



# *CITY COUNCIL AGENDA REPORT*

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MEETING DATE: June 19, 2012

ITEM NUMBER: \_\_\_\_\_

**SUBJECT: BALEARIC COMMUNITY CENTER LEASE AGREEMENT**

**DATE: JUNE 5, 2012**

**FROM: OFFICE OF THE CHIEF EXECUTIVE OFFICER**

**PRESENTATION BY: THOMAS R. HATCH, CEO**

**FOR FURTHER INFORMATION CONTACT: Daniel K. Baker, Management Analyst 714-754-5156**

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## **RECOMMENDATION:**

Staff recommends that the City Council approve the new lease agreement for the Balearic Community Center (Attachment 1) with the Newport Mesa Unified School District, and authorize the Mayor and the City Clerk to sign on behalf of the City.

## **BACKGROUND:**

The City currently leases the Balearic Community Center (BCC) from the Newport Mesa Unified School District (District), and has utilized the Balearic Community Center for the past 30 years. The BCC facility is owned by the District and was formerly used as an educational facility by the District. The City utilizes the BCC to conduct recreation programs including Day Camp, Summer Recreation on Campus for Kids program, Teen programs, contract classes, and the Early Childhood Program. The City provides all maintenance of the fields and janitorial services for the restrooms which are used by youth groups who utilize the fields for soccer and football games and practices. The City also offers the BCC for rental to community groups, non-profit groups, and to the public for parties and special events in the evenings and on the weekends.

On October 7, 2008, City Council approved a new lease Agreement with the District for the continued use of the BCC for an initial term of five (5) years, expiring June 30, 2013, with an option of three (3) additional term extensions of five (5) years each.

Under the current lease agreement, the City pays the District an annual lease payment of \$67,145 with an annual increase based on the U.S. Consumer Price Index, All Urban Consumers (CPI-U). Due to a negative CPI, there was no increase to the rent payment for FY 2009-2010, and the City paid the District the lease payment amount of \$67,145.

The District and the City agreed to waive the lease payment for FY 2010-2011, and at the May 17, 2011 City Council meeting, the Council approved Amendment #1 to the lease for the payment waiver and extension of the lease to June 30, 2014.

The District and the City agreed to a second amendment of the lease payment for FY 2011-2012. Amendment #2 waived the lease payment in July 2012 and extended the

Lease Agreement by one (1) year through June 30, 2015. The next lease payment is due in July 2012 for the FY 2012-2013 lease year.

### **ANALYSIS:**

Rather than negotiate a third amendment, both City and District personnel agreed that a new contract would better clarify terms and conditions to ensure the BCC remain an updated and useful facility for all surrounding residents and would allow the City to realize long term stability regarding the use of the facility.

The new lease agreement language (attachment 1) remains largely unchanged. However, a number of new provisions have been added to ensure that both the City and District continue to work together to keep Balearic as updated as possible.

Unlike prior arraignments, the new agreement allows for the City to recognize a Deferred Maintenance Credit of up to \$5,000 (flooring, sewer, paving, concrete) in the overall rent by performing deferred maintenance to the facility, reducing the annual base rent to \$62,145. Additionally, a new provision will allow the City to reduce the rent even further by performing major maintenance improvements (electrical, communication, sanitation) with a not to exceed credit of up to \$16,000 annually. This credit will reduce the annual base rent to \$46,145. These provisions will continue for the initial phase of the contract and will cease upon the first initial option for extension.

The initial phase of the contract is a three year period ending on June 30, 2015. At the end of the first phase, the rent will revert to the full U.S. Consumer Price Index based upon the base rent of \$67,145. The deferred maintenance credit and the major maintenance improvement credit will not be part of subsequent extensions. Additional language allows for three (3) five (5) year extensions and will allow the City to utilize the BCC continually until 2030. This extended time-frame will eliminate pressure on City staff to find an alternate location as well as continually asking for council authorization for Lease Amendments.

### **ALTERNATIVES CONSIDERED:**

The City Council could choose to pay the lease payment for fiscal year 2012-2013, and not approve the new lease agreement. The City Council could also choose to provide the District with the required six-month notice to terminate the Lease Agreement in which case the City may be required to vacate the premises. Staff would then need to seek an alternative location for the recreation programs currently offered at the BCC.

### **FISCAL REVIEW**

The lease payment of \$67,145 is included in the FY 2012-2013 operating budget. If the City Council decides not to approve the new lease agreement, the City will make the base rent payments(s) for FY 2012-13 and attempt to negotiate with the District when the lease expires in 2014-15.

**LEGAL REVIEW:**

The City Attorney has reviewed the document and approved it as to form.

**CONCLUSION:**

The City has been leasing the Balearic Community Center from the Newport Mesa Unified School District for recreation programs and community activities for over 30 years. The City and the District approved Amendment #1 to the lease for a payment waiver for FY 2010-2011 and Amendment #2 to the lease for a payment waiver for FY 2011-2012. To provide continuity and increased enhancement to the BCC, staff recommends approving the new lease agreement as presented.

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THOMAS R. HATCH  
Chief Executive Officer

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DANIEL K. BAKER  
Management Analyst

ATTACHMENTS: 1 [Lease Agreement](#)