

**CITY OF SAN ANTONIO  
INTERDEPARTMENTAL MEMORANDUM  
PARKS AND RECREATION DEPARTMENT**

**TO:** Mayor and City Council

**FROM:** Malcolm Matthews, Director, Parks and Recreation Department

**THROUGH:** Terry M. Brechtel, City Manager

**COPIES:** Melissa B. Vossmer; Finance; Management and Budget; Legal; File

**SUBJECT:** Ordinance Approving Amendment One to the Golf Food and Beverage Concession Agreement

**DATE:** June 26, 2003

**SUMMARY AND RECOMMENDATIONS**

This ordinance approves Amendment One to the Golf Food and Beverage Concession Agreement with Polanco and Company, L.L.C. to revise revenue payment to the City to become 16% of adjusted gross sales revenue for the duration of the contract.

Staff recommends approval of this ordinance.

**BACKGROUND INFORMATION**

The City owns and operates six municipal golf courses and one Par 3 driving range, which include: Brackenridge Golf Course in City Council District 1, Mission del Lago Golf Course in City Council District 3, Riverside Golf Course in City Council District 3, San Pedro Driving Range in City Council District 9, Cedar Creek Golf Course in City Council District 8 and Willow Springs Golf Course in City Council District 2. For many years, the Golf Pro contractors operated food and beverage concessions at these facilities. In May 1999, a Comprehensive Performance Review of the municipal golf system by the City's Performance Evaluation Team recommended a competitive proposal process for a single food and beverage concessionaire for all of the City golf courses.

A Request for Proposals (RFP) was prepared to value customer services that would be provided by the concessionaire. These included pricing, access (both in the Pro shop and on course), financial payment to the City and flexibility. After the RFPs were reviewed, Moore's Cafeteria was awarded the contract, effective December 1, 1999. In February 2002, Moore's Cafeteria submitted a letter terminating the contract effective August 20, 2002, based on lack of gross sales.

On April 10, 2002, a second RFP was advertised with stronger language in the contract related to performance and payment. On June 7, 2002, four proposals were submitted:

Years 1 - 3 15.25% of adjusted gross sales revenue with minimum \$170,000  
Years 4 - 6 15.50% of adjusted gross sales revenue with minimum \$180,000  
Years 7 - 10 16.00% of adjusted gross sales revenue with minimum \$200,000

- Star Concessions dba Lone Star  
15.00% of adjusted gross sales revenue with no minimum
- Cincinnati Concessions dba Cincon  
10.00% of adjusted gross sales revenue with no minimum
- Moore's Cafeteria Services, Inc.  
5.00% of adjusted gross sales revenue with no minimum

The evaluation committee reviewed the proposals and recommended that Polanco and Company, L.L.C. be selected. City Council approved the selection on August 8, 2002. The proposal from Polanco and Company was the only proposal to include an annual minimum payment or percentage of gross sales, whichever is greater (all others proposed only a percentage of gross sales). The contract required Polanco and Company to purchase concession equipment from Moore's Cafeteria at a cost of about \$125,000.00.

Golf concession gross sales have been weaker than Polanco and Company projected at the time of their proposal. City records indicate that golf play is down 16% in FY03 from year to date figures in FY02. Polanco and Company has met all operational requirements of the contract. However, the company has not met financial requirements and has not made all payments due to the City. The total amount currently due to the City from revenue commissions is \$65,095.06.

City staff from the Parks and Recreation Department, City Attorney's Office and Department of Asset Management considered alternatives for continuing this concession operation at the golf courses. Staff determined that the best course of action was to establish remediation steps for the existing contract. This would enable the City to collect the past due revenue, rather than have the company abandon its obligations, and would allow continuous concessions and customer service at the courses.

A letter was sent to Polanco and Company on May 12, 2003 that outlined these steps and Polanco agreed. Polanco and Company has changed ownership in order to address financial requirements. The new ownership is as follows:

Kenneth Saks	36%	George Gervin	9%
Karl Kapustka	36%	Fernando Avila	4.5%
Armando Polanco	10%	Sergio Avila	4.5%

All amounts remaining owed to the City are to be paid as arrears beginning in July 2003 through June 2004 (\$5,424.00 per month) in addition to standard monthly revenue payment. The City's revenue payment increases to 16% of adjusted gross sales for the duration of the contract, with no annual minimum, beginning on July 1, 2003. As required by the contract, a \$100,000.00 letter of credit has been received that will be forfeited by Polanco and Company should any future contract default occur.

