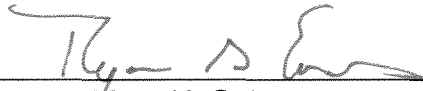


**MAY 15, 2013 CITY COUNCIL BRIEFING AGENDA
CERTIFICATION**

This certification is given pursuant to Chapter XI, Section 9 of the City Charter for the City Council Briefing Agenda dated May 15, 2013. We hereby certify, as to those contracts, agreements, or other obligations on this Agenda authorized by the City Council for which expenditures of money by the City are required, that all of the money required for those contracts, agreements, and other obligations is in the City treasury to the credit of the fund or funds from which the money is to be drawn, as required and permitted by the City Charter, and that the money is not appropriated for any other purpose.



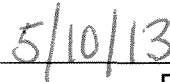
Mary K. Suhm
City Manager



Date



Edward Scott
City Controller



Date

RECEIVED

2013 MAY 10 PM 7:05

CITY SECRETARY
DALLAS, TEXAS



COUNCIL BRIEFING AGENDA

May, 15, 2013

Date

(For General Information and Rules of Courtesy, Please See Opposite Side.)
(La Información General Y Reglas De Cortesía Que Deben Observarse
Durante Las Asambleas Del Consejo Municipal Aparecen En El Lado Opuesto, Favor De Leerlas.)

General Information

The Dallas City Council regularly meets on Wednesdays beginning at 9:00 a.m. in the Council Chambers, 6th floor, City Hall, 1500 Marilla. Council agenda meetings are broadcast live on WRR-FM radio (101.1 FM) and on Time Warner City Cable Channel 16. Briefing meetings are held the first and third Wednesdays of each month. Council agenda (voting) meetings are held on the second and fourth Wednesdays. Anyone wishing to speak at a meeting should sign up with the City Secretary's Office by calling (214) 670-3738 by 5:00 p.m. of the last regular business day preceding the meeting. Citizens can find out the name of their representative and their voting district by calling the City Secretary's Office.

Sign interpreters are available upon request with a 48-hour advance notice by calling (214) 670-5208 V/TDD. The City of Dallas is committed to compliance with the Americans with Disabilities Act. **The Council agenda is available in alternative formats upon request.**

If you have any questions about this agenda or comments or complaints about city services, call 311.

Rules of Courtesy

City Council meetings bring together citizens of many varied interests and ideas. To insure fairness and orderly meetings, the Council has adopted rules of courtesy which apply to all members of the Council, administrative staff, news media, citizens and visitors. These procedures provide:

- That no one shall delay or interrupt the proceedings, or refuse to obey the orders of the presiding officer.
- All persons should refrain from private conversation, eating, drinking and smoking while in the Council Chamber.
- Posters or placards must remain outside the Council Chamber.
- No cellular phones or audible beepers allowed in Council Chamber while City Council is in session.

"Citizens and other visitors attending City Council meetings shall observe the same rules of propriety, decorum and good conduct applicable to members of the City Council. Any person making personal, impertinent, profane or slanderous remarks or who becomes boisterous while addressing the City Council or while attending the City Council meeting shall be removed from the room if the sergeant-at-arms is so directed by the presiding officer, and the person shall be barred from further audience before the City Council during that session of the City Council. If the presiding officer fails to act, any member of the City Council may move to require enforcement of the rules, and the affirmative vote of a majority of the City Council shall require the presiding officer to act." Section 3.3(c) of the City Council Rules of Procedure.

Informacion General

El Ayuntamiento de la Ciudad de Dallas se reúne regularmente los miércoles en la Cámara del Ayuntamiento en el sexto piso de la Alcaldía, 1500 Marilla, a las 9 de la mañana. Las reuniones informativas se llevan a cabo el primer y tercer miércoles del mes.

Estas audiencias se transmiten en vivo por la estación de radio WRR-FM 101.1 y por cablevisión en la estación *Time Warner City Cable* Canal 16. El Ayuntamiento Municipal se reúne el segundo y cuarto miércoles del mes para tratar asuntos presentados de manera oficial en la agenda para su aprobación. Toda persona que desee hablar durante la asamblea del Ayuntamiento, debe inscribirse llamando a la Secretaría Municipal al teléfono (214) 670-3738, antes de las 5:00 pm del último día hábil anterior a la reunión. Para enterarse del nombre de su representante en el Ayuntamiento Municipal y el distrito donde usted puede votar, favor de llamar a la Secretaría Municipal.

Intérpretes para personas con impedimentos auditivos están disponibles si lo solicita con 48 horas de anticipación llamando al (214) 670-5208 (aparato auditivo V/TDD). La Ciudad de Dallas se esfuerza por cumplir con el decreto que protege a las personas con impedimentos, *Americans with Disabilities Act*. **La agenda del Ayuntamiento está disponible en formatos alternos si lo solicita.**

Si tiene preguntas sobre esta agenda, o si desea hacer comentarios o presentar quejas con respecto a servicios de la Ciudad, llame al 311.

Reglas de Cortesia

Las asambleas del Ayuntamiento Municipal reúnen a ciudadanos de diversos intereses e ideologías. Para asegurar la imparcialidad y el orden durante las asambleas, el Ayuntamiento ha adoptado ciertas reglas de cortesía que aplican a todos los miembros del Ayuntamiento, al personal administrativo, personal de los medios de comunicación, a los ciudadanos, y a visitantes. Estos reglamentos establecen lo siguiente:

- Ninguna persona retrasará o interrumpirá los procedimientos, o se negará a obedecer las órdenes del oficial que preside la asamblea.
- Todas las personas deben abstenerse de entablar conversaciones, comer, beber y fumar dentro de la cámara del Ayuntamiento.
- Anuncios y pancartas deben permanecer fuera de la cámara del Ayuntamiento.
- No se permite usar teléfonos celulares o enlaces electrónicos (*paggers*) audibles en la cámara del Ayuntamiento durante audiencias del Ayuntamiento Municipal.

"Los ciudadanos y visitantes presentes durante las asambleas del Ayuntamiento Municipal deben obedecer las mismas reglas de comportamiento, decoro y buena conducta que se aplican a los miembros del Ayuntamiento Municipal. Cualquier persona que haga comentarios impertinentes, utilice vocabulario obsceno o difamatorio, o que al dirigirse al Ayuntamiento lo haga en forma escandalosa, o si causa disturbio durante la asamblea del Ayuntamiento Municipal, será expulsada de la cámara si el oficial que esté presidiendo la asamblea así lo ordena. Además, se le prohibirá continuar participando en la audiencia ante el Ayuntamiento Municipal. Si el oficial que preside la asamblea no toma acción, cualquier otro miembro del Ayuntamiento Municipal puede tomar medidas para hacer cumplir las reglas establecidas, y el voto afirmativo de la mayoría del Ayuntamiento Municipal precisará al oficial que esté presidiendo la sesión a tomar acción." Según la sección 3.3(c) de las reglas de procedimientos del Ayuntamiento.

AGENDA
CITY COUNCIL BRIEFING MEETING
WEDNESDAY, MAY 15, 2013
CITY HALL
1500 MARILLA
DALLAS, TEXAS 75201
9:00 A.M.

9:00 am Invocation and Pledge of Allegiance 6ES

Special Presentations

Open Microphone Speakers

VOTING AGENDA 6ES

1. Approval of Minutes of the May 1, 2013 City Council Meeting
2. Consideration of appointments to boards and commissions and the evaluation and duties of board and commission members (List of nominees is available in the City Secretary's Office)

ITEMS FOR INDIVIDUAL CONSIDERATION

Trinity Watershed Management

3. Authorize **(1)** a 40-year agreement between the City of Dallas and AT&T for the funding, construction, maintenance and naming rights for a portion of Trinity Trails, Phases 2, 3 and 3A; **(2)** the acceptance and deposit of funds from AT&T not to exceed \$2,500,000; and **(3)** the establishment of appropriations in the amount of \$2,500,000 in the AT&T Trail Grant Fund - Total not to exceed \$2,500,000 - Financing: Private Funds
4. Authorize a 40-year lease agreement between the City and The Company of Trinity Forest Golfers, Inc. (CTFG), a nonprofit corporation, in substantially the same form attached hereto for the development, management and operation of a championship golf course - Estimated Annual Revenue: Initial Revenue \$1,000 and an estimated annual revenue of \$10,000 beginning FY2015

City Attorney's Office

5. Authorize settlement of the lawsuit styled Leanne Siri v. The City of Dallas, Civil Action No. 3:10-CV-0036-M - Not to exceed \$390,000 - Financing: Current Funds

AGENDA
CITY COUNCIL BRIEFING MEETING
WEDNESDAY, MAY 15, 2013

Briefings

6ES

- A. Dallas Area Rapid Transit Board of Directors Appointment Process 2013-2015 Term

ITEMS FOR INDIVIDUAL CONSIDERATION (Continued)

City Secretary's Office

6. Consideration of appointments to the Dallas Area Rapid Transit Board of Directors for Places 4, 5, 6, 7 (shared) and 8 (Closed Session, if necessary, Personnel, Sec. 551.074, T.O.M.A.) (List of nominees in the City Secretary's Office)

Briefings (Continued)

- B. Budget Workshop #2 - FY 2013-14 Budget Development Update

Lunch **Police Memorial Ceremony**
(noon) **500 South Akard Street**
 Dallas, TX 75201
 (corner of Young Street and Akard Street)

- C. Atmos Energy Corporation - Dallas Annual Rate Review

ITEMS FOR INDIVIDUAL CONSIDERATION (Continued)

Office of Financial Services

7. An ordinance **(1)** denying rates as requested by Atmos Energy Corp. Mid-Tex Division (Atmos), repealing rate rider IR-Infrastructure Replacement; and **(2)** authorizing increased rates to be charged by Atmos, as negotiated pursuant to its January 15, 2013 Dallas Annual Rate Review (DARR) filing - Financing: No cost consideration to the City

Briefings (Continued)

- D. Occasional Sales (Garage Sales) Ordinance Update
E. Proposed FY 2013-14 Consolidated Plan Budget

AGENDA
CITY COUNCIL BRIEFING MEETING
WEDNESDAY, MAY 15, 2013

Closed Session

6ES

Attorney Briefings (Sec. 551.071 T.O.M.A.)

- City of Dallas v. City Park A Lot, L.P., et al., Cause No. CC-12-06044-C
- City of Dallas v. Tomaino Properties, L.P., et al., Cause No. CC-12-06590-B
- Legal issues involving proposed amendments to Chapters 7A and 42 of the Dallas City Code.

Open Microphone Speakers

6ES

The above schedule represents an estimate of the order for the indicated briefings and is subject to change at any time. Current agenda information may be obtained by calling (214) 670-3100 during working hours.

Note: An expression of preference or a preliminary vote may be taken by the Council on any of the briefing items.

A closed executive session may be held if the discussion of any of the above agenda items concerns one of the following:

1. Contemplated or pending litigation, or matters where legal advice is requested of the City Attorney. Section 551.071 of the Texas Open Meetings Act.
2. The purchase, exchange, lease or value of real property, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Section 551.072 of the Texas Open Meetings Act.
3. A contract for a prospective gift or donation to the City, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Section 551.073 of the Texas Open Meetings Act.
4. Personnel matters involving the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee or to hear a complaint against an officer or employee. Section 551.074 of the Texas Open Meetings Act.
5. The deployment, or specific occasions for implementation of security personnel or devices. Section 551.076 of the Texas Open Meetings Act.
6. Deliberations regarding economic development negotiations. Section 551.087 of the Texas Open Meetings Act.

AGENDA ITEM # 3

KEY FOCUS AREA: Better Cultural, Arts and Recreational Amenities

AGENDA DATE: May 15, 2013

COUNCIL DISTRICT(S): 5

DEPARTMENT: Trinity Watershed Management

CMO: Jill A. Jordan, P.E., 670-5299

MAPSCO: 57T X & Z 67B C & D

SUBJECT

Authorize **(1)** a 40-year agreement between the City of Dallas and AT&T for the funding, construction, maintenance and naming rights for a portion of Trinity Trails, Phases 2, 3 and 3A; **(2)** the acceptance and deposit of funds from AT&T not to exceed \$2,500,000; and **(3)** the establishment of appropriations in the amount of \$2,500,000 in the AT&T Trail Grant Fund - Total not to exceed \$2,500,000 - Financing: Private Funds

BACKGROUND

The City identified in the Trinity River Corridor Master Implementation Plan, the creation of a multipurpose trail system along the length of the entire Great Trinity Forest. The purpose of this trail system is to improve public access to a part of the Great Trinity Forest for recreational uses such as walking, jogging, biking, horseback riding, and to provide maintenance access to areas of the Great Trinity Forest that would otherwise be difficult to reach. The City of Dallas has constructed approximately 4 miles of this trail system.

On November 30, 2012, AT&T signed a letter of intent to the City for the construction, maintenance and naming of portions of Trinity Trails Phase 3. On December 12, 2012, the Council was briefed on the Grow South: Proposed Economic Development Project for Southern Dallas – Trinity Forest Golf Course. Included in this briefing was information related to the development of an agreement for construction, maintenance and naming of portions of the Trinity Trails, Phase 3 with funding provided by AT&T.

BACKGROUND (Continued)

This action will authorize the City to enter into an agreement with AT&T to accept a grant in exchange for the naming rights of an identified segment trail. This project provides for construction of approximately 3.24 miles of Trinity Trails Phase 3 and 3A, provides naming rights for a total of approximately 4.25 miles of portions of Trinity Trails Phase 2 and 3 and 3A. The approximately 4.25 miles of Trinity Trails including rest areas, structures or other physical improvements and features along this portion of the trail shall be marked and exclusively named the "AT&T Trail" for a period of forty (40) years after completion of the project. Additionally, the City is prohibited from granting naming rights to, or accepting sponsorship of the AT&T Trail or adjacent trails by any AT&T competitors. Adjoining trails include approximately 1.7 miles of Trinity Forest Trails, Phase 2, approximately 1 mile of Trinity Forest, Phase 3, approximately 0.5 miles of Trinity Forest, Phase 4, and approximately 2.4 miles of Trinity Forest Trails, Phase 5.

AT&T will be executing a separate agreement with the Trinity Audubon Center to provide \$100,000 for an observation tower near the trails crossing through the Trinity Audubon Center.

ESTIMATED SCHEDULE OF PROJECT

Begin Construction	July 2013
Complete Construction	January 2014

PRIOR ACTION/REVIEW (COUNCIL BOARDS, COMMISSIONS)

Briefed the Economic Development Committee on December 11, 2012.

Briefed Council on December 5, 2012.

Briefed Council on May 1, 2013.

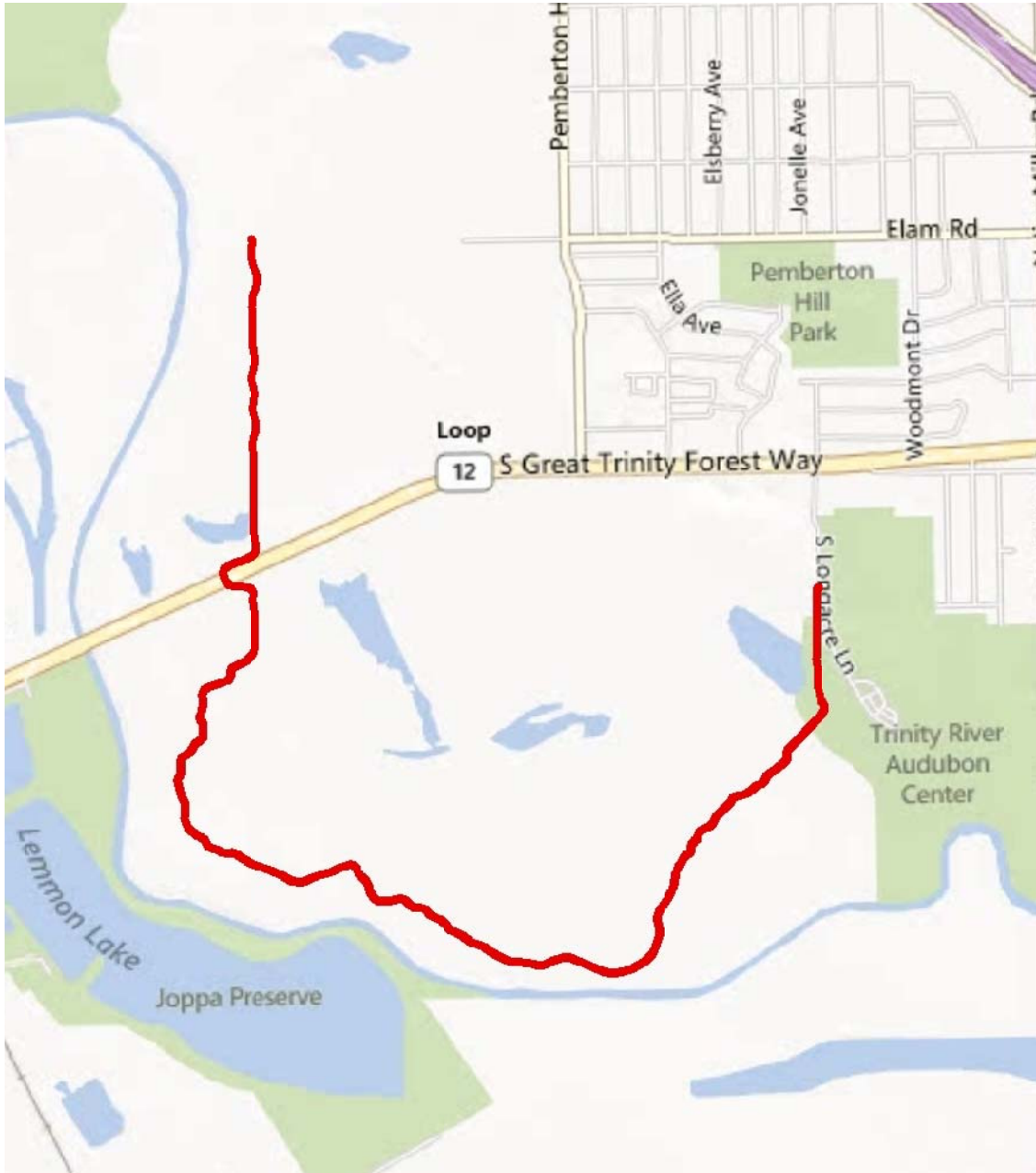
FISCAL INFORMATION

\$2,500,000 – Private Funds

MAPS

Attached

AT&T Trail



Mapsc0 Various

May 15, 2013

WHEREAS, the City is the owner of real property located in the City of Dallas, Texas in the vicinity of the Great Trinity Forest Way (f/k/a "Loop 12") and Elam Road and adjacent to the Trinity River Audubon Center and the Texas Horse Park; and

WHEREAS, the 1998 Bond Program authorized funding to construct, trails, canoe launches and improve trailheads in the Great Trinity Forest; and

WHEREAS, on March 20, 2013, the design was completed and this phase is currently in the bidding process; and

WHEREAS, during negotiations for the Lease Agreement the City also executed a Letter of Intent (dated November 30, 2012) with AT&T, wherein AT&T proposed to provide a grant to the City in the amount of Two Million, Five Hundred Thousand and no/100 dollars (\$2,500,000) for funding, construction and maintenance of a portion of Trinity Trails, Phase 3 and a portion of Trinity Trails, Phase 2 pursuant to the terms of the proposed agreement; and

WHEREAS, it is now necessary to authorize the City to enter into an agreement with AT&T to accept a grant for the construction, maintenance and naming rights of portions of Trinity Trails, Phase 2 and Phase 3 and prohibit naming portions of Trinity Trails Phases 2, 3 and 5 after competitors of AT&T.

Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the City Manager be and is hereby authorized to execute an agreement between the City of Dallas and AT&T for the acceptance of a grant to construct and maintain a trail including appropriate signage identifying certain portions of Trinity Trails as the "AT&T Trail", upon approval as to form by the City Attorney.

Section 2. That the City Manager is hereby authorized to accept the grant from AT&T to construct and maintain a trail in exchange for such exclusive naming rights of segments of Trinity Trails, Phase 3, 3A and a portion of Trinity Trails Phase 2 for a period of 40 years.

Section 3. That subject to execution of a written agreement between AT&T and the Trinity River Audubon for naming rights to the segment of trail in or about the Audubon Center, the City will direct approximately \$100,000 of the grant amount for the construction of an observation tower at the Audubon Center located adjacent to the AT&T Trail.

May 15, 2013

Section 4. That the City Controller is hereby authorized to receive and deposit funds from private donations pertaining to the AT&T Trail in the AT&T Trail Fund, Fund P108, Dept. TWM, Unit 7853, Revenue Source 8411, in an amount not to exceed \$2,500,000.

Section 5. That the City Manager is hereby authorized to establish appropriations due to the receipt of private donations in an amount not to exceed \$2,500,000 in the AT&T Trail Fund, Fund P108, Dept. TWM, Unit 7853, Obj. 4599.

Section 6. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas and it is accordingly so resolved.

AGENDA ITEM # 4

KEY FOCUS AREA: Better Cultural, Arts and Recreational Amenities

AGENDA DATE: May 15, 2013

COUNCIL DISTRICT(S): 5

DEPARTMENT: Trinity Watershed Management

CMO: Jill A. Jordan, P.E., 670-5299

MAPSCO: 57T X & Z; 67B C & D

SUBJECT

Authorize a 40-year lease agreement between the City and The Company of Trinity Forest Golfers, Inc. (CTFG), a nonprofit corporation, in substantially the same form attached hereto for the development, management and operation of a championship golf course - Estimated Annual Revenue: Initial Revenue \$1,000 and an estimated annual revenue of \$10,000 beginning FY2015

BACKGROUND

On December 5, 2012, the Council was briefed on the Grow South: Proposed Economic Development Project for Southern Dallas – Trinity Forest Golf Course. Included in this briefing was information related to the development of a lease for approximately 400 acres of City-owned real property in the vicinity of the Great Trinity Forest Boulevard (Loop 12) and Elam Road, adjacent to the Trinity Audubon Center and Texas Horse Park for the creation of a championship golf course.

This action will authorize a lease agreement with the nonprofit corporation, Company of Trinity Forest Golfers, Inc. (CTFG). The CTFG is responsible for development, management and operation of a championship golf course and shall provide proof of funding and possession of such funding in the amount of \$20 million by August 31, 2013. Should CTFG not secure funds by August 31, 2013, the City Manager can elect to terminate the lease.

The CTFG will be responsible for the development, management and operation of a championship golf course; execution of user agreements with The First Tee, the Professional Golfers Association (PGA)/the Salesmanship Club of Dallas, and Southern Methodist University. The CTFG will establish, as part of its organizational structure, a Board of Governors to serve as an advisory board to review any proposed major amendments to the User Agreements, review public play requirements, financial statements and make recommendations concerning the operation of the golf course.

BACKGROUND (Continued)

As part of this agreement, the City will pursue certain infrastructure improvements. The City is undertaking the remediation of closed landfills associated with the Simpkins Tract of land, the improvement of certain infrastructure to Elam Road, improved lighting and access along Great Trinity Forest Way Blvd, improved irrigation serving the Trinity Audubon Center and other associated public infrastructure improvements not to exceed \$12 million.

ESTIMATED SCHEDULE OF PROJECT

Enter Lease Agreement	May 2013
Begin Construction	October 2013
Complete Construction	October 2016

PRIOR ACTION/REVIEW (COUNCIL BOARDS, COMMISSIONS)

Council authorized a "Letter of Intent" on December 12, 2012, by Resolution No. 12-3066.

This item was briefed on December 11, 2012 to the Economic Development Committee.

This item was briefed on December 5, 2012 to the Dallas City Council.

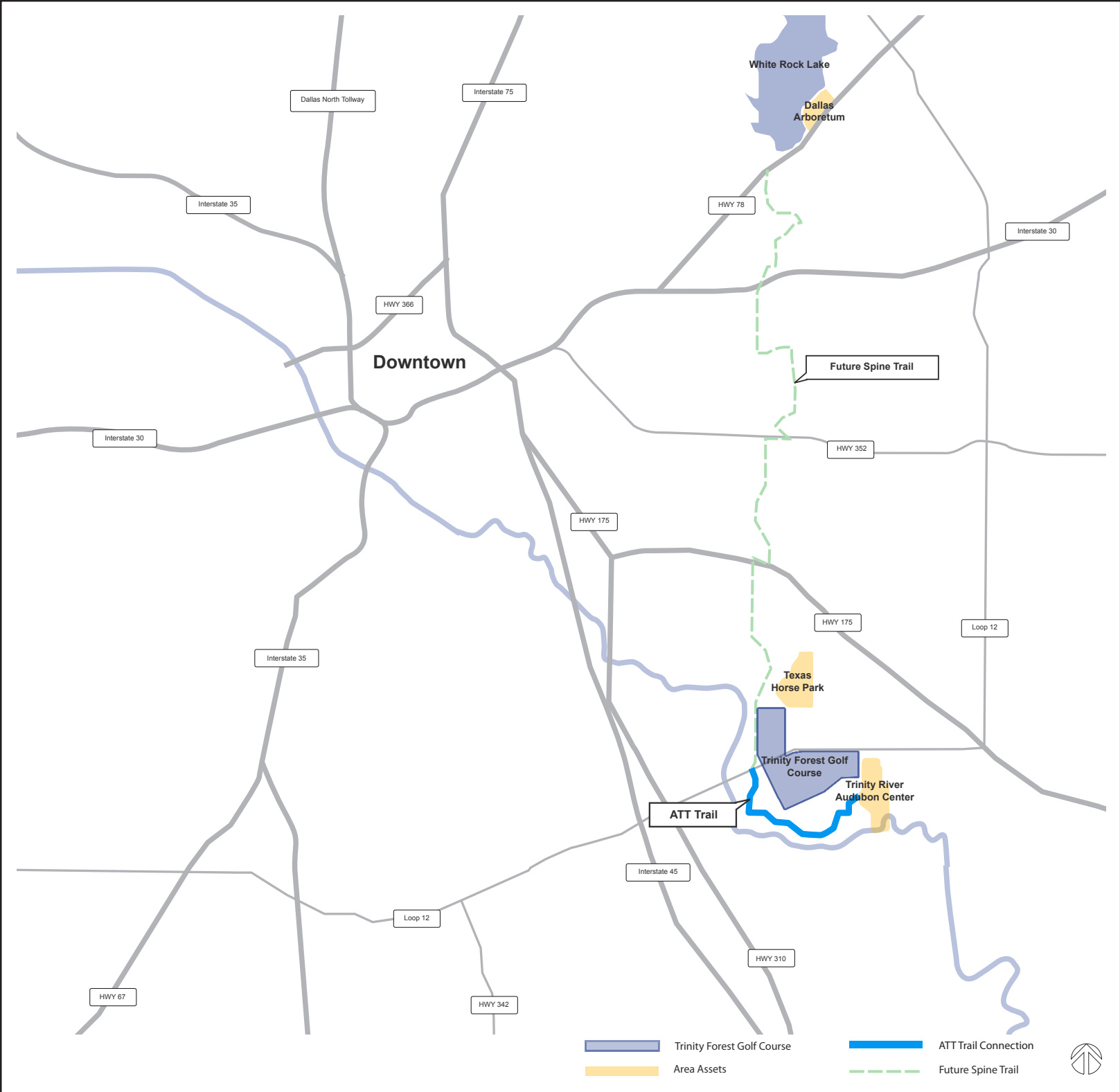
This item was briefed on May 1, 2013 to the Dallas City Council.

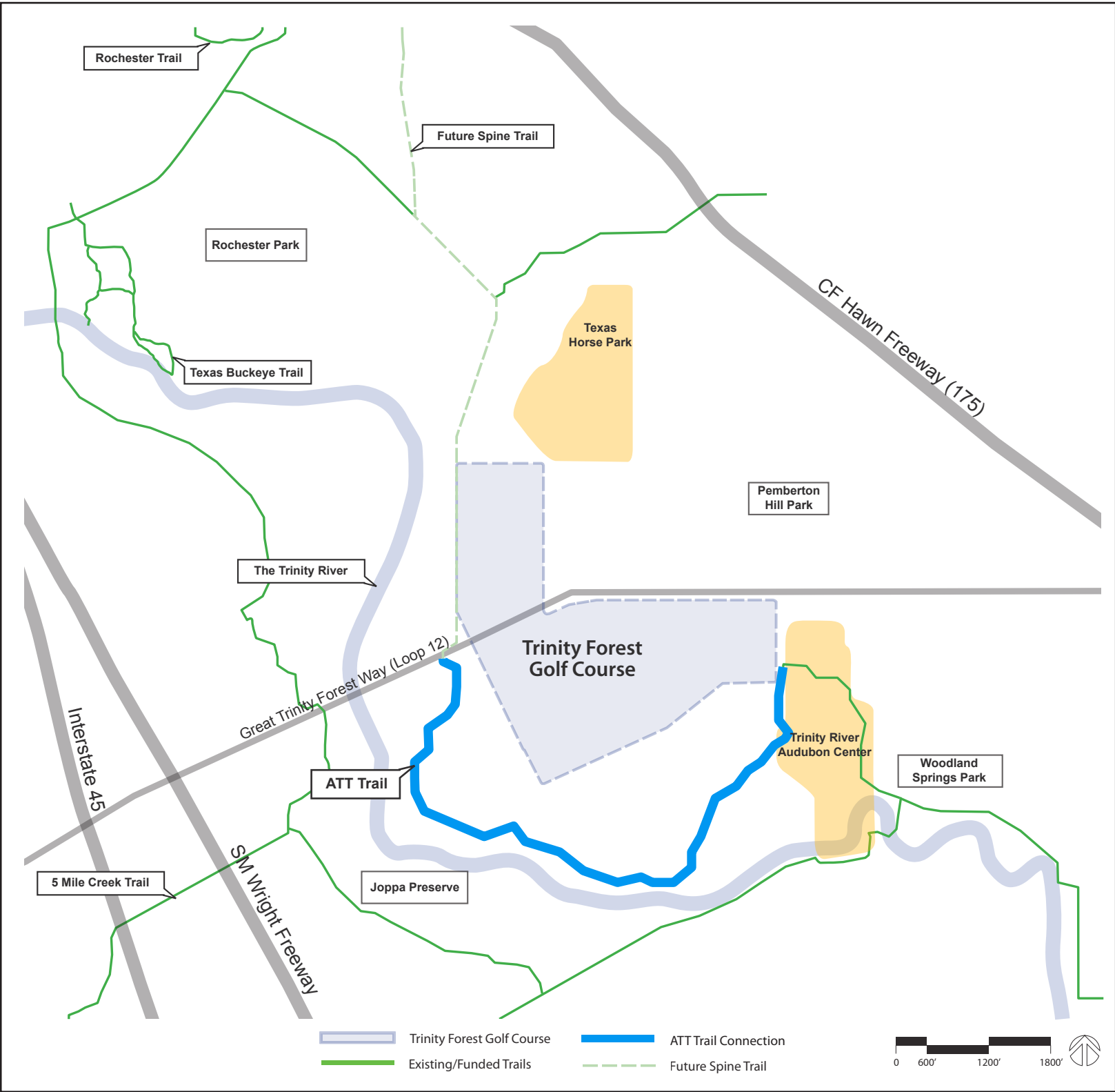
FISCAL INFORMATION

Initial Revenue \$1,000 and an estimated annual revenue of \$10,000 beginning FY2015

MAPS

Attached





May 15, 2013

WHEREAS, the City of Dallas is the owner of approximately 400 acres of real property located in the City of Dallas, Texas in the vicinity of the Great Trinity Forest Way (f/k/a "Loop 12") and Elam Road and adjacent to the Trinity River Audubon Center and the Texas Horse Park; and

WHEREAS, the City of Dallas has enrolled portions of the property in the Texas Commission on Environmental Quality (TCEQ) Voluntary Cleanup Program (VCP No 2210) to conduct certain remediation of and to obtain regulatory closure for certain existing environmental conditions; and

WHEREAS, the City of Dallas and The Company of Trinity Forest Golfers, Inc. ("CTFG") wish to develop a championship golf course on the property; and

WHEREAS, on December 12, 2012, Dallas City Council approved a Letter of Intent by Resolution No. 12-3066 and directed the City Manager to advance and to finalize negotiations with The CTFG for the lease of said city-owned property for development, management, and operation of such a facility;

WHEREAS, on May 1, 2013, the Dallas City Council was briefed on the status of the negotiations with The CTFG and it is now desired that the City, as Lessor, enter into a Lease Agreement with The CTFG, as Lessee.

Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the City Manager is authorized to enter into a 40-year lease agreement in substantially the form attached hereto between the City of Dallas and The CTFG, a nonprofit corporation.

Section 2. That the City Controller is hereby authorized to receive and deposit funds from The CTFG in accordance with the terms and conditions of the lease agreement, into the Trinity Forest Golf Course Lease Fund, Fund TF08, Unit 7854, Dept. TWM, Revenue Source 8482, in an amount of \$1,000 for the initial lease payment, and an estimated amount of \$10,000 annually beginning in FY 2015.

Section 3. That the City Manager is hereby authorized to establish appropriations for the initial lease payment in the Trinity Forest Golf Course Lease Fund TF08, Dept. TWM, Unit 7854, Obj. TBD in an amount of \$1,000.

Section 4. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.

THE STATE OF TEXAS §
 §
COUNTY OF DALLAS §

**LEASE AGREEMENT
FOR THE TRINITY FOREST GOLF COURSE**

This Lease Agreement (“Agreement” or “Lease”) is entered into by and between CITY OF DALLAS, a Texas municipal corporation, acting through its authorized officials (“City,” “Landlord,” or “Lessor”) and THE COMPANY OF TRINITY FOREST GOLFERS, INC., a Texas nonprofit corporation (“CTFG,” “Tenant,” or “Lessee”).

