



WASHOE COUNTY

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STAFF REPORT

BOARD MEETING DATE: March 22, 2016

DATE: February 26, 2016
TO: Board of County Commissioners
FROM: Jennifer Budge, CPRP, Park Operations Superintendent
Community Services Department, 328.2181, jbudge@washoecounty.us
THROUGH: Eric Crump, Operations Division Director
Community Services Department, 328.2182, ecrump@washoecounty.us
SUBJECT: Approve Lease Agreements for three parks concession buildings located at South Valleys Regional Park (Washoe Little League lessee), Eagle Canyon Park (Spanish Springs Cal Ripken lessee) and Lemmon Valley Park (Valley Providence Little League lessee); and one parks storage building at South Valleys Regional Park (Washoe Little League lessee) for 60-month terms commencing April 1, 2016 through March 31, 2021 with two 12-month renewal options. (Commission Districts 2, 4 and 5.)

SUMMARY

Nevada Revised Statute 244.284 authorizes the Washoe County Board of Commissioners (Board), as a public agency to lease any real property belonging to it for civic or charitable purposes, without competitive bidding and without charging fair market value for rent.

Previously, Washoe County entered into a Lease Agreement with Washoe Little League, a Nevada private, non-profit organization for the concession building at South Valleys Regional Park located at 16050 Wedge Parkway, Reno, NV 89511 for a 29-month term from April 1, 2013 through September 30, 2015. The agreement has expired and the new 60-month lease term proposed is consistent with all other agreements for similar facilities throughout the County's park system. Washoe Little League also previously leased a storage building also located at South Valleys Regional Park (that was constructed and maintained at their sole expense) for a five year term, which expired in October of 2015. The proposed new lease would also be a 60-month term for the storage building.

Previously, Washoe County entered into a Lease Agreement with North Valleys Little League, a Nevada non-profit organization for the concession building at Lemmon Valley Park located at 325 West Patrician, Reno, NV 89506 for a 60-month lease term from April 1 2013 through March 31, 2018, but the league has since re-organized and changed their name to Valley Providence Little League. The previous agreement has been terminated due to the organizational change and a new 60-month lease term is proposed with the Valley Providence Little League, a Nevada non-profit organization.

AGENDA ITEM # 6F1

The proposed new Lease Agreement with Spanish Springs Cal Ripken, a Nevada private, non-profit organization, is for a new concession building recently installed at Eagle Canyon Park, located at 400 Eagle Canyon Drive, Sparks, NV 89436. This new lease would also be for a 60-month term consistent with the other concession lease agreements.

Washoe County Strategic Objective supported by this item: Safe, Secure and Healthy Communities.

PREVIOUS ACTION

On May 13, 2003, the Board approved a Lease Agreement with Washoe Little League for the utilization of the Concession building at the South Valley's Regional Park.

On June 13, 2006, the Board approved a Lease agreement with the North Valleys Little League for the utilization of the Concession building at the Lemmon Valley Park.

On June 13, 2006, the Board approved a Lease Agreement between Washoe County and Silver State Cal Ripken for the utilization of the Concession building at the North Valley's Regional Park.

On March 25, 2008, the Board approved a First Amendment to Lease Agreement between Washoe County and Silver State Cal Ripken to implement charges for utilization of Park property and in compliance with NRS 426.630 - 426.720; and further, extended the term of occupancy as allowed within the existing Lease Agreement.

On April 22, 2008, the Board approved a First Amendment to Lease Agreement between Washoe Little League, a Nevada non-profit corporation, and Washoe County to implement charges for utilization of park property and further extended the term of occupancy as allowed within the existing lease agreement.

On April 22, 2008, the Board approved a Lease Agreement between North Valleys Little League, a Nevada non-profit corporation and Washoe County for utilization of park property in compliance with NRS 244.2835, retroactive to April 1, 2008.

On June 25, 2013, the Board approved Lease Agreements between Washoe County and Silver State Cal Ripken, for use of the North Valleys Regional Park Concession Building, and North Valleys Little League, for use of the Lemmon Valley Park Concession Building retroactively to April 1, 2013 through March 31, 2018; and the Board also approved a Lease Agreement with Washoe Little League, for use of the South Valleys Regional Park Concession Building retroactively to April 1, 2013 through September 30, 2015, as authorized within NRS 244.284.

BACKGROUND

Washoe County owns concession buildings at South Valleys Regional Park, North Valleys Regional Park and Lemmon Valley Park to not only serve the general public, but to assist youth athletic leagues throughout our community. Most recently, Washoe County constructed a new concession building at Eagle Canyon Park in Spanish Springs,

funded by Residential Construction Tax. These concession services are essential to local athletic leagues and help keep the costs affordable so all youth have the opportunity to participate.

Previously, Washoe County entered into a Lease Agreement with Washoe Little League, a Nevada private, non-profit organization for the concession building at South Valleys Regional Park located at 16050 Wedge Parkway, Reno, NV 89511 for a 29-month term from April 1, 2013-September 30, 2015. The agreement has expired and the new 60-month lease term proposed is consistent with all other agreements for similar facilities throughout the County's park system. Washoe Little League also previously leased a storage building also at South Valleys Regional Park (that was constructed and maintained at their sole expense) for a five year term, which expired in October of 2015. The proposed new lease term would also be a 60-month term for the storage building.

Previously, Washoe County entered into a Lease Agreement with North Valleys Little League, a Nevada non-profit organization for the concession building at Lemmon Valley Park located at 325 West Patrician, Reno, NV 89506 for a 60-month lease term from April 1 2013 through March 31, 2018, but the league has since re-organized and changed their name to Valley Providence Little League. The previous agreement has been terminated due to the organizational change and a new 60-month lease term is proposed with the Valley Providence Little League, a Nevada non-profit organization.

The proposed new Lease Agreement with Spanish Springs Cal Ripken, a Nevada private, non-profit organization, is for the new concession building at Eagle Canyon Park, located at 400 Eagle Canyon Drive, Sparks, NV 89436. This new lease would also be for a 60-month term consistent with the other concession lease agreements.

FISCAL IMPACT

If the proposed Lease Agreements are approved by the Board, the rental amount paid to Washoe County for the concession lease agreements will be 5% of the gross sales revenue per month for the period of occupancy from April 1, 2016 through March 31, 2021. Based on previous agreements at these locations, total revenue is anticipated at approximately \$2,000-\$3000 per year. There is no revenue associated with the storage building at South Valleys Regional Park.

RECOMMENDATION

It is recommended that the Board of County Commissioners approve Lease Agreements for three parks concession buildings located at South Valleys Regional Park (Washoe Little League lessee), Eagle Canyon Park (Spanish Springs Cal Ripken lessee) and Lemmon Valley Park (Valley Providence Little League lessee); and one parks storage building at South Valleys Regional Park (Washoe Little League lessee) for 60-month terms commencing April 1, 2016 through March 31, 2021 with two 12-month renewal options.

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be: "Move to approve Lease Agreements for three parks concession buildings located at South Valleys Regional Park (Washoe Little League lessee), Eagle Canyon Park (Spanish Springs Cal Ripken lessee) and Lemmon Valley Park (Valley Providence Little League lessee); and one parks storage building at South Valleys Regional Park (Washoe Little League lessee) for 60-month terms commencing April 1, 2016 through March 31, 2021 with two 12-month renewal options."

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Agreement") is made and entered into this ____ day of _____ 2016, by and between Washoe County, a political subdivision of the State of Nevada, hereinafter called "Lessor" and Washoe Little League, a Nevada non-profit corporation, hereinafter called "Lessee".

WITNESSETH:

WHEREAS, Lessor is the sole owner of the South Valleys Regional Park Concession Building ("Building") described below, which Building is not currently needed for the public purposes of Washoe County, and Lessor by virtue of NRS 244.284 may enter into certain leases for civic and charitable purposes, without competitive bidding and without charging fair market value for rent; and

WHEREAS, Lessee, a Nevada non-profit corporation for public benefit, desires to use the Building described below, which use Lessee agrees will be only for civic or charitable purposes; and **WHEREAS**, the parties desire by this Agreement to define their respective rights, duties and liabilities relating to the Building and Premises;

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

SECTION ONE

DESCRIPTION OF BUILDING

Lessor hereby leases unto Lessee the concession area of that Building generally known and designated as the South Valleys Regional Park Concession Building located at the 16050 Wedge Parkway, Reno, Nevada 89511, together with the non-exclusive use of the common areas, entrances, parking lots and restrooms.

SECTION TWO

TERM OF AGREEMENT

The term of this Agreement shall be for sixty (60) months commencing April 1, 2016, and will expire on March 31, 2021, unless extended or terminated upon mutual agreement of the parties as otherwise provided herein. Upon approval by Lessor, Lessee may renew this agreement for two (2) additional twelve-month terms, as provided in Section Four below.

SECTION THREE

RENTAL

Pursuant to NRS 244.284, as long as Lessee remains a qualified non-profit corporation in good standing actively engaged in civil or charitable work, Lessee may occupy said Building for the term of

this Agreement. Lessee shall pay to Lessor a monthly amount of five (5%) of the gross sales revenue, as rent for the use of the facility. The five (5%) percent amount will be paid automatically, without offset or demand directly to Washoe County, through its Community Services Department. Payments will be made at minimum twice annually (due November 10 and July 10). To the following address:

Washoe County Community Services Department
Attention: Director
P.O. Box 11130
Reno, NV 89520

In the event Lessee has not paid the agreed upon sums within 15 calendar days after the due date, interest will incur at the rate of ten (10%) percent annum on any amounts due. In the event that Lessee refuses to comply, Lessor may require Lessee to vacate the premises and remove all personal property within 30 days of notice.

SECTION FOUR RENEWAL OPTION

So long as Lessee remains a non-profit corporation in good standing engaged in civil or charitable work, Lessee shall have two (2) successive options to renew this Agreement, each option shall be for a twelve (12) month term, under the terms and conditions of this Agreement. Said options shall be exercised automatically unless either party submits a written request to terminate this Agreement not less than thirty (30) days prior to the end of the then current term.

SECTION FIVE USE OF BUILDING

A. Lessee shall not use or permit said Building or any part thereof to be used for any purpose other than to conduct the necessary business of the Lessee as a non-profit corporation engaged in civil or charitable work.

B. Lessee shall not conduct or at any time knowingly permit its employee, agent or visitor to conduct activity in the Building, which is unlawful, or in violation of any federal or state or county statute, code or regulation. Said Building shall not be used for storage, transfer, processing, release etc. of any toxic or hazardous materials.

C. During the term or renewal of this Agreement, Lessee shall have sole use of the Concession Area, with non-exclusive use of the restrooms, during Lessee's scheduled events, subject to Lessor's right to approve use of the Building by other individuals, organizations or by Lessor at any time with a two (2) week advance notice to Lessee. If the use by others conflicts with Lessee's scheduling, Lessee shall have the option to either share the Building with the other approved user or

move Lessee's equipment and products into storage, at its sole expense, during such approved use by others. Such use and shared uses shall be consistent with Lessor's Rules and Regulations of the Building, a copy of which is attached hereto and incorporated herein by this reference.

SECTION SIX

ALTERATIONS AND IMPROVEMENTS

- A. The parties hereby acknowledge that the Building is in good condition and is architecturally acceptable to Lessee and shall not be altered, repaired or changed except as herein provided. Prior to commencement of any alteration or improvement, Lessee shall prepare plans and specifications of such work and submit to Lessor for its consideration.
- B. Lessee agrees that it shall not paint, erect partitions, install or change any doors or windows, or place any nails, screws or other implements or fasteners into the woodwork or walls other than for decorative purposes, without the prior written consent of the Lessor.
- C. The parties agree that all the erections, additions, fixtures and improvements, excepting only decorative items and movable equipment, made in or upon said Building shall be Lessor's property and shall remain upon the Building at the termination of this Agreement by lapse of time or otherwise, without compensation to Lessee.
- D. The parties agree that all equipment purchased and installed by Lessee, which is not affixed to the Building, shall remain the property of and the sole responsibility of Lessee and all replacement, repairs and maintenance of said equipment is the sole responsibility of Lessee, unless said damage was caused by Lessor's negligence.
- E. The erection, construction, installation or making of any approved improvements shall be accomplished and completed in a workmanlike manner and in compliance with all applicable state and municipal laws and regulations and will be accomplished under the direction of licensed contractors. Lessee shall keep the Building free from any liens arising out of any work performed, or materials furnished, or obligations incurred by Lessee.

