



# City Council Memorandum

*City of Arts & Innovation*

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**TO: HONORABLE MAYOR AND CITY COUNCIL                      DATE: JUNE 21, 2015**

**FROM: GENERAL SERVICES DEPARTMENT                      WARD: 3 and 7**

**SUBJECT: NINTH AMENDMENT TO LEASE AGREEMENT WITH VAN BUREN GOLF CENTER, LLC TO CLARIFY PROFIT SHARING LANGUAGE**

**ISSUE:**

The issue for City Council consideration is approval of the Ninth Amendment to the Lease Agreement with Van Buren Golf Center, LLC to clarify profit sharing language.

**RECOMMENDATIONS:**

That the City Council:

1. Approve the Ninth Amendment to the Lease Agreement with Van Buren Golf Center, LLC., clarifying profit sharing language; and
2. Authorize the City Manager, or his designee, to execute the Ninth Amendment, including making minor and non-substantive changes.

**BACKGROUND:**

The City and WABI Limited (WABI) entered into a Lease Agreement dated February 16, 1988, for Riverside Municipal Airport property to be used as a golf driving range and other activities directly associated with the golf driving range. The term of the Lease Agreement was for a period of 20 years effective January 1, 1988 and terminating on December 31, 2008. The City and WABI entered into a First Amendment to the Lease Agreement dated August 9, 1988, decreasing the size of the leasehold, and listing all of the improvements required to construct a golf driving range.

On October 1, 1995, the City, WABI and the Van Buren Golf Center, LLC (Lessee) entered into an Assignment of Lease and Assumption Agreement and Consent to Assignment transferring the interest of WABI in the Lease Agreement to Van Buren Golf Center, LLC.

On July 23, 1996, the City and Lessee entered in a Second Amendment to the Lease Agreement to revise a number of lease terms including increasing the size of the premises to approximately forty-nine (49) acres, allowing for the construction of an 18 hole golf course and increasing rent to account for the increased size and use. Lessee constructed and continues to operate a golf course, golf driving range and other associated activities on the property. As part of the Second Amendment, the term of the lease was revised to terminate on July 9, 2016.

The City and Lessee entered into a number of other amendments as follows:

- September 19, 2000: Third Amendment to increase minimum rents and the percentage of gross payment for the golf course and driving range and extend the term to July 9, 2036.
- October 19, 2006: Fourth Amendment to increase monthly minimum payments and increasing the premises by fifteen (15) acres for a total of approximately sixty-four (64) acres.
- August 20, 2008: Fifth Amendment revising the formula for establishing the base rental.
- February 17, 2010: Sixth Amendment to continue the base rental modification approved in the Fifth Amendment for two years, and returning approximately 12.44 acres of previously leased land.
- September 10, 2012: Seventh Amendment to continue the base rental modification contained in prior amendments for an additional two years.
- March 17, 2015: Eighth Amendment extending prior base rental formula modifications through May 31, 2015, and adjusting the rent structure beginning June 1, 2015, to a simplified flat rental rate of \$1,000 per month through May 31, 2018. This low rate provides for continued low-cost golfing opportunities for our residents at a time when golf courses in the region have been struggling due to the difficult economic environment. The Eighth Amendment also provided a profit sharing arrangement whereby any profits realized up to the first \$100,000 shall be divided 75% to Lessee and 25% to City. To date, this provision has not been activated because the profit threshold was not realized.

The proposed Ninth Amendment provides clarifying language to the Eighth Amendment that the annual profit sharing arrangement is an on-going obligation of the Lessee (not just for one year) and that annual profit sharing payments are based on Van Buren Golf Center's revenue before depreciation.

The Airport Commission has reviewed this proposed Ninth Amendment and supports staff's recommendation for approval.

**FISCAL IMPACT:**

There is no fiscal impact to the General Fund. In the event profit is realized, revenues will be increased to the Airport Fund revenue account 0000570-346120. The Airport is not responsible for losses reported.

Prepared by: Carl Carey, General Services Director  
Certified as to the  
Availability of funds: Scott G. Miller, Interim Finance Director/Treasurer  
Approved by: Marianna Marysheva-Martinez, Assistant City Manager  
Approved as to form: Gary G. Geuss, City Attorney

Attachment: Ninth Amendment to Lease Agreement – Van Buren Golf Center