

AGENDA



Thursday, February 12, 2009

**Aviation
RECOMMENDATION FOR COUNCIL ACTION****Item No. 4**

Subject: Authorize payment of an amount not to exceed \$60,000 to Iron Rock Motorsports, Inc., for early termination of their lease with the City for a tract of land and a building at Austin-Bergstrom International Airport.

Amount and Source of Funding: Funding is available in the Fiscal Year 2008-2009 Capital Budget of the Aviation Department.

Fiscal Note: A fiscal note is attached.

For More Information: David C. Petersen, Assistant City Attorney, (512) 530-7526

Boards and Commission Action: Recommended by the Austin Airport Advisory Commission.

Prior Council Action: Action authorizing execution of the Iron Rock Motorsports lease on July 24, 2004.

The City of Austin Department of Aviation entered into a lease with Iron Rock Motorsports, Inc. (Iron Rock) on November 5, 2004 for approximately 8.37 acres of land at Austin-Bergstrom International Airport, including an unoccupied 21,368 square foot aircraft maintenance building. The lease was for a term of five years from April 25, 2005, the date on which a certificate of occupancy was issued for the premises. Iron Rock used the premises to develop, construct, operate and maintain a motor kart racing facility, including a racetrack, clubhouse, kart and kart parts sales, and kart storage. Iron Rock sold memberships and charged fees for the use of the facility.

Because the lease was for a non-aeronautical facility located on the Airport, pursuant to Federal Aviation Regulations, the lease provided that the use of the premises by Iron Rock was subordinate to the use of airport property for aviation purposes. The City reserved the right to terminate the lease at any time upon 180 days prior notice if Iron Rock's continued used and occupancy of the premises would interfere with the development of the airport or airport facilities. By early 2007 it became apparent that the premises leased to Iron Rock would be needed to accommodate growth at the airport. Specifically, the area occupied by Iron Rock was needed for terminal ramp expansion, aircraft parking and vehicular parking. Therefore, by notice dated June 19, 2007, the City exercised its early termination rights effective August 1, 2008, giving Iron Rock over thirteen months prior notice of termination. Subsequently, at Iron Rock's request, the City further extended the termination date by an additional three months, to November 1, 2008.

Under the lease, Iron Rock was entitled to reimbursement for certain verified development costs to improve the premises. Additionally, if the City exercised its early termination rights, Iron Rock was entitled to be reimbursed the unamortized cost of Owner-authorized improvements to the premises that were not reasonably capable of being dismantled and removed from the premises.

Under the contract terms for early termination, the City will pay Iron Rock Motorsports, Inc. \$60,000 in full and final settlement of all of its contract claims under the lease, in addition to the return of Iron Rock's security deposit. The return of the security deposit is being handled in the normal course of business by the Aviation Department.