

SOUTH OF MILES INDEMNIFICATION

This South of Miles Indemnification ("Indemnification") is made and effective as of March 1, 2013 (the "Effective Date"), by and between City of Indian Wells, a charter city duly organized under the Constitution and laws of the State of California ("City"), and the City of Indian Wells Housing Authority ("Authority" and, collectively with City, "City Parties"), a housing authority established under the laws of the State of California, and Garden of Champions LLC a California limited liability company ("GOC"), and Desert Champions LLC, a California limited liability company ("DC" and, collectively with GOC, "GOC/DC").

RECITALS

A. Authority owns certain land (the "City Land") located in the City of Indian Wells, County of Riverside, State of California, described on Exhibit A attached hereto.

B. GOC owns the Indian Wells Tennis Garden located on land adjacent to the City Land and GOC and DC conduct thereon certain events.

C. A sod farm is operated on the City Land by John M. Foster Turf Farms, Inc. dba West Coast Turf, a California corporation (the "Sod Farm"). The Sod Farm is used by GOC/DC for parking for events held at the Indian Wells Tennis Garden ("Event Parking"). As used in this Indemnification, the term "Event Parking" shall be deemed to include, without limitation, use by guests, invitees and patrons of GOC/DC as part of Event Parking of a certain tunnel located on the City Land and under Miles Avenue, which extends to real property located on the north side of Miles Avenue.

D. A well is located and operated on the City Land and supplies water used for irrigation of the Sod Farm and the Indian Wells Tennis Garden (the "Well"). The flow of groundwater from the Well is measured by an affixed water meter (the "Water Meter").

E. The Coachella Valley Water District ("CVWD") has assessed and will continue to assess in the future the production of groundwater from the Well, will read the Water Meter on a monthly basis, invoicing GOC for the water produced from the Well, and will continue to make GOC responsible for the maintenance and operation of the Well and Water Meter (the "CVWD Well/Meter Obligations").

F. City, GOC and DC have entered into a Meter Agreement Indemnification dated April 7, 2011 (the "Meter Agreement Indemnification") whereby GOC and DC have agreed to indemnify, defend and hold harmless City from any liability relating to the CVWD Well/Meter Obligations, the operation of the Well and the Meter, and the use of the groundwater produced by the Well and used for the irrigation of the Sod Farm and the Indian Wells Tennis Garden as set forth in the Meter Agreement Indemnification.

G. GOC and DC have agreed to expand the coverage of the Meter Agreement Indemnification to include the operation of the Sod Farm and Event Parking.

NOW, THEREFORE, the parties hereto agree as follows:

1. Authority as Additional Indemnatee under Meter Agreement Indemnification. GOC and DC agree that for purposes of this Indemnification, Authority shall be deemed to be an additional indemnatee under the Meter Agreement Indemnification, to the extent and in the same manner and respect as the City is indemnified there under.

2. Indemnification. GOC and DC jointly and severally agree to indemnify, defend and hold City Parties harmless from and against any and all expenses, damages, claims, suits, losses, actions, judgments, liabilities and costs whatsoever (including reasonable attorney fees) of any kind or character in respect to any person or property (collectively, "Claims") arising from, relating to or caused by the actions or inactions of GOC, DC and/or West Coast Turf, or any of their respective employees and agents, relating to any, some or all of the following: (a) the CVWD Well/Meter Obligations, (b) the Meter Agreement Indemnification, (c) the operation of the Well and the Meter, (d) the use of the groundwater produced by the Well and used for the irrigation of the Sod Farm and the Indian Wells Tennis Garden, (e) the operation of the Sod Farm or (f) Event Parking. Notwithstanding the foregoing, GOC and DC shall not be required to so indemnify City Parties for any Claims to the extent they arise from the gross negligence or willful misconduct of City Parties or any of their employees or agents.

3. Term. This Indemnification shall remain in effect through 5:00 p.m. Pacific Time on May 17, 2013.

4. Miscellaneous. This instrument constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and all prior and contemporaneous agreements, representations and understandings of the parties hereto, oral or written, are hereby superseded and merged herein as of this Indemnification's Effective Date, including, without limitation, the Meter Agreement Indemnification. No supplement, modification or amendment of this Indemnification shall be binding unless in writing and executed by the parties hereto. No waiver of any of the provisions of this Indemnification shall be deemed or shall constitute a waiver of any other provisions, whether or not similar, nor shall any waiver be a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver. This Indemnification shall be construed and enforced in accordance with, and governed by, the laws of the State of California. The headings of this Indemnification are for purposes of reference only and shall not limit or define the meaning of the provisions hereof. This Indemnification may be executed in any number of counterparts and via facsimile, each of which shall be an original and all of which shall constitute one and the same instrument.

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

“CITY”

City of Indian Wells, a charter city duly organized under the Constitution and laws of the State of California

By: Mary T Roche
Name: MARY T ROCHE
Its: Mayor

“Authority”

City of Indian Wells Housing Authority, a housing authority established under the laws of the State of California

By: Mary T Roche
Name: MARY T Roche
Its: Chair

“GOC”

Garden of Champions LLC, a California limited liability company

By: S R S
Name: Steven R. Simon
Its: Chief Operating Officer

“DC”

Desert Champions LLC, a California limited liability company

By: S R S
Name: Steven R. Simon
Its: Chief Operating Officer

EXHIBIT A
TO
SOUTH OF MILES INDEMNIFICATION
City Land

EXHIBIT A

