

## AGREEMENT REGARDING IMPROVEMENTS TO CROQUET COURTS

This Agreement Regarding Improvements to Croquet Courts (“Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the **CITY OF VENICE**, Florida, a Florida municipal corporation, whose mailing address is 401 W. Venice Avenue, Venice, Florida 34285, hereinafter referred to as the “CITY,” and the **SARASOTA COUNTY CROQUET CLUB, INC.**, a Florida non-profit corporation, whose mailing address is 1258 N. Indies Circle, Venice, Florida 34285, hereinafter referred to as “SCCC.”

### WITNESSETH:

Whereas, Wellfield Park is a CITY-owned recreational property, which is operated and maintained by Sarasota County pursuant to an Interlocal Agreement between the CITY and Sarasota County; and

Whereas, the SCCC currently utilizes three croquet courts in Wellfield Park; and

Whereas, the SCCC and CITY mutually desire to have certain improvements including, but not limited to, two additional croquet courts proximate to the SCCC’s existing facility at Wellfield Park (hereinafter, the “Improvements”); and

Whereas, the CITY and SCCC both wish to participate in the funding of the Improvements to be performed at Wellfield Park; and

Whereas, the CITY and SCCC wish to enter into this Agreement in order to set forth their respective duties and responsibilities regarding the Improvements.

Now, therefore, in consideration of the covenants and conditions contained herein, the parties do hereby agree as follows:

- I. The Whereas clauses above are confirmed as true and correct and hereby made a part of this Agreement.
- II. The CITY will be responsible for the following:
  - A. Posting an advertisement of the CITY’s intent to sole source with Master-Turf Farm, Inc. of Ruskin, Florida, to install two (2) new croquet courts at Wellfield Park in an area just north of the existing three (3) croquet courts (hereinafter, “New Croquet Courts”). By law, the City is required to evaluate any vendors that respond to the CITY’s advertisement of intent to sole source.

- B. Subject to the CITY's ability to sole source as referenced herein, entering into a contract with Master-Turf Farm, Inc., for the installation of the New Croquet Courts, which shall be designed in accordance with specifications as provided by the SCCC and in a location that is sufficiently beyond the right-of-way required for any future improvement of Pinebrook Road to a four-lane divided highway.
  - C. Contributing an amount equal to the total expended by the SCCC for items III.B., III.C., ~~and III.D.~~, III.E., and III.F set forth below as the CITY's share of the construction costs for the New Croquet Courts.
- III. SCCC will be responsible for reimbursing the CITY for the full cost of the following items:
- A. Construction of the New Croquet Courts less the amount of the CITY's contribution, as provided for under item II.C. above, including any cost for additional fill required.
  - B. Removal and either the relocation or replacement of two (2) oak trees located within the proposed area of the New Croquet Courts.
  - C. Professional design services for modifications to the existing disc golf course in and around the area of the New Croquet Courts.
  - D. Construction and installation of modifications to the existing disc golf course as designed.
  - E. Construction of chain link fencing around the perimeter of the existing croquet courts and the New Croquet Courts, including all materials and gates for pedestrians and equipment access.
  - F. Materials and installation of an irrigation system for the New Croquet Courts, as well as, the removal/relocation of one (1) existing sprinkler head located in the area of the proposed New Croquet Courts.
- III. The City and SCCC further acknowledge that the CITY's total budget for its contribution to the items described herein is twenty-three thousand dollars (\$23,000). In the event it is determined that those funds are insufficient to accomplish these items, it is understood by both the CITY and SCCC that there may be delays to the completion of the project should the CITY consider appropriating additional funds.

All work described in this Agreement is contingent on the availability of funds and the approval of the Venice City Council.

IV. SCCC shall procure and maintain, during the life of this Agreement, the insurance listed below. The policies of insurance shall be primary and written on forms acceptable to the CITY, placed with insurance carriers approved and licensed by the Florida Office of Insurance Regulation, and meet a minimum financial AM Best and Company rating of no less than A:VII. No changes are to be made to these specifications without prior written specific approval by the CITY.

A. Commercial General Liability insurance providing coverage for premises and operations including but not limited to bodily injury, property damage, contractual, products and completed operations, collapse, underground and explosion, owner's and contractor's protection, contractual and personal injury with limits of not less than \$1,000,000 per occurrence, \$1,000,000 aggregate.

~~B. Property insurance for all buildings and improvements and SCCC's personal property on said property and for all risks of loss included in Fire and Common "Special Form" perils with limits no less than current replacement value of buildings and improvements. Coverage must also include windstorm and flood with limits no less than current replacement value of buildings and improvements. SCCC is responsible for full replacement cost, including any deductibles.~~

All policies required by this Agreement, unless specific approval is given by the CITY, are to be written on an occurrence basis and shall name the City of Venice, its Elected Officials, Officers, Agents, and Employees as additional insured as their interest may appear under this Agreement. Insurer(s) shall agree to waive all rights of subrogation against the City of Venice, its Elected Officials, Officers, Agents, and Employees.

