

809



**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

FROM: Economic Development Agency

SUBMITTAL DATE:
May 3, 2012

SUBJECT: Hemet-Ryan Airport – Lease Termination and Settlement Agreement

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Lease Termination and Settlement Agreement between the County of Riverside, as Lessor, and Finch Aerospace Corporation, as Lessee of the Lease dated April 1, 2011;
2. Authorize the Chairman of the Board of Supervisors to execute the Lease Termination and Settlement Agreement; and
3. Authorize the Assistant County Executive Officer/EDA or designee to execute any additional documents necessary to complete the termination of the Lease subject to review and approval as to form by County Counsel.

BACKGROUND: (Commences on Page 2)

Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/12

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY:

County Executive Office Signature Jennifer L. Sargent

FORM APPROVED COUNTY COUNSEL
 BY: SANTA C. WILLES
 DATE: 4-26-12
 Departmental Concurrence

Dept't Recomm.: Consent Policy
 Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.: **District:** 3/3 **Agenda Number:** 3.9

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

BACKGROUND:

On April 28, 2011, Finch Aerospace Corporation entered into a ground agreement with the County of Riverside. The 2.61 acre site located on the Hemet-Ryan Airport was intended to be developed as aviation fixed base operation. Due to recent financial hardships, Finch Aerospace can no longer proceed with the development plans. The County of Riverside agrees to release Lessee of its leasehold obligations and in return, Finch Aerospace has agreed to immediately relinquish its rights to the 2.61 acre site and pay to the County of Riverside \$10,000. County Counsel has reviewed and approved the attached documents as to legal form.

LEASE TERMINATION AND SETTLEMENT AGREEMENT

This Lease Termination and Settlement Agreement ("Agreement") is entered into between the COUNTY OF RIVERSIDE, a political subdivision of the State of California (hereinafter "County") and FINCH AEROSPACE CORPORATION (hereinafter "FINCH AEROSPACE"). The County and Finch Aerospace are sometimes referred to collectively hereinafter as the "Parties."

1. INTRODUCTION

A leasehold agreement was signed and brought into full effect in April of 2011 by the Parties to lease and develop a 2.61 acre parcel located at the Hemet-Ryan Airport ("Lease"). On December 3, 2011 Finch Aerospace notified the County that due to financial hardships it could no longer proceed with the development of its leasehold estate and could no longer afford to continue the associated monthly rent. After negotiations in good faith, it is the desire of the Parties to nullify the terms of the Lease by resolving their differences through settlement rather than through litigation, including any allegations of claims and liabilities raised in connection with this matter, or which could have been raised in a legal action, or which arise from or relate to a legal action, and to avoid incurring costs and expenses arising out of any legal action. In addition, except as to the obligations as may be created by this Agreement, it is the desire of the Parties to settle any and all claims, disputes and/or liabilities whether known or unknown which the Parties have or may have against each other which relate to, or in any way could be connected with, the subject matter of a legal action. The Parties enter into this Agreement to fully settle and discharge all disputed civil claims and Claims related to the Lease termination upon the terms and conditions set forth herein.

2. NO ADMISSION OF LIABILITY

It is expressly understood, acknowledged and agreed by the Parties, that by reason of entering into this Agreement, the Parties do not admit, expressly or implicitly, any fact or liability of any type or nature, whether or not referred to herein, or the sufficiency of any claims, allegations, assertions, or positions taken or made, or those that could have been raised by any party with respect to this action. Further, the Parties have not made any such admissions and this Agreement is entered into solely by way of compromise and settlement.

3. SETTLEMENT TERMS

Finch Aerospace agrees to pay County ten thousand dollars (\$10,000.00) in full settlement of the claims set forth herein. Finch Aerospace has surrendered and vacated its leasehold estate and any claims to the property related to the Lease as of January 1, 2012.

All terms, conditions and obligations of the Parties as set forth in the Lease, a copy of which is attached hereto and incorporated herein as Exhibit A, shall cease, and the Lease shall terminate effective January 1, 2012.

4. RELEASE

In consideration of the settlement terms referred to herein, the Parties do hereby fully and forever completely release, acquit and discharge the other Party, together with any and all past and present employees, agents (whether ostensible or actual), officers, successors, departments, or representatives, (collectively "Releasees") from any and all civil claims, demands, damages, wages, loss of future employment capacity, costs, attorneys' fees, rights or causes of Action, whether known or unknown, present or future, which Parties may have against the Releasees, or any of them, that arise from, or are directly or indirectly related to, or are connected with any of the facts or circumstances arising out of, or are in any way connected with the Lease or termination thereof.

5. NO PRIOR ASSIGNMENT OR TRANSFER

Each Party to this Agreement represents and warrants that there has been no assignment or other transfer of any claims or causes of Action which they are releasing pursuant to the terms of this Agreement.

6. INDEMNIFICATION

The Parties and its attorneys hereby agree to release any and all claims and demands, rights and causes of action of any kind that may now have arisen or hereafter may arise as a result of the above incident, and further agree to hold the other Party harmless, and to indemnify it for and against any claim, lien or debt which has or may arise from the incident described herein.

7. MISCELLANEOUS PROVISIONS

A. Entire Agreement:

This Agreement constitutes the full and entire Agreement of the civil claims between the Parties hereto and such Parties acknowledge that there is no other civil claim Agreement, oral and/or written, between the Parties hereto.

B. Authority to Enter Agreement:

This Agreement is the result of arms-length negotiations. Each Party to this Agreement represents and warrants to the others that the persons executing this Agreement on behalf of such Party are duly and fully authorized to do so, and that

each such Party is acting pursuant to the power and authority granted by their respective principals, and that no further approvals are required to be obtained from any persons or entities.

C. Final Agreement:

The Parties to this Agreement, and each of them, acknowledge that this Agreement and its reduction to final form is the result of extensive good faith negotiations between the Parties.

D. Binding Agreement:

This Agreement is and shall be binding upon and shall inure to the benefit of the predecessors, affiliates, subsidiaries, successors, assigns, parties, agents, officers, employees, shareholders, associates, legal representatives, heirs, executives and/or administrators of each of the Parties hereto.

E. Interpretative Law:

This Agreement is made and entered into in the State of California and shall in all respects be interpreted, enforced and governed by and under the laws of the State of California. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable for whatever reason, the remaining provisions not so declared shall nonetheless continue in full force and effect without being impaired in any manner whatsoever.

F. Paragraph Headings:

Paragraph headings are for reference only and shall not affect the interpretation of any paragraph hereto.

G. No Inducement:

Each of the Parties to this Agreement acknowledges for itself that it has read this Agreement and fully understands its contents and consequences, and has voluntarily executed it. Each of the parties also warrants that no promise or inducement has been made or offered by any of the Parties, except as set forth herein, and that this Agreement is not executed in reliance upon any statement or representation of any of the Parties or their representatives, concerning the nature and extent of the injuries, damages or legal liabilities thereof.

H. Attorneys' Fees, Costs, and Future Claim:

Finch Aerospace and the County shall each bear their own costs and attorneys' fees in connection with this Agreement.

I. Modifications:

This Agreement may be amended or modified only by a writing signed by all Parties to this Agreement.

J. Counterparts

This Agreement may be executed in counter-parts with the same effect as if all original signatures were placed on one document and all of which together shall be one and the same Agreement.

K. Additional Documents:

All Parties agree to cooperate fully to take any and all steps, perform any acts, and execute any documents consistent with the terms and conditions of this Agreement, which may be needed or required to effectuate the terms, intent, conditions, covenants, and provisions hereof.

L. Venue:

Venue for enforcement of this Agreement shall be in the Superior Court of the State of California, County of Riverside, Riverside Branch.

WE HEREBY CERTIFY THAT WE HAVE READ ALL OF THIS SETTLEMENT, RELEASE AND WAIVER AGREEMENT AND FULLY UNDERSTAND THE SAME, AND IN WITNESS WHEREOF WE HAVE EXECUTED THIS AGREEMENT IN CALIFORNIA, SIGNED, SEALED AND DELIVERED.

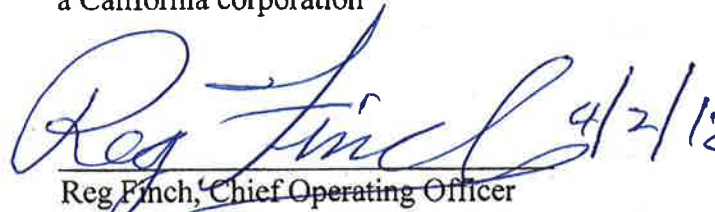
COUNTY OF RIVERSIDE
A political subdivision of the
State of California

John Tavaglione, Chairman
Board of Supervisors

ATTEST:
KECIA HARPER-IHEM
Clerk of the Board

By: Deputy

FINCH AEROSPACE CORPORATION
a California corporation

 4/2/12
Reg Finch, Chief Operating Officer

 4/2/2012
Theresa Finch, Secretary

FORM APPROVED:
PAMELA J. WALLS
County Counsel


By: Anita C. Willis, Deputy