

Agenda Memorandum

To: Honorable Mayor and City Council Members
Prepared By: Debra Pierre, Deputy Development Services Director
From: Bryan Cobb, City Manager
Date: May 19, 2025
Subject: **Resolution No. 4601-25**, Fair Share Fee/ Impact Fee Credit Agreement for Broad Oak Oviedo LLC

Procedure: Call Up Item
City Manager Background
Applicant Comments
Public Comment - Request to Speak Forms submitted prior to beginning of meeting.
Council Motion & Discussion
Council Action

Introduction: This is a request for City Council to approve the Fair Share Fee/Impact Fee Credit Agreement with Broad Oak Oviedo, LLC (Broad Oak).

Discussion: The subject property is approximately 13.81 acres located approximately five-hundred-eighty (580) feet north of Oviedo Mall Boulevard along the east side of State Route 417. Broad Oak is the Developer of the Broad Oak Apartments (formerly Oviedo Multifamily) project comprised of two hundred and fifty-two (252) multifamily dwelling units. The project was approved by City Council at its September 5, 2024 meeting with the adoption of Resolution No. 4489-24 which approved Site Development Order No. 572-24.

Broad Oak has agreed to dedicate to the City a thirty (30) foot wide strip of right-of-way along the eastern boundary of the property which will become part of Sugar Mill Road. Broad Oak has also agreed to design and construct certain improvements within the Sugar Mill Road right-of-way in accordance with the requirements of the Land Development Code, Engineering Standards Manual, and approved construction plans. In exchange for the right-of-way dedication and construction of the Sugar Mill Road improvements, Broad Oak requests multi-modal impact fee credits and to defer the payment of multi-modal impact fees to the issuance of the final certificate of occupancy for the Project. The subject Fair Share Fee/Impact Fee Credit Agreement provides for the specific terms and conditions related to the right-of-way dedication, design and construction of the Sugar Mill Road improvements, and Broad Oak's request for multi-modal impact fee credits and the ability to defer payment of multi-modal impact fees to the issuance of the final certificate of occupancy for the Project.

City of Oviedo Code of Ordinances Chapter 28 Impact Fees By Public Facility, Section 28-9 Credits states:

“Sec. 28-9. - Credits.

- (a) Any person who initiates any development may apply for a credit against the impact fees imposed by this chapter for any contribution, payment, construction, or dedication of land accepted and received by the city for public facilities, not otherwise required in order to obtain development approval, consistent with the comprehensive plan, including all public facilities capital costs.
- (b) No credit shall exceed the impact fee imposed by this chapter for the proposed development, unless the applicant provides public facility capacity in excess of the fair share demand created by its proposed development.
- (c) Development agreements entered into prior to the adoption of this chapter which contained public facility improvements may be entitled to a credit under the provisions of this section if the improvement is a public facility and is consistent with the comprehensive plan.
- (d) Except as limited above, if an applicant is entitled to a credit, such credit shall be equal to the dollar value of the cost of the public facilities contributed, paid for, constructed, or dedicated to the city, based on the following criteria:
 - 1) The actual cost, or estimated cost of improvements based on recent bid sheet information of the city; and
 - 2) A qualified appraisal of the fair market value of any land.
- (e) The property owner shall initiate a determination of entitlement to credit by submitting a proposed credit agreement to the city manager or his/her designee. The credit agreement shall include the following information:
 - 1) A proposed plan of specific public facility improvements, prepared and certified by a duly qualified and licensed Florida engineer; and
 - 2) The estimated costs for the suggested public facilities improvements consistent with the definition of public facilities capital costs, which shall be based on local information for similar public facilities improvements, along with a construction timetable for the completion of such improvements.
- (f) The proposed credit agreement shall be prepared by qualified professionals in the field of planning and engineering, impact analysis, and economics, as related to the particular impact fee to be credited.
- (g) Within 15 working days of receipt of the proposed credit agreement, the city manager or his/her designee shall determine if the proposal is complete. If it is determined that the proposed credit agreement is not complete, the city manager or his/her designee shall send a written statement to the applicant outlining the deficiencies. The city manager or his/her designee shall take no further action on the proposed credit agreement until all deficiencies have been corrected or otherwise settled.
- (h) Once the city manager or his/her designee determines the credit agreement is complete, he or she shall review it within 30 working days, and shall recommend to the city council that

the proposed credit agreement be approved if it is determined that the proposed public facility improvement is consistent with the comprehensive plan, and the proposed costs for the suggested public facility improvement are professionally acceptable and fairly assess the cost for the capital improvement. If the city manager or his/her designee determines that either the suggested public facilities improvement is not consistent with the comprehensive plan or that the proposed costs are not acceptable, he or she shall propose a suggested public facility improvement similar to that proposed, but consistent with the provisions of this chapter.

- (i) If the proposed credit agreement is approved by the city council, a credit agreement shall be prepared and signed by the applicant and the city. The credit agreement shall specifically outline the public facility improvement that will be constructed by the applicant, the time by which it shall be completed, and the dollar credit the applicant shall receive for construction of the public facilities improvement. The parties to a credit agreement may include a timeframe within which credits granted by the city council must be redeemed or be subject to expiration.
- (j) Within 14 days after execution by the city, the credit agreement shall be recorded with the Seminole County Clerk of the Court.”

Section 163.31801(5)(a), Florida Statutes states:

“(5)(a) Notwithstanding any charter provision, comprehensive plan policy, ordinance, development order, development permit, or resolution, the local government or special district that requires any improvement or contribution must credit against the collection of the impact fee any contribution, whether identified in a development order, proportionate share agreement, or any form of exaction related to public facilities or infrastructure, including monetary contributions, land dedication, site planning and design, or construction. Any contribution must be applied on a dollar-for-dollar basis at fair market value to reduce any impact fee collected for the general category or class of public facilities or infrastructure for which the contribution was made.”

Code of Ordinances Section 28-7(b) states, “At any time prior to the issuance of a building permit, the owner of property may enter into a fair share fee agreement with the city providing for payment of impact fees imposed by this chapter. Such fee agreement may provide for installment payments of the fee for a term not to exceed 12 months, credit and security arrangements acceptable to the city, and other matters relating to the fee.”

The proposed portion of the roadway is needed to provide access to the Broad Oak Apartments project which would deem the project ineligible for impact fee credits per Code of Ordinances Section 28-9(a). However, Section 163.31801 (5)(a), Florida Statutes requires a local government requiring any improvement to provide credit toward impact fees for land dedication and design and construction of public facilities.

To this end, the City’s Engineer has reviewed and approved the cost estimate for improvements as follows:

Sugar Mill Road Paving and Hardscape				
Description	Quantity	Unit	Unit Price	Total
2” Asphalt Structural Course	1,131	SY	\$21.00	\$23,751.00
8” Limerock Base	1,131	SY	\$16.11	\$18,220.41
12” Stabilized Subgrade	1,131	SY	\$4.85	\$5,485.35
Valley Gutter	269	LF	\$25.00	\$6,725.00
Type “D” Curb	280	LF	\$12.00	\$3,360.00
Type “P” Curb	453	LF	\$20.00	\$9,060.00
4” Concrete Sidewalk	190	SY	\$45.00	\$8,550.00
ADA Ramps	1	EA	\$750.00	\$750.00
Striping & Signage	1	LS	\$2,500.00	\$2,500.00
Benches	3	EA	\$1,439.00	\$4,317.00
Bike Rack	1	EA	\$1,000.00	\$1,000.00
			Sub-total	\$83,718.76
Sugar Mill Road Storm Sewer				
Type “D” Storm Inlet	1	EA	\$3,815.00	\$3,815.00
Type “6” Storm Inlet	1	EA	\$5,250.00	\$5,250.00
18” HP Storm Pipe	26	LF	\$60.00	\$1,560.00
36” HP Storm Pipe	154	LF	\$90.00	\$13,860.00
			Subtotal	\$24,485.00
Right-of-way Value				
Land 10,044 sf	14.16	SF	\$142,178.23	\$142,178.23
Grand Total				\$250,381.99

The value of the proposed right-of-way was provided by Broad Oak and based on the value of the Broad Oak Apartment property. The City has accepted the value. The proposed right-of-way totals 10,044 square feet and equates to a property value of \$142,178.23 (10,044 square feet x \$14.16 per square foot). The total multi-modal impact fee credit equates to \$250,381.99.

The Broad Oak Apartments project is vested under the previous impact fees, and therefore, will pay Oviedo multi-modal impact fees and pay Seminole County Mobility Fees directly to the County. The estimated multi-modal impact fees for the project are as follows:

BROAD OAK MULTI-MODAL IMPACT FEE ASSESSMENT			
BUILDING	ADDRESS	BUILDING PERMIT #	TRANSPORTATION IMPACT FEE
Building 1 - Section 3A	300 Sugar Mill Road	24-93981	\$ 36,192.00
Building 1 - Section 3B	300 Sugar Mill Road	24-93976	\$ 30,332.00
Building 2	330 Sugar Mill Road	24-93982	\$ 72,156.00
Building 3 - Section 4A	375 Sugar Mill Road	24-93983	\$ 34,360.00
Building 3 - Section 4B	375 Sugar Mill Road	24-93984	\$ 37,796.00
Carriage House South	378 Sugar Mill Road	24-93986	\$ 2,310.00
Carriage House North	368 Sugar Mill Road	24-93985	\$ 2,310.00
TOTAL			\$ 215,456.00

There will be a total of \$34,925.99 of unused multi-modal impact fee credit. The Fair Share/Impact Fee Credit Agreement Section 4 (C) allows for any unused portion of the remaining credit as follows:

“To the extent any portion of the Multi-modal Impact Fee Credit remains after the City’s deduction of the multi-modal impact fees owed for the Project, the City shall release such remaining multi-modal impact fee credits to the Developer via written notification within fifteen (15) days of the City’s issuance of the final certificate of occupancy for the Project. The Parties acknowledge and agree that the Developer has the authority to assign or transfer any remaining multi-modal impact fee credits granted pursuant to this Agreement to a third party in accordance with the provisions of F.S. 163.31801(10) which provides as follows: Impact fee credits are assignable and transferable at any time after establishment from one development or parcel to any other that is within the same impact fee zone or impact fee district or that is within an adjoining impact fee zone or impact fee district within the same local government jurisdiction and which receives benefits from the improvement or contribution that generated the credits. The Developer shall provide the City with written notice of any such assignment or transfer. Any such remaining multi-modal impact fee credits may be used by the Developer or the Developer’s assignee to offset, on a dollar-for-dollar basis, the City’s newly adopted mobility fee which replaced the City’s multi-modal impact fee. “

The Assistant City Attorney has reviewed the proposed Fair Share Fee/Impact Fee Credit Agreement for Broad Oak Oviedo, LLC and recommends approval. City Staff also recommends approval.

Budget Impact: The applicant will receive \$250,381.99 in multi-modal impact fee credits. This amount will be reduced by the calculated multi-modal impact fees for the project of \$215,456. This leaves a balance of multi-modal impact fee credits of \$34,925.99 which can be applied towards a future project.

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Strategic Impact: Economic Vitality and Development and the Community Character Strategic Focus Area.

Recommendation: It is recommended that City Council adopt Resolution No. 4601-25.

Attachment(s): None