

FEDERAL AVIATION ADMINISTRATION



U.S. Department
of Transportation

Lease No.: DTFA08-99-L-19205
Facility: Middle Marker, RWY 28R
Montgomery Field
San Diego, CA

LEASE

Between

CITY OF SAN DIEGO

and

THE UNITED STATES OF AMERICA

This Lease, made and entered into this 10 day of April in the year 2000
by and between **CITY OF SAN DIEGO, AIRPORTS DIVISION - MONTGOMERY AND
BROWN FIELDS**

whose address is: City of San Diego
Airports Division – Montgomery and Brown Fields
3750 John J. Montgomery Drive
San Diego, CA 92123

for itself and its administrators, successors, and assigns hereinafter referred to as 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. PREMISES

The Lessor hereby leases to the Government the following described property, hereinafter
referred to as the premises, viz.:

See Page 1(a)

DOCUMENT NO. PR-202928-1
FILED APR 10 2000
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

Premises / Property Description:

MIDDLE MARKER, RUNWAY 28R
MONTGOMERY FIELD
SAN DIEGO, CALIFORNIA

That portion of land herein at Montgomery Field in the City of San Diego, County of San Diego, State of California, described as follows:

Beginning at a point on runway centerline at the southeastern end of Runway 28R, said point also referred to as the threshold of Runway 28R, Montgomery Field, San Diego, California. Thence S 65° 01' 06" E (True) along runway centerline a distance of 3023.5 feet; thence N 24° 58' 54" E a distance of 9.0 feet to the True Point of Beginning of the following described parcel: S 65° 01' 06" E a distance of 60.00 feet; thence S 24° 58' 54" W a distance of 35.00 feet; thence N 65° 01' 06" W a distance of 25.00 feet; thence S 24° 58' 54" W a distance of 20.00 feet; thence N 65° 01' 06" W a distance of 35.00 feet; thence N 24° 58' 54" E a distance of 55.00 feet to the True Point of Beginning, containing 0.064 acres, more or less.

See Attachment 1

(a) Together with a right-of-way for ingress to and egress from the premises; a right-of-way for establishing and maintaining a pole line or pole lines for extending electric power and/or telecommunication lines to the premises; and a right-of-way for subsurface power, communication and/or 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 otherwise, 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 Government facilities.

(c) And the right to make alterations, attach fixtures, and erect additions, structures, or signs, in or upon the premises hereby leased, which alterations, fixtures, 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. TERM

For the term beginning December 1, 1999 and ending November 30, 2000. 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 November 2019.

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. NON-RESTORATION

It is hereby agreed between the parties, that upon termination of its occupancy, the Government shall have no obligation to restore and/or rehabilitate, either wholly or partially, the property which is the subject matter of this lease. It is further agreed that the Government may

abandon in place any or all of the structures and equipment installed in or located upon said property by the Government during its tenure. Such abandoned equipment shall become the property of the Lessor. Notice of abandonment will be conveyed by the Government to the Lessor in writing.

5. INTERFERENCE WITH GOVERNMENT OPERATIONS

The Lessor agrees not to erect or allow to be erected any structure or obstruction of whatsoever kind or nature on the site or adjoining land within the airport boundaries that may interfere with the proper operation of the facilities installed by the Government under the terms of this Lease unless consent hereto shall first be secured from the Government in writing.

6. FUNDING RESPONSIBILITY FOR GOVERNMENT FACILITIES

The Lessor agrees that any relocation, replacement, or modification of any existing or future Government facilities covered by this Lease during its term or any renewal thereof made necessary by airport improvements or changes which in the Government's opinion interfere with the technical and/or operational characteristics of the Government facilities will be at the expense of the Lessor, except, when such improvements or changes are made at the written request of the Government. In the event such relocations, replacements, or modifications are necessitated due to causes not attributable to either the Lessor or the Government, funding responsibility shall be determined by the Government.

7. HAZARDOUS SUBSTANCE CONTAMINATION

The Government agrees to remediate, at its sole cost, all hazardous substance contamination on the leased premises that is found to have occurred as a direct result of the installation, operation, and/or maintenance of the Government's facilities. 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 Government's facilities.

8. QUIET ENJOYMENT

The Lessor warrants that they have good and valid title to the premises, and rights of ingress and egress, and warrants and covenants to defend the Government's use and enjoyment of said premises against third party claims.

9. 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.

10. COVENANT AGAINST CONTINGENT FEES

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.

11. ANTI-KICKBACK

The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from (1) Providing or attempting to provide or offering to provide any kickback; (2) Soliciting, accepting, or attempting to accept any kickback; or (3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

12. PROTEST AND DISPUTES

All contract disputes arising under or related to this contract or protests concerning awards of contracts shall be resolved under this clause, and through the Federal Aviation Administration (FAA) Dispute Resolution System. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and shall apply only to final agency decisions. The decision of the FAA shall be considered a final agency decision only after a contractor or offeror has exhausted their administrative remedies for resolving a contract dispute under the FAA Dispute Resolution System. Protests must be filed with the Office of Dispute Resolution within 5 calendar days of the date that the protester was aware, or should reasonably have been aware, of the agency action or inaction which forms the basis of the protest. Unless otherwise stated in this contract, a contract dispute by the contractor against the government shall be submitted to the Contracting Officer within 1 year after the accrual of the contract dispute. Information relating to submitting a protest or dispute will be provided by the Contracting Officer, upon request.

13. LESSOR'S SUCCESSORS

The terms and provisions of this lease and the conditions herein bind the Lessor and the Lessor's heirs, executors, administrators, successors, and assigns.

14. NOTICES

All notices/correspondence shall be in writing, and shall be addressed as follows (or to such other address as either party may designate from time to time by notice or correspondence to the other):

TO LESSOR: City of San Diego
Airports Division – Montgomery and Brown Fields
3750 John J. Montgomery Drive
San Diego, CA 92123

TO 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

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

Legal Description Pg 1(a)
Exhibit A

16. The following changes were made in this lease prior to its execution: None

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

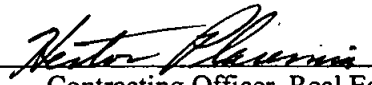
LESSOR: CITY OF SAN DIEGO

By: 

Title: Real Estate Assets Director

Date: 4-10-2000

THE UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

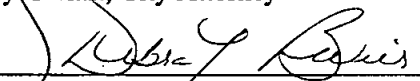
By: 

Title: Contracting Officer, Real Estate
& Utilities Team, AWP-54B

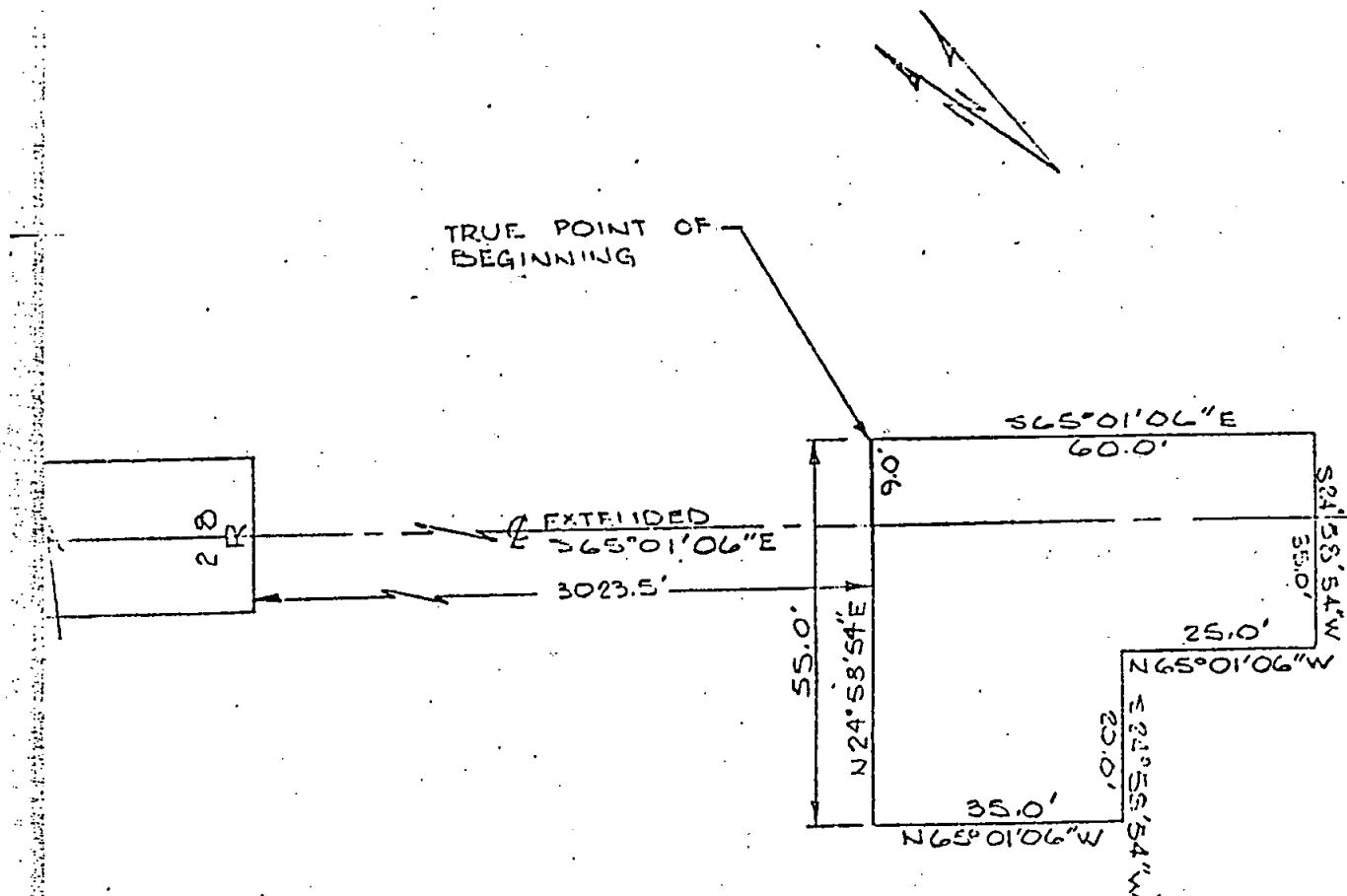
Date: 5/11/00

Approved as to form on this 3rd day of Feb, 2000

Casey Gwinn, City Attorney

By: 
Deputy City Attorney

APR 10 2000 R - 292928



Middle Marker Lease Plot
 Montgomery Field
 Runway 28R
 San Diego, CA
 Not To Scale
 3/13/79 R. Geil

RESOLUTION NUMBER R- 292928

ADOPTED ON APR 10 2000

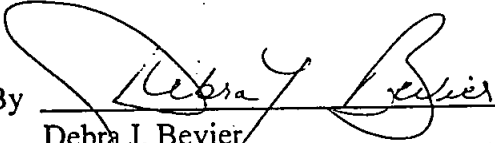
WHEREAS, The City of San Diego, Airports Division - Montgomery Field [City], and the United States of America, Department of Transportation, Federal Aviation Administration [FAA] have negotiated two one-year nonrevenue producing leases, commencing December 1, 1999, with annual renewals at FAA's option, for a maximum term not to exceed November 30, 2019, FAA's consideration to City being FAA's cost of maintaining the leased premises and its equipment, which is estimated to exceed the nominal rental value of the premises; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the City Manager is authorized to execute, for and on behalf of The City of San Diego, two lease agreements with the FAA, which will allow the FAA to continue maintaining and operating navigational equipment that is an integral part of the Instrument Landing System which aids pilots when landing at Montgomery Field Airport. The two leases specially cover the following:

