

**RESOLUTION NO. 2010-94**

**JOINT RESOLUTION BY THE PUBLIC WORKS, PARKS AND FACILITIES COMMITTEE AND THE FINANCE AND HUMAN RESOURCES COMMITTEE AUTHORIZING A FIVE YEAR (5) LEASE AGREEMENT WITH AN EXTENSION BETWEEN H & H FAIRWAY ENTERPRISES INC. AND RACINE COUNTY TO MANAGE THE OPERATION OF THE GOLF COURSES AT IVES GROVE AND BROWNS LAKE AND THE WAIVING OF BIDDING REQUIREMENTS**

To the Honorable Members of the Racine County Board of Supervisors:

**BE IT RESOLVED** by the Racine County Board of Supervisors that pursuant to Sec. 7-230 of the Racine County Code of Ordinances, any and all bidding requirements are hereby waived and lease agreement with H & H Fairway Enterprises Inc. for the management of the Racine County golf courses at Ives Grove and Browns Lake is authorized and approved for a period of five (5) years with an option for an additional five (5) years. A copy of said agreement is attached hereto and a copy will be on file with the County Clerk upon execution.

**BE IT FURTHER RESOLVED** by the Racine County Board of Supervisors that said contract, as attached hereto, shall incorporate such terms and conditions as the Corporation Counsel, the Public Works Director and the Finance Director deem necessary and appropriate.

**BE IT FURTHER RESOLVED** by the Racine County Board of Supervisors that the final year (2011) in the current existing contract with H&H Fairway Enterprises Inc. shall be terminated and the new contract will be executed.

**BE IT FURTHER RESOLVED** by the Racine County Board of Supervisors that any two of the County Clerk, the County Executive and/or the County Board Chairman are authorized to execute any leases, contracts, agreements or other documents necessary to carry out the intent of this resolution.

Respectfully submitted,

1st Reading \_\_\_\_\_

**PUBLIC WORKS, PARKS AND FACILITIES COMMITTEE**

2nd Reading \_\_\_\_\_

BOARD ACTION  
Adopted \_\_\_\_\_  
For \_\_\_\_\_  
Against \_\_\_\_\_  
Absent \_\_\_\_\_

\_\_\_\_\_  
Jeff Halbach, Chairman

\_\_\_\_\_  
Gilbert Bakke, Vice-Chairman

VOTE REQUIRED: Majority

\_\_\_\_\_  
Mike Dawson, Secretary

Prepared by:  
Corporation Counsel

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Katherine Buske

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Ken Hall

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Daniel F. Sharkozy

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Donnie Snow

Respectfully submitted,

**FINANCE AND HUMAN RESOURCES  
COMMITTEE**

\_\_\_\_\_  
Robert N. Miller, Chairman

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Mark M. Gleason, Vice-Chairman

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Thomas Pringle, Secretary

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Joseph F. Bellante, Jr.

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Q. A. Shakoor, II

\_\_\_\_\_  
Van H. Wanggaard

\_\_\_\_\_  
John A. Wisch

**The foregoing legislation adopted by the County Board of Supervisors of  
Racine County, Wisconsin, is hereby:**

**Approved:** \_\_\_\_\_

**Vetoed:** \_\_\_\_\_

**Date:** \_\_\_\_\_,

\_\_\_\_\_  
**William L. McReynolds, County Executive**

**INFORMATION ONLY**

**WHEREAS**, the current lease for the operation of the golf courses at Ives Grove and Browns Lake expires as of December 31, 2011; and

**WHEREAS**, it is in the best interest of Racine County to terminate the final year of the existing contract and enter into a new five (5) year agreement with an option for ad additional five (5) years with H&H Fairway Enterprises Inc.

REV:11/10

**LEASE AGREEMENT  
for  
RACINE COUNTY GOLF COURSES  
2011-2020**

**THIS CONTRACT** entered into this 1st day of January, 2011, by and between Racine County, a quasi-municipal corporation, (hereinafter referred to as "**COUNTY**") and Peter J. Eitel and Chad Wilks, d.b.a. H & H Fairway Enterprises, Inc., (hereinafter referred to as "**LESSEE**").

**W I T N E S S E T H:**

**FOR GOOD AND VALUABLE CONSIDERATION**, the parties now agree as follows:

1. **Introduction.**

COUNTY hereby leases the premises to LESSEE pursuant to the terms and conditions set forth herein. The premises are described as follows:

- A. Brown's Lake Golf Course (18 holes) located in the City of Burlington and more particularly described in the map attached hereto as Exhibit "A". (Except tennis courts and tennis pro shop building.)
- B. Ives Grove Golf Links (27 holes) located in the Town of Yorkville and more particularly described in the map attached hereto as Exhibit "B".

The term "premises" refers to the real property above described and to any and all structures and improvement located thereon with those exceptions so stated. LESSEE agrees to provide exclusive services as set out below to the COUNTY and warrants that its services will not be retained by any other public or private golf course entity within Racine County or the five counties surrounding Racine County.

2. **Term of the Lease Agreement**

The initial term of this lease shall be for five (5) years, commencing January 1, 2011 and ending December 31, 2015. At either party's discretion, the agreement may be renewed for additional term of five (5) years, beginning January 1, 2016. Notice to renew or not to renew shall be made by either party to the other in writing no less than twelve (12) months prior to the expiration date.

### 3. Rent

- A. The LESSEE shall pay to the COUNTY as rent for said leased premises a percentage of all gross revenue the LESSEE receives from its operation of the golf course facilities. For the purpose of this proposal, "Gross Revenue" shall be defined as the total of all sums received from all sources derived from golf season revenues which shall include but not be limited to payments received for green fees, passes, driving range, reservation fees, mechanized cart rentals, and pull cart rentals, or any other agreed upon use of premises, such as, simulated driving ranges, leagues, clubhouse(s) rental and usage; excluding sales and use taxes, surcharges, (see item #6), golf lessons, and club repair. "Gross Revenue" shall also include net profit from the sales of pro-shop merchandise and food & beverages. If LESSEE has Business Interruption Insurance, and receives a claim settlement, it shall be included in the gross revenue.
- B. LESSEE may pursue all means of revenue generating advertisements, such as tee signs, scorecards, etc. with written permission of the COUNTY.
- C. Payments of the percentage of the gross revenue shall be made to the COUNTY on or before the twenty-fifth day of each month for services provided and sales made during the previous month. Accompanying each monthly payment, LESSEE shall use the Lease Detail-Monthly (see attachment #1), Lease Detail-Year to Date (see attachment #2), Surcharge Detail-Monthly (see attachment #3) and Surcharge Detail-Year to Date (see attachment #4) forms provided by COUNTY or forms approved by COUNTY to report monthly and year to date sales.
- D. Unless otherwise indicated, those items that pertain to areas concerning Policy, Racine County Resolutions and/or Ordinances, "County" means the Public Works, Parks and Facilities Committee; those items pertaining to rules and regulations, operations and non-policy areas, "County" means Public Works Director or his/her designee.
- E. LESSEE shall not sublet the food and beverage operation without the written permission of the COUNTY and under such terms and conditions as set by the COUNTY.
- F. The clubhouse can be operated year round by the LESSEE for restaurant/bar operations, golf simulator, and for hall rentals. The same rental payment shall apply to these operations.

G. LESSEE shall pay COUNTY the following percentage amounts as rent:

2011	16.5%
2012	16.5%
2013	16.5%
2014	16.5%
2015	16.5%
2016	16.5%
2017	16.5%
2018	16.5%
2019	16.5%
2020	16.5%

**4. Use of Leased Premises**

- A. LESSEE agrees to operate and maintain the leased premises for the purpose of operating a public golf course facility of the highest quality and providing usual services generally provided by golf courses, including regular and group golf play, golf instruction, food and beverage operation, and pro shop, in which golfing equipment and apparel are sold. LESSEE shall have knowledge and understanding of the principles and practices of golf course management and implement and utilize such principles and practices in its operation of the leased facilities.
- B. LESSEE shall equip and operate high quality food and beverage concessions, typical of a public golf course, during the hours of golf operation.
- C. The LESSEE shall continue existing programs, including but not limited to, junior golf activities, adult recreational leagues, school use, outings, and annual and special tournaments, consistent with past traditions. Preference shall be given to league assignments to existing residents-based golf players as program now exists. The LESSEE shall not discontinue said programs or add programs for special interests that totally will exceed one-third (1/3) of the daily tee times without justification to and written approval by the COUNTY. Service to the public is utmost and the COUNTY wishes to continue the excellent golf clientele relationships that are presently in effect.
- D. LESSEE shall enforce current rules and county ordinances pertaining to golf and the use of the clubhouse facilities, such as, party rentals. Any additional rules proposed by LESSEE, shall be approved in writing by the COUNTY prior to their posting. Said approval by the COUNTY shall not be unreasonably withheld.

- E. LESSEE agrees to employ a Class "A" Head Professional/General Manager who shall be a member of The Professional Golfers' Association of America (P.G.A.) LESSEE shall provide the COUNTY with documentation that the Head Professional/General Manager is in good standings with the P.G.A. The P.G.A. Class "A" Head Professional/General Manager shall be satisfactory to the COUNTY and available at the golf courses at all reasonable times during operation of the Lease. Failure to employ a P.G.A. Class "A" Head Professional/General Manager will be deemed a breach of lease. If, at any time, the COUNTY notifies LESSEE that the P.G.A. Class "A" Head Professional/General Manager is not acceptable, LESSEE shall, within 48 hours meet with the COUNTY to make other arrangements or resolve the differences to the satisfaction of the COUNTY. LESSEE will agree, at the request of the COUNTY or its authorized representative, and with the making of specific charges, forthwith to terminate or suspend the employment of any employee whom the COUNTY or such representative considers detrimental to the best interests of the Golf Course or public using same within 48 hours upon receipt of official notice.
- F. LESSEE agrees to employ a Golf Course Superintendent who shall be a member of the Golf Course Superintendents Association of America (G.C.S.A.A.). LESSEE shall provide the COUNTY with documentation that the Golf Course Superintendent is in good standings with the G.C.S.A.A. The G.C.S.A.A. Golf Course Superintendent shall be satisfactory to the COUNTY and available at the Golf Courses at all reasonable times during operation of the Lease. Failure to employ a G.C.S.A.A. certified Golf Course Superintendent will be deemed a breach of lease. If, at any time, the COUNTY notifies LESSEE that the Golf Course Superintendent is not acceptable, LESSEE shall, within 48 hours meet with the COUNTY to make other arrangements or resolve the differences to the satisfaction of the COUNTY. LESSEE will agree, at the request of the COUNTY or its authorized representative, and with the making of specific charges, forthwith to terminate or suspend the employment of any employee whom the COUNTY or such representative considers detrimental to the best interests of the Golf Course or public using same within 48 hours upon receipt of official notice.
- G. LESSEE shall provide sufficient staffing levels with competent employees to adequately manage, maintain and operate the golf courses facilities, including course and equipment maintenance, and shall be obligated to pay all salaries for such employees including the withholding of payroll, social security taxes, workers compensation, and other personal costs which may be required. Said employees shall be competent and able to deal effectively and courteously with the general public in a recreational setting. LESSEE shall further provide adequate training to said employees so that they are able to perform maintenance on the golf course facilities in a good workmanlike manner. Employees of the LESSEE who use and/or direct (supervise) the use of any restricted-use pesticides, must be licensed and

certified pursuant to State of Wisconsin Laws and Regulations. Sufficient employees shall be hired to adequately staff the course at all times the course is open. The LESSEE shall be an Equal Opportunity Employer.

- H. LESSEE shall be obligated to secure and pay for all Federal, State, and Local licenses and permits and pay all sales and excise taxes required for the operation of any food or beverage concession and apparel and equipment sale or rental.
- I. The leased premises shall not be used for any illegal purposes, nor in violation of any valid regulation of any governmental body, nor in any manner to create any nuisance or trespass, nor in any manner which may invalidate the insurance coverage of the leased premises or increase the rate of insurance coverage on the leased premises. All activities must receive written approval by COUNTY.
- J. The COUNTY, at its sole discretion, reserves the right to establish cross-country ski trails on the golf courses during the winter months. The COUNTY shall be liable for any damage done to the golf courses' tees, fairways, or greens resulting from the activity of cross-country skiing.
- K. With mutual agreement, the COUNTY and/or LESSEE reserves the right to control wild animal populations on the golf courses that may become a nuisance or detrimental to the intent of this lease agreement.
- L. LESSEE shall operate the premises as public golf courses, open and available to all persons regardless of race, color, creed, national origin, physical handicaps, and in compliance with each and every federal, state and local discrimination law.
- M. All water for irrigation purposes at Brown's Lake is purchased from the City of Burlington by the LESSEE.
- N. The current irrigation well at Ives Grove has been modified by the COUNTY in order to provide water service to the industrial park as well as to the golf course. The pump house and the water supply well pumps are owned and operated by the Yorkville Water Utility. The irrigation system equipment, also located within the pump house, is owned by the COUNTY. All water for irrigation purposes at Ives Grove is purchased from the Yorkville Water Utility by the LESSEE. If, during the term of this lease, the above referenced water supply well system is connected to the City of Racine Water Utility system, the COUNTY may request ownership of the pump house and pumping equipment from the Yorkville Water Utility. If the COUNTY acquires ownership, for the reasons stated, the operation and maintenance of said pump house and pumping equipment, for irrigation purposes, shall be the responsibility of the COUNTY.

- O. Presently, Brown's Lake Golf Course clubhouse and maintenance buildings are served by separate water supply wells. If, during the term of this lease, the water supply well at the Brown's Lake clubhouse is abandoned and water service is supplied by the City of Burlington, the LESSEE shall be responsible for all water service charges. The COUNTY shall be responsible for the installation cost of the water main extension and clubhouse lateral. The Ives Grove Golf Links clubhouse and service building is supplied by the Yorkville Water Utility. LESSEE shall be responsible for all water service charges.

**5. Golf Course Fees and Charges**

- A. LESSEE shall operate the leased premises as public golf courses.
- B. LESSEE shall establish the 2011 fee schedule based on the approved 2010 fee schedule (see attachment # 5) and the following annual fee increase guidelines.
- C. Fee increases are divided into three (3) categories:
  - 1) LESSEE may increase fees by a percentage not to exceed 1% over the previous year's increase in the Consumer Price Index, National, All Urban Consumers (all items) [CPI] without any COUNTY approval.
  - 2) Any fee increase exceeding 1% over the previous year's increase in the CPI shall require approval of the Racine County Public Works, Parks and Facilities Committee.
  - 3) Any fee increase which exceeds twice the increase in the CPI for the previous year, with November being the last month, must be approved by the full Racine County Board of Supervisors.  
  
If a fee request is made to the Public Works, Parks and Facilities Committee or the County Board, such request must be submitted to the COUNTY on or before March 1<sup>st</sup> of any golf year and substantiated by earnings/loss audit statements or other documented circumstances. Adjusted fees shall be rounded to the nearest five cents.
- D. LESSEE shall have the right to offer discounted fees, seasonal rates, and special group rates, that do not exceed the limits of the approved fee schedule, with the written approval of the COUNTY.
- E. LESSEE shall have the right to adjust other charges relating to the sale of merchandise and other incidental charges as the LESSEE sees fit during the term of the proposed agreement.



- F. The LESSEE and/or the COUNTY shall have the option to provide a fee schedule that incorporates both resident and non-resident fees or a single fee for both resident and non-resident with written approval of the Public Works, Parks and Facilities Committee.
- G. Any new category of fees must be approved in writing by the Public Works, Parks and Facilities Committee.
- H. LESSEE may offer a seasonal pass, for any category, with written approval of the Public Works, Parks and Facilities Committee.
- I. Under no circumstances shall the LESSEE charge a membership fee to golf course patrons.

**6. Golf Course Surcharge**

- A. A surcharge, for golf course improvement purposes, shall be assessed to each nine-hole round of golf of greens fees and to each nine-hole motorized cart rental fee. The present surcharge, through December 31, 2010, is one dollar (\$1.00). The COUNTY has the right to continue a surcharge for the duration of the contract.

The COUNTY has established the following surcharge schedule for the term of the lease:

January 1, 2011	\$1.00
January 1, 2012	\$1.00
January 1, 2013	\$1.00
January 1, 2014	\$1.00
January 1, 2015	\$1.00
January 1, 2016	\$1.00
January 1, 2017	\$1.00
January 1, 2018	\$1.00
January 1, 2019	\$1.00
January 1, 2020	\$1.00

- B. The LESSEE shall keep detailed records of the surcharge with a monthly summary and submit to the COUNTY monthly (see attachments # 3 & 4). The records shall show the number and category of each round of golf played and motorized cart used. This information shall be categorized separately pertaining to Brown's Lake Golf Course and pertaining to Ives Grove Golf Links.
- C. The LESSEE shall pay to the COUNTY the amount collected for the surcharge less the state sales tax, on or before the twenty-fifth day of each month for the previous month. This payment shall be made separately and under different cover from monthly rent payment. Sales tax shall be paid by

LESSEE.

**7. Daily Operation**

The courses shall be operated daily, excepting weather conditions, with opening and closing consistent with past schedules. The clubhouse shall close after golf play concludes within reason.

**8. Maintenance, Repairs, Damage, Destruction and Restoration**

- A. LESSEE shall, throughout the term of the Lease, at its own cost, and without any expense to the COUNTY, keep and maintain the premises, including all structures and improvements (including the irrigation systems) of every kind which may be a part of the golf course facilities, including the heating, ventilating and air conditioning systems; electrical, plumbing and sewer lines; hot water heaters and water softener systems; fire suppression and exhaust systems; building security systems; emergency lighting systems and the like, in as good or better condition than said structures and all improvements thereon were in at the beginning of the initial term of the Lease, reasonable wear and tear excepted.
- B. LESSEE shall service and maintain the water supply well systems at Brown's Lake Golf Course including, but not limited to, the pumps, pressure tanks, valves and piping. LESSEE shall service and maintain, per local, State and Federal codes, the fuel tanks, including but not limited to, the pumps, valves, gauges, hoses and waste oil tanks at both golf courses. LESSEE shall also service and maintain the propane tank and septic system located at the Brown's Lake Golf Course maintenance building. When required, the COUNTY shall be responsible for the testing and replacement of all water well supply systems, pumps, valves, gauges, hoses and/or other components; fuel tanks, waste oil tanks and septic systems.
- C. LESSEE shall, throughout the term of the Lease, at its own cost, and without any expense to the COUNTY, operate, keep and maintain the Irrigation Systems including, but not limited to, the central controllers, antennas and radios; satellite controllers: pump station controls, pumps, electronic butterfly valves, impellers, pressure relief valves, mechanical seals, pressure sensors, flow sensors, temperature sensors; lake screen controls and hydraulics; sprinkler heads, quick coupling valves; gate, isolation and drain valves; valve boxes, piping, wiring or parts thereof because of deterioration of wearing out. The LESSEE shall purchase, at its own cost, and without any expense to the COUNTY, and keep in effect for the term of this agreement a Toro National Support Network (NSN) package for each golf course irrigation system. LESSEE'S obligation to operate, keep and maintain the Irrigation Systems as provided herein shall include an obligation to replace any component or element of the Irrigation System if the cost of the replacement of such component or element is less than the sum of (\$1,000) per

occurrence. LESSEE'S maximum annual obligation to operate, keep and maintain the Irrigation Systems shall not exceed \$10,000 per year at both Ives Grove Golf Links and Browns Lake Golf Course.

- D. LESSEE shall, throughout the term of the Lease, at its own cost, and without any expense to the COUNTY, keep and maintain in working order the subsurface drainage system including, but not limited to, drain tile lines, catch basins and overflow pipes. LESSEE'S obligation to keep and maintain the subsurface drainage system as provided herein shall include an obligation to replace any component or element of the subsurface drainage system if the cost of the replacement of such component or element is less than the sum of (\$1,000) per occurrence. LESSEE'S maximum annual obligation to keep and maintain subsurface drainage system shall not exceed \$10,000 per year at both Ives Grove Golf Links and Browns Lake Golf Course.
- E. LESSEE agrees to keep clean and in a sanitary condition, all premises used by LESSEE and including, but not limited to, the Clubhouse's food and beverage areas. LESSEE is responsible for disposal of food wastes, packaging, containers, eating utensils and other wastes directly attributed to the food concessions not only in the concession area but also in the main lounge, dining room and any other area used for servicing merchandise. All refuse and waste materials shall be stored by LESSEE and shall be disposed of by the LESSEE. All state and local health laws and regulations shall be strictly complied with.
- F. Based on good housekeeping standards, LESSEE shall perform all housekeeping duties such as vacuuming, carpet cleaning, floor mopping and polishing, table cleaning, emptying of waste containers and other necessary miscellaneous housekeeping duties on a daily basis that will keep the Clubhouses in a clean and sanitary condition.
- G. COUNTY can and shall without notice inspect and demand that conditions, which are in its opinion unsanitary, be corrected without delay. Kitchen equipment, especially the grills and exhaust fans, shall not be allowed to be coated with grease. The exhaust filters shall be cleaned weekly. The grease trap shall be emptied on a regular schedule. Grease, removed from the trap, shall not be stored on the leased premises but immediately removed and disposed of properly. The floor behind and in front of the counter shall be mopped regularly, scrubbed, and polished occasionally, but no less than once a month.
- H. LESSEE has no responsibility for maintaining the golf course roads and parking lots, except for trash and debris removal and disposal as well as snow & ice removal. LESSEE's responsibilities shall not include capital improvements to, renovation of, or major repair to the golf course roads and parking lots.

- I. LESSEE shall further, at its own cost, and without any expenses to the COUNTY, keep and maintain the greens, tees, fairways, roughs, driving range and all other turf areas consistent with the golf course maintenance standards that are part of this agreement.
- J. LESSEE shall, at its own cost, and without any expenses to the COUNTY, keep and maintain the existing natural areas on the golf courses. This includes the control and destruction of all non-native invasive plants and noxious weeds as identified by the Bureau of Endangered Resources, Wisconsin Department of Natural Resources. LESSEE shall not increase the size of an existing natural area or add new natural areas without written approval from the COUNTY.
- K. LESSEE shall further, at its own cost, and without any expenses to the COUNTY, water, fertilizer, prune and care for all new and existing landscape plant material, including deciduous trees and shrubs, coniferous trees and shrubs, groundcovers and perennials based on the most current horticultural practices. LESSEE shall plant and care for annual flowers in the raised planters on the leased premises. LESSEE shall annually mulch all planting beds on the leased premises with material similar in quality to the existing mulch. All planting beds and lawn areas surrounding buildings shall be weeded and maintained on a regular basis but at no less than weekly during the period of Memorial Day to Labor Day. LESSEE shall remove and replace all dead plant material with similar plants without any expenses to the COUNTY.
- L. LESSEE shall further, at its own cost, and without any expenses to the COUNTY, be responsible for the immediate removal and proper disposal, off the leased premises, of broken tree branches, either fallen or hanging, and dead or fallen trees. Tree stumps shall be immediately removed below grade and the disturbed soil area restored with topsoil, fertilizer, grass seed and mulch. LESSEE shall not remove any trees without first receiving permission from the COUNTY.
- M. As part of its maintenance responsibility, LESSEE shall remove all leaves, trimmings, cuttings and similar debris semi-annually from the leased premises. This material shall be removed the first time midway through the golf season, and the second time at the end of the golf season.
- N. In order to determine the continuing quality and condition of the leased premises, and in order to determine the responsibility of LESSEE at the termination of the Lease, the COUNTY and LESSEE shall jointly hire a United States Golf Association (U.S.G.A.) Agronomist to evaluate both golf courses each year of the Lease near the beginning of the golfing season, each year of the Lease near the end of the golfing season, and at the termination of the Lease. Each of these times when an Agronomist is so

hired, that Agronomist shall prepare a detailed written report containing the results of his evaluation. The cost of each of these evaluations and reports shall be equally shared by the COUNTY and LESSEE. The recommendations made by the Agronomist shall be implemented by LESSEE.

- O. In addition, the COUNTY has a right to hire, at its own expense, a United States Golf Association (U.S.G.A.) Agronomist to evaluate the condition and quality of the golf course at any and all other times as it deems such evaluation necessary or desirable. The recommendations made by the Agronomist shall be implemented by LESSEE.
- P. LESSEE agrees to keep clean and in an orderly condition, any and all structures and improvements of the leased premises used by LESSEE, including the maintenance storage yards. This shall include, but not limited to, merchandise, supplies, food and beverage equipment, maintenance equipment, machinery, trash dumpsters, tools, etc. Bulk material stockpiles (sand, topsoil, mulch, gravel, etc.) shall be placed in designated areas within the maintenance storage yards. At no time shall the LESSEE operate and maintain a dumpsite on the leased premises. All debris resulting from the golf course operation shall be properly disposed of, off the leased premises, without any expenses to the COUNTY. LESSEE may not burn or bury debris on leased premises unless first obtaining permission from the COUNTY and obtaining all required permits, at its own cost, and without any expenses to the COUNTY.
- Q. LESSEE shall not be allowed to store non-lease-related equipment, vehicles, materials, supplies, etc. on the leased premises without written permission from the COUNTY.
- R. LESSEE shall restore and rehabilitate the structures and improvements which may be destroyed or damaged by vandalism, fire, or any other casualty. The damage, destruction, or partial destruction of any portion of the leased premises or any building or other improvement which is a part thereof, shall not relieve the LESSEE from any obligation under the Lease Agreement, except as otherwise provided. In case of damage to or destruction of any such portion of the leased premises, including any such building or improvement, LESSEE shall at its own expense promptly repair and restore the same to a condition as good or better than that which existed prior to such damage or destruction. Without limiting such obligations of LESSEE by way of enumeration, it is agreed that the proceeds of any insurance covering such damage or destruction shall be made available to the COUNTY and LESSEE for such repair or replacement. The COUNTY itself shall not be obligated to make any repairs, replacements, or renewals of any kind, nature, or description, whatsoever to the leased premises or to any buildings or improvements and fixtures of the leased premises for damages caused by vandalism, fire or other casualty.

- S. The COUNTY shall be responsible for major repairs to all structures that are not caused by vandalism, fire or other casualty. If the Ives Grove Golf Links barn requires major repairs, the COUNTY at its' own discretion may elect to repair or eliminate the barn structure without any obligation to replace it with another structure. Major repairs shall be defined as structural repairs, including, but not limited to such categories as: the building floors (excluding carpeting and tile); exterior walls and roofs; heating and air conditioning systems; water and sewer laterals as well as electrical service leading to the building. If major repairs are required because of neglect or lack of regular maintenance of the facilities by LESSEE, the LESSEE shall be responsible for all repairs or replacements at its own cost, and without any expenses to the COUNTY.
- T. LESSEE shall be responsible for minor repairs. Examples of minor repairs shall include, but not be limited to: all repairs to the golf course grounds which are necessary to make grounds be considered acceptable according to industry-wide standards and practices; edging and adding sand to bunkers; painting the interior or exterior of buildings and shelters including walls, doors and trim; caulking of windows and tuck pointing of masonry; performing basic custodial tasks including replacement of light bulbs and ballasts (buildings and parking lots), repairs to restroom and kitchen fixtures and appliances; electrical, plumbing and sewer repairs within buildings, repairs to all windows, doors, door closures, door locks and door jams; replacement of ceiling tiles and replacement of carpets and window treatments. In no event shall the COUNTY be required to make repairs or replacements when the damages are a result of the negligence or neglect of the LESSEE or its employees or agents.
- U. Should the leased premises be so damaged by fire, casualty, acts of God, vandalism or any other cause whatsoever as to render the premises untenable or unfit for the purposes of this tenancy, the parties shall negotiate reasonably and in good faith regarding what, if any, provision of the Lease may be modified, suspended or renegotiated as a result of such damage to the premises. The parties shall meet for such negotiations within fifteen (15) days after the date of damage.
- V. LESSEE shall make no major alterations, additions, major repairs, permanent decorations, restorations, or improvements of the leased premises without first submitting plans and specifications therefore to the COUNTY for its written approval. A major alteration shall be defined as any activity which changes the physical appearance, playing condition or intended purpose of golf course grounds, buildings, bridges, shelters, parking lots, roads, cart paths and irrigation systems. Examples of major alterations include, but are not limited to the following: any modification to the size, shape or number of tees, greens, fairways, and sand bunkers; the removal or planting of any trees; the installation of any new or the expansion of any

existing cart paths; any modifications to the irrigation system including the pump house, central controllers, satellite controllers, water mains, laterals, valves, quick coupling valves and sprinkler heads; any change to the buildings including the floors, walls, doors, windows and roof which would alter its physical structure or appearance; any modification to floor treatment; any modification to the building utilities including the plumbing, electrical, sewer, heating and air conditioning systems, building security system, fire suppression system, emergency lighting system and smoke detection equipment. LESSEE shall not install any type of equipment on the roof of any building without written permission from the COUNTY.

- W. Any agreement to make major alterations, additions, major repairs, permanent decorations, restorations or improvements shall be submitted in advance of execution to the COUNTY for written approval, and LESSEE shall furnish a copy of the lease agreement to any person making such major alterations, additions, major repairs, permanent decorations or improvements to the premises. Specific authority must be granted by the COUNTY. Such authorization shall be specifically conditioned upon LESSEE's agreement that LESSEE or LESSEE's contractor shall supply a performance bond or letter of credit guaranteeing satisfactory completion of such construction and payment of all debts and claims arising from such construction. Any such construction permitted by the COUNTY to be made by LESSEE shall become the property of the COUNTY.
- X. LESSEE shall be responsible, at its expense and at no expense to the COUNTY, to provide for winterizing and care during the off-season months of the golf course grounds and greens in all ways, including, but not limited to, necessary preventive maintenance to the course irrigation system and spraying on of fungicides. The irrigation system must be blown clear of water by compressed air. LESSEE is responsible for damage to the irrigation system by freezing or other winter conditions. The work to be done by LESSEE in connection with the general maintenance to the proper playing condition of greens, tees, and fairways and with the winterizing and winter care of said golf course shall be in accordance with generally-accepted greens keeping methods.
- Y. LESSEE shall be responsible, at its own expense and at no expense to the COUNTY, to provide for winterizing and care during the off-season months of any and all buildings on the leased premises including, but not limited to, the clubhouses, maintenance buildings, cart storage buildings, pumphouses, restroom/shelter building, including adequate heat. During the off-season months, the drinking fountains on the golf courses shall be removed and the drinking fountain systems blown clear of water by compressed air. LESSEE is responsible for damage to the drinking fountain system by freezing or other winter conditions.

- Z. At the termination of this Lease, LESSEE shall surrender the leased premises to the COUNTY in the condition specified in the first paragraph of this section. LESSEE shall be responsible for the repair or replacement of conditions of the leased premises that are determined to be substandard.

**9. Maintenance Records**

- A. Golf course maintenance standards have been developed and are attached hereto (see attachment # 6, 7, 8 & 9), and are incorporated herein as fully set forth. LESSEE shall timely provide and comply with the standards set forth in attached standards. LESSEE shall provide the COUNTY with monthly maintenance records listing all the required maintenance standards and the date(s) each standard operation was performed. The records shall also list who performed the work and all materials used by product and manufacturer name and application rates, if applicable. Golf Course maintenance records and material bill of sales shall be submitted to the COUNTY on the first day of each month for work that was performed during the previous month.
- B. LESSEE shall timely provide and comply with all service maintenance schedules for, but not limited to, the heating, ventilating and air conditioning systems; water softener systems; fire suppression and exhaust systems; fire extinguishers and defibrillators. LESSEE shall provide the COUNTY with monthly maintenance records listing all the required maintenance standards and the date(s) each standard operation was performed. The records shall list who performed the work and all materials used by product and manufacturer name. Building maintenance records and labor/material bill of sales shall be submitted to the COUNTY on the first day of each month for work that was performed during the previous month.

**10. Liens**

- A. LESSEE shall keep all of the leased premises and all buildings and other improvements at any time located thereon free and clear of any and all mechanic's, materialmen's, and other liens for or arising out of or in connection with work or labor done, services performed, or materials of appliances used or furnished for or in connection with any operations of LESSEE, any alteration, improvement, or repairs or additions which LESSEE may make or permit or cause to be made, or any work or construction, by, for, or permitted, by LESSEE on or about the premises, or any obligations of any kind incurred by LESSEE. LESSEE shall at all times promptly and fully pay and discharge any and all claims on which any such lien may or could be based, and shall indemnify the COUNTY and all of the premises and all the buildings and improvements thereon against such liens and claims of liens and suits and other proceedings pertaining thereto.



- B. If LESSEE desires to contest any such lien, it shall notify the COUNTY of its intention to do so within fifteen (15) days after the filing of such lien. In such case, and provided that LESSEE shall on demand protect the COUNTY by good and sufficient surety bond against such lien and any cost, liability, or damage arising out of such contest, LESSEE shall not be in default of this Lease Agreement until thirty (30) days after the final determination of the validity of the lien. Within that thirty (30) day time period, LESSEE shall satisfy and discharge such lien to the extent held valid; but the satisfaction and discharge of any such lien shall not, in any case, be delayed until execution is had on any judgment rendered thereon; such delay shall be a default of LESSEE hereunder. In the event of any such contest, LESSEE shall protect and indemnify the COUNTY against all loss, expense, and damage resulting therefrom, including attorney's fees that may be incurred in connection with said dispute.

**11. Capital Improvements**

- A. The COUNTY has the right to make whatever capital improvements it deems necessary or desirable at any time without expense to the LESSEE. Before making any such improvements, the COUNTY shall meet with LESSEE to discuss the effect of the improvement and making of such improvement upon LESSEE's operation of the leased premises. LESSEE shall make itself available for such discussion. The COUNTY shall make a good faith effort to minimize or limit any adverse effect of any such improvement or the making of such improvement upon LESSEE's operation of the leased premises. The parties expressly understand and agree that LESSEE shall not be relieved of any of its obligations under the Lease Agreement, nor shall the COUNTY be liable to LESSEE for any interruptions of, or costs or damages to, LESSEE's operation that may result from COUNTY's making any capital improvements.
- B. COUNTY agrees to give reasonable advance notice to LESSEE of the date and time of any work which the COUNTY intends to do on the leased premises.
- C. Should mixing facilities for fertilizer be mandated by the state or federal governments, the COUNTY shall be responsible for any capital costs necessary for those facilities.

**12. Easements**

This lease agreement is subject to all easements of record relating to the leased premises and the rights of the COUNTY and other public utilities to go upon the premises comprising the golf course facilities for the purpose of installing, removing, inspecting or maintaining public utilities.

13. Ives Grove Golf Links Clubhouse

LESSEE shall be responsible for acquiring and maintaining all clubhouse amenities, including the following mandatory (**bold**) and optional items:

- A. General: **Building security system, telephone system**, public address system, **fire extinguishers, window treatments**, bulletin boards, benches and signage.
- B. Pro Shop: **Merchandise**, shelving, tables, clothes racks, display cases and **cash register**.
- C. Office: Desks, tables, chairs, filing cabinets, computer, fax machine, copier, office supplies and safe.
- D. Office Storage Rooms: Shelving
- E. Men's & Women's Toilets: **Trash receptacles, towel and soap dispensers and toilet supplies**.
- F. Lounge: **Twelve (12) square tables, five (5) round tables, seventy-three (73) chairs, trash receptacles**, floor fans and television. Tables and chairs shall be similar in quality and style as the existing tables and chairs and approved by the COUNTY.
- G. Dining Room: **Twelve (12) square tables, forty-eight (48) chairs**, banquet tables, banquet chairs, podium and television. Tables and chairs shall be similar in quality and style as the existing tables and chairs and approved by the COUNTY.
- H. Kitchen: **Oven/stove, grill**, deep fryer, kitchen appliances, beer keg cooler/taper, soda dispenser, cooler(s), storage cabinets, food preparation counter, cookware, cooking utensils, napkin holders, serving dishes and utensils, menu display board, display cases, shelving and **cash register**.
- I. Kitchen Storage Rooms: Ice machine, cooler(s), freezer(s), shelving and time clock.
- J. Outdoor Storage/Patio Area: Walk-in cooler, picnic tables, bag stands and spike/shoe cleaners.
- K. LESSEE shall, at its own cost, and without any expenses to the COUNTY, keep, maintain and provide training in the use of the defibrillator, located in the clubhouse. LESSEE shall have a minimum of one (1) employee, trained in the use of the defibrillator, on the lease premises during the hours of operation.

14. **Ives Grove Golf Links Clubhouse Pavilion Open Shelter**

LESSEE shall, throughout the term of the Lease, at its own cost, and without any expense to the COUNTY, keep and maintain the pavilion and improvements of every kind which may be a part of the pavilion including the portable partition walls.

LESSEE shall be responsible for acquiring and maintaining all pavilion amenities necessary to accommodate large golf outings.

LESSEE shall permit the user of the pavilion the option of hiring a private food caterer to serve their event. All beverages shall be purchased through the LESSEE.

15. **Ives Grove Golf Links Maintenance Building**

LESSEE shall be responsible for acquiring and maintaining all maintenance building amenities, including the following mandatory (**bold**) and optional items:

- A. General: **Building security system, telephone system, fire extinguishers**, bulletin boards and signage.
- B. Office: Desk, chairs, filing cabinets and office supplies.
- C. Workshop: Machinery, power and hand tools, equipment lift, work bench, shelving, storage cabinets, lockers and time clock.
- D. Assignment Room: Table, chairs, desk and chalkboards.
- E. Toilet Rooms: Trash receptacle, towel and soap dispensers and toilet supplies.
- F. Storage Rooms: Storage cabinets and shelving.
- G. Equipment Room: Pressure washer.
- H. Outside Storage Area: Trash dumpsters.

16. **Ives Grove Golf Links Cart Storage Building**

LESSEE shall be responsible for acquiring and maintaining all cart storage building amenities, including mandatory (**bold**) and optional items such as shelving, storage cabinets and **fire extinguishers**.

17. **Ives Grove Golf Links Toilet/Shelter Building**

LESSEE shall be responsible for acquiring and maintaining all toilet/shelter building amenities, including mandatory (**bold**) items such as **trash receptacles** and **toilet supplies**.

If the LESSEE desires, at its own expense and at no expense to the COUNTY, may provide and maintain portable toilets on the golf courses and obtain all required permits.

18. **Brown's Lake Golf Course Clubhouse**

LESSEE shall be responsible for acquiring and maintaining all clubhouse amenities, including the following mandatory (**bold**) and optional items:

- A. General: **Building security system, telephone system**, public address system, **water softener system, fire extinguishers, window treatments**, bulletin boards, benches and signage.
- B. Pro Shop: **Merchandise**, shelving, tables, clothes racks, display cases and **cash register**.
- C. Office: Desk, tables, chairs, filing cabinets, computer, fax machine, copier, office supplies and safe.
- D. Men's & Women's Toilets: **Trash receptacles, towel and soap dispensers and toilet supplies**.
- E. Dining Room: **Ten (10) square tables, three (3) round tables, fifty-five (55) chairs**, banquet tables, banquet chairs, **trash receptacles** and television. Tables and chairs shall be similar in quality and style as the existing tables and chairs and approved by the COUNTY.
- F. Kitchen: **Grill**, deep fryer, kitchen appliances, beer keg cooler/taper, soda dispenser, cooler(s), storage cabinets, food preparation counter, cookware, cooking utensils, napkin holders, serving dishes and utensils, menu display board, display cases, shelving and **cash register**.
- G. Kitchen Storage Room: Ice machine, cooler(s), freezer(s), shelving and time clock.
- H. Outdoor Patio Area: Picnic tables, bag stands, spike/shoe cleaners, benches and flowerpots.
- I. LESSEE shall, at its own cost, and without any expenses to the COUNTY, keep, maintain and provide training in the use of the defibrillator, located in the clubhouse. LESSEE shall have a minimum of one (1) employee, trained in the use of the defibrillator, on the lease premises during the hours of

operation.

**19. Brown's Lake Golf Course Maintenance Building**

LESSEE shall be responsible for acquiring and maintaining all maintenance building amenities, including the following mandatory (**bold**) and optional items:

- A. General: **Building security system**, telephone system, **fire extinguishers**, bulletin boards and signage.
- B. Workshop: Machinery, power and hand tools, work bench, shelving, storage cabinets, table, chairs and time clock.
- C. Toilet Room: Lockers, trash receptacle, towel and soap dispensers and toilet supplies.
- D. Men's & Women's Toilets: Trash receptacles, towel and soap dispensers and toilet supplies.
- E. Equipment Room: Pressure washer.
- F. Outside Storage Area: Trash dumpsters.

**20. Brown's Lake Golf Course Cart Storage Building**

LESSEE shall be responsible for acquiring and maintaining all cart storage building amenities, including mandatory (**bold**) and optional items such as shelving, storage cabinets and **fire extinguishers**.

**21. Rain Shelters**

LESSEE shall, throughout the term of the Lease, at its own cost, and without any expense to the COUNTY, keep and maintain the rain shelters on the golf courses including, but not limited to, painting and lightning protection equipment.

**22. Golf Carts**

LESSEE, at its own expense and at no expense to the COUNTY, shall provide a fleet of quality golf carts throughout the terms of the Lease and shall keep that number of carts in operating condition at all times the golf courses are open. A minimum of sixty- two (62) carts shall be located at Ives Grove Golf Links and thirty (30) carts located at Brown's Lake Golf Course.

**23. Grounds Maintenance Machinery, Equipment and Tools**

- A. LESSEE shall be responsible for acquiring all grounds maintenance machinery, equipment and tools necessary to maintain the golf courses in as good or better a condition as at the beginning of the Lease. Grounds maintenance machinery and equipment may include any or all of the following items: rotor, reel and hover mowers, aerifiers, sand trap racks, utility carts, utility vehicles, tractors, trailers, sod cutters, fertilizer spreaders, sprayers, leaf blowers, trimmers, edgers and chainsaws.
- B. LESSEE shall have the machinery and equipment in a well maintained, operating condition at all times to be able to maintain the golf courses in as good or better a condition as at the beginning of the Lease, reasonable wear and tear excepted.
- C. LESSEE may from time to time, and on an occasional basis, rent at actual cost, equipment from the County Public Works operation, provided that the COUNTY has such equipment then available for LESSEE's use. However, the COUNTY shall require that the equipment be operated by a COUNTY employee and that the employee's salary be added to the rental charge.
- D. At the termination of the Lease, the COUNTY shall have first option rights to purchase any golf course equipment that the LESSEE chooses to sell at an appraised fair market value as determined by a disinterested third party appraiser.

**24. Golf Course Amenities**

- A. LESSEE shall be responsible for acquiring and maintaining any and all golf course amenities, including by not limited to, benches, ball washers, trash receptacles, tee markers, green flags, bunker rakes, putting green flags, yardage markers and out of bounds markers.
- B. LESSEE shall be responsible for the upkeep, maintenance and replacement of the tee signs.

**25. Driving Range Amenities**

- A. LESSEE shall be responsible for acquiring and maintaining any and all driving range amenities, including by not limited to, range balls, ball washer, ball dispenser, tokens, ball basket caddies, bag stands, yardage markers, signs, utility cart with cage and ball picker attachment.
- B. LESSEE shall be responsible for the maintenance and storage of the existing twenty-four (24) "Fairway Feel Plus" range mats. When necessary, LESSEE shall be responsible, at its own expense and at no expense to the COUNTY, for the purchase of replacement mats of similar quality and style as the

existing mats.

**1. Cart Paths**

LESSEE shall be responsible, at its own expense and at no expense to the COUNTY, for the upkeep and maintenance of the golf course asphalt and gravel cart paths. This shall include, but not limited to, the replacement of eroded gravel surfacing material.

**2. Fox River Bridge**

LESSEE shall be responsible, at its own expense and at no expense to the COUNTY, for the upkeep and maintenance of the bridge over the Fox River. This shall include, but not limited to, the replacement of the bridge decking. The County shall be responsible for major repairs to the bridge steel structure, concrete bridge abutments and the painting of the bridge structure.

**28. Inspection and Accounting**

A. LESSEE shall submit to the COUNTY a monthly itemized statement of gross revenue receipts from the entire operation of the leased facilities. This statement shall be submitted to the COUNTY by the twenty-fifth (25th) day of each fiscal month, showing an accounting of gross revenue receipts for the previous fiscal month. The LESSEE shall submit to the COUNTY an annual financial statement review of the balance sheet as of December 31 of each year and the related statements of operations, retained earnings, and cash flows for the period then ended. The review will be made in accordance with Statements on Standards for Accounting and Review Services (SAARS) issued by the American Institute of Certified Public Accountants. Once during the term of the lease agreement, the LESSEE shall submit to the COUNTY, when requested, an audit in accordance with Generally Accepted Accounting Principles (GAAP) and audited by an independent certified public accountant in accordance with Generally Accepted Auditing Standards (GAAS). The cost of the preparation of the Reviews and, when requested by COUNTY, one (1) audit shall be borne by the LESSEE. Any additional audits in accordance with GAAP and GAAS shall be borne by the COUNTY. Said statements and audit shall be considered public documents. The annual financial statement shall be prepared by a Certified Public Accountant pursuant to generally accepted accounting principles, or in any manner prescribed by the Director of Finance for the COUNTY. The LESSEE shall keep or cause to be kept such reasonable books, records, journals, accounts and ledgers as may be required to properly and accurately reflect the amounts of revenues and expenses in accordance with generally accepted accounting principles.

- B. The COUNTY shall have the right, at any and all reasonable hours, and upon reasonable notice, to have an accountant inspect and verify the books of LESSEE with reference to the operation of the entire leased facilities. The COUNTY shall have the right at the COUNTY's expense, at any and all reasonable hours, and upon reasonable notice, to have an audit performed upon the LESSEE's operation of the leased facilities, as the COUNTY may deem necessary or desirable.
- C. LESSEE shall keep and provide to the COUNTY, upon request all cash register tapes from all gross revenue items. Any and all financial records, reports and information LESSEE provides to the COUNTY must be categorized separately into information pertaining to Brown's Lake Golf Course and that pertaining to Ives Grove Golf Links. Cash register tapes shall be retained by LESSEE for each year during the term of this lease plus one additional year.
- D. The COUNTY shall have the right of access to any and all portions of the leased premises, at any and all reasonable hours, and upon reasonable notice, for the purpose of inspecting, analyzing and/or gathering information relating to the premises itself.

**29. Statistical Records and Information**

- A. LESSEE will provide to the COUNTY appropriate statistical records regarding activity at and use of the lease premises by the public. LESSEE shall submit to the COUNTY weekly, records showing the number and category of golf rounds sold and played each day of the preceding week, and shall submit records by the twenty-fifth (25th) of each month, showing an itemized statement of gross revenue, including food and beverage sales, a gross revenue analysis and numbers of pass tickets sold by category (see attachment #1, 2, 3 & 4). LESSEE shall maintain a copy of a daily register which shall be made available to the COUNTY upon request. LESSEE shall further supply any other reasonable information requested by the COUNTY relating to the recreational use of the facilities by the public. Any and all statistical records and information LESSEE provides to the COUNTY must be categorized separately into information pertaining to Brown's Lake Golf Course and pertaining to Ives Grove Golf Links and shall be deemed public records.

**30. Security Deposit**

- A. LESSEE shall provide at execution of the Lease, a security deposit of Ten Thousand Dollars (\$10,000.00). Said Ten Thousand Dollars shall be deposited in an escrow account to be invested by the COUNTY with interest earned being added to the escrow account. This deposit shall be used by the COUNTY, at the option and in the sole discretion of the COUNTY, to reimburse the COUNTY for any default of any provision(s) of the lease.



Such breach shall include, but not be limited to, the failure to pay rent, the failure to maintain or restore premises, failure to maintain equipment, failure to provide adequate insurance coverage, failure to pay for utilities, failure to pay any liens that may be filed against the premises or any equipment or for any other violation of any term of the lease. COUNTY shall give to LESSEE ten (10) days written notice of the COUNTY's intent to withdraw funds from the escrow account. The notice shall state the amount the COUNTY intends to withdraw and the act of default by LESSEE.

- B. The total sum of Ten Thousand Dollars (\$10,000.00) shall be on deposit by the LESSEE with the COUNTY each year of the lease. If any amount has been expended by the COUNTY from the original Ten Thousand Dollars (\$10,000.00) security deposit for defaults, LESSEE shall deposit an amount equal the sum withdrawn to the COUNTY, so that the COUNTY has available to it the total sum of Ten Thousand Dollars (\$10,000.00) as a security deposit for the renewal year of the lease agreement.
- C. Any balance remaining, without interest, on the security deposit in the escrow account shall be refunded by the COUNTY to LESSEE within sixty (60) days from the date of the termination of the last year of the lease.

### **31. Insurance**

- A. The COUNTY shall obtain Fire & Property Insurance and Boiler Insurance coverage on the structures and improvements on the leased premises in an amount equal to their replacement value (see attachment # 10). Lessee shall annually reimburse the COUNTY for the insurance premium costs associated with the above referenced insurance coverage. LESSEE shall obtain at its own expense fire and extended insurance coverage equal to their replacement value on those items purchased by the LESSEE or LESSEE's own personal property. The coverage shall be written on a replacement value basis and the interests of the COUNTY shall be included and made payable to the COUNTY in the event of a loss to the COUNTY. LESSEE shall supply such policies, and the COUNTY shall be named as an insured of such policies.
- B. LESSEE shall maintain at its own expense and provide the COUNTY with Certificates of Insurance which provides the following coverages:
  - 1. Worker's compensation and unemployment compensation covering the statutory liability of the LESSEE in the operation of the golf course.
  - 2. General liability coverage including personal injury and contractual liability with limits of at least One Million Dollars (\$1,000,000.00) for

each occurrence and Three Million Dollars (\$3,000,000.00) in the aggregate naming the COUNTY as an additional named insured under LESSEE's policy.

- C. LESSEE shall also provide an umbrella liability policy, with provisions acceptable to the COUNTY, insuring all property in the care, custody and control of LESSEE under the terms of this Agreement, including materials, equipment, structures, improvements, and irrigation systems, insuring such property against losses by virtue of the negligent acts of the LESSEE or his agents and employees with liability limits of One Million Dollars (\$1,000,000.00). Said policy shall name the COUNTY as an additional named insured.

**32. Indemnity Provisions**

- A. LESSEE shall indemnify and save harmless the COUNTY from and against any and all losses, costs (including attorney's fees), damages, expenses and liability (including statutory liability and liability under Worker's Compensation and Unemployment Compensation Laws) in connection with claims for damages as a result of injury or death of any person or property damage to any property sustained by LESSEE, its agents, employees, customers, invitees, contractors, subcontractors and all other persons which may arise from and in any manner grow out of any act or neglect on or about the leased premises by LESSEE, LESSEE's agents, employees, customers, invitees, contractors, subcontractors and all other persons.
- B. LESSEE shall immediately notify the COUNTY of any injury or death of any person or property damage to any property sustained by LESSEE or legal action taken against the LESSEE as a result of any injury or death of any person or property damage.

**33. Utility Charges**

LESSEE shall pay all charges for utilities servicing the leased premises which shall include gas, sewer, water, electric, security systems, fire suppression and exhaust systems and telephone, television and internet services for and during the terms and periods hereunder that LESSEE shall have the actual physical possession and control over the portion of the premises upon which such utilities are used.

The sewer utility charge for Ives Grove Golf Links is a part of the Ives Grove Office Complex invoice issued to the COUNTY by the Town of Yorkville. Based on the Town of Yorkville's calculations, the COUNTY shall annually invoice LESSEE a percentage of the total sewer charge for the golf course.

**34. Taxes**

- A. LESSEE shall pay all taxes of whatever character that may be lawfully levied upon or charges against the leasehold estate in the leased premises or the structures, improvements or other property on the leased premises, or upon LESSEE's operation hereunder. LESSEE shall pay all license or permit fees necessary or required by law for the conduct of its operation hereunder.
- B. The leased premises is owned by the COUNTY and as such is presently exempt from real estate assessment and taxes. LESSEE shall in no event be liable for payment of any real estate taxes or personal property taxes levied or assessed against the COUNTY.

**35. Signs**

LESSEE shall not erect or display, or permit to be erected or displayed, on the leased premises, any permanent sign or advertising matter of any kind without first obtaining the written consent of the COUNTY and only if said sign complies with local sign ordinances.

**36. Compliance with Laws**

LESSEE shall comply with all applicable rules, regulations, laws, ordinances, statutes or orders of any governmental authority, Federal, State, or Local, lawfully exercising authority over the demised premises or over the operations carried out pursuant to this lease agreement. LESSEE shall take such action as may be necessary for the protection of health, safety and welfare of the public. The LESSEE shall comply with the Americans with Disabilities Act (ADA) (42 USCS §12183) and any applicable regulations implementing the ADA.

**37. Rules and Regulations**

The 2010 Rules and Regulations (see attachment #11) including but not limited to such things as reservations, outings, leagues, tee times, tournament play, use of private ADA golf carts, etc., shall continue into the 2011 golf season. Proposed changes to the existing rules and regulations shall be forwarded to the COUNTY for consideration and approval. All proposed rules and regulations shall be submitted in writing to the COUNTY on or before March 1<sup>st</sup> of each golf year. If there are no changes to the year's current rules and regulations, a letter of no change shall be submitted to the COUNTY on or before March 1<sup>st</sup> of each golf year.

**38. Consultation with County**

LESSEE shall meet with the COUNTY's Director of Public Works or his/her duly authorized representative on a regular basis to discuss the operation, maintenance, and development of the golf course facilities.

**39. Default and Termination**

- A. Any or all of the following shall be considered events of default of the Lease Agreement:
1. By LESSEE:
    - a. If LESSEE fails to perform or defaults in any of the amounts due to the COUNTY as set forth in this lease, or in the observance or performance of any of the covenants, agreements, commitments, or conditions contained in the lease, and if any such default continues unremedied for a period of fifteen (15) days after written notice of such default or failure to perform has been mailed to LESSEE; or
    - b. If LESSEE makes an assignment of its property for the benefit of creditors; or
    - c. If LESSEE petitions any court to be adjudged a bankrupt; or
    - d. If LESSEE is judicially determined to be insolvent; or
    - e. If LESSEE is adjudged a bankrupt; or
    - f. If a receiver or other officer is appointed to take charge of the whole or any part of LESSEE's property or to wind up or liquidate its affairs; or
    - g. If LESSEE seeks a reorganization under any of the terms of the Federal Bankruptcy Code, as amended, or under any insolvency laws; or
    - h. If LESSEE admits in writing its inability to pay its debts as they become due; or
    - i. If any final judgment is rendered against LESSEE and remains unsatisfied for a period of thirty (30) days from the date on which it shall become final; or
    - j. If LESSEE abandons the golfing facilities; or
    - k. If LESSEE uses the premises for illegal purposes.
  2. By COUNTY:
    - a. If the COUNTY fails to perform or defaults with regard to the

observance or performance of any of the covenants, agreements, commitments or conditions contained in the lease, and if such default continues unremedied for a period of fifteen (15) days after written notice of such default or failure to perform has been mailed to the COUNTY, such failure shall be considered default of the lease. In the event of such default, the LESSEE may, at its option and in addition to all other rights and remedies which it may have at law or in equity against the COUNTY, including expressly the specific enforcement hereof, forthwith have the accumulative right to immediately terminate the lease and all rights of the COUNTY hereunder.

- b. If the default is of such a nature that it cannot be rectified within said fifteen (15) day period, the LESSEE (or COUNTY) may apply in writing to the COUNTY (or LESSEE) for an extension of such period and consent to such extension by the COUNTY (or LESSEE) shall not be unreasonably denied.
- c. In the event of any or all such defaults by LESSEE, the COUNTY may, at its option and in addition to all other rights and remedies which it may have at law or in equity against LESSEE, including expressly the specific enforcement hereof, forthwith have the accumulative right to immediately terminate the lease and all rights of LESSEE hereunder and shall require payment from the escrow account. However, receipt of payment from the escrow account and/or cancellation or waiver by the COUNTY of the remainder of the total rental amounts payable to the COUNTY shall not be a waiver of any damages or losses for the unexpired portion of the lease term which may be sustained by the COUNTY on account of default, assignment, insolvency, adjudication, failure to perform or other default as provided herein above in this section, including any expenses incurred by the COUNTY in exercising its rights under the lease.
- d. Any unforeseen circumstances, problems, dispute or disagreement regarding the role of either party in this leasing arrangement or regarding the use and operation of the golf course facilities that is not addressed by the express terms of the lease shall be subject to negotiations between the parties to reach a mutually-agreed upon resolution of the matter(s) in issue. In the event agreement cannot be reached, LESSEE may, upon notice to the COUNTY on or before October 1, terminate this lease at the conclusion of the golfing season.
- e. LESSEE shall vacate the premises immediately upon any termination or expiration of the lease and the COUNTY shall, in the event of LESSEE's failure to timely vacate the premises, remove and store LESSEE's personal property with such expenses being chargeable to the security deposit and/or letter of credit.
- f. The lease may be terminated at any time upon the mutual agreement of the parties.

- g. Upon termination of the lease by the COUNTY as provided herein, the COUNTY shall be entitled to take immediate possession of the golf course premises and LESSEE agrees to cooperate with the COUNTY to facilitate an orderly transfer of said premises and personal property under its control so that there will be a minimal interruption of golf course operations.

**40. Eminent Domain**

In the event that eminent domain proceedings result in the taking of any portion of the golf course facilities to such an extent that further usage of the facilities for golf purposes is impossible, then the lease shall be adjusted or terminated and an equitable adjustment of rents shall be made between the LESSEE and the COUNTY.

**41. Modification Amendment**

The lease may be modified or amended upon the mutual agreement of the parties. However, such modification or amendment must be in writing, dated, and fully executed by both parties.

**42. Assignment and Subleasing**

- A. LESSEE shall not mortgage, hypothecate, pledge, sell, transfer controlling interest, or otherwise encumber or assign the leasehold herein created.
- B. LESSEE shall be able to sublease only the food and beverage portions of the golf course operations and only with the written consent of the COUNTY under such conditions as set by the COUNTY. All such subleases may be at LESSEE's option and notwithstanding any other provision of this lease be for the entire lease year of each year during the term thereof. All such subleases shall provide for Sublessee to carry liability insurance naming the COUNTY and LESSEE as additional named insureds in such amounts as the parties hereto determine adequate.
- C. All subleases shall terminate with the termination of the LESSEE lease agreement.

**43. Licenses and Permits**

- A. LESSEE may apply for all necessary licenses and permits to sell fermented malt beverages and intoxicating liquors on the golf course premises. Licenses and permits are also required for food, beverage, and tobacco sales. LESSEE must apply for such licenses in the normal manner and under normal procedures. By entering into the lease, the COUNTY is not guaranteeing to the LESSEE that it will, in fact, be granted or issued any such licenses or permits.

- B. If issued any such licenses or permits, LESSEE shall not at any time in the future transfer or attempt to transfer any such licenses to premises other than the golf course premises. At such time as LESSEE is no longer operating the golf course facilities, LESSEE shall relinquish all such licenses and permits.
- C. If LESSEE, with the written consent of the COUNTY, subleases to a food and beverage Concessionaire, the license may be held by said Sublessee.

**44. Emergency Entry**

- A. If the COUNTY discovers any action or condition on the golf course facilities which presents a danger to the general public or which would result in serious harm to said golf course facilities, then in that event the COUNTY shall have an absolute right to enter upon the golf course facilities and enter into the structures and buildings thereon which may be affected by said condition and take remedial measures as it may deem appropriate. Said re-entry rights shall be confined to the area where the dangerous or harmful condition exists and shall be limited to such time period as is necessary to correct the condition.
- B. The Security Deposit shall be used by the COUNTY to rectify any of the conditions and actions due to emergency entry.

**45. Direct Contact and Mail Notices**

- A. Direct contact regarding matters concerning the lease and/or operation of the golf course facilities, shall be made in writing.
- B. All formal notices shall be sent by certified mail. If there is a change in address desired or necessary for one of the parties, it shall be the obligation of that party to arrange to formally amend the lease to reflect the correct address.
- C. The COUNTY's mailing address is:

Racine County Public Works Department  
14200 Washington Avenue  
Sturtevant, Wisconsin 53177

- D. The LESSEE's mailing address is:

Peter J. Eitel  
H&H Fairway Enterprises, Inc.  
14101 Washington Avenue  
Sturtevant, Wisconsin 53177

**46. Letter of Credit**

LESSEE shall cause to be given to COUNTY an irrevocable Letter of Credit in a form agreeable to the COUNTY in the amount of Fifty Thousand and No/100 (\$50,000.00) from a financial institution acceptable to the COUNTY. Said Letter of Credit shall be furnished at the time of the execution of the contract to guarantee faithful performance of the lease and payment of all persons performing labor and furnishing materials in connection with the lease. Said Letter of Credit shall remain in effect throughout the term of the lease and any renewal. Said Letter of Credit shall provide that the COUNTY shall be notified immediately if said Letter of Credit is terminated or cancelled. Said Letter of Credit shall neither excuse the faithful performance by LESSEE nor limit the liability of LESSEE under said lease.

**47. Miscellaneous**

- A. The lease agreement shall be binding upon the parties hereto, their respective heirs, devisees, personal representatives, administrators, successors, and assigns. It cannot be varied or waived by any oral representations or promise of any agent or other person of the parties hereto; any such variance or waiver must be in writing and signed by the duly authorized agent or agents who executed this agreement.
- B. No waiver by the COUNTY or LESSEE of any breach of any provision of the lease agreement shall be deemed for any purpose to be a waiver of any breach of any other provision hereof, or of any continuing or subsequent breach of the same provision.
- C. Each right of the parties hereto is accumulative and is in addition to each other legal right which the party may have in the event of any default of the other.
- D. In the event any covenant, condition, or provision herein contained is held to be invalid by a final judgment of any court of competent jurisdiction, the invalidity of such covenant, condition or provision shall not in any way affect any other covenant, condition or provision herein contained.
- E. The lease agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.
- F. All enclosed buildings on the premises shall be smoke free and no smoking shall be enforced by the lease.
- G. LESSEE shall recarpet the Ives Grove clubhouse lounge, dining room, pro shop, office, stairs and hallways and the Brown's Lake clubhouse lounge, pro shop, office and hallway with carpeting of equal or better quality than the existing carpeting, as deemed necessary by the COUNTY with the written approval of the COUNTY.



- H. LESSEE shall be allowed, at its discretion, to accept credit cards with the service charge being paid for by the LESSEE.
- I. LESSEE agrees that the 20 play pass shall remain in effect through the last Sunday in October of each year.
- J. LESSEE shall provide the following golf course enhancement projects:
  - 1. Maintain an intermediate rough at Ives Grove Golf Links and Brown's Lake Golf Course.
  - 2. Apply Primo and Proxy to all greens at Ives Grove Golf Links and Brown's Lake Golf Course each spring and throughout the summer to suppress poa annua seed head production.
  - 3. Apply a wetting agent to all greens at Ives Grove Golf Links and Brown's Lake Golf Course to eliminate localized dry spots.
  - 4. Apply soluble fertilizers to all greens at Ives Grove Golf Links and Brown's Lake Golf Course from Memorial Day to Labor Day.
- K. LESSEE shall plant and maintain a tree nursery at Ives Grove Golf Links and Brown's Lake Golf Course at no cost to the COUNTY. The location and size of each nursery shall be approved by the COUNTY as well as the species and variety of deciduous and coniferous trees to be planted.
- L. LESSEE shall construct and maintain a bulk material storage facility at Ives Grove Golf Links and Brown's Lake Golf Course at no cost to the COUNTY. The location and design of the storage facilities shall be approved by the COUNTY prior to construction.
- M. Attachments 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 and Exhibits A and B are incorporated herein by reference.

RACINE COUNTY

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

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

H & H FAIRWAY ENTERPRISES, INC.

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

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