

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
MARCH 17, 2009 AGENDA**

Subject:	Type:	Submitted By:
EXTENSION OF CONTRACT FOR GOLF MERCHANDISE CONSIGNMENT	◆ RESOLUTION ORDINANCE RECEIVE/FILE	SCOTT STOPAK RECREATION DIRECTOR

SYNOPSIS

A resolution has been prepared authorizing the Mayor to execute an extension to the contract with Fairway Golf LLC., Omaha, Nebraska to furnish and supply the La Vista Falls Golf Course Clubhouse golf merchandise on a consignment basis.

FISCAL IMPACT

N/A

RECOMMENDATION

Approval.

BACKGROUND

Fairway Golf LLC has been under contract with the City since 2006 to furnish and supply the La Vista Falls Golf Course Clubhouse with golf merchandise on a consignment basis. This gives the golf course the ability to offer an expanded line of merchandise to customers without an investment on the part of the City. The current contract will expire March 17, 2009 and staff is recommending that an extension be granted for one year.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AUTHORIZING THE MAYOR TO EXECUTE A ONE – YEAR CONTRACT WITH FAIRWAY GOLF LLC., OMAHA, NEBRASKA, TO FURNISH AND SUPPLY THE LA VISTA FALLS GOLF COURSE WITH GOLF CLUBHOUSE MERCHANDISE ON A CONSIGNMENT BASIS.

WHEREAS, the City has determined that it is desirable to contract for the furnishing and supplying of golf merchandise on a consignment basis at La Vista Falls Golf Course Clubhouse; and

WHEREAS, Fairway Golf LLC., supplied said golf merchandise on a consignment basis to the City since 2006; and

WHEREAS, the current contract with Fairway Golf LLC will expire in March of 2009; and

WHEREAS, the Recreation Director recommends extending the current contract with Fairway Golf LLC for one year; and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, do hereby authorize the Mayor to sign a one-year contract with Fairway Golf LLC., Omaha, Nebraska, to furnish and supply the La Vista Falls Golf Course Clubhouse with golf merchandise on a consignment basis.

PASSED AND APPROVED THIS 17TH DAY OF MARCH, 2009.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

GOLF COURSE CLUBHOUSE MERCHANDISE CONSIGNMENT AGREEMENT

THIS GOLF COURSE CLUBHOUSE MERCHANDISE CONSIGNMENT AGREEMENT is made and entered into March _____, 2009 by and between the City of La Vista, a Nebraska municipal corporation (hereinafter referred to as the "City") and Fairway Golf LLC., a Nebraska corporation, (hereinafter collectively referred to as "Contractor").

WHEREAS, City has established the desire to contract for the furnishing and supplying of golf merchandise on a consignment basis at La Vista Falls Golf Course; and

WHEREAS, City has determined that it is desirable to have merchandise available for sale; and

WHEREAS, Contractor is willing and able to provide merchandise on consignment in accordance with terms hereinafter set forth.

NOW THEREFORE, in consideration of the foregoing and the mutual promises, terms, and covenants contained, the parties hereto agree as follows:

1. **Appointment of Contractor.** The City hereby appoints Contractor, and Contractor hereby accepts such appointment, to supply City with golf merchandise at the La Vista Falls Golf Course Clubhouse.
2. **Independent Contractor.** In all matters pertaining to Consignment Operation, Contractor is and shall be an independent contractor. Nothing contained in the Agreement or in the practice or course of dealing between the parties shall be construed to create a partnership, joint venture, agency or employment relationship.
3. **Term and Termination.** This Agreement shall be and become effective commencing March 17, 2009, and shall be effective for a term of one (1) year ending on March 17, 2010, with the option to renew for one additional twelve (12) month period at the discretion of both the City and the Contractor. Notwithstanding the foregoing, either the City or Contractor may terminate this Agreement for any reason at any time upon written notice given from one party to the other at least sixty (60) days prior to the effective date of termination.
4. **Record Keeping Requirements.** City agrees to maintain or cause to be maintained, on a calendar year basis, complete books and records of all aspects of the Consignment Operation. City shall submit to the Contractor monthly financial reports for said operations no later than thirty (30) days following the last day of each month's operations. Such monthly reports shall contain all information related to merchandise sold.

5. **Merchandise and Furnishings.** All merchandise and furnishings and replacements thereof, shall be the property of the Contractor, and, at the termination of this Agreement, possession thereof shall be peaceably given to the Contractor.

Defective product merchandise clause: Contractor replaces merchandise if defect comes from normal use of clubs and flaws present on clothing.

Replacement merchandise available at monthly inventory.

6. **Fees.** In consideration of the merchandise on consignment in accordance with the terms of this Agreement, City shall pay Contractor set price per type of merchandise and approved by Recreation Director and or Finance Director.
7. **Insurance.** All merchandise and furnishings and replacements thereof owned by the Contractor, will be covered by the City of La Vista insurance.
8. **Notices.** Any notices or payments required hereunder shall be made in writing and delivered personally or by the U.S. mail in certified or registered form, with postage fully prepaid, and addressed as follows:

If to the City of La Vista:

City of La Vista
8116 Park View Boulevard
La Vista, Nebraska 68128

If to the Contractor:

Jason Laferriere
11219 Ohio St
Omaha, Nebraska 68164

or such different address as either party may designate in writing to the other. Notice shall be deemed given or made upon request.

9. **Governing Law.** This Agreement shall be construed and governed in accordance with the laws of the State of Nebraska.
10. **Binding Nature.** This agreement shall inure to the benefit and be binding upon the parties hereto and their respective successors and assigns. Nothing in this Agreement, either express or implied, is intended to confer upon any other person or entity any rights or revenues under or by reason of this Agreement.
11. **Waiver.** No waiver by either party to this Agreement at any time of any breach of the other party or of compliance by the other party with any condition or provision of this Agreement to be performed by the other party shall be deemed to be a waiver of similar or dissimilar provisions or conditions at the same or any prior to subsequent time.

12. **Counterparts.** This document may be executed in one or more counterparts, each of which shall be deemed to be an original and each of which shall constitute the parties' Agreement.

13. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, superseding any prior agreement, understanding, arrangement, warranty or representation, oral or written, express or implied, with respect to such subject matter. It may not be amended except by a writing signed by the parties hereto.

14. **Assignment.** This Agreement may not be assigned by Contractor without the prior written consent of the City.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first set forth above.

CITY OF LA VISTA, NEBRASKA,
A municipal corporation

BY: _____
Douglas Kindig, Mayor

Pamela A. Buethe, CMC
City Clerk

CONTRACTOR: FAIRWAY GOLF LLC.
A Nebraska corporation,

BY: _____
Jason Laferriere, President