

Agenda Item #3.M.1.

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: June 23, 2015

☒ Consent
☐ Ordinance

☐ Regular
☐ Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file: the following original executed Tee Time Advertising and Sales Agreement:

GolfNow, LLC, County golf courses, for the period March 18, 2015, through March 17, 2016.

Summary: In accordance with County PPM CW-O-051, all delegated contracts/agreements/grants must be submitted by the initiating department as a Receive and File agenda item. This Tee Time Advertising and Sales Agreement has been fully executed on behalf of the Board of County Commissioners (Board) by the Director of Parks and Recreation in accordance with Resolution 2013-1607, and is now being submitted to the Board to receive and file. This Agreement helps to sell tee times at non-peak times that would otherwise not be sold. Countywide (AH)

Background and Policy Issues: A resolution providing authority to execute Tee Time Advertising and Sales Agreements (Resolution 2013-1607) was adopted by the Board to assist the Parks and Recreation Department to contract with third party vendors that have the ability to sell unused tee times. The Board granted the Director/Assistant Director of Parks and Recreation authority to execute Tee Time Advertising and Sales Agreements not-to-exceed \$50,000, with agreements valued at more than \$50,000, but not more than \$100,000 requiring the County Administrator's approval, and agreements over \$100,000 requiring Board approval. This Contractor has affirmed its non-discrimination policy will be in conformance with the County's policy.

The Agreement attached has been executed on behalf of the Board by the County's Director of Parks and Recreation in accordance with the authority delegated by the Board, and is now being submitted to the Board to receive and file.

Attachment: Tee Time Advertising and Sales Agreement

Recommended by: 
Department Director

5/20/2015
Date

Approved by: 
Assistant County Administrator

5/29/15
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2015	2016	2017	2018	2019
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>1</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>(119,592)</u>	<u>(225,312)</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>*(119,591)</u>	<u>(225,312)</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

ADDITIONAL FTE

POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u> </u>	<u> </u>	<u> </u>
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Is Item Included in Current Budget? Yes X No _____

Budget Account No.: Fund 1384 Department 580 Unit multiple
Object 3401 /Revenue Source 4723 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

	FY2015		FY2016	
CONTRACTOR	Revenue	Expense	Revenue	Expense
GolfNow, LLC	\$119,592	\$1.00	\$225,312	
Totals	\$119,592	\$1.00	\$225,312	

***Estimated net revenue for this agreement is \$344,904. Actual revenue and operating cost will be determined at the end of this agreement.**

C. Departmental Fiscal Review: WMA

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

Sherry B. Orr

Dr. J. Jacobson 5/27/15
Contract Development and Control

B. Legal Sufficiency:

Anne Helgent 5-29-15
Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment

TEE TIME ADVERTISING AND SALES AGREEMENT FOR PALM BEACH COUNTY PARKS & RECREATION DEPARTMENT

THIS TEE TIME ADVERTISING AND SALES AGREEMENT, hereinafter referred to as the "Agreement," is made and entered into on 3/18/2015, by and between Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of Commissioners, hereinafter referred to as "COUNTY," and GolfNow, LLC., an Independent Contractor, hereinafter referred to as "CONTRACTOR".

WITNESSETH:

WHEREAS, COUNTY, by and through its Parks and Recreation Department, hereinafter referred to as the "Department," provides public golf courses for its residents and visitors to Palm Beach County; and

WHEREAS, the Department maximizes the use of County golf facilities and their revenue generating potential to provide quality facilities and offset the operating costs of these facilities; and

WHEREAS, the Department wishes to generate additional advertising exposure and sales by utilizing the services of tee time advertising and sales organizations to promote and sell tee times for County golf facilities; and

WHEREAS, it is the intent of the Department to contract with any interested and responsible organization that meets the established minimum qualifications for the provision of tee time advertising and sales services hereinafter referred to as "Services"; and

WHEREAS, said Services will be conducted by CONTRACTOR and governed by the Department pursuant to the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, COUNTY and CONTRACTOR hereby agrees as follows:

1. **Term:** This Agreement is effective March 18, 2015, and will terminate March 17, 2016, and is not subject to extension or renewal.
2. **Payments To Contractor:**
 - a. The total amount payable by COUNTY under this Agreement for the Services to be performed hereunder is an amount not to exceed one dollars (\$ 1.00).
 - b. The CONTRACTOR will bill the COUNTY on a monthly basis, or as otherwise provided, for tee time advertising and sales services in accordance with EXHIBIT A, Scope of Work/Services and EXHIBIT C, Price Pages.
 - c. The COUNTY, through the Department, will process payment to CONTRACTOR on a monthly basis following receipt of CONTRACTOR's invoice.
 - d. Though CONTRACTOR's invoice will be considered the basis for payment, the actual amount paid will be determined by the COUNTY. In the event of a discrepancy between the amount invoiced and the

amount paid, the decision of the COUNTY is final. CONTRACTOR may request to review any supporting documentation utilized to determine the amount paid.

- e. In order for both parties herein to close their books and records, the CONTRACTOR will clearly state "final invoice" on the CONTRACTOR's final/last billing to the COUNTY. This shall constitute CONTRACTOR's certification that all services have been properly performed and all charges and costs have been invoiced to the COUNTY. Any other charges not properly included on this final invoice are waived by the CONTRACTOR.

3. **Independent Contractor Relationship:** The CONTRACTOR is, and shall be, in the performance of all work services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the CONTRACTOR's sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR's relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

The CONTRACTOR does not have the power or authority to bind the COUNTY in any promise, agreement or representation.

4. **Taxes:** It is acknowledged and agreed that the service to be provided by CONTRACTOR is a professional service and that the COUNTY is neither paying Social Security benefits nor withholding taxes from CONTRACTOR's compensation for said service. CONTRACTOR assumes sole responsibility for the payment of any and all federal, state, and local taxes as now exist or may hereafter come into being as such taxes may be applicable to the payments made by COUNTY to CONTRACTOR in exchange for the services to be performed hereunder.

Additionally, CONTRACTOR is not eligible to benefit from the COUNTY's Tax Exempt Status. As such, CONTRACTOR is not exempt from the payment of sales taxes to suppliers for any materials as may be used in the performance of CONTRACTOR's obligations under this Agreement.

5. **Termination:** The COUNTY may terminate this Agreement at any time upon written notice to the CONTRACTOR and CONTRACTOR may terminate this Agreement by providing thirty (30) business days advance written notice to the COUNTY. Such notice shall be delivered to the Department's authorized representative.
6. **Subcontracting:** CONTRACTOR may not, without the advance written consent of the Department, subcontract or assign any rights, responsibilities or obligations under this Agreement.
7. **Performance:**
 - a. CONTRACTOR shall:

1. Perform the services set forth herein in accordance with Exhibit "A, Scope of Services, and all Department policies and procedures governing the advertising and sale of COUNTY tee times, in a

competent, professional, safe, and responsible manner with full regard for the customer service standards and reputation of the COUNTY;

2. Provide and maintain any necessary software and software interfaces to perform the services set forth herein;
3. Ensure the security of COUNTY's golf operations, customer, financial, and shared data, and prevent the unauthorized electronic intrusion or access to COUNTY point of sale and reservations systems as a result of CONTRACTOR's operations; and
4. Adhere to applicable federal, state and local laws and regulations, including Palm Beach County Code, Chapter 21, as may be amended, pertaining to Parks and Recreation.

b. COUNTY shall:

1. Provide the CONTRACTOR with access to its tee times in accordance with established policies and procedures; and
2. Collect green and cart fees and distribute applicable commissions to the CONTRACTOR, as more particularly described in Exhibit "C", Price Pages.

8. **Exhibits:** CONTRACTOR's Scope of Service is included as Exhibit "A" to this Agreement. Any and all other applicable Exhibits hereto are attached and incorporated herein.

If additional provisions or requirements such as the provision of promotional materials, software, and/or marketing and promotional services, are provided, such provisions and/or requirements may be attached hereto as an Exhibit.

9. **Department Representative:** The Department's authorized representative for this Agreement is:

Name: Paul Connell Phone Number: (561) 966-6627

10. **Insurance Requirements:** It is the responsibility of CONTRACTOR to provide proof of the required insurance coverage's specified in Exhibit "B" to this Agreement.

Such proof of insurance must be provided to the Department's authorized representative prior to the execution of this Agreement.

11. **Indemnification:** CONTRACTOR shall protect, defend, reimburse, indemnify and hold COUNTY, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this Contract or due to the acts or omissions of CONTRACTOR.

12. **Notices:** All notices required in this Agreement are to be hand delivered or sent by certified mail, return receipt requested.

If sent to COUNTY, such notices are to be addressed:

Palm Beach County Parks and Recreation Department
Attn: Jon Herrick, Director of Special Facilities

2700 6th Avenue South
Lake Worth, Florida 33461

If sent to CONTRACTOR, such notices are to be addressed:

Sean Tenney, Sr. Regional Sales Director
7580 Commerce Center Drive
Orlando, FL 32819

13. **Remedies:** This Contract shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Contract will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.
- No provision of this Contract is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Contract, including but not limited to any citizen or employees of the COUNTY and/or CONTRACTOR.
14. **No Third Party Beneficiaries:** No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or CONTRACTOR.
15. **Availability of Funds:** COUNTY's performance and obligation to pay under this Agreement for subsequent fiscal years is contingent upon annual appropriations for its purpose by the Board of County Commissioners.
16. **Arrears:** CONTRACTOR shall not pledge the COUNTY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.
17. **Public Entity Crimes:** As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, CONTRACTOR certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).
18. **Criminal History Records Check:** If CONTRACTOR's employees or subcontractors are required under this Agreement to enter a "critical facility," as identified in Resolution R-2003-1274, the CONTRACTOR shall comply with the provisions of Chapter 2, Article IX of the Palm Beach County Code ("Criminal History Records Check" section). The CONTRACTOR acknowledges and agrees that all employees and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. Although COUNTY agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, the CONTRACTOR shall be solely responsible for the financial, schedule, and staffing implications associated in complying with this section of the Palm Beach County Code.
19. **Severability:** If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the

application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

20. **Access and Audits:** The CONTRACTOR shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion or termination of this Contract. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the CONTRACTOR place of business.

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the CONTRACTOR, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

21. **Entirety of Contractual Agreement:** COUNTY and CONTRACTOR agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.
22. **Nondiscrimination:** The CONTRACTOR warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information.

CONTRACTOR has submitted to COUNTY a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as amended, or in the alternative, if the CONTRACTOR does not have a written non-discrimination policy or one that conforms to the COUNTY's policy, it has acknowledged through a signed statement provided to COUNTY that CONTRACTOR will conform to the COUNTY's non-discrimination policy as provided in R-2014-1421, as amended.

23. **Regulation; Licensing Requirements:** CONTRACTOR shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. CONTRACTOR is presumed to be familiar with all federal, state, and local laws, ordinances, codes and regulations that may in any way affect the services offered.
24. **Personnel:** The CONTRACTOR represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the COUNTY. All services required hereunder shall be performed by the CONTRACTOR or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

The CONTRACTOR warrants that all services will be performed by skilled and competent personnel to the highest professional standards in the fields and all of CONTRACTOR's personnel while on COUNTY premises, will comply with all COUNTY requirements governing conduct, safety and security.

25. **Successors and Assigns:** The COUNTY and CONTRACTOR each binds itself and its partners, successor, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as above, neither the COUNTY nor the CONTRACTOR shall assign, sublet, convey or transfer its interest in this Agreement without the prior written consent of the other.

26. **Conflict of Interest:** The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes, and the Palm Beach County Code of Ethics. The CONTRACTOR further represents that no person having any such conflict of interest shall be employed for said performance of services.

The CONTRACTOR shall promptly notify the COUNTY's representative, in writing, by certified mail, of all potential conflicts of interest of any prospective business association, interest or other circumstance which may influence or appear to influence the CONTRACTOR'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONTRACTOR may undertake and request an opinion of the COUNTY as to whether the association, interest or circumstance would, in the opinion of the COUNTY, constitute a conflict of interest if entered into by the CONTRACTOR. The COUNTY agrees to notify the CONTRACTOR of its opinion by certified mail within thirty (30) days of receipt of notification by the CONTRACTOR. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONTRACTOR, the COUNTY shall so state in the notification and the CONTRACTOR shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the CONTRACTOR under the terms of this Contract.

27. **Disclosure and Ownership of Documents:** The CONTRACTOR shall deliver to the COUNTY's representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the COUNTY under this Contract.


To the extent allowed by Chapter 119, Florida Statutes, all written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the COUNTY or at its expense will be kept confidential by the CONTRACTOR and will not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent unless required by a lawful court order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Contract for or at the COUNTY'S expense shall be and remain the COUNTY'S property and may be reproduced and reused at the discretion of the COUNTY.

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

Notwithstanding any other provision in this Contract, all documents, records, reports and any other materials produced hereunder shall be subject to disclosure, inspection and audit, pursuant to the Palm Beach County Office of the Inspector General, Palm Beach County Code, Sections 2-421 - 2-440, as amended.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.


PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:

By: 
Director / Assistant Director
Palm Beach County Parks and Recreation Department


If the Agreement Is Valued at More than
\$50,000.00:

County Administrator

WITNESS


Signature
CURTIS FRANKS
Print

CONTRACTOR

By: 
Signature
Jeff Foster
Print
SVP - New Media Group
Title

APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:

Assistant County Attorney



EXHIBIT "A"

Scope of Service

The Department operates four public golf courses and a driving range located in Central and Southern Palm Beach County. The golf courses are Okeehetee Golf Course and Park Ridge Golf Course in Central County and Osprey Point Golf Course and Southwinds Golf Course in South County. The driving range is John Prince Golf Learning Center in Central County. The golf courses host over 220,000 rounds of golf per year. Southwinds Golf Course has been operating since 1988, Okeehetee Golf Course has been operating since 1995, Park Ridge Golf Course and John Prince Golf Learning Center have been operating since 2007, and Osprey Point Golf Course has been operating since 2010.

A. CONTRACTOR'S Responsibility

CONTRACTOR shall:

1. Promote and market Palm Beach County golf courses and golf course tee time inventory on Golfnow.com, Golf Channel Solutions, TeeTimes.com in its National Course Directory and on its local course directory under Palm Beach County. The golf courses will be identified on the interactive golf course map.
2. Provide an information page for each COUNTY golf facility which will include a photograph, features and details of the facility.
3. Provide the COUNTY golf courses with its premium advertising package and also feature COUNTY golf facilities in its local course directory.
4. Provide the COUNTY with website development and hosting for County golf courses should the COUNTY elect to use this service. Website should be customized for each golf course, and include a booking engine, email sign up, social media integrations, unlimited site updates and support, site optimization, google analytics, and a private member section with login.
5. Provide tee time advertising and distribution for Okeehetee Golf Course, Park Ridge Golf Course, Southwinds Golf Course, and Osprey Point Golf Course, through all channels approved by the golf course. This may include, but is not limited to, distribution through the GolfNow.com/Travel site, a local GolfNow.com Community site, the Golf Channel, and Golfnow affiliate websites. Distribution channels may charge a commission to golfers booking tee times. Golfer contact information will be shared with the COUNTY for the purposes of promotional advertising.
6. Provide a booking engine for the COUNTY website and COUNTY Facebook site that lists the available tee times for COUNTY Golf Courses in a similar format and function to its main site, with multiple rate options and promotional code technology. No commission will be charged to golfers booking tee times on COUNTY's websites. Golfer contact information will remain the property of the COUNTY. CONTRACTOR will not list trade times on this

website. CONTRACTOR will not advertise to these customers in any way unless the customer data is secured by CONTRACTOR through other independent means.

