

THE STATE OF TEXAS

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CHAPTER 380 PROGRAM
AGREEMENT FOR
ECONOMIC DEVELOPMENT
INCENTIVES

COUNTY OF HARRIS

This CHAPTER 380 PROGRAM AGREEMENT FOR ECONOMIC DEVELOPMENT INCENTIVES (the "AGREEMENT") is entered into by and between the **CITY OF BAYTOWN**, a home-rule municipal corporation of Harris and Chambers Counties, Texas, hereinafter referred to as the "CITY", and **BUILD BAYTOWN I, LLC**, a Texas limited liability company authorized to transact business in the State of Texas, hereinafter called "DEVELOPER". The CITY and DEVELOPER may be referred to jointly herein as the "Parties" and individually as a "Party."

RECITALS

WHEREAS, the CITY owns fee simple title to the real property in Baytown, Harris County, Texas, located at 1530 Evergreen Road, consisting of approximately 105.9171 acres, and being more fully described in Exhibit A to Exhibit "1" attached hereto and incorporated herein by this reference (the "LAND"); and

WHEREAS, the LAND, which constitutes a portion of the former Evergreen Point Golf Course property, is operated by the CITY as a public municipal park named "Evergreen Park"; and

WHEREAS, subject to the terms and conditions of this AGREEMENT, DEVELOPER and the CITY desire for DEVELOPER to lease the LAND and the other LEASED PREMISES (as defined below) from the CITY, pursuant to the LEASE (as defined below), for the purposes of constructing and developing on the LAND and operating, (i) a public golf course and related amenities (the "PROJECT," being more fully defined in the LEASE as "Tenant's Work"), and (ii) in DEVELOPER's discretion and with the CITY's consent, other golf-related amenities, features and retail businesses, including a potential golf entertainment venue (in all such cases, either directly or through contracts, concessions and agreements with other Persons); and

WHEREAS, DEVELOPER's willingness to enter into, and to perform its obligations under, this AGREEMENT and the LEASE are contingent upon the CITY's agreement to provide the GRANTS (as defined below) to DEVELOPER; and

WHEREAS, the CITY is authorized by Article III, Section 52-a of the Texas Constitution and Chapter 380 of the Texas Local Government Code to establish programs, including programs for making grants of public resources, to promote state or local economic development and to stimulate business and commercial activity in Baytown; and

WHEREAS, the CITY finds that the PROJECT will constitute a major economic investment for Evergreen Park, and the CITY recognizes the positive economic impact the PROJECT will have on the City and the surrounding community and voluntarily desires to facilitate the success of the PROJECT; and

WHEREAS, the CITY has determined that a conditional and collateralized lease of the LAND and a separate grant of public funds to incentivize the PROJECT will (i) serve the public purposes of promoting local economic development, (ii) encourage, stimulate and enhance significant new economic investment and commercial activity in Evergreen Park in a controlled and responsible way, and (iii) develop or expand local and state commerce; and

WHEREAS, the CITY has concluded and hereby finds that this AGREEMENT clearly promotes economic development in the City and, as such, meets the requirements of Article III, Section 52-a of the Texas Constitution by (i) assisting and promoting the development and diversification of the local and state economy, (ii) helping eliminate local and state unemployment or underemployment, (iii) stimulating City's business and commercial activity, and (iv) developing or expanding transportation and commerce to, within and throughout City and the surrounding community at large with the addition of the proposed PROJECT and its amenities; and

WHEREAS, the CITY desires to enter into this AGREEMENT with DEVELOPER to implement the economic development program described herein and, in doing so, shall follow all applicable rules and procedures prescribed by state law for home-rule municipalities in providing DEVELOPER with the economic development incentives described herein; and

WHEREAS, the Parties agree the provisions of this AGREEMENT substantially advance a legitimate interest of CITY by expanding CITY's tax base, increasing employment, reducing underemployment, and stimulating economic development; and

WHEREAS, as an inducement to DEVELOPER to enter into and to perform its obligations under this AGREEMENT and the LEASE, the City Council of the CITY (the "CITY COUNCIL") has determined that making GRANTS to DEVELOPER pursuant to this AGREEMENT, in the form of cash incentive payments in the total amount of SIX MILLION AND NO/100 DOLLARS (\$6,000,000.00) plus the cost of certain bonds not to exceed EIGHTY THOUSAND AND NO/100 DOLLARS (\$80,000.00) and the waiver of certain PROJECT-related permit fees of DEVELOPER, are in accordance with the PROGRAM and will further the objectives of the CITY, benefit the CITY and its inhabitants, and promote local economic development, stimulate business and commercial activity, and create jobs within the CITY;

NOW THEREFORE, the CITY and DEVELOPER, for and in consideration of the mutual covenants and promises contained herein, do hereby agree, covenant and contract as set forth below:

Section 1. Definitions.

1.1 "LEASE" means the Lease Agreement between the CITY and DEVELOPER with respect to the lease of the PROPERTY to DEVELOPER, in the form attached hereto as Exhibit "1" and incorporated herein by this reference.

1.2 "PERSON" means any individual, corporation, limited or general partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof or any other form of entity.

1.3 "PROJECT IMPROVEMENTS" shall have the meaning set forth in Exhibit "C" of the LEASE and Exhibit "2" of this agreement.

1.4 "PROJECT IMPROVEMENTS WORK" shall have the meaning set forth in Exhibit "C" of the LEASE and Exhibit "2" of this agreement.

1.5 "PROPERTY" shall have the meaning set forth in the LEASE.

1.6 "QUALIFIED PROJECT COSTS" means PROJECT and pre-development costs actually incurred by DEVELOPER directly related to the development, entitlement, acquisition and implementation of the PROJECT, including architectural, engineering, environmental, consultant, legal and other professional fees; title insurance premiums and fees; survey costs; and project management costs.

Section 2. Term.

2.1 This AGREEMENT shall be effective as of the date of execution by both Parties. This AGREEMENT will terminate on the date all obligations under this AGREEMENT have been fulfilled unless earlier terminated.

Section 3. DEVELOPER's Requirements.

3.1 In consideration of the CITY entering into this AGREEMENT providing for the payment of funds and a waiver of certain permit fees constituting a grant to DEVELOPER under the terms and conditions set forth herein, DEVELOPER agrees as follows:

a. DEVELOPER shall execute the LEASE no later than ten (10) days after approval by the CITY COUNCIL.

b. DEVELOPER must contract with Landscapes Unlimited, LLC (the "CONTRACTOR") for the PROJECT IMPROVEMENTS and will require the CONTRACTOR to obtain construction performance and payment bonds from a reputable Surety (listed annually on the US Treasury Circular 570 list of federally approved sureties), and name the CITY as a Joint Obligee on the respective bonds, to provide security to the CITY that the PROJECT will be completed and that no liens are filed against the PROPERTY. DEVELOPER shall provide the CITY a copy of: the relevant portions of the construction contract with the CONTRACTOR, if requested by the CITY, the performance and payments bonds; and insurance certificate, before allowing the CONTRACTOR to start work under the construction contract. DEVELOPER authorizes the CITY to "stop work" of the CONTRACTOR if CONTRACTOR starts the PROJECT work prior to the CITY receiving the above-described documents and **DEVELOPER AGREES TO DEFEND, HOLD HARMLESS AND INDEMNIFY THE CITY FOR ANY CLAIMS OR CAUSES OF ACTION RELATING TO ANY SUCH "STOP-WORK" ORDER.**

- c. Cause the PROJECT IMPROVEMENTS WORK to be completed by the dates set forth in the LEASE, as same may be subject to extension thereunder.
- d. The design and construction of the PROJECT IMPROVEMENTS on the LEASED PREMISES shall comply with all ordinances of the CITY applicable to the PROJECT.
- e. Upon completion of the PROJECT IMPROVEMENTS WORK, the value of the PROPERTY, including land and all improvements, shall be at least TEN MILLION AND NO/100 DOLLARS (\$10,000,000).
- f. Subject to the CITY's continued support and approval of the PROJECT and the PROJECT IMPROVEMENTS WORK, DEVELOPER will continue to recruit and promote further hospitality, residential, and/or entertainment elements as part of the larger area developments.
- g. Neither the failure of the PROPERTY to have at least the post-completion value specified in Section 3.1(e), nor the failure of DEVELOPER to continue the recruitment and promotion actions described in Section 3.1(f), (i) shall constitute a breach or default by DEVELOPER, or a failure by DEVELOPER to perform a covenant or obligation; (ii) shall entitle the CITY to any rights or remedies against DEVELOPER under this AGREEMENT (including without limitation Section 9), the LEASE, applicable law, or otherwise; or (iii) otherwise result in any liability to DEVELOPER. The immediately-preceding sentence, however, applies only to Sections 3.1(e) and 3.1(f) and does not impair the CITY's rights or remedies, or reduce DEVELOPER'S liability, with respect to any other covenant or obligation of DEVELOPER in this AGREEMENT.

Section 4. Grants by CITY.

4.1 Cash Incentive Payments. In consideration for DEVELOPER agreeing to develop the PROJECT in accordance with the terms of the LEASE and this AGREEMENT, the CITY shall provide DEVELOPER with cash incentive payments in the total amount of (a) SIX MILLION AND NO/100 DOLLARS (\$6,000,000.00), plus (b) the total cost of the construction performance and payment bonds required in Section 3.1(b) and the maintenance bond required in the Lease, but such total bond cost shall not exceed EIGHTY THOUSAND AND NO/100 DOLLARS (\$80,000.00), to be used by DEVELOPER for Qualified Project Costs incurred for the PROJECT. The CITY shall pay DEVELOPER such cash incentive payments in such amounts, at such times, and subject to such conditions, as are set forth in the funding procedures which are attached hereto as Exhibit "2" and incorporated herein by this reference.

4.2 Fee Waiver. In addition, the CITY agrees to waive all fees for building, mechanical, plumbing, or electrical permits in relation to the PROJECT from the time this AGREEMENT is executed until the date set for completion as provided for in the LEASE. Pursuant to Section 9 below, the permit fee waivers are subject to repayment by DEVELOPER to the CITY, in the event DEVELOPER fails to comply with all DEVELOPER requirements set out in Section 3, above.

4.3 CITY Property Tax Reimbursement. To the extent DEVELOPER becomes obligated to pay any CITY property tax levied against the Property within twenty (20) years of the date of execution of this AGREEMENT, and during which time the LEASE is in effect, then the CITY agrees to reimburse the DEVELOPER for such property taxes that may become due subject first to the DEVELOPER submitting to the CITY an invoice or statement for such local property tax due as received from the taxing jurisdiction levying such tax.

4.4 Collectively. The cash incentive payments described in Section 4.1, the fee waivers described in Section 4.2, and the tax rebates described in 4.3 are collectively referred to herein, as the "GRANTS" and are made pursuant to the PROGRAM.

Section 5. Condition Precedent.

5.1 The CITY's obligation to make the GRANTS provided for in Section 4 is contingent and conditioned upon the approval and execution of the LEASE by DEVELOPER and the CITY (hereafter referred to as the "Condition Precedent"). If the Condition Precedent is not satisfied and has not been waived in writing by the CITY, the CITY shall have the right to terminate this AGREEMENT, in which case this AGREEMENT shall immediately terminate, cease and become null, void and of no further force or effect.

Section 6. Indemnification.

6.1 DEVELOPER does hereby agree to waive all claims, release, indemnify, defend and hold harmless the CITY, and all of its officials, officers, agents and employees, in both their public and private capacities, from and against any and all liability, claims, losses, damages, suits, demands or causes of action including all expenses of litigation and/or settlement, court costs and reasonable attorney fees which may arise by reason of injury to or death of any person or for loss of, damage to, or loss of use of any property, to the extent occasioned by the error, omission, or negligent act of DEVELOPER, its officers, agents, or employees arising out of or in connection with the performance of this AGREEMENT, and DEVELOPER will at its own cost and expense defend and protect the CITY from any and all such claims and demands.

6.2 The indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for DEVELOPER or any contractor or subcontractor under workers' compensation or other employee benefit acts.

Section 7. Retention and Access to Books and Records.

7.1 The DEVELOPER shall maintain and preserve its records which demonstrate and account for the Developer's capital investment, costs and expenses paid in conjunction with the Project, including, but not limited to, all design, engineering and construction plans associated with the PROJECT IMPROVEMENTS. DEVELOPER agrees to provide the CITY access to books and records of DEVELOPER during regular business hours upon reasonable notice. The CITY shall have the right to require DEVELOPER to submit any necessary information, documents, invoices, receipts or other records to verify Qualified Project Costs incurred by DEVELOPER and the completion of construction of the PROJECT. DEVELOPER shall maintain such records for a period of five (5) years after termination of this AGREEMENT.

Section 8. Force Majeure.

8.1 It is expressly understood and agreed by the Parties that if the performance of any obligation hereunder is delayed by any act of FORCE MAJEURE, the Party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement shall be extended for a period of time equal to the period such Party was delayed.

8.2 For the purposes of this section, the term "Force Majeure" means any act that (a) materially and adversely affects the affected Party's ability to perform the relevant obligations under this AGREEMENT or delays such affected Party's ability to do so, (b) is beyond the reasonable control of the affected Party, (c) is not due to the affected Party's fault or negligence and (d) could not be avoided by the Party who suffers it by the exercise of commercially reasonable efforts, including the expenditure of any reasonable sum of money.

8.3 Subject to the satisfaction of the conditions set forth in (a) through (d) above, Force Majeure shall include: (i) natural phenomena, such as storms, floods, lightning and earthquakes; (ii) wars, civil disturbances, revolts, insurrections, terrorism, sabotage and threats of sabotage or terrorism; (iii) transportation disasters, whether by ocean, rail, land or air; (iv) strikes or other labor disputes that are not due to the breach of any labor agreement by the affected Party; (v) fires; (vi) actions or omissions of a Governmental Authority (including the actions of the CITY in its capacity as a Governmental Authority) that were not voluntarily induced or promoted by the affected Party or brought about by the breach of its obligations under this AGREEMENT or any Applicable Law; (vii) new epidemics or pandemics, or any effects from current pandemics which were not previously known or reasonably foreseeable, in the industry; and (viii) failure of the other Party to perform any of its obligations under this AGREEMENT within the time or by the date required pursuant to the terms of this AGREEMENT for the performance thereof; provided, however, that under no circumstances shall Force Majeure include any of the following events: (A) economic hardship; (B) any strike or labor dispute involving the employees of DEVELOPER or any affiliate of DEVELOPER, other than industry or nationwide strikes or labor disputes; or (C) weather conditions which could reasonably be anticipated by experienced contractors operating at the relevant location.

Section 9. Default and Termination.

9.1 A default shall exist under this AGREEMENT if either Party fails to perform or observe any material covenant contained in this AGREEMENT. The non-defaulting Party shall promptly notify in writing the defaulting Party upon becoming aware of any condition or event constituting a default. Such notice shall specify the nature and the period of existence thereof and what action, if any, the non-defaulting Party requires or proposes to require with respect to curing the default.

9.2 If a default shall occur and continue uncured for thirty (30) days after written notice of the same from the non-defaulting Party, the non-defaulting Party may, at its option, pursue any remedies it may be entitled to, at law or in equity, in accordance with Applicable Law, without the necessity of future notice to or demand upon the defaulting Party. Notwithstanding the foregoing, if the default is not susceptible of cure within thirty (30) days, then the non-defaulting Party may not pursue any remedies for such breach if the defaulting Party notifies the non-defaulting Party

of such fact and promptly commences curative efforts and diligently pursues such curative efforts to completion, so long as such cure is completed no later than one hundred twenty (120) days after notice of such default.

Section 10. Miscellaneous.

10.1 Successors and Assigns. This AGREEMENT shall be binding on and inure to the benefit of the Parties to it and their respective heirs, executors, administrators, legal representatives, successors, and permitted assigns. Prior to completion of the PROJECT, DEVELOPER shall not assign its interest in this AGREEMENT without the prior written approval of the CITY COUNCIL, unless such assignment is permitted under the LEASE to occur without the approval of the CITY or CITY COUNCIL pursuant to the terms of the LEASE (including to a "Tenant Affiliate" as such term is defined in the LEASE), and so long as DEVELOPER assigns its interest in this AGREEMENT to the same entity to which DEVELOPER, as Tenant under the LEASE, assigned its rights under the LEASE. In connection with any assignment permitted under this AGREEMENT, such assignee shall agree in writing to assume all of DEVELOPER's obligations under this AGREEMENT, and such written agreement shall be in a form reasonably acceptable to the CITY. DEVELOPER shall promptly provide the CITY with a copy of the assignment instrument and assignee's written agreement to assume DEVELOPER's obligations under this AGREEMENT.

10.2 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given if (a) delivered personally, (b) sent by email, (c) mailed by registered or certified mail (return receipt requested), or (d) sent by Federal Express or other recognized overnight courier guaranteeing next business day delivery, to the Parties at the following addresses or email addresses:

Notices to the CITY:

City of Baytown, Texas
Attn: City Manager
2401 Market Street
Baytown, TX 77520
Email: CityManager@baytown.org

Notices to DEVELOPER:

Build Baytown I, LLC
Attn: Rio Valeriano
P.O. Box 950
Lenoir City, TN 37771
Email: _____

with a copy to:
Cokinos | Young
Attn: Philip M. Kinkaid
1221 Lamar Street, 16th Floor
Houston, TX 77010

Any of the above addresses or email addresses may be changed at any time by notice given as provided above; provided, however, that any such notice or change of address shall be effective only upon receipt. All notices, requests or instructions given in accordance herewith shall be deemed received on the date of delivery, if hand delivered; on the date sent by email (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient, on the date of receipt; two business days after mailing, if mailed by registered or certified mail, return receipt requested; and one business day after the date of sending, if sent by FedEx or other recognized overnight courier for guaranteed overnight delivery.

10.3 Severability. If any provision of this AGREEMENT is held to be illegal, invalid or unenforceable under present or future laws effective while this AGREEMENT is in effect, such provision shall be automatically deleted from this AGREEMENT and the legality, validity and enforceability of the remaining provisions of this AGREEMENT shall not be affected thereby, and in lieu of such deleted provision, there shall be added as part of this AGREEMENT a provision that is legal, valid, and enforceable and that is as similar as possible in terms and substance as to the deleted provision.

10.4 Texas Law to Apply. This AGREEMENT shall be construed under and in accordance with the laws of the State of Texas, and the obligations of the Parties created hereunder are performable by the Parties in the City of Baytown, Texas. Venue for any litigation arising under this AGREEMENT shall be in a court of appropriate jurisdiction in Harris County, Texas.

10.5 No Joint Venture. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture between the Parties.

10.6 Sole Agreement. This AGREEMENT constitutes the sole and only AGREEMENT of the Parties respecting the subject matter covered by this AGREEMENT, and supersedes any prior understandings or written or oral agreements between the Parties.

10.7 Amendments. No amendment, modification or alteration of the terms hereof shall be binding unless the same shall be in writing and dated subsequent to the date hereof and duly executed by the Parties.

10.8 Rights and Remedies Cumulative. The rights and remedies provided by this AGREEMENT are cumulative, and the use of any one right or remedy by either Party shall not preclude or waive its right to use any and all other legal remedies. Said rights and remedies are provided in addition to any other rights the Parties may have by law, statute, ordinance or otherwise.

10.9 No Waiver. The CITY's failure to take action to enforce this AGREEMENT in the event of DEVELOPER's default or breach of any covenant, condition, or stipulation herein on one occasion shall not be treated as a waiver and shall not prevent the CITY from taking action to enforce this AGREEMENT on subsequent occasions.

10.10 Incorporation of Recitals. The Parties agree that the recitals contained in the preamble to this AGREEMENT are true and correct and are hereby incorporated herein as part of this AGREEMENT.

10.11 Headings. The paragraph headings contained in this AGREEMENT are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs.

10.12 Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this AGREEMENT shall survive termination.

10.13 Construction. The Parties acknowledge that each Party and its counsel have reviewed and revised this AGREEMENT and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this AGREEMENT or any amendments or exhibits hereto.

[Signature pages follow]

THE UNDERSIGNED AUTHORIZED REPRESENTATIVES OF THE PARTIES have executed this AGREEMENT to be effective on this the 20th day of April, 2022 (the "Effective Date").

CITY OF BAYTOWN

R. Davis

RICHARD L. DAVIS, City Manager

ATTEST:

Raquel Martinez
ANGELA JACKSON, City Clerk
Raquel Martinez, Deputy City Clerk



APPROVED AS TO FORM:

Trevor Fanning
TREVOR FANNING, Interim City Attorney

BUILD BAYTOWN I, LLC,
a Texas limited liability company

By:

Aurelio R. Valeriano

Aurelio R. Valeriano
Manager

STATE OF TEXAS

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COUNTY OF HARRIS

Before me, Brian Lawler, the undersigned notary public, on this day personally appeared Aurelio R. Valeriano, as Manager of BUILD BAYTOWN I, LLC, a Texas limited liability company,



_____ known to me;
_____ proved to me on the oath of _____; or
 proved to me through his/her current TN ID# 084004251
{ description of identification card or other document issued by the federal government or
any state government that contains the photograph and signature of the acknowledging
person }

(check one)

to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me
that he/she executed that instrument for the purposes and consideration therein expressed.

Given under my hand and seal of office this 19th day of April, 2022.



Ruth Lawlor
Notary Public in and for the State of TN
My commission expires: 11/23/2024

EXHIBIT "1"
LEASE

[see following pages]

LEASE AGREEMENT

This LEASE AGREEMENT (this "Lease") is made and entered into as of the ___ day of April, 2022 ("Effective Date") by and between the CITY OF BAYTOWN, TEXAS, a home-rule municipal corporation of Harris and Chambers Counties, Texas ("Landlord"), and BUILD BAYTOWN I, LLC, a Texas limited liability company ("Tenant") (each, a "Party").

Recitals

A. Landlord is the owner of the Property, as defined below.

B. Landlord desires to lease the Property to Tenant, and Tenant desires to lease the Property from Landlord.

C. Landlord also desires to grant Tenant an option to lease the Option Tract, as defined below, pursuant to this Lease, and thereby cause such Option Tract to become a part of the Property.

NOW, THEREFORE, for and in consideration of the rents hereunder, the terms and conditions hereof, and other good and value consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. Property; Option to Lease Option Tract.

1.1 Property. The "Property" consists of the following: (a) that certain tract of land in the City of Baytown, Harris County, Texas, that is defined and described as the "Property" on **Exhibit A** and depicted as such on **Exhibit B**, each of which Exhibit is attached hereto and incorporated herein by this reference (the "Land"); (b) all buildings, structures, improvements, fences, parking lots, landscaping, fixtures, equipment, apparatus, poles, appliances, and related surface and subsurface infrastructure (collectively, "Improvement Items") that are located on or under, or affixed to, the Land on the Effective Date (the "Existing Improvements"); (c) all rights, privileges, easements, and rights-of-way appurtenant to the Land; (d) all air rights and air space above the Land; (e) all of Landlord's other rights, privileges and easements appurtenant to the Land, including any intangible property rights, concessions, pouring and branding rights, advertising and development rights; and (f) all of the Project Improvements (as defined below), as and when constructed on the Land. Landlord hereby leases and demises the Property to Tenant, and Tenant hereby accepts and leases the Property from Landlord, on and subject to all the terms and conditions of this Lease.

1.2 Option to Lease Option Tract.

1.2.1 Landlord hereby grants Tenant an option to lease the "Option Tract," being that certain tract of land in the City of Baytown, Harris County, Texas, that is defined and described as the "Option Tract" on **Exhibit A** and depicted as such on **Exhibit B**. Such option may only be exercised in accordance with this Section 1.2.

1.2.2 If Tenant desires to exercise its option as to the Option Tract, it shall do so by delivering written notice to Landlord of such election on or before the first (1st) anniversary of the Effective Date (an "Option Exercise Notice"). If Tenant timely delivers an Option

Exercise Notice as to the Option Tract, then Tenant must commence development of the Option Tract within 180 days after delivery of the Option Exercise Notice.

1.2.2.1 If Tenant (a) fails to timely deliver an Option Exercise Notice, or (b) timely delivers an Option Exercise Notice but fails to timely commence development of the Option Tract, then Tenant's option shall automatically terminate and become null and void.

1.2.2.2 If Tenant (a) timely delivers an Option Exercise Notice, and (b) timely commences development of the Option Tract, then, automatically upon the timely commencement of such development, the following shall occur:

(i) the Option Tract shall be deemed part of the Land and the Property;

(ii) consequently, all of the Existing Improvements, rights, privileges, easements, rights-of-way, Project Improvements, and other assets and interests described in clauses (b) through (f) of Section 1.1, to the extent applicable to the Option Tract (collectively, "Associated Rights"), shall be deemed part of the Property; and

(iii) Landlord shall be deemed to have leased and demised the Option Tract and Associated Rights to Tenant, and Tenant shall be deemed to have accepted and leased the Option Tract and Associated Rights from Landlord, on and subject to all the terms and conditions of this Lease, for the remainder of the Lease Term and for no consideration other than Tenant's existing obligations under this Lease, including, without limitation, payment of the Rent described in Section 5.1.

1.2.3 As of the Effective Date, Landlord hereby grants Tenant a non-exclusive license to go onto the Option Tract and to conduct thereon (either directly or through such agents and consultants as Tenant may select) such due diligence, surveys, tests, studies, reviews and analyses of the Option Tract as Tenant may elect for the purpose of assisting it in deciding whether to exercise its option as to the Option Tract, and for the purpose of preparing or commencing to conduct development activities thereon; provided, however, that Tenant shall not conduct any invasive or subsoil testing of the Option Tract without Landlord's prior written consent, which shall not be unreasonably withheld. If Tenant's option as to the Option Tract terminates pursuant to Section 1.2.2.1, then Tenant's license under this Section 1.2.3 as to the Option Tract shall automatically terminate at the same time.

2. Term. The term of this Lease is 480 months (the "Lease Term") commencing on the Effective Date and terminating on April __, 2062, unless this Lease is earlier terminated in accordance with its terms and conditions.

3. Condition of Property; Acceptance.

3.1. Representations. Landlord hereby represents and warrants to Tenant that (a) Landlord has good and marketable fee simple title to the Property; (b) Landlord has the authority to enter into this Lease; (c) except as set forth herein, there are no (i) rights of first refusal, (ii) rights of first

offer, or (iii) options to lease, purchase or finance all or any portion of the Property; (d) the Property is zoned SF2 ("Mixed residential at low to medium densities") and is suitable for the Permitted Use (as defined below); and (e) to the best knowledge of Landlord, the Property is not in violation of any Law relating to Hazardous Materials (as defined below).

3.2. Acceptance; Condition of Property. Tenant accepts the Property in its present condition "as is." Tenant acknowledges that it has had full opportunity to examine the Property and obtain knowledge of the physical condition of the Property, its title, zoning, present uses, streets, sidewalks, parking areas, curbs and access thereto. Except as expressly set forth in this Lease, Landlord shall have no responsibility to make any improvements or repairs to the Property.

4. Tenant's Work; Improvements.

4.1. Landlord's Work. Landlord is not required to modify the Property or construct site improvements.

4.2. Tenant's Work. Tenant agrees to improve the Property by constructing an 18-hole golf course that will play a minimum of 18 holes by way of a proprietary routing plan of 6,200 yards ("Tenant's Work"), consisting of the Project Improvements and Project Improvements Work as described on **Exhibit C** attached hereto. Tenant agrees to commence Tenant's Work within 75 days of the Effective Date and to diligently prosecute Tenant's Work to completion.

