

SECOND AMENDMENT TO SUBLEASE

This Second Amendment to Sublease ("Amendment") is made as of the 20th day of June, 2001 by and between the City of Fullerton, a Municipal Corporation of the State of California, as Landlord ("Landlord"), and Harbor Golf, LLC, a California limited liability company, as tenant ("Tenant"), with reference to the following facts:

A. Landlord has entered into that certain Sublease dated as of October 1, 1991, as modified by that certain Addendum thereto purportedly executed on September 20, 1991, and as further amended by that certain First Amendment to Sublease – Fullerton Golf Training Center dated October 20, 1992 (collectively the "Sublease") with Tenant's predecessor in interest, namely Fullerton Golf Training Center Partners, and covering certain real property located in the city of Fullerton, Orange County, California (the "Property").

B. The Sublease is subject to that certain lease and license (collectively the "Lease" and referred to as such in the Sublease) entered into by and between the U.S. Government/Army Corps of Engineers (the "Fee Landlord") and Landlord. The portion of the Lease described as the lease was executed by the Fee Landlord on November 3, 1959 and by Landlord on May 6, 1959. The portion of the Lease described as the license was executed by the Fee Landlord on March 31, 1967 and by Landlord on September 5, 1967.

C. Landlord and Tenant have agreed to modify the terms of the Sublease as more particularly set forth herein.

NOW, THEREFORE, for good and valuable consideration, the parties hereto agree as follows:

1. Term. The parties acknowledge that the following issues have arisen with respect to the term of the Sublease:

(a) it is unclear when the Commencement Date was or, accordingly, as to when the expiration of the Initial Term will be; and

(b) the Sublease provides for the exercise by the Landlord of three renewal options, but if Landlord were in fact to exercise all three options, the term of the Sublease would then expire after the expiration date of the Lease.

Accordingly, for the avoidance of doubt, Landlord and Tenant hereby agree that the term of the Sublease commenced on October 1, 1991. Landlord hereby exercises the first two (2) options only and, therefore, the parties agree that the expiration date of the Sublease shall be September 30, 2041. The parties confirm that the expiration date of the Lease is May 31, 2042; Landlord agrees that it shall endeavor to obtain from the

Fee Landlord an extension of the term of the Lease so as to accord to Tenant the intended benefit of the third Option Period; however, Landlord shall have no liability to Tenant if Landlord is unsuccessful in so doing and, in that event, the parties confirm that it is their understanding that the third Option Period, if exercised, would commence October 1, 2041 and would end on May 31, 2042. If, however, Landlord is able to extend the term of the Lease beyond said date, then the third Option Period would be correspondingly extended also but in no event beyond September 30, 2046. None of the foregoing shall modify or amend Paragraph 2.2 of the Sublease except as otherwise stated.

2. Early Termination by Landlord. Landlord covenants and agrees that so long as Tenant is not in default under the Sublease, Landlord shall not exercise its right to terminate the Lease or the license which forms a part thereof pursuant to Section 22 of the portion of the Lease captioned "License", or otherwise.

3. Early Termination by Fee Landlord. Landlord covenants and agrees that so long as Tenant is not in default under the Sublease, if Landlord receives notice ("Termination Notice") from the Fee Landlord to the effect that the Fee Landlord is terminating the Lease and/or the license which forms a part thereof, then Landlord shall promptly notify Tenant thereof in writing and deliver concurrently therewith to Tenant a copy of any notice received from the Fee Landlord. If the Termination Notice was given due to a default by Landlord under the Lease, then Landlord shall permit Tenant to cure such default in Landlord's place and stead and to offset the cost of such cure against all rental next falling due under the Sublease. If the Termination Notice was given for any other reason, then Landlord shall permit Tenant to attempt to cause the Fee Landlord to revoke the Termination Notice and, in connection therewith, to be present at all meetings, discussions and hearings pertaining thereto, subject to the approval of the Fee Landlord.

4. Pedestrian and Bicycle Access to Leasehold. Tenant agrees to allow bicycle and pedestrian access to leasehold outside of fence line to the northeast and southeast of golf course driving range.

For and in consideration of Tenant agreeing to allow recreational bicycle users and pedestrians to encroach on the leasehold described in the underlying agreement, within the portion of said leasehold which is outside of golf course driving range fence line to the northeast and southeast, Landlord agrees to indemnify and hold harmless Tenant or its officers, employees or agents.

5. Authorization. The City Manager of the City of Fullerton, or his designee, shall be the duly authorized representative of Landlord for purposes of the Sublease and may issue any and all consents, approvals, directives and agreements on behalf of Landlord, called for by the Sublease, except as otherwise expressly provided therein.

6. No Amendments. Except as otherwise set forth herein to the contrary, all terms and provisions of the Sublease shall remain unamended and in full force and effect.

7. Defined Terms. Except as otherwise set forth herein, all defined terms used herein shall bear the same meaning as set forth in the Sublease.


IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Sublease as of the date first above written.

LANDLORD

TENANT

CITY OF FULLERTON
A Municipal Corporation of the
State of California

HARBOR GOLF, LLC
a California limited liability company

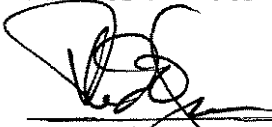
By: 
F. Richard Jones, Mayor

By: 
Myung Kim, Managing Member

ATTEST:


Audrey K. Culver, City Clerk

APPROVED AS TO FORM:


Richard D. Jones, City Attorney

APPROVED AS TO CONTENT:


Susan Hunt, Director of Community Services