

FIRST AMENDMENT
to
AGREEMENT No. 11-0481BG
GOLF COURSE MANAGEMENT AGREEMENT
for the
OPERATIONS, MANAGEMENT AND MAINTENANCE OF PROPERTIES at
MANATEE COUNTY GOLF COURSE AND BUFFALO CREEK GOLF COURSE

THIS IS FIRST AMENDMENT, hereinafter referred to as “Amendment,” to the **GOLF COURSE MANAGEMENT AGREEMENT**, by and between **MANATEE COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as “**COUNTY**”, with offices located at 1112 Manatee Avenue West, Bradenton, Florida 34205 and **POPE GOLF, LLC**, a Florida limited liability company, hereinafter referred to as “**MANAGER**”, whose address is 438 Interstate Court, Sarasota, Florida 34240.

WHEREAS, COUNTY caused a public announcement to be made, distributed and published, requesting proposals (RFP11 – 0481BG) for the competitive selection of a provider of operations, management and maintenance of properties at Manatee County Golf Course and Buffalo Creek Golf Course; and

WHEREAS, as the result of that solicitation, COUNTY and MANAGER (collectively the “Parties”) entered into a Franchise License Agreement dated August 9, 2011 (the “Original Agreement”); and

WHEREAS, on October 11, 2016 the Parties executed an Amended and Restated Agreement (“Amended Agreement”), with changes to the terms and conditions deemed to be in the best interest of both Parties, and which became effective on the 1st day of October 2016; and

WHEREAS, the Parties mutually determined the Amended Agreement should be terminated and a new Golf Course Management Agreement (“New Agreement”) dated June 12, 2018 was executed which included renegotiated terms and conditions; and

WHEREAS, the Parties wish to amend the New Agreement in order to modify the provision regarding annual inspections.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations contained herein, the Parties hereto agree as follows:

1. **AMENDMENT OF THE AGREEMENT**. The following article of the New Agreement is hereby amended as follows (underline text added, strike-through text delete):

A. Amendment of Article 14.2 Annual Inspections. Article 14.2 of the New Agreement is hereby amended as follows:

After the Initial Inspection, and for each year of this Agreement, MANAGER shall permit the COUNTY’S Golf Course Consultant to perform inspections two times per year (in ~~May~~ February and ~~November~~ August) of the Golf

Course conditions for each of the Properties at mutually agreed upon dates at the expense of the COUNTY ("Annual Inspections"). The purpose of the inspections is to compare the conditions of the Golf Course for each of the Properties to their Base Line Conditions. Following each inspection, the MANAGER shall take the corrective action necessary, if any, to restore the Golf Course at each of the Properties to their Base Line Conditions. Remedy must be satisfied within six (6) months to one (1) year or the COUNTY may exercise its right and authority to terminate this Agreement.

2. **ALL OTHER PROVISIONS UNAFFECTED.** All other terms and conditions of the New Agreement not expressly amended hereby shall remain unaffected by this Amendment, and in full force and effect.
3. **VALIDITY.** Each the COUNTY and the MANAGER represent and warrant to the other its respective authority to enter into this Amendment.
4. **EFFECTIVE DATE.** This Amendment shall take effect on November 1, 2018, notwithstanding the actual dates upon which the parties execute same.

[Remainder of page left blank]

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed effective as of the date set forth above.

POPE GOLF, LLC.

By: _____



Keith Pope, Manager



MANATEE COUNTY, a political subdivision of the State of Florida

By: Board of County Commissioners

By: _____


Chairperson 11/27/18

ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: _____



Deputy Clerk

November 27, 2018 - Regular Meeting
Agenda Item #38

Approved in Open Session 11/27/18
Manatee County
Board of County Commissioners

Subject

First Amendment to Golf Course Management Agreement

Briefings

None

Contact and/or Presenter Information

Presenter: Charlie Hunsicker, Director, Parks and Natural Resources, ext. 6001

Contact: Debbie Voorhees, Contracts Manager, Parks and Natural Resources, ext. 6013

Action Requested

Authorization for the Chairperson of the Board of County Commissioners to execute the First Amendment to the Golf Course Management Agreement between Manatee County and Pope Golf, LLC.

Enabling/Regulating Authority

FS 125

Background Discussion

On June 12, 2018, the County executed the Golf Course Management Agreement (Agreement) with Pope Golf, LLC.

As per Article 14.1 of the Agreement, an "initial inspection" took place on September 21, 2018 (by the United States Golf Association Green Section, Course Consulting Service [USGA]). As per Article 14.2 of the Agreement, two (follow-up) inspections are to commence in May and November each year.

Within the USGA's Executive Summary of the Onsite Visit Report of the initial inspection, the inspector recommended changing the months for the two annual inspections to January or February and August or September, stating, "This will allow for the course to be inspected under similar conditions; overseeded (winter) and non-overseeded (summer)."

Therefore, the First Amendment to the Agreement modifies Article 14.2 to allow for the two annual inspections to take place in February and August.

County Attorney Review

Other (Requires explanation in field below)

Explanation of Other

Assistant County Attorney, Alexandria Nicodemi, provided a review and suggested changes to the draft First Amendment.

The final First Amendment, attached, contains these changes.

Her e-mail opinion is attached.

Reviewing Attorney
Nicodemi

Instructions to Board Records

Please provide an approved copy of the agenda and the executed First Amendment to:
Debbie.voorhees@mymanatee.org and Theresa.webb@mymanatee.org.

Cost and Funds Source Account Number and Name
N/A

Distributed 11/29/18, RT

Amount and Frequency of Recurring Costs
N/A

Attachment: [FINAL First Amendment Golf Course Management Agreement.pdf](#)

Attachment: [CAO E-mail Opinion First Amend. GC Agreement.pdf](#)

Attachment: [APPROVED 6-12-18 Golf Course Management Agreement.pdf](#)

Debbie Voorhees

From: Debbie Voorhees
Sent: Friday, November 16, 2018 5:48 PM
To: Debbie Voorhees
Subject: FW: RLS, Golf Course Management Amendment
Attachments: First Amendment_110718_ACN.docx

From: Alex Nicodemi
Sent: Wednesday, November 07, 2018 11:39 AM
To: Theresa Webb <theresa.webb@mymanatee.org>; Debbie Voorhees <debbie.voorhees@mymanatee.org>
Subject: RE: RLS, Golf Course Management Amendment

Good morning Theresa and Debbie,

Attached you will find the recommended revisions to the Pope Golf Course Amended Agreement. Most revisions were not legal in nature, but rather to conform to the standard practices of this office.

Please let me know if you have any questions.

Thanks,
Alex

[Prior e-mails in this chain redacted.]

GOLF COURSE MANAGEMENT AGREEMENT
for the
OPERATIONS, MANAGEMENT AND
MAINTENANCE OF PROPERTIES at
MANATEE COUNTY GOLF COURSE AND
BUFFALO CREEK GOLF COURSE

between

MANATEE COUNTY (AS COUNTY)

and

POPE GOLF, LLC (AS MANAGER)

Agreement #: 11-0481BG

A handwritten signature or set of initials, possibly 'P' and 'L', located in the bottom right corner of the page.

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GOLF COURSE MANAGEMENT AGREEMENT

for the

**OPERATIONS, MANAGEMENT AND MAINTENANCE OF PROPERTIES at
MANATEE COUNTY GOLF COURSE AND BUFFALO CREEK GOLF COURSE**

THIS GOLF COURSE MANAGEMENT AGREEMENT (“Agreement”) is made and entered into on this 12 day of June, 2018, by and between **MANATEE COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as “**COUNTY**”, with offices located at 1112 Manatee Avenue West, Bradenton, Florida 34205 and **POPE GOLF, LLC**, a Florida limited liability company, hereinafter referred to as “**MANAGER**”, whose address is 438 Interstate Court, Sarasota, Florida 34240.

WHEREAS, COUNTY caused a public announcement to be made, distributed and published, requesting proposals (RFP11 – 0481BG) for the competitive selection of a provider of operations, management and maintenance of properties at Manatee County Golf Course and Buffalo Creek Golf Course; and

WHEREAS, as the result of that solicitation, COUNTY and MANAGER (collectively the “Parties”) entered into a Franchise License Agreement dated August 9, 2011 (the “Original Agreement”); and

WHEREAS, the Original Agreement contemplated renewals extending to August 11, 2026; and

WHEREAS, on August 12, 2011, the Parties executed a first amendment to the Original Agreement to address certain matters related to inventory of assets, audit rules and capital improvement matters; and

WHEREAS, on May 8, 2012, the Parties executed a second amendment to the Original Agreement to clarify certain terms related to revenue and to amend certain terms and conditions related to calculation of gross profits; and

WHEREAS, on April 11, 2013, the Parties executed a third amendment to the Original Agreement to create a mechanism for accounting for capital projects; and

WHEREAS, on August 11, 2016, the Parties executed a fourth amendment to the Original Agreement to temporarily extend the Original Agreement to September 30, 2016; and

WHEREAS, on October 11, 2016 the Parties executed an Amended and Restated Agreement (“Amended Agreement”), which incorporated language from the Original Agreement, from the four amendments cited above, and other changes to the terms and conditions deemed to

be in the best interest of both Parties, and which became effective on the 1st day of October 2016;
and

WHEREAS, the Parties mutually determined the Amended Agreement should be terminated and renegotiated with certain amendments to the terms and conditions that are in the best interest of both Parties; and

WHEREAS, Articles 22 and 23 of the Amended Agreement provides that termination and amendment shall be made only by written document, properly authorized, executed and delivered to the Parties; and

WHEREAS, both Parties have agreed to terminate the Amended Agreement and enter into this Agreement; and

WHEREAS, this Agreement incorporates language from the Original Agreement, from the four amendments cited above, the Amended Agreement, and other changes to the terms and conditions deemed to be in the best interests of both Parties; and

WHEREAS, the Parties intend that this Agreement shall supersede and replace the Original Agreement between the Parties dated August 9, 2011, Amendments 1, 2, 3 and 4 thereto, and the Amended Agreement dated October 11, 2016.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations contained herein, and other good and valuable consideration, receipt of which is hereby acknowledged, the Parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

For the purpose of this Agreement, the following terms shall have the following definitions:

- 1.1 Capital Improvements: shall be defined as set forth in Article 10 of this Agreement.
- 1.2 Contract Manager: Duly authorized representative of the Parks and Natural Resources Department serving as the COUNTY'S primary contact in regard to the administration of this Agreement.
- 1.3 Effective Date: The date set forth above.
- 1.4 General Manager: MANAGER'S full time staff person who shall oversee the operations, management and maintenance at the Properties.
- 1.5 Golf Course: All areas of golf play including but not limited to: tees, fairways, greens, rough, hazards, cart paths and practice areas.



1.6 Properties (or individually, a "Property"): All land and buildings owned by COUNTY devoted to golf course activities at the Manatee County Golf Course with an address of 6415 53rd Avenue West, Bradenton, FL 34210 and at the Buffalo Creek Golf Course with an address of 8100 69th Street East, Palmetto, FL 34221, as more fully described in **Exhibit A**, Site Locations, attached hereto and incorporated herein by reference.

1.7 Subcontractor: A person or entity who has a direct contract with MANAGER to perform work or provide services related to this Agreement and/or the Properties. The term "Subcontractor" is referred to throughout this Agreement as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor.

ARTICLE 2. PURPOSE OF MANAGEMENT AGREEMENT

2.1 To enhance and promote the COUNTY as a unique community and to provide for the comfort in and enjoyment of the use of the Manatee County Golf Course and Buffalo Creek Golf Course by the public, COUNTY hereby grants unto MANAGER the right and privilege to provide COUNTY with exclusive golf course operations, management and maintenance services at the Properties in accordance with the terms, conditions and limitations of this Agreement.

2.2 It is intended that the MANAGER increase public access and maintain competitive public golfing rates while improving the Golf Course at each of the Properties.

2.3 This Agreement and the rights and privileges granted to MANAGER hereunder for full operations, management and maintenance of the public Golf Courses at the Properties includes the sale of food, beverages, retail items and rental of specified equipment and are exclusive, except as follows:

- a. Except as specifically provided for herein with respect to MANAGER'S use and operation of the Properties under this Agreement, COUNTY shall at all times continue to retain and have the unqualified right to make any and all reasonable determinations concerning or relating to the Properties. COUNTY agrees to consult with MANAGER prior to making such determinations.
- b. At the COUNTY'S discretion, the COUNTY may sponsor charity beneficiary tournaments annually at either Property. COUNTY shall provide reasonable notice to the MANAGER of such event. Outside vendors supporting such event(s) shall provide appropriate insurance coverage for their service(s) at the event(s) and name both the COUNTY and MANAGER as additional insureds.

ARTICLE 3. AUTHORIZED USE OF THE PROPERTIES

3.1 The Properties shall be used only for the purpose of operating a Golf Course and for purposes normally incidental to the operation of Golf Courses and for no other purposes without the express written consent of COUNTY.

3.2 MANAGER reserves the right to refuse permission for tournaments to be conducted by businesses, groups or organizations associated with subjects that conflict with the Parks and



Natural Resources Department's mission of providing recreational opportunities to children and families, or are otherwise inconsistent with the County's mission or MANAGER'S business reputation.

- a. MANAGER acknowledges that COUNTY conducts periodic physical inventories and/or audits of its assets. MANAGER shall, with reasonable notice, permit COUNTY to conduct such activities on the Properties. A representative of the MANAGER shall be available for consultation if requested. At least 24 hours advance notice will be provided by COUNTY to MANAGER whenever possible.
- b. Notwithstanding the forgoing, authorized COUNTY employees, representatives, contractors or agents reserve the right to inspect the premises and/or operations at any time with or without prior notice including all existing easements and rights of way, at all times for any COUNTY business reason.

ARTICLE 4. COMPENSATION TO MANAGER

4.1 As compensation to MANAGER for operations, management and maintenance of the Properties, COUNTY agrees to compensate MANAGER on a management fee basis. As such, MANAGER shall withhold all income generated by the Properties as compensation, less Two Hundred Seventy-Five Thousand and 00/100 Dollars (\$275,000.00) per year to be remitted by MANAGER to the COUNTY ("Remittance Payment"). MANAGER shall remit to the COUNTY equal quarterly payments in the amount of Sixty-Eight Thousand Seven Hundred Fifty and 00/100 Dollars (\$68,750.00) to COUNTY by the 10th day of the month following the end of each quarter with interest accruing ten (10) calendar days thereafter. The first payment shall be for the period of October 1, 2018 through December 31, 2018. The successive quarterly periods shall be as follows: January 1st through March 31st, April 1st through June 30th, and July 1st through September 30th and October 1st through December 31st for each year of the Agreement term. Payment to the COUNTY for any period of the Agreement less than one full quarter, shall be prorated in the amount of Seven Hundred Fifty-Three and 42/100 Dollars (\$753.42) per day.

If either Party terminates this Agreement, compensation shall be prorated for the days of services performed during the final quarter in accordance with the above payment schedule.

4.2 MANAGER shall be solely responsible for any income, ad valorem, rental, sales, tangible personal property or similar taxes levied upon MANAGER'S revenues, property or equipment arising from this Agreement. MANAGER shall pay all such taxes directly to the entity or agency assessing the taxes, unless COUNTY is required by law to collect and remit such taxes. Upon COUNTY'S request, MANAGER shall provide COUNTY with documentation evidencing the payment of any and all taxes paid directly to the entity or agency collecting the taxes.

4.3 In the event MANAGER fails to remit any part of or the entire \$275,000.00 to COUNTY under the provisions of this Agreement, interest at one and one half percent (1.5 %) per month shall accrue against each delinquent payment until the same is paid. Interest shall be charged from the date payment is due. Neither the inclusion of this provision or its implementation, shall preclude COUNTY from terminating this Agreement for default, beginning procedures to collect on the



performance bond, or pursuing any other remedies as provided herein or by law. COUNTY'S acceptance of late payment of any fees or charges shall not constitute a waiver of COUNTY'S right to assess interest on future late payments or to terminate this Agreement in the event of any subsequent default by MANAGER in the payment of any fees or charges on the date the same shall be due and payable.

ARTICLE 5. REMITTANCE PAYMENT

5.1 MANAGER shall pay the Two Hundred Seventy-Five Thousand and 00/100 Dollars (\$275,000.00), or any partial payments thereof, and any fees or charges in the form of an Automatic Clearinghouse ("ACH") remittance to the COUNTY, on or before the due dates specified in Article 4, COMPENSATION TO MANAGER.

5.2 The Remittance Payment shall be adjusted annually, as of the Effective Date, in accordance with the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics.

ARTICLE 6. REPORTS AND RECORDS

6.1 MANAGER shall provide annual profit and loss statements, for each Golf Course separately, including rounds played and gross receipts, in a form acceptable to the COUNTY. The report shall be signed by the treasurer or chief executive officer of MANAGER certifying to the accuracy of the report and gross receipts.

6.2 MANAGER shall maintain, during the term of this Agreement, all books of account, reports and records customarily used in this type of operation and such records as are necessary to document MANAGER'S activities pursuant to this Agreement and all monies collected by MANAGER in its operations under this Agreement, including but not limited to gross receipts. COUNTY shall not modify reports and records requirements to be provided by MANAGER, unless agreed to by the Parties or required by law.

6.3 All records, including tax returns and tax reports of MANAGER necessary to verify any report referred to herein shall be available to COUNTY and COUNTY'S auditors at a reasonable location in Manatee during the term of this Agreement and for a period of five years after the end of this Agreement including any extensions thereof.

6.4 MANAGER shall cooperate with and provide COUNTY, or its duly authorized representative, with any additional information or reports concerning its activities, income, revenues, expenses, and disbursements on request. MANAGER shall keep and maintain an accurate accounting system in accordance with Generally Accepted Accounting Principles.

ARTICLE 7. TERM AND RENEWAL

7.1 This Agreement shall take effect as of the Effective Date and shall end on the 31st day of April, 2025.

7.2 The Parties may mutually agree to amend this Agreement at any time.

A handwritten signature in black ink, consisting of a stylized, cursive 'A' followed by a vertical line and a loop at the bottom.

ARTICLE 8. BUILDINGS, STRUCTURES, EQUIPMENT, MAINTENANCE AND IMPROVEMENTS

8.1 MANAGER shall take responsibility for the Properties in an as-is condition.

8.2 MANAGER represents that prior to signing this Agreement, it has inspected all buildings and structures including all fixtures and equipment thereon, and confirms it is fully familiar with the condition of the buildings and structures including all fixtures and equipment thereon, and accepts same "as is" for the purposes of performing under this Agreement. Further, MANAGER shall protect COUNTY'S buildings and structures including all fixtures and equipment through its exercise of continual maintenance and security.

8.3 Except for the equipment and assets listed in **Exhibit B**, Fixed Assets Listing, attached hereto and incorporated herein by reference, which is updated annually and is the official COUNTY inventory listing maintained by the office of the Clerk of Circuit Court, MANAGER shall provide all equipment to be used at the Properties needed to perform under this Agreement. MANAGER shall bear the cost of all charges and expenses related to any and all maintenance of the COUNTY'S equipment for MANAGER'S use in **Exhibit B**, and the cost of MANAGER'S equipment and improvements of the fixtures as shall be necessary for MANAGER'S performance of this Agreement. MANAGER understands and agrees that COUNTY equipment is not to be removed from the Properties.

8.4 MANAGER agrees that the assets listed in **Exhibit B**, Fixed Assets Listing, constitute the entire group of COUNTY equipment and assets over which it has been given custody and control pursuant to this Agreement. MANAGER further agrees that during the term of this Agreement, and any extension(s) thereof, if any of the listed assets are destroyed, damaged or stolen, for reasons apart from Article 16.1 and 16.2 of this Agreement, MANAGER will repair or replace with like item(s) or reimburse COUNTY at Fair Market Value for any asset with a value at the time of loss which is greater than One Thousand and 00/100 Dollars (\$1,000.00). When COUNTY equipment is past its useful life, it will be returned to the COUNTY for disposal. Notwithstanding the foregoing, MANAGER shall notify the COUNTY of any lost or stolen property. In turn, COUNTY shall provide MANAGER a minimum of thirty (30) days advanced notice in which to locate any lost or stolen item prior to MANAGER being required to replace or reimburse the lost or stolen item(s).

8.5 MANAGER agrees to provide and maintain, at its sole expense, a golf cart fleet of a minimum of fifty (50) carts. MANAGER shall store and clean carts daily as well as provide proper cleaning of the cart storage facility. Washing shall be performed in accordance with most current federal, state and local environmental regulations.

8.6 MANAGER shall, except as otherwise provided herein, maintain the buildings and structures in working order. Further, MANAGER shall keep the fixtures and equipment in a clean and functioning condition at all times. MANAGER shall report to COUNTY any visual or structural damages to its buildings or structures. This obligation is subject to reasonable interruption or delay due to weather or other unforeseen circumstances and includes, but is not limited to:



- a. Maintenance, cleaning and upkeep of the patios, walkways, golf pro-shops and golf shop offices, cart barn storage areas, the restaurants, Golf Course grounds, designated storage areas, parking lots, all outbuildings and all areas designated on **Exhibit A, Site Locations, Manatee County Golf Course and Buffalo Creek Golf Course.**
- a. Maintaining restrooms in a clean and orderly fashion, and stocked with paper goods and hand soap at all times.
- b. Contracting and arranging for the removal of all garbage at all receptacles throughout the Properties, to include the furnishing of at least one dumpster of adequate size to hold the accumulation of garbage between trash pickup services at each property and providing for regular emptying of same.
- c. Providing additional trash and recyclables collection receptacles around the perimeter of the buildings and transferring trash generated by the MANAGER'S operations to the dumpsters on an as needed basis. Dumpster enclosure doors must be kept closed, except on trash pickup day. Trash receptacles must be kept clean and stain free and not permitted to overflow.
- d. Maintaining pro shop inventory of the quality and quantity to meet the needs of customers, consistent with the operation of a professional well-maintained pro shop.
- e. Maintaining, as needed, of all COUNTY owned internal fixtures, such as ceilings, decorations, furnishings, lighting and floor coverings and any showcases, racks, other display and sales fixtures, including property identification and signage.
- f. Maintaining all lakes on the Properties including control of algae and nuisance vegetation.
- g. Providing, at MANAGER'S sole cost, all utility services to the Properties including water, electric, telecommunications, etc., with the exception of reclaimed water, which shall be provided by COUNTY at no cost to MANAGER.
- h. Maintaining all plumbing, HVAC and electrical repair, maintenance or upgrades pertaining to all buildings structures or fixtures on the Properties.
- i. Maintaining adequate fire protection and inspections and maintenance, as required by law, including kitchen hood systems, sprinkler systems and fire extinguishers in compliance with all applicable fire or building code requirements.
- j. Maintaining all food and beverage storage and preparation equipment, including but not limited to stoves, dishwashers, refrigerators, ice machines and sinks.



- k. Performing all interior and exterior maintenance of the Properties, including but not limited to: replacement of all light bulbs and fixtures, all doors, door closures, locks, windows, floors and floor coverings, vent fans, exhaust fans, walkways and plant beds.
- l. Maintaining all landscaping on the Properties.
- m. Providing, replenishing and collecting driving range golf balls daily.
- n. Providing routine monthly pest control and annual termite inspections of the Properties and Integrated Pest Management of the Buildings.
- o. Ensuring compliance with Florida law concerning smoking in places of public accommodation.
- p. Ensuring all staff act professionally, are clean, well groomed, uniformed and trained to high standards of professionalism and customer service.
- q. Cleaning and draining the septic system, if applicable.
- r. Maintaining all grease traps including necessary pump down service.
- s. Providing annual inspection and preventative maintenance of air conditioning systems, to include the regular replacement of filters in all air conditioning units.
- t. Providing security systems maintenance and alarm monitoring.
- u. Providing and keeping current all safety data sheet ("SDS"), formerly known as Material Safety Data Sheets ("MSDS") information for all hazardous materials.

8.7 All new equipment, furnishings, repairs and improvements provided by MANAGER shall meet and comply with the requirements of all applicable building, fire, restaurant, pollution and other codes.

8.8 All maintenance, service and inspections shall be completed by licensed and qualified personnel and in compliance with manufacturer guidelines, and state and local laws as applicable.

8.9 MANAGER will maintain records of all maintenance and inspections completed during the term of this Agreement. These records, along with all third-party maintenance agreements, shall be made available to COUNTY upon request.

8.10 COUNTY agrees that it is responsible for all repairs and maintenance to its buildings and structures, as listed in **Exhibit C**, with the exception of repairs resulting from negligence on the part of the MANAGER and its agents. Such repairs and maintenance also include:



- a. On site utility fixtures such as fire hydrants and lift stations constructed by the COUNTY to service the Properties.
- b. Maintenance of the chain link fence and ditch on the northern perimeter of the Manatee County Golf Course.
- c. The COUNTY'S sole obligation to provide building repairs in accordance with the Americans with Disabilities Act. Such repairs include but are not limited to the buildings, or for the repair of the existing foundation, walls and roof and the electrical, plumbing and mechanical systems.

ARTICLE 9. MAINTENANCE OF COURSES, GREENS AND FAIRWAYS

9.1 MANAGER shall furnish all labor, materials, supplies and equipment to maintain the Properties to a high quality consistent with other similar municipal golf courses charging similar greens fees.

Areas of Golf Course maintenance shall include: equipment maintenance buildings, greens, tees, approaches, collars, fairways, roughs, golf cart paths, driving ranges, practice areas, lakes, water hazards, sand and grass bunkers, clubhouse and golf course grounds, along entrance roadways, trees, parking lots and medians.

MANAGER shall also comply with the following requirements:

- a. Dead trees will be either removed, if in a high traffic area, or be left as a snag in accordance with Audubon Cooperative Sanctuary Program for Golf Courses standards. Trees removed may be replaced, as mutually agreed upon between COUNTY and MANAGER, with a similar species tree. Replacements will take into consideration the tree's architectural significance, impact on surrounding turf growth (shade), playability and location. Palm trees in the parking lot and around the clubhouse will be trimmed annually. All other palm trees on the Golf Course will be trimmed as needed. All trees will be trimmed around the cart paths and traffic areas, as needed, to allow clearance for golf carts and maintenance equipment.
- b. In coordination with MANAGER, COUNTY may provide occasional tree/vegetation removal if COUNTY deems such assistance to be in the best interest of COUNTY.
- c. MANAGER shall furnish all labor and supervision to professionally maintain and improve upon the existing courses in accordance with the terms and conditions of this Agreement.
- d. MANAGER shall perform all functions essential to providing quality playing conditions including mowing, irrigating, cup changing, tee marker management, grooming, seeding and topdressing.
- e. MANAGER shall develop and perform necessary turf management programs and actions to achieve the standards set forth in this Agreement.



- f. MANAGER shall be responsible, at its sole cost, for both materials and labor for the immediate repair of any damage to the Properties that is caused by MANAGER or MANAGER'S agents. Repairs will be made in a manner which restores the damaged area to the original condition or better. Irrigation systems will be repaired and maintained by MANAGER.
- g. MANAGER shall retain personnel approved as Certified Florida Lawn and Ornamental Pesticide applicators licensed by the Florida Department of Agriculture and Consumer Services. Application of pesticides on the Properties shall be performed only under the supervision of licensed pesticide applicators and in accordance with label guidelines. MANAGER shall utilize both curative and preventative control measures using the most appropriate products available.
- h. MANAGER shall be responsible for aquatic weed and litter control and will keep all bodies of water free from litter and unwanted aquatic plant life such as algae and hydrilla plankton.
- i. MANAGER will maintain the natural areas within the boundaries of the play areas.
- j. MANAGER will provide all necessary signage for cart traffic and driving ranges, and ensure cart traffic signs are moved to reduce damage to heavy traffic areas.

ARTICLE 10. IMPROVEMENTS, MAINTENANCE AND REPAIRS BY MANAGER

10.1 Capital Improvement shall be defined as a permanent structural change or the restoration of some aspect of the Properties that will either enhance the asset's overall value, prolong its useful life or adapt it to new uses, in which the change or restoration cost is greater than One Hundred Thousand and 0/100 Dollars (\$100,000.00). Minor design changes, such as a fresh coat of paint or costs to maintain an asset in its normal state of repair, are not considered Capital Improvements.

10.2 It is expressly understood and agreed by the Parties that MANAGER shall perform at its expense all Capital Improvements subject to COUNTY'S written consent. MANAGER must notify COUNTY prior to commencing any Capital Improvement project and provide a report of Capital Improvement projects completed for the prior calendar year, on January 15th annually.

10.3 In accordance with Florida Department of Environmental Protection and the Golf Course Best Management Practices for mixing and washing, MANAGER shall complete the construction of a basic Chemical Mixing Center and a washwater recycling system at each maintenance area of the Properties by December 1, 2018.

10.4 Any improvements or repairs that affect the physical appearance of the interior or exterior of the Properties shall be made so as to substantially resemble the artistic design renderings of those areas which have been approved by COUNTY.

10.5 MANAGER shall be solely responsible for ensuring the safety of its staff and customers during the completion of Capital Improvement projects.



10.6 MANAGER shall be solely responsible for insuring, maintaining, repairing and replacing improvements implemented during the entire term of this Agreement and any extensions thereof.

10.7 MANAGER shall submit signed and sealed architectural or engineering plans when a building permit is required for all construction or renovation projects which include details on any affected plumbing, electrical, mechanical or other required utility system, including floor plan and material specifications for COUNTY approval prior to beginning any construction or alterations. Such projects shall be required to provide specifics such as timelines, critical paths, methods of construction, approval of plans, amenities, signage, color schemes, advertising, total cost, amortization period for the improvements and other information deemed relevant by COUNTY. MANAGER shall pay for all charges for labor, services and materials used in connection with any improvements or repairs to the facility undertaken by MANAGER.

10.8 All such additions, improvements and fixtures, except movable equipment and inventory shall become the property of COUNTY upon completion and remain in and/or upon the Properties and be surrendered upon termination of this Agreement. In the event of the filing of any purported claim of lien against the Properties, MANAGER shall promptly satisfy same or transfer it to a bond and MANAGER shall in any event protect COUNTY'S interest in the underlying real estate and shall hold COUNTY harmless against any such claims.

10.9 MANAGER assumes responsibility for all conditions which pertain to the physical conditions of the Properties or which otherwise may affect the cost, progress, performance or furnishing of the Capital Improvements and declares it is fully capable of installing the improvements.

10.10 As applicable, MANAGER shall fully complete all interior build out work necessary to achieve a Certificate of Occupancy within one hundred twenty (120) days from the date the Notice to Proceed is issued, unless the scope of the project requires a longer timeframe and such is communicated and approved by COUNTY.

10.11 MANAGER shall not allow activities in the facilities which are prohibited by applicable federal, state or local laws, rules, regulations or ordinances.

10.12 MANAGER shall be responsible for applying for and paying all costs of any required permits.

10.13 As applicable, Capital Improvements subject to Section 255.05, Florida Statutes, shall be made by supplement and addendum of this Agreement.

ARTICLE 11. MANAGER'S PRODUCTS, OPERATIONS, AND SERVICES

11.1 MANAGER shall operate all services related to the Properties in their entirety in compliance with the terms and conditions of this Agreement. MANAGER shall offer high quality, competitively priced golf retail merchandise at the Properties. MANAGER shall offer food and beverage products at a reasonable price and a high standard of customer service.

11.2 MANAGER shall maintain an annual level of at least 75,000 rounds of 18-hole golf played, combined from both Properties, beginning on the Effective Date of this Agreement and May 1st every year thereafter. MANAGER shall provide back-up documentation confirming rounds of



golf played in a report on May 1st annually. If level of play falls below 75,000 rounds, MANAGER has one year to cure. If not cured by April 30th of the following year, COUNTY has the right and authority to terminate this Agreement.

11.3 MANAGER shall arrange for all procurement, as an operating expense of the Golf Courses, of all supplies, equipment and services as deemed necessary and normal in the ordinary course of business to operate the Golf Courses.

11.4 MANAGER shall furnish and maintain, at its sole cost, all equipment, fittings, furnishings and furniture necessary to conduct the business permitted hereunder including golf equipment, golf course maintenance equipment, sales displays, office equipment, carpeting, flooring, drapes, blinds and light fixtures.

11.5 MANAGER shall not sell any products that, in the opinion of COUNTY, pose a safety or health hazard or are inappropriate for sale or display in a publicly owned park.

11.6 MANAGER shall use the Manatee County Golf Course and Buffalo Creek Golf Course logos respectively on its merchandise as appropriate for the term of the Agreement and any subsequent renewal periods.

11.7 The Properties shall be in operation and open to the public seven (7) days a week except for Christmas Day and Thanksgiving Day. MANAGER may close during periods of severe cold, rain events, hurricane warnings, maintenance events, greens installation or other extraordinary circumstances which may compromise course conditions or safety.

11.8 Notwithstanding any other term or provision of this Agreement to the contrary, MANAGER may expand the number of daily hours of operation beyond the minimum number of hours established herein. However, at no time shall the facilities be operated earlier than 5:00AM or later than 10:00PM of any day without express advanced written approval of COUNTY. MANAGER shall not reduce the number of daily hours of operation without the express advanced written consent of COUNTY.

11.9 MANAGER shall not extend credit, provide free products or services, or provide any discount to any COUNTY employee or official not available to the general public.

11.10 The Properties are intended for the general use and enjoyment of all residents and visitors as golfing venues. MANAGER shall therefore not rent out or otherwise allow the Properties to be occupied by, or under the control of, any third-party person, group or entity, including but not limited to use for private parties, rallies or similar events, absent express prior written approval of COUNTY. If such approval is given, third-party and its vendors shall comply with special event insurance provisions established by the COUNTY and shall provide, prior to the event, a Certificate of Insurance showing compliance and policy endorsement with both the COUNTY and MANAGER named as additional insureds.

11.11 MANAGER shall utilize the US Department of Homeland Security's E-Verify system to confirm the employment eligibility of all persons employed, subcontracted or otherwise assigned

A handwritten signature in black ink, consisting of a stylized, cursive 'A' followed by a vertical line and a loop at the top.

to perform work by MANAGER pursuant to this Agreement for the duration, including any extensions thereof.

11.12 MANAGER is required to have an experienced General Manager for overseeing its operations at the Properties. MANAGER'S General Manager will be on site and available during reasonable operating hours. The General Manager shall be responsible for ensuring satisfactory performance and monitoring day to day operations.

11.13 MANAGER'S agents and employees shall be informed of and adhere to the requirements of this Agreement.

11.14 MANAGER'S staff shall provide exemplary customer service at all times to all customers of the Properties.

11.15 MANAGER'S employees, agents, representatives, independent contractors, subcontractors, volunteers or others involved in the maintenance or operation of the Properties in contact with the public shall perform their duties in a safe, efficient and courteous manner.

11.16 MANAGER shall not conduct any business or activity on the Properties, as depicted in **Exhibit A, Site Locations**, which is not authorized by this Agreement. It is expressly understood and agreed that MANAGER'S operations shall not unreasonably interfere in any manner with the use of public areas or infringe upon the rights of others authorized to conduct business near the location of the Properties. MANAGER agrees that a determination by COUNTY will be accepted as final in evaluating MANAGER'S activities that unreasonably infringe on the rights of others and that MANAGER will fully comply with any such decisions.

11.17 MANAGER agrees that no person shall be excluded from participation in, or be denied the benefits of, the COUNTY'S golfing amenities or be subjected to discrimination in MANAGER'S employment decisions, the performance of this Agreement, or the use of and access to the Properties on the ground of race, color, religion, national origin, sex, sexual orientation, age, or disability.

11.18 MANAGER shall permit and COUNTY shall have the authority to review any reports, citations or records issued by any governmental entity or agency regulating MANAGER'S operations and services and to make periodic reasonable inspections in accordance with Article 3.2.b. herein. MANAGER shall be required to make any improvements or operational changes as are necessary to resolve such reports, citations or records issued by a governmental entity or agency.

ARTICLE 12. ENVIRONMENTAL RESPONSIBILITY

12.1 LAND RESOURCES. MANAGER shall at all times comply with all rules, policies and standards concerning the environment or protection of natural resources with respect to MANAGER'S usage and storage of chemicals, pesticides and fuel. MANAGER shall also strictly adhere to any federal, state and local requirements governing stormwater, pest management and environmental monitoring of chemicals, pesticides and fuel. In addition to those areas when specifically required, MANAGER is encouraged to comply with the Florida Department of



Environmental Protection's ("FDEP") Best Management Practices ("BMPs") for the Enhancement of Environmental Quality on Florida Golf Courses, January 2007.

- a. MANAGER shall comply with FDEP BMPs for the Enhancement of Environmental Quality on Florida Golf Courses as updated, as required in Manatee County Code Section 2-14-69 pertaining to the application of fertilizer to golf courses.
- b. MANAGER shall also strictly adhere to any applicable federal, state and local requirements governing stormwater, pest management and environmental monitoring.

12.2 WATER RESOURCES. MANAGER shall not engage in or permit any activity detrimental to the Properties or to COUNTY'S water supply as is reasonably determined by COUNTY, recognizing that both Properties are watered with reclaimed water provided by COUNTY. Any costs or expenses associated with MANAGER'S environmentally related violations of the law, MANAGER'S creation or maintenance of a nuisance, or releases of hazardous substances impacting the COUNTY'S water supply shall be the sole responsibility of the MANAGER. This shall include the costs of cleanup activities, removals, remediation, responses, damages, fines, administrative or civil penalties or charges imposed on or incurred by COUNTY, due to actions and/or inactions of MANAGER or suits by any governmental or regulatory agency or by any private party as a result of the MANAGER'S storage, accumulation or release of any hazardous substance or non-compliance with regulatory standards.

- a. MANAGER shall comply with state and local laws regarding water quality testing and with all Southwest Florida Water Management District rules and regulations regarding consumption and reporting. MANAGER is encouraged to comply with the FDEP Florida Green Industries BMPs for Protection of Water Resources in Florida.

12.3 GREEN PURCHASING. COUNTY recognizes 'green' sustainability, seeking to buy local and buy green. Whenever possible for all aspects of the operation, MANAGER shall incorporate recycling, green product use and operations to support environmental sustainability.

12.4 LOCAL HIRING AND BUYING. In hiring staff to perform its obligation under this Agreement, MANAGER shall actively recruit and hire qualified staff, and is encouraged to give preference to residents of the COUNTY. In purchasing supplies or services for or related to the operation of these Golf Courses, MANAGER shall make reasonable efforts to procure from sources in Manatee and Sarasota counties. MANAGER shall include a summary of its efforts and the results of those efforts in its annual reporting to COUNTY.

ARTICLE 13. SUBCONTRACTORS

13.1 Should the MANAGER find it necessary to utilize the services of subcontractors, the MANAGER shall require each subcontractor, in writing, to adhere to all applicable provisions of this Agreement. The utilization of any such subcontractor by MANAGER shall not relieve MANAGER from any liability or responsibility to COUNTY pursuant to the provisions of this Agreement, or obligate COUNTY to the payment of any compensation to the subcontractor.



13.2 Utilization of any third-party shall not relieve MANAGER from any direct liability or responsibility to COUNTY pursuant to the provisions of this Agreement, or obligate COUNTY to make any payments other than payments due to MANAGER as outlined in this Agreement.

ARTICLE 14. AGREEMENT MONITORING

14.1 INITIAL INSPECTION. In addition to the requirements set forth in herein, MANAGER shall permit inspections of the Golf Course two times per year (in May and November) for each of the Properties by a qualified Golf Course consultant ("Golf Course Consultant"), who will be selected by the COUNTY with input from the MANAGER. The initial inspection shall occur within three (3) months of the Effective Date at the expense of COUNTY ("Initial Inspection"). The sole purpose of the Initial Inspection is to establish base line Golf Course conditions at each of the Properties ("Base Line Conditions"). The criteria for the Initial Inspection shall be mutually agreed upon by the Parties prior to the Initial Inspection. Both Parties shall be entitled to receive any and all reports created by the Golf Course Consultant during the Initial Inspection.

14.2 ANNUAL INSPECTIONS. After the Initial Inspection, and for each year of this Agreement, MANAGER shall permit the COUNTY'S Golf Course Consultant to perform inspections two times per year (in May and November) of the Golf Course conditions for each of the Properties at mutually agreed upon dates at the expense of the COUNTY ("Annual Inspections"). The purpose of the inspections is to compare the conditions of the Golf Course for each of the Properties to their Base Line Conditions. Following each inspection, the MANAGER shall take the corrective action necessary, if any, to restore the Golf Course at each of the Properties to their Base Line Conditions. Remedy must be satisfied within six (6) months to one (1) year or the COUNTY may exercise its right and authority to terminate this Agreement.

ARTICLE 15. SALE OF ALCOHOLIC BEVERAGES

15.1 MANAGER'S sale of alcoholic beverages is subject to the following limits:

- a. Sales shall be conducted in conformity with any controlling municipal or County ordinance and state laws, rules or regulations.
- b. Sales shall be limited to those alcoholic beverages for which MANAGER or MANAGER'S vendor is legally licensed and shall be sold as on-premises consumption only.
- c. Prior to commencing any such sales, MANAGER or MANAGER'S authorized vendor shall obtain any required licenses, and shall provide a copy of said license and all renewals to COUNTY.
- d. All alcoholic beverages shall be sold in appropriate containers for on premise consumption only and MANAGER shall be responsible for the proper disposal of said containers.



- e. MANAGER's conduct and operation in connection with any such sales is subject to and shall be conducted by MANAGER in compliance with all other applicable terms and conditions of this Agreement.
- f. Employees of MANAGER authorized to vend alcohol may not sell or serve alcoholic beverages unless trained and qualified as required by State law or regulation.

ARTICLE 16. LIABILITY FOR DAMAGE, INDEMNITY, AND INSURANCE

16.1 LIABILITY FOR DAMAGE OR INJURY. MANAGER shall be liable for damage or injury to any party at the Properties other than the damage or injury caused by negligence or intentional actions of COUNTY, or damage due to fire, named windstorm, flood or wind. MANAGER shall, at its expense, promptly repair all damage to the Properties caused by MANAGER, its employees, representatives, agents, customers or independent contractors contracting with MANAGER.

16.2 DAMAGE OR DESTRUCTION OF PROPERTIES. If the Golf Course at either of the Properties is partially damaged by fire, named windstorm, flood or wind, excluding the negligent or intentional acts of MANAGER or its Agents, COUNTY shall, at its discretion, repair the damage at its own costs and expense. MANAGER shall immediately report to the COUNTY all damage due to fire, named windstorm, flood or wind. In the event that either of the Properties are destroyed or so damaged by fire, named windstorm, flood or wind, excluding the negligent or intentional acts of MANAGER, that such of the Properties are unusable for the purpose of this Agreement, neither MANAGER nor COUNTY shall be under any obligation to repair or reconstruct the Properties, and this Agreement shall terminate on the date that determination is made by COUNTY.

16.3 INDEMNIFICATION. MANAGER shall defend, indemnify and hold COUNTY, its officers, agents and employees, harmless from and against any and all liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgments, including costs, attorneys' fees, witness, and expert fees and expenses incident thereto, relating to, arising out of, or resulting from: (i) the services provided by MANAGER'S personnel under this Agreement; (ii) any intentional or negligent, or reckless acts, errors, mistakes or omissions by MANAGER or MANAGER'S agents or personnel; and (iii) MANAGER or MANAGER'S agent's or personnel's failure to comply with or fulfill the obligations established by this Agreement.

- a. Any performance bond or insurance protection required by this Agreement, or otherwise provided by MANAGER, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County as herein provided.
- b. The indemnity hereunder shall continue until such time as any and all claims arising out of MANAGER'S performance or failure to perform under this Agreement have been finally settled or adjudicated, regardless of when such claims are made.



- c. MANAGER shall update COUNTY during the course of any litigation to timely notify COUNTY of any issues that may involve the independent negligence of COUNTY that is not covered by this indemnification.
- d. COUNTY assumes no liability for actions of MANAGER, and shall not indemnify or hold MANAGER harmless for suits or claims arising out of the performance of this Agreement other than where same is the result of intentional or negligent acts of the COUNTY. Nothing in this Agreement shall be deemed to affect the COUNTY'S right to provide its own defense and to recover from MANAGER attorneys' fees and expenses associated with the representation or the rights, privileges and immunities of the COUNTY as set forth in Section 768.28, Florida Statutes
- e. The MANAGER shall maintain insurance policies in amounts and coverages necessary and sufficient to fund its obligations pursuant to Article 16.4 below, and, where allowed, shall name the COUNTY as an additional insured on such policies.

16.4 INSURANCE. MANAGER shall, at its own cost and expense, acquire and maintain (and cause any subcontractors, representatives or agents to acquire and maintain) during the term of this Agreement, sufficient insurance to adequately protect the respective interest of MANAGER and COUNTY. Coverage shall be obtained with a carrier having an AM Best Rating of A-VII or better. In addition, COUNTY has the right to review MANAGER'S deductible or self-insured retention and to require that it be modified so as to ensure the COUNTY'S right to indemnification and ability of MANAGER to satisfy judgments or claims is sufficient.

Specifically, MANAGER (and any subcontractors, representatives, or agents) shall carry the following form, types and amounts of insurance until such time of the expiration of this Agreement. The limits may be achieved by a combination of primary and umbrella/excess liability policies.

- a. Commercial General Liability Insurance. Coverage shall be afforded under a per occurrence policy form, policy shall be endorsed and name "Manatee County, a political subdivision of the State of Florida" as an Additional Insured, and include limits not less than:

1. \$ 1,000,000 Single Limit Per Occurrence;
 2. \$ 2,000,000 Aggregate;
 3. \$ 1,000,000 Products/Completed Operations Aggregate;
 4. \$ 1,000,000 Personal and Advertising Injury Liability;
 5. \$ 100,000 Fire Damage Liability;
 6. \$ 5,000 Medical Expense; and
 7. \$ 1,000,000, Third-Party Property Damage.
- This policy shall contain severability of interests' provisions.*

- a. Commercial Automobile Liability Insurance. Coverage shall be afforded under a per occurrence policy form including coverage for all owned, hired and non-owned vehicles for bodily injury and property damage of not less than:

1. \$ 1,000,000 Combined Single Limit; OR
2. \$ 500,000 Bodily Injury and \$ 500,000 Property Damage;
3. \$10,000 Personal Injury Protection (No Fault);
4. \$ 500,000 Hired, Non-Owned Liability; and
5. \$5,000 Medical Payments.

This policy shall contain severability of interests' provision

- c. **Statutory Workers' Compensation Insurance.** Should 'leased employees' be retained for any reason under the scope of this Agreement, the employee leasing agency shall provide evidence of Workers' Compensation coverage and Employer's Liability coverage for all personnel on the worksite and in compliance with the above Workers' Compensation requirements. Coverage limits of not less than:
 1. Statutory workers' compensation coverage shall apply for all employees in compliance with the laws and statutes of the State of Florida and the federal government.
 2. If any operations are to be undertaken on or about navigable waters, coverage must be included for the US Longshoremen & Harbor Workers Act and Jones Act.
- d. **Employer's Liability Insurance.** Coverage shall be in the minimum amount of One Hundred Thousand and 00/100 Dollars (\$100,000.00) each employee each accident, One Hundred Thousand and 00/100 Dollars (\$100,000.00) each employee by disease and Five Hundred Thousand and 00/100 Dollars (\$500,000.00) aggregate by disease with benefits afforded under the laws of the State of Florida, with coverage limits of not less than:
 1. \$100,000 Each Accident;
 2. \$100,000 Disease Each Employee; and
 3. \$500,000 Disease Policy Limit.
- e. **Liquor Liability Insurance.** Coverage shall be afforded under a per occurrence policy form. The policy shall be endorsed and name "Manatee County, a political subdivision of the State of Florida" as an Additional Insured, and include limits not less than:
 1. \$1,000,000 Each Occurrence and Aggregate.
- f. If MANAGER uses its own property or equipment in the performance of its obligations under this Agreement, then Property Insurance on an "All Risks" basis with replacement cost coverage for property and equipment in the care, custody and control of others is recommended. COUNTY has no duty or obligation to insure, replace or protect MANAGER'S equipment, furnishings, or other personal property or improvements provided by, or paid for by, MANAGER, and all risk of loss and insurance against such risks shall be the sole responsibility of MANAGER.



- g. MANAGER shall provide the COUNTY a fidelity bond guaranteeing the COUNTY the faithful collection, accounting and remittance of all monies due to COUNTY per this Agreement, and protecting the COUNTY against intentionally wrongful acts committed by MANAGER, MANAGER'S employees, subcontractors, representatives, or agents. Such bond shall include employee dishonesty, forgery or alteration, theft, disappearance and destruction. The fidelity bond shall have a minimum limit of One Hundred Thousand and 00/100 Dollars (\$100,000.00) per loss.

16.5 NO WAIVER OR IMMUNITY. MANAGER agrees and understands that the COUNTY does not waive its immunity and nothing herein shall be interpreted as a waiver of the COUNTY'S rights, including the limitation of waiver of sovereign immunity, as set forth in Section 768.28 Florida Statutes, or any other immunities, and the COUNTY expressly reserves these rights to the full extent allowed by law.

16.6 NO LIMITATION OF LIABILITY. The stipulated limits of coverage listed in Article 16.4, Insurance, shall not be construed as a limitation of any potential liability to the COUNTY, and the COUNTY'S failure to request evidence of this insurance shall not be construed as a waiver of MANAGER'S obligation to provide the insurance coverage specified.

ARTICLE 17. RIGHTS UNDER THIS AGREEMENT; ASSIGNMENT

17.1 MANAGER has been selected by the COUNTY through a competitive public procurement process based upon MANAGER'S qualifications and experience. MANAGER shall not, without prior written consent of COUNTY, sell, assign, pledge, transfer or otherwise encumber this Agreement or the rights granted therein. Assignment, pledging, sale, transferring or encumbering of any interest in or under this Agreement or the rights thereunder, to anyone other than MANAGER, without the prior written consent of COUNTY, shall be grounds for immediate termination of this Agreement.

17.2 All terms and conditions of this Agreement shall extend to and be binding on any approved purchaser, assignee, or other successor in interest.

ARTICLE 18. APPROVALS

18.1 Except as provided otherwise, whenever any prior approval is required by either Party, such approval shall not be unreasonably withheld. COUNTY shall retain broad discretion over matters pertaining to creating and maintaining the unique local character of the Properties, the protection and preservation of the Properties, and the public interest and limited purpose for which this Agreement has been granted. Withholding approvals for the foregoing reasons shall be considered reasonable.

18.2 MANAGER shall not change or alter the following without the written approval of COUNTY:

- a. Structures, fixtures, or mechanical systems installed on, in or under the Properties by COUNTY.



- b. Equipment MANAGER installs or plans to install requiring any building modifications.
- c. Any use of COUNTY'S Parks' or Properties' name.

ARTICLE 19. NOTICES

19.1 All notices, comments, consents, objections, approvals, waivers and elections shall be required or requested or may desire to make or give under this Agreement shall be in writing and shall be given by either hand delivery for which a receipt is obtained, or registered or certified United States mail, with return receipt requested, addressed as noted below. Any act or delivery that must be completed on a Saturday, Sunday or COUNTY holiday shall be adequate if performed or delivered on the following business day. Until notice of change is given, the Parties designate the following as the respective individuals and places for giving notice in the manner prescribed herein.

FOR MANATEE COUNTY:

Director of Parks and Natural Resources
MANATEE COUNTY GOVERNMENT
PO Box 1000
Bradenton, FL 34206

With a copy to:

County Administrator
MANATEE COUNTY GOVERNMENT
PO Box 1000
Bradenton, FL 34206

FOR MANAGER:

Pope Golf, LLC
438 Interstate Court
Sarasota, Florida 34240
Attn: Managing Member

FOR ACH REMITTANCE INFORMATION

The Clerk of the Circuit Court Treasury Management and the Parks and Natural Resources Department shall be included on all ACH Remittance Information. Within ten (10) days of the Effective Date, Contract Manager shall notify MANAGER of specific email addresses to be included regarding ACH transactions.

ARTICLE 20. PUBLIC RECORDS

20.1 Pursuant to Chapter 119 "Public Records", Florida Statutes, to the extent MANAGER is performing services on behalf of the COUNTY, MANAGER shall:



- a. Keep and maintain public records required by COUNTY to perform the service.
- b. Upon request from the COUNTY'S custodian of public records, provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the MANAGER does not transfer the records to COUNTY.
- d. Upon completion of this Agreement, transfer, at no cost, to the COUNTY all public records in possession of MANAGER or keep and maintain public records required by the COUNTY to perform the service. If the MANAGER transfers all public records to the COUNTY upon completion of this Agreement, the MANAGER shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the MANAGER keeps and maintains public records upon completion of this Agreement, the MANAGER shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from COUNTY'S custodian of public records, in a format that is compatible with the information technology systems of the COUNTY.

20.2 IF THE MANAGER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE MANAGER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT COUNTY'S CUSTODIAN OF PUBLIC RECORDS AT: (941) 742-5845, DEBBIE.SCACCIANOCE@MYMANATEE.ORG, ATTN: RECORDS MANAGER, 1112 MANATEE AVE W., BRADENTON, FL 34205.

ARTICLE 21. TERMINATION

21.1 AUTOMATIC TERMINATION. The occurrence of any of the following shall cause this Agreement to be terminated automatically:

- a. Institution of proceedings in voluntary bankruptcy by MANAGER.
- b. Institution of proceedings in involuntary bankruptcy against MANAGER or appointment of receiver if such proceedings continue for a period of ninety (90) days.
- c. Assignment by MANAGER for the benefit of creditors.
- d. Abandonment or discontinuance of operations hereunder.

- e. Unauthorized assignment or transfer of this Agreement or unauthorized change of or control of ownership of MANAGER.

21.2 TERMINATION BY COUNTY. COUNTY may terminate this Agreement upon fourteen (14) days written notice to MANAGER of any condition posing a threat to health or safety of the public or patrons and not remedied by MANAGER within fourteen (14) days, or where MANAGER does not proceed with due diligence to remedy such condition where the condition could not reasonably be remedied in such time.

- a. COUNTY may terminate this Agreement upon ten (10) days' notice to MANAGER of any sum due hereunder after the due date for such payment; provided, however, that such termination shall not be effective if MANAGER makes the required payment(s) within the ten (10)-day period following receipt of the notice.
- b. COUNTY may terminate this Agreement upon thirty (30) days' notice to MANAGER with respect to nonperformance of or failure to comply with any term or provision of this Agreement and failure of MANAGER to remedy such nonperformance within a ten (10) day period following COUNTY'S date of communication of written and electronic notice. Should COUNTY need to make the necessary correction, all costs incurred for the corrective action including the cost of labor, materials, equipment, supplies and administration shall be due from MANAGER no later than thirty (30) days from the date of COUNTY'S written and electronic communication of the statement(s) of costs.
- c. Should COUNTY elect to terminate this Agreement, COUNTY may choose to procure existing sealed and unopened chemical and pesticide inventory from MANAGER for the cost paid by MANAGER.

21.3 TERMINATION FOR CONVENIENCE. COUNTY shall have the right to terminate this Agreement for convenience upon at least one hundred twenty (120) calendar days' notice to MANAGER.

21.4 TERMINATION BY MANAGER. MANAGER shall have the right upon one hundred twenty (120) calendar days from receipt of notice by the COUNTY to terminate this Agreement at any time after the occurrence of one or more of the following events:

- a. Issuance of any court of competent jurisdiction of any injunction or order of taking substantially restricting the use of the Properties for the purposes set forth herein, and the remaining in force of said injunction or order for a period of more than thirty (30) calendar days.
- b. The assumption by the United States Government or any authorized agency thereof, or any other governmental agency, of substantial part, or parts, thereof in such a manner as to substantially restrict MANAGER'S operations for a period of ninety (90) calendar days or more.



- c. MANAGER may terminate this Agreement upon thirty (30) days' notice to COUNTY with respect to nonperformance of or failure to comply with any term or provision of this Agreement and failure of COUNTY to remedy such nonperformance within a ten (10) day period following MANAGER'S date of communication of written and electronic notice. Should MANAGER need to make the necessary correction, all costs incurred for the corrective action including the cost of labor, materials, equipment, supplies and administration shall be due from COUNTY no later than thirty (30) days from the date of MANAGER'S written and electronic communication of the statement(s) of costs.

21.5 TERMINATION WITHOUT CAUSE. MANAGER shall have the right to terminate this Agreement without cause by providing written notice to COUNTY at least one hundred twenty (120) calendar days prior to termination. Should MANAGER elect to terminate this Agreement without cause, MANAGER'S rights and privileges as stated in this Agreement shall cease at the termination date provided in the notice, except that any monies then owed by one Party to the other as of the Effective Date shall be paid, and the indemnification requirements shall survive termination.

ARTICLE 22. ENTIRE AGREEMENT AND AMENDMENTS; TERMINATION OF PRIOR AGREEMENTS

As of the Effective Date, this Agreement constitutes the entire agreement between the Parties and terminates any and all prior written or verbal agreements, amendments and understandings. This Agreement, and the exhibits and attachments hereto, and other documents and agreements specifically incorporated herein, constitute the entire, fully integrated Agreement between the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous verbal or written agreements, amendments and understandings between the Parties with respect thereto. This Agreement may be amended only by written document, properly authorized and executed by both Parties. This Agreement shall be interpreted as a whole and section headings are for convenience only.

The Parties agree, by execution of this Agreement, that the Original Agreement and the Amended Agreement are terminated and of no further force and effect as of the Effective Date, such that all prior, existing or future obligations of the Parties with respect to the matters addressed herein shall be governed solely by this Agreement.

ARTICLE 23. WAIVER OF COMPENSATION

By execution of this Agreement, the County waives the compensation payment due and owing under the Amended Agreement of 12.5% of gross receipts as rent and 7.5% of gross receipts as Capital Improvement reserve funds from the Properties. This waiver shall start from May 1, 2018 through the date of execution of this Agreement. The approximate value of this waiver equals Twenty-Five Thousand and 00/100 Dollars (\$25,000.00).

ARTICLE 24. MISCELLANEOUS PROVISIONS

24.1 NO WAIVER. The indulgence of either Party with regard to any breach or failure to perform any provision of this Agreement shall not be deemed to constitute a waiver of the provision or any



portion of this Agreement, either at the time the breach or failure occurs, or at any time throughout the term of this Agreement.

24.2 DISPUTE RESOLUTION. Disputes shall be resolved as follows: good faith negotiations by the designated agents of the Parties and if not resolved by such designated agents after twenty-one (21) days, MANAGER shall submit its claim, with the basis for the dispute, in writing to the Manatee County Purchasing Official for a determination and handling in accordance with the provisions of the Manatee County Procurement Code.

24.3 FORCE MAJEURE. Neither Party shall be considered in default of performance of any obligations of this Agreement to the extent that performance of such obligations or any of them is delayed or prevented by Force Majeure. Force Majeure shall include, but not be limited to hostility, revolution, civil commotion, strike, epidemic, fire, flood, wind, earthquake, hurricane, or other disruptive event of nature, act of terrorism, explosion, lack of or failure of transportation or bridge/roadway facilities, any law, proclamation, regulation, ordinance or other act of government, or any act of God or any cause whether of the same or different nature, existing or future; provided that the cause, whether or not enumerated in this section, is beyond the control and without the fault or negligence of the party seeking relief under this section.

24.4 MEETINGS. MANAGER shall from time to time be required to attend County Administration and /or County Commission meetings to provide relevant information concerning the Properties and the golf industry in general.

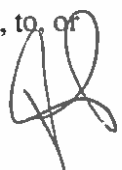
24.5 GOVERNING LAW, JURISDICTION AND VENUE. This Agreement and any legal proceedings related thereto, shall be governed by the laws of and maintained in courts sitting within the State of Florida. Jurisdiction for such proceedings shall lie exclusively with such court and venue shall be in Manatee County, Florida or if an action is brought in Federal Court, the Middle District of Florida, Tampa Division.

24.6 ATTORNEYS' FEES AND COSTS. In the event of any litigation arising under the terms of this Agreement, each Party shall be responsible for its own attorneys' fees and costs in any dispute, litigation, dispute resolution proceeding, settlement negotiation, or pre-litigation negotiation arising under this Agreement including appellate fees, regardless of the outcome of the litigation.

24.7 NO CONFLICT. By accepting award of this Agreement, MANAGER represents that MANAGER and its directors, officers and employees presently have no interest in, and shall acquire no interest in, any business or activity which would conflict in any manner with the performance of duties or services required hereunder.

24.8 PUBLIC ENTITY CRIMES. MANAGER has been made aware of the Florida Public Entity Crimes Act, Section 287.133, Florida Statutes, specifically section 2(a), and COUNTY'S requirement that MANAGER comply with it in all respects prior to and during the term of this Agreement.

24.9 NO THIRD-PARTY BENEFICIARIES. This Agreement is solely for the benefit of the Parties hereto, and no right, privilege, or cause of action shall by reason hereof accrue upon, to, or



for the benefit of any third-party. Nothing in this Agreement is intended or shall be construed to confer upon or give any person, corporation, partnership, trust, private entity, agency, or other governmental entity any right, privilege, remedy, or claim under or by reason of this Agreement or any provisions or conditions hereof.

24.10 LEGAL REFERENCES. All references to statutory sections or chapters shall be construed to include subsequent amendments to such provisions, and to refer to the successor provision of any such provision. References to "applicable law" and "general law" shall be construed to include provisions of local, state and federal law, whether established by legislative action, administrative rule or regulation, or judicial decision.

24.11 SEVERABILITY. The provisions of this Agreement are declared by the Parties hereto to be severable. In the event any term or provision of this Agreement shall be held invalid by a Court of competent jurisdiction, such invalid term or provision should not affect the validity of any other term or provision hereof; and all such terms and provisions hereof shall be enforceable to the fullest extent permitted by law as if such invalid term or provision had never been part of this Agreement; provided, however, if any term or provision of this Agreement is held to be invalid due to the scope or extent thereof, then, to the extent permitted by law, such term or provision shall be automatically deemed modified in order that it may be enforced to the maximum scope and extent permitted by law.

24.12 COMPLIANCE WITH LAWS. MANAGER'S performance under this Agreement shall be in conformance with all rules, regulations, laws and ordinances which may be applicable to MANAGER'S operations.

[Signature Page to follow]

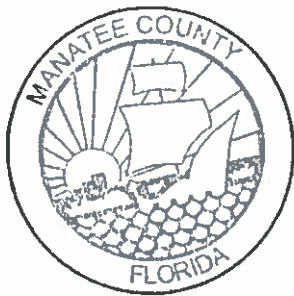
A handwritten signature in black ink, consisting of a stylized, cursive 'H' followed by a vertical line and a loop at the top.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed effective as of the date set forth above.


POPE GOLF, LLC

By: 
Keith Pope, Manager

**MANATEE COUNTY, a political
subdivision of the State of Florida**



By: its Board of County Commissioners

By: 
Chairperson

**ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER**

By: 
Deputy Clerk

EXHIBITS SCHEDULE

Exhibit A – Site Locations: Manatee County Golf Course and Buffalo Creek Golf Course

Exhibit B – Fixed Assets Listing

Exhibit C – County Buildings and Structures

EXHIBIT A- SITE LOCATIONS

Manatee County Golf Course
6415 53rd Avenue West, Bradenton, FL 34210
Parcel ID: 5182410208



EXHIBIT A- SITE LOCATIONS

Buffalo Creek Golf Course
8100 69th Street East, Palmetto, FL 34221
Parcel ID: 655700109



MANATEE COUNTY GOLF COURSE

FIXED ASSETS LISTING
 MANATEE COUNTY, FLORIDA
 FOR THE PERIOD ENDING 04/30/2018



FAID	DESCRIPTION	PURCHASE DATE	CHECK NUMBER	COST	ACCT KEY/OBJECT	LOCATION CODE INFORMATION
0033506A	TRACTOR, JOHN DEERE 5200 LV5200E420683	09/30/2012	165946	0 00	4300013500 564000	430 MANATEE
0035250A	TRENCHER, DITCH WITCH M#1220 1N3292	09/30/2012	206655	0 00	4300013500 564000	492 BUFFALO
0035251A	TRAILER, DITCH WITCH 1DS0000AGT17N0165	09/30/2012	207063	0 00	4300013500 564000	430 MANATEE
0036702A	THATCHING REEL KIT 71169-70-71	09/30/2012	52957	0 00	4300013500 564000	430 MANATEE
0036703A	MOWER, TORO GREENSMASSTER 3100 71107	09/30/2012	52957	0 00	4300013500 564000	430 MANATEE
0037356A	TRACTOR, JOHN DEERE 5310 LV5310S130901	09/30/2012	3574	0 00	4300013500 564000	430 MANATEE
0037404A	PUMP, MILTON ROY LIQUID AG FLO RB11X001	09/30/2012	6328	0 00	4300013500 564000	430 MANATEE(BLUE-PUMP HOUSE)
0037555A	RACK, BAG DROP (GRANITE) 37555	09/30/2012	0751	0 00	4300013500 564000	430 MANATEE CLUBHOUSE
0037506A	CUTTER, RYAN 18" JR SOD 98506580	09/30/2012	6439	0 00	4300013500 564000	430 MANATEE
0037861A	GREENSGROOMER 720M 37861	09/30/2012	7035	0 00	4300013500 564000	430 MANATEE
0038024A	UTILITY CART, CARRY ALL RG9903-740092	09/30/2012	2146	0 00	4300013500 564000	430 MANATEE
0038050A	LIFT, GOLF M#GL-9 38050	09/30/2012	3021	0 00	4300013500 564000	430 MANATEE
0038925A	MOWER, TORO GREENSMASSTER 3100 90515	09/30/2012	AP00373880	0 00	4300013500 564000	430 MANATEE
0040147A	TRUCKSTER, TORO WORKMAN 3200, 200000208	09/30/2012	AP00402438	0 00	4300013500 564000	430 MANATEE
0040154A	UTILITY VEHICLE, CLUB CAR TURF RG0027902712	09/30/2012	AP00402438	0 00	4300013500 564000	492 BUFFALO
0040189A	RAKE, TOOTH WRAKE MOUNTING KI 200000258	09/30/2012	AP00402438	0 00	4300013500 564000	430 MANATEE
0041649A	GOLF CART, CLUB CAR TURF 2 W/O RG0118013864	09/30/2012	AP00447339	0 00	4300013500 564000	430 MANATEE

FIXED ASSETS LISTING
 MANATEE COUNTY, FLORIDA
 FOR THE PERIOD ENDING 04/30/2018

FAID	DESCRIPTION	PURCHASE DATE	CHECK NUMBER	COST	ACCT KEY/OBJECT	LOCATION CODE INFORMATION
	SERIAL NUMBER	PO NUMBER				
0042855A	TRACTOR, JOHN DEERE 5320 WAJD LV53205132242	09/30/2012	AP00477373	0.00	4300013500 564000	430 MANATEE
0043050A	GRINDER, FOLEY ACCU-PRO 630 SP 1844	09/30/2012	AP00485408	0.00	4300013500 564000	430 MANATEE
0044089A	AERATOR, TURF 886 (7B' TOWED) 210000103	09/30/2012	AP00513421	0.00	4300013500 564000	430 MANATEE
0044116A	SPIKER, TORO WVO CYLINDER FOR 220000163	09/30/2012	AP00513421	0.00	4300013500 564000	430 MANATEE
0044119A	SPREADER, LELY FERTILIZER MDL 10804-2098	09/30/2012	AP00514409	0.00	4300013500 564000	430 MANATEE
0044272A	SPRAYER, TORO MULTI PRO 5600 W 220000253	09/30/2012	AP00518447	0.00	4300013500 564000	430 MANATEE
0045027A	BALL WASHER, GILES MEYER BMW01 45027	09/30/2012	AP00537442	72.91	4300013700 564000	430 MANATEE CLUBHOUSE
0047252A	DEFERRILLATOR, ZOLL AED PLUS X04E034666	09/30/2012	AP00559861	319.42	4300013700 564000	430 MANATEE CLUBHOUSE
0047803A	ICE MAKER, ICE-O-MATIC 05021280012341	09/30/2012	AP00620267	561.49	4300013700 564000	430 MANATEE CLUBHOUSE
0047865A	SPREADER, LESCO HPS 125 7091570E035Z70008	09/30/2012	AP00626217	764.45	4300013500 564000	430 MANATEE
0051149A	TANK, 2000GAL CONTNMENT BASIN	09/30/2012	AP00770904	500.63	4300013500 564000	430 MANATEE PUMP STATION
0051150A	TANK, 2000GAL CONTNMENT BASIN	09/30/2012	AP00770904	500.63	4300013500 564000	430 MANATEE PUMP STATION
0052290A	REELMASTER 5510 280000484	09/30/2012	AP00797216	21,841.54	4300013500 564000	430 MANATEE
0052291A	REELMASTER 5510 280000392	09/30/2012	AP00797216	21,841.54	4300013500 564000	430 MANATEE
0052292A	TRUCKSTER, TORO WORKMAN 3200 280000292	09/30/2012	AP00797216	8,498.39	4300013500 564000	430 MANATEE
0052293A	TRUCKSTER, TORO WORKMAN 3200 280000294	09/30/2012	AP00797216	8,498.39	4300013500 564000	430 MANATEE
0052294A	TRUCKSTER, TORO WORKMAN 3200 280000297	09/30/2012	AP00797216	8,498.39	4300013500 564000	430 MANATEE

FIXED ASSETS LISTING
MANATEE COUNTY, FLORIDA
FOR THE PERIOD ENDING 04/30/2018

FAID	DESCRIPTION	PURCHASE DATE	CHECK NUMBER	COST	ACCT KEY/OBJECT	LOCATION CODE INFORMATION
0052289A	SPIKER, TORO	09/30/2012	AP00797216	1,432.11	4300013500	430
0052299A	FINISH GRADER, TORO	09/30/2012	AP00797216	930.26	4300013500	430
0052300A	PRO PASS 180 W/TWIN SPINNER	09/30/2012	AP00797376	6,984.45	4300013500	430
0052402A	GROOMING BRUSH, GREENSGROOMER	09/30/2012	AP00800499	1,498.75	4300013500	430
0053451A	DUMP TRAILER, HYDRAULIC	09/30/2012	AP00815668	4,076.15	4300013500	430
0054748A	WATERFALL SHIRT RACK	09/30/2012	AP00850271	1,093.42	4300013700	430
0054749A	WATERFALL SHIRT RACK	09/30/2012	AP00850271	1,093.42	4300013700	482
0054928A	DVR, 8 CHANNEL	09/30/2012	AP00867238	811.45	4300013700	430
7000035A	CART SHED	09/30/2012		0.00	4300013500	430
7000036A	MAINTENANCE BUILDING	09/30/2012		0.00	4300013500	425
7000038A	REST ROOMS (2)	09/30/2012		0.00	4300013500	430
7000039A	PUMP HOUSE	09/30/2012		0.00	4300013500	425
7000040A	MAINTENANCE SHED	09/30/2012		0.00	4300013500	425
7000042A	STARTER SHED FOR 10TH TEE	09/30/2012	AP00013458	0.00	4300013700	430
7000049A	GOLF COURSE MAINTENANCE SHED	09/30/2012		0.00	4300013500	425
7000080A	GOLF MAINTENANCE BLDG	09/30/2012		16,204.66	4300013500	425
7000172A	CLUB HOUSE BUILDING, 66TH STREE	09/30/2012		170,625.86	4346009702	430
	17-418-R			6009702		

**FIXED ASSETS LISTING
MANATEE COUNTY, FLORIDA
FOR THE PERIOD ENDING 04/30/2018**

FAID	DESCRIPTION	PURCHASE DATE	CHECK NUMBER	COST	ACCT KEY/OBJECT	LOCATION CODE INFORMATION
7000173A	RESTROOM, REMOTE, 96TH STREET	09/30/2012	000000	5,548.63	434609702 562000	430
7000173A		00000000		6009702		
7000215A	CHEMICAL STORAGE BUILDING	09/30/2012	184133	0.00	4300013500 562000	425
7000215A		00105583				
7000224A	GOLF COURSE MAINTENANCE BUILDIN	09/30/2012	35752	0.00	4300013500 562000	425
7000224A		108923				
8000023A	GOLF COURSE IMPROVEMENTS	09/30/2012	000000	0.00	4300013500 563000	430
8000023A		00000000				
8000024A	GOLF COURSE IMPROVEMENTS	09/30/2012	000000	0.00	4300013500 563000	430
8000024A		00000000				0000
8000029A	GOLF CART PAVING	09/30/2012	AP00023981	0.00	430699999 563000	425
8000029A		00042975				
8000051A	CHAIN LINK FENCE FOR GOLF COUR	09/30/2012	AP00037495	0.00	4300013500 563000	425
8000051A		00065514				
8000117A	SHELL FOR FILL AT MAINT. SHED	09/30/2012	AP00001884	0.00	4300013500 563000	425
8000117A		00071807				
8000131A	GOLF COURSE TREE PLANTING	09/30/2012	000000	0.00	4300013500 563000	425
8000131A		00000000				
8000132A	GOLF COURSE BENCHES & SHELTERS	09/30/2012	000000	0.00	4300013500 563000	425
8000132A		00000000				
8000154A	RESURFACE PARKING LOT & PATHS	09/30/2012	AP00051647	0.00	4300013500 563000	430
8000154A		00081537				
8000155A	PARKING LOT LIGHTING, TWO POLE	09/30/2012	AP00051589	0.00	4300013500 563000	430
8000155A		00080502				
8000169A	GOLF COURSE IMPROVEMENTS	09/30/2012	000000	37,224.61	4300013500 563000	430
8000169A		00000000				
8000204A	FENCE AT MAINTENANCE FACILITY	09/30/2012	000000	0.00	434699999 563000	430
8000204A		00000000				
8000205A	PUMP STATION AT GOLF COURSE	09/30/2012	000000	9,800.62	434699999 563000	430
8000205A		00000000				
8000371A	CONCRETE PATH AT #1 TEE/80-91	09/30/2012	012869	0.00	4300013500 563000	425
8000371A		91012969				
8000471A	PUTTING GREEN IMPROVEMENT, 66T	09/30/2012	000000	0.00	434609702 563000	430
8000471A		00000000		6009702		

FIXED ASSETS LISTING
 MANATEE COUNTY, FLORIDA
 FOR THE PERIOD ENDING 04/30/2018

FAID	DESCRIPTION	PURCHASE DATE	CHECK NUMBER	COST	ACCT KEY/OBJECT	LOCATION CODE
SERIAL NUMBER	BO NUMBER	NUMBER			INFORMATION	
8000472A	CART PATH IMPROVEMENT, FY '94	09/30/2012	000000	0.00	4346009702 563000	430
80000472		00000000			6009702	
8000497A	GRANITE TEE SIGNS	09/30/2012	148751	0.00	4300013500 563000	425
80000497		00103837				
8000516A	ENLARGE REGISTRATION DESK AT C	09/30/2012	AP175886	0.00	4300013700 563000	430
80000516		00105495				
8000521A	CART PATH IMPROVEMENTS	09/30/2012	000000	0.00	4346009701 563000	492
80000521		00000000			6009701	
8000533A	INSTALLED 4/TON SPLIT SYSTEM A	09/30/2012	98016	0.00	4346009702 563000	430
80000533		108464			6009702	
8000587A	IRRIGATION CONTROLLER SYSTEM	09/30/2012		0.00	4346009700 563000	425
80000587		CIP			6009700	
8000602A	PARKING LOT IMPROVEMENT 96TH S	09/30/2012	AP00371654	0.00	4300013500 563000	430
80000602		B9000508				
8000607A	FENCING, #4 GREEN COUNTY GOLF	09/30/2012	AP00377800	0.00	4300013500 563000	425
80000607		P9001480				
8000652A	LIGHTNING DETECTION/WARNING SY	09/30/2012	AP00402438	0.00	4300013500 563000	425
80000652		P0000452				
8000655A	FURNISH AND INSTALL DRIVING RA	09/30/2012	AP00401918	0.00	4300013500 563000	430
80000655		P0000712				
8000729A	FURNISH AND INSTALL FIBER OPTI	09/30/2012	AP00462111	0.00	4300013500 563000	430
80000729		P1001598				
8000736A	FENCING AT PKS MAINT YARD AND	09/30/2012	AP00473225	0.00	4300013500 563000	425
80000736		P1002335				
8000740A	SECURITY CAMERA SURVEILLANCE S	09/30/2012	45373	0.00	4300013700 563000	430
80000740		0145373				
8000871A	NOT TAGGABLE	09/30/2012	AP00566412	12,746.27	4300013700 563000	430
80000871		P3001823				
8001063A	IMPV, RENOVATE MCGC CLUBHOUSE	09/30/2012	AP00752262	28,355.85	4300013500 563000	430
80000871		P7000338				
8001774A	PUMP STATION AT GOLF COURSE	09/30/2012	AP00902896	27,217.50	4300013501 563000	425
80000871						
9000085A	FENCE/GATES, BLACK VINYL	09/30/2012	000000	235,682.14	4300013500 561000	430
51824 1020						

MANATEE GC PRO SHOP
 FENCE BTWN PRKS MNT BLDG/MCGC MNT

FIXED ASSETS LISTING
MANATEE COUNTY, FLORIDA
FOR THE PERIOD ENDING 04/30/2018

FAID	DESCRIPTION SERIAL NUMBER	PURCHASE DATE PO NUMBER	CHECK NUMBER	COST	ACCT KEY/OBJECT	LOCATION CODE INFORMATION
	GRAND TOTAL		85		633,223.93	

BUFFALO CREEK GOLF COURSE

FIXED ASSETS LISTING
 MANATEE COUNTY, FLORIDA
 FOR THE PERIOD ENDING 04/30/2018

FAID	DESCRIPTION	PURCHASE DATE	CHECK NUMBER	COST	ACCT KEY/OBJECT	LOCATION CODE INFORMATION
0027593A	VENTROGUARD EXHAUST HOOD/SMACK 100730789	09/30/2012	AP00224961	0.00	4946099999 564000	492 BUFFALO CLUBHOUSE
0027598A	HATCO #GRAH-18 SS WALL SHELF/S 27598	09/30/2012	AP00224961	0.00	4946099999 564000	492 BUFFALO CLUBHOUSE
0027600A	DELFIELD #V18554-28 SANDWICH U 187853-T	09/30/2012	AP00224961	0.00	4946099999 564000	492 BUFFALO CLUBHOUSE
0030073A	LIQUID AG FRTGAIN SYS W/2400 102111	09/30/2012	017156	0.00	4900013500 564000	492 BUFFALO PUMP STATION
0035315A	TRACTOR, JOHN DEER 5300 LV5300E630809	09/30/2012	10110	0.00	4900013500 564000	492 BUFFALO
0036707A	MOWER, TORO GREENSMMASTER 3100 71153	09/30/2012	52957	0.00	4900013500 564000	492 BUFFALO
0036708A	THATCHING REEL KIT(VERTICUT) 71004-05-06	09/30/2012	52957	0.00	4900013500 564000	492 BUFFALO
0037301A	GRINDER, ANGELMASTER 2000 10563	09/30/2012	2847	0.00	4900013500 564000	492 BUFFALO
0037556A	RACK, BAG DROP 37556	09/30/2012	0751	0.00	4900013500 564000	492 BUFFALO CLUBHOUSE
0038025A	UTILITY VEHICLE, CLUB CAR TURF RE9903-740091	09/30/2012	2146	0.00	4900013500 564000	430 MANATEE
0038051A	LIFT, GOLF M#GL-9 JC0002J	09/30/2012	3021	0.00	4900013500 564000	492 BUFFALO
0039267A	SOD CUTTER, RYAN 12" JR 98503389	09/30/2012	AP00381910	0.00	4900013500 564000	492 BUFFALO
0040829A	DRAG BRUSH, GREENS GROOMER HYDR 40829	09/30/2012	AP00420538	0.00	4900013500 564000	492 BUFFALO
0040836A	SPREADER, LELY MOL#1500 3 POI 10512-1809	09/30/2012	AP00423338	0.00	4900013500 564000	492 BUFFALO
0041626A	TRACTOR, JOHN DEERE 5310 LV5310S332765	09/30/2012	AP00440946	0.00	4900013500 564000	492 BUFFALO
0042601A	GRINDER, SPIN RELIEF, FOLEY AC 1619	09/30/2012	AP00473057	0.00	4900013500 564000	492 BUFFALO
0044085A	SAND PRO, TORO 3020 W/TOOTH RA 220000149	09/30/2012	AP00513831	0.00	4900013500 564000	492 BUFFALO

FIXED ASSETS LISTING
 MANATEE COUNTY, FLORIDA
 FOR THE PERIOD ENDING 04/30/2018

FAID	DESCRIPTION	SERIAL NUMBER	PURCHASE DATE	CHECK NUMBER	COST	ACCT KEY	OBJECT	LOCATION CODE INFORMATION
0044098A	AERATOR, TORO 886 (78" TOWED)	210000102	09/30/2012	AP00513831	0.00	4900013500	564000	492 BUFFALO
0044113A	SPIKER, TORO WVO CYLINDER FOR	220000111	09/30/2012	AP00513831	0.00	4900013500	564000	492 BUFFALO
0044114A	BLOWER, DEBRIS CYCLONE 1000 FO	220000109	09/30/2012	AP00513831	0.00	4900013500	564000	492 BUFFALO
0044560A	EDGER, EDGE PRO MODEL 200	44560	09/30/2012	AP00522035	149.75	4900013500	564000	492 BUFFALO
0045309A	BOTTLE COOLER, BEVERAGE AIR 2	6415543	09/30/2012	AP00544792	55.00	4900013700	564000	492 BUFFALO CLUBHOUSE
0047253A	DEFIBRILLATOR, ZOLL AED PLUS	X04E034780	09/30/2012	AP00598861	319.42	4900013700	564000	492 BUFFALO CLUBHOUSE
0047912A	TRACTOR, KUBOTA LOADER BACKHOE	50912	09/30/2012	AP00630672	8,201.37	4900013500	564000	492 BUFFALO
0049046A	SPREADER, LESCO HYDRO GAS 125#	7091570H095Z70008	09/30/2012	AP00717623	1,035.58	4900013500	564000	492 BUFFALO
0050874A	KEG COOLER	1-4311552	09/30/2012	AP00763096	845.55	4900013700	564000	492 BUFFALO CLUBHOUSE
0051293A	ICE MAKER, HOSHIZAKI		09/30/2012	AP00775002	1,245.95	4900013700	564000	492 BUFFALO CLUBHOUSE
0052277A	GROUNDSMASTER 4500-D	280000366	09/30/2012	AP00797216	23,798.97	4900013500	564000	492 BUFFALO
0052278A	REELMASTER 5510-D	280000405	09/30/2012	AP00797216	21,841.54	4900013500	564000	492 BUFFALO
0052279A	REELMASTER 5510-D	280000401	09/30/2012	AP00797216	21,841.54	4900013500	564000	492 BUFFALO
0052280A	TRUCKSTER, TORO WORKMAN 3200	280000295	09/30/2012	AP00797216	8,498.39	4900013500	564000	492 BUFFALO
0052281A	TRUCKSTER, TORO WORKMAN 3200	280000300	09/30/2012	AP00797216	8,498.38	4900013500	564000	492 BUFFALO
0052284A	MOWER, TORO GREENSMMASTER 3150	280000847	09/30/2012	AP00079716	12,468.58	4900013500	564000	492 BUFFALO
0052285A	SAND PRO 5040	280000136	09/30/2012	AP00797216	8,445.76	4900013500	564000	492 BUFFALO

FIXED ASSETS LISTING
 MANATEE COUNTY, FLORIDA
 FOR THE PERIOD ENDING 04/30/2018

FAID	DESCRIPTION	PURCHASE DATE	CHECK NUMBER	COST	ACCT KEY/OBJECT	LOCATION CODE INFORMATION
0052286A	SPIKER, TORO	09/30/2012	AP00797216	1,432.11	4900013500 564000	492 BUFFALO
0052287A	FINISH GRADER, TORO	09/30/2012	AP00797216	930.26	4900013500 564000	492 BUFFALO
0053452A	DUMP TRAILER, HYDRAULIC	09/30/2012	AP00815668	4,076.15	4900013500 564000	492 BUFFALO
0053509A	BALL PICKER, 5 GANG HIGH RISE	09/30/2012	AP00816217	1,557.40	4900013700 564000	492 BUFFALO CLUBHOUSE
0053511A	BALL WASHER, EASY PICKER 22K	09/30/2012	AP00788073	1,157.49	4900013700 564000	492 BUFFALO CLUBHOUSE
0X47721A	MOWER, TORO GREENSMASHER 3150	09/30/2012		5,102.76	4900013500 564000	492 BUFFALO
7000120A	BUFFALO CREEK PRO SHOP AND CAR	09/30/2012		193,695.74	4946099999 562000	492 0000
7000143A	MAINTENANCE BLDG/BUFFALO CREEK	09/30/2012		44,877.41	4946099999 562000	492
7000216A	CHEMICAL STORAGE BUILDING	09/30/2012		0.00	4900013500 562000	492
7000284A	POLE BARN PUMP ROOM W/REMOVABL	09/30/2012	AP00562859	276.65	4900013500 562000	492
7000299A	POLE BARN @ BUFFALO 30'X32'	09/30/2012	AP00627651	11,934.00	4900013500 562000	492 BUFFALO CREEK GOLF CRS
7000304A	REMOTE RESTROOMS @ BCGC	09/30/2012		224,892.94	4946031300 562000	492
8000312A	BUFFALO CREEK GOLF COURSE#87-8	09/30/2012		1,121,314.75	4946099999 563000	492
8000410A	PRKNG LOT/LANDSCPNGBUFFALO CRE	09/30/2012	AP00233454	0.00	4946099999 562000	492
8000411A	SIDEWALKS AT BUFFALO CREEK/SEE	09/30/2012	AP00233454	0.00	4946099999 562000	492
8000470A	CART PATH IMPROVEMENT, FY '94	09/30/2012	AP00002468	0.00	4900013500 563000	492
8000496A	GRANITE TEE SIGNS	09/30/2012	148751	0.00	4900013500 563000	492
80000499		00103837				

FIXED ASSETS LISTING
 MANATEE COUNTY, FLORIDA
 FOR THE PERIOD ENDING 04/30/2018

FAID	DESCRIPTION	PURCHASE DATE	CHECK NUMBER	COST	ACCT KEY/OBJECT	LOCATION CODE INFORMATION
8000520A	CART PATH IMPROVEMENTS	09/30/2012	000000	0.00	4946004400 563000	492
8000520		000000008			8004400	
8000571A	SIGN FOR BUFFALO CREEK GOLF CO	09/30/2012	AP0751	0.00	4900013500 563000	492
80000571		P80000113				
8000851A	LIGHTNING DETECTION/MARNING SY	09/30/2012	AP00402438	0.00	4900013500 564000	492
80000651		P00000453				
8000674A	FURNISH/INSTALL VINYL COATED C	09/30/2012	AP00428955	0.00	4900013500 563000	492
80000674		P0001902				
8000739A	SECURITY CAMERA SURVEILLANCE S	09/30/2012	45373	0.00	4900013700 563000	492
8000739A	NOT TAGGABLE	0145373				
8000789A	IRRIGATION SYSTEM,TORO ASMAC R	09/30/2012	AP00522248	0.00	4946031302 563000	492
80000789		P20003159			6031302	
8000872A	IMPV, RENOVATE BCGC CLUBHOUSE	09/30/2012	AP00575917	7,281.07	4900013700 563000	492
80000872		P3001823				
8001554A	PHONE SYSTEM @ BCGC,NEC SV8100	09/30/2012	AP00858585	3,895.58	4900013700 563000	492
	NONE	P0101193				

GRAND TOTAL

59

1,739,450.10

BUFFALO CREEK GOLF COURSE

EXHIBIT C

Manatee County Golf Course

Building#	Name	ESRI_OID	STATUS	FLOORCOUNT
411	Golf Course - Maintenance Building	2	ACTIVE	1
592	Golf Course - Cart Barn	3	ACTIVE	1
413	Golf Course - Chemical Storage	11	ACTIVE	1
417	Golf Course - Storage Shed	19	ACTIVE	1
591	Golf Course - Club House	27	ACTIVE	1
818	Golf Course - Pump House	37	ACTIVE	1
410	Golf Course - Fuel Site	38	ACTIVE	1
	Golf Course - Restroom		ACTIVE	1

Buffalo Creek Golf Course

Building#	Name	ESRI_OID	STATUS	FLOORCOUNT
490	Buffalo Creek Golf Course - Clubhouse	6	ACTIVE	1
486	Buffalo Creek Golf Course - Cart Barn	8	ACTIVE	1
488	Buffalo Creek Golf Course - Storage 1	67	ACTIVE	1
521	Buffalo Creek Golf Course - Fuel Site	69	ACTIVE	1
492	Buffalo Creek Golf Course - Office/Maintenance	71	ACTIVE	1
489	Buffalo Creek Golf Course - Storage 2	75	ACTIVE	1
491	Buffalo Creek Golf Course - Storage/Maintenance	89	ACTIVE	1
643	Buffalo Creek Golf Course - Restroom	109	ACTIVE	2

APPROVED in Open Session
06/12/2018
Manatee County Board of County
Commissioners

Manatee County Government Administrative Center
Commission Chambers, First Floor
9:00 a.m. - June 12, 2018

June 12, 2018 - Regular Meeting
Agenda Item #37

Subject

Golf Course Management Agreement for the Operations, Management, and Maintenance of Properties at Manatee County Golf Course and Buffalo Creek Golf Course

Briefings

None

Contact and/or Presenter Information

Presenter: Charlie Hunsicker, Director, ext. 6001

Contact: Debbie Voorhees, Contracts Manager, ext. 6013

Action Requested

Authorization for the Chairperson of the Board of County Commissioners to execute the Golf Course Management Agreement between Manatee County and Pope Golf, LLC.

Enabling/Regulating Authority

FS 125

Background Discussion

On August 9, 2011, the Manatee County Board of County Commissioners approved a Franchise License Agreement with Pope Golf, LLC, for the operations, management, and maintenance of the Manatee County Golf Course and Buffalo Creek Golf Course for an initial period of five years.

On October 11, 2016, the Manatee County Board of County Commissioners (County) approved an Amended and Restated Agreement with Pope Golf, LLC (Licensee) for continued operations, management, and maintenance of Manatee County Golf Course and Buffalo Creek Golf Course. Under this Agreement, the Licensee paid a percentage of gross receipts to the County for rent, plus a percentage of gross receipts to the County for Capital Improvement Projects. Additionally, Licensee held a small percentage to be used for additional course maintenance to elevate the conditioning of the County courses and improve golfer satisfaction.

County staff and Pope Golf worked together to discuss areas in which the current Franchise License Agreement could be streamlined for efficiency in operations and oversight. This new Agreement provides for more direct oversight and management of the Properties by Pope Golf. Pope Golf will be responsible for:

- maintaining the Properties, with the exception of the infrastructure of County buildings (as shown on Exhibit C).
- maintaining a minimum set level of play (75,000 rounds of 18-hole golf) as evidence of course playability and golfer satisfaction
- performing and funding all Capital Improvement Projects

- paying the County an annual fee of \$275,000.

The County will be responsible for:

- repairs and maintenance to its buildings and structures (as shown on Exhibit C)
- providing a Golf Course Consultant to inspect the course every six months to ensure quality controls and course playability.

The term of the new Agreement is for seven years. The County maintains their right to terminate the Agreement with respect to nonconformance by Licensee and for public convenience at any time, with notification as written.

The new Agreement supersedes all previous Agreements and Amendments. The current Amended and Restated Agreement will end and the new Management Agreement will begin upon the effective date of execution.

Compensation on the current Amended and Restated Agreement will end as of April 30, 2018, and compensation on the new Management Agreement will begin on October 1, 2018.

The new Golf Course Management Agreement for the Operations, Management, and Maintenance of Properties at Manatee County Golf Course and Buffalo Creek Golf Course is attached and recommended for execution by the Board of County Commissioners.

County Attorney Review

Formal Written Review (Opinion memo must be attached)

Explanation of Other

Reviewing Attorney

Nicodemi

Instructions to Board Records Documents sent by email on 6/13/2018

Please provide an approved copy of the agenda to: Debbie.voorhees@mymanatee.org and Theresa.webb@mymanatee.org

Cost and Funds Source Account Number and Name

N/A

Amount and Frequency of Recurring Costs

N/A

Attachment: [CAO Opinion_PG Management Agreement_6-1-18.pdf](#)

Manatee County Government Administrative Center
Commission Chambers, First Floor
9:00 a.m. - June 12, 2018

Attachment: [FINAL PG Management Agreement 6-1-18.pdf](#)



OFFICE OF THE COUNTY ATTORNEY

MITCHELL O. PALMER, COUNTY ATTORNEY*
William E. Clugue, Assistant County Attorney
Sarah A. Schenk, Assistant County Attorney**
Christopher De Carlo, Assistant County Attorney
Geoffrey K. Nichols, Assistant County Attorney
Pamela J. D'Agostino, Assistant County Attorney
Anne M. Morris, Assistant County Attorney
Katharine M. Zamboni, Assistant County Attorney
Alexandria C. Nicodemi, Assistant County Attorney

MEMORANDUM

Date: May 30, 2018
To: Debbie Voorhees, Contracts Manager, Parks and Natural Resources Department
Through: Mitchell O. Palmer, County Attorney *MOP 5-31-18*
From: Alexandria C. Nicodemi, Assistant County Attorney *acnw*
RE: Pope Golf Course Management Agreement No. 2018-0148

This memorandum is in response to the above referenced Request for Legal Services in which you asked this office to review a draft agreement for the Pope Golf Course Management Agreement ("Agreement"). Per your request, I have reviewed the proposed terms of the draft Agreement you submitted. Based on my review, I have made the appropriate edits so that it is in legally sufficient form. (*See Attached*).

My comments are as follows:

1. On April 17, 2018, you provided this office with a red-line version of this Agreement. The revisions reflect the work of individuals including, but not limited to, Debbie Voorhees, Contracts Manager; Theresa Webb, Purchasing Official; and Linda Klasing, Risk Manager. The Agreement was again revised by staff the week of May 14, 2018 due to changes in the compensation scheme. The revised Agreement was forwarded to this office on May 21, 2018. It is the most recent May 21, 2018 revised Agreement, for which my review is based upon.
2. In order to more easily read the document, the attached Agreement, has "accepted" all red-lined amendments from the above-mentioned individuals and reflects *only* my suggested changes along with any comments made by others in the margins.
3. The majority of suggested changes are intended to provide clarity and to conform the document to the practices and standard contract provisions of the County.

* Board Certified in Construction Law

** Board Certified in City, County, & Local Government Law

4. The term of the Agreement ends in the year 2025. This Agreement may be extended to 2026 which would be consistent with the original 2011 agreement providing for a five-year term.
5. Article 7.2 has been removed as it is inconsistent with the original 2011 agreement term.
6. I have amended Section 10.2 of the Agreement. Prior to the commencement of any capital improvement project, County staff should be notified and should provide approval of such work. This is especially important when evaluating compliance with Section 255.05, Florida Statutes.
7. I have added Section 10.13 of the Agreement. Section 255.05, Florida Statutes, requires individuals contracting with the County to secure, and furnish to the County, payment and performance bonds under certain conditions. In regard to your inquiry on May 24, 2018 as to whether a corresponding addendum can be executed by the Manatee County Purchasing Official, I recommend that should such addendum become necessary, it is instead approved and executed by the Board.
8. I have added Section 21.4.c. in order to make the Agreement reciprocal.
9. Article 23 has been amended to include the County's waiver of payment that is due and owing under the prior agreement.
10. In addition to the aforementioned substantive changes, minor revisions and comments as to grammar, formatting, and style are included in the red-lined draft Agreement.

Subject to the inclusion of my recommended changes and the resolution of the above issues, as well as any business issues identified by staff, I have no objection, from a legal standpoint to scheduling the Agreement and its exhibits for consideration and approval by the Board. I express no opinion as to the business judgment of entering into this Agreement. This completes my response to your Request for Legal Services. If you have any further questions, comments or concerns, please feel free to contact me.

Copies to: Ed Hunzeker, County Administrator
Dan Schlandt, Deputy County Administrator
Cheri Coryea, Deputy County Administrator
Charlie Hunsicker, Director, Parks and Natural Resources Department