



BOARD OF SUPERVISORS AGENDA ITEM REPORT  
AWARDS / CONTRACTS / GRANTS

Award  Contract  Grant

Requested Board Meeting Date: March 21, 2023

\* = Mandatory, information must be provided

or Procurement Director Award:

**\*Contractor/Vendor Name/Grantor (DBA):**

Southern Arizona Kart Club, Inc. DBA Musselman Honda Circuit

**\*Project Title/Description:**

Development, Operations and Lease Agreement (Amended and Restated)

**\*Purpose:**

Operate, manage, repair, maintain, promote, improve and develop Pima Motorsports Park Facility for the benefit and recreation of Pima County inhabitants, tourists and visitors.

**\*Procurement Method:**

This Revenue Contract is a non-Procurement contract and not subject to Procurement rules.

**\*Program Goals/Predicted Outcomes:**

Documented improvements over and above regular maintenance to the facility which shall include velodrome and paving improvements over the life of the contract.

**\*Public Benefit:**

Public park area for the enjoyment, recreation and activities related to go-karting and other motorsports by Pima County residents and visitors.

**\*Metrics Available to Measure Performance:**

A certified audit and financial report for the preceding fiscal year will be due every other year by September 30th following the contract start date.

**\*Retroactive:**

No.

TO: COB, 3-9-2023 (1)  
Vers: 1  
pgs: 15

THE APPLICABLE SECTION(S) BELOW MUST BE COMPLETED

Click or tap the boxes to enter text. If not applicable, indicate "N/A". Make sure to complete mandatory (\*) fields

Contract / Award Information

Document Type: CTN Department Code: ED Contract Number (i.e., 15-123): 23\*142
Commencement Date: 3-21-2023 Termination Date: 12-31-2031 Prior Contract Number (Synergen/CMS): 04-05-S-127657-0600
Expense Amount \$ Revenue Amount: \$ 139,999.65

\*Funding Source(s) required:

Funding from General Fund? Yes No If Yes \$ %

Contract is fully or partially funded with Federal Funds? Yes No

If Yes, is the Contract to a vendor or subrecipient?

Were insurance or indemnity clauses modified? Yes No
If Yes, attach Risk's approval.

Vendor is using a Social Security Number? Yes No
If Yes, attach the required form per Administrative Procedure 22-10.

Amendment / Revised Award Information

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

Amendment No.: AMS Version No.:

Commencement Date: New Termination Date:

Prior Contract No. (Synergen/CMS):

Expense Revenue Increase Decrease

Amount This Amendment: \$

Is there revenue included? Yes No If Yes \$

\*Funding Source(s) required:

Funding from General Fund? Yes No If Yes \$ %

Grant/Amendment Information (for grants acceptance and awards) Award Amendment

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

Commencement Date: Termination Date: Amendment Number:

Match Amount: \$ Revenue Amount: \$

\*All Funding Source(s) required:

\*Match funding from General Fund? Yes No If Yes \$ %

\*Match funding from other sources? Yes No If Yes \$ %

\*Funding Source:

\*If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?

Contact: Diane Frisch

Department: Attractions & Tourism

Telephone: 520.724.7353

Department Director Signature: [Signature]

Date: 3/2/2023

Deputy County Administrator Signature: [Signature]

Date: 3/3/2023

County Administrator Signature: [Signature]

Date: 3/6/23

**PIMA COUNTY DEPARTMENT OF ATTRACTIONS & TOURISM**

**PROJECT: Development, Operation and Lease Agreement (Amended and Restated)**

**OPERATOR: Southern Arizona Kart Club, Inc.  
DBA Musselman Honda Circuit  
11800 S. Harrison Road  
Tucson, Arizona 85747**

**AMOUNT: \$139,999.65 Revenue**

**REVENUE CONTRACT NO.: CTN-ED-23\*142 (FKA 04-05-S-127657-0600)**

**AMENDED AND RESTATED AGREEMENT BETWEEN PIMA COUNTY, ARIZONA AND THE  
SOUTHERN ARIZONA KART CLUB, INC.**

This Amended and Restated Agreement of the Development, Operation, and Lease of the Pima Motorsports Park Facility is between Pima County, a political subdivision of the State of Arizona ("County"), and the Southern Arizona Kart Club, Inc. ("Operator"), an Arizona nonprofit corporation, is effective as of March 21, 2023 (the "Effective Date").

