

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**Termination of Lease Agreement with Subway Real Estate, LLC at Killeen-Fort Hood Regional Airport**

### ORIGINATING DEPARTMENT

**Aviation**

### BACKGROUND INFORMATION

On March 1, 2004, Subway Real Estate Corp. was selected as a result of RFP 04-06 to operate a food service business at Killeen-Fort Hood Regional Airport. A lease agreement with Subway Real Estate Corp. was negotiated and was approved by Council on April 27, 2004. The lease had an initial term of three years and two months and included several extension options. Lease extensions were approved by Council on August 30, 2007, and September 17, 2010. Subway Real Estate Corp. assigned the lease to Subway Real Estate, LLC effective September 12, 2011. On July 14, 2015, Council approved the most recent extension with a term that expires on September 30, 2020.

### DISCUSSION/CONCLUSION

On June 2, 2016, Subway Real Estate, LLC, formally notified the City of its intent to cease operation or about June 30, 2016, and requested formal termination of the lease agreement. The reason for the request and subsequent cessation of operations was due to underperformance of the operations. This Subway location was not meeting minimum performance standards and was losing money on its operation, a trend that had been occurring for the past seven months.

Staff has negotiated an Agreement of Termination and Mutual Release of Lease with Subway Real Estate, LLC. A rider to the original lease agreement states that the Tenant's liability upon default shall not exceed \$15,000.00. Pursuant to this clause, the Agreement of Termination provides for a one-time payment of \$15,000.00 to the City in exchange for a release of all obligations from the lease agreement. Subway has removed all of its company-owned property and surrendered the premises to the airport in satisfactory condition.

### FISCAL IMPACT

This lease agreement had provided annual revenues of approximately \$14,500 into the Airport Enterprise fund. The termination agreement provides a one-time payment of \$15,000 that will be deposited into account number 525-0000-324.05-00 AIRPORT RENT & CONCESSION.

### RECOMMENDATION

City Council approve the attached Agreement of Termination and Mutual Release of Lease with Subway Estate, LLC and authorize the City Manage to execute same.