

RESOLUTION NO. 312

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 WHITE'S FORD TIMBER, LLC.

WHEREAS, White's Ford Timber, LLC is the owner ("Owner") of certain lands contained within the SilverLeaf Development of Regional Impact (the "Project") as described and approved in St. Johns County Resolution No. 2015-241 (the "DRI/DO") and Ordinance No. 2016-38 (the "PUD").

WHEREAS, St. Johns County Ordinance No. 87-57 ("Road Impact Fee Ordinance"), as has been or may be amended, allows for impact fee credits to be granted by the Board of County Commissioners for property dedicated to St. Johns County and improvements made or funded by the Owner as identified within the Impact Fee Credit Agreement attached hereto and incorporated herein.

WHEREAS, in accordance with Section 13 of the County Road Impact Fee Ordinance, the Owner is entitled to certain impact fee credits for property dedicated to the County and roadway improvements that are more particularly identified in the DRI/DO.

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 White's Ford Timber, LLC substantially in the form of that which is attached hereto and incorporated herein by reference for those dedications identified within the Road 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.

Section 3. To the extent that there are typographical or administrative errors that do not change the tone, tenor or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida this 3rd day of October, 2017.

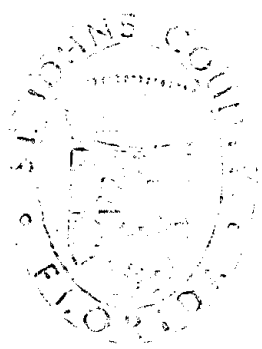
BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA

[Signature]
James K. Johns, Chair

ATTEST: Hunter S. Conrad, Clerk

By: [Signature]
Deputy Clerk

RENDITION DATE 10/5/17



IMPACT FEE CREDIT AGREEMENT

Road Impact Fees

THIS IMPACT FEE CREDIT AGREEMENT ("Agreement") is made this _____ day of _____, 2017 by and among the **BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA ("County")** and **WHITE'S FORD TIMBER, LLC, ("White's Ford")**, which term shall include its successors and assigns).

RECITALS:

- A. White's Ford is the owner and projected Impact Feepayer of certain lands contained within the SilverLeaf Development of Regional Impact ("**Project**") as described and approved under St. Johns County Resolution No. 2015-241 (the "DRI/DO") and Ordinance No. 2016-38 (the "PUD").
- B. The Road Impact Fee Ordinance 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 by such person or its successors and assigns ("**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. St. Johns County Ordinance No. 87-57, as amended ("**Road Impact Fee Ordinance**") allows for impact fee credits to be granted by the Board of County Commissioners for any cash contributions or property dedicated to the County or roadway improvements made by or funded by White's Ford ("**Road Impact Fee Credits**").
- D. White's Ford is entitled under the Road Impact Fee Ordinance and Special Condition 30 of the DRI/DO to receive impact fee credits for its cash contributions or property dedicated to the County or roadway improvements made or funded by White's Ford that are more particularly identified in Special Condition 24 of the DRI/DO (the "**SilverLeaf Road Contributions**").
- E. White's Ford desires to enter into this Agreement to establish the terms upon which the Road Impact Fee Credits will be granted for its non-cash portion of the SilverLeaf Road Contributions that are being made at this time or in the near future.

- F. Pursuant to the terms of the Road Impact Fee Ordinance, County and White's Ford 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 will be calculated as the sum shown on **Exhibit "A"** attached hereto and incorporated herein by this reference ("**Road Impact Fee Credit Calculation and Schedule**") in the amount of Seventy-Eight Million Five Hundred Twenty-Eight Thousand Eight Hundred Seventy-Seven and 00/100 (\$78,528,877.00) Dollars. Such Road Impact Fee Credits shall be awarded to White's Ford, its successors or assigns, immediately upon White's Ford taking each of the actions described in the schedule set forth on **Exhibit "A"**.
3. From and after the date of this Agreement, 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 Road Impact Fee Ordinance directly to White's Ford. White's Ford shall be fully responsible for notifying all Feepayers of this requirement and shall ensure that such payments are directly paid to White's Ford. Then, for so long as the total Road Impact Fee Credits for which White's Ford has issued vouchers under this Agreement is less than the total Road Impact Fee Credits authorized by this Agreement, White's Ford 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 White's Ford 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 and shall deduct the amount of such voucher from the Road Impact Fee Credit Account. The Voucher Form is attached hereto as **Exhibit "B"**.
4. In the event that White's Ford determines to sell all or part of the Project, White's Ford 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 White's Ford in its sole discretion, determines. In such event, White's Ford 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 White's Ford. 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 and/or improvements to the particular development to which credits are transferred. White's Ford acknowledges that only one impact fee credit account may exist at any given time for the Project.

5. On or before January 31 of each year, so long as there remains any Road Impact Fee Credits, White's Ford shall prepare and deliver to the County Growth Management Department an annual report setting forth the amount of Road Impact fee payments made by the Fee payers applying for building permits or certificates of occupancy within the Project 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, White's Ford or the Fee payer 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 Fee payer within the Project shall be instructed by the County to pay its Road Impact Fees directly to White's Ford.
7. Miscellaneous Provisions
 - a. 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 one 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.
 - b. The parties agree that Road 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 or that become due within the Project. The parties further agree that

- they will not challenge in any judicial proceeding and will accept the interpretation of the County Attorney's Office that the Road Impact Fee Credits identified or granted by this Agreement are limited to the amount of Impact Fees which are due or become due within the Project.
- 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 this Agreement are incorporated in, and made a part of this Agreement.
 - e. This 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 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. Nothing in this Agreement shall act to allow an entity to receive impact fees credits for contributions provided by a government entity including, but not limited to, a Community Development District.
 - j. Nothing in this Agreement shall be deemed to require the County to continue to levy or collect Impact Fees, or, if levied, to levy them for any certain amount.
 - k. Any notices or reports required by this Agreement shall be sent to the following:

For the County: Michael D. Wanchick
County Administrator
St. Johns County
500 San Sebastian View
St. Augustine, Florida 32084

With a copy to: County Attorney
500 San Sebastian View
St. Augustine, FL 32084

For White's Ford: John G. Metcalf
White's Ford Timber, LLC
111 Nature Walk Parkway
Suite 102
St. Augustine, Florida 32092

With a copy to: Kathryn F. Whittington, Esq.
24 Cathedral Place, Suite 600
St. Augustine, FL 32084

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

[SIGNATURES ON FOLLOWING PAGES]

Witnesses:

WHITE'S FORD:

Signed, sealed and delivered in the presence of:

WHITE FORD'S TIMBER, LLC., a Florida limited liability company

Print Name: _____

By: Hutson Management Inc., a Florida corporation, its Manager

Print Name: _____

By: _____

Date: _____

Name: John G. Metcalf

Title: Vice President

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by John G. Metcalf, as Vice-President of Hutson Management, Inc., a Florida corporation, as Manager of White's Ford Timber, LLC., a Florida limited liability company, on behalf of the company.

(Print Name _____)

NOTARY PUBLIC

State of _____ at Large

Commission #

My Commission Expires:

Personally Known

or Produced I.D.

[check one of the above]

Type of Identification Produced

Witnesses:

ST. JOHNS COUNTY, FLORIDA

Name: _____

Name: _____

By: _____

Name: Michael D. Wanchick,
County Administrator

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument is hereby acknowledged before me this ____ day of _____, 2017, by Michael D. Wanchick, as County Administrator of St. Johns County, Florida, and is authorized to execute this Agreement on behalf of St. Johns County, Florida, on behalf of the County. He has produced _____ as identification and (did/did not) take an oath.

(Print Name _____)

NOTARY PUBLIC

State of _____ at Large

Commission #

My Commission Expires:

Personally Known

or Produced I.D.

[check one of the above]

Type of Identification Produced

Exhibit "A"

Road Impact Fee Credit Calculation and Schedule

White's Ford will contribute a total of \$78,528,877 in the non-cash portion of the SilverLeaf Road Contributions made by or on behalf of White's Ford as more particularly set forth in the SilverLeaf DRI/DO, and will immediately receive Road Impact Fee Credits in the following increments and upon the following schedule of events:

1. Construction of County Road 2209 ("CR 2209") as a 4-lane facility from Johns Creek Parkway to the State Road 16 Connector ("SR 16 Connector") and dedication of 150' wide right of way (for a total of \$31,910,538¹);
2. Dedication of additional right of way for CR 2209 to go from 150' to 250' in width from Johns Creek Parkway to the SR 16 Connector (approximately 42.78 acres), and 250' of right of way and ponds for CR 2209 from the SR 16 Connector to International Golf Parkway (approximately 89.24 acres), engineering plans, St. Johns River Water Management District ERP permit, Army Corps of Engineers dredge/fill permit, mitigation for wetland impacts for CR 2209 from SR 16 Connector to International Golf Parkway, plus stormwater easement agreement for the treatment and discharge of stormwater from CR 2209 through the Project (for a total of \$29,168,840²); and
3. Construction of SR 16 Connector as a 4-lane facility from CR 2209 to State Road 16 plus intersection improvements at SR 16 and CR 16A intersection and dedication of 150' of right of way (for a total of \$17,449,500³).

Total Contributions and Road Impact Fee Credits: \$78,528,877

Impact Fee Credits Award Schedule:

- ¹ Upon provision of financial assurance of improvements and right-of-way dedication to St. Johns County in the form of a bond, letter of credit, three-party agreement or funded commitment.
- ² Upon dedication of right of way, assignment of plans and permits and acceptance by County of stormwater easement agreement.
- ³ Upon provision of financial assurance of improvements to St. Johns County in the form of a bond, letter of credit, three-party agreement or funded commitment and right of way dedication.

Exhibit "B"

(Sample Impact Fee Voucher)

Voucher # _____

ST. JOHNS COUNTY IMPACT FEE VOUCHER

(SilverLeaf DRI/PUD)

Name and address of Grantor: White's Ford Timber, LLC

Name and address of Grantee: _____

Legal description of subject property: _____

Subdivision or Master Development Plan name: SilverLeaf DRI/PUD

The undersigned Grantor confirms that it has received from _____

on _____, 20____ funds sufficient for the following impact fees required under the applicable St. Johns County Impact Fee Ordinance, as amended, as indicated below.

White's Ford/Grantor gives notice to St. Johns County, Florida that the following sums should be deducted from the applicable Road Impact Fee Credit account of the Grantor.

Road Impact Fees, Ordinance #87-57 in the amount of \$ _____

Grantor:

White's Ford Timber, LLC

By: _____

Name: _____

Its: _____