



Legislation Text

File #: 19-0651, Version: 1

**AGENDA REPORT
REQUEST FOR CITY COUNCIL ACTION**

DATE: July 17, 2019

TO: Honorable Mayor and City Council Members

FROM: Maintenance Services Department

SUBJECT:

City Council consideration of First Amendment of the May 16, 2018 Master Sub-Lease Agreement with Diamond Aero Corporation for Parcels II and VI at the Corona Municipal Airport.

RECOMMENDED ACTION:

That the City Council

1. Approve and authorize the Mayor to execute the attached First Amendment of the May 16, 2018 Master Sub-Lease Agreement with Diamond Aero Corporation for parcels II and VI for the Corona Municipal Airport.
2. Recommend to the U.S. Army Corps of Engineers (USACOE), the City's master lessor for the Corona Municipal Airport, that it approve the of First Amendment to the May 16, 2018 Master Sub-Lease Agreement with Diamond Aero Corporation for Parcels II and VI.

ANALYSIS:

As Diamond Aero Corporation ("Diamond Aero") has been a long-term master sub-lease holder in good standing for Parcels II and VI, on May 16, 2018 the City entered into an extension of their agreements, which extension was combined into a Master Sub-Lease Agreement for parcels II & VI ("Master Sub-Lease or "Lease Agreement").

Parcel II: Diamond Aero has been the City's Master Sub-Lease holder for Parcel II since 04-01-92. The original term of their agreement was for 15 years through 03-31-07. As allowed under the agreement, Diamond Aero twice exercised its unilateral right to extend the term for 5 years each through 03-31-12 and then 03-31-17. Thus, the current Lease Agreement retroactively extended the term from 03-30-17 through 01-31-37.

Parcel VI: Fred Peters, individually and through his corporate entity, Diamond Aero, has been the City's Master Sub-Lease holder for Parcel VI since 02-15-06, when SVS Development

assigned the lease agreement to Fred Peters (Fred Peters subsequently assigned the lease agreement to Diamond Aero on 01-05-11). The City's original lease holders were Gary Shelton, Richard Van Frank and David Smith (they assigned the lease agreement to their corporate entity, SVS Development, by a document dated 04-18-74). The original lease agreement was for 35 years, from 10-15-73 through 10-14-08, with one unilateral right to extend for a little more than 8 years to 01-31-17. Since the unilateral right to extend was implemented, the current Lease Agreement retroactively extended the term from 01-31-17 through 01-31-37.

On August 30, 2018, the USACOE's provided written notice that it had changed its Land Use Policy for the airport property and that it will no longer allow the airport to operate as of January 30, 2037. Accordingly, during its review and sign-off of the Master Sub-Lease, the USACOE required that the City remove any optional extensions or reference as to such from the agreement.

The term(s) of the May 16, 2018 approved Master Sub-Lease and the optional additional terms included the following:

Initial Term	Appx 20yrs	07-01-17 to 01-31-37
1st Optional Term (Mutual)	10yrs	01-31-47
2nd Optional Term (Mutual)	10yrs	01-31-57

The following amendments to the term(s) and Conditions of the Master Sub-Lease Agreement have been reviewed and approved by the USACOE and shall reflect the following:

<u>Term</u>	Appx 20yrs	07-01-17 to 01-31-37
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No Additional Terms (s); Right of Refusal - Clarifies that, according to the USACOE, the Lease Agreement will not be renewed after January 31, 2037. Accordingly, unless the USACOE changes its mind, the Lease Agreement will expire as of January 31, 2037. In the event that the Airport is allowed to continue to operate under a subsequent lease to the Master Lease Agreement approved by USACOE, Lessee will be provided a right of first refusal to enter into a new master sub-lease for Parcels II and VI beginning on February 1, 2037, so long as Lessee is then in good standing.

Notification to Lessee of USACOA Changes - On October 22, 2018, the City provided written notice to Lessee of the USACOE's written notice dated August 30, 2018 that it will no longer allow the Airport to operate as of January 30, 2037. Lessor will provide prompt notification to Lessee in the event that Lessor becomes aware of any written definitive change in plans by the USACOE (or any other agency) to allow operation of the Airport on or after February 1, 2037 or that would significantly impact Lessee's on-going operations at the Airport.

Hold Over Prohibited; Survival of Payment Obligations - Upon the expiration of the Term of the Master Sub-Lease or the early termination of the Master Sub-Lease, Lessee shall have no right to hold over and remain in possession of the Premises. However, if Lessee does hold over, certain provisions of the Master Sub-Lease will

survive, such as the obligation to pay all required payments, including 300% of the rents and fees provided for in Section 3.4 of the Agreement.

The First Amendment has been approved in concept by the USACOE, as it will bring the Master Sub-Lease into compliance with the USACOE's new Land Use Policy. The Master Sub-Lease Agreement and the First Amendment to the Agreement approved by this Agenda Report will be submitted to the USACOE for their subsequent formal approval.

COMMITTEE ACTION:

Not applicable.

STRATEGIC PLAN:

This item supports the City's Strategic Plan Goal 4: Actively Engage in Public and Private Partnerships to Provide Services and Amenities; Objective B: Proactively develop partnerships with local and regional business interests and agencies. The recommended action will help achieve these goals by providing necessary improvements to the airport grounds and facilities. These improvements will create a more desirable home base for business, tenant occupancy and destination flight trips to and from the airport, and potentially increase local business traffic in Corona.

FISCAL IMPACT:

There is no Fiscal impact as a result of this action. It confirms the Army Corps of Engineers Master Lease Agreement expires on January 31, 2037 and that no extensions will be accommodated beyond this date, as it pertains to the Airport Facilities.

ENVIRONMENTAL ANALYSIS:

No environmental review is required because the proposed action is not a project governed by the California Environmental Quality Act.

PREPARED BY: CURTIS SHOWALTER, ADMINISTRATIVE SERVICE MANAGER IV

REVIEWED BY: TOM MOODY, GENERAL MANAGER

REVIEWED BY: DEAN DERLETH, CITY ATTORNEY

REVIEWED BY: KERRY D. EDEN, ASSISTANT CITY MANAGER/ADMINISTRATIVE SERVICES DIRECTOR

REVIEWED BY: MICHELE NISSEN, ASSISTANT CITY MANAGER

SUBMITTED BY: MITCHELL LANSDELL, ACTING CITY MANAGER

Attachments:

1. **Map of Leased Premises (Parcels II and VI at the Corona Municipal Airport)**
2. **Corona Municipal Airport Master Sub-Lease Agreements with Diamond Aero Corporation (Parcels II and VI)**
3. **First Amendment to Corona Municipal Airport Master Sub-Lease Agreement with Diamond Aero Corporation**

4. May 16, 2018 Staff Report Master Sub-Lease Agreement with DAC for Parcels II & VI