



AGENDA MEMORANDUM

First Reading Item for the City Council Meeting of November 12, 2019
Second Reading Item for the City Council Meeting of November 19, 2019

DATE: October 24, 2019

TO: Peter Zaroni, City Manager

FROM: Keith Selman, Assistant City Manager
KeithSe@cctexas.com
361-826-3898

SQH Sports & Entertainment Agreement for Extension of Performance Milestones

CAPTION:

Ordinance to amend the 40-year Lease Agreement with SQH Sports & Entertainment, Inc., which was originally authorized on October 18, 2016 for the lease of approximately 67.69 acres of unimproved land near State Highway 286 and FM 43 (Weber Road) for a regional youth sports complex, with the amendment to provide for extension of the performance milestones in the lease and notice of default.

SUMMARY:

This ordinance is to execute an amendment to the Lease Agreement with SQH Sports & Entertainment, Inc. for a regional youth sports complex, to extend the performance milestones and amend the default provision to provide for 30 days' notice of default.

BACKGROUND AND FINDINGS:

The Parks and Recreation Department has been working with SQH Sports and Entertainment, Inc. since January 2015 for the construction and operation of a regional youth sports complex on approximately 67.69 acres of city property located near the JC Elliot Landfill on Highway 286. The complex will focus on hosting national and regional youth sports tournaments providing support to the local tourism and economic development industries. The agreement was executed October 18, 2016 to be effective December 18, 2016.

In July 2017, an agreement was made to extend performance milestones. In April 2018, City Council acted upon a first reading on a new lease which included 67.69 acres (Exhibit A), 30.22 acres (Exhibit F), and an additional 105.39 acres. After 18 months, no action was taken on the second reading, demonstrating no desire to proceed with the new 203.3 acre lease. Given the negotiations for the 203.3 acres, it was unrealistic to demand compliance with the milestones established in the original 67.69 lease agreement. Therefore, amendment to the milestones is warranted and enumerated below:

“8.1.2. Performance Milestones – Tenant agrees to complete the following performance milestones by the dates shown below ~~with all dates running from the Effective Date~~. The determination of tenant’s successful compliance with these Performance Milestones is within the sole determination and discretion of the Director of Parks and Recreation, whose approval shall not be unreasonably withheld. Tenant agrees to provide Director of Parks and Recreation with documentation of completion of each Performance Milestone, subject to review and approval of Director of Parks and Recreation. Failure to timely and successfully complete a Performance Milestones shall be considered an “Event of Default” and subject to further action under Article 15.

8.1.2.A. ~~The Coastal Bend Community Foundation Tracts have been conveyed to SQH or an affiliate of SQH by third party owner within eighteen (18) months from the Effective Date. Affiliate of SQH means an entity who controls, is controlled by, or is under common control with SQH. Left blank.~~

8.1.2.B. ~~Within eighteen (18) months from the Effective Date, Tenant demonstrates to the satisfaction of the Director of Parks and Recreation that all utilities for the Premises have been approved in accordance with the Unified Development Code. By January 3, 2020, Tenant demonstrates to the satisfaction of the City Manager that Tenant has full funding for construction of the Improvements listed above in Section 8.1.1. as well as full funding for any additional public improvements needed for operation of the complex.~~

8.1.2.C. ~~Tenant secures funding for construction of Improvements listed above within twenty-one (21) months from the Effective Date. By May 1, 2020, Tenant shall ensure that all utilities for the Premises have been approved in accordance with the Unified Development Code~~

8.1.2.D. ~~By December 1, 2020, Tenant completes final design of complex within 13 months from the Effective Date.~~

8.1.2.E. ~~By January 1, 2021, Tenant begins construction of complex within twenty-six (26) months from the Effective Date.~~

8.1.2.F. ~~By February 1, 2022, Tenant substantially completes construction of complex within thirty-nine (39) months from the Effective Date.~~

8.1.2.G. ~~By April 1, 2022, Tenant begins operations of major components of complex within forty-one (41) months from the Effective Date.~~

~~Notwithstanding anything in this Lease to the contrary, the Parties agree and understand that failure to enter into a mutually agreeable utility line agreement to provide proper utilities to the Premises within six months from the Effective Date shall be grounds for either party to terminate this Lease upon written notice, and at no cost or liability to the other party.”~~

Article 15, Events of Default, is amended to read as follows:

“ARTICLE 15: EVENTS OF DEFAULT; REMEDIES

15.1 Events of Default. The occurrence of any one or more of the following events (each an “*Event of Default*”) shall constitute a default and breach of this Lease by Tenant:

If Tenant fails to perform any of Tenant's obligations or breaches any covenant or representation or warranty under this Lease for a period of ~~sixty (60)~~ thirty (30) days after written notice from Landlord (**the "Cure Period"**).

ALTERNATIVES:

The alternative is not approving the amendment to the lease agreement, then the City would recommend acting on default.

RECOMMENDATION:

Staff recommends approving the amendment to extend performance deadlines and revise the default notice provisions.

LIST OF SUPPORTING DOCUMENTS:

- Ordinance
- Lease Agreement
- Amendment to Lease Agreement
- Maps