RESOLUTION NO. 31-08-10

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA DIRECTING THE MAYOR TO EXECUTE AN AMENDMENT TO THE CONTRACT BETWEEN THE TOWN OF LAKE PARK AND ITAMAR MACEDO FOR A PERIOD OF ONE YEAR; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park ("Town") is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town is a municipality and given those powers and responsibilities enumerated by Chapter 166 Florida Statutes and the Florida Constitution; and

WHEREAS. the Town is empowered to enter into contractual arrangements with public agencies, private corporations or other persons, pursuant to Florida Statutes; and

WHEREAS, the Town of Lake Park (Town) has executed an Contract for the provisions of Professional Tennis Lessons and Instruction (the Contract) with Itamar Macedo (Macedo) effective September 3, 2009, a copy of which is attached hereto and incorporated herein as **Exhibit "A"**; and

WHEREAS, paragraph 2.1 of the Contract provides for up to three one year extensions of the Contract and the Town and the Macedo have agreed to renew the Contract for one year from September 1, 2010 to August 31, 2011; and

WHEREAS, the effective date of the amendment to the Contract will be September 1, 2010.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK:

The foregoing Resolution was offered by Commissioner Rumsey, who moved its adoption. The motion was seconded by Commissioner Hockman and upon being put to a roll call vote, the vote was as follows:

	AYE	NAY
MAYOR DESCA DUBOIS	Absent	
VICE-MAYOR PATRICIA OSTERMAN	✓	
COMMISSIONER STEVEN HOCKMAN	✓	
COMMISSIONER JEANINE LONGTIN	✓	
COMMISSIONER KENDALL RUMSEY	✓	

The Town Commission thereupon declared the foregoing Resolution NO. 31-08-10 duly passed and adopted this 18 day of August, 2010.

TOWN OF LAKE PARK, FLORIDA

BY: P. Osterman
for DESCA DUBOIS
MAYOR

ATTEST:

Vivian M. Lemley
VIVIAN M. LEMLEY
TOWN CLERK

(TOWN SEAL)

TOWN OF LAKE PARK SEAL FLORIDA

Approved as to form and legal sufficiency:

BY: [signature]
THOMAS J. BAIRD
TOWN ATTORNEY

Section 1. The whereas clauses are hereby incorporated herein as true and correct.

Section 2. The Town and Itamar Macedo have agreed to exercise the right to renew the Contract effective September 1, 2010, upon the same terms until August 31, 2011. The Mayor is hereby authorized and directed to execute the First Amendment to the Contract between the Town of Lake Park and Itamar Macedo attached hereto and incorporated herein as **Exhibit "B".**

Section 3.

This Resolution shall take effect immediately upon its adoption.

Exhibit A

CONTRACT
BETWEEN THE TOWN OF LAKE PARK, FL
AND
ITAMAR MACEDO

THIS CONTRACT, made this 3 day of September, 2009 by and between the Town of Lake Park, a municipal corporation of the State of Florida, hereinafter designated as "the TOWN", and ITAMAR MACEDO, 1087 Raintree Drive, Palm Beach Gardens, FL 33410, hereinafter designated as "the CONSULTANT".

WITNESSETH THAT:

WHEREAS, the TOWN is a municipality and given those powers and responsibilities enumerated by Chapter 166 Florida Statutes and the Florida Constitution; and

WHEREAS, the TOWN is empowered to enter into contractual arrangements with public agencies, private corporations or other persons, pursuant to Florida Statutes; and

WHEREAS, the TOWN requires the services of a tennis professional as an independent contractor and not an employee of the TOWN to provide tennis instruction for individuals interested in taking tennis lessons at the Lake Park Tennis Center; and

WHEREAS, the TOWN has interviewed persons interested in providing such services to the TOWN and has determined that the CONSULTANT is the most qualified individual to serve as the tennis professional instructor for the TOWN under the terms and conditions of this CONTRACT; and

WHEREAS, the TOWN has budgeted funds in its current fiscal year budget which are available for the funding of this CONTRACT;

NOW THEREFORE, the TOWN and the CONSULTANT in consideration of the benefits flowing from each to the other do hereby agree as follows:

1. STATEMENT OF WORK

1.1 The CONSULTANT shall, to the satisfaction of the TOWN, fully and timely provide tennis lessons, instruction and related services as described herein. The CONSULTANT shall organize and operate a range of quality tennis activities and programs for all ages and experience levels of tennis players, which shall include youth and adult players and beginner, intermediate, and advanced levels of play. The CONSULTANT shall, at the CONSULTANT's sole expense, hire and retain and employ any and all assistants necessary to operate a quality tennis program for the TOWN (including but not limited to the provision to such individuals all benefits of employment required by state and federal law, including but not limited to, worker's compensation insurance, health insurance, disability insurance, life insurance,

retirement benefits, and all other insurances and benefits of employment, and the CONSULTANT shall be solely responsible for paying such costs. The CONSULTANT shall submit a fee schedule for the costs to be charged for tennis lessons and other related services to the Town Manager, which shall be subject to Town Manager's review and approval before CONSULTANT commences any services under this CONTRACT. The fee schedule for tennis lessons and instruction shall be comparable with fees charged at similar tennis facilities in municipalities of comparable demographics in Palm Beach County. The CONSULTANT shall provide all equipment including but not limited to tennis rackets, tennis balls, ball practice hitting equipment (tennis ball machines), water coolers, water removers/squeegees, ball pickup and ball baskets, score keepers/trackers, audio and video teaching materials, classroom instruction, seminars, individual and group instruction, tournaments, and all other normally accepted methods of instruction and coaching in the sport of tennis and means of teaching as well as practice machinery and equipment necessary to provide tennis instruction and lessons.

1.1 The CONSULTANT after consultation with, and approval of the Town Manager, shall establish a method for qualifying under-privileged individuals with low incomes or who are from low income households, for free tennis lessons and instruction and coaching in tennis by the CONSULTANT. The CONSULTANT shall be responsible for preparing all application forms, registration forms, ledgers, account records, incident reports, appointment and scheduling books and records, and other written documentation made or received by the CONSULTANT in the operation of the tennis instruction program. Annually, the CONSULTANT shall conduct a minimum of 25 hours of free lessons and shall hold periodic teaching seminars for individuals who qualify for free lessons and instruction. In addition, the CONSULTANT shall provided not less than 25 hours of free tennis lessons to students of Lake Park Elementary School, Lake Park Baptist School and the Lake Park Summer Camp who qualify for free lessons under the criteria established by the Town Manager and the CONSULTANT. The CONSULTANT shall keep accurate and up to date written records and appointment books located in the Pro Shop at the Tennis Center. The appointment book shall be available to the Town Manager or his/her designee at any time.

1.3 The CONSULTANT shall have the priority use of two tennis courts (courts 3 and 4) for the purpose of delivering instruction or services. The CONSULTANT may, depending upon the circumstances, have the exclusive use of two courts during the times other organizations are present at the Tennis Center. The CONSULTANT's use and maintenance of the Tennis Center shall not in anyway, or at any time, interfere with or obstruct the use of the Tennis Center by the TOWN, its agents, employees, patrons or assigns.

1.4 Any and all advertising, signage, marketing and promotional materials, forms, releases, authorization forms, legal documents, and any other written materials and publications prepared or created by or for the CONSULRTANT for use in connection with the services to be provided pursuant to this CONTRACT or relating to the Town of Lake Park, the Lake Park Tennis Center, the Lake Park tennis program, or other written or electronic materials relating to the TOWN must be reviewed and approved in advance by the Town Manager. The CONSULTANT shall be required to utilize the medical authorization and release of liability forms prepared by the Town Attorney for all activities conducted by the CONSULTANT on TOWN property.

2. TERM AND PERIOD OF PERFORMANCE

2.1 The term of this CONTRACT shall commence on the date this CONTRACT is executed by the TOWN ("Commencement Date") and shall continue for a term of .one (1) year unless terminated prior to the expiration of the one-year term. The CONTRACT may be renewed by the TOWN for up to three additional one year periods on the same terms and conditions and an increase in the Facility User Fee for the Pro Shop as provided herein.

2.2 The parties agree that time is of the essence in the performance of each any every obligation under this CONTRACT.

3. CONSIDERATION AND FACILITY USER FEES

3.1 The TOWN shall provide office space for the CONSULTANT in the Pro Shop building at Lake Shore Park at monthly Facility User Fees ("Fee") of One Thousand Ninety Two Dollars ($1,092.00) per month. Facility User Fee shall be paid by the CONSULTANT by the 10th day of each month by cashier's check or money order made payable to "The Town of Lake Park, Florida" and delivered to the Town of Lake Park Finance Department located at 535 Park Ave, Lake Park Florida 33403. After the expiration of the initial one year term, Facility User Fee shall increase by four percent (4%) for each one year renewal term. If CONSULTANT fails to make any payment of Facility User Fee within fifteen (15) days after receipt of written notice from TOWN of such failure, then CONSULTANT shall pay a late charge in an amount equal to five percent (5%) of the amount of Facility User Fee then due. The late charge shall be paid to TOWN within thirty (30) days after demand by TOWN. In addition, interest at the rate of one and one-half percent (1.5%) per month shall accrue against the delinquent payment(s) from the date due until the date the payment is received by TOWN. CONSULTANT and TOWN agree that the late charge is a reasonable estimate of the extra administrative expenses incurred by TOWN in handling the delinquency. Any and all sums of money or charges required to be paid by CONSULTANT under this CONTRACT other than the Facility User Fee

shall be considered "Additional Fee" whether or not the same is so specifically designated and TOWN shall have the same rights to enforce due and timely payment by CONSULTANT of all Additional Facility User Fee as are available to TOWN relating to Facility Usage Fees.

3.2 In the event the CONSULTANT pays an amount than is less than the amount stipulated to be paid under this CONTRACT, such payment shall be considered to be made only on account of the stipulated amount. No endorsement or statement on any check or letter shall be deemed to be an accord and satisfaction. The TOWN may accept any check or payment without prejudice to the TOWN's right to recover the balance due or to pursue any other remedy available to the TOWN pursuant to this CONTRACT or under the law.

4. EQUAL OPPORTUNITY/MBE PARTICIPATION

4.1 The CONSULTANT hereby assures that no person shall be discriminated against on the grounds of race, color, creed, national origin, handicap, age, or sex, in any activity under this CONTRACT. The CONSULTANT shall take all measures necessary to effectuate these assurances.

5. INVOICING AND PAYMENT

5.1 The CONSULTANT'S invoices shall be sent to the following address:

Town of Lake Park
Town Manager
545 Park Avenue
Lake Park, FL 33403

5.2 The CONSULTANT shall be paid on a monthly basis or as otherwise agreed to in writing by the TOWN, provided the CONSULTANT has performed the work according to the terms and conditions of this CONTRACT to the satisfaction of the TOWN.

6. INDEMNIFICATION AND INSURANCE

6.1 The CONSULTANT hereby agrees to indemnify, defend and hold harmless TOWN from and against any and all liability for any and all losses, claims, expenses, damages, bodily injury or property damage, including without limitation, damage to the Property or to TOWN's Property, consequential damages, all costs, expenses, court costs and reasonable attorneys' fees imposed on TOWN by any person whomsoever that occurs ARISING FROM (1) THE ACTS, OMMISSIONS, NEGLIGENCE, WILFUL MISCONDUCT OR STRICT LIABILITY OF THE CONSULTANT, ITS EMPLOYEES, AGENTS OR CONTRACTORS OR (2) ANY BREACH OF ANY PROVISION OF THIS

CONTRACT The commercial liability insurance that the CONSULTANT is required to carry pursuant to Section 6 of this CONTRACT shall include coverage of the foregoing contractual indemnity. CONSULTANT's inability to evaluate liability or its evaluation of liability, shall not excuse the CONSULTANT's duty to defend and indemnify within fifteen (15) days after such notice is given by the TOWN by registered mail. Only an adjudication or judgment after the highest appeal is exhausted, specifically finding the TOWN solely negligent, shall excuse performance of this provision by enforcement by the CONSULTANT. The CONSULTANT shall pay all costs and fees related to this obligation and its enforcement by the TOWN. The TOWN's failure to notify the CONSULTANT of a claim shall not release the CONSULTANT of the above duty to defend and indemnify. The provisions of this Section shall survive the expiration or any termination of this CONTRACT.

6.2 The CONSULTANT shall maintain, or cause to be maintained, the following specified insurance coverages in the amounts set forth hereafter during the full period of the CONTRACT, which must include the following coverages and minimum limits of liability:

a. WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE for all employees of the CONSULTANT for Statutory Limits in compliance with the applicable state and federal laws. Notwithstanding the number of employees or any other statutory provisions to the contrary, coverage shall extend to all employees of the CONSULTANT and all subcontractors.

b. COMPREHENSIVE GENERAL LIABILITY with the minimum limits of $1,000,000.00, Per Occurrence, Combined Single Limit for Bodily Injury Liability, Property Damage Liability, Premises and Operations, Independent contractors, Products and Completed Operations, Broad Form Property / Personal Injury, XCU coverage, and a contractual Liability Endorsement.

c. BUSINESS AUTO LIABILITY with minimum limits of $1,000,000.00, Per Occurrence, Combined Single Limit for Bodily Injury and Property Damage Liability. This shall be an "any-auto" policy including Owned, Hired, Non-Owned, and Employee Non-Ownership Coverage.

d. PROFESSIONAL LIABILITY (malpractice and professional negligence) coverage with minim limits of $1,000,000.00 for all agents and employees of CONSULTANT.

6.3 The TOWN shall be included as an Additional Named Insured under the General Liability and Automobile Liability policies. Current valid insurance policies meeting the requirements herein identified shall be maintained during the duration of the CONSULTANT. There shall be a thirty (30) day

notification to the TOWN, in the event of cancellation or modification of any stipulated insurance policy. It shall be the responsibility of the CONSULTANT to ensure that any subcontractors are adequately insured or covered under their policies.

6.4 All Certificates of Insurance shall be kept on file with the TOWN, and approved by the TOWN prior to the commencement of any work activities. The TOWN may at its discretion, require the CONSULTANT to provide a complete certified copy of the insurance policy(s). If this CONTRACT includes the installation of machinery and/or equipment into an existing structure, the Comprehensive General Liability policy must include an endorsement covering same, including installation and transit.

6.5 The required insurance coverage shall be issued by an insurance company duly authorized and licensed to do business in the State of Florida with the following minimum qualifications in accordance with the latest edition of A.M. Best's Insurance Guide: Financial Stability: B+ to A+.

6.6 All required insurance shall preclude any underwriter's rights of recovery or subrogation against the TOWN with the express intention of the parties being that the required coverages protect both parties as the primary insurance for any and all losses covered by the above described insurance.

6.7 The clauses "Other Insurance Provisions" and "Insured Duties in the Event of an Occurrence, Claim or Suit" as they appear in any policy of insurance in which the TOWN is named as an additional named insured shall not apply to TOWN.

6.8 Violation of the terms of this Paragraph 6 and its sub-parts shall constitute a material breach of the CONTRACT by the CONSULTANT and the TOWN, at its sole discretion, may cancel the CONTRACT and all rights, title and interest of the CONSULTANT shall thereupon cease and terminate.

7. TERMINATION/REMEDIES

7.1 If either party fails to fulfill its obligations under this CONTRACT in a timely and proper manner, the other party shall have the right to terminate this CONTRACT by giving written notice of any deficiency. The party in default shall then have seven (7) calendar days from receipt of notice to correct the deficiency. If the defaulting party fails to correct the deficiency within this time, this CONTRACT shall terminate at the expiration of the seven (7) day time period.

7.2 The TOWN may terminate this CONTRACT at any time for convenience upon thirty (30) calendar day's prior written notice to the CONSULTANT. The performance of work under this CONTRACT may be terminated by the TOWN in accordance with this clause in whole, or from time to time in part, whenever the TOWN shall determine that such termination is in the best interest of the TOWN. Any such termination shall be effected by delivery to the CONSULTANT of a Notice of Termination specifying the extent to which performance of work under the CONTRACT is terminated, and the date upon which such termination becomes effective. In the event of termination, the TOWN shall compensate the CONSULTANT for all authorized and accepted work performed through the termination date. The TOWN shall be relieved of any and all future obligations hereunder, including but not limited to lost profits and consequential damages, under this CONTRACT. The TOWN may withhold all payments to the CONSULTANT for such work until such time as the TOWN determines the exact amount due to the CONSULTANT.

