

Prepared by and return to:
Willie M. Swoope
Impact Fee Manager
2300 BUILDING
2300 N. Jog Road
West Palm Beach, Fl 33411-2741

SPECIAL ALLOCATION AGREEMENTS

Because the factual circumstances surrounding each special allocation are so different, the County does not provide a set form to those applying for a special allocation. The following is intended to serve as a guide to applicants. Please consult with the Impact Fee Manager early in the application process to be certain that any special allocation agreement is drafted in a manner acceptable to the County.

* * *

SPECIAL ALLOCATION AGREEMENT

This agreement is made and entered into this ____ day of _____, 20____, by and among [**include all parties to the agreement, a description, and address**] (hereinafter referred to as “developer”,) and Palm Beach County, Florida, a political subdivision of the State of Florida, having its offices at 301 North Olive Avenue, West Palm Beach, Florida 33401.

RECITALS

Section 13.A.11.A of the Unified Land Development Code requires that those applying for special allocation set forth the purpose for so doing. This should be reflected in the recitals. The recitals must also provide the following: 1) that the developer(s) holds title to the parcel(s) of land in question and incorporate by reference an exhibit which sets forth the legal description(s); 2) that any mortgagees to the subject property are joined by and consent to this agreement as set forth in an exhibit incorporated by reference; 3) that the developer(s) is entitled to certain specified impact fee credits pursuant to Article 13.A.11.A of the Palm Beach County Unified Land Development Code; 4) that the developer(s) have notified all interested parties of the special allocation agreement, and have received no bona fide claim to the credits as a result; and 5) any other recitals that, under the circumstances, accurately set forth the reasons upon which the agreement is grounded. Close the recitals to the agreement with the following:

WHEREAS, Developers have met the requirements of Article 13. A.11.A of the Unified Land Development Code which allows developers to assign or allocate their credit to specific parcels of land within the affected development.

NOW, THEREFORE, in consideration of this agreement and other good and valuable consideration, receipt and sufficiency of which is hereby mutually acknowledged, the parties hereby resolve and agree as follows:

1. RECITALS

The recitals set forth above are true and correct and form a part of this Agreement.

2. SPECIAL ALLOCATION

County hereby authorizes and makes a special allocation of developer's **[specify type of fee and/or credit if appropriate]** impact fee credit. This credit shall be assigned and shall be allocated exclusively to the land identified and legally described in Exhibit ___ which is attached hereto and incorporated herein by reference. The net credit shall consist of a declining balance and shall be awarded on a first come first serve basis to any applicant for a building permit upon any parcel of the land described in Exhibit ____. **[in the alternative, credits may be assigned to one of several parcels on a pro rata basis, or based on any other scheme as described in this paragraph or separate exhibit]**

3. INDEMNIFICATION OF COUNTY

Developer, its heirs, assigns and successors in interest, unconditionally and irrevocably and for good and valuable consideration, agrees to indemnify, hold harmless, and defend County from and against any and all claims, liabilities, damages, suits and judgments relating to and arising out of claims by other owners or developers that they are entitled to all or some portion of the impact fee credit which is the subject of this Agreement.

4. NOTICE

All notices or other communications required or permitted under this Agreement shall be in writing and shall be addressed as follows: **[provide desired contacts and addresses and add Willie Swoope, Impact Fee Manager, Palm Beach County Planning, Zoning, and Building, 2300 BUILDING, 2300 N. Jog Road, West Palm Beach, Florida 33411-2741]**

5. APPLICABLE LAW

Any litigation arising or relating to this Agreement shall be governed by the laws of the State of Florida and venue in any such proceeding shall be exclusively in Palm Beach County, Florida.

6. SUBSEQUENT MODIFICATION

This Agreement may not be modified or terminated except by written agreement signed by all parties.

7. BINDING AGREEMENT

This Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, assigns and successors in interest.

8. ENTIRE AGREEMENT

This Agreement constitutes the entire understanding and agreement among the parties hereto.

9. SEVERABILITY

Inapplicability or unenforceability of any provision of this Agreement shall not limit or impair the operation or validity of any other provision of this Agreement.

10. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be an original, but together such counterparts shall constitute only one instrument.

11. EFFECTIVE DATE

This Agreement shall become effective upon signature of the last party to execute.

IN WITNESS WHEREOF, the parties hereto have executed this Special Allocation Agreement on the date set forth above.

[The agreement must be fully executed by all of the parties in recordable form. In addition, provide a signature line for the Impact Fee Manager, approving as to content, and one for the Assistant County Attorney, approving as to form and legal sufficiency.]