



# RIVERSIDE PUBLIC UTILITIES

## Board Memorandum

**BOARD OF PUBLIC UTILITIES**

**DATE:** JUNE 10, 2019

**ITEM NO:** 22

**SUBJECT:** **THIRD AMENDMENT TO GROUND LEASE AGREEMENT AND THIRD AMENDMENT TO WATER SALE AGREEMENT WITH AMERICAN YOUTH SOCCER ORGANIZATION – REGION 47 – UPDATE**

**ISSUE:**

That the Board of Public Utilities receive and file this update on the Third Amendment to the Ground Lease Agreement and the Third Amendment to the Water Sale Agreement with the American Youth Soccer Organization – Region 47.

**RECOMMENDATION:**

That the Board of Public Utilities receive and file this update on the Third Amendment to the Ground Lease Agreement and the Third Amendment to the Water Sale Agreement with the American Youth Soccer Organization – Region 47.

**BACKGROUND:**

**Purchase and Development of the Site:**

On July 24, 1930, the City Council approved the purchase of a property from John T. and Amelia A. Garner for \$10.00. The property contains the present day Reid Park, Ab Brown Soccer Complex, and the former Riverside Golf Course. The Grant Deed was recorded on July 25, 1930 (Deed No. 986). Riverside Public Utilities (RPU) assumed control of the property in order to secure local water rights and enable the development of future water resources.

The Ab Brown Soccer Complex (Ab Brown) is a single parcel within the former Garner property totaling approximately 56 acres. On December 3, 1982, the City entered into a Lease Agreement with Riverside Sports Organization Inc., to develop and operate a youth football and soccer complex to facilitate the promotion and teaching of these sports to children.

On August 24, 1992, Riverside Sports Organization Inc. entered into a Lease Assignment Agreement with the American Youth Soccer Organization (AYSO), assigning and transferring all of the rights, titles, interests and obligations in the original Lease Agreement to AYSO.

The site is currently improved with parking lots, bathrooms, miscellaneous storage, lighting, underground utilities, fencing, landscaping, and water stations. These improvements were made by the City's Parks, Recreation and Community Services Department (PRCSD) and AYSO with AYSO assuming responsibility to provide all maintenance of the facilities, including watering, mowing, weed control, graffiti abatement and security.

On June 20, 1995, the City entered into a Non-exclusive License Agreement with AYSO for the use of Ab Brown.

On June 30, 2010, the City entered into an agreement with AYSO for the sale of non-potable water from the City of Riverside to AYSO, on a wholesale basis, to be used solely for irrigation of landscaping at Ab Brown. Later that year, the City entered into a First Amendment to the Non-exclusive License Agreement with AYSO for the use of Ab Brown.

On May 1, 2015, the Public Utilities Board (Board) recommended that the City Council approve a one-year Lease Agreement and Water Sales Agreement commencing on July 1, 2015 with AYSO for the use of the Property for the playing and teaching of soccer for youth soccer programs and soccer tournaments. The City Council subsequently approved both agreements on May 19, 2015.

On June 6, 2016, the Board recommended that the City Council approve the First Amendment to the Ground Lease Agreement and the First Amendment to the Water Sales Agreement with AYSO for a term of two-years which expired on June 30, 2018. The Agreements were subsequently approved by City Council on June 7, 2016.

On June 25, 2018, the Board recommended that the City Council approve the Second Amendment to the Ground Lease Agreement and the Second Amendment to the Water Sales Agreement for a term of one-year, set to expire on June 30, 2019, which included two (2) optional one-year extension periods with AYSO with conditions including 120 days' notice prior to termination of the Agreement and an annual accounting of all funds collected by AYSO from non-AYSO entities for use of the property during the preceding year of the lease. These agreements were subsequently approved by City Council on July 10, 2018. The City Council also authorized the City Manager to execute amendments for optional extensions. If all extension periods are exercised, the Agreements will expire on June 30, 2021.

#### Additional Transactions:

On December 17, 2010, the Board recommended that the City Council approve the transfer of the Property from the Water Division to the Electric Division for the fair market value amount of \$11,600,000 based upon an appraisal, for the following reasons:

1. RPU – Water did not anticipate future development on the site;
2. RPU – Electric had very limited real property holdings and the transfer would better balance the Utilities' respective short-term and long-term investment and reserve assets; and
3. RPU – Electric Fund would be able to capitalize on future appreciation of real estate values, while increasing the financial liquidity of the Water Fund.

On January 4, 2011, City Council approved the transfer of the property from the Water Division to the Electric Division.

#### **DISCUSSION:**

##### Lease Extension:

AYSO has requested to exercise their option to extend the Ground Lease and Water Sale Agreements for the continued use of the Ab Brown Soccer Complex. Upon approval, the Fourth Amendments to the Ground Lease and Water Sale Agreements will extend the Agreements for a one-year period to June 30, 2020. Per the Ground Lease Agreement, the extension is automatically granted as long as AYSO:

1. Sends a written request to the City at least 120 days prior to the expiration of the current term of the Lease;
2. Provides an accounting of all other use of the Property by non-AYSO entities during the preceding year of the Lease; and

3. Provides an accounting of all funds collected by AYSO from non-AYSO entities.

The Board may recommend that the City Council terminate the agreement with the following provisions:

1. If AYSO defaults on the Lease for any reason other than rent and the City provides AYSO with 30 days to cure, and if the corrections are not completed, the Lease automatically terminates;
2. If AYSO abandons the Lease for two (2) months, the Lease automatically terminates; and
3. The City may terminate the Lease during either of the optional one-year extension periods by providing 180 days prior notice to AYSO prior to the expiration of either of the extended terms. The City could terminate the last option year, which expires on June 30, 2021, by providing notice to AYSO on or before January 1, 2020. In this instance, the Lease would terminate effective June 30, 2021.

However, staff does not recommend that the Board terminate the agreement at this time for the following reasons:

1. Northside Specific Plan (Northside Plan) - The City is actively working on the Northside Specific Plan and is in the process of preparing an Environmental Impact Report (EIR). If the area around the complex remains zoned for industrial uses, Ab Brown will likely remain at its current location. Otherwise, if the area around Ab Brown is expected to become residential, the complex will likely be relocated. It is unreasonable to expect another organization to develop and/or maintain the property before this issue is resolved.
2. Avoided Costs - As stated above, AYSO maintains Ab Brown at no cost to the City. If PRCSO were to assume the operations and maintenance of Ab Brown, it anticipates that it would do so at a significant loss – estimated at \$700,000 for the first year, which includes a start-up cost of approximately \$200,000, and \$500,000 per year for each subsequent year. Likewise, if the land were to become vacant, RPU would likely spend approximately \$25,000 to \$75,000 per year for weed control purposes.
3. Scheduling Committee - AYSO met with the Scheduling Committee at least 3 times between July 2018 and March 2019 to review additional uses of the Property as required by the Ground Lease Agreement.
4. Financials - As of December 31, 2018, AYSO's balance was \$51,829.38 of which, \$24,450.00 was collected from non-AYSO user groups for rental of the soccer fields.

In reference to AYSO's lease requirements pursuant to the 2<sup>nd</sup> Amendment Section 3(f), Section 3(g) and Section 28:

Under the terms of the proposed Third Amendment to the Ground Lease Agreement, AYSO shall continue to pay an annual lease fee of \$12,000 to the City, to keep the premises in a neat and clean condition free of all weeds, trash and refuse, and to keep any walls, fences, gates, signs and any other improvements adjacent to the premises free from graffiti. As has been the case since inception of this use, RPU continues to reserve its water rights, including the installation of pipelines, wells, etc., over all of the leased property without further consent by AYSO. Staff believes the ground lease payment and in-kind services for maintenance are adequate and appropriate compensation for the proposed use.

The proposed Third Amendment to Water Sales Agreement allows for the continued delivery of non-potable water for irrigation to the fields through a service and meter connected to the well system's collection of pipelines. Staff has reviewed the on-going water use at the property and determined that adequate water supply exists to continue the non-potable sale. The terms of the original Ground Lease and Water Sale Agreement will remain the same, except for the extended term.

AYSO's obligation to maintain the facility is a significant value as it offsets the costs RPU would otherwise incur absent a lease agreement.

RPU and PRCSO staff believe that the maintenance and program activity provided by AYSO offsets the

maintenance and programming costs RPU and the PRCSO would incur absent the Lease Agreement.

**FISCAL IMPACT:**

Total revenue from the ground lease is \$12,000 annually. All lease revenue is deposited into the Electric Fund Other Property Rental Account No. 0000510-373120. Water service revenue based on prior usage is estimated at \$30,000 annually and will be collected as part of the normal billing process for Riverside Public Utility water customers.

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Approved by: Al Zelinka, FAICP, City Manager  
Approved as to form: Gary G. Geuss, City Attorney

Certifies availability  
of funds: Brian Seinturier, Utilities Fiscal Manager

Concurs with: David Welch, Community & Economic Development Director  
Adolfo Cruz, Parks, Recreation & Community Services Director

**Attachments:**

1. AYSO Financial Statement & Field Usage
2. Letter of Intent to Extend
3. Parks, Recreation & Community Services Projected Expenditures to Maintain Ab Brown
4. Presentation