

**Amendment No. 2 to GOLF MANAGEMENT LICENSE AND SERVICES WILDCREEK GOLF COURSE**

1. This amendment No 2. (the "Amendment") is made by MAZZ Golf Management (“Contractor”) and Washoe County (“County”), parties to the Golf Management License and Services at Wildcreek Golf Course (the "Agreement").
2. The Agreement and Amendment No. 1 is amended as follows:

**2.1 AMEND Section 2.1 of Amendment No. 1 - Term and License Fee**

This Agreement shall be for a period beginning on June 23, 2020 through December 31, 2022, retroactive to January 1, 2022.

Contractor shall pay to the County 50% of the net profit earned over the term of this agreement to be used in compensating the Washoe County Golf Enterprise fund for service provided by County under this agreement. Net profit shall be defined as – total revenue from all golf as described in section 12.4 of this agreement minus cost of goods sold and expenses.

Payments shall be made to the County no later than the fifteenth day of each month for the preceding month (example by August 15 for 50% of the net profit earned July 1 through July 31). Payment will be accompanied by a summary report in accordance with section 12.4 of this agreement.

3. Except as set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms.

**Washoe County**

By: \_\_\_\_\_

Printed Name: Vaughn Hartung

Title: Chair, Washoe County Commission

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: Mike Mazzaferri

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

**MAZZ Golf Management**

**Amendment No. 1 to GOLF MANAGEMENT LICENSE AND SERVICES WILDCREEK GOLF COURSE**

1. This amendment (the "Amendment") is made by MAZZ Golf Management ("Contractor") and Washoe County ("County"), parties to the Golf Management License and Services at Wildcreek Golf Course (the "Agreement").
2. The Agreement is amended as follows:

**2.1 AMEND Section 3 - Term and License Fee**

This Agreement shall be for a period beginning on June 23, 2020 through December 31, 2021, retroactive to November 15, 2020.

Contractor shall pay to the County 50% of the net profit earned over the term of this agreement to be used in compensating the Washoe County Golf Enterprise fund for service provided by County under this agreement. Net profit shall be defined as – total revenue from all golf as described in section 12.4 of this agreement minus cost of goods sold and expenses.

**2.2 AMEND Section 7 - Services and Facilities to be provided by County**

Washoe County will also provide one part time temporary irrigation specialist to assist Contractor with irrigation and grounds maintenance from the period June 23, 2020 through November 15, 2020.

3. Except as set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms.

**Washoe County**

By: 

Printed Name: Bob Lucey

Title: Chair, Washoe County Commission

Dated: 4/13/21

**MAZZ Golf Management**

By: 

Printed Name: Mike Mazzaferi

Title: President / CEO

Dated: 4/1/21

**GOLF MANAGEMENT LICENSE AND SERVICES  
WILDCREEK GOLF COURSE**

**TABLE OF CONTENTS**

1. RECITALS .....4

2. SCOPE OF SERVICES .....4

3. TERM AND LICENSE FEE .....4

4. BUSINESS LICENSE .....4

5. INDEPENDENT CONTRACTOR.....4

6. DUTIES AND SERVICES TO BE PROVIDED BY CONTRACTOR .....6

7. SERVICES AND FACILITIES TO BE PROVIDED BY COUNTY .....9

8. PROFESSIONAL STANDARDS APPLICABLE TO GOLF PRO .....9

9. MARKETING AND ADVERTISING .....10

10. HOURS OF OPERATION .....10

11. ESTABLISHMENT OF RATES .....10

12. COLLECTION OF RECEIPTS AND ACCOUNTING .....10

13. PERFORMANCE BENCHMARKS .....12

14. EMPLOYEES .....12

15. UTILITIES.....12

16. IRRIGATION AND WATER RESOURCES .....13

17. ENERGY CONSERVATION .....13

18. NOT USED .....13

19. FIXTURES .....13

20. PREFERENTIAL TREATMENT FORBIDDEN .....13

21. RELATIONSHIP WITH COUNTY, COOPERATION .....13

22. NOT CONTRACT OF LEASE .....14

23. INSURANCE REQUIREMENTS, DAMAGE AND RESTORATION.....14

24. PROPERTY INSURANCE .....15

25. RESTRICTIONS .....15

26. HAZARDOUS SUBSTANCES AND MATERIALS.....15

27. CONTRACTOR'S USE AND POSSESSION OF PREMISES .....15

28. ALTERNATIONS AND IMPROVEMENTS BY CONTRACTOR .....17

29. OWNERSHIP OF IMPROVEMENTS.....17

30. LICENSES AND PERMITS .....17

31. LIENS .....18

32. CESSATION OF OPERATIONS .....18

33.	VACATION OF THE PREMISES.....	18
34.	NONDISCRIMINATION.....	19
35.	RIGHT OF CANCELLATION .....	19
36.	ASSIGNMENT.....	20
37.	DEFAULT .....	20
38.	THIRD PARTY RIGHTS.....	20
39.	EXCLUSIVE .....	20
40.	NOTICES.....	20
41.	NOTICE TO PROCEED .....	20
42.	EXTENSION OF SERVICES .....	20
43.	REOPENER.....	21
44.	GOVERNING LAW.....	21
45.	DRAFTING PRESUMPTION.....	21
46.	ENTIRE AGREEMENT; SEVERABILITY .....	21

**EXHIBITS**

- Exhibit A     Insurance Requirements
- Exhibit B     Golf Course Operation, Maintenance and Performance Standards

**AGREEMENT FOR LICENSE AND PROFESSIONAL MANAGEMENT SERVICES  
AT WILDCREEK GOLF COURSE**

This Professional Management Services AGREEMENT (the "Agreement") is entered into this 23<sup>rd</sup> day of June 2020, by and between Washoe County, a political subdivision of the State of Nevada (the "County"), and MAZZ Golf Management (the "Contractor").

**WITNESSETH**

**1. RECITALS**

The County requires certain golf management services be performed, and the Contractor represents that it is qualified, equipped, staffed, ready, willing and able to perform and render such services as shall be necessary, required or desired, for and on behalf of the County.

**2. SCOPE OF SERVICES**

During the term of this Agreement, Contractor shall have the exclusive right and license at the Wildcreek Golf Course (the "Golf Course") to operate and manage all parts of Golf Course. To operate and manage Golf Course as Contractor deems appropriate by implementing all policies and procedures and to perform any act deemed necessary or desirable for the operation and management of Golf Course; maintain all the golf course property, operate, manage and supervise daily play, golf shop, food and beverage services, putting practice greens, maintenance facilities, club house and infrastructures on the property; provide lessons, choose and maintain all play and maintenance equipment, advertise and promote public play and the sale of merchandise and services.

**3. TERM AND LICENSE FEE**

This Agreement shall be for a period beginning on June 23, 2020, through November 15, 2020.

Contractor shall pay to County 50% of the gross profit earned over the term of this agreement to be used in compensating the Washoe County Golf Enterprise fund for services provided by County under this agreement. Gross profit shall be defined as – the total revenue from all golf as described in section 12.4 of this agreement minus the cost of goods sold.

**4. BUSINESS LICENSE**

Contractor shall be required to obtain a valid business license prior to commencing performance on this Agreement.

**5. INDEPENDENT CONTRACTOR**

Contractor is an independent contractor, not a County employee. Contractor's employees or contract personnel are not County employees. Contractor and County agree to the following rights consistent with an independent contractor relationship:

- a. Contractor has the right to perform services for others during the term of this agreement.
- b. Contractor has the sole right to control and direct the means, manner and method by which the services required by this agreement will be performed.
- c. Contractor shall not be assigned a work location on County premises, and Contractor has the right to perform the services required by this agreement at any place, location or time.
- d. Contractor will furnish all equipment and materials used to provide the services required by this agreement.
- e. Contractor has the right to hire assistants as subcontractors, or to use Contractor's employees to provide the services required by this agreement.
- f. Contractor or Contractor's employees or contract personnel shall perform the services required by this agreement and Contractor agrees to the faithful performance and delivery of described services in accordance with the time frames contained herein; County shall not hire, supervise or pay any assistants to help Contractor.
- g. Neither Contractor nor Contractor's employees or contract personnel shall receive any training from County in the skills necessary to perform the services required by this agreement.
- h. County shall not require Contractor or Contractor's employees or contract personnel to devote full time to performing the services required by this agreement.  
Further, Contractor hereby certifies:
  - i. That Contractor is not an employee of County and thereby Contractor waives any and all claims to benefits otherwise provided to employees of the County, including, but not limited to: medical, dental, or other personal insurance, retirement benefits, unemployment benefits, and liability or worker's compensation insurance.
  - j. That Contractor is licensed by the State or other political subdivisions to provide similar services for other clients/customers. Contractor must provide Federal Tax or Social Security Number on required Form W-9. OR Contractor is not licensed as Contractor and is exempt because {NOT APPLICABLE}.
  - k. That Contractor understands that he/she is solely responsible, individually for federal taxes and social security payments applicable to money received for services herein provided. Contractor understands that an IRS Form 1099 will be filed by the County for all payments received.
  - l. That Contractor agrees, as a precondition to the performance of any work under this Agreement and as a precondition to any obligation of the County to make any payment

under this Agreement, to provide County with a certificate issued by an insurer in accordance with NRS 616B.627 and NRS 617.210.

## **6. DUTIES AND SERVICES TO BE PROVIDED BY CONTRACTOR**

Contractor, its PGA certified Professional Golf Instructor (“Professional”), employees and staff shall perform all duties in accordance with the best interest of the County.

6.1 Contractor shall operate, manage, and maintain the course in a safe and efficient manner in accordance with established policies. Such operation and management shall include, without limitation, the collection of fees, regulation of play, conduct of persons on course, enforcement of the rules and regulations of course, and soliciting and coordinating tournaments. Operate, manage, and maintain a satisfactory golf shop in a professional, up-to-date manner to include, but not be limited to, sales, rental, and repair of golf equipment, clothing, and accessories. Stock and maintain an inventory of golf related merchandise, supplies and equipment in keeping with demand. Maintain golf course property including clubhouse, maintenance shop, and all infrastructures of the property, at minimum, to the levels of maintenance stated in Exhibit “B”, “Golf Course Operation, Maintenance and Performance Standards”.

6.2 Contractor has sole right to operate and manage all food and beverage concessions, or to enter into separate management agreements for their operation.

6.2.1 Contractor is to be responsible for providing and meeting all necessary permits, fees, rules, and regulations for the sale of food or beverages and must maintain a passing rating as designated by the local health authority.

6.2.2 Contractor, with prior approval of Community Services Department Director (“Director”), may keep upon the premises machines used for vending of goods, wares or merchandise.

6.3 Contractor shall determine all personnel requirements, recruitment schedules and compensation levels and shall employ, train, promote, discharge and supervise all personnel performing services in and about the Golf Course. Professional and all staff (including cart staff) shall be required to wear matching uniforms with name badges.

6.4 Contractor shall have the right and responsibility, subject to limitations set forth below, to establish all fees, including, but not limited to, green fees, cart fees, play tickets, tournament fees, merchandise, lessons and all other charges associated with operation of Golf Course.

6.5 Contractor and staff shall be responsible for all reports, and other pertinent information to be delivered to Director or designee a minimum of monthly, by paper or electronic means of delivery.



- 6.6 All exterior view signage must be approved by the Director. All interior signs shall be computer or print generated (absolutely no hand written signs) and shall be neatly and prominently displayed.
- 6.7 Contractor and staff shall park only in areas designated by Director.
- 6.8 Contractor shall establish accounting, cash collection and payroll procedures in compliance with generally accepted accounting principles as stated in Section 12 "Collection of Receipts and Accounting" of this Agreement.
- 6.9 Provide lessons and instructions in golf by a PGA Certified Teaching Professional. Contractor shall also provide all other services customarily provided by a golf professional in accordance with demand.
- 6.10 Operate, manage, and supervise the use of all putting practice greens adjoining said course and control and regulate their use in such a manner as to eliminate or prevent hazards or dangers to any person.
- 6.11 Provide and supervise all starter and player activity functions, collect green fees and coordinate player starts, and furnish, at no cost to Washoe County, suitable and qualified personnel in adequate number to insure efficient performance of such duties.
- 6.11.1 Effectively advertise, market and promote public and tournament play at the Golf Course and the sale of golf-related merchandise and services.
- 6.12 Furnish and maintain proper facilities, equipment and devices for the minor repair of golf equipment.
- 6.13 Provide, maintain and make available to the public at reasonable rental fees an adequate supply of all equipment necessary to play the game of golf including without limitation, golf clubs and hand carts, and power driven golf carts. All carts shall be consecutively pre-numbered and maintained in good operating condition. The exterior and interior of all carts shall be maintained in a clean condition.
- 6.14 N/A
- 6.15 Provide all portable display platforms, signs, equipment and/or devices for the purpose of advertising or demonstrating the services, merchandise and/or equipment for sale or rent in the pro shop.
- 6.16 Maintain stocks of golf merchandise, golf supplies and equipment in keeping with the demand.
- 6.17 Contractor shall be responsible for the preparation and submittal of liability/property loss reports, monthly cash and rounds of play reports, and other reports

common to the operation of the business and/or as requested by Washoe County, by paper or electronic means of delivery.

6.18 Coordinate with volunteers, Men's and Women's Clubs, community organizations, junior and golf development programs, and promote youth and senior golf opportunities to enhance golf programs and customer service offerings

6.19 Promptly pay any and all taxes imposed by the local, state or federal government, utility bills, merchant invoices, and all other liabilities with respect to its operation of a golf course at a Washoe County facility.

6.20 Comply with all applicable ordinances, laws, rules, and regulations of the county, city, state, and federal government; and of any political subdivision or agency, authority or commission thereof, which may have jurisdiction to pass laws, ordinances, or make and enforce rules or regulations with respect to the operations of the golf course, including but without limiting the generality of the foregoing, such rules and regulations of Washoe County as are consistent with the rights herein granted to the Contractor. Without limiting the generality of the foregoing, Contractor shall comply with all local, state, and federal laws, orders, directives, or other similar legal authorities concerning COVID 19 which are applicable to businesses, employees or the public, including but not limited to, any restrictions or requirements for social distancing, use of masks, appropriate cleaning and sanitizing of equipment or materials, and any other similar measures.

6.21 Upon termination of the resulting Agreement, surrender Washoe County property in as good condition as when received, ordinary wear and tear excepted.

6.22 Operate and manage golf course on Contractor's own credit and hold harmless Washoe County from any and all claims, demands or liability on account thereof. Washoe County shall not be responsible for any debts incurred by the Contractor in the performance of any resulting Agreement.

6.23 N/A

6.24 Maintain all golf course holes, landscape and planted areas which are part of the course.

6.25 Provide such signs and posters it shall deem necessary for public safety and convenience.

6.26 Provide scorecards, starting sheets, reservation sheets and all other items incidental to business on the golf course.

6.27 Have sole right to operate all food and beverage concessions, including vending machines, or to enter into separate management agreements for their operation.

6.28 Maintain parking areas for the use of the general public.

6.29 Maintain the course to acceptable professional turf maintenance standards contained in Exhibit B, realizing the course is an asset of Washoe County. Quality of the course maintenance is also an important aspect to overall operation.

6.30 Maintain all facilities located on the real property that constitutes Wildcreek Golf Course in good repair and function, including without limitation, the club house maintenance buildings and yard; irrigation system, including filters, and pumping facilities. Contractor is responsible for all minor repairs and maintaining all improvements and modifications to golf course that Contractor has installed or caused to be installed. Repairs or improvements made by Contractor shall be subject to the provisions of Section 28 "Alterations and Improvements by Contractor", at his own expense.

6.31 Provide all janitorial services and equipment to all areas of the golf course.

6.32 Maintain on-site irrigation reservoir facilities, including without limitation, debris removal from ponds.

6.33 N/A

6.34 Own and maintain all necessary computer systems, connections, and point of sale systems required for the operation of the Course.

## **7. SERVICES AND FACILITIES TO BE PROVIDED BY COUNTY**

7.1 Keep and maintain major structures of the clubhouse, and maintenance shops in a good state of repair. "Major" maintenance or repair includes roof, HVAC and street to building sewer, gas and water lines.

7.2 Assume full responsibility and expense for all electric, gas and water utilities including repairs, sewer, intrusion alarm monitoring including repair, and internet service.

7.3 Washoe County will also provide one part time temporary irrigation specialist to assist Contractor with irrigation and grounds maintenance.

## **8. PROFESSIONAL STANDARDS APPLICABLE TO GOLF PRO**

Golf Professionals hired by Contractor are required to maintain the status of a Professional Golf Association (PGA) certified Class A Professional during the term of this Agreement, a Golf Course Superintendents of America (GCSA) certification, and any renewals thereto. In addition, Contractor shall operate and manage the Golf Course in accordance with the Code of Ethics of the PGA, GCSA and County.

## **9. MARKETING AND ADVERTISING**

Contractor is responsible for effectively advertising, marketing and promoting public and tournament play at the Golf Course and the sale of golf related merchandise and services.

9.1 Contractor is aware that this is a public golf course, and as such, is expected to use discretion in the choice of advertising and marketing to ensure its appropriateness. County retains the right to request removal of advertising or marketing that it deems inappropriate.

## **10. HOURS OF OPERATION**

Contractor shall devote adequate staff and personal attention to operate and manage a modern and efficient golf course.

10.1 The pro shop services shall be kept open whenever course is open for play.

10.2 Contractor shall recommend to the Director for approval a schedule setting forth the minimum hours during the year (weather permitting) when the Golf Course shall be open for play. Contractor is responsible for opening and closing security gates. Contractor is responsible for the security of Golf Course facilities and assets during all times it is closed.

10.3 Contractor or his assistant shall be available at all such scheduled times to give lessons and instructions in golf and to serve the public.

## **11. ESTABLISHMENT OF RATES**

11.1 The Contractor shall determine green fee rates by a survey of green fees in Washoe and Carson Counties, Nevada at comparable daily fee golf courses. The survey shall be conducted every year and shall include a wide sampling of publicly owned municipal and privately owned daily fee courses with a comparable (i) quality of physical improvements, and (ii) maintenance standards ("Comparable Golf Courses"). The green fees shall be shown on the survey.

## **12. COLLECTION OF RECEIPTS AND ACCOUNTING**

The following apply to Contractor and all management or service subcontractors. Contractor is responsible for ensuring any management or service subcontractors adhere to the following:

12.1 Definitions: The term "green fees" shall be defined as all revenue collected from daily regular green fees, ticket and annual discounted fees, advance reservation fees, or other categories of revenue which may be established by the Contractor. A "tournament" is defined as any group of more than twelve (12) wishing to have "blocked" or pre-designated tee or start times, including "shot-gun" starts. Tournament revenues are a part of "green fees", however their revenues are to be collected and reported separately as

“Tournament Revenues”. Tournament rounds of play are to be accounted for on the day of play.

12.1.1 “Ticket” fees include any fee which entitles a person to use the Golf Course, exclusive of tournament play.

12.2 Contractor shall establish cash collection and payroll procedures in compliance with generally accepted accounting principles; train and monitor all staff in the appropriate cash handling practices; at all times monitor and ensure the safety of all monetary exchanges; adhere to accepted credit card and other personal information security standards; limit the amount of cash and cash equivalences on site through regular banking procedures.

12.3 During the term of the contract, Contractor shall provide view access to all bank accounts established for the deposit of Golf Course revenue to the County, or deposit Golf Course revenues to a County bank account established by the County Treasurer.

12.4 Contractor shall submit to County, monthly reports of rounds of play and gross revenue, which will include green fees, advance reservation fees, annual and ticket sales, annual surcharge, cart income, cart usage, tournament income, driving range income, pro shop sales, lessons, food sales, beverage sales, catering in addition to all other items of receipts, and will state that sign-up sheets, cash register tapes, and daily statement of receipts have been reconciled and are in agreement.

12.4.1 Contractor shall be responsible for and explain any overages or shortages for the period.

12.5 Contractor shall establish and maintain complete books of accounts and other records showing all business transacted in connection with the operation of the Golf Course in compliance with generally accepted accounting principles.

12.6 Contractor agrees to install and maintain a system of accounts acceptable to County and its auditors.

12.6.1 All accounting records and supporting documents shall be subject to audit and inspection, and made available at any and all reasonable times to County and its authorized officers, agents, or employees.

