

City of Brookings

AMENDED MEETING AGENDA

CITY COUNCIL

Monday, November 9, 2020, 7:00pm

City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415

The City Council will meet in Executive Session following the City Council meeting, in the EOC, under the authority of ORS 192.660(2)(e) "To conduct deliberations with persons designated by the governing body to negotiate real property transactions" ORS 192.660 (2)(f) "To consider information or records that are exempt by law from public inspection." ORS 192.660 (2)(h) "To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed."

CITY COUNCIL

A. Call to Order

B. Pledge of Allegiance

C. Roll Call

D. Ceremonies/Appointments/Announcements

E. Scheduled Public Appearances

(Informational presentations to Council on non-agenda items – 10 minute limit per person.)

F. Oral Requests and Communications from the audience

(*Public Comments on non-agenda items – five (5) minute limit per person, please submit Public Comment Form in advance)

G. Consent Calendar

1. Approve Council minutes for October 26, 2020 [Pg. 1]
2. Cancel November 23, 2020 City Council Meeting
3. Cancel December 28, 2020 City Council Meeting

H. Staff Reports/Public Hearings/Ordinances/Resolutions/Final Orders

1. Salmon Run Golf Course Management Agreement [Pg. 3]
 - a. Draft Contract with CourseCo. [Pg. 4]
 - b. Proposed Transition Plan [Pg. 28]

I. Informational Non-Action Items

1. October Vouchers [Pg. 29]

J. Remarks from Mayor and Councilors

K. Adjournment

*Public Comment forms and the agenda packet are available on-line at www.brookings.or.us, at Brookings City Hall and at Chetco Community Public Library. Return completed Public Comment forms to the City Recorder before the start of the meeting or during regular business hours.

All public meetings are held in accessible locations. Auxiliary aids will be provided upon request with at least 72 hours advance notification. Please contact 469-1102 if you have any questions regarding this notice.

Due to the COVID-19 virus, meeting participants in the council chambers will be limited and social distancing of six (6) feet will be required and maintained. If you would like to view the City Council Meeting live, you can via:

-Television – Charter Channel 181

-Internet – Go to the City of Brookings website at <http://www.brookings.or.us>

Watch Meeting Live instructions: 1. Visit the City of Brookings website home page. 2. Click on Government (top page). 3. Click on City Council (right side). 4. Under Agenda & Meetings click Watch Meeting Live. 5. You will need to download the VLC Media Player. Follow directions and links for your device.

On computers, it is possible to stream the meetings LIVE by copying and pasting the following link inside your web browser: <mms://68.185.2.46:8080>

City of Brookings
CITY COUNCIL MEETING MINUTES
City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415
Monday, October 26, 2020

Call to Order

Mayor Pieper called the meeting to order at 7:00 PM

Roll Call

Council Present: Mayor Jake Pieper, Councilors Brad Alcorn, Brent Hodges, John McKinney and Ron Hedenskog; a quorum present

Staff present: City Manager Janell Howard, Public Works and Development Services Director Anthony Baron, Public Works and Development Services Deputy Director Jay Trost and Deputy Recorder Natasha Tippetts, and Planning Tech Laurie Zeimer

Media Present: 0

Others Present: Approximately 8 audience members

Ceremonies

1. William Hamilton Recognition
2. Red Ribbon Proclamation

Scheduled Public Appearances

1. None

Oral Requests and Communications from the Audience

1. None

Consent Calendar

1. Approve Council Minutes for October 12, 2020

Councilor Hedenskog moved, Councilor Alcorn seconded, and Council voted unanimously to approve the Consent Calendar.

Staff Reports

1. Salmon Run Irrigation Pumps

Jay Trost presented the staff report

Councilor Hedenskog moved, Councilor Alcorn seconded and Council voted unanimously to replace two irrigation pumps at the Salmon Run Golf Course for a total of \$36,825 from Klamath Pump Center, Inc.

2. Lease Agreement with Southcoast Lumber Company

Jay Trost presented the staff report

Councilor Hedenskog moved, Councilor Alcorn seconded and Council voted unanimously to authorize the City Manager to sign a lease agreement to extend the Driving Range at Salmon Run Golf Course.

3. Adopting Ordinance, accepting a lot line adjustment deed at 423 Buena Vista Loop and 423.5 Buena Vista Loop

Anthony Baron presented the staff report

Councilor Hodges moved, Councilor Hedenskog seconded and Council voted unanimously on Ordinance 20-O-792 to be read by title only.

Councilor Hodges moved, Councilor Mckinney seconded and Council voted unanimously on Ordinance 20-O-792 to be read second time by title only.

Councilor Mckinney moved, Councilor Alcorn seconded and Council voted unanimously to adopt Ordinance 20-O-792, an Ordinance accepting a lot line adjustment deed at 423 Buena Vista Loop and 423.5 Buena Vista Loop.

4. Lot Line Adjustment Deed

Anthony Baron presented the staff report.

Councilor Hedenskog moved, Councilor Alcorn seconded, and Council voted unanimously to authorize the City Manager to sign on behalf of the City to accept a Lot Line Adjustment Deed at 423 Buena Vista Loop and 423.5 Buena Vista Loop.

Remarks from Mayor and Councilors

Councilor Alcorn and Mayor Pieper commented that it was nice to see Bill Hamilton out and about again.

Adjournment

Councilor Hodges moved, Councilor Mckinney seconded and Council voted unanimously to adjourn the meeting at 7:25 PM.

Respectfully submitted:

ATTESTED:
this 26 day of October, 2020:

Jake Pieper, Mayor

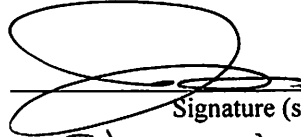
Janell K. Howard, City Recorder


CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: November 9, 2020

Originating Dept: PWDS



Signature (submitted by)


City Manager Approval

Subject: Salmon Run Golf Course Management Agreement

Recommended Motion:

Authorize the City Manager to enter into a 10-year management agreement with CourseCo for management of Salmon Run Golf Course.

Financial Impact:

\$84,000 annually to be paid from golf course revenue.

Background/Discussion:

During a workshop that was held on February 27, 2020, we discussed the need to make key adjustments to the Salmon Run management agreement. These changes required the City to begin the RFP process. A committee was formed that consisted of two City Council members (Hodges and McKinney), the City Manager, and the Deputy Public Works Director. Two management companies responded to the RFP - Early Management Team and CourseCo.

After reviewing the proposals and conducting interviews with both companies, we are proposing to enter into an agreement with Course Co. for the next ten years. Both organizations are agreeable to transitioning January 1, 2021. CourseCo has committed to keeping the majority of the current staffing. In conjunction with a ten-year agreement, CourseCo is committed to putting \$60,000 of their funds toward capital at Salmon Run golf course. The Contract will be effective January 1, 2021 through December 31, 2030.

The management agreement is \$7000 per month with annual CPI adjustment. These funds will be paid from the revenues generated by the golf course.

Attachment(s):

- a. Draft Contract with CourseCo.
- b. Proposed transition plan provided by CourseCo.

THIS CONTRACT ("Agreement") is made and entered into this **November 9th, 2020**, by the City of Brookings, hereinafter referred to as the "City," acting by and through its CITY MANAGER, and Brookings Golf, LLC, hereinafter referred to as the "Operator."

WHEREAS, the City owns certain real property located in City of Brookings, and more particularly described in Exhibit "A" attached hereto ("Land"); and

WHEREAS, the City is the owner of the Salmon Run Golf Course, which includes a golf course, clubhouse, restaurant, cart storage facility, maintenance facility, and other buildings, structures, and improvements at both locations related thereto ("Premises"), and the Premises are located on the Land; and

WHEREAS, the City desires to maintain the value of the Premises as a City asset; and

WHEREAS, the City desires to utilize the services and expertise of the Operator to manage, operate, and maintain Salmon Run Golf Course and community amenities.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. DEFINITIONS

The following terms shall be defined as follows for the purposes of this Agreement:

- 1.1 Annual Report - shall have the meaning set forth in Section 6.2 of the Agreement.
- 1.2 Capital Expenditure – shall have the meaning set forth in Section 8.4 of the Agreement.
- 1.3 City - shall mean City of Brookings, acting through its agents.
- 1.4 City Manager - shall mean the CITY MANAGER of City of Brookings or his/her appointed designee.
- 1.5 City Manager's Office – shall mean the City of Brookings CITY MANAGER's office
- 1.6 Bank Account - shall have the meaning set forth in Section 10.1 of the Agreement.
- 1.7 Days – shall mean calendar days.
- 1.8 Effective Date – shall mean the date that this agreement takes effect.
- 1.9 Financial Plan - shall have the meaning set forth in Section 6.1 of the Agreement.
- 1.10 Golf Course - shall mean all the buildings, grounds, fixtures, structures, restrooms, equipment, computers, irrigation and controls, ponds, tools, vehicles, fencing and all appurtenances thereto involving the Salmon Run Golf Course.

- 1.11 Golf Lessons - shall mean the professional golf instruction given at the Golf Course by either the Class "A" PGA Golf Professional or qualified golf instructors employed or subcontracted by the Operator.
- 1.12 Initial Financial Plan - shall have the meaning set forth in Section 6.1 of the Agreement.
- 1.13 Land - shall mean the real property upon which the Premises are located. The Land is described in Exhibit A hereto.
- 1.14 Operating Cost - shall have the meaning set forth in Section 8.1 of the Agreement.
- 1.15 Operating Income - shall mean all revenue except investment earnings, less all expenses except City cost allocations and Capital Expenditures, as set forth in the Financial Plan.
- 1.16 Operating Year - shall comprise the period of twelve (12) full calendar months commencing on January 1st and ending on December 31st.
- 1.17 Operator - shall mean Brookings Golf, LLC.
- 1.18 Premises - shall mean the Golf Courses, Pro Shops, clubhouses with attached patios and all paved walkways adjacent to the clubhouses, Restaurants, banquet facilities, cart storage facilities, maintenance facilities, and all other buildings, structures, and improvements related thereto.
- 1.19 Pro Shop - shall mean the golf professional and merchandise facilities located at the Premises and shown on the diagram attached hereto in Exhibit B.
- 1.20 Restaurant - shall mean the food and beverage dining facilities located at the Premises and shown on the diagram attached hereto in Exhibit C.
- 1.21 Restaurant Services - shall mean the Restaurant and banquet operation, as well as all other food and beverage operations related to the Premises and as described further in Section 5.3.
- 1.22 Term - shall have the meaning set forth in Article 4.

2. RETENTION OF OPERATOR

The City hereby retains the Operator for the management, staffing, operation, and maintenance of the Premises, including, but not limited to, the Golf Course, Pro Shop, clubhouse, restaurant, banquet facility, storage spaces, restrooms, and golf cart rental located at the Premises.

3. ACCEPTANCE

Prior to the Effective Date of this Agreement, the Operator has inspected the Premises and hereby accepts the condition of it for purposes of this Agreement on an "as is" basis.

4. TERM

- 4.1 Term of Agreement - The initial Term of this Agreement shall begin at 12:00 a.m. on the effective date, which is January 1, 2021, and terminate at 11:59pm on December 31, 2030.
- 4.2 Option to Renew - This Agreement may be renewed for a ten-year term, beginning January 1, 2031 and ending December 31, 2040, if the parties agree upon an extension and/or amendment to this Agreement which is executed by both parties at least one hundred twenty days prior to the expiration of the initial Term. The option is conditioned upon full and faithful performance by the Operator of all the terms contained herein.
- 4.3 Effect of Termination - Upon termination of the Agreement, all employees and agents of the Operator shall vacate the Premises and shall have no further rights or duties thereon, except to ensure and organize a proper transfer of the Premises, property, and records of the Premises. The Operator shall remove all goods, wares, and merchandise from the Premises that are owned by the Operator within thirty (30) days after the termination date. The City may, but need not, treat any of the Operator's property remaining upon the Premises after thirty (30) days have elapsed following the termination of this Agreement as abandoned by the Operator, and may make any disposition of such property as the City deems fitting.
- 4.4 The Operator and City will annually conduct a property inventory on such dates and terms as are mutually agreed by the parties.

5. OPERATOR'S BASIC SERVICE OBLIGATIONS

- 5.1 Golf Professional Services - The Operator shall deliver high-quality golf course services and conduct business in a manner accepted and established by industry standards and operate the Golf Course, Pro Shop, and golf cart rentals as set forth in this Agreement and in a manner acceptable to the City. The Operator shall sell, rent, store, and repair golf equipment, sell golf-related clothing and supplies, provide instructional services in the playing of golf, and maintain the golf course and related facilities in good and neat order, condition and repair in accordance with accepted industry standards. Relevant service standards include, but are not limited to, the following:
- A. Staffing – The Operator shall employ, on a full-time basis, a licensed Class A member or Apprentice of the PGA (the "Golf Professional"). The Operator shall also provide staff to provide the services listed within this Agreement. Staff shall be clearly identifiable and present neat and clean appearance.
 - B. Pro Shop - The Operator shall provide high-quality customer service including register operations, merchandise sales, tee-time bookings, starter services and course marshaling and the day-to day custodial services, maintenance and repairs

of the equipment. Prices for all green fees, golf cart fees, pull cart fees, trail fees, etc. shall be prominently displayed at all times and receipts shall be provided for paid fees. Policies regarding course rules, tee-times, rainchecks, refunds, and dress code shall be prominently displayed at all times. Information on passes, leagues, lessons, and other services shall be readily available. Score cards and pencils shall be readily available.

- C. Merchandise - The Operator shall provide and maintain in the Pro Shop such inventory of golf merchandise as is deemed necessary by the City to adequately meet the demand of the public. Existing inventory is owned by the City.
 - D. Golf Cart Rentals - The Operator shall provide golf cart rentals by offering a clean and well-maintained fleet. Carts shall be available on a daily basis. The carts must be a positive extension of the overall operation of the course and should therefore be clean, undamaged, fueled/charged, be in good operating condition, and perform well at speed and direction.
 - E. Golf Instruction - The Operator shall grow the game of golf in the City of Brookings through lessons and clinic instruction in a manner acceptable to the City by employing or contracting with qualified instructors accredited by the PGA and the PGA apprentice program or other qualified instructors. Such instruction may include but is not limited to group and/or individual instruction, camps, clinics; utilizing the Golf Course as the home course for the High School teams; promote a junior golf program through lessons, conducting junior tournaments; and by other activities as mutually agreed upon by the Operator and the City.
 - F. Existing Gift Cards, Storage Agreements, and Special Event Bookings - The Operator shall honor existing gift cards with respect to the Golf Course and Special Event Bookings (including but not limited to the currently scheduled events).
 - G. Programming – The Operator shall be responsible for managing, promoting, and scheduling special events, tournament, league play, club play, and high school events such as cross country meets. The City welcomes the Operator to be creative with providing community-type events at the Golf Course as approved by the City.
 - H. Advertising – The Operator shall market and promote the course and amenities, including strategy, budget, media types, frequencies, promotions, and any other relevant information.
 - I. Additional Services – The City will identify any additional areas it believes are necessary or that would be a benefit to the operation, which will reasonably be considered for implementation by Operator.
- 5.2 Golf Course Starter Services - The Operator shall render and provide Golf Course starter services, including but not limited to, opening and closing of the Golf Course at the

appropriate times; collecting of green fees and tournament fees; providing tee time scheduling that is easy for the patron (via computer, phone, walk-in, or other); recording of reservations on starter sheets; placing of golfers' names on a call sheet (i.e., waiting list) as necessary; sending of golfers to the tee and starting them off at proper intervals as applicable; receiving of requests from groups for tournaments; booking of tournaments; satisfying of tournament food and beverage needs through the Restaurant; monitoring and maintaining pace of play by all necessary actions; entering of golfers' names on the starter's sheet; issuing of a receipt to each golfer as the green fee is paid; and totaling of starter sheets at the end of each day's play and reconciling them with fee category totals on the cash register detail tape or other computerized equivalent reconciliation process.

- 5.3 Restaurant Services - The Operator shall provide quality food and beverage services, in a manner acceptable to the City, including all aspects of the food and beverage operations, banquet and event rentals, and on-course concessions, including recommended menus, all permits, codes and other regulations of City of Brookings, and the State of Oregon. Whenever possible, practical, and cost-effective, the food and beverage services should give consideration to local vendors and/or products.
- 5.4 Maintenance Services - The maintenance operations of the Golf Course shall be the responsibility of the Operator. The Operator shall keep and maintain the Premises in good, operable, usable, and sanitary order and repair and in a good, safe condition throughout the Term of this Agreement, providing for such repair, replacement, rebuilding, and restoration as may be required in compliance with this Agreement, in a manner acceptable to the City, and consistent with industry standards. This maintenance obligation includes but is not limited to Golf Courses and grounds maintenance, the clubhouses, Pro Shops, Restaurants and banquet facilities, golf cart rental areas, storage spaces, and all buildings, structures, improvements, fixtures, equipment, and utility systems which may now or hereafter exist on or in the Premises. All such replacement, rebuilding, and restoration, but not including repairs of single items under \$10,000, shall be approved by the City prior to implementation of same. Minimum standards include, but are not limited to Clubhouses, pro shops, restaurants, and restrooms are clean, swept, and maintained; Grounds are nicely landscaped and free of trash; Irrigation systems (including main lines, valves, lateral lines, sprinkler heads, controllers and all other parts of the system) are maintained in good repair, function properly, and conform to all relevant codes and regulations at all times, and all preventive maintenance work performed in a timely manner.
- 5.5 Improvements - Any improvements, additions, alterations, or changes (collectively, "improvements") to the Premises made by the Operator shall be subject to, prior to the commencement of any work on such improvements, written approval by the City, the securing of applicable permits, and compliance with such terms and conditions as may

be imposed by the City and as required by the appropriate jurisdiction's policies and procedures.

- 5.5 Equipment - All equipment, furnishings, signs and advertising shall be in keeping with the appropriate standards of decor at the golf courses. Hole signs with yardage and par must be well placed. The contractor agrees that all equipment, furnishings and improvements provided shall meet the requirements of all applicable building, fire, pollution, and other related codes.
- 5.6 City Ownership – The City shall retain ownership of all structures, buildings, and/or improvements thereto or thereon the Premises, merchandise, golf carts, hand carts, and maintenance equipment constructed or acquired by the City, or the Operator on behalf of the City, and all alterations, additions, or betterments thereto.
- 5.7 Failure to Perform - Should the Operator fail, after thirty (30) days' written notice from the City of the need therefore, to perform its obligations under this Article 5, the City may enter upon the Premises and perform the Operator's obligations. The cost of such repairs and restoration that are incurred shall be considered an Operating Cost unless they constitute a Capital Expenditure. Notwithstanding the preceding two sentences, in the event of an emergency as determined by the City, the City may immediately enter upon the Premises without notice to the Operator to perform emergency repairs and restoration.

6. OPERATING RESPONSIBILITIES

- 6.1 Financial Plan - The Operator shall submit to the City for review and approval a Financial Plan for each Operating Year. The Initial 2021 Financial Plan will be submitted by December 15th, 2020. The terms and categorization of accounts that lead to the calculation of Operating Income are as set forth in the Financial Plan. The Operator may propose a revision to the Initial Financial Plan within ninety (90) days of the Effective Date. The City shall approve, disapprove, or conditionally approve, the proposed revisions to the Initial Financial Plan within thirty (30) days of its receipt thereof, and the City's approval shall not be unreasonably withheld.

For all subsequent Operating Years, the Operator shall submit to the City a Financial Plan on or before November 1st or by other mutually agreeable date immediately preceding the Operating Year at issue in the Financial Plan. The City shall approve, disapprove, or conditionally approve each Financial within 30 days of submittal, and the City's approval shall not be unreasonably withheld.

Each Financial Plan shall be in a format acceptable to the City and shall include, but not be limited to, projected number of rounds, golf revenues, F&B revenues, cost of goods sold and expenses for each department. The Financial Plan shall also include the terms and categorization of accounts that lead to the calculation of Operating Income, as well as the projected amount of Capital Expenditures, a marketing plan, and any proposed

plans for any improvements, upgrading, or alterations to the Premises. After written notice to and consultation with the Operator, the City shall have the authority to make reasonable changes to the Financial Plan including, but not limited to, the method of allocation for costs, expenditures, and revenues.

6.2 Monthly/Annual Reports - The Operator shall submit to the City on or before the twentieth day of each subsequent month, a Report for the previous Operating Month that reports for the month period as well as year to date. Each Annual Report shall include, but is not limited to, the following information:

- A. Summary of the financial condition of the Premises with respect to the terms and categorization of accounts that lead to the calculation of Operating Income as set forth in the Financial Plan.
- B. Total amount of Operating Costs and Revenues (broken down by cost center)
- C. Total amount of Capital Expenditures
- D. Total amount of maintenance expenditures
- E. Rounds played, lessons offered, events scheduled, weather patterns, etc.

Each Monthly Report shall include, but is not limited to, the following information:

- A. Bank Reconciliations
- B. Profit and Loss Statements
- C. Depreciation Schedule
- D. Balance Sheets
- E. Trial Balance

6.3 CIP Report – The Operator shall provide the City with a CIP report within 6 months of the commencement of this agreement.

6.4 Contracts and Leases - The Operator shall provide to the City copies of any and all leases and contracts entered into by the Operator with respect to any vendor, contractor, or subcontractor for services or goods provided to the Operator at the Premises. In the event this Agreement is terminated prior to the end of the Term, the City shall assume all leases and contracts entered into for its benefit and retain any goods or services associated with these leases and contracts, unless the City and Operator mutually agree otherwise.

6.5 Compliance with Laws - The parties shall comply with all municipal ordinances and all state and federal laws and regulations applicable to the terms and conditions of this Agreement. The parties shall not knowingly permit any illegal activities to be conducted on or at the Premises. If any permits or licenses are required, the Operator shall obtain all such required permits or licenses from the appropriate regulatory agency before

undertaking the regulated activity. The cost of obtaining such licenses and permits shall be Operating Costs.

- 6.6 Compliance with Rules and Regulations - The Operator shall develop rules and regulations for the Premises subject to the approval of the City. The Operator shall comply with and enforce all such rules and regulations.
- 6.7 Discrimination Prohibited - The Operator shall not discriminate against any employee or applicant for employment, or any person seeking the services of the Operator under this Agreement, because of sex, age, race, color, religion, creed, national origin, marital status, sexual orientation, or the presence of any sensory, mental, or physical disability, unless based upon a bona fide occupational qualification.
- 6.8 Signs - The Operator shall not post any signs, other than customary day-to-day operating prices and activity signs, at the Premises without the prior approval of the City. The Operator shall also develop and implement, with City approval, a signage strategy to ensure the City's name and official logo are included appropriately in the signage regarding the Premises. Operator will complete, execute, and comply with the City's Logo License Agreement.
- 6.9 Advertising - The City retains the right to approve or disapprove all advertising of the Premises, all marketing plans and opportunities, and/or all partnership agreements.
- The City shall not unreasonably withhold approval of such advertising plans, opportunities, or agreements. If the Operator believes and/or determines that the retention of such rights is unreasonably withheld, the City and Operator agree to reexamine or renegotiate the impacted areas of revenue and responsibilities.
- The Operator shall also develop and implement, with City approval, a branding strategy to ensure the City's name and official logo are included appropriately in the advertising and marketing of the Premises.
- 6.10 Public Use Marketing - The Operator shall use its best efforts to maximize the public use of the Premises. The Operator shall use its best efforts to effectively market and promote the Premises to ensure its financial and operating success. For each Operating Year, the Operator shall submit to the City a report along with the Annual Report concerning all activities undertaken by the Operator with respect to the approved marketing and promotion plan for the applicable Operating Year.
- 6.11 Utilities - Upon effective date of this Agreement, the Operator shall be responsible for ensuring that all utility services required by the Premises are operating properly, including, but not limited to, water, gas, electricity, sewer service, telephone service, and trash removal. The Operator acknowledges that if during the Term of this Agreement there exists a defect, deficiency, or impairment of any utility system, water system, water supply system, drainage system, waste system, heating or gas system, or

electrical apparatus or wires serving the Premises, any expenses incurred by the Operator to correct any such defect, deficiency, or impairment shall be an Operating Cost, subject to the prior approval provisions otherwise set forth in this Agreement.

- 6.12 Safety - The Operator shall immediately correct any unsafe conditions to the Premises, as well as any unsafe practices occurring thereon, that are known by the Operator or should have been known by the Operator. The Operator shall obtain emergency medical care as soon as reasonably possible for any persons or members of the public on or at the Premises who is in need thereof because of illness or injury. The Operator shall cooperate fully with the City in the investigation of any accidental injury or death occurring at the Premises and shall submit to the City promptly an incident report, in a form acceptable to the City, and any other necessary forms required by the City describing any injuries or deaths at the Premises. An incident log shall be maintained at the Premises.
- 6.13 Use of Facilities Restrictions - The Operator shall obtain from the City prior written approval of: (1) any events or activities not otherwise specifically provided for or authorized under the Agreement; or (2) any extraordinary events or activities requiring the exclusive use of the Premises or any portion thereof.
- 6.14 Meetings - Representatives of the Operator and the City shall meet on a regular basis and at such other times as may be required by either party to review the performance under this Agreement, review the monthly financial reports submitted by the Operator, and discuss any problems or matters.
- 6.15 Fee Structure - The following fees shall be set by the Operator, which shall be reasonable and related to the cost of providing the service: (1) green fees; (2) golf cart rental/trail fees; (3) equipment rental fees; (4) building rental and all other pro shop, lesson, and restaurant food & beverage fees. Operator will provide fee schedules to City thirty days prior to implementation.
- A. Green Fees - The Operator shall set forth in each Financial Plan the reasonable green fees, golf cart rental/trail fees, and other equipment rental fees for the Operating Year at issue.
- B. Goods and Services - The Operator shall at all times maintain a complete list or schedule of the prices charged for all goods and services supplied to the public by or at the Premises. Such list or schedule of prices shall be included in each Financial Plan and provided to the City upon request. Such prices shall be fair and reasonable based on the following considerations: that the Premises are intended to serve the needs of the public with the goods and services supplied at a fair and reasonable cost; that the prices charged should be comparable to prices charged for similar goods and services in the general area; and that the profit margin should be reasonable considering the cost of providing the goods or services in compliance

with the obligations of this Agreement. If the City notifies the Operator that a fee or price being charged is not fair and reasonable, the Operator shall have the right to confer with the City and justify such a fee or price. Following reasonable conference and consultation thereon, the Operator shall make such fee/price adjustments as may be ordered by the City.

C. Restaurant and Related Fees - The Operator shall set forth in each Financial Plan the Restaurant fees, other food and beverage fees, and meeting, banquet, wedding, and other reservation fees for the Operating Year at issue.

6.16 Business Licenses and Permits - The Operator shall obtain and maintain all necessary permits, certifications, and licenses (federal, state, and local) necessary to conduct business at the Premises. The costs, fees, and charges incurred in obtaining and maintaining these licenses and permits shall constitute Operating Costs.

6.17 Taxes – Any taxes, such as beneficial use taxes, income taxes or leasehold excise taxes that are associated with the management fee or accounting fee shall be the Operator’s responsibility. Any taxes or fees, if any, associated with the revenues, expenses or general operations of the property shall be an Operating Cost.

7. CITY'S RESPONSIBILITIES

7.1 City's Responsibilities - During the Term of this Agreement, the City's responsibilities shall include but not be limited to the following:

A. To monitor and evaluate the Operator's performance for compliance with the terms of the Agreement.

B. To provide forms as specified in this Agreement.

C. To inspect the Premises on a regular basis on a schedule acceptable to the City Manager to determine if all functions are adequate.

E. Any capital or operating cost which totals over \$10,000 for any single item (except personnel costs) shall be subject to the City procurement policies and procedures.

8. COSTS AND EXPENDITURES

8.1 Operating Cost - The customary and ordinary costs of operating and maintaining the Premises ("Operating Costs") shall be paid by the Operator from the Operator's bank account in accordance with Articles 9 and 10. An Operating Cost shall be any cost which is directly related to the customary and ordinary staffing, operations, or maintenance of the Premises, including, but not limited to, the following:

A. Employee salaries.

B. Employee incentive compensation programs.

- C. Employee benefits, including vacation, sick leave, health insurance, disability insurance, and workers' compensation insurance.
- D. Lease and/or rental of equipment.
- E. Repair and maintenance of maintenance equipment, golf carts, hand carts, and capital equipment.
- F. Uniforms, laundry, and linens.
- G. Operating supplies, office supplies, cleaning supplies, and other miscellaneous supplies.
- H. Audits.
- I. Advertising and marketing expenses.
- J. Travel
- K. Telephone, postage, and freight.
- L. Fees, permits, and licenses.
- M. Custodial services.
- N. Insurance premiums, and, in the event of a claim on the Premises or if liability insurance is required by Article 12, the amount paid up to the deductible.
- O. Inventory, merchandise, food, and beverages
- P. Business and Occupation taxes on the Operating Costs or reimbursement of same.
- Q. Furniture, fixtures, and equipment.
- R. Maintenance expenses, including maintenance of the Golf Course and the remainder of the Premises.
- S. Utilities, including water, gas, electricity, sewer service, telephone service, and trash removal, which costs shall be paid directly by the City but shown as Operating Costs on the Financial Plan.
- T. Bank fees, credit card fees and interest fees associated with an approved line of credit (if needed).
- U. Management fees and incentive management fees.
- V. Property insurance costs, as such costs are incurred by the City through its insurance provider.

8.2 Operating Cost Budget - The Operating Cost Budget shall set forth all projected Operating Costs and shall be part of the Financial Plan. The Operating Cost Budget may

be amended or modified from time to time, in accordance with City policies and procedures, to reflect actual operating circumstances, after written notice to and consultation with the Operator.

- 8.3 City (Revenue) Expenditures - City (Revenue) Expenditures, as identified in the Financial Plan, are those costs that are paid by the City and not included in the Operating Cost Budget. Such costs include but are not limited to the following:
- A. Necessary start-up costs as identified in Exhibit D.
 - B. Capital Expenditures, as set forth in Section 8.4.
 - C. Those maintenance and/or Operating Costs that are due to any reason beyond the Operator's reasonable control (an "occurrence of force majeure") including, without limitation, acts of God, riots, strikes, and fires; provided, however, that such expense shall continue only during the pendency of the particular occurrence of force majeure. Such costs must exceed \$10,000 per incident and are subject to the prior approval of the City, which approval shall not be unreasonably withheld. If such costs do not exceed \$10,000 per incident, they shall be treated as Operating Costs.
 - D. City cost allocations and other charges determined by the City not to be an Operating Cost.
- 8.4 Capital Expenditures – A Capital Expenditure is any expenditure for new or replacement capital equipment or improvements to the Premises that have a life expectancy greater than or equal to one year and a cost of \$10,000 or over for a single item, and are subject to the City's procurement policies
- A. Capital Expenditure shall be approved by the City before it may be undertaken. A list of capital equipment owned or possessed by the City relating to this Agreement as of the Effective Date is attached hereto in Exhibit E. The City may have the Operator contract for and make capital improvements and reimburse the Operator for these improvements, subject to applicable law.
 - B. Provided, however, that in an emergency situation, the Operator is authorized to expend up to \$10,000 on Capital Expenditures, subject to prior approval by the City Manager. An emergency situation shall be one for which the expenditure is critical to all or a portion of the customary ongoing operation of the Premises. In an emergency situation, the Operator shall contact the City via a pre-designated emergency contact telephone number(s) regarding prior approval. However, if the City is unavailable via the designated telephone number(s), the Operator may proceed with the emergency expenditure in an amount not to exceed \$10,000.
 - C. The Operator shall submit complete and detailed construction drawings with respect to any proposed improvement or alteration for review and approval by the

City prior to the start of any construction and shall submit as-built drawings and a detailed summary of construction costs within thirty (30) days after completion of construction.

- D. The City agrees to promptly review plans for proposed improvements or alterations, and if the improvements are acceptable to the City, to promptly approve the same, which plans as approved shall be attached to an executed copy of this Agreement and incorporated herein.
 - 1. All alterations, improvements, or fixtures shall be such that they do not impair the foundation, exterior walls, roof, or structural bearing parts of structures on the Premises, or cause any deterioration to any such structure.
 - 2. All work performed in providing alterations and/or improvements shall be done to the satisfaction of the City.
- E. Any alterations or improvements approved by the City shall become the property of the City upon fixation.
- F. The Operator shall obtain all necessary governmental permits needed to accomplish the approved alterations or improvements and shall submit copies of same to the City prior to commencing any construction on the Premises. The Operator shall further report to the City in writing on the first day of each month on a month-to-month basis regarding the status of all necessary permit applications and approvals.
- G. The Operator shall, over the Term of the Agreement, make all alterations and improvements as specified above.
- H. The Operator shall maintain records on the costs of alterations and improvements and shall make such records available to the City for audit.

9. OPERATOR COMPENSATION

- 9.1 Base Management Fee - During Year 1 of the Agreement, the City shall pay the Operator a base management fee of seventy-five thousand dollars in 12 equal payments on a monthly basis (\$7,000.00) per month; provided, however, that the monthly payment for the month of the Effective Date shall be made pro rata based upon the number of days remaining in the month including and after the Effective Date. City shall pay the month's Monthly Fee by the 15th of the Month. Beginning in year 2, the fee shall be adjusted annually by the increase in CPI for the Region for August reporting, in no circumstance will the management fee be reduced.
- 9.2 Accounting Service Fee – During Year 1 of the Agreement, the City shall pay the Operator, a fee of \$0.00 per month for accounting services performed at the Operator's

corporate offices, to include, but not be limited to financial reporting, budgeting, accounts payable process, preparation of financial statements, etc.

- 9.3 **Incentive Management Fee** – In addition to the fixed management fee described above, City shall pay to the Management Company for each operational year during the term an “annual incentive management fee” of 20% of net profit. The incentive management fee shall be paid within 30 days of year-end financial statements being submitted to the City. The City and Operator agree to review and renegotiate the incentive fee before the commencement of the sixth year of the agreement.
- 9.4 **Capital Investment by OPERATOR.** Within 18 months of the execution of this contract, the OPERATOR agrees to provide a \$60,000 contribution to the capital fund. The CITY and OPERATOR agree to work together to determine the best use of this capital investment. All improvements that are paid for with OPERATOR capital investment allowance or are permanently affixed to the Premises shall become CITY property.

10. FINANCIAL AND ACCOUNTING PROCEDURES

- 10.1 **Bank Account** - The Operator shall establish and maintain a bank account at a bank designated by the City (Operating Bank Account") for the purposes of accepting deposits and paying Operating Cost under this Agreement. The funds in this account are the property of the City.
- A. All revenues from the Premises are the property of the City and not part of the fees or consideration paid to the Operator and shall be deposited into the Operator's Bank Account daily. No deposits of revenues may be made into any other bank account for any purpose or under any circumstances.
 - B. The Operator shall deposit daily all cash, check, and debit and credit card receipts into the Bank Account.
 - C. The Operator shall establish a budget approved by the City. The budget shall provide a level of detail that shall allow the City to summarize the data to provide its own financial analysis. The budget shall provide an Operating Income amount (see 10.3). Among other detail, the budget shall segregate Operating and Capital Expenditures by cost centers.
 - D. The Operator shall make disbursements from the Operator's operating bank account consistent with the approved budget and submit documented receipt information to the City for reimbursement.
- 10.2 **Revenue Reporting** - The Operator shall provide to the City reports of the deposits made to the Bank Account. Information shall be from the point of sale system with sufficient

detail to allow the City to forecast and track revenue and deposits. After review, the City may request additional reports that detail previous transactions.

- 10.3 Operating Bank Account – The operating account shall be prefunded in an amount equal to highest month of total budgeted expenditures in advance of the beginning of the contract. On August 1st and February 1st of each year, any cumulative Operating Income in excess of what is needed to operate the course shall be distributed to the City.

11. BUSINESS RECORDS

- 11.1 Types of Records - The Operator shall maintain a method of accounting for all the revenues and expenses in connection with the operation of the Premises, which method shall be acceptable to the City and which shall correctly and accurately reflect the gross receipts and disbursements received or made by the Operator from the operation of the Premises. The Operator shall establish and implement adequate internal controls for this operation as required by the City and/or the State Auditor's Office. The method of accounting, including bank accounts, established for the operation shall be separate from the accounting system used for any other business operated by the Operator. Such method shall include the keeping of the following records and documents:

- A. Regular books of account such as general ledgers;
- B. Journals, including any supporting and underlying documents, such as vouchers, checks, tickets, and bank statements;
- C. Checks and other documents proving payment of sums shown;
- D. Cash register tapes or computerized records for the identification of day-to-day sales;
- E. Logs showing the dates and times of greens usage, Golf Lessons, and other activities at the Golf Course and on the Premises, as mutually agreed by the City and the Operator; and
- F. Any other accounting records that the City, in its sole discretion, deems necessary for proper reporting of receipts.

- 11.2 Audit of Records - All documents, books, and accounting records kept by the Operator pursuant to this Article shall be open for inspection by the City at any reasonable time during the Term of this Agreement and for at least three (3) years thereafter, unless a longer period of time is required under state law. All books and records shall be turned over to the City after three (3) years for retention in the City's archives, unless a shorter period of time is required under state law. In addition, the City or its authorized representative may, from time to time, conduct an audit of the books of the operation of the Premises and observe the operation of the business. The City shall use its best

efforts to minimize interruption of the normal operation of the Premises during any inspection or audit performed pursuant to the provisions of this Section. The City and the Operator shall independently conduct and jointly conduct "surprise" cash and inventory audits as each deems appropriate. The results of the audits shall be documented in a written report, a copy of which shall be given to both parties.

- 11.3 Annual Financial Statements - The City may require the Operator to submit to the City audited financial statements for the operation of the Premises, including a copy of the applicable audited statement of gross receipts and the audit management letter, within one hundred twenty (120) days of the close of any or all Operating Years during the Term of this Agreement. If requested, the audit shall be performed by an independent certified public accountant designated by the City and the cost of the audit shall be included as an Operating Cost.
- 11.4 Public Records - All information obtained in connection with the City's inspections of the records or audits may be or become subject to public inspection and/or reproduction as public records.

12. INSURANCE AND INDEMNITY

12.1 Operator shall provide insurance coverage as follows:

A. The Operator shall provide the following minimum insurance:

- 1) Commercial General Liability Insurance - The Operator shall obtain and file with the City a certified copy of a valid Commercial General Liability Insurance Policy which shall be approved by the City as to form and coverage, and which policy shall fully protect the City from any and all claims and risks in connection with the Operator's activity upon or use or occupation of the Premises, as well as any and all claims and risks in connection with any activity performed by the Operator by virtue of the rights granted pursuant to this Agreement. Such policy shall specifically name the City as an additional insured party thereunder and be primary and non-contributory coverage over any and all insurance coverage the City may carry.

The policy shall provide the following minimum coverage:

Minimum Coverage: Commercial General Liability

Minimum Limits: \$2,000,000 per occurrence

Said coverage shall include or shall be endorsed to include personal injury, contractual liability, products and completed operations, and liquor liability; said policy shall cover any injury, death, damage, and/or loss of any sort sustained by any person, organization, or corporation (including the Operator and any of the Operator's employees and/or agents) in connection with any

activity upon or use or occupation of the Premises, and for any activity performed by the Operator by virtue of the rights granted pursuant to this Agreement; provided that the City may raise said minimum limits declaring such increase necessary to adequately protect the City.

- 2) Commercial Crime Insurance - The Operator shall obtain and keep in full force and effect, during the Term of this Agreement, a commercial crime insurance policy in the amount of \$250,000 per occurrence for employee dishonesty and coverage for theft, disappearance, and destruction of or to monies or funds of, in, or at the Premises and shall name the City on said policy as a Loss Payee or Third Party Beneficiary.
 - 3) Business Automobile Liability coverage with limits not less than \$1,000,000 per accident for any auto.
 - 4) Stop Gap/Employers Liability coverage with limits not less than \$1,000,000 per accident/disease.
 - 5) Workers' Compensation coverage as required by the Industrial Insurance Laws of the State of Oregon.
 - 6) Umbrella or Excess Liability coverage with a limit of not less than \$5,000,000.
- B. Self-Insured Retentions - Self-insured retentions shall be declared to and approved by the City.
- C. Other Provisions
- 1) Said insurance policies shall be maintained in full force and effect throughout the entire Term of this Agreement and such policies or endorsements thereto shall contain the following provisions:
 - a. The City, its officials, employees, and volunteers shall be named as an additional insured on the Operator's Commercial General Liability policy and as a Loss Payee or Third Party Beneficiary on the Operator's Commercial Crime Insurance policy.
 - b. The coverage provided by these policies to the City or any other named insured shall not be terminated, reduced, or otherwise changed in any respect without providing at least sixty (60) days written notice to the City.
 - 2) Said liability insurance is to be reviewed annually by the City to determine the adequacy of liability limits, which may be increased upon demand.
- D. Acceptability of Insurers - Insurance shall be placed with insurers with a rating acceptable to the City.

- E. Verification of Coverage - The Operator shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Operator. The certificates and endorsements are to be received and approved by the City before any work commences. The City reserves the right to require complete, certified copies of all required insurance policies at any time.
- F. Subcontractors - The Operator shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the same insurance requirements as stated herein for the Operator.

Notwithstanding any other provisions of this Agreement, the failure of the Operator to comply with the above provisions of this Section shall subject this Agreement to immediate termination without notice to any party in order to protect the public interest.

12.2 Indemnification

- A. The Operator shall protect, defend, indemnify, and save harmless the City, its officers, employees, and agents from any and all costs, claims, judgments, or awards of damages, arising out of or in any way resulting from the negligent or intentional acts or omissions of the Operator. The Operator agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. In the event the City incurs any judgment, award, and/or cost arising therefrom including attorneys' fees to enforce the provisions of this Article, all such fees, expenses, and costs shall be recoverable from the Operator.
- B. Subject to the limitations set forth in ORS _____, the City shall protect, defend, indemnify, and save harmless the Operator, its officers, employees, and agents from any and all costs, claims, judgments, or awards of damages, arising out of or in any way resulting from the negligent or intentional acts or omissions of the City. The City agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. In the event the Operator incurs any judgment, award, and/or cost arising therefrom including attorneys' fees to enforce the provisions of this Article, all such fees, expenses, and costs shall be recoverable from the City.
- C. Except as described above, the City, its employees, and agents shall not be liable for any injury or death to any person(s) or for damage to any property, regardless of how such injury, death, or damage be caused, sustained, or alleged to have been sustained by the Operator or others as a result of any of the following:

- 1) Any condition including existing or future defects in the Premises, excluding latent defects in the Premises;
- 2) Any occurrence whatsoever arising from or related in any way to the Premises, the Operator's use and occupancy of the Premises, or the Operator's use of property adjacent thereto.

D. The indemnification set forth in this Article shall survive the termination of this Agreement.

12.3 Un-usability - In the event that the Premises or a substantial portion thereof are rendered unusable by fire, earthquake, act of war, or other extraordinary casualty destroying or damaging the Premises, either party may terminate this Agreement by giving notice to the other party within thirty (30) days after such conditions are discovered. Neither party shall be required to restore or reconstruct the Premises.

13. REPRESENTATIONS AND WARRANTIES

13.1 Organization and Authority - As of the date of this Agreement and thereafter, the Operator hereby represents and warrants that: (a) it is a Limited Liability Company duly organized, validly existing and in good standing under the laws of the State of Oregon and is qualified to do business in all other states where necessary in light of its business or properties and has all requisite power and authority to conduct its business and own its properties; (b) it has all necessary power and authority to execute, deliver, and perform its obligations under this Agreement; (c) the execution, delivery, and performance by the Operator under this Agreement has been duly authorized by all necessary action and this Agreement has been duly and validly executed and delivered by the Operator; and (d) this Agreement constitutes the legal, valid, and binding obligation of the Operator and is enforceable against the Operator in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, or moratorium or other similar laws relating to the rights of creditors generally.

13.2 No Conflict - As of the Effective Date and thereafter for the Term of this Agreement, the Operator hereby represents and warrants that the execution, delivery, and performance by the Operator of this Agreement does not and shall not: (a) conflict with or violate any provision of its articles of incorporation or bylaws; (b) result in a material breach or violation of any term or provision of, or constitute a material default under, any material agreement or instrument to which the Operator is a party or by which the Operator or any of its assets are bound; or (c) contravene or constitute a material default under any provision of applicable law or regulation.

13.3 Survival of Representations and Warranties - The representations and warranties set forth by the Operator in this Article 13 shall survive the date of this Agreement and shall terminate only upon the fifth anniversary of the date of termination of this Agreement.

14. NOTICE

14.1 Notice - All notices, requests, demands, consents, and other communications required or permitted to be given by this Agreement shall be in writing and personally delivered or placed in the United States mail, properly addressed and with full postage prepaid, certified and return receipt requested. Such notices shall be deemed received at the earlier of (a) the date actually received, or (b) 5 business days after such mailing. Such notices shall be sent to the parties at the following addresses, unless other addresses are furnished by appropriate notice:

If to the City, to:

City of Brookings
Janell K. Howard
898 Elk Drive
Brookings, OR 97415

If to the Operator, to:

Brookings Golf, LLC
Michael Sharp
5341 Old Redwood Hwy, Suite 202
Petaluma, Ca 94954

15. MISCELLANEOUS

- 15.1 Entire Agreement - This Agreement and the documents expressly referred to herein constitute the entire agreement among the parties with respect to the subject matter hereof and supersede any prior agreement or understanding among the parties with respect to such subject matter.
- 15.2 Severability - If any provision of this Agreement or the application of such provision to any party or circumstance shall be invalid, the remainder of this Agreement or the application of such provision to other parties or circumstances shall not be affected thereby.
- 15.3 Liens and Encumbrances - The Operator shall keep the Premises free and clear of any liens and encumbrances arising or growing out of its use and occupancy of the Premises. At the City's request, the Operator shall furnish the City written proof of payment of any item which would or might constitute the basis for such a lien on the Premises, if not paid.

15.4 Termination for Default - If the Operator defaults by failing to perform any of the obligations of this Agreement or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, and said default, insolvency, bankruptcy or assignment is not cured within ten (10) days after written notice is provided to the Operator, the City, may, by depositing written notice to the Operator in the U.S. mail, postage prepaid, terminate this Agreement, and at the City's option, obtain performance of the work elsewhere. If this Agreement is terminated for default, the Operator shall not be entitled to receive any further payments under this Agreement until all work called for has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Operator. The Operator shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the City by reason of such default.

If a notice of termination for default has been issued and it is later determined for any reason that the Operator was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.

15.5 Waiver - No action other than a written document from the City Manager so stating shall constitute a waiver by the City of any breach or default by the Operator nor shall such a document waive the Operator's full compliance with the terms and conditions of the Agreement, irrespective of any knowledge the City may have of such breach, default, or noncompliance. The City's failure to insist upon full performance of any provision of this Agreement shall not be deemed consent to or acceptance of such incomplete performance in the future.

No waiver of any breach or default shall constitute or be construed as a waiver of any subsequent like breach or default.

15.6 Mediation Clause - Whenever the City and the Operator have a dispute as to any of the terms of this Agreement, and whenever the City or Operator has a dispute as to whether the requirements of the Agreement are being reasonably performed, the City or Operator may demand that the issue be mediated with both entities equally sharing the mediator's fees and costs.

In that event, the City shall select the mediator. Nothing in this paragraph shall be deemed to limit or impair any legal remedies otherwise available to the parties.

15.7 Time - If the last day for performance of any of the provisions of this Agreement, during a stated period of days, shall fall upon a Saturday, Sunday, or holiday observed by either party, the final day for performance shall be the following weekday on which both parties would customarily be open for the conduct of business.

- 15.8 Assignment of Agreement - The Operator shall not assign or transfer this Agreement nor otherwise convey any right or privilege granted hereunder regarding any part of the Premises unless the Operator first obtains the written consent of the City. Neither this Agreement nor any right, privilege, or interest therein or thereunder shall be transferable by operation of law or by any process or proceeding of any court.
- 15.9 Counterparts - This Agreement may be executed in one or more counterparts, all of which shall constitute one in the same instrument.
- 15.10 Headings - The article and section headings in this Agreement are for convenience of reference only and shall not be deemed to alter or affect the meaning or interpretation of any provisions hereof.
- 15.11 Applicable Law; Venue; Attorneys' Fees - This Agreement shall be governed by and construed in accordance with the laws of Oregon. In the event any suit, mediation, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be exclusively in Curry County. Unless otherwise stated in this Agreement, the prevailing party in any such action shall be entitled to its attorneys' (including but not limited to City Attorney) fees and costs of suit, which shall be fixed by the judge hearing the case, and such fees shall be included in the judgment.
- 15.12 Amendment - This Agreement shall not be modified or amended except by a written agreement executed by both of the parties.
- 15.13 Further Actions - Each party shall execute and deliver such other certificates, agreements, and documents, and take such other actions as may reasonably be required to carry out the provisions or the intent of this Agreement.
- 15.14 Ownership and Use of Documents - Any records, files, documents, drawings, specifications, data, or information, regardless of form or format, and all other products or materials produced by the Operator in connection with the services provided to the City, shall be the property of the City whether the project for which they are made is executed or not. All such documents, products, and materials shall be forwarded to the City at its request and may be used by the City as it sees fit. The City agrees that if the documents, products, and materials prepared by the Operator are used for purposes other than those intended by the Agreement, the City does so at its sole risk and agrees to hold the Operator harmless for such use, subject to the limitations set forth in ORS _____.

All services performed under this Agreement shall be conducted solely for the benefit of the City and shall not be used for any other purpose without written consent of the City. Any information relating to the services shall not be released to the news media or any other source without the written permission of the City.

The Operator shall preserve the confidentiality of all confidential City documents and data accessed for use in the Operator's work product. Breach of confidentiality by the Operator shall be grounds for immediate termination.

The Operator recognizes that this Agreement involves interaction with a public entity. Any oral or written information provided to the City by Operator may be subject to public inspection under Oregon State Law or other applicable law and may be subject to records retention laws. If a request for Operator's information is made, City will notify Operator of such request. If Operator intends to claim that any such requested documentation is "Confidential Information" or confidential, proprietary, or trade secret information as identified in Oregon State Law, or otherwise under applicable law, it will be required to take any and all steps necessary, including court action, to establish that the information is not subject to public disclosure.

- 15.15 Independent Operator - The Operator and the City agree that the Operator is an independent operator with respect to the services provided pursuant to this Agreement. The Operator shall be solely responsible for its acts and for the acts of its agents, employees, subcontractors, or representatives during the performance of this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto.

The City shall not be responsible for withholding or otherwise deducting federal income tax or Social Security or contributing to the State Industrial Insurance Program, or otherwise assuming the duties of an employer with respect to the Operator or any employee of the Operator.

- 15.16 Policies and Procedures to be Provided by the Operator - Prior to the Effective Date, the Operator shall provide to the City for City comment and approval written and detailed policies and procedures regarding management, operation, and maintenance of the Premises. Such materials shall include but not be limited to a Pro Shop manual, maintenance specifications, custodial responsibilities, and an employee handbook. The Operator agrees that such policies and procedures shall contain a drug testing policy allowed under applicable law with respect to the Operator's employees, and that said drug testing policy shall be subject to City approval.

Signature page follows.

DATED this ____ day of _____.

Brookings Golf, LLC

By: _____

Title: _____

City of Brookings

By: _____

[INSERT NAME OF SIGNER]

Title: **[INSERT TITLE]**

ATTEST

CITY SEAL

[INSERT NAME], City Clerk

Approved as to form*:

By: _____
[INSERT NAME], City Attorney

DRAFT

Salmon Run - Transition Schedule

CourseCo
Tom Bugbee

Project Start:

Display Week:

TASK	ASSIGNED TO	PROGRESS	START	END	Oct 12, 2020							Oct 19, 2020							Oct 26, 2020							Nov 2, 2020							Nov 9, 2020							Nov 16, 2020							Nov 23, 2020							Nov 30, 2020							Dec 7, 2020							Dec 14, 2020							Dec 21, 2020							Dec 28, 2020							Jan 4, 2021							Jan 11, 2021							Jan 18, 2021						
					M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S
Administrative																																																																																																													
Contract	Tom Bugbee	10%	10/12/20	12/1/20																																																																																																									
City Presentation	Sharp/Bugbee	0%	TBD	TBD																																																																																																									
CourseCo/City Staff Lunch	Sharp/Bugbee/City Staff	0%	TBD	TBD																																																																																																									
Transition Meeting	Bugbee/City Staff	0%	TBD	TBD																																																																																																									
Accounting Conference Call	CourseCo Acct/ City Finance	0%	12/1/20	12/1/20																																																																																																									
Set Up Bank Accounts	Russ Erickson	0%	12/7/20	12/7/20																																																																																																									
Set Up Credit Card Processing	Russ Erickson	0%	12/14/20	12/14/20																																																																																																									
Point of Sale (analysis/recommendation)	Lance Merrihew	0%	12/1/20	12/7/20																																																																																																									
Vendor Accounts	Janice Norton	0%	11/30/20	12/31/20																																																																																																									
Liquor License Transfer	Lance Iwanaka	0%	12/1/20	12/31/20																																																																																																									
Utility Accounts	Janice Norton	0%	11/30/20	12/31/20																																																																																																									
Business License	Russ Erickson	0%	11/30/20	12/14/20																																																																																																									
Employees																																																																																																													
Employee Memo Distributed	Sandy Marfin	0%	11/23/20	11/23/20																																																																																																									
Employee Job Fair	Bugbee/Merrihew/ Marfin	0%	TBD	TBD																																																																																																									
Employee Job Offers	Bugbee/Marfin	0%	12/15/20	12/18/20																																																																																																									
Employee Paperwork	Sandy Marfin	0%	12/18/20	12/31/20																																																																																																									
Payroll Set Up	Sandy Marfin	0%	12/1/20	12/31/20																																																																																																									
Customers																																																																																																													
Individual Phone Calls to Homeclubs	Bugbee	0%	11/16/20	11/22/20																																																																																																									
Home Club/Customer Presentation	Bugbee/Silva	0%	TBD	TBD																																																																																																									
Community Groups/Orginazation Meetings	Bugbee/Silva	0%	TBD	TBD																																																																																																									
First Email Blast	Pam Saling	0%	1/1/21	1/1/21																																																																																																									
1st Customer Event	Sean Silva	0%	TBD	TBD																																																																																																									
Operations																																																																																																													
Budget	Tom Bugbee	0%	11/1/20	12/15/20																																																																																																									
Sales & Marketing Plan	Lance Merrihew	0%	11/1/20	12/15/20																																																																																																									
Website Build Out	Pam Saling	0%	12/1/20	12/31/20																																																																																																									
Uniforms/Nametags (if needed)	Sean Silva	0%	12/1/20	12/15/20																																																																																																									
First Day of Operations	Tom Bugbee	0%	1/1/21	1/1/21																																																																																																									
Website Launch	Pam Saling	0%	1/1/21	1/1/21																																																																																																									
Employee Welcome Dinner	Tom Bugbee	0%	12/30/20	12/30/20																																																																																																									
Retail Inventory	Sean Silva	0%	1/1/21	1/1/21																																																																																																									
Equipment Inventory	Troy Thompson	0%	1/1/21	1/1/21																																																																																																									
FF&E Inventory	Sean Silva	0%	1/1/21	1/1/21																																																																																																									
Safety Training (Initial)	Troy Thompson	0%	1/1/21	1/7/21																																																																																																									
SWEAT Training (Initial)	Sean Silva	0%	1/1/21	1/14/21																																																																																																									
Sales Training (Initial)	Lance Iwanaka	0%	1/14/21	1/28/21																																																																																																									
FLASH Reporting Training	Sean Silva	0%	1/5/21	1/5/21																																																																																																									
Payroll Training	Sandy Marfin	0%	1/11/21	1/12/21																																																																																																									

Insert new rows ABOVE this one

Report Criteria:
 Report type: Summary

GL Period	Check Issue Date	Check Number	Vendor Number	Payee	Check GL Account	Amount
10/20	10/14/2020	85438	1	Environmental Filtration	20-00-2005	135.00- V
10/20	10/14/2020	85497	3	Environmental Filtration	20-00-2005	66.73- V
10/20	10/01/2020	85502	5908	Amazon Capital Services	49-00-2005	158.83
10/20	10/01/2020	85503	5941	Shaun Barbic	10-00-2005	300.00
10/20	10/01/2020	85504	313	Brookings Vol Firefighters	10-00-2005	2,250.00
10/20	10/01/2020	85505	715	Budge McHugh Supply	20-00-2005	3,713.71
10/20	10/01/2020	85506	5567	CAL/OR Insurance Specialists Inc	30-00-2005	683.33
10/20	10/01/2020	85507	3015	Charter Communications	10-00-2005	144.98
10/20	10/01/2020	85508	5952	Chetco Auto Marine & Industrial Supply	10-00-2005	74.36
10/20	10/01/2020	85509	3834	Clean Sweep Janitorial Service	10-00-2005	2,317.00
10/20	10/01/2020	85510	5827	Coastal Investments LLC	10-00-2005	1,130.00
10/20	10/01/2020	85511	1745	Coastal Paper & Supply, Inc	10-00-2005	1,312.31
10/20	10/01/2020	85512	182	Coos-Curry Electric	10-00-2005	5,013.14
10/20	10/01/2020	85513	2384	Curry County Road Dept	15-00-2005	7,237.58
10/20	10/01/2020	85514	284	Day Management Corp	30-00-2005	930.00
10/20	10/01/2020	85515	317	DCBS - Fiscal Services	10-00-2005	2,076.00
10/20	10/01/2020	85516	1	Glenda Endres	20-00-2005	70.14
10/20	10/01/2020	85517	1	Gaylord Klinefelter	20-00-2005	268.93
10/20	10/01/2020	85518	1	Marilyn & Walt Mead	20-00-2005	9.19
10/20	10/01/2020	85519	1	Denny Srikasem	20-00-2005	194.96
10/20	10/01/2020	85520	484	DMV	10-00-2005	10.00
10/20	10/01/2020	85521	2186	Ferguson Waterworks #3011	20-00-2005	670.20
10/20	10/01/2020	85522	298	Freeman Rock, Inc	10-00-2005	407.50
10/20	10/01/2020	85523	199	Richard Harper	10-00-2005	400.00
10/20	10/01/2020	85524	5942	Donald Hobbs	10-00-2005	475.00
10/20	10/01/2020	85525	3978	KLB Enterprises	25-00-2005	1,467.71
10/20	10/01/2020	85526	328	Les Schwab Tire Center	15-00-2005	909.48
10/20	10/01/2020	85527	6035	Frank Mowery	10-00-2005	625.00
10/20	10/01/2020	85528	4487	Net Assets Corporation	10-00-2005	540.00
10/20	10/01/2020	85529	329	New Hope Plumbing	10-00-2005	167.50
10/20	10/01/2020	85530	5886	Office Depot Inc	10-00-2005	72.75
10/20	10/01/2020	85531	3561	Oil Can Henry's	10-00-2005	50.48
10/20	10/01/2020	85532	6036	David & Tamara Olmsted	10-00-2005	184.00
10/20	10/01/2020	85533	322	Postmaster	25-00-2005	850.00
10/20	10/01/2020	85534	5768	Proficient Auto Center Inc	25-00-2005	489.50
10/20	10/01/2020	85535	207	Quill Corporation	10-00-2005	425.54
10/20	10/01/2020	85536	3	Ryan & Hannah Barcelona	20-00-2005	104.82
10/20	10/01/2020	85537	3	Pacific Ocean Properties	20-00-2005	102.50
10/20	10/01/2020	85538	1840	Rogue Credit Union	15-00-2005	1,356.89
10/20	10/01/2020	85539	3369	Schwabe Williamson & Wyatt PC	20-00-2005	1,482.00
10/20	10/01/2020	85540	2863	Verizon Wireless	10-00-2005	547.49
10/20	10/01/2020	85541	5943	Jesus Zamora	10-00-2005	125.00
10/20	10/01/2020	85542	4131	Zumar Industries Inc	15-00-2005	721.00
10/20	10/08/2020	85543	5876	Advanced Reporting LLC	10-00-2005	59.83
10/20	10/08/2020	85544	147	Brookings Glass Inc	10-00-2005	294.00
10/20	10/08/2020	85545	6031	Cascade Home Center	10-00-2005	1,051.90
10/20	10/08/2020	85546	5842	Century West Engineering Corp	33-00-2005	13,410.00
10/20	10/08/2020	85547	183	Colvin Oil Company	10-00-2005	1,683.91
10/20	10/08/2020	85548	5939	Country Media Inc	25-00-2005	108.00
10/20	10/08/2020	85549	185	Del Cur Supply	50-00-2005	1,647.56
10/20	10/08/2020	85550	1	Chet's Garden Center	20-00-2005	194.96
10/20	10/08/2020	85551	1	Sherry Guthrie	20-00-2005	188.82
10/20	10/08/2020	85552	484	DMV	25-00-2005	127.50

