

REPORT OF GENERAL MANAGER

NO. 02-154

DATE April 17, 2002

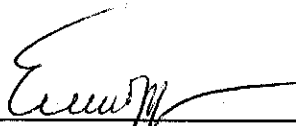
C.D. 15

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: APPROVAL OF CHANGES TO THE AGREEMENT WITH THE AMERICAN YOUTH SOCCER ORGANIZATION FOR THE USE OF THE GAFFEY STREET FIELD OF DREAMS

J. Combs _____
A. Coroalles _____
J. Duggan JD
J. Kolb _____

H. Fujita _____
*M. Tamuri M. Tamuri
M. Matthews _____



General Manager

Approved _____

Disapproved _____

Withdrawn _____

RECOMMENDATION:

It is recommended that the Board:

1. Approve changes in three (3) Sections of the Agreement, on file in the Board Office, that was approved as amended at the regular meeting of the Board on September 19, 2001; and,
2. Direct the Board Secretary to forward the changed passages to the City Attorney and to the Mayor for review in accordance with Executive Directive No. 16 prior to final execution by the Board President and Secretary.

SUMMARY:

The Field of Dreams project in San Pedro began with a Memorandum of Understanding approved by the Board on December 13, 2000, (Report No. 00-459) between the Departments of Public Works and Recreation and Parks. Development of the park is nearing completion.

In the meantime, the American Youth Soccer Organization (AYSO) requested an Agreement for the operation of organized activity at the site, intending to provide, at no cost to the City, the personnel needed for the presentation of their programs. The Agreement specifying the roles/responsibilities of AYSO and the Department was approved on September 19, 2001, (Report No. 01-351) and subsequently three incidental changes requested by local AYSO staff were approved on October 3, 2001, (Report No. 01-377).

Still later following another review, counsel in the national office of AYSO has requested a modification to Section 9.3.2, which is part of the "mutual hold harmless" Article on pages 16-17 of the Agreement. AYSO was concerned that the original wording might be interpreted to increase their liability beyond what was caused by their activity on the site.

REPORT OF GENERAL MANAGER

PG. 2

NO. 02-154

The following is the originally approved Section 9.3.2 with the proposed changes represented by Strike-through type for omissions and bold type for additions:

“AYSO agrees to indemnify, defend and hold harmless the CITY from and against all liability, expenses (including defense costs, legal fees and response costs imposed by law), and claims for damages of any nature whatsoever which arise out of the presence of Hazardous Materials on the Premises, ~~but excluding the presence of Hazardous Materials~~ caused by the acts or omissions of the CITY AYSO or any of its agents, employees, **licensees or invitees.**”

In addition, the City Risk Manager, who has approved the Agreement and the revised Section 9.3.2, has requested that a sentence be added to the beginning of Section 9.4 as indicated in bold:

“**Consistent with the terms of the Agreement, in the event of third party loss caused by the negligence, wrongful act or omission of more than one party, each party shall bear financial responsibility in proportion to its percentage of fault as may be mutually agreed between them or as may be judicially determined.** The indemnity of this Section provided to each party shall survive the termination of this Agreement.”

Finally, AYSO has requested that the start date of the Agreement cited in Article 4.1 (Term) be changed from March 1, 2002 to August 1, 2002.

The Assistant General Manager for Region Operations and the Superintendent of Pacific Region are aware of the proposed changes and concur with staff's recommendations.

Prepared by Joan Reitzel, Senior Management Analyst, Real Estate and Asset Management Division.