

1/28/13

CITY OF AURORA
ORDINANCE NO. 013-008

AN ORDINANCE CONSENTING TO THE ASSIGNMENT
OF A LAND LEASE AT THE AURORA MUNICIPAL AIRPORT
BETWEEN THE CITY OF AURORA AND SYNERGY PROPERTY HOLDINGS, LLC.
TO FR2, INC., AN ILLINOIS CORPORATION

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals and welfare; and

WHEREAS, the City of Aurora owns, operates and maintains the Aurora Municipal Airport; and

WHEREAS, the City of Aurora entered into a Lease of Real Estate at the Aurora Municipal Airport dated March 28, 2006 under Ordinance O06-17, with Diamas Real Estate Holdings, LLC; and

WHEREAS, Diamas Real Estate Holdings, LLC has assigned the leasehold interest to Synergy Property Holdings, LLC; and

WHEREAS, Synergy Property Holdings, LLC desires to assign the Lease of Real Estate to FR2, Inc., an Illinois Corporation; and

WHEREAS, said assignment would benefit the operation of the airport and would therefore be a benefit to the City of Aurora; and

WHEREAS, the Aurora Municipal Airport Advisory Board has recommended the assignment of lease between the City of Aurora and Synergy Real Estate Holdings, LLC be approved.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Aurora, Illinois, as follows:

Section One: That the Mayor and City Clerk are hereby authorized to approve assignment of lease between the City of Aurora and Synergy Real Estate Holdings, LLC to FR2, Inc.

Section Two: That all other provisions of said lease remain in full force and effect.

Section Three: That this ordinance shall be in full force and effect, and shall be controlling, upon its passage, approval and publication as provided by law.

Section Four: That all ordinances or parts of ordinances thereof in conflict herewith are hereby repealed to the extent of any such conflict.

CONSENT TO ASSIGNMENT

For value received, the City of Aurora, an Illinois Municipal Corporation ("city") hereby consents to the assignment of the certain Lease dated March 28, 2006 between Diamas Real Estate Holdings, LLC and assigned to Synergy Real Estate Holdings, LLC ("Assignor") an Illinois Limited Liability Corporation as lessee and the City as lessor ("Lease") for premises located at the City of Aurora Municipal Airport, said premises more particularly described in said Lease, to FR2, Inc., an Illinois corporation (Assignee), an Illinois Limited Liability Corporation as Assignee. Upon acceptance of said assignment by Assignee and upon its agreement to assume all of the obligations of the Lease to be performed by lessee under said Lease, the City will release the assignor from all liability under the terms of the Lease required to be performed under the terms of said Lease subsequent to the date of said assignment. Nothing herein shall be construed as releasing assignor from any liability for any of its obligations under said Lease required to be performed up to the date and time of the execution of the execution of the assignment and acceptance thereof by Assignee.

City of Aurora

BY: Thomas J. Weisner
Thomas J. Weisner, Mayor

Attest:

Rachel Pruneda
City Clerk

Memorandum

To: Mayor Thomas J. Weisner
From: Robert A. Rieser, PE, AAE, Airport Manager
Date: January 29, 2013
Subject: Proposed transfer of Synergy Property Holdings, LLC to FR2, Inc. (Hangar 3) via Assignment of Lease

PURPOSE:

To obtain City Council approval for the Assignment of Lease to FR2, Inc. (Hangar 3) from Synergy Property Holdings, LLC.

BACKGROUND:

Diamas constructed hangar 3 under a lease agreement with the City of Aurora dated March 28, 2006 under Ordinance O06-17. Unable to make the payments on the hangar to First Midwest Bank, Diamas desires to transfer its interest in this hangar back to the bank. First Midwest Bank has a holding company known as Synergy Property Holdings, LLC that will accept the ownership of the properties. Synergy now desires to transfer the property to FR2, Inc. an Illinois Corporation which is the holding company for MidAmerica Jet Works who has been a tenant on the airport for many years. MidAmerica Jet Works has occupied the hangar as a renter since it was constructed.

