

AGREEMENT (as amended)

THIS AGREEMENT is made by and between

PIONEER HEIGHTS, INC.
P.O. BOX 4040
SOUTH DAYTONA, FLORIDA 32020 (Herein "Owner")

AND

THE CITY OF PORT ORANGE
1000 CITY CENTER
PORT ORANGE, FLORIDA 32020 (Herein "City")

WHEREAS, the Owner owns in fee simple that tract of land located in Port Orange, Volusia County, Florida, described in more detail on Exhibit "A", attached hereof and made a part hereof, (Herein "Property"), and

*WHEREAS, the City desires to design, construct, and operate, and maintain a municipal golf course, club house, and related facilities on the property, and **(second 'whereas' revised to delete references to 'signature' style golf course; Amendment 2, Part 1, June 28, 1991)***

*WHEREAS, the Owner is willing to donate approximately 175 acres of the Property to the City for such municipal golf course, do the rough grading for the golf course to within plus (+) or minus (-) 2" (two inches) of the final finish grade, and furnish up to 250,000 cubic yards of dirt for the golf course from the streets to be cleared and the lakes to be dredged on the Property, provided that the City builds as soon as reasonably possible the golf course, club house, and related facilities on the Property, and extends utilities to Owner's Property, and the City (as defined in this Agreement), operates and maintains such Golf Course and related facilities, all as further set forth herein. **(third 'whereas' revised; Amendment 2, Part 2, June 28, 1991)***

NOW THEREFORE, BOTH PARTIES HEREBY AGREE, in consideration of their mutual promises and covenants contained herein, and with the intent to be legally bound, to the following:

- I. LAND FOR THE GOLF COURSE
- A. TRANSFER OF PROPERTY

Recognizing the mutual aesthetic and economic advantages that will accrue to both the Owner and the City from the design, construction, operation, and maintenance of a municipal golf course, club house, and related facilities (hereinafter call the "Golf Course") on the Property, the Owner shall convey by fee simple marketable and insurable title by warranty deed to that portion of the Property described in more detail on Exhibit "B" (hereinafter called the "Golf Course Property") for the design, construction, operation, and

maintenance of a Golf Course, consistent with the representations and covenants further set forth herein. (Revised per Amendment 2, part 3, June 28, 1991)

In consideration of the transfer of the Golf Course Property to the City, the City shall use the Golf Course Property strictly for the design, construction, operation, and maintenance of a Golf Course and such related facilities as agreed upon by the parties to this Agreement, and not for any other purpose whatsoever, for a period of thirty years from the opening of the Golf Course. If the City chooses not to use the Golf Course Property as a Golf Course at the end of this thirty year period, the City represents that it will nevertheless use the Golf Course Property simply as open space, and not build anything on the Golf Course Property. (Property, unless consented to by the Owner, his representative, or successor in interest.)

The City further represents and warrants that it shall not erect and maintain any other structure on the Golf Course Property, other than the Golf Course and its related facilities, Club House, meeting rooms, and Pro-Shop, without the knowledge and the written consent of the Owner. The Owner's approval of the site plan for the Golf Course Property, the Owner's review of the specific structures to be built on the Golf Course Property, shall be conditions precedent to the transfer of the Golf Course Property to the City of Port Orange. Neither the City nor any third party, shall engage in any activity anywhere on the Golf Course Property, other than the operation and maintenance of the Golf Course, Locker Rooms, Pro Shop, and Club House facilities for the sale and the consumption of food and beverages. These restrictions shall be included in a possibility of reverter in the deed that conveys title to the Golf Course Property to the City so that any violation of these provisions shall give the Owner a cause of action to recover the Golf Course action in fee simple.

B. QUALITY OF TITLE

1. Documents of Title – Closing Standards.

The Owner shall convey fee simple marketable and insurable title to the Golf Course Property, subject to those restrictions set forth on the title insurance policy issued to the Owner upon the Owner acquiring title to the Property, which policy is attached as Exhibit C. The Owner shall also give to the City, at the time of such conveyance, a commitment for an owner's title insurance policy for the Golf Course Property, issued in accordance with the most current versions of what is now known at the time of the signing of this Agreement Standard A of the Standards for Real Estate Transactions attached hereto as Exhibit "D". In addition, the most current versions of the following standards shall apply: C-Survey; E-Ingress and Egress; G-Liens; H-Place of Closing; J-Documents for Closing; K-Expenses; L-Prorations/Credits; P-Proceeds of Sale/Closing Procedures; Q-Escrow; R-Attorney's Fees; U-Conveyance; and Warranties. The documents by which title to the Golf Course Property is conveyed to the City shall contain the reservations, restrictions, and possibility of reverters.

2. Post-Closing Corrective Documents.

The exact location, size, and configuration of the fairways and other component parts of the Golf Course may vary, depending on field conditions, but such changes shall not materially encroach on the adjacent Property, or adversely affect the plans of the Owner.

Upon the completion of the Golf Course, the City will provide the Owner with an accurate "as built" survey and legal description of the precise land and the facilities that constitute the Golf Course on the Golf Course Property. If necessary, a corrective warranty deed to revise the boundaries of the original warranty deed for the Golf Course will be executed and delivered by the Owner to the City.

C. COSTS OF TRANSFER OF TITLE

The Owner shall pay the documentary stamp tax due on the transfer of the Golf Course Property to the City, provided that the exact amount of the documentary stamp tax does not exceed two thousand and one hundred twenty six and 14/100 (\$2,126.14) Dollars. Should the Department of Revenue or any other governmental agency responsible for imposing and collecting taxes on such transfers determine imposing and collecting taxes on such transfers determine that additional taxes are due on such transfer, the City shall pay any and all such additional amounts.

D. AUTHORIZATION PRIOR TO TRANSFER

Since the parties contemplate delivery and recording of the deed conveying title to the Golf Course Property simultaneously with commencement of physical construction of the Golf Course Property, and since it will be necessary prior to then to obtain all permits and approvals necessary to commence construction, the Owner hereby authorizes the City to make application, as Contract Purchaser, to secure all permits necessary to construct the Golf Course. The Owner further hereby covenants to furnish whatever additional documentation may be necessary for the City to make such application. The Owner further authorizes the City to enter onto the Golf Course property, prior to transfer of title to the property, to conduct whatever inspections, tests, surveying or the like that the City enter the property at its own risk and carry insurance.

II. SIMULTANEOUS DEVELOPMENT OF THE PROPERTY AS A PUD AND PCD.

A. PUD AGREEMENT

The Owner intends to develop the Property in phases, all as more particularly set forth in the Planned unit and Planned Commercial Development Agreement, which is specifically incorporated herein by reference, and is hereby attached as Exhibit E (Herein "PUD Agreement"). The City hereby agrees that the items set forth in the PUD Agreement contains, in general, and reflects the intent of the parties to this Agreement regarding the residential, commercial, and other land uses contemplated for the Property, the ratio between residential and non-residential land uses, the densities to be allowed, and the plans for the general development of the property. The PUD ordinance to be passed by the City of Port Orange, the Development Agreement, and other documents that shall govern the development of the Property, (Herein "PUD Ordinance"), shall be consistent with and shall not be more restrictive than the items or parameters established in the PUD Agreement.

B. SCREENING

The parties agree that the Golf Course, including its location, access, dimensions, configuration, type, and nature of the fairways, holes, and other component parts are to be designed permitted and installed only in accordance with the approved plans of the respective phases of the development of the Property. The City agrees to provide adequate and acceptable screening through plantings and landscaping to separate and block from view the maintenance facilities, restroom facilities, parking areas, and other service areas from the golf course, residential, or other improved areas. The parties agree to execute mutually acceptable covenants and restrictions governing the Golf Course Property.

C. FAILURE OF THE PUD AGREEMENT TO GAIN ACCEPTANCE

The Owner understands and acknowledges that the PUD Agreement and any corresponding PUD Ordinance, will need to be approved by the City of Port Orange. Planning Commission, and the City Council of Port Orange, and nothing herein * the respective councils and commissions of the City of Port Orange. The Owner and the City have nevertheless entered into this Agreement in exchange for the covenants and agreements contained herein, with the expectation that the Golf Course Property and the Property will be developed generally as outlined in the PUD Agreement. The City, through the offices of the City Manager and the Community Development Director, agrees to cooperate fully, and exercise its best efforts, to carry out the terms of this Agreement, and to achieve the goals and purposes set forth herein and in the PUD Agreement.

If the PUD Agreement and PUD Ordinance that are ultimately passed and adopted by the City, however, are not in accordance with the terms, goals, and intentions of the parties to this Agreement and the PUD Agreement, the Owner shall, in its sole discretion, have the unconditional and unqualified right to cancel this Agreement, due to the failure of the consideration of this Agreement, and this Agreement shall be totally null and void for all purposes.

III. DESIGN, PLANNING, PERMITTING, AND PRE-CONSTRUCTION

A. DESIGN

1. Design By The City

The City acknowledges that the inducement to the Owner to convey to the City the Golf Course Property is the City's representation that the City will design, construct, operate and maintain, a municipal golf course, club house, and related facilities, as (so)on as reasonably practicable. The parties further understand and acknowledge that the overall success of the Golf Course and surrounding mixed use development on the Property, demands careful planning and coordination between the parties. (Amendment 2, Part 4, June 28, 1991)

Accordingly, the City shall commence immediately upon the execution of this Agreement, negotiations for the design of the Golf Course, which shall be solely the responsibility of the City. The City shall nevertheless invite to all such planning and design

meetings the Owner's engineer or other representative. The Owner's engineer may review and comment upon all significant aspects of the design of the Golf Course, including but not limited to, the site plan, traffic flow, style, architecture and construction materials to be used, in order to assure coordination with the overall development of the property.

(Paragraph 3 Deleted per Amendment 3, Part 7, September 21, 2001; discussion of joint stormwater management plan design and intent)

Except for the professional fees paid by the Owner to their own engineer, the City shall pay all costs associated with the design of the Golf Course.

(Subsection III.A.2 Deleted per Amendment 2, Part 5, June 28, 1991; regarding requirement of a 'Signature' type Golf Course with inherent design and maintenance costs.)

B. PERMITTING

The City shall also be responsible for securing the approval, and obtaining permits from all government agencies or authorities having jurisdiction over the Golf Course Property, that are necessary to design, construct, operate, and maintain the Golf Course property. The City and the Owner shall jointly develop the storm water management program for the Property and Golf Course Property, and shall coordinate permitting with the appropriate governmental agencies, including but not limited to, the City of Port Orange, Volusia County, the St. John's River Water management District, the Department of Environmental Regulation, the East Central Florida Regional Planning Council, and the Army Corps of Engineers.

The Owner specifically understands and acknowledges that the City's responsibilities pursuant to this paragraph pertain only to the Golf Course Property and the Golf Course.

The City shall pay all costs and fees associated with applying for and obtaining the required approvals and permits for the Golf Course Property. Where the Owner and the City must submit a joint application for the entire Golf Course Property and the Property, the City and the Owner shall pay their proportionate share of the application fees.

The Owner shall, at its own expense, simultaneously with the City's seeking to obtain all approvals and permits for the Golf Course Property, apply for and secure the approval, and obtain permits from all governmental agencies or authorities having jurisdiction over the Property, that are necessary to design, construct, operate, and maintain a mixed use development on the Property, excluding the Golf Course Property, which agencies or authorities include, but are not limited to, those referenced in the preceding paragraph.

The Owner does not believe that the development of its Property and the Golf Course, as presently planned, is large

(Break in document language)

The proposed development even meets the "threshold bands" that make it necessary for the parties to notify the relevant governmental agencies. Consistent with this understanding, the City hereby covenants to do all within its power during the design, construction, operation, and maintenance of the Golf Course to avoid triggering the D.R.I. review process, provided that the Owner does in fact keep the number of units and square feet of commercial development on the property below such D.R.I. threshold bands. The

City's duty shall include, but not be limited to, **not** joining the development of the Golf Course contemplated by this Agreement, with development of any other tracts adjacent to the Property, such as the tract due east of the Property, which the City has indicated that it may wish to develop into another golf course. If the State believes that any proposed development meets the threshold requirement for filing a D.R.I. application or statement, however, and requires the filing of a D.R.I. statement, it shall be the City's responsibility to file such application or statement at its own expense for the Golf Course, simultaneously with the Owner's statement or application for the development of the surrounding Property.

If the Owner changes the density of the proposed development of the property, the Owner covenants either to stay below those threshold bands which trigger the D.R.I. review process, or which require a no-action type letter. If the State believes that the proposed development of the Property meets the threshold requirement for filing a D.R.I. statement, or if the Owner's proposed development in fact puts the owner over the threshold requirements, it shall be the Owner's responsibility to file such application or statement, at its own expense, for the Property simultaneously with the City's statement or application for the development of the Golf Course property, and the Owner further hereby covenants to comply with all applicable D.R.I. statutes and regulations. Nothing in this paragraph should be interpreted to mean, however, that the Owner is allowed or being authorized to change such density, and any such changes must go through the City's normal procedures and review for such a change. The City, by official action of the City Council, reserves the right to require the Owner to obtain a binding letter pursuant to Sec. 380.06(4)(b), Fla. Stat., or an aggregation clearance letter pursuant to Rule 9J-2, Fla. Admin. Code.

C. PRE-CONSTRUCTION

Before or upon the City's securing all the necessary permits and approvals set forth in more detail in Article III, B above, the City shall award all contracts necessary for the design, construction, operation and maintenance of the Golf Course. The City shall also conduct, at its own expense, and its own risk, as set forth above, all field work, inspections, surveys, and the like, which normally precedes the clearing and grading, and the actual physical construction, in the field. The City will comply with all laws and ordinances, including those of the State of Florida and the City of Port Orange, for design, construction, operation, and maintenance of the Golf Course.

IV. TRANSFER OF THE GOLF COURSE PROPERTY

The Owner shall transfer the Golf Course Property to the City when

- (A) The City has obtained all the necessary permits and approvals to award the contracts for the extension of the City's water, effluent and sewer lines to the Property, and to the Club House to be erected on the Golf Course Property,
- (B) The City has thereupon committed itself to commence with the physical extension of the water, effluent and sewer lines immediately, and
- (C) The City shall have approved the PUD Agreement, and have adopted and passed the PUD Ordinance.

The City and the Owner shall thereupon agree on a mutually convenient time and place for the delivery of the deed and the consummation of the transfer of title. The City shall proceed immediately with the installation of the water, effluent, and sewer lines, and the installation of such lines shall be complete no later than six (6) months after the permits for the water, effluent, and sewer lines have been obtained. The City shall diligently proceed with obtaining such permits as soon as possible upon the signing of this Agreement.

V. CONSTRUCTION

A. CITY'S CONSTRUCTION OBLIGATIONS

1. Extension of the Utility Lines

The City shall be obligated to construct or cause to be constructed the Golf Course as set forth herein, and the utility line extensions set forth in more detail on Exhibit "F" attached hereto and incorporated herein. Any permits which must be obtained to extend or hang the water, sewer, and effluent lines on or over the bridge presently erected on Airport Road, may be obtained by the Owner's engineer, at the City's expense.

2. Sodding/Stabilizing the Golf Course

After the Golf Course Property has been cleared and graded to within two inches, "plus or minus" from final grade, the City shall sod, plant grass, landscape, install an irrigation system, irrigate the Golf Course Property, and do all else necessary to complete the construction of, and to open the Golf Course, at the City's expense. The Golf Course Property shall be maintained in conformance with all applicable governmental regulations. (Subsection V.A.2 as amended by Amendment 1 was amended and restated in its entirety as shown above; per Amendment 3, Part 5, September 21, 2001.)

B. OWNER'S CONSTRUCTION OBLIGATIONS

1. Clearing and Grading

The Owner alone shall have the sole and exclusive right to clear and grade the Golf Course Property and the Property. The City has no separate right to employ and use its own earth moving contractors in the clearing and grading of the Golf Course Property. The Owner shall provide the equipment and labor to clear and grade the Golf Course Property, and to shape the greens, fairways, tees, and rough, as per the plans provided by the City, to within "+ or - 2 inches" of the final grade, and provided that the City has allowed the Owner or the Owner's representative, such as the Owner's engineer, to fully cooperate in the drafting of the plans, and the Owner's engineer agrees that the City's plans for clearing and grading correspond with and complement the clearing and grading plans for the Property. The plans will incorporate the drainage requirements of the Golf Course, and the depth of the water table required for irrigation with reclaimed wastewater.

It is not the Owner's intent in this section to supersede the City's right to design the Golf Course, or to give the Owner the right to veto any design or plan prepared by the City. Rather, the intent of this section is simply to assure that the grades of the Golf course and the Property match, and that the roads and utilities are aligned on the plans, to avoid

problems in the field once the physical work commences. The Owner will use the plans and specifications furnished by the City for the clearing and grading.

2. Excavation From the Lakes / Ownership of the Dirt

All dirt from the Golf Course Property and from the Property that is obtained from clearing, grading, and from excavating the lakes, is the property of the Owner. The Owner shall meet this obligation from the dirt that comes from the clearing of the streets and the dredging of the lakes on the Golf Course property and the Property. The City shall place no restrictions in addition to or which are more strict than, the minimum environmental standards regarding the depth of the lakes or retention areas established by the agencies that have jurisdiction over the Golf course Property, and the property, which agencies include, but are not limited to, Volusia County, the Department of Environmental Regulation, the East Central Florida Regional Planning Council, the Army Corps of Engineers, and the St. John's River Water Management District.

3. Furnishing and Cost of Dirt

The Owner has no obligation to purchase or haul in dirt, from anywhere other than from the Golf Course Property, or the Property, to bring the Golf Course to the final grade as required by the City's plans. On the contrary, the Owner shall not have to furnish more than 250,000 cubic yards of dirt, which shall consist of clean fill, and no muck (Herein "dirt"), from the dredging of the lakes or the clearing of the streets on the Golf Course Property and from the Property, in order to shape the greens, fairways, tees, and rough. The City shall pay \$1.00 for each cubic yard of Dirt that comprises the first 250,000 cubic yards of dirt, which the City will physically pay or transfer into the City's Water and Sewer Impact Fee Fund. If more than 250,000 cubic yards of Dirt are necessary for the grading of the Golf Course property, the Owner is obligated to furnish the additional Dirt that is needed, from excavations from the Golf Course Property. The Owner may choose to meet this obligation, however, by furnishing the additional Dirt from the Property itself. In any event, the City will pay the Owner \$1.75 per cubic yard of Dirt for an additional 350,000 cubic yards of Dirt that the Owner furnishes and puts in place. If the design of the Golf Course on the Golf Course property requires the Owner to furnish more than 600,000 cubic yards of Dirt, the compensation to the Owner for the additional Dirt or fill may be renegotiated by either side.

The Owner shall have the right to dig as many lakes as the Owner believes to be necessary or desirable on the property, so long as all such lakes are in compliance with the master drainage plan for the PUD. No digging of lakes or dredging of retention areas shall be done unless and until all necessary permits have been obtained, and provided that all such digging and dredging is done in full compliance with all applicable governmental rules, regulation, and standards, including, without limitation, those promulgated by the St. John's River Water Management District.

VI. COSTS OF THE CONSTRUCTION

A. GOLF COURSE

The City shall pay for the design, construction, operation, and maintenance of the Golf Course, but not for the rough grading, and the furnishing of labor and equipment to be done by the Owner, as set forth in Article III above.

B. UTILITIES

1. City's Obligations

The City shall pay for the cost of extending and installing the utilities which are the City's obligation to extend and install as set forth on Exhibit "F" incorporated herein by reference. The electrical lines to be extended by the City to the Clubhouse, shall be for "three phase" power.

