



**DATE:** June 26, 2018  
**TO:** Mayor and Members of the City Council  
**FROM:** Greg Nyhoff, City Manager  
Will Morat, Interim Housing & Community Development Manager  
**SUBJECT: EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT WITH GREG NORMAN COMPANY FOR THE BLUE ROCK SPRINGS GOLF COURSE REVITALIZATION PROJECT**

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**RECOMMENDATION**

Authorize an Exclusive Right to Negotiate Agreement with the Greg Norman Golf Course Design Company for the Blue Rock Springs Golf Course Revitalization Project.

**REASONS FOR RECOMMENDATION**

Declining revenues at the Blue Rock Springs Golf Course has required General Fund subsidies totaling \$4.2 million since 2011, and a Request for Qualifications (RFQ) was issued in August 2017. The Greg Norman Golf Course Design Company, LLC. (Greg Norman Company) responded with a project concept that meets the three City goals for the project:

1. Renovate and restore the municipal golf course in a manner that allows for it to operate as an affordable public course but independent of subsidies from the City
2. Fund the development of a new or renovated multi-use Clubhouse and associated facilities serving both the golf course and the local community
3. Preserve or improve the existing aesthetics, quality, property values, environment and views of the surrounding neighborhoods.

Greg Norman Company brings substantial private investment and international brand recognition to the project. Their preliminary concepts included a “Best of 18” course redesign with golf/open space adjacent to existing housing. The concept anticipates residential development on approximately one-third of the land, the sale of which could fund the golf course renovation, construction of a new community center, and elimination of outstanding City debt.

Staff recommends approving the Exclusive Right to Negotiate Agreement (ERNA) (Attachment 1) with Greg Norman Company to allow the City to negotiate the price and terms of the land sale and a Future Agreement (a Disposition & Development Agreement, Purchase-Sale Agreement, or similar agreement). The ENRA includes:

- 6-month timeline to complete key milestones and deliverables (including options for two 90-day extensions)
- Reimbursement of City costs incurred during the ENRA term for analysis and review of the project and Future Agreement

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- \$100,000 Negotiation Fee
  - Community engagement strategy and required community meetings to inform the design process

At this point, the Greg Norman Company has not developed any designs, but is anticipating full community input that helps inform the design process. If approved, staff anticipates working closely with neighbors and stakeholders to finalize a design that can be incorporated into a future agreement for Council consideration.

### **BACKGROUND AND DISCUSSION**

Blue Rock Springs Golf Course encompasses 225 acres of City property, currently split between two 18-hole courses of roughly similar size – West and East (with Columbus Parkway separating the two). On May 23, 2017 staff provided City Council with a [background memo](#) on Blue Rock revenues, as well as regional and national golf trends.

#### *Public Subsidy to Existing Courses*

Prior to 2011, Blue Rock revenues covered all operating expenses, as well as the \$355,000 annual debt service, and did not impact the General Fund. The existing debt on the property of approximately \$7.3 million was initially incurred by the construction of the East Course in the early 1990s, and extended through restructuring during City bankruptcy. Between 1999 and 2014, the total number of rounds played at Blue Rock declined by 50 percent, significantly reducing revenues. Since 2011, the City's General Fund has subsidized operations, water and debt service for Blue Rock Golf Course for a total of \$4.2 million. With two 18-hole courses and a dated clubhouse that cannot bring in non-golf revenues, staff does not project a scenario in which the golf course(s) can generate sufficient net revenue to sustain operational and debt service expenditures.

#### *Request for Qualifications*

Following City Council direction to seek proposals for golf course management and revitalization on June 13, 2017, the City [released an RFQ](#) for the "Revitalization of Two 18-Hole Golf Courses and 225 Acres at Blue Rock Springs Municipal Golf Course through a Public-Private Partnership Management, Lease or other Agreement" on August 8, 2017. The RFQ identified three key goals, based on feedback from the community and City Council:

1. Renovate and restore the municipal golf course in a manner that allows for it to operate as an affordable public course but independent of subsidies from the City
2. Fund the development of a new or renovated multi-use Clubhouse and associated facilities serving both the golf course and the local community
3. Preserve or improve the existing aesthetics, quality, property values, environment and views of the surrounding neighborhoods.

The City received nine responses to the RFQ, [including one from Greg Norman Company](#), which was deemed the most responsive in terms of making public golf a priority for the project while addressing the concerns of

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existing neighborhoods. Additionally, Greg Norman Company brings a level of international notoriety that will be critical to the long-term sustainability of the course, including attracting golfers and visitors from outside of the local area. Moreover, their investment team brings a level of financial resources required to facilitate a successful residential development project, as confirmed in confidential financial disclosures.

#### Golf Operations & Management

On December 12, 2017, City Council authorized a new operations and management agreement with one other respondent to the RFQ, Touchstone Golf, LLC., which became effective January 1, 2018. In less than six months, Touchstone has effectively stemmed the revenue losses, and are on track to reduce the annual operating deficit by more than \$240,000. At the same time, they have made small capital improvements to the property for the first time in years, all while successfully integrating the existing golf course employees into their company at their existing wages.

However, without significant long-term capital investment, the course(s) will not generate net positive revenue due to a combination of declining national interest in golf, local golf market saturation (Blue Rock represents 36 of 72 total holes within Vallejo), a dated clubhouse that cannot generate non-golf revenue, and annual debt service of \$355,000. Touchstone continues to be a part of the larger revitalization project and is working closely with Greg Norman Company.

#### Community Engagement

On August 2, 2017, staff invited club members, employees, residents and members of the public to a Stakeholder Meeting at Blue Rock Golf Course, seeking [community input](#) on their vision and goals for the golf course and surrounding neighborhoods. The feedback was incorporated into the RFQ through the three goals for the project.

Staff have held two more community meetings open to the public and received community input on [January 10, 2018](#) and [May 23, 2018](#). The City mailed notices ahead of the May 23 meeting to more than 650 property owners in the immediate vicinity of Blue Rock Golf Course. Representatives from the Greg Norman Company attended the May 23 meeting to answer questions and meet the public. The community engagement strategy is an integral part of the draft ERNA and will be key to assuring the final design includes opportunities for the public to meaningfully provide input in the process. The timeline in the ERNA (Attachment 1, Exhibit B) identifies two specific community meetings to incorporate feedback - the first in September 2018 to inform the Greg Norman Company through the design process, and a second one in November 2018 to review the conceptual plans.

#### ERN Negotiating Points & Deliverables

The ERN lists the key items that would be negotiated over the next six months between the City and Greg Norman Company, including but not limited to:

- Specifics on the project description and design, including location, number and type of new residential units

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- Proposed size and uses of the community center
  - A schedule for obtaining entitlements and financing, completing the environmental review, and commencement of construction
  - Price & terms for proposed land acquisition/lease
  - Commitments on infrastructure improvements and financing mechanisms
  - Community engagement opportunities, including during design phase

At the conclusion of the ERN period, Greg Norman Company has agreed to provide to the City key deliverables required before any long-term Future Agreement can be considered by the City:

- Preliminary plans and project description, including the anticipated number and type of residential units
- Pro forma statements and sources and use of funds for residential development, golf course renovations, and community center construction
- Financial statements verifying funding sources
- Design development plans 35% complete
- Market feasibility studies
- Land surveys
- Completed environmental review

### **FISCAL IMPACT**

The ERNA includes a Negotiation Fee of \$100,000, payable by Greg Norman Company to the City upon execution. The Negotiation Fee is a reasonable payment and estimate of the opportunity cost to the City of foregoing negotiations with other parties for the property and entering into exclusive negotiations with Greg Norman Company. The Negotiation Fee is non-refundable, except in the case of City default or if the City terminates the ERNA for convenience. In the event the ERNA leads to a Future Agreement, the Negotiation Fee will be applicable to the purchase price for the property.

The ERNA also includes a Security Deposit (separate from the Negotiation Fee) of \$50,000, payable by Greg Norman Company to the City upon execution. The Security Deposit will be used to reimburse the City for actual costs related to the drafting, negotiation and production of the ERNA and any Future Agreement, including costs for attorneys, engineers, environmental reviews, or fiscal analysis. If the Security Deposit is exhausted, the ERNA provides the ability for the City to draw additional deposit funds from Greg Norman Company. The ERNA provides for all reasonable and documented City costs to be reimbursed, and can be increased beyond \$50,000 if required.

The fiscal impact of any Future Agreement will be evaluated and provided at the time of consideration of subsequent agreements.

### **ENVIRONMENTAL REVIEW**

Approving the ERNA is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a

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reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

Any future development proposed as a result of the ERNA or any future development agreement will be fully evaluated pursuant to CEQA once a full project description and scope are identified.

**ATTACHMENTS**

1.	Greg Norman ENA June 20 final
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**CONTACT**

Will Morat, Interim Housing & Community Development Manager, 707-648-4109

[will.morat@cityofvallejo.net](mailto:will.morat@cityofvallejo.net)

## EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT

THIS EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT ("**Agreement**") is entered into as of the \_\_\_ day of \_\_\_\_\_, 2018 ("**Agreement Date**"), by and between the CITY OF VALLEJO, a California municipal corporation ("**City**") and Greg Norman Golf Course Design Company, LLC, a Florida limited liability company ("**Developer**").

### RECITALS

A. City operates Blue Rock Springs Golf Course ("**Blue Rock**"), two 18-hole public golf courses on approximately 225 acres of City-owned land ("**Property**"), depicted in Exhibit A hereto, which are open to the public and have historically been managed by Vallejo Golf Club through a management agreement with City.

B. On May 23, 2017, City prepared and disseminated a memorandum to the Vallejo City Council ("**City Council**"), which outlined declining rounds of golf played dating back to 1999, and more than \$4.29 million in City subsidies since Fiscal Year 2011-12 to cover debt service, water use, and operational costs required to keep the course open and usable by the public.

C. On June 13, 2017, the City Council took action to terminate the management agreement with Vallejo Golf Club effective December 31, 2017, and directed City staff to solicit proposals from private investment groups for the management revitalization, and possible redevelopment of the Property.

D. On August 8, 2017, City issued a Request for Qualifications ("**RFQ**") for the "Revitalization of Two 18-Hole Golf Courses and 225 Acres at Blue Rock Springs Municipal Golf Course through a Public-Private Partnership, Management, Lease or Other Agreement." The RFQ identified three goals for any revitalization project: 1) renovate and restore the municipal golf course in a manner that allows for it to operate as an affordable public course but independent of subsidies from City; 2) fund the development of a new or renovated multi-use clubhouse and associated facilities serving both the golf course and the local community; and 3) preserve or improve the existing aesthetics, quality, property values, environment and views of the surrounding neighborhoods.

E. Prior to the submission deadline of September 8, 2017, City received nine (9) proposals and qualifications, including a proposal from Developer.

F. On December 12, 2017, City Council authorized a two-year agreement with Touchstone Golf, LLC., for the day-to-day operational management of Blue Rock.

Approved as to Form:

By:   
City Attorney

G. Following mutual due diligence investigation, City staff have recommended and City Council authorized on January 23, 2018, the drafting of an Exclusive Right to Negotiate Agreement with Developer regarding the revitalization of Blue Rock through a “Best of 18” design and the reduction of the number of holes from 36 to 18, the construction of a new clubhouse, and a proposed land sale or other disposition agreement for a portion of the Property (“**Site**”) for residential development that retains a green belt between existing residential properties and any new development (“**Project**”).

H. City and Developer now desire to enter into this Agreement to provide, among other things, for: (i) Developer to pay an exclusive Negotiation Fee (“**Negotiation Fee**,” as defined in Section 3) to City in consideration of City’s agreement to enter into exclusive negotiations with Developer, (ii) City and Developer to negotiate the terms of Developer’s potential fee and/or lease acquisition of the Site for golf and residential development (“**Future Agreement**”), including Developer’s funding of certain infrastructure improvements, (iii) Developer’s reimbursement to City of certain costs and expenses to be incurred by City during the Negotiation Period (as defined in Section 2) in connection with the implementation of this Agreement and the negotiation of Future Agreement, and (iv) City and Developer’s completion of certain performance milestones within the time frames provided for herein.

NOW, THEREFORE, City and Developer hereby mutually agree as follows:

## **AGREEMENT**

### 1. Incorporation of Recitals.

The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are material terms of this Agreement and are hereby incorporated herein.

### 2. Good Faith Negotiations.

Subject to the terms of this Agreement, the negotiation period (“**Negotiation Period**”) shall be conducted as follows:

a) Unless extended as provided below, the Negotiation Period shall commence on the Agreement Date and expire on the six (6)-month anniversary of the Agreement Date. For example, if the Agreement Date were June 26, 2018, the Agreement would expire at 11:59 p.m. on December 26, 2018 unless extended pursuant to subsection (b), below.

b) The Negotiation Period may be extended by the City Manager on behalf of City not more than two (2) times by up to ninety (90) days each (i.e. not to exceed one hundred eighty (180) days of extension in total), if he or she determines in his or her sole discretion that Developer and City have made substantial progress towards meeting the Performance Milestones (as defined in Section 4). Any further extension of the Negotiation Period beyond the expiration of the optional administrative extension periods described above shall require the approval of the City Council, which may be granted or denied in its sole, absolute discretion.

c) During the Negotiation Period, the parties shall negotiate exclusively with each other and shall use good faith, diligent efforts in connection with such negotiations. If, during

the course of negotiations with City, Developer determines that it is not commercially feasible for Developer to develop the proposed Project, Developer shall have the right to terminate negotiations under this Agreement upon five (5) days' written notice to City, in accordance with 14(d), and Developer shall not receive all or any portion of the Negotiation Fee or the City Cost Security Deposit. If a Future Agreement has not been executed by City and Developer by the expiration of the Negotiation Period, then this Agreement shall terminate and neither Party shall have any further rights or obligations under this Agreement, except as set forth herein. If a Future Agreement is executed by City and Developer then, upon effectiveness of such agreement, this Agreement shall terminate, and all rights and obligations of the Parties shall be as set forth in such Future Agreement.

3. Exclusive Negotiation Fee.

In consideration of City's agreement to grant Developer the exclusive right to negotiate the terms of a proposed Future Agreement for the Site at a price to be based upon fair market value and development of its proposed Project thereon, Developer shall pay to City, concurrently with Developer's execution of this Agreement, cash or other immediately available funds in the amount of One Hundred Thousand Dollars and No Cents (\$100,000) ("**Negotiation Fee**"). Developer and City hereby acknowledge and agree that payment of the Negotiation Fee is a reasonable payment and estimate of the opportunity cost to City of foregoing negotiations with other parties for the Site and entering into exclusive negotiations with Developer. The Negotiation Fee will be non-refundable except for Termination by City for Convenience pursuant to Section 14a, Termination by Court ruling pursuant to Section 14c or Termination for City Default pursuant to Section 14e, but will be applicable to the purchase price for the Property and/or Site in the event the City and Developer enter into a Future Agreement following completion of negotiations.

4. Exclusive Negotiations and Future Agreement Performance Milestones.

Without limiting their respective rights hereunder, Developer and City shall use commercially reasonable efforts to perform the respective tasks, and seek and obtain the various third party approvals, within the times set forth in Exhibit B ("**Performance Milestones**") for negotiating and implementing the Future Agreement.

5. Developer Payment of City Costs.

a) Developer shall be responsible for paying City Costs (as defined below) incurred in connection with the implementation of this Agreement, including the preparation and the negotiation of the proposed Future Agreement, subject to the terms and conditions set forth herein. As used in this Agreement, "**City Costs**" means and includes all of City's reasonable out of pocket costs and expenses paid to third-party consultants and attorneys in connection with the drafting, negotiation and production of this Agreement and the Future Agreement and ancillary agreements and Work Product as required to implement the Project, as further described in this Agreement including the above Recitals, including City's outside legal counsel, contract project manager, and financial and engineering consultants. "City Costs" shall not include internal costs of City staff or City Attorneys' office costs. The anticipated City Costs, including an approximate 10% contingency, are shown on the budget of City Costs attached hereto as Exhibit C (collectively, "**Anticipated City Costs**"). City shall use good faith efforts to ensure that the City Costs incurred do not exceed the Anticipated City Costs. Concurrently with Developer's execution of this Agreement, Developer shall deliver to City cash or other immediately available funds in the amount of Fifty Thousand Dollars (\$50,000) ("**City Cost Security Deposit**") as security for Developer's obligation to pay City Costs as provided in this Section 5. In the event City



determines, from time to time during the Negotiating Period, that in order to carry out its obligations under this Agreement the City Costs will exceed the Anticipated City Costs, City shall give written notice to Developer, which written notice (each, an “**Additional City Cost Notice**”) shall include a copy of each invoice, bill or other evidence that City has incurred as City Costs during the Negotiation Period as well as detailed projections, prepared in good faith to the best of City’s ability, of all future City Costs to be incurred during the remainder of the Negotiation Period. Upon receipt of an Additional City Cost Notice, Developer and City shall negotiate in good faith any proposed increases to the Anticipated City Costs, it being understood that City shall not be in default hereunder for any event arising directly out of a failure of Developer and City to agree to such an increase. If Developer and City are unable to agree to proposed increases in Anticipated City Costs, either party may terminate this agreement with 5 days written notice under Section 14(a) or Section 14(d), as applicable. Except as otherwise provided herein, following such termination, neither party shall have any further rights against or liability to the other party under this Agreement. The approval of any proposed increase in Anticipated City Costs shall be deemed an amendment of this Agreement, and Developer shall not be liable for any City Costs in excess of the Anticipated City Costs budget (as increased as contemplated above) without Developer’s express written consent.

b) City may pay from the City Cost Security Deposit all City Costs, not to exceed the amount of the Anticipated City Costs budget plus any increase(s) of same in accordance with subsection (a) above, as such City Costs are incurred. The City Cost Security Deposit shall be the sole and exclusive remedy of City for any and all City Costs. City shall provide prompt notice to Developer of each City draw upon the City Cost Security Deposit. Within five (5) business days following the date of such notice, Developer shall deliver to City cash or other immediately available funds in an amount sufficient to restore the City Cost Security Deposit to its full amount as set forth in subsection (a) above.

c) Developer covenants that if City ceases negotiation of the Future Agreement or refuses to continue incurring City Costs or processing any applications as a result of Developer’s failure to approve an increase of the Anticipated City Costs budget as described in subsection (a) above, or replenish the City Cost Security Deposit as described in subsection (a) above, Developer shall not directly or indirectly initiate any litigation against City or its officials, employees, agents, contractors or volunteers in connection with such City action.

d) City shall transmit to Developer, at least monthly, a copy of each invoice, bill or other evidence that City has incurred as City Costs, including itemized invoices and receipts for any reimbursable expenses. City’s legal and advisory services invoices shall be redacted as necessary to preserve attorney-client privilege.

e) In the event that this Agreement is terminated and City is required to return to Developer any unencumbered and unspent funds from the City Cost Security Deposit, then (i) City shall cease incurring City Costs with respect to the proposed Project, other than Project close out expenses which City may continue to incur for up to fifteen (15) days following the date this Agreement is terminated (“**Close Out Period**”); (ii) City shall apply the City Cost Security Deposit to pay for all such City Costs; and (iii) on or before the forty-five (45)-day anniversary of the termination of this Agreement, City shall send Developer a final accounting (the “**Final City Cost Accounting**”) of all City Costs incurred in accordance with the terms hereof, amounts from the City Cost Security Deposit spent or to be spent in connection with City Costs incurred in accordance with the terms hereof on or before the end of the Close Out Period, and the remaining amount of the City Cost Security Deposit, if any, proposed to be repaid to Developer (“**Remaining Security Deposit**”). Upon receipt of the Final City Cost Accounting, Developer shall have a

period of fifteen (15) business days to object in writing to any aspect of the Final City Cost Accounting. If Developer does not object during such period, City, concurrently with receipt of the Work Product (as defined in Section 22), shall pay the proposed Remaining Security Deposit set forth in the Final City Cost Accounting Statement. If Developer objects to the Final City Cost Accounting, Developer and City shall negotiate in good faith to resolve any disagreements with respect to the Final City Cost Accounting.

6. Items for Negotiation of Future Agreement.

During the Negotiation Period, the parties will discuss and negotiate various issues to be incorporated into the proposed Future Agreement, including but not limited to the following:

- a) detailed project description and conceptual design, including proposed number and type of new residential units and proposed acreage of the Site;
- b) estimated capital budget for the golf course renovation and clubhouse construction, and the proposed size and uses of the clubhouse to support community uses and events;
- c) schedule for the project development and development phasing, which shall include:
  - i. Dates by when the City will hold hearings on any required land use entitlements, including CEQA approvals
  - ii. Financing commitments for the development
  - iii. Dates by when Developer will complete design development drawings for the development
  - iv. Dates for close of escrow on each portion of the Site
  - v. Dates for the commencement and completion of construction of each phase of the proposed Project;
- d) the timing, price, terms and conditions for the proposed acquisition of the Site and lease or purchase of the golf course portion of the Property by Developer;
- e) identification and confirmation of Property boundaries, and capital budget for infrastructure improvement costs and financing mechanisms;
- f) commitments for the timing, funding and installation, and security to guarantee completion, of certain critical infrastructure improvements, including on-site road improvements, as well as sewer, water, dry utilities, storm drainage, flooding, landscaping and other on- and off-site infrastructure improvements required to serve the Project including required mitigation measures;
- g) identification and confirmation of golf course redesign/revitalization and capital budget for the clubhouse demolition and construction costs and financing mechanisms, such as escrow deposit, to secure funds to pay the full amount of such costs;

- h) estimated operating budget for golf course operations, with proposed activities and programs, that demonstrates self sufficiency without City funding of operating costs;
- i) any requirements regarding labor, job creation, prevailing wage, local hiring and local contracting;
- j) Community engagement and outreach plan during entitlements and project construction;
- k) Developer's responsibilities for infrastructure design, project entitlements, unit plans and other permits; and
- l) other terms as negotiated by the parties.

7. Deliverables

During the Negotiation Period, Developer shall prepare and submit to the City the following:

- a) preliminary plans and project description;
- b) pro forma statements and sources and use of funds for residential development on the Site;
- c) pro forma statements and sources and use of funds for recreational renovations and construction on the Property (clubhouse construction and golf course renovations);
- d) financial statements verifying funding sources sufficient to complete the project
- e) design development plans at least 35% completed;
- f) market feasibility studies;
- g) land surveys (collectively, together with all development project studies, design concepts and plans and investigation reports and studies within Developer's possession or direct control, including boring logs, sample or laboratory test results, traffic counts or other technical data and backup produced by Developer or its contractors or subcontractors, in connection with Developer's due diligence and pre-development activities, "**Work Product**").

City and Developer acknowledge that Developer will not deliver the Work Product directly to City, as public disclosure could deprive Developer of commercial value. Developer further acknowledges that City nevertheless must be ensured access to such Work Product in the event this Agreement is terminated in accordance with Section 14(b) or Section 14(d). Within ninety (90) days of the Agreement Date, City and Developer will select a mutually agreeable escrow agent or neutral depository located in or around Vallejo, California ("**Escrow Agent**"), and will enter into an escrow or similar deposit agreement with the Escrow Agent in order to permit Developer to deposit the Work Product with the Escrow Agent ("**Escrow Agreement**"). To the extent this

Agreement is terminated in accordance with Section 14(b), the Escrow Agreement shall provide that the Work Product will be released by the Escrow Agent to City in accordance with Section 24. To the extent this Agreement is terminated in accordance with Section 14(a), Section 14(b), Section 14(c) or Section 14(e), the Escrow Agreement shall provide that the Work Product will be released by the Escrow Agent to Developer.

In addition, during the Negotiation Period, Developer shall prepare a community engagement action plan, including resident surveys, and, beginning sixty (60) days after the Agreement Date, shall schedule at least one (1) community workshop every sixty (60) days, with notification and mailings to adjacent neighborhoods, and feedback and summary reports reflecting community input.

Within thirty (30) days of the Agreement Date, City shall provide to Developer copies of all studies, survey and other analysis available to City with respect to the Site or the Project.

8. Right to Enter Property.

City shall provide Developer reasonable access to all portions of the Property for the purpose of obtaining data and making surveys and tests necessary to evaluate the development potential of the Property and otherwise to conduct the land use due diligence relating to the Project as contemplated hereunder, including, without limitation, the right to make borings to investigate the soils and environmental condition of the Site. Said right of access shall be in accordance with the terms and conditions of the Access Agreement, dated as of April 16, 2018, between City and Developer. Developer acknowledges and agrees that any engineering, environmental reports and related data (collectively, "**City Reports**"), if any, provided by City will be and are furnished without warranty of any kind and on the express condition that Developer will make its own independent verification of the accuracy, reliability and completeness of such information as Developer deems appropriate, and that Developer will not rely on the City Reports. Developer shall determine the appropriate scope of investigation of the physical and environmental conditions of the Property. All costs of said investigation, including any environmental assessments, and geotechnical and soils investigations, if any, shall be paid and borne by Developer at its sole cost and expense, and shall not be considered part of City Costs. The provisions of this Section 8 shall in no event be construed as an agreement by Developer not to request and negotiate for the ability to rely on any of the City Reports in a Future Agreement.

9. Meetings and Progress Reports.

Representatives of Developer and City shall meet regularly during the Negotiation Period in order to facilitate planning of the proposed Project and negotiation of the proposed Future Agreement. Beginning ninety (90) days after the Agreement Date, from time to time as reasonably agreed upon by the parties, but not less frequently than every thirty (30) days, Developer shall submit written progress reports advising City on studies being conducted by Developer with respect to this Agreement and the proposed Project.

10. Developer's Team

Developer's key experts, consultants, contractors, project managers, and other affiliated key members and contributors to the Project are identified by name, title, company and role in Exhibit D ("Key Personnel"). Any change, removal, deletion, substitution, or addition to the Key Personnel must be requested by Developer to City, in writing, and approved, in writing. The City may consider substantial changes to the key members of the Project, as identified in Exhibit D,

without prior City approval as a default hereunder. City shall respond to such Developer's written notice within ten (10) days. If City does not respond within that time, the changes described in such notice shall be deemed approved.

11. Disclosure.

Developer hereby represents and warrants that no officer, director, executive employee or ultimate beneficial owner of more than of 20% or more of Developer's outstanding voting equity securities (each, a "**Principal**" and, collectively, **Principals**"), at the time of execution of this Agreement: (a) is or has been the subject of a voluntary or involuntary petition for relief under Title 11 of the United States Code, or under any other present or future state or federal law regarding bankruptcy, reorganization or other debtor relief law; (b) is subject to any "bad actor" disqualifications described in Rule 506(d)(1)(i) through (viii) under the Securities Act of 1933, as amended (the "**Securities Act**"), except for a disqualification event covered by Rule 506(d)(2) or (d)(3) under the Securities Act; or (c) (i) is listed in the annex to, or is otherwise subject to the provisions of, Executive Order 13224 issued on September 24, 2001, (ii) is listed on the United States Treasury Department's Office of Foreign Assets Control most current list of "Specially Designated Nationals and Blocked Persons", (iii) has committed, threatened to commit or supported "terrorism", as that term is defined in such executive order, (iv) is directly or indirectly controlling or controlled by or under common control with any person, corporation, limited liability company or other legal entity that is subject to any of the conditions set forth in the foregoing clauses (i) – (iii). Developer covenants and agrees to promptly notify City if, during the Negotiation Period, any Principal becomes subject to any of the conditions set forth in the foregoing clauses (a) – (c). Developer acknowledges and agrees that it shall be a condition to entering into a Future Agreement that Developer makes satisfactory disclosure to City regarding its Principals, joint ventures, and directly-involved managerial employees, and its proposed methods of financing to be used in the acquisition of the Site and development of the Project.

12. Limitations of this Agreement.

By execution of this Agreement, City is not committing or agreeing to (a) lease, sell or otherwise transfer any real property, or any interest in real property, to Developer; or (b) undertake any acts or activities requiring the subsequent independent exercise of discretion by City or any department thereof, other than as specifically set forth and agreed to by City under this Agreement. Execution of this Agreement by City is merely an agreement to enter into a period of exclusive negotiations with Developer according to the terms hereof, reserving final discretion and approval by City as to any Future Agreement or other similar agreements and all proceedings and decisions in connection therewith, and to take such City actions as are expressly contemplated herein.

By execution of this Agreement, Developer is not committing to or agreeing to acquire or lease any property owned by City. Notwithstanding the foregoing or any other provision hereof to the contrary, nothing in this Agreement shall be deemed to require either City or Developer to enter into any Future Agreement or any other contract or agreement unless such proposed Future Agreement or other contracts or agreements are acceptable to City and Developer in each party's sole and absolute discretion.

Any Future Agreement resulting from negotiations pursuant to this Agreement shall become effective only if and after such Future Agreement has been considered and approved by the City Council, following conduct of all legally required procedures, and executed by duly authorized representatives of City and Developer. Until and unless an Future Agreement is

signed by Developer, approved by the City Council, and executed by City, no agreement drafts, actions, deliverables or communications arising from the performance of this Agreement shall impose any legally binding obligation on either party to enter into or support entering into any Future Agreement or be used as evidence of any oral or implied agreement by either party to enter into any other legally binding document. This Agreement does not limit in any way the discretion of City in acting on any applications for permits or approvals for the proposed Project or in connection with any further review under the California Environmental Quality Act.

13. Defaults.

The following shall constitute events of default under this Agreement: (a) failure by either party to negotiate diligently and in good faith regarding the Future Agreement as provided herein; (b) failure by either party to take such actions as are reasonably necessary, expedient, or proper to implement the terms of this Agreement; or (c) failure by Developer to make payments or deliver funds within the time periods provided in this Agreement.

In the event of a default hereunder, the non-defaulting party shall provide the defaulting party with written notice of the alleged default. The defaulting party shall have fifteen (15) days from receipt of such notice in which to cure the default or, in the case of any nonmonetary default which cannot reasonably be cured within fifteen (15) days, to commence such cure within said fifteen (15) day period and thereafter diligently pursue such cure to completion. If the defaulting party fails to so cure the default, the non-defaulting party may pursue the remedy(ies) provided in Section 14 below.

14. Termination Remedies.

a) Termination by City for Convenience

City may terminate this Agreement for convenience. In the event of such termination, City shall return one hundred percent (100%) of the Negotiation Fee to Developer and shall reimburse any unencumbered and unspent funds from the City Cost Security Deposit to Developer.

b) Termination by City for Developer Default

In the event of an uncured default by Developer, City may (i) terminate this Agreement by written notice to Developer and City Costs from the City Cost Security Deposit as provided in Section 5(e), or (ii) seek recovery of damages in accordance with subsection (f) below. In the event of such termination, Developer shall not receive all or any portion of the Negotiation Fee nor all or any portion of the City Cost Security Deposit.

c) Termination by Court Ruling

To the extent a court of competent jurisdiction issues a final order after exhaustion of all appeals either (i) to the effect that this Agreement is void, voidable, and/or unenforceable or impossible to perform in its entirety for reasons beyond the reasonable control of Developer, or (ii) that upholds the binding effect on Developer of a change in law occurring after the Agreement Date that causes impossibility of performance of a fundamental obligation by Developer or City under this Agreement or a contemplated Future Agreement or impossibility of exercising a fundamental right of Developer or City under the this Agreement or a contemplated Future Agreement, this Agreement shall terminate by operation of law. In the event of such termination,

City shall return fifty percent (50%) of the Negotiation Fee in accordance with Section 3. City shall reimburse any unencumbered or unspent funds from the City Cost Security Deposit to Developer.

d) Termination by Developer for Convenience

Developer may terminate this Agreement at any time in accordance with Section 2(c). In the event of such termination, Developer shall not receive all or any portion of the Negotiation Fee or the Cost Security Deposit.

e) Termination by Developer for City Default

In the event of an uncured default by City, Developer's sole remedy shall be to terminate this Agreement by written notice to City. City shall return one hundred percent (100%) of the Negotiation Fee to Developer and shall reimburse any unencumbered and unspent funds from the City Cost Security Deposit to Developer.

f) Limitations of Liability.

Notwithstanding anything to the contrary contained herein, City hereby waives and relinquishes any claim it may hereafter have arising from or in connection with any failure by Developer to negotiate in good faith, it being agreed that the sole remedy of City for such a failure will be to terminate this Agreement pursuant to the provisions herein. City shall not be entitled to recover further damages from Developer (it being understood that this provision shall not restrict City from retaining the Negotiation Fee or the City Cost Security Deposit to the extent otherwise provided for in accordance with the terms of this Agreement).

Without affecting the obligations or liabilities of the entities comprising Developer, no shareholder of Developer or any shareholder, member or equity holder or affiliate of Developer or any of their respective directors, officers, agents, consultants or employees will be personally liable to City for any claim, loss, expense or liability arising from or in connection with this Agreement, and City hereby waives any such liability.

Notwithstanding anything to the contrary contained herein, Developer hereby waives and relinquishes any claim it may hereafter have arising from or in connection with any failure by City to negotiate in good faith, it being agreed that the sole remedy of Developer for such a failure will be to terminate this Agreement pursuant to the terms and provisions herein and to recover liquidated damages as provided below.

LIQUIDATED DAMAGES. THE PARTIES HAVE AGREED THAT DEVELOPER'S ACTUAL DAMAGES, IN THE EVENT OF A MATERIAL BREACH BY CITY OF ITS OBLIGATIONS UNDER THIS AGREEMENT, INCLUDING OBLIGATIONS UNDER SECTION 2 ABOVE, WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. AFTER NEGOTIATION, THE PARTIES HAVE AGREED THAT, CONSIDERING ALL THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT, THE AMOUNT OF THE NEGOTIATION FEE IS A REASONABLE ESTIMATE OF THE DAMAGES THAT DEVELOPER WOULD INCUR IN SUCH EVENT (THE "LIQUIDATED DAMAGES"); PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL IN ANY WAY LIMIT CITY'S OBLIGATION TO RETURN ANY UNENCUMBERED AND UNSPENT SECURITY DEPOSIT PURSUANT TO SECTION 5 HEREOF. IF CITY MATERIALLY BREACHES THIS AGREEMENT AND DEVELOPER EXERCISES ITS RIGHT TO TERMINATE THIS AGREEMENT HEREUNDER, CITY AGREES TO PAY DEVELOPER THE LIQUIDATED DAMAGES. BY PLACING THE INITIALS OF THE

AGENT EXECUTING THIS AGREEMENT ON ITS BEHALF BELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT EACH PARTY WAS REPRESENTED BY COUNSEL WHO EXPLAINED, AT THE TIME THIS AGREEMENT WAS MADE, THE CONSEQUENCES OF THIS PARAGRAPH.

**INITIALS:** DEVELOPER\_\_\_\_\_ CITY\_\_\_\_\_

No elected official, officer, agent, consultant or employee of City will be personally liable to Developer for any claim, loss, expense or liability arising from or in connection with this Agreement, and Developer hereby waives any such liability.

Except as expressly provided in this Section 14, neither party shall have any liability to the other for damages or otherwise for any default, nor shall either party have any other claims with respect to performance under this Agreement. Each party specifically waives and releases any such rights or claims they may otherwise have at law or in equity. Without limiting the generality of the foregoing, Developer agrees that following expiration or termination of this Agreement, Developer shall have no right to participate in the development of the Site, and City shall have the absolute right to pursue disposition and development of the Site in any manner and with any party or parties it deems appropriate.

Following termination of the Agreement in accordance with this Section 14, neither party shall have any obligations under this Agreement, except for those obligations of City and Developer which survive termination hereof.

15. Timing of Payments.

Except as otherwise expressly contemplated hereunder, all payments due from one Party to the other hereunder shall be paid within 30 days of the date on which such payment obligation accrues.

16. Notices.

Any approval, disapproval, demand or other notice which either party may desire to give to the other party under this Agreement must be in writing and may be given by first class mail, personal delivery, or overnight courier, to the party to whom the notice is directed at the address of the party as set forth below, or at any other address as that party may later designate by notice:

City: City of Vallejo  
555 Santa Clara Street  
Vallejo, CA 94590  
Attn: City Manager  
(tel.): (707) 648-4576

with copies to: City of Vallejo  
555 Santa Clara Street  
Vallejo, CA 94590  
Attn: City Attorney  
(tel.): (707) 648-4545



and City of Vallejo  
555 Santa Clara Street  
Vallejo, CA 94590  
Attn: Economic Development Manager  
(tel.): (707) 648-5452

Developer: Greg Norman Company,  
2041 Vista Parkway, Level 2  
West Palm Beach, Florida 33411  
Attn: Chris Dillavou, Chief Operating Officer  
(tel.): (561) 640-7006

with a copy to: Greg Norman Company,  
2041 Vista Parkway, Level 2  
West Palm Beach, Florida 33411  
Attn: Chris Campbell, Senior Vice President – Greg  
Norman Golf Course Design

Any notice shall be deemed received on the date of delivery if delivered by personal service, three (3) business days after mailing if sent by first class mail, and on the date of delivery or refused delivery as shown by the records of the overnight courier if sent via overnight courier.

17. Assignment.

The qualifications and identity of Developer are of particular concern to City. It is because of those unique qualifications and identity that City has entered into this Agreement with Developer. Accordingly, Developer may not assign its right to negotiate exclusively with City to any other person or entity without the prior written approval of City. Any purported voluntary or involuntary assignment of Developer's exclusive negotiation rights without such City written approval shall be null and void. City acknowledges that Developer intends to form a single purpose vehicle (the "SPV") for purposes of entering into and performing the transactions contemplated herein. City acknowledges that this Agreement may be assigned to such SPV upon prior written approval of the City, which approval shall not be unreasonably withheld. City may refuse to give its consent only if, in light of the proposed assignee's reputation and financial resources, such transferee would not in City's reasonable determination be able to perform the obligations proposed to be assumed by assignee. Such determination shall be made by the City Manager. Refusal of consent by City shall not constitute a default by either party, and shall in no way prohibit the Developer from proposing another entity.

