

AN ORDINANCE NO. 24-248

Confirming and approving the Lease Termination Agreement and Mutual Release by and between Reid Park Limited and the City of Springfield, Ohio to terminate the lease, operation and maintenance of Reid Park Golf Course.

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WHEREAS, the City owns certain real estate which is located at 1325 South Bird Road, which has been used in the operation of a public golf course by the City of Springfield, Ohio; and

WHEREAS, the City of Springfield, Ohio, previously entered into a Reid Park Golf Course Real Estate Lease Agreement and Liquor License Agreement, as authorized in Ordinance 22-307, for the operation of a public golf course; and

WHEREAS, EMAAC Properties LLC has entered into a Real Estate Lease to Purchase Agreement with the City pursuant to Ordinance No. 24-226 as new Operators of Reid Park Golf Course; NOW, THEREFORE:

BE IT ORDAINED by the City Commission of The City of Springfield, Ohio:

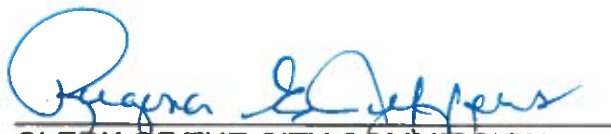
Section 1. That the Lease Termination Agreement and Mutual Release by and between Reid Park Limited and the City of Springfield, Ohio, a copy of which is attached hereto, to terminate the lease, operation and maintenance of Reid Park Golf Course, is hereby confirmed and approved.

Section 2. That this Ordinance shall take effect and be in force from and after fourteen (14) days from the date of its passage.

PASSED this 27th day of August, A.D., 2024.



PRESIDENT OF THE CITY COMMISSION



CLERK OF THE CITY COMMISSION

LEASE TERMINATION AGREEMENT AND MUTUAL RELEASE

This LEASE TERMINATION AGREEMENT AND MUTUAL RELEASE (this "Agreement") is executed to be effective as of July 31, 2024 (the "Effective Date"), by and between Reid Park Limited, an Ohio limited liability company ("Operator"), and the City of Springfield, Ohio ("City"). City and Operator may sometimes be referred to individually as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, Operator and City are parties to that certain Real Estate Lease Agreement, effective October 25, 2022, and that certain Liquor License Agreement, effective October 25, 2022 (collectively, the "Golf Course Lease"), under which Operator operates the Reid Park Golf Course and Restaurant (the "Golf Course");

WHEREAS, City owns certain personal property that Operator is permitted to use in connection with the operation of the Golf Course (the "City-Owned Personal Property");

WHEREAS, Reid Golf LLC ("Reid Golf") and/or one or more of the owners of Reid Golf -- (i) Pawan Kumar (Kevin) Challa, (ii) Prabhakar Kesari (Ramp) Reddy, and (iii) Akshetha Kesari Reddy (collectively with Reid Golf, the "Buyer Group") -- desire to own and operate the Golf Course and to buy the Golf Course and the City-Owned Personal Property from City pursuant to a lease-to-purchase agreement Buyer Group is negotiating with City (the "Golf Course Purchase Agreement") pursuant to that certain Letter of Intent dated April 25, 2024 (the "Golf Course Purchase LOI");

WHEREAS, Reid Golf desires to purchase from Operator all of Operator's right, title, and interest in and to certain assets Operator uses in connection with its operation of the Golf Course and to assume certain liabilities associated with Operator's operation of the Golf Course, and Operator desires to sell to Reid Golf all of Operator's right, title, and interest in and to such assets and for Reid Golf to assume such liabilities;

WHEREAS, accordingly, Operator and Reid Golf have entered into that certain Asset Purchase Agreement dated July 14, 2024, whereby Reid Golf will buy such assets and assume such liabilities from Operator (the "APA");

WHEREAS, as reflected in the Golf Course Purchase LOI, City expects to enter into an agreement to terminate the Golf Course Lease with Operator to facilitate Buyer Group's acquisition of the Golf Course and the City-Owned Personal Property;

