

**FIRST AMENDMENT TO
MONTH-TO-MONTH FLAT RATE AIRCRAFT PARKING LEASE FOR GROUND
SPACE WITHIN THE AREA REFERRED TO AS MARIGOLD**

THIS FIRST AMENDMENT TO MONTH-TO-MONTH FLAT RATE AIRCRAFT PARKING LEASE FOR GROUND SPACE WITHIN THE AREA REFERRED TO AS MARIGOLD ("First Amendment") is made and entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), and WESTLAND AVIATION, LLC, ("Original LESSEE") to be effective as of the date this First Amendment is executed by the parties and approved by the San Diego City Attorney (the "First Amendment Effective Date"). The Original LESSEE shall be hereafter referred to collectively and individually as "LESSEE."

RECITALS

WHEREAS, general aviation has been an important aspect of the Montgomery-Gibbs Executive Airport ("Airport") since its inception; and

WHEREAS, CITY and LESSEE executed that certain MONTH-TO-MONTH FLAT RATE AIRCRAFT PARKING LEASE FOR GROUND SPACE WITHIN THE AREA REFERRED TO AS MARIGOLD, dated as effective on July 17, 2020, and on file with CITY's Real Estate Assets Department ("Lease"), for the lease of Marigold Aircraft Parking Space No. 8B-4A, as further set forth therein; And

WHEREAS, the information identifying the plane in the Lease was incorrect, and requires an amendment to accurately identify the plane that is authorized to be stored on the Premises; and

WHEREAS, following the execution of the Lease, it was determined that the rent and security deposit amounts as stated in the Lease were incorrect because they were based on the fees for a single engine plane; and

WHEREAS, the parties now wish to amend Lease to state the correct rent and security deposit amount pursuant to the Airport Fee Schedule for Twin Engine Aircraft; and

WHEREAS, unless otherwise defined herein, capitalized terms as used in this Amendment shall have the same meanings as given therefor in the Lease

NOW THEREFORE, for valuable consideration, the sufficiency of which is acknowledged, the parties agree as follows:

AGREEMENT

1. SECTION A. SUMMARY OF LESSEE INFORMATION AND PRE-EXECUTION WARNING of the Lease is hereby **DELETED** in its entirety and **REPLACED** with the following:

"SECTION A. SUMMARY OF LESSEE INFORMATION AND PRE-EXECUTION WARNING

LESSEE's Name: Westland Aviation, LLC

Street Address: 5123 Los Altos Court City: San Diego State: CA Zip Code: 92109

Telephone Number(s): 858-735-4141 Email: Westlandaviationllc@gmail.com

Execution of this Lease, and continued use of the Leased Premises (defined below), is contingent upon the LESSEE's continued ownership of the Aircraft listed below. Additionally, the below-listed Aircraft must be registered in LESSEE's name, or that of a Legal Entity for which LESSEE can provide proof of ownership, and said Aircraft must be home-based at the Airport, in the assigned tiedown space.

LESSEE's Aircraft: Seneca

Type: Twin Engine

Tail Number: N901EG

This Lease is only applicable to the above-listed Aircraft. If LESSEE should acquire a new/different Aircraft, CITY must be given written notice of LESSEE's request to have this Lease amended so as to apply to the new/different Aircraft, and such written notice must be given to CITY within thirty (30) calendar days of the acquisition of said new/different Aircraft. Application of this Lease to said new/different Aircraft shall be subject to CITY's consent, which consent shall not be unreasonably withheld, and which, if granted, shall be set forth as a written amendment to this Lease."

2. Section 3.2(a) Rent Amount of the Lease is hereby **DELETED** in its entirety and **REPLACED** with the following:

"a. Rent Amount. The monthly rate for Lease Premises will be in accordance with the Airport's Division Fee Schedule in effect at the time of signing this Lease (Rent). The Fee Schedule is reviewed annually and is subject to change after thirty (30) days written notice to those affected by the change.

Your current monthly rental fee is: \$136.00

An account will be established in the City Treasurer's Office for automatic billing in the LESSEE's name."

3. Section 3.4 Security Deposit of the Lease is hereby **DELETED** in its entirety and **REPLACED** with the following:

"A security deposit shall be paid to the CITY by LESSEE in the sum of Two Hundred Seventy-Two and no/100 Dollars (\$272.00) before the Effective Date of this Lease. All or any portion of the principal sum of the security deposit shall be available unconditionally to CITY for correcting any default or breach of this Lease by LESSEE, LESSEE's successors or assigns, or for payment of expenses incurred by CITY as a result of LESSEE's failure to faithfully perform all terms, covenants and conditions of this Lease.

The security deposit, and all increases thereto, shall take one of the forms set out below:

- a. Cash. Cash deposits shall be deposited with CITY, and CITY shall not be liable to LESSEE for any interest thereon. Provided further, any interest earned by CITY from such deposit or redeposit shall be and remain the property of the CITY.
- b. Instruments(s) of Credit. An instrument(s) of credit from one or more financial institutions, subject to regulation and insurance by the state or guaranteed for payment and agree that any or all funds shall be paid to CITY upon demand by CITY. The financial institution and the form of any instrument pledging the funds must be approved by CITY.

Lessee will maintain the required security deposit throughout the Term. Failure to do so shall be considered a default and is grounds for immediate termination of this Lease.

In the event CITY utilizes all or any portion of the security deposit, LESSEE shall reimburse the deposit within ten (10) days of notice from CITY to bring the security deposit up to the full specified amount.

The security deposit or any balance thereof will be returned to LESSEE in the compliance with applicable law following expiration or earlier termination of this Lease.

The security deposit may be increased by CITY proportionate to any increased performance or rental liability of LESSEE upon sixty (60) days prior written notice from CITY of such required increase."

4. Except as set forth in this First Amendment, all other terms and conditions of the Lease not addressed in this First Amendment shall remain in full force and effect. Any conflict between the terms and conditions of this First Amendment and those of the Lease shall be resolved in favor of the terms and conditions of this First Amendment.

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IN WITNESS WHEREOF, this First Amendment is executed by CITY, acting by and through its Mayor or his designee, and by LESSEE, acting through its legally authorized representative.

THE CITY OF SAN DIEGO, a California
municipal corporation

Date 9-1-21

By 
Penny Maus, Director
Real Estate Assets Department

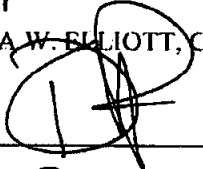
WESTLAND AVIATION, LLC

Date 8/24/21

By 
Thomas L. Graham II, Manager

Approved as to form this 10th day
of September, 2021.

MARA W. ELLIOTT, City Attorney

By: 

Name: David Powell
Deputy City Attorney

IN WITNESS WHEREOF, this First Amendment is executed by CITY, acting by and through its Mayor or his designee, and by LESSEE, acting through its legally authorized representative.

THE CITY OF SAN DIEGO, a California
municipal corporation

Date 9-1-21

By 
Penny Maus, Director
Real Estate Assets Department

WESTLAND AVIATION, LLC

Date 8/24/21

By 
Thomas L. Graham II, Manager

Approved as to form this _____ day
of _____, 2021.

MARA W. ELLIOTT, City Attorney

By: _____

Name: _____
Deputy City Attorney