

FIRST AMENDMENT TO LEASE AGREEMENT

THIS FIRST AMENDMENT TO LEASE AGREEMENT (the "Amendment") is made and entered into on this 20 day of November, 2012, by and between the City of Clearwater, Florida, a municipal corporation of the State of Florida, hereafter referred to as "City," whose address is Attn: Parks & Recreation Director, Post Office Box 4748, Clearwater, Florida 33758-4748, and The Clearwater Golf Club, LLC, a Florida Limited Liability Corporation, whose address is 525 Betty Lane North, Clearwater, FL 33755, hereafter referred to as "Club," (each individually referred to herein as "Party" or collectively as the "Parties").

WHEREAS, the Parties entered into that certain Lease Agreement (the "Lease") on April 26, 2011, wherein the City leased the Clearwater Country Club golf course (the "Golf Course") to the Club for the Club to oversee operations and maintenance of the Golf Course; and

WHEREAS, pursuant to the original Lease, the Club was responsible to carry property and boiler and machinery insurance; and

WHEREAS, the parties agree that it is mutually beneficial for the City to assume responsibility for the property and boiler and machinery insurance.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained hereinafter, the parties hereby agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated in and form a part of this Agreement.
2. **Insurance, Indemnification and Hold Harmless**, Paragraph 20 is hereby revised and restated as follows:

INSURANCE, INDEMNIFICATION AND HOLD HARMLESS

20. The Club agrees to indemnify and hold the City and its employees harmless from and against any and all claims, demands, and causes of action or lawsuits of whatever kind or character arising directly or indirectly from this agreement or the performance hereof, or its occupancy of the Leased Premises. This indemnity clause includes, but is not limited to, claims, demands, and causes of action or lawsuits for damages or injuries to goods, wares, merchandise and property and for any bodily or personal injury or loss of life in, upon or about the property. This provision shall survive termination of this Agreement and shall not be limited by the amount of any insurance required to be obtained or maintained under this Agreement.

The City shall have the right, at its option, to participate in the control of any defense of any third party claim without relieving the club of any of its obligations hereunder.

The Club shall obtain at its own expense, and maintain during the term of this agreement, the insurance coverages set forth below:

~~(1) Property Insurance — Real property including improvements or additions shall be insured.~~

~~a. Form All Risk Coverage — Coverage shall be no more restrictive than that afforded by the latest edition of Insurance Services Office forms CF0011, CF0013, CF0420, and CF1210. If available, sinkhole insurance is to be included. If the provisions of the Club's All Risk Coverage do not include sinkholes and the unavailability of such coverage is verified by the City's insurance consultants, the Club shall be deemed to be in compliance with this paragraph.~~

~~b. Amount of Insurance — The amount of coverage shall be the full insurable value on a replacement cost basis.~~

~~c. Flood Insurance — When building or structures are located within an identified special flood hazard area, flood insurance shall be provided for the total insurable value of such buildings or structures or the maximum of flood insurance coverage available under the National Flood Insurance Program, whichever is less.~~

~~(2) Boiler and Machinery Insurance — If the buildings or structures include boiler(s), pressure vessel(s), or air conditioning/heating equipment, the Club shall maintain comprehensive insurance covering loss on the property included liability for damage to property of others.~~

~~a. Repair and Replacement.~~

~~b. Amount of Insurance — \$1,000,000.00 per accident~~

(1) Property Insurance — Real property including improvements or additions shall be insured by the City through its property self-insurance program. The City reserves the right to insure the property through self insurance or any other insurance method at its discretion during the term of this Lease. The City shall bill the Club by providing invoices in applicable increments, and the Club shall reimburse the City for the full cost of the property insurance.

(2) Boiler and Machinery Insurance — If the buildings or structures include boiler(s), pressure vessel(s), or air conditioning/heating equipment, the City shall insure same through its Boiler and Machinery

self-insurance program. The City reserves the right to insure the Boiler and Machinery items through self insurance or any other insurance method at its discretion during the term of this Lease. The City shall bill the Club by providing invoices in applicable increments, and the Club shall reimburse the City for the full cost of the Boiler and Machinery insurance.

- (3) Comprehensive General Liability - Coverage shall be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy filed by the Insurance Services Office and shall include:
- a. Minimum limits of \$1,000,000.00 per occurrence combined single limits for bodily injury liability, personal injury, and property damage liability.
 - b. Premises and Operation.
 - b. Independent Contractors.
 - c. Products or Completed Operations.
 - d. Personal Injury Coverage with employees and contractual exclusions removed.
 - e. Liquor Law Liability, if applicable.
 - f. Golf carts or other golfing appurtenances not owned by the Club but brought onto the property by others.
- (4) Business Auto Policy - Coverage shall be afforded on a form no more restrictive than the latest edition of the Business Auto Policy filed by the Insurance Services Office and shall include:
- a. Minimum limits of \$1,000,000.00 per occurrence combined single limits for bodily injury liability and property damage liability.
 - b. Coverage on all vehicles (owned, hired, and non-owned).
- (5) Workers Compensation - Coverage shall apply for all employees for statutory limits in compliance with the applicable State and Federal laws. In addition, the policy shall include employer's liability with a limit of \$500,000.00 for each accident. If the self-insured status of the Club is approved by the State of Florida, the City agrees to recognize and accept such status upon proof of such approval.

- (6) Personal Property – The City shall not insure or self-insure loss to personal property of the Club. The Club understands that it is solely responsible for such losses regardless of cause.

Other Requirements.

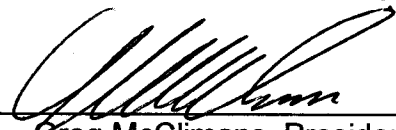
- (1) The City shall be named as an additional insured on all insurance policies required under this agreement.
- (2) Copies of insurance certificates for all insurance required by the agreement, and copies of all insurance policies covering insurance required by this agreement, shall be furnished to the City Clerk of the City prior to the use of the property.

Not less than sixty (60) days notice of cancellation or restricted modifications of any insurance policy providing the coverage required by this agreement shall be required on all insurance policies.

3. All of the terms and conditions of the Lease which are not expressly amended or deleted herein shall continue in full force and effect.

IN WITNESS WHEREOF, the parties have executed and delivered this Amendment the day and year first above written.

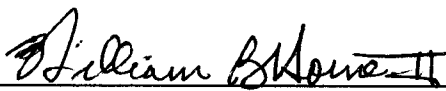
THE CLEARWATER GOLF CLUB, LLC.

By: 
Greg McClimans, President

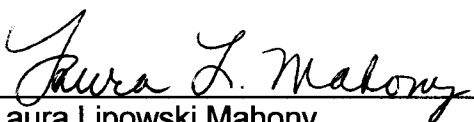
Countersigned:

- George N. Cretekos
George N. Cretekos
Mayor

CITY OF CLEARWATER, FLORIDA

By: 
William B. Horne, II
City Manager

Approved as to form:


Laura Lipowski Mahony
Assistant City Attorney

Attest:


Rosemarie Call
City Clerk

