

***FIRST AMENDMENT***

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**THIS IS A FIRST AMENDMENT TO THE AGREEMENT** dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, between:

**CITY OF POMPANO BEACH**, a municipal corporation of the State of Florida, whose address is 100 West Atlantic Boulevard, Pompano Beach, Florida 33060, hereinafter referred to as "CITY",

and

**BOB LORING ENTERPRISES, INC.**, a Florida corporation, having its office and place of business at 1101 N. Federal Hwy, Pompano Beach, FL 33062, hereinafter referred to as "CONTRACTOR."

**WHEREAS**, the parties entered into an agreement for the provision of professional golf services and operation of the Pompano Municipal Golf Course Pro Shop on March 27th, 2015, ("Original Agreement"), and approved by City Ordinance No. 2015-34; and

**WHEREAS**, the CONTRACTOR and City have mutually agreed to extend the Original Agreement for one (1) additional five year period; and, to add and amend certain terms and conditions to the Original Agreement.

**WITNESSETH:**

**IN CONSIDERATION** of the mutual terms, conditions, promises, covenants and payments herein set forth CITY and CONTRACTOR agree as follows:

1. Each "WHEREAS" clause set forth above is true and correct and herein incorporated by this reference.

2. The original Agreement effective April 1, 2015, a copy of which is attached hereto and made a part hereof as Exhibit "A", shall remain in full force and effect except as specifically amended hereinbelow.

3. The parties hereto agree to extend the Original Agreement for one (1) additional five (5) year period, ending March 31, 2025.

4. That Article 4 Accounting, Recordkeeping and Background Check Procedures, of the Original Agreement is hereby deleted and replaced with the following language:

ARTICLE 4  
PUBLIC RECORDS.

1. The CITY of Pompano Beach is a public agency subject to Chapter 119, Florida Statutes. The LESSEE shall comply with Florida's Public Records Law, as amended. Specifically, the LESSEE shall:

a. Keep and maintain public records required by the CITY in order to perform the service.

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

c. 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 the contract term and following completion of the contract if the LESSEE does not transfer the records to the CITY.

d. Upon completion of the Agreement, transfer, at no cost to the CITY, all public records in possession of the LESSEE, or keep and maintain public records required by the CITY to perform the service. If the LESSEE transfers all public records to the CITY upon completion of the Agreement, the LESSEE shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the LESSEE keeps and maintains public records upon completion of the contract, the LESSEE shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records in a format that is compatible with the information technology systems of the CITY.

2. Failure of the LESSEE to provide the above described public records to the CITY within a reasonable time may subject LESSEE to penalties under 119.10, Florida Statutes, as amended.

**PUBLIC RECORDS CUSTODIAN**

**IF THE LESSEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LESSEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**CITY CLERK**  
**100 W. Atlantic Blvd., Suite 253**  
**Pompano Beach, Florida 33060**  
**(954) 786-4611**  
**RecordsCustodian@copbfl.com**

5. That Article 5 Compensation for Services, of the Original Agreement is hereby amended to read as follows:

A. As consideration for the services CONTRACTOR provides during the first year of this Agreement at the driving range on the CITY Property, CITY shall pay CONTRACTOR ~~\$42,352.52~~ \$49,098.17 annually. The aforesaid annual compensation rate shall be increased by three (3%) percent per year on April 1 of each subsequent year of this Agreement so that the compensation per year, to be paid in equal monthly payments, shall be as follows:

April 1, <del>2015</del> <u>2020</u>	<del>\$42,352.52</del> <u>\$49,098.17</u>
April 1, <del>2016</del> <u>2021</u>	<del>\$43,623.10</del> <u>\$50,571.12</u>
April 1, <del>2017</del> <u>2022</u>	<del>\$44,931.79</del> <u>\$52,088.25</u>
April 1, <del>2018</del> <u>2023</u>	<del>\$46,279.74</del> <u>\$53,650.90</u>
April 1, <del>2019</del> <u>2024</u>	<del>\$47,668.13</del> <u>\$55,260.43</u>

B. In addition to the aforesaid compensation, CONTRACTOR shall receive ~~\$77,463.02~~ \$81,386.88 per year payable in equal monthly installments for personnel related expenses for the driving range. However, should the minimum wage under the Fair Labor Standards Act (FLSA) increase at any time during the life of this Agreement, the monthly installments paid to

~~CONTRACTOR shall be increased beginning with the monthly installment to be paid in the month following the FLSA increase enough to compensate CONTRACTOR for his personnel expenses for the minimum wage employees directly impacted by this FLSA minimum wage increase. to the minimum wage. Said increase to each monthly installment paid to CONTRACTOR shall be equal to the sum of the following divided by twelve: The monthly installment increase will begin with the monthly installment to be paid in the month following the FLSA increase to the minimum wage.~~

~~1. The dollar amount of the hourly minimum wage increase multiplied by 6,950 plus;~~

~~2. The dollar amount of the hourly minimum wage increase multiplied by 6,950 multiplied by the sum of the following:~~

- ~~a) the applicable employer's FICA percentage plus;~~
- ~~b) the applicable FUTA percentage plus;~~
- ~~c) the applicable SUTA percentage plus;~~
- ~~d) the applicable workmen's compensation percentage.~~

~~...~~

6. That Article 6 Responsibilities of Contractor, of the Original Agreement is hereby amended to read as follows:

A. CONTRACTOR shall be responsible to stock, manage and staff the Golf Pro Shop; provide private and group golf lessons; and operate and staff the driving range and bag room at the CITY Property. CONTRACTOR shall provide all services hereunder and such additional duties as the Golf Course Manager may from time to time reasonably require of CONTRACTOR, in a professional manner consistent with CITY policies, including developing and adhering to written protocols that ensure for safe operations and prompt delivery of services at the CITY Property and that public resources are properly tracked and appropriated. ~~CONTRACTOR agrees to follow the policies and directives of the CITY' s Golf Course Manager but in the absence thereof, CONTRACTOR shall exercise its reasonable judgment in discharging its duties hereunder.~~

~~...~~

K. Except as outlined under Paragraph E above, CONTRACTOR is responsible for hiring and managing its own employees, all of which shall be a minimum of eighteen (18) years old, under CONTRACTOR'S exclusive direction and control and not deemed agents or employees of the CITY.

~~...~~

7. That Article 7 Responsibilities of City, of the Original Agreement is hereby amended add the following:

...

E. Driving range fee collection. CITY shall collect the fees for the use of the driving range.

8. That Article 29 No Waiver of Sovereign Immunity, of the Original Agreement is hereby deleted and replaced with the following language:

ARTICLE 29  
NO WAIVER OF SOVEREIGN IMMUNITY

Nothing in this Agreement shall constitute a waiver by the CITY of its sovereign immunity limits as set forth in section 768.28, Florida Statutes. Nothing herein shall be construed as consent from either party to be sued by third parties.

9. The Original Agreement is hereby amended by adding additional language to read as follows:

ARTICLE 32  
BACKGROUND CHECKS

Prior to allowing any of its employees to provide services at the CITY Property, for each proposed employee CONTRACTOR shall provide CITY's Golf Course Manager and Human Resources Director (the "HR Director) copies of the following: (i) a completed application for employment and (ii) background checks conducted in accordance with the procedures memorialized in Exhibit 2.

The foregoing documentation shall be simultaneously provided electronically to the CITY's Golf Course Manager and HR Director under cover of the formal transmittal memo attached hereto as Exhibit 3 which shall be reviewed by both the Golf Course Manager and the CITY's Human Resources Director for their final decision within five (5) business days (or as soon thereafter as is reasonably possible) regarding whether the CITY rejects or accepts the proposed employee. Proposed employees must receive the foregoing written CITY approval prior to commencing services at the CITY Property.

All background screening shall be conducted at CITY's sole expense. CONTRACTOR's failure to comply with the foregoing background submittal and CITY approval/rejection procedures shall be deemed a material breach of this Agreement.

10. The attached Exhibit 1 Recordkeeping, Inspection and Audit Procedures hereby replaces, and in all references substitutes, that Exhibit 1 Accounting Methods and Procedures which was attached to, referenced and made a part of the Original Agreement.

11. This Agreement shall bind the parties and their respective executors, administrators, successors and assign and shall be fully effective as though the extension had been originally included in the Agreement.

**THE REMAINDER OF THE PAGE IS INTENTIONALLY LEFT BLANK**

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first above written.

“CITY”:

Witnesses:

**CITY OF POMPANO BEACH**

\_\_\_\_\_

By: \_\_\_\_\_  
REX HARDIN, MAYOR

\_\_\_\_\_

By: \_\_\_\_\_  
GREGORY P. HARRISON, CITY MANAGER

Attest:

\_\_\_\_\_  
ASCELETA HAMMOND, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
MARK E BERMAN, CITY ATTORNEY

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me, by means of  physical presence or  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by **REX HARDIN** as Mayor, **GREGORY P. HARRISON** as City Manager, and **ASCELETA HAMMOND** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY’S SEAL:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number

**“CONTRACTOR”:**

Witnesses:

Bob Loring Enterprises, Inc.

Whimble

Kate Belcher

Print Name

MB

Melanie Heminger

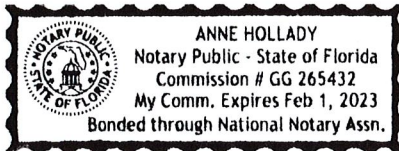
Print Name

By: Robert Loring  
Robert Loring, President

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me, by means of  physical presence or  online notarization, this 28 day of February, 2020 by Robert Loring as President of Bob Loring Enterprises, Inc., a Florida corporation, on behalf of the corporation. He is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.

NOTARY’S SEAL:



Anne Hollady  
NOTARY PUBLIC, STATE OF FLORIDA

Anne Hollady  
(Name of Acknowledger Typed, Printed or Stamped)

GG 265432  
Commission Number