

City of Fayetteville Staff Review Form

2021-0580

Legistar File ID

9/7/2021

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Summer Fallen

7/26/2021

AIRPORT SERVICES (760)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Airport-Staff requests a resolution to approve and allow the Mayor to sign a three year terminal lease agreement between the City of Fayetteville and Aurora Aviation, LC DBA Elite Aircraft Services.

Budget Impact:

Account Number	Fund
Project Number	Project Title
Budgeted Item? <u> No </u>	Current Budget \$ -
	Funds Obligated \$ -
	Current Balance \$ -
Does item have a cost? <u> No </u>	Item Cost \$ -
Budget Adjustment Attached? <u> No </u>	Budget Adjustment \$ -
	Remaining Budget \$ -

V20210527

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF SEPTEMBER 7, 2021

TO: Mayor Lioneld Jordan and City Council
THRU: Susan Norton, Chief of Staff
FROM: Summer Fallen, Airport Director
DATE: July 26, 2021
SUBJECT: **Aurora Aviation LC, DBA Elite Aircraft Services Terminal lease**

RECOMMENDATION:

Staff requests a resolution to approve and allow the Mayor to sign a three year terminal lease agreement between the City of Fayetteville and Aurora Aviation LC, DBA Elite Aircraft Services.

BACKGROUND:

The terminal office space is at 4500 S School Ave Ste. E, Fayetteville, AR 72701. It is currently occupied by Elite Aircraft Services.

DISCUSSION:

Aurora Aviation LC, DBA Elite Aircraft Services would like to continue to lease Suite E located inside the terminal to conduct business as a flight school.

BUDGET/STAFF IMPACT:

This lease will provide \$3,600 in revenue annually to the airport.

Attachments:

Staff Review Form
City Council Memo
Terminal Lease Agreement

LEASE AGREEMENT

This **LEASE AGREEMENT** made this _____ day of _____, **2021**, by and between the City of Fayetteville, Arkansas, hereinafter called “City”, and **Aurora Aviation LC, dba Elite Aircraft Services.**

WHEREAS, City is the owner of an airport known as the Fayetteville Airport, Drake Field, herein referred to as the “Airport”; and

WHEREAS, City is the owner of office space at the Airport; and

WHEREAS, **Aurora Aviation LC, dba Elite Aircraft Services** desires to lease said office space,

NOW, THEREFORE, the parties, in consideration of the mutual covenants contained herein, hereby agree as follows:

1. City leases **Aurora Aviation LC, dba Elite Aircraft Services**, and **Aurora Aviation LC, dba Elite Aircraft Services** leases from City, approximately 362 sq. ft. of office space in the Terminal Building located at 4500 S. School Ave, Ste. E, Fayetteville, Arkansas.
2. **Aurora Aviation LC, dba Elite Aircraft Services** is granted the use, in common with others similarly authorized, of the airport, together with all facilities, equipment, improvements, and services which have been, or may hereafter, be provided at, or in connection with the Airport from time to time including, but not limited to, the landing field, and any extensions hereof or additions thereto, roadways, runways, ramps, aprons, taxiways, flood lights, landing lights, beacons, control tower, signals, radio aids, and all other conveniences for flying, landings and take-offs.
3. **Aurora Aviation LC, dba Elite Aircraft Services** shall have at all times the full and free right in ingress to and egress from the demised premises and facilities referred to herein for **Aurora Aviation LC, dba Elite Aircraft Services**, its employees, customers, passengers, guests, and other invitees. Such rights shall also extend to persons or organizations supplying materials or furnishing services to **Aurora Aviation LC, dba Elite Aircraft Services.**
4. Term: Subject to earlier termination as hereinafter provided, the initial term of this agreement shall be for **3 years** commencing on the ____ day of _____, **2021**, and ending on the day of _____, **2024.**

This Lease Agreement may be terminated by either party with a sixty (30) day written notice.

5. Rent: **Aurora Aviation LC, dba Elite Aircraft Services** agrees to pay the City for the use of the premises, facilities, rights, and privileges granted hereunder the sum of: **THREE HUNDRED DOLLARS, (\$300.00) per month.**

All monthly lease payments shall be payable in advance on, or before, the 1st day of each month. In addition to any remedy available to it hereunder, the City may impose as additional rentals a delinquency charge on all overdue payments, at the maximum rate allowed by law.

6. City shall maintain and keep in good repair so much of the Airport premises as are not under the exclusive control of **Aurora Aviation LC, dba Elite Aircraft Services.** **Aurora Aviation LC, dba Elite Aircraft Services** shall, at the termination, surrender or forfeiture of this lease, return said premises in same or better condition premises were at the beginning of the lease, normal wear and tear excepted.

7. **Aurora Aviation LC, dba Elite Aircraft Services** shall provide for and supply at its expense all janitor service with respect to the demised premises, and shall pay for all utilities additional to those offered to the building in its entirety, including additional phone or internet services.

8. Improvements: **Aurora Aviation LC, dba Elite Aircraft Services** shall bear the cost of all improvements or additions made to the interior or exterior of the building on the leased premises. No improvements or additions to any part of the leased premises shall be made by **Aurora Aviation LC, dba Elite Aircraft Services** without the prior written approval of the Airport Manager, whose consent will not be unreasonably withheld. Any signs or antennas to be erected on or attached to the leased premises must have the prior written approval of the Airport Manager and conform to all City Ordinances.

9. Maintenance: The City shall be responsible only for major maintenance of the existing equipment, i.e. replacement of heating unit and other equipment in place in the facility which includes, roof, hangar door motors, exterior walls, exterior plumbing, paved ramp and paved parking lot. The City agrees that if the roof or any part of the exterior walls or exterior plumbing of said building thereof shall become defective or damaged at any time during the term due to ordinary wear and tear and not due to negligence of **Aurora Aviation LC, dba Elite Aircraft Services**, or **Aurora Aviation LC, dba Elite Aircraft Services**'s agents or invites, upon notice from **Aurora Aviation LC, dba Elite Aircraft Services**, the City will immediately cause repairs to be made and restore the defective portions to good condition. If the damage is so extensive as to render such building untenable, the rent payable hereunder shall be proportionally paid up to the time of such damage and shall thenceforth cease until such time as the premises shall be fully restored.

10. **Aurora Aviation LC, dba Elite Aircraft Services** agrees to observe and obey City's Ordinances and Regulations with respect to use of the demised premises and Airport; provided, however, such Ordinances and Regulations shall be consistent with safety and with all city, county, and state rules, regulations, including all current fire codes, and orders of the Federal Aviation Administration with respect to aircraft operations at the Airport, and provided further, such Ordinances and Regulations shall be consistent with the provisions of this agreement or the

procedures prescribed or approved from time to time by the Federal Aviation Administration with respect to the operation of **Aurora Aviation LC, dba Elite Aircraft Services**' aircraft at the Airport.

“The Minimum Standards for Fayetteville Executive Airport, Drake Field” herein referred to as Airport Minimum Standards are made part of this lease by reference as if included word for word.

11. **Aurora Aviation LC, dba Elite Aircraft Services** agrees that it shall use the premises for the implementation and conducting of an aeronautical business activity. **Aurora Aviation LC, dba Elite Aircraft Services** agrees that it shall use the premises only for the storage of aeronautical materials and equipment necessarily related to the operation of said aeronautical business activity and that no other vehicles, equipment or supplies shall be stored on the premises unless expressly agreed to by the City. **Aurora Aviation LC, dba Elite Aircraft Services** further agrees not to store any flammable material on the demised premises, other than a limited supply of oils and agents necessary for current aircraft maintenance and repair, or in any way endanger or violate the provisions of the City's standard commercially available property insurance policy or the requirements of same. Such violations shall constitute a material breach of this Agreement.

12. Hazardous Substance: **Aurora Aviation LC, dba Elite Aircraft Services** shall not cause or permit any Hazardous Substance to be used or stored on or in the Leased Premises without first obtaining the City's written consent. If hazardous Substances are used, stored, generated, or disposed of on or in the Leased Premises or if the Leased Premises or any other Airport property becomes contaminated in any manner for which **Aurora Aviation LC, dba Elite Aircraft Services** is responsible or legally liable, **Aurora Aviation LC, dba Elite Aircraft Services** shall indemnify and hold harmless the City, its officers, directors, agents, servants, and employees from any and all claims, damages, fines, judgments, penalties, costs, liabilities, or losses including all reasonable costs for investigation and defense thereof, (including but not limited to attorney's fees, court costs, and expert fees, and without limitation, decrease in value of the Lease Premises, damages caused by loss or restriction of rentable or usable space as a part of the Leased Premises arising during or after the term hereof and arising as a result of that contamination by **Aurora Aviation LC, dba Elite Aircraft Services**, **Aurora Aviation LC, dba Elite Aircraft Services** agents, employees, and invitees. This indemnification includes, without limitation, all cost incurred because of any investigation of the Airport or any cleanup, removal, or restoration mandated by a federal, state, local agency or political subdivision.

13. **Aurora Aviation LC, dba Elite Aircraft Services** shall maintain in force during the Term and any extended term public liability and property damage insurance in comprehensive form as reasonably may be required by the City and specified in the Airport Minimum Standards. The insurance shall be issued by an insurer licensed to do business in the State of Arkansas.

Concurrent with the execution of this Agreement, **Aurora Aviation LC, dba Elite Aircraft Services** shall provide proof of insurance coverage by providing a Certificate of Lessee's Insurance coverage, a copy of the declarations page on the insurance policy, and a copy of all endorsements. The Certificates of Insurance, or endorsements attached thereto, shall provide that; (a) insurance coverage shall not be canceled, changed in coverage, or reduced in limits without at

least thirty (30) days prior written notice to the City: (b) the City and the Airport and their trustees, agents, officers, servants, and employees are named as additional insured: (c) the policy shall be considered primary as regards to any other insurance coverage the City may possess, including any self-insured retention or deductible the City may have, and any other insurance coverage the City may possess shall be considered excess insurance only; (d) the limits of liability required therein are on an occurrence basis.

14. **Aurora Aviation LC, dba Elite Aircraft Services** agrees to indemnify City against any and all liabilities, losses, suits, claims, judgments, fines, penalties, demands or expenses, including all reasonable costs for investigation and defense thereof, (including but not limited to attorney's fees, court costs, and expert fees, for injuries to persons or damage to property caused by **Aurora Aviation LC, dba Elite Aircraft Services** use or occupancy of the lease premises; provided, however, that **Aurora Aviation LC, dba Elite Aircraft Services** shall not be liable for any injury, damage or loss arising from the negligence of City or its agents or employees; and provided further, that each party shall give prompt and timely notice of any claim made or suit instituted which in any way directly or indirectly affects or might affect either party, and each party shall have the right to compromise and defend the same to the extent of its own interest. This clause shall not be construed to waive that tort immunity as set forth under Arkansas Law.

15. **Aurora Aviation LC, dba Elite Aircraft Services** agrees that it will not discriminate by segregation or otherwise against any person or persons because of race, creed, color, religion, national origin, sex, marital status, or handicap in the furnishing, or by refusing to furnish, to such persons the use of any facility, including any and all services, privileges, accommodations, and activities provided thereby. Nothing herein shall require the furnishing to the general public of the use of any facility customarily furnished by the City solely to tenants, their employees, customers, patients, client, guests, and invites.

16. Assigning, Subletting and Encumbering. **Aurora Aviation LC, dba Elite Aircraft Services** shall not assign this Agreement in whole or in part, nor sublease all or any part of the Leased Premises, nor permit other persons to occupy said Leased Premises or any part thereof, not grant any license or concession for all or any part of said Leased Premises, without the prior written consent of the Airport Manager, which consent shall not be unreasonably withheld. Any consent by the Airport to an assignment or subletting of this Agreement shall not constitute a waiver of the necessity of obtaining that consent as to any subsequent assignment. Any assignment for the benefit of **Aurora Aviation LC, dba Elite Aircraft Services**' creditors or otherwise by operation of law shall not be effective to transfer or assign **Aurora Aviation LC, dba Elite Aircraft Services**'s interest under this Agreement unless the Airport shall have first consented thereto in writing. Neither **Aurora Aviation LC, dba Elite Aircraft Services**' interest in this Agreement, nor any estate created hereby in **Aurora Aviation LC, dba Elite Aircraft Services** nor any interest herein or therein, shall pass to any trustee or receiver or assignee for the benefit of creditors or otherwise by operation of law except as may specifically be provided in the Bankruptcy Code. If any of the corporate shares of stock of **Aurora Aviation LC, dba Elite Aircraft Services** are transferred, or if any partnership interests of **Aurora Aviation LC, dba Elite Aircraft Services** are transferred, by sale, assignment, bequest, inheritance, operation of law, or otherwise, so as to result in a change of the control, assets, value, ownership, or structure of **Aurora Aviation LC,**

dba Elite Aircraft Services, same shall be deemed an assignment for the purposes of this Section 17 and shall require the Airport's prior consent, and **Aurora Aviation LC, dba Elite Aircraft Services** shall notify the Airport of any such change or proposed change.

17. On the expiration or other termination of this lease **Aurora Aviation LC, dba Elite Aircraft Services**' right to use the demised premises shall cease, and **Aurora Aviation LC, dba Elite Aircraft Services** shall vacate the premises without unreasonable delay. All property installed, erected, or placed by **Aurora Aviation LC, dba Elite Aircraft Services** in, on, or about the premises leased **Aurora Aviation LC, dba Elite Aircraft Services** shall have the right at any time during the term of this agreement, or any renewal or extension hereof, and for an additional period of fourteen (14) days after the expiration or other termination of this agreement, to remove any or all of such property, subject, however, to **Aurora Aviation LC, dba Elite Aircraft Services**' obligation to repair all damage, if any, resulting from such removal. Any and all property not removed by **Aurora Aviation LC, dba Elite Aircraft Services** prior to the expiration of the aforesaid fourteen (14) day period shall thereupon become a part of the land on which it is located and title hereto shall thereupon vest in City.

18. City may enter the premises leased to **Aurora Aviation LC, dba Elite Aircraft Services** at any reasonable time for any purpose necessary or incidental to the performance of its obligations or **Aurora Aviation LC, dba Elite Aircraft Services**' obligations hereunder.

19. **Aurora Aviation LC, dba Elite Aircraft Services** shall maintain the demised premises in a clean and orderly fashion at all times.

20 **Aurora Aviation LC, dba Elite Aircraft Services**, agrees that habitation of the hangar building or offices as a residence is prohibited.

22. Any notice or consent required by this Agreement shall be sufficient if sent by Certified Mail, return receipt requested, postage paid, to the following address:

CITY OF FAYETTEVILLE AVIATION

Airport Administration Office
4500 S. School Avenue, Suite F
Fayetteville, Arkansas 72701
Phone: (479) 718 -7642

**AURORA AVIATION LC, DBA
ELITE AIRCRAFT SERVICES**

PO Box 506
Aurora, MO 65605
Phone: (417) 236-4118

24. This agreement shall be construed under the laws of the State of Arkansas.

25. All the covenants, conditions, and provisions under this agreement shall extend to and bind the legal representative, successors, and assigns of the respective parties hereof.

IN WITNESS WHEREOF, the parties have executed this Lease on the day and year first above written.

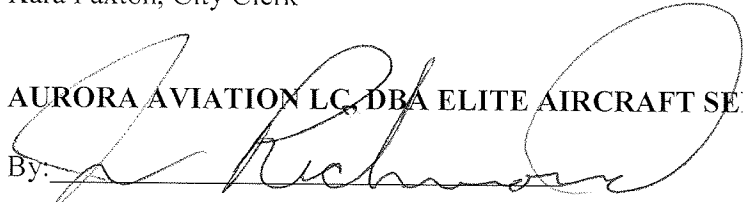
CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Lioneld Jordan, Mayor

ATTEST

By: _____
Kara Paxton, City Clerk

AURORA AVIATION LC, DBA ELITE AIRCRAFT SERVICES

By:  _____
Title Manager