

RESOLUTION NO. 02-112

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING THE AGREEMENT BETWEEN THE OPTIMIST CLUB OF MIAMI LAKES, INC. AND THE TOWN OF MIAMI LAKES; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO EXECUTE ANY ADDITIONAL DOCUMENTS PERTAINING TO THE AGREEMENT AND TAKE ALL ACTION NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; PROVIDING FOR THE EXPENDITURE OF BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Optimist Club of Miami Lakes, Inc. (the “ Optimist”) wishes to utilize certain real property for general recreation programs, activities and events for the use and benefit of the residents of the Town of Miami Lakes (the “ Town”); and

WHEREAS, the Town finds that approval of an Agreement between the Town and the Optimist is in the best interest of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing Recitals are true and correct and are incorporated herein by this reference.

Section 2. Approval of Agreement. The Agreement between Town of Miami Lakes and the Optimist Club of Miami Lakes, Inc., attached as Exhibit “ A”, is approved together with such non-substantial changes as may be acceptable to the Town Manager and approved as to form and legality by the Town Attorney.

Section 3. Execution of Agreement. The Mayor is authorized to execute and deliver the Agreement on behalf of the Town.

Section 4. Authorization of Town Officials. The Mayor, Town Manager and Town Attorney are authorized to execute and deliver any additional documents pertaining to the Agreement, to take all action necessary to implement the terms and conditions of the Agreement and to close on the acquisition of the Property.

Section 5. Authorization of Fund Expenditure. The Town Manager is authorized to expend budgeted funds to implement the terms and conditions of the Agreement and to provide maintenance and operation services at the Park.

Section 6. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 16th day of December, 2002.

Wayne Slaton
WAYNE SLATON, MAYOR

ATTEST:

Beatrice M. Aquella
Town Clerk

APPROVED AS TO LEGAL SUFFICIENCY:

[Signature]
Town Attorney

Simon / Slaton

Council voted <u>7-0</u> as follows:	
Mayor Wayne Slaton	<u>YS</u>
Vice Mayor Roberto Alonso	<u>YS</u>
Councilmember Mary Collins	<u>YS</u>
Councilmember Robert Meador	<u>YS</u>
Councilmember Michael Pizzi	<u>YS</u>
Councilmember Nancy Simon	<u>YS</u>
Councilmember Peter Thomson	<u>YS</u>

Resolution No. 02-112

AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into as of the 16th day of December, 2002, by and between the **TOWN OF MIAMI LAKES**, a Florida municipal corporation (the "Town") and **THE OPTIMIST CLUB OF MIAMI LAKES, INC.**, a Florida non-profit corporation (the "Opt imist Club").

RECITALS

1. The Town is the fee simple title holder of that certain real property located in Miami-Dade County, Florida, as further described on Exhibit "A" attached hereto and made a part hereof (the "Proper ty").

2. The Optimist Club desires to utilize the Property for general recreation programs, activities and events for the use and benefit of the residents of the Town, and the Town agrees to permit the Optimist Club to use the Property for such purposes pursuant to the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants of the parties set forth in this Agreement, and other valuable consideration, the sufficiency and receipt of which is acknowledged by the parties, it is hereby agreed by and between the parties hereto as follows:

1. Definitions. The following terms used in this Agreement will have the following meanings:

a. Agreement. This Agreement, together with all exhibits, amendments and modifications hereto.

b. Effective Date. The date designated in writing by the Town Manager after this Agreement is fully executed and all changes initialed by both parties.

c. Event of Default. Any one or more of the occurrences constituting a default under this Agreement as set forth herein.

d. Force Majeure. Any one or more of the following occurrences: Acts of God (including, without limitation, hurricanes, windstorms, earthquakes, floods); war, declaration of a state of national, state or local emergency; civil unrest; strikes, boycotts, lockouts or labor disputes beyond the control of the parties.

e. Governmental Authority. Any federal, state, county, municipal or other governmental department, entity, authority, commission board, bureau, court, agency or any instrumentality of any of them.

Resolution No 02-112

f. Governmental Requirement. Any law, enactment, statute, code, ordinance, rule, regulation, judgment, decree, writ, injunction, order, permit, certificate, license, authorization, agreement, or other direction or requirement of any Governmental Authority now existing or hereafter enacted, adopted, promulgated, entered, or issued.

g. Hazardous Substances. Any hazardous, toxic or dangerous waste, substance or material including, but not limited to, any elements or compounds which are now or hereafter (a) identified in Section 101(14) of the CERCLA, 42 U.S.C. § 376.301, as same may be amended from time to time, (b) determined to be toxic, a pollutant or contaminant, under any Governmental Requirement, (c) contained in the list of hazardous substances adopted by the United States Environmental Protection Agency, (d) defined as “petroleum” and “petroleum Products” as defined in Fla. Stat. § 376.301, as same may be amended from time to time, and (e) asbestos, radon, polychlorinated biphenyls and such other elements, compounds, materials, substances or waste which are otherwise dangerous, hazardous, harmful or deleterious to human or animal health or safety, or the environment.

h. Improvements. All improvements, structures and landscaping now or hereafter installed or constructed on the Property as well as all additions, alterations, modifications, renovations, and replacements thereto.

i. Initial Term. The period of time beginning on the Effective Date and ending five years from the effective date.

j. Interlocal Agreement. That certain Interlocal Agreement between the Town and the School Board of Miami-Dade County, Florida as approved by the Town Council on November 12, 2002, a copy of which is attached hereto as Exhibit “B” and made a part hereof.

k. Liabilities. Any and all liabilities (including strict liability), losses, suits, proceedings, settlements, judgments, orders, penalties, fines, liens, assessments, claims, demands, damages, injuries, obligations, costs, disbursements, expenses or fees of any kind or nature, including attorneys’ fees and expenses (at both the trial and appellate levels) paid or incurred in connection therewith.

l. Optimist Club. The Optimist Club of Miami Lakes, Inc., a Florida non-profit corporation.

m. Personal Property. The items listed on Exhibit “B” attached hereto, which are owned by the Town and located at the Property that may be used by the Optimist Club during the Term, subject to the Optimist Club’s maintenance, repair, and replacement thereof. The Personal Property shall be returned to the Town at the end of Term in the condition existing on the Effective Date, normal wear, tear and replacement excepted.

n. Property. The real property commonly known as Miami Lakes Park located at 6412 Northwest 162nd Street, Miami Lakes, Florida 33014.

o. Public Areas. Those areas of the Property which are open for use by the general public on a daily basis.

p. Reasonable Approval. Approval which is not unreasonably withheld, conditioned, delayed or denied. In instances where the Reasonable Approval of a party is required, a failure to deny approval within thirty (30) days after approval has been requested in writing will be deemed Reasonable Approval. Any withholding, conditioning, delay or denial of Reasonable Approval must be accompanied by a written statement of the reasons for such withholding, conditioning, delay or denial of approval. Reasonable Approval must be in writing, except when there is a failure to deny approval within the time specified above, in which case approval is deemed given.

q. Renewal Term. Five (5) years, commencing immediately after the expiration of the Initial Term.

r. Term. The Initial Term and the Renewal Term if in effect.

s. Termination Date. Five (5) years from the date of the initial agreement, or the last day of the Renewal Term if in effect.

t. Town. The Town of Miami Lakes, a Florida municipal corporation.

2. Use and Obligations.

a. The Town grants to the Optimist Club a priority, but the non-exclusive right to use the Property as contemplated herein and subject to the terms and conditions of the Interlocal Agreement. This Agreement is subject and subordinate to all terms and conditions of the Interlocal Agreement. The Optimist Club represents to the Town that it has read the entire Interlocal Agreement and agrees to be bound under the terms of the Interlocal Agreement to the extent applicable to the use of the Property by the Optimist Club hereunder. Notwithstanding anything herein to the contrary, if the Interlocal Agreement expires or is terminated for any reason, then this Agreement shall also automatically expire or terminate as of the expiration or termination date of the Interlocal Agreement.

b. Use. The Optimist Club agrees to operate the Property only for the following uses permitted pursuant to this Agreement:

(1) General recreational programs, activities, various team practices, concession stands, meets and events.

(2) Such other compatible uses as permitted under applicable law for which the Town has given its prior written consent in each instance, which consent may not be unreasonably withheld.

c. Town shall have the ability to enter into written agreements with other organizations, entities or persons for the use of Property as permitted by this Agreement.

d. Other than the uses stated above, the Property may not be used by Optimist Club for any other purpose without Town's Reasonable Approval.

e. The Optimist Club shall not commit nor permit any violations of applicable federal, state, county and municipal laws, ordinances, resolutions and governmental rules, regulations and orders, as may be in effect now or at any time during the term of this Agreement, all as may be amended, which are applicable to Town, the Optimist Club, the Property or the operations conducted at the Property. A violation of any such laws, ordinances, resolutions, rules, regulations or orders, as amended, shall constitute a material breach of this Agreement, and in such event, Town shall be entitled to exercise any and all rights and remedies hereunder and at law and in equity.

f. The Town may promulgate and enforce reasonable rules and regulations governing the use of the Property by the Optimist Club, and the Optimist Club shall provide adequate supervision of the Property at all times the Optimist Club conducts or sanctions activities thereon.

3. **Term.**

a. **Initial Term.** The Initial Term of the Agreement will commence on the Effective Date and terminate five years (5) from the effective date.

b. **Renewal Term.** As long as no Event of Default by Optimist Club has occurred and remains uncured beyond applicable cure periods, Optimist Club shall have the option to extend this Agreement (the "Option") for an additional period of five (5) years on the same terms and conditions as set forth in this Agreement (the "Renewal Term"). The Option can be exercised by Optimist Club providing written notice to Town of its election to exercise the Option at least six (6), but not more than twelve (12) months prior to the last day of the Initial Term. The Town Manager is hereby authorized to negotiate, formalize, and execute any amendment(s) to this Agreement relative to the Renewal Term

4. **Maintenance.** The Town agrees that it shall be responsible for routine maintenance of the Property during the Term of this Agreement. Optimist Club shall be solely responsible for any maintenance, repairs, replacements or restoration related to damages to the Property caused by the acts or omissions of Optimist Club, its agents, employees, guests and invitees. Upon the expiration or earlier termination of this Agreement, Optimist Club, at its sole cost and expense, will return the Property in good condition, reasonable wear and tear excepted.

5. **Utilities.** The Town shall be responsible for all utilities and services consumed on the Property during the Term.

6. **Use of Premises.** Consistent with the Joint Use Agreement with the Miami-Dade County School Board; The Optimist Club will have use of the facilities after 5:00PM on weekdays and all day on Saturday and Sunday except when the Miami-Dade County School Board requires the fields for intramural sports, summer school and special school events.

7. **Ingress and Egress.** Optimist Club, its agents, employees, invitees and guests shall have the non-exclusive right to ingress and egress to the Property during those dates and times set forth herein.

8. **Programs; Services, and Events at the Property.**

a. **Programs, Services and Events Costs.** The Optimist Club is solely responsible for all costs incurred in providing programs and services at the Property and the staging of any events by Optimist Club pursuant to this Agreement. Optimist Club, at the Optimist Club's expense, will obtain all permits and licenses required by any Governmental Authority for any programs, services, events to be offered or held by Optimist Club at the Property. Town will use best efforts to expedite the issuance of any permits required for events at the Property.

b. **Scheduling of Events.** Throughout the term, the Optimist Club will provide the Town with a proposed schedule of programs, services and events at the Property on an annual basis. The Town and the Optimist Club will reasonably cooperate to ensure that appropriate field downtime is included in the proposed schedule.

c. **Fees.** Upon execution of this Agreement, the Optimist Club will present a fee schedule to the Town for its approval. Such fee schedule must comply with the requirements of the agreement with Miami-Dade County.

9. **Designated Representative.** The Optimist Club will appoint, in writing, within ten (10) days of the execution of this Agreement, a representative that will be the sole and exclusive contact with the Town officials.

10. **Limitation on Activities for Profit.** The Optimist Club is not authorized to engage in for-profit activities within the Property except for activities related to sales in the concession stand. The Optimist Club also represents to the Town that all of its members are non-paid volunteers.

11. **Cancellation and Default.** Except as otherwise provided herein, the Town shall provide the Optimist Club with written notice of any failure to perform or comply with the terms and conditions contained herein to be performed by the Optimist Club. If the Optimist Club fails to cure said default within thirty (30) days of receipt of written notice, or does not provide the Town with a written response within thirty (30) days after receiving notification, indicating the status of the Optimist Club's resolution of the violations and providing for a schedule to diligently correct all deficiencies, the Town shall have the right to terminate this Agreement, without penalty, upon ten (10) days additional written notice to the Optimist Club.

The Optimist Club shall provide the Town with written notice of any failure to perform or comply with the terms and conditions contained herein to be performed by the Town. If the Town fails to cure said default within thirty (30) days of receipt of written notice, or does not provide the Optimist Club with a written response within thirty (30) days after receiving notification, indicating the status of the Town's resolution of the violations and providing for a schedule to diligently correct all deficiencies, the Optimist Club shall have the right to terminate this Agreement, without penalty, upon ten (10) days additional written notice to the Town.

12. **Insurance.**

a. The Optimist Club agrees to obtain general liability insurance in an amount no less than One Million and No/100 Dollars (\$1,000,000.00) per occurrence, naming the Town and the School Board of Miami-Dade County, Florida as additional insureds as their interests may appear.

b. The Optimist Club shall furnish to the Town certificates of insurance evidencing the insurance coverages specified by this Section prior to the Effective Date of this Agreement and prior to the expiration date set forth in each successive certificate. The required certificates of insurance shall name the type of policy provided, refer specifically to this Agreement, and state that such insurance is as required by this Agreement.

c. The required insurance coverage is not to cease and is to remain in full force throughout the Term of this Agreement. All policies must be endorsed to provide Town with at least thirty (30) calendar days' notice of cancellation and/or restriction. If any of the insurance coverage will expire prior to the termination of this Agreement, copies of renewal policies shall be furnished at least sixty (60) calendar days' prior to the date of their expiration.

13. **Damage, Restoration.** If the Property or any part thereof shall be damaged or destroyed by fire, hurricane, flood or other casualty ("Damage") as to render the Property unusable by either party for a consecutive period of more than thirty (30) days, either Town or Optimist Club may terminate this Agreement by giving fifteen (15) days notice to the other party. If the Agreement terminates pursuant to this Section, this Agreement shall expire as of the date on which such termination shall be effective, as if such date were the Expiration Date.

14. **Taxes.**

a. **Ad Valorem Taxes.** Town and Optimist Club acknowledge that the Property is currently exempt from ad valorem taxes. If ad valorem taxes are assessed against the Property this agreement will be terminated.

b. Non-Ad Valorem Taxes and Assessments. The Optimist Club is solely responsible for the payment of all taxes (other than ad valorem taxes) and assessments on the Property or this Agreement, arising from or related to, Optimist Club's operation, maintenance, and repair of the Property, including, without limitation, any tangible personal property taxes on property owned by Optimist Club, intangible personal property taxes, sales taxes, use taxes, assessments, and documentary stamp taxes. Optimist Club must pay all taxes and assessments prior to delinquency and must present proof of payment to Town prior to delinquency.

15. Loss and Damage. Town shall not be liable for any loss, damage or injury of any kind or character to any person or property (i) caused by any defect in any building, structure, or other Improvements on the Property or in any equipment or other facility located thereon; (ii) caused by or arising from any act or omission of Optimist Club, or of any of its agents, employees, guests or invitees; (iii) arising from any accident on the Property or any fire or other casualty thereon; or (iv) arising from any other cause; unless, in any such events, caused by the gross neglect or willful act or omission of Town.

16. Liability. The Optimist Club hereby assumes all financial, administrative and legal responsibility in connection with, related to, or arising out of the use of the Property. Nothing in this Agreement will be construed to affect in any way the Town's rights, privileges, and immunities, including the monetary limitations of liability set forth in Section 768.28 of the Florida Statutes. The provisions of this Section will survive the termination or expiration of this Agreement.

17. Condemnation. If there is a taking of or damage to all or any part of the Property resulting from an exercise of the power of eminent domain, whether by a condemnation proceeding, inverse condemnation or otherwise, or if a transfer, conveyance, or sale of all or any part of the Property is made in lieu of an exercise of the power of eminent domain (all of the foregoing being hereinafter referred to as a "Condemnation") prior to or during the Agreement Term, either party may terminate this Agreement by giving the other party thirty (30) days written notice.

18. Force Majeure. If the occurrence of a Force Majeure delays, hinders or prevents either Town or Optimist Club from performing any obligation or covenant under this Agreement, the performance of the obligation or covenant will be excused for the period during which performance is delayed, hindered or prevented, and the period for performing the covenant or obligation will be extended by the number of days equal to the period during which the performance was delayed, hindered or prevented.

