

CITY COUNCIL COMMUNICATION FORM

FROM: Dan Foote, City Attorney
THROUGH: N/A
DATE: October 20, 2020
ITEM: A Resolution Ratifying the 2022 Howelsen Hill Alpine Slide License and Agreement

_____ DIRECTION
_____ INFORMATION
_____ ORDINANCE
_____ MOTION
 RESOLUTION
_____ PROCLAMATION

I. REQUEST/ISSUE & BACKGROUND INFORMATION:

The Steamboat Springs Winter Sports Club ("SSWSC") and the Steamboat Springs Winter Sports Club Foundation ("SSWSCF") on August 24, 2020 advised City staff that they had secured a donation in the amount of \$1,500,000 that the donor wishes to contribute to the replacement of the Barrows Lift at Howelsen Hill Ski Area. The donation was offered on several conditions, one of which was that the City would execute the draft 2022 Howelsen Hill Alpine Slide Agreement. Late late last week the City, the Club, the Foundation, and the lift manufacturer, SkyTrac reached agreement on the terms of the three contracts that will govern the donation, Alpine Slide operations, and lift installation. These contracts are a grant agreement between the City and SSWSC and SSWSCF ("Grant Agreement"), the 2022 Howelsen Hill Alpine Slide License and Agreement ("2022 Slide Agreement") between the City and Community Slide, Inc., a subsidiary of SSWSC, and the purchase and installation contract between the City and SkyTrac.

It was necessary to execute the SkyTrac contract last week in order to keep the lift replacement project on schedule for a 2021 install. Execution of the SkyTrac

contract depended on the City and SSWSC/SSWSCF executing the Grant Agreement and, per the request of SSWSC/SSWSCF, execution of that agreement depended in turn on the City's execution of the 2022 Slide Agreement.

Staff had initially planned to bring the Slide Agreement to Council for approval by ordinance. However, delays in negotiations between the City and SSWSC/SSWSCF resulted in there not being sufficient time to schedule a Council hearing or hearings on the 2022 Slide Agreement prior to execution of the SkyTrac agreement. In order to preserve the 2021 construction schedule, staff elected for administrative approval of the 2022 Slide Agreement.

The 2022 Slide Agreement was initially titled as a Lease. A lease is an interest in real property and the Charter requires leases of City property to be approved by ordinance. The title notwithstanding, the substance of the 2022 Slide Agreement is that of a license, not a lease, because the rights granted to CSI are non-exclusive and non-transferrable. Accordingly, the Charter permits administrative approval of this agreement.

Staff recognizes that there has been substantial Council involvement in the negotiation of the 2022 Slide Agreement and that there may be Council interest in reviewing the document in its final format. For this reason, staff scheduled a resolution for Council consideration that would ratify and approve the 2022 Slide Agreement.

II. SUMMARY AND ALTERNATIVES:

Council may approve the resolution as drafted, decline to approve the resolution, or request modifications to the resolution and/or underlying agreement.

III. STAFF RECOMMENDATION:

Staff recommends approval as drafted. The City could request amendments to the 2022 Slide Agreement. However, this document has been the product of extensive negotiations between the parties and the likelihood of the other parties agreeing to substantive amendments is low. Council could also reject the proposed resolution. Doing so would have no legal effect because the Charter permits administrative approval of license agreements. Although there would be no direct legal consequences, rejecting the proposed resolution could undermine the confidence of the parties in the lift replacement project.

IV. FISCAL IMPACT:

The fiscal impact of the Slide Agreement itself is uncertain. Operational costs for the lift are intended offset by the City's share of Slide revenues. Slide revenues have historically been variable, so in any given year the Slide Agreement may be either be a revenue source or an expenditure.

V. LEGAL ISSUES:

As described above.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES:

None.

VII. CONSISTENCY WITH COUNCIL GOALS AND POLICIES:

This item addresses City Council's goal of providing sustainability for Howelsen Hill operations.

ATTACHMENTS: