

LATE MATERIAL

MEETING DATE 5-16-13

ITEM # 14A.

Larry Werner

From: Brad Bonkowski
Sent: Monday, May 13, 2013 7:51 PM
To: Larry Werner
Cc: Bob Crowell; John McKenna; Jim Shirk; Karen Abowd; Randy Munn; NARombardo
Subject: Golf Course lease comments

My lease comments are below.

Other than Larry please do not respond to this email so we do not violate the OML.

- D First, I do not see any language pertaining to the agreement reached at the last meeting that the City has the right to put the operator contract out to bid at its sole discretion. This should probably be included in section 12.5 or added in a new section 12.6.
- D There was also an agreement at the last meeting to include assignment clauses in all vendor contracts going forward from the execution date of this lease due to the rolling five year term.
- I Sections 1.7.1 through 1.7.9 - delete the first word of each section (To) so that it reads correctly.
- I Section 1.8 - add the words "member of the" between the words "one" and "Board"
- I Section 5.1 (2nd line on page 8) - change so it reads "In the State of Nevada, at CCMGC expense."
- I Sub-sections 6.1(a) through (d) - change so the redline change reads "except for repairs caused by the negligence of the operator, which shall be at the sole expense of the operator;"
- D A question on 7.1(a). Can CCMGC make improvements up to \$49,999 (or under whatever the then current limit in NRS 332.039(a) is) without the City's authorization and then require the City to pay for those improvements? If the answer to that question is yes, then I believe it would be prudent to set the limit for improvements without prior City authorization to \$10,000. This also ties in to 7.1(c) and the use of the word "major" rather than a dollar amount for improvements. Is "major" defined as the limits of NRS 332.005 or something else? It should be clarified in the agreement.
- D Section 8.6 - In the third line of the section, delete the words "at the request of the City or its designated representative". We should always have current copies of all insurance policies in the file as well as binders for the proof of additional insured requirement.
- I Section 11.1.1 - clarify that it is five "business" days which I believe is in line with current landlord tenant law for eviction proceedings.
- I Section 11.1.2, 11.1.4 and 11.2.1 - change "30 days" to "30 calendar days" for clarification.
- I Section 11.1.5(b) - delete the words "trustee or" and change the word "terminate" to "remove" so this section matches 11.1.5(a)
- D I have concerns about the timing between sections 12.5 and 12.6. If the City terminates under 12.5, which requires the City to have an approved comprehensive plan and a funding source already in place 90 days before notice to terminate is delivered to the operator, then the operator can request binding arbitration under 12.6. It potentially allows the operator (through an arbitrator) to prevent the City from moving forward with vetted and approved plans for an alternative use for the land. This seems to contradict the intent of being able to look at alternative uses.

Brad Bonkowski

D - NEEDS DISCUSSION by BOS
I - INCLUDED IN LATEST DRAFT 5/15/13

WordPerfect Document Compare Summary

Original document: J:\JCW\D13CCMG003.AGR.WPD

Revised document: J:\JCW\D13CCMG005.AGR.WPD

Deletions are shown with the following attributes and color:

~~Strikeout~~, **Blue** RGB(0,0,255).

Deleted text is shown as full text.

Insertions are shown with the following attributes and color:

Double Underline, Redline, **Red** RGB(255,0,0).

The document was marked with 21 Deletions, 34 Insertions, 0 Moves.

AMENDED AND RESTATED
GOLF COURSE LEASE AGREEMENT

THIS AMENDED AND RESTATED GOLF COURSE LEASE AGREEMENT made as of the _____ day of _____, 2013, by and between CARSON CITY, a municipal corporation of the state of Nevada (the “City”), and CARSON CITY MUNICIPAL GOLF CORPORATION, a non-profit corporation of the state of Nevada (“CCMGC”).

WITNESSETH:

WHEREAS, the City financed and built two (2) golf courses known as EAGLE VALLEY EAST and EAGLE VALLEY WEST, with a club house and maintenance facility (“Golf Course Properties,”); and

WHEREAS, the City values the contribution the Golf Course Properties make to the recreational opportunities available to the citizens of the City; and

WHEREAS, the City believes that it is in the best interests of the public if the Golf Course Properties were managed and operated in the most efficient manner possible; and

WHEREAS, CCMGC has expertise in the management of operating golf course properties; and

WHEREAS, the Golf Course Properties are located on land owned by the City and by Bureau of Land Management (BLM) and patented or leased to the City; and

WHEREAS, the Golf Course Properties have been leased to CCMGC since 1997; and

WHEREAS, the Lease Agreement entered into in 1997 has been renewed and amended several times; and

WHEREAS, City and CCMGC wish to amend and restate the lease effective

_____ 1, 2013 as set forth hereinafter.

NOW, THEREFORE, in consideration of the mutual covenants and promises, the City and CCMGC hereby agree as follows:

I

THE LEASE

1.1 The City hereby leases and subleases to CCMGC the real property with all improvements and fixtures thereon identified in Exhibit "A" attached hereto and incorporated herein by this reference, known as the "Golf Course Properties," all in an "as is" condition and CCMGC accepts said lease subject to the terms and conditions stated herein "Agreement".

1.2 The effective date of this Agreement shall be deemed _____ 1, 2013 ("Effective Date"). The initial term of this Agreement shall be until December 31, 2017. Commencing on December, 31, 2017, the Agreement shall be renewed annually with an effective date of the following January 1st on the same terms and conditions for additional terms of five (5) years each, unless terminated in accordance herewith (Five Year Rolling Renewal). The first Five Year Rolling Renewal shall have an effective date of January 1, 2018.

1.3 It is understood and agreed that Centennial Drive crosses the Golf Course Properties and that Centennial Drive is patented to City by BLM, and that City shall continue to be responsible for the regulation and maintenance of Centennial Drive, unless damaged due to the negligence of CCMGC, its employees or agents which damage shall be the responsibility of CCMGC to promptly repair. CCMGC shall not have the right to close Centennial Drive. All private roads not dedicated to public use on the Golf Course Properties shall be controlled, regulated, and

maintained by CCMGC. City and its agencies and departments shall have the right to use such private roads as necessary.

1.4 CCMGC shall, at its own cost and expense, keep and maintain the Golf Course Properties throughout the term of this Agreement in good, substantial and sufficient condition, repair and order, ordinary wear and tear excepted, including utilities, any and all improvements, expansions and replacements made, except as provided in Section VI of this Agreement.

1.5 It is understood and agreed that CCMGC shall have the right to buy, sell or otherwise dispose of any and all personal property or equipment used at the Golf Course Properties and any replacements thereto so long as any net proceeds of any such sale or disposal are applied to the acquisition of additional or replacement personal property or equipment or to be used solely for the benefit and improvement of the Golf Course Properties. The sale of any fixtures or appurtenances by CCMGC is subject to the prior approval of the City. All such improvements, expansions, replacements and fixtures shall be used at the Golf Course Properties.

1.6 The City agrees that CCMGC has the right to maintain and operate on the Golf Course Properties, through lease arrangements or otherwise, restaurant, convenience and fast food facilities, merchandise sales, golf driving ranges, cart rental, and other concessions and other recreational facilities, all of which shall be open to the public on reasonable terms and conditions to be determined by CCMGC. Subject to the approval of the City, CCMGC may from time to time, rent all or part of the Golf Course Properties for appropriate types of events consistent with a public golf course, some of which may be catered, pursuant to a fee schedule set by CCMGC for the operation of the Golf Course Properties and that all such rental payments and all residual income,

e.g., from promotions, advertising, tournaments, TV and radio benefits, sponsorships, programs, and license fees, shall accrue to CCMGC.

1.7 CCMGC agrees to maintain programs to improve the condition and operation of the Golf Course Properties and whenever documentation is required by the terms hereof, to submit such documentation to the City. To this end, CCMGC agrees ~~as promptly as possible~~:

1.7.1 To provide access to the Golf Course Properties for charitable events (as defined in CCMGC's policy and procedures), and assist in providing such events on reasonable terms and conditions;

1.7.2 To maintain and document a program in coordination with the City for the physical improvement of the Golf Course Properties;

1.7.3 To maintain and document a program for the maintenance of the Golf Course Properties;

1.7.4 To maintain and document a program to teach, introduce, promote and make the game of golf available to the citizens of the Carson City area, including working with public and private schools to advance their opportunity to play and with a primary emphasis on juniors;

1.7.5 To maintain and publicly post in the club house rules and regulations regarding the use and operation of that golf course, including such matters as starting methods, starting times, use of carts, trespassing, vandalism, greens fees, rain delays and rainouts, group functions, charity events, hours of operation, and the like.

1.7.6 To maintain and document a written marketing plan for the Golf Course Properties to promote play on the Golf Course Properties.

1.7.7 To maintain and document policies and procedures for charitable events.

1.7.8 To submit to City's Board of Supervisors for prior approval by the City of any changes in green, practice range or cart fees which exceed an overall ten percent (10%) change (either higher or lower) in any ~~one calendar year~~ previous twelve (12) month period.

1.7.9 To notify the City in writing thirty (30) calendar days prior to the effective date of any and all rate or rate-related changes that affect local citizens' recreational play.

1.8 CCMGC agrees that the City shall appoint one ~~ex-officio non-voting~~ member of the Board of Supervisors as a voting member to CCMGC's Board.

II

ASSIGNMENT OF CONTRACTS; ASSUMPTION OF LIABILITIES

2.1 City represents that it is self-insured for the first \$100,000.00 of a loss. CCMGC shall reimburse City any uninsured amount and City will handle claims for which CCMGC may ultimately be responsible with the City's normal claims procedure. City agrees that before it increases its self-insurance level it will meet and confer with CCMGC concerning CCMGC's liability under the increased limits.

III

PERSONNEL

3.1 CCMGC realizes that operating the Golf Course Properties will require a multiplicity of knowledge and skills. CCMGC, therefore, agrees to hire qualified personnel available to operate and maintain the entire physical plant of the Golf Course Properties at a high level of

efficiency. CCMGC shall be solely responsible for the employment and supervision of personnel hired by CCMGC required for the management, utilization, maintenance, promotion and operation of the Golf Course Properties and for the negotiation of any contracts that may be involved in the employment of such personnel. All employees of CCMGC shall be its employees only and shall not be deemed to be employees of the City.

IV

CITY FUNDING

~~4.1 It is understood and agreed that if CCMGC projects and/or incurs an operating deficit, CCMGC may apply for a loan, according to City's procedures.~~

[INTENTIONALLY LEFT BLANK]

V

ACCOUNTING OBLIGATIONS

5.1 All records of CCMGC pertaining to the performance of its obligations, duties and services hereunder shall be kept in accordance with generally accepted accounting principles, where applicable, and shall be available for inspection by the City or its authorized representatives at all reasonable times. Beginning with the 2013 calendar year, CCMGC shall have prepared by a certified public accountant licensed in the state of Nevada, at its expense, an annual review report to be delivered to the City. The report must be delivered to the city no later than May 31, 2014. CCMGC shall have annual review reports prepared for calendar years 2014, 2015, and 2016 as well. For the 2017 calendar year, and every fifth year thereafter, CCMGC shall have prepared by a certified public accountant licensed in the State of Nevada, at its expense, an audit report to be delivered to the City. The audit report must be delivered to the City no later than May 31st. During

the four year interim periods, a review report shall be prepared by a certified public account licensed in the State of Nevada, at ~~its~~CCMGC expense. The annual review report must be delivered no later than May 31st each year. The City shall have the right to review all books and records of CCMGC at CCMGC offices. CCMGC shall keep its books and records at its principal office and shall maintain them for the term of this Agreement and any extensions.

5.2 Before January 1 of each year, CCMGC shall submit a line item budget to the City for the coming year. This budget shall be presented to the Carson City Board of Supervisors for their ~~approval~~review.

5.3 CCMGC shall submit to the City monthly financial statements to include budget to actual numbers and the number of rounds by rate category (year over year).

5.4 CCMGC shall employ at a minimum the City's accounting control procedures. CCMGC may adopt more stringent accounting controls.

5.5 CCMGC shall provide to City monthly and quarterly financial statements of the financial activities derived from the Golf Course Properties. CCMGC must use generally accepted accounting principles for all accounting practices. CCMGC must use at a minimum the City's accounting controls.

5.6 Any CCMGC employees handling cash or written checks must be bonded.

5.7 CCMGC shall owe commencing _____ six percent (6%) of its gross revenue to the City's Golf Revenue Account in the General Fund to be used for purposes as determined by the Carson City Board of Supervisors including but not limited to payments of current bonded indebtedness, repayment of prior fund balance amounts, capital improvements and infrastructure repair and expansion. "Gross Revenue" shall for purposes of this paragraph mean all

revenue received from the Golf Course, including but not limited to green fees, punch card revenues, pass revenues, pro shop sales and food and beverage sales. Payment shall be made monthly within forty-five (45) days of the last day of the calendar month commencing on the 15th of _____, 2013. For example, the January rent shall be paid on or before March 15th. The February rent shall be due on or before April 15th and so on.

VI

CITY REPAIRS AND MAINTENANCE

6.1 City shall be responsible for repairing and maintaining at City's expense:

(a) Buildings - to include roof, foundation, exterior walls, underground plumbing, water and sewer service lines, HVAC systems and annual fire equipment inspections and maintenance except for repairs cause by the negligence of the operator which shall be at the sole expense of the operator; and

(b) Reclaimed Water System – to include reclaimed transmission lines, mechanical equipment and electrical equipment used to deliver reclaimed water to and throughout the Golf Course properties including but not limited to the main pump station, diversion vaults, valves, check valves, reservoir level controllers, and the maintenance of the pond and reservoir structures except for repairs cause by the negligence of the operator which shall be at the sole expense of the operator; and

(c) All parts and services needed for the maintenance of the irrigation system but not including labor, such as air releases, aerators, pond level controllers, secondary pump stations, filters, water quality monitoring and testing, irrigation supplies, groundwater permit fees; and

~~(d) fee except for repairs cause by the negligence of the operator which shall be at the sole expense of the operator; and~~
(d) Cart Paths, Parking lots, and sidewalks except for repairs cause by the negligence of the operator which shall be at the sole expense of the operator.

VII

PURCHASING

7.1 If CCMGC believes that one or more capital expenditures is needed or desirable, the following procedures shall be followed if it is determined that the provisions of NRS 332.005, et seq., apply to the purchase. The City agrees to reasonably cooperate with CCMGC in following the required procedures:

(a) City must approve any and all infrastructure improvements the cost of which is over the minimum set in NRS 332.039(a), ~~\$50,000~~ including, but not limited to, improvements to any building or fixtures therein, irrigation system, or golf course. City retains ownership of any such improvements made and will carry insurance for them and such shall be subject to this Agreement.

(b) For all other purchases or leases, CCMGC shall make all reasonable, good-faith efforts to acquire equipment and services at the lowest prices consistent with sound business practices and in the best interests of CCMGC and the City.

(c) Any improvement, repair or fixture to the Golf Course Properties shall be the property of the City and shall be considered a part of said Golf Course Properties and leased to CCMGC hereunder. CCMGC shall submit to the City plans for any and all buildings or major

improvements to buildings, fixtures, irrigation or the Golf Course Properties and shall obtain the prior approval of the City for such.

7.2 CCMGC shall not enter into any lease or contract beyond the term of this Agreement without the City's prior written approval unless such lease provides specifically for its termination upon the termination of this Agreement.

VIII

INSURANCE: INDEMNIFICATION

8.1 Before the effective date of the Agreement, CCMGC shall, at its own expense, obtain a commercial general property and casualty package of insurance, issued by a financially sound company, licensed to provide insurance in Nevada, which will protect all parties to this Agreement against any claims for personal injuries, including death, and against claims for property damage which may arise out of, or in connection with, any operation or activities of the CCMGC in the exercise of any of the privileges or duties granted herein. The amount of such insurance shall be as follows: insurance in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence for injuries, including death, an amount of not less than Two Million Dollars (\$2,000,000.00) in the aggregate. This policy shall include coverage for Liquor Liability. City shall be named as additional insured in such a policy. CCMGC shall provide, at its own expense, Auto Liability Insurance in the amount of \$1,000,000 per accident. City shall be named as additional insured in such a policy.

CCMGC shall provide, at its own expense, Excess Liability or Umbrella Liability in an amount of not less than \$1,000,000. This coverage shall provide additional liability of \$1,000,000 of coverage above the General Liability and Auto Liability. The City shall be named as an additional

insured in such a policy. In the event CCMGC purchases additional coverage limits of Excess Liability or Umbrella Liability. The City will be named as an additional insured ~~on~~in all insurance policies.

CCMGC shall provide, at its own expense Pollution Liability Insurance in the amount of \$2,000,000 for each Pollution Incident and \$2,000,000 aggregate limit.

8.2 CCMGC shall provide, at its own expense, Workers Compensation Insurance as required by law.

8.3 CCMGC shall provide, at its own expense, Directors and Officers Liability Insurance.

8.4 CCMGC shall provide, at its own expense, a fidelity bond, which shall cover all parties who handle funds pursuant to this Agreement.

8.5 For each of the above policies, there shall be an endorsement stating that the policies shall not be terminated or reduced, for any cause, without ~~at~~at a minimum of thirty (30) calendar days prior written notice to all insured parties and holders of certificates of insurance.

8.6 All of the above policies shall be kept in force at all times. CCMGC shall provide to the City, prior to the effective date of this Agreement, Certificates' of Insurance for each of the above coverages. Additionally, at the request of the City, or its designated representative, actual copies of the policies shall be provided for review. A policy endorsement will be provided to the City showing the City as an additional insured on the General Liability, Pollution Liability, Auto Liability and Excess Liability or Umbrella policies as requested above.

