



Legislation Text

File #: 23-0391, Version: 1

REQUEST FOR CITY COUNCIL ACTION

DATE: 05/03/2023

TO: Honorable Mayor and City Council Members

FROM: Community Services Department

SUBJECT:

AUTHORIZATION TO WITHDRAW APPROVAL OF CONSENT TO ASSIGNMENT OF AIRPORT LEASES TO FLIGHT VENTURES, LLC

EXECUTIVE SUMMARY:

This staff report asks Council to withdraw its approval to assign the lease agreements for Parcel IV and V of the Corona Municipal Airport from Corona Executive Hangars to Flight Ventures USA, LLC. The transaction was not finalized as scheduled and Flight Ventures has been non-responsive to requests for updates. Staff is seeking Council's authorization to withdraw its approval and retrieve documents from escrow to properly terminate this transaction.

RECOMMENDED ACTION:

That the City Council:

- a. Withdraw approval of Consent to Assignment and First Amendment to Lease Agreement between the City of Corona and Corona Executive Hangars for Parcels IV and V; and
- b. Authorize the City Manager, or his designee, with the assistance of legal counsel, to prepare and deliver a letter to escrow withdrawing the City's approval and to retrieve all associated documents from escrow.

BACKGROUND & HISTORY:

The City of Corona holds a Recreational Lease from the United States Army Corps of Engineers. Under this lease, the City utilizes approximately 1600 acres as open space, park areas, and the Corona Municipal Airport. The City currently has three (3) sub-Master Lease Holders at the airport: 1) CW Transportation leases Parcel I, 2) Diamond Aero Corporation leases Parcel II and VI, and 3) Corona Executive Hangars leases Parcel III, IV, and V. The City holds Parcel VII to maintain a tie-down area for transient and long-term aircraft parking.

On August 17, 2011, the City of Corona and Corona Executive Hangars entered into a Lease Agreement for Parcel III, IV, and V. Parcel III is approximately 1.61 acres and has 48 hangars and two offices. Parcel IV is approximately 1.03 acres and has a free-standing building and 23 tie-downs. Parcel V is approximately 5.76 acres and has 50 hangars, eight (8) offices, and 14 tie-downs.

Last year, Corona Executive Hangars (CEH) negotiated the sale of its lease interest in Parcel IV and V to Flight Ventures USA, LLC (FVL).

Per the Lease Agreement Section 14.01, CEH may assign their lease interest, but not until they have obtained written approval of the City, which consent shall not be unreasonably withheld. Prior to bringing the request before the Council, staff conducted due diligence activities to determine if consent can be given or withheld for cause. Due diligence activities include an in-depth inspection of leased premises, research of financial obligations, and conformance with all lease terms and obligations. Accordingly, City staff analyzed financial and lease term obligations, and conducted an in-depth inspection of all hangars, a free-standing building, and common area facilities on April 12 and 13, 2022. Staff was accompanied by representatives from FVL and CEH.

A summary of the inspection findings are as follows:

Hangar and Use Findings: Staff found 22 hangars with deficiencies ranging from unpermitted structures to unpermitted electrical and use violations. A “use” violation exists when hangars are utilized for non-aviation purposes, unpermitted business, illegal storage of toxic/flammable materials, etc.

Common Areas & Hangar Exterior Findings: Parcels IV and V have extensive deferred maintenance issues such as missing, abandoned, or non-functioning exterior lighting and plumbing, broken windows, deteriorated pavement and striping, and missing tie-downs.

Financial Obligation Findings: No Findings. Per Lease Agreement Section 3 Rent and Section 4 Aircraft Fee, CEH is current with all its payment obligations and required reporting.

Under the Corona Municipal Code Title 4 Chapter 4.04 and Lease Agreements Section 7 Uses and Section 9 Maintenance, CEH is responsible for ensuring that premises are used solely for general aviation purposes and maintained in good repair. Parties were informed that prior to the assignment all deficiencies must be remediated. FVL was under a strict deadline to finalize the transaction by August 31, 2022, and requested to assume responsibility to remediate all the deficiencies noted in the City’s inspection report. A full copy of the report is attached to this staff report.

On August 3, 2022, staff recommended Council approval of the Consent to Assignment and First Amendment to the Lease Agreement for Parcels IV and V. In accordance with the terms and obligations of agreement, Flight Ventures USA, LLC agreed to assume the Lease Agreement for Parcel IV and Parcel V in their entirety, as amended, and responsibility to remediate all deficiencies. The following is a summary of the more salient amended terms.

1. TERM: The Term expires on January 31, 2037.
2. RIGHT OF FIRST REFUSAL: If the US Army Corps of Engineers extends the City Lease and Lessee is in good standing, Lessee will have the right of first refusal to extend the lease.
3. LEASE OF ADDITIONAL PROPERTY: Lessee may lease other airport properties under the same terms and conditions of this Lease but at a rental rate to be determined by the City.
4. ANNUAL INCREASES: Rent shall be adjusted upward, effective January 1 of each year, equal to a percentage based on the Consumer Price Index for Riverside-San Bernardino-Ontario.
5. CORRECTION OF DEFICIENCIES: Flight Ventures, LLC has twelve (12) months to correct all deficiencies.

ANALYSIS:

Flight Ventures USA, LLC did not close escrow on August 31, 2022, as scheduled. Staff was informed by Flight Ventures that the delay was due to the dissolution of the original members and that two of its original members remained committed to the deal and were creating a new LLC and securing financing. Staff followed up regularly with Flight Ventures and CEH from August 2022 through February 2023, but the last communication received from Flight Ventures was in November 2022.

After months of delay with no progress or communication, staff consulted with legal counsel to discuss the process for terminating the City's consent. Staff was directed to send final notice to Flight Ventures to inform them of our intention to withdraw approval of the Assignment Agreement. Final notice was provided to all parties on February 23, 2023. To date, they have not responded.

Correction of Deficiencies

Per the terms of the Consent Agreement, and at Flight Ventures' request, they accepted responsibility to remediate all deficiencies. However, Flight Ventures has abandoned its responsibilities including remediation efforts.

In accordance with the Corona Municipal Code 4.04.080 *General Guidelines for non-commercial Tenants, section (O) - Hangars*, an annual inspection of all airport hangars may be performed. Accordingly, staff is scheduled to conduct the annual inspection of all hangars this May 2023, with CEH's hangars to be inspected on May 30, 2023. Staff has been in communication with CEH regarding the existing list of deficiencies and understands they are making progress. Staff anticipates that CEH will correct many deficiencies prior to its inspection. Following the inspection, a report of existing deficiencies will be provided including a schedule of performance. For clarification, remediation schedules are fluid and depend on conditions. For example, violations that require building permits can take months to remediate, versus removal of non-aviation appurtenance that can be remediated within days.

At this juncture, it is evident that Flight Ventures has no intention of moving forward with the Assignment of Lease Agreement. Therefore, staff is requesting Council's authorization, with the assistance of legal counsel, to prepare and deposit a letter to escrow withdrawing the City's approval of the Consent to Assignment and First Amendment to Lease Agreement between the City of Corona and Corona Executive Hangars for Parcels IV and V.

FINANCIAL IMPACT:

The financial terms of the assigned leases remain unchanged; therefore, approval of this action has no financial impact on Airport Fund 275 and no impact on the General Fund.

ENVIRONMENTAL ANALYSIS:

This action is exempt pursuant to Section 15061(b)(3) of the Guidelines for the California Environmental Quality Act (CEQA), which states that a project is exempt from CEQA if the activity is covered by the commonsense exemption that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This action of withdrawing consent to assign airport leases to a new lessee is contractual, and there has no possibility that approval of the agreement will have a significant effect on the environment. Therefore, no environmental analysis is required.

PREPARED BY: CYNTHIA LARA, COMMUNITY ASSISTANCE MANAGER

REVIEWED BY: ANNE K. TURNER, COMMUNITY SERVICES DIRECTOR

Attachments:

1. Exhibit 1 - Inspection Report dated May 11, 2022