

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

SECOND AMENDMENT TO
CLOSING AGREEMENT

THIS SECOND AMENDMENT to Closing Agreement is entered into this 26 day of March, 1997, by and between The Toler's Cove Homeowners Association, Inc. ("Association") and Horlbeck Creek Land Corporation ("Horlbeck").

WHEREAS, Horlbeck purchased certain land from Association on February 10, 1995;

WHEREAS, at the time of said purchase, the parties entered into a Closing Agreement ("Closing Agreement," a copy of which is attached hereto as Exhibit "A" and incorporated herein), which was amended by an Amendment to Closing Agreement dated November 30, 1995 (a copy of which is attached hereto as Exhibit "B" and incorporated herein), said Closing Agreement, as heretofore amended, setting forth, inter alia, certain agreements with respect to the nature and density of development on the property purchased by Horlbeck and the responsibilities of the owners of such properties to the Toler's Cove community;

WHEREAS, at the time of said purchase the parties entered into an Escrow Agreement, dated February 10, 1995, whereby certain funds were deposited with Warren & Sinkler, L.L.P., as Escrow Agent, to be used for purposes described therein and to be released upon the written direction of Horlbeck and the Association;

WHEREAS, the parties are now minded to modify the Closing Agreement, as heretofore amended, in several additional respects

and to terminate the Escrow Agreement, all as more fully set forth herein;

NOW THEREFORE, for and in consideration of the above recitals and the sum of Ten (\$10.00) Dollars, each to the other in hand paid, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1(a). The parties agree that the development on Parcel "8", as shown on a plat by ARC Surveying Company, Inc., dated October 20, 1994, entitled "Horizontal As Built Survey of Toler's Cove Horizontal Property Regime" and further referenced in paragraphs 6, 11, 12, and 13 of the Closing Agreement, may be changed from twenty-four (24) condominiums to five (5) single units and two (2) duplex units for a total of nine (9) single family units, or nine (9) single family units upon the subdivision of Parcel "8" into nine (9) individual lots ("Lots") as shown on a subdivision plat of Marsh Harbor dated March 25, 1997 attached hereto as Exhibit "C". The units will be built on the existing pilings. If nine single family units are built, four additional rows of pilings may be installed. The units will be one and a half (1 1/2) and two (2) story units, with a minimum of twelve hundred (1,200) square feet, exclusive of porches and decks. The elevation will have a Sullivan's Island cottage look and will blend with the existing construction into a harmonious community. The units will be of wood-frame construction with wood siding and/or stucco and will be in a projected price range of \$189,000.00 to \$250,000.00.

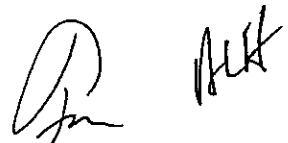
1(b). Conceptual design plans, including front elevation



and floor plan, are attached hereto as Exhibit "D" and incorporated herein. The Association by and through its Architectural Review Committee ("ARC") hereby approves the conceptual design plans and waives any review fees or charges. Horlbeck or its successor may proceed with final plans, elevations, and landscape plans. The plans will have garage doors. Except as provided in paragraph 1(c) below, the ARC waives any review fees for the approval of final plans, elevations, and landscape plans. The Association will execute such further evidence of the approvals as Horlbeck may require.

1(c). Any changes in the preapproved plans will require the prior approval of the ARC and will be subject to the fee schedule of the ARC. Said fee shall be \$50.00, with appropriate adjustments over time to reflect any increases in costs of the review process. Damage/completion bonds or deposits will not be required by the ARC, however any problems in that regard will be addressed with the contractor or property owner whose activities may be in issue; provided, however that a \$10,000.00 damage bond, with acceptable terms and conditions to the Association established before any pile driving commences, shall be required should it become necessary to add any additional pilings on Lots 1-9 Tract D.

2. Simultaneously with the conveyance of the property by the Association to Horlbeck contemplated in Paragraph 5 below and the grant of easement by Horlbeck to Association contemplated in Paragraph 6 below, the parties hereby authorize and direct the Escrow Agent under the Escrow Agreement to deduct its fees for

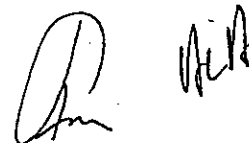
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services as Escrow Agent from the funds currently held pursuant to the Escrow Agreement, not to exceed One Thousand (\$1,000.00) Dollars, and to pay over the balance of such funds to the Association. The parties agree that the Association shall have the right to and use of such funds free of any restrictions imposed by the Escrow Agreement. The parties will execute such further evidence of this authorization as the Escrow Agent may require.

