DEVELOPMENT AGREEMENT BETWEEN PASCO COUNTY AND STARKEY RANCH INVESTMENT COMPANY LLC, DEVELOPER OF RECORD, FOR DEVELOPMENT OF REGIONAL IMPACT NO. 264, STARKEY RANCH

THIS DEVELOPMENT AGREEMENT (DA) is made and entered into by and between Pasco County, a political subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter called "COUNTY," and Starkey Ranch Investment Company, LLC, the Developer of Record for STARKEY Ranch Development of Regional Impact (DRI) No. 264, hereinafter called "DEVELOPER."

W I T N E S S E T H:

WHEREAS, the COUNTY is authorized by the Florida Local Government Development Agreement Act, Sections 163.3220-163.3243, Florida Statutes (F.S.), to enter into a DA with any person having a legal or equitable interest in real property located within its jurisdiction; and

WHEREAS, on September 23, 2008, the COUNTY approved a development order (DO) with conditions for DRI No. 264 in response to an Application for Development Approval (ADA) for the DRI No. 264 on a parcel of real property in Pasco County, Florida, legally described in Exhibit C of the Starkey Ranch DO, hereinafter called "Project," and attached hereto as Exhibit A; and

WHEREAS, Exhibit G of the DO and attached hereto as Exhibit B, describes those roadways and intersections significantly impacted by the Project and the required improvements that need to be constructed to ensure maintenance of the adopted Level of Service for such roadways and intersections based upon results of the transportation analysis conducted in conjunction with the ADA; and

WHEREAS, Rule 9J-2.045, Florida Administrative Code (F.A.C.), allows the DEVELOPER and the COUNTY to mutually elect one of several transportation mitigation alternatives in order for the DEVELOPER to mitigate the transportation impacts for the Project, including the payment by the DEVELOPER of its proportionate-share contribution for the roadway and intersection improvements identified in Exhibit G of the Starkey Ranch DO and attached hereto as Exhibit B; and

WHEREAS, Rule 9J-2.045, FAC, allows the DEVELOPER'S proportionate-share contribution to be applied to expeditiously construct one or more of the roadway improvements identified in the DO; and

WHEREAS, the DO establishes the amount of Twenty-Nine Million Seventy-Three Thousand Thirteen and 00/100 Dollars (29,073,013.00) (Net Proportionate Share Obligation) (June 2008 dollars) as the DEVELOPER'S proportionate-share contribution[1] for the transportation impacts of the build-out of Phases I, II and III of the Project and requires the DEVELOPER to construct various State Road 54 intersection improvements, site-related improvements, and potentially make a payment or construct an additional pipeline project as described and defined in this DA (Required Roadway Improvements); and

WHEREAS, the DO requires the DEVELOPER to enter into a DA with Pasco County for the right-of-way acquisition, design, and construction of the Required Roadway Improvements.

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1 The Net Proportionate Share Obligation assumes Traditional Neighborhood Design and Employment Center proportionate-share credits. See section 4.a of this DA.

NOW, THEREFORE, in consideration of the mutual covenants and provisions herein contained and other good and valuable consideration, receipt, and sufficiency of which is hereby acknowledged, the COUNTY and the DEVELOPER hereby agree as follows:

1. WHEREAS CLAUSES

The WHEREAS clauses set forth above are incorporated herein by reference and made a part of this DA.

2. PURPOSE

It is the purpose and intent of this DA to further set forth terms and conditions of the development approval of the Project, as defined pursuant to the DO, as the same relate to the design, permitting, and construction of the Required Roadway Improvements. This DA is intended to define the terms and conditions of the COUNTY'S and the DEVELOPER'S participation in the Required Roadway Improvements as further defined herein. All terms and conditions of this DA shall be interpreted in a manner consistent with, and in furtherance of, the purpose as set forth herein.

3. GENERAL REQUIREMENTS

a. Legal Description: The land subject to this DA is identified in Exhibit A. The holder of legal title is Starkey Land Company, LLC, a Florida Limited Liability Corporation, whose principal address is 12959 State Road 54, Odessa, Florida 33556. Pursuant to Section 163.3239, F.S., the burdens of this DA shall be binding upon and the benefits of the DA shall inure to all such legal and equitable owners and their successors in interest.

b. Duration and Effective Date: This DA shall be for the duration of ten (10) years, subject to any conditions precedent or termination provisions herein or mutual agreement, from the effective date of this DA. The effective date of this DA shall be the date of approval of this DA by the COUNTY.

c. Development Uses of Land: The Project is currently zoned A-C Agricultural District. An application to amend the zoning to an MPUD Master Planned Unit Development District is required and shall be submitted to the Growth Management Department. The MPUD Master Plan Rezoning Petition and the DO shall set forth the permitted uses for the Project and shall detail the permitted uses in the conservation areas. The Applicant/Developer may seek an interim C-2, General Commercial District, rezoning for a portion of the Town Center estimated to be approximately 15 acres in size, subject to approval by the County. However, such interim rezoning shall be required to rezone to MPUD Master Plan Unit Development District at the time of rezoning for the Project. The MPUD Master Plan Rezoning Petition and the DO shall set forth the permitted uses for the Project.

d. Public Facilities: Adequate transportation facilities for the Project will be provided through the Required Roadway Improvements and other transportation facilities required by the Pasco County

Land Development Code (LDC) and Comprehensive Plan. Adequate potable water and wastewater services for the Project are available through the COUNTY'S existing water and sewer lines subject to a Utilities Services Agreement with the COUNTY, the MPUD Master Planned Unit Development Conditions of Approval, and the DO. Adequate disposal services for the Project are available through existing licensed collectors and the COUNTY'S Solid Waste Disposal and Resource Recovery System subject to applicable provisions of the Code of Ordinances and the Comprehensive Plan. All drainage improvements necessary to serve the Project will be provided by the DEVELOPER in accordance with the terms and conditions of the DO, the MPUD Master Planned Unit Development, this DA, the COUNTY'S approved construction plans, and satisfaction of all County, State, and Federal regulations.

e. Reservations or Dedications for Public Purpose: All reservations and dedications for public purposes (right[s]-of-way) shall be provided in accordance with any MPUD Master Planned Unit Development Conditions of Approval; the DO; and this DA, the COUNTY'S Comprehensive Plan Transportation Corridor Goals, Objectives, Policies, Maps, and Tables, and the COUNTY'S Right-of-Way Preservation Ordinance.

f. Local Development Permits Needed: Prior to the construction of the Required Roadway Improvements, the DEVELOPER shall obtain any necessary development approvals in accordance with the LDC. This provision does not exempt the DEVELOPER from obtaining all other permits required by agencies with jurisdiction over the Project.

g. Findings: The COUNTY has found that Phase 1, II and III of the Project, as permitted and proposed, is consistent with the portions of the Comprehensive Plan applicable to the Project development approvals obtained as of the date of this DA, subject to the provisions of the DO and this DA.

h. Requirements Necessary for the Public Health, Safety, and Welfare: The conditions, terms, restrictions, and other requirements determined to be necessary by the COUNTY for the public health, safety, or welfare of its citizens have been identified and included within the DO conditions and this DA. In addition, the DEVELOPER shall be subject to the MPUD Master Planned Unit Development Conditions of Approval once approved and the other applicable provisions of the LDC, Code of Ordinances, and Comprehensive Plan necessary for the public health, safety, and welfare.

i. Compliance with Legal Requirements and Permitting: The failure of this DA to address a particular permit, condition, term, or restriction shall not relieve the DEVELOPER of the necessity of complying with the laws governing the said permitting requirement, condition, term, or restriction.

j. Zoning and Comprehensive Plan Issues: The current Comprehensive Plan Future Land Use Map classifications for the Property are RES-3 (Residential - 3 du/ga), IL (Industrial - Light), IH (Industrial - Heavy), and ROR (Retail/Office/Residential). Simultaneously with the adoption of the DO and

this DA, the BCC shall be adopting a Comprehensive Plan Amendment amending the Future Land Use Map classifications for the Property from RES-3 (Residential - 3 du/ga), IL (Industrial - Light), IH (Industrial - Heavy), and ROR (Retail/Office/Residential) Districts to RES-3 (Residential - 3 du/ga), IL (Industrial - Light), ROR (Retail/Office/Residential), and CON (Conservation Lands) Districts. The proposed development is consistent with the applicable provisions of the RES-3 (Residential - 3 du/ga), IL (Industrial - Light), ROR (Retail/Office/Residential), and CON (Conservation Lands) classifications; the subarea policies; and other Goals, Objectives, and Policies of the Comprehensive Plan. The zoning classification for the Project is A-C Agricultural District. An application to amend the zoning from A-C Agricultural District to MPUD Master Planned Unit Development is under review by the Growth Management Department.

4. <u>FINANCE AND CONSTRUCTION OF ROADWAY IMPROVEMENTS</u>

a. <u>Proportionate Share Amount</u>. The DEVELOPER agrees to permit, design, and construct the Required Roadway Improvements as defined herein, within public rights-of-way to be provided by the COUNTY or acquired by the DEVELOPER, as mitigation for the Starkey Ranch, Phases 1, II, and III transportation impacts. Pursuant to Section 163.3180(12), F.S., and Rule 9J-2.045, FAC, the DEVELOPER'S proportionate-share contribution for those improvement projects listed in Exhibit G of the Project's DO attached hereto as Exhibit B, is Fifty-Eight Million Eight Hundred Twenty-Eight Thousand Four Hundred Thirty-Five and 00/100 Dollars ($58,828,435.00) (Proportionate Share) (in June 2008 dollars).

(1) Proportionate Share Credits.

(a) The TND Credit. Pursuant to Section 402.7 of the County's Concurrency Management Ordinance, the County and the Developer agree that the Project shall be granted a proportionate-share credit for the nonresidential entitlements developed in accordance with the County's TND ordinance and, where applicable, the Town Center Future Land Use classification) (277,150 square feet of retail, 170,520 square feet of office, 120-bed ACLF, 30,000 square feet of Day Care, 16-screen Multiplex Theater, and 100 Hotel rooms) in the amount of Twenty-Five Million Three Hundred Twenty-Five Thousand Six Hundred Forty-One and 00/100 Dollars ($25,325,641.00) (June 2008 Dollars) (TND Credit). The TND Credit assumes that all nonresidential land uses (other than those in the Business Park) shall be developed in accordance with the TND Ordinance and where applicable, the Town Center Future Land Use requirements of the Comprehensive Plan.

(b) The EC Credit. Pursuant to Section 402.7 of the County's Concurrency Management Ordinance, the County and the Developer agree that the Project shall be granted a proportionate-share credit for the Business Park/Employment Center (EC) entitlements (174,000 square feet of office and 170,000 square feet of light industrial collectively referred to as the "EC Entitlements") in the amount of Four Million Four Hundred Twenty-Nine Thousand Seven Hundred Eighty-One and 00/100 Dollars

($4,429,781.00) (June 2008 Dollars) (EC Credit). The EC Credit assumes that the Business Park/EC Entitlements shall be developed in accordance with the MPUD Master Planned Unit Development Ordinance for EC-MPUD Master Planned Unit Development, as amended. At the time of issuance of a building permit for interior build-out of each owner or tenant for the EC Entitlements, the Applicant/Developer shall record a deed restriction for such entitlements, in a form acceptable to the County and enforceable by the County that ensures that the EC Entitlements remain EC Entitlements. Such deed restriction shall require that any violator of such deed restriction make a pro rata share payment of the EC credit set forth above, calculated at the time such violation is incurred less any generally applicable TIF actually paid for such use and adjusted by the most recent construction and right-of-way indices as adopted by the TIF Ordinance as amended.

(c) The TND/EC Credit. The TND Credit and the EC Credit total Twenty-Nine Million Seven Hundred Fifty-Five Thousand Four Hundred Twenty-Two and 00/100 Dollars ($29,755,422.00) (June 2008 dollars) (the TND/EC Credit). The TND/EC Credit assumes that the above referenced entitlements that comply with the applicable respective criteria are only responsible for the payment of transportation impact fees (TIFs) to address their proportionate-share obligation and shall not be subject to any of the required roadway improvement obligations set forth in the DA, except for site-related improvements. The County shall address the proportionate-share obligation for compliant TND and EC Entitlements through the application of TIFs or other revenue sources toward one (1) or more of the following segments: Tower Road (outside of the Starkey Ranch DRI), the six (6) laning of Little Road, the four (4) laning of Starkey Boulevard, right-of-way acquisition at the S.R. 54 and Suncoast Parkway (for a potential north-west loop), and the intersection of S.R. 54 and Little Road, or other parallel facility or mobility improvements in Pasco County that benefit the impacted facilities set forth in Exhibit G as determined by the County (the Other Improvements). Failure to develop any portion of the nonresidential entitlements in accordance with the criteria for TND, Town Center, and EC-MPUD Master Planned Unit Development as applicable or any violation of the EC deed restriction set forth above shall require payment of a pro rata share of (or identification of mitigation pipeline project for) the TND/EC Credit to the County. Such payments shall be adjusted by the most recent construction and right-of-way indices as adopted by the County TIF Ordinance as amended. Such payments shall be utilized for the Other Improvements. Such Other Improvements shall be included in the schedule of capital improvements in the Comprehensive Plan if they are not already in the schedule.

(d) The Net Proportionate Share Obligation. The Proportionate Share less the TND/EC Credit, which equates to Twenty-Nine Million Seventy-Three Thousand Thirteen and 00/100 Dollars ($29,073,013.00) (Net Proportionate Share Obligation) shall be adjusted by the most recent construction and right-of-way indices as adopted by the TIF Ordinance as amended.

(e) The Transportation Concurrency Backlog Authority for S.R. 54. Until such time that the County adopts a transportation concurrency backlog authority for S.R 54 in accordance with Section 163.3182, F.S. or other revenue source acceptable to the County, every residential dwelling unit within the DRI shall pay the Option 1 FY 2007 Full Fee as set forth in the TIF Schedule indexed to the fiscal year of payment (the Option 1 Fee). If and when such authority or other revenue source is adopted, the County shall apply the difference between the Option 1 Fees paid less the applicable TIF rate that was in effect at the time of the payment (the TIF Differential) toward the Pipeline Project No. 4 obligation as defined in the DA, and the TIF obligation for any remaining residential dwelling units shall revert from the Option 1 Fee to the TIF in effect at the time. In any event, the total amount of the TIF Differential paid within the DRI shall not exceed the TND/EC Credit. The County shall budget the TIF Differential as a proportionate-share contribution and such funds shall be applied toward the Other Improvements. This obligation shall not affect the expenditure of TIF paid for the Project, which may be expended in accordance with the County's adopted TIF Ordinance.

b. Identification of Required Roadway Improvements: The DEVELOPER has elected to design, permit, construct, and in limited instances, provide right-of-way for the Required Roadway Improvements in subsections (1), (2), and (3) below to mitigate the transportation impacts of Phases I, II, and III of the Project (collectively referred to as the "Required Roadway Improvements"). Construction of the Required Roadway Improvements once performed, and subject to compliance with the TND Ordinance, Town Center, and EC-MPUD Master Planned Unit Development requirements set forth above, shall vest the DEVELOPER for transportation concurrency for the Phase I, II and III development entitlements in the Starkey Ranch Development Order (equivalent in p.m. peak hour trips) through December 31, 2022 subject to any extensions granted pursuant to the COUNTY's Concurrency Management Ordinance.

(1) Identification of Pipeline Projects. The DEVELOPER has elected to design, permit and acquire right-of-way (where necessary) and contribute funds or construct improvements for four (4) pipeline projects to mitigate the proportionate share transportation impacts of the Project subject to the TND/EC Proportionate Share Credit requirements set forth above. The four (4) Pipeline Projects are a) the State Road 54 Improvement Pipeline Projects (Pipeline Projects No. 1, 2, and 3 as further defined below and collectively referred to as the S.R. 54 Improvement Pipeline Projects) which are estimated to cost Three Million Nine Hundred Seventy-Eight One Hundred Twenty and 00/100 Dollars ($3,978,120.00) (June 2008 dollars) and b) the contribution of funds or construction of improvements equivalent to Twenty-Five Million Ninety-Four Thousand Eight Hundred Ninety-Three and 00/100 Dollars ($25,094,893.00) (June 2008 dollars) toward the construction of Tower Road, or other parallel facility or mobility improvements that benefit the impacted

facilities set forth in Exhibit G as determined by the COUNTY (Pipeline Project No. 4). The DEVELOPER shall post a letter of credit (LOC) or other performance guarantee acceptable to the County for the S.R. 54 Improvement Pipeline Projects and Pipeline Project No. 4 as further defined below in accordance with Section No. 8 of this DA.

(a) The S.R. 54 Improvement Pipeline Projects shall be the construction, realignment, and expansion of the intersections described below. The S.R. 54 Improvement Pipeline Projects shall also include all shoulders, striping, signalization, medians, sidewalks, stormwater-drainage facilities, floodplain mitigation, wetland mitigation, guardrails, and other roadway appurtenances, all as determined by the COUNTY and permitting agencies to be necessary during the design and permitting of the project (Roadway Appurtenances). Construction of these improvements satisfies Three Million Nine Hundred Seventy-Eight One Hundred Twenty and 00/100 Dollars ($3,978,120.00) (June 2008 dollars) of the DEVELOPER'S proportionate-share obligations. The DEVELOPER shall design, permit, construct, and acquire right-of-way (where necessary) for the S.R. 54 Improvement Pipeline Projects, regardless of cost. Except for the site-related S.R. 54 intersection improvements as depicted on Exhibit C, construction of the S.R. 54 Improvement Pipeline Projects shall be eligible for transportation impact fee (TIF) credits in accordance with Section No. 7 of this DA. The DEVELOPER understands and agrees that notwithstanding the potential regional benefits associated with the S.R. 54 Improvement Pipeline Projects, any improvements depicted as "Developer's Cost" on Exhibit C (Site-related S.R. 54 Improvements), attached hereto are not eligible for TIF credits pursuant to the terms of the Pasco County TIF Ordinance as amended; therefore the design, permitting, right-of-way acquisitions/donations, and construction expenses for the Site-related S.R. 54 Improvements are not eligible for TIF credits or COUNTY reimbursement. In the event that the developer of Longleaf MPUD Master Planned Unit Development, Trinity Communities DRI, or others enter in a construction contract acceptable to the COUNTY for all or any portion of the S.R. 54 Improvement Pipeline Projects, before the DEVELOPER enters into a construction contract acceptable to the COUNTY for the construction of S.R. 54 Improvement Pipeline Projects, then the DEVELOPER shall pay a cash contribution to the COUNTY equivalent to the actual construction costs or the costs set forth in the COUNTY-approved construction contract for that portion of the S.R. 54 Improvement Pipeline Projects constructed by the developer of Longleaf MPUD Master Planned Unit Development, Trinity Communities DRI or others, whichever is greater, but under no circumstance shall the cash contribution exceed the proportionate-share cost assumed in the proportionate share table.

(i) State Road 54 and Gunn Highway (Pipeline Project No. 1): Pipeline Project No. 1 consists of the intersection improvements at S.R. 54 and Gunn Highway as depicted on Exhibit C. The estimated cost of Pipeline Project No. 1 is One Million Four Hundred Thirty Two Thousand Two

Hundred Ten and 00/100 Dollars ($1,432,210.00) (June 2008 Dollars). The DEVELOPER shall complete construction of Pipeline Project No. 1 prior to the first to occur of the following: 1) prior to the first record plat for the first dwelling unit or 2) for adjacent development or any development in the Town Center or Downtown Neighborhood as depicted on Map H, construction of Pipeline Project No. 1 shall occur concurrently with site construction for nonresidential development; however no Certificate of Occupancy (CO) for any vertical nonresidential construction could be issued until construction is complete.

(ii) State Road 54 and Trinity Boulevard (Pipeline Project No. 2): Pipeline Project No. 2 consists of the intersection improvements at S.R. 54 and Trinity Boulevard as depicted on Exhibit C. The estimated cost of Pipeline Project No. 2 is One Million Nine Hundred Nineteen Thousand Five Hundred Forty-Three and 00/100 Dollars ($1,919,543.00) (June 2008 Dollars). The DEVELOPER shall complete construction of Pipeline Project No. 2 prior to the first to occur of the following: 1) prior to approval of the first record plat (or construction plan approval where platting is not required) for the 2,187th dwelling unit, 2) for any development in the Business Park, as depicted on Map H, construction of Pipeline Project No. 2 shall occur concurrently with site construction for nonresidential development; however no CO for any vertical nonresidential construction in the Business Park could be issued until construction is complete, 3) prior to December 31, 2016. If signalization of this intersection is warranted prior to the deadlines set forth above, the DEVELOPER shall install the signalization within 360 days of written notification by the County.

(iii) State Road 54 and Starkey Boulevard (Pipeline Project No. 3): Pipeline Project No. 3 consists of the intersection improvements at S.R. 54 and Starkey Boulevard as depicted on Exhibit C. The estimated cost of Pipeline Project No. 3 is Six Hundred Twenty-Six Thousand Three Hundred Sixty-Seven and 00/100 Dollars ($626,367.00) (June 2008 Dollars). The DEVELOPER shall complete construction of Pipeline Project No. 3 prior to the first to occur of the following: 1) prior to the first residential record plat (or residential construction plan where platting is not required) for the first dwelling unit 2) for any nonresidential development, construction of Pipeline Project No. 3 shall occur concurrently with site construction for any nonresidential development; however no CO for any vertical nonresidential construction could be issued until construction is complete..

(iv) Pipeline Project No. 4: The DEVELOPER shall construct improvements or contribute funds equivalent to Twenty-Five Million Ninety-Four Thousand Eight Hundred Ninety-Three and 00/100 Dollars ($25,094,893.00) (June 2008 dollars) less the amount of any TIF paid by the Project which have not been reimbursed to the DEVELOPER at the time of payment for Pipeline Project No. 4. The contribution may be used toward the construction of the Other Improvements as determined by the COUNTY (Pipeline Project No. 4). Prior to December 31, 2014, the improvement(s) including the payment or

construction of a pipeline project or combination thereof shall be identified through the filing of a DO amendment and/or Notice of Proposed Change to the Project if required and shall be adjusted by the most recent construction and right-of-way indices as adopted by the TIF Ordinance as amended and net of any TIF paid to date. The improvements shall be consistent with Section 163.3180(12), F.S., and the schedule of capital improvements in the Comprehensive Plan shall be amended at the next regularly scheduled update to include the improvements if they are not already in the schedule. The pipeline contribution or construction, once performed, shall be eligible for credit against the proportionate-share amount identified in Section No. 4.a and shall be eligible for transportation impact fee credits as determined by the COUNTY Capital Improvements Plan (CIP) and if allowed in accordance with the TIF Ordinance and Section No. 8 of this DA. Within one (1) year of either Pipeline Project No. 4 improvement completion or payment, whichever occurs later, the COUNTY agrees to place Pipeline Project No. 4 in the CIP to the extent necessary to provide impact fee credits for the Project.

(2) Other Required Roadway Improvements. The DEVELOPER shall at its sole expense and regardless of cost, design, permit, construct and acquire or donate right-of-way (where necessary) for the improvements below including all Roadway Appurtenances, all as determined by the COUNTY, FDOT, and other permitting agencies as applicable, to be necessary during the design and permitting thereof (collectively referred to as the "Other Required Roadway Improvements). Construction of the Other Required Roadway Improvements shall be completed as needed to serve adjacent development or earlier if required pursuant to the MPUD Master Planned Unit Development, the Master Roadway Plan, and/or the Town Center Master Plan as applicable.

(a) Gunn Highway Extension. Gunn Highway Extension shall be designed, permitted and constructed from S.R. 54 extending north to the intersection of Tower Road Extension in accordance with the Master Roadway Plan. Due to the TND aspect of the Project, the actual design and any alternative standards required from the County's standard roadway typical sections for collector and arterial roadways shall be addressed as part of the Master Roadway Plan.

(b) Tower Road Extension North. In accordance with the DRC guidance at the April 8, 2008 workshop, the DEVELOPER shall design, permit, and construct two (2) lanes expandable to four (4) lanes of Tower Toad Extension North from the easternmost boundary of the Project to Starkey Boulevard. The actual design, cross sections and any additional alternative standards if required to comply with the TND Ordinance shall be addressed as part of the Master Roadway Plan.

(c) Tower Road Extension South. In accordance with the DRC guidance at the April 8, 2008 workshop, the DEVELOPER shall design, permit, and construct two (2) lanes

from the Town Center to Starkey Boulevard. The actual design, cross sections, and any additional alternative standards if required to comply with the TND Ordinance shall be addressed as part of the Master Roadway Plan.

(d) Trinity Boulevard Extension. The DEVELOPER shall design and permit Trinity Boulevard Extension through the Business Park as a four (4) lane roadway and constructed by the DEVELOPER as a two (2) lane roadway. The actual design, cross sections, and any additional alternative standards if required to comply with the TND Ordinance shall be addressed as part of the Master Roadway Plan.

(3) Site-Access Improvements. The DEVELOPER shall at its sole expense and regardless of cost, design, permit, construct and acquire or donate right-of-way (where necessary) for the improvements in Exhibit C, and the Site-related S.R. 54 Improvements in Exhibit D (collectively referred to as the "Site-Access Improvements") including all Roadway Appurtenances as determined by the COUNTY, and permitting agencies as applicable to be necessary during the design and permitting of the Site-Access Improvements. The Developer understands and agrees that all Site-Access Improvements described herein are not eligible for or entitled to TIF credits pursuant to the terms of the TIF Ordinance as amended; therefore, all design, permitting, right-of-way donations/acquisitions, and construction expenses incurred by the Developer are not eligible for TIF credits, proportionate share credit, or County reimbursement. The DEVELOPER shall complete the construction of the Site-Access Improvements specific to the S.R. 54 Improvement Pipeline Projects prior to the applicable deadline for each improvement defined in Section 4.b(1) above. Those improvements set forth in Exhibit C shall be constructed as needed to serve adjacent development or earlier if required pursuant to the MPUD Master Planned Unit Development conditions of approval, the Town Center Master Plan, or the Master Roadway Plan, as applicable.

5. ROADWAY PROJECTS DESIGN, PERMITTING, AND RIGHT-OF-WAY ACQUISITION

a. Design, Permitting, and Right-of-Way Acquisition: The DEVELOPER shall design, permit, and provide right-of-way for the Required Roadway Improvements in accordance with the terms of this DA. The Required Roadway Improvements shall be designed consistent with the design criteria of the COUNTY and/or the FDOT as appropriate. The construction contractors used by the DEVELOPER to complete the S.R. 54 Improvement Pipeline Projects shall be satisfactory to the FDOT.

b. Design and Construction Requirements: All design, permitting, and construction for the Required Roadway Improvements shall be in accordance with the standards promulgated by the FDOT in accordance with Section 336.045, F.S., and the COUNTY as appropriate, and construction plans shall comply with FDOT's *Plans Preparation Manual* or COUNTY standards as appropriate, and shall include, but

not be limited to, cross sections, drainage, and plan/profile sheets. Plan/profile sheets and cross section drawings shall indicate the location(s) of drainage inlets and roadway facilities. Except as otherwise provided in this DA, any Required Roadway Improvement related wetland and floodplain impacts and compensation shall be included in the design and indicated on the plans.

c. Roadway Drainage Facilities: Roadway drainage facilities, either on-site or off-site, if not commingled or combined with drainage facilities for the Project or any other facilities or developments along the route of the Required Roadway Improvements shall be owned, operated, and maintained by the FDOT or COUNTY as applicable, subsequent to the expiration of the one (1) year Maintenance Guarantee period as set forth herein. The DEVELOPER may, however, request of the COUNTY that the DEVELOPER, Community Development District (CDD), or other legal entity as may be approved by the COUNTY, be allowed to maintain these facilities for the COUNTY roadways. If such request is granted, the DEVELOPER or CDD, as applicable, shall provide appropriate easements to the COUNTY so that the COUNTY has the ability to maintain the facilities in the event the DEVELOPER or CDD, as applicable, defaults on its obligations to maintain the facilities. If the Required Roadway Improvements drainage facilities are commingled or combined with drainage facilities of the Project or any other facilities or developments along the route of the Required Roadway Improvements, all such drainage facilities shall remain owned by the underlying land owner, including the DEVELOPER where applicable, and operation and maintenance of the same shall be the responsibility of the respective underlying land owner (CDD or other similar legal entity as may be approved by the COUNTY). The underlying landowner (CDD or other similar legal entity as may be approved by the COUNTY) shall be responsible for the design, permitting, and construction of all such commingled or combined drainage facilities, unless otherwise approved by the COUNTY. Appropriate easements to the FDOT or COUNTY, as applicable, shall be provided on all lands owned by the DEVELOPER and shall be obtained from all other underlying land owners, by condemnation if necessary, of land containing drainage facilities serving the Required Roadway Improvements, including those facilities that are commingled or combined, so the FDOT or COUNTY has the ability to maintain the facilities associated with the Required Roadway Improvements in the event the DEVELOPER or other respective underlying land owners default on its (their) obligation to maintain the facilities. Commingling or combining of drainage facilities for the S.R. 54 Improvement Pipeline Projects shall not be allowed unless specifically approved in writing by the FDOT.

d. Wetland and Floodplain Mitigation: In the event that the permitted wetland and/or floodplain mitigation area(s) for the impacts associated strictly with the Required Roadway Improvements are permitted and constructed separately and distinctly from impacts associated with the Project or any other facilities or developments, the COUNTY or FDOT, as applicable, will accept ownership and maintenance responsibilities subsequent to successful completion of the maintenance and monitoring period

and acceptance by the governing agency(ies). If the permitted wetland and floodplain mitigation areas related to the Required Roadway Improvements are commingled/combined with wetland and floodplain mitigation areas of the Project or any other facilities or developments, all the wetland and floodplain mitigation areas shall be permitted, owned, operated, and maintained by the underlying land owner, including the DEVELOPER or CDD, where applicable. Appropriate easements shall be provided to the FDOT or COUNTY, as applicable, for the wetland and floodplain mitigation areas associated with the Required Roadway Improvements which are owned by the DEVELOPER and shall be obtained, by condemnation if necessary, from all other underlying landowners of land containing such mitigation areas serving the Required Roadway Improvements, including those areas that are commingled or combined, so the COUNTY or FDOT, as applicable, has the ability to maintain the facilities in the event the DEVELOPER or other underlying land owner defaults on its (their) obligations to maintain the facilities. Commingling or combining of wetland and/or floodplain mitigation areas for the S.R. 54 Improvement Pipeline Projects shall not be allowed unless specifically approved in writing by the FDOT.

e. COUNTY/FDOT Review and Approval of Design: The DEVELOPER shall complete and submit thirty (30), sixty (60), ninety (90), and 100 percent design plans to the COUNTY or the FDOT, as appropriate, for review and approval unless the FDOT or COUNTY agrees in writing to or have adopted an alternative submittal schedule. The DEVELOPER shall obtain approval of the 100 percent design and right-of-way plans for the Required Roadway Improvements from the COUNTY or the FDOT, as applicable, prior to commencement of any bidding of the Required Roadway Improvements. Any reviews and approvals by the COUNTY shall be completed by the COUNTY within thirty (30) days of submission by the DEVELOPER of complete and correct documents to the COUNTY. The COUNTY shall make a completeness review and notify the DEVELOPER within five (5) business days of receipt of the submission by DEVELOPER if not complete and correct. The DEVELOPER shall provide at the time of 100 percent design and right-of-way plan submission for the S.R. 54 Improvement Pipeline Projects (or sooner if required by other sections of this DA) an estimate of the cost of constructing the S.R. 54 Improvement Pipeline Projects, including inspection costs which shall be certified by an engineer duly registered in the State of Florida and approved by the COUNTY (hereinafter Cost Estimate). All plans, once accepted and approved for construction by the COUNTY or FDOT, as applicable, shall become the property of the COUNTY or FDOT.

f. Permitting Requirements: The DEVELOPER and/or its contractor shall obtain any and all required permits for the work it is to perform from the COUNTY or FDOT, as appropriate, and any and all applicable local and State regulatory agencies.

g. COUNTY Cooperation: The COUNTY shall, upon the DEVELOPER'S request, cooperate with the DEVELOPER in processing permit applications, and the DEVELOPER agrees to use its

best efforts to expeditiously secure all permits that are necessary for the design and construction of the Required Roadway Improvements.

h. COUNTY and FDOT Review: The DEVELOPER agrees and recognizes that the COUNTY and FDOT shall not be held liable or responsible for any claims which may result from any actions or omissions of the DEVELOPER or engineers/contractors selected by the DEVELOPER, in which the COUNTY or FDOT participated, either through review or concurrence of their actions. In reviewing, approving, or rejecting any submissions or acts of the DEVELOPER or engineers/contractors selected by the DEVELOPER, the COUNTY and FDOT in no way assume or share any of the responsibility or liability of the DEVELOPER or its consultants, contractors, or registered professionals (architects and/or engineers) under this DA. All work covered under this DA shall be performed in accordance with good engineering practice, and all established design criteria and procedures shall be followed. The COUNTY and FDOT will review the submittals, although detailed checking will not necessarily be done. The DEVELOPER remains solely responsible for the work and is not relieved of that responsibility by review comments.

i. Utilities Relocation: The DEVELOPER shall coordinate the relocation of any utilities infrastructure in conflict with the Required Roadway Improvements. Relocation of any utilities infrastructure which is in conflict with the Required Roadway Improvements shall be completed and paid for by the owner of the utilities infrastructure to the extent required by Sections 337.403-337.404, F.S. The COUNTY agrees, upon request of DEVELOPER, to cooperate with the DEVELOPER in requiring the relocation of any such utilities infrastructure to the extent allowed by Sections 337.403-337.404, F.S., in a timely manner. However, under no circumstances shall the COUNTY incur any expenses for the relocation of such utilities, and if the owner of such utilities fails to remove the utilities at the request of the COUNTY, and the DEVELOPER bears the expense of the utility relocation, such expense shall not be eligible for impact fee credits.

j. Right-of-Way Acquisition:

(1) The DEVELOPER shall be responsible within the time frames set forth in this DA for right-of-way requirements as set forth above (except where the COUNTY has agreed to acquire the right-of-way or has already acquired the necessary right-of-way) necessary for the construction of the Required Roadway Improvements described above which may include, but not be limited to, lanes of travel, shoulders, striping, signalization, signage, medians, on-site stormwater drainage facilities, off-site stormwater drainage facilities, floodplain mitigation, wetland mitigation, guardrails, handrails, sidewalks, and any other necessary appurtenances. The DEVELOPER shall be responsible for selecting and retaining all consultants for acquisition of right-of-way for the Required Roadway Improvements which may include, but not be limited to, competent and qualified attorneys, engineers, surveyors, title companies, appraisers, land planners, certified

public accountants, business damages experts, contractors, horticulturists, and any other consultants considered necessary by the mutually agreeable attorney, discussed below.

(2) While it is not anticipated that additional right-of-way will be required for the S.R. 54 Improvement Pipeline Projects, if necessary, efforts will be made by the COUNTY and DEVELOPER to have the FDOT enter into a Joint Participation Agreement, Letter of Understanding, or otherwise provide a means for the COUNTY to act as a condemning authority with regard to any additional right-of-way required for the S.R. 54 Improvement Pipeline Projects. The DEVELOPER shall have the authority to attempt to privately acquire necessary right-of-way or to participate to the extent permitted by the FDOT in regard to the actions required prior to condemnation. To the extent the COUNTY has condemning authority, COUNTY staff involvement for any Required Roadway Improvement eminent domain proceeding shall be limited to preparation of an engineering memorandum in support of a Resolution of Necessity with the timely support and cooperation of the above consultants and professionals and providing necessary representatives and witnesses in conjunction with any eminent domain proceedings. After receipt of a request by the DEVELOPER for the Resolution of Necessity, the COUNTY'S preparation and consideration of the Resolution of Necessity shall not be unreasonably withheld or delayed. The DEVELOPER, not later than the time when sixty (60) percent design plans are submitted, shall identify all real estate parcels required for the Required Roadway Improvements and identify the appropriate interests in real estate for right-of-way acquisition and furnish the same to the COUNTY. The COUNTY, not later than thirty (30) days after its receipt of the submittal, shall either approve or disapprove the submittal. If the COUNTY disapproves the submittal, it shall provide comments to the DEVELOPER explaining the reasons for the disapproval. Right-of-way maps shall be prepared in accordance with the requirements of the COUNTY'S and State of Florida's Minimum Technical Standards. Upon COUNTY approval of the submittal, the DEVELOPER shall select an attorney acceptable to the COUNTY to represent the COUNTY in the acquisition of right-of-way. Thereafter, the DEVELOPER, in conjunction with the mutually agreeable attorney, shall proceed to acquire for the COUNTY, and in the COUNTY'S name, the right-of-way pursuant to applicable law. The COUNTY, its elected officials, employees, and representatives shall not be liable under any circumstances to the DEVELOPER, its employees, contractors, material suppliers, agents, representatives, or customers for any delay occasioned by the inability to obtain the right-of-way. The DEVELOPER shall submit quarterly project status reports that document the actions and progress of right-of-way acquisitions to the COUNTY Engineer or his designee.

6. PIPELINE PROJECTS CONSTRUCTION

The DEVELOPER shall commence construction of the pipeline projects in accordance with this DA unless extended as provided herein. The DEVELOPER shall proceed and complete the construction of the pipeline projects in accordance with the final alignment, design, specification, and

construction plans as approved by the COUNTY, and other applicable Federal, State, and regional regulatory agencies. The DEVELOPER and COUNTY understand and agree that nothing contained herein shall prohibit or in any way restrict the DEVELOPER'S ability, at its sole discretion, to accelerate the schedule for construction of any portion of the pipeline projects.

a. Competitive Selection of Contractors: The DEVELOPER shall competitively award a contract for the construction of the pipeline projects to an appropriately licensed contractor. The S.R. 54 Improvement Pipeline Projects must be certified by the FDOT. The term "competitively award" as used in this DA means to award the said contract based upon the submission of sealed bids, in accordance with the procedures set forth herein. The failure of the DEVELOPER to comply substantially and in good faith with any provision of this section may result in the rejection by the COUNTY of any request for TIF credits related to work that was not competitively bid. Prior to initiating the competitive-award process, the DEVELOPER shall provide to the COUNTY Purchasing Director and to the FDOT the bid package, which shall include final and complete design plans, technical specifications, general and special conditions, contracts, required portions of this DA, and all such other project documents and materials the inclusion of which in the bid package may be deemed necessary or advisable by the DEVELOPER, COUNTY, or FDOT. The COUNTY and FDOT shall have thirty (30) business days to review the documents and materials submitted by the DEVELOPER and provide the DEVELOPER with their comments. Consistent with the COUNTY'S and FDOT'S comments, the DEVELOPER shall finalize the bid package, outlining the nature and scope of the project; shall provide the COUNTY and FDOT with a copy of the final bid package; and shall proceed to solicit competitive bids from qualified contractors following the process set forth below. The DEVELOPER shall advertise the bid one (1) day per week for two (2) consecutive weeks in the legal section of a newspaper of general circulation in the COUNTY. The DEVELOPER shall request a vendor database list from the COUNTY and FDOT and shall send bid solicitations to each vendor on the appropriate list no later than when the first advertisement appears. The DEVELOPER shall immediately provide the COUNTY and FDOT with any and all correspondence, addenda, and amendments to the bid package, but in no event later than the closing date for the submission of bids. The closing date for the submission of bids shall be no less than thirty (30) days after the first advertisement. The DEVELOPER is exclusively responsible for fulfilling requests for documentation and responding to questions of bidders. If the DEVELOPER elects to conduct any prebid meetings in connection with the Project, the details of this election shall be specified in the bid package, and the Purchasing Director, or his designee, shall be afforded an opportunity to attend any such prebid meetings with reasonable notice. All competitive bids shall be sealed and delivered to the DEVELOPER on or before the time specified in the request or invitation issued by the DEVELOPER, and the said bids shall be opened by the DEVELOPER at the specified location in the bid documents in the presence of the Purchasing Director or his designee, who shall

be afforded reasonable notice and an opportunity to review and comment on the bids. After the opening, the Purchasing Director or his designee staff shall immediately receive an unofficial bid tabulation from the DEVELOPER. Within twenty-four (24) hours of the bid opening, the COUNTY and FDOT shall receive from DEVELOPER full copies of all bids and an official bid tabulation.

The DEVELOPER shall evaluate the bids to ascertain the identity of the lowest responsive and responsible bidder. The DEVELOPER shall notify the COUNTY Purchasing Director and the FDOT in writing, of the identity of the lowest responsive, responsible bidder and shall provide the COUNTY and the FDOT with the proposed contract which shall be consistent with the approved bid package and the lowest responsive, responsible bid. The DEVELOPER shall award the pipeline project contracts to the lowest responsive, responsible bidder approved by the COUNTY and FDOT. If the DEVELOPER determines that any or all bids should be rejected for any material reason, the above notification shall also identify each defective bid and the basis for the determination as to rejection as applicable, including a general determination that all bids should be rejected and the applicable pipeline project should be rebid. In the event that all bidders are rejected as nonresponsive and/or nonresponsible, the pipeline project may be rebid following the procedures described herein. The COUNTY and FDOT shall have thirty (30) business days to review, comment, and provide a statement of reasonable objections or no objection. If either the COUNTY or FDOT object, the COUNTY and FDOT reserve the right to require the DEVELOPER to award the applicable pipeline project contract to the next available, lowest, responsive, responsible bidder or require that all bids be rejected and a rebid performed. Upon the COUNTY'S and FDOT'S statement of no objection, the DEVELOPER may proceed to award to that party the contract for the pipeline project and shall execute a formal written agreement containing the specific terms and conditions of construction, as set forth in the bid package and in the format previously accepted by the COUNTY and FDOT, providing two (2) copies of the final executed agreement to the COUNTY Purchasing Director and FDOT. The DEVELOPER shall promptly furnish to the COUNTY and FDOT two (2) copies of any amendments, supplements to the agreement, or change orders thereafter executed. In addition to the foregoing, the DEVELOPER shall comply with any applicable State competitive-bidding requirements for the pipeline projects.

b. Tender of Improvement Area: Upon the issuance to the DEVELOPER or its contractor of a FDOT or COUNTY Construction Permit, the area covered by that Construction Permit shall be deemed to be tendered to the DEVELOPER or its contractor, as applicable, and such entity shall be in custody and control of the project areas. The DEVELOPER or its contractor shall be responsible for providing a safe work zone for the public.

c. COUNTY and FDOT Observation: The COUNTY'S and FDOT's personnel and authorized representatives reserve the right to inspect, observe, and materials test any and all work associated

with the pipeline projects and shall at all times have access to the work being performed pursuant to this DA for the COUNTY'S and FDOT's observation. However, should the COUNTY or FDOT observe any deficiencies inconsistent with the plans or construction not in accordance with the specifications, the COUNTY or FDOT, as applicable, shall notify the DEVELOPER and its representative in writing; and the DEVELOPER shall, at its cost, correct the deficiencies as necessary. Nothing herein shall require the COUNTY or FDOT to observe or inspect the work on the pipeline projects. The DEVELOPER shall be solely responsible for ensuring that the pipeline projects are constructed in accordance with the plans, specifications, and required standards. Observations by the COUNTY or FDOT that do not discover that construction is not in accordance with the approved plans, specifications, and required standards shall not be deemed a waiver of the DEVELOPER'S requirements herein.

d. Right-of-Way: Prior to the COUNTY'S or FDOT'S acceptance of the pipeline projects, as applicable, the DEVELOPER shall meet the applicable requirements of the COUNTY and/or FDOT and cause all rights-of-way under their ownership/control, including rights-of-way for drainage facilities and wetland and floodplain mitigation, as appropriate, to be conveyed to the COUNTY or FDOT in fee simple, free of financial encumbrances or other encumbrances which restrict its use for road purposes. Unless required elsewhere herein, all conveyances shall occur at record plat or construction plan approval where a record plat is not required or within ninety (90) days of the COUNTY's request, whichever occurs first. All conveyances shall include access easements be in a form acceptable to the Real Estate Division and be free and clear of all liens and encumbrances, including exemption from all covenants and deed restrictions.

e. Construction Requirements: During the construction phases of the pipeline projects, the DEVELOPER and/or its construction contractor(s) shall:

(1) Provide its own on-site inspection and observation by a professional engineer registered in the State of Florida for the purpose of observing and inspecting all construction to ensure it is built according to the plans and specifications.

(2) Obtain all necessary Right-of-Way Use Permits.

(3) Be responsible for supervising and inspecting the construction of the pipeline projects and shall be responsible for ensuring the accuracy of all reference points, grade lines, right-of-way lines, and field measurements associated with such construction.

(4) Be responsible for full and complete performance of all construction activities required pursuant to this DA. The DEVELOPER shall be responsible for the care and protection of any materials provided or work performed for the pipeline projects until the improvements are completed and accepted by the COUNTY or FDOT, as applicable, which acceptance shall not be unreasonably withheld.

(5) Require testing by an independent laboratory, acceptable to the COUNTY and FDOT in accordance with the FDOT'S standards and Pasco County Engineering Services Department's testing specifications for construction of roads, stormwater drainage, and utilities as applicable. Any failed tests shall be reported to the COUNTY Engineer immediately, and all test reports shall be provided on a quarterly basis to the COUNTY Engineer.

(6) Provide a certification from a professional engineer registered in the State of Florida which shall certify that all designs, permits, and construction activities for the pipeline projects and other road improvements are in substantial conformance with the standards established by the FDOT pursuant to Section 336.045, F.S., and by the COUNTY. The said certification shall conform to the standards in the industry and be in a form acceptable to the COUNTY and FDOT.

(7) Provide to the COUNTY and FDOT copies of all design drawings, as-built drawings, and permits received for the pipeline projects, as applicable, and such information shall become the property of the COUNTY and/or FDOT upon submission. All plans submitted to the COUNTY shall include reproducible Mylars™ and electronic files compatible with *AutoCADD*. All plans submitted to the FDOT shall include reproducible Mylars™ and electronic files compatible with *MicroStation* and *GeoPack*.

(8) Provide to the COUNTY, on a quarterly basis, copies of the inspection reports submitted to the FDOT.

7. TRANSPORTATION IMPACT FEES AND CREDITS

a. Transportation Impact Fees: The DEVELOPER and Project shall be assessed TIF in accordance with the COUNTY'S adopted TIF Ordinance as amended and this DA. The COUNTY agrees to budget impact fees paid within the Project in an impact fee account attributable to the pipeline projects for reimbursement or TIF credit to the DEVELOPER or to another entity or entities; e.g., the CDD, to the extent that such entity finances or otherwise pays for or contributes to the pipeline project(s) as determined by the COUNTY (hereinafter referred to as the Credit Receiving Entity). Once the DEVELOPER has posted the performance guarantees and commenced construction for the pipeline projects referenced in this DA, the COUNTY agrees to reimburse or provide impact fee credits to the Credit Receiving Entity for those expenditures on the pipeline projects approved by the COUNTY to be impact fee creditable in accordance with this DA and the TIF Ordinance. The DEVELOPER and Credit Receiving Entity shall not be entitled to any interest on the account. TIFs paid for or by the Project shall be held for the pipeline projects beyond seven (7) years after payment and can thereafter be spent anywhere as desired by the COUNTY in accordance with the TIF Ordinance. In addition, the time limits on the encumbrance and expenditure of these funds, as provided in the TIF Ordinance, shall be waived by the DEVELOPER and by its successors and assigns. The

DEVELOPER and Project shall pay TIFs in accordance with the TIF Ordinance whenever it does not have COUNTY-approved impact fee credits or offsets sufficient to cover impact fees that are due. The foregoing paragraph shall also apply to Pipeline Project No. 4 if Pipeline Project No. 4 when it is determined to be impact fee creditable pursuant to the TIF Ordinance.

b. Transportation Impact Fee Credits:

(1) Impact Fee Credit - The Credit Receiving Entity shall be eligible for TIF credits for construction costs or payment in lieu of such costs for the State Road 54 Improvement Pipeline Projects and Pipeline Project No. 4, as detailed in this DA and the TIF Ordinance. Reasonable design, engineering, inspection, permitting, right-of-way acquisition, and construction costs shall be determined by the County Administrator or his designee. In no event shall such TIF credit exceed the lesser of actual construction costs or the estimated construction costs assumed in Exhibit B of this DA (Exhibit G of the DO). The DEVELOPER and/or the Credit Receiving Entity shall, on or before June 1 of each year, provide to the County Administrator or his designee an updated schedule of production for the remainder of the Project. The production schedule must show the number of anticipated units for all residential uses, number of anticipated hotel rooms, number of anticipated ACLF beds, and the anticipated square footage for both commercial and office. In conjunction with the preparation of the COUNTY'S annual CIP budget, the County Administrator or his designee shall, on or before October 1, communicate to the DEVELOPER and/or the Credit Receiving Entity the anticipated number of units that have been included in the CIP budget for the next three (3) fiscal years. Once the DEVELOPER and/or the Credit Receiving Entity has received impact fee credits equal to the expenditures for the pipeline projects, the requirement of updating the production schedule shall be eliminated. In the event the DEVELOPER fails to provide an updated production schedule on or before June 1 of any year, the COUNTY shall not be obligated to communicate, on or before October 1, the results of the CIP budget to the DEVELOPER.

(2) To receive impact fee credit or reimbursement, all requests and invoices for the pipeline projects shall be submitted to the COUNTY within ninety (90) days of final acceptance by the FDOT for the S.R. 54 Improvement Pipeline Projects and the COUNTY or FDOT as applicable and if required for Pipeline Project No. 4, or for amounts under dispute, no later than ninety (90) days after the conclusion of the dispute. All requests and invoices for credits or reimbursements shall be submitted to the COUNTY at a frequency no greater than monthly. Impact fee credits or reimbursements shall be issued to the Credit Receiving Entity. Should there be any amounts denied for reimbursement or credit, the DEVELOPER may appeal such decision in a manner consistent with the TIF Ordinance.

(3) Notwithstanding the foregoing, the DEVELOPER and/or the Credit Receiving Entity shall not be eligible for impact fee credits or reimbursement for:

(a) The Other Required Roadway Improvements

(b) The Site-Access Improvements

(c) Any internal roadway improvements or right-of-way dedications required by the DO, MPUD Conditions of Approval and/or the Land Development Code.

(d) Construction Engineering and Inspection (CEI) expenses in excess of ten (10) percent of the total Pipeline Project cost.

(e) Pipeline project costs not specifically set forth in this DA; e.g., financing, insurance, and bonding expenses.

In addition, the DEVELOPER and Credit Receiving Entity shall not be eligible for impact fee, Proportionate Share, or reimbursement for impact fees paid prior to the execution of this DA, and the DEVELOPER and Credit Receiving Entity shall not be eligible for impact fee credit for any costs for which the COUNTY has provided a reimbursement pursuant to this DA.

(4) Roadway Drainage Facilities: If Pipeline Project roadway-drainage facilities are commingled with off-site Project-related or other landowner-related drainage facilities, the portions of the right-of-way acquisition, design, permitting, and construction costs for Project-related or other landowner-related drainage facilities are not eligible for impact fee credits.

(5) Wetland and Floodplain Mitigation: If wetland and floodplain mitigation areas needed for the pipeline projects are commingled with off-site Project-related or other landowner-related wetland and floodplain mitigation areas, the portions of the right-of-way acquisition, design, permitting, and construction costs for Project-related or other landowner-related mitigation are not eligible for impact fee credits.

(6) Transfer of Credits: Impact fee credits pursuant to this DA may be transferred in accordance with the TIF Ordinance.

(7) Cash Payout Option: The COUNTY reserves the right to pay out annually, the cash value of any unused, accrued, impact fee credits to the DEVELOPER and such cash value shall be removed from any credit balance.

(8) This paragraph shall also apply to Pipeline Project No. 4 when it is determined to be impact fee creditable.

c. Other Impact Fees: Nothing contained in this DA shall excuse the payment of any other nontransportation impact fees required to be paid in accordance with the laws and ordinances of the COUNTY as may be amended.

8. PERFORMANCE GUARANTEES BY DEVELOPER

a. General: LOCs or other performance guarantees acceptable to and approved by the COUNTY (Performance Guarantee) to guarantee completion of the pipeline projects shall be posted in favor of, and provided to the COUNTY as set forth below. Failure to post, revise, update, and keep effective the required Performance Guarantees until the completion of the applicable pipeline project shall be considered a default of this DA and shall entitle the COUNTY to suspend any TIF credits or reimbursements due pursuant to Section 7 above and/or stop the issuance of Building Permits and other development approvals. All Performance Guarantees when posted and provided to the COUNTY shall be adjusted by the most recent construction and right-of-way indices as adopted by the TIF Ordinance as amended. The DEVELOPER shall be allowed to subtract the cost of issuance of any Performance Guarantee required pursuant to this DA (not to exceed one [1] percent annually) from the time of initial posting of the applicable Performance Guarantee in accordance with this DA until the award of the construction contract for the applicable pipeline project or payment of Pipeline Project No. 4 if applicable.

(1) Performance Guarantee No. 1. A Performance Guarantee for Pipeline Project No. 1 (Performance Guarantee No. 1) shall be posted in favor of and provided to the COUNTY within one hundred and eighty (180) days of the BCC approval of this DA or prior to the first construction plan for any development, whichever occurs first. The DEVELOPER shall post Performance Guarantee No. 1 in the amount of One Million Seven Hundred Ninety Thousand Two Hundred Sixty Three and 00/100 Dollars ($1,790,263.00) (June 2008 dollars).

(2) Performance Guarantee No. 2. A Performance Guarantee for Pipeline Project No. 2 (Performance Guarantee No. 2) shall be posted in favor of and provided to the COUNTY prior to December 31, 2011. The DEVELOPER shall post Performance Guarantee No. 2 in the amount of Two Million Three Hundred Ninety Nine Thousand Four Hundred Twenty-Nine and 00/100 Dollars ($2,399,429.00) (June 2008 dollars).

(3) Performance Guarantee No. 3. A Performance Guarantee for Pipeline Project No. 3 (Performance Guarantee No. 3) shall be posted in favor of and provided to the within one hundred and eighty (180) days of the BCC approval of this DA. The DEVELOPER shall post Performance Guarantee No. 3 in the amount of Seven Hundred Eighty-Two Thousand Nine Hundred Fifty-Nine and 00/100 Dollars ($782,959.00) (June 2008 dollars).

(4) Performance Guarantee No. 4. A Performance Guarantee for Pipeline Project No. 4 (Performance Guarantee No. 4) shall be posted in favor of and provided to the COUNTY prior to December 31, 2015. The DEVELOPER shall post Performance Guarantee No. 4 in the amount of Twenty-Five

Million Ninety-Four Thousand, Eight Hundred Ninety-Three and 00/100 Dollars ($24,094,893.00) (June 2008 dollars) less any TIFs paid to date at the time of payment.

b. Conditions for Performance Guarantees

(1) The Performance Guarantees required pursuant to this DA or the LDC for the Project must be issued by a bank, savings association, or other financial institution (the Performance Guarantee Issuer) acceptable to the COUNTY which is authorized to do business in the State of Florida.

(2) The Performance Guarantee issuer must have and maintain:

(a) A minimum financial ranking of 120 in the Bank Financial Quarterly, or a similar financial ranking acceptable to the COUNTY'S Risk Manager.

(b) A minimum rating of at least AA/Aa/AA by S & P, Moody's, or Fitch.

(c) Downgrade Provision: In the event the Performance Guarantee issuer does not maintain the average financial condition in Paragraph 8.b(2)(a) above or is downgraded below the minimum in Paragraph 8.b(2)(b) above, the Performance Guarantee Issuer must notify the COUNTY and the DEVELOPER within five (5) days, and the DEVELOPER must provide a substitute Performance Guarantee in substantially the same form and containing the same terms as the original Performance Guarantee from a bank or financial institution with the minimum ratings set forth above within fifteen (15) days of such downgrade event or the COUNTY will draw on the original Performance Guarantee.

(3) The Performance Guarantee must provide for draws to be made on a bank or savings association located in West Central Florida or by facsimile to other LOC Issuers.

c. Maintenance Guarantee: Upon completion of the Required Roadway Improvements and final acceptance by the COUNTY and/or FDOT in accordance with the County Engineering Inspections Division certification as required in this section, the DEVELOPER and its construction contractor shall be required to guarantee that the Required Roadway Improvements and all work performed is free from defects in workmanship or materials by completing an initial maintenance period and providing an Performance Guarantee valid for the entire initial maintenance period plus six (6) months. The monetary amount which shall be made available to the BCC under the terms of the Performance Guarantee shall equal to fifteen (15) percent of the cost of the project. The amount shall be based on the engineer's own estimate amounts or an estimate established by multiplying the actual unit quantity by the unit costs contained in Engineering Services Department: A Procedural Guide for the Preparation of Assurances of Completion and Maintenance (as may be subsequently amended). The initial maintenance period shall be three (3) years commencing on the date of acknowledgement of completion and acceptance of a Performance Guarantee in accordance with this section. The DEVELOPER shall be responsible for maintaining the project during the

initial maintenance period and, if any part of the project should fail within this period due to such a defect, it shall be repaired, replaced, and/or restored to satisfactory condition and/or operation at no cost to the COUNTY. In the event the DEVELOPER does not maintain the project during the initial maintenance period, the Administrator shall notify the DEVELOPER in writing via certified mail, return receipt requested, of the areas that require maintenance. The DEVELOPER shall have sixty (60) days from receipt of the notice to perform the required maintenance to the satisfaction of the Administrator or be in default of the Performance Guarantee, unless a longer time is agreed upon between the DEVELOPER and the Administrator. The DEVELOPER shall also be responsible for requesting, in writing, a final inspection from the Pasco County Engineering Inspections Division not before ninety (90) days prior to the termination of the initial maintenance period. Upon receipt of the request for final inspection, the Engineering Inspections Division shall notify the DEVELOPER via certified mail, return receipt requested, postmarked within thirty (30) days of such request, providing a list of deficiencies of items to be remedied by the DEVELOPER before the expiration of the maintenance period. In the event the DEVELOPER does not remedy the deficiencies before the expiration of the maintenance period, the DEVELOPER shall be in default of the Performance Guarantee. This remedy for correction is a contractual obligation that is a cumulative and not exclusive remedy. Upon completion of construction of the improvements and final inspection by the COUNTY as being constructed in accordance with all appropriate contract documents and permit requirements, etc., and upon the expiration of the required three (3) year Maintenance Guarantee, the COUNTY shall be responsible for maintenance of the roadway and roadway-drainage facilities which are not commingled/combined. Upon the remedy of any defects to the satisfaction of the Administrator, or in the case of no defects, but in any case no sooner than the completion of the three (3) year maintenance period, the Administrator may recommend to the COUNTY the release of the Maintenance Guarantee.

9. INDEMNIFICATION AND INSURANCE

a. Indemnification: For and in consideration of Ten and 00/100 Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the DEVELOPER shall indemnify, defend, and hold harmless the COUNTY and all of its agents and employees from and against any and all claim, liability, loss, damage, cost, attorney's fee, charge, or expense of whatever kind or nature which the COUNTY may sustain, suffer, or incur, or be required to pay by reason of the loss of any monies paid to the DEVELOPER resulting out of fraud, defalcation, or dishonesty; or arising out of any act, action, neglect, or omission by the DEVELOPER during the performance of this DA, any work under this DA, or any part thereof, whether direct or indirect; or by reason or result of injury caused by the DEVELOPER'S negligent maintenance of the property over which the DEVELOPER has control; or by reason of a judgment over and above the limits provided by the insurance required under this DA; or by any defect in the condition or

construction of the Required Roadway Improvements, except that the DEVELOPER will not be liable under this provision for damages arising out of the injury or damage to persons or property directly caused or resulting from the sole negligence of the COUNTY or any of their agents or employees, unless such COUNTY negligence arises from the COUNTY review referenced in Paragraphs 5.e and 5.h of this DA. The DEVELOPER'S obligation to indemnify, defend, hold harmless as described hereinabove, shall arise within seven (7) days of receipt by the DEVELOPER of the COUNTY'S written notice of claim for indemnification to the DEVELOPER. The notice of claim for indemnification shall be served pursuant to the notice provisions contained in Paragraph 9.g. The DEVELOPER'S obligation to defend and indemnify within seven (7) days of receipt of such written notice shall not be excused because of the DEVELOPER'S inability to evaluate liability or because the DEVELOPER evaluates liability and determines the DEVELOPER is not liable or determines the COUNTY is solely negligent. Only a final, adjudicated judgment finding the COUNTY solely negligent shall excuse performance of this provision by the DEVELOPER. If a judgment finding the COUNTY solely negligent is appealed and the finding of sole negligence is reversed, the DEVELOPER shall be obligated to indemnify the COUNTY for the cost of the appeal(s). The DEVELOPER shall pay all costs and fees related to this obligation and its enforcement by the COUNTY. The DEVELOPER shall also include for the Required Roadway Improvements this indemnity provision, replacing the word DEVELOPER with the name of the contractor(s).

b. Insurance:

(1) General. No work shall commence on the Required Roadway Improvements nor shall occupancy of any of the property within the Required Roadway Improvement limits take place until the required Certificates of Insurance and certified true and exact copies of all insurance policies are received by the COUNTY as set forth below:

(a) During the life of this DA, the DEVELOPER shall require any engineers and/or general contractors providing work for the improvements to pay for and maintain insurance of the types and in the amounts described herein. All such insurance shall be provided by responsible companies authorized to transact business in the State of Florida which have an "A" policyholder's rating and a financial rating of at least Class VIII in accordance with the most current *Best's Key Rating Guide* and which are satisfactory to the COUNTY.

(b) The DEVELOPER shall require the engineers and/or general contractor to provide to the DEVELOPER and to the COUNTY evidence of insurance coverage of the types and in the amounts required by submitting four (4) original, executed Certificates of Insurance on the form to be provided by the COUNTY to the DEVELOPER. Each certificate shall set forth the original, manual signatures of the authorized representative of the insurance company(ies), identified therein and shall have

attached thereto, proof that the said representative is authorized to execute the same. In addition to the Certificates of Insurance required herein, the DEVELOPER shall require the engineers and/or contractors to also provide to the COUNTY certified true and exact copies of all insurance policies required hereunder at the time of submittal of the Certificates of Insurance. The required Certificates of Insurance not only shall name the types of policies provided, but also shall refer specifically to the agreement between the DEVELOPER and the contractor for the improvement.

(c) All policies of insurance required by this DA shall require that the insurer deliver to the COUNTY and the DEVELOPER thirty (30) days' written notice prior to any cancellation, intent not to renew, or reduction in coverage and ten (10) days' written notice of any nonpayment of premium. Such notice shall be delivered by certified U.S. Mail to the COUNTY and the DEVELOPER, addressed to the parties as described in Paragraph 9.g below. In the event of any reduction in the aggregate limit of any policy, the DEVELOPER shall require the engineers and/or contractor to immediately restore such limit to the amount required herein.

(d) The DEVELOPER shall require that all insurance coverage provided by the engineers and/or general contractor be primary to any insurance or self-insurance program of the COUNTY and the DEVELOPER which is applicable to the work provided for in this DA. All such insurance shall also remain in effect until final payment and until after the one (1) year warranty period provided herein.

(e) Receipt by the COUNTY of any Certificate of Insurance or copy of any policy evidencing the insurance coverage and limits required by the contract documents does not constitute approval or agreement by the COUNTY that the insurance requirements have been satisfied or that the insurance policies or Certificates of Insurance are in compliance with the requirements under this DA.

(f) The insurance coverage and limits that the DEVELOPER shall require from the engineers and/or contractor under this DA are designed to meet the minimum requirements of the COUNTY. They are not designed as a recommended insurance program. The DEVELOPER shall notify the engineers and/or contractor that the engineers and/or contractor shall be responsible for the sufficiency of its own insurance program.

(g) If the insurance coverage initially provided by the engineers and/or contractor is to expire prior to completion of the work, the DEVELOPER shall require the engineers and/or contractor to provide renewal Certificates of Insurance on the COUNTY'S form thirty (30) days prior to expiration of current coverage.

(h) Should the engineers and/or contractor fail to maintain the insurance coverage required under this DA, the COUNTY may, at its option, either terminate this DA for default as provided hereinafter or require the DEVELOPER to procure any payment for such coverage at its own

expense. A decision by the COUNTY to require the DEVELOPER to procure and pay for such insurance coverage shall not operate as a waiver of any of the COUNTY'S rights or the DEVELOPER'S obligations under this DA.

(i) All insurance policies that the DEVELOPER shall require the engineers and/or contractor to obtain pursuant to this DA, other than workers' compensation and employer's liability policy, shall specifically provide that the COUNTY, COUNTY Engineer, and each of their elected officers, employees, and agents shall be "additional insured" under the policy and shall also incorporate a severability of interests provision. All insurance coverage required herein shall apply to all engineers' and/or contractors' activities and any subcontractor's activities for the improvements without regard for the location of such activity.

(2) Coverage. Amounts and types of insurance shall conform to the following minimum requirements and shall be listed on a current Pasco County Certificate of Insurance form, which shall be provided to the engineers and/or contractors by the DEVELOPER. The DEVELOPER may obtain a sample copy of this certificate from the COUNTY.

(a) Workers' Compensation and Employer's Liability Insurance: The DEVELOPER shall require that coverage be maintained by the engineers and/or contractor for all employees engaged in the work in accordance with the laws of the State of Florida. The amount of such insurance shall not be less than:

(i) Workers' Compensation: Florida statutory requirements.

(ii) Employer's Liability: One Million and 00/100 Dollars ($1,000,000.00) each accident.

(iii) The DEVELOPER shall require the engineers and/or contractor and contractor's insurance companies to waive their rights of subrogation against the COUNTY and their agents and employees.

(b) Commercial General Liability Insurance: The DEVELOPER shall require commercial, general liability insurance coverage be maintained by the engineer and/or contractor which shall include, but not be limited to, personal and advertising injury; contractual for the improvements, including any hold-harmless and/or indemnification agreement; independent contractors; broad form property and personal injury, and combined single limits:

(i) General Aggregate: Two Million and 00/100 Dollars ($2,000,000.00).

(ii) Products, Completed Operations Aggregate: Two Million and 00/100 Dollars ($2,000,000.00).

(iii) Bodily Injury Including Death (Each Person): One Million and 00/100 Dollars ($1,000,000.00).

(iv) Bodily Injury, Including Death (Each Occurrence): Two Million and 00/100 Dollars ($2,000,000.00).

(v) Property Damage (Each Occurrence): One Million and 00/100 Dollars ($1,000,000.00).

(vi) Personal and Advertising Injury (Each Occurrence): Five Hundred Thousand and 00/100 Dollars ($500,000.00).

(vii) Fire Damage (Any One [1] Fire): Five Hundred Thousand and 00/100 Dollars ($500,000.00).

(c) Business Automobile Liability Insurance: The DEVELOPER shall require coverage to be maintained by the engineers and/or contractor as to the ownership, maintenance, and use of all owned, nonowned, leased, or hired vehicle and employees' nonownership with limits of not less than:

(i) Bodily Injury and Personal Injury Including Death: One Million and 00/100 Dollars ($1,000,000.00) combined, single limit.

(ii) Property Damage: One Million and 00/100 Dollars ($1,000,000.00) combined, single limit.

(d) Excess Liability Insurance: The DEVELOPER shall require coverage be maintained by the contractor for excess liability, which shall be over and above the commercial general liability insurance and business automobile liability insurance requirements, with limits of not less than:

(i) Each Occurrence: Three Million and 00/100 Dollars ($3,000,000.00).

(ii) Aggregate: Three Million and 00/100 Dollars ($3,000,000.00).

(e) Professional Error and Omissions Liability: The DEVELOPER shall require that the engineers maintain standard, professional-liability insurance in the minimum amount of One Million and 00/100 Dollars ($1,000,000.00) per occurrence.

(f) Special Instructions: Occurrence from professional, liability insurance is highly preferred; however, in the event the consultant is only able to secure claims-made, professional-liability insurance, special conditions apply. Any Certificate of Insurance issued to the COUNTY must clearly indicate whether the coverage is on a claims-made basis. Should coverage be afforded on a claims-made basis, the DEVELOPER shall require the consultant to be obligated by virtue of this DA to

maintain insurance in effect with no less limits of liability nor any more restrictive terms and/or conditions for a period of five (5) years from the date of this DA.

10. GENERAL PROVISIONS

a. Independent Capacity: The DEVELOPER and any consultants, contractors, or agents are and shall be, in the performance of all work, services, and activities under this DA, independent contractors and not employees, agents, or servants of the COUNTY or joint ventures with the COUNTY. The DEVELOPER does not have the power or authority to bind the COUNTY in any promise, agreement, or representation other than specifically provided for in this DA. The COUNTY shall not be liable to any person, firm, or corporation who contracts with or provides goods or services to the DEVELOPER in connection with the Required Roadway Improvements, or for debts or claims accruing to such parties against the DEVELOPER. There is no contractual relationship expressed or implied between the COUNTY and any other person, firm, or corporation supplying any work, labor, services, goods, or materials to the DEVELOPER as a result of the Required Roadway Improvements.

b. Default: If the DEVELOPER fails to meet any of the time frames set forth herein, unless extended pursuant to this DA, then it shall be considered a default of this DA entitling the COUNTY to make a claim and collect on the Performance Guarantees required by Section 8 (or the portion of the guarantees required to cure the default, if less than the entire guarantees, but without limiting or affecting the COUNTY'S rights to enforce the balance of the guarantees, if required). Upon the said default, the issuance of Building Permits, plats, and other development approvals shall cease until the default has been cured to the reasonable satisfaction of the COUNTY. The DEVELOPER agrees that it will acquire no vested rights in any development approval, plat, or permit issued while there exists an uncured event of default of this DA, and acknowledges and agrees that the COUNTY has the right to revoke any development approval, plat, or permit issued after an uncured event of default of this DA.

c. Time Extensions:

(1) In the event the COUNTY requires additional time beyond that allocated herein to act upon a submission by the DEVELOPER of complete and correct documents for review and/or approval, there shall be an automatic extension of the time periods set forth in this DA for the Required Roadway Improvements for the documented number of days which it takes the COUNTY beyond the days allowed for the COUNTY'S review and/or approval.

(2) In the event the DEVELOPER is unable to meet a deadline as set forth in this DA for the Required Roadway Improvements, the DEVELOPER may, prior to the deadline, submit a request to the County Administrator for an amendment to this DA to extend the deadline, and the County

Administrator agrees to submit such requests to the COUNTY within thirty (30) days unless the DEVELOPER agrees to extend the said submitted time period beyond thirty (30) days.

d. Termination: The COUNTY may terminate this DA upon the DEVELOPER'S failure to comply with the terms and conditions of this DA. The COUNTY shall provide the DEVELOPER with a written Notice of Termination, stating the COUNTY'S intent to terminate and describing those terms and conditions with which the DEVELOPER has failed to comply. If the DEVELOPER has not remedied the failure or initiated good faith efforts to remedy the failure within thirty (30) days after receiving the Notice of Termination, or thereafter is not proceeding with due diligence to remedy the failure, the COUNTY may terminate this DA immediately without further notice, and the DEVELOPER shall not thereafter be entitled to any impact fee credits, reimbursement, or compensation as provided herein. This paragraph is not intended to replace any other legal or equitable remedies available to COUNTY under Florida law, but it is in addition thereto.

e. Contracts: All contracts entered into by the DEVELOPER for the Required Roadway Improvements shall be made in accordance with all applicable laws, rules, and regulations; shall be specified by written contract or agreement; and shall be subject to each paragraph set forth in this DA. The DEVELOPER shall monitor all contracts on a regular basis to ensure contract compliance. Results of monitoring efforts shall be summarized in written reports submitted to the COUNTY and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

(1) The DEVELOPER shall cause all provisions of this DA in its entirety to be included and made a part of any contract for the Required Roadway Improvements.

(2) The DEVELOPER agrees to include in all construction contracts a retainage clause providing that upon completion of all work the retainage will be reimbursed.

f. Law Compliance: The DEVELOPER and the COUNTY will comply with all applicable Federal, State, and local laws, rules, regulations, and guidelines related to performance under this DA. In particular, the DEVELOPER verifies and affirms that it is in compliance with the 8 USC, Section 1324, prohibiting the employment either directly or by contract, subcontract, or exchange of unauthorized aliens in the United States. The COUNTY will consider the employment of unauthorized aliens by the DEVELOPER or by any contractor or vendor of the DEVELOPER during the term of the DA a violation of the Immigration and Nationality Act. Such violation shall be cause for unilateral cancellation of this DA by the COUNTY.

g. Certification: The DEVELOPER shall provide certification to the COUNTY, under the seal and signature of a registered, professional engineer that the Required Roadway Improvements have been constructed in accordance with the standards promulgated by the FDOT in Section 336.045, F.S.; the COUNTY standards; the contract documents; and this DA.

h. Notice: Whenever one (1) party gives notice to the other party concerning any of the provisions of this DA, including notice of termination, such notice shall be given by certified mail, return-receipt requested. The said notice shall be deemed given when it is deposited in the U.S. Mail with sufficient postage prepaid (notwithstanding that the return-receipt is not subsequently received). Notices shall be addressed as follows: Mr. Trey Starkey, Starkey Land Company, 12959 State Road 54, Odessa, FL 33556, with a copy to Mr. J. Ben Harrill, Figurski & Harrill, The Oaks at Perrine Ranch, 2550 Permit Place, New Port Richey, FL 34655, with a copy to Pasco County, c/o Bipin Parikh, P.E., Assistant County Administrator (Development Services), West Pasco Government Center, 7530 Little Road, Suite 320, New Port Richey, Florida 34654, with a copy to David A. Goldstein, Senior Assistant County Attorney, West Pasco Government Center, 7530 Little Road, Suite 340, New Port Richey, Florida 34654. These addresses may be changed by giving notice as provided for in this paragraph.

i. Entire Agreement: This DA embodies and constitutes the entire understanding and agreement between the parties with respect to the transactions contemplated herein, and this DA supersedes all prior and contemporaneous agreements, understandings, representations, communications, and statements, either oral or written; provided, however, that nothing shall relieve the DEVELOPER of any development approval requirements or conditions previously imposed or authorized to be imposed under the COUNTY'S LDC or Comprehensive Plan for future permits required by the DEVELOPER.

j. Modification and Amendment: Neither this DA, nor any portion hereof, may be waived, modified, amended, discharged, nor terminated, except as authorized by law pursuant to an instrument in writing, signed by the party against which the enforcement of such waiver, modification, amendment, discharge, or termination is sought and then only to the extent set forth in such instrument. Changes to this DA which materially affect the requirements in Section 5.m of the DO or which remove any condition required by Rule 9J-2.045, FAC, shall require an amendment to the DO through the NOPC process pursuant to Chapter 380, F.S. All other amendments to this DA shall not require an NOPC or DO amendment.

k. Waiver: The failure of any party to this DA to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this DA shall not be construed as a waiver of the violation or breach or of any future violation, breach, or wrongful conduct.

l. Contract Execution: This DA may be executed in several counterparts, each constituting a duplicate original, but all such counterparts shall constitute one (1) and the same agreement.

m. Gender: Whenever the contract hereof shall so require, the singular shall include the plural, the male gender shall include the female gender and the neuter and vice versa.

n. Headings: All article and descriptive headings of paragraphs in this DA are inserted for convenience only and shall not affect the construction or interpretation hereof.

o. Severability: Each provision of this DA is material to the Board of County Commissioners approval of this DA. Accordingly, the provisions are not severable. In the event any section, sentence, clause, or provision of this DA is declared illegal or invalid by a body with jurisdiction to make such determination, the remainder of this DA shall be suspended until such time the Board of County Commissioners modifies the DA to address the illegal or invalid provision; provided however, such determination shall not affect the validity of DRI entitlements that have received preliminary plan, preliminary site plan, plat, construction plan, Building Permit, CO approval, or any DRI mitigation committed to or performed as of the date the determination is made. DEVELOPER-requested amendments to this DA shall not be considered challenges to this DA and decisions by the Board of County Commissioners regarding any DEVELOPER-requested amendments, or the like, shall not have the effect of suspending this DA under any circumstances. Notwithstanding the foregoing, if a third party challenges any section, subsection, sentence, clause, or provision of the DA and the challenged portion of the DA is subsequently declared illegal or invalid, this DA shall not be suspended, and shall remain in full force and effect except for that portion declared illegal or invalid. If any section, subsection, sentence, clause, or provision of this resolution is declared illegal or invalid as the result of a third party challenge, the DEVELOPER shall cooperate with the COUNTY to amend this DA to address the portion which has been declared invalid or illegal.

p. Construction: The parties hereby agree that each has played an equal part in the negotiation and drafting of this DA and, in the event any ambiguity should be realized in the construction or interpretation of this DA, the result of such ambiguity shall be equally assumed and realized by each of the parties to this DA.

q. Cancellation: This DA may be canceled by mutual consent of the parties to the DA.

r. Third Party Beneficiaries: Except where this DA specifically provides for the rights and obligations of the FDOT, nothing in this DA shall be construed to benefit any person or entity not a party to this DA.

s. Strict Compliance with Laws: The DEVELOPER agrees that acts to be performed by it in connection with this DA shall be performed in strict conformity with all applicable Federal, State, and local laws, rules, regulations, standards, and guidelines.

t. Nondiscrimination: The DEVELOPER will not discriminate against any employee employed in the performance of this DA or against any applicant for employment because of race, creed, color, handicap, national origin, or sex. The DEVELOPER shall insert a similar provision in all contracts for the Required Roadway Improvements.

u. Signatories Authority: By the execution hereof, the parties covenant that the provisions of this DA have been duly approved and signatories hereto are duly authorized to execute this DA.

v. Right-of-Way Use Permit: The DEVELOPER shall obtain an appropriate Right-of-Way Use Permit from the COUNTY.

w. Controlling Law: This DA shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any litigation arising from this DA shall be in Pasco County, Florida.

x. Successors and Assigns: The terms of this DA shall run with the land and be binding upon the DEVELOPER and owners and their successors and assigns. The DEVELOPER and owners may assign this DA and all its rights and obligations hereunder to any person, firm, corporation, or other entity, with the consent of the parties to this DA, which consent should not be unreasonably withheld or delayed, and any such assignee shall be entitled to all the rights and powers of such participation hereunder. Upon any such assignment, such assignee shall succeed to all the rights and obligations of the assignor hereto, and shall, for purposes of specific rights and/or obligations assigned, or otherwise, all purposes hereof, be substituted for such participant.

y. Force Majeure: In the event the DEVELOPER'S or COUNTY'S performance of this DA is prevented or interrupted by consequent act of God, or of the public enemy, or national emergency, or a governmental restriction upon the use or availability of labor or materials, or civil insurrection, riot, racial or civil rights disorders or demonstration, strike, embargo, flood, tidal wave, fire, explosion, bomb detonation, nuclear fallout, windstorm, hurricane, sinkholes, earthquake, or other casualty, disaster, or catastrophe, or judgment, or a restraining order or injunction of any court, the DEVELOPER or COUNTY shall not be liable for such nonperformance, and the time of performance shall be extended for the number of days that the force majeure event prevents or interrupts the DEVELOPER'S or COUNTY'S performance of this DA as reasonably determined by the other party. This paragraph shall not apply to force majeure events caused by the DEVELOPER or under the DEVELOPER'S control, or caused by the COUNTY or under the COUNTY'S control, as applicable. In the event that performance by the DEVELOPER or COUNTY of the commitments set forth in this DA shall be interrupted or delayed in connection with acquisition of necessary governmental permits or approvals for the construction of the Required Roadway Improvements and which interruption or delay is caused through no fault of the party with a delayed performance, then the party with a delayed performance shall submit documentation to the other party regarding such event for review and concurrence. If such documentation shows that such event(s) have taken place, then the party with a delayed performance shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof, provided, however, in no event shall any such extension exceed

three (3) months. Any requested extensions beyond such three (3) month period may only be accomplished by an amendment to this DA.

IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this DA on the dates set forth below.

(SEAL)

ATTEST:

____
JED PITTMAN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA

____
TED SCHRADER, CHAIRMAN

Date: ______________________________

WITNESSES:

____

____

Starkey Ranch Investment Company, LLC

BY: ______________________________

____
Print

Its ______________________________
Title

STATE OF FLORIDA
COUNTY ______________________

The foregoing instrument was acknowledged before me this ______________________________
(date), by ______________________________
(name of person acknowledging), who is personally known to me or who has produced ______________
____
(type of identification) as identification.

Seal:

____
NOTARY

EXHIBITS

A. Legal Description

B. Proportionate Share Table

C. Site-Related Intersection Improvements

D. State Road 54 Improvement Pipeline Projects

EXHIBIT A

DRI NO. 264 - STARKEY RANCH
PASCO COUNTY DEVELOPMENT AGREEMENT

LEGAL DESCRIPTION

EXHIBIT B

DRI NO. 264 - STARKEY RANCH
PASCO COUNTY DEVELOPMENT AGREEMENT

PROPORTIONATE SHARE TABLE

EXHIBIT C

DRI NO. 264 - STARKEY RANCH
PASCO COUNTY DEVELOPMENT AGREEMENT

SITE-RELATED INTERSECTION IMPROVEMENTS

EXHIBIT D

DRI NO. 264 - STARKEY RANCH
PASCO COUNTY DEVELOPMENT AGREEMENT
STATE ROAD 54 IMPROVEMENT PIPELINE PROJECTS