



City of Palo Alto

City Council Staff Report

(ID # 5108)

Report Type: Consent Calendar

Meeting Date: 10/6/2014

Summary Title: Amendment To Lease With R&T Restaurant at Palo Alto Golf Course

Title: Approval of Amendment to the Lease with R & T Restaurant Corporation for Palo Alto Municipal Golf Course Restaurant, 1875 Embarcadero Road and Adoption of Related Budget Amendment Ordinance in the General Fund

From: City Manager

Lead Department: Administrative Services

RECOMMENDATION:

Staff recommends that Council approve:

1. The attached Amendment to the Lease between the City of Palo Alto and R&T Restaurant Corporation (R&T) for the Palo Alto Municipal Golf Course Restaurant. The amendment provides for: (1) a reduction in the minimum monthly rent from the beginning of July 2014 from \$4,150 to \$2,200 or 7% of the gross revenues, whichever is greater, and the reduction of the monthly payment of utilities services from \$2,160 to \$1,500 up to the closure date of the Palo Alto Golf Course Reconfiguration Project; and (2) Sets the rent to seven percent (7%) of the monthly gross sales during the period that the Palo Alto Golf Course is closed for construction of new improvements.
2. The related Budget Amendment Ordinance in the General Fund to reduce the annual rental income by \$23,400 offset with a reduction in the General Fund Budget Stabilization Reserve.

EXECUTIVE SUMMARY

On May 1, 1998, a twenty (20) year lease between the City and R&T commenced. Presently the terms of the lease define the rent payment as the greater of monthly rent of \$4,154 or seven percent (7%) of sum of food, bar, snack and room rental plus \$2,160 monthly payment toward the utility charges. The existing Lease will expire on April 30, 2018.

In July of 2012, the Finance Committee recommended to Council that staff be directed to pursue Golf Course redesign Option G, which adds space for up to three full-size athletic fields and re-configures the entire Golf Course (Attachment A) for the Palo Alto Municipal Golf Course (Golf Course) to mitigate impacts from the San Francisquito Creek realignment project. The

goal is to create Golf Course reconfiguration alternatives to support the flood control project while also taking advantage of the opportunity to design a more interesting, inviting and playable Golf Course that has the Potential to make the Golf Course more financially viable in the future. In the past two and half years, the City has been working with local, state and federal agencies to obtain the necessary approvals to start the redesign project of the golf course. The project was scheduled to start in April of 2013, was postponed further to April of 2014, but due to additional difficulties in the permitting process, the projected start date has been moved to April of 2015.

The R&T restaurant relies on foot traffic, activities, and golf tournaments as a major part of its revenue. In the past 2 years, since the announcement of the project, there has been a decline in the revenue of the Palo Alto Golf Course and the R&T Restaurant due to cancelation of tournaments and the shortening of the golf course. R&T has requested a temporary reduction and adjustment in rent and utilities charges due to the impact of the Golf Course Project on its restaurant business. The new agreement will reduce the minimum monthly rent from \$4,150 to \$2,200 or 7% of the gross revenues, whichever is greater, and the utilities payment from \$2,160 to \$1,500 starting in July of 2014 up to the closure of the golf course. R&T's rent payment will be the greater of seven percent (7%) of total gross revenue or \$2,200. During the construction period, the rent will be based on a percentage system that would require the tenant to pay seven percent (7%) of the gross sale to City.

BACKGROUND

The Golf Course was constructed in the mid-1950's on 184 acres of flat former salt-marsh and bay fill. The course was designed by noted golf course architect William R. Bell of Pasadena, California. The Golf Course was designed as an 18-hole facility with a par of 72. The facility includes a large practice putting green, a three-building Eichler-designed clubhouse golf shop complex, a restaurant and parking lot. In 2013, City modified the lease and the Management Agreement for the Brad Lozares, the operator of golf course, in anticipation of the upcoming golf course project. There is also a separate lease agreement with R&T Restaurant Corporation (R&T) for food and beverage services at the Golf Course. The R&T lease agreement for food and beverage operations expires on April 20, 2018.

On October 15, 2012, Council awarded a contract to Golf Group, Ltd. (aka Forrest Richardson & Associates) to design a reconfigured Municipal Golf Course, prepare final bid documents (plans, specifications, and cost estimate) for the proposed Golf Course modifications based on a conceptual layout plan City of Palo Alto Page approved by Council in July 2012.

In accordance with the adopted renovation plan, Forrest Richardson prepared construction documents based on a design concept that will reconfigure the Golf Course to conform to its Baylands setting and rebrand the facility as the Baylands Golf Links at Palo Alto. The Golf Course Reconfiguration Project will modify all 18 holes of the Golf Course, a portion of the driving range and practice facility, and replace an outlying restroom facility, while retaining a regulation golf course with a par of 71. The reconfigured Golf Course will incorporate or modify

existing low-lying areas into the Golf Course, reduce the area of managed irrigated turf, and introduce areas of native grassland and wetland habitat.

The project was scheduled to start in April of 2013 for a duration of between 12 to 16 months. The golf course consultants also noted that there would be a substantial disruption in business, during the construction period. The permitting process with the Regional Water Quality Control Board (Water Board) has been particularly challenging. The City completed an environmental Impact Report (EIR) and requested permits from the Regional Water Board. The Water Board took the perspective that the Golf Project should be examined in concert with the San Franciquito Flood Control Project and thus far has still not approved permits. Presently, it is projected that the project will start by April of 2015.

DISCUSSION

On April 21, 2014, R&T Restaurant contacted the City (Attachment B) requesting a modification in the existing lease which is set to expire in April of 2018. R&T requested the following modifications:

1. Reduction of rent to 7% of gross sales after sales tax with no minimum rent.
2. Reduction of utilities to 50% of the current rate.
3. Modify minimum hours from 6:30 AM - 3:00 PM to 7:00 AM – 3:00 PM.
4. If the revenue falls below \$45,000 a month for 60 days, Bay Café shall be allowed to suspend operation until 30 days before the golf course reopens.
5. The R&T lease to be extended for 10 years.

Proposed adjustment:

Staff has held several meetings with the R&T owner and his legal representative to discuss requests regarding the lease adjustments. As the result of several meetings and negotiations with the restaurant operator, a new proposed agreement has emerged. Retroactive to July 1, 2014, the minimum monthly rent will be reduced from \$4150 to \$2,200 or 7% of the gross revenues, whichever is greater, resulting in a reduction of \$1,950 per month and reduction of utilities charges from \$2,150 to \$1,500 and continuing until the golf course is closed for the planned reconfiguration project. Beginning with the closure date of the golf course and throughout the construction period, the rent will be charged at the rate of seven percent (7%) of the gross sales. The utility payment will stay at \$1,500 per month. When the project is completed and the course becomes fully operational, the payments for rent and utilities will revert to the present agreement per the terms and conditions in the Lease. Staff did not accept recommendation's 3, 4 and 5 by the restaurant.

Reason for Modifications:

Delay of the Golf Course Project & Decrease in foot traffic on the golf course

The delay of the golf course project has caused a significant decline in the number of rounds played on the golf course. In turn, this resulted in loss of revenues for the restaurant. The

cancelation of the tournaments plus the public perception of a closed golf course have contributed to the decline in the number of rounds played resulting in the loss in revenues. The adverse impacts of these circumstances have and will continue to affect the restaurant’s food and beverage sales.

The following table shows a comparison of the number of rounds played from fiscal year 2008 to 2014. The decline substantiates the assertion that there has been a significant drop in play in the past two years. The Staff had projected a decline in rounds in the pre-construction planning, but the actual decline in the number of rounds of golf has exceeded the projected decline numbers. The golf course may be closed for as long as 12 to 18 months to complete the Option G design work.

<i>Fiscal Year</i>	<i>Round of Golf</i>	<i>Annual Decrease</i>
2008	77,989	
2009	75,511	2,478
2010	69,791	5,720
2011	67,381	2,410
2013	51,794	15,587
2014	46,527	5,267

**Source of table -Community Service Department*

Decrease in Revenue of the R&T

The decline in restaurant income for the fiscal 2013/14 and 2014/15 from 2012/13 averages 17 percent (see Attachment C). The restaurant has been having difficulties in meeting its fixed cost obligations such as rent, utilities and partially food and labor. R&T has tried to decrease its loss in revenues by offering a number of promotions including increased advertising and an afternoon happy hour. These efforts to reduce the decline in revenues are reflected in the fact that the percentage drop in restaurant revenue does not duplicate the percentage drop in the number of rounds played; however, R&T has reported that it is extremely difficult to sustain business with this significant loss of customers

Decline in usage of Utilities

The restaurant has its own electricity meter that measures its direct usage. Water and gas are shared by other users. An analysis of usage (see Attachment D) indicates a decline in use of electricity and gas since 2011. History of R&T Utilities Rate Adjustments (1978-2005 written in June of 2005), shows that between the years of 1980 and 2005 R&T Restaurant’s gas consumption increased almost three (3) times, water consumption six (6) times, electricity – four and a half (4.5) times, refuse – increased twice. Since the beginning of 2009, for the last five years, gas consumption for R&T Restaurant dropped by 35%, electrical energy consumption dropped by 48%.

