

After recording
return document to:
Matthew Soss
Brevard County Board of County Commissioners
2725 Judge Fran Jamieson Way
Viera, FL 32940

11.02
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Brevard County
Pgs:54

Parcel Id. No. 24-36-01-OK-3

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AGREEMENT

THIS AGREEMENT ("Agreement") made and effective this 22nd day of May, 2018 ("Effective Date"), by and between the **THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida ("COUNTY"), and **THE SAVANNAHS AT SYKES CREEK HOMEOWNERS' ASSOCIATION, INC., Florida Not for Profit Corporation ("HOA")**.

RECITALS

WHEREAS, the Savannahs At Sykes Creek, Inc. ("**Developer**"), a Florida Corporation and COUNTY entered into that certain Agreement dated June 7, 1988, for that certain real property referred to as the Savannahs Golf Course; and

WHEREAS, a portion of the Developer's rights and authorities was assigned to HOA by the Release of Extraordinary Right of Entry, Activation of Homeowners Association and Assignment of Rights and Authority which is dated June 1, 1995, by the Developer; and

WHEREAS, with the remainder of the rights and authorities under the aforementioned Agreement was assigned to HOA by Barcan Inc., a Florida Corporation, under the Assignment of Rights and Authority dated June 28, 1995 (the 1988 Agreement, the 1995 Release, and the 1995 Assignment are hereinafter collectively referred to as, "**Donation Agreement**"). Said Donation Agreement is attached to and incorporated herein as Exhibit A; and

WHEREAS, in accordance with the Donation Agreement, COUNTY has been operating and maintaining the real property more particularly described therein as a public golf course ("**Savannahs Golf Course**"). Said property consisting of Tracts 3, 5, 6 and 7, of THE SAVANNAHS, according to the plat thereof, as recorded in Plat Book 35, at Page 56/62, Public Records of Brevard County, Florida; and

WHEREAS, the COUNTY is facing budgetary restraints which prohibits it from continuing to operate the Savannahs Golf Course; and

WHEREAS, the Donation Agreement permits the COUNTY to abandon the Savannahs Golf Course; and

WHEREAS, the COUNTY intends to abandon the Savannahs Golf Course;

NOW THEREFORE, for and in consideration of the provisions contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Recitals.** That all of the foregoing recitals are true and correct and are incorporated herein by this reference.

2. **Abandonment Date.** The COUNTY shall abandon the Savannahs Golf Course and relinquish all claim to ownership and title of the Savannahs Golf Course and HOA shall accept title to the Savannahs Golf Course automatically and without further action by the Parties effective immediately upon execution of this Agreement by the Chair of the Brevard County Board of County Commissioners ("**Abandonment Date**"). COUNTY shall deliver and record the county deed, attached hereto as Exhibit B, memorializing the abandonment. However, COUNTY shall continue to operate and maintain the Savannahs Golf Course on behalf of the HOA until 11:59 P.M. on June 30, 2018, at which point COUNTY shall have no further duties or obligations to HOA. COUNTY shall be entitled to all revenues from the Savannahs Golf Course during this period.

3. **Mutual Release.** Except for the obligations set forth herein, the parties agree to mutually release and forever discharge each other, of and from any and all past, present or future claims, debts, demands, damages, losses, liabilities, any manner of action and actions, cause and causes of action of any kind whatsoever both at law and in equity, which the parties now have, or may hereafter have arising out of or relating in any way to the Donation Agreement, the operation and maintenance of the Savannahs Golf Course by the COUNTY, or the abandonment of the Savannahs Golf Course by the COUNTY. The parties further agree that COUNTY shall have no further duties or obligations under the Donation Agreement, which shall be of no further force or effect. The parties agree that specific consideration has been provided for this mutual release.

