

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:

City and County of San Francisco
Real Estate Department
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

GRANT OF AVIGATION EASEMENT

This Grant of Avigation Easement is executed and delivered as of this _____ day of _____, 20____, by _____ (GRANTOR)

and the City and County of San Francisco, a political subdivision of the State of California (CITY or GRANTEE), with reference to the following facts:

Recitals

A. GRANTOR is the owner of that certain property ("Real Property"), legally described in Exhibit "A," attached hereto and incorporated herein by reference, the street address of which is _____, California.

B. CITY is the owner and operator of the San Francisco International Airport ("SFO").

C. GRANTOR has been offered the opportunity to participate in a publicly funded program ("Noise Insulation Program") which will cause changes to be made to GRANTOR's Real Property which may result in the reduction of aircraft noise currently being imposed on the interior of the structure or structures located on Real Property. The funding source for said Noise Insulation Program will include funding from the CITY, acting in its proprietary capacity as the owner and operator of the San Francisco International Airport ("SFO"), and may include funding from the Unites States Government pursuant to 14 Code of Federal Regulations Part 150.

D. CITY requires as a condition precedent to GRANTOR's participation in said Noise Insulation Program the grant by GRANTOR of a permanent non-exclusive easement, rights and servitudes (the "Avigation Easement") in favor of CITY. The Avigation Easement will be recorded by CITY in the chain of title in the County of San Mateo Recorder's Office.

Grant of Avigation Easement

1. Grant. GRANTOR, individually and for the heirs, successors and assigns of GRANTOR, hereby grants, conveys and assigns to CITY and its successors, a perpetual and assignable Avigation Easement in and over the Real Property for the purposes described herein below.

1.1 Passage of Aircraft. The Avigation Easement shall include for the use and benefit of the public, the easement and continuing right to fly, or cause or permit the flight by any and all persons, of any aircraft, of any and all kinds now or hereafter known, in, through, across or about any portion of the airspace above and within the vicinity of the Real Property, with such rights of use and passage by aircraft without restriction as to frequency, type of aircraft and proximity to the surface of the Real Property, so long as the exercise of such rights is not in violation of then applicable federal laws governing flight operations.

1.2 Noise and Other Incidental Effects. The Avigation Easement shall include the right to cause within, and to enter or penetrate into or transmit through, any improved or unimproved portion of Real Property, and within all airspace above Real Property, such noise, sounds, vibrations, air currents, illumination, electronic interference and aircraft engine exhaust and emissions, dust, discomfort or other environmental effects incident to aircraft operations, and any and all resulting interference with use and enjoyment, and any consequent reduction in market value, all due to the operation of aircraft to and from SFO upon GRANTOR's Real Property.

1.3 Interference with Air Navigation/Communications. In furtherance of this Avigation Easement, GRANTOR covenants that it will not construct, install, permit or allow any building, structure, improvement, tree, or other object on the Real Property to constitute an obstruction to air navigation, or to use or permit the use of Real Property in such a manner as to create electrical or electronic interference with aircraft communications systems, aircraft navigation equipment, or with Federal Aviation Administration, airline, or airport personnel communication with any aircraft.

2. Baseline. The 65 dB Community Noise Equivalent Level (CNEL) noise contour map filed by SFO on the most recent quarterly noise map (hereinafter the "Quarterly Noise Map") filed by SFO with the State of California, Department of Transportation, Division of Aeronautics, in accordance with Section 5025 of Title 21 of the California Code of Regulations, shall be the basis for determining the baseline level for the GRANTOR's Real Property.

3. Waiver of Legal Actions and Exceptions. GRANTOR, together with its successors in interest and assigns, hereby waives its right to legal action against CITY, its successors or assigns, for monetary damages or other redress due to impacts, as described in Section 1.2 of the granted rights of easement, associated with aircraft operations in the air or on the ground at SFO, including future increases in the volume or changes in location of said operations. However, this waiver shall not apply under the circumstances specified below.

3.1 For Property Located Outside the 65 dB CNEL Boundary. The waiver shall not be in effect for property located outside the 65 dB CNEL noise contour boundary as shown on the Quarterly Noise Map, if three (3) of any four (4) quarterly noise report maps, as reported to the State of California, for any calendar year show that the noise level imposed on GRANTOR's Real Property exceeds 68 dB CNEL or higher, and the waiver shall remain not in effect until two (2) consecutive subsequent quarterly noise maps show the level of noise to be at or lower than 68 dB CNEL.

3.2 For Property Located Within the 65 dB CNEL Boundary and Higher. The waiver shall not be in effect for property located within the 65 dB CNEL noise contour boundary and higher, as shown on the Quarterly Noise Map, if three (3) of any four (4) quarterly noise report maps, as reported to the State of California, for any calendar year show that the noise level imposed on GRANTOR's Real Property exceeds the baseline CNEL level as stated in Section 2 by more than 3 dB CNEL (68 dB CNEL and higher), and the waiver shall remain not in effect until two (2) consecutive subsequent quarterly noise maps show the level of noise to have been no more than 3 dB CNEL greater than the baseline.

3.3. Exceptions: Any change in the noise level, as reported on a quarterly noise map for SFO filed with the State of California, Department of Transportation, Division of Aeronautics, in accordance with Section 5025 of Title 21 of the California Code of Regulations, which reflects a change in noise level which results from the temporary increased use of certain runways, due to construction or repair of other runways, or due to any other cause or causes beyond the control of CITY (e.g., weather or wind conditions, but not flight pattern shifts authorized by the Federal Aviation Administration) shall not be used to compute the noise level imposed on GRANTOR's Real Property for the purposes of this Section 3.

4. Negligent or Unlawful Acts Excepted. This grant of Avigation Easement shall not operate to deprive the GRANTOR, its successors or assigns, of any rights which it may from time to time have against any air carrier or private operator for negligent and/or unlawful operation of aircraft to, from, or in or about SFO, nor does this Avigation Easement include or authorize aircraft landing, explosion, crash, falling objects or other occurrences causing direct physical injury to persons or direct physical damage to property.

5. Easement Benefit. The Avigation Easement shall be deemed both appurtenant to and for the direct benefit of that real property which constitutes the San Francisco International Airport, and shall be deemed in gross, being conveyed to CITY for the benefit of the CITY and any and all members of the general public who may use said easement, taking off from, landing upon, or operating such aircraft in or about the said SFO, or otherwise flying through the airspace above or in the vicinity of Real Property.

6. Covenants Run with the Land. These covenants and agreements run with the land (Real Property) in perpetuity and any grantee, heir, agent, successor, assign of the GRANTOR who acquires

any estate or interest in or right to use Real Property shall be bound by this Avigation Easement for the benefit of CITY, and its agents, successors and assigns.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed this ____ day of _____, 20 ____.

GRANTORS

(STATE OF CALIFORNIA)
(COUNTY OF SAN MATEO)

On this ____ day of _____, in the year 20____, before me _____ a

Notary Public in and for said State, personally appeared _____

[] personally known to me OR

[] proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

ATTEST:

WITNESS my hand and official seal

Notary Public in and for said State

This is to certify that the Interest in real property conveyed by this deed dated _____ from the first part _____ to the City and County of San Francisco, a California municipal corporation, is hereby accepted by order of its Board of Supervisors' Resolution No. 18110, Series of 1939, approved August 7, 1957, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____

By: _____
Director of Property

GRANTEE:
CITY AND COUNTY OF
SAN FRANCISCO

By: _____
Mayor

APPROVED AS TO FORM

DENNIS J. HERRERA
City Attorney

By: _____
Deputy City Attorney

Attachment: Exhibit "A" – Legal Description of Real Property

