JESSICA K. LOMAKIN, Bar No. 284640
Jessica.lomakin@bbklaw.com
DUSTIN J. NIRSCHL, Bar No. 326648
dustin.nirschl@bbklaw.com
HENRY ANDRIANO, Bar No. 333970
henry.andriano@bbklaw.com
EVELYN BLANCO, Bar No. 351524
evelyn.blanco@bbklaw.com
BEST BEST & KRIEGER LLP
3390 University Avenue, 5th Floor
P.O. Box 1028
Riverside, California 92502
Telephone: (951) 686-1450
Facsimile: (951) 686-3083

Attorneys for Defendants
CITY OF REDLANDS, ADRIAN LAWSON, TABITHA KEVARI CROCKER and CHRISTOPHER BOATMAN

EXEMPT FROM FILING FEES PURSUANT TO GOVERNMENT CODE SECTION 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

COYOTE AVIATION CORPORATION, a Nevada corporation; GIL BROWN, an individual; CAROL BROWN, an individual,

Plaintiffs,

v.

CITY OF REDLANDS, a municipal corporation; ADRIAN LAWSON, an individual; TABITHA KEVARI CROCKER, an individual; CHRISTOPHER BOATMAN, an individual; and DOES 1 through 20, inclusive,

Defendants.

Case No. CIVSB2418252
Judge: Hon. Nicole Quintana Winter, Dept. S29

UNLIMITED JURISDICTION

**CITY OF REDLANDS' CROSS-COMPLAINT FOR:**

1. **BREACH OF CONTRACT;**
2. **BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING;**
3. **SET-OFF;**
4. **CONTRACTUAL INDEMNITY**

*Deemed Verified Pursuant to Code of Civil Procedure § 446*

Action Filed: June 6, 2024
TAC July 11, 2025
Trial Date: March 30, 2026

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
3390 UNIVERSITY AVENUE, 5TH FLOOR
RIVERSIDE, CALIFORNIA 92502

CITY OF REDLANDS, a municipal corporation,92415

Cross-Complainant,

v.

COYOTE AVIATION CORPORATION, a Nevada corporation; COYOTE AVIATION, a Nevada corporation; REDLANDS COYOTE AVIATION, a Nevada corporation; GIL BROWN, an individual; CAROL BROWN, an individual and ROES 1 through 50, inclusive,

Cross-Defendants.

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
3390 UNIVERSITY AVENUE, 5TH FLOOR
RIVERSIDE, CALIFORNIA 92502

Defendant and Cross-Complainant City of Redlands, a municipal corporation ("City") alleges as follows against Coyote Aviation Corporation, a Nevada corporation; Coyote Aviation, a Nevada corporation; Redlands Coyote Aviation, a Nevada corporation; Gil Brown, an individual; Carol Brown, an individual; and Roes 1 through 50, inclusive (collectively, "Cross-Defendants"):

## INTRODUCTION

1. This Cross-Complaint arises from Cross-Defendants' fundamental misunderstanding of their rights and obligations under a commercial lease agreement, their material breaches of that agreement, and their subsequent pattern of bad faith conduct that has caused damage to the City. Despite this, Cross-Defendants initiated this litigation in an attempt to hold the City liable for the consequences of their own contractual failures while simultaneously attempting to obtain benefits they did not bargain for under a lease they materially breached.

2. The express language of the commercial lease obligated Cross-Defendants to properly exercise its option to extend the commercial lease by February 19, 2020. Cross-Defendants failed to timely extend the commercial lease. Consequently, the commercial lease terminated on April 4, 2020.

3. Notwithstanding the unambiguous language in the commercial lease, Cross-Defendants initiated litigation (and multiple appeals) against the City. In the span of only a few years, no less than three separate California courts have entered judgment in favor of the City—finding that Cross-Defendants failed to timely exercise their option to extend the lease and that the lease had expired by its own terms.

4. As repeatedly demonstrated, Cross-Defendants attempt to leverage the threat of litigation and related expense as a means to obtain contractual benefits that they did not bargain for and which are inconsistent with the City and public interest. Cross-Defendants even go as far as requesting damages from the City notwithstanding their contractual obligation to indemnify the City for the very claims they assert.

5. The express language in the lease mandated that Cross-Defendants were required to remove all improvements "immediately upon the expiration" of the lease. Cross-Defendants failed to do so and waited years after the commercial lease terminated before making any attempt to

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
3390 UNIVERSITY AVENUE, 5TH FLOOR
RIVERSIDE, CALIFORNIA 92502

remove those improvements. The failure to remove the improvements, as required by the commercial lease, constitutes a material breach of an express term of the commercial lease.

6. Cross-Defendants breached the lease in additional ways. Cross-Defendants subdivided their leasehold interest without consent of the City and sold non-existent leasehold interests to innocent third parties for Cross-Defendants' own pecuniary gain. Cross-Defendants also remained on the premises long after the lease expired, they were served valid notice to vacate, and after two California courts entered judgment in favor of the City finding the City acted in accord with applicable law and awarding the City possession of the premises and all tenant improvements.

7. This Cross-Complaint establishes that Cross-Defendants: (1) materially breached their lease obligations before any alleged wrongdoing by the City, (2) engaged in bad faith conduct constituting a breach of the implied covenant of good faith and fair dealing, (3) must account for attorneys' fees owed from prior litigation through set-off, and (4) must indemnify the City for defense costs arising from their own contract breaches.

8. Law and equity demand that Cross-Defendants bear responsibility for the consequences of their own contractual failures. Cross-Defendants' attempts to shift that burden to the City is improper, unjust, and contrary to the bargain struck by the parties in the operative lease.

## PARTIES

9. Cross-Complainant, the City of Redlands is a public entity and political subdivision of the State of California, organized and existing under the laws of the State of California and located within the County of San Bernardino, California.

10. On information and belief, Cross-Defendant Coyote Aviation Corporation is a corporation formed and existing under the laws of the State of Nevada, which was authorized to and did conduct business in California.

11. On information and belief, Cross-Defendant Coyote Aviation is a corporation formed and existing under the laws of the State of Nevada, which was authorized to and did conduct business in San Bernardino County, California.

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
3390 UNIVERSITY AVENUE, 5TH FLOOR
RIVERSIDE, CALIFORNIA 92502

12. On information and belief, Cross-Defendant Redlands Coyote Aviation is a corporation formed and existing under the laws of the State of Nevada, which was authorized to and did conduct business in San Bernardino County, California.

13. On information and belief, Cross-Defendant, Gil Brown is an individual who resides in San Bernardino County, California and acted as an officer or agent of the Cross-Defendant, Coyote Aviation Corporation.

14. On information and belief, Cross-Defendant, Carol Brown is an individual who resides in San Bernardino County, California and acted as an officer or agent of the Cross-Defendant, Coyote Aviation Corporation.

## JURISDICTION AND VENUE

15. This Court has jurisdiction over the subject matter of this Cross-Complaint under Code of Civil Procedure section 410.10. The San Bernardino County Superior Court is the proper venue for this action because the material facts that form the basis for the claims asserted by the City occurred in substantial part in the San Bernardino County and Cross-Defendants reside in San Bernardino County.

## GENERAL ALLEGATIONS

**A. The Lease Agreement:**

16. On September 5, 2000, the City and Cross-Defendant Coyote Aviation entered into a lease agreement ("Lease") for possession of public-owned real property located at the Redlands Municipal Airport (the "Airport"). Under the Lease, Cross-Defendants were referred to as "Tenant."

17. The Lease established a lease period commencing on September 5, 2000, and terminating on April 4, 2020, unless extended in accordance with the option provisions. (A true copy of the Lease is attached as Exhibit A and is incorporated herewith, § 2.)

18. Under Provision 2.1 of the Lease, Cross-Defendants were granted two successive options to extend the term of the Lease for periods of fifteen additional years each, provided that (a) Cross-Defendants were in compliance with all terms of the Lease, and (b) Cross-Defendants

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
3390 UNIVERSITY AVENUE, 5TH FLOOR
RIVERSIDE, CALIFORNIA 92502

provided written notice to the City forty-five (45) days prior to the termination date of April 4, 2020. (Ex. A, § 2.1.)

19. The Lease further required that "[i]mmediately upon the expiration of the Term or earlier termination of the Lease, Tenant shall peaceably and quietly vacate the Property and deliver possession of the same to City, with all of Tenant's improvements and alterations removed from the Property and with the Property surrendered in the same or better condition as it existed at the time of approval of this Lease." (Ex A, § 21.1.)

20. If Cross-Defendants failed to comply with Provision 21.1 above, the Lease required that "[t]enant shall defend, indemnify and hold City harmless from all damages resulting from Tenant's failure to so vacate and deliver possession of the Property . . . resulting from Tenant's failure to vacate and deliver possession of the Property and any Rent lost by City." (Ex. A, § 21.2.)

21. The Lease also required Cross-Defendants to defend, indemnify, and hold the City harmless from "[t]enant's failure to perform any provision of this Lease or to comply with any requirement of law." (Ex. A, § 21.2.)

22. If the Cross-Defendants, with the City's consent, remained in possession of the Property without negotiating a new lease, their continued possession would be converted to month-to-month tenancy terminable on thirty (30) days' written notice given at any time by either party. (Ex. A, § 21.3.) Importantly, in the event of a holdover tenancy being established, "[a]ll provisions of this Lease, except those pertaining to the Term, shall apply." (Id.)

23. Further, Provision 20.1 of the Lease prohibited Cross-Defendants from assigning the lease or any interest under it, or subletting all of any part of the property, without first obtaining the City's prior written consent. (Ex. A, § 20.1.) The Lease further identified Tenant engaging in such actions without prior written consent as "a default" and that the City's consent to any such assignment or subletting in any single instance could not be construed as consent for subsequent instances. (Ex. A, § 20.2-20.3.)

24. The Lease also contained Provision 13.1 which required all additions or improvements to be the property to be approved by the City. Specifically, the Provision mandated that "Tenant shall prepare plans and specifications for all improvements to be installed, and shall

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
3390 UNIVERSITY AVENUE, 5TH FLOOR
RIVERSIDE, CALIFORNIA 92502

submit such plans to City for its review and approval prior to commencement of any construction of Tenant's improvements." (Ex. A, § 13.1.) The Lease further required that any construction work follow certain specifications, including the requirement to obtain proper licenses and permits. (Ex. A, § 13.2.)

25. Lastly, the City is entitled under the Lease to terminate the Lease and re-enter the property upon Cross-Defendants' material breach, non-payment, unauthorized assignments or transfers, or vacation/abandonment of the property. (Ex. A, §§ 7.1, 24-24.3.)

**B. Cross-Defendants' Breach of the Lease:**

26. The Lease required Cross-Defendants to request a Lease extension by February 19, 2020. (Ex. A, § 2.1.) Cross-Defendants failed to do so. Consequently, the Lease expired by operation of its express terms on April 4, 2020. (Ex. A, § 2; A true copy of the Court of Appeal Opinion is attached as Exhibit B and is incorporated herewith [finding that the lease expired April 4, 2020.].)

27. On June 22, 2020, more than two months after the expiration of the Lease, Cross-Defendants sent correspondence to the City purporting to exercise their Lease extension option, contrary to the express terms of the Lease.

28. Despite failing to exercise the extension option in a timely manner, Cross-Defendants continued to occupy the premises beyond April 4, 2020. From this point forward, Cross-Defendants were month-to-month holdover tenants according to the terms of the Lease. (Ex. A, § 21.3.) Indeed, on October 23, 2020, the City formally notified Cross-Defendants that they were being treated as holdover tenants under the Lease.

29. On March 16, 2021, the City Council unanimously directed staff to terminate the month-to-month holdover tenancy with Cross-Defendants. The notice of termination was served on March 18, 2021 as required by the holdover provision of the Lease. (Ex. A, § 21.3; A true copy of the Notice of Termination is attached as Exhibit C and is incorporated herewith.)

30. By operation of the holdover provision, when the thirty day notice was complete, the holdover tenancy ended. (Ex. A, § 21.3.) Importantly, all rights and obligations under the Lease, except those relating to the Term, survived through the holdover tenancy period. (Id.) This

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
3390 UNIVERSITY AVENUE, 5TH FLOOR
RIVERSIDE, CALIFORNIA 92502

means that the Cross-Defendants were obligated to comply with Provision 21.1, requiring that Cross-Defendants "immediately . . .peaceably and quietly vacate the Property and deliver possession of the same to City, with all of Tenant's improvements and alterations removed from the Property and with the Property surrendered in the same or better condition as it existed at the time of approval of this Lease" within thirty days of March 18, 2021, which is April 17, 2021. (Ex. A, § 21.1.)

31. California law is in accord with the Lease in recognizing that a month-to-month tenancy is a extinguishable by the service of a thirty day notice. (Civil Code § 1946.)

32. Despite the holdover tenancy ending by April 17, 2021 – Cross-Defendants did not remove or request to remove the improvements as required by the Lease.

33. After the termination notice, the City engaged in good faith efforts to negotiate a new lease. Eventually, these negotiations culminated in a best and final offer for a new lease from the City in September 23, 2021. (A true copy of the proposed new lease is attached here as Exhibit D and is incorporated herewith.) This offer was not accepted by Cross-Defendants.

34. Subsequently, the City served a 30-day notice to vacate to Cross-Defendants (and their unauthorized subtenants). The notice to Cross-Defendants was accepted by Cross-Defendants' then-counsel on January 4, 2022. The thirty days to vacate expired on February 3, 2022.

35. Rather than vacate the property and remove the improvements as required by the express Lease terms, Cross-Defendants filed a claim against the City on February 8, 2022 in the San Bernardino County Superior Court, identified by case number CIVSB2203398. The allegations in that complaint largely revolved around a breach of contract claim based on the theory that the City unlawfully failed to accept Cross-Defendants' untimely extension option.

36. On February 14, 2022, after Cross-Defendants initiated litigation against the City and refused to vacate the premises, the City was left with no option but to initiate an unlawful detainer action against Cross-Defendants in the San Bernardino County Superior Court, identified by case number LLTVA2200544. That suit sought to evict Cross-Defendants from the premises.

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
3390 UNIVERSITY AVENUE, 5TH FLOOR
RIVERSIDE, CALIFORNIA 92502

37. The City prevailed in both actions. On April 28, 2023, the court in the breach of contract action (CIVSB2203398) sustained the City's demurrer, without leave to amend, as to the entirety of the operative complaint filed by Cross-Defendants and entered judgment in favor of the City. On June 27, 2023, the City filed a Motion for its attorneys' fees. The court granted the request in the amount of $38,499 on August 9, 2023. On July 17, 2023, the court in the unlawful detainer action (LLTVA2200544) entered judgment in favor of the City, awarding the City possession of the real property and all hangar units. (A true copy of the Judgment in Unlawful Detainer is attached hereto as Exhibit E and incorporated herewith.) The unlawful detainer action further dismissed the City's claims for damages without prejudice, permitting the City to pursue damages in a separate civil action. Despite the fact that Cross-Defendants' holdover tenancy ended on April 17, 2021, Cross-Defendants waited until June 21, 2023 – two years and three months after the holdover tenancy terminated – to file a demolition permit to remove the improvements. Consequently, Cross-Defendants were in breach of Provision 21.1 of the Lease for more than two years before the demolition permit was ever submitted.

38. This delay far exceeded the immediate removal contemplated by Provision 21.1 of the Lease and even a reasonable time period under the law. (See Cone v. W. Tr. & Sav. Bank (1937) 21 Cal.App.2d 176, 179 [wherein the court held that a reasonable amount of time for Plaintiff to remove property after expiration of lease was 30-days].)

39. On June 5, 2025, the California Court of Appeal, Fourth Appellate District, entered a published opinion where it upheld and affirmed the judgments of both the breach of contract action (CIVSB2203398) and the unlawful detainer action (LLTVA2200544), including the award of attorneys' fees and costs.

**C. Cross-Defendants' Unauthorized Subdivision and Assignment of Lease Interests and Unpermitted Construction**

40. In addition to the above explicit breaches of the terms of the Lease, Cross-Defendants engaged in bad faith conduct throughout the course of the Lease itself. During the Lease term, without the City's knowledge or consent, Cross-Defendants unlawfully subdivided

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
3390 UNIVERSITY AVENUE, 5TH FLOOR
RIVERSIDE, CALIFORNIA 92502

their leasehold interest by selling individual interests in hangar units to third parties and collecting payment from such unauthorized arrangements.

41. These unauthorized assignments and subdivisions violated Provision 20.1 of the lease, which expressly prohibited such actions without the City's prior written consent. (Ex. A, § 20.1.) The Lease also stated that even if the City consented to an instance of assignment or subdivision, such consent could not be construed as consent to subsequent actions. (Ex. A, § 20.3.)

42. Cross-Defendants' subdivision of interests for its own pecuniary gain without obtaining prior written consent evidences Cross-Defendants' disregard for the Lease and far exceeds the bargain struck by the parties when the Lease was negotiated. Further, these unauthorized subdivisions threatened public safety and created administrative burdens for the City including in its administration of the Lease, enforcement of airport regulations, and monitoring of the property.

43. As another consequence of these unauthorized subdivisions, the City had neither approved nor was aware of all subtenants occupying the premises. Some of these subtenants constructed unpermitted structures, such as mezzanines and lift devices, in the hangar units in further violation of Provisions 13.1-13.2 of the Lease. Many of these structures threatened public safety because their construction did not follow applicable building codes. As an example, several of the structures required but did not include fire sprinkler systems. Additionally, some of the unauthorized subtenants did not comply with Redlands Municipal Airport rules and regulations. Cross-Defendants' unauthorized subdivisions threatened public safety and impeded the City's ability to monitor and regulate activity at the Redlands Municipal Airport.

44. These unauthorized subdivisions caused the City to expend unnecessary time and resources, and further deprived the City of the benefit of its bargain. That is, the benefit of entering into a leasehold with one single tenant of its choosing.

**D. The Present Litigation**

45. On June 6, 2024, Cross-Defendants/Plaintiffs filed the underlying action against the City and other City officials. Cross-Defendants/Plaintiffs filed their Third Amended Complaint

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
3390 UNIVERSITY AVENUE, 5TH FLOOR
RIVERSIDE, CALIFORNIA 92502

("TAC") on July 11, 2025, containing causes of action for (1) conversion, (2) breach of contract, (3) specific performance, and (4) intentional infliction of emotional distress.

46. The TAC is thinly premised on the unsubstantiated theory that the City engaged in a scheme to convert Defendants' personal property (the improvements) for the City's benefit. This scheme was allegedly executed when the City determined that Cross-Defendants' demolition permit was incomplete.

47. The TAC ignores Cross-Defendants' obligation to remove the improvements immediately upon termination of the holdover tenancy on April 17, 2021. (Ex. A, § 21.1.) Cross-Defendants took no action whatsoever to comply with this obligation until it submitted an application for demolition permit two years and three months later, on June 21, 2023.

48. By filing their action, Cross-Defendants have waived any statute of limitations defense as to the City's cross-claims arising from the same transaction and occurrence. Under California law, the filing of Cross-Defendants' complaint tolled the running of the statute of limitations on all related cross-claims that existed at the commencement of the action. (See Luna Records, LLC v. Alvarado (1991) 232 Cal.App.3d 1023, 1027-1028.)

49. The City's cross-claims all arise from the same operative contract and related conduct that forms the basis of the TAC.

**ALTER EGO ALLEGATIONS**

50. The City is informed and believes, and thereon alleges that Mr. Brown and Coyote Aviation Corporation, a Nevada corporation; Coyote Aviation, a Nevada corporation; Redlands Coyote Aviation, a Nevada corporation (collectively, the "Coyote Entities") are alter egos of each other and are a mere instrumentality of the same inherent actor. Each of these alter egos utilized their separate identities, corporate veils, and common control to cause the Coyote Entities to breach the Lease and prevent the City from obtaining the benefit of its bargain with the Coyote Entities.

51. The City is informed and believes, and thereon alleges that Mr. Brown is a shareholder, registered agent for service of process, and the Chief Executive Officer of the Coyote Entities. Mr. Brown controlled and dictated the conduct of the Coyote Entities, and directed and caused the Coyote Entities to breach express terms of the Lease as well as the implied covenant of

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
3390 UNIVERSITY AVENUE, 5TH FLOOR
RIVERSIDE, CALIFORNIA 92502

good faith and fair dealing. Mr. Brown and the Coyote Entities are a single enterprise having common control and a unity of interest and ownership.

52. The City is informed and believes, and thereon alleges that Mr. Brown acted in bad faith and an award of damages against only the Coyote Entities would be an inequitable outcome. The City would be deprived of restorative remedies and the ability to recover damages against all responsible parties.

53. The City is informed and believes, and thereon alleges that Mr. Brown caused the Coyote Entities to be undercapitalized, authorized the Coyote Entities to make fraudulent transfers in order to evade financial obligations to creditors like the City, and comingled personal and business funds within the same financial accounts. Therefore, Mr. Brown, as an alter ego of the Coyote Entities, should have co-extensive liability with the Coyote Entities.

**FIRST CAUSE OF ACTION**

**Breach of Contract**

**(By Cross-Complainant Against Cross-Defendants)**

54. The City incorporates by reference each and every allegation contained in paragraphs 1 through 53.

55. The Lease between Cross-Defendant and the City constituted a valid and binding contract between the parties.

56. The City performed all of its obligations under the Lease, and committed no breaches of the Lease.

57. Cross-Defendants materially breached the Lease in multiple respects, including but not limited to: (a) unilaterally subdividing the leasehold interests without City's authorization in violation of Provision 20.1, (b) constructing improvements without the authorization of the City in violation of Provision 13.1, (c) failing to immediately remove the improvements upon termination of the holdover tenancy on April 17, 2021, in violation of Provision 21.1, and (d) continuing to occupy the property upon termination of the holdover tenancy.

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
3390 UNIVERSITY AVENUE, 5TH FLOOR
RIVERSIDE, CALIFORNIA 92502

58. Cross-Defendants' breaches were a substantial cause of the City's damages, including: administrative costs, enforcement expenses, lost income, and attorneys' fees incurred across multiple proceedings.

59. Moreover, Cross-Defendants cannot maintain their claims for breach of contract against the City because Cross-Defendants themselves were in material breach of the Lease at all relevant times. While the City vehemently denies that it breached the Lease at any point in time, even accepting the TAC as true, the TAC complains of a purported breached that occurred years after Cross-Defendants' breach. (See TAC at ¶¶ 184-185 [stating that "the CITY refused to allow Plaintiff to remove its personal property"]; see also TAC at ¶¶ 105-108 "Plaintiffs on June 21, 2023, applied for a permit from the CITY to remove its property in the form of the improvements . . .On July 20, 2023, MR. BROWN was informed by the Building & Safety Department hat his permit application was determined to be 'incomplete.'"].) (internal quotes omitted.)

60. Under California law, a party cannot recover breach of a contract when the party is itself in material breach of the same contract. (See Silver v. Bank of America, N.T. & S.A. (1941) 47 Cal.App.2d 639, 645 ["[o]ne who himself breaches a contract cannot recover for a subsequent breach by the other party."].)

61. Although not a contract party, Mr. Brown is liable for breach of contract pursuant to an alter ego theory of liability.

**SECOND CAUSE OF ACTION**

**Breach of Implied Covenant of Good Faith and Fair Dealing**

**(By Cross-Complainant Against Cross-Defendants)**

62. The City incorporates by reference each and every allegation contained in paragraphs 1 through 61.

63. The Lease contained an implied covenant of good faith and fair dealing that required each party to refrain from doing anything that would deprive the other party of the benefits of the contract.

64. The Cross-Defendants breached the implied covenant of good faith and fair dealing by: (a) unlawfully subdividing and assigning lease interest to third parties without consent such that

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
3390 UNIVERSITY AVENUE, 5TH FLOOR
RIVERSIDE, CALIFORNIA 92502

the City was deprived of the benefit of the bargain of entering into a lease agreement with one single tenant of its choosing, (b) seeking to hold the City responsible for consequences flowing from Cross-Defendants' own breaches and untimely performance, and (c) attempting to obtain the benefit of a contractual arrangement they did not make and were not entitled to receive by seeking to impose obligations on the City that do not exist in the contract, such as the issuance of the demolition permit, and by seeking additional time for removal of the improvements.

65. Cross-Defendants' conduct was designed to obtain benefits under the Lease that they did not bargain for, while avoiding their express obligations in the Lease, thereby depriving the City of the benefits of the Lease and its reasonable expectations under the Lease.

66. Cross-Defendants' bad faith conduct has resulted in harm to the City through significant administrative costs, enforcement costs, and attorneys' fees.

67. As a direct and proximate result Cross-Defendants' breach of the implied covenant, the City suffered damages in an amount to be proven at trial.

68. Although not a contract party, Mr. Brown is liable for breach of contract pursuant to an alter ego theory of liability.

**THIRD CAUSE OF ACTION**

**Set-Off**

**(By Cross-Complainant Against Cross-Defendants)**

69. The City incorporates by reference each and every allegation contained in paragraphs 1 through 68.

70. In the prior actions between the parties, the City was awarded attorneys' fees and costs as the prevailing party in the breach of contract action (CIVSB2203398). The judgment in this action was upheld by the appellate court on June 5, 2025.

71. The judgments award the City no less than $38,499.00.

72. Additionally, the City anticipates seeking an award of its attorneys' fees and costs as the prevailing party at the appellate level.

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
3390 UNIVERSITY AVENUE, 5TH FLOOR
RIVERSIDE, CALIFORNIA 92502

73. While the City denies any wrongdoing, any judgment that might be awarded to Cross-Defendants in this action will ultimately be offset by the amounts owed to the City for attorneys' fees and costs from the prior actions, pursuant to Code of Civil Procedure section 431.70.

**FOURTH CAUSE OF ACTION**

**Contractual Indemnification**

**(By Cross-Complainant Against Cross-Defendants)**

74. The City incorporates by reference each and every allegation contained in paragraphs 1 through 73.

75. Provision 22 and 22.4 of the Lease requires Cross-Defendants to "defend and indemnify and hold City and City's elected officials, officers, employees, free and harmless from …Tenant's failure to perform any provision of this Lease or to comply with any requirement of law." (Ex. A, §§ 22, 22.4.)

76. Cross-Defendants' current lawsuit against the City arises directly from Cross-Defendants' failure to perform provisions of the Lease, including but not limited to: (a) failure to timely request a lease extension as required by provision 2.1, and (b) failure to remove improvements and alterations upon termination of the holdover tenancy as required by Provision 21.1.

77. Had Cross-Defendants timely requested a lease extension, there would have been no need to remove the improvements and no basis for the claims at issue here. Had Cross-Defendants timely sought a demolition permit immediately upon termination of the holdover tenancy in April 17, 2021, any permit processing issues would have occurred while Cross-Defendants still had colorable removal rights. Instead their two-year delay in seeking the permit created the circumstances that form the basis of Cross-Defendants' claims.

78. Thus, the City is entitled to contractual indemnification from Cross-Defendants for all costs, expenses, and attorneys' fees incurred in defending against Cross-Defendants' action.

79. Cross-Defendants' indemnification obligation extends to any payment of damages, and any adverse judgment that might be entered against the City in connection with the litigation.

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
3390 UNIVERSITY AVENUE, 5TH FLOOR
RIVERSIDE, CALIFORNIA 92502

80. The City has incurred, and continues to incur significant attorneys' fees, costs, and expenses in defending against Cross-Defendants' claims, all at a substantial expense to the City's taxpayers.

81. Although not a contract party, Mr. Brown is liable for contractual indemnification pursuant to an alter ego theory of liability.

**PRAYER**

WHEREFORE, Cross-Complainant City of Redlands prays for judgment against Cross-Defendants, and each of them, as follows:

1. For compensatory damages in an amount to be proven at trial;

2. For general damages and other special damages in an amount to be proven at trial;

3. For set off of any judgment in favor of Cross-Defendants by the amount of attorneys' fees and costs over to the City from prior litigation;

4. For contractual indemnification, including all defense costs, attorneys' fees, and expenses incurred in defending this action;

3. For an award of attorneys' fees and costs of suit incurred herein; and

4. Such other relief as the Court may deem just and proper.

Dated: August 12, 2025

BEST BEST & KRIEGER LLP

By: _____

JESSICA K. LOMAKIN
DUSTIN J. NIRSCHL
HENRY ANDRIANO
EVELYN BLANCO
Attorneys for Defendants
CITY OF REDLANDS, ADRIAN LAWSON, TABITHA KEVARI CROCKER and CHRISTOPHER BOATMAN

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
3390 UNIVERSITY AVENUE, 5TH FLOOR
RIVERSIDE, CALIFORNIA 92502

EXHIBIT A

Recorded in Official Records, County of San Bernardino, Larry Walker, Recorder

Doc No. 20000351727
2:25pm 09/27/00

No Fee # 699

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 0 |
|---|---|---|---|---|---|---|---|---|---|
| PG | FEE | APF | GIMS | PH CPY | CRT CPY | ADD NM | PEN PR | PCOR | |
| | | | 5 | | | | 6 | | |
| NON ST | LN | SVY | CIT-CO | TRANS TAX | | DA | CHRG | EXAM | |

FEES NOT REQUIRED
PER GOVERNMENT CODE
SECTION 6103

Recording requested by
and when recorded mail to:

City Clerk
City of Redlands
PO Box 3005
Redlands, CA 92373

# LEASE OF PROPERTY LOCATED AT REDLANDS MUNICIPAL AIRPORT

This lease agreement for property located at the Redlands Municipal Airport ("Lease") is made and entered into this 5th day of September, 2000, by and between the City of Redlands, a municipal corporation ("City"), and Coyote Aviation, a Nevada corporation ("Tenant").

## RECITALS

Whereas, City is the owner of certain real property commonly known as the Redlands Municipal Airport which is generally located at 1633 Sessums Drive, Redlands, California (the "Airport"); and

Whereas, Tenant has made a proposal to lease certain property located at the Airport for the purpose of constructing and operating an aviation complex, and City desires to lease such property to Tenant, all on the terms and conditions hereinafter set forth; and

Whereas, Tenant and City previously entered into a lease of the property identified herein and located at the Airport on April 4, 2000, and the parties now wish to rescind that lease and enter into this new lease in its place;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the City of Redlands and Coyote Aviation hereby agree as follows:

## AGREEMENT

1. Premises. City hereby leases to Tenant that certain real property located at the Airport consisting of approximately 36,000 square feet and which is more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").

2. Term. This lease shall remain in full force and effect until April 4, 2020 at which time it shall terminate, unless extended as otherwise provided herein.

2.1 Tenant shall have two (2) successive options for extending the Term of this Lease for periods of fifteen (15) additional years each. Provided Tenant is in compliance with all terms of the Lease, Tenant may exercise such options by providing written notice to City forty-five (45) days prior to the termination date of this Lease. Any extension of the Term of this Lease pursuant to this section shall be on the same terms and conditions contained in this Lease.

3. Rent. During the Term of this Lease, Tenant shall pay to City annual base rent in the sum of five thousand seven hundred twenty-four dollars ($5,724.00) for the Property (the "Rent"). The Rent shall be increased every three-year period on the anniversary date of this Lease by the percentage increase in the Consumer Price Index for Los Angeles - Riverside - Orange Counties. The Rent shall be paid to City in equal monthly installments, each installment payable in advance on the first day of each month during the Term of this Lease. Rent for any partial month, if applicable, shall be prorated based on the actual number of days of the month. All Rent shall be paid to City at the following address: City of Redlands, P.O. Box 3005, Redlands, CA 92373. Any Rent payment not received by City by 5:00 p.m. on the tenth day of the month in which it is due shall incur a late charge of twenty-five dollars ($25).

3.1 Notwithstanding any other provision of this Lease, the Rent required to be paid by Tenant shall be subject to adjustment at the commencement of the 30th year of the Term of this Lease (if Tenant exercises the first option provided for in this Lease). The adjustment in Rent shall be based upon an appraisal of the fair market rental value of the Property, and shall be applicable to all square footage of the Airport then leased by Tenant under this Lease, and any other Lease resulting from Tenant's exercise of the options granted by this Lease. Notwithstanding any other provision of this Lease, the adjustment pursuant to this subsection shall not exceed ten percent (10%) of the then-existing rent.

4. Option for Additional Property. During the Term of this Lease, Tenant shall have the following two options to lease additional property located at the Airport:

A. For a period of five (5) years terminating on April 4, 2005, Tenant shall have the right to additionally lease, at the rate of $0.159 per square foot, the property consisting of approximately 17,658 square feet and more particularly described in Exhibit "B," attached hereto and incorporated herein by reference. Such rent shall be subject to automatic increases every third year during the term of such additional lease by the percentage increase in the Consumer Price Index for Los Angeles - Riverside - Orange Counties.

B. For a period of ten (10) years terminating on April 4, 2010, Tenant shall have the right to additionally lease, at the rate of $0.159 per square foot, the property consisting of approximately 45,603 square feet and more particularly described in Exhibit "C," attached hereto and incorporated herein by reference. Such rent shall be subject to automatic increases every third year during the term of such additional lease by the percentage increase in the Consumer Price Index for Los Angeles - Riverside - Orange Counties.

5. Security Deposit. Tenant has deposited with City a security deposit equal to three (3) months Rent in the sum of one thousand four hundred thirty one dollars (the "Security Deposit"). If at any time during this Lease any of the Rent payable by Tenant to City becomes overdue, City may in its sole discretion apply the Security Deposit to the payment of the overdue Rent. In such event, Tenant shall promptly, on receipt of written demand by City, restore the amount of the Security Deposit so applied. Tenant's failure to restore the Security Deposit within fifteen (15) days after receipt of the written demand of City shall constitute a material breach of this Lease.

5.1 Should Tenant at any time during this Lease default in the performance of any of the terms, covenants or conditions of this Lease, City may, after terminating this Lease, apply any portion of the Security Deposit, up to the whole amount of the Security Deposit, to compensate City for damages caused by Tenant's breach.

5.2 Should Tenant fully and faithfully perform all the terms, covenants and conditions of this Lease, City shall, on expiration or earlier termination of this Lease, return the full amount of the Security Deposit, without interest, to Tenant in accordance with the provisions of California Civil Code Section 1950.7.

6. No Partnership of Joint Venture. Nothing in this Lease shall be construed to cause City, in any way or for any purpose, to be a partner, joint venturer or associate in any relationship with Tenant other than that of Landlord and Tenant, nor shall this Lease be construed to authorize either party to act as agent for the other.

7. Termination. Either party may terminate this Lease as provided below:

7.1 City may terminate this Lease upon Tenant's failure to cure any Tenant Event of Default within thirty (30) days after City provides by certified mail, return receipt requested, written notice of default to Tenant setting forth in general terms the action necessary by Tenant to cure the Event of Default. As used herein, "Tenant Event of Default" shall mean nonpayment of Rent, or any portion thereof, Tenant's failure to construct and complete the improvements required to be made by Tenant under this Lease, the occurrence of any of the events described in Section 24 of this Lease, or any other material breach of any obligation imposed on Tenant under this Lease. City may additionally terminate this Lease for any other cause recognized by law.

7.2 Tenant may terminate this Lease upon City's failure to cure any City Event of Default within thirty (30) days after Tenant provides by certified mail, return receipt requested, written notice of default to City, setting forth in general terms the action necessary to cure the Event of Default. As used herein, "City Event of Default" shall mean the material breach of any obligation imposed upon City under this Lease.

8. Use of Property. The Property shall be used by Tenant for operation of an aviation complex and specifically the sole purposes described in the "construction and aviation operations plan" attached hereto as Exhibit "D" which is incorporated herein by this reference. Tenant shall not use the Property, or any part thereof, for any other purpose without the prior written consent of City.

8.1 Notwithstanding any other provisions of the Lease, Tenant shall not engage in the construction of fuel storage tanks, operate any fuel storage facilities or sell any fuel, without the prior written consent of City through written amendment to this Lease.

8.2 Tenant shall not commit, nor permit to be committed, any waste upon the Property, or any nuisance or other act which disturbs the quiet enjoyment of any other tenant at the Airport.

9. Environmental Laws. Tenant shall not engage in any activity on or about the Property that violates any Environmental Law and Tenant shall promptly, at Tenant's sole cost and expense, take all investigatory and remedial actions reasonably required by City, or required by any government agency, for clean-up and removal of any contamination involving any Hazardous Material created, caused or materially contributed to, either directly or indirectly, by Tenant. The term "Environmental Law," as used herein, shall mean any federal, state or local law, statute, ordinance or regulation pertaining to health, industrial hygiene or the environmental conditions on, under or about the Property, including without limitation, (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. Section 9601 et. seq. (ii) the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. Section 6901 et. seq.; (iii) California Health and Safety Code Section 25100 et. seq.; (iv) the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code Section 25249.5 et. seq.; (v) The Federal Water Pollution Control Act, 33 U.S.C. Section 1151 et. seq.; (vi) The Porter-Cologne Water Quality Control Act, California Water Code Section 13000 et. seq.; and (vii) California Civil Code Section 3479 et. seq., as such laws are amended from time to time, and the regulations and administrative codes applicable thereto. The term "Hazardous Material," as used herein, includes without limitation any material or substance which is (a) defined or listed as a "hazardous waste," "extremely hazardous waste," "restrictive hazardous waste" or "hazardous substance," or considered a waste, condition of pollution or a nuisance under the Environmental Laws; (b) petroleum or a petroleum product or fraction thereof; (c) asbestos; and/or (d) substances known by the State of California to cause cancer and/or reproductive toxicity. It is the intent of the parties hereto to construe the terms "Hazardous Materials" and "Environmental Laws" in their broadest sense. Tenant shall provide all notices required pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986. Tenant shall further provide prompt written notice to City of the existence of any Hazardous Substances on the Property and all notices of violations of Environmental Laws received by Tenant. Tenant shall not bring onto, create, or dispose of, any Hazardous Substances or Material in or about the Property, including without limitation the release or disposal of such Hazardous Substances or Material into the sewage or storm drain systems.

10. Compliance with Laws. Tenant shall, at Tenant's sole cost and expense, comply with all statutes, ordinances, regulations and requirements of all governmental entities, both federal and state, and county, including those requiring improvements to the Property, relating to any use and occupancy of the Property (and specifically not limited to any particular use or occupancy by Tenant), whether those statutes, ordinances, regulations and requirements are now in force or are

subsequently enacted. If any license, permit or other government authorization is required for the lawful use or occupancy of the Property or any portion of the Property, Tenant shall procure and maintain the same throughout the Term of this Lease. The judgment of any court of competent jurisdiction, or the admission by Tenant in a proceeding brought against Tenant by any government entity, that Tenant has violated any such statute, ordinance, regulation or requirement shall be conclusive as between City and Tenant and shall constitute a material breach of this Lease and grounds for termination of this Lease by City.

11. Discrimination Prohibited.

11.1 Against Persons. Tenant shall not, either in the performance of its obligations under this Lease, or otherwise in the conduct of its operations or other use of the Airport, discriminate or permit discrimination against any person or class or persons by reason of race, color, creed, religion, sex, marital status, national origin or ancestry, or in any other manner prohibited by the Federal Aviation Regulations.

11.2 Price Discrimination. Tenant shall furnish its accommodations and/or services on a fair, equal and non-discriminatory basis to all users thereof, and Tenant shall further charge fair, reasonable and non-discriminatory prices for each unit of service.

11.3 Accommodations Discrimination. Tenant shall make its accommodations and services available to the public on fair and reasonable terms and shall not discriminate on the basis of race, color, creed, religion, sex, marital status, national origin or ancestry, or in any other manner prohibited by the Federal Aviation Regulations.

11.4 Judicial Enforcement Against Discrimination. Tenant's non-compliance with Sections 11.1, 11.2 and 11.3, above, constitutes a material breach of this Lease and City shall have the right to terminate this Lease or, at the election of City, have the right to judicially enforce the provisions of Sections 11.1, 11.2 and 11.3.

11.5 Non-Discrimination Clauses Binding on Successors. Tenant shall insert the substance of the four (4) preceding subsections (Sections 11.1, 11.2, 11.3, and 11.4) in any lease or sublease by which Tenant grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the Property.

12. Maintenance and Repairs.

12.1 At all times during the Term of this Lease, Tenant shall, at Tenant's sole cost and expense, keep and maintain the Property in clean, good and sanitary order, condition and repair. By taking possession of the Property, Tenant accepts them as being in good and sanitary order, condition and repair, and shall surrender the Property on the last day of the Term, or at any sooner termination of this Lease, in the same condition as the Property existed at the commencement of the Term, reasonable wear and tear excepted.

12.2 At all times during the Term of this Lease, Tenant, at Tenant's sole cost and expense, shall do all of the following:

A. Make all alterations, additions, or repairs to the Property and any improvements located thereon required by any law, ordinance, statute, order or regulation now or hereafter made or issued by any federal, state, county, local or other government agency or entity;

B. Observe and comply with all laws, ordinances, statutes, orders and regulations now or hereafter made or issued respecting the Property or any improvements on the Property by any federal, state, county, local or other government agency or entity;

C. Defend, indemnify and hold City free and harmless from any and all liability, loss, damages, fines, penalties, claims and actions resulting from Tenant's failure to comply with and perform the requirements of this Section.

13. Tenant Improvements

13.1 Tenant is responsible for all construction of any improvements made to the Property, including but not limited to the installation of any trade improvements or trade fixtures which Tenant requires to operate its business at the Property. Tenant shall prepare plans and specifications for all improvements to be installed, and shall submit such plans to City for its review and approval prior to commencement of any construction of Tenant's improvements. "Construction" is defined as any modification, addition, alteration, change or deletion from the existing physical or structural condition of the Property. Tenant's work shall be performed by Tenant in accordance with plans and specifications approved by the City, and Tenant shall have the sole responsibility to arrange for and pay for the costs of all items included in Tenant's work. Tenant shall give City ten (10) days prior

written notice before commencing any construction requiring building permits at the Property. All construction work required or permitted by this Lease, shall be done in a good and workmanlike manner, and in compliance with all applicable laws and ordinances, regulations and orders of government authority and insurers of the Property. City may inspect the work at all reasonable times.

13.2 Before commencing any improvement work, Tenant shall:

A. Obtain all required licenses and permits;

B. Deliver to City the name of all contractors and subcontractors and the estimated costs of all labor and material to be furnished by them;

C. Cause Tenant's contractors to obtain worker's compensation insurance, public liability insurance with limits of one million dollars ($1,000,000.00) and property damage insurance with limits of five-hundred thousand dollars ($500,000.00), both general and vehicular, written by companies licensed and admitted to do business in the State of California, insuring City and Tenant as well as the contractors, and;

D. Deliver to City certificates of insurance, naming City, and each of its elected officials, officers and employees as additional insureds, and providing that such insurance shall be primary with respect to City and non-contributing to any insurance or self-insurance maintained by City. The insurance shall not be canceled without thirty (30) days' prior written notice to City. At all times Tenant shall keep the Property free and clear from any and all mechanics' or other creditor's liens.

14. Taxes. Tenant shall pay, without abatement, deduction or offset, any and all real and personal property taxes, general and special assessments, and other charges (including any increase caused by a change in the tax rate or by a change in assessed valuation) of any description levied or assessed during the Term of this Lease by any government agency or entity on or against the Property, any improvements located on the Property, and any personal property located on or in the Property or improvements, and the leasehold estate created by this Lease.

15. Possessory Interest. In accordance with California Revenue and Tax Code Section 107.6, City is hereby notifying Tenant that the leasehold interest created by this Lease may be subject

to property taxation and Lessee may be subject to the payment of property taxes levied on such interest. Tenant shall be solely responsible for the payment of such taxes and shall defend, indemnify and hold City harmless from and against any and all claims or actions for payment (or non-payment) of such taxes.

16. Utilities. Tenant shall pay for all public and other utilities and related services rendered or furnished to the Property, including without limitation water, gas, electricity, rubbish, cable television, sewer and telephone service. City shall not be liable in damages, consequential or otherwise, nor shall there by any abatement of rent, arising out of any interruption in utility services due to fire, accident, strike, governmental authority, acts of nature, or other causes beyond the reasonable control of City, or any temporary interruption in utility services necessary to make alterations, repairs or improvements to the Property or any part of them.

17. Signs. Tenant shall not place or permit to be placed, any sign, marquee, awning, decoration or other attachment on or to the roof, canopy, storefront, windows, doors or exterior walls of the Property, except with the prior, written consent of City. All proposed signs shall conform to all City laws.

18. City Business License Required. Tenant shall obtain and maintain a valid business license to do business within City at all times during the Term of this Lease.

19. Entry by City. City may enter the Property upon reasonable notice and at reasonable times for any of the following purposes: (i) to inspect the Property; or (ii) to post notices of non-responsibility for alterations, additions or repairs undertaken by Tenant. City's entry shall be without any abatement of Rent to Tenant. Tenant shall, at all times during the Term of this Lease, provide City with keys to all locks on exterior doors and the alarm code for all buildings, if any.

20. Assignment and Subletting.

20.1 Tenant shall not assign this Lease or any interest under it, nor lease or sublet all or any part of, or any right or privilege appurtenant to, the Property, nor shall Tenant permit the occupancy or use of any part of the Property by any other person, or mortgage or hypothecate the leasehold without first obtaining the prior written consent of City. City agrees not to unreasonably withhold any such consent, provided that the proposed assignee or subtenant shall use the Property

in a manner in compliance with this Lease, and in a manner that does not interfere with the quiet enjoyment of any other tenant at the Airport.

20.2 Any assignment or transfer of this Lease, or of any interest herein, or any subletting or hypothecation, either by voluntary or involuntary action of Tenant or by operation of law, or otherwise without the express, written consent of City, shall constitute a default by Tenant and any such purported assignment, transfer, subletting or hypothecation without City's consent shall be null and void and may, at City's election, result in the immediate termination of this Lease.

20.3 City's consent to any assignment, subletting, transfer of interest, occupancy, use or hypothecation shall not relieve Tenant from any of its obligations under this Lease, nor shall such consent be construed as consent to any subsequent assignment, subletting, transfer of interest, occupancy, use or hypothecation. Prior to giving its consent, if any, for any assignment, subletting, transfer of interest, occupancy, use or hypothecation of the Lease, City shall be fully and completely satisfied that the assignee or subtenant is of the same class and quality of business as tenant, holding all valid licenses, with a substantial history of profit-making, sound capitalization, sound management and business practices.

20.4 In the event City consents to the assignment of this Lease, then such assignment may include all of Tenant's rights hereunder, including without limitation any rights of Tenant acquired hereafter by amendment of this Lease.

21. Surrender of Possession and Holding Over.

21.1 Immediately upon the expiration of the Term or earlier termination of the Lease, Tenant shall peaceably and quietly vacate the Property and deliver possession of the same to City, with all of Tenant's improvements and alterations removed from the Property and with the Property surrendered in the same or better condition as it existed at the time of approval of this Lease.

21.2 If Tenant fails to vacate and deliver possession of the Property on the expiration or earlier termination of this Lease, as required under subparagraph A above, Tenant shall defend, indemnify and hold City harmless from all damages resulting from Tenant's failure to so vacate and deliver possession of the Property, including, without limitation, claims made by a succeeding tenant

resulting from Tenant's failure to vacate and deliver possession of the Property and any Rent lost by City.

✔ 21.3 If Tenant, with City's consent, remains in possession of the Property without negotiating a new lease, the continued possession by Tenant shall be deemed to be a month-to-month tenancy terminable on thirty (30) days' written notice given at any time by either party. All provisions of this Lease, except those pertaining to the Term, shall apply to the month-to-month tenancy.

21.4 Tenant shall vacate and deliver possession of the Property free of all liens, charges or encumbrances resulting from any act or omission on Tenant's part and free and clear of all violations placed by any federal, state, municipal, or other authority, and shall defend and indemnify City against any claims, damages, loss, expense, costs or attorney's fees arising out of Tenant's failure to do so.

22. Waiver of Claims and Indemnification of City by Tenant. Tenant shall defend and indemnify and hold City and City's elected officials, officers, employees, free and harmless from any and all liability, claims, loss, damages or expenses resulting from Tenant's occupation and use of the Property, specifically including, without limitation, any liability, claim, loss, damage or expense arising by reason of the following:

22.1 The death or injury of any person including Tenant or any person who is an employee or agent of Tenant, or by reason of the damage to or destruction of any property, including property owned by Tenant or by any person who is an employee or agent of Tenant, from any cause whatsoever while that person or property is in or on the Property or in any way connected with the Property or with any of the improvements or personal property on the Property;

22.2 The death or injury of any person, including Tenant or any person who is an employee or agent of Tenant, or by reason of the damage to or destruction of any property, including property owned by Tenant or any person who is an employee or agent of Tenant, caused or allegedly caused by either (1) the condition of the Property or some building or improvement on the Property, or (2) some act or omission on the Property of Tenant or any person in, on, or about the Property with the permission and consent of Tenant;

22.3. Any work performed on the Property or materials furnished to the Property at the instance or request of Tenant or any person or entity acting for or on behalf of Tenant; or

22.4 Tenant's failure to perform any provision of this Lease or to comply with any requirement of law or any requirement imposed on Tenant or the Property by any duly authorized government agency or political subdivision.

22.5 City, and its elected officials, officers, employees, representatives and agents shall not be liable to Tenant, Tenant's officers, agents, employees, customers, invitees, or third parties for loss of or damage to property, including goods, wares, and merchandise, for lost profits, for injury or death to persons in, on, or about the Property, and Tenant waives and releases City and its elected officials, officers, employees, representatives and agents, and agrees to defend, indemnify and hold harmless the City, and its officers, employees, representatives and agents from and against any and all claims, actions, demands, lawsuits or other liability arising as a result of, or in connection with, the Tenant's operations pursuant to this Lease, no matter how arising or by whom caused, except for the loss or damage as may be caused by the gross negligence or willful act or omission of City, or its officers, employees, representatives or agents.

22.6 Tenant shall maintain in full force and effect during the Term of this Lease, at Tenant's sole cost and expense, sufficient insurance from a California licensed and admitted insurance company, as provided in Section 23 herein.

23. Insurance. Tenant shall, at its sole expense, procure and maintain during the Term of this Lease a policy of insurance as required by the State of California for workers' compensation, and a policy of public liability insurance that is reasonably acceptable to City. Tenant shall provide copies of such insurance policies to City prior to Tenant's occupancy of the Property. The amounts of the liability insurance shall not be less than $2,000,000 for single limit coverage applying to bodily and personal injury and property damage. Furthermore, the following endorsements shall be attached to the liability policy:

A. The policy shall cover property damage and wrongful death as well as bodily injury.

B. The policy shall cover blanket contractual liability subject to the standard universal exclusions of contractual liability included in the carrier's standard endorsement as to bodily injuries, personal injuries wrongful death and property damage.

C. The policy shall afford broad form property damage liability.

D. The policy shall name City, its elected officials, officers and employees as additional insureds.

E. The policy shall include an endorsement which states that the coverage is primary insurance with respect to City and non-contributing to any insurance or self-insurance maintained by City.

F. The policy shall contain an endorsement stating that the policy shall not be canceled or modified without thirty (30) days' prior written notice to City.

24. Default By Tenant. The occurrence of any one or more of the following events shall constitute a default hereunder by Tenant:

A. The vacation or abandonment of the Property by Tenant. Abandonment is herein defined to include, without limitation, any absence by Tenant from the Property for five (5) business days or longer while in default of any provision of this Lease or any failure by Tenant to keep the Property open for business for fifteen (15) consecutive business days without the prior written consent of City.

B. The making by Tenant of any general assignment for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged as bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within thirty (30) days); the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Property or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at

the Property or of Tenant's interest in this Lease where such seizure is not discharged within thirty (30) days.

C. The use of the Property for any purpose other than as specifically authorized by this Lease.

24.1 In the event of any default by Tenant, City shall also have the right, with or without terminating this Lease to re-enter the Property and remove all persons and property from the Property; such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant. No re-entry or taking possession of the Property by City pursuant to this Section shall be construed as an election to terminate this Lease unless a written notice of such intention is given to Tenant, or unless the termination thereof is decreed by a court of competent jurisdiction; provided, however, that City may, at any time thereafter, elect to terminate this Lease for such previous and uncured breach by notifying Tenant in writing that Tenant's right to possession of the Property has been terminated.

24.2 All rights, options and remedies of City contained in this Lease shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and City shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law, whether or not stated in this Lease. No waiver of any default of Tenant hereunder shall be implied from any acceptance by City of any rent or other payments due hereunder or any omission by City to take any action on account of such default if such default persists or is repealed, and no express waiver shall affect defaults other than as specified in said waiver. The consent or approval of City to or of any act by Tenant requiring City's consent or approval shall not be deemed to waive or render unnecessary City's consent or approval to or of any subsequent similar acts of Tenant.

24.3 Nothing in this Section shall be deemed to affect Tenant's indemnity of City for liability or liabilities based upon occurrences prior to the termination of this Lease for personal injuries or property damage under the indemnification clause or clauses contained in this Lease. Such covenants of indemnification shall survive the termination of this Lease.

25. Notices. Any notice required by this Lease shall, unless otherwise specified in this Lease, be served by deposit in the United States mail with first-class postage prepaid, addressed to

the person and address listed below, unless written notice is provided of a change of address as to either party.

Tenant: Gil Brown and Jerjes Y. Saliba
COYOTE AVIATION
15 Meadowbrook Lane
Redlands, California 92374

City: CITY OF REDLANDS, CITY CLERK
35 Cajon Street, Suite 200
PO Box 3005
Redlands, California 92373

26. Waiver. No waiver by either party of any breach of any condition or covenant of this Lease shall be deemed a waiver of any subsequent breach of the same or any other condition or covenant.

27. Modification and Amendment. This Lease may not be amended or modified except as expressly provided in this section. Any amendment, modification, waiver, consent or acquiescence with respect to any provision of this Lease shall be set forth in writing and duly executed by or on behalf of the party to be bound thereby.

28. Attorney Fees. If any action is commenced to enforce or interpret the terms or conditions of this Lease, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which the prevailing party may be entitled under law.

29. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of California.

30. Integration. This Lease represents the entire and integrated agreement between the parties hereto with respect to the subject matter hereof, and supersedes any and all prior negotiations, representations, agreements and understandings, whether written or oral, between the parties with respect to the subject matter contained herein.

31. Incorporation by Reference. All exhibits attached to this Lease shall be deemed incorporated into the Lease by the individual reference to each such exhibit, and all exhibits shall be deemed part of this Lease as though set forth in full.

32. Severability. Wherever possible, each provision of this Lease shall be interpreted in such a manner as to be valid under applicable law. If any provision of the Lease, or the application of it to any person or circumstances, is determined by a court of competent jurisdiction to be unenforceable, such provision shall be severed from and shall not affect the remainder of this Lease.

33. Execution. This Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.

34. Binding Effect. All terms, covenants, and conditions of this Lease shall be binding on and inure to the benefit of the heirs, executors, administrators, successors, and assigns of the parties, and in the case of Tenant, all amounts due and payable under this Lease shall be the obligation of the heirs, executors, administrators, and assigns, regardless of the time period to which these amounts relate. Nothing in this Section shall be deemed to permit any assignment, subletting, occupancy, or use contrary to the provisions contained in this Lease.

35. Time is of the Essence. Time is of the essence with respect to the performance of this Lease and each and every provision herein.

//
//
//
//
//
//
//
//
//

WHEREFORE, the parties have executed this Lease on the 5th day of September, 2000.

CITY OF REDLANDS

Mayor

COYOTE AVIATION

Gil Brown, President of the Corporation

Attest:

Lorrie Poyzer,
City Clerk, City of Redlands

Attest:

Secretary of the Corporation

STATE OF CALIFORNIA )
) ss.
COUNTY OF )

On 9-8-00 before me. Linda Emmerson.

Notary Public for the State of California, personally appeared Eva Saliba
~~personally known to me~~ (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

LINDA EMMERSON
Commission # 1264468
Notary Public - California
San Bernardino County
My Comm. Expires Jun 16, 2004

Linda Emmerson
Notary Public

(Notary Seal)

STATE OF CALIFORNIA )
) ss.
COUNTY OF )

On 9-11-00 before me. Linda Emmerson.

Notary Public for the State of California, personally appeared Gil Brown
~~personally known to me~~ (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

LINDA EMMERSON
Commission # 1264468
Notary Public - California
San Bernardino County
My Comm. Expires Jun 16, 2004

Linda Emmerson
Notary Public

(Notary Seal)

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Bernardino

On 9/6/00 (Date) before me, Linda Emmerson, Notary Public (Name and Title of Officer (e.g., "Jane Doe, Notary Public"))

personally appeared Pat Gilbreath and Lorrie Poyzer (Name(s) of Signer(s))

X personally known to me – OR – proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~/are 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.

LINDA EMMERSON
Commission # 1264468
Notary Public - California
San Bernardino County
My Comm. Expires Jun 16, 2004

WITNESS my hand and official seal.

Linda Emmerson
Signature of Notary Public

### OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

### Description of Attached Document

Title or Type of Document: Lease of Property Located at Redlands Municipal Airport

Document Date: 9/5/00 Number of Pages: 24

Signer(s) Other Than Named Above: Gil Brown and Eva Saliba

### Capacity(ies) Claimed by Signer(s)

Signer's Name:

- Individual
- Corporate Officer
  Title(s):
- Partner — ☐ Limited ☐ General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other:

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing:

Signer's Name:

- Individual
- Corporate Officer
  Title(s):
- Partner — ☐ Limited ☐ General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other:

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing:

**Exhibit "A"**

LEASE PARCEL FOR COYOTE AVIATION - PHASE I

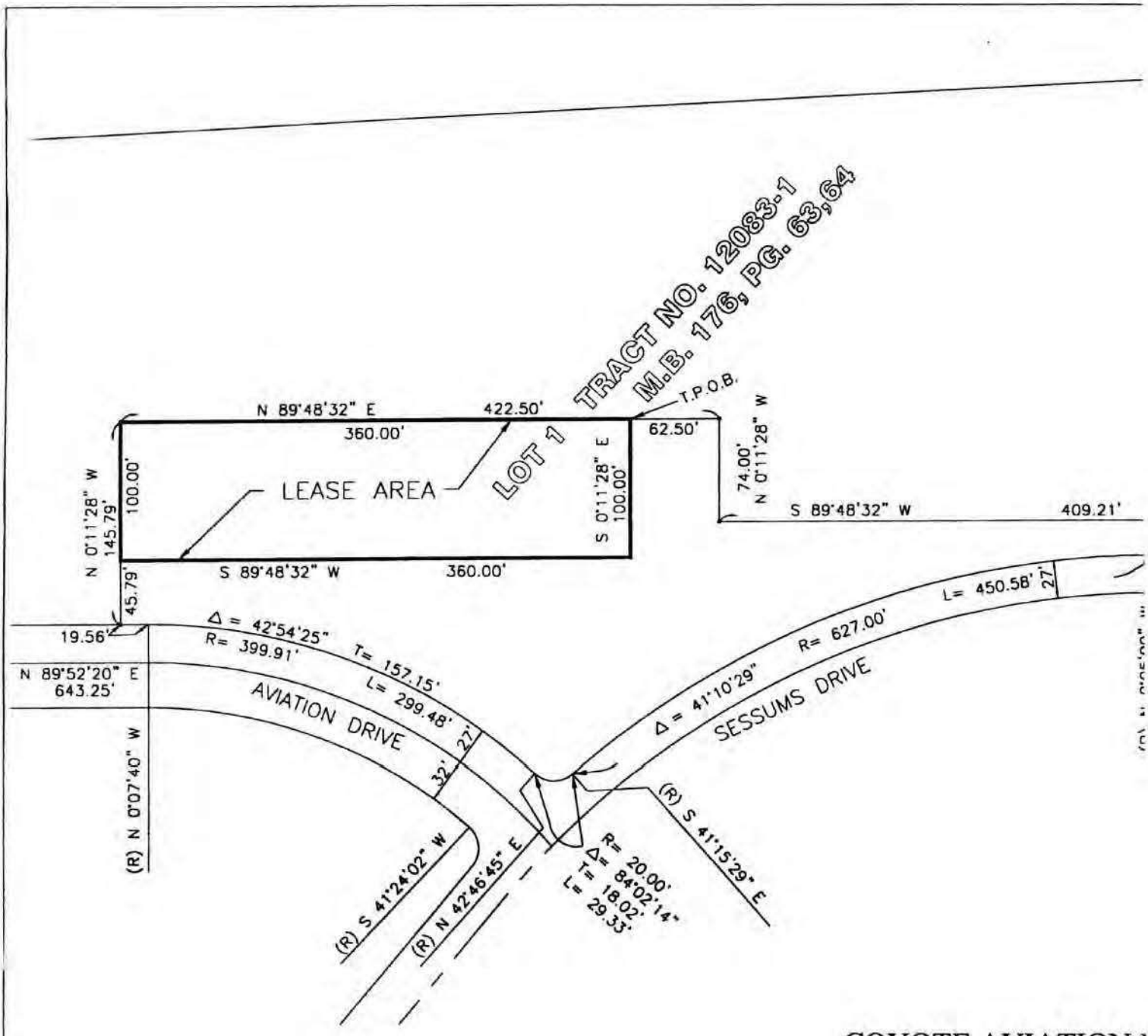
That portion of Lot 1, Tract No. 12083-1, filed in the County Recorder's Office of San Bernardino County in Book 176, Pages 64 and 65 of Maps, in the City of Redlands, County of San Bernardino, State of California, more specifically described as follows:

Beginning at the northeast corner of Lot 1, Tract 12083-1, filed in the County Recorder's Office of San Bernardino County in Book 176, Pages 64 and 65 of Maps; thence southerly along the east lot line of said Lot 1, South 0° 03'49" East 322.91 Feet to a point on the northerly right-of-way line of Sessums Drive, said point also being the southeast corner of said Lot 1; thence westerly along said northerly right-of-way line, South 89°55'00" West 107.85 Feet; thence leaving said right-of-way line North 0°11'28" West 25.46 Feet; thence South 89°48'32" West 409.21 Feet; thence North 0°11'28" West 74.00 Feet; thence South 89°48'32" West 62.50 Feet to the True Point of Beginning;

Thence South 0°11'28" East 100.00 Feet; thence South 89°48'32" West 360.00 Feet; thence North 0°11'28" West 100.00 Feet; thence North 89°48'32" East 360.00 Feet, more or less, to the True Point of Beginning.

Described parcel contains 0.8264 Acres (36,000 s.f.)

