

**LEASE BETWEEN THE CITY OF GILLETTE AND
GILLETTE GOLF AND COUNTRY CLUB, INC.**

Lease made and entered into this _____ day of _____, 2017 by and between the City of Gillette, Wyoming, a municipal corporation and City of the First Class, hereinafter CITY or LESSOR of Box 3003, Gillette, Wyoming, 82717 and Gillette Golf and Country Club, Inc., a Wyoming Nonprofit Corporation of Box 363, Gillette, Wyoming, 82717-0363 hereinafter the CLUB or LESSEE.

The CLUB and CITY may be referred to collectively herein as the PARTIES. LESSEE, will lease from LESSOR, upon the following Terms and Conditions real property, known hereinafter as the LAND, described as follows:

LEGAL DESCRIPTION

Tracts F, G, and H of the Energy Capital Sports Complex Subdivision, a Resubdivision of Tracts A, B, C & D of Field of Dreams Subdivision, a subdivision of the West ½ of Section 36, Township 50 North, Range 72 West of the 6th P.M. to the City of Gillette, Wyoming. Tract F containing approximately 20.76 acres, more or less; Tract G containing approximately 4.62 acres, more or less; and Tract H containing 59.65 acres, more or less.

Attached hereby, and incorporated herein by reference is Exhibit A more fully describing the locations of easements and rights-of-way which may impact the use and enjoyment of the premises by the LESSEE.

AMENDMENT, SUBSTITUTION and REVISION OF PRIOR LEASE

On August 6, 2012, the CITY and the CLUB previously entered into a Lease regarding Tract B and Tract C of the Field of Dreams Subdivision. That Lease was unrecorded with the Campbell County Clerk and Ex Officio of Deeds. It is the intention of the PARTIES, by entering into this Lease, to amend, substitute and revise the prior Lease. After the date of this Lease, and for all purposes thereafter, this Lease shall be considered the controlling Lease between the PARTIES. The PARTIES shall cause this lease to be placed of record.

TERM

This Lease is effective when all parties have executed it and all required approvals have been granted. The term of the Lease is from April 1, 2017 through March 31, 2057. This Lease may be renewed once by agreement of both parties, in writing, for an additional forty (40) years, subject to the required approvals. There is no right or expectation of renewal and any renewal will be determined at the discretion of the CITY.

RENT

The rent to be paid by LESSEE to LESSOR shall be ten dollars (\$10.00) annually. Rent shall be paid in advance, on or before the first day of April, for that period's rental, during the term of this Lease. All rental payments shall be made to LESSOR at the address specified above.

USE AND RESTRICTIONS OF LAND

The premises are to be used and developed for a public recreation area and golf course by LESSEE. The PARTIES acknowledge that the LAND is adjacent to a City of Gillette Energy Capital Sports Complex and agree that the development of the golf course should complement the adjoining CITY property. The PARTIES further acknowledge that certain conditions are established for the use of the Tracts set forth herein as follows:

1. TRACT F: LESSEE acknowledges that the CITY maintains a waste water trunk line in Tract F. LESSEE further acknowledges that a loop-roadbed, pathway, and drainage channel are currently located in Tract F. Should LESSEE seek to develop Tract F, LESSEE shall at its own expense ensure that any disturbance to the loop-road, pathway, and/or drainage channel are regraded and the property is re-established back to its prior condition. The design of any alterations to these improvements shall be approved by the CITY prior to any work commencing, and shall require a CITY grading permit.

2. TRACT F WALKING PATH: The LESSEE's development plan for Tract F includes the establishment of a practice range ("driving range") open to the public. The PARTIES shall facilitate the establishment of a walking path across Tract F so as to allow public access from the Energy Capital Sports Complex to the practice range by means of Tract F. The attached Exhibit A denotes the approximate location of the public access as may be more fully established by the PARTIES at a later date. LESSEE shall not discourage, deny or interfere with access across Tract

F for purposes of the use of the practice range by the Public. LESSEE will fully comply with its club liquor license and post appropriate signage stating open containers on the Energy Capital Sports Complex.

3. TRACT F TRUNK LINE AND INVERTED SIPHON ACCESS. The CITY currently maintains a waste water trunk line and inverted siphon on a portion of Tract F. Upon completion of the LESSEE's anticipated project, and by the terms of the Agreement, the CITY shall be granted access to both the trunk line and the inverted siphon by means of the existing maintenance path on the LESSEE's property as otherwise set forth in the attached Exhibit.

4. TRACT G: Tract G is leased as a buffer space between Tract H and Garner Lake Road. No structures, temporary or permanent in nature, shall be constructed in Tract G. LESSEE may plant trees and engage in other similar landscape improvements to the premises in keeping with the terms of this Lease. Any trees planted in Tract G shall be planted and established along the Southern boundary of the Tract. The CITY retains the right, as a condition of this Lease, to terminate the Lease with regard to Tract G should the CITY determine, in its sole opinion, that Tract G is required or needed for purposes of construction or improvement to Garner Lake Road, or for purposes of the construction of a parking lot on said Tract.

5. TRACT H: The CITY reserves, as a condition of this Lease, a fifty (50) foot wide right-of-way and general utility easement along the Eastern boundary of the Tract for a distance of one thousand and one (1,001) feet. (See attached Exhibit A.) This easement is reserved for purposes of a future roadway and development in the area.

The CITY reserves the right to locate a pathway across Tract F as more fully described in Exhibit A, and underground utility lines within the LAND and will endeavor to locate, construct and maintain those improvements so as to complement the development of the property as a public golf course. The CITY will restore the surface of any portion of the LAND disturbed by its actions under this paragraph to a condition comparable to the condition before the disturbance.

WATER WELLS

The PARTIES acknowledge that the development of the leased property and the adjoining Energy Capital Sports Complex will require irrigation. The PARTIES agree to work together for mutually beneficial outcomes to supply irrigation to their respective properties. To that end, the

CITY shall have the option, but not the obligation, to inspect the water wells known as McGuire #1 and Roy #1.

ASSIGNMENT

LESSEE shall not assign this Lease without prior written consent by the Lessor. Any assignment of the Lease without the prior written consent of the Lessor is void.

LEASE NOT USED AS COLLATERAL

The LESSEE shall not use this Lease, or any portion thereof for collateral for any financial obligation without the prior written permission of the LESSOR.

ORDINANCES AND STATUTES

LESSEE shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force or which may hereafter be in force, pertaining to the premises, occasioned by or affecting the use thereof by LESSEE. The commencement or pendency of any state or federal court abatement proceeding affecting the use of the premises shall, at the option of the LESSOR, be deemed a breach hereof.

MAINTENANCE, REPAIRS AND ALTERATIONS

LESSEE shall at its own expense and at all times, maintain the premises in good and safe condition. LESSEE shall surrender the premises, at the termination hereof, in as good condition as received, normal wear and tear excepted.

No improvement or alteration of the premises or construction of any kind to develop the Tracts associated with this Lease, shall be made without furnishing construction plans to the LESSOR for approval.

ENTRY AND INSPECTION

LESSEE shall permit LESSOR or LESSOR'S agents to enter upon the LAND at reasonable times and upon reasonable notice, for the purpose of inspecting the same.

TAXES, LICENSES, DEBTS

The LESSEE covenants and agrees to pay promptly all taxes, excises, license fees, permit fees, bills, debts, and obligations incurred by it in connection with its operation of its business on the LAND, and not permit the same to become delinquent and to suffer no lien, mortgage, judgment or execution to be filed against said property or improvements thereon which will in any way be an impairment to the rights of the LESSOR in the leased property.

INDEMNIFICATION OF LESSOR

The Lessee shall release, indemnify, and hold harmless the LESSOR, and its officers, agents, employees, successors and assignees from any cause of action, claims, or demands arising out of LESSEE's performance under this Lease.

COMMERCIAL GENERAL LIABILITY INSURANCE

LESSEE shall provide coverage against claims arising out of bodily injury, illness and death, and from damage to or destruction of property of others, including loss of use thereof, including damage or injury stemming from completed operations, with minimum limits of one million dollars (\$1,000,000.00) per occurrence; and two million dollars (2,000,000.00) in the aggregate for the entire term of the Lease.

The LESSOR shall be named as an ***additional insured*** on the LESSEE's general liability insurance policy and the LESSEE shall provide the CITY with a copy of an endorsement providing this coverage.

It is understood and agreed that the LESSEE's insurance policy is primary and not contributory. The insurance certificate shall be submitted to the LESSOR prior to commencing work under this Lease. The insurance certificate provided by the LESSEE ***must include*** a clause stating that the insurance may not be canceled, amended or allowed to lapse until the expiration of at least thirty (30) days advance written notice to the LESSOR. In addition, LESSEE shall provide the CITY with copies of insurance policies and /or policy endorsements listing the CITY as an additional insured. The CITY's failure to request or review such policies, endorsements, and certificates shall not affect the CITY's rights or LESSEE's obligation hereunder. Any insurance company providing coverage under this agreement shall have a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Lessor.

GOVERNMENTAL IMMUNITY

LESSOR does not waive governmental immunity by entering into this lease and specifically retain all immunities and defenses available to them as sovereigns pursuant to WYO. STAT. §§ 1-39-101- 121 and all other applicable law. Designations of venue, choice of law, enforcement actions, and similar provisions should not be construed as a waiver of governmental immunity. The parties agree that any ambiguity in this lease shall not be strictly construed, either against or for either party, except that any ambiguity as to governmental immunity shall be construed in favor of governmental immunity.

UTILITIES

LESSEE agrees that it shall pay and be responsible for the payment of any utilities, including water, gas, electricity, heat and other services including telephones, internet accounts and cable television delivered to the premises during the term of this lease.

DEFAULT

The occurrence of any of the following shall constitute an event of default hereunder.

(i) The filing of a petition by or against LESSEE for adjudication as a bankruptcy or insolvent, or for its reorganization or for the appointment of a receiver or Trustee of LESSEE's property or an assignment by LESSEE for the benefit of creditors; or the taking of possession of the property of LESSEE by any governmental officer or agency pursuant to statutory authority for the dissolution or liquidation of LESSEE.

(ii) Failure of LESSEE to pay when due or within fifteen (15) days thereafter any installment of rent hereunder or any other sum herein required to be paid by LESSEE.

(iii) LESSEE's failure to perform any other covenant or condition of this Lease within twenty (20) days after written notice and demand, unless the failure is of such a character as to require more than twenty (20) days to cure, in which event LESSEE's failure to proceed diligently to cure such failure shall constitute an event of default.

RIGHTS OF LESSOR UPON DEFAULT BY LESSEE

In the event of occurrence of an event of default hereunder:

- (i) This Lease may be immediately terminated, at the option of LESSOR, upon at least sixty (60) days advanced notice and without any obligations whatsoever to LESSEE.
- (ii) LESSOR shall have a lien on the leasehold estate hereby created and on all property kept or used in the lease premises, whether the same is exempt from execution or not, to secure payment of any and all monies then due or thereafter becoming due to LESSOR under the terms and conditions of this Lease, and to secure the prompt performance and fulfillment by LESSEE of each and every one of said terms and conditions.

WAIVER

The failure of LESSOR to insist on a strict performance of any of the terms and conditions hereof shall not be deemed a waiver of the rights or remedies that LESSOR may have regarding that specific term or condition.

NOTICES

Any notice which either party may or is required to give, shall be given by mailing the same, postage prepaid, to LESSEE at the address shown above, or for the LESSOR in care of the City Clerk, at the address shown above, or at such other places as may be designated by the parties from time to time in writing mailed to the other party.

TIME IS OF THE ESSENCE

Time is of the essence of this lease.

HEIRS, ASSIGNS, SUCCESSORS

This lease is binding upon and inures to the benefit of the heirs, assigns and successors in interest to the parties.

ENTIRE AGREEMENT

The foregoing constitutes the entire agreement between the parties and may be modified only by a writing signed by both parties.

APPLICABLE LAW/VENUE

The construction, interpretation, and enforcement of this Lease shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Lease and the parties and the venue shall be the Sixth Judicial District, Campbell County, Wyoming.

THIRD PARTY BENEFICIARY RIGHTS

The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Lease shall not be construed so as to create such status. The rights, duties, and obligations contained in this Lease shall operate only between the parties to this Lease and shall inure solely to the benefit of the parties to this Lease. The provisions of this Lease are intended only to assist the parties in determining and performing their obligations under this Lease.

UNLAWFUL OR DANGEROUS ACTIVITY

LESSEE shall neither use nor occupy the premises or any part thereof for any unlawful or ultra-hazardous business purpose nor operate or conduct business in a manner constituting a nuisance of any kind. LESSEE shall immediately, upon notification of any unlawful, disreputable, ultra-hazardous use, or nuisance, take action to halt such activity.

EASEMENTS, CONTRACTS, OR ENCUMBRANCES

The parties shall be bound by all existing easements, contracts, and encumbrances of record relating to the premises.

MAINTENANCE, REPAIRS AND ALTERATIONS

(i) LESSEE shall at its own expense and at all times maintain the premises in good and safe condition. No improvement or alteration of the premises or construction of any kind to develop the Tracts associated with this Lease shall be made without furnishing construction plans to the Lessor.

(ii) All alterations, additions, and improvements on or in the premises at the commencement of the term, and that may be erected or installed during the term, shall become

part of the premises and the sole property of LESSOR, except that all moveable trade fixtures installed by LESSEE shall be and remain the property of LESSEE.

SURRENDER OF POSSESSION

LESSEE shall, on the last day of the term, or on earlier termination and forfeiture of the Lease, peaceably and quietly surrender and deliver the premises to LESSOR free of sub-tenancies, including all buildings, additions, and improvements constructed or placed thereon by LESSEE, except moveable trade fixtures, all in good condition and repair.

DATED ____ day of _____, 2017.

LESSOR: City of Gillette, Wyoming.

Louise Carter-King, Mayor

(S E A L)
ATTEST:

Karlene Abelseth, City Clerk

CITY ATTORNEY'S OFFICE APPROVAL AS TO FORM

Patrick G. Davidson

Date

LESSEE: Gillette Golf and Country Club, Inc, a
Wyoming nonprofit Corporation

Keith Chrans, President

STATE OF WYOMING)
) ss.
County of Campbell)

The above and foregoing instrument was acknowledged before me by Keith Chrans,
President of the Gillette Golf and Country Club, Inc. a Wyoming nonprofit Corporation on this
____ day of _____, 2017.

WITNESS my hand and official seal.

Notary Public

My Commission Expires: