

DUPLICATE

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Clerk, San Diego



U.S. Department
of Transportation
Federal Aviation
Administration

Lease No.: DTFA08-96-L-15639
Facility: CENTERFIELD WEATHER
EQUIPMENT
Montgomery Field
San Diego, California

AIRPORT LAND LEASE

DOCUMENT NO. 00-18354

FILED OCT 21 1996
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

between

CITY OF SAN DIEGO

and

THE UNITED STATES OF AMERICA

This Lease, made and entered into this 26th day of November
in the year one thousand nine hundred and ninety-six by and between,
CITY OF SAN DIEGO
whose address is: City of San Diego
3750 John J. Montgomery Drive
San Diego, California

for itself and its successors, and assigns, hereinafter called the Lessor and the UNITED STATES
OF AMERICA, hereinafter called the Government:

WITNESSETH: The parties hereto for the consideration hereinafter mentioned covenant
and agree as follows:

1. TERMS AND CONDITIONS: For the term beginning October 1, 1996 and
ending September 30, 1997 the Lessor hereby leases to the Government the following
described property, hereinafter called the premises, viz:

SEE PAGE 1A AND 1B FOR LEGAL DESCRIPTION

LEGAL DESCRIPTION
Montgomery Field
CENTERFIELD WEATHER EQUIPMENT

That portion of land hereinafter called parcel one, situated in Section 1, R 3W, T 16S, S.B.B.&M., County of San Diego, State of California, described as follows:

Commencing at a U.S.C. & G.S. monument called "Murphy" shown on quadangle sheet La Jolla,

Thence N78°29'47"W, 1726.17 Feet to the TRUE POINT OF BEGINNING,

Thence S25°23'25"W, 30.00 Feet,

Thence N64°36'35"W, 30.00 Feet,

Thence N25°23'25"E, 30.00 Feet,

Thence S64°36'35"E, 30.00 Feet to the TRUE POINT OF BEGINNING.

Containing 0.0207 acres more or less.

Together with an easement herein with called parcel two, consisting of a strip of land 30 feet in width for the purpose of establishing and maintaining a driveway, the centerline of said strip of land being described as follows:

Commencing at the TRUE POINT OF BEGINNING of that portion of land called parcel one (above),

Thence S25°23'25"W, 30.00 Feet,

Thence N64°36'35"W, 30.00 Feet,

Thence N25°23'25"E, 15.00 Feet to the TRUE POINT OF BEGINNING of said centerline,

Thence N64°36'35"W, 100.00 Feet to the TRUE POINT OF ENDING.

Containing 0.0689 acres more or less.

And an easement for keeping said easement clear of all building, trees, parking, storage, vegetation over 6 inches tall, and any activity and other improvement which would derogate weather instrumentation. Said easement being that portion of land situated in said Section 1 and encompassed by a circle of 100.00 foot radius, the center of which is the center of before described parcel one,

FAA-AWP-54B Pg 1A (8-94)(A)

Initials RKC & Jez
Lessor Gov't

Except the lands before described as parcel one and parcel two,

Containing 0.6420 acres more or less.

Basis of bearings for both parcels - The bearing S02°32'25"W of a line between "Murphy" and a City of San Diego monument "AERO 1" on the centerline of AERO Drive.

a. Together with a right-of-way for ingress to and egress from the premises; a right-of-way or rights-of-way for establishing and maintaining a pole line or pole lines for extending electric power, and telecommunications facilities to the premises; and right-of-way for subsurface power, communication and water lines to the premises; all rights-of-way to be over the said lands and adjoining lands of the Lessor, and unless herein described by metes and bounds, to be by routes reasonably determined to be the most convenient to the Government.

b. And the right of grading, conditioning, and installing drainage facilities, and seeding the soil of the premises, and the removal of all obstructions from the premises which may constitute a hindrance to the establishment and maintenance of air navigation and telecommunications facilities.

c. And the right to make alterations, attach fixtures, and erect additions, structures, or signs so placed in or upon, or attached to the said premises shall be and remain the property of the Government, and may be removed upon the date of expiration or termination of this lease, or within ninety (90) days thereafter, by or on behalf of the Government, or its grantees, or purchasers of said alterations, fixtures, additions, structures, or signs.

2. RENEWALS: This lease may, at the option of the Government, be renewed from year to year and otherwise upon the terms and conditions herein specified. The Government's option shall be deemed exercised and the lease renewed each year for one (1) year unless the Government gives the Lessor thirty (30) days written notice that it will not exercise its option before this lease or any renewal thereof expires; PROVIDED, that no renewal shall extend this lease beyond the 30th day of September 2016.

3. CONSIDERATION: The Government shall pay the Lessor no monetary consideration in the form of rental, it being mutually agreed that the rights extended to the Government herein are in consideration of the obligations assumed by the Government in its establishment, operation and maintenance of facilities upon the premises hereby leased.

4. TERMINATION: The Government may terminate this lease, in whole or in part, at any time by giving at least sixty (60) days notice in writing to the Lessor, and no rental shall accrue after the effective date of termination. Said notice shall be sent by certified or registered mail.

5. RESTORATION: The Government shall surrender possession of the premises upon the date of expiration or termination of this lease. If the Lessor by written notice at least thirty (30) days before the date of expiration or termination requests restoration of the premises, the Government at its option shall within ninety (90) days after such expiration or termination, or within such additional time as may be mutually agreed upon, either (1) restore the premises to as good condition as that existing at the time of the Government's initial entry upon the premises under this lease or any preceding lease (changes to the premises in accordance with paragraph 1.(a), 1.(b) and 1.(c) above, ordinary wear and tear, damage by natural elements and by circumstances over which the Government has no control, excepted) or (2) make an equitable adjustment in the lease amount for the cost of such restoration of the premises or the diminution

of the value of the premises if unrestored, whichever is less. Should a mutually acceptable settlement be made hereunder, the parties shall enter into a supplemental agreement hereto effecting such agreement. Failure to agree to any such equitable adjustment shall be a dispute concerning a questions of fact within the meaning of Clause 6 of this lease.

6. DISPUTES:

a. This contract is subject to the Contract Disputes Act of 1978, as amended (41 USC 601-613).

b. Except as provided in the Act, all disputes arising under or relating to this lease shall be resolved under this clause.

c. "Claim", as used in this clause, means a written demand or assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment of interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Lessor seeking the payment of money exceeding \$50,000 is not a claim under the Act until certified as required by subparagraph (d)(2) below. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

d. (1) A claim by the Lessor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the Government against the Lessor shall be subject to a written decision by the Contracting Officer.

(2) For Lessor claims exceeding \$50,000, the Lessor shall submit with the claim a certification that--

- (i) The claim is made in good faith;
- (ii) Supporting data are accurate and complete to the best of the Lessor's knowledge and belief; and
- (iii) The amount requested accurately reflects the contract adjustment for which the Lessor believes the Government is liable.

(3) (i) If the Lessor is an individual, the certification shall be executed by that individual.

(ii) If the Lessor is not an individual, the certification shall be executed by--

(A) A senior company official in charge at the Lessor's plant or location involved; or

(B) An officer or general partner of the Lessor having overall

responsibility for the conduct of the Lessor's affairs.

e. For Lessor claims of \$50,000 or less, the Contracting Officer must, if requested in writing by the Lessor, render a decision within 60 days of the request. For Lessor certified claims over \$50,000, the Contracting Officer must, within 60 days, decide the claim or notify the Lessor of the date by which the decision will be made.

f. The Contracting Officer's decision shall be final unless the Lessor appeals or files a suit as provided in the Act.

g. At the time a claim by the Lessor is submitted to the Contracting Officer or a claim by the Government is presented to the Lessor, the parties, by mutual consent, may agree to use alternative means of dispute resolution. When using alternate dispute resolution procedures, any claim, regardless of amount, shall be accompanied by the certification described in paragraph (d)(2) of this clause, and executed in accordance with paragraph (d)(3) of this clause.

h. The Government shall pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the claim (property certified if required), or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

i. The Lessor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

7. OFFICIALS NOT TO BENEFIT: No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit.

8. COVENANT AGAINST CONTINGENT FEES:

a. The Lessor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of the contingent fee.

b. "Bona Fide Agency," as used in this clause, means an established commercial or selling agency (including licensed real estate agents or brokers), maintained by

the Lessor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Bona Fide Employee," as used in this clause, means a person, employed by the Lessor and subject to the Lessor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

"Contingent Fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

"Improper Influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

9. NOTICES: All notices sent to the parties under the lease shall be addressed as follows:

To the Lessor:

City of San Diego
3750 John J. Montgomery Drive
San Diego, California 92123

To the Government:

Department of Transportation
Federal Aviation Administration
Real Estate & Utilities Team, AWP-54B
P.O. Box 92007, World Way Postal Center
Los Angeles, CA 90009-2007

10. RELOCATION: The Lessor agrees that any relocation, replacement, or modification of any Federal Aviation Administration facilities, covered by this lease during its term or any renewal thereof made necessary by airport improvements or changes which impair or interrupt the technical and/or operational characteristics of the facilities, will be at the expense of the Lessor; except, when such improvements or changes are made at the specific request of the Government. ~~In the event such relocations or modifications are necessitated due to causes not attributable to either the Lessor or the Government, funding responsibility shall be determined by the Government.~~

11. OBSTRUCTION: The Lessor further agrees not to erect or to allow to be erected on the property leased hereby or on adjacent property of the Lessor, any structure or obstruction of whatsoever kind or nature as will interfere or constitute a hindrance with the proper operation of the facilities to be installed by the Government under the terms of this lease unless consent thereto shall first be secured from the Government writing.

12. HAZARDOUS MATERIALS: The Government agrees to remediate, at its sole cost, all hazardous substance contamination on the leased premises that is found to have occurred as direct result of the installation, operation, and/or maintenance of the facility. ~~The Lessor agrees to remediate, at its sole cost, any and all other hazardous substance contamination found on the leased premises. The Lessor also agrees to save and hold the Government harmless for any and all costs, liabilities and/or claims by third parties that arise out of hazardous contamination found on the leased premises not directly attributable to the installation, operation and/or maintenance of the facility.~~

13. The following are attached and made a part hereof:

Exhibit "1" Real Estate Plat

Exhibit "2" Compliance with City's Equal Opportunity Contracting Program

14. The following changes were made in this lease prior to its execution:

Article 10, "In the event such relocations or modifications are necessitated due to causes not attributed to either the Lessor or the Government, funding responsibility shall be determined by the Government." has been stricken.

Article 12, "The Lessor agrees to remediate, at its sole cost, any and all other hazardous substance contamination found on the leased premises. The Lessor also agrees to save and hold the Government harmless for any and all costs, liabilities and/or claims by third parties that arise out of hazardous contamination found on the leased premises not directly attributable to the installation, operation and/or maintenance of the facility." has been stricken.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

LESSOR:

By: Robert J. Collins
Title: Real Estate Asst Mgr
City of San Diego

THE UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

By: Joan E. Sunshine-McLann
Contracting Officer, Real Estate
Title: & Utilities Team, AWP-54B

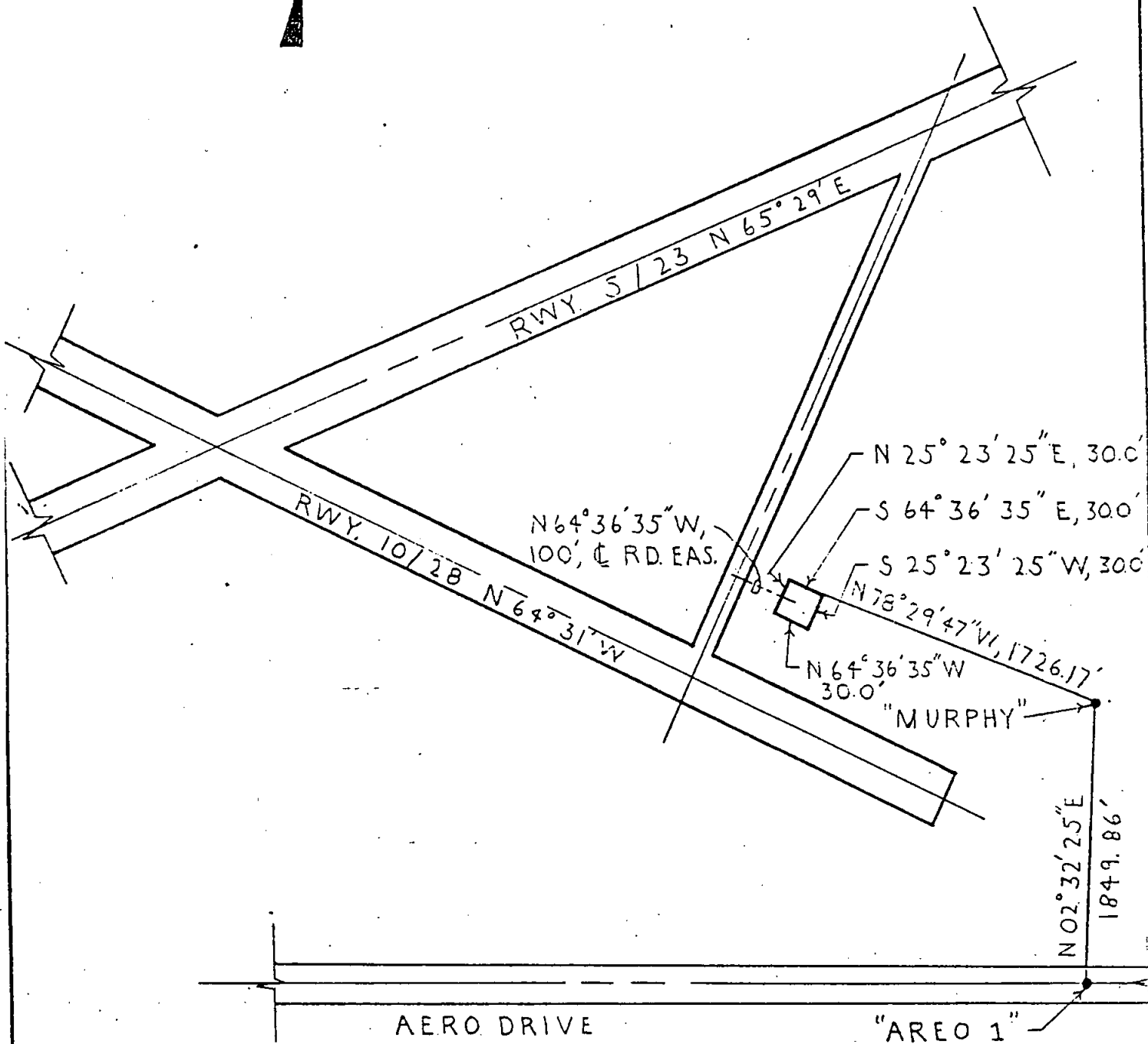
Date: November 26, 1996

Approved as to form and legality

this 14 day of November, 1996

JOHN W. WITT, City Attorney

By: [Signature]
Deputy City Attorney



CENTERFIELD WEATHER EQUIPMENT SITE
REAL ESTATE PLAT
MONTGOMERY FIELD
SUBMITTED BY: N. GNIRKE

1-7-76

EXHIBIT "2"

COMPLIANCE WITH THE CITY'S EQUAL OPPORTUNITY CONTRACTING PROGRAM

EQUAL EMPLOYMENT OPPORTUNITY

The LESSEE acknowledges and agrees that it is aware of, and will comply with, the City's Council Ordinance No. 18173, Section 22.2701, EQUAL EMPLOYMENT OPPORTUNITY OUTREACH PROGRAM, which is attached hereto and incorporated herein as Attachment A. The Lessee and all its subcontractors are individually responsible to abide by its contents.

Lessee will comply with Title VII of the Civil Rights Act of 1964, as amended, Executive Orders 11246, 11375, and 12086, the California Fair Employment Practices Act, and any other applicable federal and state laws and regulations hereinafter enacted. Lessee will not discriminate against any employee or applicant for employment on any basis prohibited by law.

Lessee submitted, and the City acknowledges receipt of a current Work Force Report or a current Equal Employment Opportunity (EEO) Plan as required by Section 22.2705 of the San Diego Municipal Code, which sets forth the actions that the consultant will take to achieve the City's commitment to equal employment opportunities.

Lessee agrees that compliance the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that such provisions will be binding upon each subconsultant. Consultant agrees that compliance with regards to EEO provisions flowing from the authority of both parties will be monitored and reviewed by the City's EOCP staff.

LOCAL BUSINESS AND EMPLOYMENT

Lessee acknowledges that the City of San Diego seeks to promote employment and business opportunities for local residents and firms on all City contracts. Lessee will, to the extent legally possible, solicit applications for employment, and bids and proposals for subcontracts, for work associated with this Agreement from local residents and firms as opportunities occur. Lessee agrees to hire qualified local residents and firms whenever feasible.

FAILURE TO COMPLY WITH EOCP REQUIREMENTS

Lessee understands that failure to comply with the above requirements and/or submitting false information in response to these requirements may result in termination of this Agreement and debarment from participating on City contracts for a period of not less than one (1) year.

Initials RK & Joa
Lessor Gov't

REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO				10-21-96 Consent I-51		1. CERTIFICATE NUMBER:	
TO: CITY ATTORNEY		2. FROM: (ORIGINATING DEPARTMENT) REAL ESTATE ASSETS DEPARTMENT			3. DATE August 30, 1996		
4. SUBJECT: Renewal Lease with FAA for Property at Montgomery Field							
5. FOR INFORMATION, CONTACT: (NAME & MAIL STA.) M.C. Tussey/Diana Drake M.S. 14				6. TELEPHONE NO. 573-1425		7. CHECK HERE IF BOX 1472A, "DOCKET SUPPORTING INFORMATION," HAS BEEN COMPLETED ON PAGE 2: ☒	
8. COMPLETE FOR ACCOUNTING PURPOSES							
FUND					9. ADDITIONAL INFORMATION / ESTIMATED COST: None. cc: Docket Thomas Bros. Map Page 1249-D3		
DEPT.							
ORGANIZATION							
OBJECT ACCOUNT							
JOB ORDER							
C.I.P. NO.							
AMOUNT							
10. ROUTING AND APPROVALS							
ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	DEPARTMENT DIRECTOR	<i>Robert H. Collins</i>	9/3/96	5	CITY MANAGER	<i>[Signature]</i>	9.10.96
2	DEPUTY DIRECTOR AIRPORTS	<i>Cayale Herpin</i>	8/30/96		AUDITOR	<i>[Signature]</i>	
3	DEP/EAS	<i>Chris Kull</i>	9/4/96	6	CITY ATTORNEY	<i>[Signature]</i>	9/11
4	EOPB 5-3-95/memo	<i>Debra F. Schell - Fulk</i>	9/16/96	7	ORIGINATING DEPARTMENT	<i>[Signature]</i>	9/16/96
				MGR. DOCKET COORD. _____ COUNCIL REP. _____ ☒ RULES COMMITTEE ☐ CONSENT ☐ ADOPTION ☐ Refer to _____ Date _____			
11. PREPARATION OF: ☐ RESOLUTION(S) ☒ ORDINANCE(S) ☐ AGREEMENT(S) ☐ DEED(S)							
Authorizing the City Manager to execute a renewal lease with FAA for its Centerfield Weather Equipment location at Montgomery Field.							
11a. MANAGER'S RECOMMENDATIONS: Adopt the Ordinance.							
12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)							
COUNCIL DISTRICT(S):		6					
COMMUNITY AREA(S):		Kearny Mesa					
HANDLING:		DO NOT RECORD. Deliver documents to Diana Drake, MS 14, for further handling.					
ENVIRONMENTAL ASSESSMENT: This action is exempt per CEQA Section 15301, Class I, Existing Facilities of the State of California Guidelines.							
OTHER ISSUES:		None					

CITY ATTORNEY
96 SEP 10 PM 3:41
CIVIL DIVISION

DOCKET SUPPORTING INFORMATION

CITY OF SAN DIEGO

DATE

August 30, 1996

SUBJECT

Renewal Lease with FAA for Property at Montgomery Field

BACKGROUND:

In 1976, City executed a year-to-year lease agreement with FAA (Lessee), which is scheduled to expire on September 30, 1996. The new year-to-year lease commences on October 1, 1996 and is renewable annually, at FAA's option, until September 30, 2016 when the lease is scheduled to terminate.

This lease allows Lessee to continue operating and maintaining its centerfield weather equipment at Montgomery Field Airport. This equipment measures wind velocity and aids aviation.

The City does not receive revenue from this lease. Lessee's consideration to City for the leased premises (.64 acres) is providing, monitoring and maintaining its weather equipment and the service this provides to City and the public.

The lease agreement contains the City's standard lease requirements.

FISCAL IMPACT: This is a non-revenue lease.

BYLINE: (DEPUTY CITY MGR/DEPT. HEAD/AUTHOR INITIALS)

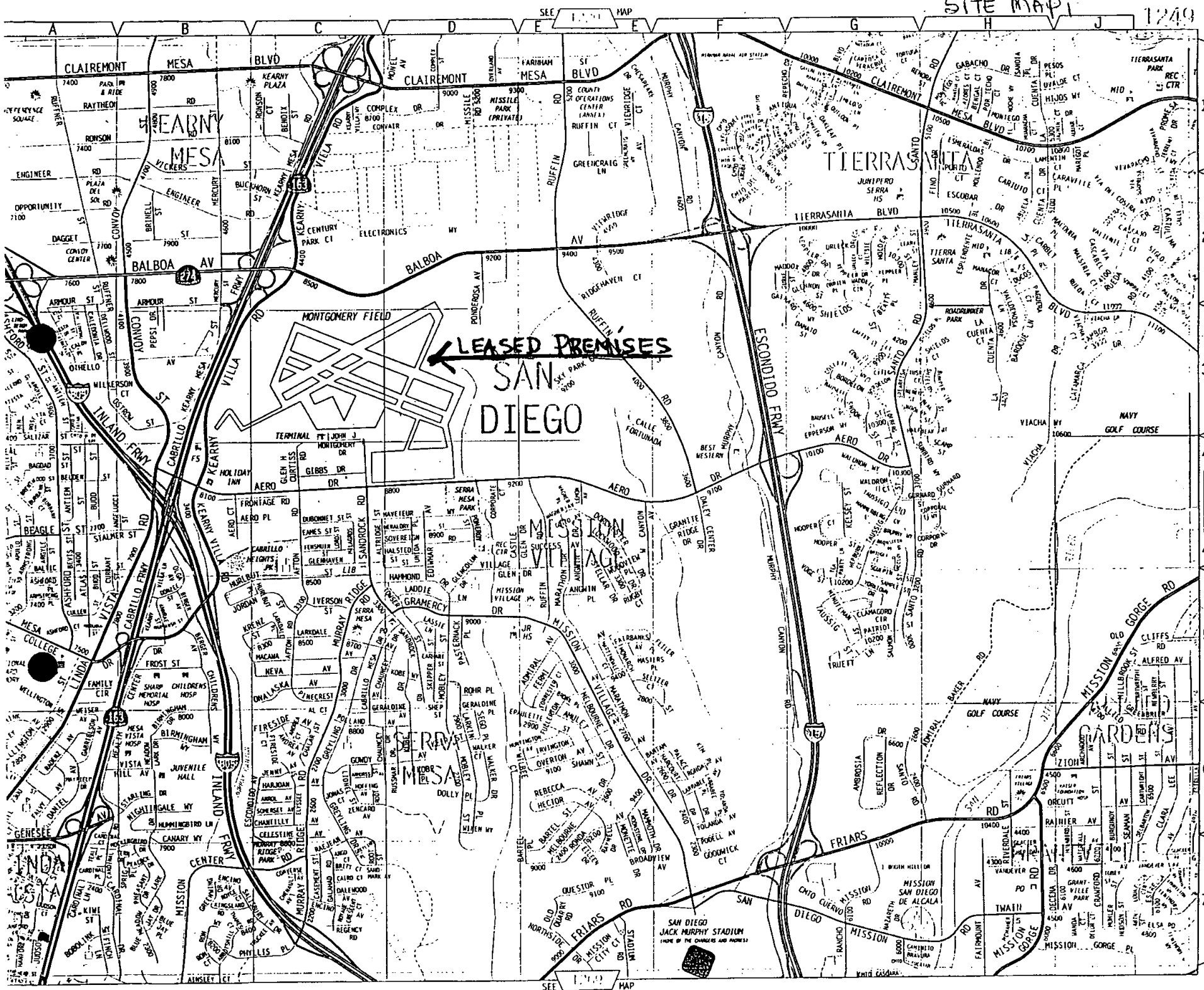
MCGRORY:COLLINS:DLD

SIGNATURES:

ORIGINATING DEPT. HEAD

CITY MANAGER:

(FOR MANAGERIAL DEPARTMENTS ONLY)



SAN DIEGO CO.

SEE 1250 MAP

DETAIL

SITE MAP 1249

SEE 1249 MAP

Alvarez Alarcon
MS 14

(O-97-29)

ORDINANCE NUMBER O- 18354 (NEW SERIES)

ADOPTED ON OCT 21 1996

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO
EXECUTE A 20-YEAR RENEWAL LEASE WITH FAA FOR
ITS CENTERFIELD WEATHER EQUIPMENT LOCATION AT
MONTGOMERY FIELD

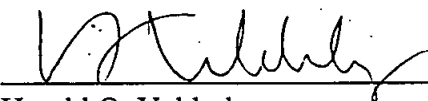
BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That the City Manager be and he is hereby authorized and empowered to
execute, for and on behalf of The City of San Diego, not to exceed a 20-year lease with FAA for
its Centerfield Weather Equipment location at Montgomery Field on an approximately .64 acre
site, under the terms and conditions set forth in the Airport Land Lease on file in the office of the
City Clerk as Document No.

OO- 18354

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

APPROVED: JOHN W. WITT, City Attorney

By 
Harold O. Valderhaug
Head Deputy City Attorney

HOV:cdk
09/11/96
Or.Dept:REA
O-97-29
Form=auagr.res

City of San Diego
General Services/Airports Division

FINDING OF MASTER PLAN LAND USE CONFORMANCE

PROJECT: Renewal Lease FAA, CWE Equipment Site myf

() CIP
(X) LESSEE FAA

1. PROJECT DESCRIPTION INCLUDING PROPOSED FUNCTION attach plot plan:

Existing Site (.64 ac.) of FAA's CWE Equipment
Measures wind direction and velocity to
aid aviation

2. MASTER PLAN LAND USE DESIGNATION attach master plan:

Aircraft Operating Area

Note: Brown Field non-aviation uses limited to those permitted in
the Otay Mesa Industrial Subdistrict

3. JUSTIFICATION OF CONFORMANCE FINDING

This is exempt because it is in
Conformance with the Master Plan and
CEQA Section 15301, Class I, Existing
Facilities of the State of California Guidelines

() I find that the proposed use _____ is in
substantial conformance with the Montgomery Field
Master Plan as approved by City Council on 1981 (last
amendment date).

() The _____ project does not conform
to the existing _____ Field Master Plan. A
Master Plan amendment will be required before the project
can be approved by the City.

Carol A. Herrewé 8/21/96
Acting Deputy Director, Airports Division Date

CONCURRENCE

Chris Zell for 8/29/96
Deputy Director, DEP Date

cc: Plan. Dept. (to accompany Envir. Assessment application)
AP#1 9/17/93

