

TO: James L. App, City Manager
FROM: Meg Williamson, Assistant City Manager
SUBJECT: Airport Lease Amendment – Cook’s Coastal Enterprises
DATE: May 7, 2013

NEEDS: For the City Council to adopt Resolution No. 13-XX approving an Amended and Restated Short-Term Rental Agreement with Cook’s Coastal Enterprises, for Office Space in the Airport Terminal Building (4900 Wing Way).

- FACTS:
1. The original Short-Term Rental Agreement for Office Space #1 (127.75 square feet) in the Airport Terminal was executed in 2004. It has continued to serve as a base of operations for the tenant since that time.
 2. Lessee’s current operations require additional office space in order to accommodate an increase in demand for expanded services, which include Aviation Pilot Training, Certification and related support activities. Office #2 (111 square feet) is currently vacant and available for lease.
 3. The lessee desires to add this site to the current lease agreement under the same terms and conditions, increasing the monthly rental amount for the added area at the same rate as the existing lease.
 4. Due the amount of elapsed time, it is suggested that a more detailed agreement – an Amended and Restated Short-Term rental Agreement be executed.

ANALYSIS
AND
CONCLUSION:

The Lessee has made great progress in promoting and developing the flight training services offered at our airport. He is established as a key element in the local FAA-sponsored pilot safety program. He is also designated by the FAA as a pilot flight examiner. The additional space and services offered will further promote and develop available flight training services on the airport.

POLICY
REFERENCE: Airport Lease Policy; Airport Rules & Regulations

FISCAL
IMPACT: Increase in rental revenues of just over \$3,100.00 per year.

- OPTIONS:
- A. Adopt Resolution No. 13-XX, approving the requested agreement amendment.
 - B. Amend, modify, or reject the above option.

Attachments (2):

1. Resolution 13-XX
2. First Amendment to Short-Term Rental Agreement

RESOLUTION NO. 13-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
APPROVING AN AMENDED AND RESTATED SHORT-TERM RENTAL
AGREEMENT WITH COOK'S COASTAL ENTERPRISES
FOR OFFICE SPACE IN THE AIRPORT TERMINAL**

WHEREAS, the City of El Paso de Robles entered into a short-term rental agreement for office space within the airport terminal building with Cook's Coastal Enterprises on September 1, 2004, and

WHEREAS, the agreement has been maintained in full compliance and effect, and the services provided continue to be of value to the local aviation users, and

WHEREAS, the Renter has requested to amend the rental agreement to include additional office space with the Airport Terminal building, and

WHEREAS, the City finds the use of and continued operation on the leased premises to be of benefit to the community.

THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. That the City Council of the City of Paso Robles does hereby approve the Amended and Restated Short-Term Rental Agreement, adding 111.08 square feet of office space to the leased premises.

Section 2. That the City Council of the City of Paso Robles does hereby authorize the execution of the subject documents as required.

PASSED AND ADOPTED by the City Council of the City of Paso Robles, this 1st day of May, 2013, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Duane Picanco, Mayor

ATTEST:

Caryn Jackson, Deputy City Clerk

CITY OF EL PASO DE ROBLES

**AMENDED AND RESTATED SHORT-TERM RENTAL AGREEMENT
FOR OFFICE SPACE – AIRPORT TERMINAL**

This AMENDED AND RESTATED SHORT-TERM RENTAL AGREEMENT (“Agreement”) is made and entered into as of May 1, 2013 (the “Effective Date”), by and between the CITY OF EL PASO de ROBLES, a municipal corporation (“Lessor”), and COOK’S COASTAL ENTERPRISES, (“Renter”), who agree as follows:

RECITALS

A. Lessor and Renter entered into that certain Short-Term Rental Agreement for Office Space-Airport Terminal dated September 1, 2004 (the “Original Agreement”) with respect to that certain Office Space #1, located within the Terminal Building at the Paso Robles Municipal Airport, 4900 Wing Way, Paso Robles, CA 93446 (the “Original Premises”).

B. Renter has requested an expansion of his business into available existing office space (Office Space #2) (the “Expansion Area”), located adjacent to the Original Premises.

C. The purpose of this Agreement is to amend and restate in its entirety the Original Agreement, including expansion of the Original Premises to include the Expansion Area to provide additional operating space for Renter’s business, which is Aviation Flight Training, Certification and Related Services. As used herein, the term Premises shall mean and refer to the Original Premises together with the Expansion Area.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, City and Renter agree as follows:

1. Premises. In consideration of the payment of a monthly rental fee, and on the terms and conditions set forth herein, Lessor agrees to rent to Renter, on a month-to-month basis, the following described area (herein the “Premises”) located within the Airport Terminal building, 4900 Wing Way, in the City of El Paso de Robles. The Premises consists of the area referred to as “Office Space #1,” consisting of approximately 128.4 square feet of office space, together with the area designated as “Office Space #2,” consisting of approximately 112 square feet of office space, all as depicted on Exhibit “A,” attached hereto and incorporated herein by reference.

2. Use of Premises. Lessor rents to Renter, and Renter hires from Lessor, the Premises on a month-to-month basis for the purpose of conducting general business services incidental to Renter’s operations at the airport, and for no other purposes without the prior written consent of Lessor. In addition, any conduct of business on the Premises shall be subject to the current Airport Rules & Regulations, Minimum Standards for Aeronautical Activities and adopted City Ordinances applicable to the conduct of said business within the City.

3. Rental Rate. The monthly rental rate for the Premises shall be Five Hundred Sixty Eight and 22/100 Dollars (\$568.22), payable monthly in advance. The first full payment of rent shall be paid in full on or prior to the Effective Date of this Agreement (May 1, 2013), and each subsequent payment of rent shall be due and payable on the first day of each calendar month thereafter. The monthly rental rate set forth above shall be escalated on July 1, 2014, and each subsequent July 1 thereafter, in accordance with the established method currently in use by the City, based on the annual increase in the Consumer Price Index. All rent paid by Renter to Lessor shall be in lawful money of the United States of America and shall be paid without

deduction or offset, prior notice or demand, and at such place or places as may be designated from time to time by Lessor.

If any installment of rent or other payment due from Renter is not received by Lessor within ten (10) days of the date upon which it is due, Renter shall pay to Lessor an additional charge of ten percent (10%) of the overdue payment as a late charge.

4. Term; Extensions; Termination. The term of this Agreement shall commence on the Effective Date (May 1, 2013), and shall continue for a period of one (1) year. Absent written notice from either party to the contrary, this Agreement shall automatically extend for one (1) additional year, and subsequently each year thereafter, up to a maximum five (5) year term under this Agreement. Any such extensions shall be on the same terms and conditions as set forth in this Agreement, including without limitation the annual increase in rent provided for in Section 3.

Notwithstanding the foregoing, either party may terminate this Agreement at any time by giving written notice of such termination to the other party not less than ninety (90) days prior to the date of such termination stated in said notice. Upon or prior to the date of termination of this Agreement, Renter shall vacate the Premises and return the Premises to its original appearance and condition, as more fully described in Section 9 hereof. Upon failure by Renter to vacate the Premises by the termination date, Lessor may remove all of Renter's personal property and effects, and Renter shall, within ten (10) days of receipt of notice from Lessor, reimburse to Lessor any costs and expenses incurred by Lessor for such removal of Renter's personal property and effects.

5. Maintenance. Renter shall, at Renter's sole cost and expense, maintain the Premises in a neat and clean condition, and shall be responsible for daily and continuous custodial care of the Premises. Said maintenance shall include the routine care of floors, walls, ceilings, and associated fixtures.

6. Improvements, Alterations. Renter shall not cause or make any physical changes, site improvements or alterations to the Premises without the prior written consent of Lessor.

7. Access. This Agreement does not grant to Renter any right, authority or access to any part of the airport, including but not limited to aircraft operating areas, for Renter, its employees, customers or the general public, except the Premises and appropriate access thereto through the designated public and common use areas of the Airport terminal.

8. As-Is Condition. Renter acknowledges and agrees that it has been in possession of the Original Premises (Office Space #1) designated on Exhibit A since September 2004 under the Original Agreement and is fully knowledgeable as to the condition of the Original Premises. Renter agrees to continue to rent the Original Premises, and agrees to accept the Expansion Area (Office Space #2), on an "as-is" basis. Further, Lessor hereby disclaims, and Renter accepts the disclaimer of, any warranty, either express or implied, of the condition of the Premises. Renter assumes full responsibility for the condition of the Premises and agrees to maintain and operate the Premises in a clean and efficient manner, acceptable to Lessor, subject to the continued and ongoing monitoring and inspection by Lessor to determine condition and compliance.

9. Surrender of Premises. Upon termination of occupancy of the Premises, Renter agrees to surrender the Premises to Lessor, return all keys to Lessor, and return all elements of the Premises to its former condition, including, if necessary, repair, repainting, or replacement of walls, floor coverings, ceilings and appurtenant fixtures attached thereto.

10. Utilities. Lessor agrees to provide heating and air conditioning to the Premises through the common HVAC systems in the building. Lessor further agrees to provide electrical service to the Premises.

Renter will provide telephone service through the building communications system and any other utilities services required at Renter's own expense.

