

RESOLUTION 20-124

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH,
FLORIDA, APPROVING A MODIFICATION OF THE CITY'S
CONCESSION AGREEMENT WITH MORRIS ENTERPRISES.**

BE IT RESOLVED that the appropriate officers of the City are authorized to accept and deliver on behalf of the City that certain First Modification of Concession Agreement between the City and Morris Enterprises, relating to the rental of two concession stands at Frank Brown Park, in substantially the form attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 11th day of June, 2020.

CITY OF PANAMA CITY BEACH

By: 
Mark Sheldon, Mayor

ATTEST:


Jo Smith, Interim City Clerk

FIRST MODIFICATION of CONCESSION AGREEMENT

2nd THIS FIRST MODIFICATION of CONCESSION AGREEMENT (the "Agreement"), made this day of June, 2020 by and between THE CITY OF PANAMA CITY BEACH ("City") as Landlord, and MORRIS ENTERPRISES ("Contractor"), with respect to rental of two concession stands at Frank Brown Park (the "Stands").

WITNESSETH:

WHEREAS, City and Contractor entered into a Concession Agreement and renewal (collectively, "Lease") for Tenant's possession of the Stands as of February 1, 2019 through December 1, 2020; and

WHEREAS, on March 17, 2020, the City prohibited recreational sports leagues, tournaments and field use due to COVID-19, and these uses are the same which the Stands and Contractor were intended to support; and

WHEREAS, Contractor has requested a modification of rent under the Agreement on a temporary basis due to COVID-19, which City is willing to provide under the following terms in order to help the Contractor's business survive for the benefit of both parties.

NOW, THEREFORE, in consideration of the promises, mutual agreements, and reliance upon these presents, City and Contractor agree:

1. From and after the effective date of this Modification, Landlord agrees that the Annual Rent due shall be modified from a flat sum of \$70,000 payable in 8 variable monthly installments to monthly payment comprised of a percentage certain of gross sales plus a flat base amount. Landlord further agrees to forbear the portions of Annual Rent due and payable April 1 and May 1 and to waive late fees for rent due in June. As such, beginning July 1, Lessee shall pay to the City [Two Hundred and Fifty Dollars (\$250)] as rent by the first of each month, together with the amount of 25% of monthly gross sales made by Lessee in the previous month. A true and correct statement of gross sales for the preceding month shall be submitted to the Lessor with the rental amount. The books and records of the Lessee, which may be examined by the Lessor, shall include copies of sales tax report or return made to the state, which books and records are hereby required to be kept by the Lessor for a period of two (2) years from the respective dates thereof.
2. The continuation of Landlord's temporary forbearance of a portion of rent due and forbearance of Landlord's remedies for failure to pay rent in full is completely contingent upon Tenant's immediate, diligent and continuous pursuit of all loans, grants, and assistance that may become available and about which Tenant has knowledge. Contractor shall provide City with evidence that it or they have applied for a bridge loan, SBA Loan, or other outside financing, and any other public assistance available for Contractor's business or its employees at location(s) which include the Stands. Contractor agrees to use its best efforts to diligently pursue all such loans, grants, and assistance through either approval or denial. Failure to do so within three (3) business days of written notice by Landlord shall constitute a material default in this agreement and in the Lease. This agreement is not contingent upon the Tenant successfully obtaining a loan, grant, or assistance, only upon Tenant using its best efforts to obtain one.
3. Except as specifically provided in this Agreement, all other Lease terms shall remain in full force and effect and are hereby ratified and confirmed by the parties. Each party represents to the other that neither is currently in default or breach of the Lease. This Agreement constitutes the entire understanding between the parties concerning the

