of the Property, as generally shown on the PUD Site Plan (attached hereto as **Exhibit “G”**) (the “Braddock Road East”); (ii) the planning, design, surveying, construction inspection, permitting, and construction of 2 lanes with appropriate drainage, safety shoulder and multi-use path and all sidewalk connections or crossings necessary to access the multi-use path of Braddock Road East, to City standards as determined by the City Traffic Engineer; (iii) the planning, design, surveying, construction inspection, permitting, and construction of those improvements to the intersection of Lem Turner Road and Braddock Road identified by the Intersection Control Evaluation Analysis required in **Exhibit “C”** and as submitted to and approved by FDOT (the “ICE Analysis”), and

(iv) the conveyance to the City, in an instrument satisfactory to the City, at no cost to the City, of any portion of the Property fronting Braddock Road west of Lem Turner Road that is necessary for the construction of those improvements to the intersection of Lem Turner Road and Braddock Road identified by the ICE Analysis. The conveyance to FDOT of any portion of the Property fronting Lem Turner Road is not creditable.

- F. Braddock Road East from Lem Turner Road to Gold Star Family Parkway is a Mobility System Project as shown in the Jacksonville Comprehensive Plan Capital Improvement Element, pursuant to Ordinance 2023-656-E. As a Mobility System Project (“MSP”), pursuant to Section 655.507, *Ordinance Code*, no action is required by the City Council for approval of the land acquisition for this project. A traffic study of the Proposed Development is attached hereto as **Exhibit “D.”**
- G. Pursuant to Section 655.507, *Ordinance Code*, the Developer is eligible for credit against the Mobility Fee in an amount equal to the value of the Property conveyed for the Improvements, and the cost of the planning, design, surveying, construction inspection, permitting and construction of the Improvements (the “Improvement Costs”).
- H. The Developer is entitled to credit against the Mobility Fee in the amount of the value of the Improvement Costs (the “Mobility Fee Credit”). The amount of the value of the Mobility Fee Credit shall be determined by i) the average of two MAI appraisals by MAI appraisers chosen by agreement of the Parties, as to those portions of the Property conveyed for the Improvements, ii) the then current FDOT Construction Cost Indicator Report, as to the cost of the planning, design, surveying, construction inspection, permitting and construction of the Improvements, and iii) actual receipts, as to any Improvement Cost that cannot be valued by either an MAI appraisal or the then current FDOT Construction Cost Indicator Report, for review and approval by the Public Works Department. Valuation shall occur at the time of conveyance of Property, and at the time any Improvement is built and accepted, or platted and secured by a surety bond or irrevocable letter of credit or combination thereof for completion of construction.
- I. A sample Memorandum of Mobility Fee and Credit Contract that will be recorded is attached hereto as **Exhibit “E”**.
- J. The Mobility Fee collected by the City from the Developer and its successors and assigns will be placed by the City in an exclusive account (the “Braddock/Lem Turner Capacity Improvements Fund”) to be utilized by the Developer, City, and/or FDOT to fund the following improvements for a period of twenty (20) years, after which any remaining funds shall be returned to the appropriate Mobility Zone Fund. The funds within the Braddock/Lem Turner Capacity Improvements Fund shall be utilized only for: (i) the planning, design, surveying, construction inspection, permitting, and construction of the Braddock Road East; and (ii) the planning, design, surveying, construction inspection, permitting, and construction of those improvements to the intersection of Lem Turner Road and Braddock Road identified by the ICE Analysis.
- K. The PUD Site Plan is attached as **Exhibit “G.”**

NOW THEREFORE, based upon the foregoing recitals and in consideration of the commitments herein and the performance thereof, the City and Developer agree as follows:

1. **INCORPORATION OF RECITALS AND EXHIBITS.** The foregoing recitals are true and correct and, by reference, are incorporated into this Contract. The applicable Exhibits of this Contract, as listed above, are attached hereto, and incorporated herein

by reference.

2. **PURPOSE.** The City and Developer desire to enter into this Contract in order to memorialize the intent to provide a Mobility Fee Credit awarded pursuant to Sec. 655.507, *Ordinance Code*.
3. **DEFINITIONS.** The terms used in this Contract which are defined in Chapter 655, *Ordinance Code*, shall have the same meaning as provided therein. The terms used in this Contract which are not defined in Chapter 655, *Ordinance Code*, are defined as follows:
 - (a) *Designated Transferee* shall mean the recipient of all or a portion of the Developer's Mobility Fee Credit pursuant to Section 655.507, *Ordinance Code*, that will be applied to a development project.
 - (b) *Department* shall mean the Planning & Development Department.
 - (c) *Director* shall mean the Director of the Planning & Development Department.
4. **TERM.** The term of this Contract is twenty (20) years; provided, however, the Mobility Fee Credit received by the Developer pursuant to this Contract is perpetual and shall not expire.
5. **MOBILITY FEE CREDIT.** Following the execution of this Contract, the Mobility Fee Credit will accrue pursuant to Section 655.507, *Ordinance Code*, as follows: (a) upon the Developer's conveyance, in an instrument acceptable to the City, and at no cost to the City, of that portion of the Property required for the Braddock Road East; (b) each time that a portion of the Braddock Road East is built and accepted, or platted and secured by a surety bond or irrevocable letter of credit or combination thereof for completion of construction; (c) when those improvements to the intersection of Lem Turner Road and Braddock Road identified by the ICE Analysis are built and accepted, or platted and secured by a surety bond or irrevocable letter of credit or combination thereof for completion of construction; and (d) if applicable, upon the Developer's conveyance, in an instrument acceptable to the City, and at no cost to the City, of any portion of the Property fronting Braddock Road that is necessary for the construction of those improvements to the intersection of Lem Turner Road and Braddock Road identified by the ICE Analysis. Valuation shall be in accordance with the provisions of Recital H. The CMMSO shall memorialize the Mobility Fee Credit in a Mobility Fee Credit account for the Developer and issue a letter to the Developer, with a copy to the Director and the City's Chief of Development Services, detailing the amount of Mobility Fee Credit in the Developer's account. The CMMSO shall adjust that account as that amount changes with future draw downs. For purposes of this paragraph, "at no cost to the City" means the title report, title insurance, surveys including but not limited to wetland surveys, threatened/endangered species surveys, geotechnical evaluations, and any environmental due diligence or environmental site assessments, to include a Phase 1, and if required by the Phase 1, a Phase 2. Any pre-existing debris or spoil piles shall be removed at no cost to the City prior to transfer.
6. **ADMINISTRATIVE PROVISIONS.**
 - (a) **Use of Mobility Fee Credit.** The Mobility Fee Credit may be used, in whole or in part, by the Developer on a full dollar for dollar basis in satisfaction of the Mobility Fee. At such time as right-of-way satisfactory to the City for the purpose of connecting the Braddock Road East to Arnold Road/Gold Star

Family Parkway has been conveyed to the City, the Mobility Fee Credit may be used, in whole or in part, by the Developer or a Designated Transferee on a full dollar for dollar basis in connection with any and all mobility fee(s) assessed within Mobility Zones 3, 4, or 5, pursuant to Section 655.507(d), *Ordinance Code* (Transfer of Mobility Fee Credit), until the Mobility Fee Credit has been used in its entirety. Prior to conveyance of the right-of-way to the City connecting the Braddock Road East through to Arnold Road/Gold Star Family Parkway, the Mobility Fee Credit may only be used for development within the Property.

- (b) **Transfer of Mobility Fee Credit(s).** The Developer may transfer ownership of any portion of the Mobility Fee Credit received pursuant to this Contract by designating a Designated Transferee for a specified part of the Mobility Fee Credit which has not yet been used. A Designated Transferee may in turn also transfer ownership of said Mobility Fee Credit in the same manner. Each transfer shall be accomplished by the execution and delivery to the CMMSO of a notice in the manner provided by Chapter 655, Part 5, *Ordinance Code*. Only the Developer, or a duly Designated Transferee, is entitled to utilize said Mobility Fee Credit. Upon request by the Developer or a Designated Transferee, the CMMSO shall confirm in writing the effectiveness of any transfer so made for the benefit and protection of the Designated Transferee.
- (c) **No Obligation.** The Developer's possession of Mobility Fee Credit shall not constitute any type of obligation of the City for repayment with anything other than a credit against an applicable Mobility Fee.

7. **CONSISTENCY WITH COMPREHENSIVE PLAN AND ZONING DISTRICT.**

- (a) The Future Land Use Map designation of the Property is Multi-Use per Site-Specific Policy 4.3.18.
- (b) The Zoning District of the Property is Planned Unit Development as approved by Ordinance 2023-658-E.

8. **MEMORANDUM OF AGREEMENT.** A Memorandum of Agreement shall be filed in substantially the same form as **Exhibit "D"**, attached hereto. The Department shall record a copy in the public records at the cost of the Developer. A recorded copy shall be transmitted to the Developer within thirty (30) days after recording.

9. **APPROVALS.** Approval of issuance of any credits by the City shall not be unreasonably withheld or delayed. All approvals or disapprovals shall be written and shall be provided within thirty (30) days of delivery of any documents requiring approval.

10. **EFFECTIVE DATE.** This Contract shall become effective only upon execution by the City. Developer acknowledges that the filing of this Contract with the Department does not in any way guarantee approval by the City.

11. **AMENDMENT.** This Contract may only be amended by a subsequent written Contract entered into and executed by the Parties and approved by the City Council.

12. **NOTICES.** All written notices and demands of any kind which either party may be required or may desire to serve upon the other party in connection with this Contract may be served by registered or certified mail as follows:

CITY: Director of Planning and Development Department
Ed Ball Building, 3rd floor
214 North Hogan Street
Jacksonville, Florida 32202

Concurrency and Mobility Management System Office
Ed Ball Building, 2nd Floor
214 North Hogan Street
Jacksonville, Florida 32202

Office of General Counsel
c/o Land Use Division
117 West Duval Street, Suite 480
Jacksonville, Florida 32202

DEVELOPER: Eisenhower Property Group, LLC

111 S. Armenia Ave., Ste. 201

Jacksonville, FL 32216

Wyman Duggan
Rogers Towers, P.A.
1301 Riverplace Blvd., Suite 1500
Tampa, FL 33609

13. ACKNOWLEDGMENT.

- (a) The Parties understand and acknowledge that in entering into this Contract the Developer is not obligating itself to convey land, fund the acquisition of land, design, permit or construct any infrastructure, or undertake any development, except for the conveyance of that portion of the Property for the Braddock Road East and required operational improvements.
- (b) The Parties further acknowledge that should the City's Mobility fee system be replaced or amended, the Developer or its Designated Transferee would be entitled to equivalent credits under the new regulatory scheme.

14. SUCCESSORS AND ASSIGNS. This Contract shall be binding upon and inure to the benefit of the Parties, and their respective successors and assigns.

15. VENUE. This Contract will be governed by and construed in accordance with the laws of the State of Florida. The venue for any lawsuit arising from this Contract shall be in Duval County, Florida.

16. SEVERABILITY. If any part of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract shall continue to be enforceable.

17. COUNTERPARTS AND SIGNATURE PAGES. This Contract may be executed in two (2) or more counterparts, each of which shall be deemed an original. The signatures to this Contract may be executed on separate pages, and when attached to this Contract shall constitute one complete document.

IN WITNESS WHEREOF, the Parties have executed this Contract as of the dates written below their respective names.

<p>CITY OF JACKSONVILLE:</p> <p>BY: _____</p> <p>DONNA DEEGAN, MAYOR</p> <p>DATE: _____</p> <p>ATTEST:</p> <p>BY: _____</p> <p>JAMES R. MCCAIN, JR. CORPORATION SECRETARY</p>
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FORM APPROVED:

Office of General Counsel

<p>DEVELOPER:</p> <p>EISENHOWER PROPERTY GROUP, LLC, a Florida limited liability company</p> <p>BY: _____</p> <p>PRINT: _____</p> <p>ITS: _____</p> <p>DATE: _____</p>
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Exhibit "A"

Legal Description of the Property

Exhibit "B"

Mobility Fee Calculation Certificate

Exhibit "C"
PUD Ordinance

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(attach Ordinance 2023-658-E, Braddock Family Parcel PUD, in
its final form here)

Exhibit "D"
Traffic Study

Exhibit "E"

Memorandum of Mobility Fee and Credit Contract

Prepared by: Susan C. Grandin
Assistant General Counsel
117 W. Duval Street, Suite 480
Jacksonville, FL 32202

Return to: Blaine Warnock
Manager/CMMSO
Ed Ball Building
214 N. Hogan Street, Suite 2127
Jacksonville, FL 32202

MEMORANDUM OF MOBILITY FEE AND CREDIT CONTRACT

On _____, 20____, a Mobility Fee and Credit Contract (#_____) was entered into between the City of Jacksonville and _____, _____, pursuant to the authority of Part 5, Chapter 655, Ordinance Code. The real property, which is subject to the contract, is described as **Exhibit "A"** attached hereto and incorporated herein by this reference. This contract is binding upon the successors and assigns of the parties and is subject to the following terms:

(1) The term of the contract is for _____ year(s) and expires on _____, 20____. If an extension of this contract is obtained, a memorandum of the extension shall be recorded in the public records.

(2) The Mobility Fee amount is \$ _____, subject to annual inflation and adjustments.

The developer's address is_____. The original Mobility Fee and Credit Contract is on file with the Jacksonville Planning and Development Department, Concurrency and Mobility Management System office (CMMSO) Room 2127, 214 N. Hogan Street, Jacksonville, FL 32202. A copy may be requested and/or additional information may be obtained by calling the CMMSO at 904-255-8330.

