



Broward County

Legislation Details (With Text)

File #:	20-1962	Version:	1	Status:	Agenda Ready
				In control:	AVIATION DEPARTMENT
On agenda:	11/10/2020	Final action:	11/10/2020		
Title:	A. MOTION TO WAIVE Section 39.3, Non-Terminal Rates and Charges - Fort Lauderdale-Hollywood International Airport and North Perry Airport, Broward County Administrative Code to extend the term of the Agreement of Lease between Broward County and Diversified Aviation NP, LLC, for an additional five years, providing for a lease term of 35 years.				
	ACTION: (T-10:45 AM) Approved.				
	VOTE: 9-0. Commissioner Rich voted in the affirmative telephonically.				
	B. MOTION TO APPROVE Fourth Amendment to the Agreement of Lease between Broward County and Diversified Aviation NP, LLC, to revise the area of the leased Premises, add an additional minimum Capital Expenditure requirement, add an additional five years to extend the term of the Agreement of Lease, and make other modifications; and authorize the Mayor and Clerk to execute.				
	ACTION: (T-10:45 AM) Approved.				
	VOTE: 9-0. Commissioner Rich voted in the affirmative telephonically.				
	C. MOTION TO APPROVE Consent to Third Leasehold Mortgage Modification Agreement and Receipt for Future Advance among Broward County, Diversified Aviation NP, LLC, and Valley National Bank, a National Banking Association; and authorize the Mayor and Clerk to execute.				
	ACTION: (T-10:45 AM) Approved.				
	VOTE: 9-0. Commissioner Rich voted in the affirmative telephonically.				
	D. MOTION TO APPROVE Modification No. 3 to the Memorandum of Lease between Broward County and Diversified Aviation NP, LLC; to provide notice of the Agreement of Lease, as amended; and authorize the Mayor and Clerk to execute.				
	ACTION: (T-10:45 AM) Approved.				
	VOTE: 9-0. Commissioner Rich voted in the affirmative telephonically.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	1. Exhibit 1 - Agreement Summary, 2. Exhibit 2 - Fourth Amendment, 3. Exhibit 3 - Consent to Third Leasehold Mortgage Modification Agreement, 4. Exhibit 4 - Memorandum of Lease, 5. Exhibit 5 - Agreement History				

Date	Ver.	Action By	Action	Result
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Broward County Commission Regular Meeting

Director's Name: Mark Gale

Department: Aviation

Division: North Perry Airport

Information

Requested Action

A. MOTION TO WAIVE Section 39.3, Non-Terminal Rates and Charges - Fort Lauderdale-Hollywood International Airport and North Perry Airport, Broward County Administrative Code to extend the term of the Agreement of Lease between Broward County and Diversified Aviation NP, LLC, for an additional five years, providing for a lease term of 35 years.

ACTION: (T-10:45 AM) Approved.

VOTE: 9-0. Commissioner Rich voted in the affirmative telephonically.

B. MOTION TO APPROVE Fourth Amendment to the Agreement of Lease between Broward County and Diversified Aviation NP, LLC, to revise the area of the leased Premises, add an additional minimum Capital Expenditure requirement, add an additional five years to extend the term of the Agreement of Lease, and make other modifications; and authorize the Mayor and Clerk to execute.

ACTION: (T-10:45 AM) Approved.

VOTE: 9-0. Commissioner Rich voted in the affirmative telephonically.

C. MOTION TO APPROVE Consent to Third Leasehold Mortgage Modification Agreement and Receipt for Future Advance among Broward County, Diversified Aviation NP, LLC, and Valley National Bank, a National Banking Association; and authorize the Mayor and Clerk to execute.

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VOTE: 9-0. Commissioner Rich voted in the affirmative telephonically.

D. MOTION TO APPROVE Modification No. 3 to the Memorandum of Lease between Broward County and Diversified Aviation NP, LLC; to provide notice of the Agreement of Lease, as amended; and authorize the Mayor and Clerk to execute.

ACTION: (T-10:45 AM) Approved.

VOTE: 9-0. Commissioner Rich voted in the affirmative telephonically.

