

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, TEXAS APPROVING A CONSENT TO COLLATERAL ASSIGNMENT OF AN AIRPORT LEASE BETWEEN US TRINITY HOLDINGS, LLC AND GUARANTY BANK & TRUST, N.A.; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on October 17, 2017, the City of Denton, Texas (hereinafter the "City") approved that certain consent to assignment of that certain Airport Lease (the "Lease") from HTA Aviation to US Trinity holdings, LLC. ("US Trinity"); and

WHEREAS, US Trinity has agreed to collaterally assign its interest in the Lease to Guaranty Bank & Trust, N.A. ("Bank") as evidenced by that certain Deed of Trust, dated November 28, 2017; and

WHEREAS, the Lease requires written consent of the City for the Collateral Assignment to be effective and US Trinity has requested the City for such consent; and

WHEREAS, at the November 28, 2017 meeting of the Council Airport Committee, the committee recommended that the City approve the Consent by a vote of 2-0; and

WHEREAS, the City Council deems it in the public interest to give consent to the collateral assignment contemplated above; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this Ordinance are incorporated herein by reference.

SECTION 2. The City Manager or his designee is hereby authorized to execute a Consent to the Collateral Assignment of Lease in the form attached hereto as Exhibit A and made a part of this Ordinance for all purposes.

SECTION 3. This Ordinance shall become effective immediately upon its passage and approval.

PASSED AND APPROVED this the _____ day of _____, 2017.

CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

BY:  _____

CONSENT TO COLLATERAL ASSIGNMENT OF LEASE

This Consent to Collateral Assignment of Lease is made between the City of Denton, Texas, a Texas home rule municipal corporation ("City" or "Landlord"), US Trinity Holdings, LLC, a Texas limited liability company, successor in interest to HTA Aviation ("Assignor") and Guaranty Bank & Trust, N.A. ("Assignee").

WHEREAS, the City is the sole owner and landlord of a pad site at Denton Enterprise Airport located at 4910 Lockheed Lane (the "Property"); and

WHEREAS, the Property is subject to a ground lease, described as the Airport Lease Agreement Commercial Operator dated effective September 18, 2012, by and between the City, as Lessor, and HTA Aviation, as Lessee, which was assigned and assumed by US Trinity Holdings, LLC, a Texas limited liability, in the Lease Assignment of Pad Site at 4910 Lockheed Lane, Denton Enterprise Airport, dated October 17, 2017, between HTA Aviation and US Trinity Holdings, LLC (the "Lease"); and

WHEREAS, Assignee provided financing for the purchase of the Leasehold Estate and certain improvements on such ground leased property; and

WHEREAS, for the purpose of securing and enforcing the payment obligations of Assignor to Assignee, Assignor now wishes to collaterally assign the Lease to the Assignee through the Deed of Trust attached hereto as Exhibit "A;" and

WHEREAS, Article IX of the Lease provides that it may not be collaterally assigned without the written consent of City, at City's sole discretion, and Assignor has requested the City's consent;

NOW THEREFORE, in consideration of the mutual covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City hereby consents to Assignor's collateral assignment of the Lease to Assignee, through the Deed of Trust attached as Exhibit "A," under the following terms and conditions:

1. Assignor shall pay to the City a transfer fee of Five Hundred Dollars (\$500.00) in connection with the City providing its consent to the Collateral Assignment of the Lease.
2. Assignor will pay or will have Assignee pay for all of the City's administrative costs on handling and processing the assignment of the Lease from Assignor to Assignee.
3. Assignee shall give the City written notice of any default by Assignor under any financing agreement, promissory note, or the Deed of Trust. Any such notice shall be delivered as follows:

City Manager
City of Denton
215 E. McKinney
Denton, Texas 76201

with copies to;

Airport Manager
Denton Enterprise Airport
5000 Airport Road
Denton, Texas 76207

City Attorney
City of Denton
215 E. McKinney
Denton, Texas 76201

4. The City agrees to provide Assignee a contemporaneous copy of all written notices provided to Assignor under the Lease. Wherein a notice of default or breach has been provided by the City to Assignor and Assignee, Assignee shall be entitled, at its option, to cure such default or breach, and the City shall accept such cure from Assignee. If the default or breach is not cured as provided under the Lease, the City shall have the remedies available to it as set out therein. Any notice to be delivered from City to Assignee shall be delivered to the following:

Guaranty Bank & Trust, N.A.
Attn: Legal Department
100 West Arkansas Street
Mt. Pleasant, Texas 75455

5. Should Assignee foreclose or otherwise obtain Assignor's rights and interest in the Leasehold Estate, the City will not unreasonably withhold its consent to an assignment by Assignee to future successors upon being provided with the potential successor's (i) financial statement, (ii) confirmation of no outstanding taxes, liens, or judgments, and (ii) a demonstrated history of aviation experience. The City shall be the sole judge of any potential successor's qualifications, which shall be reasonably exercised.
6. In the event of any inconsistency between the terms and conditions of the Lease and the terms and conditions of this Consent, then the Lease shall govern and control.
7. If any provisions of this Consent shall be held or deemed to be illegal, inoperative, or unenforceable, the same shall not affect any other provisions contained herein; the remaining provisions to remain in full force and effect.

8. The City hereby represents and warrants that this Consent is made with proper authority under Ordinance.
9. Assignee, its authorized representatives or agents, may, upon reasonable advanced notice (written or oral) to Assignor and City and at any reasonable times, enter the Property for the purposes of inspecting, repairing, or removing personal property. Assignee may further, upon reasonable advanced written notice to City and Assignor and at reasonable times, enter upon the Property to exhibit or conduct a sale(s) of any or all of the collateral pledged to Assignee, subject to the City's interests under the Lease.
10. This Consent to Collateral Assignment shall be governed by and construed in accordance with the laws of the State of Texas. Exclusive venue for any action related to this Consent shall be solely in a court of competent jurisdiction in Denton County, Texas.
11. This Consent to Collateral Assignment of Lease will bind and inure to the benefit of the parties, their heirs, executors, administrators, successors in interest, and assigns.

IN WITNESS HEREOF, the parties have executed this Consent to Collateral Assignment of Lease as of the Date written below.

[Signatures on following page]

Dated: _____

ASSIGNOR:

US Trinity Holdings, LLC, a Texas
limited liability company

By: _____
Name: James C. Hatton
Title: President

ASSIGNEE:

Guaranty Bank & Trust, N.A.

By: _____
Name: Jeremy Fykes
Title: President - Denton

CITY OF DENTON, TEXAS
Landlord

By: _____
Name: _____
Title: _____

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

By: _____

APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

By: _____