

THIRD AMENDMENT TO AMENDED AND RESTATED LEASE

(PARCEL 15)

THIS IS A THIRD AMENDMENT TO AN AMENDED AND RESTATED LEASE AGREEMENT, entered into on February 15, 2019, 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 the City of Fort Lauderdale authorized the proper City officials to enter into an Amended and Restated Lease Agreement for Parcel 15 at Fort Lauderdale Executive Airport (Airport) (hereinafter "Lease Agreement" or "Lease"), for a term of thirty (30) years; and

WHEREAS, pursuant to Resolution 12-151, adopted at its meeting of August 21, 2012, the City Commission authorized the proper City Officials to enter into a First Amendment to the Amended and Restated Lease Agreement providing for an increase in the size of the leased parcel to construct additional ramp space to accommodate aircraft parking and increased ground rent; and

WHEREAS, pursuant to Resolution 13-90, the City Commission authorized the proper City Officials to enter into a Second Amendment to the Lease providing for an increase in the overall size of the parcel and an increase in rent; and

WHEREAS, the Lessee has submitted a request to construct a new hangar with a total square footage of 20,000 feet together with a tie down ramp representing a minimum investment of \$4,000,000; and

WHEREAS, in order to accommodate the additional hangar and ramp space, Lessor has agreed to increase the total square footage of the Premises, subject to an increase in rent and other terms and conditions; and

WHEREAS, the Airport Advisory Board recommended approval of this new arrangement at its meeting on October 25, 2018; and

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

WHEREAS, pursuant to Resolution No. 18-270, the City Commission authorized the proper City Officials to enter into a Third Amendment to the Lease providing for an increase in the overall size of the parcel and an increase in rent.

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. Exhibits "A" of the Amended and Restated Lease Agreement and the Second Amendment are hereby deleted and replaced with the attached Revised Exhibit "A" showing the expanded legal description and sketch of the Premises. The total square footage of the Premises has been increased to 10.16 acres. Both parties acknowledgement approximately 1.8 acres of vacant land has been added to the Premises and shall be deemed the Additional Parcel.
3. The following definition is added to paragraph 3.

"Effective Date" means the date that the last party executes this Third Amendment.

4. Paragraph 4 is deleted and replaced with the following.

The parties acknowledge and agree that the Term of this Lease Agreement shall commence on January 1, 2012 ("Commencement Date") and shall terminate on January 1, 2048, unless sooner terminated as provided in this Lease.

5. Paragraph 8, RENT, of the Lease Agreement and Second Amendment is deleted and replaced with the following:

Rent During Construction Period. During the period of construction which shall not exceed twenty four (24) months starting from the Effective Date (the "Construction Period") of this Third Amendment, the Base Rent for the Additional Parcel only shall be reduced to 0.22 per square foot which shall not be subject to any rental adjustment during the Construction Period for a total annual rent of \$177,385.03, which rent shall be paid in advance in equal monthly installments starting on January 1, 2019.

As to the remainder of the Premises which has a total square footage of 8.35 acres the annual rent is calculated at \$0.44 per square foot for a total annual rent of \$159,153.55 which shall be paid in advance in equal monthly installments starting on January 1, 2019 and shall be subject rental adjustments as described below.

POST CONSTRUCTION RENT. Both parties acknowledge that the initial Base Rent commenced on the initial Commencement Date of January 1, 2012. Commencing on the date representing the end of the Construction Period and regardless of whether the new improvements have been completed, the Annual Rent for the entire Premises, including the Additional Parcel, shall increase to the greater of \$0.44 per square foot or the adjusted rental rate in effect at the time of increase. All rental payments shall be paid in advance in equal monthly installments, plus applicable taxes, on the first day of each month to which applicable according to the following schedule:

(a) As of the Effective Date of this Third Amendment, the annual Base Rent, excluding Base Rent assessed against the Additional Parcel, is One Hundred Forty Five Thousand Nine Hundred Ninety Nine and 04/100 Dollars (\$145,999.04), which shall be

subject to adjustment as described below. Commencing on the date representing the end of the Construction Period, the Base Rent shall increase to the greater of \$176,499.14 or the adjusted Annual Rent as calculated below.

(b) 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 December 1, 2019, 2019 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 rate for aeronautical land at the Airport based on a comparison with other rental rates for similar aeronautical properties within the competitive market area.

(4) At no time shall the adjusted rent be less than the Base Rent in effect as of the last day of the Construction Period.

(c) 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.

(d) 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.

(e) 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.

(f) 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

6. The first sentence only of paragraph 38(a) is deleted and replaced with the following.

The Lessee is required to construct a new hangar which shall consist of no less than 20,000 square feet along with a tie down ramp for parking. A description of the Improvements are described in Exhibit "B". In consideration of extending the term of this Lease, Lessee agrees that the minimum investment for these improvements shall be no less than \$4,000,000.00.

7. Except as modified herein, 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.

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


LESSOR

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


By 
Christopher D. Lagerbloom,
City Manager

(CORPORATE SEAL)

ATTEST:


Jeffrey A. Modarelli, City Clerk

Approved as to form:
Alain E. Boileau, City Attorney


Lynn Solomon
Assistant City Attorney

THE CITY OF NEW YORK, IN SENATE,
January 10, 1901.

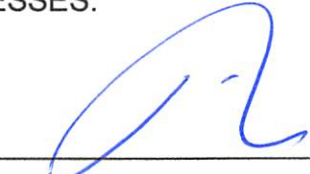
100

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LESSEE

WITNESSES:

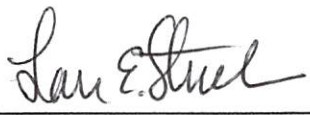


Taylor Rodman
[Witness type or print name]

FXE PARCEL 15, LLC, a Florida limited liability company

By 

LYNDA A. ZUR, Managing Member




Lars E. Stueck
[Witness type or print name]

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 5 day of February, 2019 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 personally known as identification and did not (did) take an oath.

(NOTARY SEAL)

Notary Public, State of
Signature of Notary taking
Acknowledgment

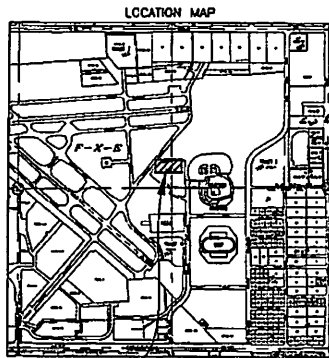
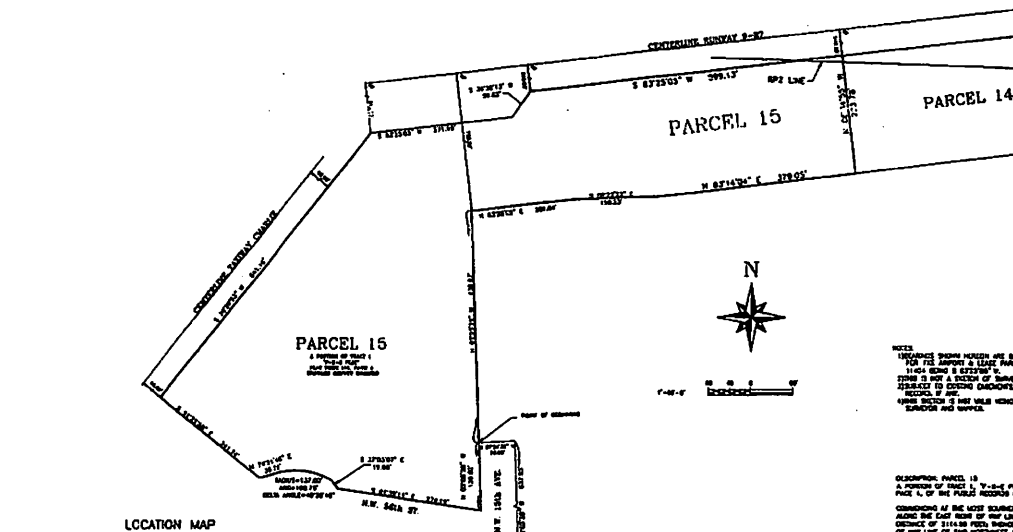


