

**AMENDED AND RESTATED INTERLOCAL AGREEMENT BETWEEN
THE CITY OF BOCA RATON AND
THE GREATER BOCA RATON BEACH AND PARK DISTRICT
RELATED TO THE ACQUISITION AND OPERATION OF
THE “OCEAN BREEZE” PROPERTY**

THIS AMENDED AND RESTATED INTERLOCAL AGREEMENT (“Agreement”) entered into this ____ day of _____, 2020, by and between the CITY OF BOCA RATON, a Florida municipal corporation, hereinafter referred to as the “CITY”, and the GREATER BOCA RATON BEACH AND PARK DISTRICT, an independent special taxing district under the laws of the State of Florida, hereinafter referred to as the “DISTRICT”.

WITNESSETH:

WHEREAS, pursuant to Section 163.01, Florida Statutes, the CITY and the DISTRICT desire to enter into this Interlocal Agreement, amending and restating the Interlocal Agreement originally entered into on February 2, 2018, to provide for their cooperative undertaking as more specifically provided herein; and

WHEREAS, the CITY and the DISTRICT agree that there is a present and future need for the acquisition and development of park and recreational properties and facilities in order to ensure and provide for the health, safety and welfare of the residents of the CITY and the DISTRICT; and

WHEREAS, the CITY and the DISTRICT agree that all residents of the CITY and the DISTRICT will benefit from the continued acquisition and development of parks and recreational properties and facilities; and

WHEREAS, the DISTRICT entered into an Agreement for the Sale and Purchase of the real property described on the attached Exhibit "A", commonly referred to as the "Ocean Breeze" Golf Course (hereinafter referred to as the "Ocean Breeze Property") with LENNAR HOMES LLC (hereinafter referred to as the "SELLER") ("hereinafter referred to as the "Purchase Agreement, a copy of which, together with any amendments, is attached hereto as Exhibit "B"; and

WHEREAS, on February 2, 2018, the CITY and the DISTRICT entered into an interlocal agreement (the "Initial Agreement") related to the Funding and Acquisition of the Ocean Breeze Property, which is hereby amended and restated; and

WHEREAS, subsequent to the execution of the Initial Agreement, the Ocean Breeze Property was purchased by the DISTRICT from the SELLER.

WHEREAS, the total purchase price for the DISTRICT's acquisition of the Ocean Breeze Property from the SELLER was Twenty-Four Million and 00/100 Dollars (\$24,000,000), which amount was subject to adjustments and credits as more specifically set out in the Purchase Agreement; and

WHEREAS, the CITY provided funding to the DISTRICT for the cost of the acquisition of the portion of the Ocean Breeze Property that is located west of Northwest 2nd Avenue, which portion consists of approximately 141.4478 acres and is more fully described in the attached Exhibit "C" hereto (hereinafter referred to as the "Property"), through the issuance of revenue bonds (hereinafter referred to as the "Bond(s)"); and

WHEREAS, the SELLER transferred the Property to the CITY upon closing the sale of the Ocean Breeze Property with the DISTRICT; and

WHEREAS, the DISTRICT did not desire that the CITY provide funding to the DISTRICT for the cost of the acquisition of the portion of the Ocean Breeze Property that is located east of Northwest 2nd Avenue, which portion consists of approximately 72.5284 acres and is more fully described in the attached Exhibit "D" (hereinafter referred to as the "District-Acquired Property"), and

WHEREAS, the DISTRICT acquired the District-Acquired Property from the SELLER at the closing of the transaction without financing from the CITY, and, therefore, the Bonds are not applicable to the District-Acquired Property; and

WHEREAS, the DISTRICT acknowledges that the CITY is obligated to repay the Bonds; and

WHEREAS, though not legally required, the DISTRICT has commenced to, and intends to continue to, reimburse the CITY for all amounts incurred by the CITY in connection with the Bonds, including, without limitation, any and all principal and interest payments, all attorneys' and other fees, and all costs and expenses of any type or nature; and

WHEREAS, the amount of the Bonds issued by the CITY to fund the DISTRICT's acquisition of the Property was Nineteen Million One Hundred Thousand and 00/100 Dollars (\$19,100,000) (which amount was based upon the Nineteen Million and 00/100 Dollar acquisition price of the Property plus the costs of issuance of the Bonds as provided herein); and

WHEREAS, the CITY adopted Ordinance No. 5442 and Resolution No. 15-2018 authorizing the issuance of the Bonds on February 13, 2018, in the principal amount not exceeding Twenty Million and 00/100 Dollars (\$20,000,000); and

WHEREAS, the DISTRICT declared its intent to develop a golf course and related recreational facilities (including an 18 hole golf course, driving range, putting green area, clubhouse, maintenance facility, short course and other facilities) on the Ocean Breeze Property (“Golf Course”); and

WHEREAS, the Initial Agreement provided that the DISTRICT would design, construct and operate the Golf Course at its sole cost and expense; and

WHEREAS, the DISTRICT has committed effort and expense towards planning and designing the Golf Course and to obtain conceptual design plans for the Golf Course; and

WHEREAS, the CITY and the DISTRICT now desire to amend and restate the Initial Agreement to provide that the CITY will be responsible for the planning, design, construction, operation and maintenance of the Golf Course on the District-Acquired Property and the Property, and to set forth the revised agreements between the CITY and the DISTRICT with respect to the Golf Course; and

WHEREAS, the purpose of the Initial Agreement was to facilitate the DISTRICT’s acquisition of the Property, to set forth the expected terms and conditions of the Bonds for the funding of such acquisition, and to set forth the obligations of the CITY and the DISTRICT in relation to the acquisition of the Ocean Breeze Property and the Property the Bonds, the operation of the Golf Course, and related matters; and

WHEREAS, the purpose of this Agreement is to restate the obligations of the CITY and the DISTRICT in relation to the acquisition and funding of the Property and the Bonds, and to amend the terms related to the development, operation and maintenance of the Golf Course on both the District-Acquired Property and the Property, and related matters;

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. Recitals. The recitals set forth in this Agreement are true and correct, and all recitals are incorporated herein by reference.

2. Interlocal Agreement. This Agreement constitutes an interlocal agreement entered into pursuant to Chapter 163, Florida Statutes.

3. Term and Renewal. This Agreement shall be for a term of twenty (20) years, and shall be automatically renewed for two additional twenty (20) year periods unless the CITY notifies the DISTRICT at least 180 days prior to the expiration of the term.

4. Bonds. Following the effective dates of Resolution No. 10-2018 authorizing execution of the Initial Agreement and Ordinance No. 5442 authorizing the issuance of the Bonds, the CITY adopted Resolution No. 15-2018, setting forth the terms of the Bonds and issued the Bonds, in an amount not to exceed Twenty Million and 00/100 Dollars (\$20,000,000), and provided a portion of the proceeds from the

Bonds to the DISTRICT to be utilized to consummate the acquisition of the Property. The following memorializes the terms of the Agreement that were applicable to the acquisition of the Property and the issuance of the Bonds, and includes the on-going terms and responsibilities of the DISTRICT and the CITY in relation to the Bonds and the Property:

A. The DISTRICT closed on the Property in escrow on March 1, 2018. Following the DISTRICT's closing in escrow on the Property (and the CITY issuance of the Bonds pursuant to the terms of the Ordinance and Resolutions referenced above), the CITY provided the proceeds of the Bonds in the amount of as Nineteen Million and 00/100 Dollars (\$19,000,000) to the escrow agent on behalf of the DISTRICT for monies due at closing for the Property.

B. The DISTRICT's use of the Bond proceeds was documented by the DISTRICT and such documentation was, and shall be, provided to the CITY upon request.

C. The CITY issued the Bonds with a fixed interest rate of 2.64% with a final maturity date for repayment that was no more than fifteen (15) years from issuance. The date of the DISTRICT's repayment of the Bonds to the CITY in full (which may occur at the maturity date of the Bonds or at an earlier date pursuant to a prepayment provision, if any) is referred to as the "Maturity Date".

D. The principal payments with respect to the Bonds are due no more frequently than once a year, with interest payments due no more frequently than twice a year. Additionally, based on the DISTRICT's request, the CITY issued the Bonds with a

prepayment option which provided the ability to prepay the Bonds at par on or after July 1, 2027.

E. Any interest earned by the CITY from the investment of the proceeds of the Bonds, after rebate of arbitrage to the United States, shall be credited by the CITY to either reduce the amount of the Bonds or be applied to the payment of debt service on the Bonds, and the DISTRICT's payment to reimburse the CITY for principal and interest on the Bonds shall be correspondingly reduced.

F. The CITY included in the Bond issue the amount necessary to pay the costs of issuance of the Bonds, including attorneys' fees, professional fees, costs and expenses incurred in connection with the Bonds, and the CITY retained said amounts (and did not distribute said amount to the DISTRICT), and such amounts were included in the total amount to be reimbursed to the CITY by the DISTRICT.

G. The CITY is authorized to pursue a current refunding of the Bonds as frequently and under such terms as determined by the CITY, in its sole discretion, to be in the CITY's best interests and as allowed by state and federal law (and all other applicable laws and regulations, all of which shall be collectively referred to as "state and federal law(s)"). The maturity date of any refunding shall not exceed fifteen (15) years from the date of issuance of the Bonds.

H. The DISTRICT shall keep and maintain and provide to the CITY all documents that the CITY may deem necessary to maintain the legality and tax-exempt status of the Bonds as required by applicable state and federal laws, or as deemed appropriate by the CITY, including, but not limited to, records of expenditures or use of

bond proceeds, required for the CITY to comply with arbitrage reporting requirements and any other reporting that may be required including any reporting requirements mandated by the CITY's Debt Policy. In addition, the DISTRICT shall keep and maintain all records relating to the acquisition of the Property during the repayment term of the Bonds and until the Maturity Date, and shall provide copies of all such records to the CITY at no cost upon request.

5. Reimbursement of the Bonds. The DISTRICT has begun, and agrees, to the extent permitted by applicable law, to continue, to reimburse the CITY for all costs of the Bonds in accordance with the debt service schedule of the Bonds. The DISTRICT shall continue to make each reimbursement payment listed in the final schedule to the CITY at least fifteen (15) days prior to the date the CITY is required to make any payment on the Bonds. The CITY acknowledges and agrees that the DISTRICT's obligation to make the payments required by this Section 5 is subject to annual appropriation by the DISTRICT, and that the remedies available to the CITY as a result of a Non-Appropriation Event (as defined in Section 16) by the DISTRICT are limited to those specified in Section 16 hereof.

6. Compliance with Tax Covenants of the Bonds. The DISTRICT shall abide by, and comply with, all state and federal laws governing, or relating in any fashion to, tax exempt bonds in regard to the Property, so as to ensure the tax-exempt status of the Bonds is maintained during the repayment period of the Bonds and through the Maturity Date. The DISTRICT recognizes that, in the event the Bonds lose their tax-exempt status due to the DISTRICT's actions(s) or inaction(s), the CITY may be responsible for additional amounts that become payable due to such loss of tax-exempt status. In the

event the Bonds become taxable or subject to fines or penalties due to any action or inaction of the DISTRICT, the DISTRICT shall reimburse the CITY for all additional interest costs, tax penalties, liabilities (including liabilities to the bondholders), and any other fees, costs, expenses, or liabilities of any type or nature incurred by the CITY resulting from such event (such additional monies are not a part of the debt service schedule(s) referenced in Section 4 herein).

7. Purchase of the Property; Title to the Property; Conveyance of Property.

A. The DISTRICT consummated the closing on the Property in escrow on March 1, 2018; and the SELLER (based on direction from the DISTRICT) conveyed title to the Property directly to the CITY at closing such that the CITY is the sole owner of the Property.

B. Upon full reimbursement by the DISTRICT to the CITY of all amounts incurred by the CITY in connection with the Bonds on or before the Maturity Date of the Bonds, and as long as the DISTRICT has satisfied all of its responsibilities and obligations under this Agreement, (which satisfaction shall be certified in writing by the CITY), the CITY shall convey to the DISTRICT, by quit claim deed, all of the CITY's right, title and interest in the Property within sixty (60) days following CITY's certification, with any and all attorneys' fees, and transaction, recording, and other costs incurred by the CITY to convey the Property to the DISTRICT to be borne by the DISTRICT and reimbursed to the CITY within ten (10) days of the CITY's request for reimbursement. The DISTRICT's right to receive a conveyance of the Property as described above is limited by, and subject to, other provisions herein.

8. Use of Property. The CITY and the DISTRICT acknowledge that the Property must be used for public purposes, as defined by state and federal law, and they shall not use any part of the Property for any other purpose during the repayment period of the Bonds and until the Maturity Date.

9. Use of District-Acquired Property. The DISTRICT hereby grants to the City the exclusive right to enter upon, possess, develop, construct, operate, use, maintain, and control the District-Acquired Property in connection with the Property and the development, construction and operation of the Golf Course, which rights shall continue even in the event of default by DISTRICT and termination of the Agreement by the City, as provided in Section 16 herein. Additionally, with respect to the District-Acquired property, the DISTRICT shall not, without the CITY's written agreement, (1) enter into any contract for goods or services to be provided on the Golf Course, (2) sell or lease any right, title or interest, or (3) construct any facilities or structures, or take any other related action with regard to the District-Acquired Property.

10. Development, Design and Construction of Improvements to the Property and the District-Acquired Property. The development, design and construction of the Golf Course and related elements on the Property and the District-Acquired Property shall be the complete responsibility of the CITY, including but not limited to: (1) the determination as to the manner and method of development and design; (2) the selection and retention of consultant(s) to plan and design the Golf Course and any other elements related to the Golf Course; (3) the selection and retention of contractor(s) to perform construction and development work on the Golf Course; and (4) the funding of all costs for and relating to said planning, development, design and

construction of the Golf Course and related elements. In furtherance of such responsibility, the CITY shall enter into any and all contracts for goods and services to be provided on or for the Golf Course (including both the Property and the District-Acquired Property), and the DISTRICT shall not enter into any such contracts (except with the prior written agreement of the CITY).

The CITY recognizes the DISTRICT previously retained the design firm of Southern Hills, Inc. ("Southern Hills") to plan and design the Golf Course and that Southern Hills has delivered conceptual design plans to the DISTRICT. The City will utilize the plans developed by Southern Hills in the process to select the design consultant. The DISTRICT and the CITY acknowledge that the following elements of the Southern Hills plan form the basic framework for the Golf Course design: (1) a driving range on the District-Acquired Property; (2) a putting green on the District-Acquired Property; (3) a short course on the District-Acquired Property; (4) an eighteen hole golf course on the Property; and (5) a maintenance and storage area. Notwithstanding, the CITY shall be free to plan, develop, design, and construct the Golf Course as it desires and to select and retain a design consultant(s) and a contractor(s) of its choosing through a procurement process authorized by the CITY's Procurement Code and Florida law. The City shall endeavor to expedite the planning, design and construction of the Golf Course.

Within sixty (60) days of the execution of this Agreement, the DISTRICT shall decide whether to participate in the Golf Course design process and the costs of the operation and maintenance of the Golf Course. The DISTRICT shall submit in writing to the CITY its decision as to whether it shall share the revenue and expenditures of the

Golf Course within sixty (60) days of the execution of this Agreement. If the DISTRICT does not submit to the CITY its decision on whether to participate in the Golf Course design process and costs of the operation and maintenance of the Golf Course within the sixty (60) day period, it shall be considered that the DISTRICT has chosen not to participate in the design process and the costs of the operation and maintenance of the Golf Course.

If the DISTRICT provides in writing its decision to participate in the design process and the costs of the operation and maintenance of the Golf Course, after the City has selected the designer for the Golf Course and has proposed conceptual plans ("Golf Course Information"), the CITY shall provide the proposed Golf Course Information to the DISTRICT. Within sixty (60) days of receiving the Golf Course information, the DISTRICT shall provide comments in writing to the CITY. The CITY will utilize such comments and will work with the DISTRICT to create a Golf Course plan and design that can be mutually approved by the CITY and DISTRICT.

If the DISTRICT does not submit comments to the CITY regarding the Golf Course Information as provided herein, it shall be considered that the DISTRICT will not participate in the Golf Course design and in the revenue and expenses of the operation of the Golf Course.

If the DISTRICT and CITY cannot develop a Golf Course plan and design that is mutually approved within a reasonable amount of time, the CITY has the authority to move forward with the Golf Course design process without the DISTRICT approval. In such case, the District shall not share in the revenue and expenses of the Golf Course operation.

If the DISTRICT decides to participate in the Golf Course design and operation, the DISTRICT shall endeavor to expedite their review and the providing of comments to the CITY.

11. Operation and Maintenance of Golf Course.

A. The terms “operate” and “operation” shall include delivering and overseeing all elements of the administration of the Golf Course, and all facilities located thereon, and to provide quality programs that are accessible to, and cost effective for, the residents of the CITY and the DISTRICT. The terms “operate” and “operation” shall also include determining and providing all activities that are associated with the use by the public of the facilities located on the Golf Course, including, but not limited to: (1) developing programming, scheduling, managing and administering all programs, events, and activities in relation to the Golf Course; (2) establishing the fee schedule for the use of the facilities located on the Golf Course, (3) creating policies and procedures related to the use, maintenance and operations of the Golf Course; (4) retaining and employing the employees to provide for the operation of the Golf Course; (5) entering into agreements to facilitate or assist in the operation of the Golf Course, (6) providing security services; and (7) and any other activities deemed necessary by the CITY for the operation of the Golf Course.

The terms “maintain” and “maintenance” shall mean: (1) the provision of all services, labor, supplies, material, equipment, and any other item that is determined by

the City, in its sole discretion, to be necessary to provide quality services and facilities on the Golf Course.

B. The CITY shall be solely responsible for the manner of operation and maintenance of the Golf Course. At all times, the CITY shall operate and maintain the Golf Course at a level and in accordance with standards equal to or exceeding other facilities operated and maintained by the CITY.

C. As detailed in Section 10 of this Agreement, the DISTRICT has the opportunity to decide whether to participate in the design and operation of the Golf Course or not. The decision of the DISTRICT will determine their participation in the revenue and expenses of the operation and maintenance of the Golf Course.

1. If the DISTRICT determines that it will participate in the design and operation of the Golf Course, the CITY and District will equally share the revenues and expenditures from the operations and maintenance (including capital and equipment replacement costs) of the Golf Course. The CITY will provide projected costs and revenues of operation and maintenance (including capital and equipment replacement costs) to the DISTRICT during the annual budget process, as well as a schedule of rates and fees. The DISTRICT may provide input to the CITY related to the operation and maintenance of the Golf Course as well as the rates and fees, which will be considered by the CITY.

The City will provide a quarterly summary to the DISTRICT. Such summary will include information including the number of rounds of play and other operational information, including the costs and expenditures of the operation and

maintenance in the previous quarter. If the revenues exceed the expenses for the quarter, one half of the revenues collected in excess of the operation and maintenance expenses will be credited to the DISTRICT. If the expenditures exceed the revenue collected for the quarter, the CITY will invoice the DISTRICT for one half of the difference between the revenues and expenses, and the DISTRICT shall pay such invoice to the CITY within 30 days of receiving said invoice.

2. If the DISTRICT decides that it will not participate in the design and operation of the Golf Course, the DISTRICT shall not have the opportunity to provide input to the CITY related to the costs of the operation and maintenance of the Golf Course, nor the establishment of the rates and fees.

D. The CITY shall endeavor to establish and utilize rates and fees that include a meaningful discount for DISTRICT and CITY residents from the rates paid by non-residents, but shall treat all DISTRICT residents and CITY residents similarly with respect to rates, fees, and tee time preferences.

E. The CITY shall have the sole authority to name the Golf Course, and to undertake activities to brand, market and promote the Golf Course. The City may hold events and enter into sponsorship agreements.

12. Obligations of District. In the event any taxes, assessments, liens, fines, penalties, judgments, or other monetary obligations related to, or in connection with, this Agreement or the Property are imposed or owed due to the action(s) or inaction(s) of the DISTRICT, the DISTRICT shall pay all such obligations (together with

interest or other monies due) when they are due, and if the CITY shall pay same on behalf of the DISTRICT, then the DISTRICT shall reimburse the CITY upon request.

13. Maintenance of Property and District-Acquired Property. Until the construction of the Golf Course is initiated, the CITY shall be responsible for the maintenance of the Property and the DISTRICT shall be responsible for the maintenance of the District-Acquired Property.

14. Liability; Sovereign Immunity. Neither the CITY, the DISTRICT, nor their respective officers, agents, or employees, shall be deemed to assume any liability for the acts, omissions, or negligence of any other party. Additionally, No official, representative, employee, agent, or licensee of the CITY or the DISTRICT will be personally liable for any amount which may become due for any obligations of the CITY or the DISTRICT under this Agreement or in the event of any default or breach by the CITY or the DISTRICT.

Nothing in this Agreement shall constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes or is meant to or shall serve as a waiver of any of the requirements or limitations contained in Section 768.28, Florida Statutes.

15. Insurance.

A. The DISTRICT shall procure and maintain general liability insurance (which shall be an occurrence based policy) with coverage for death, personal injury and property damage, with limits not less than \$2,000,000 per occurrence, covering all individuals who access the District-Acquired Property beginning

the date of the Property conveyance and with no more than a \$10,000 deductible, and shall name the CITY as an additional insured under such policy of insurance. The DISTRICT shall not terminate or amend this insurance without written notification to, and consent from, the CITY.

B. If the Property is conveyed to the DISTRICT, DISTRICT shall procure and maintain general liability insurance (which shall be an occurrence based policy) with coverage for death, personal injury and property damage, with limits not less than \$2,000,000 per occurrence, covering all individuals who access the Property and with no more than a \$10,000 deductible, and shall name the CITY as an additional insured under such policy of insurance. The DISTRICT shall not terminate or amend this insurance without written notification to, and consent from, the CITY.

C. The CITY shall include insurance for the operation and maintenance of the Golf Course in its self-insured insurance program, and shall require all contractors and subcontractors performing work or providing services on the Property or District-Acquired Property to maintain general liability insurance and workers' compensation insurance that meets the above requirements and to name the DISTRICT as an additional insured under any such policy of general liability insurance. The CITY shall provide copies of all certificates of insurance to the DISTRICT, upon request.

16. Default, Non-Appropriation, and Termination.

A. If the DISTRICT fails to abide by any term or condition of this Agreement or the Bonds, such failure, including without limitation in the event the Bonds become

taxable or subject to fines or penalties due to the action(s) or inaction(s) of the DISTRICT or if the DISTRICT fails to timely make a payment to the CITY of amounts previously appropriated by the DISTRICT for the current fiscal year, shall constitute a default hereunder (hereinafter an "Event of Default"). Notwithstanding the foregoing, the DISTRICT's failure to appropriate in each year sufficient funds to reimburse the CITY for debt service payments on the Bonds shall not constitute an Event of Default and shall hereinafter be referred to as a "Non-Appropriation Event."

In the event of an Event of Default, the CITY shall thereupon give written notice to the DISTRICT of the Event of Default and specify what actions must be taken to cure the Event of Default to avoid termination hereunder. The DISTRICT shall have thirty (30) days to cure the Event of Default or such additional period authorized by the CITY; provided however, if the DISTRICT fails to timely make a payment to the CITY of amounts previously appropriated by the DISTRICT for the current fiscal year, then the DISTRICT shall have five (5) days to cure such Event of Default or such additional period authorized by the CITY. In the event the DISTRICT shall not have cured the Event of Default to the satisfaction of the CITY by such deadline(s), then this Agreement may be terminated by the CITY upon notice to the DISTRICT. In addition to all other remedies legally available to the CITY, in the event of termination of this Agreement by the CITY for an Event of Default prior to the DISTRICT's full repayment of the Bonds: (1) the DISTRICT's right/interest in the Property shall cease and the DISTRICT shall forfeit any and all interest in, and have no claim or right to, the Property (including, but not limited to, the right to receive a conveyance of title pursuant to Section 7 herein); (2)

the CITY shall retain title to, and ownership of, the Property; (3) all of the DISTRICT's obligations (including, but not limited to those in Sections 8 and 9 herein) under this Agreement shall survive such termination and continue in full force and effect; (4) the DISTRICT shall pay all attorneys' fees, expenses and costs the CITY incurs in enforcement and/or termination of the Agreement, as well as interest costs, tax penalties, liability to bondholders, attorneys' fees, and any other expenses and costs the CITY incurs due to the default of the DISTRICT; and (5) the CITY may, in its sole discretion, cease operation of the Golf Course.

In the event this Agreement is terminated by the CITY for an Event of Default subsequent to the CITY conveying title to the Property to the DISTRICT, (1) all of the DISTRICT's obligations under this Agreement (except for the obligation under Section 5 to reimburse the CITY for the costs of the Bonds) shall survive such termination and continue in full force and effect; (2) the DISTRICT shall pay all attorneys' fees, expenses and costs the CITY incurs in enforcement and termination of the Agreement, as well as interest costs, tax penalties, liability to bondholders, attorneys' fees, and any other expenses and costs the CITY incurs due to the default of the DISTRICT; and (3) the CITY may, in its sole discretion, cease operation of the Golf Course.

Default. In the event of a Non-Appropriation Event, the CITY shall give the DISTRICT five (5) days' notice of such Non-Appropriation Event, and if the DISTRICT fails to appropriate the funds necessary to make the payments under this Agreement within the five (5) day period, this Agreement shall terminate automatically and without notice to the DISTRICT. In addition to all other remedies legally available to the CITY, in the event this Agreement is terminated by the CITY as a result of a Non-Appropriation

Event: (1) the DISTRICT shall have no further obligation to repay the Bonds pursuant to Section 5, other than amounts previously appropriated by the DISTRICT for the current fiscal year and not yet paid by the DISTRICT to the CITY; (2) the DISTRICT's right/ interest in the Property shall cease and the DISTRICT shall forfeit any and all interest in, and have no claim or right to, the Property (including, but not limited to, the right to receive a conveyance of title pursuant to Section 7 hereof); (3) the CITY shall retain title to, and ownership of, the Property; (4) all of the DISTRICT's obligations under this Agreement (except for the obligation under Section 5 to reimburse the CITY for the costs of the Bonds) shall survive and continue in full force and effect; (5) the DISTRICT shall pay to the CITY all attorneys' fees, expenses and costs the CITY incurs in enforcement and termination of the Agreement, as well as interest costs, tax penalties, liability to bondholders, attorneys' fees, and any other expenses and costs the CITY incurs due to the actions/inactions of the DISTRICT; and (6) the CITY may, in its sole discretion, cease operation of the Golf Course.

B. If the CITY fails to construct the Golf Course or to operate the Golf Course such that it is closed to the public for a period of three hundred and sixty-five consecutive days (unless the closure is due to an act of God or other force majeure event or for renovations, restorations, or other construction of the Golf Course), the DISTRICT may consider the CITY to be in default. If the DISTRICT determines the CITY in default pursuant to this provision, the DISTRICT shall provide to the CITY notice of default and an opportunity for the CITY to cure such default, which cure period shall continue for as long as the CITY is in the process of effectuating a cure. In the event the CITY fails to cure the default, the DISTRICT may take over the construction and/or

operation and maintenance of the Golf Course; provided however, if the CITY's default occurs prior to the DISTRICT's full repayment of the Bonds, title to the Property shall not be conveyed to the DISTRICT unless and until the DISTRICT has made full reimbursement for the Bonds and satisfied all other provisions in this Agreement regarding conveyance of title of the Property.

C. Following completion of the construction of the Golf Course, the CITY shall have the right to terminate this Agreement for any reason upon one hundred eighty (180) days' notice to the DISTRICT. Upon such termination, all costs and expenses in connection with the operation and maintenance of Golf Course shall be assumed by the DISTRICT. At all times thereafter, the DISTRICT shall operate and maintain the Golf Course at a level and in accordance with standards equal to or exceeding the facilities operated and maintained by the CITY and/or the DISTRICT and in compliance with this Agreement.

17. Full Repayment of the Bonds. Following the CITY's certification that the DISTRICT satisfied all conditions and requirements hereunder as provided in Section 5 herein (and upon full repayment of the Bonds by the DISTRICT), the CITY shall convey the Property to the DISTRICT (as detailed in Section 7 herein) and this Agreement shall continue in full force and effect and shall survive the full repayment of the Bonds.

18. Staffing and Communication.

A. Staffing. The CITY agrees to maintain adequate and appropriate levels of staffing at the Golf Course to fulfill the obligations and responsibilities herein.

B. Communication. The CITY and DISTRICT agree to have regular and meaningful communication between their respective bodies regarding the Golf Course and further agree that CITY and DISTRICT staff shall work cooperatively in relation to the Golf Course for the benefit of residents of the DISTRICT and the CITY.

19. Notices. Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by certified mail, postage prepaid as follows:

As to the DISTRICT:

Greater Boca Raton Beach and Park District
21618 St. Andrews Blvd.
Boca Raton, Florida 33433
Attn: Executive Director

With a copy to the District's attorney

As To CITY:

City of Boca Raton
201 West Palmetto Park Road
Boca Raton, Florida 33432
Attention: City Manager

With a copy to the City Attorney

Notices shall be effective when delivered to the address specified above. Changes in the respective addresses to which such notice may be directed may be made

from time to time by any party by written notice to the other party. Facsimile and email are acceptable notice effective when received (with telephonic confirmation of receipt), however, facsimiles and emails received after 5:00 p.m. or on weekends or holidays, will be deemed received on the next business day. The original of the notice must additionally be mailed as required herein. Nothing contained in herein shall be construed to restrict the transmission of routine communications between representatives of DISTRICT and CITY.

20. Miscellaneous Provisions

A. Each party, on receipt of notice from the other party, shall sign, or caused to be signed, all further documents, do, or cause to be done, all further acts, and provide all assurances as may be reasonably necessary or desirable to give effect to the terms of this Agreement.

B. This Agreement may only be amended upon written, mutual consent of the CITY and the DISTRICT. None of the provisions, terms, or obligations in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the parties hereto.

C. This Agreement shall be effective ten (10) days after approval and adoption by the respective governing bodies of the CITY and the DISTRICT; however, the DISTRICT shall approve and adopt this Agreement prior to adoption and execution by the CITY.

D. This Agreement, and any subsequent amendments thereto, shall be recorded by the DISTRICT in the Official Records of Palm Beach County, Florida, in accordance with Section 163.01(11), Florida Statutes.

E. The failure of either party to enforce any rights granted hereunder or to take action against the other party in the event of any breach hereunder will not be deemed a waiver by that party as to subsequent enforcement of rights or subsequent actions in the event of the continuation of breaches, repetition of breaches, or future breaches

F. The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void or voidable, shall in no way affect the validity or enforceability of all other portions and provisions of the Agreement. Any void or voidable provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. In the event (at any time prior to the reimbursement in full of the Bonds by the DISTRICT to the CITY) any provision in this Agreement relating to the DISTRICT's obligations to repay all or any part of the Bonds, and/or the other costs or fees specified herein, is deemed by a court (after exhaustion of available appellate remedies) to be unlawful under any state and federal law, then the DISTRICT's right/ interest in the Property shall cease and the DISTRICT shall forfeit any and all interest in, and have no claim or right to, the Property (including, but not limited to, the right to receive a conveyance of title pursuant to Section 7 hereof); the CITY shall retain title to,

and ownership of, the Property; and the remaining operative provisions shall remain in full force and effect.

G. During the term of this Agreement and for all actions and activities in connection with, related to, or arising from this Agreement, the Purchase Contract and the Bonds, and the development, construction and operation/maintenance of the Golf Course, and all actions, activities, and omissions related thereto, the CITY and DISTRICT (including both the DISTRICT and all officers, employees and agents of the DISTRICT) shall abide by and adhere to the Palm Beach County Code of Ethics, as adopted and amended, in all aspects pertaining to, in connection with, related to, or arising from the fulfillment of the terms, conditions, and covenants of this Agreement, and shall abide by and adhere to the regulations and policies of the Palm Beach County Office of the Inspector General, as adopted and amended, in all aspects pertaining to, in connection with, related to, or arising from the fulfillment of the terms, conditions, and covenants of this Agreement. With respect to any issues/matters not referenced in the foregoing sentence, nothing contained herein shall be construed as an admission or consent by the DISTRICT in its capacity as an independent special district that it is or will be subject to regulations of the Palm Beach County Office of the Inspector General or the Palm Beach County Commission on Ethics.

H. The CITY and DISTRICT recognize that they are independent contractors and not an agent or servant of each other. No person employed by any party to this Agreement shall, in connection with the performance of this Agreement or any services or functions contemplated hereunder, at any time, be considered the employee of the other party, nor shall an employee claim any right in or entitlement to

any pension, worker's compensation benefit, unemployment compensation, civil service, or other employee rights or privileges granted by operation of law or by any other manner, except through and against the entity by whom they are employed.

I. The DISTRICT and the CITY agree that this Agreement, together with all attached exhibits, sets forth the entire agreement between the parties, and that there are no promises or understandings other than those that are stated herein.

J. This Agreement shall not be construed to confer rights or privileges or causes of action to any third party or entities not a party to this Agreement.

K. Notwithstanding specific references to survivability in this Agreement, if any provision or obligation in this Agreement by its nature imposes an obligation to continue after termination of this Agreement, such provision or obligation shall survive the cancellation, termination or expiration of this Agreement.

IN WITNESS WHEREOF, the CITY OF BOCA RATON has caused this Agreement to be signed by its Mayor and the seal of the CITY to be affixed hereto and attested by the City Clerk, and the GREATER BOCA RATON BEACH AND PARK DISTRICT has cause this Agreement to be signed in its corporate name by its Chairman and attested by its Vice Chairman, and this Agreement shall be effective ten (10) days following approval by the City Council.

**THE GREATER BOCA RATON BEACH AND
PARK DISTRICT**

By: _____
Vice Chairman

By: _____
Chairman

APPROVED AS TO FORM:

District Attorney

CITY OF BOCA RATON, FLORIDA

ATTEST:

By: _____
Susan Saxton, City Clerk

By: _____
Scott Singer, Mayor

APPROVED AS TO FORM:

Diana Grub Frieser, City Attorney

EXHIBIT A

Legal Description of the Golf Course

DRAFT

EXHIBIT B

Purchase and Sale Agreement

DRAFT

EXHIBIT C

Legal Description of the Property

DRAFT

EXHIBIT D

Legal Description of the District-Acquired Property

DRAFT