

**Parks and Recreation Commission
Staff Report**

Meeting Date: July 1, 2014

Agenda Item Number: 3D

Applicant: Roger Moellendorf, Parks & Recreation Director

Request: **For Possible Action:** To recommend to the Board of Supervisors approval of a "Joint Use Agreement" between the Boys & Girls Club of Western Nevada and the City for the use of the Multi-purpose Athletic Center (MAC).

General Discussion: Attached as "Exhibit A" is a draft "Joint Use Agreement" between the Boys & Girls Club of Western Nevada and the City for the use of the Multi-purpose Athletic Center (MAC). The Agreement includes:

1. Joint use by both parties of each party's facilities and also allows for first right of refusal to both parties for use of each party's facilities.
2. Provides for and stipulates the maintenance of the facilities.
3. Stipulates that each party will pay for its proportionate share of janitorial services and utility costs for the MAC.
4. Stipulates that each party will maintain appropriate insurance naming each party as an additional insured.
5. Mandates that the two parties meet at least quarterly to discuss the use of the facilities in the prior quarter and to plan and schedule the next quarter's use.
6. A commitment to the extent possible for allowance for shared use of the facility.

Staff believes that this joint use agreement is a simple and straight forward document that will allow for flexibility in responding to changes as they arise. The agreement also promotes communication and enhances collaboration.

Recommended Action: I move to recommend to the Board of Supervisors approval of a "Joint Use Agreement" between the Boys & Girls Club of Western Nevada and the City for the use of the Multi-purpose Athletic Center (MAC).

Exhibit A

JOINT USE AGREEMENT

This Joint Use Agreement (“Agreement”) is entered into on the ___ day of _____, 2014 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 (the “Property”);

WHEREAS, the City purchased an option to develop a multipurpose athletic center (“MAC”) on a portion of said real property;

WHEREAS, on or about July 1, 2014, the City and the Club executed a Notice and Acceptance of Exercise of Option under which the City exercised its purchase option;

WHEREAS, the Notice and Acceptance is premised on the City and the Club entering an agreement for the joint use of all facilities, parking lots, and fields located on the Property;

WHEREAS, the City shall complete construction of the MAC on the Property, the completion of which shall be the effective date of this Agreement.

WHEREAS, the City and the Club desire to enter this Agreement to further the collective goal of ensuring that the MAC is used to its greatest potential;

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, as well as the inherent value of the portion of both the Property transferred to the City and the MAC, the parties agree as follows:

Article 1

Rights and Obligations of Parties

1.1 The City Shall:

- 1.1.1 Enjoy use of all facilities, parking lots, and fields located on the Property at all times other than during the Club’s regular operating hours.
- 1.1.2 Maintain its facilities, including its structure, parking lots, and landscaping.
- 1.1.3 Pay its proportionate share of all janitorial services and utilities for the MAC.

- 1.1.4 Allow the Club a right of first refusal for any times in which the City will not utilize the MAC during its allotted time frames.
- 1.1.5 Maintain appropriate insurance covering the MAC and the City's use thereof, with the Club named as an additional insured.
- 1.1.6 Meet quarterly with the Club to discuss use of the facilities in the prior quarter and schedule use prospectively in furtherance the parties' intention to ensure the MAC is utilized as much as possible.

1.2 The Club Shall:

- 1.2.1 Enjoy exclusive use of the multipurpose athletic complex ("MAC") constructed by the City on its campus during its regular operating hours.
- 1.2.2 Staff the MAC during the Club's regular operating hours.
- 1.2.3 Allow the City a right of first refusal for any times in which the Club will not utilize the facilities, parking lots, and fields located on the Property during the Club's regular operating hours.
- 1.2.4 Maintain its parking lots and fields.
- 1.2.5 Pay its proportionate share of all janitorial services and utilities for the MAC.
- 1.2.6 Maintain appropriate insurance covering the MAC and the Club's use thereof, with the City named as an additional insured.
- 1.2.7 Meet quarterly with the City to discuss use of the facilities in the prior quarter and schedule use prospectively in furtherance the parties' intention to ensure the MAC is utilized as much as possible.
- 1.2.8 In scheduling use of the MAC, the Club shall make its reasonable best efforts to ensure the City is able to schedule for evening use of the MAC which may commence prior to the end of the Club's regular operating hours.
- 1.2.9 The Club shall, to the extent practical and reasonable, allow for shared use of the facility.

**Article 2
General Provisions**

- 2.1 **Limited Liability.** The Club and the City do not waive, and intend to assert, any statutory privileges available to each under Nevada Law. Contract liability of both parties shall not be subject to punitive damages.

- 2.2 **Assignment.** This agreement is not assignable.
- 2.3 **Modification.** This Agreement is the entire Agreement between the parties. This Agreement shall not be modified or amended nor shall any rights hereunder be waived, except by written instrument signed by all parties.
- 2.4 **Benefits.** This Agreement is entered into solely for the benefit of the parties hereto. It shall confer no benefits, direct or indirect, on any third persons, including employees of the parties. No person or entity other than the parties themselves may rely upon or enforce any provision of the Agreement. The decision to assert or waive any provision of the Agreement is solely that of each party.
- 2.5 **Term.** This Agreement is intended to continue in perpetuity so long as the parties are materially honoring their obligations hereunder
- 2.6 **Jurisdiction.** This Agreement shall be administered and interpreted under the laws of the State of Nevada. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in full force and effect.
- 2.7 **Interpretation and Severability.** This Agreement represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement shall be interpreted in accordance with the laws of the State of Nevada. If any provision of this Agreement or its application is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall not be affected.
- 2.8 **Attorney's Fees.** In the event that any action is filed in relation to this contract, each party shall pay its own attorney's fees regardless of who ultimately prevails in any action.

IN WITNESS WHEREOF, the parties here to have executed this Agreement as of the date entered on the first page hereof.

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: _____
Laurie Gorris, CPO