DISCUSSION:

The lease between Diamas and the City requires that the City give its approval for any transfer of the leasehold. These documents have been reviewed and approved by the bank and the Aurora Law Department. Through an Assignment of Lease, Synergy has obtained ownership from Diamas and is also bound by the original lease provision requiring the City to grant an approval of Assignment of Lease for ownership to be transferred to FR2, Inc. The Advisory Board recommended this action at their January 14, 2013 meeting.

RECOMMENDATIONS:

I recommend the Council approve the proposed Assignment of Lease to FR2, Inc. from Synergy Property Holdings, LLC (Hangar 3).

cc: Bill Wiet, Chief of Staff
Ken Schroth, Public Works
City Clerk
Aldermen's Office

CAE
2-8-13

CITY OF AURORA
ORDINANCE NO. 006-17

AN ORDINANCE AUTHORIZING THE EXECUTION
A LAND LEASE AT THE AURORA MUNICIPAL AIRPORT
BETWEEN THE CITY OF AURORA AND DIAMAS REAL ESTATE HOLDINGS, LLC

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals and welfare; and

WHEREAS, the City of Aurora owns, operates and maintains the Aurora Municipal Airport; and

WHEREAS, it is the desire of the City of Aurora to lease land at the Aurora Municipal Airport to qualified persons or companies to build and operate compatible aviation services; and

WHEREAS, Diamas Real Estate Holdings, LLC is petitioning to enter into a land lease with the City to build and operate a hangar on the Airport; and

WHEREAS, the Aurora Municipal Airport Advisory Board has recommended that a land lease between the City of Aurora and Diamas Real Estate Holdings, LLC be approved.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Aurora, Illinois, as follows:

Section One: That the Mayor and City Clerk are hereby authorized to execute the "Lease of Real Estate at the Aurora Municipal Airport" between the City of Aurora and Diamas Real Estate Holdings, LLC.

Section Two: That all other provisions of said lease remain in full force and effect.

Section Three: That this ordinance shall be in full force and effect, and shall be controlling, upon its passage, approval and publication as provided by law.

Section Four: That all ordinances or parts of ordinances thereof in conflict herewith are hereby repealed to the extent of any such conflict.

Section Five: That any Section or provision of this ordinance that is construed to be invalid or void shall not affect the remaining Sections or provisions which shall remain in full force and effect thereafter.

PRESENTED to the City Council of the City of Aurora, Illinois, on the 28th day of March, 2006.

PASSED by the City Council of the City of Aurora, Illinois, on the 28th day of March, 2006.

APPROVED AND SIGNED by the Mayor of the City of Aurora, Illinois, on the 28th day of March, 2006.


MAYOR

ATTEST:


City Clerk

This document prepared by:
Aurora Municipal Airport

LEASE OF REAL ESTATE AT THE AURORA MUNICIPAL AIRPORT

THIS INDENTURE made this 28th day of March, 2006 between the City of Aurora, an Illinois Municipal Corporation ("Landlord") and Diamas Real Estate Holdings, L.L.C. ("Tenant").

WITNESSETH:

1) LEGAL DESCRIPTION OF LEASED PREMISES

The Landlord hereby leases to the Tenant and the Tenant hereby leases from the Landlord the following described real estate, being a part of the Aurora Municipal Airport, Sugar Grove Township, Kane County, Illinois; to-wit:

PARCEL 1

That part of the Aurora Municipal Airport described as follows:

A parcel of land for lease site purposes located within that part of the southwest quarter of section 17, township 38 north, range 7 east of the third principal meridian, in Sugar Grove Township, Kane County, Illinois, further described as follows: commencing at the southeast corner of the west half of the southeast quarter of section 17; thence north 00°33'19" east along the east line of the west half of the southeast quarter of said section 17, 430.87 feet; thence south 89°12'52" west, 1415.41 feet to the northeast corner of existing Auster Aviation lease area, thence north 00°47'10" west, 30.00 feet for a point of beginning; thence continuing north 00°47'10" west, 190.00 feet; thence north 89°12'50" east, 160.00 feet; thence south 00°47'10" east, 190.00 feet; thence south 89°12'50" west 160.00 feet to the point of beginning. Containing 30,400 square feet or 0.697 acres.

2) GROUND RENT

The Tenant will pay to the Landlord annual ground rent for the parcel described in Paragraph 1 of this Agreement as follows: the sum of \$10,052.37. Which ground rent may, at the option of the Tenant, be paid annually or in equal monthly installments as hereinafter set forth. Said ground rent shall be due on the first day of the month after an occupancy permit is issued for the building, to be constructed on Parcel 1, or nine (9) months after the execution of this Agreement, whichever occurs first. If paid in monthly installments, ground rent shall be payable on the first day of each succeeding month hereafter until the termination of this Lease. If ground rent is paid in annual installments, each succeeding annual installment shall be due and payable on the anniversary date of the first installment of ground rent becoming due as aforesaid and on each anniversary date hereafter until termination of this lease. If this

lease is terminated prior to the expiration of the lease term or any extension thereof as set forth in Section 4 hereof, the Tenant shall not be entitled to a refund of or credit for any prepaid rents. Said ground rent is computed by multiplying the total square footage of the subject parcel by an amount of \$.33067 per square foot and shall be adjusted annually on the first day of December in accordance with the terms of the "Cost of Living Rider" attached hereto and by this reference incorporated herein. Tenant shall pay any additional rents due on a prorated basis for ground rents paid annually upon said adjustment and upon notice that said adjustment is due whether Tenant pays rent monthly or annually. Upon completion of parking lot improvements and payment therefore as set forth in Section 5C of this lease, Tenant shall be entitled to a credit against rents due and payable hereunder totaling \$30,000. Said credit shall be applied on a monthly basis. Upon monthly credit reaching \$30,000, Tenant shall pay monthly and/or prorated yearly rent thereafter as set forth in this lease.

3) ADDITIONAL RENT

- a. In addition to the ground rent provided in Section 2, the Tenant shall pay to the Landlord, as additional rent for use of the leased premises, an amount equal to 1½ percent (1.5%) of the gross receipts derived by the Tenant from the business conducted on the leased premises during the calendar month next preceding the date said rent is payable. Additional rent shall be paid monthly no later than forty-five (45) days after the end of the month for which it is assessed until the termination of this Lease. Gross income is defined as all cash received arising from the business activities generated on the airport by the Tenant, plus deductions for State and/or Federal excise/sales taxes as evidenced by appropriate paid tax returns and any other allowable deduction(s) as provided for in this Lease. Payment reports must be submitted on a form approved by the City of Aurora.
- b. If, for any reason, the rent as set forth in this Section is not paid when due a carrying charge of two percent (2%) per month or any portion of the month thereof shall be imposed on the amount which remains due and unpaid. In addition, if the Tenant is determined to be delinquent for any two (2) months during a consecutive twelve (12) month period then at Landlord's option as an alternative to termination of this lease, the Tenant may be required to post a security bond equivalent to six (6) months of rent based on the amounts as set forth in Paragraphs 2 and 3(a) of this Lease or be in breach of this Lease.

- c. Additional rent due under this lease shall be due and payable irrespective of any credit against rents that Tenant may be entitled to as set forth in Section 2 above.

4) LEASE TERM

The term of this lease shall begin on April 1, 2006 and shall continue for a period of twenty (20) years expiring on March 31, 2026. The Tenant shall have the option to renew this Lease for an additional ten (10) years not to extend beyond March 31, 2036; provided, that at the time of any such renewal, that any party hereto shall require the renegotiation of the amounts of ground rent and/or additional rent under Paragraphs 2 and 3 hereof. Tenant shall advise the Landlord by the procedure of the "NOTICES" Paragraph of this Agreement no sooner than January 1, 2023 and no later than January 31, 2023 of its intent to exercise the option contained herein. Should construction of a new facility on the area described as Parcel 1 herein not be commenced by November 1, 2006, then at Landlord's sole option, the Tenant shall release any and all claim to the area described as Parcel 1 and the lease of Parcel 1 shall be declared null and void. Construction on Parcel 1 shall be per section 5)(b) hereof.

5) USE OF PREMISES

- a. Tenant agrees that the use of the premises shall be limited to the following list of activities according to the Rules and Regulations and Minimum Standards for Commercial Activities at the Aurora Municipal Airport as adopted by the Aurora City Council and amended from time to time:
- 1) The right to operate, store and maintain their own aircraft.
 - 2) Rental of hangar and office space to others subject to the aforementioned Rules and Regulations and Minimum Standards for Commercial Activities at the Aurora Municipal Airport as adopted by the Aurora City Council and amended from time to time.

The aforementioned authorized activities shall be limited to the Tenant only. No other business activities shall be authorized to be conducted or performed nor shall Tenant provide any additional service(s), other than those listed herein, from the leased premises without prior written approval from the City of Aurora. Any entity including one affiliated with Tenant, operating from the premises without prior written approval from the City of Aurora shall be deemed to be a violation of this Lease Agreement. Should the Tenant not actively be engaged in any of the approved

activities set forth in this paragraph for a period of time exceeding three (3) consecutive months, the City reserves the right to rescind said approved activity.

b. Building Construction Requirement

The Tenant shall be required to abide by all Fire Codes and Building codes, as adopted by the City of Aurora, in the construction of the facility on Parcel 1 as described herein. The building must have approximately 18,000 square feet of hangar space with a minimum 3,600 square feet of office space attached to the hangar structure. The type and style of construction shall be approved by the Landlord prior to submittal for building permits and such approval shall not be unreasonably withheld. No changes in approved plans shall be made without written approval of Landlord. Lessee agrees to pay or cause to be paid, when due, all sums of money that may become due for, or purporting to be for, any labor, services, materials, supplies, utilities, furnishings, machinery or equipment which may have been furnished or ordered with Lessee's consent to be furnished to or for the Lessee or a sublessee in, upon or about the premises herein leased, which may be secured by any mechanic's, materialmen's or other lien against the premises herein leased or Lessor's interest therein, and will cause each such lien to be fully discharged and released at the time the performance of any obligation secured by any such lien matures and becomes due, provided that the lessee or sublessee may in good faith contest any mechanic's or other liens filed or established, and in such event, may permit the items so contested to remain undischarged and unsatisfied during the period of such contest.

c. Land Improvements

(i) The Tenant shall construct as part of this Agreement no less than 2,400 square feet of apron along the west face of the hangar facility. Said apron shall be of a design as approved by the Landlord and be capable of 130,000 pounds dual wheel bearing capacity, as determined by FAA design procedures. Should the Tenant desire to construct an automobile parking lot, the Landlord shall approve the design and location of said parking lot prior to issuance of a building permit.

(ii) The Tenant shall construct at its cost, subject to rental credit as set forth in Section 2 above, an auto parking lot as shown on the site plan. Said parking lot shall be approximately 26,000 square feet in size and shall be paved with no less than 3" of asphalt. Said parking lot shall be constructed before an occupancy permit is granted for any structure on Parcel 1. Said parking lot shall not be for the exclusive use of



the Tenant or any of the occupants of Tenant's facilities. Upon completion of the construction and acceptance by the Landlord, the parking lot improvements shall become the property of the Landlord.

- d. Prior to any construction Lessee shall submit copies of prime contracts, subcontracts and evidence to Lessor of availability of sufficient funds or commitment for funds to pay for the full cost of construction of such improvements. Said evidence may be either an irrevocable letter of credit, a performance bond or such other mutually agreed upon credit facility to guarantee the payment of 125% of all construction costs.
- e. As a requirement for the use of said premises as described in Paragraph 1 of this Agreement the Tenant shall, at no cost to the Landlord, extend the water and sanitary sewer lines to and through the described premises. The Tenant shall construct a septic system in the size and location specified by the Landlord. Plans for utility construction must be approved by the Landlord prior to the start of construction.

6) NON-DISCRIMINATION

The Tenant for itself, its personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree that:

- a. For all aeronautical leases involving services to the public; each lease must be in conformance with Section 308 of the Federal Aviation Act of 1958, as follows: "It is hereby agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right prohibited by Section 308 of the Federal Aviation Act of 1958, as amended, and the lessor reserves the right to grant to others the privilege and right of conducting any one or all activities of an aeronautical nature."
- b. All leases involving services to the public must contain the assurances required by Title VI of the Civil Rights Act of 1964, and by Part 21 of the regulations of the Office of the Secretary of Transportation, as follows: "The lessee for himself, his personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree that: 1) no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination in the use of said facilities; 2) in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of or otherwise be



subjected to discrimination; 3) the lessee shall use the premises in compliance with all the other requirements imposed by Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, nondiscrimination in Federally-assisted programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, as amended.”

- c. All aeronautical leases involving services to the public must contain the provisions of paragraph 4b of the Project Application for Airport Improvements, as follows: “The lessee agrees to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED, that the lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.”
- d. In the event of breach of any of the above covenants, Tenant shall have thirty (30) days to resolve said breach to the satisfaction of the Landlord. If the parties hereto cannot agree that said breach has been, or can be, resolved then the matter may be resolved through appropriate legal proceedings.

7) USE OF AIRPORT FACILITIES

The Tenant shall have free use of the Aurora Municipal Airport, including, but not by way of limitation, the landing areas, aprons, taxiways and vehicle parking areas. This Lease shall not be construed to convey to the Tenant the exclusive use of any part of the Aurora Municipal Airport except those premises described in Section 1 herein, or to grant or authorize the granting of an exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended. The Landlord reserves the right to lease to any other party any portion of the Aurora Municipal Airport not described in Paragraph 1 herein (and subject to the terms of the Right of First Refusal) other than public facilities, and to grant to others the privilege and right of conducting any one or more activities of an aeronautical nature.

8) CARE OF LEASED PREMISES

- a. Tenant shall keep and maintain the leased premises and all improvements of any kind, which may be erected, installed or made thereon by Tenant in good and substantial repair and condition, including the exterior condition thereof, and shall make all necessary repairs and alterations thereto. Subject to the prior written

approval of Landlord approving the right to operate and maintain such facility, the Tenant shall assume all responsibility for the installation and maintenance of any fuel or oil (or any other material deemed hazardous by the Environmental Protection Agency) storage facility on the airport that is for the sole use of the Lessee. Maintenance includes, but is not limited to, any and all environmental clean-ups of the site and/or removal of the facility. Tenant agrees to hold harmless from any responsibility or expense, the Landlord for any maintenance of the facilities. Tenant shall provide proper containers for trash and garbage and shall keep the premises free and clear of rubbish, debris and litter at all times. Tenant shall also maintain all aprons, ramps and taxiways that are constructed by Tenant and are for the exclusive use of Lessee, its sublessees, guests and invitees. Tenant shall keep mowed and in a sightly condition all landscaping and grass areas within the leased premises. Tenant shall be responsible for payment of all electric, telephone, road, water, natural gas and other public utility services used on the premises.

- b. At the termination of this Lease or of any extension or renewal thereof, Tenant shall surrender the leased premises, including all buildings and site improvements constructed or installed by the Tenant, in good condition, reasonable wear and tear and damage by fire, explosion, windstorm or any other casualty excepted. All such buildings and improvements shall become the sole property of the Landlord upon termination of the Lease. Regardless of the time when such termination occurs, or the reason therefore, the Landlord shall have no obligation to account for, or pay the value or cost of, such buildings or improvements to the Tenant or Mortgagee.

9) CARE OF AIRPORT FACILITIES

The Landlord shall maintain in good repair and operating condition all of the facilities and premises of the Aurora Municipal Airport which are not leased to the Tenant and which remain under the authority and control of the Landlord. Said facilities and premises shall include, without limitation, all runways, aprons, taxiways, parking areas, roadways and lighting equipment.

10) INSURANCE

- a. Tenant covenants and agrees to maintain in force and effect at all times during the term of this Lease and any extension thereof public liability insurance in amounts as required by Landlord, but in no event less than \$5,000,000 combined single limit for

bodily injuries or property damage or such other amount as may be set forth in the most current Rules and Regulations of the Aurora Municipal Airport and/or the Minimum Standards for Commercial Activities of the Aurora Municipal Airport as adopted by the City of Aurora. Said insurance shall protect Tenant and City of Aurora and its agents or employees from loss on account of each and every claim or demand arising out of alleged wrongful or negligent acts or omissions on the part of Tenant, its agents, servants or employees. Said insurance shall be with a company or companies approved by the City of Aurora Risk Manager, and shall include coverage commonly known as "Airport Liability," "Hangar Keeper's Liability," "Worker's Compensation" and "Product Liability." The City of Aurora shall be named as an additional insured in such insurances and shall be provided with certificates of the insurance evidencing such coverage throughout the life of this Agreement. The Landlord reserves the right to request and receive copies of the Tenant's insurance policies as referenced herein. Said insurance shall be primary coverage and any insurance that the City of Aurora may have shall be considered secondary and non-contributory and all said insurance policies shall contain an endorsement to this effect.

- b. Tenant covenants and agrees to maintain in force and effect at all times during the term of this lease and any extension thereof, policies of fire and extended coverage insurance, insuring the buildings and improvements located on the demised premises to their full replacement value. Said insurance shall be with companies approved by the City of Aurora Risk Manager. The City of Aurora shall be named as an additional insured in such insurances and shall be provided with certificates of the insurance evidencing such coverage throughout the life of this Agreement. The Landlord reserves the right to request and receive copies of the Tenant's insurance policies as referenced herein. Said insurance shall be primary coverage and any insurance that the City of Aurora may have shall be considered secondary and non-contributory and all said insurance policies shall contain an endorsement to this effect.

11) ASSESSMENTS

It is understood and agreed that the Landlord may from time to time assess against the leased premises (to the extent that any such improvements benefit the Tenant's leasehold) a portion of its costs of furnishing, installing, maintaining and renewing various utility services. Such

assessment against the leased premises shall be a fraction of the total assessment, the numerator of which is total lease area square feet and the denominator of which is the total square footage of all land designated for leasehold sites (but not less than 500,000 square feet) at the Aurora Municipal Airport. The Tenant shall be responsible for any and all taxes and assessments against the leased premises coming due during the term of this Lease.

12) SUBORDINATION

a. State and Federal Law

This Lease is subject to all applicable State and Federal laws as well as all articles and conditions of grant agreements entered into between the Landlord and the Federal Aviation Administration and the Department of Aeronautics of the State of Illinois and nothing contained herein shall be construed to prevent the Landlord from making such further commitments as it desires to make to the Federal Government or to the State of Illinois so as to qualify for further expenditure of federal and/or state funds at the Aurora Municipal Airport.

b. Local Ordinances

This Lease shall be subject and subordinate to all ordinances of the City of Aurora, the Rules and Regulations of the Aurora Municipal Airport and/or the Minimum Standards for Commercial Activities at the Aurora Municipal Airport, as the same may be in effect and amended from time to time.

13) CONDEMNATION

In accordance with the statutes of the State of Illinois relative to eminent domain, the Landlord shall have the power to condemn this leasehold, or any portion thereof, even though the Landlord is, itself, a party hereto.

14) RIGHT OF ACCESS

The Landlord hereby reserves the right to enter upon the leased premises at reasonable times for the purpose of making inspections to determine if the conditions and requirements of this Lease are being fully complied with. Should any buildings on the leased premises become deficient in maintenance or in need of repair, Tenant hereby agrees to repair same within thirty (30) days after receipt of notice from Landlord. Failure to comply shall be a breach of this Lease.

15) STORAGE OF DAMAGED AIRCRAFT

No damaged aircraft shall be stored in view of the general public.

16) TENANT'S PERSONNEL

All personnel employed by the Tenant on the leased premises shall be schooled, trained and competent for their assigned duties and shall be of good moral character.

17) EXAMINATION AND AUDITS

At all times during the terms of this Lease, the Tenant shall maintain accurate books, accounts, records and receipts in a manner acceptable to a Certified Public Accountant and as approved by the City of Aurora, showing the true status of all business conducted on the leased premises and preserve same until they have been audited by the City of Aurora's auditor. Such documents shall be made available, at any time, to the City of Aurora for examination and audit. Furthermore, Tenant shall annually present to the Landlord a copy of Tenant's annual fiscal audit report within 120 days of the close of Tenant's fiscal year.

18) DELAYS IN ENFORCEMENT

No delay on the part of any party in enforcing any of the provisions of this Lease shall be construed as a waiver thereof. No waiver on the part of any party of a breach of any of the provisions of this Lease shall be construed as a waiver of any subsequent breach.

19) ASSIGNMENT OF LEASE

This Lease may not be assigned or subleased including any transfer to a parent company or subsidiary company of Tenant or transfer of a controlling interest in Tenant without prior written consent of the Landlord and such consent shall not be unreasonably withheld.

20) NOTICES

All notices required hereunder shall be in writing and shall be deemed to have been delivered if deposited in the United States mail, certified mail, return receipt requested, with postage prepaid and addressed, if to the Landlord at:

City Clerk
City of Aurora
44 East Downer Place
Aurora, IL 60507



And if to Tenants at:

Diamas Real Estate Holdings, L.L.C.
913 Vintage Knoll Drive
Plainfield, IL 60544

21) SUCCESSORS AND ASSIGNS

The terms, covenants and conditions of this Lease shall be binding upon and inure to the benefit of the successors and/or assigns of the parties hereto.

22) INTERPRETATION

a. Severability

It is the intention of the parties hereto that the provisions of this Lease shall be severable with respect to declaration of invalidity of any provision contained herein.

b. Headings

The paragraph headings are for convenience only and do not define, limit or describe the contents of such paragraphs.

c. Governing Law and Venue

The laws of the State of Illinois shall govern the validity, performance and enforcement of this Lease. Venue for any litigation between the parties arising out of this lease shall be in the Circuit Court in the Sixteenth Judicial Circuit, Kane County Illinois.

d. Amendments

No amendments, modifications or supplements to this Lease shall be effective unless in writing and executed and delivered by both parties to this Lease.

23) LEASEHOLD MORTGAGE

At Landlord's discretion the leasehold may be mortgaged and subject to the further conditions as follows:

- a. Any mortgage and/or subordination agreement shall be subject to landlord's review and approval (Landlord reserves the right not to agree to any mortgage or subordination agreement in its sole discretion).
- b. A Memorandum of Lease in recordable form shall be executed and recorded in the Office of the Recorder of Kane County.
- c. Tenant shall have no right to amend, modify, cancel or terminate this Lease without the Mortgagee's prior written consent thereto.

- d. In the event of any default on the part of Tenant hereunder, Landleord shall give Mortgagee written notice thereof, and an opportunity to cure said default for a period of not less than thirty (30) days beyond, or longer than, any period given to Tenant to cure such default.
- e. If the Mortgagee shall take possession of Tenant's leasehold estate, by foreclosure or otherwise, then (i) Mortgagee shall be liable for any previous defaults of Tenant occurring prior to the time Mortgagee takes possession, and (ii) Mortgagee's right to assign or sublet all or any portion of the premises shall be conditioned on the prior consent of Landleord, in Landleord's sole discretion.
- f. Landleord's obligation to agree to a mortgage on the demised premises is subject to mortgagee's obligation to notify Landleord of any breaches by Tenant of the terms of the mortgage and giving Tenant and/or Landleord sixty (60) days to cure said breach(s) and full reinstatement of the mortgage on cure.
- g. In the event that any breaches of the lease remain uncured during the time as set forth in subparagraph (f) above, tenant's failure to cure shall be considered a breach of this lease and give landleord the right to cure and in said event landleord shall have the option to declare a default in the lease, terminate the lease and be entitled to immediate possession of the leasehold premises upon landleord agreeing to assume all obligations under the mortgage.
- h. As condition of landleord agreeing to said mortgage on the leasehold premises if landleord cures all mortgage breaches and agrees to assume the obligations under any mortgage, mortgagee shall agree to assign said mortgage to landleord.
- i. In the event that mortgagee takes possession of the leasehold premises by foreclosure or otherwise, it agrees not to assign the lease without the written approval by landleord of the assignee, which approval will not be unreasonably withheld.

BB

IN WITNESS WHEREOF, the Landlord has caused this Lease to be executed by its Mayor and attested by its City Clerk, and its corporate seal affixed hereto, and Tenant has caused this Lease to be executed by its President and attested by its Secretary and its corporate seal affixed hereto, effective the day and year first above written.

LANDLORD: CITY OF AURORA, a Municipal Corporation

BY  _____
MAYOR

ATTEST:

 _____
CITY CLERK

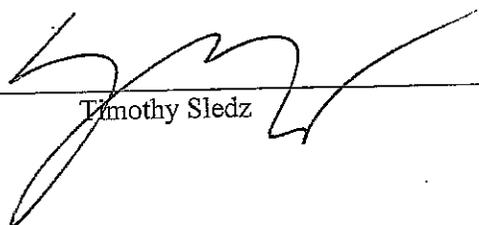
TENANT: Diamas Real Estate Holdings, L.L.C.

BY  _____
Greg Chapman

ATTEST:

SECRETARY

TENANT: Diamas Real Estate Holdings, L.L.C.

BY  _____
Timothy Sledz



COST OF LIVING ADJUSTMENT RIDER
ATTACHED TO AND A PART OF LEASE AGREEMENT DATED AS OF
THE _____ DAY OF _____, 2006 WITH
DIAMAS REAL ESTATE HOLDINGS, L.L.C.

- (1) As used herein:
- (a) "Index" shall mean the "Revised 1967 Consumer Price Index (for Urban Wage Earners 1967-100) for all items for Chicago, issued by the Bureau of Labor Statistics of the United States Department of Labor";
 - (b) "Lease Date" shall mean the date of this Lease;
 - (c) "Percentage Increase" shall mean the percentage of increase or decrease in the Index available on each Anniversary Date equal to a fraction, the numerator of which shall be the Index available on such Anniversary Date less the Index available on December 1, 1987 and the denominator of which shall be the Index available on December 1, 1987. The index as adjusted effective December 1, 1989 was 378.8 and shall be used as the initial index.
- (2) The annual ground rent reserved herein shall be increased on each Anniversary Date by an amount equal to the annual ground rent payable immediately prior to such anniversary Date (but excluding therefrom any amount included therein as a result of prior adjustments thereof pursuant to the provisions of this Rider) multiplied by the Percentage Increase for such Anniversary Date, less the amounts, if any, included in the annual ground rent as a result of prior adjustments thereof pursuant to the provisions of this Rider, such increase to be payable commencing on such Anniversary Date in the same manner and at the same time or times as is the annual ground rent provided for in the Lease to which this Rider is attached.
- (3) In the event the Index shall hereafter be converted to a different standard reference base or otherwise revised, the determination of the Percentage Increase shall be made with the use of such conversion factor formula or table for converting the Index as may be published by the Bureau of Labor Statistics or, if said Bureau shall not publish the same, then with the use of such conversion factor, formula or table as may be published by Prentice Hall, Inc. or any other nationally recognized publisher of similar statistical information. In the event the Index shall cease to be published, then for the purposes of this Rider, there shall be substituted for the Index such other Index as the Landlord and Tenant shall agree upon and if they are unable to agree within ninety (90) days after the Index ceases to be published, such matters shall be determined by arbitration in accordance with the rules of the American Arbitration Association.
- (4) It is the intent of this Rider that the annual ground rent for leases at the Aurora Municipal Airport shall at all times be equal as computed on the basis of amount per square foot which, as of December 1, 2005 amounts to 33.067 cents per square foot.

