

ORDINANCE NO.: 2007-16

1  
2  
3 AN ORDINANCE AMENDING CHAPTER 23 OF THE HERNANDO  
4 COUNTY CODE OF ORDINANCES RELATING TO PLANNING;  
5 ADDING DIVISION 6 TO ARTICLE III THEREIN; CREATING A  
6 SHORT TITLE KNOWN AS "IMPACT FEE SURCHARGE AND  
7 PLANNING OVERLAY ORDINANCE FOR THE GREATER I-75/SR 50  
8 PLANNED DEVELOPMENT DISTRICT AREA"; PROVIDING FOR  
9 APPLICABILITY; ESTABLISHING THE BOUNDARIES OF THE  
10 OVERLAY DISTRICT AS IDENTICAL WITH CURRENT I-75/SR 50  
11 PLANNED DEVELOPMENT DISTRICT (PDD); ESTABLISHING AN  
12 EXPANDED OVERLAY DISTRICT FOR PURPOSES OF ROAD  
13 IMPROVEMENTS; PROVIDING INTENT AND PURPOSE; PROVIDING  
14 FINDINGS OF FACT; PROVIDING RULES OF CONSTRUCTION;  
15 PROVIDING DEFINITIONS; PROVIDING FOR IMPOSITION OF  
16 CERTAIN IMPACT FEE SURCHARGES FOR PROPERTIES WITHIN  
17 THE OVERLAY DISTRICT; PROVIDING FOR IMPOSITION OF  
18 ROADS IMPACT FEE SURCHARGES FOR PROPERTIES WITHIN THE  
19 EXPANDED OVERLAY DISTRICT; PROVIDING FOR COMPUTATION;  
20 PROVIDING FOR ESTABLISHMENT OF IMPACT FEE SURCHARGE  
21 TRUST FUND ACCOUNTS; PROVIDING FOR USE OF FUNDS;  
22 PROVIDING FOR REFUND OF FEES PAID; PROVIDING FOR  
23 EXEMPTIONS AND CREDITS; PROVIDING FOR INCENTIVES TO  
24 ENCOURAGE DEVELOPERS TO ADVANCE UP-FRONT FUNDS,  
25 DONATE LAND AND/OR PIPELINE IMPROVEMENTS; PROVIDING  
26 FOR ADDITIONAL REGULATIONS REGARDING PLANNING AND  
27 OVERSIGHT WITHIN THE I-75/SR 50 PDD; PROVIDING FOR  
28 ENFORCEMENT; PROVIDING FOR APPEAL; PROVIDING FOR  
29 BIENNIUM REVIEW; PROVIDING FOR SEVERABILITY; PROVIDING  
30 FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN  
31 EFFECTIVE DATE.

32  
33 WHEREAS, in 1985, the Florida Legislature adopted the Local Government  
34 Comprehensive Planning and Land Development Regulation Act as set forth in §§ 163.3161  
35 through 163.3215, Florida Statutes (the "Act"); and,  
36

37 WHEREAS, on June 7, 1989, the Board of County Commissioners ("Board") adopted  
38 Ordinance 89-9 which adopted the Hernando County Comprehensive Plan, as such Plan or  
39 portions thereof have been subsequently amended (the "Comprehensive Plan"); and,  
40

41 WHEREAS, the county's initial Comprehensive Plan included a Future Land Use Map  
42 ("FLUM") and related text which established and mapped various future land use categories such  
43 as rural, residential, commercial, industrial, mining, recreation, etc; and,  
44

45 WHEREAS, in connection with the county's adoption of the initial Comprehensive Plan,  
46 the Board designated that certain area lying south of SR 50, north of Hernando/Pasco county line,  
47 east of Lockhart Road and west of the abandoned CSX railroad right-of-way (currently used as

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TALLAHASSEE, FLORIDA

1 the Withlacoochce Trail) as the I-75/SR 50 Planned Development District (“I-75/SR 50 PDD”)  
2 as delineated on the FLUM; and,  
3

4         **WHEREAS**, the I-75/SR 50 PDD contains approximately 5,021 acres, the majority of  
5 which is currently undeveloped at the time of adoption of this ordinance; and,  
6

7         **WHEREAS**, Comprehensive Plan Policy 1.07B(1) allowed a number of different land  
8 use categories to be developed within the specially created I-75/SR 50 PDD category including:  
9 (1) commercial; (2) industrial; (3) residential including multi-family; (4) recreation and (5)  
10 public facilities; and,  
11

12         **WHEREAS**, those persons owning property within the I-75/SR 50 PDD specially  
13 benefit from the mixed-use category previously assigned to this area under the Comprehensive  
14 Plan; and,  
15

16         **WHEREAS**, up until the time of adoption of this ordinance, there has been minimal need  
17 for the County to expand or create new roads, parks, schools and other park capital facilities  
18 within or in proximity of the I-75/SR 50 PDD; and,  
19

20         **WHEREAS**, the Hernando County School District (“HCSD”) has indicated its desire to  
21 acquire up to two (2) potential school sites, totaling approximately 75 acres, within the I-75/SR  
22 50 PDD; and,  
23

24         **WHEREAS**, Goal 1.07 of the County’s Comprehensive Plan mandates the  
25 Comprehensive Planning of certain areas within the County in which mixed land uses are  
26 envisioned and more planning control is determined to be necessary to best utilize a limited  
27 resource; and,  
28

29         **WHEREAS**, Objective 1.07B of the County’s Comprehensive Plan mandates the  
30 efficient utilization of the mixed land uses (*i.e.* commercial, industrial, residential) in the I-75/SR  
31 50 PDD Area, through master planning, roadway network, infrastructure and public facilities,  
32 and aesthetics prior to or concurrent with development occurring; and,  
33

34         **WHEREAS**, in 2007, a detailed analysis of the public infrastructure and facilities needs  
35 of the I-75/SR 50 PDD was prepared, specifically as to roads, schools, parks, utilities, and other  
36 public facilities (“Needs Analysis”) which has been reviewed by county and incorporated herein  
37 by reference as supporting data and analysis; and,  
38

39         **WHEREAS**, the Needs Analysis also identified those properties bordering on the north  
40 side of SR 50 between Lockhart Road and the abandoned CSX railroad right-of-way, and those  
41 properties bordering on the north and south sides of SR 50 between Lockhart Road and Spring  
42 Lake Highway (the “Additional Benefitted Properties”) as directly benefitting by the planned area  
43 road network; and,  
44

1           **WHEREAS**, an area plan was formulated regarding the development of the I-75/SR 50  
2 PDD Area (the "I-75/SR 50 PDD Area Plan") based on the data and estimates contained in the  
3 Needs Analysis and the desire of the HCSD to acquire the two school sites identified therein  
4 without any financial outlay; and,  
5

6           **WHEREAS**, by earlier vote this 12<sup>th</sup> day of September 2007, the BOCC approved the I-  
7 75/SR 50 PDD Area Plan; and,  
8

9           **WHEREAS**, the Board finds that due to the lack of existing public facilities within or  
10 proximate to the I-75/SR 50 PDD, there are greater financial costs associated with creating new  
11 public infrastructure and facilities necessary to serve the anticipated population and development  
12 within the I-75/SR 50 PDD and to serve the transportation needs of the Additional Benefitted  
13 Properties; and,  
14

15           **WHEREAS**, it is the policy of the Board that all new development bears its full share of  
16 the actual costs to provide new public facilities and infrastructure, *i.e.* roads, parks, schools,  
17 utilities and other public capital improvements for the anticipated population and development,  
18 and that these costs are fairly and proportionately shared among all Property Owners within the I-  
19 75/SR 50 PDD and among the Additional Benefitted Properties; and,  
20

21           **WHEREAS**, the County requires an additional and reliable source of funding for the  
22 anticipated public infrastructure and facilities needed to accommodate the density and intensity  
23 of new development that is planned to occur within the I-75/SR 50 PDD, and along the SR 50  
24 corridor as pertaining to the Additional Benefitted Properties, and which source of funding may  
25 be fairly apportioned among all Property Owners at time of development; and,  
26

27           **WHEREAS**, the establishment of an impact fee surcharge and planning overlay for the I-  
28 75/SR50 PDD, and for the Additional Benefitted Properties as to road improvements, is the  
29 fairest and most practicable method of insuring that there will be adequate public infrastructure  
30 and facilities in place prior to or concurrent with development to serve the new development  
31 anticipated to occur within this area.  
32

33           **NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY**  
34 **COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:**  
35

36           **SECTION 1. Amending Chapter 23 (Planning), Article III (Impact Fees) by adding**  
37 **Division 6 (Impact Fee Surcharge and Planning Overlay for the I-75/SR 50 Planned**  
38 **Development District).** Chapter 23 (Planning), Article III (Impact Fees) is hereby amended to  
39 read as follows, with any underlined language added and any struck-through language deleted:  
40

41           **Sec. 23-148. Short title; authority; applicability; intent; purpose.**  
42

43           (a)     *Short title.* This division shall be known and may be cited as the "Impact Fee  
44 Surcharge and Planning Overlay Ordinance for the Greater I-75/SR50 Planned Development  
45 District Area."



1           **(b) Authority.** The board of county commissioners of Hernando County has the  
2 authority to adopt this division pursuant to article VIII, section 1(f), of the Constitution of the  
3 State of Florida and Chapters 125 and 163 of the Florida Statutes.

4  
5           **(c) Applicability.** This division in its entirety shall apply to that area lying south of  
6 SR 50, north of Hernando/Pasco county line, east of Lockhart Road and west of the abandoned  
7 CSX railroad right-of-way (currently used as the Withlacoochce Trail) and referred to as the I-  
8 75/SR 50 Planned Development District (“I-75/SR 50 PDD”) as delineated on the Future Land  
9 Use Map (FLUM) of the Comprehensive Plan existing as of the adoption date of this ordinance,  
10 together with any land that is thereafter added to the I-75/SR 50 PDD through the  
11 Comprehensive Plan and FLUM amendment process. In addition, this division shall apply to the  
12 Additional Benefitted Properties (as defined below) only as to imposition of the roads impact fee  
13 surcharges and the payment, exemption and credit provisions related thereto.

14  
15           **(d) Intent.** This division is intended to assist in the implementation of the county  
16 Comprehensive Plan and provide a source of funding for anticipated public infrastructure and  
17 facilities needed to accommodate the density and intensity of new development that is planned to  
18 occur within the I-75/SR 50 PDD and along the SR 50 corridor as pertaining to the Additional  
19 Benefitted Properties.

20  
21           **(e) Purpose.** The purpose of this division is to more specifically regulate the  
22 development and use of land within the I-75/SR 50 PDD , and the adjoining SR 50 corridor, so as  
23 to assure that new development, within this predominately undeveloped area at the time of this  
24 ordinance, bears its full share of the actual costs necessary to provide public infrastructure and  
25 facilities, i.e. roads, parks, schools and other public capital facilities needed for the anticipated  
26 resident population and development of this area and that these costs are fairly and proportionately  
27 shared among all Property Owners within the I-75/SR 50 PDD, and among the Additional  
28 Benefitted Properties, at time of development.

29  
30 **Sec. 23-149. Findings.**

31  
32           The Board adopts the following findings:

33  
34           **(a)** On June 7, 1989, the Board adopted Ordinance 89-9 which adopted the Hernando  
35 County Comprehensive Plan, as such Plan or portions thereof have been subsequently amended  
36 (the “Comprehensive Plan”).

37  
38           **(b)** The county’s initial Comprehensive Plan included a Future Land Use Map  
39 (“FLUM”) and related text which established and mapped various future land use categories such  
40 as rural, residential, commercial, industrial, mining, recreation, etc.

41  
42           **(c)** In connection with the county’s adoption of the initial Comprehensive Plan, the  
43 Board designated that certain area lying south of SR 50, north of Hernando/Pasco county line, east  
44 of Lockhart Road and west of the abandoned CSX railroad right-of-way (currently used as the



1 Withlachocee Trail) as the I-75/SR 50 Planned Development District (“I-75/SR 50 PDD”) as  
2 delineated on the FLUM; and,

3  
4 (d) The I-75/SR 50 PDD designation within the Comprehensive Plan allows broad  
5 mixed-use development commercial, industrial, residential including multi-family, recreation and  
6 public facilities land uses.

7  
8 (e) Those persons owning property within the I-75/SR 50 PDD specially benefit from  
9 the mixed-use category previously assigned to this area under the adopted Comprehensive Plan.

10  
11 (f) The I-75/SR 50 PDD contains approximately 5,021 acres, the majority of which is  
12 currently undeveloped at the time of adoption of this ordinance.

13  
14 (g) Up until the time of adoption of this ordinance, there has been minimal need for  
15 the County to expand or create new roads, parks, schools and other park capital facilities within or  
16 in proximity of the I-75/SR 50 PDD Area.

17  
18 (h) The Hernando County School District (“HCSD”) has indicated its desire to acquire  
19 up to two (2) potential school sites, totaling approximately 75 acres, within the I-75/SR 50 PDD,  
20 and that the acquisition of these sites be without cost to or future financial outlay by the HCSD.

21  
22 (i) Objective 1.07B of the County’s Comprehensive Plan mandates the efficient  
23 utilization of the mixed land uses (i.e. commercial, industrial, residential) in the I-75/SR 50 PDD  
24 Area, through master planning, roadway network, infrastructure and public facilities, and  
25 aesthetics prior to or concurrent with development occurring.

26  
27 (j) In 2007, a detailed analysis of the public infrastructure and facilities needs of the I-  
28 75/SR 50 PDD was prepared, specifically as to roads, schools, parks, utilities, and other public  
29 facilities (“Needs Analysis”) which has been reviewed by staff and incorporated herein by  
30 reference as supporting data and analysis.

31  
32 (k) The Needs Analysis also identified those properties bordering on the north side of  
33 SR 50 between Lockhart Road and the abandoned CSX railroad right-of-way, and those properties  
34 bordering on the north and south sides of SR 50 between Lockhart Road and Spring Lake  
35 Highway (the “Additional Benefitted Properties”) as directly benefitting by the planned area road  
36 network.

37  
38 (l) The I-75/SR 50 PDD together with the Additional Benefitted Properties  
39 collectively comprise the “Greater I-75 SR 50 PDD Area”.

40  
41 (m) An area plan was formulated regarding the development of the Greater I-75/SR 50  
42 PDD Area (the “I-75/SR 50 PDD Area Plan”) based on the data and estimates contained in the  
43 Needs Analysis and the desire of the HCSD to acquire the two school sites identified therein  
44 without any financial outlay.

1           (n)     Prior to the adoption of this Ordinance, the BOCC approved the I-75/SR 50 PDD  
2 Area Plan.

3  
4           (o)     Due to the lack of existing public infrastructure and facilities within or proximate  
5 to the I-75/SR 50 PDD, there are greater financial costs associated with creating new public  
6 infrastructure and facilities necessary to serve the anticipated resident population and development  
7 within the I-75/SR 50 PDD and to serve the transportation needs of the Additional Benefitted  
8 Properties.

9  
10          (p)     It is the policy of the Board that new development bears its full share of the actual  
11 costs to provide new public facilities and infrastructure, i.e. roads, parks, schools and other public  
12 capital improvements for the anticipated resident population and development of this area, and  
13 that these costs are fairly and proportionately shared among all Property Owners within the I-  
14 75/SR 50 PDD and among the Additional Benefitted Properties.

15  
16          (q)     The County requires an additional and reliable source of funding for the anticipated  
17 public infrastructure and facilities needed to accommodate the density and intensity of new  
18 development that is planned to occur within the I-75/SR 50 PDD, and along the SR 50 corridor as  
19 pertaining to the Additional Benefitted Properties, and that the funding of which may be fairly  
20 apportioned among all Property Owners at time of development.

21  
22          (r)     The establishment of an impact fee surcharge and planning overlay for the I-75/SR  
23 50 PDD, and for the Additional Benefitted Properties as to road improvements, is the fairest and  
24 most practicable method of insuring that there will be adequate public infrastructure and facilities  
25 in place prior to or concurrent with new development within this area and that such funding is  
26 approximately and fairly apportioned to all Property Owners at time of development.

27  
28 **Sec. 23-150. Rules of construction.**

29  
30          (a)     The provisions of this division shall be liberally construed so as to effectively carry  
31 out its purpose in the interest of the public health, safety and welfare.

32  
33          (b)     For the purposes of administration and enforcement of this division, unless  
34 otherwise stated in this division, the following rules of construction shall apply to the text of this  
35 division:

36 -  
37               (1)     In case of any difference of meaning or implication between the text of this  
38 division and any caption, illustration, summary table or illustrative table,  
39 the text shall control.

40 -  
41               (2)     The word "shall" is always mandatory and not discretionary; the word  
42 "may" is permissive.

- 1           (3)    Words used in the present tense shall include the future; and words used in  
2           the singular number shall include the plural, and the plural the singular,  
3           unless the context clearly indicates the contrary.
- 4
- 5           (4)    The phrase "used for" includes "arranged for," "designed for," "maintained  
6           for" or "occupied for."
- 7
- 8           (5)    The word "person" includes an individual, a corporation, a partnership, an  
9           incorporated association, a limited liability company, a community  
10          development district, or any other similar entity.
- 11
- 12          (6)    Unless the context clearly indicates the contrary, where a regulation  
13          involves two (2) or more items, conditions, provisions or events connected  
14          by the conjunction "and," "or" or "either . . . or," the conjunction shall be  
15          interpreted as follows:
- 16
- 17           a.    "And" indicates that the connected terms, conditions, provisions or  
18           events shall apply.
- 19
- 20           b.    "Or" indicates that the connected items, conditions, provisions or  
21           events may apply singly or in any combination.
- 22
- 23           c.    "Either . . . or" indicates that the connected items, conditions,  
24           provisions or events shall apply singly but not in combination.
- 25
- 26          (7)    The word "includes" shall not limit a term to the specific example, but is  
27          intended to extend its meaning to all other instances or circumstances of  
28          like kind or character.
- 29
- 30          (8)    The land use types listed in this division shall have the same meaning as  
31          under the Hernando County Zoning Regulations.
- 32

33    **Sec. 23-151. Definitions.**

34           The following definitions shall apply to this division:

35           *Board* means the Board of County Commissioners for Hernando County, Florida.

