



Legislation Text

File #: 170539., **Version:** 1

Completion Date for The Standard (B)

This item is provided to the Board as an informational item. At its March 2014 Board Meeting, the CRA approved up to \$3.1 million in public infrastructure assistance for Landmark Properties' project located at the NW corner of 13 Street and University Avenue. A development agreement was approved that outlines a list of up to 10 eligible on-site and off-site public infrastructure projects for which the Developer can seek reimbursement for improvements. All improvements are either on public land that serves the public or private land that can be utilized by the public.

The development agreement contains benchmarks, deadlines and reporting requirements that must be adhered to in order for Landmark to receive a reimbursement of eligible costs related to the list of approved projects. According to the development agreement, the developer must complete construction of the project no later than November 15, 2017, as evidenced by a Certificate of Occupancy issued for the Project. The Project includes the apartments, hotel, retail and parking garage. The developer must submit all required documentation to the CRA by December 15, 2017.

Recently, CRA staff was contacted by Andrew Young, Executive Vice President of Landmark Properties. According to Mr. Young, the City of Gainesville requested cease work in the student and hotel buildings for a period of 11 days to allow for student move-in/transition. The delay started on August 17, 2017 and work recommenced on August, 28, 2017. Hurricane Irma was scheduled to hit South Florida on or about September 9, 2017 and the majority of Landmark's subcontractors and superintendents left one week prior to the hurricane making landfall to evacuate their families and/or secure their homes. The vast majority of Landmark's subcontractors did not return for an additional two weeks after Irma hit Florida because they were dealing with repairing homes, insurance, etc. to rectify damages due to Irma. The delays began September 10, 2017 and continued for 21 days. After Irma, Landmark discovered abnormal leakage and had two weeks of locating water intrusion, repairing water intrusion, retesting areas to insure repairs were successful, and repairing drywall and/or finish products damaged due to water intrusion. The delay commenced on September 24, 2017 and continued for 14 days. The Force Majeure events extend completion of the project and submission of supporting documentation by 46 days. However, Landmark Properties have indicated they will complete construction by December 10, 2017 and will submit documentation by January 10, 2018.

The development agreement does provide for extensions of time related to failure to timely perform an obligation when it is occasioned by any cause beyond the reasonable control and without fault of either party ("Force Majeure"). According to the development agreement Force Majeure events include, among other things, "hurricanes," and "acts of other governments (including regulatory entities or courts) in their sovereign or contractual capacity." In the event of Force Majeure, the period permitted for performance, according to the

agreement, will be extended for the period of time that performance is delayed and that party will not be deemed in breach of the agreement.

Staff agrees with the Developer that Hurricane Irma and the stop work order issued by the City of Gainesville in its regulatory capacity are Force Majeure events. Staff has reviewed the times of delay and agrees that the Force Majeure events described extended the ability of the developer to complete the project by 46 days.

None at this time

CRA Executive Director to the CRA Board: Hear update from Landmark Properties. This item is provided as informational only.