

Contract #1456

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AGREEMENT
THE FIRST TEE OF NORTH PUGET SOUND
CITY OF LYNNWOOD MUNICIPAL GOLF COURSE

This Agreement is made and entered into by and between the Grass Roots Jr. Golf Foundation, doing business as The First Tee of North Puget Sound, a 501 (c) 3 organization, and the City of Lynnwood.

WHEREAS, The First Tee is a nationally recognized organization whose mission is to impact the lives of young people by providing learning facilities and educational programs that promote character development and life-enhancing values through the game of golf, and

WHEREAS, The First Tee of North Puget Sound seeks to provide junior golf instruction and life skills education at the Lynnwood Municipal Golf Course, and

WHEREAS, the City of Lynnwood, a municipal corporation, operates and maintains the Golf Course located at 20200 68th Avenue West in Lynnwood, and

WHEREAS, the City of Lynnwood wishes to encourage affordable access to golf for youth ages 7 to 18, who are interested in learning and playing the game, with a special emphasis on education and character development,

NOW, THEREFORE, in consideration of the terms and conditions contained herein, The First Tee of North Puget Sound ("TFTNPS") and the City of Lynnwood Municipal Golf Course ("LGC") this day agree as follows:

1. To support the mission of LGC to be professional, friendly and eager to serve its customers with the philosophy of developing long-term positive relationships with the golfer and the community, and
2. To respect and help preserve the quality playing conditions at LGC, and
3. To provide affordable access to the game of golf for youth ages 7 to 18 who are interested in learning and playing the game.

A. Project Administrator

1. TFTNPS and LGC each appoint a Project Administrator who will be responsible for administering this Agreement. At the direction of the parties, the Project Administrators shall take such action as necessary to ensure that this Agreement is implemented in accordance with its terms. The parties hereby designate Jeff Cornish as TFTNPS Project Administrator. The City of Lynnwood designates Gary Stormo, LGC Golf Superintendent, as its Project Administrator.

- 1 2. Communications regarding The First Tee daily administrative needs shall
2 be directed to LGC PGA Head Professional Dan Smith, 20200 68th
3 Avenue West, Lynnwood, 98036.
4

5 **B. Operation, Use and Maintenance Obligations**
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7 **The First Tee of North Puget Sound shall:**
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- 9 1. Conduct programs, including classes, meetings, camps, skills testing,
10 group play, individual play and tournaments, at the LGC with a minimum
11 of 250 hours of scheduled access per year to the LGC. The hours shall
12 be in writing, mutually approved and scheduled in coordination with the
13 LGC Head Pro and Superintendent. Scheduling shall be done in such a
14 way to minimize any impact to LGC public play and associated revenues.
15
16 2. Be responsible for all fees collected for the program they conduct at LGC.
17
18 3. Be responsible for all expenses incurred by its programming at LGC.
19
20 4. Provide for their own practice balls at the golf course and practice areas,
21 either by subsidy of balls purchased by the golf course or bringing their
22 own.
23
24 5. Terms of practice balls on the hitting area to be determined.
25
26 6. Provide payment to LCG for TFTNPS junior rounds of play.
27
28 7. Provide all TFTNPS participants with a TFTNPS Identification Card.
29
30 8. Offer the first right of refusal to LGC PGA Head Professional or PGA
31 designee for the purpose of instructing TFTNPS camps and/or classes. If
32 LGC declines the offer to instruct, TFTNPS may use their own PGA
33 instructor(s).
34
35 9. Provide payment to the LGC golf professionals in which case payment
36 would be to LGC, for PGA instruction for TFTNPS youth at the conclusion
37 of each camp or class session. In the event that lessons are taught while
38 the LGC golf professionals are being paid by LGC for their time, then no
39 extra payment from TFTNPS will be made.
40
41 10. Agree to review the fee structure by February 28th of each year with LGC.
42
43 11. Gain written approval in advance from LGC for all advertising, marketing,
44 and promotional materials associated with using LGC, prior to printing and
45 distribution.
46

- 1 12. Agree to release, defend, indemnify and hold harmless the City of
2 Lynnwood, its elected and appointed officials, officers, directors,
3 managers, employees, and agents from any and all claims (including but
4 not limited to claims for property damage, personal injury and death),
5 costs, liabilities, damages and expenses (including, but not limited to
6 reasonable attorney's fees) arising out of or in connection with TFTNPS's
7 provision of services and other actions under this Agreement. However,
8 this shall not require TFTNPS to indemnify LGC against any liability for
9 damages arising out of bodily injury or property damages caused by or
10 resulting from sole negligence of Lynnwood. In the case of concurrent
11 negligence of TFTNPS and LGC, TFTNPS shall release, defend,
12 indemnify and hold harmless LGC from all such claims.
13
- 14 13. Agree maintain a Commercial General Liability policy using Insurance
15 Services Office form CG0001(12-07) or the equivalent with limits not less
16 than \$1,000,000 each occurrence and \$2,000,000 annual aggregate.
17 Such policy shall include the City of Lynnwood as additional insured using
18 Insurance Services Office form CG2026(07-04) or the equivalent. In
19 addition, such policy shall be primary over any self-insurance or insurance
20 policy maintained by the City. TFTNPS agrees to maintain an Umbrella or
21 Excess liability policy to provide limits in excess of the above with limits
22 not less than \$4,000,000 each occurrence and \$4,000,000 aggregate.
23 TFTNPS also agrees that liability coverage arising from Sexual Abuse or
24 Molestation will be maintained with limits not less than \$1,000,000 each
25 occurrence and \$1,000,000 aggregate. The TFTNPS shall maintain this
26 coverage in force, and agrees to have its insurance carrier provide the
27 City with a Certificate of Insurance and copies of all applicable
28 endorsements. Certificates of Insurance and a copy of the Additional
29 Insured endorsement shall be filed with the City and is subject to approval
30 by the City. Failure of TFTNPS to comply with the requirements is
31 material breach of the Agreement and cause for immediate Agreement
32 termination and of any and all obligations regarding the same.
33

34
35 **Lynnwood Golf Course shall:**

- 36
- 37 1. LGC shall provide a minimum of 250 hours of access per year to TFTNPS
38 for education and character development classes, meetings, camps, skills
39 testing, group play, individual play and tournaments. The hours shall be
40 scheduled in writing and mutually approved ninety (90) days in advance
41 and in coordination with the LGC Head Pro and Superintendent and
42 TFTNPS.
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 - 44 2. Maintain the golf course, facilities, utilities, maintenance, taxes and
45 insurance for their golf operations at no cost to TFTNPS, other than what

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is incorporated in the existing fee structure outlined in this agreement, Paragraphs C and D.

3. Maintain turf grass, practice areas, and driving range at no cost to TFTNPS, other than what is already incorporated into the existing fee structure outlined in this agreement, Paragraph C.
4. Consider all offers from TFTNPS to instruct camps and/or classes using LGC PGA Head Pro or PGA designee.
5. Agree to review the fee structure by February 28th of each year with TFTNPS.
6. Maintain a Point of Sale tracking system for pre-paid junior rounds and deposits.
7. Refer any and all inquiries about TFTNPS programming to the designated Project Administrator or designee at no cost.

C. Capital Improvements

1. TFTNPS shall have the option to propose capital improvements to the LGC on an annual basis. This will occur concurrently with the annual fee structure review. Only those capital improvements that provide positive instructional benefit to the TFTNPS program, and are in the best interest of the LGC, will be eligible for consideration by LGC.
2. Any TFTNPS proposed capital improvement projects shall have prior written approval of specifications and designs from LGC before fundraising toward those projects is initiated by TFTNPS. All capital improvements proposed by TFTNPS shall be funded entirely by TFTNPS. All improvements shall remain the property of the LGC. No pro-rated portion of capital improvement expenditures shall be refunded by LGC to TFTNPS in the event that this agreement is terminated.
3. Any significant change proposed by LGC in the course layout, practice facilities, practice range or clubhouse shall be documented and provided in writing thirty (30) days in advance for TFTNPS. TFTNPS will consider all suggestions and respond back to LGC regarding its decision within thirty (30) days from the date that the change is proposed.
4. No capital improvements shall be approved without the prior written consent of the Mayor and the City Council.

D. Compensation

1 1. For purposes of this agreement, the 2012 fee structure is established as
2 follows, and will be reviewed and mutually agreed upon in writing on an
3 annual basis by February 28th of each year:
4

5	9 hole junior round of golf	\$12.00
6	LGC PGA Head Pro or PGA Designee	\$40.00 per hour
7	Practice greens	\$ 1.50 per hour per student

8
9 2. TFTNPS will provide compensation to LGC on a quarterly basis for
10 practice areas and golf course use. The City Treasurer Accounts
11 Receivable office will invoice TFTNPS directly. Each round played and
12 hour of practice area usage per student will be deducted from that prepaid
13 credit at the time the round is played or practice area is used. TFTNPS
14 will continue to prepay on a quarterly basis, and keep a credit balance
15 throughout the year to pay for the TFTNPS rounds of golf and practice
16 area use. In the event there is a credit balance on December 15th of that
17 year, LGC will carry the balance over for the following year or reimburse
18 TFTNPS for the amount of the credit. If there is a balance due, TFTNPS
19 will pay LGC on December 15th of that year for the balance due.
20

21 3. The parties mutually agree to establish the amount of deposit to LGC for
22 TFTNPS student rounds of golf. TFTNPS students will be identified to
23 LGC staff with the TFTNPS Identification Card. TFTNPS and LGC will
24 jointly determine a mutually agreed Point of Sale method for transacting
25 the pre-paid rounds, which shall be debited from the deposit at Twelve
26 Dollars and No Cents (\$12.00) per 9-hole round, tracked, and reported
27 monthly.
28

29 **E. Duration and Termination**
30

31 1. The term of the Agreement shall be five (5) years and shall commence on
32 July 1, 2012 and shall end on July 1, 2017.
33

34 2. Both parties shall review this Agreement annually. All terms of the
35 agreement shall remain intact unless terms are revised and mutually
36 agreed upon in writing by both parties.
37

38 3. Both parties shall have the option to terminate this Agreement for any
39 reason, so long as written notice is provided to the other party at least
40 ninety (90) days prior to the termination date.
41

42 4. Any fees owed to LGC will be paid before the expiration day of the
43 agreement. Any unused balance of deposits for services will be refunded
44 to TFTNPS by LGC before the expiration day of the agreement.
45

1 **F. Miscellaneous**

- 2
- 3 1. TFTNPS and LGC shall maintain records necessary to carry out the
- 4 purposes of this Agreement in accordance with generally accepted
- 5 accounting principles. Such records shall be available during normal
- 6 working hours for review of the respective parties, their accounting
- 7 representative or the State Auditor. All information is subject to State of
- 8 Washington Public Record Laws.
- 9
- 10 2. In the event that a dispute arises between the parties under this
- 11 Agreement, the Director of the Parks, Recreation and Cultural Arts
- 12 Department of the City and the TFTNPS Project Administrator shall meet
- 13 to attempt to resolve the dispute within thirty (30) days of receiving notice
- 14 from the TFTNPS Project Administrator of the existence of the dispute. In
- 15 the event the Director and TFTNPS Project Administrator are unable to
- 16 resolve the dispute within sixty (60) days, the parties shall agree to submit
- 17 the dispute to a mutually agreed upon private arbitrator, for binding
- 18 resolution.
- 19

20 IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be

21 executed on this 2nd day of August, 2012.

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25 **CITY OF LYNNWOOD**

**GRASS ROOTS JR. GOLF
FOUNDATION, D/B/A THE
FIRST TEE OF NORTH PUGET
SOUND**

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31 _____

32 Don Gough, Mayor

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35 _____

36 Signature

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38 8-2-12

39 _____

40 Date

41 JEFF CORNISH

42 _____

43 Printed Name

44 **Attest By:**

45 

46 _____

Lorenzo Hines, Finance Director

47 CEO

48 _____

49 Title

50 8-9-12

51 _____

52 Date

53 7/20/2012

54 _____

55 Date

1 **Approved as to Form:**

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Rosemary Larson

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Rosemary Larson, City Attorney

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8/15/2012

8

Date