



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of City Council

FROM: Thomas Frutchey, City Manager

DATE: September 17, 2014

SUBJECT: Leasing Management, Operation, and Maintenance of Pacific Grove Golf Links to Pacific Grove Golf Links, LLC

CEQA STATUS: Lease of the Golf Links is exempt from CEQA under Section 15301 of the CEQA Guidelines (Class 1) – Existing Facilities.

RECOMMENDATION

Hold second reading and adopt an ordinance approving a ten-year lease and two five-year options with Pacific Grove Golf Links, LLC, an affiliate of CourseCo, Inc. for maintenance and operation of the Pacific Grove Golf Links;

DISCUSSION

At its February 19, 2014 meeting the City Council directed the City Manager to negotiate a lease with CourseCo for management, operation, and maintenance of the Pacific Grove Golf Links. At its April 2, 2014 meeting, the Council approved an interim management agreement with CourseCo, to remain in effect until the non-taxable certificates of participation (COPs) for construction of the Club House, the Pro Shop, and related improvements (issued in 2004) were replaced by a taxable instrument. At its August 19, 2014 meeting, the Council authorized a lease/leaseback arrangement with Umpqua Bank, which will retire the outstanding COPs. Thus, the City is now able to transition the interim management agreement into a long-term lease.

The proposed lease resulted from negotiations last spring, with virtually no updates. Because all of the projections and plans were based on a 10-year initial business term, and, with the April 1, 2014 start of the management agreement, 6 months of successful efforts have already been accomplished, the starting date for the lease has been adjusted to October 1, 2014.

CourseCo has operated the course and facilities under the interim management agreement in a fully responsible and professional manner. The financial performance for the first four months has matched projections, even though costs per unit of water have been higher than those provided to CourseCo by CalAm. The golf course is in great shape, especially considering drought effects. Golfers are noticing many improvements. CourseCo has not raised any fees above their prior, City-established levels.

FISCAL IMPACT

The primary lease terms include:

Term--Ten-year agreement with two five-year options

Base Rent--\$300,000 annually for the first three years then increasing to \$305,000 in Year Four. In Years 5-10, and option period, the base rent will increase by \$5,000 per year.

Percentage Rent--The City will receive 65% of the gross golf revenue in excess of a \$2,350,000 baseline. The baseline shall increase annually by the CPI.

CIP--CourseCo shall contribute \$100,000 in Year One towards mutually agreed to projects. In addition CourseCo shall pay \$70,000 for the final year of the Dunes Restoration project. For Years One and Two, CourseCo shall contribute 1% of gross revenue (from all sources, not just golf) to a CIP fund. Beginning in Year three that amount will increase to 1.5%.

Performance during the first four months indicates CourseCo is likely to meet or exceed the first-year pro forma upon which the FY 2013-4 budget was based. That is beneficial for City as well, since the lease provisions providing an upside to the City were not possible under the interim management agreement.

A summary of the proposed ordinance was published in a newspaper of general circulation. No substantive changes to the lease have been made since first reading.

OPTIONS

1. Council may choose not to approve the lease.
2. Council may direct staff to seek to negotiate changes to the proposed lease.

ATTACHMENTS

1. Comparative pro formas: City operation versus operation under the terms of the lease
2. Ordinance
3. Lease

RESPECTFULLY SUBMITTED:



Thomas Frutchey
City Manager



PACIFIC GROVE GOLF LINKS GOLF COURSE
FY 2011-12 to FY 2018-19 PRO FORMA
CourseCo Projection

	2011-12	2012-13	2013-14	Year 1	Year 2	Year 3	Year 4	Year 5
	Actual	Actual	Estimated	2014-15	2015-16	2016-17	2017-18	2018-19
	Actual	Actual	Estimated	Projected	Projected	Projected	Projected	Projected
ROUNDS	56,019	54,309	57,000	56,000	58,800	60,564	62,381	64,252
% Change		-3%	5%	-2%	5%	3%	3%	3%
REVENUE								
Golf Operations								
Green Fees	1,652,331	1,632,200	1,800,000					
Carts	424,962	392,903	420,000					
Merchandise Sales (Pro Shop Sales)	308,597	292,133	310,000	56,000				
Driving Range	52,046	52,849	60,000					
Lessons	1,098	4,748	1,000					
Other Golf Revenue - Rentals	93,535	111,171	70,000					
Miscellaneous Revenue	4,898	(365)	4,000	17,800	17,800	17,800	17,800	17,800
Food & Beverage Operations - Snack Bar	51,595	55,826	60,000	51,600	51,600	51,600	51,600	51,600
Base Rent/Guaranteed Portion	-	-	-	300,000	300,000	300,000	305,000	310,000
Percentage Rent (2nd Tier)	-	-	-	-	38,361	104,422	175,780	252,783
Total	2,589,061	2,541,464	2,725,000	425,400	407,761	473,822	550,180	632,183
% Change		-2%	7%		-4%	16%	16%	15%
COST OF GOODS SOLD								
Golf	180,327	179,459	159,000	-	-	-	-	-
Food & Beverage								
Total	180,327	179,459	159,000	-	-	-	-	-
COGS % of Revenue	7.0%	7.1%	5.8%					
NET OPERATING REVENUE	2,408,734	2,362,005	2,566,000	425,400	407,761	473,822	550,180	632,183
% Change		-2%	9%		-4%	16%	16%	15%
OPERATING EXPENSES								
Golf Operations & Maintenance	1,151,386	1,061,821	1,347,525					
Utilities (Restaurant)	57,078	113,462	47,000					
Pro Shop	712,780	662,847	641,623					
Food & Beverage								
Subtotal	1,921,244	1,838,129	2,036,148	-	-	-	-	-
% Change		-4%	11%					
NET OPERATING INCOME FROM CONTRACT OPERATIONS								
Per Round								
NOI Margin (% of Gross Revenue)								
DEBT SERVICE	267,516	279,317	270,000	272,000	273,000	274,000	275,000	276,000
CITY OVERSIGHT, FACILITY REPAIRS & IMPROVEMENTS & CIP PLANNING								
Contract & Budget Oversight (5% PW Supervisor)				5,857	6,033	6,213	6,400	6,592
Pension Obligation Payments	86,894	89,518	92,200	92,800	93,200	93,800	94,200	94,800
Indirect Cost Allocation - overhead	130,909	157,766	168,000	33,181	31,805	36,958	42,914	49,310
Capital Improvements*	2,385	97,870	27,500	26,301	28,955	46,039	48,803	51,734
Total	220,188	345,155	287,700	158,139	159,993	183,011	192,317	202,436
YEAR-END BAL. (INC. WORKING CAPITAL)	180,114	78,863	131,152	(4,739)	(25,232)	16,811	82,863	153,747
Capital Imp. Contributions - CourseCo*				196,301	28,955	46,039	48,803	51,734
NET BEN. TO CITY (WK CAP + CI CONT.)	180,114	78,863	131,152	191,562	3,723	62,850	131,666	205,481

5-Year Total Benefit to City (Working Capital + Capital Contribution)

595,282

* Note: The City matches CourseCo's annual capital contribution. CourseCo has added to its annual capital contribution \$70,000 for the Dunes Restoration Project as well as an initial \$100,000 general capital contribution. The City is not matching these two items. Capital investments made by CourseCo from FY 2014-15 thru FY 2018-19 are added to working capital to show the net benefit to City.



PACIFIC GROVE GOLF LINKS GOLF COURSE
FY 2011-12 to FY 2018-19 PRO FORMA
In-House Projection

	2011-12 Actual	2012-13 Actual	2013-14 Estimated	Year 1 2014-15 Projected	Year 2 2015-16 Projected	Year 3 2016-17 Projected	Year 4 2017-18 Projected	Year 5 2018-19 Projected
ROUNDS	56,019	54,309	57,000	55,776	56,892	56,556	56,408	56,618
% Change		-3%	5%	-2%	2%	-1%	0%	0%
REVENUE								
Golf Operations								
Green Fees	1,652,331	1,632,200	1,800,000	1,694,844	1,745,689	1,780,603	1,816,215	1,852,539
Carts	424,962	392,903	420,000	412,622	425,000	433,500	442,170	451,014
Merchandise Sales (Pro Shop Sales)	308,597	292,133	310,000	303,577	312,684	318,938	325,316	331,823
Driving Range	52,046	52,849	60,000	54,965	56,614	57,746	58,901	60,079
Lessons	1,098	4,748	1,000	2,282	2,350	2,397	2,445	2,494
Other Golf Revenue - Rentals	93,535	111,171	70,000	91,569	94,316	96,202	98,126	100,089
Miscellaneous Revenue	4,898	(365)	4,000	2,845	2,930	2,989	3,048	3,109
Food & Beverage Operations - Snack Bar	51,595	55,826	60,000	55,807	57,481	58,631	59,803	60,999
Total	2,589,061	2,541,464	2,725,000	2,618,508	2,697,064	2,751,005	2,806,025	2,862,146
% Change		-2%	7%	-4%	3%	2%	2%	2%
COST OF GOODS SOLD								
Golf	180,327	179,459	159,000	172,929	178,116	181,679	185,312	189,019
Food & Beverage								
Total	180,327	179,459	159,000	172,929	178,116	181,679	185,312	189,019
COGS % of Revenue	7.0%	7.1%	5.8%	6.6%	6.6%	6.6%	6.6%	6.6%
NET OPERATING REVENUE								
	2,408,734	2,362,005	2,566,000	2,445,580	2,518,947	2,569,326	2,620,713	2,673,127
% Change		-2%	9%	-5%	3%	2%	2%	2%
OPERATING EXPENSES								
Golf Operations & Maintenance *	1,151,386	1,061,821	1,346,825	1,426,677	1,469,477	1,498,867	1,368,844	1,396,221
Restaurant	57,078	113,462	47,000	72,513	74,689	76,183	77,706	79,260
Pro Shop	712,780	662,847	641,623	672,417	692,589	706,441	720,570	734,981
Total	1,921,244	1,838,129	2,035,448	2,171,607	2,236,755	2,281,490	2,167,120	2,210,463
% Change	-	-4%	11%	7%	3%	2%	-5%	2%
DEBT SERVICE								
	267,516	279,317	270,000	272,000	273,000	274,000	275,000	276,000
CITY OVERSIGHT, FACILITY REPAIRS & IMP. & CIP PLANNING								
Contract & Budget Oversight								
Pension Obligation Payments	86,894	89,518	92,200	92,800	93,200	93,800	94,200	94,800
Indirect Cost Allocation - overhead	130,909	157,766	168,000	184,622	194,856	204,856	214,856	224,856
Capital Improvements*	2,385	97,870	27,500	70,000				
Total	220,188	345,155	287,700	347,422	288,056	298,656	309,056	319,656
YEAR-END BAL. (INC. WORKING CAPITAL)	180,114	78,863	131,852	(172,521)	(100,747)	(103,141)	54,849	56,027

5-YEAR TOTAL INCREASE IN WORKING CAPITAL (265,533)

* Note: FY 2014-15 thru FY 2016-17 expenditures include \$600,000 budget for water.
Except for the Dunes Restoration Project in FY 14-15, no capital investments made from FY 2014-15 thru FY 2018-19.

ORDINANCE NO. 14-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE TO LEASE THE PROPERTY AT 77 & 79 ASILOMAR DRIVE TO PACIFIC GROVE GOLF, LLC AN AFFILIATE OF COURSECO, INC

WHEREAS, the City of Pacific Grove owns the real property and related improvements located at 77 Asilomar Drive and 79 Asilomar Drive, Pacific Grove CA 93950 and known as the Pacific Grove Golf Links; and

WHEREAS, the City's property is improved with an 18-hole Golf Links, driving range, parking area, pro shop, and clubhouse complex, which includes a restaurant, tournament room, public restrooms, and golf cart storage and maintenance garage, as identified in Exhibit A of the Lease Agreement; and

WHEREAS, the golf industry is becoming increasingly competitive, the City has not consistently demonstrated the capabilities necessary for cost-effective operation and maintenance of the Golf Links, and the City and Pacific Grove community are not benefiting from the existence and operation of the course to the extent desired, as detailed by Findings 1-27 in the findings document adopted by the Council on January 15, 2014, and fully incorporated by reference herein; and

WHEREAS, the City recognized that there are a select number of firms in the private sector that do have the capabilities and interest to operate golf courses successfully, and that one or more of those firms possibly could, in partnership with the City, operate and maintain the Links to the benefit of the City and the community, as detailed by Findings 28-31 in the findings document adopted by the Council on January 15, 2014; and

WHEREAS, as a result, the Council directed the City Manager to explore the City's options and gauge the market by issuing a request for proposals, as detailed by Findings 32-34 in the findings document adopted by the Council on January 15, 2014; and

WHEREAS, the City received 15 proposals, including one from its maintenance staff, of which two appeared best able to meet the City's seven goals, adopted to guide this process, as follows:

- A higher value golfing and recreational experience, one that benefits the community as a whole, resident users, and visitors from outside the community;
- Better integration with the complete hospitality industry in Pacific Grove and on the peninsula;
- Annual revenues that meet or exceed all fixed costs, including ongoing obligations of current bonds;
- Limits to the City's financial risks and exposure of the General Fund;
- A long-term, stable, capital improvement funding structure;

- A smooth transition from existing operations, to ensure no disruption in customer service and experience;
- A smooth transition for existing City staff at the course, minimizing the risks, costs, and stress to them and their families; and

WHEREAS, CourseCo, Inc. is engaged in the business of managing, operating, and maintaining golf courses in various locations, and desires to provide such services to the CITY; and

WHEREAS, after in-depth negotiations and refinement of proposals, the City has determined that CourseCo, Inc. can best assist the City and the community in operating and maintaining the Golf Links for mutual benefit; and

WHEREAS, as detailed in the agenda report and its attachments accompanying this ordinance, the City has determined that contracting with CourseCo, Inc. for the operation and maintenance of the Golf Links will enable the City to better meet the seven goals than if the City were to continue to operate and maintain the Golf Links on its own; and

WHEREAS, Government Code Section 37103 provides that: the City “[m]ay contract with any specially trained and experienced person, firm, or corporation for special services and advice in financial, economic, accounting, engineering, legal, or administrative matters;” and

WHEREAS, the United States Department of Labor recognizes public golf courses as a type of specialized business (SIC Code 7992) and tracks labor statistics and other statistics for that industry; and

WHEREAS, the memoranda of understanding between the City and the General Employees Association and the Management Employees Association does not abridge the right of the City to contract out work to be done or services to be rendered provided, however, that the impact and effect of any such decision may be subject to the meet and confer process; and

WHEREAS, the City initiated and completed the meet and confer process with both the General Employees Association and the Management Employees Association, by reaching a mutually acceptable agreement;

WHEREAS, the City wishes to grant to Pacific Grove Golf Links, Inc., an affiliate of CourseCo, Inc. the right to conduct general management, operating, maintenance, and capital improvement services including: operating and maintaining the 18-hole golf course, driving range, club house, pro shop, parking areas, and related/accessory facilities; and

WHEREAS, CourseCo has been operating the Course since April 1, 2014 under a management agreement, since a lease was not appropriate while the Clubhouse and Pro Shop improvements were being financed by non-taxable certificates of participation;

WHEREAS, the City has now successfully refunded the 2004 Certificates of Participation with a taxable lease/leaseback arrangement with UMPQUA Bank;

WHEREAS, the lease of the Golf Links is exempt from CEQA under Section 15301 of the CEQA Guidelines, set forth in California Administrative Code, Title 14, Section 15000, et seq.; and

WHEREAS, there is no provision in the grant deeds or quit claims for the land underlying the Golf Links that precludes the City from leasing the operation and maintenance of the Golf Links to Pacific Grove Golf Links, Inc.,

THE COUNCIL OF THE CITY OF PACIFIC GROVE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. For the reasons set forth above, the City Council finds that operation and maintenance of the Golf Links are specialized services that may be contracted out.