4.2.1 Tenant shall complete Tenant's Work within eighteen (18) months of the execution of this agreement.

4.2.2 Following the completion of the Project Improvements and the initial public opening of the golf course, Tenant agrees to provide a golf course which remains open to the public throughout the Lease Term, subject to:

(a) short-term scheduled closures for routine maintenance (not to exceed 30 days in any calendar year); and

(b) such unscheduled closures as may be necessary (i) to repair, restore or rebuild buildings or other substantial structures included in the Improvements that are damaged by fire or other perils, pursuant to Section 13 (unless Tenant terminates the Lease in accordance with such Section 13), or (ii) to repair or restore other parts of the Property that are damaged by fire or other perils, if Tenant deems such repair or restoration necessary; and subject to Section 12.2.1.

4.2.3. Plans and Specifications. Tenant shall submit to Landlord initial plans and specifications for Tenant's Work, prior to Tenant's commencement thereof. Landlord shall have 20 days following receipt of the initial plans and specifications (or any modification thereof) to provide Tenant with Landlord's comments, which shall be reasonably considered by Tenant. As required by Law, Tenant shall perform all Tenant's Work in accordance with the applicable requirements of Governmental Authorities. Tenant shall obtain all Permits required in connection with Tenant's Work and the New Improvements (as defined below).

4.2.4 Facility Improvements and Additions. Tenant shall submit to Landlord any plans and specifications for modifications to existing buildings or facilities, and construction of new buildings or facilities on the Property. Landlord shall have 30 days after the submission of such plans to approve or disapprove.

4.3. Improvements. As used herein, "Improvements" shall collectively mean (a) the Existing Improvements, and (b) all Improvement Items that are added, installed or constructed on or under the Property as a result of Tenant's Work (being the "Project Improvements" described on **Exhibit C** attached hereto and incorporated herein by this reference). The Project Improvements shall be the property of Tenant during the Lease Term. Upon the expiration of the Lease Term or earlier termination of this Lease, all right, title and interest to the Project Improvements shall automatically vest in the Landlord.

5. Rent.

5.1. Rent. Provided this Lease is not terminated in accordance with the provisions of this Lease, Tenant shall pay annual rent, without deduction, set-off, prior notice or demand, in the amount of One Dollar (\$1.00) ("Rent"). All Rent shall be due and payable on the first day of each Lease Year throughout the Lease Term.

5.2. For purposes of this Lease, a "Lease Year" shall commence on April 1 and end on March 31 of the next year, but shall not extend beyond the termination date.

5.3. Utility Charges. Tenant shall be responsible for all utilities and services provided to Tenant at the Property and agrees to pay, prior to delinquency, all charges for electricity, gas, water, sewage, and/or all other public and private services or charges used by or through Tenant at the Property, excluding any charges or services provided to or incurred by Landlord or its affiliates.

6. Use.

6.1. Permitted Use. Tenant shall use and occupy the Property only for (a) a public golf course, and (b) such golf-related retail purposes (which may include the subleasing of property to other retail businesses), including a potential golf entertainment venue, in each case as may be developed by Tenant with Landlord's prior written consent and subject to zoning regulations, which consent will not be unreasonably withheld or delayed, pursuant to separate development agreements (collectively, the "Permitted Use").

6.2. Compliance with Laws. Tenant shall comply with all Laws now in force or that may hereafter be in force with respect to the Tenant's use and occupancy of the Property.

6.3. Hazardous Materials. "Hazardous Materials" shall mean any matter (whether gaseous, liquid or solid) which is now or hereafter designated as a hazardous or toxic waste or substance under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC 9601, et seq., all as now or hereafter amended, or which may now or hereafter be regulated under any other Law pertaining to health, industrial hygiene or the environment, including (a) any asbestos and/or asbestos containing materials (collectively "ACMs") regardless of whether such ACMs are in a friable or non-friable state; (b) any matter designated as a hazardous substance pursuant to Section 311 of the Federal Water Pollution Control Act (33 USC 1317); (c) any matter

defined as a hazardous waste pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, (42 USC 6901, et seq.) pertaining to health or the environment; and (d) petroleum and petroleum products. "Hazardous Materials" shall not include ordinary cleaning and maintenance products which are used with due care and in accordance with applicable Law and the instructions of the manufacturer of such products in the reasonable and prudent conduct of the business conducted on the Property.

6.3.1. Tenant shall not store, use, sell, release, generate or dispose of any Hazardous Materials in, on or about the Property without the prior written consent of Landlord.

6.3.2. If, during the course of construction of Tenant's use or occupancy of the Property, Tenant discovers Hazardous Materials on or beneath the Property, Tenant shall promptly notify Landlord. Landlord shall pay the cost of remediation, monitoring and disposal of any such Hazardous Materials.

6.4 Landlord shall have the right to reserve the Clubhouse for City events at least 12 days per calendar year, at no expense to Landlord. Landlord must provide at least 30 days' notice prior to reservation dates.

7. Alterations.

7.1 Tenant may make such alterations, additions and improvements to the Property or the Improvements as are within the scope of Tenant's Work.

8. Maintenance of Premises.

8.1. Maintenance and Repair by Tenant. During the Lease Term, Tenant shall maintain the entirety of the Property (including its principal components), including the Improvements (including the roof, foundation, water, sewer and gas connections, pipes and mains, plumbing, heating and ventilation, and electrical systems of the Improvements), in good, operational condition for the conduct of Tenant's business at the Property, ordinary wear and tear, damage by eminent domain and damage or destruction of the Property excepted. All repair work shall be done in a good and workmanlike manner. Tenant shall not commit waste with respect to the Property.

8.1.1 Maintenance Bond. Tenant shall execute a Maintenance Bond in a minimum sum of \$6,000,000.00. The Bond shall be for one year from the completion of Project Improvements, shall be payable to Landlord and on forms approved by Landlord, and shall be executed by a corporate surety in accordance with Article 7.19-1 of the Texas Insurance Code. It is agreed that this Lease shall not be in effect until such original Maintenance Bond is delivered to and approved by Landlord. The bond shall be issued by a Texas Department of Insurance approved surety company and be in effect.

8.2. Repairs by Landlord. Landlord shall not be responsible for maintaining, repairing, restoring or replacing any part of the Property; provided, however, that Landlord, at its sole cost, shall be responsible for maintaining, repairing, restoring or replacing, as necessary, any pipes, mains, taps, meters or other facilities installed by Landlord for water, sanitary sewer or storm sewer service to or from the Property.

8.3. Surrender of Property. Upon expiration or earlier termination of this Lease, Tenant shall surrender the Property to Landlord as set forth in Section 4.3. Upon such expiration or earlier termination, Tenant may remove from the Property all of Tenant's furniture, equipment, trade fixtures, signs, inventory and other personal property. Any of Tenant's personal property left on the Property by Tenant for 90 days after expiration or earlier termination of this Lease shall conclusively be considered abandoned, and Landlord will be entitled to use or dispose of such property free of any interest of Tenant.

8.4 Golf Course Size. Over the Lease Term, Tenant shall not decrease the size of the golf course.

8.5. Annual Rounds Played. Within 30 days after the fifth anniversary of the Effective Date, Tenant shall notify Landlord of the total number of rounds played on the golf course during each of the first five Lease Years, and the numerical average (rounded to the nearest whole number) of such five numbers (the "Average Annual Rounds Number"). During each of the remaining 35 Lease Years, Tenant shall cause the number of rounds played during such Lease Year to be no less than 50% of the Average Annual Rounds Number.

9. Liens.

9.1. Tenant shall keep the Property free from any liens arising out of any work performed, materials furnished or obligations incurred by Tenant. If any lien is filed against the Property as a result of action or inaction of Tenant, Tenant, upon written demand by Landlord, shall obtain a release of such lien, including by posting a bond in accordance with applicable Law, or posting other security in form and amount acceptable to Landlord; provided, however, that Tenant may contest any lien that it regards as improper or invalid, provided that it pursues such contest with due diligence.

9.2. Landlord hereby waives any "Landlord's" lien, whether statutory, contractual, implied or otherwise, on Tenant's property.

10. Assignment and Subletting.

10.1. Transfers Prior to Completion of Tenant's Work. Sections 10.1.1 and 10.1.2 shall only apply to Transfers (as defined below) occurring prior to completion of Tenant's Work.

10.1.1. Landlord's Right of Consent. Subject to Section 10.1.2, Tenant shall not transfer, assign or sublet any part of this Lease or Tenant's interest in the Property (collectively, "Transfer") without first obtaining Landlord's written consent, which shall not be unreasonably withheld or delayed. Should Tenant desire to make a Transfer hereunder, Tenant shall give Landlord 30 days prior written notice thereof ("Transfer Notice"), which shall (a) state that Tenant intends to Transfer the Lease as of a specific date (the "Transfer Date"); (b) identify the proposed transferee; and (c) set forth all material terms and conditions of the proposed Transfer. If Landlord fails to grant or deny its consent to such Transfer within 30 days after its receipt of such Transfer Notice, Landlord shall be deemed to have granted such consent.

10.1.2 Transfers to Tenant Affiliate. Notwithstanding Section 10.1.1, Tenant may make a Transfer to a Tenant Affiliate without Landlord's consent. "Tenant Affiliate" means any other Person directly or indirectly controlling, directly or indirectly controlled by or under

direct or indirect common control with Tenant. As used in this definition, the terms "control," "controlling," or "controlled by" shall mean the possession, directly or indirectly, of the power either to (a) vote fifty percent (50%) or more of the securities or interests having ordinary voting power for the election of managers (or other comparable controlling body) of Tenant or (b) direct or cause the direction of management or policies of Tenant, whether through the ownership of voting securities or interests, by contract or otherwise, excluding in each case any lender of Tenant or any affiliate of such lender. Tenant must provide Landlord written notice of any transfer of interest at least 30 days prior to transfer. Such notice shall include a statement detailing Tenant's control of Tenant Affiliate.

10.2. Requirements Applicable to all Transfers. This Section 10.2 shall apply to all Transfers permitted by this Section 10, whether occurring (x) prior to completion of Tenant's Work (whether by Landlord's consent or because the transferee is a Tenant Affiliate), or (y) after completion of Tenant's Work. A Transfer shall not be valid or effective unless and until Tenant delivers to Landlord (a) a copy of the executed assignment, sublease or other Transfer instrument; and (b) a written agreement executed by the transferee, in form and substance reasonably satisfactory to Landlord, pursuant to which, (i) in the case of an assignment, the assignee assumes all of the obligations and liabilities of Tenant under this Lease, and (ii) in the case of a sublease or other Transfer, the subtenant or other transferee agrees that such Transfer shall be subject to all of the covenants, terms and conditions of this Lease. Without limiting the generality of clauses (b)(i) and (b)(ii) of the foregoing sentence, the transferee shall expressly acknowledge and agree that it is subject to the restrictions on the use of the Property set forth in the definition of "Permitted Use." In addition, any sublease shall expressly provide that, in the event of a default by the subtenant, the sublease may be directly enforced by Landlord if Tenant fails to exercise its enforcement rights as sublandlord within 10 days after written notice from Landlord. Any Transfer other than as permitted in this Section 10 shall be null and void.

10.3. Notwithstanding the above, acceptance of any payment of rent and other charges by Landlord from any Person other than Tenant shall not be deemed a consent to a Transfer or a waiver of any of Landlord's rights regarding any proposed Transfer hereunder.

10.4. Nothing in this Section 10 shall prohibit Tenant from entering into any franchise, license, construction, concession, management, operation or similar agreement with any Person with respect to the Property or Tenant's Work, or pledging, mortgaging, hypothecating or other encumbering this Lease or Tenant's leasehold interest in the Property.

10.5 Any violation of the provisions of this Lease by any entity possessing an interest in the Property from Tenant, or from a Tenant Affiliate, will be considered a violation by Tenant and could be considered a Tenant default.

11. Insurance and Indemnity.

11.1. The insurance coverage herein shall, at a minimum, meet the following requirements:

11.1.1 Commercial General Liability

- General Aggregate: \$2,000,000
- Per Occurrence: \$1,000,000

- Coverage shall be broad form CGL
- No coverage shall be deleted from standard policy without notification of individual exclusions being attached for review and acceptance
- Waiver of Subrogation required.

11.1.2 Business Automobile Policy

- Combined Single Limits: \$1,000,000
- Coverage for "Any Auto"
- Waiver of Subrogation required.

11.1.3 Professional Liability

- Limit: \$1,000,000
- Claims-made form is acceptable
- Coverage will be in force for two (2) years after construction of the project is completed.

11.1.4 Workers' Compensation

- Statutory Limits
- Employer's Liability \$1,000,000
- Waiver of Subrogation required.

11.2 Prior to any work being performed on the site, the Tenant shall file with Landlord valid certificates of insurance and endorsements acceptable to Landlord. Such certificates shall contain a provision that coverage afforded under the policies will not be canceled, suspended, voided, or reduced until at least 30 days prior written notice has been given to Landlord via certified mail, return receipt requested.

11.3 The Tenant shall also file with Landlord valid certificates of insurance covering all subconsultants.

11.4 The following are general requirements applicable to all policies:

- All liability policies shall have an AM Best Rating of A-: VII or better.
- Insurance carriers licensed and admitted to do business in State of Texas will be accepted.
- Landlord, its officers, agents and employees are to be added as Additional Insureds to all liability policies, with the exception of the Errors and Omissions Policy required herein.
- Upon request of and without cost to City of Baytown, certified copies of all insurance policies and/or certificates of insurance shall be furnished to City of Baytown's representative. Certificates of insurance showing evidence of insurance coverage shall be provided to City of Baytown's representative prior to any work being performed at the site.
- Upon request of and without cost to City of Baytown, loss runs (claims listing) of any and/or all insurance coverage shall be furnished to City of Baytown's representative.

11.5. Indemnification.

11.5.1. TENANT AGREES TO AND SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LANDLORD, ITS OFFICERS, AGENTS, AND EMPLOYEES (HEREINAFTER REFERRED TO AS THE "LANDLORD PARTIES") FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, FOR DAMAGE TO ANY PROPERTY, OR FOR ANY BREACH OF CONTRACT, ARISING OUT OF OR IN CONNECTION WITH THE SERVICES PERFORMED BY THE TENANT UNDER THIS LEASE TO THE EXTENT CAUSED BY THE NEGLIGENCE OF TENANT. IN THE EVENT THAT ANY ACTION OR PROCEEDING IS BROUGHT AGAINST A LANDLORD PARTY FROM WHICH SUCH LANDLORD PARTY IS INDEMNIFIED, THE TENANT FURTHER AGREES AND COVENANTS TO DEFEND THE ACTION OR PROCEEDING BY LEGAL COUNSEL ACCEPTABLE TO THE LANDLORD PARTY.

The indemnity provided hereinabove shall survive the termination and/or expiration of this Agreement.

12. Tenant's Default.

12.1. Default. The occurrence of any one or more of the following events shall constitute a "Default" under this Lease by Tenant.

12.1.1. Failure to Pay Rent. The failure by Tenant to pay Rent when due, where such failure shall continue for a period of 14 days after written notice thereof by Landlord to Tenant.

12.1.2. Failure to Perform. The failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by the Tenant, where such failure shall continue for a period of 30 days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of Tenant's Default is such that more than 30 days are reasonably required for its cure, then Tenant shall not be deemed to be in Default if Tenant commences such cure within said 30-day period and thereafter diligently prosecutes and completes such cure within 120 days.

12.1.3. Bankruptcy. The making by Tenant of any general assignment or arrangement for the benefit of creditors; or by the filing by or against Tenant of a petition to have Tenant adjudged bankrupt; or a petition for reorganization or arrangement under any Law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within 60 days of filing); or the appointment of a trustee or a receiver to take possession of substantially all of Tenant's assets located at the Property or of Tenant's interest in this Lease, where such seizure is not discharged in 60 days after appointment of said trustee or receiver, or the filing of the petition for the appointment of the same, whichever shall first occur.

12.2. Landlord's Remedies for Tenant's Default.

12.2.1. Upon the occurrence of a Default by Tenant under Section 12.1, Landlord shall have the following rights and remedies:

12.2.1.1. To terminate this Lease and Tenant's right of possession of the Property by giving notice of such election to Tenant, in which event Tenant shall immediately surrender possession thereof to Landlord; or

12.2.1.2. To terminate Tenant's right of possession of the Property without terminating this Lease by giving notice of such election to Tenant, in which event (a) Tenant shall immediately surrender possession thereof to Landlord, failing which Landlord may exercise the right of reentry, and (b) Landlord shall have the right to occupy the Property for and on account of Tenant and to collect any unpaid Rent and other charges which have or may thereafter become due and payable; or

12.2.1.3. To exercise the rights described above and thereafter elect to terminate this Lease and all of Tenant's rights in or to the Property by giving notice of such election to Tenant.

12.3. Remedies Cumulative – Waiver. Landlord's remedies hereunder are cumulative, and Landlord's exercise of any right or remedy due to a Default by Tenant shall not be deemed a waiver of, or to alter, affect or prejudice any right or remedy which Landlord may have under this Lease or by Law.

13. Reconstruction. In the event any buildings or other substantial structures included in the Improvements are damaged by fire or other perils, Tenant shall (i.e., using its reasonable best efforts to accomplish the work in question with commercially reasonable promptness) repair, restore and rebuild the same (or other structures more suitable to Tenant's then-intended use of the Property), and this Lease shall remain in full force and effect. The portion of proceeds of any insurance required to be maintained under Section 11.1 regarding the value of a Tenant Improvement or other Tenant asset damaged or destroyed shall be delivered to Tenant if Tenant undertakes such repair, restoration or rebuilding. Notwithstanding the foregoing, in the event of a fire or other casualty occurring where there is: (a) damage to such buildings included in the Improvements in such an amount that the use and occupancy of such buildings is materially impaired, such that Tenant determines in its sole discretion to abandon the Property; or (b) there is less than two years remaining in the Lease Term, Tenant shall have the right to terminate the Lease effective as of the date of fire or other casualty by written notice to Landlord. If Tenant elects to terminate this Lease under the preceding sentence, then Tenant shall demolish and remove all debris from the Property within 120 days after Tenant's notice, and the proceeds of any insurance required to be maintained under Section 11.1 shall be delivered to Landlord.

14. Holding Over. Unless otherwise agreed to by Landlord in writing, any holding over by Tenant after the expiration of the Lease Term or earlier termination of this Lease, with or without Landlord's consent, shall be construed to be a tenancy from month-to-month with the Rent applicable to the last full month during the Lease Term immediately prior to such holdover period. Such holdover tenancy shall be subject to all of the terms and conditions set forth herein, to the extent not inconsistent with a month-to-month tenancy.

15. Quiet Enjoyment. Subject to compliance with its covenants and obligations under this Lease, Tenant shall have and quietly enjoy the Property for the Lease Term.

16. Miscellaneous.

16.1. No Partnership, Joint Venture. Nothing in this Lease shall be deemed or construed to create a partnership or joint venture between Landlord and Tenant, or between Landlord and any other Person; nor shall Tenant be deemed the Landlord's agent. Landlord shall not be liable for the debts or obligations of Tenant or any other Person as a result of this Lease.

16.2. Successors or Assigns. All the terms, conditions, covenants and agreements of this Lease shall extend to and be binding upon Landlord, Tenant and their respective successors and assigns, and upon any Person coming into ownership or possession of any interest in the Property by operation of law or otherwise, subject at all times, however, to all provisions and restrictions elsewhere contained in this Lease respecting the assignment, transfer, encumbering, or subletting of all or any part of the Property or Tenant's interest in this Lease.

16.3. Partial Invalidity. If any term, covenant or condition of this Lease or the application thereof to any Person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by Law.

16.4. Recording. At Tenant's request, Landlord and Tenant shall execute, and Tenant shall record in the Official Public Records of Real Property of Harris County, Texas, a memorandum of this Lease describing the Parties, the Property, the Lease Term and any other provisions reasonably required, shall incorporate this Lease by reference, and shall specify that any inconsistency between the memorandum of lease and this Lease shall be resolved in favor of this Lease.

16.5. Notices. All notices and other communications hereunder shall be in writing and shall be deemed given if (a) delivered personally, (b) sent by email, (c) mailed by registered or certified mail (return receipt requested), or (d) sent by Federal Express or other recognized overnight courier guaranteeing next Business Day delivery, to the parties at the following addresses or email addresses:

Notices to Landlord:

City of Baytown, Texas
Attn: City Manager
2401 Market Street
Baytown, TX 77520
Email: CityManager@baytown.org

Notices to Tenant:

Build Baytown I, LLC
Attn: Rio Valeriano
P.O. Box 950
Lenoir City, TN 37771
Email: riovaleriano@gmail.com

with a copy to:

Cokinos | Young
Attn: Philip M. Kinkaid
1221 Lamar Street, 16th Floor
Houston, TX 77010
Email: pkinkaid@kinkaidlaw.com

Any of the above addresses or email addresses may be changed at any time by notice given as provided above; provided, however, that any such notice or change of address shall be effective only upon receipt. All notices, requests or instructions given in accordance herewith shall be deemed received on the date of delivery, if hand delivered; on the date sent by email (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient on the date of receipt; two Business Days after mailing, if mailed by registered or certified mail, return receipt requested; and one Business Day after the date of sending, if sent by FedEx or other recognized overnight courier for guaranteed overnight delivery.

16.6. Time. Time is of the essence of this Lease and each and all of its provisions in which performance is a factor. All periods of time referred to herein shall include all calendar days, unless the provision specifies Business Days; provided that if the date to perform any act or give any notice shall fall on a day that is not a Business Day, such act or notice may be timely performed or given on the next succeeding Business Day.

16.7. Amendments. This Lease may only be amended by an agreement in writing signed by both Parties.

16.8. Force Majeure. This Lease and the obligations of either Party hereunder, other than obligations to pay Rent or other sums of money, shall be excused if such Party is unable to fulfill any of its obligations hereunder or is delayed in doing so, but only if such inability or delay is caused by reason of strike, labor troubles, acts of God, hurricanes, tornadoes, floods, shortages of labor or materials, war, terrorist acts, civil disturbances, pandemics, epidemics, or any other cause beyond the reasonable control of the obligated Party; provided, however, such excused performance shall only be for that period of time that the cause of such inability or delay shall exist.

16.9. Choice of Law. This Lease, and all matters arising under or relating to this Lease, shall be governed by and construed in accordance with the internal Laws of the State of Texas.

16.10. Broker's Commission. Each Party represents and warrants to the other Party that it has incurred no liabilities or claims for brokerage commissions or finder's fees in connection with the

execution of this Lease, and that it has not dealt with and has no knowledge of any other real estate broker, agent or salesperson involved in any way with this Lease. Landlord and Tenant agree to indemnify, defend and hold each other harmless from all such liabilities or claims (including attorneys' fees) arising out of any contractual or other obligation alleged to exist between the indemnifying Party and any other real estate broker, agent or salesperson.

16.11. Interpretation; Definitions.

16.11.1. Each Party and its counsel have actively participated in the negotiation of this Agreement. Consequently, the rule that ambiguous provisions of a contract should be interpreted against their drafter shall not apply to this Agreement.

16.11.2. As used in this Agreement:

- (a) "Business Day" means any day other than a Saturday, Sunday, or national holiday.
- (b) "Governmental Authority" means a federal, state, local or foreign government or governmental subdivision, agency, court, department, commission, board, bureau, or other instrumentality.
- (c) "including" means "including without limitation", and its grammatical derivatives have equivalent meanings.
- (d) "Law" means a statute, law, code, constitution, treaty, rule, regulation, ordinance, common law, or other requirement or rule of law of a Governmental Authority.
- (e) "Permit" means a permit, license, approval, authorization or similar approval issued by an applicable Governmental Authority.
- (f) "Person" means (i) an individual; (ii) a limited liability company, corporation, partnership, limited partnership, business trust, trust, estate, association, or other entity, or a series of an entity; or (iii) a Governmental Authority.
- (g) "Proceeding" means (i) a lawsuit, action, investigation, litigation, or other proceeding by or before any court or other Governmental Authority, whether at law or in equity, and whether civil, criminal, administrative, in bankruptcy or otherwise; or (ii) an arbitration proceeding.

16.12. Dispute Resolution; Exclusive Venue; Waiver of Jury Trial. If a dispute between the Parties arises out of or is related to this Agreement, or the breach of this Agreement, and if the dispute cannot be settled through direct discussions, the Parties may agree to first endeavor to settle the dispute in an amicable manner by mediation under the Commercial Mediation Rules of the American Arbitration Association.

16.13. Execution by Tenant and Landlord. No contractual or other rights shall exist or be created between Landlord and Tenant until all Parties have executed this Lease and fully executed copies have been delivered to Landlord and Tenant. This Lease may be executed in counterparts, including executed counterparts exchanged by email or other electronic means.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Lease as of the Effective Date.

LANDLORD:

CITY OF BAYTOWN, TEXAS, a municipal corporation

BY:

RICHARD L. DAVIS,
City Manager

ATTEST:

ANGELA JACKSON
City Clerk

APPROVED AS TO FORM:

TREVOR FANNING
Interim City Attorney

TENANT:

BUILD BAYTOWN I, LLC, a Texas limited liability company

By:

AURELIO R. VALERIANO
Manager

EXHIBIT A

LEGAL DESCRIPTIONS OF LAND AND OPTION TRACT

The "Land," and the "Option Tract" consist of the following respective portions of the land situated in the William Scott Lower League, Abstract 65, Harris County, Texas, conveyed to Landlord by Texas Capital Development Corporation, Inc. pursuant to that certain Warranty Deed, dated February 2, 2016 and recorded on February 4, 2016 under County Clerk's File No. RP-2016-47903 in the Official Public Records of Real Property of Harris County, Texas (the "Vesting Deed"):

Land

The "Land" consists of:

- (a) that certain tract of land, consisting of 105.7326 acres, designated as "Tract I" in the Vesting Deed, and being described on Exhibit A to the Vesting Deed ("Initial Tract I");
- (b) LESS AND EXCEPT, however, the Option Tract (as described below).

Option Tract

The "Option Tract" consists of the following portions of Initial Tract I:

- (a) that certain 0.3644 acre parcel over which Texas Capital Development Corporation, Inc. reserved a perpetual, non-exclusive easement in the Vesting Deed for certain roadway, utility and drainage improvement purposes, said 0.3644 acre parcel being designated as the "Easement Area" in the Vesting Deed, and being described on Exhibit C to the Vesting Deed; and
- (b) that portion of Initial Tract I that lies northeasterly of said 0.3644 acre "Easement Area."

EXHIBIT B

DEPICTION OF LAND AND OPTION TRACT

The Land and the Option Tract are depicted on the following page (the "Depiction"), which is a survey map prepared soon before Landlord acquired such land pursuant to the Vesting Deed (as defined in Exhibit A to this Lease).

There are relatively small discrepancies between the Depiction and the Vesting Deed in the metes-and-bounds calls for a small number of boundary-line segments. The affected segments are indicated on the Depiction. There are also very small discrepancies between the Depiction and the Vesting Deed in certain acreage calculations. None of these acreage discrepancies is greater than 0.2 acres.

Notations on the Depiction regarding "Tract II," shown as consisting of 12.5430 acres, are not relevant and should be ignored.

[See following page]

EXHIBIT C

PROJECT IMPROVEMENTS AND PROJECT IMPROVEMENTS WORK

This property development shall be for an 18-hole golf course located at 1530 Evergreen Road, Baytown, Texas.

The course shall exceed 6,200 yards and include new/improved water features, and incorporate the existing clubhouse into the new development.

The golf course will have the ability to route 18 holes of golf without sacrificing the integrity of the game within the limits of the Landlord survey as demonstrated in Exhibit B of the request for proposals.

The following course features shall be a part of the development:

- At least two holes on the front nine holes and at least two holes along the back nine holes as true Par 5 holes
- Remaining holes to be blended into 3, 4 and 5 par holes
- Design to include rough and fine grading
- Soil amendments
- New irrigation
- Water features
- Landscape design
- Bunkers
- Course seeding
- Landscape work

In addition to the course features, Tenant shall design score cards in accordance with the options provided in the designer's proposal.

The Golf Course Architect (GCA) will be provided with copies of the current plans which will, at a minimum, include the following:

- AutoCAD compatible files showing existing conditions
- Existing golf course layout and grading plans
- Existing golf cart path plan

All golf course plans will be AutoCAD compatible. Landlord anticipates that the GCA will utilize the plans provided with the understanding that the boundaries, water storage volumes and certain other design elements are subject to change.

Changes to golf course grading, sizes, and shapes of golf features (greens, tees, bunkers, fairways, etc.), cart path routing, tree planting, etc., are acceptable. Tenant shall provide a complete set of plans (digital), specifications and construction schedule prior to the Notice to Proceed given by Landlord. The final plan set shall include, at a minimum, grading plans, grassing plan, cart path plan, tree planting plan and a complete course irrigation plan.

Landlord will be providing design and engineering for some infrastructure improvements to the site. The GCA (and sub-consultants, if used) will be responsible for the design from the new infrastructure to the entire new development. The irrigation plans and documents must be designed to allow competitive pricing from Rain Bird, Toro and comparable vendors. The irrigation system is required to be satellite controlled.

The development team and the GCA shall provide certain Construction Administration services throughout the construction period. Site visits should include the completion and distribution of notes summarizing the visit and indicating any discussion of changes, or potential changes to the scope of work.

The irrigation system field layout services shall include GPS locations for all heads, valves, and other components, staked or flagged. A detailed "as-built" of the system will be provided to Landlord upon project completion.

A final walk-thru and punch list for the golf course and irrigation system shall be completed and submitted to Landlord for final approval and prior to opening to the public.

EXHIBIT "2"
FUNDING PROCEDURES

EXHIBIT 2

FUNDING PROCEDURES

1. For each calendar month (“month”) during which Tenant’s Work is performed (which term shall include materials ordered for Tenant’s Work and located either on the Property or at other approved location) (each, a “Work Month”), DEVELOPER shall, on or before the 5th day of the following month (the “Payment Month”), submit an Application for Payment to the CITY on AIA Form G702 (provided, however, that Architect’s Certificate for Payment on such Form G702 shall not be applicable), with continuation sheets on AIA Form G703 (each, an “Application for Payment”).

2. Notwithstanding Paragraph 1, DEVELOPER’s first Application for Payment (the “Initial Application”) shall be for architectural and engineering fees, other professional fees, development fees, and other preliminary costs, in the amount of \$1,000,000. DEVELOPER shall submit the Initial Application to the CITY after execution of the AGREEMENT and the LEASE, and the CITY shall pay the amount of the Initial Application to DEVELOPER within five days after its receipt thereof (the “Initial Payment”).

(a) At DEVELOPER’s option, DEVELOPER may elect to separate the Initial Application into two or more Applications for Payment totaling \$1,000,000, and the CITY shall pay the amount of each such Application for Payment described in this sentence within five days after its receipt thereof. (In that case, each such Application for Payment, and each such payment by the CITY, that are described in the immediately-preceding sentence shall constitute an “Initial Application” and “Initial Payment”, respectively.) Without limiting DEVELOPER’s discretion to separate the Initial Application otherwise, it is currently DEVELOPER’s expectation to submit an Initial Application for \$750,000 on or about the first business day after the AGREEMENT and LEASE are executed, and to submit a second Initial Application for \$250,000 sometime during the latter half of April 2022.

(b) Each Initial Application shall be accompanied by DEVELOPER’s written accounting of how the corresponding Initial Payment will be used, including the name, role, and payment amount for each Person who will receive a portion of such Initial Payment.

3. Each Application for Payment shall specify the payment required to be paid by the CITY (each, a “Progress Payment”), which (except in the case of the Initial Application, which shall be in the amount specified in Paragraph 2) shall be based on the Schedule of Values attached hereto as Exhibit 2-A, as such Schedule of Values may be revised from time to time by DEVELOPER, with the reasonable consent of the CITY, to reflect agreed changes to Tenant’s Work.

4. Each Application for Payment shall be accompanied by conditional lien waivers from each such contractor and supplier. Additionally, beginning with the second Application for Payment, DEVELOPER shall also submit proof of payments.

5. Subject to Paragraph 6 below, the CITY shall pay to DEVELOPER the amount of the Progress Payment, required by each Application for Payment within 15 days of the CITY's receipt of such Application for Payment from; provided, however, that the CITY shall withhold Retainage in accordance with Section 7.

6. The CITY may require any additional information that it reasonably deems necessary and appropriate to substantiate the Application for Payment. The CITY shall have seven days from the date of receipt from DEVELOPER of an Application for Payment to approve or reject any part of the Application for Payment. If the CITY disputes any such amounts, (a) the CITY shall pay the undisputed amounts to DEVELOPER within 15 days of receipt of the Application for Payment; (b) undisputed amounts unpaid after the date on which payment is due shall bear interest pursuant to Texas Government Code Section 2251.025; and (c) disputed amounts shall be resolved in accordance with the following dispute resolution provisions.

(a) Any dispute or pending claim or dispute resolution process between CITY and DEVELOPER shall not excuse or relieve DEVELOPER of its obligations under the AGREEMENT, and DEVELOPER shall diligently prosecute the Work notwithstanding any pending claim, dispute, or dispute resolution process between CITY and DEVELOPER.

(b) The CITY and DEVELOPER will work in good faith to resolve any claims, disputes or other matters in question arising out of or relating to the AGREEMENT, or the breach thereof, in an expeditious manner. If the CITY and DEVELOPER are unable to resolve such claim, dispute or other matter, it shall be subject to mediation as a condition precedent to any other dispute resolution process, including litigation by either Party. Unless mutually agreed otherwise, the mediation shall be conducted in Harris County, Texas by a third party who will be selected by agreement between CITY and DEVELOPER, and a Request for Mediation shall be filed with the other Party. The Parties shall share the mediator's fee and any filing fees equally.

(c) If a claim, dispute or other matter in question between CITY and DEVELOPER involves the work of a subcontractor or supplier, CITY or DEVELOPER may join such subcontractor or supplier as a party to any mediation proceeding between CITY and DEVELOPER hereunder. DEVELOPER shall include in all subcontracts and/or purchase orders related to the Work a specific provision whereby the subcontractor or supplier consents to being joined in mediation between CITY and DEVELOPER involving the work of such subcontractor or supplier.

(d) This Contract shall be governed by the laws of the state of Texas and shall be considered performable in Harris County, Texas, for venue purposes. Further, the CITY and Developer stipulate that venue for any dispute resolution proceeding involving or touching upon the Contract other than the conduct of an arbitration hearing shall be in Harris County, Texas.

7. Notwithstanding any other provision of this Exhibit 2, the CITY shall withhold five percent (5%) of each Progress Payment, other than the Initial Payment(s) ("Retainage"). At such time as the sum of all Progress Payments paid by the CITY to DEVELOPER (including the Initial

Payment(s)) plus all Retainage withheld by the CITY with respect to such Progress Payments, equals \$4,500,000.00 (being 75% of \$6,000,000.00), (a) the CITY's right to withhold any further Retainage shall automatically terminate; and (b) within 15 days after written notice from DEVELOPER, the CITY shall pay to DEVELOPER the amount of all Retainage previously withheld by the CITY.

8. The CITY's obligation to make Progress Payments to DEVELOPER is subject to the following limitations:

(a) the sum of all Progress Payments made by the CITY shall not exceed \$6,000,000.00; and

(b) for any specific Work Month through October 2022, the Progress Payment made by the CITY shall not exceed the difference between (a) the cumulative sum of the "Monthly Cap" (as specified in the table attached hereto as Exhibit 2-B) for such Work Month and for all preceding Work Months, minus (b) the cumulative sum of Progress Payments previously made by the CITY for all preceding Work Months (as adjusted to take account of any disputed amounts); and in any event the Progress Payment for any specific Work Month shall not exceed the amount specified in the Application for Payment for such Work Month. References in this Paragraph 8 to Progress Payments shall include Retainage pursuant to Section 7.

9. In addition to Progress Payments, the CITY shall pay the cost of each construction performance and payment bond required in Section 3.1(b) of the AGREEMENT and the maintenance bond required in the Lease, but the total cost of all such bonds required to be paid by the CITY shall not exceed EIGHTY THOUSAND AND NO/100 DOLLARS (\$80,000.00). DEVELOPER shall notify the CITY of the cost of each such bond, and furnish a copy of the applicable surety's invoice (or other document) setting out such cost. The CITY shall pay such cost directly to the applicable surety company issuing such bond within 10 days after receipt of such notice from DEVELOPER.

