

Document Routing Form

Consent to Assignment & Estoppel Certificate

Title of document to be signed

Thurman Hodges

Your Name/Property Agent's Name

Enza Charles

Asset Manager/Supervisor approval

5/12/21

Date

Print name of City Attorney: Melissa Ables

Date City Attorney approved the draft: 04/22/2021

Explanation/Notes: To facilitate the transfer of the title of the existing improvements to Executive Airpark

Gibbs will assign the Prior Leases and transfer title to all improvements to Executive Airpark.

City will consent to the assignment of the Prior Leases prior to the execution of a new lease

with Executive Airpark. Council approved lease with Executive Airpark on April 27, 2021.

☐ Controversial ☒ Not Controversial

**** For voids, please provide specific information detailing the reason for the void.****

GROUND LESSOR'S ESTOPPEL CERTIFICATE

LEASE DATES: May 19, 1970 and April 17, 1989

LESSOR: THE CITY OF SAN DIEGO,
a California municipal corporation
("Lessor")

LESSEE: GIBBS FLYING SERVICE, INC.,
a California Corporation
("Lessee")

The undersigned, Lessor, as lessor under that certain Lease Agreement entered into between the City of San Diego and Gibbs Flying Service, Inc., a California corporation, ("Gibbs") on file with the City Clerk as Document No.: 732107, dated May 19, 1970, as amended ("1970 Lease"), and that certain Flat Rate Lease entered into between the City of San Diego and Gibbs on file with the City Clerk as Document No.: 273253, filed on April 17, 1989 ("1989 Lease") (the 1970 Lease and the 1989 Lease are collectively referred to herein as, the "Prior Leases") for the Premises, which are currently in a month-to-month holdover status.

(a) The documents attached to Exhibit A are true, correct, and complete copies of all documents constituting the Prior Leases. Other than as attached as Exhibit A, the Prior Leases has not been modified, changed, altered, assigned, supplemented, or amended in any respect.

(b) The Lease is valid and in full force and effect on the date hereof. To the actual knowledge of the City of San Diego's Deputy Director of Airports, Jorge Rubio, as of the date of this Certificate, there are no existing defaults, or events which by the passage of time will result in a default, by either Lessor or Lessee under the Lease.

(c) The rent currently payable by Lessee to Lessor under the Prior Leases consist of percentage rents due under the 1970 Lease and a flat rate rent due under the 1989 Lease. Percentage Rent is determined and paid monthly in arrears in accordance with the percentage rent schedule in Section C of the 1970 Lease and the flat rate rent is Two Hundred Ninety-one Dollars and Ninety-nine cents (\$291.99) under the 1989 Lease. All rent and other charges due and currently payable by Lessee under the Lease through the date April 30, 2021 have been fully paid by Lessee.

(d) The "Commencement Date" (as defined in the 1970 Lease) occurred on June 1, 1970 and the 1970 Lease continues on month-to-month holdover. The "Commencement Date" as defined in the 1989 Lease occurred on May 1, 1989, and the 1989 Lease also continues on a month-to-month holdover.

(e) Lessor and the person or persons executing this Certificate on behalf of Lessor have the power and authority to execute this Certificate.

(f) Lessee and MYF Properties, LLC, a California limited liability company, as the successor and assignee of Lessee may rely upon the truth and accuracy of the certifications contained in this Certificate, and this Certificate will be binding upon Lessor and its successors and assigns.

THE CITY OF SAN DIEGO,
a California municipal corporation

Date: 5-17-2021

By: 
Name: Penny Naus
Title: Director Real Estate Assets

Approved as to form this 24th
day of May, 2021.

MARA W. ELLIOTT, City Attorney

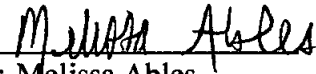
By: 
Name: Melissa Ables
Title: Deputy City Attorney

EXHIBIT A
LEASE
[TO BE ATTACHED]

05/10/2021



Attachment B

Environmental Determination (NORA)	
Environmental Planner	Sureena Basra SBasra@sanidiego.gov
Environmental Determination	This activity is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15301 (Existing Facilities) and CEQA Guidelines Section 15323 (Normal Operations of Facilities for Public Gatherings).
Date NORA Posted	04/26/2021
Date NORA Removed	05/03/2021



Date of Notice: April 26, 2021

NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

PLANNING DEPARTMENT

PROJECT NAME: Consent to Assignment and Estoppel Certificate

COMMUNITY PLAN AREA: Kearny Mesa

COUNCIL DISTRICT: District 6

LOCATION: Montgomery-Gibbs Executive Airport, 3717 John J Montgomery Dr, San Diego, CA, 92123

PROJECT DESCRIPTION: Authorize the Mayor or his designee to sign a Consent to Assignment and Estoppel Certificate allowing Lessee to assign all of its right, title, and interest to and under their prior leases (on file with the City Clerk as Document No.: 732107, dated May 19, 1970, as amended, and that certain Flat Rate Lease entered into between the City of San Diego and Gibbs on file with the City Clerk as Document No.: 273253, filed on April 17, 1989, collectively, the "Prior Lease") for the Premises, which was in holdover status to MYF Properties LLC, a California limited liability company.

The property is leased to the Lessee for the purpose of construction, operation and maintenance of a fixed base flying service, including sales and rental of aircraft, aircraft parts and accessories, aircraft engine and airframe repair, flight instruction, renting aircraft storage and tiedown space, operating an aircraft charter, air taxi and flight service, sale of aeronautical supplies, car rental, sale of aviation petroleum products to the general public and such other incidental uses.

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego Mayor-Appointed Designee

ENVIRONMENTAL DETERMINATION: This activity is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15301 (Existing Facilities) and CEQA Guidelines Section 15323 (Normal Operations of Facilities for Public Gatherings).

ENTITY MAKING ENVIRONMENTAL DETERMINATION: City of San Diego Mayor-Appointed Designee

STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION:

The City of San Diego conducted an environmental review that determined the project would not have the potential for causing a significant effect on the environment pursuant to CEQA Guidelines Section 15301 (Existing Facilities) which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use; and CEQA Guidelines Section 15323 (Normal Operations of Facilities for Public Gatherings) which consists of the normal operations of existing facilities for public gatherings for which the facilities were designed, where there is a past history of the facility being used for the same or similar kind of purpose. For the purposes of this section, "past history" shall mean that the same or similar kind of activity has been occurring for at least three years and that there is a reasonable expectation that the future occurrence of the activity would not represent a change in the operation of the facility. The exceptions listed in CEQA Guidelines Section 15300.2 would not apply in that no cumulative impacts were identified, no significant effects on the environment were identified, the project is not adjacent to a scenic highway, no historical resources would be affected by the action, and the project was not identified on a list of hazardous waste sites pursuant to Section 65962.5 of the Government Code.

PROJECT MANAGER: Thurman Hodges, Real Estate Assets, Airport Division

MAILING ADDRESS: 3750 John J. Montgomery Drive, MS 14, San Diego, CA 92123

EMAIL / PHONE NUMBER: THodges@sandiego.gov / (858) 573-1433

On April 26, 2021, the City of San Diego made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the Project Manager listed above.

Applications to appeal the CEQA determination to the City Council must be filed with the Office of the Clerk within 5 business days from the date of the posting of this Notice (**May 3, 2021**). During the Statewide "Safer-at-Home" directive to reduce the spread of COVID-19, beginning March 19, 2020, appeals to the City Clerk must be filed by email or US Mail as follows:

1. Appeals filed via Email: Send the appeal by email to Hearings1@sandiego.gov; your email appeal will be acknowledged within 24 hours. You must separately mail the required appeal fee by check payable to the City Treasurer to: **City of San Diego Planning Department, Attn: Sureena Basra, 9485 Aero Drive, MS 413, San Diego, CA 92123**. The appeal filing fee must be postmarked within 5 business days of the date the appeal is filed.
2. Appeals filed via US Mail: Send the appeal by US Mail to **City Clerk/Appeal, MS 2A, 202 C**

Street, San Diego, CA 92101. Appeals filed by US Mail must have a United States Postal Service (USPS) postmark by the appeal deadline to be considered valid. You must separately mail the required appeal fee by check payable to the City Treasurer to: **City of San Diego Planning Department, Attn: Sureena Basra, 9485 Aero Drive, MS 413, San Diego, CA 92123.** The appeal filing fee must be postmarked within 5 business days of the date the appeal is filed.

If you have any questions regarding the procedures to file the appeal, please contact **Sureena Basra** at SBasra@sandiego.gov.

This information will be made available in alternative formats upon request.

POSTED ON THE CITY'S CEQA WEBSITE

POSTED: 04/26/2021

REMOVED: 05/03/2021

POSTED: S. Basra

CONSENT TO ASSIGNMENT

THIS CONSENT TO ASSIGNMENT (Consent) is provided by THE CITY OF SAN DIEGO, a California municipal corporation (City), to GIBBS FLYING SERVICE, INC., a California corporation (Lessee), to be effective upon execution by City and approval by the San Diego City Attorney, as follows:

RECITALS

- A. City and Lessee entered into the certain lease on file with the City Clerk as Document No.: 732107, dated May 19, 1970, as amended, and that certain Flat Rate Lease entered into between the City of San Diego and Lessee on file with the City Clerk as Document No.: 273253, filed on April 17, 1989 (collectively, the "Prior Leases") for the Premises, which were in holdover status.
- B. Lessee now desires to assign all of its right, title and interest to and under the Prior Leases to MYF Properties, LLC, a California limited liability company (Assignee).
- C. The Prior Leases require City's prior written consent to assign any interest in and to the Prior Leases.

NOW, THEREFORE, for valuable consideration the receipt and sufficiency of which is acknowledged, City consents to the assignment as follows:

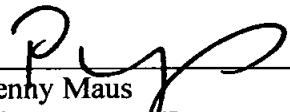
- 1. Subject to the terms and conditions herein, City hereby consents to Lessee's request to assign all of its right, title and interest to and under the Prior Leases to Assignee. By giving this Consent, City is merely consenting to the requested assignment. All terms and conditions of the Prior Leases shall control and supersede any inconsistent or contrary provisions in any assignment agreement executed between Lessee and the Assignee, except as otherwise approved herein; and
- 2. City's Consent is conditioned upon Assignee's written agreement that it will assume all rights and obligations as Lessee under the Prior Leases and that Assignee will keep and perform all covenants, conditions, and provisions of the Prior Leases; and
- 3. City does not release, discharge or modify Lessee's obligations to City under the Prior Leases. Lessee shall remain primarily obligated as the lessee under the Prior Leases. As set forth in applicable law, Lessee's obligations under the Prior Leases shall survive said assignment and shall continue through the termination dates of the Prior Leases, as set forth therein. City does not waive or relinquish any rights under the Prior Leases against Lessee or Assignee; and
- 4. This Consent does not constitute consent to any subsequent assignment of any interest in and to the Prior Leases.
- 5. Lessee agrees to pay City any applicable processing and/or administrative fee(s) for processing this Consent.

6. City shall not be liable for any brokerage commission or finder's fee in connection with the consummation of the assignment. Further, Lessee agrees to protect, defend, indemnify, and hold City, its elected officials, officers, representatives, agents, and employees harmless from and against any claim for any brokerage commission or finder's fee related to the consummation of this Consent, and from and against any cost or expense (including without limitation attorney fees) incurred by City in resisting any claim for any such brokerage commission or finder's fee.

IN WITNESS WHEREOF, this, Consent to Assignment is executed by City acting by and through its Mayor, or his designee.

THE CITY OF SAN DIEGO, a California municipal corporation

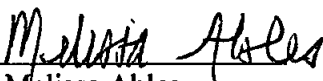
Date: 5-17-2021

By: 
Penny Maus
Director, Real Estate Assets Department

Approved as to form

this 24th day of May, 2021.

MARA W. ELLIOTT, City Attorney

By: 
Name: Melissa Ables
Title: Deputy City Attorney