

BOARD OF PORT COMMISSIONERS OF THE LEE COUNTY PORT AUTHORITY

<p>1. REQUESTED MOTION/PURPOSE: Request Board approve a "Ground Lease of Certain Non-Aviation Land at Page Field" with Home Depot U.S.A., Inc.</p> <p>2. FUNDING SOURCE: N/A</p> <p>3. TERM: 20 years plus 5 options to extend by 5 years each</p> <p>4. WHAT ACTION ACCOMPLISHES: Contingent upon the contemplated assignment of the Moralez Real Estate ground lease to Home Depot, supersedes that lease with this new lease to Home Depot, incorporating both the Moralez parcel and 9.7 additional acres along the north side of North Airport Road, allowing for construction of a Home Depot store.</p>	<p>5. CATEGORY: 7 Consent Agenda</p> <hr/> <p>6. ASMC MEETING DATE: 2/20/2024</p> <p>7. BoPC MEETING DATE: 3/7/2024</p>
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<p>8. AGENDA:</p> <p>_____ CEREMONIAL/PUBLIC PRESENTATION</p> <p><u> X </u> CONSENT</p> <p>_____ ADMINISTRATIVE</p>	<p>9. REQUESTOR OF INFORMATION: (ALL REQUESTS) NAME <u>Brian W. McGonagle</u></p> <p>DIV. <u>Administration</u></p>
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10. BACKGROUND:

The Page Field airport includes within its boundaries a parcel of approximately 17.16 acres at the northeast corner of US 41 and North Airport Road. On November 12, 2014, the Authority leased approximately 2.24 acres of that parcel to Racetrac Petroleum, Inc., for construction of a gas station and convenience store. On March 12, 2020, the Authority leased approximately 5.19 acres to Moralez Real Estate, LLC ("Moralez"). Home Depot U.S.A., Inc. ("Home Depot") desires to purchase Moralez's leasehold interest and effectively merge it into this new lease which will cover the remaining (i.e. presently unleased) 9.73 acres, plus the Moralez premises, for a combined total of approximately 14.9 acres, which will be enough to develop a Home Depot store.

The main points of this proposed ground lease to Home Depot are as follows:

(1) The initial term of the lease will commence upon the Board's approval of the lease (the "Effective Date"), and will expire 20 years after the Date of Beneficial Occupancy (DBO), which will occur, at the latest, 30 months after the Effective Date. Home Depot will have five options to extend the term by 5 years each, for a total potential term of up to 45 years from the DBO.

(2) Home Depot will have 25 months from the Effective Date to complete its transaction with Moralez and become the assignee of Moralez's leasehold interest; otherwise, this lease will terminate. Further, Home Depot can examine the site and investigate permitting conditions, etc., within the first 30 months from the Effective Date (the "Due Diligence Period"), and may terminate during that period if it is unsatisfied. (If, however, such termination is after the first 120

11. RECOMMENDED APPROVAL

<u>DEPUTY EXEC DIRECTOR</u>	<u>COMMUNICATIONS AND MARKETING</u>	<u>OTHER</u>	<u>FINANCE</u>	<u>PORT ATTORNEY</u>	<u>EXECUTIVE DIRECTOR</u>
Brian W. McGonagle	Victoria B. Moreland	N/A	David W. Amdor	Andrea R. Fraser	Benjamin R. Siegel

<p>12. SPECIAL MANAGEMENT COMMITTEE RECOMMENDATION:</p> <p>APPROVED APPROVED as AMENDED DENIED OTHER</p>	<p>13. PORT AUTHORITY ACTION:</p> <p>APPROVED APPROVED as AMENDED DENIED DEFERRED to OTHER</p>
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Background (continued)

days from the date of this lease, the Authority will retain the \$100,000.00 security deposit.)

(3) Although this property has been identified as “non-aviation” on the FAA-approved Airport Layout Plan for many years, FAA’s new “Policy Regarding Land Use Changes on Federally Acquired or Federally Conveyed Land,” published December 8, 2023, and effective January 8, 2023, appears to require the Authority to request and obtain FAA’s written consent for this land use. Accordingly, the lease provides that if the Authority does not receive such consent within 36 months from the Effective Date, the Authority may terminate the lease.

(4) Home Depot will be allowed to use the leased premises for the construction and operation of a Home Depot store, and any other lawful retail or office use which is not identified in the lease as prohibited.

(5) Although a portion of the leased premises is overlapped by the runway protection zone (RPZ), the Authority retains the right to disallow construction of improvements within the RPZ, and is in discussions with the FAA regarding what may be allowed therein, if anything. (It is currently anticipated that vehicle parking will be allowed, but that any building or water body will not be.)

(6) “Interim Rent” in the amount of \$8,113.65 per month (reflecting the rent currently due under the Moralez lease for the Moralez premises) will commence immediately upon the assignment of the Moralez leasehold interest to Home Depot, and will continue until the DBO (which is the earlier of the opening of any part of the premises, other than the Moralez premises, for business, or 30 months after the Effective Date).

(7) “Ground Rent” of \$22,238.00 per month will begin on the DBO; this amount will be subject to increases of 12.8% on March 1, 2029, and every 5 years thereafter.

The proposed development is expected to be an attractive and useful improvement to the area, while assisting in diversifying Page Field’s revenue base by increasing its nonaeronautical revenue.

Attachments:

1. Contract Summary
2. Proposed agreement