**1. Background and Purpose.**

- 1.1. County owns the improved real property located in Section 15 of T16S, R15E which presently houses the Pima Motorsports Park Facility (the "Facility"). The Facility is situated on a 36.071 acre site depicted in the attached Exhibit A, which site is described as the "Premises."
- 1.2. Operator is a non-profit corporation organized under the laws of the State of Arizona.
- 1.3. County is authorized by A.R.S. §§ 11-256.01 and 11-933 to enter into agreements for the lease and operation of county public parks, as defined in A.R.S. § 11-931.
- 1.4. County and Operator previously entered into a *Development, Operation, and Lease Agreement* dated June 20, 2000, CT 04-05-S-127657-0600 (the "**Original Lease**"), which the parties amended on February 15, 2005, February 19, 2008, April 21, 2009, and July 10, 2012.
- 1.5. Under the Original Lease and the amendments, Operator has developed, operated, improved, and maintained the Facility as a public park area for the enjoyment, recreation, and activities related to go-karting and other motorsports by the inhabitants and visitors to Pima County. As previously extended, the term of the Original Lease is scheduled to expire on December 31, 2025, with the Parties having an option to extend the term for an additional fifteen years, to December 31, 2040.

- 1.6. The Parties now wish to modify and reaffirm certain terms of the Original Lease and amendments by entering into this Amended and Restated Agreement for the Continued Lease and Operation of the Pima Motorsports Park Facility (the "**Restated Agreement**").
- 1.7. The Parties intend that, as of the Effective Date, this Restated Agreement will entirely replace and supersede the Original Agreement and all prior amendments.
2. **Term.** The Term of this Restated Agreement and up to two additional five-year periods ("**Extension Terms**") with 180-days' advance written notice to County of Operator's election to extend. The Initial Term and any Extension Terms are referred to together as the "Term."
3. **Rent and Operating Expenses.** Operator will pay **annual rent of \$14,100** for use of the Kart Track and **\$1,900 for the Velodrome**. Restated Agreement will commence on the Effective Date and will continue through December 31, 2031 (the "**Initial Term**"), subject to earlier termination as otherwise provided herein. The term of this Restated Agreement may be extended between County and Operator for **annual rent** for use of the Velodrome.
  - 3.1. Rent is payable in monthly payments of \$1,333.33 to Pima County Attractions & Tourism at the following address: 115 North Church Avenue, Suite 221, Tucson Arizona 85701.
  - 3.2. Operator will pay all utilities, used in connection with operation of the Premises.
  - 3.3. Operator will also pay 80% of the cost for repairs, replacement and equipment costs for repairs to the well pump during the life of the contract. County does not guarantee that sufficient water will be available from existing wells on the Premises to serve the Operator's needs. If additional water is required, Operator will procure and provide necessary water at its own expense from another source or, if practicable, upgrade the pump and storage facilities on the Premises at its own expense. Operator is responsible for providing water needed during construction of site.
4. **Books, Records and Reports**
  - 4.1 Manager shall keep and maintain proper and complete books, records, and accounts of all its operations conducted pursuant to this Restated Agreement, in a manner approved by Pima County Finance Director, which shall be open for inspection and audit by County or its auditors, and the Arizona Auditor General, at all reasonable times.
  - 4.2. A certified audit and financial report for the preceding fiscal year will be due every other year by September 30<sup>th</sup> following the contract start date
5. **Authorization to Operate Facility.** Pursuant to A.R.S. § 11-932, and in consideration of the mutual promises and covenants set forth in this Restated Agreement, County grants Operator the exclusive right to operate the Pima Motorsports Park Facility as a public park. Operator will operate, manage, repair, maintain, promote, improve, and develop the Facility at its own expense for the benefit and recreation of the County's inhabitants, tourists, and visitors under and subject to the terms of this Restated Agreement.
6. **Premises to be Maintained by Operator.** At its own expense, Operator will maintain the Premises and all improvements in a good a safe condition, subject to ordinary wear and tear, and will repair or remove and replace any improvements that have become unusable, unsightly, or unsafe. Premises to be monitored thru Attractions & Tourism Department.

**7. Permitted Activities by Operator; Waiver by Participants.**

- 7.1. Operator will lease the Premises and operate the Facility as a public park focusing on the operation of a go-kart track and related motorsports-type activities, including recreational use of automobiles, drones, and bicycles, bike storage rental space, EV charging station, light oval circuit, Blo Karts, drones and a Bike Velodrome.
- 7.2. Controlled use of supermotards and motorcycles and motorcycle rider education courses are permitted at the Facility with adequate supervision only.
- 7.3. Golf carts and quads may be utilized only by staff of the Facility and only for safety and administrative purposes.
- 7.4. Before permitting any person to access or use any portion of the Premises other than as a spectator, Operator must obtain completed, signed liability waiver, indemnification, and assumption of risk forms (in a format acceptable to County) from participants. Such forms must be maintained for a minimum of twenty years and must be made available to County on County's request at any time. If any participant is a minor, such forms must be completed and signed by the minor's parents or legal guardians.

**8. Operations, Hours, and Non-Discrimination.**

- 8.1. Operator recognizes the public-service nature of this Restated Agreement and agrees to operate and keep the Facility open to provide public recreation and full service each day. Hours of operation, holiday or special closings will be subject to County approval based on reasonable public demand and business activity, but generally may be between sunrise and midnight. Operator must ensure that the Facility is adequately staffed when open to the public.
- 8.2. Operator will open the Facility for the use of the public without discrimination as to race, sex (including sexual orientation and gender identity and expression), age, national origin, religion, political affiliation, or physical disability.
- 8.3. Operator will develop, implement, and enforce reasonable safety rules and precautions for participants and spectators. Such Rules will be prominently posted on the Premises. Operator will not exclude any member of the public from the Premises or from using the Facilities except pursuant to written policies and procedures designed to implement and enforce the Rules.

**9. Admissions and Fees.** Operator may charge entry, use, and membership fees. On an annual basis commencing July 1 each year, Operator may increase its fees only with prior written notice to and approval of County Attractions & Tourism Department.

**10. Concessions.** Operator may operate food service concessions and concessions related to go-karting and motorsports (including driving lessons). Sales of liquor at the facility require County approval and insurance and permitting.

- 10.1.1. If food is sold to or consumed by members of the public, all applicable food permits must be obtained, and Operator and its contractors and concessionaires must comply with all Pima County health regulations.

10.1.2. County must review in advance Operator's contracts with Concessionaires and may approve, modify, or reject such contracts in its sole discretion. Fees charged to Concessionaires may not be lower than industry-standard fees.

10.1.3. Proceeds received from operation of concessions will be used exclusively to defray expenses of operation and for improvements.

10.1.4. Operator may store and sell on the Premises, or award a concession to another party to store and sell on the Premises, parts and products including fuel and tires used in go-karting and other permitted activities.

**11. Improvements to the Premises and Facility.** As a condition of its continued operation of the Facility under the terms of this Restated Agreement, Operator is required to make documented improvements over and above regular maintenance to the facility in the amount of \$1,000,000 which shall include the velodrome and paving improvements, as specified below, over the life of the contract. All improvements shall be made at Operator's sole cost and expense. All improvements to the Premises will become County property.

11.1.1. **Reservations and Conditions as to Velodrome.** County will further lease 4.827 acres located within Pima County tax parcel 305-01-0120 to Operator for the development of a public Velodrome.

11.1.2. Operator shall have two years from the execution of this Restated Agreement to complete design work for the first phase of the Velodrome facility, including a set of stamped engineered drawings for the track, and submit the drawings to the Pima County Attractions and Tourism Department for review and comment. Operator must also initiate and complete construction on the Velodrome, which includes perimeter fencing for the track, clearing the track alignment while protecting the site's native vegetation, paving the track alignment, and constructing the pit area.

11.1.3. In the event of a violation of any of the Section 10 conditions or reservations, County, devisees, or assigns will respectively then have the right of immediate reentry upon the premises dedicated to the Velodrome. Upon reentry, the Operator will forfeit all right or title to the property allocated for the Velodrome, and all interest will revert to County.

**12. Insurance Requirements.** Throughout the Term of this Restated Agreement, Operator will procure and maintain insurance against claims for injury to persons or damage to property that may arise from or in connection with the actions of Operator, its agents, representatives, employees, volunteers or subcontractors, as provided below. Operator will require any subcontractors and concessionaires to also obtain and maintain, during the term of their operations at the Facility, insurance that complies with the below requirements.

**12.1. Minimum Scope and Limits of Insurance.** Operator must provide coverage with limits of liability not less than those stated below.

12.1.1. *Commercial General Liability (CGL).* Policy shall be an occurrence form basis to include insurance coverage for bodily injury, property damage, personal injury, broad form contractual liability, products/completed operations and personal/advertising injury. Policy limits shall be \$5,000,000 Each Occurrence and \$5,000,000 general aggregate.

- 12.1.2. *Business Automobile Liability.* Operator must provide Auto Liability coverage for Bodily Injury and Property Damage for any owned, hired and/or non-owned automobiles used in the performance of this Contract with a Combined Single Limit (CSL) of \$1,000,000 each accident.
- 12.1.3. *Worker's Compensation and Employers' Liability.* Statutory requirements and benefits for Workers' Compensation. In Arizona, WC coverage is compulsory for employers of one or more employee. Employer's Liability coverage-\$1,000,000 each accident and each person – disease.
- 12.1.4. *Builders Risk.* Operator must obtain builder's risk insurance for any alteration or improvement projects it carries out on the Facility in an amount equal to the contract amount including all subsequent change orders. Pima County shall be included as a named insured to the policy. Coverage shall be written on an all risk replacement cost basis and shall include coverage for flood and earth movement as well as coverage for losses that may occur during equipment testing. Policy shall contain a waiver of subrogation endorsement in favor of Pima County and its districts and shall be maintained until the final payment is made and the project is fully released to the Operator. The Finance Director (as defined below) will determine the amount of insurance required.
- 12.1.5. *Property Insurance.* All risk property insurance for the full insurable value of any buildings and contents on the Premises that are under the control of Operator.
- 12.2. **Additional Insurance Requirements.** The policies must include, or be endorsed to include, the following provisions:
- 12.2.1. *Claims Made Coverage.* If any part of the Required Insurance is written on a claims-made basis, any policy retroactive date must precede the effective date of this Contract, and Operator must maintain such coverage for a period of not less than three (3) years following Contract expiration, termination or cancellation.
- 12.2.2. *Additional Insured.* The General Liability and Business Automobile Liability Policies must each be endorsed to include Pima County and its districts as an additional insured. The liability policies must also name County's officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Operator.
- 12.2.3. *Subrogation.* The General Liability, Business Automobile Liability and Workers' Compensation Policies must each be endorsed to contain a waiver of subrogation endorsement in favor of Pima County, and its departments, districts, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of Operator.
- 12.2.4. *Primary Insurance.* Operator's policies must stipulate that they are primary and that any insurance carried by Pima County, its district, its agents, officials, or employees is excess and not contributory insurance. All insurance deductibles and retentions are the responsibility of the Operator and not Pima County. Coverage provided by Operator may not be limited to the liability assumed under the indemnification provisions of this Restated Agreement.

- 12.3. **No Limitation on Indemnity.** These insurance requirements are minimum requirements and in no way limit the indemnity covenants contained in this Restated Agreement. County in no way warrants that the minimum required limits are sufficient to protect Operator from liabilities that might arise out of activities at the Facility by Operator, its agents, representatives, employees or subcontractors, and Operator is free to purchase additional insurance.
- 12.4. **Notice of Cancellation.** Each required insurance policy must provide that it may not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice to Pima County.
- 12.5. **Acceptability of Insurers.** Insurance must be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A- VII. County in no way warrants that the above-required minimum insurer rating is sufficient to protect Operator from potential insurer insolvency.
- 12.6. **Verification of Coverage.** Operator will furnish County with certificates of insurance (ACORD form or equivalent approved by County) showing it has the required insurance policies. Each certificate must be signed by a person authorized by that insurer to bind coverage on its behalf. Failure to maintain the insurance policies as required by this Restated Agreement, or to provide evidence of renewal, is a material breach of this Restated Agreement. County reserves the right to require complete, certified copies of all insurance policies required by this Restated Agreement at any time.
- 12.7. **Modification of Insurance Requirements.** If at any time, in the sole opinion of the Director of the County Finance & Risk Management Department (the "**Finance Director**"), the below insurance requirements no longer provide sufficient protection for County, the Finance Director may modify the requirements, with at least 30 days prior notice to Operator.
- 12.8. **Sub-Contractors.** Operator must include all subcontractors as additional insureds under its policies, or must require the subcontractors to carry insurance satisfying all the requirements of this Section, including the obligation to provide certificates and endorsements.
13. **Compliance with Laws.** Operator may not use the Facility, or permit anything to be done in, on, or about the Facility, that in any way conflicts with any federal, state, or local law, statute, ordinance or governmental rule or regulation.
14. **Volunteers.** All volunteers working at the Facility under the direction of Operator will execute a release of liability in a form reasonably acceptable to County prior to doing any work at the Facility. Operator will deliver a sample of the release to the County in the same manner as the giving of other notices under this Restated Agreement.
15. **Signs.** Operator may install any signs at the Facility that Operator deems appropriate, but all signs must comply with the City of Tucson Sign Code and must be approved in writing and in advance by County. County may review the type, size, color, location, content, and display qualities of proposed signs to determine if they are consistent with the Permitted Activities conducted at the Facility. Operator will install, maintain, repair and replace all signs at Operator's expense and Operator will, if requested by County, remove all signs at Operator's expense when this Restated Agreement expires or is terminated.



**16. Environmental.**

- 16.1. Hazardous Material.** For the purposes of this section, "Hazardous Material" means any hazardous or toxic substance, material, or waste that is or becomes regulated by any local governmental authority, the State of Arizona, or the United States Government and includes, without limitation, any material or substance that is (i) defined as a "hazardous waste" under NRS 459.400 *et seq.*, (ii) petroleum, (iii) asbestos, (iv) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), (v) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.* (42 U.S.C. 6903), (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.* (42 U.S.C. 9601) or (vii) defined as a "regulated substance" pursuant to Subchapter IX, Solid Waste Disposal Act (Regulation of Underground Storage Tanks), 42 U.S.C. 6991 *et seq.*
- 16.2. Hazardous Materials Prohibited; Clean Air Act.** Operator may not cause or permit any Hazardous Material to be brought upon, kept, or used in or about the Facility by Operator or Operator's agents, employees, contractors, or invitees without the prior written consent of County, other than such Hazardous Materials that are necessary or useful to Operator's business and will be used, kept, and stored in a manner that complies with all laws regulating those Hazardous Materials. Operator will comply with applicable provisions of the Clean Air Act, 42 U.S.C. 7401 *et seq.* and Arizona Revised Statutes, Title 49, Chapter 3.
- 16.3. Environmental Indemnity.** In the event an Environmental Act occurs, Operator will indemnify, protect, defend, and hold County harmless from any and all claims, judgments, damages, penalties, fines, costs, expenses, liabilities, or losses (including, without limitation, diminution in value of the Facility or any part thereof, damages for the loss or restriction on use of usable space or of any amenity of the Facility or any part thereof, damages arising from any adverse impact on marketing of space with respect to the Facility or any part thereof, and sums paid in settlement of claims, attorney's fees, consultant fees, and expert fees) that arose or arises during or after the term of this Lease as a result of such contamination. This obligation of Operator to indemnify, protect, defend, and hold County harmless includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, restoration, or other response work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material presence, as a result of any action or inaction on the part of Operator or Operator's agents, employees, contractors, or invitees, on the Facility or the soil or groundwater on, under or adjacent to the Facility, or elsewhere in connection with the transportation by Operator of Hazardous Material to or from the Facility.
- 16.4. Environmental Act.** For purposes of this Section 8, "Environmental Act" means an occasion in which:
- 16.4.1. Operator breaches the obligations stated in Section 7.2;
  - 16.4.2. the presence (whether consented to by County or otherwise) of Hazardous Material on the Facility or on or in the soil or groundwater under or adjacent to the Facility caused or permitted by Operator or Operator's agents, employees, contractors, or invitees results in contamination of the Facility or such soil or groundwater;

- 16.4.3. contamination of the Facility or such soil or groundwater by Hazardous Material otherwise occurs for which Operator is legally liable to County for damage resulting therefrom; or
- 16.4.4. if contamination occurs elsewhere in connection with the transportation by Operator of Hazardous Material to or from the Facility.
- 16.5. **Clean-Up.** Without limiting the foregoing, if the presence of any Hazardous Material within the Facility or the soil or groundwater under or adjacent to the Facility caused or permitted by Operator or Operator's agents, employees, contractors, or invitees results in any suspected contamination of the Facility or the soil or groundwater under or adjacent to the Facility, Operator will promptly notify County in writing and take all actions, at Operator's expense, as are necessary to return the Facility or such soil or groundwater to the condition existing prior to the introduction of any such Hazardous Material to the Facility or to such soil or groundwater; provided that Operator will first obtain County's approval of such actions, which approval County will not unreasonably withhold so long as such actions would not potentially have any material adverse long-term or short-term effect on the Facility.
- 16.6. **Pre-existing Contamination.** Any Hazardous Materials contaminating the Facility prior to Operator's possession of the Facility in 1978 will not result in liability for Operator under this Section 16 except to the extent such contamination is aggravated by the action or inaction of Operator.
- 16.7. **Notices Regarding Environmental Conditions.** Operator will, within ten (10) business days following receipt, provide County with a copy of (i) any notice from any local, state, or federal governmental authority of any violation or administrative or judicial order or complaint having been filed or about to be filed against Operator or the Facility alleging any violation of any local, state, or federal environmental law or regulation or requiring Operator to take any action with respect to any release on or in the Facility or the soil or groundwater under or adjacent to the Facility of Hazardous Material, or (ii) any notices from a federal, state, or local governmental agency or private party alleging that Operator might be liable or responsible for cleanup, remedial, removal, restoration, or other response costs in connection with Hazardous Material on or in the Facility or the soil or ground water under or adjacent to the Facility or any damages caused by such release.
- 16.8. **Survival.** Operator's and County's obligations under this Section will survive the expiration or earlier termination of this Restated Agreement and vacation of the Facility.
17. **Entry by County.** County may enter the Facility at reasonable times to inspect the Facility and Operator's operations on the Facility.
18. **Indemnification.** To the fullest extent permitted by law, Operator will defend, indemnify and hold harmless County, its district, its officers, employees, and agents from and against all claims, liabilities, losses, damages, costs, and expenses, including but not limited to reasonable attorney's fees and litigation expenses arising out of or relating (directly or indirectly) to (i) events occurring on at the Facility during the term or any condition created in or about the Facility during the Term; (ii) any breach of any provision of this Restated Agreement by Operator or any of Operator's subcontractors, employees, agents, or licensees. Operator is not obligated to indemnify County for the consequences of any negligent or intentionally wrongful act or omission of County, its agents, employees, or contractors.

19. **Operator not Agent of County.** Operator will exercise day-to-day control of activities on the Facility, and County will not control those activities. Operator's officers, employees, and agents are not employees of or otherwise under the control of County, nor are they entitled to receive any employment related compensation or fringe benefits under the Pima County Merit System.
20. **Notices.** Any notice required or permitted to be given under this Restated Agreement must be in writing and must be mailed by first class, registered, certified or overnight mail, return receipt requested, postage prepaid, or transmitted by electronic mail, or hand delivered, to the parties at the addresses set forth below, or to such other address as any Party from time to time designates by written notice to the other Party.

If to County:

Director, Pima County Department of Attractions and Tourism  
115 N. Church Ave, Suite 221 Tucson, AZ 85701

With a copy to:

Director, Pima County Natural Resources and Parks Department  
3500 W. River Road, Tucson, AZ 85741  
Tucson, AZ 85701

Director, Pima County Facilities Management  
150 W. Congress, 3<sup>rd</sup> Floor Tucson, AZ 85701

If to Operator:

Charles Quiroz, President  
Southern Arizona Go-Kart Club, Inc.  
5310 N. Kolb Road Tucson, AZ 85750

If mailed, all such notices, demands, requests, or other communications will be deemed received seventy-two hours after deposit in the U.S. mail. Notice served personally or by electronic mail or facsimile will be deemed received upon actual delivery. Notices will be deemed to be received even if the party rejects or refuses to accept the notice, or delivery fails because the party changed its address without appropriate notice to the other party.

20. **Conflict of Interest.** This Restated Agreement is subject to cancellation under A.R.S. § 38-511 for conflicts of interest.
21. **Non-Discrimination.** During the performance of this Restated Agreement, Operator will not discriminate against any employee, client, or any other individual in any way because of that person's age, race, color, religion, sex, disability or national origin. Operator shall comply with the provisions of Arizona Executive Order 75-5, as amended by Executive Order 99-4 and 2009-09 issued by the Governor of the State of Arizona.
22. **Choice of Law.** The laws of the State of Arizona govern this Restated Agreement and will apply to any action relating to this Restated Agreement. Any court action must be brought in a court in Pima County, Arizona.
23. **Default/Termination.**

- 23.1. **Termination; Cure.** If, in the sole judgment of County, Operator does not perform in accordance with any of the conditions of this agreement, or if Operator is in default of any provision of this Restated Agreement, County will give Operator written notice specifying the nature of the default. County may terminate this Restated Agreement if Operator fails to remedy the default within thirty (30) calendar days of the County's notice of default; provided, however, that if the nature of Operator's default is such that more than thirty (30) calendar days are reasonably required for its cure, then Operator will not be in default if Operator commences such cure with said thirty (30) calendar days and thereafter diligently prosecutes such cure to completion, provided such cure is completed within one hundred twenty (120) calendar days of the notice by County.
- 23.2. **Immediate Termination without Notice.** Notwithstanding the provisions of Section 23.1 above, County may terminate this Restated Agreement immediately for any of the following:
- 23.2.1. failure of Operator to carry the required insurance;
  - 23.2.2. violation of any law by Operator or any unlawful activities carried out on the Facility;
  - 23.2.3. any action or omission by Operator that causes a threat to the health or safety of the general public or the users of the facility or constitutes a nuisance;
  - 23.2.4. any actions or omissions by Operator that unduly disturb the quiet enjoyment of neighboring property owners or occupants;
  - 23.2.5. Operator commits a third default in a twelve (12) month period, regardless of whether or not Operator timely cured the previous defaults.
- 23.3. **Remedies.** Either party may pursue any remedies provided by law and in equity for the breach of this Restated Agreement. No right or remedy conferred or reserved is intended to be exclusive of any other right or remedy, and each is cumulative and in addition to any other right or remedy existing at law or in equity or conferred or reserved in this Restated Agreement, including, without limitation, the right to damages arising out of the breach or default of this Restated Agreement.
24. **Non-Waiver.** The failure of either party to insist in any one or more instances upon the full and complete performance of any of the terms and provisions of this Restated Agreement to be performed by the other party or to take any action permitted as a result thereof is not a waiver or relinquishment of the right to insist upon full and complete performance of the same or any other covenant or condition either in the past or in the future. The acceptance by either party of sums less than may be due and owing to it at any time shall not be construed as an accord and satisfaction.
25. **Assignment/Concessions.** Operator may not either voluntarily or by operation of law assign or transfer its rights or obligations under this Restated Agreement to any other person. Operator may, in the normal course of business, enter into concession agreements for the operation of specific Permitted Activities on the Facility and may hire contractors to perform work such as turf maintenance and landscaping. But Operator may not delegate its overall responsibility for all operations of the Facility without County's prior written consent, which may be withheld at the sole discretion of County, and no delegation of duties or hiring of contractors will in any way relieve Operator of its responsibilities and obligations under this Restated Agreement. At

County's request, Operator will provide County with copies of any contracts and concession agreements it has entered into with respect to the Facility.

