

CITY OF MOAB RESOLUTION NO. 26-2020

A RESOLUTION APPROVING THE GOLF COURSE LEASE AGREEMENT

WHEREAS, the Moab Country Club was established through its documents of incorporation in 1958; and

WHEREAS, the City of Moab and the Moab Country Club entered into an agreement on the 5th day of May 1959 which allowed for the express purpose of operating and maintaining a golf course. The Moab Country Club was also authorized to have the right, in the connection with the operation of a golf course, to maintain club house facilities, swimming pools, tennis courts and related activities customarily enjoyed by a nonprofit corporation for the entertainment and general welfare of its members and guests; and

WHEREAS, since that time the City and the Country Club have entered into many new agreements renewing the lease agreement essentially under the original terms of the agreement from 1959; and

WHEREAS, the City and the Country Club last entered into an agreement on the 12th day of April 2005; and

WHEREAS, the City and the Country Club agreed to amend that agreement on the 14th day of December 2005 which removed paragraphs 10 and 11 of the lease agreement; and

WHEREAS, that lease agreement was for a term of ten years and expired on the 12th day of April 2015. Since that time, the Country Club has been operating on City property without an agreement; and

WHEREAS, the City of Moab desires to enter into a lease agreement with the Moab Country Club for the purpose of operating and maintaining a golf course. The proposed lease agreement is similar to those that have been used in the past with the inclusion of the amendment of the 20th day of December 2005; and

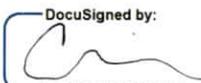
WHEREAS, the lease agreement is attached to this Resolution has been presented to this meeting of the Moab City Council; and

THEREFORE, be it resolved that the City of Moab City Council hereby adopts this Resolution and approves this lease agreement as presented herein and shall be executed by the appropriate officials.

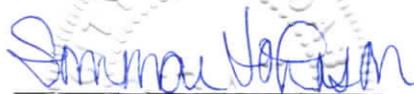
This Resolution shall take effect on May 8, 2020.

Passed and adopted by action of the Governing Body of the City of Moab in open session on this 8th day of May 2020.

SIGNED:

DocuSigned by:

549EB4724ECB4DD
Emily S. Niehaus, Mayor

ATTEST:


City Recorder

LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into this 8th day of May, 2020, by and between the CITY OF MOAB, Utah, a municipal Corporation, herein referred to as LESSOR, and the MOAB COUNTRY CLUB, a non-profit Utah Corporation, herein referred to as LESSEE.

WITNESSETH:

1. That Lessor, for and in consideration of the covenants and agreements hereinafter contained, leases and lets unto Lessee the premises situated in Grand County, State of Utah, to-wit:
 - a. Parcel No. 1: The Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4), Section 15, Township 26 South, Range 22 East, SLB&M.
 - b. Parcel No. 2: The Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4), Section 22, Township 26 South, Range 22 East, SLB&M.
 - c. Parcel No. 3: The West One-half of the Northeast Quarter of the Northeast Quarter (W1/2 NE1/4 NE1/4), Section 22, Township 26 South, Range 22 East, SLB&M.
 - d. Parcel No. 4: SE 1/4 of SE 1/4, Section 15, T26S, R22E, SLB & M.,
 - e. Parcel No. 5: SW 1/4 SW 1/4 Section 14, T26S, R22E, SLB & M.,
 - f. Parcel No. 6: NW 1/4 NW 1/4 Section 23, T26S, R22E, SLB & M.,
 - g. Parcel No. 7: The East 1/2 of the NE 1/4 NE 1/4 Section 22, T26S, R22E, SLB & M.,
 - h. Parcel No. 8: The N 1/2 NE 1/2 SW 1/4 NW1/4 Section 23, T26S, R22E, SLB & M.

LESS: The following described real property, to-wit: S1/2 of NE1/2 of SW1/4 of NW1/4 of NE1/4, and the S1/2 of SW1/4 of NW1/4 of NE1/4, Section 22, T26S, R22E, SLB&M.

(See Exhibit A which is incorporated by reference into this Lease.)

2. This Lease shall be for a term of ten (10) years from the date of this Agreement.
3. It is understood and agreed that this Lease is granted for the express purpose of operating and maintaining a golf course; however, it is understood and agreed that Lessee shall have the right, in connection with the operation of a golf course, to maintain club house facilities, swimming pools, tennis courts and related activities customarily enjoyed by a non-profit corporation for the entertainment and general welfare of its members and guests, including the sale of alcoholic beverages as provided by the laws of the State of Utah.
4. It is expressly understood and agreed that members of the general public, whether members of the non-profit corporation or not, shall be permitted to play on said golf course

under the same conditions and restrictions as if they are dues paying members; however, Lessee shall have the right to regulate play on said golf course for the purpose of preserving the greens and grounds and for maintaining orderly and proper use thereof.

5. Lessee shall have the right to assess its users whatever green fees it shall deem appropriate; however, no later than February 15 of each year, Lessee shall present to Lessor, through the City Manager and Finance Director, for City Council review the fees proposed to be charged for that year and Lessor may reduce or increase the said fees in accordance with good public policy.
6. It is understood and agreed that Lessee is a non-profit corporation and Lessor shall not, at any time, have the right or option to interfere with the internal affairs of the said corporation.
7. Lessee agrees to maintain the property in good and attractive condition.
8. Lessee may, at Lessee's sole cost and expense, make such changes, alterations or improvements as may be necessary to fit said premises and all buildings, fixtures and improvements of every kind and nature, whenever installed by Lessee, shall, upon termination, remain the property of Lessor. Lessee may purchase such personal property as it shall see fit, and upon termination of this Lease, may remove the same.
9. It is understood and agreed that the above-described premises are situated within the area of the City of Moab watershed and that it may become necessary in the future for the City to make use of said area for the purpose of developing water or for protecting the area from contamination. In such event and upon 30-days notice from Lessor to Lessee that such use is necessary, Lessor shall have the right and option to terminate the Lease or any part that may be affected thereby, without compensation to Lessee.
10. Lessee shall pay to Lessor a sum equal to 1.5 percent of Lessee's annual profits from all annual operating revenue. Said sum shall be paid by Lessee by June 1 of each year, for the previous one-year period ending January 31. The first payment under this Agreement shall be made by June 1, 2020.
11. The phrase "annual profits from all annual operating revenue" shall be defined as profits from all green fees, equipment rental, equipment storage, gross sales from the pro shop and from the gross sales of any future operations that may be conducted by Lessee under the provisions of Paragraph 3 above in any given calendar year.
12. No later than February 15 of each year, Lessee shall provide to Lessor, through the City Manager and Finance Director, copies of Lessee's regular financial statements for the prior year.
13. Lessee shall provide an independent financial review of the Moab Country Club, performed by a certified public accountant, to Lessor, upon request by the City Council.
14. Lessee shall present an Annual Operations Report to Lessor on or before February 15 of each year. Said report shall detail all operations activity of Lessee for the previous calendar year and shall include a list of chemicals used by Lessee on the leased property.

15. It is understood and agreed that Lessor may, at its expense, make such improvements as it shall deem necessary to repair, preserve, or enlarge said property leased herein, or to make any other improvements deemed necessary by Lessor. Such repair or improvements so made shall be at such time and in such manner so as to cause Lessee the least amount of disruption to its operation of said golf course.

16. It is understood and agreed that Lessor owns and has responsibility for the maintenance of all water pumps and meters installed and used on the premises as outlined in Paragraph 1.

17. Lessee shall pay Lessor for Lessee's usage of any City water at the prevailing commercial rate charged by the City at the time the water is used by Lessee.

18. Lessee hereby agrees to provide a summer youth golf program at its sole expense.

19. Lessee shall assume all risks incidental to or in connection with the business to be conducted hereunder and shall be solely responsible for all accidents or injuries of any nature to persons or property caused by its operation at these premises. Lessee agrees to indemnify, defend and hold harmless Lessor, its authorized agents and representatives, from any and all claims or liability for damage resulting in the death of any person, or loss or damaged property occasioned by or in connection with the use of the premises hereby leased. Lessee hereby assumes full responsibility for the character, acts and conduct of all persons admitted to said premises, or to any portion of the premises. Lessor assumes no liability or responsibility whatsoever for any property placed in said premises and Lessor is hereby expressly released and discharged from any and all liability for any loss, injury or damage to persons or property that may be sustained by reason of Lessee's occupancy under this Lease.

20. Lessee shall carry, at its own expense, property damage insurance in the amount of \$1,000,000 and public liability insurance in an amount of \$1,000,000 for any one person and \$1,000,000 for any one accident. Lessor is to be made a co-insured with Lessee on this insurance and said insurance policy is to contain a rider requiring that Lessor be notified thirty (30) days in advance of any change or termination of said insurance policies.

21. The parties hereto shall have the option to extend this lease for one additional ten (10) year period under the same terms and conditions. This option may be exercised by written consent of both parties hereto, prior to May 8, 2030.

22. Either party may terminate this Lease for reasons other than those specified in Paragraph 9 above, with or without cause, by giving the other party 365 days written notice. Written notice to Lessor shall be provided to the City through the City Manager and Finance Director at 217 E. Center Street, Moab, UT 84532. Written notice to Lessee shall be provided to Lessee's registered agent.

IN WITNESS WHEREOF, the Parties hereto have set their hands and seals on this 8th day of May, 2020.

LESSOR:
ATTEST:

CITY OF MOAB, UTAH

Sommar Johnson, City Recorder

By: _____
Emily Niehaus, Mayor

LESSOR:

MOAB COUNTRY CLUB

By: _____
Club President

City Golf Course Area Parcels & Golf Course Lease



0 300 600 1,200 Feet
1 inch = 600 feet

Legend

-  City Properties
-  2005-2015 Golf Course Lease

