To: Honorable Mayor and City Council

Date: July 3, 2017

From: Lisa K. Goldman, City Manager – (650) 558-7243
Kathleen Kane, City Attorney – (650) 558-7204

Subject: Approval of Term Sheet with Topgolf International

RECOMMENDATION

Staff recommends that the City Council approve the attached Term Sheet with Topgolf International.

BACKGROUND

On June 20, 2016, the City Council requested that staff issue a Request for Proposals (RFP) for the lease management of the Golf Center site for the operation of golf or other recreational or entertainment activities that would be open to the public. Because the site includes a closed landfill and the City does not permit housing in the Bayfront area, the Council determined that the site was not appropriate for housing proposals. The RFP was issued on October 12, 2016; US Badminton Center Group (USBC), Mid-Peninsula Ice Rink Foundation (MIREF), and Topgolf International submitted responses. USBC and MIREF eventually withdrew their proposals, and on March 21, the City Council selected Topgolf International as the preferred operator of the site. At the time, Topgolf’s proposal was to pay $550,000 in annual rent to the City, an increase from the $500,000 originally offered.

The Topgolf proposal includes building a 65,000 sq. ft. LEED Silver-certified facility with 102 hitting bays, 3,000 sq. ft. of event space, a full-service restaurant and bar, a rooftop terrace, pool tables, shuffle board, and supporting areas. The facility, which would be built on the existing Golf Center site, would offer general entertainment, food and music, golf lessons for all ages, summer camps, tournaments, and leagues.

DISCUSSION

On April 3, the City Council held a closed session to discuss real property negotiations—price and terms, for the Topgolf lease. The City Council gave direction to Mayor Ortiz and Councilmember Colson, the ad hoc Council subcommittee, to negotiate various terms with Topgolf, such as the length of the lease, the rent payment, community benefits, and sustainability measures.

The attached draft Term Sheet, which Topgolf has agreed to, is before the City Council for approval. Assuming that the City Council approves the draft Term Sheet, then the City Attorney and Topgolf’s
legal counsel will work to draft a lease between the City and Topgolf. Staff anticipates bringing this to the City Council within the next six months.

The Council’s action in giving general direction on lease negotiations is not a project for purposes of the California Environmental Quality Act (CEQA). However, staff will ensure that appropriate evaluation under CEQA occurs before the City is committed to a defined final project. As with other projects proposed by private developers, Topgolf will be responsible for costs associated with the City’s environmental review process.

**FISCAL IMPACT**

Under the Topgolf proposal, the City would receive $5,000 per month during construction and a $1.5 million annual rent payment upon the facility’s opening for years one through five. The annual rent payment will escalate over time according to the schedule in the draft Term Sheet. The City will also receive a community benefit payment of $500,000 and commercial linkage fees. The commercial linkage fees will be set aside for affordable housing; the remaining funds will accrue to the General Fund.

Exhibit:
- Draft Term Sheet
Topgolf Deal Terms:

The following represent the key deal terms agreed to between Topgolf and the City negotiating team for the potential lease of the Golf Center site. With concurrence from the full Council, City staff will negotiate appropriate agreements implementing the below terms for Council’s review. Staff will also bring back appropriate environmental documents and project updates.


USE: Tenant proposed use is 65,000 square foot golf recreation center with three decks and 121102 bays, restaurant and bar, entertainment areas and parking

TERM: Twenty (20) year primary term with four (4) options to extend at five (5) years each, as further described below

RENT: During construction – $5,000/month, increasing by CPI (no less than 3% and no more than 5%) if permitting and construction take longer than 2 years from date of lease.

Base rent –

Lease Years 1-5: $1,500,000 per annum
Lease Years 6-10: $1,650,000 per annum
Lease Years 11-15: $1,815,000 per annum
Lease Years 16-20: $1,996,500 per annum

Rent will increase by 10% every 5 years thereafter for Option Periods exercised by Tenant for the options period corresponding to years 21-30 of the Lease. The parties will negotiate in good faith to address unanticipated inflationary risk, with a potential for a CPI adjustment in the final lease terms. For the Option Periods corresponding to years 31-40 of the Lease, rent shall be set as for the prior Options Period corresponding to years 21-30 In addition, there shall be a reopen for community benefit negotiations with the City to address any changed conditions or new needs created by or impacting the Project – the purpose of this provision is to allow the parties to reasonably assess and address unanticipated then-existing conditions at the property.

COMMUNITY BENEFITS:

$500,000 in community benefit funds payable by Tenant as follows: (i) $250,000 within 10 days after receipt of all permits and approvals and (ii) $250,000 within 10 days after opening the Topgolf facility to the public.
COMMERCIAL LINKAGE FEES:

Tenant will pay applicable commercial linkage fees on total build out square footage (estimated at 65,000 square feet for this project). These commercial linkage fees will then be set aside for affordable housing. In the event that the one-time Linkage Fee payable by Tenant exceeds $350,000, the amount of that overage may be deducted from the second community benefit payment described above.

SECURITY:

Tenant will provide its own security and will work with the Burlingame Police Department and other City Officials to ensure the safe and orderly conduct of business. City may request an initial security review and updates as needed.

SUSTAINABILITY:

Tenant agrees to build a LEED Silver facility and Tenant will investigate the feasibility of maintaining energy and water saving practices as well as recycling and composting.

TRAFFIC:

Tenant agrees to work with the City to develop traffic mitigation plans such as shuttle services, encouraging employee carpooling or public transportation, traffic safety for athletes and families using the adjacent Burlingame Soccer Center, etc.

CONSTRUCTION/WAGES:

Tenant agrees to coordinate with the City regarding construction, including assisting in collection of sales tax attributable to construction activities. Tenant will pay prevailing wages for construction labor used on the project.

LEASE/REIMBURSEMENT:

Tenant and City will negotiate appropriate instruments in good faith following Council direction, and Tenant will reimburse City for any extraordinary costs associated with City’s processing of Tenant’s project. If Tenant and City cannot agree to lease terms within 180 days of Council’s direction to move forward, or as extended by mutual agreement, both Tenant and City may disengage without further penalty, provided that the site is restored to its original condition and any monies owed from one party to the other have been paid.