26. **Americans With Disabilities Act.** Operator will comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36, in its operation of the Facility.
27. **Israel Boycott Certification.** Pursuant to A.R.S. § 35-393.01, if Operator engages in for-profit activity and has 10 or more employees, and if this Contract has a value of \$100,000.00 or more, Operator certifies it is not currently engaged in, and agrees for the duration of this Contract to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.
28. **Forced Labor of Ethnic Uyghurs.** Pursuant to A.R.S. § 35-394, if Operator engages in for-profit activity and has 10 or more employees, Operator certifies it is not currently using, and agrees for the duration of this Contract to not use (1) the forced labor of ethnic Uyghurs in the People's Republic of China; (2) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and (3) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. If Operator becomes aware during the term of the Contract that Operator is not in compliance with A.R.S. § 35-394, Operator must notify County within five business days and provide a written certification to County regarding compliance within one hundred eighty days.
29. **Entire Agreement.** This Restated Agreement constitutes the entire agreement between County and Operator with respect to the Facility, and no modification of this Restated Agreement is binding unless in writing and signed by both parties.
30. **Exhibits.** The following exhibits to this Restated Agreement are fully incorporated herein as if set forth at length:

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the day, month, and year written below.

COUNTY:

Pima County, a political subdivision of the State of Arizona

Adelita Grijalva  
Chair, Board of Supervisors

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Clerk of the Board

Date \_\_\_\_\_

APPROVED AS TO FORM:

 02/28/2023  
Rachelle Barr, Deputy County Attorney

OPERATOR:

Southern Arizona Kart Club, Inc.

DBA Musselman Honda Circuit

  
Charles Quiroz, President

Date 3/2/23

APPROVED AS TO CONTENT:

  
Diane Firsch  
Director, Attractions and Tourism

**EXHIBIT "A" LEGAL DESCRIPTION**

A portion of the Southeast Quarter of Section 15, Township 16 South, Range 15 East, Gila & Salt River Meridian, Pima County, Arizona, as described in Docket 6561 at Page 1012, recorded in the office of the Pima County Recorder, Arizona, more particularly described as follows:

**COMMENCING** at the southeast corner of said Section 15, a 1/2" rebar tagged "PCD0T29" to which the East Quarter corner of said Section 15, a 1-3/4" LCP stamped "LS2627, 15-14", bears North 00°23'18" West a distance of 2636.32 feet;

**THENCE** along the east line of said Section 15, North 00°23'18" West a distance of 74.81 feet;

**THENCE** along a line 75 feet north of and parallel with the south line of said Section 15, South 89°36'42" West a distance of 75.00 to a point on a line 75 feet west of and parallel with the east line of said Section 15 and the POINT OF BEGINNING;

**THENCE** along said line 75 feet north of and parallel with the south line of Section 15, South 89°28'10" West a distance of 872.42 feet;

**THENCE** North 70°21'54" West a distance of 1117.56 feet;

**THENCE** North 00°23'18" West a distance of 647.68 feet;

**THENCE** North 89°28'10" East a distance of 1061.43 feet;

**THENCE** South 00°31'50" East a distance of 45.00 feet;

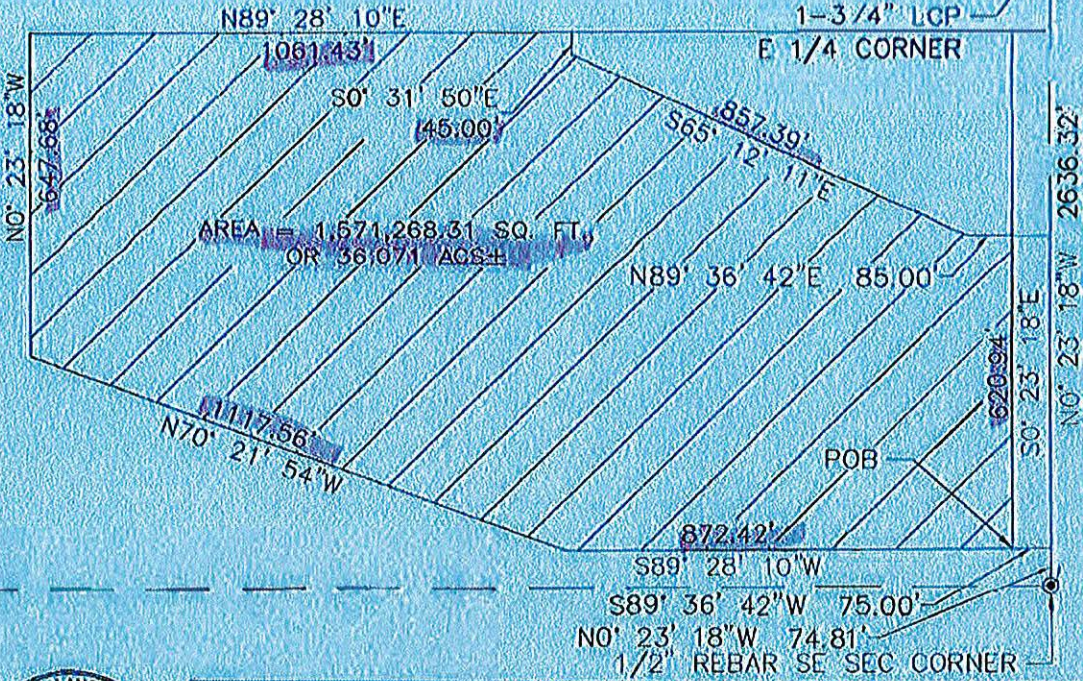
**THENCE** South 65°12'11" East a distance of 857.39 feet;

**THENCE** North 89°36'42" East a distance of 85.00 feet to a line 75 feet west of and parallel with the east line of said Section 15;

**THENCE** along said parallel line South 00°23'18" East a distance of 620.94 feet to the POINT OF BEGINNING.



# DEPICTION OF EXHIBIT "A"



## PIMA COUNTY SURVEY

A PORTION OF SECTION 15, TOWNSHIP 16 SOUTH, RANGE 15 EAST,  
 GILA AND SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA

Scale: 1" = 250'

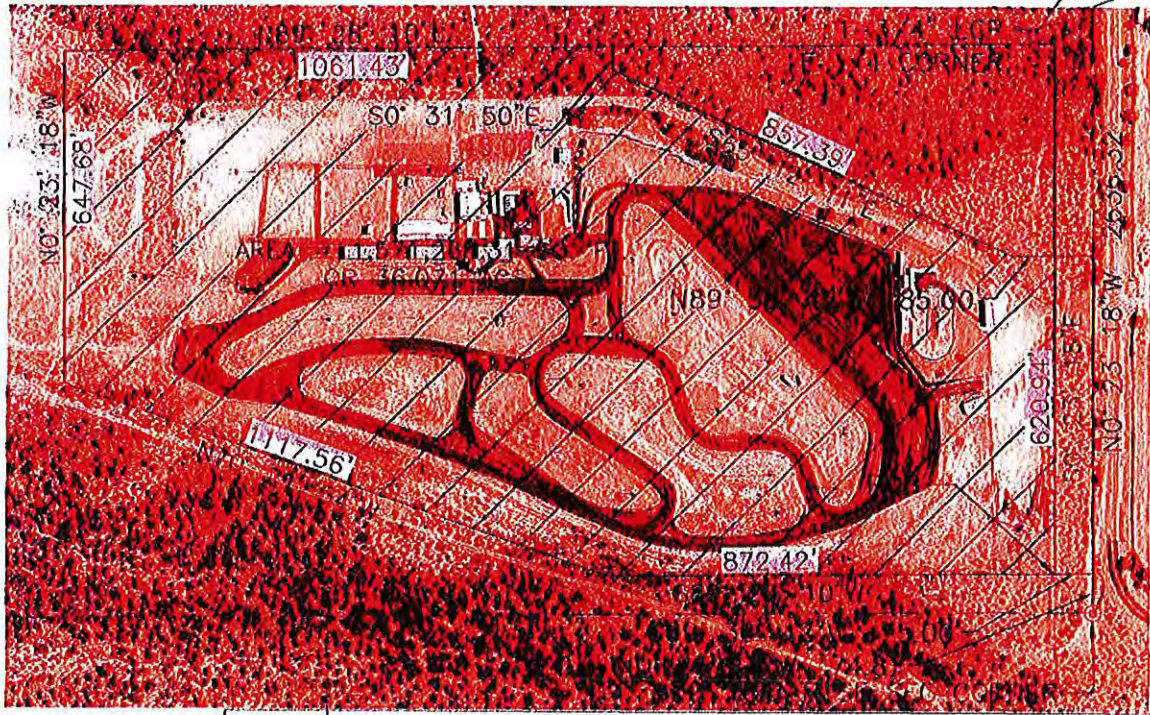
Date: 1 April 2021

Drawn By: AJJ

Sheet 2 of 2



DEPICTION OF EXHIBIT "A"



PIMA COUNTY SURVEY

A PORTION OF SECTION 15, TOWNSHIP 16 SOUTH, RANGE 15 EAST,  
GILA AND SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA

Scale: 1" = 250'

Date: 1 April 2021

Drawn By: All

Sheet 2 of 2

END OF EXHIBIT A