12.6.2 Accounting records and supporting documents shall be available on the schedule(s) required by the County’s internal and external auditors. If Contractor fails to provide the required records and supporting documents, or provides inadequate information within the times specified herein, Contractor agrees to pay any additional charges incurred as a result of the delay in the completion of an audit.

12.6.3 At County's expense, Director reserves the right to authorize management audits, or other studies and reviews of Contractor's operating procedures, accounting and controls that are deemed desirable.

12.6.4 Contractor shall be responsible for retaining all financial records for a minimum of seven (7) years.

12.7 Contractor and designated staff shall be fully proficient and routinely use, as a standard administrative practice of the Golf Course operations, a cash register or point of sale system.

12.8 Contractor and any management or service subcontractors shall use either a calendar year, January 1 through December 31, or fiscal year, July 1 through June 30, as the established accounting period. Contractor's accountant and/or bookkeeper must conform to the scheduling requirements of the County and its audit teams. County shall have the authority to request Contractor to replace accountant and/or bookkeeper if unsatisfactory response to scheduling requirements are demonstrated and/or consistent.

### **13. PERFORMANCE BENCHMARKS**

Performance benchmarks and completion dates have been established in Section 9 "Marketing and Advertising" and Section 28 "Alternations and Improvements by Contractor."

13.1 County shall utilize a "report card" for evaluation purposes. County reviews shall be conducted periodically.

13.2 Failure to meet benchmarks and specific performance dates may result in additional reviews.

13.3 Contractor will be reviewed for, but not limited to, adherence to the standards established in, Exhibit B, Golf Course Operation, Maintenance and Performance Standards, the financial viability review and the extent and nature of management and auditing concerns provided through annual financial audits, and customer satisfaction.

### **14. EMPLOYEES**

Contractor shall employ, at his own expense, such staff as necessary to fully operate and manage Golf Course in an efficient, professional and orderly manner. The County will provide one part time employee as described in Section 7.3.

### **15. UTILITIES**

Contractor shall be responsible for assuming full responsibility and expense for all telephone service including repairs, cable TV if necessary for their operation of the facility.

**16. IRRIGATION AND WATER RESOURCES**

16.1 County has provided for water service via an agreement assumed from the Reno Sparks Convention and Visitor's Authority (RSCVA) and the City of Sparks for the use of effluent water at no cost to the Contractor. Contractor is responsible for the irrigation of the golf course using the effluent water.

**17. ENERGY CONSERVATION**

Contractor shall make every effort to conserve energy, whenever and wherever possible, including, but not limited to, the heating and lighting of areas necessary to conduct business during operating hours or maintain security.

**18. NOT USED**

**19. FIXTURES**

19.1 Any fixtures or items permanently attached to the clubhouse at the Golf Course in connection with the operation of the pro shop shall become the property of Washoe County upon the termination of Agreement.

19.2 Upon expiration or termination of this Agreement, Contractor shall quit and surrender the premises under his control, including permanent fixtures attached thereto and personal property of the County, to County in as good condition as at the date of the execution of this Agreement, ordinary wear and tear excepted.

**20. PREFERENTIAL TREATMENT FORBIDDEN**

20.1 Contractor shall not grant any preferential treatment to any individual or group of individuals except as authorized by the rules and regulations pertaining to the Golf Course.

20.2 Contractor shall not issue any complimentary privileges without written consent of Director.

**21. RELATIONSHIP WITH COUNTY, COOPERATION**

Contractor shall be accountable in all of its operations to the Director or designee. County recognizes and acknowledges that Contractor will need the assistance and cooperation of County in order to properly perform and fulfill Contractor's covenants and obligations under this Agreement. Therefore, County agrees it shall execute such documents and do such further acts and things as Contractor reasonably requests in order to assist Contractor in fulfilling its obligations under this Agreement. County further agrees it shall designate a specific officer or agent having appropriate experience and authority whose responsibility it is to work with Contractor in assuring that Contractor obtains the full cooperation and assistance of County, subject to the terms of this Agreement and all applicable laws.

21.1 Contractor shall also cooperate with other County Departments.

## **22. NOT CONTRACT OF LEASE**

It is understood and agreed that the Golf Course is not leased to Contractor, that Contractor is a licensee and not a lessee thereof; that Contractor's right to occupy and operate the same, as granted herein, shall continue only so long as each and all undertakings, provisions, covenants, agreements, stipulations and conditions herein contained are strictly complied with. Nothing in this Agreement shall grant any right, title or interest in Golf Course to Contractor.

## **23. INSURANCE REQUIREMENTS, DAMAGE AND RESTORATION**

23.1 See Exhibit "A" for insurance requirements for this Agreement.

### **23.2 Damage and Restoration**

23.2.1 Total Destruction: If the buildings or other improvements on the Premises licensed under this Agreement or the Personal Property should be totally destroyed (i.e., damage in excess of partial destruction as defined in Section 23.2.2) by fire or other casualty or a force majeure occurrence, Contractor and County shall have the option, to be exercised in writing within sixty (60) days of such destruction, to either (a) terminate this Agreement in which event the parties shall have no further obligations hereunder, or (b) elect to repair and restore the Premises and thereafter diligently pursue such restoration to completion.

23.2.2 Partial Destruction: If the buildings or other improvements on the Premises licensed under this Agreement or the Personal Property should be partially damaged by fire or other casualty or a force majeure event, then County shall, subject to the availability of insurance proceeds (it being understood and acknowledged that County shall have no obligation to repair or restore any portion of the Premises if insurance proceeds are not available to fully restore the same), restore the buildings, improvements and Personal Property in a good and workmanlike manner to a condition as good as or better than the condition in which the buildings, improvements and Personal Property existed prior to their damage or destruction. For purposes of this Agreement, the term "partially damaged" means (a) damage to the extent of one third or less of the value of the buildings, improvements and Personal Property at the Premises or (b) damage to the extent that no more than nine holes on the golf course at the Premises are rendered unplayable. If the insurance proceeds made available to County are not sufficient to fully restore the Premises, then County may terminate this Agreement upon written notice to Contractor in which event the parties shall have no further liability hereunder. In addition, notwithstanding anything in this Section 23.2.2 to the contrary, if, as a result of the partial destruction of the Premises, Contractor is unable to make full and productive economic use of the Premises and, in Contractor's reasonable determination, the full and complete restoration of the Premises will take in excess of thirty (30) days, then Contractor



may, upon written notice to Owner within thirty (30) days after the partial destruction occurs, terminate this Agreement, in which event the parties shall have no further obligations hereunder.

**24. PROPERTY INSURANCE**

County may, at its option, secure and maintain insurance covering damage to its property. Any such insurance shall be for the sole benefit of the County and Contractor shall have no claim to any proceeds therefrom, nor shall County be required to use the proceeds for reconstruction or repair.

24.1 Contractor shall secure insurance covering his property at his own expense and shall secure and maintain such insurance as is necessary to protect against any claim for damage to private property, including golf carts which are stored at the course, in accordance with the requirements stated in Exhibit "A".

**25. RESTRICTIONS**

Any agreements, written or oral, between the Contractor and parties other than County, where such agreements involve Contractor's personnel assigned to the County's account, are prohibited without the express written consent of the County.

**26. HAZARDOUS SUBSTANCES AND MATERIALS**

26.1 Contractor shall maintain on-site, Material Safety Data Sheets (MSDS), as defined and prescribed in 29 C.F.R. Section 1910.1200, for all hazardous substances purchased by Contractor for use under this Agreement.

26.2 Contractor shall apprise personnel of the hazards to which they may be exposed in using, handling, transporting, or disposing of hazardous substances, and to obtain medical treatment for those who may be affected by the substance.

26.3 Contractor shall immediately report all spills of hazardous substances to the Washoe County Health District; the Community Services Department; and the Washoe County Risk Manager or Safety Officer.

**27. CONTRACTOR'S USE AND POSSESSION OF PREMISES**

27.1 The Golf Course premises and all other improvements thereon shall be used by Contractor to provide professional golf services. It is understood and agreed that the said premises shall be used by Contractor during the term of this Agreement only for the above stated purposes and for direct ancillary uses with the prior written approval of the County, and for no other purposes or uses whatsoever.

27.1.1 The effective date of this agreement is June 23, 2020. The Contractor and County will work on a mutually agreeable transition plan for golf operations prior to the beginning of this license term.

27.2 Contractor will not make or permit any use of the said premises which, directly or indirectly, is forbidden by public law, ordinance or government regulation which may be dangerous to life, limb or property. Contractor may not commit waste on the premises, use the premises for any illegal purpose, or permit a nuisance on the premises.

27.3 In the event that Contractor uses these premises for any purposes not expressly permitted herein, the County may terminate this Agreement, subject to the curative periods set forth herein, and without notice to Contractor restrain such improper use by injunction or other legal action.

#### 27.4 Quiet Enjoyment

Subject only to the terms of this Agreement, so long as Contractor complies with its obligations under this Agreement, County shall secure to Contractor the quiet and peaceful enjoyment of the Premises and the sole and exclusive possession of the Premises without objection or interference from County or any party claiming under County.

#### 27.5 Frustration of Purpose

At any time during the term of this Agreement, (i) if the governing body of any political subdivision having competent jurisdiction over the Premises should enact any valid zoning or other ordinance, law or regulation (collectively, "Use Law") which prohibits the use of the whole or a substantial part of the Premises for the purposes as provided in Section 2 of this Agreement; (ii) if an event of force majeure (collectively, "Force Majeure Event") occurs, including without limitation, declared or undeclared war, sabotage, riot or other acts of civil disobedience, acts or omissions of government, labor disputes, shortages of fuel or other materials, accidents, fires, explosions, floods, earthquakes, or other acts of God, which substantially prevents Contractor's use of the Premises as provided for in Section 2 of this Agreement; or (iii) if Facilities become unavailable or inadequate so as to substantially interfere with Contractor's use of the Premises as provided in Section 2 of this Agreement, it is agreed that Contractor may elect, within sixty (60) days after the effective date of such Use Law or the occurrence of the Force Majeure Event, or the date Facilities become unavailable or inadequate, to cancel this Agreement and surrender possession of the Premises. Any such cancellation and surrender shall act to release and discharge Contractor from any further obligation under this Agreement. In addition, it is agreed that during the period of any Force Majeure Event; during the period that Facilities are unavailable or inadequate; and/or during any period that any defect in the Premises substantially interferes with Contractor's use of the Premises as provided in Section 2 of this Agreement, Owner and Contractor shall be excused from performing their respective obligations under this Agreement whether or not Contractor exercises its right to terminate as provided herein.

## **28. ALTERATIONS AND IMPROVEMENTS BY CONTRACTOR**

Contractor has inspected the premises and hereby accepts the premises in its present "as is" condition. Contractor shall not make any alteration or addition to any portion of the Golf Course's facilities or to any equipment belonging to County located at the Golf Course without prior written consent of the Director. Except as otherwise provided in this Agreement, Contractor shall, at its sole cost, maintain and repair the Premises in accordance with the maintenance standards set forth on Exhibit "B" attached hereto.

28.1 In the event that Contractor wishes to make improvements to said real property, it may do so at its own expense and after the written approval of the County, satisfying all statutory and code requirements of applicable governmental entities including the provisions of NRS Chapter 338, if applicable.

28.2 All improvements of Contractor shall be solely at Contractor's cost and expense and shall be performed in a good workmanlike manner in accordance with sound construction practices and in accordance with all applicable codes and regulations. Contractor shall keep the premises and said improvements free and clear of liens for labor and materials and shall hold the County harmless from any responsibility in respect thereto.

## **29. OWNERSHIP OF IMPROVEMENTS**

All improvements, furnishings, and equipment constructed or installed on the premises by the Contractor shall be personal property and Contractor shall have legal title thereto during the term of this Agreement. Upon the expiration, termination, or default of this Agreement, title to all permanent improvements constructed on the premises shall vest in the County.

29.1 Title to all supplies, furnishings, inventories, and removable equipment and other personal property not originally provided by the County shall remain the Contractor's, and Contractor shall have the right to remove such items, excepting licenses, from the premises without damaging the premises unless the Contractor is in default hereunder. Such items must be removed within fifteen (15) days of expiration of this Agreement or title to all items will vest to the County.

29.1.1 Contractor shall consider any reasonable offer to buy the above items from the County upon expiration or termination of this Agreement.

29.1.2 If Contractor is in default, all items listed in Section 29.1 shall automatically vest to the County to offset any real or anticipated damages.

## **30. LICENSES AND PERMITS**

Contractor shall pay for all licenses, permits, and fees necessary for Contractor to construct improvements, if any, and conduct Contractor's business on the premises.

### **31. LIENS**

Contractor will not permit any mechanics, laborers or material man's liens to stand against the premises or improvements for any labor or materials to the Contractor or claimed to have been furnished to Contractor's agents or subcontractors, in connection with work of any character performed or claimed to have been performed on the premises, or improvements by or at the direction or sufferance of the Contractor; provided, however, Contractor shall have the right to contest the validity or amount of any such lien or claimed lien.

In the event of such contest, Contractor shall give the County reasonable security as may be demanded by the County to insure payment thereof and prevent sale, foreclosure or forfeiture of the premises or improvements by reason of such non-payment.

Such security shall be posted by the Contractor within fifteen (15) days of written notice from the County, or Contractor may "bond off" the lien according to statutory procedures.

31.1 Contractor will immediately pay any judgment rendered with all proper costs and charges and shall have such lien released or judgment satisfied at Contractor's own expense.

### **32. COUNTY DETERMINATION TO CEASE OPERATIONS**

In the event County, for any reason and at any time, determines not to continue to operate the Golf Course as a golf course and driving range open to the general public, this Agreement shall terminate, and in such event, Contractor agrees to hold the County free from any charge or penalty provided for in this Agreement.

### **33. VACATION OF THE PREMISES**

In the event of the termination of this Agreement for any reason other than expiration, Contractor shall peaceably vacate the premises within such time as may be specified in the written notice to vacate which the County shall deliver to Contractor. The notice shall provide for not less than thirty (30) days in which to vacate, except in cases where continued presence of Contractor would cause immediate injury or damage to the County or other persons, in which case vacation may be immediate.

33.1 Upon the expiration or earlier termination of this Agreement, Contractor shall return the Real and Personal Property initially provided by County in the same or better condition than when it was received by Contractor. Contractor agrees to have all personal property, fixtures, and equipment appraised at the time this agreement is executed and supply owner with a schedule and current value of the same. At the termination of this agreement Contractor shall have a second appraisal performed and provide it to County. The total value of the personal property, fixtures and equipment (hereinafter "equipment") to be returned to County must be of equal or greater value to the initial appraised value adjusted for inflation. During the term of this agreement Contractor shall purchase or otherwise acquire replacement equipment as required and shall maintain the existing equipment for as long as feasible.

### **34. NONDISCRIMINATION**

In accordance with NRS 338.125 and other applicable state and federal laws in connection with the performance of work under the resulting Agreement, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation, gender identity or expression, or age. Such agreements shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. Any violation of such provision by the Contractor shall constitute a material breach of contract. Further, Contractor agrees to insert this nondiscrimination provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

### **35. RIGHT OF TERMINATION**

In addition to any other ability to terminate this Agreement as provided for herein, the Parties, as applicable, shall have the right to terminate this Agreement for any of the following reasons:

35.1 If either party breaches a material provision hereof ("Cause"), the non-breaching party shall give the other party notice of such Cause. If the Cause is remedied within thirty (30) days in the case of any cause other than failure to make payment, the notice shall be null and void.

35.2 If such Cause is not remedied within the specified period, the party giving notice shall have the right to terminate the Agreement upon expiration of such remedy period. The rights of termination referred to in this Agreement are not intended to be exclusive and are in addition to any other rights or remedies available to either party at law or in equity.

35.3 In addition to all other rights herein, County may terminate this Agreement without prior notice should the Contractor become insolvent, voluntarily file for bankruptcy or receivership, or make any assignment for the benefit of creditors, or should Contractor have commenced against it any proceeding, suit or action in bankruptcy or receivership provided such proceeding, suit or action is not dismissed within thirty (30) days.

35.4 Upon notice of cancellation, Contractor shall be required to continue fulfilling its obligations under this Agreement until other satisfactory arrangements are completed by the County, not to exceed thirty (30) days.

35.5 Either party may cancel this Agreement without cause on thirty (30) days prior written notice.

**36. ASSIGNMENT**

Contractor may not assign, delegate or subcontract any rights or obligations under this Agreement, including the right to receive payment, without County's prior written approval.

**37. DEFAULT**

Termination for default shall result in proceedings against the Contractor, which may result in its being debarred from providing services to County for a period not less than five (5) years after the expiration date of the defaulted Agreement. In addition, the defaulting Contractor may be charged for any additional cost to County for the provision of services as defined in Section 2 "Scope of Services" for the remaining term of this Agreement.

**38. THIRD PARTY RIGHTS**

This Agreement is not intended to create, nor shall it be construed to create, any third party beneficiary rights in any person not a party hereto.

**39. EXCLUSIVE**

This is an exclusive agreement between Washoe County and LICENSEE during the term of the agreement.

**40. NOTICES**

Except as otherwise specified, all notices under this Agreement shall be in writing. Notice to Contractor shall be addressed to:

MAZZ Golf Management  
Mike Mazzaferri, PGA  
6355 Silver Lake Road  
Reno, NV 89506

Notice to County shall be addressed to:

Washoe County Community Services Department  
Director  
1001 East 9<sup>th</sup> Street  
Reno, NV 89512

**41. NOTICE TO PROCEED**

The Washoe County Community Services Department shall issue a written Notice to Proceed upon execution of this Agreement. Contractor shall not perform on any portion this Agreement without providing satisfactory insurance certificates.

**42. EXTENSION OF SERVICES**

Contractor may be required to continue performance of services beyond the expiration date of this Agreement, upon the County's request, at rates to be negotiated 15 days prior to the expiration of this agreement. The total extension of any performance hereunder shall not exceed six (6) months. Any extension to this Agreement shall be in writing and signed by both parties.

#### **43. REOPENER**

The parties reserve the right to renegotiate any part of this agreement from time to time based on unforeseen conditions.

#### **44. GOVERNING LAW**

This Agreement shall be governed, interpreted and construed in accordance with the laws of Nevada, and any dispute will be heard in the Second Judicial District Court of Nevada. If any provision of this Agreement shall be held or declared to be void or illegal for any reason, all other provisions of this Agreement which can give effect without such illegal provision shall nevertheless remain in full force and effect. The section headings of this Agreement are intended solely for convenience; they are not part of this Agreement and shall not affect its construction.

#### **45. DRAFTING PRESUMPTION**

The parties acknowledge that this Agreement has been agreed to by all of the parties, that all of the parties have consulted or have had the opportunity to consult with attorneys with respect to the terms, and that no presumption shall be created against any party as the drafter of the Agreement.

#### **46. ENTIRE AGREEMENT; SEVERABILITY**

This Agreement constitutes the Parties' entire understanding concerning the subject matter of this Agreement and these understandings supersede all prior oral or written understandings or discussions of any kind relating to this subject matter. No modification or amendment to this Agreement shall be binding upon the Parties unless the same is in writing and signed by the respective parties hereto.

If any provision of this Agreement is determined to be illegal, invalid, or unenforceable, the provision shall be deleted and the parties shall, if possible, agree on a legal, valid, and enforceable substitute provision that is as similar in effect to the deleted provision as possible. The remaining portion of the Agreement not determined to be illegal, invalid, or unenforceable shall, in any event, remain valid and effective for the term remaining unless the provision found illegal, invalid, or unenforceable goes to the essence of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and subscribed their signatures as of the date and year indicated.

**BOARD OF COUNTY COMMISSIONERS**

By: [Signature]  
Bob Lucey, Chair

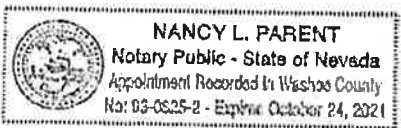
Date: June 23, 2020

STATE OF NEVADA )  
 ) ss.  
COUNTY OF WASHOE )

This instrument was acknowledged before me on June 23, 2020 by

Bob Lucey, Chair, Washoe County Commission

[Signature]  
NOTARY PUBLIC



**CONTRACTOR**

By: [Signature]  
Mike Mazzaferti, PCA

Date: 6-22-20

STATE OF NEVADA )  
 ) ss.  
COUNTY OF WASHOE )

This instrument was acknowledged before me on June 22, 2020 by

Mike Mazzaferti

[Signature]  
NOTARY PUBLIC