7. Provide mobile-enabled websites for Okeeheelee Golf Course, Park Ridge Golf Course, Southwinds Golf Course and Osprey Point Golf Course. The mobile websites shall include booking engine, GPS to navigate the golf courses; golf course flyovers; golf hole preview with a mobile friendly photo gallery; and weather information; unlimited site updates and support. In addition, COUNTY shall be able to update all of the information in the mobile enabled website, and prepare customized marketing emails directly to mobile customers. Mobile customer contact information will remain the property of the COUNTY. CONTRACTOR will not list trade times on the mobile application. CONTRACTOR will not advertise to these customers in any way unless the customer data is secured by CONTRACTOR through other independent means. CONTRACTOR will not list trade times or charge a commission to golfers booking tee times on the COUNTY's mobile site.
8. Work closely with the respective golf course manager to fill vacant tee times at the golf course facility.
9. Have a local representative that will be available to meet with golf course management staff to resolve issues related to the scope of work and CONTRACTOR's reservations.
10. Not advertise rates for COUNTY golf in any local publication or local publication's websites outside of their place of business or their business websites. Prohibited local publications and local publication websites shall include but not be limited to The Palm Beach Post, The Sun Sentinel, The West Boca Times, The Wellington Town Crier, The Tee Times magazine, The Boca News, Lake Worth Herald, etc.
11. Provide access to its Golf Now Central or IMUS administrator (or other equivalent future management portal) which includes online tools for updating and administering customer database, inventory, email advertising/marketing, customer groups (distribution channels), and customer profiles.
12. The County may access and review various reports via Golf Now Central or IMUS including; bookings per individual, Conversion Ratio (per email), Bookings by Course, Total Revenue (daily, weekly, monthly, annually), Revenue by Customer Group, Customer Profile Search by Product, Customer Search by Zip Code. CONTRACTOR will provide a log in and password for County staff to review the aforementioned reports.
13. Comply with Payment Card Industry Security Standards for the protection of customer data, use systems, tools, and security and take reasonable steps to ensure COUNTY data is not accessed, redistributed, duplicated, or modified.
14. From time to time work with COUNTY to list golf packages through its Deal Caddie program in major tourist feeder markets. CONTRACTOR shall pay COUNTY seventy

seven (77) percent of sales made on the Deal Caddie website and keep thirty three (33) percent as a commission.

B. Reservations:

Golfers that book tee times directly with the COUNTY, via telephone, in person, or on the COUNTY's website are the priority for COUNTY's golf operations. CONTRACTOR's access to COUNTY tee times is secondary and is only intended to augment the normal COUNTY tee time sales. Golf course managers will work closely with the CONTRACTOR to manage the available tee times on the CONTRACTOR's website.

C. No Shows:

1. CONTRACTOR shall use its best efforts to prevent no shows, and shall implement a no show policy that prevents habitual no shows at COUNTY golf facilities. CONTRACTOR shall charge its customers that no show at COUNTY golf courses and shall pay the COUNTY the applicable fee for the no shows on a monthly basis. If the COUNTY determines that a golfer is habitually no showing CONTRACTOR will use whatever means are available to stop the offending customer from booking tee times at COUNTY golf courses for 90 days.

