



**CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING**

#15-0469

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Lee R. Feldman, ICMA-CM, City Manager

DATE: April 21, 2015

TITLE: Lease Extension for Parcel 9 at Executive Airport

Recommendation

It is recommended that the City Commission adopt a resolution authorizing the City Manager to execute a second amendment to the Amended and Restated Lease Agreement with Aero Toy Store, LLC reinstating the lease, which expired April 1, 2015 to provide for a retroactive 90-day extension.

Background

The Parcel 9 Lease commenced on January 1, 1980 with a term of 30 years and was scheduled to expire on December 31, 2009. The property consisted of 7.8 acres and was improved with 50,706 square feet of hangar and Fixed Base Operation (FBO) office space. On November 21, 2001, the Lease was assigned to Aero Toy Store, INC., and was later assigned to Aero Toy Store, LLC (Aero Toy Store) on September 13, 2002. Aero Toy Store currently leases Parcel 9 (Exhibit 1), operates Executive Jet Center, an FBO, and specializes in the sale of corporate jet aircraft. Additionally, Aero Toy Store operates an aircraft completion center on privately owned property adjacent to the leasehold with access to the airport.

An Amended and Restated Lease for this parcel commenced on April 1, 2008 with a term of 30 years, expiring on March 31, 2038. Aero Toy Store agreed to replace the existing buildings and redevelop the entire property with a modern \$15,000,000 facility. The redeveloped facility would consist of three hangars totaling 80,431 square feet and a new 30,750 square foot FBO office building.

Furthermore, the terms of the Lease Agreement included provisions for the Lease to expire 60 months after the commencement if the Lessee failed to construct the improvements. The leasehold was expanded by approximately 4.5 acres of adjacent unimproved property resulting in a combined parcel size of approximately 12.3 acres. Aero Toy Store also proposed to install a new underground storage tank for 100 Low Lead (100LL) aviation fuel to supplement an existing underground storage tank for Jet A aviation fuel, in accordance with the City's Minimum Standards.

According to the terms of the Lease, Aero Toy Store was required to construct the improvements in phases, with Phase 1 constructed by April 1, 2011 and Phase II by April 1, 2013. Due to negative financial impacts to the Lessee's business resulting from the economic downturn, Aero Toy Store was not able to commence Phase 1 within the established period. Aero Toy Store requested an additional 24 months to complete the construction of Phase 1 and Phase II, extending the date of completion. In consideration for the additional time, Aero Toy Store offered to increase the current rent by five percent.

The City and Aero Toy Store entered into a First Amendment to the Amended and Restated Lease dated March 20, 2012, which included provisions in the terms specifying the Lease will expire on April 1, 2015, eighty-four (84) months from the commencement date, if the Lessee failed to provide evidence that it constructed the improvements.

Aero Toy Store was notified on June 25, 2014 and August 8, 2014 of its obligation to perform the required construction improvements for Parcel 9, and was reminded of the Lease expiring on April 1, 2015. Staff received a phone call from the owner, Morris Shirazi, who explained that negotiations were underway with a potential client to assign the Lease. The Leasehold Mortgagee was also notified on August 8, 2014 of the default regarding the improvements on Parcel 9, but they did not contact the City regarding trying to cure such defaults until March 2015. The extra time provided to the mortgagee under the lease agreement to cure has expired.

On December 18, 2014, the City Manager and staff met with representatives from Aero Toy Store and Sheltair FXE Northside, LLC (Sheltair) to discuss the existing issues with the Lease. Sheltair made a proposal, which consisted of constructing the required improvements; however, the terms proposed by Sheltair were not in the best interest of the City.

On March 18, 2015, the City Manager met with a group representing the Mortgagee, PC Finance I, LLC and MBG Finance Holdings, LLC. The Mortgagee requested an extension of 90 days to come up with a proposal as to how they plan to remedy the default for non-performance of construction improvements, as indicated in the attached letter (Exhibit 2) from Attorney Matthew E. Morrall representing the Mortgagee.

Attorney Jacob G. Horowitz, representing Aero Toy Store made a request (Exhibit 3) for an extension beyond the April 1, 2015 expiration date, to continue negotiating with the City. Aero Toy Store and Sheltair are under contract and working to negotiate an assignment of the lease that ensures the highest and best use of Airport leasehold properties.

At the Aviation Advisory Board meeting on March 26, 2015, the Board made a recommendation to grant a 90-day extension to Aero Toy Store for the Lease.

The lease expired April 1, 2015 so any action to reinstate the lease would need to be retroactive to that date.

Resource Impact

There is no resource impact associated with this action.

Strategic Connections:

This item is a *Press Play Fort Lauderdale Strategic Plan 2018* initiative, included within the Business Development Cylinder of Excellence, specifically advancing:

- **Goal 7:** Be a well-positioned City within the global economic and tourism markets of the South Florida region, leveraging our airports, port, and rail connections.
- **Objective 4:** Deliver best-in-class regional general aviation airport amenities and services to domestic and international.
- **Initiative 1:** Examine the highest and best use of airport property to stimulate economic development and create jobs.

This item advances the *Fast Forward Fort Lauderdale 2035 Vision Plan: We Are Prosperous*

Attachments:

- Exhibit 1 Parcel Map
- Exhibit 2 Letter from Mortgagee's Attorney
- Exhibit 3 Letter from Aero Toy Store Attorney
- Exhibit 4 Resolution
- Exhibit 5 Second Amendment

Prepared by: Julie Leonard, Deputy Director, Transportation and Mobility

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