

**FOOTHILL GOLF COURSE LEASE AGREEMENT**

**Between**

**SUNRISE RECREATION AND PARK DISTRICT**

**And**

**CAMERON CHAMP FOUNDATION**

## TABLE OF CONTENTS

<u>Sections</u>		<u>Page</u>
Article 1	Premises and Equipment.....	3
Article 2	Term.....	3
Article 3	Rent.....	4
Article 4	Reporting Requirements.....	4
Article 5	Use of Premises.....	5
Article 6	Default, Early Termination .....	6
Article 7	Utilities, Care and Repairs .....	6
Article 8	Improvements and Alterations .....	7
Article 9	Additional Equipment .....	9
Article 10	Waiver of Duty to Keep Premises Tenantable.....	9
Article 11	Destruction of Premises, Duty to Repair .....	9
Article 12	Indemnity and Hold Harmless.....	9
Article 13	Insurance.....	10
Article 14	Eminent Domain Reassignment .....	11
Article 15	Assignment and Subletting.....	11
Article 16	Attorney's Fees and Costs .....	12
Article 17	Security Deposit .....	12
Article 18	Notices.....	12
Article 19	Authority of District Administrator .....	13
Article 20	Estoppels.....	13
Article 21	Force Majeure .....	13
Article 22	Taxes and Other Fees.....	14
Article 23	Miscellaneous.....	14

## LIST OF EXHIBITS

Exhibit A	Foothill Golf Course Land Description
Exhibit B	Equipment List
Exhibit C	Certificate Confirming Lease Commencement Date
Exhibit D	Care of Fairways and Greens Standards
Exhibit E	Premises and all Equipment Maintenance
Exhibit F	Definition of the Profit and Loss Statement

**GOLF COURSE LEASE AGREEMENT**  
**Foothill Golf Course**

THIS GOLF COURSE LEASE AGREEMENT (the "Lease") made and entered into this        **day** of **October, 2018**, by and between the SUNRISE RECREATION AND PARK DISTRICT a park district formed and existing under authority of Public Resources Code Section 5780 et seq. (hereinafter referred to as "Lessor" or "SRPD"), and Cameron Champ Foundation (hereinafter referred to as "Lessee"), with reference to the following facts:

**RECITALS**

- A. SRPD is the owner of that certain parcel of real property located at 7000 Verner Avenue also known as Assessor's Parcel Number 211-0153-015 and commonly referred to as Foothill Golf Course; and
- B. Lessor has proposed to not self-operate the Foothill Golf Course; and
- C. Lessor released a Request for Qualifications process and received one qualified response from the Cameron Champ Foundation
- D. LESSEE has proposed to lease the Foothill Golf Course; and
- E. LESSEE desires to lease the Premises from SRPD on the terms hereinafter set forth; and
- F. SRPD is, therefore, willing to lease the Premises to LESSEE upon the promises, terms, conditions and covenants set forth herein below.

**AGREEMENT**

NOW, THEREFORE, it is mutually agreed as follows:

**INCORPORATION OF RECITALS.** The foregoing recitals are hereby incorporated by reference.

**ARTICLE 1. PREMISES AND EQUIPMENT**

1.1 PREMISES. In consideration of the following covenants and other good and valuable consideration hereinafter contained, Lessor does hereby lease to Lessee, and Lessee does hereby lease from Lessor, that certain real property situated in the unincorporated area of the County of Sacramento consisting of approximately 15.27 acres, consisting of a 9-hole golf course, clubhouse with snack bar and pro shop, all as more particularly described in the attached Exhibit A, and referred to hereinafter as the "Premises".

1.2 EQUIPMENT. In addition to the above, Lessor does hereby lease to Lessee and Lessee does hereby lease from Lessor the equipment presently located at the Premises, all of which is more particularly described on the inventory attached hereto as Exhibit B, and is referred to hereinafter as the "Equipment".

1.3 ACCEPTANCE OF PREMISES AND EQUIPMENT. The parties acknowledge and agree that Lessee accepts the Premises and the Equipment "as-is" and in the condition existing as of the date of this Lease..

1.4. **Statement Regarding a Certified Access Specialist.** Pursuant to California Civil Code §1938, Licensor states that the Premises:

\_\_\_\_\_ Have not undergone an inspection by a Certified Access Specialist (CASp).

\_\_\_\_\_ Have undergone an inspection by a CASp and it was determined that the Premises met all applicable construction-related accessibility standards and a disability access inspection certificate has been issued pursuant to California Civil Code §55.51 et seq.

\_\_\_\_\_ Have undergone an inspection by a CASp and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq.

A Certified Access Specialist (CASp) can inspect the subject Premises and determine whether the subject Premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject Premises, the commercial property owner or licensor may not prohibit the licensee or tenant from obtaining a CASp inspection of the subject Premises for the occupancy or potential occupancy of the licensee or tenant, if requested by the licensee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Premises.

## **ARTICLE 2. TERM**

2.1 INITIAL LEASE TERM. The initial term of this Lease shall commence on **the date entered above**, and shall terminate at 12:00 midnight, local time on the last day of the calendar month which completes five (5) full years of tenancy.

2.2 HOLDOVER. Should Lessee remain in possession of the Premises after the Expiration Date, then Lessee shall be in holdover and subject to the same terms and conditions with the exception of rent. Rent during holdover shall be 150% of Lessee's rent for the month immediately prior to Lessee holding over and subject to change with 30 days written notice from Lessor. Further, either party may terminate the tenancy by giving a thirty (30)

day written notice to the other. The Administrator is authorized, on behalf of Lessor to execute and deliver the written notices provided for herein.

