

TENANT ATTORNMENT AND ESTOPPEL CERTIFICATE

This TENANT ATTORNMENT AND ESTOPPEL CERTIFICATE ("Certificate") is made by the U.S. Department of Transportation - Federal Aviation Administration ("Tenant"), as tenant, to be effective on 9/14, 2015 ("Effective Date").

RECITALS

1. Reference is hereby made to that certain Flat Rate Lease filed in the Office of the San Diego City Clerk as Document No. RR-264699 on December 16, 1985 by and between the CITY OF SAN DIEGO, a municipal corporation ("City"), as landlord, and James N. Routh, as tenant, which lease was subsequently assigned to James N. Routh and Anita Routh, Trustees of the Routh Family Trust on August 20, 1991 and filed in the Office of the San Diego City Clerk as Document No. RR-264699-1 on August 23, 1991 ("Routh Family Trust"), (collectively, the "Master Lease"), pertaining to that certain real property consisting of approximately 1.212 acres, located at 4302 Ponderosa Ave., San Diego, California, and also known as Lot 23 ("Property"). Pursuant to the Master Lease, City is the landlord and master lessor of the Property.
2. Tenant entered into that certain Standard Space Lease executed November 30, 2010, and amended by the following Supplemental Lease Agreement ("SLA") No. 001 on September 12, 2011, SLA No. 002 on August 27, 2012, SLA No. 003 on February 25, 2013, SLA No. 004 on July 2, 2013, SLA No. 005 on December 7, 2013, SLA No. 006 on February 11, 2014, SLA No. 007 on April 1, 2014 and SLA No. 008 on April 15, 2014 (collectively, the "Sublease"), and more particularly described in **Exhibit A: Sublease and Amendments**, attached hereto, for certain space at the Property. Dyanne M. Routh has been the landlord of Tenant at the Property under the Sublease.
3. Dyanne M. Routh, Successor to the Routh Family Trust has expressed her intent to assign all of her interests under the Master Lease and the Sublease to City, and City has expressed its intent to assume and be assigned all Dyanne M. Routh's, interests under the Master Lease and the Sublease, as reflected in that certain form of Assignment & Assumption of Lease Agreements ("Assignment") dated 9/14, 2015, attached hereto as **Exhibit B: Assignment & Assumption of Lease Agreements**. It is the intention of the Assignment and this Certificate to allow the Tenant to remain in possession of its space at the Property, and to make the City the direct landlord of Tenant upon the effective date of transfer of Dyanne M. Routh's interests in the Property, subject to the same terms, covenants, and conditions of the Master Lease and the Sublease.

TENANT ATTORNMENT

4. **Attornment.** Tenant recognizes and attorns to City as successor to all Dyanne M. Routh's interests pursuant to the Sublease, and Tenant accepts City as if City were the landlord under the Sublease, with the exception of those interests and liabilities which by their nature survive the Assignment and remain with Dyanne M. Routh relative to

her respective period of interest in the Property. Tenant agrees to be bound by the same terms, covenants, and conditions of the Sublease, with City as its landlord, for the remainder of the Sublease term. Tenant hereby agrees to perform as required by the Sublease, with City as its landlord, including without limitation the payment of all rents due under the Sublease, all without execution of any further instruments. The respective rights and obligations of Tenant and City shall be the same as in the Sublease, with the exception of any terms, covenants, or conditions expressly provided herein.

5. Notice. Any notice required or permitted to be given under the Sublease shall be in writing and may be served personally or by United States Postal Service, postage prepaid and addressed as follows:

If to Landlord:

THE CITY OF SAN DIEGO
ATTN: Deputy Director, Airports Division
3750 John J. Montgomery Dr. (MS 14)
San Diego, California 92123

If to Tenant:

FEDERAL AVIATION ADMINISTRATION
ATTN: Real Estate AWP-53- ALO-820 *CRJ*
P.O. Box ~~92307~~ 92007 *CRJ*
Los Angeles, CA 90009-2007

SUBORDINATION

6. Subordination. Tenant agrees, accepts, and certifies that the Sublease, Tenant's leasehold estate under the Sublease, and all Tenant's interests with respect to the Property relating to or deriving from the Sublease, are completely and unconditionally subject and subordinate in all respects to the Master Lease and all terms, covenants, and conditions of the Master Lease.
7. No Relocation Assistance. Tenant acknowledges and agrees that it is not eligible for any assistance and benefits under the Relocation Assistance Law (California Government Code sections 7260, et. seq.) and state and local rules and regulations adopted pursuant thereto, or any federal law, as a result of any displacement from the Property due to the expiration of its Term under the Sublease.

ESTOPPEL, REPRESENTATIONS, AND WARRANTIES

8. Estoppel, Representations, and Warranties. Tenant hereby agrees, accepts, and certifies, and warrants as follows:

- a. The Sublease presented in **Exhibit A**, is a true, correct, and complete copy of that certain Sublease under which Tenant occupies and uses the Property. The Sublease represents the entire agreement between Tenant and Dyanne M. Routh as to the Property, and the Sublease is now in full force and effect and has not been amended, modified, supplemented, renewed, or extended, except as by herein provided. There are no other agreements written or oral between Tenant and Landlord with respect to the Sublease and/or the leased premises at the Property.
- b. The Sublease has not been encumbered, sublet, hypothecated, assigned, transferred, subordinated, or has not been committed as security for any debt or other obligation by Tenant.
- c. The term of the Sublease shall expire on September 30, 2015.
- d. The amount of rent per month under the Sublease is \$7,000.
- e. The amount of security deposits actually paid by Tenant under the Sublease is \$ 20,000
- f. Pursuant to the Sublease, Tenant is in possession of, and has the right to occupy, approximately 4,000 square feet of the building located on the Property.
- g. Except as may be provided below: (1) all conditions and work required to be furnished and performed by Dyanne M. Routh under the Sublease have been satisfied and completed; (2) all sums due from Dyanne M. Routh to Tenant have been paid; and, (3) all duties of an inducement nature required of Dyanne M. Routh under the Sublease have been fulfilled.

The following are Tenant's exceptions to the above statements - - if no exceptions are noted below by Tenant, it is evidence that no such exceptions exist:

~~Lease is paid in arrears so Ms. Routh may be due~~
one month in rent.

- h. There are no defaults on the part of Dyanne M. Routh under the Sublease, and no event or condition has occurred that, with the giving of notice or passage of time, or both, would constitute a default by Dyanne M. Routh. Except for the security deposit amount stated above in Section 7, e., Tenant does not claim, nor will claim given any notice or passage of time, or both, any defenses, set-offs, rebates, adjustments, concessions, abatements or credits against or with respect to rent, additional rent, security deposits or other sums payable under the terms of the Sublease.

- i. Tenant is not in default in the performance of any of its obligations under the Sublease, nor will be with the giving of notice or passage of time, or both.
- j. Tenant has no right or option to renew or extend the term of the Sublease, and no preferential right to purchase all or any part of the Property under the Sublease.
- k. There are no existing, pending or threatened lawsuits with regard to or deriving from the Sublease and or the Property between Tenant and Dyanne M. Routh or any of its agents or managers.
- l. The undersigned individual is duly-authorized to execute this Certificate on behalf of the U.S. Department of Transportation – Federal Aviation Administration.
- m. This Certificate is given by Tenant with the understanding that City will rely on it and the accuracy of its contents in connection with City's assumption of the Sublease pursuant to the Assignment between City and Dyanne M. Routh. This Certificate shall inure to the benefit of any successors and assigns of City.

IN WITNESS WHEREOF, this Certificate is executed to be effective as of the Effective Date.

U.S. Department of Transportation - Federal
Aviation Administration

BY: Cheryl M. Thompson 5/8/2015
Name: Cheryl M. Thompson
Title: Contracting Officer

Exhibit A: Sublease and Amendments

Exhibit B: Assignment & Assumption of Lease Agreements

ORIGINAL

CITY OF SAN DIEGO LEASE TERMINATION AND SURRENDER OF TENANCY AGREEMENT

THIS LEASE TERMINATION AND SURRENDER OF TENANCY AGREEMENT ("Agreement") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY" or "Party"), and Dyanne M. Routh, Trustee of the Routh Family Trust ("LESSEE" or "Party"), to be effective when executed by the parties and approved by the San Diego City Attorney (the "Effective Date"), as follows:

RECITALS

- A. CITY, as lessor, and LESSEE, are parties to that certain CITY OF SAN DIEGO FLAT RATE LEASE (the "lease") filed in the Office of the San Diego City Clerk as Document No. RR-264699 on December 16, 1985, relating to the leasing of Lot 23, consisting of approximately 1.212 acres of land, on Montgomery Field Airport, in the City of San Diego, California and more particularly described in the lease (the "premises").
- B. The initial term of the lease is thirty (30) years with an expiration date of November 30, 2015. The lease also contains a ten (10) year option to extend which is contingent upon the mutual agreement of both parties. Rent payable under the Lease is currently Six Thousand Two Hundred Thirty-Five Dollars and Seventy-Four Cents (\$6,235.74) per month.
- C. LESSEE constructed and maintained an Automated Flight Service Station (AFSS) for use by the Federal Aviation Administration (FAA), as more particularly specified in the lease.
- D. CITY has notified LESSEE that its request to exercise the option to extend will not be granted. Accordingly, the Lease will terminate pursuant to its terms on November 30, 2015. Based on that termination date, the LESSEE has requested the right to terminate the lease early.
- E. LESSEE represents and warrants it has no knowledge of any pending or potential legal claims related to the lease or the premises. CITY has inspected the premises and is satisfied with its condition.

FOR VALUABLE CONSIDERATION, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

- 1. Termination. LESSEE, by and through its duly authorized representative, surrenders and releases to CITY all its interest in and to the leasehold premises, and CITY accepts this surrender. The lease is hereby terminated as of the Effective Date and shall be void and of no further effect except as set forth below.
- 2. Mutual Release of Claims. Except as to the surviving obligations created by the lease (e.g., indemnification obligations) and any obligations created by this Agreement, the Parties

hereby release and forever discharge each other and their respective successors, assigns, employees, shareholders, officers, directors, elected officials, agents, attorneys, and affiliated corporations, organizations or entities, whether previously or hereafter affiliated in any manner, jointly and severally, from any and all claims, demands, causes of action, obligations, damages, attorneys' fees, costs and liabilities of any nature whatsoever, whether or not now known, suspected or claimed, which the Parties ever had, now have or may claim to have as of the Effective Date which arise out of, or are connected to, or are related, in any fashion, to the lease or the premises (the "Claims").

- 2.1 Rent. CITY confirms that all rent due under the lease to date is paid in full.
- 2.2 Security Deposits. Lessee has Two Thousand Four Hundred Seventy Three Dollars and Sixty One Cents (\$2,473.61) on deposit with the CITY that shall be returned to LESSEE within 60 days of the Effective Date.
3. No Prior Assignments. LESSEE represents and warrants that it has not previously assigned, transferred, or purported to have assigned or transferred, in any manner, any right or obligation under the lease (CITY acknowledges and excepts herefrom the sublease between LESSEE and the Federal Government – FAA). LESSEE shall protect, defend, indemnify, and hold CITY harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to LESSEE's officers, employees, agents, or contractors, which arise out of or are in any manner directly or indirectly connected with any person or legal entity claiming to hold any right under the lease, and all expenses of investigating and defending against same, including without limitation attorney fees and costs.
4. Quitclaim. Pursuant to lease section 2.03 Surrender of Premises, within five (5) days after the Effective Date, LESSEE shall execute, acknowledge, and deliver to CITY, a valid and recordable quitclaim deed in form and content as attached hereto as **Exhibit A: Quitclaim Deed**.
5. Construction. The provisions of this Agreement, or this Agreement as a whole, shall not be construed against the drafting Party.
6. Waiver. No breach of any provision of this Agreement shall be waived unless in writing. Waiver of any one breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach of the same or any other provision.
7. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes any and all prior understandings, representations, warranties and agreements between the Parties pertaining to the termination of the Lease.
8. Governing Law. This Agreement shall be governed by, construed, interpreted and enforced in accordance with the laws of the State of California.

9. Authority. Each individual executing this Agreement on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Agreement on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Agreement is binding upon such person or entity in accordance with its terms.

IN WITNESS WHEREOF, this Agreement shall be effective as of the Effective Date.

Date: 4-28-15

DYANNE M. ROUTH, THE ROUTH FAMILY TRUST

BY: Dyanne M. Routh

Name: DYANNE ROUTH

Title: LESSOR

Date: 9/14/15

THE CITY OF SAN DIEGO, a California municipal corporation

BY: [Signature]

Name: CAROL THOMPSON

Title: OFFICER, REAL ESTATE ASSETS

Approved as to form this 14th day
of Sept, 2015.

JAN I. GOLDSMITH, City Attorney

BY: [Signature]

Name: Debra J. Bevier

Title: Deputy City Attorney

EXHIBIT A: Quitclaim Deed

After recording mail to:

Real Estate Assets Dept.
Airports Division
Montgomery Field Airport
City of San Diego
Mail Station 14

SPACE ABOVE THIS LINE FOR RECORDER'S USE

"FORM OF"

QUITCLAIM DEED

DYANNE M. ROUTH, TRUSTEE OF THE ROUTH FAMILY TRUST

for a valuable consideration, does hereby remise, release and QUITCLAIM to

THE CITY OF SAN DIEGO, a California municipal corporation

all right, title and interest in and to the following described real property situated in the City of San Diego, County of San Diego, State of California, described as follows:

A single-story building consisting of approximately 8,136 square feet, along with adjacent parking lot and landscaping, located on that certain real property described as Lot 23, at Montgomery Field in the City of San Diego, California. See Exhibit "A" and Exhibit "B", attached hereto, for illustration purposes.

IN WITNESS WHEREOF, the City of San Diego has caused this deed to be executed, pursuant to Resolution R- _____ of the City Council authorizing such execution on the ___th day of _____, 2015.

DYANNE M. ROUTH, TRUSTEE OF
THE ROUTH FAMILY TRUST

DYANNE M. ROUTH

RESOLUTION NUMBER R- 309921

DATE OF FINAL PASSAGE AUG 07 2015

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO AUTHORIZING THE MAYOR OR HIS DESIGNEE
TO EXECUTE A LEASE TERMINATION AND SURRENDER OF
TENANCY AGREEMENT AND AN ASSIGNMENT &
ASSUMPTION OF LEASE AGREEMENTS, BOTH BETWEEN
THE CITY OF SAN DIEGO AND THE ROUTH FAMILY TRUST.

WHEREAS, on December 1, 1985, the City of San Diego (City) entered into a thirty (30) year Flat Rate Lease (Lease) with James N. Routh, the predecessor to the current lessee, The Routh Family Trust (Lessee), for the lease of Lot 23 at Montgomery Field Airport (Premises). The Lease included an option to extend for an additional term of ten (10) years upon the mutual agreement of the Lessee and the City;

WHEREAS, the City now desires to utilize the Premises for municipal aviation-related uses, so it has not agreed to extend the Lease term. Without the additional term of ten (10) years, the Lease will expire on November 30, 2015;

WHEREAS, the Lessee now desires to surrender the Premises, terminate the Lease early, and assign the sublease affecting the Premises to the City; and

WHEREAS, because the Lease was a long term lease approved by Council, and the Lease provided that the Lessee would be responsible for all maintenance and other costs associated with the Premises until the expiration of the Lease, City Staff now seeks the City Council's authorization to: (1) accept and execute a Lease Termination and Surrender of Tenancy Agreement between the City of San Diego and Dyanne M. Routh, Trustee for the Routh Family Trust and (2) accept and execute a Assignment & Assumption of Lease Agreements

between the City of San Diego and Dyanne M. Routh, Successor to the Routh Family Trust;

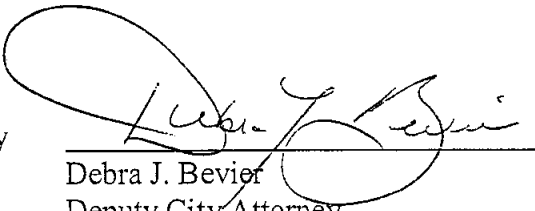
NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego as follows:

1. That the Mayor, or his designee, is authorized to execute, and take all actions necessary to administer, that certain Lease Termination and Surrender of Tenancy Agreement between the City of San Diego and the Routh Family Trust, under the terms and conditions set forth in that agreement, on file in the Office of the City Clerk as Document No. ^{PP-}309921-1

2. That the Mayor, or his designee, is authorized to execute, and take all actions necessary to administer, that certain Assignment & Assumption Agreement between the City of San Diego and the Routh Family Trust, under the terms and conditions set forth in that agreement, on file in the Office of the City Clerk as Document No. ^{PP-}309921-2

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Debra J. Bevier
Deputy City Attorney

DJB:mcm
July 9, 2015
Or.Dept:Real Estate Assets Department
Doc. No.: 1059636

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of AUG 04 2015.

ELIZABETH S. MALAND
City Clerk

By Mary L. Mendoza
Deputy City Clerk

Approved: 4/6/15
(date)

Kevin L. Faulconer
KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on AUG 4 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	☒	☐	☐	☐
Lorie Zapf	☒	☐	☐	☐
Todd Gloria	☒	☐	☐	☐
Myrtle Cole	☒	☐	☐	☐
Mark Kersey	☐	☐	☒	☐
Chris Cate	☒	☐	☐	☐
Scott Sherman	☒	☐	☐	☐
David Alvarez	☒	☐	☐	☐
Marti Emerald	☒	☐	☐	☐

Date of final passage AUG 07 2015.

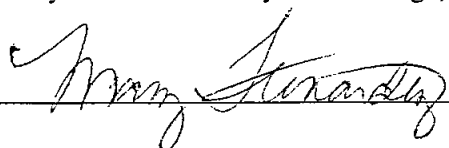
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By , Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 309921

Passed by the Council of The City of San Diego on August 4, 2015, by the following vote:

YEAS: LIGHTNER, ZAPF, GLORIA, COLE, CATE, SHERMAN,
ALVAREZ, EMERALD
NAYS: NONE.
NOT PRESENT: KERSEY.
RECUSED: NONE.

AUTHENTICATED BY:

KEVIN L. FAULCONER

Mayor of The City of San Diego, California

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(Seal)

By: Jeannette I. Santos, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of
RESOLUTION NO. R-309921, approved on August 4, 2015. The date of final passage
is August 7, 2015.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(Seal)

By: , Deputy