

STAFF REPORT



ITEM NO. 22

CITY OF OCEANSIDE

DATE: June 6, 2007

TO: Honorable Mayor and City Councilmembers

FROM: Public Works Department

SUBJECT: **APPROVAL OF A RENOVATION AND OPERATING LEASE AGREEMENT WITH OCEANSIDE GOLF, LLC, FOR THE OCEANSIDE MUNICIPAL GOLF COURSE**

SYNOPSIS

Staff recommends that the City Council approve a 30-year renovation and operating lease agreement with Oceanside Golf LLC, in the amount of 20 percent of gross revenues paid to the City for the operation and maintenance of the Oceanside Municipal Golf Course, and authorize the City Manager to execute the agreement.

BACKGROUND

In 1970, the City opened to the public the Oceanside Municipal Golf Course, an 18-hole, regulation-length golf course located at 825 Douglas Drive ("Golf Course"). In 1982, the City leased the Golf Course to the predecessor of American Golf Corporation ("AGC"). Since said date AGC has continuously operated the Golf Course while paying, as rent, 30 percent of the gross income from golf revenue and 6 percent of other revenues. During Fiscal Year 2005-06, the City received \$562,995 in rental revenue from AGC and anticipates similar revenue in Fiscal Year 2006-07. Under the terms of the current lease agreement with AGC, as amended, the lease will expire on June 30, 2007.

Although AGC has adequately maintained the Golf Course over the past 35 years, due to the age of the Golf Course significant capital improvements are needed to keep the Golf Course competitive in the public golf course market of San Diego County. In 2005, in order to assess the condition of the Golf Course, a detailed improvement plan ("Golf Course Master Plan") was prepared by Rainville & Bye, Golf Course Architects. In 2006, a Request for Proposals ("RFP") was initiated by staff. The RFP asked for proposals to lease and/or manage the Golf Course and contribute towards a significant capital improvement program as described in the Golf Course Master Plan.

ANALYSIS

In response to the RFP, staff received four proposals for the lease and/or management of the Golf Course. The four proposals were reviewed and analyzed by staff with the assistance of a representative of the Golf Sub-Committee and a golf industry consultant from Economic Research Associates. It was the conclusion of staff that the proposal from Landscape Golf Group/Bellows Golf Management (“LGG/BGM”) provided the City with the best opportunity for significant capital improvements to the Golf Course and potential increase in revenue from the Golf Course.

The LGG/BGM partnership has experience in the management and operation of both municipal golf courses and privately-owned public golf courses, although not as extensive as AGC. However, in light of the significant amount of capital improvement to be invested by LGG/BGM when compared to AGC as well as the other proposals, the LGG/BGM proposal was determined to be the best situation for the City. LGG/BGM will form a limited liability company, Oceanside Golf LLC, who will lease the Golf Course from the City. In addition to management of golf courses, the LGG/BGM partnership has substantial expertise in the area of golf course construction and renovation.

Some of the more pertinent terms of the proposed Renovation and Operating Lease Agreement (“Agreement”) are summarized as follows:

- 30-year initial lease term, with a 20-year performance-related extension option.
- Lessee shall pay 20 percent of total gross revenue as monthly rent.
- \$4,525,000 capital improvement investment by lessee over the initial term of the lease.
- City has the right to terminate the lease upon thirty days notice, subject to repayment of any capital improvement investment.
- Lessee shall pay 2 percent of total gross revenues on a monthly basis into a small capital improvement reserve.
- Significant golf course improvements to take place within the first 5 years of the initial term.
- Annual contributions of \$2,500 each to the golf teams of El Camino High School and Oceanside High School.

In addition, the proposed Agreement contains a rate restructuring to offset the cost of LGG/BGM's capital improvement investment. The proposed rate schedules are based upon a study of rates at comparable courses in San Diego County and increases the existing rates on average by approximately \$2 per round. Additional justification for LGG/BGM's proposed rate restructuring is to establish a long-term capital improvement fund for the Golf Course. In return, the golfer should experience a better round of golf resulting from the noticeable improvements to the Golf Course.

FISCAL IMPACT

The proposed Agreement provides value to the City in a number of different ways. The proposed Agreement sets forth a rental amount of 20 percent of the total gross revenue, payable monthly. Assuming similar annual rental revenue received by the City in Fiscal Year 2005-06 of approximately \$562,000, over the initial 30-year term, the City could potentially receive a total of \$16,860,000 (without adjusting for any increases). Since the rental rate is a percentage of total gross revenue, which can vary significantly based on the number of rounds played in any given year, the total amount over the term of the lease is only an estimate.

In addition to the rental revenue, the lessee is also required to invest \$4,525,000 for capital improvements to the Golf Course during the first five years of the term of the Agreement. Where possible, the capital investment shall be for improvements as described in the Golf Course Master Plan. It is anticipated that there will be gradual improvement during the first three years of the lease term so as to minimize disruption in play and maximize rental revenue. The more extensive improvement to the Golf Course will take place in the fifth year of the lease term.

Another form of compensation from the lessee shall be the requirement of lessee to contribute 2 percent of the total gross revenue towards a capital improvement reserve beginning in the third year of the lease. Based upon the annual rental revenue received by the City in Fiscal Year 2005-06, an additional \$11,240 per year or a total of \$337,200 over the initial term of the lease will be available for smaller capital improvement items.

CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

COMMISSION OR COMMITTEE REPORT

The Parks and Recreation Commission at its meeting held on May 10, 2007 considered the proposed Agreement with LGG/BGM and voted unanimously to approve the Agreement.

The Golf Sub-Committee has also reviewed the Agreement with LGG/BGM and recommends approval of the Agreement.

RECOMMENDATION

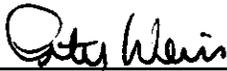
Staff recommends that the City Council approve a 30-year renovation and operating lease agreement with Oceanside Golf LLC, in the amount of 20 percent of gross revenues paid to the City for the operation and maintenance of the Oceanside Municipal Golf Course, and authorize the City Manager to execute the agreement.

PREPARED BY:



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SUBMITTED BY:



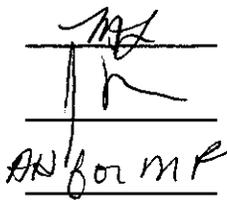
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**RENOVATION AND OPERATING
LEASE AGREEMENT**

BY AND BETWEEN

THE CITY OF OCEANSIDE

AND

OCEANSIDE GOLF, LLC

FOR THE

**OCEANSIDE MUNICIPAL GOLF COURSE
825 Douglas Drive
Oceanside, California 92054**

DATED

June 6, 2007

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EXHIBITS

- Exhibit "A" A legal description of the Premises, attached hereto and incorporated herein by reference.
- Exhibit "B" A sketch of the Premises, attached hereto and incorporated herein by reference.
- Exhibit "C" General description of the improvements, to be constructed or reconstructed, or major renovation attached hereto and incorporated herein by reference.
- Exhibit "D" Improvements to be constructed or reconstructed or major renovations to be addressed, phase of development, and budgeted costs attached hereto and incorporated herein by reference.

Exhibit "E" Technical Maintenance Specifications attached hereto and incorporated herein by reference.

Exhibit "F" Initial Lease Year Proposed Green Fees and Cart Rental Fees attached hereto and incorporated herein by reference.

**CITY OF OCEANSIDE
RENOVATION AND OPERATING LEASE AGREEMENT**

THIS RENOVATION AND OPERATING LEASE AGREEMENT, hereinafter called "Lease," is executed between the **CITY OF OCEANSIDE**, a municipal corporation, hereinafter called "City," and **OCEANSIDE GOLF, LLC**, an Arizona limited liability company, hereinafter called "Lessee."

RECITALS

WHEREAS, City is the lawful owner of that certain real property commonly known as the Oceanside Municipal Golf Course as more particularly described hereinbelow; and

WHEREAS, City believes the public interest can best be served by contracting with a private business entity for the operation and maintenance of the Oceanside Municipal Golf Course; and

WHEREAS, Lessee is desirous of leasing the Oceanside Municipal Golf Course for the purpose of operating and maintaining said property as a municipal golf course open to the general public; and

WHEREAS, City, for the consideration hereinafter set forth, hereby leases to Lessee and Lessee hereby leases said real property from City for the term and upon the conditions hereinafter set forth.

NOW THEREFORE, the parties in considerations of the covenants, conditions and provisions as set forth herein, mutually agree as follows:

AGREEMENT

SECTION 1: USES

1.1 Premises. City hereby leases to Lessee and Lessee hereby leases from City, in accordance with the terms, conditions, covenants, and provisions of this Lease, all that certain real property situated in the City of Oceanside, County of San Diego, State of California, commonly known as Oceanside Municipal Golf Course and more particularly described in Exhibit "A" & "B" attached hereto and by this reference made part of this Lease including all improvements, and fixtures located on that real property, and all of those items listed on the "Asset Schedule" which will be prepared by the parties within ten (10) days before the Commencement Date. Said real and personal property is hereinafter called the "Premises".

1.2 Uses. City hereby authorizes Lessee to improve, construct, reconstruct, manage, operate, and maintain the Premises as a golf course and for activities related to the operation of a golf course.

1.3 Improvements and Major Renovations.

(a) *Existing Documentation.* City agrees that within ten (10) days of the Commencement Date, it shall deliver to Lessee a copy of the Capital Improvement Plan dated August 26, 2005, prepared by Rainville-Bye regarding the development of the Premises as well as all other documents in the City's possession or available to it from Rainville-Bye regarding the existing and planned development of the Premises, including but not limited to golf course designs, construction plans for future construction, as-built construction plans for completed golf course work, engineering reports, drawings, topographical maps, and surveys including legal descriptions.

(b) *New Construction.* A general description of the improvements, to be constructed or reconstructed, or major renovations are set forth on Exhibit "C" attached hereto and by this reference made part of this Lease. The phases of development and budgeted costs are set forth on Exhibit "D" attached hereto and by this reference made part of this Lease. Lessee agrees to expend, at a minimum, the total budgeted costs for improvements as set forth in Exhibit "D" or within five percent (5%) thereof. However, such expenditures are not restricted to each specific improvement. Within thirty (30) days after the Commencement Date, Lessee will meet with City staff to work on the plan and phase of development for the proposed improvements. Within sixty (60) days after the initial meeting, Lessee will present to the City for the City's approval a capital improvement plan which is consistent with the Rainville-Bye Master Plan and the Lessee's bid proposal dated in November 2006. If the City and the Lessee cannot agree within thirty (30) days thereafter to a capital improvement plan, then within fifteen (15) days after the deadline to approve the capital improvement plan, the City and the Lessee shall each designate a qualified consultant or other expert in the field of golf course management and/or golf course maintenance and the two designated experts shall name a third expert within ten (10) days after their appointments to form a panel (the "Expert Panel"). The Expert Panel shall then approve a capital improvement plan which is consistent with the Rainville-Bye Master Plan and the Lessee's bid proposal dated in November 2006, as amended per the Amended Proposal and Amended Business Plan Outline, dated in March 2007, within thirty (30) days after the formation of the panel. The City and Lessee shall share the cost associated with the Expert Panel equally. Beginning in Year 3 of the Lease Term, Lessee shall pay an additional two percent (2%) of the total gross revenue on a monthly basis into a separate account maintained in the name of Lessee for the purposes of making expenditures on small capital improvement projects which become necessary from time to time, including, but not limited to landscape upgrades, irrigation repairs, and parking lot repairs ("Capital Improvement Reserve").

(c) *Annual Review.* The City and Lessee shall meet annually on a mutually agreeable date on or before September 1st of each year to discuss a Routine Operating Maintenance Plan for the following year and capital improvements which shall be undertaken during the following calendar year. In the event the parties cannot agree on said annual Routine Operating Maintenance Plan, the procedure as set forth in Subsection 5.3(c)(i) below shall apply.

1.4 Related Discretionary Actions. By the granting of this Lease, neither City nor the City Council is obligating itself to any other governmental agent, board, commission, or

agency with regard to any other discretionary action relating to development or operation of the Premises. Discretionary action includes, but is not limited to rezoning, variances, conditional use permits, environmental clearances or any other governmental agency approvals which may be required for the development and operation of the Premises.

1.5 Quiet Possession. Lessee, paying the rent and performing the covenants and agreements herein, shall at all times during the term hereof peaceably and quietly have, hold and enjoy the Premises. If City for any reason cannot deliver possession of the Premises to Lessee at the commencement of the term of this Lease, or if during the term hereof Lessee is temporarily dispossessed through action or claim of a title superior to the City of Oceanside, then and in either of such events, this Lease shall not be voidable nor shall City be liable to Lessee for any loss or damage resulting therefrom, but there shall be determined and stated in writing by the City Manager a proportionate reduction of the rate of rent for the period or periods during which Lessee is prevented from having the quiet possession of all or a portion of the Premises. In the event that such dispossession causes an extraordinary economic burden on Lessee, Lessee shall have the option to terminate this Lease by submitting to the City Manager a thirty (30) day written notice together with its justifications for such termination. The City Manager shall have the right to approve such termination and shall provide Lessee with a written determination thereof. Said approval shall not be unreasonably withheld.

1.6 Reservation of Rights. City shall not unreasonably or substantially interfere with Lessee's use of the Premises while Lessee is in possession of the Premises; however, the City specifically retains the following rights:

(a) ***Subsurface Rights.*** City hereby reserves all right, title and interest in any and all subsurface natural gas, oil, minerals and water on or within the Premises.

(b) ***Right to Enter.*** City has the right to enter the Premises for the purpose of performing maintenance, inspections, repairs or improvements.

(c) ***Easements.*** City shall retain the right to establish access or utility easements through the Premises; provided, however, City shall not unduly interfere with Lessee's use of the Premises. Reasonable notice shall be provided to Lessee and such installation of utilities shall be coordinated with the Lessee. Within thirty (30) days after the completion of the installation, the City shall in a timely manner begin and complete the restoration of the Premises to the condition existing prior to the installation of the easements at City's sole expense. Relocation of any existing utilities by Lessee shall be coordinated with, and prior written approval obtained from City. Said relocation, if requested by Lessee, shall be at the expense of Lessee. As-built drawings of all utility installations by Lessee shall be furnished to City. As-built drawings of all utility installations by City shall be furnished to Lessee upon request.

SECTION 2: TERM

2.1 Commencement. Provided the Oceanside City Council approves this Lease, the term of this Lease shall be for a period of thirty (30) years, commencing on July 1, 2007 (the "Commencement Date") and terminating June 30, 2037.

2.2 Renewal Option. The Lessee shall have the option to extend the term of this Lease for an additional twenty (20) years under the terms and conditions of this Lease provided that the Lessee is not in default of this Lease and Lessee agrees upon renewal to invest in capital improvements the greater of either (a) \$3,000,000 or (b) an amount equal to forty five (45%) percent of the product of seven (7) multiplied by the available net cash flow reduced by all operating expenses including city rent payments and capital reserves. Amounts due by Lessee pursuant to this Section 2.2 shall be reduced by any amounts expended by Lessee to repair the Premises pursuant to Section 5.2, unless such repair is an obligation of Lessee. At the time of the Lease renewal, Lessee and City will agree on the future capital improvements and their timelines which are to be completed by Lessee as part of this renewal option in accordance with subsection 1.3(b). Lessee agrees to notify City prior to the end of the twenty fifth (25th) Lease year of its intention to exercise or not to exercise the renewal option after the termination of the initial Lease term.

2.3 Termination Provisions. The City retains the right to terminate this Lease, with or without reason, by providing Lessee ninety (90) days written notice. In the event the City terminates this Lease for any reason, other than by reason of Lessee's default, including as provided in Section 5.2, or for no reason or if the Lease terminates pursuant to Section 5.11, then within thirty (30) days of the date of termination, the City shall pay Lessee an amount equal to the amount expended by Lessee on capital improvements pursuant to Section 1.3, including any reasonable costs associated with the financing thereof by Lessee, which financing the City has approved and the City shall not unreasonably withhold its approval, including outstanding debt and penalties, charges, fees and expenses related to the prepayment of the debt associated therewith. To the extent that the City assumes any of the debt incurred by Lessee to pay for capital improvements, then the amount of the assumed debt shall reduce the amount payable by the City to Lessee pursuant to the preceding sentence. In addition, City shall pay Lessee the cost of inventory located on the Premises as of the date of termination and any accounts receivables outstanding as of the date of termination, provided City is able to utilize said inventory in the normal operation of a golf course and the outstanding accounts receivables were incurred in the normal operations of a golf course. Further, the City shall give Lessee ten (10) days written notice of the golf course related agreements it desires to assume from Lessee. The City shall pay all expenses related to the assumption of said agreements that the City is assuming. As for any of such agreements which the City does not assume, then City and Lessee shall make a good faith effort to terminate such remaining agreements so as to minimize the cost associated therewith. The City will then be responsible for all future expenses related to said agreements that are incurred in the normal operation of a golf course. No other special termination options are available except those described elsewhere in this Lease.

2.4 Holdover. Any holding over by Lessee after expiration or termination shall not be considered as a renewal or extension of this Lease. The occupancy of the Premises by Lessee

or by Lessee's property after the expiration or termination of this Lease constitutes a month-to-month tenancy, and all other terms and conditions of this Lease, including rental adjustments, shall continue in full force and effect. In the event of any holding over, Lessee shall pay the sum of: (a) the Prepaid Rent for the preceding annual term, and (b) a prorated amount of Percentage Rent for the extent of the holdover period. In addition to the Prepaid Rent and Percentage Rent, Lessee shall, in the event of any holding over beyond ninety (90) days, pay an increase in the Prepaid Rent or Percentage Rent equal to the product of: (a) the Prepaid Rent or Percentage Rent, whichever is the higher amount, and (b) five percent (5%) per year for each year of the term of Lease counting from the original Commencement Date of the Lease to the expiration or termination date of the Lease.

2.5 Abandonment by Lessee. Even though Lessee has breached the Lease and abandoned the Premises, this Lease shall continue in effect for so long as City does not terminate this Lease, and City may enforce all its rights and remedies hereunder, including but not limited to the right to recover the rent as it becomes due, plus damages.

2.6 Quitclaim of Lessee's Interest. On termination of this Lease for any reason, City shall provide Lessee with and Lessee shall deliver to City a quitclaim deed in recordable form quitclaiming all its rights in and to the Premises. Lessee or its successor in interest shall deliver the same within five (5) days after receiving written demand therefor. City may record such deed only on the expiration or earlier termination of this Lease. If Lessee fails or refuses to deliver the required deed, the City may prepare and record a notice reciting Lessee's failure to execute this lease provision and the notice will be conclusive evidence of the termination of this Lease and all Lessee's rights to the Premises.

2.7 Surrender of Premises. At the expiration or earlier termination of this Lease, Lessee shall surrender the Premises to City free and clear of all liens and encumbrances created by Lessee, except those liens and encumbrances which existed on the date of the execution of this Lease by City. The Premises, when surrendered by Lessee, shall be in a safe and sanitary condition and shall be in as good or better condition as the condition at commencement of this Lease, absent normal wear and tear.

2.8 Time is of Essence. Time is of the essence of all of the terms, covenants, conditions and provisions of this Lease.

SECTION 3: RENT

3.1 Time and Place of Payment. The Lessee shall make Prepaid Monthly Rent payments as defined in Section 3.2(b) on or before the first (1st) day of each month. In the event the commencement of this Lease is after the first (1st) day of the month, the first month's minimum rent shall be prorated based on a thirty (30) day proration formula.

Monthly Percentage Rent payments as set forth in subsection 3.2(c) shall be due to City and payable by Lessee in arrears on or before the tenth (10th) business day of the month following the month for which the Monthly Percentage Rent is calculated. For each month, the Prepaid Monthly Rent payment will be a credit toward the actual Monthly Percentage Rent

payment due for that month as calculated pursuant to Section 3.2(c). Lessee shall provide City with a percentage rent statement each month showing how the percentage rents were calculated less the Prepaid Monthly Rent. In the event that the Prepaid Monthly Rent is greater than the Monthly Percentage Rent owed the City in any one month, then Lessee will accrue a rent credit equal to that difference and that credit will apply to future Monthly Percentage Rent due the City. Also, Lessee shall, concurrently with the filing of its quarterly State Board of Equalization tax statement, provide City with a copy of said statement. The requirements of this section shall survive the expiration or sooner termination of this Lease.

Checks should be made payable to the City of Oceanside and delivered to the City at the address set forth in Section 6 of this Lease. The place and time of payment may be changed at any time by City upon thirty (30) days written notice to Lessee. Lessee assumes all risk of loss and responsibility for late payment charges. Lessee agrees to pay City an additional Fifteen and No/100 Dollars (\$15.00) for any returned check which is not honored by the financial institution from which the check is drawn.

3.2 Rent.

(a) **General.** The total monthly rent amount shall be equal to the Percentage Rent (as defined by subsection 3.2(c)).

(b) **Prepaid Monthly Rent.** The Prepaid Monthly Rent shall be payable in monthly installments of Thirty Thousand and No/100 Dollars (\$30,000.00) as set forth in Section 3.1 above. Lessee shall begin paying rent on the Commencement Date.

(c) **Monthly Percentage Rent.** The Monthly Percentage Rent shall be twenty percent (20%) of the Gross Income (as defined in subsection 3.2(d)) and shall be payable as set forth in Section 3.1 above.

(d) **Gross Income.** Gross income as used herein shall mean the total amount of all sales, the total amount charged or received for the performance or any act, service or employment of whatever nature it may be, whether such service, act, or employment is done as a part of or in connection with the sale of goods, wares, merchandise or not, for which a charge is made or credit allowed, including all receipts, cash, credits, and property of any kind or nature, any amount for which credit is allowed by the seller to the purchaser without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses or any other expenses whatsoever; provided, the cash discounts allowed or taken on sales shall not be included. Gross Income shall not include the amount of any tax imposed on or with respect to retail sales whether imposed upon the retailer or upon the consumer and regardless of whether or not the amount of tax is stated to customers as a separate charge, or any state, or local sales or use tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser, or such part of the sales price of any property previously sold and returned by the purchaser to the seller which is refunded by the seller by way of cash or credit allowances given or taken as part of payment on any property so accepted for resale. Also, Gross Income does not include the following:

- * Receipts from the sale or the trade-in value of any furniture, trade fixtures or equipment used on the Premises, and owned by Lessee;
- * The value of any merchandise, supplies or equipment exchanged or transferred from or to other business locations of Lessee where such exchanges or transfers are not made for the purpose of avoiding a sale by Lessee which would otherwise be made from or at the Premises;
- * Receipts in the form of refunds from or the value of merchandise, supplies, or equipment returned to shippers, suppliers or manufacturers;
- * The amount of any cash or quantity discounts received from sellers, suppliers, or manufactures;
- * The amounts of any discounts given to Lessee's employees;
- * Revenues from golf lessons, group instruction or learning center fees which are conducted by authorized golf course staff personnel or other authorized teaching professionals approved by Lessee;
- * Reasonable and verifiable purchases by employees or their immediate family members of supplies and equipment for personal use; and
- * Funds held for prepaid tournament deposits or like events, including deposits for gift certificates.

The monthly gross income shall be calculated at the end of each month of the term of this Lease. The first monthly gross income calculation shall be made one month after the Commencement Date of this Lease.

3.3 Inspection of Records. Lessee shall maintain accurate financial books and records for the operation of its business provided at, or from, the Premises. Said books and records shall be maintained on an accrual basis in accordance with good accounting practice and standards within the industry. The records must be supported by source documents of original entry such as sales invoices, cash register tapes, purchase invoices, or other pertinent documents.

Lessee shall initially install an IBS point of sale system for all retail sales and thereafter agrees to maintain and operate a comparable point of sale system which is the standard or exceeds the standards in the industry. All such systems shall have the capacity to consolidate sales, inventory, and event activities into a central location for reporting and tracking purposes. All cash registers shall be equipped with sales totalizer counters for all sales categories, as herein provided, and a sequential transaction counter, which counters are locked in, constantly accumulating, and which cannot be reset. Said registers shall further contain tapes upon which

sales details and sequential transaction numbers are imprinted. Beginning and ending sales totalizer readings shall be made a matter of daily record. Retail sales may be recorded by a system other than cash registers provided such system is approved in writing by the City Manager. In addition to the above, in the event of admission, cover charges, rentals, and any other fares or charges, whatsoever, Lessee shall also issue serially numbered tickets for each such charge and keep an adequate record of said tickets, both issued and unissued.

Lessee agrees to make any and all records and accounts available to City for inspection at all reasonable times, so that City can determine Lessee's compliance with this Lease. These records and accounts will be made available by Lessee at the Premises or City's offices, at City's sole discretion, and will be complete and accurate showing all income and receipts from Lessee's use of the Premises. Lessee's failure to keep and maintain such records and make them available for inspection by City shall be deemed a default of this Lease subject to the provisions of Section 6.11. These records shall include, but are not limited to, Federal quarterly and annual income tax statements, the California State Board of Equalization income statements, sales statements, cash register tapes, purchase invoices, or other pertinent documentation, and all other generally accepted business books, documents, and records.

Lessee shall maintain its books, records and accounts for each lease year for a period of eight (8) years. This provision shall survive the expiration or sooner termination of this Lease.

3.4 Delinquent Rent. If Lessee fails to pay the rent within ten (10) days of the due date, Lessee will pay in addition to the unpaid rent, five percent (5%) of the delinquent rent, which is hereby mutually agreed by the parties to be appropriate to compensate City for loss resulting from rental delinquency, including lost interest, opportunities, legal costs, and the cost of servicing the delinquent account.

In the event that the City audit, if applicable, discloses that the rent for the audited period has been underpaid in excess of five percent (5%) of the total required rent, then Lessee shall pay City the cost of the audit plus ten percent (10%) per year on the amount by which said rent was underpaid in addition to the unpaid rents as shown to be due City as compensation to City for administrative costs and loss of interest as previously described herein. Lessee agrees to pay such amount and further agrees that the specific late charges represent a fair and reasonable estimate of the costs that City will incur from Lessee's late payment. Acceptance of late charges and any portion of the late payment by City shall in no event constitute a waiver by City of Lessee's default with respect to late payment, nor prevent City from exercising any of the other rights and remedies granted in this Lease.

3.5 Junior Golf Program. During Lease Years 1 through 10, Lessee shall contribute Two Thousand Five Hundred Dollars (\$2,500) annually to each of El Camino High School and Oceanside High School for the benefit of their respective boys and girls golf teams and provide an additional Five Thousand Dollars (\$5,000) a year in pre-paid gift certificates to be used for green fees or range balls for developmental junior golf programs sponsored by the City or Lessee. In Lease Year 11 and each tenth (10th) year thereafter, Lessee will increase the annual contribution amounts set forth in this paragraph by twenty percent (20%) of the previous year's

contribution. Thus the annual contribution amounts starting in Year 11 will be \$3,000 and \$6,000, respectively, and starting in Year 21 the annual contribution amounts will be \$3,600 and \$7,200, respectively. This twenty percent (20%) increase in contributions each ten (10) years will continue should this Lease be extended or renewed as described in Section 2.2. Contributions may be made by either Lessee or from a golf foundation formed and managed by Lessee.

SECTION 4: INSURANCE RISKS/SECURITY

4.1 Indemnity. Lessee shall indemnify and hold harmless the City and its officers, agents and employees against all claims for damages to persons or property arising out of the conduct of the Lessee or its employees, agents, or others in connection with its use and occupation of the Premises under this Lease, except only for those claims arising from the sole negligence or sole willful conduct of the City, its officers, agents, or employees. Lessee's indemnification shall include any and all costs, expenses, attorneys' fees and liability incurred by the City, its officers, agents, or employees in defending against such claims, whether the same proceed to judgment or not. Further, Lessee at its own expense shall, upon written request by the City, defend any such suit or action brought against the City, its officers, agents, or employees.

4.2 Insurance. Lessee shall take out and maintain at all times during the term of this Lease the following insurance at its sole expense:

- (a) Lessee shall maintain the following minimum limits:

General Liability

Combined Single Limit Per Occurrence	\$1,000,000
General Aggregate	\$3,000,000

(b) All insurance companies affording coverage to the Lessee shall be required to add the City of Oceanside as "additional insured" under the insurance policy(s) required in accordance with this Lease.

(c) All insurance companies affording coverage to the Lessee shall be insurance organizations acceptable to the City, and authorized by the Insurance Commissioner of the State Department of Insurance to transact business of insurance in the State of California.

(d) All insurance companies affording coverage shall provide thirty (30) days written notice to the City of Oceanside should the policy be cancelled before the expiration date. For the purposes of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.

(e) Lessee shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City Attorney, concurrently with the submittal of this Lease.

(f) Lessee shall provide a substitute certificate of insurance no later than thirty (30) days prior to the policy expiration date. Failure by the Lessee to provide such a substitution and extend the policy expiration date shall be considered a default by Lessee and may subject the Lessee to a termination of this Lease.

(g) Maintenance of insurance by the Lessee as specified in this Lease shall in no way be interpreted as relieving the Lessee of any responsibility whatever and the Lessee may carry, at its own expense, such additional insurance as it deems necessary.

(h) If Lessee fails or refuses to take out and maintain the required insurance, or fails to provide the proof of coverage, City has the right to obtain the insurance. Lessee shall reimburse City for the premiums paid with interest at the maximum allowable legal rate then in effect in California. City shall give notice of the payment of premiums within thirty (30) days of payment stating the amount paid, name of the insurer(s) and rate of interest. Said reimbursement and interest shall be paid by Lessee on the first (1st) day of the month following the notice of payment by City.

Notwithstanding the preceding provisions of this subsection, any failure or refusal by Lessee to take out or maintain insurance as required in this Lease, or failure to provide the proof of insurance, shall be deemed a default under this Lease.

(i) City, at its discretion, may require the revision of amounts and coverage at any time during the term of this Lease by giving Lessee sixty (60) days prior written notice. City's requirements shall be designed to assure protection from and against the kind and extent of risk existing on the Premises. Lessee also agrees to obtain any additional insurance required by City for new improvements, in order to meet the requirements of this Lease.

4.3 Accident Reports. Lessee shall, within seventy-two (72) hours after occurrence, report to City any accident causing property damage or any serious injury to persons on the Premises. This report shall contain the names and addresses of the parties involved, a statement of the circumstances, the date and hour, the names and addresses of any witnesses and other pertinent information.

SECTION 5: IMPROVEMENTS/ALTERATIONS/REPAIRS

5.1 Acceptance of Premises. Except as set forth in this Section 5.1, Lessee represents and warrants that it has independently inspected the Premises and made all tests, investigations, and observations necessary to satisfy itself of the condition of the Premises. Lessee acknowledges it is relying solely on such independent inspection, tests, investigations, and observations in making this Lease. Lessee further acknowledges that the Premises are in the condition called for by this Lease and that Lessee does not hold City responsible for any defects in the Premises. Notwithstanding the foregoing, City will to the extent permitted by law hold Lessee harmless for any environmental liability created prior to the Commencement Date. City will otherwise indemnify, to the extent permitted by law, Lessee for any environmental liability created prior to the Commencement Date. Prior to the Commencement Date City will complete a

Phase One Assessment of the Premises. If the Lessee determines that the environmental condition of the Premises prior to the Commencement Date is not acceptable in its sole discretion, then Lessee can elect to postpone the Commencement Date until the Premises are acceptable. If the Lessee exercises its right to postpone the Commencement Date, then the Lessee and the City shall enter into a mutually acceptable management agreement pursuant to which Lessee shall manage and operate the Premises until the environmental condition of the Premises is acceptable to Lessee. If a contaminant/hazardous substance is found on, in or under the Premises which was present on the site prior to commencement of Lessee's activities, the identified past operator or other identified party responsible for the contamination will bear all cost for the assessment and subsequent remediation. Specifically, if non-friable asbestos containing materials are determined to be contained in any of the structures anticipated to be renovated or demolished, a licensed asbestos abatement company will remove and dispose of the materials at City's expense. City will not seek compensation or restitution from Lessee as a "Potentially Responsible Party" for any release of a contaminant/hazardous substance on the Premises prior to the Commencement Date.

5.2 Waste, Damage, or Destruction.

(a) Lessee shall give notice to City of any fire or other damage that occurs on the Premises within seventy-two (72) hours of such fire or damage. Lessee shall not commit or suffer to be committed any waste or injury or any public or private nuisance, agrees to keep the Premises clean and clear of refuse and obstructions, and to dispose of all garbage, trash, and rubbish in a manner satisfactory to City.

(b) Except as set forth below, if the Premises shall be damaged by any cause which puts the Premises into a condition which is not decent, safe, healthy and sanitary, Lessee agrees to make or cause to be made full repair of said damage and to restore the Premises to the condition which existed prior to said damage; or, at City's option, and upon receipt of written demand thereof, Lessee agrees to clear and remove from the Premises all debris resulting from said damage and rebuild the Premises in accordance with plans and specifications previously submitted to City and approved in writing in order to replace in kind and scope the operation which existed prior to such damage to the extent that funds from insurance are available. Lessee shall be responsible for all costs incurred in the repair and restoration, or rebuilding of the Premises to the extent of insurance proceeds received by Lessee as a result of the event necessitating the repair or restoration or to the extent that the City agrees to pay for the repairs or restoration at a rate and on terms mutually acceptable to the parties. Notwithstanding the foregoing, either party shall have the right to terminate this Lease if the party determines in its sole judgment that it is not economically feasible to restore the Premises by giving notice of termination within thirty (30) days after the event causing the destruction. Provided, however, should Lessee elect to terminate the Lease, Lessee shall not be entitled to reimbursement of its capital improvement investment as set forth in Section 2.3.

(c) If neither party determines that the Premises are not capable of restoration, the Agreement shall continue in full force and effect, except that the payment to City by Lessee may, to the extent not covered by insurance, be abated and/or other relief afforded to the extent that Lessee can demonstrate, and that City may corroborate, that the damage and/or restoration

interferes with Lessee's operations. The aforesaid provisions for abatement and/or the relief shall also be applicable to a total or partial destruction of the Premises by the aforementioned causes.

(d) In the event that the Premises are damaged that is caused by flooding from or related to Pilgrim Creek and that neither party determines that the Premises are not capable of repair, the parties agree that the repair thereof shall be undertaken by Lessee with the costs associated therewith to be paid in the order as follows: 1) as a maintenance expense of Lessee, should Lessee in its reasonable assessment determine that its regular maintenance crew can provide the manpower and equipment to remedy the damage without affecting its regular maintenance responsibilities of the Premises; 2) from flood insurance proceeds maintained by Lessee as required by its lender(s), up to the amount of the insurance proceeds received by Lessee, if any; 3) from the Capital Improvement Reserve; provided such amount does not deplete the entire reserve amount, if agreed to by City and Lessee; and 4) as the sole responsibility and obligation of the City.

5.3 Maintenance.

(a) As part of the consideration for the leasing thereof, Lessee agrees to assume full responsibility and cost for the operation, maintenance, including general day to day repairs of the Premises, throughout the term of this Lease and without expense to City. Lessee will perform all maintenance, repairs and replacements necessary to maintain and preserve the Premises in a decent, safe, healthy, and sanitary condition satisfactory to City and in compliance with all applicable laws. Lessee further agrees to provide approved containers for trash and garbage and to keep the Premises free and clear of rubbish and litter, or any other fire hazards. Lessee waives all right to make repairs at the expense of City as provided in Section 1942 of the California Civil Code and all rights provided by Section 1941 of said code.