WITNESSETH:

WHEREAS, Lessor is the owner of approximately 400 acres of real property located in the City of Dallas, Texas in the vicinity of Great Trinity Forest Blvd (Loop 12) and Elam Road, and adjacent to the Trinity Audubon Center and the Texas Horse Park; and

WHEREAS, Lessor has caused portions of the property to be enrolled in the Texas Commission on Environmental Quality’s (“TCEQ”) Voluntary Cleanup Program (“VCP” or “VCP No. 2210”) to conduct certain remediation of and endeavor to obtain regulatory closure for certain existing environmental conditions; and

WHEREAS, in connection with such remediation, subject to the terms hereof, Lessee has agreed to assist in any excess costs of such work and further to have said real property developed into a championship golf course (the “Golf Course”) and related facilities (collectively the “Project”); and

WHEREAS, Lessor and Lessee wish to have the Project held by a non-profit entity such as Lessee in accordance with this Agreement; and

WHEREAS, on December 12, 2012, Dallas City Council approved a Letter of Intent by Resolution No. 12-3066 for the Project and directed the City Manager to advance and to finalize negotiations with Lessee for the lease of city-owned property for development and operation of such a facility; and

WHEREAS, on May 15, 2013, by Resolution No. 13-_____ (attached) Dallas City Council authorized its City Manager to enter into a lease agreement with Lessee for the lease of city-owned real estate for development, operation and maintenance of the contemplated Project substantially as provided herein.

NOW, THEREFORE, Lessor and Lessee, for and in consideration of the mutual covenants, terms, and conditions contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, do agree as follows:

ARTICLE I PARTIES

Section 1.01. Lessor. City of Dallas, a Texas municipal corporation is Lessor. Unless otherwise expressly provided in this Agreement or required by applicable law, ordinance, charter provision, or City of Dallas policy, Lessor will be acting by and through its City Manager, or his/her designee, in all matters provided for herein.

Section 1.02. Lessee.

(a) The Company of Trinity Forest Golfers, Inc., a Texas nonprofit corporation, is Lessee as of the Effective Date. Lessee represents and warrants unto Lessor that it is duly organized and in good standing as a Texas non-profit corporation. Lessee will maintain said status during the term of this Agreement.

(b) The management of the Lessee is vested in a board of directors, as provided in the organizational documents of Lessee; provided, however, the certificate of incorporation of Lessee (the "Certificate") and Section 9.06 of the Bylaws of Lessee (the "Bylaws") provide for the creation of a Board of Governors (the "Board of Governors") of Lessee, which Board of Governors shall have the authority described in Schedule 1.02(b) of this Lease.

(c) A true and correct copy of Lessee's certificate of formation (the "Certificate") and Section 9.06 of Lessee's Bylaws are attached hereto as Schedule 1.02(c). **Lessee covenants and agrees that clause III of the Supplemental Provisions/Information of its Certificate, and Section 9.6 of its Bylaws, shall not be amended or modified without the prior written consent of Lessor, such consent not to be unreasonably withheld, conditioned or delayed.**

ARTICLE II PREMISES; LETTING

Section 2.01. Premises; Letting. For and in consideration of the Lessee's covenant to pay rental and other sums as herein provided and perform the obligations of Lessee in this Agreement, upon and as of the Delivery Date (hereinafter defined), Lessor does lease to Lessee and Lessee does lease from Lessor the approximately 400 acres of real property located in the City of Dallas, Texas more fully described in **Exhibit A**, together with all improvements located thereon and all appurtenances belonging to or in any way pertaining to said real estate (such real estate, improvements and appurtenances sometimes jointly and separately as the context requires referred to as the "Premises"). This Lease is entered into as of the Effective Date (hereinafter defined) with possession to vest in Lessee as provided in Section 4.01 below.

Section 2.02. Tree Mitigation Area. The portion of the Premises shown as “ Lot 2” on **Exhibit A-1** attached hereto has been subjected (or will be made subject to) certain restrictions and limitations on the removal or intentional destruction of existing trees located in such area pursuant to the Great Trinity Forest Planned Development District [Ordinance No. _____] covering the Premises (the “PD”). Lessee covenants and agrees that, except for the removal of such trees and vegetation in such area as is reasonably necessary for erecting and maintaining fencing and security along the perimeter of the Premises, Lessee shall not intentionally remove, damage or destroy any trees or existing vegetation in the Mitigation Area in violation of the requirements of the PD and other applicable law.

Section 2.03 Net Lease. It is the intention of Lessor and Lessee that the rental and other payments payable under this Lease, and all taxes, assessments and other costs related to Lessee’s use or operation of the Premises under this Lease shall be absolutely net to Lessor, and that Lessee shall pay during the Term, without any offset or deduction whatsoever, all such costs due by Lessee under this Lease (other than amounts as may be required to be paid (directly or indirectly) by Lessor pursuant to specific provisions of this Lease).

ARTICLE III TERM; MATERIAL DATES

Section 3.01. Initial Term. This Agreement is effective and binding on the parties on the date that this Agreement is executed by both Lessor and Lessee (“Effective Date”), and the term of this Lease shall run for a period of forty (40) years from the completion of construction as described herein below (“Completion Date”) and ending on the 40th annual anniversary of said Completion Date, subject to renewal or earlier termination as herein provided.

Section 3.02. Renewal. Lessor, at its option, may renew and extend this Agreement for up to four (4) successive ten (10) year periods by providing written notice of its election to so renew and extend (an “Extension Notice”) to Lessee at least 36 months before, but not sooner than 60 months before, the expiration of the then current term. Any such renewal and extension shall be on the then-current covenants, terms and conditions of this Agreement unless otherwise agreed by the parties in writing. The Initial Term, together with any renewals or extensions, may be referred to herein as the “term” or “Term.”

Section 3.03. Nonappropriation. With respect to any monetary obligations of Lessor under this Lease, other than for Lessor Improvements up to but not exceeding the Lessor Funding Limit, Lessor has the right to terminate this Lease on the last day of the then current fiscal year in the event of non-appropriation of funds by Lessor’s City Council. Lessor agrees to notify Lessee of such non-appropriation at the earliest practicable time prior to the end of Lessor’s fiscal year. Notwithstanding the foregoing, Lessee may avoid such termination by agreeing to bear the cost of and pay any such monetary obligations of Lessor for the fiscal year in question.

Section 3.04. Lessee’s Commitment to Fund the Golf Course. Lessee shall use commercially reasonable efforts to raise at least Twenty Million Dollars (\$20,000,000.00) in cash (as evidenced to Lessor’s satisfaction) or to provide an irrevocable letter of credit for this

amount (in a form and of substance satisfactory to Lessor), which cash and/or letter of credit shall be readily available to Lessee and Lessor to cover Lessee's share of the costs of its development of the Project (the "Funding Commitment") by no later than **August 31, 2013**. If Lessee fails to provide evidence, reasonably satisfactory to Lessor, that the Funding Commitment has been satisfied by such date, Lessor shall thereafter have, until such time as the Funding Commitment is satisfied, the right and option to terminate this Lease by providing written notice of such termination to Lessee (a "Funding Termination"). Termination will be effective 30 days after such written notice, at which time the parties will have no further rights or obligations hereunder.

Section 3.05. Material Dates. Time is expressly declared to be of the essence in this Agreement and each and every material covenant hereunder. Without limiting the foregoing, unless extended by written agreement signed by Lessor and Lessee, Lessee shall, subject to force majeure, complete each of the following in conformance with the interim dates detailed below:

- (1) As of the Effective Date of this Agreement, Lessee shall represent and certify to Lessor that it has obtained and entered into written User Agreements (as described in Section 5.05).
- (2) As set forth in Section 5.02, the first annual rental payment shall be paid on or before (i) 10 days after Lessor notifies Lessee that the Lessor Improvements have been completed or (ii) **May 31, 2015**, whichever shall first occur (the "Rental Commencement Date").
- (3) Subject to Section 3.04, Lessee shall satisfy the Funding Commitment and demonstrate its financial ability to fund the total construction costs for the Project pursuant to the provisions of Section 3.04 and Section 7.12 on or before the date that a Funding Termination occurs.
- (4) Lessee shall complete construction, obtain a final certificate of occupancy for any improvements on the Project for which such certificates are required, and deliver to Lessor a copy of a certificate of substantial completion from the Project architect or engineer by **October 1, 2016**, (the "Completion Date").

ARTICLE IV POSSESSION AND USES

Section 4.01. Possession. Lessee shall have possession and control of the Premises during the Term commencing on the Delivery Date. As used herein, "Delivery Date" shall be the date on which Lessor notifies Lessee in writing that it has confirmed the Funding Commitment has been satisfied and that Lessee is entitled to take and assume possession of the Premises in accordance with the terms of this Lease. Notwithstanding the delivery of such possession, Lessor shall continue to have access to the Premises to perform Lessor Improvements and thereafter subject to the terms herein provided.

Section 4.02. Permitted Uses. The Premises may be used solely for the design, development, construction, maintenance and operation of a championship golf course and training facility and associated dining and hospitality activities, including tournaments, competitions and other golf- and outdoor recreational events and activities. The Premises shall not be used for any other purpose without the prior written consent of Lessor, which consent shall not be unreasonably withheld, conditioned or delayed.

Section 4.03. Scope/Conceptual Plans. The parties acknowledge that it is the fundamental intent and purpose of this Agreement to ensure that the Premises be developed and operated as a championship golf course, with other related facilities and features that may be built from time-to-time, constructed in substantial conformance with the conceptual plans with accompanying narrative description, approved by Lessor and attached hereto as **Exhibit B** (the “Approved Conceptual Plans”). The Project shall be constructed in substantial conformance with the Approved Conceptual Plans. Conformance to the Approved Conceptual Plans is a material element of this Agreement. Any material modifications to the Approved Conceptual Plans must be submitted to Lessor for advanced review and approval. If done in substantial conformance with the Approved Conceptual Plans, as approved and modified from time to time, and the terms of this Agreement, Lessee shall have control over the planning, design, engineering, and construction of the Lessee Improvements and overall development of the Project (other than Lessor Improvements not assigned to Lessee).

Section 4.04. Prohibited Uses. Lessee shall not permit or allow any portion of the Premises to be used or occupied in any manner that (collectively “Prohibited Uses”):

- (1) is contrary to any federal, state or local statute, rule, order, ordinance, requirement, or regulation applicable thereto;
- (2) would violate any certificates of occupancy, license, or permit affecting same;
- (3) would reasonably be expected to cause material damage to the structural integrity, utility, or regulatory compliance of any structures, liners, fill, or any other materials used or constructed to obtain regulatory closure from TCEQ or another local, state, or federal environmental agency (provided, however, the foregoing shall not limit or affect the rights of Lessee hereunder to make repairs, perform maintenance, or make alterations, as otherwise permitted hereunder, if done in compliance with applicable laws);
- (4) would cause damage to or impair the utility of any surrounding amenities, including but not limited to the urban forest and nature preserve, the Texas Horse Park, the Trinity Audubon Center, and the Trinity Trails system;
- (5) would constitute a public or private nuisance or waste;
- (6) would be immoral or obscene or create a threat to the health, safety, and welfare of the general public;

- (7) would render the insurance to be maintained by Lessee as herein provided void or the insurance risk materially more hazardous than typical in the industry;
- (8) would intentionally remove, damage or destroy any trees or existing vegetation in the Mitigation Area in violation of the requirements of Section 2.02 of this Lease, the PD and other applicable law;
- (9) would constitute an act of public or private discrimination, limitation of use, or exclusion from the Premises on the basis of race, color, religion, gender, age, national origin, citizenship, disability, or sexual orientation; or
- (10) would violate the terms of the following documents, unless otherwise approved by the City (and TCEQ, if appropriate) to (i) the Response Action Plan (“RAP”), dated March 7, 2013, written by Terracon Consultants, Inc. and submitted to TCEQ; (ii) the April 3, 2013 letter from Mark R. Riggle, P.G., of TCEQ, to Lori Frauli Trulson, P.G., REM, approving the RAP; and (iii) the April 11, 2013 letter from Dwight G. Russell, P.E., of TCEQ, to Lori Frauli Trulson, P.G., REM, acknowledging the City’s pending request to disturb the final cover of the South Loop and Elam Landfill.

ARTICLE V

RENTAL; OTHER CONSIDERATION

Section 5.01. Initial Rental. Lessee shall pay Lessor an initial rental amount of One Thousand and No/100 Dollars (\$1,000.00) within fifteen (15) days after the Effective Date.

Section 5.02. Annual Rental. Lessee shall pay Lessor an annual rental amount of Ten Thousand and No/100 Dollars (\$10,000.00) per year, in advance, throughout the term of this Lease (subject to possible adjustment as provided in Schedule 1.02(b) below). The first such annual rental payment shall be paid not later than the Rental Commencement Date, as provided in Section 3.05(2). Subsequent annual payments shall be made on or before each subsequent annual anniversary of the Rental Commencement Date.

Section 5.03. Additional Rental. As additional rental, Lessee shall:

(1) from and after the Delivery Date, pay any and all charges for utilities used on the Premises (other than those necessary to and utilized in the construction of Lessor Improvements by Lessor), including but not limited to water, wastewater, electric, gas, solid waste disposal, telecommunications, storm water/drainage, and other utility services as provided in this Agreement;

(2) from and after the Delivery Date, pay any and all taxes, including without limitation ad valorem taxes, and assessments of any nature applicable or attributable to the Premises or any use thereof or activity thereon as provided in this Agreement; and

(3) from and after the Delivery Date, pay for and maintain the insurance coverages provided for in this Agreement.

Section 5.04. Additional Consideration. As additional consideration for this Agreement and subject to the terms hereof, Lessee shall:

- (1) perform or cause to be performed a minimum of \$20 Million in design, development, and construction of the Project (but not including the amount of Lessor Funding Limit) as provided in this Agreement; and
- (2) perform or cause to be performed a minimum of \$2.5 Million in design, development, and construction of the Trinity Trails System – Phase 3 (and other Trinity Trails projects); and
- (3) provide or cause to be provided the Public Play as provided in Section 8.04 below; and
- (4) obtain the User Agreements as provided in Sections 3.05 and 5.05 of this Agreement.

Section 5.05. Byron Nelson, SMU And First Tee User Agreements. Lessee shall secure and, subject to force majeure, maintain (and use commercially reasonable efforts to maintain) during their respective terms all of the following (collectively the “User Agreements”):

- (1) a legally binding and effective agreement with the Salesmanship Club of Dallas to relocate the Byron Nelson Championship to the Golf Course no later than 2019 and to continue for an initial minimum term of not less than 5 years (the “SCD Agreement”); and
- (2) a legally binding and effective agreement with Southern Methodist University (“SMU”) to designate and use the Golf Course as the home course for the SMU inter-collegiate golf teams and for inter-collegiate golf tournaments hosted by SMU for an initial minimum term of not less than 5 years (the “SMU Agreement”); and
- (3) a legally binding and effective agreement with First Tee of Greater Dallas to provide youth programs at the Golf Course for an initial minimum term of not less than 5 years (the “First Tee Agreement”).

The User Agreements are a material element of this Agreement. Lessee hereby represents and warrants to Lessor that the User Agreements have been entered into by Lessee and the respective users on or prior to the Effective Date, and prior to the Effective Date, Lessee has made available true and correct copies of such User Agreements for Lessor’s review and inspection (provided that the Lessee may defer entering into the SMU Agreement until the Delivery Date, by which time Lessee shall have made available to Lessor the SMU Agreement for Lessor’s review and inspection). The User Agreements are subject to the requirements set forth in this Agreement, including Section 8.02 below.

Section 5.06. No Abatement Or Setoffs. Rental, including additional rental, if any, and other consideration by Lessee shall be paid or performed without notice, demand, counterclaim, setoff, deduction or defense and without abatement, and the obligations and liabilities of Lessee for same shall in no way be released, discharged, or otherwise affected except as expressly provided in this Agreement.

ARTICLE VI CONDITION OF THE PREMISES

Section 6.01. Title Exceptions; Minerals Reserved by Lessor.

(a) This Agreement and the leasehold estate granted is made and accepted subject to any and all covenants, conditions, reservations, restrictions, exceptions, encroachments, parties in possession, easements, right-of-ways, mineral interests, mineral leases, or other instruments or matters of record in the Official Real Property Records of Dallas County, Texas, effective as to all or any part of the Premises (and to the extent the same are valid, subsisting and in fact affect the Premises), or that would be apparent from an inspection of the Premises, or that would be disclosed by a current on the ground title survey of the Premises. Lessor has obtained a boundary survey of the Premises and has provided a copy to Lessee; however, Lessor makes no representations and gives no assurances as to the accuracy or completeness of same. Lessee agrees to satisfy itself in that regard. Lessee has been advised by Lessor to secure at or prior to the Effective Date, a policy of title insurance insuring its leasehold estate, and to satisfy itself as to the matters that would be disclosed by same. Lessor shall have no liability with respect to the boundary survey provided and shall have no obligation and bear no costs with respect to any title policy obtained or desired by Lessee. However, Lessor will reasonably cooperate with Lessee's efforts to obtain a leasehold title policy, including but not limited to execution and delivery of customary closing and curative documents, to the extent allowed by law and so long as there is no cost or liability to Lessor.

(b) This Lease does not cover any minerals in, on or under the Premises and Lessor shall remain free to lease, develop or otherwise exploit said minerals; provided, however, that Lessor and its successors and assigns will not have the right of ingress and egress over the surface of the Premises for the purpose of mining, drilling, storing, transporting, exploring, or developing the oil, gas, or other minerals, but Lessor and its successors and assigns shall be entitled to produce the oil, gas, or other minerals that are under the Premises from wells located and bottomed on other land or by means of one or more wellbores drilled directionally into the subsurface of the Premises from other land so long as the wellbore enters the subsurface of the Premises at a depth at least 2500 feet beneath the surface.

Section 6.02. Physical Condition. Lessee has been given satisfactory access to the Premises and all records in Lessor's possession relating to the Premises (including all records and permits concerning efforts to obtain TCEQ final closure/landfill cover approvals) for inspection prior to the Effective Date of this Agreement. Lessee has had ample opportunity to review any documents regarding the Premises in the possession of TCEQ. Lessee shall take possession of the Premises and accept the Premises for Lessee's use hereunder on an "AS IS, WHERE IS, WITH ALL FAULTS" condition and basis. Lessee acknowledges and

agrees that Lessor has not made, does not make, and specifically negates and disclaims any representations, promises, covenants, agreements, guaranties or warranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, as to, concerning or with respect to (1) the value, nature, quality, or condition of the Premises, including without limitation, the title, soil, hydraulics, zoning, platting, and utilities, (2) the income to be derived from the Premises, (3) the suitability of the Premises for any and all activities and uses which Lessee may conduct thereon, (4) the compliance of improvements located at the Premises (or their operation) with any laws, rules, ordinances or regulations of any applicable governmental authority or body, (5) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Premises, (6) the manner or quality of the construction or materials, if any, incorporated into improvements to the Premises, (7) the manner, quality, state of repair or lack of repair of the improvements made to the Premises, and (8) any other matter with respect to the Premises.

Lessee specifically acknowledges that the Premises include a portion of the South Loop 12 and Elam Landfill (the "Landfill") on the Simpkins tract (as generally shown on Exhibit A-1 attached hereto) Lessee further acknowledges (i) existence of a Notice of Violation ("NOV") on the Simpkins Tract and (ii) Lessor's ongoing work with the TCEQ, including work relating to the ground cover and collection of potential methane from the Landfill. Lessee further acknowledges that portions of the Premises are currently enrolled in TCEQ's VCP No. 2210 for the purpose of remediation of site conditions related to the former use as a landfill and obtaining regulatory closure. Lessor has not made, does not make and specifically disclaims any representations regarding compliance with any environmental protection, pollution or land use laws, rules, regulations, orders or requirements, including the existence in or on the Premises of Hazardous Substances.

Lessee further acknowledges and agrees that, having been given the opportunity to inspect the Premises, Lessee is relying solely on its own investigation of the Premises and not on any information provided or to be provided by Lessor and agrees to accept the Premises for use and waives all objections or claims against Lessor arising from or related to the Premises or for any Hazardous Substances, solid waste, or other materials located on it. Lessee further acknowledges and agrees that any information provided or to be provided with respect to the Premises was obtained from a variety of sources and that Lessor makes no representations as to the accuracy or completeness of such information. Lessor is not liable for or bound in any manner by any verbal or written statements, representations or information pertaining to the Premises, or the operation thereof, furnished by it or any real estate broker, agent, employee, servant, contractor, or other person.

ARTICLE VII DESIGN AND CONSTRUCTION

Section 7.01. Preliminary Design and Engineering Matters; Designation of Representatives; Other Construction Participants.

(a) As described in Section 6.01(a) above, Lessor has obtained a boundary survey and base map with topography and, if applicable, full constraint analysis of the Premises including property lines, easements and right-of-way alignments. The current base map and boundary survey ("Preliminary Mapping") have been provided to Lessee prior to the Effective Date. Lessor assumes no liability for the accuracy of the Preliminary Mapping provided to Lessee.

(b) From and after the Effective Date and prior to the Delivery Date, Lessor shall give Lessee and Lessee's agents, representatives, contractors and designees, upon prior notice to Lessor, access to the Premises in order to make such inspections, surveys, test borings, soil analyses and other tests thereon as Lessee shall deem advisable. The cost and expenses of Lessee's investigation shall be borne solely by Lessee. Lessee shall indemnify and hold Lessor harmless for any property damage or injury caused by Purchaser in connection with such inspections and tests, and this provision shall survive the termination of this Agreement.

(c) Within ten days after the Effective Date, Lessor and Lessee shall each appoint a representative to act on its behalf in connection with construction matters as provided in Section 7.06 below. Lessee may engage a third-party to manage the development of the Project (the "Development Manager"). Lessee may also, or alternatively, engage a third-party to act as a construction manager for the Project (the "Construction Manager"). Lessee, Development Manager or Construction Manager shall engage the Project Engineer (as provided in Section 7.05 below).

Section 7.02. Lessor Improvements.

(a) *General.* Subject to the Lessor Funding Limit (defined below), Lessor will perform, cause to be performed and/or fund Preliminary Mapping, other surveying, re-zoning and platting (including presenting such re-zoning and platting to City Planning Commission for consideration); landfill remediation; certain water, wastewater and other public infrastructure improvements; and other specified expenses that qualify as public works. Such public infrastructure improvements will include, but not be limited to, Highway 12 access to the Premises and the access way under Highway 12 connecting the north and south parcels of the Premises; improvements to the water main loop system from the Premises to the nearest existing or relocated water line and water and wastewater improvements; design and construction of Elam Road from Pemberton Hill Road to the Premises (including any required easements), intersection, and signal improvements; and other public works improvements supporting development of the Golf Course and trails. This work is detailed and described in **Exhibit C** (collectively the "Lessor Improvements").

(b) *Funding Limit.* Lessor does commit and has available an amount not to exceed \$12 Million ("Lessor Funding Limit") from Lessor's funds ("Lessor's Funds"), subject to the public procurement requirements noted below, for design, development and construction of Lessor Improvements. If at any time before or during design, development, or construction, the costs for the Lessor Improvements exceed the Lessor Funding Limit, so long as Lessee has been

provided a reasonable opportunity to review and approve the plans, specifications and contracts for such Lessor Improvements, Lessee shall be responsible for and pay any and all such additional costs. Lessor will notify Lessee of any anticipated overage as promptly as practicable and will undertake reasonable consultation with Lessee in a good faith effort to avoid as much overage as possible without compromising the Lessor Improvements; provided, however, Lessor's determination as to the necessity of any overage shall be final and conclusive. Notwithstanding any other provision of this Agreement, Lessor shall have no obligation to perform, provide, or pay for any Lessor Improvements or any portion of the Lessor Funding Limit amount unless and until the requirements of Sections 5.05 and 7.12 have been satisfied to Lessor's reasonable satisfaction, said sections being express conditions precedent to any obligation of Lessor with respect to the Lessor Improvements and payment of any portion of the Lessor Funding Limit amount. To the extent Lessor pays out any Lessor's Funds for the Lessor Improvements prior to the satisfaction of the conditions precedent herein state, it does so at its own risk that the conditions may not be satisfied and this Agreement may terminate. Such payment, however, shall not constitute or otherwise be deemed a waiver, acknowledgement of the satisfaction, or abandonment of said conditions and Lessor shall have no obligation to fund any further amounts unless and until the conditions are satisfied. Any amounts paid prior to satisfaction of the conditions shall nevertheless be counted against and applied to the Lessor Funding Limit.

(c) *Public Procurement Required.*

- (i) Lessee acknowledges that the Lessor's Funds to be used for Lessor Improvements supporting the Project (both on and off the Premises) are public funds. Consequently, to procure the construction contracts for any portion of the Lessor Improvements that are to be funded by the Lessor's Funds ("Publicly Bid Lessor Improvements"), unless statutory exemptions are specifically applicable, Lessor must comply with the public procurement procedures outlined in Sections 252.043(d-1) and 271.116 of the Texas Local Government Code. Lessee will require that Development Manager reasonably cooperate with Lessor to facilitate compliance with such requirements.
- (ii) Texas procurement law requires that no particular contractor be favored or given an undue advantage over other contractors at the commencement of the procurement process. Accordingly, any construction contractor who has been engaged to assist in the design, scheduling, or preliminary estimating on the project in any way shall not be eligible to submit a bid or proposal on any portion of the Publicly Bid Lessor Improvements.

(d) *Separate Plans And Specifications.* The parties anticipate that Lessor shall prepare the plans and specifications for bid or competitive sealed proposals and manage the construction work for all the Lessor Improvements, except as specifically designated on Exhibit C or as may otherwise be agreed in writing by Lessor and Lessee. With respect to any portion of the Lessor Improvements that are assigned by Lessor to Lessee or its designee for construction management, Lessee or such designee shall require that any construction plans and specifications prepared that include the Lessor Improvements be submitted to Lessor so that Lessor may

prepare and procure public bids for such Publicly Bid Lessor Improvements. The construction plans and specifications for the Publicly Bid Lessor Improvements shall be in a form acceptable to Lessor and delivered in a manner and time to allow Lessor a reasonable opportunity to review and approve such materials. Lessee shall require that the architectural or engineering firm engaged by Lessee or Development Manager prepare its plans and designs consistent with the agreed-upon scope of the Project and with due consideration of the amount of Lessor Funding Limit. In addition, Lessee will require such architectural or engineering firm to perform the Engineering Work (defined below) with respect to the Lessor Improvements it is administering in a manner that provides for alternates for nonessential elements of construction, so as to allow for reductions in the scope of construction in the event bids for the Lessor Improvements exceed the Lessor Funding Limit. If (i) all of the qualifying bids for the Lessor Improvements exceed the Lessor Funding Limit (an “Overbid Amount”), and (ii) Lessor and Lessee are unable to agree on changes in the Engineering Work that would eliminate the Overbid Amount, then, unless Lessee thereafter agrees in writing to pay or cause to be paid the Overbid Amount, this Agreement will terminate, in which event the parties shall have no further obligation hereunder.

(e) *Construction Manager; Payment Requests.* For the Publicly Bid Lessor Improvements, Lessor shall award the construction contract (the “Lessor Improvements Contract”) to the lowest bid proposer that is a qualified bidder as provided in this Section 7.02(e), and thereafter may, if Lessee has been given a reasonable opportunity to review and approve the plans, specifications and contracts, assign such contract to Lessee (or such other entity as Lessee may designate), or Lessee’s Construction Manager for all purposes, including inspection, supervision, testing, quality control, approval of shop drawings, utility coordination, obtaining utility clearances from all utility companies, staging and coordinating all utility-related work with the construction contractor, general coordination, and completion of all construction work. **Lessor shall not be responsible for any costs in excess of the Lessor Funding Limit.** Following such award and assignment, Lessee or the Construction Manager shall ensure that such Publicly Bid Lessor Improvements be completed in a timely manner (subject to force majeure), in accordance with the applicable Lessor Improvements Contract, including all final plans and specifications approved by Lessor.

If a contract for Lessor Improvements has been assigned to Lessee or its designee, Lessee shall require the Development Manager to prepare, in cooperation with the Project Engineer (hereinafter defined), all monthly and final payment requests for costs incurred in connection with the Lessor Improvements (a “Payment Request”) and to submit such Payment Requests to Lessor for review, processing and payment through Lessor’s Trinity Watershed Management Department.

Each Payment Request will include such supporting documentation as Lessor may reasonably require, including a break-out of the costs allocable to (i) work completed under the Lessor Improvements Contract and (ii) otherwise related to completion of the Lessor Improvements. All payments for Publicly Bid Lessor Improvements performed under the Lessor Improvements Contract shall be made by Lessor to Lessee, Lessee’s Construction Manager, or Development Manager, as applicable, from the funds appropriated for that purpose.

Lessor shall not be obligated to make any payment under a Payment Request unless Lessee or the Development Manager has certified that, based on the determination of the Project Engineer, (i) the services, goods or materials that are covered by such Payment Request have been satisfactorily completed or delivered, (ii) the information included in such Payment Request is true and correct to the best of his information and belief, (iii) the work or services have been measured and verified to be substantially in accordance with the Lessor Improvements Contract, (iv) that all fees and expenses in managing the Lessor Improvements Contract have been properly documented, and (v) that all Lessor Improvements Contract preconditions to payment have been met.

Lessor reserves the right to perform inspections, measurements or verifications of the estimates or work quantities as it deems necessary. Final payment to a construction contractor for the Publicly Bid Lessor Improvements done by it shall not be made until (i) all preconditions to final payment for the work set forth in such Lessor Improvements Contract have been performed, (ii) such Publicly Bid Lessor Improvements have been finally completed (as verified by Lessee's Designee, Lessee's Construction Manager, the Project Engineer, and Lessor's Designee) in accordance with the Lessor Improvements Contract, including the plans and specifications, and (iii) Lessor has accepted such Lessor Improvements.

Section 7.03. Construction Documents Provided To Lessor.

(a) *Copies To Lessor.* On Lessor Improvements being administered by Lessee, Lessee shall require the Development Manager to provide at least five (5) sets of construction documents to Lessor on or before the date of distribution of the documents to potential contractors. The general conditions for any contract for the construction of the Lessor Improvements shall be at a minimum substantially equivalent to: (1) City of Dallas General Conditions for Building Construction (hereinafter called the "General Conditions") as amended by Lessor and (2) Lessor's Standard Specifications for Public Works Construction (Fourth Edition, 2004), as amended (hereinafter called the "Standard Specifications"). Lessee shall require the Development Manager to provide Lessor with a set of approved reproducible drawings prior to commencement of construction of the Lessor Improvements covered thereby, signed and sealed by one or more registered professional architects or engineers licensed in the State of Texas, and approved by the Construction Manager. Any material changes to the final plans and specifications shall require prior written approval of Lessor. Lessee shall also furnish or cause to be furnished Lessor with complete as-built drawings of the Lessor Improvements administered by Lessee within sixty (60) days after construction is complete.

(b) *Ownership.* Any architectural drawings, renderings, plans and specifications for the Lessor Improvements are and shall be owned by Lessor. Any architectural drawings, renderings, plans and specifications for any improvements to the Premises or parts of the Project (including but not limited the Golf Course design) constructed by or on behalf of Lessee under this Lease are for use solely with respect to the Project and/or the specific improvements contemplated by this Agreement, and Lessor shall have and receive ownership of these documents contemporaneously with ownership of said improvements as provided in this Agreement. Lessee shall include or cause to be included provisions in the agreements related thereto whereby such items will be assigned, at Lessor's election, to Lessor, in the event this Agreement is terminated.

Section 7.04. All Other Funding From Lessee; Ability to Change the Scope of Project.

Lessee shall be solely responsible for all other costs of design, development, construction, operation, and maintenance for the Project, including the Golf Course and Lessor Improvements in excess of the Lessor Funding Limit. The total cost of the Project (including, but not limited to, finish-out and furniture, fixtures and equipment (“FF&E”), professional fees, testing, permit fees and contingencies) is currently estimated at approximately \$33,000,000 (which amount will be reduced by the amount by which the costs of the Lessor Improvements are less than \$12,000,000) (as the same may be reduced, the “Minimum Construction Budget”). Subject to the terms of this Agreement, the Project must be completed substantially in accordance with the Approved Conceptual Plans and the Minimum Construction Budget, and Lessee will make or will cause to be made improvements to the Premises of at least \$20,000,000 (not counting the Lessor Improvements). So long as (i) the Project will be completed substantially in accordance with the Approved Conceptual Plans and Minimum Construction Budget (with Lessee having discretion to make reasonable re-allocations of items within such budget), (ii) Lessee makes or causes to be made improvements to the Premises of at least \$20,000,000 and consistent with the successful completion of the Project, and (iii) material changes involving Lessor Improvements are not made without Lessor’s prior written, Lessee may make (or allow to be made) such other changes to plans, specifications, budgets, contracts, or agreements for the Project as Lessee may determine are in the best interest of the successful completion of the Project, but no such changes shall relieve Lessee of its obligations under this Agreement.

Section 7.05 . Project Design and Engineering.

(a) *General.* Lessee shall engage or shall require Development Manager to engage a registered professional engineering or architectural firm (the “Project Engineer”) to perform all other design, engineering, and architectural for the development and construction of the Project that has not previously been done by Lessor, including without limitation (collectively the “Engineering Work”):

- (1) preliminary design estimates, construction plans and specifications, along with other customary engineering services for the design and operation of the Project (including necessary golf-related infrastructure and fencing and screening for all maintenance buildings and support facilities and amenity structures) as generally described in **Exhibit B**;
- (2) the design of all on-site water lines and Golf Course irrigation needs, including pumping systems, ponds, internal irrigation systems and any other improvements required as a part of such systems; and
- (3) the fill plans (including tree mitigation plans) and construction plans and specifications for all the internal roadways and driveways, including all required information for applying for a fill permit and any environmental permits or other authorization from local, state, or federal environmental agencies, including but not limited to TCEQ and TCEQ authorizations and written instructions pursuant

to 30 TAC Chapter 330, Subchapter T and 30 TAC Chapter 350 (the VCP regulations).

Subject to Lessor's right to review and approve as to Lessor Improvements, all such design and engineering shall be the sole responsibility of Lessee. All design and construction shall conform to applicable City codes, ordinances, regulations, design criteria, building standards and specifications. Lessee shall be solely responsible for payment of all fees and costs to provide the Engineering Work (other than that applicable to Lessor Improvements and not exceeding the Lessor Funding Limit when combined with Lessor's other expenditures). No clause providing for binding arbitration shall be included in any Lessee contract for the Engineering Work.

(b) *Lessor Review And Approval of Plans.* Lessee shall submit plans and specifications, construction schedules, and budgets (preliminary and final) to Lessor for review and approval before performing any such activity and before Lessor advertises and bids those portions requiring public bidding and assigned to Lessee by Lessor for management; provided, however, with respect to any portions of the Project other than the Lessor Improvements such review shall be limited to conformance with the Approved Conceptual Plans and Minimum Construction Budget. Within fifteen (15) days after receipt of plans and specifications for approval, Lessor shall, in writing, either approve or disapprove the plans and specifications or, with respect to plans for the Lessor Improvements, inform Lessee of the additional time required to complete the review thereof. All material revisions to approved plans and specifications shall likewise be submitted to Lessor for prior written approval. Lessor's review of any plans or specifications is solely for Lessor's own purposes, and Lessor does not make any representation or warranty concerning the appropriateness of any such plans or specifications for any purpose. Lessor's approval of (or failure to disapprove) any such plans and specifications shall not render Lessor liable for same, and Lessee assumes and shall be responsible for any and all claims arising out of or from the use of such plans and specifications. Information provided to Lessor pursuant to this paragraph is or may be subject to the terms of Section 15.26 (without limiting the scope or generality of such section).

Section 7.06. Design and Engineering -- Additional Mutual Commitments.

(a) *Existing Easements.* Lessor and Lessee shall make reasonable good faith efforts and endeavor to coordinate development of the Project within existing easements in favor of Lessor or on the Premises to the extent reasonably practicable to facilitate the development while preserving and protecting the integrity of existing easements and the uses being made of same.

(b) *Joint Cooperation; Access For Planning And Development.* The parties agree to cooperate and coordinate with each other, and to assign appropriate, qualified personnel to the Project. Promptly following the Effective Date, Lessor and Lessee shall each designate a representative (the "Lessor Designee" and the "Lessee Designee", respectively) who shall be the principal contact and day-to-day decision-maker for such party for all matters related to the initial development of the Project. Each party shall be entitled to rely upon any decision made or consent or approval provided by the other's designee in connection with such construction matters; provided, however, this shall not apply to any action, decision, or authorization reserved to or within the purview of the Dallas City Council pursuant to this Agreement or applicable law.

Prior to the Effective Date, Lessee has been granted reasonable access to the Premises to facilitate planning and the preparation of plans and specification for the intended construction of the Project. Lessor will allow Lessee and its consultants' reasonable access to Lessor's records related to the Premises, during normal business hours, upon advance notice and scheduling with Lessor's designated personnel. On the same basis, Lessee will allow Lessor's assigned personnel reasonable access to non-privileged construction documents and plans developed by Lessee, its consultants and contractors, related to Lessee's obligation under this Agreement with respect to development and construction of the Project. Information provided to Lessor pursuant to this paragraph is or may be subject to the terms of Section 15.26 (without limiting the scope or generality of such section).

Section 7.07. Construction of the Project.

(a) *General Undertaking.* Subject to all laws and regulations and in accordance with the terms of this Agreement, Lessee shall be responsible for all material, labor, facilities, furniture, fixtures and equipment, signage, and any other activities necessary to begin and fully complete the construction of the Project. All work shall be performed in a good and workmanlike manner, substantially in accordance with the Approved Conceptual Plans and the Minimum Construction Budget, and otherwise in conformance with all applicable federal, state, and local laws, codes and regulations. Notwithstanding anything to the contrary herein, neither Lessor nor Lessee shall have any obligations with respect to construction or completion of the Project herein unless and until the Funding Commitment has been satisfied and the Construction Commencement Date has occurred. To the extent Lessee or any other party pays out any funds or incurs any expense prior to such events, it does so at its own risk that the conditions may not be satisfied and this Agreement could terminate.

(b) *Timing.* Lessee will use commercially reasonable efforts to satisfy all contingencies for construction commencement set forth herein and to start construction of the Project on or before **October 31, 2013**. Once construction has commenced, Lessee will, subject to force majeure, complete (i) the Project described in **Exhibit B** (other than the First Tee facilities contemplated in the First Tee Agreement) on or before **October 1, 2016**; and (ii) the First Tee facilities contemplated in the First Tee Agreement on or before six months after completion of the portion of the Project described in clause (b)(i) above.

(c) *Construction Contracts.* Subject to this Article 7, Lessee will have exclusive authority, control and rights in selecting, terminating and replacing the general contractors for the portions of the Project other than the Lessor Improvements. Lessee may require that Development Manager take assignment of certain of the publicly bid contracts as provided in Section 7.02(f) above and/or enter into (in its own name) and perform all contracts (both publicly and privately bid) necessary to complete the Project substantially in accordance with the Lessor Improvements Contract, the Approved Conceptual Plans and the Minimum Construction Budget. Without limiting the terms of Section 7.09 hereof, contracts entered into by Lessee for the design, development, and construction of the Project are subject to the following:

- (1) all such contracts shall require the contractor to use good faith efforts to abide by the City of Dallas Business Inclusion and Development policies for the completion of all Project improvements;
- (2) all such contracts shall contain language subordinating and subjecting such contract to the terms of this Agreement and exculpating Lessor from any obligations and liability thereunder;
- (3) all such contracts shall contain insurance requirements for coverages and limits not less than those which are customarily required by Lessor of its like contractors, naming Lessor and its officers and employees as additional insureds;
- (4) all such contracts shall contain language indemnifying Lessor and its officers, agents and employees against any costs or liabilities thereunder; and
- (5) all contracts shall be solicited based upon contractor qualification requirements sufficiently broad so as not to exclude minority contractors as a class, and general contract specifications sufficiently broad so as not to favor a single contractor.

(d) *No Lessor Liability.* Lessor shall have no liability for any claims that may arise out of the design or construction of the Project, and Lessee shall cause all of its contractors, consultants, and subcontractors to agree in writing that they will not look to Lessor for payment of any costs and valid claims associated with the Project except to the extent they constitute an approved Lessor Improvement and the Lessor Funding Limit has not been or will not be exceeded (cumulatively and as reasonably anticipated).

(e) *Protect Environmental Remediation Work.* Lessee shall at all times remain aware and ensure that all contractors are aware of the site remediation work related to the final closure/landfill cover of the applicable parts of the Premises and endeavor to minimize impacts on the Mitigation Area as provided in Section 2.02 above. If any such portion of the Premises is disturbed during Lessee's construction activities, Lessee shall remediate or cause to be remediated such damage in accordance with applicable regulations or any other successor agency, the U.S. Environmental Protection Agency ("USEPA") and any other local, state or federal authority or agency including the specific requirements of the TCEQ with respect to the then-applicable VCP and Subchapter T approvals for the Premises.

Section 7.08. Zoning and Platting; Permits And Other Approvals.

(a) *Zoning And Platting.* Lessor and Lessee shall reasonably cooperate with one another to obtain zoning, platting and subdivision approvals for the Premises as necessary for the Project. The parties acknowledge that Lessor, in direct consultation with Lessee, has taken the lead in securing zoning and plat approval for the initial phase of the Project; provided, however, Lessor assumes no liability for the accuracy, completeness or sufficiency of same. Lessee must satisfy itself in such regards. Lessee shall be responsible for obtaining and maintaining all development plans, permits, licenses, zoning and consents necessary for the ongoing operation and development of the Project and any other activities of Lessee on the Premises, except those

which have been expressly undertaken by Lessor as noted herein. Lessor cannot limit the discretion of the City Council, the City Plan Commission or any other regulatory bodies, but will make legally reasonable efforts to assist Lessee regarding any such matters.

(b) *Permits and Other Approval; Grants.* Lessee shall be responsible for obtaining, as and when required by applicable laws, ordinances, or regulations, all building permits, certificates of occupancy, permits, (including, if applicable, fill permits, notice of intent under storm water regulations promulgated pursuant to the Federal Clean Water Act, and other required permits), licenses, permissions, consents, and approvals (whether from government agencies or third parties, as applicable) in connection with construction, occupancy and uses of any improvements, and any repairs, replacements, or renovations to the Project. Upon request by Lessor's Designee, Lessee shall furnish Lessor evidence thereof. Lessor will use reasonable efforts to assist Lessee with and support requests for federal and state permits, grants or incentives for infrastructure, parks, trails, and other improvements which may benefit the Project and the neighboring areas of the City of Dallas or that would otherwise reduce costs for the Project.

(c) *Easements; Dedications; Great Trinity Forest Blvd Connector.* In order to develop the Premises for the Project, it may be necessary or desirable that (i) street, water, sewer, drainage, gas, power lines, setbacks lines and other easements or similar rights be granted or dedicated over or within portions of the Premises or (ii) existing streets, utility easements, setback lines or similar rights over or within portions of the Premises be vacated or abandoned. In addition, Lessor and Lessee agree that, as described in Section 7.02(a), a dedicated legal right of access from the Texas Department of Transportation ("TxDOT") and physical connection, across, over or under Great Trinity Forest Boulevard, of the northern tract of the Premises with the southern tracts of the Premises is desirable for the development and operation of the Project. During the term of this Lease, Lessor will cooperate with Lessee in obtaining such connection rights from TxDOT and in such other efforts, including but not limited to joining with Lessee in executing and delivering appropriate documents and pursuing necessary abandonment and other processes; provided, however, Lessee shall bear all responsibility for and cost of such efforts and Lessor makes no guaranty or warranty regarding the successful outcome of such efforts. Notwithstanding the foregoing, Lessee acknowledges that such efforts may require and be subject to action by Dallas City Council, Dallas City Planning Commission or other city-bodies and that Lessor cannot guarantee approvals or any particular outcome before said bodies. The outcome of such actions is Lessee's risk. In no event does Lessor have any obligation to acquire or subject to Lessee's use property rights beyond the Premises or relinquish title as to any part of the Premises or other lands owned by it.

Section 7.09. Lessor-Required Bonds; Insurance; Mechanic's Liens.

(a) For the construction of the Lessor Improvements that have been assigned to Lessee or its designee, Lessee shall require the construction contractor(s) for such work to furnish performance and payment bonds issued in accordance with Chapter 2253, Texas Government Code, as amended, by a corporate surety or sureties licensed to issue surety bonds in Texas, authorized to do insurance business in Texas, listed on the United States Treasury List of Sureties Authorized to Issue Bonds for Federal Jobs, and otherwise acceptable to Lessor. The

bonds shall be issued on forms substantially similar to those attached hereto as **Exhibit D** or otherwise approved by Lessor, and shall name Lessee and Lessor as joint obligees. The bonds shall be maintained during the full term of the applicable construction contract. Lessee shall require the construction contractor to secure a replacement surety in the same manner as required above in the event the original surety becomes insolvent.

(b) For any other construction contracts for the Project, Lessee agrees that it will not pay or allowed to be paid any statutory retainage amount unless and until final completion of the work has occurred and Lessee is in receipt of releases or waivers of liens from the construction contractor and any subcontractors used.

(c) In addition, Lessee agrees to require the construction contractor on any improvement project under this Agreement to provide evidence of insurance in types, coverages and amounts as would be carried or required by a prudent property owner for similar projects in the Dallas, Texas area (or otherwise be included within a Project-insurance program acceptable to Lessor).

(d) NOTHING HEREIN IS INTENDED TO PERMIT OR ALLOW ANY CONTRACTOR OR SUBCONTRACTOR OF LESSEE OR ANY OTHER PERSON OR ENTITY TO HAVE, CLAIM OR ASSERT ANY TYPE OF MECHANIC'S OR MATERIALMEN'S LIEN AGAINST THE PREMISES, LESSOR'S INTEREST IN THE PROJECT, ANY IMPROVEMENTS CONSTRUCTED THEREON, OR THIS LEASE. Lessee will not permit any claim of lien made by any mechanic, materialman, laborer, or other similar liens to stand against the Premises (including any improvements, whether the property of Lessor or Lessee hereunder) in connection with any construction, improvements, maintenance or repair thereof made by Lessee or any contractor, agent or representative of Lessee. Lessee shall cause any such claim of lien to be fully discharged or bonded no later than thirty (30) days after receiving written notice of the filing thereof.

Section 7.10. Conditions To Commencing Construction. Notwithstanding anything herein to the contrary, all of the following must occur prior to the commencement of construction of the Project (the "Construction Conditions"):

- (1) approval by Lessor and Lessee of any substantial changes to or deviation from the Approved Conceptual Plans that are attached as Exhibit B hereto;
- (2) all building permits, zoning, certificate of appropriateness, and other approvals required for the commencement of construction (including any necessary VCP and Subchapter T approvals) shall have been obtained or subject only to administrative conditions for issuance;
- (3) confirmation, acceptable to Lessor, of compliance with the provisions of Section 5.05 (User Agreements) and Section 7.12 (Financial Ability);
- (4) Lessor and Lessee shall each have been provided with true and correct copies of any Lessor Improvements construction contracts that are to be administered by Lessee or its designee and that were entered into prior to such date;

- (5) Lessor shall have been provided true and correct copies of all policies (and endorsements, if any) of required insurance with respect to the Project; and
- (6) all general contractors under Project construction contracts that have been entered into prior to the Effective Date shall have provided (to the extent allowed by law) lien waivers with respect to the Lessor Improvements.

Upon confirmation of satisfaction of these contingencies, Lessor and Lessee shall jointly execute a notice to commence construction and the date of such execution shall be the “Construction Commencement Date”. Lessee shall not commence construction without receiving said notice.

IN THE EVENT THAT LESSOR AND LESSEE HAVE NOT AGREED IN WRITING THAT ALL OF THE CONSTRUCTION CONDITIONS HAVE BEEN SATISFIED (UNLESS WAIVED IN WRITING BY LESSOR AND LESSEE) BY WITHIN 60 DAYS AFTER THE FUNDING COMMITMENT HAS BEEN SATISFIED IN ACCORDANCE WITH SECTION 3.04 AND SECTION 7.12, THEN LESSOR AND LESSEE SHALL, NO LATER THAN FIVE BUSINESS DAYS AFTER SUCH DATE, EACH DELIVER TO THE OTHER A WRITTEN NOTICE SETTING FORTH THE CONSTRUCTION CONDITIONS THAT SUCH PARTY DOES NOT BELIEVE HAVE BEEN SATISFIED. IN THE EVENT THAT LESSOR AND LESSEE DO NOT SUBSEQUENTLY AGREE IN WRITING THAT ALL OF THE CONSTRUCTION CONDITIONS HAVE BEEN SATISFIED (UNLESS WAIVED IN WRITING BY LESSOR AND LESSEE) BY THE DATE THAT IS 90 DAYS AFTER THE FUNDING COMMITMENT HAS BEEN SATISFIED, THEN EITHER LESSOR OR LESSEE MAY TERMINATE THIS AGREEMENT BY PROVIDING WRITTEN NOTICE TO THE OTHER.

Section 7.11. Accounts. Lessee shall establish (or require Development Manager to establish) a construction account (“Construction Account”) at a federally insured depository institution within the city limits of Dallas, Texas for the purpose of accumulating the Funding Commitment for all development and construction work on the Project for which payment and performance bonds are not required hereunder. Such account shall be established solely for the benefit of the Project and to ensure that sufficient funds are available to complete the Project. As a condition to satisfying the Funding Commitment, Lessee, the financial institution that is the holder of the account and Lessor shall enter into such arrangements as may be reasonably required by Lessor to make the funds in the Construction Account accessible by Lessor for the payment of Lessee’s construction and development obligations under this Lease, in the event Lessee fails to make such payments. During construction of the Project, Lessee shall furnish to Lessor a quarterly report of the amount of the costs of the Project paid from such account, and Lessor, shall have, upon written notice to Lessee, the right to audit such account. Information provided to Lessor pursuant to this paragraph is or may be subject to the terms of Section 15.26 (without limiting the scope or generality of such section).

Section 7.12. Financial Ability Of Lessee. Before Lessor has any obligation to begin any construction activity on the Premises or expend any Lessor Funds, Lessee shall provide evidence reasonably satisfactory to Lessor that the Construction Account has not less than Twenty Million

Dollars (\$20,000,000.00) in cash on deposit available solely for the payment of costs of the Project development. In lieu of cash, Lessee may provide an irrevocable letter of credit satisfactory to the Lessor in an amount of not less than Twenty Million Dollars (\$20,000,000.00) for the costs of the Project. Although Lessor has proceeded with the bidding process for certain of the Lessor Improvements and has scheduled the contract award for a portion of the Lessor Improvements for City Council approval on May 22, 2013, the Lessor may, at its sole discretion, hold such bids until Lessee has demonstrated its ability to satisfy the Funding Commitment. If the Lessee is unable to satisfy the Funding Commitment by the Funding Deadline, Lessor may cancel any such contracts for the Lessor Improvements and, subject to the terms of Section 3.04, terminate this Agreement. Except as may be expressly permitted herein, in no event shall Lessee allow any liens to be affixed to any portion of the Premises, the improvements made at the Premises, the equipment installed, any interest in this Agreement, or the deposited funds/Construction Account. No expenditure of Lessor Funds by Lessor prior to the satisfaction of this condition shall constitute a waiver of this condition nor require additional expenditures of Lessor Funds unless and until the condition is satisfied. Any such early expenditure shall nevertheless count towards the Lessor Funding Limit.

Section 7.13. Lessor Right To Observe And Inspect. Lessor shall have the right (but not the obligation) to observe and inspect work performed by Lessee or any contractor(s) on the Project. Lessor inspections shall be coordinated with Lessee's contractor(s), construction manager or engineer or through Lessee's Designee. Lessor shall perform such inspections in an expeditious manner calculated to minimize inconvenience and delay. Lessee will require the Development Manager or Project Engineer to be accessible to Lessor's Designee at all reasonable times, and shall require that the Development Manager provide sufficient on-site representatives, construction administrators and/or inspectors to assure that the Project will be completed in accordance with the Approved Conceptual Plans. Lessor shall be entitled to receive notice of and for the Lessor's Designee to attend all construction meetings involving the Project at which a representative of Lessee shall be present, and, if requested, shall be provided with copies of minutes of all such meetings by Lessee's engineer or construction manager regardless of Lessor's presence.

Section 7.14. Site Security And Securing Construction Materials. Lessor shall have no responsibility for construction site security, worker health and safety matters, and securing construction tools, equipment, supplies and materials; provided, however, the foregoing is not intended to limit or reduce any police, fire or other safety services generally provided by Lessor in the City of Dallas.

Section 7.15. Lessor's Good Faith Effort Plan/Precertification Process. For all Project improvements, Lessee shall make good faith efforts to comply with the M/WBE (defined below) process and goals established by Lessor in its Business Inclusion and Development Plan and with Lessor's Fair Share goals. Specifically, Lessee's goals shall be 25% participation by M/WBE firms for all construction work including those contracts that are privately bid and related to the Project. Lessee shall award the contracts for the construction of the Project to the best value proposer as reasonably determined by Lessee through a private bid process established and administered by Lessee. Before bid solicitation, Lessor's Business Development and Procurement Service staff, Lessee's Designee and the Development Manager will solicit

involvement in the bid process by minority/women business enterprises (“M/WBE”). Staff will hold informational meetings and Lessee shall require Development Manager to provide the following: (1) an overview of the bid to the prospective contractors and (2) an opportunity for prospective contractors to meet one-on-one with the Development Manager.

Section 7.16. Construction Field Changes. All “material” (as that term is defined in Section 8.11 below) field changes that affect (i) all or any portion of the Lessor Improvements or (ii) substantial conformity of the Project to the Approved Conceptual Plans or would result in a proposed decrease in the overall amount of the Minimum Construction Budget (with respect to the remainder of the Project) shall be submitted for approval in advance to Lessor’s Designee. Within fifteen (15) business days after receipt of plans showing material field changes for approval, Lessor’s Designee shall either approve, disapprove or advise Lessee that more time is needed to review the change, or that the review and approval of another government body or agency, including but not limited to TCEQ, is required in connection with such change. If, within the fifteen (15) business day period, Lessor’s Designee fails either to disapprove the proposed material field changes or to advise Lessee that more time is needed to review the change, Lessor shall be deemed to have approved the plans and specifications for such proposed material field changes as submitted. If Lessor’s Designee disapproves such change, Lessor’s Designee, Lessee’s Designee and Development Manager will attempt in good faith to resolve expeditiously such disapproval.

Section 7.17. Construction And Materials Testing. Any construction and materials testing of the Project, as may be agreed to by Lessor and Lessee, shall be performed by certified independent laboratories approved in advance by Lessor’s Designee. Lessee shall require Development Manager to furnish Lessor’s Designee with certified copies of the results of all tests. Lessee shall have the right to submit to Lessor a list of certified independent laboratories for advance approval, and Lessor agrees to notify Lessee promptly whether any laboratories on this list are not approved.

Section 7.18. Repair and Restoration During Construction. During construction, Lessee shall require that all damage to any property or facilities of Lessor or any other entity caused by any acts or omissions of Lessee, its engineers, construction manager, contractors and subcontractors, be timely repaired, replaced or corrected to Lessor’s reasonable satisfaction. All costs thereof shall be borne by Lessee, Development Manager or its contractors, and shall not be a charge against Lessor. If Lessee fails to begin timely repair, replacement or correction of such damage (or to require such action) within 30 days after the occurrence of such damage, Lessor may undertake same, but shall not be obligated to so act. The reasonable cost of such repairs, replacements or corrections made by Lessor on account of damage caused by such acts or omissions of Lessee, its engineers, construction manager, contractors and subcontractors, shall be reimbursed to Lessor by Lessee.

Section 7.19. Lessor’s Governmental Authority Not Impaired. Notwithstanding any term of this Agreement, Lessee recognizes and acknowledges the authority of Lessor under its charter, ordinances and state law to exercise its regulatory and police powers to protect the public health, safety, and welfare. Such powers extend to Lessee’s, Development Manager’s or their respective contractor’s construction activity on the Premises, and Lessee’s, or Operator’s (hereinafter

defined) operation of the Project. Nothing herein is intended to limit Lessor's authority to take appropriate enforcement and regulatory actions to provide such protection.

Section 7.20. Lessor Inspection Upon Substantial Completion; Final Completion. Subject to the terms of this Agreement, Lessee shall perform the work contemplated by this Agreement or cause it to be performed in a good and workmanlike manner and in compliance with the applicable Lessee's plans and specifications and the Approved Conceptual Plans, as approved herein, and all applicable building and zoning codes and other legal requirements including but not limited to VCP and Subchapter T approvals from TCEQ. Upon substantial completion of the Lessor Improvements administered by Lessee, Lessor shall review, comment on and approve the punch list, and any items reasonably identified by Lessor shall be added to the punch list at Lessor's request. After (1) the punch list items on the Lessor Improvements are performed to meet plans and specifications, (2) Lessor receives certification of final completion of the remainder of the Project by the Project Engineer or the Development Manager that is in a form and of a substance reasonably acceptable to Lessor, (3) certificate of occupancy or other similar documents have been issued to certify compliance with applicable City ordinances for the various components of the Project, and (4) satisfactory documentation that Lessee has expended or caused to be expended not less than the \$20 Million committed by it to developing the Project, Lessor shall issue a letter of final acceptance, confirming completion of construction of the Project. Except as otherwise provided in this Agreement, any Lessor Improvements that are public infrastructure and not part of the Premises shall become the responsibility of Lessor, and Lessor shall, following acceptance of such Lessor Improvements, thereafter maintain and repair such facilities as public infrastructure in accordance with applicable City of Dallas standards. Notwithstanding the foregoing, after completion of construction of the raw water lines, pumps, and related facilities identified as and contemplated by Item 11 in Exhibit C, Lessee shall be responsible for any and all operation and maintenance of said lines, pumps, and facilities during the term of this Lease. Lessor shall at all times have the right to allow other users to connect to and utilize said lines, pumps, and facilities (subject to available reasonable capacities); provided, however, Lessee shall not be responsible for said connection lines, if any. Lessee and any other users will be separately metered and must enter into a raw water contract with Lessor for their respective raw water usage. It is anticipated that such other users may be allocated and charged for additional electricity necessitated by their connection and Lessor and Lessee will cooperate in establishing a reasonable mechanism for same. The parties acknowledge that the neighboring Audubon Center is an anticipated "other user" and the lines, pumps, and facilities to be constructed per Item 11 in Exhibit C as constructed are intended to also accommodate the Audubon Center's use. Lessor shall provide reasonable rights of access for Lessee's operation and maintenance to the lines, pumps, and facilities. In all other events, any warranty obligations of the contractor(s) or obligations to correct defective work shall not, by such acceptance, become the responsibility of Lessor. Lessee or its construction manager shall, upon request of Lessor, provide Lessor with copies of all building systems, training, operation, and maintenance manuals for the Project.

Section 7.21. Fee Simple Title To Lessor. The parties acknowledge that fee simple title to the Premises and the Lessor Improvements when made thereto during the pendency of this Agreement shall automatically vest in Lessor without any further action by either party hereto, free and clear of all liens and other encumbrances arising by, through or under Lessee, other than

the leasehold interest created by this Agreement and subleases permitted hereunder, and Lessee agrees to take no action before, during or after construction that would prejudice Lessor's clear fee simple title. Any other fixtures or improvements to the Premises shall be and remain the property of Lessee, or any sublessee, as applicable, until the expiration or earlier termination of this Lease, at which time fee simple title to such fixtures or improvements shall automatically vest in Lessor without any further action by either party hereto.

Section 7.22. Fixtures, Equipment, And Personal Property. Any personal property, moveable fixtures, artwork and equipment used in the conduct of activities by Lessee (as distinguished from fixtures and equipment affixed to the land or improvements) and placed by Lessee, its subtenants, contractors, agents, employees or invitees on or in the Premises, shall not become part of the real property, but shall retain their status as personal property ("personalty"). Such personalty may be removed at any time, so long as no damage is caused to the Premises by such removal and so long as such personalty was not publicly funded. Any permanent fixtures, equipment and improvements constructed, installed, or placed upon the Premises that cannot readily be removed without material injury or diminution in value to the Premises, shall be deemed to become part of the real property and shall, become the sole and exclusive property of Lessor, free of any and all claims of Lessee or any person or entity claiming by or through Lessee. In the event personalty that is permitted to be removed pursuant to this section is not removed from the Premises within ten (10) days following the termination of the Agreement, Lessor may treat said personalty as abandoned and retain the personalty and treat it as part of the Premises or have the personalty removed and stored or disposed at Lessee's expense. Lessee shall promptly reimburse Lessor for any damage caused to the Premises by the removal of personalty whether removal is by Lessee or Lessor or any cost or expenses incurred by Lessor for the storage or disposal of such personalty.

Section 7.23. Construction Warranties. Following completion of the Lessor Improvements the contracts for which were assigned to Lessee, Lessee shall formally assign to Lessor any interest of Lessee in and to all warranties and warranty obligations of the contractor(s) and equipment manufacturers relating to such improvements; provided, however, correction of defective work shall not by such assignment become the responsibility of Lessor, but shall (subject to Section 7.20 above) remain the responsibility of Lessee and its contractor(s). Lessee shall administer or cause to be administered said warranties during the Term of this Agreement.

Section 7.24. TCEQ, VCP No. 2210, COC for Certain Portions of the Premises. Lessee understands and agrees that the entirety of the Premises is currently enrolled in the TCEQ VCP No. 2210 for the purpose of obtaining regulatory closure by obtaining a conditional certificate of completion ("CCOC"). Lessor agrees that, on or prior to the Rental Commencement Date, Lessee, Development Manager and other parties who may acquire an interest as subtenant in or operator on the Premises prior to the issuance of the CCOC, may, at their cost and expense and subject to TCEQ's direction, be added as an additional applicant under VCP application No. 2210 if otherwise so allowed by said program. Lessee further understands that development of the Premises into the Golf Course may impact the current response action design for the final landfill cover with respect to the Landfill, including but not limited to course cover, contouring, and drainage. Lessee shall require that all Engineering Work comply with all applicable TCEQ rules and be consistent with Lessor's efforts to obtain a CCOC under TCEQ VCP No. 2210, as

provided herein. To the extent required under the VCP No. 2210, Lessor and Lessee have and shall continue to reasonably cooperate to coordinate all design, development, construction, and operation on the Premises with TCEQ to ensure compliance with all applicable TCEQ VCP regulations and the Texas Risk Reduction Program (“TRRP”) (TRRP - 30 TAC Chapter 350) regulations. In particular, to the extent not completed by Lessor as part of the Lessor Improvements, Lessee shall or shall cause Development Manager to:

(1) design and construct the golf course and ancillary facilities located on the Premises in accordance with all applicable TCEQ regulations, including those regarding VCP remediation, Subchapter T, and TCEQ guidance for Remedy Standard B response actions; and

(2) coordinate all design and construction with Lessor’s environmental consultant and the City’s Office of Environmental Quality to ensure: (i) the development design is consistent with the RAP, dated March 7, 2013, written by Terracon Consultants, Inc. and submitted to TCEQ (and any TCEQ-approved revisions to the RAP) and TCEQ’s requirements for Remedy Standard B TRRP response actions; and

(3) comply with the design and specifications submitted in the approved RAP, and ensure that any modifications to the design or specifications are approved by Lessor and TCEQ prior to implementation as may be required by law; and

(4) reasonably cooperate with the City and its consultant to prepare and receive TCEQ approval for the Response Action Completion Report (“RACR”) after construction of the Project is completed; and

(5) prepare, and send to City for review and approval, annual Post Response Action Care Reports (“PRACRs”) after RACR approval, which shall be submitted to TCEQ after City review and approval; and

(6) ensure that all future Project operations comply with the Post-Closure Care and Monitoring Program outlined in the RAP and any TCEQ-approved RACR; and

(7) conduct (or if requested by Lessor, allow Lessor to conduct all or part of) the post-closure care and monitoring activities in accordance with the Post-Closure Care and Monitoring Program agreed upon with the TCEQ; and

(8) complete all actions necessary (and in compliance with applicable TCEQ regulations) to obtain a CCOC under the VCP for VCP No. 2210, ensure that the CCOC is obtained, and ensure compliance with the terms of the CCOC for the duration of this Agreement.

(9) conduct cap inspections as required in the April 3, 2013 letter from Mark R. Riggle, P.G., of TCEQ, to Lori Frauli Trulson, P.G., REM, approving the RAP, unless otherwise directed by the City and TCEQ.

In the event Lessor's consent or approval is required with respect to any of the foregoing items or the items set forth in Section 7.25 or Section 7.26 below, such consent or approval shall not be unreasonably withheld, conditioned or delayed.

Section 7.25. Compliance With MSW Subchapter T Regulations. It is the intent of the parties to this Agreement that all of Lessee's work and operations on the Premises shall be conducted in accordance with applicable TCEQ regulations, including but not limited to TCEQ Subchapter T regulations (30 TAC § 330, Subchapter T) pertaining to the development of properties over closed Municipal Solid Waste ("MSW") landfills. Lessor and Lessee shall reasonably cooperate and cause to be prepared the TCEQ Subchapter T plans, including the portion of the site remediation plans related to the final closure/landfill cover for those applicable portions of the Premises, in coordination with the City's Office of Environmental Quality. In particular, Lessee shall design and construct the portions of the Project that will be located over the closed landfills on the Premises or in the vicinity of the closed landfills where methane gas has the potential to be present in accordance with the applicable Subchapter T regulations, and also consistent with the Subchapter T Authorization Request (30 TAC § 330.960), Simpkins Redevelopment Project, Closed Elam and South Loop Landfill Sites, Dallas, Texas, prepared by SCS Engineers for the City of Dallas, dated March 8, 2013, and submitted to TCEQ, along with any subsequent revisions or additional tasks approved or required by TCEQ (unless otherwise authorized by the City). In addition, Lessor and Lessee shall cooperate to cause to be prepared (subject to prior review and approval of the City) and submit to TCEQ for approval an engineer's report, as required by TCEQ in the April 11, 2013 letter from Dwight G. Russell, P.E., of TCEQ, to Lori Frauli Trulson, P.G., REM, acknowledging the City's pending request to disturb the final cover of the South Loop and Elam Landfill.

Section 7.26. Methane Mitigation Systems. Lessee acknowledges and agrees that waste cells in the Landfill within the Premises may be actively generating methane. Consequently, in conjunction with construction of any buildings on the Premises, Lessee shall retain or cause to be retained a qualified engineer to evaluate said situation in order to evaluate and make recommendations as to which methane mitigation approach (vapor barrier with passive venting, interceptor trench, or other commercially reasonable system from time to time) would be most practicable (in light of the proposed improvements and their intended use). Lessee shall submit or cause to be submitted such mitigation plans for Lessor's review and approval prior to any building construction, which approval shall not be unreasonably withheld, conditioned or delayed. All sublessees constructing buildings on the Premises shall be advised of and comply with this section and also Subchapter T and any TCEQ approval or comment letters pursuant to Subchapter T.

Section 7.27. Election to Discontinue Project. If, during the course of construction of the Golf Course Lessee discovers or learns of any condition in, on or about the Premises (including, without limitation, the discovery of any environmental condition on the Premises that had not previously been known, or could have been known with the exercise of reasonable due diligence, to Lessee) that Lessee reasonably determines (i) would cause the estimated costs to complete the Golf Course and the Lessor Improvements to exceed by more than \$3,000,000 the then-projected costs of such work or (ii) would make the construction or operation of the Premises as a championship golf course impossible or unfeasible, then Lessee may, upon 30 days written

notice to Lessor elect to discontinue the Project, in which event Lessee shall, at its cost and expense, in a good and workmanlike manner, promptly restore the Premises to a safe and attractive condition (including but not limited to restoring any disrupted landfill caps, etc.), re-assign or cause to be re-assigned to Lessor any Lessor Improvements contracts being administered by Lessee or its Development Manager, pay all bills and other amounts owed with respect to Lessee's activity on the Project prior to termination, and upon completion of such restoration, this Lease shall terminate, and the parties shall have no further rights or obligations hereunder.

ARTICLE VIII OPERATION OF THE GOLF COURSE

Section 8.01. Lessee's Management And Operation Of The Premises. From and after the completion of the Project improvements (including the Lessor Improvements), Lessee shall do or cause to be done all things and take or cause to be taken all actions necessary and appropriate for the continuous and ongoing operation, maintenance and management of the Project and Premises, including without limitation, major structural repairs, the post-closure care and monitoring of the Landfill, capital improvements for the Project and its facilities including, without limitation, all fencing, screening, buildings, lighting and fixtures, irrigation and janitorial and landscaping services in accordance with this Agreement. **Lessor shall have no obligation whatsoever to fund or contribute to any operating or maintenance expenses or activities or any future capital improvements for the Project.** Without limiting the generality of the foregoing, Lessee shall, at its expense:

- (1) provide all maintenance and repair of all components, equipment, facilities and improvements for the Project and the Premises;
- (2) be responsible for any unique, specialized or differing utility, parking, traffic control, and irrigation requirements that Lessee may have;
- (3) pay all management, maintenance, repair, and operating expenses relating to the Project and the Premises, including without limitation, all costs of grounds maintenance and irrigation;
- (4) secure and maintain any and all utilities necessary, appropriate and adequate to the operation of the Project and the Premises, including but not limited to water, wastewater, electricity, gas, solid waste disposal, storm water disposal and drainage, and telecommunication, and in no event shall Lessor in its capacity as lessor be liable to Lessee for loss or disruption of any such utility services;
- (5) commence, defend and settle in good faith such legal actions or proceedings concerning the management and operation of the Project and the Premises as are necessary or required in the opinion of Lessee;

- (6) equip, employ, pay, supervise and discharge all personnel or contractors that Lessee determines to be necessary for the management, operation and maintenance of the Project and the Premises;
- (7) provide reasonable screening of all maintenance buildings/areas that are in view of the Trinity Audubon Center;
- (8) maintain the Premises and all improvement and facilities located thereon, in a good, safe, efficient, attractive, and sanitary condition at all times, normal and ordinary wear and tear excepted, and in a manner consistent with highest industry standards and practices;
- (9) maintain or cause to be maintained all necessary licenses, permits and authorizations for the operation of the Project and the Premises;
- (10) maintain any and all landfill cap area on the Premises in accordance with applicable TCEQ regulations and the terms of this Agreement;
- (11) ensure that all future Project operations comply with the Post-Closure Care and Monitoring Program outlined in the RAP and RACR, including maintenance and protection of the structure and integrity of landfill gas wells, groundwater monitoring wells, and other similar structures that exist or may exist in the future on the Premises ;
- (12) conduct cap inspections and report to TCEQ as required in the April 3, 2013 letter from Mark R. Riggle, P.G., of TCEQ, to Lori Frauli Trulson, P.G., REM, approving the RAP, unless otherwise directed by the City and TCEQ;
- (13) fund and conduct the post-closure care and monitoring activities in accordance with the Post-Closure Care and Monitoring Program agreed upon with the TCEQ (including, without limitation methane, groundwater and cap inspection monitoring), and, additionally, comply with the terms provided in **Exhibit F** relating to Hazardous Materials (provided, however, Lessor may elect, upon written notice to Lessee, to assume responsibility to conduct the methane and groundwater monitoring, in which event Lessor shall have no further liability for such activities, unless or until Lessor notifies Lessee);
- (14) provide security for the Project and the Premises, including any security systems and the monitoring of such systems;
- (15) notify Lessor of and, subject to Lessor's demand and approval, respond to any regulatory inquiries regarding the former operations of the Landfill;
- (16) furnish to Lessor the reports and other information concerning the management, maintenance, use and operation of the Project set forth on Section 8.12 below as may be reasonably requested from time to time by Lessor;

- (17) subject to force majeure, operate the Project in a continuous, consistent, and uninterrupted manner and not allow the closure of any substantial facility comprising a part of same (provided, however, the foregoing shall not prevent the periodic closure of some or all of the Premises, including the Golf Course, for periodic course maintenance, repair, capital improvements, re-design and re-seeding); and
- (18) operate the Project and all activities on the Premises in a safe, efficient and professional manner consistent with the highest industry standards and procedures.

Section 8.02. User Agreements.

(a) Lessee shall perform or require Operator to perform in a commercially reasonable and prudent manner under the User Agreements, enforce such documents, and make all commercially reasonable efforts to maintain and continue such contractual relationships during the term of this Lease.

(b) Subject to any applicable requirements with respect to the Board of Governors set forth in Schedule 1.02(b) and Section 8.02(e) below, Lessee may modify or amend the terms of any User Agreement in Lessee's discretion. WITH RESPECT TO ANY PROPOSED AMENDMENT OF A USER AGREEMENT THAT IS DESCRIBED IN SECTION 8.02(e), ANY SUCH AMENDMENT WILL BE SUBJECT TO THE PRIOR WRITTEN APPROVAL OF LESSOR (WHICH APPROVAL SHALL NOT BE UNREASONABLY WITHHELD, DELAYED OR CONDITIONED). THE DETERMINATION OF THE BOARD OF GOVERNORS WITH RESPECT TO SUCH AMENDMENT SHALL NOT BE BINDING UPON LESSOR.

(c) On or before the expiration of the initial minimum term of any User Agreement, Lessee shall endeavor and make all commercially reasonable efforts to enforce, maintain and continue such relationship, or, failing same, use commercially reasonable efforts to secure similar type arrangements throughout the term of this Lease.

(d) The User Agreements shall require the users to promptly provide to Lessor copies of any notices of default or other similar type communications provided to Lessee.

(e) Lessor has the right to approve (with such approval not to be unreasonably withheld, delayed or conditioned), and Lessee shall not make, without such approval, any proposed amendments with respect to User Agreements that is a Material Amendment as described on Schedule 8.02(e) attached hereto and incorporated herein (each, a "Material Amendment").

(f) In order to enable Lessor the ability to consider any proposed Material Amendment described in this Section 8.02(e) above, Lessee shall (x) with respect to a proposed Material Amendment to either the SCD Agreement or the First Tee Agreement, provide Lessor with written notice of such proposed amendment, and Lessor for a period of 30 days after receipt of such notice, shall be entitled to review at Lessee's office during normal business hours such

proposed amendment for compliance with the requirements of this Lease, and (y) provide Lessor for its retention a copy of any proposed Material Amendment to the SMU Agreement. Information provided to Lessor pursuant to this Section 8.02 is or may be subject to the terms of Section 15.26 (without limiting the scope or generality of such section).

Section 8.03. Lessor Access. Lessor reserves and shall have the right to enter and inspect the Premises during normal business hours to monitor and ensure compliance with the terms of this Agreement, to monitor and assess any tree mitigation work and to monitor and assess the ongoing protection of the Landfill closure (or at any time in the event of an emergency) and shall endeavor to not unreasonably interfere with the operations of the Premises.

Section 8.04. Parking And Access. Lessee shall be responsible for on-site traffic and parking related to and supporting normal operations of the Golf Course. Lessor and Lessee shall cooperate in good faith to develop traffic management and parking plans to facilitate the ingress and egress of traffic to and from and parking for special events at the Golf Course. Lessor shall make reasonable good faith efforts to cooperate to make other Lessor-owned or –controlled properties available for parking for tournaments and other special events at the Golf Course; provided, however, Lessor shall not be obligated to incur any cost or expense related to same and does not commit to any specific availability of any such parking. In no event shall Lessee charge for parking on Lessor-owned or –controlled properties (other than the Premises) without the prior written consent of Lessor.

Section 8.05. Golf Course Public Play.

(a) Lessee shall require that the Lessee or Operator develop and implement fair and reasonable usage rules and scheduling procedures to ensure that the Golf Course will be available for charity tournaments, educational and youth programs and other public play to meet the following test for each calendar year during which the Golf Course is in operation during the Term (the “Public Play Requirement”):

(i) The following definitions shall apply to the Public Play Requirement:

(A) The term “Public Play Round” means any round of golf played at the Golf Course by an individual who is not (I) a member (or accompanying guest) of an SMU intercollegiate golf team; (II) a member (or accompanying guest or Relative) of Lessee; (III) a participant (or accompanying guest) in the First Tee program; or (IV) a participant/competitor in any professional (including but not limited to the Byron Nelson Championship) or intercollegiate tournament. Notwithstanding the parenthetical in clause (II) above, the term Public Play Round includes a round of golf at a charitable or corporate golf tournament or other charitable or corporate event played by an individual that is not listed in any of clauses (I)-(IV) above, even if a member of Lessee is included in the pairing in which such individual is playing.

(B) The term “Denominator Round” means the sum of (I) any Public Play Round; and (II) any other rounds of golf played at the Golf Course by other than (i) a member (or accompanying guest) of an SMU intercollegiate golf team, (ii) a participant (and accompanying

guests) in the First Tee program, or (iii) a participant/competitor in any professional (including but not limited to the Byron Nelson Championship) or intercollegiate tournament.

(C) The term “Carryover Round” means, for any calendar year, the number of Public Play Rounds in excess of the minimum necessary for condition (A) below of the Public Play Requirement to be met for such calendar year.

(D) The term “Specific Public Play Round” means a round of golf played or available for play at the Golf Course (I) by an individual who is a resident of the City of Dallas and is not a member of Lessee (or accompanying guest) and (II) that is available to the general public through a lottery system or first-response system (or other similar system). With respect to Specific Public Play Rounds, the green fee and other charges shall be comparable to such fees the Golf Course generally charges non-accompanied guests of members.

(E) The term “Specific Carryover Round” means, for any calendar year, the number of Specific Public Play Rounds in excess of the minimum necessary for condition (B) below of the Public Play Requirement to be met for such calendar year.

(F) The term “Relative” means, with respect to an individual, relations to the third degree of consanguinity and the second degree of affinity.

(ii) The Public Play Requirement is met, for a particular calendar year during which the Golf Course is in operation during the Term, if each of the following two conditions are met for such year: (A) the sum of (I) the number of Public Play Rounds during such calendar year, plus (II) the number of Carryover Rounds from the immediately preceding calendar year *equals or exceeds* twenty-five percent (25%) of the number of Denominator Rounds for such calendar year and (B) the total number of Specific Public Play Rounds for such calendar year plus the Specific Carryover Rounds from the immediately preceding calendar year *equals or exceeds* 300. If either component parts A or B of the Public Play Requirement is not met in any particular calendar year, then the deficiency must be made up by like-kind rounds in the immediately following year. The rounds used to make up said deficiency shall not be counted as Public Play Round or Specific Public Play Round, as applicable, for said subsequent year.

(iii) Lessee shall provide, or cause to be provided, to Lessor a report as described in Section 8.12 of this Lease, with information reasonably sufficient to determine whether the Public Play Requirement for each relevant year is met. For purposes of determining whether the Public Play Requirement has been satisfied, periods of time during which the Golf Course is closed for maintenance repairs or events reasonably beyond the control of Lessee or Operator shall not be considered in calculating the actual amount of Specific Public Play Rounds (for example, if the Golf Course is closed for one-third of a calendar year, then the required Specific Public Play Rounds for such year would be 200 ($2/3 \times 300$)).

(iv) Lessee shall not discriminate against Public Play by imposing unreasonable restrictions or conditions on such rounds, including but not limited to relegating it to less favorable or convenient periods of the day or seasons of the year (it being understood that

limiting Public Play to certain days of the week shall not be considered discriminatory under this Section 8.05).

(b) Notwithstanding anything to the contrary herein, unless there has been a Public Play Violation, Lessor shall have no right to terminate or seek the termination of this Lease solely for the failure of Lessee to satisfy the Public Play Requirement, but Lessor shall be entitled to equitable remedies therefor, including an action for specific performance or injunctive relief. Lessee acknowledges that the Public Play Requirement is a fundamental and essential term of and consideration for this Lease, but for which Lessor would not have entered into this Agreement and will (or will cause Operator) to diligently comply with same. The term “Public Play Violation” means a circumstance in which: (i) there has been a final, nonappealable judgment or order by a court of competent jurisdiction that Lessee has breached the Public Play Requirement; and thereafter, and (ii) there is a subsequent final, nonappealable judgment by a court of competent jurisdiction that Lessee failed to comply with the judgment or order referred to in clause (i) above within the time frame required by the relevant court.

Section 8.06. Contracts Related To Management And Operation.

(a) *Lessee's Obligation.* Subject to the terms of this Agreement, Lessee, at no cost to Lessor, shall have the exclusive right, from time-to-time, to engage or approve the engagement of a manager and operator of the Golf Course (the “Operator”) with full control and discretion in, the operation, occupancy, direction, management, and supervision of the Premises and its staff.

(b) *Required Terms.* Any management or operating contract or sublease entered into by Lessee for the operation and management of the Premises shall:

- (1) require the contracting party comply with the terms of this Lease, including but not limited to use good faith efforts to comply with Lessor's Good Faith Effort Plan,
- (2) terminate upon termination of this Agreement unless Lessor, at its sole option, elects to assume the specific management contract, or unless Lessor has expressly agreed otherwise,
- (3) provide the right to Lessor to assume the contract upon termination of this Agreement without liability for any obligation arising prior to said assumption,
- (4) if applicable, contain insurance requirements for coverages and limits not less than those which are customarily required by Lessor of its like contractors, naming Lessor and its officers and employees as additional insureds,
- (5) require the contracting party to indemnify and hold harmless Lessor from and against any and all loss, cost, claim, liability, expense or damage, including without limitation attorney's fees and court costs, in any way related to or arising from its activity at the Premises substantially similar to the Lessee's indemnification of Lessor found herein,

- (6) if applicable, contain vendor qualification requirements sufficiently broad so as not to exclude minority vendors as a class and general contract specifications sufficiently broad so as not to favor a single vendor, and
- (7) contain the following provision (or substantially similar wording approved by Lessor) in bold print, underlined and uppercase lettering:

“THIS AGREEMENT IS SUBJECT TO THE TERMS AND PROVISIONS OF THE LEASE AGREEMENT BETWEEN THE CITY OF DALLAS AND THE COMPANY OF TRINITY FOREST GOLFERS, INC. FOR THE TRINITY FOREST GOLF COURSE (THE “LEASE AGREEMENT”), AND WILL TERMINATE, WITHOUT LIABILITY OR RECOURSE TO THE CITY OF DALLAS, IN THE EVENT OF THE TERMINATION OF SAID LEASE AGREEMENT, UNLESS THIS AGREEMENT IS ASSUMED OR EXTENDED BY AN AUTHORIZED WRITING EXECUTED BY THE CITY OF DALLAS. THE CITY OF DALLAS SHALL HAVE NO LIABILITY, OBLIGATION, OR RESPONSIBILITY UNDER THIS AGREEMENT, AND THE PARTIES HERETO RELEASE THE CITY OF DALLAS FROM LIABILITY FOR ANY CLAIMS, SUITS, OR JUDGMENTS IN CONNECTION WITH THIS AGREEMENT UNLESS THE CITY OF DALLAS, AS LESSOR UNDER THE LEASE AGREEMENT, ASSUMES THIS AGREEMENT.”

(c) *Copies And Review.* Lessor shall be entitled to receive copies (with economic or other proprietary or confidential information redacted) of and review the contracts for compliance with the requirements of this section.

Section 8.07. Public Relations, Promotions And Marketing. Lessee shall, at its sole cost and expense, plan, prepare, implement, coordinate and supervise all advertising, marketing, sponsorships, naming rights, public relations and other promotional programs for the Golf Course. Lessee shall also require the Operator to negotiate, execute (in its own name and not the name of Lessor) and perform all promotions and contracts concerning the sale, promotion, marketing and use of trademarks, trade-names, logos and similar intellectual property rights relating to the Premises (but in no event or circumstances shall any such materials include the official “Dallas”, “City of Dallas”, “Dallas Park and Recreation Department” logos or other city logos without express written consent of Lessor, and any such usage is in all respects subject to applicable copyright, trademark and trade-name laws). All contracts negotiated and executed pursuant to this section shall contain language exculpating Lessor from any obligation or liability thereunder, and each such agreement shall contain a primary term not to exceed the Term. Lessee agrees, upon Lessor’s request, to use (or require Operator to use) good faith efforts to (i) include in their printed materials an acknowledgment of the support and participation of Lessor in the Project and (ii) provide Lessor a reasonable opportunity to review and approve in advance the form of such acknowledgements and materials for compliance with this section (with economic or other proprietary or confidential information redacted). Information provided to

Lessor pursuant to this paragraph is or may be subject to the terms of Section 15.26 (without limiting the scope or generality of such section).

Section 8.08. Management Committee. The parties shall establish a four-member committee initially comprised of two representatives appointed by Lessee and two representatives appointed by Lessor (“Management Committee”). The Management Committee shall meet quarterly throughout the construction of the Project and annually thereafter (or more frequently if deemed necessary or appropriate) at a time and place mutually acceptable to all its members. The Management Committee shall act only by majority vote of all its members. Members of the Management Committee may be removed, with or without cause, by the party that appointed such member at any time, and the party who appointed the member for whom the position becomes vacant shall choose a successor within ten (10) days of such vacancy. The Management Committee is intended to act as an advisory board whose sole purpose will be to discuss and provide input to Lessee on M/WBE, construction and operational matters material to Lessor and not otherwise within the scope of the role of the Board of Governors.

Section 8.09. Fees, Charges And Revenues; Net Profits to Be Reinvested. Lessee may specify and control any and all fees, rents, deposits, charges, other revenues, and consideration for memberships, goods, services, admissions, use, advertising, sponsorship, naming rights, or any other designated purposes involving the Premises provided that they are commercially reasonable and consistent with industry standards and good industry practices. It is expressly understood and agreed that any and all net proceeds (revenues received less payment or provision for all costs and expenses with respect to the Premises that are the obligation of Lessee hereunder and less amounts set-aside for reasonable capital and future operating reserves) from operation of the Project, as comprised from time to time, shall be (i) reinvested into the Premises and the Project, for Lessee’s operations, infrastructure, capital improvements, including expansion and additions, and routine maintenance; (ii) used to host or sponsor events; (iii) applied to educational, youth, and other programming; and (iv) directed to charitable giving. All service, concession, employment, management or similar contracts and arrangements, as well as staff salaries, compensation, perquisites and benefits (including any of the foregoing with related or affiliated parties), shall be commercially reasonable and consistent with good practice and industry standards for similar facilities.

Section 8.10. Repairs.

(a) *Lessee’s Repairs And Operation.* At all times following the Delivery Date and during the Term of this Agreement or any extension thereof, Lessee shall neither cause nor permit any waste to the Premises. From the start of its construction, Lessee shall, at Lessee’s sole cost and expense, keep and maintain the Premises and all facilities appurtenant thereto in good order and repair and, in a safe, clean, sanitary, and attractive condition. Lessee shall make any and all additions to or alterations or repairs in and about the Premises that may be required by this Agreement in a good and workmanlike manner, and shall otherwise observe and comply with all public laws, ordinances, and regulations that from time to time are applicable to the Premises.

(b) *Condition At End Of Agreement.* Upon termination of this Agreement for whatever reason, Lessee shall leave the Premises in the state of repair and cleanliness required to be

maintained by Lessee during the Term of this Agreement, reasonable wear and tear excepted, and shall peaceably surrender the same to Lessor. If the improvements are not in substantial conformity with this Agreement, Lessor may, at its option and in addition to any other remedies under this Agreement, direct Lessee to remove non-complying improvements constructed by Lessee on the Premises and return that portion of the Premises to its condition existing on the Effective Date, and Lessee shall be obligated to promptly comply at its sole cost and expense or, alternatively, repair same in which event Lessee shall immediately pay to Lessor the cost of same.

(c) *Lessor's Repairs.* Lessor, its agent and employees, shall have the right, at any time and from time to time, to enter the Premises for the purpose of inspection or making any repairs or alterations to the Premises, or any improvements thereon, of every kind or nature which may be required or are required of Lessee under this Agreement but which Lessee has failed to perform after having received written notice from Lessor at least thirty (30) days prior to such entry; and Lessee shall not offer any obstruction, or hindrance to any such repairs or alterations; provided, however, that nothing contained in this paragraph shall be deemed to impose on Lessor any obligation to actually make any changes, alterations, additions, improvements, or repairs in, on or about the Premises, or any part thereof, during the Term of this Agreement or any extension thereof.

Section 8.11. Changes, Renovations, And Additions.

(a) At any time and from time to time during the Term, Lessee may make, at Lessee's sole cost and expense, changes, renovations, and additions to the Premises, improvements thereon, or any parts thereof so long as such changes and additions are not "material." For purposes of this section, changes, renovations, and additions to the Premises are "material" if said change or addition or any series or group of changes or additions: (1) entail the demolition or removal from usage for more than 3 months (or, in the case of re-seeding, re-construction or re-design of some or all of the fairways of the Golf Course, 12 months) of a component part of the Project, (2) changes the character of all or part of the Project and the Premises from that outlined and described in the Approved Conceptual Plans, or (3) will materially and adversely affect the landfill cap and any mitigation features relating to the Premises. Material changes, renovations, and additions may be made only with the prior written consent of Lessor and shall be subject to Lessor's advance review and approval of the plans and specifications for same.

(b) All additions, future improvements and renovations (material or not) shall, upon the expiration or termination of this Lease, become the property of Lessor, free and clear of all liens. The contractor(s) performing the work in connection with any material contract involving the Premises shall provide insurance coverage, indemnification provisions and in the case of Lessor Improvements construction bonds consistent with those that Lessor requires of its contractors on like projects, with Lessor to be named as an additional insured, indemnitee, and obligee, respectively. Any and all such activity shall comply with the construction provisions of this Agreement.

Section 8.12. Records And Reports. Lessee shall keep and maintain, or cause Operator to keep and maintain, complete and accurate records for the Premises and the constituent

operational components of the Project, separate and identifiable from its other records, for three years following the last day of the fiscal year during which the record was generated. Lessor shall be entitled to inspect Lessee's, and/or Operator's records relevant to this Agreement (at their respective offices upon not less than 24-hours' notice and at all reasonable times). In addition, Lessee shall furnish or cause Operator to furnish to Lessor and the Board of Governors within ninety (90) days after the close of each of Lessee's fiscal years:

- (1) a report, certified to by an officer of Lessee or the Operator (and, if requested by Lessor, a certified public accountant), setting forth the prior year's (A) total gross revenues, (B) total operating expenses, (C) the total amounts of any capital improvements, (D) the total amounts set-aside for of any capital improvement or operating reserves, and (E) the amounts of any charitable or non-profit contributions;
- (2) summaries of play reasonably detailed to determine the calculation of the Public Play Requirement, certified to by an officer of Operator or Lessee (in no event shall Lessee or Operator be required to disclose (i) any information regarding a player that it is prohibited by law from disclosing or (ii) the names or other confidential information of any player); and
- (3) a narrative report regarding programming, including but not limited to First Tee and SMU operations and activities, at the Premises during the prior calendar year.

In addition, Lessee or Operator shall cause to be prepared and provided to the Board of Governors audited balance sheet, statement of operations and other financial reports customary to the industry ("financial statements") prepared by a certified public accountant in conformity with Generally Accepted Accounting Principles for each fiscal year within 90 days of said fiscal year end. Upon request from Lessor, Lessor's Controller, City Manager and Mayor (or their respective designees) shall have the right to inspect these financial statements at Lessee's offices upon not less than 24-hours' notice and at all reasonable times. Lessor shall at all times have the right to audit Lessee's financial records relevant to Lessee's compliance with the terms of this Lease. Notwithstanding anything to the contrary herein, neither Lessee nor Operator shall be required to disclose or provide the identity of or any personal information regarding any player, guest or user of the Golf Course, and may, in its reasonable discretion, redact or exclude from the reports provided hereunder any information that is or may be proprietary, privileged or subject to legal or contractual confidentiality restrictions. Information provided to Lessor pursuant to this paragraph is or may be subject to the terms of Section 15.26 (without limiting the scope or generality of such section).

ARTICLE IX TAXES AND ASSESSMENTS

Section 9.01. Taxes. The term "taxes," as used herein, shall mean all ad valorem taxes, sales taxes, income taxes and other government charges, general and special, ordinary and extraordinary, of any kind whatsoever, applicable or attributable to the Premises and/or any

occupant's use and enjoyment thereof, excluding "assessments" as defined below. Lessee shall pay when due all taxes commencing with the year of the Effective Date and continuing throughout and including the last year of the term hereof.

Section 9.02. Assessments. The term "assessments," as used herein, shall mean all governmental assessments for public improvements or benefits which during the term shall be assessed, levied, imposed on, or become due and payable, or a lien upon the Premises, any improvements constructed thereon, the leasehold estate created hereby, or any part thereof. Lessee shall not cause or suffer the imposition of any assessment upon the Premises, without the prior written consent of Lessor. In the event any assessment is proposed that affects the Premises, Lessee shall promptly notify Lessor of such proposal after Lessee has knowledge or receives notice thereof. Any assessment on the Premises shall be made in compliance with all applicable statutes. Lessee shall pay the total amount of all assessments levied with respect to the Premises and/or the leasehold estate created hereby. In no event shall Lessor be obligated to pay any assessment or any portion thereof levied or created during the term hereof, irrespective of whether such assessment or any portion thereof was specifically allocated to the Premises or Lessor's reversionary interest therein. No assessment shall be payable in installments without Lessor's prior written consent, which Lessor may condition upon the posting by Lessee of a satisfactory bond guaranteeing the payment of such installments as they become due.

Section 9.03. Payment Date And Proof. All payments by Lessee of taxes and/or assessments shall be made by Lessee on or before thirty (30) days before the last day on which such payments or any installments thereof permitted hereunder may be made without penalty or interest. Lessee shall promptly furnish to Lessor receipts or other appropriate evidence establishing the payment of such amounts.

Section 9.04. Failure To Pay. In the event Lessee fails to pay any of the expenses or amounts specified in this Article, Lessor may, but shall not be obligated to do so, pay any such amount and the amount so paid shall immediately be due and payable by Lessee to Lessor and shall thereafter bear interest at the rate specified herein below.

Section 9.05. Right To Contest. Lessee shall not be required to pay any tax, assessment, tax lien, or other charges upon or against the Premises, or any part thereof, or the improvements situated thereon, so long as it shall, in good faith and with due diligence, contest the same or the validity thereof by appropriate legal proceeding which shall have the effect of preventing the collection of the tax, assessment, tax lien, or other charges so contested; provided that, pending any such legal proceeding it shall give Lessor such security as may be deemed reasonably satisfactory to Lessor to insure payment of the amount of tax, assessment, tax lien or other charges, and all interest and penalties thereon. Lessor shall cooperate with Lessee's efforts; provided, however, Lessor shall not have to expend any out-of-pocket funds or bring or join in any suit regarding same, and Lessee shall indemnify and hold Lessor harmless against and from any loss, liability, or expense resulting from such efforts.

Section 9.06. Abatement. The parties acknowledge that Lessee intends to seek tax-exempt status and, to the extent allowable under applicable law, Lessor agrees not to take any actions inconsistent with such position asserted by Lessee. If Lessee does not attain property tax-exempt

status, however, Lessor's Staff will present to Dallas City Council an incentive for ad valorem tax abatement equal to 90% of the maximum abatable property taxes for ten years for the Project. Any such incentive shall be subject to state law requirements and future Dallas City Council approval (which approval is not and cannot be committed or assured by Lessor) and shall be supported by additional consideration from Lessee, including local job creation commitments or other such economic development benefits to the community as required by law and Lessor's policies under its Public Private Partnership Programs and Guidelines then in effect. Securing of such favorable tax treatment, incentives or abatement is strictly Lessee's responsibility and at its risk.

In the event tax exempt status is not achieved and an abatement is not granted, Lessor will be responsible for and pay the "Excepted City Property Taxes" as that term is defined for purposes of this Lease, to the extent said payment is allowed by law and permissible for Lessor. The term "Excepted City Property Taxes" means the product of (a) 0.90 multiplied by (b) the property taxes imposed by the and payable to City on the Premises and any improvements thereon or leasehold interest therein for the Elected Ten Year Period (defined below). The term "Elected Ten Year Period" means that consecutive ten-year period beginning on January 1 of the year elected by Lessee in writing to Lessor, provided that such written election must be made within 30 days before the first of the Elected Ten Year Period. If for any reason Lessor is not lawfully allowed or able to pay the Excepted City Property Taxes as provided herein, Lessee shall be responsible for and pay said amount.

ARTICLE X

INSURANCE AND INDEMNIFICATION

Section 10.01. Insurance. Lessee shall, from and after the Delivery Date, obtain and maintain casualty, liability, workers compensation and other insurance as described in **Exhibit E**. Such insurance shall secure the full replacement cost for the Project. Lessee shall further require its architect/engineer and construction contractor/manager to obtain and maintain insurance as described in **Exhibit E**. True and correct copies of any policies and any applicable endorsements required herein shall be provided to Lessor by Lessee.

Section 10.02. Indemnification. Lessee does hereby covenant and agree to defend, indemnify, and hold Lessor, its officers, agents and employees, harmless against any and all claims, lawsuits, judgments, administrative proceedings of any kind, notices of violation, costs and expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons or governmental agency, that may arise out of or be occasioned (1) by Lessee's use, occupancy, construction, operation, and maintenance of the Premises or Lessee's installations and improvements within the Premises, (2) from any act or omission of any representative, agent, resident, and/or employee of Lessee, (3) by Lessee's breach of any of the terms or provisions of the Lease, (4) by any negligent or strictly liable act or omission of Lessee, its officers, agents, associates, employees, contractors or subcontractors in the use, occupancy and maintenance of the Premises or Lessee's installations and improvements within the Premises, (5) from any violation of environmental laws on the Premises during the term of the Lease occurring after the Delivery Date; or (6) the presence of

any condition(s) on the Premises that comprise a threat to human health or the environment first introduced or becoming such a threat after the Delivery Date; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence or fault of Lessor, its officers, agents, employees or separate contractors, and in the event of joint and concurring negligence or fault of both Lessee and Lessor, responsibility and indemnity, if any shall be apportioned comparatively in accordance with the laws of the State of Texas, without waiving any governmental immunity available to Lessor under Texas law and without waiving any defenses of the parties under Texas law. The provisions of this paragraph are solely for benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

ARTICLE XI DAMAGE AND DESTRUCTION

Section 11.01. Effect Of Damage Or Destruction. Beginning with the commencement of construction, in the event of any damage to or destruction of the Premises or any improvements thereon from any causes whatever, Lessee shall promptly give written notice thereof to Lessor. Lessee shall promptly rebuild, repair or restore (hereinafter, called “restore” or “restoration”) the Premises and improvements to its condition immediately prior to such damage or destruction or, if during construction of Premises, to the contemplated, improved or renovated conditions. All such restoration shall be performed in accordance with the construction provisions of this Agreement. Lessee’s duty to restore any damage or destruction of the Premises or any improvements thereon shall not be conditioned upon the availability of any insurance proceeds to Lessee from which the cost of restoration may be paid. Any of Lessee’s insurance proceeds payable by reason of such damage or destruction shall be made available to pay the cost of such restoration; provided, however, in the event Lessee is in default under the terms of this Agreement (beyond any applicable notice and cure periods) at the time such damage or destruction occurs, Lessor may elect to terminate this Agreement and Lessor shall thereafter have the right to receive and retain all insurance proceeds payable as a result of such damage or destruction. Insurance proceeds in excess of the cost of such restoration shall be treated as revenue from the Premises. This subsection does not apply to insurance or self-insurance reserves maintained by Lessor.

Section 11.02. Precondition To Restoration. Before Lessee commences any restoration involving an estimated cost of more than One Million and No/100 Dollars (\$1,000,000.00), plans and specifications for same shall be submitted to Lessor for approval (such approval being limited to conformity with the Approved Concept Plans) and Lessee shall furnish to Lessor: (1) an estimate of the cost of the proposed work; (2) satisfactory evidence of sufficient contractor’s comprehensive general liability insurance covering the Premises, builder’s risk insurance, and workers’ compensation insurance; (3) a performance and payment bond or cash deposit or other proof of financial ability satisfactory in form and substance to Lessor (to the extent such would be required for original construction of such damaged improvements); and (4) such other security as Lessor may require to insure completion of or payment for all work free and clear of liens. Lessee shall diligently pursue the restoration in a good and workmanlike

manner, using only high quality workers and materials, and in conformity with the plans and specifications and all applicable laws, regulations, ordinances and codes.

Section 11.03. Failure To Rebuild. If the restoration can be completed within 550 days, and if Lessee (1) fails to begin the restoration of the improvements within a period of 120 days after damage or destruction by fire or otherwise, (2) permanently ceases to do so after commencing or (3) fails to complete the same within 550 days from the date of commencement of such restoration, then, in addition to whatever other remedies Lessor may have either under this Agreement, at law or in equity, Lessor shall receive the insurance proceeds, or the balance thereof remaining, as security for the continued performance and observance by Lessee of the Lessee's covenants and agreements hereunder, or Lessor may terminate this Agreement and then receive said amount as partial liquidated damages resulting from the failure of Lessee to comply with the provisions of this Article. If the restoration cannot reasonably be expected to be completed within 550 days or if the casualty occurs after the 30th anniversary of the Completion Date, Lessee may elect (i) to restore the Premises as provided in Section 11.01 above or (ii) to terminate this Agreement, in lieu of Lessee performing said restoration, in either case by giving written notice to Lessor of such termination within 120 days after the casualty occurs. In the event Lessee elects to terminate this Lease, this Lease shall terminate as of the date specified in such notice and Lessee shall tender to Lessor the insurance proceeds available as a result of such damage shall be paid to and the property of Lessor. If Lessor and Lessee cannot agree on whether the restoration can reasonably be expected to be completed within 550 days after the damage, then Lessee shall pay for an independent architect reasonably acceptable to Lessor, who shall make that determination.

ARTICLE XII CONDEMNATION

Section 12.01. Taking Of The Whole or Effectively Of The Whole. If the whole of the Premises, or any part thereof, shall be taken or condemned for a public or quasi-public use or purpose by any competent authority and as a result thereof the balance of the Premises cannot be used for the same purpose and uses as expressly provided in this Agreement, then rent payable hereunder shall be fully abated from and after the date of taking, the Lease shall terminate, and Lessor and Lessee shall not have any further obligations under this Lease with respect to the Premises except as provided in this Article XII. Any award, compensation, or damage (hereinafter called the "award") attributable to a whole (or effectively of the whole) taking occurring prior to the Delivery Date shall belong solely to Lessor. Any award attributable to a whole (or effectively of the whole) taking occurring after the Delivery Date shall be split between Lessee and Lessor based upon a mutually agreed upon formula, utilizing the following concepts: (i) Lessor's share of such award shall be based upon (x) the value of the fee simple title of the land as remediated but otherwise unimproved ("fee title amount") and (y) the remaining amount of the total award (after deduction for the fee title amount) multiplied by a fraction, the numerator of which is the expired years under the Lease term and the denominator of which is the original 40 year terms (the amortized amount) and (ii) Lessee's share shall be based on the remaining amount of the total award (after deduction for the fee title amount) multiplied by a fraction, the numerator of which is the remaining unexpired years under the

Lease term and the denominator of which is the original 40 year terms (the unamortized amount); provided, however, in the event of a condemnation by or at the direction of Lessor, the foregoing concepts shall not apply to the determination of the amount or allocation of the award, but shall be determined on a fair and equitable basis.

Section 12.02. Partial Taking After Construction Commences. If after construction commences only a portion of the Premises shall be so taken or condemned, such that the balance of the Premises can be used for the substantially the same purpose as expressed in Article IV, this Agreement shall not terminate and Lessee, at its sole cost and expense, shall repair and restore the Premises to an operational whole. Lessee shall, promptly and diligently proceed to restore the functionality and utility of the remainder of the Premises and affected improvements, complying with the construction procedures set forth in Article VII. For such purpose Lessor shall receive and shall hold in trust the amount of the award relating to the improvements and leasehold and shall disburse such award to apply to the costs (including any additional costs or activities required due to such taking) of restoration. If Lessee does not complete such restoration within a reasonable period after such taking or condemnation, (but in any event the later of completion of the Project or within one hundred eighty (180) days after the taking), then, in addition to whatever other remedies are available to Lessor under this Agreement, Lessor may receive and retain the entire award or the balance thereof, as partial liquidated damages resulting from the failure of Lessee to comply with the provisions of this Paragraph. Any portion of such award not expended for such repair or restoration shall be paid to Lessor. Any award amount attributable to the fee title of the real estate taken shall be paid over directly to Lessor.

Section 12.03. Partial Taking Before Construction Commences. If before construction commences only a portion of the Premises shall be so taken or condemned, Lessor shall receive all proceeds applicable to the fee title. Such proceeds shall be used by Lessor to restore the remaining facilities to a functional whole. If the remaining proceeds are not sufficient to so restore to the reasonable satisfaction of Lessor and Lessee, either party may terminate. Lessor's duty to restore is limited to the amount of remaining available condemnation proceeds. If the balance of the Premises can be used for the same use and purpose as expressed in this Agreement, Lessor shall have no duty or obligation to repair or restore the Premises; provided, however, in the event of any such partial taking should Lessor elect not to restore the Premises to an operational whole, Lessor or Lessee may terminate this Agreement by written notice of said termination delivered prior to commencement of construction.

Section 12.04. Date Of Taking. The term "date of taking" shall mean the date on which title to the Premises or a portion thereof passes to and vests in the condemnor or the effective date of any order for possession if issued prior to the date title vests in the condemnor. Lessor shall control any all negotiations and litigation involving any taking and Lessee does hereby appoint Lessor as its agent and attorney in fact for such purpose, said appointment being coupled with an interest therein.

Section 12.05. Settlement of Proceedings. Lessor shall control any and all negotiations and litigation involving a total taking and Lessee does hereby appoint Lessor as its agent and attorney in fact for such purpose, said appointment being coupled with an interest therein; provided, however, neither Lessor nor Lessee shall make any settlement with the condemning authority in

any condemnation proceedings nor convey or agree to convey the whole or any portion of the Premises or the Project to such authority in lieu of condemnation without first obtaining the written consent of the other party.

Section 12.06. Efforts to Prevent Taking. To the extent allowed by law, Lessor shall use its reasonable efforts to cause all other competent authorities with the power of eminent domain to refrain from instituting any condemnation proceedings or exercising any other powers of eminent domain with respect to the Premises, or any part thereof or any interest therein, during the Term of this Lease.

ARTICLE XIII ASSIGNMENT AND SUBLETTING

Section 13.01. Assignment. Lessee shall not hypothecate, mortgage, assign, transfer, or otherwise alienate this Lease (including any improvements) or any interest therein or sublet all or substantially all the Premises to a single sublessee, without the prior written consent of Lessor, and any purported such action without consent of Lessor shall be void and not effective. The consent of Lessor to any one assignment or sublease shall not constitute a waiver of Lessor's right to approve subsequent assignments or subleases, nor shall consent of Lessor to any assignment relieve any party previously liable as Lessee from any obligations under this Lease. The acceptance by Lessor of the payment of rent following an assignment shall not constitute consent to any assignment, and Lessor's consent to an assignment or sublease shall be evidenced only in writing.

Section 13.02. Right To Sublet. Lessee shall have the right to sublet any part or parts of the Premises, and to assign, encumber, or renew any sublease as long as:

- (1) Each sublease shall contain a provision requiring the sublessee to attorn to Lessor if Lessee defaults under this Lease and if the sublessee is notified of Lessee's default and instructed to make sublessee's rental payments to Lessor or designated person as provided in this Section;
- (2) Lessee shall provide any such subtenant with a copy of this Lease and require such subtenant to acknowledge that its rights under its sublease are subject to the terms hereof;
- (3) Lessee shall not accept directly or indirectly more than one (1) months' prepaid rent from any sublessee;
- (4) Each sublease is expressly subordinate to the interests and rights of Lessor in the Premises and under this Lease, and requires the sublessee to take no action in contravention of the terms of this Lease;
- (5) Each sublease is of a duration less than the term of this Lease; and

- (6) As additional security for the performance of Lessee's obligations hereunder, Lessee hereby grants to Lessor a security interest in and to all of Lessee's right to receive any rentals or other payments under such subleases and this Lease shall constitute a security agreement for such purposes under laws of the State of Texas. Lessee shall execute such financing statements as may be reasonably required to perfect such security interest.

Section 13.03. Notice and Cure Rights for Sublessees.

- (a) At any time during the Term, Lessee may notify Lessor in writing that Lessee has entered into a sublease (or that a Sublessee has entered into a Sub-Sublease) of the Premises, and may furnish Lessor at the same time with the address to which Sublessee desires copies of notices to be mailed, or designates some person or corporation as its agent and representative for the purpose of receiving copies of notices sent to Lessee by Lessor pursuant to this Lease. Lessor hereby agrees that it will thereafter deliver to such Sublessee, at the address so given, duplicate copies of any notices of default and notices of termination which Lessor may from time to time give or serve upon Lessee under and pursuant to the terms and provisions of this Lease and any and all pleadings in suits filed by Lessor against Lessee, as applicable.
- (b) Sublessee may during the same cure periods as apply to Lessee, pay any of the rental due hereunder, procure any insurance required hereunder, pay any taxes required hereunder, make any repairs and improvements required hereunder, or do any other act or thing or make any other payment required of Lessee by the terms of this Lease or which may be necessary and appropriate to comply with the covenants and conditions of this Lease to cure the default and prevent the termination of this Lease. All payments so made and all things so done and performed by any such Sublessee shall be as effective to cure the default as if performed by Lessee.
- (c) Unless Lessor and Sublessee shall enter into a new and direct lease (at each party's sole and absolute discretion), no Sublessee shall be or become personally liable to Lessor as an assignee of this Lease, for the payment or performance of any obligation of Lessee unless and until it expressly assumes by written instrument the payment or performance of such obligation, and no assumption of liability shall be inferred from or result from said actions. Similarly, Lessor shall not be or become personally liable to any Sublessee by reason of accepting such curative actions by Sublessee on behalf of Lessee nor shall Sublessee acquire any rights under this Lease other than to cure on Lessee's behalf, Lessee's default as provided in this Section.

Section 13.04. SMU Provisions. Notwithstanding the provisions of Section 13.02 and 13.03 of this Lease to the contrary, if this Lease is terminated by Lessor (after due notice to SMU and opportunity to cure under Section 13.03 of this Lease) at any time after the golf course, practice facilities and clubhouse (collectively, the "Golf Course") is completed, and:

(a) **Election to Operate Golf Course.** If Lessor elects to continue to operate a golf course on the Premises:

(1) SMU will have the right to continue to use such portion of the Golf Course as Lessor elects to operate, in relation to the levels of use in the SMU Agreement between Lessee and SMU.

(2) SMU will have the right, but not the obligation, to continue to occupy and utilize the SMU clubhouse and practice facilities (the "SMU Facilities"), if then constructed, pursuant to the provisions of a sublease from Lessee to SMU ("SMU Sublease"), approved by Lessor, and the SMU Agreement (collectively, the "SMU Agreements"), it being agreed that Lessee can sublease a portion of the Property to SMU.

(3) Lessor will operate and maintain the golf course at a level at least to the standard of the public courses administered by the City of Dallas Park Department (the "City Standard").

(4) SMU will pay maintenance fees to Lessor in relation to SMU's use of the golf course ("SMU Maintenance Fee") in (i) the full amounts for the SMU use levels provided in the SMU Agreement, if the golf course is maintained at the standard contemplated in the SMU Agreement ("Championship Standard"), or (ii) if the standard is less than Championship Standard, but comparable with the standard of Lessor's highest and best public courses, in an amount equal to 55% of the SMU Maintenance Fee for SMU use levels provided in the SMU Agreements, or (iii) if at the City Standard level in an amount equal to 30% of the SMU Maintenance Fee for SMU use levels provided in the SMU Agreements.

(5) SMU will have the right, at no cost or expense to SMU or Lessor, to discontinue or otherwise terminate the SMU Agreements, in which event all easements and subleases contemplated in the SMU Agreements or otherwise will terminate and SMU shall have no further liability under the SMU Agreements.

(6) Lessor may, at no cost or expense to Lessor, discontinue operation of the golf course, at Lessor's election at any time, after the Lease is terminated, in which event the SMU Maintenance Fee will be discontinued and terminated, and the provisions of Sections 13.04(b) and (c) of this Agreement will apply.

(b) **Election Not to Operate the Golf Course.** If Lessor elects not to operate a golf course on the Premises, but does not elect to commercially develop or sell the Golf Course or the SMU Facilities:

(1) Lessor will have no affirmative obligation to operate the Golf Course, or any other facilities or operations on the Premises, or pay any moneys or incur any expense or liability by reason of SMU's presence or by reason of the SMU Agreement.

(2) SMU will have the right to continue use of the SMU Facilities and/or the Golf Course then in existence (at SMU's expense) and otherwise in general accordance with the provisions of the SMU Agreements (to the extent applicable and practicable).

(3) SMU will have the right, at no cost or expense to SMU or Lessor, to discontinue or otherwise terminate the SMU Agreements, in which event any easements or subleases contemplated in the SMU Agreements or otherwise shall terminate and SMU shall have no further liability under the SMU Agreements.

(c) **Election to Develop or Sell the Golf Course.** If at any time Lessor seeks to commercially develop or sell the Golf Course and/or SMU Facilities:

(1) City shall at the time of consummation of a sale of the Golf Course and/or the SMU Facilities or at the time the development of Golf Course or the SMU Facilities is approved by the Dallas City Council, reimburse SMU in an amount equal to the unamortized portion of (i) all amounts (but not in excess of the \$3,500,000) funded by SMU to the Lessee pursuant to the SMU Agreement and (ii) any amounts funded for construction of the SMU Facilities under provisions of the SMU Sublease.

(2) For the purpose of the payments set forth in Section 13.04(c)(i) of this Agreement, the amortization shall be straight line based on the lesser of (i) a 15 year useful life of applicable improvements or (ii) the unexpired term of the SMU Agreement. Amortization shall commence on the earlier to occur of (iii) the date that SMU can legally possess and use each respective improvement to be amortized, or (iv) October 1, 2016. The amount to be amortized shall not include any amounts used to meet Lessee's initial \$20,000,000 development commitment under this Lease.

(3) Upon such reimbursement by the City or otherwise (it being the intent to avoid double recover for said amounts) all SMU rights in and to the Golf Course, the SMU Facilities, and/or the Premises and any use thereof shall terminate and any easement or sublease contemplated in the SMU Agreements or otherwise shall terminate and SMU and the City shall have no further liability under the SMU Agreements.

(d) **SMU Agreements.** SMU's rights to use the Golf Course prior to and in the event of termination of the Lease as contemplated herein shall be established and enforceable through an easement, which shall be non-exclusive, covering the Golf Course, recorded in the Dallas County, Official Real Property Records executed by both the Lessor and the Lessee, and the SMU Sublease covering the SMU Facilities approved by Lessor. Lessor shall have no obligations under the SMU Agreements other than as provided in this Section. The easement shall be executed and filed on the earlier of completion of the Golf Course or funding of SMU funds as provided in the SMU Agreement. The SMU Agreements must be in form and substance acceptable to SMU and City prior to execution and effectiveness, and cannot be amended without the consent of the City, which consent shall not be unreasonably denied, delayed or conditioned.

(e) **SMU's Right to Step Into the Ground Lessee Position.** If this Lease is terminated, SMU will have the right, but not the obligation, to step into the Lease as Lessee, in which event, SMU shall cure all material defaults, undertake all obligations as Lessee, and attorn unto Lessor, and Lessor shall recognize SMU as Lessee under this Lease. SMU must exercise the right to become Lessee under the Lease within 30 business days of Lessor notifying SMU of the termination of the Lease, but shall have 180 business days to cure all material defaults existing

under the Lease. The SMU Agreements shall terminate upon SMU being recognized as Lessee under the Lease and SMU shall have no further liability under the SMU Agreements.

ARTICLE XIV DEFAULT, TERMINATION AND OTHER REMEDIES

Section 14.01. Lessee's Default And Lessor's Remedies.

(a) *Lessee's Default.* A "Lessee Default" shall mean the occurrence of one or more of the following events:

- (1) failure of Lessee to pay when due any monetary amount due to Lessor or rental amount, and the continuation of the failure without cure for a period of ten (10) days after Lessor notifies Lessee of the failure in writing in accordance with the notice provisions under this Agreement;
- (2) failure of Lessee to maintain any of the insurance or bonds provided for herein and the failure by Lessee to cure such failure within five days after Lessor notifies Lessee in writing of the failure to comply in accordance with the notice provisions under this Agreement;
- (3) failure of Lessee to comply with any other term, covenant, or provision of this Agreement, and the failure by Lessee to cure (or commence and thereafter diligently work to cure) the failure within ninety (90) days after Lessor notifies Lessee in writing of the failure to comply in accordance with the notice provisions under this Agreement;
- (4) a User Agreement is terminated due to Lessee's default under such User Agreement, and Lessee fails to obtain a substitute or replacement user agreement reasonably acceptable to Lessor within 90 days following such termination; and
- (5) appointment of a receiver or trustee to take possession of all or substantially all of the assets of Lessee; or if any action is taken or suffered by Lessee pursuant to its insolvency, bankruptcy, or reorganization act; or if Lessee makes a general assignment for the benefit of its creditors; and such appointment, action, or assignment continues for a period of sixty (60) days.

Any written notice and opportunity to comply/cure provided herein shall not be required of Lessor if the same or a substantially similar event has occurred and been the subject of written notice within the previous twelve (12) months.

(b) *Lessor's Remedies.* Upon the occurrence of a Lessee Default, Lessor may pursue any legal or equitable remedy or remedies, including without limitation specific performance, suit for damages, and termination of this Agreement; provided, however, that, in the event of a Lessee Default (and not with respect to any other termination rights of Lessor set forth herein), Lessor

shall have no right to terminate this Agreement unless Lessor delivers to Lessee a second notice that Lessor will terminate this Agreement within 30 days if the default is not addressed as herein provided. Termination or non-termination of this Agreement upon a Lessee Default shall not prevent Lessor from pursuing its other remedies. Upon termination by Lessor, Lessor may occupy the Premises, and Lessee shall assign to Lessor, to the extent requested by Lessor, any of Lessee's interest in and to contracts and agreements relating to the Premises, the Golf Course, and fixtures installed therein, and the operation thereof. All such contracts not assigned to Lessor shall terminate upon termination of this Agreement. Lessor is not obligated to assume any of the above-mentioned contracts. **All of Lessee's material contracts and agreements for the use of all or any part of the Premises must include a clause stating that if the contract is not assumed by Lessor it shall terminate immediately upon termination of this Agreement.** Lessee does hereby appoint Lessor as its agent and attorney in fact for purpose of effecting said assignment(s) and/or termination, said appointment being coupled with an interest therein.

(c) *Landlord's Lien.* To assure payment of all sums due under this Lease and Lessee's faithful performance of all other covenants hereunder, Lessee hereby contractually grants to Lessor an express contractual lien on and security interest in and to all improvements owned by Lessee which may be placed on the Premises, the Construction Account, and upon all proceeds of any insurance or condemnation which may accrue to Lessee by reason of any such property or this Agreement. Lessee shall execute appropriate financing statements and any extension thereof necessary to perfect this lien. Lessor shall have the rights and remedies of a secured party under the Texas Business and Commerce Code and this lien and security interest may be foreclosed by operation of law. Any statutory landlord's lien applicable hereto is not waived, the contractual security interest herein granted being in addition and supplementary thereto. Notwithstanding the foregoing, Lessor hereby waives all landlord's liens that Lessor might hold, statutory other otherwise, to any of Lessee's (or any Sublessee's or Operator's) inventory, trade fixtures, equipment or other personal property now or hereafter placed on the Premises.

Section 14.02. Lessor Default And Lessee's Remedies. A "Lessor Default" shall mean failing to comply with any material provision of this Agreement within sixty (60) days after written notice of said specific non-compliance and the cure action requested. Lessee's sole and exclusive remedy for a Lessor Default shall be to terminate the Agreement. In no event shall Lessor ever be liable to Lessee for construction costs or exemplary or punitive damages. In no event shall Lessor ever be liable for consequential, exemplary or punitive damages by reason of any Lessor Default.

ARTICLE XV GENERAL PROVISIONS

Section 15.01. Quiet Enjoyment; Recordation. Lessor covenants and agrees that Lessee, upon making the payments and performing the other covenants and agreements of this Lease on its part to be performed, shall have peaceful and quiet possession of the Premises during the Term. Upon the Delivery Date, the parties shall execute and record in the official real property records of the county where the Premises are located a memorandum of the existence of this Agreement in the form of Exhibit G attached hereto (and in the event any legal description prepared in

connection with an on-the-ground survey of the Premises obtained by Lessee includes minor differences or discrepancies or more accurately defines the Premises (but in all events describes substantially the same land as that described on Exhibit A), then the parties shall use such on-the-ground survey description for the memorandum, and the Lease shall be deemed amended thereby.) Upon termination or expiration of this Lease for any reason, the parties shall execute and file a further memorandum noting such termination or expiration and Lessee does hereby appoint Lessor as its agent and attorney in fact for such purpose, said appointment being coupled with an interest therein.

Section 15.02. Successors And Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, and, except as otherwise provided in this Agreement, their assigns.

Section 15.03. Compliance With Laws. Lessee and every officer, employee, or agent under Lessee's control shall abide by, conform to, and comply with all laws of the United States and the State of Texas, and all ordinances, rules or regulations of Lessor applicable to the remediation, construction, operation, maintenance, and management of the Premises.

Section 15.04. Nondiscrimination. Lessee agrees that no person shall be denied membership in, admission to or use of the Premises or the Golf Course or any related facilities or programs because of race, color, sex, age, sexual orientation, religion, national origin, physical handicap, or disability. Lessee further agrees to comply with applicable laws and to not discriminate against any applicant for employment on the basis of race, color, sex, religion, national origin, or non-job related handicap or disability. Lessee shall comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C.A. §§12101-12213, as amended.

Section 15.05. Place Of Performance Of Obligations And Venue. All obligations of the parties under the terms of this Agreement reasonably susceptible of being paid or performed in Dallas County, Texas, shall be payable and performable in Dallas County, Texas, and venue for any legal actions arising out of this Agreement shall lie exclusively in Dallas County, Texas.

Section 15.06. Texas Law. This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

Section 15.07. Captions. The captions, section numbers, article numbers, and table of contents appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such sections or articles of this Agreement, nor in any way affect this Agreement.

Section 15.08. Notices. Any notice required or desired to be given under this Agreement shall be in writing with copies directed as indicated herein and shall be personally served or given by mail. Any notice given by mail shall be deemed to have been given when deposited in the U.S. mails, certified return receipt requested and postage prepaid, and addressed to the party to be served at the last address given by that party to the other party under the provisions of this Article. Notice given by courier, fax, or other form of personal delivery shall be deemed given

only upon actual receipt. Any change in address shall be promptly given in writing to the other party pursuant to this notice provision. The initial addresses for notice are as follows:

LESSOR:
City of Dallas – City Manager’s Office
1500 Marilla, 4th Floor
Dallas, Texas 75201
Attn: City Manager

LESSEE:
The Company of Trinity Forest Golfers, Inc.
2100 McKinney Avenue
Suite 1421
Dallas, Texas 75201

With copy to:
City of Dallas
City Attorney’s Office
1500 Marilla 7ES
Dallas, TX 75201
Attn: _____

With a copy to:

Section 15.09. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provision, and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been included herein.

Section 15.10. No Implied Waiver. The failure of any party hereto to insist at any time upon the strict performance of any covenant or agreement or to exercise any option, right, power or remedy contained in this Agreement shall not be construed as a waiver or relinquishment thereof for the future. The waiver of redress for any violation of any term, covenant, agreement or condition contained in this Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. No express waiver shall affect any condition other than the one specified in such waiver and that one only for the time and in the manner specifically stated.

Section 15.11. Cumulative Remedies. Each right, power, and remedy of Lessor provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise. The exercise or beginning of the exercise by Lessor of any one or more of the rights, powers, or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by Lessor of any or all such other rights, powers, or remedies.

Section 15.12. Force Majeure. None of the parties hereto shall be held responsible for delays in the performance of its obligations hereafter when caused by strikes, lockouts, work stoppages, labor disputes, acts of nature, inability to obtain labor or materials or reasonable substitutes

thereof, public enemy or hostile government action, war, civil commotion, fire or other casualty, and other similar causes beyond its reasonable control.

Section 15.13. Offset. Notwithstanding anything to the contrary herein, Lessor may, at its option, offset any amounts due and payable under this Agreement against any debt (including taxes) lawfully due to Lessor from Lessee, regardless of whether the amount due arises pursuant to the terms of this Agreement or otherwise and regardless of whether or not the debt due to such party has been reduced to judgment by a court.

Section 15.14. Notice Of Contract Claim. This Agreement is subject to the provisions of Section 2-86 of the Dallas City Code, as amended, relating to requirements for filing a notice of a breach of contract claim against City. Section 2-86 of the Dallas City Code, as amended, is expressly incorporated by reference and made a part of this Agreement as if written word for word in this Agreement. Lessee shall comply with the requirements of this ordinance as a precondition of any claim relating to this Agreement, in addition to all other requirements in this Agreement related to claims and notice of claims.

Section 15.16. Relationship Of The Parties. Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or joint venture by the parties hereto, it being understood and agreed that no provision contained in this Agreement nor any acts of the parties hereto shall be deemed to create any relationship other than the relationship of lessor and Lessee.

No term or provision of this Agreement or act of Lessee, its architect, construction manager, contractor, subcontractors, officers, agents and employees or any person under the control of Lessee in the performance of this Agreement shall be construed as making them the agent, servant or employee of Lessor, or making them eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which Lessor provides its employees.

Section 15.17. Conflict Of Interest Of City Employees. The following section of the Charter of the City of Dallas shall be one of the conditions of, and a part of, the consideration of this Agreement, to-wit:

“CHAPTER XXII. Sec. 11. FINANCIAL INTEREST OF EMPLOYEE OR OFFICER PROHIBITED --

(a) No officer or employee shall have any financial interest, direct or indirect, in any contract with the City or be financially interested, directly or indirectly, in the sales to the City of any land, materials, supplies or services, except on behalf of the City as an officer or employee. Any violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall thereby forfeit the officer's or employee's office or position with the City. Any violation of this section, with knowledge, express or implied, of the person or corporation contracting with the City shall render the contract involved voidable by the City Manager or the City Council.

(b) The alleged violations of this section shall be matters to be determined either by the Trial Board in the case of employees who have the right to appeal to the Trial Board, and by the City Council in the case of other employees.

(c) The prohibitions of this section shall not apply to the participation by City employees in federally-funded housing programs, to the extent permitted by applicable federal or state law.”

Section 15.18. Gift To Public Servant. Lessee shall not, and shall use commercially reasonable efforts to cause its contractors and agents to not, offer or agree to confer any benefit upon a City employee or official that said City employee or official is prohibited by law from accepting. For purposes of this section, “benefit” means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law. Notwithstanding any other legal remedies, Lessor may require Lessee to remove any employee of Lessee from the project who has violated the restrictions of this section or any similar state or federal law, and obtain reimbursement for any expenditures made to Lessee as a result of the improper offer, agreement to confer, or conferring of a benefit to a City employee or official.

Section 15.19. Holdover. This Lease shall terminate without further notice at the expiration of the term. Any holding over by Lessee without the express written consent of Lessor shall not constitute a renewal or extension of this Lease or give Lessee any rights in or to the Premises, and such occupancy shall be construed to be a tenancy from month to month on all the same terms and conditions as set forth herein, insofar as they are applicable to a month-to-month tenancy, except that the annual rent as described in Section 5.02 shall increase to an amount equal to the lesser of \$40,000.00 per month and the then existing fair market rental on a triple net lease for a championship golf course and other facilities (as may be then located at the Premises) as determined by three independent appraisers, with one such appraiser being promptly selected by each of the parties and the third selected by the two party-selected appraisers. Until a different rate is determined by the appraisal procedure, Lessee shall pay the \$40,000.00 per month amount. Said holdover rent shall be due and payable in monthly installments on the first of each month of said hold over.

Section 15.20. Late Fee And Interest. In the event Lessee is more than five (5) days late in making any rental payment to Lessor, Lessee shall incur and pay a late fee equal to 10% of the late amount. If Lessor pays or advances any moneys on behalf of Lessee under this Agreement Lessee shall reimburse Lessor immediately upon demand. Any rental payments or other amounts not paid shall accrue and Lessor shall pay interest on said amount from the due date of said rental or the day of Lessor’s payment or advance of such sum until paid at the lesser of eighteen percent (18%) per annum or the maximum rate allowed by applicable law. Notwithstanding any provision in this Agreement to the contrary, interest on any amounts owed hereunder shall never exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged or received under law. Any interest in excess of that maximum amount, after due application of the spreading doctrine and all rules of construction

and presumptions against the contracting for, taking, reserving, charging or receiving of excessive interest, will be credited to the principal of any debt or, if that has been paid, refunded.

Section 15.21. Conveyance By Lessor. In the event Lessor or any successor to same shall convey or otherwise dispose of the Premises, then that lessor shall thereupon be released from all liabilities and obligations under this Lease (except those accruing prior to such conveyance or other disposition) and such liabilities and obligations shall be binding solely on the then owner of the Premises.

Section 15.22. Brokerage. Lessee warrants that it has had no dealings with any broker or agent in connection with this Lease. Lessee covenants to pay, hold harmless and indemnify Lessor from and against any and all costs, expenses or liability for any compensation, commissions, or charges claimed by any broker or agent with respect to this Lease or the negotiation thereof.

Section 15.23. Language. The terms used herein, shall be applicable to one or more persons, as the case may be, and the singular shall include the plural, and the neuter shall include the masculine and feminine, and if there be more than one, the obligations hereof shall be joint and several. The words “persons” and “parties” whenever used shall include individuals, firms, associations, and corporations. Lessor and Lessee have freely negotiated this Agreement and its terms. Separate legal counsels have represented both parties. The language in all parts of this Agreement shall in all cases be construed as a whole and in accordance with its fair meaning, and shall not be construed more strictly against a party by reason of authorship.

Section 15.24. Entire Agreement. This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties that relate to the subject of this Agreement. This Agreement cannot be modified or amended without written agreement of the parties. Any Exhibits attached to and referred to in this Agreement are incorporated in this Agreement as a part of this Agreement for all purposes.

Section 15.25 Estoppel Certificates. Lessee and Lessor shall, at any time and from time to time upon not less than thirty (30) days’ prior written request by the other Party, execute, acknowledge and deliver to Lessor or Lessee, as the case may be, a statement in writing certifying (a) its ownership of the interest of Lessor or Lessee hereunder (as the case may be), (b) that this Lease is unmodified and in full force and effect (or if there have been any modifications, that the same is in full force and effect as modified and stating the modifications), (c) the dates to which the rental amounts described in Sections 5.02 and 5.03 and any other charges have been paid, and (d) that, to the best knowledge of Lessor or Lessee, as the case may be, no default hereunder on the part of the other Party exists (except that if any such default does exist, the certifying Party shall specify such default).

Section 15.26 Confidentiality of Information. With respect to any information, documents, agreements and financial statements provided or made available to Lessor by Lessee pursuant to this Agreement, Lessor and Lessee agree that such information may, from time to time, be proprietary and confidential, and the disclosure of such information may be detrimental to the success of the Project and Lessor’s and Lessee’s interests therein. Lessor shall use commercially

reasonable good faith efforts to limit disclosure of such information to its representatives who reasonably need to know such information. Lessor further covenants and agrees that if it is requested (orally or in writing) in connection with any request or legal proceeding to disclose such confidential or proprietary information, Lessor will provide Lessee with prompt notice in advance of such disclosure so that Lessee may seek such disclosure exemptions, protective orders or other appropriate remedy, and/or waive compliance with this Agreement, and Lessor agrees to cooperate with Lessee in pursuing any such course of action.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

EXECUTED and effective as of the _____ day of May, 2013 (the “Effective Date”).

LESSOR:

CITY OF DALLAS
Mary K. Suhm, City Manager

LESSEE:

THE COMPANY OF TRINITY FOREST GOLFERS, INC.
a Texas non-profit corporation

By: _____
Name: _____
Assistant City Manager

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:
Thomas P. Perkins, Jr.
City Attorney

By: _____
Name: _____
Assistant City Attorney

ATTEST:

By: _____
City Secretary

ATTACHMENTS:

Resolution No. 13- _____
Schedule 1.02(b) – Board of Governors
Schedule 1.02(c) – Certificate of Formation and Section 9.6 of Bylaws
Schedule 8.02(e) – Material Amendments to User Agreements
Exhibit A – The Premises
Exhibit A-1 -- Landfill and Tree Mitigation Area
Exhibit B – Approved Conceptual Plans and Preliminary Budget
Exhibit C – Lessor Improvements
Exhibit D – Payment and Performance Bond Forms
Exhibit E – Insurance Requirements
Exhibit F -- Hazardous Substances
Exhibit G – Memorandum of Lease

Schedule 1.02(b)

Lessee's Board of Governors

S.1 *Board of Governors.*

S.1.1 *Purpose.* Lessee shall have a Board of Governors (the “**BofG**”), whose sole purpose shall be to (a) review proposed amendments to the User Agreements; (b) verify Lessee's compliance with the Lease, including, without limitation, the Public Play Requirement in Section 8.05 of the Lease; (c) review Lessee financial statements provided pursuant to Section 8.12 of the Lease; and (d) make recommendations to Lessee concerning the operation of the Facilities. The powers of the BofG are expressly limited to the matters listed in this Schedule 1.02(b), it being understood that the BofG does not possess any of the powers of the Board except to the extent expressly provided in this Schedule 1.02(b).

S.1.2 *Initial Members of the BofG.* The number of members of the BofG (each, a “**BofG Member**”) shall be nine. BofG Members need not be residents of Texas. The initial BofG Members shall be as follows:

- (a) A BofG Chairman;
- (b) Two Mayor Appointed BofG Members;
- (c) One SMU Appointed BofG Member;
- (d) One Salesmanship Club Appointed BofG Member;
- (e) One First Tee Appointed BofG Member;
- (f) One Sponsor Appointed BofG Member; and
- (g) Two Company Appointed BofG Members.

S.1.3 *Terms.* The initial BofG Members shall serve staggered terms of one, two and three years as follows:

- (a) Each initial Class A BofG Member shall have his or her term expire on the third anniversary of the date of formation of Lessee; and each successive Class A BofG Member have his or her time expire every three years thereafter.
- (b) Each initial Class B BofG Member shall have his or her term expire on the second anniversary of the date of formation of Lessee; and each successive Class B BofG Member have his or her time expire every three years thereafter.

(c) Each initial Class C BofG Member shall have his or her term expire on the first anniversary of the date of formation of Lessee; and each successive Class C BofG Member have his or her time expire every three years thereafter.

(d) Each BofG member shall hold office until the annual meeting when his or her term expires and thereafter until her or her successor shall have been elected and qualified, or until his or her earlier death, resignation or removal.

S.1.4 Election.

(a) Each initial BofG Member shall be appointed on or before the Delivery Date.

(b) Each BofG Member (and his or her successor) shall be elected as follows:

(i) Subject to Section S.1.4(b)(viii) below, each Mayor Appointed BofG Member shall be appointed by the Mayor.

(ii) Subject to Section S.1.4(b)(viii) below, each SMU Appointed BofG Member shall be appointed by Southern Methodist University.

(iii) Subject to Section S.1.4(b)(viii) below, each Salesmanship Club Appointed BofG Member shall be appointed by the Salesmanship Club of Dallas.

(iv) Subject to Section S.1.4(b)(viii) below, each First Tee Appointed BofG Member shall be appointed by The First Tee of Greater Dallas.

(v) Subject to Section S.1.4(b)(viii) below, each Sponsor Appointed BofG Member shall be appointed by the then primary sponsor of the most prominent professional golf tournament held at the Facilities on a yearly basis, and if no such sponsor exists, the successor Sponsor Appointed BofG Member shall be appointed by Lessee.

(vi) Subject to Section S.1.4(b)(viii) below, each Company Appointed BofG Member shall be appointed by Lessee.

(vii) Subject to Section S.1.4(b)(viii) below, the initial BofG Chairman shall be appointed jointly by the Mayor and the Company, and each successor BofG Chairman shall be appointed by a majority of the BofG Members (and if there is a tie, then appointed by the Mayor); provided that in all cases the Mayor shall have the right to veto any such appointee.

(viii) Notwithstanding the foregoing, if the individual or entity that is required to select the appointment of a BofG Member fails or refuses to make such selection within seven days after being requested to do so, and such

failure or refusal shall have continued for ten days following a written request by the Chairman or any other BofG Member, then such BofG Member shall be selected by a majority of the BofG Members (and if there is a tie, then appointed by the Mayor, and if not appointed by the Mayor within 7 days after written request therefor, by Lessee), it being understood that the refusal or failure of an individual or entity to timely select the appointment of a BofG Member shall not eliminate such individual or entity's right to select the appointment of the person to fill future openings arising upon the expiration of the relevant BofG Member's term. Notwithstanding the foregoing, if the Mayor fails to timely appoint a Mayor Appointed BofG Member and such member is appointed by a majority of the other BofG Members, then the Mayor at any time may replace such appointed BofG Member with a member of his or her choosing.

(ix) If at any time the SMU User Agreement is no longer in effect, then the SMU Appointed BofG Member shall automatically resign and be replaced with an individual appointed by a majority of the other BofG Members.

(x) If at any time the First Tee User Agreement is no longer in effect, then the First Tee Appointed BofG Member shall automatically resign and be replaced with an individual appointed by a majority of the other BofG Members.

(xi) If at any time the SCD Agreement is no longer in effect, then each of the Sponsor Appointed BofG Member and the Salesmanship Club Appointed BofG Member shall automatically resign and be replaced with an individual appointed by a majority of the other BofG Members.

S.1.5 *User Agreements.*

(a) Prior to approving any amendment of any User Agreement, Lessee shall deliver a copy of such proposed amendment to the BofG Members.

(b) If, and only if, each of the following occur: (i) a majority of the BofG Members (i.e., at least 5 BofG Members) determine, in their sole discretion, within 14 days after receiving such proposed amendment that the proposed amendment is not in the best interest of the City with respect to its interest as lessor of the property subject to the Lease (irrespective of whether the proposed amendment complies with the Lease), and (ii) the Chairman notifies (within 18 days after receiving such proposed amendment) Lessee in writing of such determination and the reasons therefor, then Lessee shall not approve of such proposed amendment. Otherwise, Lessee is entitled to enter into such proposed amendment (e.g., because a no vote was taken or fewer than 5 BofG Members voted that the proposed amendment was not in the best interest of the City with respect to its interest as less or the property subject to the Lease or because the written notice by the Chairman to Lessee did not include the report described above).

(c) In addition, each of the BofG Members shall determine whether he or she believes that such proposed amendment complies with the Lease. If any BofG

Member believes that such proposed amendment does not comply with the Lease, then such BofG Member shall notify (within 14 days after receiving such proposed amendment) in writing each of the City and Lessee and the reasons therefor.

(d) No BofG Member shall provide the City or any other individual or entity a copy of any User Agreement or proposed amendment thereto.

S.1.6 *Public Play Requirement.*

(a) Following each calendar year during the Lease, the BofG Members shall determine whether Lessee has satisfied the Public Play Requirement for such calendar year, pursuant to the procedures described below.

(b) Within 30 days following the end of each calendar year during the Lease, Lessee shall deliver to each BofG Member a written report describing Lessee's belief as to its performance with respect to the Public Play Requirement for the immediately preceding calendar year (the "**Public Play Report**"). Such report shall be reasonably detailed.

(c) If any BofG Member believes that the Public Play Report is insufficient, then he or she shall notify in writing Lessee of such asserted deficiencies within ten days after receiving the Public Play Report, and Lessee shall use commercially reasonable efforts to provide the BofG Members the requested information within ten days after receiving such written request.

(d) If any BofG Member believes that Lessee has not met the Public Play Requirement for a particular year, then he or she shall notify in writing Lessor and Lessee of such belief, with such notification including the reason(s) why such BofG Member believes that Lessee did not meet the Public Play Requirement. If such notification is given, then Lessee shall deliver to Lessor the Public Play Report for the relevant year if requested by Lessor in writing. It is not a condition precedent to Lessor asserting that the Public Play Requirement has not been met for a particular year that one or more BofG Members notify Lessor of a belief as to Lessee's failure to meet the Public Play Requirement for such year.

(e) Notwithstanding the foregoing, no BofG Member shall make any determinations as to whether Lessee complies with any court order with respect to the Public Play Requirement.

S.1.7 *Financial Statements.*

(a) Lessee shall deliver such financial statements (the "Financial Statements") to the BofG Members as provided in Section 8.12 of the Lease.

(b) Each of the BofG Members shall determine whether he or she believes that the Financial Statements indicate that Lessee is not in compliance with the Lease. If any BofG Member believes that information in the Lessee Financial Statements indicate that Lessee is not in compliance with any provision of the Lease, then such BofG

Member shall notify in writing each of Lessor and Lessee and the reasons therefor. If, after receiving such written notification, Lessor desires to review such financial statements, it shall notify Lessee, after which Lessee shall provide Lessor with such financial statements (redacted to exclude any proprietary information to the extent such redaction prevents Lessor from assessing whether Lessee is complying with the Lease).

(c) No BofG Member shall deliver a copy of Lessee Financial Statements (or any portion thereof) to any other person or entity.

S.1.8 *Recommendations to Lessee.* In addition to notices any BofG Member may or shall provide to Lessor and Lessee as described in this Schedule 1.02(b) above, at any time and from time to time, any BofG Member may deliver to Lessee and the City (a) written recommendations as to ways to improve the operation of the Facilities, or any other matter directly relating to the Lease or the Facilities; or (b) a written notice as to such BofG Member's belief as to Lessee's failure to satisfy the terms of the Lease. With respect to matters described in clause (a) above, each of Lessee and the City shall consider such recommendations (it being understood that neither is required to follow such recommendations, and that the BofG Members (or any BofG Member) shall not have any power to take any action on behalf of Lessee or the City in connection with any such recommendation).

S.1.9 *Procedural Matters.*

(a) Notwithstanding any provision in these Bylaws to the contrary, no BofG Member shall be subject to any conflict of interest provisions applicable to Lessee. However, the indemnification provisions of the Bylaws shall apply to each BofG Member.

(b) The BofG Members shall have a regular meeting each calendar year during the term of the Lease, as scheduled by the BofG Chairman.

(c) Special meetings of the BofG may be called by (i) the BofG Chairman or (ii) any BofG Member to enable the BofG to address any of the BofG Members' duties described in Section S.1.1.

(d) Notice of any meeting of the BofG shall be given at least four days previously thereto by written notice delivered personal or sent by mail, email, or facsimile to each director at his or her address as shown by the records of Lessee. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed with postage thereon prepaid. If notice be given by email or facsimile, notice shall be deemed to be delivered only if and when actually received by the party to be notified. Any BofG Member may waive notice of any meeting in writing. All such written waivers shall be filed with the minutes of such meeting. The attendance of a BofG Member at any meeting shall constitute a waiver of notice of such meeting, except where a BofG Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special

meeting of the BofG Members need be specified in the notice or waiver of notice of such meeting.

(e) A majority of the BofG Members shall constitute a quorum for the transaction of business at any regular or special meeting of the BofG Members; but if less than a majority of the BofG Members are present at said meeting, a majority of the BofG Members present may adjourn the meeting from time to time without further notice. A BofG Member present by proxy may not be counted towards quorum.

(f) Except as otherwise specifically provided herein, in the exercise of any of the powers herein given to the BofG Members, at least five BofG Members present (in person or by proxy) at a meeting of the BofG at which quorum is present shall have authority to make determinations and to act. All actions of the BofG Members shall be taken either by resolution at a meeting or by written record without a meeting. A BofG Member may vote in person or by proxy executed in writing by the BofG Member. A proxy expires three (3) months after the date the proxy is executed, and is revocable unless otherwise provided by the proxy or made irrevocable by law.

(g) Any vacancy occurring with a BofG Member position shall be filled in the same manner as such BofG Member would be replaced upon expiration of his or her term. A BofG Member elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office, or until his or her successor qualifies, or until his or her earlier death, resignation, or removal.

(h) Any action required by law to be taken at a meeting of BofG, or any action which may be taken at a meeting of BofG, may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the BofG Members. Every written consent of the BofG Members shall bear the date of signature of each person who signs the consent. An email or other electronic transmission by a BofG Member, or a photographic, photostatic, facsimile or similar reproduction of a writing signed by a BofG Member, shall be regarded as signed by the BofG Member for purposes of this Section S.1.9(i). Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any document.

(i) A meeting of the BofG may be held by means of a remote electronic communications system, including but not limited to conference telephone, videoconference, or internet, so long as (i) each person entitled to participate in the meeting consents to the meeting being held by means of that system, and (ii) the system provides access to the meeting in a manner or using a method by which each person participating in the meeting can communicate concurrently with each other participant. Such participation shall constitute presence in person at the meeting for purposes of a quorum and voting.

(j) Notwithstanding any provision in this Agreement to the contrary, any notice or opinion of a BofG Member relating to any provision in this Schedule 1.02(b) shall not be binding on either Lessor or Lessee or considered as evidence in any court of law or other binding resolution process. Upon receiving a notice from a BofG

Member that such BofG Member believes that Lessee is not complying with a provision or provisions of the Lease, it is incumbent upon Lessor to determine whether it agrees with such BofG Member, and if Lessor believes that such a breach may or has occurred, it may, but is not required to, assert its rights and remedies under this Agreement with respect thereto.

S.1.10 Definitions.

(a) The term “**BofG Chairman**” means the chairman of the BofG, who shall (i) lead all BofG meetings, (ii) carry out the decisions of the BofG, and (iii) advise the City and Lessee of recommendations by the BofG.

(b) The term “**Mayor Appointed Members**” means the second and third directors listed in Section S.1.2 above, and each and every replacement of such members.

(c) The term “**SMU Appointed Member**” means the fourth director listed in Section S.1.2 above, and each and every replacement of such member.

(d) The term “**Salesmanship Club Appointed Member**” means the fifth director listed in Section S.1.2 above, and each and every replacement of such member.

(e) The term “**First Tee Appointed Member**” means the sixth director listed in Section S.1.2 above, and each and every replacement of such member.

(f) The term “**Sponsor Appointed Member**” means the seventh director listed in Section S.1.2 above, and each and every replacement of such member.

(g) The term “**Company Appointed Members**” means the eighth and ninth directors listed in Section S.1.2 above, and each and every replacement of such members.

(h) The term “**Class A Members**” means the BofG Chairman and the Mayor Appointed Members.

(i) The term “**Class B Members**” means the SMU Appointed Member, the Salesmanship Club Appointed Member and the First Tee Appointed Member.

(j) The term “**Class C Members**” means the Sponsor Appointed Member and Lessee Appointed Members.

(k) The term “**City**” means the City of Dallas, Texas.

(l) The term “**Mayor**” means the mayor of the City.

(m) The term “**User Agreement**” means each of the following agreements, as they may be amended from time to time: (i) the Master Agreement between Southern Methodist University or its affiliate and Lessee; (ii) the Usage Agreement between First Tee of Greater Dallas and Lessee; and (iii) the PGA Tour Tournament Facilities Agreement among PGA Tour, Inc., The Salesmanship Club of Dallas, and Lessee.

(n) The term “**Public Play Requirement**” has the meaning given such term in the Lease.

(o) The term “**Financial Statements**” means the annual audited financial statements of Lessee required pursuant to Section 8.12 of the Lease.

(p) The term “**Lease**” means that certain Lease Agreement for the Trinity Forest Golf Course between Lessee, as lessee, and the City, as lessor.

Schedule 1.02(c)

**Lessee's Certificate of Incorporation
and
Section 9.6 of Lessee's Bylaws [Board of Governors]**

[to be attached]

Schedule 8.02(e)

Material Amendments to User Agreements Requiring Lessor Approval

For purposes of Section 8.02 of the Lease, "Material Amendments" shall mean:

A. With respect to the SMU Agreement:

1. Any amendment that would result in Section 5.05(2) of this Agreement no longer being met;
2. Any amendment that would materially increase Lessor's obligations or decrease Lessor's rights with respect to SMU if this Lease is terminated;
3. Any change in the parties to the SMU Agreement;
4. Any amendment to the definition of "SMU Conditions" or "CTFG Conditions" that adds conditions or makes any of the existing conditions more difficult to be met;
5. Any delay in the August 31, 2013 date by which the conditions referred to above must be met;
6. Any material expansion of the grounds of either party to terminate the SMU Agreement;
7. Any amendment to section 2.3 of the SMU Agreement (City Ground Lease Requirement);
8. With respect to Exhibit B of the SMU Agreement, (a) any material change in the definition of "Basic Use Right," "Blocked Times," "Easement Area," "Expanded Use Rights," "SMU Designees," "SMU Designee's Rights," "SMU Golf Team," or "SMU Team Purpose;" (b) the reduction of the term of the Easement and Use Agreement to less than five years; (c) SMU's payment obligations, including, without limitation, maintenance obligations (timing and amount); (d) any change in the requirement that Lessor be a co-insured on any policies of insurance SMU obtains with respect to such SMU Agreement and activities in connection therewith; and (e) any change in the requirement that Lessor be delivered (contemporaneously with the addressee) copies of any notice of default, intention to terminate or actual termination of the SMU Agreement; and
9. Any material change to Exhibit C of the SMU Agreement.

B. With respect to the First Tee Agreement:

1. Any amendment that would result in Section 5.05(3) of this Agreement no longer being met;

2. Any change in the parties to the First Tee Agreement;
3. Any amendment to the definition of “Comparable First Tee Facilities;”
4. Any amendment to the definitions of “First Tee Facilities,” “First Tee Clubhouse,” or “First Tee Outdoor Facilities” that would reduce the quality or scope of such assets.
5. Any reduction of the term of the First Tee Agreement to less than five years;
6. Any material expansion of the grounds of either party to terminate the First Tee Agreement;
7. Any amendment that removes Lessor (or lessens its rights) as an indemnified party;
8. Any material reduction in First Tee’s obligations to provide educational and youth programming at the Project;
9. Any amendment to section 2.5 of the First Tee Agreement (City Ground Lease Provisions);
10. Any change in the requirement that Lessor be a co-insured on any policies of insurance First Tee obtains with respect to the First Tee Agreement and activities in connection therewith; and
11. Any change in the requirement that Lessor be delivered (contemporaneously with the addressee) copies of any notice of default, intention to terminate or actual termination of the First Tee Agreement.

C. With respect to the SCD Agreement:

- b. Any amendment that would result in Section 5.05(1) of this Agreement no longer being met. Notwithstanding the foregoing, Lessee may agree (without Lessor’s consent) to amend the SCD Agreement to allow or otherwise change the name of the PGA TOUR golf tournament, subject to the following: (a) if the amendment results in a tournament name during the initial 5 years of tournament play under the SCD agreement that does not include the phrase “Byron Nelson,” then the Annual Rental payable by Lessee for the Remaining Initial Five Year Term (defined below) shall automatically be changed to the Adjusted Annual Rental (defined below) (it being understood that the Annual Rental for all periods after the Remaining Initial Five Year Term shall automatically switch back to the Annual Rental amount stated in Section 5.02); and (b) at all times Lessee shall use commercially reasonable efforts to prevent the name of the PGA TOUR golf tournament played at the Golf Course from (i) including any reference to any proper geographic name, unless such reference (X)

is to “Dallas” or the “City of Dallas” or (Y) is part of the proper name of a person or entity selected as a major sponsor of the event; or (ii) suggesting or implying sponsorship by, approval of, or other affiliation with an individual, entity or enterprise whose business, product or service involve (X) a sexually oriented business or matters of a sexual or sexually provocative or titillating nature, (Y) alcohol, tobacco or other recreational drugs products, or (Z) a scandalous reputation for business ethics. The term “Adjusted Annual Rental” means, for any particular lease year, the fair market value rental for a commercial ground lease of the Premises for such year on the materially similar other terms as those contained in this Agreement as determined by three reputable appraisers; one of said appraiser being appointed by Lessee and Lessor, respectively, and the third being named by the first two party-appointed appraisers. The term “Remaining Initial Five Year Term” means, in a circumstance in which the name of the PGA TOUR golf tournament is changed during the initial 5 years of tournament play under the SCD Agreement to no longer include the phrase “Byron Nelson,” the year in which the name change occurs and the remaining year(s) of such initial 5 years of tournament play under the SCD Agreement (for illustration purposes only, if the name of the PGA TOUR golf tournament is changed in year 3 of the SCD Agreement to no longer include the phrase “Byron Nelson,” then the Remaining Initial Five Year Term would be years 3, 4 and 5 of tournament play under the SCD Agreement); for this purpose, a name change is deemed to occur on the first day of the next upcoming PGA TOUR golf tournament at the Golf Course.

2. Any amendment that would (a) lower the category of professional tournament played at the Golf Course to a category lower than the PGA TOUR tournament, or (b) allow for less than a scheduled 72 hole competition over a four-day period;
3. Any change in the parties to the SCD Agreement;
4. Any change in the definition of “Golf Complex;”
5. Any reduction of the term of the SCD Agreement to less than five years;
6. Any additions of conditions precedent to the SCD Agreement or amendments to the SCD Agreement that make any of the existing conditions precedent more difficult to be met;
7. Any narrowing of the requirement that Lessee have nondiscriminatory membership rules.
8. Any material expansion in section 2.2 of the SCD Agreement (the section titled “Termination”) of the grounds of either party to terminate the SCD Agreement;
9. Any amendment that removes Lessor (or lessens its rights) as an indemnified party;

10. Any amendment to section 2.2.3 of the SCD Agreement (City Ground Lease Provisions);

11. Any change in the requirement that Lessor be a co-insured on any policies of insurance SCD obtains with respect to the First Tee Agreement and activities in connection therewith; and

12. Any change in the requirement that Lessor be delivered (contemporaneously with the addressee) copies of any notice of default, intention to terminate or actual termination of the SCD Agreement.

Exhibit A

Premises Including Landfill Areas and Tree Mitigation Areas

[to be attached]

Exhibit A-1

Landfill and Tree Mitigation Area

[to be attached]

Exhibit B

**Approved Conceptual Plans
And Preliminary Construction Budget**

[to be attached]

Exhibit C

Lessor Improvements

[to be attached]

Exhibit D

Payment and Performance Bond Forms

[to be attached]

Exhibit E

Insurance Requirements

E.1 Liability Insurance. Lessee agrees, at its sole expense, to obtain and maintain public liability insurance at all times during the Term of this Lease with responsible insurance companies, legally authorized to transact business in the State of Texas for bodily injury (including death) and property damage with minimum limits of \$10,000,000 Combined Single Limit protecting Lessor and Lessee against any liability, damage, claim or demand arising out of or connected with the condition or use of the Premises. Such insurance shall include contractual liability, personal injury and advertising liability, business automobile (including owned, non-owned and hired) and independent contractor liability. Such insurance coverage must be written on an "occurrence" basis. It must be maintained by any combination of single policies and umbrella policies and may be obtained and maintained by a Sublessee with respect to that portion of the Premises subleased to such Sublessee. Lessor shall be named as an additional insured on all insurance policies required in this Section E.1, whether provided by Lessee or by any Sublessee, including policies providing higher limits of liability or other coverages. Lessee, at least every ten years during the Term, shall adjust the above referenced limits of liability to reflect percentage increases during such period in similar coverages at similar venues in Dallas, Texas.

E.2 Workers' Compensation Insurance. Lessee agrees, at its sole expense, to obtain and maintain workers' compensation insurance, as required by applicable law, during the Term, and if so required, with statutory limits and employer's liability with limits of \$100,000 each accident, \$100,000 disease each employee and \$500,000 disease per policy. The policy will be endorsed to provide a waiver of subrogation as to Lessor.

E.3 Property Insurance. At all times during the Term of this Lease, Lessee shall, at its sole expense, keep all buildings and structures included in the Premises insured against "all risk" of loss for full replacement cost coverage, to include direct loss by fire, windstorm, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, boiler and machinery, and flood. Coverage must be written by responsible insurance companies legally authorized to transact business in the State of Texas. Lessor shall be named as an additional insured or additional loss payee, as appropriate.

E.4 Policies. All insurance policies required by this Exhibit E shall provide for at least 60 days written notice to Lessor before cancellation and true and correct copies of policies of insurance shall be delivered to Lessor, and the form and substance thereof shall be subject to the reasonable approval of Lessor. If any blanket general insurance policy of Lessee complies with the terms of these provisions, the naming of Lessor therein as additional insured shall be deemed compliance with the requirements for the insurance coverage provided in any such blanket policy. Lessor and Lessee hereby waive all claims, rights of recovery and causes of action that either party or any party claiming by, through or under such party by subrogation or otherwise may now or hereafter have against the other party or any of the other party's partners, directors, officers, employees, or agents, for bodily injuries (including death) to persons, or loss or damage to property of Lessor and Lessee whether caused by the negligence or fault of Lessor and Lessee or their partners, directors, officers, employees or agents or otherwise, to the extent that the

injuries, loss or damages are covered by the proceeds of insurance policies maintained by either party.

E.5 Adjustment of Losses. Any loss under any such insurance policy required under Section E.3 hereof shall be made payable to Lessee for the benefit of Lessor and Lessee, to the end that Lessee shall be entitled to collect all money due under such insurance policies payable in the event of and by reason of the loss of or damage to the Premises, to be applied pursuant to Section E.6 below, but subject to the terms of the Lease. Any accumulation of interest on the insurance proceeds collected by Lessee shall be added to, and become a part of, the fund being held by Lessee for the benefit of Lessor and Lessee. The adjustment of losses with the insurer shall be made by Lessee.

E.6 Application of Proceeds of Property Insurance. All proceeds payable pursuant to the provisions of any policies of property insurance required to be carried under the terms of this Lease (net of reasonable expenses of collection) shall be applied for the following purposes:

(a) All such net proceeds shall first be used, subject to any other terms and conditions contained in this Lease, as a fund for the rebuilding, restoration and repair of the portion of the Premises which have become destroyed or damaged for which such proceeds are payable; and

(b) Following completion of all work under subsection (a) above, any such proceeds not disbursed pursuant to subsection (a) above shall be applied to or as directed by Lessee.

Exhibit F

Hazardous Substances

Presence and Use of Hazardous Substances. Except for materials and substances used in the ordinary course of development and operation of the Project as a golf course (but in all events in compliance with applicable laws), Lessee shall not, without Lessor's prior written consent, store on or around the Premises, for use, disposal, treatment, generation, storage, or sale, any substance designated as, or containing components designated as hazardous, dangerous, toxic, or harmful by or is subject to regulation, by federal, state, or local law, regulation, statute, or ordinance, including but not limited such substances identified under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601, *et seq.*, the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801, *et seq.*, or the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, *et seq.* "Hazardous Substances" shall also mean any and all other similar terms defined in other federal state and local laws, statutes, regulations, orders or rules and materials and wastes which are, or in the future become, regulated under applicable local, state or federal law for the protection of health or the environment or which are classified as hazardous or toxic substances, materials or waste, pollutants or contaminants, or similar substances (collectively referred to in this Agreement as "Hazardous Substances"). With respect to any such Hazardous Substances, Lessee shall:

- b. Comply promptly, timely, and completely with all applicable government requirements for reporting, keeping, and submitting manifests, and obtaining and keeping current identification numbers.
- b. Submit to Lessor true and correct copies of all reports, manifests, and identification numbers at the same time as they are required to be and/or are submitted to the appropriate government authorities.
- c. Within thirty (30) days of Lessor's request, submit written reports to Lessor regarding Lessee's use, storage, treatment, transportation, generation, disposal, or sale of Hazardous Substances and provide evidence satisfactory to Lessor of Lessee's compliance with the applicable government regulations.
- d. Allow Lessor or Lessor's agent or representative to come on the Premises at all times to check Lessee's compliance with all applicable government regulations regarding Hazardous Substances.
- e. Comply with all applicable government rules, regulations, and requirements regarding the proper and lawful use, sale, transportation, generation, treatment, and disposal of Hazardous Substances.

Any and all costs incurred by Lessor and associated with Lessor's inspection of the Premises and Lessor's monitoring of Lessee's compliance with this Article, including Lessor's attorney fees and costs, shall be additional rent and shall be due and payable to Lessor immediately on demand by Lessor.

Cleanup costs, default, and indemnification. Lessee shall be fully and completely liable to Lessor for any and all cleanup, response, natural resource damage, and any and all other costs, charges, fees, and penalties (civil and criminal), whether imposed by any government authority or obtained by a third party in litigation with respect to Lessee's use, disposal, transportation, generation, and/or sale of Hazardous Substances, in or about the Premises in violation of the terms of this Lease. Lessee shall indemnify, defend, and save Lessor harmless from any and all of the costs, fees, penalties, and charges assessed against or imposed on Lessor (as well as Lessor's attorney fees and costs) as a result of Lessee's use, disposal, transportation, generation, and/or sale of Hazardous Substances in violation of the terms of this Lease. Upon Lessee's default under this provision of the Agreement (beyond any notice and cure periods provided in Section 14.01 if the Lease), in addition to the rights and remedies set forth elsewhere in this Lease, Lessor shall be entitled to the following rights and remedies:

- b. To recover any and all damages associated with the default, including, but not limited to all cleanup, response, natural resource damages, any and all other costs, charges, fees, and penalties (civil and criminal), whether imposed by any government authority or obtained by a third party in litigation, loss of business and sales by Lessee and other tenants of the Premises, and Lessor's attorney fees and costs; and/or
- b. To enter onto the Premises and cause to be completed the cleanup, decontamination, and remediation of the Hazardous Substances on the Premises, whether present in soil, groundwater, air, or any other media, as reasonably determined by the City.

EXHIBIT G

Memorandum of Lease Agreement

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

THIS MEMORANDUM OF LEASE AGREEMENT ("Memorandum") is entered into as of the _____ day of _____, 2012, by and between the CITY OF DALLAS, a municipal corporation of Dallas County, Texas ("Lessor"), and THE COMPANY OF TRINITY FOREST GOLFERS, INC., a Texas nonprofit corporation ("Lessee"), sometimes collectively referred to herein as the "Parties" or singularly as a "Party".

RECITALS

- A. Lessor and Lessee have entered into a Lease Agreement (the "Lease") pertaining to the Premises (as defined in the Lease) which includes the land described on Exhibit A attached hereto and made a part hereof for all purposes (the "Land").
- B. Lessor and Lessee desire to enter into and record this Memorandum in the public records of Dallas County, Texas, to put all third parties on notice of the Lease and Lessee's rights thereunder in and to the Premises.

AGREEMENT

1. The Lease. Upon and subject to the terms and provisions set forth in the Lease, Lessor has leased, demised and let unto Lessee, and Lessee has taken and leased from Lessor, the Premises. Lessee has certain rights and interests in the Premises under the Lease.

2. Term. The Term of the Lease is for a period commencing on the date first above written and ending on the 40th anniversary of the Completion Date (defined in the Lease as _____), unless sooner terminated or extended according to the terms and provisions of the Lease.

3. Incorporation of Lease. The terms, conditions and provisions of the Lease are incorporated herein by reference for all purposes. Any inconsistencies between this Memorandum and the Lease are governed by the Lease and not by this Memorandum. This Memorandum in no way modifies or amends the Lease.

Executed as of the day and year first above written.

LESSOR:

CITY OF DALLAS
Mary K. Suhm, City Manager

LESSEE:

THE COMPANY OF TRINITY FOREST GOLFERS, INC.
a Texas nonprofit corporation

By: _____
Name: _____
Assistant City Manager

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:
Thomas P. Perkins, Jr.
City Attorney

By: _____
Name: _____
Assistant City Attorney

ATTEST:

By: _____
City Secretary

[ACKNOWLEDGEMENTS]

EXHIBIT A

PREMISES

BOUNDARY DESCRIPTION OF THE TRINITY CHAMPIONSHIP GOLF COURSE ADDITION, INSTALLMENT I

A 364.95 Acre tract of unplatted land being situated in the City of Dallas, Dallas County, Texas, and lying in the Elizabeth Crockett Survey, Abstract No. 231, Isaac Elam Survey, Abstract No. 443, and the Gideon Pemberton Survey, Abstract No. 1155, and lying in City of Dallas Blocks 6258, 6259, 7972, and being part of the property conveyed to the City of Dallas by deed recorded in Instrument Number 20080250127 of the Official Public Records of Dallas County, Texas and being more particularly described as follows:

NOTE: All coordinates given are Texas State Plane Coordinate System, North Central Zone 4202, North American Datum of 1983, ON GRID values.

LOTS 1 & 2:

BEGINNING at the intersection of the South Right-of-Way line of State Highway Loop 12 / Great Trinity Forest Way with the West line of the Trinity River Audubon Addition, Preliminary Plat (Coordinates: North=6946837.1817, East=2519310.5076):

THENCE Southerly with the East line of said Trinity River Audubon Addition to the Southeast corner of the herein described tract of land:

THENCE Westerly and Northwesterly the following distances and bearings:

South 89°15'11" West a distance of 206.79 feet:
North 45°35'06" West a distance of 199.20 feet:
North 40°07'46" West a distance of 314.87 feet:
North 75°39'34" West a distance of 513.50 feet:
South 86°34'43" West a distance of 422.48 feet:
North 53°52'06" West a distance of 383.82 feet:
South 78°35'09" West a distance of 299.59 feet:
South 23°54'00" West a distance of 375.14 feet:
South 42°51'13" West a distance of 262.34 feet:
South 85°02'52" West a distance of 257.10 feet:
South 70°20'40" West a distance of 506.97 feet:
South 78°26'30" West a distance of 722.12 feet:
North 9°57'00" West a distance of 358.21 feet:
North 34°46'37" West a distance of 96.00 feet:
South 85°34'52" West a distance of 135.57 feet:
South 69°40'33" West a distance of 55.55 feet:
North 26°14'14" West a distance of 121.12 feet:
North 84°12'49" West a distance of 193.11 feet:
North 32°30'42" West a distance of 405.08 feet:
North 56°26'53" West a distance of 271.92 feet:

**BOUNDARY DESCRIPTION
OF THE
TRINITY CHAMPIONSHIP GOLF COURSE ADDITION, INSTALLMENT I**

South 87°07'20" West a distance of 434.93 feet:
North 5°33'30" West a distance of 292.52 feet:
North 37°46'37" West a distance of 633.93 feet:
North 55°53'49" West a distance of 288.43 feet:
North 16°36'25" West a distance of 305.78 feet:
North 1°32'51" West a distance of 278.62 feet to the intersection with the above
reference South line of State Highway Loop 12 / Great Trinity Forest Way
(Coordinates: North=6945810.581, East=2513428.066):

THENCE Northeasterly and Easterly with the said South line of State Highway
Loop 12 / Great Trinity Forest Way to the **POINT OF BEGINNING**, containing
362.70 Acres of land.

Lot 3:

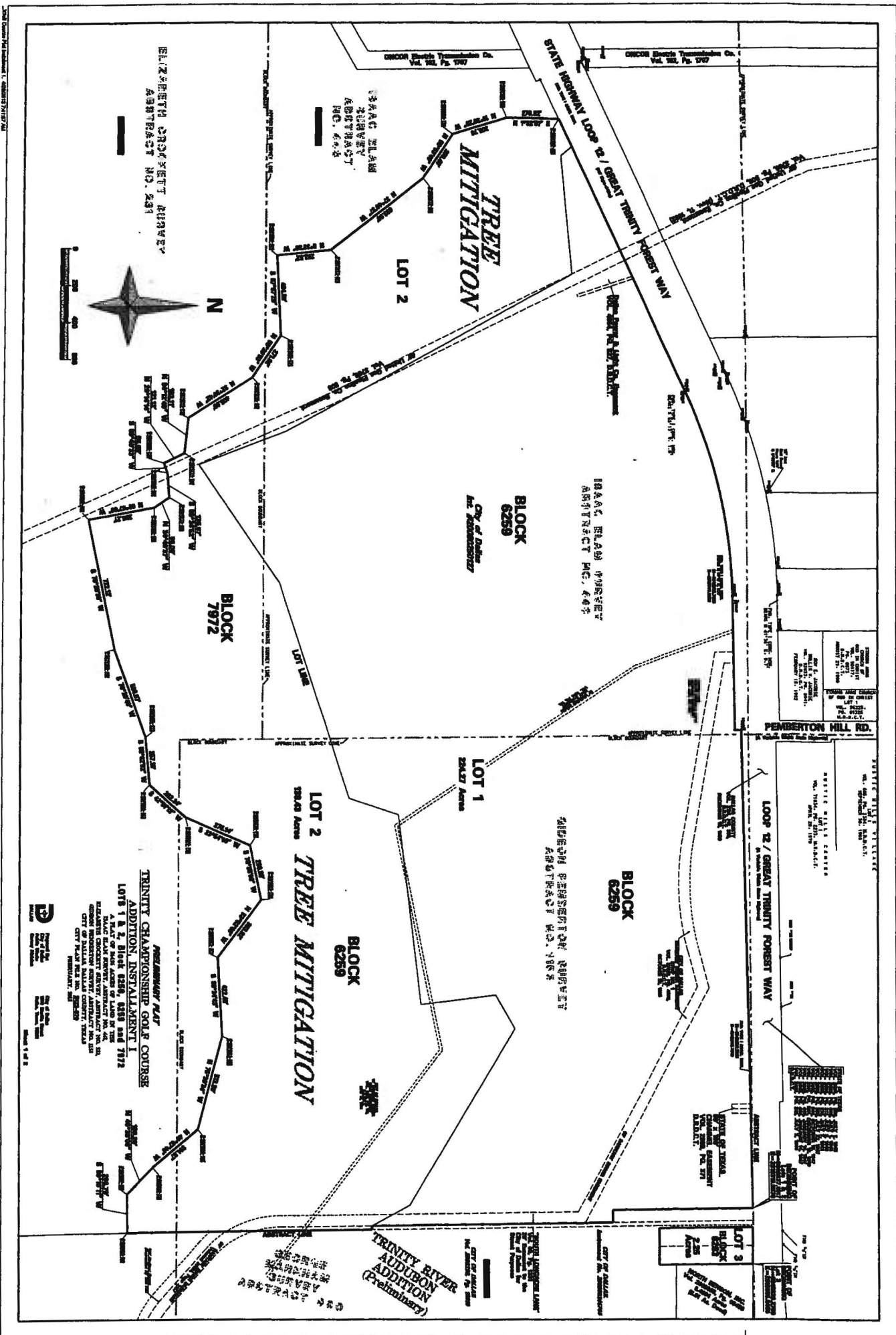
BEGINNING at the Southeast corner of a tract of land conveyed to the City of
Dallas by deed recorded in Instrument Number 201200145747 of the Official
Public Records of Dallas County, Texas, being also an inside corner of the Trinity
River Audubon Center Addition (Preliminary Plat) (Coordinates:
North=6946279.78, East=2519610.54):

THENCE Westerly with the South line of said City of Dallas tract and a tract
conveyed to the City of Dallas by deed recorded in Instrument Number
201200287032 of the Official Public Records of Dallas County, Texas, to an
inside corner of said Trinity River Audubon Addition:

THENCE Northerly with an Easterly line of said Trinity River Audubon Addition to
the intersection with the centerline of State Highway Loop 12 / Great Trinity
Forest Way:

THENCE Easterly with the said centerline of State Highway Loop 12 / Great
Trinity Forest Way to the intersection with the prolongation of the East line of the
above said City of Dallas tract conveyed by Instrument Number 201200145747
of the Official Public Records of Dallas County, Texas:

THENCE Southerly with the prolongation and East line of said City of Dallas tract
to the **POINT OF BEGINNING**, containing approximately 126,861 Square Feet,
or 2.912 Acres of land.



**BOUNDARY DESCRIPTION
OF THE
TRINITY CHAMPIONSHIP GOLF COURSE ADDITION, INSTALLMENT II**

A 104.60 Acre tract of unplatted land being situated in the City of Dallas, Dallas County, Texas, and lying in the Cornelius Cox Survey, Abstract No. 284, and the Isaac Elam Survey, Abstract No. 443, and lying in City of Dallas Blocks 6258 and 6257, and being part of the property conveyed to the City of Dallas by deed recorded in Instrument Number 20080250127 of the Official Public Records of Dallas County, Texas and being more particularly described as follows:

NOTE: All coordinates given are Texas State Plane Coordinate System, North Central Zone 4202, North American Datum of 1983, ON GRID values.

BEGINNING at the intersection of the North line of State Highway Loop 12 / Great Trinity Forest Way, with the East line of a tract of land conveyed to the ONCOR Electric Transmission Company (successor in title to the Dallas Power and Light Company) by deed recorded in Volume 182, Page 1707 of the Deed Records of Dallas County, Texas, being also the Southwest corner of the herein described tract of land (Coordinates: North=6945947.18, East=2513151.06):

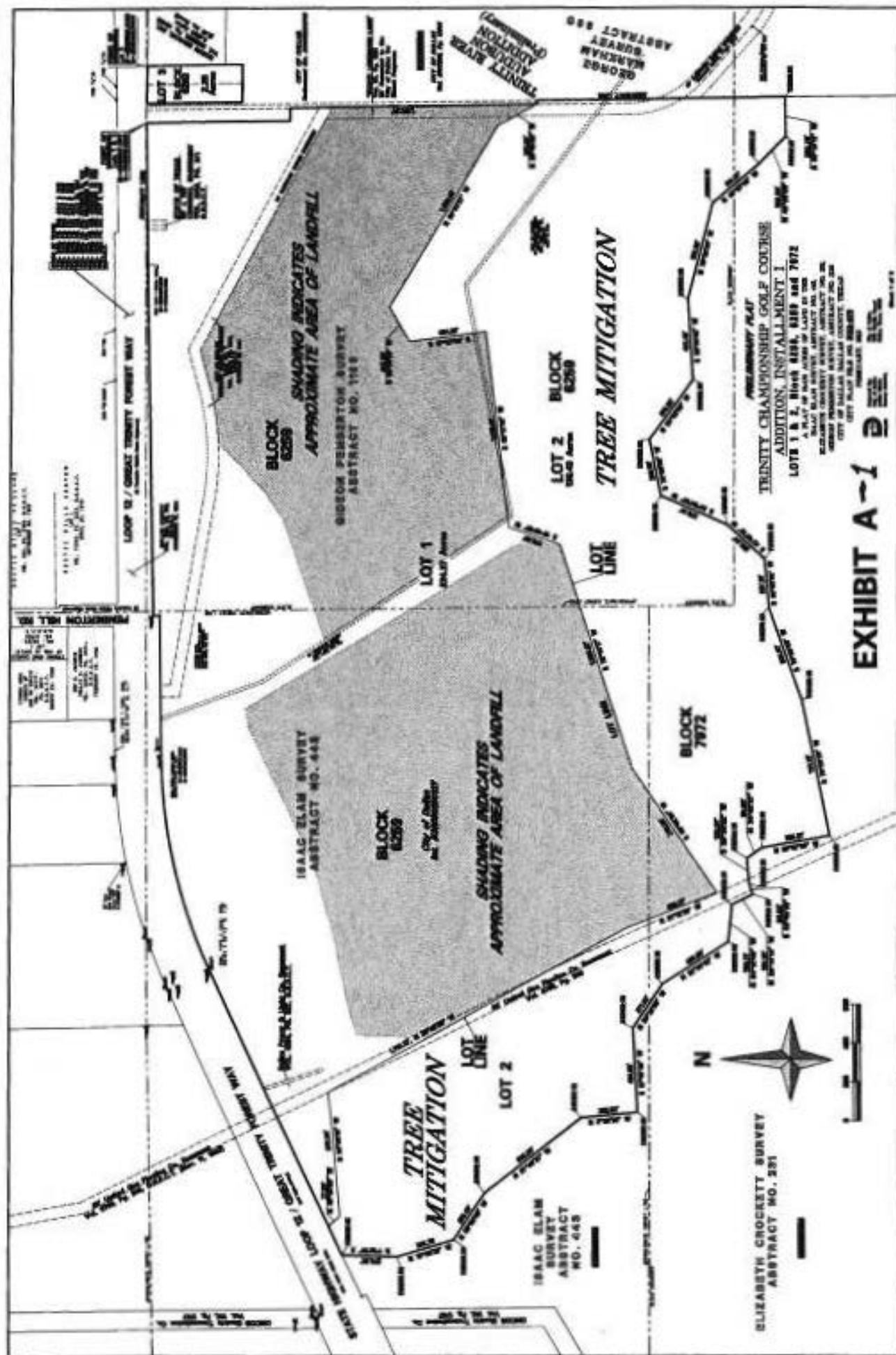
THENCE Northerly with the common line between said ONCOR and City of Dallas tracts to the intersection with the South line of the I.L. Hill Survey, Abstract No. 648, being also the Northwest corner of the herein described tract of land:

THENCE Easterly with the common line between said I.L. Hill and Cornelius Cox Surveys to the intersection with the West line of a tract of land conveyed to Burrencia Family Revocable Living Trust by deed recorded in Volume 2005139, Page 898 of the Official Public Records of Dallas County, Texas, being also the Northeast corner of the herein described tract of land:

THENCE Southerly with the common line between said Burrencia and City of Dallas tracts to the intersection with the above said North line of State Highway Loop 12 / Great Trinity Forest Way, being also the Southeast corner of the herein described tract of land (Coordinates: North=6946623.68, East=2514616.37):

THENCE Southwesterly with the said North line of State Highway Loop 12 / Great Trinity Forest Way to the **POINT OF BEGINNING**, containing 104.60 Acres of land.

Landfill and Tree Mitigation Area



J. COX PUBLISHERS
ABINGDON 1906. 272

I. L. HILL SURVEY
ABSTRACT NO. 648

SHADING INDICATES
APPROXIMATE
AREA OF LANDFILL

**TONY AND NITA BURECIA,
TRUSTEES OF BURECIA FAMILY
REVOCABLE LIVING TRUST
V. BURECIA, P. GOMEZ**

SHADAMER
SOLANO
POL 98078,
PG 2872

Block

City of Dallas
Int. SECURITIES

W. TRAUGHBER SURVEY
ABSTRACT NO. 1479

104.60 Acres

Block

Lot 3

GRADIENT BOUNDARY LINE

LOOP 12 / GREAT TRINITY FOREST WAY

SAC FLAM SURVEY
ABSTRACT NO. 449

BLOCK
6258

PRESUMINARY PLAT

PROPERTY CHAMPIONSHIP GOLF COURSE

ots 1, 2 & 3, Blocks 6257 & 6258
A PLAT OF 10646 ACRES OF LAND IN THE
CORNELIUS COX SURVEY, ABSTRACT NO. 384
AND ISAAC BLAM SURVEY, ABSTRACT NO. 46

CITY OF DALLAS, DALLAS COUNTY, TEXAS
CITY PLAN FILE NO. 8108-000
FEBRUARY, 2013

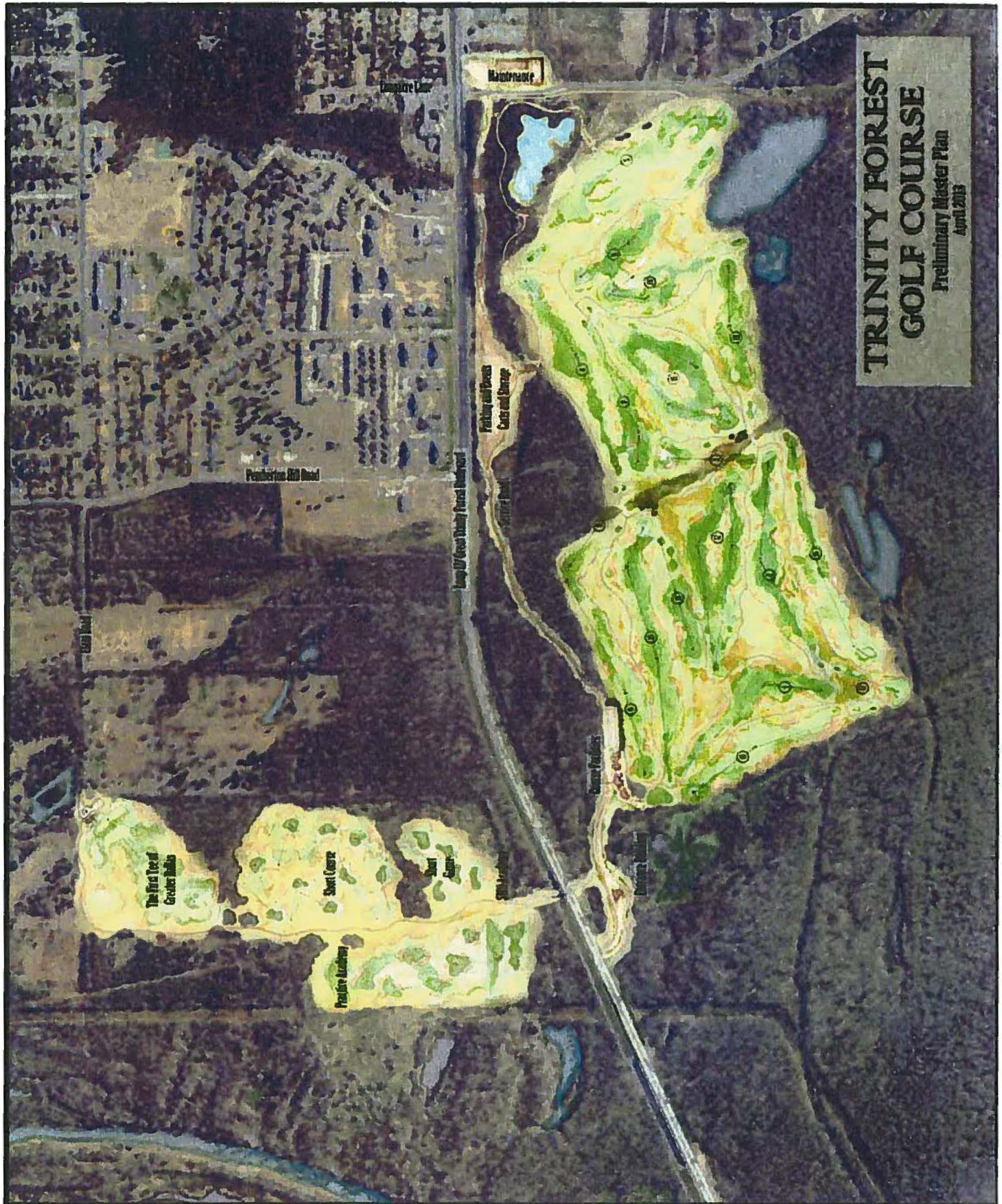
世

iii

Exhibit B

**Approved Conceptual Plans
And Preliminary Construction Budget**

[to be attached]



TRINITY FOREST GC
Project Description

Project Components:

- 18-hole championship golf course designed by Coore & Crenshaw, Inc.
- World-class practice facility built to PGA TOUR specifications including 25 acre driving range, 40,000 square foot putting green(s) and a teaching academy with state-of-the-art swing analysis technology. The teaching academy would include 2 hitting bays built within a 1,500sf building.
- Teaching center for The First Tee of Greater Dallas including a driving range and 3-hole course
- Practice academy for Southern Methodist University golf teams
- Clubhouse facilities would include a foyer, women's and men's locker rooms, a mixed grill and bar, pavilion for special events, pro shop, offices and outdoor patios overlooking the golf course.

Golf Course Characteristics:

The Trinity Forest Golf Course will resemble a links-style layout with rolling hills, tall native grasses and dramatic bunkering and green complexes. The 7,200-yard, par-71 course will be built on a rolling meadow surrounded by the Great Trinity Forest. The subtly rolling meadow and waving native grasses will resemble the great old courses of the Northeast and the more dramatic elevation changes around the edges of the meadow against the forest will produce opportunities for exciting risk and reward decisions.

Exhibit B - Lessee Construction Budget

April 26, 2013

	Quantity	Unit	Unit Price	Extended	Notes
Pre-Development					
Legal					
COD Lease Agreement	1	ALL	\$ 75,000	\$ 75,000	
Non-Profit/Partner Agreements	1	ALL	\$ 25,000	\$ 25,000	
Operating/Management Agreements	1	ALL	\$ 10,000	\$ 10,000	
Membership Documents	1	ALL	\$ 50,000	\$ 50,000	
Contractor / Architect Contracts	1	ALL	\$ 15,000	\$ 15,000	
Easements	1	ALL	\$ 15,000	\$ 15,000	
SMU & SCD Agreements	1	ALL	\$ 75,000	\$ 75,000	
Other Pre-Development Legal	1	ALL	\$ 25,000	\$ 25,000	
				\$ 290,000	
Legal SubTotal					
Permits (Includes required Engineering & Consultancies)					
Environmental Mitigation (USACE) (Wetlands) (404)	1	ALL	\$ 25,000	\$ 25,000	
COD Fill Permit	2	EA	\$ 6,000	\$ 12,000	
SWPPP	1	ALL	\$ 2,500	\$ 2,500	
Grading (Off Cap - Cap included in RAP & Subchapter T)	1	ALL	\$ 2,500	\$ 2,500	
Highway 12	1	ALL	\$ -	\$ -	By Lessor
Interior Roads			Below		
Utilities - Temporary (Elec, water, sewer, phone)	1	ALL	\$ 2,000	\$ 2,000	
Utilities - Permanent			Below		
Buildings & Structures			Below		
Miscellaneous Permits	1	ALL	\$ 10,000	\$ 10,000	
				\$ 54,000	
Permits SubTotal					
Zoning & CPC	1	ALL	\$ -	\$ -	By Lessor
				\$ -	
Mitigation Credits - Off Site Banking					
	-	CRD		\$ -	
				\$ 344,000	
Pre-Development Total					

Exhibit B - Lessee Construction Budget
April 26, 2013

	Quantity	Unit	Unit Price	Extended	Notes
Design, Engineering & Consultancies					
Design					
Irrigation Design (inc design, programming, water balance)	1	ALL	\$ 80,000	\$ 80,000	
Landscape Design	1	ALL	\$ 60,000	\$ 60,000	
Reservoir Design	1	ALL	\$ 15,000	\$ 15,000	
Other Design	1	ALL	\$ 25,000	\$ 25,000	
Design SubTotal				\$ 180,000	
Engineering					
Civil Engineering (Lessor Improvements)	1	ALL	\$ -	\$ -	By Lessor
Civil Engineering (Golf & structures inc. Subconsultants)	1	ALL	\$ 100,000	\$ 100,000	
Tree Survey (Misc work)	1	ALL	\$ 10,000	\$ 10,000	
Wetland/404 Delineation	1	ALL	\$ 20,000	\$ 20,000	
GeoTech at lake excavations	1	ALL	\$ 10,000	\$ 10,000	
Constraints & Easements	1	ALL	\$ 12,500	\$ 12,500	
Site surveying & Field Engineering (Post Remediation)	1	ALL	\$ 40,000	\$ 40,000	
Structures - Site Design & Geotech	1	ALL	Below		
Lighting - Exterior (Streets)	1	ALL	\$ 20,000	\$ 20,000	
Other engineering	1	ALL	\$ 50,000	\$ 50,000	
Engineering SubTotal				\$ 262,500	
Consultancies					
Agromony	1	ALL	\$ 10,000	\$ 10,000	
Other Consultancies	1	ALL	\$ 10,000	\$ 10,000	
Consultancies SubTotal				\$ 20,000	
Certifications					
Other Certifications	1	ALL	\$ 10,000	\$ 10,000	
Certifications SubTotal				\$ 10,000	
Design, Engineering & Consultancies Total				\$ 472,500	

Exhibit B - Lessee Construction Budget
April 26, 2013

Construction - Horizontal

	Quantity	Unit	Unit Price	Extended	Notes
Site Preparation/ Requirements					
Camp site & Site office (Contractor/Subcontractors)	1	ALL	\$ 25,000	\$ 25,000	
Field office (5/13 thru 6/15)	26	MO	\$ 2,500	\$ 65,000	
Safety Administration (May 2013 - December 2014)	20	MO	\$ 10,000	\$ 200,000	
Site Security (May 2013 - December 2014)	20	MO	\$ 25,000	\$ 500,000	
Implement E&S Plan / SWPPP for Lessor improvements	1	ALL	\$ -	\$ -	By Lessor
Construction Entrances					
Highway 12 ramps	3	ALL	Below		
Maintain entrances	1	ALL	\$ 15,000	\$ 45,000	
Abandonments (Utilities) & Relocations	1	ALL	\$ 25,000	\$ 25,000	
Demolition & Removals	1	ALL	\$ 35,000	\$ 35,000	
Easement requirements	1	ALL	\$ 45,000	\$ 45,000	Awaiting easement agreements from CoD
Project/Program Management expenses	22	MO	\$ 5,000	\$ 110,000	
Operations & Maintenance Training	1	ALL	\$ 10,000	\$ 10,000	
Interim Utilities	22	MO	\$ 1,000	\$ 22,000	
				\$ 1,082,000	
Site Preparation SubTotal					
Remediation					
Site Remediation	1	ALL	\$ -	\$ -	By Lessor
Vegetative support layer and other support fill on landfills	1	ALL	\$ -	\$ -	By Lessor
Site engineering & Inspections	1	ALL	\$ -	\$ -	By Lessor
Grubbing & Stripping on all landfills	1	ALL	\$ -	\$ -	By Lessor
Tree Clearing on all landfills	1	ALL	\$ -	\$ -	By Lessor
Establish consistent Cap (+/- 2.0' plan)	1	ALL	\$ -	\$ -	By Lessor
Slope remediation	1	ALL	\$ -	\$ -	By Lessor
Pond J remediation	1	ALL	\$ -	\$ -	By Lessor
Surface Waste/Debris removal to landfill	1	ALL	\$ -	\$ -	By Lessor
Methane mitigation	1	ALL	\$ 200,000	\$ 200,000	Includes methane trench(s) (At structures)
GPS Control / Cap Control for Earthwork & Shaping	1	ALL	\$ 40,000	\$ 40,000	
Tree Mitigation (Trees & Blackland Prairie)	1	ALL	\$ 250,000	\$ 250,000	
Additional Mitigation	1	ALL	\$ 280,000	\$ 280,000	Payments to be scheduled over time.
				\$ 770,000	
Remediation SubTotal					
Golf Course Construction					
Golf Course (inc. PG at Clubhouse)	1	ALL	\$ 6,120,000	\$ 6,120,000	
Practice Academy	1	ALL	\$ 1,680,000	\$ 1,680,000	
Short Game (inc SMU CG & PG)	1	ALL	\$ 1,360,000	\$ 1,360,000	
First Tee	1	ALL	\$ 400,000	\$ 400,000	
Native landscaping	1	ALL	\$ 200,000	\$ 200,000	
Waste Debris Removal	1	ALL	\$ 300,000	\$ 300,000	
				\$ 10,060,000	
Course Construction SubTotal					

Exhibit B - Lessee Construction Budget
April 26, 2013

	Quantity	Unit	Unit Price	Extended	Notes
Infrastructure - Utilities (Inc. Tap Fees, if not waived by COD)					
Utilities	1	ALL	\$ 2,350,000	\$ 2,350,000	
Potable Water - Looped system	1	ALL	\$ -	\$ -	By Lessor
Sewer (Elam Road)	1	ALL	\$ -	\$ -	By Lessor
Well Water	1	ALL	\$ -	\$ -	Included in Utilities line above
Lake Development	1	ALL	\$ -	\$ -	Included in Utilities line above
Trinity River Transfer, Pumping Systems & Mains	1	ALL	\$ -	\$ -	By Lessor
Gas	1	ALL	\$ -	\$ -	Included in Utilities line above
Electric	1	ALL	\$ -	\$ -	Included in Utilities line above
Communication	1	ALL	\$ -	\$ -	Included in Utilities line above
Utility Contingency	1	ALL	\$ -	\$ -	Included in Utilities line above
Infrastructure - Utilities SubTotal				\$ 2,350,000	
Infrastructure - Other					
Road - All Highway 12 work per concepts provided	1	ALL	\$ -	\$ -	By Lessor
Road - Elam Improvements	1	ALL	\$ -	\$ -	By Lessor
Road - Entry, Parking	100,000	CY	\$ 4	\$ 400,000	
Road - Academy Trail	1	ALL	\$ 120,000	\$ 120,000	
Storm Water / Gas Easement					
Structural Fill	30,000	CY	\$ 4	\$ 120,000	
Site Preparation & Structural Fill	1	ALL	\$ 30,000	\$ 30,000	
Storm Water	9,000	SF	\$ 4	\$ 36,000	
Surfacing					
Road - Service & Emergency Evacuation	1	ALL	\$ 32,000	\$ 32,000	
Clearing & Site Preparation	110,000	SF	\$ 1	\$ 110,000	
Structural Fill / Fabric & Stone	110,000	SF	\$ 1	\$ 137,500	
Surfacing					
Trail to First Tee / Short Game / Short Course	1	ALL	\$ 35,000	\$ 35,000	
Bridges & Crossings					
Golf (2)	1	ALL	\$ 108,000	\$ 108,000	
Service Road (2)	1	ALL	\$ 160,000	\$ 160,000	
Pad Development Hwy 12	1	ALL	\$ 200,000	\$ 200,000	
Fence - Perimeter					
South Loop 12	18,000	LF	\$ 24	\$ 432,000	
Elam Parcels	9,000	LF	\$ 24	\$ 216,000	
Fence/Wall - Entry	1	ALL	\$ 40,000	\$ 40,000	
Ornamental fencing at underpass, other areas (Add'l cost)	3,000	LF	\$ 46	\$ 138,000	
Site Landscaping / Lighting	1	ALL	\$ 250,000	\$ 250,000	
Tournament / Network Requirements	1	ALL	\$ 25,000	\$ 25,000	
Infrastructure - Other SubTotal				\$ 2,585,500	
Grow-In / Maturation (Golf & grounds)	1	ALL	\$ 900,000	\$ 900,000	
Construction - Horizontal Total				\$ 17,751,500	

Exhibit B - Lessee Construction Budget
April 26, 2013

	Quantity	Unit	Unit Price	Extended	Notes
Construction - Vertical					
Clubhouse (including academy building)					
Site Work (excluding earthwork)	1	ALL	\$ 425,000	\$ 425,000	
Utility Conductions	1	ALL	\$ 140,000	\$ 140,000	
Structure	5,000	SF	\$ 300	\$ 1,500,000	
Methane mitigation	1	ALL	\$ 25,000	\$ 25,000	
A&E / MEP Design @ 10%	1	ALL	\$ 150,000	\$ 150,000	
FFE	1	ALL	\$ 175,000	\$ 175,000	
Outdoor Patios / Living / Amenity	5,000	SF	\$ 20	\$ 100,000	
Villas SubTotal				\$ 2,515,000	
First Tee Building					
Site Work (excluding earthwork)	1	ALL	\$ 25,000	\$ 25,000	
Utility Conductions	1	ALL	\$ 25,000	\$ 25,000	
Structure	8,000	SF	\$ 100	\$ 800,000	
A&E / MEP Design	1	ALL	\$ 80,000	\$ 80,000	
FFE	1	ALL	\$ 96,000	\$ 96,000	
First Tee Building SubTotal				\$ 1,026,000	
Maintenance Facility					
Site Work (excluding road earthwork)	1	ALL	\$ 80,000	\$ 80,000	
Utility Conductions	1	ALL	\$ 60,000	\$ 60,000	
Structure	10,000	SF	\$ 80	\$ 800,000	
Other structures	1	ALL	\$ 160,000	\$ 160,000	
A&E & MEP Design	1	ALL	\$ 40,000	\$ 40,000	
FFE	1	ALL	\$ 48,000	\$ 48,000	
Shop outfitting (Equipment below)	1	ALL	\$ 40,000	\$ 40,000	
Maintenance Facility SubTotal				\$ 1,228,000	
Pump Station Building (Inc Well)					
Site Work (excluding earthwork)	1	ALL	\$ 10,000	\$ 10,000	
Utility Conductions			Above		
Structure (1 @ 2,500 SF)	2,500	SF	\$ 60	\$ 150,000	
A&E / MEP Design	1	ALL	\$ 15,000	\$ 15,000	
FFE	1	ALL	\$ 1,000	\$ 1,000	
Pump Station Building SubTotal				\$ 176,000	
Construction - Vertical Total				\$ 4,945,000	

Exhibit B - Lessee Construction Budget
April 26, 2013

	Quantity	Unit	Unit Price	Extended	Notes
Pre-Opening					
Golf maintenance until opening	6	MO	\$ 80,000	\$ 480,000	
				\$ 480,000	
SubTotal Budget				\$ 23,993,000	
Contingency			10%	\$ 2,399,300	
Total Minimum Lessee Budget				\$ 26,392,300	

Pre-Opening SubTotal

EXHIBIT C
Not to exceed \$12M
City Commitment for Trinity Forest Golf Course Project

1	Survey, zoning and platting - field work on boundary and topography survey, and preparation of field notes, plats and maps for CPC and Council Approval of the plats and planned development.
2	Tree survey - field survey of trees 8 inches and above.
3	Remediation testing - testing required to remediate the site conditions related to the former use as a landfill of the Simpkins property and for obtain regulatory closure.
4	Remediation design - design plans to remediate the site conditions related to the former use as a landfill of the Simpkins property and to obtain regulatory closure.
5	Remediation construction - construction to remediate the site conditions related to the former use as a landfill of the Simpkins property and to obtain regulatory closure - may be assigned to TFGNP for management.
6	Installation of the vegetative support layer as submitted to TCEQ.
7	Tree clearing and grubbing of all disturbed landfill areas.
8	Median opening at Great Trinity Forest Way - design and construction of median opening, deceleration and acceleration lanes, left turn lane and driveway approach to main entrance of the TFGC.
9	Elam Road - design and construction of a two-lane concrete roadway, drainage system, bike and pedestrian lanes, and street lights from Pemberton Hill to west to dead end.
10	Water and wastewater improvements - design and construction of approximately 4,900 feet of water replacements for completing the loop system and approximately 400 feet of wastewater improvements on Elam Road.
11	Irrigation system and components for joint use at Audubon and TFGC (Estimated amount to be verified)
12	Street lights along Great Trinity Forest Way - design and construction of street lights from Pemberton Hill to Sleepy Hollow Golf Course.
13	Traffic signals at Longacre Drive and Great Trinity Forest Way - construction of new traffic signals.
14	Wetland Mitigations - for trails and other public improvements.
15	Traffic signals at Pemberton Hill and Great Trinity Forest Way - construction of new traffic signals.

EXHIBIT D

Bond. No. _____

PAYMENT BOND

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

KNOW ALL MEN BY THESE PRESENTS: That _____, whose address is _____, hereinafter called Principal, and _____, a corporation organized and existing under the laws of the State of _____, and fully authorized to transact business in the State of Texas, as Surety, are held and firmly bound unto the City of Dallas, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter called Owner, and unto all persons, firms, and corporations who may furnish materials for, or perform labor upon the building or improvements hereinafter referred to, in the penal sum of _____ and ___/100 DOLLARS (\$_____) in lawful money of the United States, to be paid in Dallas County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors jointly and severally, firmly by these presents. This Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement which reduces the Contract price decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract, identified by Resolution No. 13-_____, with the City of Dallas, the Owner, dated the ___ day of ___, A.D. 20___, a copy of which is hereto attached and made a part hereof, for _____ in the City and County of Dallas.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties and make prompt payment to all persons, firms, subcontractors, corporations and claimants supplying labor and/or material in the prosecution of the Work provided for in said Contract and any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modification to the Surety is hereby expressly waived, then this obligation shall be void; otherwise it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action be filed on this Bond, exclusive venue shall lie in Dallas County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the Contract, or to the Work performed thereunder, or the Plans, Specifications, Drawings, etc., accompanying the same, shall in anywise affect its obligation on this Bond, and it does

hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder.

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, as amended, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Dallas County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Section 3503.003 of the Insurance Code, Vernon's Texas Codes Annotated.

THE ADDRESS OF THE SURETY TO WHICH ANY NOTICE OF CLAIM SHOULD BE SENT MAY BE OBTAINED FROM THE TEXAS DEPARTMENT OF INSURANCE IN AUSTIN, TEXAS BY CALLING THE FOLLOWING TOLL-FREE TELEPHONE NUMBER: 1-800-252-3439.

IN WITNESS WHEREOF, this instrument is executed in __ copies, each one of which shall be deemed an original, this ____ day of _____, 20__.

ATTEST:

PRINCIPAL:

a ____ corporation

BY _____
Secretary

BY _____
President

ATTEST:

SURETY:

a ____ corporation

BY _____

BY _____
Attorney-in-Fact

The Resident Agent of the Surety in Dallas County, Texas, for delivery of notice and service of the process is:

NAME: _____

TELEPHONE: _____

STREET ADDRESS: _____

(NOTE: Date of Payment Bond must be date of Contract. If Resident Agent is not a corporation, give a **person's** name.)

Bond. No. _____

PERFORMANCE BOND

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

KNOW ALL MEN BY THESE PRESENTS: That _____ whose address is _____ hereinafter called Principal, and _____, a corporation organized and existing under the laws of the State of _____ and fully authorized to transact business in the State of Texas, as Surety, are held and firmly bound unto the City of Dallas, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter called Owner, in the penal sum of _____ DOLLARS (\$ _____) plus 10 percent of the stated penal sum as an additional sum of money representing additional court expenses, attorneys' fees, and liquidated damages arising out of or connected with the below identified Contract in lawful money of the United States, to be paid in Dallas County, Texas, for the payment of which sum well and truly to be made, we hereby bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents. This Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement which reduces the Contract price decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract, identified by Resolution No. 13-_____, with the City of Dallas, the Owner, dated the _____ day of _____ A.D. 20____, a copy of which is hereto attached and made a part hereof, for _____ in the City and County of Dallas, Texas.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform and fulfill all of the undertakings, covenants, terms, conditions and agreements of said Contract in accordance with the plans, specifications and Contract Documents during the original term thereof and any extension thereof which may be granted by the Owner, with or without notice to the Surety, and during the life of any guaranty or warranty required under this Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived; and, if the Principal shall repair and/or replace all defects due to faulty materials and workmanship that appear within a period of one (1) year from the date of final completion and final acceptance of the Work by Owner; and, if the Principal shall fully indemnify and save harmless the Owner from all costs and damages which Owner may suffer by reason of failure to so perform herein and shall fully reimburse and repay Owner all outlay and expense which the Owner may incur in making good any default or deficiency, then this obligation shall be void; otherwise, it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action be filed upon this Bond, exclusive venue shall lie in Dallas County, State of Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the Specifications accompanying the same shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work or to the Specifications.

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, as amended, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Dallas County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Section 3503.003 of the Insurance Code, Vernon's Texas Codes Annotated.

THE ADDRESS OF THE SURETY TO WHICH ANY NOTICE OF CLAIM SHOULD BE SENT MAY BE OBTAINED FROM THE TEXAS DEPARTMENT OF INSURANCE IN AUSTIN, TEXAS BY CALLING THE FOLLOWING TOLL-FREE TELEPHONE NUMBER: 1-800-252-3439.

IN WITNESS WHEREOF, this instrument is executed in three (3) copies, each one of which shall be deemed an original, this ____ day of _____, 20____.

ATTEST:

PRINCIPAL:

a Texas corporation

BY _____
Secretary

BY _____
President

ATTEST:

SURETY:

a Texas corporation

BY _____

BY _____
Attorney-in-Fact

The Resident Agent of the Surety in Dallas County, Texas, for delivery of notice and service of the process is:

NAME: _____ TELEPHONE: _____

STREET ADDRESS: _____

(NOTE: Date of Payment Bond must be date of Contract. If Resident Agent is not a corporation, give a **person's** name.)

Exhibit E

Insurance Requirements

E.1 Liability Insurance. Lessee agrees, at its sole expense, to obtain and maintain public liability insurance at all times during the Term of this Lease with responsible insurance companies, legally authorized to transact business in the State of Texas for bodily injury (including death) and property damage with minimum limits of \$10,000,000 Combined Single Limit protecting Lessor and Lessee against any liability, damage, claim or demand arising out of or connected with the condition or use of the Premises. Such insurance shall include contractual liability, personal injury and advertising liability, business automobile (including owned, non-owned and hired) and independent contractor liability. Such insurance coverage must be written on an "occurrence" basis. It must be maintained by any combination of single policies and umbrella policies and may be obtained and maintained by a Sublessee with respect to that portion of the Premises subleased to such Sublessee. Lessor shall be named as an additional insured on all insurance policies required in this Section E.1, whether provided by Lessee or by any Sublessee, including policies providing higher limits of liability or other coverages. Lessee, at least every ten years during the Term, shall adjust the above referenced limits of liability to reflect percentage increases during such period in similar coverages at similar venues in Dallas, Texas.

E.2 Workers' Compensation Insurance. Lessee agrees, at its sole expense, to obtain and maintain workers' compensation insurance, as required by applicable law, during the Term, and if so required, with statutory limits and employer's liability with limits of \$100,000 each accident, \$100,000 disease each employee and \$500,000 disease per policy. The policy will be endorsed to provide a waiver of subrogation as to Lessor.

E.3 Property Insurance. At all times during the Term of this Lease, Lessee shall, at its sole expense, keep all buildings and structures included in the Premises insured against "all risk" of loss for full replacement cost coverage, to include direct loss by fire, windstorm, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, boiler and machinery, and flood. Coverage must be written by responsible insurance companies legally authorized to transact business in the State of Texas. Lessor shall be named as an additional insured or additional loss payee, as appropriate.

E.4 Policies. All insurance policies required by this Exhibit E shall provide for at least 60 days written notice to Lessor before cancellation and true and correct copies of policies of insurance shall be delivered to Lessor, and the form and substance thereof shall be subject to the reasonable approval of Lessor. If any blanket general insurance policy of Lessee complies with the terms of these provisions, the naming of Lessor therein as additional insured shall be deemed compliance with the requirements for the insurance coverage provided in any such blanket policy. Lessor and Lessee hereby waive all claims, rights of recovery and causes of action that either party or any party claiming by, through or under such party by subrogation or otherwise may now or hereafter have against the other party or any of the other party's partners, directors, officers, employees, or agents, for bodily injuries (including death) to persons, or loss or damage to property of Lessor and Lessee whether caused by the negligence or fault of Lessor and Lessee or their partners, directors, officers, employees or agents or otherwise, to the extent that the

injuries, loss or damages are covered by the proceeds of insurance policies maintained by either party.

E.5 Adjustment of Losses. Any loss under any such insurance policy required under Section E.3 hereof shall be made payable to Lessee for the benefit of Lessor and Lessee, to the end that Lessee shall be entitled to collect all money due under such insurance policies payable in the event of and by reason of the loss of or damage to the Premises, to be applied pursuant to Section E.6 below, but subject to the terms of the Lease. Any accumulation of interest on the insurance proceeds collected by Lessee shall be added to, and become a part of, the fund being held by Lessee for the benefit of Lessor and Lessee. The adjustment of losses with the insurer shall be made by Lessee.

E.6 Application of Proceeds of Property Insurance. All proceeds payable pursuant to the provisions of any policies of property insurance required to be carried under the terms of this Lease (net of reasonable expenses of collection) shall be applied for the following purposes:

(a) All such net proceeds shall first be used, subject to any other terms and conditions contained in this Lease, as a fund for the rebuilding, restoration and repair of the portion of the Premises which have become destroyed or damaged for which such proceeds are payable; and

(b) Following completion of all work under subsection (a) above, any such proceeds not disbursed pursuant to subsection (a) above shall be applied to or as directed by Lessee.

Exhibit F

Hazardous Substances

Presence and Use of Hazardous Substances. Except for materials and substances used in the ordinary course of development and operation of the Project as a golf course (but in all events in compliance with applicable laws), Lessee shall not, without Lessor's prior written consent, store on or around the Premises, for use, disposal, treatment, generation, storage, or sale, any substance designated as, or containing components designated as hazardous, dangerous, toxic, or harmful by or is subject to regulation, by federal, state, or local law, regulation, statute, or ordinance, including but not limited such substances identified under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601, *et seq.*, the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801, *et seq.*, or the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, *et seq.* "Hazardous Substances" shall also mean any and all other similar terms defined in other federal state and local laws, statutes, regulations, orders or rules and materials and wastes which are, or in the future become, regulated under applicable local, state or federal law for the protection of health or the environment or which are classified as hazardous or toxic substances, materials or waste, pollutants or contaminants, or similar substances (collectively referred to in this Agreement as "Hazardous Substances"). With respect to any such Hazardous Substances, Lessee shall:

- a. Comply promptly, timely, and completely with all applicable government requirements for reporting, keeping, and submitting manifests, and obtaining and keeping current identification numbers.
- b. Submit to Lessor true and correct copies of all reports, manifests, and identification numbers at the same time as they are required to be and/or are submitted to the appropriate government authorities.
- c. Within thirty (30) days of Lessor's request, submit written reports to Lessor regarding Lessee's use, storage, treatment, transportation, generation, disposal, or sale of Hazardous Substances and provide evidence satisfactory to Lessor of Lessee's compliance with the applicable government regulations.
- d. Allow Lessor or Lessor's agent or representative to come on the Premises at all times to check Lessee's compliance with all applicable government regulations regarding Hazardous Substances.
- e. Comply with all applicable government rules, regulations, and requirements regarding the proper and lawful use, sale, transportation, generation, treatment, and disposal of Hazardous Substances.

Any and all costs incurred by Lessor and associated with Lessor's inspection of the Premises and Lessor's monitoring of Lessee's compliance with this Article, including Lessor's attorney fees and costs, shall be additional rent and shall be due and payable to Lessor immediately on demand by Lessor.

Cleanup costs, default, and indemnification. Lessee shall be fully and completely liable to Lessor for any and all cleanup, response, natural resource damage, and any and all other costs, charges, fees, and penalties (civil and criminal), whether imposed by any government authority or obtained by a third party in litigation with respect to Lessee's use, disposal, transportation, generation, and/or sale of Hazardous Substances, in or about the Premises in violation of the terms of this Lease. Lessee shall indemnify, defend, and save Lessor harmless from any and all of the costs, fees, penalties, and charges assessed against or imposed on Lessor (as well as Lessor's attorney fees and costs) as a result of Lessee's use, disposal, transportation, generation, and/or sale of Hazardous Substances in violation of the terms of this Lease. Upon Lessee's default under this provision of the Agreement (beyond any notice and cure periods provided in Section 14.01 if the Lease), in addition to the rights and remedies set forth elsewhere in this Lease, Lessor shall be entitled to the following rights and remedies:

a. To recover any and all damages associated with the default, including, but not limited to all cleanup, response, natural resource damages, any and all other costs, charges, fees, and penalties (civil and criminal), whether imposed by any government authority or obtained by a third party in litigation, loss of business and sales by Lessee and other tenants of the Premises, and Lessor's attorney fees and costs; and/or

b. To enter onto the Premises and cause to be completed the cleanup, decontamination, and remediation of the Hazardous Substances on the Premises, whether present in soil, groundwater, air, or any other media, as reasonably determined by the City.

EXHIBIT G

Memorandum of Lease Agreement

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

THIS MEMORANDUM OF LEASE AGREEMENT ("Memorandum") is entered into as of the _____ day of _____, 2012, by and between the CITY OF DALLAS, a municipal corporation of Dallas County, Texas ("Lessor"), and THE COMPANY OF TRINITY FOREST GOLFERS, INC., a Texas nonprofit corporation ("Lessee"), sometimes collectively referred to herein as the "Parties" or singularly as a "Party".

RECITALS

- A. Lessor and Lessee have entered into a Lease Agreement (the "Lease") pertaining to the Premises (as defined in the Lease) which includes the land described on Exhibit A attached hereto and made a part hereof for all purposes (the "Land").
- B. Lessor and Lessee desire to enter into and record this Memorandum in the public records of Dallas County, Texas, to put all third parties on notice of the Lease and Lessee's rights thereunder in and to the Premises.

AGREEMENT

1. The Lease. Upon and subject to the terms and provisions set forth in the Lease, Lessor has leased, demised and let unto Lessee, and Lessee has taken and leased from Lessor, the Premises. Lessee has certain rights and interests in the Premises under the Lease.
2. Term. The Term of the Lease is for a period commencing on the date first above written and ending on the 40th anniversary of the Completion Date (defined in the Lease as _____), unless sooner terminated or extended according to the terms and provisions of the Lease.
3. Incorporation of Lease. The terms, conditions and provisions of the Lease are incorporated herein by reference for all purposes. Any inconsistencies between this Memorandum and the Lease are governed by the Lease and not by this Memorandum. This Memorandum in no way modifies or amends the Lease.

Executed as of the day and year first above written.

LESSOR:

CITY OF DALLAS
Mary K. Suhm, City Manager

LESSEE:

THE COMPANY OF TRINITY FOREST GOLFERS, INC.
a Texas nonprofit corporation

By: _____
Name: _____
Assistant City Manager

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:
Thomas P. Perkins, Jr.
City Attorney

By: _____
Name: _____
Assistant City Attorney

ATTEST:

By: _____
City Secretary

Memorandum



DATE May 10, 2013

TO Honorable Mayor and Members of the City Council

SUBJECT **Trinity Forest Golf Course: User Agreements with The Company of Trinity Forest Golfers, Inc.**

The Company of Trinity Forest Golfers, Inc. ("CTFG") is required to secure and maintain legally binding and effective agreements with the Salesmanship Club of Dallas ("SCD"), Southern Methodist University ("SMU") and with First Tee of Greater Dallas (collectively the "User Agreements") prior to the approval of the Lease Agreement. The City is not a party to such User Agreements, and CTFG has requested that most of the detailed terms of those arrangements remain confidential.

This memorandum summarizes the requirements outlined in the Lease for the User Agreements and advises the City Council of remaining terms of the Trinity Golf Course Lease finalized or modified since the May 1, 2013 Briefing of Council.

The SMU Relationship:

SMU plans to invest in the Golf Course and has requested certain assurances from the City concerning their right to use the Golf Course in the event that CTFG defaults and the Lease terminates. The Lease between the City and CTFG and the SMU User Agreement contemplates and documents SMU's involvement as follows:

SMU will be contributing initial amounts of between \$2,000,000 and \$3,500,000 (varies with levels of SMU usage) towards the Golf Course development. This amount is not part of and is over and above the initial \$20,000,000 commitment from CTFG.

It is further contemplated that SMU may build a separate clubhouse facility pursuant to a later sublease with CTFG that will involve a substantial investment of additional funds by SMU for such additional facility construction.

SMU is requiring that, in the event of termination of the Lease, after completion of the Golf Course and contribution of SMU funds:

1. SMU shall have the right to use whatever golf course City might elect to operate on the premises, if any, and occupy its separate SMU clubhouse facilities, if constructed, after termination with some O&M contributions by SMU.
2. City will have no obligation to operate a course, but if it does it will do so to at least its Park Department standards. SMU's O&M contribution will vary depending on the level of course operated by City.

3. If City does not operate a golf course on the premises or otherwise sell or develop the golf course, SMU will be allowed to use and operate whatever golf course is there at their sole expense.
4. If City elects to commercially develop or sell the Golf Course, City will reimburse SMU the unamortized portion of SMU's funded moneys based on the lesser of a 15 year useful life of applicable improvements or the unexpired term of the SMU user agreement or sublease (straight line amortization).
5. These rights will be established and enforceable through a non-exclusive easement as to the Golf Course and/or a sublease upon completion of the Golf Course and funding of SMU's funds, said easement and sublease being in form and substance acceptable to SMU and City prior to execution and effectiveness.
6. SMU will have the right, at its election, to step into the position of CTFG and become lessee under the Lease, in which event it must cure all material defaults, undertake all obligation as Lessee, and attorn unto Lessor.

These terms have been inserted into the Lease (primarily Section 13.04) and the SMU User Agreement which is subject to review per the Lease Agreement.

Additionally, CTFG may not make any "Material Amendments" to its Use Agreement with SMU without City approval. Material Amendments are defined in Schedule 8.02(e) - A of the Lease and include, for example, CTFG terminating its User Agreement with SMU, changes to the parties, or any changes to the SMU User Agreement that would increase the City's responsibilities or decrease the City's rights as Lessor, and any changes in the SMU User Agreement that affect the use or purpose of the arrangement.

The Salesmanship Club of Dallas User Agreement – Byron Nelson Naming:

Under the terms of the Lease Agreement, CTFG is required to execute a legally binding and effective agreement with the SCD to relocate the Byron Nelson Championship to the Golf Course no later than 2019 and to continue for an initial minimum term of not less than 5 years. CTFG may not make certain "Material Amendments" as defined in Schedule 8.02(e)-C of the Lease Agreement without City approval.

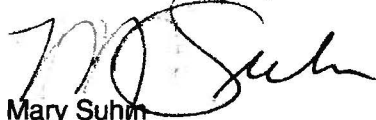
If CTFG is unable to relocate the Byron Nelson Championship to the Golf Course by 2019, or if the "Byron Nelson" name ceases to be used in conjunction with a PGA TOUR golf tournament at the Golf Course during the first 5 years of the relationship, however, CTFG will pay annual rental adjusted to fair market value for the remainder of the initial 5-years. CTFG further commits to use commercially reasonable efforts to avoid an offensive or embarrassing name for the tournament. The terms regarding loss of the Byron Nelson are in Schedule 8.02(e)-C attached to the Lease.

Material Amendments for the SCD User Agreement include any amendment that would lower the category of professional tournament played at the Golf Course to a category lower than a PGA TOUR tournament, or allow for less than a scheduled 72-hole competition over a four-day period, or that changes to the term of or parties to the SCD User Agreement or any change to the termination rights or the removal of any provisions protecting the City's rights under the insurance policies or as an indemnified party. See Schedule 8.02(e)-C.

The First Tee User Agreement:

Under the terms of the Lease Agreement, CTFG is required to execute a legally binding and effective agreement with First Tee of Greater Dallas to provide youth programs at the Golf Course for an initial minimum term of not less than 5 years. CTFG may not make certain "Material Amendments" to the First Tee user agreement as defined in the Lease Agreement in Schedule 8.02(e) -B without City approval. Those Material Amendments include such things as changes to the parties, reduction in the quality or scope of the First Tee Facilities, termination rights, First Tee's obligations to provide educational and youth programming at the Golf Course or those provisions protecting the City's insurance or indemnity rights.

Please contact me if you have questions.



Mary Suhm
City Manager

Cc: Honorable Mayor and Members of the City Council
A. C. Gonzalez, First Assistant City Manager
Ryan S. Evans, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Forest Turner, Assistant City Manager
Joey Zapata, Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Rosa A. Rios, City Secretary
Stephanie Cooper, Assistant to the City Manager – Council
Frank Libro, Public Information Officer

AGENDA ITEM # 5

KEY FOCUS AREA: Make Government More Efficient, Effective and Economical

AGENDA DATE: May 15, 2013

COUNCIL DISTRICT(S): N/A

DEPARTMENT: City Attorney's Office
Fire

CMO: Thomas P. Perkins, Jr., 670-3491
A. C. Gonzalez, 671-8925

MAPSCO: N/A

SUBJECT

Authorize settlement of the lawsuit styled Leanne Siri v. The City of Dallas, Civil Action No. 3:10-CV-0036-M - Not to exceed \$390,000 - Financing: Current Funds

BACKGROUND

Leanne Siri is a former third tier executive with Dallas Fire-Rescue. She sued the City and individual defendants, Mary Suhm, Ryan Evans and Eddie Burns, Sr., alleging harassment, gender and age discrimination, hostile work environment and retaliation in violation of Texas Commission on Human Rights Act and Title VII of the Civil Rights Act, and denial of due process in violation of the U.S. Constitution violations. Leanne Siri is represented by the law firm of Rose Walker, LLP.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Council was briefed in Closed Session on May 1, 2013.

FISCAL INFORMATION

Funding for this item is budgeted in the current fiscal year.

\$390,000 - Current Funds

May 15, 2013

WHEREAS, a lawsuit styled Leanne Siri v. The City of Dallas, Civil Action No. 3:10-CV-0036-M, was filed by the plaintiff alleging sexual harassment, gender and age discrimination, and retaliation in violation of Texas Commission on Human Rights Act and Title VII of the Civil Rights Act, and a denial of due process in violation of the U.S. Constitution; and,

WHEREAS, the parties have agreed to a settlement of the case whereby the City of Dallas will pay the plaintiff and her attorney the amount of \$390,000.00; and,

WHEREAS, it is in the best interest of the City of Dallas to settle this case; **Now, Therefore,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That settlement of the lawsuit styled Leanne Siri v. The City of Dallas, Civil Action No. 3:10-CV-0036-M, in an amount not to exceed \$390,000.00 is hereby approved.

Section 2. That the City Controller is authorized to pay to Rose Walker, LLP and IOLTA Account, the amount of \$390,000.00 from Fund 0192, Department ORM, Unit 3890, Obj. 3521, Vendor CTATT001.

Section 3. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.

AGENDA ITEM # 6

DEPARTMENT: City Secretary

AGENDA DATE: May 15, 2013

COUNCIL DISTRICT(S): N/A

SUBJECT

Consideration of appointments to the Dallas Area Rapid Transit Board of Directors for Places 4, 5, 6, 7 (shared) and 8 (Closed Session, if necessary, Personnel, Sec. 551.074, T.O.M.A.) (List of nominees in the City Secretary's Office)

AGENDA ITEM # 7

KEY FOCUS AREA: Make Government More Efficient, Effective and Economical

AGENDA DATE: May 15, 2013

COUNCIL DISTRICT(S): N/A

DEPARTMENT: Office of Financial Services

CMO: Jeanne Chipperfield, 670-7804

MAPSCO: N/A

SUBJECT

An ordinance **(1)** denying rates as requested by Atmos Energy Corp. Mid-Tex Division (Atmos), repealing rate rider IR-Infrastructure Replacement; and **(2)** authorizing increased rates to be charged by Atmos, as negotiated pursuant to its January 15, 2013 Dallas Annual Rate Review (DARR) filing - Financing: No cost consideration to the City

BACKGROUND

Atmos Energy Corp. provides natural gas utility service in Dallas in accordance with City franchise Ordinance No. 27793 and Title 3, Subtitle A Texas Utilities Code, Gas Utility Regulatory Act (GURA). On June 22, 2011, the City of Dallas approved Atmos' tariff DARR-Dallas Annual Rate Review, which provides a mechanism by which Atmos shall file for an annual review of its rates. On January 15, 2013, Atmos filed its rate increase request under the DARR tariff. In its filing, Atmos requested an increase in annual revenue of \$3.1 million for the City of Dallas. Atmos requested that the new rates become effective June 1, 2013.

On January 9, 2013, the City retained Diversified Utility Consultants, Inc. (DUCI) to assist City staff in reviewing the DARR filing. DUCI has expertise in reviewing gas rate cases and has assisted the City in numerous matters concerning Atmos Energy. After reviewing the rate filing and supplemental information received from Atmos, DUCI determined that the requested rate increase was not justified.

City staff, DUCI, and outside legal counsel met with Atmos on numerous occasions, both in person and by conference call, to negotiate a settlement of the pending rate request. As a result of the negotiations, Atmos has agreed to accept a reduction in the amount of the requested increase. These new rates will result in an annual increase in revenues to Atmos of \$1.8 million for the City of Dallas and reimbursement of the City's expenses in reviewing the filing.

BACKGROUND Continued

The rates as negotiated are fair and reasonable for the citizens of Dallas and equitable for Atmos.

PRIOR ACTION

On January 9, 2013, City Council authorized a consulting contract with Diversified Utility Consultants, by Resolution No. 13-0110.

FISCAL INFORMATION

No cost consideration to the City.

May 15, 2013

Ordinance No. _____

WHEREAS, Atmos Energy Corp., Mid-Tex Division ("Atmos") provides natural gas utility service within the City of Dallas in accordance with Ordinance No. 27793; and

WHEREAS, on June 22, 2011, the City of Dallas adopted Ordinance No. 28281 which established the Dallas Annual Rate Review (DARR) Tariff; and

WHEREAS, Atmos filed for a \$3,113,841 annual increase applicable to Dallas customers on January 15, 2013, pursuant to terms of the Dallas Annual Rate Review (DARR) tariff; and

WHEREAS, Atmos and the City of Dallas have agreed to an annual rate increase of \$1,800,000 to customers within the City of Dallas to settle and resolve the 2013 DARR filing; and

WHEREAS, in the discussion of issues to arrive at the settlement, City Staff and Atmos representatives discussed issues regarding necessary revisions to the original request, treatment of accumulated deferred federal income tax, allocation of corporate expenses (Shared Services Unit) to Mid-Tex Division and treatment and inclusion of Pension and Benefit expense. The City and Atmos ultimately agree that the issues related to those expenses are ultimately resolved as part of the agreed rates without a specific finding on any expense; and

WHEREAS, it is reasonable to exclude all costs attributable to Atmos Energy's Conservation and Energy Efficiency Program (Rider CEE) from the DARR rate calculation as the program is not available to customers within the City; and

WHEREAS, the costs associated with Atmos' Steel Service Line Replacement Program are included in base rates, it is no longer appropriate to surcharge those costs to customers in Dallas under rate rider IR-Infrastructure Replacement; and

WHEREAS, the tariffs attached to this Ordinance as Exhibit A are determined to be fair and reasonable; **Now, Therefore,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS;

Section 1. That the rate adjustments and tariffs presented in the "Dallas Annual Rate Review Filing Test Year Ended 9-30-12" filed by Atmos Energy Corp. on January 15, 2013, are unreasonable and are therefore denied in all respects.

Section 2. That rate rider IR-Infrastructure Replacement is hereby repealed effective June 1, 2013.

Section 3. That the tariffs attached as Exhibit A including tariffs, R-Residential Sales, C-Commercial Sales, I-Industrial Sales and T-Transportation, and rate riders GCR-Gas Cost Recovery, SUR-Depreciation Regulatory Asset Surcharge and WNA-Weather Normalization Adjustment (Dallas) are hereby approved effective June 1, 2013.

Section 4. That the City's expenses in reviewing the DARR filing and negotiating the settlement are deemed reasonable and Atmos shall reimburse the City in full for the costs of City's consultants and outside legal counsel.

Section 5. That this ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:
THOMAS P. PERKINS JR.
City Attorney

By _____
Assistant City Attorney

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	R – RESIDENTIAL SALES	
APPLICABLE TO:	Customers within the City of Dallas	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2013	

Application

Applicable to Residential Customers for all natural gas provided at one Point of Delivery and measured through one meter.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$17.75 per month
Commodity Charge – All Ccf*	\$ 0.04888 per Ccf

*To calculate the Commodity Charge on a Mcf basis multiply the "Amount per Ccf" times 10.

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Franchise Fees are to be assessed solely to customers within municipal limits. This does not apply to Environs Customers.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	C – COMMERCIAL SALES	
APPLICABLE TO:	Customers within the City of Dallas	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2013	

Application

Applicable to Commercial Customers for all natural gas provided at one Point of Delivery and measured through one meter and to Industrial Customers with an average annual usage of less than 30,000 Ccf.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 35.00 per month
Commodity Charge - All Ccf*	\$ 0.05850 per Ccf

*To calculate the Commodity Charge on a Mcf basis multiply the "Amount per Ccf" times 10.

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Franchise Fees are to be assessed solely to customers within municipal limits. This does not apply to Environs Customers.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	Customers within the City of Dallas	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2013	

Application

Applicable to Industrial Customers with a maximum daily usage (MDU) of less than 3,500 MMBtu per day for all natural gas provided at one Point of Delivery and measured through one meter. Service for Industrial Customers with an MDU equal to or greater than 3,500 MMBtu per day will be provided at Company's sole option and will require special contract arrangements between Company and Customer.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and MMBtu charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 622.00 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.1402 per MMBtu
Next 3,500 MMBtu	\$ 0.1020 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0162 per MMBtu

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Franchise Fees are to be assessed solely to customers within municipal limits. This does not apply to Environs Customers.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	Customers within the City of Dallas	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2013	

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate I, Customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	Customers within the City of Dallas	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2013	

Application

Applicable, in the event that Company has entered into a Transportation Agreement, to a customer directly connected to the Atmos Energy Corp., Mid-Tex Division Distribution System (Customer) for the transportation of all natural gas supplied by Customer or Customer's agent at one Point of Delivery for use in Customer's facility.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's bill will be calculated by adding the following Customer and MMBtu charges to the amounts and quantities due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 622.00 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.1402 per MMBtu
Next 3,500 MMBtu	\$ 0.1020 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0162 per MMBtu

Upstream Transportation Cost Recovery: Plus an amount for upstream transportation costs in accordance with Part (b) of Rider GCR.

Retention Adjustment: Plus a quantity of gas as calculated in accordance with Rider RA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Franchise Fees are to be assessed solely to customers within municipal limits. This does not apply to Environs Customers.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Imbalance Fees

All fees charged to Customer under this Rate Schedule will be charged based on the quantities determined under the applicable Transportation Agreement and quantities will not be aggregated for any Customer with multiple Transportation Agreements for the purposes of such fees.

Monthly Imbalance Fees

Customer shall pay Company the greater of (i) \$0.10 per MMBtu, or (ii) 150% of the difference per MMBtu between the highest and lowest "midpoint" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" during such month, for the MMBtu of Customer's monthly Cumulative

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	Customers within the City of Dallas	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2013	

Imbalance, as defined in the applicable Transportation Agreement, at the end of each month that exceeds 10% of Customer's receipt quantities for the month.

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

Agreement

A transportation agreement is required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate T, customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	GCR – GAS COST RECOVERY	
APPLICABLE TO:	Customers within the City of Dallas	
EFFECTIVE DATE:	06/01/2013	

Applicable to Rate R, Rate C, and Rate I for all gas sales made by Company, and applicable to Rate R, Rate C, Rate I, and Rate T for recovery of Pipeline System costs. The total gas cost recovery amount due is determined by adding the gas cost calculated in Section (a) below and the pipeline cost calculated in Section (b) below.

The amount due for gas cost (Section (a)) is determined by multiplying the Gas Cost Recovery Factor (GCRF) by the Customer's monthly volume. For Customers receiving service under Rate R and Rate C, monthly volume will be calculated on a Ccf basis (to calculate on a Mcf basis divide the monthly volume by 10). For Customers receiving service under Rate I, monthly volume will be calculated on an MMBtu basis and the quantities will be adjusted as necessary to recover actual gas costs.

The amount due for pipeline cost (Section (b)) is determined by multiplying the Pipeline Cost Factor (PCF) by the Customer's monthly volume. For Customers receiving service under Rate R and Rate C, monthly volume will be calculated on a Ccf basis. For Customers receiving service under Rate I and Rate T, monthly volume will be calculated on an MMBtu basis and the quantities will be adjusted as necessary to recover actual gas costs.

(a) Gas Cost

Method of Calculation

The monthly gas cost adjustment is calculated by the application of a Gas Cost Recovery Factor (GCRF), as determined with the following formula:

$$\text{GCRF} = \text{Estimated Gas Cost Factor (EGCF)} + \text{Reconciliation Factor (RF)} + \text{Taxes (TXS)}$$

EGCF = Estimated cost of gas, including lost and unaccounted for gas attributed to residential, commercial, and industrial sales, and any reconciliation balance of unrecovered gas costs, divided by the estimated total residential, commercial, and industrial sales. Lost and unaccounted for gas is limited to 5%.

RF = Calculated by dividing the difference between the Actual Gas Cost Incurred, inclusive of interest over the preceding twelve-month period ended June 30 and the Actual Gas Cost Billed over that same twelve-month period by the estimated total residential, commercial, and industrial sales for the succeeding October through June billing months. The interest rate to be used is the annual interest rate on overcharges and under charges by a utility as published by the Public Utility Commission each December.

Actual Gas Cost Incurred = The sum of the costs booked in Atmos Energy Corp., Mid-Tex Division account numbers 800 through 813 and 858 of the FERC Uniform System of Accounts, including the net impact of injecting and withdrawing gas from storage. Also includes a credit or debit for any out-of-period adjustments or unusual or nonrecurring costs typically considered gas costs and a credit for amounts received as Imbalance Fees or Curtailment Overpull Fees.

Actual Gas Cost Billed = EGCF multiplied by the monthly volumes billed to Residential, Commercial and Industrial Sales customers, less the total amount of gas cost determined to have been uncollectible and written off which remain unpaid for each month of the reconciliation period.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	GCR – GAS COST RECOVERY	
APPLICABLE TO:	Customers within the City of Dallas	
EFFECTIVE DATE:	06/01/2013	

Any amount remaining in the reconciliation balance after the conclusion of the period of amortization will be maintained in the reconciliation balance and included in the collection of the next RF.

Atmos Energy shall file annual reports with the Commission, providing by month the following amounts: Gas Cost Written Off, Margin Written Off, Tax and Other Written Off, Total Written Off, Gas Cost Collected and Margin Collected.

TXS = Any statutorily imposed assessments or taxes applicable to the purchase of gas divided by the estimated total residential, commercial, and industrial sales.

ADJ = Any surcharge or refund ordered by a regulatory authority, inclusive of interest, divided by the estimated total residential, commercial, and industrial sales is to be included as a separate line item surcharge.

(b) Pipeline Cost

Method of Calculation

Each month, a Pipeline Cost Factor (PCF) is calculated separately for each Pipeline Cost Rate Class listed below. The formula for the PCF is:

$PCF = PP / S$, where:

$PP = (P - A) \times D$, where:

P = Estimated annual cost of pipeline service calculated pursuant to Rate CGS

D = Pipeline service allocation factor for the rate class as approved in the Company's most recent rate case.

A = Adjustment applied in the current month to correct for the difference between the actual and estimated pipeline cost revenue balance, inclusive of interest, for the most recent 12 months ending June 30, calculated by the formula:

$A = R - (C - A2)$, where:

R = Actual revenue received from the application of the PP component for the most recent 12 months ending June 30.

C = Actual pipeline costs for the most recent 12 months ending June 30.

A2 = The adjustment (A) applied to the PP component for balances from the preceding 12 months ending June 30.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	GCR – GAS COST RECOVERY	
APPLICABLE TO:	Customers within the City of Dallas	
EFFECTIVE DATE:	06/01/2013	

S = Estimated annual Ccf or MMBtu for the rate class for the current and ensuing billing months ending June 30.

The PCF is calculated to the nearest 0.0001 cent.

The Pipeline Cost to be billed is determined by multiplying the Ccf or MMBtu used by the appropriate PCF. The Pipeline Cost is determined to the nearest whole cent.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	SUR-Depreciation Regulatory Asset Surcharge	
APPLICABLE TO:	Customers within the City of Dallas	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2013	PAGE: #

DEPRECIATION REGULATORY ASSET SURCHARGE

A. APPLICABILITY

The Depreciation Regulatory Asset (DRA) rate as set forth in Section (B) below is pursuant to Ordinance #. This rate shall apply to the following rate schedules of Atmos Mid-Tex in the City of Dallas.

B. DRA RATE

Residential Customers:	\$ 0.03 per month
Commercial Customers:	\$ 0.06 per month
Industrial and Transportation Customers:	\$ 1.25 per month

This rate will be in effect for approximately 36 months until all approved expenses are recovered from the applicable customer classes as documented in Ordinance #.

C. OTHER ADJUSTMENTS

Taxes: Plus applicable taxes and fees (including franchise fees) related to above.

D. CONDITIONS

Subject to all applicable laws and orders, and the Company's rules and regulations on file with the regulatory authority.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	Customers within the City of Dallas	
EFFECTIVE DATE:	06/01/2013	

Provisions for Adjustment

The base rate per Ccf (100 cubic feet) for gas service set forth in any Rate Schedules utilized by the cities of the Mid-Tex Division service area for determining normalized winter period revenues shall be adjusted by an amount hereinafter described, which amount is referred to as the "Weather Normalization Adjustment." The Weather Normalization Adjustment shall apply to all temperature sensitive residential and commercial bills based on meters read during the revenue months of November through April. The regional weather station is Dallas.

Computation of Weather Normalization Adjustment

The Weather Normalization Adjustment Factor shall be computed to the nearest one-hundredth cent per Ccf by the following formula:

$$WNAF_i = R_i \frac{(HSF_i (NDD-ADD))}{(BL_i + (HSF_i \times ADD))}$$

Where

- i = any particular Rate Schedule or billing classification within any such particular Rate Schedule that contains more than one billing classification
- $WNAF_i$ = Weather Normalization Adjustment Factor for the i^{th} rate schedule or classification expressed in cents per Ccf
- R_i = base rate of temperature sensitive sales for the i^{th} schedule or classification utilized by the Commission in the Relevant Rate Order.
- HSF_i = heat sensitive factor for the i^{th} schedule or classification divided by the average bill count in that class
- NDD = billing cycle normal heating degree days
- ADD = billing cycle actual heating degree days
- BL_i = base load sales for the i^{th} schedule or classification divided by the average bill count in that class

The Weather Normalization Adjustment for the j^{th} customer in i^{th} rate schedule is computed as:

$$WNA_j = WNAF_i \times q_{ij}$$

Where q_{ij} is the relevant sales quantity for the j^{th} customer in i^{th} rate schedule.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	Customers within the City of Dallas	
EFFECTIVE DATE:	06/01/2013	

Base Use/Heat Use Factors

Weather Station	<u>Residential</u>		<u>Commercial</u>	
	Base use Ccf	Heat use Ccf/HDD	Base use Ccf	Heat use Ccf/HDD
Dallas	14.80	.1807	204.22	.8350