

AIRPORT RIGHT-OF-ENTRY
MONTGOMERY FIELD AIRPORT

This month-to-month Right-of-Entry Permit (PERMIT) is executed by and between THE CITY OF SAN DIEGO, a municipal corporation, herein called "CITY," and RAINBOW VENDING, herein called "PERMITTEE," for the purpose of PERMITTEE installing and maintaining coin-operated food and non-alcoholic vending machines, herein called "the vending machines," in a portion of the Montgomery Field Airport's Terminal Building with the following terms and conditions:

1. Premises: The Permit Area (PREMISE) is CITY-owned property described as a portion of the Montgomery Field Terminal Building, located in the City of San Diego and County of San Diego, as shown on Exhibit "A" hereof, which by this reference shall be included as part of this permit.
2. Use: PERMITTEE is hereby granted the non-exclusive use of the PREMISE for the purpose of installing and maintaining the vending machines for public use: one for hot beverages and one for assorted snacks.
3. Term: This is a month-to-month Permit, commencing on September 26, 2000 and continuing until either party terminates this Permit by serving the other party with prior 30-day written notification, without necessity of cause, or it is terminated by the CITY in accordance with paragraph 16 below. The total term shall not exceed three (3) years without prior approval from City Council.
4. Quarterly Permit Fee: In consideration for the granting of this Permit, PERMITTEE shall pay CITY in advance on or before the first day of each quarter of the year a non-refundable permit fee in the amount of ten percent (10%) of the estimated gross income PERMITTEE will earn from use of the permit area for succeeding quarter year. Any underpayment or overpayment of fees for each quarter will be adjusted in the following quarterly payment. Said permit fee is subject to periodic increases by CITY. The permit fees shall be paid by U.S. currency, cashier's check, company or personal check made payable to the City Treasurer. All payments are to be delivered to the following address or at another operation specified by CITY:

City Treasurer, City of San Diego
P.O. Box 2289
San Diego, CA 92112-4165

or delivery to the Office of the City Treasurer, Development Review Center, Third Floor,
1222 First Ave, San Diego, CA.

5. Compliance with Law: PERMITTEE shall at all times in the installation, maintenance and operation of the vending machines comply with applicable laws, statutes, ordinances, and regulations of CITY, County, State, and Federal Governments, at PERMITTEE's sole expense, and shall comply with any and all notices issued by the City Manager or his authorized representative under the authority of any such law, statute, ordinance, or regulation, and PERMITTEE shall maintain a valid CITY business license and permits for the machines as required by CITY. All costs shall be paid by PERMITTEE when due.
6. Indemnity: PERMITTEE shall at all times assume the defense of, relieve, indemnify, protect, and save CITY and any and all of its boards, officers, agents, and employees harmless from any and all claims and demand, actions, proceedings, losses, liens, costs, judgments, civil fines, and penalties of any nature whatsoever resulting directly or indirectly from the vending machines or use of the Premise, including but not limited to expenses incurred in legal actions, death, injury, or damage.
7. Insurance: PERMITTEE shall take out and maintain at all times during the term of this Permit, including any extensions, at its sole expense Product Liability Coverage and Premise Liability Coverage, each in the amount of not less than \$1,000,000 Combined Single Limit Liability with an occurrence claims form, through an insurance company satisfactory to CITY and licensed to do business in California. The policy shall cover all injury, illness, or damage, including death, suffered by any party or parties in connection with the vending machines. The policy shall name the City of San Diego as additional insured. PERMITTEE shall provide CITY with a current certificate of insurance showing the above coverages throughout the term of this Permit.
8. Taxes, Assessments and Fees: The terms of this Permit may result in the creation of a possessory interest. If such possessory interest is vested in a private party to this Permit, the private party may be subjected to payment of personal property taxes levied on such interest. PERMITTEE shall be responsible for the payment of, and shall pay before they become delinquent, all taxes, assessments and fees assessed or levied upon PERMITTEE or the area covered by this Permit or any interest therein, including, but not limited to buildings, structures, fixtures, equipment or other property installed or constructed thereon. PERMITTEE further agrees not to allow such taxes, assessments or fees become delinquent, and as such to become a lien against the area covered by this Permit or any improvements thereto. Nothing herein contained shall be deemed to prevent or prohibit the PERMITTEE from contesting the validity or amount of any such tax assessment or fee in the manner authorized by law.
9. Audits and Inspection of Records: PERMITTEE agrees to make any and all records and accounts available to CITY for inspection at all reasonable times, so that CITY can determine PERMITTEE'S compliance with this permit. These records and accounts will be made available by PERMITTEE in San Diego, CA., and PERMITTEE's records and accounts will be complete and accurate, showing all income and receipts from use of the

be made available by PERMITTEE in San Diego, CA., and PERMITTEE's records and accounts will be complete and accurate, showing all income and receipts from use of the Premises. PERMITTEE's failure to keep and maintain such records and make them available for inspection by CITY is a breach of this lease and cause for termination. PERMITTEE shall maintain all such records and accounts for a minimum period of five (5) years.

CITY may also conduct random audits during PERMITTEE's weekly service visits by requiring that PERMITTEE count the money removed from the machines on site and in the presence of the CITY's representative.

10. Nondiscrimination: PERMITTEE herein covenants by and for itself, its successors and assigns, and all persons claiming under or through it, and this Permit is made and accepted upon and subject to the condition that there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, material status, national origin, ancestry or physical disability in the use, occupancy tenure or enjoyment of the Premises nor shall the PERMITTEE itself, or any person claiming under or through it, establish or permit any such practice or practices or discrimination or segregation in the use of the Premises.
11. Security: PERMITTEE shall be solely responsible for the security of its equipment, the Premises and any damage to City-owned property caused from installation, operation, vandalism, theft or removal of any of the vending machines.
12. Relocation of Assistance Waiver: PERMITTEE hereby acknowledges and agrees that PERMITTEE waives all rights to any form of relocation assistance provided for by Local, State or Federal law that PERMITTEE may be entitled to by reason of this permit.
13. Hazardous Materials: PERMITTEE acknowledges the possible existence of asbestos in the ceiling of the airport lobby, and PERMITTEE shall not under any circumstances enter or disturb the ceiling area or otherwise cause asbestos exposure to anyone. Methods for installation and removal of the vending machines shall be performed in a manner preapproved by the Airport's Operations Manager.
14. Other Regulations: All use of Airport property under this Permit shall be in accordance with the laws of the United States of America, the State of California and the Rules and Regulations promulgated by their authority with reference to aviation and air navigation and in accordance with all applicative rules and regulations and ordinances of the City of San Diego now in force, or thereafter prescribed or promulgated by resolution or ordinance or by State or Federal Law.
15. Utilities: CITY shall pay for reasonable use and costs for electricity and water only, as determined by the sole discretion of the CITY.
16. Maintenance: PERMITTEE shall inspect and service the vending machines weekly to replenish supplies, make any necessary repairs and to clean the vending machines and

Premises. A 24-hour service phone number will be posted on the machines for the purpose of the public and CITY to report inoperative machines. PERMITTEE shall service or replace any vending machines as necessary within 48 hours from notification that the machine is malfunctioning.

Failure to maintain the vending machines in good, operative and clean condition and to maintain the Premises as required herein will be reason for immediate termination of the Permit by CITY. All machines must be current models and in good condition; all machines shall have the ability to accept dollar bills or and coins.

17. Ownership of Equipment: The vending machines shall remain the property of PERMITTEE at all times. Prior to expiration of this Permit, PERMITTEE shall remove the vending machines and restore the Permit area to its original condition at its expense.
18. Assignment or Subletting: PERMITTEE shall not assign its interest in this Permit or sublet all or any portion of the Permit area without the prior written consent of the Airport's Deputy Director, which shall not be unreasonably withheld. The Sublessee or Assignee must meet normal CITY qualification requirements, including good credit rating, good references and reasonable proof of ability to perform the terms and conditions of this Permit. The CITY may also charge PERMITTEE its standard fee for authorizing a sublease or assignment and increase the monthly permit fee.

IN WITNESS HEREOF, the PERMIT AGREEMENT is executed by CITY acting by an through its City Manager and by PERMITTEE, acting by and through its lawful, authorized designee.

THE CITY OF SAN DIEGO

Date 9/26/00

By [Signature]
Airport Deputy Director
SUPERVISING PROPERTY AGENT

PERMITTEE

Date 9 25 00

By [Signature]

APPROVED as to form and legality this 15th day of Sept., 2000.

CASEY GWINN, City Attorney

By [Signature]
Deputy City Attorney

Exhibit "A" - Description of Premises.

NO SCALE

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AIRCRAFT PARKING

AIRCRAFT PARKING

"SITE PLAN"

ENTRANCE

CITY OF SAN DIEGO
AIRPORT NOISE
ABATEMENT OFFICE

SUITE
"B"

SUITE
"A"

CONFERENCE ROOM

AIRPORT LOBBY

ENTRANCE

SUITE
"E"

SUITE
"D"

SUITE
"C"

VENDING
MACHINES

ENTRANCE

MONTGOMERY
FIELD
AIRPORT
OPERATIONS

kitchen
and
storage