8.7 The City shall maintain fire or other casualty insurance in respect of the Golf Course Properties on all improvements and fixtures, including without limitation the irrigation

systems, in such amount as was provided for the golf courses immediately prior to the date of this Agreement. This section does not obligate the City to expend City funds for the purpose of obtaining such insurance in excess of the amount heretofore appropriated by the Board. This section does not obligate an appropriation in future years.

8.8 CCMGC shall be liable for, and shall indemnify, defend and hold City harmless from and against any and all claims, damages, judgments suits, causes of action, losses, liabilities and expenses, including attorneys' fees and court costs (collectively, "Indemnified Claims"), arising or resulting from (a) any act or omission of CCMGC or any of CCMGC's agents, employees, contractors, subtenants, assignees, licensees or invitees (collectively, "CCMGC Parties"); (b) the use of the Golf Course Property and conduct of CCMGC'S business by CCMGC or any CCMGC Parties, or any other activity, work or act done, permitted or suffered by CCMGC or any CCMGC Parties, in or about the Golf Course Property; and/or (c) any default by CCMGC of any obligations on CCMGC's part to be performed under the terms of this Agreement. In case any action or proceeding is brought against City or any City Indemnified Parties by reason of any such indemnified Claims, CCMGC, upon notice from City, shall defend the same at CCMGC's expense by counsel approved in writing by City, which approval shall not be unreasonably withheld. Such indemnification shall not be limited to the amounts of insurance provided herein. The City may, at its sole option, decline to accept the defense offered by CCMGC and defend at its own expense. Such defense shall be coordinated with any defense representation available through the auspices of any of the CCMGC's insurers. The defense services provided herein shall not mean or intend that the City shall be responsible for any judgment, liability, obligation or affirmative relief obtained against CCMGC, its trustees, officers or employees, which shall be the responsibility of CCMGC.

8.9 City shall be liable for, and shall indemnify, defend and hold CCMGC and CCMGC's partners, officers, directors, employees, agents, successors and assigns (collectively, "CCMGC Indemnified Parties") harmless from and against, any injury to persons or damage to property located on the Premises or Site (but not for injury to, or interference with, CCMGC's or any CCMGC Indemnified Parties' business or for consequential damages), to the extent such damage or injury arises or results from (a) the gross negligence or willful misconduct of City, its agents or employees and/or (b) the default by City of any obligations on City's part to be performed under the terms of this Agreement; provided, however, that City's indemnity shall not apply or extend to any such damage or injury which is covered by any insurance maintained by CCMGC or any CCMGC Indemnified Parties (or would have been covered had CCMGC obtained the insurance as required under this Agreement). In case any action or proceeding is brought against CCMGC or any CCMGC Indemnified Parties by reason of any such injury or damage indemnified by City as set forth hereinabove, City, upon notice from CCMGC, shall defend the same at City's expense by counsel approved in writing by CCMGC, which approval shall not be unreasonably withheld. Such indemnification shall not be limited to the, amounts of insurance provided herein. CCMGC may, at its sole option, decline ~~to accept~~to accept the defense offered by City and defend at its own expense. Such defense shall be coordinated with any defense representation available through the auspices of any of the City's insurers. The defense services provided herein shall not mean or intend that CCMGC shall be responsible for any judgment, liability, obligation or affirmative relief obtained against City, its trustees, officers or employees, which shall be the responsibility of City. This section does not obligate the City to expend City funds for the purpose of the indemnification of this section in excess of the amount appropriated by the Board and does not obligate an appropriation in future

years.

8.10 CCMGC's and City's indemnification obligations hereunder, respectively, shall survive the expiration or earlier termination of this Agreement. City and CCMGC waive the right to subrogation under their respective insurance policies. CCMGC's covenants, agreements and indemnification above, and City's indemnification above, are not intended to and shall not relieve any insurance carrier of its obligations under policies required to be carried by City or CCMGC, respectively, pursuant to the provisions of this Agreement.

8.11 For purposes of this paragraph VIII, "City" shall include its trustees, officers and employees and "CCMGC" shall include its directors, officers and employees.

IX

DAMAGE OR DESTRUCTION

9.1 CCMGC shall notify the City promptly of any fire or other damage to the Golf Course Properties.

9.2 With respect to any damage or destruction to the Improvements at the Golf Course Properties by fire or other cause at any time during the term of the Agreement, the City shall promptly restore the damaged or destroyed premises or in a good and workmanlike manner. Within thirty (30) calendar days of the occurrence, the City shall give CCMGC a schedule of completion for such restoration. If such schedule contemplates a period of completion in excess of one (1) year from the date of the occurrence, CCMGC shall have the right to terminate this Agreement by written notice given to the City within twenty (20) days of delivery of the schedule of completion. This section does not obligate the City to expend City funds for the purpose of restoring the damaged or destroyed premises in excess of the amount appropriated by the Board and does not obligate an

appropriation in future years.

X

FORCE MAJEURE

10.1 Except as otherwise provided, neither party shall, be obligated to perform hereunder and neither shall be deemed to be in default if performance is prevented by a fire, earthquake, flood, act of God, riot, civil commotion, or other matter or condition of nature, including the unavailability of sufficient water, fuel or energy to operate the Golf Course Properties, or of any law, ordinance, rule, regulation or order of any public or military authority stemming from the existence of economic controls, riot, hostilities, war, or governmental law and regulation. In the event of a labor dispute which results in a strike, picket or boycott affecting CCMGC operation of one or more of the Golf Course Properties or any services described in this Agreement, CCMGC shall not be deemed to be in default or breach of any part of this Agreement, and CCMGC shall continue to be responsible for operating the Golf Course Properties. The foregoing provisions of this covenant do not apply to CCMGC's obligations to make payments to the City pursuant to section 5.7 of this Agreement or to comply with section 14.9 of this Agreement. Payments required by section 5.7 and the covenants relating to the status of the City's outstanding indebtedness in Section 14.9 are absolute and unconditional.

XI

DEFAULT

11.1 Any one or more of the following shall be declared an "Event of Default" or "Events of Default" under this Agreement by City:

11.1.1 CCMGC shall fail to make any payment due to the City pursuant to

section 5.7 of this Agreement when due and further fails to cure the non-payment within five (5) business days after receipt of a written notice of the failure to pay.

11.1.2 CCMGC shall fail to perform or observe any obligation of CCMGC under any provision of this Agreement, and such failure shall continue and shall not be remedied within thirty (30) calendar days after notice, from the City specifying the same; unless in the event of a non-monetary default for causes beyond the reasonable control of CCMGC, such failure cannot be cured within thirty (30) calendar days, and CCMGC advises the City in writing promptly after the City's notice that CCMGC intends to take all steps necessary to remedy such default with due diligence; duly institutes and diligently prosecutes to completion the steps necessary to remedy the same; and remedies the same within a reasonable time after advising the City of CCMGC's intention to do so; or

11.1.3 CCMGC abandons the Golf Course Properties; or

11.1.4 this Agreement or the Golf Course Properties, any part thereof or estate therein, shall be taken upon execution or by other process of law directed against CCMGC, or shall be taken upon or subject to any attachment at the instance of any creditor of or claimant against CCMGC, and said attachment shall not be discharged or disposed of within thirty (30) calendar days after levy thereof. City shall be reimbursed by CCMGC for any cost or expenses incurred by it, if City pays any such claim; or

11.1.5 The occurrence of one of the following:

(a) Its ~~trustees or~~ directors have been found guilty in a court of law of fraud or collusion or gross mismanagement in the conduct or control of its affairs pertaining to this Agreement and the corporation has failed to ~~terminate~~remove said director from the board;

(b) Its ~~trustees or~~ directors have been found guilty in a court of law of misfeasance, malfeasance or nonfeasance in performance of its duties pertaining to this Agreement and the corporation has failed to ~~terminate~~remove said director from the board.

11.2 Any one or more of the following may be declared an “Event of Default” or “Events of Default” under this Agreement by CCMGC:

///

11.2.1 City shall fail to perform or observe any obligation of the City under any provision of this Agreement, and such failure shall continue and shall not be remedied within thirty (30) calendar days after written notice from CCMGC specifying the same; unless for causes beyond the reasonable control of the City, such failure cannot be cured within thirty (30) calendar days, and the City advises CCMGC in writing promptly after CCMGC’s notice that the City intends to take all steps necessary to remedy such default with due diligence; duly institutes and diligently prosecutes to completion the steps necessary to remedy the same; and remedies the same within a reasonable time after advising CCMGC of the City’s intention to do so.

11.3 After an Event of Default on the part of CCMGC, the City shall have the right, at the City’s sole discretion, to elect to terminate this Agreement by notice to CCMGC as provided in Section 12.1. After an Event of Default on the part of the City, CCMGC shall have the right, at CCMGC’s sole discretion, to elect to terminate this Agreement by notice to the City as provided in Section 12.1. The failure of either the City or CCMGC to seek redress for any Event of Default, or to insist upon the strict performance of any provision of this Agreement, shall not prevent either party from thereafter seeking redress, insisting upon the strict performance of any provision of the Agreement, nor prevent a subsequent act which would have originally constituted an Event of

Default from having all the force and effect of any original Event of Default or from requiring performance of any provision herein.

11.4 Where by the terms of this Agreement the City needs to make appropriations to perform an act agreed upon, even if the failure to perform the act would not be an Event of Default because of the City's inability to commit to future appropriations at the time this Agreement was signed, the City's failure to make the appropriation and to perform the act shall give rise to a right in CCMGC to terminate the Agreement.

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XII

TERMINATION

12.1 If the City elects to terminate pursuant to this Agreement, for cause as specified above, it shall give CCMGC written notice of its election to so terminate, specifying in such notice a termination date, which may be immediately or on any other specified date in the case of an Event of Default as specified in section 11.1.1 or section 11.1.3, and which is at least ninety (90) calendar days subsequent to the date of the giving of such notice in the case of any other event of default and on such date this Agreement shall terminate in all respects and. on or before such termination date CCMGC shall vacate the Golf Course Properties and all facilities therein. If CCMGC elects to terminate pursuant to this Agreement, for cause as specified above, it shall give the City written notice of its election to so terminate, specifying in such notice a termination date

which is at least ninety (90) calendar days subsequent to the date of the giving of such notice, and on such date this Agreement shall terminate in all respects and on or before such termination date shall vacate the Golf Course Properties.

12.2 Upon termination of this Agreement, the City and CCMGC shall have no further responsibility or liability under or in respect of this Agreement, except for acts and events occurring prior to, and amounts owed with respect to periods of time prior to, the termination of this Agreement, and except that within sixty (60) calendar days of the receipt or giving of any notice of termination of this Agreement or of the last day of the Term, as the case may be, CCMGC shall deliver to the City an accounting setting forth for the particular fiscal year its Revenues and Operating Expenses to the termination date.

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12.3 Upon termination (whether for cause or as a result of the expiration of the term hereof pursuant to section 1.2), CCMGC shall immediately transfer to the City:

12.3.1 all cash accumulated from Golf Course operations;

12.3.2 any funds previously paid to CCMGC by the City and unexpended to the date of termination;

12.3.3 the equipment and personal property owned by CCMGC used in the operation of the Golf Course Properties, in the condition existing, i.e., “AS IS” at the time of transfer back to the City;

12.3.4 ownership of all specification, plans, drawings and related documents prepared by any architect, consulting engineer or contractor for any facilities at the Golf Course Properties;

12.3.5 copies of all existing books, records, statements pertaining to the Golf Course Properties and its finances since the date of operation; and

12.3.6 all buildings, personally, exhibits, manuals, supplies and fixtures located in and about the Golf Course Properties owned by and used by CCMGC whenever obtained or purchased, for purposes of the Golf Course Properties as stated herein.

12.4 Upon termination (whether for cause or as a result of the expiration of the term hereof pursuant to section 1.2) of this Agreement, CCMGC shall have the right to retain any unexpended grants, bequests, contributions and funds raised or received by it for the benefit of the Golf Course Properties, subject to any restrictions placed thereon by the applicable gift instrument unless such restrictions are released by the donor, and CCMGC may use any such funds for general charitable and educational purposes or return such funds to the donors, if such is the donors' request. All accrued income from admissions, concessions, etc., shall be the property of the City.

12.5 City may, pursuant to a comprehensive plan for using the Golf Course Properties for public purposes other than that as golf courses, terminate this Agreement upon written notice to CCMGC not less than ninety (90) calendar days prior to the effective date set forth in the notice which effective date shall not be prior to final approval of the comprehensive plan by the City with a funding source for effectuating that comprehensive plan.

12.6 In the event this Agreement is terminated and CCMGC believes that the termination is wrongful, CCMGC and City agree to submit to binding Arbitration pursuant to NRS Chapter 38. CCMGC agrees it will not seek damages for future profits in any such arbitration.

XIII

NOTICES

13.1 All notices, requests, demands, elections, consents, approvals, designations and other communications of any kind hereunder (“Notices”) must be in writing and addressed to the parties as follows:

If to the City: City Manager
201 N. Carson Street, Suite 2
Carson City, NV 89703

and

District Attorney
885 E. Musser Street, Suite 2030
Carson City, NV 89701

If to CCMGC: President
CARSON CITY MUNICIPAL
GOLF CORPORATION
3999 Centennial Drive
Carson City, NV 89706

and

ALLISON, MacKENZIE, PAVLAKIS,
WRIGHT & FAGAN, LTD.
402 North Division Street
Post Office Box 646
Carson City, NV 89702

13.2 Any Notice required by this Agreement to be given or made within a specified period of time, or on or before a date certain, shall be deemed given or made only if sent by certified mail, return receipt requested and postage and registry fees prepaid. A Notice so sent by certified mail shall be deemed given on the date of mailing. All other Notices shall be deemed given when received.

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XIV

MISCELLANEOUS

14.1 This Agreement shall be construed and enforced in accordance with, and governed by, the laws of the state of Nevada.

14.2 Except as otherwise specifically permitted hereunder, CCMGC shall not assign or otherwise encumber this Agreement, or sublet the Golf Course Properties (or any portion thereof), or permit the Golf Course Properties to be used by others in violation of this Agreement, without the prior written consent of the City and any attempted assignment, encumbering, subletting or unauthorized use shall be void and of no effect as against the City. Subject to the foregoing, all the provisions of this Agreement, whether so expressed or not, shall be binding upon the respective successors, assigns and legal representatives as stated herein, of the parties hereto and shall inure to the benefit of and be enforceable by the parties hereto and their respective successors, assigns and legal representatives.

14.3 If any lien is filed against the Golf Course Properties by reason of taxes, assessments, work, labor, services or materials supplied or allegedly supplied to CCMGC or anyone claiming through or under CCMGC or by reason of CCMGC's failure to comply with Law, CCMGC shall cause the same to be discharged by payment or otherwise within ninety (90) calendar days after the earlier of (1) notice to CCMGC of the filing or assertion of such lien or (2) notice to CCMGC from the City to the same effect. If CCMGC fails to do so, in addition to any other right or remedy hereunder, the City may (but shall not be obligated to) discharge such lien by bonding or otherwise, and CCMGC shall promptly repay City for such cost. Nothing in this Agreement shall be deemed

or construed in any way as constituting the consent or request of the City, express or implied, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any material for any alteration of the Golf Course Properties.

14.4 Upon observing the provisions of this Agreement, CCMGC shall and may lawfully occupy and enjoy the Golf Course Properties during the Term without hindrance, molestation or interruption.

14.5 Nothing herein shall be deemed to create any joint venture or principal-agent relationship between the parties, and neither party is authorized to, and neither party shall act toward third parties or the public in any manner which would indicate any such relationship with the other. CCMGC is an independent contractor in terms of managing and operating the Golf Course Properties.

14.6 If any subsection, sentence, clause, phrase, or portion of this Agreement is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Agreement.

14.7 CCMGC shall perform all services hereunder in compliance with all applicable laws and regulations of the United States of America and agencies thereof, and of the state of Nevada, and in compliance with all applicable provisions of the Charter and local laws of the City. CCMGC agrees to comply with City law, rules, and regulations pertaining to minority business opportunities and minority employment.

14.8 CCMGC agrees to take no action that would place the City in a position of being in violation of the BLM patent and lease issued pursuant to the Recreation and Public Purpose

Act (R&PPA), 43 U.S.C. § 869 to 869-4.

14.9 CCMGC agrees to take no action that would jeopardize the tax exempt status of the City's bonds and notes. CCMGC agrees that it will not make any use of the (Golf Course Properties or any portion thereof which would, or take any other action with respect to those properties which would, or omit to take any action which, if omitted, would, cause interest on any bonds and notes the City has issued for the golf course to lose its exemption from gross income or alternative minimum taxable income for federal income tax purposes. CCMGC shall consult with the City and, if necessary, its bond counsel in complying with this covenant. Without limiting the foregoing, CCMGC will consult with the City and its bond counsel prior to entering into any lease, management contract, or other arrangement which would allow a person other than a governmental entity or an entity described in Section 501(c)(3) of the Internal Revenue Code to use any of the Golf Course Properties on a basis other than that generally available to any member of the general public. CCMGC agrees to maintain its status as a corporation exempt from federal income taxation under Section 501(c)(3) of the Tax Code and to operate the golf course as part of its business that is not an "unrelated trade or business" under the Tax Code. This agreement is subject to, and CCMGC agrees not to interfere with the City complying with, all applicable covenants and representations contained in the ordinances and resolutions of the City authorizing the issuance of bonds and notes for the golf course.

14.10 CCMGC for itself and its successors and/or assigns, agrees that in the performance of its duties hereunder, it will fully comply with the applicable provision of R&PP Act and Title V of the Civil Rights Act of 1964, as well as the applicable provisions of all Ordinances, Executive Orders, Laws of Carson City, state of Nevada, or United States of America relating to non-discrimination and equal opportunity.

14.11 No member of the governing body of the City, and no other officer, employee, or agent of the City who exercises any functions or responsibility in connection with the services to be performed under this Agreement, shall have any personal financial interest, direct or indirect, in this Agreement, or in the Golf Course Properties or in CCMGC.

14.12 If the whole or any part of the Golf Course Properties is taken under power of eminent domain, then City and CCMGC at each party's option shall have the right to terminate pursuant to this Agreement. If the parties elect to continue this Agreement, then City, at its sole option, may make such repairs, alterations, or replacements in order to restore the part of the Golf Course Properties not taken to useful condition. City shall not be obligated to replace any of the land within the Golf Course Properties boundaries if taken by eminent domain.

14.13 All compensation awarded for any taking of the Golf Course Properties or any interest in them shall belong to and be the property of City, CCMGC hereby assigns to City all rights with respect thereto; provided, however, nothing contained herein shall prevent CCMGC from applying for reimbursement from the condemning authority (if permitted by law) but only if such action shall not reduce the amount of the award or other compensation otherwise recoverable from the condemning authority by City.

14.14 This Agreement embodies the entire agreement and understanding between CCMGC and supersedes all prior agreements and understandings relating to the subject matter hereof. This Agreement may not be modified or amended or any provision hereof waived or discharged except in writing signed by the party against whom such amendment, modification, waiver or discharge is sought to be enforced. The Table of Contents and headings of this Agreement are for purposes of convenience only and shall not limit or otherwise affect the meaning of any provision of this Agreement. This Agreement may be executed in several counterparts, each of which

shall be deemed an original, but all of which together shall constitute one and the same instrument.

WITNESS, the hands and seals of the parties hereto as of this day and year above written.

“City”
CARSON CITY

By: _____

ROBERT CROWELL, MAYOR

“CCMGC”
CARSON CITY MUNICIPAL
GOLF CORPORATION

By: _____

STEVE McINTYRE, CHAIRMAN

AMENDED AND RESTATED
GOLF COURSE LEASE AGREEMENT

THIS AMENDED AND RESTATED GOLF COURSE LEASE AGREEMENT made as of the _____ day of _____, 2013, by and between CARSON CITY, a municipal corporation of the state of Nevada (the “City”), and CARSON CITY MUNICIPAL GOLF CORPORATION, a non-profit corporation of the state of Nevada (“CCMGC”).

WITNESSETH:

WHEREAS, the City financed and built two (2) golf courses known as EAGLE VALLEY EAST and EAGLE VALLEY WEST, with a club house and maintenance facility (“Golf Course Properties,”); and

WHEREAS, the City values the contribution the Golf Course Properties make to the recreational opportunities available to the citizens of the City; and

WHEREAS, the City believes that it is in the best interests of the public if the Golf Course Properties were managed and operated in the most efficient manner possible; and

WHEREAS, CCMGC has expertise in the management of operating golf course properties; and

WHEREAS, the Golf Course Properties are located on land owned by the City and by Bureau of Land Management (BLM) and patented or leased to the City; and

WHEREAS, the Golf Course Properties have been leased to CCMGC since 1997;
and

WHEREAS, the Lease Agreement entered into in 1997 has been renewed and amended several times; and

WHEREAS, City and CCMGC wish to amend and restate the lease effective

_____ 1, 2013 as set forth hereinafter.

NOW, THEREFORE, in consideration of the mutual covenants and promises, the City and CCMGC hereby agree as follows:

I

THE LEASE

1.1 The City hereby leases and subleases to CCMGC the real property with all improvements and fixtures thereon identified in Exhibit "A" attached hereto and incorporated herein by this reference, known as the "Golf Course Properties," all in an "as is" condition and CCMGC accepts said lease subject to the terms and conditions stated herein "Agreement".

1.2 The effective date of this Agreement shall be deemed _____ 1, 2013 ("Effective Date"). The initial term of this Agreement shall be until December 31, 2017. Commencing on December, 31, 2017, the Agreement shall be renewed annually with an effective date of the following January 1st on the same terms and conditions for additional terms of five (5) years each, unless terminated in accordance herewith (Five Year Rolling Renewal). The first Five Year Rolling Renewal shall have an effective date of January 1, 2018.

1.3 It is understood and agreed that Centennial Drive crosses the Golf Course Properties and that Centennial Drive is patented to City by BLM, and that City shall continue to be responsible for the regulation and maintenance of Centennial Drive, unless damaged due to the negligence of CCMGC, its employees or agents which damage shall be the responsibility of CCMGC to promptly repair. CCMGC shall not have the right to close Centennial Drive. All private roads not dedicated to public use on the Golf Course Properties shall be controlled, regulated, and

maintained by CCMGC. City and its agencies and departments shall have the right to use such private roads as necessary.

1.4 CCMGC shall, at its own cost and expense, keep and maintain the Golf Course Properties throughout the term of this Agreement in good, substantial and sufficient condition, repair and order, ordinary wear and tear excepted, including utilities, any and all improvements, expansions and replacements made, except as provided in Section VI of this Agreement.

1.5 It is understood and agreed that CCMGC shall have the right to buy, sell or otherwise dispose of any and all personal property or equipment used at the Golf Course Properties and any replacements thereto so long as any net proceeds of any such sale or disposal are applied to the acquisition of additional or replacement personal property or equipment or to be used solely for the benefit and improvement of the Golf Course Properties. The sale of any fixtures or appurtenances by CCMGC is subject to the prior approval of the City. All such improvements, expansions, replacements and fixtures shall be used at the Golf Course Properties.

1.6 The City agrees that CCMGC has the right to maintain and operate on the Golf Course Properties, through lease arrangements or otherwise, restaurant, convenience and fast food facilities, merchandise sales, golf driving ranges, cart rental, and other concessions and other recreational facilities, all of which shall be open to the public on reasonable terms and conditions to be determined by CCMGC. Subject to the approval of the City, CCMGC may from time to time, rent all or part of the Golf Course Properties for appropriate types of events consistent with a public golf course, some of which may be catered, pursuant to a fee schedule set by CCMGC for the operation of the Golf Course Properties and that all such rental payments and all residual income,

e.g., from promotions, advertising, tournaments, TV and radio benefits, sponsorships, programs, and license fees, shall accrue to CCMGC.

1.7 CCMGC agrees to maintain programs to improve the condition and operation of the Golf Course Properties and whenever documentation is required by the terms hereof, to submit such documentation to the City. To this end, CCMGC agrees promptly:

1.7.1 To provide access to the Golf Course Properties for charitable events (as defined in CCMGC's policy and procedures), and assist in providing such events on reasonable terms and conditions;

1.7.2 To maintain and document a program in coordination with the City for the physical improvement of the Golf Course Properties;

1.7.3 To maintain and document a program for the maintenance of the Golf Course Properties;

1.7.4 To maintain and document a program to teach, introduce, promote and make the game of golf available to the citizens of the Carson City area, including working with public and private schools to advance their opportunity to play and with a primary emphasis on juniors;

1.7.5 To maintain and publicly post in the club house rules and regulations regarding the use and operation of that golf course, including such matters as starting methods, starting times, use of carts, trespassing, vandalism, greens fees, rain delays and rainouts, group functions, charity events, hours of operation, and the like.

1.7.6 To maintain and document a written marketing plan for the Golf Course Properties to promote play on the Golf Course Properties.

1.7.7 To maintain and document policies and procedures for charitable events.

1.7.8 To submit to City's Board of Supervisors for prior approval by the City of any changes in green, practice range or cart fees which exceed an overall ten percent (10%) change (either higher or lower) in any previous twelve (12) month period.

1.7.9 To notify the City in writing thirty (30) calendar days prior to the effective date of any and all rate or rate-related changes that affect local citizens' recreational play.

1.8 CCMGC agrees that the City shall appoint one member of the Board of Supervisors as a voting member to CCMGC's Board.

II

ASSIGNMENT OF CONTRACTS; ASSUMPTION OF LIABILITIES

2.1 City represents that it is self-insured for the first \$100,000.00 of a loss. CCMGC shall reimburse City any uninsured amount and City will handle claims for which CCMGC may ultimately be responsible with the City's normal claims procedure. City agrees that before it increases its self-insurance level it will meet and confer with CCMGC concerning CCMGC's liability under the increased limits.

III

PERSONNEL

3.1 CCMGC realizes that operating the Golf Course Properties will require a multiplicity of knowledge and skills. CCMGC, therefore, agrees to hire qualified personnel available to operate and maintain the entire physical plant of the Golf Course Properties at a high level of

efficiency. CCMGC shall be solely responsible for the employment and supervision of personnel hired by CCMGC required for the management, utilization, maintenance, promotion and operation of the Golf Course Properties and for the negotiation of any contracts that may be involved in the employment of such personnel. All employees of CCMGC shall be its employees only and shall not be deemed to be employees of the City.

IV

[INTENTIONALLY LEFT BLANK]

V

ACCOUNTING OBLIGATIONS

5.1 All records of CCMGC pertaining to the performance of its obligations, duties and services hereunder shall be kept in accordance with generally accepted accounting principles, where applicable, and shall be available for inspection by the City or its authorized representatives at all reasonable times. Beginning with the 2013 calendar year, CCMGC shall have prepared by a certified public accountant licensed in the state of Nevada, at its expense, an annual review report to be delivered to the City. The report must be delivered to the city no later than May 31, 2014. CCMGC shall have annual review reports prepared for calendar years 2014, 2015, and 2016 as well. For the 2017 calendar year, and every fifth year thereafter, CCMGC shall have prepared by a certified public accountant licensed in the State of Nevada, at its expense, an audit report to be delivered to the City. The audit report must be delivered to the City no later than May 31st. During the four year interim periods, a review report shall be prepared by a certified public account licensed in the State of Nevada, at CCMGC expense. The annual review report must be delivered no later than May 31st each year. The City shall have the right to review all books and records of CCMGC

at CCMGC offices. CCMGC shall keep its books and records at its principal office and shall maintain them for the term of this Agreement and any extensions.

5.2 Before January 1 of each year, CCMGC shall submit a line item budget to the City for the coming year. This budget shall be presented to the Carson City Board of Supervisors for their review.

5.3 CCMGC shall submit to the City monthly financial statements to include budget to actual numbers and the number of rounds by rate category (year over year).

5.4 CCMGC shall employ at a minimum the City's accounting control procedures. CCMGC may adopt more stringent accounting controls.

5.5 CCMGC shall provide to City monthly and quarterly financial statements of the financial activities derived from the Golf Course Properties. CCMGC must use generally accepted accounting principles for all accounting practices. CCMGC must use at a minimum the City's accounting controls.

5.6 Any CCMGC employees handling cash or written checks must be bonded.

5.7 CCMGC shall owe commencing _____ six percent (6%) of its gross revenue to the City's Golf Revenue Account in the General Fund to be used for purposes as determined by the Carson City Board of Supervisors including but not limited to payments of current bonded indebtedness, repayment of prior fund balance amounts, capital improvements and infrastructure repair and expansion. "Gross Revenue" shall for purposes of this paragraph mean all revenue received from the Golf Course, including but not limited to green fees, punch card revenues, pass revenues, pro shop sales and food and beverage sales. Payment shall be made monthly within forty-five (45) days of the last day of the calendar month commencing on the 15th of

_____, 2013. For example, the January rent shall be paid on or before March 15th.
The February rent shall be due on or before April 15th and so on.

VI

CITY REPAIRS AND MAINTENANCE

6.1 City shall be responsible for repairing and maintaining at City's expense:

(a) Buildings - to include roof, foundation, exterior walls, underground plumbing, water and sewer service lines, HVAC systems and annual fire equipment inspections and maintenance except for repairs cause by the negligence of the operator which shall be at the sole expense of the operator; and

(b) Reclaimed Water System – to include reclaimed transmission lines, mechanical equipment and electrical equipment used to deliver reclaimed water to and throughout the Golf Course properties including but not limited to the main pump station, diversion vaults, valves, check valves, reservoir level controllers, and the maintenance of the pond and reservoir structures except for repairs cause by the negligence of the operator which shall be at the sole expense of the operator; and

(c) All parts and services needed for the maintenance of the irrigation system but not including labor, such as air releases, aerators, pond level controllers, secondary pump stations, filters, water quality monitoring and testing, irrigation supplies, groundwater permit fee except for repairs cause by the negligence of the operator which shall be at the sole expense of the operator; and

(d) Cart Paths, Parking lots, and sidewalks except for repairs cause by the negligence of the operator which shall be at the sole expense of the operator.

VII

PURCHASING

7.1 If CCMGC believes that one or more capital expenditures is needed or desirable, the following procedures shall be followed if it is determined that the provisions of NRS 332.005, et seq., apply to the purchase. The City agrees to reasonably cooperate with CCMGC in following the required procedures:

(a) City must approve any and all infrastructure improvements the cost of which is over the minimum set in NRS 332.039(a), including, but not limited to, improvements to any building or fixtures therein, irrigation system, or golf course. City retains ownership of any such improvements made and will carry insurance for them and such shall be subject to this Agreement.

(b) For all other purchases or leases, CCMGC shall make all reasonable, good-faith efforts to acquire equipment and services at the lowest prices consistent with sound business practices and in the best interests of CCMGC and the City.

(c) Any improvement, repair or fixture to the Golf Course Properties shall be the property of the City and shall be considered a part of said Golf Course Properties and leased to CCMGC hereunder. CCMGC shall submit to the City plans for any and all buildings or major improvements to buildings, fixtures, irrigation or the Golf Course Properties and shall obtain the prior approval of the City for such.

7.2 CCMGC shall not enter into any lease or contract beyond the term of this Agreement without the City's prior written approval unless such lease provides specifically for its termination upon the termination of this Agreement.

VIII

INSURANCE: INDEMNIFICATION

8.1 Before the effective date of the Agreement, CCMGC shall, at its own expense, obtain a commercial general property and casualty package of insurance, issued by a financially sound company, licensed to provide insurance in Nevada, which will protect all parties to this Agreement against any claims for personal injuries, including death, and against claims for property damage which may arise out of, or in connection with, any operation or activities of the CCMGC in the exercise of any of the privileges or duties granted herein. The amount of such insurance shall be as follows: insurance in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence for injuries, including death, an amount of not less than Two Million Dollars (\$2,000,000.00) in the aggregate. This policy shall include coverage for Liquor Liability. City shall be named as additional insured in such a policy. CCMGC shall provide, at its own expense, Auto Liability Insurance in the amount of \$1,000,000 per accident. City shall be named as additional insured in such a policy.

CCMGC shall provide, at its own expense, Excess Liability or Umbrella Liability in an amount of not less than \$1,000,000. This coverage shall provide additional liability of \$1,000,000 of coverage above the General Liability and Auto Liability. The City shall be named as an additional insured in such a policy. In the event CCMGC purchases additional coverage limits of Excess Liability or Umbrella Liability. The City will be named as an additional insured on all insurance policies.

CCMGC shall provide, at its own expense Pollution Liability Insurance in the amount of \$2,000,000 for each Pollution Incident and \$2,000,000 aggregate limit.

8.2 CCMGC shall provide, at its own expense, Workers Compensation Insurance as required by law.

8.3 CCMGC shall provide, at its own expense, Directors and Officers Liability Insurance.

8.4 CCMGC shall provide, at its own expense, a fidelity bond, which shall cover all parties who handle funds pursuant to this Agreement.

8.5 For each of the above policies, there shall be an endorsement stating that the policies shall not be terminated or reduced, for any cause, without a minimum of thirty (30) calendar days prior written notice to all insured parties and holders of certificates of insurance.

8.6 All of the above policies shall be kept in force at all times. CCMGC shall provide to the City, prior to the effective date of this Agreement, Certificates' of Insurance for each of the above coverages. Additionally, at the request of the City, or its designated representative, actual copies of the policies shall be provided for review. A policy endorsement will be provided to the City showing the City as an additional insured on the General Liability, Pollution Liability, Auto Liability and Excess Liability or Umbrella policies as requested above.

8.7 The City shall maintain fire or other casualty insurance in respect of the Golf Course Properties on all improvements and fixtures, including without limitation the irrigation systems, in such amount as was provided for the golf courses immediately prior to the date of this Agreement. This section does not obligate the City to expend City funds for the purpose of obtaining such insurance in excess of the amount heretofore appropriated by the Board. This section does not obligate an appropriation in future years.

8.8 CCMGC shall be liable for, and shall indemnify, defend and hold City

harmless from and against any and all claims, damages, judgments suits, causes of action, losses, liabilities and expenses, including attorneys' fees and court costs (collectively, "Indemnified Claims"), arising or resulting from (a) any act or omission of CCMGC or any of CCMGC's agents, employees, contractors, subtenants, assignees, licensees or invitees (collectively, "CCMGC Parties"); (b) the use of the Golf Course Property and conduct of CCMGC'S business by CCMGC or any CCMGC Parties, or any other activity, work or act done, permitted or suffered by CCMGC or any CCMGC Parties, in or about the Golf Course Property; and/or (c) any default by CCMGC of any obligations on CCMGC's part to be performed under the terms of this Agreement. In case any action or proceeding is brought against City or any City Indemnified Parties by reason of any such indemnified Claims, CCMGC, upon notice from City, shall defend the same at CCMGC's expense by counsel approved in writing by City, which approval shall not be unreasonably withheld. Such indemnification shall not be limited to the amounts of insurance provided herein. The City may, at its sole option, decline to accept the defense offered by CCMGC and defend at its own expense. Such defense shall be coordinated with any defense representation available through the auspices of any of the CCMGC's insurers. The defense services provided herein shall not mean or intend that the City shall be responsible for any judgment, liability, obligation or affirmative relief obtained against CCMGC, its trustees, officers or employees, which shall be the responsibility of CCMGC.

