Agenda Item: 5B-1

# PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

#### **AGENDA ITEM SUMMARY**

| ====================================== |     | Consent | ====================================== |
|--|-----|---------|--|
| Submitted By: Department of Airports   | L 1 | ·       |  |

## I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- (A) Approve Amended and Restated Aeronautical Development Site Lease Agreement (Amended Lease) with Ferrovial Vertiports Florida LLC (Ferrovial), amending the Aeronautical Development Site Lease Agreement (R-2021-1586) (Original Lease) with Ferrovial to authorize any vertical take-off and landing (VTOL) aircraft satisfying the requirements of the Original Lease to operate from the vertiport being developed by Ferrovial; extend various dates, including contingency and construction deadlines and the date of beneficial occupancy; modify minimum capital expenditure requirements; provide the option to rehabilitate an existing building for annual improvement rental in the amount \$41,530, commencing on the date of beneficial occupancy; and require the collection of an airport facility charge based on each VTOL aircraft landing; and
- (B) Authorize the County Administrator or designee, who in this case will be the Department of Airports Director, to execute, on behalf of County, the Estoppel Certificate and Memorandum of Lease in the form attached to the Lease and all applications and similar instruments required to obtain necessary governmental approvals for the development of the property for the approved use, and to approve further extension of dates for satisfaction of contingencies by Ferrovial for reasons beyond Ferrovial's reasonable control.

Summary: The Original Lease provided for the lease of approximately 205,349 square feet of ground at Palm Beach International Airport (PBI) to Ferrovial for the development of a vertiport, aircraft parking apron, and a terminal building for an initial annual ground rental of \$154,011.75. The Original Lease limited the use of the vertiport to the VTOL aircraft being developed by Lilium, unless otherwise approved by County and provided that the County's approval would be subject to satisfaction of the requirements established for the Lilium VTOL aircraft. The Amended Lease provides that any VTOL aircraft satisfying the requirements of the Original Lease for the Lilium VTOL aircraft may operate from the vertiport. The Original Lease was contingent on receipt of all necessary governmental approvals for development of the required improvements. The Amended Lease provides for extension of the contingency date due to delays in obtaining the necessary governmental approvals and the date to commence construction from October 19, 2024 to October 1, 2026. The Amended Lease extends the outside date for the date of beneficial occupancy from October 19, 2024 to October 1, 2027. The Original Lease provided for a minimum capital expenditure of \$7,000,000 for the construction of the required improvements. Ferrovial has requested the option to rehabilitate an existing building that was anticipated to be demolished in lieu of building a new terminal building. The Amended Lease provides that, if Ferrovial elects to rehabilitate the existing building, Ferrovial will pay fixed annual improvement rental in the amount of \$41,530 in addition to ground rental and the minimum capital expenditure would be reduced to \$6,000,000. The Amended Lease allows Ferrovial to phase the minimum capital expenditure to provide for the expansion of the aircraft parking apron after commencement of operations. The Amended Lease adds a provision requiring collection of an initial airport facility charge for each VTOL aircraft landing, equal to 50% of the then-current general aviation landing fee. This item confirms the delegation of authority authorizing the County Administrator or designee to sign certain documents on behalf of the County to ensure timely processing, including an Estoppel Certificate and Memorandum of Lease required for financing purposes, and provides authorization to further extend contingency dates based on delays beyond the reasonable control of Ferrovial. For purposes of this delegation, the Airport Director will be considered a designee. Countywide (HJF)

Background and Policy Issues: In addition to Lilium, there are several aircraft manufacturers seeking federal certification of VTOL aircraft; therefore, Ferrovial has requested any VTOL aircraft satisfying the requirements of the Original Lease to be permitted to use the vertiport. Although it will require substantial renovation, Ferrovial has expressed interest in utilizing an existing building located on the site, which was anticipated to be demolished due to its obsolescence. General aviation landing fees offset airfield-related costs. Although the facilities will not have airfield access, airport services available to aircraft utilizing the airfield will be available to VTOL aircraft. The airport facility charge will offset costs incurred by County for maintaining the availability of airport services.

### Attachments:

| 1. | Amended and Restated | Aeronautical | Development Site | Lease Agreement (3) |  |
|----|----------------------|--------------|------------------|---------------------|--|
|----|----------------------|--------------|------------------|---------------------|--|

| Recommended B | y: Fr Sama Bula                | 8/:3/24     |
|---------------|--------------------------------|-------------|
| Approved By:  | Department Director            | 9/03/24     |
|               | Assistant County Administrator | <b>Date</b> |

# **II. FISCAL IMPACT ANALYSIS**

| A. rive fear Summary of risc  | ai impact:   |               |                     |             |                    |  |
|---|--------------|---------------|---------------------|-------------|--------------------|--|
| Fiscal Years  | 2024         | <u>2025</u>   | <u>2026</u>         | 2027        | 2028               |  |
| Capital Expenditures Operating Costs Operating Revenues Program Income (County) In-Kind Match (County) NET FISCAL IMPACT  |              |               |                     |             |                    |  |
| # ADDITIONAL FTE POSITIONS (Cumulative)   |              |               |                     |             |                    |  |
| Is Item Included in Current Bud<br>Does this item include the use<br>Does this item include the use   | of federal t |               | No <u>X</u>         | •           |                    |  |
| Budget Account No: Fund _<br>Reporting Category   |              |               | Unit <u>8451</u>    | Resourc     | e <u>4416</u>      |  |
| B. Recommended Sources of   | Funds/Sum    | mary of Fisca | Impact:             |             |                    |  |
| Payment of ground rental in the amount of \$154,011.75 commenced on April 17, 2022, in accordance with the Original Lease. Additional incremental revenue cannot be estimated at this time. Payment of improvement rental of \$41,530 under the Amended Lease is contingent on reuse of the existing building on the site and is not guaranteed. Airport facility charges will be based on the number of VTOL aircraft landings, which is uncertain at this time. |              |               |                     |             |                    |  |
| C. Departmental Fiscal Review: William 11 11 11 11 11 11 11 11 11 11 11 11 11   |              |               |                     |             |                    |  |
|   | III. REVIEW  | V COMMENTS    |                     |             |                    |  |
| A. OFMB Fiscal and/or Contract Development and Control Comments:  |              |               |                     |             |                    |  |
| OFMB OFMB OFF   | 2814<br>814  |               | Mulda<br>Contract I | Dev. and Co | 53/19/24<br>Introl |  |
| Assistant County Attorney   | 22/24        |               |                     |             |                    |  |
| C. Other Department Review:   |              |               |                     |             |                    |  |
| Department Director   | _            |               |                     |             |                    |  |
| REVISED 11/17   |              |               |                     |             |                    |  |
| (THIS SUMMARY IS NOT TO BE USE  | D AS A BASIS | FOR PAYMENT   | )                   |             |                    |  |