

## SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT TO LEASE AGREEMENT ("**Second Amendment**") dated for reference purposes only as of April \_\_, 2021 ("**Effective Date**") is entered into by and between the CITY OF ALAMEDA, a charter city and municipal corporation ("**Landlord**") and GREENWAY GOLF ASSOCIATES, INC., a California corporation ("**Tenant**"), with reference to the following:

### RECITALS

A. WHEREAS, Landlord and Tenant entered into that certain Lease Agreement dated as of August 1, 2012, whereby Tenant leased from Landlord the Chuck Corica Golf Complex ("**Golf Complex**"), consisting of approximately 325 acres, including the 18-Hole North Course ("**North Course**"), the 18-Hole South Course ("**South Course**"), the 9-Hole Mif Albright par-three course ("**9-Hole Course**"), the driving and practice range ("**Driving Range**") and related facilities located in the City of Alameda, CA (collectively the "**Original Premises**") together with certain Personal Property, all as further described and depicted in the Lease; and

B. WHEREAS, Landlord and Tenant entered into that certain First Amendment to the Lease ("**First Amendment**") dated as of March 28, 2018 (the original Lease as amended by the First Amendment is referred to herein as the "**Lease**"); and

C. WHEREAS, having completed renovation of the 9-Hole Course, Driving Range, and South Course and nearing completion of the North Course, Tenant determined that it would be beneficial to its operation at the Golf Complex to renovate the fire tower and the surrounding area located outside the entryway at the corner of Island Drive and Clubhouse Memorial Road to provide a more aesthetic entry into the newly renovated Golf Complex; and

D. WHEREAS, Tenant understands that prior to making any improvements to the fire tower, Tenant will need to obtain a structural assessment and perform hazardous materials abatement; and

E. WHEREAS, Tenant has requested, and Landlord has agreed, to amend the Lease to expand the Original Premises covered by the Lease to add the land at the corner of Island Drive and Clubhouse Memorial Road including the fire tower located thereon, as depicted in Exhibit B attached hereto, upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the terms, covenants and conditions hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant hereby agree as follows:

### AGREEMENT

1. Recitals. The Recitals set forth above are incorporated herein as though set forth in full herein.

2. Expansion. As of the Effective Date, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the approximately 0.5 acre property at the corner of Island Drive and Clubhouse Memorial Road, including the fire tower building ("**Fire Tower**") located thereon ("**Fire Tower Premises**"). The Original Premises and the Fire Tower Premises are hereinafter referred to collectively as the "**Premises**". No additional Minimum Rent shall be

payable with respect to the Fire Tower Premises. City shall be entitled to use the Fire Tower Premises to stage construction materials and equipment through August 31, 2021.

3. Uses. Tenant shall use the Fire Tower Premises to beautify the front entryway to the Premises and shall not, at any time, use the Fire Tower Premises for storage. Tenant's use of the Fire Tower Premises shall be consistent with how Tenant is permitted to use the Original Premises under the Lease.

4. Fire Tower Work. Tenant shall complete one of the following two processes on the Fire Tower Premises: (i) demolition and landscaping; or (ii) renovation and Beautification Work, as defined below. Tenant shall bear all costs and expenses for any actions it takes on the Fire Tower Premises pursuant to this Section.

- (a) On or before September 30, 2021, Tenant shall retain a professional structural engineer licensed in California to evaluate and assess the structural integrity of the Fire Tower and retain a qualified professional consultant to assess the presence of any hazardous materials on or within the Fire Tower. The hazardous materials assessment shall include, at minimum, but need not be limited to, lead, asbestos, and polychlorinated biphenyl (PCB). All findings for structural integrity and hazardous materials shall be provided to City within five (5) business days of Tenant's receipt of the same. Tenant and City shall jointly determine whether the Fire Tower shall be either demolished or renovated.
- (b) Should Tenant and City jointly determine that demolition of the Fire Tower is appropriate, Tenant shall submit a plan to City for approval to both demolish the Fire Tower and then landscape the Fire Tower Premises. Tenant shall complete demolition and landscaping on or before the first anniversary of the date of this Second Amendment subject to Permitted Delays as defined below.
- (c) Should Tenant and City jointly determine that renovation of the Fire Tower is appropriate, Tenant shall prepare a design review application for the renovation of the Fire Tower and the Beautification Work of the Fire Tower Premises. The design review application shall first be submitted to the City Golf Commission for its review and recommendation. The design review application shall then be submitted to the City Planning Board, no later than December 31, 2021, for review and approval. "**Beautification Work**" shall mean the improvement of the Fire Tower's appearance by, among other things, painting a mural and installing landscaping substantially consistent with the conceptual "before and after" drawings attached hereto as **Exhibits H and I**, respectively. Subject to Permitted Delays, Tenant shall complete renovation and Beautification Work no later than June 30, 2022. Nothing herein shall be deemed to prohibit Tenant from demolishing or further renovating the Fire Tower following completion of the Beautification Work.
- (d) As used herein "**Permitted Delay**" means and includes delays due to: war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; acts of terror, epidemics; pandemics; quarantine restrictions; freight embargoes; unusually severe weather; government orders or other similar cause beyond the reasonable control of Tenant (but not including Tenant's financial inability).
- (e) If asbestos, or other Hazardous Materials (as defined at Section 13.3 of the Lease) are encountered during such demolition, renovation and/or beautification work,

