

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (“Agreement”) is entered into by and between RICHARD H. GARRETT, individually and as TRUSTEE OF THE RICHARD HOLTOM GARRETT REVOCABLE TRUST DATED JUNE 5, 2017, (collectively “Mr. Garrett”) and the UNIVERSITY PARK RECREATION DISTRICT (the “District”). Mr. Garrett and the District are sometimes referred to individually as a “Party” or collectively as the “Parties.”

Recitals

WHEREAS, the Manatee County Board of Commissioners adopted Ordinance No. 18-29 (the “Charter Ordinance”) establishing the District as an independent special recreation district pursuant to Chapters 418 and 189, Florida Statutes;

WHEREAS, the Charter Ordinance details, among other things, the District’s powers, function, and operation;

WHEREAS, the District currently consists of the area that is within the Unnamed Exclusive Country Club a/k/a University Park Development of Regional Impact, which includes a 27-hole golf course and practice facility, pro shop, a clubhouse with kitchen, administrative facilities, tennis courts, a croquet court, a fitness center, a golf cart storage facility, and associated facilities that is more particularly described in the Charter Ordinance;

WHEREAS, the primary purpose for the District’s formation was the acquisition of the recreational facilities and attendant properties making up the University Park Country Club (the “Country Club”) from its owners (the “Sellers”);



WHEREAS, after the formation of the District, the District and the Sellers entered into a purchase and sale agreement, whereby the District agreed to purchase the Country Club;

WHEREAS, certain individuals, including Mr. Garrett, raised questions related to, among other things, the formation of the District, the powers granted to the District, the price that the District agreed to purchase the Country Club from the Sellers, and the financing method and vehicle for acquisition of the Country Club (the "Dispute");

WHEREAS, the District adopted its Resolution 2019-10 allowing non-ad valorem assessments against the properties located in the District to raise funds for the purchase of the Country Club from the Sellers and gave notice to the owners of the properties located in the District that a referendum would be held on whether the District could issue non-ad valorem assessment bonds (the "Bonds") to provide permanent financing for the acquisition and improvement of the Country Club (the "Bond Referendum");

WHEREAS, on January 31, 2019, Mr. Garrett filed an action in Manatee County, Florida, Case No. 2019-CA-512 against the District relating to the Dispute and seeking to, among other things, prevent the Bond Referendum (the "512 Case");

WHEREAS, on February 7, 2019, the District conducted the Bond Referendum, which was passed by a majority of the voters;

WHEREAS, on February 21, 2019, the District filed an action in Manatee County, Florida, Case No. 2019-CA-845 seeking, pursuant to Chapter 75, Florida Statutes, validation the Bonds (the "Bond Action");

WHEREAS, Mr. Garrett filed an answer in the Bond Action objecting to the validation of the Bonds; for many of the same reasons as in the 512 Case;



WHEREAS, throughout the term of the Dispute, the 512 Case, and the Bond Action, Mr. Garrett, and/or Mr. Garrett's attorneys and/or agents, have made certain requests for public records from the District (the "Public Records Requests");

WHEREAS, on or about July 3, 2019, Mr. Garrett filed a second action in Manatee County, Florida, Case No. 2019-CA-3038, against the District relating to the Dispute and seeking to, among other things, prevent the District from collecting special assessments (the "3038 Case") (collectively, the 512 Case and 3038 Case are referred to herein as, the "Litigation");

WHEREAS, the Parties desire to settle and finally resolve all disputes between them relating to the Dispute, the Bond Action, the Litigation and the Public Records Requests;

WHEREAS, the current financial market and existing municipal bond rates create a unique opportunity for the District to increase its financial reserves thereby mitigating many of the concerns Mr. Garrett, and other residents of the District, have raised concerning future assessments;

WHEREAS, the Parties want to promote to the residents of the District that the current financial market condition and existing municipal bond rates create an opportunity for the District to secure optimal financing rates in securing municipal bonds;

WHEREAS, the Parties and the Sellers of the Country Club have committed to negotiating an amendment to the purchase and sale agreement to provide for a beneficial concession;

WHEREAS, none of the Parties admit liability by execution of this Settlement Agreement.

NOW, THEREFORE, in exchange for valuable consideration, the receipt and sufficiency of which is hereby acknowledge, the Parties agree as follows:

Agreement

1. **Recitals.** The above recitals are true and correct and are incorporated herein.

2. **Dismissal of the Litigation.** Mr. Garrett shall dismiss the Litigation with prejudice within two business days of the adoption and execution of this Agreement by the District. The dismissals shall be accomplished through Mr. Garrett's execution and filing of the two notices of voluntary dismissal with prejudice attached hereto as **Exhibit "A"** and **Exhibit "B."**

3. **Withdrawal of Objection to Bond Validation.** Mr. Garrett shall file a notice that he is withdrawing his objection to the validation of the Bonds in the Bond Action, that he acknowledges that the District has the authority to issue the Bonds, and that the District has met its burden to validate the Bonds. Mr. Garrett shall file this notice within two business days of the adoption of this Agreement by the District. Mr. Garrett shall execute and file the notice attached hereto as **Exhibit "C."**

4. **Fee Reimbursement.** The District will reimburse Mr. Garrett an aggregate sum of \$160,000.00 for legal fees he has paid in connection with the Litigation, the Bond Action, and the Public Records Requests. This reimbursement is conditioned upon Mr. Garrett providing to the District, upon the District's request, adequate documentation verifying that the legal fees expended by Mr. Garrett were related to the Litigation, the Bond Action, or the Public Records Requests. The reimbursement contemplated in this paragraph shall be made only upon the District obtaining municipal bond financing and



completing the purchase of the Country Club from the Sellers. This reimbursement is further subject to paragraph six (6) of this Agreement.

5. **Waiver of Appeal.** Mr. Garrett explicitly waives and releases any and all rights to appeal any matter or issue in the Litigation or the Bond Action.

6. **Contingent Events.** The Parties acknowledge and understand that the execution of this Agreement is not binding upon other individuals or entities that are not parties to this Agreement, including the other parties that have filed objections in the Bond Action or those seeking to intervene in the 3038 Case. Accordingly, the District and Mr. Garrett agree that:

a. Any payment mentioned, discussed, or otherwise outlined in paragraph four (4) above is contingent upon Mr. Garrett's dismissal of the Litigation and the execution and filing of the notice withdrawing of Mr. Garrett's objection and acknowledging the validity of the Bonds in the Bond Action in the forms attached hereto as Exhibits "A, B, and C".

b. In the event that any person who has filed an answer and objection in the Bond Action continues to object to the validation of the Bonds in the Bond Action, then the payment outlined in paragraph four (4) shall be reduced dollar for dollar by the amount of legal fees and costs incurred by the District in bringing the Bond Action to conclusion, including any appeals.

c. The reimbursement of Mr. Garrett's fees contemplated herein is solely based on the successful conclusion of the Litigation and Bond Action in favor of the District.

d. The District will negotiate with the Sellers of the Country Club to obtain a reduction in the current purchase price for the Country Club. The District's representative has a tentative understanding with the Sellers for an amended/reduced final purchase price. The agreed upon amendment/reduction to the purchase price will be verbally confirmed and agreed upon between the Sellers and the District prior to this Agreement becoming binding on any Party, and if said amendment/reduction does not occur then this entire Agreement will be null and void. Once this Agreement has been executed by Mr. Garrett and adopted by the District, the District will coordinate with the Sellers to formally amend the purchase and sales agreement to provide for the amended/reduced purchase price.

7. **Promotion.** The District and Mr. Garrett will make concerted efforts to bridge the differences that have existed within the District related to the Dispute for the purpose of bringing the community together, resolving differences, and moving proactively forward in the best interest of all the District's residents. Mr. Garrett will promote the resolution of the Dispute, including the Litigation, the Bond Action, and the Public Records Requests and encourage others who have supported him in these actions to support the District's acquisition of the Country Club and not contest the bond validation process. The District will promote the resolution of the Dispute, including the Litigation and the Bond Action, and express its appreciation and recognition of Mr. Garrett's desire to resolve the Dispute, including the Litigation, the Bond Action, and the Public Records Requests, in the best interest of all residents of the District.

8. **Public Records Request.** By executing this Agreement, Mr. Garrett acknowledges that the District has provided to him all documents related to his Public

Records Requests, as well as, any other public records request Mr. Garrett has made to the District and/or his attorneys or agents may have made to the District on his behalf, through the date of this Agreement. Mr. Garrett hereby releases any claims he may have related to such requests. The District agrees to waive any further fees Mr. Garrett may otherwise owe related to such previously made requests.

9. **Cooperation.** The Parties agree to cooperate with each other to obtain all things necessary to comply with the terms of this Agreement and will execute all documents required to dismiss the Litigation, obtain final judgment in the Bond Action, and to close on the purchase of the Country Club. The parties will work diligently to secure the Court's validation of the Bonds, with a goal of completing the financing acquisition of the Country Club by the end of 2019, but ideally by November of 2019.

10. **Denial of Liability.** The Parties understand and agree that this Agreement shall not be construed as an admission of liability on the part of any person or entity, liability being expressly denied.

11. **Mutual Release.** The Parties, their successors, officers, directors, assigns, agents, attorneys, principals, and heirs, do hereby remise, release, acquit, satisfy, and forever discharge each other from any and all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims, and demands whatsoever arising out of the Litigation, Bond Action, and Public Records Requests. It is expressly understood and agreed, that this release does not release any individual from any assessment or other debt due to the District now or in the future including, without

limitation: (a) the pending special assessment and (b) the assessment and charges relating to the acquisition of the Country Club.

12. **Consent to Agreement.** Each Party represents and warrants to the other Party that they have thoroughly read and reviewed the terms and provisions of this Agreement and are familiar with the same, that the terms and provisions contained herein are clearly understood by them and have been fully and unconditionally consented to by them, and that they have had the benefit of counsel of their own selection and with whom they are satisfied in regard to understanding the terms, meaning and effect of this Agreement. Each Party further hereby represents and warrants to the other Party that they have made and entered into this Agreement freely, voluntarily, with full knowledge, without duress, and that in executing this Agreement they are not relying upon any representations or warranties made by any other Party or their agents, either written or oral, express or implied, except as set forth in this Agreement.

13. **Fees and Costs.** Except for as provided for in this Agreement, each Party shall be responsible for its or his own attorney fees, costs, and expenses associated with this matter which were incurred prior to the date of this Agreement. If either Party defaults in the performance of or breaches any term, covenant or condition of this Agreement, the non-breaching Party shall be entitled to recover all costs and expenses incurred in enforcing its rights under this Agreement, including without limitation, reasonable attorney fees and court costs.

14. **Successors and Assigns.** This Agreement shall be binding in all respects upon, and shall inure to the benefit of, the Parties' successors and assigns.

15. **Integration/Written Amendment Required.** All of the terms of the Agreement are contractual and not merely a recital. The Parties further acknowledge that the Agreement constitutes a full, final, and complete settlement of their differences and supersedes and replaces any and all other written or oral exchanges, agreements, understandings, arrangements, or negotiations between them relating to the Dispute, the Litigation, the Bond Action, and the Public Records Requests and affirmatively state that there are no other prior or contemporaneous agreements, exchanges, representations, arrangements, or understandings, written or oral, between or among them other than that as detailed in the Agreement, and that the Agreement represents the exclusive and entire agreement between them regarding the Dispute, the Litigation, the Bond Action, and the Public Records Requests.

16. **Counterparts.** This Agreement may be executed in counterparts, or by copies transmitted by email or fax, all of which shall be given the same force and effect as the original.

17. **Jurisdiction and Venue.** This Agreement shall be governed and construed in accordance with the laws of the State of Florida, irrespective of its choice of law principles. In the event that any legal action becomes necessary to enforce or interpret the terms of this Agreement, the Parties agree that such action shall be brought solely within courts located in or serving Manatee County, Florida, and the Parties hereby submit and consent to the exclusive jurisdiction and venue of said courts.

18. **Unenforceability.** If any provision of this Agreement is held to be void or unenforceable in whole or in part, the court or tribunal so holding shall reform the provision to make it enforceable while maintaining the spirit and goal of the provision and if the

court or tribunal finds it cannot so reform that provision, such provision or part thereof shall be treated as severable leaving valid the remainder of this Agreement.

IN WITNESS WHEREOF, Mr. Garrett and the District have caused this Agreement to be executed, sealed and delivered, as applicable, by their duly authorized representatives, effective on the date of the last signature to this Agreement.

[Signature pages to follow]





RICHARD H. GARRETT, individually
and as TRUSTEE OF THE RICHARD
HOLTOM GARRETT REVOCABLE
TRUST DATED JUNE 5, 2017

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ___ day of _____, 2019, by _____, who is ___ personally known to me or _____ has produced _____ as identification.

Notary Public

(SEAL)



UNIVERSITY PARK RECREATION DISTRICT

By: _____

Its: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____, as _____ of UNIVERSITY PARK RECREATION DISTRICT, who is ____ personally known to me or has produced _____ as identification.

Notary Public

(SEAL)

