IMPACT FEE CREDIT AGREEMENT
(“AGREEMENT”)

Road Impact Fees

THIS AGREEMENT is made this 6th day of February, 2006, by and among the BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA (“County”) and BAYARD TIMBERLANDS COMPANY and BAYARD RACEWAYS, INC. (“Landowner”).

RECITALS:

A. Landowner has been the Owner and projected Feepayer of certain lands in St. Johns County, Florida, a portion of which was previously sold to Centex Homes, a Nevada General Partnership, more particularly described on Exhibit A attached hereto; incorporated herein by reference (“Bayard Lands”).

B. Pursuant to St. Johns County Ordinance No. 87-57, as amended, (“Road Impact Fee Ordinance”), the County requires any person who seeks to develop land within St Johns County, as evidenced by such person’s application for a building permit or certificate of occupancy (“Feepayer”), to pay a Road impact fee (“Road Impact Fee”), so as to assure that such new development bears a proportional share of the cost of capital expenses necessary to provide roads within St. Johns County.

C. Section No. 13.B.3 of the Road Impact Fee Ordinance allows impact fee credits to be granted for certain dedications and/or improvements (“Road Impact Fee Credits”).

D. Landowner has dedicated land for a public purpose which dedication is recognized as meeting the requirements for Road Impact Fee Credits.

E. Pursuant to the terms of the Road Impact Fee Ordinance, County and Landowner desire to set forth their agreement and a procedure for the application and treatment of such Road Impact Fee Credits.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The above stated Recitals are incorporated herein as Findings of Facts.

2. The total Road Impact Fee Credits are $1,050,000.00, being the fair market value of the lands dedicated by Landowner for the public benefit at the time of dedication.
3. From and after the date thereof, all Feeptayers applying for building permits or certificates of occupancy in connection with any construction in the Bayard Lands shall pay the amount due under the Road Impact Fee Ordinance directly to Landowner. Then, for so long as the total Road Impact Fee Credits for which Landowner has issued vouchers under this Agreement is less than the total Road Impact Fee Credits authorized by this Agreement, Landowner shall issue to such Feepayer a voucher evidencing full payment of Road Impact Fees in connection with such Feepayer’s application for a building permit or certificate of occupancy. The voucher issued by Landowner shall contain a statement setting forth the amount of Road Impact Fee paid. Upon presentation of such voucher by the Feepayer, the County shall issue a receipt to the Feepayer.

4. In the event that Landowner determines to sell all or part of the Bayard Lands, Landowner may sell, transfer, assign or convey any of its interest in part of the Road Impact Fee Credits to such purchaser, transferee, assignee or grantee for use within the Project for such consideration as Landowner in its sole discretion, determines. In such event, Landowner shall execute and deliver to the County a copy of the instrument selling, transferring, assigning, or granting the Road Impact Fee Credits so sold, transferred, assigned, or granted and the remaining amount of Road Impact Fee Credits, if any, shall remain vested in Landowner. The Parties agree that no impact fee credit may be used or applied to development outside the Bayard Lands except as set forth in Paragraph 5, below, without the specific approval of the County, and that such approval may be denied based on factors including, but not limited to the relationship of the dedication and/or improvements to the particular development to which credits are transferred.

5. On or before January 31 of each year, so long as their remains any Road Impact Fee Credits, Landowner shall prepare and deliver to the County Planning Department an annual report setting forth the amount of Road Impact fee payments made by the Feeptayers applying for building permits or certificates of occupancy within the Bayard Lands and the area set forth in Paragraph 5 and the remaining balance of Road Impact Fee Credits.

6. At such time as the Road Impact Fee Credits provided for hereunder have been exhausted, BAYARD TIMBERLANDS COMPANY and BAYARD RACEWAYS, INC. or the Feepayer seeking building permits or certificates of occupancy within the Project shall pay the County the Road Impact Fees as are then due and payable under the Road Impact Fee Ordinance in effect at that time. Until such time, any Feepayer within the project shall be instructed by the County to pay its Road Impact Fees directly to BAYARD TIMBERLANDS COMPANY and BAYARD RACEWAYS, INC.

