



City of Chula Vista

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Title: CONSIDERATION OF APPROVING A TRANSFER AND OPERATING AGREEMENT BETWEEN THE UNITED STATES OLYMPIC COMMITTEE (USOC) AND THE CITY

RESOLUTION NO. 2016-039 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING A TRANSFER AND OPERATING AGREEMENT BETWEEN THE UNITED STATES OLYMPIC COMMITTEE (USOC) AND THE CITY OF CHULA VISTA (CITY) PROVIDING FOR USOC TRANSFER TO CITY OF THE CHULA VISTA OLYMPIC TRAINING CENTER PROPERTY AND FACILITIES, AND CITY OPERATION OF THE FACILITY WITH THE USOC AS ITS PRIMARY TENANT FOR A PERIOD OF FOUR YEARS (WITH EXTENSIONS)

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Attachments: 1. Item 11 - Resolution, 2. Item 11 - Agreement of Property Transfer, 3. Item 11 - Core Agreement, 4. Item 11 - Additional Information, 5. Item 11 - Additional Info presented at Council

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RECOMMENDED ACTION

Council adopt the resolution.

SUMMARY

In 2014, the United States Olympic Committee ("USOC") approached the City to inquire if the City would be interested in taking title to the Chula Vista Olympic Training Center ("CVOTC") land and improvements and to continue operating the facility as a USOC Training Site. Negotiations commenced and in June 2015, the City and the USOC entered into a memorandum of understanding to establish exclusive negotiating terms and to establish preliminary terms and a framework for creating final terms and conditions for transfer. The City's negotiating team has been working diligently to develop the terms, conditions and framework for the proposed transfer. This action brings forward for the Council's consideration and approval substantially final forms of the transfer and operating agreements. The agreements presented are consistent with the terms approved by the

Council on February 9th. Staff is still working on the Operator Agreement and the Housing Development Agreement for the Center. These are expected to come back to the Council for consideration and approval prior to March 31st.

ENVIRONMENTAL REVIEW

Environmental Notice

The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act ("CEQA") State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

Environmental Determination

The Director of Development Services has reviewed the proposed for compliance with CEQA and has determined that the activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines because the activity consists of approval of proposed business terms for transfer and operating agreements for the USOC site, and does not involve a potentially significant physical impact on the environment. Therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

BOARD/COMMISSION RECOMMENDATION

Not applicable.

DISCUSSION

The Chula Vista Olympic Training Center is the first USOC training center to be master-planned from the ground up and is dedicated to the development and performance of America's future Olympic Athletes. The Olympic Training Center was opened in 1995 and operates under a declaration of Covenants, Conditions and Restrictions specific to operating an Olympic Training Center for training in Olympic Sporting Events or other similar athletic or sporting events excluding professional-for-profit sports teams as a primary use and other uses reasonably related to such athletic training, including without limitation, educational or recreational uses; exhibits, touring, visitors center, gift shops, athlete housing, dining hall, offices, concessions, restaurant and snack shops.

The Chula Vista Olympic Training Center rests on a 155-acre complex adjacent to the Lower Otay Reservoir and has benefited thousands of Olympic hopefuls, local youth, numerous community groups and countless visitors from around the globe. Thousands of student-athletes and coaches also gain access to the Chula Vista Olympic Training Center for clinics and competitions when venues are not being utilized by Olympic athletes-in-training. Current resident athletes include Archery, Rugby, Track & Field and Paralympic Track & Field. Other frequent users include Beach Volleyball, BMX, Canoe/Kayak, Cycling, Field Hockey, Rowing, Soccer, Tennis and Triathlon.

In 2014, the USOC approached the City to inquire if the City would be interested in taking title to the CVOTC land and improvements and to continue operating the facility as a USOC Training Site. Negotiations commenced and, in June 2015, the City and the USOC entered into a memorandum of understanding (MOU) to establish exclusive negotiating terms and to establish preliminary terms and a framework for creating final terms and conditions for transfer. The MOU was extended in September 2015. During the initial period of negotiation, the City and USOC entered into an

agreement with JMI Sport to do a feasibility study for the potential transfer of the CVOTC. As a result of the JMI study and with further analysis conducted by the City and USOC, an operating model has been developed that will allow the City to continue operation of the CVOTC, (to be known as the, "Chula Vista Elite Athlete Training Center") as an Olympic and Paralympic Training Site with other uses and events reasonably related to sports consistent with the CC&R's. The model includes the construction of additional athlete dorms, creation of a non-profit oversight entity and selection of a third-party operator to minimize risk to the City's general fund.

In July 2015, the City issued a Request for Expressions of Interest (RFEI) for an operator. Eleven potential operators responded. Through a series of evaluations, the City and the USOC narrowed the selection and ultimately selected the Point Loma Trust (PLT) as our preferred operator. PLT was selected because of their experience with operating high quality sports facilities, buildings, residence halls and dining facilities; understanding the need to market the Center for additional revenue generation that complements the core business such as international relations, grass root camps, hosting additional NGB's, sport and teambuilding clinics; existing investment in Chula Vista with their relationship with South Western College; acceptance and desire to embrace and promote the vision of the City and the USOC regarding the Olympic movement and support of the Elite Athletes training at the Center; desire to exceed the expectations of USOC and City of Chula Vista; desire to maintain or enhance service levels for Easton Archery Center of Excellence; willingness to bear risk of operation deficits.

The key terms of the "Transfer" and "Core" operating agreements with USOC are summarized below. A number of "Notes" are also provided to explain how these provisions are expected to be implemented.

Transfer Agreement:

1. Property to be Transferred [Recitals and Section 1]

- a. USOC will transfer to City the land, facilities, fields and equipment comprising the Chula Vista Olympic Training Center ("CVOTC") (approximately 155 acres; 150 owned, 5 leased).
- b. The transfer will include an assignment of all leases and contracts. Although final terms are still being worked out, the assignment of contracts is expected to include all agreements pertaining to the Easton Archery Center (approximately 11 acres), and the Otay Lakes Boathouse (approximately 5 acres). The Easton agreements are discussed further in Section 5.d, below.
- c. City will take fee title to the CVOTC in its "AS IS" condition, subject to City approval after City completes its "due diligence" (See Section 3.a., below).

2. Purchase Price [Recitals and Section 2]

One Dollar.

3. Conditions to Close [Section 4]

As "conditions to close" for the City's benefit, the following items must be completed to the City's satisfaction by on or before March 31, 2016. If any condition is not satisfied, City has

the option to terminate all agreements.

- a. Due Diligence. City has the right to review and approve (or disapprove) the physical and legal condition of the Property.

Note: City due diligence process will include: (i) a Phase I hazardous materials assessment of the Property (plus a Phase II if required); (ii) an inspection and evaluation of the condition of key facilities and equipment; (iii) review of all reports, contracts and other written materials regarding the CVOTC provided by the USOC; and (iv) review of a Preliminary Title Report. No material issues/concerns have been identified to date.

- b. Operator Contract. City shall have entered into an agreement with Point Loma Trust ("PLT") on terms satisfactory to the City for the operations of the Facility.

Note: City is currently negotiating the terms for this "Operator Agreement" with PLT. An outline of key terms to be addressed in this agreement is provided in a separate Section to this report, below.

- c. Housing Agreement. City shall have entered into a contract for the development of a one hundred bed coach/athlete housing facility, with delivery by on or before July 1, 2017.

Note: City staff has agreed to terms with developer Baldwin & Sons ("Developer") for the development of these units and is now preparing final agreements for City Council consideration. Terms include: (i) construction by Developer at Developer's sole cost of a 100 bed athlete/coach dormitory style facility, and a stand-alone locker/shower day-use facility, all configured and designed to City/USOC specifications ("Project"); (ii) a Project delivery date for the housing component of July 1, 2017, with incentives for timely performance; and (iii) in consideration for Developer's delivery of the Project, a proportionate offset of Developer's affordable housing requirements in Otay Ranch Village 2. Such offset will be consistent with terms of the City's recently updated affordable housing Balanced Communities Policy.

4. Transfer Date [Recitals and Section 3.2]

December 31, 2016.

5. Other Provisions

- a. City Pays Escrow and Title Fees. The City shall bear all costs and expenses of Escrow and Title Insurance. These expenses are estimated at \$20,000 and shall be paid at Closing. [Section 7]

- b. USOC's Reps and Warranties. USOC makes various representations and warranties regarding the CVOTC, including no knowledge of violations of laws, including hazardous materials laws, or pending litigation. Otherwise, the City is taking the property "AS IS." [Sections 9 and 10]

- c. Third Party Approvals. No third party approvals have been identified as required for the transfer of the primary CVOTC property; however, the original property owner, Eastlake

Development Company, and the original project's development partner, the San Diego Sports Foundation, are expected to be consulted with prior to the closing. [Section 4.1.1]

d. Easton Archery Center. The transfer of the Easton Archery Center lease and Housing Agreement from USOC to City requires the approval of the Easton Archery Foundation ("EAF"). Given the changed circumstances, EAF has indicated its desire for some modifications and clarifications of existing agreements as a condition to its approval. These include: (i) retention by USOC of certain approval rights over archery athletes and coaches; (ii) conversion of certain approval standards for EAF access to CVOTC facilities from "sole" to "reasonable" discretion; (iii) increased and/or clarified priority access to certain parking spaces and adjacent fields; (iv) revised terms for triggering EAF's right to assume ownership of its facility; and (vi) clarifications/revisions to terms regarding EAF/City access to EAF and campus housing. USOC and City staff are confident that these issues can be resolved. If not, although this would not be ideal, the transaction could proceed without the transfer to the City of the Easton contracts. [Section 5.1.4]

e. CC&Rs. The OTC Property will be transferred to the City subject to a set of covenants, conditions and restrictions ("CC&R's") that were recorded against the Property at the time the CVOTC was developed in 1995. These CC&Rs provide for a number of things, most notably a use restriction that limits uses on the site to "(i) training in Olympic Sporting Events or other similar athletic events and sporting events, excluding professional-for-profit sports teams as a primary use; [and] (ii) other uses reasonably related to such athletic training, including without limitation, educational, exhibit or recreational uses; touring and a visitors center; gift shops; athlete housing, athlete dining hall facilities' offices for the USOC . . ." etc. Notably, this use restriction, expired on December 31, 2011. [CC&Rs Sections 4.1] A provision that imposed an affirmative obligation to operate the site consistent with this use restriction, along with a prohibition on "competitive" commercial activity, also expired on December 31, 2011. [CC&Rs Sections 4.2 and 4.3]. One key remaining provision provides as follows: if prior to January 19, 2025, the use of the site is changed from that contemplated in Section 4.1, 100 acres of the property must be irrevocably offered to the City for public park purposes. [CC&Rs Section 4.8]. After January 19, 2025, all restrictions on property uses contained in the CC&Rs will expire. [CC&Rs Section 6.1] Because the use restrictions expire in all respects in 2025 and the City intends to operate the Facility consistent with these restrictions in any event, the CC&R's do not impose any undue burden on the OTC Property.

Core Agreement:

1. Responsibility for Facility Operations

a. In General. After the Transfer Date (January 1, 2017) the City will assume responsibility for operation of the Facility, subject to the terms and conditions specified below. The City can assign this responsibility to a third party operator subject to USOC reasonable approval. The Point Loma Trust ("PLT") is already designated as a "pre-approved" operator. [Sections 2 and 4]

b. USOC Special Rights to Certain Facilities. The USOC will continue to operate and control access to Sports Medicine Facilities, with priority access to the Weight Room, Track and Field Office and High Altitude Dorm Rooms. [Section 3]

c. Transition Period. City/PLT will have full access to the Facility commencing immediately, and all parties will cooperate to facilitate the transition of operations from USOC to City/PLT. Additionally, transition period implementation agreements are likely to be required. [Section 2]

2. Term

The parties "Transition Period" obligations (described above) commence immediately. The "Operations Period" obligations commence on January 1, 2017 for an initial term of four (4) years. The parties will meet and confer regarding possible terms for extension 18 months prior to expiration of the initial term. [Sections 1 and 2]

3. USOC Minimum Commitment

As part of the agreement, the USOC has agreed to make a minimum annual payment to the City of \$3 million per year in consideration for guaranteed use of 60 beds, facilities access and meals equal in value to \$3 million (determined using pre-negotiated rates for these services). [Sections 4.A, 5 and Exhibit F]

Note: USOC can pay for additional beds, facilities access and meals at negotiated rates, and it is currently contemplated that it will. USOC's \$3 million commitment is a "minimum."

4. City Duty to Maintain and Operate Facility Consistent with Elite Athlete Standards

The City is obligated to maintain and operate the Facility consistent with Elite Athlete Standards as necessary to support the USOC Minimum Commitment (described above). Otherwise, the City is authorized to operate and use the Facility in City's discretion; provided, however, City must meet and confer with USOC to address any adverse impacts to USOC sponsored elite athletes caused by City operations. [Section 6 and Exhibit C]

Note: Under the current business model, the existing and to be constructed dorms would be programmed and rented to USOC-sponsored National Governing Bodies (NGB's), non-USOC sponsored NGBs, international athletes, and to college and high school teams/athletes for training and sport clinics. An increased number of "Special Events" are also contemplated. Non-USOC users (users other than USOC-sponsored NGB's) would be contracted with and billed separately at negotiated "market" rates. Revenues generated from City's activities would be over and above USOC's \$3 million minimum payment.

5. Modifications to or Transfers of the Facility

City shall consult with USOC prior to any material modification to or transfer of all or any portion of the Facility to ensure that no such action will have an adverse material impact on Elite Athlete Standards. Any City transfer of Facility property/equipment prior to 2025 could trigger a reduction in USOC's \$3 million Minimum Commitment, and would require a sharing of gross proceeds from such sale with USOC per an agreed upon formula. [Section 4.B]

Note: City has no immediate plans to modify the Facility beyond the additional housing units and day use facility described in the Transfer Agreement summary, Section 3.c., above. Other capital improvements could be desirable (for example, a pool complex), and partnerships for

the development of such facilities will be explored with PLT and others. City has no current or future plans to transfer any portion of the Facility. The revenue sharing provisions are included to protect the USOC in the unlikely event of such a transfer.

6. Facility Name, Olympic Marks and Sponsors [Section 28]

- a. The initial name of the facility shall be the “Chula Vista Elite Athlete Training Center.”
- b. USOC agrees to designate the Facility as an official “U.S. Olympic and Paralympic Training Site.” City can use this designation on Center signage, banners and promotional materials per standards established by USOC.
- c. City can create and sell goods with the Olympic Training Site designation subject to approved standards and provided that City uses USOC-licensed producers.
- d. City agrees to work with USOC to give USOC sponsors priority opportunities for special event and facility sponsorships. Subject to this, City can also contract with non-USOC sponsors for special event and facility sponsorships; provided, however, City must take actions to ensure non-USOC sponsors do not receive the benefits of association with any Olympic marks.

Note: These provisions reflect a substantial effort by the USOC to protect the value of its Olympic marks, while at the same time providing the City with the flexibility it needs to market the Facility and to generate the revenues its needs for near and long terms sustainable operations.

7. Operations Plan

USOC and City agree to coordinate reservations systems and facility resource allocation to assure USOC effective use of its Minimum Commitment capacity, and City’s ability to effectively market its “Discretionary Capacity” to NGBs and other facility users. The Facility can be programmed and used for special events and other non-Olympic training not materially adverse to elite athlete training. The parties will meet and confer to resolve any disputes regarding operations, with binding arbitration if necessary. [Sections 6, 31 and Exhibit E]

8. Non-Discrimination and Athlete Safety

City and USOC shall impose and enforce standards for non-discrimination and athlete safety, at least per agreed minimum standards. [Sections 29 and 30]

9. Insurance and Indemnities

Each party to provide insurance per prescribed industry standards, and to indemnify the other for negligence or misconduct. [Sections 12 and 13]

Operator Agreement with PLT

The Operator Agreement with PLT will include the following terms, among others to be negotiated:

1. City will assign its primary rights and obligations under the Core Agreement to PLT, with

certain reservations of rights and responsibilities.

2. PLT will then become responsible for day to day operations of the Facility, subject to the terms of the Core Agreement and a Business Plan pre-approved by City.
3. City will reserve access to the Facility for general oversight purposes, and for a certain number (or type) of City (or City sponsored) events.
4. PLT shall bear responsibility for Center operating deficits with an opportunity to recover costs incurred by PLT not covered by Facility revenues out of future operations, within defined parameters.
5. Facility surplus revenues shall be reinvested in the Center, used for purposes consistent with the advancement of athletics and athletic performance, and/or otherwise consistent with PLT defined purposes.
6. Terms for discretionary capital improvements shall be negotiated on a case by case basis.
7. The term of the agreement shall run concurrent with the Core Agreement unless otherwise agreed.

Next Steps

With City Council approval, staff will proceed to finalize the agreements presented for signature, and then finalize and bring back for City Council consideration the Operator Agreement with PLT and the Housing Agreement with Baldwin & Sons. This will occur prior to March 31st. Staff will concurrently be completing its “due diligence” with respect to the legal and physical condition of the OTC Property and its Improvements, and seeking to finalize terms for Easton’s approval of the transfer of the Eastern Archery Center Agreements.

DECISION-MAKER CONFLICT

Staff has reviewed the property holdings of the City Council members and has found no property holdings within 500 feet of the boundaries of the property which is the subject of this action. Consequently, this item does not present a disqualifying real property-related financial conflict of interest under California Code of Regulations Title 2, section 18702.2(a)(11), for purposes of the Political Reform Act (Cal. Gov’t Code §87100, et seq.).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

LINK TO STRATEGIC GOALS

The City’s Strategic Plan has five major goals: Operational Excellence, Economic Vitality, Healthy Community, Strong and Secure Neighborhoods and a Connected Community. The operations of the Olympic Training Center support the Economic Vitality goal as the City will be able to maximize the use of this valuable asset as an economic driver.

CURRENT YEAR FISCAL IMPACT

Approving the terms of the agreement will have no fiscal impact in the current fiscal year.

ONGOING FISCAL IMPACT

The ongoing fiscal impacts will be determined once the negotiations with the operator have been finalized. The agreement with the operator will be brought back for City Council consideration at which time a fiscal analysis will be provided.

ATTACHMENTS

- Agreement of Property Transfer and Joint Escrow Instructions [Chula Vista Training Center]
- Core Agreement

Staff Contact: Kelley Bacon, Deputy City Manager