EXHIBIT 2-A

SCHEDULES OF VALUES

APPLICATION AND CERTIFICATE FOR PAYMENT AIA DOCUMENT G702 PAGE ONE OF PAGES

TO (OWNER): PROJECT: APPLICATION NO: Distribution to:
 OWNER
 ARCHITECT
 CONTRACTOR

PERIOD TO:

FROM (CONTRACTOR): VIA (ARCHITECT): ARCHITECT'S PROJECT NO:

CONTRACT FOR: CONTRACT DATE:

CONTRACTOR'S APPLICATION FOR PAYMENT

CHANGE ORDER SUMMARY		ADDITIONS	DEDUCTIONS
Change Orders approved in previous months by Owner	TOTAL		
Approved this Month			
Number	Date Approved		
TOTALS			

Net change by Change Orders

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for work which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:

By: _____ Date: _____

Application is made for Payment, as shown below, in connection with the Contract, Continuation Sheet, AIA Document G703, is attached

1 ORIGINAL CONTRACT SUM	\$ 6,000,000
2 Net change by Change Orders	\$ 0
3 CONTRACT SUM TO DATE	\$ 6,000,000
4 TOTAL COMPLETED & STORED TO DATE (Column G on G703)	\$ _____
5 RETAINAGE	
a. 5% of Completed Work (Column D + E on G703)	\$ _____
b. _____% of Stored Material (Column F on G703)	\$ _____
Total Retainage (Line 5A + 5b or Total in Column I of G703)	\$ _____
6 TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5 Total)	\$ _____
7 LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificates)	\$ _____
8 CURRENT PAYMENT DUE	\$ _____
9 BALANCE TO FINISH, PLUS RETAINAGE (Line 3 less Line 6)	\$ _____

State of: _____ County of: _____
 Subscribed and sworn to before me this _____ day of _____
 Notary Public:
 My Commission expires: _____

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$ _____
 (Attach explanation if amount certified differs from the amount applied for)
 ARCHITECT:

By _____ Date: _____
 This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CONTINUATION SHEET

AIA DOCUMENT G703

PAGE OF PAGES

AIA Document G702, APPLICATION AND CERTIFICATE FOR PAYMENT, containing

APPLICATION NUMBER: 001

Contractor's signed Certification is attached

APPLICATION DATE February 1, 2022

In tabulation below, amounts are stated to the nearest dollar.

PERIOD TO 01/15/2022-02/15/2022

Use Column I on Contracts where variable retainage for the line items may apply

ARCHITECT'S PROJECT NO: 101

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G TOTAL COMPLETED AND STORED TO DATE (D+E+F)		H BALANCE TO FINISH (C-G)	I RETAINAGE
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD		% (G+C)			
1	A&E Fees, Development Fees, Mgt	\$ 750,000							
2	Pre-Construction /Mobilization/Grading Staking	\$ 438,428							
3	Clearing and Grubbing	\$ 6,199,966							
	Mass Clearing								
	Spray and Till Existing Vegetation & Turf								
	Earthrock - No Rock Clause								
	Lake De-mucking & Reshaping & Finishing								
4	Drainage structures around 18 greens	\$ 110,750							
5	Irrigation System								
	PVC System	\$ 988,428							
	Intake, Wet Well & Concrete work	\$ 50,000							
	Pump Station work & re-furbishing	\$ 150,000							
	Pump Station Enclosure Construction	\$ 15,000							
6	Tee Box Construction	\$ 137,928							
	Laser level sub-grade finish								
	2 inch sand capping prior to seeding								
	Laser level finish grade								
7	Bunker Construction	\$ 418,428							
	bunker edging								
	4 inch perforated piping system								
	4 inches sand capping with premium sand								
8	California Green Construction	\$ 758,428							
	Float Sub-grade								
	No greens barrier lines								
	4 inches perforated pipe system								
	Sand layer application & float finish grading								
9	Cart Path Construction	\$ 612,250							
	7 foot wide 4 inches thick								
10	Grassing	\$ 80,000							
	Greens with Tif Eagle Sprigs	\$ 27,501							
	Tees with Celebration Sprigs	\$ 194,981							
	Fairways and rough with Tif 419 Sprigs	\$ 219,108							
	Sodding with Tif 419								
11	Practice Field - Putting Service & Driving Range								
	Spray & Till Existing Vegetation / Turf	\$ 8,500							
	Rough / Finish Shaping	\$ 18,750							
	PVC Irrigation System	\$ 338,428							
	Tee Box Construction (base/sprigs/fairway)	\$ 88,136							
12	TOTAL DEVELOPMENT COST	\$6,000,000							

[See enlargement of Columns A, B and C on next page.]

A	B	C
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE
1	A&E Fees, Development Fees, Mgt	\$ 750,000
2	Pre-Construction /Mobilization/Grading Staking	\$ 438,428
3	Clearing and Grubbing	\$ 6 19,956
	Mass Clearing	
	Spray and Till Existing Vegetation & Turf	
	Earthwork - No Rock Clause	
	Lake De-mucking & Reshaping & Finishing	
4	Drainage structures around 18 greens	\$ 110,750
5	Irrigation System	
	PVC Systemt	\$ 988,428
	Intake, Wet Well & Concrete work	\$ 50,000
	Pump Station work & re-furbishing	\$ 150,000
	Pump Station Enclosure Construction	\$ 15,000
6	Tee Box Construction	\$ 137,928
	Laser level sub-grade finish	
	2 inch sand capping prior to seeding	
	Laser level finish grade	
7	Bunker Construction	\$ 418,428
	bunker edging	
	4 inch perforated piping system	
	4 inches sand capping with premium sand	
8	California Greens Construction	\$ 738,428
	Float Sub-grade	
	No greens barrier liner	
	4 inches perforated pipe system	
	Sand layer application & float finish grading	
9	Cart Path Construction	\$ 612,250
	7 foot wide 4 inches thick	
10	Grassing	
	Greens with Tif Eagle Sprigs	\$ 80,000
	Tees with Celebration Sprigs	\$ 22,501
	Fairways and rough with Tif 419 Sprigs	\$ 194,981
	Sodding with Tif 419	\$ 219,108
11	Practice Field - Putting Service & Driving Range	
	Spray & Till Existing Vegetation / Turf	\$ 8,500
	Rough / Finish Shaping	\$ 18,750
	PVC Irrigation System	\$ 338,428
	Tee Box Construction (base/sprigs/fairway)	\$ 88,136
12	TOTAL DEVELOPMENT COST	\$6,000,000

ITEM 1: ...February-March

Engineering design development to include cut and fill calculations, balancing the site...geotechnical services consisting of core samples for sump pit design, green complex development and design...irrigation design to include pump control systems, head placements...fairway and routing complexes to include multiple tee systems and their coordination with the fairway landing areas...coordination of drawings with final internal budget development and construction scheduling with critical path development and resource allocation control system establishment...prime and subcontractor contract execution...vendor buyout...renovation designs for Club House and Driving Range complex/irrigation system...

ITEM 2: March-April

Notice to proceed filing followed by mobilization of heaving grading equipment, survey crews staking out course and shooting grades/staking...golf course layout...erosion control systems and security fencing...temporary construction road..temporary tap install...flagging, security camera install...job site trailers installed...

ITEM 3: Aril-May-June

Clearing and grubbing of site to include the cut and filling of site to balance...building of the tee boxes, fairways and green complexes including the scarifying of fairways, tilling procedure and spraying for native invasive vegetation...rough grading of fairways and the beginning of establishing bunkers and waste areas layout of cart paths...

ITEM 4: April-May-June-August-September

Drainage structures cut/excavated consisting of surface swales, sump systems (digging, corrugated piping install, stone drainage) piping systems available for installation

ITEM 5: May-June-August-September-October

Installation of full service irrigation system and their controls to include the pvc pipe system, valves & intakes, wet well completion and misc concrete work...pump station / pump house installation and testing

ITEM 6: August-September-October-November

Fine grading of tee boxes to include laser level use on sub-grade strata...installation of 2 inch sand capping and finish grading prior to seeding

ITEM 7: August-September-October-November

Bunker construction to include digging and bunker edging...drain system installation and piping to collection area and routing to day-lighting areas...premium sand installation

ITEM 8: July-August-September-October-November

California Green construction utilizing a herring bone piping system...floating sub-grade followed by sand layer application and float finish grading prior to seeding process

ITEM 9: October-November-December

Cart path construction to including grading and prep for forming 57 stone and pouring of ready-mix concrete where required for proper routing of golfers through course

ITEM 10: August-September-October-November

Grassing of course might be able to accelerate this process earlier in growing season based on weather constraints...greens will be grassed with Tif Eagle Sprigs and tees with Celebration Sprigs the Fairways and rough with Tig 419 sprigs and sodding certain areas with Tif 419

ITEM 11: December-January -February-March 2023

Practice area, putting service and driving range with irrigation system to include the tilling and spraying rough and finish shaping followed by irrigation system and tee box construction (base/sprigs/fairways)..renovation of the club house late in 2022 beginning of 2023 consisting of FFE, kitchen renovation, flooring, new painting, re-sealing/re-striping, new fencing along entrance and refreshing the landscaping around the club house and front entry with new signage and lighting

EXHIBIT 2-B

MONTHLY MAXIMUM PAYMENTS

Work Month (2022)	Payment Month (2022)	Monthly Cap
Initial Payment(s)		\$1,000,000
April	May	300,000
May	June	350,000
June	July	700,000
July	August	600,000
August	September	600,000
September	October	1,000,000
October	November	600,000