


8B



**INDIAN RIVER COUNTY, FLORIDA
AGENDA ITEM
Assistant County Administrator /
Department of General Services**

To: The Honorable Board of County Commissioners
Thru: Joseph A. Baird, County Administrator
From: Michael C. Zito, Assistant County Administrator 
Date: May 30, 2015
Subject: Renewal of Maintenance Agreement at Sandridge Golf Club

BACKGROUND:

International Golf Maintenance (I.G.M.) has maintained the golf courses and grounds at Sandridge Golf Club since 1996. The current contract period which began October 1, 2005 was for five (5) years with two (5) year renewal options. The annual payment beginning October 1, 2005 was \$996,092.00 for the first budget year and \$1,178,200.00 for the final year of the original contract period ending September 30, 2010. During the first renewal period, IGM cooperated with the County's request to voluntarily reduce the monthly obligation in response to the economic downturn. The current annual rate is \$1,026,972.00. Staff has been negotiating a five-year renewal to begin October 1, 2015. As a part of the negotiation, I.G.M. has agreed to a 3% increase for the coming fiscal year or \$1,057,781.00, which is still \$120,419.00 less than rate paid at the end of the first five-year period of the contract.

I.G.M. has requested a provision that would allow for an additional one-time increase determined by the current Consumer Price Index (C.P.I.) not to exceed 3%. This one time increase can only occur at the sole discretion of the County.

DESCRIPTION:

Renewal terms include a 3% increase in year one; and, thereafter one opportunity for IGM to request up to a 3% increase which may be granted by the County in its sole discretion.

FUNDING:

Account Description	Account Number	Budget Amount
Other Contractual Services	41822172-033490	\$ 1,057,781

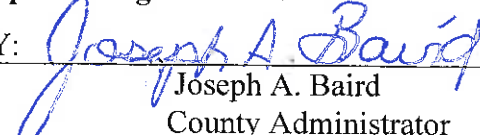
RECOMMENDATION:

Staff respectfully requests that the Board authorize its Chairman to sign the agreement.





ATTACHMENTS:

Agreement, First and Second Amendments

Approved Agenda Item

BY: 
 Joseph A. Baird
 County Administrator

FOR: June 9, 2015

Indian River County	Approved	Date
Administration		6/3/15
County Attorney		6/3/15
Budget		6/3/15
Department		6/1/15
Risk Management		

**SECOND AMENDMENT TO
GOLF COURSE MAINTENANCE AGREEMENT**

THIS FIRST AMENDMENT is entered into as of the ____ day of June 2015 by and between INTERNATIONAL GOLF MAINTENANCE, INC. (“IGM”) and INDIAN RIVER COUNTY, POLITICAL SUBDIVISION OF THE State of Florida (“Owner”).

WHEREAS, effective October 1, 2005, IGM and Owner entered into that certain Maintenance Agreement (“Agreement”) relating to Sandridge Golf Club, Vero Beach, Florida (“Course”) and

WHEREAS, section 2.1 of the Agreement grants to Owner two options to renew the Agreement for an additional five-year terms; and

WHEREAS, On May 18, 2010 the parties executed the First Amendment to Golf Course Maintenance Agreement renewing the term through September 30, 2015.

WHEREAS, Owner desires to exercise the option to renew the Agreement for one additional five-year term, in accordance with the terms of this amendment and the original agreement approved October 4, 2005.

NOW, THEREFORE, in consideration of the mutual undertakings herein, and other good and valuable consideration, the parties hereby agree, as follows:

1. **Renewal.** Pursuant to section 2.1 of the Agreement, County hereby exercises its option to renew the Agreement for one additional five-year term, commencing on October 1, 2015 and terminating on September 30, 2020.
2. **Base Fee.** The base fee is hereby amended, as follows: (a). The base fee for each month from October 1, 2015 through September 30, 2020, inclusive, shall be \$88,148.43 or \$1,057,781 annually. If CPI increase equals or exceeds 3.0% from October 1, 2015 to any point in time during the renewal term, then IGM shall have one opportunity during this renewal period to request an increase in the base fee not to exceed 3.0% from Owner, which Owner may approve or disapprove in its sole discretion. If Owner, disapproves such increase, IGM shall have the right to renew the request on an annual basis thereafter, subject to Owner’s continuing right of approval or disapproval. IGM shall not be entitled to any other increases in the base fee during the renewal term.

