

**Carson City Culture & Tourism Authority
Agenda Report**

Date Submitted: 08/07/19

Agenda Date Requested: 08/12/19

Time Requested: 5 Minutes

To: Carson City Culture & Tourism Authority - Board of Directors

From: David Peterson, Executive Director

Subject Title: Discussion and possible action regarding the Commercial Lease Agreement, with Carson City Square, Inc., for a total amount of \$112,136.00.

Staff Summary: The CTA offices and visitor center are located at 716 N. Carson St. The lease agreement with Carson City Square for the lease of 3,816 sq. ft., beginning on September 15, 2019 and terminating on June 30, 2021 with automatic renewals for one (1) year period for a total of three (3) years according to the terms and payment schedule listed in Exhibit A unless, at least ninety (90) days prior to the renewal date, the CTA gives Carson City Square, Inc. written notice of its intent not to renew the Lease.

Type of Action Requested:

Resolution

Ordinance

Formal Action/Motion

Other (Specify) Presentation Only

Recommended Board Action: I move to approve the Commercial Lease Agreement between Carson City Culture and Tourism Authority and Carson City Square, LLC,.

Applicable Statute, Code, Policy, Rule or Regulation:

Fiscal Impact: \$112,136.00 in FY20 & FY21

Explanation of Impact:

Funding Source: 7407200-500440 Building Rental

Supporting Material: Commercial Lease Agreement

Prepared By: Chris Kipp, Operations Manager

COMMERCIAL LEASE

This Commercial Lease Agreement ("Lease") is dated as of August 12, 2019, by and between Carson City Square, Inc. ("Landlord"), and Carson City Culture & Tourism Authority ("Tenant").

RECITALS

WHEREAS, Landlord is the sole owner of the premises located at 716 N. Carson Street, Carson City Nevada, 89701; and

WHEREAS, Tenant desires to lease the premises and is authorized to do so pursuant to NRS 244A.619; and

WHEREAS the parties desire by this Lease to define their respective rights,

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

TERMS

- 1. PREMISES.** Landlord, in consideration of the lease payments provided in this Lease, leases to Tenant approximately 3,816 sq. ft. located at 716 N. Carson St, Carson City, NV 89701 ("Premises").
- 2. TERM.** The Lease term will begin on September 15, 2019, and will terminate on June 30, 2021. Upon the expiration of the original term, Tenant's Lease shall be automatically renewed for a one (1) year period for a total of three (3) years according to the terms and payment schedule listed in Exhibit A, which is expressly incorporated herein by this reference, unless, at least ninety (90) days prior to the renewal date, Tenant gives Landlord written notice of its intent not to renew the Lease.
- 3. LEASE PAYMENTS.** Tenant shall pay to Landlord monthly installments of \$5,152.00, with September 2019 prorated based on 15 days or \$2,576, payable in advance on the first day of each month. Payments shall increase each fiscal year according to the schedule in Exhibit A. Lease payments shall be made to the Landlord at PO Box 2342, Stateline, NV 89449. The payment address may be changed from time to time by the Landlord. Landlord will notify Tenant in writing sixty-days prior to any address change.
- 4. SECURITY DEPOSIT.** At the time of the signing of this Lease, Tenant shall pay to Landlord, in trust, a security deposit of \$3,500.00 to be held and disbursed for damages to the Premises (if any) caused by Tenant, as provided by law. The security deposit was accepted under the previous lease and is in possession of Landlord.

5. **POSSESSION.** Tenant shall be entitled to possession on the first day of the term of this Lease, and shall yield possession to Landlord on the last day of the term of this Lease, unless otherwise agreed by both parties in writing. At the expiration of the term, Tenant shall remove its goods and effects and peaceably yield up the Premises to Landlord in as good a condition as when delivered to Tenant, ordinary wear and tear excepted.

6. **USE OF PREMISES.** Tenant may use the Premises only for office/retail purposes. The Premises may be used for any other purpose only with the prior written consent of Landlord, which shall not be unreasonably withheld. Tenant shall notify Landlord of any anticipated extended absence from the Premises not later than the first day of the extended absence. An extended absence shall be a period of 90-days or more.

7. **PROPERTY INSURANCE.** During the entire term of this Lease and any renewals, Landlord shall keep in full force and effect a policy of general liability and property damage liability insurance with respect to the Premises. Tenant shall maintain insurance for any personal property, goods, merchandise, or equipment that it owns inside the Premises. Landlord shall be named as an additional insured in such policies.

8. **MAINTENANCE, UTILITIES AND SERVICES.** Landlord will be required to maintain the roof, exterior walls, structural foundation, plumbing, electrical, heating and air conditioning installations for the Premises. Tenant shall be responsible for all gas and utilities incurred in connection with the Premises. Since the space is not individually metered for gas, Tenant shall pay a share of utilities based upon the square footage occupied by Tenant (approximately 3,816 sq. ft.) as a percentage of the total leased square footage for the bottom spaces. Landlord shall bill gas on a monthly basis. Landlord shall be responsible for trash removal, common area utilities, common area janitorial (including rest rooms), landscaping, snow removal, building maintenance, building insurance, property taxes, windows cleaning, pest control, HVAC and elevator maintenance, fire maintenance and building repairs.

9. **TAXES.** Taxes attributable to the Premises or the use of the Premises shall be allocated as follows:

a. **REAL ESTATE TAXES.** Landlord shall pay all real estate taxes and assessments for the Premises.

b. **PERSONAL TAXES.** Tenant shall pay all personal taxes and any other charges which may be levied against the Premises and which are attributable to Tenant's use of the Premises, along with all sales or use taxes (if any) that may be due in connection with lease payments.

10. **DEFAULTS.** Tenant shall be in default of this Lease if Tenant fails to fulfill any lease obligation or term by which Tenant is bound. Subject to any governing provisions of law to the contrary, if Tenant fails to cure any financial obligation within 5 days (or any other obligation within 10 days) after written notice of such default is provided by Landlord to Tenant, Landlord

may take possession of the Premises without further notice (to the extent permitted by law), and without prejudicing Landlord's rights to damages. If failure on the part of Lessee can be cured but not completed within said ten (10) day period set forth because of strikes, shortages of material, acts of God, or other causes beyond the control of Lessee, no default shall be deemed to exist on the part of the Lessee so long as the Lessee in good faith within the specified ten (10) day period undertakes to cure the failure and faithfully and diligently proceeds thereafter to cure the same.

In the alternative, Landlord may elect to cure any default and the cost of such action shall be added to Tenant's financial obligations under this Lease. Tenant shall pay all costs, damages, and expenses (including reasonable attorney fees and expenses) suffered by Landlord by reason of Tenant's default(s). All sums of money or charges required to be paid by Tenant under this Lease shall be additional rent, whether or not such sums or charges are designated as "additional rent". The rights provided by this paragraph are cumulative in nature and are in addition to any other rights afforded by law.

11. **TERMINATION OF LEASE BY TENANT FOR NON-APPROPRIATION.** All payments provided under this Lease are contingent upon the availability of the necessary public funding for the monthly Lease payment, which may include various internal and external sources. In the event that Tenant does not acquire and appropriate the funding necessary to perform in accordance with the terms of this Lease, the Lease shall automatically terminate upon the Tenant's written notice to Landlord of such non-appropriation, and no claim or cause of action may be based upon any such non-appropriation.

12. **LATE PAYMENTS.** For each payment that is not paid within 5 days after its due date, Tenant shall pay a late fee equal to 6% of the required payment.

13. **HOLDOVER.** If Tenant maintains possession of the Premises for any period after the termination of this Lease ("Holdover Period"), Tenant shall pay to Landlord lease payment(s) during the Holdover Period at a rate equal to the most recent rate preceding the Holdover Period + .03/sq. ft. increase per fiscal year. Such holdover shall constitute a month-to-month extension of this Lease.

14. **CUMULATIVE RIGHTS.** The rights of the parties under this Lease are cumulative, and shall not be construed as exclusive unless otherwise required by law.

15. **NON-SUFFICIENT FUNDS.** Tenant shall be charged \$35.00 for each check that is returned to Landlord for lack of sufficient funds.

16. **REMODELING OR STRUCTURAL IMPROVEMENTS.** Tenant shall have the obligation to conduct any construction or remodeling (at Tenant's expense) that may be required to use the Premises as specified above. Tenant may also construct such fixtures on the Premises (at Tenant's expense) that appropriately facilitate its use for such purposes. Such construction shall be undertaken and such fixtures may be erected only with the prior written consent of the

Landlord which shall not be unreasonably withheld. Tenant shall not install awnings or advertisements on any part of the Premises without Landlord's prior written consent. At the end of the lease term, Tenant shall be entitled to remove (or at the request of Landlord shall remove) such fixtures, and shall restore the Premises to substantially the same condition of the Premises at the commencement of this Lease.

17. **MECHANICS LIENS.** Neither the Tenant nor anyone claiming through the Tenant shall have the right to file mechanics liens or any other kind of lien on the Premises and the filing of this Lease constitutes notice that such liens are invalid. Further, Tenant agrees to (1) give actual advance notice to any contractors, subcontractors or suppliers of goods, labor, or services that such liens will not be valid, and (2) take whatever additional steps that are necessary in order to keep the premises free of all liens resulting from construction done by or for the Tenant.

18. **ARBITRATION.** Any controversy or claim relating to this contract, including the construction or application of this contract, will be settled by binding arbitration under the rules of the American Arbitration Association, and any judgment granted by the arbitrator(s) may be enforced in any court of proper jurisdiction.

19. **ASSIGNABILITY/SUBLETTING.** Tenant may not assign or sublease any interest in the Premises, nor effect a change in the majority ownership of the Tenant (from the ownership existing at the inception of this lease), nor assign, mortgage or pledge this Lease, without the prior written consent of Landlord, which shall not be unreasonably withheld.

20. **NOTICE.** Notices under this Lease shall not be deemed valid unless given or served in writing and forwarded by mail, postage prepaid, addressed as follows:

LANDLORD:

Carson City Square, LLC
PO Box 2342
Stateline, NV 89449

TENANT:

Carson City Culture & Tourism Authority
716 N. Carson
Carson City NV 89701

Such addresses may be changed from time to time by any party by providing notice as set forth above. Notices mailed in accordance with the above provisions shall be deemed received on the third day after posting.

21. **GOVERNING LAW.** This Lease shall be construed in accordance with the laws of the State of Nevada. The Parties further agree that any dispute or legal proceeding arising from or

relating to this Lease is subject to the sole jurisdiction of the state courts in the State of Nevada and must be filed in the First Judicial District Court located in Carson City.

22. **FORCE MAJEURE.** In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Lease, then performance of such act shall be extended for a period equivalent to the period of such delay. The provisions of this section shall not operate to excuse Lessee from prompt payment of rent, additional rent or any other payments required by the terms of this Lease.

23. **ENTIRE AGREEMENT/AMENDMENT.** This Lease Agreement contains the entire agreement of the parties and there are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Lease. This Lease may be modified or amended in writing, if the writing is signed by the party obligated under the amendment.

24. **SEVERABILITY.** If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

25. **WAIVER.** The failure of either party to enforce any provisions of this Lease shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Lease.

26. **BINDING EFFECT.** The provisions of this Lease shall be binding upon and inure to the benefit of both parties and their respective legal representatives, successors and assigns.

27. **MULTIPLE COUNTERPARTS.** This Lease may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same instrument, but in providing this Lease, it shall not be necessary to introduce any more than one of such counterparts.

IN WITNESS WHEREOF, the Parties have executed this LEASE on the day and year first above written.

LANDLORD:
Carson City Square, LLC

_____ Date: _____
Steven Kaplan

TENANT:
Carson City Culture & Tourism Authority

By: _____ Date: _____
David Peterson, Executive Director

By: _____ Date: _____
Mike Jones, CCCTA Chairman

APPROVED AS TO FORM:

By: _____ Date: _____
Benjamin Johnson, Deputy District Attorney

Exhibit A
Lease Payment Schedule

| <u>Fiscal Year</u> | <u>Start and End Dates</u> | <u>Cost per Square Foot</u> | <u>Monthly Lease Cost</u> | <u>Fiscal Year Lease Cost</u> |
|--------------------|----------------------------|-----------------------------|---------------------------|-------------------------------|
| FY20 | 09/15/2019* – 06/30/2020 | (1.35/sq ft) | \$5,152 | \$48,944 |
| FY21 | 07/01/2020 – 06/30/2021 | (1.38/sq ft) | \$5,266 | \$63,192 |
| FY22** | 07/15/2021 – 06/30/2022 | (1.41/sq ft) | \$5,381 | \$64,572 |
| FY23** | 07/15/2022 – 06/30/2023 | (1.44/sq ft) | \$5,495 | \$65,940 |
| FY24** | 07/15/2023 – 06/30/2024 | (1.47/sq ft) | \$5,610 | \$67,320 |

*September 2019 calculated based on 15 days.

**Possible fiscal year extensions.