CITY OF BALTIMORE
WILLIAM DONALD SCHAEFER, Mayor

DEPARTMENT OF RECREATION AND PARKS
ADMINISTRATIVE DIVISION
2600 Madison Avenue, Baltimore, Maryland 21217

January 28, 1985

I

The Honorable President and
Members of the Board of Estimates
204 City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Dear President and Members of the Board:

Your Honorable Board is asked to approve an agreement transferring the five (5) City golf courses - Pine Ridge, Mt. Pleasant, Clifton Park, Forest Park, Carroll Park - To the Baltimore Municipal Golf Corporation ("BMGC"). The lease is for fifteen (15) years, with five (5) year renewal terms. No City personnel are being transferred. BMGC will manage, operate and develop the golf courses. BMGC may make capital improvements and add new buildings subject to Board of Estimates' approval. Included in the transfer are the equipment and certain buildings houses located on the golf courses.

BMGC will institute a fundraising program. It will set up programs to improve the courses, to raise attendance and to interest parties in playing golf. It will set up an endowment fund to be used to improve the golf courses. It has control of the fees.

The City will provide initial funding of $125,000.00. If BMGC wishes additional funding, it may apply for operating funds or capital budget funds pursuant to City budget procedures and subject to City's granting of same. The City has the right to audit the books. BMGC must submit financial statements and reports to the City. BMGC provides for its own insurance; the City will continue to insure the buildings. Any work or improvements or repairs will be considered fixtures and the property of the City. There are provisions for default and termination.

EXHIBIT
A

This Agreement has been approved by the Law Department, Department of Audits and the Department of Finance. Your approval is hereby requested.

Very truly yours,

Ann Scheper

ANN SCHEPER, President
Board of Recreation and Parks

AS/cdd

1/30/85-Approved by the Board of Estimates with the understanding that the following changes will be incorporated into the Agreement (Sec. VI) by a Letter Amendment:

1. Any contracts, $5,000 and over, let by the Baltimore Municipal Golf Course Corporation will be by competitive bidding which is in compliance with the City Charter. (Presently the agreement provides that any contracts over $25,000 must be let by competitive bidding.)

2. There is no commitment by the City for any additional money other than the initial funding of $125,000. (The Corporation may apply for a subsidy if it has an operating deficit, but the City has the discretion whether it will grant such requests or not.)

Richard A. Fisher, Clerk

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GOLF COURSE MANAGEMENT AGREEMENT

THIS AGREEMENT made as of the _____ day of _____, 1985, by and between the Mayor and City Council of Baltimore, a municipal corporation of the State of Maryland (the "City"), acting by and through the Board of Recreation and Parks (the "R&P"), and the Department of Public Works ("DPW"), and Baltimore Municipal Golf Corporation, a non-profit corporation of the State of Maryland ("BMGC"),

WITNESSETH:

WHEREAS, the City owns and operates five golf courses: Carroll Park, Clifton Park, Forest Park, Mount Pleasant, and Pine Ridge ("Golf Course Properties");

WHEREAS, the City believes that it is in the best interests of the public if the golf courses were managed and operated in the most efficient manner possible and if physical improvements were made to such courses;

WHEREAS, BMGC has expertise in the management of operating golf courses;

WHEREAS, the Pine Ridge Golf Course is located in the Loch Raven Watershed area and is under the jurisdiction of the Department of Public Works;

WHEREAS, special environmental considerations are present at the Pine Ridge Golf Course because of its location in the Watershed Area; and

WHEREAS, the Department of Public Works joins in this Agreement especially for matters relating to the Pine Ridge Golf Course in the Loch Raven Watershed area, and to other matters as relate to the duties and responsibilities of the Department of Public Works at the said watershed area.

NOW, THEREFORE, in consideration of the mutual covenants and promises, the City and BMGC hereby agree as follows:

I. THE LEASE

1.1 The City hereby leases to BMGC the real property and fixtures identified

in Appendix A-1 through A-6, as identified in the maps attached hereto and marked 1 - 5, the personal property identified in Appendix B-1 through B-5, and the equipment identified in Appendix C-1 through C-5, collectively known as the "Golf Course Properties", all in an "as is" condition and BMGC accepts said Lease subject to the terms and conditions stated herein. The effective date of this lease shall be March 1, 1985. The initial term of this lease shall be fifteen (15) years and it shall thereafter be automatically renewed on the same terms and conditions for additional terms of five (5) years each, unless terminated in accordance with Article 12.

1.2 The City shall have the right at any time during the term of this lease to sell, lease or develop any part of the Golf Course Properties for City purposes. City shall make every effort to limit the property taken for such use and the manner of such use so as to minimize the impact on the golfing public. Any property so taken shall be identified and removed from the Golf Course Properties.

1.3 It is understood and agreed that the Golf Course Properties do not include public highways, streets and thoroughfares and that City shall continue to be responsible for the regulation and maintenance of such highways, streets and thoroughfares, unless damaged due to the negligence of BMGC, its employees or agents which damage shall be the responsibility of BMGC to promptly repair. BMGC shall not have the right to close public highways, streets and thoroughfares. All private roads not dedicated to public use in the Golf Course Properties shall continue to be controlled, regulated, and maintained by Board, and City and its agencies and departments shall have the right to use such private roads as necessary. The driveway at the Pine Ridge Golf Course, running from Dulaney Valley Road to the clubhouse, shall be the responsibility of City to maintain and repair. BMGC shall be responsible for the cleaning of the driveway, including snow removal. City shall have the right to use said driveway when necessary.

1.4 The Pine Ridge Golf Course is located in the Loch Raven Watershed area, and its location causes environmental factors and the protection of the watershed to be

of great importance. BMGC agrees to act in all instances and in all matters so as to protect the quality of the environment at the watershed area and not to harm the watershed area. The following special conditions shall apply only to the Pine Ridge Golf Course:

1.4.1 City has the right to harvest timber on the long wooded peninsula east of the golf course or in other areas near the golf course but not on the golf course property itself without the prior permission of BMGC.

1.4.2 BMGC shall not permit any advertising, signs, or billboards for any purpose other than normal golf course identification to be located on the driveway or in the watershed area, without the prior written permission of DPW and Board.

1.4.3 City and Bureau of Water and Waste Water shall have the right to inspect the golf course and all buildings and improvements on it at all responsible times.

1.4.4 Because of the proximity of the golf course to the Loch Raven Reservoir, the BMGC shall submit a list of all fertilizers, herbicides, fungicides, insecticides or other chemicals which may be applied on the property, along with fact sheets and sample labels from same to the Head, Bureau of Water and Waste Water, for prior approval. These products shall not be applied until approved for use by the Bureau and then only at the application rate recommended by the manufacturer and/or approved by state and federal regulatory agencies. Where required by law, chemicals shall be applied by licensed applicators under conditions of permits obtained by BMGC.

1.5 BMGC shall, at its own cost and expense, keep and maintain the Golf

Course Properties throughout the term of this Agreement in good, substantial and sufficient condition, repair and order, fair wear and tear excepted, including any and all improvements, expansions and replacements made by BMGC. BMGC agrees to use its best efforts to improve or cause to be improved the Golf Course Properties, including the buildings, concession areas, and golfing areas. It is understood and agreed that BMGC shall have the right to sell or otherwise dispose of any and all fixtures, personal property and equipment included in the Golf Course Properties and any replacements thereto so long as any net proceeds of any such sale or disposal is applied to the purchase of additional or replacement fixtures, personal property or equipment of the same or any other kind to be used solely for the benefit and improvement of the Golf Course Properties. All such improvements, expansions, replacements and fixtures shall become part of the Golf Course Properties.

1.6 The City agrees that BMGC has the right to maintain and operate on the Golf Course Properties, through lease arrangements or otherwise, restaurant, convenience and fast food facilities, merchandise sales, golf driving ranges, cart rental, and other concessions and other recreational facilities, all of which shall be open to the public on reasonable terms and conditions to be determined by BMGC. The City agrees that BMGC may, from time to time, rent all or part of the Golf Course Properties for all appropriate types of events, some of which may be catered, pursuant to a fee schedule set by BMGC and that all such rental payments and all residual income, e.g., from promotions, advertising, tournaments, TV and radio benefits, sponsorships, programs, and license fees, shall accrue to BMGC.

1.7 BMGC agrees to establish and maintain programs to improve the condition and operation of the Golf Course Properties. To this end, BMGC agrees as promptly as possible:

1.7.1 To provide access to the Golf Course Properties for charitable events and assist in providing such events on reasonable terms and

conditions;

1.7.2 To establish and document a program for the physical improvement of the Golf Course Properties;

1.7.3 To establish and document a comprehensive program to teach and make the game of golf available to the citizens of the Baltimore area, including working with public and private schools to advance their opportunity to play;

1.7.4 To establish and publicly post at each golf course location rules and regulations regarding the use and operation of that golf course, including such matters as starting methods, starting times, use of carts, trespassing, vandalism, greens fees, rain delays and rainouts, group functions, charity events, hours of operation, etc; and

1.7.5 In order to develop interest in competitive golf in the Baltimore area, to establish a program for both team and individual competition between and among men and women at the junior, adult and senior levels.

1.8 BMGC and the Board agree to negotiate and carry out an annual cooperative program to introduce, promote, and make the game of golf available to the citizens of Baltimore with primary emphasis on juniors.

II. ASSIGNMENT OF CONTRACTS

2.1 Effective as of the date of this Agreement, the City assigns unto BMGC the contracts set forth in Appendix D. The City avers that these contracts are the only contracts known to be outstanding with regard to the Golf Course Properties and agrees that it will indemnify, defend and save BMGC harmless against loss or liability associated with any contract associated with the Golf Course Properties not included in Appendix D. BMGC shall then be solely responsible for contracts included in Appendix D. BMGC has copies of all such contracts.

III. PERSONNEL

3.1 It is understood and agreed between the Parties that all personnel now employed by the City to work on the Golf Course Properties shall remain City employees. It is also understood that BMGC may have need for the skills and talents of some of these persons and the City hereby authorizes BMGC to offer employment to City employees at such rates and on such conditions as BMGC shall choose. Such employees do not have to accept such offer and, if not, will remain City employees.

3.2 BMGC realizes that operating the Golf Course Properties will require a multiplicity of knowledge and skills. BMGC, therefore, agrees to hire the most qualified personnel available to operate and maintain the entire physical plant of the Golf Course Properties at a high level of efficiency. BMGC shall be solely responsible for the employment and supervision of personnel required for the management, utilization, maintenance, and operation of the Golf Course Properties and the negotiation of any contracts that may be involved in the employment of such personnel. All employees of BMGC shall be its employees only and shall not be deemed to be employees of the City. BMGC shall make every reasonable effort to recruit employees who reside in the Baltimore area and shall comply with all applicable laws concerning equal opportunity in employment.

IV. FUND RAISING

4.1 BMGC shall promptly begin and use its best efforts to conduct a fund-raising and grant application program in an effort to raise capital and operating budgets each year and thus be self-supporting. BMGC shall report to the Board of Estimates at least once each fiscal year, and at such other times as may be reasonably required by the Board of Estimates, on its fund-raising activities.

V. ENDOWMENT FUND

5.1 It is BMGC's intention to operate the Golf Course Properties on at least a self-sustaining basis. It is BMGC's further intention to dedicate all revenues (as

determined in accordance with generally accepted accounting principles) which accrue in excess of operating expenses (excluding debt service and equipment lease/purchase payments) to an endowment fund which may be utilized for capital expenditures, course and facility expansions, additions, replacement and renovation. In any year in which BMGC fails to operate on at least a self-sustaining basis, said endowment fund shall be used by BMGC for operating expenses before requesting supplementary funds from the City.

VI. CITY FUNDING OF BMGC

6.1 The City shall provide BMGC with initial funding in the amount of $125 thousand to be paid to BMGC on March 1, 1985, to be repaid by BMGC to City out of operating revenues on or before December 31, 1985.

6.2 On or before the City's Budget Date, BMGC shall provide the Department of Finance with a copy of the following with regard to its operation of the Golf Course Properties:

(i) Operating Budget;

(ii) Revenue Budget;

(iii) Capital Improvement Budget; and

(iv) Such supporting data as is customary.

6.3 It is understood and agreed that if BMGC projects and/or incurs an operating deficit, it may apply for, according to City's budget procedures, and receive a budget subsidy and/or such supplementary appropriations if City grants same.

6.4 If BMGC should believe that one or more capital expenditures is needed or desirable, but that such expenditure should be funded in whole or in part by the City, BMGC may make such request for funding, according to City procedures, and City shall determine whether or not to grant such requests. BMGC shall have the authority to let any and all such contracts for such capital expenditures unless prohibited by law from doing so. Any improvement, repair or fixture to the Golf Course Properties, whether

funded by the City, BMGC, or by others shall be the property of the City and shall be considered a part of said Golf Course Properties. BMGC shall submit to the Board of Estimates plans for any and all buildings or major improvements to buildings on the Golf Course Properties and shall obtain the prior approval of the Board of Estimates for such capital projects.

6.5 BMGC shall solicit competitive bids for all contracts (excluding contracts for the purchase of items which have a value less than $25,000); provided, however, that if a contract is for supplies, materials, equipment or services which are of such a nature that no advantage will result in seeking, or it is not practicable to obtain, competitive bids, or when the need is of an emergency nature, then BMGC need not comply with the competitive bid requirement, provided a certification to such effect is made a part of BMGC records. BMGC shall maintain for audit purposes a complete record of all bids. No contract let by BMGC shall be for a term beyond the term beyond the term of this Lease and any extension thereof and BMGC shall put such a clause in all of the contracts which it lets. BMGC agrees to comply with City law, rules, and regulations pertaining to minority business opportunities and minority employment.

Changed to $5000 upon BOE approval

6.6 Records of BMGC's expenses pertaining to the performance of its obligations, duties and services hereunder shall be kept in accordance with generally accepted accounting principles and shall be available for inspection by the City or its authorized representatives at all reasonable times. For purposes of financial planning and preparation of budgets, BMGC shall promptly furnish to the City such financial information and data and estimates of future expenditures as the City may reasonably require. BMGC shall prepare or have prepared at its expense an annual audit and an annual report within 120 days after the end of its fiscal year. If performed by an independent accounting firm, such audit shall be subject to review by the City Department of Audits. The City Department of Audits shall have the right to review all books and records of BMGC at the BMGC offices and to perform its own audit if it

wishes. BMGC shall keep its books and records at its principal office and shall maintain them for the term of this Agreement and any extensions.

6.6 BMGC shall submit to the Board of Estimates, a quarterly financial statement showing revenues and expenses, grants, donations, as well as other financial information which may be reasonably requested by the Board of Estimates.

VII. INSURANCE; INDEMNIFICATION

7.1 Before the effective date of the lease, BMGC shall, at its own expense, obtain a public liability and property damage policy, issued by a financially sound company, which will protect all parties to this Agreement against any claims for personal injuries, including death, and against claims for property damage which may arise out of, or in connection with, any operation or activities of the BMGC in the exercise of any of the privileges or duties granted herein. The amount of such insurance shall be as follows: Insurance in an amount of not less than $3,000,000 for injuries, including death, to any one person, in an amount of not less than $3,000,000 for injuries, including death of more than one person, on account of any one accident, and property damage insurance in the amount of not less than $500,000 for each accident.

7.2 BMGC shall provide, at its own cost, Workmen's Compensation Insurance as required by law.

7.3 BMGC shall provide, at its own expense, Directors and Officers Liability Insurance.

7.4 BMGC shall provide, at its own expense, a fiduciary bond in an amount satisfactory to the City, which shall cover all parties who handle funds pursuant to this agreement.

7.5 As a portion of each of the policies enumerated above, Board, DPW and City shall be named as additional insureds.

7.6 For each of the above policies, there shall be an endorsement stating that the policies shall not be terminated or reduced, for any cause, without at least sixty (60)

days prior written notice to all insured parties.

7.7 All policies listed above shall be subject to the approval of the City or its designated representative. BMGC shall provide to the City, prior to the effective date of the lease, Certificates of Insurance for each of the above coverages. Additionally, at the request of the City, or its designated representative, actual copies of the policies shall be provided for review.

7.8 All of the above policies shall be kept in force at all times.

7.9 The City shall provide fire or other casualty insurance in respect of the Golf Course Properties in such amount as was provided for the golf courses immediately prior to the date of approval of this agreement.

7.10 In addition to providing the insurance policies as stated above, BMGC shall indemnify and hold harmless the City from any and all liability, claims, losses, damages suits and actions at law of every kind and description arising or resulting from the operations contemplated by this Agreement. Such indemnification shall not be limited to the amounts of insurance provided herein.

7.11 The City agrees to defend BMGC and its trustees, officers and employees from and against any claim, suit, cost, expense or liability which BMGC or its trustees, officers or employes may incur by reason of any third party seeking to assert any liability, obligation or affirmative relief against BMGC or any of its trustees, officers and employees in respect to the Golf Course Properties. Such defense shall be coordinated with any defense representation available through the auspices of any of BMGC's insurers. The defense services provided herein shall not mean or intend that the City shall be responsible for any judgment, liability, obligation or affirmative relief obtained against BMGC, its trustees, officers or employees, which shall be the responsibility of BMGC.

VIII. DAMAGE OR DESTRUCTION

8.1 BMGC shall notify the City and R&P promptly of any fire or other

damage to the Golf Course Properties.

8.2 With respect to any damage or destruction to the Golf Course Properties by fire or other cause at any time during the term of the lease, the City shall promptly restore the damaged or destroyed premises at the City's sole expense and in a good and workmanlike manner. Within forty-five (45) days of the occurrence, the City shall give BMGC a schedule of completion for such restoration. If such schedule contemplates a period of completion in excess of one hundred eighty (180) days from the date of the occurrence, BMGC shall have the following rights:

8.2.1 To restore the damaged or destroyed premises at the City's sole expense, but at a cost not more than the replacement cost of the destroyed or damaged premises, and to be reimbursed for the entire cost incurred by BMGC for such restoration, such reimbursement to be made by the City in accordance with the normal operation of the Property Self-Insurance Fund; or

8.2.2 To terminate this Agreement by notice given to the City.

8.3 All payments for the repair/replacement of the damaged or destroyed portions of the Golf Course Properties shall be made in accordance with the established rules and regulations of either the City's Property Self-Insurance Program or the City's Boiler & Machinery Insurance Policy. The settlements involved herein shall be subject to the recommendations of the City's Insurance Officer and the approval of the Board of Estimates. Additionally, with respect to the Property Self-Insurance Program, it should be understood that the first $1,000 of any loss will have to be funded by BMGC.

IX. FORCE MAJEURE

9.1 Except as otherwise provided, neither party shall be obligated to perform hereunder and neither shall be deemed to be in default if performance is prevented by a fire, earthquake, flood, act of God, riot, civil commotion, or other matter or condition of

nature, including the unavailability of sufficient fuel or energy to operate the Golf Course Properties, or of any law, ordinance, rule, regulation or order of any public or military authority stemming from the existence of economic controls, riot, hostilities, war, or governmental law and regulation. In the event of a labor dispute which results in a strike, picket or boycott affecting the BMGC operation of one or more of the Golf Course Properties or any services described in this Agreement, BMGC shall not be deemed to be in default or breach of any part of this Agreement, and BMGC shall continue to be responsible for operating the Golf Course Properties.

X. DEFAULT

10.1 Any one or more of the following shall be an "Event of Default" or "Events of Default" under this Agreement:

10.1.1 With respect to BMGC:

10.1.1.1 BMGC shall fail to perform or observe any obligation of BMGC under any provision of this Agreement, and such failure shall continue and shall not be remedied within thirty (30) days after notice from the City specifying the same; unless

10.1.1.2 for causes beyond the reasonable control of BMGC, such failure cannot be cured within thirty (30) days, and BMGC:

10.1.1.2.1 advises the City in writing promptly after the City's notice that BMGC intends to take all steps necessary to remedy such default with due diligence;

10.1.1.2.2 duly institutes and diligently prosecutes to completion the steps necessary to remedy the same; and

10.1.1.2.3 remedies the same within a reasonable time after advising the City of BMGC's intention to do so; or

10.1.2 BMGC abandons the Golf Course Properties (unless as a result of a casualty therein); or

10.1.3 this Agreement or the Golf Course Properties, any part thereof or estate therein, shall be taken upon execution or by other process of law directed against BMGC, or shall be taken upon or subject to any attachment at the instance of any creditor of or claimant against BMGC, and said attachment shall not be discharged or disposed of within ninety (90) days after levy thereof. City shall be reimbursed by BMGC for any cost or expenses by it if City pays any such claim; or

10.1.4 BMGC shall be declared bankrupt by any competent court having proper jurisdiction.

10.2 With respect to the City, if the City shall fail to perform or observe any obligation of the City under any provision of this Agreement, and

10.2.1 such failure shall continue and shall not be remedied within thirty (30) days after notice from BMGC specifying the same; unless

10.2.2 for causes beyond the reasonable control of the City, such failure cannot be cured within thirty (30) days, and the City:

10.2.2.1 advises BMGC in writing promptly after BMGC's notice that the City intends to take all steps necessary to remedy such default with due diligency;

10.2.2.2 duly institutes and diligently prosecutes to completion the steps necessary to remedy the same; and

10.2.2.3 remedies the same within a reasonable time after advising BMGC of the City's intention to do so.

10.3 After a material Event of Default on the part of BMGC, the City shall have the right, at the City's sole discretion, to elect to terminate this Agreement by notice to BMGC as provided below. After a material Event of Default on the part of the City, BMGC shall have the right, at BMGC's sole discretion, to elect to terminate this

Agreement by notice to the City as provided. The failure of either the City or BMGC to seek redress for any Event of Default, or to insist upon the strict performance of any provision of this Agreement, shall not prevent a subsequent act which would have originally constituted an Event of Default from having all the force and effect of any original Event of Default or from requiring performance of any provision herein.

XI. TERMINATION

11.1 If the City elects to terminate pursuant to this Agreement, for cause as specified above, it shall give BMGC written notice of its election so to terminate, specifying in such notice a termination date which is at least six (6) months subsequent to the date of the giving of such notice, and on such date this Agreement shall terminate in all respects and on or before such termination date BMGC shall vacate the Golf Course Properties and all facilities therein. If BMGC elects to terminate pursuant to this Agreement, for cause as specified above, it shall give the City written notice of its election so to terminate, specifying in such notice a termination date which is at least six (6) months subsequent to the date of the giving of such notice, and on such date this Agreement shall terminate in all respects and on or before such termination date shall vacate the Golf Course Properties.

11.2 Upon termination of this Agreement, the City and BMGC shall have no further responsibility or liability under or in respect of this Agreement, except that within two hundred seventy (270) days of the receipt or giving of any notice of termination of this Agreement or of the last day of the Term, as the case may be, BMGC shall deliver to the City an accounting setting forth for the particular fiscal year its Revenues and Operating Expenses to the termination date, and thereafter, but within ninety (90) days after receipt of such accounting. BMGC shall transfer to the City:

11.2.1 Any funds previously paid to BMGC by the City and unexpended to the date of termination.

11.2.2 the equipment owned by BMGC and to the extent not theretofore

disposed of by BMGC because of wear, tear, or obsolescence, in the condition existing, i.e., "AS IS" at the time of transfer; and

11.2.3 ownership of all specification, plans, drawings and related documents prepared by any architect, consulting engineer or contractor for any facilities at the Golf Course Properties.

11.2.4 all books, records, statements pertaining to the Golf Course Properties and its finances since the date of operation.

11.2.5 all buildings, personalty, exhibits, manuals, supplies and fixtures located in and about the Golf Course Properties and used by BMGC whenever obtained or purchased, for purposes of the Golf Course Properties as stated herein.

11.3 Upon termination of this Agreement, BMGC shall have the right to retain any unexpended grants, bequests, contributions and funds raised or received by it for the benefit of the Golf Course Properties, subject to any restrictions placed thereon by the applicable gift instrument unless such restrictions are released by the donor, and BMGC may use any such funds for general charitable and educational purposes or return such funds to the donors, if such is the donors request. All accrued income from admissions, consessions, rides, etc., shall be the property of the City.

XII. NOTICES

12.1 All notices, requests, demands, elections, consents, approvals, designations and other communications of any kind hereunder ("Notices") must be in writing and addressed to the parties as follows:

If to the City:

Mayor, City of Baltimore
City Hall
100 North Holliday Street
Baltimore, MD 21202

and

Director
Department of Recreation and
Parks
2700 Madison Avenue
Baltimore, MD 21217

If to BMGC:

President
Baltimore Municipal Golf Corporation
Hillen Road
Baltimore, MD 21239

12.2 Any Notice required by this Agreement to be given or made within a specified period of time, or on or before a date certain, shall be deemed given or made only if sent by certified mail, return receipt requested, and postage and registry fees prepaid. A Notice so sent by certified mail shall be deemed given on the date of mailing. All other Notices shall be deemed given when received.

XIII. MISCELLANEOUS

13.1 This Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of Maryland

13.2 Except as otherwise specifically permitted hereunder, BMGC shall not assign or otherwise encumber this Agreement, or sublet the Golf Course Properties (or any portion thereof), or permit the Golf Course Properties to be used by others in violation of this Agreement, without the prior written consent of the City and any attempted assignment, encumbering, subletting or unauthorized use shall be void and of no effect as against the City. Subject to the foregoing, all the provisions of this Agreement, whether so expressed or not, shall be binding upon the respective successors, assigns and legal representative as stated herein, of the parties hereto and shall inure to the benefit of and be enforceable by the parties hereto and their respective successors, assigns and legal representatives.

13.3 If any lien is filed against the Golf Course Properties by reason of work, labor, services or materials supplied or allegedly supplied to BMGC or anyone claiming through or under BMGC or by reason of BMGC's failure to comply with Law, BMGC shall

cause the same to be discharged by payment or otherwise within ninety (90) days after the earlier of (i) notice to BMGC of the filing or assertion of such lien or (ii) notice to BMGC from the Mayor to the same effect. If BMGC fails to do so, in addition to any other right or remedy hereunder, the City may (but shall not be obligated to) discharge such lien by bonding or otherwise, and BMGC shall promptly repay City for such cost. Nothing in this Agreement shall be deemed or construed in any way as constituting the consent or request of the City, express or implied, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any material for any alteration of the Golf Course Properties.

13.4 Upon observing the provisions of this Agreement, BMGC shall and may lawfully hold and enjoy the Golf Course Properties during the Term without hindrance, molestation or interruption.

13.5 Nothing herein shall be deemed to create any joint venture or principal-agent relationship between the parties, and neither party is authorized to, and neither party shall act toward third parties or the public in any manner which would indicate any such relationship with the other. BMGC is an independent contractor in terms of managing and operating the Golf Course Properties.

13.6 If any subsection, sentence, clause, phrase, or portion of this Agreement is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Agreement.

13.7 BMGC shall perform all services hereunder in compliance with all applicable laws and regulations of the United States of America and agencies thereof, and of the State of Maryland, and in compliance with all applicable provisions of the Charter and local laws of the City. In particular, BMGC shall comply with Article 7, Sections 123-128, Board of Ethics of the Charter of Baltimore City (1981 Replacement Volume as amended from time to time).

13.8 BMGC for itself and its successors and/or assigns, agrees that in the performance of its duties hereunder, it will fully comply with the applicable provision of Executive Order 11245, as amended, as well as the applicable provisions of all Ordinances, Executive Orders, Laws of the City of Baltimore, State of Maryland, or United States of America relating to non-discrimination and equal opportunity.

13.9 No member of the governing body of the City, and no other officer, employee, or agent of the City who exercises any functions or responsibility in connection with the services to be performed under this Agreement, shall have any personal financial interest, direct or indirect, in this Agreement, or in the Golf Course Properties or in BMGC.

13.10 If the whole or any part of the Golf Course Properties is taken under power of eminent domain, then City and BMGC at each party's option shall have the right to terminate pursuant to this Lease. If the parties elect to continue the lease, then City, at its sole option, may make such repairs, alterations, or replacements in order to restore the part of the Golf Course Properties not taken to useful condition. City shall not be obligated to replace any of the land within the Golf Course Properties boundaries if taken by eminent domain.

13.11 All compensation awarded for any taking of the Golf Course Properties or any interest in them shall belong to and be the property of City, BMGC hereby assigning to City all rights with respect thereto; provided, however, nothing contained herein shall prevent BMGC from applying for reimbursement from the condemning authority (if permitted by law) but only if such action shall not reduce the amount of the award or other compensation otherwise recoverable from the condemning authority by City.

13.12 This Agreement embodies the entire agreement and understanding between BMGC and supersedes all prior agreements and understandings relating to the subject matter hereof. This Agreement may not be modified or amended or any provision hereof waived or discharged except in writing signed by the party against whom such

amendment, modification, waiver or discharge is sought to be enforced. The Table of Contents and headings of this Agreement are for purposes of convenience only and shall not limit or otherwise affect the meaning of any provision of this Agreement. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

WITNESS, the hands and seals of the parties hereto as of this day and year above written.

ATTEST:

BALTIMORE MUNICIPAL GOLF CORPORATION

(Seal)
Chairman

DEPARTMENT OF PUBLIC WORKS

(Seal)
Director

BOARD OF RECREATION AND PARKS

(Seal)
President

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

Chief Solicitor 1/30/85

APPROVED BY THE BOARD OF ESTIMATES SUBJECT TO THE TWO CHANGES AS INDICATED ON THE ATTACHED COVERIN LETTER BEING INCORPORATED INT THIS AGREEMENT BY A LETTER AMENDMENT.

JAN 30 1985

Richard Lidinsky, Deputy Comptroller

Being page 20 of a 20 page Agreement with exhibits between the Board of Recreation and Parks, Department of Public Works, and Baltimore Municipal Golf Corporation.