



## Legislation Details (With Text)

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Staff Contact: Jack Friedline, Director, Public Works

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**AUTHORIZATION TO TERMINATE AIRPORT LEASE AND DEVELOPMENT AGREEMENT**

Staff Contact: Jack Friedline, Director, Public Works

**Purpose and Recommended Action**

This is a request for City Council to waive reading beyond the title and adopt a resolution authorizing the City Manager to terminate the 2007 Glendale Municipal Airport land lease and development agreement between the city and Enterprise Bank, in accordance with the August 2011 lease amendment.

**Background**

In August 2007, the city entered into a land lease agreement with Rightpath Limited Development Group, LLC (Rightpath) for their development of approximately 134 acres on the east side of the Glendale Municipal Airport. Rightpath encountered financial difficulties and defaulted on their bank loans from the First National Bank of Olathe (FNBO) and payments to the city for a separate lease of the fixed base operator airport facility. The May 2010 bank default also included the eastside ground lease, as the lease was used as collateral by Rightpath.

In October 2010, Council approved an agreement with the FNBO for the interim operation of the airport fixed base operator and directed the City Manager to execute any necessary amendments to the land lease development agreement.

On August 1, 2011, the city entered into an amendment and assignment of the 2007 land and development lease with Corporate Holdings II, LLC, Rightpath's successor-in-interest, and the FNBO, Corporate Holdings' managing member. The 2011 lease amendment included a reversion date, giving the city the option to terminate the agreement on or after August 1, 2014. In August 2011, the FNBO failed, and its assets were sold to Enterprise Bank and Trust, which became the final successor-in-interest to the airport land lease.

In early 2013, Enterprise Bank's legal counsel notified the city of their intent to hold a trustee's sale and public auction of the airport land lease. City legal staff submitted comments on the notice and documents while communicating with Enterprise Bank officials. The public auction was held November 20, 2013. There were no bidders.

In early 2014, Enterprise Bank attempted to solicit parties interested in the development of the eastside land lease, with no results. Their legal counsel notified the Glendale City Attorney's Office on July 7, 2014, that the bank would be interested in extending the land lease beyond the August 1, 2014 reversion date. On July 22, 2014, the City Attorney's Office, acting in conjunction with the Public Works Department, notified Enterprise Bank's legal counsel of the city's intent to terminate the lease agreement, per the amendment's reversion option, pending Council approval.

### **Analysis**

Several factors justify the termination of the 2007 land lease and development agreement. The lease was agreed upon without thorough consideration of the restrictions and challenges facing the developer and the city. A substantial portion of the 134-acre lease is within the parcels of land donated to the city by John F. Long. The land donation deed restrictions were the basis of a lawsuit filed against the city for other development plans that would have prevented a second runway to be built.

The lawsuit settlement created the requirement by the John F. Long group for a joint feasibility and capacity study to determine whether a second runway could be constructed on the east side of the Airport. Negotiations are currently underway with John F. Long Properties staff to conclude the study. The study would determine if the east side could be developed primarily for aeronautical businesses or be used instead for the second runway, with substantially less area for development. The study will also rescind Federal Aviation Administration (FAA) grant restrictions on the land, due to the lawsuit.

The 2007 land lease term is for 50 years with an additional 34-year option. This total term beyond 50 years is not normally acceptable by FAA standards. A new lease with acceptable terms would have to be negotiated, but until the second runway capacity study decision is concluded, it would be prudent at this time to instead terminate the land lease and bring the area back into full control of the city.

The 2011 lease amendment stipulates that the city receives no rent for the land until portions of the property are developed. To date, no development has occurred on the property. The 134 acres has ground elevations in areas that are up to 15 feet lower than the existing runway. This condition poses a challenge to the layout, utilities and drainage for any development opportunities. Additional planning to address this condition will take several years and must meet engineering and FAA design standards.

With these current restrictions and challenges, staff recommends the termination of the 2007 land lease and development agreement in accordance with the 2011 lease amendment reversion option.

### **Previous Related Council Action**

On October 10, 2010, Council authorized the City Manager to enter into an agreement with the FNBO for the interim operation of the airport fixed base operations.

On August 12, 2010, Council authorized the City Manager to execute the necessary amendments to the lease and development agreement.

On August 14, 2007, Council authorized the land lease and development agreement with Rightpath.

**Community Benefit/Public Involvement**

The Glendale Municipal Airport plays a role in meeting the demand for aviation services in the West Valley and serves as a general aviation reliever airport for Phoenix Sky Harbor International Airport. The lease termination will enable the city to better plan and meet obligations for the development of the east side property. The Airport Administrator provides updates on this and other projects to the Aviation Advisory Commission during their monthly meetings.