4. **Continued Operation of the Savannahs Golf Course after Abandonment.** Notwithstanding the abandonment of the Savannahs Golf Course by COUNTY, HOA hereby agrees to assume those responsibilities of the COUNTY under the terms of the Donation Agreement to continue the operation and maintenance of the Savannahs Golf Course as a public golf course, or to cause such continued operation and maintenance to be effected all in accordance with the spirit and intent of the terms and provisions of the Donation Agreement for a minimum of ten (10) years from the Abandonment Date. However, in the event that the continued operation and maintenance of the Savannahs Golf Course will cause the immediate insolvency of HOA, HOA shall have the right to convey the Savannahs Golf Course subject to all applicable rules, ordinances, laws, and regulations.

In the event HOA discontinues the use of the Savannahs Golf Course as a public golf course, or in the event HOA conveys the Savannahs Golf Course, then HOA shall indemnify and hold harmless the COUNTY for any and all past, present or future claims, debts, demands, damages, losses, liabilities, any manner of action and actions, cause and causes of action of any kind whatsoever both at law and in equity, which any party, including but not limited to, third parties,

may now have, or may hereafter have arising out of or relating to the Donation Agreement, the abandonment of the Savannahs Golf Course by the COUNTY, or any change of use or conveyance of the Savannahs Golf Course by HOA. The parties agree that specific consideration has been provided for this indemnification and hold harmless.

5. **Transition Funding.** In consideration of the provisions contained herein, COUNTY shall provide HOA with \$700,000.00 to assist in the transition of the Savannahs Golf Course from COUNTY operation and management ("Transition Funding"). The initial portion of \$350,000.00 dollars of Transition Funding shall be remitted to HOA within 15 days of the Abandonment Date. The subsequent and final payment of \$350,000.00 shall be made on or before the May 22, 2019.

6. **Status of Buildings and Structures.** It is specifically understood and agreed that any and all buildings or structures placed upon the Savannahs Golf Course which are permanently attached to said property shall become the property of HOA as of the Abandonment Date. HOA accepts the Savannahs Golf Course and structures thereon "as is." COUNTY and HOA shall execute any and all papers necessary to effect transfer of said buildings or structures to HOA free and clear of all liens, encumbrances, or other claim or interests held thereon by any person whatsoever.

7. **Conveyance of Mosquito Impoundment to County.** The COUNTY currently utilizes the western portion of Tract 6 from Plat Book 35, Page 56 in the public records of Brevard County, Florida, as a mosquito impoundment. HOA shall convey this property, via quit claim deed, to the COUNTY. The property is more specifically described in Exhibit C.

8. **Storm Water Management.** COUNTY shall solely be responsible for maintaining those storm water facilities within the Savannahs P.U.D that are listed in Exhibit D. HOA shall be responsible for the maintenance, repair, and replacement of all other storm water facilities and drainage structures on or below the Savannahs Golf Course or servicing the Savannahs Golf Course within the Savannahs P.U.D, including, but not limited to, the following:

- The outfall structure located at the north side of Tract 3 and outfall pipe from that structure and terminating into the structure within the Hall Road right of way.
- The outfall structure, pipes and mitered ends located in the southwest section of Tract 6.
- Lot line pipes that do not serve the roadway drainage (Lot line pipes listed below):
 - Lots 46 & 47: Portion of Tract 5 between Lots 46 and 47, and 7.5' along each side lot line abutting Tract 5. Drainage Easement 35' total width.
 - Lots 65 & 66: 10' along each side of the shared lot line. Drainage Easement 20' total width.
 - Lots 91 & 92: 10' along each side of the shared lot line. Drainage Easement 20' total width.
 - Lots 129 & 130: 10' along each side of the shared lot line. Drainage Easement 20' total width.
- All other drainage not listed in Exhibit D.

HIOA shall grant to COUNTY the necessary easements and shall maintain perpetual access from public rights-of-way to the storm water facilities for COUNTY or its agent and contractor. HOA and COUNTY shall determine and HOA shall provide, the easements necessary for the continued maintenance of those storm water facilities which are to be maintained by COUNTY.

