

RESOLUTION NO. 2006-476

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR
TO EXECUTE AN IMPACT FEE CREDIT AGREEMENT WITH
SONOC COMPANY, LLC
(Nocatee Preserve)

WHEREAS, SONOC Company, LLC is the Developer of certain lands contained within the Nocatee Development of Regional Impact, (the "Project") as described and approved in St. Johns County Resolution No. 2001-30; and

WHEREAS, Section 13 of St. Johns County Ordinance No. 87-58, as amended, St. Johns County Park Impact Fee Ordinance ("Impact Fee Ordinance") allows for impact fee credits to be granted by the Board of County Commissioners for the property dedicated to St. Johns County; and

WHEREAS, in accordance with the County Park Impact Fee Ordinance, SONOC Company, LLC is entitled to certain impact fee credits for certain dedications.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County, Florida that:

Section 1. The County Administrator is hereby authorized to approve and execute an Impact Fee Credit Agreement with SONOC Company, LLC substantially in the form of that which is attached hereto and incorporated herein by reference for those dedications identified within the Park Impact Fee Ordinance which are eligible for impact fee credits.

Section 2. Upon acceptance by the County Administrator, the Clerk is instructed to record the agreement in the official records of St. Johns County, Florida.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida this 12th day of December, 2006.

BOARD OF COUNTY COMMISSIONS
OF ST. JOHNS COUNTY, FLORIDA



Its Chairman

ATTEST:

Cheryl Strickland, Clerk

By: 
Deputy Clerk

**IMPACT FEE CREDIT AGREEMENT
("AGREEMENT")**

PARK IMPACT FEES

THIS AGREEMENT is made this _____ day of _____, 2006, by and among the **BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA** ("County") and **SONOC COMPANY, LLC, a Delaware limited liability company** ("SONOC")

Recitals

- A. SONOC is the Developer and projected Impact Feepayer of certain lands contained within the Nocatee Development of Regional Impact ("Project"), as described and approved in St. Johns County Resolution No. 2001-30.
- B. Pursuant to St. Johns County Ordinance No. 87-58, as amended ("Park 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 Park impact fee ("Park 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 13 of the Park Impact Fee Ordinance allows impact fee credits to be granted for certain dedications ("Park Impact Fee Credits").
- D. Pursuant to the County requirements of the Resolution 2001-30, SONOC dedicated the Nocatee Preserve, which is recognized as meeting the requirements for Park Impact Fee Credits.
- E. Pursuant to the terms of the Park Impact Fee Ordinance, County and SONOC desire to set forth their agreement and a procedure for the applicant and treatment of such Park 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 Fact.
- 2. The total Park Impact Fee Credits will be calculated as the sum shown on Exhibit A in the amount of Five Million Two Hundred Thousand and 00/100 Dollars (\$5,200,000.00).
- 3. From and after the date thereof, all Feepayers applying for building permits or certificates of occupancy in connection with any construction in the Project shall pay the amount due under the Park Impact Fee Ordinance directly to SONOC. Then, for

so long as the total Park Impact Fee Credits for which SONOC has issued vouchers under this Agreement is less than the total Park Impact Fee Credits authorized by this Agreement, SONOC shall issue to such Feepayer a voucher evidencing full payment of Park Impact Fees in connection with such Feepayer's application for a building permit or certificate of occupancy. The voucher issued by SONOC shall contain a statement setting forth the amount of Park 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 SONOC determines to sell all or part of the Project, SONOC may sell, transfer, assign or convey any of its interest in part of the Park Impact Fee Credits to such purchaser, transferee, assignee or grantee for use within its sole discretion, determines. In such event, SONOC shall execute and deliver to the County a copy of the instrument selling, transferring, assigning or granting the Park Impact Fee Credits so sold, transferred, assigned or granted and the remaining amount of the Impact Fee Credits, if any, shall remain vested in SONOC. The Parties agree that no impact fee credit may be used or applied to development outside the Project 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 to the particular development to which credits are transferred.
5. On or before January 31 of each year, so long as there remains any Park Impact Fee Credits, SONOC shall prepare and deliver to the County Planning Department an annual report setting forth the amount of Park Impact fee payments made by the Feepayers applying for building permits or certificates of occupancy within the Project and the remaining balance of Park Impact Fee Credits.
6. At such time as the Park Impact Fee Credits approved for hereunder have been exhausted, SONOC or the Feepayer seeking building permits or certificates of occupancy within the Project shall pay the County the Park Impact Fees as are then due and payable under the Park 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 Park Impact Fees directly to SONOC.
7. Miscellaneous Provisions
 - a. This Agreement shall be constructed 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 one of the parties hereto. All parties agree particularly that this Agreement is bound by the terms of the County's Park 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.

