



Contra
Costa
County

To: Board of Supervisors
From: Keith Freitas, Airports Director
Date: November 10, 2020

Subject: Authorize Legal Action to Regain Possession of Real Property Located at 145 & 161 John Glenn Drive at BF Airport

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Director of Airports to terminate the ground lease for real property located at 145 and 161 John Glenn Drive, at Buchanan Field, Concord, between the County and FM Aviation, Inc., dba Sterling Aviation, at the Buchanan Field Airport. AUTHORIZE County Counsel to pursue legal action to regain possession of the real property.

FISCAL IMPACT:

There is no negative impact on the General Fund. The Airport Enterprise Fund will cover the cost of any legal action.

BACKGROUND:

On June 7, 2011, the County entered into a lease with FM Aviation, Inc. dba Sterling Aviation (Tenant) for use of the buildings located at 145 and 161 John Glenn Drive at the Buchanan Field Airport. Under the terms of the lease, the Tenant is obligated to use the premises to conduct a "Fixed Base Operation," which requires the Tenant to perform various aviation-related services onsite. The lease also requires the Tenant to create a "Maintenance Plan," including a timeline and an itemization of the maintenance to be

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **11/10/2020** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 10, 2020

David Twa, County Administrator and Clerk of the Board of Supervisors

By: Stacey Boyd, Deputy

Contact: Beth Lee
925-681-4200

cc:

performed by Tenant to keep

BACKGROUND: (CONT'D)

the premises in first class condition. Due to Tenant's failure to sell both Jet A and 100 low lead fuel, as required of a Fixed Base Operator, the Tenant is currently in default of Section 7 of the lease. In addition, because Tenant has not provided the Lease Maintenance Plan in the time required by the lease, Tenant is in default of Section 13 of the lease.

Contra Costa County Airports (County) staff have been working with the Tenant since November 2019 to revise their Lease Maintenance Plan and since March 2020 to resolve the fuel service provisions to bring Tenant into compliance with the Lease obligations. Despite these efforts, the Tenant has not submitted an acceptable revised Lease Maintenance Plan nor have they provided an action plan to cure the fueling default.

Tenant's failures to comply with the terms of the lease affect Airport operations and the condition of County-owned property. Tenant has had time to cure the defaults and has not done so.

Airport staff is requesting authority to terminate the lease and to pursue legal action to regain possession of the premises. Such actions are consistent with adopted Airport policies. In addition, by recovering possession of the Premises, the Airport will be able to make the property available to another interested business.

CONSEQUENCE OF NEGATIVE ACTION:

Failure to terminate the lease and pursue legal action to regain possession would result in the Airport being unable to enforce the lease or adopted Airport policies and procedures.

CLERK'S ADDENDUM

Speaker: Michael Bruno, Sterling Aviation.