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FLAT RATE LEASE

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SAN DIEGO, CALIFORNIA

LESSEE: WITMAN RANCH INC.

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FLAT RATE LEASE

THIS LEASE AGREEMENT is executed by and between THE CITY OF SAN DIEGO, a municipal corporation, hereinafter called "CITY" and WITMAN RANCH INC., a California corporation hereinafter called "LESSEE".

I. DEMISED PREMISES. CITY hereby leases to LESSEE and LESSEE leases from CITY all of that certain real property situated in the City of San Diego, County of San Diego, State of California, described and delineated on Exhibit "A" attached hereto and by this reference made part of this agreement. Said real property is hereinafter called the "premises". Exact legal description will be attached subsequent to execution of this agreement and marked Exhibit A1.

A. PERMITTED USE. Said premises are leased to LESSEE only for the purposes of a rotational agricultural program of mixed row, ^{not to exceed} and forage crops intergrated with cattle grazing on native growth and residue and for such other related or incidental purposes as may first be approved in writing by the CITY and for no other purpose.

B. OBLIGATION TO DILIGENTLY USE. LESSEE covenants to use said premises for the above-specified purposes and to diligently pursue said purposes throughout the term hereof.

C. RELATED COUNCIL ACTIONS. By the granting of this lease, the City Council of The City of San Diego is not obligating itself with regard to any other discretionary action relating to development or operation of said premises. Such discretionary action includes, but is not limited to, rezonings, variances, environmental clearances or any other governmental agency approvals which are required.

II. TERM OF AGREEMENT.

A. COMMENCEMENT AND TERMINATION. The term of this agreement shall be FIFTEEN (15) years commencing on the first day of January 1978.

- B. SURRENDER OF PREMISES. At the expiration or earlier termination of this lease, LESSEE shall execute, acknowledge and deliver to CITY, within five day after written demand by CITY, a valid and recordable quitclaim deed covering all of the leasehold premises free and clear of all liens and encumbrances.

III. CONSIDERATION

- A. RENT. The rent during the entire term of this agreement is payable to the Office of the City Treasurer quarterly in advance beginning on the effective date hereof. For the first four year period of this agreement, the quarterly rent shall be the sum of NINE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$9,500.00), except as provided hereinafter. For all additional acreage that LESSEE develops with irrigation systems on unirrigated acreage, said rental shall be increased by FIFTEEN AND NO/100 DOLLARS (\$15.00) per acre per annum. The total number of additional acres shall be determined by CITY on the anniversary date of each lease year. At the beginning of the fifth year of said term hereof, the quarterly rent shall not be less than TEN THOUSAND SIX HUNDRED TWENTY-FIVE AND NO/100 DOLLARS (\$10,625.00). Furthermore, at the end of the first five years of this agreement, the rent for the remaining term shall be payable quarterly in advance and shall be adjusted upward or downward at the expiration of each five-year period, according to the following method of computation:

The original rental is calculated on the basis of the following:

445 acres, good land @ \$60 per acre per year \$26,700

265 acres, fair land @ \$25 per acre per year \$6,625

743 acres, minimum land @ \$6.29 per acre per year \$4,675

The rent for the five-year period following each adjustment shall be determined by multiplying the rent which is effective immediately prior to said adjustment by the "Adjustment Figure" established in the method outlined in the following paragraph, provided that the increases shall not exceed 6% per year, non-cumulative:

The "Adjustment Figure" used to adjust the rent as specified above shall be established by dividing the "Current Index" by the "Base Figure".

The "Current Index" shall be a three month average of index figures published by the Bureau of Labor Statistics Consumer Price Index (CPI) for the Los Angeles/ Long Beach area. The three months to be used to establish said average shall be the fourth, fifth and sixth calendar months preceding the adjustment date. When a similar CPI is available for the San Diego area, it may be substituted.

The "Base Figure" shall be a three month average of index figures from the same source as established above and using the fourth, fifth and sixth calendar months preceding the date of execution of this agreement.

Example: Current Index $\frac{121}{110}$ = 1.10 (Adjustment Figure)

Effective Rent x 1.10 = Adjusted Rent

In the event the CPI for the Los Angeles/Long Beach/or San Diego area, "All Items", is no longer published, the index for the adjustment date shall be the one reported in the U.S. Department of Labor's Comprehensive Official Index most nearly answering the foregoing description of an Index for the San Diego area. If an index is calculated from a base different from the base period 1967 = 100, the base figure used for calculating the adjustment percentage shall first be converted under a formula supplied by the Bureau.

If the above-described Department of Labor indexes are no longer published, another index generally recognized as authoritative shall be substituted by agreement of the parties. If the parties hereto are unable to agree within 60 days after demand by either party, a substitute index will be selected by the Chief Officer of the San Francisco Regional Office of the Bureau of Labor Statistics or its successor.

Notwithstanding the publication dates of the index, the effective date of the rent adjustment is at the expiration of each five year period. Until said rent adjustment can be reasonably determined by index publication, LESSEE shall continue to make rental payments pursuant to this lease at the same rent in effect during the preceding rental period. Upon determination of the rental adjustment, overpayments of rent shall be credited to the LESSEE'S rental account and underpayments of rent shall be immediately paid to the CITY.

- B. DELINQUENT RENT. In the event LESSEE fails to pay the applicable rents when due, then LESSEE shall pay CITY, in addition to the delinquent rent, a sum of money equal to FIVE PERCENT (5%) of said delinquent rent; provided, however, in the event said delinquent rent is still unpaid after fifteen days of becoming delinquent, then LESSEE shall pay CITY, instead of said FIVE PERCENT (5%), a sum of money equal to TEN PERCENT (10%) of said delinquent rent. It is the intent of this provision that CITY shall be compensated by such additional sums for loss resulting from rental delinquency including costs to CITY of servicing the delinquent account. The City Manager, at his option, may for good cause waive any such delinquency compensation required herein, upon written application of LESSEE.
- C. INSPECTION OF RECORDS. Whenever CITY desires to inspect the records and accounts of LESSEE in order to determine LESSEE'S compliance with the terms of this agreement, CITY shall have the right at all reasonable times to inspect any records pertinent to the subject under study. LESSEE agrees to cooperate in such inspection and to make the pertinent records available to CITY at LESSEE'S place of business in the City of San Diego.
- D. DEVELOPMENT AS ADDITIONAL CONSIDERATION. LESSEE agrees as additional consideration to develop the leased premises in accordance with the City-approved Development Plan described in Section IV, B 8, Development of this agreement.

IV. COVENANTS AND CONDITIONS.

A. CITY COVENANTS.

1. Quiet Possession. LESSEE, paying the said rent and performing the covenants and agreements herein, shall and may at all times during the said term peaceably and quietly have, hold and enjoy the said premises for the term hereof. If CITY for any reason whatsoever cannot deliver possession of the said premises to LESSEE at the commencement of said term as hereinbefore specified, or if LESSEE is dispossessed through action of a title superior to CITY'S, then and in either of such events, this lease shall not be void or voidable nor shall CITY be liable to LESSEE for any loss or damage resulting therefrom, but there shall be determined and stated in writing by the City Manager of CITY a proportionate reduction of the rent covering the period or periods during which LESSEE is prevented from having the quiet possession of all or a portion of the demised premises.

2. Right to Assign and Sublet. When in the opinion of the City Manager, and subject to the approval of the City Council whenever required, if it is deemed consistent with the best interests of the CITY, LESSEE may assign this lease or any interest therein and may sublease any portion thereof to an assignee or sublessee who has, in the opinion of City Manager, the financial capability and overall competence to successfully operate the assigned or subleased premises. The consent of the City Manager and/or City Council will not be unreasonably withheld. This lease and any interest herein shall not be assignable by operation of law without the written consent of the City Manager. Any or all of the following actions will be considered trafficking in the leasehold which is not a permitted activity under this contract and will be considered as contrary to the CITY'S best interests:

- a. Assignment or subleasing by LESSEE for a consideration in excess of a reasonable return on the actual value of the LESSEE'S installed improvements and/or services rendered.
- b. Subleasing of the primary function of the lease or subleasing of a major portion of the leasehold.
- c. If CITY has been notified in writing of the existence of a trust deed or mortgage secured by the leasehold, CITY agrees to give the trustee or beneficiary notice of any sublease or assignment prior to CITY'S approval thereon.

- d. Approval of any assignment or sublease shall be conditioned upon Assignee or Sublessee agreeing in writing that they will assume the rights and obligations thereby assigned or subleased and that they will keep and perform all covenants, conditions and provisions of this agreement which are applicable to the rights acquired.

3. Right to Encumber. CITY does hereby consent and agree that LESSEE may encumber this lease, its leasehold estate and its improvements thereon by deed of trust, mortgage, chattel mortgage or other security type instrument to assure the payment of a promissory note or notes of the LESSEE. CITY further agrees that in the event said deed of trust or mortgage or other security type instrument should at any time be in default and be foreclosed or transferred in lieu of foreclosure, the CITY will accept the mortgagee or beneficiary thereof, if reputable, qualified and financially responsible, such as a State or Federal regulated financial institution, as its new tenant under this lease with all the rights, privileges and duties granted and imposed in this lease contract. In the event said mortgagee or beneficiary desires to assign this lease to its nominee, if nominee is a reputable, qualified and financially responsible person in the opinion of CITY, CITY hereby agrees that upon the filing of an application for consent to such assignment, CITY will give its consent thereto.

B. LESSEE COVENANTS.

4. Affirmative Action. LESSEE agrees to take affirmative action to improve employment opportunities of minorities and women. When applicable, LESSEE agrees to abide by the Affirmative Action Program for Lessees as it now exists or is hereafter amended. A copy of the program, effective as of the date of this agreement, is on file in the Office of the City Clerk as Document No. 746205 and by this reference is incorporated herein. Minorities are presently defined as Mexican-American, Black, Filipino, American Indian and Asian/Oriental. The goal of this program shall be the attainment of the employment of minorities and women in all areas of employment in a total percentage of employment approximately equal to the total level of minority and women employment as established by the CITY for its Affirmative Action Program each year.

5. Compliance with Law. LESSEE agrees, at its sole cost and expense, to comply and secure compliance with all the requirements now in force, or which may hereafter be in force, of all municipal, county, state and federal authorities, pertaining to the said premises, or the operations conducted thereon, and to faithfully observe and secure compliance with, in the use of the premises, all applicable county and municipal ordinances and state and federal statutes now in force or which may hereafter be in force, and to pay before delinquency all taxes, assessments, and fees assessed or levied upon the LESSEE or the leased premises including the land and any buildings, structures, machines, appliances or other improvements of any nature whatsoever, erected, installed or maintained by LESSEE or by reason of the business or other activities of LESSEE upon or in connection with the leased premises. The judgment of any court of competent jurisdiction, or the admission of LESSEE or any sublessee or permittee in any action or proceeding against them, or any of them, whether CITY be a party thereto or not, that LESSEE, sublessee or permittee has violated any such ordinance or statute in the use of the premises shall be conclusive of that fact as between CITY and LESSEE.
6. Construction/Alterations. LESSEE agrees not to construct or install any buildings or structures on said premises or otherwise improve or alter said premises in any manner except in accordance with plans and specifications previously submitted to the City Manager and approved by him in writing. LESSEE shall not make any major structural or architectural design alterations to approved buildings, structures or improvements installed on said premises except in accordance with plans and specifications previously approved in writing by the City Manager. This provision shall not limit or set aside any obligation of LESSEE under this lease to maintain said premises in a decent, safe, healthy and sanitary condition, including structural repair and restoration of damaged or worn improvements. CITY shall not be obligated by this lease to make any improvements or alterations to said premises or to assume any expense therefor.
7. Construction Bond. LESSEE agrees to file with CITY, prior to commencement of any construction performed upon the premises a faithful performance bond in the amount of 100% of the construction costs of the work to be performed. Said bond may be in cash or may be a corporate surety bond satisfactory to CITY or in a combination of both. Said bond shall insure that the construction commenced by LESSEE shall be completed in accordance with approved plans, or at option of the CITY, that the uncompleted construction be removed and the premises restored to a condition satisfactory to CITY. The surety bond will be filed with CITY and any cash used as a part of the bond may be deposited with CITY to be held in trust for the purpose specified above or may be placed in an escrow or other trust approved by CITY. Upon application by LESSEE, CITY may waive this

requirement to file a bond. In the event that LESSEE fails to file any such required bond, this lease may be terminated by CITY.

8. Development. LESSEE agrees to develop the leased premises in accordance with the General Development Plan approved by the City Manager and filed in the Office of the City Clerk. To the extent applicable to the proposed development, said plan shows the design, materials of construction, elevations and colors of all structures, the plot plan of all structures and above-ground improvements, the uses of all facilities, the schedule of development, the estimated construction costs and financing plan and such other factors as are necessary or desirable in the opinion of the City Manager. The City Manager or his designee shall have the authority to authorize changes to the plan provided that the basic concept may not be modified without City Council approval and a document evidencing any approved changes shall be filed in the Office of the City Clerk.
9. Indemnity. LESSEE agrees that CITY, its agents, officers and employees, shall not be liable for any claims, alleged liabilities, penalties, fines or for any damage to the goods, properties or effects of LESSEE, its sublessees or representatives, agents, employees, guests, licensees, invitees, patrons or clientele or of any other person whomsoever, nor for personal injuries to, or deaths of any persons, whether alleged to have been caused by or resulting from any acts or omission of LESSEE or its sublessees in or about the leased premises, or any act or omission of any person or from any defect in any part of the leased premises or from any other cause or reason whatsoever. LESSEE agrees to indemnify and save free and harmless CITY and its authorized agents, officers, and employees against any of the foregoing alleged liabilities and any costs and expenses incurred by CITY on account of any claim or claims therefor.
10. Insurance Coverage. During the entire term of this lease, LESSEE agrees to procure and maintain public liability insurance which names CITY as an additional insured with an insurance company satisfactory to CITY licensed to do business in California to protect against loss from liability imposed by law for damages on account of bodily injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomsoever, resulting directly or indirectly from any act or activities of CITY or LESSEE, its sublessees or any person acting for CITY,

or LESSEE or under its control or direction, and also to protect against loss from liability imposed by law for damages to any property of any person caused directly or indirectly by or from acts or activities of CITY, or LESSEE, or its sublessees, or any person acting for CITY or LESSEE, or under its control or direction. Such public damage and public liability insurance shall also provide for and protect CITY against incurring any legal cost in defending claims for alleged loss. Such public liability and property damage insurance shall be maintained in full force and effect during the entire term of this lease in the amount of not less than ONE MILLION AND NO/100 DOLLARS
\$(1,000,000.00)

COMBINED SINGLE LIMIT LIABILITY. LESSEE agrees to submit a policy of said insurance to the CITY on or before the effective date of this agreement indicating full coverage of the contractual liability imposed by this agreement and stipulating that the insurance company shall not terminate, cancel or limit said policy in any manner without at least thirty days prior written notice thereof to CITY. If the operation under this agreement results in an increased or decreased risk in the opinion of the City Manager, then LESSEE agrees that the minimum limits hereinabove designated shall be changed accordingly upon request by the City Manager. LESSEE agrees that provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way the extent to which the LESSEE may be held responsible for the payment of damages to persons or property resulting from LESSEE'S activities, the activities of its sublessees or the activities of any person or persons for which LESSEE is otherwise responsible.

LESSEE also agrees to procure and maintain during the entire term of this lease, a policy of fire, extended coverage and vandalism insurance on all permanent property of an insurable nature located upon the leased premises. Said policy shall name the CITY as an additional insured and shall be written by an insurance company satisfactory to CITY licensed to transact business in the State of California and shall be in an amount sufficient to cover at least 100% of the replacement costs of said property. LESSEE agrees to submit a certificate of said policy to the CITY on or before the effective date of this lease. Said policy shall contain a condition that it is not to be terminated or cancelled without at least thirty (30) days prior written notice to CITY by the insurance company. LESSEE agrees to pay the premium for such insurance and shall require that any insurance proceeds resulting from a loss under said policy are payable jointly to CITY and LESSEE and said proceeds shall constitute a trust fund to be reinvested in rebuilding or repairing the damaged property or said proceeds may be

disposed of as specified in Section IV, 16, Waste, Damage or Destruction, hereof; provided, however, that within the period during which there is in existence a mortgage or deed of trust upon the leasehold, then and for that period all policies of fire insurance, extended coverage and vandalism shall be made payable jointly to the mortgagee or beneficiary, the named insured, and CITY, and shall be disposed of jointly by the parties for the following purposes:

- a. As a trust fund to be retained by said mortgagee or beneficiary and applied in reduction of the debt secured by such mortgage or deed of trust with the excess remaining after full payment of said debt to be paid over to LESSEE and CITY to pay for reconstruction, repair, or replacement of the damaged or destroyed improvements in progress payments as the work is performed. The balance of said proceeds shall be paid to LESSEE.

Provided, further however, nothing herein shall prevent LESSEE, at its option and with the approval of said mortgagee or beneficiary, from filing a faithful performance bond in favor of said mortgagee or beneficiary and CITY in an amount equivalent to said insurance proceeds in lieu of surrendering said insurance proceeds to said mortgagee or beneficiary; and CITY.

- b. In the event that this lease is terminated by mutual agreement and said improvements are not reconstructed, repaired or replaced, the insurance proceeds shall be jointly retained by CITY and said mortgagee or beneficiary to the extent necessary to first discharge the debt secured by said mortgage or deed of trust and then to restore the premises in a neat and clean condition. Said mortgagee or beneficiary shall hold the balance of said proceeds for CITY and LESSEE as their interests may appear.

LESSEE agrees to increase the limits of liability when, in

the opinion of CITY, the value of the improvements covered is increased, subject to the availability of such insurance at the increased limits. LESSEE agrees, at his sole expense, to comply and secure compliance with all insurance requirements necessary for the maintenance of reasonable fire and public liability insurance covering said premises, buildings and appurtenances.

11. Labor and Materialmen's Bond. LESSEE agrees to save CITY free and harmless, indemnify it against all claims for labor and materials in connection with improvements, repairs or alterations to the leased premises, and the cost of defending against such claims, including reasonable attorney's fees. In the event that improvements, repairs or alterations are constructed on the leased premises by other than the CITY, and a lien is filed, LESSEE agrees to file with CITY within five days a bond sufficient to pay in full all claims of all persons seeking relief under the lien. The bond shall be acknowledged by LESSEE as principal and by a corporation satisfactory to CITY licensed by the Insurance Commissioner of the State of California to transact the business of a fidelity and surety insurance company as surety.
12. Legal Proceedings. LESSEE agrees that should it become necessary for CITY to commence legal proceedings to collect rent, recover possession, or enforce any other provision of this lease, the prevailing party will be entitled to legal costs in connection therewith, including reasonable attorney's fees as determined by the court. The parties agree that the law of the State of California shall be used in interpreting this lease agreement and will govern all disputes under this lease agreement and will determine all rights and obligations hereunder. Personal service either within or without the State of California shall be sufficient to give personal jurisdiction to any court in which an action is filed for litigation of rights under this lease agreement.
13. Maintenance. LESSEE agrees to assume full responsibility for the operation and maintenance of said premises throughout the term hereof without expense to CITY unless otherwise specified herein, and to perform all repairs and replacements necessary to maintain and preserve said premises in a decent, safe, healthy and sanitary condition in a manner satisfactory to CITY and in compliance with all applicable laws. LESSEE agrees that CITY shall not be required to perform any maintenance, repairs or services or to assume any expense not specifically assumed herein in connection with said premises and LESSEE hereby waives all rights to make repairs or to cause any work to be performed at the expense of CITY as provided for in Sections 1941 and 1942 of the California Civil Code.

14. Nondiscrimination. LESSEE agrees not to discriminate in any manner against any person or persons on account of race, marital status, sex, religious creed, color, ancestry, national origin, physical handicap or medical condition in LESSEE'S use of the premises, including, but not limited to, the providing of goods, services, facilities, privileges, advantages and accommodations, and the obtaining and holding of employment.
15. Utility Costs. LESSEE agrees to order, obtain and pay for all utilities and service and installation charges in connection therewith. All utilities installed by LESSEE shall be installed underground, if practical.
16. Waste, Damage or Destruction. LESSEE agrees to give notice to the CITY of any fire or other damage that may occur on the leased premises within ten days of such fire or damage. LESSEE agrees not to commit or suffer to be committed any waste or injury or any public or private nuisance, to keep the premises clean and clear of refuse and obstructions, and to dispose of all garbage, trash and rubbish in a manner satisfactory to the CITY. If the leased premises shall be damaged by any cause which puts the premises into a condition which is not decent, safe, healthy and sanitary, LESSEE agrees to make or cause to be made full repair of said damage and to restore the premises to the condition which existed prior to said damage, or LESSEE agrees to clear and remove from the leased premises all debris resulting from said damage and rebuild the premises in accordance with plans and specifications previously submitted to the CITY and approved in writing in order to replace in kind and scope the operation which existed prior to such damage.

LESSEE agrees that preliminary steps toward performing repairs, restoration or replacement of the premises shall be commenced by LESSEE within thirty days and the required repairs, restoration or replacement shall be completed within a reasonable time thereafter. CITY may determine an equitable deduction in the minimum annual rent requirement for such period or periods that said premises are untenable by reason of such damage.

C. RESTRICTIVE CONDITIONS

17. Administration and Notices. Control and administration of this lease is under the jurisdiction of the City Manager of CITY as to CITY'S interest herein and any communication relative to the terms or conditions or any changes thereto or any notice or notices provided for by this lease or by

law to be given or served upon CITY may be given or served by registered letter deposited in the United States mails, postage prepaid, and addressed to the City Manager, Attention Property Director, City Administration Building, 202 "C" Street, San Diego, California 92101. Any notice or notices provided for by this lease or by law to be given or served upon LESSEE, Mortgagee, Trustee or Beneficiary may be given or served by depositing in the United States mails, postage prepaid, a letter addressed to said LESSEE at the leased premises or at such other address designated in writing by LESSEE, Mortgagee, Trustee or Beneficiary or may be personally served upon them or any person hereafter authorized by them to receive such notice. Any notice or notices given or served as provided herein shall be effectual and binding for all purposes upon the principals of the parties so served upon personal service or forty-eight hours after mailing in the manner required herein.

18. City Approval and Consent. The approval or consent of the CITY, wherever required in this agreement, shall mean the approval or consent of the City Manager unless otherwise specified, without need for further resolution by the City Council.
19. Eminent Domain. In the event the leased premises or any part thereof shall be taken for public purposes by condemnation as a result of any action or proceeding in eminent domain, then the interests of CITY and LESSEE (or Beneficiary or Mortgagee if there is a Trust Deed or Mortgagee then in effect), in the award and the effect of the taking upon this lease agreement shall be as follows:
 - a. In the event of such taking of only a part of the leased premises, leaving the remainder of said premises in such location and in such form, shape and size as to be used effectively and practicably in the opinion of CITY for the conduct thereon of the operations permitted hereunder, this lease shall terminate and end as to the portion of the leased premises so taken as of the date title to such portion vests in the condemning authority, but shall continue in full force and effect as to the portion of the leased premises not so taken and from and after such date the contract rent, or in the event there is a minimum rent specified herein, then the minimum rental required by this lease to be paid by LESSEE to CITY shall be reduced in the proportion to which the value of the leased premises so taken bears to the total value of the demised premises; provided, however, CITY shall have the right, with the consent of LESSEE, to substitute like adjacent property and maintain the rent schedule without diminution.

- b. In the event of the taking of only a part of the leased premises, leaving the remainder of said premises in such location, or in such form, shape or reduced size as to render the same not effectively and practicably usable, in the opinion of CITY, for the conduct thereon of the operations permitted hereunder, this lease and all right, title and interest thereunder shall cease on the date title to said premises or the portion thereof so taken vests in the condemning authority.
 - c. In the event the entire leased premises are so taken, this lease and all of the right, title and interest thereunder shall cease on the date title to said premises so taken vests in the condemning authority.
 - d. In the event of any taking under Subparagraphs a, b, or c, hereinabove, the only portion of any award of compensation which shall be paid to LESSEE shall be the fair market value of LESSEE'S interest in the improvements placed upon that portion of the leased premises which are taken by the condemning agency. It is the intention of this provision that LESSEE shall not in any condemnation receive any bonus or penalty by reason of LESSEE'S contractual rights in connection with the property condemned.
 - e. Notwithstanding the foregoing provisions of this section, CITY may, in its discretion and without affecting the validity and existence of this lease, transfer the CITY'S interests in said premises in lieu of condemnation to any authority entitled to exercise the power of eminent domain. In the event of such transfer by CITY, LESSEE shall retain whatever rights it may have to recover from the said authority the fair market value of LESSEE'S interest in the improvements taken by the authority and which LESSEE has placed upon the leased premises in accordance with the provisions of this lease.
20. Entry and Inspection. CITY reserves and shall always have the right to enter said premises for the purpose of viewing and ascertaining the condition of the same, or to protect its interests in the premises or to inspect the operations conducted thereon. In the event that such entry or inspection by CITY discloses that said premises are not in a decent, safe, healthy and sanitary condition, CITY shall have the right, after ten days written notice to LESSEE, to have any necessary maintenance work done for and at the expense of LESSEE and LESSEE hereby agrees to pay promptly any and all costs incurred by CITY in having such necessary maintenance work done in order to keep said premises in a decent, safe, healthy and sanitary condition. Further, if at any time the CITY determines that said premises are not in a decent, safe, healthy and sanitary condition, CITY may at its sole option, without additional notice, require

LESSEE to file with CITY a faithful performance bond to assure prompt correction of any condition which is not decent, safe, healthy and sanitary. Said bond shall be in an amount adequate in the opinion of the CITY to correct the said unsatisfactory condition. LESSEE shall pay the cost of said bond. The rights reserved in this section shall not create any obligations on CITY or increase obligations elsewhere in this lease imposed on CITY.

21. Holding Over. The occupancy of the demised premises after the expiration of the term of this agreement shall be construed to be a tenancy from month to month, and all other terms and conditions of this agreement shall continue in full force and effect.
22. Merger. The voluntary or other surrender of this lease by LESSEE, or a mutual cancellation thereof, shall not work a merger and shall, at the option of CITY, terminate all or any existing subleases or subtenancies or may, at the option of CITY, operate as an assignment to it of any or all such subleases or subtenancies.
23. Oral Representation. It is specifically understood and agreed hereby that this lease contains the complete expression of the whole agreement between the parties hereto, and that there are no promises, representations, agreements, warranties or inducements, either expressed orally or implied by the said parties, except as are fully set forth herein; and further, that this lease cannot be enlarged, modified or changed in any respect except by written agreement duly executed by and between the said parties.
24. Ownership of Improvements. All improvements, except such fixtures as are hereinafter described on the attached addendum, which have been installed by LESSEE in accordance with the provisions of this agreement, shall at the option of CITY become the property of CITY upon expiration or sooner termination of this agreement. LESSEE shall have the right to remove from the demised premises only those fixtures described on the attached addendum at any time prior to the expiration or earlier termination of the agreement, provided that such removal would not, in the opinion of CITY, restrict the operation of the demised premises to the extent that the rent paid to CITY is reduced as a direct result therefrom. LESSEE'S removal of any said fixtures shall be at LESSEE'S own expense and shall be conditioned upon LESSEE'S repairing any damage to the remaining improvements and upon LESSEE leaving the demised premises in good order and condition. In the event LESSEE does not so remove said fixtures prior to the expiration of this agreement, CITY may remove, sell or destroy the same at

the expense of LESSEE, and if the proceeds of the sale are not adequate, LESSEE shall promptly pay to CITY its reasonable cost of any such removal, sale or destruction together with the reasonable cost of repair of damages to CITY'S property resulting from such removal, sale or destruction. At the option of CITY, any such fixtures not removed by LESSEE may be deemed abandoned and may be removed and sold by CITY and all income received by CITY therefrom shall be the property of CITY exclusively. Said addendum may be changed from time to time upon approval of the City Manager, without further resolution by the City Council.

25. Remedies of City.

a. Default by Lessee. In the event that:

- (1) LESSEE shall default in the performance or fulfillment of any covenant or condition herein required to be performed or fulfilled by LESSEE and shall fail to cure said default within thirty days following the service on LESSEE of a written notice from CITY specifying the default complained of; or
- (2) LESSEE shall voluntarily file or have involuntarily filed against him any petition under any bankruptcy or insolvency act or law; or
- (3) LESSEE shall be adjudicated a bankrupt; or
- (4) LESSEE shall make a general assignment for the benefit of creditors;

then CITY may, at its option, without further notice or demand upon LESSEE or upon any person claiming through LESSEE, immediately terminate this lease and all rights of LESSEE and of all persons claiming rights through LESSEE in or to the said premises or in or to further possession thereof and CITY may thereupon enter and take possession of said premises and expel LESSEE and all persons so claiming rights thereto. Provided, however, in the event that any default described in Part a, (1) of this section is not curable within thirty (30) days after the service of a written notice upon LESSEE, CITY shall not terminate this lease pursuant to said default if LESSEE immediately commences to cure said default and diligently pursues such cure to completion.

Provided, further, in the event that there is a deed of trust or mortgage on the leasehold interest, CITY shall not terminate this lease until it first shall have served upon the mortgagee or beneficiary written notice of the default or defaults complained of, and the

mortgagee or beneficiary shall have thirty (30) days from service of such notice within which to commence such cure as may be necessary and this lease shall not terminate if said mortgagee or beneficiary shall prosecute said cure with reasonable diligence thereafter, and said thirty-day period shall be extended during the time required for said mortgagee or beneficiary to perfect, through litigation or through foreclosure, its rights to cure.

Provided however, that in the event rent paid to CITY is calculated on the basis of a percentage or percentages of LESSEE'S gross income, and during said period required for mortgagee or beneficiary to perfect a cure of any default or defaults which have been caused by LESSEE'S failure to pay said rent; then in those events if CITY is paid the minimum rent due under this agreement, CITY will not prosecute its right to terminate the mortgagee's or beneficiary's interest. Provided further, that when the mortgagee or beneficiary has secured control of said premises, and before an assignment to a new LESSEE, mortgagee or beneficiary shall cause to be paid to CITY, any amounts due CITY as a result of the gross income of the said premises exceeding that amount necessary for payment of the minimum rent. In computing the gross rent upon which the computation of the CITY rent is based, reasonable administrative expenses of a court appointed receiver may first be deducted.

b. City Recourse. If the mortgagee or beneficiary shall be required to perfect its right to cure said default or defaults through litigation or through foreclosure, then CITY shall have the option of the following courses of action in order that such default or defaults may be expeditiously corrected:

- (1) CITY may correct or cause to be corrected said default or defaults and charge the costs therefor (including costs incurred by CITY in enforcing this provision) to the account of the LESSEE, which charge shall be due and payable on the date that the rent is next due after presentation by CITY of a statement of all or part of said costs.
- (2) CITY may correct or cause to be corrected said default or defaults and may pay the costs thereof (including costs incurred by CITY in enforcing this provision) from the proceeds of any insurance fund held by CITY and LESSEE or by CITY and mortgagee or beneficiary or CITY may use said funds of any faithful performance or cash bond on deposit with CITY, or CITY may call on the bonding agent

to correct said default or defaults or to pay the costs of such correction performed by or at the direction of CITY.

- (3) CITY may terminate this lease as to the rights of LESSEE herein by assuming liability for any trust deed or mortgage. LESSEE will assume and agrees to pay any and all penalties or bonuses required by the beneficiaries, trustees or mortgagees as a condition for early payoff of the related notes by CITY. CITY may, as an alternative, substitute for said terminated LESSEE a new LESSEE reasonably satisfactory to the mortgagee or beneficiary.

Should said default or defaults be noncurable by LESSEE, then any lender holding a beneficial interest in said leasehold whose qualifications have been approved by CITY for assignment of the leasehold interest shall have the absolute right to substitute itself to the estate of the LESSEE hereunder and to commence performance of this lease and this lease shall not terminate if such mortgagee or beneficiary shall give notice in writing of its election to so substitute itself and commence performance within said thirty-day period after service upon it of said written notice by CITY of the default. In the event of the election by the mortgagee or beneficiary to so substitute itself to LESSEE'S estate hereunder, the CITY expressly consents to said substitution and authorizes said mortgagee or beneficiary to perform under this lease with all the rights, privileges and obligations of the original LESSEE hereunder, subject to cure of the default if possible by mortgagee or beneficiary, and LESSEE expressly agrees to assign all its interest in and to its leasehold estate in that event.

- c. Abandonment by Lessee. Even though LESSEE has breached the lease and abandoned the property, this lease shall continue in effect for so long as CITY does not terminate LESSEE'S right to possession, and CITY may enforce all its rights and remedies under said lease, including, but not limited to, the right to recover the rent as it becomes due under the lease. For purposes of this section, the following do not constitute a termination of LESSEE'S right to possession:

- (1) Acts by CITY of maintenance, or preservation, or efforts to relet the property.
- (2) The appointment of a receiver upon initiative of CITY to protect the CITY'S interest under the lease.

d. Damages. Damages which CITY may recover in the event of default under this lease include the worth, at the time of award, of the amount by which the unpaid rent for the balance of the term after the date of award, or for any shorter period of time specified in this lease, exceeds the amount of such rental loss for the same period that the LESSEE proves could be reasonably avoided. The remedies provided by this section are not exclusive and shall be cumulative to all other rights and remedies possessed by CITY, and nothing contained herein shall be construed so as to defeat any other rights or remedies to which CITY may be entitled.

26. Reservation of City Rights. CITY hereby reserves all rights, title and interest in any and all gas, oil, minerals and water beneath said leased premises. CITY shall have the right to enter said leased premises for the purpose of making repairs to or developing municipal services. CITY hereby reserves the right to grant and use such easements or establish and use such rights of way over, under, along and across said leased premises for utilities, thoroughfares, or access as it may deem advisable for the public good. Provided, however, CITY shall not unreasonably interfere with LESSEE'S use of the premises and will reimburse LESSEE for physical damages, if any, to the permanent improvements of LESSEE located on the leased premises resulting from CITY'S exercising the rights retained in this paragraph. Such reimbursement shall include a reduction in the annual rent proportionate to the amount of said physical damage as determined by the City Manager. CITY shall pay the costs of maintenance and repair of all CITY installations made pursuant to the rights reserved herein.

27. Time is of the Essence. Time is of the essence of each and all of the terms and provisions of this lease and this lease shall inure to the benefit of and be binding upon the parties hereto and any successor of LESSEE as fully and to the same extent as though specifically mentioned in each instance, and all covenants, stipulations and agreements in this lease shall extend to and bind any assigns or sublessees of LESSEE.

28. Waiver. The waiver by CITY of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition, or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by CITY shall not be deemed to be a waiver of any preceding breach by LESSEE of any term, covenant or condition of this lease, regardless of CITY'S knowledge of such preceding breach at the time of acceptance of such rent. Failure on the part of CITY to require or exact full and complete compliance with any of the covenants, conditions or agreements of this lease shall not be construed as in any manner changing the terms hereof and shall not prevent CITY from enforcing any provision hereof.

SECTION V - SPECIAL CONDITIONS:

A. AGRICULTURAL REQUIREMENTS.

1. Water Rights. There is hereby reserved to the CITY, and LESSEE herein expressly agrees that, in addition to the reservations made in Paragraph 26 of this Agreement, CITY or its designees, including but not limited to other City lessees within the San Pasqual Valley area if designated by the City, shall have throughout said term, the right to divert, impound, store, and transport by means of dams, reservoirs, or by pumping, any of the water, both surface and underground, which flows over, under or across the leased premises, together with the right to divert by percolating through any of said leased premises. The foregoing notwithstanding, CITY'S and its designees' right to divert, impound, store or transport such water shall be limited so as not to impair LESSEE'S ability to obtain sufficient water of sufficient quality from the leased premises to supply all of LESSEE'S needs on the leased premises. LESSEE shall have the right, without charge by CITY, but at LESSEE'S sole cost, to develop and use on the leased premises all natural water necessary to carry out the purpose of this lease, but it is expressly agreed that said water shall be used only on the leased premises. LESSEE agrees that upon termination of this Agreement, he will leave any wells developed or used on the leased premises during the term of this lease in good order and condition and that the casing shall be left in place.

LESSEE agrees to cooperate in, and not to protest, the formation of a water district, or similar government agency, organized for the purpose of and with power to allocate and/or distribute water in the San Pasqual Valley. LESSEE reserves the right to protest the allocation and/or distribution of water and/or the amount of any assessments levied against LESSEE or LESSEE'S interests in this lease, as a result of the formation or operation of any such district or agency. In the event such a district or agency is formed, LESSEE agrees that notwithstanding the provision of the foregoing paragraph LESSEE'S rights granted therein shall be subordinate to the needs and requirements as well as allocation and distribution authority of such district, or agency.

[Signature] Rec.

8-25-77

2. Certain Subleasing Permitted. LESSEE may sublease on a month to month basis residential structures located on the leased premises to persons employed by LESSEE or by other City agricultural lessees located in San Pasqual Valley; provided, however, that LESSEE shall be solely and fully responsible to CITY in connection with all operations conducted on said premises and all uses thereof, and for complying and securing compliance with all the covenants and conditions of this agreement, including the payment of rents.
3. Noxious Weeds, Pests and Erosion. LESSEE shall take proper corrective action, to the satisfaction of CITY, to prevent the infestation of noxious weeds, pests, and erosion throughout the entire leased premises.
4. Warranty. The CITY does not warrant that said premises are suitable for the purposes in which they are leased as stated herein.
5. Control of Livestock. The premises shall be adequately fenced to control livestock without cost to CITY in a manner satisfactory to CITY. LESSEE shall be solely responsible for all damage of any kind resulting from livestock leaving said premises.
6. Maintenance of Pilot Channel. LESSEE shall maintain, throughout said term, pilot channels within and along the alignment of Santa Ysabel Creek at such point as said creeks runs through and over said premises so as to confine the water of said creek and to regulate the flow thereof. Said pilot channel shall have a maximum width of 150 feet measured at valley floor elevation. LESSEE shall maintain the side slopes within said channel at a maximum of four (4) feet horizontal to each one (1) foot vertical to a uniform channel depth of ten (10) feet. LESSEE shall remove all excess material from said channels and shall maintain the working channel clear of stockpiles and other obstructions. LESSEE shall have the right to sell excess material excavated and removed from said channels and to retain any proceeds therefrom, except as hereinafter provided. LESSEE shall seed said channel with deep-rooted plantings approved by the CITY and shall maintain said plantings throughout said term in a manner satisfactory to CITY. All improvement, excavation and general maintenance of said channels shall be performed without cost to CITY and shall be performed in a manner satisfactory to CITY.

Notwithstanding Section V, Paragraph 6, MAINTENANCE OF THE PILOT CHANNEL hereinabove, all excess material excavated and removed from said channels during the term hereof shall be accounted for in a manner satisfactory to City. City shall have the right during the term hereof to review the aforementioned paragraph to determine if a charge is warranted for the amount and quality of material excavated and removed from said channels. If, in the opinion of the City Manager that the amount and quality of material excavated and removed warrants a charge, then said charge shall be mutually agreed upon. The charge shall be made to the degree necessary to provide a fair return to City as determined by City.

7. Agricultural Practice. LESSEE agrees to employ and maintain standard agricultural practices upon said premises. All husbandry and agriculture methods shall be subject to CITY'S approval. Any dispute arising from CITY'S failure to approve any agricultural and/or noxious weed, pest or erosion control practice, shall be submitted for arbitration and decision to a panel consisting of three arbitrators having expertise in the crop or practice at issue who shall be chosen by the San Diego County Agriculture Commissioner. Said panel shall consist of the following:

- (a) A representative of the San Diego County Farm Advisor;
- (b) A faculty member employed by one of the campuses of the University of California or one of the California State Universities or Colleges; and
- (c) A professional farm manager acceptable to the other two arbitrators.

Failure of LESSEE to cease or cure any unauthorized practice within ninety (90) days after written notice thereof shall be grounds for immediate termination of the lease.

8. Deletion of Portion of the Leased Premises. In the event any portion of the leased premises is not used by LESSEE for its highest and best permitted use, then CITY may, at CITY'S option, delete that portion of the leased premises not used by LESSEE from Section IA, DEMISED PREMISES hereof. Provided, however, Section III, A CONSIDERATION hereof, shall be adjusted downward by the City Manager on an equitable basis.

9. Control By LESSEE. The corporation named herein as LESSEE shall remained owned and controlled William H. Witman, III to the extent of at least 51% of the issued and unencumbered stock thereof, and said William H. Witman III shall actively administer and supervise the business operation of the leased premises. In the event that said William H. Witman III shall become incapacitated then said corporation shall appoint a manager acceptable to the City Manager of CITY to administer and supervise the agricultural and business operations of the leased premises. Said City Manager approval shall not be unreasonably withheld.

IN WITNESS WHEREOF, this lease agreement is executed by CITY,
acting by and through the City Manager, and by LESSEE.

THE CITY OF SAN DIEGO

Date AUG 17 1977

By [Signature]
ASSISTANT TO THE City Manager

LESSEE: WITMAN RANCH INC.,
a California Corporation

Date Aug 25 1977

By [Signature]
President

BY [Signature]
Secretary

APPROVED as to form and legality this 19th day of Sep,
19 77.

JOHN W. WITT, City Attorney

By [Signature]
Deputy
as's't

Property Department
GRR/fs

219100

THIS ADDENDUM IS ATTACHED TO AND MADE A PART OF THAT CERTAIN
LEASE BY AND BETWEEN THE CITY OF SAN DIEGO, A MUNICIPAL
CORPORATION, AND WITMAN RANCH, INC., a California
Corporation, LESSEE,
DATED .

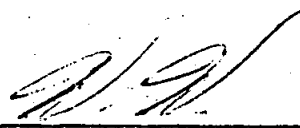
SECTION IV PARAGRAPH C 24, OWNERSHIP OF IMPROVEMENTS
(continued)

The Lessee, in accordance with this section hereof, has the
right to remove from the demised premises only those fixtures
as described below: (if none, write none)

SEE ATTACHED



City Manager's Initials



LESSEE'S Initials

2157.1

PERSONAL PROPERTY OF LESSEE

- 1 National 12 X 60 Mobile home used for office
- 1 Homette 24 X 45 Mobile Home - Foreman residence
- 2 15 H.P. Booster pumps
- 1 25 H.P. Booster pump
- 1 20 H.P. Booster pump
- 2 15 H.P. submersible pumps
- 4 30 H.P. Well Turbines
- Various power panels for the above pumps
- 1 Complete liquid fertilizer mixing plant and tanks
- 3 1000 gallon fuel tanks
- 1 Cattle squeeze chute

ESTIMATED CONSTRUCTION COST

Supply a detailed construction cost estimate for development.

Estimated annual expense for replacement and upkeep on wells \$ 15,000.00

Estimated expense to replace existing pipelines and augment existing systems as per schedule:

1978	10" line	#2 & #3	2600'	@4.00	\$ 10,400.00
	6" line	#3	1000'	@2.25	2,250.00
	10" line	#1	2600'	@4.00	10,400.00
	6" line	#1 to pump	500'	@2.25	1,125.00
	6" line	#2	1000'	@2.25	2,250.00
					<u>\$ 26,425.00</u>

1979	8" line	#1	3000'	@3.00	9,000.00
	6" line	#1	3000'	@2.25	67 50.00
					<u>\$ 15,750.00</u>

1980	10" line to Highland Valley	3000'	@4.00	12,000.00
	8" line to Highland Valley	2000'	@3.00	6,000.00
	6" line to Highland Valley	2000'	@2.25	4,500.00
				<u>22,500.00</u>

1981	8" line	#5 Hillside	2000'	@3.00	6,000.00
	6" line	#5 Hillside	7000'	@2.25	15,750.00
					<u>\$ 21,750.00</u>

Total Estimated expense for pipelines

\$86,425.00

3. That the City Clerk is hereby authorized and directed to deliver said lease agreement and a certified copy of this resolution to the Property Director for further handling.

APPROVED: JOHN W. WITT, City Attorney

By Robert S. Teaze
Robert S. Teaze
Assistant City Attorney

RST:rb 731
8-16-77
Orig.Dept.: Property

CITY of SAN DIEGO
MEMORANDUM

S-3
RECEIVED
CITY CLERK'S OFFICE
1977 AUG -8 PM 2:36
SAN DIEGO, CALIF.

FILE NO.:

DATE : August 8, 1977

TO : City Clerk

FROM : Floyd Morrow, Chairman, PF & R Committee

SUBJECT: Supplemental Agenda Items for Council Docket of August 10, 1977

1. R-78-220 and R-78-221. Two resolutions rescinding and amending Council Resolutions 218770 and 218771, respectively; concerning San Pasqual Valley agricultural lease Agreements with Edwin Proctor and Witman Ranch, Inc., adopted June 29, 1977, Item 260, c & e. Proposed resolutions will require participation by lessees in a San Pasqual Valley irrigation district in conformance with Council action taken on August 2, 1977 on R-77-2260 and R-77-2285 (Docket items 20 b & e) concerning agricultural leases with the Byrnes Ranch and Bert Verger Dairy.

Floyd S. Morrow
Tom Gode
Ed Dolman
Art Stoll
G. Hubbard

2. R-78- : Authorizing the City Manager to reimburse the County in an amount not to exceed \$25,000 for rigorous enforcement of existing City animal control regulations during the months of August and September, 1977. (Note: This action was recommended by PF & R on August 8, 1977, by a vote of 4-0, District 4 excused.)

Floyd S. Morrow

*8-10-77 AM Docket
Supplemental Agenda
Consent Item
B.W.*

AUG 17 1977

219100

RECEIVED

AUG 3 1977

PROPERTY DEPT.

12111

ORDINANCE NO. _____
(New Series)

(O. 78-3)

JUL 20 1977

Property
51-A

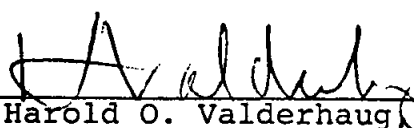
AN ORDINANCE WAIVING PROVISIONS OF MUNICIPAL CODE SECTION 22.0901 WITH REGARD TO THE REQUIREMENTS OF INDEPENDENT FEE APPRAISALS, AND 30 DAY FILING PERIOD WITH CLERK'S OFFICE WITH REGARD TO TWO SAN PASQUAL AGRICULTURAL LEASES.

BE IT ORDAINED, by the Council of The City of San Diego,
as follows:

Section 1. That with regard to City Leases to EDWIN E. PROCTOR, and WITMAN RANCH, INC., which leases were approved by Resolutions Nos. 218770 and 218771, respectively, the requirements of subsection (c) and (d) of Municipal Code Section 22.0901 pertaining to the necessity of an independent fee appraisal and the necessity of filing lease forms with the City Clerk, 30 days prior to Council action, are hereby waived.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By 
Harold O. Valderhaug, Deputy

HOV:sml

7-13-77

Or.Dept.:Property

Job: 13078, 12951, 12952, 12954, 13079

Passed and adopted by the Council of The City of San Diego
on August 17, 1977, by the following vote:

YEAS: Johnson, O'Connor, Hubbard, Morrow, Strobl,
Haro, Wilson.

NAYS: None.

ABSENT: Williams, Gade.

AUTHENTICATED BY:

PETE WILSON,
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
~~EDWARD NIELSEN~~,
City Clerk of The City of San Diego, California.

(SEAL)

By ALLYN D. NEVITT, Deputy.

I HEREBY CERTIFY that the above and foregoing is a full,
true and correct copy of RESOLUTION NO. 219100

passed and adopted by the Council of The City of San Diego,
California, on August 17, 1977.

CHARLES G. ABDELNOUR
~~EDWARD NIELSEN~~,
City Clerk of The City of San Diego, California.

(SEAL)

By *Allyn D. Nevitt*, Deputy.

RESOLUTION No. 218771

Adopted on JUN 29 1977

BE IT RESOLVED, by the Council of The City of San Diego as follows:

That the City Manager is hereby authorized and empowered to execute a lease agreement with WITMAN RANCH, INC., for the purposes of a rotational agricultural program of mixed row, horticulture and forage crops integrated with cattle grazing on native growth and residue and for such other related or incidental purposes as may first be approved in writing by the City and for no other purposes, for a term of 15 years, under the terms and conditions set forth in said form of lease agreement on file in the office of the City Clerk as Document No. 760054.

That this resolution shall take effect upon the effective date of Ordinance No. 12111, N.S., entitled "Waiving Provisions of Municipal Code Section 22.0901 with Regard to the Requirements of Independent Fee Appraisals, and 30 Day Filing Period with the City Clerk's Office, With Regard to the San Pasqual Agricultural Leases."

That the City Clerk is hereby authorized and directed to deliver said lease agreement and a certified copy of this resolution to the Property Director for further handling.

APPROVED: JOHN W. WITT, City Attorney

By H. Valderhaug
Harold O. Valderhaug, Deputy

HOV:sml
6-27-77:Rev.
Or.Dept.:Property
Job:12951, 12954, 13078, 13079

Passed and adopted by the Council of The City of San Diego
on June 29, 1977, by the following vote:

YEAS: Johnson, O'Connor, Hubbard, Williams, Gade, Strobl,
Haro, Wilson.

NAYS: None.

ABSENT: Morrow.

AUTHENTICATED BY:

PETE WILSON,
Mayor of The City of San Diego, California.

EDWARD NIELSEN,
City Clerk of The City of San Diego, California.

(SEAL)

By ALLYN D. NEVITT, Deputy.

I HEREBY CERTIFY that the above and foregoing is a full,
true and correct copy of RESOLUTION NO. 218771

passed and adopted by the Council of The City of San Diego,
California, on June 29, 1977.

EDWARD NIELSEN,
City Clerk of The City of San Diego, California.

(SEAL)

By *Allyn D. Nevitt*, Deputy.

MAY 25 1977

REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER:

TO:

CITY ATTORNEY

2. FROM: (ORIGINATOR)

Property Department

3. DATE

May 10, 1977

4. SUBJECT:

SAN PASQUAL AGRICULTURAL LEASES

5. PREPARATION OF:

☒ RESOLUTION(S)☐ ORDINANCE(S)☐ AGREEMENT(S)☐ DEED(S)

Authorizing the City Manager to execute lease agreements for San Pasqual Properties under the terms and conditions set forth in the form of lease agreement on file in the office of the City Clerk with the following parties:

- (1) Bert Verger dba Bert Verger Dairy, for the operation and maintenance of a 196+ acre dairy facility at a beginning annual rental of \$15,000; and *Orig 5/10/77*
- (2) Edwin E. Proctor for the operation and maintenance and development of a 100+ acre Kiwi Vineyard at a beginning annual rental of \$6,600 or 10% of gross income, whichever is greater on an annual basis; and (OVER) *Orig 5/10/77*

6. SUPPORTING INFORMATION: (INCLUDE ONLY INFORMATION NOT COVERED ON FORM 1472A, "DOCKET SUPPORTING INFORMATION".)

COST TO CITY: None.

ACTION REQUESTED BY: Property Department

DESCRIPTIVE LOCATION: San Pasqual Valley.

VALUE OF REAL PROPERTY: Not established.

DOCUMENTS SUBMITTED: four separate lease agreements.

LESSEES: (1) Bert Verger dba Bert Verger Dairy; (2) Edwin E. Proctor; (3) Roy L. Byrnes dba The Byrnes Ranch; and (4) H. William Witman III dba WITMAN RANCH, INC.

USE: General Agricultural Uses - (1) Dairy Operation (Verger); (2) Kiwi Vineyard (Proctor); (3) Orange Orchard and other approved agricultural uses (Byrnes Ranch); and, (4) Cattle grazing, row crops and other approved agricultural uses (Witman Ranch).

TERM: (1) Verger - 23 years; (2) Proctor - 7 years with a 23-year option to renew;

(OVER)

CHECK IF ITEM IS TO BE LISTED ON CONSENT AGENDA ☐

7. FOR INFORMATION CONTACT: (NAME & MAIL STA.)

8. TELEPHONE NO.

9. CHECK IF "DOCKET SUPPORTING INFORMATION" ATTACHED ☐

HAGAR:frh

51A

5866

10. COMPLETE FOR ACCOUNTING PURPOSES:

11. ROUTING AND APPROVALS

FUND	BUDGETED	UNBUDGETED	ROUTE (V)	APPROVING AUTHORITY	APPROVAL	DATE SIGNED
DEPT. & FUNCTION	REPORT TO COUNCIL		✓	DEPARTMENT DIRECTOR	<i>R. J. [Signature]</i>	5/10/77
OBJECT ACCOUNT			X	CLEARING AUTH. EQD	<i>James C. [Signature]</i>	5/15/77
COST ACCOUNT			X	CLEARING AUTH. WaterUtil.	<i>[Signature]</i>	5/25/77
WORK ORDER NO.			X	DEPUTY CITY MANAGER	<i>[Signature]</i>	5/25/77
C.I.P. NO.			X	AUDITOR		
AMOUNT			✓	CITY ATTORNEY		
12. ESTIMATED COST:			✓	ORIGINATING DEPARTMENT	<i>[Signature]</i>	5/25/77
Job #: 13078, 12951, 12952			✓	CITY MANAGER		
12954, 13079			✓	CITY CLERK		

cc: Water Utilities
County Assessor
Docket

219100

AUG 17 1977

SC

Continued)

(3) Roy L. Byrnes dba The Byrnes Ranch for the operation and maintenance and development of a 563+ acre ranch for use as an orange orchard and for other general agricultural purposes in accordance with the approved development plan, at a beginning minimum annual rental of \$20,000 or 25% of gross income, whichever is greater on an annual basis; and *Orig 46 80 6-21-77*

(4) Witman Ranch, Inc., for the operation and maintenance of a 1,453+ acre general agricultural ranch at a beginning annual rental of \$38,000; and *Orig 46 80 6-26-77*

An Ordinance waiving M.C. Section 22.0901 pertaining to the requirement of visibility and fee appraisals of the subject leases.

COUNCIL DISTRICT NO. 1

RECEIVED
MAY 25 1977
CITY MANAGER

6. (Continued)

(3) Byrnes Ranch - 30 years; and (4) Witman Ranch - 15 years.
RENT/AREA: (1) \$15,000 yr. - 196+ ac.; (2) \$6,600-1st yr., \$12,600 - 2nd yr. and \$18,600-3rd yr. as minimum rent or 10% of gross, whichever is greater, per year - 100+ ac; (3) \$20,000 per yr. as minimum rent or 25% of gross, whichever is greater per yr. - 563+ ac; and, (4) \$38,000 yr. - 1,453 ac.

UTILITIES: To be paid for by Lessee.

ENVIRONMENTAL ASSESSMENT: This activity is a Class 1 project categorically exempt from CEQA pursuant to City EIR Guidelines Sec. V. A (15101).

HANDLING: DO NOT RECORD. Deliver document(s) to Property Department, Attn: F. Heim, M.S. 51A.



CONROCK

CONROCK CO.

STADIUM WAY AT FRIARS ROAD / P.O. BOX 3098 / SAN DIEGO, CALIFORNIA 92103 / (714) 298-0551

June 11, 1976

Mr. Henry William Witman, III
Santa Margarita Enterprises
P.O. Box 1959
Escondido, California 92025

Dear Mr. Witman:

Reference is made to that certain Operating Agreement and License dated July 7, 1972 between Santa Margarita Enterprises ("LESSEE") and San Diego Consolidated Co. ("OPERATOR").

Written notice is hereby given and the right and option to extend the term of the above referenced Agreement for an additional five (5) years, commencing January 1, 1977 and terminating December 31, 1981, is hereby exercised in accordance with Paragraph D. 1. This exercise of the renewal right and option is made by OPERATOR with the knowledge that LESSEE is not now assured of possession of the LEASED PREMISES, which are the property of the City of San Diego, beyond the end of this year.

Further, and in accordance with Paragraph D. 2. of the Agreement, OPERATOR hereby sets forth the following as payment for each ton of sand, gravel or soil of marketable quality removed from the LEASED PREMISES during the five (5) year renewal term:

First year	(calendar 1977) - Fifteen cents	(\$0.15)
Second year	(calendar 1978) - Sixteen cents	(\$0.16)
Third year	(calendar 1979) - Seventeen cents	(\$0.17)
Fourth year	(calendar 1980) - Eighteen cents	(\$0.18)
Fifth year	(calendar 1981) - Nineteen cents	(\$0.19)

6/30/76
copy to
Witman
WHL



Mr. Henry William Witman, III
Santa Margarita Enterprises
P.O. Box 1959
Escondido, California 92025

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As additional payment to LESSEE as consideration for the renewal for five (5) years of the above referenced Agreement, OPERATOR will pay fifteen cents (\$0.15) for each ton of sand, gravel or soil of marketable quality removed from the LEASED PREMISES between July 1, 1976 and December 31, 1976 after the first 25,000 tons have been removed, said 25,000 tons being the quantity of material already sold to customers at a delivered price based on the current \$0.074 per ton rate. Paragraph J.2. of the Agreement is hereby modified accordingly.

Finally, notice is hereby given that Conrock Co., a Delaware corporation, is the successor by merger to San Diego Consolidated Co. and notices addressed to OPERATOR as provided for in Paragraph M of the Agreement should henceforth be sent to:

Conrock Co.
P.O. Box 3098
San Diego, California 92103

All other terms, covenants and conditions of the Agreement shall remain in full force and effect.

Very truly yours,

CONROCK CO.

William R. Walker
William R. Walker
Asst. Properties Manager

Acknowledged and agreed to:

SANTA MARGARITA ENTERPRISES

By: *Henry W. Witman III*

Dated: June 23, 1976