



CITY COUNCIL AGENDA REPORT

MEETING DATE: APRIL 5, 2016

ITEM NUMBER: OB-1

SUBJECT: LEASE AGREEMENT WITH THE BOYS AND GIRLS CLUB OF THE HARBOR AREA, INC.

DATE: MARCH 24, 2016

FROM: CHIEF EXECUTIVE OFFICE

PRESENTATION BY: RICHARD L. FRANCIS, ASSISTANT CHIEF EXECUTIVE OFFICER

FOR FURTHER INFORMATION CONTACT: RICHARD L. FRANCIS, (714) 754-5688, RICK.FRANCIS@costamesaca.gov

RECOMMENDATION:

1. Approve the Lease Agreement (Attachment 1) with the Boys and Girls Club of the Harbor Area, Inc.; and
2. Authorize the Mayor and City Clerk to sign the Lease Agreement.

BACKGROUND:

The Boys and Girls Club of the Harbor Area, Inc. is a 501(c)3 nonprofit organization with a mission to “inspire and enable all young people to realize their full potential as productive, responsible, and caring citizens.” As part of a national affiliation of local organizations, the Boys and Girls Club of the Harbor Area, Inc. operates locations in Costa Mesa, Irvine, and Newport Beach and was founded in 1941. It provides a broad range of programs for youth including character and leadership development, education and career development, health and life skills, arts, sports, fitness and recreation. The Costa Mesa site serves 140 children daily in their after school program and an additional 500 participate in the basketball program. With the site being on the border of Newport Beach, a large number of that city’s youth is served there also.

On April 19, 1965, the City of Costa Mesa and the Boys Club of the Harbor Area, Inc. entered into a lease agreement (Attachment 2) for property owned by the City at 2131 Tustin Avenue, Costa Mesa. The site was ultimately occupied on November 14, 1966. The property was to be used by the Boys Club of the Harbor Area, Inc. to conduct a supervised and recreational activities program for a term of 50 years. The terms of the original lease indicated that the Lessee *shall* have the option to extend the lease for an additional forty-eight (48) years by giving the Lessor twelve (12) months written notice (Attachment 3), prior to the end of the term of the original lease. An addendum dated June 9, 1971 was executed to authorize the addition of a gymnasium.

At its May 2, 2006 meeting, the City Council approved an amendment to the original lease agreement, which included authorization to construct a multi-use sports court; changing the name of the organization to the Boys and Girls Club of the Harbor Area, Inc.; updating insurance requirements and language in regards to tax obligations; and the addition of language pertaining to hazardous materials.

On September 3, 2013, the Boys and Girls Club of the Harbor Area, Inc. submitted a letter to the City and exercised its option to renew the term of the original lease for an additional 48 years and update the agreement.

This item was initially presented at the March 1, 2016 city council meeting. At that time, members of the council requested specific capital improvement milestones over the term of the agreement and expressed concerns about the maintenance provisions in the proposed agreement. Specific capital improvement thresholds are incorporated in Section 2.3 of the Lease Agreement. The Boys and Girls Club agrees to invest a minimum of \$750,000 into the property over the next five years, and subsequent cumulative investments of at least \$50,000 as specified in the Lease Agreement. Sections 5.1 and 12.1(b) of the Lease Agreement were amended to bolster compliance with maintenance standards and remedies for material defaults of the Lease Agreement.

ANALYSIS:

The proposed Lease Agreement will combine all preceding terms of the original 1965 lease agreement and amendments into one document which will supersede and update the language to correspond to current law for the benefit of both parties. The term of the Lease Agreement will begin November 14, 2016 and expire November 13, 2064 with a property rent rate of \$1 per year corresponding to the renewal term and rent set forth in the original lease agreement.

Under the terms of the Lease Agreement, the Boys and Girls Club of the Harbor Area, Inc. must annually provide to the City the identity of the Board of the Directors, including contact information for the chair and executive director; any construction of improvements made to the building, including funding sources, dates, and descriptions; and a summary of programs and services provided to the Costa Mesa community along with the estimated number of participants served regionally and specifically in Costa Mesa. These stipulations ensure full disclosure of operations and functions on the property. An aspect of the Lease Agreement that staff looked at closely pertained to the amount of general liability coverage the Boys and Girls Club maintained on the property, which is currently \$1 million. The City's Risk Management group determined that this amount is sufficient and is consistent with minimum requirements in other Agreements with the City. The Boys and Girls Club General Liability Insurance contains an aggregate limit to \$3 million, in addition to an umbrella policy of \$1 million.

The Boys and Girls Club of the Harbor Area, Inc. has operated and managed the Lou Yantorn Branch at 2131 Tustin Avenue in compliance with the terms of the original lease agreement and subsequent amendments without any known defaults. The organization's mission is consistent with the City's goal of providing recreational programs to enhance the lives of the youth in the community; approval of the Lease Agreement will enable the Boys and Girls Club of the Harbor Area, Inc. to continue providing these programs to Costa Mesa youth.

ALTERNATIVES CONSIDERED:

The City Council may elect to modify the terms of the Lease Agreement. The City has explored a shorter term than the proposed 48-year Agreement period with the Boys and Girls Club. However, the Boys and Girls Club believes that a shorter term will adversely impact their ability to attract large donors. In addition, the original 1965 lease agreement purports to provide the Boys and Girls Club to a 48-year extension. As such, they have elected not to entertain a shorter term.

LEGAL REVIEW:

Legal counsel has reviewed the Lease Agreement and approved as to form.

CONCLUSION:

The Boys and Girls Club of the Harbor Area, Inc. provides beneficial programs to the community's youth and has operated in compliance with the terms and conditions set forth in the original lease agreement and amendments. Staff requests that Council approve the Lease Agreement to update the terms and conditions.

RICHARD L. FRANCIS
Assistant Chief Executive Officer

THOMAS R. HATCH
Chief Executive Officer

THOMAS DUARTE
City Attorney

- ATTACHMENTS:
- 1 [Lease Agreement](#)
 - 2 [Original Lease Agreement](#)
 - 3 [Written Notice to Extend Lease](#)