

**CITY OF EL PASO, TEXAS
REQUEST FOR COUNCIL ACTION (RCA)**

DEPARTMENT: Parks and Recreation

AGENDA DATE: September 30, 2008

CONTACT PERSON/PHONE: Nanette Smejkal

DISTRICT(S) AFFECTED: 1

SUBJECT:

Discussion and action on a Resolution to terminate the June 19, 2007 Lease Agreement with the El Paso Border Youth Athletic Association for the purpose of developing, constructing and utilizing a youth baseball and softball facility on property located adjacent to Brown Street and Schuster Avenue consisting of all of blocks 104, 105, and 136, Alexander Addition, and a portion of blocks 68, 69, 99, 106, 107, 135, 137, 138, 139, 142, 143, and 174, and a portion of Ange Street, Octavia Street, Price Street, Noble Street, Daggett Street, Wade Street, University Avenue, Blanchard Avenue, Hague Avenue, and Rim Road rights-of-way (vacated), Alexander Addition, El Paso, El Paso County, Texas.

BACKGROUND / DISCUSSION:

On June 19, 2007, City Council approved a Lease Agreement between the City and the El Paso Border Youth Athletic Association ("EPBYAA") for the construction and utilization of a youth baseball and softball facility in the park area known as Lower Tom Lea Park. The lease provisions gave EPBYAA one year from June 19, 2007 to construct and open the facilities. The construction timeline has elapsed. EPBYAA was provided a ninety (90) day written Notice of Default on June 18, 2008. EPBYAA has not formally responded to the City within the ninety-day cure period, therefore, City staff is recommending that the City terminate the lease.

PRIOR COUNCIL ACTION:

June 19, 2007 (Ordinance 016674); September 30, 2003 (Ordinance 015568); April 29, 2003 (Resolution)

AMOUNT AND SOURCE OF FUNDING:

The City was not obligated to provide any funding for the construction and/or operation of the facilities contemplated by the lease. The terms of the lease included \$10 per year payment by EPBYAA

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____
(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

RESOLUTION

WHEREAS, on June 19, 2007, the El Paso City Council approved Ordinance No. 016674, which authorized a Lease Agreement between the City of El Paso and the El Paso Border Youth Athletic Association (“Lessee”); and

WHEREAS, the June 19, 2007 Lease Agreement allowed the Lessee to design, construct, operate, maintain and promote practice and playing baseball and softball fields and related amenities (the “Facilities”) at Lower Tom Lea Park; and

WHEREAS, the Lessee did not comply with the terms and conditions of the Lease Agreement which required it to begin construction so that the initial phase of the Facilities would be open to the public within the time period specified in the Lease; and

WHEREAS, pursuant to the terms and conditions of the Lease Agreement, on June 18, 2008, the City notified the Lessee that it had failed to meet the construction requirements of the initial phase of the Facilities and gave the Lessee ninety (90) days to cure the matter, and the Lessee was advised that it would be declared in default and the Lease Agreement would be terminated if it did not take action to comply with the Lease Agreement; and

WHEREAS, the Lessee did not respond to the June 18, 2008, Notice of Default, nor did it take any actions to address the identified terms and conditions of the Lease Agreement,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the El Paso Border Youth Athletic Association is in default of its requirements under its June 19, 2007 Lease Agreement with the City, and the June 19, 2007 Lease Agreement between the City of El Paso and the El Paso Border Youth Athletic Association is terminated.

PASSED AND APPROVED this _____ day of _____, 2008.

CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:

Nanette L. Smejkal, Director
Parks and Recreation Department