

RESOLUTION NO. 24-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, ACCEPTING A CHARITABLE CONTRIBUTION AND GRANT IN THE AMOUNT OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000) FROM O.B. TENNIS, LLC TO ENHANCE IMPROVEMENTS AT THE JIMMY EVERT TENNIS CENTER; PROVIDING FOR CONFLICTS, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City is undertaking numerous capital improvements to the Jimmy Evert Tennis Center (the "JETC") located at the City of Fort Lauderdale Holiday Park (collectively, the "City Improvements"), as part of the City's continued effort to improve the quality of life of its residents, by providing athletic facilities that are open to the general public, preserving property values, promoting the prevention of juvenile crime by providing positive recreation opportunities, and improving parks and natural areas; and

WHEREAS, the O.B. Tennis, LLC, a Florida nonprofit limited liability company (the "OBTLLC"), and sole member of The Orange Bowl Committee, Inc., a Florida nonprofit corporation, has agreed to make a financial charitable contribution and grant to the City with an Orange Bowl Legacy Gift in an amount equal to no less than One Million Five Hundred Thousand Dollars (\$1,500,000) towards enhancing certain improvements at JETC, in exchange for the City approving OBTLLC's relocation of its annual Orange Bowl International Tennis Championships (the "Tennis Championships") from Plantation to JETC and the City entering into a binding complimentary facility use agreement with the USTA for the ten-year period commencing as of January 1, 2025, and expiring December 31, 2034, subject to certain terms and conditions; and

WHEREAS, the City Commission has considered OBTLLC's proposal and makes the following findings:

(i) For the reasons stated in the Resolution, pursuant to Section 2-176(d)(6) of the City's Procurement Ordinance, goods and/or services accepted by the City via a grant is exempt from the competitive solicitation and selection process and is not required for these Services pursuant to Section 255.20(1)(c)(7), Florida Statutes (2023), and that it is in the City's best interest to waive any competitive bidding whenever necessary to perform the Services;

(ii) It is in the City's best interest to have OBTLLC contract directly with the OB Contractor and the Signage Vendor to perform the Services, and all professional maintenance obligations for the courts are hereby accepted by OBTLLC and will be undertaken by OBTLLC or the designated OB Contractor. OBTLLC, and its designated OB Contractor and

sub-contractors, shall comply with all governmental requirements applicable to the Services; and

(iii) The City Commission has approved certain procedures for the sponsorship and naming rights to the Tennis Championships and, in accordance with said procedures, the City Commission wish to approve by a majority vote the rights of OBTLCC to the sponsorship and naming recognition of the Tennis Championships, which said rights will be granted or assigned to the USTA, as hereinafter described.

D. Completion of the Services is in furtherance of the City's goals and public purpose by improving community activity and enhancement of a public park that provides quality of life of its residents and providing athletic facilities that are open to the general public, promoting the prevention of juvenile crime by providing positive recreation opportunities, and improving parks and natural areas. The Services will beautify the public space, improve community activity and create an asset for the residents of the City of Fort Lauderdale and surrounding areas that will last for generations, all enhancing the quality of life in the City of Fort Lauderdale. The City will also allow the OBTLCC and USTA at no charge to host tennis clinics periodically for underserved youth from throughout the City of Fort Lauderdale at the JETC.

E. The OBTLCC has agreed to undertake the Services subject to completion of the City's Improvements and satisfaction of the USTA Conditions Precedent (as hereinafter defined), including, without limitation, the City entering into a binding complimentary facility use agreement with the USTA for the ten-year period commencing as of January 1, 2025, and expiring December 31, 2034, subject to USTA's option to terminate as hereinafter described in Section 11 and each Party's option to terminate for a material breach by the other Party (in accordance with Section 15 hereof and subject to such cure periods) at any time as well as the option exercisable by written notice to terminate at any time during the last three years of the USTA term and, if such option is not exercised, further subject to an option for a five-year extension as provided herein (the "USTA Facility Use Agreement"). Parties agree this Agreement authorizes the OBTLCC to relocate the annual OBTLCC Tennis Championships, however, OBTLCC shall not add, schedule, or relocate any other event or tournament(s) to the JETC without the prior written approval of the City. The OBTLCC shall provide the City the OBTLCC Tennis Championship and USTA tennis championship dates once confirmed or within a reasonable time thereafter.

F. The OBTLCC desires to assist the City by undertaking to supplement the maintenance obligations of the City as set forth in Section 4(a) hereof with respect to the Services as described in Section 4(b) via the OB Contractor and has agreed to make a

charitable gift to the City through its direct funding of the Services costs subject to completion by the City of the City Improvements and the USTA Conditions Precedent, and subject to the terms, conditions, and reservations of this Agreement.

WHEREAS, the City Commission wishes to accept the charitable contribution and grant from OBTLIC in an amount of \$1,500,000 to enhance certain improvements at the JETC, and authorize the Acting City Manager, or her designee, to execute a grant and facility use agreement between the City and OBTLIC, in substantially the same form attached hereto and incorporated herein as **Exhibit A**, containing terms and conditions acceptable to the Acting City Manager, or her designee, and execute any and all documents necessary and incidental thereto;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That the City Commission of the City of Fort Lauderdale hereby accepts the charitable contribution and grant from OBTLIC in an amount of \$1,500,000 to enhance certain improvements at the JETC, and authorize the Acting City Manager, or her designee, to execute a grant and facility use agreement between the City and OBTLIC, in substantially the same form attached hereto and incorporated herein as **Exhibit A**, containing terms and conditions acceptable to the Acting City Manager, or her designee, and execute any and all documents necessary and incidental thereto to manage the grant.

SECTION 2. That the Acting City Manager shall comply with all grant requirements as outlined in the grant and facility use agreement between the City and OBTLIC.

SECTION 3. That the office of the City Attorney shall review and approve as to form all documents prior to their execution by the City Manager.

SECTION 4. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5. If any clause, section, or other part of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Resolution.

SECTION 6. That the Effective Date of this Resolution is the date of final adoption.

ADOPTED this ____ day of _____, 2024.

Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
DAVID R. SOLOMAN

APPROVED AS TO FORM
AND CORRECTNESS:

City Attorney
THOMAS J. ANSBRO

Dean J. Trantalis _____

John C. Herbst _____

Steven Glassman _____

Pamela Beasley-Pittman _____

Warren Sturman _____

GRANT AND FACILITY USE AGREEMENT

THIS GRANT AND FACILITY USE AGREEMENT (the “Agreement”), with an effective date of June ___, 2024, is made and entered into by and between the **City of Fort Lauderdale** (the “City”), with its principal office located at 101 NE 3rd Ave., Suite 2100, Fort Lauderdale, Florida 33101, and **O.B. Tennis, LLC**, a Florida nonprofit limited liability company (the “OBTLLC”), with its principal office located at 14360 NW 77 Court, Miami Lakes, Florida, the sole member of which is **The Orange Bowl Committee, Inc.**, a Florida nonprofit corporation (the City and OBTLLC, collectively, the “Parties”).

RECITALS:

A. The City is the fee simple owner of certain real property located at 1150 G. Harold Martin Drive, Fort Lauderdale, FL 33304, known as Holiday Park, a municipal public park of the City (the “Property”), and is undertaking numerous capital improvements to the Jimmy Evert Tennis Center (the “JETC”) located thereon as hereinafter specified in Exhibit A hereto (collectively, the “City Improvements”), in furtherance of the City’s goals of improving the quality of life of its residents by providing athletic facilities that are open to the general public, preserving property values, promoting the prevention of juvenile crime by providing positive recreation opportunities, and improving parks and natural areas.

B. The OBTLLC is entering into an agreement with the United States Tennis Association (the “USTA”) to relocate the annual Orange Bowl International Tennis Championships (the “Tennis Championships”) from Plantation, Florida, to the JETC as hereinafter described in greater detail (the “USTA Agreement”) and, in connection therewith and to provide to the residents of the City of Fort Lauderdale the best year-round tennis facilities, OBTLLC has agreed to make a financial charitable contribution and grant to the City with an Orange Bowl Legacy Gift in an amount equal to no less than One Million Five Hundred Thousand Dollars (\$1,500,000.00) by (i) retaining the services of Fast Dry, Inc., a Florida corporation, or any successor company, as designated by OBTLLC (subject to the approval of the USTA and the City not unreasonably withheld, delayed or conditioned) (the “OB Contractor”) to annually recondition and top-dress the clay courts and to periodically surface lift and laser grade the clay courts to maintain excellent condition thereof, and (ii) the OBTLLC’s signage vendor (the “Signage Vendor”) reasonably necessary for the placards and signage contemplated hereby, all as set forth in greater detail in Exhibit B or as may be otherwise mutually agreed upon in writing by OBTLLC and the City (all of the foregoing improvements by the OBTLLC collectively, the “Services” or “Project”), which Services will further the improvements currently being undertaken by the City as outlined on Exhibit A hereto, including, without limitation, OBTLLC naming recognition signage as described below.

C. Pursuant to Resolution No.24-_____, a copy of which is attached hereto and made a part hereof as Exhibit C (the “Resolution”), the City Commission has made the following findings and determinations:

(i) For the reasons stated in the Resolution, pursuant to Section 2-176(d)(6) of the City’s Procurement Ordinance, goods and/or services accepted by the City via a grant is exempt from the competitive solicitation and selection process and is not required for these Services pursuant to Section 255.20(1)(c)(7), Florida Statutes (2023), and that it is in the City’s best interest to waive any competitive bidding whenever necessary to perform the Services;

(ii) It is in the City's best interest to have OBTLCC contract directly with the OB Contractor and the Signage Vendor to perform the Services, and all professional maintenance obligations for the courts are hereby accepted by OBTLCC and will be undertaken by OBTLCC or the designated OB Contractor. OBTLCC, and its designated OB Contractor and sub-contractors, shall comply with all governmental requirements applicable to the Services; and

(iii) The City Commission has approved certain procedures for the sponsorship and naming rights to the Tennis Championships and, in accordance with said procedures, the City Commission wish to approve by a majority vote the rights of OBTLCC to the sponsorship and naming recognition of the Tennis Championships, which said rights will be granted or assigned to the USTA, as hereinafter described.

D. Completion of the Services is in furtherance of the City's goals and public purpose by improving community activity and enhancement of a public park that provides quality of life of its residents and providing athletic facilities that are open to the general public, promoting the prevention of juvenile crime by providing positive recreation opportunities, and improving parks and natural areas. The Services will beautify the public space, improve community activity and create an asset for the residents of the City of Fort Lauderdale and surrounding areas that will last for generations, all enhancing the quality of life in the City of Fort Lauderdale. The City will also allow the OBTLCC and USTA at no charge to host tennis clinics periodically for underserved youth from throughout the City of Fort Lauderdale at the JETC.

E. The OBTLCC has agreed to undertake the Services subject to completion of the City's Improvements and satisfaction of the USTA Conditions Precedent (as hereinafter defined), including, without limitation, the City entering into a binding complimentary facility use agreement with the USTA for the ten-year period commencing as of January 1, 2025, and expiring December 31, 2034, subject to USTA's option to terminate as hereinafter described in Section 11 and each Party's option to terminate for a material breach by the other Party (in accordance with Section 15 hereof and subject to such cure periods) at any time as well as the option exercisable by written notice to terminate at any time during the last three years of the USTA term and, if such option is not exercised, further subject to an option for a five-year extension as provided herein (the "USTA Facility Use Agreement"). The Parties agree this Agreement authorizes the OBTLCC to relocate the annual OBTLCC Tennis Championships, however, OBTLCC shall not add, schedule, or relocate any other event or tournament(s) to the JETC without the prior written approval of the City Manager or his/her designee. The OBTLCC shall provide the City the OBTLCC Tennis Championship and USTA tennis championship dates once confirmed or within a reasonable time thereafter.

F. The OBTLCC desires to assist the City by undertaking to supplement the maintenance obligations of the City as set forth in Section 4(a) hereof with respect to the Services as described in Section 4(b) via the OB Contractor and has agreed to make a charitable gift to the City through its direct funding of the Services costs subject to completion by the City of the City Improvements and the USTA Conditions Precedent, and subject to the terms, conditions, and reservations of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, OBTLCC and the City hereby agree that the foregoing recitals are true and correct and further agree as follows:

1. Incorporation by Reference. The recitals set forth in the preamble to this

Agreement are incorporated by reference as though set forth in full herein and made a part hereof.

2. Signage; Scoreboard.

(a) In consideration of the funds committed by the OBTLCC and other undertakings by the OBTLCC hereunder with respect to the Services, the City and its successors and assigns hereby agree that the OBTLCC shall be entitled to the signage at the JETC to include the installation by a vendor selected by OBTLCC (subject to the City Manager's or his/her designee's written approval not to be unreasonably withheld, conditioned or delayed) of three (3) permanent Orange Bowl displays (not less than 5' x 8' feet each) to be provided at the sole cost of OBTLCC, as follows: (i) the first, a prominent entry sign recognizing the Jimmy Evert Tennis Center as the "Home of the [Name of Title Sponsor] Orange Bowl International Tennis Championships," (ii) the second, recognizing Past Girls and Boys Singles and Doubles Champions in the 18 and 16-year age divisions; and (iii) the third, recognizing Members of the Orange Bowl International Tennis Championships Hall of Fame (collectively, the "OBTLCC Signage"), with the entry sign located at the primary entrance to the JETC and the two displays to be affixed on the outside of, or near the Clubhouse and installed no later than November 30, 2025, by a vendor selected by OBTLCC (but subject to the City Manager's or his/her designee's written approval not to be unreasonably withheld, conditioned or delayed). The OBTLCC Signage shall be substantially similar to the forms attached hereto as Exhibit B-1. The OBTLCC and USTA shall also have the right to install temporary signage and banners for the title, presenting and supporting sponsors of the Tennis Championship and directional signage as needed during the Annual Use Period (as hereinafter defined).

(b) The OBTLCC shall also, at its sole cost and expense, cause the acquisition and installation of a scoreboard substantially in the form of Exhibit B-1, to be located at the Championship Court (the "Scoreboard").

3. Ownership of Improvements. With the exception of the OBTLCC Signage (which shall be removed by OBTLCC upon expiration of this Agreement), the parties agree that the City shall remain the fee simple owner of the Property and shall become the owner of all the Services and improvements performed by OBTLCC upon termination of this Agreement. At the conclusion of the Services, the OBTLCC will deliver to the City the following items: (i) a duly executed assignment to the City of all warranties applicable to the Project, including any warranties from the OB Contractor; and (ii) a bill of sale substantially in the form of Exhibit D conveying title to the OBTLCC Services improvements to the City, free and clear of all liens and encumbrances.

4. Maintenance. The Parties agree to the following maintenance obligations:

(a) The City agrees to maintain at its cost and expense the JETC clay courts in accordance with appropriate clay surface maintenance equipment and all JETC ancillary facilities in accordance with its normal maintenance and repair schedule which shall include as to the clay courts (i) daily maintenance (sweeping, rolling, etc.) equal one (1) hour per day per court (i.e., 365 hours per court per year) and (ii) periodic maintenance (weed control, scarifying low areas, equipment maintenance, patching, etc.) equal to one (1) hour per month per court (i.e., 12 hours per court per year).

(b) In addition, as part of the Services, OBTLCC shall cause to be provided by the OB Contractor certain ongoing annual maintenance of the clay courts in three (3) phases as described in Exhibit B: (i) Phase I for calendar years 2026 through 2029 shall consist of the annual reconditioning and top-dressing of the twenty (20) clay courts, to be completed between the late-

summer and fall annually; (ii) Phase II shall consist of (A) in calendar year 2030, the surface lift and laser grading of the twenty (20) clay courts as determined by the OB Contractor in its reasonable discretion to be completed by August 1, 2030 and (B) for calendar years 2031 through 2034, the annual reconditioning and top-dressing of the twenty (20) clay courts, to be completed between the late-summer and fall annually; and (iii) subject to the USTA and OBTLCC reaching a five-year agreement to extend the USTA Agreement for calendar years 2035 through 2039 and the City agreeing to an extension of the USTA Facility Use Agreement between the City and USTA for such five-year period, Phase III shall consist of (x) in calendar year 2035, the surface lift and laser grading of the twenty (20) clay courts as determined by the OB Contractor in its reasonable discretion to be completed by August 1, 2035, and (y) for calendar years 2036 through 2039, the annual reconditioning and top-dressing of the twenty (20) clay courts, to be completed between the late-summer and fall annually. In the event that USTA does not extend the USTA Agreement, then representatives of OBTLCC and the City shall meet to determine whether to extend this Agreement such that OBTLCC would continue to provide the annual reconditioning and top-dressing or the annual surface lift and laser grading for any of the remaining years in Phase II, if any, and all of Phase III or, instead, the OBTLCC would make a lump sum contribution to the City in the amount of the remaining years in Phase II, if any, and all of Phase III funding and have the City recommence all such maintenance. This additional maintenance is intended to supplement the City's normal maintenance and repair of the Property and Project facilities. The City shall have the right to make inspections of the OBTLCC Services improvements consistent with past practices.

5. On-going City Improvements. The parties acknowledge that the City is in the midst of the City Improvements on the Property which it shall continue to completion at its sole cost and expense in accordance with the specifications set forth in Exhibit A hereto and for which it shall be solely responsible. The City, OBTLCC and the OB Contractor shall coordinate their respective activities at the Property to ensure smooth operations and no conflicts.

6. Construction Funding. The estimated costs for the various segments of the Services to be funded by OBTLCC are set forth on Exhibit E, it being acknowledged and agreed that OBTLCC's charitable funding commitment and grant shall equal a total of \$1,500,000.00 in Services costs to be incurred by OBTLCC for the benefit of the City (the "Services Cost"). In the event of any abnormal market conditions and/or supply chain issues causing a material increase in the costs to be incurred by OBTLCC hereunder, OBTLCC shall give written notice to the City with an explanation thereof, and representatives of the City and OBTLCC shall meet in good faith to determine the impact on the Services and any cost savings mechanisms to be agreed upon. In the event that the cost to the OBTLCC is less than the Services Cost, OBTLCC shall advise the City Manager or his/her designee in writing and the parties will discuss in good faith a mutually agreed upon Services to be undertaken by OBTLCC including applying these savings towards future clay court resurfacing, which shall be reflected in an amendment to this Agreement.

7. Improvements.

(a) The OBTLCC has agreed to the implementation of the Services substantially in accordance with the Contemplated Scope of Improvements as further described in the attached Exhibit B. The OBTLCC and the OB Contractor shall comply with the City of Fort Lauderdale Code, the Florida Building Code and all other applicable local, state and federal laws. Throughout the Services period, the OBTLCC shall use its commercially reasonable efforts to ensure that the Services can be implemented within the Services Cost set forth in Exhibit E, and shall, if mutually approved by the OBTLCC and the City Manager or his/her designee, make periodic adjustments to the Contemplated Scope as reasonably necessary.

(b) The OBTLCC and/or the OB Contractor shall consult periodically with the City Manager or his/her designee during the completion of the Services, and the OBTLCC will duly consider the input of the City Manager or his/her designee. All decisions with regard to modifications of the Contemplated Scope of the Services shall rest with the OBTLCC, but OBTLCC will notify the City of the modifications. In order to coordinate the Services with the City Improvements, attached as Exhibit A are the City's established timeline to complete their improvements no later than September 30, 2025, the current construction plans, specifications and related documents pertaining to the City Improvements and be coordinated with the Service's implementation. Any alterations thereof shall promptly be submitted to OBTLCC. The City understands that time is of the essence and that it is imperative that completion of the City's Improvements must be complete no later than September 30, 2025, in order to ensure that the Tennis Championship to be held in 2025 is able to be held.

8. Commencement of Service Improvements and Implementation Schedule.

(a) No work shall be commenced on the Services by OBTLCC until it is satisfied that the City Improvements are or will be substantially complete and will not interfere with the work to be undertaken by OBTLCC and the OB Contractor. The City shall allow OBTLCC's and/or the OB Contractor's project manager reasonable access to assist OBTLCC in making such a determination. At such time as the OB Contractor is engaged by OBTLCC, written notice shall be given to the City Manager requesting his approval of a proposed timetable (which approval shall not be unreasonably withheld or conditioned). It is acknowledged and agreed that the annual work on the clay courts (whether "annual reconditioning and top-dressing" or "surface lift and laser grading) will be done in sequence with three (3) to five (5) clay courts being worked on at any given time and with the balance of the clay courts being available for use by the public.

(b) The City agrees to make the Services site area and a reasonable safety zone ("boundaries of work") around the Services available for the OBTLCC and the OB Contractor and Signage Vendor performing their maintenance obligations and signage installations in order for completion of Phase I, Phase II and, if extended, Phase III of the OBTLCC improvements no later than between the late-summer and fall annually, along with reasonable egress and ingress to the Services site. The "boundaries of the work" shall be sufficient to properly undertake the necessary maintenance and signage installations for the Services within the Property on a safe basis.

9. Maintenance and Signage Installation Responsibility.

(a) The OBTLCC shall be responsible for its maintenance and the OBTLCC Signage installations at its cost and expense. The OBTLCC shall appoint a project manager (most likely a principal with the OB Contractor) to coordinate all maintenance and installation Services on its behalf. The City hereby designates the City Manager and his/her designee as the party to act on the City's behalf in connection with the activities contemplated by this Agreement. The City agrees that only limited non-material construction or renovations may be ongoing after two (2) weeks prior to the commencement of the Annual Use Period for the Tennis Championships, provided, that, such construction or renovations shall not unreasonably interfere with the USTA's and its broadcast network's use of the premises during the Annual Use Period and, in all instances, the City shall ensure that the venue is suitable for the playing of a first-class international tennis tournament (e.g., no plywood will cover construction sites, etc.) and all of the facilities to be provided pursuant to Section 11(c) hereof and surrounding areas shall be in at least as high a condition of access, repair, safety, cleanliness, and aesthetics as it was during other professional tennis events similar to the Tennis Championships.

(b) The City has taken all lawful measures to ensure that OBTLCC's charitable funding commitment and grant for the Services, and payment by OBTLCC to the OB Contractor and Signage Vendor adheres to Section 2-176(d)(6) of the Procurement Ordinance and to waive any competitive solicitation and selection, whenever necessary to perform the Services pursuant to Section 255.20(1)(c)(7), Florida Statutes (2023). In addition, the City represents and warrants to OBTLCC that the Property has all appropriate zoning approvals necessary for holding the Tennis Championships.

(c) The City further covenants and agrees that it shall facilitate the issuance by the appropriate agencies of all required building and other permits necessary for the Services and actively assist and cooperate with the OBTLCC and the OB Contractor throughout the term of this Agreement, including, without limitation, providing assistance on permitting and access to relevant public documents with respect to the Property.

10. Insurance; Indemnity and Hold Harmless.

(a) The parties acknowledge and agree that the work to be performed pursuant to this Agreement is not for the design and construction of public facilities and, accordingly, the OBTLCC is not required to ensure compliance by the OB Contractor and the Signage Vendor with the requirements of Section 255.05, Florida Statutes (2023). OBTLCC hereby waives, releases and relinquishes any right to claim or file a construction lien against the improvement Services, Project, or the Property including, but not limited to, any rights OBTLCC may have under Chapter 713, Florida Statutes (2023). OBTLCC shall include a provision substantially similar to this subsection in each of its contracts, subcontracts and purchase orders, requiring contractors, subcontractors and vendors to waive any claim or entitlement to a construction lien on the improvement Services, Project, or the Property and to look solely to the credit of the OBTLCC or its surety for payment of any sums due on the improvement Services, Project, or the Property.

(b) **OB Contractor and Signage Vendor Insurance Requirements.**
As a condition precedent to the effectiveness of this Agreement, OBTLCC shall cause the OB Contractor and Signage Vendor to procure and maintain until the improvements are complete and the work has been accepted by the City, at their sole expense, insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of OB Contractor and Signage Vendor. OB Contractor and Signage Vendor shall provide the City a certificate of insurance evidencing such coverage. OB Contractor and Signage Vendor's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by OB Contractor and Signage Vendor shall not be interpreted as limiting OBTLCC's liability and obligations under this Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in the State of Florida and possess an A.M. Best rating of A-, VII or better, subject to approval by the City's Risk Manager.

The coverages, limits, and/or endorsements required herein protect the interests of the City, and these coverages, limits, and/or endorsements shall in no way be required to be relied upon by OBTLCC, OB Contractor, or Signage Vendor for assessing the extent or determining appropriate types and limits of coverage to protect OBTLCC, OB Contractor and/or Signage Vendor against any loss exposures, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the City's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by OBTLCC under this Agreement.

The following insurance policies and coverages are required:

Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits of:

- \$1,000,000 each occurrence and \$2,000,000 project aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- \$1,000,000 each occurrence and \$2,000,000 project aggregate for Products and Completed Operations

Policy must include coverage for contractual liability and independent contractors.

The City, a Florida municipal corporation, its officials and employees are to be covered as an additional insured with a CG 20 10 04 13 Additional Insured - Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the OB Contractor or Signage Vendor. The coverage shall contain no special limitation on the scope of protection afforded to the City, its officials, and employees.

Business Automobile Liability

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage with limits of \$1,000,000 combined single limit each accident.

If OB Contractor or Signage Vendor does not own any vehicles, OB Contractor and Signage Vendor shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the City must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the City's Risk Manager, if they are in accordance with Florida Statute.