The default status of Polanco and Company will remain in effect until the arrears payments are completed in one year's time. By working with Polanco and Company through the amendment,

the City will avoid potential loss of past due revenue. Also, it will increase the monthly payment percentage to 16%, which is still higher than any of the other proposals, as listed above. Importantly, the City will continue to have a local vendor for the contract and will continue uninterrupted concessions and good customer service to our golf course patrons during the busiest months of the year.

### **POLICY ANALYSIS**

It is standard practice to amend contracts when deemed advantageous to the City. The contract amendment requires passage of a City ordinance.

### **FISCAL IMPACT**


The City's revenue from the contract will increase to 16% of adjusted gross revenue but the annual minimum payment will be eliminated. Anticipated revenue will be about \$160,000.00 per year for the City. Revenue is deposited into the Golf Revenue Fund.

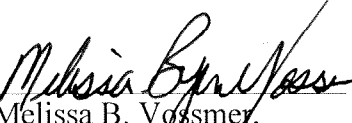
### **COORDINATION**

This amendment was coordinated with the City Attorney's Office and the Department of Asset Management.

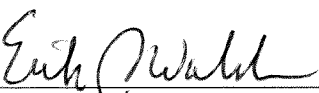
### **SUPPLEMENTARY COMMENTS**

A Discretionary Contracts Disclosure Form is not required.

  
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Malcolm Matthews,  
Director of Parks and Recreation

  
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Melissa B. Vossmer,  
Assistant City Manager

Approved:

  
\_\_\_\_\_  
Terry M. Brechtel  
City Manager

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**THE GOLF COURSE AND DRIVING RANGE  
FOOD AND BEVERAGE SERVICE CONTRACT  
AMENDMENT NO. 1**

The City of San Antonio, hereinafter called "City", entered into a contract with Polanco & Company, L.L.C., hereinafter called "Concessionaire", pursuant to Ordinance No. 96179, passed and approved on by the City Council of the City of San Antonio on August 8, 2002. Both the City and CONCESSIONAIRE wish to amend said contract and hereby agree to the following amendments to said contract to be effective June 1, 2003:

1) Section 5.1.1 is amended to read as follows:

"5.1.1 **16.00%** of gross sales for ***the duration of the*** Contract, pro rata share payable monthly."

2) Sections 5.1.2 and 5.1.3 are deleted.

3) Section 11.1 is amended to read as follows:

"To ensure compliance by CONCESSIONAIRE with the terms of this agreement, CONCESSIONAIRE shall post a performance bond, or other performance guarantee acceptable to the City, to insure the full and faithful performance by CONCESSIONAIRE of all the covenants, terms and conditions of this Contract and shall stand as security for payment by CONCESSIONAIRE of all valid claims by CITY. The performance bond or other performance guarantee acceptable to the City shall not be less than \$100,000.00 each year, and will remain in effect for the entire length of the contract."

4) In addition to the changes listed above, the parties hereto further agree to the following:

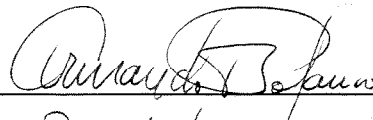
- A. After the commencement of this contract CONCESSIONAIRE breached certain terms and conditions of this contract, including the provisions relating to compensation and the required performance guarantee.
- B. City provided the required notice of the existence of said default to CONCESSIONAIRE in a letter dated March 27, 2003.

- C. CONCESSIONAIRE has not as of the date of this amendment cured such default and continues to be in arrears as of the date of this amendment.
- D. Notwithstanding anything contained in this amendment, or the mere existence of this amendment, the City retains the discretion to exercise any rights or remedies provided for in the contract or under state law as a result of the status of the uncured default.
- E. City acknowledges the May 12, 2003 letter agreement whereby payment arrangements have been made to cure default by Concessionaire.

All other terms and conditions of the current agreement remain in full force and effect.

Executed this \_\_\_\_\_ day of June, 2003.

POLANCO & CO., L.L.C.

  
\_\_\_\_\_  
Title: President

CITY OF SAN ANTONIO

\_\_\_\_\_  
Terry M. Brechtel  
City Manager

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney