

Mayor and Council Communication

DATE: 02/14/23

M&C FILE NUMBER: M&C 23-0091

LOG NAME: 55AFW FEDEX AGREEMENT AND RELEASE

SUBJECT

(CD 7 / Future CD 10) Authorize the Execution of an Agreement and Release with Federal Express Corporation Who Will Pay the City of Fort Worth an Amount of \$377,338.91 to Settle all Potential Claims Related to Late Rent Penalties as of Present Day Under the Land and Special Facilities Lease at Perot Field Fort Worth Alliance Airport Under City Secretary Contract Number 21755, as Amended

RECOMMENDATION:

It is recommended that the City Council authorize the execution of an Agreement and Release with Federal Express Corporation who will pay the City of Fort Worth an amount of \$377,338.91 to settle all potential claims related to late rent penalties as of present day under the Land and Special Facilities Lease at Perot Field Fort Worth Alliance Airport under City Secretary Contract Number 21755, as Amended.

DISCUSSION:

The purpose of this Mayor and Council Communication (M&C) is to recommend that the City Council authorize the execution of an Agreement and Release with Federal Express Corporation who will pay the City of Fort Worth (City) an amount of \$377,338.91 to settle all potential claims related to late rent penalties as of present day under the Land and Special Facilities Lease at Perot Field Fort Worth Alliance Airport under City Secretary Contract Number 21755, as Amended.

On March 9, 2021, M&C 21-0184 was approved for a Second Amendment to the Land and Special Facilities Lease Agreement (Lease) by and between Federal Express Corporation (FedEx) and the City, City Secretary Contract No. 21755-A2. Initial annual rental amount of this Lease is \$2,012,474.20, which is payable in twelve (12) equal monthly installments of \$167,706.18 and are to be made from FedEx to the City. The purpose of the amendment was to extend the term of the Lease for twenty (20) years, establish a new ground and facilities lease rate, and include specified capital investments to be made by FedEx to the leased premises.

This Lease was signed by both parties on March 31, 2021 and the initial start date to receive the first monthly installment from FedEx was to begin April 2, 2021. FedEx was not able to implement their accounts payable process and coordinate with the City's Financial Management Services (FMS) Treasury Division to assure proper receipt of the FedEx monthly lease payments until October of 2021. FedEx has now made the required adjustments to their accounts payable processes and is currently up to date on all payments as required under the Lease excluding accrued late fees covering the period from April to September 2021 in the amount of \$512,416.51.

Recognizing that the execution of the Lease and the initial start date only provided a few days to make payment to the City at the beginning of the Lease and did not provide sufficient time for FedEx to initiate the accounts payable process during that first month, the Aviation Department requests that City Council Approve this Agreement and Release, allowing the City and FedEx to settle on an amount of late fees due for \$377,338.91, which would be the amount of late fees owed if calculated starting in May of 2021 instead of April of 2021. FedEx has agreed to pay the late fee amount due of \$377,338.91 to settle any claim for damages that the City may have thereunder up to the effective date of this Agreement and Release for late fees due under the Lease.

A Form 1295 is not required because: This contract will be with a publicly-traded business entity or a wholly-owned subsidiary of a publicly-traded business entity: Tennessee

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that upon approval of the above recommendation, funds will be deposited into the Municipal Airport Fund and the balance due eliminated as authorized. The Aviation Department and Financial Management Services are responsible for the collection and deposit of funds due to the City.

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