M = Manual Check, V = Void Check

GL Period	Check Issue Date	Check Number	Vendor Number	Payee	Check GL Account	Amount
10/20	10/08/2020	85553	484	DMV	25-00-2005	127.50
10/20	10/08/2020	85554	5432	First Community Credit Union	25-00-2005	1,102.00
10/20	10/08/2020	85555	5065	Gold Beach Lumber	10-00-2005	19.96
10/20	10/08/2020	85556	198	Grants Pass Water Lab	20-00-2005	42.00
10/20	10/08/2020	85557	2	Dr Jack Lewis	10-00-2005	130.00
10/20	10/08/2020	85558	3159	NorthCoast Health Screening	10-00-2005	201.00
10/20	10/08/2020	85559	5008	Online Information Services	10-00-2005	146.68
10/20	10/08/2020	85560	4	Jessica Chamberlain	10-00-2005	218.00
10/20	10/08/2020	85561	4	Ciara Stewart	10-00-2005	218.00
10/20	10/08/2020	85562	866	Pitney Bowes Global Financial , LLC	10-00-2005	144.93
10/20	10/08/2020	85563	5101	Pitney Bowes Reserve Acct	10-00-2005	500.00
10/20	10/08/2020	85564	5768	Proficient Auto Center Inc	10-00-2005	767.50
10/20	10/08/2020	85565	3	Brett Hegge	20-00-2005	13.45
10/20	10/08/2020	85566	142	Tidewater Contractors Inc	25-00-2005	415.20
10/20	10/08/2020	85567	4542	Umpqua Bank	45-00-2005	13,806.19
10/20	10/08/2020	85568	2122	Cardmember Service	10-00-2005	3,251.23
10/20	10/08/2020	85569	169	Waste Connections Inc	10-00-2005	387.51
10/20	10/15/2020	85570	4734	Aramark Uniform Services	10-00-2005	150.00
10/20	10/15/2020	85571	4939	BI- Mart Corporation	15-00-2005	104.66
10/20	10/15/2020	85572	2407	Blue Star Gas	10-00-2005	5,426.85
10/20	10/15/2020	85573	4506	Blue Water Cafe	32-00-2005	90.00
10/20	10/15/2020	85574	5070	Canon Solutions America	10-00-2005	58.60
10/20	10/15/2020	85575	4928	CIS Trust	25-00-2005	733.30
10/20	10/15/2020	85576	3834	Clean Sweep Janitorial Service	10-00-2005	150.00
10/20	10/15/2020	85577	822	Coast Auto Center	10-00-2005	290.28
10/20	10/15/2020	85578	6013	Compass Rose Cafe	32-00-2005	30.00
10/20	10/15/2020	85579	4746	Curry County Treasurer	10-00-2005	352.00
10/20	10/15/2020	85580	173	Curry Equipment	10-00-2005	487.81
10/20	10/15/2020	85581	259	Da-Tone Rock Products	15-00-2005	940.61
10/20	10/15/2020	85582	1	Jill Beard Chavez	20-00-2005	135.00
10/20	10/15/2020	85583	371	DEQ Business Office	25-00-2005	240.00
10/20	10/15/2020	85584	5951	Executech Utah LLC	49-00-2005	31.25
10/20	10/15/2020	85585	3342	Fastenal	20-00-2005	528.73
10/20	10/15/2020	85586	5004	Galls LLC	10-00-2005	24.93
10/20	10/15/2020	85587	139	Harbor Logging Supply	15-00-2005	249.25
10/20	10/15/2020	85588	5932	Harden Psychological Associates PC	10-00-2005	300.00
10/20	10/15/2020	85589	123	Motorola Solutions Inc	10-00-2005	9,659.95
10/20	10/15/2020	85590	5931	Nations Medical	20-00-2005	403.00
10/20	10/15/2020	85591	279	One Call Concepts, Inc	25-00-2005	58.80
10/20	10/15/2020	85592	5155	Oregon Department of Revenue	10-00-2005	965.00
10/20	10/15/2020	85593	252	Paramount Pest Control	10-00-2005	60.00
10/20	10/15/2020	85594	4	Sunny Michael	10-00-2005	218.00
10/20	10/15/2020	85595	5768	Proficient Auto Center Inc	20-00-2005	260.00
10/20	10/15/2020	85596	207	Quill Corporation	10-00-2005	199.47
10/20	10/15/2020	85597	3	Jill Beard Chavez	20-00-2005	66.73
10/20	10/15/2020	85598	3	Premier Property Management	20-00-2005	157.37
10/20	10/15/2020	85599	5457	Speer Hoyt LLC	10-00-2005	1,632.00
10/20	10/15/2020	85600	380	Stadelman Electric Inc	50-00-2005	4,830.31
10/20	10/15/2020	85601	570	State of Oregon	10-00-2005	40.00
10/20	10/15/2020	85602	797	Town & Country Animal Clinic	61-00-2005	171.00
10/20	10/15/2020	85603	861	Village Express Mail Center	10-00-2005	75.12
10/20	10/15/2020	85604	169	Waste Connections Inc	25-00-2005	629.15
10/20	10/15/2020	85605	6037	Wright Line LLC	30-00-2005	14,666.56
10/20	10/15/2020	85606	5992	Zipty Fiber	25-00-2005	1,546.50
10/20	10/15/2020	85607	4131	Zumar Industries Inc	15-00-2005	1,692.01
10/20	10/26/2020	85608	5048	Brookings Harbor Medical Center	10-00-2005	150.00

M = Manual Check, V = Void Check

GL Period	Check Issue Date	Check Number	Vendor Number	Payee	Check GL Account	Amount
10/20	10/26/2020	85609	5070	Canon Solutions America	10-00-2005	476.72
10/20	10/26/2020	85610	3015	Charter Communications	10-00-2005	739.96
10/20	10/26/2020	85611	5822	Chaves Consulting Inc	49-00-2005	370.20
10/20	10/26/2020	85612	183	Colvin Oil Company	10-00-2005	1,806.21
10/20	10/26/2020	85613	1	Buster Bews	20-00-2005	38.16
10/20	10/26/2020	85614	1	Wesley Peters	20-00-2005	155.60
10/20	10/26/2020	85615	1	Phyllis Putansu	20-00-2005	3.67
10/20	10/26/2020	85616	2640	Dyer Partnership Inc., The	51-00-2005	922.50
10/20	10/26/2020	85617	2067	Enviro-Clean Equipment	25-00-2005	253.31
10/20	10/26/2020	85618	3342	Fastenal	15-00-2005	367.18
10/20	10/26/2020	85619	4980	iSecure	10-00-2005	33.00
10/20	10/26/2020	85620	679	McCourt Floor Coverings	30-00-2005	6,057.50
10/20	10/26/2020	85621	3561	Oil Can Henry's	10-00-2005	75.38
10/20	10/26/2020	85622	427	Oregon Pacific Company	10-00-2005	439.20
10/20	10/26/2020	85623	4	Tiffany Schuette	10-00-2005	218.00
10/20	10/26/2020	85624	207	Quill Corporation	10-00-2005	106.08
10/20	10/26/2020	85625	3	Steve Blasdel	20-00-2005	93.87
10/20	10/26/2020	85626	3	Wesley Peters	20-00-2005	119.18
10/20	10/26/2020	85627	3752	Trace Analytics, LLC	10-00-2005	89.00
10/20	10/26/2020	85628	861	Village Express Mail Center	10-00-2005	6.53
10/20	10/26/2020	85629	4131	Zumar Industries Inc	15-00-2005	143.58
10/20	10/29/2020	85630	2364	C & S Fire-Safe Services LLC	20-00-2005	634.00
10/20	10/29/2020	85631	4882	Coastal Heating & Air	10-00-2005	491.47
10/20	10/29/2020	85632	182	Coos-Curry Electric	10-00-2005	4,954.25
10/20	10/29/2020	85633	1	Nicole Cunha	20-00-2005	142.95
10/20	10/29/2020	85634	1	Roger & Cynthia Purnelle	20-00-2005	3.85
10/20	10/29/2020	85635	1	Darcy Rego	20-00-2005	237.75
10/20	10/29/2020	85636	1	Phyllis J Trudell	20-00-2005	36.35
10/20	10/29/2020	85637	6002	Dragon Palace	32-00-2005	90.00
10/20	10/29/2020	85638	298	Freeman Rock, Inc	10-00-2005	582.25
10/20	10/29/2020	85639	5065	Gold Beach Lumber	10-00-2005	57.97
10/20	10/29/2020	85640	5881	Ground Control Southern Oregon LLC	50-00-2005	1,360.00
10/20	10/29/2020	85641	4953	Harbor Truss and Supply LLC	10-00-2005	300.00
10/20	10/29/2020	85642	329	New Hope Plumbing	50-00-2005	2,484.50
10/20	10/29/2020	85643	3561	Oil Can Henry's	10-00-2005	536.00
10/20	10/29/2020	85644	4	Tiffany Schuette	10-00-2005	193.00
10/20	10/29/2020	85645	5768	Proficient Auto Center Inc	20-00-2005	313.50
10/20	10/29/2020	85646	207	Quill Corporation	10-00-2005	117.31
10/20	10/29/2020	85647	3369	Schwabe Williamson & Wyatt PC	20-00-2005	5,888.00
10/20	10/29/2020	85648	380	Stadelman Electric Inc	10-00-2005	109.02
10/20	10/29/2020	85649	2863	Verizon Wireless	10-00-2005	587.72
10/20	10/29/2020	85650	5965	Virtru Corporation	10-00-2005	1,980.00
10/20	10/29/2020	85651	2122	Cardmember Service	10-00-2005	13,691.40
10/20	10/29/2020	85652	4220	Woof's Dog Bakery	61-00-2005	47.99
Grand Totals:						175,283.07

Dated: _____

Mayor: _____

City Council: _____

City Recorder: _____

Report Criteria:

Report type: Summary
