



TO: Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
Christopher J. Forsyth, Assistant City Attorney
DATE: April 3, 2008
SUBJECT: Addendum to Sylvan Glen Lease Agreement

At the March 17, 2008 regular meeting, revised ordinance language to Chapter 30 was approved, allowing for our independent food service providers to sell beer and wine from a beverage cart on Troy's municipal golf courses. At that same meeting, the lease between the City and Kosch for the Sanctuary Lake Golf Course was amended to allow for a beverage cart.

The independent food service provider for Sylvan Lake Golf Course, Gallatin Inc., has also requested an amendment to the lease with the City. Since this lease is based on a monthly rental figure, Gallatin Inc. has agreed to an increase in the monthly rental amount, in exchange for the opportunity to operate a beverage cart on the golf course proper. The addendum also provides some additional provisions regarding the operation of the beverage cart on the golf course proper. The lease provides for a one year re-opener to evaluate the success. The lease is also amended to provide a 90 day opt out period, which is consistent with the lease for the Sanctuary Lake food service provider.

A resolution approving the addendum to the lease is provided for your review and consideration. If you have any questions, please let us know.

THIRD ADDENDUM TO LEASE AGREEMENT

THIS AGREEMENT entered into on _____, 2008, between the CITY OF TROY, a Michigan Municipal Corporation, whose address is 500 W. Big Beaver Road, Troy Michigan, 48084, hereinafter referred to as the "City," and Gallatin, Inc. d/b/a Camp Ticonderoga, 2405 Rock Valley Road, Metamora, Michigan 48445 hereinafter referred to as the "Operator";

RECITALS

- A. On December 18, 1995, the City and Operator entered into a lease in which the City leased to the Operator certain premises to be used and occupied for the purposes stated in the lease, located at 5725 Rochester Road, Troy, Oakland County, Michigan, and adjacent to Sylvan Glen Golf Course.
- B. On May 1, 2000 the City and Operator agreed to *A Second Addendum to the Lease*. This addendum provided in paragraph (3) three "As a result of City Council's resolution on March 29, 1999, Lessee shall be permitted to sell to golfers a maximum of two (2) beers per golfer from the clubhouse on Lessor's premises for consumption on the Golf Course provided Lessee secures the necessary licenses from the Michigan Liquor Control Commission ("MLCC")"
- C. On March 17, 2008 the Troy City Council passed an amendment to Chapter 30, Golf Courses, of the City Code of Ordinances that now authorizes the City's sub-contractor permission to sell alcoholic beverages on the City's golf courses.
- D. Operator desires to serve alcoholic beverages on the Sylvan Glen Golf Course proper through use of a beverage cart.

NOW, THEREFORE, the City and Operator agree to the following terms and conditions as an addendum to the Agreement Food Service at Sylvan Glen Golf Course:

- 1. Definitions. The following terms in this Addendum to the Agreement are defined as follows:
 - A. "Alcoholic beverages" shall mean beer, wine, and other alcoholic beverages that contain less than 21% of alcohol by volume.
 - B. "Golf Course" shall mean Sylvan Glen Golf Course.
- 2. Sale of Alcoholic Beverages
 - A. Paragraph (3) three of the *Second Addendum to the Lease* is hereby deleted.

- B. Operator shall be permitted to sell alcoholic beverages on the Golf Course proper through use of one (1) beverage cart, which shall be purchased or leased by the Operator.

3. Rent

The Operator's monthly rent shall be upwardly adjusted \$125 for the remainder of the lease, in consideration of the Operator's increased opportunity for revenue. All other previous lease terms remain in effect.

4. Other

- A. The Operator is ultimately responsible for compliance with all federal, state and local laws related to the sale, distribution, use, or possession of alcohol, and the administrative rules, procedures, and guidelines as provided by the Michigan Liquor Control Commission including, but not limited to, obtaining or maintaining the necessary license(s) or permit(s), which allow for the operation of the beverage cart on the golf course.
- B. Any employee operating the beverage cart must be trained to operate it in a safe manner. The operator or restaurant manager will train all operators of the beverage cart. The operator shall keep records of all training, and shall make such records available for review by the City upon request.
- C. The Operator has the responsibility of determining the routing and hours of operation for the beverage cart. However, the City may adjust the routing or hours of operation in the event of severe weather or other environmental conditions, after consultation with the Operator.
- D. Storage of the beverage cart is the sole responsibility of the Operator. If the Operator chooses, the Operator may store the beverage cart with the golf carts during the golf season. Off season, the Operator is responsible for beverage cart storage. Storage of the beverage cart inventory is also the sole responsibility of the Operator. The City has no liability or responsibility for damages to the beverage cart during storage.
- E. Operator shall offer sandwiches, snacks, water and other nonalcoholic beverages, in addition to alcoholic beverages, for sale on the beverage cart.
- F. It is understood that the purchase of the beverage cart is an investment with unknown return. Therefore, should the City cancel or otherwise terminate the ability of the operator to sell alcoholic beverages on the course without just cause and before the end of the golf season in the year 2010, the City will purchase and take possession of the beverage cart. This does not include the food and beverage inventory, which is the sole responsibility of the Operator. The cost for the beverage cart will be the Operator's documented cost of acquisition, minus depreciation, based

on the rules and regulations published by the IRS Act 1986 as amended. The Operator shall also have the discretion to remove the cart and waive payment as set out herein. If the City purchases the beverage cart, then payment shall be made within 60 days after receipt of documentation setting forth the Operator's cost, minus depreciation. Should the Operator lease the beverage cart, the City will have no obligation under this section.

- G. The City does not make guarantee of player load or other guarantee of revenue.
- H. All other terms of the executed lease agreement remain in effect, and are incorporated herein by reference.
- I. This agreement shall commence on April 7, 2008 or as soon as reasonably possible after that date.
- J. This addendum, providing for the use of the beverage cart, shall be applicable for the duration of the term of the original lease. However, the parties shall have the opportunity to reopen negotiations of the terms of this addendum after one year (April 1, 2009). The parties can also terminate this addendum at any time, upon ninety (90) days written notice, sent by registered mail. The mutual agreement to terminate this addendum shall not obligate the City to pay for the cost of the beverage cart, as provided in Paragraph F.

CITY OF TROY, a Michigan Municipal Corporation

By: _____
Louise E. Schilling, Mayor

By: _____
Tonni Bartholomew, City Clerk

STATE OF MICHIGAN)

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COUNTY OF OAKLAND

The foregoing instrument was acknowledged before me on _____, 2008 by Louise E. Schilling, the Mayor of the City of Troy, a Michigan municipal corporation, on behalf of the corporation.

Notary Public, _____ County, Michigan
My commission expires:

STATE OF MICHIGAN)

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COUNTY OF OAKLAND

The foregoing instrument was acknowledged before me on _____, 2008 by Tonni L. Bartholomew, the City Clerk of the City of Troy, a Michigan municipal corporation, on behalf of the corporation.

Notary Public, _____ County, Michigan

My commission expires:

Gallatin, Inc. d/b/a Camp Ticonderoga

By: _____

Its: _____

STATE OF MICHIGAN)

)ss

COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me on _____, 2008 by _____, the _____ of Gallatin, Inc. d/b/a Camp Ticonderoga

Notary Public, _____ County, Michigan

My commission expires: