

R-2011-065
4/6/11

**AMENDED AND RESTATED AGREEMENT
ECO GRANDE GOLF COURSE**

THIS AGREEMENT is made and entered into this 28th day of May, 2011, by and between the City of Hollywood, Florida (City) and Southern Golf Appraisals, Inc. (Southern Golf).

WITNESSETH:

WHEREAS, on July 17, 1991, the parties entered into an agreement for the Eco Grande Golf Course (the Golf Course), located at 1451 Taft Street, Hollywood, Florida and described on Exhibit "A" attached hereto, covering the period from October 1, 1991 to September 30, 1996 (the Original Agreement); and

WHEREAS, on September 18, 1996, the parties entered into an agreement for the period from October 1, 1996 to December 31, 1996;

WHEREAS, on December 18, 1996, the parties entered into an agreement for the period from January 1, 1997 to March 31, 1997;

WHEREAS, on April 1, 1997, the parties entered into an agreement for the period from April 1, 1997 to March 31, 2002;

WHEREAS, on April 1, 2002, the parties entered into an agreement for the period from April 1, 2002 and March 31, 2005;

WHEREAS, on or before March 31, 2005, the parties extended the term of said agreement from March 31, 2005 to May 31, 2005;

WHEREAS, on September 6, 2005, the parties entered into an agreement for the period from June 1, 2005 to May 31, 2007;

WHEREAS, on May 16, 2007, the parties entered into an Amended and Restated Agreement for the period from June 1, 2007 to May 31, 2009;

WHEREAS, on July 21, 2009, the parties entered into an Amended and Restated Agreement for the period from June 1, 2009 to May 31, 2011;

WHEREAS, the parties have agreed to extend the term of the agreement for an additional period of two (2) years on terms and conditions acceptable to the parties;

WHEREAS, Southern Golf's operation of the Golf Course as described above and as contemplated in this agreement maintains the use of the Golf Course for public purposes and has, in fact, served the public by improving the condition of the Golf Course and by increasing the use of the Golf Course by the public and City's revenues derived therefrom;

WHEREAS, Southern Golf's operation of the Golf Course also maintains the public purpose of the Golf Course as a buffer required by the United States Environmental Protection Agency between City's wastewater treatment plant and surrounding properties;

NOW, THEREFORE, in consideration of the mutual promises and understandings set forth herein, the parties agree as follows:

1. Property

City grants use and occupancy to Southern Golf of the golf course, and Southern Golf agrees to use and occupy, on the terms set forth herein, the Golf Course and improvements thereon, as referenced in the Original Agreement and all subsequent agreements, amendments and agreements thereto, remaining on the premises on the effective date of this Agreement.

2. Effective Date and Term

Except as provided in Section 19 of this agreement, this agreement will become effective as of June 1, 2011. Except for those provisions that naturally extend beyond the physical use and occupancy of the premises, this agreement will continue for the two (2) year period ending on May 31, 2013.

3. Annual Base Payment

In consideration of City's executing this agreement and granting Southern Golf the rights provided in this Agreement, Southern Golf shall make an annual base payment to City, at the address listed for City in Section 30 of this Agreement, in the total amount of \$25,000.00 for each year of the term of this Agreement. The annual base payment will be payable by Southern Golf to City in equal monthly installments in an amount equal to that year's annual base payment divided by twelve (12) months, commencing on June 1, 2011 and continuing monthly thereafter.

Not later than sixty (60) days after the end of each year of this Agreement, Southern Golf shall remit to City, as annual supplemental payment, an amount equal to ten percent (10%) of Southern Golf's annual gross revenues in excess of \$475,000.00 derived from the operation of the Golf Course or \$5,000.00, whichever amount is greater. For purposes of this paragraph, "gross revenues derived from the operation of the Golf Course" includes all revenues generated from all sources by Southern Golf at the Golf Course, including, without limitation, revenues received by Southern Golf from business interruptions insurance, if any, and any and all revenues and credits received by Southern Golf under this Agreement. Southern Golf shall keep accurate records of all of its revenues and make such records available to City for its inspection with respect to Southern Golf's obligation to make supplemental payments to City.

4. Golf Course Operation

Southern Golf shall use the premises solely for the purposes set forth in this Agreement. Southern Golf shall conduct the business of a golf course, which shall include ticket sales, reservations for play, starter and course play monitoring, a pro shop for retail sales of golfing supplies, apparel, rental and maintenance of electric carts, restaurant or restaurant-type service, golf tournaments, and all other facilities and services normally provided by a full service golf course operation. Southern Golf may, under its existing license, serve alcohol on the premises and may provide such other services on the premises which are consistent with the operation of a golf course. In the pro shop, Southern Golf shall stock and display a reasonable supply of golf equipment, supplies and apparel, which will be offered for sale to the public and particularly to the patrons of the Golf Course.

Southern Golf shall exercise reasonable care in the custody of all buildings and property of City placed in its hands in connection with this agreement and shall set up such rules and regulations as are necessary for the personnel under its direction to insure a minimum of wear, tear, breakage and depreciation of all City property. Any additional equipment or replacement equipment will be purchased at the sole expense of Southern Golf.

Southern Golf shall keep the facilities open daily during such hours as are required to serve public demand adequately and shall operate air conditioning and heating equipment, as needed, during business hours.

During the term of this Agreement, Southern Golf will be in full control of all grounds, buildings and facilities covered by this Agreement, both land and structure. However, City will have the right, at reasonable times and on reasonable notice, to make such changes and alterations, at City's expense, as may be determined by the City Manager to be in the best

interests of City, unless otherwise agreed to between the parties. City shall not unreasonably interfere with Southern Golf's operation in exercising rights under this paragraph.

Southern Golf shall provide, in a place to be designated by City, standard garbage receivers, shall place therein all refuse, and shall see that it is collected at least twice a week. Southern Golf shall pay any charges which may be made for the removal of garbage and refuse.

Southern Golf shall conduct all of its business activities on the premises in accordance with, and this agreement is made subject to, all the laws, ordinances, rules and regulations applicable to such business as set forth by the city, county, state, and federal government. Southern Golf shall be required to obtain and shall bear the cost of any and all permits or licenses that may be required in connection with its operation of the facilities, including, but not limited to, those permits and licenses required by the State of Florida, County of Broward and City. The premises, and buildings and improvements thereon, will be used only for proper, legitimate and lawful purposes as set forth herein. Southern Golf shall not use or cause to be used, or permit any person or party to use, the premises and buildings and improvements thereon, or any portion thereof, in contravention of the laws, ordinances or regulations of the United States, State of Florida, Broward County, City, or any other lawful authority having jurisdiction thereof.

The nature of this Agreement, to be successful in its purpose, will require the establishment of fixed lines of communication between the parties. The City Manager and his/her designee, the Director of Parks, Recreation and Cultural Arts, will have the right to review any and all rules and regulations that Southern Golf may make in regard to its operations pursuant to this Agreement.

5. Audits, Accountings and Records

Southern Golf must generate, maintain, and publish appropriately detailed accounting records for all aspects of the Golf Course. Said records should be of the type and detail sufficient to allow for an unqualified opinion by auditors. Detailed records of all revenue must be provided to the City on a monthly basis by the 15th of each month for the preceding month. Adjustments and corrections for any month should be immediately brought to the attention of the City on a timely basis. Failure to keep and provide detailed accounting records on a regular basis will be considered a material default by Southern Golf.

Not later than twenty (20) days after submittal to the State of Florida, Southern Golf shall provide City with a copy of each sales tax report filed by Southern Golf with the State. All cash register tapes and all other data supporting revenue collections from whatever source derived will be retained for inspection and verification by City and its duly authorized agents. Upon reasonable request by City, Southern Golf's complete books and records will be made available for inspection by City's representatives in order for City to determine accurately Southern Golf's gross revenues and expenses and any amounts that may be due to Southern Golf or City under this Agreement.

Southern Golf will be required to submit, on an annual basis, a complete set of financial statements of its operation at the Golf Course. These statements will be dated as of May 31 and will be audited on a cash basis by an independent certified public accountant. Each statement will have an unqualified opinion as to Gross Revenues and Operating Expenses, and will be submitted to City no later than September 1st of the year following the year covered by the statement. In addition, Southern Golf shall allow City to perform "agreed upon procedures audits" as deemed necessary by City, covering operational areas of the Golf Course.

6. Capital Improvements and Equipment

SGA shall spend \$5,000 per year for mutually agreed to capital expenditures. All capital expenditures must be pre-approved in writing by the City. Any capital expenditure not pre-approved, in writing, will not be accepted as counting toward the capital commitment. On March 1, 2012 and March 1, 2013 any funds remaining in the capital commitment for that year will be spent on purchasing replacement turf maintenance equipment for the then existing fleet. The replacement equipment will be mutually agreed to by the parties.

Southern Golf was obligated to spend certain amounts on capital improvements in the aggregate over prior agreements for the Golf Course. The parties agree that Southern Golf has met the obligations for capital contributions from prior agreements.

Not later than 30 days after Southern Golf pays an invoice for a capital improvement agreed to by the parties, Southern Golf shall provide to City, as available, proof of the cancelled check from a bank statement, as well as the original or a copy of the proposal, the purchase order, the invoice specifying the project, and the vendor's release of lien. Southern Golf shall also provide such documentation to City for all capital improvements made pursuant to prior agreements that have not been provided as of the commencement of the term of this Agreement.

At the termination of this agreement, whether premature or not, all improvements and alterations made to the Golf Course, clubhouse and other Golf Course related facilities and all equipment purchased and/or owned by Southern Golf, including any improvements made and equipment purchased under prior agreements, become or remain, as the case may be, the property of City, with no adjustment of any type or amount, although Southern Golf will have constructed and maintained same at its sole expense during the term of this agreement.

7. Structural Improvements and Fixtures

Southern Golf shall assume responsibility for the first Eight Hundred Dollars (\$800.00) of the cost of each necessary structural improvement and fixture to the Golf Course and buildings thereon. City shall assume responsibility for any amounts in excess of Eight Hundred Dollars (\$800.00) per necessary structural improvement or fixture.

In non-emergency situations, Southern Golf shall provide City with a written estimate of cost not later than two weeks prior to commencing any necessary structural improvement or fixture. In emergency situations, Southern Golf shall contact City prior to commencement of any necessary structural improvement or fixture but need not provide written notice. The final decision on who will construct or install the improvement or fixture will be made by City. If City fails to notify Southern Golf of its final decision within twenty-four (24) hours of receiving notice of the emergency situation, Southern Golf may construct or install the improvement or fixture.

8. Maintenance and Repair

Subject to Section 7 of this Agreement, it will be the sole responsibility of Southern Golf to maintain, at its expense, the Golf Course, including, but not limited to, landscaping, lighting, parking lots, driveways, walkways, buildings, air conditioners and irrigation system(s). Southern Golf shall also maintain, at its expense, all City-owned fenced-in swale areas, specifically excluding any and all chain-link perimeter fencing.

City shall maintain, at its expense, the line connected to the Wastewater Plant, including the repair of any breaks therein. City shall complete all such repairs within 24 hours of learning of the break. If City fails to complete any such repair within 24 hours of learning of the break, Southern Golf may do so. If Southern Golf completes a repair because of City's failure to do so, City shall pay to Southern Golf an amount equal to the cost of direct labor and materials incurred

by Southern Golf, plus an overhead cost of thirty percent (30%) of the direct cost. Except for the reasonable costs of repair, City will not be responsible for any loss of revenues or other damage suffered by Southern Golf because of a break in the line.

Southern Golf's obligation under this Section will include the upkeep of all fixtures, furnishings and equipment provided by City under this Agreement, in order to preserve it in an efficient, usable, working order for the purpose for which it is used and for its normal life expectancy. This obligation includes, but is not necessarily limited to, periodic servicing, repairs, replacement of parts after breakdown, such other functions as are necessary to preserve and conserve said fixtures, furnishings and equipment, and replacement of worn out, unrepairable or obsolete fixtures, furnishings and equipment. Replacement fixtures, furnishings and equipment will be the property of City and will remain with the property upon termination of this Agreement.

Southern Golf shall keep the entire premises, including the clubhouse and all its facilities, and the course grounds clean and sanitary at all times and shall furnish all equipment, services and materials necessary therefore, including trash receptacles of a type and number approved by the City for use by the public. All course greens, tees, fairways and cart path areas will be at a level of maintenance equal to that of competing courses. The latest USGA recommendations are to be used as a maintenance guide. Maintenance of landscaping and the golf course includes fertilization, watering, replanting, cutting, mowing, periodic trimming and removal of tree and shrub trimmings and sod, as necessary.

During the term of this agreement, Southern Golf will use its best efforts and cooperate in good faith with respect to accommodating and working with the City on any City project(s)

requiring use of a portion of the leased premises. If any such project(s) should interfere with Southern Golf's ability to operate the leased premises, or any portion thereof, for their intended purpose, the City shall fairly compensate Southern Golf, and the parties shall use their best efforts and cooperate in good faith to reach agreement on such compensation prior to the City's formally approving such project(s).

9. Advertising and Promotions

Southern Golf shall continue advertising in the telephone directory and may advertise by such other media as determined by its best design to attract business to the premises. Southern Golf shall endeavor to promote and stage golf tournaments and promote the sport of golf among patrons.

10. Reclaimed Water

Southern Golf shall purchase reclaimed water from City, when available, for irrigation purposes. The annual average daily flow (reserved capacity) for the Golf Course is 109,000 gallons per day. The cost for such water is estimated at \$.10 per 1000 gallons. The gallonage charge will be Southern Golf's only charge for reclaimed water.

In the event Southern Golf requests reclaimed water in excess of the reserved capacity for the Golf Course, City, upon consideration of other commitments and operational requirements, shall provide the excess reclaimed water free of charge, if available. Southern Golf will have no obligation to accept the reserved capacity of reclaimed water, but it shall be provided as set forth herein and Southern Golf shall pay the applicable charges regardless of whether or not it takes reclaimed water when available.

City recognizes that it is responsible to provide reclaimed water for irrigation purposes and that its failure to do so may result in damages to Southern Golf. City shall negotiate in good faith to provide compensation for any such damages. If City is unable, at any time during the term of this Agreement, to provide reclaimed water to Southern Golf, Southern Golf may use any backup irrigation system that may exist.

11. Termination of Agreement

At the commencement of this Agreement, the parties have agreed upon a starting baseline inventory of maintenance and pro shop/clubhouse items located on the premises. The inventory, including any photo inventory, is attached hereto as Exhibit "C."

Upon expiration or earlier termination of this agreement, Southern Golf shall leave behind all maintenance and pro shop/clubhouse inventory, and all such inventory will become the property of City. The inventory left for the City will be approximately equal to the inventory attached hereto.

All pieces of equipment and other items will function as they are intended to function as part of ending inventory. Southern Golf will pay for any repairs necessary to insure operational functions.

City's property will be left in as near the original condition as possible. Specific structural improvements made and landscaping added by Southern Golf under agreement with City will remain with City according to the provisions of said agreement.

If the City Commission or other governmental authority with jurisdiction determines that the premises or a substantial portion thereof can no longer be utilized as a golf course in order to protect the public health, safety and welfare, City may terminate this agreement upon sixty days' written notice to Southern Golf. Notwithstanding anything to the contrary contained in this

Agreement, upon any such termination, City shall cause Southern Golf to be compensated for such early termination. The amount of compensation will be determined by multiplying the amount of Southern Golf's actual expenditures for capital improvements and equipment pursuant to this agreement prior to the effective date of the termination by the number of complete months remaining in the term of this agreement and then dividing the result by twenty-four (24); provided, however, that in no event will the compensation due to Southern Golf for such early termination exceed the base rent for the full year of this agreement (June 1 - May 31) in which the termination is effective.