SECTION SEVEN

LESSOR IMPROVEMENTS

- A. Lessor reserves the right from time to time and at its own expense to make such improvements, alterations, renovations, changes; and repairs in and about the Building as Lessor shall deem necessary or desirable, provided Lessor gives Lessee, prior to entering the Building, a minimum 48 hours notice of its intent to do so. Except where such improvements, alterations, changes and repairs unreasonably disrupt Lessee's use and peaceful enjoyment of the Building, Lessee shall make

no claim against Lessor for abatement of rent for interference with Lessee's leasehold interest or for loss or damage to its business during such improvements, alterations, changes and repairs.

B. Lessor shall make all improvements in a safe, workmanlike manner so as not to prove hazardous to Lessee and/or the public.

SECTION EIGHT

UTILITIES, JANITORIAL, TELEPHONE AND SERVICES

A. Lessor shall supply electricity and water to the Building. Lessor, through its Community Services Department, according to its sole discretion shall establish the hours and days of operation of the Building. In this connection, it is mutually understood and agreed that Lessor shall not be liable for damages, by abatement of rent or otherwise, for failure to furnish or delay in furnishing such utilities when occasioned by strikes, lockouts, labor controversies, accident or casualty, or any cause beyond the reasonable control of Lessor.

B. Lessee shall be responsible for securing the restrooms and the Building on the days that are scheduled to be used by Lessee.

C. Lessee shall provide janitorial services to the restrooms, during the days that the Building is in service. Lessor shall provide janitorial materials for the restrooms on the days that the Building is scheduled to be used by Lessee. Lessor will provide janitorial services to the restrooms only for other park events, tournaments, permits outside of Lessee's scheduled building use.

D. Lessor shall schedule the water service and trash for the Building and will provide Lessee with the dates of commencement and shut off of such services.

E. Lessee will be responsible for the installation and payment of any telephone service, including fax and computer lines, as required by Lessee.

F. Lessee shall be provided keys to the concession and restroom doors of the Building. Upon termination of this Agreement, Lessee shall return all keys to Lessor.

SECTION NINE

MAINTENANCE, REPAIRS AND INSPECTIONS

A. Except as otherwise provided in this Agreement, Lessor shall be responsible for maintenance and repair of the Building at its sole expense. Lessee agrees that all damage to the Building caused by Lessee or any person who may be in or upon the Building with the consent of Lessee, or because of Lessee's presence, shall be the full responsibility of Lessee.

B. The parties agree that all equipment purchased and installed by Lessee, which is not affixed to the Building, shall remain the property of and the sole responsibility of Lessee and all

replacement, repairs and maintenance of said equipment is the sole responsibility of Lessee, unless said damage was caused by Lessor's negligence. Prior to occupancy by Lessee, it shall furnish an inventory list of any and all equipment that will be removed upon vacating the Building.

C. Lessee shall permit Lessor or its authorized agents to enter into the Building at all reasonable times for the purpose of inspecting the same or for the purpose of making repairs or maintaining the Building. Lessee shall not change the locks without prior consent by Lessor.

SECTION TEN

SIGNS

Lessee agrees that no sign or advertisement shall be painted or affixed to any part of the outside or inside of the Building without written consent of Lessor.

SECTION ELEVEN

WAIVER

Any failure on the part of either party to take action against the other for any breach of covenant herein shall not be construed to constitute a waiver of any other or subsequent breach.

SECTION TWELVE

CONDEMNATION

In the event that any part of the Building hereby demised shall be condemned or taken by any county, federal, state or other authority for any purpose, then the term of this Agreement shall cease on the part so taken from the day the possession of that part is required for any public purpose. Thereafter, the Lessee or the Lessor shall have the right to either cancel this Agreement or to continue in the possession of the remainder of the same under the terms herein provided, except that the area of occupancy shall be reduced in proportion to the area of that portion of the Building taken for such public purpose. All damages awarded for the taking of the Building for any public purpose shall belong to and be the property of the party suffering such damage whether such damage be awarded as compensation for diminution in value to the leasehold or to the fee of the Building herein leased.

SECTION THIRTEEN

INDEMNIFICATION

A. Lessee shall hold harmless, indemnify and defend Lessor, its officers, agents and employees from any loss or liability, financial or otherwise resulting from any claim, demand, suit, action or other cause of action based on bodily injury, death or property damage to any person, including Lessee's employees and agents, caused by any action, either direct or passive, or the omission, failure to act or negligence on the part of the Lessee, its employees, agents or

representatives, and any action arising out of the use of the building pursuant to this Agreement.

B. In the event any legal action is brought against Lessor, its officers, agents, employees or volunteers, as a result of Lessee's negligence, Lessee shall reimburse Lessor for costs and attorneys' fees incurred by Lessor.

SECTION FOURTEEN INSURANCE

A. Lessor, at its sole cost and expense, shall:

1. Secure and maintain fire and extended insurance for the Premises in an amount and coverage determined by Lessor during the term or any extended term of this Agreement.

2. Lessor may fund any such coverage and related financial obligations through a program of self-funding administered by its Risk Management Division. Any and all claims related to the use of the Building by Lessee shall be forwarded to Lessor in a timely manner.

3. Lessor hereby expressly waives and releases any cause of action or right of recovery which Lessor may have hereafter against the Lessee for any loss or damage to the Building, or to the contents thereof belonging to either, caused by fire, explosion, or any other risk covered by insurance; and

B. Lessee, at its sole cost and expense, shall:

1. Maintain fire insurance on all contents owned by Lessee located at the Building.

2. Secure and maintain comprehensive or commercial general liability insurance coverage (occurrence form). Coverage limits shall be not less than \$1,000,000 per occurrence and at least \$2,000,000 annual aggregate during the term of this Agreement. The policy shall be endorsed to add Washoe County as a Named Insured.

3. Lessee hereby expressly waives and releases any cause of action or right of recovery which Lessee may have hereafter against the Lessor for any loss or damage to the Building, or to the contents thereof belonging to either, caused by fire, explosion, or any other risk covered by Lessee's insurance, and

4. Lessee shall obtain a waiver from any insurance carrier with which Lessee carries fire, explosion or any other risk coverage insuring the Building or the contents thereof releasing its subrogation rights against Lessor.

5. In the event Lessee's occupancy causes any increase of premium for Lessor's insurance on the Building, or any parts thereof, Lessor shall notify Lessee in writing of such increase. Lessee shall have fifteen (15) days after receipt of written notification from Lessor of such increase to

correct or mitigate, if applicable, said circumstances that resulted in the need for a premium increase. If Lessee is unable to mitigate or correct said hazardous occupancy, where applicable, Lessee shall upon written agreement pay the increased premium or terminate said Agreement.

SECTION FIFTEEN
HAZARDOUS SUBSTANCES

A. Lessee shall not cause or permit any hazardous substances to be used, released, stored, manufactured or disposed in or upon the Building except in the minimum quantities as are customary and usual in connection with Lessee's permitted use. If the Building becomes contaminated as a result of a violation by Lessee of this Section Fifteen, for which Lessee is legally liable, Lessee shall indemnify, defend and hold Lessor harmless from all related claims, judgments, penalties, costs or losses, including all expenses incurred for investigation, removal, remediation and restoration mandated by federal, state and local governments, together with Lessor's attorney's fees.

B. If hazardous substances have been used, released, stored, manufactured or disposed in or upon the Building or connected areas outside the Building, or if the Building or connected areas outside the Building, are or become contaminated in any manner, for which Lessor is legally liable, Lessor shall indemnify, defend and hold Lessee harmless from all related claims, judgments, penalties, costs or losses, including all expenses incurred for investigation, removal, remediation and restoration mandated by federal, state and local governments, together with Lessee's attorney fees. Hazardous substances mean all toxic, ignitable, reactive and corrosive substances regulated by federal, state or local governments.

SECTION SIXTEEN
QUIET ENJOYMENT

Lessee, while in compliance with the terms and covenants herein, is entitled to the quiet enjoyment of the Building for the term hereby created, subject to the provisions of Section Five of this Agreement.

SECTION SEVENTEEN
NOTICES

All notices and demands which may be required to be served upon the respective parties to this Agreement shall be in writing and may be served either personally or by certified mail, postage prepaid, addressed to Lessee at: Washoe Little League, Attn: President, PO Box 18292, Reno, NV 89511 and upon Lessor to: Community Services Department, Attn: Director Box 11130, Reno, NV 89520 or at such other address as the parties may designate and serve upon the

other. Any service by mail shall be deemed served upon deposit with the United States Post Office.

SECTION EIGHTEEN

COSTS AND ATTORNEY'S FEES

Should either party hereto institute any action or proceeding of any kind to enforce or interpret any provision hereof or for damages by reason of an alleged breach of any provision of this Agreement, neither party shall be entitled to recover any amount as a reasonable attorney fee for any reason, even if said party is deemed to be the prevailing party in such action or proceeding. Costs of suit may be awarded as allowed by law.

SECTION NINETEEN

CHOICE OF LAW; VENUE

This Agreement shall be construed in accordance with and be governed by the laws of the State of Nevada. All parties hereto consent to the personal jurisdiction of the state court located in Washoe County, Nevada, and to the service of process by any means authorized by such state court or under the laws of the State of Nevada. The exclusive venue of any action, proceeding or counterclaim arising out of or in connection with this Agreement shall be Washoe County, Nevada.

SECTION TWENTY

RULES AND REGULATIONS

The Rules and Regulations of the Building set forth as Exhibit A, which may be amended from time to time, are expressly made part of this Agreement and the Lessee agrees to perform them insofar as said rules and regulations are not inconsistent with the terms of this Agreement.

SECTION TWENTY-ONE

TERMINATION

- A. Upon termination of this Agreement, Lessee shall quit the Building peaceably, with no damage to the Building, normal wear and tear excepted.
- B. It is understood and agreed that either party may cancel this Agreement with or without cause upon providing ninety (90) days written notice to the other party or as specifically defined below.
- C. This Agreement may be terminated by either party in the event the other party breaches any of the provisions herein or defaults on its obligations. A default will also occur in the event either party either voluntarily petitions or is involuntarily placed in bankruptcy or assigns or attempts to assign a substantial amount of his assets for the benefit of creditors.

SECTION TWENTY-TWO
FUNDING OUT CLAUSE

Pursuant to NRS 244.320, in the event Lessor fails to appropriate budget funds specifically for the purpose of maintaining said Building, in any subsequent fiscal year after the effective date of the Agreement, Lessee hereby agrees to cancel this Agreement and hold Lessor harmless from any penalty, charge or sanction. Lessor agrees to provide written notice to Lessee of this eventuality, should it occur.

SECTION TWENTY- THREE
LESSEE'S REPRESENTATIVES AND AUTHORITY

Lessee represents and warrants that the signature block below for Lessee accurately describes Lessee's current ownership, partnership , agencies or representatives and capacities, that each such entity, including Lessee, has by proper action pursuant to each entity's respective formation documents duly authorized the execution of this Agreement or duly delegated such authority to a lawful representative, and that there exists no contractual or legal impediments to the execution and performance required hereunder by Lessee.

SECTION TWENTY-FOUR
DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

Lessee certifies to the best of its knowledge and belief that it and its principals and agents:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
- B. Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- C. Are not presently indicted for or otherwise criminally or civilly charged by a Government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph "B" of this certification; and
- D. Have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default. Lessee understands that a false statement on this certification may be ground for rejection of this Agreement. In addition,