



BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS

Requested Board Meeting Date: March 15, 2016

or Procurement Director Award ☐

Contractor/Vendor Name (DBA): Southern Arizona Raceway LLC (SAR)

Project Title/Description:

Southeast Regional Park Raceway; Amendment 2 to the Ground Lease Agreement

Purpose:

Amendment 2 would modify Articles 4, 5 and 6 of the Ground Lease Agreement dated April 8, 2014 as follows:

A. Article 4, Term, Section 4.1(a), Design and Construction Period.

1. The Maximum Design and Construction Period is extended by nine (9) months to July 8, 2018.
2. The date on which the lease will terminate if Tenant has not commenced construction of the Raceway is extended by nine (9) months to January 8, 2017.

B. Article 5, Rent, Section 5.2, Annual Rent.

Commencement of annual rent shall be on the earlier of:

1. The first day of the fifteenth (15th) full month following opening of the Raceway, a nine (9) month extension; or
2. The first day of the fifty-seventh (57th) full month after the Effective Date (i.e. six (6) months following the Maximum Design and Construction Period; the Rent Commencement Date), a nine (9) month extension.

C. Article 6, Construction of Raceway, Section 6.6, Commencement of Construction.

1. The date on which the County may automatically terminate the lease if construction of the Raceway has not begun is extended to thirty-three (33) months after the April 8, 2014 Lease Effective Date, a nine (9) month extension.

Procurement Method:

Not applicable. Amendment

Program Goals/Predicted Outcomes:

Southern Arizona Raceway, LLC (SAR) requested a one (1) year extension of specific milestones contained in the Ground Lease Agreement to provide additional time for SAR to continue fundraising in preparation for construction. SAR believes the extension will provide the time necessary to attract the additional investors needed to begin construction by the end of the extension period.

Staff recommends a nine (9) month extension to the milestones as outlined above.

Public Benefit:

Completion of the Southeast Regional Park Raceway will provide a new entertainment attraction and economic development for Pima County.

Metrics Available to Measure Performance:

Commencement of construction of the Raceway by January 8, 2017.

To: CWB - 3-10-16 (3)
pgs - 3
Addendum

Procurement Dept 03/10/16 PM 09:57

Retroactive:

NO

Original Information

Document Type: _____ Department Code: _____ Contract Number (i.e., 15-123): _____

Effective Date: _____ Termination Date: _____ Prior Contract Number (Synergen/CMS): _____

☐ Expense Amount: \$ _____ ☐ Revenue Amount: \$ _____

Funding Source(s): _____

Cost to Pima County General Fund: _____

Contract is fully or partially funded with Federal Funds? ☐ Yes ☐ No ☐ Not Applicable to Grant AwardsWere insurance or indemnity clauses modified? ☐ Yes ☐ No ☐ Not Applicable to Grant AwardsVendor is using a Social Security Number? ☐ Yes ☐ No ☐ Not Applicable to Grant Awards

If Yes, attach the required form per Administrative Procedure 22-73.

Amendment Information

Document Type: _____ Department Code: ED Contract Number (i.e., 15-123): 14-150

Amendment No.: Two (2) AMS Version No.: Three (3)

Effective Date: March 15, 2016 New Termination Date: _____

☐ Expense ☒ Revenue ☐ Increase ☐ Decrease Amount This Amendment: \$0

Funding Source(s): Private Funds

Cost to Pima County General Fund: 0.00

Contact: Aurora Hernandez

Department: ED&T Telephone: 724-7356

Department Director Signature/Date: Thomas R. Mullen 3/9/16

Deputy County Administrator Signature/Date: _____

County Administrator Signature/Date: C. Duckert 3/10/16
(Required for Board Agenda/Addendum Items)

<p>PIMA COUNTY DEPARTMENT OF ECONOMIC DEVELOPMENT & TOURISM</p> <p>PROJECT: Southeast Regional Park Raceway Lease</p> <p>TENANT: Southern Arizona Raceway, LLC</p> <p>CONTRACT NO: CTN ED 14-150</p> <p>CONTRACT AMENDMENT NO: TWO (2)</p>	<table><tr><td></td></tr><tr><td>CONTRACT</td></tr><tr><td>NO. <u>CTN-ED-14-150</u></td></tr><tr><td>AMENDMENT NO. <u>02</u></td></tr><tr><td>This number must appear on all invoices, correspondence and documents pertaining to this contract.</td></tr><tr><td></td></tr></table>		CONTRACT	NO. <u>CTN-ED-14-150</u>	AMENDMENT NO. <u>02</u>	This number must appear on all invoices, correspondence and documents pertaining to this contract.	
CONTRACT							
NO. <u>CTN-ED-14-150</u>							
AMENDMENT NO. <u>02</u>							
This number must appear on all invoices, correspondence and documents pertaining to this contract.							

1. **PARTIES.** The Second Amendment to Lease, for reference dated March 15th, 2016, is made and entered into by Pima County, a political subdivision of the State of Arizona (hereinafter referred to as "Landlord"), and Southern Arizona Raceway, LLC. (hereinafter referred to as "Tenant").
2. **MODIFICATION OF LEASE:** Landlord and Tenant hereby agree to modify the terms of the Lease as follows:

CHANGE: Article 4. TERM

4. TERM.

4.1. Design and Construction Period. The design and construction term of this Lease commences as of April 08, 2014 and runs until the earlier of:

- a) July 8, 2018, which is Fifty-one (51) months (the "**Maximum Design and Construction Period**") after the Effective Date or
- b) Completion of construction of the first phase and the opening of the Raceway for operation.

In the event either a) or b) below occur, this Lease will automatically terminate and will be of no further force or effect:

- a) Tenant has not commenced construction of the Raceway by January 8, 2017, which is thirty-three months after the Effective Date, or
- b) Tenant has not, subject to force majeure events, as defined in **Section 6.6**, or other circumstances beyond the control of Tenant, completed construction of the first phase of the Raceway ("**Phase One**") and opened the Raceway for operation within the Maximum Design and Construction Period

CHANGE: Article 5. RENT

5. RENT

5.2 Annual Rent. Commencing on the earlier of

- 1) The first day of the fifteenth (15th) full month following opening of the Raceway, or
- 2) The first day of the fifty-seventh (57th) full month after the Effective Date (i.e. six (6) months following the Maximum Design and Construction Period) (the "Rent Commencement Date").

CHANGE: Article 6. CONSTRUCTION OF RACEWAY

6.6. Commencement of Construction. Construction of the Raceway will be deemed to have commenced when Tenant commences grading within the footprint of the Raceway. If Tenant fails to so commence construction within thirty-three (33) months of the April 08, 2014 Effective Date (without regard to delays occasioned by "force majeure"), Landlord will have the right as its sole and exclusive remedy to declare this Lease automatically terminated pursuant to Section 4.1 by written notice to Tenant.

3. **REMAINING CONTRACT TERMS UNCHANGED.** All other provisions of the Lease, not specifically changed by this Amendment, shall remain in effect and be binding upon the parties.
4. **EFFECTIVE DATE OF AMENDMENT.** This Amendment is effective on the date it is signed by the Chair of the Pima County Board of Supervisors.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have executed this Second Amendment to Lease as of the day, month, and year written below.

TENANT: Southern Arizona Raceway, LLC

Signature

Date

Name

Its

LANDLORD: Pima County, a political subdivision of the State of Arizona

Sharon Bronson, Chair, Board of Supervisors

Date

ATTEST:

Robin Brigode, Clerk of the Board

Date

APPROVED AS TO CONTENT:

Tom Moulton, Director, Economic Development
and Tourism

APPROVED AS TO FORM:

Tobin Rosen, Deputy County Attorney, Civil Division