

A G E N D A
City of Aztec
SPECIAL CITY COMMISSION MEETING
November 14, 2016
201 W. Chaco, City Hall
5:30 p.m.

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

V. AGENDA APPROVAL

VI. BUSINESS ITEM

A. Aztec Municipal Golf Course Operations Agreement

VII. ADJOURNMENT

ATTENTION PERSONS WITH DISABILITIES: The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office at 334-7600 prior to the meeting so that arrangements can be made.

Note: A final agenda will be posted 72 hours prior to the meeting. Copies of the agenda may be obtained from City Hall, 201 W. Chaco, Aztec, NM 87410

Staff Summary Report

MEETING DATE:	14 November 2016
AGENDA ITEM:	VI. Business Item (A)
AGENDA TITLE:	AMGC Operations Agreement

ACTION REQUESTED BY:	AMGC
ACTION REQUESTED:	Approval
SUMMARY BY:	Joshua W. Ray, City Manager

PROJECT DESCRIPTION / FACTS (Leading Department)

Aztec Municipal Golf Course (AMGC) is approaching the end of two years of operation by the City of Aztec. We started out operating the clubhouse and the course and contracted for the management of the snack bar.

At the beginning of this year, in March, the City contracted with an entity to operate the snack bar and the clubhouse functions. With that contract, the City continued to maintain the course and to provide a 20 hour/week employee to assist with clubhouse operations.

Over the course of two years, we have made significant progress with the overall condition of the course and in successfully marketing the facility to new groups. However, there still remain financial constraints that make the operation of the Golf Course difficult.

The City put out an RFP for someone to take over complete operations of the golf course. Initially, within that RFP, we have stated that the City will pay an amount annually to the contractor to provide these services.

Although we had discussions with three entities concerning preparing a proposal in response to the RFP, the only entity to submit a proposal was Mr. Randy Hodge. City staff reviewed the proposal by Mr. Hodge and then held a meeting with him on 11/9/2016 to discuss his proposal.

City staff and Mr. Hodge agreed to changes within his proposal and have drafted the attached agreement. The agreement calls for Mr. Hodge to be responsible for all operations at Aztec Municipal Golf Course. The City will not be responsible for any staff at AMGC but will be responsible for the property lease and the lease of the Golf Carts (Yamaha). The annual golf cart lease is \$24,000 and the annual property lease is \$24,000. City staff has engaged with the owners of the course to alter the annual property lease to be as followed:

Year 1	\$12,000
Year 2	\$18,000
Year 2	\$24,000
Year 4	\$30,000
Year 4	\$36,000

With the previous numbers, the City would be responsible for the following:

Year 1	\$36,000
Year 2	\$42,000
Year 3	\$48,000
Year 4	\$54,000
Year 5	\$60,000

The agreement with Mr. Hodge is a three year agreement. However, the agreement calls for a review after every year to ensure both parties are still operating as agreed.

If approved by Commission, this contract will go into effect 1 December 2016 and the previous contract with Ruby's in the Valley will be terminated.

PROCUREMENT/PURCHASING

A RFP (request for proposals) was issued on September 21, 2016. The RFP was posted to the city's website, advertised in the Daily Times and Talon, and document was sent to the two respondent's to the RFP issued earlier this year for the clubhouse operations.

One response was received from Randy Hodge dba Ruby's In The Valley.

FISCAL INPUT/FINANCE DEPARTMENT

Working the following:

- Commission approves operations agreement, effective December 1, 2016
- November 2016 revenues similar to November 2015
- HVCC does NOT reduce monthly lease beginning February 2017
- November 2016 does not incur any unexpected costs

The Golf Course Fund will require the balance of the budgeted transfer of \$50,000 (a total of \$80,000 was included in FY17 Adopted Budget) to complete the fiscal year.

SUPPORT DOCUMENTS: AMGC Operating Agreement with Exhibits A and B

DEPARTMENT'S RECOMMENDED MOTION: Move to approve the agreement with Randy Hodge to operate Aztec Municipal Golf Course.

**CITY OF AZTEC
OPERATING AGREEMENT
FOR GOLF COURSE MANAGEMENT**

This agreement for services is by and between the **City of Aztec** (hereinafter called "**City**"), and **RUBY'S IN THE VALLEY** (hereinafter called "**Contractor**").

WHEREAS The City wishes to engage the contractor to provide management services for operation of the Aztec Municipal Golf Course on a management fee basis.

NOW THEREFORE the parties do mutually agree as follows:

1. SCOPE OF WORK

The City agrees to engage the Contractor and the Contractor hereby agrees to perform the Scope of Work detailed in RFP 2017-592 Management Services AMGC and included as Exhibit "A".

2. TIME OF PERFORMANCE

The contract shall have a three (3) year term with possible additional terms for a total of an eight (8) year contract. Services of the Contractor shall commence on December 1, 2016 and complete on November 30, 2019 for the initial term of the agreement. Annual reviews will be required and shall be completed by October 31 annually. Such services shall be continued in such sequences as to assure their relevance to the purposes of this Contract. However, it is understood that this Contract cannot be extended beyond a total of eight (8) year term.

3. ACCESS TO INFORMATION

It is agreed that all information, data, reports, records, maps, etc. as are existing, available and necessary for the carrying out of the work outlined in this Agreement, shall be furnished to the Contractor by the City and its agencies. No charge will be made to the Contractor for such information and the City and its agencies will cooperate with the Contractor in every way possible to facilitate the performance of the work described in this Agreement.

4. COMPENSATION AND METHOD OF PAYMENT

The compensation package is based on the proposed and agreed upon compensation provided in the RFP and included as Exhibit "B".

5. OWNERSHIP OF DOCUMENTS

All documents prepared as a part of this Agreement, including original drawings estimates, specifications, field notes, and data are the property of the City. The Contractor may retain reproducible copies of drawings and other documents

6. STATUS AS INDEPENDENT CONTRACTOR

The parties acknowledge and agree that the Contractor shall carry out all the terms of this agreement as an Independent Contractor and not as an agent, servant, employee or partner of the City.

7. CLAIMS

The Contractor shall save and hold the City free from claims that might arise in connection with work the Contractor will perform under this Agreement. The Contractor also agrees to pay for staff time, at standard hourly billing rates, plus expenses and costs that might be required for expert testimony or any other court appearances, together with preparation time and legal costs that might arise because of Contractor's involvement in this assignment, whether subpoenaed by the City of any other group. The Contractor also agrees to pay any and all claims for wages and benefits for any employees hired by the Contractor.

8. NO AGENCY RELATIONSHIP CREATED

No agency relationship is created by the formation of the contract. The Contractor shall not be considered an express or implied agent of the City. The Contractor shall not bind the City to any contracts with third parties and will not name the City as a party to a contract with a third party without the express written consent of the City. Further, in the event the Contractor, in his individual capacity, contracts with a third party, the Contractor shall specifically advise said third party that the Contractor is not acting as an agent of the City.

9. BRIBES, GRATUITIES AND KICKBACKS

Pursuant to SS13-1-191 NMSA 1978 reference is made to the criminal laws of this state (including SS30-41-1 through SS30-41-3 NMSA 1978) which prohibits bribes, kickbacks, and gratuities and violation of which constitutes a felony. Further, the Procurement Code (SS13-1-28 through SS13-1-199 NMSA 1978) imposes civil and criminal penalties for its violation.

10. ADDRESS OF NOTICES AND COMMUNICATIONS

CITY: City of Aztec
Attn: City Manager
201 W Chaco
Aztec, NM 87401

CONTRACTOR: Randy Hodge
Ruby's In The Valley
1901 W Aztec Blvd
Aztec NM 87401

11. CAPTIONS

Each paragraph of this Agreement has been supplied with a caption to serve only as a guide to the contents. The caption does not control the meaning of the paragraph or in any way determine its interpretation or application.

12. TERMS AND CONDITIONS

- a) **Termination of Contract for Cause** - If through any cause, the Contractor shall fail to fulfill in a timely and proper manner his obligations under this Agreement, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Contractor under this Agreement shall, at the option of the City, become its property and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.
 1. Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Agreement by the Contractor, and the City may withhold any payments to the Contractor until such time as the exact amount of damages due the City from the Contractor is determined.
- b) **Termination for Convenience of the City** - The City or the Contractor may terminate this Agreement at any time by giving at least ninety (90) days notice in writing to the Contractor. If the Agreement is terminated as provided herein, the Contractor will be paid for the time provided and expenses incurred up to the termination date. If this Agreement is terminated due to the fault of the Contractor, paragraph 12a), hereof relative to termination shall apply.
- c) **Changes** - The City may, from time to time, request changes in the scope of the services of the Contractor to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor compensation, which are mutually agreed upon by and between the City and the Contractor, shall be incorporated in written amendments to this Agreement.
- d) **Personnel**-
 1. The Contractor represents that he/she, or will secure at his own expense, all personnel required to perform the services under this Agreement. Such personnel shall not be employees of nor have any Agreemental relationship with the City. Such personnel shall be compensated solely by the Contractor.
 2. All of the services required hereunder will be performed by the Contractor or under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such services.
 3. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder as approved by

the City shall be specified by written subcontractor and shall include each provision of this Agreement in said subcontract.

- e) **Assignability** - The Contractor shall not assign any interest in this contract (whether by assignment or notation), without the prior written consent of the City. However, claims for money by the Contractor from the City under the Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.
- f) **Reports and Information** - The Contractor shall on a monthly basis provide a report to the Advisory Board and City Manager. Said report shall provide the information in Exhibit "C" and which may be modified by the City Parks and Recreation Director at his/her discretion so long as the information pertains to the work or services undertaken pursuant to this Agreement. Said reports shall include but not limited to a Gross Receipts Tax (GRT) Report which shall describe in detail the amount of GRT the Contractor has paid in the previous month or reporting period. The costs and obligations incurred or to be incurred in connection with the reports and information required herewith, are the responsibility of the Contractor.
- g) **Records and Audits** - The Contractor shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to this Agreement and such other records as may be deemed necessary by the City to assure proper accounting of all funds. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three (3) years after the expiration of this Agreement unless permission to destroy them is granted in writing by the City.
- h) **Findings Confidential** - All of the reports, information, data, etc., prepared or assembled by the Contractor under this Agreement are confidential and the Contractor agrees that they shall not be made available to any individual or organization without the prior written approval of the City.
- i) **Copyright** - No report, maps, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Contractor.
- j) **Compliance with Local Laws** - The Contractor shall comply with all applicable laws, ordinances and codes of the State and the City and the Contractor shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.
- k) **Equal Employment Opportunity** - During the performance of this Agreement, the Contractor agrees as follows:
 - 1. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, sex, color or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color or national origin. Such action shall include but not be limited to, the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to

post in conspicuous places, available to employees and provisions of this non-discrimination clause.

2. The Contractor will, in all solicitations or advertisement for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex or national origin.
 3. The Contractor will cause the foregoing provisions to be inserted in all sub-agreements for any work covered by this Agreement so that such provisions will be binding upon each sub-agreement or, provided that the foregoing provisions shall not apply to Agreements or sub-agreements for standard commercial supplies or raw materials.
 4. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor.
 5. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the City's representative, the funding agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
 6. In the event of the Contractor's non-compliance with the equal opportunity clauses of this Agreement or with any of such rules, regulations or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further government Agreements in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
 7. The Contractor will include the provisions of paragraphs (a) through (g) in every sub-agreement or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each sub-agreement or vendor. The Contractor will take such action with respect to any sub-agreement or purchase order as the City's representative may direct as a means of enforcing such provisions including sanctions for non-compliance.
- l) **Civil Rights Act of 1964** - Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
 - m) **Interest of Members of the City** - No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Agreement, and the Contractor shall take appropriate steps to assure compliance.
 - n) **Access to Records** - The State Auditor, the City's auditor, the City, or any of their duly

authorized representatives, shall have access to any books, documents, papers, and records of the Contractor which are directly pertinent to this specific Agreement, for the purpose of audits, examinations, and making excerpts transcriptions or copies. All records connected with this Agreement will be maintained in a central location by the City and will be maintained for a period of three (3) years from the official date of closeout of the contract.

- o) **Right of Inspection** - The City shall retain the right to inspect work in progress at any time during the term of the contract.

- p) **Compliance with all Federal Work Standards** - The Contractor shall cooperate and coordinate its activities with the City to provide the training to ensure that the Golf Course employees comply with all federal work standards including OSHA standards.

IN WITNESS WHEREOF, Contractor and City have caused this Agreement to be executed on their behalves by their duly authorized representatives as of the Effective Date set forth above.

CITY OF AZTEC:

BY: _____
Sally Burbridge, Mayor, City of Aztec Date

(SEAL)

ATTEST: _____
Karla Sayler, City Clerk CMC Date

APPROVED AS TO FORM:

Larry T. Thrower, City Attorney Date

CONTRACTOR: RUBY'S IN THE VALLEY

BY: _____
Randy Hodge Date

Title NM Taxpayer Identification Number

Phone Number Federal Identification Number or Social Security Number

EXHIBIT A: SCOPE OF WORK

CONTRACTOR RESPONSIBILITIES:

Administrative oversight of all key operating areas at Aztec Municipal Golf Course (AMGC) such as turf management, golf professional services, food and beverage operations and facilities maintenance shall be provided to ensure that the facility is operated at a level comparable to other local facilities in the area. The contractor shall supervise and direct the administration of all golf course operations including but not limited to the timely operation, completion and/or provision of the following:

1. Turf grass management, general supervision of the golf course and the preparation of grounds for daily play.
2. Custodial services, preventative maintenance, and repairs to the buildings and facilities
3. The procurement of and payment for materials and services necessary to operate and maintain the grounds and facilities including the parking lot.
4. The procurement of and payment for all equipment and its associated maintenance including but not limited to tractors, mowers, sprayers, utility vehicles and hand tools necessary to maintain the golf course grounds in a manner that is consistent with a municipal golf course.
5. Maintenance of golf carts.
6. Timely payment to the City for reimbursement of costs associated with the operations of AMGC to include liquor license. The City will prepare an invoice with support documentation of costs incurred and Provider will make payment within the terms of the invoice.
7. Contractor will not be responsible for golf cart lease payments or HVCC lease payments.
8. The procurement of and payment for all necessary fuel for all equipment including carts necessary for daily operations and course maintenance. The operator will be responsible for the fuel tanks located at the course and shall be responsible for all maintenance and operation of the tanks in compliance with all applicable local, state and federal regulations. The City of Aztec will be under no obligation to replace the fuel tanks if it becomes unusable at any time.
9. The operator will be responsible for providing all materials including but not limited to such items as sprays, sod, grass seed, sand fertilizers, gravel, herbicides, fungicides, signs, litter baskets, testing kits etc. as needed for the maintenance for AMGC. The

operator will be responsible for the proper storage of all chemicals in accordance with all applicable laws and regulations.

10. The operator will be responsible for providing litter baskets, rakes, hazard stakes, signage, tee markers, hole cups, flags and flag poles, ball washers and replacement or repair of above items as needed.
11. Supervision of the starting of play by golfers
12. Development of and adjustments to fee schedule to be coordinated with the City of Aztec; proposed changes must be submitted to the City of Aztec in writing.
13. Provision of rental equipment, (i.e. pull carts, clubs)
14. Supervision of play on the course (rangers).
15. Competent golf instruction for a variety of skill levels.
16. Provision of supplies in the Pro shop (if applicable).
17. Provision of range balls (when applicable).
18. Maintenance of handicapping system
 - a. Keep accurate records so that handicaps may be computed on a regular basis; record changes requested by users on required forms; and administer USGA Handicap Rules & regulations.
19. Maintenance of membership records.
20. Maintenance of weekly and monthly course and facility usage; monthly report of revenues and expenses in sufficient detail to allow City administrators and City Commission to determine course is operated responsibly and in a manner as required by the agreement. Format will be determined upon execution of agreement.
21. Hiring and supervision of all necessary staff to operate and maintain AMGC facilities, grounds and equipment.
22. Enforcement of all rules and regulations relative to the golf course.
23. Pro shop operation is at the discretion of the contractor.
24. Operate and maintain a practice range (when applicable)

- a. Provide range balls that are in a reasonable condition for rental; develop convenient system for dispensing and collecting range balls; keep range tee area neat (when applicable)
25. Maintain a close professional relationship with the City Parks and Recreation Director.
26. Promote, organize and operate golf tournaments
 - a. Tournaments - Meet with sponsors for the purposes of planning and implementing the details of the tournament, including but not limited to; securing carts, assigning starting times, assigning carts, preparing scorecards and scoring sheets, keep the tournament and field on starting times, keep players moving, record scores, determine winners, be available for rules decisions.
27. Coordinate with private groups for golf tournaments
28. Actively promote golf through clinics, films, educational seminars, etc.
29. Actively promote the Junior Golf Program and the San Juan County First Tee Program
 - a. Prepare and plan Junior golf programs, clinics and junior tournaments.
 - b. Provide an active program to assist the High School Golf Team to improve and grow their programs by working directly with the coach. This will include free play during the Golf Seasons (Spring and Fall). Golf Team will coordinate tee times as not to disrupt Golf Course Operations.
30. Meet with and provide input to the Aztec Municipal Golf Course Association.
31. Operate the bar and restaurant in the clubhouse.
 - a. Maintain a clean, efficient, and sanitary operation with a variety of food and beverage choices to suit a variety of customers.
32. Maintain the facilities and restrooms in a clean and sanitary manner. Provide all the necessary cleaning supplies and equipment to maintain the facilities according to Aztec General Services Department standards.
33. Maintain all necessary licenses, permits, and certifications
34. May provide other services which are closely connected to the playing of golf
35. Aggressive marketing of the Golf Course and it's amenities.

