

First Amendment
MINT VALLEY GOLF COURSE
CONTRACTOR SERVICES AGREEMENT

THIS FIRST AMENDMENT, to the December 31, 2013 Agreement made and entered into by and between the CITY OF LONGVIEW, a municipal corporation, hereinafter referred to as "City" and Nicholas Van, doing business as NV Golf & Property Management", hereinafter referred to as "Contractor" hereinafter, the "Agreement",

WITNESSETH:

WHEREAS, the City desires to amend the following sections of the Agreement to update the current golf services and management provided for by Contractor;

NOW, THEREFORE, in consideration of the mutual promises and agreements of the parties herein contained, the parties agree to amend the Agreement as follows:

Section 3.11 of the Agreement shall be deleted and replaced with the following language:

~~3.11 — The parties hereto mutually pledge to work together in a spirit of cooperation and to negotiate in all areas and among all parties involved in order to develop and operate the Golf Course to its full potential and to give the best service to the patrons of Golf Course facilities. The City and Contractor shall, no less often than annually, jointly negotiate, prepare and participate in a joint marketing and promotion program. Contractor shall, as a part of this Agreement, work with the Director, City officials, golf organizations and tournament promoters in promoting golf and the Golf Course. Contractor shall use his best efforts to develop and maintain cooperative working relationships with the aforesaid persons and other interested organizations in order to provide the best programs and services possible for the public. Contractor shall expend no less than \$3,000.00 per year in advertising designed to promote golf at the Golf Course. In addition, Contractor shall pay 20% of the cost of jointly offered advertising programs agreed upon by both Parties. Contractor shall develop, maintain, and use, with reasonable effort, a data base of Golf Course customers and potential customers and shall provide such data base to City upon request.~~

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the Contractor shall pay 20% of the cost of jointly offered advertising programs agreed upon by both Parties. If the Contractor brings forth suggested advertisement with the hope of reimbursement, it must first be approved by the City. If the City does not agree to the advertisement the Contractor may choose, at his own expense, to pay for the advertisement. Additionally, the Contractor will be responsible for marketing programs with regard to advertising (print/flyers), emails, social media, and other outlets that are free or incur minimal fees. Contractor shall develop, maintain, and use, with reasonable effort, a data base of Golf Course customers and potential customers and shall provide such data base to City upon request.

Section 3.12 (e) of the Agreement shall be amended to read as follows:

3.12

(e) The Contractor shall be fully responsible for the collection of all green fees, reservation fees, and other moneys associated with the operation of the Golf Course and, at his sole cost and expense, provide complete golf course reservation services including but not limited to: controlling starting times, taking reservations for tee times and scheduling tournaments. Contractor shall provide, at his sole cost and expense, all supplies necessary for the operation of the registration system with the exception of the computer hardware equipment which is the property of the City but maintained and repaired by the Contractor over and above maintenance provided by the City Information Technology Department staff. Contractor shall provide telephones, software and all equipment necessary for the operation of the registration/point-of-sale system. Requests made by the City for technical assistance and software upgrades shall be funded as mutually agreed upon. This system shall have the capabilities of transferring to the Parks and Recreation Department and the Finance Department of the City on a daily basis customer participation, sales and accounting records in a detail and format as requested by the Director. Contractor shall keep and provide to City complete and accurate records of accounts with regard to all moneys collected from all separate revenue streams applicable hereunder including the information that would be shown on paper starting sheets including a detail of daily rounds (i.e., 9 hole, 18 hole, Par 3, pass, volunteer and employee rounds), to be available to the City on a daily basis with a monthly summary report.

Contractor shall, throughout the term of this Agreement, comply with City policy statement(s) regarding the collection of all fees, reporting requirements for fees collected, and the system of accountability and procedures therefor. ~~Contractor shall be responsible for the submission of all designated golf fee moneys to City on a daily basis, segregated by day of the week collected, and shall provide a daily summary sheet which documents the accounting for both totals and the resulting payments due City.~~

Contractor shall be responsible for the submission of all designated golf fee moneys to City segregated by days of the week collected, and shall provide a payment summary sheet which documents the accounting for both totals and the resulting payments due City by the following weekly guidelines:

Mint Valley Golf deposits, at a minimum, shall be delivered to the City one time (1x) weekly or when deposit amount exceeds seven thousand five hundred dollars (\$7,500.00).

Mint Valley Golf deposits will be delivered to the bank and processed under the following conditions:

- Cash exceeds two thousand five hundred dollars (\$2,500.00) and/or the total bank deposit exceeds four thousand dollars (\$4,000.00) regardless of its cash or check composition.
- At a minimum Mint Valley Golf deposits will be delivered to the bank and processed one times (1x) weekly.

All accounting records of electronic starting sheets shall at all times be completely available for examination by the Director, the City Finance Director or an authorized representative. Contractor shall employ qualified and bondable reservation staff. The Director shall reserve the right to approve reservation staff, it being understood that such approval is appropriate because these employees will handle City funds while performing reservation operation functions. Contractor shall be permitted to waive green fees for visiting Class A members of the Golf Course Superintendents Association with the approval of the Golf Course Superintendent, and visiting Class A Golf Professionals who are members of the Professional Golf Association or the Ladies Professional Golf Association of America.

The following new subsection (o) shall be added to Section 3.12:

3.12

(o) The Contractor is responsible for the management of the cart storage facilities. This includes, but is not limited to:

The Contractor shall be responsible for the daily opening and closing of the cart storage facility which will include opening the two garage doors, the two man doors, and turning on and off the lights. The Contractor shall be responsible for alerting the course maintenance staff to address any facility concerns. The Contractor shall be responsible for maintaining a current and detailed list to include all contact information of individuals leasing spaces in the Cart Storage Facility. Contractor will provide the City the list when a new lease is sold, when information is updated, or when requested by the City. The Contractor shall be responsible for collecting the deposit and lease amounts from individuals wishing to lease spaces the cart storage facilities and remit both to the City. The Contractor will notify the City when an individual no longer wishes to lease their space within the Cart Storage facilities so that the City may refund the cart storage deposit when necessary. The Contractor shall be responsible for collecting the signed Golf Cart Storage Agreement and providing the originals to the City. The City will provide the Golf Cart Storage Agreements.

Section 4.01 (b) of the Agreement shall be amended to read as follows:

4.01

(b) The Contractor shall have the exclusive privilege of giving golf lessons and the Contractor and assistants shall be entitled to retain all fees charged for such lessons, excluding the agreed-upon distribution of fees for lessons provided through the City's recreation program. In consideration of this exclusive privilege, the Contractor shall provide a full range of golf instruction including, but not limited to, beginners to advanced, individual and group, and all age groups. In furtherance of this obligation Contractor shall, at his own cost and expense, contract with a PGA Golf Professional, to provide lessons and facilitate participation in pro/am tournaments. Fees for instructions shall not exceed the market rate, shall afford reasonable discounts to youth, and include package discounts when applicable. The fee schedule shall be posted and a copy supplied to the Director. Contractor shall make a concerted and consistent effort to promote junior golf among Longview area youths which should include golf etiquette training programs to instruct youth golfers in the rules of golf and appropriate behavior on the course. ~~The Contractor shall provide an accounting to the City on a monthly basis of all revenue received pursuant to this section 4.01(b).~~ The Contractor shall provide an accounting to the City annually of all revenue received pursuant to this section 4.01 (b). This accounting list will include names of independent contractors and report the total number of lessons and type of lessons provided.

Section 4.01 (c) of the Agreement shall be amended to read as follows:

4.01

(c) The Contractor shall be responsible for the management and operation of the driving range. The City and the Contractor shall equally share the costs of obtaining driving range mats and practice golf balls and all other equipment and supplies necessary for suitable operation of said driving range (excluding new netting which shall be the City's exclusive obligation to purchase). Both parties shall share ownership of jointly purchased range supplies and equipment. Contractor shall create and maintain an inventory of such range supplies and equipment and provide same to the City on the first of each year. All equipment and supplies shall be replaced when end of useable life is reached. The resolution for purchases for the range between the City and the Contractor is as follows; The Contractor and the Golf Course Superintendent will work together to determine the needs of the range as there is an equitable stake for both parties in the requirement to maintain and improve the facility. If no resolution occurs, it will then be presented to the Director where both parties will be present to discuss the need or opposition of the purchase with the final decision determined by the Director. Contractor shall provide adequate yardage signage on the range. Contractor is not responsible for maintenance of the turf and the irrigation system of the driving range, but will assist in the maintenance of the hitting area by spreading top dressing and grass seed provided by the Golf Course Superintendent. Contractor shall retain a sum equal to fifty percent (50%) of the gross receipts for the use of the driving range, less appropriate sales and use tax. The remaining fifty percent (50%) shall be remitted to the City. The Contractor shall provide an accounting to the City on a monthly basis of all revenue received pursuant to this section 4.01(c).

Section 4.01 (4) of the Agreement shall be deleted and replaced with the following language:

~~4.01~~

~~(4) — The City shall arrange for credit card processing services for purchases and rentals made at the Golf Course. Contractor shall reimburse the City Six Thousand and 00/100 Dollars (\$6,000.00) per year for Contractor's share of credit card processing fees.~~

4.01

(4) — The Contractor shall arrange for credit card processing services for purchases and rentals made at the Golf Course and Pro Shop. The Contractor will pay the merchant card services fees and provide the City a monthly credit card processing statement. The City will review the total department sales for the month and determine the City's total revenue using the percentages laid out in the Compensation Section of the Agreement (100% greens fees, 50% driving range, 15% power cart rentals, and 5% food and beverage sales). The City will then reimburse the Contractor for City's percentage of total credit card sales.

The following new subsection shall be added to Section 6:

6.08 — Dispute resolution. In the event of a dispute between the parties regarding the terms or performance of the provisions of this Agreement, prior to filing suit, the parties agree to first seek to mediate the dispute by bringing forward the dispute to the Parks and Recreation Director to determine resolution. If the dispute is between the Director and the Contractor, then both parties agree to seek to mediate the dispute by submitting to non-binding mediation through the Judicial Arbitration and Mediation Services of Washington. In the event of any litigation, each party shall be solely responsible for its own attorney fees and costs.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this ____ day of ____, 2016
THE CITY OF LONGVIEW

David Campbell
City Manager

CONTRACTOR

Nicholas Van
NV Golf & Property Management

ATTEST

City Clerk

APPROVED AS TO FORM:

City Attorney