3. Horlbeck shall pay the Association the sum of Thirty Thousand and No/100 (\$30,000.00) Dollars upon the closing of the sale of Parcel "8", whether said Parcel is sold in bulk or as individual Lots. If the Lots are sold individually, the full payment described in this Paragraph 3 shall be made at the time of closing the first such Lot sale.

4. The monthly road use and recreational amenities fee ("Amenity Fee") charged on Parcel "8" pursuant to the Closing Agreement, as amended, shall commence, as follows:

- a. If any Lots are sold individually rather than as a part of a bulk transaction, each Lot shall be subject to the Amenity Fee as of the date of closing of the sale.
- b. If the Lots are sold or otherwise transferred in bulk, the Amenity Fee shall commence as to each Lot on the earlier of (i) the closing of the sale of such Lot to a third party purchaser by the bulk purchaser, (ii) the expiration of eighteen (18) months from the date of the closing of the bulk sale, or (iii) if bulk purchaser builds a speculative residence, upon issuance of

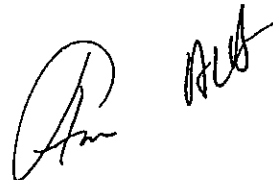
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certificate of occupancy.

5. In consideration of the premises contained herein, The Association hereby agrees to convey fee simple title to Horlbeck to those areas adjoining Parcel "8" that are needed to cure an existing encroachment and set back requirements on the rear and side property lines of Lots 1-9, Block D, said areas being depicted and shown on the plat attached hereto as Exhibit "C" entitled "PLAT SHOWING THE SUBDIVISION OF A PORTION OF RESIDUAL BLOCK A INTO LOTS 7-11 BLOCK A THE SUBDIVISION OF PARCEL 8 PHASE 2 INTO LOTS 1-9 BLOCK D", Plat dated March 25, 1997 and prepared by Forsberg Engineering and Surveying, Inc.

6. In consideration of the premises contained herein, Horlbeck agrees to grant to Association a ten foot (10') Pedestrian Easement in perpetuity between Lots 5 and 6, said easement being depicted and shown on the above referenced Plat dated March 25, 1997 and prepared by Forsberg Engineering & Surveying, Inc.

7. Horlbeck will promptly hereafter provide the Association with a listing, including name, address and telephone number of each person or entity to which Horlbeck has sold or otherwise transferred ownership of any property in the Community, identifying the property sold or otherwise transferred and the date of such sale or transfer, provided such information is made available to Horlbeck. Henceforth, Horlbeck will request the closing attorney to provide purchaser with a copy of the Association's ARC Guidelines and to collect the Amenity Fee for the first month at each closing and to promptly remit such fee to the Association's

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property manager, along with the name, address and telephone number of each such purchaser, in order that billing the monthly Amenity Fee may be commenced in a timely fashion.

8. The Association and the ARC hereby confirm and acknowledge the 1995 approval of the final basic design and landscape plans for the single family residences known as Haddrell, Moultrie, and Fiddlers, dated May 31, 1995, June 23, 1995 and May 5, 1995 respectively, to be constructed on Lots 1-15, Block A.

10. Except as modified herein, the Closing Agreement, as heretofore amended, shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have caused these presents to be executed and delivered on the date above written.

WITNESSES:

Walter H. Radlein
JPM Cant

THE TOLER'S COVE HOMEOWNERS ASSOCIATION, INC.

By:

Frances D. Menard
Frances D. Menard
Its Authorized Director

Walter H. Radlein
JPM Cant

HORLBECK CREEK LAND CORPORATION

By:

Henry L. Holliday, III
Henry L. Holliday, III
Its President

Handwritten initials/signatures

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

PROBATE

PERSONALLY appeared before me, the undersigned witness who on oath deposes and states that (s)he saw the within named The Toler's Cove Homeowners Association, Inc., by and through its duly authorized director, Frances D. Menard, sign, seal, and as its act and deed, deliver the within written Second Amendment to Closing Agreement and that (s)he with the other subscribing witness witnessed the execution thereof.

Wendell H. Radwin

Sworn to before me this the
26th day of March, 1997.

Wendell H. Radwin
Notary Public for South Carolina
My Commission Expires: 1-24-2004

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

PROBATE

PERSONALLY appeared before me, the undersigned witness who on oath deposes and states that (s)he saw the within named Horlbeck Creek Land Corporation, by and through its duly authorized President, Henry L. Holliday, III, sign, seal, and as its act and deed, deliver the within written Second Amendment to Closing Agreement and that (s)he with the other subscribing witness witnessed the execution thereof.

Wendell H. Radwin

Sworn to before me this the
26th day of March, 1997.

Wendell H. Radwin
Notary Public for South Carolina
My Commission Expires: 1-24-2004