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I N D E X

FLAT RATE LEASE

MONTGOMERY FIELD ONE: A PARTNERSHIP WITH
SAMMIS, ALLRED AND WHEATCROFT

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EXHIBIT A

ADDENDUM

FLAT RATE LEASE

THIS LEASE AGREEMENT is executed by and between THE CITY OF SAN DIEGO, a municipal corporation, hereinafter called "CITY" and Montgomery Field One, a limited partnership, whose general partners are Donald F. Sammis, Douglas O. Allred and Ronald G. Wheatcroft 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".

A. PERMITTED USE. Said premises are leased to LESSEE only for the purposes of construction, operation and maintenance of a commercial and light industrial office complex, and for such other related or incidental purposes as may first be approved in writing by the CITY MANAGER 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 fifty-five (55) years, commencing on the first day of the calendar month following the date of execution hereof by CITY.

B. SURRENDER OF PREMISES. At the expiration or earlier termination of this lease, LESSEE shall execute, acknowledge and deliver to CITY, within five days 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 shall be paid by LESSEE to CITY at the Office of the City Treasurer, Operations Building, 1222 First Avenue, San Diego, California 92101, and shall be as follows:

1. CONSTRUCTION PERIOD. The construction period shall be that portion of said term beginning on the commencement date of this lease and ending upon the commencement of operations which is hereby defined as the opening of the building for business as evidenced by office rentals or by commercial or industrial use of the premises or by the sale of any goods or services on the premises whether or not payment is actually made therefor or upon the expiration of one (1)

year following the effective date of this lease which ever date or event is soonest. The consideration to City during said construction period shall be the satisfactory development of the leased premises in accordance with Section IV 8, DEVELOPMENT, to the satisfaction of the City Manager. No cash rent shall be required during this construction period.

2. ⁸⁻¹⁻⁷⁹ OPERATIONS PERIOD. For that portion of said term beginning on commencing of operations, as hereinabove defined, and for the remainder of said term, the rent shall be payable to City monthly in advance in the sum of \$2302.50. For the first three year period of the agreement, the total rent shall be the sum of EIGHTY-TWO THOUSAND EIGHT HUNDRED NINETY DOLLARS (\$82,890.00).

The rent for the remaining term of this agreement shall be payable monthly in advance and shall be adjusted upward or downward at the expiration of each three-year period, according to the following method of computation:

8-1-82, 85 + 87
8-1-93,
The rent shall be adjusted upward or downward at the beginning of the fourth, seventh and tenth year of the agreement and at the beginning of each sixth year thereafter in accordance with the following method of computation; provided that the increases shall not exceed six (6%) percent per year cumulative:

The rent for the period following the adjustment until the next 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:

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 preceeding 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 preceeding the date of execution of this agreement.

Example: Current Index 121
Base Figure 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 date of the rent adjustment shall be the commencement date of the fourth, seventh, and tenth year of the lease and at the beginning of every sixth year thereafter. 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 preceeding 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.

In addition to the above-stated adjustment, upon the first day of the twenty-sixth year of this agreement the rent for the ensuing period shall be determined by multiplying the City Council's approved capitalization rate of 9% NINE PERCENT by the fair market value of the demised premises (excluding improvements) as of the adjustment date. The fair market value of the demised premises shall be determined by an appraisal made by a professional independent real estate appraiser selected by mutual consent of the parties to this agreement from the list of appraisers approved by the City Council of CITY. In the event the parties cannot reach agreement upon selection of a mutually acceptable appraiser, then CITY and LESSEE will each select a professional independent real estate appraiser, which third appraiser will be employed to make the appraisal of the fair market value of the demised premises and which value will be utilized to determine the adjusted rent described previously in this paragraph. In the event that the two selected appraisers fail to mutually select a third appraiser within sixty (60) days, then the selected appraisers will be discharged and the process repeated until mutuality is achieved and an appriaser is selected to complete the assignment. Each party shall pay the cost of its own selected

appraiser and both CITY and LESSEE agree to equally share the cost of the mutually appointed first and third appraiser and CITY and LESSEE agree to accept and be bound by the valuation determined by the third selected appraiser.

In establishing the fair market value of the demised premises, the appraiser shall consider the property as a fee simple absolute estate and as vacant land and available for lease or sale for uses and building consistent with the authorized purposes of this lease at the commencement of the original term of the lease, that is the uses and building which have been approved by CITY as authorized in I, A and IV, B 8 hereof. The date of value of the appraisal shall be the date of rental adjustment as hereinabove established (at the beginning of the twenty-sixth year).

In the event the appraisal is not completed in time to permit rental adjustment to be made upon the date specified, LESSEE agrees to continue to pay rent at the rate then in existence and said rental adjustment will be retroactive to the date of rental adjustment as hereinabove established.

- B. DELINQUENT RENT. In the event LESSEE fails to pay the applicable rents within 10 days of 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 mutual agreement between LESSEE and 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. ASSIGNMENT AND SUBLETTING. Upon prior written consent by the City Manager, and without necessity for further authorization by the City Council, except as otherwise specified in IV 29, LESSEE may assign this lease, or any interest therein, and may sublease any portion or portions thereof to an assignee or sublessee who in the opinion of the City Manager has adequate financial capability and experience. This lease and any interest herein shall not be assigned by operation of law without the written consent of the City Manager. The City Manager's consent, as required in this Section IV, A,2 shall not be unreasonably withheld.

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 the, 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. LESSEE recognizes and understands that this lease may create a possessory interest subject to property taxation and that the LESSEE may be subject to the payment of property taxes levied on such interest. LESSEE further agrees that such tax payment shall not reduce any rent due the CITY hereunder and that any such tax shall be paid by the LESSEE before becoming delinquent.
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, provided, however, without City approval, LESSEE shall be entitled to construct tenant improvements in the interior of the building and to make minor interior changes. 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, evidence of security for performance of the construction to be performed hereunder in the amount of 100% of the construction costs of the work to be performed. Said, evidence may be in cash, or may be a corporate surety performance bond, or may be a construction lender's loan commitment, or any combination thereof, satisfactory to CITY. Said security shall insure that the construction commenced by LESSEE shall be completed in accordance with approved plans. The evidence of security will be filed with CITY and any cash used as a part of the security 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 evidence said security. In the event that LESSEE fails to file any such required evidence of security, 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, 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 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 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 (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 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, reasonable wear and tear excepted. 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.
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 submitted to the CITY and approved in writing in order to replace in kind and scope the operation which existed prior to such damage, using for either purpose the insurance proceeds as set forth in Section (D) 10, INSURANCE hereof. Provided, however, during the last ten (10) years of this lease, if such damage is of a substantial nature or not feasible to repair in the opinion of the City Manager or the LESSEE, then LESSEE shall not be required to repair such damage or to rebuild said premises unless LESSEE is in default of the lease at the time of such damage; provided further, however, LESSEE shall clear the damaged area of all debris and obstruction.

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 or certified letter deposited in the United States mails, postage pre-paid, and addressed to the City Manager, Attention Property Director, City Administration Building, 202 "C" Street, San Diego, California 92101, or may be personally served upon the Property Director. 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 registered or certified letter addressed to said LESSEE at the leased premises or at such other address designated in writing by LESSEE and addressed to said Mortgagee, Trustee or Beneficiary at such address as they may have designated in writing to the City, 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, and said approval or consent shall not be unreasonably withheld. Further, in all matter in this lease where the City is entitled to act or decide upon its opinion, determination, or otherwise, City shall act or decide reasonably, and not arbitrarily or capriciously.

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 mutual opinion of LESSEE and 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 mutual opinion of LESSEE and 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. Additionally, if the lease is terminated pursuant to "b" above, LESSEE shall also be paid by CITY the fair market value of LESSEE'S interest in the improvements placed upon the portion of the leased premises which are not taken by the condemning authority. 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 personal property as hereinafter defined, 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 that personal property hereinafter defined, at any time prior to the expiration or earlier termination of this 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 such personal property 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 personal property 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 personal property 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.

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 the 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.

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 default if possible by mortgagee or beneficiary, and LESSEE expressly agrees to assign all its interests 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 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. 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 of 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 preceeding breach by LESSEE of any term, covenant or condition of this lease, regardless of CITY'S knowledge of such preceeding 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.

D. SPECIAL COVENANTS AND CONDITIONS

29. RENTAL OF UNITS. Notwithstanding the provisions of Section IV, Paragraph (A) 2, RIGHT TO ASSIGN AND SUBLET hereof, regulating subletting, LESSEE shall have the right to sublet or rent units consistent with the purpose of this lease without prior CITY approval. It is expressly understood that said subleases or rental agreements shall be subordinate and subject to all of the terms and provisions of the lease agreement. If any of the terms and conditions of the subleases or rental agreements are inconsistent with or contrary to any of the terms and conditions set forth in this lease agreement, the latter shall govern.
30. OPERATIONAL RESTRICTIONS. LESSEE agrees to operate the lease premises in accordance with the following requirements:
- a. Outside Storage - Outside storage will be limited to one (1) screened and fenced trash pick-up for each building. Trash pick-up shall be of such frequency as to eliminate a build-up of trash overflow in the area. At no time shall any other material, refuse, boxes, trash bins, or equipment be placed, even on a temporary basis, outside of the buildings.
 - b. Truck Doors - Truck doors shall be architecturally designed so as to blend with the overall architectural scheme of the building and the adjacent surrounding walls. Truck doors shall be closed at all times other than for the moving of equipment, parts, and supplies. The area around the truck doors shall be landscaped in a manner so as to de-emphasize their appearance from the street. There shall be no loading docks or overhanging canopies.
 - c. Smoke, Noise, and Fumes - No use shall be permitted which shall produce noise in excess of office uses or industrial - electronic assembly type operations,

and no use shall be permitted to produce any obnoxious amount of smoke, smell, or fumes.

- d. Off Street Parking, Landscaping, Building Set Backs are to be approved upon submission of plans, but the basic criteria shall, among other things, provide for one parking space for each 300 square feet of rentable building area.
 - e. There is hereby reserved to the City of San Diego, California, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises herein conveyed, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from, or operating on Montgomery Field.
 - f. The LESSEE by accepting this lease expressly agrees for itself, its successors and assigns, that it will not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the land leased hereunder above a mean sea level elevation of 573 feet. In the event the aforesaid covenant is breached, the CITY reserves the right to enter on the land leased hereunder and to remove the offending structure or object and to cut the offending tree, all of which shall be at the expense of the LESSEE.
 - g. LESSEE by accepting this conveyance expressly agrees for itself, its successors and assigns, that it will not make use of the said property in any manner which might interfere with the landing and taking off of aircraft from said Montgomery Field, or otherwise constitute an airport hazard. In the event the aforesaid covenant is breached, the CITY reserves the right to enter on said land leased hereunder and cause the abatement of such interference at the expense of the LESSEE.
31. POSSESSORY INTEREST TAX. LESSEE acknowledges that its interest may be subject to a possible possessory interest tax that the County of San Diego may impose on such interest, and LESSEE agrees that such tax payment shall not reduce any rent due the City hereunder and LESSEE agrees that any such tax shall be the liability of and be paid by the LESSEE before becoming delinquent.
32. AVIATION USE RESTRICTIONS. The LESSEE by accepting this lease expressly agrees for itself, its successors and assigns, that it will not permit aviation uses on said premises without first obtaining the written

permission of the City Manager of City for each requested aviation or related use. It is City's intent not to permit uses that would be in direct competition with CITY Lessees engaged in the aviation business on Montgomery Field.

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

THE CITY OF SAN DIEGO

Date 7/27/78

BY [Signature]
ASSISTANT TO THE City Manager

LESSEE: Montgomery Field One; A
Limited Partnership

Date 3/23/78

BY [Signature]
Donald F. Sammis, General Partner

BY [Signature]
Douglas O. Allred, General Partner.

BY [Signature]
Ronald G. Wheatcroft, General Partner

APPROVED as to form and legality this 28th day of July,
1978.

JOHN W. WITT, City Attorney

BY [Signature]
Deputy

221040

MONTGOMERY AIRPORT

Parcel 6

CITY OF SAN DIEGO

NEW RIVERSIDE

SCALE: 1" = 100'

VICINITY
MAP

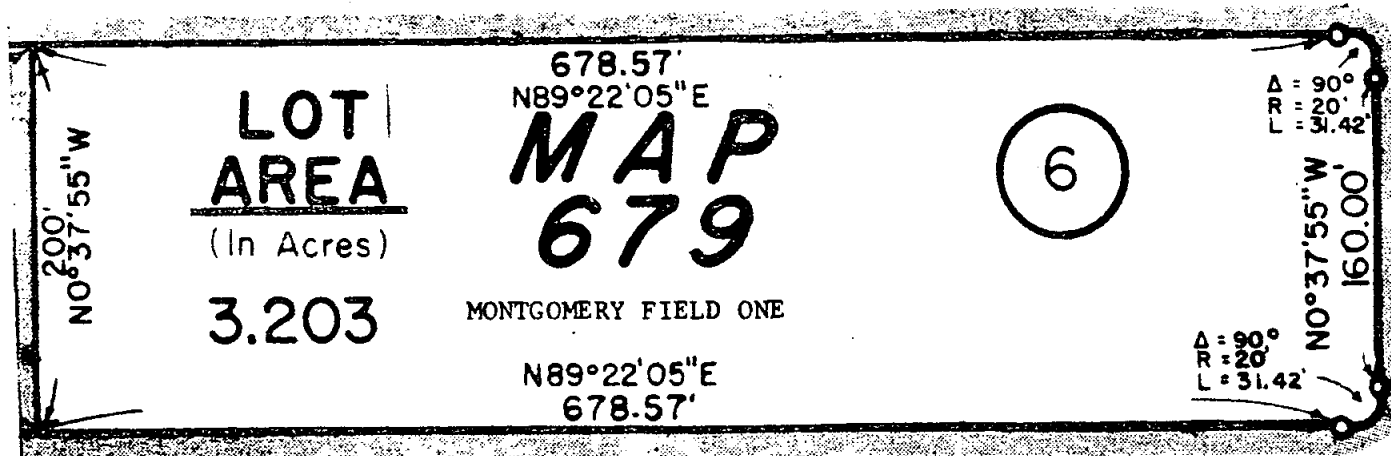
GLENN
L. CURTIS RD.

JOHN J. MONTGOMERY DR.

GIBBS DRIVE

AFTON RD.

GIBBS DRIVE



AERO DRIVE

JOHN

MONTGOMERY DR.

J.

EXHIBIT A

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
MONTGOMERY FIELD ONE, a limited partnership whose General Partners
are Donald F. Sammis, Douglas O. Allred and Ronald G. Wheatcroft,
LESSEE, Dated 7/27/88

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)

All personal property, equipment, furniture, trade fixtures,
and tenant improvements which can reasonably be removed
without structural damage to the permanent improvements on
the leased premises.

ASSISTANT TO THE

WJ
City Manager's Initials

Don Allred DFS
Lessee's Initials

RESOLUTION No. 221040

(R- 78-2021)

Adopted on JUN 5 1978

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

That the City Manager be, and he is hereby authorized and empowered to execute, for and on behalf of said City, a lease agreement with Montgomery Field One, a limited partnership, as lessee for a term of 55 years of Lot 6, Montgomery Field Airport, with an appraised value of \$307,000 as of April 25, 1977, for the purpose of construction, operation and maintenance of a commercial and light industrial office complex, under the terms and conditions set forth in the lease agreement on file in the office of the City Clerk as Document No.

763376.

APPROVED: JOHN W. WITT, City Attorney

By



Eugene P. Gordon, Deputy

EPG:db

4-20-78

Or.Dept.: DOT-Airports

730

Passed and adopted by the Council of The City of San Diego
on June 5, 1978, by the following vote:

YEAS: Mitchell, O'Connor, Lowery, Williams, Schnaubelt, Gade,
Stirling, Haro.

NAYS: None.

ABSENT: Wilson.

AUTHENTICATED BY:

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

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

(SEAL)

By BETTY GOLDBERG, Deputy.

I HEREBY CERTIFY that the above and foregoing is a full,
true and correct copy of RESOLUTION NO. 221040
passed and adopted by the Council of The City of San Diego,
California, on June 5, 1978.

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

(SEAL)

By Betty Goldberg, Deputy.

A G R E E M E N T

THIS AGREEMENT is made by THE CITY OF SAN DIEGO, a municipal corporation, herein called "City," and the UNITED STATES OF AMERICA, acting by and through the FEDERAL AVIATION ADMINISTRATION, as represented by the Chief, Airports Division, Western Region, herein called "FAA."

R E C I T A L S

A. The Federal Aviation Administration has advised City that the FAA has adopted a policy requirement that, as a condition to the release of land acquired for non-aeronautical use through the help of the Federal Aid to Airport Program (FAAP), the City shall agree to devote the net proceeds from the rental of said land received when rented for nonairport use, on the operation, maintenance, development or improvement of Montgomery Field for a period not to exceed twenty (20) years.

B. City desires to use that land designated as Lots 6 and 7 on Exhibit A, attached hereto and incorporated herein by reference as though fully set forth, for nonairport use. Said land was acquired with FAAP assistance.

NOW, THEREFORE, in consideration of the recitals and the mutual obligations of the parties as herein expressed, City and FAA agree as follows:

1. FAA hereby agrees to and approves the non-aeronautical use of Lots 6 and 7 delineated on Exhibit A. This approval is in conformance with those various grant agreements by and between City and FAA requiring consent by FAA to the use of airport designated land for non-airport purposes.

2. City agrees that any net proceeds derived from the rental of Lots 6 and 7 for nonairport use shall be applied to the operation, maintenance, development or improvement of Montgomery Field.

3. This agreement shall remain in full force and effect for a term of twenty (20) years from and after the date of this agreement.

IN WITNESS WHEREOF, this agreement is executed by The City of San Diego, acting by and through its City Manager, pursuant to Resolution No. 207718, authorizing such execution, and by FAA.

Dated this 10th day of April, 1973.

APPROVED as to form
and legality this 13

day of April, 1973.

JOHN W. WITT, City Attorney

By P. D. Bulens
Peter D. Bulens, Deputy

THE CITY OF SAN DIEGO
a municipal corporation

By [Signature]
DEPUTY City Manager

UNITED STATES OF AMERICA

By [Signature]
Chief, Airports Division
Western Region

RESOLUTION No. 207718

Adopted on APR 10 1973

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

That the City Manager be and he is hereby authorized and empowered to execute, for and on behalf of said City, an agreement with the UNITED STATES OF AMERICA, acting by and through the FEDERAL AVIATION ADMINISTRATION, whereby The City of San Diego, as a condition of the release of Lots 6 and 7 at Montgomery Field for other than airport use, agrees to devote the net proceeds derived from the rental of said land, so long as said land is leased or occupied for other than airport uses, on the operation, maintenance, development or improvement of Montgomery Field, under the terms and conditions set forth in the form of agreement on file in the office of the City Clerk as Document No. 743189.

BE IT FURTHER RESOLVED, that the City Auditor be hereby authorized to establish a fund solely and exclusively for the above purpose.

APPROVED: JOHN W. WITT, City Attorney

By Peter D. Bulens
Peter D. Bulens, Deputy

PDB:lc
2/6/73

Passed and adopted by the Council of The City of San Diego
on April 10, 1973, by the following vote:

YEAS: Johnson, O'Connor, Landt, Martinet, Wilson

NAYS: Williams, Morrow, Bates

ABSENT: Hitch

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 MARY ANNE MEASE, Deputy.

I HEREBY CERTIFY that the above and foregoing is a full,
true and correct copy of RESOLUTION NO. 207719
passed and adopted by the Council of The City of San Diego,
California, on April 10, 1973.

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

(SEAL)

By *Mary Anne Mease*, Deputy.

COPY

OPTION AGREEMENT

DOCUMENT NO. 763377

FILED MAY 3 1978

OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

THIS OPTION AGREEMENT is executed this 5th day of June, 1978, by and between THE CITY OF SAN DIEGO, a municipal corporation, hereinafter called "CITY", and MONTGOMERY FIELD TWO, a limited partnership, whose general partners are Donald F. Sammis, Douglas O. Allred and Ronald G. Wheatcroft, hereinafter called "OPTIONEE".

RECITALS

A. The CITY is the owner of a certain parcel of real property located in the city of San Diego, County of San Diego, State of California, more particularly described as Lot 7, Montgomery Field Airport consisting of 2.616 acres as shown on Exhibit "A-1" of the attached Exhibit "A" and incorporated herein by this reference, and hereinafter referred to as the "premises".

B. OPTIONEE desires to obtain an option to lease from CITY said premises for the purpose of construction, operation and maintenance of a commercial and light industrial office complex.

COVENANTS

1. CITY hereby grants to OPTIONEE an option for the period of twelve (12) months from the date of execution of this Option Agreement to lease from CITY that certain real property described in Section A hereinabove on the terms and conditions set forth in the Lease Agreement attached hereto and marked EXHIBIT "A". This Option Agreement is subject to the terms and conditions herein, and may not be exercised until said terms and conditions have been performed.

2. The sum of THREE THOUSAND TWO HUNDRED TWENTY FIVE AND NO/100 DOLLARS (\$3,225.00) shall be paid to CITY in full upon execution of this Option Agreement. In the event OPTIONEE exercises this option, OPTIONEE shall be credited with said option consideration and said credit shall be applied proportionately to rents due after commencement of operations of said option area.

3. This option may be exercised by OPTIONEE at any time prior to expiration of twelve (12) months from the date of execution of this Option Agreement by CITY which date is acknowledged to be that set forth in the first full paragraph hereof and upon OPTIONEE first having performed to the satisfaction of the City Manager of CITY all of the terms and conditions of this Option Agreement as herein set forth.

4. CITY, its agents, officers and employees, shall not be liable, nor be held liable, for any claims, liabilities, penalties, fines, or for any damage to the goods, properties or effects of OPTIONEE or any of OPTIONEE'S representatives, agents, employees, guests, licensees, invitees, patrons or of any other person whomsoever, nor for personal injuries to, or deaths of them, whether caused by or resulting from any acts or omission of OPTIONEE in or about the said premises, or any act or omission of any person or from any defect in any part of the said premises or from any other cause or reason whatsoever, except negligence of CITY. OPTIONEE further agrees to indemnify and save free and harmless CITY and its authorized agents, officers and employees against any of the foregoing liabilities and any costs and expenses incurred by CITY on account of any claim or claims therefor. Provided, however, that this provision shall not apply to any injury, death or property damage caused by the negligent act or omission of CITY, its officers, employees or authorized agents.

5. By authorizing execution of this Option Agreement, the City Council of CITY is not obligated to take any other action relating to development of said property.

TERMS AND CONDITIONS

1. CITY hereby grants OPTIONEE the right to go upon said premises for the purpose of site evaluation, planning and design. OPTIONEE shall have no vested or possessory interest in said premises and CITY retains the right to use and enjoy its possession thereof. Within the twelve (12) month term hereof, OPTIONEE shall:

- a. Submit to CITY in triplicate a Development Plan of said premises satisfactory to the City Manager. Said Development Plan shall include a plot plan and sketch showing the location, architectural theme, schedule of construction, general exterior design and uses of all improvements including buildings, parking areas and parking ratios, landscape areas and appurtenant structures. Said Development Plan shall be drawn on standard City of San Diego Engineering Department "D" Sheets. Upon City Manager's approval of said Development Plan, it shall be filed in the Office of the City Clerk. Approval of said Development Plan by the City Manager shall not waive or be construed to waive any Federal, State, County or Municipal law, code, ordinance or regulation having any jurisdiction over the development of said premises and the construction of any improvement thereof. OPTIONEE shall secure compliance with all such laws, codes, ordinances and regulations at its sole expense, including but not limited to the payment of all fees, charges and assessments, if any, necessary to develop the premises in accordance with said Development Plan.

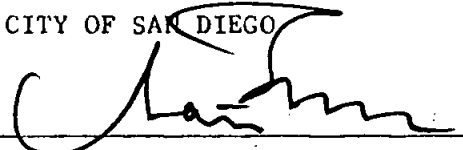
- b. Submit in triplicate to CITY construction plans and specifications for the development of said premises in accordance with the afore-said Development Plan and obtain all permits and permissions therefor at the sole expense of OPTIONEE.
 - c. Submit evidence satisfactory to the City Manager of ability to finance the cost of construction of improvements as proposed in said Development Plan, including assurance of disbursement of funds for 100% of the cost of said construction.
2. OPTIONEE shall exercise this option by giving CITY written notice of his election to do so, accompanied by a written Lease Agreement of the premises in the form of said EXHIBIT A executed by OPTIONEE in triplicate. CITY'S failure to execute the lease prior to the expiration of the term of this option shall not invalidate the Lease Agreement nor nullify OPTIONEE'S timely notice of his election to exercise this option. Determination of satisfactory performance of any and all of the conditions of this option and all approvals and consents required by CITY for OPTIONEE'S timely performance hereunder shall vest with the City Manager of CITY and such approvals and consents shall not be unreasonably withheld.
3. Upon the performance of the conditions herein contained to the satisfaction of the City Manager, and the exercise by OPTIONEE of this option in the manner provided in Paragraph 2 hereinabove, City Manager shall forthwith, without need for further authorization of the City Council of CITY, execute for and on behalf of CITY that Lease Agreement in the Form of said attached EXHIBIT A.

IN WITNESS WHEREOF, this agreement is executed by CITY acting by and through its City Manager under and pursuant to Resolution No. 221041 authorizing such execution and by OPTIONEE.

Date 7/27/78

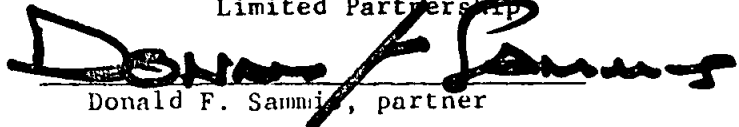
THE CITY OF SAN DIEGO

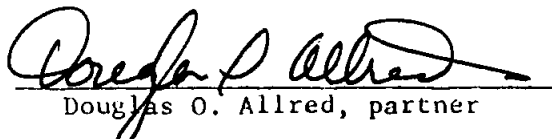
By


ASSISTANT TO THE CITY MANAGER

Date 3/23/78

OPTIONEE: Montgomery Field Two; A
Limited Partnership

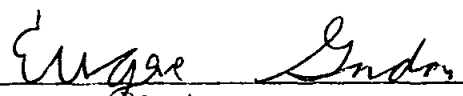

Donald F. Sammis, partner


Douglas O. Allred, partner


Ronald G. Wheatcroft, partner

APPROVED as to form and legality this 28th day of July,
19 78.

JOHN W. WITT, City Attorney

By 
Deputy

3/7/78
FH

Original - City Clerk
Duplicate Original - Lessee
City Manager
Form of - City Clerk
City Attorney
Airport Operation
County Assessor
Airport Division

I N D E X

FLAT RATE LEASE

MONTGOMERY FIELD TWO. A PARTNERSHIP WITH
SAMMIS, ALLRED AND WHEATCROFT

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EXHIBIT A - 1

ADDENDUM

FLAT RATE LEASE

THIS LEASE AGREEMENT is executed by and between THE CITY OF SAN DIEGO, a municipal corporation, hereinafter called "CITY" and Montgomery Field Two, a limited partnership, whose general partners are Donald F. Sammis, Douglas O. Allred and Ronald G. Wheatcroft 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-1 attached hereto and by this reference made part of this agreement. Said real property is hereinafter called the "premises".

- A. PERMITTED USE. Said premises are leased to LESSEE only for the purposes of construction, operation and maintenance of a commercial and light industrial office complex, and for such other related or incidental purposes as may first be approved in writing by the CITY MANAGER 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 fifty-five (55) years, commencing on the first day of the calendar month following the date of execution hereof by CITY.
- B. SURRENDER OF PREMISES. At the expiration or earlier termination of this lease, LESSEE shall execute, acknowledge and deliver to CITY, within five days 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 shall be paid by LESSEE to CITY at the Office of the City Treasurer, Operations Building, 1222 First Avenue, San Diego, California 92101, and shall be as follows:
 - 1. CONSTRUCTION PERIOD. The construction period shall be that portion of said term beginning on the commencement date of this lease and ending upon the commencement of operations which is hereby defined as the opening of the building for business as evidenced by office rentals or by commercial or industrial use of the premises or by the sale of any goods or services on the premises whether or not payment is actually made therefor or upon the expiration of one (1)

year following the effective date of this lease which ever date or event is soonest. The consideration to City during said construction period shall be the satisfactory development of the leased premises in accordance with Section IV 8, DEVELOPMENT, to the satisfaction of the City Manager. No cash rent shall be required during this construction period.

2. OPERATIONS PERIOD. For that portion of said term beginning on commencing of operations, as hereinabove defined, and for the remainder of said term, the rent shall be payable to City monthly in advance in the sum of \$1882.50. For the first three year period of the agreement, the total rent shall be the sum of SIXTY-SEVEN THOUSAND SEVEN HUNDRED SEVENTY DOLLARS (\$67,770.00).

The rent for the remaining term of this agreement shall be payable monthly in advance and shall be adjusted upward or downward at the expiration of each three-year period, according to the following method of computation:

The rent shall be adjusted upward or downward at the beginning of the fourth, seventh and tenth year of the agreement and at the beginning of each sixth year thereafter in accordance with the following method of computation; provided that the increases shall not exceed six (6%) percent per year cumulative:

The rent for the period following the adjustment until the next 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:

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 preceeding 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 preceeding the date of execution of this agreement.

Example: Current Index $\frac{121}{110}$
 Base Figure = 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 date of the rent adjustment shall be the commencement date of the fourth, seventh, and tenth year of the lease and at the beginning of every sixth year thereafter. 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 preceeding 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.

In addition to the above-stated adjustment, upon the first day of the twenty-sixth year of this agreement the rent for the ensuing period shall be determined by multiplying the City Council's approved capitalization rate of 9% NINE PERCENT by the fair market value of the demised premises (excluding improvements) as of the adjustment date. The fair market value of the demised premises shall be determined by an appraisal made by a professional independent real estate appraiser selected by mutual consent of the parties to this agreement from the list of appraisers approved by the City Council of CITY. In the event the parties cannot reach agreement upon selection of a mutually acceptable appraiser, then CITY and LESSEE will each select a professional independent real estate appraiser, which third appraiser will be employed to make the appraisal of the fair market value of the demised premises and which value will be utilized to determine the adjusted rent described previously in this paragraph. In the event that the two selected appraisers fail to mutually select a third appraiser within sixty (60) days, then the selected appraisers will be discharged and the process repeated until mutuality is achieved and an appraiser is selected to complete the assignment. Each party shall pay the cost of its own selected

appraiser and both CITY and LESSEE agree to equally share the cost of the mutually appointed first and third appraiser and CITY and LESSEE agree to accept and be bound by the valuation determined by the third selected appraiser.

In establishing the fair market value of the demised premises, the appraiser shall consider the property as a fee simple absolute estate and as vacant land and available for lease or sale for uses and building consistent with the authorized purposes of this lease at the commencement of the original term of the lease, that is the uses and building which have been approved by CITY as authorized in I, A and IV, B 8 hereof. The date of value of the appraisal shall be the date of rental adjustment as hereinabove established (at the beginning of the twenty-sixth year).

In the event the appraisal is not completed in time to permit rental adjustment to be made upon the date specified, LESSEE agrees to continue to pay rent at the rate then in existence and said rental adjustment will be retroactive to the date of rental adjustment as hereinabove established.

- B. DELINQUENT RENT. In the event LESSEE fails to pay the applicable rents within 10 days of 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 mutual agreement between LESSEE and 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. ASSIGNMENT AND SUBLETTING. Upon prior written consent by the City Manager, and without necessity for further authorization by the City Council, except as otherwise specified in IV 29, LESSEE may assign this lease, or any interest therein, and may sublease any portion or portions thereof to an assignee or sublessee who in the opinion of the City Manager has adequate financial capability and experience. This lease and any interest herein shall not be assigned by operation of law without the written consent of the City Manager. The City Manager's consent, as required in this Section IV, A, 2 shall not be unreasonably withheld.

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 the, 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. LESSEE recognizes and understands that this lease may create a possessory interest subject to property taxation and that the LESSEE may be subject to the payment of property taxes levied on such interest. LESSEE further agrees that such tax payment shall not reduce any rent due the CITY hereunder and that any such tax shall be paid by the LESSEE before becoming delinquent.
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, provided, however, without City approval, LESSEE shall be entitled to construct tenant improvements in the interior of the building and to make minor interior changes. 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, evidence of security for performance of the construction to be performed hereunder in the amount of 100% of the construction costs of the work to be performed. Said, evidence may be in cash, or may be a corporate surety performance bond, or may be a construction lender's loan commitment, or any combination thereof, satisfactory to CITY. Said security shall insure that the construction commenced by LESSEE shall be completed in accordance with approved plans. The evidence of security will be filed with CITY and any cash used as a part of the security 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 evidence said security. In the event that LESSEE fails to file any such required evidence of security, 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, 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 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 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 (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 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, reasonable wear and tear excepted. 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.
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 submitted to the CITY and approved in writing in order to replace in kind and scope the operation which existed prior to such damage, using for either purpose the insurance proceeds as set forth in Section (D) 10, INSURANCE hereof. Provided, however, during the last ten (10) years of this lease, if such damage is of a substantial nature or not feasible to repair in the opinion of the City Manager or the LESSEE, then LESSEE shall not be required to repair such damage or to rebuild said premises unless LESSEE is in default of the lease at the time of such damage; provided further, however, LESSEE shall clear the damaged area of all debris and obstruction.

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 or certified letter deposited in the United States mails, postage pre-paid, and addressed to the City Manager, Attention Property Director, City Administration Building, 202 "C" Street, San Diego, California 92101, or may be personally served upon the Property Director. 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 registered or certified letter addressed to said LESSEE at the leased premises or at such other address designated in writing by LESSEE and addressed to said Mortgagee, Trustee or Beneficiary at such address as they may have designated in writing to the City, 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, and said approval or consent shall not be unreasonably withheld. Further, in all matter in this lease where the City is entitled to act or decide upon its opinion, determination, or otherwise, City shall act or decide reasonably, and not arbitrarily or capriciously.

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 mutual opinion of LESSEE and 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 mutual opinion of LESSEE and 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. Additionally, if the lease is terminated pursuant to "b" above, LESSEE shall also be paid by CITY the fair market value of LESSEE'S interest in the improvements placed upon the portion of the leased premises which are not taken by the condemning authority. 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 personal property as hereinafter defined, 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 that personal property hereinafter defined, at any time prior to the expiration or earlier termination of this 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 such personal property 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 personal property 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 personal property 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.

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.

- 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 default if possible by mortgagee or beneficiary, and LESSEE expressly agrees to assign all its interests 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 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. 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 of 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 preceeding breach by LESSEE of any term, covenant or condition of this lease, regardless of CITY'S knowledge of such preceeding 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.

D. SPECIAL COVENANTS AND CONDITIONS

29. RENTAL OF UNITS. Notwithstanding the provisions of Section IV, Paragraph (A) 2, RIGHT TO ASSIGN AND SUBLET hereof, regulating subletting, LESSEE shall have the right to sublet or rent units consistent with the purpose of this lease without prior CITY approval. It is expressly understood that said subleases or rental agreements shall be subordinate and subject to all of the terms and provisions of the lease agreement. If any of the terms and conditions of the subleases or rental agreements are inconsistent with or contrary to any of the terms and conditions set forth in this lease agreement, the latter shall govern.
30. OPERATIONAL RESTRICTIONS. LESSEE agrees to operate the lease premises in accordance with the following requirements:
- a. Outside Storage - Outside storage will be limited to one (1) screened and fenced trash pick-up for each building. Trash pick-up shall be of such frequency as to eliminate a build-up of trash overflow in the area. At no time shall any other material, refuse boxes, trash bins, or equipment be placed, even on a temporary basis, outside of the buildings.
 - b. Truck Doors - Truck doors shall be architecturally designed so as to blend with the overall architectural scheme of the building and the adjacent surrounding walls. Truck doors shall be closed at all times other than for the moving of equipment, parts, and supplies. The area around the truck doors shall be landscaped in a manner so as to de-emphasize their appearance from the street. There shall be no loading docks or overhanging canopies.
 - c. Smoke, Noise, and Fumes - No use shall be permitted which shall produce noise in excess of office uses or industrial - electronic assembly type operations,

and no use shall be permitted to produce any obnoxious amount of smoke, smell, or fumes.

- d. Off Street Parking, Landscaping, Building Set Backs are to be approved upon submission of plans, but the basic criteria shall, among other things, provide for one parking space for each 300 square feet of rentable building area.
 - e. There is hereby reserved to the City of San Diego, California, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises herein conveyed, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from, or operating on Montgomery Field.
 - f. The LESSEE by accepting this lease expressly agrees for itself, its successors and assigns, that it will not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the land leased hereunder above a mean sea level elevation of 573 feet. In the event the aforesaid covenant is breached, the CITY reserves the right to enter on the land leased hereunder and to remove the offending structure or object and to cut the offending tree, all of which shall be at the expense of the LESSEE.
 - g. LESSEE by accepting this conveyance expressly agrees for itself, its successors and assigns, that it will not make use of the said property in any manner which might interfere with the landing and taking off of aircraft from said Montgomery Field, or otherwise constitute an airport hazard. In the event the aforesaid covenant is breached, the CITY reserves the right to enter on said land leased hereunder and cause the abatement of such interference at the expense of the LESSEE.
31. POSSESSORY INTEREST TAX. LESSEE acknowledges that its interest may be subject to a possible possessory interest tax that the County of San Diego may impose on such interest, and LESSEE agrees that such tax payment shall not reduce any rent due the City hereunder and LESSEE agrees that any such tax shall be the liability of and be paid by the LESSEE before becoming delinquent.
32. AVIATION USE RESTRICTIONS. The LESSEE by accepting this lease expressly agrees for itself, its successors and assigns, that it will not permit aviation uses on said premises without first obtaining the written

permission of the City Manager of City for each requested aviation or related use. It is City's intent not to permit uses that would be in direct competition with CITY Lessees engaged in the aviation business on Montgomery Field.

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

THE CITY OF SAN DIEGO

Date 7/2/77

BY _____
ASSISTANT TO THE City Manager

LESSEE: Montgomery Field Two; A
Limited Partnership

Date _____

BY _____
Donald F. Sammis, General Partner

BY _____
Douglas O. Allred, General Partner

BY _____
Ronald G. Wheatcroft, General Partner

APPROVED as to form and legality this _____ day of _____,
197__.

JOHN W. WITT, City Attorney

BY _____
Deputy

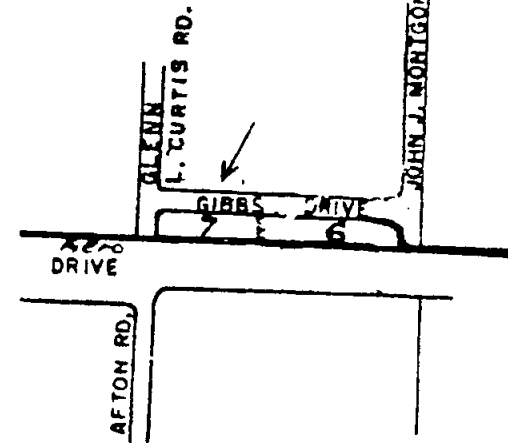
MONTGOMERY AIRPORT

Parcel 7

CITY OF SAN DIEGO

MONTGOMERY FIELD TWO

VICINITY
MAP



SCALE: 1" = 100'

NEW RIVERSIDE

GIBBS DRIVE

GLENN L. CURTIS RD.

GLENN

160.00
N0°37'55"W

Δ=90°
R=20'
L=31.42'

LOT

7

550.57'
N89°22'05"E

(Option Area) 2.616 Acres

Δ=90°
R=20'
L=31.42'

N89°22'05"E
550.57'

200.00
N0°37'55"W

679

6

AFTON DRIVE

EXHIBIT A-1

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
MONTGOMERY FIELD TWO, a limited partnership whose General Partners
are Donald F. Sammis, Douglas O. Allred and Ronald G. Wheatcroft,
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)

All personal property, equipment, furniture, trade fixtures,
and tenant improvements which can reasonably be removed
without structural damage to the permanent improvements on
the leased premises.



ASSISTANT TO THE City Manager's Initials

Lessee's Initials

May 3, 1979.

File: Job 15417

San Diego Gas- & Electric Company
P. O. Box 1831
San Diego, CA 92112

Attention: T. L. Knox

Gentlemen:

This office hereby grants to San Diego Gas & Electric Company, hereinafter referred to as "Permittee", permission to enter upon City owned Lot 24, New Riverside, as shown on attached "Exhibit A", for the purpose of installation of electrical facilities, subject to the following terms and conditions:

1. This Permit shall become effective upon execution by City and continue on a month-to-month basis thereafter.
2. This Permit is terminable at will by either party, subject to the provision that written notice be delivered to the opposite party thirty (30) days prior to the projected termination date. It is mutually agreed that the City shall not be obligated for any loss, financial or otherwise, which may be incurred by Permittee as a result of termination of this Permit, and further that Permittee expressly waives any claim of expense or loss which Permittee might incur as a result of termination of this Permit.
3. City, its successors and assigns, shall retain all right, title and interest in said property and Permittee covenants not to assert any interest in said property in derogation of City's right, title and interest or inconsistent with the Permit herein granted.
4. Permittee shall not use the premises in any manner which in the opinion of the City Manager creates a nuisance or disturbs the peace of the persons residing in the surrounding area.
5. Permittee shall have the following rights when necessary for the purpose of installation of its facilities: (a) trim or top, and upon notice to City, remove, any and all trees within the permit area; (b) clear all brush and other materials within the permit area; (c) cut such roots within the permit area as may be necessary for the protection of permittee's facilities located therein; provided, however, that Permittee shall not by its activities hereunder cause any damage to adjacent property.

6. Upon revocation or other terminatin of this Permit, Permittee shall restore said premises to its original state subject to the satisfaction of the City Manager and at no cost to the City.
7. The City Manager will without unnecessary delay process for appropriate City Council review and action a request for issuance to San Diego Gas & Electric Company of a permanent easement covering the right-of-way shown on attached "Exhibit A". Permittee acknowledges that the City Council has the sole discretion to either grant or not grant such permanent easement.
8. This action is exempt per City of San Diego guidelines, amended February, 1974, implementing the California Environmental Quality Act of 1970. Refer to Categorical Exemption, Section V., Class ~~B~~ existing 15106 ~~if~~

Please acknowledge your agreement to the foregoing terms and conditions by signing the enclosed copy of this letter and returning it to this office.

Very truly yours,

John P. Fowler
Deputy City Manager

THE ABOVE IS ACKNOWLEDGED AND ACCEPTED THIS

6 DAY OF June, 1979.

SAN DIEGO GAS & ELECTRIC COMPANY

By 
W. D. Ciesielski
Governmental Right-of-Way Agent

Exemption Verified

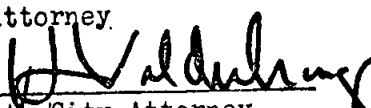
By James F. Gleason

JPF:VCB:dac

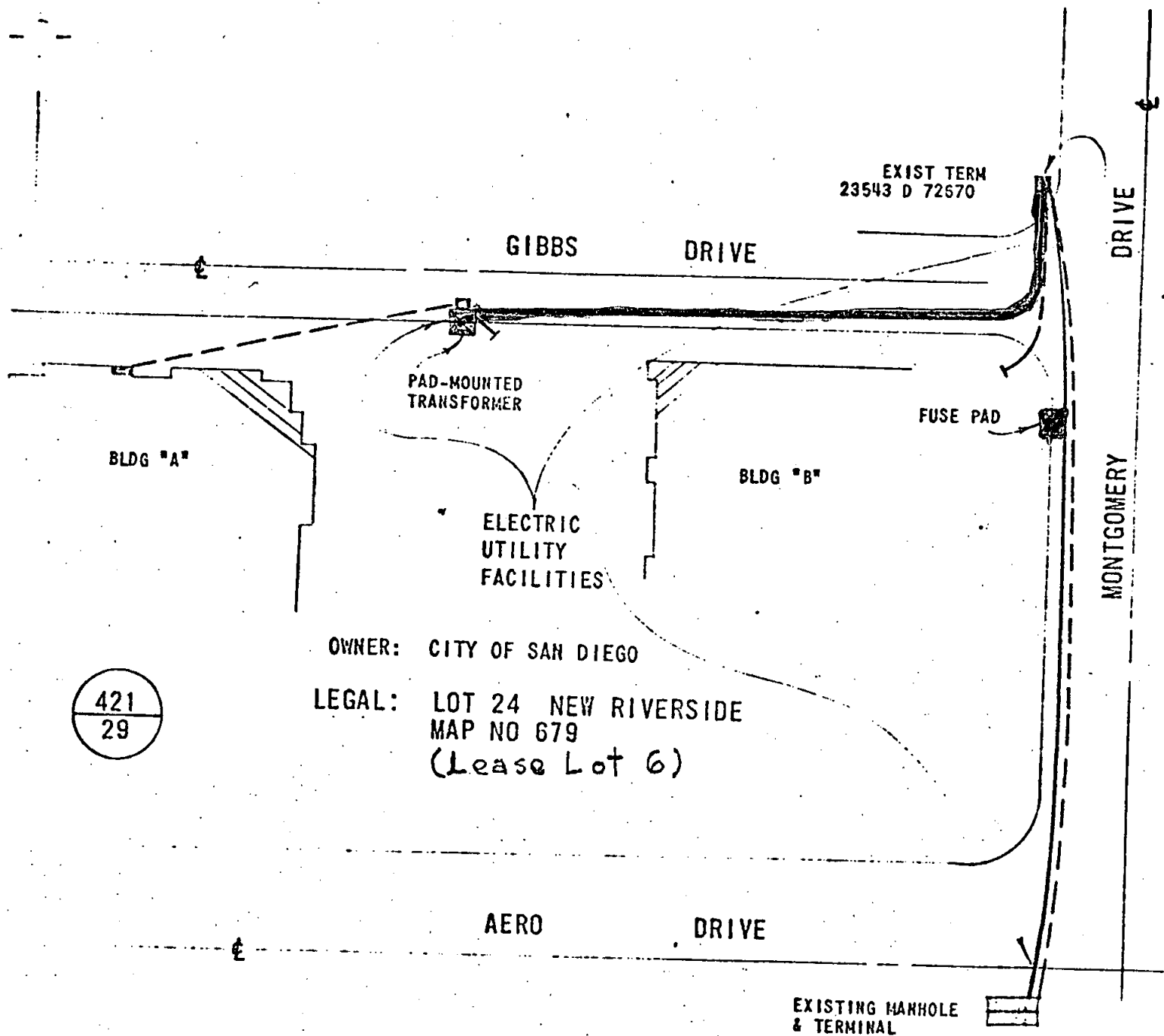
Approved as to form and legality

This 14 day of May, 1979

JOHN W. WITT, City
Attorney

By 
Deputy City Attorney

BEFORE EXCAVATING
PHONE: 235-6323



OWNER: CITY OF SAN DIEGO

LEGAL: LOT 24 NEW RIVERSIDE
MAP NO 679
(Lease Lot 6)

UG ELEC

CONST NO. 5694300
BOPAC 73809-01

ACTION. 3-23-79
THOS. BROS. 53-E3

SAN DIEGO GAS & ELECTRIC COMPANY SAN DIEGO, CALIFORNIA MONTGOMERY FIELD INDUSTRIAL SAN DIEGO	DRAWN BY: WLS	OR TO INSTALL:	DRAWING NO:
	DATE: 4-10-79	RIW OK:	OS-6206
	SCALE: NONE	DATE:	COORDINATES
	SURVEYED BY:	APPD BY	234-1725

EXHIBIT "A"

Property - 03
Parker

RESOLUTION No. A-252513

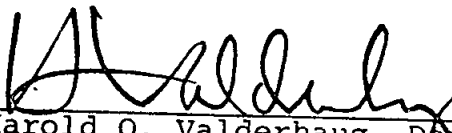
(R-81-197)

Adopted on AUG 25 1980

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

That the Mayor and City Clerk of said City be, and they are hereby authorized and empowered to execute, for and on behalf of The City of San Diego, a deed conveying to SAN DIEGO GAS & ELECTRIC COMPANY, a corporation, an easement for underground and aboveground electrical facilities affecting Lot 24, New Riverside, as more particularly described in said deed on file in the office of the City Clerk as Document No. A-252513.

APPROVED: JOHN W. WITT, City Attorney

By 
Harold O. Valderhaug, Deputy

HOV:ps:740.2
7/31/80
Or.Dept. Property
Job: 15417C

RECEIVED
CITY CLERK
AUG 27 1980

SPACE ABOVE FOR RECORDER'S USE

RIGHT OF WAY

CITY OF SAN DIEGO

hereinafter called "Grantor", for valuable consideration, grant(s) to San Diego Gas & Electric Company, a corporation, hereinafter called "Grantee", an easement and right of way in, upon, over, under and across the lands hereinafter described to excavate for, install, place, lay, construct, operate, use, patrol, maintain, repair, replace, reconstruct and remove at any time and from time to time, for the transmission and distribution of ELECTRICITY for all purposes for which it may be used, underground facilities consisting of conduits, manholes, handholes and junction boxes with wires and cables placed therein and above ground structures consisting of pads, transformers and other appurtenances necessary for the operation of said underground facilities and all miscellaneous equipment and material connected therewith, together with the right of ingress thereto and egress therefrom by a practical route or routes in, upon, over and across the hereinafter described lands.

The lands in which said easement and right of way is hereby granted are situated in the County of San Diego, State of California, and are particularly described as follows:

Lot 24 of New Riverside, according to Map thereof No. 679, filed in the office of the County Recorder of said County of San Diego.

The said easement and right of way in the aforescribed lands shall be six feet or more in width, being three feet measured at right angles, on each side of each and every electric utility facility installed within the aforescribed lands as shown on the attached Exhibit "A" incorporated herein by reference. Grantee may from time to time install within the easement and right of way additional electric utility facilities.

Grantor shall not plant any tree, drill any well or increase or decrease the ground elevation within the limits of said easement and right of way.

Grantee shall have the right to trim and cut trees, foliage and roots upon and from within the above described easement and right of way whenever in Grantee's judgment the same shall be necessary or proper for the convenient and safe exercise of the rights herein granted.

The terms, covenants and conditions of this easement and right of way shall be binding upon and inure to the benefit of the heirs, successors, or assigns of the parties.

CONDUITS CARRY HIGH VOLTAGE ELECTRICAL CONDUCTORS, therefore Grantor shall not make or allow any excavation or fill to be made, within the boundaries of the above described easement and right of way WITHOUT FIRST NOTIFYING GRANTEE BY CALLING 232-4252 AND OBTAINING PERMISSION.

IN WITNESS WHEREOF, the Grantor City of San Diego executed these presents this 11th day of September, 1980.

CITY OF SAN DIEGO, a
municipal corporation

By

Pete Wilson
Mayor

By

P. P. Mutes
Asst. City Clerk

Lessee does hereby consent and subordinate its interest in and to the easement and right of way herein granted.

Dated: May 5, 1980

Montgomery Field One, a
limited partnership

By

Donald F. Sammis
Donald F. Sammis

By

Douglas O. Allred
Douglas O. Allred

By

By

LESSEE

DRAWN BY.....Duncan...

CHECKED BY.....Duncan...

SKETCH NO.....73809-01 05-6206

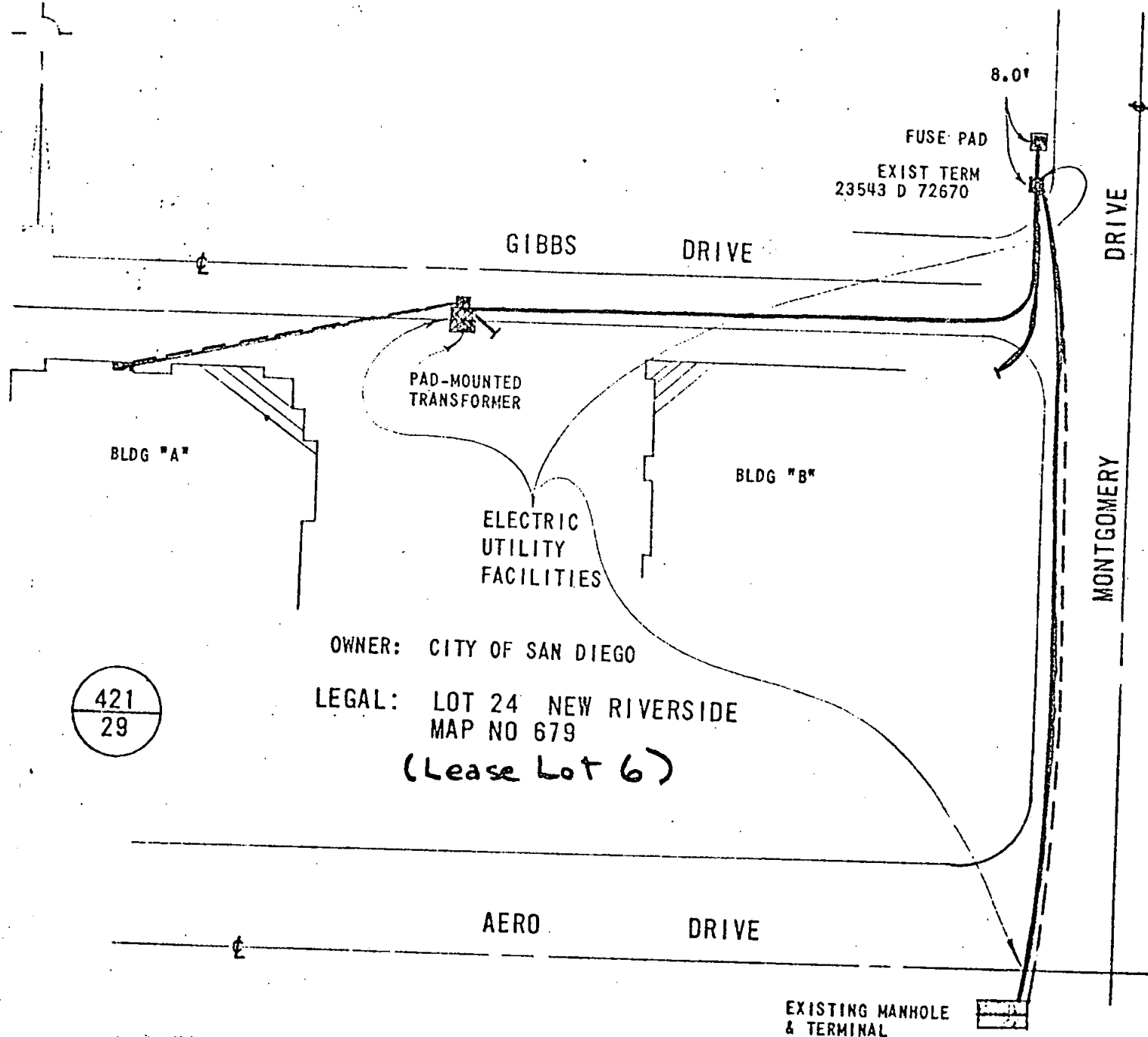
DATE.....3/25/80...

MOPAC NO.....5694300
421-290-11

Job 15417

11-252513

BEFORE EXCAVATING
PHONE: 235-6323



CONST NO. 5694300
MOPAC 73809-04

ACTION. 3-23-79
THOS. BROS. 53-E3

SAN DIEGO GAS & ELECTRIC COMPANY
SAN DIEGO, CALIFORNIA

MONTGOMERY FIELD INDUSTRIAL
SAN DIEGO

DRAWN BY: WLS

DATE: 4-10-79

SCALE: NONE

SURVEYED BY:

OK TO INSTALL:

RIW OK:

DATE:

APPRO BY

DRAWING NO.:

OS-6206

COORDINATES

234-1725

EXHIBIT "A"