



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of City Council
FROM: Daniel Gho, Public Works Director
DATE: November 16, 2016
SUBJECT: Pacific Grove Golf Links Lease Amendment with CourseCo
CEQA STATUS: Lease of the Golf Links is exempt from CEQA under Section 15301 of the CEQA Guidelines (Class 1) – Existing Facilities.

RECOMMENDATION

Hold a second reading and adopt an ordinance to amend the current lease with Pacific Grove Golf, LLC, an affiliate of CourseCo.

BACKGROUND

At its February 19, 2014 meeting the City Council directed the City Manager to negotiate a lease with CourseCo for management, operation, and maintenance of the Pacific Grove Golf Links. At its April 2, 2014 meeting, the Council approved an interim management agreement with CourseCo, and at the September 17, 2014 City Council meeting the Council approved a lease agreement with CourseCo (Golf Course Lease) and entered into an agreement for management of the Golf Links for a ten-year term with two five-year options. For the last two years CourseCo, has been operating the golf course under the Golf Course Lease, which commenced on October 1, 2014.

No changes have been made to the ordinance following its approval of the first reading on November 2, 2016. This ordinance was published on November 13, 2016 as required by City Charter.

DISCUSSION

CourseCo has operated the course and facilities under the current lease agreement in a fully responsible and professional manner. The financial performance for the first two years has matched projections.

With the progression of the Pacific Grove Local Water Project (LWP) the City Council directed staff to reach out to CourseCo to review the current lease terms and align the lease agreement with the LWP. The City contacted CourseCo and opened the discussion of refining the lease of the golf course, primarily basing the discussion around the “Minimum Annual Water Charge” specified in section 6.2 of the current lease. The parties are agreeable to amending the Golf Course Lease as follows:

The Golf Course Lease provides in section 6.2, Other Expenditures, that CourseCo shall pay up to \$443,333 per year for water supplied to the premises up to 27.2 million gallons per year, increasing by 2% each year, with a minimum water charge of \$221,666 for water used once the LWP comes on line. CourseCo is responsible for the cost of all water used in excess of the 27.2 million gallons, regardless of the cost per gallon.

The proposed Lease Amendment (Lease Amendment #1) adjusts this language, stating that should CourseCo pay less than \$375,000 per water year for water usage pursuant to paragraph c) in Lease Amendment #1, (Attachment 1), CourseCo shall pay to the City a “Minimum Annual Water Charge” set at \$375,000, less the actual annual water charge paid by CourseCo pursuant to paragraph c).

The Lease Amendment #1 also specifies that CourseCo shall pay actual cost billed by California American Water Company (Cal-Am) for potable water supplied to the Golf Course or properties located at 77 or 79 Asilomar Avenue. This guarantees that supplemental water supplied by Cal-Am to the Golf Course is solely the responsibility of CourseCo. In exchange for the guaranteed water payment, CourseCo has requested to exercise its first option to renew and extend the terms of this lease for a period of five years (“First Renewal Term”) and combined the initial term of ten years and the first renewal term making the expiration date of the Golf Course Lease September 30, 2029.

All language in the Golf Course Lease shall remain in effect unless specified in the Lease Amendment #1 and will continue to determine the rights and obligations of the parties.

FISCAL IMPACT

Lease Amendment #1 will raise the minimum water charge specified in the Lease Agreement with CourseCo to go toward payment of the annual anticipated cost of the LWP. Remaining annual cost of the LWP will be derived from any reclaimed water used by CourseCo in excess of the 27.2 million gallons, the Cemetery reclaimed water purchases for irrigation purposes and the construction truck fill station.

OPTIONS

1. Council may direct staff to seek to negotiate changes to the Lease Agreement.

ATTACHMENTS

1. Proposed Lease Amendment #1
2. Ordinance

RESPECTFULLY SUBMITTED,



Daniel Gho
Public Works Director

REVIEWED BY,



Ben Harvey
City Manager

AMENDMENT #1

GOLF COURSE LEASE

Pacific Grove Golf Links

Landlord: **City of Pacific Grove**

Tenant: **Pacific Grove Golf, LLC an affiliate of CourseCo, Inc**

Premises: **77 and 79 ASILOMAR AVENUE, LOCATED IN THE CITY OF PACIFIC GROVE,
CALIFORNIA**

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AMENDMENT #1 GOLF COURSE

Landlord: **City of Pacific Grove**

Tenant: **Pacific Grove Golf, LLC an affiliate of CourseCo, Inc**

77 and 79 ASILOMAR AVENUE, LOCATED IN THE CITY OF PACIFIC GROVE, CALIFORNIA

THIS GOLF COURSE LEASE AMENDMENT (“Amendment #1”) shall amend, supersede, and restate that Golf Course Lease entered into between the Parties and dated February 19, 2014 by and between the CITY of Pacific Grove, a Charter City of the State of California (“City” or “Landlord”), and Pacific Grove Golf, LLC, a California limited liability company (“Tenant”).

FACTS

There shall be no change to any Recital set forth in the Golf Course Lease.

Landlord and Tenant desire this Amendment #1 to amend, supersede, and restate the GOLF COURSE LEASE, and its exhibits and attachments, dated February 19, 2014 pertaining to the Premises known as Pacific Grove Golf Links or 77 and 79 Asilomar Avenue, located in the City of Pacific Grove, California. This Amendment #1 shall be incorporated into the Lease and shall be a part thereof.

Except as modified by this Amendment #1, the Parties intend this Amendment to republish and restate the Golf Course Lease. Where terms set forth in the Lease may be inconsistent with terms of this Amendment #1, this Amendment shall control.

ARTICLES 1

There shall be no change to any provision in Article 1 of the Golf Course Lease.

ARTICLE 2

The definition of the term “Expiration Date” shall be deleted in its entirety, and in its place the following definition shall take effect: “Expiration Date” means September 30, 2029.

Except as modified by this Amendment #1, all of the terms and conditions of Article 2 of the Golf Course Lease shall remain in effect and continue to determine the rights and obligations of Landlord and Tenant.

ARTICLE 3

There shall be no change to any provision in Article 3 of the Golf Course Lease.

ARTICLE 4

- a) The Parties agree Tenant has properly exercised its first option to renew and extend the Term of this Lease for a period of five (5) years ("First Renewal Term"); Landlord agrees by this Amendment #1 that Tenant and Landlord shall extend the Lease for this First Renewal Term upon the terms and conditions set forth in this Amendment #1.
- b) The Expiration Date for the Golf Course Lease shall add the Initial Term of 10 years, together with the First Renewal Term of 5 years; the Expiration Date for the combined Initial Term and First Renewal Term shall be September 30, 2029.
- c) The Parties recognize it shall be beneficial to include an opportunity during or about September 2025 for either Party to identify potential improvements in the lease, designed to benefit any stakeholder, Party, the golfing public, the environment, or the community as a whole, and to negotiate with the other Party to achieve mutual agreement, such agreement to be incorporated in a revised lease.
- d) Except as modified by this Amendment #1, all of the terms and conditions of Article 4 of the Golf Course Lease shall remain in effect and continue to determine the rights and obligations of Landlord and Tenant.

ARTICLE 5

There shall be no change to any provision in Article 5 of the Golf Course Lease.

ARTICLE 6

Paragraph 6.2 (Other Expenditures) of the Golf Course Lease shall be deleted in its entirety, and in its place the following provision shall take effect:

6.2 Other Expenditures. Tenant shall be responsible for any and all other costs and expenditures for garbage pickup, utilities, cable television, internet services or other services for its use, occupancy, operation or enjoyment of the Premises or any Improvements permitted thereon. Notwithstanding the foregoing,

- a) Tenant shall use the most efficient water conservation and management practices available.
- b) Tenant shall pay actual costs billed by California American Water Company for potable water supplied to the Golf Course or properties located at 77 or 79 Asilomar Avenue.

c) For the first 27.2 million gallons supplied per water year (October 1 – September 30) upon the Golf Course, Tenant shall pay actual costs billed by California American Water Company, or the City of Pacific Grove, or any other purveyor for sub-potable irrigation water to the Golf Course or properties located at 77 or 79 Asilomar Avenue, up to a cap of \$443,332 per year for such water. Effective each September 1st this cost cap shall be increased by 2%. To the extent billed costs for sub-potable irrigation water (up to 27.2 million gallons per water year) supplied to the Golf Course or properties at 77 or 79 Asilomar Avenue exceed the referenced cost cap, Landlord shall pay that excess water cost.

d) For water use exceeding 27.2 million gallons supplied per water year (October 1 – September 30), Tenant shall pay actual costs billed by California American Water Company, or the City of Pacific Grove, or any other purveyor for sub-potable irrigation water to properties located at 77 or 79 Asilomar Avenue, without any cost cap for such irrigation water. Landlord shall have not obligation to pay any cost for water use exceeding 27.2 million gallons per water year.

e) Should Tenant pay less than \$375,000 per water year for water usage pursuant to paragraph c) above, Tenant shall pay to Landlord a “Minimum Annual Water Charge” set at \$375,000 less the actual annual water charge paid by Tenant pursuant to paragraph c).

f) Except as modified by this Amendment #1, all of the remaining terms and conditions of Article 6 of the Golf Course Lease shall remain in effect and continue to determine the rights and obligations of Landlord and Tenant.

ARTICLES 7 - 24

There shall be no change to any provision in Articles 7 – 24, inclusive, of the Golf Course Lease.

City and Tenant execute this Golf Course Lease Amendment #1 in triplicate as of this day,
_____, 2016.

TENANT:

By: _____ Its: _____

By: _____ Its: _____

CITY:

By: _____ Its: City Manager

APPROVED AS TO FORM:

By: _____ Its: City Attorney

ORDINANCE NO. 16-XXX

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE
AMENDING THE LEASE OF PACIFIC GROVE GOLF LINKS WITH PACIFIC
GROVE GOLF, LLC AN AFFILIATE OF COURSECO, INC.**

Findings

1. The City of Pacific Grove (City) entered into an agreement with CourseCo for management, operation, and maintenance of the Pacific Grove Golf Links on October 1, 2014 (Golf Course Lease); and
2. Upon review of the terms of the Golf Course Lease, and with the progression of the City's Local Water Project (LWP), the City Council desires to amend the lease with CourseCo; and
3. The proposed Lease Amendment #1 will exercise the first five year renewal term; and
4. The new expiration date for the Golf Course Lease will be September 30, 2029; and
5. CourseCo shall pay up to \$443,333 per year for water supplied to the premises up to 27.2 million gallons per year, increasing by 2% each year; and
6. The minimum water charge will be set at \$375,000 less the actual annual water charge paid by CourseCo; and
7. CourseCo will also be responsible for the cost of all water used in excess of the 27.2 million gallons regardless of the cost per gallon; and
8. CourseCo shall pay actual cost billed by California American Water Company (Cal-Am) for potable water supplied to the Golf Course or properties located at 77 or 79 Asilomar Avenue; and
9. All language in the Golf Course Lease shall otherwise remain in effect unless specified in Lease Amendment #1 and will continue to determine the rights and obligations of the City and CourseCo; and
10. In the enactment of this ordinance, the City followed the guidelines adopted by the State of California and published in the California Code of Regulations, Title 14, Section 15000, et seq. Enactment of this ordinance action does not constitute a "project" as defined by California Environmental Quality Act (CEQA) because Lease of the Golf Links is exempt from CEQA under Section 15301 of the CEQA Guidelines (Class 1) – Existing Facilities.

Ordinance

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE:

SECTION 1. The foregoing findings of the City Council are incorporated into this Ordinance as if set forth in full.

SECTION 2. The attached Lease Amendment #1 is hereby approved.

SECTION 3. The City Manager is directed to execute all documents and to perform all other necessary City acts to implement this Ordinance.

SECTION 4. In accord with Article 15 of the City Charter, this ordinance shall become effective on the thirtieth (30th) day following passage and adoption hereof.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE
this 16th day of November, 2016, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

BILL KAMPE, Mayor

ATTEST:

SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney