

SECTION 5.0 IMPACT FEE CREDIT AGREEMENTS

Section 5.01 Introduction

An Impact Fee Credit Agreement is an agreement between the applicant and St. Johns County in which an applicant is given credits for improvements and dedications pursuant to Ordinances 87-57, 87-58, 87-59 and 87-60, as amended, and the Impact Fee General Administration Guidelines and Procedures Manual, as amended.

In order to be eligible for Impact Fee Credits the improvement or dedication should be consistent with the appropriate category as follows:

- A. Roads: Road and intersection improvements or right-of-way dedications shall be in accordance with Ordinance 87-57 and the Manual, and must be related to the mitigation of non-site impacts from the development for which application has been made.

No credit shall be given for Site-related Improvements. Site-related Improvements are defined in Ordinance 87-57 as follows:

“Capital improvements and right-of-way dedications for direct access improvements to and/or within the development in question. Direct access improvements include but are not limited to the following: (1) access roads leading to the development; (2) driveways and roads within the development; (3) acceleration and deceleration lanes, and right and left turn lanes leading to those roads and driveways; and (4) traffic control measures for those roads and driveways.”

- B. Parks: Park land dedication and/or park capital improvements in accordance with Ordinance 87-58 and the Manual.
- C. Public Capital Facilities: Public capital facilities land dedication and/or public capital facilities capital improvements as comply with Ordinance 87-59 and the Manual.
- D. Educational Facilities: All mandatory or required land dedications and/or educational facility improvements as are in accordance with Ordinance 87-60 and the Manual.

Any claim for credits must be made no later than the time of application for a building permit or permit for mobile home installation. Any claim not so made shall be deemed waived. If land is to be donated to the County, application for Impact Fee Credits should be made prior to dedication.

ADDRESS: 4040 Lewis Speedway, St. Augustine, FL 32084

PHONE NUMBER/FACSIMILE NUMBER: (904) 209-0675 Planning Department
(904) 209-0743 Fax

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Section 5.02 Application Process

One (1) copy (unless otherwise noted) of the following items should be included in an Impact Fee Credit Agreement Application. (If the application contains pages exceeding 8 1/2" x 11", then 10 copies of such pages will be required).

- A. Copy of Impact Fee Credit Agreement Application
- B. A letter identifying the capital improvements and/or dedications for which credits are claimed.
- C. Construction cost estimates and acceptable engineering drawings and specifications for approved construction projects and/or final payment estimates and drawings for completed projects, and/or
- D. The value of land dedications as determined by a qualified appraiser or as contained in the official records of the St. Johns County Property Appraisers Office. (A qualified appraiser shall be defined as a State certified general appraiser who is also on St. Johns County's approved appraiser list.) (2 copies)
- E. Maps and plans showing the location and extent of the capital improvements and/or land dedications for which credits are claimed.
- F. Proposed Impact Fee Credit Agreement
- G. Proposed Resolution
- H. Proposed Voucher (voucher must be prepared with a voucher #)

Section 5.03 Review Process

- A. The complete application is submitted to the Planning Department.
- B. The application is routed to the reviewing departments. These departments have 20 working days to review the application and provide comments to the Planning Department.
- C. Comments are then submitted to the applicant by mail, email, and/or fax.
- D. The applicant shall then respond in writing, addressing each comment and providing additional information as needed in the resubmittal.
- E. The resubmittal will then be routed to the appropriate reviewing departments and be returned to the Planning Department within 10 working days.
- F. The resubmittal process will continue until the agreement is deemed to be sufficient to be scheduled for the Board of County Commissioners.

Section 5.04 Public Hearing

The Impact Fee Agreement will then be scheduled as a Business Item on the first available Board of County Commissioners Meeting as determined by the County Administrator.

- A. If the Impact Fee Credit Agreement is approved, the Resolution will be signed by the Board's Chairperson and recorded by the Clerk. The credits will then be recorded as approved in the specified categories (i.e. Roads, Parks, Public Capital Facilities and Educational Facilities).
- B. If the item is denied, an appeal may be filed within 30 days of the Board Action.

Section 5.05 Implementation

Once an agreement is enacted, all designated Impact Fees applicable to the project will be paid directly to the Applicant named in the agreement and a voucher presented to the Impact Feepayer. The Feepayer will then present the voucher to St. Johns County at the time a clearance sheet is pulled and the credits will be deducted from the appropriate account. This holds true only as long as the Applicant has credits remaining.

Sample Resolution

RESOLUTION NO.

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 Name of Development Company

WHEREAS, Name of Development Company is the Developer of certain lands contained within the Name of Development (the Project) as described and approved in St. Johns County Ordinance and/or Resolution No. ###-##; and

WHEREAS, Section # of St. Johns County Ordinance No. 87-57 or 87-58 or 87-59 or 87-60, as amended, St. Johns County Road or Park or Public Capital Facilities or Educational Facilities Impact Fee Ordinance ("Road or Park or Public Capital Facilities or Educational Facilities 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/or improvements made as identified within the Impact Fee Agreement attached hereto and incorporated herein; and

WHEREAS, in accordance with the County Road or Park or Public Capital Facilities or Educational Facilities Impact Fee Ordinance, Name of Development Company is entitled to certain impact fee credits for certain dedications and/or improvements.

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 Name of Development Company substantially in the form of that which is attached hereto and incorporated herein by reference for those improvements and/or dedications identified within the Road or Park or Public Capital Facilities or Educational Facilities 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 _____ day of _____, 20__.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

Its Chairman

ATTEST:

_____, CLERK

By: _____
Deputy Clerk

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

(Insert title i.e. Road or Park or Public Capital Facilities or Educational Facilities here) Impact Fees

THIS AGREEMENT is made this _____ day of _____, 20____, by and among the **BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA** ("County") and ***(Insert Name of Credit Holder here)***

RECITALS:

- A. *(Insert Name of Credit Holder here)* is the Developer and projected Impact Feepayer of certain lands contained within the *(Insert Name of Development here)* ("Project"), as described and approved in St. Johns County *(Insert Ordinance and/or Resolution No. ###-### here)*.
- B. Pursuant to St. Johns County *Insert the appropriate Ordinance No. 87-57 (Roads) or 87-58 (Parks) or 87-59 (Public Capital Facilities) or 87-60 (Educational Facilities)*, as amended, *(Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities")* 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 *(Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities")* impact fee ("*Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities"*) Impact Fee", so as to assure that such new development bears a proportional share of the cost of capital expenses necessary to provide ("*Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities"*) within St. Johns County.
- C. Section Thirteen *(Twelve for Educational Facilities)* of the *(Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities")* Impact Fee Ordinance allows impact fee credits to be granted for certain *(Insert reason for credit i.e. dedications and/or improvements here)* ("*Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities"*) Impact Fee Credits".
- D. Pursuant to the County requirements of the Land Development Code Section Thirteen *(Twelve for Educational Facilities)*, *(Insert Name of Credit Holder here)* is *(Insert reason for credit i.e. dedications and/or improvements and location here)*, which is recognized as meeting the requirements for *(Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities")* Impact Fee Credits.
- E. Pursuant to the terms of the *(Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities")* Impact Fee Ordinance, County and *(Insert Name of Credit Holder here)* desire to set forth their agreement and a procedure for the applicant and treatment of such *(Insert*

appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities") 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 (Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities") Impact Fee Credits will be calculated as the sum shown on Exhibit # in the amount of \$ (see attached Exhibit #).
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 (Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities") Impact Fee Ordinance directly to (Insert Name of Credit Holder here). Name of Credit Holder shall be fully responsible for notifying all Feepayers of this requirement and shall ensure that such payments are paid directly to Name of Credit Holder. Then, for so long as the total (Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities") Impact Fee Credits for which (Insert Name of Credit Holder here) has issued vouchers under this Agreement is less than the total (Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities") Impact Fee Credits authorized by this Agreement, (Insert Name of Credit Holder here) shall issue to such Feepayer a voucher evidencing full payment of (Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities") Impact Fees in connection with such Feepayer's application for a building permit or certificate of occupancy. The voucher issued by (Insert Name of Credit Holder here) shall contain a statement setting forth the amount of (Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities") 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 (Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities") Impact Fee Credit Account. In the event that the County institutes an alternate mechanism to the current voucher for Impact Fee Credits, such as a voucherless system, Developer and Feepayer may use said alternate system.
4. In the event that (Insert Name of Credit Holder here) determines to sell all or part of the Project, (Insert Name of Credit Holder here) may sell, transfer, assign or convey any of its interest in part of the (Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities") Impact Fee Credits to such purchaser, transferee, assignee or grantee for use within the Project for such consideration as (Insert Name of Credit Holder here) in its sole

discretion, determines. In such event, *(Insert Name of Credit Holder here)* shall execute and deliver to the County a copy of the instrument selling, transferring, assigning or granting the *(Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities")* Impact Fee Credits so sold, transferred, assigned or granted and the remaining amount of *(Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities")* Impact Fee Credits, if any, shall remain vested in *(Insert Name of Credit Holder here)*. 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 *(Insert reason for credit i.e. dedications and/or improvements here)* to the particular development to which credits are transferred. Developer acknowledges that only one Impact Fee Credit account may exist at any given time for the Development Property.

5. On or before January 31 of each year, so long as there remains any *(Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities")* Impact Fee Credits, *(Insert Name of Credit Holder here)* shall prepare and deliver to the County Planning Department an annual report setting forth the amount of *(Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities")* Impact fee payments made by the Feepayers applying for building permits or certificates of occupancy within the Project and the remaining balance of *(Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities")* Impact Fee Credits.
6. At such time as the *(Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities")* Impact Fee Credits provided for hereunder have been exhausted, *(Insert Name of Credit Holder here)* or the Feepayer seeking building permits or certificates of occupancy within the Project shall pay the County the *(Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities")* Impact Fees as are then due and payable under the *(Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities")* 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 *(Insert Name of Credit Holder here)*.
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 *(Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities")* 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 (*Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities"*) Impact Fee Ordinance Section Thirteen (*Twelve for Educational Facilities*) 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 Attorney's Office that the (*Insert appropriate Ordinance Title i.e. "Roads" or "Parks" or "Public Capital Facilities" or "Educational Facilities"*) 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 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 this 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 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. (*Insert Name of Credit Holder here*) 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 fees credits for contributions provided by a government entity including, but not limited to, a Community Development District.
- k. 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.

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

(Insert Name of Credit Holder here)

By: _____
Name
Title

State of: _____
County of: _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 20____, by _____ as _____ for _____.

Notary Public, State of Florida
Name: _____
My Commission Expires: _____
My Commission Number is: _____

Personally Known _____ OR Produced Identification _____
Type of Identification Produced _____

ST. JOHNS COUNTY, FLORIDA
By: _____
County Administrator

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 20____, by _____ as _____ for _____.

Notary Public, State of Florida
Name: _____
My Commission Expires: _____

My Commission Number is: _____

Personally Known _____ OR Produced Identification _____
Type of Identification Produced _____

Sample Impact Fee Voucher

Voucher #

St. Johns County Impact Fee Voucher

Name of Development/Developer

Name and address of Developer/Grantor: _____

Name and address of Grantee: _____

Legal description of subject property: _____

4. Subdivision or Master Development Plan name: _____

The undersigned Developer/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. 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 \$ _____

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

_____ Public Capital Facilities Ordinance #87-59
_____ Buildings in the amount of \$ _____
_____ Police in the amount of \$ _____
_____ Fire in the amount of \$ _____
_____ EMS in the amount of \$ _____

_____ Educational Facilities Ordinance #87-60 in the amount of \$ _____

By: _____

Print: _____

Its: _____