19. Indemnification.

a. General Indemnification. The Optimist Club does hereby agree to defend, indemnify and hold the Town, its Councilpersons, Town Manager, agents, employees, attorneys, successors and assigns harmless from and against any and all liability, damages, costs or expenses (including reasonable attorneys' fees, costs, and expenses at both the trial and

appellate levels) arising from the acts or omissions of the Optimist Club, its agents, employees, guests and invitees in connection with this Agreement. The provisions of this Section shall expressly survive any expiration or termination of this Agreement.

b. Environmental Indemnification. The Optimist Club indemnifies Town and its Councilpersons, Town Manager, agents, employees, attorneys, successors and assigns against any Liabilities arising out of or by reason of (a) the use and operation of the Property by Optimist Club and its agents and employees; (b) any acts or omissions of Optimist Club, or any other person at, on or about the Property resulting in the contamination of air, soil, surface waters or groundwaters over, on or under the Property; (c) the presence of any Hazardous Substances on, in or under the Property; or (d) any events, conditions, circumstances, activities, practices, incidents, actions or plans involving the manufacture, processing, distribution, use, transport, handling, treatment, storage, disposal, cleanup, emission, discharge, seepage, spillage, leakage, remediation or threatened remediation of any Hazardous Substance on, in, under or from the Property, and arising out of Optimist Club's operations at the Property. This indemnification will survive the termination of the Agreement.

20. Assignment. The Optimist Club shall not assign, transfer, or otherwise dispose of this Agreement, or any portion thereof, or permit the Property to be occupied by other organizations, entities or persons.

21. Non-Discrimination. In the operations at the Property, Optimist Club, its employees, agents, volunteers, and any parties under the direction or control of Optimist Club may not discriminate against any person on the basis of sex, age, race, color, religion, ancestry, national origin, physical handicap or sexual orientation by refusing to furnish to such person any accommodation, facility, service or privilege offered to or enjoyed by the general public. In the performance of this Agreement, Optimist Club, its employees, agents, volunteers, and any parties under the control or direction of Optimist Club may not discriminate against any employee or applicant for employment on the basis of sex, age, race, color, religion, ancestry, national origin, physical handicap, or sexual orientation. Optimist Club, its employees, agents, volunteers, and all parties under the direction or control of Optimist Club must take affirmative action to assure that applicants are employed, and that employees are treated during employment, without regard to their sex, age race, color, religion, ancestry, national origin, physical handicap, or sexual orientation. Optimist Club will permit Town access at reasonable times to its records of employment, employment advertising, application forms and other pertinent data and records of Optimist Club, subject to confidentiality laws and other applicable restrictions.

22. Town's Right to Inspect. Town has the right at all reasonable times to make whatever inspections Town deems reasonably necessary to determine if Optimist Club is complying with the terms and conditions of this Agreement. Optimist Club agrees to provide Town with reasonable access to its operations for such inspection purposes, as long as Town's inspections do not unreasonably interfere with the operation of the Property.

23. **Third Parties.** Neither the Optimist Club nor Town intend to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that 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. Additionally, the Optimist Club acknowledges and agrees that it is not a third party beneficiary of the Interlocal Agreement, and the Optimist Club agrees not to assert any claims against the Town or the School Board of Miami-Dade County, Florida based upon the Interlocal Agreement.

24. **Notices.** All notices, requests, demands, elections, consents, approvals and other communications hereunder must be in writing (each such, a "Notice") and addressed as follows (or to any other address which either party may designate by Notice):

If to Optimist Club:

With a copy to:

If to Town:

Town of Miami Lakes
6851 Main Street
Miami Lakes, FL 33014
Attn: Town Manager

With a copy to:

Weiss Serota Helfman Pastoriza & Guedes, P.A.
2665 S. Bayshore Dr., Suite 420
Miami, Florida 33133
Attn: Town Attorney

Any Notice required by this Agreement to be given or made within a specified period of time, or on or before a date certain, shall be deemed to have been duly given if sent by certified mail, return receipt requested, postage and fees prepaid; hand delivered; or sent by overnight delivery service.

25. **Police/Regulatory Powers.** Town cannot, and hereby specifically does not, waive or relinquish any of its regulatory approval or enforcement rights and obligations as it may relate to regulations of general applicability which may govern the Property, any Improvements thereon, or any operations at the Property. Nothing in this Agreement shall be deemed to create an affirmative duty of Town 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 zoning and land use codes, administrative codes, ordinances, rules and regulations, federal laws and regulations, State laws and regulations, and grant agreements. In addition, nothing herein shall be considered zoning by contract.

26. **Encumbrances.** Optimist Club hereby represents, warrants and covenants to the Town that the fee simple title to the Property shall be at all times free and clear of all liens, claims and encumbrances created by or through Optimist Club. If any lien or notice of lien shall be filed against the fee simple title of the Property created by or through Optimist Club, the Optimist Club shall, within thirty (30) calendar days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, or order of a court of competent jurisdiction. Optimist Club shall not be deemed to be Town's agent so as to confer upon any contractor or subcontractor providing labor or services that are material to the Property a construction lien, mechanic's lien or both against Town's estate under the provisions of Chapters 255 and 713, Florida Statutes, as amended from time to time.

27. **Drug-Free Workplace Certification.** Optimist Club hereby covenants and agrees to implement a policy consistent with Governmental Requirements with respect to maintaining a drug-free workplace and otherwise to provide and maintain during the Term of this Agreement a drug-free workplace at the Property.

28. **Miscellaneous.**

a. The terms, covenants, conditions, and provisions of this Agreement shall bind and inure to the benefit of Town and Optimist Club and their respective legal representatives, successors, and assigns.

b. If any term, covenant, condition or provision of this Agreement (or the application thereof to any circumstance or person) shall be invalid or unenforceable to any extent, the remaining terms, covenants, conditions and provisions of this Agreement shall not be affected thereby; and each remaining term, covenant, condition and provision of this Agreement shall be valid and shall be enforceable to the fullest extent permitted by law unless the enforcement of the remaining terms, covenants, conditions and provisions of this Agreement would prevent the accomplishment of the original intent of the agreement between the parties.

c. Both parties agree that there will be no discrimination against any person based upon race, color, sex, religious creed, ancestry, national origin, mental or physical handicap, in the use of the Property. It is expressly understood that upon a determination by a court of competent jurisdiction that discrimination has occurred, this Agreement automatically

terminates without any further action on the part of the other party, effective the date of the court order.

d. Each party represents and warrants to the other that the execution, delivery and performance of this Agreement has been duly authorized by the Optimist Club and Town action.

e. In connection with any litigation arising out of this Agreement, the Town shall be entitled to recover all reasonable costs incurred including reasonable attorney's fees and costs for services rendered in connection with any enforcement of this Agreement, including appellate proceedings and post judgment proceedings.

f. Town cannot, and hereby specifically does not, waive or relinquish any of its regulatory approval or enforcement rights and obligations as it may relate to regulations of general applicability which may govern the Property or any operations at the Property. Nothing herein shall be deemed to create an affirmative duty of Town 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 ordinances, rules and regulations, federal laws and regulations and state laws and regulations.

g. Optimist Club acknowledges and agrees that its use of the Property does not in any way constitute or establish any form of tenancy under Florida law. Optimist Club hereby waives any claims that its use of the Property constitutes a tenancy under Florida law.

h. Nothing herein contained shall be deemed in any way to constitute Town or Optimist Club a partner of the other in its business or otherwise, or a joint venturer or a member of a joint enterprise with the other. For all intents and purposes hereunder, Optimist Club shall be considered an independent contractor.

i. This Agreement may be signed in two or more counterparts, each of which constitutes the agreement of the parties and each of which will be treated as an original.

j. This Agreement sets forth the entire agreement between Town and Optimist Club with respect to the subject matter of this Agreement. This Agreement supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, between the parties.

k. All terms, conditions, covenants and obligations of Town and Optimist Club hereunder shall survive the termination or expiration of this Agreement as necessary and appropriate for such parties to fulfill their obligations that accrued during the Term of this Agreement.

1. THIS AGREEMENT SHALL BE INTERPRETED AND CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF FLORIDA APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED ENTIRELY IN THE STATE. THE PARTIES AGREE THAT VENUE FOR AND LEGAL ACTION

INSTITUTED IN CONNECTION WITH THIS AGREEMENT SHALL BE IN MIAMI-
DADE COUNTY, FLORIDA. THE PARTIES HEREBY EXPRESSLY WAIVE ANY
RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL
LITIGATION RELATED TO, OR ARISING OUT OF THIS AGREEMENT.

[Acknowledgment on following page]

IN WITNESS WHEREOF the parties hereto have executed this Agreement this 16th
day of Dec., 2002.

ATTEST:

By: 
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: 
Town Attorney

TOWN:

TOWN OF MIAMI LAKES, a Florida
municipal corporation

By: 
Alex Rey, Town Manager

OPTIMIST CLUB:

THE OPTIMIST CLUB OF MIAMI
LAKES, INC., a Florida non-profit
corporation

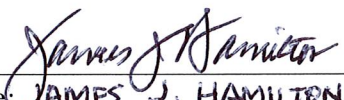
By: 
Name: JAMES J. HAMILTON
Its: _____

EXHIBIT "A"