1) This Agreement shall be construed and governed in accordance with the laws of the State of Florida. All parties to this Agreement have participated fully in the negotiation and preparation hereof and accordingly, this Agreement shall not be more strictly construed against any of the parties hereto. All parties agree particularly that this Agreement is bound by the terms of the County’s Road Impact Fee Ordinance and other applicable ordinances. Any and all applicable terms of those Ordinances are to be considered incorporated herein by reference. If there is any inconsistency found between this Agreement and such Ordinances or applicable law, those Ordinances or law shall prevail and be applicable.

2) The Parties agree that Road Impact Fee Ordinance limits the total amount of impact fee credits given to an amount not greater than the total amount of impact fees due for the development of the Bayard Lands.

3) In construing the Agreement, the singular shall be held to include the plural, and the plural shall include the singular, the use of any gender shall include every other and all gender and captions and paragraph headings shall be disregarded.

4) All of the exhibits attached to this Agreement are incorporated in, and made a part of this Agreement.

5) The Agreement, and any Exhibits and/or addendum made a part hereof constitute the entire Agreement and understanding of the parties and shall not be modified or amended except by written agreement duly executed by the parties hereto.

6) This Agreement is made for the sole benefit and protection of the parties and no other persons shall have any right of action hereunder. This Agreement shall be binding upon the parties and their respective successors and permitted assigns.

7) All covenants, agreements, representation and warranties made herein shall be deemed to have material and relied on by each party to this Agreement.

8) This agreement is recognized as being subject to the laws of Florida and the Ordinances of St. Johns County, Florida and therefore all applicable provisions thereof are incorporated herein and if any provisions hereof is inconsistent with such provisions, such provision shall apply.
9) Landowner must be a feepayer as referenced in the applicable impact fee ordinance to receive impact fee credits under this ordinance.

10) Nothing in this Agreement shall act to allow an entity to receive impact fee credits for contributions provided by a government entity including, but not limited to, a Community Development District.

IN WITNESS WHEREOF, the undersigned have set their hands and seals as of the date set forth above.

By: Wade Schaad
Name:
Title:

ST. JOHNS COUNTY, FLORIDA

By: Ben W. Adams, Jr.
County Administrator
STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument is hereby acknowledged before me this 26th day of January, 2006, by Ben W. Adams, on behalf of the Board of County Commissioners of St. Johns County. He/she has produced personally known to me as identification and (did/did not) take an oath.

Sarah Taylor  
NOTARY PUBLIC, State of Florida  
Name: Sarah Taylor  
My Commission Expires:  
My Commission Number is:  

Bayard Timberlands Company,  
a Florida Corporation  
By: Howard I. Korman  
Its: President

Bayard Raceways, Inc.  
a Florida Corporation  
By: Howard I. Korman  
Its: President

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument is hereby acknowledged before me this 6th day of February, 2006, by Howard I. Korman, the President of both BAYARD TIMBERLANDS COMPANY and BAYARD RACEWAYS, INC. He/she has produced as identification and (did/did not) take an oath.

Charline E. Small  
NOTARY PUBLIC, State of Florida  
Name: Charline E. Small  
My Commission Expires: 09/08/06  
My Commission Number is: DD146355

Notary Public State of Florida  
Sarah C Taylor  
My Commission DD471749  
Expires 01/01/2008  

Official Notary Seal  
Charline E Small  
Commission Number  
DD146355  
My Commission Expires  
SEPT 8, 2006
Voucher #________

St. Johns County Impact Fee Voucher

BAYARD TIMBERLANDS COMPANY and BAYARD RACEWAYS, INC.

1. Name and address of Developer/Grantor: Bayard Timberlands Company and
   Bayard Raceways, Inc.

2. Name and address of Grantee:

3. Legal description of subject property:

4. Subdivision or Master Development Plan name:

   The undersigned Developer/Grantor confirms that it has received from_________ on__________ funds sufficient for
   the following impact fees required under the applicable ST. Johns County Impact Fee Ordinance, as amended, as indicated below. Developer/Grantor gives notice to St. Johns County, Florida
   that the following sums should be deducted from the applicable Impact Fee Credit account of the Developer/Grantor.

   Roads

   Ordinance # 87-57 in the amount of $________

   BAYARD TIMBERLANDS COMPANY,
   a Florida corporation

   By: ________________________________

   Print: ________________________________

   Its: ________________________________

   BAYARD RACEWAYS, INC., a Florida corporation

   By: ________________________________

   Print: ________________________________

   Its: ________________________________