Meeting Date: 07/01/08

ACTION	TYPE OF ITEM
☐ Approved Recommendation	☐ Info/Consent
☐ Ord. No(s). _____	■ Report
☐ Res. No(s). _____	☐ Public Hearing (Info/consent)
☐ Other _____	☐ Other _____

Prepared By: Cyndi Hookstra CH Agenda Item No. O-2

Reviewed By: City Manager City Attorney Finance Other *(Specify)* -

DATE: June 24, 2008

TO: City Council

FROM: Michael Henderson, General Services Superintendent
City Manager's Office

SUBJECT: **Third Amendment to the Agreement with High Tide and Green Grass, Inc. Related to the River Ridge Golf Club**

RECOMMENDATION

That City Council:

1. Approve and authorize the Mayor to execute a Third Amendment to the Second Agreement with High Tide and Green Grass, Inc. for the operation, maintenance and management of a thirty-six hole golf course referred to as the River Ridge Golf Club located at 2401 Vineyard Avenue.

2. Approve a Special Budget Appropriation form to recognize and appropriate $425,500 for the increased revenue associated with adding nine holes of golf operations to the River Ridge Golf Club in account number 651-6401-842-8209.

DISCUSSION

The eighteen-hole City owned River Ridge Golf Club was opened and dedicated in February 1986. In December 1993, the City entered into an agreement with High Tide and Green Grass Inc. to operate, maintain and manage the golf course on behalf of the City. To date, the City has continued its agreement with High Tide and Green Grass Inc. to manage the course on its behalf.

In May 2002, the City assumed responsibility for the maintenance of the surface of the Coastal Landfill. The official closing of the Coastal Landfill and the proposed housing developments southwest of the existing eighteen-hole course allowed the City the opportunity to expand the River Ridge Golf Club by adding an additional eighteen-hole course. The initial plans were approved in September 2000 for the new eighteen-hole course and construction began in March 2003. Construction

is now complete on the final nine holes of the new eighteen-hole Victoria Lakes course and the course is ready to be opened to the public.

Upon completion of the construction of the Victoria Lakes Golf course and per section 1 a and 2 d of the existing agreement with High Tide and Green Grass, Inc., sections 3, 4 and 5 of Exhibit C-1 shall be amended to reflect the maintenance and operation of the completed course.

Staff recommends a one year amendment to the Second Agreement with High Tide and Green Grass, Inc. for ten months of maintenance and operation of the City's thirty-six hole golf course. This Third Amendment is proposed as an interim agreement to bridge the gap between the completion of the new course and the negotiation of a new maintenance and operations agreement for the City's thirty-six hole River Ridge Golf Club. Based on historical information for the rounds played and per round estimates at the City's River Ridge Golf Club for the past five years, staff estimates 90,000 rounds of golf will be played per year with a total estimated revenue of $50 per round.

Staff recommends the following changes per the existing agreement.

1. No change to the definition of the term "base revenue" in section 3 of new Exhibit C-1-1 at this time.
2. The FY08-09 "minimum base revenue" increase from $3,324,500 to $3,750,000 in section 4 of Exhibit C-1-1. This amendment reflects an increase in operating revenue of $425,500 for the entire thirty-six hole course operations.
3. No change to the "additional payments to operator" in section 5 of Exhibit C-1-1 at this time.

As per the existing agreement, the future of the maintenance and operations contract with High Tides and Green Grass, Inc. must be determined during this same time frame beginning October 1, 2008. Staff will be working closely with the City Council regarding the details of the contract negotiation process.

FINANCIAL IMPACT

To accommodate the additional nine-hole operation and the course completion, staff recommends increasing the minimum base revenue in the agreement for the High Tide and Green Grass, Inc. by $425,500 for fiscal year 2008/2009 and in account number 651-6401-842-8209.

For fiscal 2008/2009, minimum base revenues will increase by $425,500 for ten months of operation. The new base revenue figure for fiscal year 2008/2009 is $3,750,000 per new Exhibit C-1-1 section 4. The incremental increased operational cost is appropriated during this City's budget process and is part of the Golf Course Business Plan submitted each year by High Tide and Green Grass, Inc.