(b) For the purpose of keeping the Premises in a good, safe, healthy and sanitary condition, City shall always have the right, but not the duty, to enter, view, inspect, determine the condition of, and protect its interests in, the Premises. In the event that City finds that the Premises are not in a decent, safe, healthy, and sanitary condition, Lessee must perform the necessary maintenance, repair or replacement work within ten (10) days after written notice from City. In the event Lessee fails to perform such work, City shall have the right, upon written notice to Lessee, to have any necessary maintenance work done at the expense of Lessee, and Lessee shall promptly pay any and all costs incurred by City in having such necessary maintenance work done, in order to keep said Premises in a decent, safe, healthy, and sanitary condition. Lessee shall make payment no later than ten (10) days after City's written demand therefor. City shall not be required at any time to perform maintenance or to make any improvements or repairs whatsoever, on or for the benefit of the Premises. The rights reserved in this section shall not create any obligations or increase obligations for City elsewhere in this Lease.

(c) Within sixty (60) days after the Commencement Date, Lessee will provide to City a Routine Operating Maintenance Plan. This plan shall identify all proposed projects which require regular repair or on-going maintenance of existing facilities and other structures.

The City and Lessee agree that the Routine Operating Maintenance Plan for the initial year of the term shall generally be in accordance with the Technical Maintenance Specifications as set forth on Exhibit "E", attached hereto and by this reference made a part hereof and shall follow a maintenance schedule generally used by other similar municipal golf courses in the Southern California area.

(i) If the City and the Lessee cannot agree within thirty (30) days thereafter to a Routine Operating Maintenance Plan, then within fifteen (15) days after the deadline to approve the Routine Operating Maintenance Plan, the City and the Lessee shall each designate a qualified consultant or other expert in the field of golf course management and/or golf course maintenance and the two designated experts shall name a third expert within ten (10) days after their appointments to form a panel (the "Expert Panel"). The Expert Panel shall then approve a Routine Operating Maintenance Plan, which is consistent with Exhibit "E" within thirty (30) days after the formation of the panel. The City and Lessee shall share the cost associated with the Expert Panel equally.

(ii) If changes other than minor adjustments are made to this plan, Lessee will provide an amended Routine Operating Maintenance Plan to City at the time of implementation for City approval. If the City and the Lessee cannot agree within thirty (30) days thereafter to an amended Routine Operating Maintenance Plan, then within fifteen (15) days after the deadline to approve amended the Routine Operating Maintenance Plan, the procedure set forth in subsection 5.3(c)(i) above shall be implemented to form an Expert Panel to approve an amended Routine Operating Maintenance Plan, which is consistent with Exhibit E within thirty (30) days after the formation of the panel. The City and Lessee shall share the cost associated with the Expert Panel equally.

Examples of maintenance projects which may be included in the Routine Operating Maintenance Plan may include, but are not limited to the following:

- * Painting or repairs to the pro shop and other facilities;
- * Repairs of vandalism;
- * Overseeding if necessary;
- * Purchase/lease of mechanical equipment (carts, mowers, food & beverage items etc.);
- * Regular maintenance and repairs of pumps or sprinklers; and
- * General maintenance of facilities and improvements to protect against disrepair or obsolescence.

5.4 Improvements/Alterations. No improvements, structures, or installations shall be constructed on the Premises, and the Premises may not be altered by Lessee without prior written approval by the City Manager. Further, Lessee agrees that major structural or

architectural design alterations to approved improvements, structures, or installations not listed on Exhibit "C" may not be made on the Premises without prior written approval by the City Manager and that such approval shall not be unreasonably withheld. This provision shall not relieve Lessee of any obligation under this Lease to maintain the Premises in a decent, safe, healthy, and sanitary condition, including structural repair and restoration of damaged or worn improvements. City shall not be obligated by this Lease to make or assume any expense for any improvements or alterations.

5.5 Utilities. Lessee agrees to order, obtain, and pay for all utilities including telephone, internet service, water, electricity, cable, and gas. Additionally Lessee will pay for any service and installation charges in connection with the development, occupation and operation of the Premises.

5.6 Liens. Lessee shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to all or any portion of the Premises without the prior written consent of the City Manager. Lessee shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim on or with respect to all or any portion of the Premises for which Lessee does not have the prior written consent of the City Manager.

5.7 Encumbrance. Lessee may at any time and from time to time encumber this Lease, its leasehold estate and its improvements thereon including furniture, fixtures, equipment and inventory related to operation of its business by deed of trust, mortgage, chattel mortgage or other security instrument to assure the payment of a promissory note or notes of Lessee so long as the net proceeds of such loan or loans be devoted exclusively to the purpose of developing and/or improving the Premises. However, a reasonable portion of the loan proceeds may be disbursed for payment of incidental costs of construction, including but not limited to the following: off-site improvements for service of the Premises; on-site improvements; escrow charges; premiums for hazard insurance, or other insurance or bonds required by City; title insurance premiums; reasonable loan costs such as discounts, interest and commissions; and architectural, engineering and attorney's fees and such other normal expenses incidental to such construction. Any deed of trust, mortgage or other security instrument shall be subject to all of the terms, covenants and conditions of this Lease and shall not amend or alter any of the terms, covenants or conditions of this Lease. Within sixty (60) days of encumbering this Lease, Lessee shall give the City written notice of the name, address and contact person of any entity which has a lien on the Lease.

5.8 Taxes. Lessee shall pay, before delinquency, all taxes, assessments, and fees assessed or levied upon Lessee or the Premises, including the land, any buildings, structures, machines, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed, or maintained by Lessee or levied by reason of the business or other Lessee activities related to the Premises, including any licenses or permits.

Lessee recognizes and agrees that this Lease may create a possessory interest subject to property taxation, and that Lessee may be subject to the payment of taxes levied on such interest, and that Lessee shall pay all such possessory interest taxes.

5.9 Signs. Lessee shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings, or similar devices or advertising without the prior written consent of the City Manager and device(s) shall conform to all City of Oceanside ordinances and regulations. If any such unauthorized item is found on the Premises, Lessee shall remove the item at its expense within twenty-four (24) hours of written notice thereof by City, or City may thereupon remove the item at Lessee's cost.

5.10 Ownership of Improvements and Personal Property.

(a) Any and all improvements and installations or additions to the Premises now existing or constructed on the Premises by Lessee, excepting such fixtures and trade fixtures which may be removed without causing damage to the Premises, shall at Lease expiration or termination be deemed to be part of the Premises and shall become, at City's option, City's property, free of all liens and claims except as otherwise provided in this Lease. All structures and items on the Asset Schedule shall become the City's property.

(b) If City elects not to assume ownership of all or any improvements or installations, City shall so notify Lessee in writing thirty (30) days prior to expiration or termination of this Lease, and Lessee shall remove all such improvements and installations as directed by City at Lessee's sole cost and expense on or before Lease expiration or termination. If Lessee fails to remove any improvements, structures, and installations as directed, Lessee agrees to pay City the full cost of any removal.

(c) Lessee owned machines, merchandise, inventory, general office supplies, appliances, equipment, trade fixtures, and other items of personal property shall be removed by Lessee by the date of the expiration or termination of this Lease. Any said items which Lessee fails to remove will be considered abandoned and become City's property free of all claims and liens, or City may, at its option, remove said items.

(d) If any removal of such personal property by Lessee results in damage to the remaining improvements on the Premises, Lessee shall repair all such damage.

5.11 Eminent Domain. If all or part of the Premises is taken through condemnation proceedings or under threat of condemnation by any public authority with the power of eminent domain, the interests of City and Lessee (or beneficiary or mortgagee) will be as follows:

(a) ***Total Taking.*** In the event the entire Premises are taken, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs and the City shall have the obligations to Lessee upon termination as set forth in this Lease including but not limited to Section 2.3.

(b) *Partial Taking.* In the event of a partial taking, if, in the opinion of Lessee, the remaining part of the Premises is unsuitable for the lease operation, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs and the City shall have the obligations to Lessee upon termination as set forth in this Lease including but not limited to Section 2.3.

In the event of a partial taking, if, in the opinion of Lessee, the remainder of the Premises is suitable for continued lease operation, this Lease shall terminate in regard to the portion taken on the date of the transfer of title or possession to the condemning authority, whichever first occurs, but shall continue for the portion not taken. The minimum rent shall be equitably reduced to reflect the portion of the Premises taken.

(c) *Award.* All monies awarded in any such taking of the Premises shall belong to City, whether such taking results in diminution in value of the leasehold or the fee or both; provided, however, Lessee shall be entitled to any award attributable to the taking of or damages to Lessee's then remaining leasehold interest in installations or improvements of Lessee.

(d) *Transfer.* City has the right to transfer City's interests in the Premises in lieu of condemnation to any authority entitled to exercise the power of eminent domain. If a transfer occurs, Lessee shall retain whatever interest it may have in the fair market value of any improvements placed by it on the Premises in accordance with this Lease and City shall have the obligations set forth in Section 2.3.

(e) *No Inverse Condemnation.* The exercise of any City right under this Lease shall not be interpreted as an exercise of the power of eminent domain and shall not impose any liability upon City for inverse condemnation so long as such rights do not unreasonably or substantially interfere with Lessee's operations.

SECTION 6: GENERAL PROVISIONS

6.1 Notices. All notices, demands, requests, consents or other communications which this Lease contemplates or authorizes, or requires or permits either party to give to the other, shall be in writing and shall be personally delivered or mailed to the respective party as follows:

To City: CITY OF OCEANSIDE
Property Management
300 North Coast Highway
Oceanside, CA 92054

To Lessee: Jim Bellows
1415 North Mill Avenue
Tempe, Arizona 85281

and to

Michael Jenkins
Landscape Golf Group, LLC
1201 Aries Drive
Lincoln, Nebraska 68512

Either party may change its address by notice to the other party as provided herein.

Communications shall be deemed to have been given and received on the first to occur of: (i) actual receipt at the offices of the party to whom the communication is to be sent, as designated above; or (ii) three (3) working days following the deposit in the United States Mail of registered or certified mail, postage prepaid, return receipt requested, addressed to the offices of the party to whom the communication is to be sent, as designated above.

6.2 City Approval. The City Manager shall be the City's authorized representative in the interpretation and enforcement of all work performed in connection with this Lease. The City Manager may delegate authority in connection with this Lease to the City Manager's designee(s). For the purposes of directing Lessee in accordance with this Lease, which does not result in a change to this Lease, the City Manager delegates authority to a Public Works Division Manager.

6.3 Nondiscrimination. Lessee agrees not to discriminate in any manner against any person or persons on account of race, marital status, familial status, sex, religious creed, color, ancestry, national origin, age, or disability in Lessee's use of the Premises.

6.4 Equal Opportunity. Lessee shall take affirmative action to assure applicants are employed and that employees are treated during employment without regard to race, color, religion, sex or national origin. Lessee shall certify in writing to City that Lessee is in compliance and throughout the term of this Lease will comply with Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practices Act, and any other applicable Federal, State and Local law, regulation and policy (including without limitation those adopted by City) related to equal employment opportunity and affirmative action programs, including any such law, regulation, and policy hereinafter enacted.

Compliance and performance by Lessee of the equal employment opportunity and affirmative action program provision of this Lease is an express condition hereof and any failure by Lessee to so comply and perform shall be a default of this Lease and City may exercise any right as provided herein and as otherwise provided by law.

6.5 Entire Agreement. This Lease comprises the entire integrated understanding between City and Lessee concerning the use and occupation of the Premises and supersedes all prior negotiations, representations, or agreements. Each party has relied on its own examination of the Premises, advice from its own attorneys, and the warranties, representations, and covenants of the Lease itself.

6.6 Interpretation of the Agreement. The interpretation, validity and enforcement of the Lease shall be governed by and construed under the laws of the State of California. The

venue of any judicial action brought to enforce any condition, covenant or provision of this Lease shall be in San Diego County, California. The Lease does not limit any other rights or remedies available to City.