Conclusion

The requested rent reduction from \$49,800 to \$26,400 amounts to an annual reduction in greater of the minimum rent of \$23,400 or seven percent (7%) of gross revenues. Based on the figures above, it is staff's opinion that this reduction is appropriate given the decrease in golf rounds and resulting revenue loss due to the preparation for the reconfiguration, reduction of the length of the golf course, and finally the perception that the golf course was closed. The proposed reduction will assist the tenant in continuing its operation and meeting its fixed cost obligations during this difficult period and will settle this issue in a cooperative manner by mutual agreement of the parties. It remains unclear when the golf course construction will start, best case scenario is late spring of 2015 and to be completed by September 2016.

Amendment to Lease

The attached Amendment (see exhibit E) provides for a minimum monthly rent from July 1, 2014 to date of closure of the golf course of \$2,200 per month. The monthly rent during the closure of the golf course will be solely based on 7% of gross sales. At the opening date of the golf course, the rent and utilities rates will revert to the levels prior to the Second Amendment changes according to the lease. The amendment also clarifies the provision requiring the tenant to pay for utilities in the amount of \$1,500 per month, to be adjusted every other year based on utility rate changes.

RESOURCE IMPACT

The reduction of rent and utilities charges starting at July 1, 2014 up to the closure of the golf course will reduce the annual revenue to the City of Palo Alto General Fund by \$23,400 assuming a monthly rent reduction of \$1,950 for FY 2015 and to the Utilities Fund by \$7,800. With the attached Budget Amendment Ordinance (Attachment F), the reduction in General Fund revenue is offset with a reduction in the Budget Stabilization Reserve in the amount of \$23,400. After the closure of the golf course and during the construction period, the revenue to the City will be based on seven percent (7%) of the total gross revenues.

POLICY IMPLICATIONS

Amending the Lease Agreement is consistent with policies and programs in the Comprehensive Plan promoting economic development and business retention by cooperation and the effective provision of growth strategies.

ENVIRONMENTAL REVIEW

Extension or re-negotiation of an existing lease and agreement does not constitute a project for purposes of the California Environmental Quality Act (CEQA).

Attachments:

- **Attachment:** Attachment A: Plan G Golf Course (PDF)
- **Attachment:** Attachment B: R&T Requests (PPTX)
- **Attachment:** Attachment C: Revenue Table (XLSX)
- **Attachment:** Attachment D: Utilities Use Table (DOCX)
- **Attachment:** Attachment E: Amendment Number Two (2) to the Lease (DOC)

- Attachment: Attachment F - BAO XXXX - Golf Course Restaurant Rent Reduction (DOC)



Plan G

- 15 New Greens
- 2 Older Greens Retained
- 15 Reconfigured Holes
- Largest Area of Impact
- High Overall Improvement

1	4	470	440	345
2	4	400	380	330
3	5	520	500	380
4	3	180	155	125
5	4	320	310	260
6	4	420	395	350
7	4	335	320	275
8	3	225	180	140
9	5	550	520	430
Out	36	3420	3200	2635
10	4	410	380	300
11	4	390	360	315
12	3	150	135	100
13	5	515	490	410
14	4	405	385	325
15	3	160	145	115
16	4	365	340	275
17	3	220	190	135
18	5	530	500	430
In	35	3145	2925	2405
	71	6565	6125	5040

PALO ALTO GOLF COURSE

Schematic Reconfiguration Plan

0 200 400 600 800 feet ← Wind



FORREST RICHARDSON
GOLF COURSE ARCHITECT

www.golfgroupltd.com

Drawn February 2012 by FLR



Bay Café Restaurant and Banquets

R & T Restaurant III



Relationship

- R & T Restaurant has shared a relationship with the City of Palo Alto at the Palo Alto Municipal Golf Course for 16 years.
- R & T has shared the operations with the City and with the Brad Lozares Golf Shop to provide a quality experience for golfers and members of the public

Our Mutual Problem

- The City of Palo Alto is committed to substantial improvement of the Palo Alto Municipal Golf Course.
- R & T Restaurant, as a business partner of the Municipal Golf Course, is equally committed to the improvement of the public experience.

February 6th 2014 Conference



The Burden

- Improvement of the golf course requires completely closing the course for a period of up to 18 months, commencing in April 2014. The City has accepted that its revenue from use of the golf course will cease for this period.
- R & T faces a parallel interruption of its revenues.

Loss of Golfers also means loss of available marketing for our banquets



The Context

- The understanding that the City and R & T are partners in developing, increasing and benefitting from the golf course revenues is part of the foundation of the parties' relationship.
- R & T has supported these mutual goals by investing over \$200,000 in improvements in the Bay Café Restaurant in the past 6 years, alone.

The Reality

- We all recognize the reality of the next 24 months:
 - The City will receive no golf revenues.
 - Likewise, R & T will receive no food or beverage business from golfers or tournaments because there will be no golfers and no tournaments.
 - Since the Bay Cafe is centered on serving golfers, it will be facing substantially reduced income.

Revenues come from Golfers



Let's arrive at an agreed Solution

- Mr. Talai has consulted with his accounting personnel and other industry experts seeking a reasonable resolution.
- R & T and Tom Talai want to emphasize their commitment to the partnership with the City.
- R & T is hiring a marketing consultant at its own expense to assist in increasing outside business during the suspension of golf course operations
- R & T and Tom Talai want to emphasize their desire to provide the quality service to help to bring golfers back in 2015.

Proposals

- R & T proposes these modifications of the existing lease to allow the flexibility necessary for Bay Café to survive:
 - Reduction of the rent to 7% of gross sales after sales tax, with no minimum rent.
 - Reduction of utilities to 50% of the current rate.
 - Modify minimum hours to 7AM – 3 PM.
 - If revenue falls below \$45,000 a month for 60 days, Bay Café shall be allowed to suspend operations until 30 days before the golf course reopens. Rent and utilities will be cancelled for the period operations are suspended.
 - The R & T lease shall be extended for 10 years.

Attachment C - R&T Revenue 2010-2014

Year	Annual Total Sale	Average Monthly	Direction Change	Amount Change
2010	\$ 589,639.05	\$ 49,136.59		
2011	\$ 645,509.55	\$ 53,792.76	9% increase	\$ 4,656.17
2012	\$ 619,836.41	\$ 51,653.03	4% Decrease	\$ 2,139.73
2013	\$ 610,705.75	\$ 50,892.15	0.2% Decrease	\$ 760.88
*2014	\$ 321,536.44	\$ 45,933.25	9% Decrease	\$ 4,958.90

* Revenues reflect the period from January -July of 2014.

Attachment D

Utility Use for R&T Restaurant – Palo Alto Golf Course

The Bay Café Restaurant on the Palo Alto Golf course has been in business since the early '80s. It is a place for golfers to rest after a day on the course, to snack or to have lunch amongst friends. It is also a place for conferences, weddings and other large gatherings. R&T Restaurant Corporation has been the tenant of the restaurant building since 1996, and the restaurant is now commonly called 'The R&T Restaurant'.

- As per the current lease terms, the R&T pays a flat utilities charge of \$2,160.00 per month

Utilities Use

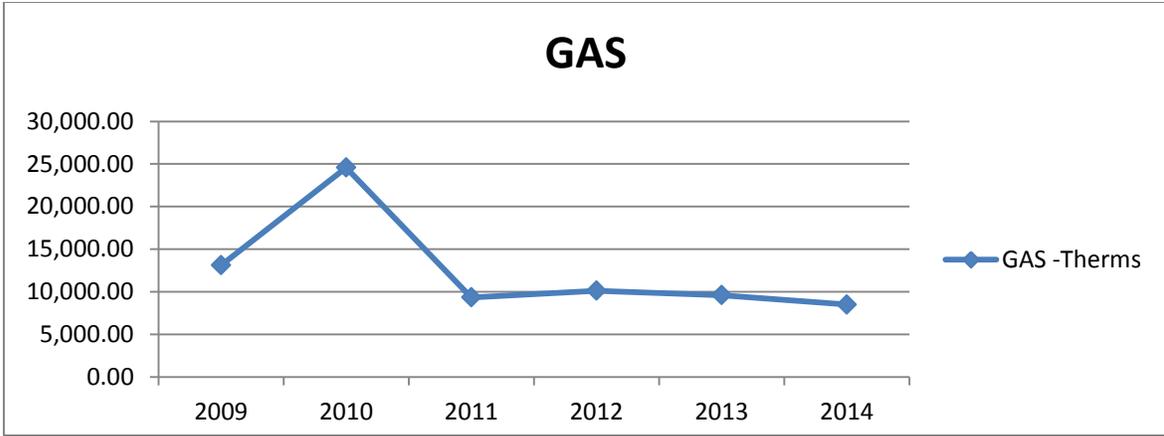
Public Works reports three (3) water meters, two (2) gas meters, three (3) electrical meters. Two (2) of the electric meters are on the building and one (1) is located in the parking lot; and However, the only designated meter for R&T is the electrical meter. Water meters measure the use for Palo Alto Golf Course - lawn, Golf Pro – Shop, and the R&T Restaurant. R&T Restaurant does not pay separate bills per meter. The City has been charging Utilities for R&T Restaurant as one whole monthly amount. Currently, as mentioned above, the amount of \$2,160.00 per month is paid to the city together with the monthly lease.

Since the announcement of the Golf Course Reconstruction Project in 2011, the numbers of golf classes, tournaments, golf events, banquettes and other, have been steadily decreasing.

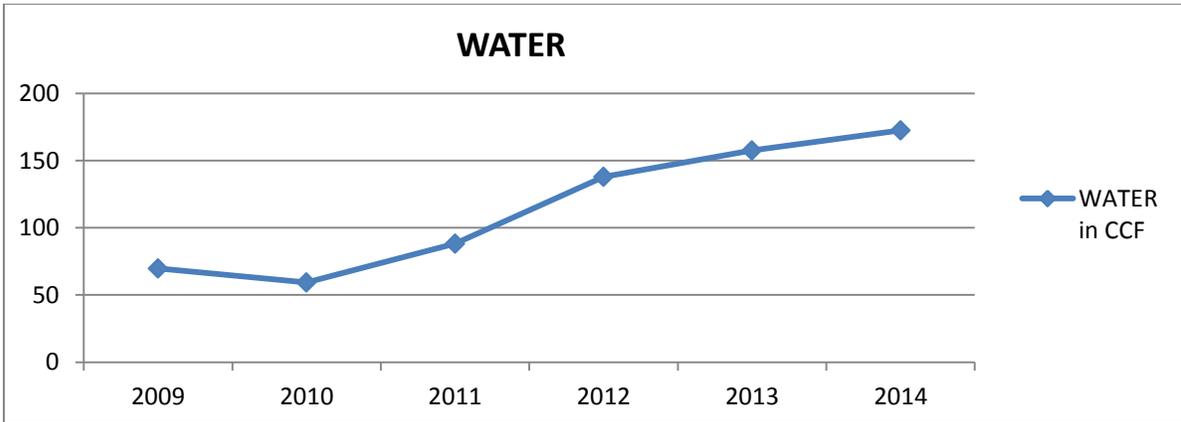
Beginning 2009, the average Gas and Water consumption on the Golf Course, respectively for the R&T Restaurant was reported as follows:

YEAR	GAS - Thermos	WATER – In CCFs
2009	13,107.00	69.73
2010	24,579.00	59.26
2011	9,347.00	88.19
2012	10,127.00	137.93
2013	9,607.00	157.58
2014	8,507.00	172.5

As shown in the graph below, since 2009 Gas consumption has decreased by 35 percent.

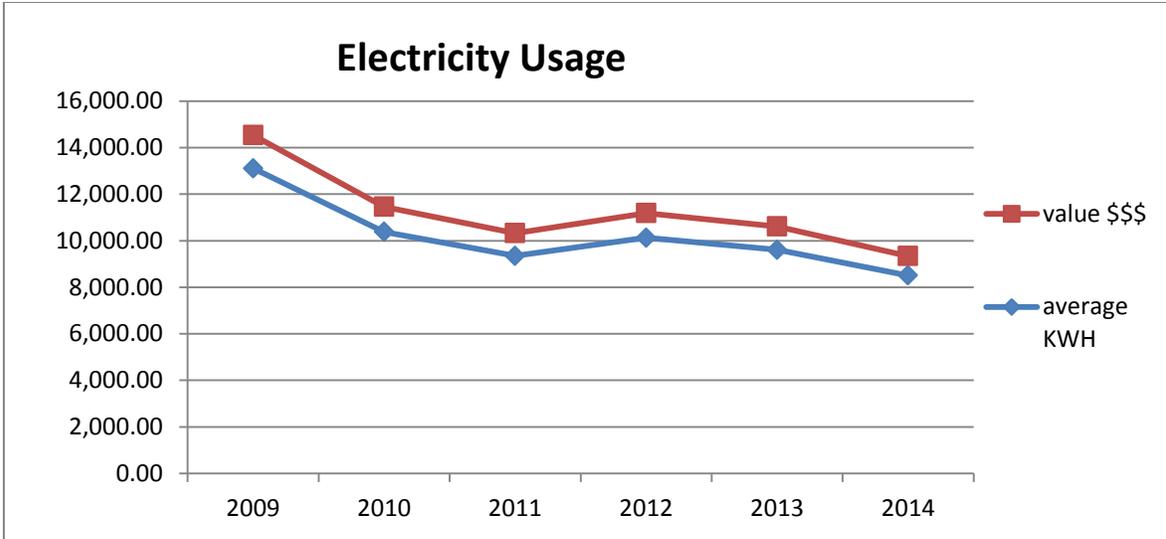


As shown in the graph above, since 2009 Gas consumption dropped 35 percent. For the same time period, Water usage has increased 2.3 times. *(CCF stands for 100 Cubic Feet)



The table below indicates average Electrical energy use for R&T Restaurant. The Electrical energy use for R&T Restaurant, measured since 2009, has dropped by 48 percent.

	Average KWH	Value \$\$\$	% Change
2009	13,107.00	1,432.00	
2010	10,380.00	1,082.00	-35%
2011	9,347.00	979.00	-10%
2012	10,127.00	1,058.00	10%
2013	9,607.00	1,008.00	-1%
2014	8,506.00	832.00	-18%



Additional historical data:

In comparison, 'History of R&T Utilities Rate Adjustments 1978-2005' written in June of 2005, shows that between the years of 1980 and 2005 gas usage increased almost three (3) times, water consumption six (6) times, electricity – four and a half (4.5) times, refuse – increased twice.

**AMENDMENT NO. 2
TO LEASE BETWEEN CITY OF PALO ALTO AND
R & T RESTAURANT CORPORATION FOR THE
PALO ALTO MUNICIPAL GOLF COURSE RESTAURANT**

This Amendment No. 2 to the Lease Between the City of Palo Alto and R & T Restaurant Corporation, dated May 1, 1998 ("Lease"), is made and entered into this ____ day of _____, 2014, by and between the CITY OF PALO ALTO, a California municipal corporation of the State of California ("CITY"), and R & T Restaurant Corporation, a California corporation ("TENANT");

RECITALS

WHEREAS, the Lease provides for TENANT to operate and maintain the property located at 1875 Embarcadero Road, Palo Alto ("PREMISES") as a restaurant serving primarily the public and customers using the Municipal Golf Course; and

WHEREAS, Section VI of the Lease requires the greater of the minimum annual rent of \$48,000 or seven (7) percent of gross sale; and

WHEREAS, Section XXI of the Lease requires Tenant to Pay \$1,500 for utilities except for telephone and refuse services; and

WHEREAS, currently the Tenant pays to the City the greater of \$4,150 or 7% of the gross revenues for rent and \$2,160 for utilities except for telephone and refuse services; and

WHEREAS, on October 15, 2012, City Council approved the Palo Alto Golf Course Reconfiguration project to improve the golf course and to create several playing fields; and

WHEREAS, delays in obtaining the permits has postpone the starting planned time for the project and has led to decrease in foot traffic, cancelation of golf tournaments and loss of revenues in the Tenant's business; and

WHEREAS, City and Tenant agree that a temporary reduction in the required minimum rental and utility charges is appropriate to offset the reduction in Tenant's revenues resulting from decrease in the golf course business caused by delays in securing the necessary permits, cancelation of golf tournaments and decrease in foot traffic; and

WHEREAS, TENANT and City desire to amend the Lease to provide for temporary reduction in rent and utility charges in order to provide relief to tenant during the preconstruction and construction period.

NOW, THEREFORE, in consideration of their mutual covenants, the parties hereto agree as follows:

Item 1. Section VI (CONSIDERATION/RENT), paragraph A.1 is amended to read as

follows:

Minimum Annual Rent. The minimum annual rent starting on July 1, 2014 shall be the greater of \$2,200 or 7% of the gross revenues up to the date of the closure of the golf course. The rent during the closure period of the golf course for the reconfiguration project will be set at 7% of the gross revenues. The rent payment after the reopening of the golf course will be the greater of \$4,150 or 7% of the gross revenues.

Item 2. Section XXI (UTILITIES) is amended to read as follows:

XXI. Utilities. Tenant shall pay the City \$1,500 per month for gas, water and electric supplied to the Premises starting on July 1, 2014 up to the date of reopening of the golf course. Utilities payment will reset to the preconstruction amount of \$2160 after the reopening of the golf course date. City shall retain the right to adjust the monthly utility payment for any rate increase. Adjustment to the utility payment will be made in the even numbered years following the execution of this Amendment. City's Real Property will notify Tenant in writing of any adjustments. Should City install separate meters for all utilities to the premises, Tenant shall be responsible for and shall pay, prior to delinquency, all charges for utilities based on actual consumption.

Item 3. Except as herein modified, all other provisions of and exhibits to the Lease shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment the day and year first above written.

CITY OF PALO ALTO

R & T RESTAURANT CORPORATION

City Manager

By:_____

Its:_____

APPROVED AS TO FORM:

Senior Assistant City Attorney

Attachment F
ORDINANCE NO. XXXX

ORDINANCE OF THE COUNCIL OF THE CITY OF PALO ALTO
AMENDING THE BUDGET FOR FISCAL YEAR 2015 IN THE
GENERAL FUND DUE TO APPROVAL OF A RENT AGREEMENT
AMENDMENT WITH R&T RESTAURANT CORPORATION AS A
RESULT OF REDUCED GOLF COURSE ACTIVITIES. IN THE
GENERAL FUND, THE ESTIMATE FOR RENTAL INCOME
REVENUE WILL BE REDUCED BY \$23,400, OFFSET BY A
REDUCTION TO THE BUDGET STABILIZATION RESERVE.

The Council of the City of Palo Alto does ordain as follows:

SECTION 1. The Council of the City of Palo Alto finds and determines as follows:

A. Pursuant to the provisions of Section 12 of Article III of the Charter of the City of Palo Alto, the Council on June 16, 2014 did adopt a budget for Fiscal Year 2015; and

B. The Fiscal Year 2015 Adopted Operating Budget assumed the closure of the Golf Course effective July 1, 2014 to reconfigure the Golf Course; and

D. In anticipation of the Golf Course Reconfiguration Project, the City applied for permits from the State Water Board; and

E. Due to continued delays in receiving permit approval, staff has engaged with R&T Restaurant Corporation, a concessionaire located at the City's Golf Course to renegotiate rent payments due to the delay of the Golf Course reconfiguration project and resulting reduction in number of golf rounds played and customers frequenting the golf course and the restaurant; and

F. Therefore, staff recommends an amendment to the contract with R&T Restaurant Corporation in order to reduce the monthly rent payment from the beginning of July 2014 from \$4,150 to \$2,200 or 7% of the gross revenues, whichever is greater, and the reduction of the monthly payment of utilities services from \$2,160 to \$1,500 up to the closure date of the Palo Alto Golf Course Reconfiguration Project; and sets the rent to seven percent (7%) of the monthly gross sales during the period that the Palo Alto Golf Course is closed for construction of new improvements; and

SECTION 2. In the General Fund, the revenue estimate for rental income is hereby reduced by Twenty Three Thousand Four Hundred Dollars, offset by a corresponding decrease to the Budget Stabilization Reserve.

SECTION 4. As provided in Section 2.04.330 of the Palo Alto Municipal Code, this ordinance shall become effective upon adoption.

SECTION 5. The Council of the City of Palo Alto hereby finds that this is not a project under the California Environmental Quality Act and, therefore, no environmental impact assessment is necessary.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

APPROVED:

City Clerk

Mayor

APPROVED AS TO FORM:

City Manager

City Attorney

Director of Public Works

Director of Administrative
Services