7.3 If either party initiates legal action, including appeals, to enforce this CONTRACT, the prevailing party shall be entitled to recover a reasonable attorney's fee.

8. STANDARDS OF COMPLIANCE

8.1 The CONSULTANT, its employees, subcontractors or assigns, shall comply with all applicable federal, state, and local laws and regulation relating to the performance of this CONTRACT. The TOWN undertakes no duty to ensure such compliance, but will attempt to advise the CONSULTANT, upon request, as to any such laws of which it has present knowledge.

8.2 The CONSULTANT, by its execution of this CONTRACT, acknowledges and attests that, neither he nor any of his employees and subcontractors or affiliates who shall perform work which is intended to benefit the TOWN, has been convicted of any public entity crime pursuant to Section 287.133, Florida Statutes, or, if any such person, entity or affiliate was convicted of a public entity crime, a period longer than thirty-six (36) months has passed since any such person, entity or affiliate was placed on a convicted vendor list. The CONSULTANT further understands and acknowledges by its execution of this CONTRACT, that this CONTRACT shall be null and void, and/or that this CONTRACT is subject to immediate termination by the TOWN, for any misstatement or lack of compliance with the mandates of said statute. The TOWN, in the event of such termination, shall not incur any liability to the CONSULTANT for any work or materials furnished.

8.3 The CONSULTANT shall not be exempted from paying Florida Sales and Use taxes to the appropriate governmental agencies or for payment by the

CONSULTANT to suppliers for taxes on materials used to fulfill its contractual obligations with the TOWN. The CONSULTANT shall be responsible and liable for the payment of all of its FICA/Social Security and other taxes resulting from this CONTRACT.

8.4 Pursuant to Section 287.055(6), Florida Statutes, the CONSULTANT warrants that it has not employed or retained any person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this CONTRACT. Further, the CONSULTANT warrants that he has not paid or agreed to pay any person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the awarding or making of this CONTRACT. For breach of this provision, the TOWN may terminate this CONTRACT without liability and, at its discretion, deduct or otherwise recover the full amount of such fee, commission, percentage, gift, or other consideration.

9. RELATIONSHIP BETWEEN THE PARTIES

9.1 The CONSULTANT is an independent contractor and is not an employee or agent of the TOWN. Nothing in this CONTRACT shall be interpreted to establish any relationship other than that of an independent contractor, between the TOWN and the CONSULTANT, its employees, agents, subcontractors, or assigns, during or after the performance of this CONTRACT. The CONSULTANT is free to provide similar services for others.

9.2 The CONSULTANT shall not assign, delegate, or otherwise transfer its rights and obligations as set forth in this CONTRACT without the prior written consent of the TOWN. Any attempted assignment in violation of this provision shall be void, and notwithstanding the termination provisions of Paragraph 7 herein, the TOWN may immediately terminate this CONTRACT.

9.3 The CONSULTANT shall not pledge the TOWN'S credit or make the TOWN a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness.

10. RECORDS RETENTION/OWNERSHIP/AUDIT

10.1 The CONSULTANT understands that all documents produced by CONSULTANT pursuant to this CONTRACT are public records and CONSULTANT must permit the inspection and copying of all public records and must maintain all public records pursuant to Chapter 119, Florida Statutes. The CONSULTANT shall indemnify and hold the TOWN harmless from any demands, claims, actions or lawsuits of any kind regarding the CONSULTANT's failure to comply with Chapter 119, F.S. related to public

records. The CONSULTANT shall permit the TOWN or its designated agent to inspect all records maintained by CONSULTANT, which are associated with this CONTRACT at the location where they are kept upon reasonable notice.

10.2 The TOWN has not performed a pre-audit of the CONSULTANT'S financial and/or accounting records to verify actual or average direct labor payroll rates or verify the general overhead factor and profit margin. However, the CONSULTANT shall permit the TOWN or its designated agent to inspect such records at the location where they are kept upon reasonable notice. Furthermore, the TOWN shall have the right to audit the CONSULTANT's financial and accounting records, in accordance with generally accepted governmental auditing standards, within a period of one (1) year after completion of this CONTRACT. This audit may be performed by the TOWN or a designated agency.

11. USE OF PRO SHOP

11.1 All personal property placed or moved into or upon the Premises shall be at the sole risk of the CONSULTANT and the TOWN shall not be liable for any damage caused to said personal property, by the CONSULTANT, its officers, agents, or employees, or by a willful, wanton, or negligent act of any occupant of the Pro Shop whatsoever. The Pro Shop Building, sidewalks, entrances, passages, elevators and staircases and other common areas on the Premises shall not be obstructed or used other than for ingress and egress. No person shall be permitted to loiter upon the Pro Shop Premises. The CONSULTANT shall keep all glass, locks, trim and other property of the TOWN in good order and repair. If any of the same are damaged by the CONSULTANT or any of the tenant's agents, the same shall be repaired at CONSULTANT's expense. No additional lock or bolt shall be placed on any door or window of the CONSULTANT's premises and the CONSULTANT shall not permit any lock mechanism to be changed. If more than two keys for any door are desired, the additional number must be procured from the TOWN. At the end of the CONSULTANT's tenancy, the CONSULTANT shall surrender to the TOWN all keys received by the CONSULTANT. The installation of security systems is permitted however upon installation, the CONSULTANT must provide the TOWN with the security code for admission by the Town or Town Officials.

11.2 CONSULTANT certifies that CONSULTANT has inspected the Pro Shop, and accepts the same "AS IS" in its existing condition, as of the Effective Date of this CONTRACT, together with all defects, latent and patent, if any, and subject to all easements, encumbrances, and restrictions and matters of record. CONSULTANT further acknowledges that the TOWN has made no warranties or representations of any nature whatsoever regarding the Pro

Shop Premises, including without limitation, any relating to the physical condition or structural integrity of any improvements located thereon, or the suitability thereof for the CONSULTANT's intended use.

11.3 The CONSULTANT shall service, keep and maintain the interior of the Pro Shop, including all plumbing, air conditioning and heating and cooling equipment, fixtures, sprinkler systems, electrical systems, doors, interior partitions, equipment and appurtenances, the air conditioning fixtures and equipment on the exterior of the Premises, and any other installations in good condition and repair during the entire term of this CONTRACT. The CONSULTANT agrees to make repairs to the Pro Shop, which are required by, or arise out of, the CONSULTANT'S own acts or negligence, or that of the CONSULTANT'S members, employees, agents, guests, invitees, licensees, patrons or customers and immediately upon demand by the TOWN shall remedy and repair any damage to any water apparatus, electric lights, or any fixture, appliances or appurtenances of the Pro Shop, caused by any act of neglect by the CONSULTANT or of any person(s) in the employ or under the control of the CONSULTANT.

11.4 Throughout the term of this CONTRACT, the CONSULTANT at its sole expense, shall maintain the Pro Shop, which includes both internal and external, in a clean, orderly and presentable condition, free of rubbish and trash. No dumping of any unwanted materials and no outside storage of any personal property shall be permitted. The CONSULTANT, including its members, employees, agents, guests, invitees, licensees, patrons or customers, shall not cause any litter or debris to be cast upon the grounds, exterior portions or common areas of the Pro Shop. Any garbage and trash generated from the CONSULTANT's use of the Pro Shop shall be promptly removed and deposited in the containers intended to be used for such purposes.

11.5 If the CONSULTANT's presence or activities in and upon the Premises of the Pro Shop causes the TOWN to incur costs for cleaning, trash removal, inspections, or like expenses, CONSULTANT agrees to pay such costs to the TOWN on the TOWN's written demand including copies of the paid invoices for such work. Notwithstanding the foregoing, the CONSULTANT will pay on written demand the greater of the actual inspection of costs or Five Hundred Dollars ($500.00) for any inspection conducted by the TOWN or its agents on the Pro Shop the results of which show, in the TOWN's reasonable determination a, violation of this CONTRACT or a violations of any federal, state or municipal laws or regulations. CONSULTANT shall also pay on demand, the greater of the actual inspection costs or Five Hundred Dollars ($500.00) for any follow-up inspections related to the violation.