2. Owner's Obligations

The Owner shall build and pay for all other utilities to be installed throughout the Property that are necessary to serve the mixed use development (of which the Golf Course Property is a part), and which utilities the City is not installing or extending.

3. Oversizing the Lines

The City may, however, require the Owner to increase the capacity of utility lines to be installed and paid for by the Owner, in order to serve development of the lands surrounding the Property. In such case, the City shall credit the Owner for the cost of installing the additional capacity that is needed to serve the subdivisions surrounding the Property and the Golf Course Property, which capacity exceeds what the Owner would otherwise need strictly to serve the Property.

The City shall pay the Owner for such additional capacity according to the City's standard cost participation policy for utilities in effect at the time such utilities are approved and permitted for installation.

If maintaining the minimum acceptable water pressure that is needed to serve the property, or developments beyond the Property, requires storage and pumping facilities of water on the Property, the City shall be responsible for the erection and maintenance of such storage and pumping facilities, and for the storage of such water on the Property.

4. Utility Metering

The HOA shall pay for all utility services benefitting the common areas controlled by the HOA and the City shall pay for all utility services benefitting the Golf Course Property. All utility services shall be separately metered to effectuate this intent. The City, at the City's expense shall install meters for the irrigation service to the common areas of the HOA. The HOA shall be responsible for the payment of all deposits and usage charges for utility service. The HOA and City agree to cooperate in preparing and executing any easements that may be required to have the utility service serving the common areas separated from the utility service for the Golf Course Property. The City, at City's expense shall disconnect the electrical service serving the restroom located between Holes 6 and 7 from the electrical service serving the privacy gate for the estate lots. (Section VI.B.4 was added per Amendment 3, Part 6, September 21, 2001.)

VII. CONSTRUCTION AND IMPACT FEE CREDIT

A. ROAD CONSTRUCTION

The City acknowledges that the roads to be constructed pursuant to this Agreement, both on and off the Property, constitute critical links in the county's proposed beltline, and generally furnishes additional roads and utility systems which the City desires to have built for the benefit of the City as well. The City therefore acknowledges that the roads and the utility lines that will be installed as part of the development of the Golf Course and the Property are of great benefit to the City and the County, will benefit developers in developing adjacent property, and will serve the public at large.

The City also acknowledges that the fact that the Owner is hereby obligated to pave the roads to the Golf Course and through the Property, shall not be interpreted under any circumstances to be an admission that the roads serve only as a primary access road to Property, or to be a waiver of the Owner's right to seek one hundred percent (100%) impact fee credit from the County for the roads which the Owner will build, from the end of the current pavement of Airport Road to the Property, and through the Property to form part of the County Beltline. The City shall cooperate with the Owner in seeking one hundred per cent (100%) impact fee credit from the County, on all items for which impact fee credit may be given, whether on the Golf Course Property, or leading up to the Property.

The City shall assist the Owner, if necessary, in presenting a plan to the County in which the County grants direct impact fee credit to the Owner, makes direct refunds to the Owner, or establishes a program whereby impact fees paid by developers of lands beyond the property, who tap into and use the improvements constructed by the Owner in the development of the property, are transferred to the Owner. The awarding and the paying of the credits to the owner shall be governed by the County's ordinances and regulations for such credits. Such credits shall be assignable by the Owner to subsequent purchasers, if the County ordinance provides for such assignment.

B. WATER AND SEWER IMPACT FEES

The City also agrees to pay the Owner two hundred fifty thousand dollars (\$250,000.00) for 250,000 cubic yards of Dirt to be furnished by the Owner as set forth in Paragraph V.B.3 of this Agreement. Such funds shall be physically deposited in the City's Water and Sewer Impact Fee Fund.

These funds shall be credited against the impact fees due and payable upon application for a building permit for a structure.

VIII. OPEN SPACE CREDIT

The City further agrees that the Golf Course Property shall be included with the Owner's Property when determining compliance with the open space ordinances, and the City further acknowledges that no additional open space shall be needed to allow and

authorize the Owner to develop Property as outlined in the PUD Agreement. If this agreement is null and void, or if the Owner successfully exercises the possibility of reverter contained in the deed conveying title to the Golf Course Property, the Owner shall then have to comply with the open space requirements and ordinances otherwise applicable to the Golf Course Property and the Property.

IX. COMPLETION OF ROADS

The road which provides primary access to the Golf Course Property and to the Club House, which the Owner is responsible for paving, must and shall be paved by the time the Golf Course opens for public use, even if the PUD Agreement allows additional time for the Owner to complete such paving. The primary access road to the Golf Course Property and the Club House from Airport Road shall be dedicated to the City.

X. MINIMUM STANDARDS, MAINTENANCE, OPERATION, AND USE OF THE FACILITIES

A. MINIMUM STANDARDS / MAINTENANCE

The City warrants that it will maintain the golf course property (as more particularly described in Exhibit A, the legal description for the golf course property), attached hereto and incorporated herein, and the lakes, retention areas and mitigation areas that are wholly contained within the golf course property. The wholly contained lakes within the golf course property are designated as Lake Numbers 7,9,10,11,12,16,24,32,33,34,38,39 and the effluent reuse reservoir, within locations shown in Exhibit B, attached hereto and incorporated herein. All lakes, retention area and mitigation area located outside of the golf course property and wholly contained within the Cypress head subdivision common areas shall be maintained by the HOA. The HOA shall be responsible for the landscaping, irrigation and maintenance of all areas within the road rights of way contained within Cypress head subdivision, and additionally, the areas within road right of way for the subdivision/ golf course property, specifically listed as follows: (i) Cypress Springs parkway (ii)Key Largo Circle (iii)Palm Vista Drive to the point where the City's fees simple ownership begins, and (iv) Longlake Drive, but only if there are no residential lots platted between golf course and Longlake Drive. The lakes wholly contained on HOA common areas which are to be maintained by the HOA are designated as Lake Numbers 2,3,14,18,19,23, and 28, with locations shown in Exhibit B. All lakes are defined on Zev Cohen and Associates, engineering drawings revised March 1, 1991, and bearing the designation Drawing #89114-18.

Lake Numbers 15, 17, 29 and 30 are located partially within the golf course property and partially within Cypress head subdivision common areas, with locations shown in Exhibit B and further defined in the Specific Purpose Survey attached hereto and incorporated herein as Exhibit C. It is agreed that the portions of the lake perimeters for Lakes Numbered 15, 17, 29 and 30 (including shoreline vegetation) located within the golf course property shall be maintained by the City and those portions of the lake perimeters for Lakes Numbered 15, 17, 29 and 30 (including shoreline vegetation) located within the common areas of Cypress head shall be maintained by the HOA. The City shall be responsible for algae control and other

maintenance matters concerning the interior portions of Lakes Numbered 15 and 17. The HOA shall be responsible for algae control and other maintenance matters concerning interior portions of Lakes Numbered 29 and 30. The City or HOA, as applicable, shall be responsible for maintaining the lakes and shorelines under their respective maintenance control, as stated above, in conformance with all applicable governmental rules and regulations, including but not limited to those rules and regulation promulgated by the St. John's River Water Management District.

Lakes 15, 17, 29 and 30 are further described as:

Portions of lake 15 contained in "Parcel F" dedicated to the "Cypress Head Homeowners Association" and "Parcel TT" dedicated to the " City of Port Orange" as recorded in Volusia County Plat Book 44, Pages 36-43, and title Cypress Head Phase 1-A. Further defined as approximately 2,950 linear feet of lake perimeter within the Golf Course Property (Parcel TT) and approximately 833 linear feet of lake perimeter within the Cypress Head Homeowners Association Property (Parcel F).

Portions of Lake 17 contained in "Parcel E" dedicated to the "Cypress Head Homeowners Association" and "Parcel T" dedicated to the "City of Port Orange" as recorded in Volusia County Plat Book 44, Pages 36-43, and titled Cypress head Phase 1-A. Further, portions of lake 17 contained in "Parcel E" dedicated to the Cypress Head Homeowners Association" and "Parcel T and TT" dedicated to the "City of Port Orange" as recorded in Volusia County Plat Book 44, Page 145-148, and titled Cypress Head Phase II-A. Further defined as approximately 3,196 linear feet of lake perimeter within the Golf Course Property (Parcel T and TT) and approximately 2,313 linear feet of lake perimeter within the Cypress Head Homeowners Association Property (Parcel E).

Portions of lake 29 contained in "Parcel I" dedicated to the "Cypress Head Homeowners Association" and "Parcel W" dedicated to the City of Port Orange" as recorded in Volusia County Plat Book 44, Pages 36-43, and titled Cypress Head Phase 1-A. Further defined as approximately 129 linear feet of lake perimeter with the Golf Course Property (Parcel W) and approximately 640 linear feet of lake perimeter within the Cypress Head Homeowners Association Property (Parcel I).

Portions of lake 30 contained in "Parcel I" dedicated to the " Cypress Head Homeowners Association" and "Parcel W" dedicated to the " City of Port Orange" as recorded in Volusia County Plat Book 44, Pages 36-43, and titled cypress head Phase 1-A. Further defined as approximately 278 linear feet of lake perimeter within the Golf Course Property (Parcel W) and approximately 1254 linear feet of lake perimeter within the Cypress Head Homeowners Association Property (Parcel I).

The City shall not be compensated by the Owner or HOA for future maintenance of the golf course property as of September 18, 2001. All maintenance assessments, as previously provided for by this amended and restated provision, owed by the Owner or HOA to the City for the time periods prior to September 18, 2001 shall be immediately due and

payable to the City (i.e. 2001 maintenance assessments prorated as of September 18, 2001). Any powers granted to the City for assessing and collecting maintenance assessments against each lot, unit, or parcel of property in the subdivision are hereby terminated, excepting only any existing assessments due and payable to the City by the Owner, the HOA, or any lot, unit or parcel owner as of September 18, 2001 for which all powers of assessment and collection granted to the City shall be of continuing force and effect until all such existing assessments have been paid in full.

*The parties hereto agree to cooperate with each other and the St. John's River Water Management District (SJRWMD) to transfer the SJRWMD permits such that the City is listed as the permittee for Lakes Numbered 7,9,10,11,12,15,16,17,24,32,33,34,38,39 and the HOA is listed as the permittee for Lakes Numbered 2,3,14,18,19,23,28,29, and 30. **(Subsection X.A as previously amended by Amendment 1 was amended and restated in its entirety as shown above; per Amendment 3, Part 1, September 21, 2001.)***

B. USE STANDARDS

1. Rules and Regulations For Play on The Course

The City will develop rules and regulations for the use of the Golf Course in order to assure that the quality of the Golf Course is maintained and complements the surrounding mixed use development. The City will consult with the Owner regarding the rules and regulations that will govern the Golf Course, only so long as the Owner maintains control of the Master Association to be incorporated that will govern the Property. The City shall have no obligation to consult with the master or any mini-associations on the Property once the control of such associations have been turned over by the Owner. To the maximum extent possible, the City shall incorporate the Owner's suggestions in such rules and regulations.

2. Food and Beverage Concessions

The City shall control the food and beverage concessions on the Golf Course. The licenses necessary to operate such concession shall be in the name of the City, or in the name of the entity that the City utilizes to operate and maintain the Golf Course.

3. Special Annual Pre-Paid Green Fee

Upon the opening of the Golf Course, the City shall allocate and award one hundred (100) Fully Prepaid Green Fees to the Owner, to be assigned by the Owner to residents of the surrounding mixed use development, hereafter "listed subdivisions", as listed in Exhibit "D" attached hereto and made a part hereof, as the Owner may decide to award or allocate them. If an Owner assignee (or transferee as provided herein) fails to pay the charge necessary to renew such fully pre-paid green fees at the end of each year, the right to said pre-paid greens fee shall lapse and expire. Any assignee of the Owner who holds an annual prepaid greens fee may transfer said prepaid annual greens fee to the subsequent purchaser of the assignee's unit or lot upon paying the City a \$250.00 transfer fee. The City reserves the right to permanently retire any pre-paid greens fee which lapses for failure of Owner, Owner's assignee or any transferee to pay the renewal fees when due. Any "waiting lists" or representations by the Owner to third parties regarding allocations or awards of Pre-Paid

Green Fees shall not be binding upon the City, Owner's assignees, or any transferees. The City, in its sole and absolute discretion, and under terms and conditions established solely by the city, may issue additional Pre-Paid Green Fees as it deems appropriate at any time in the future. (Section X.B.3 was amended and restated to read in its entirety as shown above, per Amendment 3, Part 3, September 21, 2001)

C. (PART C, MISSING, OMMITTED, OR NOT USED)

D. OWNER'S USE OF THE FACILITIES

(Subsections X.D.1 and X.D.2 of the Agreement entitled "Owner's Physical use of the Club House(s)" and "Owner's Marketing Rights" were deleted in their entirety. Per Amendment 3, Part 4, September 21, 2001)

E. NAMES OF THE GOLF COURSE AND THE PUD / SIGNS

The City and the Owner shall use the same proper name for the Golf Course and for the PUD, and may install directional and promotional signs in conformance with the Sign Ordinance of the City of Port Orange.

XI. INTENTION OF THE PARTIES

The City hereby acknowledges and agrees that the covenants, terms, and conditions contained in this Agreement are for a public purpose and in the best interest of the public, and of the citizens and residents of Port Orange. The parties agree to cooperate fully with and support each other in each of the phases of their respective developments, including, but not limited to, planning, zoning, comprehensive plan amendments, platting, DRI activities, permitting, scheduling, construction, sales, marketing, operation and maintenance, to achieve the respective goals of the parties with a minimum of delays, costs, and expenses. No party shall engage in any activity that will hinder, frustrate, damage, or delay achieving the stated, respective goals of the parties to this Agreement.

XII. DEFAULT

In the event that the City fails to perform its obligations set forth herein after delivery of the deed but before improvements have been made to the Golf Course Property, the Owner may exercise its right to the possibility of reverter clause contained in the deed conveying title to the Golf Course Property. If title is conveyed back to the Owner, the City shall also convey the work done on the Golf Course Property, which shall include, but not be limited to, all surveys, architectural, engineering, and construction plans, drawings and specifications.

In case of a default by the City after improvements have been made to the Golf Course Property, and the Owner successfully exercises its right to the possibility of reverter

clause contained in the deed to the Golf Course Property, the City may nevertheless lease the improvements that have reverted to the Owner, at an annual rent that is equal to ten percent (10%) of the fair market value of the land and the improvements, as the case may be. The land and the improvements shall be re-appraised every five (5) years to determine the ten percent (10%) annual lease payment during such subsequent periods.

In the event that the Owner fails to perform its obligations set forth herein, the Owner shall reimburse the City for all fees, costs and expenses incurred or obligated for the work done on the Golf Course Property, which shall include, but not be limited to, all surveys, architectural, engineering, and construction plans, drawings and specifications, materials, supplies, equipment, vehicles, permit applications, and financing charges.

The parties agree that no default shall take effect as to any undertaking or covenant agreed upon between the parties hereto, unless the allegedly defaulting party shall have received notice in writing setting forth the alleged default, and been granted a reasonable time within which to cure such fault.

The remedies of both parties set forth herein are in addition to and not in derogation of the rights and remedies each party has at law and in equity.

XIII. ASSIGNMENT

This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective agents, successors and assigns, and any and all parties through which the City and the Owner exercise their rights or discharge their duties arising hereunder.

The parties hereby acknowledge that the City may hire separate entities to discharge the duties imposed on the City by this Agreement, and that the Golf Course Property may be transferred to a separate, newly created non-profit corporation, that will own, operate, and maintain the Golf Course. The City therefore further acknowledges that the term "City" shall refer to and include any and all entities that the City utilizes to discharge all of the duties imposed herein, and this Agreement shall be fully binding on such entities as if such entities had entered into this Agreement themselves.

"Entities" as used herein, shall include, but not be limited to, separate corporations, whether for profit or non-profit, agencies, companies, partnerships, and natural persons.

XIV. NOTICES

All notices required or permitted under this Agreement shall be in writing and shall be delivered by certified mail, return receipt requested, to the party to be notified, at the address set forth in the initial paragraph of the Agreement, unless notice of a different address is supplied by one party to another from time to time. If anything within this provision is in conflict with any law or ordinance of the City regarding notice, the City's law or ordinance shall have superiority over the terms of this agreement.

XV. RECORDING

This Agreement shall be recorded in the Public Records of Volusia County, and the City shall pay the recording costs up to \$75.00. The Owner shall pay any costs in excess of \$75.00 for recording this Agreement. The parties will add on the document to be recorded additional language, if necessary, to make clear that the covenants and agreements herein are appurtenant to. And run with the land, and are not personal or “in gross” to the parties.

XVI. INVALIDITY OF ANY PROVISION

In the event that any provision of this Agreement shall be invalid or illegal, the remaining provisions shall remain in full force and effect and in all respects remain binding upon the undersigned parties.

XVII. HEADINGS

The section headings of this Agreement are for convenience only and shall not affect the interpretation of the provisions. The use of the phrase “The City represents and warrants” should not be interpreted to mean that all other statements by the City in this Agreement, or any other undertakings by the City, do not constitute representations and that the performance is not warranted.

XVIII. GOVERNING LAW

This Agreement shall be construed and interpreted in accordance with the laws of the State of Florida. By executing this agreement, the undersigned parties agree voluntarily and knowingly to submit itself to the jurisdiction of the Federal and State courts, as the case may be, serving Volusia County, State of Florida.

XIX. COUNTERPARTS

This Agreement may be executed in any number of counterparts all of which shall constitute one and the same instrument and shall be deemed to have been made, executed and delivered as of the date and the year first written above.

XX. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties with respect to the transaction the parties contemplate, and supersedes all previous agreements. No amendment, modification or waive of any term of this agreement shall be effective unless in writing and signed by all parties to this agreement, and no waiver of any breach or condition of this agreement shall be deemed to be a waiver of any other or subsequent breach or condition.

All covenants and conditions contained herein shall survive the "closing" of the transfer of title to the Golf Course Property to the City.

IN WITNESS WHEREOF the parties have affixed their hands and seals on the dates set forth below.

The City of Port Orange

Mayor, Judy L Anderson 6/7/1990

Witness, Linda B Sheridan, Notary

City Clerk, Marion Solona 6/7/1990

Witness, Linda B Sheridan, Notary

Pioneer Heights Inc.

Vice President, Foster H. Coleman 2/14/1990

Witness, James Kearn, Notary

CONTENT OF MASTER DEVELOPMENT AGREEMENT - Original

Pages:	Exhibit	Documents	Description
1-16	8/9/91	Master Development Agreement	Document, Signatures
17	A	Property Description	Legal Description, Text
18-25	B	Golf Course Property Description	Legal Description, Text
26-28	C	Owner's Title Insurance Policy	Form
29	D	Standard A of the FAR/BAR Contract	Form
30-46	E	PUD Agreement	Typed Word Document
47-49	F	Survey of the Extension of the Utility Lines	3 maps
50-69	G	Standards For Maintenance	Golf Course Maintenance

AMENDED EXHIBIT LOG

Amendment	Part	Exhibit	Description
1 (6/14/1991)	1,2		Text Changes, 2 areas
2 (6/28/1991)	1-5		Text Changes, 5 areas
3 (9/21/2001)	1	A	Golf Course Legal
		B	Map of Golf Property, Lakes
		C	Specific Purpose Survey; Split Ownership Lakes
	(2)		<i>Not shown, labeled</i>
	3	D	Listed Subdivisions (as of date of amendment)
	4-9		Text Changes, corrections
	10		Delete PUD as a part of Master Agreement; want separate