

March 7, 1995

Introduced By: Greg Nickels,  
Pete von Reichbauer

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Proposed No.: 95-047

ORDINANCE NO. **11709**

AN ORDINANCE authorizing the King County Executive to enter into a new lease of 20 years with one five-year option to extend at King County International Airport.

PREAMBLE:

In accordance with the provision of K.C.C. 4.56.190C, the King County council may adopt an ordinance permitting the County to lease county-owned land for a term in excess of five years.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. The King County executive is hereby authorized to enter into a lease agreement with Burlington Air Express, Inc., for a lease of a parcel of ground totaling 97,053 square feet at King County International Airport (8201 Perimeter Road South) for a term of 20 years with one five-year option to extend. The lease agreement must be in substantially the same form as the attached agreement referred to as Attachment A. The executive, however, shall negotiate additional terms consistent with the following directions:

A. The executive is authorized to negotiate a percentage fee for assignments and subleases of not less than fifty percent (50%) to be inserted in section 8.B of the attached contract.

B. The executive may negotiate reasonable credit items to be added to section 8.C. of the attached contract, but shall not add any credit for any portion of the

1 purchase price paid by Burlington Air Express for the  
2 leasehold.

3 C. The executive shall enter into an operating  
4 agreement with Burlington Air Express for the use of  
5 King County International Airport.

6 The current lease between King County and Burlington Air  
7 Express will be terminated upon the effective date of the new  
8 20-year lease, as authorized by this ordinance.

9 INTRODUCED AND READ for the first time this 30<sup>th</sup>  
10 day of January, 1995.

11 PASSED by a vote of 12 to 1 this 13<sup>th</sup> day of  
12 March, 1995.

13 KING COUNTY COUNCIL  
14 KING COUNTY, WASHINGTON

15 Kent Pullen  
16 Chair

17 ATTEST:

18 Gerald A. Peterson  
19 Clerk of the Council

20 APPROVED this 21<sup>st</sup> day of March, 1995.

21 Ray Loken  
22 King County Executive

23 Attachments:  
24 A. Lease Agreement

25

## AIRPORT LEASE AGREEMENT

1. **PARTIES.** This Airport Lease Agreement (this "Lease") dated the \_\_\_\_\_ of \_\_\_\_\_, 1994, is between King County, a municipal corporation and a political subdivision of the State of Washington, and Burlington Air Express Inc., herein called "Lessee."

2. **PREMISES.** King County hereby leases to Lessee, upon the following terms and conditions, premises located in King County, Washington generally described as follows:

8201 Perimeter Road  
97,053 square feet  
(See Exhibit "A" attached)

including any trade fixtures and personal property that are listed. These items shall be included within the meaning of premises unless specifically excluded.

3. **TERM.**

A. This Lease term shall be for 20 years and -0- months, and shall begin on the \_\_\_\_\_ day of January, 1995, and end on the \_\_\_\_\_ day of February \_\_\_\_, 2015.

B. If King County is unable to deliver possession of the premises by the date specified for the commencement of the term as a result of causes beyond King County's reasonable control, King County shall not be liable for any damage caused for failing to deliver possession, and this Lease shall not be void or voidable. Lessee shall not be liable for rent until King County delivers possession of the premises to Lessee, but the term shall not be extended by the delay. If King County does not deliver possession of the premises to Lessee WITHIN SIXTY (60) days after commencement of the term, Lessee can elect to terminate this Lease by giving notice to King County at any time before the date King County delivers possession of the premises to Lessee.

C. There will be two (2) five-year options to renew. Lessee will give six (6) months written notice to King County to exercise the option(s).

4. **RENT.** Lessee shall pay to King County a rent of Three Thousand Three-Hundred Seven and 93/100 Dollars (\$3,307.93) payable in advance on or before the first (1st) day of each and every calendar month of the lease term. Lessee shall also pay a Leasehold Excise Tax of Four Hundred Twenty-Four and 74/100 Dollars (\$424.74) per month. The rent is adjustable as set forth in the King County General Terms and Conditions. All rents and tax shall be made payable to the KING COUNTY INTERNATIONAL AIRPORT and are to be received in the office of the :

King County International Airport  
7233 Perimeter Road  
P.O. Box 80245  
Seattle, WA 98108

Said rental is exclusive of any other sale, franchise, business or occupation, or other tax based on rents. Should any such taxes apply during the life of this Lease the rent shall be increased by such amount.

5. **SECURITY DEPOSIT.** At the time of the signing of this Lease, the Lessee shall pay the first (1st) month's rent and leasehold tax. In addition, the Lessee shall deposit with King County the sum of Seven Thousand Four Hundred Sixty-five and 34/100 dollars as a security deposit for the payment of rent and tax. The security deposit is the only sum to be credited toward payment of the last month's rent upon Lessee's termination of the Lease. The return of this deposit, or any portion of it, shall be conditioned on the performance of all the Lessee's duties. Within sixty (60) days after termination of the tenancy and vacation of the premises King County will return any sum due the Lessee from this deposit retained by King County. Furthermore, the Lessee understands and agrees that all rents, late charges and utility bills owing, unless paid by the Lessee, may be deducted from the deposit at the time of Lessee's vacation of the premises if any amount remains in that fund after subtraction of damage. The deposits need not be held in any special account and no interest will be paid thereon.

6. USE. Lessee shall use said premises for the following purposes and no others without prior written consent of the King County:

Air Cargo Handling  
Office/Warehouse Support Facility

7. LESSEE IMPROVEMENTS.

A. Lessee shall submit to King County detailed plans and specifications for the following improvements within sixty (60) days after execution of this Lease. Such improvements shall consist of:

A new warehouse/office complex.

Lessee will begin construction of the improvements no later than 60 days after execution of this Lease and approval of the plans and specifications, and shall be completed within 12 months.

B. If Lessee substantially fails to make the improvements or alterations required by this Lease, this Lease shall be terminated and all rentals paid to date shall be forfeited to King County.

C. Construction Bonds. Lessee shall provide Lessor with a payment bond and a performance bond, prior to executing this Lease in an amount equal to the estimated costs of all improvements.

The performance bond shall name both Lessee and, if Lessee is not itself constructing the improvements, Lessee's contractor, as principal(s) and Lessor shall be named as obligee. The surety or sureties on the bond shall bind themselves, their heirs, executors, administrators, successors and assigns along jointly and severally with Lessee and Lessee's contractor, to King County, a political subdivision of the State of Washington for payment on the bond. The aforesaid bond shall remain in effect until the principal(s) has promptly and faithfully performed all obligations and duties contained in this Lease referring to the construction of improvements. The bond shall be available to claimants for labor and materials in the event principal(s) fail to pay for such labor and materials in addition to the payment bond, however, such claims shall be subject and junior damage claims of the obligations and duties contained in this Lease regarding construction of improvements.

A payment bond, pursuant to R.C.W. 39.08, shall be executed by Lessee and/or Lessee's contractor to assure payment for labor, materials and supplies required for performance of the Lease obligations. This bond is in addition to the performance bond mentioned above.

In any action on the bond for the recovery of any claim or defect, each party shall pay its own costs and attorney's fees.

Surety or sureties on the payment and performance bonds shall waive any notice requirements for any modifications to this Lease consented to by the Lessor. Lessor shall notify the surety or sureties in writing of any defects in performance. The surety's or sureties' right of subrogation to the position of Lessee shall be subject to the written consent of Lessor, though not unreasonably withheld.

8. GENERAL TERMS AND CONDITIONS. Attached hereto and incorporated herein by reference are King County General Terms and Conditions.

9. ENTIRE AGREEMENT - AMENDMENTS. This printed Lease together with the attached Terms and Conditions and any and all exhibits expressly incorporated herein by reference and attached hereto shall constitute the whole agreement between the parties. There are no terms, obligations, covenants or conditions other than those contained herein. No

modification or amendment of this Lease shall be valid or effective unless evidenced by an agreement in writing signed by both parties.

10. NOTICES. Required notices except legal notices shall be given in writing to the following respective address:

To King County: KING COUNTY INTERNATIONAL AIRPORT  
7233 Perimeter Road  
P.O. Box 80245  
Seattle, Washington 98108

To Lessee: Burlington Air Express Inc.  
18200 Van Karman Avenue  
Irvine, CA 92715  
ATTN: Executive Vice President

With Copy To: Burlington Air Express Inc.  
18200 Van Karman Avenue  
Irvine, CA 92715  
ATTN: Vice President, Senior Counsel

or to such other respective addresses as either party hereto may hereafter from time to time designated in writing. Notices sent by mail shall be deemed to have been given when properly mailed.

IN WITNESS WHEREOF, the parties hereto have subscribed their names as of the date first set forth above.

LESSEE:  
BURLINGTON AIR EXPRESS INC.

LESSOR:  
KING COUNTY WASHINGTON

BY [Signature]

BY \_\_\_\_\_

TITLE Sr. VP and CFO

Benjamin Woo  
Director, Department of Construction  
& Facilities Management

APPROVED AS TO FORM:

BY \_\_\_\_\_

TITLE Deputy Prosecuting Attorney

APPROVED:

BY \_\_\_\_\_

Calvin Hoggard  
Airport Manager

11709

STATE OF CALIFORNIA )  
 )ss  
COUNTY OF ORANGE )

On this day personally appeared before me \_\_\_\_\_  
to me known to be the \_\_\_\_\_ of the \_\_\_\_\_  
\_\_\_\_\_ that executed the foregoing instrument, and acknowledged the said instrument  
to be the free and voluntary act and deed of said corporation for the uses and purposes therein  
mentioned and that he was authorized to execute the said instrument.

GIVEN under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_  
19 \_\_\_\_\_.

NOTARY PUBLIC in and for the State of  
California residing at \_\_\_\_\_  
My appointment expires \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

I certify that \_\_\_\_\_ signed this instrument, on oath stated that he was  
authorized by the King County Executive to execute the instrument, and acknowledged it as  
the Director of the Department of Construction & Facilities Management of King County,  
Washington to be the free and voluntary act of said County for the uses and purposes  
mentioned in the instrument.

Date: \_\_\_\_\_

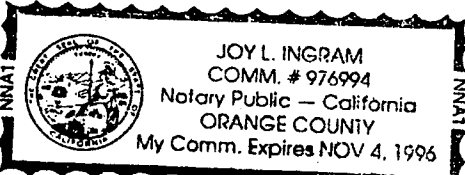
NOTARY PUBLIC in and for the State of  
Washington residing at \_\_\_\_\_  
My appointment expires \_\_\_\_\_

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5193

State of California  
County of Orange  
On 12/21/04 before me, Joy L Ingram  
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"  
personally appeared Robert Arovas  
NAME(S) OF SIGNER(S)

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 ac-  
knowledged 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.



WITNESS my hand and official seal.  
Joy L Ingram  
SIGNATURE OF NOTARY

OPTIONAL SECTION

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to  
fill in the data below, doing so may prove  
invaluable to persons relying on the document.

- INDIVIDUAL
- CORPORATE OFFICER(S)  
ST. VP and CFO  
TITLE(S)
- PARTNER(S)  LIMITED  
 GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

SIGNER IS REPRESENTING:

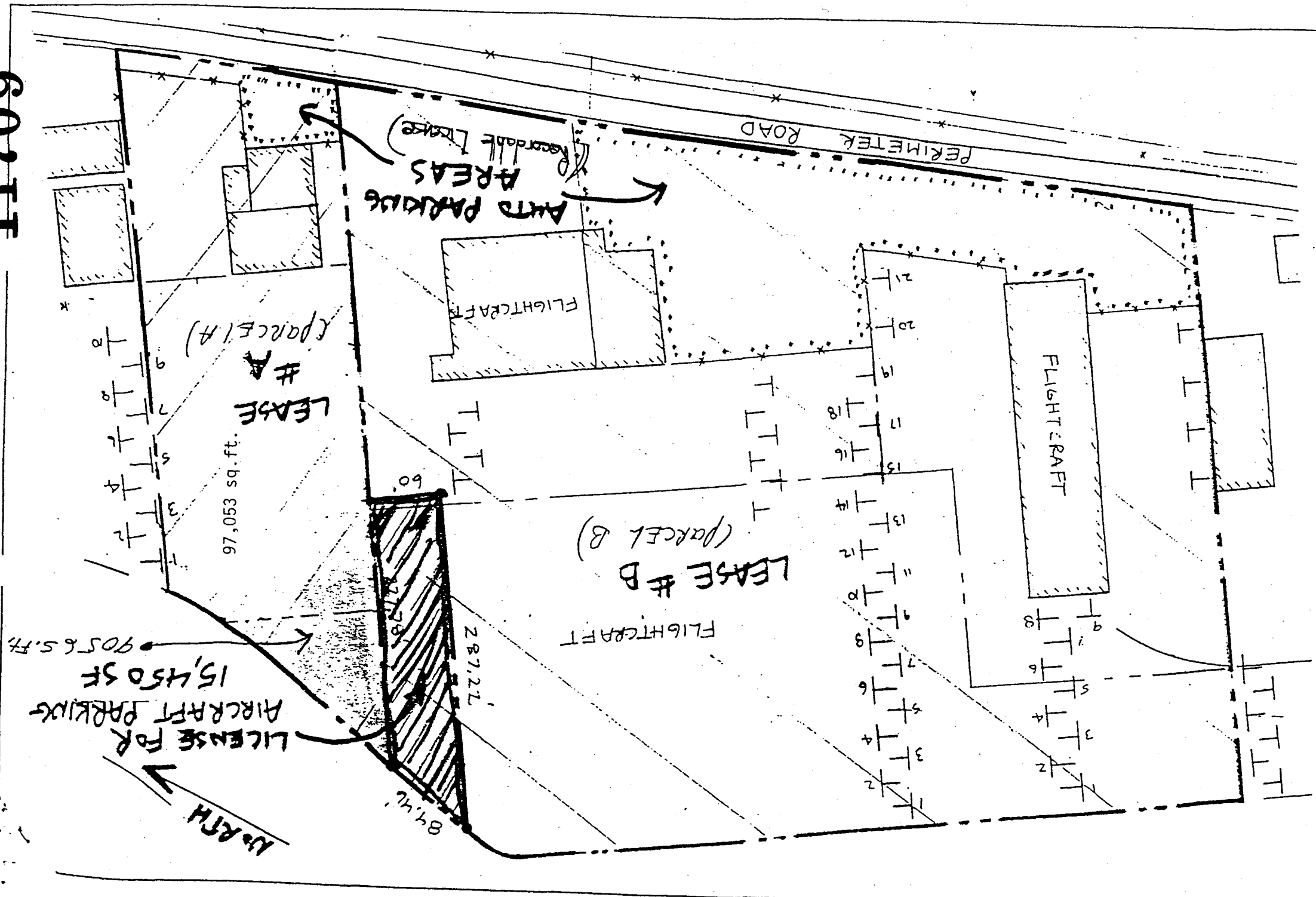
NAME OF PERSON(S) OR ENTITY(IES)  
Burlington Air  
Express Inc.

OPTIONAL SECTION

THIS CERTIFICATE MUST BE ATTACHED TO  
THE DOCUMENT DESCRIBED AT RIGHT:  
TITLE OR TYPE OF DOCUMENT Airport Lease Agreement  
NUMBER OF PAGES \_\_\_\_\_ DATE OF DOCUMENT \_\_\_\_\_  
SIGNER(S) OTHER THAN NAMED ABOVE \_\_\_\_\_

Though the data requested here is not required by law,  
it could prevent fraudulent reattachment of this form.

60211



KING COUNTY INTERNATIONAL AIRPORT	
PLACE 6701-8403 PERIMETER ROAD	
TENANT PAPE PROPERTIES INC	
DATE 4.20.94	SCALE 1"=100'
EXHIBIT "A"	