

ATTACHMENT #1

RESOLUTION NO. 42

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS TO RECLASSIFY CITY EMPLOYEES UNDER CODE C OF THE COMPLIMENTARY GOLF AGREEMENT FOR THE INDIAN WELLS GOLF RESORT DATED JULY 1, 2020.

WHEREAS, the City of Indian Wells ("City") has engaged in ongoing discussion with BBC Esmeralda, LLC, H.E. Indian Wells, L.L.C. dba Hyatt Regency Indian Wells Resort & Spa, Grand Champion ("Hotels")(Hotels and City are collectively "Parties") concerning the offering of reduced fee golf rounds at the municipal Indian Wells Golf Resort ("Golf Course"); and

WHEREAS, Indian Wells has previously entered into Reduced Fee/Policy Agreements with the Hotels for the Golf Course on January 7, 1993 and April 17, 1997, and the Parties have now entered into a new Complimentary Golf Agreement for the Golf Course that is dated July 1, 2020 ("Agreement"); and

WHEREAS, the July 1, 2020 agreement sets out what discounts different categories of golfers are eligible; and

WHEREAS, the Agreement originally classified City employees as persons eligible for discounts described as "Code A"; and

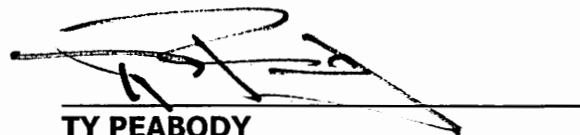
WHEREAS, Section 8 of the Agreement vest the City with the authority to amend the rates contained within the Agreement as it deems appropriate by adopting a resolution; and

WHEREAS, the City deems it appropriate to adjust the rates paid by City employees by reclassifying them as eligible for the discount set out in Code C of the Agreement.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF INDIAN WELLS DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The City Council hereby reclassifies City employees under Code C of the Agreement. City employees are now eligible for those discounts described by Code C of the Agreement and are no longer eligible for the discounts set out in Code A of the Agreement. A copy of the Agreement is attached hereto as Exhibit A.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Indian Wells, California, at a special meeting held on this 18TH day of November 2020.


TY PEABODY
MAYOR

CERTIFICATION FOR RESOLUTION NO. 42

I, Angelica Avila, Acting City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that the whole number of the members of the City Council is five (5); that the above and foregoing Resolution was duly and regularly passed and adopted at a special meeting of the City Council of the City of Indian Wells on the 18th day of November 2020, by the following vote:

AYES: Balocco, Mertens, Muzik, Peabody, Reed
NOES: None

ATTEST:



ANGELICA AVILA
ACTING CITY CLERK

APPROVED AS TO FORM:



JEFFREY S. BALLINGER
CITY ATTORNEY

Exhibit A:

"Complimentary Golf Agreement for the Indian Wells Golf Resort"

**COMPLIMENTARY GOLF AGREEMENT
FOR THE INDIAN WELLS GOLF RESORT**

This Complimentary Golf Agreement ("Agreement") is entered into this 1st day of July, 2020 by and between BBC Esmeralda, LLC, H.E. Indian Wells, L.L.C dba Hyatt Regency Indian Wells Resort & Spa, and Grand Champion (collectively, the "Grantor Hotels") and the City of Indian Wells ("City").

WHEREAS, the parties hereto agree and acknowledge that it is the custom and practice of the golf industry for golf course operators to extend privileges to permit players, under certain circumstances, to pay greens fees or cart rental fees, or allow such play at rates lower than those normally charged to full-fee golfers. These privileges are known as "Reduced Fee Play" and golfers playing under Reduced Fee Play are known as "Reduced Fee Players". The parties hereto further agree it is their mutual intention that, under appropriate circumstances as defined hereafter, the Golf Course Operator shall be permitted to allow Reduced Fee Play on the Golf Courses.

WHEREAS, the parties or their predecessors executed an easement agreement dated April 8, 1985, which easement agreement (as amended) authorizes the parties to provide for green fees and other charges for the use of the Golf Resort, including special discounts, complimentary golf and reduced rates.

WHEREAS, the parties or their predecessors developed and executed a Reduced Fee Policy/Agreement dated, January 7, 1993.

WHEREAS, the parties or their predecessors developed and executed a Reduced Fee Policy/Agreement dated, April 17, 1997, which amended and restated the January 7, 1993 Policy/Agreement.

WHEREAS, the parties hereto intend by this Agreement to amend and restate the existing Reduced Golf Fee Policy/Agreement, dated April 17, 1997.

NOW THEREFORE, it is agreed as follows, Reduced Fee Play shall be permitted under the following terms and conditions:

1. The Grantor Hotels and City desire that the City's Golf Course Operator permit rounds of Reduced Fee Play for Reduced Fee Players. The Golf Course Operator shall exercise good business judgment on who, how much and what type of Reduced Fee Play is permitted. Disagreements between any of the parties hereto shall be mediated by the City Council.
2. All parties hereto agree that, in all instances, Reduced Fee Play shall be provided on a "tee availability" basis as determined by Golf Course Operator. Golf Course Operator shall be obligated to ensure that no player from the Grantor Hotels who is to pay full fees shall be denied playing privileges or unreasonably denied a preferred starting time as a result of Reduced Fee Play.
3. In addition to the authority granted to the Golf Course Operator in Section 1 of this Agreement, the Golf Course Operator may permit Reduced Fee Play by individuals who

are customarily given Reduced Fee Player status in the resort golfing industry, as specifically identified in the following categories of Reduced Rate Play:

CODE "A" NO FEE

- City Employees
- Employees of the Golf Resort
- Visiting government officials and special guests of the City as approved by the City Manager or City Council
- Holders or winners of Public Relations letters issued by the General Manager of the Golf Resort to support civic or media promotions
- Visiting travel or media representatives planning group bookings or promotion of the Indian Wells resort community (hotels, golf, tennis) when accompanied by a sales representative of one of the hotels or by a city official.
Executive and sales personnel of the Indian Wells hotels who participate in the City's Marketing Committee.

CODE "B" \$25 CART FEE RATE

- PGA card holders, golf course superintendent and golf club manager card holders
- Other key hotel staff members as provided by a letter from the Grantor Hotels and approved by the General Manager of the Golf Resort.
- Cart Fee Rate may be amended annually by the General Manager of the Golf Resort during the development of the Golf Resort's annual budget, with an effective date of July 1.

CODE "C" \$40 (COMMUNITY RATE)

- Other Employees of the Indian Wells Hotels with full participation in the City's Marketing Committee.
- Sponsors of major golf, tennis sports and entertainment events in Indian Wells.
- Golf Course Management firm's executive/administration personnel
- Family members and guests of, City employees. (limited to one foursome).
- Family members and guests of Golf Resort employees with a "guest letter" approved by the General Manager of the Golf Resort.

CODE "R" RESIDENT BENEFIT GOLF CARD RATE

- Residents issued a City Resident Benefit Golf Card (RBGC) are to pay \$50.00 rate from January 1 to April 30, and \$35.00 rate from May 1 to December 31.
- Guests of RBGC players shall pay a rate of the computed golf cost plus \$20.00 from November 1-April 30 and the Resort Guest Rate during the other months (limited to one foursome, which must include the RBGC holder). The cost of golf shall be computed annually by the General Manager of the Golf Resort during the development of the Golf Resort budget and shall be effective each July 1.

CODE "T" \$65 FEE RATE

- Participants (players & coaches) in the two major tennis tournaments annually have a special \$65 rate unrestricted morning to 2:00 p.m. daily.

UNSOLD PROMOTIONAL RATE

- In order to sell more rounds, create more revenue for the Parties, and more regularly promote golf to the Grantor Hotel customers, the Golf Resort General Manager may offer rounds that are coming up soon (e.g. same day/next day) that the General Manager believes the Operator would not otherwise sell. For example, on a Tuesday afternoon, the Operator has four afternoon rounds on the next day (Wednesday) that likely will not get sold. In such a case, the General Manager may communicate these times to one or both of the Grantor Hotels, and the Grantor Hotels, in turn, would offer to sell them to their guests. For sold rounds, the Grantor Hotel would pay the City a small fixed fee, to be determined from time to time by the applicable hotel and the Golf Resort General Manager, and the applicable Grantor Hotel would keep the difference.
4. With the exception of guests of the City Manager and General Manager, all guests qualifying for reduced rate play must be accompanied by their authorized sponsor.
 5. The discretion of the General Manager of the Golf Resort with respect to generation of daily golf fees will govern the professional and commercial decisions made in the granting of any reduced or free green fee or cart fee. Any signing party hereto may request a revision of the policies stated above should there be a perceived negative impact upon that party, by contacting the City Manager in writing. In the event any party to this Agreement is dissatisfied with the City Manager's determination, such party may seek review of that decision from the Indian Wells City Council for resolution by that body. In the event any party is dissatisfied with the decision of the Indian Wells City Council, such party may propose a resolution of such dispute that is mutually agreeable to all parties to this Agreement, which resolution must then be memorialized in an agreement approved by all parties to this Agreement in order to be binding on the parties.
 6. The parties hereto agree that the above-stated Reduced Fee Play policy has been created for the mutual benefit of all parties and shall be enforced by the Golf Course Operator as of the Effective Date of this Agreement as hereinafter defined) and will remain in effect until any or all of the parties terminate the Agreement in accordance with the termination provisions hereof. Any commitments for Reduced Fee Play made by the Golf Course Operator prior to the Effective Date shall be honored. The Golf Course Operator shall provide a written list to the City of all such commitments, if requested. This Agreement shall take effect ("Effective Date") on the date set next to the signature signifying acceptance by the City.
 7. The criteria for issuance of Resident Benefit Cards shall be within the sole discretion of the City Council of the City of Indian Wells and may be changed by such City Council from time to time in exercise of that discretion.

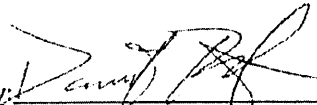
8. The City Council shall have the authority to amend rates contained within this Reduced Golf Fee Agreement as deemed appropriate. However, established rates shall be no less than those agreed to in this Agreement, without the written consent of the signing parties. Any increases must be done by City Council resolution and shared with the signing parties.

SIGNATURES CONTAINED ON FOLLOWING PAGE]

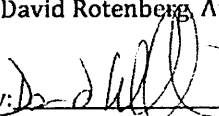
**SIGNATURE PAGE
TO
COMPLIMENTARY GOLF AGREEMENT
FOR THE INDIAN WELLS GOLF RESORT**

BBC ESMERALDA, LLC

Dated: 7/16/2020

By: 
David Rotenberg, Authorized Agent

Dated: 7/16/2020

By: 
David Williams, Authorized Agent

GRAND CHAMPIONS, LLC

Dated: _____

By: _____

H.E. INDIAN WELLS, L.L.C.

Dated: _____

By: _____
Hyatt Corporation as agent of
H.E. Indian Wells, L.L.C dba
Hyatt Regency Indian Wells Resort &
Spa

GRAND CHAMPION

Dated: _____

By: _____

CITY OF INDIAN WELLS

Dated: 7-23-2020

By: 
Chris Freeland, City Manager

**SIGNATURE PAGE
TO
COMPLIMENTARY GOLF AGREEMENT
FOR THE INDIAN WELLS GOLF RESORT**

BBC ESMERALDA, LLC

Dated: _____


By: _____
David Rotenberg, Owner

Dated: _____

By: _____
David Williams, Owner

H.E. INDIAN WELLS, L.L.C.

Dated: 7.13.20

By: 
Hyatt Corporation as agent of
H.E. Indian Wells, L.L.C dba
Hyatt Regency Indian Wells Resort &
Spa

CITY OF INDIAN WELLS

Dated: _____

By: _____
Chris Freeland, City Manager