



REQUEST FOR CITY COUNCIL ACTION

MEETING DATE:

October 17, 2018

DEPARTMENT:

City Administration

DIVISION:

Administration

- ☒ Motion
- ☐ Resolution
- ☐ Ordinance - Introduction
- ☐ Ordinance - Adoption
- ☐ Public Hearing

TITLE:

Amend and Restate Contract: Concessionaire Agreement for operation of The Patio restaurant at Desert Hills Golf Course

SUMMARY RECOMMENDATION:

Amend and Restate the existing Concessionaire Agreement with Chef Alex Group, LLC, for operation of the restaurant at Desert Hills Golf Course (Administration) (Greg Wilkinson)

REPORT:

In 2014, through a Request for Proposal (RFP) process, the City of Yuma privatized the operation of the restaurant at the Desert Hills Golf Course. The operation was originally awarded to Frank's Family Dining of Yuma #2, LLC, (Frank's) and operated as "The Hills Restaurant Patio & Bar" (The Hills). Frank's operated The Hills for approximately one year and then closed due to financial difficulty. Frank's sought an assignee to the contract and after a period of time and with City Council's consent, Frank's assigned its contractual interest to operate The Hills to Chef Alex Group, LLC, (Chef Alex) in October 2015. Chef Alex has operated The Hills as "The Patio" since the assignment.

This summer, Chef Alex approached City Administration to discuss amending the contract. First, Chef Alex requested some relief from the 10% gross revenue fee provision. The original RFP called for a minimum of 5% of gross revenue to be payable to the City, but Frank's, the only responder to the RFP, bid 10% of gross revenues for the concession. Second, the current assignment ends in one year with an option to renew for an additional five years if "it is the desire of both parties to renew this Agreement, a new agreement shall be executed."

If the City grants relief on the 10% gross revenue fee provision, Chef Alex wants to complete the remaining one-year term, and agrees to an automatic renewal for additional five-year periods unless notice of intent to terminate the agreement is given in writing by either party at least 90 days before the expiration of the current term. Chef Alex has been operating as an assignee to Frank's Concessionaire Agreement and would like to be the direct concessionaire with the name of the restaurant to be formally known as "The Patio" instead of "The Hills" as required in the current agreement.

City Administration reviewed the requests and recommends five material changes to the existing agreement which will be titled "Amended and Restated Operation of The Patio Restaurant Concession

Agreement”: (i) a 6% (instead of 10%) gross revenue fee provision; (ii) an automatic five-year extension unless written notice to terminate is given by either party no later than 90 days before the end of the then current term (instead of a new agreement); (iii) a change in interest rate on past due amounts to 2% per annum; (iv) the agreement will be directly with Chef Alex as the contractee/concessionaire and Frank’s name will be removed from the amended and restated contract; and (v) modification of the provision concerning the name of the restaurant so that it will be known as “The Patio” instead of “The Hills.” The intent is to amend and restate the existing agreement without disturbing the primary purpose of the existing agreement: to provide restaurant and beverage service at the Desert Hills Golf Course.

The requirement that the restaurant will be open for breakfast, lunch and dinner hours, seven days a week, twelve months a year will not change. The desired hours of operation for the restaurant from 6:00 a.m. to 7:00 p.m. will not change (except when the golf course is closed for overseeding in the fall), nor will the provision that the Snack Shack and/or Beverage Cart shall provide service from 8:00 a.m. or the first tee-time at Desert Hills golf course until dusk.

Privatization of the restaurant was, and is, a win-win for the City, the taxpayers, the concessionaire, and the customers of the restaurant. Approving this motion authorizes the City Administrator to execute the attached Amended and Restated Operation of “The Patio” Restaurant Concession Agreement.

FISCAL REQUIREMENTS	CITY FUNDS:	\$0.00	BUDGETED:	\$0.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$0.00 \$0.00 \$0.00	FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP:	
	TOTAL:	\$0.00		
	FISCAL IMPACT STATEMENT:			
ADDITIONAL INFORMATION	SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK:			
	1. 2. 3. 4. 5.			
ADDITIONAL INFORMATION	IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?			
	<input type="radio"/> Department <input checked="" type="radio"/> City Clerk's Office <input type="checkbox"/> Document to be recorded <input type="checkbox"/> Document to be codified			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		10/9/2018	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Richard W. Files		10/9/2018	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
SIGNATURES	WRITTEN/SUBMITTED BY:		DATE:	