

City of Carson City
Agenda Report

Item # 20

Date Submitted: June 9, 2009

Agenda Date Requested: June 18, 2009

Time Requested: 15 minutes

To: Mayor and Supervisors

From: Parks and Recreation Department

Subject Title: Action to authorize the Mayor to sign an Agreement between the City of Carson City and the Boys and Girls Club of Western Nevada to acquire an option to develop a recreation center, which shall include a gym, on property offered by the Boys and Girls Club, located at 1870 Russell Way, for a period of ten years and for a one time payment of \$375,000. (Roger Moellendorf)

Staff Summary: During the May 7, 2009, Board of Supervisors' meeting, the Board approved a recommendation from staff to terminate a contract with Metcalf Builders, Inc., to provide construction manager as agent services for the construction of the Indoor Recreation Center. This recommendation was brought by staff to the Board because the current decline in sales tax revenues has negatively impacted the City's ability to adequately fund the project. Approving this agreement today will allow the City to exercise an option during the next ten years to build the facility on property currently owned by the Boys and Girls Club. During the option period, the City will be allowed joint use of the Boys and Girls Club facility.

Type of Action Requested: (check one)

Resolution

Ordinance - First Reading

Formal Action/Motion

Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to authorize the Mayor to sign an Agreement between the City of Carson City and the Boys and Girls Club of Western Nevada to acquire an option to develop a recreation center, which shall include a gym, on property offered by the Boys and Girls Club, located at 1870 Russell Way, for a period of ten years and for a one time payment of \$375,000.

Explanation for Recommended Board Action: The agreement includes the following:

1. In exchange for \$375,000 the City will enjoy an option to develop property owned by the Boys and Girls Club of Western Nevada for the purpose of constructing its Recreational Facility for a period of ten years.
2. The City may exercise its option by giving 30 days written notice to the Boys and Girls Club of its intent to commence construction.
3. Upon notice to commence construction, the Boys and Girls Club will deed the property to the City for a fee of \$10. The Boys and Girls Club will be responsible for parceling the property to be purchased by the City from the remainder of the property to be owned by the Boys and Girls Club.
4. At any time prior to receiving notice from the City its intention to commence construction, the Boys and Girls Club can terminate the option by refunding the \$375,000 to the City.
5. Should the City fail to commence construction of the facility within the ten year option period, the agreement will terminate.
6. During the option period, the Boys and Girls Club will allow the City joint use of its facility.
7. Once the City has exercised the option, the City and the Boys and Girls Club will develop a joint use agreement that will allow the Boys and Girls Club joint use of the recreational facility.

Applicable Statute, Code, Policy, Rule or Regulation: NRS 244.270, NRS 244.275, NRS 244.300, NRS 244.305 and CCMC 2.16.050.

Fiscal Impact: \$375,000

Explanation of Impact: Funds budgeted for the Recreation Center/New Gymnasium

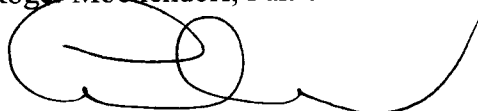
Funding Source: Quality of Life - Question 18 Capital (254-5046-452)

Alternatives: Deny the request, and direct staff to either abandon the project or re-negotiate with the Boys and Girls Club.

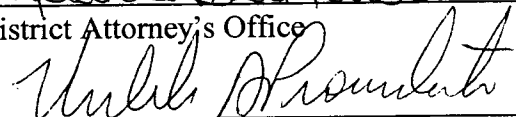
Supporting Material:

- 1) Cover letter from Ryan D. Russell, Esq., President of the BGCWN
- 2) Option Agreement

Prepared By:  **Date:** 6/9/09
Roger Moellendorf, Parks & Recreation Director

Reviewed By:  **Date:** 6/8/09
Larry Werner, City Manager

 **Date:** 6/9/09
District Attorney's Office

 **Date:** 6/9/09
Finance Director

Board Action Taken:

Motion: _____ 1: _____ Aye/Nay
2: _____

(Vote Recorded By)

ANDREW MACKENZIE
MIKE PAVLAKIS
JOAN C. WRIGHT
PATRICK V. FAGAN
KAREN A. PETERSON
JAMES R. CAVILIA
CHRIS MACKENZIE
DAWN ELLERBROCK



ALLISON · MACKENZIE
PAVLAKIS · WRIGHT & FAGAN
L T D
ATTORNEYS AND COUNSELORS AT LAW

RYAN D. RUSSELL
JENNIFER M. MAHE
ALICIA G. JOHNSON
JOEL W. LOCKE

MIKE SOUMBENIOTTIS
(1932-1997)

GEORGE V. ALLISON
OF COUNSEL

May 29, 2009

Larry Werner, City Manager
Carson City, Nevada
201 N. Carson Street, Ste. 2
Carson City, NV 89701

Dear Mr. Werner:

This letter follows my conversation with Joel Benton and Roger Moellendorf this morning, during which conversation we modified the Option Agreement previously sent to you to address certain minor concerns of the parties. As such, this letter shall again confirm the Agreement between Carson City (the "City") and the Boys and Girls Club of Western Nevada (the "Club") as follows:

1. In exchange for a one time payment of Three Hundred Seventy-Five Thousand and 00/100ths Dollars (\$375,000.00) the City shall enjoy an option to construct its recreational facility on the property offered by the Club for a period of ten years. That option may be exercised by providing the Club with 30 days written notice of the City's intention to commence construction. Upon such notice, the Club shall deed said property to the City in fee, so long as the same is used for recreational facility purposes. At any time prior to receiving notice of the City's intention to commence construction, the Club shall have the right to terminate the option by refunding the \$375,000 to the City. Further, should the City fail to commence construction within the ten year option period, the option shall terminate.

2. Once the option has been exercised, the subject property upon which the City's recreational facility shall be constructed, shall be deeded to the City in exchange for the City's agreement to allow the Club joint use of its recreational facility as described in a joint use agreement between the Parties. During the option period, and as set forth a joint use agreement, the City shall enjoy joint use of the Club's facility.

I understand that this Agreement needs to be ratified by the Board of Supervisors. To that end, I encourage you to bring it directly to that Board for expeditious approval, and I would like to see the same agenda item for the Board's meeting on June 18, 2009. I have enclosed a revised Option Agreement for execution by the Parties upon ratification of this Agreement. I have copied the Mayor on this correspondence as a means of keeping him in the loop, and in further hopes of hastening approval by the Supervisors.

Larry Werner, City Manager
May 29, 2009
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I hope this letter finds you, and all those copied, well. If you have any questions or concerns, please feel free to contact me.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Ryan D. Russell". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ryan D. Russell, Esq.
President BGCWN

RDR/clf

cc: Bob Crowell, Mayor
Joel Benton, Esq.
Roger Moellendorf
BGCWN Board

OPTION AGREEMENT

This Option Agreement ("Option") is entered into this ____ day of _____, 2009, by and between BOYS AND GIRLS CLUB OF WESTERN NEVADA, INC., a Nevada non-profit corporation, (the "Club") and CARSON CITY, a consolidated municipality and political subdivision of the STATE OF NEVADA (the "City"), hereinafter collectively referred to as the "Parties."

RECITALS

WHEREAS, the Club is the owner of certain real property located in Carson City, in the State of Nevada, being Assessor's Parcel Number 002-101-85;

WHEREAS, the City desires to purchase an option to develop a recreation center, which shall include a gym, on a portion of said real property, and the Club desires to sell said option on said portion under the terms hereinafter set forth;

WHEREAS, the Parties desire to enter this Agreement in order to govern their rights and obligations set forth herein.

NOW THEREFORE, in consideration of the mutual promises, covenants and conditions contained herein, the parties agree as follows:

1. **Grant of Option.** For and in consideration of the sum of THREE HUNDRED SEVENTY THOUSAND AND 00/100ths Dollars (\$375,000.00) which funds shall be nonrefundable except as set forth in paragraph 3 below, payable in conjunction with the execution hereof, the Club hereby grants to the City, the exclusive option to develop a recreation center, which shall include, a gym on a portion of that certain real property located in Carson City, Nevada, being Assessor's Parcel Number 002-101-85, more particularly described as Parcel B, set forth on Exhibit 1 attached hereto, and by this reference, incorporated herein (the "Property"). The Club shall be responsible for parceling the Property in conformance with the illustration attached hereto as Exhibit 1.

2. **Option Term.** The City may exercise the Option at any time on or before June 4, 2019, (the "Option Period"). During the Option Period, as set forth in a joint use agreement between the Parties, the City shall enjoy joint use of the Club's facility.

3. **Method of Exercise.** The City may exercise the Option by providing the Club thirty (30) days written notice of the City's intention to commence construction of a recreation center, which shall include a gym, on the Property. At any time prior to receiving notice of the City's intention to commence construction, the Club shall have the right to terminate the Option by refunding THREE HUNDRED SEVENTY THOUSAND AND 00/100ths Dollars (\$375,000.00) \$375,000 to the City.

4. **Price/Conveyance.** Upon exercise of the Option, the Club shall deed the Property to the City in fee, so long as the same is used for recreational facility purposes in exchange for the

consideration set forth in paragraph 1 above, plus an additional Ten Dollars (\$10) and the consideration of a joint use agreement between the Parties. Upon the City's completion of construction of a recreation center, the Parties shall share joint use of the other's facilities, under a joint use agreement between the Parties.

5. **Assignment.** Neither of the Parties may assign its rights or obligations under the Option without the express written consent of the other party.


6. **Miscellaneous.** If either of the Parties must file suit to enforce or protect its rights hereunder, the prevailing party shall be entitled to attorneys' fees and costs. This agreement shall be construed in accordance with Nevada law.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed as of the date and year first above written

CARSON CITY, a political subdivision
of the State of Nevada

BOYS AND GIRLS CLUB OF WESTERN
NEVADA, a Nevada non-profit corporation

By: _____
Robert L. Crowell, Mayor

By: 

Ryan D. Russell, President

EXHIBIT 1

PROPOSED RECREATION CENTER AND CLUBHOUSE COMPLEX

EXHIBIT 1

