

Mayor and Council Communication

DATE: 12/13/22

M&C FILE NUMBER: M&C 22-1038

LOG NAME: 55FWS JAKE HUFFMAN LEASE AMEND NO. 1 LEASE SITE E3

SUBJECT

(CD 6) Authorize Execution of Lease Amendment No. 1 for a Lease Agreement with Jake Huffman Under City Secretary Number 28037 to Increase the Square Footage of the Leasehold from 3,000 Square Feet to 6,000 Square Feet for Lease Site E3 Located at Fort Worth Spinks Airport

RECOMMENDATION:

It is recommended that the City Council authorize execution of Lease Amendment No. 1 for a Lease Agreement with Jake Huffman under City Secretary Number 28037 to increase the square footage of the leasehold from 3,000 square feet to 6,000 square feet for Lease Site E3 located at Fort Worth Spinks Airport.

DISCUSSION:

On or about October 4, 2002, the City of Fort Worth (Lessor) and Jake Huffman (Lessee) entered into City Secretary Contract No. (CSC) 28037 (Lease), an unimproved ground lease agreement for the lease and use of real property known as Lease Site E-3 consisting of a total of 3,000 square feet of ground space at City of Fort Worth Spinks Airport. CSC No. 28037 is currently in its initial lease period to expire on September 30, 2032 with two (2) additional five (5) year options to renew for a potential expiration date of September 30, 2042.

A recent audit of Lessee's lease accounts discovered that Lessee is billed and paying for a total of 6,000 square feet of ground space for Lease Site E-3. Lessee disclosed to Aviation Department staff that sometime after the effective date of the Lease, Lessee requested to use and improve an additional 3,000 square feet adjacent to the leased premises (Additional Property) with flatwork, described as a concrete pad and that the Lessor verbally approved at the time, with both parties intending that an amendment to the Lease would be executed. Although Aviation Department staff was unable to locate any documentation of a lease amendment between Lessor and Lessee to reflect the incorporation of Additional Property in the Lease, staff has determined that Lessee made additional rent payments since that time which are commensurate with the rental rate for Additional Property.

Because Lessor has determined that the parties have been operating in good faith and in the general course of business as if Additional Property was already incorporated into the Lease, the Lessor does not object, in this circumstance, to continuing to allow Lessee to occupy Additional Property. Lessee and Lessor now wish to amend the lease to retroactively include the 3,000 square feet of ground space Lessee is already utilizing, paying for and maintaining adjacent to Lease Site E-3. A recent survey was completed to formally establish the lease boundaries.

Lessee currently pays Lessor, as annual rent, \$1,727.69, which will be payable in monthly installments of \$143.97. The lease rate is adjusted every five years to the then current ground rate published in the Schedule of Rates and Charges. The next scheduled five-year rate adjustment for CSC 28037 is October 1, 2027. Additionally, on October 1 of any given year, rental rates shall be subject to an increase based on the upward percentage change in the Consumer Price Index for the Dallas-Fort Worth Metropolitan area. At no time will the adjusted rate exceed the rate that is current in the Schedule of Rates and Charges. All terms and conditions of the lease agreement not included in the lease amendment will remain the same and are in accordance with City of Fort Worth and Aviation Department policies.

Fort Worth Spinks Airport is located in COUNCIL DISTRICT 6.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that upon approval of the above recommendation and execution of the amendment to 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.

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