



Real Estate Assets Department

SDC003

Institute for Defense Analysis

K302PM-001-A01

Document Type

LEGAL DOCUMENTS



Sub - Category

AGREEMENTS



18

FIRST AMENDMENT TO FLAT RATE GROUND LEASE

This **FIRST AMENDMENT TO FLAT RATE GROUND LEASE** ("First Amendment") is dated as of 10/26/2023, for reference purposes only, and is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("City"), and THE INSTITUTE OF DEFENSE ANALYSES, a Delaware non-stock non-profit corporation ("Lessee"). City and Lessee are sometimes referred to in this First Amendment, each individually, as a "Party" or, collectively, as the "Parties." This First Amendment is entered into by City and Lessee with reference to the following recited facts ("Recitals"):

Recitals

A. City and Lessee are parties to that certain Flat Rate Ground Lease Agreement, dated as of March 29, 1991, and approved by the City Council of the City of San Diego on March 19, 1991, by Resolution No. R-277522 (as amended, restated, supplemented, or otherwise modified, the "Lease"), originally entered into by the City and WesTerra Communications, Ltd., a California limited partnership ("WesTerra"), and subsequently assigned by WesTerra to Lessee under that certain Assignment and Assumption Agreement between WesTerra and Lessee, recorded on September 27, 1991, in the Official Records of San Diego County, California as Instrument No. 1991-0501053.

B. City and Lessee desire to amend the Lease as set forth in this First Amendment.

NOW, THEREFORE, in consideration of the respective promises of the Parties set forth in this First Amendment and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

1. **Amendment of Section 1.01.** Section 1.01 of the Lease is amended to read in its entirety as follows:

1.01. **Premises.** City leases the Premises (defined in Exhibit "A") to Lessee and Lessee hires the Premises from City, upon the terms and conditions of this Lease.

2. **Amendment of Exhibit A.** Exhibit "A" attached to the Lease is replaced by Exhibit "A" attached to this First Amendment and made part of this First Amendment.

3. **Miscellaneous.**

(a) **Confirmation of Agreement.** The Lease, as amended by this First Amendment, is in all respects confirmed and all the terms, provisions, and conditions of the Lease, as amended by this First Amendment, shall be and remain in full force and effect.

(b) Incorporation of Recitals. The Recitals set forth above are true and correct and are incorporated into this First Amendment by this reference, as though fully set forth in this First Amendment.

(c) Governing Law. This First Amendment shall be governed by, interpreted under, and construed and enforced in accordance with, the laws of the State of California.

(d) Counterparts. This First Amendment may be signed by the authorized representatives of the Parties in multiple counterpart originals (including facsimile or electronic counterpart originals), each of which shall be deemed an original, and all such counterpart originals, when taken together, shall constitute one agreement.

(e) No Other Amendments; First Amendment Governs and Controls. Except as set forth in this First Amendment, all the provisions of the Lease shall remain in full force and effect. To the extent any of the provisions of this First Amendment are inconsistent with any provisions set forth in the Lease, the provisions of this First Amendment shall govern and control. The Lease, as amended by this First Amendment, represents the entire understanding between the Parties as to the subject matter of the Lease.

(f) Principles of Interpretation. No inference in favor of or against any Party shall be drawn from the fact that such Party drafted any part of this First Amendment. The Parties participated substantially in the negotiation, drafting, and revision of this First Amendment, with advice from legal and other counsel and advisers of their own selection. A word, term or phrase defined in this First Amendment may be used in the singular, plural, past tense or future tense, regardless of how it is defined, all in accordance with ordinary principles of English grammar, which shall govern all language in this First Amendment. The words "include" and "including" in this First Amendment shall be construed to be followed by the words: "without limitation." Each collective noun in this First Amendment shall be interpreted as if followed by the words "(or any part of it)," except where the context clearly requires otherwise. Every reference to a document, including this First Amendment, refers to such document, as modified from time to time (excepting any modification that violates the Lease), and includes all exhibits, schedules, addenda, and riders to such document. The word "or" in this First Amendment includes the word "and," except where the context clearly requires otherwise. Every reference to a law, statute, regulation, order, form, or similar governmental requirement in this First Amendment refers to each such requirement as amended, modified, renumbered, superseded, or succeeded, from time to time.

(g) Binding on Successors and Assigns. This First Amendment shall be binding upon and inure to the benefit of the Parties and their respective legal representatives, successors, and assigns.

(h) No Other Representations or Warranties. Except as expressly set forth in this First Amendment, no Party makes any representation or warranty material to this First Amendment to any other Party.

(i) Incorporation of Defined Terms. All terms, phrases, or words indicated to be defined terms by initial capitalization in this First Amendment that are not specifically defined

in this First Amendment (if any) shall have the meaning ascribed to the same term, phrase, or word in the Lease.

(j) Facsimile or Electronic Signatures. The Parties agree: (a) to deliver and accept signatures on or pursuant to this First Amendment by facsimile, e-mail, or electronic means (including digital signatures); and (b) that signatures delivered by facsimile, e-mail, or electronic means (including digital signatures) shall be binding as originals upon the Party so signing and delivering.

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**SIGNATURE PAGE
TO
FIRST AMENDMENT TO
FLAT RATE GROUND LEASE**

IN WITNESS WHEREOF, City and Lessee sign and enter into this First Amendment, by and through the signatures of their respective authorized representatives, as follows:

CITY:

THE CITY OF SAN DIEGO,
a California municipal corporation

By: _____

~~Penny Maus~~ *Casey Smith*
~~Director, Department of Real Estate and Airport~~
~~Management~~ *Deputy Chief Operating Officer*

APPROVED AS TO FORM

on 11/17/2023:

MARA W. ELLIOTT
City Attorney

By: _____

Julie Inman
Name: ~~Mara W. Elliott~~ *Julie Inman*
Title: ~~City Attorney~~ *Deputy City Attorney*

LESSEE:

INSTITUTE FOR DEFENSE ANALYSES,
a Delaware non-stock non-profit corporation

By: _____

Luke Knapp
Name: *Luke Knapp*
Title: *Senior Manager, Corporate Real Estate*

Exhibit "A"

Premises

Legal Description and Site Plan follows on next page

EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

PARCEL 1 OF PARCEL MAP 16829 IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEROF FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO, APRIL 23, 1992 AS FILE NO. 1992-239395 OF OFFICIAL RECORDS.

EXCEPTING THEREFROM THAT PORTION OF SAID PARCEL 1 BEING THAT PORTION OF TOWN CENTRE DRIVE AS ACCEPTED AS A PUBLIC STREET, RECORDED JULY 25, 2008, AS DOCUMENT NO. 2008-0398615, OF OFFICIAL RECORDS OF SAN DIEGO COUNTY.

THE FOREGOING IS DEPICTED ON NEXT PAGE.



Gary D. Mellom

GARY D. MELLOM, PLS 8537

9/11/2023

DATE:

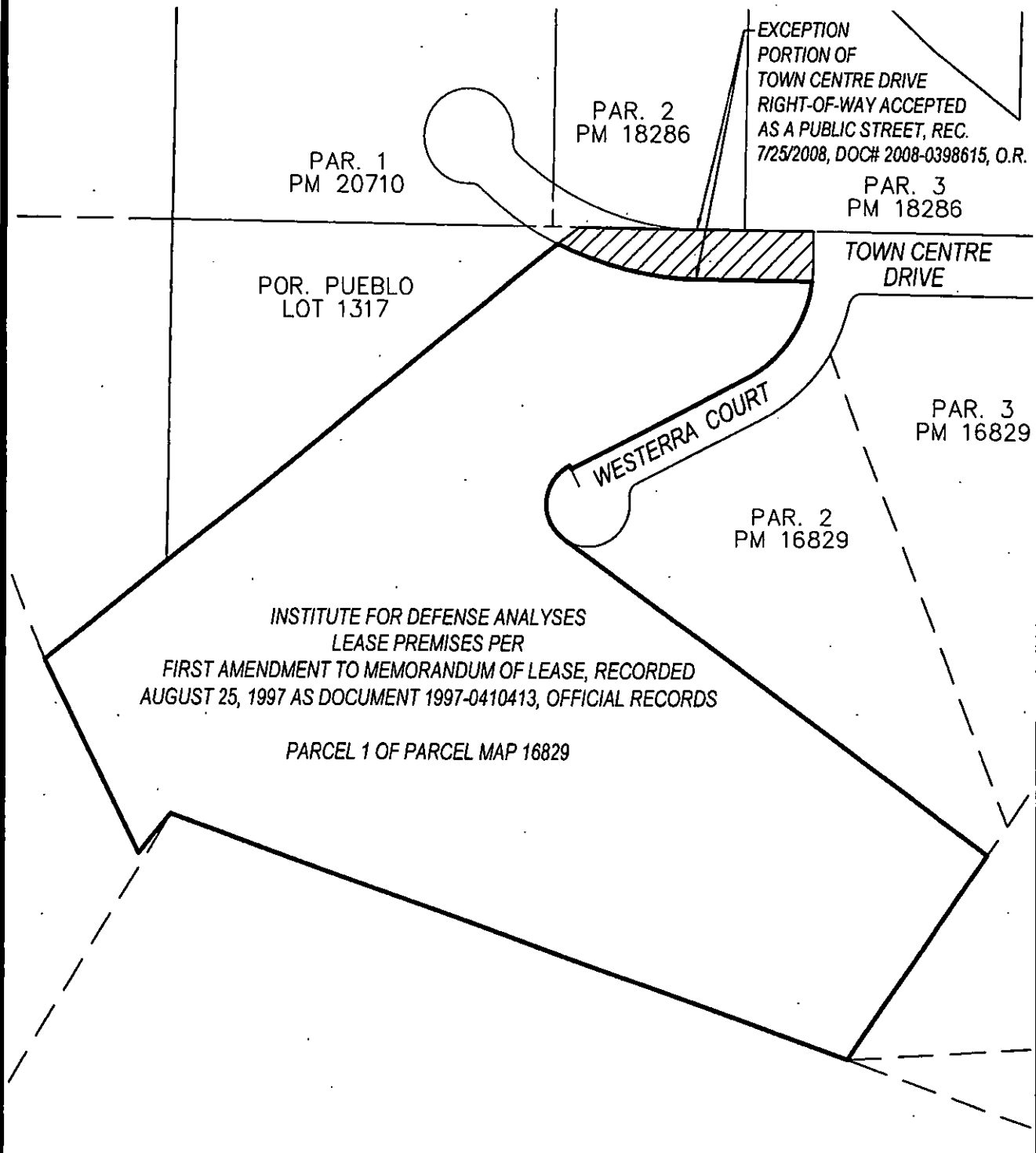
PLSA
PLSAENGINEERING.COM

PLSA 3342

LEGAL DESCRIPTION

SHEET 1 OF 2

PLAT



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SCALE = 1" = 200'

PLSA 3342



PLAT

SHEET 2 OF 2