

INDIAN WELLS CITY COUNCIL

November 7, 2024



To: City Council
From: City Manager Department
Prepared by: Christopher Freeland, City Manager
Subject: **Players Course Renovation Funding Agreement**

RECOMMENDED ACTIONS:

Council **AUTHORIZES** the City Attorney to finalize and the City Manager to execute the Funding Agreement with Troon Golf to complete the renovation of the Player's Course; and

FINDS the action exempt from California Environmental Quality Act (CEQA) review under CEQA guidelines section 15061(b)(3).

BACKGROUND:

On October 24, 2024, the City Council approved the renovation of the Player's golf course at the Indian Wells Golf Resort. The Council appointed Troon Golf as the owner's representative to oversee the project. Troon Golf will manage contractors and represent the City's interests throughout the renovation.

Troon Golf was selected for its extensive industry experience, which includes managing and consulting on over 750 golf properties worldwide. Troon's team includes professionals with expertise in golf course construction, management, agronomy, and sustainable design, providing the technical skills required to manage the project at each phase.

Troon has a demonstrated track record in market analysis, budgeting, vendor management, and course architecture. These capabilities, coupled with Troon's established network of industry partners, make them a reliable representative for overseeing project execution to meet the City's requirements on time and within budget.

Award of Contracts:

Troon will exercise comprehensive due diligence in contracting a qualified and reputable Contractor to undertake the construction and installation of the Renovation Project, with an obligation to ensure completion by the defined Completion Date. Troon assumes exclusive responsibility for procuring bids and awarding contracts associated with the

construction and installation of the Renovation Project. In doing so, Troon shall solicit bids from contractors who are licensed, insured, bonded, and reasonably approved by the City.

Liquidated Damages:

Troon will require the Contractor to complete the construction of the Renovation Project by September 1, 2025, to provide sufficient time for grass growing of the course. Time is of the essence in this Funding Agreement, and Troon shall ensure that this urgency is explicitly stated in the contract with the Contractor. Contractors will be required to sod the course if it does not meet the deadline for installation of grass sprigs.

In addition, the construction contract will stipulate that the Contractor will be liable for liquidated damages in the amount of \$2,000.00 per calendar day for each day that the Renovation Project extends beyond the substantial Completion Date of (September 1, 2025), as set forth in the contract. Troon shall enforce this provision, either deducting liquidated damages owed from payments to the Contractor or, in cases where the Project is completed, recovering the funds and remitting them to the City. Troon itself will bear no independent liability or obligation to pay liquidated damages to the City beyond amounts recovered from the Contractor.

Other Miscellaneous Provisions:

- Troon will provide frequent reporting on construction activities to the City, at least twice a month to the City Manager. Public Works staff will also attend weekly construction meetings and report back to the City Manager on the construction progress.
- Any material changes to the project scope, cost, or completion date require Troon and City approval. This includes any significant changes to the course that may impact project finances, construction schedule, approved design, playability, etc.
- Costs above the \$12.15 million construction bid must be approved by the City Manager. This includes costs for project consultants (e.g., engineering, tribal monitoring, etc.) or use of contingency funding.

FISCAL IMPACT:

Project Reimbursement:

The City will reimburse Troon for its actual expenses related to the renovation project in an amount not exceeding \$15,000.00. This reimbursement covers Troon's actual costs related to the renovation project, including coordination with contractors, travel and management expenses, and upholding the project's quality standards on behalf of the City. Troon has agreed to waive any project management fee, which typically ranges between 10%-12% of the construction contract (\$1.215 and \$1.36 million).

Construction Costs:

In addition to the Project Reimbursement, the City has agreed to reimburse Troon for actual design and construction costs incurred during the project, with a cap of \$12,150,000. Any city-authorized change orders, to account for adjustments in scope or unforeseen expenses that may arise during the construction process, might be more. The City will have an opportunity to decide whether to authorize each change order. The payment process includes multiple internal funding controls to ensure spending is aligned with the City's financial interests, promoting transparency, accountability, and control over every expenditure.

Internal Funding Controls

1. Vendor Payment Process: Troon will handle vendor payments on behalf of the City but will only make payments after securing the City's explicit approval. This ensures that all project expenses align with City-approved budgets and priorities.
2. Invoice Submission and Review: All vendor invoices will be submitted directly to Troon. Troon will review each invoice to confirm the work is complete and that all materials and quantities meet project requirements. Troon will then submit its assessment to the City for approval, verifying that every expense corresponds with completed, verified work.
3. City Oversight and Approval: Once Troon has vetted an invoice, it will request funds from the City to fulfill the payment. At this stage, the City's Public Works Department will conduct an independent, secondary review of the invoices. This additional level of oversight provides an extra safeguard, enabling the City to validate that all services and materials meet agreed-upon standards and project milestones.
4. Funds Disbursement: The City's Finance Department will initiate the fund transfer to Troon only after Public Works has approved the invoices. This controlled disbursement process ensures that funds are only released when both Troon and the City confirm that each expense is warranted and verified.

By implementing these internal funding controls, the City maintains robust oversight of project spending, ensuring accountability and careful management of public funds. This multi-step approval process minimizes the risk of unauthorized payments, overpayments, or payments for incomplete work, making each expenditure subject to rigorous checks and balances that prioritize the City's financial interests.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The action is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly; and that the action is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. (14 CCR 15061(b)(3).)

ATTACHMENTS:

1. Players Course Renovation Funding Agreement