TERMINATION AGREEMENT
FOR THE AGREEMENT FOR OPERATION AND MAINTENANCE OF WILLOWICK
GOLF COURSE AND LEASE
(Donovan Golf Courses Management, Inc.)

THIS TERMINATION AGREEMENT ("Termination Agreement") is made as of April 9, 2019, by and between the CITY OF GARDEN GROVE, a municipal corporation, hereinafter designated as "City" and DONOVAN GOLF COURSES MANAGEMENT, INC., a California corporation, hereinafter designated as "Operator."

RECITALS

A.   City is the owner of the Willowick Golf Course property located at 3017 West Fifth Street in the City of Santa Ana. The property includes a four-bedroom residential structure located at 3001 W. Fifth Street, subject to that certain Lease on even date with the Agreement and incorporated as Exhibit "E" of the Agreement (together, the property and residential structure are referred to herein as the "Premises").

B.   City and Operator entered into that Agreement for Operation and Maintenance of Willowick Golf Course dated April 24, 2001 (the "Agreement") wherein Operator agreed to maintain, operate, and share in the income of the golf course operations on the Premises, in addition to pay rent under the Lease of the residential structure.

C.   City and Operator have now agreed to terminate the Agreement and Lease in accordance with the terms of this Termination Agreement.

Accordingly, in consideration of the mutual covenants and promises of the parties set forth in this Termination Agreement, City and Operator agree as follows:

AGREEMENT

1.   <u>Termination</u>. The Agreement and Lease shall be terminated effective May 15, 2019 (the "Termination Date") as if that were the originally scheduled expiration date of the Agreement and Lease. Operator shall continue to be obligated under the Insurance and Indemnity clauses (Sections 30 and 14) and for all rent and other amounts owing under the Agreement (Sections 6 and 13) and Lease up to the Termination Date. Except as otherwise provided in this Termination Agreement, from and after the Termination Date neither City nor Operator shall have any further rights or obligations pursuant to the Agreement and Lease, and City and Operator shall each be fully and unconditionally released and discharged from their respective obligations arising with respect to the Agreement and Lease. City and Operator also release and discharge each other from any claims or causes of action related to or arising out of the Agreement and Lease, or the Premises. The foregoing shall not, however, prevent either party from enforcing its rights under this Termination Agreement.

In connection with the foregoing releases, City and Operator each waive and relinquish every right and benefit it has or may have with respect to those releases under the provisions of Section 1542 of the California Civil Code, which provides as follows:

> "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."
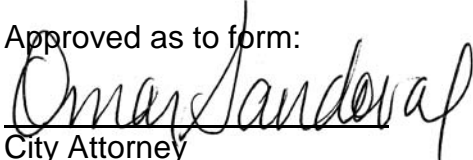
City and Operator each acknowledge it is familiar with every right or benefit it has or may have under the foregoing statute and understands the effect of the foregoing waiver and relinquishment.

2. <u>Surrender of Premises</u>. Operator agrees to surrender the Premises to City, and vacate the Premises, on the Termination Date; and City agrees to accept Operator's surrender of the Agreement, Lease, and of the Premises. Operator shall return the Premises in broom clean condition, with no further restoration required.

3. <u>Settlement and Payment of Amounts Due</u>.   Within 90 days of the Termination Date, the parties shall complete the reconciliation of all amounts due under the Agreement and Lease through the Termination Date and Operator shall remit payment to City of the amounts due after applying any credits for amounts paid by Operator to City through the Termination Date. It is agreed that in addition to the amounts owed for the accounting period commencing April 1, 2018, through the Termination Date, the Operator owes the City the following amounts for the prior accounting periods, which amounts shall be included in the reconciliation of the final amounts due to the City:

City's overpayment of debt services contribution (2016-17)	$ 5,508.00
Underpayments by Operator for City's share of income for the year ending 3/31/17	$ 98,334.00
Underpayments by Operator for City's share of income for the year ending 3/31/18	$ 296,877.00
Non-Reimbursed Property Tax for FY 17-18 through 3/31/18	$ 36,692.40
Total owed for prior accounting periods	$ 437,411.40

4. <u>Costs and Expenses</u>. Each party shall be responsible for paying its own costs and expenses (including attorneys' fees) with respect to the negotiation and preparation of this Termination Agreement.

5. <u>Entire Agreement</u>. There are no oral or side agreements between City and Operator affecting this Termination Agreement and this Termination Agreement contains the entire agreement of the parties with respect to the subject matter herein contained. This Termination Agreement may not be modified or amended except by a writing executed by City and Operator. In the event of any conflict between the terms of the Agreement and Lease and the terms of this Termination Agreement, the terms of this Termination Agreement shall prevail. This Termination Agreement may be executed in counterparts, all of which shall constitute one and the same agreement and shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

6. <u>Binding Effect</u>. This Termination Agreement shall be binding on and inure to the benefit of the parties to this Termination Agreement and their heirs, personal representatives, successors, and assigns.

DATED as of the day and year first above written.

CITY City of Garden Grove a municipal corporation	OPERATOR Donovan Golf Courses Management, Inc. A California corporation
_____ Scott C. Stiles City Manager Attest: _____ City Clerk Approved as to form: *Omar Sandoval* City Attorney	By: _____ Its: _____ By: _____ Its: _____

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