TO:      HONORABLE CITY COUNCIL
FROM:    CITY MANAGER      DEPARTMENT: ADMINISTRATIVE SERVICES
DATE:    MAY 14, 2007       CMR: 218:07
SUBJECT: AMENDMENT NO. 2 TO MANAGEMENT AGREEMENT WITH BRAD LOZARES FOR GOLF PROFESSIONAL SERVICES AT 1875 EMBARCADERO ROAD, PALO ALTO

RECOMMENDATION
Staff recommends that the Council approve and authorize the City Manager to execute the attached Amendment No. 2 to the Management Agreement with Brad Lozares for golf course professional services at the Palo Alto Municipal Golf Course, 1875 Embarcadero Road.

BACKGROUND
On March 16, 1998, the City issued tax-exempt bonds to finance golf course improvements. Prior to the bonds being issued, the City and the golf professional had operated under one lease agreement for both professional services and the lease of the City-owned facility. When the bonds were issued in 1998, IRS regulations required that there be two agreements, a management agreement for golf course professional services and a lease to operate a golf retail establishment. In 1998, Council approved a 20-month management agreement and a 15-year lease with the golf professional, Brad Lozares. The original management agreement was amended three times prior to Council approval of a new restated management agreement (Agreement) on January 27, 2003. On May 1, 2006, Council approved Amendment No. 1 to the Agreement which: 1) extended the term for an additional eighteen months; 2) increased the fixed fee compensation by 3 percent; and 3) reimbursed the golf professional for 60 percent of the bank’s credit card merchant charges attributed to the golf cart rentals.

DISCUSSION
The attached proposed Amendment No. 2 to the Agreement will: 1) extend the term of the Agreement for an additional 12 months until December 31, 2008; and 2) increase the fixed fee compensation by 2 percent.

Term:
The current amended Agreement will expire on December 31, 2007. Under IRS regulations, the management agreements must be for no more than 60 months. The agreements and amendments between the City and golf pro have been for less than 60 months, in order to allow both parties to
make refinements to the agreement that reflect the current economic conditions at the golf course.

Compensation:
IRS regulations require that at least 50 percent of compensation for golf professional services must be fixed or pre-set in nature. Under the terms of the original agreement, the management fee was adjusted each 12-month period to reflect the changes in the consumer price index (CPI). Under the current Agreement, the annual CPI adjustment was eliminated and a one-time 8 percent adjustment was made. After 40 months during which no adjustments were made, the May 1, 2006 Amendment No. 1 to the current agreement increased the fixed fee by 3 percent to the current $27,660.25 per month. After 18 months at this rate, the golf professional is now requesting a 2 percent cost of living increase ($553.21 per month or $6,638.46 for the duration of the 12-month term).

RESOURCE IMPACT
The changes proposed in Amendment No. Two to the Agreement will result in an additional annual City expense of approximately $6,638.46 for the 12-month duration of the Agreement. The financial terms of the Agreement will be accommodated within the existing resources available to the Community Services Department.

POLICY IMPLICATIONS
The proposed amendment is consistent with prior Council direction.

ENVIRONMENTAL REVIEW
Approval of the amendment does not constitute a project under the California Environmental Quality Act (CEQA); therefore, no environmental assessment is required.

PREPARED BY: WILLIAM W. FELLMAN
Manager, Real Property

DEPARTMENT HEAD APPROVAL: LALO PEREZ
Assistant Director, Administrative Services

CITY MANAGER APPROVAL: EMILY HARRISON
Assistant City Manager

ATTACHMENTS
Attachment A: Amendment No. 2 to Agreement

cc: Brad Lozares