

Agenda Item No: IV-f.
Meeting Date: April 13, 2020

Subject: Resolution 20-33, a resolution approving a First Amendment to Impact Fee Credit Agreement for Sweetgrass Filing Nos. 4-7.

Presenter: Jennifer Krieger, AICP, Community Development Director

Background: Development Impact Fees are assessed at the time of building permit. Dacono Municipal Code Chapter 4, Sec. 4-114. - Credits; valuation, provides impact fee credits for construction regional improvements.

By Resolution 19-21, the City Council approved an Impact Fee Credit Agreement for regional transportation improvements to York Street (Weld County Road 11). Section 2.B of the Agreement provides that once construction of York Street (Weld County Road 11) has been completed, the Agreement will be amended to reflect the actual value of York Street (Weld County Road 11) impact fee credits. The Developer has completed construction of (Weld County Road 11) improvements, and submitted a verified statement of costs and invoices.

The total project cost of improvements to York Street is \$1,265,792.25. Less the contribution to projects costs made by the City in the amount of \$68,951, and in accordance with D.M.C. § 4-114(b), the City has determined the total amount of impact fee credits due for construction of regional improvements is \$1,196,841.25.

Recommended Action: Staff recommends approval of Resolution 20-33.

RESOLUTION NO. 20-33

A RESOLUTION APPROVING A FIRST AMENDMENT TO IMPACT FEE CREDIT AGREEMENT FOR SWEETGRASS FILING NOS. 4-7.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DACONO, COLORADO:

Section 1. The proposed First Amendment to Impact Fee Credit Agreement for Sweetgrass Filing Nos. 4-7 is hereby approved in essentially the same form as the copy of such First Amendment accompanying this resolution.

Section 2. The Mayor is hereby authorized to execute the First Amendment on behalf of the City, and is further authorized to negotiate and approve on behalf of the City such revisions thereto as the Mayor determines are necessary or desirable for the protection of the City, so long as the essential terms and conditions of the First Amendment are not altered.

INTRODUCED, READ, and ADOPTED this 13th day of April, 2020.

CITY OF DACONO, COLORADO

Joe Baker, Mayor

ATTEST:

Valerie Taylor, City Clerk

**FIRST AMENDMENT TO IMPACT FEE CREDIT AGREEMENT
SWEETGRASS FILING NOS. 4 – 7
(WELD COUNTY ROAD 11)**

THIS FIRST AMENDMENT IMPACT FEE CREDIT AGREEMENT is made and entered into this _____ day of _____, 20____, by and between the **CITY OF DACONO**, a Colorado municipal corporation, whose address is 512 Cherry Street, Dacono, CO 80514 (the “City”), and **DACONO DEVELOPMENT COMPANY, INC.**, a Colorado corporation whose address is 2500 Arapahoe Avenue, Suite 220, Boulder, CO 80302 (the “Developer”).

WHEREAS, the City and Developer have entered into an Impact Fee Credit Agreement for Sweetgrass Filing Nos. 4-7 dated February 26, 2019 (the “Agreement”); and

WHEREAS, Section 2.B of such Agreement provides that once construction of Weld County Road 11 has been completed, the Agreement will be amended to reflect the actual value of Weld County Road 11 impact fee credits; and

WHEREAS, Developer has completed construction of Weld County Road 11 improvements, and submitted a verified statement of costs and invoices therefor; and

WHEREAS, the City has reviewed Developer’s statement and documentation and desires by this First Amendment to provide impact fee credits in the full amount of the costs of construction, less the City’s contribution, as set forth herein.

NOW, THEREFORE, in consideration of the foregoing, the parties hereto promise, covenant and agree as follows:

Section 1. Section 2 of the Impact Fee Credit Agreement for Sweetgrass Filing Nos. 4-7 between the City and Dacono Development Company, Inc. is hereby amended to read as follows:

2. Valuation of Credits. Developer has completed construction of public improvements to Weld County Road 11 (York Street) at a total project cost of \$1,265,792.25. Less the contribution to projects costs made by the City in the amount of \$68,951, and in accordance with D.M.C. § 4-114(b), the City has determined the total amount of impact fee credits due for construction of regional improvements is **\$1,196,841.25.**

Section2. Except as set forth in this First Amendment, the Impact Fee Credit Agreement for Sweetgrass Filing Nos. 4-7 shall remain in full force and effect in accordance with its terms. Nothing herein is intended, nor shall be construed, to permit release of any Improvement Guarantee prior to Probationary Acceptance of the Public Improvements in accordance with any Subdivision Agreement and Chapter 17, Article 15 of the Dacono Municipal Code.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the date first set forth above.

CITY OF DACONO, COLORADO

By: _____
Joe Baker, Mayor

ATTEST:

By: _____
Valerie Taylor, City Clerk

DEVELOPER:
DACONO DEVELOPMENT COMPANY, INC.

By: _____

Title: _____

ACKNOWLEDGMENT

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____ as _____ of Dacono Development Company, Inc.

Witness my hand and official seal.

My commission expires: _____

(SEAL)

Notary Public

Dacono Development Company, Inc.

February 5, 2020

Mrs. Jennifer Krieger
City of Dacono
512 Cherry Street
Box 186
Dacono, CO

Re: Sweetgrass WCR11-Ph2 Impact Fee Actual Cost and Amendment Request rev. 1

Dear Mrs. Krieger,

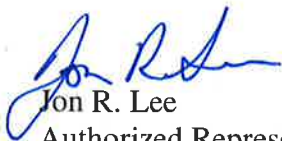
Per section 2.B of the Impact Fee Credit Agreement Sweetgrass Filing Nos. 4-7 dated February 26th 2019 (agreement), Dacono Development Company Inc. (DDC) hereby submits actual project costs for Weld County Road 11 Phase 2 improvements. With this letter, DDC is requesting an amendment to establish the actual value of impact fee credits.

Attached, please find cost summaries along with detailed invoices pertaining to the project. Our notarization of this letter certifies costs.

Transportation Impact Fee Value Summary:

Total Project Cost:	\$1,265,792.25
Less City of Dacono Reimbursement:	<u>\$ (68,951.00) (Dacono Check No. 4137)</u>
Net Transportation Fee Reimbursement:	\$1,196,841.25

Sincerely,



Jon R. Lee
Authorized Representative
Dacono Development Company, Inc.

Attachments:

- Project cost summary_By Cost Code_ Dated 2/5/2020
- Project cost summary_By Vendor with Invoice Backup_ Dated 2/5/2020

cc: Accounting - CDG

2500 Arapahoe Avenue, Suite 220, Boulder, Colorado 80302
(303) 442-2299 ... Fax (303) 442-1241

Dacono Development Company, Inc.

SIGNED AND SEALED BY DACONO DEVELOPMENT COMPANY INC. this 5th day of February, 2020.

DACONO DEVELOPMENT COMPANY, INC.

BY: [Signature]

TITLE: AUTHORIZED REPRESENTATIVE

STATE OF COLORADO)

COUNTY OF Boulder)

ACKNOWLEDGEMENT

I, Mary Jane Davies, a Notary Public for said County and State, do hereby certify that Jon Kee personally came before me this day and acknowledged that s/he is the Authorized Representative of Dacono Development Company Inc., a Corporation of Colorado, and s/he, being authorized to do so, executed the foregoing WCR11-Ph2 Cost of Construction as his/her own act and deed on behalf of Dacono Development Company Inc.

WITNESS my hand and official Notarial Seal, this 5th day of February, 2020.

[Signature]
Notary Public

My Commission Expires:

11-22-2022

