



THE CITY OF

SAN DIEGO

REAL ESTATE ASSETS DEPARTMENT, MAIL STATION 51-A

CIVIC CENTER PLAZA, 1200 THIRD AVENUE, SUITE 1700

SAN DIEGO, CALIFORNIA 92101-4199 TELEPHONE: (619) 236-6020

FAX: (619) 236-6706

June 19, 1997

National Oceanic and Atmospheric Administration
7600 San Point Way, N/E Bin C15700
Seattle, WA. 98115

Attn: Molly Humrich, Real Estate Division

Re: Mt Woodson Site - City of San Diego

Ms. Humrich:

In accordance with paragraph 13 of your Occupancy Permit with the City of San Diego, I have placed the above referenced permit on holdover pending the issuance of a new lease.

All the terms and conditions will remain the same and as soon as we execute a new lease this permit will be canceled

Please let me know if you have any questions.

Sincerely,

C. V. Svensson. Supervisor
Real Estate Assets Dept.

pc: Deputy Director, Asset Management and Marketing
Lease Billing Supervisor
File



DIVERSITY
BRINGS US ALL TOGETHER

COPY

USE AND OCCUPANCY PERMIT

THIS AGREEMENT, made this day of JUN 22 1992, 1991, by and between the City of San Diego, a municipal corporation, hereinafter called CITY, and U. S. Department of Commerce, National Weather Service Western Region, hereinafter called PERMITTEE,

W I T N E S S E T H:

WHEREAS, CITY has under its control a radio electronic broadcasting facility located in the County of San Diego, State of California, commonly known as Mt. Woodson; and

WHEREAS, CITY'S policy is to make available communication facilities under its control for such purposes when it is for the benefit of the public and same is consistent with City of San Diego's programs and needs; and

WHEREAS, it is in the best interests of the CITY that such a permit be consummated on the terms and conditions herein contained;

NOW, THEREFORE, it is hereby mutually agreed as follows:

The City of San Diego (CITY) hereby permits U. S. Department of Commerce (PERMITTEE) to utilize the premises described herein upon the following conditions:

1. **PREMISES.** A portion of CITY'S vault at Mt. Woodson, generally shown on the attached Exhibit A and by this reference made part of this agreement, including antenna location and access. Said real property is hereinafter called the premises.
2. **USE.** The premises shall be used during the term hereof solely and only for the purpose of constructing, maintaining, repairing, altering, and operating radio transmitting and receiving equipment and all facilities necessary thereto and such other transmitting and receiving equipment as CITY may from time to time consent to in writing and for no other purpose or purposes whatsoever.

DOCUMENT NO. RR-280191

FILED JUN 22 1992

OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

3. **TERM.** The term of this permit shall be five (5) years beginning on the first day of the calendar month following execution hereof by the City Manager. This permit may be terminated by either party upon giving written notice to the other ninety (90) days or more prior thereto, or at will as herein provided.
4. **RENT.** PERMITTEE shall pay rent to the CITY for the premises at the rental rate of \$1,350 per year payable annually in arrears. Rent for a lesser period shall be prorated. Beginning with the first anniversary of the commencement of this permit and on each anniversary of the commencement of this permit and on each anniversary date thereafter, the annual rental provided for above shall be increased by an amount equal to five percent (5%) of the then current rental.

Rental payments will be addressed and mailed to the City of San Diego, City Treasurer, P.O. box 2289, San Diego, CA 92112-4165. The liability of PERMITTEE under this agreement is contingent on the necessary appropriations and reservations of funds being made therefor.

5. **INSTALLATION AND OPERATION OF EQUIPMENT.** The installation and operation of PERMITTEE'S communications equipment in and about CITY'S vault at Mt. Woodson shall be under the administration of the City Manager. The use and operation of the PERMITTEE'S equipment at said site shall be subject to an "on the air" compatibility test (see Exhibit B attached). The compatibility test must result in reasonable assurance that the use will not cause interference to existing communications systems at Mt. Woodson. Only the PERMITTEE, its properly qualified and authorized agents, employees, contractors, and servants, shall have the right of ingress to and egress from said premises. If communication equipment of PERMITTEE is operated or maintained by anyone other than its regular employees, the admission of such persons to said site shall be permitted only upon the express written consent of the CITY having first been obtained.
6. **IMPROVEMENTS AND ALTERATIONS.** PERMITTEE shall not make any improvements or alterations to the premises without the prior written consent of CITY. All fixtures, equipment and improvements installed or made by PERMITTEE shall remain the property of PERMITTEE and shall, at PERMITTEE'S expense, be removed upon expiration or termination of this agreement and the premises restored substantially to the same condition as when received; provided, however, that any repair or replacement of CITY'S property shall remain property of CITY. Should PERMITTEE fail to remove its fixtures, equipment and improvements as aforesaid, the CITY may do so at the expense of PERMITTEE.

7. **MAINTENANCE.** PERMITTEE agrees to assume full responsibility for the operation and maintenance of its facilities on the premises throughout the term hereof without expense to CITY, 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. PERMITTEE 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. During the term of this agreement, CITY agrees to maintain the vault in good repair.
8. **ASSIGNMENT AND SUBLEASE.** PERMITTEE shall not transfer nor assign this permit, and shall not sublet, license, permit or suffer any use of the premises or any part thereof, or lease space in any building constructed on said land, provide radio equipment for the use of others, or cause or permit any change of any equipment installed in such premises, including power outputs or changes in the use of the following frequencies to transmit: 162.400 MHz, and receive: 410.575 MHz, except upon making a written request to CITY for each such transaction and the obtaining of its prior written consent thereto. PERMITTEE shall display on each piece of equipment the appropriate license from the federal regulation agency.
9. **INSURANCE.** CITY will not keep improvements which are constructed or installed by PERMITTEE under the provisions of this permit insured against fire or casualty, and PERMITTEE will make no claim of any nature against CITY by reason of any damage to the business or property of PERMITTEE in the event of damage or destruction by fire or other cause, arising other than from or out of negligence or willful misconduct of agents or employees of the City of San Diego in the course of their employment.
10. **INDEMNITY.** PERMITTEE does hereby agree to indemnify and save CITY, its officers, agents, and employees, harmless from any loss, damage, or liability which shall be caused by or may arise from the exercise by PERMITTEE of any of the rights herein granted, and from all claims, demands, and causes of action that may be brought against CITY, its successors, or assigns, caused by, arising out of, or in any way connected with the exercise by PERMITTEE of any of the rights herein granted.
11. **ACCESS ROAD.** CITY hereby grants to PERMITTEE a nonexclusive right to use, during the term of this permit, that portion of an access road which serves Mt. Woodson. Said right shall be subject to provisions of paragraph 6 hereof, and to the following conditions and terms:
 - a. PERMITTEE shall exercise said right through its authorized agents, employees, contractors, or servants whenever it is necessary for them or any of them to have access to PERMITTEE'S facilities now or hereafter located on said mountain.

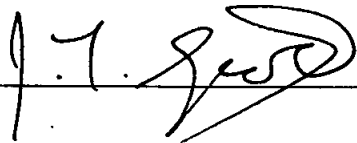
- b. PERMITTEE shall use said road at its sole risk and avoid traveling upon it to the greatest practical extent at all times when weather conditions are such that excessive damage to the road surface may result from such use, and further PERMITTEE shall, at its expense, promptly repair any abnormal or excessive road damage caused by its use, including such road surface protective features as water drains, berms, or culverts.
12. **CITY USE.** CITY reserves the right to use the real property involved (not including real property installed, erected, or constructed by PERMITTEE) in any manner, including but not limited to the right to construct, place, maintain, use, operate, repair, replace, alter, and remove pipelines, conduits, culverts, ducts, fences, poles, electrical energy, power and communication lines, roads, bridges, subways, sidewalks, to grant easements over, across, upon, and under said real property, and the continuous right of ingress to and egress from any portion or portions of said real property in such manner as not to create any unreasonable interference with the exercise of the rights granted to PERMITTEE.
13. **HOLDING OVER.** Should PERMITTEE hold over after the expiration of the term of this permit with the consent of CITY, expressed or implied, said tenancy shall be deemed to be a tenancy only from month-to-month with the annual rental herein specified, prorated accordingly and payable on a monthly basis in arrears, subject otherwise to all the terms and conditions of this permit insofar as applicable.
14. **NOTICES.** All notices herein provided to be given or which may be given, by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail, certified and postage prepaid, as follows: To Permittee: addressed to the attention of Real Property, WC41, National Oceanic and Atmospheric Administration, Western Administration Support Center, 7600 Sand Point Way N.E., BIN C 15700, Seattle, WA 98115; and to CITY: City of San Diego, City Manager, Attention Property Director, 202 "C" Street, San Diego, CA 92101. The address to which the notices shall be mailed as aforesaid to either party shall or may be changed by written notice given by such party to the other as hereinbefore provided; but nothing herein contained shall preclude the giving of any such notice by personal service.
15. **ORAL REPRESENTATIONS.** This agreement contains the complete expression of the whole agreement between the parties and there are no promises, representations, agreements, warranties or inducements, either expressed orally or implied, except as are set forth herein. This agreement cannot be changed in any respect except by written agreement between the parties.

16. **EQUAL OPPORTUNITY.** PERMITTEE as an executive agency of the United States Government shall adhere to the Equal Employment Opportunity provisions of Title 7 of the Civil Rights Act of 1964, as amended, and subsequent federal legislation pertaining to civil rights and equal employment.

IN WITNESS WHEREOF, this agreement is executed by CITY, acting by and through the City Manager and by PERMITTEE, by and through its lawfully authorized officers.

THE CITY OF SAN DIEGO

Date JUN 22 1992, 1992

By 

PERMITTEE:

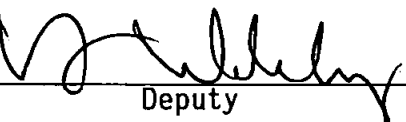
U. S. DEPARTMENT OF COMMERCE, NOAA
NATIONAL WEATHER SERVICE

Date April 8, 1992

By 
DAVID A. PETRE
Real Property Contracting Officer

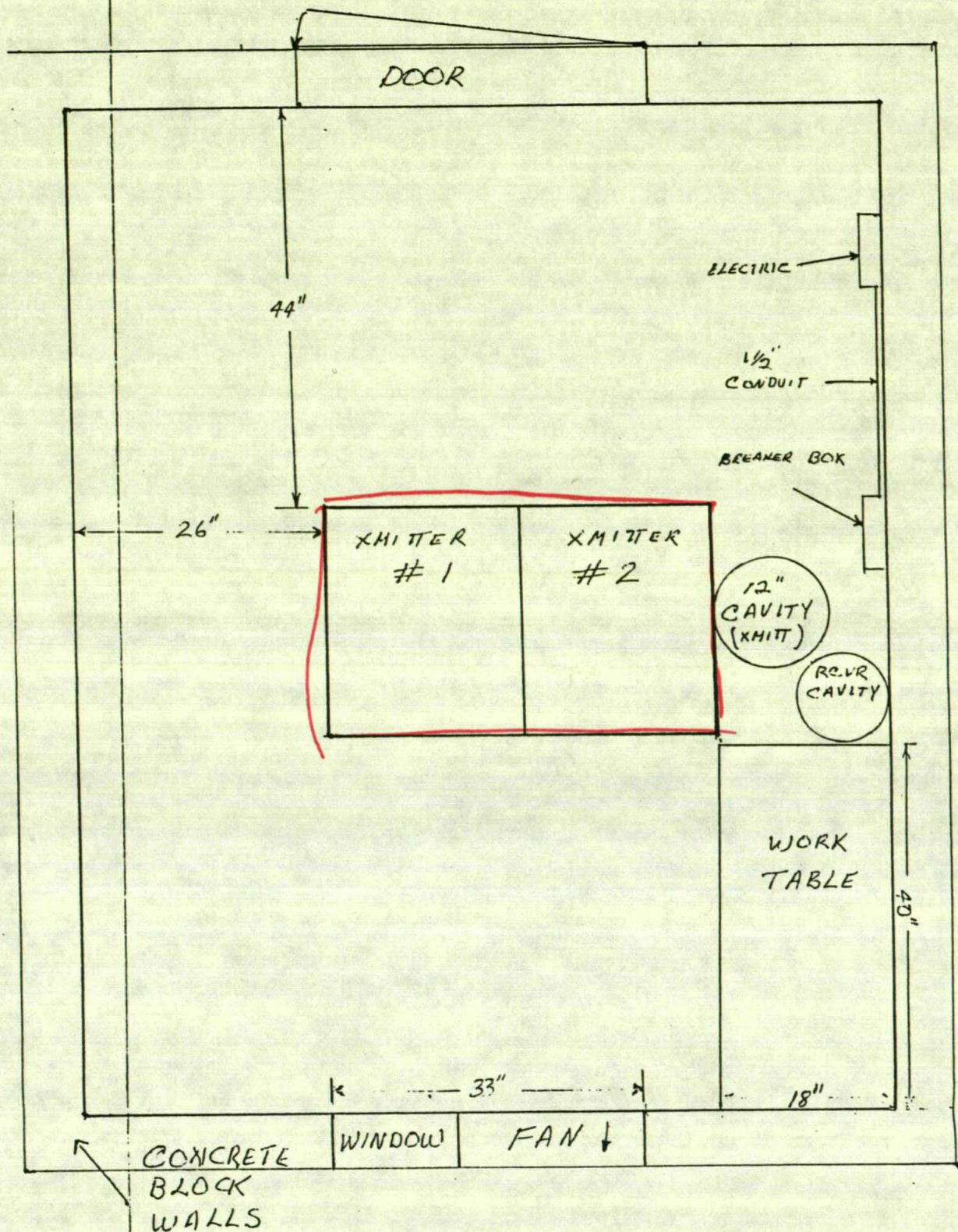
APPROVED as to form and legality this 2 day of July, 1992.

JOHN W. WITT, City Attorney

By 
Deputy

JBC:jw(3)
3-7-92

N



SCALE 1" = 1 FT

(APPROXIMATE)

EXHIBIT A

EXHIBIT "B"

USER COMMITTEE ELECTRONIC LAND USE "ON THE AIR" TEST INSTRUCTIONS AND PROCEDURES

1. Explanation

Prior to the LESSOR'S approval of an application for a new radio-electronic use authorization or modification of an existing authorization, pre-installation or pre-use tests will be required. Such tests will determine whether or not radio frequency interference or degraded performance will result to the existing authorized radio electronic type uses at the facility.

Should the interference problems result, it will be the responsibility of the user implementing the new installation to initiate mutually agreeable actions of the parties involved to settle the problem among themselves.

LESSORS may recognize the right of prior authorizees and withhold approval of a radio-electronic authorization application or authorization modification pending settlement of interference problems between the applicant and other authorizees.

2. Pre-installation or pre-use Testing

A. It will be the responsibility of the applicant to make the complete arrangements and conduct all tests in a technically sound manner.

(1) A listing of all radio-electronic land use authorizees operating at the facility will be obtained from the users committee.

B. It will be the responsibility of the applicant to notify all radio electronic authorizees at the facility of the tests and details thereof, at least 14 days in advance of the tests.

(1) The notification shall be in the form of letter to each listed authorizee giving a technical summary of the test and shall specify the date and hour the test will start. The letter of notification shall request the authorizees to have a qualified representative present for the tests to observe for possible interference problems and with authority to sign an interference or noninterference certification on behalf of the authorizees.

- (2) A copy of these instructions, "City of San Diego Radio-Electronic Land Use On-The-Air Test Instructions and Procedures" shall be attached to each notification and it shall be so noted in the notification letter.
 - (3) Notifications to Permittees shall be sent via U.S. Mail or hand delivered.
 - (4) The notification letter to the City Communications Engineer shall include a list of all Permittees notified.
- C. It will be the applicant's responsibility to submit to the City Communications Engineer following the completion of the tests, a letter stating test results obtained from each PERMITTEE participating in the test and a list of those Permittees who did not respond.
- D. In the event a notified PERMITTEE fails to send a qualified representative to observe and participate in the tests, it will be assumed by the City that the PERMITTEE has assured himself that his operations will not be affected.

3. On-The-Air Tests - Technical Details

Pre-installation or pre-use on-the-air tests shall be conducted by the applicant under the following technical conditions:

- A. The applicant's transmitting and receiving equipment shall be of the type planned for final use at the site.
- (1) The transmitted RF power shall be the maximum to be used and authorized at the location.
 - (2) On-the-air transmitter tests shall include the use of full allowable modulation.
 - (3) Antenna height(s), location(s) and type(s) shall be the same as the final installation plan.
- B. Tests shall include on-the-air operation of all participating transmitter(s) and receiver(s) in all possible combinations with the applicant's electronic equipment.
- C. All tests will include testing with all frequencies planned for use by the applicant at the location.

(R-92-1969)

RESOLUTION NUMBER R- 280191

ADOPTED ON JUN 22 1992

BE IT RESOLVED, by the Council of The City of San Diego, that the City Manager is hereby authorized and empowered to execute, for and on behalf of The City of San Diego, a 5-year Use and Occupancy Permit with the U.S. DEPARTMENT OF COMMERCE, NATIONAL WEATHER SERVICE WESTERN REGION, for the use of approximately 8 square feet of the City's vault and antennae site at Mount Woodson for communication purposes, at an initial annual rental of \$1,350, under the terms and conditions set forth in that Use and Occupancy Permit on file in the office of the City Clerk as Document No. RR- 280191.

APPROVED: JOHN W. WITT, City Attorney

By


Harold O. Valderhaug
Deputy City Attorney

HOV:ps
06/05/92
Or.Dept:Prop.
Job:220359
R-92-1969
Form=r-t

JUN 22 1992

Passed and adopted by the Council of The City of San Diego on _____ by the following vote:

YEAS: Wolfsheimer, Roberts, Hartley, Stevens, Behr, Stallings,
McCarty, Mayor O'Connor.

NAYS: None.

NOT PRESENT: Filner.

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California

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

(SEAL)

By: Linda Lugano, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of RESOLUTION
NO. R- 280191, passed and adopted by the Council of The City of San Diego, California
on JUN 22 1992.

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

(SEAL)

By: *Linda Lugano*, Deputy