[Signature page follows]

Signed and sealed in the presence of:

CITY OF JACKSONVILLE, a consolidated political subdivision and municipal corporation existing under the laws of the State of Florida

Printed Name: _____

By: _____
Donna Deegan, Mayor

Printed Name: _____

STATE OF FLORIDA)
) ss
COUNTY OF DUVAL)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 202__, by _____, for and on behalf of Mayor Donna Deegan, as aforesaid, and James R. McCain Jr., the Corporation Secretary of the City of Jacksonville, Florida, a Florida municipal corporation, on behalf of the corporation, who are personally known to me.

Notary Public

(NOTARY SEAL)

Printed Notary's Name
My Commission Expires:

Form Approved:

Office of General Counsel

Exhibit “F”

Transportation Conditions

1. The following shall occur prior to approval of the first set of civil engineering plans:
 - a. An Intersection Control Evaluation (“ICE”) analysis of the Lem Turner Road/Braddock Road intersection will be submitted to the FDOT to determine the final approved buildout (4-legged approach) and phased construction plan. The ICE analysis will also determine the subsequent proposed conditions to Lem Turner Road to determine the type of connection and spacing requirements.
 - b. A methodology meeting between FDOT and the City shall take place before any traffic operational analysis is conducted.
2. The following shall occur prior to the completion of development of Phase 1 (300 dwelling units located west of Lem Turner Road) as depicted on the proposed master PUD site plan (the “Site Plan”):
 - a. A signal warrant analysis shall be provided prior to approval of 10-set civil plans for the 301st dwelling unit and for every 100 subsequent dwelling units based on dwelling units proposed during verification of substantial compliance. The warrant analysis is to be submitted to the FDOT to determine if a signal is needed at the Lem Turner Road/Braddock Road intersection. If the signal is warranted, construction of the signal shall occur within one year of the date of warrant analysis approval. If the design, permitting, and construction period exceeds one year, a bond in favor of the City of Jacksonville shall be posted for the cost of the improvement. No building permits shall be approved if, after one year, the signal is not complete, or a bond is not posted.
3. The following shall occur concurrent with the development of Phase 2 west of Lem Turner Road:
 - a. A strip of land along Lem Turner Road abutting the Property will be reserved to accommodate the future widening, at a location acceptable to the FDOT and the developer. This strip, when combined with the existing right of way, will create a right of way approximately 200 feet wide. The developer will be allowed to clear, fill, grade, landscape, and to place signage, access driveways, and utilities, etc., within the reserved land, but will be prohibited from constructing parking, buildings and required stormwater ponds within the reserved land. These restrictions will be stated on the Civil Plans and on each plat on which the restrictions and reservations will occur. The right of way will be purchased by the FDOT, in the future, at the time of right of way acquisition for the widening project.

- b. Braddock Road will be widened in accordance with the intersection improvements dictated by the ICE analysis.
4. The following shall occur concurrent with the development of Phase 2 east of Lem Turner Road, except as noted below:
 - a. A strip of land along Lem Turner Road abutting the Property will be reserved to accommodate the future widening, at a location acceptable to the FDOT and the Developer. This strip, when combined with the existing right of way, will create a right of way approximately 200 feet wide. The developer will be allowed to clear, fill, grade, landscape, and to place signage, access driveways, and utilities, etc., within the reserved land, but will be prohibited from constructing parking, buildings and required stormwater ponds within the reserved land. These restrictions will be stated on the Civil Plans and on each plat on which the restrictions and reservations will occur. The right of way will be purchased by the FDOT, in the future, at the time of right of way acquisition for the widening project.
 - b. Construction of the fourth leg at the Lem Turner Road/Braddock Road intersection, and traffic signal improvements, in accordance with the ICE analysis.
 - c. Approval of a corridor plan for the Braddock Road East, east of Lem Turner Road to the eastern boundary of the Property, as generally shown on the Site Plan in Ordinance 2023-658-E, showing a typical section depicting specifications and dimensions for four vehicular lanes with landscaped median, safety shoulders, multi-use path, sidewalk and appropriate drainage and stormwater management facilities (the “Corridor Plan”). The Corridor Plan will also identify a preliminary alignment within the corridor for a future expansion of the 2-lane roadway to a 4-lane roadway and typical street sections for the extension of Braddock Road to the east PUD boundary. This corridor is planned to contain JEA utilities as well. Approval of the Corridor Plan may occur prior to the development of Phase 2 east of Lem Turner Road.
 - d. The developer shall construct two lanes of the ultimate 4-lane Braddock Road East, which will be constructed in phases as development progresses, in accordance with the Corridor Plan.

Exhibit "G"

PUD Site Plan