



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: William F. Sherry, A.A.E.

SUBJECT: SEE BELOW

DATE: September 24, 2007

Approved

Date

9/25/07

Council District: City-Wide

SUBJECT: ASSIGNMENT AND ASSUMPTION OF AGREEMENTS FROM ACM AVIATION, LLC TO ACM PROPERTY SERVICES, LLC

RECOMMENDATION

Adoption of a resolution granting conditional consent to an assignment from ACM Aviation, LLC to ACM Property Services, LLC of the following Agreements:

- (1) FBO Lease Agreement of Parcel 9C located at 1475 Airport Boulevard
- (2) Lease of Airport Premises for hangar space located at 1455 Airport Boulevard
- (3) Lease of Airport Premises for employee vehicle parking located at 1455 Airport Boulevard

OUTCOME

Adoption of the resolution will consent to an assignment of the ACM Aviation, LLC agreements to ACM Property Services, LLC, both of which are wholly owned by San Jose Jet Center Aviation Services, LLC (SJJC). No lease terms or conditions will be changed and the City's interest will remain intact.

BACKGROUND

SJJC has various agreements through its subsidiaries with the City in support of its Fixed Base Operation (FBO). ACM Aviation, LLC is one of those subsidiaries and its leasehold is located on the East Side of the airport and includes a Ground Lease of Parcel 9C dated March 3, 1966, a Lease of Airport Premises for hangar space dated May 20, 1997, and a Lease of Airport Premises for employee vehicle parking dated March 1, 2002. All of these leases were amended to have expiration dates of October 14, 2008, which is the date that a new West Side hangar facility,

currently under construction, is expected to be operational. The ground lease for the West Side hangar facility is held by ACM Property Services, LLC, also a subsidiary of SJJC.

SJJC did not intend for the East Side and West Side leases to be held by different subsidiaries. On December 14, 2004, Council adopted Resolution # 72641, which authorized the assignment of Lease Agreements from ACM Aviation, LLC (ACM), the original holder of the subsidiaries, to SJJC. Resolution #72641 accurately reflects ACM's formal written request for City consent to assignment of leases, but it included an error by ACM, which resulted in the East Side Lease Agreements being assigned to ACM Aviation, LLC, its charter subsidiary, instead of ACM Property Services, LLC, its FBO subsidiary.

ANALYSIS

The East Side Lease Agreements were mistakenly assigned to ACM Aviation, LLC as requested by ACM. It was intended for the leases to be assigned to ACM Property Services, LLC, which holds the West Side Ground Lease Agreement. Council's adoption of this resolution consenting to an assignment of the East Side Lease Agreements will provide the administrative consistency that was originally sought. All terms and conditions of the Lease Agreements will remain in place and unchanged.

EVALUATION AND FOLLOW-UP

Once approved by City Council, an Assignment and Assumption Agreement between ACM Aviation, LLC and ACM Property Services, LLC will be recorded at the Santa Clara County Recorder's Office.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach

This item does not meet the above criteria requiring additional notification; however, it will be posted on the City's Council Agenda Website for the October 16, 2007 Council Meeting.

COORDINATION

This item has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

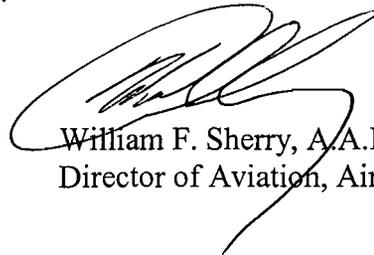
HONORABLE MAYOR AND CITY COUNCIL
September 24, 2007
Subject: ACM Assignment and Assumption
Page 3

COST SUMMARY/IMPLICATIONS

None

CEQA

Resolution Nos. 67380 and 71451, PP#: 04-322.



William F. Sherry, A.A.E.
Director of Aviation, Airport Department

For questions please contact William F. Sherry, at 501-7669.