

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

CONTRACT FOR SERVICES

THIS CONTRACT is made and entered into by and between the CITY OF CARROLLTON, a Texas municipal corporation, located in Dallas County, Texas (hereinafter called "City") and _____, a _____ corporation with its principal offices located at _____ (hereinafter called "Contractor").

1. DESCRIPTION OF WORK

For the consideration agreed below to be paid to Contractor by City, Contractor shall provide maintenance for the City of Carrollton, hereinafter called the "Services." The Services are to be performed in a good and workmanlike manner and shall conform in every respect to the Services set forth in the scope of services (the "Scope"), which is attached hereto as Exhibit A.

2. INSPECTION OF SITE AND COORDINATION

Contractor represents that, prior to executing this Contract, Contractor became and remains thoroughly acquainted with all matters relating to the performance of this Contract, all applicable laws and all of the terms and conditions of this Contract. All Services under this Contract shall be coordinated under, and performed to the satisfaction of, City's Parks Director, or his designated representative, hereinafter called "Director." City is authorized to withhold payment of funds under this Contract for Services not performed in accordance with the terms of this Contract.

3. PAYMENT

Upon completion of periodic performance of the Services by Contractor, and receipt and approval of Contractor's invoices, submitted periodically to the Director, City will pay Contractor in accordance with the Scope. Contractor's periodic and final invoices shall be accompanied by sufficient backup information as required by the Director. The monthly amount for the Services is \$20,000 for four positions, as defined in the Scope. The City may elect to increase the number of groundskeepers at the designated rate of \$2,200 per groundskeeper, per month. Total payments by City during the term of this Contract, however, shall not exceed One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00), which amount (or a portion of the amount where the Contract term may exceed one year) is set aside and segregated for the purpose of paying for the Services in accordance with the terms of this Contract.

4. TERM; SCHEDULE

The term of this Contract shall commence on August 5, 2015 and terminate on December 31, 2015, unless sooner terminated in accordance with the provisions of this Contract. The schedule for completion of the Services shall be as provided in the Scope; where the Scope does

not provide for time of completion, the schedule shall be as provided by the Director. For good cause shown by Contractor, the Director may extend the time to perform the Services.

5. PERMITS; COMPLIANCE WITH LAWS AND REGULATIONS

A. Contractor shall possess or obtain any necessary permits required by City ordinance or State or Federal law for the performance of the Services prior to commencing the Services.

B. This Contract is entered into subject to and controlled by the Charter and ordinances of the City of Carrollton and all applicable laws, rules, and regulations of the State of Texas and the Government of the United States of America. Contractor shall, during the course of performance of this Contract, comply with all applicable City codes and ordinances, as amended, and all applicable State and Federal laws, rules and regulations, as amended.

6. INDEPENDENT CONTRACTOR

Contractor's status shall be that of an independent contractor and not an agent, servant, employee, or representative of City in the performance of the Services. Contractor shall exercise independent judgment in performing duties under this Contract and is solely responsible for setting working hours, scheduling or prioritizing the work flow and determining how the work is to be performed. No term or provision of this Contract or act of Contractor in the performance of this Contract shall be construed as making Contractor the agent, servant or employee of City, or making Contractor or any of its employees eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which City provides its employees.

7. INDEMNITY

Contractor agrees to defend, indemnify and hold City, its officers, agents and employees, harmless against any and all claims, lawsuits, judgments, 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, that may arise out of or be occasioned by Contractor's breach of any of the terms or provisions of this Contract, or by any negligent or strictly liable act or omission of Contractor, its officers, agents, employees or subcontractors, in the performance of this Contract; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence or fault of City, its officers, agents, employees or separate contractors, and in the event of joint and concurring negligence or fault of Contractor and City, responsibility and indemnity, if any, shall be apportioned in accordance with the law of the State of Texas, without waiving any governmental immunity available to City under Texas law and without waiving any defenses of the parties under Texas law. The provisions of this paragraph are solely for the benefit of the parties to this Contract and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

8. INSURANCE REQUIREMENTS

A. Contractor agrees to obtain and maintain in effect the following policies of insurance written as primary coverage and not contributing with or in excess of any coverage which it may carry. These policies will be issued by an insurance carrier with a Best's rating of at least A, VII, which affords the following coverages through self-insurance or otherwise: (a) Workers' Compensation Insurance for all Contractor's employees, including coverage under the applicable state and federal laws where the work will be performed. Contractor shall also require that all of its subcontractors maintain similar Workers' Compensation coverage, (b) Employer's Liability Insurance, typically coverage B of the Workers' Compensation policy, with limits of a minimum of: (i) \$1,000,000 for each accident for bodily injury by accident, (ii) \$1,000,000 for bodily injury by disease, and (iii) \$1,000,000 for each employee for bodily injury by disease. Contractor shall also require that all of its subcontractors maintain similar Employer's Liability coverage. (c) Commercial General Liability Insurance that includes the other party as an additional insured. Limits shall be a minimum of: \$1,000,000 per occurrence for bodily injury and property damage and (ii) \$2,000,000 annual aggregate. Coverage shall include those perils generally associated with a commercial general liability policy and specifically include contractual liability coverage. Coverage shall contain no exclusions for cross liability between insureds. Contractor shall also require that all of its subcontractors maintain similar general liability insurance. Contractor shall be under no obligation to provide any other types of insurance related to the property such as, but not limited to, property insurance or liquor liability insurance.

B. Approval, disapproval or failure to act by City regarding any insurance supplied by Contractor or its subcontractors shall not relieve Contractor of full responsibility or liability for damages, errors, omissions or accidents as set forth in this Contract. The bankruptcy or insolvency of Contractor's insurer or any denial of liability by Contractor's insurer shall not exonerate Contractor from the liability or responsibility of Contractor set forth in this Contract.

9. TERMINATION

City's Director may, at its option and without prejudice to any other remedy City may be entitled to at law, in equity or elsewhere under this Contract, terminate further work under this Contract in whole or in part for cause or for the convenience of City by giving at least thirty (30) days advance written notice of termination to Contractor, with the understanding that all performance being terminated shall cease as of a date to be specified in the notice. Contractor may, at its option and without prejudice to any other remedy Contractor may be entitled to at law, in equity or elsewhere under this Contract, terminate further work under this Contract in whole or in part for cause by giving at least thirty (30) days advance written notice of termination to City, with the understanding that all performance being terminated shall cease as of a date to be specified in the notice. City shall equitably compensate Contractor in accordance with the terms of this Contract for Contract work properly performed prior to the date of termination specified in the notice, following inspection and acceptance of same by City's Director. Contractor shall not, however, be entitled to lost or anticipated profits should City choose to exercise its option to terminate.

10. NOTICES

Except as otherwise provided herein, any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be effected by personal delivery in writing or by mail, postage prepaid. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

If intended for City, to:

City of Carrollton, Texas
ATTN: Parks Director
1945 E. Jackson Rd
Carrollton, Texas 75006

If intended for Contractor, to:

Evergreen Alliance Golf Limited, LP
Attention: Legal Department
5861 LBJ Freeway, Suite 600
Dallas, Texas 77240

11. ASSIGNMENT

Contractor shall not sell, assign, transfer or convey this Contract, in whole or in part, without the prior written consent of City's Director. As an express condition of consent to any assignment, Contractor shall remain liable for completion of the Contract work in the event of default by the successor contractor or assignee.

12. RIGHT OF REVIEW AND AUDIT

City may review any and all of the services performed by Contractor under this Contract. City is granted the right to audit, at City's election, all of Contractor's records and billings relating to the performance of this Contract. Contractor agrees to retain such records for a minimum of three (3) years following completion of this Contract. Any payment, settlement, satisfaction, or release made or provided during the course of performance of this Contract shall be subject to City's rights as may be disclosed by an audit under this section.

13. VENUE

The obligations of the parties to this Contract shall be performable in Dallas County, Texas, and if legal action is necessary in connection with or to enforce rights under this Contract, exclusive venue shall lie in Dallas County, Texas.

14. GOVERNING LAW

This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state.

15. LEGAL CONSTRUCTION

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

16. COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument. If this Contract is executed in counterparts, then it shall become fully executed only as of the execution of the last such counterpart called for by the terms of this Contract to be executed.

17. CAPTIONS

The captions to the various clauses of this Contract are for informational purposes only and shall not alter the substance of the terms and conditions of this Contract.

18. SUCCESSORS AND ASSIGNS

This Contract shall be binding upon and inure to the benefit of the parties and their respective successors and, except as otherwise provided in this Contract, their assigns.

19. ENTIRE AGREEMENT; NO ORAL MODIFICATIONS

This Contract (with all referenced Exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement of both parties, superseding all oral or written previous and contemporary agreements between the parties relating to matters set forth in this Contract. Except as otherwise provided elsewhere in this Contract, this Contract cannot be modified without written supplemental agreement executed by both parties.

[signature page to follow]

EXECUTED this the ____ day of _____, 2015, by City, signing by and through its City Manager, and by Contractor, acting through its duly authorized officials.

CONTRACTOR

The City of Carrollton

By: _____
Name: Joe Munsch
Title: President

By: _____
Name: Leonard Martin
Title: City Manager

Attest:

Krystle Nelinson, City Secretary

Approved as to Content:

Erin Rinehart, Assistant City Manager