

Item # 30B

**City of Carson City  
Agenda Report**

**Date Submitted:** October 6, 2009

**Agenda Date Requested:** October 15, 2009

**To:** Board of Supervisors

**Time Requested:** 10 minutes

**From:** Joe McCarthy, Office of Business Development

**Subject Title:** Action to approve Amendment Two to the Settlement Agreement between Carson City Nugget, Inc., and Carson City regarding abandonment of streets.

**Staff Summary:** This Amendment Two to the Settlement Agreement allows the City to make available to the Nugget settlement funds in the amount of \$438,589.00 to explore a master development on and about the Nugget's downtown Carson City properties.

**Type of Action Requested:** (check one)  
 Resolution  Ordinance  
 Formal Action/Motion  Other (Specify) - None

**Does This Action Require A Business Impact Statement:**  Yes  No

**Recommended Board Action:** I move to approve Amendment Two to the Settlement Agreement between Carson City Nugget, Inc., and Carson City regarding abandonment of streets.

**Explanation for Recommended Board Action:** See staff summary

**Applicable Statue, Code, Policy, Rule or Regulation:** N/A

**Fiscal Impact:** The fiscal impact is \$438,589.00

**Explanation of Impact:** The fiscal impact will not change.

**Funding Source:** This incentive comes from the remaining unspent bond proceeds, but the needed amount dedicated to satisfying the provision of the street abandonment settlement with the Carson Nugget has been preserved.

**Alternatives:** Not approve the Agreement, modify the agreement.

**Supporting Material:** Amendment Two to the Settlement Agreement between Carson City Nugget, Inc., and Carson City regarding abandonment of Streets and Incentive Program Application.

Prepared By: Eva Chwalisz, Management Assistant

Reviewed By:

[Signature]  
(Department Head)

Date: 10-6-09

[Signature]  
(City Manager)

Date: 10-6-09

[Signature]  
(District Attorney)

Date: 10-6-09

[Signature]  
(Finance Director)

Date: 10-6-09

**Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_

Aye/Nay

2) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)

AMENDMENT TWO TO THE SETTLEMENT AGREEMENT BETWEEN  
CARSON CITY NUGGET, INC., CARSON NUGGET, INC., AND CARSON CITY  
REGARDING ABANDONMENT OF STREETS

**THIS AGREEMENT** is made and entered into this \_\_\_ day of October, 2009, between CARSON CITY NUGGET, INC. and CARSON NUGGET, INC., hereinafter referred to as "NUGGET", and CARSON CITY, a consolidated municipality and political subdivision of the State of Nevada, hereinafter referred to as "CITY", as follows:

**WHEREAS**, NUGGET claims to have suffered certain injuries and damages as a result of its payments to the CITY for the CITY'S abandonment of certain portions of Plaza Street and abandonment of certain portions of Spear Street; and

**WHEREAS**, the claims of NUGGET arising out of the Abandonments are set forth in and are the subject of case number 00-00262A filed in the First Judicial District Court of the State of Nevada, in and for Carson City (hereinafter referred to as "Action"), wherein CITY is the Defendant and NUGGET is the Plaintiff; and

**WHEREAS**, the parties to said litigation arrived at a mutually satisfactory resolution of their dispute and potential claims on April 3, 2008 which is memorialized in the "SETTLEMENT AGREEMENT BETWEEN CARSON CITY NUGGET, INC., CARSON NUGGET, INC., AND CARSON CITY REGARDING ABANDONMENT OF STREETS" (hereinafter referred to as the "Agreement") dated April 3, 2008; and

**WHEREAS**, paragraph 23 of the Agreement permits the parties to amend the Agreement; and

**WHEREAS**, on June 5, 2008, the parties entered into "AMENDMENT ONE TO THE SETTLEMENT AGREEMENT BETWEEN CARSON CITY NUGGET, INC., CARSON NUGGET, INC., AND CARSON CITY REGARDING ABANDONMENT OF STREETS" which amended paragraph 11 of the Agreement to require the CITY to pay to NUGGET a sum of money not to exceed \$50,000 for the cost of one or more feasibility studies; and

**WHEREAS**, the total cost paid by the City for the feasibility study was \$10,000; and

**WHEREAS**, the CITY desires to make available the remaining \$40,000 for costs referred to in Paragraph 8 or Paragraph 9 of the Agreement; and

**WHEREAS**, on November 20, 2008, the parties entered into "ADDENDUM ONE TO THE SETTLEMENT AGREEMENT BETWEEN CARSON CITY NUGGET, INC., CARSON NUGGET, INC., AND CARSON CITY REGARDING ABANDONMENT OF STREETS" wherein the parties added paragraph 24 to the Agreement which states, in part, that the CITY agrees to pay all costs associated with the construction and installation of a transformer for the Arlington Square Ice Rink, and that all costs paid by the CITY for the construction and installation shall reduce the \$481,088.00 that is to be used towards projects listed in paragraph 8 of the Agreement or paragraph 9 of the Agreement; and

**WHEREAS**, the total cost that was paid by the CITY for the construction and installation of the transformer for the Arlington Square Ice Rink was \$82,499.00; and

**WHEREAS**, pursuant to the Agreement, NUGGET agrees to reduce the \$481,088.00 owed by CITY to NUGGET by the amount of \$82,499.00; and

**WHEREAS**, the parties desire to enter into this Second Amendment to the Agreement to allow the CITY to make available to the NUGGET the additional \$40,000, reduce the \$481,088.00 by the \$82,499.00 that was paid by the CITY for the construction and installation of the transformer and to reflect future projects and activities that will replace those projects currently listed in paragraph 8 of the Agreement or paragraph 9 of the Agreement.

**NOW, THEREFORE**, the parties agree to amend the following paragraphs in the Agreement to read as follows:

1. Paragraph 7 will be replaced in its entirety with the following language:

7. As further additional compensation to NUGGET, CITY agrees to expend a total of \$438,589.00 on projects described in Paragraph 8 or Paragraph 9 of this Agreement.

2. Paragraph 8 will be replaced in its entirety with the following language:

8. The NUGGET wishes to explore a master development on and about the NUGGET's downtown Carson City properties. As part of this master development, the NUGGET intends to accommodate within the master development a project that provides public benefit, and supports business development, incubation space and opportunities for private investment combined with a civic anchor institution, hereinafter the "Nugget Development Project." The details of the Nugget Development Project are yet to be determined. In order to fully explore the possibilities of such a development, pre-development work must be completed. In order to accomplish this pre-development work, CITY will issue payment to the Nugget in the full amount of the adjusted settlement amount or \$438,589.00. The Nugget will not comingle those funds with other Nugget

income, but set up the "Nugget Development Project" account which will be used solely to pay Nugget Development Project costs. The Nugget commits and warrants that it will spend those settlement funds solely on the Nugget Development Project. The Nugget agrees that CITY may request that Nugget provide satisfactory proof that the settlement funds are being expended in a manner in compliance with this Agreement. CITY agrees that, if any portion of this money will come from funds controlled by the Carson City Redevelopment Authority, CITY will take any and all actions necessary to ensure that the reimbursement is made in accordance with the requirements of chapter 279 of the Nevada Revised Statutes and the policies and procedures of the Carson City Redevelopment Authority and with the proper approval of the Carson City Redevelopment Authority. Any deliverables produced as a result of the pre-development work shall be made available to CITY. The City Manager or his designee shall review pre-development progress and due diligence and quarterly reports shall be made to the Board of Supervisors.

3. Paragraph 9 will be replaced in its entirety with the following language:

9. In the event that the project described in Paragraph 8 of this Agreement goes forward, any money remaining from the amount set forth in Paragraph 8 that is not used for pre-development costs pursuant to Paragraph 8 shall be used for costs associated with the project. In the event that the project described in Paragraph 8 of this Agreement does not go forward, any money remaining from the amount set forth in Paragraph 8 shall be used by CITY to partially improve East Robinson Street and North Plaza Street curb, gutters and sidewalks (the "Street

Improvements") as shown in Exhibit E, attached hereto and incorporated herein by this reference. In the event the Street Improvements are not completed by December 31, 2011, the CITY will pay to NUGGET any remaining money set forth in Paragraph 8 of this Agreement that is not used for the pre-development costs of the project as described in Paragraph 8 or for the Street Improvement, or any other projects that may be agreed upon by the CITY and NUGGET. CITY agrees that, if any portion of this money will come from funds controlled by the Carson City Redevelopment Authority, CITY will take any and all actions necessary to ensure that the reimbursement is made in accordance with the requirements of chapter 279 of the Nevada Revised Statutes and the policies and procedures of the Carson City Redevelopment Authority and with the proper approval of the Carson City Redevelopment Authority.

**IT IS FURTHER AGREED** by NUGGET and CITY that no other provisions of the Agreement, the First Amendment to the Agreement and the First Addendum to the Agreement are affected by this Amendment.

**IT IS FURTHER AGREED** by NUGGET and CITY that this amendment will be attached to the "SETTLEMENT AGREEMENT BETWEEN CARSON CITY NUGGET, INC., CARSON NUGGET, INC., AND CARSON CITY REGARDING ABANDONMENT OF STREETS" dated April 3, 2008.

**CARSON CITY, NEVADA**

**ATTEST:**

By: \_\_\_\_\_  
ROBERT L. CROWELL, Mayor

\_\_\_\_\_  
ALAN GLOVER  
Clerk/Recorder

APPROVED AS TO FORM:

\_\_\_\_\_  
NEIL A. ROMBARDO  
District Attorney

**CARSON CITY NUGGET, INC.,** a Nevada Corporation

By: \_\_\_\_\_ Its: \_\_\_\_\_

**CARSON NUGGET, INC.,** a Nevada Corporation

By: \_\_\_\_\_ Its: \_\_\_\_\_

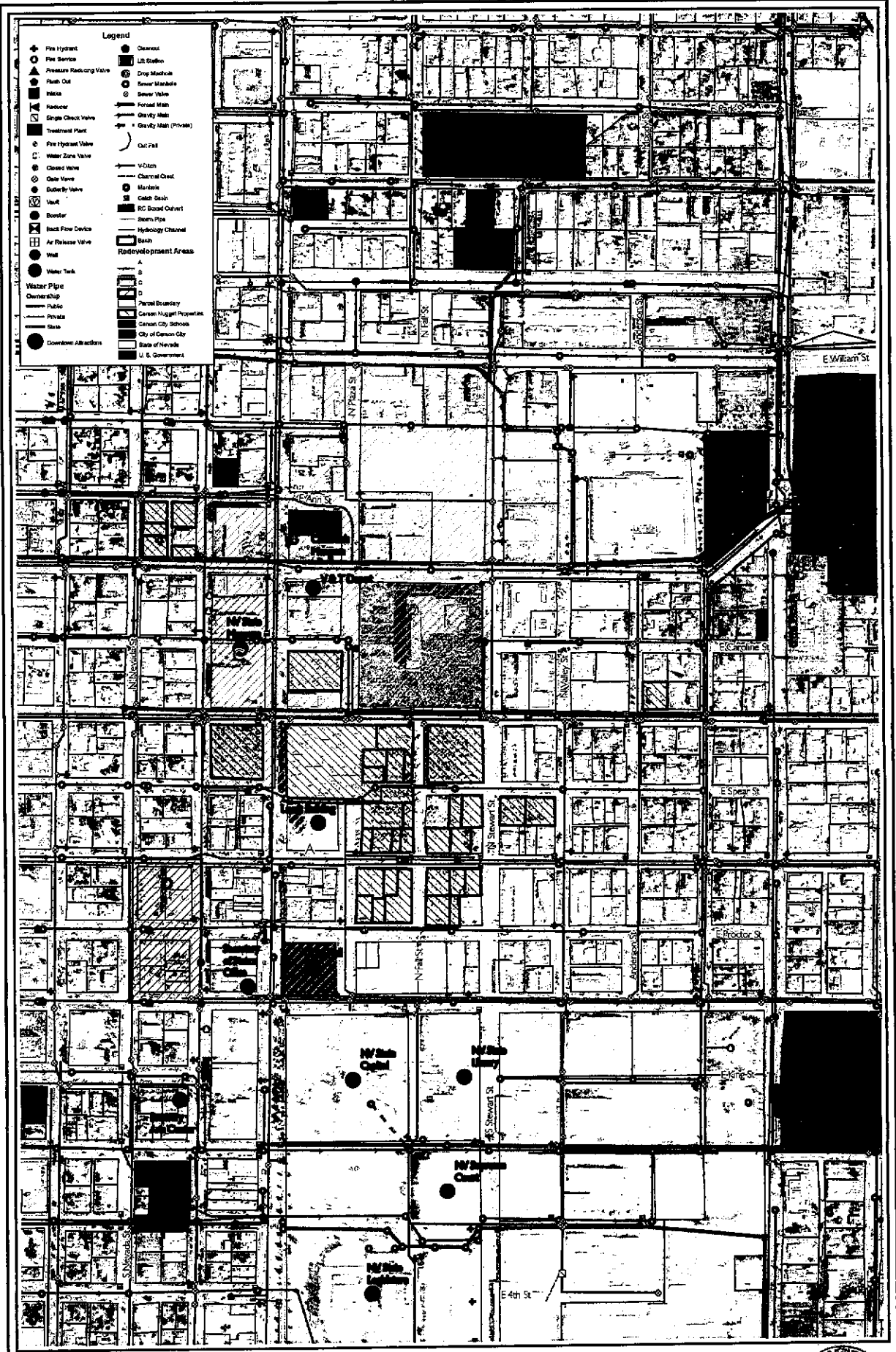
STATE OF NEVADA     )  
                                  ): ss.  
CARSON CITY         )

On this \_\_\_\_ day of \_\_\_\_\_, 2009, \_\_\_\_\_ and

\_\_\_\_\_ personally appeared before me, a Notary Public, who  
acknowledged to me that they executed the foregoing Agreement.

\_\_\_\_\_  
NOTARY PUBLIC





- Legend**
- ◆ Fire Hydrant
  - Fire Service
  - ▲ Pressure Reducing Valve
  - Flush Out
  - Inlet
  - ⊠ Reducer
  - ⊞ Single Check Valve
  - ⊞ Treatment Plant
  - Fire Hydrant Valve
  - Water Zone Valve
  - Closed Valve
  - Gate Valve
  - Outside Valve
  - ⊞ Vault
  - ⊞ Booster
  - ⊞ Back Flow Device
  - ⊞ Air Release Valve
  - Well
  - Water Tank
- Water Pipe**
- Public
  - Private
  - State
  - Combined All others
- Cleanout
  - LID Station
  - Drop Manhole
  - Sewer Manhole
  - Sewer Valve
  - Force Mains
  - Gravity Main
  - Gravity Main (Private)
  - Out Fall
  - V-Ditch
  - Channel Creek
  - Manhole
  - Catch Basin
  - RC Boxed Culvert
  - Storm Pipe
  - Hydrology Channel
  - Wash
- Redevelopment Areas**
- A
  - B
  - C
  - D
  - E
  - F
  - G
  - H
  - I
  - J
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  - P
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  - R
  - S
  - T
  - U
  - V
  - W
  - X
  - Y
  - Z
- Ownership**
- Parcel Boundary
  - Carson Nugget Properties
  - Carson City Schools
  - City of Carson City
  - State of Nevada
  - U. S. Government

Carson City  
 GIS Division  
 3505 Burling Way  
 Carson City, NV 89701  
 (775) 887-2343

CARSON CITY, NEVADA  
 THIS MAP IS PREPARED FOR THE CITY OF CARSON CITY  
 FOR ILLUSTRATIVE PURPOSES ONLY. IT DOES NOT  
 REPRESENT A WARRANTY, NO LIABILITY IS ASSUMED AS  
 TO THE ACCURACY OR COMPLETENESS OF THE DATA  
 DELIVERED HEREON.

Photo Flown:  
 2008

# Carson Nugget, INC. Redevelopment Area

N  
 1 Inch = 300 Feet