36           *County administrator* means the county administrator or the county official he or she may  
37           designate to administer the various provisions of this division.

38           *HCSD* means the Hernando County School District.

39           *Building permit* means an official document or official certification which authorizes the  
40           construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation,  
41             
42             
43             
44             
45



1 erection, demolition, moving or repair of a residential building or structure or a hotel/motel unit.  
2 In the case of a change in use or occupancy of an existing building or structure, the term shall  
3 specifically include certificates of occupancy and occupancy permits, as those terms are defined  
4 by the county land development regulations. The terms "building permit" and "certificate of  
5 occupancy permit" also mean those municipal permits which are equivalent to these county  
6 permits, regardless of the names by which they are called within a municipality. Building permits  
7 shall include those permits which allow the installation or location of a residential mobile home or  
8 recreational vehicle on a site or lot.

9  
10 Overlay District means that area of land lying within, and synonymous with, the  
11 boundaries of the I-75/SR 50 PDD as depicted and mapped in the Future Land Use Map of the  
12 Comprehensive Plan existing as of the adoption date of this ordinance, together with any land that  
13 is thereafter added to the I-75/SR 50 PDD through the Comprehensive Plan and FLUM  
14 amendment process, and which is subject to this entire division.

15  
16 Additional Benefitted Properties means those properties bordering on the north side of SR  
17 50 between Lockhart Road and the abandoned CSX railroad right-of-way, and those properties  
18 bordering on the north and south sides of SR 50 between Lockhart Road and Spring Lake  
19 Highway, as more fully described on Exhibit A attached hereto and made a part hereof, and which  
20 are directly benefitted by the planned area road network identified in the I-75/SR 50 PDD Area  
21 Plan.

22  
23 Expanded Overlay District means that area of land encompassed by the Overlay District  
24 defined herein together with that area of land encompassed by the Additional Benefitted  
25 Properties.

26  
27 I-75/SR 50 PDD Area Plan means that plan and accompanying regulations for the I-75/SR  
28 50 PDD and the adjoining SR 50 corridor which has been duly adopted by the Board.

29  
30 Property Owner means a person owning property within I-75/SR 50 PDD for purposes of  
31 this division or owning property within the Additional Benefitted Properties for purposes of the  
32 road impact fee surcharge provision of this division.

33  
34 Feepayer means a person commencing a land development activity by applying a building  
35 permit or certificate of use for a type of land development activity specified in this article,  
36 regardless of whether the feepayer owns the land which is to be developed.

37  
38 Capital equipment means equipment with an expected useful life of three (3) years or  
39 more.

40  
41 Capital improvement for parks shall have the same meaning as set forth in division 4 of  
42 this article; capital improvement for roads shall have the same meaning as set forth in division 5  
43 of this article. In no event shall capital improvement include maintenance or operating costs.

1           Educational facilities for purposes of this division means the construction of a new school  
2 or schools (elementary, middle, K-8, 9-12, or combination) within or in proximity of the I-75/SR  
3 50 PDD which will serve the resident population of the I-75/SR 50 PDD.

4  
5           Capital costs of educational facilities shall have same meaning as set forth in division 2 of  
6 this article.

7  
8           Neighborhood community parks for purposes of this division means that park or parks  
9 located within the I-75/SR 50 PDD intended to serve the residents of the community or  
10 communities in which the park or parks are located and developed in accordance with the  
11 document entitled Typical Neighborhood Community Park Standards, as such standards have  
12 been approved by the Board.

13  
14           District parks for purpose of this division means that park or parks that may serve the I-  
15 75/SR 50 PDD and may be more particularly identified in the I-75/SR 50 PDD Area Plan and  
16 which meet the criteria for a regional district park under the Comprehensive Plan.

17  
18           Road network means all roads, roadway segments, links and intersections identified in the  
19 I-75/SR 50 Area Plan and including, without limitation, SR 50 (between Lockhart Road and the  
20 CSX railroad right-of-way lying east of Kettering Road), Lockhart Road (between SR 50 and  
21 Powerline Road), Powerline Road (between Lockhart Road and the aforesaid railroad right-of-  
22 way), Kettering Road (between Powerline Road and SR 50), Dashbach Street, Sunrise Parkway,  
23 Parallel Collector Road (to SR 50), Spine Road, Church Road, and those roadway segments which  
24 are necessary to provide connectivity to the foregoing roadways.

25  
26           Required right-of-way means that land within the Expanded Overlay District needed by  
27 the county or the state for right-of-way for those roads comprising the road network and shall be  
28 calculated at such width based on county collector road design standards. Required right-of-way  
29 shall be donated by the Property Owner to the county without cost or credit absent a provision in a  
30 development agreement or development order to the contrary.

31  
32           Compensable right-of-way means that portion of right-of-way transferred to the county in  
33 excess of the width required under county collector road design standards. Compensable right-of-  
34 way shall be eligible for payment or credit by the county (as to the excess width only) absent a  
35 provision in a development agreement or development order to the contrary.

36  
37           Site-related improvement means an improvement related to the specific site or  
38 development and includes, without limitation, internal roadways within the development or  
39 frontage roads that are not part of the Road network (defined herein), internal sidewalks, entrance  
40 features, and lane and access improvements at the entrance.

41  
42           Development agreement means that written agreement entered into between the Property  
43 Owner and the Board, pursuant to the county's home rule authority and chapter 125 of the Florida  
44 Statutes, which states those terms and conditions upon which the Property Owner may develop or  
45 use land in furtherance of this division.

1           Development order means an order adopted by the Board approving or approving with  
2 conditions a development of regional impact pursuant to s. 380.06, Florida Statutes.

3  
4           Educational facilities impact fee surcharge means that fee over and above the educational  
5 facilities impact fees set forth in division 2 this article applicable to all new or expanded  
6 residential development occurring within the I-75/SR 50 PDD. The impact fee surcharge shall be  
7 stated as a percentage relative to the educational facilities impact fee in effect at the time a  
8 building permit is requested.

9  
10           Public capital facilities impact fee surcharge means that fee over and above the public  
11 capital facilities impact fees (for each category, *i.e.* library, buildings, and law enforcement) set  
12 forth in division 3 this article applicable to all new or expanded development occurring within the  
13 I-75/SR 50 PDD. The impact fee surcharge shall be stated as a percentage relative to the public  
14 capital facilities impact fee in effect at the time a building permit is requested.

15  
16           Parks impact fee surcharge means that fee over and above the parks impact fees set forth  
17 in division 4 this article applicable to new development occurring within the I-75/SR 50 PDD.  
18 The Parks impact fee surcharge shall be stated as a percentage relative to the parks impact fee in  
19 effect at the time a building permit is requested.

20  
21           Roads impact fee surcharge means that fee over and above the roads impact fees set forth  
22 in division 5 this article applicable to all new or expanded development occurring within the  
23 Expanded Overlay District. The Roads impact fee surcharge shall be stated as a percentage  
24 relative to the roads impact fee in effect at the time a building permit is requested.

25  
26           Pipeline advance means the up-front funds in cash advanced by the Property Owner to the  
27 county and/or the HCSD to accelerate the construction or expansion of schools, parks, roads or  
28 other public capital facilities and which advance of such funds was in furtherance of the Property  
29 Owner's obligations under a development agreement, development order, land development  
30 regulation, or this division. A Pipeline advance is intended to occur early in the development  
31 process unless some other provision is made within a development agreement or development  
32 order. Pipeline advances shall be eligible for credit as provided for in this division.

33  
34           Pipeline donation means that land (excluding required right-of-way) transferred to the  
35 county and/or HCSD by the Property Owner for use as a school, park, public capital facility or  
36 compensable right-of-way and the transfer of such land was pursuant to the Property Owner's  
37 obligations under a development agreement, development order, land development regulation, or  
38 this division. A Pipeline donation is intended to occur early in the development process unless  
39 some other provision is made within a development agreement or development order. Pipeline  
40 donations shall be eligible for credit as provided for in this division.

41  
42           Pipeline improvement means that construction undertaken by or on behalf of the Property  
43 Owner related to the construction of a new or expanded public infrastructure or facility within or  
44 in proximity to the I-75/SR 50 PDD (as identified by the county or HCSD, respectively, or in the  
45 I-75/SR 50 PDD Area Plan) and the construction of such improvement has been agreed to by the



1 Property Owner pursuant to the Property Owner’s obligations under a development agreement,  
2 development order, land development regulation, or this division. A Pipeline improvement is  
3 intended to occur early in the development process unless some other provision is made within a  
4 development agreement or development order. Pipeline improvements shall be eligible for credit  
5 as provided for in this division.

6  
7 Total impact fee surcharge means the total amount of money that would be collected by  
8 the county, for itself or on behalf of the HCSD, based upon present impact fee surcharge rates  
9 under this division (i.e. those rates in effect at the time this calculation is made) assuming  
10 complete build-out of the proposed development.

11  
12 **Sec. 23-152. Imposition of impact fee surcharge for schools, public capital facilities, parks**  
13 **and roads.**

14  
15 (a) Schools. Any new or expanded residential development within the I-75/SR 50  
16 PDD that would otherwise be subject to the educational facilities impact fee  
17 pursuant to division 2 of this article shall be subject to educational facilities impact  
18 fee surcharge unless exempted under this division.