- b. The Parties agree that Park Impact Fee Ordinance Section 13 limits the total amount of impact fee credits given to an amount not greater than the total amount of impact fees due for the Project. The parties further agree that they will not challenge in any judicial proceeding and will accept the interpretation of the County's Attorney's Office that the Park Impact Fee Credits identified or granted by this Agreement are limited to the amount of the Impact Fees which are due or become due within the Development.
- c. 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.
- d. All of the exhibits attached to the Agreement are incorporated in, and made a part of this Agreement.
- e. 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.
- f. 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.
- g. All covenants, agreements, representation and warranties made herein shall be deemed to have material and relied on by each party to this Agreement.
- h. This Agreement is recognized as being subject to the laws of the State of Florida and the Ordinances of St. Johns County, Florida, and therefore all applicable provisions thereof are incorporated herein and if any provision hereof is inconsistent with such provisions, such provision shall apply.
- i. SONOC must be a Feepayer as referenced in the applicable impact fee ordinance to receive impact fee credits under this ordinance.
- j. 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.
- k. All notices, requests, consents and other communications under this Agreement ("Notices") shall be in writing and shall be delivered, mailed by First Class Mail, postage prepaid, or overnight delivery service, to the parties, as follows:

If to the County: County Administrator
St. Johns County
Post Office Drawer 349

St. Augustine, Florida 32085-0349

If to the Developer: SONOC Company, LLC
c/o The PARC Group, Inc.
4314 Pablo Oaks Court
Jacksonville, Florida 32224
Attn: Rick Ray

With a copy to: Pappas Metcalf Jenks & Miller, P.A.
245 Riverside Avenue, Suite 400
Jacksonville, Florida 32202
Attn: Thomas O. Ingram, Esq.

Except as otherwise provided in this Agreement, any Notice shall be deemed received only upon actual delivery at the address set forth in this Agreement. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the parties may deliver Notice on behalf of the parties. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the parties and addressees set forth in this Agreement.

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

Attest: Cheryl Strickland

St. Johns County, Florida

Print: _____
Deputy Clerk

Baldemar Kropachek
Interim County Administrator

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this ____ day of _____, 2006, by **Baldemar Kropachek**, Interim County Administrator for St. Johns County, Florida, a political subdivision of the State of Florida, on behalf of **St. Johns County, Florida**. He [] is personally known to me or [] has produced _____ as identification.

Notary Public
Print Name: _____
My Commission Expires:

Attest:

SONOC COMPANY, LLC
a Delaware limited liability company

By: _____

Print: _____

Its: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing Agreement was acknowledged before me this _____ day of _____, 2006, by _____, as _____ of SONOC COMPANY, LLC, a Delaware limited liability company.

Notary Public

Print Name: _____

My Commission Expires:

Personally Known _____

or Produced I.D. _____

[check one of the above]

Type of Identification Produced

**EXHIBIT A: ELIGIBLE DONATION CREDITS
SONOC COMPANY, LLC**

The value of the Nocatee Preserve donation is Five Million Two Hundred Thousand and 00/100 Dollars (\$5,200,000.00).

EXHIBIT B
ST. JOHNS COUNTY IMPACT FEE VOUCHER
SONOC COMPANY, LLC

Voucher No. _____

1. Name and Address of Grantor: SONOC COMPANY, LLC
c/o The PARC Group, Inc.
4314 Pablo Oaks Court
Jacksonville, Florida 32224
Attn: Rick Ray

2. Name and Address of Grantee: _____

3. Legal Description of Subject Property: **See Exhibit A attached hereto.**

4. Subdivision or Master Development Plan Name: Nocatee Development of Regional Impact

The undersigned confirms that it has received from _____
on _____, 200____, funds sufficient for the following impact fees required under the
applicable St. Johns County Impact Fee Ordinance, as amended, as indicated below. Grantor gives
notice to St. Johns County, Florida, that the following sums should be deducted from the applicable
Impact Fee Credit Account of the SONOC COMPANY, LLC.

____ Parks Ordinance #87-58 in the amount of \$ _____

SONOC COMPANY, LLC

By: _____
Print: _____
Its: _____