

SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT to LEASE (“**Second Amendment**”) is made on _____, 2024, by and between COUNTY OF ORANGE, a political subdivision of the State of California (“**COUNTY**”), and STRAWBERRY FARMS GOLF CLUB, LLC, a Delaware limited liability company (“**TENANT**”), without regard to number and gender. COUNTY and TENANT may sometimes be referred to herein individually as a “**Party**,” or collectively as the “**Parties**.”

R E C I T A L S

1. COUNTY is the owner of certain 107-acre parcel of land located within Mason Regional Park in the City of Irvine.
2. The Irvine Ranch Water District (“**IRWD**”) is the owner of a certain 90-acre parcel of land commonly known as the Sand Canyon Reservoir located adjacent to the COUNTY’s parcel.
3. On August 22, 1995, COUNTY and IRWD entered into a Concession Management Agreement for the purpose of combining the two parcels to develop an 18-hole golf course and related facilities.
4. On August 22, 1995, COUNTY entered into an Option Agreement with TENANT for a 45-year lease (“**LEASE**”), to develop and operate said 18-hole golf course and related facilities.
5. On November 8, 1996, COUNTY executed the 45-year Lease (“**Lease**”).
6. On December 10, 1996, a First Lease Amendment (“**First Amendment**”) was executed to add a slope easement, access road, and catch basin easement to Clause 2 (Premises). The First Amendment also added additional easements to Clause 3 (Limitation of Leasehold) of the Lease.
7. COUNTY and TENANT now desire to amend this Lease.

NOW, THEREFORE, in consideration of the above, the parties hereto mutually agree to amend said Lease as follows:

A. Clause 5 [TERM (PMB2.1S)] is deleted from the Lease in its entirety and the following clause is substituted:

“5. **TERM**

The term of the lease shall be extended from forty-five (45) years for an additional twenty (20) years, which Lease commenced on December 1, 1996, and will expire on November 30, 2061.”

B. Clause 11 [RENT PAYMENT PROCEDURE (PMC 6.1 S)] subsection D is hereby added to the Lease:

“D. **GIFT CERTIFICATES**

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At the time TENANT sells a gift certificate for any amount, TENANT shall pay a percentage rent of 5% of the gift certificate value to COUNTY. At any time, a gift certificate is redeemed with TENANT, COUNTY shall credit TENANT 5% of the gift certificate value used. This accounting transaction will be a line item on TENANT's monthly gross receipt form of which a sample monthly gross receipt form is attached as Exhibit 6, attached hereto and made a part hereof, to this Second Amendment to Lease."

C. Clause 11 [RENT PAYMENT PROCEDURE (PMC 6.1 S)] Subsection E is hereby added to the Lease:

"E. RENT PAYMENTS TO IRWD

TENANT shall send fifty percent (50%) of all monies payable monthly to County directly and fifty percent (50%) to IRWD directly. County will add an additional line item on the monthly gross receipt form showing total rent to be paid directly to IRWD for that specified month and year to date total."

D. Clause 24 [INSURANCE] is deleted from the Lease in its entirety and the following clause is substituted:

"24. INSURANCE

TENANT agrees to carry all required insurance at TENANT's expense and provide to the County current certificates of insurance, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Lease have been complied with. TENANT shall keep such insurance coverage current, provide Certificates of Insurance, and endorsements to the County during the entire term of this Lease.

TENANT agrees that TENANT shall not operate on the Lease Area at any time the required insurance is not in full force and effect as evidenced by a Certificate of Insurance and necessary endorsements or, in the interim, an official binder being in the possession of County Executive Office/Real Estate. In no cases shall assurances by TENANT, its employees, agents, including any insurance agent, be construed as adequate evidence of insurance. County Executive Office/Real Estate will only accept valid Certificates of Insurance and endorsements, or in the interim, an insurance binder as adequate evidence of insurance. TENANT also agrees that upon cancellation, termination, or expiration of TENANT's insurance, County may take whatever steps are necessary to interrupt any operation from or on the Lease Area until such time as the County Executive Office/Real Estate reinstates the Lease.

If TENANT fails to provide County Executive Office/Real Estate with a valid Certificate of Insurance and endorsements, or binder at any time during the term of the Lease, County and TENANT agree that this shall constitute a material breach of the Lease. Whether or not a notice of default has or has not been sent to TENANT, said material breach shall permit County to take whatever steps necessary to interrupt any operation from or on the Lease Area, and to prevent any persons, including, but not limited to, members of the general public, and TENANT's employees and agents, from entering the Lease Area until such time as County Executive Office/Real Estate is provided with adequate evidence of

insurance required herein. TENANT further agrees to hold County harmless for any damages resulting from such interruption of business and possession, including, but not limited to, damages resulting from any loss of income or business resulting from the County's action.

TENANT may occupy the Lease Area only upon providing to County the required insurance stated herein and carry such insurance for the entire term of this Lease. County reserves the right to terminate this Lease at any time TENANT's insurance is canceled or terminated and not reinstated within ten (10) days of said cancellation or termination. TENANT shall pay County a fee of \$1,000 for processing the reinstatement of the Lease. TENANT shall provide to County immediate notice of said insurance cancellation or termination.

All contractors performing work on behalf of TENANT pursuant to this Lease shall obtain insurance subject to the same terms and conditions as set forth herein for TENANT. TENANT shall not allow contractors or subcontractors to work if contractors have less than the level of coverage required by the County from the TENANT under this Lease. It is the obligation of the TENANT to provide written notice of the insurance requirements to every contractor and to receive proof of insurance prior to allowing any contractor to begin work within the Lease Area. Such proof of insurance must be maintained by TENANT through the entirety of this Lease and be available for inspection by a County representative at any reasonable time.

All self-insured retentions (SIR)'s shall be clearly stated on the Certificate of Insurance. Any SIR in excess of Fifty Thousand Dollars \$50,000 shall specifically be approved by the County's Risk Manager, or designee. The County reserves the right to require current audited financial reports from TENANT. If TENANT is self-insured, TENANT's will indemnify and defend County for any and all claims resulting or arising from TENANT's use of the premises, services, or other performance in accordance with the indemnity provision stated in this Lease.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the TENANT shall provide the minimum limits and coverage as set forth below:

<u>Coverages</u>	<u>Minimum Limits</u>
Commercial General Liability	\$5,000,000 per occurrence \$5,000,000 aggregate
Automobile Liability including coverage for owned or scheduled, non-owned, and hired vehicles	\$1,000,000 combined single limit each accident
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per accident or disease
Liquor Liability	\$1,000,000 per occurrence
Commercial Property Insurance on an "All Risk" or "Special Causes of Loss" basis covering all, contents and any tenant improvements including Business Interruption/Loss of Rents with a 12-month limit.	100% of the Replacement Cost Value and no coinsurance provision.

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing liability coverage at least as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the ***County of Orange, its elected and appointed officials, officers, employees, agents, and IRWD*** as Additional Insureds. Blanket coverage may also be provided which will state- ***As Required by Written Contract.***
- 2) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad, evidencing that the TENANT's insurance is primary, and any

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insurance or self-insurance maintained by the County and IRWD shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the ***County of Orange, its elected and appointed officials, officers, employees, agents, and IRWD***. Blanket coverage may also be provided which will state- ***As Required by Written Contract***.

All insurance policies required by this lease shall waive all rights of subrogation against the ***County of Orange, its elected and appointed officials, officers, employees, agents, and IRWD*** when acting within the scope of their appointment or employment.

The Commercial Property policy shall contain a Loss Payee endorsement naming the County of Orange and IRWD with respects to the County's or IRWD's financial interest when applicable.

TENANT shall provide thirty (30) days prior written notice of any policy cancellation or non-renewal and ten (10) days prior written notice where cancellation is due to non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Lease, upon which the County may suspend or terminate this Contract

The Commercial General Liability policy shall contain a severability of interests clause, also known as a "separation of insureds" clause (standard in the ISO CG 001 policy).

Insurance certificates should be forwarded to the County address provided in the Clause (NOTICES) below or to an address provided by County Executive Office/Real Estate. TENANT has ten (10) business days to provide adequate evidence of insurance, or this Lease may be cancelled.

County expressly retains the right to require TENANT to increase or decrease insurance of any of the above insurance types throughout the term of this Lease. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify TENANT in writing of changes in the insurance requirements. If TENANT does not provide acceptable Certificates of Insurance and endorsements to County incorporating such changes within thirty (30) days of receipt of such notice, this Lease may be in breach without further notice to TENANT, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit TENANT's liability hereunder nor to fulfill the indemnification provisions and requirements of this Lease, nor in any way to reduce the policy coverage and limits available from the insurer. "

E. Clause 26 [LESSOR AND IRWD'S OPTION TO PURCHASE LEASEHOLD INTEREST (N)] is deleted from the Lease in its entirety.

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F. Clause 29 [NOTICES (PMF 10.1 S)] is deleted from the Lease in its entirety and the following clause is substituted:

“29 NOTICES

All written notices pursuant to this Lease shall be addressed as set forth below or as either Party may hereafter designate by written notice and shall be deemed received upon personal delivery, delivery by facsimile machine, electronic mail, or seventy-two (72) hours after deposit in the United States Mail.

<p>TO: TENANT</p> <p>Strawberry Farms Golf Club Attn: General Manager 11 Strawberry Farm Road Irvine, CA 92612</p> <p><u>with a copy to:</u></p> <p>Commonwealth Business Bank 3435 Wilshire Boulevard, Suite 700 Los Angeles, CA 90010</p>	<p>TO: COUNTY</p> <p>County of Orange OC Parks Attn: Real Estate Department 13042 Old Myford Road Irvine, CA 92602</p> <p>With a copy to:</p> <p>County Executive Office 333 W. Santa Ana Boulevard, 3rd Floor Santa Ana, CA 92701 Attention: Thomas A. Miller, Chief Real Estate Officer</p> <p>Irvine Ranch Water District General Manager 15600 Sand Canyon Avenue Irvine, CA 92618</p> <p>Certificate of Insurance/Other Insurance: Certificate of Insurance or other insurance related correspondence shall be mailed or emailed as below:</p> <p>Project: PR48A-28 Location: William Mason Regional Park</p> <p>Email: insurance.ceore@ocgov.com”</p>
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G. Clause 30 [ATTACHMENT TO LEASE] is hereby deleted in its entirety and the following clause is substituted:

“30. ATTACHMENT TO LEASE

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This Lease includes the following amended exhibits, which exhibits are attached hereto and made a part hereof.

- I. General Conditions (23 Clauses)
- II. Exhibit A – Legal Description
- III. Exhibit B – Map
- IV. Exhibit C – Maintenance Standards
- V. Exhibit D - Easement
- VI. Exhibit E - Golf Course Access Road Easement (First Amendment-Exhibit 1)
- VII. Exhibit F - Catch Basin Easement (First Amendment-Exhibit 2)
- VIII. Exhibit G - Golf Course Slope Easement (First Amendment-Exhibit 3)
- IX. Exhibit H - Assignment of Easement Rights (First Amendment-Exhibit 4)
- X. Exhibit I - Reservoir Boundary Quitclaim Deed (First Amendment-Exhibit 5)
- XI. Exhibit J – Monthly Gross Receipt Form (Sample)

H. Clause 31 [CAPITAL IMPROVEMENT PROJECTS (N)] is hereby added to the Lease:

“31. CAPITAL IMPROVEMENT PROJECTS

TENANT will make the following Capital Improvement Projects (“CIP”):

Location	Capital Improvement Projects	Approx. Investment
Golf Course	Repair/Rebuild Hole #10	\$1,500,000
Club House Roof	Repair Sections of Roof	\$ 65,000
Club House Kitchen	Walk-in Refrigeration	\$ 125,000
Barn Kitchen	New Equipment & Remodel	\$ 312,000
Cart Storage	Energy Saving Charging Structure	\$ 290,000
Golf Course	Golf Course Paths	\$ 2,000,000
Golf Course	Irrigation Controllers/Pipes	\$ 1,000,000
Subtotal		\$ 5,292,000

The irrigation infrastructure CIP work shall be water efficient and sustainable, consistent with applicable green building code standards, as applicable, to the maximum extent feasible, and shall include water-conserving features such as water-efficient lines, smart controllers, etc.

To ensure all CIP are completed, the following method of verification will apply.

- a. TENANT shall provide COUNTY a timeline of completion for all CIPs.

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- b. After completion of all CIPs, TENANT shall provide a verification of all CIP expenses.
 - All CIP are to be completed within sixty (60) months from the effective date of the Second Amendment to Lease . TENANT shall submit all CIP invoices and proof of payment to the COUNTY.
 - Proof of payment is defined as providing a copy of the front and back of a canceled check.
 - TENANT shall break down CIP by each project.
- c. Should TENANT fail to complete all CIPs noted above within the 60-month timeframe, TENANT will be in default of the Lease and County may rescind the 20-year extension and revert the Lease expiration date to November 30, 2041, as stated in the Lease dated November 8, 1996.
- d. If TENANT decides to procure a loan or loans to finance CIPs, and if TENANT does not complete all CIPs within the sixty (60) month period to the satisfaction of Director of OC Parks, then COUNTY reserves the right to analyze all CIP expenses as stated above and calculate a Refinance Fee of Net Loan Proceeds as per the Lease.”

I. Clause 32 [CHANGE IN PERCENTAGE RENTS (N)] is hereby added to the Lease:
“32. CHANGE IN PERCENTAGE RENTS

Beginning January 1, 2040, and no later than June 1, 2040, the COUNTY shall perform, or cause to be performed, an appraisal to determine the fair market percentage rents for green fees, driving range, cart rental and food/beverage sales. Any appraisal service must be performed by a designated Member, Appraisal Institute (“MAI”) appraiser, specializing in golf course valuations and event space/wedding reception/banquet uses. TENANT agrees to reimburse COUNTY fifty percent (50%) of the cost of each appraisal upon demand by COUNTY.

Based on the appraiser’s final value for percentage rents, and the current percentage rents shown in Table 1 above, which will serve as minimum rent values, TENANT and COUNTY will negotiate in good faith to revise percentage rents based on the findings of the appraisal to go into effect on January 1, 2042.”

J. Clause 33 [CONTROL OF NON-NATIVE, INVASIVE PLANTS (N)] is hereby added to the Lease:

“33. CONTROL OF NON-NATIVE, INVASIVE PLANTS

Tenant shall routinely conduct control of non-native, invasive plant species throughout the agreement area. In particular, Tenant shall focus control efforts on target species identified by the Natural Communities Coalition and Priority 1 and 2. OC Parks staff will provide Tenant with the annually updated target species list and contractor guidance on target species.”

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K. Wherever a conflict in the terms or conditions of this Second Amendment, the First Amendment or the Lease exists, the terms or conditions in the Second Amendment shall prevail. In all other respects, the terms and conditions of the Lease and First Amendment, not specifically changed by this Second Amendment, shall remain in full force and effect.

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IN WITNESS WHEREOF, the Parties have executed this Second Amendment to Lease the day and year first above written.



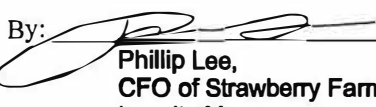
<p>APPROVED AS TO FORM Office of the County Counsel County of Orange, California</p> <p>By: <u></u> Deputy</p> <p>Date: <u>8/28/24</u></p>	<p>TENANT Strawberry Farms Golf Club, LLC A A Delaware limited liability company</p> <p>By: <u></u> Phillip Lee, CEO of Strawberry Farms Golf Club, Inc., its Manager</p> <p>By: <u></u> Phillip Lee, CFO of Strawberry Farms Golf Club, Inc., its Manager</p>
<p>Signed and certified that a copy of this document has been delivered to the chairman of the Board per GC § 25103, Reso. 79-1535.</p> <p>ATTEST:</p> <p>_____ Robin Stieler Clerk of the Board of Supervisors County of Orange, California</p>	<p><u>COUNTY</u> COUNTY OF ORANGE</p> <p>By: _____ Chairman of the Board of Supervisors County of Orange</p>

Exhibit J
Monthly Gross Receipt Form (Sample)

STRAWBERRY FARMS GOLF COURSE				
Monthly Gross Receipts Form				
For the Month of: <input style="width: 100px;" type="text"/>				
<small>(month, year)</small>				
PERCENTAGE RENT	Gross Receipts This Month	Total Year-To-Date	County's Percentage	Year-To-Date Percentage Rent
Business Operations				
GREEN FEES	0.00	0.00	25.00%	\$ -
DRIVING RANGE	0.00	0.00	25.00%	\$ -
GOLF CART	0.00	0.00	25.00%	\$ -
FOOD AND BEVERAGE SALE	0.00	0.00	7.50%	\$ -
PRO SHOP	0.00	0.00	5.00%	\$ -
PRO SHOP: GIFT CERTIFICATE SALES	100.00	100.00	5.00%	\$ 5.00
PRO SHOP: GIFT CERTIFICATE REDEEMED	(100.00)	(100.00)	5.00%	\$ (5.00)
PRO SHOP: MISCELLANEOUS OTHER SITE FEES	0.00	0.00	5.00%	\$ -
PRO SHOP: MEMBERSHIP FEES	0.00	0.00	5.00%	\$ -
PAY TELEPHONES/NEWS RACKS	0.00	0.00	10.00%	\$ -
CHARITY GOLF TOURNAMENTS/BANQUETS	0.00	0.00	0.00%	\$ -
HENRY BRUNTON GOLF ACADEMY: HBGA GOLF LESSONS	0.00	0.00	5.0%	\$ -
HBGA MERCHANDISE SALES	0.00	0.00	5.0%	\$ -
RED BARN OFFICE RENT	0.00	0.00	20.0%	\$ -
TOTALS	\$ -	\$ -		\$ -
<small>No Deductible Real Estate Taxes, Approved/Withheld by Lessee.</small>				
Less: Rent Payments Submitted Year-To-Date (excluding penalties)				\$ -
Current Month's Percentage Rent:				(a) \$ -
MINIMUM RENT				
Annual Minimum Rent is \$0 or \$0.00 per calendar month.				
Multiply \$0.00 by <u>12</u> (number of months completed to date):				
				\$ -
Less: Rent Payments Submitted Year-To-Date (excluding penalties)				0.00
Current Month Minimum Rent:				(b) 0.00
TOTAL AMOUNT OF RENT DUE:				\$ -
<small>(Larger of Current Month's Percentage (a) or Current Month's Minimum (b))</small>				
50% DUE TO THE COUNTY				\$ -
Roads of Golf: <input style="width: 100px;" type="text"/>				
UNDER PENALTY OF PERJURY I CERTIFY THAT THE INFORMATION PREPARED ABOVE IS CORRECT.				
Approved By: <input style="width: 150px;" type="text"/>		Signature: <input style="width: 150px;" type="text"/>		Date: <input style="width: 100px;" type="text"/>
Prepared by: _____				
Deliver Check & Report to:		Orange County Treasurer-Tax Collector Revenue Recovery/Accounts Receivable Unit P.O. Box 4005 Santa Ana, CA 92702-4005		
<small>For County use only: _____</small>		<small>OCOR / Account Coding</small>		<small>Rev 1/2014</small>

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