

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

475



**FROM:** Economic Development Agency

**SUBMITTAL DATE:**  
October 25, 2012

**SUBJECT:** Jacqueline Cochran Regional 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 Knickerbocker Aviation, LLC, a California Limited Liability Company, as Lessee, of the original lease dated May 23, 2006, between the County of Riverside and CK Development Group, Ltd., as Lessee, and later assigned to Knickerbocker Aviation, in June, 2008;
2. Authorize the Chairman of the Board of Supervisors to execute the Lease Termination and Settlement Agreement; and

(continued)

*[Signature]*

Robert Field  
Assistant County Executive Officer/EDA

<b>FINANCIAL DATA</b>	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:	2012/13

**COMPANION ITEM ON BOARD 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

*[Signature]*  
BY: Jennifer L. Sargent

**County Executive Office Signature**

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Ashley, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley  
 Nays: None  
 Absent: None  
 Date: November 6, 2012  
 xc: EDA

Kecia Harper-Ihem  
Clerk of the Board  
By: *[Signature]*  
Deputy

**Prev. Agn. Ref.:** 3.10 of 5/23/06; 3.20 of 6/3/08

**District:** 4/4

**Agenda Number:**

**3.31**

ATTACHMENTS FILED  
WITH THE CLERK OF THE BOARD

FORM APPROVED COUNTY COUNSEL  
 BY: ANNIET SAHAR  
 DATE: 10/24/12  
 Departmental Concurrence  
 Policy  Policy   
 Consent  Consent   
 Dept't Recomm.: Per Exec. Ofc.:

**RECOMMENDED MOTION:** (Continued)

3. Authorize the Assistant County Executive Office/EDA, or designee, to execute any additional documents necessary to complete the Lease Termination and Settlement Agreement.

**BACKGROUND:**

In May of 2006, the County of Riverside entered into a long-term Ground Lease (Lease) for a fixed base operation with CK Development Group, Ltd., for fifteen acres of land at Jacqueline Cochran Regional Airport. The Lease was assigned to Knickerbocker Aviation, LLC, (Knickerbocker) on or about June 3, 2008. On December 2, 2011, Charlie Knickerbocker, president of Knickerbocker, notified the County that due to financial hardships, Knickerbocker 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 County and Knickerbocker to terminate and cancel the Lease and resolve the remaining terms and conditions of the Lease through settlement rather than through litigation. In the settlement terms of the Lease Termination and Settlement Agreement (Agreement), attached hereto, Knickerbocker Aviation agrees to pay the County Ten Thousand Dollars (\$10,000), forthwith, in full settlement of the claim set forth within the Agreement. Knickerbocker Aviation surrendered and vacated its leasehold estate as of January 1, 2012.

County Counsel has reviewed and approved the attached Agreement as to legal form.

Attachments:

Lease Termination and Settlement Agreement

## 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 Knickerbocker Aviation, LLC, a California limited liability corporation (hereinafter "Knickerbocker"). The County and Knickerbocker are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

### 1. INTRODUCTION

On May 23, 2006, CK Development Group, LTD entered into a lease ("Original Lease") covering an approximately fifteen (15) acre parcel (the "Property") located at the Jacqueline Cochran Regional Airport, for a period of thirty (30) years with one (1) extension term of ten (10) years. In June of 2008, an assignment was granted by County conveying the leasehold interest to Knickerbocker. The Original Lease and the assignment are hereinafter collectively referred to as the "Lease." Due to, among other things, the recent economic recession, Knickerbocker has notified the County that Knickerbocker is unable to continue making payments, including rent, and satisfying other obligations under the Lease nor is Knickerbocker able to make future payments or satisfy other obligations that will become due under the Lease. After negotiations in good faith, it is the desire of the Parties to resolve the obligations due under the terms of the Lease through settlement rather than through litigation, including any allegations or claims and liabilities raised in connection with the Lease and any subsequent amendments, or which could have been raised in a legal action, or which could arise from or relate to a legal action, except for those claims as more fully described in paragraph 4 herein, and to avoid incurring costs and expenses arising out of any legal action. In addition, except as to the obligations created by this Agreement, it is the desire of the Parties to settle any and all claims, disputes and/or liabilities which the Parties have or may have against each other which relate to, or in any way could be connected with, the obligations due under the terms of the Lease. Therefore, based on the foregoing, and in consideration of the mutual promises contained herein, the Parties both desire to terminate and cancel the Lease, and the Parties have agreed that all rights and obligations of the Parties under the Lease shall be of no further force or effect as of October 31, 2012.

### 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 the Lease. 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

In order to alleviate County's costs to process this Agreement and to hereby terminate and cancel the Lease, Knickerbocker agrees to pay the County ten thousand dollars (\$10,000.00), concurrent with the execution of this Agreement. Knickerbocker agrees to surrender its interest in and any claims to the Property as of October 31, 2012 and, in that connection, to execute any documents

reasonably requested by the County to surrender Knickerbocker's interest in and relinquish all rights to the Property. Knickerbocker further agrees that it will vacate the Property and surrender possession to the County as of the effective date hereof. Based on the terms stated herein County agrees to accept the surrender and to take possession of the Property. The Property shall be delivered to the County in the same condition as it was at the commencement of the Lease, reasonable wear and tear excepted. Knickerbocker also agrees that all of Knickerbocker's personal property shall be removed from the Property by October 31, 2012.

#### **4. RELEASE**

In consideration of the settlement terms referred to herein, each Party does hereby fully and forever completely release, acquit and discharge the other Party, together with the other Party's past and present employees, Boards, Districts, Special Districts, agents (whether ostensible or actual), officers, directors, shareholders, successors, assigns, departments, and representatives (collectively "Releasees") from any and all claims, demands, actions, liabilities, damages, wages, costs, attorneys' fees, rights or causes of action, whether known or unknown, present or future, which either Party may have against the other or that may arise in the future from, or are directly or indirectly related to, or are connected in any way with the Lease of the Property, except that County shall not waive any claims for indemnification, contribution or apportionment of claims or liability brought against the County by any third party resulting from Knickerbocker's possession and use of the Property and/or any damages resulting from any latent or hidden defects or hazardous materials contamination caused by Knickerbocker or any claims or liability resulting from Knickerbocker's possession and use of the property.

#### **5. NO PRIOR ASSIGNMENT OR TRANSFER**

Each Party represents and warrants that there has been no assignment, except for the approved assignment stated in Section 1, *supra*, or other transfer of any claims or causes of action which it is 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 claims between the Parties hereto and such Parties acknowledge that there is no other claim or 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 other 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. Knickerbocker further represents and warrants that there are no outstanding liens or obligations against the Property and that Knickerbocker will defend, indemnify and hold harmless the County against any claims by any third party against the County for any outstanding liens or obligations, should they exist.

**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. *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.

**I. *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.

**J. *Venue:***

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

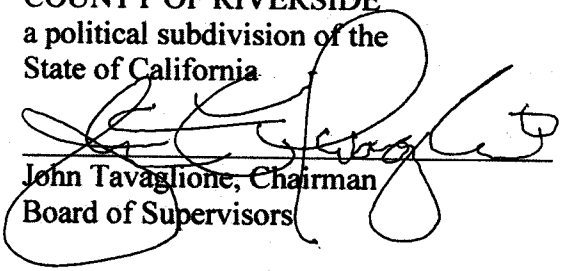
**K. *Facsimile Signatures:***

Signatures delivered by facsimile shall be as binding as originals upon the Parties so signing and delivering.

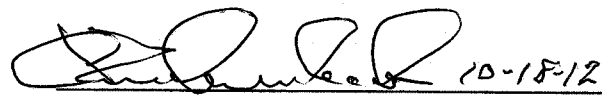
(signatures continue on next page)


**WE HEREBY CERTIFY THAT WE HAVE READ THIS LEASE TERMINATION AND SETTLEMENT AGREEMENT AND FULLY UNDERSTAND THE SAME, AND IN WITNESS WHEREOF WE HAVE EXECUTED AND DELIVERED THIS AGREEMENT.**

COUNTY OF RIVERSIDE  
a political subdivision of the  
State of California

  
John Tavaglione, Chairman  
Board of Supervisors

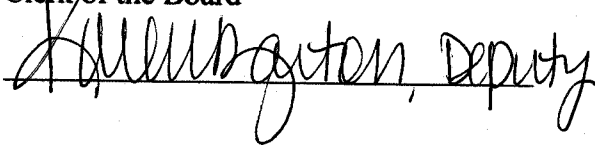
KNICKERBOCKER AVIATION, LLC  
a California limited liability company

 10-18-12  
Charlie Knickerbocker, President

 10-18-12  
James J. Knickerbocker, Secretary

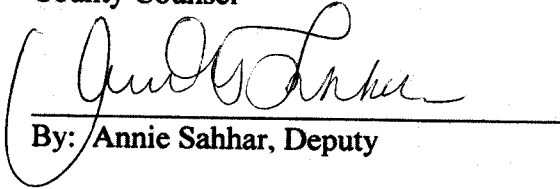
ATTEST:

KECIA HARPER-IHEM  
Clerk of the Board

  
Kellie Boyton, Deputy

FORM APPROVED:

PAMELA J. WALLS  
County Counsel

  
By: Annie Sahhar, Deputy