

Legislation Text

File #: 2116, **Version:** 1

CC MEETING: **July 7, 2015**

DATE: July 1, 2015

TO: Leonard Martin, City Manager

FROM: Erin Rinehart, Assistant City Manager

Consider **Modification Or Cancellation Of The Contract With Eagle Golf Due To Force Majeure.**

BACKGROUND:

Indian Creek Golf Course has been closed since May 28, 2015 due to flooding. An additional flood event on June 16 resulted in both courses remaining closed. At this point, a large portion of both courses are still flooded and portions of the course are not accessible. The course is not in a condition to open or allow for safe play. Eagle Golf manages the golf course, pro shop, maintenance and clubhouse. The contract with Eagle Golf allows for termination of the contract in the event of force majeure (Article X Termination (E) Force Majeure, (1) Damage and Destruction), and the golf course is considered to be substantially damaged and the time to rebuild to the previous condition of the course is in excess of 6 months. The flooding and damage to both courses is considered substantial and the time to rebuild to the previous condition would exceed 6 months.

FINANCIAL IMPLICATIONS:

The contract states that the result of any damage or destruction to the Golf Course due to an event of Force Majeure, that the parties shall meet and discuss in good faith appropriate modifications to this Agreement. Eagle Golf has requested reimbursement of their expenses during the month of June, as well as a lease buy out for the carts and GPS system. They are currently substantiating the accounting of these expenses.

STAFF RECOMMENDATION/ACTION DESIRED:

Staff recommends terminating the current contract if terms for modification cannot be reached by July 14, 2015.