11.6 The CONSULTANT shall pay the Florida Sales and Use Taxes levied under Chapter 212.02(6) F.S., as amended, or other applicable statutes, and shall pay all personal property taxes that may be levied or assessed against the personal property of the CONSULTANT, and any other applicable taxes, fees, or governmental assessments against any equipment, personal property, and/or improvements owned, leased, or operated by the CONSULTANT or directly associated with the CONSULTANT's use of the Pro Shop Property.

11.7 The CONSULTANT releases the TOWN from any loss, claim or damage which the CONSULTANT may sustain arising directly or indirectly by reason of either existing or future zoning or other regulations promulgated by any governmental agency which may adversely affect use by the CONSULTANT of the Pro Shop. CONSULTANT shall assume all responsibility for procuring or complying with any ordinance, resolution, order, permit, consent or other such regulations, promulgated by any governmental agency whatsoever, for building or otherwise, required for the use of the Property or for the construction of any facilities upon the Pro Shop, and shall indemnify and hold harmless the TOWN from any loss, claim or damage suffered by the TOWN for the CONSULTANT's failure to properly and completely perform this responsibility. CONSULTANT shall at all times comply with all applicable laws and ordinances and all rules and regulations of municipal, state and federal governmental authorities relating to the use of the Pro Shop.

11.8 The CONSULTANT shall not place any signs on the Pro Shop, except in compliance with the Town Code, or if not applicable with the prior written consent of the TOWN, including consent as to location and design, which consent shall not be unreasonably withheld, conditioned or delayed. Any and all such approved signs shall be installed and shall be maintained by the CONSULTANT, at its sole cost and expense and shall be in compliance with all applicable laws. The CONSULTANT shall be responsible to TOWN for the installation, use or maintenance of said signs and any damage caused thereby. The CONSULTANT agrees to remove any signs prior to termination of this CONTRACT and upon such removal to repair all damage incident to such removal.

11.9 In addition to and not limiting any other rights or remedies which the TOWN may have on account of the CONSULTANT holding over without consent of TOWN, the CONSULTANT shall pay to the TOWN any and all direct and consequential damages incurred by the TOWN on account of such unapproved holding over.

11.10 During the term of this CONTRACT, the CONSULTANT shall use the Tennis Center and the Pro Shop in compliance with all applicable governmental laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including, without limitation, the Americans with Disabilities Act and laws regulating hazardous substances) (collectively "Laws"). The CONSULTANT shall comply with (a) all Laws relating solely to CONSULTANT's specific and unique nature of use of the Pro Shop and the Tennis Center; and (b) all building codes requiring modifications to the Pro Shop and the Tennis Center due to the improvements made by CONSULTANT.

11.11 The CONSULTANT shall not make or allow to be made any alterations in or to the Tennis Center and the Pro Shop without first obtaining the written consent of TOWN, which consent may be granted or withheld in the TOWN's sole discretion. The CONSULTANT shall have no authority or power, express or implied, to create or cause any construction lien or mechanics or materialmen's lien or claim of any kind against the Tennis Center and the Pro Shop. The CONSULTANT shall promptly cause any such liens or claims to be released by payment, bonding or otherwise within thirty (30) days after request by TOWN, and shall indemnify the TOWN against losses arising out of any such claim including without limitation, legal fees and court costs. NOTICE IS HEREBY GIVEN THAT THE TOWN SHALL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIAL FURNISHED OR TO BE FURNISHED TO THE CONSULTANT, OR TO ANYONE HOLDING THE PROPERTY THROUGH OR UNDER THE CONSULTANT, AND THAT NO MECHANIC'S OR OTHER LIENS FOR ANY LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT THE INTEREST OF THE TOWN IN THE PRO SHOP OR TENNIS CENTER.

11.12 Upon termination of the CONTRACT, the CONSULTANT shall, remove its equipment, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear excepted.

12. GENERAL PROVISIONS

12.1 Notwithstanding any provisions of this CONTRACT to the contrary, the parties shall not be held liable for any failure or delay in the performance of this CONTRACT that arises from fires, floods, strikes, embargoes, acts of the public enemy, unusually severe weather, outbreak of war, restraint of government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties. Failure to perform shall be excused during the continuance of such circumstances, but this CONTRACT

shall otherwise remain in effect.

12.2 The laws of the State of Florida shall govern all aspects of this CONTRACT. In the event it is necessary for either party to initiate legal action regarding this CONTRACT, venue shall be in Palm Beach County (the Fifteenth Judicial Circuit) for claims under state law and in the Southern District of Florida for any claims, which are justiciable in federal court.

12.3 In the event any provisions of this CONTRACT shall conflict, or appear to conflict, the CONTRACT, including all exhibits, attachments and all documents specifically incorporated by reference, shall be interpreted as a whole to resolve any inconsistency.

12.4 Failures or waivers to insist on strict performance of any covenant, condition, or provision of this CONTRACT by the parties, their successors and assigns shall not be deemed a waiver of any of its rights or remedies, nor shall it relieve the other party from performing any subsequent obligations strictly in accordance with the terms of this CONTRACT. No waiver shall be effective unless in writing and signed by the party against whom enforcement is sought. Such waiver shall be limited to provisions of this CONTRACT specifically referred to therein and shall be not deemed a waiver of any other provision. No waiver shall constitute a continuing waiver unless the writing states otherwise.

12.5 Should any term or provision of this CONTRACT be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this CONTRACT, to the extent that the CONTRACT shall remain operable, enforceable and in full force and effect to the extent permitted by law.

12.6 This CONTRACT may be amended, extended, or renewed only with the written approval of the parties.

12.7 This CONTRACT states the entire understanding and CONTRACT between the parties and supersedes any and all written or oral representations, statements, negotiations, or CONTRACTs previously existing between the parties with respect to the subject matter of this CONTRACT. The CONSULTANT recognizes that any representations, statements or negotiations made by TOWN staff do not suffice to legally bind the TOWN in a contractual relationship unless they have been reduced to writing and signed by an authorized TOWN representative. This CONTRACT shall inure to the benefit of and shall be binding upon the parties, their respective assigns, and successors in interest.

IN WITNESS WHEREOF, the parties or their duly authorized representatives hereby execute this CONTRACT on the date first written above.

TOWN OF LAKE PARK, FL

By: _____
Desca DuBois, Mayor

ATTEST:

_____
Vivian Mendez Lemley, Town Clerk

(TOWN SEAL)

TOWN OF LAKE PARK SEAL FLORIDA

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: _____
Thomas J. Baird, Town Attorney

CONSULTANT:

BY: _____
Itamar Macedo

Exhibit B

FIRST AMENDMENT TO CONTRACT BETWEEN THE TOWN OF LAKE PARK, FL AND ITAMAR MACEDO

WHEREAS, the Town of Lake Park (Town) has executed an Contract for the provisions of Professional Tennis Lessons and Instruction (the Contract) with Itamar Macedo (Macedo) effective September 3, 2009; and

WHEREAS, paragraph 2.1 of the Contract provides for up to three one year extensions of the Contract and the Town and the Macedo have agreed to renew the Contract for one year from September 1, 2010 to August 31, 2011; and

WHEREAS, the effective date of the amendment to the Contract will be September 1, 2010.

NOW THEREFORE, the Town and the Macedo have agreed to exercise the right to renew the Contract effective September 1, 2010, upon the same terms as contained in the Contract until August 31, 2011.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the 18 day of August, 2010.

ATTEST:

By: _____
Vivian Mendez, Town Clerk

TOWN OF LAKE PARK SEAL FLORIDA

Approved as to Form and Legal Sufficiency:

_____
Thomas J. Baird, Town Attorney

TOWN OF LAKE PARK

By: _____
for Desca DuBois, Mayor:

By: _____
Maria V. Davis, Town Manager

CONSULTANT:

By: _____
Itamar Macedo