OB Contractor and Signage Vendor waive, and OB Contractor and Signage Vendor shall ensure that OB Contractor and Signage Vendor's insurance carrier waives, all subrogation rights against the City and the City's officers and employees for all losses or damages. The City requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

OB Contractor and Signage Vendor must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

- (c) OB TLLC Insurance Requirements.

OBTLLC shall procure prior to acceptance of construction work by the City and maintain during the Term of this Agreement and during any renewal or extension term of this Agreement, at its sole expense, insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of OBTLLC. OBTLLC shall provide the City a certificate of insurance evidencing such coverage. OBTLLC insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by OBTLLC shall not be interpreted as limiting OBTLLC's liability and obligations under this Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in the State of Florida and possess an A.M. Best rating of A-, VII or better, subject to approval by the City's Risk Manager.

The coverages, limits, and/or endorsements required herein protect the interests of the City, and these coverages, limits, and/or endorsements shall in no way be required to be relied upon by OBTLLC for assessing the extent or determining appropriate types and limits of coverage to protect OBTLLC against any loss exposures, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the City's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by OBTLLC under this Agreement.

The following insurance policies and coverages are required:

Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits of:

- \$1,000,000 each occurrence and \$2,000,000 general aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- \$1,000,000 each occurrence and \$2,000,000 general aggregate for Products and Completed Operations

Policy must include coverage for contractual liability and independent contractors.

The City, a Florida municipal corporation, its officials and employees are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured - Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the OBTLLC. The coverage shall contain no special limitation on the scope of protection afforded to the City, its officials and employees.

Insurance Certificate Requirements

- (a) OBTLLC, OB Contractor, and Signage Vendor shall provide the City with valid Certificates of Insurance no later than ten (10) days prior to the start of work contemplated in this Agreement.
- (b) OBTLLC, OB Contractor, and Signage Vendor shall provide to the City Certificates of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.

- (c) In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of OBTLCC, OB Contractor, and Signage Vendor to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
- (d) In the event the Agreement Term goes beyond the expiration date of the insurance policy, OBTLCC, OB Contractor, and Signage Vendor shall provide the City with updated Certificates of Insurance prior to the expiration of the insurance currently in effect. The City reserves the right to suspend the Agreement until this requirement is met.
- (e) The Certificates of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificates of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.
- (f) The City shall be covered as an Additional Insured on all required Commercial General Liability policies.
- (g) The City shall be granted a Waiver of Subrogation on OB Contractor and Signage Vendor's Workers' Compensation insurance policy.
- (h) The title of this Agreement, Bid/Contract number, or other identifying reference must be listed on the Certificates of Insurance.

The Certificate Holder should read as follows:

City of Fort Lauderdale
401 SE 21st Street
Fort Lauderdale, FL 33316

OBTLCC, OB Contractor, and Signage Vendor have the sole responsibility for all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, or self-insured retention; including any loss not covered because of the operation of such deductible, self-insured retention. Any costs for adding the City as an Additional Insured shall be at OBTLCC, OB Contractor, and Signage Vendor's expense.

If OBTLCC, OB Contractor, and Signage Vendor's primary insurance policy/policies do not meet the requirements, as set forth in this Agreement, OBTLCC, OB Contractor, and Signage Vendor may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

OBTLCC, OB Contractor, and Signage Vendor's insurance coverage shall be primary insurance as respects to the City, a Florida municipal corporation, its officials **and** employees. Any insurance or self-insurance maintained by the City, a Florida municipal corporation, its officials and employees shall be non-contributory.

Any exclusion or provision in any insurance policy maintained by OBTLCC, OB Contractor, or the Signage Vendor that excludes coverage required in this Agreement shall be deemed unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the Services have been completed and accepted by the City, or until this Agreement is terminated, whichever is later. Any lapse in

coverage shall be considered breach of contract. In addition, OBTLCC, OB Contractor, and Signage Vendor must provide to the City confirmation of coverage renewal via updated certificates should any policies expire prior to the expiration of this Agreement. The City reserves the right to review, at any time, coverage forms and limits of OBTLCC, OB Contractor, and Signage Vendor insurance policies.

OBTLCC, OB Contractor, and Signage Vendor shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement to OBTLCC, OB Contractor, and Signage Vendor's insurance company or companies and the City's Risk Management office, as soon as practical.

It is OBTLCC's responsibility to ensure that OB Contractor and Signage Vendor and any and all subcontractors comply with these insurance requirements. All coverages for OB Contractor, Signage Vendor and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of OBTLCC.

(d) Indemnification. The OBTLCC shall indemnify, defend and hold harmless the City, and its elected officials, officers, and employees, whether *sui juris* or not, from any and all actions, claims, demands, costs, expenses, liabilities or damages arising or accruing by virtue of the negligent, reckless and intentional wrongful misconduct acts or omissions of the OBTLCC, its officers, directors, and employees. This indemnification includes, without limitation, any and all claims for personal injury, wrongful death, damage to or loss of property, or violation of applicable laws arising therefrom. The duty to defend may be complied with by selecting defense counsel, reasonably acceptable to the City, the cost of which shall be borne by the OBTLCC, but in no event shall such indemnification obligations exceed the insurance limits carried by OBTLCC pursuant to Section 10. The obligations under this section shall survive the expiration or termination of this Agreement. The OBTLCC covenants to provide in its contract with the OB Contractor that the City shall be indemnified in connection with the OB Contractor's negligence in performing its obligations under such contract and all such contracts shall comply with Section 725.06(2), Florida Statutes (2023).

(e) Indemnity Procedure. In the event any person or entity not a party to this Agreement brings a third-party action demand, claim or suit against the City which gives rise to a claim by the City under this Section 10(d), the City shall give written notice to such effect to the OBTLCC promptly upon becoming aware thereof, including with such notice all correspondence and documents in the possession of the City or its agents relating thereto. In such event, within five (5) business days of receipt of written notice by the OBTLCC (the "Notice") of such demand, claim or lawsuit, the OBTLCC shall have the obligation, at its sole cost and expense, to retain counsel to defend such action, demand, claim or suit (which counsel shall be reasonably satisfactory to the City).

(f) City Improvements; Environmental Site Conditions. The parties acknowledge and agree that (i) the OBTLCC is not an owner, operator or lessee of the Services or Property; (ii) the OBTLCC shall have no responsibility for any and all site conditions, including, without limitation, methane gas; environmental conditions; hazardous materials not introduced onto the Property by OBTLCC, unforeseen site conditions; subsurface or otherwise concealed or latent physical conditions which differ materially from those indicated or assumed in any of the as-built plans provided by the City; and unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in the type of construction involved with the Services. OBTLCC shall have no responsibility or liability with

respect to the City Improvements, it being acknowledged and agreed that these are being conducted solely by the City. In addition, OBTLCC shall also not be responsible for any dewatering activities necessary to provide the Services and shall have no obligation or responsibility whatsoever to correct any such conditions or to remediate any environmental conditions, problems or issues that may exist or arise at the Property or with respect to the City Improvements. This Section shall survive any termination or expiration of this Agreement. Notwithstanding the foregoing, the OBTLCC shall be responsible for any environmental contamination first introduced on the Property by OBTLCC. The City agrees to amend all of its third-party contracts relating to the City Improvements to provide an acknowledgment and agreement of such third parties to the effect that OBTLCC shall have no responsibility or liability with respect to the City Improvements, it being acknowledged and agreed that these are being conducted solely by the City and its contractors and not OBTLCC.

11. Conditions Precedent to OBTLCC's Obligations under this Agreement. As a condition precedent to the OBTLCC's obligations under this Agreement, (a) the City shall have complied with Section 7(b) as to completion of the City Improvements by no later than September 30, 2025, in order to ensure that the Tennis Championship to be held in 2025 is able to be held; (b) the OBTLCC shall have entered into a binding contract with USTA to be named the Orange Bowl Tennis Championship Naming Rights Agreement (the "USTA Agreement") on terms and conditions satisfactory to OBTLCC in its sole discretion, and (c) a binding subcontract with the OB Contractor and Signage Vendor with respect to the maintenance and installation obligations of the OBTLCC hereunder; and the City shall have entered into a binding Facility Use Agreement with the USTA for the period commencing as of January 1, 2025 and expiring December 31, 2034, subject to USTA's option exercisable by written notice to OBTLCC and the City to terminate at any time during the last three years of the term of such Facility Use Agreement (which notice shall only be effective two (2) years from the date of receipt of such notice by the City and OBTLCC) and, if such termination option is not exercised by USTA, further subject to a minimum of a five-year extension in the event that the term of the USTA Agreement between the OBTLCC and USTA is extended for a five-year period for calendar years 2035 through 2039, providing for, among other things, the following (collectively, the "USTA Conditions Precedent"):

(a) In the event that the USTA does not exercise its early termination right as provided above, then, in the event that the USTA Agreement between the USTA and OBTLCC is extended for a minimum of an additional five (5) years through December 31, 2039, then the Facility Use Agreement shall be automatically extended, provided, that there is no material uncured default by USTA under the Facility Use Agreement or by OBTLCC under this Agreement for an additional five-year period on the same terms and conditions, including OBTLCC's annual charitable funding contribution, through December 31, 2039 (in any such case, the "Use Agreement Term").

(b) USTA shall be guaranteed the right to host the Tennis Championships at the JETC, with the first Tennis Championships to be held commencing at 7:00 a.m. on Friday, December 5, 2025 through end of play on Sunday, December 14, 2025 and for a comparable ten-day time period in December of each calendar year during the Facility Use Agreement Term as determined by the USTA by written notice to OBTLCC and the City given no later than December 1st of the preceding year prior to commencement of each of the Tennis Championships (the "Annual Use Period"). In addition, the City will annually provide access to the USTA two (2) weeks prior and two (2) weeks following the Annual Period for set up, including, but not limited to, the installation and de-installation of the Stadium court, temporary bleachers or seating, generators, etc. Access shall be agreed upon by the City and shall not prevent the use of the rest of the site by the City and the public as long as such access does not interfere with USTA ability

to set-up, operate and tear-down the Tennis Championships during the Annual Use Period.

(c) The City shall provide to USTA on a complimentary basis during the Annual Use Period daily use of the entire JETC facilities as currently existing and such additional space as may be hereinafter constructed by or on behalf of the City, including, without limitation, the Clubhouse building, all locker rooms, shower rooms, restrooms, laundry rooms, storage/equipment rooms, offices, meeting rooms/lounges as well as stadium offices and meeting room/lounge, the players' inside and outside lounges, twenty (20) clay courts, all of which clay courts shall have LED lighting and which the City will be responsible for causing pre-tournament preparation of courts and lines, lighting to match in accordance with Exhibit F, temporary storage space (approx. 400 sq. ft.); all existing spectator bleachers, all parking lots on the JETC and nearby Holiday Park grounds as well as ability to sell merchandise in the Pro Shop or elsewhere on the JETC grounds for each Annual Use Period. USTA shall also have the right during the Annual Use Period at its cost to cover permanent signage of City or other third-party sponsors which conflict with the Tennis Championship sponsors.

(d) The USTA shall also have the right to install additional temporary bleachers/seating and additional lighting and other facilities (e.g., (e.g., redundant electrical power and power outlets necessary to operate all equipment including satellite transmitter(s), microphones, television cameras, lights and related equipment to be used by USTA's broadcast network to produce, transmit and distribute the Tennis Championships; (iii) sufficient redundant electric power and a sufficient number of power outlets in temporary broadcast booths, in media locations and in the identified media work areas; (iv) sufficient redundant electrical power sufficient to support all Tennis championship-related activities in the compound, including communications services, public address system, press box sound system, and video boards) needed by the Tennis Championships' broadcast network during the Annual Use Period at its cost and expense at mutually agreeable locations, provided, that, such temporary bleachers/seating are disassembled and removed from the premises no later than two (2) weeks following the Annual Use Period.

(e) The City shall make available, or cause to be made available, the following: (i) lighting as identified in Exhibit F; (ii) electrical power as identified in Exhibit F and USTA shall also have the right to bring on site temporary generators during the Annual Use Period. USTA shall also have the right to build up to 500 additional temporary seats at the championship stadium court identified in Exhibit A-1, subject to the prior approval of the City Manager's or his/her designee's not to be unreasonably withheld, conditioned or delayed. In such event, the City acknowledges that the Annual Use Period may need to be extended.

(f) Attendance at the Tennis Championships will be available to the general public at no cost, but the City in its reasonable discretion may put a cap on the number of attendees, but not less than 2,000 general public attendees daily.

(g) To mitigate the significant investment involved with the staging of the Tennis Championships by the USTA, the City shall provide the USTA with the following on-site rights throughout the Annual Use Period: (i) the ability to broadcast the tournament on international media platforms and allowing the media to set up free of charge and have access to necessary electricity and outlets, (ii) the ability to promote and place event logos and sponsor recognition (including, but not limited to, title, presenting and official sponsors) through signage, windscreens, etc. throughout the JETC during the Tennis Championship, (iii) the ability to host event partners and sponsors with on-site hospitality activations, (iv) the ability to select a catering/concessions company (including the placement of food trucks throughout the nearby

Holiday Park Grounds) to provide meals to tournament participants and for the sale of food and beverage items to spectators at no cost to the USTA, and (v) the ability to sell event merchandise at no cost to the USTA. The USTA broadcast network shall work with the City's Strategic Communications to present the City favorably.

(h) The City shall provide to the USTA all public safety services throughout the Annual Use Period, including, but not limited to, security, traffic and crowd control, law enforcement, fire suppression, emergency medical transport and additional garbage pick-up and recycling bins.

(i) The City shall provide high quality maintenance and housekeeping throughout the facility grounds and premises during the Annual Use Period and throughout the year, including, without limitation, all current and newly-constructed the Clubhouse facilities, Stadium facilities, locker rooms, restrooms, laundry rooms, storage/equipment rooms, offices, players' inside and outside lounges, the courts, parking lots, all spectator bleachers and shower areas, as well as periodic trash services and grounds landscaping.

(j) Provided OBTLCC is not in material breach of this Agreement (subject to the applicable cure periods set forth in Section 15), OBTLCC shall comply with all terms and conditions outlined in this Agreement, subject to the terms and conditions of the USTA Facility Use Agreement between the City and USTA, as may be amended by mutual written consent of the parties. The City acknowledges and agrees that it has no rights to enter into any contract or incur any obligation granting or purporting to grant to any person or entity any production, distribution, or exhibition rights in any media for any of the Tennis Championships to be played during the Term of the Facility Use Agreement. The City further acknowledges and agrees that it shall have no right to grant title, presenting sponsorships or other sponsorships for the Tennis Championships and shall not have or exercise any marketing, sponsorship, promotional or other rights that will conflict with USTA's and OBTLCC's exercise and enjoyment of its rights to the Tennis Championships. In addition, the City will agree not to grant access to the JETC to any other electronic news gathering ("ENG"), videotape or film crew during the Annual Use Period without the prior written consent of the USTA which may be withheld in its sole discretion.

(k) Without charge to USTA's broadcast network, the City shall: (i) make available, or cause to be made available, to the broadcast network the space that it has available to produce, transmit and distribute the Tennis Championships during the Annual Use Period; (ii) make available, or cause to be made available, at no cost to the broadcast network the lighting and electrical network as outlined in Exhibit F. The USTA or broadcast network can provide additional lighting or electric at their sole costs to meet the broadcast needs with City Manager's or his/her designee's approval, which shall not be unreasonably withheld, delayed, or conditioned.; (iii) permit the broadcast network, at the broadcast network's own expense, to bring into, install, maintain and remove from the compound such number of mobile units, wires, cables, equipment, and other items as the broadcast network may reasonably require to produce, transmit and distribute the Tennis Championships, including, without limitation, satellite transmission and receiving dishes and their supporting power supplies; (iv) provide, or cause to be provided, to the broadcast network production personnel sufficient office space, if available, parking passes as close to the compound as possible and space to park a reasonable number of mobile production units necessary for the broadcast network to produce, transmit and distribute the Tennis Championships, including for pre-game, halftime, and post-game coverage and other reasonable purposes; (v) provide, or cause to be provided, to the broadcast network reasonable access to the compound beginning no earlier than the date that the compound is made available to the USTA; (vi) provide adequate seating and support facilities for all broadcast network on-air talent

and for necessary production personnel; and (vii) access without charge to all existing lighting and power facilities for such network's use, including, without limitation, the official scoring computers or other available electronic feeds or devices controlled by the City that provide or include any data related to the games.

(l) The City will also allow the OBTLCC and USTA at no charge to host tennis clinics periodically for underserved youth from City of Fort Lauderdale and Broward County at no cost to participants at the JETC throughout the year on mutually agreed upon dates and times in good faith.

(m) The City will also allow the USTA to host additional USTA-sanctioned events on a quarterly basis at the JETC at no charge on mutually agreed upon dates and times in good faith.

12. Compliance with Laws. The OBTLCC and the OB Contractor shall at all times comply with all applicable municipal, state and federal laws, ordinances, codes, statutes, rules and regulations applicable to performing its obligations under this Agreement. The OBTLCC also agrees that it and the OB Contractor shall comply with all applicable provisions of Section 448.095, Florida Statutes (2023), "Employment Eligibility." This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly-hired employees.

13. Termination. In the event that the USTA Conditions Precedent or any of them, are not satisfied or the City Improvements and/or the Environmental Site conditions (as applicable) are not completed in accordance with this Agreement, then this Agreement shall be void ab initio and of no further force and effect.

14. Miscellaneous.

(a) Enforcement. The provisions of this Agreement may be enforced by all appropriate actions in law and in equity by any party to this Agreement. **IN ORDER TO EXPEDITE THE CONCLUSION OF THE ACTIONS BROUGHT PURSUANT TO THIS AGREEMENT, THE PARTIES, THEIR SUCCESSORS AND ASSIGNS HEREBY WAIVE THEIR RIGHT TO TRIAL BY JURY.** Each party shall bear their own respective attorney's fees, provided, that, a court of competent jurisdiction may award costs to a prevailing party.

(b) Counterparts. This Agreement may be executed in any number of counterparts and by the separate parties hereto in separate counterparts, each of which when taken together shall be deemed to be one and the same instrument.

(c) No Personal Liability of City. OBTLCC acknowledges that this Agreement is entered into by a municipal corporation and that no City official or employee shall have any personal liability under this Agreement or under any document executed in connection with the transactions contemplated by this Agreement.

(d) Police/Regulatory Powers. The City cannot, and hereby specifically does not, waive or relinquish any of its regulatory approval or enforcement rights or obligations as they may relate to municipal, state and federal laws, ordinances, codes, statutes, rules and regulations applicable to the Property or any operations at the Property. Nothing in this Agreement shall be deemed to create an affirmative duty of the City to abrogate its sovereign right to exercise its police powers and governmental powers by approving or disapproving or taking any other action

in accordance with its own municipal laws. In addition, nothing in this Agreement shall be considered zoning by contract.

(e) City Officials. The "City" is a municipal corporation and the City Manager, as its Chief Operations Officer, is empowered to make all decisions with regard to this Agreement on behalf of the City, unless otherwise provided by law or by resolution of the City Commission. The City Manager may delegate any City action under this Agreement to another City designee communicated in writing to OBTLIC under Section 14(h) below.

(f) Successors and Assigns. Except for the subcontract with the OB Contractor and the Signage Vendor by OBTLIC, this Agreement may not be assigned, sold, pledged, hypothecated or encumbered by OBTLIC or the City, in whole or in part, without the prior approval of the other party which approval may be withheld in its sole discretion. The City is relying on the commitment, skill and reputation of the OBTLIC and the OB Contractor and the Signage Vendor in engaging professionals to perform the Services outlined in this Agreement.

(g) Construction of Agreement. The section headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation hereof. All of the parties to this Agreement have participated fully in the negotiation of this Agreement and, accordingly, this Agreement shall not be more strictly construed against any one of the parties hereto. In construing this Agreement, the singular shall be held to include the plural, the plural shall be held to include the singular, and reference to any particular gender shall be held to include every other and all genders.

(h) Notices. Any and all notices required or desired to be given hereunder shall be in writing and shall be deemed to have been duly given when delivered by hand (including recognized overnight courier services, such as Federal Express), facsimile or email if a business day or, if not, on the next business day or four (4) business days after deposit in the United States mail, by registered or certified mail, return receipt requested, postage prepaid, and addressed to the recipient at the address for such party set forth in the introductory paragraph to this Agreement (or to such other address as any party hereunder shall hereafter specify to the other in writing).

To: City of Fort Lauderdale
Susan Grant, Acting City Manager
401 SE 21st Street
Fort Lauderdale, FL 33301
Email: SuGrant@fortlauderdale.gov

With a copy to:
Thomas J. Ansbro, City Attorney
1 East Broward Boulevard, Suite 1605
Fort Lauderdale, FL 33301
Email: tansbro@fortlauderdale.gov

To: O.B. Tennis, LLC:
14360 NW 77th Court
Miami Lakes FL 33016
Attn: Brian Park, Chief Financial Officer
Email: bpark@OrangeBowl.org
Fax: 305-341-4755

With a copy to:
Carl Williams, Director
Parks and Recreation Department
South Side Cultural Arts Center
701 South Andrews Avenue
Fort Lauderdale, FL 33316
Email: CWilliams@fortlauderdale.gov

With a copy to:
Watts-FitzGerald Law, PLLC
2800 Ponce de Leon Blvd., Suite 1400
Coral Gables, FL 33134
Attn: Abigail C. Watts-FitzGerald
Email: awf@wattsfitz-law.com
Fax: 305-374-8202

(i) Severability. In the event any term or provision of this Agreement is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Agreement shall be construed in full force and effect.

(j) Exhibits. All of the Exhibits attached to this Agreement are incorporated herein and made a part of this Agreement. All references to this Agreement shall include such Exhibits.

(k) Amendments. This Agreement may not be amended or modified except by written agreement of the parties hereto.

(l) Limitation of Damages. IRRESPECTIVE OF THE TERMS CONTAINED HEREIN OR OTHERWISE, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, PUNITIVE, INDIRECT, SPECIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE ACTIONS TAKEN HEREUNDER.

(m) Sovereign Immunity. Nothing herein shall constitute a waiver of sovereign immunity by the City of Fort Lauderdale or extend the City's liability beyond the limits established in Section 768.28, Florida Statutes (2023), as amended.

15. Default.

(a) In the event of a material default, which is not cured within the time periods set forth below, the parties shall have all rights and remedies provided by law or in equity.

(b) This Agreement and/or the OBTLCC's funding obligations under this Agreement may be terminated for cause (i) at the option of and by the City Manager, if any material default is not cured by the OBTLCC or the OBTLCC does not comply with any material terms, covenants or conditions provided herein within thirty (30) days from the date of a written notice from the City Manager or his/her designee describing in reasonable detail such default or failure to comply, provided, that, if such default or failure to comply reasonably requires a greater period of time to cure, than such 30-day period shall be extended, provided, that, OBTLCC promptly commences to cure, prosecutes with all due diligence such cure and completes such cure within one hundred and eighty days (180); or (ii) when, in the opinion of the City Commission, termination is necessary to protect the interests of public health, safety or general welfare. This subsection shall not apply to any defaults arising due to a Force Majeure (as hereinafter defined) or during any period of Force Majeure extension pursuant to Section 19 below. Notwithstanding the foregoing, OBTLCC shall also not be liable in the event that any such default or failure is due to (x) any work by or on behalf of the City with respect to the City Improvements or other improvements to the Property or as provided in Section 10(f) hereof; or (y) such default or failure is due to a Force Majeure Event, an unforeseen circumstance or any latent conditions.

(c) Termination for cause may also include, without limitation, any of the following:

(i) The OBTLCC or the OB Contractor fail to obtain or maintain in place during the Services the insurance herein required which is not cured within thirty (30) days of written notice thereof.

(ii) A mechanics, laborers or similar lien is placed upon the Property or Services or other City-owned property due to actions of the OBTLCC and/or the OB Contractor and is not contested, bonded, or discharged by the OBTLCC or the

OB Contractor within sixty (60) days of its recordation.

(d) OB TLLC shall have the right to terminate this Agreement without liability (i) in the event the City determines for any reason not to complete the City Improvements consistent with Exhibits A or any material portion thereof in a timely manner, or (ii) in the event of a material default by the City which is not cured within thirty (30) days from the date of a written notice to the City Manager describing in reasonable detail such default or failure to comply, provided, that, if such default or failure to comply reasonably requires a greater period of time to cure, than such 30-day period shall be extended, provided, further, that, the City promptly commences to cure, prosecutes with all due diligence such cure and completes such cure within at least one (1) week prior to commencement of any Annual Use Period, provided, however, that, if such delayed cure significantly raises the costs to be incurred by OB TLLC in excess of the \$1,500,000.00 committed by the OB TLLC., then OB TLLC shall nonetheless have the right to terminate this Agreement without liability and USTA shall have the right to terminate the USTA Facility Use Agreement with the City without liability.

16. Entire Agreement. This Agreement and the Exhibits hereto constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all prior agreements, understandings and arrangements, both oral and written, between the parties with respect thereto.

17. Governing Law; Dispute Resolution. This Agreement shall be construed in accordance with, and governed by, the laws of the State of Florida. The parties hereby irrevocably agree, in any suit, action or proceeding arising out of or relating to this Agreement or any transactions contemplated hereby (whether during the term hereof or after its termination or expiration), to submit to the exclusive jurisdiction of the United States District Court for the Southern District of Florida or, if jurisdiction is not available therein, the jurisdiction of any court located in Broward County, Florida, and waive all other possible forums and any and all objections to such jurisdiction or venue that they may have under the laws of any state or country, including, without limitation, any argument that jurisdiction, situs and/or venue are inconvenient or otherwise improper. Each party further agrees that process may be served upon such party in any manner authorized under the laws of the United States or Florida, and waives any objections that such party may otherwise have to such process.

18. No Joint Venture or Third-Party Beneficiaries. The OB TLLC is an independent contractor and is not an agent, joint venture, partner or affiliate of the City, nor can the City be bound to honor any obligation or duty of the OB TLLC, except as expressly provided herein. With the exception of the USTA, the OB Contractor and Signage Vendor, neither the City nor the OB TLLC intends to directly or substantially benefit a third party by this Agreement. Therefore, except for the USTA, the OB Contractor and Signage Vendor, the parties agree there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

19. Force Majeure. For purposes of this Agreement, "*Force Majeure*" means any action of any governmental or quasi-governmental entity (whether or not the action regulation, order or request proves to be invalid) that impacts on the Services, equipment failure if replacement equipment is not reasonably available, threatened terrorist acts, terrorist acts, act of public enemy, earthquake, war (declared or undeclared), fire, flood, epidemic, pandemic, explosion, unusually severe weather, hurricane, other Act of God, embargo, labor dispute or strike (whether legal or illegal), labor or material shortage, transportation interruption of any kind, work slow-down, civil disturbance, insurrection, riot, or any other similar or dissimilar cause beyond the

reasonable control of OBTLCC or the OB Contractor. If a Force Majeure event prevents holding the Tennis Championship in any year during the term of this Agreement, then this Agreement and the USTA Facility Use Agreement shall be extended for a one (1) year period, subject to the USTA extending the USTA Agreement between OBTLCC and the USTA and the subcontract with the OBC Contractor is also so extended.

20. No Discrimination. The OBTLCC represents and warrants that there shall be no unlawful discrimination by it as provided by federal, state or local law, in connection with its performance under this Agreement, and it shall provide in all of its contracts between it and any third party relating to the Services, that such parties shall engage in no unlawful discrimination as prohibited by federal, state, or local law.

21. Authority of the Signatories. The undersigned executing this Agreement on behalf of a party have been duly authorized to execute and deliver this Agreement and to act on behalf of and bind such party.

22. Public Records. This Agreement and any other documents pertinent to this Agreement is subject to the public records disclosure as prescribed in Chapter 119, Florida Statutes (2023), and as may be amended or revised, or as otherwise provided by law. **IF THE APPLICANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES (2023), TO APPLICANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY CLERK'S OFFICE, 100 N. ANDREWS AVENUE, FORT LAUDERDALE, FLORIDA 33301, PHONE: 954-828-5002, EMAIL: PRRCONTRACT@FORTLAUDERDALE.GOV.**

(a) The OBTLCC agrees to keep and maintain public records in OBTLCC's possession or control in connection with OBTLCC's performance under this Agreement. OBTLCC additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes (2023). OBTLCC shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of this Agreement, and following completion of this Agreement until the records are transferred to the City.

(b) Upon request from the City's custodian of public records, OBTLCC shall provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable period of time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes (2023), or as otherwise provided by law.

(c) Unless otherwise provided by law, any and all records, including, but not limited to, reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the City, but expressly excluding architectural drawings.

(d) Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to this Agreement in the possession of the OBTLCC shall be delivered by the OBTLCC to the City, at no cost to the City, within seven (7) days. All such records stored electronically by OBTLCC shall be delivered to the City in a format that is compatible with the City's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the OBTLCC shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

(e) OBTLIC's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the City.

23. Ownership of Services and Documents. The Services and all related, incidental and other improvements made at the JETC by virtue of this Agreement (other than the OBTLIC Signage installed by the Signage Vendor and trophies) shall automatically become the property of the City without restriction, pledge, limitation or encumbrance.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
[SIGNATURE PAGES FOLLOW]**

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

ATTEST:

CITY OF FORT LAUDERDALE,
a Florida municipal corporation.

DAVID R. SOLOMAN
City Clerk

By: _____
Dean Trantalis, Mayor

_____ day of June, 2024

Approved as to form and correctness:
THOMAS J. ANSBRO, City Attorney

PATRICIA SAINTVIL-JOSEPH
Assistant City Attorney

WITNESSES:

O.B. TENNIS, LLC,
a Florida limited liability company

Signature

by: **THE ORANGE BOWL COMMITTEE, INC.,**
a Florida not for profit corporation, as the sole
Member

Print Name

By: _____
Bradley D. Houser, President

Signature

By: _____
Eric Poms, Chief Executive Officer

Print Name

ATTEST:

By: _____
Secretary

(CORPORATE SEAL)

STATE OF _____ :
COUNTY OF _____ :

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of June, 2024, by **BRADLEY D. HOUSER**, as President of THE ORANGE BOWL COMMITTEE, INC., a Florida not for profit corporation, the sole Member for O.B. TENNIS, LLC, a Florida nonprofit limited liability company.

[NOTARY SEAL]

(Signature of Notary Public- State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known _____ OR Produced Identification _____
Type of Identification Produced _____

WITNESSES:

Signature

By: _____
Eric Poms, Chief Executive Officer

Print Name

Signature

ATTEST:

By: _____
Secretary

Print Name

(CORPORATE SEAL)

STATE OF _____ :
COUNTY OF _____ :

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of June, 2024, by **ERIC POMS**, as Chief Executive Officer of THE ORANGE BOWL COMMITTEE, INC., a Florida not for profit corporation, the sole Member for O.B. TENNIS, LLC, a Florida nonprofit limited liability company.

[NOTARY SEAL]

(Signature of Notary Public- State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known _____ OR Produced Identification _____ Type of Identification Produced _____

EXHIBIT A

CITY IMPROVEMENTS

Improvements:

The City shall invest a minimum of \$3,500,000.00 in completion of the renovation of the Jimmy Evert Tennis Center which shall include but not limited to the following:

- Improved complex layout and circulation with the addition of a paved pathway between the courts with greater spacing between courts
- Twenty (20) courts with new clay surfacing and sub-surface irrigation system (i.e., hydro-courts)
 - Removal of the two clay surface courts in the southeast corner of the JETC (currently referred to as Courts 1 and 2) and in this location construction of one (1) new Stadium Court with new clay surfacing and sub-surface irrigation system (i.e., hydro-court), and with a minimum of two hundred ten (210) permanent seats and the ability to add another five hundred (500) temporary seats for the Annual Use Period
 - City agrees to the name of the new Stadium Court as the “Chris Evert Stadium Court,” subject to the approval of Chris Evert
 - Surface lift and laser grading of the existing sixteen (16) clay courts with new clay surfacing and sub-surface irrigation system (i.e., hydro-courts)
 - Changing the surface of the existing three (3) hard courts to three (3) new clay surfacing, sub-surface irrigation system (i.e., hydro-courts)
- New fencing throughout complex with dividers between the courts
- Relocation of court lighting for all twenty (20) clay courts, each with upgraded LED lighting
- Addition of new shade structures that accommodates all twenty (20) clay courts
 - Seven (7) free-standing shade structures with a two-sided bench with backrests
 - Six (6) free-standing shade structures with a one-sided bench with backrests

Timeline:

The timeline for completion of the foregoing improvements shall be no later than September 30, 2025.

EXHIBIT A-1

SITE MAP



Holiday Park - Tennis Complex Improvements



EXHIBIT B

OBTLLC IMPROVEMENTS/CONTEMPLATED SCOPE

The OBTLLC would enhance the City's scheduled improvements to the JETC with an Orange Bowl Legacy Park Gift Project.

In support of the Tennis Championships at JETC, the OBTLLC shall provide the City with the following multi-phase Legacy Gift Project. The OBTLLC would provide additional improvements that would ensure the twenty (20) clay courts at the JETC are maintained in excellent condition for a period of not less than ten (10) years. Subject to the City Manager's or his/her designee's approval and inspection of work performed, the OBTLLC would enter into a contract with a court vendor identified and approved by the USTA, currently, Fast Dry, Inc., to exclusively implement the OBTLLC Legacy Park Gift Project improvements (other than signage which would be performed by a vendor designated by the OBTLLC) throughout its various phases, which vendor is hereby approved by the City (provided, that, the OBTLLC shall have the right to replace the OB Contractor subject to the prior approval of the City Manager or his/her designee (which shall not be unreasonably withheld, conditioned or delayed) and USTA:

Resurfacing of Clay Courts

Annual reconditioning and top-dressing of the twenty (20) clay courts as reflected in Exhibit A-1 attached hereto.

- Phase I – for calendar years –2026 - 2029
 - City agrees that the OB Contractor shall exclusively provide the annual reconditioning and top-dressing obligations on behalf of the OBTLLC
 - To be completed annually between the late-summer and fall
- Phase II – for calendar years 2030 - 2034
 - In calendar year 2030, City agrees that the OB Contractor shall exclusively provide the surface lift and laser grading of the twenty (20) clay courts as determined by the OB Contractor in its reasonable discretion
 - To be completed by August 1, 2030, on a schedule mutually agreed upon by the City and OBTLLC
 - For calendar years 2031 through 2034, City agrees that the OB Contractor shall exclusively provide the annual reconditioning and top-dressing obligations on behalf of the OBTLLC
 - To be completed between the late-summer and fall annually
- Phase III – in the event of the extension of the USTA Agreement as provided in Section 4 of the Agreement and identical extension to the Facility Use Agreement, for the 5-year Extension Period –2035-2039
 - In calendar year 2035, City agrees that the OB Contractor shall exclusively provide the surface lift and laser grading of the twenty (20) clay courts as determined by the OB Contractor in its reasonable discretion
 - To be completed by August 1, 2035, on a schedule mutually agreed upon by the City and OBC
 - For calendar years 2036 through 2039, City agrees that the OB Contractor shall exclusively provide the annual reconditioning and top-dressing obligations on behalf of the OBTLLC
 - To be completed between the late-summer and fall annually

OBTLLC Signage. The OBTLLC shall pay the costs and expenses for the OBTLLC Signage (substantially in the form set forth in Exhibit B-1) in accordance with Section 2 of the Agreement and for installation at JETC.

Stadium Court Scoreboard. The OBTLLC shall, at its cost and expense, acquire and have installed at the Stadium Court an electronic tennis scoreboard which will include prominent branding elements featuring both “Chris Evert Stadium Court” and “Home of the [Name of Title Sponsor] Orange Bowl International Tennis Championships” substantially in the form set forth in Exhibit B-1.

**EXHIBIT B-1
OBTLCC SIGNAGE AND SCOREBOARD**

ENTRY SIGN



**ORANGE BOWL INTERNATIONAL TENNIS CHAMPIONSHIPS
WALL OF CHAMPIONS**



**18'S U GIRLS AND BOYS
SINGLES AND DOUBLES CHAMPIONS**



**16'S U GIRLS ANB BOYS
SINGLES AND DOUBLES CHAMPIONS**

EXHIBIT B-1 (CONTINUED)
 OBTLLC SIGNAGE AND SCOREBOARD

ORANGE BOWL TENNIS HALL OF FAME



EXAMPLE OF PLAQUES FOR INDUCTEES
 (2019-2024)

STADIUM COURT SCOREBOARD

CHRIS EVERT STADIUM COURT

3.33 **2024** **5.17**

PREVIOUS SETS		SETS	GAMES	POINTS
6 3 7 3	Novak DJOKOVIC	3	10	
11	v			
4 6 6 6	Rafael NADAL	2	8	
9				

HOME OF THE  **USTA**

EXHIBIT C

CITY OF FORT LAUDERDALE ENABLING RESOLUTION

EXHIBIT D

FORM BILL OF SALE

ABSOLUTE BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, **O.B. TENNIS, LLC**, a Florida non-profit limited liability company (hereinafter called "GRANTOR"), with its principal office located at 14360 N.W. 77 Court, Miami, Florida, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, paid and delivered by the **CITY OF FORT LAUDERDALE**, a municipal corporation of the State of Florida (hereinafter referred to as "GRANTEE"), with offices at _____, the receipt whereof is hereby acknowledged, has granted, bargained, sold, transferred and delivered, and by these presents does grant, bargain, sell, transfer and deliver unto the GRANTEE, its successors and assigns, the following:

Absolutely conveying all right, title and interest in and to of certain tangible assets (other than signage and trophies provided by Grantor) located at the premises located at 1150 G. Harold Martin Drive, Fort Lauderdale, FL 33304, known as Holiday Park, a municipal public park of the Grantee (collectively, the "Assets"), free and clear of all liens and encumbrances created by, through or under the GRANTOR related to the Services and improvements.

TO HAVE AND TO HOLD the same unto the GRANTEE, its successors and assigns forever.

IN WITNESS WHEREOF, the GRANTOR has hereunto set its hand and seal this _____ day of _____, 2024.

WITNESSETH:

Signature

Print name

Signature

Print name

O.B. TENNIS, LLC, a Florida nonprofit limited liability company

by: **THE ORANGE BOWL COMMITTEE, INC.**, a Florida not for profit corporation, as the sole Member

By:

Bradley D. Houser
President

By:

Eric Poms
Chief Executive Officer

STATE OF _____:
COUNTY OF _____:

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 2024, by **BRADLEY D. HOUSER**, as President of THE ORANGE BOWL COMMITTEE, INC., a Florida not for profit corporation, the sole Member of O.B. TENNIS, LLC, a Florida nonprofit limited liability company.

[NOTARY SEAL]

(Signature of Notary Public- State of Florida)

(Print, Type, or Stamp Commissioned Name
of Notary Public)

Personally known _____ OR Produced Identification _____
Type of Identification Produced _____

STATE OF _____:
COUNTY OF _____:

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 2024, by **ERIC POMS**, as Chief Executive Officer of THE ORANGE BOWL COMMITTEE, INC., a Florida not for profit corporation, as the sole Member of O.B. TENNIS, LLC, a Florida nonprofit limited liability company.

[NOTARY SEAL]

(Signature of Notary Public- State of Florida)

of _____
(Print, Type, or Stamp Commissioned Name
Notary Public)

Personally known _____ OR Produced Identification _____
Type of Identification Produced _____

EXHIBIT E
PROJECT COSTS

BASED ON FEEDBACK RECEIVED FROM HARD-TRU

YEAR	CLAY COURT SURFACE TREATMENTS						TROPHY DISPLAYS	TBD	TOTAL		
	Annual Reconditioning and Topdressing			Surface Lift and Laser Grading						Total - Courts	Notes
	\$ per court	# of courts	Total	\$ per court	# of courts	Total					
Year 1 (2025)								Not necessary ; first year of renovated courts	\$30,000		\$30,000
Year 2 (2026)	up to \$3,000	x 20	= up to \$60,000				up to \$60,000	1st year of resurfacing		minimum of \$188,495	\$248,495
Year 3 (2027)	up to \$3,090	x 20	= up to \$61,800				up to \$61,800	2nd year of resurfacing with 3% increase			\$61,800
Year 4 (2028)	up to \$3,183	x 20	= up to \$63,654				up to \$63,654	3rd year of resurfacing with 3% increase			\$63,654
Year 5 (2029)	up to \$3,278	x 20	= up to \$65,564				up to \$65,564	4th year of resurfacing with 3% increase			\$65,564
Year 6 (2030)	up to \$3,377	x 20	= up to \$67,531				up to \$67,531	5th year of resurfacing with 3% increase			\$67,531
Year 7 (2031)	up to \$3,478	x 20	= up to \$69,556				up to \$69,556	6th year of resurfacing with 3% increase			\$69,556
Year 8 (2032)	up to \$3,582	x 20	= up to \$71,643				up to \$71,643	7th year of resurfacing with 3% increase			\$71,643
Year 9 (2033)	up to \$3,690	x 20	= up to \$73,792				up to \$73,792	8th year of resurfacing with 3% increase			\$73,792
Year 10 (2034)	up to \$3,800	x 20	= up to \$76,006				up to \$76,006	9th year of resurfacing with 3% increase			\$76,006
Year 11 (2035)				up to \$33,598	x 20	= up to \$671,958	up to \$671,958	Full treatment after 10 years			\$671,958
TOTALS			up to \$609,546			up to \$671,958	* up to \$1,281,505		\$30,000	minimum of \$188,495	total of \$1,500,000

* Note: any funds that the OBC does not utilize for the clay court surface treatments will be applied to a future project at the Jimmy Evert Tennis Center as mutually agreed upon by the City of Fort Lauderdale, USTA and OBC

EXHIBIT F

CITY FACILITIES TO BE MADE AVAILABLE TO USTA AND ITS BROADCAST NETWORK