Why Action is Necessary

Motions A-D: Chapter 2, Section 2-40(a) of the Broward County Code of Ordinances, requires that the Broward County Board of County Commissioners ("Board") authorize commercial activities or occupancy of any portion of the Broward County's Fort Lauderdale-Hollywood International Airport ("FLL") and North Perry Airport ("HWO") and approve any associated actions.

What Action Accomplishes

Motion A: This action waives Section 39.3 of the Broward County Administrative Code ("Administrative Code") to permit a five-year extension to the existing term of the Agreement of Lease ("Agreement") between Broward County ("County") and Diversified Aviation NP, LLC ("Diversified") for a total lease term of 35 years.

Motion B: This action approves the Fourth Amendment to the Agreement between the County and Diversified to add approximately 38,371± sf to the leased Premises and extend the term of the Agreement for five years in consideration of the additional minimum Capital Expenditure in the amount of \$3.5 Million.

Motion C: This action approves a Consent to Third Leasehold Mortgage Modification Agreement and Receipt for Future Advance among the County, Diversified, and Valley National Bank, a National Banking Association.

Motion D: This action approves Modification No. 3 to the Memorandum of Lease to permit Diversified to record the memorandum in the Official Public Records of Broward County.

Is this Action Goal Related

No

Previous Action Taken

None.

Summary Explanation/Background

THE AVIATION DEPARTMENT RECOMMENDS APPROVAL OF THE ABOVE MOTIONS.

Motion A

This action waives Section 39.3(a) of the Administrative Code to permit a five-year extension to the existing term of the Agreement between the County and Diversified for a total lease term of 35 years with a lease termination date of October 31, 2051.

Section 39.3(a) of the Administrative Code provides for lease terms to be limited to 30 years. On May 24, 2011 (Item No. 3), the Board approved an Agreement between the County and Diversified and waived Section 39.3(a) of the Administrative Code to provide for a total lease term of 25 years with two five-year renewal option periods for a total term of lease of up to 35 years. A subsequent amendment revised the term of the Agreement to 30 years. Additional information on the original agreement and subsequent Board actions is included in Exhibit 5.

Motion B

This action revises the area of the leased Premises, adds an additional minimum Capital Expenditure requirement in the amount of \$3.5 Million, adds five years to the term of the Agreement, and makes other modifications. The additional 38,371± sf to be added to the leased Premises is needed to accommodate the proposed construction of two hangar buildings to be subdivided into individual hangars with offices and bathrooms. Due to the size and location of the 38,371± sf property, the area is not suitable for development as a standalone parcel.

The five-year extension to the term of the Agreement provides Diversified with additional time to amortize the loan, which will fund a portion of the additional investment. The additional term may be reduced if the capital expenditure requirement is not met.

Motion C

Pursuant to Section 18 of the Agreement, Diversified must receive the prior written consent of the

County to amend any leasehold mortgage. On June 13, 2017, the Board approved the Consent to Mortgage between the County and Diversified for a Second Leasehold Restated Leasehold Mortgage (Modification No. 2) in favor of Valley National Bank, a National Banking Association ("Leasehold Mortgagee") and Modification No. 2 to Memorandum of Lease between the County and Diversified. This action permits Diversified to increase the principal amount of the Leasehold Mortgagee mortgage by \$4.2 Million to fund the new construction.

Motion D

This action approves Modification No. 3 to the Memorandum of Lease. Section 36 (f) of the Agreement, permits Diversified to record a Memorandum of Lease, after Board approval, in the Official Public Records of Broward County, Florida, providing notice to any interested person as to the existence of the Agreement. The Memorandum sets forth the legal description of the leased premises, as revised by the Fourth Amendment to the Agreement.

The proposed Fourth Amendment, Consent to Third Leasehold Mortgage Modification Agreement and Receipt for Future Advance; and Modification No. 3 to the Memorandum of Lease have been reviewed and approved as to form by the Office of the County Attorney.

Source of Additional Information

Mark E. Gale, A. A. E., CEO/Director of Aviation, (954) 359-6199

Fiscal Impact

Fiscal Impact/Cost Summary

The total estimated rent for the proposed Fourth Amendment is \$1,191,279 in revenue to the Broward County Aviation Department over the entire term of the Agreement.