SECTION 3. The attached Lease is hereby approved.

SECTION 4. The City Manager is directed to execute all documents and to perform all other necessary City acts to implement and affect this Ordinance.

SECTION 5. The City Manager is authorized to make minor changes in the agreement that will respond to changing conditions and needs, in order to assist the effort to better meet City objectives. The City Manager will notify the City Council of any such changes.

SECTION 6. In accord with Article 15 of the City Charter, this ordinance shall become effective at midnight, October 1, 2014.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE, this ____ day of _____, 2014, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

BILL KAMPE, Mayor

ATTEST:

ANN CAMEL, Interim City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney

GOLF COURSE LEASE

Pacific Grove Golf Links

Landlord: **City of Pacific Grove**

Tenant: **Pacific Grove Golf, LLC an affiliate of CourseCo, Inc**

Premises: **77 and 79 ASILOMAR AVENUE, LOCATED IN THE CITY OF PACIFIC GROVE,
CALIFORNIA**

Contents

GOLF COURSE

Landlord: **City of Pacific Grove**

Tenant: **Pacific Grove Golf, LLC an affiliate of CourseCo, Inc**

77 and 79 ASILOMAR AVENUE, LOCATED IN THE CITY OF PACIFIC GROVE, CALIFORNIA

THIS GOLF COURSE LEASE ("Lease") dated for reference purposes as of February 19, 2014 ("Effective Date"), is by and between the CITY of Pacific Grove, a Charter City of the State of California ("City" or "Landlord"), and Pacific Grove Golf, LLC, a California limited liability company ("Tenant").

RECITALS

A. City owns certain real property commonly known as the Pacific Grove Municipal Golf Course Links located in the City of Pacific Grove, County of Monterey, State of California, as more particularly described in **Exhibit A** attached hereto, which includes an operating 18-hole golf course, driving range, irrigation system, club house, restaurant, parking areas and related facilities.

B. Until April 1, 2014, the Golf Course was operated and managed by the City. The restaurant and food and beverage services are being operated by an independent third party under contract with the City.

C. City has determined that Tenant has the necessary experience, qualifications, and community values to manage, operate and maintain the Golf Course to the mutual advantage of Tenant and the City, and to enhance and maximize the public use thereof by providing a safe and attractive place to enjoy the game of Golf.

D. City and Tenant wish to enter into this lease as the most cost-effective and beneficial means for City to satisfy its desire to improve, operate and maintain Golf Course as a high-value recreational opportunity and economic development resource for the residents and visitors to the city.

E. Tenant desires to lease from City and City desires to lease to Tenant, the Premises described herein upon and subject to the terms and conditions set forth below in this Lease.

F. Tenant has managed, operated, and maintained the course since April 1, 2014 under a management agreement. The activities undertaken and the outcomes realized are integral to this lease arrangement. Thus, the financial terms for the first six months of this lease, when aggregated with the revenues accrued and the expenses incurred during the six months of the management agreement, constitute the first year of the financial projections and targets.

G. Therefore, for mutually acknowledged valuable consideration, the Parties hereby covenant and agree as follows:

**ARTICLE 1
BASIC LEASE INFORMATION**

The following is a summary of basic lease information applicable to the Lease. Each item below shall be deemed to incorporate all of the terms set forth in this Lease pertaining to such item. In the event of any conflict between the information in this Article and any more specific provision of this Lease, the more specific provision shall control.

Landlord:	City of Pacific Grove
Tenant:	Pacific Grove Golf, LLC, a California limited liability company
Premises:	Land (as defined herein) located in Pacific Grove, owned by City, as more particularly described in Exhibit A attached hereto, together with the existing Golf Course and related Improvements thereon, as those terms are defined herein.
Effective Date:	September 17, 2014
Commencement Date:	October 1, 2014
Term:	The initial Term of this Lease shall commence on the Commencement Date and shall end on the Expiration Date unless extended or sooner terminated.
Expiration Date (initial Term):	September 30, 2024
Extension Options:	Two (2) contingent options to extend the Term for five (5) years each (10 years total) as provided in Article 4.2
Initial Base Rent:	\$300,000.00 per year (The Base Rent shall be payable in monthly installments on or before the first day of each month as provided in Article 5.1)
Fixed Adjustments to Base Rent:	Base Rent adjusted commencing on the date as set forth in Article 5.2 and annually thereafter in accordance with Article 5.2
Percentage Rent:	Percentage Rent shall be paid in addition to Base Rent calculated on Gross Golf Revenue as described in Article 5.3 .
Permitted Use:	Operation of public golf course, driving range and related facilities.
Security Deposit:	\$25,000 (See Article 23)
Tenant's Capital Investment Sum:	\$100,000 (See Article 8.1)

**Tenant's Contribution to
Capital Improvement Fund:** **1% of Gross Revenues adjusted to 1.5% after 2nd
year (See Article 8.3)**

**City's Contribution to
Capital Improvement Fund:** **1% of Gross Revenues adjusted to 1.5% after 2nd
year (See Article 8.3)**

Notice Address of City: City Manager
City of Pacific Grove
300 Forest Avenue
Pacific Grove, CA 93950

Telephone: (831) 648-3106

Facsimile: (831) 657-9361

Notice Address of Tenant: **Pacific Grove Golf, LLC**
Post Office Box 5668
Petaluma, California 94953-1019
Fax: (707) 763-8355

With a copy to: Mr. John C. Telischak
Corte Madera Business Center
45 Koch Road, Suite A
Corte Madera, California 94925-1250
Fax: (415) 945-9909

Primary Tenant Contact: Tom Isaak

Telephone: (707) 763-0335

Alternate Tenant Contact: John Telischak

Telephone: (415) 945-9982

List of Exhibits and Schedules: **Exhibit A Description of Premises**
Exhibit B Maintenance Standards
Exhibit C Schedule of Personal Property

ARTICLE 2 DEFINITIONS

For purposes of this Lease, the following capitalized terms shall have the meanings ascribed to them in this Article:

“Additional Charges” means any and all real and personal property taxes, possessory interest taxes and other costs, impositions and expenditures described in Article 6 hereof or otherwise payable by Tenant under this Lease.

“Advance Deposits” means and includes any payments for reservations or other events which have been received by Landlord prior to the Commencement Date but not yet earned. Advance Deposits shall include, but are not limited to, outstanding gift certificates, annual passes, and other vouchers.

“Affiliate of Tenant” means any person or entity which directly or indirectly, through one or more intermediaries, controls, is controlled by or is under the common control with, Tenant. As used above, the words “control”, “controlled” and “controls” mean the right and power, directly or indirectly through one or more intermediaries, to direct or cause the direction of substantially all of the management and policies of a person or entity through ownership of voting securities or by contract, including, but not limited to, the right to fifty percent (50%) or more of the capital or earnings of a partnership or, alternatively, ownership of fifty percent (50%) or more of the voting stock of a corporation.

“Agents” means, when used with reference to either Party to this Lease, the officers, directors, employees, agents and contractors of such Party, and their respective heirs, legal representatives, successors and assigns.

“Alterations” means any alterations, installations or additions to any Improvements or to the Premises, but excluding maintenance and repair work.

“Assignment” has the meaning given in Article 15.1 hereof.

“Award” means all compensation, sums or value paid, awarded or received for a Taking, whether pursuant to judgment, agreement, settlement or otherwise.

“Base Rent” means the annual Base Rent specified in the Basic Lease Information and described in Article 5.1 hereof.

“Basic Lease Information” means the information with respect to this Lease summarized in Article 1 hereof.

“Capital Improvement Fund” means the account described in Article 8.3 and all moneys deposited therein and interest accrued thereon.

“City” means the City of Pacific Grove, a charter city of the State of California.

"City Manager" means the City Manager of the City.

"Commencement Date" means the date described as such on the Basic Lease Information.

"CPI" means the Consumer Price Index, All Urban Consumers, San Francisco-Oakland-San Jose area; base years 1982-1984 = 100 published by the U.S. Dept. of Labor or any comparable replacement or successor index.

"Date of Taking" means the earlier of (i) the date upon which title to the portion of the Premises taken passes to and vests in the condemner or (ii) the date on which Tenant is dispossessed pursuant to an order of possession issued in the subject eminent domain proceeding.

"Default Rate" means a rate of interest equal to eight percent (8%) per annum.

"Effective Date" means the date set forth as such in the Basic Lease Information.

"Encumber" means create any Encumbrance; "Encumbrance" means any mortgage, deed of trust, assignment of rents, fixture filing, security agreement, or similar security instrument, or other lien or encumbrance.

"Encumbrancer" means a mortgagee, beneficiary of a deed of trust or other holder of an Encumbrance.

"Environmental Laws" means any present or future federal, state or local Laws or policies relating to Hazardous Material (including, without limitation, its use, handling, transportation, production, disposal, discharge or storage) or to human health and safety, industrial hygiene or environmental conditions in, on, under or about the Premises (including any permitted Improvements) and any other property, including, without limitation, soil, air and groundwater conditions.

"Event of Default" means any one of the events of default described in Article 16.1 hereof.

"Expiration Date" means the date which is 10 years from the Commencement Date unless and as extended in accordance with Article 4.2.

"Force Majeure" means circumstances that delay or prevent the performance of obligations hereunder due to acts of God, and/or other circumstances beyond the reasonable control of Tenant.

"Golf Course" means the 18-hole golf course, driving range, club house, pro shop, parking areas and related facilities currently existing and being operated on the Premises. Notwithstanding the foregoing or anything to the contrary in this Lease, the term "Golf Course" as used in this Lease shall specifically exclude, for all purposes, the restaurant, the interior of

the restaurant building (except for the portion of such building constituting the rest rooms and the cart barn which is located beneath the restaurant and which portion shall be deemed part of the Golf Course and the Premises), food and beverage facilities, and related equipment, improvements and appurtenances.

“Gross Golf Revenues” means the gross revenues derived from admission fees, entry fees, green fees, tournament fees, advance booking fees, membership and club dues and other fees and dues of any kind including nonrefundable deposits, driving range use fees and ball fees, rental fees for motorized golf carts. Gift certificates, or similar vouchers, shall not be included until such time as they shall have been converted into a sale by redemption.

“Gross Revenues” means Gross Golf Revenues, plus revenues from lessons, classes or other instructional fees (net of amounts paid to the golf professional staff), and from the selling price of merchandise, golf clubs and other golf equipment, golf supplies, goods and, clothing or delivered in or from the Premises by Tenant, whether for cash or on credit (whether collected or not), including the gross amount received by reason of orders taken on the Premises although filled elsewhere, provided however that, for purposes of inclusion in Gross Revenues, there shall be subtracted from such selling price of merchandise, goods, clothing and equipment, the cost of goods sold. Gross Revenues and Gross Golf Revenues in credit card transactions shall include only the actual amount received by Tenant from the credit card issuer. Gross Revenues shall not include, or if included there shall be deducted (but only to the extent they have been included), the following: (a) the selling price of all merchandise returned by customers and accepted for full credit, or the amount of discounts, refunds, and allowances made on such merchandise; (b) merchandise returned to sources or transferred to another store or warehouse owned by or affiliated with Tenant; (c) sums and credits received in the settlement of claims for loss of or damage to merchandise; (d) the price allowed on all merchandise traded in by customers for credit or the amount of credit for discounts and allowances made instead of acceptance of merchandise; (e) gift certificates, or similar vouchers, until such time as they shall have been converted into a sale by redemption; and (f) sales and use taxes, so-called luxury taxes, consumers’ excise taxes, gross receipts taxes, and other similar taxes now or in the future imposed on the sale of merchandise or services.

“Gross Golf Revenue Baseline” means, for the period from April 1, 2014 through December 31, 2014, the seasonally adjusted sum of \$1,938,750, and thereafter, the sum of \$2,350,000 per calendar year increased on January 1st of each year during the Term beginning on January 1, 2015 in the same proportion as changes in the Consumer Price Index, All Urban Consumers, San Francisco-Oakland-San Jose area; base years 1982-1984 = 100 published by the U.S. Dept. of Labor, (“CPI”) shall have occurred since January 1st of the preceding year and the adjusted amount shall be effective for the following twelve months. If the CPI is discontinued or revised during the Term such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the CPI had not been discontinued or revised. If no replacement index is promulgated the Landlord and Tenant shall mutually select another government index measuring changes in the cost of living

in order to obtain substantially the same result as would be obtained if the CPI had not been discontinued, and the same shall thereafter be used in adjusting Base Rent hereunder.

“Hazardous Material” means any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a “hazardous substance,” or “pollutant” or “contaminant” pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”, also commonly known as the “Superfund” law), as amended, (42 U.S.C. Sections 9601 et seq.) or pursuant to Section 25281 of the California Health & Safety Code; any “hazardous waste” listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of any existing improvements on the Land, any Improvements to be constructed on; the Land by or on behalf of Tenant, or are naturally occurring substances on, in or about the Land; and petroleum, including crude oil or any fraction thereof, and natural gas or natural gas liquids.

“Hazardous Material Claims” means any and all enforcement, Investigation, Remediation or other governmental or regulatory actions, agreements or orders threatened, instituted or completed pursuant to any Environmental Laws, together with any and all Losses made or threatened by any third party against City, its Agents, or the Premises or any Improvements, relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence, release or discharge of any Hazardous Materials, including, without limitation, Losses based in common law. Hazardous Materials Claims include, without limitation, Investigation and Remediation costs, fines, natural resource damages, damages for decrease in value of the Premises or any Improvements, the loss or restriction of the use or any amenity of the Premises or any Improvements, and attorneys’ fees and consultants’ fees and experts’ fees and costs.

“Improvements” means any and all buildings, structures, fixtures and other improvements constructed, installed or placed on the Premises by or on behalf of Tenant pursuant to this Lease, including, without limitation, any signs, roads, trails, driveways, parking areas, curbs, walks, fences, walls, stairs, poles, plantings and landscaping. Notwithstanding the foregoing or anything to the contrary in this Lease, the term “Improvements” as used in this Lease shall specifically exclude, for all purposes, the restaurant, the restaurant building (except for the restrooms and for the portion of such restaurant building constituting the cart barn which is located beneath the restaurant and which portions shall be deemed Improvements as that terms is used herein¹), food and beverage facilities, and related equipment, improvements and appurtenances.

¹ Responsibility for the cost of repair, maintenance and operation of the portions of the building containing the restaurant, cart barn and restrooms shall be reasonably and equitably allocated between Tenant on the one hand and the operator of the restaurant on the other. The operator of the restaurant shall be responsible for cleaning

“Indemnified Parties” means the Party being indemnified and such Party's officers, Agents, shareholders, partners, employees, and their respective Agents, heirs, legal representatives, successors and assigns.

“Indemnify” means indemnify, protect, defend and hold harmless forever.

“Institutional Lender” means any commercial, national or savings bank, savings and loan association, trust company, insurance company, real estate investment trust or pension or retirement fund or similar source of funds.

“Investigation” when used with reference to Hazardous Material means any activity undertaken to determine the nature and extent of Hazardous Material that may be located in, on, under or about the Premises, any Improvements or any portion thereof or which have been, are being, or threaten to be Released into the environment. Investigation shall include, without limitation, preparation of site history reports and sampling and analysis of environmental conditions in, on, under or about the Premises or any Improvements.

“Invitees” when used with respect to Tenant means the clients, customers, invitees, guests, members and licensees, assignees and subtenants of Tenant.

“Land” means the real property located in Pacific Grove, more particularly described in the attached **Exhibit A**. Notwithstanding the foregoing or anything to the contrary in this Lease, the term “Land” as used in this Lease shall specifically exclude, for all purposes, the restaurant, the restaurant building, food and beverage facilities, and related equipment, improvements and appurtenances.

“Landlord” means the City.

“Law” means any law, statute, ordinance, resolution, regulation, proclamation, order or decree of any municipal, county, state or federal government or other governmental or regulatory authority with jurisdiction over the Premises, or any portion thereof, whether currently in effect or adopted in the future and whether or not in the contemplation of the Parties.

“Lease” means this Lease as it may be amended in accordance with its terms.

“Lease Year” is a calendar year, except that the first Lease Year of the Original Lease shall commence on the Commencement Date and the last Lease Year shall end on the date this Lease expires or terminates.

and maintaining the restrooms, and shall be responsible for all repairs, maintenance and operational costs of the interior of the restaurant and related fixtures, improvements and equipment including related electrical and plumbing. Tenant shall be responsible for normal repair and maintenance of the exterior of the building and the landscaping and shall be responsible for any repair of the restrooms.

“Losses” means any and all claims, demands, losses, liabilities, damages, liens, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenditures, including, without limitation, reasonable attorneys’ and consultants’ fees and costs.

“Maintenance” means maintenance of the Premises including maintenance of the greens, tees, fairways, rough, cart paths and other turf areas comprising the Golf Course in accordance with the provisions of **Exhibit B**.

“Official Records” means the official records of Monterey County.

“Party” means City or Tenant; “Parties” means both City and Tenant.

“Percentage Rent” means additional rent payable by Tenant in the amounts calculated as a percentage of Gross Golf Revenue as more particularly described and provided in Article 5.3 hereof.

“Percentage Rent Period” means each calendar year or portion thereof following the Effective Date of the Lease (as set forth in the Basic Lease Information), whether or not consisting of twelve (12) months.

“Personal Property” means all of the furnishings, fixtures, equipment, tools, golf carts and other moveable personal property used to operate the Golf Course as described and referenced in Article 3.3.

“Premises” means the Land and the Improvements, together with any additions, replacements, modifications or other Alterations thereto permitted hereunder and together with and including, any and all riparian rights, water and water rights (subject to compliance by Tenant with any applicable requirements of law generally applicable to the use of such water rights), including, but not limited to (i) any and all surface water and surface water rights, including, without limitation, riparian rights and appropriative water rights to surface streams and the underflow of streams, and (ii) any and all groundwater and subterranean water rights; provided, however, subject to the right of Tenant’s first priority for the use of the foregoing water rights in respect of the Premises, City may use such additional water as may be available at its sole cost and expense and without interference with Tenant’s use of the Premises including the foregoing water rights. Notwithstanding the foregoing or anything to the contrary in this Lease, the term “Premises” as used in this Lease shall specifically exclude, for all purposes, the restaurant, the restaurant building (except for the portion of such building constituting the cart barn which is located beneath the restaurant and which portion shall be deemed part of the Premises), food and beverage facilities, and related equipment, improvements and appurtenances.

“Release” when used with respect to Hazardous Material means any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping,

leaching, dumping, or disposing into or inside any existing improvements or any Improvements constructed hereunder by or on behalf of Tenant, or in, on, under or about the Premises.

“Remediation” when used with reference to Hazardous Material means any activities undertaken to clean up, remove, contain, treat, stabilize, monitor or otherwise control Hazardous Materials located in, on, under or about the Premises or which have been, are being, or threaten to be Released into the environment. Remediate includes, without limitation, those actions included within the definition of “remedy” or “remedial action” in California Health and Safety Code Section 25322 and “remove” or “removal” in California Health and Safety Code Section 25323.

“Rent” means the Base Rent, as adjusted pursuant to the provisions of Article 5.2 hereof, together with Percentage Rent calculated pursuant to the provisions of Article 5.3 hereof, and any and all Additional Charges.

“Resale Inventory” means unsold current merchandise and items held for sale to customers of the pro shop.

“Taking” means a taking or damaging, including severance damage, by eminent domain, inverse condemnation or for any public or quasi-public use under Law. A Taking may occur pursuant to the recording of a final order of condemnation, or by voluntary sale or conveyance in lieu of condemnation or in settlement of a condemnation action.

“Tenant” means the Party identified as Tenant in the Basic Lease Information and the successors and assigns of Tenant’s interests under this Lease, provided that the rights and obligations of Tenant’s successors and assigns shall be limited to only those rights and obligations that this Lease permits to be transferred and that have been transferred in accordance with this Lease.

“Tenant's Capital Investment Sum” means the sum of \$100,000, in cash or cash equivalent, which Tenant shall expend on capital acquisitions and improvements for the Premises as provided in Article 8.1.

“Term” means the term of this Lease (including the term of any validly exercised extension option) as determined under Article 4.1 hereof.

“Transfer” means any Assignment or Sublease.

“Transferee” means any recognized assignee of any part of Tenant’s leasehold interest hereunder or any recognized subtenant of any portion of the Premises, pursuant to a Transfer that complies with Article 15 hereof.

ARTICLE 3

LEASE OF PREMISES AND PERSONAL PROPERTY

3.1 Lease. City hereby leases to Tenant and Tenant hereby leases from City, the Premises, the Improvements and the Personal Property, subject to all of the terms, covenants and conditions set forth in this Lease.

3.2 Condition of Premises.

(a) City Disclosure. City represents to Tenant that City has provided Tenant with all documents and information in the possession and control of the City concerning the physical condition of the Premises including the presence of any Hazardous Material. To the best knowledge of the City, no Hazardous Material is present on or has been released from the Premises in amounts or under circumstances which violate Environmental Laws and there are no Hazardous Material Claims pending or threatened in respect of the Premises.

(b) Premises As-Is. Except as expressly provided in subparagraph (a) above or elsewhere in this Lease, Tenant acknowledges and agrees that the Premises are being leased and accepted in their present condition, without representation or warranty of any kind, and subject to all applicable Laws governing the use, occupancy, management, operation and possession of the Premises.

3.3 Personal Property. All of the Personal Property specifically described and itemized on **Exhibit C** has been purchased by Tenant from Landlord for fair market value as determined by an independent third party appraiser as of the Commencement Date, such purchase price to be paid by Tenant to Landlord in 60 equal monthly installments, without interest. All other miscellaneous Personal Property (other than such property itemized on **Exhibit C**) on the Premises and Improvements as of the Commencement Date shall remain the property of Landlord, but is leased to Tenant pursuant to the terms of this Lease. All items purchased by Tenant shall at all times remain the property of Tenant and may be removed and retained by Tenant at the termination of this Lease. Tenant, at its sole cost and expense shall insure, repair and maintain all Personal Property during the term of this Lease. Tenant agrees to keep said Personal Property in safe and good condition and repair, and to obtain policies of casualty insurance for such Personal Property in an amount equal to their full insurable value. As to any personal property of which Landlord is the owner, during the term of this Lease, Tenant shall have the right to dispose of any of said Personal Property provided concurrently Tenant replaces same with additional Personal Property having the same or greater value and having substantially the same use. Any Personal Property acquired by Tenant in replacement of any of the specific Personal Property which is itemized on **Exhibit C** shall belong to Tenant during the term of this Lease and upon expiration or termination hereof. Upon the termination of the Lease only Personal Property consisting of hand tools, replacement parts, supplies, and miscellaneous small items, shall be surrendered to Landlord and shall thereupon, without further consideration, belong to Landlord (but subject to wear and tear and to any lease financing which may be applicable to any of the Personal Property). Any and all additional Personal Property acquired by Tenant during the Term for the exclusive use in connection with the operation of the Premises, shall be owned by Tenant during the Term and shall, upon the expiration or termination of this Lease, not be surrendered to Landlord but shall belong to

Tenant (but subject to any lease financing which may be applicable to any of the Personal Property).

3.4 Personal Property As-Is. Tenant acknowledges that (a) Landlord is not the manufacturer of the Personal Property or manufacturer's agent; (b) Tenant has accepted the Personal Property based solely on Tenant's inspection, and expressly disclaims any reliance upon any statements or representations made by Landlord, and (c) that the Personal Property is of a design, size, fitness and capacity acceptable to Tenant and that Tenant is satisfied that the same is suitable and fit for its use and purposes. Tenant is leasing the Personal Property "AS-IS" without warranty, express or implied, including but not limited to the fitness for any particular purpose, use, quality, design, condition, durability, suitability, merchantability or any other matter. Tenant specifically waives all right to make any claim against Landlord for breach of any warranty of any kind whatsoever. Tenant agrees that Landlord is not responsible to Tenant for any loss, damage, claim or expense of any kind or nature caused, directly or indirectly by the Personal Property, the use thereof, the failure of operation thereof, the repairs, services, or adjustments thereto or by any interruption of service or loss of business or damage whatsoever and howsoever caused, including, but not limited to, any personal injury related thereto or other third party claim, and also including any product liability claims. No defect or unfitness of the Personal Property shall relieve Tenant of the obligation to pay rent or of any of the other obligations under this lease.

3.5 Golf Carts. Tenant shall assume, pay or reimburse to Landlord, and will indemnify Landlord, for all lease payments and other amounts which become due under the existing golf cart lease after the Commencement Date and during the term of this Lease. Upon expiration of the existing golf cart lease, Tenant shall procure new or additional power-driven golf carts in sufficient numbers to reasonably meet the public demand. Upon expiration or termination of this Lease, Landlord will assume, pay or reimburse to Tenant and will indemnify Tenant, for all lease payments and other amounts which become due after such expiration or termination upon any then existing golf cart lease.

3.6 Advance Deposits. Landlord has delivered to Tenant a written accounting and description of all Advance Deposits. Tenant received a credit toward the purchase price of the Personal Property described on **Exhibit C**, in the full amount of any outstanding and unused Advance Deposits on the Commencement Date including the pro rata amount of outstanding annual passes. Landlord included true, correct, and complete copies of all written agreements and commitments pertaining to the Advance Deposits. Landlord represents and warrants to Tenant that Landlord's written account and description of Advance Deposits and copies of all agreements and commitments were complete, true, and correct. Tenant has agreed to honor all such Advance Deposits.

3.7 Resale Inventory. Prior to the Commencement Date, Landlord sold and delivered to Tenant all undamaged Resale Inventory together with invoices showing Landlord's acquisition cost thereof, and Tenant shall pay to Landlord an amount equal to 80% of Landlord's actual cost for such Resale Inventory delivered to Tenant.

ARTICLE 4 TERM; OPTIONS TO EXTEND

4.1 Term of Lease. The initial Term of this Lease shall commence on the Commencement Date specified in the Basic Lease Information and shall end on the Expiration Date unless and as extended in accordance with Article 4.2 below.

4.2 Extension Options.

(a) Options; Exercise. Tenant shall have two (2) consecutive options to renew and extend the Term of this Lease, each for a period of five (5) years (each, a "Renewal Term") upon and subject to the following terms and conditions: Not later than 270 days before the last day of the then-expiring Term, Tenant shall give Landlord written notice exercising the option to extend the Lease, and within 90 days thereafter, Landlord shall notify Tenant in writing whether or not Landlord agrees to such extension. If Landlord does not agree to such extension, the Lease shall terminate at the end of its term without extension. Landlord shall not negotiate with any other prospective Tenant unless and until Landlord shall have notified Tenant following Tenant's notice of exercise, as provided herein, that Landlord does not agree to Tenant's extension

(b) Renewal Term. In the event Tenant elects and is entitled to exercise the first option to renew and extend the Lease Term, the period of the first Renewal Term shall be five (5) years. In the event Tenant elects and is entitled to exercise the second option to renew and extend the Lease Term, the period of the second Renewal Term shall be five (5) years. Each such renewal shall be an opportunity for either Party to identify potential improvements in the lease, designed to benefit any stakeholder, including either or both Parties, the golfing public, the environment, and the community as a whole, and to negotiate with the other Party to achieve mutual agreement, such agreement to be incorporated in a revised lease.

(c) Terms of Lease Renewal. In the event the Lease is renewed and extended as herein provided, all of the terms and conditions of this Lease shall remain in effect during the Renewal Term and shall continue to determine the rights and obligations of Landlord and Tenant.

ARTICLE 5 RENT

5.1 Base Rent. Subject to the terms and conditions set forth herein, Tenant shall, beginning on the Commencement Date, pay to City during the Term of this Lease, the annual Base Rent specified in the Basic Lease Information (the "Base Rent"). The Base Rent shall be payable on or before the first day of each month in the amount of \$20,000.00 for the months of October, November, December, January, February and March and \$30,000.00 for the months of April, May, June, July, August and September.

5.2 Adjustments to Base Rent. The Base Rent shall be adjusted as follows: on the 3rd anniversary of the Commencement Date and thereafter upon each subsequent anniversary of the Commencement date during the term of the Lease the annual Base Rent shall be increased by the sum of \$5,000.00.

5.3 Percentage Rent. In addition to the Base Rent, Tenant, commencing at the end of the each calendar year following the Commencement Date, shall pay Percentage Rent subject to the following terms and conditions:

(a) Payment. Commencing for the Percentage Rent Period beginning on the Commencement Date and ending on December 31st thereafter, and for each Percentage Rent Period thereafter during the Term, Tenant shall pay Percentage Rent in addition to Base Rent to the extent that Percentage Rent is greater than zero. Percentage Rent shall be equal to 65% of the amount, if any, by which Gross Golf Revenues during the Percentage Rent Period exceeds the Gross Golf Revenues Baseline. Tenant shall not be required to accrue or pay Percentage Rent for any period prior to the Commencement Date of the Lease. Tenant shall compute and pay to City, the Percentage Rent for each Percentage Rent Period on or before the forty fifth (45th) day following the close of each Percentage Rent Period. Percentage Rent shall be in addition to the Base Rent that Tenant has paid during the Percentage Rent Period.

(b) Reports. Tenant shall furnish to City a statement of Gross Revenues and Gross Golf Revenues within twenty (20) days after the end of each calendar quarter and an annual statement of Gross Revenues and Gross Golf Revenues within forty-five (45) days after the end of each Lease Year. Such statements shall be in a form acceptable to City. Each statement shall be signed and certified to be correct by Tenant or, if Tenant is a corporation, by a duly authorized officer of Tenant. In addition, each annual statement shall be reviewed by an independent certified public accountant, at Tenant's expense, reasonably acceptable to City. Tenant shall keep at the Premises or at Tenant's business office in Petaluma, California, complete and accurate books of account, records, cash receipts and other pertinent data, in accordance with good accounting practices and in a form approved by City, showing its Gross Golf Revenues and Gross Revenues, including without limitation, accurate records of every sale and other transaction made from the Premises and any Improvements. Such books of account, records, cash receipts and other pertinent data shall be kept for a period of ten (10) years after the end of each Lease Year. The receipt by City of any statement, or any payment of Percentage Rent for any period, shall not bind City as to the correctness of the statement or payment.

(c) Inspection and Audit. City shall be entitled at any time and from time to time during the Term and within three (3) years after the Expiration Date or other termination of this Lease, to inspect, examine, copy and audit Tenant's books, records and, cash receipts as related to Gross Golf Revenues and Gross Revenues. The purpose of such examination is to enable City to ascertain, clearly and accurately, Tenant's Gross Golf Revenues and Gross Revenues and to verify that the form and method of Tenant's

record keeping provide adequate and proper control and check of all such revenues. Tenant shall cooperate fully with City and City's Agents in making the examination. City shall also be entitled at City's option, once during each Lease Year and once after the Expiration Date or other termination of this Lease, to cause an independent audit of such records to be performed by a certified public accountant designated by City. The audit shall be conducted during usual business hours at the Premises. If the audit shows that there is a deficiency in the payment of any Percentage Rent, then Tenant shall immediately upon notice pay the deficiency to City, together with interest thereon at the Default Rate, which interest shall accrue from the date on which such deficient amount would have been due until such deficiency is paid. City shall pay the costs of the audit unless the audit shows that Tenant understated Gross Golf Revenues or Gross Revenues by more than two percent (2%), in which case Tenant shall pay all City's costs of the audit. Tenant's understatement of Gross Golf Revenues or Gross Revenues for any Lease Year by more than five percent (5%) due to Tenant's gross negligence or willful misconduct shall constitute an Event of Default

5.4 Late Charge. If Tenant fails to pay any Rent within fifteen (15) days after the date the same is due and payable, such unpaid amount will be subject to a late payment charge equal to five percent (5%) of the unpaid amount in each instance. The late payment charge has been agreed upon by City and Tenant, after negotiation, as a reasonable estimate of the additional administrative costs and detriment that City will incur as a result of any such failure by Tenant, the actual costs thereof being extremely difficult if not impossible to determine. The late payment charge constitutes liquidated damages to compensate City for its damages resulting from such failure to pay and Tenant shall promptly pay such Late Charge to City together with the unpaid Rent.

5.5 Default Interest. If any Rent is not paid within ten (10) days following the due date, such unpaid amount shall bear interest from the due date until paid at the Default Rate. However, interest shall not be payable on late charges incurred by Tenant nor on any amounts on which late charges are paid by Tenant to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest shall not excuse or cure any default by Tenant.

ARTICLE 6 TAXES, ASSESSMENTS AND OTHER EXPENDITURES

6.1 Taxes and Assessments, Licenses, Permit Fees and Liens.

(a) Possessory Interest Tax. Tenant recognizes and agrees that this Lease may create a possessory interest subject to property taxation and Tenant shall be obligated to pay possessory interest property taxes. Tenant's obligation to pay possessory interest property taxes shall be limited to those assessed on the Premises as described herein, and Tenant will not be obligated to pay such taxes on or relating to the restaurant, food and beverage facilities, or related equipment, improvements and appurtenances (the "F&B Possessory Interest"). Landlord will cooperate in attempting to have the F&B

Possessory Interest separately assessed. Unless and until Landlord and Tenant are unable to have the F&B Possessory Interest separately assessed, then Landlord will cause the operator/tenant of the restaurant and food and beverage possessory interest to reimburse Tenant for the share of the possessory interest property taxes allocable to the F&B Possessory Interest and Landlord agrees to indemnify Tenant for such possessory interest taxes on the F&B Possessory Interest. In addition, Tenant shall pay any and all Tenant's personal property taxes, assessments, licenses, and permit fees levied on personal property. Tenant shall make all such payments directly to the charging authority when due and payable and at least ten (10) days prior to delinquency, subject to Tenant's right to contest the validity of such charge pursuant to subsection (b) below.

(b) No Liens. Tenant shall not allow or suffer a lien for any taxes payable by Tenant hereunder to be imposed upon the Premises or upon any equipment or other property located thereon without promptly discharging the same. Tenant may have a reasonable opportunity to contest the validity and or amount of any such taxes. Tenant shall Indemnify City, the other Indemnified Parties, and the Premises from and against any Losses arising out of any proceeding or contest provided for hereunder.

6.2 Other Expenditures. Tenant shall be responsible for any and all other costs and expenditures for garbage pickup, utilities, cable television, internet services or other services for its use, occupancy, operation or enjoyment of the Premises or any Improvements permitted thereon. Notwithstanding the foregoing:

(a) During the first three (3) years of the term of this Lease, Tenant shall pay up to \$600,000.00 per year for water supplied to the Premises up to 27,200,000 gallons per year. Landlord shall pay the cost of water supplied to the Premises up to 27,200,000 gallons per year to the extent such cost exceeds \$600,000.00. Tenant shall be solely responsible for the cost of all water used in excess of 27,200,000 gallons per year regardless of the cost per gallon. Notwithstanding the foregoing, to encourage Tenant to use the most efficient water conservation and management practices, to the extent Tenant consumes less than 27.2 million gallons of irrigation water in any year, the monetary savings from this reduced water consumption (effective water rate for the year times the number of gallons used which are less than 27.2 million gallons) shall be split 50/50 between City and Tenant.

(b) After the third anniversary of the Commencement Date, Tenant shall pay up to \$443,332.00 per year (which sum shall be increased by 2% upon each anniversary of the Commencement Date commencing on the fourth anniversary of the Commencement Date and yearly thereafter) for water supplied to the Premises up to 27,200,000 gallons per year. Landlord shall pay the cost of water supplied to the premises up to 27,200,000 gallons per year to the extent such cost exceeds \$443,332.00 (as such sum is increased as provided above). Tenant shall be solely responsible for the cost of all water used in excess of 27,200,000 gallons per year regardless of the cost per

gallon. Notwithstanding the foregoing, to encourage Tenant to use the most efficient water conservation and management practices, to the extent Tenant consumes less than 27.2 million gallons of irrigation water in any year, the monetary savings from this reduced water consumption (effective water rate for the year times the number of gallons used which are less than 27.2 million gallons) shall be split 50/50 between City and Tenant.

6.3 Evidence of Payment of Taxes. Tenant shall, upon City's request, furnish to City within ten (10) days after the date when any charges are due and payable, official receipts of the appropriate taxing authority or other evidence reasonably satisfactory to City, evidencing payment thereof.

ARTICLE 7 USE; COVENANTS TO PROTECT PREMISES AND CITY FACILITIES

7.1 Tenant's Permitted Use. Tenant may use the Premises and any Improvements allowed hereunder only for the use specified in the Basic Lease Information, as more fully described in this Article 7, and for no other purpose.

7.2 Covenants Regarding Use. As a material inducement to City to enter into this Lease, Tenant covenants with City as follows:

(a) No Unlawful Uses or Nuisances. Tenant shall not use or occupy any of the Premises or any Improvements, or permit the use or occupancy thereof, in any unlawful manner or for any illegal purpose, or permit to be carried on any offensive, immoral, noisy or hazardous use or any use in violation of the conditions of any certificate of occupancy, or zoning code. Tenant shall take all precautions to eliminate immediately any nuisances or hazards relating to its activities, or activities of third parties, on or about the Premises or any Improvements permitted hereunder.

(b) Covenant Against Waste. Tenant shall not cause or permit any waste, damage or injury to the Premises.

(c) Covenant Against Dumping; Waste Disposal. Tenant shall not cause, or permit, or suffer the dumping or other disposal on, under or about the Premises or any Improvements of landfill, refuse, Hazardous Material or other materials that are unsightly, illegal, or could pose a hazard to the human health or safety, native vegetation or wildlife, or the environment.

(d) Golf Course Operation. Tenant shall operate the Golf Course and related facilities located on the Premises as a public golf course. Tenant shall operate the Golf Course and related facilities located on the Premises every day of the year at least from dawn to dusk, except in the event of emergency or inclement weather. Tenant shall at all times operate the Premises and conduct all operation on the Premises in a good and businesslike manner and at least comparable to the standards of comparable golf

courses. Tenant shall provide services customarily associated with the operation of a golf course and the related facilities located on the Premises, including, without limitation, the rental of golf-related equipment, provision of golf instruction, and sale of golf supplies, apparel and equipment, but specifically **excluding** food and beverage service. The quality and grade of service shall be equal to or greater than the quality and grade of service of the Comparable Courses as established from time-to-time pursuant to Article 7.2(h).

(e) Use by City for Non-Golf Events. Tenant shall make the Golf Course available for the use of the City, or as directed by City, for a non-cumulative maximum of 3 days per calendar year on the following conditions. For this purpose, a “day” shall mean a 24-hour period during which more than 50% of Golf Play is interrupted or displaced by reason of the City’s use of the Golf course. (i) City shall notify Tenant in writing not less than 60 days in advance of such use and may not schedule such any use during, or in conflict with, any other special event or tournament previously scheduled by Tenant. (ii) Tenant shall receive a rent credit equal to one half (50%) of the daily average gross income for that month multiplied by the number of event days. (iii) City shall pay all direct costs relating to each such use, including, but not limited to clean up, trash removal and disposal, and security services. (iv) City shall pay for any and all repair and/or replacement of any damage caused during such use, including damage caused by invitees.

(f) Inventory and FF&E. Without limiting any other provision contained in this Lease, Tenant shall, at its sole expense (except for allowable use of the Capital Improvement Fund), acquire and maintain throughout the Term sufficient furniture, fixtures, equipment, and inventory as are required to operate the Golf Course and related facilities located on the Premises as contemplated by this Lease.

(g) Golf Carts. Tenant shall provide, through purchase or lease at its sole cost and expense, a sufficient number of golf carts to meet the public demand therefor at the Premises. Tenant shall provide all maintenance, repair and service required by such golf carts, and shall replace them as reasonably required or appropriate. Tenant shall charge reasonable market fees for golf cart use.

(h) Golf Course Fees and Prices. The Golf Course and related facilities shall be open to the public at rates established by Tenant. Such rates shall be determined based on the economics of the Premises and the competitive market, and may include a temporary surcharge, if needed. Tenant may vary the rates by season, by time of day, and by any other appropriate factor. Tenant may also develop stay and play packages with local hoteliers. City and Tenant will meet and confer if a problem arises with any aspect of the rate structure, as determined by either Party.

(i) Golf Use Reserved to City. During times when the Golf Course is open to the public and Tenant is not conducting any special tournament or event, Tenant shall, upon proof of identity and affiliation reasonably acceptable to Tenant, provide complimentary

no-charge golf rounds (limited to one 18-hole round per month per eligible person on a non-cumulative and non-transferable basis) to:

- (1) active Coast Guard members; and
- (2) current City employees or retired City employees whose names are on a written list provided from time to time by the City.

In addition, former Mayor Morris Fisher shall have the right to play the Golf Course pursuant to the Stipulation and Judgment between him and the City, dated January 18, 2008.

Users of complimentary golf rounds will be subject to all rules, policies, restrictions, regulations, and other limitations applicable to all users and may be denied use for failure to abide by such rules, policies, restrictions, regulation, and limitations.

ARTICLE 8 CAPITAL INVESTMENT; IMPROVEMENTS

8.1 Tenant's Capital Investment. Tenant shall contribute the sum of \$100,000 to the Capital Improvement Fund to be established pursuant to Article 8.3 below. Tenant will perform an inspection of the Golf Course irrigation system within sixty (60) days of the Commencement Date to determine, in its reasonable judgment, whether any of the \$100,000 initial contribution should be used to repair or upgrade the system. In addition, Tenant agrees to pay directly, the cost of completing the dune restoration project on the Golf Course as generally described in the 2012 Annual Dune Restoration and Monitoring Report dated November 19, 2012 prepared by Rana Creek Habitat Restoration, up to the maximum sum of \$75,000. These sums shall be in addition to the periodic contributions made by Tenant and City as provided in Article 8.3 below. Except for Tenant's obligation to contribute to the Capital Improvement Fund and to contribute to the cost of completing the dune restoration project as described above, Tenant shall not be obligated to expend moneys for improvements, additions or upgrades to the Premises and all such improvements, additions and upgrades shall be funded solely from the Capital Improvement Fund.

8.2 Construction of Improvements. Except as otherwise expressly provided in this Lease, Tenant shall not construct or install any Improvements nor make or permit any Alterations in, to or about the Premises or any Improvements, without City's prior written consent in each instance, which City shall not unreasonably withhold or delay; provided, however, such requirement to obtain the City's prior written consent shall not apply to any work that costs \$25,000 or less. Subject to City's consent as provided above, any permitted Improvements or Alterations shall be done at Tenant's sole expense (i) in strict accordance with plans and specifications approved in advance by City in writing, (ii) by Tenant or duly licensed contractors, (iii) in a good and professional manner, and (iv) in strict compliance with all Laws, including but not limited to, the City's Building Code. Tenant acknowledges that the City's role as landlord hereunder is separate and distinct from its role as the issuer of building permits, grading permits, etc., and that the terms and conditions of this Lease pertain to the review and

reasonable approval by City of plans for Improvements and construction in its capacity as landlord hereunder.

8.3 Capital Improvement Program.

(a) On the Commencement Date Tenant shall, on behalf of City, establish and maintain a separate, interest-bearing trust account (the "Capital Improvement Fund") for the funding of capital acquisitions and improvements to the Premises. Commencing on and after July 1, 2014, Tenant and City shall, each quarter, on or before the twentieth day following each date upon which Tenant furnishes to City the statement of Gross Revenues as required by Article 5.3(b), each separately deposit into the Capital Improvement Fund an amount equal to one percent (1%) of the Gross Revenues from the preceding calendar quarter (combined contribution will equal 2% of Gross Revenues). Commencing on April 1, 2016 and thereafter, the contributions of Tenant and City to the Capital Improvement Fund shall each increase to one and one-half percent (1.5%) of the Gross Revenues from the preceding calendar quarter (combined contribution will equal 3% of Gross Revenues).

(b) All such funds are to be held by Tenant in trust for the benefit of the City's interest in the Premises, including its reversionary interest in the Premises upon the expiration or earlier termination of this Lease. Interest earned on funds held in such account shall become part of the Capital Improvement Fund and all amounts remaining in the Capital Improvement Fund at the end of the Term or any earlier termination of this Lease shall be remitted to City. City and Tenant will develop written procedures for approval and release of funds from the Capital Improvement Fund, including the accounting and auditing procedures with respect thereto.

(c) Funds held in the Capital Improvement Fund shall be used exclusively for additional capital items or the repair and replacement of capital items which are needed to repair or replace, over time, capital items which are subject to wearing out after a useful life and which are included in, located on or used in connection with the Premises, and which if not replaced or repaired, could adversely affect the City's interest in the Premises, including Gross Revenues and its reversionary interest upon the expiration or earlier termination of this Lease, and for the reimbursement of funds advanced for such purposes by Tenant in accordance with Article 8.3(e) below. Funds held in the Capital Improvement Fund may be expended only in accordance with a Capital Improvement Plan approved by City in accordance with Article 8.3(c).

(d) Not later than the first June 30 following the creation of the Capital Improvement Fund and thereafter on April 1st of every second year of the Term thereafter, Tenant shall submit to City a biannual plan for the use of the Capital Improvement Fund moneys in the subsequent two Lease Years (each, a "Capital Improvement Plan"). Each Capital Improvement Plan shall include the description of each proposed expenditure of Capital Improvement Fund monies, the purpose for each expenditure, and the proposed timeframe for such expenditure. City shall review each

Capital Improvement Plan and shall not unreasonably withhold its consent thereto. The failure of City to respond within forty-five (45) days of delivery of any proposed Capital Improvement Plan shall be deemed to be the consent of City to such plan.

(e) Notwithstanding the provisions hereof, Tenant shall be entitled to be reimbursed (with interest at the prime rate) from the Capital Improvements Fund for any expenditure incurred by Tenant prior to the accumulation of funds for such expenditures in the Capital Improvement Fund if, and to the extent, such expenditures otherwise meet the requirements of Article 8.3(c) and would have been appropriate to be approved (including the approval of the City as provided in subparagraph (c) above) for inclusion in the Capital Improvement Plan if there had been sufficient funds in the Capital Improvement Fund at the time such expenditures were made.

8.4 Disruption of Play due to Capital Projects. Certain City projects, including but not limited to street improvements, undergrounding of utilities, and construction of the City's Local Water Project, may impact access to the Premises or portions of the Premises. The City will ensure that City staff and contractors coordinate with Tenant to minimize any negative impacts of these projects, to the extent reasonable.

ARTICLE 9 REPAIRS AND MAINTENANCE

9.1 Tenant's Responsibility for Maintenance and Repair. City shall not be obligated to perform any repairs, changes or alterations to the Premises or Improvements, nor shall City be liable for the cost thereof. Tenant assumes full and sole responsibility for the condition, operation, repair and maintenance and management of the Premises and any permitted Improvements or Alterations, from and after the Commencement Date; provided, however, this obligation shall not include the assumption of any liability or responsibility by Tenant for the presence of any Hazardous Materials or underground tanks or the failure of the Premises to comply with any Environmental Laws, in each case as of the Commencement Date. In addition, if any portion of the Premises or any of City's property located on or about the Premises is damaged by any of the activities conducted by Tenant or its Agents or Invitees hereunder, Tenant shall repair any and all such damage and restore the Premises or City's property to its previous condition.

9.2 Utilities; Roads. City shall be responsible for maintaining and repairing access roads and sewer and water facilities providing sewer and water service to the Premises, except for access roads that are located on the Land and sewer and water facilities that solely or primarily benefit the golf course.

9.3 Maintenance Standards. Tenant shall perform the Maintenance of the greens, tees, fairways, rough, cart paths and other turf areas comprising the Golf Course in accordance with the standards for Maintenance described on **Exhibit B**.

ARTICLE 10 LIENS

Tenant shall keep the Premises and all of City's property free from any liens arising out of any work performed, material furnished or obligations incurred by or for Tenant. In the event Tenant does not, within five (5) days following the recordation of any such lien, cause the lien to be released of record by payment or posting of a proper bond, City shall have in addition to all other remedies provided herein and by Law or equity the right, but not the obligation, to cause the same to be released by such means as it shall deem proper, including, but not limited to, payment of the claim giving rise to such lien. All such sums paid by City and all expenditures it incurs in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable to City by Tenant upon demand. City shall have the right at all times to post and keep posted on the Premises any notices permitted or required by Law or that City deems proper for its protection and protection of the Premises and City's property, from mechanics' and materialmen's liens. Tenant shall give City at least fifteen (15) days' prior written notice of the commencement of any repair or construction on any of the Premises. Notwithstanding the foregoing, Tenant shall have the right, upon posting of an adequate bond or other security acceptable to the City Manager, to contest any such lien, and in such case City shall not seek to satisfy or discharge such lien unless Tenant has failed to do so within ten (10) days after final determination of the validity thereof. Tenant shall Indemnify City, the other Indemnified Parties and the Premises against any and all Losses arising out of any such contest.

ARTICLE 11 COMPLIANCE WITH LAWS

11.1 Compliance with Laws. Tenant shall promptly, at its sole expense, maintain the Premises and Tenant's use and operations thereon in compliance with all Laws, including, without limitation, the Americans with Disabilities Act, 42 U.S.C.S. §§ 12101 et seq. and Title 24 of the California Code of Regulations, and all Environmental Laws with respect to Hazardous Materials first released on the Premises during the Term.

11.2 Regulatory Approvals. Tenant understands and agrees that Tenant's use and operation of the Premises and construction of the Improvements and Alterations permitted hereunder may require authorizations, approvals or permits from governmental regulatory agencies with jurisdiction over the Premises. Tenant shall be solely responsible for obtaining any and all such regulatory approvals and City shall use its best efforts to cooperate with Tenant and expedite the processing of such regulatory approvals.

ARTICLE 12
FINANCING; ENCUMBRANCES; SUBORDINATION

12.1 Encumbrance of Landlord's Fee Interest. The following provisions shall apply notwithstanding anything to the contrary contained in this Lease.

(a) Encumbrance by City. To the extent permitted by applicable Law, City may at any time sell or otherwise transfer or encumber its fee estate in any portion of the Premises provided that (i) any such sale or Encumbrance shall be subject and subordinate to all of the terms of this Lease and the leasehold estate created hereby, (ii) the right of possession of Tenant to the Premises shall not be affected or disturbed by any such sale or Encumbrance, or by the exercise of any rights or remedies by any purchaser or Encumbrancer arising out of any instrument reflecting such sale or Encumbrance.

(b) Encumbrance By Tenant. Tenant shall not under any circumstances whatsoever Encumber in any manner the Landlord's interest in the Premises, the City Facilities, City's estate in the Premises or any adjoining property, City's interest under this Lease, or any portion thereof.

ARTICLE 13
DAMAGE, DESTRUCTION OR ROAD CLOSURE

13.1 Insured Damage or Destruction to the Premises or Improvements. In the case of insured damage to or destruction of the Premises or Improvements by fire or any other casualty, Tenant shall, with reasonable promptness and diligence and as soon as reasonably possible, restore, repair, replace or rebuild the Premises as nearly as possible to the same condition, quality and class the Premises and Improvements were in immediately before such damage or destruction.

13.2 Uninsured or Underinsured Damage or Destruction. In the case of uninsured damage to or destruction of the Premises or Improvements by fire or any other casualty, or in the event available insurance proceeds are not sufficient to effect such repair, Tenant shall contribute the shortage in proceeds up to a maximum of \$2,000,000. If the insurance proceeds together with Tenant's contribution as provided herein are not sufficient to effect such repair, Tenant may elect by written notice to Landlord within 10 days after such determination to: (i) contribute the shortage in proceeds necessary to make such restoration and repair, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. In either case, Tenant shall contribute any available insurance proceeds, along with the aforementioned maximum contribution, to the repair or reconstruction of the Premises. In the event Tenant elects to terminate this Lease under this provision, Landlord shall have the right within 30 days after receipt of the termination notice from Tenant to give written notice to Tenant of Landlord's commitment to pay for the repair of such damage without reimbursement from Tenant. In such event this Lease shall continue in full force and effect, and Tenant shall proceed to make such repairs at Landlord's expense as soon as reasonably

possible. If Landlord does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

13.3 Abatement in Rent. The Base Rent (but not Percentage Rent) payable hereunder during the period from the date of the casualty until completion of the restoration, repairs, replacement or rebuilding shall be abated and Tenant shall be entitled to abatement of Base Rent in the event of, and for so long as, damage to or closure of Asilomar Avenue materially interferes with access to the Premises by Tenant's customers for two (2) or more consecutive days; provided, however, any such abatement in rent shall be limited to the extent to which Tenant does not receive proceeds from business interruption insurance in respect of the occurrence that would otherwise entitle Tenant to abatement of rent.

13.4 Waiver. The Parties understand and agree that the foregoing provisions of this Article are intended to govern fully the rights and obligations of the Parties in the event of any damage or destruction of the Premises or Improvements, and City and Tenant each hereby waives and releases any right to terminate this Lease in whole or in part under sections 1932 subdivision 2 and 1933 subdivision 4 of the Civil Code of California or under any similar Laws now or hereafter in effect, to the extent such rights are inconsistent with the provisions hereof.

ARTICLE 14 EMINENT DOMAIN

14.1 General. If during the Term, any Taking of all or any part of the Premises or any interest in this Lease occurs, the rights and obligations of the Parties hereunder, and, to the extent applicable, Tenant's Encumbrancer, shall be determined pursuant to this Article. City and Tenant intend that the provisions hereof govern fully in the event of a Taking and accordingly, the Parties each hereby waives any right to terminate this Lease in whole or in part under Sections 1265.120 and 1265.130 of the California Code of Civil Procedure or under any similar Law now or hereafter in effect.

14.2 Total Taking; Automatic Termination. If a Total Taking of the Premises occurs, then this Lease shall terminate as of the Date of Taking. For purposes of this Article 14 a "Total Taking" shall occur when the whole of the Premises shall be permanently taken by exercise of the right of eminent domain or if so much of the area of the Golf Course is taken that it is not reasonably feasible to operate a golf course in the Premises, or at Tenant's election, where the fair market value of the Premises as golf courses as a consequence of the Taking is seventy-five percent (75%) or less after the Taking then before the Taking. In the event of a Total Taking, Tenant shall continue to pay Rent hereunder and observe all of the terms and conditions of this Lease until the Date of Taking, but not thereafter, provided that Tenant and City shall remain subject to those provisions of this Lease which expressly survive the termination of this Lease.

14.3 Partial Taking. In case of a condemnation of a portion of the Premises that is not a Total Taking (a "Partial Taking"), this Lease shall remain in full force and effect as to the portion of the Premises remaining immediately after such taking, without any abatement or reduction

of Rent (other than Base Rent, as set forth below) or any other sum payable hereunder, and, Tenant shall promptly repair, reconstruct and restore the Premises so as to render the same as nearly as possible a complete and satisfactory architectural unit of the same type and class immediately preceding such Partial Taking. In the event of a Partial Taking, Tenant and any Tenant's Encumbrancer shall be entitled to participate in such condemnation proceedings if, and to the extent, Tenant and/or Tenant's Encumbrancer is entitled to any award or compensation as provided herein.

Effective as of the date of any such Partial Taking, the Base Rent payable by Tenant during the remainder of the term of this Lease shall be reduced in proportion to the reduction in the fair market value of the Premises as a golf course as a consequence of such Partial Taking, provided however, that in no event shall the monthly Base Rent be reduced to less than seventy-five percent (75%) of the monthly Base Rent immediately prior to the Date of Taking. Any Base Rent becoming due and payable hereunder between the date of any such Partial Taking and the date of final determination of the amount of the Base Rent reduction, if any, to be made in respect thereof, shall, subject to correction upon such final determination, be temporarily adjusted so that Tenant shall pay, in the interim, as Base Rent, a sum of money equal to such portion of the then current Base Rent as shall be reasonably estimated by Landlord in accordance with the foregoing proportion formula; provided, however, that after such final determination Landlord, within fifteen (15) days after Tenant's request, shall pay to Tenant an amount equal to the amount by which any Base Rent theretofore paid by Tenant for such interim period shall exceed the amount of the Base Rent for such period as so finally determined; provided further, that in the event such final determination shall disclose that the Base Rent paid during such interim period was at a rate less than that finally determined, Tenant covenants and agrees to pay the deficiency as Rent within fifteen (15) days after Landlord's request therefor.

14.4 Collection and Distribution of Condemnation Awards. If this Lease shall terminate pursuant to the provisions of Article 14.2 or if there is a Partial Taking as described in Article 14.3, the total award in the condemnation proceedings for the taking shall be apportioned and paid, to the extent available, in the following order of priority:

(a) Tenant shall be entitled to its expenditures and charges, including, without limitation, reasonable attorneys' fees incurred in connection with the prosecution of its claims with the condemning authority;

(b) If the taking is a Partial Taking, from the remaining portion of the award Tenant shall be paid (1) the cost of restoring the affected portion of the Premises, provided Tenant actually so restores the Premises and (2) any additional amounts attributable to Tenant's use or occupancy of the Premises;

(c) From the remaining portion of the award, Landlord shall be entitled to an amount equal to the value, on the date of the taking, of its reversionary interest in the whole or the affected portion of the Premises taken;

(d) From the remaining portion of the award, Tenant's Encumbrancer shall be paid the amount of any indebtedness then owed by Tenant to Tenant's Encumbrancer up to the value of the Tenant Improvements or portion thereof taken and not restored, valued as of the date of the taking, less the value of the Landlord's reversionary interest in the Tenant Improvements;

(e) From the remaining portion of the award (i) Landlord shall be paid the value of its reversionary interest in improvements made by Tenant pursuant to Article 8 ("Tenant Improvements") on the Premises or that portion thereof taken and not restored, such reversionary interest being determined on the basis of the unexpired Term and (ii) Tenant shall be entitled to an amount equal to the value, on the date of the taking, of its remaining interest in the leasehold of the Premises, such remaining interest being determined on the basis of the unexpired Term, provided, however, if there is not sufficient funds available to pay all of the amounts provided for in this subparagraph (e), Landlord and Tenant shall share the amounts pro rata based upon the amounts they would have been entitled to under clauses (i) and (ii) if sufficient funds were available.

Tenant shall also be entitled to apply for a separate award made with respect to a taking of its personal property and/or to compensate Tenant for Tenant's loss of good will and its removal or relocation costs, so long as such award does not otherwise reduce Landlord's award.

14.5 Temporary Taking. If the temporary use of the whole or any part of the Premises shall be taken by any lawful power or authority by the exercise of the right of condemnation or eminent domain, or by agreement between Tenant and those authorized to exercise such right, Tenant shall promptly so notify Landlord, the Term shall not be reduced or affected in any way, Tenant shall continue to pay in full the Rent and other charges herein reserved, without reduction or abatement, and, except to the extent that Tenant is prevented from so doing by reason of any order of the condemning authority, shall continue to perform and observe all of the other covenants, conditions and agreements of this Lease to be performed or observed by Tenant as though such taking had not occurred; and Tenant shall be entitled to receive for itself any and all awards or payments attributable to Tenant's use or occupancy of the Premises during the Term; provided, however, that if possession of the whole or any such part of the Premises as shall have been taken for such temporary use shall revert to Tenant prior to the expiration or earlier termination of the Term, Tenant promptly shall, at Tenant's sole cost and expense, repair any damage to the Premises, or any part thereof; resulting from such taking and shall restore the Tenant Improvements as nearly as may be reasonably possible to the condition existing prior to the taking. The proceeds of any award or payment, up to the total rent owing by Tenant for the period of the Taking, shall be made available for such restoration and shall be paid to Tenant for such purposes. City shall be entitled to receive the balance of any award.

14.6 Award of Subtenants. Any provision in this Article 14 to the contrary notwithstanding, in the event any subtenant, licensee or concessionaire of Tenant or anyone hold under Tenant shall become entitled to any portion of the award or awards in any condemnation proceedings or by the exercise of any right to eminent domain as provided in this Lease, such award or the aggregate thereof, together with any additional sums to which any such Person, its legal representatives, successors or assigns shall become entitled in connection therewith, shall be deducted entirely from the share of Tenant in each and every instance, and Landlord's share not in any way or in any instance be affected or decreased thereby.

14.7 Participation in Eminent Domain Process. Landlord shall not prevent Tenant from participating in any eminent domain proceeding to the extent participation is provided for or otherwise available under applicable law and is consistent with the terms and conditions of this Article 14.

14.8 Eminent Domain Proceeds Initiated by City. The provisions of this Article 14 shall not apply to any eminent domain proceeding initiated in respect of Tenant's interest in the Premises of the City. Any such eminent domain proceedings initiated by the City shall be treated as a breach of the Lease by the City.

14.9 Reversion to United States of America. If, during the Term, the United States of America or any official agency thereof exercises any right of reversion or any right reserved in the "Quitclaim Deed" dated September 17, 1951 or the "Quitclaim Deed" dated August 23, 2006, each recorded in the official records of Monterey County, which exercise materially interferes with the ability of Tenant to efficiently and economically operate the Golf Course on the Premises or any portion thereof, Tenant shall have the right in its sole election to terminate this Lease upon not less than 60 days written notice to Landlord subject to the transition provisions set forth in Section 24.13 hereof.

ARTICLE 15 ASSIGNMENT AND SUBLETTING

15.1 Assignment. Subject to Article 12.1 relating to Leasehold Encumbrances, Tenant may assign its interest in this Lease, sublet any portion of the Premises (each, and "Assignment"), only with Landlord's written consent, which shall not be unreasonably withheld. For purposes of this provision, the term "Assignment" shall include the transfer of any interest in the ownership of Tenant which results in a change of control of Tenant to any person other than, Tom Isaak or John Telischak or Michael Sharp. In the event of the death or disability of both Tom Isaak and John Telischak, and continued major ownership and active management by Michael Sharp, no assignment shall be deemed to occur if the Lease is thereupon assigned to CourseCo Inc. or a wholly owned subsidiary of CourseCo Inc. Tenant agrees that it shall not be unreasonable for Landlord to condition its approval, among other things, upon the proposed assignee or subtenant having a financial net worth, according to a current financial statement prepared by a certified public accountant, which is reasonably acceptable to Landlord, upon the proposed assignee having a reputation for, and qualifications and at least five (5) years'

experience in, operating and maintaining golf course properties comparable to the Premises, and upon the proposed assignee having a first-class business reputation. Tenant shall promptly provide Landlord with any information reasonably requested by Landlord relating to the identity of any proposed assignee, the nature of such assignee's business and the proposed assignee's financial responsibility.

15.2 Notice of Proposed Transfer. If Tenant desires to enter into an assignment or a sublease, then it shall give not less than 30 days written notice (a "Notice of Proposed Transfer") to City of its intention to do so. The Notice of Proposed Transfer shall identify the Transferee and state the terms and conditions under which Tenant is willing to enter into such proposed Assignment or Sublease, including a copy of the proposed assignment or sublease agreement. Tenant shall provide City with financial statements for the proposed Transferee and such additional information regarding the proposed Transfer as City may reasonably request. In connection with any assignment, to be effective, the assignee shall be obligated to assume all of the obligations of Tenant hereunder accruing from and after the effective date of such assignment.

ARTICLE 16 DEFAULT; REMEDIES

16.1 Events of Default. Any of the following shall constitute an event of default ("Event of Default") by Tenant hereunder:

(a) Rent. Any failure to pay any Rent or other sums as and when due, provided Tenant shall have a period of three (3) business days from the date of written notice of such failure from City within which to cure any default in the payment of Rent or other sums.

(b) Covenants, Conditions and Representations. Any failure to perform or comply with any other covenant, condition or representation made under this Lease (including Tenant's obligation to make the deposits into the Capital Improvement Fund pursuant to Article 8.3 and perform the Maintenance pursuant to Article 9.3, provided Tenant shall have a period of thirty (30) days from the date of written notice of such failure from City (or if such matter was the subject of any court proceeding, then following final resolution of such proceeding) within which to cure such default under this Lease, or, if such default is not capable of cure within such 30-day period, Tenant shall have a reasonable period to complete such cure if Tenant promptly undertakes action to cure such default within such 30-day period and thereafter diligently prosecutes the same to completion and Tenant uses its best efforts to complete such cure within sixty (60) days after the receipt of notice of default from City;

(c) Vacation or Abandonment. Any vacation or abandonment of the Premises for more than fourteen (14) consecutive days; and

(d) Bankruptcy. The appointment of a receiver to take possession of all or substantially all of the assets of Tenant, or an assignment by Tenant for the benefit of creditors, or any action taken or suffered by Tenant under any insolvency, bankruptcy, reorganization, moratorium or other debtor relief act or statute, whether now existing or hereafter amended or enacted, if any such receiver, assignment or action is not released, discharged, dismissed or vacated within sixty (60) days.

16.2 Remedies. Upon the occurrence of an Event of Default by Tenant, City shall have the following rights and remedies in addition to all other rights and remedies available to City at Law or in equity:

(a) Terminate Lease and Recover Damages. The rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including, but not limited to, the right to terminate Tenant's right to possession of the Premises and to recover the worth at the time of award of the amount by which the unpaid Base Rent and Additional Charges for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that Tenant proves could be reasonably avoided, as computed pursuant to subsection (b) of such Section 1951.2. City's efforts to mitigate the damages caused by Tenant's breach of this Lease shall not waive City's rights to recover damages upon termination.

(b) Continue Lease and Enforce Rights. The rights and remedies provided by California Civil Code Section 1951.4 (continuation of lease after breach and abandonment), which allows City to continue this Lease in effect and to enforce all of its rights and remedies under this Lease, including the right to recover Rent as it becomes due, for so long as City does not terminate Tenant's right to possession, if Tenant has the right to sublet or assign, subject only to reasonable limitations. For purposes hereof, none of the following shall constitute a termination of Tenant's right of possession: acts of maintenance or preservation; efforts to relet the Premises or the appointment of a receiver upon City's initiative to protect its interest under this Lease; or withholding consent to an Assignment or Sublease, or terminating an Assignment or Sublease, if the withholding or termination does not violate the rights of Tenant specified in subdivision (b) of California Civil Code Section 1951.4. If City exercises its remedy under California Civil Code Section 1951.4, City may from time to time sublet the Premises or any part thereof for such term or terms (which may extend beyond the Term) and at such rent and upon such other terms as City in its sole discretion may deem advisable, with the right to make alterations and repairs to the Premises. Upon each such subletting, Tenant shall be immediately liable for payment to City of, in addition to Base Rent and Additional Charges due hereunder, the cost of such subletting and such alterations and repairs incurred by City and the amount, if any, by which the Base Rent and Additional Charges owing hereunder for the period of such subletting (to the extent such period does not exceed the Term) exceeds the amount to be paid as Base Rent and Additional Charges for the Premises for such period pursuant to such subletting. No action taken by City pursuant to this subsection shall be deemed a waiver of any default by Tenant and,

notwithstanding any such subletting without termination, City may at any time thereafter elect to terminate this Lease for such previous default.

(c) Self Help. After final adjudication of Tenant's default in respect of any obligation hereunder, City may (but shall not be obligated to) perform the obligation that Tenant failed to perform in respect of such adjudication and charge Tenant for the reasonable cost and expenditures, including attorneys' fees, incurred by City in connection therewith.

ARTICLE 17 WAIVER OF CLAIMS; INDEMNIFICATION

17.1 Waiver of Claims. Tenant covenants and agrees that City shall not be responsible for or liable to Tenant for, and, to the fullest extent allowed by law, Tenant hereby waives all rights against City and releases City from, any and all losses, including, but not limited to incidental and consequential damages, relating to any injury, accident or death of any person or loss or damage to any property, in or about the Premises from any cause whatsoever except for (i) a breach of this Lease by City, (ii) the negligence or willful misconduct of City or its employees, Agents or contractors, or (iii) the presence of any Hazardous Materials or underground tanks or the failure of the Premises to comply with any Environmental Laws, in each case in respect of this clause (iii) as of the Commencement Date (collectively "Exceptions").

17.2 Tenant's Indemnity. Tenant shall indemnify, defend with counsel approved by City, and hold harmless City, its officers, officials, employees and volunteers from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with Tenant's performance of work hereunder or its failure to comply with any of its obligations contained herein, and including, without limitation, any and all claims for injuries or damages to persons and/or property incurred in connection with or arising directly or indirectly, whole or in part, out of (a) the use of the Premises; (b) a condition of the Premises arising after the Commencement Date; (c) any construction or other work undertaken by Tenant; (d) any acts, omissions or negligence of Tenant, its Agents or Invitees; (e) any accident, injury to or death of a person, including Agents and Invitees of Tenant, except for the Exceptions described in Article 17.1 above. Should conflict of interest principles preclude a single lawyer from representing both City and Tenant, or should City otherwise find Tenant's legal counsel unacceptable, then Tenant shall reimburse the City its costs of defense, including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation. The Tenant shall promptly pay any final judgment rendered against the City (and its officers, officials, employees and volunteers) covered by this indemnity obligation. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Lease.

ARTICLE 18 INSURANCE

18.1 Tenant's Insurance. Tenant shall procure and maintain throughout the Term of this Lease and pay the cost thereof, insurance in the following amounts and coverages:

(a) Property insurance, on an all-risk form, excluding earthquake and flood, for 100% of the full insurable value of the Premises and the permitted Improvements, with any deductible not to exceed \$10,000 each occurrence. Such insurance shall be in Tenant's name and City shall be named as additionally insured, as their respective interests may appear. With respect to the City's interests, such insurance shall include rental interruption coverage in an amount equal to twelve months Base Rent. "Full insurable value" shall mean the actual replacement cost of the Improvements and the existing improvements which are included in the Premises (excluding foundation and excavation costs but without deduction for physical depreciation).

(b) Boiler and Machinery insurance, comprehensive form, covering damage to pressure vessels, heating and air conditioning systems, electrical apparatus and similar property in an amount not less than One Million Dollars (\$1,000,000) each occurrence, including Tenant and City as named insureds as their respective interests may appear, with any deductible not to exceed \$10,000 each accident. Effective April 1, 2024, insurance coverage under this provision shall increase to an amount not less than Two Million Dollars (\$2,000,000) each occurrence.

(c) Comprehensive or commercial general liability insurance with limits not less than Five Million Dollars (\$5,000,000) each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Broad form Property Damage, Independent Contractors, Liquor Liability, Personal Injury, Products and Completed Operations. Effective April 1, 2024, insurance coverage under this provision shall increase to an amount not less than Ten Million Dollars (\$10,000,000) each occurrence.

(d) Comprehensive Builder's Risk insurance, on an all-risk form, excluding earthquake and flood, for 100% of the completed value of any Improvements, Alterations or other new construction, including materials in transit and storage off-site, in the event that such construction is beyond the scope of coverage in the property policy for remodeling or renovation. Such policy shall include as named insureds Tenant, City, any contractor in connection with such construction and subcontractors of all tiers, with any deductible not to exceed \$10,000 each occurrence.

(e) Worker's compensation insurance with coverage in compliance with State statutory limits.

(f) Comprehensive or Business Automobile Liability Insurance Code 1 (any auto) with limits not less than Two Million Dollars (\$2,000,000) each occurrence Combined

Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

18.2 General Requirements. All insurance provided for under this Lease shall be affected under valid enforceable policies issued by insurers of recognized responsibility (with an A.M. Best Rating of A.VII or higher, or its equivalent) and reasonably approved by the City Manager.

(a) Should any of the required insurance be provided under a claims-made form, Tenant shall maintain such coverage continuously throughout the Term of this Lease and, without lapse, for a period of three (3) years beyond the expiration or termination of this Lease, to the effect that, should occurrences during the Term give rise to claims made after expiration or termination of this Lease, such claims shall be covered by such claims-made policies.

(b) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claim investigation or legal defense costs are included in such general annual aggregate limit, such general aggregate limit shall double the occurrence or claims limits specified above.

(c) All General Liability and Automobile Liability Insurance policies shall be endorsed to provide the following:

(i) Name Tenant as the insured and the City, its officers, Agents and employees (and unpaid City volunteers), as Additional Insured, as their respective interests may appear hereunder.

(ii) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Lease, and that insurance applies separately to each insured against whom claim is made or suit is brought. Such policies shall also provide for severability of interests and that an act, or omission of one of the named insureds which would void or otherwise reduce coverage shall not reduce or void the coverage as to any insured, and shall afford coverage for all claims based on acts, omissions, injury or damage which occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period.

(d) All policies shall be endorsed to provide thirty (30) days' advance written notice by certified mail to City of cancellation, non-renewal or reduction in coverage, mailed to the address(es) for City set forth in the Basic Lease Information.

18.3 Proof of Insurance. Tenant shall deliver to City certificates of insurance and endorsements in form and with insurers satisfactory to City, evidencing the coverages required hereunder, on or before the Commencement Date, together with complete copies of the policies promptly upon City's request, and Tenant shall provide City with certificates and endorsements or policies thereafter at least thirty (30) days before the expiration dates of

expiring policies. In the event Tenant shall fail to procure such insurance, or to deliver such policies or certificates, the City Manager may, at its option, procure the same for the account of Tenant, and the cost thereof shall be paid to City within five (5) days after delivery to Tenant of bills therefor.

18.4 Review of Insurance Requirements. Tenant and City shall periodically review the limits and types of insurance carried pursuant to this Article. If the general commercial practice in the City is to carry liability insurance in an amount or coverage materially greater than the amount or coverage then being carried by Tenant with respect to risks comparable to those associated with the Premises, then, at the City Manager's option, Tenant shall increase at its sole cost the amounts or coverages carried by Tenant to conform to such general commercial practice.

18.5 No Limitation on Indemnities. Neither Tenant's compliance with the provisions of this Article, nor any approval by City of Tenant's insurance coverage, shall in any way relieve or decrease Tenant's indemnification obligations under Articles 17.2 above and 22.2 below, or any of Tenant's other obligations or liabilities under this Lease.

18.6 Lapse of Insurance. Notwithstanding anything to the contrary in this Lease, this Lease shall terminate immediately, at the City Manager's election, made in his or her sole and absolute discretion by delivery of written notice to Tenant, upon the lapse of any required insurance coverage, unless Tenant reinstates the required insurance coverage within thirty (30) days of such lapse and no event shall have occurred which gives rise to any Claim.

18.7 Tenant's Personal Property. Tenant shall be responsible, at its expense, for separately insuring its personal property.

18.8 City's Self Insurance. Tenant acknowledges that City self-insures against casualty, property damage and public liability risks and agrees City shall not be required to carry any third party insurance with respect to the Premises or otherwise.

18.9 Waiver of Subrogation. Notwithstanding anything to the contrary contained herein, to the extent permitted by their respective policies of insurance, City and Tenant each hereby waive any right of recovery against the other party and against any other party maintaining a policy of insurance covering the Premises or other City property and their contents, or any portion thereof, for any loss or damage maintained by such other party with respect to the Premises, other City property or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of such other party. If any policy of insurance relating to the Premises or other City property carried by Tenant does not permit the foregoing waiver or if the coverage under any such policy would be invalidated due to such waiver, Tenant shall obtain, if possible, from the insurer under such policy a waiver of all rights of subrogation the insurer might have against City or any other party maintaining a policy of insurance covering the same loss, in connection with any claim, loss or damage covered by such policy.

ARTICLE 19 ACCESS BY CITY

19.1 Access to Premises by City.

(a) General and Emergency Access. City reserves for itself and its designated Agents, the right to enter the Premises and any portion thereof at all reasonable times for any of the following purposes:

(i) To determine whether the Premises are in good condition and to inspect the Premises (including, without limitation, soil borings or other Hazardous Material Investigations);

(ii) To determine whether Tenant is in compliance with its obligations hereunder and to cure or attempt to cure any such default in accordance with the provisions of Article 16.1 hereof;

(iii) To serve, post or keep posted any notices required or allowed under any of the provisions of this Lease;

(iv) To do any maintenance or repairs to the Premises that City has the right or the obligation, if any, to perform hereunder; and

(v) To show it to any prospective purchasers, brokers, Encumbrancers or public officials, or, during the last year of the Term of this Lease, exhibiting the Premises to prospective tenants, bidders, proposers, operators or other occupants, and to post any "for sale" or "for lease" signs in connection therewith.

(b) Minimize Disruption. City shall use its reasonable good faith efforts to conduct any activities on the Premises allowed under this Article in a manner that, to the extent practicable, will minimize any disruption to Tenant's use hereunder.

ARTICLE 20 ESTOPPEL CERTIFICATES

Either Party hereto shall, from time to time during the Term upon not less than twenty (20) days' prior written notice from the other Party, execute, acknowledge and deliver to the other Party, or such persons or entities designated by such other Party, a statement in writing certifying: (a) the Commencement Date and Expiration Date of this Lease, (b) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications), (c) that there are no defaults under this Lease (or if so, specifying the same), (d) the dates, if any, to which the Rent has been paid, and (e) any other information that may be reasonably required by any such persons or entities. Any such certificate delivered pursuant to the provisions hereof may be relied upon by

the other Party or any prospective purchaser or Encumbrancer of its estate. The City Manager shall be authorized to execute, acknowledge and deliver any such certificate on behalf of City.

ARTICLE 21 SURRENDER OF THE PREMISES

Upon the Expiration Date or any earlier termination of this Lease pursuant hereto, Tenant shall surrender to City the Premises, in as good condition as it was on the Commencement Date (subject to ordinary wear and tear), order and repair, free from debris and hazards, and free and clear of all liens, easements and other Encumbrances created or suffered by, through or under Tenant. On or before the Expiration Date or any earlier termination hereof, Tenant shall, at its sole cost, remove any and all of Tenant's personal property from the Premises. In addition, Tenant shall, at its sole expense, repair any damage to the Premises resulting from the removal of any such items and restore the Premises to their condition immediately prior to the presence of any Improvements or Alterations which are removed. In connection therewith, Tenant shall obtain any and all necessary permits and approvals, including, without limitation, any environmental permits, and execute any manifests or other documents necessary to complete the demolition, removal or restoration work required hereunder. Tenant's obligations under this Article shall survive the Expiration Date or other termination of this Lease. Any items of Tenant's personal property remaining on or about the Premises after the Expiration Date of this Lease may, at City's option, be deemed abandoned and in such case City may dispose of such property in accordance with Section 1980 et seq. of the California Civil Code or in any other manner allowed by Law.

ARTICLE 22 HAZARDOUS MATERIALS

22.1 No Hazardous Materials. Tenant covenants and agrees that neither Tenant nor any of its Agents shall cause any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or any Improvements or transported to or from the Premises or any Improvements, provided that Tenant may store and use such substances in the Premises and any Improvements in such limited amounts as are customarily used for general office purposes (such as copy toner and supplies) or for maintenance, equipment and supplies for power golf carts, so long as such storage and use is at all times in full compliance with all applicable Environmental Laws and further provided Tenant may use and store quantities of pesticides and herbicides customarily used in connection with the operation and maintenance of golf courses. Tenant shall immediately notify City if and when Tenant learns or has reason to believe there has been any Release of Hazardous Material in, on or about the Premises or any Improvements. City may from time to time request Tenant to provide adequate information for City to determine that any Hazardous Material permitted hereunder is being handled in compliance with all applicable Environmental Laws, and Tenant shall promptly provide all such information. City and its Agents shall have the right to inspect the Premises for Hazardous Material and compliance with the provisions hereof at all

reasonable times upon reasonable advance oral or written notice to Tenant (except in the event of an emergency).

22.2 Tenant's Environmental Indemnity. If Tenant breaches any of its obligations contained in Article 22.1 above, and such breach results in any Release of Hazardous Material in, on, under or about the Premises, without limiting Tenant's general Indemnity contained in Article 17.2 above, Tenant, on behalf of itself and its successors and assigns, shall Indemnify City and the Indemnified Parties, and each of them, from and against all Hazardous Materials Claims arising during or after the Term of this Lease and relating to such Release. The foregoing Indemnity includes, without limitation, all costs associated with the Investigation and Remediation of Hazardous Material and with the restoration of the Premises or any other City property to its prior condition including, without limitation, fines and penalties imposed by regulatory agencies, natural resource damages and losses, and revegetation of the Premises or other City property.

22.3 Landlord's Environmental Indemnity. Landlord agrees to indemnify and hold harmless Tenant from and against any and all losses, liabilities and claims arising out of the presence, use, generation, storage, release, or disposal of Hazardous Materials occurring prior to the Commencement Date or by Landlord, its agents or contractors whether before or after the Commencement Date. In no event shall Tenant be liable or responsible for any Hazardous Materials existing at the Premises prior to the Commencement Date.

ARTICLE 23 SECURITY DEPOSIT

Upon execution of this Lease Tenant shall deposit with City the sum specified for the security deposit in the Basic Lease Information as security for the faithful performance of all terms, covenants and conditions of this Lease. Should City use any portion of the Security Deposit to cure any Event of Default by Tenant hereunder, Tenant shall immediately replenish the Security Deposit to the original amount, and Tenant's failure to do so within ten (10) days of City's notice shall constitute a material Event of Default under this Lease. City's obligations with respect to the Security Deposit are solely that of debtor and not trustee. City shall not be required to keep the Security Deposit separate from its general funds, and Tenant shall not be entitled to any interest on such Security Deposit. The amount of the security deposit shall not be deemed to limit Tenant's liability for the performance of any of its obligations under this Lease. If Tenant is not in default at the expiration or termination of this Lease, Landlord shall return the Security Deposit to Tenant.

ARTICLE 24 GENERAL PROVISIONS

24.1 Notices; Reasonable Approvals.

(a) Except as otherwise expressly provided in this Lease, any notice given hereunder shall be effective only if in writing and given by delivering the notice in person, or by sending it first-class mail or certified mail with a return receipt requested or reliable commercial overnight courier, return receipt requested, with postage prepaid, to: (a) Tenant (i) at Tenant's address set forth in the Basic Lease Information, if sent prior to Tenant's taking possession of the Premises, or (ii) at the Premises if sent on or subsequent to Tenant's taking possession of the Premises, or (iii) at any place where Tenant or any Agent of Tenant may be found if sent subsequent to Tenant's vacating, abandoning or surrendering the Premises; or (b) City at City's address set forth in the Basic Lease Information; or (c) to such other address as either City or Tenant may designate as its new address for such purpose by notice given to the other in accordance with the provisions of this Article at least ten (10) days prior to the effective date of such change. Any notice hereunder shall be deemed to have been given two (2) days after the date when it is mailed if sent by first-class or certified mail, one day after the date it is made if sent by commercial overnight courier or upon the date personal delivery is made. For convenience of the Parties, copies of notices may also be given by telefacsimile to the telephone number set forth in the Basic Lease Information or such other number as may be provided from time to time; however, neither party may give official or binding notice by facsimile. The effective time of a notice shall not be affected by the receipt, prior to receipt of the original, of a telefacsimile copy of the notice.

(b) Wherever the approval or consent (or similar words or phrases) of either Party is required hereunder, such Party shall not unreasonably withhold or delay such approval or consent.

24.2 Amendments. Neither this Lease nor any term or provisions hereof may be changed, waived, discharged, terminated or amended, except by a written instrument signed by the Parties hereto.

24.3 Authority. If Tenant signs as a corporation, a partnership or a limited liability company, each of the persons executing this Lease on behalf of Tenant does hereby covenant and warrant that Tenant is a duly authorized and existing entity, that Tenant has and is qualified to do business in California, that Tenant has full right and authority to enter into this Lease, and that each and all of the persons signing on behalf of Tenant are authorized to do so. Upon City's request, Tenant shall provide City with evidence reasonably satisfactory to City confirming the foregoing representations and warranties.

24.4 Interpretation of Lease. The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Lease. This Lease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the Party responsible for drafting

any part of this Lease. Provisions in this Lease relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank or City holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day. Use of the word “including” or similar words shall not be construed to limit any general term, statement or other matter in this Lease, whether or not language of non-limitation, such as “without limitation” or similar words, are used.

24.5 Successors and Assigns. Subject to the provisions of Article 12 and Article 15 hereof relating to Leasehold Encumbrances and Assignment and Subletting, the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of City and Tenant and, except as otherwise provided herein, their personal representatives and successors and assigns; provided, however, that upon any sale, assignment or transfer by City named herein (or by any subsequent landlord) of its interest in the Premises as owner or lessee, including any transfer by operation of Law, City (or any subsequent landlord) shall be relieved from all subsequent obligations and liabilities arising under this Lease subsequent to such sale, assignment or transfer.

24.6 Brokers. Neither Party has had any contact or dealings regarding the leasing of the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder’s fee in connection with the lease contemplated herein except as identified in the Basic Lease Information, whose commission, if any is due, shall be paid pursuant to a separate written agreement between such broker and the Party through which such broker contracted. In the event that any other broker or finder perfects a claim for a commission or finder’s fee based upon any such contact, dealings or communication, the Party through whom the broker or finder makes a claim shall be responsible for such commission or fee and shall Indemnify the other Party from any and all Losses incurred by the indemnified Party in defending against the same. The provisions of this Article shall survive any termination of this Lease.

24.7 Severability. If any provision of this Lease or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Lease shall be valid and be enforceable to the fullest extent permitted by Law.

24.8 Governing Law. This Lease shall be construed and enforced in accordance with the Laws of the State of California. Venue for any action shall be in the County of Monterey.

24.9 Entire Agreement. This instrument (including the exhibits hereto, which are made a part of this Lease) contains the entire agreement between the Parties and supersedes all prior written or oral negotiations, discussions, understandings and agreements. The Parties further intend that this Lease shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts of this Lease and any changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving

this Lease. Tenant hereby acknowledges that neither City nor City's Agents have made any representations or warranties with respect to the Premises or this Lease except as expressly set forth herein, and no rights, easements or licenses are or shall be acquired by Tenant by implication or otherwise unless expressly set forth herein.

24.10 Attorneys' Fees and Costs. If any action is commenced that arises out of or related to this Lease, the prevailing party shall be entitled to recover from the other party such sums as the court may adjudge to be reasonable attorneys' fees, expert fees, and expenditures in the action, in addition to costs and expenditures otherwise allowed by law. In any matter arising out of or relating to the bankruptcy of Tenant, Tenant agrees to pay all of Landlord's costs and expenditures, including attorneys' fees and expert fees, which may be incurred in enforcing or protecting Landlord's rights or interests.

24.11 Holding Over. Any holding over after the expiration of the Term with the express consent of the City Manager shall be construed to automatically extend the Term of this Lease on a month-to-month basis only, at a Base Rent equal to one hundred twenty-five percent (125%) of the latest Base Rent payable by Tenant hereunder prior to such expiration, together with an amount estimated by City for the monthly Additional Charges payable under this Lease, and shall otherwise be on the terms and conditions herein specified so far as applicable (except for those pertaining to the Term). Any holding over without City's consent shall constitute a default by Tenant and entitle City to exercise any or all of its remedies as provided herein, notwithstanding that City may elect to accept one or more payments of Rent, and whether or not such amounts are at the holdover rate specified above or the rate in effect at the end of the Term of the Lease. Nothing in this Article 24.11 shall preclude City from initiating an unlawful detainer action where appropriate.

24.12 Cumulative Remedies. All rights and remedies of either party hereto set forth in this Lease shall be cumulative, except as may otherwise be provided herein.

24.13 Transition Procedures. Upon the expiration of the Term or earlier termination of this Lease, for whatever reason, Tenant and City shall do the following (and the provisions of this Article 24.13 shall survive the expiration or termination of this Lease until they have been fully performed) and, in general, shall cooperate in good faith to effect an orderly transition of the management of the Premises.

(a) Transfer of Licenses. Upon the expiration or earlier termination of the Lease, Tenant shall use its best efforts (i) to transfer to City or City's nominee all licenses, operating permits and other governmental authorizations and all contracts which City elects to assume, including contracts with governmental or quasi-governmental entities and management contracts, that may be necessary for the operation of the Premises and completion of any repairs, maintenance, Improvements or Alterations (collectively, "Licenses"), or (ii) if such transfer is prohibited by law or City otherwise elects, to cooperate with City or City's nominee in connection with the processing by City or City's nominee of any applications for all Licenses; provided, in either case, that the costs and

expenditures of any such transfer or the processing of any such application shall be paid by City or City's nominee.

(b) Leases and Concessions. Tenant shall assign to City or City's nominee simultaneously with the termination of this Lease, and the assignee shall assume all leases, subleases, and concession agreements in effect with respect to the Premises then in Tenant's possession, which City or City's nominee elects to assume.

(c) Books and Records. All books and records for the Premises kept by Tenant shall be delivered promptly to City or City's nominee, simultaneously with the termination of this Lease, but such books and records shall thereafter be available to Tenant at all reasonable times for inspection, audit, examination, and transcription for a period of one year and Tenant may retain (on a confidential basis) copies or computer records thereof.

(d) Personal Property. Tenant shall negotiate in good faith with City or City's nominee for the sale of all or any portion of Tenant's personal property which City or City's nominee elects to purchase.

24.14 Survival of Indemnities. Termination of this Lease shall not affect the right of either Party to enforce any and all indemnities and representations and warranties given or made to the other Party under this Lease, nor shall it affect any provision of this Lease that expressly states it shall survive termination hereof. Tenant specifically acknowledges and agrees that, with respect to each of the indemnities contained in this Lease, Tenant has an immediate and independent obligation to defend City and the other Indemnified Parties from any claim which actually or potentially falls within the indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Tenant by City and continues at all times thereafter.

24.15 Relationship of Parties. City is not, and none of the provisions in this Lease shall be deemed to render City, a partner in Tenant's business, or joint venture or member in any joint enterprise with Tenant. Neither Party shall act as the agent of the other Party in any respect hereunder, and neither Party shall have any authority to commit or bind the other Party without such party's consent as provided herein. This Lease is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided. The granting of this Lease by City does not constitute authorization or approval by City of any activity conducted by Tenant on, in or relating to the Premises. Tenant, its employees, assignees, subcontractors, or agents shall at no time be deemed employees of City.

24.16 Transfer by City. If City sells or otherwise transfers the Premises, City shall be released from its obligations hereunder arising on or after the date of such sale or transfer and Tenant shall look solely to the successor-in-interest to City. Upon a sale of the Premises by City, Tenant shall attorn to the purchaser or transferee, such attornment to be effective and self-operative without the execution of any further instruments on the part of the Parties to

this Lease. This Lease shall not be deemed to constitute any commitment by City, or create any priority or right in favor of Tenant, with regard to any future sale or other disposition of the Premises, or any portion thereof.

24.17 Non-Liability of City Officials, Employees and Agents. No elective or appointive board, commission, member, officer, employee or other Agent of City shall be personally liable to Tenant, its successors and assigns, in the event of any default or breach by City or for any amount which may become due to Tenant, its successors and assigns, or for any obligation of City under this Agreement.

24.18 Consents, Approvals, Elections and Options. Any consent or approval required by the City, or any election or option exercisable by the City, must be given or exercised by the City Manager of the City.

24.19 Counterparts. This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

24.20 Waiver. No waiver of any default by Tenant hereunder shall be implied from any acceptance by City of any rent or other payments due hereunder or any omission by City to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than as specified in said waiver. The consent or approval of City to any act by Tenant requiring City's consent or approval shall not be deemed to waive or render unnecessary City's consent or approval to any subsequent similar acts by Tenant.

24.21 Voluntary Agreement; Authority to Execute. City and Tenant each represent that they have read this Lease in full and understand and voluntarily agree to all provisions herein. The Parties further declare that prior to signing this Lease they each had the opportunity to apprise themselves of relevant data, through sources of their own selection, including consultation with legal counsel of their choosing if desired, in deciding whether to execute this Lease. The signatories to this Lease represent that they have the proper authority to execute this Lease on behalf of the respective Party.

City and Tenant have executed this Golf Course Lease in triplicate as of the date first written above.

TENANT:

By: _____ Its: _____

By: _____ Its: _____

CITY:

By: _____ Its: City Manager

Per Ordinance No. _____, adopted by the City Council at its meeting of September 17, 2014.

APPROVED AS TO FORM:

By: _____ City Attorney

Exhibit A

Description of Premises

Exhibit B
Maintenance Standards

**Exhibit C
Schedule of Personal Property**

	Year	Condition	Hours
Greens Mowers			
1. 7 Greensmaster 1000	1993-1997	Fair – Good	N/A
2. Toro 3150	2005	Fair	4,090
Collar/Tees/Approach Mowers			
1. Toro 3150 3wd	2007	Good	2,544
2. John Deere 2243	1998	Fair	3,605
Fairway Mowers			
1. John Deere 8700	2008	Good	3,302
2. John Deere 3235c	2006	Fair	2,834
Rough Mowers/ Green Banks			
1. Jacobson AR-5	2005	Fair	2,115
2. Toro GM 3500-D	2004	Good	2,909
3. Toro GM 3500	2002	Good	2,354
Utility Vehicles			
1. Toro Workman HD	1997	Fair	5,976
2. Toro Workman HD	1998	Fair	6,925
3. Toro Workman HD	1999	Fair	4,148
4. Toro Workman HD	2002	Good	3,867
5. Toro Workman HD	2003	Good	2,564
6. Toro Workman MD	2011	Excellent	353
Miscellaneous Equipment			
1. Cushman Truckster/GA 60	1999	Excellent	320
2. Cushman Corehavior	1993	Fair	899
3. Buffalo Turbine Blower	2002	Good	N/A
4. Toro Greens Aerifier	2001	Good	N/A
5. Toro Greens Aerifier	2003	Good	N/A
6. John Deere 1800 Sprayer	1995	Fair	N/A
7. Hahn Top dresser	1991	Bad	N/A

**COURSECO
FACILITY MAINTENANCE STANDARDS**

**COURSE: Pacific Grove Golf Links
DATE: 1/27/2014**

	Peak Season	Shoulder Season		Peak Season	Shoulder Season
GREENS			TEES		
Species/Variety	Poa/Bent	Poa/Bent	Species/Variety	Poa/rye/kik/berm	Poa/rye/kik/berm
HOC	.115-.125	.120-.135	HOC	.5"	.5"
Target Speed	11-Sep	11-Sep	Mowing Freq.	2x/week	as needed
Mowing Freq.	6x/week	as needed	Mower Type	triplex	triplex
Clean up cut Freq.	3x/week	as needed	Verticut Freq.	as needed	as needed
Mower Type	triplex	triplex	Topdress Freq.	3x/yr	3x/yr
Verticut Freq.	2x/mo	as needed	Aerification Freq.	2-3x/yr	2-3x/yr
Topdress Freq.	2x/mo	as needed	Divot Repair Freq.	2x/week	2x/week
Aerification Freq.	2-3x/yr	as needed	Accessory Re-Paint	na	na
Tine size & spacing	TBD	TBD	Logo-ed Accessories	no	no
Ball Mark Repair Freq.	daily	as needed	Access. Repl. Sched.	2x/yr	2x/yr
Logo-ed Flags	yes	yes	Time to Repair Damage	48hrs	48hrs
Pin Placement Rotation	yes	yes	Overseeding Rate	5lbs/M	5lbs/M
Time to Repair Damage	immed	immed	Preventive Fungicides	no	no
Access. Repl. Sched.	3x/yr	3x/yr	Insect Control	as needed	as needed
Pinspotter/Pin Sheets	no	no	Weed Control	as needed	as needed
Overseeding Rate	na	na	Yardage plate edging freq	monthly	monthly
Prev. Fungicide Apps	yes	yes			
Insect Control	as needed	as needed	BUNKERS		
Weed Control	as needed	as needed	Raking Freq.	6x/week	as needed
			Sand depth slopes	2-4"	2-4"
FAIRWAYS			Sand depth bottom	4-6"	4-6"
Species	Poa/rye/kik/berm	Poa/rye/kik/berm	Sand Type & Source	TBD	TBD
HOC	.5 to .625	.625 to .75	Time to dry after Irrig.	TBD	TBD
Mowing Freq.	2x/week	as needed	Raking Method	Mechanical	mechanical
Mower Type	5-gang	5-gang	Hand Rakes (avg/bunker)	2 or 3	2 or 3

Lely Dethatching Freq.	na	na	Edging Freq.	monthly	as needed
Topdress Freq.	na	na	Mechanical	yes	yes
Aerification Freq.	1 to 2x/yr	1 to 2x/yr	Chemical	no	no
Divot Repair Freq.	weekly	as needed	Time to Repair Damage	48-72 hrs	48-72 hrs
Yardage Markers	yes	yes	Time to Pump	TBD	TBD
Irrig. Head Yardage	no	no			
Irrig. Head Trim Freq.	3x/yr	3x/yr	CART PATHS		
Time to Repair Damage	48-72 hrs	48-72 hrs	Edging Freq.	monthly	as needed
Overseeding Rate	3-5lbs/M	3-5lbs/M	Sweep/Blow Freq.	as needed	as needed
Preventive Fungicides	no	no	Traffic Control (TC) type	Rope and Stake	Rope and Stake
Insect Control	as needed	as needed	TC Rotation schedule	Daily	Daily
Weed Control	as needed	as needed			

**COURSECO
FACILITY MAINTENANCE STANDARDS**

**COURSE: Pacific Grove Golf Links
DATE 1/27/2014**

	Peak Season	Shoulder Season		Peak Season	Shoulder Season
ROUGHS			COURSE RESTROOMS		
Species	Poa/rye/kik/berm	Poa/rye/kik/berm	Cleaning Freq.	Daily	Daily
HOC	2" to 2.5"	2" to 2.5"			
Mowing Freq.	2x/week	as needed	LAKES/STREAMS		
Mower Type	Rotary	Rotary	Hazard Stakes	na	na
Trimming Freq.	weekly	weekly	Trim Mow Freq.	na	na
Trimming Type	Weedeater	Weedeater	%Aquatic Weed Allow.	na	na
Verticut Freq.	na	na			
Aerification Freq.	as needed	as needed	RANGE TEE		
Yardage Markers	na	na	Species	Poa/rye/kik/berm	Poa/rye/kik/berm
Irrig. Head Yardage	no	no	HOC	.5"	.5"
Time to Repair Damage	48-72hrs	48-72hrs	Mowing Freq.	2x/week	as needed
Overseeding Rate	na	na	Mower Type	triplex	triplex
Preventive Fungicides	no	no	Trimming Freq.	as needed	as needed
Insect Control	as needed	as needed	Verticut Freq.	as needed	as needed

	as needed	as needed			
	Peak Season	Shoulder Season			
Weed Control			Topdress Freq.	2x/yr	2x/yr
			Aerification Freq.	2-3x/yr	2-3x/yr
			Divot Repair Freq.	2x/week	2x/week
			Yardage Markers	yes	yes
			Time to Repair Damage	24-48 hrs	24-48 hrs
			Overseeding Rate	5lbs/M	5lbs/M
			Preventive Fungicides	no	no
			Insect Control	as needed	as needed
			Weed Control	as needed	as needed
			Turf/Mat Rotation Freq.	TBD	TBD
				Peak Season	Shoulder Season
GROUNDSPARKING			DUNES		
Turf Mowing Freq.	na	na	Species	Various	Various
HOC	na	na	Chem Weed Control	2x/mo/Kikuyu	2x/mo/Kikuyu
Mower Type	na	na	Hand Weed Control	2x/mo/internal	2x/mo/internal
Trimming Freq.	na	na			
Trimming Type	na	na			
Overseeding Rate	na	na			
Preventive Fungicides	na	na			
Insect Control	na	na			
Weed Control	na	na			
Edging Freq.	na	na			
Sweep/Blow Freq.	daily	daily			
Time to Repair Holes	na	na			
Time to Repair Drainage	na	na			
Color Change Out Freq.	2x/yr	2x/yr			
Additional Notes:					
Prepared by:	<u>Scott Carrier, VP of Agronomy</u>				