

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT ("Agreement") is made as of the 21 day of September 2023, by and between the **CITY OF KEY COLONY BEACH, FLORIDA**, a municipal corporation under the laws of the State of Florida, whose mailing address is P.O. Box 510141, Key Colony Beach, FL 33051-0141 (hereinafter "City"), and **KEY COLONY BEACH PICKLEBALL CLUB**, a 501(C)(7) Uniform Unincorporated Nonprofit Club/Association under the laws of Florida, whose mailing address is PO Box 510737, Key Colony Beach, FL 33051 ("Club").

RECITALS:

WHEREAS, the City owns the Key Colony Beach Municipal Pickleball Courts generally located near the City Garage on 8th Street and Shelter Bay Drive, Key Colony Beach, Florida, (the "Premises"); and

WHEREAS, the Club desires to manage the Premises on behalf of the City for pickleball play and programing; and

WHEREAS, the City desires to engage the Club to utilize and manage the Premises on behalf of the City to provide pickleball play and programming for the City's residents; and

WHEREAS, the City finds that entering into the Agreement with the Club under the terms and conditions set forth herein serves a valid public purpose.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, and in order to effectuate the above arrangement, the parties hereto agree as follows:

SECTION 1. Grant of Nonexclusive, Limited Agreement. The City hereby grants to the Club a nonexclusive, limited management and access to the Premises for pickleball play and programming. This includes use of the restroom facilities. The Club shall provide its own certified referees and other pickleball programming officials for all times Club is utilizing the Premises as may be required by applicable law or regulation and provide any and all first aid supplies required in conjunction with Club's use. Club's use of the Premises shall be as follows:

Monday through Friday: 7:00 a.m. to 12:00 p.m.

Saturday: 7:00 a.m. to 12:00 p.m.

Sunday: 7:00 a.m. to 12:00 p.m.

The Premises are provided to Club in "as is" condition, and no warranties are made regarding the suitability of the Premises for pickleball play and programming.

The Club shall abide by all policies, procedures, rules and regulations of the City, whether in existence now or forthcoming, for the use of the Premises. This Agreement is non-transferable,

non-assignable and considered temporary in nature. Any individual who desires to use the Premises during the above timeframes must be registered as a member of the Club. Regular Membership with the Club is limited to residents and/or property owners of the City of Key Colony Beach, Florida or the City of Marathon, Florida. All others may be eligible for Limited Membership and subject to the Club's rules. Club acknowledges that the Premises may be unavailable for use during times of construction, repairs, maintenance or some other event and that during that time this Agreement will not be valid. Club acknowledges that from time to time the City, in its sole discretion, may restrict the use of the Premises to a limited portion of the Premises. The City will endeavor to provide reasonable, advance notice to Club of any anticipated times that the Premises will be unavailable and/or limited.

The City will have the right to temporarily close the Premises or any portion thereof to protect property or preserve the peace in an emergency such as a storm, or other natural disaster.

SECTION 2. Term of Agreement. This Agreement shall begin on October 1, 2023 for a term of one (1) year through September 30, 2024, and shall renew annually for up to two (2) subsequent annual terms until September 30, 2026, unless otherwise terminated as set forth herein.

SECTION 3. Maintenance and Repairs. All maintenance, repairs or replacements shall be completed to the satisfaction of the City and in accordance with all federal, state, and local laws, ordinances, rules, and regulations. The Club shall not make any changes to the Premises without the prior written consent of the City. The City will provide for all general maintenance of the Premises. The Club agrees to keep the Premises in a clean condition during its use and remove all trash, debris, stains, dirt or other condition caused by the Club's management of the Premises.

SECTION 4. Indemnification. The Club agrees to indemnify and save harmless the City, its agents and assigns against and from any and all claims by or on behalf of any person or persons, firm or firms, corporation or corporations or any other entity, arising directly or indirectly from the management of the Premises. Nothing contained herein shall be construed or interpreted as consent by the City to be sued nor as a waiver of sovereign immunity beyond the waiver and limits set forth in section 768.28, Florida Statutes. The Club acknowledges that this indemnification provision is supported by adequate consideration.

SECTION 5. Insurance. The Club must obtain general liability insurance coverage, at the Club's sole expense, with a minimum policy limit of \$1,000,000.00 with a reputable and financially viable insurance carrier, naming the City of Key Colony Beach, Florida as an additional insured to secure and maintain the Premises. The Club must provide the City with a certificate evidencing such insurance coverage within five (5) days after obtaining such coverage.

SECTION 6. Non-liability of the City to Club. The City shall not be liable to Club or its agents, representatives, invitees, employees, or any other person, for any injury to or death of any of them, or for any damage to Club or loss of revenues, caused by any third persons

connected with Club's use of and access to the Premises, whether the injury, death or damage is due to the negligence of the City or not. Third persons shall include the United States of America and the State of Florida, or any of their agencies, and all persons other than the City. The Club acknowledges that this non-liability provision is supported by adequate consideration.

SECTION 7. Termination. Except where specifically provided herein for immediate termination, if the City deems that the Club is in default for failure to comply with the terms and/or conditions of this Agreement. Such notice shall set forth the basis for termination. The City may terminate this Agreement in its sole discretion. All expenses related thereto shall be borne by the Club. Notwithstanding the foregoing, the CITY reserves the right and may elect to terminate this Agreement upon ninety (90) days' notice to the Club.

SECTION 8. Third Parties. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement upon any person other than the parties hereto and their respective heirs, successors, legal representatives, and permitted assigns.

SECTION 9. Applicable Law; Venue; Construing of Agreement; Binding Effect. This Agreement shall be construed in accordance with the laws of the State of Florida. Should any dispute arise from this Agreement venue shall be in Monroe County, Florida. This Agreement shall not be construed against the party who drafted the same. This Agreement is binding upon the parties hereto, their heirs, successors and assigns.

SECTION 10. Severability. The invalidity, illegality, unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of the Agreement. Any void provision shall be deemed severed from the Agreement, and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent the entire Agreement from being void should a provision, which is of the essence of the Agreement, be determined to be void.

SECTION 11. Entire Agreement. The City and Club agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. This Agreement supersedes all prior agreements, contracts, proposals, representations, negotiations, letters, or other communications between the City and Club pertaining to this Agreement, whether written or oral.

SECTION 12. Amendments. Unless otherwise set forth in the Agreement, this Agreement may not be modified unless such modifications are evidenced in writing, signed by both the City Administrator and Club. Such modifications shall be in the form of a written amendment executed by both parties.

SECTION 13. Compliance with law. Club agrees to comply and adhere to all

federal, state, and local laws, ordinances, rules and regulations applicable to its use of the Premises under this Agreement, including without limitations, all laws prohibiting discrimination on the basis of race, color, religion, sex, national origin, sexual orientation or disability.

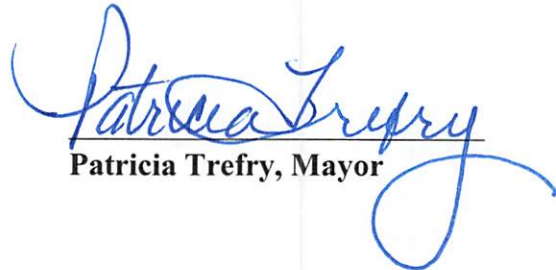
SECTION 14. Notice. Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person, nationally-recognized overnight courier or sent by certified mail, postage prepaid as follows:

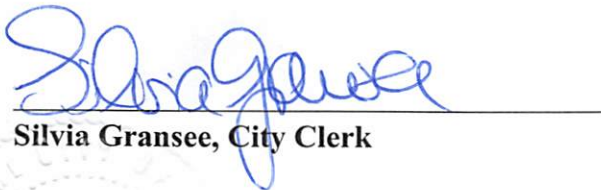
As to the City:	As to Club:
City of Key Colony Beach, Florida	Key Colony Beach Pickleball Club
Attn: City Manager	Attn: Chairperson
P.O. Box 510141	PO Box 510737
Key Colony Beach, FL 33051-0141	Key Colony Beach, FL 33051

[THIS SPACE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have made and executed this Contract on the respective dates under each signature: **CITY OF KEY COLONY BEACH, FLORIDA**, signing by and through its Mayor or Vice Mayor, authorized to execute same by Commission action on the 21 day of September, 2023, and by **KEY COLONY BEACH PICKLEBALL CLUB** (Contractor), signing by and through its Chair person, duly authorized to execute same.

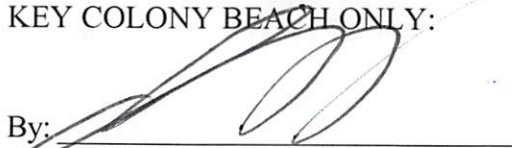
CITY OF KEY COLONY BEACH, FLORIDA


Patricia Trefry, Mayor

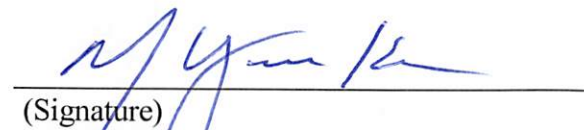

Silvia Gransee, City Clerk


(City Seal)


APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF THE CITY OF KEY COLONY BEACH ONLY:


By: _____
Dirk M. Smits, B.C.S.
City Attorney

KEY COLONY BEACH PICKLEBALL CLUB

By: 

(Signature)


(Print Name)


(Title)