

MEMORANDUM

Agenda Item No. 8(L)(3)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: July 19, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving a
Transportation Concurrency
Proportionate Share Mitigation
Agreement between Miami-Dade
County and Applicant, Century
Park Square, LLC, to address
transportation concurrency
pursuant to section 163.3180,
Florida Statutes; providing that
Century Park Square, LLC shall
pay a proportionate share
payment of \$234,035.34 to the
County; and authorizing the
County Mayor to execute said
Agreement, to exercise all rights
contained therein, and take all
actions necessary to effectuate
same

Resolution No. R-699-22

The accompanying resolution was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Kionne L. McGhee.



Geri Bonzon-Keenan
County Attorney

GBK/gh

Memorandum



Date: July 19, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Resolution Authorizing Miami-Dade County to enter into a Transportation Concurrency Proportionate Share Mitigation Agreement with Century Park Square, LLC.

EXECUTIVE SUMMARY

This item authorizes a Transportation Concurrency Proportionate Share Mitigation Agreement between Miami-Dade County and the Applicant, Century Park Square, LLC., to mitigate transportation concurrency impacts for the construction of 200 multi-family residential units by paying a proportionate share payment of \$234,035.34 to the County, which the County shall apply to one or more of the mobility improvements outlined in the agreement.

Recommendation

It is recommended that the Board of County Commissioners (Board) authorize the County Mayor or County Mayor’s designee to enter into a Transportation Concurrency Proportionate Share Mitigation Agreement (Agreement), attached as Exhibit “1” to this memorandum, between Miami-Dade County and the Applicant, Century Park Square, LLC., to address concurrency for the construction of 200 multi-family residential units.

Scope

The proposed Agreement will have an impact on Commission District 9, which is represented by Commissioner Kionne L. McGhee.

Delegation of Authority

The resolution delegates authority to the Mayor or Mayor’s designee to execute the Agreement, exercise all rights contained in the Agreement, and to take all actions necessary to effectuate the Agreement.

Fiscal Impact/Funding Source

The proposed Agreement would require the Applicant to mitigate in the amount of \$234,035.34 that would contribute to the county roadway improvements that are detailed further in this memorandum.

Track Record/Monitor

The Platting and Traffic Review Division within the Department of Regulatory and Economic Resources will administer and monitor the implementation of the Agreement and the person responsible for this function is Raul A. Pino, P.L.S.

Background

Section 163.3180 of the Florida Statutes requires local governments that apply concurrency to transportation facilities to include principles, guidelines, standards, and strategies, such as adopted levels of service, in their comprehensive plans. Miami-Dade County has adopted roadway levels of service standards for all the unincorporated municipal service area. Objective TC-1 of the Transportation Element of Miami-Dade County's Comprehensive Development Master Plan (CDMP) sets forth the County's concurrency standards and Policies CIE-3C and TC-1B of the Miami-Dade County CDMP establish level of service standards for all State and County roads in Miami-Dade County.

Section 33G-5 of the Code of Miami-Dade County (Code) requires review for traffic circulation concurrency when an application for development order is received. Century Park Square, LLC. filed a Tentative Plat, Plat No. 24572, seeking to develop 200 multi-family residential units in the vicinity of SW 192 Avenue and SW 344 Street, a location sketch of which is attached as Exhibit “2” to this memorandum.

The Platting and Traffic Division within the Department of Regulatory and Economic Resources reviewed the impact the proposed development would have on the existing surrounding roadways and determined that the adopted roadway level of service standard would not be met. Adequate roadway capacity is not available for 63 of the 109 PM peak hour trips anticipated to be generated by the proposed development, pursuant to the following:

- 1) Station 9957 located on SW 344 Street west of SW 182 Avenue has a maximum Level of Service (LOS) “E” of 1,410 vehicles during the PM Peak Hour. It has a current Peak Hour Period (PHP) of 1,391 vehicles and 86 vehicles have been assigned to this section of the road from previously approved Development Orders. Furthermore, Station 9957 with its PHP and assigned vehicles is at LOS “F”. The 63 vehicle trips generated by this development when combined with the current PHP of 1,391 and those previously approved through Development Orders, 86, equal 1,540 vehicles and will cause this segment to remain LOS “F” whose range is over 1,410 vehicles.

