

SECOND AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF YUMA AND CABALLEROS DE YUMA

WHEREAS, the City of Yuma (the "City") executed an Agreement with Caballeros de Yuma ("Caballeros"), on May 26, 2006 ("Agreement"); and,

WHEREAS, on August 24, 2012, the First Amendment to the Agreement was made to include the Yuma West Wetlands Park as an additional location for the Colorado River Crossing Balloon Festival and to amend the insurance requirements; and,

WHEREAS, the Caballeros sponsor events held at Ray Kroc Baseball Complex, located at 1280 Desert Sun Dr., Yuma, AZ, 85365, which is owned by the City; and,

WHEREAS, after such events, the Caballeros desire to use the kitchen at the Yuma Civic Center, located at 1440 Desert Hills Dr., Yuma, AZ 85365; and,

WHEREAS, the City is willing to allow the Caballeros to use the kitchen at the Yuma Civic Center; and,

WHEREAS, the Agreement expired on May 26, 2016, and the parties would like to extend the Agreement to allow the parties to finish negotiating a new contract.

NOW, THEREFORE, the Parties mutually agree as follows:

1. SECTION 1.0 of the Agreement is amended to delete the crossed-out language and add the following underlined language:

~~This Agreement is for a term of five years, and shall automatically renew for an additional five year period thereafter, unless either party provides at least 90 days written notice of termination to the other party prior to the expiration of the initial five year term~~ shall expire June 30, 2017 and no extensions shall be permitted, except the ~~CITY~~ City reserves the right to terminate this ~~agreement~~ Agreement at any time with 90 days written notice if the ~~Clubhouse~~ clubhouse is subject to lease by another entity or the Ray Kroc Baseball Complex becomes the subject of adaptive re-use.

2. SECTION 2.0 of the Agreement is amended to add Subsection 2.7 to read as follows:

Upon seven (7) days prior written notice to the City as set forth in Subsection 3.7 of this Agreement, if the kitchen facilities at the Yuma Civic Center are available, the City shall make the kitchen facilities at the Yuma Civic Center available for use by the Caballeros for the Caballeros' sponsored events of Midnight at the Oasis, the Colorado River Crossing Balloon Festival, major and minor league baseball spring training games and college baseball tournaments.

3. SECTION 3.0 of the Agreement is amended to add Subsection 3.7 to read as follows:

- A. If the kitchen facilities at the Yuma Civic Center are available, the Caballeros shall have access to the kitchen facilities at the Yuma Civic Center for the Caballeros' sponsored events of Midnight at the

Oasis, the Colorado River Crossing Balloon Festival, major and minor league baseball spring training games and college baseball tournaments, on the express condition that the Caballeros give the City seven (7) days' prior written notice.

- B. The Caballeros shall clean any and all equipment in the kitchen facilities used by the Caballeros to the City's reasonable satisfaction. If the Caballeros fail to comply with this requirement, and such failure continues for twenty-four (24) hours after written notice to the Caballeros, the City shall have the option to perform or cause to be performed such reasonable and necessary cleaning, and charge the Caballeros for the actual cost incurred by the City. Upon receipt of a demand for payment by the City, the Caballeros shall reimburse the City for such costs within thirty (30) days.
 - C. The Caballeros acknowledge that the cooking and baking equipment in the kitchen are commercial grade and require that certain safety procedures are followed to prevent injury to persons or damage to property. The Caballeros shall follow such safety procedures and shall indemnify, defend and hold harmless the City, and its officials, officers, agents, and employees from and against any and all claims, liabilities, demands, damages, losses, and expenses, including attorneys' fees and litigation expenses, to which the City may become subject (collectively "Claims") arising out of the Caballeros' negligent acts, directives, mistakes, errors, or omissions while using the kitchen facilities. This provision includes acts, directives, mistakes, errors, or omissions of the Caballeros' employees, agents, officers, volunteers, and contractors.
4. All other terms and conditions of the original Agreement dated May 26, 2006, not expressly modified by the First Amendment dated August 24, 2012 or this Second Amendment, shall remain in full force and effect as if fully set forth herein.

This Amendment has an effective date of May 26, 2016.

City of Yuma

By: _____
Gregory K. Wilkinson, City Administrator

Caballeros de Yuma

By: _____
Travis Smith, El Presidente

ATTEST:

Lynda L. Bushong, City Clerk

APPROVED AS TO FORM:

Richard W. Files, Deputy City Attorney