19  
20 (b) Public Capital Facilities. Any new or expanded development within the I-75/SR  
21 50 PDD that would otherwise be subject to the public capital facilities impact fee  
22 pursuant to division 3 of this article shall be subject to public capital facilities  
23 impact fee surcharge unless exempted under this division.

24  
25 (c) Parks. Any new or expanded residential development within the I-75/SR 50 PDD  
26 that would otherwise be subject to the parks impact fee pursuant to division 4 of  
27 this article shall be subject to parks impact fee surcharge unless exempted under  
28 this division.

29  
30 (d) Roads. Any new or expanded development within the Expanded Overlay District  
31 that would otherwise be subject to the roads impact fee pursuant to division 5 of  
32 this article shall be subject to roads impact fee surcharge unless exempted under  
33 this division.

34  
35 **Sec. 23-153. Computation of the amount of impact fee surcharge.**

36  
37 (a) Schools. The educational facility impact fee surcharge shall be calculated by  
38 applying the residential land use type set forth in the table in code sec. 23-69 and  
39 multiplying by 0.10 to yield the surcharge amount (this rate is based upon the value  
40 of the two school sites identified in the I-75/SR 50 PDD Area Plan and the HCSD  
41 obtaining these sites without any out-of-pocket cost or any future financial outlay).

42  
43 For all residential developments with 100 or more dwelling units, ten percent  
44 (10%) of the Total Impact Fee Surcharge amount for the educational facilities  
45 impact fee surcharge shall be provided to the HCSD in the form of a Pipeline

1           advance (cash) which shall occur prior to the issuance of a building permit unless  
2           some other time frame is agreed to as part of a development agreement or  
3           development order. In lieu of this payment, a Property Owner may agree to make  
4           an equal or greater contribution in the form of a Pipeline donation or Pipeline  
5           improvement as part of a development agreement or development order. A  
6           Pipeline advance, Pipeline donation or Pipeline improvement under this provision  
7           shall be eligible for enhanced credits using the multiplier provided under code sec.  
8           23-157.

- 9  
10           **(b)**   *Public capital facilities.* The public capital facilities impact fee surcharge shall be  
11           calculated by applying the land use type set forth in the table in code sec. 23-91  
12           (for each category, *i.e.* library, buildings and law enforcement) and multiplying by  
13           0.10 to yield the surcharge amount.

14  
15           For all residential developments with 100 or more dwelling units or commercial  
16           developments in excess of 250,000 gross square feet, ten percent (10%) of the  
17           Total Impact Fee Surcharge amount for the public capital facilities impact fee  
18           surcharge shall be provided to the county administrator in the form of a Pipeline  
19           advance (cash) which shall occur prior to the issuance of a building permit unless  
20           some other time frame is agreed to as part of a development agreement or  
21           development order. In lieu of this payment, a Property Owner may agree to make  
22           an equal or greater contribution in the form of a Pipeline donation or Pipeline  
23           improvement as part of a development agreement or development order. A  
24           Pipeline advance, Pipeline donation or Pipeline improvement under this provision  
25           shall be eligible for enhanced credits using the multiplier provided under code sec.  
26           23-157.

- 27  
28           **(c)**   *Parks.* The parks impact fee surcharge shall be calculated by applying the  
29           residential land use type set forth in the table in code sec. 23-114 and multiplying  
30           by 0.60 to yield the surcharge amount.

31  
32           For all residential developments with 100 or more dwelling units, ten percent  
33           (10%) of the Total Impact Fee Surcharge amount for the parks impact fee  
34           surcharge shall be provided to the county administrator in the form of a Pipeline  
35           advance (cash) which shall occur prior to the issuance of a building permit unless  
36           some other time frame is agreed to as part of a development agreement or  
37           development order. In lieu of this payment, a Property Owner may agree to make  
38           an equal or greater contribution in the form of a Pipeline donation or Pipeline  
39           improvement as part of a development agreement or development order. A  
40           Pipeline advance, Pipeline donation or Pipeline improvement under this provision  
41           shall be eligible for enhanced credits using the multiplier provided under code sec.  
42           23-157.

1 (d) Roads. The roads impact fee surcharge shall be calculated by applying the land use  
2 type set forth in the table in code sec. 23-138 and multiplying by 0.50 to yield the  
3 surcharge amount.

4  
5 For all residential developments with 100 or more dwelling units or commercial  
6 developments in excess of 250,000 gross square feet, ten percent (10%) of the  
7 Total Impact Fee Surcharge amount for the roads impact fee surcharge shall be  
8 provided to the county administrator in the form of a Pipeline advance (cash)  
9 which shall occur prior to the issuance of a building permit unless some other time  
10 frame is agreed to as part of a development agreement or development order. In  
11 lieu of this payment, a Property Owner may agree to make an equal or greater  
12 contribution in the form of a Pipeline donation or Pipeline improvement as part of  
13 a development agreement or development order. A Pipeline advance, Pipeline  
14 donation or Pipeline improvement under this provision shall be eligible for  
15 enhanced credits using the multiplier provided under code sec. 23-157.

16  
17 **Sec. 23-154. Payment of impact fee surcharge; establishment of impact fee surcharge trust**  
18 **funds accounts.**

19  
20 (a) The Property Owner shall pay all impact fee surcharges required by this division to  
21 the county administrator prior to the issuance of a building permit.

22  
23 (b) All funds collected shall be properly identified as impact fee surcharge funds and  
24 promptly transferred for deposit in the respective impact fee surcharge trust fund account to be  
25 held in separate accounts and used solely for the respective facilities within or for the benefit of  
26 the Overlay District/Expanded Overlay District in accordance with this division.

27  
28 (c) There are hereby established separate impact fee surcharge trust fund accounts for:  
29 parks impact fee surcharges, public capital facilities impact fee surcharges (and further segregated  
30 as the library impact fee surcharges; the buildings impact fee surcharges, and the law enforcement  
31 impact fee surcharges); and the roads impact fee surcharges. The foregoing shall be maintained  
32 by the county for the purposes set forth in this division. The educational facilities impact fee  
33 surcharge trust fund account shall be maintained by the HCSD for the purposes set forth in this  
34 division.

35  
36 (d) Funds withdrawn from impact fee surcharge trust fund accounts must be used in  
37 accordance with this division.

38  
39 **Sec. 23-155. Use of funds.**

40  
41 (a) Schools:

42  
43 (1) The funds collected by the county shall be remitted to the HCSD when  
44 impact fees are remitted to HCSD.



1           (2)    HCS D shall use the Educational facilities impact fee surcharges for those  
2           facilities which serve students residing in the Overlay District as per HCS D  
3           policies to the extent not contrary to a development agreement or  
4           development order to which HCS D is a party to or gave its consent to.

5  
6           (3)    Funds may be used to provide refunds as described in this division.

7  
8           (4)    The county may collect an administrative fee not to exceed three percent  
9           (3%) or its actual costs, whichever is less, related to collecting the fee and  
10          administering this division which shall be deducted prior to remitting any  
11          funds to HCS D.

12  
13          (b)    Public capital facilities:

14  
15          (1)    Except as provided in this division or otherwise provided in a development  
16          agreement or development order, public capital facilities impact fee  
17          surcharge funds shall be used exclusively for new capital facilities (i.e.  
18          library, buildings, law enforcement facilities) or expansion of existing  
19          capital facilities within the I-75/SR 50 PDD and which benefit the resident  
20          population of the I-75/SR 50 PDD. Funds shall be spent in the order  
21          collected. In no event shall funds be used for maintenance or operations.

22  
23          (2)    In the event that bonds or similar debt instruments are issued for the  
24          advanced provision of public capital facilities improvements for which  
25          public capital facilities impact fee surcharges may be expended, such public  
26          capital facilities surcharges may be used to pay debt service on such bonds  
27          or similar debt instruments to the extent that the facilities provided are of  
28          the type described in this division.

29  
30          (3)    At least once each fiscal period the county administrator shall present to the  
31          Board a proposed capital improvement program for public capital facilities,  
32          assigning public capital facilities impact fee surcharge funds, including any  
33          accrued interest, to specific public capital improvement projects and related  
34          expenses. Monies, including any accrued interest, not assigned in any  
35          fiscal period shall be retained in the same public capital facilities impact fee  
36          surcharge trust fund account until the next fiscal period, except as provided  
37          by the refund provisions of this division.

38  
39          (4)    Funds may be used to provide refunds as described in this division.

40  
41          (5)    The county may collect an administrative fee not to exceed three percent  
42          (3%) or its actual costs, whichever is less, related collecting the fee and  
43          administering this division.

1 (c) Parks:

2  
3 (1) Except as provided in this division or otherwise provided in a development  
4 agreement or development order, parks impact fee surcharge funds shall be  
5 used exclusively for new parks or expansion or improvement of existing  
6 parks within the I-75/SR 50 PDD and/or for the District park as identified  
7 in the I-75/SR 50 PDD Area Plan and which benefit the resident population  
8 of the I-75/SR 50 PDD. Funds shall be spent in the order collected. In no  
9 event shall funds be used for maintenance or operations.

10  
11 (2) In the event that bonds or similar debt instruments are issued for the  
12 advanced provision of parks for which parks impact fee surcharges may be  
13 expended, such parks impact fee surcharges may be used to pay debt  
14 service on such bonds or similar debt instruments to the extent that the  
15 facilities provided are of the type described in this division.

16  
17 (3) At least once each fiscal period the county administrator shall present to the  
18 Board a proposed capital improvement program for parks, assigning parks  
19 impact fee surcharge funds, including any accrued interest, to specific park  
20 improvement projects and related expenses. Monies, including any accrued  
21 interest, not assigned in any fiscal period shall be retained in the same parks  
22 impact fee surcharge trust fund account until the next fiscal period, except  
23 as provided by the refund provisions of this division.

24  
25 (4) Funds may be used to provide refunds as described in this division.

26  
27 (5) The county may collect an administrative fee not to exceed three percent  
28 (3%) or its actual costs, whichever is less, related collecting the fee and  
29 administering this division.

30  
31 (d) Roads:

32  
33 (1) Except as provided in this division or otherwise provided in a development  
34 agreement or development order, roads impact fee surcharge funds shall be  
35 used exclusively for the purpose of capital improvements to transportation  
36 facilities within the Road network (as defined in this division) and as  
37 enumerated in the I-75/SR 50 PDD Area Plan. Funds shall be spent in the  
38 order collected. In no event shall funds be used for maintenance or  
39 operations.

40  
41 (2) In the event that bonds or similar debt instruments are issued for advanced  
42 provision of road capital improvements for which roads impact fee  
43 surcharges may be expended, roads impact fee surcharges may be used to  
44 pay debt service on such bonds or similar debt instruments to the extent that

1                   the facilities provided are of the type described in this division and are  
2                   located within the Expanded Overlay District.

3  
4                   (3)   Each fiscal period the county administrator shall present to the board of  
5                   county commissioners a proposed capital improvement program for roads,  
6                   assigning funds, including any accrued interest, from the roads impact fee  
7                   surcharge trust funds to specific road improvement projects. Monies,  
8                   including any accrued interest, not assigned in any fiscal period shall be  
9                   retained in the same roads impact fee surcharge trust funds account until the  
10                  next fiscal period, except as provided by the refund provisions of this  
11                  division.

12  
13                  (4)   Funds may be used to provide refunds as described in this division.

14  
15                  (5)   The county may collect an administrative fee not to exceed three percent  
16                  (3%) or its actual costs, whichever is less, related collecting the fee and  
17                  administering this division.

18  
19   **Sec. 23-156. Refund of fees paid.**

20  
21                  (a)   If a building permit or certificate of use expires, is revoked or is voluntarily  
22                  surrendered and is, therefore, voided, and no construction or improvement of land  
23                  (including moving a mobile home or recreational vehicle on to land) has been  
24                  commenced, then the current parcel owner of record, upon application to the  
25                  county, shall be entitled to a refund of any impact fee surcharges paid as a  
26                  condition for its issuance except as otherwise provided herein, minus  
27                  administrative expenses actually incurred by the county. No interest shall be paid  
28                  on refunds under this section. Notwithstanding the foregoing, the feepayer may  
29                  waive or relinquish its right to any refund under a development agreement or  
30                  development order and which agreement or order may provide that such impact fee  
31                  surcharges may be deemed non-refundable and expended by the county upon  
32                  receipt.

33  
34                  (b)   Pipeline advances, Pipeline donations and Pipeline improvements shall be deemed  
35                  earned and expendable upon receipt by the county, or HCSD respectively, and  
36                  therefore, shall be considered non-refundable. However, Pipeline advances,  
37                  Pipeline donations and Pipeline improvements shall be entitled to credits under this  
38                  division to the extent not contrary to the terms of any development agreement or  
39                  development order.

40  
41                  (c)   Any impact fee surcharge funds not expended or encumbered by the end of the  
42                  calendar quarter immediately following six (6) years from the date the respective  
43                  impact fee surcharge was recorded as revenue by the County shall, upon  
44                  application of the current parcel owner of record, within one hundred eighty (180)  
45                  days of the expiration of the six-year period, be returned to the current parcel



1                   owner of record with interest at the county's average annual rate of return to the  
2                   extent not contrary to the terms of any development agreement or development  
3                   order.

4  
5   **Sec. 23-157. Exemptions and credits; additional incentives.**

6  
7           (a)   Exemptions:

8  
9           (1)   Educational facilities impact fee surcharge. The following shall be  
10           exempted from payment of the educational facilities impact fee surcharge  
11           under this division:

- 12  
13           a.   Alterations or expansion of an existing residential building where  
14           no additional units are created and where the use is not changed.
- 15  
16           b.   The construction of accessory buildings or structures.
- 17  
18           c.   The replacement of a residential land use with a new unit of the  
19           same type and use.
- 20  
21           d.   The replacement of a lawfully permitted building, mobile home, or  
22           structure, the building permit for which was issued on or before the  
23           effective date of this division or the replacement of a building,  
24           mobile home or structure that was constructed subsequent thereto  
25           and for which the correct educational facilities impact fee surcharge,  
26           which was owed at the time the building permit was applied for,  
27           was paid or otherwise provided for, with a new building, mobile  
28           home, or structure of the same use and at the same location.
- 29  
30           e.   A building permit for which the educational facilities impact fee  
31           surcharge thereof has been or will be paid or otherwise provided for  
32           pursuant to a development agreement or development order which,  
33           by the written terms thereof, clearly and unequivocally was intended  
34           to provide for the full mitigation of such impact by enforcement of  
35           the agreement or development order and not by the application of  
36           this division.
- 37  
38           f.   A building permit which does not result in any additional impact on  
39           educational facilities.
- 40  
41           g.   The construction of any nonresidential building or structure.

42  
43           (2)   Public capital facilities impact fee surcharge. The following shall be exempted  
44           from payment of the public capital facilities impact fee surcharge under this  
45           division:

- a. Alterations or expansion of an existing residential building where no additional units are created and where the use is not changed.
- b. The construction of accessory buildings or structures.
- c. The replacement of a residential land use with a new unit of the same type and use.
- d. The replacement of a nonresidential land use with a new building or structure of the same size and use.
- e. The replacement of a lawfully permitted building, mobile home, or structure, the building permit for which was issued on or before the effective date of this division or the replacement of a building, mobile home or structure that was constructed subsequent thereto and for which the correct public capital facilities impact fee surcharge, which was owed at the time the building permit was applied for, was paid or otherwise provided for, with a new building, mobile home, or structure of the same use and at the same location.
- e. A building permit for which the public capital facilities impact fee surcharge thereof has been or will be paid or otherwise provided for pursuant to a development agreement or development order which, by the written terms thereof, clearly and unequivocally was intended to provide for the full mitigation of such impact by enforcement of the development agreement or development order and not by the application of this division.
- f. A building permit which does not result in any additional impact on public capital facilities.

(3) Parks impact fee surcharge. The following shall be exempted from payment of the parks impact fee surcharge under this division:

- a. Alterations or expansion of an existing building where no additional residential units are created and where the use is not changed.
- b. The construction of accessory buildings or structures.
- c. The replacement of a residential land use with a new unit of the same type and use.

1           d.     The replacement of a lawfully permitted building, mobile home, or  
2                 structure, the building permit for which was issued on or before the  
3                 effective date of this division or the replacement of a building,  
4                 mobile home or structure that was constructed subsequent thereto  
5                 and for which the correct parks impact fee, which was owed at the  
6                 time the building permit was applied for, was paid or otherwise  
7                 provided for, with a new building, mobile home, or structure of the  
8                 same use and at the same location.

9  
10           e.     A building permit for which the parks impact thereof has been or  
11                 will be paid or otherwise provided for pursuant to a development  
12                 agreement or development order which, by the written terms  
13                 thereof, clearly and unequivocally was intended to provide for the  
14                 full mitigation of such impact by enforcement of the development  
15                 agreement or development order and not by the application of this  
16                 division.

17  
18           f.     A building permit which does not result in any additional impact on  
19                 park or recreational facilities.

20  
21           g.     The construction of any nonresidential building or structure.

22  
23     (4)   Roads impact fee surcharge. The following shall be exempted from  
24           payment of the roads impact fee surcharge under this division:

25  
26           a.     Alterations or expansion of an existing building or use of land  
27                 where no additional living units will be produced over and above  
28                 those in the existing use of the property, the use is not changed, and  
29                 where no additional vehicular trips will be produced over and above  
30                 those produced by the existing use.

31  
32           b.     The construction of accessory buildings or structures which will not  
33                 produce additional vehicular trips over and above those produced by  
34                 the principal building or use of the land.

35  
36           c.     The replacement of a lawfully permitted building, mobile home, or  
37                 structure, the building permit for which was issued on or before the  
38                 effective date of this division or the replacement of a building,  
39                 mobile home or structure that was constructed subsequent thereto  
40                 and for which the correct roads impact fee, which was owed at the  
41                 time the building permit was applied for, was paid or otherwise  
42                 provided for, with a new building, mobile home, or structure of the  
43                 same use and at the same location, provided that no additional  
44                 vehicular trips will be produced over and above those produced by  
45                 the original use of the land.

1 d. A building permit or certificate of use for which the roads impact  
2 thereof has been or will be paid or otherwise provided for pursuant  
3 to a development agreement or development order which, by the  
4 written terms thereof, clearly and unequivocally was intended to  
5 provide for the full mitigation of such impact by enforcement of the  
6 development agreement or development order and not by the  
7 application of this division.

8  
9 e. A building permit or certificate of use which does not result in any  
10 additional generation or attraction of traffic.

11  
12 f. The construction of a single family home on a lot of record in  
13 existence prior to the effective date of this ordinance.

14  
15 Any claim of exemption must be made no later than the time of application  
16 for a building permit. Any claim not so made shall be deemed waived.

17  
18 (b) Credits:

19  
20 (1) Educational facilities impact fee surcharge. The following shall apply to  
21 the educational facilities impact fee surcharge credits under this division:

22  
23 a. General. Pipeline advances (cash), Pipeline donations (land) and/or  
24 Pipeline improvements (construction) may be offered by the  
25 Property Owner as total or partial payment of the required impact  
26 fee surcharge pursuant to a development agreement, development  
27 order or this division subject to concurrence by the HCSD. The  
28 offer to the HCSD must specifically request or provide for a impact  
29 fee surcharge credit. If the HCSD accepts such an offer, the total  
30 credit shall be as determined below.

31  
32 b. Valuation. A Pipeline advance (cash) shall have a value equal to  
33 the cash advance made. A Pipeline donation (land) identified in the  
34 I-75/SR 50 PDD Area Plan shall have such value as assigned in said  
35 Plan; a Pipeline donation (land) which is not identified in the I-  
36 75/SR 50 PDD Area Plan shall have a value equal to one hundred  
37 fifteen percent (115%) of the most recent assessed value by the  
38 county property appraiser, or current fair market value established  
39 by an appraisal prepared in accordance with USPAP and performed  
40 by a state licensed real appraiser acceptable to HCSD. A Pipeline  
41 improvement (construction) identified in the I-75/SR 50 PDD Area  
42 Plan shall have such value as assigned in said Plan; a Pipeline  
43 improvement (construction) which is not identified in the I-75/SR  
44 50 PDD Area Plan shall be valued based upon the actual costs of the  
45 improvement which was reasonably and necessarily incurred absent



1 some other method of valuation set forth in a development  
2 agreement or development order. The developer shall be  
3 responsible for providing adequate and reasonable supporting  
4 documentation for all costs claimed.

5  
6 c. Multiplier factor. In recognition and consideration of a Property  
7 Owner making a Pipeline advance (cash), Pipeline donation (land)  
8 or Pipeline improvement (construction), the following shall apply:

9  
10 i. Pipeline advance. For a Pipeline advance (cash) received by  
11 HCS D prior to the issuance of a building permit, the  
12 Property Owner's total dollar credits under this division  
13 shall be the amount of cash advanced times a 1.50  
14 multiplier.

15  
16 ii. Pipeline donation. For a Pipeline donation (land) received  
17 by HCS D prior to final plat approval, the Property Owner's  
18 total dollar credits under this division shall be the value of  
19 the land (per the preceding valuation provision) times a 1.50  
20 multiplier. For subsequently acquired land, the value of the  
21 donation shall be as agreed upon and set forth in a  
22 development agreement or development order.

23  
24 iii. Pipeline improvement. For a Pipeline improvement  
25 (construction), the Property Owner's total dollar credits  
26 under this division shall be as provided in a development  
27 agreement or development order. Depending on the timing  
28 of the improvement, the multiplier factor will be between  
29 1.00 to 1.50 (taking into account when the improvement is  
30 to be completed).

31  
32 d. Any claim for credit must be made and agreed to by HCS D no later  
33 than the time of application for a building permit. Any claim not so  
34 made shall be deemed waived.

35  
36 e. Impact fee surcharges shall be paid at the same time as impact fees  
37 are paid. Credits under this provision (calculated in dollars) shall be  
38 applied simultaneously to both educational impact fees due under  
39 division 2 of this article and the educational impact fee surcharges  
40 due under this division until such credits are fully expended, absent  
41 a provision in a development agreement or development order to the  
42 contrary.

43  
44 f. Any Property Owner who has excess credits (calculated in dollars),  
45 after applying such credits to pay for all of its educational facilities

1 impact fee surcharges under this division and to all of its  
2 educational facilities impact fees pursuant to division 2 of this  
3 article (absent a provision in a development agreement or  
4 development order to the contrary), remaining after complete build-  
5 out of the property (unless an earlier calculation is provided for in  
6 connection with a determination that full mitigation of school  
7 impacts has been accounted for) may request refund of the  
8 remaining credit balance from HCSD by making such request in  
9 writing. The remaining credit balance, as verified by staff, shall be  
10 paid to the Property Owner within 90 days of the receipt of the  
11 request for refund.

12  
13 g. Credits under this provision may only be used towards educational  
14 facilities impact surcharge fees and educational facilities impact  
15 fees and for no other purpose.

16  
17 (2) Public capital facilities impact fee surcharge. The following shall apply to  
18 the public capital facilities impact fee surcharge credits under this division:

19  
20 a. General. Pipeline advances (cash), Pipeline donations (land) and/or  
21 Pipeline improvements (construction) may be offered by the  
22 Property Owner as total or partial payment of the required impact  
23 fee surcharge pursuant to a development agreement, development  
24 order or this division subject to concurrence by the county. The  
25 offer to the county must specifically request or provide for a impact  
26 fee surcharge credit. If the county accepts such an offer, the total  
27 credit shall be as determined below.

28  
29 b. Valuation. A Pipeline advance (cash) shall have a value equal to  
30 the cash advance made. A Pipeline donation (land) identified in the  
31 I-75/SR 50 PDD Area Plan shall have such value as assigned in said  
32 Plan; a Pipeline donation (land) which is not identified in the I-  
33 75/SR 50 PDD Area Plan shall have a value equal to one hundred  
34 fifteen percent (115%) of the most recent assessed value by the  
35 county property appraiser, or current fair market value established  
36 by an appraisal prepared in accordance with USPAP and performed  
37 by a state licensed real appraiser acceptable to the county  
38 administrator. A Pipeline improvement (construction) identified in  
39 the I-75/SR 50 PDD Area Plan shall have such value as assigned in  
40 said Plan; a Pipeline improvement (construction) which is not  
41 identified in the I-75/SR 50 PDD Area Plan shall be valued based  
42 upon the actual costs of the improvement which was reasonably and  
43 necessarily incurred absent some other method of valuation set forth  
44 in a development agreement or development order. The developer

1                   shall be responsible for providing adequate and reasonable  
2                   supporting documentation for all costs claimed.

3  
4           c.       Multiplier factor. In recognition and consideration of a Property  
5                   Owner making a Pipeline advance (cash), Pipeline donation (land)  
6                   or Pipeline improvement (construction), the following shall apply:

7  
8                   i.       Pipeline advance. For a Pipeline advance (cash) received by  
9                   the county prior to the issuance of a building permit, the  
10                   Property Owner's total dollar credits under this division  
11                   shall be the amount of cash advanced times a 1.50  
12                   multiplier.

13  
14                   ii.       Pipeline donation. For a Pipeline donation (land) received  
15                   by the county prior to final plat approval, the Property  
16                   Owner's total dollar credits under this division shall be the  
17                   value of the land (per the preceding valuation provision)  
18                   times a 1.50 multiplier. For subsequently acquired land, the  
19                   value of the donation shall be as agreed upon and set forth in  
20                   a development agreement or development order.

21  
22                   iii.       Pipeline improvement. For a Pipeline improvement  
23                   (construction), the Property Owner's total dollar credits  
24                   under this division shall be as provided in a development  
25                   agreement or development order. Depending on the timing  
26                   of the improvement, the multiplier factor will be between  
27                   1.00 to 1.50 (taking into account when the improvement is  
28                   to be completed).

29  
30                   d.       Any claim for credit must be made no later than the time of  
31                   application for a building permit. Any claim not so made shall be  
32                   deemed waived.

33  
34                   e.       Impact fee surcharges shall be paid at the same time as impact fees  
35                   are paid. Credits under this provision (calculated in dollars) shall be  
36                   applied simultaneously to both public capital facilities impact fees  
37                   due under division 3 of this article and the public capital facilities  
38                   impact fee surcharges due under this division until such credits are  
39                   fully expended, absent a provision in a development agreement or  
40                   development order to the contrary.

41  
42                   f.       Any Property Owner who has excess credits (calculated in dollars),  
43                   after applying such credits to pay for all of its public capital  
44                   facilities impact fee surcharges under this division and to all of its  
45                   public capital facilities impact fees pursuant to division 3 of this

1 article (absent a provision in a development agreement or  
2 development order to the contrary), remaining after complete build-  
3 out of the property (unless an earlier calculation is provided for in  
4 connection with a determination that full mitigation of school  
5 impacts has been accounted for) may request refund of the  
6 remaining credit balance from the county by making such request in  
7 writing. The remaining credit balance, as verified by staff, shall be  
8 paid to the Property Owner within 90 days of the receipt of the  
9 request for refund.

10  
11 g. Credits under this provision may only be used towards public  
12 capital facilities impact surcharge fees and public capital facilities  
13 impact fees and for no other purpose.

14  
15 (3) Parks facilities impact fee surcharge. The following shall apply to the  
16 parks impact fee surcharge credits under this division:

17  
18 a. General. Pipeline advances (cash), Pipeline donations (land) and/or  
19 Pipeline improvements (construction) may be offered by the  
20 Property Owner as total or partial payment of the required impact  
21 fee surcharge pursuant to a development agreement, development  
22 order or this division subject to concurrence by the county. The  
23 offer to the county must specifically request or provide for a impact  
24 fee surcharge credit. If the county accepts such an offer, the total  
25 credit shall be as determined below.

26  
27 b. Valuation. A Pipeline advance (cash) shall have a value equal to  
28 the cash advance made. A Pipeline donation (land) identified in the  
29 I-75/SR 50 PDD Area Plan shall have such value as assigned in said  
30 Plan; a Pipeline donation (land) which is not identified in the I-  
31 75/SR 50 PDD Area Plan shall have a value equal to one hundred  
32 fifteen percent (115%) of the most recent assessed value by the  
33 county property appraiser, or current fair market value established  
34 by an appraisal prepared in accordance with USPAP and performed  
35 by a state licensed real appraiser acceptable to the county  
36 administrator. A Pipeline improvement (construction) identified in  
37 the I-75/SR 50 PDD Area Plan shall have such value as assigned in  
38 said Plan; a Pipeline improvement (construction) which is not  
39 identified in the I-75/SR 50 PDD Area Plan shall be valued based  
40 upon the actual costs of the improvement which was reasonably and  
41 necessarily incurred absent some other method of valuation set forth  
42 in a development agreement or development order. The developer  
43 shall be responsible for providing adequate and reasonable  
44 supporting documentation for all costs claimed.



- 1                   c.     Multiplier factor. In recognition and consideration of a Property  
2                   Owner making a Pipeline advance (cash), Pipeline donation (land)  
3                   or Pipeline improvement (construction), the following shall apply:  
4  
5                   i.     Pipeline advance. For a Pipeline advance (cash) received by  
6                   the county prior to the issuance of a building permit, the  
7                   Property Owner's total dollar credits under this division  
8                   shall be the amount of cash advanced times a 1.50  
9                   multiplier.  
10  
11                  ii.    Pipeline donation. For a Pipeline donation (land) received  
12                  by the county prior to final plat approval, the Property  
13                  Owner's total dollar credits under this division shall be the  
14                  value of the land (per the preceding valuation provision)  
15                  times a 1.50 multiplier. For subsequently acquired land, the  
16                  value of the donation shall be as agreed upon and set forth in  
17                  a development agreement or development order.  
18  
19                  iii.   Pipeline improvement. For a Pipeline improvement  
20                  (construction), the Property Owner's total dollar credits  
21                  under this division shall be as provided in a development  
22                  agreement or development order. Depending on the timing  
23                  of the improvement, the multiplier factor will be between  
24                  1.00 to 1.50 (taking into account when the improvement is  
25                  to be completed).  
26  
27                  d.     Any claim for credit must be made no later than the time of  
28                  application for a building permit. Any claim not so made shall be  
29                  deemed waived.  
30  
31                  e.     Impact fee surcharges shall be paid at the same time as impact fees  
32                  are paid. Credits under this provision (calculated in dollars) shall be  
33                  applied simultaneously to both parks impact fees due under division  
34                  4 of this article and the parks impact fee surcharges due under this  
35                  division until such credits are fully expended, absent a provision in  
36                  a development agreement or development order to the contrary..  
37  
38                  f.     Any Property Owner who has excess credits (calculated in dollars),  
39                  after applying such credits to pay for all of its parks impact fee  
40                  surcharges under this division and to all of its parks impact fees  
41                  pursuant to division 4 of this article (absent a provision in a  
42                  development agreement or development order to the contrary),  
43                  remaining after complete build-out of the property (unless an earlier  
44                  calculation is provided for in connection with a determination that  
45                  full mitigation of school impacts has been accounted for) may

1                   request refund of the remaining credit balance from the county by  
2                   making such request in writing. The remaining credit balance, as  
3                   verified by staff, shall be paid to the Property Owner within 90 days  
4                   of the receipt of the request for refund.

5  
6                   g.       Credits under this provision may only be used towards parks impact  
7                   surcharge fees and parks impact fees and for no other purpose.

8  
9                   (4)       Roads impact fee surcharge. The following shall apply to the Roads impact  
10                  fee surcharge credits under this division:

11  
12                  a.       General. Pipeline advances (cash), Pipeline donations (land other  
13                  than required right-of-way within the Expanded Overlay District)  
14                  and/or Pipeline improvements (construction) may be offered by the  
15                  Property Owner as total or partial payment of the required impact  
16                  fee surcharge pursuant to a development agreement, development  
17                  order or this division subject to concurrence by the county. The  
18                  offer to the county must specifically request or provide for a impact  
19                  fee surcharge credit. If the county accepts such an offer, the total  
20                  credit shall be as determined below.

21  
22                  b.       Site-related improvements. No credit shall be given for that portion  
23                  of on-site improvements deemed to be site-related only.

24  
25                  c.       Valuation. A Pipeline advance (cash) shall have a value equal to  
26                  the cash advance made. A Pipeline donation (land other than  
27                  required right-of-way within the Expanded Overlay District)  
28                  identified in the I-75/SR 50 PDD Area Plan shall have such value as  
29                  assigned in said Plan; a Pipeline donation (land other than required  
30                  right-of-way) which is not identified in the I-75/SR 50 PDD Area  
31                  Plan shall have a value equal to one hundred fifteen percent (115%)  
32                  of the most recent assessed value by the county property appraiser,  
33                  or current fair market value established by an appraisal prepared in  
34                  accordance with USPAP and performed by a state licensed real  
35                  appraiser acceptable to the county administrator. A Pipeline  
36                  improvement (construction) identified in the I-75/SR 50 PDD Area  
37                  Plan shall have such value as assigned in said Plan; a Pipeline  
38                  improvement (construction) which is not identified in the I-75/SR  
39                  50 PDD Area Plan shall be valued based upon the actual costs of the  
40                  improvement which was reasonably and necessarily incurred absent  
41                  some other method of valuation set forth in a development  
42                  agreement or development order. The developer shall be  
43                  responsible for providing adequate and reasonable supporting  
44                  documentation for all costs claimed.

- 1                   c.     Multiplier factor. In recognition and consideration of a Property  
2                   Owner making a Pipeline advance (cash), Pipeline donation (land)  
3                   or Pipeline improvement (construction), the following shall apply:  
4
- 5                   i.     Pipeline advance. For a Pipeline advance (cash) received by  
6                   the county prior to the issuance of a building permit, the  
7                   Property Owner's total dollar credits under this division  
8                   shall be the amount of cash advanced times a 1.50  
9                   multiplier.  
10
- 11                  ii.    Pipeline donation. For a Pipeline donation (land) received  
12                  by the county prior to final plat approval, the Property  
13                  Owner's total dollar credits under this division shall be the  
14                  value of the land (per the preceding valuation provision)  
15                  times a 1.50 multiplier. For subsequently acquired land, the  
16                  value of the donation shall be as agreed upon and set forth in  
17                  a development agreement or development order.  
18
- 19                  iii.   Pipeline improvement. For a Pipeline improvement  
20                  (construction), the Property Owner's total dollar credits  
21                  under this division shall be as provided in a development  
22                  agreement or development order. Depending on the timing  
23                  of the improvement, the multiplier factor will be between  
24                  1.00 to 1.50 (taking into account when the improvement is  
25                  to be completed).  
26
- 27                  d.     Any claim for credit must be made no later than the time of  
28                  application for a building permit. Any claim not so made shall be  
29                  deemed waived.  
30
- 31                  e.     Impact fee surcharges shall be paid at the same time as impact fees  
32                  are paid. Credits under this provision (calculated in dollars) shall be  
33                  applied simultaneously to both roads impact fees due under division  
34                  5 of this article and the roads impact fee surcharges due under this  
35                  division until such credits are fully expended, absent a provision in  
36                  a development agreement or development order to the contrary.  
37
- 38                  f.     Any Property Owner who has excess credits (calculated in dollars),  
39                  after applying such credits to pay for all of its roads impact fee  
40                  surcharges under this division and to all of its roads impact fees  
41                  pursuant to division 5 of this article (absent a provision in a  
42                  development agreement or development order to the contrary),  
43                  remaining after complete build-out of the property (unless an earlier  
44                  calculation is provided for in connection with a determination that  
45                  full mitigation of school impacts has been accounted for) may

1                                   request refund of the remaining credit balance from the county by  
2                                   making such request in writing. The remaining credit balance, as  
3                                   verified by staff, shall be paid to the Property Owner within 90 days  
4                                   of the receipt of the request for refund.

5  
6                   g.       Credits under this provision may only be used towards roads impact  
7                                   surcharge fees and roads impact fees and for no other purpose.  
8

9       **23-158. Additional regulations regarding planning and development within I-75/SR 50**  
10       **PDD.**

11  
12           (a)       For all residential developments with 50 or more dwelling units or commercial  
13                                   developments with 65,000 gross square feet of commercial space, the Property  
14                                   Owner must go through the Planned Development Project (PDP) process set forth  
15                                   in Article VI of the Zoning Code.

16  
17           (b)       For all residential developments with 100 or more dwelling units or commercial  
18                                   developments in excess of 250,000 gross square feet, the Property Owner and the  
19                                   county shall enter into a development agreement or development order prior to the  
20                                   county issuing conditional plat approval (if applicable), site plan approval or a  
21                                   building permit for vertical construction, whichever occurs first, shall address the  
22                                   following:

23  
24                   (1)       Incorporate all requirements contained in subsection (a) above;

25                   (2)       The amount and timing of all Pipeline advances;

26                   (3)       A provision for the donation of all required right-of-way within the  
27                                   development;

28                   (4)       A description and estimated value of all Pipeline donations and a schedule  
29                                   for when land will be transferred to the county and/or the HCSD and  
30                                   manner of the transfer (i.e. by warranty deed, plat);

31                   (5)       A description and estimated value of all Pipeline improvements and the  
32                                   timing for such improvements;

33                   (6)       A statement as to when impacts fees and impact fee surcharges become  
34                                   non-refundable and a statement when impact fee funds may be expended by  
35                                   the county/HCSD;

36                   (7)       A description of the size and amenities of any park intended to be located  
37                                   within the proposed development pursuant to *Typical Neighborhood*  
38                                   *Community Standards*;  
39  
40  
41  
42  
43  
44  
45



1           (8)    A description of how the development will interrelate with and/or connect  
2                   to other surrounding developments in terms of vehicle and pedestrian  
3                   access points, sidewalks, bikeways, trails and the like;

4  
5           (9)    A statement of allowed land uses, densities and intensities which the county  
6                   agrees to recognize, and whether there are any rights running with the land;

7  
8           (10) A statement of whether concurrency has been or will be satisfied as to each  
9                   concurrency category (i.e. schools, parks, roads, public capital facilities)  
10                  based on the land uses, densities and intensities above; and,

11  
12          (11) A statement of whether the Property Owner and the county has or will be  
13                  entering into a separate Water & Sewer Agreement addressing water and  
14                  sewer supply and connection.

15  
16 **Sec. 23-159. Enforcement provision; appeal; biennium review.**

17  
18           (a)    A violation of this division shall be a violation of county code and enforceable  
19                  through the code enforcement process (i.e. before an appointed hearing officer) and/or judicial  
20                  proceeding; however, in addition to or in lieu of any such prosecution, the county or any affected  
21                  Property Owner shall have the power to sue for relief in civil court to enforce the provisions of  
22                  this division. Knowingly furnishing false information to the county administrator, his/her  
23                  designee, or any official who is charged with the administration of this division on any matter  
24                  relating to the administration of this division shall constitute a violation thereof.

25  
26           (b)    Any decision made by the county administrator in the course of administering this  
27                  division may be appealed to the board of county commissioners by filing a notice of appeal within  
28                  thirty (30) days after the decision. The county administrator shall then schedule the appeal before  
29                  the board of county commissioners.

30  
31           (c)    The impact fee surcharges set forth in this division are based upon the projected  
32                  needs of the Overlay District/Expanded Overlay District at time of adoption. Prior to amending  
33                  any of the impact fees set forth in this article, and no less than once every two years, the county  
34                  shall update its needs analysis for this area and shall review and adjust the surcharges as may be  
35                  appropriate.

36  
37 **SECTION 2. Severability.** It is declared to be the intent of the Board of County Commissioners  
38 that if any section, subsection, clause, sentence, phrase, or provision of this ordinance is for any  
39 reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the  
40 remaining portions of this ordinance.

41  
42 **SECTION 3. Full Force and Effect of Remainder.** All sections, subsections, clauses,  
43 sentences, phrases, and provisions of Chapter 23 of the Code not amended herein shall stay the  
44 same and remain in full force and effect until amended, repealed or otherwise acted upon by the  
45 Board of County Commissioners.

1 **SECTION 4. Inclusion in the Code.** It is the intention of the Board of County Commissioners  
2 of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall  
3 become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end,  
4 any section or subsection of this Ordinance may be renumbered or relettered to accomplish such  
5 intention, and the word "ordinance" may be changed to "section, "article," or other appropriate  
6 designation.

7  
8 **SECTION 5. Filing with Secretary of State.** This ordinance shall be filed with the Secretary of  
9 State.

10  
11 **SECTION 6. Effective date.** This ordinance shall take effect on the ninety-first (91<sup>st</sup>) day  
12 following its adoption.

13  
14 **BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO**  
15 **COUNTY** in Regular Session this 12<sup>th</sup> day of September, 2007.

16  
17 **BOARD OF COUNTY COMMISSIONERS**  
18 **HERNANDO COUNTY, FLORIDA**

19  
20  
21 Attest:

*Karen Nicolai*  
KAREN NICOLAI

CLERK



By:

*Jeff Stabins*

JEFF STABINS  
CHAIRMAN

22  
23  
24  
25  
26  
27  
28 Approved for Form  
29 and Legal Sufficiency

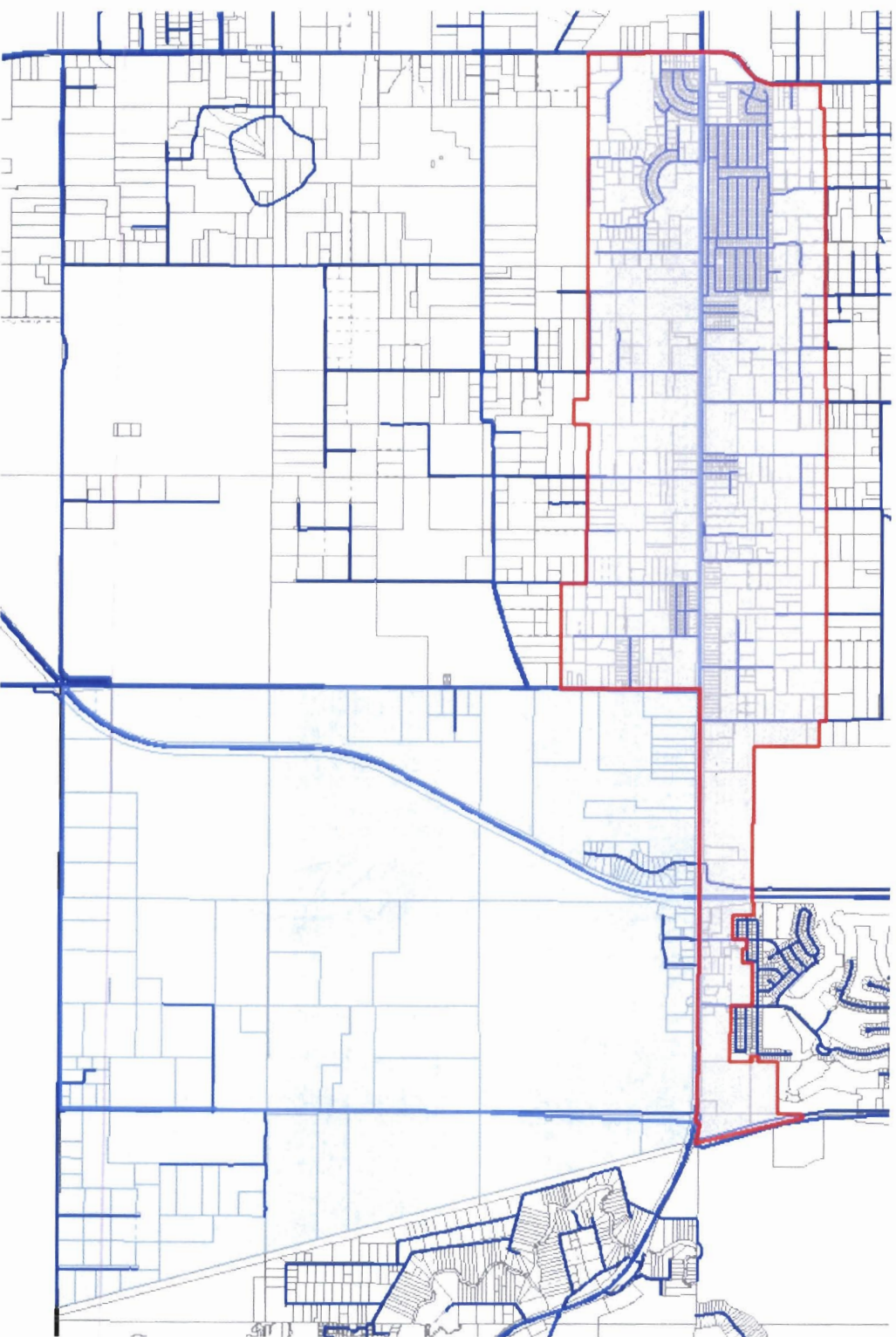
30  
31 By:

*Geoffrey T. Kirk* 8/31/07

Geoffrey T. Kirk  
Assistant County Attorney



**EXHIBIT A - ORDINANCE 2007-16  
EXPANDED OVERLAY DISTRICT  
("ADDITIONAL BENEFITTED PROPERTIES" + I-75/SR 50 PDD AREA)**



**Legend**  
 "Additional Benefitted Properties"  
 I-75/SR 50 PDD



Herrando County Council, Independent System (CIS)  
 Standard Legal System  
 The information in this document is a representation of a legal or land use  
 document prepared and presented by Herrando County Planning Department. It is not a  
 guarantee of accuracy. The information is provided for informational purposes only and  
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