8.9 City shall be liable for, and shall indemnify, defend and hold CCMGC and CCMGC's partners, officers, directors, employees, agents, successors and assigns (collectively, "CCMGC Indemnified Parties") harmless from and against, any injury to persons or damage to property located on the Premises or Site (but not for injury to, or interference with, CCMGC's or any CCMGC Indemnified Parties' business or for consequential damages), to the extent such damage

or injury arises or results from (a) the gross negligence or willful misconduct of City, its agents or employees and/or (b) the default by City of any obligations on City's part to be performed under the terms of this Agreement; provided, however, that City's indemnity shall not apply or extend to any such damage or injury which is covered by any insurance maintained by CCMGC or any CCMGC Indemnified Parties (or would have been covered had CCMGC obtained the insurance as required under this Agreement). In case any action or proceeding is brought against CCMGC or any CCMGC Indemnified Parties by reason of any such injury or damage indemnified by City as set forth hereinabove, City, upon notice from CCMGC, shall defend the same at City's expense by counsel approved in writing by CCMGC, which approval shall not be unreasonably withheld. Such indemnification shall not be limited to the amounts of insurance provided herein. CCMGC may, at its sole option, decline to accept the defense offered by City and defend at its own expense. Such defense shall be coordinated with any defense representation available through the auspices of any of the City's insurers. The defense services provided herein shall not mean or intend that CCMGC shall be responsible for any judgment, liability, obligation or affirmative relief obtained against City, its trustees, officers or employees, which shall be the responsibility of City. This section does not obligate the City to expend City funds for the purpose of the indemnification of this section in excess of the amount appropriated by the Board and does not obligate an appropriation in future years.

8.10 CCMGC's and City's indemnification obligations hereunder, respectively, shall survive the expiration or earlier termination of this Agreement. City and CCMGC waive the right to subrogation under their respective insurance policies. CCMGC's covenants, agreements and indemnification above, and City's indemnification above, are not intended to and shall not relieve any insurance carrier of its obligations under policies required to be carried by City or CCMGC,

respectively, pursuant to the provisions of this Agreement.

8.11 For purposes of this paragraph VIII, “City” shall include its trustees, officers and employees and “CCMGC” shall include its directors, officers and employees.

IX

DAMAGE OR DESTRUCTION

9.1 CCMGC shall notify the City promptly of any fire or other damage to the Golf Course Properties.

9.2 With respect to any damage or destruction to the Improvements at the Golf Course Properties by fire or other cause at any time during the term of the Agreement, the City shall promptly restore the damaged or destroyed premises or in a good and workmanlike manner. Within thirty (30) calendar days of the occurrence, the City shall give CCMGC a schedule of completion for such restoration. If such schedule contemplates a period of completion in excess of one (1) year from the date of the occurrence, CCMGC shall have the right to terminate this Agreement by written notice given to the City within twenty (20) days of delivery of the schedule of completion. This section does not obligate the City to expend City funds for the purpose of restoring the damaged or destroyed premises in excess of the amount appropriated by the Board and does not obligate an appropriation in future years.

X

FORCE MAJEURE

10.1 Except as otherwise provided, neither party shall, be obligated to perform hereunder and neither shall be deemed to be in default if performance is prevented by a fire, earthquake, flood, act of God, riot, civil commotion, or other matter or condition of nature, including

the unavailability of sufficient water, fuel or energy to operate the Golf Course Properties, or of any law, ordinance, rule, regulation or order of any public or military authority stemming from the existence of economic controls, riot, hostilities, war, or governmental law and regulation. In the event of a labor dispute which results in a strike, picket or boycott affecting CCMGC operation of one or more of the Golf Course Properties or any services described in this Agreement, CCMGC shall not be deemed to be in default or breach of any part of this Agreement, and CCMGC shall continue to be responsible for operating the Golf Course Properties. The foregoing provisions of this covenant do not apply to CCMGC's obligations to make payments to the City pursuant to section 5.7 of this Agreement or to comply with section 14.9 of this Agreement. Payments required by section 5.7 and the covenants relating to the status of the City's outstanding indebtedness in Section 14.9 are absolute and unconditional.

XI

DEFAULT

11.1 Any one or more of the following shall be declared an "Event of Default" or "Events of Default" under this Agreement by City:

11.1.1 CCMGC shall fail to make any payment due to the City pursuant to section 5.7 of this Agreement when due and further fails to cure the non-payment within five (5) business days after receipt of a written notice of the failure to pay.

11.1.2 CCMGC shall fail to perform or observe any obligation of CCMGC under any provision of this Agreement, and such failure shall continue and shall not be remedied within thirty (30) calendar days after notice, from the City specifying the same; unless in the event of a non-monetary default for causes beyond the reasonable control of CCMGC, such failure cannot

be cured within thirty (30) calendar days, and CCMGC advises the City in writing promptly after the City's notice that CCMGC intends to take all steps necessary to remedy such default with due diligence; duly institutes and diligently prosecutes to completion the steps necessary to remedy the same; and remedies the same within a reasonable time after advising the City of CCMGC's intention to do so; or

11.1.3 CCMGC abandons the Golf Course Properties; or

11.1.4 this Agreement or the Golf Course Properties, any part thereof or estate therein, shall be taken upon execution or by other process of law directed against CCMGC, or shall be taken upon or subject to any attachment at the instance of any creditor of or claimant against CCMGC, and said attachment shall not be discharged or disposed of within thirty (30) calendar days after levy thereof. City shall be reimbursed by CCMGC for any cost or expenses incurred by it, if City pays any such claim; or

11.1.5 The occurrence of one of the following:

(a) Its directors have been found guilty in a court of law of fraud or collusion or gross mismanagement in the conduct or control of its affairs pertaining to this Agreement and the corporation has failed to remove said director from the board;

(b) Its directors have been found guilty in a court of law of misfeasance, malfeasance or nonfeasance in performance of its duties pertaining to this Agreement and the corporation has failed to remove said director from the board.

11.2 Any one or more of the following may be declared an "Event of Default" or "Events of Default" under this Agreement by CCMGC:

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11.2.1 City shall fail to perform or observe any obligation of the City under any provision of this Agreement, and such failure shall continue and shall not be remedied within thirty (30) calendar days after written notice from CCMGC specifying the same; unless for causes beyond the reasonable control of the City, such failure cannot be cured within thirty (30) calendar days, and the City advises CCMGC in writing promptly after CCMGC's notice that the City intends to take all steps necessary to remedy such default with due diligence; duly institutes and diligently prosecutes to completion the steps necessary to remedy the same; and remedies the same within a reasonable time after advising CCMGC of the City's intention to do so.

11.3 After an Event of Default on the part of CCMGC, the City shall have the right, at the City's sole discretion, to elect to terminate this Agreement by notice to CCMGC as provided in Section 12.1. After an Event of Default on the part of the City, CCMGC shall have the right, at CCMGC's sole discretion, to elect to terminate this Agreement by notice to the City as provided in Section 12.1. The failure of either the City or CCMGC to seek redress for any Event of Default, or to insist upon the strict performance of any provision of this Agreement, shall not prevent either party from thereafter seeking redress, insisting upon the strict performance of any provision of the Agreement, nor prevent a subsequent act which would have originally constituted an Event of Default from having all the force and effect of any original Event of Default or from requiring performance of any provision herein.

11.4 Where by the terms of this Agreement the City needs to make appropriations to perform an act agreed upon, even if the failure to perform the act would not be an Event of Default because of the City's inability to commit to future appropriations at the time this Agreement was signed, the City's failure to make the appropriation and to perform the act shall give rise to a right

in CCMGC to terminate the Agreement.

XII

TERMINATION

12.1 If the City elects to terminate pursuant to this Agreement, for cause as specified above, it shall give CCMGC written notice of its election to so terminate, specifying in such notice a termination date, which may be immediately or on any other specified date in the case of an Event of Default as specified in section 11.1.1 or section 11.1.3, and which is at least ninety (90) calendar days subsequent to the date of the giving of such notice in the case of any other event of default and on such date this Agreement shall terminate in all respects and on or before such termination date CCMGC shall vacate the Golf Course Properties and all facilities therein. If CCMGC elects to terminate pursuant to this Agreement, for cause as specified above, it shall give the City written notice of its election to so terminate, specifying in such notice a termination date which is at least ninety (90) calendar days subsequent to the date of the giving of such notice, and on such date this Agreement shall terminate in all respects and on or before such termination date shall vacate the Golf Course Properties.

12.2 Upon termination of this Agreement, the City and CCMGC shall have no further responsibility or liability under or in respect of this Agreement, except for acts and events occurring prior to, and amounts owed with respect to periods of time prior to, the termination of this Agreement, and except that within sixty (60) calendar days of the receipt or giving of any notice of termination of this Agreement or of the last day of the Term, as the case may be, CCMGC shall deliver to the City an accounting setting forth for the particular fiscal year its Revenues and Operating Expenses to the termination date.

12.3 Upon termination (whether for cause or as a result of the expiration of the term hereof pursuant to section 1.2), CCMGC shall immediately transfer to the City:

12.3.1 all cash accumulated from Golf Course operations;

12.3.2 any funds previously paid to CCMGC by the City and unexpended to the date of termination;

12.3.3 the equipment and personal property owned by CCMGC used in the operation of the Golf Course Properties, in the condition existing, i.e., “AS IS” at the time of transfer back to the City;

12.3.4 ownership of all specification, plans, drawings and related documents prepared by any architect, consulting engineer or contractor for any facilities at the Golf Course Properties;

12.3.5 copies of all existing books, records, statements pertaining to the Golf Course Properties and its finances since the date of operation; and

12.3.6 all buildings, personally, exhibits, manuals, supplies and fixtures located in and about the Golf Course Properties owned by and used by CCMGC whenever obtained or purchased, for purposes of the Golf Course Properties as stated herein.

12.4 Upon termination (whether for cause or as a result of the expiration of the term hereof pursuant to section 1.2) of this Agreement, CCMGC shall have the right to retain any unexpended grants, bequests, contributions and funds raised or received by it for the benefit of the Golf Course Properties, subject to any restrictions placed thereon by the applicable gift instrument unless such restrictions are released by the donor, and CCMGC may use any such funds for general charitable and educational purposes or return such funds to the donors, if such is the donors’ request.

All accrued income from admissions, concessions, etc., shall be the property of the City.

12.5 City may, pursuant to a comprehensive plan for using the Golf Course Properties for public purposes other than that as golf courses, terminate this Agreement upon written notice to CCMGC not less than ninety (90) calendar days prior to the effective date set forth in the notice which effective date shall not be prior to final approval of the comprehensive plan by the City with a funding source for effectuating that comprehensive plan.

12.6 In the event this Agreement is terminated and CCMGC believes that the termination is wrongful, CCMGC and City agree to submit to binding Arbitration pursuant to NRS Chapter 38. CCMGC agrees it will not seek damages for future profits in any such arbitration.

XIII

NOTICES

13.1 All notices, requests, demands, elections, consents, approvals, designations and other communications of any kind hereunder (“Notices”) must be in writing and addressed to the parties as follows:

If to the City:

City Manager
201 N. Carson Street, Suite 2
Carson City, NV 89703

and

District Attorney
885 E. Musser Street, Suite 2030
Carson City, NV 89701

If to CCMGC:

President
CARSON CITY MUNICIPAL
GOLF CORPORATION
3999 Centennial Drive
Carson City, NV 89706

and

ALLISON, MacKENZIE, PAVLAKIS,
WRIGHT & FAGAN, LTD.
402 North Division Street
Post Office Box 646
Carson City, NV 89702

13.2 Any Notice required by this Agreement to be given or made within a specified period of time, or on or before a date certain, shall be deemed given or made only if sent by certified mail, return receipt requested and postage and registry fees prepaid. A Notice so sent by certified mail shall be deemed given on the date of mailing. All other Notices shall be deemed given when received.

XIV

MISCELLANEOUS

14.1 This Agreement shall be construed and enforced in accordance with, and governed by, the laws of the state of Nevada.

14.2 Except as otherwise specifically permitted hereunder, CCMGC shall not assign or otherwise encumber this Agreement, or sublet the Golf Course Properties (or any portion thereof), or permit the Golf Course Properties to be used by others in violation of this Agreement, without the prior written consent of the City and any attempted assignment, encumbering, subletting or unauthorized use shall be void and of no effect as against the City. Subject to the foregoing, all the provisions of this Agreement, whether so expressed or not, shall be binding upon the respective successors, assigns and legal representatives as stated herein, of the parties hereto and shall inure to the benefit of and be enforceable by the parties hereto and their respective successors, assigns and legal representatives.

14.3 If any lien is filed against the Golf Course Properties by reason of taxes, assessments, work, labor, services or materials supplied or allegedly supplied to CCMGC or anyone claiming through or under CCMGC or by reason of CCMGC's failure to comply with Law, CCMGC shall cause the same to be discharged by payment or otherwise within ninety (90) calendar days after the earlier of (1) notice to CCMGC of the filing or assertion of such lien or (2) notice to CCMGC from the City to the same effect. If CCMGC fails to do so, in addition to any other right or remedy hereunder, the City may (but shall not be obligated to) discharge such lien by bonding or otherwise, and CCMGC shall promptly repay City for such cost. Nothing in this Agreement shall be deemed or construed in any way as constituting the consent or request of the City, express or implied, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any material for any alteration of the Golf Course Properties.

14.4 Upon observing the provisions of this Agreement, CCMGC shall and may lawfully occupy and enjoy the Golf Course Properties during the Term without hindrance, molestation or interruption.

14.5 Nothing herein shall be deemed to create any joint venture or principal-agent relationship between the parties, and neither party is authorized to, and neither party shall act toward third parties or the public in any manner which would indicate any such relationship with the other. CCMGC is an independent contractor in terms of managing and operating the Golf Course Properties.

14.6 If any subsection, sentence, clause, phrase, or portion of this Agreement is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the

validity of the remaining portions of this Agreement.

14.7 CCMGC shall perform all services hereunder in compliance with all applicable laws and regulations of the United States of America and agencies thereof, and of the state of Nevada, and in compliance with all applicable provisions of the Charter and local laws of the City. CCMGC agrees to comply with City law, rules, and regulations pertaining to minority business opportunities and minority employment.

14.8 CCMGC agrees to take no action that would place the City in a position of being in violation of the BLM patent and lease issued pursuant to the Recreation and Public Purpose Act (R&PPA), 43 U.S.C. § 869 to 869-4.

14.9 CCMGC agrees to take no action that would jeopardize the tax exempt status of the City's bonds and notes. CCMGC agrees that it will not make any use of the (Golf Course Properties or any portion thereof which would, or take any other action with respect to those properties which would, or omit to take any action which, if omitted, would, cause interest on any bonds and notes the City has issued for the golf course to lose its exemption from gross income or alternative minimum taxable income for federal income tax purposes. CCMGC shall consult with the City and, if necessary, its bond counsel in complying with this covenant. Without limiting the foregoing, CCMGC will consult with the City and its bond counsel prior to entering into any lease, management contract, or other arrangement which would allow a person other than a governmental entity or an entity described in Section 501(c)(3) of the Internal Revenue Code to use any of the Golf Course Properties on a basis other than that generally available to any member of the general public. CCMGC agrees to maintain its status as a corporation exempt from federal income taxation under Section 501(c)(3) of the Tax Code and to operate the golf course as part of its business that is not

an “unrelated trade or business” under the Tax Code. This agreement is subject to, and CCMGC agrees not to interfere with the City complying with, all applicable covenants and representations contained in the ordinances and resolutions of the City authorizing the issuance of bonds and notes for the golf course.

14.10 CCMGC for itself and its successors and/or assigns, agrees that in the performance of its duties hereunder, it will fully comply with the applicable provision of R&PP Act and Title V of the Civil Rights Act of 1964, as well as the applicable provisions of all Ordinances, Executive Orders, Laws of Carson City, state of Nevada, or United States of America relating to non-discrimination and equal opportunity.

14.11 No member of the governing body of the City, and no other officer, employee, or agent of the City who exercises any functions or responsibility in connection with the services to be performed under this Agreement, shall have any personal financial interest, direct or indirect, in this Agreement, or in the Golf Course Properties or in CCMGC.

14.12 If the whole or any part of the Golf Course Properties is taken under power of eminent domain, then City and CCMGC at each party’s option shall have the right to terminate pursuant to this Agreement. If the parties elect to continue this Agreement, then City, at its sole option, may make such repairs, alterations, or replacements in order to restore the part of the Golf Course Properties not taken to useful condition. City shall not be obligated to replace any of the land within the Golf Course Properties boundaries if taken by eminent domain.

14.13 All compensation awarded for any taking of the Golf Course Properties or any interest in them shall belong to and be the property of City, CCMGC hereby assigns to City all rights with respect thereto; provided, however, nothing contained herein shall prevent CCMGC from applying for reimbursement from the condemning authority (if permitted by law) but only if such

action shall not reduce the amount of the award or other compensation otherwise recoverable from the condemning authority by City.

14.14 This Agreement embodies the entire agreement and understanding between CCMGC and supersedes all prior agreements and understandings relating to the subject matter hereof. This Agreement may not be modified or amended or any provision hereof waived or discharged except in writing signed by the party against whom such amendment, modification, waiver or discharge is sought to be enforced. The Table of Contents and headings of this Agreement are for purposes of convenience only and shall not limit or otherwise affect the meaning of any provision of this Agreement. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

WITNESS, the hands and seals of the parties hereto as of this day and year above written.

“City”

CARSON CITY

By: _____

ROBERT CROWELL, MAYOR

“CCMGC”

CARSON CITY MUNICIPAL
GOLF CORPORATION

By: _____

STEVE McINTYRE, CHAIRMAN