

# Mayor and Council Communication

**DATE:** 04/25/23

**M&C FILE NUMBER:** M&C 23-0334

**LOG NAME:** 55FWS HARRISON TERM AND SETLMNT AGRMNT, TANK FARM LEASE

**SUBJECT**

(CD 6 / Future CD 8) Authorize Execution of a Mutual Termination, Settlement, and Release Agreement with Harrison Aviation, LTD. Who Will Pay the City of Fort Worth an Amount of \$8,566.00 to Settle All Potential Claims Under City Secretary Contract No. 31965, the Current Fuel Farm Lease Agreement at Fort Worth Spinks Airport, and Terminate the Same Therein and Authorize Execution of a New Tank Farm Lease and Public Fueling Agreement with Harrison Aviation, LTD. at Fort Worth Spinks Airport

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**RECOMMENDATION:**

It is recommended that the City Council:

1. Authorize execution of a Mutual Termination, Settlement, and Release Agreement with Harrison Aviation, LTD. who will pay the City of Fort Worth an amount of \$8,566.00 to settle all potential claims under City Secretary Contract No. 31965, the current fuel farm lease agreement at Fort Worth Spinks Airport, and terminate the same therein; and
  2. Authorize execution of a New Tank Farm Lease and Public Fueling Agreement with Harrison Aviation, LTD. at Fort Worth Spinks Airport.
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**DISCUSSION:**

On or about July 1, 2005, the City (Lessor) and Harrison Aviation, LTD. (Lessee) entered into City Secretary Contract (CSC) 31965, a Tank Farm and Public Fueling Agreement (Agreement) which included two self-serve fueling stations and required Lessee to manage the tie down parking spaces on the Lessor's ramp space. Under the Agreement, the Lessee was required to pay forty percent (40%) of the transient aircraft tie down rent collected at rates in accordance with the City's then published Schedule of Rates and Charges. In August of 2021, Aviation Department staff began a departmental audit of the Agreement and it was determined that the amount submitted monthly for tie downs at Spinks Airport did not reconcile with recent ramp studies conducted by Airport Operations. Due to the significant discrepancy, a default under the Agreement was triggered. After meeting with the Lessee, the parties agreed that the current agreement will be terminated and ramp management will not be included in any future tank farm and public fueling agreements with Lessee. Prior to monitoring the ramp in 2021 through 2022, the Lessor is unable to determine the extent of the lack of payment for the tie down rent, so the Lessor and Lessee wish to settle the account for the time period of August 2021 through December 2022 in the amount of \$8,566.00, which has been paid in full.

Upon City Council Approval, the Lessor and Lessee will execute a mutual termination, settlement and release agreement related to the discrepancies described above and also execute a new tank farm and public fueling agreement (New Agreement), which will be effective upon date of execution of the termination of CSC 31965. In alignment with the Lessee's Fixed Base Operator Permit (FBO Permit), the New Agreement will expire on September 30, 2025 with subsequent renewal terms of five (5) years each to automatically renew until such time as the Lessee notifies the Lessor in writing no less than 90 days and no more than 180 days prior to expiration of any given term of its intent to terminate, or June 30, 2045, whichever comes first. The New Agreement will also include two self-serve fueling stations. If approved, the tank farm usage fee of \$400.00 per month from this lease will generate revenue of \$4,800.00 annually. Rental rates shall comply and adjust with the rates prescribed for the premises by the published Airport Schedule of Rates and Charges. Fuel flowage fees will be paid by Lessee each month in accordance with the current Airport Schedule of Rates and Charges and the Aviation Minimum Standards.

Fort Worth Spinks Airport is located in COUNCIL DISTRICT 6/FUTURE COUNCIL DISTRICT 8.

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**FISCAL INFORMATION / CERTIFICATION:**

The Director of Finance certifies that upon approval of the above recommendations and execution of the lease, funds will be deposited into the Municipal Airport Fund. The Aviation Department (and Financial Management Services) is responsible for the collection and deposit of funds due to the City.

**Submitted for City Manager's Office by:** Dana Burghdoff 8018

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