In accordance with Section 33G-5(6) of the Code, when trips generated by the proposed development result in a failure to achieve the adopted roadway level of service standard, the applicant may satisfy the level of service standard through proportionate share mitigation as provided in Section 163.3180(5)(h), Florida Statutes. In order to mitigate the impact and proceed with the development, the applicant has elected to execute the attached Agreement with the County.

The Agreement requires the Applicant to provide a monetary proportionate share contribution in the amount of \$234,035.34 to mitigate the impacts of the proposed development. The contribution will be used to fund improvements to one or more of the following projects:

RIF District	TIP Project No.	DTPW Project No.	Location	Type of work
6	PW000723	20100505/ 2021007	SW 328 Street from SW 187 Avenue to US 1	Road Improvements
6	PW0001052	20190163	SW 162 Avenue and SW 328 Street	Intersection Improvements
6	PW201911	20200025	SW 162 Avenue and SW 320 Street	Traffic Signal
6	PW0001113	20200025	SW 344 Street and SE 13 Avenue	Traffic Signal

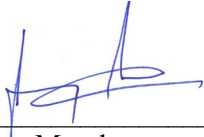

Jimmy Morales
Chief Operations Officer

EXHIBIT “ 1 ”

TRANSPORTATION CONCURRENCY PROPORTIONATE SHARE MITIGATION AGREEMENT

This Transportation Concurrency Proportionate Share Mitigation Agreement (hereinafter “Agreement”) is made and entered into this ____ day of _____, 20__, by and between Miami-Dade County, a political subdivision of the State of Florida (hereinafter “County”), and Century Park Square, LLC. (hereinafter the “Developer,” which shall include the Developer’s successors, grantees, and assigns) (collectively, the County and the Developer are referred to as the “Parties”).

WITNESSETH

WHEREAS, the Developer is the current fee owner of that certain real property being approximately +/- 19.53 acres in size, which is identified by the Property Appraiser’s Office as Folio Number 30-7826-000-0010 and legally described in **Exhibit “A”** attached hereto (the “Property”);

WHEREAS, the Developer joins in and consents to this Agreement so that the requirements herein are binding upon and run with the land concerning the Property;

WHEREAS, the Developer desires to develop the Property with 200 multi-family residential units (the “Project”);

WHEREAS, on April 08, 2021, the Developer filed an application for subdivision approval for the Property, which is currently pending under Tentative Plat No. 24572, and is incorporated herein by reference;

WHEREAS, transportation impacts resulting from the Project have been evaluated and studied by the Developer and the County;

WHEREAS, the Parties agree that certain roadway intersections and other transportation facilities are impacted by the Project and that improvements to those transportation facilities are needed to accommodate the transportation impacts to be generated by the Project;

WHEREAS, pursuant to Section 163.3180(5)(h), Florida Statutes, Miami-Dade County has provided for a transportation concurrency program within its Comprehensive Development Master Plan, as set forth in the Transportation Improvement Program (TIP) in both the Transportation Element and Capital Improvement Element, and as further detailed in Chapter 33G of the County Code;

WHEREAS, while the transportation impacts associated with the Project would reduce level-of-service standards, as established in the transportation concurrency program, Section 33G-5(6) nonetheless allows the County to issue development orders for the Project if the Developer enters into a binding agreement to pay for or construct its proportionate share of required improvements to one or more regionally significant transportation facilities, in accordance with Section 163.3180, Florida Statutes;

WHEREAS, the Parties agree that transportation concurrency shall be satisfied by the Developer's execution of this legally binding Agreement and full compliance therewith, to provide mitigation proportionate to the transportation impacts to be created by the Project;

WHEREAS, to accommodate the Project's transportation impacts, the Developer has offered to make a proportionate share contribution toward a regionally significant transportation facility as defined in Section 3; and

WHEREAS, in accordance with the requirements of the transportation concurrency program, and Section 33G-5(6) of the Code, the County and the Developer agree to the conditions, rights and obligations established in this Agreement,

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

Section 1. Recitals.

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

Section 2. Project Impacts.

The Project is located on the northeast corner of SW 192 Avenue and SW 352 Street. It is anticipated to generate one hundred and nine (109) PM peak hour trips. Roadway capacity is not available for sixty-three (63) of these PM peak hour trips that will impact the following transportation facility: SW 344 Street west of SW 182 Avenue.

Section 3. Required Improvements to Regionally Significant Transportation Facilities.

The County has identified the following improvements to regionally significant transportation facilities within a three-mile radius of the Project that will mitigate the impacts of the Project:

RIF District	TIP Project No.	DTPW Project No.	Location	Type of work
6	PW000723	20100505/ 2021007	SW 328 Street from SW 187 Avenue to US 1	Road Improvements
6	PW0001052	20190163	SW 162 Avenue and SW 328 Street	Intersection Improvements
6	PW201911	20200025	SW 162 Avenue and SW 320 Street	Traffic Signal
6	PW0001113	20200025	SW 344 Street and SE 13 Avenue	Traffic Signal

Section 4. Proportionate Share Payment.

The Developer shall pay the following amount as its proportionate share payment for the required road improvement(s): two hundred thirty-four thousand, thirty-five dollars and thirty-four cents (\$234,035.34) (the “Proportionate Share Payment”), which amount was calculated in accordance with the methodology provided for in Section 163.3180(5)(h), Florida Statutes. The County shall apply such Proportionate Share Payment to one or more of the mobility improvements identified in Section 3.

The Developer shall make the Proportionate Share Payment to the County within 14 days of approval by the County. The effective date of this Agreement (the “Effective Date”) shall be the date the Proportionate Share Payment is received, unless otherwise extended in the County’s sole and absolute discretion, by Cashier’s Check or electronic payment. In the event the Developer fails to make the Proportionate Share Mitigation Payment as provided for herein, the County, in its sole and absolute discretion, may cancel this Agreement and revoke any development permits that have been issued in reliance on this Agreement.

Section 5. Term of Concurrency Approval.

In consideration for entering into this Agreement with the County, the Developer shall be deemed to have satisfied the transportation concurrency requirements; provided, however, that if the Developer fails to apply for a development permit within twenty-four (24) months of the date of this Agreement, then this Agreement, and the certificate of concurrency approval, shall be considered null and void, and the Developer shall be required to reapply to demonstrate compliance with concurrency standards. In the event the County denies the development

reason withdraws the development approval or permit application, then this Agreement, and the concurrency approval, shall be void and of no further force and effect. Notwithstanding Section 9 below, upon written request within ninety (90) days of the denial or withdrawal of such development approval or permit application, the County shall within sixty (60) days from the receipt of a request refund to the Developer the full amount of the Proportionate Share Payment.

Section 6. Development Approvals and Compliance.

Nothing in this Agreement shall allow, or be construed to allow, the Developer to avoid or delay compliance with any or all provisions of the County's Comprehensive Plan, the County Code, County ordinances, resolutions, conditions of development orders or permits, and other requirements pertaining to the use and development of the Property. Nothing in this Agreement shall constitute or be deemed to constitute or require the County to issue any approval by the County of any rezoning, comprehensive plan amendment, variance, special exception, final site plan, preliminary subdivision plan, final subdivision plan, final plat, construction plan approval, site plan approval, building permit, concurrency certificate, grading permit, stormwater drainage permit, access permit, or any other land use or development approval. No building permits may be issued for the Property until the Proportionate Share Payment has been received.

Section 7. Increase in Project Trips.

The Developer acknowledges and agrees that any change or modification to the Project may result in an increase in transportation impacts to the County's transportation facilities. The Developer acknowledges and agrees that it shall be precluded from asserting that the additional transportation impacts are vested or otherwise permitted under this Agreement. In addition, Developer acknowledges and agrees that any such changes resulting in an increase in transportation impacts may cause this Agreement to be null and void, or may require additional traffic analysis and documentation, and the execution of an additional Proportionate Share Mitigation Agreement, along with the payment of additional mitigation.

Section 8. Road Impact Fee Credit.

Pursuant to Section 163.3180(5)(h)(2)(e), Florida Statutes, the amount of the Proportionate Share Payment shall entitle the Developer to a dollar-for-dollar credit against the road impact fees that will be assessed by the County in connection with the development of the Project under Chapter 33E of the County Code, regardless of how the County ultimately uses the Proportionate Share Payment. The Developer acknowledges and agrees that in no event shall the Developer be entitled to road impact fee credit in excess of the Proportionate Share Payment, and in the event the Proportionate Share Payment exceeds the amount of road impact fees owed in connection with the Project through buildout, the Developer shall not be entitled to a refund for the excess of the Proportionate Share Payment over the amount of the road impact fees.

Section 9. No Refund.

Except as provided in Section 5 of this Agreement, the Proportionate Share Payment is non-refundable.

Section 10. Governing Laws.

The Agreement and the rights and obligations created hereunder shall be interpreted, construed and enforced in accordance with the laws of the United States and the State of Florida. If any litigation should be brought in connection with this Agreement, venue shall lie in Miami-Dade County, Florida.

Section 11. Attorneys' Fees and Costs.

The Parties agree that, if it becomes necessary for either party to defend or institute legal proceedings as a result of the failure of either party to comply with the terms and provisions of this Agreement, each party in such litigation shall bear its own costs and expenses incurred and expended in connection therewith, including, but not limited to, reasonable attorneys' fees and court costs through all trial and appellate levels.

Section 12. Severability.

If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

Section 13. Entire Agreement.

This Agreement contains the entire agreement between the parties. No rights, duties or obligations of the parties shall be created unless specifically set forth in this Agreement.

Section 14. Amendment.

No modification or amendment of this Agreement shall be of any legal force or effect unless it is in writing and executed by both Parties.

Section 15. Binding Agreement.

This Agreement shall inure to the benefit of and shall bind the parties, their heirs, successors and assigns.

Section 16. Assignment.

This Agreement may not be assigned without the prior written consent of the other party, and all the terms and conditions set forth herein shall inure to the benefit of and shall bind all future assignees.

Section 17. Waiver.

Failure to enforce any provision of this Agreement by either party shall not be considered a waiver of the right to later enforce that or any provision of this Agreement.

Section 18. Covenant Running with the Land.

The rights conferred and obligations imposed pursuant to this Agreement upon the Developer and upon the Property shall run with and bind the Property as covenants running with the land, and this Agreement shall be binding upon and enforceable by and against the Developer and its successors, grantees, and assigns.

Section 19. Notices.

Any notice, request, demand, instruction or other communication to be given to either party under this Agreement shall be in writing and shall be hand delivered, sent by Federal Express or a comparable overnight mail service, or by U.S. Registered or Certified Mail, return receipt requested, postage prepaid, to County and to Developer at their respective addresses below:

As to County:

Deputy Director,
Department of Regulatory and Economic Resources
111 NW 1 Street, 11th Floor
Miami, FL 33128

With a copy to Assistant County Attorney:

Dennis Kerbel
Assistant County Attorney
111 NW 1 Street, Ste. 2810
Miami, FL 33128
(305) 375-5229
dkerbel@miamidade.gov

*With a copy to Platting and Traffic Review Section, Department
of Regulatory and Economic Resources:*

Raúl A. Pino, P.L.S., Chief
Department of Regulatory and Economic Resources
111 NW 1 Street, 11th Floor
Miami, FL 33128

As to Developer:

Sergio Pino
Century Homebuilders Group, LLC
1805 Ponce De Leon Blvd. Suite 100
Coral Gables, FL 33134

With a copy to Developer's Legal Representative:

Pedro Gassant
Partner
Holland & Knight LLP
701 Brickell Avenue, Suite 3300
Miami, FL 33131
Phone 305.789.7430 | Mobile 305.733.0230

With A copy to:

Daniel Cremades
Conconcreto Construction, LLC
1735 Ponce de Leon Blvd.
Coral Gables, 33134.

Section 20. Counterparts.

This Agreement may be executed by the parties in any number of counterparts, each of which shall be deemed to be an original, and all of which shall be deemed to be one and the same Agreement.

[Remainder of page intentionally blank.]

IN WITNESS WHEREOF, the parties hereunto have executed this Agreement on the date and year first above written.

ATTEST:

MIAMI-DADE COUNTY, FLORIDA, BY ITS
COUNTY MAYOR OR MAYOR'S DESIGNEE

Witness

Print Name _____

By: _____

County Mayor or Designee

Print Name _____

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Assistant County Attorney

Print Name _____

ATTEST:

DEVELOPER

Witness

Print Name

Juan Clarito

By:

Print Name

For

Sergio Pino

Century Park Square, LLC

NOTARY CERTIFICATION

STATE OF

COUNTY OF

Florida
Deade

The foregoing instrument was acknowledged before me by means of physical presence [] or online notarization [] by Sergio Pino for Century Park Square, LLC, who is personally known to me or have produced _____, as identification. Witness my signature and official seal this 10 day of June, 2020, in the County and State aforesaid.

Notary Public-State of

Florida

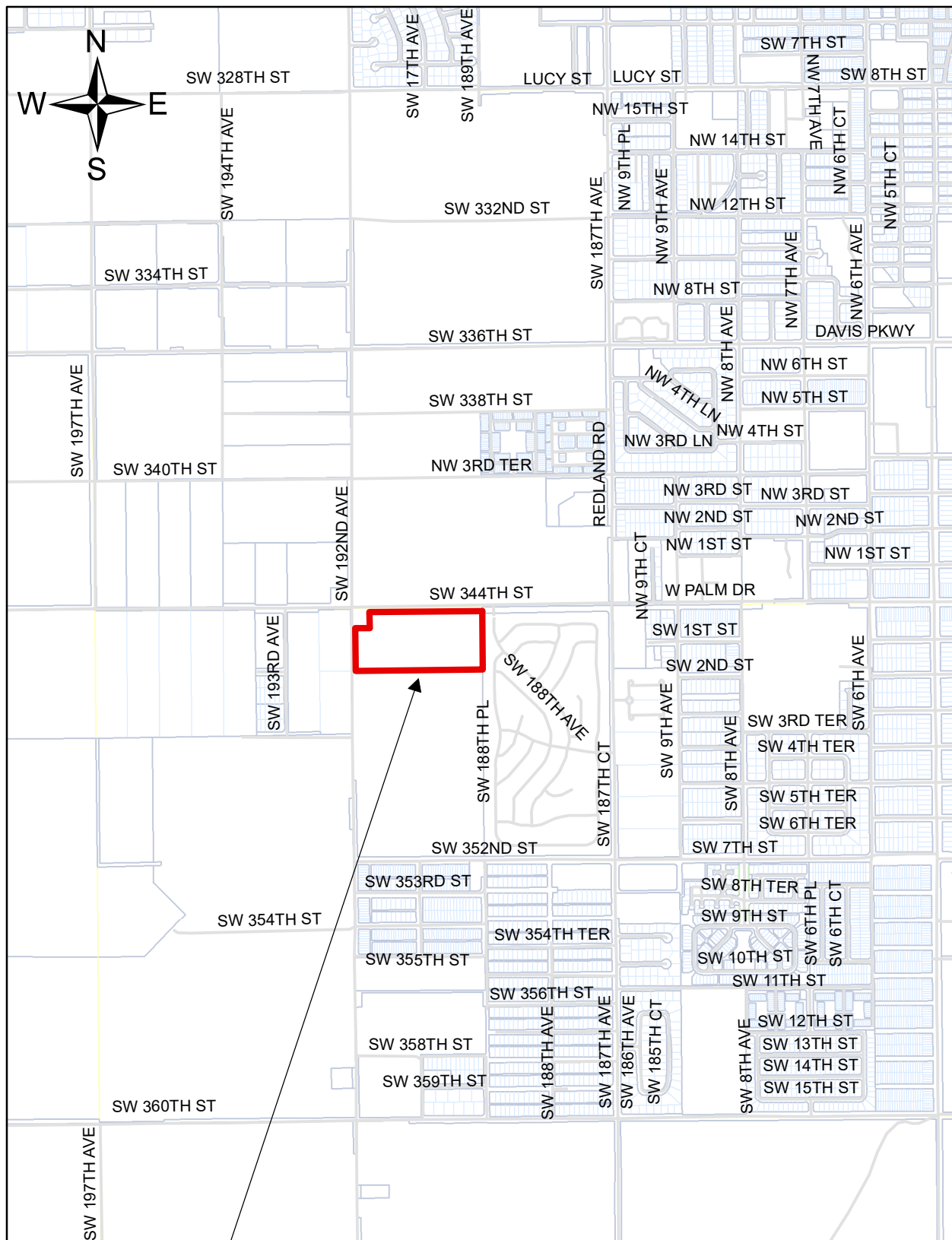
My Commission Expires:



Name

Diana Manso

Exhibit " 2 "



Project Site



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: July 19, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(L)(3)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(L)(3)
7-19-22

RESOLUTION NO. _____ R-699-22

RESOLUTION APPROVING A TRANSPORTATION CONCURRENCY PROPORTIONATE SHARE MITIGATION AGREEMENT BETWEEN MIAMI-DADE COUNTY AND APPLICANT, CENTURY PARK SQUARE, LLC, TO ADDRESS TRANSPORTATION CONCURRENCY PURSUANT TO SECTION 163.3180, FLORIDA STATUTES; PROVIDING THAT CENTURY PARK SQUARE, LLC SHALL PAY A PROPORTIONATE SHARE PAYMENT OF \$234,035.34 TO THE COUNTY; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAID AGREEMENT, TO EXERCISE ALL RIGHTS CONTAINED THEREIN, AND TAKE ALL ACTIONS NECESSARY TO EFFECTUATE SAME

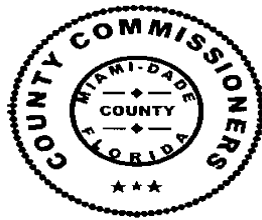
WHEREAS, the Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves the Transportation Concurrency Proportionate Share Mitigation Agreement, in substantially the form attached to the County Mayor's Memorandum as Exhibit "1," between Miami-Dade County, Florida, and the Applicant, Century Park Square, LLC, to address transportation concurrency, and by which Century Park Square, LLC shall pay a proportionate share payment of \$234,035.34 to the County, which the County shall apply to one or more of the mobility improvements specified in the Agreement; and authorizes the County Mayor or County Mayor's designee to execute said agreement, exercise all rights contained therein, and take all actions necessary effectuate same.

The foregoing resolution was offered by Commissioner **Rebeca Sosa**, who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** and upon being put to a vote, the vote was as follows:

Jose "Pepe" Diaz, Chairman	aye		
Oliver G. Gilbert, III, Vice-Chairman	aye		
Sen. René García	aye	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Joe A. Martinez	aye
Kionne L. McGhee	aye	Jean Monestime	aye
Raquel A. Regalado	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 19th day of July, 2022. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.



MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **Basia Pruna**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Lauren E. Morse