

BOCA RATON AIRPORT AUTHORITY

RESOLUTION 04-05-22

A Resolution of the Boca Raton Airport Authority approving the Eleventh Amendment to that certain Lease Agreement Between the Boca Raton Airport Authority and Premier Aviation of Boca Raton, LLC, dated September 27, 2000

WHEREAS, The Boca Raton Airport Authority Act, Laws of Florida, provides that the Boca Raton Airport Authority (the “Authority”) shall have jurisdiction over the operation, maintenance of, and improvements to the Boca Raton Airport (the “Airport”);

WHEREAS, on September 27, 2000, the Authority entered into a Lease Agreement with Premier Aviation of Boca Raton, LLC (“Premier”), on November 29, 2000, the Authority and Premier entered into the First Amendment to the September 27, 2000, Lease Agreement, on July 17, 2013, the parties entered into the Second Amendment to the September 27, 2000, Lease Agreement, on January 27, 2015, the parties entered into the Third Amendment to the September 27, 2000, Lease Agreement, on June 26, 2018, the parties entered into the Fourth Amendment to the September 27, 2000, Lease Agreement, on August 15, 2018, the parties entered into a Fifth Amendment to the September 27, 2000, Lease, and on January 16, 2019, the parties entered into a Sixth Amendment to the September 27, 2000, Lease, on July 17, 2019 the parties entered into a Seventh Amendment to the September 27, 2000 Lease, on July 15, 2020 the parties entered into an Eighth Amendment to the September 27, 2020, on August 19, 2020 the parties entered into a Ninth Amendment to the September 27, 2022, and on March 1, 2021 the parties entered into a Tenth Amendment to the September 27, 2020 Lease 2020; (collectively, the “Premier Lease Agreement”); and

WHEREAS, the September 27, 2000, Lease Agreement allows Premier to sublease portions of the leased premises, subject to the consent of the Authority, and provides for three separate phases of the leased premises to be developed, but did not provide for certain development and construction timelines;

WHEREAS, on August 15, 2012, pursuant to Resolution No. 08-24-12, the Authority conditionally approved a Second Amendment to the September 27, 2000 Lease Agreement (the “Previous Second Amendment”) to provide for construction timelines for the Phase II and Phase III Projects, add any use as permitted pursuant to the Amended and Restated Memorandum of Agreement between the City of Boca Raton and the Boca Raton Airport Authority dated January 30, 2008, and permit, upon Authority approval, multiple/uses, buildings or stories to the Phase II and Phase III Projects, but the Previous Second Amendment was rejected by the Federal Aviation Administration (FAA);

WHEREAS, on July 17, 2013, pursuant to Resolution No. 07-32-13, the Authority approved a revised Second Amendment to the September 27, 2000, Lease Agreement to address the comments made by the FAA in rejecting the Previous Second Amendment;

WHEREAS, on January 28, 2015, pursuant to Resolution 01-04-15, the Authority approved a Third Amendment changing the approved uses for Phase II, and the FAA approved the uses contained in the Third Amendment;

WHEREAS, on June 20, 2018, pursuant to Resolution 06-13-18, the Authority approved a Fourth Amendment relating to the submission of Preliminary Plans and the issuance of a certificate of occupancy related to Phase III;

WHEREAS, on August 15, 2018, pursuant to Resolution 08-21-18, the Authority approved a Fifth Amendment providing for additional uses for the Phase III project, to accommodate a Car Sales Agency, non-aviation use, as proposed by Premier, and the FAA approved the additional uses;

WHEREAS, on January 16, 2019, pursuant to Resolution 01-01-19, the Authority approved a Sixth Amendment to the Premier Lease Agreement authorizing an additional six-month extension of the deadlines provided for by the Lease Agreement, as amended, relating to the submission of Preliminary Plans and the issuance of a certificate of occupancy, related to Phase III;

WHEREAS, on July 17, 2019, pursuant to Resolution 07-11-19, the Authority approved a Seventh Amendment to the Premier Lease Agreement authorizing an additional one-year extension of the deadlines provided for by the Lease Agreement, as amended, relating to the submission of Preliminary Plans and the issuance of a certificate of occupancy, related to Phase III;

WHEREAS, on July 15, 2020, Premier requested an Eighth Amendment to the Premier Lease Agreement authorizing an additional one-year extension of the deadlines provided for by the Lease Agreement, as amended, relating to the submission of Preliminary Plans and the issuance of a certificate of occupancy;

WHEREAS, the Authority agreed to a thirty-day extension of the deadlines provided for by the Lease Agreement, as amended, relating to the submission of Preliminary Plans and the issuance of a certificate of occupancy, in order to provide the parties time to negotiate conditions for the requested, additional one-year extension of the deadlines;

WHEREAS, on the Ninth Amendment to the Premier Lease Agreement authorized an additional one-year extension of the deadlines provided for by the Lease Agreement pertaining to the Phase III project, provided that the Lessee presented preliminary marketing plans for the Phase III project to the Authority no later than August 17, 2020, 50% Plans no later than the Board's February 2021 Board Meeting, 75% plans no later than the Board's May 2021 meeting, and 100% plans no later than the Board's August 2021 meeting;

WHEREAS, the parties further agreed in the Tenth Amendment to the Lease Agreement to extend the deadline for the presentation of the 50% Plans for Phase III to no later than the Board's April 2021 meeting. The deadlines for presentation of the 75% plans and the 100% plans set forth in the Ninth amendment were not modified in the Tenth Amendment

WHEREAS, Premier failed to present the Final Site Plan for the Phase III construction improvements to the Authority at its March 2022 meeting, which was one-hundred and eighty (180) days after the Authority approval of the Preliminary Plans; Premier requested a six-month extension of the deadline to submit the Final Site Plan for the Phase III construction improvements;

WHEREAS, Premier has received a significant number of extensions to the deadlines to submit the Final Site Plan to the Authority and to construct the Phase III improvements The Authority is concerned that any further extensions will negatively impact the Authority's standing with the United States Federal Aviation Authority ("FAA"). The FAA has already indicated that the LESSEE's failure to construct the Phase III improvements have prevented the Authority from achieving the highest and best use of the leased property. The parties acknowledge that the Authority cannot entertain any further extensions of the deadline to construct the Phase III improvements without jeopardizing its standing with the FAA; and

WHEREAS, the Authority is willing to enter into an Eleventh Amendment to the September 27, 2020 Lease Agreement, subject to certain terms and conditions, and subject to Federal Aviation Administration review and consent.

NOW THEREFORE BE IT RESOLVED BY THE BOCA RATON AIRPORT AUTHORITY, BOCA RATON, FLORIDA, IN PUBLIC MEETING DULY ASSEMBLED, THIS 20th DAY OF APRIL 2022, AS FOLLOWS:

- 1. The foregoing recitals are hereby incorporated as the legislative intent of the Authority.**
- 2. The Authority hereby approves the execution of an Eleventh Amendment to the Premier Lease Agreement for a six-month extension to the deadline to submit final approval for the Phase III construction improvements to the Authority as provided for by the Lease Agreement, subject to certain conditions.**
- 3. The Authority hereby authorizes the Executive Director to execute the Eleventh Amendment, as provided herein.**
- 4. The Authority hereby authorizes the Executive Director and Airport Legal Counsel to do all things necessary or prudent to effectuate the intent of this Resolution Number 04-05-22.**
- 5. The Authority hereby authorizes the Chair or Vice-Chair to execute Resolution Number 04-05-22.**

ADOPTED by the Boca Raton Airport Authority, this 20th day of April 2022.

ATTEST:

BOCA RATON AIRPORT AUTHORITY:

**Randy Nobles
Secretary & Treasurer**

**James R. Nau
Chair**