

1/1/14

**ROOSEVELT CITY GOLF COURSE  
PROFESSIONAL AGREEMENT**

THIS AGREEMENT made and entered into this 1<sup>st</sup> day of **January, 2014**, between the **City of Roosevelt**, a Utah Municipal Corporation, hereinafter referred to as "**City**" and **Darci Olsen**, a golf professional hereinafter referred to as "**Olsen**". This agreement shall be for a term of **3 years** and is renewable on a yearly basis.

City and Olsen shall keep each other apprised of any changes. All notices under this agreement shall be made in writing, and shall be sent to the following locations:

Roosevelt City  
255 South State Street 36-8  
Roosevelt, Utah 84066

Darci Olsen  
884 West 350 North  
Roosevelt, Utah 84066

**RECITALS**

WHEREAS, the City of Roosevelt is the owner of the Roosevelt Municipal Golf Course, hereinafter referred to as "golf course", including a club house, pro shop, grill, and cart storage area, all a part of the club house facility, hereinafter referred to as the "club house", and

WHEREAS, City desires to lease to a golf professional certain rights with regard to the golf course and club house which will include certain rights and duties in connection with the operation of the same, including the right to sell or lease products and services and the duty to manage play upon the golf course; and

WHEREAS, the public interest and welfare will be served and the facilities of the golf course materially enhanced by leasing certain operating rights to a reputable party who will agree to have available at all times sufficient golf merchandise and services to offer the public patronizing the golf course, and to perform the duties necessary to the management of the club house and play on the golf course; and

WHEREAS, Olsen represents her business to be that of a golf professional, that she is a Class A member in good standing with the PGA of America, and is desirous of meeting the City's needs with respect to the golf course through the concession herein provided.

**AGREEMENT**

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City hereby grants Olsen the concession of golf professional at the golf course and the use of the entire club house and facilities including the pavilion and driving range immediately west of the club house, based upon the following conditions:

## I. INDEPENDENT CONTRACTOR

1. The City and Olsen acknowledge the Professional's (Olsen) status as an independent contractor.
2. Olsen shall pay all applicable income, withholding, sales, business and other taxes, as well as any unemployment taxes or workers compensation premiums, for Olsen and her employees as required by law.

## II. PROFESSIONAL'S COVENANTS AND OBLIGATIONS

Olsen shall, during the term of this Agreement:

1. Be directly responsible to the Parks Director.
2. Devote her entire time, skill, labor and attention to those duties at the golf course prescribed herein, together with those lessons, instructions and sales activities which are also contemplated by this Agreement. Olsen shall, at a minimum, maintain her current level of expertise, license, standing, and certification during the term of this Agreement. The minimum professional status requirement is Class A-1.
3. Promote the game of golf at the golf course to the best of her ability and use her best efforts in promoting relations with the public, work to book group outings/tournaments and implement and assist with programs designed to develop and attract additional golfers.
4. Encourage, conduct, and be present during all open entry golf tournaments and be accessible to other important activities held on the property of the City. These activities include but are not limited to Men's Club and Ladies Club. To assist with the secondary and higher education golf activities with the approval of the Parks Director. To cooperate fully with officials of these organizations to the benefit of the City.
5. Make available lessons and instructions in playing the game of golf for a fee to persons applying for them. Olsen shall not offer or teach or allow such lessons to be offered or taught by anyone who is not properly certified to do so by the PGA. All other usual services rendered by a golf professional in the promotion and actual conduct of golf tournaments, exhibitions, clinics, and other activities shall also be provided by Olsen as needed, as well as upon specific request by the City. Also, Olsen and her staff shall make available, for a fee, auxiliary tournament services such as scorecards, cart signs, pairings lists, scoring services, etc.
6. Hire, supervise, direct, and pay for the activities of a sufficient number of staff personnel as may be necessary to perform the duties hereunder and render those additional services which the City wishes to be available to the public at all times while the Club House is open. Such staff personnel shall include, but not be limited to, clerical and counter help and range maintenance personnel. At no time will there be less than one (1) person of a minimum age of eighteen years of age (18) at the counter with regard to a manager or other employee over the age of twenty-one (21) to be at the clubhouse at all times and insure that any activity is in compliance with State laws and City ordinances. The City desires stability in the staffing of its clubhouse. Olsen shall keep a current list of her employees on file with the City Manager.
7. Be responsible for the actions of her employees and shall supervise, train, and direct her employees. Olsen shall further prepare and adopt a written policy for use by Olsen and her employees. This policy

shall be specific and shall include but not be limited to information to ensure a high standard of customer service, proper handling of all monies, maximization of available tee times, proper completion of reports, cart fleet management, regular cleaning procedures, and compliance with City golf policies and procedures. Such operations policy shall, at a minimum, adopt the standards contained in the current "PGA Book of Golf Shop Policies and Procedures". Olsen shall keep a current copy of said policy on file with the City Manager.

8. Shall train her employees to assure that a high standard of customer service is maintained.
9. Olsen and her employees shall cooperate with the Golf Superintendent in the implementation of daily golf operations, as well as tournaments, exhibitions, and other activities which involve the golf course. Olsen shall communicate on a daily basis with the Golf Superintendent and attend any meetings scheduled by the City Manager that involve Olsen.
10. Account for and remit to the City Treasurer weekly all receipts or monies rightfully belonging to City on account of collection, including green fees or other fees that go to the City. The daily receipts for the City shall be deposited in City's designated bank on a daily basis. The daily deposit slips will be matched up with daily receipts and turned into the City by 4:30 p.m. on Monday of each week. Season passes will be sold at the clubhouse through Olsen. Olsen will be responsible for any and all checks or promises to pay she may receive while serving under this contract. If check in amounts greater than the green fees are returned uncollected by the City's bank, Olsen shall immediately reimburse the City for such amounts. For checks in amounts for green fees that have been returned uncollected, Olsen first shall attempt to collect the funds. If unsuccessful, the checks will be turned over to the City Treasurer for collection attempts.
11. Is responsible to verify that players have their season passes before allowing them to play the course. Olsen shall submit and cooperate with all spot checks of green fees from the City Manager and or Finance Director. No notice is required for these on-the-spot checks. To ensure that all players are signed in on the starting sheets in a legible manner and that all appropriate fees are collected from guests before playing the course.
12. Keep accurate books and accounts of monies collected on behalf of the City in a method and form following accepted business and accounting practices. Such books and accounts shall at all times be open to inspection and audit by the City Finance Director.
13. Keep books and accounts of monies collected by and expended by Olsen on behalf of Olsen as pertaining to her covenants and obligations enumerated within this agreement. Olsen agrees to provide to the City Manager an accurate profit/loss statement at the end of each golfing season and prior to beginning of each calendar year.
14. Regulate the use of the golf course in accordance with the rules and regulations set forth by the City, take reservations for starting times, be responsible for the starting of players and permit only those who hold passes or who have paid the required fees to play.
15. Operate the driving range and rent range balls. She shall be responsible to schedule staff to collect range balls, keep the range and range tees clean, maintain baskets, clean range balls, and do all other things to adequately operate the driving range. Olsen is responsible to maintain an adequate supply of range balls at her expense. All revenues derived from the operation of the driving range and the rental of range balls shall be the property of Olsen. Olsen shall ensure that only limited flight balls are used on the range and to police the range to the extent possible to prohibit balls from leaving the range.

16. Supervise and make certain that custodial services for the clubhouse, deck areas, cart storage area, staging areas, care of the flower bed east and south of the clubhouse, pavilion area and other facilities used by Olsen are completed in a satisfactory manner. Repairs to the physical plant of the clubhouse and major maintenance shall be provided by the City. Olsen shall be responsible to check the condition of the clubhouse restroom facilities on a regular basis throughout the day and provide restroom maintenance as needed. Olsen shall routinely inspect the entire clubhouse and related facilities to ensure that the same are properly maintained and in proper working order. Olsen shall immediately notify the Parks Director of any needed repair of the physical plant or maintenance of the clubhouse which includes the pro shop. Maintenance of the golf course itself, including cart paths, shall be the responsibility of the city.
17. Make no expenditures for or on behalf of the City in connection with maintenance of the Clubhouse and Pro Shop unless specifically authorized by the City.
18. Observe the enforcement of and assist in carrying out and effecting the enforcement of any and all rules and regulations promulgated and adopted by the City relating to the use of the Golf Course by the patrons and the conduct of the players and any other persons while on the premises. Such areas of supervision may be delegated to Olsen as determined by the City Manager. Olsen does agree to accept such limited supervision as may be requested.
19. Strictly observe all laws of the State of Utah and ordinances of the city of Roosevelt and all rules and regulations relating to the golf course under city's jurisdiction, which are now in force or may hereafter be promulgated. Olsen shall, at her own expense, obtain all permits and licenses which are required by law or ordinance in connection with the operation of her concession.
20. Maintain on her own account and market in the pro Shop a sufficient stock of golf merchandise, including balls and selected items of clothing, shoes, clubs and bags, together with facilities for repairing golf equipment. Olsen shall have the further right to the retrieval of golf balls from lakes and lagoons on the Golf course with the right to resell them as a part of her Pro Shop inventory. Prices for merchandise and fees for service charged by Olsen shall be reasonable in light of prices of similar wares and services provided in similar types of business in the community. To have a current business license with Roosevelt City with City waiving the business license fee. To allow Olsen to use the clubhouse facilities, rent and utility free for related activities in the best interest of City. However, if insurance for Olsen's inventory is needed, it is the sole responsibility of Olsen.
21. Have the exclusive right to all concessions at the golf course and to receive all compensation from concessions. For approved fund raiser tournaments, Olsen will allow tournament sponsors to provide their own concessions. Those approved tournaments are as follows: Uintah Basin Medical Center, Duchesne County Children's Justice Center, Utah State University, Strata Networks, and the American Petroleum Institute. All other tournament sponsors shall negotiate with Olsen to provide concessions. All activities and parties on the golf course shall be cleared with Olsen, along with City concurrence. All concessions (beer, soft drinks, and etc.) used at these activities, shall be purchased from Olsen as the sole concessionaire of the golf course.
22. Olsen shall oversee rental of golf carts in such manner that the public is reasonably able to rent such golf carts. All carts offered for rental shall be the property of the City and all revenues shall be the property the City. Cart fees shall be set by City Council.

24. Keep the Pro Shop open every day that the Golf Course is open for play during the term hereof. The hours of opening and closing shall include all daylight hours, weather permitting.
25. Olsen shall cause to be repaired at her own expense any and all damage or injury to the property of the City caused by her, her agents or employees. Olsen shall provide proof of public liability insurance and workers compensation for any and all of Olsen's employees.
26. Keep and hold City harmless from any and all loss or damage for anything arising from or out of the use of occupancy of said premises by Olsen, her agents or employees, for any loss or damage arising from any fault or negligence by Olsen, her agents or employees, or from any failure on the part of Olsen or her agents or employees to comply with any of the covenants, terms or conditions herein contained. Olsen agrees, at her own expense, to provide liability insurance against death, personal injury and property damage in a company authorized to do business in the State of Utah, under a General Comprehensive Policy in an amount as authorized by City Council but not less than \$1,000,000 combined single limit for the benefit of third parties for any liability fixed by law and assessed against Olsen on account of her business use and occupancy of the premises under this Agreement, and said policy shall include the City of Roosevelt as an additional insured. The policy or a copy thereof shall be delivered to the City.
27. Furnish her own equipment used in conducting her business at the golf course including, but not limited to her own riding cart and equipment used for retrieving balls from the driving range. Aggressively police or see that the course is policed, to ensure that the rules and golf etiquette are posted and being followed. Olsen shall make recommendations to the Golf Committee on how course marshaling could be better performed.
28. Direct the supervision and scheduling of the golf course Marshals with concurrence of the Golf Course Committee. Olsen agrees to authorize use of City carts for the Marshals, when they are on duty.
29. Not permit advertising matter to be displayed in or outside the premises without the consent of the City Manager, except for the pricing of goods and services offered by Olsen or the Golf Course, which items may be advertised inside the Clubhouse or Pro Shop.
30. Olsen shall not make any changes in or alterations or additions to or remove any portion of the building or equipment belonging to City without first procuring the consent of the City in writing; City shall determine at whose expense any alterations or additions are to be made.
31. Not assign any of her rights or duties under this Agreement.
32. Agrees to be a member of the Golf Course Advisory Committee and attend meetings of the Committee scheduled throughout the year to discuss concerns and coordinate activities.
33. Agrees to present semi-annual business reviews with City Council. The business review will take place in the months of March and September of each year.
34. Agrees to pay Olsen's share in the expenses of credit card transactions on a monthly basis

### **III. CITY'S COVENANTS AND OBLIGATIONS**

The City shall, during the term of this Agreement:

1. Grant to Olsen the right to use those premises described as the Pro Shop together with such portion of the adjacent areas as may be reasonably necessary for the storage of golf carts and for the giving of lessons and golf instruction.
2. Grant to Olsen the exclusive privilege of giving golf lessons and providing auxiliary tournament services for compensation on the Golf Course and the exclusive right of selling or renting golf equipment and merchandise at any place on the Golf Course and related premises.
3. Provide all utilities, including electricity, water, sewer, and garbage that may be used in connection with the Pro Shop and Clubhouse facilities.
4. Provide telephone and fax at the Pro Shop. Any private phone shall be at the sole expense of Olsen and kept in her private office. Olsen shall reimburse City for long distance telephone calls relative to other than City business on a monthly basis.
6. Pay to Olsen an annual Professional Services fee of fifty thousand dollars (\$50,000.00) for each full year worked. This Professional Services fee shall be payable in equal monthly installments of four thousand one hundred sixty seven dollars (\$4,167.00) commencing January 1, 2014, and ending on December 31, 2016, in consideration of the discharge by Olsen of those duties set forth herein. Any change to this Professional Services fee resulting from a change in required service or staffing levels shall be evidenced by an addendum to this Agreement signed by both Olsen and City. As Olsen is an independent contractor, there shall be no amounts withheld for any reason from said fee. Olsen's wages and those of her employees shall be paid from the Professional Services fee paid to Olsen hereunder.
7. Provide at City's expense one full-time employee 21 years of age or older, to work at the Clubhouse. This city employee will be under the direction of the Professional, but will be assigned from the Parks Department, with the concurrence of Olsen.
8. Share the expense of credit card fees based on the revenue collected by credit card for City related revenue items. This will be expense will be reviewed and approved by the City Manager prior to payment.

#### **IV. TERMINATION, RENEWAL AND DEFAULT**

1. Should Olsen fail, neglect or refuse within ten (10) days after mailing of notice by the City to Olsen, of a default hereunder, other than in the payment of amounts due hereunder, to remedy such default, City may at its option declare this Agreement terminated and may thereupon take possession of the leased premises.
2. Upon the expiration of the term hereof, or other termination hereunder, Olsen may remove all furniture, fixtures and equipment installed by her and shall quit and surrender the premises in as good condition as at the beginning of the term hereof, except for reasonable wear and tear.
3. Upon: (1) the death of Olsen; (2) the non-payment of the whole or any part of the amounts due hereunder from Olsen at the time such payments become due; (3) the filing of a voluntary petition of bankruptcy, or the occurrence of proceedings in bankruptcy; (4) any court taking jurisdiction of Olsen and her assets; (5) the appointment of any trustee or recuser; (6) Olsen being divested of her estate herein by other operation of law or the making of any general assignment for the benefit of creditors; (7) the occurrence of any act which operates to deprive Olsen permanently of the rights, powers and

privileges necessary for the proper conduct and operation of the Golf Course or Pro Shop and duties provided by this Agreement; (8) the abandonment and discontinuance of the operation of the business described here; (9) conviction of Olsen in a court of competent jurisdiction of a felony or crime of moral turpitude; or (10) the non-performance by Olsen of any of the covenants, conditions or agreements hereinabove mentioned, City may, at its election, cancel this Agreement and re-enter and take possession of said premises. For this purpose, Olsen waives (1) any notice of such election, (2) notice to quit possession of the premises (3) demand for payment of any amounts agreed upon, (4) demand for the performance of any covenants herein, or (5) any demand for the possession of said premises.

4. Olsen shall allow the City to execute a bond in the sum of Ten Thousand (\$10,000.00) Dollars conditioned upon a proper accounting to City for money received by her for green fees and other sums due City during the term of this Agreement and payable to the City.
5. Provided there has been full compliance with all terms and conditions of this Agreement, Olsen may request renewal of the same by giving written notice thereof Sixty (60) days prior to the termination date of the Agreement, and in such event renewal shall be automatic for an additional term of one (1) year on the same terms and conditions, unless City advises Olsen in writing twenty (20) days after receipt of her written request for renewal that it does not intend to renew the Agreement upon the terms and conditions herein provided, or at all. In the event City so advises, Olsen will either negotiate a new agreement on mutually agreeable terms and conditions or shall vacate the Pro Shop, Clubhouse, and Golf Course premises, removing all her equipment and merchandise by the last day of the term herein provided. In the event the Agreement is not renewed or a new agreement entered into with Olsen at the expiration of the term hereof, City will use reasonable effort to cause any successor professional to buy out the merchandise and equipment of Olsen to the extent that Olsen desires to dispose of the same, but City shall have no obligation itself to effect such buy-out in the event of termination.

#### V. CANCELLATION

1. Notwithstanding any other provisions of this Agreement, either party may, with or without cause, cancel this Agreement upon thirty (30) days written notice to the other at the address set forth above. This paragraph shall not affect the provisions for non-renewal contained in Article IV.5.
2. If this Agreement is canceled by City under Article V1., City shall be required to pay Olsen's fee as herein provided for thirty (30) days after receipt of notice of cancellation by Olsen, but the City may request that Olsen vacate the clubhouse and Pro Shop prior to the expiration of such thirty (30) day period, in which event Olsen's other rights hereunder shall terminate except for the exclusive right during said thirty (30) day period to give lessons and golf instruction.
3. If this Agreement is canceled by Olsen under Article V.1, City may request her departure at any time prior to the expiration of the thirty (30) day period, in which event City shall be absolved from all duty to make further payment to Olsen, but City may require Olsen to remain and fulfill all her obligations under this Agreement for thirty (30) days after written notice of cancellation is received by City.
4. Should the Golf Course be closed due to any natural catastrophe, or any condition beyond the control of the parties, the City shall be relieved of its obligations to make payment to Olsen during the period of such closure. Olsen shall correspondingly be relieved of her obligation to perform the duties herein provided until the Golf Course has reopened. The Golf Course shall not be closed so long as nine (9) contiguous holes are available for play. Should the Golf Course closure be of such duration as to

render continued performance under the contract impossible, the contract shall be deemed mutually cancelled.

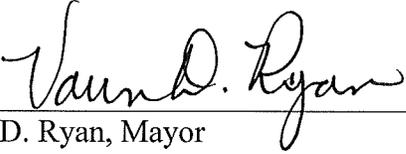
**VI. MISCELLANEOUS**

1. This Agreement may not be altered or changed except by a written agreement of the parties.
2. Olsen agrees to comply with and require its suppliers to comply with all provisions against discrimination and in protection of civil rights that may otherwise be binding upon the City or required by state, federal or local law.
3. This instrument shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors, legal representatives and assigns. This paragraph shall not be deemed to authorize Olsen to make an assignment of its interest under this Agreement, it being expressly agreed that the rights and obligations of Olsen hereunder are not assignable.
4. The failure of either party hereto to demand strict performance of the provisions hereof and the failure of either party hereto to terminate this Agreement or take other action upon default of this Agreement shall not operate as a waiver or estoppel or otherwise bar action for subsequent violations of the terms of this Agreement.
5. This Agreement shall be interpreted in accordance with the laws of the State of Utah.
6. In the event of default, the defaulting party agrees to pay all attorney's fees and costs incurred by the non-defaulting party in enforcing the terms of this agreement or pursuing any remedy caused by breach.

IN WITNESS WHEREOF, the parties have executed this Professional Agreement the day and year first above written.

CITY OF ROOSEVELT

GOLF PROFESSIONAL



\_\_\_\_\_  
Vaun D. Ryan, Mayor



\_\_\_\_\_  
Darci Olsen

ATTEST:



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Carolyn Wilcken, City Recorder