

FIRST AMENDMENT TO FRANCHISE LICENSE AGREEMENT

between

MANATEE COUNTY

and

POPE GOLF, LLC

for

ACCEPTED IN OPEN SESSION

AUG 23 2011

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

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

WHEREAS, on August 9, 2011, the Manatee County Commission approved a Franchise License Agreement between COUNTY and LICENSEE for the operation of the County's Golf Courses; and

WHEREAS, Article 22 of the original Agreement provides that it may be amended only by written document, properly authorized, executed, and delivered to the Parties; and

WHEREAS, the Manatee County Clerk of the Circuit Court's Office, which acts as COUNTY'S comptroller and treasurer, has requested certain amendments to the terms and conditions of the original Agreement; and

WHEREAS, the COUNTY and LICENSEE have negotiated the terms of such amendments, which the Office of the Clerk have reviewed and approved; and

NOW, THEREFORE, in consideration of the mutual covenants, provisions, terms, promises, and conditions contained herein, the Parties agree to amend their original agreement as follows:

- 1) LICENSEE acknowledges that COUNTY conducts periodic physical inventories and/or audits of its assets. LICENSEE shall, with reasonable notice, permit the COUNTY to conduct such activities within the licensed properties.
- 2) There shall be a new **Exhibit F** incorporated into the Agreement which reflects the official Manatee County Inventory Listing maintained by the Office of the Clerk of Circuit Court.
- 3) LICENSEE agrees that the assets listed on the attached **Exhibit F** constitute the entire group of COUNTY assets over which it has been given custody and control by

virtue of the Agreement. LICENSEE further agrees that during the term of the Agreement, and any extension(s) thereof, if any of the listed assets are destroyed, damaged, or stolen, it 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 \$1,000.00. Notwithstanding the foregoing, COUNTY shall provide LICENSEE a minimum of thirty (30) days notice in which to locate any lost or stolen item prior to being required to replace or reimburse.

- 4) LICENSEE will be provided with a list of all unredeemed gift certificates issued by COUNTY as of the effective date of the Agreement. LICENSEE agrees to honor any such certificates which may be redeemed by customers. LICENSEE shall be entitled to a credit on their monthly payment to COUNTY for the face value of any certificates redeemed in that month. Where a credit is sought, LICENSEE shall remit copies of cancelled certificates to COUNTY to verify the credit amount taken.
- 5) For all Capital Investment/Improvements to be performed by LICENSEE which will involve progress or multiple payments over a period of time, LICENSEE agrees to submit for COUNTY approval, a schedule of values and/or completed inspections which accurately reflects the satisfactory progression of the work. Upon written request from LICENSEE, COUNTY shall authorize reimbursement for payment of completed capital investments/improvements, or approved phases thereof, from the CIP Reserves within thirty (30) days of COUNTY acceptance of the completed project, or any sub-phase thereof. Reimbursement requests must be accompanied by copies of written contracts or work orders, required inspection reports, evidence of payment of related outstanding invoices, and such other documentation as COUNTY may reasonably request to allow it to confirm the satisfactory completion of and payment by LICENSEE for the required improvement.
- 6) Article 20, Notices, is amended to require that the Clerk of the Circuit Court Treasury Management shall be included on all ACH Remittance Information. COUNTY shall provide LICENSEE specific contact information to be used.
- 7) LICENSEE shall obtain and provide COUNTY a copy of an annual audit of its financial statements related to its management of COUNTY courses under this Agreement. Such review shall be certified by an independent Certified Public Accountant licensed in Florida. For purposes of this paragraph, the term "audit" shall have the same meaning as that given to it in the Generally Accepted Auditing Standards promulgated by the Auditing Standards Board of the American Institute of Certified Public Accountants.
- 8) Article 10, Capital Investment, is amended to include the following new provision: In accordance with the schedule of reserves to be set aside for each year of the

Agreement, LICENSEE shall forward to the COUNTY the annual guaranteed percentage of gross revenues set forth in the Reserve Schedules on a monthly basis as of the twentieth (20th) business day of the following month (Due Date), with interest accruing after ten (10) calendar days. The total annual payment will be adjusted if necessary following the annual audit. In the event LICENSEE fails to pay COUNTY any of the fees or charges due under the provisions of this Agreement, interest at one and one half percent (1.5%) per month shall accrue against each delinquent payment until same is paid. Interest shall be charged from the date payment is due. Neither the inclusion of this provision, nor its implementation, shall preclude the COUNTY from terminating this Agreement for default, beginning procedures to collect on the performance bond, or pursue any other remedies as provided herein or by law. The COUNTY's acceptance of late payment of any fees or charges shall not constitute a waiver of COUNTY's right to terminate this Agreement in the event of any subsequent default by LICENSEE in the payment of any fees or charges on the date the same shall be due and payable.

WHEREFORE, the Parties have made and executed this First Amendment to the Agreement for Operations Management and Maintenance of Manatee County Golf Course and Buffalo Creek Golf Course as of and effective on Friday, August 12, 2011.

POPE GOLF, LLC

MANATEE COUNTY GOVERNMENT

By:  Pres.
Keith Pope, President

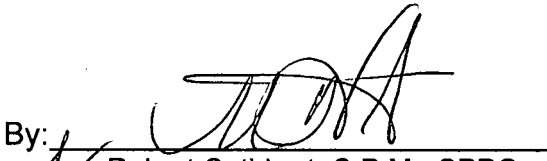
By: 
Robert Cuthbert, C.P.M., CPPO
Purchasing Official, for the County

Exhibit F1

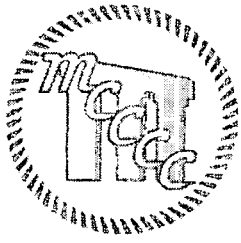
Buffalo Creek Golf Course
Manatee County, Florida
Depreciation Listing of Assets (ByAsset Class/GLKey)
For the Period Ending 07/31/2011

Table with 13 columns: DESCRIPTION, FAID, ACQDATE, DISPDATE, STAT, LIFE, LAST DEPR DT, ACQ PRICE, PRIOR ACC DEPR, CURR YR DEPR, TOTAL DEPR, LESS DISPOSED ASSETS, REMAINING BOOK VALUE. Includes sub-sections for Fund Number: 490, Fund Number: 494, and CLASS: EQUIPMENT GRAND TOTAL.

Exhibit F2

Manatee County Golf Course
Manatee County, Florida
Depreciation Listing of Assets (ByAsset Class/GLKey)
For the Period Ending 07/31/2011

Table with columns: DESCRIPTION, FAID, ACQDATE, DISPDTE, STAT, LIFE, LAST DEPR_DT, ACQ PRICE, PRIOR ACC DEPR, CURR YR DEPR, TOTAL DEPR, LESS DISPOSED ASSETS, REMAINING BOOK VALUE. Includes sub-totals for GL Key: 4300013500, GL Key: 4300013700, and Fund Number: 430 Total Equipment.



Manatee County

R.B. Chips Shore

Clerk of the Circuit Court and Comptroller

P.O. Box 25400 • Bradenton, Florida 34206 • (941) 749-1800 • FAX (941) 741-4082 • www.manateeclerk.com

August 24, 2011

TO: Pope Golf LLC
7280 Leewynn Drive
Sarasota FL 34240

FROM: Clerk of Circuit Court
Board Records Department
Nancy Harris
P. O. Box 25400
Bradenton, FL 34206

SUBJECT: **First Amendment to Franchise License Agreement
Manatee County and Buffalo Creek Golf Courses**

Approved: In open session by the Board of County Commissioners, Manatee
County, Florida on August 23, 2011.

cc: Melissa Assha, Purchasing
njh

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Clerk of Circuit and County Court - Clerk of Board of County Commissioners - County Comptroller, Auditor and Recorder

MEMORANDUM



Financial Management Dept
Purchasing Division
1112 Manatee Ave W, Ste 803
Bradenton, FL 34205

Phone: 941.749.3014
Fax: 941.749.3034
www.mymanatee.org

MANATEE COUNTY FLORIDA

To: Board Records, Clerk of the Circuit Court
From: Melissa Assha, Contracts/Buyer Manager, Purchasing Division
Date: August 12, 2011
Subject: Consent Agenda – Clerk’s Consent Calendar

MAA 8/21

The attached Addendum is forwarded for inclusion in an upcoming Board of County Commissioner Consent Agenda, Clerk’s Consent Calendar.

Authority to execute addendum per Manatee County Code of Law, Chapter 2-26, and per the delegation by the County Administrator effective August 10, 2009.

Instruction to Board Records:

Original to Board Records, and to:

Pope Golf, LLC, 7280 Leewynn Drive, Sarasota, FL 34240

Should you have any questions, please call Melissa Assha at ext. 3056.

RECEIVED

AUG 19 2011

BOARD RECORDS

ACCEPTED IN OPEN SESSION

AUG 23 2011

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

Enclosure:
Addendum #1 (two originals)

Susan Romine

From: Chips Shore
Sent: Friday, August 12, 2011 12:56 PM
To: melissa.assha@mymanatee.org; Keith Pope; Dan Wolfson; dan.schlandt@mymanatee.org; robert.eschenfelder@mymanatee.org; Susan Romine; cindy.turner@mymanatee.org; mike.whelan@mymanatee.org
Cc: Caleb Grimes (cgrimes@grimesgoebel.com); Ed Hunzeker (Ed.Hunzeker@mymanatee.org)
Subject: RE: Final Update - Manatee County Golf Properties

Melissa you have done an outstanding job. Thanks.

I approve of the amendment as it stands and thank you for allowing us to add the language in the addendum.

As I understand the addendum has been signed by Mr. Pope and will be on the consent agenda this coming Tuesday for the Manatee County Board of Commissioners. I further understand you will be signing the agreement and delivering it to Mr. Pope.

Once again thank you for a professional job well done.

Chips Shore

**Manatee County Clerk of Circuit Court and Comptroller
941-749-1800
url: www.Manateeclerk.com**

"Pride in Service with Vision to the Future"

From: melissa.assha@mymanatee.org [mailto:melissa.assha@mymanatee.org]
Sent: Friday, August 12, 2011 12:00 PM
To: Keith Pope; Chips Shore; Dan Wolfson; dan.schlandt@mymanatee.org; robert.eschenfelder@mymanatee.org; Susan Romine; cindy.turner@mymanatee.org; mike.whelan@mymanatee.org
Subject: Final Update - Manatee County Golf Properties

Mr. Pope, President of Pope Golf, LLC, and I have discussed the concern that was brought to Mr. Shore earlier today by Mr. Pope and his legal representatives.

It has been concluded that the First Amendment to the Franchise License Agreement stands as it is written and **we will now proceed** to engage in a successful contractual relationship in accordance with the terms and conditions of the Agreement in its entirety, including any and all Amendments.

This Amendment and the License Agreement have both been executed by Mr. Pope. I will need to execute them on behalf of the County, which I plan to take care of this afternoon. Mr. Shore has expressed his approval of the Amendment.

Mr. Pope will inform his legal counsel of his acceptance of the entire Agreement.

I want to thank everyone for their assistance in perfecting the Agreement by way of Amendment. If there are questions or concerns, please do not hesitate to call.

Melissa