



Item: Municipal Golf Course Concessions Agreement

Initiated By: Park & Recreation Department

Presented By: Marty Basta, Park & Recreation Director

Action Requested: Award Agreement for Golf Course Concessions

Motion:

1. Commissioner moves:

“I move that the City Commission award/reject the Municipal Golf Course Concessions Agreement with K & M, Inc. to provide concessions services at Eagle Falls and Anaconda Hills Golf Courses, and approve the City Manager to execute the agreement.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.

Staff Recommendation:

Staff recommends that the City Commission approve a three year agreement for the Municipal Golf Course Concessions Agreement with K&M, Inc. to provide concessions services at Eagle Falls and Anaconda Hills Golf Courses, and approve the City Manager to execute the agreement.

Background:

Requests for proposals for concession services were advertised in the Great Falls Tribune and mailed to nineteen (19) prospective bidders. K & M, Inc. was the sole responder. A Selection Committee, consisting of a Golf Advisory Board member, two Park Advisory Board members, the City Golf Manager, and the Deputy Park and Recreation Director, met on January 19 to review and score the proposal.

K & M, Inc. meets the required qualifications and minimum bid price. The agreement will be for three years, with a four (4) year extension at the City’s discretion. The amount of the agreement will be 12% of gross sales or \$41,600 whichever is greater for year 2012; 12% of gross sales or \$42,100 whichever is greater for year 2013; and 12% of gross sales or \$42,600 whichever is greater for year 2014.

The City has had agreements with K & M, Inc. for concessions at Eagle Falls and Anaconda Hills Golf Courses since 1997. K & M has offered a high quality concession and has made an effort to keep menu prices down.

Concurrences: The Selection Committee recommended approval of the agreement. The Golf Advisory Board did not have a quorum at their regular meeting on January 21, however, both members present concurred with the recommendation to approve the agreement.

Fiscal Impact:

The City will receive \$41,600.00 or 12% of gross sales, whichever is greater in 2012; 12% of gross sales or \$42,100 whichever is greater for year 2013; and 12% of gross sales or \$42,600 whichever is greater for year 2014.

Alternatives:

If the agreement is not approved, the City would have to rebid the concessions agreement or make a significant investment in equipment to take over operation and management of the concessions at both golf courses, or close the concessions.

Attachments/Exhibits:

1. Municipal Golf Course Concessions Agreement

MUNICIPAL GOLF COURSE CONCESSIONS AGREEMENT

THIS CONCESSION AGREEMENT, made and entered into this ____ day of _____ 2012, by and between the City of Great Falls, Montana, a municipal corporation, hereinafter referred to as "City", and K&M, Inc, d/b/a Putters – Michelle Kazda hereinafter referred to as "***Concessionaire***".

WITNESSETH:

WHEREAS, after due consideration of written proposals for the operation of the Municipal Golf Course Concessions, the City has accepted the proposal and qualifications of the ***Concessionaire***; and,

WHEREAS, the parties hereto have reached an understanding concerning the operation of a said concessions do hereby agree and covenant as follows:

1. PURPOSE

It is the intent of the Agreement to provide an exclusive privilege for a food and beverage concession operation at Eagle Falls Golf Club and Anaconda Hills Golf Course during March through October of each year. All food stuff and commodities sold by ***Concessionaire*** shall be of the best quality, all service shall be prompt and courteous, all personnel shall be clean and presentable, and the facility, including all equipment, shall be kept in accordance with required health standards.

2. TERM OF LEASE

The term of this lease shall be for three (3) golf seasons, beginning the 1st day of March, 2012 through the 31st day of October, 2014. Upon completion of the initial three (3) golf seasons of the Agreement, the City, at its sole discretion, may terminate the Agreement or grant a two (2) year extension of this Agreement. If any extension is granted the City reserves the right to negotiate any conditions and covenants of this agreement, including but not limited to the rental amount. This lease may be terminated with just cause, including but not limited to a serious medical condition sustained by Michelle and/or Kraig Kazda, prior to the expiration of the three year golf season term by either party giving written notice by November 30. Further, the City retains the right to terminate this Agreement after the completion of any season for any reason that is deemed necessary by the City with written notice.

3. RENTAL

The Park and Recreation Director shall designate those areas of the Municipal Golf courses where the ***Concessionaire*** may provide services in addition to this area. On special occasions, such as leagues and tournaments, the Director may permit the ***Concessionaire*** to accommodate larger crowds by setting up dispensing facilities outside the concession area or operating a mobile cart.

In consideration therefore, the ***Concessionaire*** shall pay the City the following rental:
2012 Season: 12% of gross sales or \$41,600; whichever is greater.

2013 Season: 12% of gross sales or \$42,100; whichever is greater.

2014 season: 12% of gross sales or \$42,600; whichever is greater.

Concessionaire will be required to make two payments to the City based on 12% of gross sales, on July 15th and November 30th of each year. The final payment on November 30th will include payment of 12% of gross sales or the above stated amount, whichever is greater.

4. ACCOUNTABILITY

Concessionaire shall be responsible for providing and maintaining cash registers capable of keeping required information accumulated by cash register transactions.

Concessionaire shall record all food and beverage sales, including any related catering or special event sales and any on-course mobile cart sales, in such cash registers containing a tape which records and identifies the date of the sale and the amount of each transaction. **Concessionaire** shall be responsible for providing credit card service.

Upon request, the **Concessionaire** will provide, to the City, a monthly report of revenues and expenses. Such required reports must be submitted in a complete, neat and timely manner.

Concessionaire shall submit an annual financial report for each calendar year on or before March 16 of each year. The financial report will be certified by a public accountant. The City may contact this service and bill **Concessionaire** if this report is not submitted on time or to the City's satisfaction.

The City, or its agent, shall have the right at reasonable times to examine and inspect books and records of the **Concessionaire** bearing upon or connected with the business conducted upon the concession premises to determine compliance with provisions of this Agreement.

5. STANDARDS

Concessionaire recognizes that, although it is operating the concession facilities for profit, the City's Park and Recreation Department is organized and exists for the purpose of maintaining park and recreation facilities for the use and enjoyment of the general public. The **Concessionaire**, its agents and employees will devote their efforts toward rendering courteous service to the public with a view of adding to the enjoyment of the patrons of these recreation facilities.

Concessionaire shall operate and conduct the facilities on the premises in a business like manner, and will not permit any acts or conduct on the part of **Concessionaires'** employees which would be detrimental to the City's operation of the golf courses.

Concessionaire shall provide sufficient personnel to adequately staff the premises at all times. **Concessionaire** shall conduct its business in such a manner which assures fair, equal, and nondiscriminatory treatment at all times in all respect to all persons without regard to race, color, religion, sex, age, sexual orientation, or national origin.

6. INSPECTION AND USE OF THE SITE

a) The Park and Recreation Director, hereafter referred to as "Director" or his representative shall at all times have inspection access to the concession area or any other areas used by **Concessionaire**;

b) The **Concessionaire** shall make no alterations, changes or revamping, moving or remodeling of the premises, without prior written permit signed by the Director, and in addition thereto, shall obtain all permits required for such work under city ordinance. Any such alterations or additions shall be the sole responsibility of the **Concessionaire**, inclusive of any and all financial, material, or labor considerations. Any alterations or improvements approved by the City shall become the property of the City upon fixation and shall be installed solely at the **Concessionaire's** expense unless the City expressly agrees in writing to contribute toward the cost thereof;

c) The City shall furnish all water, electricity, and gas for operation of the concession. **Concessionaire** is responsible for all other utility services, including telephone, cable TV, etc. assessed against the premises;

d) All storage of material and equipment shall be within premises described. Storage of any material/equipment outside the building must be approved by the Director;

e) **Concessionaire** will be responsible for all damage to property, public or private that may be caused by this operation in the performance of this agreement.

7. MAINTENANCE

The *Concessionaire* shall conduct ordinary day to day maintenance and repairs necessary to keep both the interior and exterior of the premises in acceptable condition. *Concessionaire* shall be responsible for the maintenance, repair, replacement of all City-owned equipment, excluding the heating/cooling equipment and the hood system at Eagle Falls, located in the concessions. *Concessionaire* will be responsible for fixture piping/routine plumbing problems experienced through the operation of the concessions; the City will be responsible for main line piping issues.

8. CUSTODIAL AND SECURITY SERVICES

a) The *Concessionaire* shall be responsible for opening and locking the concession daily. *Concessionaire* shall be responsible for locking golf course gates if they are the last to leave;

b) **Concessionaire shall, at its own expense, at all times:**

- 1) Keep the concession premises, including the exterior immediately adjacent to the concession, in a neat, presentable, safe, and sanitary condition in accordance of the City/County Health Department and ordinances and regulations of the State of Montana;
- 2) Furnish all cleaning supplies and materials needed to maintain the concession premises in the above described manner;
- 3) Not empty any wastewater or other fluids upon any surface or improved area adjacent to the concession area;
- 4) Provide custodial services or Agreement with a professional custodial company to insure entire concession area is cleaned on a daily basis. If facilities are not cleaned to acceptable standards, the City may have the facilities cleaned and charge the *Concessionaire* the entire cost.

9. STAFFING

Concessionaire shall adequately staff the concession, particularly during weekends, holidays, scheduled tournaments, and other times and days when peak play is anticipated. Staffing requirements shall also include an on-site manager for each course.

10. MENU AND PROPOSED PRICES

Concessionaire will be required to submit a proposed menu and prices for review and approval on or before February 15th of each year. Approval of prices will not be unreasonably withheld if food and beverage prices are consistent with other food establishments in the area. A copy of the current price schedule, as approved by the City, shall at all times be displayed in such a manner as to be easily viewed by the public.

11. EQUIPMENT INVENTORY

An inventory of city-owned equipment will be made jointly by the *Concessionaire* and the City. A listing of that beginning equipment and fixture inventory will be made an attachment to this agreement.

12. PAYMENTS

The *Concessionaire* shall pay when due all bills, debts, and obligations incurred by the concession operations and will not permit the same to become delinquent or in any way impair the rights of the City under this agreement.

13. PERMITS AND LICENSES

The *Concessionaire* shall procure, supply, and post in places to be designated by the City

all permits and licenses necessary to be procured for carrying on of the concession. The *Concessionaire* shall pay all taxes annexed or levied against his business or merchandise.

14. HOURS AND BUILDING SECURITY

- a) The *Concessionaire* shall maintain one location at Eagle Falls Golf Club and one location at Anaconda Hills Golf Course during the golf season. A "season" shall be a period beginning approximately March 15 and ending October 31 of each year. The City retains the right to adjust opening and closing dates;
- b) Concession will be open and available for service during hours the golf course is open.

15. SIGNS

No display signs, menus, or advertising materials of any kind shall be used or placed on the exterior of the building except with prior approval of the Director.

16. ASSIGNMENT

The *Concessionaire* shall not assign or sublet this lease, or any right, privilege of interest thereunder, directly or indirectly, without prior written permission of the City.

17. VERBAL AGREEMENTS

Verbal agreements with any officer, agent or employee of the City either before or after execution date of this agreement shall not affect or modify the terms or obligations contained in this agreement.

18. INSURANCE

Concessionaire agrees to obtain, at its own expense, and to keep in full force and effect during the term of this agreement the following insurance coverages. All policies shall be issued by companies licensed to do business in the State of Montana and having at least an "A" rating in the current Best's Manual. All such policies of insurance shall be endorsed to be primary of all other valid and collectible coverage's maintained by the *Concessionaire* with respect to this agreement. All applicable policies will be written on an occurrence basis. Claims made policies are not acceptable and do not constitute compliance with the *Concessionaire's* obligation under this paragraph.

- **Workers' Compensation Insurance** – The *Concessionaire* shall comply with all requirements and conditions of the State of Montana Workers' Compensation Laws; also with all rules, regulations and decisions made during duration of this Agreement.

The *Concessionaire* shall carry Workers' Compensation Insurance for all of his employees employed at the site of the project; the *Concessionaire* shall require his subconcessionaires similarly to provide Workers' Compensation Insurance unless such employees are covered by the protection afforded by the *Concessionaire*. When appropriate, an Exempt Form should be provided. Employer's Liability shall carry the statutory limit of Workers' Compensation Insurance.

- **Comprehensive General Liability** – Said coverage shall have limits of not less than \$750,000 per claim, \$1,500,000 per occurrence, combined single limit for bodily injury and property damage.

- **Liquor Liability** - Said coverage shall have limits of not less than \$750,000 per claim, \$1,500,000 per occurrence.

The *Concessionaire* shall name, as additional insured, the City of Great Falls. The

Concessionaire shall furnish to the City of Great Falls prior to beginning work under the agreement, a certificate of insurance including a copy of the Additional Insured Endorsement as evidence that the required coverage is in effect.

Should *Concessionaire* fail to provide such certificate(s) or make other arrangements as required by this Agreement, the City of Great Falls may cancel the Agreement.

The City of Great Falls provides property insurance for the buildings housing Eagle Falls Concessions and Anaconda Hills Concessions. *Concessionaire* is responsible for insuring the contents.

19. ALCOHOLIC BEVERAGES

The *Concessionaire* shall be required to lease a state beer and wine license from the City of Great Falls at an annual cost of one thousand three hundred dollars (\$1,300) for both premises, payable on or before March 10th of each year.

20. DELIVERY AFTER TERMINATION

The *Concessionaire* will deliver the concession area, and all city-owned equipment to the City at the termination of this agreement in good condition and state of repair as when received except for ordinary wear and tear or damage caused by an Act of God.

Prior to the expiration of the term of this Agreement, *Concessionaire* shall remove all his goods, wares, and merchandise from the concession premises and any equipment or fixtures therein by the *Concessionaire* within thirty (30) days of the expiration date. In the event of termination for other cause, the *Concessionaire* shall have fifteen (15) days to complete removal of its property, equipment and fixtures from the premises. The City may treat any property upon the premises after the expiration of this Agreement, or period for removal of *Concessionaire's* property, as abandoned by *Concessionaire*, and may make any disposition of such property as the City deems fitting.

21. MUTUAL COVENANTS

It is mutually agreed by and between the City and *Concessionaire*:

a) If *Concessionaire* shall pay the rental as herein provided and shall keep, observe and perform all of the other covenants of this lease by *Concessionaire* to be kept, performed and observed, *Concessionaire* shall, and may, peaceably and quietly, have, hold and enjoy the said premises for the term aforesaid; and

b) This lease and all the covenants and provisions herein contained, shall inure to the benefit of and be binding upon the successors and assigns any right, title or interest whatsoever; and

c) If *Concessionaire* shall at any time be in default in the payment of rent herein reserved, or in the performance of any of the covenants or provisions of this lease, the City shall give to the *Concessionaire* at least fifteen (15) days written notice before termination takes effect. The fifteen day period will begin upon the mailing of notice by the City. If the *Concessionaire* fails to remedy such default within fifteen (15) days after written notice thereof from the City, it shall be lawful for the City to enter upon the premises, and again, repossess and enjoy the same as if this lease had not been made, and thereupon this lease and everything herein contained on the part of the City to be done and performed shall cease and terminate, without prejudice, however, to the right of the City to recover from *Concessionaire* all rent due up to the time of such entry; in the case of any such default and entry by the City, the City may relet said premises for remainder of said term for the highest rent obtainable and may recover from *Concessionaire* any deficiency between the amount so obtained and the rent herein reserved.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by the persons duly authorized thereto the day and year first hereinabove written.

CITY OF GREAT FALLS

REVIEWED FOR LEGAL CONTENT

Gregory T. Doyon, City Manager

James W. Santoro, City Attorney

ATTEST:

(Seal of the City)

Lisa Kunz, City Clerk

K & M, Inc.

Michelle Kazda

STATE OF MONTANA)
County of Cascade : ss.
City of Great Falls)

On this ____ day of _____, 2012, before me, a Notary Public in and for the State of Montana, personally appeared Michelle Kazda, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same.

IN WITNESS THEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(NOTARIAL SEAL)

Notary Public for the State of Montana
Printed Name: _____
Residing at Great Falls, Montana
My Commission Expires: _____

Equipment owned by K & M, Inc.

Eagle Falls:

3 Freezers	All Buddy Bar Stools
2 Miro-waves	1 Cappuccino Machine
1 Deep Fryer	1 Nacho Machine
1 Grill	1 Hot Dog Roller
1 BBQ	Candy Bar, hostess and chip racks
1 Beverage Cart	All Deck Chairs
All Tables	All 6 and 12 pack coolers
All Chairs	All Tubs
All Buddy Bars	1 Vacuum
1 Satellite Receiver and dish	1 Tall Lamp
1 Dolly	

Anaconda Hills:

1 Freezer	All Buddy Bar Stools
1 Beverage Cart	Hostess and candy bar racks
1 Hot Dog Roller	1 Storage unit in the basement
1 Nacho Machine	Shelving Unit holding hamburger cooker and buns
1 Indoor Hamburger Cooker	1 Vacuum
1 Cappuccino Machine	1 Satellite Receiver and dish
1 Condiments Holder	All 6 and 12 pack coolers
All Buddy Bars	All tubs

Equipment owned by the City of Great Falls.

3 Tv's
All table and chairs at Anaconda Hills
Hood system at Eagle Falls

Equipment owned by 3rd parties.

2 Bottle pop machines- Pepsi owns.
2 Ice makers – Pepsi owns
2 Coffee makers – Farmer Brother's owns
All refrigerators – Pepsi owns