9. **Line of Credit to CDD.** Upon the creation of the Savannahs at Sykes Creek Community Development District ("CDD") and the execution of an agreement between HOA and the CDD for the long term lease of the Savannahs Golf Course by the CDD, which said lease shall equate to equitable ownership of the Savannahs Golf Course by the CDD and shall be for a minimum term of 25 years, the COUNTY shall provide a line of credit in the amount of One Million Two Hundred Thousand Dollars (\$1,200,000.00) to the CDD for the improvement of the Savannahs Golf Course pursuant to the terms of the revolving line of credit note("Note") attached hereto as Exhibit E. The HOA shall guarantee performance of and repayment by the CDD under the terms of the Note and shall execute the guaranty agreement attached hereto as Exhibit F. HOA shall require the CDD to provide a bond to COUNTY in the amount of the line of credit.

10. **Applicable Law.** This Agreement and the provisions contained herein shall be construed, controlled and enforced in accordance with the laws of the State of Florida, without regard to conflicts of laws principles.

11. **Counterparts.** This Agreement may be signed and executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one agreement.

12. **Recordation.** An executed original of this Agreement shall be recorded, at the Parties' joint expense, in the Public Records of Brevard County, Florida.

13. **Attorneys' Fees.** In the event of any legal action to enforce the terms of this Agreement each party shall bear its own attorneys' fees and costs.

14. **Venue.** Venue for any legal action brought by any party to this Agreement to interpret, construe or enforce this Agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida. COUNTY AND HOA HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER ARISING OUT OF OR RELATING TO THIS AGREEMENT.

15. **Successors and Assigns.** The covenants and conditions herein contained shall, subject to the provisions as to assignment, apply to and bind the heir's successors, executors, administrators and assigns of the parties hereto.

16. **Severability.** If any clause or provision of this Agreement is illegal, invalid or unenforceable under present or future laws (the deletion of which would not adversely affect the receipt of any material benefit or substantially increase the burden of any part hereto) effective during this Agreement, then and in that event, it is the intention of the parties that the remainder of this Agreement shall not be affected. All rights, powers, and privileges conferred by this

Agreement upon the parties shall be cumulative but not restricted to those given by law.

17. Exhibits. Each exhibit referred to or otherwise mentioned in this Agreement is attached to this Agreement, and is and shall be construed to be made a part of this Agreement by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if such exhibit were set forth in full and at length every time it is referred to or otherwise mentioned.


[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have caused this Termination Agreement to be duly executed by their respective duly authorized representatives on the dates set forth below.

(CORPORATE SEAL)

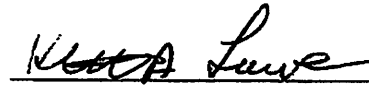
HOA:

SAVANNAHS AT SYKES CREEK
HOMEOWNERS' ASSOCIATION, INC., a
Florida Not for Profit Corporation


Print Name: Sonia Rossinger


Print Name: Alicia Baker

By:



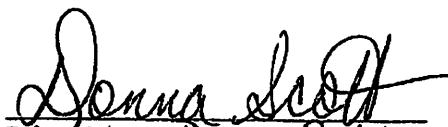
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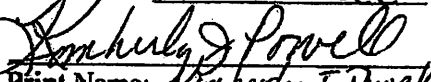
KEITH A. LOWE

Signed, sealed and delivered
in the presence hereof:

COUNTY:

BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA, a political
subdivision of the State of Florida


Print Name: Donna Scott


Print Name: Kimberly J. Powell

By:


(As approved by the Board on 5-22-18.)

Attest:

SCOTT ELLIS, CLERK

List of Exhibits

Exhibit A	Donation Agreement
Exhibit B	County Deed
Exhibit C	Legal Description of Mosquito Impoundment
Exhibit D	Brevard County Stormwater Maintenance Responsibilities
Exhibit E	Revolving Line of Credit Note
Exhibit F	Guaranty Agreement