The Lessee shall be responsible for complying with all Local, State, and Federal laws whether or not said laws are expressly stated or referred to herein.

Should any provision herein be found or deemed to be invalid, the Lease shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall remain in full force and effect, and to this end the provisions of this Lease are severable.

This Lease shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors, and assigns.

6.7 Agreement Modification. This Lease may not be modified orally or in any manner other than by an agreement in writing signed by the parties and approved by the City Council.

6.8 Waiver. Any City waiver of a default is not a waiver of any other default. Any waiver of a default must be in writing and be executed by the City Manager in order to constitute a valid and binding waiver. City delay or failure to exercise a remedy or right is not a waiver of that or any other remedy or right under this Lease. The use of one remedy or right for any default does not waive the use of another remedy or right for the same default or for another or later default. City's acceptance of any rents is not a waiver of any default preceding the rent payment. City and Lessee specifically agree that the property constituting the Premises is City-owned and held in trust for the benefit of the citizens of the City of Oceanside and that any failure by the City Manager or City staff to discover a default or take prompt action to require the cure of any default shall not result in an equitable estoppel, but City shall at all times, subject to applicable statute of limitations, have the legal right to require the cure of any default when and as such defaults are discovered or when and as the City Council directs the City Manager to take action or require the cure of any default after such default is brought to the attention of the City Council by the City Manager or by any concerned citizen.

6.9 Attorney's Fees. In the event a suit is commenced by City against Lessee to enforce payment of rent due, or to enforce any of the terms and conditions hereof, or in case City shall commence summary action under the laws of the State of California relating to the unlawful detention of property, for forfeit of this Lease, and the possession of the Premises, provided City effects a recovery, Lessee shall pay City all costs expended in any action, together with a reasonable attorney's fee to be fixed by the Court.

6.10 Assignment and Subletting - No Encumbrance. This Lease and any portion thereof shall not be assigned, transferred, or sublet, nor shall any of the Lessee's duties be delegated, without the express written consent of City except that no consent shall be required for a transfer, assignment or sublease with or to any affiliate of Lessee, provided that such affiliate possesses the same or similar qualifications as Lessee to maintain and operate a golf course, or to a golfing academy approved by a national golfing association. Any attempt to

assign or delegate this Lease without the express written consent of City shall be void and of no force or effect. A consent by City to one assignment, transfer, sublease, or delegation shall not be deemed to be a consent to any subsequent assignment, transfer, sublease, or delegation.

6.11 Defaults and Termination.

(a) It is mutually understood and agreed that if any default be made in the payment of rental herein provided or in the performance of the covenants, conditions, or agreements herein (any covenant or agreement shall be construed and considered as a condition); or should Lessee fail to fulfill in any manner the uses and purposes for which the Premises are leased as stated in this Lease, and such default is not cured within five (5) business days after written notice thereof if default is in the submittal of rent as required in this Lease; or ten (10) business days after written notice thereof if default is in the performance of the failure to use provisions pursuant to Section 1.2 of this Lease; or thirty (30) calendar days after written notice thereof if default is in the performance of any other covenant, condition and agreements provided that Lessee shall not be in default after thirty (30) calendar days if the delay is the result of additional requirements imposed by a government entity, the need to obtain permits or if a longer period as is reasonably necessary to cure such matter and Lessee takes reasonable steps to begin to cure the failure within the thirty (30) day period and continues to make reasonable progress in curing the matter thereafter (any covenant or agreement shall be construed and considered as a condition), City shall have the right to immediately terminate this Lease; and that in the event of such termination, Lessee shall have no further rights hereunder and Lessee shall thereupon forthwith remove from the Premises and shall have no further right to claim thereto, and City shall immediately thereupon, without recourse to the courts, have the right to reenter and take possession of the Premises. City shall further have all other rights and remedies as provided by law, including without limitation the right to recover damages from Lessee in the amount necessary to compensate City for all the detriment proximately caused by the Lessee's failure to perform its obligations under the Lease or which in the ordinary course of things would be likely to result therefrom.

(b) In the event the Lease is encumbered in accordance with Section 5.7 of this Lease, it is understood and agreed that City shall furnish copies of all notices of defaults to the beneficiary or mortgagee under said encumbrance by certified mail contemporaneously with the furnishing of such notices to Lessee, and in the event Lessee shall fail to cure such default or defaults within the time allowed above, said beneficiary or mortgagee shall be afforded the right to cure such default at any time within thirty (30) days, if the default is for the failure to submit rent as required, or within sixty (60) days following the expiration of the period within which Lessee may cure such default if the default requires affirmative action other than or in addition to the payment of money and if such default cannot be cured within sixty (60) days or without possession of the premises, such additional time as agreed upon by the parties to be reasonable, under the circumstances, to complete the cure providing lender diligently pursues the cure. The City shall further:

- * Permit transfer of Lessee's rights, duties and obligations under the same terms as Lessee provided that at all times after such transfer, lender retains a manager or operator as follows:

- * The manager or operator is an experienced golf course manager or operator and is recognized in the golf business community as such and,
- * Such manager or operator agree to manage and are capable to operate the golf course in a manner and at a level suitable to City and consistent with the standards of the golf business community.

If such conditions are met, the approval of City will not be unreasonably withheld or delayed.

(c) If Lessee is placed in default by lender and said lender has notified City, in writing, of its security interest in this Lease, and upon notice to City of such default, City will permit lender to assume the rights, duties and obligations of this Lease under the same terms as Lessee provided that after foreclosure or other exercise of lenders' remedies, lender shall install a manager or operator that meets the following conditions:

- * The manager or operator is an experienced golf course manager or operator and is recognized in the golf business community as such and,
- * Such manager or operator agree to manage and are capable to operate the golf course in a manner and at a level suitable to City and consistent with the standards of the golf business community.

If such conditions are met, the approval of City will not be unreasonably withheld or delayed.

In the event of the termination of this Lease pursuant to the provisions of this section, City and Lessee shall have any rights to which it would be entitled in the event of the expiration or sooner termination of this Lease under the provisions of Sections 2.3 and 5.11 of this Lease.

6.12 Bankruptcy. In the event Lessee becomes insolvent, makes an assignment for the benefit of creditors, becomes the subject of a bankruptcy proceeding, reorganization, arrangement, insolvency, receivership, liquidation, or dissolution proceedings, or in the event of any judicial sale of Lessee's interest under this Lease, City shall have the right to declare this Lease in default.

The conditions of this section shall not be applicable or binding on Lessee or the beneficiary in any deed of trust, mortgage, or other security instrument on the demised Premises which is of record with City and has been consented to by resolution of the City Council, or to said beneficiary's successors in interest consented to by resolution of the City Council, as long as there remains monies to be paid by Lessee to such beneficiary under the terms of such deed of trust; provided that such beneficiary or its successors in interest, continuously pay to City all rent due or coming due under the provisions of this Lease and the Premises are continuously and actively used in accordance with Section 1.2 of this Lease.

6.13 Section Headings. The Table of Contents and the section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision thereof.

6.14 Gender/Singular/Plural. The neuter gender includes the feminine and masculine, the masculine includes the feminine and neuter, and the feminine includes the masculine and neuter, and each includes corporation, partnership, or other legal entity when the context so requires. The singular number includes the plural whenever the context so requires.

SECTION 7: SPECIAL PROVISIONS

7.1 Standards of Operation. Lessee agrees that it shall operate and manage the services and facilities offered upon or from the Premises in a manner similar to or better than other comparable municipal or public access golf courses charging similar fees in the Southern California area.

7.2 Sale of Alcoholic Beverages. Lessee has the right to sell alcoholic beverages at the Premises. In the event of such sales, Lessee shall, at its own expense, obtain and keep current licenses as required for the lawful on-Premises sale and serving of alcoholic beverages and comply with all regulations promulgated by the California Alcoholic Beverage Control Board for the sale of alcoholic beverages. Lessee shall establish an Alcoholic Awareness Training Program for its employees. Additionally, Lessee shall maintain insurance coverage providing alcohol service liability in accordance with the provisions of Section 4.2 of this Lease.

7.3 Hours of Operation. The Lessee agrees that it shall conduct business on the Premises to conform to the published hours and days of operation as established, and in the best interest of the public, unless otherwise approved in writing by the City.

7.4 Manner of Providing Service. Lessee shall provide an experienced and well qualified "on-site" supervisor to oversee all operations conducted by Lessee on the Premises. Said supervisor shall be empowered with authority to act on behalf of Lessee in response to reasonable requests from City to perform maintenance, repairs, and replacements on the Premises to insure the public's health, safety, and welfare. Lessee shall ensure that its employees shall at all times conduct themselves in a creditable and dignified manner, and they shall conform to all laws, rules, regulations and requirements, as well as all rules and regulations as hereafter may be promulgated, or put into operation by the City. Lessee shall maintain a staff in adequate size and number, to City's satisfaction, to effectively operate, maintain and administer all services offered and facilities located on the Premises.

7.5 Merchandise and Equipment. City retains the right to require the Lessee to discontinue the sale or use of those items that are of a quality unacceptable to the City.

7.6 Continued Occupancy. Lessee covenants and agrees to, and it is the intent of this Lease that the Lessee shall, continuously and uninterrupted during the term of the Lease, occupy and use the Premises for the purposes hereinabove specified, except while Premises are

untenantable by reason of fire, flood, or other unavoidable casualty, and, in that event, City shall be promptly notified by Lessee.

7.7 Controlled Prices. Lessee shall at all times maintain a complete list or schedule of the prices charges for all goods or services, or combinations thereof, supplied to the public on or from the Premises whether the same are supplied by Lessee or by Lessee's sublessee(s), assignee(s), lessee(s), permittee(s) or licensee(s).

(a) *Fees and Charges* It is the intent of the City that the services and facilities shall be made available to the general public at reasonable fees and charges. Lessee agrees to make the facilities available to the general public at reasonable fees and charges. In general the market shall determine rates for fees and charges and the price of merchandise sold. The green fees and cart rental fees for the first year of the Lease term are set forth on Exhibit "F" attached hereto and by this reference made part of this Lease. After the first year of the Lease, Lessee will provide City written notice of any changes thereto prior to implementation. If an annual increase in fees is more than five percent (5%) over fees charged for the prior year, and the City, through its City Manager, deems such fees to be excessive based upon rates charged at other municipal public golf courses in San Diego County, City may, after consultation with Lessee, deny such fee increases in excess of the 5% increase.

7.8 Hazardous Substances. No goods, merchandise or material shall be kept, stored or sold in or on the Premises which are in any way explosive or hazardous; and no offensive or dangerous trade, business or occupation shall be carried on therein or thereon, and nothing shall be done on said Premises, which will cause an increase in the rate of or cause a suspension or cancellation of the insurance upon said or other premises and the improvements thereon.

No machinery or apparatus shall be used or operated on or about the Premises which will in any way injure the Premises or improvements thereon, or adjacent or other premises, or improvements thereon, or to persons; provided, however, that nothing contained in this section shall preclude Lessee from bringing, keeping or using on or about the Premises such materials, supplies, equipment and machinery as are appropriate or customary in carrying on its said business, or from carrying on its business in all usual respects.

Open flame burning, gasoline, or other fuel storage is expressly prohibited without prior written consent of the City except as needed for the normal maintenance and operations of the golf course and the clubhouse.

SECTION 8: SIGNATURES

The individuals executing this Lease represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Lease on behalf of the respective legal entities of the Lessee and the City.

IN WITNESS WHEREOF the parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Renovation and Operating Lease Agreement to be executed by setting hereunto their signatures on the day and year respectively written hereinbelow.

City:

THE CITY OF OCEANSIDE

Date: _____

By: _____

Its: City Manager

APPROVED AS TO FORM:

By: *Barbara Hamilton* 1957
City Attorney

Lessee:

OCEANSIDE GOLF, LLC, an Arizona limited liability company

Date: May 24, 2007

By: *James Bellows*
James Bellows, Manager

STATE OF ARIZONA)
) ss.
County of Maricopa)

This instrument was acknowledged before me this 24th day of May, 2007, by James Bellows.

Notary Seal:

Rosa A. Zegarra
Notary Public

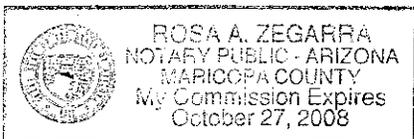


EXHIBIT "A"

LEGAL DESCRIPTION

APNS: 157-020-91 AND 152-050-37

ALL THAT PORTION OF FRACTIONAL SECTION 5, TOWNSHIP 11 SOUTH, RANGE 4 WEST, SAN BERNARDINO MERIDIAN, TOGETHER WITH THAT PORTION OF SECTIONS 32 AND 33 IN TOWNSHIP 10 SOUTH, RANGE 4 WEST, SAN BERNARDINO MERIDIAN, ALL IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

COMMENCING AT THE CORNER COMMON TO SAID SECTIONS 4, 5, 32 AND 33; THENCE NORTH 00°23'00" WEST ALONG THE COMMON LINE BETWEEN SECTIONS 32 AND 33; 286.77 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID COMMON LINE SOUTH 83°15'00" WEST 1679.83 FEET; THENCE SOUTH 25°45'00" WEST 355.71 FEET TO AN INTERSECTION WITH THE SOUTHERLY LINE OF THAT PARCEL OF LAND AS DEEDED TO JOHN JOHNSON, JR. AND DELL HALE JOHNSON BY DEED RECORDED DECEMBER 29, 1914 IN BOOK 674, PAGE 64 OF DEEDS OF SAID COUNTY; THENCE NORTH 83°15'00" EAST ALONG SAID SOUTHERLY LINE OF JOHNSON'S LAND, 99.60 FEET; THENCE LEAVING SAID SOUTHERLY LINE SOUTH 03°42'44" EAST 1126.84 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 5; THENCE ALONG SAID NORTH LINE NORTH 89°48'04" WEST 1021.00 FEET TO THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, WHICH WILL BE REFERRED TO HEREIN AS POINT 'A'; THENCE SOUTH 0°21'25" EAST ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, A DISTANCE OF 670.00 FEET; THENCE LEAVING SAID EAST LINE SOUTH 89°38'35" WEST 1038.98 FEET; THENCE NORTH 10°14'59" WEST 524.46 FEET TO AN INTERSECTION WITH THE NORTHWESTERLY LINE OF THAT CERTAIN STRIP OF LAND 20.00 FEET IN WIDTH GRANTED TO JOHN JOHNSON, JR. AND DELL HALE JOHNSON BY THE AFOREMENTIONED DEED; THENCE NORTH 30°16'00" EAST ALONG SAID NORTHWESTERLY LINE A DISTANCE OF 210.00 FEET; THENCE LEAVING SAID NORTHWESTERLY LINE NORTH 2°42'00" WEST 560.00 FEET; THENCE NORTH 37°18'00" EAST 170.00 FEET; THENCE NORTH 89°12'39" EAST 103.81 FEET; THENCE SOUTH 27°42'00" EAST 230.00 FEET TO AN INTERSECTION WITH THE NORTHWESTERLY LINE OF THE HEREINABOVE DESCRIBED 20.00 FOOT STRIP OF LAND; THENCE ALONG SAID NORTHWESTERLY LINE NORTH 30°16'00" EAST 160.00 FEET; THENCE NORTH 12°21'02" EAST 453.03 FEET; THENCE LEAVING SAID NORTHWESTERLY LINE NORTH 12°07'34" EAST 259.55 FEET; THENCE NORTH 45°27'02" EAST 306.28 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF THE AFOREMENTIONED JOHNSON'S LAND; THENCE ALONG SAID WESTERLY LINE NORTH 6°24'19" WEST 260.00 FEET; THENCE LEAVING SAID WESTERLY LINE NORTH 47°20'08" EAST 851.17 FEET ; THENCE NORTH 74°49'39" EAST 1021.69 FEET TO AN INTERSECTION WITH THE NORTHERLY LINE OF THE AFOREMENTIONED JOHNSON'S LAND; THENCE ALONG SAID NORTHERLY LINE

NORTH 74°45'20" EAST 159.82 FEET; THENCE LEAVING SAID JOHNSON'S LAND NORTH 57°43'23" EAST 367.69 FEET; THENCE SOUTH 85°01'38" EAST 1065.77 FEET; THENCE SOUTH 7°22'43" WEST 1194.21 FEET TO THE TRUE POINT OF BEGINNING.

SAID LAND BEING THAT LAND DESCRIBED IN THE GRANT DEED RECORDED JANUARY 27, 1977, AT FILE/PAGE 77-031584, AND IN THE FINAL ORDER OF CONDEMNATION, RECORDED DECEMBER 1, 1980, AT FILE/PAGE 80-403896, BOTH IN OFFICIAL RECORDS, SAN DIEGO COUNTY.

TOGETHER WITH:

PARCEL 4 OF PARCEL MAP NO. 8979, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 30, 1979 AS FILE NO. 79-315351 OF OFFICIAL RECORDS.

EXCEPTING FROM THE ABOVE DESCRIBED PARCELS THAT PORTION LYING SOUTHERLY AND EASTERLY OF A LINE DESCRIBED AS FOLLOWS:

COMMENCING AT THE HEREINABOVE DESCRIBED POINT 'A'; THENCE SOUTH 0°21'25" EAST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 5, A DISTANCE OF 670.00 FEET; THENCE AT A RIGHT ANGLE SOUTH 89°38'35" WEST, ALONG THE LINE HEREINABOVE REFERRED TO AS "SOUTH 89°38'35" WEST 1038.98 FEET", 260.56 FEET TO THE TRUE POINT OF BEGINNING OF SAID LINE; THENCE NORTH 7°21'56" EAST 115.57 FEET; THENCE NORTH 2°28'32" WEST 245.34 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 185.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 47°33'51" AN ARC LENGTH OF 153.58 FEET; THENCE TANGENT TO SAID CURVE NORTH 45°05'18" EAST 287.54 FEET; THENCE SOUTH 89°50'02" EAST 326.82 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 29.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°39'46" AN ARC LENGTH OF 45.38 FEET; THENCE TANGENT TO SAID CURVE SOUTH 0°10'16" EAST 11.45 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 130.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14°09'26" AN ARC LENGTH OF 32.12 FEET; THENCE TANGENT TO SAID CURVE SOUTH 14°19'42" EAST 28.11 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY WHOSE RADIUS BEARS SOUTH 29°29'15" EAST 842.00 FEET SAID CURVE ALSO BEING THE SOUTHEASTERLY LINE OF SAID PARCEL 4 OF PARCEL MAP NO. 8979; THENCE NORTHEASTERLY ALONG SAID SOUTHEASTERLY LINE AND ITS NORTHEASTERLY PROLONGATION THROUGH A CENTRAL ANGLE OF 29°35'35" AN ARC LENGTH OF 434.89 FEET; THENCE TANGENT TO SAID CURVE SOUTH 89° 53'40" EAST 229.81 FEET TO A COURSE HEREINABOVE REFERRED TO AS "SOUTH 03°42'44" EAST 1126.84 FEET" AND THE TERMINUS OF SAID EXCEPTION LINE.

CONTAINING A NET AREA OF 147.717 ACRES MORE OR LESS.

ATTACHED HERETO AND MADE A PART OF THIS LEGAL DESCRIPTION, IS A PLAT LABELED EXHIBIT "B".

THIS REAL PROPERTY DESCRIPTION AND PLAT HAVE BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYORS ACT.

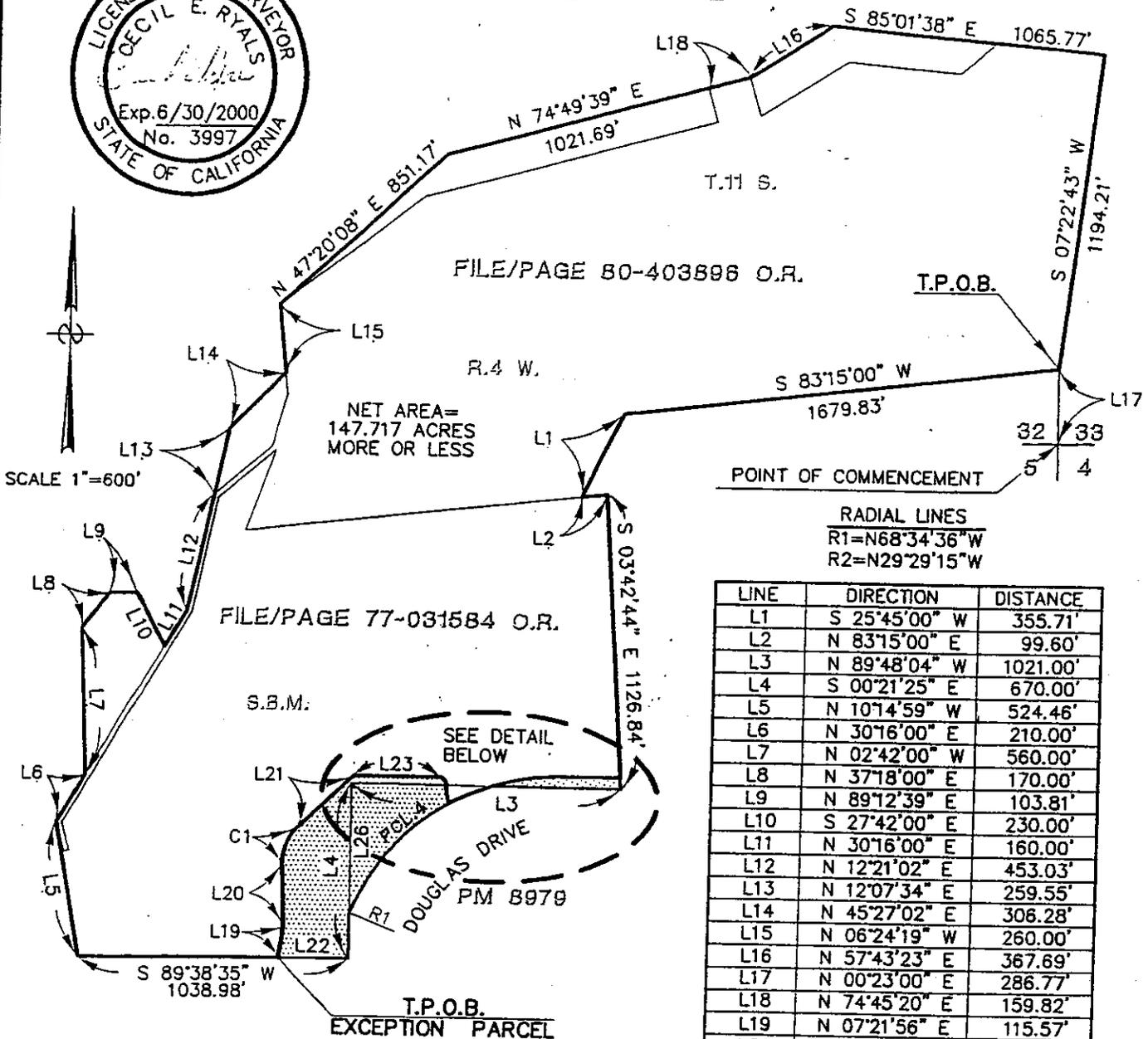
SIGNATURE *C. E. Ryals*
LICENSED LAND SURVEYOR

DATE 2/08/2000





EXHIBIT 'B'

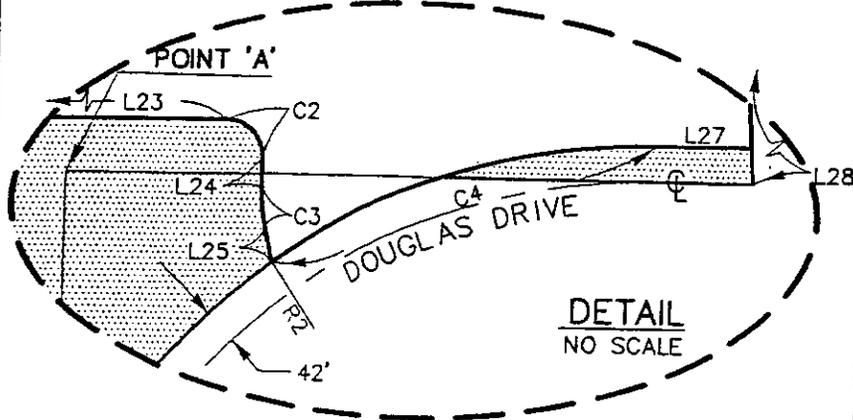


SCALE 1"=600'

RADIAL LINES
 R1=N68°34'36"W
 R2=N29°29'15"W

LINE	DIRECTION	DISTANCE
L1	S 25°45'00" W	355.71'
L2	N 83°15'00" E	99.60'
L3	N 89°48'04" W	1021.00'
L4	S 00°21'25" E	670.00'
L5	N 10°14'59" W	524.46'
L6	N 30°16'00" E	210.00'
L7	N 02°42'00" W	560.00'
L8	N 37°18'00" E	170.00'
L9	N 89°12'39" E	103.81'
L10	S 27°42'00" E	230.00'
L11	N 30°16'00" E	160.00'
L12	N 12°21'02" E	453.03'
L13	N 12°07'34" E	259.55'
L14	N 45°27'02" E	306.28'
L15	N 06°24'19" W	260.00'
L16	N 57°43'23" E	367.69'
L17	N 00°23'00" E	286.77'
L18	N 74°45'20" E	159.82'
L19	N 07°21'56" E	115.57'
L20	N 02°28'32" W	245.34'
L21	N 45°05'18" E	287.54'
L22	S 89°38'35" W	260.56'
L23	S 89°50'02" E	326.82'
L24	S 00°10'16" E	11.45'
L25	S 14°19'42" E	28.11'
L26	S 00°21'25" E	495.58'
L27	S 89°53'04" E	229.81'
L28	S 03°42'44" E	1126.84'

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	47°33'51"	185.00'	153.58'
C2	89°39'46"	29.00'	45.38'
C3	14°09'26"	130.00'	32.12'
C4	29°35'35"	842.00'	434.89'



Right-Of-Way Engineering Services, Inc.
 4167 Avenida De La Plata Ste. 114 • Oceanside, CA 92056
 Drawing file name: osmunigolfse.dwg Plotted 2-8-2000

EXCEPTION PARCEL TO LEASEHOLD 5.887 ACRES MORE OR LESS

EXHIBIT "C"

General Description of the Improvements

The listed improvements are intended to closely follow the suggested golf course Master Plan prepared by Rainville – Bye Golf Consultants and Architects.

Golf Course Tee Boxes: Some new additions along with the expansion, relocation and surface grading of existing tee boxes.

Golf Cart Paths: Some new additions or expansions along with the relocation and repairs of existing golf cart paths.

Fairway Surface Drainage: Identify troublesome drainage areas in the fairways and repair or correct the problem. Some more serious drainage issues will be part of the future irrigation system replacement as well as the proposed drainage improvements planned for Pilgrim Creek.

Bunker Improvements: Problematic greenside and fairway bunkers will need sand replacement, drainage repairs and some edge renovation. Also institute a regular sand replacement program as part of the regular annual capital improvement projects.

Driving Range: Contribute to the city's existing driving range improvement fund to complete the planned driving range improvements which could include surface grading with improved drainage, rodent eradication, lighting repairs and new targets. Also possibly consider a separate building or area for the golf ball dispensing machine.

Buildings: Clean, repair and possibly expand the restaurant building including restroom renovations and improvements to the food distribution areas. The golf shop and cart facility needs some minor improvements and repairs. The main check in counter needs to be expanded and redesigned.

Re-design two Golf Holes: The design of the 12th & 13th holes need to be examined. Closely follow the master plan to re-design and improve these two holes.

New Irrigation System: The existing pump station and controllers are relatively new but the remaining irrigation system needs to be replaced.

Major Drainage & Wetlands Renovations: Subject to agency approvals the wetlands area needs to be dredged and areas around the wetlands need to be shaped and graded to improve some of the problematic drainage issues. As mentioned before some of the other minor drainage issues will be improved as part of the new irrigation installation.

EXHIBIT "E"

TECHNICAL MAINTENANCE SPECIFICATIONS

I. PUTTING GREEN AND COLLAR MAINTENANCE

A. Mowing

Shall be done with walk-type greensmowers seven (7) days per week in the active growing season, and three (3) days per week in the pre- and post-season, depending upon climatic or growth conditions. Frequencies and height of cut shall be 0.19" to 0.31", and may be modified from time to time as deemed necessary by the GOLF COURSE SUPERINTENDENT with the approval of the OWNER REPRESENTATIVE. Collars and approaches shall be mowed three (3) complete cycles per week, or more often depending upon growth conditions. Collars and approaches height of cut shall be between 0.6" to 1".

The practice of alternating mowing patterns will be followed.

B. Aerification:

Shall be done a minimum of two (2) times per year, once by conventional coring methods and once by deep tine techniques. This shall be carried out with the minimum of interference to play.

C. Grain Control:

Light vertical mowing may be scheduled for grain control during the active growing season. Comb or brush attachment on greensmower may be utilized to minimize grain formation.

D. Topdressing:

Following all aerifications and two (2) additional applications, approved topdressing material shall be similar to the greens construction material, and shall be brushed into the turf. Application shall be done with an approved topdressing spreader. Light topdressing may be done in conjunction with vertical mowing.

E. Fertilizing

Type of materials and analysis shall be determined from the results of soil nutrient level testing and growing conditions at the time of treatment. Under normal conditions, one half (1/2) to three quarters (3/4) pound of actual nitrogen per

1,000 square feet may be applied per growing month. Typically, poly-coat materials may be utilized. Soil tests shall be taken at least one (1) time per year.

F. Insect Control

Applications of appropriate insecticide as needed to correct developing insect problem.

G. Disease Control

Shall be on a preventative basis. A corrective fungicide treatment shall be given as injury symptoms appear.

H. Irrigation

Application shall be to a full depth of root zone with each irrigation. Timing should be prior to the development of visual wilt symptoms. Mid-day syringing may be required to prevent wilt. Timing may be based on footprint symptom evidence.

II. TEE MAINTENANCE

A. Mowing:

Shall be three (3) complete cycles per week, as required during the pre- and post season, depending upon climatic or growth conditions. Height of cut shall be between 0.3" to 0.6". Clippings will be removed.

B. Aerification

Shall be two (2) times per year, or more often if needed. Spot aerifications may be done to relieve compaction.

C. Thatch Control

Light vertical mowing may be scheduled for grain control during the active growing season. Comb or brush attachment on greensmower may be utilized to minimize grain formation.

D. Topdressing

Shall be done two (2) times per year, or more as required. Divot repair shall be performed weekly or as needed.

E. Fertilizing

Types of material and analysis shall be determined from the results of soil nutrient level testing and growing conditions at the time of treatment. Under normal conditions, one half (1/2) to three quarters (3/4) of a pound of actual nitrogen per 1,000 square feet may be applied per growing month. Typically, poly-coat materials may be utilized. Soil tests shall be taken at least one (1) time per year.

F. Weed Control

Shall be accomplished by applying pre- and post-emergence herbicides as needed.

G. Insect Control

Applications of appropriate insecticide as needed to correct developing insect problem.

H. Disease Control

Shall be on a curative basis. A corrective fungicide treatment shall be given as injury symptoms appear.

I. Irrigation

Application shall be to a full depth of root zone with each irrigation. Timing should be prior to the development of visual wilt symptoms. Mid-day syringing may be required to prevent wilt. Timing may be based on footprint symptom evidence.

J. Litter Control

Policing shall be done on a daily basis for the removal of all litter (i.e.: paper, leaves, cans, bottles, tree branches, etc.)

III. SURROUNDS (Green and Tee Aprons)

A. Mowing

Shall be performed a minimum of two (2) cycles per week, or more often depending upon growth conditions. Normal cutting height shall be between 1.2" to 3".

B. Aerification

Shall be one (1) time per year, or more often if needed. Spot aerifications may be done to relieve compaction.

C. Fertilizing

Types of material and analysis shall be determined from the results of soil nutrient level testing and growing conditions at the time of treatment. Under normal conditions, one half (1/2) to three quarters (3/4) of a pound of actual nitrogen per 1,000 square feet may be applied per growing month. Typically, poly coat materials may be utilized. Soil tests shall be taken at least one (1) time per year.

D. Weed Control

Shall be accomplished by applying pre- and post-emergence herbicides as needed.

E. Insect Control

Apply an appropriate insecticide as needed when potentially serious insect injury symptoms first appear.

F. Disease Control

A corrective fungicide treatment shall be given, should any injury symptoms appear.

G. Irrigation

Application shall be to a full depth of root zone with each irrigation. Timing should be prior to the development of visual wilt symptoms.

H. Litter Control

Policing shall be done on a daily basis for the removal of all litter (i.e.: paper, leaves, cans, bottles, tree branches, etc.)

IV. FAIRWAY MAINTENANCE

A. Mowing

Shall be performed a minimum of three (3) cycles per week during the active growing season. Normal cutting height shall be between 0.5" and 1.0", depending upon rate of growth. The practice of alternating mowing patterns may be followed.

B. Aerification

Coring or slicing may be one (1) time per year, or more often to correct soil compaction problems. Additional spot aerification may be needed on sited subject to intense golf cart traffic compaction.

C. Fertilizing

Types of material and analysis shall be determined from results of the soil nutrient level testing and growing conditions at the time of treatment. Under normal conditions, eighty (80) to one hundred sixty (160) pounds of actual nitrogen per acre may be applied in the growing season, split in two to four (2-4) applications. Typically, poly-coat materials may be utilized. Soil test shall be taken one (1) time per year.

D. Weed Control

Shall be accomplished by applying post-emergence herbicides as needed.

E. Insect Control

Apply an appropriate insecticide as needed when potentially serious insect injury symptoms first appear.

F. Disease Control

A corrective fungicide treatment shall be given, should any injury symptoms appear

G. Irrigation

Application shall be to a full depth of root zone with each irrigation. Timing should be prior to the development of visual wilt symptoms.

H. Litter Control

Policing shall be done on a daily basis for the removal of all litter (i.e.: paper, leaves, cans, bottles, tree branches, etc.)

I. Blowing:

Shall be scheduled to remove leaves and clippings as conditions warrant

V. ROUGH MAINTENANCE

A. Mowing

Shall be performed a minimum of one (3) cycles per week during the active growing season, or as dictated by the rate of growth. Roughs height shall be between 1.2" and 3".

B. Aerification

Coring or slicing may be one (1) time per year, or more often to correct soil compaction problems. Additional spot aerification may be needed on sited subject to intense golf cart traffic compaction.

C. Fertilizing

Types of material and analysis shall be determined from results of the soil nutrient level testing and growing conditions at the time of treatment. Under normal conditions, eighty (80) to one hundred sixty (160) pounds of actual nitrogen per acre may be applied in the growing season, split in tow to four (2-4) applications. Typically, poly-coat materials may be utilized.

D. Weed Control

Shall be accomplished by applying post-emergence herbicides as needed.

E. Insect Control

Apply an appropriate insecticide as needed when potentially serious insect injury symptoms first appear.

F. Disease Control

A corrective fungicide treatment shall be given, should any injury symptoms appear

G. Irrigation

Application shall be to a full depth of root zone with each irrigation. Timing should be prior to the development of visual wilt symptoms.

H. Litter Control

Policing shall be done on a daily basis for the removal of all litter (i.e.: paper, leaves, cans, bottles, tree branches, etc.)

VI. COURSE SET-UP

a. Cups

Cups shall be changed every day the greens are mowed. During this operation, inspection of the putting surface shall be made, and any ball marks or other damage will be repaired. Practice green cups shall be changed four (4) times per week.

b. Teeing Ground

Tee markers shall be moved as often as the cups are set on the greens. Litter containers shall be emptied daily. Tee towels shall be changed weekly. Ball washers shall be checked at least two (2) times per week, and filled as needed. Drinking water containers shall be filled daily, or more frequently as required, and checked weekly for safe and sanitary operation.

VII. SAND BUNKER MAINTENANCE

A. Raking

Shall be accomplished in its entirety three (3) days per week to maintain a semi-soft, dry condition of the desired smoothness. Checking and spot raking shall be done daily.

B. Edging

Edging shall be bi-annually, or as required. Care shall be taken to maintain the design outline of the bunkers to insure the integrity of the bunker shape

C. Weed Control

Shall be accomplished by applying a post-emergent herbicide, as required

D. Sand Depth

Bunkers shall be randomly checked monthly for depth of sand, and shall be maintained no less than four (4") deep. Additional sand shall be added where there is less than four inches (4") of sand.

E. Litter Control

Policing shall be done on a daily basis for the removal of all litter (i.e.: paper, leaves, cans, bottles, tree branches, etc.)

VIII. TREE AND SHRUB MAINTENANCE

A. Pruning

Height limitation for tree pruning is 12'. Low hanging branches that present a hazard to golf carts or to the golfer, and can be reached with a pole pruner, shall be removed, where practical. Shrubs shall be shaped or pruned only as necessary to maintain the natural form of the plant.

Stakes and ties are to be inspected monthly for correct installation and placement. When trees are stable enough and have developed caliper to stand alone, stakes and ties shall be removed. Trees staked (without ties) for protection from golfer damage may remain staked an additional period of time.

B. Tree Basins

A six to eight inch (6"-8") radius circle around the base of trees shall be free of weeds, and turf shall be maintained by the use of a legally approved herbicide. Stakes or guy wires shall be treated in the same manner as the base of trees described above.

C. Pest Control

Frequent inspections of all trees and shrubs shall be done. When insect or disease organisms are detected, appropriate control measures shall be taken.

IX. IRRIGATION SYSTEM MAINTENANCE

A. Scheduling

Watering shall be scheduled by the GOLF COURSE SUPERINTENDENT, and performed by the irrigation specialist, in quantities and frequencies consistent with seasonal requirements, and shall be done at night so as not to interfere with golf play, with the exception of mid-day syringing, when required.

B. Inspection

Irrigation coverage shall be reviewed daily

C. Sprinkler, Valve, Irrigation Lines, and Controller Repair

Replacement of small or repairable parts for sprinklers and valves shall be repaired without extra charge where the entire sprinkler or valve does not require replacement. All down stream irrigation lines shall be repaired without extra charge.

D. Damage

Any damages to the system caused by CONTRACTOR'S equipment or carelessness while carrying out maintenance operations shall be repaired without charge. Where practical, repairs shall be made within one (1) watering period.

Vandalism, excessive damage caused by others, or faulty controllers shall be reported promptly to the owner's representative. Cost of labor and material to perform repair shall be an extra, and be paid for by MANAGEMENT upon authorization.

X. DRAINAGE MAINTENANCE

A. Intake and Outflow Structures Maintenance

Mowing and edging shall be done as needed to keep structures clear of grass and weeds. Policing shall be done weekly to assure grates are clear of debris.

B. French Drains

Where applicable, French drains may be located and checked for proper operation, CONTRACTOR shall advise the OWNERS REPRESENTATIVE where French drains need to be installed. Installation of French drains, including materials, shall be an extra cost item requiring prior approval by the OWNER'S REPRESENTATIVE.

XI. LAKE BANKS AND DITCHES MAINTENANCE

A. Slopes and Banks Maintenance

Shall be mowed a minimum of two (2) complete cycles per month during the active growing season

B. Litter Control

Shall be inspected on a daily basis, and debris removed as needed.

XII. CART PATH MAINTENANCE

A. Edging

Shall be done bi-annually during the active growing season

B. Litter Control

Policing shall be done on a daily basis for the removal of all litter (i.e.: paper, leaves, cans, bottles, tree branches, etc.)

XIII. MISCELLANEOUS

A. Week-end and Holiday Schedule

Greens mowing and course set-up shall be done

B. Practice Range

Move tee markers daily, fill divots with sand mix, police area, and remove litter.

C. Materials

All maintenance materials will be supplied by CONTRACTOR, and shall conform to the specifications.

D. Accessories

Direction signs, ropes (permanent and temporary), stakes, OB, and hazard stakes, shall be maintained on a daily basis. Directional signs, putting green cups, pins, ball washer brushes, cleat brushes, and tee markers (that cannot be refurbished or repaired) shall be replaced no more than once per year without extra cost. Silk screened flags may be replaced tow (2) times per year without extra cost. Additional client-requested custom accessories not listed above shall be an extra cost, and shall be paid for by MANAGEMENT upon authorization.

E. Burrowing Animals, and Insect and Disease Control

CONTRACTOR shall take appropriate action to minimize the effects of burrowing animals, and insect and disease infestations.

F. Mulched Areas

Mulched areas shall be edged and kept free of litter

XIV. CLUBHOUSE LANDSCAPE MAINTENANCE

A. Turf Care

The mowing of all turf areas shall be no less than twice per week under normal conditions. The rate of forty to one hundred sixty (40-160) pounds of actual nitrogen per acre may be applied in the growing season, split into two to four (2-4) applications. Typically, poly-cost materials may be utilized. Soil tests shall be taken one (1) time per year.

The edging of all walks and other paved areas will be performed monthly during the active growing season.

B. Groundcover Care

Edge or prune groundcover as needed to keep from spreading over walks or curbs. Pruning to maintain a natural shape will be a continuous operation. Keep weed-free at all seasons of the year by the use of pre-emergent, selective herbicides and manual weeding.

C. Shrub Care

Trim to maintain a natural shape as a continuous operation, but not when the plant is in flower. It is not a recommended horticultural practice to shear shrubs; however, if it is requested by the OWNER'S REPRESENTATIVE, we will shear shrubs to the desired shape.

A fertilizer program may be two to four (2-4) applications per year.

Applications of pesticides shall be carried out on a curative "as needed" basis. IPM (Integrated Pest Management) program will govern rates and timing of applications. All applicable regulations shall be strictly adhered to, and all required reporting shall be the responsibility of CONTRACTOR.

Shrub beds will be kept weed free by the use of pre-emergent, selective herbicides, mulch, and manual weeding.

Spent flowers, leaves, and other landscape debris shall be removed from plant areas as required.

D. Tree Care

All pruning cuts will be made flush. "Stubbing" will not be permitted. Pruning for general clean-up of trees is recommended in the winter and fall. Tree pruning is limited to trees 15' or less in height. Trees shall be inspected for staking and guying. Tree guys shall be inspected at least three (3) times per year to prevent bark wounds caused by abrasion. Removal of tree stakes will be considered as soon as possible to encourage tree development.

A cleared circle shall be maintained at the base of trees to reduce competition for nutrients by lawns and ground covers, and to prevent damage from landscape equipment.

E. Litter Control

Paper, grass clipping, cans, and branches shall be removed from the landscape on a daily basis. All parking areas and/or walkways shall be kept clear of debris generated from the maintenance operation.

XV. ITEMS NOT INCLUDED

A. Acts of God Damage

Damage to the golf course as a result of acts of God may include, but are not necessarily limited to: removing blow-over trees, broken limbs, and stumps; or removing silt or debris deposited by floods. Damage from hurricanes or other unusual occurrences will be handled on an individual basis as a pre-approved extra cost. The maintenance staff shall make every effort to repair damage, and restore and clean the golf course within the framework of the Agreement, without extra cost.

Specialized equipment, arborists, and additional labor requested by the OWNER'S REPRESENTATIVE will require a pre-approved extra cost.

B. Irrigation System and Pump Stations

All pumps or pump stations and controllers shall be an extra cost, and may be contracted by others with MANAGEMENT or by the CONTRACTOR.

C. Tree, Shrub, and Flower Replacement

The loss of trees, shrubs, or flowers not caused by the CONTRACTOR may be replaced as an extra charge. It shall be the responsibility of CONTRACTOR to bring such needs to the OWNER REPRESENTATIVE'S attention.

D. Arborist Work

Major tree pruning or other arborist related work shall be an extra cost item requiring prior approval by the OWNER'S REPRESENTATIVE. It shall be the responsibility of CONTRACTOR to provide estimates for needed work to the OWNER REPRESENTATIVE'S attention.

D. Capital Improvements

Work performed over and above the normal maintenance provided in the Agreement, such as excessive earth moving, reconstruction of a golf hole, tee, or green construction or reconstruction, brush clearing, and installation of French drains, including materials for the aforementioned work, shall be an extra cost item requiring prior approval by the OWNER'S REPRESENTATIVE.

E. Bunker Sand

Removal of bunker sand and replacing with new sand shall be an extra cost item requiring prior approval by the OWNER'S REPRESENTATIVE.

F. Golf Accessories

Installation or replacement of putting green cups and flags, bunker rakes, tee markers, trash receptacles, ball washers, cleat brushed, benches, and other similar golf course equipment over and above the specified annual replacement shall be an extra cost item requiring prior approval by the OWNER'S REPRESENTATIVE. Any major accessory that has been stolen, damaged, or vandalized shall be replaced, repaired, and/or reinstalled as an extra charge. It is the responsibility of the CONTRACTOR to bring to the OWNER REPRESENTATIVE'S attention any such needs.

G. Landscaped Areas

The installation of additional trees, shrubs, vines, and groundcover shall be an extra cost item requiring prior approval by the OWNER'S REPRESENTATIVE. Deep feeding of trees requiring supplemental fertilization for growth and development shall be an extra cost item requiring prior approval by the OWNER REPRESENTATIVE. Class One fine pruning of trees over 15' in height shall be an extra cost item requiring prior approval by the OWNER REPRESENTATIVE. Materials for mulching and installation of annual color shall be an extra cost item requiring prior approval by the OWNER REPRESENTATIVE.

EXHIBIT "F"

Anticipated Oceanside Green Fees & Rates As Of Summer 07

		18 Holes walking	18 With cart	9 Hole walking	9 hole riding
Regular	<i>Monday- Thursday</i>	\$26.50	\$38.50	\$15.25	\$23.50
	<i>Friday</i>	\$26.50	\$38.50	\$15.25	\$23.50
	<i>Weekend / Holiday</i>	\$35.00	\$47.00	\$17.50	\$25.75
Resident	<i>Monday- Thursday</i>	\$23.00	\$33.75	\$12.75	\$21.00
	<i>Friday</i>	\$23.00	\$33.75	\$12.75	\$21.00
	<i>Weekend / Holiday</i>	\$25.50	\$36.25	\$15.25	\$23.50
Senior Resident	<i>Monday- Thursday</i>	\$12.00	\$22.75	\$6.00	\$14.25
	<i>Friday</i>	\$12.00	\$22.75	\$6.00	\$14.25
	<i>Weekend / Holiday</i>	\$25.50	\$36.25	\$15.25	\$23.50
Twilight Resident	<i>Monday- Thursday</i>	\$12.75	\$21.00		
	<i>Friday</i>	\$12.75	\$21.00		
	<i>Weekend / Holiday</i>	\$15.25	\$23.50		
Twilight Regular	<i>Monday- Thursday</i>	\$15.25	\$23.50		
	<i>Friday</i>	\$15.25	\$23.50		
	<i>Weekend / Holiday</i>	\$17.50	\$25.75		

<i>18-Hole cart (per rider)</i>	
<i>Resident</i>	\$10.75
<i>Regular</i>	\$12.00
<i>9-Holes (per rider)</i>	\$8.25