### **ARTICLE 3. RENT/CONSIDERATION**

3.1. Commencing on \_\_\_\_\_, **2018** the Lessee shall pay SRPD an annual rental rate of \$790.00 payable in advance monthly installments of Amount on the first day of each month. The Lessee may pre-pay some or the entire annual rental rate at any time. The annual rental rate will be adjusted each year during the term of this Lease Agreement, including renewals, by an escalator.

All monthly rental payments not paid when due shall incur a late penalty of five percent (5%) of the past due amount. Failure of the Lessee to pay rent with ten (10) days of the due date may result in the SRPD terminating this Lease Agreement in accordance with Article 6.

If the SRPD incurs any expense or pays any monies to correct a breach of this Lease Agreement all amounts so incurred or paid shall be considered additional rent owing by the Lessee and shall be payable by the Lessee within thirty (30) days after becoming due and payable; however, the SRPD shall be under no obligation or duty to incur any such expense or pay any such money.

### **ARTICLE 4. REPORTING REQUIREMENTS**

4.1 RECORDS. Lessee shall, with respect to rounds of golf played and all other business activities conducted on the Premises, keep true and accurate accounts, records, financial statements, books and data (hereinafter "Records") in a form consistent with good accounting practices. Such accounts, records, books and data shall, among other things contain a breakdown of gross receipts and sales from the various activities taking place on the Premises. Lessee shall require that any consignees, sub lessees, subtenants, or others ("Others") conducting any revenue producing activity on the Premises keep accurate and complete records and accounts in accordance with this Article 4.

4.2 RETENTION OF RECORDS. Lessee shall retain all its Records for not less than four (4) calendar years following the last day of the Expiration Date for the Initial Term or, if applicable, holdover period or expansion term.

4.3 RIGHT TO INSPECT AND AUDIT BY LESSOR. Lessee hereby agrees that SRPD, its employees, agents and representatives, at all reasonable times, shall have the right to inspect and examine all such records which will enable SRPD, in the sole discretion of the Administrator, to ascertain the amount of Lessee's gross receipts and the Other's for revenue generated at the Premises; and receipts for Paragraph 8.5 Capital Improvements.

Lessee shall, upon request and at no cost to Lessor, make all or any part of its records available to the Administrator or any other authorized representative of Lessor during normal business hours throughout the term of the Lease for the purposes of inspection or audit.

4.4 ANNUAL REPORTING REQUIREMENT. The parties agree that the fiscal year for the Foothill Golf Course (“FGC”) shall be defined as the period from **July 1st to June 30<sup>th</sup>**. The parties further agree that not later than **30 Days** prior to the beginning of each subsequent FGC Fiscal Year, Lessee shall submit to the Lessor for review and reasonable approval a proposed annual operating budget in a form reasonably acceptable to Lessor. At a minimum, Lessee’s proposed annual operating budget shall set forth Lessee’s estimate of the Foothill Golf Course income, operating expenses and debt service for the coming fiscal year, and shall include a statement of reserves, proposed rent adjustments, and a year to date operating statement. Lessee shall develop and operate the Foothill Golf Course in accordance with the approved annual operating budget. Lessee shall operate the Foothill Golf Course in accordance with the operating budget as approved by and on file with Lessor as of the Commencement Date. Such operating budget shall show all anticipated income, debt service and expenses of management, operations, reserves and maintenance for the each fiscal year or portion thereof following initial occupancy.

4.5 PROFIT AND LOSS STATEMENT. On quarterly basis throughout the Term hereof, Lessee shall provide to the District Administrator, without request or demand, Lessee’s quarterly profit and loss statement for the Foothill Golf Course business of each previous quarter as described on the Definition of the Profit & Loss Statement attached hereto as Exhibit F.

## **ARTICLE 5. USE OF PREMISES**

5.1 USE. Lessee covenants to use the Premises to operate and maintain a public golf course only subject to and in accordance with all applicable zoning and other governmental regulations. Any other use of the Premises shall require the prior written consent of Lessor. The District Administrator has the authority to consent on behalf of the Lessor for Paragraph 5.1 purposes.

5.2 REGULAR HOURS. Lessee shall open the Premises to the general public on a regular and consistent bases; dawn to dusk with evening hours allowed for scheduled events.

5.3 FEES. Lessee will charge and collect fees which have been approved by Lessor’s Advisory Board. Fee proposals are due to the District by January 1<sup>st</sup> each year.

5.4 COMPLIANCE WITH LAWS. Lessee, at its own expense, shall comply with and promptly carry out all orders, requirements of conditions imposed by the ordinance, laws and regulations of all the governmental authorities having jurisdiction over the Premises, which are occasioned by or required in the conduct of Lessee’s business within the Premises and obtain all licenses, permits and like required to permit Lessee to occupy and

operate the Premises; INCLUDING, BUT NOT LIMITED TO: the requirements of applicable building, and health codes, and the regulations of the Department of Alcoholic Beverage Control, and any and all regulations of the Franchise Tax Board and shall obtain and maintain all necessary business licenses.

5.5 PROHIBITIONS. Lessee shall not:

- a) Permit the Premises, or any part thereof, to be used for any disorderly, unlawful or hazardous purpose; and,
- b) Permit the Premises to become a source of annoyance or embarrassment to Lessor; and,
- c) Commit or allow others to commit waste on the Premises; and,
- d) Erect, permit to be erected, or allow the existence of any nuisance on the Premises; and,
- e) Permit any trash or garbage to accumulate on or about the Premises; and,
- f) Allow the use of firearms or hunting on the Premises; and,
- g) Conduct or permit to be conducted any sale by auction on the Premises.

**ARTICLE 6. DEFAULT, EARLY TERMINATION**

6.1 EARLY TERMINATION. Lessor shall have the right to terminate this Lease for Lessee violations, noncompliance and/or nonperformance (individually or collectively hereinafter "Default") of any provisions or part of this Lease. The Administrator, on behalf of Lessor is also authorized to terminate this Agreement, without penalty or cause, upon ninety (90) days written notice given to Lessee.

6.2 CURE OF DEFAULT. In the event of Lessee's Default, Lessor shall notify Lessee in writing identifying the Default. Lessee shall cure the Default within ten (10) days of said notice unless an extension of time is granted by the District Administrator. Should Lessee fail to comply with this requirement, Lessor, at its option, may terminate this Lease by notifying Lessee in writing by registered or certified mail. Thereafter, Lessor shall have the right to enter and take possession of the Premises and Equipment.

6.3 NAMED MANAGER/OPERATOR CONDITION. This Lease is conditioned upon sole proprietor and no other, being the manager and operator of the Premises. Should said entity cease to exist, Lessor shall have the right to terminate this Lease in its entirety by giving 10 days written notice thereof and shall thereafter have the right to enter and take possession of the Premises and Equipment.

**ARTICLE 7. UTILITIES, CARE, REPAIRS AND MAINTENANCE OF PREMISES AND EQUIPMENT**

7.1 CARE OF PREMISES AND EQUIPMENT. Lessee shall take good care of the Premises, Fixtures, Appurtenances and Equipment therein, and shall, in the use and occupancy of

the Premises and Equipment, conform to all laws, orders, and regulations of the Federal, State and local governments or any other departments having jurisdiction concerning the Premises and Equipment.

7.2 FAIRWAYS AND GREENS. With specific reference to the care and maintenance of the golf course fairways and greens, Lessee shall perform the duties and conform to the standards listed on the attached Exhibit D

7.3 MAINTENANCE. Lessee shall, at Lessee's own cost and expense, and at no cost or expense to Lessor, maintain said Premises and all Equipment in good order, and Lessee shall make all repairs that may become advisable or necessary to said Premises and Equipment, including the structures, sidewalks, landscaping, driveways or parking areas that are part of or appurtenant to said Premises as described in the attached Exhibit E.

7.4 REPAIRS BY LESSOR. If Lessee fails to maintain the Premises or make any repairs required hereby promptly, Lessor may enter the Premises and make such repairs for the account of Lessee, and Lessee shall pay Lessor; on demand Lessor's actual costs in making such repairs plus a fee of ten percent (10%) of such actual costs to cover Lessor's overhead.

7.5 UTILITIES. Lessee shall be responsible and pay all charges incurred for furnishing of gas, electricity, water, telephone service, garbage or refuse service and all other public utilities to said Premises during the Term of this Lease or any renewals or extensions thereof.

7.6 FACILITY(S). Lessee shall continue to make improvements to the clubhouse as needed and promptly repair of all vandalism to clubhouse. All alterations, additions, installed equipment or improvements to the clubhouse made by Lessee and subcontractors shall become the property of SRPD at the termination of the Lease.

**ARTICLE 8. IMPROVEMENTS AND ALTERATIONS. Lessee shall have the right to make alterations and improvements to said Premises subject to the following terms and conditions:**

8.1 IMPROVEMENTS BECOME PART OF REAL PROPERTY. All improvements made by Lessee to the Premises which are so attached to the Premises that they cannot be removed without material injury to the Premises, shall become part of the property of Lessor upon installation. Not later than the last day of the Term, Lessee shall, at Lessee's expense, remove the entire Lessee's personal property and those improvements made by Lessee which have not become part of the property of Lessor, including trade fixtures, cabinet work, removable paneling, partitions, and the like and shall surrender the Premises and Equipment in as good condition as they were at the beginning of the Term, reasonable wear and damage by fire, elements, casualty or other cause not due to the misuse or neglect by Lessee or Lessee's agents, employees, visitors, or licensees, excepted. All property of Lessee remaining on the Premises after the last day of the

Term shall be conclusively deemed abandoned and may be removed by Lessor. Lessee shall reimburse Lessor for the cost of such removal.

8.2 PRIOR WRITTEN APPROVAL REQUIRED. All alterations and improvements shall be first approved in writing by Lessor's District Administrator including but not limited to removal of trees. If any such alterations or improvements are made by Lessee without Lessor's consent, Lessor may correct or remove them and Lessee shall be liable for any and all costs and expenses incurred by Lessor in the correction or removal of such work. All plans and specifications for any such work shall be prepared by Lessee at Lessee's expense and shall thereafter be submitted to Lessor for its review. As a further condition of Lessor's consent to Lessee making alterations or improvements to the Premises, Lessee or Lessee's contractor must evidence insurance coverage to include: (a) Worker's Compensation Coverage and (b) Comprehensive General Liability and Property Damage insurance in the amount of not less than one million dollars in aggregate. All work with respect to such alterations and additions shall be done in a good and workmanlike manner and diligently prosecuted to completion to the end that the Premises shall at all times be a complete unit except during the period necessarily required for such work

8.3 STRUCTURAL STABILITY. No alterations or improvements made by Lessee shall in any way impair the structural stability of any building or any improvement on said Premises or diminish the value of said Premises.

8.4 FREE OF LIENS. Lessee shall keep said Premises and every part of said Premises free and clear of any mechanic's liens or material men's liens arising out of the construction of any such alterations, improvements or repairs. At least ten (10) days before any work commences or any materials are delivered for any alterations, improvements or repairs that Lessee is making to said Premises, Lessee shall give notice to Lessor's District Administrator. Said Administrator shall then have the right to post and maintain on said Premises such notices as may be required to protect Lessor and Lessor's interest in said Premises from any liens for work and labor performed or materials furnished in making the alterations, additions, improvements, or repairs; provided, however, that it shall be the duty of Lessee, and nothing contained in this paragraph shall excuse performance of that duty, to keep said premises free and clear of all liens, claims, and demands, for work performed, materials furnished or operations conducted on said Premises at the instance or request of Lessee. If any such lien be filed on account of the actions of Lessee, Lessee shall promptly pay the same. If Lessee fails to discharge such lien within ten (10) days of its filing, then, in addition to any other right or remedy of Lessor, Lessor may, at its election, discharge the lien. Lessee shall pay on demand any amount paid by Lessor for the discharge or satisfaction of any such lien, and all attorneys' fees and other costs and expenses of Lessor incurred in defending any such action or in obtaining the discharge or such lien, together with all necessary disbursements in connection therewith. Lessee hereby recognizes that in no event shall it be deemed the agent of Lessor and no contractor of Lessee shall by virtue of its contract be entitled to assert any lien against the Premises. All alterations or additions or improvements shall become part of the realty and surrendered to Lessor upon the expiration or termination of this Lease, unless Lessor

shall at the time of its approval of such work require removal of restoration on the part of Lessee as a condition of such approval.

- 8.5 ENTITLEMENTS IN GENERAL.** LESSEE shall, at its sole cost and expense, obtain all necessary local land use entitlements, building permits, and other County, State or Federal permits legally required for its use of the Premises under this Agreement. This Agreement shall not be construed as a waiver of any requirement, fee or procedure required to obtain any such entitlement or permits. This Agreement shall, unless otherwise extended, be deemed terminated without liability to COUNTY if LESSEE fails to obtain each entitlement or any and all legally required permits within one hundred fifty (150) days of mutual execution of this Agreement.

#### **ARTICLE 9. ADDITIONAL EQUIPMENT**

- 9.1 Lessee, at its sole cost and expense, may acquire additional equipment for use at the Premises. Any additional equipment so acquired and used for the operation and maintenance of the Premises, shall comply with all applicable federal, State, local rules, laws and regulations; and shall be maintained by Lessee in accordance with the terms of this Lease.

#### **ARTICLE 10. WAIVER OF DUTY TO KEEP PREMISES TENANTABLE**

- 10.1 Lessee hereby expressly waives the provisions of any statute or other law requiring the Lessor, or any officer, employee, director or agent of Lessor, to put or maintain said Premises in a condition fit for human occupancy and to repair all subsequent dilapidations of the Premises that render them tenantable.

#### **ARTICLE 11. DESTRUCTION OF PREMISES; DUTY TO REPAIR**

- 11.1 Should the Premises or any building or improvements on said Premises be damaged or destroyed by any cause whatsoever, Lessee shall promptly, at Lessee's own cost and expense, repair the damages and restore said Premises to the same condition they were in prior to such damage or destruction. During such repair and restoration this Lease shall remain in full force and effect and the Rent payable under this Lease shall not be abated in any way or to any extent.

#### **ARTICLE 12. INDEMNITY AND HOLD HARMLESS**

12.1 To the fullest extent permitted by law, Lessee shall indemnify, defend, and hold harmless Lessor, its governing Board, officers, directors, officials, employees, and authorized volunteers and agents, (collectively "Indemnified Parties"), from and against any and all claims, demands, actions, losses, liabilities, damages, and all expenses and costs incidental thereto (collectively "Claims"), including cost of defense, settlement, arbitration, and reasonable attorneys' fees, sustained by any person or to any property in, on, or about the leased premises, resulting from injuries to or death of persons, including but not limited to employees of either Party hereto, and damage to or destruction of property or loss of use thereof, including but not limited to the property of either Party hereto, arising out of, pertaining to, or resulting from the acts or omissions of the Lessee, its officers, directors, officials, employees, volunteers, agents, contractors, invitees or guests, excepting only such injury, death, or damage, to the extent it is caused by the active negligence of an Indemnified Party. Lessee shall not be liable for any Claims arising from the sole negligence or willful misconduct of an Indemnified Party where such indemnification would be invalid under Section 2782 of the Civil Code.

This indemnity shall not be limited by the types and amounts of insurance or self-insurance maintained by the Lessee.

Nothing in this Indemnity shall be construed to create any duty to, any standard of care with reference to, or any liability or obligation, contractual or otherwise, to any third party.

The provisions of this Indemnity shall survive the expiration or termination of the Agreement.

### **ARTICLE 13. INSURANCE**

13.1 Lessee agrees that it shall, during the full term of this lease and at its own expense, keep the leased premises, contents, non-structural improvements and personal property located on the leased premises, including any mobile equipment, fully insured against loss or damage by fire or other casualty, commonly covered by standard fire and all risk coverage insurance. Valuation shall be on a replacement cost basis. Lessor and Lessee release each other, and their respective authorized representatives, from any claims for damage to the premises and the building and other improvements in which the premises are located, and to the fixtures, personal property, mobile equipment, improvements, and alterations in or on the premises and the building and other improvements in which the premises are located that are caused by or result from risks insured against under the required insurance policy carried by the Lessee and in place at the time of any such damage.

13.2 Lessee shall maintain liability insurance covering the leased premises. Liability insurance coverage shall be not less than \$2,000,000 combined single limit per occurrence for injury or property damage. Lessee shall name Lessor as an additional

insured on Lessee's liability insurance policy and such policy shall be endorsed to show that Lessee's liability insurance policy is primary.

13.3 Lessee shall furnish a certificate substantiating the fact that Lessee has taken out the insurance herein set forth for the period covered by the Lease with an insurance carrier(s) with an A.M. Best financial rating of not less than A-: VII and authorized to do business in the State of California. Lessee's insurance policy required by this Agreement shall maintain all insurance coverage's and limits in place at all times and provide Lessor with evidence of each policy's renewal within ten (10) days after its anniversary date.

13.4 Lessee is required by this Agreement to immediately notify Lessor if they receive a communication from their insurance carrier or agent that any required insurance is to be canceled, non-renewed, reduced in scope or limits or otherwise materially changed. Lessee shall provide evidence that such cancelled or non-renewed or otherwise materially changed insurance has been replaced or its cancellation notice withdrawn without any interruption in coverage, scope or limits. Failure to maintain required insurance in force shall be considered a material breach of the Agreement.

The certificate of insurance shall be filed with Lessor not less than 10 Days prior to the date of occupancy by the Lessee.

Lessor is insured for liability and shall furnish Lessee a letter confirming this upon request.

Lessee and Lessor shall be solely responsible for payment of any deductible in their respective insurance or self-insurance programs, in the event of a claim.

13.5 Notification of Claim. If any claim for damages is filed with Lessee or if any lawsuit is instituted against Lessee, that arise out of or are in any way connected with Lessee's performance under this Agreement and that in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect Lessor, Lessee shall give prompt and timely notice thereof to Lessor. Notice shall not be considered prompt and timely if not given within thirty (30) days following the date of receipt of a claim or ten (10) days following the date of service of process of a lawsuit.

#### **ARTICLE 14. EMINENT DOMAIN, REASSIGNMENT**

14.1 COMPENSATION FOR TAKING. In the event the Premises or portion thereof is taken in condemnation proceedings or conveyed by Lessor to the State of California, or to any other public body, no part of the awarded compensation or purchase price for said Premises or a portion thereof shall be made to Lessee; the award in its entirety, shall be made to Lessor without deduction.

14.2 REASSIGNMENT. Lessor reserves the right, at any time during the Term of this Lease, to demand and receive reassignment from Lessee of all, or any portion of, said

Premises for any purposes other than that authorized by this Lease. Any such demand by Lessor for reassignment shall be made in writing. Lessee agrees that Lessor's decision in the matter shall be conclusive and further agrees to make such reassignment when so requested. If any portion of said Premises is reassigned to Lessor as provided herein, the parties hereto agree that the terms of this Lease shall remain in full force and effect with regard to the Premises not reassigned. Lessor shall not be liable for any of Lessee's costs associated with Lessor's exercise of its rights herein,

#### **ARTICLE 15. ASSIGNMENT AND SUBLETTING**

- 15.1 Lessee shall have no right, authority or power whatsoever to assign, sublet, encumber or transfer any right, license, privilege or duty granted to or imposed upon it hereunder, without the prior written consent of Lessor.

#### **ARTICLE 16. ATTORNEY'S FEES AND COSTS**

- 16.1 Any party may bring a suit or proceeding to enforce or require performance of the terms of this Lease Agreement, and each party in that suit or proceeding shall be responsible for its own attorney's fees and costs.

#### **ARTICLE 17. SECURITY DEPOSIT**

- 17.1 Lessee shall provide a security deposit in an amount agreed upon in the form of a letter of credit or a performance bond obtained from a company that has an A.M. Best's rating of no less than A-:VII or has been approved by the Administrator. Said security deposit shall be provided at Lessee's sole cost and expense. In lieu of such security deposit, Lessee may deposit with Lessor, in a form acceptable to the Administrator, an irrevocable letter of credit ("at sight" draft) from a bank reasonably approved by the Administrator as security for faithful performance by Lessee as herein provided.
- 17.2 Within three (3) months following expiration or earlier termination of this Lease, the amount of the security deposit, less any amounts due or owing to Lessor by Lessee shall be refunded/released by Lessor to Lessee, provided, however, Lessor shall have no obligation whatsoever to pay any interest on the amount of said security deposit to Lessee.
- 17.3 Within fifteen (15) calendar days following the application of said security deposit to correct any default by Lessee, or to pay any amount due or owing upon expiration or earlier termination of this Lease, Lessor shall provide Lessee with an accounting of such application.

#### **ARTICLE 18. NOTICES**

All notices required or permitted hereunder shall be deemed to have been properly given if mailed in any United States Post Office by certified or registered mail, postage prepaid,

addressed to Lessee or Lessor respectively, at the following addresses or to such other addresses as the parties hereto may designate to the other in writing from time to time:

Lessee:           Jeff Champ  
                      Street Address  
                      City, State Zip code

Lessor:           District Administrator  
                      Sunrise Recreation and Park District  
                      7801 Auburn Boulevard  
                      Citrus Heights, CA 95610

In lieu of such mailing, all notices may be served personally, and shall be effective upon such service.

Lessee hereby elects as Lessee's domicile the Premises for the purpose of service of all notices, writs of summons, or other legal documents or process, in any suit, action, or proceeding which Lessee may undertake under this Lease.

**ARTICLE 19. AUTHORITY OF DISTRICT ADMINISTRATOR**

19.1 The District Administrator ("Administrator") shall administer this Lease on behalf of SRPD. Unless otherwise provided herein or required by applicable law, the Administrator shall be vested with all rights, powers and duties of SRPD hereunder. With respect to matters hereunder subject to the approval, satisfaction or discretion of SRPD or the Administrator, the decision of the Administrator in such matters shall be final.

**ARTICLE 20. ESTOPPELS**

20.1 Lessee shall, without charge to Lessor or other third party, at any time and from time to time, within five (5) days after request by Lessor, any mortgagee, assignee of a mortgagee, or any purchaser of the Premises, execute an estoppel certificate in a form approved by the Administrator. Failure to deliver the certificate within five (5) days after request by Lessor shall be conclusive upon Lessee for the benefit of Lessor and any successor to Lessor that this Lease is in full force and effect and has not been modified except as may be represented by the party requesting the certificate.

**ARTICLE 21. FORCE MAJEURE**

21.1 Neither Lessor nor Lessee shall be deemed to be in breach of this Lease if either is prevented from performing any of its obligations hereunder by reason of strike, boycott, labor dispute, embargo, shortage of energy or materials, act of God, act of a

public enemy, act of a superior governmental authority, weather conditions, rebellion, riot, sabotage, or any other circumstance for which it is not responsible, or which is not within its control.

## **ARTICLE 22. TAXES AND OTHER FEES**

- 22.1 Lessee shall, at Lessee's sole cost and expense, timely pay any and all taxes, permit, license or registration fees, and any other charge or assessment for which Lessee is responsible, or which may be charged or assessed against Lessee, the Premises, or any property of Lessee thereon, whether real or personal.
- 22.2 Under this Lease a possessory interest subject to payment of property taxation and special taxation may be created. Notice is hereby given pursuant to California Revenue and Taxation Code Section 107.6, and Chapter 2.5 (commencing with Section 53311), part 1, Division 2, Title 5, of the Government Code, that such property interest may be subject to property taxation and special taxation if created, and that the party in whom the possessory interest is vested may be subject to payment of property taxes or special taxes levied on such interest.
- 22.3 **FEES CHARGED BY LESSEE.** All fees to be charged by Lessee for the use of the Premises and the Equipment by the general public shall be approved first by the Advisory Board of Directors.

## **ARTICLE 23. MISCELLANEOUS**

- 23.1 **COMPLIANCE WITH ALL LAWS, RULES AND REGULATIONS.** Lessee shall comply with the rules and regulations hereinafter set forth, which are made a part hereof, and with such further reasonable rules and regulations as Lessor may prescribe on written notice to Lessee, for the safety, care, and cleanliness of the Premises and/or Equipment. A copy of the rules, that is current as of the date hereof, is attached hereto as Exhibit E.
- 23.2 **NO WAIVER OF RIGHTS.** The failure of either party to insist on strict performance of any terms, covenants or conditions hereto, or to exercise any option herein contained, shall not be construed as a waiver of such term, covenant, condition, or option in any instance; now or in the future.
- 23.3 **LESSOR'S RIGHT OF ENTRY.** During the Term of this Lease Agreement, Lessor, its officers, agents, employees, contractors, and subcontractors shall have the right,

without limitation or cost, to enter upon the Premises for any lawful purpose, including the purpose of: inspecting the Premises and/or Equipment; making any repairs or alterations necessary for the preservation and safety of the Premises; and for determining whether Lessee is complying with its obligations hereunder. Such entry by Lessor shall not be deemed to excuse Lessee's performance of any promise, term, condition, or covenant required of it by this Lease, and shall not be deemed to constitute waiver thereof by Lessor. Lessor reserves the right to possess, and Lessee shall provide Lessor, copies of all keys to all gates, buildings and structures on the Premises. .

- 23.4 **SIGNS.** All signs, emblems or advertising of any kind or character (hereinafter "Signs"), at or on the Premises must be in compliance with all applicable ordinances, rules and regulations. In addition, Lessee shall obtain the prior written approval of the Administrator for all permanently affixed Signs.
- 23.5 **QUIET ENJOYMENT.** Lessor covenants that if and so long as Lessee pays the Rent, and any additional Rent as herein provided, and performs the covenants hereof, Lessee shall peacefully and quietly have, hold, and enjoy the Premises for the Term hereof mentioned subject to the provisions of this Lease.
- 23.6 **AGREEMENT CONSTRUCTION.** Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. It is agreed and acknowledged by the parties hereto that the provision of the Agreement have been arrived at through negotiation, and that each of the parties has had a full and fair opportunity to revise the provisions of the Agreement and to have such provisions reviewed by legal counsel. Therefore, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement. All exhibits referred to in this Agreement are attached and incorporated by this reference.
- 23.7 **AUTHORITY FOR AGREEMENT.** Lessee warrants and represents that Lessee has the right, power, and legal capacity to enter into and perform its obligations under this Lease Agreement, and no additional approvals or consents of any person or entity are necessary in connection therewith. The execution, delivery, and performance of this Lease Agreement by the undersigned Lessee has been duly authorized by all necessary corporate or other applicable action and this Lease Agreement constitutes a legal, valid, and binding obligation of Lessee, enforceable in accordance with its terms.
- 23.8 **TIME OF THE ESSENCE.** Time is of the essence in the performance of this Lease.
- 23.9 **ENTIRE AGREEMENT.** This Lease, together with all exhibits attached hereto, constitutes the entire agreement between the parties hereto, and all other representations or statements heretofore made, verbal or written are merged herein. This Lease may be amended only by written instrument duly executed by the parties.



## EXHIBIT A

All that land situated in the State of California, County of Sacramento, described as follow:

All that portion of Section 28, Township 10 North, Range 6 East M.D.B. & M. described as follows:

BEGINNING at a metal tag marked R. E. 46 in the base of a concrete fence footing, said point being the most Westerly point shown on the "Plat of Survey of a Portion of Section 27, 28, and 33, Township 10 North, Range 6 East, D.D.B. & M.", filed in the office of the County Recorder of Sacramento County, State of California, May 21, 1953, in Book.9 of Surveys, Map No. 47; thence from said point of beginning South.3'00 '4" East. 477. 66ft. to a 1 ¼ inch iron pipe marked R. E. 46, thence South 1'18'22" East 460.00 ft. to a 1 ¼ inch iron pipe marked L. S. 2217, thence South 88'41'38" West 179.50 ft. to similar monument, thence South 38'25'16" West 701.59 ft. to a similar monument, thence North 51'17'23" West 600.00 ft. to a similar monument in the Southeasterly right-of-way line of the "Sacramento-Roseville Freeway", being U.S. Highway 40, thence North 38'42'37" East 219.29 ft. along said line to a 6" X6" concrete monument, thence continuing along said line North 36'43'51" East 300.28 ft. to a similar monument, thence continuing along said line North 38'37'47" East 900.82 ft. to the point of beginning.

All that portion of Section 28, Township 10 North, Range 6 East, M.D.B & M., described as follows:

BEGINNING at a metal tag marked R. E. 46 in the base of a concrete fence footing, said point being in the southeasterly line of the frontage road known as Verner Avenue, 40 ft. in width, paralleling U.S. Highway 40 Freeway, thence from said point of beginning South 3'00'40" East. 477.66 feet along the Westerly line of the lands owned by the "Roman Catholic Bishop of Sacramento, a Corporation Sole", as shown on the "Plat of Survey of a portion of Sections 27, 28, and 33, Township 10 North, Range 6 East, M.D.B. &M.", filed in the office of the County Recorder of Sacramento County, State of California, on May 21 1953 in Book 9 of Surveys, May No. 47, to a 1 ¼ inch iron pipe monument marked R. E. 46, thence North 57'53'53" West 319.46 feet to a 1 ¼ inch iron pipe marked L. S. 2217 in the Southeasterly line of said Verner Avenue; and thence along said Southeasterly line of said Verner Avenue; North 38'37'47" East 393.28 feet to the point of beginning.

**EXHIBIT B**

**FOOTHILL GOLF COURSE**

**EQUIPMENT LIST**

**Equipment**

**Estimated Value**

**EXHIBIT C**  
**Certificate Confirming Lease Commencement Date**

## **EXHIBIT D**

### **Greens (9):**

The golf course greens shall be smooth, uniform turf, firm but not too hard, well drained, consistent and of suitable speed. Cups placed in accordance with USGA recommendations. Flag sticks are of good quality, standing straight and uniform of all greens.

1. **Quality and Playability:** 100% turf cover, smooth and uniform in texture. Greens hold approach shots hit correctly. Cups are cut cleanly and in proper location. Generally free of weeds, insects, rodents and turf diseases.
  
2. **Appearance:** Turf is uniform in color and mowing direction. Collars and aprons cut to uniform standard.

### **Tees and Amenities:**

Tees are completely turfed, smooth, level and firm. Tees drain well with no mud buildup.

Tee amenities including trash cans, signs tee markers and benches are in good condition and repair.

1. **Tee Quality:** 100% turf cover with smooth level surface. Generally free of weeds, disease and rodents. Uniform mowing, adequate top dressing and seeding program are evident.

### **Fairways:**

Fairways are smooth with a uniform turf color. Turf is firm, but not hard, well defined and properly supports the ball for play.

1. **Quality and Playability:** 100% turf cover, smooth and uniform in texture, fairway turf is properly mowed and supports the ball for play. Generally the fairways are weed free and do not suffer from disease, rodents or insects infestations.
  
2. **Appearance:** Fairways have been mowed consistently throughout the course; turf is uniform in height and color. Yardage markers are properly maintained and uniform throughout the course.

## EXHIBIT E

### Entrance Area and Parking Lot:

Entry area is attractively landscaped and well maintained. Parking lot has good traffic flow and directional signage. Surface is clean and smooth and free of debris and weeds. Entrance signs are clearly visible and in good condition.

1. Entrance area: Entrance area is attractively landscaped with healthy plants suited for the area. All planter areas are generally free of weeds, litter and debris. Entrance signs are in proper locations, attractive and informative.
2. Parking Lot: Parking lot has good traffic flow and directional signage. Surface is clean and smooth and free of debris and weeds.

### Clubhouse, Snack bar and Pro shop:

The Clubhouse is well maintained and has a clean and orderly appearance. The exterior and interior surfaces are well maintained, painted surfaces are clean and in good repair. Walkways are clean and free of litter and debris. Window and floor coverings are also clean and in good repair. The Snack bar operation is of the highest quality. All food service areas are maintained to the highest possible standards and meet or exceed state and local health code requirements. Food service operations are well organized. Food and local health code requirements. Food service operations are well organized. Food items are served at the proper temperatures and in an attractive and appetizing manner. The Pro shop is clean and in good repair. Staff is courteous, all signs clearly marked and there is ample merchandise. Window and floor coverings are clean and in good repair.

1. Clubhouse: The clubhouse area, utility enclosures, walkways and refuse containers are orderly, well maintained, clean and in good repair. Signs and bulletin boards are neat and orderly with current information. Restrooms are clean, stocked and well maintained. All fixtures are operational. Interior and exterior areas are clean and orderly. Restrooms are properly identified for men and women.
2. Snack bar: Food is well prepared and meets customer expectations. Snack bar hours of operation are posted. There is adequate staff to maintain excellent service. All food service areas are clean and orderly. Food is store in the most sanitary of conditions. Refrigeration and cooking equipment is clean and operate at proper temperatures.
3. Pro Shop: Staff is courteous and responsive to the public. Staff is dressed in appropriate attire with a clean and neat appearance. All required signs are prominently displayed and contain correct and current information. Starter operations are well organized.

Merchandise displays are amply supplied with prices clearly marked. Interior and exterior well maintained and in good repair.

Fences:

Perimeter and protective fences are free of holes and are stretched to original design. Support posts are in place and straight and properly anchored. Fence lines are well maintained and free of weeds and other growth.

**EXHIBIT F**  
**FOOTHILL GOLF CENTER**  
**DEFINITION OF THE PROFIT & LOSS STATEMENT**

**INCOME**

1. GREENS FEES – Fees charged to play the course.
2. PRO SHOP REVENUE – Details of all daily pro shot revenues by category.
3. FOOD AND NON-ALCOHOLIC BEVERAGE REVENUE – Details of food and non-alcoholic beverages revenue by the following specific categories: gross revenue, sales taxes, food sales, non-alcoholic beverage sales, and catering.
4. RENTALS – Fees charged to rent pull carts and clubs.
5. GIFT CERTIFICATE – Monies received for gift certificates, which can be used for any of the above items.
6. ALCOHOL BEVERAGE SALES – Monies received for alcoholic beverages.
7. CIGARETTES – Monies received for cigarettes.

**OPERATING EXPENSES**

1. MERCHANDISE – All golf products purchased for sale in the pro shop.
2. SNACK BAR – All items for sale in the snack bar.
3. OUTSIDE SUPPLIES – Items purchased for use on the golf course grounds. They include, but not limited to these items: Seed, plants, trees, irrigation parts, flags and poles, trash cans.
4. SALARY (NET) – Employee net wages – excluding lease operator.
5. SALARY (DEDUCTIONS) – Employee and employer Federal and State withholding.
6. OFFICE SUPPLIES – Paper products such as: score cards, note paper, computer paper, cash register tape and restroom supplies. Also includes pens, pencils, paper clips, rubber bands, calendars and janitorial supplies. Also includes trophies and tournaments.
7. UTILITIES - This includes gas, electric, water, telephone service, garbage or refuse service and all other public utilities.
8. REPAIRS/MAINTANANCE – Costs of repairs to the clubhouse and the course.
9. AUTO/TRUCK REPAIRS – Costs of repairs to the auto, truck and gas powered equipment.
10. INSURANCE – Cost of workman’s comp., the building for fire and damage, theft, general liability and comprehensive and auto and truck.
11. TAXES – Includes sales tax paid to the Board of Equalization, Possessory Interest Tax, and Personal Property Tax.
12. LICENSES – Includes Business Beer, Seller’s Permit, ATF permit, Health permit and Small Water Systems permit.
13. GAS – Gasoline for equipment.
14. EQUIPMENT PURCHASES – Includes equipment purchases for pro shop, snack bar and golf course.

15. ADS – Advertising
16. FERTILIZER – Fertilizer for the golf course.
17. TOOLS – Tools purchased to be used on the course or in the clubhouse. These include hand or gas powered tools.
18. LOANS – This includes payments on equipment and/or working capital.
19. DONATIONS – Includes donations made by Foothill Golf Course to different organizations.
20. DUES – Includes dues paid to professional organizations and for publications.
21. ENTERTAINMENT – Monies spent at Foothill Golf Course clubs' luncheons.
22. ACCOUNTANT FEES – C.P.A.'s Fees for yearly Federal and State tax return.
23. BAD DEBTS – Returned checks.
24. BANK CHARGES – Includes charges for bank fees, bank payroll service, merchant credit card charges and returned check fees.
25. CAPITOL IMPROVEMENTS – Includes proposed capital improvements to be made
26. TOTAL OPERATING EXPENSES – Total of all expenses for operating the Foothill Golf Course.
27. NET PROFIT – Net income after operating expenses.