18. Applicable Law; Venue.

This Agreement shall be construed in accordance with the laws of the State of California without reference to choice of laws principles, and, unless otherwise required by applicable law, the parties agree that any action brought by either party under or in relation to this Agreement, including without limitation to interpret or enforce any provision of this Agreement, shall be brought in, and each party agrees to and does hereby submit to the jurisdiction and venue of, any state court located in Solano County or, if there is federal jurisdiction, the United States District Court (Eastern District) Sacramento.

19. Severability.

If any provision of this Agreement or the application of any such provision shall be held by a court of competent jurisdiction to be invalid, void or unenforceable to any extent, the remaining provisions of this Agreement and the application thereof shall remain in full force and effect and shall not be affected, impaired or invalidated.

20. Integration.

This Agreement contains the entire understanding between the parties relating to the matters set forth herein. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged in this Agreement and shall be of no further force or effect.

21. Modifications.

Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made in writing and in each instance signed on behalf of each party.

22. Waiver of Lis Pendens.

It is expressly understood and agreed by the parties that no lis pendens shall be filed against any portion of the Site with respect to this Agreement or any dispute or act arising from it.

23. Interpretation.

As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The word "including" shall be construed as if followed by the words "without limitation." This Agreement shall be interpreted as though prepared jointly by both parties. Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of this Agreement or any of its terms.

24. No Third Party Beneficiaries.

This Agreement is made and entered into solely for the benefit of City and Developer and no other person shall have any right of action under or by reason of this Agreement.

25. Rights to Studies, Design Concepts and Development Plans.

(a) To the extent required under Section 7, the Escrow Agent shall deliver the Work Product to City within sixty (60) days following the expiration or termination of this Agreement, subject to delivery by City of the Remaining Security Deposit to Developer if, as of the date of such expiration or termination, City and Developer have not entered into a Future Agreement with respect to the Site. If Developer and City enter into a Future Agreement, then City shall have no rights with respect to delivery or use of the Work Product except as addressed in such Future Agreement.

(b) Once delivered pursuant to the foregoing paragraph, each of Developer and City shall own equal right, title and interest in and to the Work Product. Developer further agrees to use its commercially reasonable efforts to ensure that City shall be entitled to third party reliance

with respect to all final Work Product prepared for Developer by, among other things, including in each of Developer's contracts with respect to such Work Product a provision granting City third party reliance rights to such final Work Product; provided, that (x) commercially reasonable efforts shall not require Developer to incur any additional cost or expense, and (y) solely with respect to Developer, and notwithstanding any reliance on or representations or warranties of Developer's contractors, Developer shall provide such Work Product solely on an "AS IS" basis for use by City or any of its assigns or contractors at their own respective risk. Developer disclaims all WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. Nothing in this Agreement imposes on Developer any obligation to provide Work Product produced after the expiration or termination of this Agreement or update or correct any inaccuracies in any previously provided Work Product.

(c) City hereby waives its rights to recover from Developer, its directors, officers, agents, or employees (collectively, "**Developer's Group**") any damages including, but not limited to, loss of use, income, profits, financing or reputation, relating to this third party reliance or the Work Product, or both, and further, to the maximum extent permitted by law, irrevocably, fully and forever releases each member of the Developer's Group, and agrees to never to assert any claims or causes of action, whether or not known, against any member of the Developer's Group, directly or indirectly related to City's third party reliance on or other use of any Work Product.

(d) The provisions of this Section 25 shall survive expiration or termination of this Agreement.

## 26. Confidentiality.

Any information provided by Developer to City, including pro formas and other financial projections (whether in written, graphic, electronic or any other form), that is clearly marked as "CONFIDENTIAL/PROPRIETARY INFORMATION" ("**Confidential Information**") shall be subject to the provisions of this Section 26. Subject to the terms of this Section, City shall use good faith diligent efforts to prevent disclosure of the Confidential Information to any third parties, except as may be required by the California Public Records Act (Government Code Section 6253 *et seq.*) or other applicable local, state or federal law (collectively, "**Public Disclosure Laws**"). Notwithstanding the preceding sentence, City may disclose Confidential Information to its officials, employees, agents, attorneys and advisors, but only to the extent necessary to carry out the purpose for which the Confidential Information was disclosed. Developer acknowledges that City has not made any representations or warranties that any Confidential Information received from Developer will be exempt from disclosure under any Public Disclosure Laws. In the event of a request to City for disclosure of any Confidential Information, City shall immediately advise Developer of such request in order to give Developer the opportunity to object to the disclosure of such Confidential Information. To the extent City's legal counsel, after consultation with Developer, determines that the release of the Confidential Information is required by Public Disclosure Laws, or order of a court of competent jurisdiction, City shall notify Developer of City's intention to release the Confidential Information. If the City Attorney, in his or her discretion after consultation with Developer, determines that only a portion of the requested Confidential Information is exempt from disclosure under the Public Disclosure Laws, City may redact, delete or otherwise segregate the Confidential Information that will not be released from the non-exempt portion to be released.

Developer acknowledges that in connection with City Council's consideration of any Future Agreement as contemplated by this Agreement, City will need to present a summary of anticipated project revenues, and returns on cost and investment. City and Developer shall cooperate in the preparation of any such summary.

If any litigation is filed seeking to make public any Confidential Information, City and Developer shall cooperate in defending the litigation, and Developer shall pay City's reasonable out-of-pocket costs of defending such litigation and shall indemnify City against all costs and attorneys' fees awarded to the plaintiff in any such litigation; provided, however, that (i) City acknowledges and agrees that such costs shall not include City staff or City Attorneys' office costs and (ii) City, including City Staff and the City Attorneys' office, will use good faith diligent efforts to prevent disclosure of the Confidential Information to any third parties, subject to Public Disclosure Laws. Alternatively, Developer may elect to disclose the Confidential Information rather than defend the litigation. The parties' obligations under this Section 26 shall survive the expiration or termination of this Agreement.

The restrictions set forth herein shall not apply to Confidential Information to the extent such Confidential Information: (a) is now, or hereafter becomes, through no act or failure to act on the part of City or its representatives, generally known or available; (b) is known by City at the time of receiving such information as evidenced by City's public records; (c) is hereafter furnished to City by a third party, as a matter of right and without restriction on disclosure; (d) is independently developed by City without any breach of this Agreement and without any use of or access to Developer's Confidential Information as evidenced by City's records; (e) is not clearly marked "CONFIDENTIAL/PROPRIETARY INFORMATION" as provided above (except where Developer notifies City in writing, prior to any disclosure of the Confidential Information, that omission of the "CONFIDENTIAL/PROPRIETARY INFORMATION" mark was inadvertent), or (f) is the subject of a written permission to disclose provided by Developer to City.

#### 27. Lobbying Prohibition.

Developer agrees and acknowledges that the Future Agreement negotiations shall take place with City's Economic Development Manager, City's legal, financial, economic, project management and planning advisers and such other City parties as may be designated by the Economic Development Manager from time to time (collectively, the "**City-Designated Team**"). Developer shall not engage in discussions, negotiations or lobbying of any City Council or Planning Commission members, or other City employees or officials as may be designated in writing by the Economic Development Manager from time to time (collectively, "**Excluded City Parties**"), unless requested to do so by the City-Designated Team for specific purposes related to the negotiations. Nothing in this Section 27 shall prevent: (i) responses to questions or requests for information from one or more Excluded City Parties, provided such responses are directed to the City-Designated Team; (ii) Developer's participation in any question-and-answer sessions, workshops, or tours upon request from any Excluded City Parties or as approved in writing by the City-Designated Team; (iii) Developer's participation in public events or community fora at which one or more Excluded City Parties are present, provided Developer does not engage in communications with such Excluded City Parties at such events that are intended to influence the Future Agreement negotiations or (iv) marketing or public relations efforts in support of the Project targeted at the general public, including those that reside in the City and/or Solano County. In the event of Developer's violation of its obligations under this Section 27, City may immediately terminate this Agreement by written notice to Developer without affording Developer any opportunity to cure such violation. Developer shall not receive all or any portion of the Negotiation Fee or any funds from the City Costs Security Deposit.

28. Actions by City.

Except as otherwise required by applicable law, whenever this Agreement calls for or permits the approval, consent, authorization or waiver of City, the approval, consent, authorization, or waiver of the City Manager shall constitute the approval, consent, authorization or waiver of City without further action of the City Council.

29. Authority.

Each person (and all of the persons if more than one signs) executing this Agreement on behalf of Developer does hereby represent and warrant, in its capacity as an authorized representative of the undersigned, that he or she is duly and validly authorized to do so and that the entity on whose behalf he or she is signing (a) is duly organized and validly existing under the laws of the State of Florida and authorized to do business in the State of California, (b) has full corporate power and authority to enter into this Agreement and to perform all of Developer's obligations hereunder.

30. List of Exhibits.

The following Exhibits are attached hereto and incorporated herein by reference:

- a) Exhibit A – Description of the Property.
- b) Exhibit B – Performance Milestones
- c) Exhibit C – Anticipated City Costs Budget
- d) Exhibit D – Key Project Contributors

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set opposite their signatures. The Agreement Date shall be the date this Agreement is signed on behalf of City as shown opposite City's signature below, and which date will also be written into the preamble on the first page of this Agreement.

SIGNATURES ON NEXT PAGE

GREG NORMAN GOLF COURSE DESIGN  
COMPANY, LLC.,  
a Florida Limited Liability Corporation

THE CITY OF VALLEJO,  
a Municipal Corporation

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

NAME  
TITLE

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

Greg Nyhoff  
City Manager

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

ATTEST:

(City Seal)

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

Dawn Abrahamson  
City Clerk

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Will Morat  
Interim Housing & Community  
Development Manager

APPROVED AS TO FORM:

Donna Mooney  
Chief Assistant City Attorney

## EXHIBIT A

### Description of Property

The property consists of multiple parcels set forth in the following table and map as provided by the City:

<b>PARCEL #</b>
0081-630-030
0081-040-880
0081-040-100
0081-040-110
0081-040-620
0081-040-790
0081-191-010
0181-190-010
0181-190-070
0182-040-080



**EXHIBIT B**

**Performance Milestones**

Exclusive Right to Negotiate Agreement approved by Council and executed by both parties	June 26, 2018
Developer Payment – Exclusive Negotiating Fee & City Cost Deposit Fees (Section 3 & 5a)	Five (5) business days following mutual execution of Agreement
Commence Team Formation	July 2018
Developer to commence land survey & title reports (Section 7)	July 2018
Developer to commence community engagement strategy (Section 7)	July 2018
City to provide Developer copies of all studies, surveys and other analysis related to Site or the Project (Section 7)	July 2018
Developer to submit to City preliminary project concept & preliminary project description for City feedback	September 2018
Community meeting #1	September 2018
Developer to submit: <ul style="list-style-type: none"><li>• Preliminary pro forma &amp; preliminary budgets for City feedback</li><li>• 35% of conceptual plans, preliminary development timeline</li><li>• Proposed residential unit type and count</li><li>• Market feasibility study(s)</li><li>• Residual land value analysis</li></ul>	October 2018
City to provide Developer with: <ul style="list-style-type: none"><li>• Preliminary/Draft Future Agreement (DDA, PSA, etc.)</li><li>• City appraisal</li></ul>	October 2018
Community Meeting #2	November 2018
Negotiate land price and lease terms	November 2018
Negotiate Timeline for Development	November 2018*
City and Developer to collaborate on the schedule for conveyance (Section 6)	November 2018
Future Agreement Council approval (Section 6)	December 2018*

\* Estimate subject to environmental review completion



**EXHIBIT C**  
**City Costs Budget**

Reimbursable Pre-ERN Costs	\$ 10,000*
Financial Consultants	\$ 5,000
Legal	\$ 10,000
Project Management	\$ 10,500
Civil Engineer	\$ 5,000
Planner	\$ 5,000
Sub Total	\$ 45,500
Contingency @ 10%	\$ 4,500
<b>Total Anticipated City Costs</b>	<b>\$ 50,000</b>

\* - As part of the April 16, 2018 Access Agreement executed between Developer and City, Developer paid City \$5,000 deposit for actual pre-ENRA project management costs incurred. Any invoices, balances or funds remaining at execution of this ENRA will be reflected as part of the total City Costs and Developer Deposit.

**EXHIBIT D**

**Key Personnel**

Greg Norman Golf Course Design  
Greg Norman Company  
LCA Architects  
Touchstone Golf, LLC.