Each insurance policy required by this Agreement shall:

1. Apply separately to each insured against whom claim is made and suit is brought, except with respect to limits of the insurer's liability; and
2. Be endorsed to state that coverage shall not be suspended, voided or canceled by either party except after thirty (30) calendar days prior written notice by certified mail, return receipt requested, has been given to the City of Venice Risk Manager.

The CITY shall retain the right to review, at any time, coverage form/policy, and amount of insurance.

The procuring of required policies of insurance shall not be construed to limit SCCC's liability nor to fulfill the indemnification provisions and requirements of this Agreement.

SCCC shall be solely responsible for payment of all premiums for insurance contributing to the satisfaction of this Agreement and shall be solely responsible for the payment of any deductible and/or retention to which such policies are subject, whether or not the CITY is an insured under the policy. Deductible levels should be acceptable to the CITY.

Certificates of Insurance evidencing Occurrence form coverage and conditions to this Agreement are to be furnished to the Lessor's Risk Manager, 401 West Venice Avenue, Venice, FL 34285, ten (10) business days prior to commencement of this Agreement and a minimum of thirty (30) calendar days prior to expiration of the insurance policy.

The CITY's standard requirement for property insurance for improvements and contents is waived in view of the fact that the buildings and contents under SCCC ownership are deemed by SCCC to be of too low a value to insure.

Notices of Claims associated with this Agreement shall be provided to SCCC's insurance company and the CITY's Risk Manager, as soon as practicable after notice to SCCC.

- V. SCCC is, and shall be, in the performance of all activities and work under this Agreement, an independent contractor, and not an employee, agent or servant of the CITY. SCCC has no authority or power to bind the CITY in any other agreement, promise or representation.
- VI. The CITY's Director of Public Works shall be the CITY's representative and the President of the SCCC shall be SCCC's representative regarding administration of this Agreement.
- VII. In the event this Agreement does not provide for which party shall be responsible for a particular aspect of the Improvements, the CITY's Public Works Director and the President of the SCCC shall work together in order to fulfill the intent of this Agreement.
- VIII. SCCC shall be responsible for any and all damages to public property, including any improvements, caused by any activities performed by the SCCC, its agents, contractors, servants, employees, volunteers, licensees or invitees related to activities

and work performed under this Agreement. SCCC further agrees to indemnify and hold harmless the City from all claims, loss, damage and expense arising from any act or omission of SCCC, its agents, contractors, servants, employees, volunteers, licensees or invitees related to activities and work performed under this Agreement.

IX. The laws of the State of Florida shall govern all provisions of this Agreement. Venue for any dispute shall be Sarasota County, Florida.

X. This Agreement shall not be modified or amended except in writing with the same degree of formality with which this Agreement is executed.

XI. Termination of Agreement.

~~A. Termination for Cause: In the event either party defaults or otherwise violates any of the terms of this Agreement, the non-defaulting party shall give the defaulting party written notice of the default, and that such default shall be corrected within ten (10) business days of the date of the written notice. In the event the defaulting party fails to correct the condition(s) of the default within the aforementioned timeframe, the non-defaulting party shall have all legal remedies available to it, including but not limited to, termination of this Agreement for cause.~~

~~B. Termination for Convenience of CITY: The CITY for any reason may terminate this Agreement at any time by giving at least sixty (60) days written notice to SCCC.~~

~~C. Termination for Convenience of SCCC: This Agreement may be terminated by SCCC by either: (a) mutual consent of both parties; or (b) upon sixty (60) days written notice delivered by certified mail, return receipt requested to the CITY.~~

XII. A waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provisions, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provisions.

XIII. Any provision or part of this Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the parties, who agree that this Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

- XIV. Pursuant to applicable Florida law, SCCC's records associated with this Agreement may be subject to Florida's public records laws, Section 119.01, Florida Statutes, et seq, as amended from time to time. SCCC shall comply with all public records obligations set forth in such laws, including those obligations to keep, maintain, provide access to, and maintain any applicable exemptions to public records, and transfer all such public records to the City at the conclusion of the Agreement.
- XV. This Agreement sets forth the entire agreement between the parties and that there are no promises or understandings other than those stated herein.
- XVI. This Agreement shall be effective as of the date of execution by both parties.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first written above.

**CITY OF VENICE, FLORIDA**

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Mayor

Date  
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Attest:

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City Clerk

Approved as to form and correctness:

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David P. Persson, City Attorney

**SARASOTA COUNTY CROQUET CLUB, INC.**

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President

Date  
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In the presence of

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