WHEREAS, the APA has as condition precedents to the closing of the transaction between Operator and Reid Golf, among other things, that (i) City and Operator will enter into an agreement to terminate the Golf Course Lease that is satisfactory to Operator and (ii) that City and Buyer Group shall have closed the transaction contemplated by the Golf Course Purchase Agreement;

WHEREAS, City and the Operator desire to enter into this Agreement to terminate the Golf Course Lease and to mutually release each other from all Claims, Liens, and Liabilities relating thereto.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises herein made and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

I. TERMINATION OF THE LEASE

As of the Effective Date, the Parties hereby agree that the Lease shall be terminated in all respects and that neither Party shall have any further rights, obligations, Claims, or Liabilities thereunder.

II. MUTUAL RELEASES

A. Operator Release; Covenant Not to Sue.

1. Operator, on behalf of itself and its Affiliates and any Person claiming (now or in the future) through or on their behalf (collectively, the “Operator Releasors”), hereby absolutely, unconditionally, irrevocably, and forever release and forever discharge City and its Affiliates, employees, consultants, contractors, officers, directors, members, partners, managers, shareholders, general partners, trustees, equity interest holders, heirs, successors, assigns, legal representatives, agents, property or asset managers, attorneys, and all persons in privity with and acting on their behalf respectively or collectively (the “City Releasees”) from any and all Claims, Liens, and Liabilities that the Operator Releasors had, now have, or may hereafter have, without regard to the subsequent discovery or existence of different or additional facts, including without limitation, Claims, Liens, and Liabilities arising out of or relating in any way to (i) the Golf Course Lease, (ii) the Golf Course, and (iii) any other act, omission, promise, representation, warranty, negotiation, disclosure, communication, or event that occurred or failed to occur on or before the Effective Date (collectively, the “Operator Released Claims”).

2. The Operator Releasors covenant not to sue any of the City Releasees with respect to any Operator Released Claims.

B. City Parties Release; Covenant Not to Sue.

1. City, on behalf of itself and its Affiliates and any Person claiming (now or in the future) through or on their behalf (collectively, the “City Releasors”), hereby absolutely, unconditionally, irrevocably, and forever release and forever discharge Operator and its Affiliates, employees, consultants, contractors, officers, directors, members, partners, managers, shareholders, general partners, trustees, equity interest holders, heirs, successors, assigns, legal representatives, agents, property or asset managers, attorneys, and all persons in privity with and acting on their behalf respectively or collectively (the “Operator Releasees”) from any and all Claims, Liens, and Liabilities that the City Releasors had, now have, or may hereafter have, without regard to the subsequent discovery or existence of different or additional facts, including without limitation, Claims, Liens, and Liabilities arising out of or relating in any way to (i) the Golf Course Lease, (ii) the Golf Course, and (iii) any other act, omission, promise, representation, warranty, negotiation, disclosure, communication, or event that occurred or failed to occur on or before the Effective Date (collectively, the “City Released Claims”).

2. The City Releasors covenant not to sue any of the Operator Releasees with respect to any City Released Claims.

III. MISCELLANEOUS

A. Complete Agreement

This Agreement constitutes the complete agreement between the Parties and supersedes any prior oral or written agreements between such Persons regarding the transactions contemplated herein. There are no agreements, understandings, warranties, or representations between the Parties except as set forth in this Agreement, and no such Person has executed or authorized the execution of this Agreement in reliance upon any such agreement, understanding, warranties, or representations. There are no verbal agreements that change this Agreement.

B. Amendments

The terms of this Agreement may not be altered, modified, amended, supplemented, or terminated in any manner whatsoever unless in writing and signed by the Parties thereto.

