

#12B+H

**City of Carson City
Agenda Report**

Date Submitted: November 10, 2008

Agenda Date Requested: Nov 20, 2008

To: RDA/BOS

Time Requested: 5 minutes

From: RDA / BOS

Subject Title: Action to approve Addendum One to the Settlement Agreement Between Carson City Nugget, Inc., Carson Nugget, Inc., and Carson City Regarding Abandonment of Streets.

Staff Summary: The parties entered into an agreement on April 3, 2008 to settle a lawsuit regarding the abandonment of certain streets. The parties desire to amend the agreement to allow Carson City to reduce the interest payment to the Nugget to pay for the final costs of a transformer, switch gear equipment, site prep and installation as needed for power for the ice rink if improvement is not covered by projected rink revenue.

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

Applicable Statue, Code, Policy, Rule or Regulation: NRS 279

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

Recommended Board Action: I move to approve Addendum One to the Settlement Agreement Between Carson City Nugget, Inc., Carson Nugget, Inc., and Carson City Regarding Abandonment of Streets.

Explanation for Recommended Board Action: The parties entered into an agreement on April 3, 2008 to settle a lawsuit regarding the abandonment of certain streets. The parties desire to amend the agreement to allow Carson City to reduce the interest payment to the Nugget to pay for a transformer, switch gear equipment, site prep and installation costs needed for power for the ice rink.

Applicable Statue, Code, Policy, Rule or Regulation: NRS 279

Fiscal Impact: Approximately \$70,000.00 which includes transformer, switch gear equipment, site prep and installation as needed for power for the ice rink if improvement is not covered by projected rink revenue. The parties are hopeful that Nevada Energy will provide a rebate to offset some of these costs. The parties agree that if Nevada Energy does provide a rebate, the rebate will go to the Carson Nugget, Inc., and Carson City Nugget, Inc. However, it is understood by the parties, that a rebate is not guaranteed, and therefore, should it not occur, Carson City is not

responsible for increasing the amount of the interest payment that was reduced by the addendum or providing a rebate to the Carson Nugget, Inc., or Carson City Nugget, Inc.

Explanation of Impact: It is hoped that revenues should equal all expenses, plus in-kind support from both the public and private sector. The revenues will come from income generated by the project, a reasonable admission charge, skate rentals and numerous sponsorships. The budget is \$365,000 (including a contingency of 15%) Thus the RDA and the Carson Nugget's seed money for improvements and rink rental may be paid back in full after the close of the project. The additional \$15,000 expenses are consistent with the type of costs incurred annually by redevelopment thru its events coordination budget.

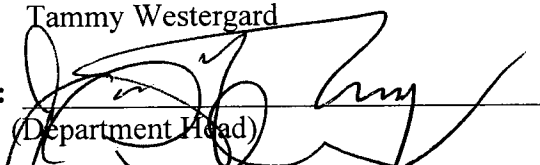
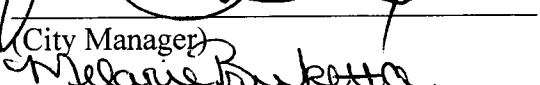
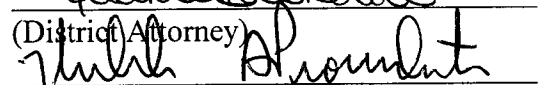
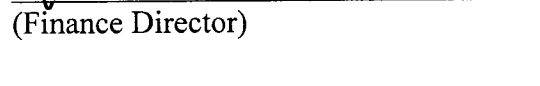
Funding Source: Redevelopment budget

Alternatives: Choose not to approve the funding allocation

Supporting Material: Arlington Square Ice Rink Packet, budget, contract and additional materials

Prepared By: Tammy Westergard

Reviewed By:


(Department Head)

(City Manager)

(District Attorney)

(Finance Director)

Date: 11-12-08

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ADDENDUM ONE 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 _____, 2008, by and 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 subject of that certain Case No. 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 amended paragraph 11 of the Agreement; and

WHEREAS, the parties now desire to add a new paragraph to the Agreement;

NOW, THEREFORE, the parties agree to add paragraph 24 as follows:

24. CITY and NUGGET are cooperating in the installation of a temporary ice rink during the winter of 2008-2009. The ice rink will be located on NUGGET property. In order for installation of the ice rink to occur, Nevada Energy must install a transformer on NUGGET property. NUGGET therefore agrees that the CITY shall pay all costs associated with the construction and installation of the transformer 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. The parties are hopeful that Nevada Energy will provide a rebate to off-set some of the costs. The parties agree that if Nevada Energy does provide a rebate, the rebate will go to the NUGGET. However, it is understood by the parties, that a rebate is not guaranteed, and therefore, should it not occur, CITY is not responsible for increasing the amount of the interest payment that was reduced by this addendum or providing a rebate to the NUGGET. Should Nevada Energy not provide an off-set or rebate, or should the off-set or rebate not cover the costs for installation of the transformer, and total power improvement related thereto, NUGGET is entitled to receive such reimbursement from the actual revenue generated by the activities, if any, conducted at the Improvement. The reimbursement shall not exceed the actual costs incurred and shall not exceed the amount of revenue generated. Should the amount of revenue generated by the ice rink not cover the costs of the installation of the

transformer, and total power improvement related thereto, NUGGET agrees that CITY is not responsible for increasing the amount that is to be used towards projects listed in paragraph 8 of the Agreement or paragraph 9 of the Agreement.

IT IS FURTHER AGREED by NUGGET and CITY that no other provisions of the Agreement are affected by this addendum.

IT IS FURTHER AGREED by NUGGET and CITY that this addendum 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.

By: _____
MARV TEIXEIRA, Mayor

ATTEST: _____
ALAN GLOVER, Clerk/Recorder

CARSON CITY NUGGET, INC., a Nevada corporation

By: Alan D. Glover Its: Secretary

CARSON NUGGET, INC., a Nevada corporation

By: _____ Its: _____

STATE OF NEVADA)
): ss.
COUNTY OF _____)

On this _____ day of _____, 2008, _____,
_____, _____, and _____

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

NOTARY PUBLIC