

Agreement between The Savannahs at Sykes Creek Inc.
and the Brevard County Board of County Commissioner (June 7, 1988)

TEL:1-407-455-1376 May 12 95 13:57 No.

JUN 0 7 1988

Notion by Comm. Dobson, seconded by Comm. Altman, to execute the following:

AGREEMENT

THIS AGREEMENT, made and entered into this 11th day of June, 1988, by and between THE SAVANNAHS AT SYKES CREEK, INC., a Florida corporation ("SAVANNAHS" which reference will include its successors and assigns), and the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA ("BREVARD");

WITNESSETH:

WHEREAS, Savannahs owns or is in the process of acquiring fee simple title to certain lands located, lying and being on Merritt Island, Brevard County, Florida ("Property"), and a legal description of the Property is attached hereto and made a part hereof by reference as Exhibit "A"; and

WHEREAS, a portion of said Property is intended to be donated by Savannahs or its successors or predecessor in title to Brevard, and the approximate description of the parcel to be transferred to Brevard ("Donated Parcel") is illustrated by sketch which is attached hereto and made a part hereof by reference as Exhibit "B"; and

WHEREAS, the Donated Parcel will be utilized and continuously operated by Brevard as an eighteen-hole, par seventy-two, championship classified golf course; and

WHEREAS, Savannahs intends to develop on the Property, excluding the Donated Parcel, a planned unit development ("PUD"), consisting of no more than 288 residential lots to be known as Savannahs at Sykes Creek ("Subdivision"); and

WHEREAS, the parties hereto wish to set out the rights and obligations that each of them shall undertake as regards the donation, construction and maintenance of said golf course and other understandings and agreements incidental thereto, all as more fully set forth hereinafter;

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration passing between the parties hereto, receipt of which is hereby acknowledged, be it agreed and committed as follows:

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1. That the foregoing recitals are true and are incorporated herein by reference.

2. That the Donated Parcel will be transferred to Brevard on the 10th of January, 1989 (or earlier at the option of the donor), and the Donated Parcel will, at time of transfer, be free and clear of any mortgage or other lien or encumbrance, save only ad valorem taxes accruing from and after date of this Agreement and such other restrictions and covenants that may be imposed as a result of this Agreement or otherwise mutually agreed to in writing by the parties hereto. That the actual time of transfer of title to the Donated Parcel will, in any event, be concurrent with or precede the payment by Brevard of any funds, excepting professional fees, in accordance with the construction contract hereinafter provided between Brevard and Savannahs or Savannahs' designee. It will, otherwise, be in accordance with the dictates of the permanent lender who will be financing the acquisition and development of the Property.

3. That, in addition to the Donated Parcel, Savannahs or its predecessor or successors in title will donate to Brevard, at no cost to Brevard, two regulation size tennis courts and a child's playground, with the location of such facility on the Donated Parcel to be acceptable to the County and, upon acceptance, thereafter maintained by the County as part of the Donated Parcel, with the level of maintenance to equal or exceed that provided by Brevard for the Donated Parcel, which level of maintenance will be more fully described hereinafter.

4. That Savannahs, or a business entity designated by Savannahs, will construct the improvements on the Donated Parcel in accordance with plans and specifications for the golf course and appurtenant improvements and structures prepared by Gordon G. Lewis, Golf Course Architect [whose mailing address is 2022 Constitution Circle, Fort Myers, Florida, 33912, telephone number (813) 267-3322], and in accordance with plans and specifications for the clubhouse and appurtenant improvements and structures

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prepared by Rood and Zwick, Inc., Architects [whose mailing address is 625 So. Brevard Avenue, Cocoa, Florida 32922, telephone number (305) 631-8039], said plans and specifications to be acceptable to and approved in writing by Brevard. Brevard will pay the costs of designing and constructing such improvements, including, but not limited to, construction engineering costs, architect's supervision fees, contractor's fees and all other incidental expenses required for a "turn-key job", as such term is understood in the construction industry, and a construction contract will be negotiated by and between Savannahs, or its designee, and Brevard as a dependent part of this Agreement. Any Brevard-employed supervision, review or oversight of construction will be at Brevard's expense and option.

5. That the level of maintenance of the golf course, clubhouse and appurtenant structures and improvements for which Brevard, as owner thereof, will be responsible will meet or exceed those standards established by the National Golf Foundation, Palm Beach, Florida, ("Foundation"), for courses of comparable proficiency and level of play, but will, in no event, be less than the highest standard maintained for any other county-owned or municipally-owned (public) golf course in Brevard County, Florida. Should the parties hereto disagree at some subsequent date as to whether or not the appropriate standard of maintenance is being met by Brevard, such dispute will be resolved by submittal of the issue to a representative of the Foundation, whose opinion and evaluation will be binding upon the parties hereto. The costs and fees charged by the Foundation will be the responsibility of Savannahs if the claim of inadequate maintenance is found to be unjustified; otherwise, the costs will be borne by Brevard.

6. That the Donated Parcel is to be used in perpetuity as a golf course, and that Savannahs is developing and selling lots in the Subdivision with the representation to purchasers of those lots that each of them will be acquiring lots for residential construction in a golf community. If Brevard determines

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at a subsequent date to discontinue the use of the Donated Parcel as a golf course as herein provided, then, and in such event, the Donated Parcel will be deemed abandoned and will revert to Savannahs, free and clear of any claim of Brevard and anyone claiming by, through or under Brevard. However, this right of reverter shall cease and be of no further force or effect if Brevard obtains, as a condition precedent to abandonment of the golf course use or the clubhouse or any substantial appurtenant improvements, the unanimous, written consent of all lot owners in the Subdivision and their respective mortgages.

7. That Savannahs will retain perpetual use easements over the ponds and water areas and water causeways constructed upon or under the Donated Parcel for public drainage purposes intended to service the Subdivision and the Donated Parcel, except that the maintenance responsibility for such waterways and ponds will be that of Brevard; and Savannahs will not interfere with or obstruct the flow of waters or alter the configuration of the ponds and waterways without first obtaining Brevard's written approval.

8. That the clubhouse exterior and other on-site improvements, whether constructed initially or at a subsequent time, and including fences and signs, will conform to the architectural motif and style of the Subdivision in order that the Property be architecturally concordant. There will be no illumination for night play of the golf course, the drive range, tennis courts and children's playground, except for security purposes. In order to maintain the openness of a golf course community, neither of the parties hereto will construct or permit the construction of fences along property lines fronting on the golf course or any portion thereof or within 100 feet into the Donated Parcel measured from such property line without approval by both parties hereto, and Savannahs will incorporate such limitation in a declaration of restrictive covenants which will be recorded against the Subdivision and the lots therein contained.

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9. That "Savannahs at Sykes Creek" will be the permanent name for the golf course located on the Donated Parcel and no other name or names may be used in connection with the Donated Parcel or any subdivision thereof without the prior approval of Savannahs. Brevard may, at its option, add reference to "Brevard County, Florida" and to "public course" or words of similar import.

10. That Savannahs has previously obtained from Brevard zoning approval of its PUD, being Resolution No. 2-8075, having an effective date of April 25, 1988; and, because of the donation contemplated by this Agreement and the construction of a public golf course also intended hereby, Savannahs has applied to the Brevard County Board of Adjustment for a variance from the open space requirements of a PUD, such variance being required because Savannahs is divesting itself of the open areas contained in the Donated Parcel. Brevard will consider the Subdivision project as vested within the contemplation of the Comprehensive Land Use Plan, both presently in existence and contemplated for adoption by Brevard.

11. That the parties hereto acknowledge that the development work on the Subdivision and the development work and construction on and within the Donated Parcel will be concurrent, and each of the parties hereto will indemnify and hold harmless the other for any damage to person or property resulting from work being performed or for the benefit of the land of the indemnifying party.

12. That Savannahs has entered into a Contract for Sale and Purchase with Milford A. Reisert ("Reisert Contract"), a copy of which is attached hereto and made a part hereof by reference as Exhibit "C", for the sale and purchase of certain lands located contiguous to the Property. Savannahs will assign to Brevard the Reisert Contract at the contract price of \$18,500.00 per acre, plus a proportionate part of any option moneys paid or to be paid on account of and in order to maintain in good standing

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the Reisert Contract. Within the time limitations of the Reisert Contract, title to said acreage will be transferred to Brevard at the same time that title to the Donated Parcel is transferred to Brevard.

13. That Brevard will not place any structures on the Donated Parcel, such as sheds, trailers, mobile homes or residences, unless the same be in conformity with the plans and specifications pursuant to which the golf course is or has been constructed and unless otherwise approved in writing by Savannahs.

14. That this Agreement and the provisions herein contained will and are intended to survive the transfer of title to the Donated Parcel to Brevard, or any subsequent acts, unless modified or cancelled by written instrument signed by the parties hereto. However, the implementation of this Agreement is subject to the satisfactory completion of all conditions precedent imposed upon Savannahs and Brevard; namely, the necessary funding of the respective portions of this Agreement by Savannahs and Brevard, the acquisition of title to the Property by Savannahs, the necessary permitting and variances from the regulatory agencies and the Brevard County Board of Adjustment, compliance with all county and state requirements and all good faith negotiations that may be required in order to implement the foregoing.

15. That the Subdivision and the development thereof will be subject to all of the codes and regulations imposed by Brevard against residential subdivisions of the same type and nature located within Brevard County, Florida, except that Savannahs will be, because of the donation contemplated hereby, exempt from any recreational impact fees that may be subsequently imposed by Brevard.

16. That attached hereto and made a part hereof by reference as Exhibit "D" is a Schedule of Events, and the parties hereto will use their respective best efforts to adhere to said Schedule.

IN WITNESS WHEREOF, the parties hereto have hereunto set their respective hands and seals the day and year first above

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Written at Brevard County, Florida.

(Corporate Seal)

THE SAVANNAHS AT SYKES CREEK, INC.

By Brian J. Busch
Brian J. Busch, President

("Savannahs")

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY

By Sue Schmitt
Sue Schmitt, Chairman

("Brevard")

Attest:
R. C. Minsted
R. C. Minsted, Clerk

APPROVED AND FORWARDED:
[Signature]
[Signature]
[Signature]

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