

American Golf Follow-Up on Minimum Rent Adjustment

December 2009

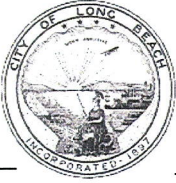


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CITY OF LONG BEACH

OFFICE OF THE CITY AUDITOR

562.570.6167

333 W. OCEAN BOULEVARD, 8TH FLOOR LONG BEACH, CA 90802 PHONE: 562.570.6751 FAX:

November 3, 2009

Mr. Phil Hester, Director
Department of Parks, Recreation & Marine

In 2006, the former Office of the City Auditor published an audit of Lease #17748 (Lease) and Related Amendments between the City of Long Beach (City) and the American Golf Corporation (AGC). The audit recommended the City immediately exercise its right to adjust minimum rent, pursuant to the Lease, effective July 1, 2005. Additionally, in our follow-up audit dated August 19, 2008, we again recommended that minimum rent be immediately increased. However, it has come to our attention that management did not adjust minimum rent. As a result the City has failed to collect \$334,588 rent owed (Schedule 1), including interest on late payments (Schedule 2 & 3), during the period of July 1, 2005 to August 31, 2009.

Lease #17748 (Lease) allows for two types of monthly rent: minimum rent and percentage rent. The Lease provides the City the right to adjust minimum rent once each year, effective July 1st, to ninety percent (90%) of total rent payments received in the preceding twelve months. Minimum rent is due monthly, on the first day of the month. Percentage rent, calculated as a percentage of gross receipts, is due in the amount by which it exceeds minimum rent for the same month. Percentage rent is due the twentieth day of the following month. In addition, the Lease states a ten percent (10%) per annum interest rate is to be applied to minimum rent payments not paid on the first day of the month.

If minimum rent had been adjusted effective July 1, 2005, the City would have collected an additional \$282,970 in rent revenues through August 31, 2009. Rent shortfalls occurred in months when the sum of minimum and percentage rent paid was below the adjusted minimum rent. Interest associated with routine late payments and for outstanding amounts due total \$51,618 (Schedules 2 & 3). Additionally, as a result of not collecting adjusted minimum rent on the first day of the month as required by the Lease, we identified \$41,244 (Schedules 4 & 5) in lost interest income to the City from July 1, 2005 to August 31, 2009.

We recommend management notify AGC immediately of the adjustment in minimum monthly rent effective July 1, 2009 from \$188,200 to \$335,438. Additionally, we recommend management require the full \$335,438 in minimum rent be paid on the 1st day of each month and assess interest on late payments when appropriate. We plan to consult with the City Attorney about how much of the lost rent is still collectible from AGC. Subsequently, we will notify AGC of monies due to the City.

If you feel that we have made any errors in our computation, please contact us by November 10, 2009. We appreciate your assistance and attention to this request. Should you have any questions, please feel free to contact me at (562) 570-6767.

Sincerely,

A handwritten signature in blue ink that reads "Laura L. Doud". The signature is written in a cursive style with a large initial "L" and a distinct "Doud" at the end.

Laura Doud
City Auditor

Cc: Patrick H. West, City Manager

American Golf
Calculation of Adjustment in Minimum Rent and Rent Shortage

Schedule 1

α Represents monthly minimum rent had it been adjusted at July 1, 2005
β Represents difference of "Total Rents Received" and "Adjusted Minimum Rent at 7/1/05"
χ Represents 90% of "Total Rent Received" for prior 12 months divided by 12 to arrive at monthly minimum rent
δ Information presented on p. 9 of prior audit report dated 6.20.06

Gross Receipts received by AGC in the month of	Minimum Monthly Rent Paid	% Rent Paid	Total Rent Received	Adjusted Minimum Rent at 7/1/05	Monthly Rent Over (Short)	Cumulative Rent Shortfall
Jul-05	188,200.00	204,804.95	393,004.95	251,336.09	141,668.86	-
Aug-05	188,200.00	209,488.78	397,688.78	251,336.09	146,352.69	-
Sep-05	188,200.00	333,028.98	521,228.98	251,336.09	269,892.89	-
Oct-05	188,200.00	126,359.99	314,559.99	251,336.09	63,223.90	-
Nov-05	188,200.00	111,354.56	299,554.56	251,336.09	48,218.47	-
Dec-05	188,200.00	121,652.13	309,852.13	251,336.09	58,516.04	-
Jan-06	188,200.00	100,534.13	288,734.13	251,336.09	37,398.04	-
Feb-06	188,200.00	98,495.07	286,695.07	251,336.09	35,358.98	-
Mar-06	188,200.00	111,367.87	299,567.87	251,336.09	48,231.78	-
Apr-06	188,200.00	166,992.21	355,192.21	251,336.09	103,856.12	-
May-06	188,200.00	196,251.65	384,451.65	251,336.09	133,115.56	-
Jun-06	188,200.00	204,021.69	392,221.69	251,336.09	140,885.60	-
12 MONTH TOTALS	2,258,400.00	1,984,352.01	4,242,752.01	3,016,033.08	δ	
Adjusted Monthly Minimum Rent for 7/1/06-6/30/07						
Jul-06	188,200.00	212,862.48	401,062.48	318,206.40	82,856.08	-
Aug-06	188,200.00	202,722.34	390,922.34	318,206.40	72,715.94	-
Sep-06	188,200.00	191,484.26	379,684.26	318,206.40	61,477.86	-
Oct-06	188,200.00	153,582.64	341,782.64	318,206.40	23,576.24	-
Nov-06	188,200.00	123,327.74	311,527.74	318,206.40	(6,678.66)	(6,678.66)
Dec-06	188,200.00	133,869.49	322,069.49	318,206.40	3,863.09	(6,678.66)
Jan-07	188,200.00	114,459.74	302,659.74	318,206.40	(15,546.66)	(22,225.32)
Feb-07	188,200.00	93,159.59	281,359.59	318,206.40	(36,846.81)	(59,072.13)
Mar-07	188,200.00	179,284.09	367,484.09	318,206.40	49,277.69	(59,072.13)
Apr-07	188,200.00	178,194.59	366,394.59	318,206.40	48,188.19	(59,072.13)
May-07	188,200.00	225,406.38	413,606.38	318,206.40	95,399.98	(59,072.13)
Jun-07	188,200.00	249,288.14	437,488.14	318,206.40	119,281.74	(59,072.13)
12 MONTH TOTALS	2,258,400.00	2,057,641.48	4,316,041.48	3,818,476.81		
Adjusted Monthly Minimum Rent for 7/1/07-6/30/08						
Jul-07	188,200.00	233,471.96	421,671.96	323,703.11	97,968.85	(59,072.13)
Aug-07	188,200.00	234,566.28	422,766.28	323,703.11	99,063.17	(59,072.13)
Sep-07	188,200.00	199,490.66	387,690.66	323,703.11	63,987.55	(59,072.13)
Oct-07	188,200.00	166,527.87	354,727.87	323,703.11	31,024.76	(59,072.13)
Nov-07	188,200.00	136,817.02	325,017.02	323,703.11	1,313.91	(59,072.13)
Dec-07	188,200.00	128,725.95	316,925.95	323,703.11	(6,777.16)	(65,849.29)
Jan-08	188,200.00	81,642.12	269,842.12	323,703.11	(53,860.99)	(119,710.28)
Feb-08	188,200.00	107,585.81	295,785.81	323,703.11	(27,917.30)	(147,627.58)
Mar-08	188,200.00	200,155.52	388,355.52	323,703.11	64,652.41	(147,627.58)
Apr-08	188,200.00	197,757.46	385,957.46	323,703.11	62,254.35	(147,627.58)
May-08	188,200.00	238,921.53	427,121.53	323,703.11	103,418.42	(147,627.58)
Jun-08	188,200.00	257,421.08	445,621.08	323,703.11	121,917.97	(147,627.58)
12 MONTH TOTALS	2,258,400.00	2,183,083.26	4,441,483.26	3,884,437.33		
Adjusted Monthly Minimum Rent for 7/1/08-6/30/09						
Jul-08	188,200.00	262,742.40	450,942.40	333,111.24	117,831.16	(147,627.58)
Aug-08	188,200.00	268,810.35	457,010.35	333,111.24	123,899.11	(147,627.58)
Sep-08	188,200.00	190,863.43	379,063.43	333,111.24	45,952.19	(147,627.58)
Oct-08	188,200.00	174,840.23	363,040.23	333,111.24	29,928.99	(147,627.58)
Nov-08	188,200.00	144,879.75	333,079.75	333,111.24	(31.49)	(147,659.07)
Dec-08	188,200.00	99,485.58	287,685.58	333,111.24	(45,425.66)	(193,084.73)
Jan-09	188,200.00	137,262.96	325,462.96	333,111.24	(7,648.28)	(200,733.01)
Feb-09	188,200.00	62,674.31	250,874.31	333,111.24	(82,236.93)	(282,969.94)
Mar-09	188,200.00	183,103.22	371,303.22	333,111.24	38,191.98	(282,969.94)
Apr-09	188,200.00	196,581.56	384,781.56	333,111.24	51,670.32	(282,969.94)
May-09	188,200.00	250,947.33	439,147.33	333,111.24	106,036.09	(282,969.94)
Jun-09	188,200.00	241,915.43	430,115.43	333,111.24	97,004.19	(282,969.94)
12 MONTH TOTALS	2,258,400.00	2,214,106.55	4,472,506.55	3,997,334.93		
Adjusted Monthly Minimum Rent for 7/1/09-6/30/10						
Jul-09	188,200.00	253,880.62	442,080.62	335,437.99	106,642.63	(282,969.94)
Aug-09	188,200.00	248,138.57	436,338.57	335,437.99	100,900.58	(282,969.94)

American Golf**Calculation of 10% Interest on Minimum Rent Shortfall Amounts as Defined in Lease**

Per contract, any minimum rent not paid on the first on the month shall bear interest at the rate of 10% per annum until paid.

- A** See Schedule 1 for "Minimum Rent Shortfall" amounts.
- B** Calculated "Days Late" from minimum rent due date as defined in Lease until 8/31/09
- C** Calculated 10% Interest based on minimum rent shortfall, days late, and a 10% per annum interest rate.

A			B		C
Minimum Rent					C=A*10%/365*B
Month	Shortfall	Due Date	Days Late	10% Interest	
Nov-06	6,678.66	8/31/2009	11/1/2006	1034	1,891.98
Jan-07	15,546.66	8/31/2009	1/1/2007	973	4,144.36
Feb-07	36,846.81	8/31/2009	2/1/2007	942	9,509.51
Dec-07	6,777.16	8/31/2009	12/1/2007	639	1,186.47
Jan-08	53,860.99	8/31/2009	1/1/2008	608	8,971.91
Feb-08	27,917.30	8/31/2009	2/1/2008	577	4,413.23
Nov-08	31.49	8/31/2009	11/1/2008	303	2.61
Dec-08	45,425.66	8/31/2009	12/1/2008	273	3,397.59
Jan-09	7,648.28	8/31/2009	1/1/2009	242	507.09
Feb-09	82,236.93	8/31/2009	2/1/2009	211	4,753.97
	<u>282,969.94</u>		Total:		38,778.72

American Golf**Calculation of 10% Interest on Late Payments as Defined in Lease**

Per contract, any minimum annual rent not paid on the 1st of the month shall bear an interest at the rate of 10% per annum until paid.

10% Interest for late payments was only assessed on minimum rent since contract is silent on interest for late percentage rent payments.

Since FAMIS post date may not be the date check was received, we allowed for a 7-day cushion when calculating 'Days Late'.

	A	B	C	D	E	F
		B&C 'PA'	C=B-7		E= C-A	F = D*10%/365*E
Gross Receipts received by AGC in the month of	Minimum Rent Due Date	Date for Minimum Rent	City Receipt Date After 7 Day Cushion	Minimum Monthly Rent Paid	Minimum Rent Days Late	10% Interest
Oct-05	10/1/05	11/7/05	10/31/05	188,200.00	30	1,546.85
Feb-09	2/1/09	9/15/09	9/8/09	188,200.00	219	11,292.00
					Total:	12,838.85

American Golf**Calculation of Lost Interest Income on Minimum Rent Shortfall Amounts (compounded)**

- A** See Schedule 1 for Minimum Rent Shortfall Amounts
- B** Represents cumulative rent & interest from prior month (E) plus current month rent shortfall (A), if any
- C** Avg Monthly Interest Rate represent annual interest earnings on pooled cash provided by Soren Simonsen, Accountant III Treasury Bureau, divided by 12

	A	B	C	D D = B * C	E E = B + D
Month	Minimum Rent Shortfall	Prior Cumulative Amount (Rent + Interest)	Avg Monthly Interest Rate	Lost Interest	Current Cumulative Amount (Rent + Interest)
Nov-06	6,678.66	6,678.66	0.0036	24.27	6,702.93
Dec-06	-	6,702.93	0.0037	24.69	6,727.61
Jan-07	15,546.66	22,274.27	0.0038	84.09	22,358.36
Feb-07	36,846.81	59,205.17	0.0039	229.42	59,434.59
Mar-07	-	59,434.59	0.0039	233.78	59,668.37
Apr-07	-	59,668.37	0.0040	235.69	59,904.06
May-07	-	59,904.06	0.0040	236.62	60,140.68
Jun-07	-	60,140.68	0.0040	241.57	60,382.24
Jul-07	-	60,382.24	0.0040	241.03	60,623.27
Aug-07	-	60,623.27	0.0041	245.52	60,868.79
Sep-07	-	60,868.79	0.0041	248.04	61,116.83
Oct-07	-	61,116.83	0.0041	248.54	61,365.37
Nov-07	-	61,365.37	0.0040	248.02	61,613.39
Dec-07	6,777.16	68,390.55	0.0040	274.70	68,665.26
Jan-08	53,860.99	122,526.25	0.0038	470.70	122,996.95
Feb-08	27,917.30	150,914.25	0.0037	553.35	151,467.60
Mar-08	-	151,467.60	0.0035	536.45	152,004.05
Apr-08	-	152,004.05	0.0034	520.61	152,524.66
May-08	-	152,524.66	0.0033	495.71	153,020.37
Jun-08	-	153,020.37	0.0028	433.56	153,453.93
Jul-08	-	153,453.93	0.0029	443.74	153,897.66
Aug-08	-	153,897.66	0.0028	437.33	154,334.99
Sep-08	-	154,334.99	0.0027	420.56	154,755.55
Oct-08	-	154,755.55	0.0027	411.39	155,166.94
Nov-08	31.49	155,198.43	0.0025	390.58	155,589.02
Dec-08	45,425.66	201,014.68	0.0024	484.11	201,498.79
Jan-09	7,648.28	209,147.07	0.0019	390.41	209,537.48
Feb-09	82,236.93	291,774.41	0.0015	423.07	292,197.48
Mar-09	-	292,197.48	0.0013	372.55	292,570.03
Apr-09	-	292,570.03	0.0010	295.01	292,865.04
May-09	-	292,865.04	0.0008	236.73	293,101.77
Jun-09	-	293,101.77	0.0007	200.29	293,302.06
Jul-09	-	293,302.06	0.0006	188.20	293,490.26
Aug-09	-	293,490.26	0.0004	119.84	293,610.10
Total:				10,640.17	

American Golf

Calculation of Lost Interest Income on Minimum Monthly Rent Amounts (as should have been adjusted)

α	Avg Monthly Interest Rate represent annual interest earnings on pooled cash provided by Soren Simonsen, Accountant III Treasury Bureau, divided by 12
β	For months in which rent was "short", lost interest was calculated based on the amount of Percentage Rent paid rather than 'Adjusted MMR - Old MMR' amount. Refer to Schedule 4 for calculation of lost interest income on shortfall amounts.
χ	Lost Interest Income calculated using the # of days between Minimum Rent payment and % Rent Payment and applying the appropriate interest rate depending on the month. For the ten months where a rent shortfall exists, we utilized the % rent amount rather than the "Adjusted MMR - Old MMR".

	A	B	C	D D=B-A	E α	F $F=C*D*E$	
Gross Receipts received by AGC in the month of	B&C 'PA' Date for Minimum Rent Payment	B&C 'PA' Date for % Rent Payment	Adjusted MMR - Old MMR	Date of MR Pymt vs. % Rent Pymt	Avg Monthly Interest Rate	Lost Interest Income	
Jul-05	7/1/05	8/17/05	63,136.09	47	0.0024	232.92	
Aug-05	8/1/05	9/20/05	63,136.09	50	0.0024	254.95	
Sep-05	8/29/05	10/20/05	63,136.09	52	0.0025	275.58	
Oct-05	11/7/05	11/18/05	63,136.09	11	0.0026	829.59	
Nov-05	11/7/05	12/19/05	63,136.09	42	0.0027	234.12	
Dec-05	12/2/05	1/20/06	63,136.09	49	0.0027	277.37	
Jan-06	1/1/06	2/17/06	63,136.09	47	0.0029	287.40	
Feb-06	1/31/06	3/20/06	63,136.09	48	0.0029	307.25	
Mar-06	3/1/06	4/20/06	63,136.09	50	0.0030	312.06	
Apr-06	3/31/06	5/19/06	63,136.09	49	0.0031	318.18	
May-06	4/27/06	6/22/06	63,136.09	56	0.0032	373.77	
Jun-06	6/1/06	7/20/06	63,136.09	49	0.0033	340.91	
Jul-06	6/30/06	8/18/06	130,006.40	49	0.0034	711.99	
Aug-06	7/28/06	9/21/06	130,006.40	55	0.0035	830.06	
Sep-06	8/29/06	10/19/06	130,006.40	51	0.0036	787.17	
Oct-06	9/28/06	11/17/06	130,006.40	50	0.0036	771.23	
Nov-06	11/1/06	12/20/06	130,006.40	49	0.0036	726.22	β
Dec-06	11/28/06	1/18/07	130,006.40	51	0.0037	795.31	
Jan-07	1/3/07	2/20/07	130,006.40	48	0.0038	707.08	β
Feb-07	1/29/07	3/21/07	130,006.40	51	0.0039	631.91	β
Mar-07	2/27/07	4/20/07	130,006.40	52	0.0039	871.70	
Apr-07	3/30/07	5/22/07	130,006.40	53	0.0040	894.46	
May-07	5/1/07	6/20/07	130,006.40	50	0.0040	845.09	
Jun-07	5/30/07	7/20/07	130,006.40	51	0.0040	873.56	
Jul-07	7/2/07	8/20/07	135,503.11	49	0.0040	860.04	
Aug-07	7/31/07	9/19/07	135,503.11	50	0.0041	898.50	
Sep-07	8/29/07	10/22/07	135,503.11	54	0.0041	978.65	
Oct-07	9/29/07	11/28/07	135,503.11	60	0.0041	1,080.60	
Nov-07	10/30/07	1/14/08	135,503.11	76	0.0040	1,344.80	
Dec-07	11/27/07	1/22/08	135,503.11	56	0.0040	920.03	β
Jan-08	12/28/07	2/22/08	135,503.11	56	0.0038	572.47	β
Feb-08	1/29/08	3/25/08	135,503.11	56	0.0037	728.43	β
Mar-08	2/26/08	4/29/08	135,503.11	63	0.0035	979.93	
Apr-08	3/31/08	5/29/08	135,503.11	59	0.0034	876.07	
May-08	5/2/08	6/24/08	135,503.11	53	0.0033	719.11	
Jun-08	5/30/08	7/28/08	135,503.11	59	0.0028	752.04	
Jul-08	7/7/08	8/27/08	144,911.24	51	0.0029	696.35	
Aug-08	7/29/08	9/26/08	144,911.24	59	0.0028	781.06	
Sep-08	8/28/08	10/22/08	144,911.24	55	0.0027	717.23	
Oct-08	9/30/08	11/21/08	144,911.24	52	0.0027	640.51	
Nov-08	10/28/08	12/19/08	144,911.24	52	0.0025	615.74	β
Dec-08	12/8/08	1/27/09	144,911.24	50	0.0024	339.51	β
Jan-09	12/30/08	2/19/09	144,911.24	51	0.0019	401.94	β
Feb-09	9/15/09	3/25/09	144,911.24	-174	0.0015	1,281.56	β
Mar-09	2/26/09	4/23/09	144,911.24	56	0.0013	311.79	
Apr-09	3/31/09	5/26/09	144,911.24	56	0.0010	244.36	
May-09	4/30/09	6/23/09	144,911.24	54	0.0008	193.05	
Jun-09	6/1/09	7/28/09	144,911.24	57	0.0007	179.71	
Total						30,603.36	



CITY OF LONG BEACH

DEPARTMENT OF PARKS, RECREATION & MARINE

2760 N. Studebaker Road, Long Beach, CA 90815-1697
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www.LBParks.org



selected
best in the nation

SENT VIA CERTIFIED MAIL

September 29, 2009

Keith Brown
Chief Operating Officer
American Golf Corporation
2951 – 28th Street
Santa Monica, CA 90405

Dear Mr. Brown:

**REFERENCE: LEASE NO. 17448 BY AND BETWEEN AMERICAN GOLF CORPORATION
AND THE CITY OF LONG BEACH – RENT ADJUSTMENT**

This letter serves as formal notification, that upon completion of the analysis of your rental payments, pursuant to Section 3.2.3 Adjustment of Minimum Monthly Rent of Lease No. 17448 (Lease), the Department of Parks, Recreation and Marine has determined that an increase in the monthly minimum rent which is effective July 1, 2009 is warranted. The revised monthly minimum rent shall be \$336,274. A copy of the spreadsheet is enclosed for your records (Exhibit A). Please note, this adjustment is consistent with the recommendations of the 2006 and 2008 American Golf Audit Reports filed by the Office of the City Auditor.

The adjustment was based on the following provisions of Section 3.2.3:

- ☐ The section authorizes an adjustment to the minimum rent once each calendar year.
- ☐ The adjusted monthly minimum shall be effective on July 1 regardless of the date Landlord gives notice.
- ☐ The formula for the adjustment is 90% of the total rent paid during the prior 12 months.

American Golf Corporation
September 29, 2009
Page 2 of 2

If you have any questions regarding the analysis, please contact Elvira Hallinan at (562) 570-3207. For all other questions or concerns, please contact Bob Livingstone at (562) 570-3122.

Sincerely,

A handwritten signature in black ink, appearing to read "Phil T. Hester". The signature is fluid and cursive, with the first name "Phil" being more prominent than the last name "Hester".

Phil T. Hester
Director of Parks, Recreation and Marine

Enclosure

c: JC Squires, Manager of Business Operations
Bob Livingstone, Superintendent of Golf Operations
Contract File
City Auditor's Office

AMERICAN GOLF CORPORATION LEASE NO. 17448 / ACCOUNT NO. RL 18 AND RL 20 / MONTHLY MIN. RENT ADJUSTMENT

Adjustment Date: July 1, 2008

Formula: 90% = Minimum Rent for 12-month period + % Rent for same 12-month period.


	July 07	Aug	Sept	Oct	Nov	Dec	Jan 08	Feb	March	April	May	June
Min. Rent	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00
% Rent	\$ 233,471.96	\$ 234,566.28	\$ 199,490.66	\$ 166,527.88	\$ 136,817.01	\$ 128,725.94	\$ 81,642.12	\$ 107,585.80	\$ 200,155.52	\$ 197,757.45	\$ 238,921.53	\$ 257,421.08
Rent Credit Taken	\$ 900.00	\$ 900.00	\$ 900.00	\$ 900.00	\$ 900.00	\$ 900.00	\$ 929.61	\$ 929.61	\$ 929.61	\$ 929.61	\$ 929.61	\$ 929.61
Monthly Total	\$ 422,571.96	\$ 423,666.28	\$ 388,590.66	\$ 355,627.88	\$ 325,917.01	\$ 317,825.94	\$ 270,771.73	\$ 296,715.41	\$ 389,285.13	\$ 386,887.06	\$ 428,051.14	\$ 446,550.69
TOTAL		\$ 4,452,460.89										
90% of total for revised minimum:		\$ 4,007,214.80										
12 monthly installments of:		\$ 333,934.57										

Adjustment Date: July 1, 2009

Formula: 90% = Minimum Rent for 12-month period + % Rent for same 12-month period.

	July 08	Aug	Sept	Oct	Nov	Dec	Jan 09	Feb	March	April	May	June
Min. Rent	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00	\$ 188,200.00
% Rent	\$ 262,742.39	\$ 268,810.35	\$ 190,863.43	\$ 174,840.24	\$ 144,879.74	\$ 99,485.58	\$ 137,262.93	\$ 62,674.31	\$ 183,103.32	\$ 196,581.56	\$ 250,947.34	\$ 241,915.43
Rent Credit Taken	\$ 929.61	\$ 929.61	\$ 929.61	\$ 929.61	\$ 929.61	\$ 929.61	\$ 929.61	\$ 929.61	\$ 929.61	\$ 929.61	\$ 929.61	\$ 929.61
Monthly Total	\$ 451,872.00	\$ 457,939.96	\$ 379,993.04	\$ 363,969.85	\$ 334,009.35	\$ 288,615.19	\$ 326,392.54	\$ 251,803.92	\$ 372,232.93	\$ 385,711.17	\$ 440,076.95	\$ 431,045.04
TOTAL		\$ 4,483,661.94										
90% of total for revised minimum:		\$ 4,035,295.75										
12 monthly installments of:		\$ 336,274.65										



Date: November 24, 2009
To: Phil Hester, Director of Parks, Recreation & Marine Department
From: James Johnson, Assistant City Auditor 
Subject: AMERICAN GOLF

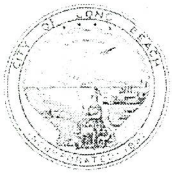
As you are aware, we recently identified a significant amount of rent that the City did not collect from the American Golf Corporation due to the delayed adjustment to the minimum rent owed under the lease. After consultation with the City Attorney's Office, it was determined that some of the monies identified in the letter are still collectible by the City. Specifically, \$11,292 is owed to the City for interest owed on rent due on February 1, 2009. This was detailed on Schedule 3 of our recent letter to you; this schedule is attached to this letter for your convenience.

We request that you bill American Golf Corporation for this amount within two weeks of the date of this letter. We would appreciate a copy of your letter for our records.

Please contact me anytime if you have any questions or concerns regarding this request. Thank you for your cooperation.

Attachment

cc: Gary Anderson, Deputy City Attorney



Date: December 17, 2009
To: Laura L. Doud, City Auditor
From: Phil T. Hester, Director of Parks, Recreation and Marine
Subject: American Golf – follow up to memo of November 24, 2009

The Department of Parks, Recreation and Marine (PRM) staff has researched the items mentioned in the November 24, 2009, memo. The payment due on February 1, 2009, was sent by American Golf Corporation (AGC) in a timely manner, but was never received by PRM. Billing notices were sent in subsequent months, and eventually, a stop payment was placed on the check by AGC. A replacement check was issued (see attached copy of Stop Payment Order as proof of the issuing of the original check). As AGC acted in good faith with regards to the lease requirements, I do not see an issue on their part that would warrant the imposition of a late penalty.

With regards to the October 2005 item, the members of PRM's accounting staff in place in October 2005 no longer work for the Department. Therefore, we cannot verify that the delinquency noted by your office was in fact due to a late payment on the part of AGC. We did contact AGC's previous Regional Director and he stated he was contacted in October 2005 with questions from PRM staff about the remittance of the check. He verified it had been sent, and a search ultimately found the check and it was deposited.

As AGC has historically been one of the Department's most accurate, timely and reliable vendors, with no reliable evidence to conclude that any payments have ever been missed or late as a result of their actions, I see no grounds to assess any type of penalty.

As a result of these two events, PRM has changed its internal practices by requiring AGC to send payments directly to our contract management staff, as they would be responsible for contacting AGC in the event of a late or un-received payment. Administrative Analysts in our Accounting Division will be responsible for recording the check as well as preparing it for timely deposit. I feel this is a better control on the receipt of and any necessary follow-up to payments.

Should you have any questions, please contact JC Squires, Manager of our Business Operations Bureau, at 8-3200.

PTH:BL:rb
Attachment

cc: JC Squires, Manager, Business Operations Bureau
Robert Livingstone, Superintendent of Golf Operations
Gary Anderson, Deputy City Attorney
James Johnson, Assistant City Auditor

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Additional Search Criteria: <input type="text" value="--Select--"/>
<input type="button" value="Go >"/>

Initiate Stop Payments Confirmation**OK** Your confirmation number is [REDACTED].

You may want to print this page for your records.

Routing # / Account # / Account Name:

[REDACTED] / [REDACTED] / Accounts Payable

Today's Date: 08/26/2009

Time: 11:06 AM ET

New Stops

Check #	Amount	Placement Date	Expiration Date	Payee
5295533	\$189,851.00	08/26/2009	02/25/2010	City of Lc Rec

Print

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