

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

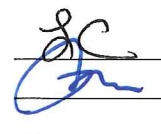
PROJECT TITLE:

Amendment No. 4 to the Premier Golf Centers, LLC Management Agreement

_____ Briefing
 _____ Proposed Action
 _____ Consent
 _____ Action
 _____ First Reading
 _____ Second Reading
 _____ Third Reading
 _____ Public Hearing
 _____ Budget Advisory

COUNCIL BILL # _____
 Originating Department Parks/Golf
 Contact Person Lori Cummings
 Phone Number 425-257-8353
 FOR AGENDA OF March 6, 2019

Initialed by:
 Department Head
 Administration
 Council President



<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
City Golf Courses	Council approval on April 26, 2017 Amendment No. 3	Amendment Four	Legal, Administration

Amount Budgeted	-0-	
Expenditure Required	-0-	
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

The City Council approved Amendment No. 1 to the agreement on April 6, 2011. The amendment incorporated golf carts under Premier Golf Centers, LLC (Premier) management through an operating lease. Premier manages the American Legion Memorial and Walter E. Hall Golf Courses.

The City Council approved Amendment No. 2 to the agreement on August 8, 2012. The amendment authorized a five-year extension to the golf course agreement with Premier. The current agreement expires on December 31, 2017.

The City Council approved Amendment No. 3 to the agreement on April 19, 2017 extending the Agreement for an additional two (2) years through December 31, 2019.

Amendment No. 4 extends the agreement for an additional two (2) years through December 31, 2021. It also updates two Scope of Work elements (Exhibit A). The updates relate to:

- 1) Minimum gross operating profit threshold for incentive payment eligibility in 2020 and 2021 and;
- 2) Incentive payment percentages based on the gross operating profit range above the threshold.

RECOMMENDATION (Exact action requested of Council):

Authorize the Mayor to sign Amendment No. 4 to the Premier Golf Centers, LLC Management Agreement.

**AMENDMENT NO. 4
TO MANAGEMENT AGREEMENT
(RENEWAL)**

THIS AMENDMENT NO. 4 (this "*Amendment*") is dated as of _____, 2019, by and between the CITY OF EVERETT, a Washington municipal corporation (the "*City*") and PGC INTERBAY, LLC, a California limited liability company ("*Service Provider*").

RECITALS

- A. This Amendment concerns the American Legion Memorial Golf Course and Walter E. Hall Management Agreement dated July 26, 2007, as amended, which includes a Scope of Work and Exhibits A through M (collectively, the "*Agreement*").
- B. The term of Agreement currently expires on December 31, 2019.
- C. The purpose of this Amendment is to extend the Agreement for an additional two (2) years, so that it expires on December 31, 2021. An additional purpose of this Agreement is to make certain changes to the Agreement's Scope of Work.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is acknowledged, the City and Service Provider agree as follows:

- 1. Term of Agreement. The Agreement, including without limitation Section 1 of the Agreement, is amended so that the Agreement expires on December 31, 2021.
- 2. Scope of Work. As of the date of this Amendment, the Agreement's Scope of Work is amended as set forth in the attached Exhibit A.
- 3. Possible Golf Course Closure. The Service Provider acknowledges that the City intends to explore alternative uses for one of the golf course properties. This could result in closure of one of the golf courses. The City is very early in the process specific to consideration of alternative golf course property uses. The City has made no decisions at this time. However, it is possible that closure decision for one of the two golf courses could be made prior to December 31, 2021. Accordingly, notwithstanding any other provision in the Agreement, the parties agree as follows:
 - A. In the event that the City decides to close a golf course, the City will give Service Provider written notice, and the parties will then negotiate for at least 30 days towards amendment of the current Agreement to delete the to-be-closed golf course from the Agreement for the remainder of the Agreement term. If the parties cannot agree to such an amendment for any reason, Service Provider acknowledges that the City may exercise its termination right under Agreement Section 9.E.

B. Without the prior written consent of the Parks Director, the Service Provider will not enter into any contracts with third parties (such as, for example, equipment leases) relating to either golf course, except that the Service Provider may enter into contracts without such consent if the contracts allow Service Provider to terminate the contracts on no more than 60 days prior notice to the third party.

4. Full Force and Effect. All provisions of the Agreement remain in full force and effect, except as expressly modified by this Amendment.

IN WITNESS WHEREOF, the City and Service Provider have executed this Amendment as of the date first above written.

CITY: CITY OF EVERETT
WASHINGTON

By: _____
Cassie Franklin, Mayor

Date

ATTEST:

Sharon Fuller, City Clerk
Date: _____

APPROVED AS TO FORM:

James D. Iles, City Attorney
Date: _____

SERVICE PROVIDER:

PGC INTERBAY, LLC,
a California limited liability company

By: Premier Golf Centers, LLC,
its managing member

By: 
Its: CEO

2/20/19
Date

**EXHIBIT A
CHANGES TO SCOPE OF WORK**

Attachment 1, Section J of the Scope of Work is amended as follows:

1. Table 1 is amended to add columns for 2020 and 2021:

Minimum Threshold Amount (in millions)

2020	2021
2.375	2.40

Table 1

2. Table 2 is amended to add columns for 2020 and 2021:

Incentive Structure

Category	Incentive %	2020	2021
		Gross Profit in Millions	Gross Profit in Millions
1	10	2.375-2.425	2.40-2.45
2	12	2.425-2.475	2.45-2.50
3	14	2.475-2.525	2.50-2.55
4	16	2.525-2.575	2.55-2.60
5	18	2.575-2.625	2.60-2.65
6	20	2.625+	2.65+

Table 2

3. For 2020 and 2021, subsections f and g are amended to read as follows:

f. For the year 2020, the minimum threshold for gross operating profit to earn an incentive payment is \$2.375 million (\$2,375,000.00). For 2021, this rises to \$2.40 million.

g. The percentage incentive payment to the Contractor increases based upon the gross operating profit range. For example, if in calendar year 2020, the gross operating profit is two million five hundred thousand dollars (\$2,500,000) the incentive payment to the Contractor would be fourteen thousand five hundred dollars (\$14,500) based on the following:

Gross Profit –Threshold = Amount used to calculate incentive payment	\$2,500,000 - \$2,375,000 = \$125,000
Category 1 Incentive	\$50,000 x 10% = \$5000
Category 2 Incentive	\$50,000 x 12% = \$6000
Category 3 Incentive	\$25,000 x 14% = \$3500
Total Incentive Payment	\$14,500