

DOCUMENT ROUTING FORM

(4) ✓ 9/14/12 (L)

NAME OF DOCUMENT: **FIRST AMENDMENT TO AMENDED & RESTATED LEASE AGREEMENT WITH FXE PARCEL 15, LLC**

Approved Comm. Mtg. on **AUGUST 21, 2012** CAM# **12-1235** ITEM # **9** CR-

Routing Origin: ☒ CAO ☐ ENG. ☐ COMM. DEV. ☐ OTHER _____

Also attached: ☒ copy of CAR ☒ copy of document ☐ ACM Form ☒ 4 originals

By: LB forwarded to: **SHARON DREESEN, TRANSP/MOBILITY**
Initials

1.) Approved as to Content: [Signature]
Department Director 8-27-2012

Capital Improvements defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, fixtures) that add value and/or extend useful life, inc. major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, really, real.

Please Check the proper box: CIP FUNDED ☐ YES ☐ NO
Capital Improvement Projects

2.) Approved as to Funds Available: by [Signature] Date: 8/28/12
Finance Director

Amount Required by Contract/Agreement \$ 0 Funding Source: _____
 Lease amendment results in additional positive fiscal impact in the amount of \$14,999.46 per year beginning July 1, 2013.

Dept./Div. _____ Index/Sub-object _____ Project # _____

3.) City Attorney's Office: Approved as to Form: # 4 Originals of each to City Mgr. By: **DJ Williams-Persad**

DJ WILLIAMS-PERSAD [Signature]

4.) Approved as to content: Assistant City Manager:

By: _____ By: _____
Stanley Hawthorne, Assistant City Manager Susanne Torriente, Assistant City Manager

RECEIVED
 FLAUNDERDALE
 CITY ATTORNEY'S OFFICE
 2012 AUG 28 AM 11:14

5.) Acting City Manager: Please sign as indicated and forward 4 originals of each to Mayor.

6.) Mayor: Please sign as indicated and forward 4 originals of each to Clerk.

7.) To City Clerk for attestation and City seal.

INSTRUCTIONS TO CLERK'S OFFICE

7/12 AUG 28 PM 12:00

8.) City Clerk: retains one original document and forwards 3 of each original documents to:

LAURA MORTON, FXE

☐ Copy of document to _____ ☒ Original Route form to Linda Blanco, CAO

☐ Attach _____ certified copies of Reso. # _____ ☐ Fill-in date

FIRST AMENDMENT TO AMENDED AND RESTATED LEASE

(PARCEL 15)

THIS IS A FIRST AMENDMENT TO A LEASE AGREEMENT, entered into on August 21, 2012, between:

THE CITY OF FORT LAUDERDALE, a
municipal corporation of Florida, referred to as
"Lessor",

and

FXE PARCEL 15, LLC, a Florida Limited
Liability Company, referred to as "Lessee".

WHEREAS, pursuant to Resolution No.11-298, adopted at its meeting of October 18, 2011 the City Commission of City authorized the proper City officials to enter into this Amended and Restated Lease Agreement for Parcel 15 at Airport (hereinafter "Lease Agreement" or "Lease"), for a term of thirty (30) years; and

WHEREAS, the Lessee has requested to increase the size of the leased parcel to construct additional ramp space to accommodate aircraft parking and further enhance the safe and efficient flow of aircraft maneuvering around the parcel; and

WHEREAS, Airport staff has determined that an area totaling approximately 44,954 square feet contiguous to the northwest portion of the existing leasehold would accomplish the tenant's goals without impacting potential future airport development; and

WHEREAS, the additional area would result in a new parcel size of 347,253 square feet; and

WHEREAS, the new annual rent would be approximately \$114,593.49 based on a rate of \$0.33 per square foot; and

WHEREAS, the Lessor declares that amending the Lease Agreement is in the best interest of the City;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Lease, and other good and valuable consideration, the receipt and adequacy of which are acknowledged, Lessor and Lessee agree as follows:

1. The above recitals are true and correct and are incorporated herein.
2. Exhibit "A" of the Amended and Restated Lease Agreement is hereby deleted and replaced with the attached Revised Exhibit "A" showing the expanded legal description and sketch of the Premises.

3. Paragraph 8, RENT, of the Lease Agreement is amended to delete the stricken text and to add the underlined text as follows:

RENT. Rent shall commence on the Commencement Date of the Lease Agreement January 1, 2012. All rental payments shall be paid in advance in equal monthly installments of Three Thousand Seven Hundred Thirty and 95/100 Dollars (\$3,730.95), plus applicable taxes, on the first day of each month to which applicable according to the following schedule:

(a) ~~Forty-four Thousand Seven Hundred Seventy-One and 37/100 Dollars (\$44,771.37), is the basic annual rental for the first year of this Lease Agreement, referred to as the "Base Rent."~~

(b) Commencing July 1, 2013, the Base Rent shall be adjusted to Ninety-Nine Thousand Eight Hundred Four and 54/100 Dollars (\$99,804.54) One Hundred Fourteen Thousand Five Hundred Ninety Three and 49/100 Dollars (114,593.49) which shall then be the basic annual rental referred to as the "Base Rent".

(c) It is agreed between Lessor and Lessee that the Base Rent specified above shall be subject to an increase at annual intervals, such increase to be calculated in accordance with the following terms and conditions:

(1) Lessor and Lessee agree that the Base Rent for the remainder of the term of this Lease Agreement shall be adjusted, at one (1) year intervals, the first adjustment to become effective as of July 1, 2014, and with further adjustments to occur at each one (1) year interval thereafter (the "Adjustment Date"). Such adjustments shall be based upon the Cost of Living Index known as the Consumer Price Index (All Items, 1982-84 = 100), United States, All Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor. For computation purpose, the Numerator and Denominator are defined as follows:

Numerator - The Consumer Price Index for the third (3rd) month preceding each Lease Adjustment Date.

Denominator - The Consumer Price Index for the third (3rd) month preceding the Commencement Date of the lease term.

The resulting fraction shall be applied to the minimum guaranteed annual rental (Base Rent) to arrive at the new annual rental. Should the Bureau mentioned above discontinue the publication of an Index approximating the Index contemplated above, then such Index as may be published by another United States governmental agency which most nearly approximates the Index referred to above shall govern and be substituted as the Index to be used, subject to the application of an appropriate conversion factor to be furnished by the governmental agency publishing such Index.

(2) Base Rent shall be further adjusted on the 10th and 20th anniversary of the Commencement Date of the Lease Agreement to reflect either ten

percent (10%) of the appraised value of the land (exclusive of any and all improvements) or the current new annual rental established at the time of the adjustment, whichever is greater, except such adjustment shall be limited to a maximum increase in the Base Rent of fifty percent (50%) of the difference between current market value and Base Rent. Appraised value shall be determined by an appraisal including an analysis of the fair market annual land rental range for aeronautical land at the Airport based on a comparison with other rental rates for similar aeronautical properties within the competitive market area.

(3) It is agreed between Lessor and Lessee that the Base Rent specified above shall be adjusted commencing on July 1, 2016 per either Paragraph 8(c)(3)a. or 8(c)(3)b. below, at the determination of the Lessee:

a. Ten percent (10%) of the appraised value of Improvements constructed prior to Commencement Date as identified in Exhibit "B";

Or

b. Five percent (5%) of gross rental receipts of Improvements constructed prior to Commencement Date as identified in Exhibit "B". Gross rental receipts shall not include ground rent paid to the Lessor by Lessee or property taxes, if any, payable to a government agency.

(4) At no time shall the adjusted rent be less than the Base Rent specified above.

(d) In addition to the above sums, the Lessee shall cause to be paid to the Lessor the sums provided in Paragraph 13 pertaining to the delivery to the Premises of any octane-rated fuels, jet fuels and lubricating oils (referred to as "Fuel" and "Oil") by Lessee, its sublessees, agents or independent contractors. The sums mentioned below shall not be considered as rent for the Premises, but shall be collected in the same manner as rent, including interest as provided in this Lease Agreement, accruing upon any late payments of such sums.

(e) Late Payment. The Lessor shall be entitled to collect interest at the rate of eighteen (18%) percent per annum from the date due until the date paid on any amounts that are past due beyond any applicable cure period. Lessor's right to require payment of such interest and the obligation of the Lessee to pay the same shall be in addition to and not in lieu of the right of Lessor to enforce other provisions in this Lease, including termination of the Lease Agreement, and to pursue other remedies as provided by law.

(f) Dishonored Checks. In the event Lessee delivers a dishonored check or draft to Lessor in payment of any obligation arising under this Lease Agreement, the Lessee shall incur and pay any charges assessed to City as a result of the dishonored check or draft. In the event Lessee delivers a dishonored check or draft, the Airport Manager may require that future payments be made by cashier's check or other acceptable means by making such demand in writing to Lessee.

(g) Place of Payment. All payments required to be made by Lessee under this Lease Agreement shall be made payable to the "City of Fort Lauderdale," and shall be delivered or mailed to the address below, or to an address as may be substituted therefore by the Lessor:

City of Fort Lauderdale
Attn: Department of the Treasury
100 North Andrews Avenue
Fort Lauderdale, Florida 33301

4. In all other respects the Amended and Restated Lease Agreement is unchanged and remains in full force and effect in accordance with the terms thereof.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

LESSOR

WITNESSES:

Florida

CITY OF FORT LAUDERDALE, a
municipal corporation of the State of

Janette A. Johnson
Janette A. Johnson
Print Name

Mike Henao
Mike Henao
Print Name

By [Signature]
JOHN P. "JACK" SEILER, Mayor

By [Signature]
LEE R. FELDMAN, City Manager

(CORPORATE SEAL)

ATTEST:

[Signature]
JONDA K. JOSEPH, City Clerk

Approved as to form:

[Signature]
Assistant City Attorney

LESSEE

WITNESSES:

Q.2

Taylor Rodman

[Witness type or print name]

Lars Struck

LARS STRUCK

[Witness type or print name]

FXE PARCEL 15, LLC, a Florida limited liability company

By Lynda A. Zur

LYNDA A. ZUR, Managing Member

STATE OF FLORIDA:

COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 14 day of August, 2012 by LYNDA A. ZUR, as MANAGING MEMBER of FXE PARCEL 15, LLC, a Florida limited liability company, on behalf of the company and who is personally known to me or has produced _____ as identification and did not (did) take an oath.

(NOTARY SEAL)

Notary Public, State of

Signature of Notary taking

Acknowledgment

Kate V. McSpadden
Kate V. McSpadden
Commission # DD937821
Expires: NOV. 02, 2013
BONDED TRUSTEES FIDELITY BONDING CO., INC.

Name of Notary Typed,

Printed or Stamped

My Commission Expires:

DD 937821

Commission Number