Southern Golf acknowledges that, in May 2002, City hired the United States Golf Association (the "USGA") to inspect the Golf Course and to issue a report (the "Report") on the conditions of the Golf Course. Subsequent to the issuance of the Report, Southern Golf brought the conditions of the Golf Course up to acceptable standards.

If, during the first year of the term of this Agreement, City determines that Southern Golf has failed to maintain the conditions of the Golf Course up to acceptable standards, City may provide Southern Golf with written notice affording Southern Golf one hundred twenty (120) days to improve conditions significantly. If Southern Golf fails to improve conditions significantly by the end of this one hundred twenty (120) day period, City may hire the USGA to conduct a re-inspection of the Golf Course and to issue a follow-up report to determine whether the conditions of the Golf Course meet standards that are acceptable for a municipal golf course. If the USGA determines that the conditions of the Golf Course do not meet such standards, City may, upon providing written notice to Southern Golf, terminate this agreement effective immediately.

If, during the second year of the term of this Agreement, City determines that Southern Golf has failed to maintain the conditions of the Golf Course up to acceptable standards, City may provide Southern Golf with written notice affording Southern Golf sixty (60) days to improve conditions significantly. If Southern Golf fails to improve conditions significantly by the end of this sixty (60) day period, City may hire the USGA to conduct a re-inspection of the Golf Course and to issue a follow-up report to determine whether the conditions of the Golf Course meet standards that are acceptable for a municipal golf course. If the USGA determines that the conditions of the Golf Course do not meet such standards, City may, upon providing written notice to Southern Golf, terminate this agreement effective immediately.

Notwithstanding the preceding paragraphs of this Section, City may not terminate this agreement if Southern Golf fails to bring the conditions of the Golf Course up to the Standards for reasons beyond Southern Golf's control. City will pay for all services rendered by the USGA for said inspection and re-inspection out of City's Golf Course Enterprise Fund.

City may repeat the process described in the preceding paragraph, commencing with the City's providing Southern Golf with thirty (30) days' notice, if City determines that Southern Golf has failed to maintain the conditions of the Golf Course to the Standards. However, City may not do so more often than once every six (6) months during the first year of the term of this agreement and once every four (4) months during the second year of the term of this Agreement. In the event City elects to repeat the process, all terms and conditions of the preceding paragraph will apply.

12. Nondiscrimination

Southern Golf shall keep the premises open to all persons, regardless of sex, race, religion, color, creed and national origin. Southern Golf shall employ persons on an equal

opportunity basis and shall not discriminate on the basis of sex, race, religion, color, creed or national origin.

13. Prohibitions

Southern Golf shall not subcontract the operation of the premises occupied by it or any part thereof (including, but not limited to, the golf course, clubhouse and other related facilities), or allow the same to be used or occupied by any other person or for any other use than that specified, nor assign this Agreement, without the prior written consent of the City Commission. Subject to City's approval of (a) the financial terms of any subcontract and (b) City's participation in the revenues generated by any subcontract, consent to subcontract will not be unreasonably withheld. Southern Golf shall not transfer, assign or in any manner convey any of the rights or privileges granted without said prior written consent of the City Commission. Neither this agreement nor the rights granted will be assignable or transferable by any process or proceedings in any court, or by attachment, execution, proceedings in insolvency or bankruptcy, either voluntary or involuntary, or receivership proceedings. In the event of the insolvency or bankruptcy, either voluntary or involuntary, City may, at its option, terminate and cancel this Agreement, in which event all rights shall immediately cease and terminate and Southern Golf or its representative shall immediately deliver up possession to City. Southern Golf will remain responsible to City for all obligations to City for periods prior to termination. In addition, City will be entitled to recover from Southern Golf, its assignee or transferee, jointly and severally, all damages caused to City by an unauthorized assignment or transfer, including a reasonable attorney's fee which City may be required to incur in enforcing its rights.

Southern Golf shall not permit any intoxicated person or persons to remain upon the premises or allow profane or indecent language or improper, boisterous or loud conduct to take

place in or about the premises. Upon notice from City, Southern Golf shall correct such problems.

Southern Golf shall not in any manner encumber or cause to be encumbered the property, whether real or personal, of City or any property which is intended by this agreement to become the property of City upon termination of this Agreement.

Southern Golf shall not sell or renew any golf club membership the duration of which exceeds one (1) year in length.

Southern Golf shall not sell, exchange, transfer, assign, pledge, hypothecate or otherwise dispose of or encumber the common or preferred stock of Southern Golf without prior written approval of City. There will be no change in the controlling management of Southern Golf without prior written approval of City.

No boxes, barrels, supplies or rubbish, in any form, will be kept, piled or stored outside the building unless approved by City.

Southern Golf shall not rent, sell, lease or offer any space for storage of any article or articles whatsoever, with or upon the premises occupied by the operation, other than for its own equipment or for the rental to patrons of equipment, lockers and bulk storage of golf clubs and bags, without the prior written consent of City.