TTF:tf 05/31/00
COYOTE AVIATION




COYOTE AVIATION I

06/05/00 TTF

**Exhibit "B"**

LEASE PARCEL FOR COYOTE AVIATION - PHASE II

That portion of Lot 1, Tract No. 12083-1, filed in the County Recorder's Office of San Bernardino County in Book 176, Pages 64 and 65 of Maps, in the City of Redlands, County of San Bernardino, State of California, more specifically described as follows:

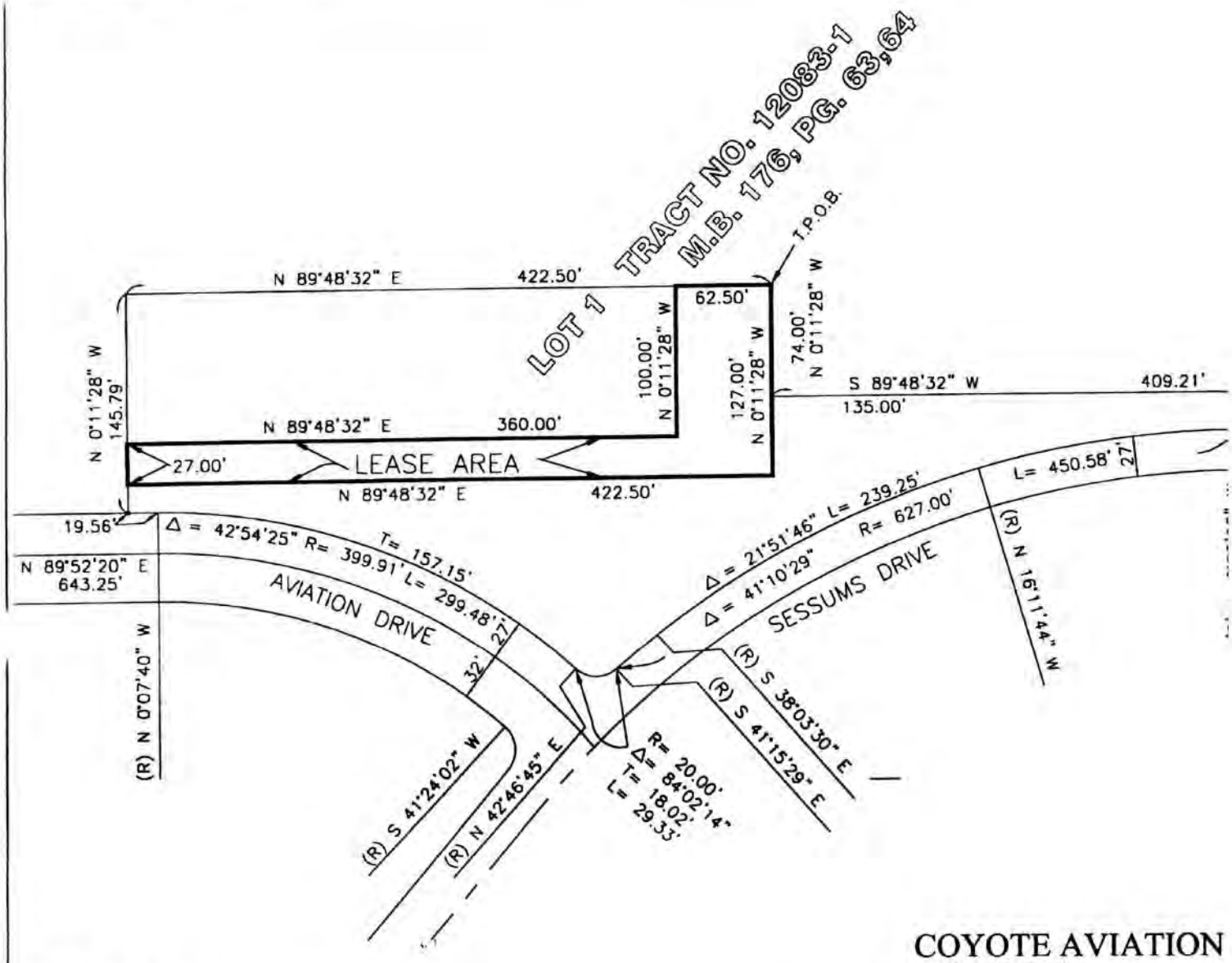
Beginning at the northeast corner of Lot 1, Tract 12083-1, filed in the County Recorder's Office of San Bernardino County in Book 176, Pages 64 and 65 of Maps; thence southerly along the east lot line of said Lot 1, South 0° 03'49" East 322.91 Feet to a point on the northerly right-of-way line of Sessums Drive, said point also being the southeast corner of said Lot 1; thence westerly along said northerly right-of-way line, South 89°55'00" West 107.85 Feet; thence leaving said right-of-way line North 0°11'28" West 25.46 Feet; thence South 89°48'32" West 409.21 Feet; thence North 0°11'28" West 74.00 Feet, to the True Point of Beginning;

Thence South 0°11'28" East 127.00 Feet; thence South 89°48'32" West 422.50 Feet, thence North 0°11'28" West 27.00 Feet; thence North 89°48'32" East 360.00 Feet; thence North 0°11'28" West 100.00 Feet; thence North 89°48'32" East 62.50 Feet, more or less, to the True Point of Beginning.

Described parcel contains 0.4053 Acres (17,657 s.f.)

TTF:tf 08/17/00
COYOTE AVIATION


Tom T. Fujiwara




# COYOTE AVIATION (PHASE II)

08/17/00 TTF

**Exhibit "C"**

LEASE PARCEL FOR COYOTE AVIATION - PHASE III

That portion of Lot 1, Tract No. 12083-1, filed in the County Recorder's Office of San Bernardino County in Book 176, Pages 64 and 65 of Maps, in the City of Redlands, County of San Bernardino, State of California, more specifically described as follows:

Beginning at the northeast corner of Lot 1, Tract 12083-1, filed in the County Recorder's Office of San Bernardino County in Book 176, Pages 64 and 65 of Maps; thence southerly along the east lot line of said Lot 1, South 0° 03'49" East 322.91 Feet to a point on the northerly right-of-way line of Sessums Drive, said point also being the southeast corner of said Lot 1; thence westerly along said northerly right-of-way line, South 89°55'00" West 107.85 Feet to the True Point of Beginning;

Thence westerly along said northerly right-of-way line of Sessums Drive, South 89°55'00" West 100.16 Feet to the beginning of a tangent 627.00-foot radius curve, concave southeasterly, a radial to which bears North 0°05'00" West; thence continuing southwesterly along said northerly right-of-way line, along the arc of said curve, through a central angle of 41°10'29", a distance of 450.58 Feet to the beginning of a tangent 20.00-foot radius reverse curve, concave northerly, a radial to which bears South 41°15'29" East; thence westerly along the northerly right-of-way line of Aviation Drive, along the arc of said curve, through a central angle of 84°02'14", a distance of 29.33 Feet, to the beginning of a tangent 399.91-foot radius reverse curve, concave southwesterly, a radial to which bears North 42°46'45" East; thence northwesterly along said northerly right-of-way line of Aviation Drive, along the arc of said curve, through a central angle of 42°54'25", a distance of 299.48 Feet; thence South 89°52'20" West 19.56 Feet; thence leaving said northerly right-of-way line, North 0°11'28" West 18.79 Feet; thence North 89°48'32" East 422.50 Feet, thence North 0°11' 28" West 53.00 Feet; thence North 89°48'32" East 409.21 Feet; thence South 0°11'28" East 25.46 Feet, more or less, to the True Point of Beginning.

Described parcel contains 1.0469 Acres (45,604 s.f.)

TTF:tf 08/17/00
COYOTE AVIATION

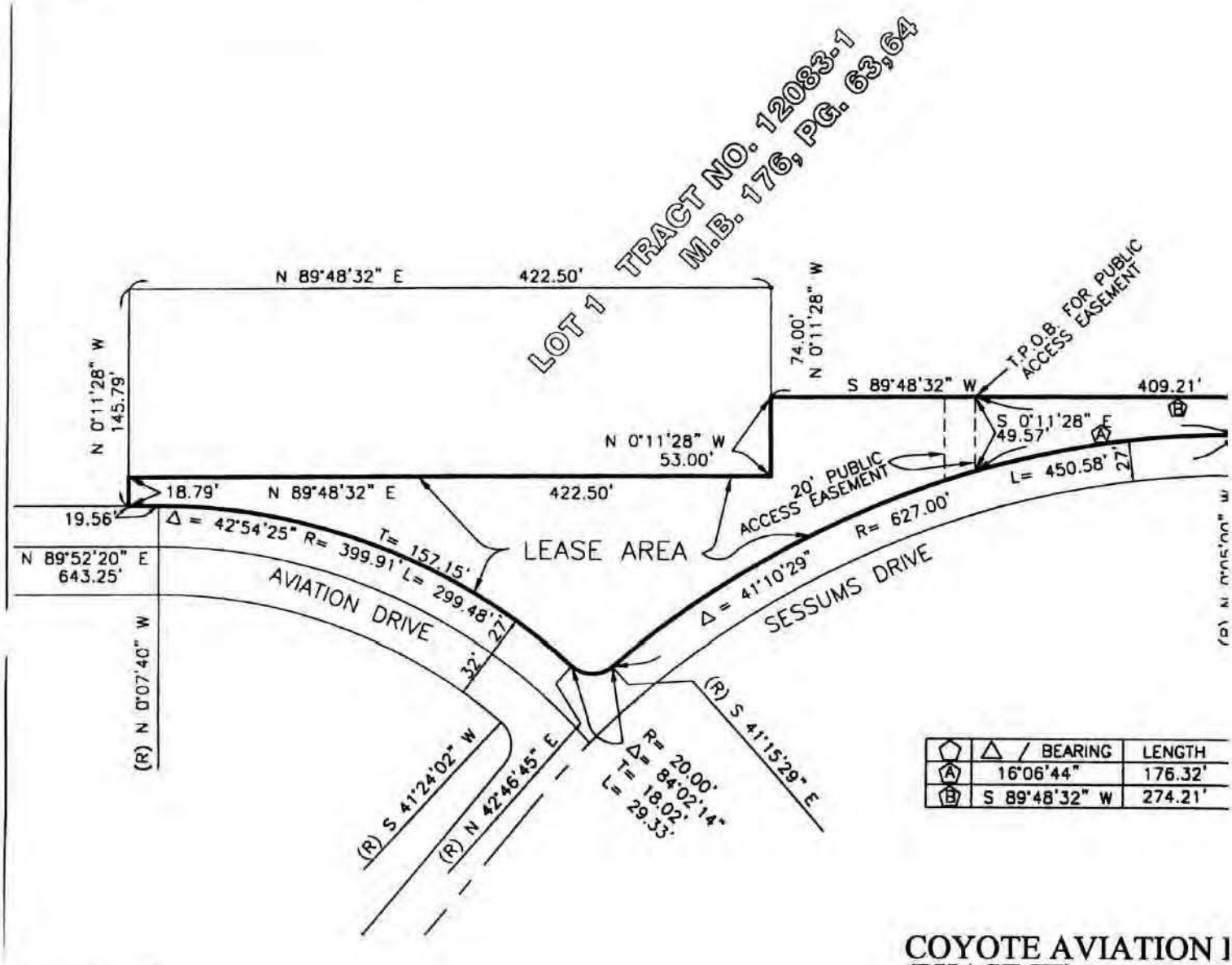
PUBLIC ACCESS EASEMENT
COYOTE AVIATION - PHASE III

A 20-foot wide Public Access Easement within that portion of Lot 1, Tract No. 12083-1, filed in the County Recorder's Office of San Bernardino County in Book 176, Pages 64 and 65 of Maps, in the City of Redlands, County of San Bernardino, State of California, the easterly sideline of which is described as follows:

Beginning at the northeast corner of Lot 1, Tract 12083-1, filed in the County Recorder's Office of San Bernardino County in Book 176, Pages 64 and 65 of Maps; thence southerly along the east lot line of said Lot 1, South 0° 03'49" East 322.91 Feet to a point on the northerly right-of-way line of Sessums Drive, said point also being the southeast corner of said Lot 1; thence westerly along said northerly right-of-way line, South 89°55'00" West 107.85 Feet; thence leaving said right-of-way line North 0°11'28" West 25.46 Feet; thence South 89°48'32" West 274.21 Feet, to the True Point of Beginning;

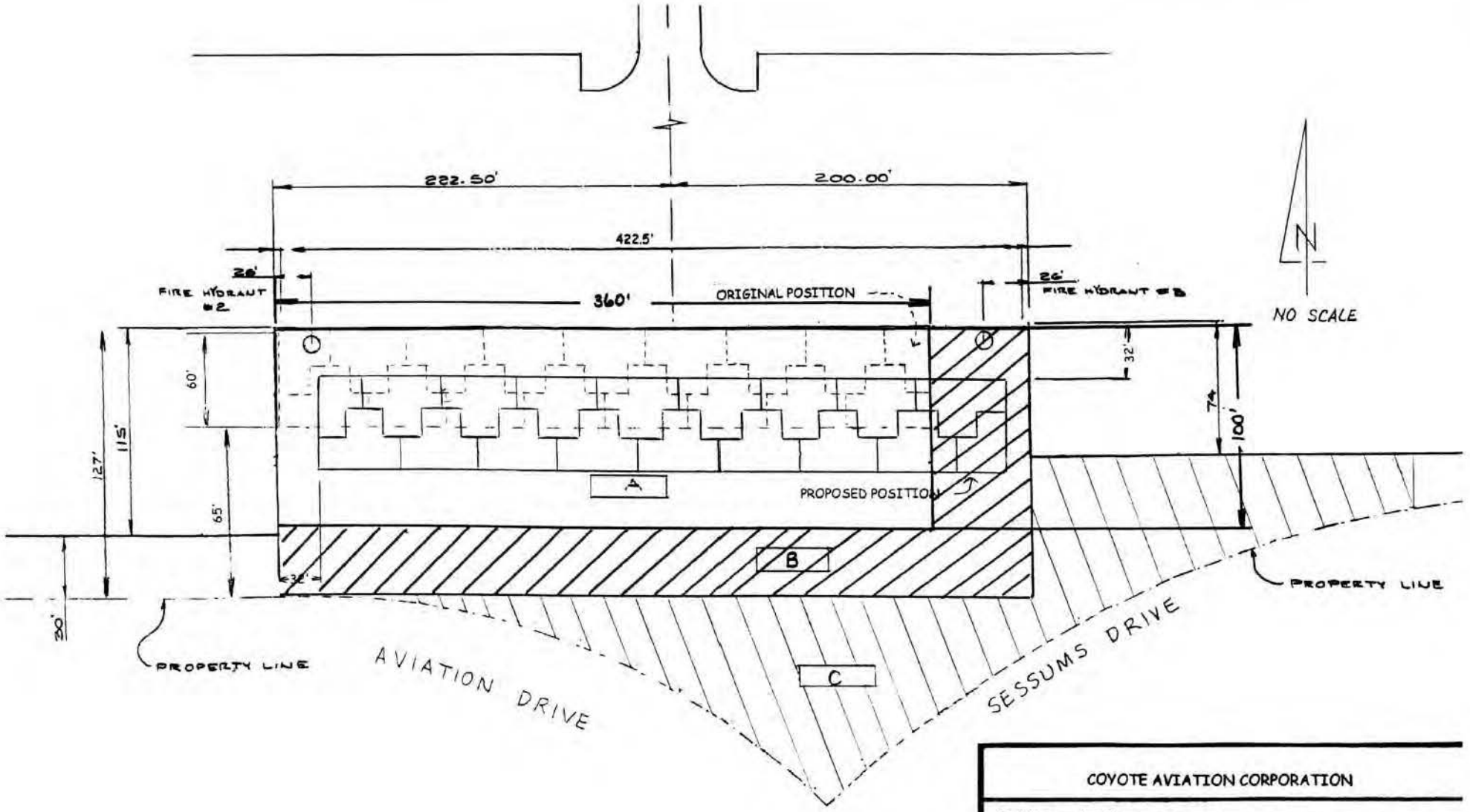
Thence South 0°11'28" East 49.57 Feet to the terminus, said terminus being on the northerly right-of-way line of Sessums Drive. The westerly sideline of described easement is to be prolonged to intersect said northerly right-of-way line of Sessums Drive.

TTF:tf 08/07/00
COYOTE AVIATION




08/17/00 TTF

# COYOTE AVIATION I
# (PHASE III)




| COYOTE AVIATION CORPORATION | | |
|---|---|---|
| EXHIBIT "D" – CONSTRUCTION & AVIATION OPERATIONS PLAN | | |
| APPROVED BY | REDLANDS MUNICIPAL AIRPORT | |
| DATE 8/1/2000 | DRAWN BY JG, GB | DRAWING NUMBER 1 |
| SCALE | | |

95-00 Approved: 9/5/00

AMENDED LEASE AGREEMENT

Coyote Aviation

Use of a portion of property at Redlands Municipal Airport for construction of an aviation complex

Initial approval 4/4/00

ORIGINALS FILED WITH AIRPORT LEASES

EXHIBIT B

**CERTIFIED FOR PUBLICATION**

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

| | |
|---|---|
| COYOTE AVIATION CORPORATION,<br>Plaintiff and Appellant,<br>v.<br>CITY OF REDLANDS,<br>Defendant and Respondent. | E081591<br>(Super.Ct.No. CIVSB2203398) |
| CITY OF REDLANDS<br>Plaintiff and Respondent,<br>v.<br>COYOTE AVIATION CORPORATION,<br>Defendant and Appellant | E083738<br>(Super.Ct.Nos. ACIAS23000240 & LLTVA2200544)<br>OPINION |

APPEAL from the Superior Court of San Bernardino County. Winston S. Keh and Charles J. Umeda, Judges. Affirmed.

Fennemore, Marlene Allen Murray, David D. Werner; Fennemore Wendel and Thiele R. Dunaway for Plaintiff, Defendant and Appellant.

Best Best & Krieger, Amy E. Hoyt, Jessica K. Lomakin and Scott W. Ditfurth for Defendant, Plaintiff and Respondent.

On April 4, 2000, plaintiff and appellant Coyote Aviation Corporation (Coyote) entered into a 20-year lease (April Lease) with the City of Redlands (City) for property located at the Redlands Municipal Airport (Property). Coyote intended to build hangars on the Property and lease them to pilots in need of storage for their planes. The parties negotiated a 20-year term for the April Lease and agreed that Coyote, with proper notice, could twice exercise a 15-year option (Option) to extend the lease. The April Lease would terminate on April 4, 2020, unless Coyote exercised an Option.

The parties signed an amended lease on September 5, 2000, based on Coyote being unable to take possession of the Property until that date (Amended Lease). The new move-in date was September 5, 2000. The Amended Lease had the original termination date of April 4, 2020. Several months after the Amended Lease was signed, Coyote raised the issue with a City official that the Amended Lease should terminate on September 5, 2020, in order to be a 20-year lease, but no written amendment to the Amended Lease was ever executed by the parties. In June 2020, Coyote attempted to exercise the Option to extend the Amended Lease by sending written notice to the City. The City informed Coyote that it was too late and that the Amended Lease had terminated on April 4, 2020. The City considered Coyote a holdover month-to-month tenant under the terms of the Amended Lease. The City issued a 30-day notice to quit the Property to Coyote.

Coyote filed an action against the City for breach of contract, specific performance, breach of the implied covenant of good faith and fair dealing, declaratory relief and promissory estoppel/detrimental reliance.[1] The trial court sustained the City's demurrer to the first amended complaint (FAC) in the action and entered judgment against Coyote. When Coyote did not vacate the premises after the 30-day notice to quit, the City filed an unlawful detainer action against Coyote. The trial court granted summary judgment in favor of the City and ordered Coyote to vacate the Property.

In this appeal Coyote claims, as to the demurrer, that the trial court erred by sustaining the City's demurrer to the breach of contract claim based on the City breaching the Amended Lease by refusing to extend the lease term and rejecting Coyote's exercise of the 15-year Option; the City is estopped from asserting that Coyote's exercise of the 15-year Option was untimely as the City caused any failure by Coyote to timely exercise the option; and the City waived any objection to Coyote's exercise of the 15-year Option. The trial court also erred by sustaining the City's demurrer to the cause of action of the implied covenant of good faith and fair dealing. Coyote also contends the trial court erred by sustaining the demurrer on a reformation cause of action raised in the original complaint based on it pleading sufficient facts to state a claim for reformation of the Amended Lease, the statute of limitations was tolled by the statements and conduct of the City's employees, and the City is estopped from raising the statute of limitations as a bar

---

[1] The appeal in case No. E081591 relates to the grant of the demurrer. The appeal in case No. E083738 relates to the unlawful detainer action filed by the City. We have consolidated the two cases and this opinion will resolve both cases.

to Coyote's reformation cause of action.. Coyote further contends that it alleged sufficient facts to state a claim for declaratory relief and promissory estoppel. Coyote insists that it can amend the FAC to raise an equitable estoppel claim. Finally, Coyote contends that if this court reverses the judgment, the award of attorney's fees to the City should be reversed.

Coyote further claims, as to the demurrer, that the City breached the Amended Lease by preventing it from removing the improvements on the Property. Coyote contends that it can allege facts to support a claim of unjust enrichment based on the City taking control of the tenant improvements made by Coyote on the Property. As will be discussed *post*, these issues are not properly raised on appeal as they were not decided by the trial court and are part of another ongoing case.

With respect to the appeal of the grant of summary judgment for the unlawful detainer, Coyote contends there are triable issues of fact as to whether the City should be estopped from contending that Coyote's exercise of the 15-year Option was untimely. Coyote relied on the course of conduct and representations by the City that it would be able to exercise the 15-year Option. Coyote also argues that the City's attempt to deprive Coyote of the 15-year Option is barred by promissory estoppel and that the City waived any objection to Coyote's exercise of the 15-year Option. Extrinsic evidence showed ambiguity in the Amended Lease. Finally, there were triable issues of fact whether Coyote gave proper notice of its intent to exercise the 15-year Option in December 2019 and January 2020.

## FACTUAL AND PROCEDURAL HISTORY

### A. FIRST COMPLAINT AND DEMURRER

Coyote filed its first complaint on February 8, 2022 (Complaint). In the Complaint, Coyote alleged several causes of action including, breach of contract, specific performance, breach of implied covenant of good faith and fair dealing and reformation. Coyote alleged that in 1999, it approached the City in order to rent the Property to construct a multi-hanger building. On April 4, 2000, Coyote and the City signed the April Lease, which stated it was for a term of 20 years, with two successive 15-year Options to extend the April Lease upon 45 days written notice to the City clerk. Due to Coyote being unable to immediately occupy the Property, Coyote and the City agreed to amend the April Lease.

The parties signed the Amended Lease and it was approved by the City council on September 5, 2000. In place of the term of 20 years, the Amended Lease provided the termination of the Amended Lease was on April 4, 2020, the same date as the April Lease. The Amended Lease expressly rescinded the April Lease. Coyote alleged in the Complaint that it first became aware that the Amended Lease was expiring on April 4, 2020, on November 30, 2000. Coyote contacted the City manager and Coyote alleged that the City manager agreed to amend the Amended Lease to fix the error. The termination date was never corrected by written amendment to the Amended Lease. Coyote noted that the Amended Lease provided for the Property to be 36,000 square feet but it had been increased to 53,658 square feet and Coyote was paying a higher rent than was stated in the Amended Lease.

Coyote alleged, to its detriment, it relied on the termination date orally stated by the City, which it considered to be September 5, 2020. In June 2020 Coyote was in contact with the supervisor at the Redlands Airport, Bruce Shaffer (Shaffer), and the City's assistant director of facilities and services, Tim Sullivan (Sullivan), and they discussed that Coyote was interested in exercising the 15-year Option. Both Shaffer and Sullivan acknowledged that the termination date was April 4, 2020, but Coyote alleged that they discussed that the Amended Lease should expire on September 5, 2020. The City accepted rent on the Property past the April 4, 2020 date. On June 22, 2020, Coyote sent written notice to the City—an email was sent to Shaffer—with an attachment indicating it intended to exercise the first 15-year Option to extend the Amended Lease. The City then notified Coyote that the Amended Lease had expired and that it could not exercise the 15-year Option to extend. The City informed Coyote that it was a month-to-month tenant.

Coyote provided additional information regarding extrinsic evidence that the City and its staff all believed the Amended Lease was for the term of 20 years. This included minutes from staff meetings, Airport Advisory Board meetings and statements from City council members at the time the Amended Lease was approved. Coyote also alleged the City was secretly calculating how much it could make off the Property if Coyote vacated the Property. On March 16, 2021, the City council at a closed meeting voted to terminate the Amended Lease. A termination letter was sent to Coyote on March 17, 2021. Further negotiations were conducted between the City and Coyote regarding an extension of the Amended Lease with a greatly increased rental amount but Coyote did not agree.

Coyote's first cause of action in the Complaint was for breach of contract/specific performance. The City breached the Amended Lease by refusing to honor Coyote's exercise of the first 15-year Option. Coyote sought specific performance of the 15-year Option. The second cause of action was for breach of the covenant of good faith and fair dealing. The City's refusal to honor the 15-year Option was being done in order to position itself to adjust the annual base rent without restriction.

The third cause of action in the Complaint was for common law reformation and under Civil Code section 3399. The parties negotiated a 20-year lease and the Amended Lease provided for a term of 19 years 7 months. The error was through inadvertence or mutual mistake. Coyote was seeking reformation of the Amended Lease to the agreed 20-year term. Coyote's fourth cause of action was for declaratory relief pursuant to Civil Code of Procedure section 1060. Coyote sought a declaration that the Amended Lease ended on September 5, 2020, and that the exercise by Coyote of the 15-year Option was timely. The fifth cause of action was for promissory estoppel. Coyote detrimentally relied on the fact that the Amended Lease was for 20 years and built structures. Coyote's business would suffer if the Amended Lease was terminated. The City, through its actions and words, appeared to agree that the termination date was September 5, 2020.

The April Lease was included with the Complaint. It provided, "The term of this Lease shall be for a period of twenty (20) years and shall commence on the date first written above." The April Lease was signed by the mayor of the City and Gil Brown on behalf of Coyote on April 4, 2000.

Several other exhibits attached to the Complaint detailed the negotiations between Coyote and the City on the Amended Lease. Coyote sent a letter to the City on April 17, 2000, seeking to postpone the start of the April Lease based on Coyote not being able to immediately begin construction on the Property. The City public works director responded to Coyote that it had agreed to amend the April Lease. The new lease would be sent to Coyote for their approval of the changes and then it would be approved by the City council. In the report to the City council for approval of the Amended Lease it was stated that the City staff and Coyote agreed to "minor modifications" regarding the rental terms.

The Amended Lease was signed on September 5, 2000, by the mayor of the City and Brown for Coyote. It included language that Coyote and City had entered into a prior lease for the Property but now "wish to rescind and enter into this new lease in its place." It described the Property as 36,000 square feet. As for the term, "This lease shall remain in full force and effect until April 4, 2020 at which time it shall terminate, unless extended as otherwise provided herein." Coyote had two 15-year Options to extend under paragraph 2.1 of the Amended Lease. Paragraph 2.1 provided, "Tenant shall have two (2) successive options for extending the Term of this Lease for periods of fifteen (15) additional years each. Provided Tenant is in compliance with all terms of the Lease, Tenant may exercise such options by providing written notice to City forty-five (45) days prior to the termination date of this Lease. Any extension of the Term of this Lease pursuant to this section shall be on the same terms and conditions contained in this Lease."

The Amended Lease provided that rent for the Property was $5,724 and could be increased every three years. Coyote also had the option of leasing additional square footage from the City under the same terms of the Amended Lease. Upon termination of the Amended Lease, Coyote was to remove all tenant improvements and deliver the Property in the same condition as the time the Amended Lease was executed. The Amended Lease further provided, "If Tenant, with City approval, remains in possession of the Property without negotiating a new lease, the continued possession by Tenant shall be deemed to be a month-to-month tenancy terminable on thirty (30) days written notice given at any time by either party." Paragraph 25 of the Amended Lease was entitled Notices and stated, "Any notice required by this Lease shall, unless otherwise specified in this Lease, be served by deposit in the United States mail with first-class postage prepaid, addressed to the person and address listed below." The address for the City was the City clerk. The Amended Lease also had a waiver provision that stated, "No waiver by either party of any breach of any condition or covenant of this Lease shall be deemed a waiver of any subsequent breach of the same or any other condition or covenant."

The Amended Lease additionally provided that "This Lease may not be amended or modified except as expressly provided in this section. Any amendment, modification, waiver, consent or acquiescence with respect to any provision of this Lease shall be set forth in writing and duly executed by or on behalf of the party to be bound thereby." It further provided, "This Lease represents the entire and integrated agreement between the parties hereto with respect to the subject matter hereof, and supersedes any and all prior

negotiations, representations, agreements and understandings, whether written or oral, between the parties with respect to the subject matter contained herein."

Coyote included several other exhibits with the Complaint setting forth extrinsic evidence that the City and staff all believed that the Amended Lease was for a 20-year term, and the actions taken by the City after the Amended Lease terminated on April 4, 2020.

Coyote also provided its request to renew the 15-year Option. It was dated June 23, 2020, and was addressed to Shaffer and Sullivan at the City of Redlands Municipal Airport. Coyote included a letter from the City dated March 17, 2021, notifying Coyote that the exercise of the 15-year Option was not timely and that it was occupying the Property as a month-to-month tenant. The City offered Coyote a new lease with an increased rent.

The City filed a demurrer to the Complaint. The City alleged Coyote had known about the termination date in the Amended Lease for 20 years. Coyote failed to comply with the terms of the Amended Lease by failing to timely exercise the 15-year Option. There were no written amendments to the Amended Lease and the Amended Lease provided for written amendments, not oral amendments. Further, the Amended Lease contained an integration clause, which provided the only enforceable terms were within the four corners of the Amended Lease. All prior agreements or leases were rescinded. Coyote was seeking to avoid the express terms of the Amended Lease. Further, the claims were time-barred as Coyote admitted knowing about the termination date in the Amended Lease since November 2000.

On September 9, 2022, Coyote filed opposition. Coyote insisted it discovered the termination date error in November 2000 and brought it to the attention of the City. At the same time, the parties agreed to an increase of the size of the rental from 36,000 square feet to 53,658 square feet and Coyote paid a higher rent. Coyote conceded no written amendment was made to the Amended Lease reflecting a different termination date or the increase in square footage. Coyote insisted all of its causes of action were viable based on all parties believing the Amended Lease expired on September 5, 2020. The City filed a reply to the opposition.

The trial court issued a tentative ruling on October 12, 2022. For the first and second causes of action—breach of contract and implied covenant of good faith and fair dealing—the written Amended Lease provided that the termination date was April 4, 2020, and the 15-year Option would have to be exercised 45 days prior to that date. Coyote did not exercise the 15-year Option until June 23, 2020. As such, Coyote's conclusory allegation that it performed its duties under the Amended Lease was not supported and the breach of contract action failed. This equally applied to the second cause of action of implied covenant of good faith and fair dealing as Coyote was required to timely exercise the 15-year Option and it failed to do so. The City's demurrer to the first and second causes of action were sustained with leave to amend.

The trial court further found that the third cause of action for reformation had to be raised within three years from the date the mistake was discovered. Coyote alleged it became aware of the mistake in November 2000. There was no evidence Coyote pursued a remedy within three years of the discovery and it was time-barred. The demurrer to the

third cause of action was sustained without leave to amend. The demurrer to the fourth cause of action for declaratory relief was also sustained with leave to amend based on the substantive causes of action failing. The fifth cause of action for promissory estoppel was sustained with leave to amend based on Coyote failing to allege a clear promise made by the City to amend the termination date. The trial court adopted the tentative ruling at a hearing on October 12, 2022, except it allowed for amendment to the third cause of action.

B. FIRST AMENDED COMPLAINT

Coyote filed the FAC on November 4, 2022. Coyote alleged essentially the same facts that were provided in the Complaint omitting several allegations regarding statements by City council members at the time the Amended Lease was approved. Coyote contacted the City about the termination date on or about December 4, 2000. Coyote alleged that staff from the City made "a clear and substantive promise" that the City would honor the full 20-year term making the expiration date September 5, 2020. Although the Amended Lease was never amended in writing, Coyote relied on the December 2000 promise that the City would honor the full 20-year term. Coyote also alleged for the first time that it provided other notice to exercise the 15-year Option in December 2019 and January 2020. Coyote emphasized that the Amended Lease used the language that Coyote "may" exercise such options by providing written notice to City forty-five (45) days prior to the termination of the Lease. Coyote interpreted "may" as allowing other notice. It provided such notice in December 2019 and January 2020 by tendering lease payments, renewing insurance, obtaining new gate cards, paying property

taxes and getting business licenses through the end of 2020. Further, Coyote advised the staff of the Redlands Municipal Airport of its intention to extend the Amended Lease.

Coyote's first cause of action in the FAC was for breach of contract. It alleged it had fully performed its duties under the Amended Lease. Coyote provided notice to the City of its decision to exercise the 15-year Option. The City breached the Amended Lease by failing to honor that Coyote exercised the 15-year Option. The second cause of action was for specific performance. Coyote complied with the requirements in the Amended Lease to exercise the 15-year Option, and in the alternative, the Amended Lease was ambiguous and must be construed against the City. Further, Coyote's failure to provide written notice before February 19, 2020, must be excused due to the City's clear promise that the City would disregard the express deadline and that Coyote could exercise the 15-year Option anytime prior to July 22, 2020. Specific performance was the only adequate remedy.

The third cause of action in the FAC was for breach of implied covenant of good faith and fair dealing. Coyote exercised the 15-year Option prior to the February 19, 2020, deadline by advising officials by email that it intended to exercise the option. Alternatively, no written notice was required based on the clear promise by the City that it would disregard the express deadline. The City's refusal to honor the 15-year Option was done in bad faith in order to interfere with Coyote receiving the benefits of the Amended Lease, and to raise the rent. The fourth cause of action was for declaratory relief. Coyote sought a declaration that the 15-year Option was timely exercised under the terms of the Amended Lease. In the alternative, a declaration that the notice

provision for the 15-year Option was ambiguous and unenforceable. Coyote insisted the word "may" in the option clause referred to the requirement of written notice. The fifth cause of action was for promissory estoppel/detrimental reliance. The City promised that it would honor the full 20-year term and therefore Coyote could exercise the 15-year Option prior to July 22, 2020. Coyote relied on the promise by making significant improvements to the Property and paying rent on 53,658 square feet of leased space.

Coyote included many of the same exhibits with the FAC as were included with the Complaint. It did not include much of the extrinsic evidence of former City council members and what they recalled from when the Amended Lease was executed.

C. CITY'S DEMURRER

On December 14, 2022, the City filed a demurrer to the FAC. The City insisted that Coyote was required under the express terms of the Amended Lease to provide written notice to the City to exercise its 15-year Option. Coyote failed to provide the required written notice. Its claims of breach of contract were not viable as Coyote did not perform its duty as required under the Amended Lease. Further, the use of the term "may" in the clause pertaining to notice to exercise the 15-year Option referred to the fact that Coyote could exercise the 15-year Option but was not required to exercise the option. Accordingly, the first and second causes of action were not viable. As for the third cause of action, no implied covenant could require conduct that contradicted the express Amended Lease provisions. The fourth cause of action for declaratory relief was not viable as it was derivative of the substantive claims that should be rejected. Finally, the fifth cause of action for promissory estoppel was not viable. In the Complaint, Coyote

alleged that the City only stated that it "could" amend the termination date in the Amended Lease which was not a clear and ambiguous promise. Further, the Amended Lease required all amendments be in writing and there had been no pleading of a clear and definite promise by the City to honor the 20-year term. Finally, Redlands Municipal Code section 3.04.010 required all contracts be written, and approved by the City council and the mayor of the City.

Coyote filed opposition to the City's demurrer to the FAC. It insisted that it could give notice other than written notice of its decision to exercise of the 15-year Option, and it did so by advising staff at the Redlands airport it wanted to extend; tendering lease payments; renewing insurance, obtaining new gate access cards and permits through the entirety of 2020. Coyote insisted it delivered notice of exercising its 15-year Option in December 2019 and January 2020. As such, the City breached the contract by not accepting the request. The use of the term "may" allowed for several ways to provide notice that it was exercising the 15-year Option. Further, there was waiver when representatives of the City accepted the 15-year Option in June 2020. Specific performance was the proper remedy. There was a viable claim for promissory estoppel based on the City making a definite promise to honor the 20-year term.

Attached to the opposition were many of the same exhibits attached to the FAC. The FAC and tentative ruling on the Complaint were included as exhibits. The CEO of Coyote, Gil Brown, provided a declaration in support of the FAC. He provided a background on the case similar to the facts in the FAC. He attested that he contacted the City on December 4, 2000, when he noticed the termination date on the Amended Lease

was April 4, 2020. He declared that a representative of the City made "a clear and definite promise" that the City would honor the full 20-year term ending on September 5, 2020, and would increase the square footage from 36,000 square feet to 53,658 square feet. Brown insisted he relied on the promise and began paying increased rent for the 53,658 square feet in May 2001. Brown admitted the parties never corrected the Amended Lease in writing but the City accepted the higher rent amount. During December 2019 and January 2020, he sent numerous notifications to the City making it "abundantly clear" that Coyote was exercising the 15-year Option. The City filed a reply to the opposition to the demurrer to the FAC.

D. TRIAL COURT RULING ON DEMURRER TO THE FAC

The trial court issued a tentative ruling on February 2, 2023. The trial court reviewed the provisions in the April Lease. It then noted the language in the Amended Lease that the parties intended to rescind the April Lease and enter into a new lease in its place. It quoted the language in the Amended Lease as to the term, notices and the 15-year Options. The trial court noted that the two leases were "clearly different." The Amended Lease was not ambiguous as to notice on the 15-year Option; City must be given 45 days prior to April 4, 2020. The trial court noted that Coyote's argument for breach of contract was based on its allegation that it had fully performed its duties and obligations under the Amended Lease. However, Coyote's own allegations and exhibits demonstrated that it failed to timely exercise the 15-year Option under the terms of the Amended Lease. The trial court sustained the City's demurrer to the first cause of action.

Given that it was finding that there was no claim for breach of contract, the second cause of action on specific performance also failed.

The third cause of action, breach of implied covenant of good faith and fair dealing, required proof that the City unfairly interfered with Coyote's right to receive the benefit of the contract. The Amended Lease provided a termination date and deadline by which Coyote had to deliver written notice of its intent to exercise the 15-year Option, which Coyote failed to timely deliver. Under the doctrine of implied covenant, the implied covenant could not contradict the express terms of the contract. Under the express terms of the Amended Lease, Coyote had to timely exercise the 15-year Option and failed to do so. The declaratory relief claim in the fourth cause of action was part of the substantive claim and would also be denied. Finally, the fifth cause of action for promissory estoppel, the trial court found the claim was that Coyote relied on the promise made on December 5, 2000, by a City official, that City acknowledged the termination date error and made a clear promise to honor the full 20-year term to September 5, 2020. The trial court cited to cases holding that promissory estoppel could not be asserted against a public entity to bypass rules that required contracts to be in writing. Pursuant to Government Code section 40602, a mayor shall sign all written contracts. Redlands Municipal Code section 3.04.010 only authorized contracts approved by the City council and mayor. There was no promise that was reduced to writing, approved by the City council and signed by the City's mayor. The trial court sustained the demurrer to the fifth cause of action. The trial court would consider arguments at a hearing on the demurrer whether leave to amend should be granted.

The hearing was held on February 2, 2023. At the hearing on the demurrer, Coyote argued as to promissory estoppel that it could amend to allege extraordinary circumstances that would allow a City to be liable under the theory. Coyote also sought to amend to claim it had been overpaying rent and a claim regarding the tenant improvements. The City argued there was no amendment to the FAC that could be made based on the unambiguous language in the Amended Lease. Further, it would be inappropriate to add new causes of action. The trial court took the matter under submission and agreed to consider the arguments on leave to amend.

The trial court on February 8, 2023, issued its ruling that the demurrer to the FAC was sustained without leave to amend. An order entering judgment was filed on April 28, 2023, sustaining the demurrer to the FAC in its entirety and without leave to amend. The City was named the prevailing party. Coyote filed a notice of appeal on June 23, 2023.

The City filed a motion for attorney fees on June 27, 2023. The trial court granted the request for attorney fees in the amount of $38,499. On September 8, 2023, Coyote filed a notice of appeal from the grant of attorney fees.

E. UNLAWFUL DETAINER PROCEEDINGS

On December 28, 2021, the City served Coyote with a 30-day notice to vacate the premises. It required that Coyote remove all equipment and structures. Coyote did not vacate the premises.

The City filed its Unlawful Detainer Complaint against Coyote on February 14, 2022. The City contended that the Amended Lease had expired on April 4, 2020, and

pursuant to its terms, continued on a month-to-month basis. Coyote filed an answer on March 17, 2022.

The City filed a motion for summary judgment contending that Coyote failed to timely exercise the 15-year Option to extend the Amended Lease. The Amended Lease had expired, and the City was entitled to possession of the Property. The Amended Lease was the entire agreement between the parties and superseded any prior agreements. Coyote was served with a 30-day notice to vacate the Property but was still occupying the Property. The City alleged it was entitled to attorney fees and costs, and unpaid rent. The City requested that the trial court take judicial notice of the tentative ruling and judgment in the case involving the grant of the demurrer to the FAC.

Coyote filed a response to the motion for summary judgment. Coyote contended, as it did in opposing the demurrer to the FAC, that it had given timely notice to the City that it was exercising the 15-year Option in December 2019 and January 2020; that through the City's authorized agents, the City had waived any objection to the timeliness of Coyote's exercise of the 15-year Option; and the City was estopped from contending the exercise of the 15-year Option was untimely. The City filed a response. The ruling on the demurrer had been made by the trial court in the breach of contract case. The City requested that the trial court in the unlawful detainer action find the same way as the trial court in the demurrer case. It should find that written notice was required in order to exercise the 15-year Option and that Coyote failed to timely provide written notice. Further, the trial court should similarly find that there were no grounds for promissory

estoppel and waiver as officials from the City stated that the Amended Lease "could" be amended but no written amendment was ever executed.

The trial court issued a tentative ruling on February 2, 2023, granting the City's motion for summary judgment.[2] A hearing was conducted on February 3, 2023. Coyote insisted that the term "may" indicated that Coyote could notify in writing or other means. The parties used "shall" numerous times in the Amended Lease and knew the difference. The trial court felt that based on the totality of the language in the Amended Lease, notice had to be in writing. Coyote argued that the Amended Lease was approved by the City council and no further approval was required under the rules of the municipal code or general law to extend the lease under the 15-year Option. The trial court allowed the parties to provide supplemental briefing.

