

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Fire

AGENDA DATE: 5/10/11

CONTACT PERSON/PHONE: Manuel Chavira/915-771-1000

DISTRICT(S) AFFECTED: All

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? **OR AUTHORIZE** the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

That the City Manager be authorized to sign an acknowledgement of a Quit Claim Deed of Gift from Federal Express Corporation of a Boeing Model 727-233 Airframe valued at \$400,000.00 to be used for FD Training purposes.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

Federal Express Corporation is donating this aircraft to be used by the City of El Paso Fire Department's Airport Rescue Firefighters as a training tool at Station 32, which is located on El Paso International Airport property. This benefits the City of El Paso in affording Airport firefighters an actual aircraft on which to practice firefighting techniques in the event of a plane crash, patient extrication, etc.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

No

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

N/A

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____

(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA: _____

CITY MANAGER: _____

DATE: _____

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign an acknowledgement of a Quit Claim Deed of Gift from Federal Express Corporation in order to accept the latter's donation of a Boeing Model 727-233 airframe valued at approximately \$400,000, to the City of El Paso for Fire Department training purposes. The City Manager is also hereby authorized to execute any and all necessary documents for the acceptance of the donation for this purpose, any necessary documents for the allocation of any related funds and the selection of an appropriate training site where the airframe shall be used.

ADOPTED this _____ day of _____, 2011.

THE CITY OF EL PASO

John F. Cook
Mayor


ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:



Otto Drozd, III
Fire Chief A/O

Quit Claim Deed of Gift to
CITY OF EL PASO, TEXAS

By these presents Federal Express Corporation ("FedEx") hereby quit claims to the City of El Paso, Texas ("Recipient"), by way of gift, all its right, title and interest in and to the following object(s):

Boeing Model 727-233 TYPE AIRFRAME
Manufacturer's Serial Number: 22622

This Quit Claim Deed of Gift is subject to the terms and conditions contained in Exhibit 1 attached hereto.

Dated this _____ day of _____, 2011

FEDERAL EXPRESS CORPORATION

By: _____
Phillip C. Blum
Title: Vice President, Aircraft Acquisitions

hereby acknowledges receipt of the above Quit Claim Deed of Gift.

Dated this _____ day of _____, 2011

THE CITY OF EL PASO, TEXAS

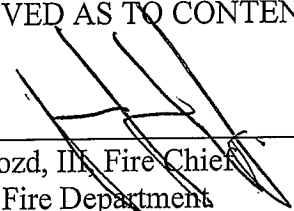
Joyce A. Wilson
City Manager

APPROVED AS TO FORM:



Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:



Otto Drozd, III, Fire Chief
El Paso Fire Department

11-0945

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FEDERAL EXPRESS CORPORATION

By: _____
Phillip C. Blum

Title: Vice President, Aircraft Acquisitions

APPROVED
LEGAL DEPARTMENT

afp 2-May-2011

hereby acknowledges receipt of the above Quit Claim Deed of Gift.

Dated this _____ day of _____, 2011

THE CITY OF EL PASO, TEXAS

Joyce A. Wilson
City Manager

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Josette Flores
Assistant City Attorney

Otto Drodz, III, Fire Chief
El Paso Fire Department

Exhibit 1

1. Recipient hereby agrees that the airframe and any other personal property described in the Quit Claim Deed of Gift (hereinafter "Aircraft") shall be for ground use only and solely for customary training purposes. Recipient also agrees that it will not sell, transfer or convey any right, title or interest in or to the Aircraft or any parts or components off said Aircraft in any manner, except that Recipient shall be allowed to sell or otherwise transfer the Aircraft or any parts or components thereof as salvage material not for use on or in connection with any aircraft. Recipient further agrees that it will not attempt to operate or register the Aircraft with the Federal Aviation Administration or any foreign equivalent of same. Recipient agrees to paint over the FedEx logo and livery on the Aircraft following acceptance and will take full responsibility for the appearance, physical condition, and upkeep of the Aircraft, all of which shall be kept in good condition. Recipient acknowledges and agrees that FedEx shall have no obligation whatsoever with respect to any use, upkeep, maintenance, repair or any other activities concerning the Aircraft.
2. Indemnification: To the extent allowed by the laws of the State of Texas, Recipient hereby agrees to indemnify, defend and hold harmless FedEx, its parent company and each of its parent companies' subsidiaries and each of their respective officers, directors, employees and agents (collectively "FedEx Indemnitees") from any and all costs, liabilities, damages, losses, expenses, demands, claims, suits or judgments, including the payment of reasonable attorneys' fees, costs and expenses (collectively "Claims"), by Recipient, or any third party brought either directly against FedEx, or through Recipient, or otherwise for: (i) death or injury to any person, and for the loss of, damage to or destruction of any property; and/or (ii) violations of any law, ordinance, rule, or regulation of any foreign government, the United States or any state, city, or other governmental body, in any manner arising after the date of delivery of the Aircraft to Recipient, including without limitation, Claims arising out of the possession, ownership, maintenance, use or any other events related to the Aircraft by or involving Recipient or any third party or otherwise and whether or not caused by or arising out of Recipient's or any such third party's negligence or otherwise. Recipient shall have the obligation, if elected by FedEx Indemnitees, to control the negotiation and settlement of any Claim, or the defense of any Claim, against FedEx Indemnitees; provided, however, FedEx Indemnitees may intervene, in its discretion, in any Claim. Recipient shall not settle or compromise any Claim which may have the effect of imposing liability on, or resulting in any negative public exposure for FedEx Indemnitees without FedEx's prior written consent.
3. Limitation of Warranty. FEDEX SHALL NOT BE DEEMED TO HAVE MADE, AND RECIPIENT DISCLAIMS, ANY REPRESENTATIONS, WARRANTIES, AND GUARANTEES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, CONCERNING THE AIRCRAFT, ALL PARTS, COMPONENTS THEREOF AND ALL DOCUMENTATION AND MATERIALS RELATED THERETO, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR

AIRWORTHINESS. THE AIRCRAFT AND ALL EQUIPMENT, DOCUMENTATION AND MATERIALS GIVEN HEREUNDER ARE GIVEN AS IS, WHERE IS WITH ALL FAULTS AND WITHOUT RECOURSE TO FEDEX. RECIPIENT, ON BEHALF OF ITSELF AND ANY PERSON AND ENTITY CLAIMING BY OR THROUGH IT, HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, RENOUNCES AND RELEASES FEDEX FROM ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY WHATSOEVER, INCLUDING WITHOUT LIMITATION, DIRECT OR INDIRECT DAMAGES FOR PERSONAL INJURY, DEATH, PROPERTY, LOSS OF USE, LOSS OF REVENUE, LOSS OF PROFIT, LOSS OF OPPORTUNITY, LOSS OF CONTRACT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, SPECIAL OR OTHER DAMAGES, HOWEVER OCCASIONED, WHETHER ALLEGED AS RESULTING FROM BREACH OF WARRANTY OR CONTRACT, IN TORT, STRICT LIABILITY, NEGLIGENCE, GROSS NEGLIGENCE OR OTHERWISE, NO AGREEMENT ALTERING OR EXTENDING FEDEX'S LIABILITY FOR REPRESENTATIONS AND WARRANTIES SHALL BE BINDING UPON FEDEX UNLESS IN WRITING AND EXECUTED BY FEDEX'S AND RECIPIENT'S AUTHORIZED OFFICERS.

4. Nothing in this Quit Claim Deed of Gift shall be construed to transfer, grant, convey, sell, give or license to Recipient, any right, title or interest whatsoever in or to the FedEx service mark, name, logo, livery or any other graphics or information identifying FedEx, and Recipient shall not use any such mark, name, logo, graphics or information, in any form or manner unless permitted in writing by FedEx.
5. Supplemental Type Certificates. The Aircraft has or may have modifications incorporated pursuant to Supplemental Type Certificates for which FedEx is the holder ("STCs"). EXCEPT TO THE EXTENT REQUIRED BY LAW, IF ANY, FEDEX SHALL NOT BE OBLIGATED TO NOTIFY RECIPIENT OF DESIGN CHANGES, UPGRADES, IMPROVEMENTS, REVISIONS, REPLACEMENTS, SPECIFICATION CHANGES, DEFECTS, FAILURES, MALFUNCTIONS OR OTHER SAFETY OR PERFORMANCE ISSUES RELATED TO THE AIRCRAFT, INCLUDING WITHOUT LIMITATION ANY EQUIPMENT, PARTS AND COMPONENTS INSTALLED THEREON, ANY EQUIPMENT THE SUBJECT OF THE STCS, OR ANY TECHNICAL DOCUMENTS RELATED THERETO. FURTHER, FEDEX SHALL NOT BE OBLIGATED TO NOTIFY RECIPIENT OF ANY ASSIGNMENTS, AMENDMENTS, MODIFICATIONS, CANCELLATIONS, REVOCATIONS OR SURRENDERINGS OF THE STCS. TO THE EXTENT THE FOREGOING ARE REQUIRED UNDER LAW TO BE PROVIDED BY FEDEX, RECIPIENT HEREBY IRREVOCABLY WAIVES AND RELEASES FEDEX FROM SUCH OBLIGATIONS TO THE FULLEST EXTENT ALLOWED BY LAW.
6. In addition to other restrictions set forth in this Quit Claim Deed of Gift, Recipient represents, warrants and covenants that it will not possess, use, operate, maintain, store, transport, salvage, sell, lease, transfer or otherwise deal with the Aircraft or any equipment, part or component conveyed to Recipient hereunder except in strict

compliance with all applicable rules, orders, laws and regulations of any federal, state, country, province, agency or governmental authority having jurisdiction over Recipient or such items and, further, that Recipient shall not export any such items contrary to United States law.

Contact Information as to Recipient:

Javier Rubio
The City of El Paso, Texas
8600 Montana
El Paso, Texas 79925

Contact Information as to FedEx:

Phillip C. Blum, Vice President
Federal Express Corporation
2955 Republican Drive
Memphis, Tennessee 38118