



Real Estate Assets Department
SDC003

Experimental Aircraft Assoc Chapter 14

Y802PA-364-AW

Document Type

6

LEGAL DOCUMENTS



Sub - Category

AMENDMENTS



DUPLICATE

FIRST AMENDMENT TO LEASE AGREEMENT

THIS FIRST AMENDMENT [First Amendment] is made by and between the CITY of SAN DIEGO, a municipal corporation [CITY], and EXPERIMENTAL AIRCRAFT ASSOCIATION, CHAPTER 14, INC., a California non-profit corporation [LESSEE], to be effective as of the first day of the calendar month following the date of execution by CITY [Effective Date], when signed by the parties and approved by the San Diego City Attorney, as follows:

RECITALS

1. By a ten (10) year Lease Agreement [Lease] between the CITY and LESSEE filed on January 17, 2007, in the Office of the Clerk in San Diego, California, Resolution number 302261, CITY leased to LESSEE certain real property on Brown Field Airport, in the City of San Diego, County of San Diego, State of California, more particularly described in the Lease; and
2. Currently, the CITY is negotiating a new, large-scale development on Brown Field Airport that will encompass more than 350 acres; and
3. The Airport Layout Plan and Airport Master Plan contemplate a new airport entrance to Brown Field Airport at Britannia Blvd. and Otay Mesa Road; and
4. The planned new development intends to incorporate into its construction plans, the construction of the new airport entrance at Britannia Blvd; however, LESSEE's current leasehold boundaries are within the planned new entrance area; and
5. The purpose of this First Amendment is to allow for the realignment of LESSEE's leasehold boundaries to accommodate the new airport entrance. A new rent and term structure will compensate LESSEE for agreeing to the leasehold modifications.

NOW, THEREFORE, CITY AND LESSEE agree that the Lease shall be amended and modified as follows:

1. Premises:

The terms and conditions set forth in Section ^{1. Premises} ~~2.1 Commencement~~ shall be deleted in its entirety and replaced with the following:

CITY hereby leases to LESSEE and LESSEE leases from CITY all of that certain real property consisting of approximately 2.07 acres situated on Brown Field Airport in the City of San Diego, County of San Diego, State of California, described in Exhibit "B", Initial Leased Premises, of this lease ("Premises").

DOCUMENT NO. 3025158

FILED JUL 28 2009

OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

2. Commencement:

The terms and conditions set forth in Section 2.1 Commencement, shall be deleted in its entirety and replaced with the following:

The term of this Lease shall be fourteen (14) years commencing on the Effective Date. "Lease Year" as used in this Lease shall mean the twelve (12) month period commencing on the Effective Date.

3. Option to Extend/Increase Premises:

Section 2.3 Option to Extend, and Section 2.4 Option to Increase Premises, shall be deleted in their entirety and replaced with the following:

2.3 Option to Extend.

Provided that LESSEE is not in default of its Lease, LESSEE will be given the right to extend this Lease for two (2), seven (7) year terms, subject to all original agreements, considerations, covenants and conditions of this Lease and upon the following terms and conditions:

- a. LESSEE must give the CITY written notice of its intention to exercise its option to extend the Lease by exercising OPTION "A", as described as Parcel A in the attached Exhibit "B", and leasing an additional 0.689 acres of land at the Brown Field Airport no later than six (6) months prior to the expiration of the amended and restated term of this Lease;
- b. LESSEE must submit a development plan and show due diligence and good faith toward obtaining development entitlements, building permits and FAA authorization on the Parcel A Area no later than six (6) months prior to the expiration of the amended and restated term of this Lease;
- c. LESSEE must provide evidence of adequate and timely funding of the Parcel A development no later than six (6) months prior to the expiration of the amended and restated term of this Lease;
- d. If LESSEE exercises OPTION "A" to the satisfaction of the CITY, LESSEE shall be granted a seven (7) year extension of the lease term;
- e. Provided LESSEE is not in default of this Lease, and LESSEE has developed Parcel A to the CITY's satisfaction, LESSEE shall be given the opportunity to lease OPTION "B" and/or OPTION "C" as described as Parcel B and Parcel C in Exhibit 1. LESSEE must give written notice to the CITY to exercise OPTION "B" and/or OPTION "C" and increase the size of their Premises by an additional 0.989 acres for Parcel B and 0.470

acres for Parcel C on the Brown Field Airport no later than six (6) months prior to the expiration of the OPTION "A" term of the Lease;

- f. LESSEE must submit a development plan and show due diligence and good faith toward obtaining development entitlements, building permits and FAA authorization on the Parcel B and/or Parcel C no later than six (6) months prior to the expiration of the amended and restated term of this Lease;
- g. LESSEE must provide evidence of adequate and timely funding for this Parcel B and/or Parcel C development no later than six (6) months prior to the expiration of the amended and restated term of this Lease;
- h. If LESSEE exercises OPTION "B" and/or OPTION "C" to the satisfaction of CITY, LESSEE shall be granted an additional seven (7) year extension of the lease term.

4. Numbering Sequence of Section 2 of the Lease:

Due to the deletion of former sections 2.3 and 2.4 into a single new section 2.3, it is the intention of the CITY and LESSEE that section 2.4 shall intentionally be left blank.

5. Rent:

The first paragraph of Section 3.2 Rent of this Lease shall be deleted in its entirety and replaced with the following:

Upon the amended and restated Commencement Date, Rent shall be Five Hundred Eighty Three Dollars (\$583.00) per acre per month or \$1,206.81 per month. Any increase in the size of the Premises pursuant to Sections 1.1 and 2.3 hereof shall include an increase in rent based on the annually adjusted rent per acre for the year in which the acreage of the Premises is increased.

6. The following paragraph shall be added to the lease:

San Diego's Strong Mayor Form of Governance:

All references to "CITY Manager" in this Consent to Sublease shall be deemed to refer to "Mayor or his/her designee." This section shall remain in effect for the duration CITY operates under the mayor-council (commonly referred to as "strong mayor") form of governance pursuant to Article XV of the San Diego City Charter.

7. No Other Changes:

All other terms and conditions of the Lease shall remain in full force and effect.

IN WITNESS WHEREOF, the First Amendment is executed by CITY acting by and through its Mayor, or his designee, and by LESSEE acting by and through its lawful authorized designees.

EXPERIMENTAL AIRCRAFT ASSOCIATION,
CHAPTER 14, INC.

Date: June 9, 2009

By: [Signature]

Larry Rothrock, President

Date: 06/09/2009

By: [Signature]

Joseph Russo, Vice President

Date: June 9, 2009

By: [Signature]

~~Dennis Collum, Treasurer~~

Donna Ryan, Secretary

CITY OF SAN DIEGO

Date: 8/18/09

By: [Signature]

James F. Barwick, CCIM

Director, Real Estate Assets

ENVIRONMENTAL ANALYSIS SECTION ENVIRONMENTAL CLEARANCE:

This activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section §15060(c)(3). Date: September 9, 2009

By: [Signature]

Name: Myra Herrmann

Title: Senior Planner

APPROVED AS TO FORM AND LEGALITY

this 10th day of September, 2009.

JAN I. GOLDSMITH, City Attorney

By: [Signature]

Debra J. Bevier, Deputy City Attorney

RECEIVED
CITY OF SAN DIEGO
09 AUG 20 PM 4:18
SAN DIEGO, CALIF.

R-305158

RESOLUTION NUMBER R- 305158

DATE OF FINAL PASSAGE JUL 31 2009

A RESOLUTION OF THE CITY OF SAN DIEGO
AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO
ENTER INTO A FIRST AMENDMENT TO LEASE WITH
EXPERIMENTAL AIRCRAFT ASSOCIATION, CHAPTER 14,
INC., A CALIFORNIA NON-PROFIT CORPORATION,
CONCERNING ITS LEASEHOLD AT BROWN FIELD
AIRPORT.

WHEREAS, Airports Division [Airports] issued a Request for Proposal [RFP] soliciting proposals to develop and operate a Fixed Base Operator or other aviation-related business at Brown Field Airport; and

WHEREAS, the selected Proposal included the proposed construction of a new entrance to Brown Field, at a new location preferred by Airports; and

WHEREAS, the proposed new entrance to Brown Field would require an adjustment to the boundaries of an adjacent leasehold which is leased by Experimental Aircraft Association, Chapter 14, Inc.'s [EAA]; and

WHEREAS, a realignment of EAA's leasehold boundaries will benefit both Airport and EAA, regardless of whether a new entrance is constructed as part of the proposed development arising from the RFP or through another future project, as it will return to Airport's control the area necessary to construct a new entrance for Brown Field, and it will create a more developable leasehold area for EAA; and

WHEREAS, EAA has agreed to amend its lease and adjust its leasehold boundaries based on the terms and conditions set forth in the proposed First Amendment to Lease Agreement between the City of San Diego and EAA; NOW, THEREFORE,

Passed by the Council of The City of San Diego on July 28, 2009, by the following vote:

YEAS: **LIGHTNER, FAULCONER, GLORIA, YOUNG, DEMAIO, FRYE,**
 EMERALD, HUESO.

NAYS: **NONE.**

NOT PRESENT: **NONE.**

RECUSED: **NONE.**

AUTHENTICATED BY:

JERRY SANDERS

Mayor of The City of San Diego, California

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(Seal)

By: SARA RICHARDSON, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of
RESOLUTION NO. R-305158, approved by the Mayor of The City of San Diego, California
on July 31, 2009.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(SEAL)

By: , Deputy