

item # 4-3c

**Carson City
Agenda Report**

Date Submitted: October 28, 2008

Agenda Date Requested: November 6, 2008

Time Requested: Consent

To: Mayor and Supervisors

From: City Manager

Subject Title: Action to approve subleasing a portion of the Brewery Arts Center to Scotty's Family Restaurant to operate a café subject to the terms of the amended lease between Carson City and the Brewery Arts Center.

Staff Summary: The amended lease for the Brewery Arts Center allows for subleasing portions of the property so long as the Lessor (Carson City) provides written consent to the sub-lease.

Type of Action Requested: (check one)

(☐) Resolution

(☐) Ordinance

(☒) Formal Action/Motion

(☐) Other (Specify)

Does This Action Require A Business Impact Statement: (☐) Yes (☒) No

Recommended Board Action: I move to approve subleasing a portion of the Brewery Arts Center to Scotty's Family Restaurant to operate a café subject to the terms of the amended lease between Carson City and the Brewery Arts Center.

Explanation for Recommended Board Action: This action will allow the Brewery Arts Center to sublease space to be used for a café. The sublease agreement is and shall be at all times, subject to and subordinate to the terms of the amended master lease between Carson City and the Brewery Arts Center.

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

Fiscal Impact: None to the City

Explanation of Impact: N/A

Funding Source: N/A

Alternatives: Approve, modify or deny.

Supporting Material: Sublease Agreement

Prepared By: Lawrence A. Werner, P.E., P.L.S., Director/City Engineer

Reviewed By:

(Department Head)

(City Manager)

(District Attorney)

(Finance Director)

Date: _____

Date: 10-28-08

Date: 10-28-08

Date: 10-28-08

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)

**SUB-LEASE AGREEMENT
(Scotty's Family Restaurant)**

THIS SUB-LEASE AGREEMENT is made this ____ day of _____, 2008 by and between, Brewery Arts Center (formerly the Carson City Arts Alliance, Inc.), herein called "LESSEE" and Scotty's Family Restaurants, Inc., herein called "SUB-LESSEE."

RECITALS

WHEREAS, by lease dated June 24, 1977, LESSEE did lease space located at 449 W. King Street in Carson City, Nevada, herein called the "premises." A portion of said space consists of approximately 780 sq. ft., and is herein called the "sub-let premises"; and

WHEREAS, LESSEE agrees to sublease to Sub-LESSEE the sub-let premises described above.

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

- 1) MASTER LEASE: LESSEE is the tenant of the Premises by virtue of a Lease, hereinafter the "Master Lease", wherein Carson City is the Lessor. This Sub-lease agreement is and shall be at all times subject and subordinate to the Master Lease. The terms, conditions and respective obligations of the LESSEE and SUB-LESSEE to each other under this Sub-lease agreement shall be the terms and conditions of the Master Lease. During the term of this Sub-lease agreement SUB-LESSEE does hereby expressly assume and agree to perform and comply with, for the benefit of LESSEE and Lessor, each and every obligation of the LESSEE under the Master Lease.
- 2) CONSENT OF LESSOR: The Master Lease requires that LESSEE obtain the consent of the Lessor to any sub-letting by LESSEE. Therefore this Sub-lease agreement shall not be effective unless Lessor signs this Sub-lease Agreement, giving its consent to this Sub-lease.
- 3) SUB-LET PREMISES: The sub-let premises will be approximately 780 square feet of the 1,560 square foot Artisan Store on the first floor of the premises. SUB-LESSEE shall have use of the kitchen on the second floor. Use of the kitchen shall be scheduled with LESSEE as needed.
- 4) TERM: The term of this Sub-Lease shall be for a period of thirty six (36) months commencing November 6, 2008 and terminating on November 5, 2011. SUB-LESSEE shall have one (1) three (3) year option to re-new the sub-lease at a base rental rate to be mutually agreed upon.

- 5) RENT AND OTHER CHARGES: Rent shall be deemed all monetary obligations of LESSEE under the terms of the Master Lease. Monthly base rental rate for the first twelve (12) month period (Year 1) for the sub-let premises shall be One Thousand and 00/100 Dollars (\$1,000.00), payable on or before the first day of each month and subject to the following annual base rent adjustments:

Year 2	\$1,100.00 per month	\$13,200.00 per year
Year 3	\$1,200.00 per month	\$14,400.00 per year

- 6) ADDITIONAL RENT: SUB-LESSEE shall pay to LESSEE additional rent on a monthly basis in the amount of Three Hundred Fifty and 00/100 Dollars (\$350.00) for utilities and common area expenses. Additional Rent shall be adjusted in accordance with the SUB-LESSEE'S prorated usage of utilities and maintenance of the sub-let premises and common area.
- 7) NOTICE: All notices, requests, demands and other communications required under this Sub-Lease Agreement shall be in writing and served either personally, sent by United States mail, certified, postage prepaid or by a reputable overnight courier service addressed at the addresses set forth below or at such other addresses as the parties may advise each other from time to time:

LESSEE: BREWERY ARTS CENTER
449 W. King Street
Carson CITY, Nevada 89703

SUB-LESSEE: SCOTTY'S FAMILY RESTAURANTS, INC.
2811 S. Carson Street
Carson City, Nevada 89701

Lessor: CARSON CITY, A CONSOLIDATED MUNICIPALITY
201 N. Carson Street
Carson City, Nevada 89701

With Copy to:

- 8) TENANT IMPROVEMENTS/ALTERATIONS: Any tenant improvements or alterations to the sub-let premises by SUB-LESSEE shall require written approval of the LESSEE and Lessor. All improvements shall be performed by a licensed contractor also subject to approval by LESSEE and Lessor. SUB-LESSEE shall be responsible for all costs associated with preparing the sub-let premises for SUB-LESSEE'S use. LESSEE and SUB-LESSEE will provide equipment contributions with said equipment contributions to be documented in Exhibit "A." SUB-LESSEE shall keep the sub-let premises free and clear of any liens or encumbrances of any kind created by SUB-LESSEE'S acts or omissions. At least ten (10) days prior to the commencement of any major improvement work SUB-

LESSEE shall notify LESSEE and LESSEE shall notify Lessor so that Lessor may file a notice of non-responsibility.

9) INSURANCE:

SUB-LESSEE shall indemnify and hold harmless the LESSEE, the Lessor, their officers, agents and employees, from and against any and all claims, demands, loss or liability of any kind or nature which LESSEE, the Lessor, their officers, agents and employees, or any of them, may sustain or incur or which may be imposed upon them or any of them, for injury to or death of any persons or damage to any property in the use of the sub-let premises leased herein.

SUB-LESSEE agrees to have and maintain a policy of Comprehensive General Liability insurance covering the sub-let premises throughout the term of the Sub-Lease at no cost to the LESSEE or Lessor in the amount of \$1,000,000 per Occurrence and \$2,000,000 in the Aggregate.

SUB-LESSEE agrees to provide a Certificate of Insurance and a Policy Endorsement naming Lessor as an Additional Insured prior to occupancy of the sub-let premises and on all renewal dates of said policy.

Carson City Purchasing and Contracts, 201 North Carson Street, Suite 11, Carson City NV. 89701 shall be listed as the certificate holder.

The Comprehensive General Liability Insurance shall include coverage for, (but not limited to) Liability coverage arising from occupancy of the sub-let premises, Operations, Independent Contractors, Products/Completed Operations, Personal and Advertising Injury, and Liquor Liability.

SUB-LESSEE's Comprehensive General Liability insurance shall be primary insurance with respect to the Named Insureds and Additional Insureds.

SUB-LESSEE shall maintain adequate fire and extended casualty insurance on the sublet premises to cover the replacement value of its stock in trade, building, furniture, fixtures and leasehold improvements.

The Certificate of Insurance shall state that coverage may not be cancelled or modified unless and until thirty (30) days written notice is given to LESSEE and Lessor. SUB-LESSEE agrees to carry Workers Compensation Insurance in the amount of the Statutory Limits for the State of Nevada with a limit of \$1,000,000 for Employer's Liability. Insurance coverage is to be placed with insurance carriers with a Best's rating of no less than A-VII and that are acceptable to LESSEE and Lessor. The insurance carriers must be approved to do business in the State of Nevada.

The procuring of such policies of insurance shall not be construed to be a limitation upon the SUB-LESSEE's liability, or as a full performance on its part of the indemnification provisions of this sub-lease, SUB-LESSEE's obligation being, notwithstanding said policies of insurance, for the full and total amount of any damage, injury or loss caused by negligence or neglect connected with its operation under this sub-lease.

10) ENTIRE AGREEMENT: This Sub-lease agreement and any exhibit attached hereto and made a part hereof contains the entire agreement of the parties with respect to the matters covered herein, and no other agreement, statement or promise made by any party or to any employee, officer, member or agent of any party which is not contained herein shall be binding or valid.

IN WITNESS WHEREOF, this Sub-Lease Agreement has been executed as of the date set opposite their signatures below.

LESSEE: Brewery Arts Center

By:_____

Dated:_____

SUB-LESSEE: Scotty's Family restaurants, Inc.

By:_____

Dated:_____

LESSOR: Carson City, a consolidated municipality

By:_____

Dated:_____