14. Indemnification

Southern Golf shall indemnify and save harmless City from and against all claims, suits, actions, damages and causes of action arising during the term of this agreement for any personal injury, loss of life or damage to property directly or indirectly based upon, caused by or arising out of the use of the premises for which this agreement is entered into, or for actions or inactions of its agents, employees, invitees and all other persons, from and against any orders, judgments

or decrees which may be entered pursuant thereto, and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim, suit or action and the investigation thereof. Nothing in this agreement will be deemed to affect City's sovereign immunity or its rights, privileges and immunities as set forth in Section 768.28, Florida Statutes.

To the extent permitted by law, City shall indemnify and hold harmless Southern Golf from and against all claims, suits, actions, damages and causes of action arising during the term of this agreement for any personal injury, loss of life or damage to property arising out of any occurrence in, upon, at or from the premises, for actions or inactions of its agents, employees, invitees and all other persons, from and against any orders, judgments or decrees which may be entered pursuant thereto, and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim, suit or action and investigation thereof.

15. Insurance

Southern Golf shall obtain, at its own expense, general liability insurance covering its areas of operation and the activities connected therewith, including products liability. Pursuant to this requirement, Southern Golf shall file with City, simultaneously upon execution of this Agreement, two (2) certificates of insurance, naming City as additional insured, which provide comprehensive general liability in the following amounts:

\$1,000,000	Bodily Injury
\$1,000,000	Personal Injury Liability
\$ 200,000	Property Damage Liability.

Any motor vehicles used in conjunction with the operation of the Golf Course and its facilities which require licensing will have automobile liability insurance, naming City as additional insured, with limits not less than:

\$1,000,000 Bodily Injury
\$ 200,000 Property Damage.

Southern Golf shall provide liquor liability insurance, naming City as additional insured, with limits not less than:

\$1,000,000 Bodily Injury
\$ 200,000 Property Damage

Southern Golf shall also provide, at its expense, a not-less-than \$1,000,000 umbrella liability insurance policy, naming City as additional insured, workers' compensation insurance for its employees in the statutory limits required by the State of Florida, and contents insurance upon all personal property at the premises in the amount of the full actual cash insurable value.

The certificates of insurance will contain a statement that the insurance will not be allowed to lapse or be canceled or materially altered without written notification to City at least thirty (30) days prior to the effective date of lapse or cancellation... Southern Golf shall furnish, at least thirty (30) days prior to the expiration date of any required insurance, an agreement or replacement certificate of insurance. Policies will be issued by companies authorized to do business in the State of Florida, will have adequate policyholders and financial ratings in the latest ratings of A.M. Best, and will be part of the Florida Insurance Guaranty Association Act. The insurance policy or policies will be submitted to City's risk manager for approval prior to the commencement of the term of this Agreement.

16. Entry by City

City, its authorized representatives, agents and employees will have the privilege to enter upon the premises at any and all reasonable times during the term of this agreement for the purpose of inspection to determine whether Southern Golf is complying with the terms and

conditions thereof or for any other purpose incidental to the rights of City. Such visits by City, its authorized representatives, agents and employees are not to hinder the normal operation of the facility. Reasonable written notice of inspections will be given to Southern Golf, and its representative will be present, except in emergency situations. Notice by facsimile will be sufficient.

17. Utilities

Southern Golf shall pay all charges, including required deposits, for gas, electricity, water, sewer and telephone service necessary to carry on its operations under this Agreement, and all accounts for such services will be in Southern Golf's name. City will have the same rights to discontinue water and sewer service to the leased premises that it has with respect to its regular water and sewer customers, and Southern Golf releases City, its officers, employees and agents from any and all claims that it may otherwise have by reason of such discontinuance by City; provided, however, that (a) City shall not discontinue water and sewer service while a good faith dispute exists regarding the amount owed by Southern Golf to City for water and sewer service, if Southern Golf promptly notifies City of the existence of said dispute, and (b) City's right to discontinue water service will apply to potable water and not to irrigation water.

18. Taxes

During the term hereof, Southern Golf will be responsible and liable to pay for any and all federal, state and local taxes, fees, assessments and charges levied as a result of use of the premises and activities covered by this Agreement; provided, however, that ad valorem taxes on real and personal property will be treated as set forth below.

If the premises and improvements thereon are ever determined to be subject to ad valorem taxation, the parties shall automatically re-negotiate this Agreement. During such re-

negotiations, this agreement will remain in full force and effect. If, after a reasonable period of re-negotiation, a dispute exists between the parties, either party may declare an impasse in writing to the other party. Upon such declaration, this agreement shall be terminated (except for those provisions that naturally extend beyond the physical use and occupancy of the premises), and the parties shall immediately commence efforts to effect a smooth but prompt vacation of the Golf Course by Southern Golf. In the event this agreement is terminated, each party shall pay 50% of the ad valorem tax due.

19. Letter of Credit

Southern Golf shall provide continuous security in the form of an irrevocable letter of credit in a form acceptable to City for the term of this Agreement. The purpose of this letter of credit is to provide a source of funds to help cover any damages to City upon the failure of Southern Golf to perform any of its obligations under the terms of this Agreement. The letter of credit will be in the amount of \$35,000.00. Demand by City under the letter of credit does not act as a waiver of any other rights or remedies which City may have. The letter of credit existing on May 31, 2011 shall be amended and extended to the conclusion of this agreement. Notice of the intent to issue the extension by the issuing bank will be given to the City no later than April 30, 2011.

20. Destruction or Damage by Casualty

If the premises are destroyed by storm, fire, lightning, earthquake, hurricane or other act of God or similar casualty, either party will have the option to terminate this agreement upon giving written notice to the other party not later than one hundred twenty (120) days after the premises are so destroyed. If this agreement is not terminated after destruction of the premises and the premises are rendered wholly or partially unfit for their intended use by such destruction,

the base payment shall be abated, for the period of such unfitness, in proportion to that portion of the premises rendered unfit.

Southern Golf shall assume responsibility for the first Ten Thousand Dollars (\$10,000.00) of the cost to repair, replace, fix or otherwise restore damage per casualty occurrence.

21. Court Costs and Attorney's Fees

In the event either party incurs court costs or attorney's fees in enforcing, or defending an attempt to enforce, this Agreement, the prevailing party will recover court costs and reasonable attorney's fees.

22. Default

Subject to the provisions on notice and cure, in the event Southern Golf fails to perform its non-monetary obligations under this Agreement, City will have the right to enter onto the premises and perform said work required by this agreement and charge for the cost to perform said work. The cost to perform said work will be the cost of direct labor and materials required, plus an overhead cost of thirty percent (30%) of the direct cost.

Upon the failure of Southern Golf to fulfill any of the obligations contained in this Agreement, City may declare Southern Golf in default and terminate this Agreement. The acceptance of all or part of a monthly consideration by City for any period or periods after a default in the faithful performance of any of the terms, covenants or conditions contained in this agreement shall not be deemed a waiver of any right existing in City to cancel this agreement account of such default. Any waiver by City of a default on the part of Southern Golf shall not be construed as or constitute a waiver of any subsequent default of the same or any other term,

covenant or condition herein contained to be kept and performed by Southern Golf. City will be entitled to recover all damages caused to City by a default.

Except as otherwise provided in the second paragraph of Section 11 hereof, in the event this agreement is breached, canceled or terminated other than by mutual agreement prior to its normal expiration date, City may apply bonds or letters of credit being held against outstanding obligations and as an offset against expenses incurred by City until a new operator is contracted with. City shall diligently pursue the obtaining of a new operator. Any remaining moneys will be returned to Southern Golf.

If Southern Golf abandons or vacates the premises before the end of the term of this Agreement, or suffers its required payments to be in arrears, City may, at its option, forthwith cancel this agreement or may enter the premises as the agent of Southern Golf, by legal process or otherwise, without being liable in any way therefor, allow a third party to operate the premises with or without any furniture that may be therein, as the agent of Southern Golf, at such price, upon such terms and for such duration of time as City may determine, and receive the payments from such third party, applying the same to the payments due by these presents, and if the full amount of such payments herein provided is not realized by City over and above the expenses to City in allowing such third party to operate the premises, Southern Golf shall pay any deficiency, and if more than the full payments are realized, City shall pay over to Southern Golf the excess.

City shall provide written notice to and allow Southern Golf thirty (30) days to cure or correct any obligation contained in this agreement prior to declaring Southern Golf in default as called for in this Agreement.

23. Contract Administrator

City hereby designates, the Director of Parks, Recreation and Cultural Arts or designee, as its contract administrator/representative for purposes of administering this agreement and Southern Golf's compliance with same and for communicating with Southern Golf's representative.

24. Severability

If any term or provision of this Agreement, or the application thereof to any person or circumstances, is held to a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected, and every other term and provision of this agreement will be deemed valid and enforceable to the maximum extent permitted by law.

25. Debt

Southern Golf shall not pledge City's credit or make it liable or a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or other form of indebtedness. Southern Golf represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

26. Contingent Fees

Southern Golf warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Southern Golf, to solicit to secure this agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for Southern Golf, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or

making of this Agreement. A violation of this section will constitute a material default by Southern Golf entitling City to its rights and remedies hereunder.

27. Personnel

Southern Golf represents that it has, or will secure, at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel will not be employees of or have any contractual relationship with City, nor will such personnel be entitled to benefits of City, including, but not limited to, pension, health and workers' compensation.

All of the services required hereunder will be performed by Southern Golf or under its supervision, and all personnel engaged in performing the services will be fully qualified and, if required, authorized or permitted by law to perform such services. All services will be performed by skilled and competent, full-time, on-site management and operations personnel to the highest professional standards in the applicable field.

28. Surrender of License

Southern Golf shall surrender and assign any state liquor licenses or other licenses for sale of alcoholic beverages to City immediately upon expiration or earlier termination of the agreement.

29. Force Majeure

In the event that a party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor trouble, inability to procure materials, failure of power, governmental laws or regulations, riots, insurrection, war, hurricane or other similar or dissimilar reasons beyond such party's reasonable control (other than financial inability), such party's performance of such act shall be excused for the period of the delay caused thereby and the period, or date, for the performance of any such act shall be

extended for a period equivalent to the period of such delay. This paragraph will also apply in the event City delays, hinders, or prevents Southern Golf from performing any act required to be performed by Southern Golf under this Agreement.

30. Notice

All required notices shall be sent by certified mail, return receipt requested, or by facsimile followed by next day hand delivery, and if sent to City, shall be mailed to:

City Manager
City of Hollywood
2600 Hollywood Boulevard
Hollywood, FL 33020,

with a copy to the City Attorney at the same address, and if sent to Southern Golf, shall be mailed to:

David Lottes, Vice President
Southern Golf Appraisals, Inc.
1451 Taft Street
Hollywood, FL 33020,

with a copy to:

Alan B. Koslow, Esq.
Becker & Poliakoff, P.A.
3111 Stirling Road
For Lauderdale, FL 33312.

31. Entirety of Contractual Agreement


This Agreement, together with the exhibits hereto, which are hereby incorporated herein, sets forth the entire agreement between the parties. There are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties. In the event of any conflict or inconsistency between this agreement and the provisions in the incorporated exhibits, the terms of this agreement will supersede and prevail over the terms in the exhibits.

32. Time of the Essence

Time is of the essence of this Agreement.


IN WITNESS WHEREOF, the parties have executed this agreement on the date first written above.

ATTEST:

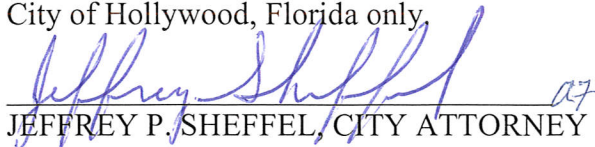

PATRICIA A. CERNY, MMC
CITY CLERK

CITY OF HOLLYWOOD, FLORIDA, a
municipal corporation

By


PETER BOBER, MAYOR

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the
City of Hollywood, Florida only


JEFFREY P. SHEFFEL, CITY ATTORNEY


APPROVED:



MATTHEW LALLA
DIRECTOR OF FINANCIAL
SERVICES

**AMENDED AND RESTATED AGREEMENT
ECO GRANDE GOLF COURSE**

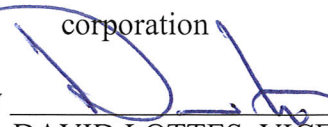
WITNESSES:
Florida

SOUTHERN GOLF APPRAISALS, INC., a
corporation





By



DAVID LOTTES, VICE PRESIDENT

EC0 GRANDE GOLF COURSE

Beginning at a point marking the intersection of the centerline of Taft Street with the East line of the W $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 10, township 51 South, range 42 East; thence, N 02°-45'-25" E along the East line of the W $\frac{1}{2}$, SE $\frac{1}{4}$, SE $\frac{1}{4}$, NE $\frac{1}{4}$ of Section 10, a distance of 640.32 feet to a point on the South Right-of-Way of Harding Street; thence, Easterly along the South Right-of-Way of Harding Street, a distance of 372.50 feet to a point of intersection with the East Right-of-Way of 14th Avenue; thence, northerly along the East Right-of-Way of 14th Avenue to an intersection with the South line of the NW $\frac{1}{4}$, NW $\frac{1}{4}$ of section 11-51-42; thence, easterly along the South line of the NW $\frac{1}{4}$, NW $\frac{1}{4}$ of section 11, a distance of 798.02 feet to a point marking the Northeast corner of the W $\frac{1}{2}$, W $\frac{1}{2}$, E $\frac{1}{2}$ of the SW $\frac{1}{4}$, NW $\frac{1}{4}$ of Section 11; thence, Southerly along the East Line of the W $\frac{1}{2}$, W $\frac{1}{2}$, E $\frac{1}{2}$ of the SW $\frac{1}{4}$, NW $\frac{1}{4}$ of Section 11, a distance of 341.99 feet to the Southeast corner of the W $\frac{1}{2}$, W $\frac{1}{2}$, E $\frac{1}{2}$ of the SW $\frac{1}{4}$, NW $\frac{1}{4}$ of section 11; thence, Easterly along the south line of the N $\frac{1}{2}$ of the NE $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ of section 11, a distance of 104.98 feet to the Northwest corner of property conveyed to Broward county by City of Hollywood Resolution R-93-299; thence, Southeasterly along the West line of said property, a distance of 518.31 feet to a point; thence, southerly still along the West line of said, property, a distance of 612.73 feet to a point on the North line of the SW $\frac{1}{4}$ of section 11; thence, westerly along the North line of the SW $\frac{1}{4}$ of section 11, a distance of 443.79 feet to the Northeast corner of the NW $\frac{1}{4}$, NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$ of section 11; thence, southerly along the west line of the E $\frac{1}{2}$, E $\frac{1}{2}$ of the NW $\frac{1}{4}$, SW $\frac{1}{4}$ of section 11, a distance of 1332.79 feet to the Southwest corner of the E $\frac{1}{2}$, E $\frac{1}{2}$ of the NW $\frac{1}{4}$, SW $\frac{1}{4}$ of Section 11, said point also being on the centerline of Arthur Street, thence, Westerly along the centerline of Arthur Street, a distance of 994.16 feet to the Northwest corner of the SW $\frac{1}{4}$, SW $\frac{1}{4}$ of section 11; thence, Westerly along the centerline of Arthur Street, said line also being the North Line of the SE $\frac{1}{4}$, NE $\frac{1}{4}$ of section 10, a distance of 334.95 feet to an intersection with the East Line of the W $\frac{1}{2}$ of the SE $\frac{1}{4}$, NE $\frac{1}{4}$, SE $\frac{1}{4}$ of Section 10; thence, Northerly along the East line of the W $\frac{1}{2}$ of the SE $\frac{1}{4}$, NE $\frac{1}{4}$, SE $\frac{1}{4}$ of section 10, a distance of 664.84 feet to a point; thence, N 02°-45'-25" E along the East line of the W $\frac{1}{2}$ of the NE $\frac{1}{4}$, NE $\frac{1}{4}$, SE $\frac{1}{4}$ of section 10, a distance of 665.46 feet to the point and place of beginning.

Less the south 25 feet for Arthur Street and also less that portion along the Westerly line of said property dedicated for N. 14th Avenue by map recorded IN Right-of-Way Book 12, Page 32 of the Public Records of Broward County, Florida.

Also less the Waste Water Treatment Plant Parcel described as follows;

Beginning at the East one-Quarter (1/4) corner of Section 10, Township 51 South, Range 42 East, Broward County, Florida; thence N 89°-55'-40" W along the 1/4 Section line and also the centerline of Taft Street, a distance of 8.0 feet to a point; thence N 02°-45'-25" E a distance of 363.50 feet to a point; thence, N 39°-14'-35" W a distance of 36.1 feet to a point; thence N 38°-45'-25" E a distance of 351.0 feet to a point; thence, N 02°-45'-25" E a distance of 133.8 feet to a point; thence, S 87°-14'-35" E a distance of 543.4 feet to a point; thence, S 67°-03'-20" E a distance of 102.52 feet to a point; thence, S 59°-10'-35" E a distance of 338.6 feet to a point; thence, S 32°-46'-35" E a distance of 86.0 feet to a point; thence, S 02°-45'-25" W a distance of 205.0 feet to a point; thence, N 87°-14'-35" W a distance of 315.0 feet to a point; thence, S 02°-45'-25" W a distance of 288.0 feet to a point; thence, S 89°-55'-40" W a distance of 192.0 feet to a point; thence, S 02°-45'-25" W a distance of 1020.0 feet to a point; thence, N 87°-14'-35" W a distance of 643.8 feet to a point; thence, N 02°-45'-25" E a distance of 980.0 feet to a point on the Easterly extension of the centerline of Taft Street; thence, N 89°-55'-40" W along said centerline of Taft Street, a distance of 12.0 feet to the point and place of beginning.

Also less the following described Parcel: Commence at the p

Commence at a point marking the N.E. Corner of the N.W. 1/4 of the N.E. 1/4 of the N.W. 1/4 of the S.W. 1/4 of Section 11, Township 51 South, Range 42 East; thence, S89°-55'-40"W along the North Line of the S.W. 1/4 of Section 11-51-42, a distance of 333.6 feet to a point on the Boundary line of the Waste Water Treatment Plant and the point of Beginning; thence, N02°-45'-25"E a Distance of 8.0 feet to a point; thence, N89°-55'-40"E a distance of 153.0 feet to a point; thence, S02°-45'-25"W a distance of 63.82 feet to a point; thence S89°-55'-40"W a distance of 107.95 feet to a point; thence, S02°-45'-25"W a distance of 22.0 feet to a point; thence, N87°-14'-35"W a distance of 45.0 feet to a point on the Boundary line of the Waste Water Treatment Plant; thence, N02°-45'-25"E a distance of 75.6 feet to the point and place of beginning.

Exhibit "A"

ECO - SGA STARTING BASELINE INVENTORY

Quantity	Description
1	Salsco Greens Roller
1	Cushman Truckster
1	Cushman Classic
1	Tow Behind Top Dresser
1	Ford Tractor - 2910
1	Toro Groundsmaster
1	Stihl Hedge Trimmer
1	Patton 15 Gal. 12 Volt Poly Tank
1	Jacobsen Greensmower King IV Gas
1	Jacobsen Verticutter Greens King IV
2	Jacobsen Tee Mower
1	Jacobsen 72" Turf Cat
1	Smithco Bunker Rake
1	Jacobsen 5 Gang Rough Unit
1	EZGO Utility Vehicle
2	Toro Greens Aerator
1	Jacobsen LF100 Fairway Unit
1	Massey Ferguson Tractor
1	Beverage Caddy Express
1	Irrigation Motor
1	Craftsman Air Pump
1	Portable Air Tank
	Misc. Hand Tools
1	Time Clock
	Gas Cans
	Poly Sprayers
	Misc. Fertilizer / Chemicals / Sand / Seed
1	Blower
1	Stick Edger
2	Fire Extinguishers
1	03/04 Jacobsen 3800-D
1	Jacobsen GK-IV-G Plus 10 bld reels

EXHIBIT "C"

ECO - SGA STARTING BASELINE INVENTORY

Quantity	Description
1	Fax Machine
1	Flagsticks / Flags / Cups
10	Pull Carts
1	Cash Register
1	Computer / Printer
1	Grainger Water Cooler
1	Toshiba Large Screen TV
1	Small Screen Daewoo TV & Stand
1	TV Cabinet
1	Ice Machine - Manitowoc 150# (2/5/09)
1	Drink Cooler / Fogel SN - 2002010728
1	Coffee Maker - Bunn 108946
1	Compaq Computer Monitor
2	Filing Cabinets - 4 drawer
1	Filing Cabinets - 2 drawer
1	Safe with Combination
1	Scorecards -19 full boxes/Starter Tckts.
1	Misc. Shirts / Balls / Tees
1	Proprietary Phone Number
1	Misc. Tableware / Pots / Pans
10	Ball Washers and Receptacles
1	Misc. Divot Boxes
1	Misc. Office Supplies
1	Website and Domain Name