

Commission Letter # 05-10
Commission Meeting: 1/25/2010

RE: Royal Oak Golf Course Liquor License -- Management Agreement

January 19, 2010

The Honorable Mayor
and
Members of City Commission

Attached is a proposed Management Agreement for the management and operation of the City's golf courses by Royal Oak Golf Course, L.L.C. (ROGC), for the Commission's review and approval. ROGC has managed and operated the golf courses for the past three seasons pursuant to written agreements with the City. The proposed Agreement would not only provide for the continued management and operation of the courses, but also define the respective rights and responsibilities associated with a liquor license for the Royal Oak Golf Course.

According to the Michigan Liquor Control Commission (MLCC), the City and ROGC will be required to have this "participation agreement" in place in order for the MLCC to consider the City's application for a golf course license. The proposed Agreement is based upon an existing agreement between the City of Farmington Hills and the Farmington Hills Golf Club concessionaire that has previously been approved by the MLCC, and includes the following:

- The term of the agreement would be for ten seasons (2010 to 2019), with two mutual five year options (2020-2024 and 2025-2029). (Section 1.2)
- ROGC would meet with City staff on a monthly basis to review operations. (Section 1.12)
- Prior City approval would be required for any capital improvements to be made by ROGC. Upon termination of the Agreement, any capital improvements would be City property, with ROGC reimbursed for their remaining useful life. (Section 2.5)
- ROGC concession staff would be required to have training in alcohol management. (Section 3.10.2)
- No alcoholic beverages other than what was sold by ROGC would be allowed on the premises. (Section 3.10.3.1)
- Alcoholic beverages would only be allowed on the golf course or inside the clubhouse. (Section 3.10.3.9)
- Beer and wine sales only. (Section 3.11)
- The City would have the right to terminate the use of the liquor license after the end of the season in any year of the Agreement. (Section 3.12)
- The City would have the right to inspect ROGC's financial records at any time during regular business hours. (Section 4.2)
- ROGC would be required to provide the City with a monthly profit & loss statement. (Section 4.3)
- The City could request the information necessary to have an annual profit & loss statement prepared at its own expense. If the annual statement disclosed an error of 10% or more in ROGC's monthly statements, ROGC would be required to reimburse the City for the cost of the annual statement. (Section 4.4)

- Annual payments to the City would increase each year, from \$25,000 in 2010 to \$53,045 in 2019. If the parties exercised the two mutual five year options, the payment in 2029 would be \$59,702.61. (Section 5.3)
- In addition to the payments set forth in Section 5.3, the City would receive 6% of the net sale of alcoholic beverages in 2010, 8% in 2012, 10% in 2013, and 12% in successive years. (Section 5.4)
- ROGC would pay for all utility charges, including water and sewage. (Section 5.7)
- ROGC would be responsible for maintenance and upkeep of the courses, equipment and inventory; the City would be responsible for major building repairs. (Section 5.9)
- ROGC's two managers would personally guarantee ROGC's performance, up to and including the amount of \$100,000 each. (Section 5.14) (The form of the personal guarantees to be used is very similar to those previously used to secure the compensatory payments on the Woodward/I-696 property.)
- ROGC would purchase all existing equipment at the golf courses over a period of ten years for a total price of \$120,000. (Section 5.15)
- The City would reserve the right to substantially alter or sell either or both golf courses for purposes of development by a third party. (Section 6.1)

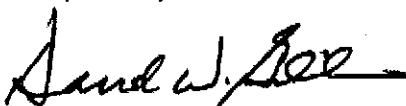
The Commission first reviewed the proposed Agreement on January 4, 2010. Subsequent to that meeting, Section 6.1 has been revised to include the reservation of the right to substantially alter either or both golf courses for purposes of development by a third party. ROGC has reviewed and approved this revised language.

If the proposed Agreement is approved by the City Commission, an executed copy will be forwarded to the MLCC with the City's application for the golf course license. The following resolution would be appropriate:

BE IT RESOLVED, that the City Commission hereby approves the proposed Management Agreement with Royal Oak Golf Course, L.L.C., for the management and operation of the Normandy Oaks Golf Course and the Royal Oak Golf Course, including participation with the City in a liquor license issued for the Royal Oak Golf Course pursuant to MCL 436.1515.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk are authorized to execute the Management Agreement on behalf of the City.

Respectfully submitted,



David W. Gillam
City Attorney

cc: Donald E. Johnson, City Manager
Melanie Halas, City Clerk
Greg Rassel, Director of Recreation & Public Service
Tod Gazetti, Recreation Director
Julie Rudd, Director of Finance
Christopher Jahnke, Chief of Police

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT is entered into this ____ day of January, 2010, by and between the CITY OF ROYAL OAK, a Michigan municipal corporation, 211 Williams Street, Royal Oak, Michigan 48068 (the "City"), and ROYAL OAK GOLF COURSE, L.L.C., a Michigan limited liability company, 534 Franklin Road, Pontiac, MI 48341 ("ROGC").

RECITALS:

WHEREAS, the City is the owner of the Normandy Oaks Golf Course, 4234 Delemere Boulevard, and the Royal Oak Golf Course, 3417 Don Soper Drive, which are existing nine-hole golf courses with related facilities that include a pro shop, lunch counter, cart barn, and maintenance area; and

WHEREAS, in early 2007, the City and ROGC entered into a License Agreement for ROGC to manage and operate the golf courses and related facilities in 2007; and

WHEREAS, ROGC did manage and operate the golf courses and related facilities in 2007; and

WHEREAS, in late 2007, the City and ROGC entered into a License Agreement for ROGC to manage and operate the golf courses and related facilities for a period of ten additional years, with the mutual option to extend the Agreement for two additional five year terms; and

WHEREAS, ROGC did manage and operate the golf courses and related facilities in 2008 and 2009, and intends to continue to operate the golf courses and related facilities for the balance of its Agreement with the City; and

WHEREAS, in order to further provide for the welfare, accommodation, convenience and recreational enjoyment received by the general public, the City is prepared to make application

to the State of Michigan for a Class C Liquor License for the Royal Oak Golf Course pursuant to MCL 436.1515; and

WHEREAS, the City and ROGC desire to enter into a new License Agreement, in order to further define their respective rights and responsibilities regarding the management and operation of the golf courses and related facilities, with the addition of the Class C Liquor License;

THEREFORE, the City and ROGC hereby agree as follows:

Section 1. General Terms and Conditions.

- 1.1. Management and Operation. In consideration for the management and operation of the Royal Oak Golf Course and the Normandy Oaks Golf Course as described in this Agreement, the City hereby grants ROGC the exclusive license to manage and operate the golf courses and their related facilities, including concession services, as provided herein. In consideration for the exclusive right to manage and operate the golf courses and related facilities, ROGC hereby agrees to manage and operate the golf courses and related facilities, including concession services, as provided in this Agreement.
- 1.2. Term. The term of this Agreement shall be from the date of this Agreement through December 1, 2019, unless otherwise extended by mutual agreement of the parties or terminated as provided herein. This Agreement may be extended by mutual written agreement of the parties for two (2) successive five (5) year terms, or through December 1, 2024 and through December 1, 2029, respectively.
- 1.3. Possession and Maintenance. ROGC shall have sole possession of and responsibility for all maintenance of the golf courses and related facilities. The City shall have the right to inspect the golf courses and related facilities at any time, and to impose reasonable

regulations to insure proper care, maintenance and upkeep, as reasonably determined by the City.

- 1.4. Compliance with Applicable Laws. In all operations of the golf courses and related facilities, ROGC shall comply with all applicable federal, state and local laws, and shall take any additional actions considered by the City to be reasonably necessary to the protection of the health, safety and well-being of the public.
- 1.5. Non-Discrimination in Services. ROGC shall not discriminate in the use of the golf courses and related facilities on the basis of race, national origin, sex, or religion.
- 1.6. Non-Discrimination in Employment. ROGC agrees that it will not discriminate against any employee or applicant for employment in any matter directly or indirectly related to employment because of age (except when based upon a bona fide occupational qualification), race, national origin, sex or religion.
- 1.7. Personnel Oversight. At all times during operations, ROGC shall provide a competent manager on the golf courses and related facilities to supervise the services to be provided.
- 1.8. Personnel Standards. To insure proper management and operation of the golf courses and related facilities, ROGC warrants that all personnel assigned to perform those services shall be fully trained and qualified to perform such services. ROGC shall be responsible for the hiring, management, benefits (if any) and remuneration of all employees necessary to operate the golf courses and related facilities in a safe, efficient and thorough manner, and all such employees shall be the employees of ROGC, and not the City. Upon request, ROGC will provide the City with a current list of all employees working at the golf courses and related facilities, including name, address, and date of

birth. The City reserves the right to do background checks on any such employee.
ROGC shall set and enforce a dress code approved by the City for all employees.

- 1.9. Removal of Personnel. The City reserves the right to request that ROGC remove any of ROGC's employees from the golf courses and related facilities for reasonable cause. For purposes of this provision, "reasonable cause" shall include, but is not limited to: wearing inappropriate clothing and/or uniform; engaging in loud, boisterous and unprofessional conduct; unauthorized use, disposition and/or misappropriation of City and/or personal property; engaging in unlawful and/or unauthorized acts; misrepresentation of facts; and/or the failure to meet acceptable standards of personal cleanliness, neatness, bearing or demeanor.
- 1.10. Signage; Advertising. Any signage or advertising on the golf courses or the related facilities shall be subject to the prior approval of the City.
- 1.11. Complaints. ROGC shall respond to all consumer complaints. Copies of all written complaints and the responses thereto shall be forwarded to the Recreation Director within ten (10) days after receipt of the original complaint.
- 1.12. Monthly Meetings. ROGC agrees to meet with the City on at least a monthly basis to review the operation of the golf course and related facilities, including but not limited to the condition of the courses, the number of rounds being played, performance of this Agreement, and ROGC's response to any complaints that it has received regarding the operation of the golf courses or related facilities.
- 1.13. The relationship between ROGC and the City is and shall continue to be that of an independent contractor. No liability or benefits, such as workers compensation, pension rights or liabilities, insurance rights or liabilities, or other rights or liabilities arising out

of or related to an employment contractor or an employer/employee relationship shall exist or arise out of this Agreement or the performance of this Agreement. The City shall not be responsible for the wages, salary, or benefits of any employee or representative of ROGC, nor for any other debt, liability, or obligation of ROGC. This Agreement does not authorize or establish ROGC as an agent or representative of the City for any purpose, and neither party shall have the right, power, or authority to obligate or bind the other in any manner whatsoever, except as otherwise agreed to in writing.

- 1.14. No Tenancy. ROGC shall not by virtue of this Agreement be deemed to have become the tenant of the City, nor to have been given, as opposed to the City, possession of the golf courses and related facilities. Upon termination of this Agreement, the City shall have the right to remove and exclude ROGC and its employees from the golf courses and the related facilities.
- 1.15. Governmental Immunity. In entering into and operating under this Agreement, the City is performing a governmental function. It is the intention of the parties that this Agreement shall not, in any way, be construed as a waiver of any or all of the governmental immunity possessed by the City in entering into this Agreement.

Section 2. Golf Course Operations.

- 2.1 Hours of Operation. Hours of operation for the golf courses and related facilities shall be set at the reasonable discretion of ROGC.
- 2.2 User Fees. User fees shall be those set forth in the schedule attached as Attachment A, which is incorporated into this Agreement by reference. These fees may be amended with the prior approval of the City.

- 2.3 Prior Memberships, Rain Checks and Gift Certificates. The City shall not be responsible for any memberships or gift certificates issued for either of the golf courses prior to the effective date of this Agreement. ROGC shall be under no obligation to honor any memberships, rain checks or gift certificates issued for either of the golf courses prior to ROGC's management and operation of the courses in 2007.
- 2.4 Complimentary Play. ROGC may establish reasonable hours for the complimentary use of the golf courses by its employees, subject to the prior approval of the City.
- 2.5 Capital Improvements. ROGC shall not make any capital improvements to the golf courses or the related facilities without the prior approval of the City. Unless otherwise agreed by the parties in writing, any capital improvements made by ROGC shall be at ROGC's sole expense and shall become the City's property upon expiration of this Agreement. The parties agree that for all capital improvements made by ROGC with the prior approval of the City under this Agreement, a useful life shall be mutually determined and the cost of the improvement amortized over that period. The City further agrees to reimburse ROGC upon the termination of ROGC's possession of the premises for any unamortized costs of capital improvements made.

Section 3. Concession Services.

- 3.1 For purposes of this Agreement, "concession services" shall mean and include the operation, management, development and maintenance of the restaurant and related services at the Royal Oak Golf Course in accordance with this Agreement.
- 3.2 Premises, Equipment and Inventory. Subject to the terms and conditions of this Agreement, ROGC shall have the exclusive right to use the Royal Oak Golf Course for purposes of exercising its rights to provide and perform the concession services (referred

to in this Agreement as the “Concession Premises”). Additionally, subject to the terms and conditions of this Agreement, the concession license includes the right to use the equipment and inventory specified in Attachment B. Said equipment and inventory is the property of the City, and shall remain and be used on the Concession Premises only. The Concession Premises, equipment and inventory described herein have been inspected and were found to be acceptable by ROGC prior to executing this Agreement, and shall be furnished for ROGC’s use in “as is” condition at the inception of this Agreement. Any equipment and inventory added by ROGC during this Agreement shall be ROGC property and shall be ROGC property at the expiration and termination of this Agreement.

- 3.3 Hours of Operation. Hours of operation for concession services at the golf courses and related facilities shall be set at the reasonable discretion of ROGC.
- 3.4 Food and Beverage. ROGC agrees that all food and beverage products sold or used at the golf courses shall be pure and of good quality. ROGC shall at its own expense meet all requirements of state and local health departments regarding the storage, preparation, handling, and dispensing of food and beverages.
- 3.5 Parking and Deliveries. The drives and parking lot area may be used for parking and deliveries by ROGC’s employees and vendors, and patrons of the restaurant, but such users of the drives and parking lot do not have any priority over other users of the Royal Oak Golf Course facilities and any signage, traffic control orders or other instructions of the City regarding usage of the parking lot shall be obeyed and take priority. ROGC and the City shall mutually agree on hours of delivery of merchandise and supplies, as well as the routes of ingress and egress for same.

- 3.6 **Snack and Beverage Cart Service.** ROGC shall operate a mobile snack and beverage cart service for patrons on the Royal Oak Golf Course, subject to the terms and conditions of this Agreement.
- 3.7 **Refuse and Waste Materials.** Refuse and waste materials shall be handled and disposed of as required by all applicable federal, state and local laws, rules and regulations.
- 3.8 **Alcoholic Beverages.** Except as provided in this Agreement, ROGC shall not allow the sale, possession, or consumption of alcoholic beverages on the golf courses or the related facilities without the prior approval of the City.
- 3.9 **Specifications, Standards and Conduct.** ROGC shall keep the Concession Premises in clean, sanitary and orderly condition at all times, and shall conduct the concession services strictly in accordance with the requirements of the City Code.
- 3.9.1 ROGC shall not permit any nuisance to accompany its operations in connection with this Agreement and shall promptly abate the same upon notification thereof.
- 3.9.2 ROGC agrees to honor any exclusive agreement that the City may enter into with any beverage company.
- 3.9.3 ROGC will provide both a food service operation for events, as well as community based menus and pricing options for daily operation of the restaurant and, if permitted, the food and beverage service cart.
- 3.9.4 ROGC will provide individual attention, quality food, excellent client service, flexibility in community responsiveness and cleanliness of operation.
- 3.10 **Liquor Licensing and Service at the Royal Oak Golf Course.**

- 3.10.1 ROGC shall at all times remain qualified to participate in and operate the facility under an on-premises liquor license to be issued to the City by the Michigan Liquor Control Commission (MLCC).
- 3.10.2 ROGC will strictly obey all rules and regulations promulgated by the City and the MLCC. There will be no service of alcohol to minors. ROGC and its managers and servers must participate in the Training for Intervention Procedures by the Servers of Alcohol (TIPS) or Techniques of Alcohol Management (TAM) or ServSafe Alcohol Program Offered by the National Restaurant Association, and will continue such participation in these programs, or a similarly recognized program approved by the Royal Oak Police Department and MLCC.
- 3.10.3 ROGC will undertake the service of alcoholic beverages at the Golf Course with extra vigilance to ensure the safety of the public and enforce the additional following policies at all times:
- 3.10.3.1 No alcoholic beverages will be allowed other than what is served by ROGC.
 - 3.10.3.2 All of ROGC's owners, managers, supervisors and employees (referred to in this Section as "staff") at the Golf Course will pay attention and be alert to observable clues displayed by an intoxicated individual.
 - 3.10.3.3 All staff will be alert to potential problems at their respective areas of the Concession Premises and the Golf Course.

- 3.10.3.4 All staff will be polite and courteous to intoxicated individual(s) and be knowledgeable as to when to request assistance from additional staff.
- 3.10.3.5 Patrons who appear to be under 30 years of age will be asked to show proper government issued identification.
- 3.10.3.6 If a patron shows signs of intoxication, staff will refuse service, suggest non-alcoholic purchase, and call for management if necessary.
- 3.10.3.7 If a patron is purchasing alcohol for someone else who appears less than 30 years old, staff will ask to see proper government issued identification from the actual recipient or contact management to locate such patron(s) for purposes of obtaining such identification. Staff will refuse service to minors and inform all parties involved that policy allows for ejection from premises if illegal activity has occurred.
- 3.10.3.8 Alcohol dispensing shall be restricted by the following practices: no sales to visibly intoxicated persons; no sales without proper identification; limited alcohol choices if necessary; and when in doubt, do not serve.
- 3.10.3.9 Staff will make every reasonable effort to observe all patrons leaving the Concession Premises. No open alcoholic beverages may leave the Concession Premises or the Golf Course.

3.10.3.10 Staff will approach any patron appearing to be impaired and leaving to determine if they are driving. If so, staff will attempt to persuade them not to drive and request a non-impaired companion to drive or refer them to a bus or taxi service.

3.10.3.11 Supervisory and management personnel will complete documentation of any alcohol-related incidents at the end of the event.

3.10.3.12 ROGC will provide free or reduced price non-alcoholic beverages to all designated drivers.

3.11 Approval for Sale of Alcohol other than Beer and Wine. ROGC shall only serve beer and wine at the Royal Oak Golf Course. The service of any other alcoholic beverage at the Royal Oak Golf Course shall require the prior approval of the Royal Oak City Commission.

3.12 Termination of Alcohol Sales. Anything herein to the contrary notwithstanding, at any time after December 31 of any given year of this Agreement, the City shall have the right to terminate the sale of alcoholic beverages at the Royal Oak Golf Course, with or without cause.

Section 4. Required Recordkeeping.

4.1 Bookkeeping. ROGC shall keep true and complete books of accounts and records of all operations at the golf courses and establish a system of bookkeeping and accounting consistent with generally accepted accounting practices. This system shall include, but not be limited to, daily recordkeeping of the number gross income from all of its

operation, including the number of rounds played and receipt of payments for those rounds.

- 4.2 **Inspection; Audit.** ROGC shall permit the City and/or its agents to inspect those books and records at any time during business hours, as often as is deemed necessary by the City. During the term of the Agreement, the City shall have the right to require ROGC to have a forensic audit conducted at the City's expense by an independent audit firm approved by the City. The City's right to such audit(s) shall expire one (1) year after the expiration (including any extension) or termination of this Agreement, whichever occurs first.
- 4.3 **Monthly Profit and Loss Statement.** On or before the 15th of the month of each year of this Agreement, ROGC shall submit to the City's Director of Finance a profit and loss statement of its operations at the golf courses during the immediately preceding calendar month, including daily bank deposits.
- 4.4 **Annual Review.** On an annual basis, ROGC shall upon request provide the City with any bookkeeping and accounting information reasonably needed under generally accepted accounting practices for the preparation of an annual profit and loss statement. Preparation of this profit and loss statement shall be at the City's expense; provided, however, that if the annual profit and loss statement discloses an error in ROGC's monthly profit and loss statements of ten percent (10%) or more, ROGC shall immediately be responsible for the payment of all the City's costs in preparing the annual profit and loss statement.
- 4.5 **Record Retention.** For the duration of this Agreement and for at least one (1) year thereafter, ROGC agrees that it will keep and preserve, and will submit to the City upon

request, the following: (i) all sales slips, cash register tapes, sales books, bankbooks, or duplicate deposit slips, and other evidence of gross income; and (ii) true and complete records demonstrating that ROGC has satisfied all of its employer obligations for payment of federal and state income and payroll taxes, including all sums to be paid under the Federal Insurance Contributions Act (FICA).

Section 5. Consideration.

- 5.1 “Revenue”. For purposes of this Agreement, the term “revenue” shall have the meaning and definition set forth on Attachment C.
- 5.2 Consideration to ROGC. ROGC shall receive all revenues from operations at the golf courses and the related facilities. All expenses associated with ROGC’s operations at the golf courses and the related facilities, including without limitation its monthly payments to the City under this Agreement, shall be the responsibility of ROGC.
- 5.3 Consideration to City. As consideration for the right to receive all revenues from operations at the golf courses and the related facilities, ROGC shall, on an annual basis, pay the following amounts to the City in two equal installments on or before of June 15 and November 1 of each year of the contract:

2010 -- \$25,000.00
2011 -- \$25,000.00
2012 -- \$50,000.00
2013 -- \$50,000.00
2014 -- \$51,500.00
2015 -- \$51,500.00
2016 -- \$51,500.00
2017 -- \$53,045.00
2018 -- \$53,045.00
2019 -- \$53,045.00

If the parties agree to a five-year extension:

2020 -- \$54,636.35

2021 -- \$54,636.35
2022 -- \$56,275.44
2023 -- \$56,275.44
2024 -- \$56,275.44

If the parties agree to a second five-year extension:

2025 -- \$57,963.70
2026 -- \$57,963.70
2027 -- \$59,702.61
2028 -- \$59,702.61
2029 -- \$59,702.61

The payment of all expenses associated with operations at the golf courses shall be the responsibility of ROGC throughout the term of this Agreement and any extensions.

5.4 Additional Consideration to City. In addition to the consideration set forth in Section 5.2, ROGC shall make monthly payments to the City in the following amounts: (a) for calendar years 2010 and 2011, an amount equal to six percent (6%) of the sales of alcoholic beverages at the Royal Oak Golf Course in the immediately preceding calendar month, less any state tax and credit card fees on the sale of the alcoholic beverages; (b) for calendar year 2012, an amount equal to eight percent (8%) of the sales of alcoholic beverages at the Royal Oak Golf Course in the immediately preceding calendar month, less any state tax and credit card fees on the sale of the alcoholic beverages; (c) for calendar year 2013, an amount equal to ten percent (10%) of the sales of alcoholic beverages at the Royal Oak Golf Course in the immediately preceding calendar month, less any state tax and credit card fees on the sale of the alcoholic beverages; (d) for calendar year 2014 and every year after that this Agreement remains in effect, an amount equal to twelve percent (12%) of the sales of alcoholic beverages at the Royal Oak Golf Course in the immediately preceding calendar month, less any state tax and credit card fees on the sale of the alcoholic beverages.

- 5.5 Payment Due Date and Method. The monthly payments described above shall be due on the 15th day of each month, with ROGC's first monthly payment to the City being due on May 15, 2010. All payments shall be made payable to the "City of Royal Oak" and sent to the attention of the City Finance Director at the address of the City first set forth above, or at such other address as the City may direct in writing. A failure to make one or more monthly payments in accordance with this Agreement shall constitute a material breach.
- 5.6 Taxes. To the fullest extent permitted by law, all taxes resulting from ROGC's operation under this Agreement shall be borne by ROGC.
- 5.7 Utilities. ROGC agrees to pay all charges for all utilities used or consumed on the premises or in connection with the management and operation of the golf courses and related facilities, including but not limited to electricity, gas, water, sewage, cable television, telephone and internet service. ROGC is aware and acknowledges that water and sewage bills at the courses have historically been approximately one hundred thousand dollars (\$100,000.00) per year.
- 5.8 Utility Service. Service facilities and outlets for utilities provided by the City are limited to those presently existing on the Property. Any updating, modification or addition of service facilities and outlets for utilities shall be at the sole cost and expense of ROGC, must be approved in advance and in writing by the City Manager, and must be made in compliance with the pertinent provisions of the applicable building codes, ordinances, laws, and regulations.
- 5.9 Maintenance and Repairs. ROGC shall, at its own expense, be responsible for the proper care, maintenance, upkeep and repair of the golf courses and related facilities (except for

major building repairs, as defined below), all City equipment and inventory listed on Attachment B, and any other equipment and inventory that is subsequently provided by the City or ROGC. The City, at its own expense, shall be responsible for major building repairs, such as roofing, windows, doors, HVAC, internal plumbing, and internal electrical.

5.10 ROGC Insurance. ROGC shall, at its own cost and expense, maintain the insurance coverage and provisions described in Attachment D in full force and effect at all times for the duration of this Agreement. ROGC shall provide the City with proof of said insurance upon execution of this Agreement and at any time the City requests such proof thereafter. Failure to provide this proof or to maintain the above insurance coverage, at any time, for the duration of this Agreement shall be considered a material breach of the Agreement.

5.11 Encumbrances. ROGC shall not lease or mortgage all or any part of the golf courses and related facilities, nor directly or indirectly assign or encumber any interest whatsoever in the golf courses, the related facilities, or any City property.

5.12 City Insurance. The City will, at its own cost and expense, carry liquor liability insurance in the manner required by the Michigan Liquor Control Commission under the City's liquor license.

5.13 Indemnification by ROGC.

5.13.1 To the fullest extent permitted by law, ROGC agrees to defend, pay on behalf of, indemnify, and hold harmless the City, its elected and appointed officials, employees and volunteers, and others working on behalf of the City against any and all claims, demands, suits, or loss, including all costs connected therewith,

and for any damages which may be asserted, claimed, or recovered against or from the City, by reason of personal injury, including bodily injury or death, and/or property damage, including loss of use thereof, which arises out of, or is in any way connected or associated with this Agreement, or which arises out of the acts of ROGC or ROGC's agents, officers, members, directors, managers and/or employees.

5.13.2 City Responsibility. The City will maintain control and responsibility for ROGC and its employees as it relates to the Michigan Liquor Control Code and related administrative rules. The City will also maintain control over all portions of the licensed premises, as stated in this Agreement.

5.14 Performance Guarantee. In lieu of a performance and payment bond conditioned upon ROGC's compliance with all of its obligations under this Agreement, payment of any of ROGC's monetary obligations to the City under this Agreement up to and including the total amount of one hundred thousand dollars (\$100,000.00) shall be personally guaranteed by ROGC's Managers. Those personal guarantees shall be in the form and substance attached as Attachment E.

5.15 Equipment. The City agrees to sell to ROGC, and ROGC agrees to purchase from the City, all existing equipment associated with the operation of the golf courses and related facilities for the sum of one thousand dollars (\$1,000.00) per month for each year of the original ten years of this license agreement (total price \$120,000.00). ROGC is responsible for any repairs or upgrades to this equipment. The City reserves the right to purchase any existing equipment associated with the operation of the golf courses and related facilities from ROGC at the termination of ROGC's right to manage and operate

the golf courses and related facilities, at a fair market value to be determined by an appraiser chosen by mutual agreement of the City and ROGC.

Section 6. Miscellaneous Terms and Conditions.

- 6.1 Sale of Golf Courses. The City expressly reserves the right to substantially alter or sell either or both of the golf courses during the term of this Agreement for purposes of development by a third party. If the City does enter into an agreement that will result in either (a) the substantial alteration of one or both of the golf courses, or (b) the sale of one of the golf courses, the City and ROGC agree to enter into good faith negotiations regarding an amendment to this Agreement for the continued management and operation of the remaining facilities by ROGC.
- 6.2 Assignment; Sublease. ROGC shall not assign this Agreement in whole or in part without the prior written approval of the City, which approval shall not be unreasonably withheld. ROGC shall have the right to sublease the golf courses and related facilities for uses and purposes consistent with this Agreement, subject to the prior written approval of the City, which approval shall not be unreasonably withheld.
- 6.3 Attachments. The several Attachments to this Agreement are hereby incorporated herein by reference and expressly made an integral and component part of this Agreement.
- 6.4 Successors and Assigns. All terms and conditions of this Agreement shall be binding upon the City and ROGC and their respective heirs, executors, administrators, legal representatives, successors and assigns, other than a third party purchasing one or both of the golf courses for purposes of development pursuant to Section 6.1.

- 6.5 Default; Termination. If, in the reasonable discretion of the City, ROGC has abandoned the management of the golf courses and related operations, is willfully violating any of the terms of this Agreement, is carrying out any term of this Agreement in bad faith, or has committed what is defined in this Agreement as a material breach, the City may provide written notice of default to ROGC. ROGC shall have a period of thirty (30) days from the date of that notice to cure the default. If ROGC fails to cure the default to the City's reasonable satisfaction within that period of time, the City, through its City Commission, may terminate this Agreement, and upon termination, ROGC's right to manage and operate the golf courses and related facilities shall cease.
- 6.6 Waiver of Default. Any waiver by either party of any default or breach of this Agreement shall not be construed to be a continuing waiver of said default or breach, or as a waiver or permission, express or implied, of any other or subsequent default or breach.
- 6.7 Force Majeure. Neither the City nor ROGC shall be responsible to the other for damages, loss, injury, or delay caused by conditions that are beyond the reasonable control, and without the intentional misconduct or negligence, of that party. Such conditions include, but are not limited to, acts of God, acts of other government agencies, strikes, labor disputes, fire, explosions or other casualties, thefts, vandalism, riots or war, and acts of terrorism.
- 6.8 Governing Law; Jurisdiction. This Agreement is governed by, subject to, and construed according to the laws of the State of Michigan. Any action relating to the validity, construction, interpretation and enforcement of this Agreement shall be filed in Oakland County, Michigan.

- 6.9 No Third-Party Beneficiaries. This Agreement is not intended to confer any benefit on any person or entity that is not a party to this Agreement.
- 6.10 Notices. All notices to the City shall be sent by certified or registered mail addressed to the City Manager, City of Royal Oak, 211 Williams Street, Royal Oak, Michigan 48068, or at such other address as the City may designate by written notice to ROGC. All notice to ROGC shall be sent by certified or registered mail addressed to Royal Oak Golf Course, LLC, Attn: Jim W. Albright, 534 Franklin Road, Pontiac, Michigan 48341, or at such other address as ROGC may designate by written notice to the City.
- 6.11 Entire Agreement. This Agreement contains the entire agreement between the parties regarding the management and operation of the golf courses and related facilities, and all prior negotiations and agreements are merged herein.
- 6.12 Amendment. This Agreement may be amended at any time, in writing, by mutual consent of the parties.
- 6.13 Severability. If any section, subsection, clause, phrase or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be considered a separate, distinct and independent portion of this Agreement, and the remaining portions of this Agreement shall remain in full force and effect.


WITNESSES

CITY OF ROYAL OAK

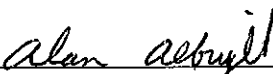
James B. Ellison, Mayor

Melanie Halas, City Clerk

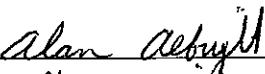
ROYAL OAK GOLF COURSE, L.L.C.



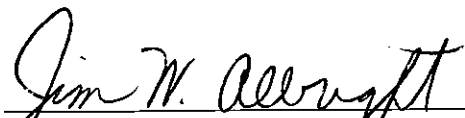
Alan Albright



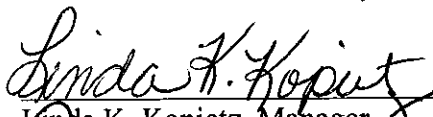
Alan Albright



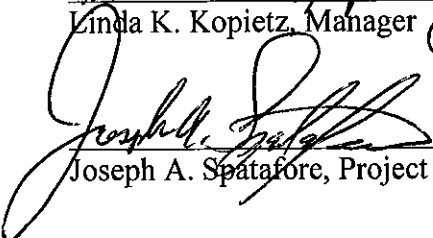
Alan Albright



Jim W. Albright, Manager

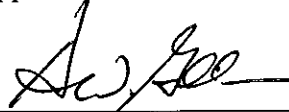


Linda K. Kopietz, Manager

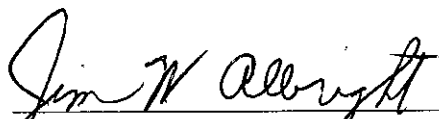


Joseph A. Spatafore, Project Manager

Approved as to form:



David W. Gillam
City Attorney



Royal Oak Golf Course, L.L.C.

ATTACHMENT A – USER FEES

2009 RATES FOR NORMANDY OAKS GOLF CLUB

	MEMBER RATES	NON-MEMBER RATES
9 HOLE	\$10 .00	\$15.00
18 HOLE	\$18.00	\$23.00
EXTRA 9	\$8.00	\$8.00
SR. 9 HOLE	\$9.00	\$14.00
SR. 18 HOLE	\$14.00	\$19.00

WEEKEND RATES

9 HOLE	\$13.00	\$18.00
18 HOLE	\$21.00	\$26.00
EXTRA 9	\$8.00	\$8.00

NO SENIOR RATES ON WEEKENDS

CARTS

9 HOLE CART	\$8.00	
18 HOLE CART	\$14.00	
EXTRA 9	\$6.00	
SENIOR 9 CART	\$6.00	PULL CART \$2.00
SENIOR 18 CART	\$12.00	
EXTRA 9 CART	\$6.00	

2009 RATES FOR ROYAL OAK GOLF CLUB

	MEMBER RATES	NON-MEMBER RATES
9 HOLE	\$12 .00	\$18.00
18 HOLE	\$20.00	\$25.00
EXTRA 9	\$8.00	\$8.00
SR. 9 HOLE	\$9.00	\$14.00
SR. 18 HOLE	\$13.00	\$18.00

WEEKEND RATES

9 HOLE	\$15.00	\$20.00
18 HOLE	\$23.00	\$28.00
EXTRA 9	\$8.00	\$8.00

NO SENIOR RATES ON WEEKENDS

CARTS

9 HOLE CART	\$8.00	
18 HOLE CART	\$14.00	
EXTRA 9	\$6.00	
SENIOR 9 CART	\$6.00	PULL CART \$2.00
SENIOR 18 CART	\$12.00	
EXTRA 9 CART	\$6.00	

ATTACHMENT B – EQUIPMENT & INVENTORY

FIXED ASSET INVENTORY

Fuel Storage Tanks – 2 – 500 gallon above-ground with electric-powered pumps with meters. One @ Normandy Oaks – the other @ Royal Oak Golf Course. Newer fiberglass const with level gauges & safety features.

Pull Carts – 24 @ Normandy Oaks; 27 @ Royal Oak for a total of 51.

Spray Star Pump – Smithho brand card w/spray unit. This is a boom sprayer.

“Terr-Topper” Top Dresser – This unit probably gets used less than a dozen times a year. 8HP electric start engine. This is a tow-behind unit.

Jacobsen Seeder Slit Seeder

Ball & Club Washers – 8 @ each course for total of 16.

Buffalo Turbine Debris Blower – Newer unit used for gathering leaves in the fall.

Foley Accu-Spin/Relief Grinder – Brand new state-of-the art. Used in sharpening the reels.

Foley Accu-Pro Bed Bedknife Grinder – Brand new state-of-the-art. Used for sharpening bedknives.

Deluxe Lift Station – Hydraulic hoist for lifting mowers for service. Also has a portable walk-behind unit as part of the package. **Top shelf equipment!**

Toro Greensmaster 3050 Reel Mower – 2170 hours.

Fairway Mower - Serial #MO3215A030336

Cushman Core Harvester – Used in conjunction with Cushman Utility Carts.

Toro GM 224 Rotary Mower - Mod 3022, Serial 40201

Toro Greens Aerator – Walk-behind unit. No hour meter.

Toro Greensmaster 3000 – Ser 91197, Model 04350.

Three (3) – John Deere Gators

Toro Plug Pulverizer – This unit is an attachment. Power by outside unit.

Tractor – I think this is the Ford parked out front of the maintenance garage.

Toro Groundsmaster 325D – 72” rotary mower, 80532.

Lastec Articulator Mower – Ser 9610498 pull behind gang mower about 12 foot net w/7 floating 20’ decks.

Lastec Articulator Mower – Ser 9640498 – same as above.

John Deere 4WD Tractor – Mod 1070, Ser M0070A170590 - Unit not on the Fixed Asset Inventory List.

John Deere 4WD Tractor – Mod 1070, Ser M01070A1611 ½, 49 - Unit not on the Fixed Asset Inventory List.

Cushman Turf Truckster - Ser 99604285 – these are the top shelf carts with 3-speed automatic transmissions. Has hydraulic lift for its box to dump and to power attachments.

Cushman Turf Truckster - Ser 00005502 Hydraulic lift for the box and to power attachments.

Soil Reliever & Tines – Ser 6990837, Mod 60, tractor mount unit powered of tractor PTO made by Southern Green Inc.

Toro Groundsmaster 325D – Mod 30788, Ser 200000105

Toro Reelmaster 3100-D – Mod 03201, Ser 90622

Toro Greensmaster 3050 – Model 04351, Ser 200000842

Toro All Wheel Drive Sand Pro 5020 – Model 08886, Ser 200000530 *The above also has the Sand Pro Tooth Rake and Dozer Blade and Spring Rake It kit. All average shape.*

John Deere 5310 4WD Tractor – Ser LV5310D430378

John Deere 541 Loader – attachment for above. Ser W00541D007464

Toro Reelmaster 5400-D – Ser 230000232

Toro Reelmaster 5400-D – Ser 230000231

GOLF CARTS

Club Car – R.O. #5 – Ser #A8505 69474 (W/charger, Lestronic II, Ser 04-88, Model 7850)

Club Car – R.O. #6 – Ser #A8145 26212 (W/charger, Lestronic, Ser #9-83, Model 7850)

Club Car – R.O. #16 – Ser #A8622-98101(W/charger, Lestronic, Ser 0488, Model 7850)

Club Car – R.O. #11 – Ser #A8515-74050(Club Car w/charger, Ser 0497, Model 13800)

Club Car - R.O. #27 – Ser #A8417 54345(W/charger, Lestronic II, Ser 6-88, Model 9700)

Club Car – R.O. #21 – Ser #A8404 50885, right rear fender cracked (W/charger, Lestronic, Ser 0488, Model 7850)

Club Car – R.O. #29 – Ser #A8417 54347 (W/charger, Lestronic II, Ser 9-83, Model 7850)

Club Car – R.O. #30 – Ser #A842 156147, has lower half windshield, seat turns on passenger side (W/charger, Club Car brand, Ser 05-02, Model 13800)

Club Car – R.O. #14 – Ser #A8515 7406 (W/charger, Lester Electrical, Ser 1-80, Model 8714, Type 361C25T12)

Club Car – R.O. #13 – Ser #A8516 7458 (W/charger, Lestronic, Ser 484, Model 7850)

Club Car – R.O. #49 – Ser #A8515 74058, crack in roof @ left front support, front fender damage both sides (W/charger, Lestronic, Ser 04-88, Model 7850)

Club Car – R.O. #18 – Ser #A8416 53921 (W/charger, Acupower, Ser 02-01, Model 13800)

Club Car – R.O. #26 – Ser #A8417 54344, crack left rear fender (W/charger, Lestronic II, Ser 04-88, Model 7850)

Club Car – R.O. #22 – Ser #A8405 51029 (W/charger, Lester, Ser 1-80, Model 8714, Type 362C25, T-12)

Club Car – R.O. #25 – Ser #A8622 98086, no charger

Club Car – R.O. #19 – Ser #A8417 54355 (W/Club Car Accupower charger, Ser 03-01, Model 13800)

Club Car – R.O. #28 – Ser #A8421 56150 (W/Club Car Accupower charger, Ser 0797, Model 13800)

Club Car – R.O. #17 – Ser #A8417 54337, with lower windscreen (W/Club Car Accupower charger, Ser 6-99, Model 13800)

Club Car – R.O. #42 – Ser #QP0399-207377 (W/Club Car Powerdrive charger, Ser 4-99, Model 17930)

Club Car – R.O. #1 – Ser #A0030 911 454, with full windscreen (W/Club Car Powerdrive charger, Ser 4-98, Model 17930)

Club Car – R.O. #20 – Ser A8409 52013 (W/Club Car Accupower charger, Ser – none listed, Model 13800)

Club Car – R.O. #58 – Ser A9939-808620 (W/Club Car Powerdrive charger, Ser 8-99, Model 17930)

Club Car – R.O. #44 – Ser QP0399 241809 (W/Club Car Powerdrive charger, Ser 05-01, Model 17930)

Club Car – R.O. #50 – Ser A0030 911465 (W/Club Car Powerdrive charger, no I.D. tags but rear sticker #22110-11, Bar Code 1018022040144786, Date 8/02)

Club Car – R.O. #59 – Ser #QP0399-202167 (W/Club Car Powerdrive charger, Ser 06-96, Model 17930)

Club Car – R.O. #8 – Ser #A9939-808579 (W/Club Car Powerdrive charger, Ser 8-99, Model 17930)

Club Car – R.O. #34 – Ser #A9941-812156 (W/club Car Powerdrive charger, no I.D. tag, rear sticker #17930-11, UPC #1018022010118347, date 4/98)

Club Car – R.O. #3 – Ser A0030-910447 (W/Club Car Powerdrive charger, Ser 4-99, Model 17930)
Club Car – R.O. #9 – Ser #A0030-910455 (W/Club Car Powerdrive charger, Ser 4-98, Model 17930)

Club Car – R.O. #55 – Ser #A9939-808610 (W/Club Car Powerdrive charger, Ser 05-00, Model 17930)

Club Car – R.O. #41 – Ser #QP0399-278750 (W/Club Car Powerdrive charger, Model 22110, rear tag #22110-11, Bar Code 1018022040134684)

Club Car – R.O. #35 – Ser #A9941-812152 (W/Club Car Powerdrive charger, Ser 4-99, Model 17930)

Club Car – R.O. #61 – Ser #QP0899-278810 (W/Club Car Powerdrive charger, Ser 04-00, Model 17930)

Club Car – R.O. #56 – Ser #A9939-808617 (W/Club Car Powerdrive charger, Ser 4-98, Model 17930)

Club Car – R.O. #62 – Ser #A0030-910444 (W/Club Car Powerdrive, Ser 01-02, Model 17930)

Club Car – R.O. #33 – Ser #A9941-812151 (W/Club Car Powerdrive charger, Ser 400203377, Model 22110, Bar Code #400203327)

Club Car – R.O. #43 – Ser #QP0399-213454 (W/Club Car Powerdrive charger, Ser 4-98, Model 17930)

Club Car – R.O. #39 – Ser #A9939-808621 (W/Club Car Powerdrive charger, Ser 4-98, Model 17930)

Club Car – R.O. #53 – Ser #A0030-910446 (W/Club Car Powerdrive charger, Model 2210, Tag #22110, Bar Code #1018022040125203)

Club Car – R.O. #37 – Ser #A9939-808577 (W/Club Car Powerdrive charger, Ser 4-98, Model 17930)

Club Car – R.O. #51 – Ser #A0030-911493 (W/Club Car Powerdrive charger, Ser 4-98, Model 17930)

Club Car – R.O. #73 – Ser #A9934-793410 (W/Club Car Powerdrive charger, Ser 4-99, Model 17930)

Club Car – R.O. #31 – Ser #A9941-812153 (W/Club Car Powerdrive charger, Ser 4-98, Model 17930)

Club Car – R.O. #38 – Ser #QP0399-217139 (W/Club Car Powerdrive charger, Ser 02-00, Model 17930)

Club Car – R.O. #2 – Ser #A0030-910445 (W/Club Car Powerdrive charger, rear tag #22110-01, Bar Code #1018022040154733)

Club Car – R.O. #46 – Ser #A9939-808606 (W/Club Car Powerdrive charger, Ser 02-00, Model 17930)

Club Car – R.O. #60 – Ser #AQP0399-232727 (W/Club Car Powerdrive charger, Ser 4-98, Model 17930)

Club Car – R.O. #47 – Ser #QP0399-232662 (W/Club Car Powerdrive charger, Ser 4-99, Model 17930)

Club Car – R.O. #57 – Ser #A9939-808631 (W/Club Car Powerdrive charger, rear tag #22110-11, Bar Code #1018022040144554)

Club Car – R.O. #32 – Ser #A9941-812155 (W/Club Car Powerdrive charger, Ser 0502, Model 22110)

Club Car – R.O. #45 – Ser #QP0399-215553 (W/Club Car Powerdrive charger, Bar Code #1018022040134252 Model 22110)

Club Car – R.O. #54 – Ser #A0030-910460 (W/Club Car Powerdrive charger, Ser 02-00, Model 17930)

Club Car – NO R.O. # - Ser #A8516-74590 (W/Lester charger, Type 36LC25 T12, Model 8714)

Club Car – R.O. #48 – Ser #A9939-808608 (W/Club Car Powerdrive charger, Model 22110, Bar Code #1018022040105351)

Club Car – R.O. #40 – Ser #A8906-166167 (W/Lestronic charger, Model 7850, Type 36LC25-8ET)

Club Car – R.O. #15 – Ser #A8417-54841 (W/Lestronic II charger, Model 7850, Type 36LC25-8ET)

Club Car – R.O. #8 – Ser #A8118-21949 (W/Lestronic II charger, Model 7850, Type 36LC25-8ET)

Club Car – R.O. #7 – Ser #A8119-22086 (No charger)

Club Car – R.O. #12 – Ser #A8516-74591

Club Car – R.O. #10 – Ser #A8514-73442 (W/Lestronic charger, S04-88, Model 7850, Type 36LC25-8ET)

Club Car – R.O. #23 – Ser #A8417-54332 (No charger)

Club Car – No Royal Oak # - Ser #AG9929-782034 *Used by the rangers*

Red Gas Powered Club Car - Ser #AG9929-782013

One Person Cart-Sport Handicap Approved – no charger

One Person Cart-Sport Handicap Approved

Club Car – Ser #A8516-74590 (W/Lester charger, Model 8714, Type 36LC25 T12)

ATTACHMENT C – “REVENUE”

For purposes of this Agreement, the term “revenue” shall mean any and all money and income, of any kind or form whatsoever (e.g. cash, check, credit, bank card, money order, traveler’s check, etc.), received by any individual from or as a result of any and all aspects of ROGC’s activities and operations at the golf courses and related facilities. Revenue payments due the City will be based on revenue derived from all the sales of all goods and services, including but not limited to restaurant operations, banquet operations, snack bar operations, including all food and beverages, both alcoholic and non-alcoholic.

For purposes of calculating payments to the City under this Agreement, the above definition of revenue shall not include:

- (1) Sales taxes, excise taxes, gross receipts taxes and other similar taxes now or later imposed upon the sale of food, beverages, merchandise or services and paid by ROGC to the appropriate taxing authority, whether added to or included in the selling price;
- (2) The actual un-collectible amount of any check or bank draft received by ROGC as payment for goods or services and returned to ROGC from a customer’s bank as being un-collectible (commonly “non-sufficient funds” checks), but only after ROGC has made reasonable efforts to collect on the check;
- (3) The actual un-collectible amount of any sale of merchandise or services for which ROGC accepted a credit card; provided, however, that ROGC has made reasonable efforts to collect the debt after being notified by the issuing bank of the invalidity or uncollectibility of the charge;
- (4) The value of any merchandise, supplies or equipment of ROGC exchanged or transferred from or to other locations of business of ROGC where such exchange or transfer is not made for the purpose of avoiding a sale which would otherwise be made from or at the Premises;
- (5) Receipts in the form of refunds from or the value of merchandise, supplies or equipment returned to shippers, suppliers or manufacturers;
- (6) The amount of any cash or quantity discounts received from sellers, suppliers or manufacturers;
- (7) The amount of any gratuities paid or given by customers to or for employees of ROGC;
- (8) Receipts from the sales of uniforms or clothing required to be worn by employees; and
- (9) Amounts attributed to meals served or provided to employees of ROGC.

ATTACHMENT D – ROGC INSURANCE

- A. Workers Compensation & Employers' Liability Insurance, Michigan Statutory Limits of Liability.
- B. Commercial General Liability Insurance on an occurrence basis with limits of liability not less than one million dollars (\$1,000,000.00) per occurrence and aggregate combined single limit for Personal Injury, Bodily Injury and Property Damage. Coverage shall include extensions for Contractual Liability and Independent Contractors Coverage.
- C. Motor Vehicle Liability Insurance, including Michigan No-Fault Coverage, with limits of liability not less than one million dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
- D. Umbrella Liability Insurance with limits of liability not less than two million dollars (\$2,000,000.00) per occurrence.
- E. Environmental Impairment Insurance (if not included as an extension of Commercial General Liability insurance).
- F. On all certificates of insurance other than Workers' Compensation & Employers' Liability Insurance, the additional insured must read as follows: "City of Royal Oak, and including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and their board members, employees and volunteers."
- G. The cancellation notice must read as follows: "Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will mail thirty (30) days written notice to the Certificate Holder."

ATTACHMENT E – UNCONDITIONAL GUARANTEE OF PAYMENTS

This Unconditional Guarantee of Payments is given by Jim W. Albright, an individual, and Linda K. Kopietz, an individual (each a “Guarantor” or collectively “Guarantors”) this 16th day of December, 2009 for valuable consideration, the receipt and adequacy of which is hereby acknowledged and agreed to.

RECITALS

ROGC has agreed, pursuant to the Management Agreement, to manage and operate the Royal Oak Golf Course and the Normandy Oaks Golf Course for the City.

In order to induce the City to enter into the Management Agreement, and in recognition of the substantial interest of the City and its residents in insuring that the City receives all payments from ROGC pursuant to the Management Agreement, each Guarantor has agreed, pursuant to Section 5.14 of the Management Agreement, to guarantee payment of all payments from ROGC to the City up to a total of one hundred thousand dollars (\$100,000.00).

Each Guarantor has an interest in ROGC and therefore has a substantial and direct financial interest in the Management Agreement and, as a result, has agreed to guarantee all payments from ROGC to the City under that Agreement up to a total of one hundred thousand dollars (\$100,000.00).

Section 5.14 of the Management Agreement requires the Guarantors to execute and deliver to the City this Unconditional Guarantee of Payments.

THEREFORE, in consideration of the promises contained herein, each Guarantor covenants and agrees with the City as follows:

1. Definitions. The following terms shall have the following meaning in this Guarantee.

- 1.1 “City” shall mean the City of Royal Oak, a Michigan municipal corporation.
 - 1.2 “Management Agreement” means the Agreement between the City and ROGC for the management and operation of the Royal Oak Golf Course and the Normandy Oaks Golf Course by ROGC for the City.
 - 1.3 “Guarantor” or “Guarantors” means individually and collectively Jim W. Albright and Linda K. Kopietz.
 - 1.4 “Guarantee” means this Unconditional Guarantee of Payments.
 - 1.5 “Guarantee Amount” means (a) all amounts, costs, expenses and liabilities which may be incurred by the City in carrying out or causing to be carried out the matters guaranteed under the Management Agreement, and (b) all reasonable attorney fees, costs and expenses incurred by the City in exercising its rights to obtain payment under the Management Agreement. The limit of the guarantee amount shall be a total of one hundred thousand dollars (\$100,000.00).
 - 1.6 “Guarantee Obligations” means all of the obligations guaranteed under Section 2 of this Guarantee.
 - 1.7 “ROGC” means Royal Oak Golf Course, L.L.C., a Michigan limited liability company.
2. Guarantee. Each Guarantor hereby unconditionally and irrevocably guarantees to the City and its respective successors and assigns that ROGC shall fully and punctually make any and all payments due to the City under the Management Agreement.

3. Payment of Guarantee Amount. Pursuant to the guarantee set forth in Section 2, the Guarantors shall pay the Guarantee Amount immediately upon demand by the City, in the event that ROGC fails to make the payments due to the City under the Management Agreement.
4. Continuing Guarantee. While the Management Agreement is in effect, the Guarantors shall not be released from their personal obligations hereunder (a) by anything which might but for this provision of the Guarantee be deemed a legal or equitable discharge of a surety, or (b) by reason of any failure or waiver, extension, modification, forbearance, or delay of the City or its successors and assigns to proceed promptly or otherwise to exercise any right or remedy available to the City pursuant to this Guarantee, the Management Agreement, any other document, at law, or in equity. The Guarantors hereby expressly waive and surrender any defense to their liability hereunder based upon any of the foregoing acts, events, agreements, or waivers. Nothing shall discharge or satisfy the liability of the Guarantors hereunder, if any, except the full payment of all amounts owed by ROGC pursuant to the Management Agreement or the Guarantors hereunder.
5. Waivers. The Guarantors hereby waive all suretyship defenses and notices; notices of acceptance; notice of the creation or existence from time to time of any Guarantee amount, or of the amount of the Guarantee amount from time to time (subject to the Guarantors' rights to make inquiry of the City to determine the Guarantee Amount at any reasonable time); notice of any change in ROGC's financial condition or of any other fact which might increase any Guarantor's risk;

notice of presentment for payment, demand, protest and notice thereof as to any instrument; notice of default; and all other notices and demands to which the Guarantors might otherwise be entitled. The Guarantors further waive all rights by statute or otherwise to require the City to institute suit against ROGC or to exhaust its rights and remedies against ROGC, each Guarantor being bound to the City as provided in this Agreement as fully as if each Guarantor was directly obligated to the City to perform the Guarantee Obligations. The Guarantors also waive any defense arising by reason of any disability or other defense of ROGC or by reason of the cessation from any cause whatsoever of the liability of ROGC. Until all of the Guarantee Amount shall have been paid in full, no Guarantor shall have any right of subrogation, reimbursement, or indemnity whatsoever and no right of recourse to or with respect to any property of ROGC or to any collateral granted by ROGC. All of the Guarantee Amount, if any, owed by the Guarantors shall, at the City's option, become immediately due and payable if there shall be filed by or against ROGC or a Guarantor a petition in bankruptcy or for insolvency proceedings or for reorganization or arrangement or for appointment of a receiver or trustee, or if ROGC or a Guarantor makes an assignment for the benefit of a creditor.

6. Set-Off. The Guarantors hereby consent to the City exercising any right of set-off against any and all deposits, sums, credits, and any and all other property of ROGC in accordance with the terms and conditions of the Management Agreement.

7. Settlement/Release/Compromise. Each Guarantor consents and agrees that, without notice to the Guarantors and without affecting or impairing the obligations of the Guarantors, the City may compromise, settle, or extend the time for the payment or other performance of any obligation of ROGC, or release ROGC or any other Guarantor from its liability for such obligation; release all or any part of any security given by ROGC to the City; or refuse or fail to enforce its rights under the Management Agreement and any agreement or instrument other than this Guarantee evidencing or securing ROGC's obligations to the City under the Management Agreement or any other document or agreement.
8. Anti-Marshaling/Preferential Payments. Each Guarantor consents and agrees that the City shall be under no obligation to marshal any assets in favor of the Guarantors, or against or in payment of any or all of the Guarantee Amount. The Guarantors agree to pay all expenses incurred by the City in connection with the enforcement of its rights under this Guarantee, as well as court costs, attorney fees, and collection charges. Each Guarantor further agrees that to the extent that ROGC makes payment to the City, which payment or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside, or for any reason required to be repaid or paid over to a trustee, receiver, or any other party under any bankruptcy act, state or federal law, common law, or rule of equity, then to the extent of such payment, any amount intended to be satisfied thereby shall be revived and continue in full force and effect as if said payment had not been made, and each Guarantor shall remain liable for such obligation to the extent included as part of the Guarantee Obligations under this Guarantee.

Each Guarantor agrees to indemnify, defend and hold the City harmless from and against any and all costs, fees and expenses, including, without limitation, reasonable attorney fees and all litigation expenses in connection with the City defending any preference or fraudulent conveyance claim or similar action brought in any bankruptcy or other proceeding concerning ROGC or such Guarantor initiated by ROGC or any Guarantor.

9. Subordination. Any and all present and future debts and obligations of ROGC to any Guarantor not assigned to others prior to the date hereof are hereby waived and postponed in favor of, and subordinated to the full payment of the Guarantee Amount by ROGC to the City.
10. Representations and Warranties. Each Guarantor represents, warrants and covenants to the City as an inducement to the City to enter into the Management Agreement that as of the date of this Guarantee, the fair saleable value of each Guarantor's assets exceeds the Guarantor's liabilities; that each Guarantor is meeting current liabilities as they mature; that each Guarantor has furnished to the City a Net Worth certification of that Guarantor that the Guarantor affirms as true, accurate and complete; that there are not any pending court or administrative proceedings or undischarged judgments against any Guarantor; that no federal or state tax liens have been filed or, to the best of such Guarantor's knowledge, have been threatened or are pending against that Guarantor; that each Guarantor shall immediately give to the City written notice of any litigation threatened or commenced, or tax liens filed, or bankruptcy proceedings commenced with respect to that Guarantor by such Guarantor or any third party; and that this

Guaranty is not in violation or in conflict with any contract, agreement, decree, mortgage, or other undertaking, instrument, or order by which ROGC or any of the Guarantors are bound.


11. **Guarantee of Payment and Performance.** This Guarantee is a primary and original obligation of each Guarantor and is an absolute, unconditional, continuing and irrevocable guarantee of payment and performance and shall remain in full force and effect without respect to future changes in condition, including changes in law or any invalidity or irregularity with respect to the issuance of any obligations of ROGC to the City, or with respect to the execution and delivery of any agreement between ROGC and the City. This Guarantee is immediate and is not contingent upon the exercise or enforcement of any remedies the City may have against ROGC under the Management Agreement, or against others, or the enforcement of any lien or reliance upon any security that ROGC may at any time possess.
12. **Election of recourse.** The City shall have the right to seek recourse against each Guarantor to the full extent provided herein and in the Management Agreement. No election to proceed in one form of action or proceeding, or against any party, or on any obligation, shall constitute a waiver of the City's right to proceed in any other form of action or proceeding, or against other parties unless the City has expressly waived such right in writing. Specifically, no action or proceeding by the City against ROGC under the Management Agreement and any document or instrument evidencing or securing the Guarantee Amount to the City shall serve to diminish the liability of each Guarantor, except to the extent the City fully and

unconditionally realizes payment by such action or proceeding, notwithstanding the effect of any such action or proceeding upon such Guarantor's right of subrogation against ROGC.

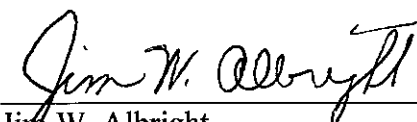
13. Independent Investigation. Each Guarantor is fully aware of the financial condition of ROGC. Each Guarantor has executed and is delivering this Guarantee based solely upon his or her own independent investigation and not upon any representation or statement of the City with respect thereto. Each Guarantor is in a position to and hereby assumes full responsibility for obtaining any additional information concerning ROGC's financial condition and is not relying upon nor is expecting the City to furnish any information concerning ROGC's financial condition.
14. Successors and Assigns. Each Guarantor agrees that all of the rights, benefits, and privileges conferred upon the City shall vest in and be enforceable by the City, its successors and assigns. This Guarantee shall bind each Guarantor's heirs, devisees, successors and assigns.
15. Conflict. In the event of any conflict between the Management Agreement and this Guarantee, the terms of this Guarantee shall govern.
16. Michigan Law. This Guarantee, all acts and transactions under this Guarantee, and all rights and obligations of the parties to this Guarantee shall be governed by, construed and interpreted according to the laws of the State of Michigan.

WITNESSES:

GUARANTORS



Alan Albright



Jim W. Albright
Date: 12-16-09

Alan Albright
Alan Albright

Linda K. Kopietz
Linda K. Kopietz
Date: