



**NOTICE OF A MEETING OF THE VINEYARD
REDEVELOPMENT AGENCY BOARD
July 10, 2019 – 6:00 PM**

Public Notice is hereby given that the Vineyard Redevelopment Agency Board will hold a meeting on Wednesday, July 10, 2019, starting at approximately 6:00 PM or as soon thereafter as possible following the City Council meeting in the Vineyard City Hall; 125 South Main Street, Vineyard, Utah. The agenda will consist of the following:

AGENDA

1. CALL TO ORDER

2. CONSENT AGENDA

2.1. Approval of the June 26, 2019 RDA Meeting Minutes

3. BUSINESS ITEMS

3.1 DISCUSSION AND ACTION – Tax Increment Participation Agreement with 50 Mill LLC

(15minutes)

City Manager Jacob McHargue will present the Tax Increment Participation Agreement between the Vineyard Redevelopment Agency and 50 Mill LLC. The RDA board will take appropriate action.

4. ADJOURNMENT

RDA meeting are scheduled as necessary.

The Public is invited to participate in all Vineyard Redevelopment Agency meetings. In compliance with the Americans with Disabilities Act, individuals needing special accommodations during this meeting should notify the City Recorder at least 24 hours before the meeting by calling (801) 226-1929.

I the undersigned duly appointed City Recorder for Vineyard, Utah, hereby certify that the foregoing notice and agenda was emailed to the Salt Lake Tribune, posted at the Vineyard City Hall and offices, the Vineyard city website, the Utah Public Notice website, delivered electronically to city staff and to each member of the Governing Body.

AGENDA NOTICING COMPLETED ON: July 9, 2019

CERTIFIED (NOTICED) BY: /s/ Pamela Spencer
PAMELA SPENCER, CITY RECORDER

1 **MINUTES OF A MEETING OF THE VINEYARD**
2 **REDEVELOPMENT AGENCY BOARD**

3 City Council Chambers
4 125 South Main Street, Vineyard, Utah
5 June 26, 2019 – 7:40 PM

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10 **Present**

11 Chair Julie Fullmer
12 Boardmember Tyce Flake
13 Boardmember Chris Judd
14 Boardmember Nate Riley
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Absent

Boardmember John Earnest

16 **Staff Present:** City Manager/Finance Director Jacob McHargue, Assistant Finance
17 Director/Treasurer Mariah Hill, Public Works Director/City Engineer Don Overson, Assistant
18 City Engineer Chris Wilson, Sergeant Holden Rockwell with the Utah County Sheriff's Office,
19 Community Development Director Morgan Brim, Planning Commission Chair Cristy Welsh, City
20 Recorder Pamela Spencer, Building Official George Reid, Water/Parks Manager Sullivan Love
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22 **Others Speaking:** none.
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25 **7:40 PM REDEVELOPMENT AGENCY BOARD MEETING**
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28 **CALL TO ORDER**

29 Chair Fullmer opened the board meeting at 7:40 PM.
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32 **CONSENT AGENDA**

33 **2.1** Approval of the May 22, 2019 RDA Meeting Minutes
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35 Chair Fullmer called for a motion.
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37 **Motion:** BOARDMEMBER FLAKE MOVED TO APPROVE CONSENT ITEM 2.1.
38 BOARDMEMBER RILEY SECONDED THE MOTION. CHAIR FULLMER,
39 BOARDMEMBERS FLAKE, JUDD, AND RILEY VOTED AYE. BOARDMEMBER
40 EARNEST WAS ABSENT. MOTION CARRIED WITH ONE ABSENT.
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43 **BUSINESS ITEMS**

44 **3.1 DISCUSSION AND ACTION – Final Fiscal Year 2019-2020 RDA Budget**

45 City Manager/Finance Director Jacob McHargue will present the Final Fiscal Year 2019-2020
46 RDA Budget. The RDA Board will act to approve (or deny) by resolution the Final Fiscal
47 Year 2019-2020 RDA Budget. (A public hearing was held on the tentative budget during the
48 May 22, 2019 RDA meeting.)

49 Chair Fullmer turned the time over to City Manager/Finance Director Jacob McHargue.

50
51 Mr. McHargue gave a brief overview of the budget. He stated that there had been no changes
52 since the tentative budget was approved.

53
54 Chair Fullmer called for questions. Hearing none, she called for a motion.

55
56 **Motion:** BOARDMEMBER JUDD MOVED TO APPROVE THE FINAL FISCAL YEAR 2019-
57 2020 RDA BUDGET AS PRESENTED. BOARDMEMBER FLAKE SECONDED THE
58 MOTION. ROLL CALL WENT AS FOLLOWS: CHAIR FULLMER, BOARDMEMBERS
59 FLAKE, JUDD, AND RILEY VOTED AYE. BOARDMEMBER EARNEST WAS ABSENT.
60 MOTION CARRIED WITH ONE ABSENT.

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63 **ADJOURNMENT**

64 Chair Fullmer called for a motion to adjourn the meeting.

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66 **Motion:** BOARDMEMBER FLAKE MOVED TO ADJOURN THE MEETING AT 7:42 PM.
67 BOARDMEMBER RILEY SECONDED THE MOTION. CHAIR FULLMER,
68 BOARDMEMBERS FLAKE, JUDD, AND RILEY VOTED AYE. BOARDMEMBER
69 EARNEST WAS ABSENT. MOTION CARRIED WITH ONE ABSENT.

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72 RDA meeting are scheduled as necessary.

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MINUTES APPROVED ON: _____

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CERTIFIED CORRECT BY: /s/ Pamela Spencer _____

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PAMELA SPENCER, CITY RECORDER



VINEYARD RDA STAFF REPORT

Date: 07/10/2019
Agenda Item: 3.1 – Tax Increment Participation Agreement
From: Jacob McHargue
Subject: RDA Participation Agreement

Background/Discussion:

Fifty Mill LLC received approval for their reimbursement request on 01/09/2019. We have completed the agreement with the details that were discussed in the January meeting.

Fiscal Impact:

The potential fiscal impact is \$3,746,260. Which includes \$450,000 of up-front money as well as ongoing increment over time.

Recommendation:

Staff is recommending approval and authorization to sign the agreement.

Sample Motion:

I move to authorize the chair to sign the RDA Tax Increment Participation Agreement with 50 Mill LLC.

Attachments: Participation Agreement

TAX INCREMENT PARTICIPATION AGREEMENT

This Tax Increment Participation Agreement (this “Agreement”) is entered into and effective as of _____, 2019, between Fifty Mill, LLC, a Utah limited liability company (the “Company”) and the Redevelopment Agency of Vineyard, Utah, a political subdivision of the State of Utah (the “Agency”), as follows:

Recitals

- A. Agency and Vineyard (the “City”) have created the Geneva Urban Renewal Area (the “Project Area”) through the adoption of the Geneva Urban Renewal Project Area Plan (the “Plan”) and the Geneva Urban Renewal Project Area Budget (the “Budget”) pursuant to the Limited Purpose Local Government Entities – Community Reinvestment Agency Act, Title 17C, *et seq.*, Utah Code Annotated, as amended (the “Act”).
- B. Agency and the City have determined that redevelopment of the Project Area constitutes the performance of an essential public purpose, which protects and promotes the public health, safety, and welfare.
- C. The Act grants Agency authority to use Agency funds, as defined in Utah code Annotated § 17C-1-102(5) (“Agency Funds”) to incentivize new businesses to locate within the Project Area.
- D. The Company owns or previously owned fee title to the real property described on **Exhibit A** hereto (the “Property”), which is located within the boundaries of the Project Area.
- E. The Company has presented to the Agency preliminary concept plans for the development of a golf driving range facility which is described in **Exhibit B** and related improvements on Lot 2 of the Property (the “Golf Facility”) and commercial medical offices on Lot 5 of the Property in the approximate amount of 15,000 sq. ft of office space and on Lot 1 of the Property in the approximate amount of 20,000 sq. ft of office space (the “Offices” and together with the Golf Facility, the “Developer Improvements”).
- F. The Property will in the future generate tax increment that are diverted to the Agency pursuant to the provisions of the Act.
- G. The Company has also presented to the Agency and its consultants sufficient information, including development plans and alternatives, financial statements, and other information, showing justification for the Agency’s participation in the construction of the Golf Facility.
- H. The Plan and Budget contemplates the use of Agency Funds to incentivize new businesses to locate within the Project Area.
- I. Agency is authorized to enter into this Agreement with Company and utilize Agency Funds for the purposes set forth herein pursuant to Section 17C-1-202 of the Act.

J. Company is a “Participant” and this Agreement qualifies as a “Participation Agreement” as these terms are defined in Section 17C-1-102 (38) and (39) of the Act.

Agreement

NOW THEREFORE, in consideration of the mutual covenants, conditions, and considerations as more fully set forth below, the parties hereby agree as follows:

1. **Tax Increment.** This Agreement refers to “tax increment” which is a term defined by Utah Code Ann. § 17C-1-102(60) (2018). The term tax increment has the same meaning as defined by that statute (as amended, replaced or superseded from time to time). The parties acknowledge that tax increment generally refers to the additional *ad valorem* tax revenues generated by the increase in value of taxable real and personal property resulting from new development and construction. The Agency is entitled to collect a portion of tax increment from the property located within the Project Area boundaries as expressly provided under the Act and the Agency Plan and Budget, respectively.

2. **Company’s Commitments.** As a condition to all obligations of the Agency under this Agreement, [to pay Annual Increment Payments \(as defined below\)](#), the Company agrees to do each of the following (each a “Company Commitment”):

- a. *Agency Board Approvals.* The Company shall obtain from the Agency Board approval in a public meeting of its site plans, layouts, ~~phasing plan,~~ development and construction timeline, architectural renderings and exterior elevations of the Golf Facility (such approved documents referred to herein as the “Approved Plans and Specifications”), which approval shall not be unreasonably withheld, conditioned or delayed, prior to such documents being submitted to the Vineyard Planning Commission for approval. [The Approved Plans and Specifications may be modified by the Company from time to time to address changes that do not diminish the overall scope, quality or character of the Golf Facility as previously approved.](#)
- b. *Construction of Golf Facility.* On or before ~~April 9~~[October 10](#), 2021, substantial completion must be achieved, as evidenced by obtaining a temporary certificate of occupancy, for the Golf Facility consisting of luxury golf hitting and lounge bays, full service dining facilities, corporate event space, private party space, and concert venue space, substantially according to the Approved Plans and Specifications. The Company will use commercially reasonable efforts to obtain the necessary permits and approvals from the Utah Department of Alcoholic Beverage Control (the “DABC”) to operate a full-service bar at the Golf Facility, however, procurement of such permits and approvals from the DABC and operation of a full-service bar shall not be a Company Commitment.
- c. *Construction of Offices.* On or before ~~April 9~~[October 10](#), 2021, substantial completion must be achieved, as evidenced by obtaining a temporary certificate of occupancy, for the Offices.

3. **Developer Improvements Agency Financing.**

- a. *Generally.* The Company is solely responsible for all the costs of acquisition, development, construction, maintenance, ownership and repair of the Developer Improvements. However, the Agency will participate with the Company in financing the construction of the Golf Facility by (i) initially paying Four Hundred Fifty Thousand and 00/100 Dollars (\$450,000.00) (the “Initial Payment”) to the Company within thirty (30) days after Company’s request to be used exclusively for payment of permit and impact fees payable to the City, infrastructure costs related to the Developer Improvements, and other third-party fees necessary for the development of the Developer Improvements, and (ii) subject to the performance by the Company of each of the Company Commitments first, and also subject to Section 4 *below*, paying Annual Increment Payments (~~as defined below~~)-resulting from tax increment generated by the Property, subject to the Maximum Reimbursement Amount (as defined below).
- b. *Maximum Reimbursement Amount.* The Agency will pay to the Company annually, an amount equal to Sixty-Two and One-Half Percent (62.5%) of all tax increment generated annually by, and actually received by the Agency from the Utah County Treasurer from the Property, up to Three Hundred Thousand and 00/100 Dollars (\$300,000.00) per year (each such annual payment is referred to as an “Annual Increment Payment”), until the earlier of (i) twelve (12) years after the Agency determines to trigger the area within which the Developer Improvements are located and (ii) until the Agency has paid to the Company the total sum, excluding the Initial Payment, of Three Million Seven Hundred Forty-Six Thousand Two Hundred Fifty-Six and 00/100 Dollars (\$3,746,256.00) (the “Maximum Reimbursement Amount”). Agency agrees to trigger the area within which the Developer Improvements are located within one (1) year after issuance of temporary certificates of occupancy for the Developer Improvements. After the twelfth (12th) year of such Annual Increment Payments, no further Annual Increment Payments shall be paid under this Agreement regardless of whether or not the Company has received the Maximum Reimbursement Amount, and the Agency will be entitled to retain future tax increment generated by the Property for other Agency uses/obligations as permitted under the Plan and Act.
- c. *Clarification on Payments.* The Agency cannot start making Annual Increment Payments until it has indicated to Utah County that it is “triggering” the start of the collection of tax increment from the Property, and the Agency is entitled to collect such tax increment from the Property until the Plan has expired. Notwithstanding anything in this Agreement to the contrary, the Agency has no obligation to pay any more than the Maximum Reimbursement Amount.
- d. *Company Performance.* Notwithstanding anything in this Agreement to the contrary, until the Company has satisfied each of the Company Commitments, the Agency will have no obligation to pay any Annual Increment Payments; instead, the Agency will then be entitled to retain all tax increment generated from the Property for other legal and authorized purposes of the Agency.
- e. *Taxes - Condition Precedent.* Notwithstanding anything in this Agreement to the contrary, all obligations of the Agency to pay any Annual Increment Payments to the Company are conditional on the Company timely and properly paying all taxes assessed on or generated from the Property, including but not necessarily limited to real property,

personal property, *ad valorem*, and sales taxes, to the appropriate taxing authorities. The Company reserves all, and does not waive or relinquish any, rights available at law or in equity to appeal or contest any taxes or assessments on the Property. The Company acknowledges that the Agency will not have any tax increment funds to pay to the Company if the Company does not first pay the taxes on the Property.

4. **Tax Increment Limitations.** Despite anything in this Agreement to the contrary, the Agency's obligation to pay any Annual Increment Payment to the Company is limited to paying the tax increment generated from the Property described in Exhibit A only and from no other property in the Project Area.

5. **Timing of Annual Incentive Payments.** Subject to Sections 2 and 3 *above*, the Agency will make the first Annual Increment Payment within thirty (30) days after the Agency receives from the Utah County Treasurer the tax increment payment for the calendar year in which the Property is assessed and first appears on the tax rolls for Utah County, and, subject to Section 3 *above*, the Agency will continue making the Annual Increment Payments each successive year within the same thirty-day period for eleven (11) consecutive years, resulting in a total of twelve (12) Annual Increment Payments. For informational purposes, the Agency typically receives tax increment payments from the Utah County Treasurer in March or April (for the preceding tax year), which means the Agency will likely pay the first Annual Increment Payment to the Company around April or May of the year following the calendar year during which the Company obtains the required temporary certificates of occupancy for the Developer Improvements, and then the successive payments in April or May of each succeeding year for ~~ten~~eleven (11) years.

6. **Reservation of Reimbursement Rights.** Notwithstanding any provision in any present or future laws to the contrary, the Company reserves unto itself the right to all payments and reimbursements for items constructed within the Property or by the Company even if the Company sells any portion of the Property to a third-party. Any assignment of the right to receive payments and reimbursements under this Agreement must be in writing, signed by the Company, and approved by the Agency, and must include specific details regarding the right or amount of reimbursement transferred to a third party. In the event of a transfer of any reimbursement or payment right under this Agreement, both assignor and assignee must provide written notice to the Agency in accordance with this Agreement. Notwithstanding the foregoing, the Company shall not be entitled to retain reimbursements or payments under this Agreement that exceed the actual costs incurred by the Company.

7. **Agency Authority/Powers.** The Company acknowledges that the Agency is a political subdivision of the State of Utah operating and existing under Title 17C of the Utah Code Ann., separate and distinct from the City, for the purpose of, among other things, promoting the urban renewal, economic development and community development in the City. The Company acknowledges that the City is not a party to this Agreement and the City will not have any duties, liabilities or obligations under this Agreement. The Company understands that the Agency has no independent taxing power, and therefore the Agency's sole source of revenue is tax increment financing as provided under Utah law. If Utah law is amended or superseded by new law that has the effect of reducing or eliminating the amount of tax increment to be paid to the Agency, the Agency's obligation to pay Annual Increment Payments to the Company shall be accordingly reduced or eliminated. Similarly, if a court of competent jurisdiction declares that the Agency cannot receive tax increment , or make payments to the Company from tax increment

as provided in this Agreement, or takes any other action which eliminates or reduces the amount of tax increment paid to the Agency, the Agency's obligation to make Annual Increment Payments to the Company shall be accordingly reduced or eliminated.

8. **Agreement Term/Breach/Termination.** Despite anything else in this Agreement to the contrary, this Agreement will terminate immediately and automatically upon payment of the final Annual Increment Payment as described in Section 3 *above*. This Agreement may also be terminated earlier as follows: Upon the material breach of this Agreement by either party, the non-breaching party shall provide written notice to the breaching party. The breaching party shall have thirty (30) days to cure the breach, and if the breach is not timely cured, the non-breaching party may then terminate this Agreement by providing final notice to the breaching party; provided, however, if more than thirty (30) days shall be required because of the nature of the breach, so long as the breaching party shall commence to cure such breach within thirty (30) days after receipt of written notice from the non-breaching party specifying the nature of such breach and the breaching party shall thereafter diligently prosecute the cure to completion, then the non-breaching party may not terminate this Agreement.

9. **Notices.** All notices, demands, requests, and other communications required or permitted hereunder shall be in writing and shall be deemed to be delivered, whether actually received or not, three (3) days after deposit in a regularly maintained receptacle for the United States mail, registered or certified (or another commercially acceptable means requiring a return receipt), postage prepaid, addressed as follows:

If to Company: Fifty Mill, LLC
 9537 South 700 East
 Sandy UT, 84070
 Attn: Eric Towner

If to Agency: Redevelopment Agency of Vineyard, Utah
 125 S Main Street
 Vineyard, UT 84059
 Attn: _____

Such communications may also be given by facsimile transmission or electronic mail, provided any such communication is concurrently given by one of the above methods. Notices shall be deemed effective upon the receipt, or upon attempted delivery thereof if the delivery is refused by the intended recipient or if delivery is impossible because the intended recipient has failed to provide a reasonable means of accomplishing delivery.

10. **Successors and Assigns.** This Agreement shall be binding upon the parties and their respective successors and assigns. Neither party may assign its rights or obligations under this Agreement without the advance written consent of the other party.

11. **Amendments.** Except as otherwise provided herein, this Agreement may be modified or amended by, and only by, a written instrument duly authorized and executed by the Company and the Agency.

12. **Governing Law and Interpretation.** This Agreement shall be governed by the laws of the

State of Utah, and any action pertaining hereto shall be brought in the applicable state or federal court having jurisdiction in Utah County, Utah. The captions, headings, and arrangements used in this Agreement are for convenience only and do not in any way affect, limit, amplify or modify the terms and provisions of this Agreement. Whenever herein the singular number is used, the same shall include the plural where appropriate, and words of any gender shall include each other gender where appropriate.

13. **Invalid Provisions.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never composed a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement, provided, however, that such illegal, invalid or unenforceable provision does not relieve the Company from any obligation for Developer Improvements for which Agency has an obligation to reimburse the Company under the provisions of this Agreement.

14. **Integrated Agreement.** The Recitals, and all exhibits, schedules and attachments attached hereto, are incorporated and made an integral part of this Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter addressed. There are no other contracts or agreements, written or verbal, between the parties relating in any way to the subject matter of this Agreement. No party is relying on any verbal or written statements of the other than those expressly set forth in this Agreement.

15. **Further Assurances.** The parties shall cooperate, take such additional actions, sign such additional documentation, and provide such additional information as reasonably necessary to accomplish the objectives set forth in this Agreement.

16. **Indemnification.** The Company shall indemnify, defend (with counsel of the indemnitee's choosing), and hold the Agency and the City (including their respective officers, directors, agents, employees, contractors, and consultants) harmless from and against all liability, loss, damage, costs or expenses, including attorneys' fees and court costs, arising from or as a result of death, injury, accident, loss or damage of any kind caused to any person or property because of the act(s), error(s), or omission(s) of the Company (including its officers, directors, agents, employees, contractors, and consultants) upon or in connection with the Property or in connection in any way with this Agreement, except in each case to the extent arising out of the negligence, willful misconduct, illegal acts, bad faith or breach of this Agreement by the Agency or the City (including their respective officers, directors, agents, employees, contractors, and consultants).

17. **Third-Party Beneficiaries.** Except for the City which is an intended third-party beneficiary as described in the immediately preceding paragraph regarding indemnification, this Agreement is intended solely for the benefit of the Agency and the Company and there are no intended third-party beneficiaries.

18. **No Liability of Officials or Employees.** No director, officer, agent, employee, or consultant of the Agency or the Company shall be personally liable to the other party hereto, or any successor in interest, in the event of any default or breach by the Agency or Company or for any amount which may become due to the Company or its successors or on any obligations under the terms of this Agreement.

19. **Force Majeure.** No liability or breach of this Agreement shall result from delay in performance or nonperformance caused, directly or indirectly, by circumstances beyond the reasonable control of the Company, including, but not limited to, strikes, lock-outs, fire or other casualty, inclement weather abnormal for the period of time and not reasonably anticipatable, the elements or acts of God, war, riot, insurrections or shortages of or unusual delays in the delivery of construction materials (which have been ordered in a timely manner) or other causes, other than financial and managerial, beyond the reasonable control of the Company, or its subcontractors of any tier, agents or employees.

20. **No Legal Relationships.** The parties disclaim any partnership, joint venture, fiduciary, agency or employment status or relationship between them. No party has the authority to make any representation or warranty or incur any obligation or liability on behalf of the other party, nor shall they make any representation to any third party inconsistent with this paragraph.

21. **No Public Dedication.** Nothing contained in this Agreement shall be deemed to be a gift or dedication of all or any portion of the Property or Developer Improvements for the general public or for any public purpose whatsoever.

[End of Terms – Signature Page Follows]

THIS TAX INCREMENT PARTICIPATION AGREEMENT IS EXECUTED effective as of the day and year first above written, by:

COMPANY:

FIFTY MILL, LLC,
a Utah limited liability company

By: **400 MILL LLC,**
a Utah limited liability company, its Manager

By: _____
Name: _____
Its: Manager

VINEYARD REDEVELOPMENT AGENCY

[Discussion Draft Only – Do Not Sign]

Executive Director

Attest:

[Discussion Draft Only – Do Not Sign]

Secretary

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

LOTS 1, 2, 3, 4, 5, 6, 7, 8, AND 9, THE YARD PLAT "B" SUBDIVISION according to the official plat thereof, recorded in Utah County, State of Utah.

EXHIBIT B

Description of Amenities Included in Golf Facility

The golf facility will be constructed with the same specification and amenities as presented to the RDA Board which include:

1. Golf hitting facility with two stories of hitting bays
2. Lounge areas
3. Full service dining facilities
4. Full service bar (subject to obtaining required DABC ~~licenses~~[licenses, as described in § 2.b](#))
5. Corporate event/private party space
6. Patio concert space