LEASE OF ALCOHOLIC BEVERAGE LICENSE

1. The City agrees to lease its governmental license to sell alcoholic beverages at the Course during the term of the Agreement. The qualified bidder agrees to terms and

conditions as may be set forth in law and regulation including, but not limited to those promulgated by the Alcohol and Gaming Division, Department of Regulations and licensing, State of New Mexico. The qualified bidder agrees and warrants that during the term of the Agreement it will not give authority to other parties to sell alcoholic beverages from anywhere on the course.

2. Operator will be required to obtain liquor liability coverage.

HOURS OF OPERATION

1. The primary operating period shall be daily, daylight to dusk, seven days per week, weather permitting. The golf course schedule may be adjusted during the months of November through March, if the use of the golf course may cause damage to the greens, tees, or other turf areas. Changes to the operating schedule can be made only with the written approval of the City of Aztec.
2. The restaurant and bar will have the same hours of normal operation as the golf course, except the service of liquor as restricted by State Statutes.

UTILITIES

Existing utilities: telephone, internet, electric, gas, water, sewage/garbage, and cable will be procured and paid for by the operator. Expansion of or additional utilities will be coordinated with the City and will be the responsibility of the management firm.

Southside Water Users Association provides potable water to the course and the account remains with HVCC as owner of the water meter. The operator will be responsible to make arrangements with Southside Water Users for monthly receipt of billing statement and timely payment of same.

INSURANCE REQUIREMENTS

1. Commercial General Liability insurance with not less than the following limits shall be provided by the Management firm:
 - a. General aggregate: \$1,000,000.
 - b. Completed operation aggregate \$1,000,000.
 - c. Personal and advertising- injury \$1,000,000 each occurrence.
 - d. Fire damage: \$1,000,000: Medical expense \$5,000.

NOTE: All coverage described above will be obtained by the successful proposer at his/her cost.

2. Workers compensation insurance shall be required under the Laws of the State of New Mexico.

3. Automobile insurance shall be provided covering all owned, leased, and hired vehicles and non-ownership liability for not less than the following limits:
 - a. Bodily injury: \$1,000,000 per person \$1,000,000 per accident.
 - b. Property damage: \$500,000 per accident

PERFORMANCE BOND

The City may require the operator to furnish a bond or letter of credit in a form to be prescribed and approved by the City, payable to the City and conditioned upon the Operator faithfully performing all of the requirements of the agreement. Before the agreement shall be executed, the Provider shall furnish a corporate surety bond as security for the performance of the agreement. Said bond must be in the amount of not less than one-hundred fifty thousand dollars (\$150,000). If the Provider defaults on this agreement, then the performance bond shall immediately become due and payable.

CITY OF AZTEC RESPONSIBILITIES:

1. Timely payments of lease agreements executed by the City of Aztec for golf carts with Yamaha Corporation.
2. Timely payments to HVCC in accordance with facility lease agreement between the City and HVCC.
3. City owned equipment which will remain at AMGC for the use by Contractor for the operation and maintenance of AMGC. Contractor will be responsible for the maintenance and service of equipment.
 - a. Yamaha Golf Carts
 - b. Greensmaster 3250-D (2)
 - c. Turf Pride Top Dresser
 - d. Auto Hoist
 - e. Toro Computer System
 - f. Irrigation System PLC
 - g. 300 Gallon Diesel Tank with Containment Reservoir
 - h. Technology equipment including personal computers (3), printer, wireless access points (2), bridge, network switch, flat screen television

EXHIBIT B: COMPENSATION AND METHOD OF PAYMENT

A. COMPENSATION

Ruby's In The Valley, Contractor, is responsible for the receipt of all revenues and disbursement of all costs, except those identified below as a City of Aztec responsibility, associated with the operation of the Aztec Municipal Golf Course.

The City of Aztec is responsible for the costs associated with the lease of golf carts through Yamaha Corporation and facility and grounds lease with HVCC.

The City of Aztec will provide no compensation to Ruby's In The Valley.