

MAY 04 2022

9:40 am

City of South Gate
CITY COUNCIL


AGENDA BILL

For the Regular Meeting of: May 10, 2022Originating Department: Public Works

Department Director:


Arturo Cervantes

Interim City Manager:


Chris Jeffers

SUBJECT: GROUNDWATER PUMPING WATER RIGHTS LEASE AGREEMENT WITH ROCKVIEW DAIRIES, INC., FOR THE LEASE OF 50 ACRE-FEET FOR FISCAL YEAR 2021/22

PURPOSE: The City has an Allowed Pumping Allocation (Water Rights) of 11,183 acre-feet (AF) and a water demand of 8,300 AF, leaving an estimated 2,883 AF in unused Water Rights annually. Staff is proposing to lease 50 AF of unused Water Rights to Rockview Dairies, Inc.

RECOMMENDED ACTIONS: The City Council will consider:

- a. Approving the Groundwater Pumping Water Rights Lease Agreement with Rockview Dairies, Inc., to lease fifty (50) acre-feet of the City's Fiscal Year 2021/22 Water Rights, without flex, retroactively effective July 1, 2021, in the amount of \$190 per acre-feet, or \$9,500 total; and
- b. Authorizing the Mayor to execute the Agreement in a form acceptable to the City Attorney.

FISCAL IMPACT: The proposed lease of 50 AF in Water Rights will generate \$9,500 for the Water Enterprise. The funds will be deposited in Account No. 411-4522 (Water Rights).

ANALYSIS: The proposal to lease Water Rights aligns with the annual demand for drinking water from the City's service area. To meet the annual demand, the City must have sufficient Water Rights to produce drinking water. The City must also have a contingency in Water Rights in case the demand for drinking water increases. The City's annual allocation of Water Rights is 11,183 AF. The current annual demand is approximately 8,300 AF. This leaves a contingency of approximately 2,883 AF in excess water rights, annually. Excess Water Rights may carry over to the next fiscal year; however, they will lapse if the balance exceeds 6,209 AF. Historically, the City has leased its excess Water Rights to prevent them from lapsing, as well as to generate revenue for the Water Enterprise. Table "A" on the following page, contains a summary of the current status of the Water Rights. It demonstrates that the proposed lease of excess Water Rights will not negatively impact the City's ability to meet the annual demands of its service area.

BACKGROUND: The City owns and operates a municipal water utility that is in an adjudicated water basin, known as the Central Basin. The Court retains jurisdiction of the water basin through a judgment that awarded Water Rights to water producers. Water Rights provide water producers the ability to extract groundwater from the Central Basin. The City has an

annual allocation of 11,183 AF in Water Rights. Excess Water Rights lapse when the balance exceeds 6,209 AF.

There are a few alternatives to program excess Water Rights. For example, the City may lease them, use them to store groundwater or carry them over to the next fiscal year. Given the options and the current annual water demand in the service area, staff is recommending the lease of 50 AF of its Water Rights to Rockview Dairies, Inc.

Rockview Dairies, Inc., needs to lease 50 AF of Water Rights and agreed to lease from the City at \$190 per AF. This rate matches the City's historical groundwater pumping rights lease rate. Comparatively, the City has a lease with the City of Cerritos for Fiscal Year 2020/21. The lease is for 1,000 AF of Water Rights at a rate of \$190 per AF. This lease was approved on September 22, 2020, following a competitive bid process. Further, the City had a lease with Rockview Dairies, Inc., for Fiscal Year 2020/21. The lease was for 100 AF of Water Rights at a rate of \$190 per AF.

The proposed lease is recommended on a sole-source basis. It was not procured through a competitive bid process; however, it offers a competitive rate.

Table A
Water Rights Summary

Description	Fiscal Year 2020/21
Total Starting Water Rights Balance on July 1, 2021, including carryover.	14,865 AF
Less: Estimated Water Demand in FY 2020/21 in COSG	(8,300) AF
Less: Stored Water	(500) AF
Total Water Rights Available to be Leased	6,065 AF
Less: Water Rights Previously Leased to the City of Cerritos	(1,000) AF
Less: Water Rights Previously Leased to the City of Compton	(900) AF
Total Water Rights Available to be leased	4,165 AF
Less: Potential Rockview Dairies, Inc. Lease	(50) AF
Water Rights Balance	4,115 AF

ATTACHMENT: Proposed Lease Agreement

CC/AA:lc

**GROUNDWATER PUMPING WATER RIGHTS LEASE AGREEMENT
BETWEEN THE CITY OF SOUTH GATE
AND
ROCKVIEW DAIRIES, INC.**

This Groundwater Pumping Water Rights Lease Agreement ("Lease") is made as of the Effective Date specified in Section (5) below between the City of South Gate, a municipal corporation ("Lessor"), and Rockview Dairies, Inc., ("Lessee"). Lessor and Lessee are sometimes hereinafter individually referred to as "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Lessor has certain Allowed Pumping Allocation ("APA") rights under and pursuant to that certain Judgment entered in the action entitled "Central and West Basin Water Replenishment District vs. Charles E. Adams, et. al.," Los Angeles Superior Court Case No. 786656 ("Action"); and

WHEREAS, Lessor has determined that it is in its best interests to lease water extraction rights, without flex rights, to Lessee under the terms set forth herein;

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

- (1) Lessee is hereby granted a lease to extract fifty (50) acre-feet per year, without flex rights, of water of Lessor's APA for the Fiscal Year of 2021/22 under and pursuant to the Action. Fiscal Year begins on July 1st of each year and ends on June 30th of the following year.
- (2) Lessee agrees to pay to Lessor the sum of **Nine Thousand and Five Hundred Dollars (\$9,500)** for Fifty (50) acre-feet of water rights without flex at a rate of One Hundred Ninety Dollars (\$190) per acre-foot.
- (3) Lessor will invoice Lessee within thirty (30) days after the Effective Date of this Lease. Payment must be made within fourteen (14) days after Lessor transmits the invoice to Lessee.
- (4) Lessee shall exercise said right and extract the same on behalf of Lessor during the period above specified and put the same to beneficial use. Lessee shall not by the exercise hereunder of said right acquire any right to extract water independent of the rights of Lessor.
- (5) The Term of this Lease shall commence July 1, 2021 ("Effective Date") and expire by its own accord on June 30, 2022, or when Lessee has extracted the permitted acre feet of water per year under this Lease.

- (6) This Lease may be terminated as follows:
 - A. At the expiration of the term;
 - B. Upon mutual written agreement between the parties; or
 - C. Should either Party materially breach this Lease and fail to cure such breach within thirty (30) days of being notified by either Party regarding such breach to either Party's reasonable satisfaction.
- (7) Lessee shall pay replenishment assessments levied on the pumping of said groundwater by the Water Replenishment District of Southern California ("District").
- (8) Lessee shall notify the District and its Watermaster that said pumping was done pursuant to this Lease and provide the Watermaster with a copy of this document.
- (9) Lessee shall note, in any recording of water production for the term of this Lease that said pumping was done pursuant to this Lease.
- (10) Lessee's APA shall not be increased by the amount hereby leased when computing carryover or allowable over extraction as provided by Part III, Subpart A and B of the above-referenced Judgment in the Action.
- (11) Lessee and Lessor represent and warrant that they have the right, power, legal capacity, and authority to enter into and perform their respective obligations under this Lease.
- (12) Lessee and Lessor shall each indemnify, defend and hold the other harmless from and against all claims, losses, liabilities, damages, costs, and expenses (including reasonable attorneys' and consultants' fees, costs and expenses) (collectively "Losses") arising from the indemnifying Party's breach of any term or condition of this Lease or from the negligence or willful misconduct of the indemnifying Party or its agents or employees.
- (13) Lessor warrants that it has Fifty (50) acre-feet of APA and that it has not pumped and will not pump or permit any other person to pump any part of said Fifty (50) acre-feet during the period of July 1, 2021 through June 30, 2022.

[Remainder of page left blank intentionally.]

IN WITNESS WHEREOF, the Parties hereto have caused this Lease Agreement to be executed and attested by their respective officers thereunto duly authorized.

"Lessor"

CITY OF SOUTH GATE

By: _____

Al Rios, Mayor

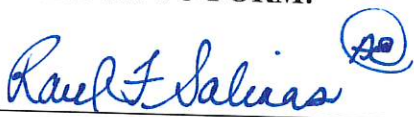
ATTEST:

By: _____

Chris Jeffers, Deputy City Clerk
(SEAL)

APPROVED AS TO FORM:

By: _____



Raul F. Salinas, City Attorney

"Lessee"

ROCKVIEW DAIRIES, INC.

By: _____

Bert DeGroot, President