Name of Notary Typed,
Printed or Stamped
My Commission Expires:
12/28/19 FF #946336
Commission Number

REVISED EXHIBIT "A"

**SKETCH AND LEGAL DESCRIPTION
OF PREMISES**

SKETCH & DESCRIPTION



AREA OF SKETCH ————— NOT TO SCALE

NOTES:
1) LOCATIONS SHOWN HEREIN ARE BASED ON GRID READINGS USING THE NORTH LINE OF PARCEL 19.
FOR TAX APPRAISAL & LEASE PARCEL MAP CITY OF FORT WALDOUGHALE EXECUTIVE AIRPORT PROJECT NO.
11004 BEING IN 8737380" N.
2) THIS IS NOT A SECTION OF SURVEY AND DOES NOT REPRESENT A FIELD SURVEY.
3) SUBJECT TO EXISTING (UNKNOWN), ROCK-OF-ROOF, CONDUITS, REINFORCEMENTS AND REFLECTIONS OF
RECORD, IF ANY.
4) THIS SECTION IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL INKED SEAL OF A FLORIDA LICENSED
SURVEYOR AND MAPPER.

[illegible]

CERTIFIED TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

DATE: APR. 11, 2012
 REVISED: OCTOBER 11, 2010
 REVISED: OCTOBER 10, 2010
 REVISED: JANUARY 19, 2017
 REVISED: MAY 3, 2010
 REVISED: MAY 11, 2010
 REVISED: OCTOBER 10, 2010

MICHAEL W. EDWARDS
PROFESSIONAL SURVEYOR AND MAPPER NO. 6400
STATE OF FLORIDA

CITY OF FORT LAUDERDALE	
PUBLIC WORKS DEPARTMENT	
ENGINEERING & ARCHITECTURE	
100 North Andrews Avenue, Fort Lauderdale, Florida 33301	

[illegible]

PROJECT # 11404
PARCEL 15
SKETCH & DESCRIPTION
FORT LAUDERDALE EXECUTIVE AIRPORT
CITY OF FORT LAUDERDALE

1	1
TOTAL 1	
100-001-00113-20C	
1-123-11	

DESCRIPTION: PARCEL 15
A PORTION OF TRACT 1, "F-X-E PLAT", ACCORDING TO THE PLAT
THEREOF, RECORDED IN PLAT BOOK 119, PAGE 4, OF THE PUBLIC
RECORDS OF BROWARD COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:
COMMENCING AT THE MOST SOUTHERLY EAST CORNER OF SAID "F-X-E
PLAT"; THENCE NORTH 02°04'39" WEST ALONG THE EAST RIGHT OF WAY
LINE OF NORTHWEST 12TH AVENUE AND THE LIMITS OF SAID "F-X-E
PLAT", A DISTANCE OF 2114.58 FEET; THENCE SOUTH 87°55'41" WEST A
DISTANCE OF 80.00 FEET TO THE WEST RIGHT OF WAY LINE OF SAID
NORTHWEST 12TH AVENUE; THENCE CONTINUE SOUTH 87°55'41" WEST, A
DISTANCE OF 946.65 FEET; THENCE NORTH 02°05'28" WEST A DISTANCE
OF 637.95 FEET; THENCE SOUTH 87°54'32" WEST A DISTANCE OF 70.00
FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH
02°05'28" WEST A DISTANCE OF 438.87 FEET; THENCE NORTH 83°25'05"
EAST, ALONG A LINE PARALLEL WITH AND 759.50 FEET SOUTH OF, AS
MEASURED AT RIGHT ANGLES, THE CENTERLINE OF FORT LAUDERDALE
EXECUTIVE AIRPORT RUNWAY 9-27, A DISTANCE OF 201.04 FEET; THENCE
NORTH 88°22'23" EAST A DISTANCE OF 156.23 FEET; THENCE NORTH
83°14'04" EAST A DISTANCE OF 379.05 FEET; THENCE NORTH 06°34'55"
WEST A DISTANCE 223.78 FEET; THENCE SOUTH 83°25'05" WEST, ALONG
A LINE PARALLEL WITH AND 548.00 FEET SOUTH OF, AS MEASURED AT
RIGHT ANGLES, THE CENTERLINE OF FORT LAUDERDALE EXECUTIVE
AIRPORT RUNWAY 9-27 A DISTANCE OF 599.13 FEET; THENCE SOUTH
34°38'13" WEST A DISTANCE OF 59.82 FEET; THENCE SOUTH 83°25'05"
WEST ALONG A LINE PARALLEL WITH AND 593.00 FEET SOUTH OF, AS
MEASURED AT RIGHT ANGLES, THE CENTERLINE OF FORT LAUDERDALE
EXECUTIVE AIRPORT RUNWAY 9-27, A DISTANCE 271.98 FEET; THENCE
SOUTH 38°29'53" WEST A DISTANCE OF 641.16 FEET; ALONG A LINE
PARALLEL WITH AND 93.00 FEET EAST OF, AS MEASURED AT RIGHT
ANGLES, THE CENTERLINE OF FORT LAUDERDALE EXECUTIVE AIRPORT
TAXIWAY CHARLIE; THENCE SOUTH 51°35'50" EAST A DISTANCE OF
241.74 FEET; THENCE NORTH 74°51'46" EAST A DISTANCE 35.79 FEET TO
A POINT ON A NON-TANGENT CURVE; THENCE NORTHEASTERLY, EASTERLY
AND SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, HAVING A RADIUS
OF 137.00 FEET, A CENTRAL ANGLE OF 45°28'48" AND ARC LENGTH OF
108.75 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE; THENCE
SOUTH 37°03'07" EAST A DISTANCE OF 19.08 FEET; THENCE SOUTH
81°38'14" EAST A DISTANCE OF 274.99 FEET; THENCE NORTH 02°05'28"
WEST A DISTANCE OF 128.02 FEET TO THE POINT OF BEGINNING.
SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF FORT
LAUDERDALE, BROWARD COUNTY, FLORIDA, CONTAINING 442781 SQUARE
FEET OR 10.1649 ACRES, MORE OR LESS.

Exhibit "B"

Parcel 15

Construction of one additional hangar with a minimum square footage of 20,000 square feet along with a tie down ramp for parking.



COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM

2 (L) (C)
2/18/19

Today's Date: 2/8/19

DOCUMENT TITLE: Third Amendment to Amended and Restated Lease – FXE Parcel 15, LLC

COMM. MTG. DATE: 12/18/18 CAM #: 18-1213 ITEM #: CR-10 CAM attached: ☒ YES ☐ NO

Routing Origin: CAO Router Name/Ext: Shaniece Louis / Ext. 5036

CIP FUNDED: ☐ YES ☐ NO

Capital Investment / Community Improvement Projects 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, or fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, or real.

2) City Attorney's Office # of originals attached: 2 Approved as to Form: ☒ YES ☐ NO

Date to CCO: 2/13/19 LS
Initials

3) City Clerk's Office: # of originals: _____ Routed to: Kerry Arthur/CMO/X5013 Date: _____

4) City Manager's Office: CMO LOG #: Feb-57 Date received from CCO: 2/13/19

Assigned to: CHRIS LAGERBLOOM ☒ LINDA LOGAN-SHORT ☐ RHODA MAE KERR ☐
CHRIS LAGERBLOOM as CRA Executive Director ☐

☐ APPROVED FOR C. LAGERBLOOM'S SIGNATURE ☐ N/A FOR C. LAGERBLOOM TO SIGN

PER ACM: L.L-SHORT _____ (Initial/Date) R. KERR _____ (Initial/Date)

☐ PENDING APPROVAL (See comments below)

Comments/Questions: _____

Forward 2 originals to ☐ Mayor ☒ CCO Date: 2/15/19

5) Mayor/CRA Chairman: Please sign as indicated. Forward _____ originals to CCO for attestation/City seal (as applicable) Date: _____

INSTRUCTIONS TO CLERK'S OFFICE

City Clerk: Retains 1 original and forwards 1 original(s) to: Angelia Basto / FXE / Ext. 5334 (Name/Dept/Ext)

Attach _____ certified Reso # _____ ☐ YES ☐ NO Original Route form to CAO

****PLEASE EMAIL AN EXECUTED COPY TO SHANIECE LOUIS *****