On February 17, 2023, Coyote filed a supplemental brief. Coyote argued the City accepted Coyote's June 23, 2020, written notice, waiving the required February 19, 2020, notice. Coyote additionally argued that assuming the Amended Lease terminated on April 4, 2020, and the City accepted Coyote as a month-to-month holdover tenant, it was under the same terms and conditions, including having the right to exercise the 15-year Option up until at least September 2020. Further, there was a triable issue of fact as to promissory estoppel. Coyote insisted the Government Code and Municipal Code only applied to "new agreements." The 15-year Option was part of the Amended Lease that was approved in writing.

---

[2] The trial court issued a final written ruling. The tentative ruling is not necessary to the issues on appeal.

The City filed a response to Coyote's supplemental briefing. It insisted there was no evidence presented to support their claims. Coyote had provided no admissible testimony on the authority of the City staff to bind the City to the 15-year Option. Moreover, the holdover tenancy did not include the 15-year Option. Coyote filed a reply.

Another hearing was held on March 10, 2023. The trial court clarified Coyote's argument that the holdover month-to-month tenancy included the right to exercise the 15-year Option. Coyote insisted that the exercise of the 15-year Option did not require approval by the City council and be signed by the City's mayor. The City argued it made no sense that Coyote could exercise a 45-day notice option when it was a month-to-month tenant. Further, notice had to be given in writing to the City clerk; no other notice was sufficient.

After the hearing, on April 18, 2023, the trial court filed a memorandum opinion and order granting the City's motion for summary judgment on the complaint for unlawful detainer. It considered the written arguments submitted prior to the February 3 and March 10, 2023 hearings, and the argument at the hearings.

The trial court reviewed the facts of the case derived from the factual summary from the parties' separate statements of material facts, declarations, attached exhibits and requests for judicial notice. It found the Amended Lease was clear that notice of exercising the options required written notice 45 days prior to the termination date of the Amended Lease. Any other interpretation violated the statutory rules of construction by inviting ambiguity rather than resolving it. Further, paragraph 25 of the Amended Lease provided that all notices must be mailed and in writing to the specific address listed in the

Amended Lease. The trial court found that it could not interpret the Amended Lease to create conflicts between its provisions. The trial court further rejected the month-to-month tenancy that continued the Amended Lease under the same terms and conditions, necessarily meant that it included the 15-year Options.

The trial court found that the City had met its initial burden of production of material facts to support the unlawful detainer. Coyote failed to meet its burden of showing a material issue of fact existed. First, the termination date of the Amended Lease was clear and there was no need to consider parol evidence under Code of Civil Procedure section 1856. Coyote's argument ignored that there was an agreed upon integration clause in the Amended Lease. As a matter of law, the termination date of the Amended Lease was April 4, 2020. The terms of the Amended Lease required 45 days written notice prior to the termination date. Further, there was no waiver by the City of the requirement to provide written notice.

As for promissory estoppel, it was a closer question. The rule of estoppel only applied against a public agency in those special cases where the interests of justice required it. The trial court relied on Government Code section 40602, subdivision (b), and Redlands Municipal Code section 3.04.010 that the City staff did not have authority to enter into and approve contracts.

A hearing on the proposed judgment was held on May 19, 2023. The parties discussed the resolution of the tenant improvements on the Property. Coyote argued that the issue of the hangers on the Property had to be resolved by further litigation. The City agreed that the unlawful detainer only applied to the possession of the Property and did not adjudicate the tenant improvements. The trial court agreed the judgment on holdover damages and title to the tenant improvements would be determined in a separate proceeding.

Judgment on the unlawful detainer was entered on July 17, 2023.[3] The judgment stated that it only granted possession of the Property to the City. It further provided, "This Judgment is not an adjudication of any of the defendants' ownership interests in the alterations, improvements, fixtures, or units that exist on the Property. This Judgment grants possession to the City only, and in no way forecloses or otherwise precludes any defendant in this action from commencing a separate civil action to determine its ownership interests, if any, in the structures, alterations, improvement, fixtures or units that exist on the Property."

Coyote filed a notice of appeal on August 10, 2023, in the appellate division of the San Bernardino Superior Court. On March 29, 2024, Coyote filed its opening brief in the San Bernardino County Superior Court's appellate division. The appeal was transferred to this court to be decided with the ruling on the demurrer to the FAC.

---

[3] On February 29, 2024, Coyote requested that this court take judicial notice of the unlawful detainer judgment. Since it is part of the record on appeal, we deny the request.

## DISCUSSION

### A. DEMURRER CAUSES OF ACTION GRANTED

#### 1. *DEMURRER*

"On appeal from a judgment dismissing an action after sustaining a demurrer without leave to amend, the standard of review is well settled. We give the complaint a reasonable interpretation, reading it as a whole and its parts in their context. [Citation.] Further, we treat the demurrer as admitting all material facts properly pleaded, but do not assume the truth of contentions, deductions or conclusions of law. [Citations.] When a demurrer is sustained, we determine whether the complaint states facts sufficient to constitute a cause of action. [Citation.] And when it is sustained without leave to amend, we decide whether there is a reasonable possibility that the defect can be cured by amendment: if it can be, the trial court has abused its discretion and we reverse." (*City of Dinuba v. County of Tulare* (2007) 41 Cal.4th 859, 865.)

#### 2. *BREACH OF CONTRACT*

Coyote claims the trial court erred by sustaining the demurrer to the first cause of action for breach of contract and the second cause of action for specific performance based on the City's breach of the contract by refusing to extend the Amended Lease term and rejecting Coyote's exercise of the 15-year Option. Coyote insists that both the language in the Amended Lease and the extrinsic evidence surrounding the formation of the Amended Lease showed the terms were ambiguous. The extrinsic evidence—including the April Lease—clearly showed that the intent of the parties was that the Amended Lease would be for a 20-year term. Moreover, City officials throughout the

term of the Amended Lease stated that the actual termination date of the Amended Lease was September 5, 2020. Coyote further refers to the increase in square footage to 53,658 of which Coyote believed was an amendment to the Amended Lease that was corrected along with the termination date. Further, the trial court erred by relying on the Government Code and Redlands Municipal Code, which applied only to new contracts. Staff throughout the years stated that the Amended Lease was for a 20-year term and there was no requirement of a new lease that had to be in writing.

"[T]he elements of a cause of action for breach of contract are (1) the existence of the contract, (2) plaintiff's performance or excuse for nonperformance, (3) defendant's breach, and (4) the resulting damages to the plaintiff." (*Oasis West Realty, LLC v. Goldman* (2011) 51 Cal.4th 811, 821.) Coyote insists that it sufficiently pleaded that it had performed its obligations under the Amended Lease to exercise the 15-year Option and that the City breached its duty under the Amended Lease by refusing to honor the 15-year Option. Coyote relies on extrinsic evidence, which included the agreement by the parties that the lease term was 20 years, and that City officials promised that the Amended Lease expired on September 5, 2020.

" 'The language of a contract is to govern its interpretation, if the language is clear and explicit, and does not involve an absurdity.' " (*Thrifty Payless, Inc. v. Mariners Mile Gateway, LLC* (2010) 185 Cal.App.4th 1050, 1060.) "[E]xtrinsic evidence cannot be used to contradict the contract's terms unless the language is 'reasonably susceptible' to the proposed interpretation. [Citation.] Indeed, unless the language is 'reasonably

susceptible' to the proposed meaning, extrinsic evidence cannot even be considered to explain or otherwise shed light upon the parties' intent." (*Id.* at p. 1061.)

Moreover, under the parol evidence rule, when a contract is integrated, extrinsic evidence cannot be used to vary or contradict the instrument's express terms. (Code Civ. Proc., § 1856 ["(a) Terms set forth in a writing intended by the parties as a final expression of their agreement with respect to the terms included therein may not be contradicted by evidence of a prior agreement or of a contemporaneous oral agreement"]. " 'Under the parol evidence rule, extrinsic evidence is not admissible to contradict express terms in a written contract or to explain what the agreement was. [Citation.] The agreement is the writing itself. [Citation.] . . . Parol evidence cannot . . . be admitted to show intention independent of an unambiguous written instrument." (*Cerritos Valley Bank v. Stirling* (2000) 81 Cal.App.4th 1108, 1115-1116.)

There are no grounds for the consideration of extrinsic evidence in this case. Coyote signed the Amended Lease. The Amended Lease provided for a termination date of April 4, 2020, and all notices must be in writing and sent to the City clerk 45 days prior to the termination of the Amended Lease. It provided that any amendment to the Amended Lease was to be in writing. It also included an integration clause, which provided that the Amended Lease superseded all prior written and oral agreements, and was the entire agreement between the parties. We further note that the termination date in the April Lease and the Amended Lease are the same date.

It is clear that Coyote never provided written notice to the City clerk 45 days prior to April 4, 2020. The City did not have to accept any other type of notice, including any email notices to Shaffer and/or Sullivan that were made in December 2019 and January 2020. The terms of the Amended Lease were clear that if Coyote was in good standing under the Amended Lease, it "may" exercise the 15-year Option. The Amended Lease simply cannot be interpreted that the term "may" referred to the ability to provide any type of notice. This would contradict the express provision in paragraph 25 that all notices must be in writing. Coyote simply cannot prove it performed its duty under the Amended Lease to provide proper written notice of its decision to exercise the 15-year Option. As such, the breach of contract and specific performance causes of action fail.

Coyote makes several claims that this court must consider the extrinsic evidence because such evidence must first be considered prior to consideration of the language of the Amended Lease; that the integration clause in the Amended Lease does not bar the introduction of extrinsic evidence; and there was mistake and imperfection in the Amended Lease that was put in issue in the pleadings. We have reviewed the cases and arguments by Coyote and they do not support that the Amended Lease, which included an explicit integration clause, was ambiguous and required that the trial court consider extrinsic evidence. Extrinsic evidence is not admissible to " 'vary, alter or add to the terms of an integrated written agreement.' " (*Casa Herrera, Inc. v. Beydoun* (2004) 32 Cal.4th 336, 343.) "The parol evidence rule . . . establishes that the terms contained in an integrated written agreement may not be contradicted by prior or contemporaneous agreements . . . the rule necessarily bars consideration of extrinsic evidence of prior or

contemporaneous negotiations or agreements at variance with the written agreement." (*Id.* at p. 344.) There was no ambiguity that needed to be resolved by extrinsic evidence. The termination date in the Amended Lease was April 4, 2020, amendments had to be in writing, and the exercise of the 15-year Option was required to be made 45 days prior to termination of the Amended Lease and had to be in writing. Coyote is not contending the "meaning" of the terms in the Amended Lease must be interpreted to mean something other than what the written agreement stated, but rather seeks to alter the terms of the integrated agreement to change the termination date. This is not a proper use of parol evidence.

Coyote argues that the terms of the Amended Lease must be construed against the City because it drafted the Amended Lease. This argument assumes that the Amended Lease is ambiguous, which it is not. Further, Coyote claims the termination date in the Amended Lease was never disclosed, but Coyote signed the Amended Lease, which contained the term. Coyote also claims that after the Amended Lease was signed, officials from the City "lulled Coyote into believing that the City had corrected the April 4 date in the Lease to September 5." However, the Amended Lease specifically required all amendments to be in writing. There is no evidence that there was a written amendment to the Amended Lease. Coyote cannot raise a viable claim that the Amended Lease had been changed by oral agreement by City officials. Finally, Coyote points to the fact that it was paying rent on 53,658 square feet but the Amended Lease only stated that it was using 36,000 feet. The Amended Lease provided that Coyote could request

more square footage. This fact has no impact on the termination date of the Amended Lease.

Coyote requests leave to amend in order to raise a claim that there was a breach of contract related to the tenant improvements. This was not part of the FAC, as, at the time, Coyote was still in possession of the Property. At the hearing on February 2, 2023, Coyote raised the issue of the requirement to remove the improvements and wanted the trial court to provide a "declaration" of how the process should take place and the time frame for removal of the improvements. The trial court issued its order sustaining the demurrer without leave to amend to address the tenant improvements. In its appellants' reply brief, Coyote claims that it could have raised the claim at the time of the FAC. However, Coyote was still in possession of the Property and there had been no action taken on the tenant improvements. Coyote acknowledges that "an appeal reviews the correctness of a judgment as of the time of its rendition, upon a record of matters which were before the trial court for its consideration." (*In re Zeth S.* (2003) 31 Cal.4th 396, 405.) The decision on the unlawful detainer was still pending at the time of the ruling on the demurrer and Coyote still was in possession of the Property. No decision was made on the tenant improvements and the trial court was not required to give an advisory opinion on what had to be done with the tenant improvements. Further, as noted by the City in its brief, and acknowledged by Coyote, such issues are being separately litigated.[4]

---

[4] We grant the City's July 2, 2024, request to take judicial notice of the complaint in *Coyote Aviation Corporation, et al. v. City of Redlands, et al.*, San Bernardino County Superior Court case No. CIVSB2418252, for the sole purpose that the issue of tenant

*[footnote continued on next page]*

We see no reason to allow Coyote to amend the FAC to include the tenant improvement issue when it is being separately litigated and was not an issue at the time of the ruling on the demurrer. We deny any request by Coyote to amend to include this issue.

3. *WAIVER*

Coyote further contends the City should be estopped from contending that Coyote did not timely exercise the 15-year Option and that the Amended Lease expired on April 4, 2020, as its actions showed that it believed it expired on September 5, 2020. The City contributed to and caused any failure of Coyote to timely exercise the 15-year Option. Coyote insists that Government Code section 40602 and Redlands Municipal Code section 3.04.010 did not apply to the exercise of the 15-year Option as it was not a new contract that had been approved by the City council and signed by the Mayor. Further, all the actions by Shaffer and/or Sullivan, such as advising Coyote that it would meet with Coyote in July 2020 to discuss the extension of the lease, showed that Coyote believed the Amended Lease expired on September 5, 2020.

There was no waiver of the termination date. As previously stated, the Amended Lease provided that all amendments had to be in writing. There is no evidence that the Amended Lease was ever amended to include the termination date of September 5, 2020. Even if City officials stated orally that the expiration date was September 5, 2020, the

---

improvements is being separately litigated. We deny Coyote's September 6, 2024, conditional request to take judicial notice of further documents filed in the case, as they are unnecessary to resolve the appeal and have not been decided by the trial court.

only way to change the date was to execute a written amendment. Any oral promises did not constitute waiver of the termination date.

Moreover, Shaffer and/or Sullivan could not agree to accept the exercise of the 15-year Option. Government Code section 40602, subdivision (b) provides, "The mayor shall sign: . . . [¶] (b) All written contracts and conveyances made or entered into by the city." Redlands Municipal Code section 3.04.010 is entitled "CONTRACT SIGNING AND ATTESTATION" and provides, "All contracts authorized or awarded by the city council shall be signed by the mayor, and attested by the city clerk for and on behalf of the city, unless otherwise provided by law or by the council."[5]

There is no dispute that the 15-year Option had to be submitted in writing to the City clerk 45 days prior to the termination date of the Amended Lease. Coyote posits Shaffer and Sullivan began discussing the lease expiration with Coyote in January 2020 and they were to meet in July. Coyote provided no evidence that City officials advised Coyote that it did not need to provide the written notice to exercise the 15-year Option as required by the Amended Lease. Coyote sent a written notice of exercising the 15-year Option to Shaffer and Sullivan on June 23, 2020, which they accepted, even though under the Amended Lease notice was required to be sent to the City clerk. However, Shaffer and Sullivan could not accept the 15-year Option, as the Amended Lease had already expired. In order to extend the Amended Lease, the parties would have to reach a new agreement, which would have to be approved by the City council and mayor under

---

[5] https://codelibrary.amlegal.com/codes/redlandsca/latest/redlands_ca/0-0-0-1599, as of June 3, 2025.

Government Code section 40602 and Redlands Municipal Code section 3.04.010. The trial court properly sustained the demurrer to the first and second causes of action.

4. *BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING*

Coyote contends the trial court erred by sustaining the demurrer for the third cause of action of breach of implied covenant of good faith and fair dealing. Coyote argues the City misled Coyote as to the termination date of the Amended Lease so that it could regain possession and control of the tenant improvements without paying for them. Coyote was denied possession of the Property for the next thirty years.

" ' "Every contract imposes upon each party a duty of good faith and fair dealing in its performance and its enforcement." ' " (*Carma Developers (Cal.), Inc. v. Marathon Development California, Inc.* (1992) 2 Cal.4th 342, 371.) "It is well settled that 'an implied covenant of good faith and fair dealing cannot contradict the express terms of a contract.' " (*Bevis v. Terrace View Partners, LP* (2019) 33 Cal.App.5th 230, 252.) "We are aware of no reported case in which a court has held the covenant of good faith may be read to prohibit a party from doing that which is expressly permitted by an agreement. On the contrary, as a general matter, implied terms should never be read to vary express terms." (*Carma*, at p. 374.) In *Bevis*, the court held that the defendants could not be "held liable for breach of the implied covenant of good faith and fair dealing by implementing rent increases that the parties' written lease agreements expressly authorized." (*Bevis*, at p. 253.)

Here, Coyote seeks to contradict the express terms of the Amended Lease by claiming the City misled it to believe that the Amended Lease expired on September 5, 2020. The express term of the Amended Lease stated that it expired on April 4, 2020. Moreover, the City did nothing to stop or mislead Coyote from sending the proper 45-day written notice exercising the 15-year Option. If Coyote had sent the notice under the express terms of the Amended Lease, there is nothing in the evidence that supports the City would not have accepted it in order to obtain the tenant improvements. The trial court properly sustained the demurrer as to the third cause of action.

5. *REFORMATION*

Coyote also contends the trial court erred by sustaining the demurrer to Coyote's reformation cause of action. Coyote argued in the Complaint that the City officials agreed in 2000 that the Amended Lease should expire on September 5, 2020. Coyote insists that despite having knowledge of the expiration date in the Amended Lease in 2000, the claim was not time-barred as the statute of limitations was tolled and the City is equitably estopped from asserting the statute of limitations. Coyote raised this claim in the Complaint and the trial court sustained the demurrer to the Complaint. Coyote did not raise a reformation cause of action in the FAC. The trial court originally ruled that it could not amend the reformation claim because it was time-barred but changed its ruling at the hearing on the demurrer to the Complaint. It allowed Coyote to amend the reformation claim in the FAC. The FAC raised no cause of action for reformation. As such, the claim cannot be reviewed on appeal. (See *Leibert v. Transworld Systems, Inc.*

(1995) 32 Cal.App.4th 1693, 1698 ["By electing to amend his complaint, appellant waived any error in the ruling sustaining the demurrer" to the first complaint].)

6. *PROMISSORY ESTOPPEL*

Coyote insists it stated a claim for promissory estoppel. " 'Promissory estoppel is described as: " 'A promise which the promisor should reasonably expect to induce action or forbearance of a definite and substantial character on the part of the promisee and which does induce such action or forbearance is binding if injustice can be avoided only by enforcement of the promise.' " ' " (*Los Angeles Equestrian Center, Inc. v. City of Los Angeles* (1993) 17 Cal.App.4th 432, 448.) "The elements of promissory estoppel are (1) a clear promise, (2) reliance, (3) substantial detriment, and (4) damages 'measured by the extent of the obligation assumed and not performed.' " (*Toscano v. Greene Music* (2004) 124 Cal.App.4th 685, 692.)

"As a general rule, a public entity cannot be sued on an implied-in-law or quasi-contract theory, because such a theory is based on quantum meruit or restitution considerations which are outweighed by the need to protect and limit a public entity's contractual obligations." (*Los Angeles Equestrian Center, Inc. v. City of Los Angeles*, *supra*, 17 Cal.App.4th at p. 449.) "Further, the general rule is that a city may not be estopped by the conduct of its officers or employees. [Citation.] 'There are occasions for departure from the general rule that a city may not be estopped by the conduct of its officers or employees. [Citation.] But such departure is justified only when the facts clearly establish that a grave injustice would be done if an equitable estoppel were not

applied.' " (*Lundeen Coatings Corp. v. Department of Water & Power* (1991) 232 Cal.App.3d 816, 830.)

As previously stated, the Amended Lease provided that the termination date was April 4, 2020. In order to amend the Amended Lease to provide that it would expire on September 5, 2020, it would require a written amendment and a change to the term length. This written contract would have to be approved by the City council and signed by the mayor as it obligated the City to a longer lease term. (See *G.L. Mezzetta v. City of American Canyon* (2000) 78 Cal.App.4th 1087, 1093.) Further, as for Shaffer and Sullivan accepting the 15-year Option in June 2020, the Amended Lease had expired. No written notice under the terms of the Amended Lease was sent by Coyote prior to the termination date of the Amended Lease. These City officials could not bind the City to the 15-year Option based on their oral agreement to accept the exercise of the option. Moreover, since the Amended Lease had expired prior to the exercise of the 15-year Option, the determination that Coyote could lease the Property for an additional 15 years was a new agreement that had to be approved by the City council and signed by the City's mayor under both the Government Code and Redlands Municipal Code. The trial court properly determined that the promissory estoppel claim failed based on the City employees not having the authority to bind the City to an amendment to the Amended Lease or to extend the Amended Lease after its expiration.

Finally, Coyote brought a cause of action for declaratory relief. However, this claim was based on the substantive claims of breach of contract and promissory estoppel which have been rejected.

B. POTENTIAL AMENDMENT CLAIMS

"When the court has sustained a demurrer without leave to amend, the burden is on the plaintiff to demonstrate how he can amend his complaint, and how that amendment will change the legal effect of his pleading." (*Community Cause v. Boatwright* (1981) 124 Cal.App.3d 888, 902.)

1. *EQUITABLE ESTOPPEL*

Coyote insists it should be granted leave to amend to raise a claim of equitable estoppel. Coyote appears to claim that it can amend the reformation claim to prove that the City was estopped from raising the claim that it was time-barred based on statements or conduct of the City's official. He insists that promises were made in 2000 by a City official that the Amended Lease did not expire until September 5, 2020, and the Amended Lease would be amended. Coyote relied on the representation and did not file suit at the time. The City cannot raise the time bar.

" In appropriate cases, a defendant may be equitably estopped from asserting a statutory limitations period. [Citation.] ' " 'Generally speaking, four elements must be present in order to apply the doctrine of equitable estoppel: (1) the party to be estopped must be apprised of the facts; (2) he [or she] must intend that his [or her] conduct shall be acted upon, or must so act that the party asserting the estoppel had a right to believe it was so intended; (3) the other party must be ignorant of the true state of facts; and (4) he [or she] must rely upon the conduct to his [or her] injury.' " ' [Citations.] [¶] In the statute of limitations context, equitable estoppel may be appropriate where the defendant's act or omission actually and reasonably induced the plaintiff to refrain from

filing a timely suit. [Citation.] The requisite act or omission must involve a misrepresentation or nondisclosure of a material fact bearing on the necessity of bringing a timely suit. [¶] Notably, however, even a defendant who is ignorant or mistaken as to the real facts may be equitably estopped if the defendant was ' " 'in such a position that he [or she] ought to have known' " ' the true facts." (*Doe v. Marten* (2020) 49 Cal.App.5th 1022, 1028.) " 'When the evidence is not in conflict and is susceptible of only one reasonable inference, the existence of an estoppel is a question of law.' " (*Id.* at p. 1029.)

Here, Coyote insists that it can allege equitable estoppel to show that it relied on the City to amend the Amended Lease to change the termination date. However, Coyote was aware that a written amendment to the Amended Lease was never executed. Coyote was not ignorant of this fact and could not rely on the oral promise when it was aware the Amended Lease was never amended in writing as required by the terms of the Amended Lease. In fact, even if Coyote's allegation in the reply brief is accepted as true that it did not become aware that the Amended Lease was never changed to reflect the September 5, 2020, termination date until January 2020, this was still before it had to send notice to exercise the 15-year Option. This did not prohibit Coyote from giving the proper written notice to exercise its 15-year Option 45 days prior to the termination date of April 4, 2020, despite the oral promise. Coyote was not ignorant of the fact that the Amended Lease expired on April 4, 2020, and that it was required to provide written notice 45 days prior to the expiration date in order to extend the Amended Lease. Coyote cannot amend the FAC to raise a viable claim of equitable estoppel.

2. *UNJUST ENRICHMENT*

Coyote also seeks leave to amend in order to raise a claim of unjust enrichment based on the City taking possession of the tenant improvements. The City insists that leave to amend should not be granted because the resolution of this issue is part of a separate action.

Initially, Coyote's claim is not entirely clear. Coyote makes some argument that the unlawful detainer action awarding the Property and tenant improvements to the City without a full and fair hearing raises a claim under the Fourth, Fifth and Fourteenth Amendments. However, Coyote also admits that the issue of ownership of the tenant improvements was not decided in the unlawful detainer action. However, Coyote insists that if the City were to be awarded these tenant improvements, it would be unjust enrichment to the City. As discussed, *ante*, there was no resolution of the tenant improvements at the time that the demurrer was sustained and the time of the unlawful detainer. Such claims are being resolved in a separate action. The instant case does not warrant leave to amend to resolve these claims in this action.

Coyote does not allege any further amendments could be made to the FAC. There are no grounds for reversing the trial court's order denying leave to amend the FAC.[6]

---

[6] Coyote further contends that if this court reverses the ruling of the trial court, the attorney fee award should be reversed. Since we uphold the trial court's ruling sustaining the demurrer, we need not address this claim.

C. UNLAWFUL DETAINER

Coyote contends that the trial court erred by granting summary judgment on the unlawful detainer action based on there being triable issues of fact whether (1) the City should be estopped from contending that the Coyote's exercise of the 15-year Option was untimely; (2) the City waived any objection to the Coyote's exercise of the 15-year Option; (3) extrinsic evidence showed an ambiguity in the Amended Lease that had to be adjudicated; and (4) Coyote gave the City notice that it was exercising the 15-year Option in December 2019 and January 2020.

Coyote acknowledges that these are the same arguments raised on appeal in the demurrer action. We have already rejected these claims and find that they equally apply to the unlawful detainer action.

Coyote concludes in the reply brief that equitable relief should be granted in this case to prevent a significant injustice to Coyote through the loss of its multi-million dollar investment in tenant improvements. However, Coyote agreed in the Amended Lease that upon termination of the Amended Lease, it would have to remove all improvements. It was aware of the risk. Further, the issue of the tenant improvements is not properly considered in this appeal and has not been resolved. Moreover, nothing stopped Coyote from reading the Amended Lease and complying with its provisions; it was keenly aware that the Amended Lease was never amended in writing. The City did nothing to prohibit Coyote from giving the 45-day notice. Coyote had the right to send written notice that it was exercising the 15-year Option but failed to do so. The trial court

properly sustained the demurrer to the FAC and granted summary judgment on the unlawful detainer action.

**DISPOSITION**

The judgment is affirmed in full. The City is awarded costs on appeal as the prevailing party.

CERTIFIED FOR PUBLICATION

MILLER
J.

We concur:

RAMIREZ
P. J.

McKINSTER
J.

# EXHIBIT C

City of
REDLANDS
Incorporated 1888
P.O. Box 3005, Redlands, CA 92373
909-798-7655
cboatman@cityofredlands.org

FACILITIES & COMMUNITY
SERVICES DEPARTMENT

Christopher Boatman,
Facilities and Community
Services Director

March 17, 2021

Attn: Gil Brown and Jerjes Y. Saliba
Coyote Aviation
15 Meadowbrook Lane
Redlands, CA 92374

Re: Notice of Termination of "Hold Over" status and Lease with Coyote Aviation Corporation

Dear Mr. Brown,

On September 5, 2020, the City of Redlands approved a lease agreement ("Lease") with Coyote Aviation Corporation ("Coyote Aviation") for certain property located at the Redlands Municipal Airport, a copy of which is enclosed with this letter. The term of the Lease commenced on September 5, 2000, and on April 4, 2020, the Lease expired. The Lease did provide an option for Coyote Aviation to extend its term for up to two, successive, fifteen (15) year periods. However, Coyote Aviation did not provide timely written notice to the City, forty-five (45) days prior to the termination date of the Lease, to exercise that option.

Currently, Coyote Aviation occupies the property as a "hold over" tenant pursuant to Section 21 of the Lease. Sub-section 21.3 of the Lease states "…if the Tenant, with City's consent, remains in possession of the Property without negotiating a new lease, the continued possession by Tenant shall be deemed month-to-month tenancy terminable on thirty (30) days written notice given at any time by either party. All provisions of the Lease, except those pertaining to the term continue to apply."

As described in my October 23, 2020, letter to Coyote Aviation, the City Council discussed your request that the City "extend" the term of your expired Lease during the closed session posted of its October 20th meeting, and did not take action at the time. The City Council again discussed your request yesterday, and this time directed staff to inform Coyote Aviation that the City is terminating your "hold over" status.

Please accept this letter as Coyote Aviation's thirty (30) day notice of such termination. As further stated in section 21.1 of the Lease, Coyote Aviation must "….surrender the property in the same or better condition as it existed at the time of approval of the Lease, with all [Coyote Aviation's] improvements removed from the Property." Please feel free to contact me by telephone at 909-798-7655 or by email at cboatman@cityofredlands.org.

The City appreciates Coyote Aviation's past contributions to the Redlands Municipal Airport, and I, personally, appreciate your patience while the City Council has given due and careful consideration to your requests.

Sincerely,

Chris Boatman
Facilities and Community Services Director

CC: Charles M. Duggan, Jr., City Manager
Daniel J. McHugh, City Attorney

EXHIBIT D

City of
REDLANDS
Incorporated 1888
City of Redlands
35 Cajon Street, Suite 222, Redlands, CA 92373
909-798-7655

FACILITIES & COMMUNITY
SERVICES DEPARTMENT

CHRISTOPHER BOATMAN
Facilities and Community
Services Director

September 23, 2021

Attn: Gil Brown and Jeries Y. Saliba
Coyote Aviation
15 Meadowbrook Lane
Redlands, CA 92374

Re: Coyote Aviation Ground Lease

Dear Mr. Brown,

On June 1st, 2021, the City presented you with terms of a new agreement and requested that you provide a response within 15 days. Although no response was received, the City has continued to allow you to reside as a hold-over tenant at the Airport on a month-to-month basis. On July 29, 2021, Airport Supervisor Bruce Shaffer proactively contacted you by phone and encouraged you to respond to the City's offer. He also explained that we are happy to meet with you in person to further discuss terms of a new agreement. Despite our effort, no response was received until August 26, 2021, when we received the attached letter from your legal counsel, Dickinson Wright PLLC. In the letter, Coyote Aviation demanded the following:

- The City immediately recognize that Coyote rightfully exercised its initial fifteen year option, and that the lease continue as provided in the September 5, 2000 agreement with the changes discussed below.
- An additional fifteen-year term to following the second fifteen-year option in compensation for the financial and emotional stress it has been subjected to as the result of the City's ill-judged attempt to take Coyote's property.
- The City align the payment and other terms of the lease to correspond with the protections offered in similar situated operators.
- Repayment of all reasonable legal expenses incurred to date.
- A refund of excess ground lease payments at 7% compounded interest over 20 years equaling approximately $155,612.54
- A public apology from staff and the City Council for the reputational harm done to Coyote Aviation.

On September 21, 2021, the City Council reviewed the aforementioned letter and rejected Coyote Aviation's demands. Despite Coyote's Aviation's failure to respond to the previous offer, it remains the City's desire to reach an amicable and fair agreement. To this end, the City has thoroughly reviewed its initial offer and has determined to offer you the following revised terms of a new agreement:

- 15 year term
- 53,658 square foot land lease
- $30,048 annual rent
- Annual rent increase based on CPI
- Readjustment to fair market rent level every five years
- City retains all improvements

This offer represents the City's best and final offer. As we have previously stated, the City has a fiduciary responsibility to charge fair market rent; anything less would represent a burden to the taxpayers of Redlands. We are hopeful that this adjusted offer demonstrates our desire to negotiate in good faith. We request that you notify us in writing of your acceptance of the terms of this offer within fifteen calendar days. Failure to provide a timely response will result in the City taking further action to terminate your status as a "hold-over tenant" and pursue its legal remedies to protect the interests of the City and its residents.

Sincerely,

Chris Boatman
Facilities and Community Services Director

Attached: August 26, 2021, Letter from Dickinson Wright PLLC

CC: Charles M. Duggan, Jr., City Manager
Daniel J. McHugh, City Attorney

DICKINSON WRIGHT PLLC

1850 NORTH CENTRAL AVENUE, SUITE 1400
PHOENIX, AZ 85004-4568
TELEPHONE: 602-285-5000
FACSIMILE: 844-670-6009
http://www.dickinsonwright.com

TIMOTHY I. MCCULLOCH
TMcCulloch@dickinsonwright.com
602-285-5036


August 26, 2021

**VIA EMAIL AND CERTIFIED MAIL**

City of Redlands City Council
c/o Daniel J. McHugh, City Attorney
City Manager's Office
35 Cajon Street, Suite 200
P.O. Box 3005
Redlands, CA 92373
dmchugh@cityofredlands.org

Re: Coyote Aviation Corporation

Dear Redlands City Council:

As the City Council is aware, we represent Coyote Aviation Corporation ("Coyote"), a longtime tenant at the Redlands Municipal Airport (the "Airport") where it has operated a hangar facility for over twenty years. We previously sent a letter on April 20, 2021, detailing at length the interactions between the parties which substantiated the fact that the true and actual date for Coyote Aviation to exercise the option on its Ground Lease was September 5, 2020, not April 4, 2020. We had hoped that the letter would result in a concrete offer that would demonstrate that the City recognized the frailty of its position, the value of not taking this matter to litigation and the value that Coyote Aviation brings to the Redland's community. But instead, the City presented Coyote Aviation with a lease proposal that would have been utterly unacceptable for a new ground lease tenant at the airport (not to mention a violation of the City's Federal Grant Assurances as discussed below), let alone the long-term tenant who was the subject of the City's divestment drive predicated on the City's attempt to enforce a termination date that no one at the City actually believed was the actual date. Instead, the lease offer appears to have the inherent assumption by the City that the City owns the vertical structures on the property and would be leasing the same to Coyote Aviation, instead of the reality that the City would only be leasing to Coyote bare ground.

Moreover, the City's response failed in any manner to address Coyote's position with respect to the events leading to the placement of the wrong termination in Coyote's lease. We are forced to conclude that the City simply has no countervailing position and simply hopes that Coyote would take the deal offered rather than incur the cost of litigating its position. We would respectfully suggest that this is far from the case, and that the City should reconsider its position.

In the interim from our receipt of the City's letter, Coyote has taken the time to obtain documents via public records requests, and review its own voluminous file, including a detailed review of the records of dealings between the parties. Coyote has also taken the opportunity to discuss the intent of the parties with individuals who worked for the City at the time of the initial and subsequent execution of the lease. We address some of these below in turn. Should the matter proceed to litigation, it is our sense that far more information that will be detrimental to the City will be uncovered.

One item of considerable relevance and interest is an April 17, 2000 letter from Coyote to Gary Luebbers, then City Manager of the City. (See attached as Exhibit A.) The letter discusses that Coyote has recently realized that the approval process for beginning construction at the site would be delayed due to the City's approval process. It appears that Coyote's use of the parcel would require the completion of a Mitigated Negative Declaration and Socio-Economic Cost/Benefit Study. As a result, Coyote requested that the City begin the term of the lease (meaning the 20 years) upon the completion of study, so that the term of the lease would run contemporaneously with Coyote's ability to use the land. (See highlighted language in Exhibit A.) The timeline of subsequent events further bears this out, especially the fact that Coyote Aviation paid no land lease rent until the new agreement was executed in September, and that the City Council, on October 3, stated for the record that Coyote had not actively used the land parcel before the new agreement was signed.

The Mitigated Negative Declaration and Socio-Economic Cost/Benefit Study was submitted with all documentation on August 3, 2000. The study referenced above was accepted by the City as complete on September 12. Coyote had signed the new lease the day before, on September 11, 2000. The Study was approved by the City Planning Commission on September 20, 2000. The short duration between each of these events amply demonstrates the City and Coyote's intent to begin the lease in September 2000, for the full 20-year term, rather than a partial 20 year term which would make little sense for any of the parties involved

The City's 20-year intent was only further buttressed by our discussions with Ronald Mutter, who was the City's Public Works Director from 1986-2007. He provided us a descriptive notarized statement which is attached hereto as Exhibit B. Mr. Mutter will certainly be one of the most central witnesses regarding the parties' intent. The statement clearly enunciates that it was the intent of the City and all parties that the lease have a 20-year initial term with two 15 year options from the inception of the lease which all parties believed began after Coyote was permitted to begin utilizing the parcel. Mr. Mutter's recollection is further supported by a letter sent by him to Coyote on August 11, 2000, which discusses the first 20-year period of the lease, which simply must begin upon the signing of the September 2000, lease. His correspondence with City Council agendizing the lease for City approval also makes clear that this is a 20-year instrument, not an abbreviated term which would have required notice and approval from the Council.

These items coupled with the items in the prior letter leaves us believing that Coyote's position in any subsequent litigation would be very strong.

Our review of the situation has also revealed another interesting situation regarding the legal description of the land. For years the City has been stating that the lease of the property was for 36,000 square feet of land, when in actuality Coyote has been paying for 53,657 square feet of land. This is one of the myriad errors in the document. We would mention that should the City continue to hold to the position that only a literal reading of the document is appropriate and that the City wants to ignore the myriad other errors, that Coyote would be entitled to an immediate refund of at least $60,026.37 (with 7% compounded interest, $155,612.54) that it has paid in excess rent for land it apparently does not lease according to the strict terms of the Lease. Therefore, the City's position will immediately result in at least $60K liability to the City, with little financial upside as discussed below.

**The City's Offer Violates Its Federal Aviation Grant Assurances**

We also want to address the offer made by the City. As an initial matter, the offer would not allow Coyote to survive financially. The new lease payment seeks to increase Coyote's lease payments from .40 psf to 2.64 psf, an almost seven-fold increase in rent payment. No other tenant at the Redlands airport pays anything comparable to this as other airport tenants pay substantially less, by orders of magnitude for their leased premises while being granted fueling and other concessions from the City, none of which have been granted to Coyote. For instance, Redlands Aviation pays $.127 psf for its land, while Redlands Hangar Owners pay $.184 psf for its premises. And indeed, Coyote's current income structure would simply not support the offered lease payment, or anything close to it. Our review of the proposed lease rate suggests that it far exceeds anything that could be considered commensurate with airports like the one at Redlands, and indeed, would be far more expensive than land at airports such as LGB, LAX or SNA

Moreover, when Coyote began utilization of the property, it was unimproved, no water, no sewer, no electricity. It required significant excavation to make the piece suitable for construction. The Coyote parcel is the geographically farthest from the airport lobby, public parking, and the fuel pit, ¼ mile away. The parcel is also the most distant from the most commonly used runway threshold. There is no pedestrian gate access. The facility is often encroached by the City police and the fire department's training activities. Hangar 24's Airfest negatively impacts Coyote's business for five days each year. The west ramp is used for Cal Fire helicopter training during peak fire season. The helicopters send waves of sand onto Coyote's north apron.

Indeed, the City's offer makes no sense, unless the City somehow believes that it has now gained ownership and possession of the vertical structures, but I would refer you to Section 21.1 which requires that the Tenant remove all of the improvements from the property, making clear that City has no interest in the vertical improvements. At no time do the improvements to the property become the City's and if the City has included such value in its offer to Coyote, that is a grave error. I would suggest that our suppositions in that regard are supported by an interoffice email generated on January 6, 2021 (See attached Exhibit C), where Chris Boatman asks Carl Shaffer to create a spreadsheet which the City has refused to disclose, in violation of its public record disclosure obligations. However, the email is revealing. It states: "I also need you to send

me an estimate of how much revenue that we can realistically generate per year with the Coyote Hangars. A spreadsheets (sic) breaking it down by hangar would be helpful. I would like this by the end of the week, please. Sorry about the tight timelines but I'm working to have a strategy together for February."

That email is a tremendous tell. It shows us that the City views the expiration of the Coyote lease as a windfall in which the City succeeds to the ownership of the hangars and that it is this wrongly held assumption that is driving the City's actions to this point. This is not a harmless error. This is the City's decision to try to take advantage of Coyote and we think it will be clear that this decision was made long ago with full knowledge of the error in the lease. This is violative of the contract, violative of the City's obligations of good faith and fair dealing with Coyote and violative of the City's Grant Assurances.

As I am certain you are aware, the City of Redlands accepts grant funding from both the state and federal government for the airport and is subject to certain Grant Assurances as the result of receiving those funds. At this juncture, we will confine our analysis to the Federal Aviation Administration (FAA) Airport Improvement Program Sponsor Assurances for Airport Sponsor Grant Assurance (Grant Assurances). We also draw your attention to FAA Order 5190.6B which provides specific guidance to the FAA Airport Compliance office respecting its enforcement of federal Grant Assurances. It is thus very instructive for both airport sponsors like the City and constituent groups such as Coyote.

Of course, Grant Assurances prohibit any type of racially discriminatory conduct (See Airport Improvement Program Sponsor Assurances for Airport Sponsor Grant Assurance C.1.n.). It is my understanding that Coyote is the only minority owned tenant at the Redlands airport and as far as I can ascertain, the only one being subject to the price terms being sought by the City. The City also has an obligation with respect to 49 CFR Part 21 that is incorporated by the Grant Assurances.

More pressing is the City's obligation to make the airport available as an airport for public use on reasonable terms and without unjust discrimination, including those involving commercial aeronautical activities. See Grant Assurance 22. Coyote Aviation is a commercial enterprise providing hangar storage and is entitled to the protection of this Grant Assurance. Thus, the City must make the property available on reasonable terms and without unjust discrimination, meaning that the pricing terms must be reasonable and that the City may not unilaterally impose a seven-fold increase on the rental rate without determining whether that rate is reasonable and without reviewing whether that rate is commensurate with the rate charged to other tenants at the airport or adjoining airports of like kind or quality. As provided above, the lease rate far exceeds anything rational and is certainly not reflective of the rates charged to other tenants at the airport.

And indeed, the Grant Assurance requires that each fixed based operator at the airport shall be subject to the same rates as are uniformly applicable to all other fixed-based operators making the same or similar uses of the airport. When this office requested to know the basis for the offer,

that request was rebuffed, suggesting that the City had not made such an analysis (or it is wrongly assuming that it owns the vertical structures), which in turn suggested that the City had other reasons for its exclusionary pricing decision on the offer, which did not involve treating Coyote fairly.

As a result, Coyote Aviation must respectfully reject the offer put forward by the City and offer the following.

- Coyote demands that the City immediately recognize that Coyote rightfully exercised its initial fifteen year option, and that the lease continue as provided in the September 5, 2000 agreement with the changes discussed below.
- Coyote demands, in compensation for the financial and emotional stress it has been subjected to as the result of the City's ill-judged attempt to take Coyote's property, an additional fifteen-year term (as discussed at the lease extension meeting) to follow the second fifteen-year option.
- Coyote demands that the City align the payment and other terms of the lease to correspond with the protections offered in similarly situated operators.
- Coyote demands repayment of all reasonable legal expenses incurred to date.
- Because the city insists Coyote is leasing 36,000 sf. rather than 53,657 sf., and has wrongfully kept excess land lease payments for 20 years, Coyote demands a refund of the excess payments at 7% compounded interest over 20 years equaling approximately $155,612.54.
- Coyote demands a public apology from staff and the City Council for the reputational harm done to Coyote Aviation.

We request that the City respond to the above offer within 10 days following the transmission of this correspondence.

Very truly yours,

DICKINSON WRIGHT PLLC

Timothy I. McCulloch

TIM/tdh
Enc.

cc: Gil Brown, Coyote Aviation
4826-2235-1096 v1 [96675-1]

# EXHIBIT A

15 Meadowbrook Lane
Redlands, California 92374
(909) 794-9579
Fax (909) 794-9579

**Coyote Aviation**

April 17, 2000

Mr. Gary Luebbers
Manager, City of Redlands
35 Cajon Street, Suite 200
Redlands, California 92373

Dear Gary:

How exciting to see our dream of an aviation complex at Redlands Airport becoming a reality! We have negotiated a deal with an outstanding hangar manufacturer and City Planning is now processing our application. Thank you very much for helping ***Coyote Aviation*** get to this point. We look forward to a long and productive relationship with the City of Redlands.

Might you be able to aid us one last time? Upon submitting our application to Planning, I was surprised to see the length of time required for the approval process. It was our hope to do most of the construction during the summer, when I will not be teaching and can participate in the work. With the timeline I was given, that appears unlikely. Thus, any impetus to the process you could offer would be greatly appreciated.

Also, because we can utilize the land only after we have a conditional use permit, might it be possible to begin the lease period at that point? You will note that we submitted our very thorough application and fee immediately upon City Council approval, indicating our desire to move rapidly. I assure you we will do nothing to slow the process. Moral and financial obligations compel *Coyote* to expedite construction. I hope that the intent of the agreement, to have us compensate the City for *use* of the land, might allow you to respond favorably.

Thanks again for your help in starting our new business in Redlands. We pledge our best to Redlands Airport and the community.

Sincerely,

Gil

# EXHIBIT B

# Intent of Land Lease Agreement with Coyote Aviation in 2000.

Preface: The city contends that on April 4, 2021, the Coyote Aviation twenty-year lease ended, but in total, Coyote had only used the property in exchange for lease payments for nineteen years, 212 days.

---

*"The intent of the original lease agreement was to allow Coyote Aviation to use the land parcel for twenty years, for which the City of Redlands would be compensated by regular payments adjusted triennially according to the most local Consumer Price Index. That agreement also allowed for Coyote Aviation to exercise options for two fifteen-year extensions after the first lease term."*

Ronald C Mutter 7/1/21

Ronald C. Mutter, P.E.
Public Works Director, Ret
City of Redlands
Oct. 1986 - Nov. 2007

**CALIFORNIA ACKNOWLEDGMENT** CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Bernardino

On July 1st 2021 (Date) before me, Alfredo Ruiz-Miranda Notary Public (Here Insert Name and Title of the Officer)

personally appeared Ronald C. Mutter (Name(s) of Signer(s))

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are 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.

ALFREDO RUIZ-MIRANDA
Notary Public - California
Riverside County
Commission # 2306234
My Comm. Expires Sep 21, 2023

*Place Notary Seal and/or Stamp Above*

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ *Signature of Notary Public*

**OPTIONAL**

*Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.*

**Description of Attached Document**

Title or Type of Document: Intent of Land Lease

Document Date: 7/1/21 Number of Pages: 1

Signer(s) Other Than Named Above: _____

**Capacity(ies) Claimed by Signer(s)**

| Signer's Name: Ronald C. Mutter | Signer's Name: _____ |
|---|---|
| ☐ Corporate Officer – Title(s): _____ | ☐ Corporate Officer – Title(s): _____ |
| ☐ Partner – ☐ Limited ☐ General | ☐ Partner – ☐ Limited ☐ General |
| ☒ Individual ☐ Attorney in Fact | ☐ Individual ☐ Attorney in Fact |
| ☐ Trustee ☐ Guardian or Conservator | ☐ Trustee ☐ Guardian or Conservator |
| ☐ Other: _____ | ☐ Other: _____ |
| Signer is Representing: _____ | Signer is Representing: _____ |

# EXHIBIT C

**From:** Christopher Boatman
**To:** Carl Bruce Shaffer; Tim Sullivan
**Cc:** Sara White
**Subject:** Fwd: Coyote Aviation Land Lease
**Date:** Wednesday, January 06, 2021 9:25:54 AM
**Attachments:** image001.jpg
image001.jpg

---

Bruce- In addition to the list below I also need you to send me your estimate of how much revenue that we can realistically generate per year with the Coyote Hangars. A spreadsheets breaking it down by hangar would be helpful. I would like this by the end of the week please. Sorry about the tight timelines but I'm working to have a strategy together for February.

Sent from my iPad

Begin forwarded message:

**From:** Christopher Boatman <cboatman@cityofredlands.org>
**Date:** January 6, 2021 at 9:09:21 AM PST
**To:** Carl Bruce Shaffer <cshaffer@cityofredlands.org>, Tim Sullivan <tsullivan@cityofredlands.org>
**Cc:** Sara White <swhite@cityofredlands.org>
**Subject: Fwd: Coyote Aviation Land Lease**

Bruce- I would you like you to complete a few comparative analysis with respect to FBO leases. I would like you to complete the first two tasks in the next two weeks and the final within one month. I believe it will be important prior to returning to Council. Go ahead and have Tim review first and send each to me as you finish, no need to wait for tasks 1 and 2 to be completed before sending task 1.

- take our total annual operating budget, less any capital projects. Then divide by the total number of hangar sq. footage at the airport. Then take the square footage and apply to each FBO and the City and let me know what each would pay. This will hopefully give us a picture of what a proportionate share would look like given the existing budget.
- second I would like you to compare the leases and validate what Gil is stating below- that his lease is the most favorable, at least with respect to CPI, then other categories.
- lastly, I would like you to sit with Tim and come up with a ballpark budget figure that reflects funding that is adequate to appropriately cover our operational needs. This would not be a pie in the ski budget budget something that is realistic. Also, I dont want you to put a ton of time into this, just ballpark. Once you have this budget then I want to run the sq. ft. calc again.

Sent from my iPad

Begin forwarded message:

# EXHIBIT E

ORIGINAL

UD-110

| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): | FOR COURT USE ONLY |
|---|---|
| Scott W. Ditfurth, Bar No. 238127; Jessica Lomakin, Bar No. 284640<br>Dustin J. Nirschl, Bar No. 326648<br>Best Best & Krieger LLP<br>3390 University Avenue, 5th Floor, P.O. Box 1028, Riverside CA 92502<br>TELEPHONE NO. (951) 686-1450 FAX NO. (Optional): (951) 686-3083<br>E-MAIL ADDRESS (Optional): jessica.lomakin@bbklaw.com; dustin.nirschl@bbklaw.com<br>ATTORNEY FOR (Name): City of Redlands, a Municipal corporation | FILED<br>SUPERIOR COURT OF CALIFORNIA<br>COUNTY OF SAN BERNARDINO<br>FONTANA DISTRICT<br>JUL 17 2023<br>BY: Antonio Bravo, Deputy |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO<br>STREET ADDRESS: 17780 Arrow Boulevard<br>MAILING ADDRESS: Same<br>CITY AND ZIP CODE: Fontana, 92335<br>BRANCH NAME: Fontana District | |
| PLAINTIFF: City of Redlands, a Municipal corporation<br>DEFENDANT: Coyote Aviation, a Nevada corporation, et al., | |
| **JUDGMENT—UNLAWFUL DETAINER**<br>☐ By Clerk ☐ By Default ☐ After Court Trial<br>☒ By Court ☐ Possession Only ☐ Defendant Did Not Appear at Trial | CASE NUMBER:<br>LLTVA2200544 |

FAXED

## JUDGMENT

1. ☐ **BY DEFAULT**
   a. Defendant was properly served with a copy of the summons and complaint.
   b. Defendant failed to answer the complaint or appear and defend the action within the time allowed by law.
   c. Defendant's default was entered by the clerk upon plaintiff's application.
   d. ☐ **Clerk's Judgment** (Code Civ. Proc., § 1169). For possession only of the premises described on page 2 (item 4).
   e. ☐ **Court Judgment** (Code Civ. Proc., § 585(b)). The court considered
      (1) ☐ plaintiff's testimony and other evidence.
      (2) ☐ plaintiff's or others' written declaration and evidence (Code Civ. Proc., § 585(d)).

2. ☐ **AFTER COURT TRIAL.** The jury was waived. The court considered the evidence.
   a. The case was tried on *(date and time)*:

      before *(name of judicial officer)*:

   b. Appearances by:

      ☐ Plaintiff *(name each)*:

      ☐ Plaintiff's attorney *(name each)*:
      (1)

      (2)

      ☐ Continued on *Attachment* 2b (form MC-025).

      ☐ Defendant *(name each)*:

      ☐ Defendant's attorney *(name each)*:
      (1)

      (2)

      ☐ Continued on *Attachment* 2b (form MC-025).

   c. ☐ Defendant did not appear at trial. Defendant was properly served with notice of trial.

   d. ☐ A statement of decision (Code Civ. Proc., § 632) ☐ was not ☐ was requested.

| PLAINTIFF: City of Redlands, a Municipal corporation<br>DEFENDANT: Coyote Aviation, a Nevada corporation | CASE NUMBER<br>LLTVA2200544 |
|---|---|

**JUDGMENT IS ENTERED AS FOLLOWS BY:** ☒ **THE COURT** ☐ **THE CLERK**

3. **Parties.** Judgment is
   a. ☒ for plaintiff *(name each):* City of Redlands

      and against defendant *(name each):* Coyote Aviation

      ☒ Continued on *Attachment* 3a (form MC-025).
   b. ☐ for defendant *(name each):*

4. ☒ Plaintiff ☐ Defendant is entitled to possession of the premises located at *(street address, apartment, city, and county):* 1551 Sessums Drive, Redlands, Calfiornia 92374, including all units therein.

5. ☒ Judgment applies to all occupants of the premises including tenants, subtenants if any, and named claimants if any (Code Civ. Proc., §§ 715.010, 1169, and 1174.3).

6. **Amount and terms of judgment**
   a. ☐ Defendant named in item 3a above must pay plaintiff on the complaint:

| | |
|---|---|
| (1) ☐ Past-due rent | $ |
| (2) ☐ Holdover damages | $ |
| (3) ☐ Attorney fees | $ |
| (4) ☐ Costs | $ |
| (5) ☐ Other *(specify):* | $ |
| (6) **TOTAL JUDGMENT** | $ 0.00 |

   b. ☐ Plaintiff is to receive nothing from defendant named in item 3b.
      ☐ Defendant named in item 3b is to recover costs: $
      ☐ and attorney fees: $

   c. ☐ The rental agreement is canceled. ☒ The lease is forfeited.

7. ☐ **Conditional judgment.** Plaintiff has breached the agreement to provide habitable premises to defendant as stated in *Judgment—Unlawful Detainer Attachment* (form UD–110S), which is attached.

8. ☒ **Other** *(specify):* As provided in attachment.

   ☒ Continued on *Attachment* 8 (form MC-025).

Date: 7/17/2023

☑ _____ JAY ROBINSON, JUDGE
JUDICIAL OFFICER

Date:

☐ Clerk, by _____, Deputy

**CLERK'S CERTIFICATE** *(Optional)*

(SEAL)

I certify that this is a true copy of the original judgment on file in the court.

Date:

Clerk, by _____, Deputy

| SHORT TITLE: City of Redlands v. Coyote Aviation | CASE NUMBER: LLTVA200544 |
|---|---|

**ATTACHMENT** *(Number):* 3a

*(This Attachment may be used with any Judicial Council form.)*

This Judgment is also against the following defendants:

Barry Neumayer, an individual; Jonathan Zappia, an individual; Takashi Nishimura, as an individual; Heath Cohen, as an individual; Jerjes Saliba, as an individual; Eva Saliba, as an individual; John Krueger, as an individual; Joe Stickney, as an individual; Estate of Steve Hodgkin, by its trustee Sheila Hodgkin; Gawan Molyneux, as an individual; Trylex, Inc., a California corporation; Bill Cheesman, as an individual; Richard Super, as an individual; Michael Lockhart, as an individual; Nathan Lewis, as an individual; John Wm Ingraham, as an individual; James Phillips, as an individual; Joseph Scarcella, as an individual; Gilbert Brown, as an individual; and Carol Brown, as an individual.

*(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)*

| SHORT TITLE: City of Redlands v. Coyote Aviation | CASE NUMBER: LLTVA200544 |
|---|---|

**ATTACHMENT** *(Number):* 8

*(This Attachment may be used with any Judicial Council form.)*

Plaintiff, City of Redlands ("City") is granted possession of the real property located at 1551 Sessums Drive, Redlands, California 92374, including all units therein (the "Property"). City's claims for damages are dismissed without prejudice. City's claims for damages are reserved such that the City is not precluded from asserting them at a later date in a separately commenced civil action. Notwithstanding anything contained herein, the City is entitled to file a motion to recover its attorneys' fees and costs and/or a memorandum of costs, so long as it is timely filed in accord with California law.

This Judgment is not an adjudication of any of the defendants' ownership interests in the alterations, improvements, fixtures, or units that exist on the Property. This Judgment grants possession to the City only, and in no way forecloses or otherwise precludes any defendant in this action from commencing a separate civil action to determine its ownership interests, if any, in the structures, alterations, improvements, fixtures, or units that exist on the Property.

*(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)*

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
18101 VON KARMAN AVENUE, SUITE 1000
IRVINE, CALIFORNIA 92612

**PROOF OF SERVICE**

I, Christina Gordon, declare:

I am a citizen of the United States and employed in Orange County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 18101 Von Karman Avenue, Suite 1000, Irvine, California 92612. On July 11, 2023, I served a copy of the within document(s):

**JUDGMENT - UNLAWFUL DETAINER**

☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.

☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, the United States mail at Irvine, California addressed as set forth below.

☐ by placing the document(s) listed above in a sealed _____ envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a _____ agent for delivery.

☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

☐ by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

**SEE ATTACHED SERVICE LIST**

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 11, 2023, at Irvine, California.

Christina Gordon

17942.00141\41470385.1

**SERVICE LIST**

Timothy Ian McCulloch, Esq.
Brandon L. Debus, Esq.
Dickinson Wright PLLC
1850 N. Central Ave. Suite 1400
Phoenix, AZ 85004
Telephone No.: (602) 285-5036
Facsimile No.: (844) 670-6009
Email: TMcCulloch@dickinson-wright.com
NHoopes@dickinson-wright.com
BDebus@dickinson-wright.com
THoffmann@dickinson-wright.com
Attorney for Defendant Coyote Aviation, Inc.

Rittu Kumar, Esq.
Kumar Law
8383 Wilshire Boulevard, Suite 800
Beverly Hills, California 90211
Telephone: (323) 456-8657
Email: rkumar@kumarlaw.net
Attorneys for Defendant Coyote Aviation

Michael V. Hesse, Esq.
Michael V. Hesse, APC
4515 Tyler Street
Riverside, CA 92503
Telephone: (951) 781-4700
Facsimile: (951) 785-1029
Email: mail@hesselawcorp.com
Attorney for Steve Hodgkin

Richard C Super, II
410 Missouri Ct.
Redlands, CA 92373
Telephone:
Defendant in Pro Per

Jerjes Saliba
3316 Lynwood Drive
Highland, CA 92346
Telephone: (909) 645-5215
Email: jysaliba@gmail.com
Defendant in Pro Per

Eva Saliba
3316 Lynwood Drive
Highland, CA 92346
Telephone: (909) 645-1636
Email: jysaliba@gmail.com
Defendant in Pro Per

Gilbert Brown
15 Meadowbrook Lane
Redlands, CA 92374
Telephone: (909) 794-9579
Email: flyer41w@yahoo.com
Defendant in Pro Per

Carol Brown
15 Meadowbrook Lane
Redlands, CA 92374
Telephone: (909) 794-9579
Email: cgjakdg@gmail@yahoo.com
Defendant in Pro Per

Gawen Molyneux
35364 Santa Rosa Drive
Yucaipa, CA 92399
Telephone: (951) 314-3341
Email: jmolyn707@aol.com
Defendant in Pro Per

Jonathan Zappia
38724 Butterfly Drive
Yucaipa, CA 92399
Telephone: (909) 285-4439
Email: joz795@aol.com
Defendant in Pro Per

Heath P. Cohen
38227 Wild Poppy Lane
Yucaipa, CA 92399
Telephone: (951) 313-1200
Email: heath@me.com
Defendant in Pro Per

Michael Lockhart
60 San Gorgonio Drive
Redlands, CA 92373-4644
Telephone: (909) 855-4455
Email: mikechapter845@gmail.com
Defendant in Pro Per

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
18101 VON KARMAN AVENUE, SUITE 1000
IRVINE, CALIFORNIA 92612

William Cheesman a.k.a. Bill Cheesman
12192 17th Street
Yucaipa, CA 92399
Telephone: (909) 855-5964
Email: thecheese@roadrunner.com
Defendant in Pro Per

Joseph Stickney a.k.a. Joe Stickney
165 Victoria Lane
Calimesa, CA 92320
Telephone: (406) 570-6424
Email: poweroptions@msn.com
Defendant in Pro Per

John Krueger
215 N. Lincoln Street
Redlands, CA 92374
Telephone: (909) 793-2469
Email: jktexan170@gmail.com
Defendant in Pro Per

John Wm Ingraham
68 Dearborn Circle
Redlands, CA 92374
Telephone: (909) 844-3335
Email: flydpiper@gmail.com
Defendant in Pro Per

Nathan Lewis
Lewis Industries:
1752 E. Lugonia Ave., Ste. 117-47
Redlands, CA 92374
Telephone: (951) 288-8255
Email: nathan_lewis@live.com
Defendant in Pro Per

Trylex, Inc.
Attn: John Sullivan
17532 Miranda Street
Encino, CA 91316
Telephone: (818) 769-7236
Email: johnw.sullivan@yahoo.com
Defendant in Pro Per

Barry Neumayer
1320 E. Pennsylvania Avenue
Redlands, CA 92374
Telephone: (909) 496-7559
Email: barry_dance@hotmail.com
Defendant in Pro Per

Takashi Nishimura
10469 Monterey Ct.
Mentone, CA 92359
Telephone: (909) 771-4211
Email: redzone4211@gmail.com
Defendant in Pro Per

Joseph Scarcella
626 N Dearborn Street, Spc 54
Redlands, CA 92374
Telephone: (909) 754-9155
Email: jscarcel@csusb.edu
Defendant in Pro Per

James Phillips
P.O. Box 1924
Lake Arrowhead, CA 92352
Telephone: (951) 236-6782
Email: jim2phillips@aol.com
Defendant in Pro Per

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
18101 VON KARMAN AVENUE, SUITE 1000
IRVINE, CALIFORNIA 92612

**PROOF OF SERVICE**

I, Linda Tapia, declare:

I am a citizen of the United States and employed in San Bernardino County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 2855 E. Guasti Road, Suite 400, Ontario, CA 91761. On August 12, 2025, I served a copy of the within document(s):

**CITY OF REDLANDS' CROSS-COMPLAINT FOR:**
**1. BREACH OF CONTRACT;**
**2 BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING;**
**3. SET-OFF;**
**4. CONTRACTUAL INDEMNITY**

☒ by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

Ron Pacheco
David Sire
Nataly Rahmo
PACHECO & NEACH, PC
Two Park Plaza, Suite 1000
Irvine, CA 92614
Phone: (714) 462-1700
Email: rpacheco@pncounsel.com;
dsire@pncounsel.com;
nrahmo@pncounsel.com;
epacheco@pncounsel.com

*Attorneys for Plaintiffs and Cross-Defendants, Coyote Aviation Corporation; Gil Brown and Carol Brown*

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 12, 2025, at Ontario, California.

Linda Tapia

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
2855 E. GUASTI ROAD, SUITE 400
ONTARIO, CALIFORNIA 91761