

RESOLUTION NO. 2019-257

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY,
FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR TO
EXECUTE AN AMENDED IMPACT FEE CREDIT AGREEMENT WITH

White's Ford Timber, LLC

WHEREAS, White's Ford Timber, LLC ("**White's Ford**") is the owner of certain lands contained within the SilverLeaf Development of Regional Impact as described and approved in St. Johns County Resolution No. 2019-165 (the "DRI") and the SilverLeaf Planned Unit Development approved under St. Johns County Ordinance 2019-33 (the "SilverLeaf PUD"); and

WHEREAS, an Impact Fee Credit Agreement was approved under Resolution 2017-312 for impact fee credits to be awarded to White's Ford Timber, LLC to be used for development within the DRI as described therein; and

WHEREAS, Resolution 2019-165 amended the DRI to incorporate additional land that was added to the SilverLeaf PUD and property within the Grande Creek Planned Unit Development that was approved under St. Johns County Ordinance 2019-34 (the "Grande Creek PUD"); and

WHEREAS, the Amended Impact Fee Credit Agreement is needed to add the additional land incorporated into the SilverLeaf PUD and the land that is subject to the Grande Creek PUD into the Impact Fee Credit Agreement, and to delete references to a cash contribution that was eliminated under Resolution No. 2019-165; and

WHEREAS, Section 13 of St. Johns County Ordinance No. 87-57, as amended, St. Johns County Road Facilities Impact Fee Ordinance ("Road Impact Fee Ordinance"), allows for impact fee credits to be granted by the Board of County Commissioners for property dedicated and other contributions made to St. Johns County as identified within the Impact Fee Credit Agreement attached hereto and incorporated herein; and

WHEREAS, in accordance with the County Road Impact Fee Ordinance, White's Ford Timber, LLC is entitled to certain impact fee credits for certain dedications; and

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 Amended 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 the dedication identified within the Road Impact Fee Ordinance and the Impact Fee Credit Agreement 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 there are typographical or administrative errors that do not change the tone, tenor, or concept of this Resolution, 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 20 day of August, 2019.

**BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA**

Paul M. Waldron

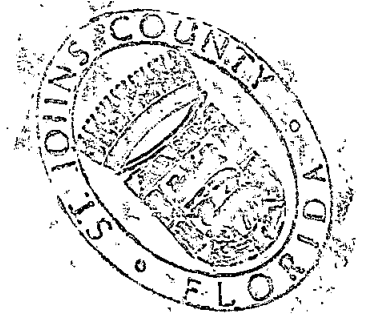
Paul M. Waldron
Its Chairman

ATTEST:

HUNTER S. CONRAD, CLERK

By: Pam Halterman
Deputy Clerk

RENDITION DATE 8/23/19



**AMENDED
IMPACT FEE CREDIT AGREEMENT**

[Road Impact Fees]

THIS AMENDED IMPACT FEE CREDIT AGREEMENT ("Agreement") is made this _____ day of _____, 2019 by and among the **BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA** ("County"), **WHITE'S FORD TIMBER, LLC**, ("White's Ford", which term shall include its successors and assigns) and **LONGLEAF PARTNERS, LLC** ("Longleaf", 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 (the "DRI") as described and approved under St. Johns County Resolution No. 2019-165 (the "DRI/DO") and the SilverLeaf Planned Unit Development approved under St. Johns County Ordinance 19-33 (the "SilverLeaf PUD").
- B. Longleaf is an affiliated entity of White's Ford and is the owner of certain lands contained within the Grande Creek Planned Unit Development approved under St. Johns County Ordinance No. 2019-34 (the "Grande Creek PUD") and as more particularly described in the ordinance (the "Grande Creek Property").
- C. Resolution 2019-165 amended the DRI to incorporate additional land that was added to the SilverLeaf PUD and the Grande Creek Property into the DRI and eliminated a cash contribution that was previously required under the DRI/DO (the "Cash Contribution").
- D. A Road Impact Fee Credit Agreement was approved for the DRI under Resolution 2017-312 and recorded in Official Records Book 4449, Page 939 of the Public Records of St. Johns County, Florida (the "Original IFCA").
- E. This amendment to the Original IFCA (the "Amendment") is needed, and the parties have agreed, to formally add the additional land incorporated into the SilverLeaf PUD and the Grande Creek Property to the Original IFCA and to delete references to the Cash Contribution.
- F. 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.

- G. 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").
- H. 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 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").
- I. White's Ford desires to enter into this Agreement to establish the terms upon which the Road Impact Fee Credits will be granted for the SilverLeaf Road Contributions that are being made at this time or in the near future.
- J. Longleaf consents to this Agreement and acknowledges that the Impact Fee Credits awarded to White's Ford for use within the DRI may be used for development within the Grande Creek Property.
- K. Pursuant to the terms of the Road Impact Fee Ordinance, County, White's Ford and Longleaf 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 within the DRI, including within the SilverLeaf PUD and the Grande Creek PUD, 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 SilverLeaf Road Impact Fee Credit account. The Voucher Form is attached hereto as **Exhibit "B"**.
4. In the event that White's Ford or Longleaf determines to sell all or part of the DRI, 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 DRI 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 Road Impact Fee Credit may be used or applied to development outside the DRI 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 Road Impact Fee Credit account may exist at any given time for the DRI.
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 Feepayers applying for building permits or certificates of occupancy within the DRI 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 Feepayer seeking building permits or certificates of occupancy within the DRI 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 DRI 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 DRI. 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 DRI.
- 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: 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 104
St. Augustine, Florida 32092

With a copy to: Kathryn F. Whittington, Esq.
236 San Marco Avenue
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 _____, 2019, 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:

LONGLEAF:

Signed, sealed and delivered in the presence of:

LONGLEAF PARTNERS, 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 _____, 2019, by John G. Metcalf, as Vice-President of Hutson Management, Inc., a Florida corporation, as Manager of Longleaf Partners, 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 _____, 2019, 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 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 DRI (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)
(Grande Creek 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
Grande Creek 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: Hutson Management, Inc., its Manager

By: _____

Name: _____

Its: _____