11. Insurance. Renter agrees to include the Premises within all applicable insurance coverage for operations at the Airport. Said coverage shall include, but not be limited to, insurance for: Commercial Liability, Plate Glass, Leasehold Improvements and Renter's Personal Property, and Worker's Compensation. The required insurance coverages shall be in amounts acceptable to Lessor, and include an endorsement naming the City of El Paso de Robles as an additional insured. Executed copies of all insurance policies and renewals or a certificate thereof shall be delivered to Lessor and shall contain a provision that not less than thirty (30) days' written notice shall be given to Lessor prior to the cancellation, reduction of coverage, expiration or any material change in any policy.

If Renter fails or refuses to procure or to maintain insurance as required by this Agreement or fails or refuses to furnish Lessor with required proof that the insurance has been procured and is in force and paid for, Lessor shall have the right to procure and maintain such insurance. The premiums paid by Lessor shall be treated as added rent due from Renter with interest at the rate of 10% per annum, to be paid within ten (10) days of demand.

12. Rules and Regulations. Renter agrees to abide by all rules and regulations, as amended from time to time, of the Federal Aviation Agency, the State of California, and the City of El Paso de Robles, and other duly constituted public authorities having jurisdiction over the Airport.

13. Office Furniture. Lessor grants to and Renter hereby accepts custody and use of certain office furniture contained in the Premises, as listed in Exhibit B hereto. Renter agrees to care for and maintain said furniture throughout the duration of this Agreement and return said furniture in the same condition received, reasonable wear and tear excepted.

14. Hazardous Materials. Renter agrees that it shall not cause or permit any hazardous materials or toxic substances to be brought upon, kept or used in or about the Premises or the Airport by Renter, its agents, employees, contractors or invitees, without the prior written consent of Lessor. Lessor shall not unreasonably withhold such consent as long as Renter demonstrates to Lessor's reasonable satisfaction and covenants to Lessor that such hazardous materials or toxic substances are necessary or useful to Renter's business and will be used, kept and stored in a manner that complies with all laws relating to any such hazardous materials or toxic substances. Notwithstanding the foregoing, Renter shall indemnify, defend and hold Lessor harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses which arise during or after the term of this Agreement as a result of any contamination resulting from Renter's use of the Premises or any hazardous materials or toxic substances used, kept or stored on the Premises.

15. Premises Inspection. Lessor, its agents or employees, upon prior written reasonable notice, shall have the right to enter upon the Premises at such times as Lessor may deem expedient for the purpose of inspecting said Premises during normal business hours.

16. No Assignment. Renter shall not rent out or sublet all or any portion of the Premises, and shall not assign, encumber or otherwise transfer any of its rights under this Agreement without the prior express written consent of Lessor.

17. No Waiver. Consent, waiver or compromise by Lessor of any of the provisions of this Agreement shall not be construed as a waiver of the Lessor's right to enforce the remaining terms and conditions of this Agreement.

18. Notices. Renter agrees to notify Lessor in writing within ten (10) days of change of any personal information furnished to Lessor in connection with this Agreement. All notices required by this

Agreement shall be deemed delivered upon personal delivery or deposit in the United States Mail, first class postage prepaid, addressed as follows:

If to Lessor: City of El Paso de Robles
1000 Spring Street
Paso Robles, CA 93446
Attn: _____

If to Renter: Cook's Coastal Enterprises
P. O. Box 3830
Paso Robles, CA 93447
Attn: _____

19. Attorneys' Fees. If any party commences an action against the other party arising out of or in connection with this Agreement, the prevailing party or parties shall be entitled to recover from the losing party or parties reasonable attorneys' fees and costs of suit.

20. No Brokers. Renter and Lessor each warrants to the other that it has had no dealings with any real estate broker or agent in connection with the negotiation of this Agreement and that it knows of no real estate broker or agent who is or might be entitled to a commission in connection with this Agreement. Each party to this Agreement shall indemnify, defend and hold harmless the other party from and against any and all claims asserted against such other party by any real estate broker, finder or intermediary relating to any act of the indemnifying party in connection with this Agreement.

21. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California.

22. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the City of El Paso de Robles, its successors and assigns and Lessee and its permitted successors and assigns.

23. Invalidity of Provisions. If any provision of this Agreement is found to be invalid or unenforceable by any court of competent jurisdiction, the invalidity or unenforceability of any such provision shall not affect the validity and enforceability of the remaining provisions hereof.

24. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original part and all of which together shall constitute a single agreement.

25. This Agreement amends and replaces in its entirety the Original Agreement referenced in Recital A, above. Upon execution of this Agreement by both parties, or the Effective Date, whichever is later, the Original Agreement shall be deemed to be terminated, and this Agreement shall thereafter govern the rental by Renter of the Original Premises and the Expansion Area.

IN WITNESS WHEREOF, this Agreement is executed as of the date first written above.

Lessor: City of El Paso de Robles

Renter: Cook's Coastal Enterprises, LLC.

James L. App, City Manager

Eric Cook, Owner

ATTEST:

Caryn Jackson, Deputy City Clerk

Exhibit A

MAP SHOWING PREMISES

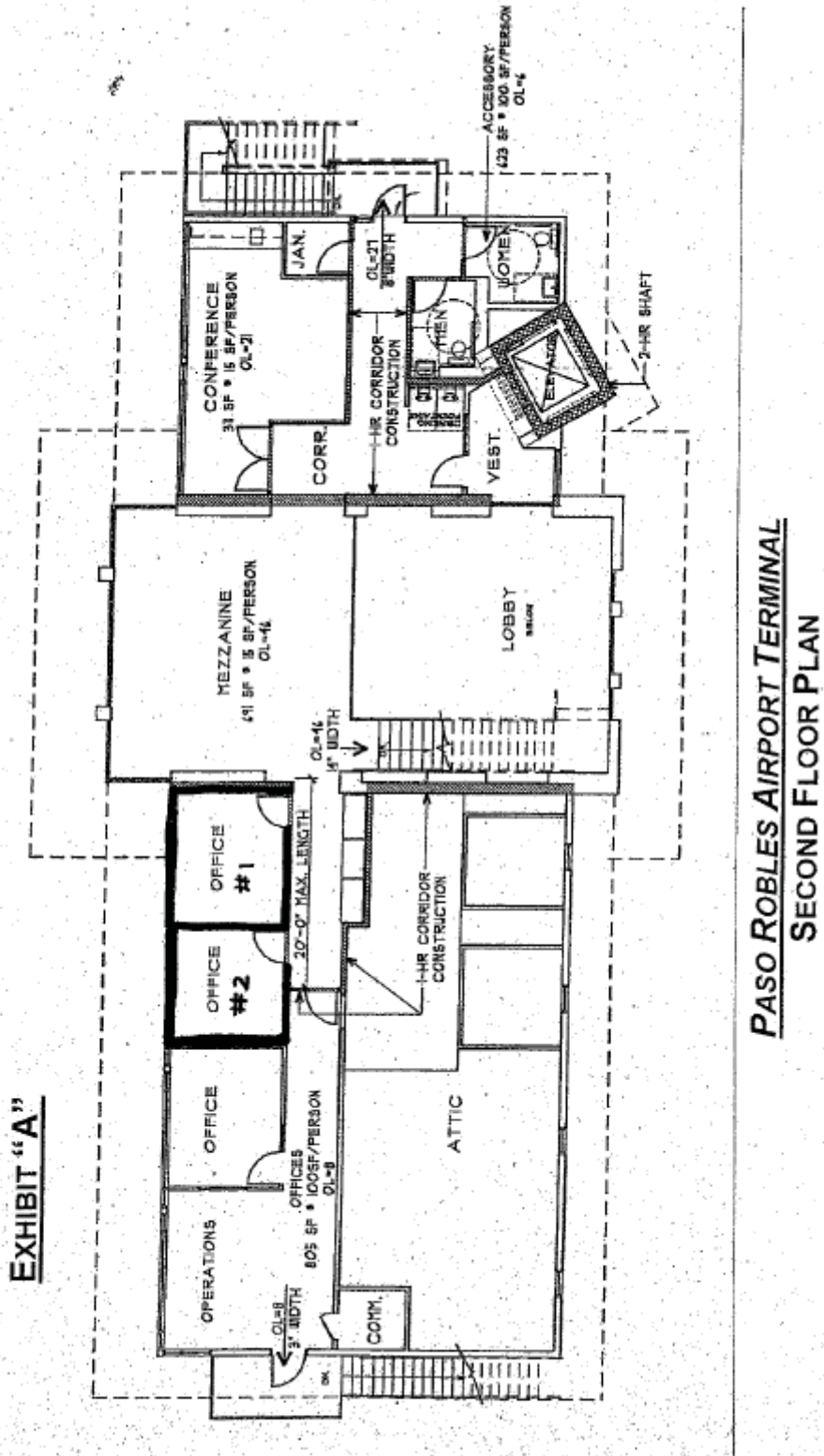


Exhibit B

LIST OF FURNITURE OWNED BY LESSOR

OFFICE #1

1 – Desk

1 – Credenza w/hutch

2 – two-drawer lateral files

1 – Rolling file, two-drawer

2 – Guest chairs

OFFICE #2

None