RESOLUTION NO. 14-080R

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF OSCEOLA COUNTY, FLORIDA, RESCINDING DRI13-0003, OSCEOLA CORPORATE CENTER DEVELOPMENT OF REGIONAL IMPACT, FIFTEENTH AMENDED AND RESTATE DEVELOPMENT ORDER, CONSISTING OF APPROXIMATELY 917.9 ACRES, MORE OR LESS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on October 20, 1989, the Board of County Commissioners of Osceola County approved that certain Development Order recorded in Official Records Book 942, Page 1395, in the Official Records of Osceola County, Florida, which constituted the original Development of Regional Impact Development Order for the property referred to as the Osceola Corporate Center Development of Regional Impact, DRI89-0002; and

WHEREAS, on April 15, 1991, the Development Order was amended by that certain First Amendment to Development Order recorded in Official Records Book 1019, Page 2879, re-recorded to attach exhibits in Official Records Book 1022, Page 1480; and

WHEREAS, on November 28, 1994, the First Amendment to Development Order was amended by that certain Second Amendment to Development Order recorded in Official Records Book 1286, Page 1543; and

WHEREAS, on September 18, 1995, the Second Amendment to Development Order was amended by that certain Third Amendment to Development Order recorded in Official Records Book 1352, Page 1054; and

WHEREAS, on October 28, 1996, the Third Amendment to Development Order was amended by that certain Fourth Amendment to Development Order recorded in Official Records Book 1372, Page 1697; and

WHEREAS, on August 7, 2000, the Fourth Amendment to Development Order was amended by that certain Fifth Amendment to Development Order recorded in Official Records Book 1796, Page 943; and
WHEREAS, on June 24, 2002, the Fifth Amendment to Development Order was amended by that certain Sixth Amendment to Development Order recorded in Official Records Book 2096, Page 2762; and

WHEREAS, on January 6, 2003, the Sixth Amendment to Development Order was amended by that certain Seventh Amendment to Development Order recorded in Official Records Book 2205, Page 2637; and

WHEREAS, on July 21, 2003, the Seventh Amendment to Development Order was amended by that certain Eighth Amendment to Development Order recorded in Official Records Book 2378, Page 506; and

WHEREAS, on December 15, 2003, the Eighth Amendment to Development Order was amended by that certain Ninth Amendment to Development Order recorded in Official Records Book 2442, Page 836; and

WHEREAS, on July 12, 2004, the Ninth Amendment to Development Order was amended by that certain Tenth Amendment to Development Order recorded in Official Records Book 2633, Page 460; and

WHEREAS, on October 31, 2005, the Tenth Amendment to Development Order was amended by that certain Eleventh Amendment to Development Order recorded in Official Records Book 3021, Page 2463; and

WHEREAS, on March 13, 2006, the Eleventh Amendment to Development Order was amended by that certain Twelfth Amendment to Development Order recorded in Official Records Book 3108, Page 90; and

WHEREAS, on December 8, 2008, the Twelfth Amendment to Development Order was amended by that certain Thirteenth Amendment to Development Order recorded in Official Records Book 3776, Page 2273; and

WHEREAS, on August 1, 2011, the Thirteenth Amendment to Development Order was amended by that certain Fourteenth Amendment to Development Order recorded in Official Records Book 4183, Page 1114; and

WHEREAS, on October 21, 2013, the Fourteenth Amendment to Development Order was amended by that certain Fifteenth Amendment to Development Order recorded in Official Records Book 4543, Page 1674, herein referred to as the DRI Development Order; and
WHEREAS, the DRI Development Order is binding upon subsequent purchasers of the land, remains in effect, and is binding upon the current Landowners and Developers; and

WHEREAS, the DRI Development Order remains the current and effective development order for the project, consists of approximately 917.9 acres, more or less, and establishes all mitigation requirements for development of the property; and

WHEREAS, Section 380.06(29)(c), Fla. Stat., provides that any proposed development within a designated “urban service area” as defined in s. 163.3164, F.S., established by a county that does not qualify as a dense urban land area pursuant to s. 163.3164, F.S., is exempt from the development-of-regional-impact process; and

WHEREAS, Osceola County has designated an “urban growth boundary” within its adopted comprehensive plan, which meets the definition of “urban service area”; and

WHEREAS, the entire Osceola Corporate Center Development of Regional Impact is within the boundaries of the urban growth boundary; and

WHEREAS, 380.06(29)(e), Fla. Stat., provides that within the urban service area, “any previously approved development-of-regional-impact development orders shall continue to be effective, but the developer has the option to be ‘governed by’ s. 380.115(1), F.S.”; and

WHEREAS, 380.115(1)(b), Fla. Stat., provides that upon request of the “developer or landowner, the development-of-regional-impact development order shall be rescinded by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed or will be completed under an existing permit or equivalent authorization”; and

WHEREAS, Deerfield Land Corporation, the developer of the Osceola Corporate Center Development of Regional Impact (herein the Applicant), has requested rescission of the Osceola Corporate Center Development of Regional Impact by Application No. DRI14-0004, dated July 1, 2014; and

WHEREAS, in order to ensure that development impacts from approved and constructed development are appropriately mitigated, Deerfield Land Corporation and Osceola County believe it is in the best interests of the parties and the public that the substance and timing of the conditions required prior to proceeding to the final phase of development (phase 3 and TOD phase) are specified in agreements and/or an enforceable development order that is binding on the developer and successors in interest; and
WHEREAS, the binding agreements and enforceable development order that address the required mitigation are:

- The Applicant and the County entered into that certain Osceola County Facilitation of Public Infrastructure Agreement for Roadway Improvement to Satisfy Requirements of Phase 2 of the Osceola Corporate Center Development of Regional Impact as recorded in the Official Records of Osceola County Book 2413, page 1729 et. seq. of the Public records of Osceola County, Florida;

- The Applicant and the Florida Department of Transportation (hereinafter referred to as “FDOT”) entered into that certain Osceola Corporate Center DRI Transportation Fair Share Agreement dated November 24, 2003 and recorded on December 4, 2003 in Book 2413, page 1754 et. seq. of the Official Records of Osceola County, Florida;

- The Applicant and the County entered into that certain Osceola Corporate Center DRI Transportation Mitigation Agreement for Phase 3a, recorded March 27th, 2006 at Book 3108, Page 54 of the Official Records of Osceola County, Florida;

- The Applicant and FDOT entered into that certain Osceola Corporate Center DRI Transportation Proportionate Share Agreement for Phase 3a, recorded June 7th, 2006 at Book 3179, Page 1750 et. seq. of the Official Records of Osceola County, Florida;

- The Applicant and FDOT entered into that certain Amendment and Restatement of the Osceola Corporate Center DRI Transportation Proportionate Share Agreement (For Phases 2 and 3a) dated December 21, 2007; and

- The Planned Development amended concurrently with this Resolution, PD 14-00013.

WHEREAS, the County has determined that the Applicant’s request to rescind the DRI Development Order, with the conditions and obligations provided for in the binding agreements and enforceable development order, is consistent with Section 380.115(1)(b), Fla. Stat., and that rescission is appropriate.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OSCEOLA COUNTY, FLORIDA:

SECTION 1. RECITALS.

The foregoing recitals are hereby adopted by the Board of County Commissioners as findings of Osceola County and incorporated herein.
SECTION 2. REСCIIION.

Osceola Corporate Center Development of Regional Impact, DRI13-0003, and all associated development orders, including exhibits or attachments thereto, are hereby rescinded and shall be of no further force and effect. This rescission of such development of regional impact and development orders does not affect the effectiveness and requirements of any other developer agreements, county approvals, permits, development orders, zoning or land use approvals.

Applicable mitigation requirements contained in DRI13-0003 that are not already covered in a binding agreement have been incorporated into the Planned Development, PD14-00013, amended concurrently with this Resolution. The Applicant’s request to rescind the DRI Development Order, with the conditions and obligations provided for in the Planned Development amended concurrently with this Resolution, is consistent with Section 380.115(1)(b), Florida Statutes, and rescission is appropriate. Specifically, the mitigation commitments contained within the DRI Development Order have been transferred into the Planned Development as follows:

- Development Order Condition 10.d.: The Applicant will cooperate with FDOT in the provision of way finding signage to assist the public in accessing the SunRail station. Such signage may be provided at the intersection of Osceola Parkway and Orange Avenue and at Orange Avenue and the station’s access road. The Applicant may provide a signage easement to FDOT but shall be under no obligation to fund the design or construction of the way finding signage.
  - PD Amendment: Same condition.

- Development Order Condition 10.h.: When warranted, the FDOT shall construct a four-directional signal at the SunRail station access on Orange Avenue and the Applicant shall reimburse FDOT for 50% of the total cost of such signal. The Applicant shall be permitted access from this intersection for lands to the west of Orange Avenue.
  - PD Amendment: Same condition.

- Development Order Condition 14: The Applicant shall convey, at no cost to the County, 55 feet of right-of-way for the construction of two lanes of the eastern side of a 4-lane Thacker Avenue between Osceola Parkway and Centerview Boulevard, and
the Applicant shall have no obligation for the funding, permitting, and construction of such roadway.

- PD Amendment: Same condition.

- Development Order Condition 14: The Applicant shall also convey, at no cost to the County, either 130 feet of right-of-way (inclusive of the current width of Orange Avenue right-of-way) along the route of Orange Avenue from the county line to Osceola Parkway to allow for the eventual widening of Orange Avenue to a four lane roadway, or 130-feet of right-of-way for the potential realignment of Orange Avenue as a four-lane roadway, and the Applicant shall have no obligation for the construction of either such roadways. The Applicant shall provide/maintain public access to the SunRail commuter rail station. If Orange Avenue is realigned as a four-lane roadway then the Applicant shall be entitled to receive title for the right-of-way of the existing alignment of Orange Avenue once the construction of the realignment has been completed.

- PD Amendment: Same condition.

- Development Order Condition 10.d.: The Applicant shall dedicate at no cost to the County a maximum of three acres of land, along Osceola Parkway, east of Orange Avenue (and immediately adjacent to the southern side of the 9.7 acre parcel described in paragraph A above), to be used for the future County light rail transit system station and its ancillary uses to include stormwater requirements and the pedestrian connections between the light rail and SunRail stations. Such dedication will be “as is” with no further requirement for improvement or mitigation required of the Applicant. The Applicant shall reserve the land for such purpose for a period not to exceed twenty years (October 21, 2033). Should the County not proceed with funding and construction within twenty years the reservation shall be released and no dedication shall be required. In such an event, an amendment to this development order shall not be required. The County and the Applicant may mutually consent to extend the reservation.

- PD Amendment: Same condition.

- Development Order Condition 10.e.: Should the County elect to implement a fixed guideway/rail system to extend from OCC east and west along Osceola Parkway, then
the Applicant shall provide, at no cost to the County, a maximum of one acre for a premium transit station. This facility shall abut the north side of Osceola Parkway at its intersection with Greenwald Way. This one acre shall be provided “as is” with no further requirement for improvement or mitigation required of the Applicant. Until such dedication is made, the designated land shall be reserved by the Applicant for such use. However, should the County elect not to proceed with the fixed guideway system by October 21, 2033, then the Applicant’s obligation to reserve or provide the one acre is eliminated without the need to further amend this development order. Alternatively, the County and the Applicant may mutually extend the reservation.

- Development Order Condition 11: The Applicant shall fund the construction of left and right-turn deceleration lanes at all project entrances on John Young Parkway, Osceola Parkway, US 441, and Orange Avenue. These improvements shall be constructed when such project entrances are created.
  
  o PD Amendment: Same condition.

- Development Order Condition 10.g.: If desired by the Applicant, the County shall allow the relocation of the existing County retention pond at the intersection of Orange Avenue and Osceola Parkway.
  
  o PD Amendment: Same condition.

- Development Order Condition 10.f.: To implement the TOD at OCC, it may be necessary to upgrade the utility infrastructure that is currently in existence. The Applicant will not bear the expense to upgrade the utilities to parcel 21, but will provide easements necessary for such an upgrade. The Applicant shall have no obligation to provide utilities for the rail station. Utilities internal to the site shall be borne by future developers.
  
  o PD Amendment: Same condition.

- Development Order Condition 10.e.: The property shall not be exempt from corridor-wide taxes, impact fees or similar mechanisms (to include MSTU and TIF) which may be enacted by the County in the future that are generally applicable by their terms to developers of properties along the SunRail or County fixed guideway rail system; provided, however, that nothing contained in this Development Order shall
be construed to independently impose financial contribution obligations from such transportation systems upon the Applicant or any purchasers of properties of the Applicant’s property subject to this Development Order.

○ PD Amendment: Same condition.

SECTION 3. CONFLICT.
Any other Resolution or part thereof in conflict with this Resolution or any part hereof is hereby repealed to the extent of the conflict.

SECTION 4. SEVERABILITY.
All terms of this Resolution shall be considered to be depended upon and inextricably related to all other terms, such that if any clause, section or other part of the Resolution shall be held invalid or unconstitutional by any court of competent jurisdiction, the entire Resolution shall be rendered void.

SECTION 5. EFFECTIVE DATE.
This Resolution shall become effective upon adoption by the Board of County Commissioners.

Duly adopted this 15 day of September, 2014.

BOARD OF COUNTY COMMISSIONERS OF
OSCEOLA COUNTY, FLORIDA
By:
Chairman/Vice Chairman

ATTEST:
OSCEOLA COUNTY CLERK OF THE BOARD

By: [Signature]
Clerk/Deputy Clerk of the Board

As authorized for execution at the Board of County Commissioners meeting of:

09-15-14