

AGENDA



Thursday, August 27, 2009

**Contract and Land Management
RECOMMENDATION FOR COUNCIL ACTION****Item No. 7**

Subject: Authorize the City Manager to negotiate and execute an amendment to the lease agreement with Austin Java City Hall, L.P. in order to reduce the rental rate to reflect current market conditions.

Fiscal Note: Rental income will be approximately \$18,000 lower on an annual basis. This will be reflected in the FY 2009-2010 Operating Budget of the Financial & Administrative Services Department.

For More Information: Lauraine Rizer 974-7078; Tom Nuckols 974-2568; April Thedford 974-7141

Prior Council Action: March 10, 2005 - Council authorized negotiation and execution of a City Hall Café lease agreement.

The national recession and decline in retail sales activity continues to impact Austin's retail real estate market. Average retail rates are down by 12% since December 2008; that is in addition to the a 6% decline between June and December of 2008, according to Capitol Market Research (CMR), who also anticipate wide-spread rental rate concessions in the form of "free rent."

In addition to an overall decline in the local economy and retail market rent rates, construction of the W Hotel on the block directly north of Austin Java's City Hall Café has curtailed pedestrian activity on that portion of 2nd Street. Pedestrian activity is expected to increase once ground floor sections of the W Hotel open in late 2010.

In September 2005 Austin Java entered into a lease with the City to operate a restaurant in a retail portion of Austin City Hall. In August 2008 Austin Java sought and received approval for a reduction in operating hours because of slow patronage in the evening. Although Austin Java has indicated a high level of commitment to remaining in its City Hall location, there has been a steady decline in sales since early summer 2008. In September 2008, Austin Java requested a temporary rent reduction based on declining sales receipts, to help maintain their 2nd Street presence during the current economic slowdown and construction activity.

Discussions with 2nd Street Retail District leasing agents indicate a similar trend of declining sales, renegotiated leases and temporary rent adjustments to provide some economic relief to 2nd Street businesses to help keep the area vibrant and to avoid storefront vacancies.

This amendment would provide for a temporary change in rent structure from an average of 7% of monthly gross sales to 4% of gross sales for August 2009 monthly rent through January 2011 monthly rent, plus a one-time rent credit of \$15,368 which would be applied to past due rent, as well as a provision for an active repayment plan of remaining past-due rent. Rent structure will increase to the original contract amount, phased-in from February 1st, 2011 until January 1st, 2012, which is the end of the first five year term of the contract.