

GOLF COURSE MANAGEMENT AGREEMENT

This Agreement (“Agreement”) is entered into this ___ day of May, 2020, by and between the Clinton Recreational Authority (“Authority”), a Title 60 trust with the sole beneficiary being the City of Clinton, and Kent Miller (“Miller”) a sole proprietor.

A. Authority is the current operator of an eighteen hole golf course facility and other forms of amenities known as the Riverside Golf Course, including clubhouse, food and beverage operations and all other improvements and business operations (“Golf Course Facility”).

B. Authority desires to restructure the day to day operations of the Golf Course Facility and seeks professional day to day management of the complete operations of the Golf Course Facility including, without limitation, administration of all receipts, disbursement, operations and management of the golf course, clubhouse, related facilities and equipment, personnel management, marketing and sales and membership development.

C. Authority desires that Miller provide the day to day management and other services which are necessary for the successful operations of the Golf Course Facility in a professional manner with budgets and operations structured to accomplish the Authority’s financial needs while providing a professional recreational opportunity for the citizens of the City of Clinton.

D. Miller has agreed to provide such services on the terms and conditions set forth below and will be referred to during the term of this Agreement as the “Golf Course Pro Shop Manager.”

I. BASIC TERMS

1. Duration of the Agreement: The initial term of this Agreement will be for twelve (12) months from the date of execution of this Agreement. Thirty (30) days prior to the expiration of the initial term, either party may seek an extension of the Agreement for an additional twelve (12) month term. The Agreement will only be extended by mutual agreement.
2. Management Fee: The base management fee will Thirty-Five Thousand Dollars (\$35,000.00) per year payable in equal monthly installments on the tenth (10) day of the following month after services have been performed.
3. Incentive Fee: In addition to the base management fee, Miller will be entitled to five percent (5%) of the revenues generated from green fees and cart rentals associated with Tournaments procured by Miller. However, he will not be entitled to any entry fee paid in connection with any Tournaments. This incentive fee does not include any fees collected from golfers not affiliated with the Tournaments in the event the Golf Course Facility is open for play for other persons than those signed up for a Tournament. However, all golf carts will remain the property of the Authority. Except as provided above, Miller will not be entitled to any percentage of golf cart rentals.
4. Concessions: Miller will be solely responsible for procuring, stocking, marketing and selling

golf course apparel, equipment, food and beverages sold through the golf course pro shop. Miller will be required to maintain, at all times, appropriate quality control and food and other safety standards mandated by state and federal laws and regulations. Miller will be entitled to 100% of the proceeds from such sales.

5. Permits/licenses: In the event that Miller elects to sell alcoholic beverages, he will be responsible for securing and maintaining the necessary licenses from the ABLE Commission and for fully complying with state laws contained in Title 37A of the Oklahoma Statutes and all applicable regulations of the ABLE Commission.
6. Sales Taxes: Miller will be responsible for the collection and remitting of all sales tax due on any item sold by him under this Agreement. He acknowledges and agrees that as a sole proprietor, he is not entitled to use the Authority's or the City's sale tax exempt status in the performance of this Agreement.

II. POWERS AND DUTIES OF MILLER

Miller agrees to operate the Golf Course Facility in good, workmanlike and professional manner by:

- a. Providing day to day management and oversight of the operations of the Golf Course Facility;
- b. Arranging for the employment of competent staff and deploying such staff and other resources to ensure the proper care of the buildings, grounds and Golf Course Facility. Miller acknowledges and agrees that staffing levels will not exceed the amount allocated for personnel service costs by the Authority. All employees will be deemed employees of the Authority. As such, all final hiring and discipline decisions of employees will be subject to the approval of the General Manager of the Authority. Miller will be responsible for proper training of all personnel. Miller will be responsible for keeping accurate time records of all employees and providing the time sheets to the Authority in a timely manner so that payroll may be processed. Miller agrees that he will not discriminate against any applicant, employee or patron based on race, color, creed, sex, sexual orientation, age, national origin or non-disqualifying disability in connection with employment or the furnishing of services and privileges offered or to be enjoyed at the Golf Course Facility.
- c. Preparing and maintaining accurately all books, accounts and records of the operations of the Golf Course Facility and all transaction related to the Golf Course Facility. Miller agrees to provide representatives of the Authority with access to all books, accounts and records upon demand during normal business hours and will provide Authority with monthly financial statements.
- d. Overseeing the planning and implementation of all marketing programs including

membership sales, tournament events, promoting the overall Golf Course Facility and placing appropriate media/advertising.

- e. Ensuring adequate supplies and equipment in order to operate the Golf Course Facility.
- f. Maintaining the golf course and all Golf Course Facilities in a condition consistent with appropriate quality levels of similar municipal golf courses.
- g. Coordinating with representatives of Authority to cause the Golf Course Facility to be in compliance with all federal, state and municipal laws and regulations.
- h. Overseeing all other matters reasonably necessary for the efficient performance of the operations in connection with the Golf Course Facility.
- i. Carrying reasonable amounts of liability insurance with the Authority listed as an insured party to cover any acts of negligence by Miller resulting in damage to the Golf Course Facility's assets and operations or resulting in damage to any other persons or entities.

III. POWERS AND DUTIES OF AUTHORITY

The Authority will have the following duties and responsibilities during the term of this Agreement.

- a. Responsible for the wages and benefits, if any, of all Authority employees and for providing workers' compensation insurance.
- b. Responsible for all expenditures for capital improvements, repairs and maintenance.
- c. Maintaining insurance on the Golf Course Facility and the payment of appropriate premiums.
- d. Paying any costs and expenses for utilities.
- e. Paying fees due to Miller under this Agreement

IV. TERMINATION

The initial term of this Agreement is set forth above. However, the Agreement may be terminated sooner:

- a. At any time by mutual agreement.

- b. Upon written notice by one party to the other of a default in the duties by the other party when the default is not cured within fifteen (15) days after receipt of notice of default.
- c. In the event of gross negligence by Miller in the performance of his obligations under this Agreement.
- d. Upon the death of Miller or his physical or mental inability to perform his obligations under this Agreement.

V. INDEPENDENT CONTRACTOR

The parties mutually acknowledge and agree that Miller is deemed an Independent Contractor and is not an employee of the Authority or the City of Clinton. As such, except as may be expressly provided herein, Miller has no right or authority to assume or create any obligation or responsibility on behalf of the Authority or the City of Clinton or to bind or attempt to bind the Authority or the City of Clinton in any manner without express permission given in writing.

VI. INDEMNITY

Miller agrees to indemnify and hold harmless the Authority for any liability, loss, damage, costs and expenses (including attorney fees) caused by his gross negligence, misconduct or material breach of this Agreement causing harm to any portion of the Golf Course Facility, any employee of the Authority, any patron of the Golf Course Facility, any other person or any property of an employee, patron or other person.

VII. MISCELLANEOUS

- 1. Each party warrants and represents that he/it has the full authority to enter into this Agreement and to perform hereunder. Each party agrees to cooperate with the other and its officers, agents, servants, attorneys or employees in connection with the performance of this Agreement.
- 2. This Agreement may not be assigned by Miller to any third party without the express written permission of the Authority.
- 3. If determined by any court of competent jurisdiction that any part of this Agreement is void, voidable, illegal or unenforceable, that part or portion will be severable from and will not affect the remainder of the Agreement.
- 4. This Agreement will be subject to the laws of the State of Oklahoma. Any disputes arising out of this Agreement must be brought in the District Court of Custer County or the United States District Court for the Western District of Oklahoma.

5. The terms of this Agreement may only be changed, modified, waived or released by mutual written consent.
6. Any notice, document or other item to be given, delivered, furnished or received by be addressed as follows:

Kent Miller
1530 Neptune Drive
Clinton, Oklahoma 73601
(580) 214-0581
Email: bkMiller56@pga.com

Clinton Recreational Authority
c/o General Manager
P.O. Box 1177
415 Gary Blvd.
Clinton, Oklahoma 72601-1177
(580) 323-0217

7. This Agreement may be executed in multiple counterparts, each of which when so executed, will be deemed an original and such counterparts together will constitute one and the same Agreement.

Dated this 14 day of May, 2020



Kent Miller

CLINTON RECREATIONAL AUTHORITY

By: _____
Mayor