ATTACHMENT "A"

GOLF LICENSE AGREEMENT

THIS LICENSE AGREEMENT is made and entered into this _____ of _____ 2003, by and between the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "City", and John O.Craw, a golf professional and/or Director of Golf for Holmes, Holmes Golf Course, hereinafter referred to as "Manager".

WHEREAS, the City is the owner of Holmes Golf Course and operates a municipal golf course and clubhouse therein; and

WHEREAS, Manager is a Class "A" PGA Golf Professional and/or Director of Golf for Holmes Golf Course; and

WHEREAS, City desires the services of someone to operate the restaurant concessions and serve as golf professional and/or Director of Golf for the Holmes Golf Course, and Manager is qualified to perform these services.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein, the parties agree as follows:

1.License. City grants to Manager the exclusive privilege of operating business concessions and rendering professional golf services at Holmes Golf Course and Clubhouse for the period of time commencing May 1, 2003, up to and including April 30, 2006, in accordance with the terms and conditions hereinafter set forth. This license may be renewed for one additional three-year term provided that the Manager has complied with all conditions set forth in this Agreement to the satisfaction of the City and subject to the further approval of the City Council for each renewal period. The financial terms for this renewal period shall be negotiated between December 1, 2005 and February 1,2006.

2. Services. Manager is to be recognized as the pro-manager of the Holmes Municipal Golf Course and shall make professional golf services and concession services available to the patrons of said golf course at all reasonable times as determined by the Director of Parks and Recreation. Said services shall include, but not be limited to, the following: sale of alcohol, public relations, teaching, coaching, promotion of golf play, leagues and tournaments, pull carts, sales and rental of equipment from the pro shop, and operation of the driving range and restaurant facilities. The City will be responsible for motorized golf cart rentals as outlined in Paragraph 14.

3. Supervision By Manager. In addition to the services to be rendered by Manager as set forth in Paragraph 2 supra, Manager agrees to supervise all activities within that part of the clubhouse and surrounding area designated by the City for use by the public, to supervise all personnel in the employ of Manager and to supervise the performance of such duties and services in the clubhouse, golf course, or adjacent thereto as may be included in this Agreement, including recreational programs in the areas needed for this purpose. Employees of the Manager shall remain on duty during the entire event for concession sales, and to lock the buildings at the close of all events.

4. Maintenance. Manager agrees to keep the clubhouse in a clean and sanitary condition at all times. This shall include the restaurant area, public restrooms, public lounge, pro shop, and general interior and immediate exterior maintenance. All papers, rubbish, broken and empty bottles, garbage and other trash accumulating in the operation of the clubhouse shall be picked up by Manager or his designee and placed in suitable containers. Goods, bottles, or empty containers shall not be sold, piled, or stored outside of the clubhouse except upon written permission of the City. Manager shall keep concession premises in a neat, clean, orderly, and sanitary condition at all times in conformance with the standards required by the Lincoln-Lancaster County and State

Department of Health. City will provide refuse containers and be responsible for refuse service. Manager agrees to keep all city golf cars in a clean and safe working condition at all times. This shall include washing and removal of trash after each round, filling ball and club washers, examining each car for damage after each round, staging golf cars in the morning and securing in the evenings. Assist maintenance staff in fueling and taking care of damaged cars. Excessive damage to golf cars will become a financial responsibility of the manager on a percentage basis at the discretion of the City.

5. Money Collection. Manager agrees to collect greens fees and to issue greens fees tickets/tapes/cash register receipts; motorized golf cart rental fees, memberships, capital improvement fees, surcharges, league fees, and sales tax; to keep records of all such transactions; and to properly account for and remit to City such documentation. Manager will be required to complete a daily sales report, which shall be balanced to match all rounds, played and all motorized golf cart rentals. All transactions shall be remitted weekly without delay as specified by the Finance Director of the City. Manager and staff will be required to follow all guidelines outlined within the City's Operations and Procedures Manual. Manager will be reimbursed eighty (80) percent of the credit card processing fee for each month the golf course is open for play. All applicable credit card processing fees will be submitted on a monthly basis detailed on the proper form.

6. Starting and Managing Play. Manager agrees to provide supervisory services for the first tee of the golf course to control starting play on Saturdays, Sundays, and holidays, and on any other days of heavy play. Manager further agrees to provide rangers or marshals when play is heavy or playtime starts to slow to an unacceptable pace, and assist in keeping water containers on golf course filled.

7. Inspection, Audit. It is understood and agreed between the parties that the operation and services performed by Manager under this Agreement shall be subject at all times to inspection and control by designated representatives of the City. Manager will confer only with said representatives on all problems of general policy in connection with this Agreement. Manager shall permit the examination and audit of all books and records of Manager relating to this Agreement by officers or representatives of the City, and shall make said books and records available at all reasonable hours

8 Attendants. Manager shall have adequate and efficient attendants on duty in readiness to serve the public at such times as necessary to provide concession and professional golf services. City shall determine minimum operation time.

9. Improvements. Manager shall not remodel clubhouse or install any permanent fixtures or additions to the clubhouse without first obtaining the written approval of the City. All improvements shall become the property of the City upon termination of this Agreement unless the parties hereto agree otherwise.

10. Advertising. Manager shall not display paid advertising outside the clubhouse, and advertising inside the clubhouse shall be confined to that portion of the clubhouse designated for the exclusive use of Manager. No display signs or advertising shall be placed on the grounds, building, or affixed in any manner, except upon written approval of the City in advance.

11. City Supervision. City reserves the right to exercise general supervision and control over the clubhouse with respect to the management of advertising displays; staff employed; concessions; kind, character, and quality of goods dispensed; and the cleanliness and sanitation of the buildings and adjacent grounds. Manager shall operate under the provisions of this Agreement in such a manner as to conform with all the ordinances of the City of Lincoln and the laws of the State of Nebraska, and shall give assistance to City in seeking conformity with the ordinances of the City and laws of the State by public users. Further, Manager agrees to enforce all rules and regulations

adopted by City or City's Director of Parks and Recreation covering the conduct of the public and services offered in the use of the park property.

12. City Equipment. Manager shall exercise general supervision over and shall be responsible for the proper use and care of all equipment and furniture owned by City now located in the clubhouse. Such property shall be maintained specifically for the use and convenience of all public users of the clubhouse. An inventory of this property, as taken by a representative of each of the parties, is marked Exhibit "A" and attached hereto and made a part hereof.

13. Risk Of Loss. City shall not be responsible for the property of Manager kept, stored, or maintained on the leased premises and assumes no responsibility for loss of Manager's property through fire, theft, pilferage, malicious mischief, or any other happening whatsoever.

14. Manager Compensation. Manager shall be entitled to the gross proceeds generated by operation of the cafe, pro shop, alcohol sales and the provision of golf lessons. Manager will operate driving range and share with the City a percentage of gross revenues as detailed below.

The City shall operate the motorized golf cart rental fleet. In return for promoting and renting out motorized golf carts and keeping the fleet clean and presentable, the City shall pay to the Manager a percent of the monthly gross revenue generated by motorized golf cart usage as detailed below. The following is the three (3) year schedule of the remuneration for the Manager and the City:

	Driving Range	Motorized Carts
Year 1	5% City 95% Manager	75% City 25% Manager
Year 2	10% City 90% Manager	75% City 25% Manager
Year 3	15% City 85% Manager	75% City 25% Manager

Both the City and the Manager will be paid within twenty (20) days of receipt of the accounting report of revenue generated.

Incentive Plan. The City will reward for each year of this contract the Manager with a monetary amount based on the following Schedule. Each year will commence May 1st and conclude April 30th for the term of this contract.

# of Rounds	Bonus	Carts	Bonus
48,000 – 50,500	$2,500	$144,000 - $149,000	$2,500
50,501 – 53,000	$5,000	$149,001 - $154,000	$3,000
53,001 – 55,500	$7,500	$154,001 - $159,000	$3,500
55,501 – 58,000	$10,000	$159,001 - $164,000	$4,000

A round of golf will be counted as a single transaction for either nine holes or 18 holes. Incentive amounts for carts will not include sales tax.

15. Manager's Personnel. It will be Manager's responsibility to employ the needed personnel to conduct the business and carry out the operations associated with the clubhouse which includes, but is not limited to, the concession operation, collection of fees, and custodial maintenance, Both parties recognize and agree that Manager is an independent contractor. Manager and his agents and employees shall not be considered to be employees of the City, and shall not be eligible for any fringe benefits or premium pay from the City.

16. Conflict Of Interest. During the term of this Agreement, Manager shall not engage in the following activities within fifty-five (55) miles of the corporate limits of the City of Lincoln:

    a. Promoting in any way or manner golf activities, special events, tournaments or leagues at other than City golf courses.

b. Endorsing, either by name or other manner, the activities or special events at non-City golf courses.

c. Participating in the operation of nor-City golf courses in activities such as the operation of the Pro Shop, the food and beverage operation, golf lessons, cart rental business, driving range or special events without the written permission of the City.

d. Participating in the management of non-City golf courses such as, but not limited to, establishing fees and charges or the selection, hiring and evaluation of staff.

e. Displaying advertising or promotional materials for non-City golf courses such as posters, wearing hats or other clothing items that display the name or logo of non-City of Lincoln golf courses.

f. Being named or recognized as a Director of Golf, Head Golf Professional, or other staff title at any non-City golf course.

This language shall not be construed to prohibit Manager or members of immediate family from having a financial interest in non-City golf courses or related developments; provided, however, that Manager must submit a written detailed description of such financial interest or the financial interest of any member of his immediate family to the City for approval. Updated information must be submitted annually in a format determined by the City by January 31 of each year. The Director of Parks and Recreation may allow Manager to promote, endorse, or display advertising for non-City golf tournaments with prior written approval.

For purpose of this agreement, "immediate family" shall include any child residing in Manager's household, Manager's spouse, or an individual claimed by Manager as a dependent for Federal income tax purposes.

17, Concession Operation. All materials, supplies, and assistance required in the operation of the concession shall be furnished at Manager's own expense. Manager agrees to conduct and operate the concession strictly in accordance with all the ordinances of the City of Lincoln and laws of the State of Nebraska now and hereafter in effect during the terms of this Agreement and in a manner wholly acceptable to the City. Manager agrees to maintain a current liquor license and obey all laws and rules set forth by the State Liquor Control Commission. Manager agrees to keep all concession areas open seven (7) days of the week during such hours, meetings, or special events as the City's Director of Parks and Recreation shall determine.

18. PGA License. During the full term of this Agreement, Manager must maintain a Class "A" PGA Golf Professional Classification. Should Manager cease to be a Class "A" Professional, this License Agreement shall immediately and automatically terminate and Manager shall no longer be entitled to the rights and privileges granted hereunder.

19. Financial Statements. Manager shall submit to City annual financial statements of the entire operation covered by the terms of this License Agreement. Said financial statement shall include a detailed operating statement setting forth all operating revenues and personnel service costs and other operating expenses in accordance with the requirements set by the Finance Director of the City. Annual financial statements shall be due by May fifteenth (15th) of each year this Agreement is in force and effect. In the event that this Agreement is terminated, either at its expiration or for any other reason during the course of a calendar year, a financial statement shall be required within thirty (30) days of such termination covering the period from the prior financial statement to the date of termination. In addition, the City may conduct its own audits during the term of this Agreement and for a period of one year thereafter pursuant to Paragraph 7 above.

20. Free Play. Manager, managers immediate family, members of the PGA of America and any assistants registered in the PGA Assistant Program may play the course at no cost. This privilege applies to other City courses as well. The names of the PGA members and assistants shall be given to the Director of Parks and Recreation. Except for the preceding, special privileges shall not be granted to anyone under any circumstances. Failure to comply will result in termination and cancellation of said contract as outlined in Paragraph 25.

21. Equal Employment. Neither Manager nor anyone acting under or by virtue of the terms of this Agreement shall discriminate against employees or applicants for employment with respect to such person's hire, tenure, terms, conditions, or privileges of employment because of such person's race, color, religion, sex, disability, national origin, ancestry, age, or marital status pursuant to the requirements of Section 48-1122, Nebraska Revised Statutes (Revised issue 1998), as amended, and Title 11 of the Lincoln Municipal Code; nor shall Manager nor anyone acting under or by virtue of the terms of this Agreement discriminate against any such patron of said golf course or against anyone else because of race, color, religion, sex, disability, national origin, ancestry, age or marital status. Special privileges shall not be granted to anyone under any circumstance.

22. Insurance. Manager shall indemnify and save harmless the City of Lincoln, Nebraska, from and against all losses, claims, damages, and expenses, including attorney's fees, arising out of or resulting from the performance of the License Agreement that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting there from and is caused in whole or in part by the Manager, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the Manager to indemnify or hold harmless the City for any losses, claims, damages, and expenses arising out of or resulting from the negligence of the City.

Manager shall take out and maintain during the life of this Agreement the applicable statutory Worker's Compensation Insurance with an insurance company authorized to write such insurance in this State covering all of his employees.

Manager shall secure and maintain in full force and effect during the entire period of this Agreement, Public Liability Insurance, naming and protecting Manager and the City, its officials, employees, and volunteers as insureds, against claims for damages resulting from (a) bodily injury, including wrongful death, (b) personal injury liability, and (c) property damage for all operations of Manager, his agents and employees under and by virtue of the terms of this Agreement. The minimum acceptable limits of liability to be provided by such insurance shall be as follows:

Bodily Injury and Property Damage	$2,000,000 Each Occurrence
Personal Injury Damage	$1,000,000 Each Occurrence
Contractual Liability	$1,000,000 Each Occurrence
Products Liability	$1,000,000 Each Occurrence

The Public Liability Insurance required by the preceding paragraph shall include the following extension of coverage.

a. The coverage shall be provided under a Commercial General Liability form or similar thereto.

b. The property damage coverage shall include a Broad Form Property Damage Endorsement or similar thereto.

c. Contractual Liability coverage shall be included.

d. Products Liability coverage shall be included.

e. Personal Injury Liability shall be included.

The Manager shall take out and maintain during the life of this Agreement such Automobile Liability Insurance as shall protect him against claims for damages resulting from bodily injury, including wrongful death, and property damages which may arise from the operations of any owned, hired, or non-owned automobiles used by or for Manager in any capacity in connection with the carrying out of this Agreement. The minimum acceptable limits of liability to be provided by such Automobile Liability Insurance shall be as follows:

Bodily Injury and Property Damage	$2,000,000 Combined Single Limit

All Liability Insurance policies shall be written on an "occurrence" basis only. All insurance coverage is to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of not less than A:VII unless specific approval has been granted by the City.

All Certificates of Insurance shall be filed with the City on the standard ACORD CERTIFICATE OF INSURANCE form showing the specific limits of insurance coverage required by this section and showing the City as an additional insured. Such certificate shall specifically state that insurance policies are to be endorsed to require the insurer to provide the City thirty (30) days notice of cancellation, non-renewal, or any material reduction of insurance coverage.

23. Assignment. This Agreement shall not be assigned or sold, nor the premises sublet in whole or in part by the Manager except with the prior written consent of the City.

24. Terminations And Cancellation. It is an express condition of this License Agreement that Manager shall do and perform the agreement as set out herein.

If Manager breaches any of the terms of this Agreement or fails to make payments provided for herein, the City may, upon thirty (30) days written notice, cancel and terminate this License Agreement if such breach or failure is not cured within such 30 day notice period. In addition to or in lieu of such cancellation or termination, the City may recover on Manager's bond in the event of failure to make payments provided for herein.

For good and substantial cause, including but not limited to, by Manager or any employee of the Manager, continued absenteeism, drunkenness, alcohol or drug abuse, gambling, or conduct which reflects discredit on the City or is a direct hindrance to the effective performance of this Agreement or in the event City shall conclude that the operation of said concession in any respect is substantially detrimental to the best interest of the City, City may, upon written notice delivered to Manager personally or to the clubhouse, terminate said Agreement and order Manager to vacate the premises within five (5) days, all without further liability to City.

The exercise of any remedy provided herein shall not preclude the City from exercising any other remedy, legal or equitable, that it may have.

Either party may terminate this Agreement with or without cause by giving thirty (30) days written notice to the other party.

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

ATTEST:

CITY OF LINCOLN, NEBRASKA

City Clerk

Mayor

WITNESS:

John O. Craw

APPROVED AS TO FORM AND LEGALITY:

City Attorney

APPROVED:

Director of Parks and Recreation

EXHIBIT A

INVENTORY OF PROPERTY OWNED BY THE LANDLORD AT HOLMES GOLF COURSE CLUBHOUSE

Asset #	Qty.	Description	Cost
		Qualifying Fixed Asset Inventory	
01116	1	Manitowac Ice Machine	$ 1,270
02517	31	Vinyl Chairs	$ 1,240
02529	1	Randell Double Door Refrigerator	$ 1,875
03467	1	True Reach Freezer Model T23F	$ 2,073
03622		Cash Register/PC Polling System consisting of:	
	1	GLI Pentium PC, 133 mhz	$ 1,003
	1	Hayes 33.6 External Fax Modem	$ 142
	1	MMF Cash Drawer, Model ECD 200	$ 169
	1	HP Deskjet Printer, Model 680C	$ 269
	1	Logic Controls Pole Display, Model PD 2001	$ 206
	1	Logic Controls Programmable Keyboard, Model KB 3000	$ 288
	1	Metrologic Bar Code Scanner, Model MS 951	$ 289
	1	Tripplite Omnipro Battery Backup, Model 450	$ 181
	1	Epson 40 Column Receipt Printer, Model TM 300A	$ 399
	1	VGA Color Monitor .28 Dot Pitch	$ 215
		Miscellaneous System Components	$ 623
14714	1	Telerad Telephone System	$ 1,970
		Non-Qualifying Fixed Asset Inventory	
	7	Large Wood Square Tables	$ 360
	1	Bogen Amplifier, Model C 60B	$ 305
	1	Panasonic Microwave Oven, Model NE 7970	$ 289
	1	Sanitaire Upright Vacuum Cleaner	$ 224
	1	Exterior Club Rack	$ 200
	3	Small Wood Square Tables	$ 120
		Total	$ 13,710

Inventoried by Jay Tussing & Dan Murray
March 29, 2000