C. Waiver

Except as expressly set forth in this Agreement, (i) no failure or delay on the part of any Party in the exercise of any right hereunder or thereunder shall impair such right or be construed to be a waiver of, or acquiescence in, any breach of any representation, warranty, covenant, or agreement contained herein or therein; (ii) any single or partial exercise of any right hereunder or thereunder shall not preclude any other or further exercise thereof or of any other right hereunder or thereunder; (iii) no waiver of any provision hereunder or thereunder shall be deemed or shall constitute a waiver of any other provision hereof or thereof (whether or not similar) or shall constitute a continuing waiver unless otherwise expressly provided; (iv) no waiver of any right or remedy hereunder or thereunder shall be valid unless the same shall be in writing and signed by the Party against whom such waiver is intended to be effective; and (v) failure on the part of a Person to complain of any act of any other Person or to declare any other Person in default hereunder or thereunder, irrespective of how long that failure continues, does not constitute a waiver by that Person of its rights with respect to that default until the applicable statute-of-limitations period has run.

D. Assignment

Neither Party may assign its rights and obligations under this Agreement without the written consent of the other Party. Any such assignment will not relieve such assigning Party of its obligations under such agreement.

E. Successors and Permitted Assigns

This Agreement shall be binding upon and inure to the benefit of the Parties hereto or thereto and their respective successors and permitted assigns.

F. Severability

Any term or provision of this Agreement that is determined by a court of competent jurisdiction to be invalid or unenforceable for any reason shall, as to that jurisdiction, be ineffective solely to the extent of such invalidity or unenforceability without rendering invalid or unenforceable

the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction. Upon such determination that any term or provision is invalid or unenforceable, the Parties shall negotiate in good faith to modify the affected agreement to effect the original intent of the Parties hereto or thereto as closely as possible in a mutually acceptable manner so that the Transaction be as originally contemplated to the greatest extent possible. If any provision of this Agreement is determined by a court of competent jurisdiction to be so broad as to be unenforceable, that provision shall be interpreted to be only so broad as is enforceable.

G. Counterparts

This Agreement may be executed in counterparts (including the execution of counterpart signature pages), each of which shall be an original, and all of which counterparts taken together shall constitute one and the same agreement. Signatures may be delivered by facsimile or electronic delivery, and such signatures shall be binding on the Parties hereto or thereto.

H. Construction

The negotiation and drafting of this Agreement has been jointly conducted by the Parties hereto or thereto. In the event any ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by all Parties hereto or thereto, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of Agreement.

I. Electronic Execution

The words "execution," "signed," "signature," and words of similar import in this Note shall be deemed to include electronic or digital signatures or the keeping of records in electronic form, each of which shall be of the same effect, validity and enforceability as manually executed signatures or a paper-based recordkeeping system, as the case may be, to the extent and as provided for under Law, including the Electronic Signatures in Global and National Commerce Act of 2000 (15 USC § 7001 et seq.), the Electronic Signatures and Records Act of 1999 (N.Y. State Tech. Law §§ 301-309), Ohio Uniform Electronic Transactions Act, Ohio. Rev. Stats. §§ 1306.01 et. seq., or any other similar state laws based on the Uniform Electronic Transactions Act.

J. Governing Law

THIS AGREEMENT SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF OHIO, WITHOUT GIVING EFFECT TO PRINCIPLES OR RULES OF CONFLICT OF LAWS, TO THE EXTENT SUCH PRINCIPLES OR RULES WOULD PERMIT OR REQUIRE THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION.

K. Notices

A notice or demand required or permitted under this Agreement shall be in writing, duly signed by or identifiable to the Party giving such notice, and shall be addressed as follows and deemed given or served either by (i) registered or certified mail or (ii) commercial delivery service with proof of delivery:

If to Operator:	Reid Park Limited Attention: Alan E. Collins Title: Managing Member 536 Archer Lane Springfield, Ohio 45503
If to City:	City of Springfield, Ohio Attention: City Manager 76 East High Street Springfield, Ohio 45502
With copy to counsel for City:	City of Springfield, Ohio Attention: Law Director 76 East High Street Springfield, Ohio 45502

Any Party may change its address for the service of notice by giving notice of such change to the other Party five (5) Business Days before the effective date of such change.

[The remainder of this page was intentionally left blank. Signature pages follow.]

WHEREAS, Operator and City have executed this Agreement as of the Effective Date.

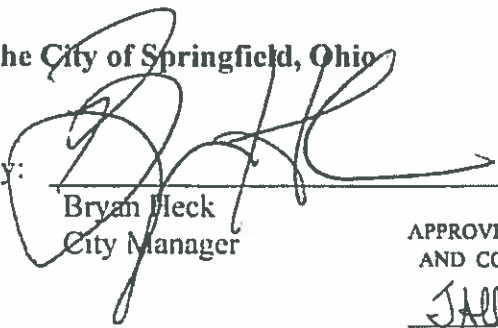
OPERATOR

Reid Park Limited, an Ohio limited liability company

By: 
Alan E. Collins
Manager

CITY

The City of Springfield, Ohio

By: 
Bryan Heck
City Manager

APPROVED AS TO FORM
AND CORRECTNESS:


Jill N. Allen, Law Director

APPENDIX – DEFINITIONS

As used in this Agreement (and any exhibit or schedule attached hereto), capitalized terms not otherwise defined shall have the meanings set forth in this Appendix.

“Affiliate” means any Person directly or indirectly controlling, controlled by, or under common control with such Person. For purposes of this definition, the term “control,” “controlling,” “controlled by,” or “under common control with” shall mean the possession, directly or indirectly (through one or more intermediaries), of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by Contract, or otherwise.

“Claim” means any actual or potential loss, injury, cause of action, demand, claim, counterclaim, cross-claim, third-party claim, action, suit, litigation, investigation, legal proceeding (whether at law or in equity), petition, complaint, notice of violation, arbitration, or similar proceeding, whether civil, criminal, administrative, arbitral, or investigative.

“Contract” means any written contract, lease, license, evidence of indebtedness, mortgage, indenture, purchase order, binding bid, letter of credit, security agreement, instrument, agreement, undertaking, binding commitment, or other legally binding arrangement, including all amendments, supplements, modifications, side letters, agreements, or waivers relating thereto.

“Governmental Authority” means (a) any entity exercising executive, legislative, judicial, regulatory, or administrative functions of, or pertaining to, any government or any applicable Law, including, any agency, department, board, commission, or instrumentality of any country (or any state, district or political subdivision thereof); (b) any governmental or quasigovernmental body administering, regulating, or having general oversight over electricity, power, or other energy-related markets; or (c) any tribunal, court, arbiter, including a nongovernmental arbitration panel, or other similar administrative or governmental authority of competent jurisdiction.

“Liability” means, with respect to any Person, any actual or potential liability or obligation of such Person of any kind, character, theory of Law, or description, whether known or unknown, secured or unsecured, joint or several, vested or unvested, asserted or unasserted, absolute or contingent, direct or indirect, accrued or unaccrued, liquidated or unliquidated, due or to become due, executory, determined, determinable, or otherwise, and regardless of when sustained, incurred, or asserted or when the relevant events occurred or circumstances existed, including all costs and expenses relating thereto, including without limitation, actual or potential damages, judgments, losses, awards, amounts paid in settlement, deficiencies, expenses (including interest, court costs, reasonable fees of attorneys, accountants, and other experts, and other reasonable costs of litigation, arbitration, or similar proceedings, as applicable), obligations, commitments, assessments, costs, losses, expenditures, charges, fees, penalties, fines, contributions, or premiums of any kind or nature whatsoever.

“Law” means any statute, law (statutory or common law), rule, regulation, ordinance, code, order, standard, requirement, decree, executive order, ruling, decision, writ, judgment, injunction, ruling, or award issued by or other pronouncement having the effect of law of any Governmental Authority.

“Lien” means any recorded or unrecorded liens (statutory or otherwise), security interests, financing statements, pledges, charges, mortgages, deeds of trust, options, warrants, purchase rights, restrictions on transfer, leases, licenses, easements, reservations, rights of way, use restrictions on the title of a property, encroachments, attachments or encumbrances of any kind or nature whatsoever.

“Person” means any individual natural person, sole proprietorship, partnership, limited liability company, joint venture, trust, charitable organization, unincorporated association, corporation, entity, or Governmental Authority.