1. Lease of FAA Middle Marker Runway 28: allowing ingress and egress to .064 acres at Montgomery Field Airport to maintain the premises and FAA equipment on the premises. The terms and conditions are set forth in that lease agreement on file in the office of the City Clerk as Document No. RR- 292928 -1.

2. Lease of FAA Glide Slope, Runway 28: allowing ingress and egress to .234 acres at Montgomery Field Airport, to maintain the premises and its electrical lines and equipment on the premises. The terms and conditions are set forth in that lease agreement on file in the office of the City Clerk as Document No. RR-292928 -2.

APPROVED: CASEY GWINN, City Attorney

By 
Debra J. Bevier
Deputy City Attorney

DJB:cmg
03/27/00
Or.Dept:REA
R-2000-1063

Passed and adopted by the Council of San Diego on April 10, 2000 by the following vote:

YEAS: MATHIS, WEAR, KEHOE, STEVENS, WARDEN, STALLINGS, McCARTY,

VARGAS, MAYOR GOLDING.

NAYS: NONE.

NOT PRESENT: NONE.

AUTHENTICATED BY:

SUSAN GOLDING

Mayor of The City of San Diego, California

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

(SEAL)

By: Esther Woronicz, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of
RESOLUTION NO. R-292928, passed and adopted by the Council of The City of San
Diego, California on April 10, 2000.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

(SEAL)

By: [Signature] Deputy

REQUEST FOR COUNCIL ACTION

CITY OF SAN DIEGO

1. CERTIFICATE NUMBER: READ#14-A

TO: CITY ATTORNEY

2. FROM: (Originating Department)
REAL ESTATE ASSETS DEPARTMENT

3. DATE
February 24, 2000

4. SUBJECT:

TWO LEASES WITH FAA AT MONTGOMERY FIELD

R-292928

5. FOR INFORMATION CONTACT: (NAME & MAIL STA.)
T. Williams/D. Drake MS 14

6. TELEPHONE NO.
573-1430/573-1433

7. CHECK HERE IF BOX 1472A, "DOCKET SUPPORTING INFORMATION," HAS BEEN COMPLETED ON PAGE 2: ☒

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND				
DEPT				
ORGANIZATION				
OBJECT				
JOB ORDER				
C.I.P. NO.				
AMOUNT				

9. ADDITIONAL INFORMATION / ESTIMATED COST:)

Cost: None
Job: Job: 253171 & 253172
cc: Dept. Docket Clerk

Thomas Guide Map Page: 1249 D&E 3

10. ROUTING AND APPROVALS

ROUTE	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
X	Department Director	<i>[Signature]</i>	3/2/00	X	CITY MANAGER LOVELAND	<i>[Signature]</i>	3.8.00
X	Deputy Director/Airports	<i>[Signature]</i>	2/28/00	X	AUDITOR	<i>[Signature]</i>	3/10/00
X	P&DR/EAS	<i>Paul A. Hollman</i>	3/2/00	X	CITY ATTORNEY	<i>[Signature]</i>	3/27/00
X	EOCP/MEMO 5-3-96			X	ORIGINATING DEPARTMENT	<i>WTG Signed</i>	3-28-00
X	Financial Mgmt.	<i>[Signature]</i>	3/4/00		MGR. DOCKET COORD. _____	<i>[Signature]</i>	
					COUNCIL REP. _____		
					RULES COMMITTEE ☐ CONSENT ☐ ADOPTION ☐ Refer to _____ ☐ Date _____		

11. PREPARATION OF: ☒ RESOLUTION(S) ☐ ORDINANCES(S) ☐ AGREEMENT(S) ☐ DEED(S)

Authorize the City Manager to execute the two lease agreements with FAA.

11a. MANAGER'S RECOMMENDATION: Adopt the resolution.

12. SPECIAL CONDITIONS (REFER TO A.R. 9.20 FOR INFORMATION ON COMPLETING THIS SECTION).

COUNCIL DISTRICT: 6

COMMUNITY AREA: Kearny Mesa

ACTION REQUESTED BY: Real Estate Assets Department Director

DESCRIPTIVE LOCATION: Portions of Montgomery Field Airport

ENVIRONMENTAL ASSESSMENT: This activity is categorically exempt from CEQA pursuant to State CEQA Guidelines, Section 15301.

HANDLING: DO NOT RECORD. Return documents to Real Estate Assets Department/Airport, Attention: Diana Drake, M.S. 14, for further handling.

DOCKET SUPPORTING INFORMATION

CITY OF SAN DIEGO

DATE

February 24, 2000

SUBJECT

TWO LEASES WITH FAA AT MONTGOMERY FIELD

BACKGROUND:

These two leases replace leases, currently on holdover status, that the City has with the United States of America (FAA). The leases authorize FAA to operate and maintain its navigational equipment that is part of the Instrument Landing System (ILS) on City-owned Montgomery Field Airport (MYF). The ILS aids pilots when landing at the Airport.

DISCUSSION: Approval of these leases will allow FAA to continue maintaining and operating its navigational equipment at MYF. These are nonrevenue, one-year leases, commencing retroactive on December 1, 1999, with annual renewals at FAA's option, for a maximum term not to exceed November 30, 2019.

(1) FAA MIDDLE MARKER RUNWAY 28: .064 acres at Montgomery Field Airport.

This lease authorizes FAA to ingress and egress the leased premise to maintain the premise and FAA's equipment on the premise. The Middle Marker consists of an antenna, approximately 25' high and a small shed. This equipment aids pilots in lining up the aircraft with the runway when on an approach to MYF.

(2) FAA GLIDE SLOPE, RUNWAY 28: .234 acres at Montgomery Field Airport.

This lease authorizes FAA to ingress and egress the leased premises to maintain the premise and its electrical lines and equipment on the premise. The Glide Slope provides vertical guidance for pilots.

FISCAL IMPACT: These are nonrevenue producing leases; FAA's consideration to City is FAA's cost of maintaining the premise and its equipment, which is estimated to exceed the nominal rental value of the premises.

BYLINE: (DEPUTY CITY MGR/DEPT. HEAD/Author Initials)

LOVELAND:Griffith:DLB

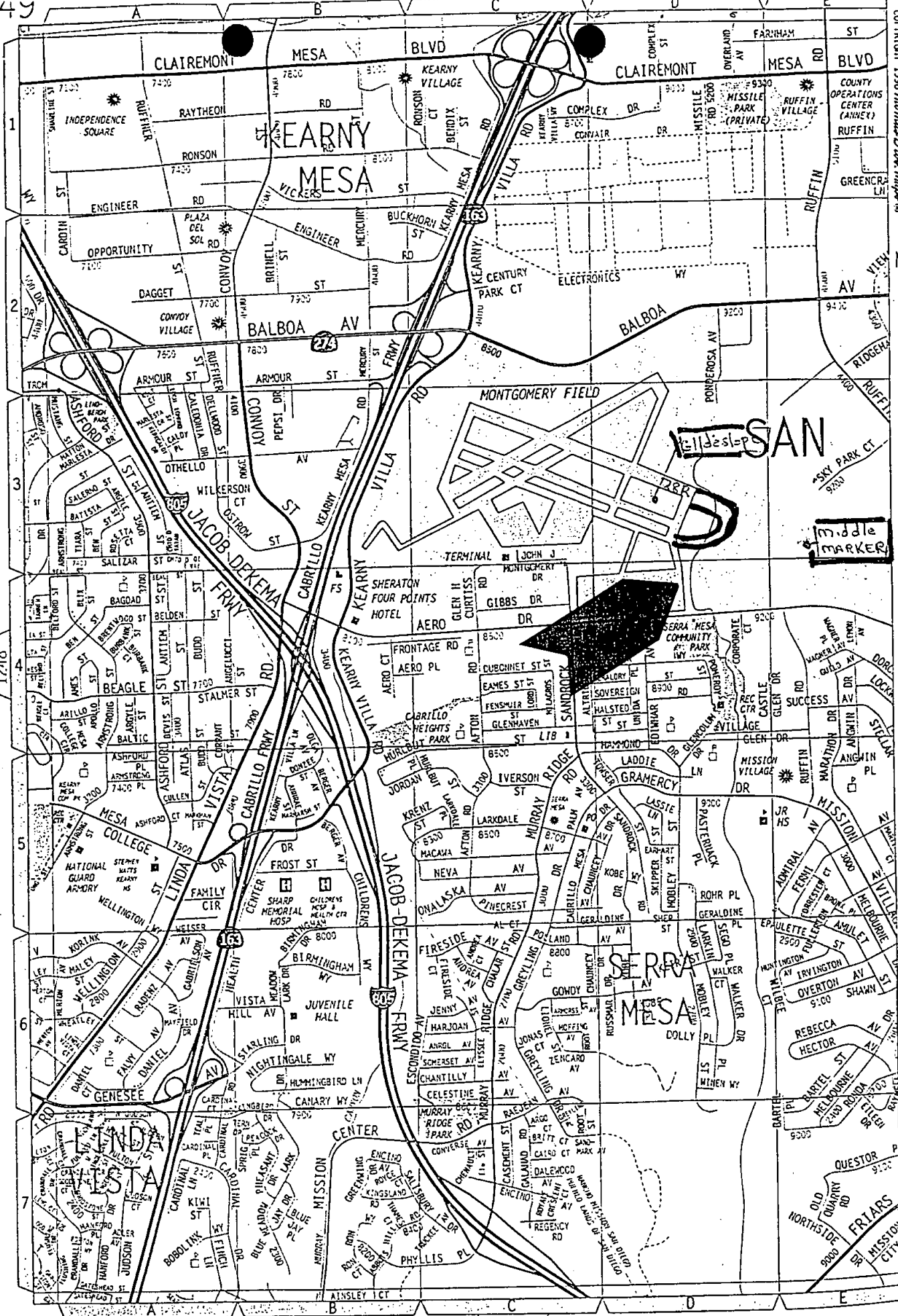
Job: 253171 & 253172

SIGNATURES:

ORIGINATING DEPT. HEAD

CITY MANAGER:

(FOR MANAGERIAL DEPARTMENTS ONLY)



V. Drake

14

(R-2000-1063)

RESOLUTION NUMBER R- 292928

ADOPTED ON APR 10 2000

WHEREAS, The City of San Diego, Airports Division - Montgomery Field [City], and the United States of America, Department of Transportation, Federal Aviation Administration [FAA] have negotiated two one-year nonrevenue producing leases, commencing December 1, 1999; with annual renewals at FAA's option, for a maximum term not to exceed November 30, 2019, FAA's consideration to City being FAA's cost of maintaining the leased premises and its equipment, which is estimated to exceed the nominal rental value of the premises; NOW, THEREFORE,

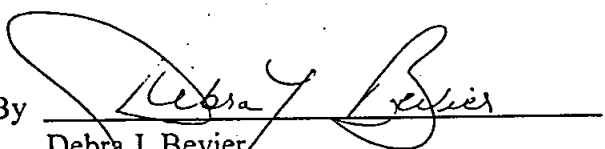
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APPROVED: CASEY GWINN, City Attorney

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