For the purposes of this section, the term “CPI” shall mean the Consumer Price Index – All Urban Consumers: South Urban (not seasonally adjusted).

3. **Equipment.** IGM will acquire and maintain all equipment necessary to perform maintenance services under the agreement.
4. **All Remaining Terms.** All remaining terms of the Agreement and First Amendment to Golf Course Maintenance Agreement not expressly and directly amended herein shall remain in full force and effect.

Signed, sealed and delivered in the presence of:

Print Name: _____

Print Name: _____

Signed, sealed and delivered in the presence of:

Print Name: _____

ATTESTS:

Jeffrey R. Smith, Clerk of Court and Comptroller

By: _____

**INTERNATIONAL GOLF MAINTENANCE,
INC. ("IGM")**

By: _____

Print Name: Greg A. Plotner
Print Title: Executive Vice President

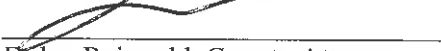
**INDIAN RIVER COUNTY, a political
subdivision of the State of Florida ("Owner")**

BY:

Print Name: Wesley S. Davis
Print Title: Chairman

APPROVED BY BOARD: _____

Approved as to form and legal sufficiency.

By: 
Dylan Reingold, County Attorney

FILE COPY

5/18/10
12.F.1.
2010 - 129

FIRST AMENDMENT TO GOLF COURSE MAINTENANCE AGREEMENT

THIS FIRST AMENDMENT is entered into as of the 18 day of May, 2010, by and between INTERNATIONAL GOLF MAINTENANCE, INC. ("IGM") and INDIAN RIVER COUNTY, a political subdivision of the State of Florida ("Owner").

WHEREAS, effective October 4, 2005, IGM and Owner entered into that certain Maintenance Agreement ("Agreement") relating to Sandridge Golf Club, Vero Beach, Florida ("Course"); and

WHEREAS, section 2.1 of the Agreement grants to Owner two options to renew the Agreement for additional five-year terms; and

WHEREAS, Owner desires to exercise the first option to renew the Agreement for one additional five-year term, in accordance with the terms of this amendment.

NOW, THEREFORE, in consideration of the mutual undertakings herein, and other good and valuable consideration, the parties hereby agree, as follows:

1. **IGM's Contact Person.** Background Fact C is hereby revised to state that IGM's Contact Person shall be Greg Plotner, at the same address shown in the Agreement.

2. **Renewal.** Pursuant to section 2.1 of the Agreement, County hereby exercises its option to renew the Agreement for one additional five-year term, commencing on October 1, 2010, and terminating on September 30, 2015.

3. **Maintenance Equipment.** All language following the first two sentences in section 2.5 of the Agreement is hereby deleted, and replaced with the following: "IGM will be responsible for purchasing all future replacement equipment to fulfill the terms of this Agreement. IGM will submit to Owner an annual written equipment replacement schedule at the beginning of the first and each subsequent year of the renewal term. The schedule shall be subject to the approval of the Course manager."

4. **Base Fee.** The base fee is hereby amended, as follows: (a) The base fee for each month from April 2010 through September 2010, inclusive, shall be \$88,088.25; and (b) the base fee for each year of the renewal term shall be \$997,059.00, subject to a maximum of two possible CPI increases during the renewal term. Specifically, if the CPI increase equals or exceeds 3.0% from April 1, 2010 to any point in time during the renewal term, then IGM shall have the right to request an increase in the base fee not to exceed 3.0% from Owner, which Owner may approve or disapprove in its sole discretion. If Owner disapproves such increase, IGM shall have the right to renew the request on an annual basis thereafter, subject to Owner's continuing right of approval or disapproval. If Owner approves a CPI increase during the renewal term, and if the CPI increases by an amount equal to or greater than 3.0% between the effective date of the first CPI increase, and any point in time during the remainder of the renewal term, then IGM shall have the right to request a second CPI increase, which County may approve or disapprove in its sole discretion. IGM shall not be entitled to any other increases in the base fee during the renewal term.

Page 1 of 2

For the purposes of this section, the term "CPI" shall mean the Consumer Price Index - All Urban Consumers: South Urban (not seasonally adjusted).

5. **Obligation to Provide Facilities.** Section 5.1 is amended to eliminate any reference that Owner shall provide "safe" facilities or a "safe" work environment. The parties acknowledge that IGM has maintained the Course for five years prior to the effective date of this amendment, is fully apprised of the condition of the facilities and work environment, and hereby accepts such facilities and work environment "as is."

6. **Equipment Repurchase Addendum.** The Equipment Repurchase Addendum set forth in section 5.4 is hereby deleted.

7. **Acts of God, etc.** Section 7.10 is amended to provide that Owner shall not be liable to pay the monthly fee for any period of time during which IGM's performance is excused under this provision, by reason of an act of God, etc.

8. **Exhibit E.** Exhibit E (Pricing Summary Sheet) is hereby deleted.

9. **All Remaining Terms.** All remaining terms of the Agreement not expressly and directly amended herein shall remain in full force and effect.

Signed, sealed and delivered in the presence of:

Laura Liffiton
Print Name: Laura Liffiton
Lisa R. Poole
Print Name: Lisa R. Poole

INTERNATIONAL GOLF MAINTENANCE,
INC. ("IGM")

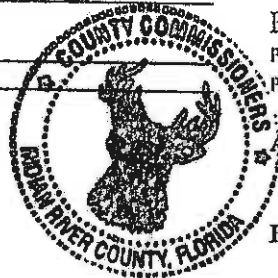
By: Greg A. Flower
Print Name: Greg A. Flower
Print Title: Executive VP

Signed, sealed and delivered in the presence of:

Terri Collins-Lister
Print Name: Terri Collins-Lister
Print Name: _____

INDIAN RIVER COUNTY, a political sub-
division of the State of Florida ("Owner")

By: Peter D. O'Brien
Print Name: Peter D. O'Brien
Print Title: Chairman



Approved as to form and legal sufficiency.

By: Alan S. Polackwich, Sr.
Alan S. Polackwich, Sr., County Attorney

10-4-05
7mm
05-301

**INTERNATIONAL GOLF MAINTENANCE, INC.
8390 CHAMPIONSGATE BLVD.
CHAMPIONSGATE, FL 33801
800-413-5500
407-589-7200 407-589-7223 (FAX)**

THIS MAINTENANCE AGREEMENT (the "Agreement") is entered into by and between INTERNATIONAL GOLF MAINTENANCE, INC. ("IGM"), and Indian River County, a political subdivision of the State of Florida, the owner designated in Recital C below (the "Owner") as of the date set forth below as the effective date (the "Effective Date").

BACKGROUND FACTS

A. IGM is a service provider of agronomic, horticultural and recurring services for golf course facilities and has represented to Owner that it has the competency and experience to perform the services set forth in this agreement.

B. Owner is the owner of the golf course named Sandridge Golf Club, 5300 73rd Street, Vero Beach, Florida, (the "Course") and desires to engage IGM to provide services to the Course as more particularly described in this Agreement.

C. IGM's and Owner's contact information and other summary information regarding this Agreement is:

OWNER: Indian River County
ADDRESS: 5300 73rd Street
CITY/STATE/ZIP: Vero Beach, Florida 32966
TELEPHONE: (772) 770-5003
FAX: (772) 770-5109
COURSE NAME: Sandridge Golf Club
OWNER REPRESENTATIVE: Bob Komarinetz, Director
OWNER'S FEDERAL I.D. NUMBER: 59-6000674
EFFECTIVE DATE: October 1, 2005

For IGM
International Golf Maintenance, Inc.
BY: Scott Zakany
8390 ChampionsGate Blvd.
ChampionsGate, FL 33896
Phone: 407-589-7200

AGREEMENT

In consideration of the mutual benefits to be derived from this agreement and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound agree as follows:

SECTION 1 SERVICES

1.1. Background Facts. The Background Facts are agreed to be true and correct are incorporated herein by this reference.

1.2. Services. During the Term (as hereinafter defined), IGM agrees to provide to Owner the services, including all labor, materials, uniforms and supplies required to perform such services, described in the RFP Number 7054 and IGM's Response to RFP Number 7054 attached and incorporated by reference herein attached and incorporated by reference herein as **Exhibit A** subject to the specific terms and conditions of this Agreement (the "Services").

1.3. Agreement Regarding Scope of Services. IGM shall not, without owner's prior written approval, be required to exceed the Services described in **Exhibit A** or provide any additional services. Such written approval shall not be binding on IGM until the fee for such Services is agreed in writing by Owner. Owner agrees and acknowledges that the Services do not include, without limitation: (i) payment of the costs of any utility services to the Course or in connection with the Services, (ii) the costs of any material improvements or modifications to any irrigation system present on the Course, (iii) the cost of hauling any organic waste and/or debris from the Course, (iv) the cost of any modifications or capital improvements to the Course, (v) the repair or replacement of Course facilities, including shrubbery or trees that are damaged or destroyed by severe weather, or (vi) the cost of repair or replacement of property, real or personal, which is damaged through acts of vandalism or other criminal activity, unless such vandalism or criminal activity is directly caused by the affirmative acts of IGM. IGM shall not subcontract any work under this agreement without Owner's written permission. IGM shall not assign this contract without Owner's written permission.

1.4. Compliance with Laws. IGM shall comply with all applicable laws, ordinances and regulations related in the performance of its Services hereunder. Without limitation, IGM shall not violate any federal, state or local environmental laws, statutes, ordinances, codes, rules or regulations regulating the Services.

SECTION 2 TERM; EARLY TERMINATION

2.1. Term of this Agreement. This Agreement shall be effective for a period of Five (5) years from the Effective Date, (the "Term") unless earlier terminated as provided herein. The Term being from October 1, 2005 and continuing through September 30, 2010. The County shall have the option to renew this Agreement for two (2) additional five (5) year terms. Any additional services requested by the County shall be completed in accordance with applicable authorization provided by the County.

2.2. Termination without Cause. During the first six (6) months of the Term, Owner may terminate this Agreement, with or without cause, upon thirty (30) days prior written notice to IGM. In the event of such termination, IGM shall be paid for services rendered to the county's satisfaction through the date of termination. After such date, Owner may terminate only for cause as set forth below.

2.3. Termination for Cause. Either party may, at its option, terminate this Agreement as provided herein in the event of material breach by the other party of this Agreement. A breach shall be "material" within the meaning of this Agreement if the breach is (i) a breach of a monetary obligation, including non-payment of sums due from Owner to IGM, (ii) a breach of any of the obligations described in Sections 1.1 - 1.4, 4, 5, 6, 8.8, 8.11 or 8.12 of this Agreement; or (iii) a breach which would have a material adverse affect on the other party. A termination under this provision shall be effective only upon a written notice, specifically identifying the breach on which termination is based as follows: (x) thirty (30) days after written notice if the breach is of any obligation other than payment provided such breach is capable of being cured and remains uncured at the end of the thirty (30) day period, and (y) five (5) days from receipt of written notice to cure any breach of a monetary obligation, including non-payment of sums due from Owner to IGM, if at the end of such period the breach remains uncured.

2.4. Limitation on Right to Terminate. In the event of any termination hereunder, Owner must pay, on or before the effective date of termination, IGM in full for all services performed by IGM through the date of termination, unless the amount of pay or the quality of services is in dispute.

2.5. Effects of Termination on Equipment. IGM is currently using and will continue to use Owner's equipment to fulfill its obligations under this Agreement. When this equipment reaches the end of its useful life, it shall be surplusd by the Owner. Beginning in Year two of this agreement, Owner will make yearly payments to IGM for the purpose of equipment purchase and replacement so IGM may continue to fulfill its obligations under this Agreement. At the end of this agreement or in the event of an early termination of this Agreement, the parties agree that the Owner shall purchase all of the Equipment from IGM (except any County owned equipment) at fair market value. If the parties cannot reach an agreement as to fair market value, the parties shall retain an independent appraiser shall be retained to establish a fair market value of the equipment and the Owner shall pay said amount., The fee charged by the appraiser east-of which shall be shared equally by the parties.

2.6. IGM shall be responsible for all maintenance and repair of all equipment under this agreement. Equipment shall be repaired and maintained in accordance with manufacturers' standards or standards common to the industry.

**SECTION 3
FEES AND EXPENSES**

3.1. Base Fee. For the Services rendered hereunder, Owner shall pay to IGM the following amounts as set forth in Exhibit E attached and incorporated by reference herein.:

Together with sales, service, use or other taxes that may be attributable to such sum, which sum shall be divided equally and paid as provided herein. For each year of the agreement, the salary and benefits, operating budget costs and equipment replacement amounts shall be added together and IGM shall be paid in 12 monthly installments on the first Friday of each month or if a Holiday, the first business day thereafter.

3.2. Fee for Additional Services. In the event Owner approves additional Services in accordance with Section 1.3 of this Agreement, IGM shall be entitled to charge and collect the additional sum agreed by the parties at the time such additional Service was approved by Owner together with sales, service, use or other taxes that may be attributable to such sum. In the event the additional Service is continuing in nature, in each succeeding year, the charge shall escalate as provided in Exhibit E.

3.3. Interest on Late Fees. Each installment of the Service Fees shall be paid in accordance with the Florida Prompt Payment Act, FS 218.70 *et. seq.*

3.4. Taxes. Owner shall pay to IGM with each installment of the Service Fees set forth in Sections 3.1 and 3.2, all sales, service, use or other taxes, if any, which may be applicable to said fees as of the date of this Agreement. Any increase in such tax, or any sales, use or other taxes imposed on said fees as a result of new legislation, authoritative interpretation, or regulatory activity after the date of this Agreement, shall be the responsibility of Owner and shall be included with, and be a part of, each installment of the Service Fees.

**SECTION 4
INSURANCE**

4.1. Insurance Requirements for IGM. IGM will maintain, at its own expense, during the performance of the work covered by this Agreement, and shall provide the COUNTY with evidence that IGM has obtained and maintains the insurance listed below

A. Minimum Scope of Insurance

1. Worker's Compensation as required by the State of Florida. Employers Liability of \$100,000 each accident, \$500,000 disease policy limit, and \$100,000 disease each employee.
 2. General Liability \$1,000,000 combined single limit per accident for bodily injury and property damage. County shall be named as an additional insured.
 3. Auto Liability \$1,000,000 combined single limit per accident for bodily injury and property damage for owned and non-owned vehicles. County shall be named as an additional insured.
- B. Any deductibles or self insured retentions greater than \$5,000 must be approved by the Risk Manager for Indian River County with the ultimate responsibility for same going to IGM.
- C. IGM'S insurance coverage shall be primary.
- D. All above insurance policies shall be placed with insurers with a Best's rating of no less than A + VII. The insurer chosen shall also be licensed to do business in Florida.
- E. The insurance policies procured shall be per occurrence policies or as generally available on the open insurance market.
- F. The Insurance Carriers shall supply Certificates of Insurance evidencing such coverage to the Indian River County Risk Management Department within ten days of execution of this Contract.
- G. The insurance companies selected shall send written verification to the Indian River County Risk Management Department that they will provide 30 days written notice to the Indian River County Department of Risk Management of its intent to cancel or terminate said policies of insurance.
- H. IGM hereby agrees to indemnify Indian River County and Representatives thereof from all claims arising solely from intentional, reckless or negligent acts, errors or omissions of the IGM or IGMS' Representatives in the performance of services under this agreement and for which IGM is legally liable.

4.2. Insurance Requirements for Owner. IGM acknowledges that Owner is a political subdivision of the State of Florida and as such, is entitled to certain protection from liability under Florida law. To the extent allowed by law, the Owner hereby agrees to indemnify IGM from claims arising from the negligent acts, errors or omissions of the OWNER in the performance of the services under this agreement and for which Owner is legally liable. Additionally, the County hereby states that its improvements are adequately insured against loss whether through self insurance or excess coverage.

4.3. Disclaimer. Owner acknowledges and understands that IGM has made no representations or warranties that the insurance specified in this Agreement is adequate to protect Owner.

4.4. Notice of Claims. Owner and IGM shall give prompt notice to the other of any third party claims made against either or both of them, and shall cooperate fully with each other

and with any insurance carrier to the end that all such claims will be properly investigated, defended and adjusted.

SECTION 5 OWNER RESPONSIBILITIES

5.1. Obligations to Provide Facilities. Owner, at its sole cost and expense, shall be responsible for providing safe and adequate facilities required by IGM to perform the Services under this Agreement. These facilities shall include, without limitation, workspace and other facilities that adhere to current federal and state safety standards. Owner shall cooperate at all times with IGM to provide a safe and adequate work environment for IGM employees and others who work on or around the Course. IGM has inspected Owner's facilities and agrees that they are adequate facilities needed to perform the services under this agreement and the facilities adhere to current federal and state safety standards.

5.2. Utilities, Repairs, Modification. Additionally, Owner shall be wholly responsible for the provision of necessary utilities to the Course and work areas, for repairs and material improvements or modifications to any Course irrigation systems, for the pressure regulation valve and all pumps, systems and other facilities "upstream" from said valve, for the cost of hauling organic waste and/or any debris away from the Course, and for repairs required by any acts or omissions of third parties.

5.3. Compliance with this Agreement. During the Term, Owner will not:

(a) Within ten (10) days of the date due, fail to make or cause to be made any payment to IGM required to be made hereunder or to make any payment pursuant to any other agreement between the parties;

(b) Fail to keep, observe or perform any agreement, term or provision of this Agreement to be kept, observed or performed by it;

(c) After a casualty, fail to restore one or more golf holes, the clubhouse, maintenance building, or any material service of the Course to normal operation with six (6) months after casualty, if possible;

(d) Suffer the termination, revocation or suspension of the licenses required for the operation of the Course for a period of one-hundred eighty (180) days consecutively;

(e) Default after any applicable grace period or notice and cure periods under any applicable debt document with respect to the Course.

5.4 Emergency Maintenance

At any time during this agreement, if the Owner determines that any portion of the golf course is in immediate jeopardy of sustaining some type of serious harm due to a maintenance failure of IGM, the Owner may utilize its own work force to go on the golf course and perform such tasks as are necessary to prevent such serious harm from taking place. The costs of such preventative maintenance shall be itemized by the County and submitted to IGM and offset against any future monies owing to IGM under this agreement.

EQUIPMENT REPURCHASE ADDENDUM

If noted here, the Equipment Repurchase Addendum attached shall be a part of this Agreement.

- The Equipment Repurchase Addendum is a part of this Agreement.
- The Equipment Repurchase Addendum is not a part of this Agreement.

SECTION 6 DEFAULT; REMEDIES

6.1. Default by IGM. In the event IGM is in default under the terms of this Agreement, after thirty (30) days written notice and opportunity to cure, Owner may, in addition to any right of termination provided in Section 2 of this Agreement, maintain an action for damages arising from the default.

6.2. Default by Owner. In the event that Owner is in default under the terms of this Agreement after any grace period or notice and cure period expressly provided herein, IGM may, in addition to any right of termination contained in Section 2 of this Agreement, exercise any right or remedy available at law or equity including, without limitation, an action for damages arising out of the breach.

SECTION 7 MISCELLANEOUS

7.1. Any written consent, approval or instruction issued by Owner's representation identified in Recital C of this Agreement shall be binding to the same extent as if given by Owner. Owner may change the designated Owner's representative by written notice to IGM.

7.2. In connection with this Agreement, the parties agree to cooperate in good faith and to perform no act, or allow any omission, which would inhibit the other party from performing its obligations under this Agreement.

7.3. The captions and headings used in this Agreement are for convenience only and do not in any way limit, amplify, or otherwise modify the provisions of this Agreement.

7.4. This Agreement, together with the Exhibits and Response to Request for Proposal constitutes the entire agreement between the parties with respect to the subject matter hereof and merges all prior and contemporaneous communications. This Agreement shall not be modified except by a written agreement dated subsequent to the date of this Agreement and signed on behalf of Owner and IGM by their respective duly authorized representatives.

7.5. Any notice which either party is required or may desire to give to the other under this Agreement shall be in writing and shall be given by registered or certified mail, return receipt requested, postage prepaid, addressed to the party at its address shown on the First Page of this Agreement. If Owner or IGM wish to change its respective address for purposes of notice under this Agreement, they may do so by giving to the other written notice of change of address.

7.6. Nothing in this Agreement shall be construed to create a partnership, a joint venture or agency relationship between the parties. Neither party shall have any authority to enter into agreements on behalf of the other, or otherwise to bind or obligate the other in any manner. The language of this Agreement shall not be construed more strongly against either party, regardless of which party is responsible for its drafting.

7.7. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party.

7.8. The Owner agrees that it will not, while this Agreement is in effect directly employ, hire, or engage any person who shall have been an employee, of IGM during the term of this Agreement without express written permission from IGM. Current employees of Owner at the time of execution of this agreement are exempt from this provision.

7.9. All payments under the Agreement to IGM from Owner shall be due at IGM's offices in Osceola County, Florida. The parties further agree that any litigation arising from this Agreement shall also be brought in Indian River County Florida.

7.10. In the event of acts or occurrences caused by Owner or beyond the control of IGM, including, without limitation, strikes, labor disturbances, acts of God, fire, flood, riots, hurricanes, ice storms, severe, unusual or unseasonable weather or climatological changes that prevents IGM from performing its duties under this agreement, IGM shall be excused from the

performance of affected Services under this Agreement during the period of such acts or occurrences and for reasonable times thereafter, unless IGM and Owner can agree on such other duties that can be performed by IGM. Still, Owner shall be liable to pay the monthly fee due IGM under this Agreement less any sums that IGM can save through good faith efforts to mitigate its costs during such period. If IGM is unable to perform its duties under this agreement for more than 15 consecutive days due to the acts or occurrences, Owner may terminate this agreement. Without limitation, the parties agree that Services to be performed by IGM hereunder are to be performed essentially in concert with nature, and that unusual or severe weather may inhibit attainment of the goals set forth in the Maintenance Guidelines. Additionally, the parties agree that the Owner shall be responsible for the repair or replacement of Course facilities, including shrubbery and trees, which may be damaged by unusual or severe weather. In the event that unusual or severe weather or conditions which cause IGM to recommend the closing of the Course to play, Owner agrees to bear the risk of any damage which results from refusal by Owner to heed such warning.

7.11. IGM may identify the Course as a golf course to which IGM is providing Services. It is recognized that the name "International Golf Maintenance, Inc." and the initials "IGM," together with any other names, logos or designs owned by IGM or any of its affiliates and used in connection with the Services, together with appurtenant goodwill, are the exclusive property of IGM or its affiliates (collectively, the "IGM-Owned Names"). Accordingly, Owner agrees that no right or remedy of Owner for any default on the part of IGM under this Agreement shall, nor shall any provision of this Agreement, confer upon Owner or its successors or assigns the right to use IGM-Owned Names in the operation of the Course or otherwise. In the event of any breach of this covenant by Owner, IGM, in addition to any remedies available to it under this Agreement or at law or in equity, shall have the right to injunctive relief.

7.12. In the event of the sale or other transfer of control over the Course, Owner will assign this Agreement to the purchaser or transferee, and upon such assignment and the written assumptions by the purchaser of all the obligations of Owner to IGM hereunder, Owner shall be fully released and relieved of all obligations hereunder arising from and after the date of the assignment.

7.13. PERMITS, FEES, LICENSES.

Permits, fees, licenses necessary for performance of work by IGM will not be waived by the County, and IGM shall be responsible for obtaining, and shall pay for, any such required permits, fees, and licenses.

7.14. INTEREST OF IGM.

IGM covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which shall conflict with its performance, or services required to be performed, under this Agreement. IGM further covenants that, in the performance of this Agreement, no person having any such conflicting interest shall be employed by IGM.

7.15 COVENANT AGAINST CONTINGENT FEES.

IGM warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for IGM, to solicit or secure this Agreement, and that it has

not paid or agreed to pay any person, company, corporation, individual or Firm, other than a bona fide employee working solely for IGM, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this section, the County shall have the right, but not the duty, to terminate this Agreement without liability, and, at its discretion, to deduct from the Agreement such price, or otherwise recover the full amount of such fee, commission, percentage, gift or other consideration.

7.16. SCHEDULE OF WORK.

IGM agrees to set an initial schedule of its work, and submit that schedule for approval by the County no later than thirty (30) days prior to October 1 of each year. Subsequent changes in schedule must be approved pursuant or as provided by Exhibit "B", Scope of Services & General Requirements.

7.17. RECORDS AND AUDITS.

IGM agrees to maintain all books, documents, papers, records, and accounts pertaining to work performed under this Agreement, including property, personnel, and financial records, as are deemed necessary by the County to insure proper accounting for all funds expended under this Agreement and in such a manner as will readily conform to the terms of this Agreement. Said records and materials shall be available, upon request for audit or inspection purposes to Indian River County, its authorized representatives, and its auditors at IGM's office at all reasonable times during the term of this Agreement, and for three (3) years from the date of final payment.

7.18. EQUAL OPPORTUNITY EMPLOYMENT.

Firm agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, national origin, or disability, and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, national origin or disability. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfers; recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

7.19. INDEPENDENT CONTRACTOR.

It is agreed by the parties that, at all times and for all purposes within the scope of this Agreement, the relationship of IGM to the County is that of independent contractor, and not that of employee. No statement contained in this Agreement shall be construed to define IGM or any of its employees as an agency or employee of the County. IGM shall not be entitled to any of the rights, privileges or benefits of Indian River County agencies or employees.

7.20. SEVERABILITY.

If any of the provisions contained in this Agreement are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalid, illegal, or unenforceable provision shall not affect any other provision, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

BY SIGNING BELOW, OWNER ACKNOWLEDGES HAVING READ THE TERMS AND CONDITIONS SET FORTH HEREIN. OWNER FURTHER REPRESENTS AND WARRANTS THAT IT UNDERSTANDS ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT AND AGREES TO BE STRICTLY BOUND THEREBY.

DATED this 22nd day of September, 2005.

Witnesses:

INTERNATIONAL GOLF MAINTENANCE, INC.

Debbie Baird
 Print Name: Debbie Baird

By: [Signature]
 Print Name: Scott Zakari
 As its: Executive Vice President

Print Name: _____

BOARD OF COUNTY COMMISSIONERS
 INDIAN RIVER COUNTY, FLORIDA

BY: [Signature]
 Thomas S. Lowther, Chairman
 BCC Approved: October 11, 2005

BY: [Signature] ACA
 for Joseph A. Baird, County Administrator

Indian River County	Approved	Date
Administration	<u>[Signature]</u>	9-27-05
Budget	<u>[Signature]</u>	9/27/05
Co. Atty.	<u>[Signature]</u>	9/24/05
Risk Management	<u>[Signature]</u>	09-27-05
Public Works		

Attest: [Signature] Dep. Clk
 Jeffrey K. Barton, Clerk of Court

Approved as to form and legal sufficiency:

[Signature]
 County Attorney

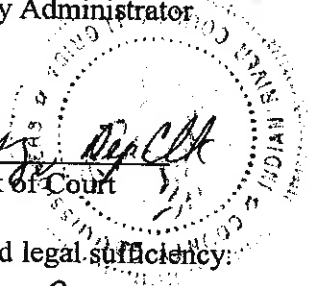


EXHIBIT E

PRICING SUMMARY SHEET

EQUIPMENT PURCHASED (SCHEDULED A)		\$0.00
YEAR 1	SALARY & BENEFITS	\$525,862
	OPERATING BUDGET COSTS	\$470,230
	EQUIPMENT REPLACEMENT	\$0.00
	TOTAL	\$996,092.00
YEAR 2	SALARY & BENEFITS	\$536,379
	OPERATING BUDGET COSTS	\$479,634
	PERCENTAGE OF INCREASE	2%
	EQUIPMENT REPLACEMENT	\$25,000
	TOTAL	\$1,041,013.00
YEAR 3	SALARY & BENEFITS	\$547,106
	OPERATING BUDGET COSTS	\$489,227
	PERCENTAGE OF INCREASE	2%
	EQUIPMENT REPLACEMENT	\$50,000
	TOTAL	\$1,086,333.00
YEAR 4	SALARY & BENEFITS	\$558,048
	OPERATING BUDGET COSTS	\$499,011
	PERCENTAGE OF INCREASE	2%
	EQUIPMENT REPLACEMENT	\$75,000
	TOTAL	\$1,132,059.00
YEAR 5	SALARY & BENEFITS	\$569,208
	OPERATING BUDGET COSTS	\$508,992
	PERCENTAGE OF INCREASE	2%
	EQUIPMENT REPLACEMENT	\$100,000
	TOTAL	\$1,178,200.00