D. Commission Distribution:

1. COUNTY shall provide CONTRACTOR with 8 rounds of golf per participating facility per day. CONTRACTOR may not sell more than 8 rounds of golf at each facility per day. CONTRACTOR shall provide the golf course with a monthly summary of CONTRACTOR's trade bookings. The summary will ensure that there are no discrepancies between the CONTRACTOR's and the golf courses records. In the event that the COUNTY cannot provide 8 rounds of golf in a day at a participating facility due to an event or activity the COUNTY may give CONTRACTOR these rounds on an alternate day when the course is available. Should the CONTRACTOR book more than 8 trade rounds on any one day, the CONTRACTOR shall pay the COUNTY the applicable fee for the overbooked rounds.

E. COUNTY'S Responsibility:

1. COUNTY will review the summary of bookings submitted by the CONTRACTOR and will identify and amend the summary for any discrepancies between the CONTRACTOR's summary and the COUNTY's point of sales system reports, the COUNTY's point of sale reports shall prevail unless the CONTRACTOR can clearly demonstrate that the discrepancy is in the COUNTY's point of sale report.
2. COUNTY will return a copy of the amended summary to the CONTRACTOR for action if necessary.

CONTRACTOR:



SIGNATURE

Jeff Foster

NAME (TYPE OR PRINT)

SVP - New Media Group

TITLE (TYPE OR PRINT)

EXHIBIT "B"

Insurance Requirements

CONTRACTOR will maintain in full force and effect, on a primary basis and at its sole expense, at all times during the life of this Agreement, insurance coverage's and limits (including endorsements) as described herein. Failure to maintain the required insurance will be considered default of this Agreement. The requirements contained herein, as well as COUNTY's review or acceptance of insurance maintained by CONTRACTOR, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by CONTRACTOR under the Agreement. CONTRACTOR agrees to provide the COUNTY with at least ten (10) days prior notice of any cancellation, non-renewal or material change to the insurance coverages.

Palm Beach County Parks & Recreation Department Representative to Initial as applicable:

☐

No Insurance Required: Based on scope of services, CONTRACTOR shall not be required to provide insurance.

☒

Commercial General Liability: CONTRACTOR shall maintain Commercial General Liability at a limit of liability not less than **\$500,000** Each Occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.

☒

Auto Liability: CONTRACTOR shall maintain Business Auto Liability at a limit of liability not less than **\$500,000** Each Occurrence for all owned, non-owned, and hired automobiles. In the event CONTRACTOR owns no automobiles, the Business Auto Liability requirement shall be amended allowing CONTRACTOR to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form.

☒

Workers' Compensation Insurance & Employer's Liability: CONTRACTOR shall maintain Workers' Compensation & Employer's Liability in accordance with Florida Statute Chapter 440.

☐

Professional Liability: CONTRACTOR shall maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than **\$1,000,000** Each Claim. When a self-insured retention (SIR) or deductible exceeds **\$10,000**, COUNTY reserves the right, but not the obligation, to review and request a copy of CONTRACTOR's most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, CONTRACTOR shall maintain a Retroactive Date prior to or equal to the effective date of this Agreement. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims – made" form. If coverage is provided on a "claims-made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage. In the event the policy is canceled, not renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Agreement, CONTRACTOR shall purchase a SERP with a minimum reporting period not less than three (3) years.

EXHIBIT "B"

Insurance Requirements



Additional Insured Clause: Except as to Business Auto, Workers' Compensation and Employer's Liability (and Professional Liability, when applicable) the Certificate(s) of Insurance shall clearly confirm that coverage required by this Agreement has been endorsed to include COUNTY as Additional Insured. As such, said Certificate(s) shall specifically include: "Palm Beach County, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents."



Waiver of Subrogation: CONTRACTOR hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition to the policy specifically prohibiting such an endorsement or voids coverage should CONTRACTOR enter into such an agreement on a pre-loss basis.



Certificates of Insurance: Prior to execution of the Agreement, the CONTRACTOR shall deliver to the COUNTY Certificate(s) of Insurance evidencing that all types and amounts of insurance coverage required by this Agreement have been obtained and are in full force and effect. In addition, the CONTRACTOR shall provide this evidence to the COUNTY prior to the expiration date of any such insurance required herein. Such Certificate(s) of Insurance shall include a minimum ten (10) day endeavor to notify due to cancellation of coverage. Certificates of Insurance are to be sent to:

Palm Beach County Board of County Commissioners
C/O Parks and Recreation Department
Attn: Eric Garber
2700 Sixth Avenue South
Lake Worth, Florida 33461



Umbrella or Excess Liability: If necessary, CONTRACTOR may satisfy the minimum limits required above for Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for Commercial General Liability, Business Auto Liability, or Employer's Liability. The COUNTY shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.



Right to Revise or Reject: COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject, or accept any required policies of insurance, including limits, coverage, or endorsements, herein from time to time throughout the term of this Agreement. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

EXHIBIT "C"
PRICE PAGES

The following pricing is submitted as the all inclusive pricing to provide the Parks and Recreation Department with golf course tee time sales services in accordance with the Scope of Work/Services set forth in this Agreement.

The CONTRACTOR shall fill-in amount and provide a description, if applicable, for one or more of the following compensation methods OR an alternative compensation method it is offering to the COUNTY for providing golf course tee time sales service for the term of this Agreement.

A.	COMMISSION: (A commission for each round of golf sold to the CONTRACTOR's customers where the customer pays the golf course for its round of golf.)
	<u> </u> % of monthly sales revenue from CONTRACTOR's tee time bookings.

B.	DISCOUNT: (The sale of discounted rounds of golf to the CONTRACTOR for resale to its customers at a marked up rate.) Fill-in discount percentage.
	<u> </u> % of standard rates for a round of golf.

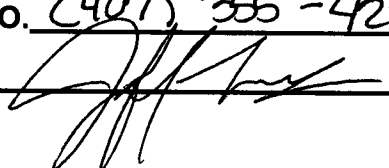
C.	TRADE: (The provision of trade rounds of golf to the CONTRACTOR to be sold to its customers in return for their sales services.) Fill-in the numbers.
	<u>8</u> rounds of golf to be traded per day per participating facility, OR
	<u> </u> trade rounds for <u> </u> of booked rounds.

EXHIBIT "C"
PRICE PAGES

D.	OTHER:

The CONTRACTOR certifies by signature below the following:

- a. This pricing is current, accurate, complete, and is presented as the Total Pricing, including 'out-of-pocket' expenses (if any), for the performance of this Agreement in accordance with the Requirements/Scope of Work/Services of this Agreement.
- b. The Price Page is current, accurate, complete, and is presented to the COUNTY for the performance of this Agreement in accordance with all the requirements as stated in this Agreement.
- c. The Price Page is submitted without prior understanding, agreement, or connection with any corporation, firm, or person submitting an Agreement for the same materials, services, and supplies and is, in all respects, fair and without collusion or fraud.
- d. The financial stability to fully perform the terms and conditions as specified herein.

NAME (PRINT): Jeff Foster
TITLE: SVP - New Media Group
COMPANY: GolfNow, LLC
ADDRESS: 7580 Golf Channel Drive, Orlando, FL 32819
TELEPHONE NO. (407) 355-4220
SIGNATURE: 

LIMITED LIABILITY COMPANY AUTHORIZATION RESOLUTION

By:

GolfNow, LLC
7580 Golf Channel Drive
Orlando, Florida 32819

Referred to in this document as "Limited Liability Company"

I, Kimberley Harris, certify that I am a Manager of the above named Limited Liability Company organized under the laws of Arizona, whose Federal Employer I.D. Number is 27-4684487, and that the resolutions on this document are a correct copy of the resolutions adopted by unanimous written consent of the Board of Managers, who are the sole persons designated by the member of the Limited Liability Company to manage the Limited Liability Company, as provided in the articles of organization. These resolutions have not been rescinded or modified.

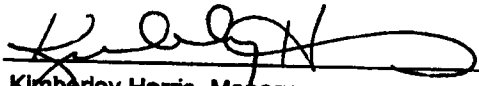
RESOLUTIONS

RESOLVED, that Jeff Foster, Senior Vice President, New Media Group, and Andrew J. Fleming, Vice President of Business Development & Senior Counsel, are hereby jointly and severally authorized and instructed to execute agreements between Palm Beach County, a political subdivision of the State of Florida, and GolfNow LLC, on behalf of GolfNow LLC;

RESOLVED, further, that this resolution shall continue to have effect until the express written notice of its rescission or modification has been received and recorded by Palm Beach County;

RESOLVED, further, that the Limited Liability Company is in good standing under the laws of the State of Florida or its state of formation if other, and has qualified, if legally required, to do business in the State of Florida and has the full power and authority to enter into such agreements.

In witness whereof, the undersigned has set her hand this 21 day of February, 2014.



Kimberley Harris, Manager
GolfNow, LLC.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/17/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Marsh USA Inc.
1717 Arch Street
Philadelphia, PA 19103-2797
Attn: NBCU.Certrequest@marsh.com Fax 212-948-5143

298523-NBC-CAS-14-15

CONTACT	
NAME:	
PHONE (A/C, No, Ext):	FAX (A/C, No):
E-MAIL ADDRESS:	
ADDRESS:	
INSURER(S) AFFORDING COVERAGE	
INSURER A : ACE American Insurance Company	NAIC # 22667
INSURER B : Indemnity Ins Co Of North America	43575
INSURER C : ACE Property And Casualty Ins Co	20699
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
NBCUniversal Media, LLC
a fully owned subsidiary of Comcast Corporation
30 Rockefeller Plaza
New York, NY 10112

COVERAGES **CERTIFICATE NUMBER:** CLE-004059433-08 **REVISION NUMBER:** 5

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY			XSLG27340313	12/01/2014	12/01/2015	EACH OCCURRENCE \$ 4,900,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 4,900,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 4,900,000 GENERAL AGGREGATE \$ 25,000,000 PRODUCTS - COMP/OP AGG \$ 6,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						
	<input checked="" type="checkbox"/> SIR: \$100,000						
	GEN'L AGGREGATE LIMIT APPLIES PER:						
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
A	AUTOMOBILE LIABILITY			ISAH08830502	12/01/2014	12/01/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 5,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input checked="" type="checkbox"/> ANY AUTO						
	<input type="checkbox"/> ALL OWNED AUTOS						
	<input type="checkbox"/> HIRED AUTOS						
	<input type="checkbox"/> SCHEDULED AUTOS						
	<input type="checkbox"/> NON-OWNED AUTOS						
C	<input checked="" type="checkbox"/> UMBRELLA LIAB			XOO G27636895	12/01/2014	12/01/2015	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
	<input type="checkbox"/> EXCESS LIAB						
	<input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WLRC48140087 (AOS)	12/01/2014	12/01/2015	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER
A	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N	N/A	WLRC48140105 (CA, MA)	12/01/2014	12/01/2015	E.L. EACH ACCIDENT \$ 2,000,000
A	If yes, describe under DESCRIPTION OF OPERATIONS below			SCFC48140129 (WI)	12/01/2014	12/01/2015	E.L. DISEASE - EA EMPLOYEE \$ 2,000,000 E.L. DISEASE - POLICY LIMIT \$ 2,000,000
A	Excess Workers Compensation			WCUC48140130 (WA)	12/01/2014	12/01/2015	Ea Acc/Dis Employee/Dis Policy 2,000,000 SIR 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Palm Beach County, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents are included as additional insured (except workers' compensation) where required by written contract with the named insured.

CERTIFICATE HOLDER

Palm Beach County Parks & Rec Dept.
2700 6th Ave. South
Lake Worth, FL 33461

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
of Marsh USA Inc.

Manashi Mukherjee

Manashi Mukherjee