



DATE: June 27, 2023

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt a Resolution Authorizing the City Manager to Negotiate and Execute a Second Amendment to the Ground Lease with HWD AAS Hangar, LLC (dba APP Jet Center)

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to negotiate and execute a Second Amendment to the ground lease with HWD AAS Hangar, LLC (dba APP Jet Center).

SUMMARY

On February 27, 2018¹, Council approved an agreement with Briggs Resources for the leasehold previously held by American Aircraft Sales. This lease was assigned to GBHWD, LLC, (a subsidiary of Briggs Resources) in February 2019. Earlier this year, GBHWD, LLC agreed to assign the interest in this leasehold to HWD AAS Hangar, LLC (dba “APP Jet Center” or “APP”). This item was discussed with the Council Airport Committee (CAC) on April 27, 2023² and approved by Council on May 23, 2023³.

In conjunction with the assignment, there are several key amendments to the lease that are requested by APP at this time:

- Updated specifics on size of the new hangar and office
- Change in schedule to build new hangar and office building
- Automatic extension of term if construction is completed in a timely manner

¹ <https://hayward.legistar.com/LegislationDetail.aspx?ID=3354002&GUID=B75F981A-31D3-4F66-9E5F-FA80B0049B73&Options=&Search=>

² <https://hayward.legistar.com/LegislationDetail.aspx?ID=6180350&GUID=EFBDEB9B-D973-439C-AD2D-942F272AB5C1&Options=&Search=>

³ <https://hayward.legistar.com/LegislationDetail.aspx?ID=6230204&GUID=31A4D0DA-E441-4B81-AOCD-429FBFB342F3&Options=&Search=>

- Change to period of time for implementation of reduced rent while hangar is under construction
- Clarification to grace or cure period prior to default

Council Airport Committee Consideration

This item was discussed with the Council Airport Committee (CAC) on June 21, 2023⁴ and unanimously recommended the item be presented to Council for approval.

BACKGROUND

American Aircraft Sales (AAS), which was an Airport commercial tenant since 1958, entered into a new ground lease on December 10, 2010 for “Plot G” at 21015 Skywest Drive. This parcel consists of approximately 119,159 square feet of improved land. Discussions were held regarding the construction of new hangars; however, for a variety of reasons, the hangar project did not move forward and ultimately AAS relocated to another airport. As a result, AAS vacated the premises on December 31, 2015. During the latter part of 2016, Briggs Resources, Inc., notified the City of their interest in acquiring the leasehold.

Subsequent discussions culminated in an agreement that was approved by Council on February 27, 2018. Briggs Resources, Inc., and the City of Hayward (City) entered into that certain agreement and lease dated April 30, 2018. On February 19, 2019, Council approved a subsequent assignment of the lease from Briggs Resources, Inc., to GBHWD, LLC, which was a new California LLC that had been set up for this development. The lease was amended by GBHWD, LLC and the City pursuant to the first amendment dated March 25, 2019, and related to the removal of an existing 15-foot storm drain easement from the legal description and plat for the lease.

On May 23, 2023, Council approved the assignment of the lease from GBHWD, LLC to APP Jet Center. As a condition of the closing documents for the assignment of lease from GBHWD LLC to HWD AAS Hangar, LLC, APP is requesting that the lease be amended in certain aspects.

DISCUSSION

The majority of the changes to the lease are centered around the timing of the construction of the new hangar and office building, which will be 39,000 square feet and 4,500 square feet, respectively.

The first change allows for APP to construct the improvements within five years of the effective date for the 2nd amendment. If APP makes a good faith effort to complete construction of the improvements, then the City will grant APP an additional 15-year term.

⁴ <https://hayward.legistar.com/LegislationDetail.aspx?ID=6264606&GUID=6B1F6E7D-DEAC-417C-927C-89F2129677F0&Options=&Search=>

If APP fails to do so, then the lease term will remain at the prior fixed period of 35 years. Furthermore, the City may, at its own discretion, agree to extend or negotiate with APP on future lease extensions.

The second amendment pertains to changing the timing as to the amount of rent to be paid by APP during the construction phase. As was the case with the existing lease, and commensurate with other commercial leases at the airport, APP will be assessed rent in the amount of \$0.10 per square foot for the first five years, or until construction is completed, with the effective date of the second amendment serving as the starting point for the five-year window.

The final change to the lease clarifies that any failure to pay by APP is entitled to receipt of written notice of such failure and a ten-day grace or cure period before the same will constitute an event of default.

Outside of the aforementioned amendments, all other conditions associated with the existing lease remain unchanged and are unaffected.

Council Airport Committee Consideration

This item was discussed with the CAC on June 21, 2023 and unanimously approved for consideration by Council.

ECONOMIC IMPACT

The office and hangar construction will generate work for skilled and unskilled tradespeople. Post-construction, the City's General Fund will benefit from any additional sales tax generated from the new hangar tenants. Furthermore, this project will benefit the local economy by providing job opportunities and generating sales tax from aircraft sales.

FISCAL IMPACT

Annual rent for the first five years of the lease (or until the improvements are constructed) will be \$11,916, which reflects the reduced rate of \$0.10 per square foot, per year. Post-construction, annual rent will be \$41,706, which reflects the current rate for aviation-related uses of \$0.35 per square foot, per year. Per Attachment C to the lease, rent will be adjusted every five years, first by a market rate study and then by the Consumer Price Index (CPI) for the previous five years, not-to-exceed a maximum of 7%.

STRATEGIC ROADMAP

This agenda item pertains to development at the Airport and does not directly relate to any of the six priorities outlined in the Council's Strategic Roadmap.

SUSTAINABILITY FEATURES

The Airport is strongly committed to developing projects that are environmentally responsible. Therefore, staff will ensure that all plans proposed by the developer incorporate features that are commensurate with the City's sustainability guidelines.

PUBLIC CONTACT

The original lease was presented to and approved by the CAC on February 1, 2018 and approved by Council on February 27, 2018. The assignment was approved by Council on February 19, 2019. The assignment to APP was approved by the CAC on April 27, 2023 and by Council on May 23, 2023. The Second Amendment was approved by the CAC on June 21, 2023. The agenda and staff report for this item have been posted on the City's website and distributed to interested parties.

NEXT STEPS

If Council approves, Airport staff will prepare the Second Amendment for execution by the City Manager.

Prepared by: Doug McNeeley, Airport Manager

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager