



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular <input type="checkbox"/> Statutory
Council Meeting Date:	6/14/10
Department:	Parks and Recreation
Department Head	Amy Fortenberry
Agenda Coordinator (include phone #): Susan Berger (7255)	

CAPTION

A Resolution of the City of Plano, Texas, approving the terms and conditions of a management services agreement by and between the City of Plano and Steve Heidelberg to operate and manage Pecan Hollow Golf Course; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2010-11, 2011-12, 2012-13, 2013-14	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	100,000	100,000
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	-100,000	-100,000
BALANCE	0	0	0	0

FUND(S): GOLF COURSE FUND

COMMENTS: Under this amended agreement, the contractor will provide golf professional services and will assume responsibility for the food and beverage operations. The contractor will operate the clubhouse grill on a limited basis during the golf course reconstruction and will provide professional expertise and services during the course closure. The contractor will be compensated in four payments of \$25,000 each per the agreement for these services. Once the golf course re-opens, the City will retain 100% of green fees and the contractor agrees to pay the City 5% of all other revenues generated from course operations.

STRATEGIC PLAN GOAL: Retaining the services of a golf professional at the Pecan Hollow Golf Course relates to the City's Goals of Great Neighborhoods - 1st Choice to Live.

SUMMARY OF ITEM

Approval is recommended for the terms and conditions set forth in the management services agreement between the City of Plano, TX, and Steve Heidelberg to operate and manage Pecan Hollow Golf Course. Mr. Heidelberg has been under contract with us since 1994 and has an excellent service record with the City. This agreement will replace and expand his current contract to now include the services he will render during renovation and the management of the Pecan Hollow Clubhouse and Grille. The Clubhouse will remain open during renovation. Mr. Heidelberg's expertise in golf course management makes it imperative that he be at the course through the renovation period.



**CITY OF PLANO
COUNCIL AGENDA ITEM**

List of Supporting Documents: Resolution Agreement	Other Departments, Boards, Commissions or Agencies

A Resolution of the City of Plano, Texas, approving the terms and conditions of a management services agreement by and between the City of Plano and Steve Heidelberg to operate and manage Pecan Hollow Golf Course; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, the City Council has been presented a proposed Management Services Agreement by and between City of Plano and Steve Heidelberg, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (herein called "Agreement"); and,

WHEREAS, upon full review and consideration of the Agreement, and all matters attendance and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or his designee, shall be authorized to execute it on behalf of the City of Plano;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS:

Section I. The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens, are hereby in all things approved.

Section II. The City Manager or his designee is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

Section III. This Resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED this the 14th day of June, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

**PECAN HOLLOW GOLF COURSE AND PRO SHOP
MANAGEMENT SERVICES AGREEMENT**

THIS AGREEMENT is made and entered by and between the **CITY OF PLANO, TEXAS**, a home rule municipal corporation (hereinafter referred to as the "City") and **STEVE HEIDELBERG**, a PGA Golf Professional (hereinafter referred to as the "Contractor").

WITNESSETH:

WHEREAS, City and Contractor entered into a contract on March 25, 2004 ("Existing Contract") in which Contractor provide services to operate and manage the Pecan Hollow Golf Course ("Golf Course") and Pro Shop as an independent contractor; and

WHEREAS, the City and Contractor wish to amend the Existing Contract to provide for additional services during and following the reconstruction of the Pecan Hollow Golf Course and to extend its term.

NOW, THEREFORE, for and in consideration of the covenants and agreements contained herein, and in order to obtain the mutual benefits provided herein, the parties hereto agree to amend the Existing Contract to read in its entirety as follows:

**ARTICLE I.
GRANT AND COMPENSATION**

A. Grant. City hereby retains Contractor to operate and manage the Pecan Hollow Golf Course, Pro Shop, and Pecan Hollow Grille, located at 4501 E. 14th Street, Plano, Texas (hereinafter referred to as the "Facility" or "Facilities") and to serve as Golf Professional for Pecan Hollow Golf Course. Contractor covenants and agrees to utilize his professional skills and abilities to operate and manage the Facility in accordance with the terms and conditions of this Agreement.

B. Compensation. From commencement of this Contract until such date as the Golf Course reopens after completion of reconstruction on or about November 1, 2011, Contractor shall retain all revenues generated from the operation of the Facilities excluding green fees and receive One Hundred Thousand Dollars (\$100,000.00) to be paid in four equal installments of Twenty-Five Thousand Dollars (\$25,000.00) on February 1, 2011, May 1, 2011, July 1, 2011 and November 1, 2011. For the remainder of the Contract term Contractor shall retain all revenues generated from the operation of the Facilities excluding green fees and shall pay to the City five percent (5%) of all other gross revenues received less sales tax remitted to the state by Contractor or derived from the operation of the Facilities or Thirty Thousand Dollars (\$30,000.00), whichever is greater. The City shall receive one hundred percent (100%) of all green fees.

ARTICLE II. TERM

A. Term of Agreement. The term of this Agreement shall be for a period of four (4) years commencing on the effective date herein provided. At the end of the initial term, the parties may agree to renew and extend the Agreement for two additional four (4) year periods. The agreement to renew and extend the contract must be set out in writing between the parties prior to the expiration of the initial term and prior to the expiration of each renewal term.

B. Inspection of Facilities, Assets, and Equipment. By executing this Agreement, Contractor certifies that he has inspected the Facilities, premises, merchandise, and equipment related to this Agreement, that he has found them to be in good and acceptable condition, and that he accepts them in their present condition. Contractor agrees that upon termination of this Agreement he will return and deliver to City all property belonging to City in as good condition as he received said property, normal wear and tear excepted. No alterations or improvements shall be made to the Facilities without receiving prior written approval from the Director of Parks & Recreation for the City of Plano.

ARTICLE II. SCOPE OF CONTRACTOR SERVICES AND DUTIES

Contractor agrees to provide the following services at his sole expense, in accordance with the terms of this Agreement:

A. Personnel. Contractor shall supply, background check and manage personnel necessary to staff the Pro Shop, Pecan Hollow Grille, Golf Cart Barn, driving range and to marshal play on the golf course. The personnel shall display at all times the highest standards in customer service through courtesy, prompt service and knowledge of the business. City shall not be responsible for hiring, managing or compensating such personnel.

B. Equipment Rental. Contractor shall provide, at his sole expense, the following equipment for daily rental at Pecan Hollow Golf Course:

1. Sixty (60) two-person electric golf carts and recharging equipment;
2. Twelve (12) pull carts;
3. Ten (10) sets of golf clubs;

Contractor shall be solely responsible for all maintenance, repair and replacement of the above referenced items, and Contractor agrees to keep these items clean and in good and safe operating condition at all times.

C. Driving/Practice Range. Contractor shall operate and manage a Practice Range on the Facilities for the benefit of the customers of Pecan Hollow Golf Course and

the general public. The City will designate an appropriate area for Contractor to utilize as a Practice Range and the City will provide mowing and fertilizing service to the Practice Range. Contractor shall provide all other labor, supervision, materials and equipment to operate the Practice Range, at Contractor's sole expense.

D. Pro Shop, Merchandise. Contractor will offer for sale to the public at the Pro Shop a variety of golf-related merchandise including golf clubs, golf bags, gloves, shoes, balls, clothing and other related items. Contractor will maintain an inventory of such merchandise having a wholesale value of not less than TWENTY THOUSAND AND 00/100 DOLLARS (\$20,000.00) in the Pro Shop at all times.

E. Teaching Program. Contractor will offer on a continuing basis a comprehensive teaching program, including private lessons and clinics to members of the public. Such teaching programs shall be adequate to meet the demands of the public.

F. Golf Promotion and Programs. Contractor will implement programs and conduct activities to promote public interest in the game of golf and to promote use and enjoyment of the Pecan Hollow Golf Course.

G. Marshalling, Starter, and Handicapping Services. Contractor shall provide marshalling service at the Golf Course to meet the course demands. Contractor, in his discretion, may provide free play in exchange for marshalling services.

H. Handicapping Service. Contractor will offer handicapping services to the customers of Pecan Hollow Golf Course, including calculating and publishing the player's handicap on request. Contractor may charge a minimal fee for this service to the customer/player.

I. Pecan Hollow Grille. Commencing on June 15, 2010 and for the remainder of the term of this Agreement, provide for the operation of Pecan Hollow Grille and club house areas to include obtaining a beer and wine license, food handling permits, and preparation and service of food to patrons of the Facility.

J. Hours of Operation. Except for the period when the Golf Course is closed for reconstruction, the Contractor shall keep the Facilities open every day of the year except for December 25, barring closed dates due to adverse weather or maintenance requirements. Contractor shall open the Facilities each day at sunrise and shall not close the facilities until after sunset. Reduced hours of operation are permissible on Thanksgiving Day and Christmas Eve. The Pro Shop shall be open every day the Golf Course is open, and staff will remain on the premises until the golfers have completed their rounds.

K. Collection of Fees at Pro Shop. Contractor shall be responsible for the collecting all fees at the Golf Course Facilities, including but not limited to: all applicable sales taxes, green fees, tournament fees, cart fees, equipment rental fees, and driving range fees. Any discounts or free passes related to green fees at the golf course must be

pre-approved in writing by the Director of the Parks and Recreation Department, City of Plano, Texas.

L. Facilities Upkeep. City will be responsible for the care, upkeep, maintenance and repair of the Facilities, including but not limited to: the golf course, driving range, cart barn, Clubhouse, Grille and Pro Shop. The Golf Superintendent, employed by the City, shall be responsible for the care and maintenance of the golf course turf, greens, shrubs, trees and related areas. Contractor shall be responsible for cleaning and upkeep of the Facilities. To minimize damage and waste, Contractor shall immediately report to City all items in need repair.

M. Concessions. Contractor shall have the exclusive right to provide and operate all food and beverage concessions at the Golf Course Facilities, including, but not limited to: the golf course grill and/or snack shop, vending machines, and all beverage sales at the Course facilities. Beverage sales shall include beer and wine. The Contractor, or its designated vendor, shall also have the exclusive right to provide food and beverage catering services to tournaments and special events at the Course facilities. Contractor shall obtain and maintain all necessary permits, licenses and insurance to provide food and beverage concessions including beer and wine.

N. Miscellaneous Duties. Contractor will provide the following additional duties during the golf course renovation:

- Insight on playability issues relative to the golf base at Pecan Hollow, specifically as it relates to seniors, women, and juniors.
- Provide food and beverage operations to help maintain golfing groups and develop new grill customers by promoting special offerings for sports events or other activities.
- Schedule all tournaments, social events, business meetings, and other appropriate rentals.
- Promote the use of the Golf Course through a web site, pamphlets/brochures, and presentations to civic groups and corporations, etc.
- Develop and order scorecards to match the course configuration after new construction of the Golf Course is completed.
- Order signs not included in the design package to be paid for by the City and update existing signage outdated as a result of the renovation.
- Promote and schedule classes, leagues and tournaments.

ARTICLE III. ACCOUNTING/BOOK KEEPING

A. Right to Set Fees and Charges. City shall have the exclusive right to set the rates for green fees. The City shall the right to review and approve menu pricing and Clubhouse room rental pricing. Contractor shall have the exclusive right to set the fees for electric cart rentals, pull cart rentals, club/bag rentals, club repairs, handicapping,

private golf lessons, golf clinics, driving range usage, tournaments and or other services provided at the Pro Shop; provided, however, Contractor shall not charge less than the regular daily green fee for each player participating in a tournament.

B. Collection of Revenues/Bookkeeping/Audit. All revenue and fees received by Contractor at the Golf Course Facility shall be run through the City provided cash registers utilizing the Active Network Class module. Contractor shall maintain detailed records of all financial transactions at the Facility, including cash, check, credit/debit card or gift certificate transactions, subject to audit and review by City at any time.

(1) Contractor shall make deposits on Monday and Thursday of all fees owed to the City and collected at the Facility. The deposit shall be made at a location designated by the City. Contractor shall be solely responsible for safe guarding collected revenue and fees until deposit can be made with the City.

(2) Contractor shall maintain complete and accurate records of fees collected, sales receipts and inventory pertaining to operations at the Facility, all in accordance with generally accepted accounting standards. Contractor agrees that the City may prescribe the form of financial records to be kept by the Contractor in accordance with this provision. Beginning March 1, 2011, Contractor shall also provide to City by March 1st of each contract year, an annual audit of its operations prepared by a certified public accountant which audit attests to the financial integrity of the records.

(3) Contractor agrees to make available to City or its agents, within five (5) calendar days of request, all records, books of account, and statements maintained with respect to Contractor's operations at the Facilities. These records shall be maintained for a period of three (3) years from the date they were created.

(4) Contractor agrees that the City and its agents shall have the right to audit Contractor's books, records and financial statements for the Facility at any time. If the audit reveals that Contractor's deposits to the City, during the relevant audit period, varied from actual fees and revenue collected by one-half percent (.5%) or more, then Contractor shall pay for the cost of the audit. Contractor shall also reimburse City for any deficiency discovered by the audit to include interest at six percent (6%).

C. Revenue Retained by Contractor. The parties agree that, subject to the provisions of Article I. B. above, Contractor shall receive ninety-five percent (95%) of the gross revenue from: Pro Shop merchandise sales, Grille sales, golf cart rental fees, pull cart rental fees, equipment rental fees, golf club repair fees, tournaments fees, driving range fees, lesson and clinic fees and handicap indexing fees.

**ARTICLE IV.
PRO SHOP SPACE**

In addition to the basic finish out of the Pro Shop space, the City will also provide certain built-in improvements, such as a display counter, shelving and cabinets for the Pro Shop. Contractor shall provide, at his sole cost, all furniture, shelving and cabinets for his office, and all other necessary furniture, shelving, display tables and racks for the Pro Shop. Contractor shall also be solely responsible for the ongoing care, cleaning, maintenance, repair and replacement of the Pro Shop furniture, display tables, racks and other fixtures during the initial term of this Agreement and all renewals thereof. Contractor agrees to maintain the Pro Shop, at all times, in a clean, professional and appealing fashion.

**ARTICLE V.
MAINTENANCE**

A. Payment of Building Utilities. City shall be responsible for the payment of the major utilities at the Facility, including gas, electric, telephone, water and sewer.

B. Payment of Other Utilities. Contractor shall be solely responsible for paying all costs and expenses related to the security system, including telephone lines or long distance expenses related to alarm monitoring. Contractor shall also be solely responsible for any costs or expenses related to cable or satellite television, any costs or expenses related to operation of a facsimile machine and any costs or expenses associated with an internet connection for computers located in the Pro Shop.

C. Maintenance of Golf Course Facilities. The Parties agree that the City will maintain the Golf Course in accordance with its annual budget and will utilize its sole discretion regarding the extent and timing of repairs, renovations and overall maintenance of the golf course. The City agrees that it will use reasonable efforts, as limited by the City's budget, personnel and material resources, to maintain the golf course in playable condition at all times. The Contractor shall be responsible for the repair of the Facilities damaged or destroyed as a result of his negligence or misconduct. Otherwise, the City will be responsible for the care, upkeep, maintenance and repair of the Facilities, including but not limited to: the golf course, driving range, cart barn, Clubhouse, Grille and Pro Shop. Contractor shall be solely responsible for janitorial service and maintenance of the Clubhouse building and Pro Shop area, including pest control.

D. Weather & Playability Decisions. The parties acknowledge that severe weather conditions may cause the golf course to be closed from time to time. The Parties agree that any decision about temporarily closing the course due to weather, limiting carts to cart paths only, or related matters shall be made by the Contractor after consulting with the Golf Superintendent; and that protection of golfers and protection of the golf course from unreasonable risk or harm will be the primary concern in making such decisions. In

the event that severe weather causes damage to the course, City agrees to repair and/or restore the course as soon as practical in order that play may be resumed.

**ARTICLE VI.
INDEPENDENT CONTRACTOR/INDEMNIFICATION/INSURANCE**

A. Independent Status of Contractor. It is understood and agreed by the parties that Contractor is an independent contractor and not an officer, agent, servant or employee of City; that Contractor shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and that Contractor shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondeat superior shall not apply as between City and Contractor, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Contractor.

Contractor agrees that during the initial term of this Agreement, and any extensions thereof, Contractor will maintain his Class "A" membership in good standing with the Professional Golfers Association. In this regard, City recognizes that Contractor will from time to time, be engaged in activities which may require his time and presence elsewhere, including PGA related activities, corporate clinics, tournaments, and outside activities designed to promote the Pecan Hollow Golf Course. However, Contractor further agrees that he will devote the time and attention required to professionally manage the Pecan Hollow Golf Course and Pro Shop in accordance with the terms of this Agreement. Additionally, Contractor agrees that he will promptly and timely pay all bills or invoices he incurs which are related to his operation and management of the Facility.

B. INDEMNIFICATION. THE CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE

CONTRACTORS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

CONTRACTOR AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF CONTRACTOR'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF CONTRACTOR'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. CONTRACTOR SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF CONTRACTOR FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND CONTRACTOR SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

C. Insurance and Certificates of Insurance. Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall, during the term of the Agreement, purchase and maintain the hereinafter stipulated minimum insurance with companies duly licensed to write insurance policies in the State of Texas. The City prefers the carrier be rated A- or better by A.M. Best. The City of Plano shall be named as an additional insured on all required policies except Workers' Compensation. Valid Certificates of Insurance for each policy covering the Contractor and Subcontractors, together with a statement by the issuing company to the extent that said policies shall not be canceled without thirty (30) days prior notice being given the City except ten (10) day notice for non-payment for premiums, shall be delivered to the City and reviewed for sufficiency by the City's Risk Manager before the Agreement is executed or any activities commenced:

(1) Workers' Compensation as required by Texas law with the policy endorsed to provide a waiver of subrogation as to the City. Employer's Liability insurance of not less than \$100,000 for each accident. The City will be provided with a waiver of subrogation. Alternative programs are acceptable if approved by the City's Risk Manager.

(2) Commercial General Liability insurance, including Independent Contractor's Liability, Completed Operations and Contractual Liability, covering, but not limited to, the liability assumed under the indemnification provisions of this Agreement, fully insuring Contractor's liability for injury to or death of owners, employees and third

parties, extended to include personal injury liability coverage, and for damage to property of third parties, with the following limits:

General Aggregate	\$1,000,000
Products, Completed Operations Aggregate	\$ 500,000
Each Occurrence	\$ 500,000
Medical Expense	\$ 5,000
Personal & Advertising Injury	\$ 500,000
Fire Damage	\$ 50,000

Coverage for the City of Plano shall also be provided to cover fixed assets and should be written at least as broad as "Special Form" providing coverage for risks of direct physical losses including theft.

Contractor's insurance shall be primary and shall be endorsed to provide a waiver of subrogation in favor of the City. The commercial General Liability Insurance policy should be endorsed using Endorsement No. CG20 09 11 85.

Deductibles on each insurance policy shall be no greater than \$5,000. The Contractor shall be responsible for the payment of all deductibles.

D. Fidelity Bond. Contractor shall provide and maintain during the term of this Agreement, and any extensions thereof, a Fidelity bond in the amount of \$50,000 to cover City against loss from embezzlement, fraud or other misappropriation, or negligence by Contractor, Contractor's employees, agents, or subcontractors.

ARTICLE VII. DEFAULT/TERMINATION

In the event Contractor defaults under any term or condition of this Agreement, City will provide Contractor with written notice specifying the default. Contractor shall have Fourteen (14) calendar days in which to cure the default. In the event Contractor fails to cure said default to the satisfaction of City within the time provided, this Agreement may thereafter be terminated by the City. Upon termination, Contractor shall immediately vacate the Facilities, remove all of his personal property and equipment from the Facilities and pay the City in full all sums due and owing under this Agreement.

ARTICLE VIII NOTICE

Notice as may be required by this Agreement shall be in writing delivered to the party by certified mail, return receipt requested at the addresses listed below:

City of Plano
Director Parks & Recreation

Contractor
Steve Heidelberg

City of Plano, Texas
P.O. Box 860358
Plano, Texas 75086-0358

4501 E. 14th Street
Plano, Texas 75074

Each party shall notify the other in writing within ten (10) days of any change in the information listed in this paragraph.

ARTICLE IX. MISCELLANEOUS

A. Protection Against Accident to Employees and the Public. The Contractor shall at all times exercise reasonable precautions to ensure the safety of employees, customers and other members of the public on or near the Facility and shall comply with all applicable provisions of Federal, State, and Municipal safety laws. The safety precautions actually taken and the adequacy thereof shall be the sole responsibility of Contractor.

B. Laws and Ordinances. The Contractor shall at all times observe and comply with all Federal, State and local laws, ordinances and regulations, which in any manner affect the Contractor or the work, and Contractor shall indemnify and save harmless the City, its officers, agents and employees against any claims arising from the violation of any such laws, ordinances and regulations whether by the Contractor or its employees.

C. Liens. Contractor agrees that he will engage in no activity which would subject the Facility or the underlying property to a lien being filed against same. In the event a lien is filed against the Facility or the underlying property, as a result of Contractor's activities, Contractor will take such steps to immediately release and/or remove the lien from the City property.

D. Venue. The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Agreement. The parties agree that this Contract is performable in Collin County, Texas, and that exclusive venue shall lie in Collin County, Texas.

E. Assignment and Subletting. The Contractor agrees to retain control and to give full attention to the fulfillment of this Contract, that this Contract will not be assigned or sublet without the prior written consent of the City, and that no part or feature of the work will be sublet or subcontracted to any person objectionable to the City. Contractor further agrees that the subletting or subcontracting of any portion or feature of the work or materials required under this contract shall not relieve Contractor from his full obligations to City as provided in the Contract.

The parties recognize that Contractor may choose to form a corporation, professional corporation, limited liability company, or other business entity in which he is the principal or majority owner and such action shall not be construed as an assignment of this Contract. The formation of any such entity shall not relieve Contractor from his

obligation to devote his personal time and attention as is required to adequately manage and operate the Facility.

F. Non-Discrimination. Contractor, his employees, agents and subcontractors shall not discriminate against any individual on the basis of race, creed, color, sex, national origin, or disability in the performance of any services called for under this Agreement.

G. Hindrances and Delays. Contractor shall make no claims and shall file no lawsuits against the City claiming damages resulting from hindrances or delays from any cause during the progress of any portion of the work embraced in this Agreement.

H. Affidavit of No Prohibited Interest. Contractor acknowledges and represents that he is aware of all applicable laws, City Charter and City Code of Conduct provisions regarding prohibited interests and that the existence of a prohibited interest at any time will render the Contract voidable. Contractor agrees to execute an Affidavit of No Prohibited Interest in connection with this Agreement.

I. Contract Interpretation. This is a negotiated Contract; the parties agree that, in the event of a dispute, the Contract shall not be construed more favorably for either party.

J. Entire Agreement. This Agreement and its attachments embody the entire agreement between the parties and may only be modified in writing if executed by both parties.

K. Successors & Assigns. This Agreement shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below. This contract shall be effective upon approval by the Plano City Council and execution by the City Manager or his duly authorized designee.

Date: 6/1/10

By: Steve Heidelberg
STEVE HEIDELBERG
PGA Golf Professional

CITY OF PLANO, TEXAS,
a Home Rule Municipal Corporation

Date: _____

By: _____
THOMAS H. MUEHLENBECK
City Manager

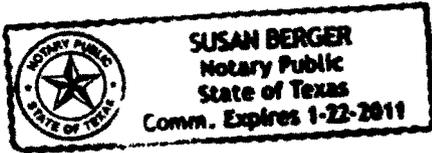
APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the 1st day of June, 2010 by **STEVE HEIDELBERG**.



[Signature]
Notary Public in and for the
State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ___ day of _____, 2010 by **THOMAS H. MUEHLENBECK**, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, on behalf of said corporation.

Notary Public in and for the
State of Texas

AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare and affirm that no person or officer of Steve Heidelberg (herein "Contractor") is either employed by the City of Plano or is an elected official of the City of Plano and who has a financial interest, direct or indirect, in any contract with the City of Plano or has a financial interest, directly or indirectly, in the sale to the City of Plano of any land, or rights or interest in any land, materials, supplies or service. As per Section 11.02 of the Plano City Charter, interest represented by ownership of stock by a City of Plano employee or official is permitted if the ownership amounts to less than one (1) per cent of the corporation stock.

I further understand and acknowledge that the existence of a prohibited interest at any time during the term of this contract will render the contract voidable.

Steve Heidelberg
Name of Contractor

By: Steve Heidelberg
Signature

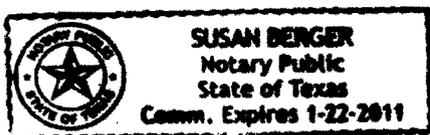
Steve Heidelberg
Print Name

President
Title

6/1/10
Date

STATE OF Texas §
COUNTY OF Collin §

SUBSCRIBED AND SWORN TO before me this 1st day of June, 2010



[Signature]
Notary