Tenant, at its expense, shall be responsible for encapsulating, remediating and/or disposing of such Hazardous Materials as required by applicable law.

5. Amendment to Summary of Information. Section 2 (Leased Premises) of the Summary of Information is hereby deleted in its entirety and replaced with the following:

|                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |           |
|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| "2. Leased Premises | Chuck Corica Golf Complex (" <b>Complex</b> ") located in the City of Alameda, CA 94502, consisting of approximately 325.5 acres, including the 18-Hole South Course (" <b>South Course</b> "), the 9-hole Mif Albright par three course (" <b>9-Hole /Course</b> "), the driving and practice range (" <b>Driving Range</b> "), excluding the restaurant and bar facility and outdoor patio and excluding the " <b>Snack Shack</b> " on the North Course (" <b>F/B Facilities</b> "), and excluding other Lease Areas Excluded (F/B Facilities, Lease Areas Excluded and City Areas Excluded are collectively, " <b>Excluded Area</b> ") on the Complex, as described with more specificity in <b>Exhibit A Leased Premises.</b> " | Section 1 |
|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|

6. Replacement of Exhibit A. Exhibit A to the Lease is hereby deleted and replaced with the new Exhibit A attached hereto.

7. Insurance and Indemnification. For avoidance of doubt, all of Tenant's insurance and indemnity obligations, as described in Section 12 of the Lease, that apply to the Original Premises in the Lease, shall also apply to the Fire Tower Premises.

8. Reversion of Fire Tower Premises. In the event that City desires to construct housing on the Fire Tower Premises, Tenant and City shall enter into an amendment to the Lease transferring possession and control of the Fire Tower Premises back to City, provided that City first reimburses Tenant for all reasonable costs and expenses incurred by Tenant, not to exceed \$350,000, in its demolition and landscaping or renovation and Beautification Work, not to include any maintenance or operations costs, as described in Section 3, above. The reasonable reimbursement authorized by this section shall be annually reduced over a period of 30 years using a straight-line depreciation method. This section shall not be construed to be a determination on whether or how City Charter Section 22-12 would apply to any future disposition of the Fire Tower Premises.

9. Ratification of Lease. The Lease as amended by this Second Amendment is hereby ratified, confirmed and approved in all respects. In the event of any inconsistency between the provisions of this Second Amendment and the provisions of the Lease, the provisions of this Second Amendment shall govern.

10. Entire Agreement. This Second Amendment sets forth the entire understanding of the parties in connection with the subject matter hereof.

11. Brokers. Neither party as dealt with any broker in connection with this Second Amendment. Each party agrees to defend, indemnify and hold the other party harmless from any claims of any brokers claiming to have represented it in connection with this Second Amendment.

12. Counterparts; Electronic Signatures. This Second Amendment may be executed in multiple counterparts each of which is deemed an original but together constitute one and the same instrument. The Second Amendment may be transmitted in "pdf" format and each party has the right to rely upon a pdf counterpart of this Second Amendment signed by the other party to the same extent as if such party has received an original counterpart.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Second Amendment as of the Effective Date set forth above.

**LANDLORD:**

CITY OF ALAMEDA,  
a charter city and municipal corporation

By: \_\_\_\_\_  
Eric Levitt  
City Manager

**TENANT:**

GREENWAY GOLF ASSOCIATES, INC., a  
California corporation

By: Umesh Patel

Name: Umesh Patel

Its: President

Approved as to Form as to Landlord

By: Elizabeth Mackenzie  
Elizabeth Mackenzie  
Chief Assistant City Attorney

## **EXHIBIT A**

### **Replacement Diagram Depicting Entirety of Original Premises and Fire Tower Premises**



## EXHIBIT H

Fire Tower Before Photo



## EXHIBIT I

### Fire Tower After Conceptual Drawing

