



**CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING**

#15-0018

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Lee R. Feldman, ICMA-CM, City Manager

DATE: January 21, 2015

TITLE: Termination of Lease Agreement with Performance Marine Trading and
Motorsports, Inc. – Parcel 8D – Executive Airport

Recommendation

It is recommended that the City Commission authorize the City Manager to terminate the lease for Parcel 8D with Performance Marine Trading and Motorsports (Performance Trading), Inc. in accordance with Paragraph 16 of the lease; and authorize initiation of legal action to recover all unpaid amounts due under the Lease Agreement.

Background

Performance Trading leases Parcel 8D at Executive Airport as a result of an assignment of lease in 2004 from Summerhaven Properties, Inc. Parcel 8D consists of 3.316 acres of non-aviation property located in the northwest corner of the Airport (Exhibit 1). The property is zoned Airport Industrial Park (AIP) and has a 16,000 square foot office/warehouse building located on site. The original lease commenced in 1981 and has a term of 50 years, expiring in May 2031. The lease payments are \$118,400 per year and are adjusted every five years using the appraisal method. The next rent adjustment is due in August 2017.

In accordance with the lease, Parcel 8D was due for a rent adjustment in August 2012. A copy of the appraisal, which valued the property at \$1,480,000, was provided to Mr. Patrick Sullivan, President of Performance Trading. Mr. Sullivan was notified in November 2012 and again in March 2013 of the adjustment but was not in agreement with the increase. On August 15, 2014, Mr. Sullivan made a partial payment totaling \$16,668.28 but to date, still has a growing and an unpaid rent differential of \$101,050.25 (Exhibit 2).

Additionally, Performance Trading is currently in default of paying property taxes for the years 2011 (\$57,107.74), 2012 (\$49,832.51), 2013 (\$43,300.81) and 2014 (\$38,566.69) for a total amount of \$188,807.75 (Exhibit 2). On April 26, 2013, Mr. Sullivan was issued a notice of lease default for the unpaid past due property taxes.

At the September 26, 2013 Aviation Advisory Board meeting, a lease termination was discussed for Parcel 8D. A recommendation was made by the Board for staff to negotiate a lease amendment with Mr. Sullivan. As a result of the negotiations, an item was presented to the Board at the December 4, 2013 meeting recommending Federal Aviation Administration (FAA) approval for a lease amendment to allow Performance Trading an opportunity to cure the defaults and provide for continuity on the property. Following the December 2013 Board meeting, Mr. Sullivan requested additional terms beyond what was approved by the Board.

On January 21, 2014, Performance Trading executed a proposed amendment to the lease and the 2010 taxes were paid in February 2014; however, that proposed lease amendment was not recommended by the City Manager and never approved or executed by the City.

At the July 2014 Board meeting, a recommendation for lease termination was presented, resulting in a request by Mr. Sullivan to meet with the City Manager. After meeting with the City Manager on September 9, 2014, Mr. Sullivan agreed with the proposed terms of seeking approval from the FAA to allow for a loan from the Airport fund to pay the unpaid taxes. This loan would be repaid by Performance Trading over the course of the next two years. The FAA reviewed the proposed terms of loaning a non-aeronautical tenant Airport revenue to pay its property tax bill and referenced the Airport Revenue Use Policy regarding loans. Essentially, the FAA indicated that should the tenant default on repayment of the loan, the City could be exposed to violation of its federal grant assurance obligations.

On November 14, 2014 Mr. Sullivan was notified in writing of the City's decision to move forward with a lease termination for Parcel 8D. At that time, Mr. Sullivan understood that in order to continue operating his business at the Airport, the unpaid rent differential and delinquent property taxes would have to be paid, in full, before December 14, 2014.

To date, payment has not been received. Therefore, the City staff recommends termination of the lease agreement and initiation of legal action to recover the unpaid rent differential and past due taxes, as well as any other outstanding costs associated with Parcel 8D.

Resource Impact

There will be an estimated fiscal impact in the amount of \$373,527.36 which represents, rent differential owed, loss of rent revenue, and outstanding property taxes (see table, below). An additional loss of revenue could occur for FY2016 through FY2031, along with any applicable appraisal adjustments commencing in 2017, 2022, and 2027 unless a new lease assignment is executed with a new tenant.

Rent Differential August 2012-January 2015 (Includes Sales Tax)	\$101,050.25
Rent February 2015-September 30, 2015 (8 months) (Includes Sales Tax)	\$ 83,669.36
Outstanding Property Taxes	\$188,807.75
Total Owed:	\$373,527.36

Strategic Connections

This item is a *Press Play Fort Lauderdale Strategic Plan 2018* initiative, included within the **Business Development Cylinder of Excellence**, specifically advancing:

- **Goal 7:** Be a well-positioned City within the global economic and tourism markets of the South Florida region, leveraging our airports, port, and rail connections.
- **Objective 4:** Deliver best-in-class regional general aviation airport amenities and services to domestic and international.
- **Initiative 1:** Examine the highest and best use of airport property to stimulate economic development and create jobs.

This item advances the *Fast Forward Fort Lauderdale 2035 Vision Plan: We Are Prosperous*

Attachments:

Exhibit 1 – Parcel Map

Exhibit 2 – Summary of Past Due Balance

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