

FORSYTH COUNTY
BOARD OF COMMISSIONERS

**BRIEFING
DRAFT**

MEETING DATE: APRIL 12, 2018

AGENDA ITEM NUMBER: 4

SUBJECT: RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT WITH GOLF FORE! FUN, INC. FOR USE OF TANGLEWOOD PARK FACILITIES (PARKS AND RECREATION DEPARTMENT)

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:

SUMMARY OF INFORMATION:

ATTACHMENTS: YES NO

SIGNATURE: _____

COUNTY MANAGER

DATE: _____

**RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT WITH GOLF
FORE! FUN, INC. FOR USE OF TANGLEWOOD PARK FACILITIES
(PARKS AND RECREATION DEPARTMENT)**

WHEREAS, Golf Fore! Fun, Inc. is a local subsidiary of “The First Tee” golf outreach program, which is available to all interested youth ages 8 to 18 and encourages them to play golf; and

WHEREAS, Golf Fore! Fun, Inc. desires to partner with Forsyth County to use Tanglewood Park facilities to help provide golf experiences to participating youth in Forsyth County who might not otherwise play golf, which provides an opportunity to grow the golfing community; and

WHEREAS, Golf Fore! Fun, Inc. will provide all necessary staff and volunteers and insurance coverage to operate the program at no additional cost or risk to Forsyth County; and Forsyth County will provide access to the Tanglewood facilities at times of the day which will have the least impact on the revenue generating activities at the Park;

NOW, THEREFORE, BE IT RESOLVED that the Forsyth County Board of Commissioners hereby authorizes the County Manager and the Clerk to the Board to execute, on behalf of Forsyth County, the Agreement with Golf Fore! Fun, Inc. for the use of Tanglewood Park facilities at no additional cost or risk to the County, subject to a pre-audit certificate thereon by the County Chief Financial Officer, if applicable, and approval as to form and legality by the County Attorney.

BE IT FURTHER RESOLVED that the County Manager is hereby authorized to execute, on behalf of Forsyth County, subsequent contracts or contract amendments with Golf Fore! Fun, Inc. to provide these services within budgeted appropriations in the current and future fiscal years if these services are deemed necessary, subject to a pre-audit certificate thereon by the County Chief Financial Officer, where applicable, and approval as to form and legality by the County Attorney.

Adopted this 12th day of April 2018.

AGREEMENT

THIS AGREEMENT made and entered into this 28th day of September, 2017 by and between Forsyth County, North Carolina (the "County") and Golf Fore! Fun, Inc. (the "Chapter");

Subject to the terms and conditions hereinafter set forth, the County hereby agrees to allow the Chapter to use Tanglewood Park for The First Tee curriculum and to conduct The First Tee Skills Experience (collectively "The First Tee Program") to teach golf and life skills to youth:

I.

The Chapter may use the Tanglewood Park Par 3 course and the driving range (the "Facilities") for use in The First Tee Program subject to the following terms:

- a. The Chapter may use the Facilities up to 175 hours per year.
- b. The County, in its sole discretion, shall determine the dates and the particular Facilities that the Chapter may utilize. The County anticipates, but does not guarantee, that the Facilities will be available for use primarily from 3:00 p.m. to 6:30 p.m. on weekdays and 9 a.m. to 11:00 a.m. on Saturdays.
- c. The Chapter shall provide adult supervision of the youth in The First Tee Program.

II.

This Agreement of the Chapter shall begin on January 1, 2018, unless sooner terminated by mutual consent or as hereinafter provided, shall be provided until December 31, 2027; provided that either party shall have the right to terminate this Agreement upon thirty (30) days notice in writing to the other party.

III.

As full consideration for this Agreement, the Chapter agrees to abide by the terms and conditions herein.

IV.

The Chapter shall operate as an independent contractor, and the County shall not be responsible for any of the Chapter's acts or omissions. The Chapter agrees to hold the County harmless from and against any and all claims, expenses (including attorney fees), costs or liability for acts or omissions of the Chapter and its participants and guests. The Chapter shall be liable for any personal or property damage to the Facilities by the Chapter, its participants, or its guests.

The Chapter accepts the Facilities as-is. The County disclaims all warranties, including any warranty as to the suitability of the Facilities for any use. The County shall not be liable for any physical or personal injury or damage that may occur to the Chapter or its participants and its guests. In the event of the County's breach of this Agreement, the Chapter's sole remedy shall be to terminate the Agreement.

The Chapter shall not be treated as an employee with respect to the services performed hereunder for federal or state tax, unemployment or workers' compensation purposes. The Chapter understands that neither federal, state, nor payroll tax of any kind shall be withheld or paid by the County on behalf of the Chapter or the employees of the Chapter. The Chapter further understands and agrees that the Chapter is fully responsible for the payment of any and all taxes arising under this Agreement.

The Chapter shall not be treated as an employee with respect to the services performed hereunder for purposes of eligibility for, or participation in, any employee pension, health, or other fringe benefit plan of the County.

The County shall not be liable to the Chapter for any expenses paid or incurred by the Chapter.

The Chapter shall supply, at its sole expense, all equipment, tools, materials, and/or supplies required to operate The First Tee Program unless otherwise agreed in writing.

The Chapter has no authority to enter into contracts or agreements on behalf of the County.

The Chapter declares that it has complied with all federal, state and local laws regarding business permits, certificates, and licenses that may be required to carry out the services to be performed under this Agreement.

This Agreement shall be governed by North Carolina law, except that provisions regarding conflicts of laws shall not apply.

V.

The Chapter shall procure and maintain insurance against claims for injuries to persons or damages to property for the duration of this Agreement which may arise from or in connection with the use of Tanglewood Park by the Chapter, its agents, representatives, participants, or subcontractors.

A. Commercial General Liability Insurance. The Contractor shall maintain occurrence version commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000 each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two times the occurrence limits. Such insurance shall:

1. **Include the County, its officials, officers, and employees as insureds** with respect to performance of the Services. The coverage shall contain no special limitations on the scope of protection afforded to the above listed insureds. *****
List Certificate Holder and Additional Insured as follows:

Forsyth County
It's Officials, Officers, and Employees
Attn: Teresa Everhart
201 N. Chestnut Street
Winston-Salem, NC 27101

2. Be primary with respect to any insurance or self-insured retention programs covering the County, its officials, officers, and employees.

B. **Business Automobile Liability Insurance.** The Contractor shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$1,000,000 each accident. Such insurance shall include coverage for owned, hired, and non-owned automobiles.

C. **Workers' Compensation and Employers' Liability Insurance.** The Contractor shall maintain workers' compensation insurance with North Carolina statutory limits and employers' liability insurance with limits of not less than \$500,000 each accident. All employees, owners, officers of the company shall not be excluded from Workers Compensation if they are going to be on Government Property during the contractual term.

D. **Professional Liability Insurance.** The Provider shall maintain professional liability insurance or equivalent form with a limit of not less than \$1,000,000.

E. **Other Insurance Requirements.** The Provider shall:

1. Prior to commencement of services, furnish the County with properly executed certificates of insurance which shall clearly evidence all insurance required in this section and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on 30 days' prior written notice to the County. Certificates of Insurance shall specifically include the following statement: "Forsyth County, its officials, officers and employees are shown as additional insureds with respect to the performance of services by contracted vendor.

2. Provide certified copies of endorsements and policies, if requested by the County, in lieu of or in addition to certificates of insurance.

3. Replace certificates, policies, and endorsements for any such insurance expiring prior to completion of the services.

4. Maintain such insurance from the time services commence until services are completed.

5. Place such insurance with insurers authorized to do business in North Carolina and having A. M. Best Company ratings of not less than A: VII. Any alternatives to this requirement shall require written approval of the County's Risk Manager.

F. The Provider understands and acknowledges that these insurance coverage requirements are minimums and that they do not restrict or limit the hold harmless provisions of this agreement.

This Agreement shall be governed by North Carolina law, except that provisions regarding conflicts of laws shall not apply.

Provider hereby certifies that it is not on the North Carolina State Treasurer's list of persons engaging in business activities in Iran, prepared pursuant to NCGS § 143C-6A-4, nor will Provider utilize on this agreement any subcontractor on such list.

It is the expectation of Forsyth County that the Provider will comply, and the Provider agrees to comply, with all applicable federal immigration laws in its hiring and contracting practices relating to the services covered by this contract involving County funds, as outlined in the Resolution adopted by the Forsyth County Board of Commissioners at its regular meeting of October 23, 2006.

IN WITNESS WHEREOF, the County and the Chapter have set their hands and seals as of the day and year first above written.

FORSYTH COUNTY, NORTH CAROLINA

J. DUDLEY WATTS, MANAGER

CHAPTER

The First Tee of the Triad (601 F for Fun, Inc.)

BY: _____

Michelle Belmont

20-8114680

TAX ID NUMBER