

Mayor and Council Communication

DATE: 05/05/20

M&C FILE NUMBER: M&C 20-0306

LOG NAME: 55FWS CONSENTASSIGNMENT 13745HNGR A

SUBJECT

Authorize the Execution of a Consent to Assignment of a Hangar Sublease Estoppel, Non-Disturbance, and Assignment Agreement for Lease Site 13745 Wing Way, Hangar A by Tiger Aviation, LLC to Filtration Automation, Inc. at Fort Worth Spinks Airport (COUNCIL DISTRICT 6)

RECOMMENDATION:

It is recommended that the City Council authorize the execution of a Consent to Assignment of a Hangar Sublease Estoppel, Non-Disturbance, and Assignment Agreement for Lease Site 13745 Wing Way, Hangar A by Tiger Aviation, LLC to Filtration Automation, Inc. at Fort Worth Spinks Airport.

DISCUSSION:

On September 29, 2006, Spinks Westside Associates, (Former Lessee), entered into an unimproved Ground Lease with Mandatory Improvements with the City of Fort Worth (Lessor) (City Secretary Contract (CSC) No. 34065). On June 2, 2008, the Ground Lease was amended (Amended Lease) (CSC No. 37154). The Ground Lease and the Amended Lease are hereinafter collectively referred to as the Master Lease. The real property, which is the subject of the Master Lease, consists of four (4) hangar sites identified as Lease sites W-3 through W-6 inclusive, located at Fort Worth Spinks Airport in the City of Fort Worth.

On or about September 2008, the Former Lessee completed construction of the aircraft storage hangar building on Lease Site W-6, known and referred to as 13745 Wing Way, Fort Worth, Texas, consisting of five (5) individual hangars within a multi-unit aircraft hangar building identified as hangar units A-E.

On November 7, 2008, the City of Fort Worth Aviation Department approved, as to form only, a certain Hangar Sublease and Exclusive Occupancy Agreement as an approved instrument to memorialize the sale to third persons of a Leasehold Interest as a Sublessee in individual box hangar units within the completed aircraft storage hangar buildings defined in the Master Agreement as Mandatory Improvements.

On January 22, 2009, the Former Lessee and Newstart Construction, Inc.(Newstart) entered into those certain Hangar Sublease and Exclusive Occupancy Agreements governing Box Hangars A and B.

On September 5, 2013, Newstart entered into a Hangar Sublease Sale and Assignment Agreement with Tiger Aviation, LLC (Assignor). The Assignor purchased the exclusive right to occupy and use of Box Hangar A. On April 5, 2017, Newstart and the Assignor entered into a second Hangar Sublease Sale and Assignment Agreement, through which the Assignor purchased the exclusive right to occupy and use Box Hangar B.

Mr Darrell Clendenen, manager of Spinks Westside Associates, LLC, subsequently approached the City expressing his desire to terminate the Master Ground Lease Agreement. Mr. Clendenen asked if the City would be interested in purchasing the Leasehold Interest in some of his properties. Recognizing the good condition and value that the hangar facilities possessed, the Aviation Department had the Leasehold Interest appraised to determine the appropriate value. Based on the appraised value, the Aviation Department and Mr. Clendenen agreed to purchase some of Mr. Clendenen's remaining leasehold interests and the Aviation Department asked council for approval of a purchase price up to \$4,400,000.00.

On December 6, 2016, City Council adopted Mayor and Council Communication (M&C) C-28022, authorizing the termination of the Master Lease. Upon termination of the Ground Lease Agreement CSC 34065, the Lessor (City) agreed to enter into a Hangar Sublease Estoppel, Non-Disturbance, and Assignment Agreement with the Assignor for Box Hangars A and B.

On August 17, 2017, the Lessor and Assignor entered into a Hangar Sublease Estoppel, Non-Disturbance, and Assignment Agreement (M&C) C-28330 to continue the terms of the Box Hangar Leases for Box Hangars A and B. The Lessor assumed the rights and obligations of Lessee under the aforementioned Box Hangar Sub-Leases.

On September 6, 2019, City staff received a request from the Assignor to assign all Assignor's rights, title and interest in 13745 Wing Way, Box Hangar A (Leased Premises) only to Filtration Automation Services, LLC (Assignee); the Assignee wishes to accept such assignment, and the Lessor is willing to consent to such assignment, all on the terms and conditions set forth in the Consent agreement.

Under the current agreement, the Assignor remits the amount of \$727.68 annually, payable in monthly installments of \$60.64. After assignment, the Assignee will remit the same amount and be subject to the provisions contained within the original lease agreement.

Fort Worth Spinks Airport is located in COUNCIL DISTRICT 6.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that upon approval of the above recommendation(s) 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.

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