

“DEVELOPER CREDITS: WHEN, HOW MUCH, AND WHY?”

2007 CONFERENCE OF THE NATIONAL IMPACT FEE ROUNDTABLE

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Speakers:

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I. Overview of Developer Credits and Legal Context

II. Key Policy and Implementation Issues

- a. Credit Eligibility – What Developer-Provided Improvements are Credit-Eligible?
 - i. Site-related vs. System-wide Improvements
 - ii. Relevance of Developer Credits to the Fee Calculation Process
 - iii. Pre-Ordinance Dedications
 - iv. CIP/Impact fee-eligible – Fiscal Control
 - Who builds it and when?
 - Timing of improvement/contribution by developer vs. CIP schedule
 - Florida statutory provisions on DRI contributions
- b. Credit Valuation – How Should Developer Credits be Valued?
 - i. Types of Developer-Provided Improvements
 1. Construction (bids or construction receipts)
 2. Land (appraisals)
 - ii. Role of Interest on reimbursements paid over time?
 - iii. Basis of Valuation
 1. Capital Improvement Plan
 2. Amount of Fees Due
 3. Actual Costs of Improvements and Land
 4. Capacity Added
 - iv. Miscellaneous
 1. Public vs. Private improvements
 2. Adjustments later – Actual Costs vs. Estimated
 3. Impact Fees and Prop Share/Mitigation and Concurrency
- c. Miscellaneous Issues
 - i. Excess Capacity
 1. Legal Issues
 2. Techniques
 - a. Capital Reimbursement Approach
 - b. Contributions by multiple parties
 - c. Voluntary Agreement to build excess capacity
 - ii. Procedural Matters
 1. Reimbursements vs. Waivers (Timing of Payment/Timing of Credit)
 2. Credit Agreements
 - a. Multi-Party vs. Multiple Single-Party Agreements
 - b. Subsequent Purchasers; notification, Hold Harmless/ Indemnification of Governmental Agency as against Subsequent Purchasers
 - c. Timing of Development and Reimbursement
 - d. Bidding Required of Developer-Provided Improvements?
 - e. Inspection and Acceptance of construction by Governmental Agency