

Filed April 22 1957

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A G G E E E E E E E E

AGREEMENT dated May 20, 1957, between LAKE HILLS GOLF CLUB, a Montana corporation with principal office at Billings, Montana, herein called the Club, RUSSELL B. HART, GEORGE M. WRIGHT and PAUL C. COVERT, individually, herein called Owners, and YELLOWSTONE COUNTY, MONTANA.

A G G E E E E E E E E

1. By agreement dated October 15, 1956, Owners agreed to transfer to the Club real property in Yellowstone County, Montana, described as: All of Section 16 in Township 1 North, Range 26 East, containing 640 acres more or less.

2. Pursuant to said agreement the Club will locate and develop on said land an 18-hole golf course, which will occupy 200 acres more or less, while the remaining acreage, together with 35 acres more or less owned by Paul C. Covert described as that portion of SK4 SK5 and SK6 of S.L.W.A. right-of-way in Section 9, said Township and Range, will be subdivided into lots and blocks.

3. The Club has progressed with the development to the point where it is now ready to file four separate plats, each containing less than 20 acres of land, subdivided into lots and blocks, and it will subsequently offer for filing additional plats of the remaining area to be subdivided into lots and blocks, each of which will contain less than 20 acres.

4. The Club has represented to the City-County Planning Committee and ~~YELLOWSTONE~~ COUNTY, Montana, that the golf course, now under construction, will when completed, although privately owned, be operated as a public golf course and held open to the public generally without discrimination

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as to race, creed or color. The Club has therefore requested the County Commissioners of Yellowstone County, Montana, to waive the statutory requirement (Sec. 11-602 (9) R.C.M. 1947) for dedication of public parks in the platted areas.

5. The request has been submitted to the City-County Planning Committee for consideration and recommendation, and that Committee, having been satisfied that the public interest will be better served by the establishment and maintenance of a public golf course in the area than by the dedication of a public park, has recommended to the County Commissioners that they waive, at this time, the requirement for dedication of public park, subject however to the conditions hereinafter set forth.

6. The County Commissioners have likewise considered the matter and, having likewise concluded that the public interest will be better served by the establishment and maintenance of a public golf course in the area than by dedication of a park, have therefore agreed to waive, at this time, the dedication of the public park, subject however to the conditions hereinafter set forth.

7. The Club agrees that it will proceed with all reasonable diligence to complete the construction of said 18-hole golf course prior to December 31, 1950, in accordance with its contract with Owens, but subject to such extensions of time for completion as may be granted by Owens by reason of delays arising from governmental rules and regulations or restrictions limiting the use of needed materials, labor disputes, war or act of the public enemy or of God.

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8. After the completion of said golf course, the Club agrees that it will maintain and operate said course and hold it open for use by the public generally without discrimination on account of race, creed or color. In this connection however the Club shall be free to establish such rules and regulations for the use of the course as it deems appropriate, so long as such rules and regulations apply to all users and without discrimination on account of race, creed or color. In this connection too the Club shall be free to establish such charges and rates for the use of the golf course as it deems proper, so long as such rates do not discriminate on account of race, creed or color.

9. Should the Club fail to complete the golf course as aforesaid, or if after completion of the course should the Club subsequently permanently discontinue the operation of said course as an 18-hole golf course, or should it fail to hold said course open for use by the public generally without discrimination on account of race, creed or color, then the Board of County Commissioners may by order duly made, after notice and opportunity for hearing, require that the Club satisfy the park requirements with respect to the aforesaid platted land in said Sections 9 and 10, unless the course is completed, or the course held open for use by the public generally without discrimination on account of race, creed or color, within such period of time as the Board deems reasonable under the circumstances. In this connection, at least 60 days prior written notice of the time and place for hearing shall be given the Club.

10. In construing the preceding paragraph, it shall be presumed (but not conclusively) that the Club has permanently discontinued the golf course as an 18-hole course if the course is not held open for play as an 18-hole course during

two successive playing seasons, if during each of said seasons the course is not maintained at least on a stand-by basis, unless the failure to hold the course open is the result of some cause beyond the Club's control, such as war, act of God or public enemy, governmental rules or regulations or economic depression. It shall likewise be so presumed (but again not conclusively) that the course has been permanently discontinued as an 18-hole course if permanent structures or improvements, inconsistent with the use of the land as a golf course, are placed on land presently laid out for tees, fairways or greens.

11. If after hearing as aforesaid, an order is entered by the Board requiring satisfaction of the park requirement, the Club shall have the privilege to satisfy that requirement either

- (a) by formal dedication of a portion of the golf course area equal to one-twelfth of the aforesaid un-platted area in said Sections 9 and 16; or
- (b) by conveyance to the County of other land but acceptable to the County, for use for park purposes, equivalent in area to the area specified in the preceding sub-paragraph; or
- (c) by payment in cash of an amount equal to the value of area specified in the preceding

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sub-paragraph (a) at \$1500.00 per acre if said order is entered after January 1, 1963, otherwise at the value as determined by the then prevailing schedule of values established for satisfaction of park requirements; or

(d) by any other method acceptable to the Board of County Commissioners.

12. Should an order be made as aforesaid by the County Commissioners requiring satisfaction of the park requirement, and should the Club fail to satisfy the requirement in one of the ways specified in the preceding paragraph within 90 days after the date specified in such order for satisfaction of the park requirement, or within such further time as said Board may allow, then the Board may proceed by an action for specific performance or other appropriate action to compel the conveyance to the County of a portion of the golf course area equivalent to the area specified in sub-paragraph (a) of paragraph 11, and the description of which shall be determined and established by the court in its decree.

13. Nothing herein shall be construed as imposing any obligation or liability upon the Club to complete, maintain and/or operate said golf course as a public golf course once the Club has satisfied the park requirement in one of the specified ways; and in any event the only obligation of the Club, should it fail to complete said course or operate it as agreed, shall be its obligation to satisfy said park requirement.

14. Nothing herein shall be construed to limit, abridge, or restrict the Club's authority as owner

(a) to deny the use of and access to the golf course to loiterers, vagrants, persons of ill-repute, persons guilty of offensive, disorderly or unseemly conduct, and persons who fail to comply with the Club's rules

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rules and regulations, or

(b) to permit only such persons as it deems appropriate to use the restaurant, bar, locker rooms and other facilities in its clubhouse and recreational facilities (for example swimming pool, tennis courts, etc.) other than the golf course which it may subsequently install.

19. The undersigned Owners have joined in execution of this agreement to evidence their consent thereto, it being understood however that the only obligation of the Owners in the event title to said Section 16 shall revert to them for failure of the Club to fulfill the conditions of its aforesaid agreement of October 15, 1956, shall be limited to the obligation to satisfy the park requirement as aforesaid with respect to the aforesaid area in said Sections 9 and 16 actually platted at the time of such reversion.

IN WITNESS WHEREOF the parties have caused this agreement to be executed.

YELLOWSTONE COUNTY, MONTANA,

By Ken Hagerman, Chairman, Board of County Commissioners

ATTEST:

Charles English, County Clerk
(SEAL)

LAKE HILLS GOLF CLUB,

By George Schneider, President



WESSELL E. HART

PAUL C. COVERY

GEORGE W. WEICHT

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The undersigned wives of the aforesaid individuals join herein for the purpose of subjecting their dower or any other interest in said lands to this agreement.

WIFE OF RUSSELL B. WARE

WIFE OF PAUL C. COVERT,

By PAUL C. COVERT, her attorney-in-fact

WIFE OF GEORGE M. WRIGHT

By GEORGE M. WRIGHT, her attorney-in-fact.

STATE OF MONTANA,)
County of Yellowstone.) ss.

On this ____ day of _____, 1957, before me, _____, a Notary Public for the State of Montana, personally appeared DER HAGERMAN, known to me to be the Chairman of the Board of County Commissioners of Yellowstone County, Montana, a body politic, and acknowledged to me that such corporate body executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

(NOTARIAL SEAL)

Notary Public for the State of Montana,
Residing at Billings, Montana.
My commission expires _____

STATE OF MONTANA,)
) ss.
County of Yellowstone,)

On this 2nd day of July, 1957, before me,
JAMES H. KILBOURNE, a Notary Public

for the State of Montana, personally appeared GEORGE H. SCHMELTER, known to me to be the President of the corporation that executed the within instrument and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for the State of Montana,
residing at Billings, Montana.
My commission expires _____

(NOTARIAL SEAL)

STATE OF MONTANA,)
) ss.
County of Yellowstone,)

On this 11th day of June, 1957, before me,

JAMES H. KILBOURNE, a Notary Public in and for the State of Montana, personally appeared RUSSELL B. HART and SENIA C. HART, his wife, PAUL C. COVER and GEORGE M. WRIGHT, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for the State of Montana,
residing at Billings, Montana.
My commission expires December 3, 1959.

(NOTARIAL SEAL)

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STATE OF MONTANA,

County of Yellowstone.

On this 11th day of July, 1957, before me, JAMES H. KILBOURN, a Notary Public for the State of Montana, personally appeared PAUL S. GOVERN, known to me to be the person whose name is subscribed to the within instrument as the attorney-in-fact of CECIL MAY GOVERN, and acknowledged to me that he subscribed the name of

CECIL MAY GOVERN thereto as principal, and his true name an attorney-in-fact.

IN WITNESS WHEREOF, I here hereto set my hand and affixed my Notarial Seal the day and year in this certificate above written.

NOTARY PUBLIC FOR THE STATE OF MONTANA,
Residing at Billings, Montana.
My commission expires December 8, 1959.

STATE OF MONTANA,)
County of Yellowstone.) ss.

On this 11th day of July, 1957, before me, JAMES H. KILBOURN, a Notary Public for the State of Montana, personally appeared CECIL M. WRIGHT, known to me to be the person whose name is subscribed to the within instrument as the attorney-in-fact of PAUL S. GOVERN, and acknowledged to me that he subscribed the name of

PAUL S. GOVERN thereto as principal, and his true name as attorney-in-fact.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my Notarial Seal the day and year in this certificate above written.

(NOTARIAL SEAL)

NOTARY PUBLIC FOR THE STATE OF MONTANA,
Residing at Billings, Montana.
My commission expires December 8, 1959.