



City of Killeen

Legislation Text

File #: RS-17-114, **Version:** 1

Consider a memorandum/resolution approving termination of concession lease agreement with Crystal and Richard Sullivan dba Green Beans Coffee at Killeen-Fort Hood Regional Airport.

DATE: **October 17, 2017**

TO: **Ronald L. Olson, City Manager**

FROM: **Matthew Van Valkenburgh A.A.E., Executive Director of Aviation**

SUBJECT: **CRYSTAL AND RICHARD SULLIVAN CONCESSION LEASE TERMINATION**

BACKGROUND AND FINDINGS:

On July 27, 2010, Council approved a concession lease agreement with Green Beans Company, Inc. for facilities at Killeen-Fort Hood Regional Airport. The lease included authorizing the tenant to engage in the business activities of a bar, coffee shop, and food service concession. On August 25, 2015, Council approved extending the term of the lease by five years to September 30, 2020.

In October of 2016, Green Beans Company, Inc. requested the authority to assign the lease to Crystal and Richard Sullivan, a General Partnership dba Green Beans Coffee. That assignment was approved by the Interim City Manager, effective November 1, 2016.

This tenant has become delinquent on rent and fee payments owed the City. Several informal attempts to collect past due rents and fees have been unsuccessful. On July 31, 2017, a certified letter of demand was sent to the tenant demanding payment of past due rents and fees. A small payment was received on September 11, 2017, but the tenant remained significantly behind on rents and fees owed.

On September 18, 2017, staff received notice from Mrs. Sullivan that the business would be closing due to financial difficulties.

Staff became aware on September 20, 2017, the Tax Compliance Division of the Texas Comptroller served notice of seizure on the business for failure to remit sales tax receipts to the state. That action removed the legal authority for the continuation of the business.

Staff has determined it is no longer prudent to continue this lease agreement and recommends the termination of the lease to permit staff to solicit for another suitable food and drink concession for the airport. Once the lease is formally terminated and final account status is calculated, Staff will submit appropriate documentation to the City's contracted collection agency in the attempt to recover past due rents and fees.

THE ALTERNATIVES CONSIDERED:

Alternatives considered were: (1) leave lease agreement in place and continue to attempt to collect rents and fees owed or (2) move forward with the tenant's request for termination of lease.

Which alternative is recommended? Why?

Staff recommends alternative 2. Aviation staff needs the authority to clear this tenant and begin the process of locating a new viable tenant for this concession business location.

CONFORMITY TO CITY POLICY:

Yes

FINANCIAL IMPACT:

The lease agreement specified a monthly base rental rate of \$975.00 plus a tiered percentage of gross receipts calculation and miscellaneous sundry charges such as telephone service, internet access, and badge fees. Total monthly amounts due to the airport were averaging \$1,500. It is uncertain if the tenant will honor its rental payment obligations, and it is not known when a replacement tenant can be found, a lease executed, and at what rate. Therefore, the financial impact (revenue loss) cannot be determined at this time. Revenues for Fixed Base Operator activity are accounted for in the Killeen-Fort Hood Regional Airport enterprise fund account #525-0000-324.05-02 (Food and Beverage).

What is the amount of the expenditure in the current fiscal year? For future years?

N/A

Is this a one-time or recurring expenditure?

N/A

Is this expenditure budgeted?

N/A

If not, where will the money come from?

N/A

Is there a sufficient amount in the budgeted line-item for this expenditure?

N/A

RECOMMENDATION:

City Council approve termination of the Crystal and Richard Sullivan dba Crystal-Richard Sullivan and Green Beans Coffee lease agreement effective October 25, 2017 and authorize the City Manager to execute any and all necessary documentation to effect the termination.

DEPARTMENTAL CLEARANCES:

Finance
Legal

ATTACHED SUPPORTING DOCUMENTS:

N/A