

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b> September 26, 2011
	<b>Agenda Item No.</b> 39C <b>Roll Call No.</b> <u>11-1653</u> <b>Communication No.</b> <u>11-613</u> <b>Submitted by:</b> Donald M. Tripp, <b>Director of Park and Recreation</b>

**AGENDA HEADING:**

Approval of purchase of three Americans with Disability Act-compliant golf carts.

**SYNOPSIS:**

Recommend approving the purchase of three Americans with Disability Act-compliant golf carts as required by the Settlement Agreement between the United States of America Department of Justice (DOJ) and the City of Des Moines, Iowa, also known as Project Civic Access, from Leisure Time Golf Cars, 2145 South Linn Avenue, New Hampton, Iowa, 50659.

**FISCAL IMPACT:**

Amount: \$27,300 GO Bonds Issued

Funding Source: FY2011-2012 CIP, ADA Modifications for Municipal Buildings, BLD042, page Municipal Building Improvements – 4.

**ADDITIONAL INFORMATION:**

On February 14, 2011 by Roll Call No. 11-0261, City Council approved the Americans with Disabilities Act (ADA) Settlement Agreement between the DOJ and the City of Des Moines. After the on-site audit of the City’s facilities in 2007, the DOJ prepared a settlement agreement outlining measures they deemed necessary to bring the facilities into compliance under the ADA. The Settlement Agreement required the City to purchase one ADA-compliant golf cart for each of the three municipal golf courses - A.H. Blank, Bright–Grandview, and Waveland.

An ADA-compliant golf cart is best described as:

- a single driver unit;
- having no impact on turf when driven onto greens and tees;
- constructed such that it can be driven over rough terrain with confidence;
- providing easy access by the user onto and off-of the vehicle using the swivel seat;
- providing the user the ability to play the game from an elevating seat; and
- easy to handle through ergonomic controls.

To meet the requirements of the Department of Justice Settlement Agreement, the date for this purchase to be completed was September 2, 2011. Staff recommends the City purchase the three specialized golf carts, as well as maintains them and collects all rental revenues through the points-of-sale systems. The

units would be available for the same fee as the traditional golf carts – currently \$11.00 for 9 holes and \$14.00 for 18 holes.

On December 22, 2008, by Roll Call No. 08-2220, City Council approved a proposal submitted by C-Corporation for the management of Grandview and Waveland Municipal Golf Courses; it also authorized the City Manager to negotiate and execute an agreement, which then placed all three municipal golf courses under C-Corporation's private management (management of A.H. Blank was approved in 2006 by City Council).

C-Corporation believes that this ruling by the DOJ was not intended to be covered in the contractual language regarding golf carts. C-Corporation further notes that if their corporation had any inclination that this significant purchase would be required, their capital improvement proposal and overall business plan would have incorporated this, thus decreasing their overall capital improvement proposal elsewhere to reflect this purchase. The City's Legal Department has reviewed both management and operations contracts and has cited the following language regarding golf carts:

- C-Corp is to “obtain and rent golf carts and equipment to patrons of the golf course;”
- Section III.B.5 of both agreements requires C-Corp to “be responsible for the purchase or lease of golf carts;”
- Section III.A.4 of both agreements requires C-Corp to purchase golf carts to “meet the needs of the golfing public;”

C-Corporation points out that the purchase of ADA-compliant golf carts was not mentioned in the contract negotiations process or as part of the management obligations, and suggests that such unforeseen purchase is not its obligation under the contract.

To meet the requirements of the Department of Justice Settlement Agreement, the date for this purchase to be completed was September 2, 2011. Staff recommends the City purchase the three specialized golf carts, as well as maintains them and collects all rental revenues through the points-of-sale systems. The units would be available for the same fee as the traditional golf carts – currently \$11.00 for 9 holes and \$14.00 for 18 holes.

According to the National Golf Foundation, there are 6.8 million Americans who use assistive devices to help them with mobility. By providing these ADA-compliant golf carts and making an outreach to mobility-impaired citizens, the City of Des Moines' courses will potentially appeal to many new golfers.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: February 14, 2011

Roll Call Number: 11-0261

Action: [Americans](#) with Disabilities Act (ADA) Settlement Agreement between the United States of America Department of Justice (DOJ) and the City of Des Moines. ([Council Communication No. 11-098](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**

Date: December 22, 2008

Roll Call Number: 08-2220

Action: [Accepting](#) proposal from C-Corporation for the management of Grandview and Waveland Municipal Golf Courses, and authorizing the City Manager to negotiate an agreement. ([Council Communication No. 08-753](#)) Moved by Meyer to include in the contract early termination provisions for both parties, with the City's right to terminate early if C-Corporation does not meet their Capital Improvement obligations. Motion Carried 5-1-1. Nays: Mahaffey Pass: Vlassis

**BOARD/COMMISSION ACTION(S): NONE**

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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