

**CITY OF MANOR
LICENSE AGREEMENT**

This License Agreement (the "Agreement") is made and entered into on this the ____ day of _____, 20 __, (the "Effective Date") by and between the CITY OF MANOR, a home-rule municipal corporation and political subdivision of the State of Texas situated in Travis County, Texas (the "City" or "Licensor"), and SHADOWGLEN GOLF, L.P., a Texas limited partnership (the "Licensee"). The City and the Licensee are referred to together as the "Parties".

RECITALS:

WHEREAS, The Parties have entered into that certain Effluent Reuse Agreement dated the ____ day of _____, 20 __ (the, "Effluent Reuse Agreement"); and

WHEREAS, the City desires to authorize the Licensee permission to use the TXDOT bore as required by the Effluent Reuse Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency thereof is hereby acknowledged, the City and the Licensee agree as follows:

I. RECITALS

1.01. The Recitals set out above in this Agreement are hereby adopted in whole as if each were set out herein.

II. PURPOSE OF LICENSE AGREEMENT

2.01. The City grants to Licensee permission to use the licensed property for the following purposes only:

Access to the TXDOT bore only as required under the Effluent Reuse Agreement.

The above-described property, hereinafter referred to as the "Licensed Property", is further shown in **Exhibit A** attached to this Agreement and incorporated by reference for all purposes.

2.02. The City makes this grant solely to the extent of its right, title and interest in the licensed property, without any express or implied warranties.

2.03. Licensee agrees that: (a) the use of improvements located on the Licensed Property permitted by this Agreement shall be done in compliance with all applicable City, County, State and/or Federal laws, ordinances, regulations and policies now existing or later adopted. Any provision herein to the contrary notwithstanding, Licensee shall be liable for, and shall indemnify and hold the City harmless from all damages, causes of action, and claims arising out of or in connection with Licensee's use of the improvements located on the Licensed Property and permitted under this Agreement.

III. FEE

3.01. No annual fee shall be due in connection with this Agreement and the City will not compensate Licensee for any costs or fees association with the Licensed Property or any Improvements.

IV. CITY'S RIGHTS TO LICENSED PROPERTY

4.01. This Agreement is expressly subject and subordinate to the present and future right of the City, its successors, assigns, lessees, grantees, and Licensees, to construct, install, establish, maintain, use, operate, and renew any public utilities facilities, franchised public utilities, rights-of-way, roadways, or streets on, beneath, or above the surface of the Licensed Property.

4.02. Said uses of the Licensed Property by the City are permitted even though such use may substantially interfere with or destroy Licensee's use of the Licensed Property, or the Improvements. In case of a declared emergency, damage to or destruction of Licensee's property shall be at no charge, cost, claim, or liability to the City, its agents, contractors, officers, or employees.

4.03. Notwithstanding any provisions in this Agreement to the contrary, the City retains the right to enter upon the Licensed Property, at any time and without notice, assuming no obligation to Licensee, to remove any of the Improvements or alterations thereof whenever such removal is deemed necessary for: (a) exercising the City's rights or duties with respect to the Licensed Property; (b) protecting persons or property; or (c) the public health or safety with respect to the Licensed Property.

V. INSURANCE

5.01. Licensee shall, at its sole expense, provide a commercial general liability insurance policy, written by a company acceptable to the City and licensed to do business in Texas, with a combined single limit of not less than \$1,000,000.00, which coverage may be provided in the form of a rider and/or endorsement to a previously existing insurance policy. Such insurance coverage shall specifically name the City as an additional-insured. This insurance coverage shall cover all perils arising from the activities of Licensee, its officers, employees, agents, or contractors, relative to this Agreement, or otherwise within the public right-of-way and within the Licensed Property. Licensee shall be responsible for any deductibles stated in the policy. The amount of such coverage may be increased from time to time as may be deemed necessary and prudent by the City and the Licensee based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. A certificate of insurance evidencing such coverage shall be delivered to the City Secretary of the City within thirty (30) days of the Effective Date of this Agreement.

5.02 Licensee shall not cause any insurance to be canceled nor permit any insurance to lapse. All insurance certificates shall include a clause to the effect that the policy shall not be canceled, reduced, restricted or otherwise limited until forty-five (45) days after the City has received written notice as evidenced by a return receipt of registered or certified mail. Notwithstanding the foregoing, in the event obtaining such provision for prior notice to the City is not reasonably available, Licensee agrees to give the City written notice of any suspension, cancellation, non-renewal or material change in coverage of the insurance policy required to be obtained and maintained by the Licensee under the terms of this Agreement. Within ten (10) days after a suspension, cancellation or non-renewal of coverage, Licensee shall provide a replacement certificate of insurance to the City. The City shall have the option to suspend Licensee's authorization and liability under this Agreement should there be a lapse in coverage at any time

during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

VI. INDEMNIFICATION

6.01. Licensee shall indemnify, defend, and hold harmless the City and its officers, agents and employees against all claims, suits, demands, judgments, damage, costs, losses, expenses, including attorney's fees, or other liability for personal injury, death, or damage to any person or property which arises from or is in any manner caused by the activities of the Licensee under this Agreement, including any acts or negligent omissions of the Licensee, and its agents, officers, directors, or employees, while in the exercise or performance of the rights or duties under this Agreement. This indemnification provision, however shall not apply to any claims, suits, demands, judgments, damage, costs, losses, or expenses arising solely from the negligent or willful acts or omissions of the City; provided that for the purposes of the foregoing, the City's entering into this Agreement shall not be deemed to be a "negligent or willful act."

VII. CONDITIONS

7.01. Licensee's Responsibilities. Licensee shall be responsible for any and all damage to or repair of the Improvements or damage to the Licensed Property caused as a result of acts or omissions by Licensee, its agents, officers, directors, or employees. Further, Licensee shall reimburse the City for all costs of replacing or repairing any property of the City or of others which was damaged or destroyed as a result of activities under this Agreement by, or on behalf of, Licensee.

7.02. Default. In the event that Licensee fails to comply with the terms or conditions as set forth herein, the City shall give Licensee written notice thereof, by registered or certified mail, return receipt requested, to the address set forth below. Licensee shall have thirty (30) days from the date of receipt of such notice to take action to remedy the failure complained of, and, if Licensee does not satisfactorily remedy the same within the thirty (30) day period, the City may terminate this license.

City:

City of Manor
Attn: City Manager
105 E. Eggleston St.
Manor, Texas 78653

with a copy to:
The Knight Law Firm, LLP
Attn: Paige Saenz
223 West Anderson Lane, Suite A-105
Austin, Texas 78752

Licensee:

with a copy to:

7.05. Remedies. The Licensee agrees that in the event of any default on its part under this Agreement, the City shall have available to it equitable remedies including, without limitation, the right of the City to obtain a writ of mandamus or an injunction, or seek specific performance against the Licensee to enforce the Licensee's obligations under this Agreement.

7.06. Compliance. Notwithstanding any other term, provision or conditions of this Agreement, subject only to prior written notification to the Licensee, this Agreement is revocable by the City if Licensee fails to comply with the terms and conditions of this Agreement or otherwise fails to comply with the terms and conditions of this Agreement, including, but not limited to, the insurance requirements specified herein.

VIII. COMMENCEMENT AND ABANDONMENT

8.01. Commencement. This Agreement shall begin with the Effective Date set forth above and continue throughout the duration of the Effluent Reuse Agreement.

8.02. Abandonment. If Licensee defaults under the terms of the Effluent Reuse Agreement, then this Agreement, shall expire and terminate following thirty (30) days written notice to the Licensee.

IX. TERMINATION

9.01. Termination by City. This Agreement is revocable by the City if Licensee fails to comply with the terms and conditions of this Agreement or the terms and conditions of the Water Reuse Agreement.

X. INTERPRETATION

10.01. Although drawn by the City, this Agreement shall, in the event of any dispute over its intent, meaning, or application, be interpreted fairly and reasonably, and neither more strongly for or against either party.

XI. APPLICATION OF LAW

11.01. This Agreement shall be governed by the laws of the State of Texas. If the final judgment of a court of competent jurisdiction invalidates any part of this Agreement, then the remaining parts shall be enforced, to the extent possible, consistent with the intent of the parties as evidenced by this Agreement.

XII. VENUE

12.01. Venue for all lawsuits concerning this Agreement will be in Williamson County, Texas.

XIII. ASSIGNMENT

13.01. Licensee shall not assign, sublet or transfer its interest in this Agreement without the written consent of the City.

XIV. AMENDMENT

17.01 This Agreement may be amended only by an instrument in writing signed and approved by both parties.

XVIII. POWER AND AUTHORITY

18.01. The City hereby represents and warrants to Licensee that the City has full constitutional and lawful right, power, and authority, under currently applicable law, to execute and deliver and perform the terms and obligations of this Agreement, subject to the terms and conditions of this Agreement and subject to applicable processes, procedures, and findings that are required by state law, City ordinances, or the City Charter related to actions taken by the City Council, and all of the foregoing have been authorized and approved by all necessary City proceedings, findings, and actions. Accordingly, this Agreement constitutes the legal, valid, and binding obligation of the City, is enforceable in accordance with its terms and provisions, and does not require the consent of any other governmental authority.

16.02. Licensee hereby represents and warrants to the City that Licensee has full lawful right, power, and authority to execute and deliver and perform the terms and obligations of this Agreement and all of the foregoing have been or will be duly and validly authorized and approved by all necessary actions of Licensee. Concurrently with Licensee's execution of this Agreement, Licensee has delivered to the City copies of the resolutions or other corporate actions authorizing the execution of this Agreement and evidencing the authority of the persons signing this Agreement on behalf of Licensee to do so. Accordingly, this Agreement constitutes the legal, valid, and binding obligation of Licensee, and is enforceable in accordance with its terms and provisions.

[signature pages follow]

ACCEPTED this the _____ day of _____, 20____.

THE CITY:
CITY OF MANOR

_____, City Manager

ATTEST:

By: _____
Name: _____
Title: City Secretary

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this _____ day of _____, 20____, by _____, as City Manager of THE CITY OF MANOR, TEXAS, a home-rule municipality, on behalf of said City.

Notary Public, State of Texas

LICENSEE:

By: _____

Name: _____

Title: _____

STATE OF TEXAS §

§

COUNTY OF _____ §

This instrument was acknowledged before me on this ____ day of _____, 20__, by _____, as _____ of _____, a _____, on behalf of said _____.

Notary Public, State of Texas

AFTER RECORDING, PLEASE RETURN TO:

City of Manor
Attn: City Secretary
105 E. Eggleston St.
Manor, Texas 78653

Exhibit "A"
[attachment follows this page]