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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: June 15, 2010

Agenda Item No. 14(A)(24)

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Resolution No. R-692-10

Subject: Resolution approving Waiver of Landlord's Lien relating to Natixis Lease, SA (Airbus Americas Customer Services, Inc.), a wholly owned subsidiary of Airbus Americas, Inc., at Miami International Airport

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RECOMMENDATION

It is recommended that the Board authorize the execution of Waiver of Landlord's Lien on a certain Reality 7 Level D A320 aircraft full-flight simulator owned by Natixis Lease, SA, and leased to Airbus Americas Customer Services, Inc. (AACS), a tenant at Miami International Airport (MIA). Traditionally, it has been the policy of the Board to approve Waivers of Landlord's Liens, disclaiming any interest in personal property located on airport-leased property, when a tenant requires such waiver in order to finance its purchase.

SCOPE

Miami International Airport is located within Commission District Six, Rebeca Sosa; however, the impact of this agenda item is countywide as MIA is a regional asset and generates employment for residents throughout Miami-Dade County.

FISCAL IMPACT/FUNDING SOURCE

There is no fiscal impact to the County from this waiver.

TRACK RECORD/ MONITOR

This waiver of landlord lien will be monitored by Mr. Gregory Owens, Miami-Dade Aviation Department (MDAD) Division Director, Real Estate Management and Development. Airbus is current on all of it obligations to Miami-Dade County. Their monthly obligation is $43,938.45 and to date, all payments have been received in a timely manner.

BACKGROUND

On April 1, 1998, Airbus Service Company, Inc., entered into a Development Lease Agreement with Miami-Dade County for the establishment of a flight and maintenance training facility to serve owners and operators of Airbus aircrafts in North America. The term of the Development Lease Agreement is 32 years. AACS is the corporate affiliate and successor to Airbus Service Company, Inc.

The leased airport property consists of approximately 162,000 square feet located at 4355 N.W. 36th Street in Miami Springs. The Airbus Training Center was constructed pursuant to a Development Lease Agreement and has been in continuous operation since 1999.

The Airbus Training Center is a $50-million facility employing 102 people. The Center provides training of in flight operations and maintenance of Airbus A320 and A330/340 aircraft and will expand the range of training to include the A350 and the A380 in the coming years. An essential element of all flight training is the full flight simulator, a training device that replicates the conditions of actual flight and, when new, costs between $12 million and $25 million, depending on the aircraft model. The process of

installing, preparing and certifying a full-flight simulator is complex and extensively regulated by the FAA.

Natixis Lease, SA, is acquiring a new Reality 7 Level D A320 full-flight simulator from Thales Training and Simulation Ltd., and will lease the simulator to AACS for 10 years. The new state-of-the-art simulator will replace an A320 simulator currently owned by AACS and positioned at the Airbus Training Center. The A320 Full-Flight Simulator is manufactured by Thales Training and Simulation Limited, bears a Serial Number of T7069, and will be installed at the Airbus Training Center as "S36". As a condition to the acquisition and lease to AACS of this new simulator and due to the high value of the flight simulator and associated visual equipment, Natixis requires the execution of the Landlord Waiver. The waiver will remain in effect until the earlier of (i) the termination of the Simulator Lease, (ii) fifteen (15) months after the 10th anniversary of the lien waiver, or (iii) such date on which Natixis releases the County from the lien waiver.

The requested waiver is in accordance with previous Board policy. Without the waiver Airbus would most likely not be able to enter into the simulator lease agreement. Under Airbus' lease with the County, Airbus has a security deposit with MDAD that will protect the County in the event of a default by Airbus that is not ultimately discharged by Airbus. Although the Aviation Department does not receive any direct monetary return on granting the waiver, it does benefit from being able to assist its business partner in obtaining greater leasing financing opportunities that, in turn, provide a positive economic impact to MIA and Miami-Dade County.

DELEGATED AUTHORITY

In accordance with Section 2-8.3 of the Miami-Dade County Code related to identifying delegation of Board authority, there are no authorities beyond that specified in the resolution which include the authority for the Mayor or designee to execute the waiver.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: June 15, 2010

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 14(A)(24)

Please note any items checked.

_____ "3-Day Rule" for committees applicable if raised

_____ 6 weeks required between first reading and public hearing

_____ 4 weeks notification to municipal officials required prior to public hearing

_____ Decreases revenues or increases expenditures without balancing budget

_____ Budget required

_____ Statement of fiscal impact required

_____ Ordinance creating a new board requires detailed County Manager's report for public hearing

_____ No committee review

_____ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve

_____ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 14(A)(24)
6-15-10

RESOLUTION NO. R-692-10

RESOLUTION RELATING TO MIAMI INTERNATIONAL AIRPORT; APPROVING WAIVER OF LANDLORD'S LIEN AS TO AN A320 FLIGHT SIMULATOR (SERIAL NO. T7069) OWNED BY NATIXIS LEASE, SA AND LEASED TO AIRBUS AMERICAS CUSTOMER SERVICES, INC., (AIRBUS) TO BE INSTALLED IN AIRPORT FACILITIES CURRENTLY UNDER LEASE TO AN AFFILIATE OF AIRBUS; APPROVING FORM OF LIEN WAIVER AND AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE TO EXECUTE SUCH WAIVER AFTER REVIEW BY THE COUNTY ATTORNEY

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum and document, copies of which are incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves a waiver of its landlord's lien as to one A320 flight simulator (Serial No. T7069) owned by Natixis Lease SA and leased to Airbus Americas Customer Services, Inc., an affiliate and successor to Airbus Service Company, Inc., the lessee under a 1998 lease for property located at Miami International Airport; authorizes the Mayor or Designee to sign the waiver of lien in substantially the form of the waiver attached hereto, after review by the County Attorney.

The foregoing resolution was offered by Commissioner Dorrin D. Rolle, who moved its adoption. The motion was seconded by Commissioner Rebeca Sosa and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman	aye		
Jose "Pepe" Diaz, Vice-Chairman	aye		
Bruno A. Barreiro	aye	Audrey M. Edmonson	aye
Carlos A. Gimenez	aye	Sally A. Heyman	absent
Barbara J. Jordan	aye	Joe A. Martinez	aye
Dorrin D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 15th day of June, 2010. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **DIANE COLLINS**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Thomas P. Abbott

[Letterhead of Landlord]

From : **MIAMI-DADE COUNTY,** a political subdivision of the State of Florida, USA with an office at the Miami-Dade Aviation Department, 4200 N.W. 36th Street, Miami, FL 33159 (the "**Landlord**")

To : **NATIXIS LEASE SA,** a French *société anonyme* company incorporated under the laws of France, whose registered office is located at 115 rue Montmartre – 75002 Paris, registered with the Paris Commercial Registry under number 379 155 369 (the "**Lessor**")

Re: **LANDLORD WAIVER**

Ladies and Gentlemen:

We refer to a lease agreement (the "Simulator Lease") to be entered into on or about May 21, 2010 between the Lessor and Airbus Americas Customer Services, Inc (formerly known as Airbus North America Customer Services, Inc) (the "**Lessee**") pursuant to which one A320 full flight aircraft simulator with manufacturer's serial number T7069 (the "***Simulator***") will be leased by the Lessor to the Lessee.

The Simulator has been or may from time to time become affixed to or be located on, wholly or in part, the real property leased by the Landlord to the Lessee at the Airbus Training Center operated by Airbus Americas Customer Services Inc. 4355 NW 36 Street, Miami Springs, FL 33166, United States of America (the **Premises**) pursuant to that certain Development Lease Agreement dated April 1, 1998 between the Landlord the Lessee (the "**Development Lease**").

1 Waiver of rights – Undertakings in favor of the Lessor

1. In order for the Lessor to provide and continue to provide financial accommodation to the Lessee under the Simulator Lease in reliance upon the ownership of the Simulator, the Landlord waives certain rights and prerogatives which could conflict with the Lessor's rights and prerogatives as owner of the Simulator and agrees and undertakes as follows:

   a) the Landlord waives and relinquishes any landlord's lien, rights of seizure, claim, security interest or other interest which the Landlord may have or hereafter acquire in or with respect to all or part of the Simulator;

   b) the Simulator may be installed in or located on the Premises and is not and shall not be deemed either a landlord's fixture or fitting for the purposes of the Development Lease or part of the real property but shall at all times be considered moveable property belonging to the Lessor;

   c) the Lessor, at its option, may enter and use the Premises for the purpose of repossessing, removing, selling or otherwise dealing with the Simulator, during the term of the Simulator Lease. The Lessor shall not be liable for any diminution in value of the Premises caused by the removal or absence of the Simulator therefrom;

d) should the Landlord dispose of the Premises, the Landlord will notice of such disposal to the Lessor.

e) The Landlord agrees to send notice in writing of any default under the Development Lease to :

NATIXIS LEASE

115 rue Montmartre – 75002 Paris, France

For the attention of Mr. François Camilleri

Upon receipt of such notice, the Lessor shall have the right, but not the obligation, to cure such default on behalf of the Lessee within the cure period provided for in the Development Lease.

2 Miscellaneous

2.1 No failure or delay by the Lessor in exercising any right or remedy under this letter will operate as a waiver, nor will any single or partial exercise of any right or remedy prevent any further or other exercise of any other right or remedy. The rights and remedies provided by this letter are cumulative and not exclusive of any rights or remedies provided by law.

2.2 This letter will remain in full force and effect until the earliest of (a) the end of the Simulator Lease (b) the date which is no later than fifteen (15) months after the tenth anniversary of the date of this letter and (c) such earlier date on which the Lessor will give written notice to the Landlord that is discharged of its obligations under this letter.

3 Governing law and jurisdiction

3.1 This letter is governed by the laws of the State of Florida without application of any conflict of laws principles that could result in the application of the law of any other jurisdiction.

3.2 Any dispute arising out of or in connection with this letter (including a dispute regarding the existence, validity or termination of this letter) will be submitted to the competent court in Miami-Dade County.

Executed on _____ in two originals

MIAMI-DADE COUNTY

By: _____

Title: _____

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AIRBUS

April 1, 2010

By email to:
TABBOTT@miami-airport.com

Thomas P. Abbott
Assistant County Attorney
P.O. Box 025504
Miami, FL 33102-5504

Re: Airbus Training Center; Landlord Waiver

Dear Tim:

As we discussed by phone, I am writing to request that Miami-Dade County, as "Landlord" under the Development Lease Agreement of April 1, 1998, provide the attached Landlord Waiver for the benefit of Natixsis Lease SA.

Natixsis will be the owner and Lessor of a new A320 Full flight Simulator to be positioned at the Airbus Training Center at 4355 NW 36th Street, Miami FL 33166 and requires the Landlord Waiver as a precondition to proceeding with the simulator lease and its predicate transactions.

Please feel free to contact me at any time with questions or comments. The target date for closing on the lease is May 21, 2010 and, since I understand that our request must be submitted to the County Board of Commissioners, I respectfully request expedited handling.

It was nice talking to you and I look forward to working with you on this.

Sincerely,

Jan

Jan Katherine VonFlatern
Senior Counsel
Airbus Americas, Inc.
198 Van Buren Street
Herndon, VA 20170

Telephone: (703)834-3597
Mobile: (703)927-2063
Email: jan.vonflatern@airbus.com