

Introduced by Presiding Officer, on request of the County Executive

RESOLUTION NO. 562 -2009, AUTHORIZING THE LEASE TERMS ASSOCIATED WITH THE FEDERAL AVIATION ADMINISTRATION OPERATIONS ON COUNTY LAND LOCATED IN THE TOWN OF BABYLON

WHEREAS, the County of Suffolk is the owner of certain real property in fee simple absolute known as Tax Map Number 0100-194.00-03.00-011.000 and being further described as 308 Cedar Court, Copiague; Lots 17, 18, 19 and 20 Section D, Block 13, Filed Map 1143, Hawkins Estates, Town of Babylon; and

WHEREAS, since 1968, this 80' x 100' parcel has been occupied by the United States of America through leases with the Department of Transportation – Federal Aviation Administration’s Air Traffic Control System; and

WHEREAS, the Federal Aviation Administration has requested to extend the lease for the aforementioned parcel for 10 years, from October 1, 2008 through September 30, 2018 for continued use as a location for a navigational vector; and

WHEREAS, the operation of this facility benefits the County of Suffolk and its citizens, the lease shall be on a rent-free basis; and

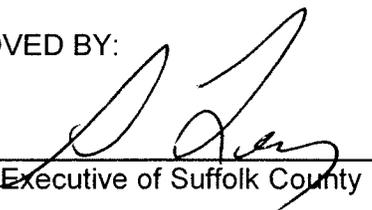
WHEREAS, the Space Management Steering Committee recommended the approval of this lease on April 30, 2009; now, therefore be it

1st RESOLVED, that this Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.59(c)(20) and (27) of Title 6 of the New York Code of Rules and Regulations (6 NYCRR) and within the meaning of Section 8-109 of the New York Environmental Conservation Law as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. Furthermore, in accordance with Section 1-4(A)(1)(d) of the Suffolk County Charter and Section 279-5(C)(4) of the Suffolk County Code, the Suffolk County Council on Environmental Quality is directed to prepare and circulate all appropriate notices of determination of non-applicability or non-significance in accordance with this law; and be it further

2nd RESOLVED, that the County Executive be and hereby is authorized to execute a ten (10) year Lease in accordance with the terms and conditions of this resolution and in substantial conformance with the form annexed.

DATED: June 23, 2009

APPROVED BY:


County Executive of Suffolk County

Date: 7-6-09

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
EASTERN REGION, FITZGERALD FEDERAL BUILDING
JOHN F. KENNEDY INTERNATIONAL AIRPORT
JAMAICA, NEW YORK 11430

Supplement No. 1
Lease No. DTFA05-89-L-61357
"H"
Babylon, New York

SUPPLEMENTAL AGREEMENT NO. 1, made and entered into as the 17th day of February, ~~2008~~ between COUNTY OF SUFFOLK, NEW YORK, hereinafter referred to as the Lessor, and the UNITED STATES OF AMERICA, hereinafter referred to as the Government.

WITNESSETH

WHEREAS, by Lease No. DTFA05-89-L-61357, dated December 20, 1988, the Government was authorized to operate and maintain a "H" facility in Babylon, New York; and,

WHEREAS, it is mutually agreed to extend the term of said Agreement for an additional ten- (10) year term commencing October 1, 1998 and ending September 30, 2008, and,

WHEREAS, The Lessor agreed to permit the Government to make this change; and

WHEREAS, it is found to be in the public interest to enter into this Supplemental Agreement;

NOW, THEREFORE, the parties hereto do hereby amend said lease in the following respects and in these only:

1. That, effective October 1, 1998 until September 30, 2008 said Agreement is amended for an additional ten- (10) year term.

2. All other terms and conditions of Lease No. DTFA05-89-L-61357 are hereby ratified and except as amended hereinabove, shall be and remains the same.

IN WITNESS WHEREOF, the parties hereto do hereby subscribe their names as of the date first above written.

COUNTY OF SUFFOLK,
NEW YORK

UNITED STATES OF AMERICA
Federal Aviation Administration

BY: [Signature]
(Signature)

BY: [Signature]

TITLE: Director of Real Estate

TITLE: Contracting Officer

DATE: 2/14/2001

DATE: 15 June 2000

APPROVED:

BY: _____
(Signature)

TITLE: _____

DATE: _____

APPROVED AS TO FORM
NOT REVIEWED AS TO EXECUTION:

ROBERT J. CIMINO
Suffolk County Attorney

[Signature] 12/23/99
ROBERTSON HATCH
Assistant County Attorney

10786 PG 16

WB



U.S. Department of Transportation
Federal Aviation Administration

Return to

J.F. Kennedy International Airport
Fitzgerald Federal Building #111
Jamaica, New York 11430

Lease No. TFA 88-89-L-1
BABYLON, NY H

LEASE

between

COUNTY OF SUFFOLK, NEW YORK EIN:

and

The UNITED STATES OF AMERICA

This LEASE, made and entered into this 20th day of February 1988 in the year one thousand nine hundred and eighty-eight by and between County of Suffolk, New York

whose address is County Center - (330 Center Drive) Riverhead, NY 11901

for itself and its ~~heirs, executors, administrators, successors, and assigns,~~ hereinafter called the Lessor and the United States of America, hereinafter called the Government etc.

WITNESSETH: The parties hereto for the consideration hereinafter mentioned do covenant and agree as follows:

1. For the term beginning October 1, 1988 and ending September 30, 1989 the Lessor hereby leases to the Government the following described property, hereinafter called the premises, viz:

A tract of land, 80' x 100', designated as Lots 17, 13, 19 and 20, Section D, Block 13, File Map 1143, Hawkins Estates, Copisague, Town of Babylon, County of Suffolk, State of New York.

a. Together with a right-of-way for ingress to and egress from the premises; a right-of-way or rights-of-way for establishing and maintaining a pole line or pole lines for extending electric power, and telecommunications facilities to the premises; and right-of-way for subsurface power, communication and water line to the premises; all rights-of-way to be over the said lands and adjoining lands of the lessor, and unless herein described by meter and bounded to be the most reasonable determined to be the most convenient to the Government.

b. And the right of grading, conditioning, and installing drainage facilities, and securing the soil of the premises, and the removal of all obstructions from the premises which may constitute a hindrance to the establishment and maintenance of air navigation and telecommunications facilities.

c. And the right to make alterations, attach fixtures, and erect additions, structures, or signs, in or upon the premises hereby leased, which alterations, fixtures, additions, structures or signs so placed in or upon, or attached to the said premises shall be and remain the property of the Government, and may be removed upon the date of expiration or termination of this lease, or within ninety (90) days thereafter, by or on behalf of the Government, or its grantees or purchasers of said alterations, fixtures, additions, structures, or signs.

2. This lease may, at the option of the Government, be renewed from year to year and otherwise upon the terms and conditions herein specified. The Government's option shall be deemed exercised and the lease renewed each year for one (1) year unless the Government gives the Lessor thirty (30) days written notice that it will not exercise its option before this lease or any renewal thereof expires; PROVIDED that no renewal shall extend this lease beyond the 30 day of September 19 98; AND PROVIDED FURTHER, that adequate appropriation is available from any source to pay the payment of rentals.

~~3. The Government shall pay the Lessor rental for the premises in the amount of _____~~

for the term set forth in Article I above, and

~~_____ per _____ for each annual renewal exercised by the Government hereafter. Payments shall be made in arrears at the end of each _____ without the submission of invoices or vouchers.~~

4. The Government may terminate this lease, in whole or in part, at any time by giving at least thirty (30) days notice in writing to the Lessor, and no rental shall accrue after the effective date of termination. Said notice shall be sent by certified or registered mail.

5. The Government shall surrender possession of the premises upon the date of expiration or termination of this lease. If the Lessor by written notice at least fifteen (15) days before the date of expiration or termination requests restoration of the premises, the Government at its option shall within ninety (90) days after such expiration or termination, or within such additional time as may be mutually agreed upon, either (1) restore the premises to as good condition as that existing at the time of the Government's initial entry upon the premises under this lease or any preceding lease (other than the premises in accordance with paragraph 1.(a), 1.(b) and 1.(c) above, ordinary wear and tear, damage by natural elements, and by circumstances over which the Government has no control, excepted) or (2) make an equitable adjustment in the lease amount for the cost of such restoration of the premises or the diminution of the value of the premises if any, whichever is less. Should a mutually acceptable settlement be made hereunder, the parties shall enter into a supplementary agreement hereto effecting such agreement. Failure to agree to any such equitable adjustment shall be a dispute concerning a question of fact within the meaning of Clause 6 of this lease.

6. (a) This lease is subject to the Contract Disputes Act of 1978 (Public Law 95-563).

(b) Except as provided in the Act, all disputes arising under or relating to this lease shall be resolved in accordance with this clause.

(c) (i) As used herein, "claim" means a written demand or assertion by one of the parties seeking, as a matter of right, the payment of money, adjustment or interpretation of lease terms, or other relief, arising under or relating to this lease.

(ii) A voucher, invoice, or request for payment that is not in dispute when submitted shall not be a claim for the purposes of the Act. However, where such submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, it may be converted to a claim pursuant to the Act.

(iii) A claim by the Lessor shall be made in writing and submitted to the Contracting Officer for decision. A claim by the Government against the Lessor shall be subject to a decision by the Contracting Officer.

(d) For Lessor claims of more than \$50,000, the Lessor shall submit with the claim a certification that the claim is made in good faith; the supporting data are accurate and complete to the best of the Lessor's knowledge and belief; and the amount requested accurately reflects the lease adjustment for which the Lessor believes the Government is liable. The certification shall be executed by the Lessor if an individual. When the Lessor is not an individual, the certification shall be executed by a senior company official in charge at the Lessor plant or location involved, or by an officer or general partner of the Lessor having overall responsibility for the conduct of the Lessor's affairs.

(e) For Lessor claims of \$50,000 or less, the Contracting Officer must render a decision within 60 days. For Lessor claims in excess of \$50,000, the Contracting Officer must decide the claim within 90 days or notify the Lessor of the date when the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Lessor appeals or files a suit as provided in the Act.

(g) The authority of the Contracting Officer under the Act does not extend to claims or disputes which by statute or regulation other agencies of the Executive Branch of the Federal Government are expressly authorized to decide.

(h) Interest on the amount found due on a Lessor claim shall be paid from the date the claim is received by the Contracting Officer until the date of payment. Interest on the amount found due on a Government claim shall be paid from the date the claim is received by the Lessor until the date of payment. Interest shall be computed at ten percent (10%) per annum on the basis of a 365 or 366 day year, whichever applies.

(i) Except as the parties may otherwise agree, pending final resolution of a claim by the Lessor arising under this lease, the Lessor shall proceed diligently with the performance of the lease and its terms in accordance with the Contracting Officer's decision.

7. No Member of Congress or Resident Commissioner shall be admitted to any share or part of this lease, or to any benefit to arise therefrom.

8. The Lessor warrants that no person or selling agency has been employed or retained to solicit or secure this lease upon an agreement or understanding for a commission, brokerage, percentage or contingent fee except to a sole employee or bona fide established commercial or selling agencies maintained by the Lessor for the purpose of selling business. For breach or violation of this warranty, the Government shall have the right to annul this lease without liability, or in its discretion to deduct from amounts otherwise due under this lease or other consideration, the full amount of such commission, brokerage, percentage, or contingent fee.

9. All notices sent to the parties under the lease shall be addressed as follows:

To the Lessor: As shown on Page 1.

To the Government: As shown on Page 1; Attn: AEI-56

10. This lease is subject to the additional provisions set forth below, or attached hereto, or incorporated herein. These additional provisions are identified as follows:

A. The following alterations were made to this lease prior to execution:

1. The deletion of the words "heirs, executors, administrators" on Page 1.
2. The deletion of certain words in paragraph 2.
3. The deletion of paragraph 3 in its entirety.
4. The deletion of the wording "in lease the amount" in paragraph 4.

B. The lessor hereby warrants that it has acquired and possesses an adequate real estate right in the property described herein and that it is authorized to grant to The United States of America, the rights and interests set forth herein.

C. The premises described herein are leased to the Government on a non-free basis in consideration of the benefit to the County of Suffolk by operation of the "H" facility.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written

COUNTY OF SUFFOLK

As the holder of a mortgage, dated _____

recorded in volume _____

pages _____

against the above-described premises, the undersigned hereby consents to the foregoing lease and agrees that, if while the lease is in force the mortgage is foreclosed, the foreclosure shall not void the lease.

None

(Mortgagee)

APPROVED AS TO FORM
NOT REVIEWED AS TO EXECUTION:

E. THOMAS BOYLE
County Attorney

LS-1-3

Robertson Hatch
By: ROBERTSON HATCH 8/16/80
Assistant County Attorney

Robert A. Kurtter

BY: ROBERT A. KURTTER

TITLE: Deputy County Executive

APPROVED:

DEPARTMENT OF REAL ESTATE

Robert E. Sgroi

BY: ROBERT E. SGROI

Deputy Commissioner of Real Estate
THE UNITED STATES OF AMERICA

By *Walter Bramkamp*

Title: Walter Bramkamp
Contracting Officer

10786 PG130

If agreement is made with a State, County, Municipality or other public authority, the following certificate shall be executed by an authorized official:

I, EDWARD R. HINES certify that I
am the Chief Deputy County Clerk of the
County of Suffolk

(State, County, Municipality, or other Public Authority)

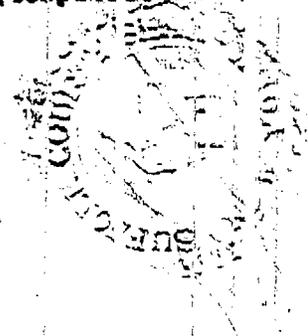
named in the foregoing agreement; that ROBERT A. KURTNER
who signed said agreement on behalf of said COUNTY OF SUFFOLK

was then a Deputy County Executive of said
County

that said agreement was duly signed for and in behalf of said County

by authority of its governing body, and is within the scope of its power, REVOLUTION 1039-1989

Edward R. Hines
(Signature) (Corporate Seal)



APPROVED AS TO FORM
NOT REVIEWED AS TO EXECUTION:

E. THOMAS BOYLE
County Attorney

Robertson Hatch
By: ROBERTSON HATCH 8/16/88
Assistant County Attorney

WHEREAS, the Department of Real Estate has received and deposited the sum of \$1,050.00, pursuant to said purchase offer; and

WHEREAS, the Department of Real Estate requests authority pursuant to said Local Law 13-1976 of the County of Suffolk to deed the County's interest to said APPLICANTS, subject to all covenants, easements and restrictions of record, if any; now, therefore, be it

RESOLVED, that the Commissioner or the Deputy Commissioner of the Department of Real Estate be and he hereby is authorized to execute, seal, and acknowledge a Bargain and Sale Deed to transfer the interest of SUFFOLK COUNTY in the above described property and on the above described terms to said EXXON CORPORATION, 1200 Smith Street, Houston, Texas 77002.

DATED: October 25, 1988

APPROVED BY:

/s/ Patrick G. Halpin
County Executive of Suffolk County

Date of Approval: November 1, 1988

1039-88

Mr. Blass offered the following resolution, seconded by Mr. Foley and duly adopted with the following recorded vote: 17 Legislators in favor; 0 opposed; 1 absent, Mr. D'Andre.

Intro. Res. No. 1990-88

Introduced by the Presiding Officer at the request of the County Executive

RESOLUTION NO. 1039 - 1988, TO LEASE CERTAIN
REAL PROPERTY TO THE UNITED STATES OF AMERICA
OCTOBER 1, 1988 - SEPTEMBER 30, 1989 WITH ONE
YEAR RENEWAL OPTIONS (0100-194.00-03.00-
011.000)

WHEREAS, the COUNTY OF SUFFOLK is the owner of certain real property in fee simple absolute known as Tax Map Number 0100-194.00-03.00-011.000 and being further described as 308 Cedar Court, Copiague, Suffolk County, New York; Lots 17, 18, 19 and 20, Section D, Block 13, Filed Map 1143, Hawkins Estates, Town of Babylon; and

WHEREAS, this parcel has been occupied by the United States of America through mesne leases for use by the Department of Transportation - Federal Aviation Administration (Air Traffic Control System); and

WHEREAS, the United States of America requests a one year renewal lease beginning October 1, 1988 and terminating September 30, 1989 with additional one year renewals with the entire lease terminating September 30, 1998; and

WHEREAS, the operation of this facility will benefit the County of Suffolk and its' citizens the lease shall be on a rent free basis; now, therefore, be it

RESOLVED, that the subject premises be leased to the United States of America, having an office at: J.F. Kennedy International Building #111, Jamaica, New York 11430, on the above stated terms, conditions, and consideration.

DATED: October 25, 1988

APPROVED BY:

/s/ Patrick G. Halpin
County Executive of Suffolk County

Date of Approval: November 1, 1988

Mr. Romaine offered the following resolution, seconded by Mrs. Caracappa and duly adopted with the following recorded vote: 18 Legislators in favor; 0 opposed.

Intro. Res. No. 1991-88

Introduced by the Presiding Officer at the request of the County Executive

RESOLUTION NO. 1040 - 1988, AUTHORIZING THE COMMISSIONER OF REAL ESTATE TO ISSUE A CERTIFICATE OF ABANDONMENT OF THE INTEREST OF THE COUNTY OF SUFFOLK IN PROPERTY DESIGNATED AS TOWN OF BROOKHAVEN ITEM NO. 630130 PURSUANT TO S40-D OF THE SUFFOLK COUNTY TAX ACT

WHEREAS, a parcel of property lying, situate, and being in the Town of Brookhaven designated as Item No. 63-01310, formerly assessed to Fidelis Realty Co., Inc.; and

WHEREAS, the County of Suffolk acquired said property designated as Item No. 63-01310 by tax deed dated March 23, 1981 and recorded in the County Clerk's Office in Liber 8977 at page 422 for unpaid 1976/1977 taxes; and

WHEREAS, it has been determined by the Brookhaven Town Assessor's Office, the Suffolk County Department of Real Estate, and the County Treasurer's Office that the property designated as Item No. 63-01310 was being double assessed with properties designated as Item Nos. 63-01230, 63-01250, and 63-01271; now, therefore, be it

RESOLVED, that pursuant to Section 40-C of the Suffolk County Tax Act, the tax deed to Suffolk County be cancelled and pursuant to Section 40-D of the Suffolk County Tax Act, the Commissioner of Real Estate be authorized to file a

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY



This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on June 23, 2009 and that the same is a true and correct transcript of said resolution and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.

A handwritten signature in cursive script that reads "Tim Laube".

Clerk of the Legislature

Intro. Res. 1513 Res. No. 562

June 23, 2009

Motion:

Romaine, Schneiderman, Browning, Beedenbender, Losquadro
 Eddington, Montano, Alden, Lindsay, Viloría-Fisher, Barraga,
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Co-Sponsors:

Romaine, Schneiderman, Browning, Beedenbender, Losquadro
 Eddington, Montano, Alden, Lindsay, Viloría-Fisher, Barraga,
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Second:

Romaine, Schneiderman, Browning, Beedenbender, Losquadro
 Eddington, Montano, Alden, Lindsay, Viloría-Fisher, Barraga,
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE					
2	Jay H. SCHNEIDERMAN					
3	Kate M. BROWNING					
4	Brian BEEDENBENDER					
6	Daniel P. LOSQUADRO					
7	Jack EDDINGTON					
9	Ricardo MONTANO					
10	Cameron ALDEN					
11	Thomas F. BARRAGA					
12	John M. KENNEDY, JR.					
13	Lynne C. NOWICK					
14	Wayne R. HORSLEY					
15	DuWayne GREGORY					
16	Steven H. STERN				/	
17	Lou D'AMARO					
18	Jon COOPER					
5	Vivian VILORIA-FISHER, D.P.O.					
8	William J. LINDSAY, P.O.	✓				
Totals		17	-	1	-	

MOTION	
<input checked="" type="checkbox"/>	Approve
Table: _____	
_____	Send To Committee
_____	Table Subject To Call
_____	Lay On The Table
_____	Discharge
_____	Take Out of Order
_____	Reconsider
_____	Waive Rule _____
_____	Override Veto
_____	Close
_____	Recess
APPROVED <input checked="" type="checkbox"/>	FAILED _____
No Motion _____	No Second _____

RESOLUTION DECLARED
<input checked="" type="checkbox"/> ADOPTED
_____ NOT ADOPTED

Tim Laube
 Tim Laube, Clerk of the Legislature

Roll Call _____ Voice Vote