(MH/ci)

Attachment 1 - Third Amendment to the Second Agreement with High Tide and Green Grass, Inc.
Attachment 2 – New Exhibit C-1-1
Attachment 3 – River Ridge Map A-1.1
Attachment 4 – Special Budget Appropriation Form

Agreement No. 5626

THIRD AMENDMENT TO SECOND AGREEMENT FOR OPERATION, MAINTENANCE AND MANAGEMENT OF THE RIVER RIDGE GOLF CLUB

This Third Amendment to the Second Agreement for Operation, Maintenance and Management of the River Ridge Golf Club ("Third Amendment") is entered into in the County of Ventura on this 1st day of July 2008 and amends the Second Agreement effective on December 1, 1998, as amended by the First Amendment to the Second Agreement effective on December 9, 2003, and the Second Amendment to the Second Agreement effective on October 19, 2004, by and between the City of Oxnard, a municipal corporation ("City"), and High Tide and Green Grass, Inc. ("Operator").

WHEREAS, City desires to continue to contract with a responsible, qualified and competent entity to operate, maintain and manage the River Ridge Golf Club and related facilities located at 2401 Vineyard Avenue, Oxnard, California; and

WHEREAS, Operator desires to provide such operation, maintenance and management services; and

WHEREAS, on November 16, 1993, City and Operator entered into that certain Agreement for Operation, Maintenance and Management of the River Ridge Golf Club for the period from December 1, 1993, to November 30, 1998, ("the First Agreement") and amended the First Agreement on seven occasions; and

WHEREAS, on December 15, 1998, City and Operator entered into the Second Agreement for the period from December 1, 1998, to June 30, 2009, and amended the Second Agreement on two occasions; and

WHEREAS, City and Operator agree that each party performed its duties under the First Agreement and amendments thereto, and the Second Agreement and amendments thereto; and

WHEREAS, City and Operator desire to amend the Second Agreement for a third time.

NOW, THEREFORE, City and Operator agree as follows:

A. Paragraph 1 of the Second Agreement, as amended, is amended to read as follows:

"1. <u>Purpose of Agreement</u>

a. On behalf of City, Operator agrees to operate, maintain and manage as a first quality operation at affordable prices the River Ridge Golf Club, including a thirty-six hole golf course, and clubhouse, golf pro shop, snack bars, banquet facilities, driving range, starter operations, office space, driving range learning center, barbeque facility, temporary structures for storage of maintenance equipment and golf carts, and related facilities (Golf Course). A new

diagram of the Golf Course is attached hereto as Exhibit A-1.1, which replaces the original Exhibit A-1 in the Second Agreement, and incorporated herein by this reference.

b. As used in this Third Amendment, 'City Manager' means the City Manager of City or his or her designee."

B. Paragraph 2.d. (1) of the Second Agreement, as amended, is amended to read as follows:

"d. (1) If on or before January 1, 2009, an additional nine (9) holes of golf are added to the Golf Course, and are paid for in whole or in part with City funds or the proceeds of City-issued debt instruments then, City and Operator shall enter into good faith negotiations to amend this Third Amendment to change sections 3, 4 and 5 of a new Exhibit C-1.1, which replaces the original Exhibit C-1 in the Second Agreement, incorporated herein by this reference, of this Third Amendment to redefine 'base revenue' (Section 3) and 'minimum base' revenue (Section 4) and revise 'additional payments to Operator' (Section 5) to take account of the nine (9) new holes of golf."

C. With respect to the performance of maintenance services only for the new nine (9) holes, this Third Amendment to the Second Agreement shall be effective on July 1, 2008. With respect to the performance of operation and management services for the new nine (9) holes, this Third Amendment to the Second Agreement shall be effective on August 22, 2008.

D. Except as amended by this Third Amendment, City and Operator agree that the Second Agreement, as previously amended, remains in full force and effect.

CITY OF OXNARD

Dr. Thomas E. Holden
Mayor

HIDE TIDE AND GREEN GRASS, INC.

Carl A. Kanny
President

ATTEST:

Daniel Martinez
City Clerk

APPROVED AS TO CONTENT:

Michael Henderson
General Services Superintendent

APPROVED AS TO FORM:

06-24-08

Gary L. Gillig
City Attorney

APPROVED AS TO INSURANCE:

for

James Cameron
Risk Manager

ATTACHMENT NO. 1
PAGE 2 OF 2

EXHIBIT C–1.1

ADDITIONAL PAYMENTS TO OPERATOR

In addition to the minimum period amount provided for in the Business Plan, City shall make additional payments to Operator in accordance with this Exhibit C-1.1.

1. Gross Receipts

Except as otherwise specifically provided in this Agreement, the term "Gross Receipts" shall mean:

a. The total amount of the sale price of all sales;

b. The total amount charged or received for the performance of any act, service or employment, of whatever nature, for which a charge is made or credit allowed, whether or not such act, service, or employment is done as a part of or in connection with the sale of goods, wares or merchandise;

c. All other receipts, including cash, credit and property of any kind or nature except as hereafter excluded;

d. Any amount for which credit is allowed by the seller to the purchaser without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses, or any other expense whatsoever;

e. The amount of any federal manufacturers or importers excise tax included in the price of the property, whether or not the amount of such tax is stated as a separate charge.

2. Excluded Receipts

The term "Gross Receipts," shall not include the following:

a. Cash discounts taken on sales;

b. The amount of any federal tax imposed on or with respect to retail sales, whether imposed upon the retailer or upon the consumer or purchaser, and whether or not the amount of the tax is stated as a separate charge;

c. Any state, county, city and county, or city sales or use tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;

d. That part of the sales price of any property accepted for resale which was previously sold to and returned by the purchaser to the seller, which is refunded by the seller either in cash, or as credit allowances given or taken in part payment on any other property;

e. Amounts collected for others where the reporting business is acting as agent or trustee, but not as sales agent, to the extent that such amounts are paid to those for whom collected.

3. Base Revenue

The term "Base Revenue" shall mean the Gross Receipts derived from all Golf Course operations except receipts from golf lessons.

4. Minimum Base Revenue

The Minimum Base Revenue for the ten year period beginning July 1, 1999 shall be as follows:

FY 99/00	$2,400,000
FY 00/01	$2,420,000
FY 01/02	$2,440,000
FY 02/03	$2,450,000
FY 03/04	$2,460,000
FY 04/05	$3,013,000
FY 05/06	$3,328,000
FY 06/07	$3,338,000
FY 07/08	$3,348,000
FY 08/09	$3,750,000

5. Additional Payments to Operator

In addition to the payment to Operator of the minimum period amount provided for in the Business Plan, City agrees to pay Operator the following percentages of Base Revenue achieved in excess of the Minimum Base Revenue for each period:

a. $1 to $300,000 – Fifty percent (50%)

b. $300,001 to $400,000 – Forty percent (40%)

c. $400,001 and above – Twenty-five percent (25%)

Notwithstanding the above percentages, the additional payment to Operator shall not exceed the minimum period provided for in the Business Plan.

d. For Fiscal Years 2004-2009, if the sum of budgeted operating expenses and cost of goods sold identified in the Business Plan approved by the City Manager exceeds the Minimum Base Revenue for such fiscal year set forth in Exhibit C-1 for any such fiscal year, City and Operator will, in determining amounts to be paid to each pursuant to Paragraph 5 of this Exhibit C-1, deduct from the amount otherwise allocable to each under such Paragraph 5, a sum equal to 50% of the amount by which such budgeted operating expenses and cost of goods sold exceeds Minimum Base Revenue for such fiscal year.

e. The City Manager has approved a Business Plan for Fiscal Year 2004-2005, which Business Plan contains a budget based on operation of an eighteen hole golf course for a period of twelve months, and a nine hole golf course for a period of ten months during such fiscal year. The expenses and revenue shown in such Business Plan shall, for the purposes of this Second Amendment, be prorated based upon an eight month period of operations of a nine hole golf course during such fiscal year.

EXHIBIT A–1.1

ATTACHMENT NO. 3

PAGE 1 OF 1

CITY OF OXNARD

REQUEST FOR SPECIAL BUDGET APPROPRIATION

To the City Manager: 24-Jun-08

Request is hereby made for an appropriation total of $425,500

Reason for appropriation: To recognize and appropriate additional revenue for the River Ridge Golf Club

FUND	DESCRIPTION/ACCOUNT	AMOUNT
Golf Course 651	Golf Course Activity 651-6401-615-7751	425,500
	Total	425,500
	Net Effect on Fund Balance	-425,500

Division Manager

COUNCIL APPROVAL:

[X] REQUIRED

[ ] NOT REQUIRED

Director of Finance

Disposition

Approved

Rejected

Transfer by Journal Voucher

City Manager

ATTACHMENT NO. 4

PAGE 1 OF 1