DUPLICATE

CITY OF SAN DIEGO

and

EXPERIMENTAL AIRCRAFT ASSOCIATION, CHAPTER 14, INC.

Lease Agreement

DOCUMENT NO. RR-302261
FILED JAN 09 2007
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

CITY OF SAN DIEGO
LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is executed between the CITY OF SAN DIEGO, a municipal corporation ("CITY"), and EXPERIMENTAL AIRCRAFT ASSOCIATION, CHAPTER 14, INC., a California nonprofit corporation ("LESSEE").

SECTION 1: USES

1.1 Premises.

CITY hereby leases to LESSEE and LESSEE leases from CITY all of that certain real property consisting of approximately 2.3244 acres situated on Brown Field Airport in the City of San Diego, County of San Diego, State of California, described in Section 11.1, Exhibit "A", Initial Leased Premises, of this Lease ("Premises"). At the discretion of CITY and as set forth in Section 2.4, Option to Increase Premises, LESSEE may increase the size of the Premises by 1.7519 acres as depicted in Section 11.2, Exhibit "B", Option Area. Any additions of acreage to the initial 2.3244 acres shall be included as part of the "Premises" by written Addendum to this Lease.

1.2 Uses.

It is expressly agreed that the Premises are leased to LESSEE solely and exclusively for the purposes of tie-down and hangar space for aircraft, assembly of aircraft, display of aircraft, instruction on construction techniques, educational presentations, and emergency evacuation activities, in accordance with the Development Plan referenced in Section 6.10, Development Plan, and for such other related or incidental purposes as may be first approved in writing by the CITY MANAGER and for no other purpose whatsoever.

The use of the Premises for any unauthorized purpose shall constitute a substantial default and subject this Lease to termination at the sole option of CITY.

LESSEE covenants and agrees to use the Premises for the above-specified purposes and to diligently pursue said purposes throughout the term hereof. Failure to continuously use the Premises for said purposes, or the use thereof for purposes not expressly authorized herein, shall be grounds for termination by CITY.

1.3 Related Council Actions.

By the granting of this Lease, neither CITY nor the Council of CITY is obligating itself to any other governmental agent, board, commission, or agency with regard to any other discretionary action relating to development or operation of the Premises. Discretionary action includes but is not limited to rezonings, variances, environmental clearances, or any other governmental agency approvals which may be required for the development and operation of the Premises.

1.4 Quiet Possession.

LESSEE, paying the rent and performing the covenants and agreements herein, shall at all times during the term peaceably and quietly have, hold, and enjoy the Premises. If CITY for any reason cannot deliver possession of the Premises to LESSEE at the commencement of the term, or if during the Lease term LESSEE is temporarily dispossessed through action or claim of a title superior to CITY'S, then and in either of such events, this Lease shall not be 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 the CITY MANAGER of CITY a proportionate reduction of the rent for the period or periods during which LESSEE is prevented from having the quiet possession of all or a portion of the Premises.

1.5 Easements and Reservations.

a. CITY hereby reserves all rights, title, and interest in any and all subsurface natural gas, oil, minerals, and water on or within the Premises.

b. CITY reserves the right to grant and use easements or to establish and use rights-of-way over, under, along, and across the Premises for utilities, thoroughfares, or access as it deems advisable for the public good.

c. CITY has the right to enter the Premises for the purpose of making repairs to or developing municipal resources and services.

LESSEE shall not cause, proximately cause or contribute to any devaluation of CITY's reserved rights, title and interests, nor shall LESSEE cause, proximately cause, or contribute to any contamination or damage to CITY's reserved rights, title and interests. LESSEE shall not unreasonably or substantially interfere in CITY's right to use, benefit from or claim an interest in CITY's reserved rights, title and interests. However, CITY shall not unreasonably or substantially interfere with LESSEE'S use of the Premises and will reimburse LESSEE for physical damages, if any, to the permanent improvements located on the Premises resulting from CITY exercising the rights reserved in this section. Such reimbursement may include a reduction in the rent proportionate to the amount of physical damage as determined by CITY. CITY will pay the costs of

maintenance and repair of all CITY installations made pursuant to these reserved rights.

1.6 Competent Management.

Throughout the term of this Lease, LESSEE shall provide competent management of the Premises to the satisfaction of the CITY MANAGER. For the purposes of this paragraph, "competent management" shall mean demonstrated ability in the management and operation of an experimental aircraft association and related activities in a fiscally responsible manner.

1.7 Political Activities.

The Premises shall be used exclusively for the purposes specified in Section 1.2, Uses, hereof. The Premises shall not be used for working or campaigning for the nomination or election of any individual to any public office, be it partisan or nonpartisan. Provided, however, that LESSEE shall not be precluded from providing a forum for open public debate by candidates such as occurs at a "candidate forum" and similar events.

1.8 Parking.

In view of LESSEE'S contribution to community gatherings and youth activities, CITY grants LESSEE the right to park motor vehicles on the Option Area each Saturday. Such grant may be revoked by CITY at any time at CITY'S discretion. Overnight parking shall be prohibited. LESSEE shall assume any and all liability related in any way to the parking of motor vehicles on the Option Area on Saturdays and shall immediately abate and remove all nuisances associated with the parking of motor vehicles on the Option Area on Saturdays. LESSEE shall ensure that all vehicles, aircraft, equipment or other objects under LESSEE'S control be parked or placed within the Premises. Further, all vehicles, aircraft, equipment or other objects under LESSEE'S control shall be kept clear of all airport thoroughfares. LESSEE acknowledges that all portions of abandoned Taxiway "C" that are not part of the designated leasehold are considered movement areas and shall be kept clear at all times.

SECTION 2: TERM

2.1 Commencement.

The term of this Lease shall be ten (10) years commencing on the first day of the calendar month following execution by the CITY MANAGER. "Lease year" as used in this Lease shall mean the 12-month period commencing on the first day of the calendar month following the execution of this Lease by the CITY MANAGER.

2.2 Holdover.

Any holding over by LESSEE after expiration or termination shall not be considered as a renewal or extension of this Lease. The occupancy of the Premises after the expiration or termination of this Lease constitutes a month-to-month tenancy, and all other terms and conditions of this Lease shall continue in full force and effect; provided, however, CITY shall have the right to apply a reasonable increase in rent to bring the rent to fair market value and to terminate the holdover tenancy at will.

2.3 Option to Extend.

LESSEE may be given the right to extend this Lease once for an additional term of five (5) years, subject to all original agreements, considerations, covenants, and conditions of this Lease and upon the following additional terms and conditions:

a. LESSEE must give CITY written notice of its intention to extend the Lease no sooner than eight (8) months and no later than six (6) months prior to expiration of the term of the Lease;

b. LESSEE is not in default of this Lease at the time the option is exercised;

c. LESSEE shall have constructed the improvements described in Section 6.10, Development Plan, during the initial term; and

d. LESSEE'S rent shall be adjusted as set forth in Section 3.3 below.

2.4 Option to Increase Premises.

At LESSEE'S discretion, LESSEE may increase the size of the Premises in accordance with Section 11.2, Option Area, subject to all original agreements, considerations, covenants, and conditions of this Lease and upon the following additional terms and conditions:

a. LESSEE must give CITY written notice of its intention to increase the size of the Premises no sooner than eight (8) months and no later than six (6) months prior to expiration of the term of the Lease;

b. LESSEE is not in default of this Lease at the time the option is exercised;

c. LESSEE must submit a development plan and obtain development entitlements on the Option Area;

d. LESSEE must provide evidence of adequate and timely funding for the development

2.5 Surrender of Premises.

At the expiration or earlier termination of this Lease for any reason, LESSEE shall execute, acknowledge, and deliver to CITY, within five (5) days after written CITY demand, a valid and recordable quitclaim deed covering all of the Premises. The Premises shall be delivered free and clear of all liens and encumbrances and in a decent, safe, and sanitary condition.

If LESSEE fails or refuses to deliver the required deed, CITY may prepare and record a notice reciting LESSEE'S failure to execute this Lease provision, and the notice will be conclusive evidence of the termination of this Lease and all LESSEE'S rights to the Premises.

SECTION 3: RENT

3.1 Time and Place of Payment.

Rent is due monthly in advance on or before the first day of each calendar month. Rent will be prorated during the first and final months of any rental period in order to achieve payment on the first day of each calendar month. Checks should be made payable to the City Treasurer and mailed to the Office of the City Treasurer, City of San Diego, P.O. Box 122289, San Diego, California 92112-4165, or delivered to the Office of the City Treasurer, Civic Center Plaza, 1200 Third Avenue, First Floor, San Diego, California. The place and time of payment may be changed at any time by CITY upon thirty (30) days written notice to LESSEE. Mailed rental payments shall be deemed paid upon the date such payment is postmarked by the postal authorities. If postmarks are illegible, the payment shall be deemed paid upon actual receipt by the City Treasurer. LESSEE assumes all risk of loss and responsibility for late payment charges if payments are made by mail.

3.2 Rent.

The initial rent is one thousand, five hundred, fifty-seven dollars and thirty-five cents per month, based on the 2006 fair market value rent of six hundred and seventy dollars per acre for 2.3244 acres. Any increase in the size of the Premises pursuant to Section 1.1 hereof shall include an increase in rent based on the annually adjusted rent per acre for the year in which the acreage of the Premises is increased.

The rent is subject to adjustments every two years based on increases, if any, in the Consumer Price Index (CPI).

a. (1) CPI Adjustments. The index used will be the CPI for "All Urban Consumers" for Los Angeles/Riverside/Orange Counties, California. If this index is no longer published, the index for adjustment will be the U.S. Department of Labor's

"Comprehensive Official Index" most comparable to the aforesaid index. If a rental adjustment is calculated using an index from a different base year than 1982-84, which equaled a base figure of 100 for the CPI, the base figure used will first be converted under a formula supplied by the Bureau of Labor Statistics or its successor.

If the Department of Labor indices are no longer published, another index generally recognized as authoritative will be substituted by agreement of CITY and LESSEE. If the parties cannot agree within sixty (60) days after demand by either party, a substitute index will be selected by the Chief Officer of the Regional Office of the Bureau of Labor Statistics or its successor, notwithstanding continued reference herein to "CPI" in any event.

Regardless of the index publication dates, the effective date of the rent adjustment is as specified in this Subsection a.(1), CPI Adjustments. Until the rent adjustment can be reasonably determined by the index method, LESSEE shall continue to make payments at the existing rental rate. When the adjustment is determined, the balance of rents due at the adjusted rate will be paid to CITY within thirty (30) days. In no event shall the adjusted rent as established by the CPI be less than the rent in existence immediately prior to the adjustment dates.

(2) CPI Adjustment Computation. The rent for each rental period following the adjustment until the next adjustment or other rental determination, as provided herein, shall be determined prior to the date of adjustment by multiplying the rent which is effective immediately prior to said adjustment by the "adjustment figure" established as follows:

The "adjustment figure" shall be established by dividing the "current index" by the "base figure," both as defined herein:

The "base figure" for the first such adjustment shall be a three-month average of index figures published by the CPI using the fourth, fifth, and sixth full months preceding the effective date of this Lease.

To illustrate, if this Lease begins in May, the CPI figures for November (sixth month), December (fifth month), and January (fourth month) preceding May would be averaged to establish the base figure (Example 1).

The "current index" shall be a three-month average of index figures published by the CPI. The three months to be used to

establish the average shall be the fourth, fifth, and sixth full months preceding the adjustment date.

The "base figure" for each successive adjustment shall be the "current index" figure used in the last preceding adjustment period (Example 2).

Example 1

Current Index 121
Base Figure 110 = 1.10 (Adjustment Figure)

Effective Rent x 1.10 = Adjusted Rent

Example 2

Current Index 138
Base Figure 121 = 1.14 (Adjustment Figure)

Effective Rent x 1.14 = Adjusted Rent

The adjustment figure is then multiplied by the monthly rent from the preceding adjustment period to determine the new rent. Using the foregoing examples, if the rent is now $1,000 per month, after the first adjustment it will be $1,100 per month ($1,000 x 1.10). In the second adjustment it will be $1,254 per month ($1,100 x 1.14).

Notwithstanding the above, CITY may not increase the rent more than six percent (6%) in any two year period.

3.3 Market Rate Appraisal. Prior to LESSEE exercising its right to extend this lease, an appraisal will be conducted to determine rent for the option period, subject to the above CPI adjustments. The adjustment, if any, shall be determined by a qualified professional independent real estate appraiser selected by mutual consent of the parties to this agreement from the list of appraisers approved by CITY. CITY and LESSEE agree to equally share the cost of the mutually selected appraiser. In the event the parties do not reach agreement as to selection of a mutually acceptable appraiser, then CITY and LESSEE shall each select a qualified professional independent real estate appraiser who in turn will select a third qualified professional independent real estate appraiser, which third appraiser will be employed to set the rental rates to be applied to LESSEE'S rate adjustment. In the event a mutually acceptable third appraiser is not agreed upon between the two selected appraisers within ten (10) days, then the third appraiser will be appointed by the presiding judge of the Superior Court of the State of California, County of San Diego, acting in his or her individual capacity, upon application by either CITY or LESSEE with prior notice thereof to the other party. In the event that the Superior Court judge declines to make the appointment, the parties hereto agree that the third appraiser shall be promptly

determined in accordance with the rules of the American Arbitration Association. Said third appraiser shall complete the assignment within sixty (60) days of appointment. Each party shall pay the cost of its own selected appraiser, and both CITY and LESSEE agree to equally share the cost of the third mutually selected or court-appointed appraiser. CITY and LESSEE agree to accept and be bound by the rental rates determined by the appraiser selected or appointed to complete the assignment. In establishing the rental rates for the items under controversy, the appraiser shall consider CITY'S property as a fee simple absolute estate, and as vacant and available for a full lease term equal to the initial full term of lease on the open market for the authorized purposes of this lease at the commencement of the rental period under review. The appraiser will be guided by prevailing market rental rates for similar operations primarily within the Southern California area, if available. In the event the appraisal is not completed in time to permit the rental rate adjustment to be made upon the applicable commencement of the extension period, LESSEE agrees to continue to pay rent in accordance with the then-existing lease rates, and the adjustment, when determined, will be retroactive to said effective date of rental adjustment as herein above established. Any deficiency shall be paid by LESSEE to CITY within sixty (60) days after determination of the new percentage rate(s). IN NO EVENT, HOWEVER, SHALL ANY RENT ADJUSTMENT RESULT IN ANY DECREASE IN ANY PERCENTAGE RENTAL RATE. Notwithstanding the foregoing, the City Manager, in his sole discretion, may determine that no market value adjustment is necessary and waive the requirement for the appraisal process for any specific adjustment period.

3.4 Delinquent Rent.

If LESSEE fails to pay the rent when due, LESSEE will pay, in addition to the unpaid rents, five percent (5%) of the delinquent rent. If the rent is still unpaid at the end of fifteen (15) days, LESSEE shall pay an additional ten percent (10%) [being a total of fifteen percent (15%)], which is hereby mutually agreed by the parties to be appropriate to compensate CITY for loss resulting from rental delinquency, including lost interest, opportunities, legal costs, and the cost of servicing the delinquent account. Notwithstanding the foregoing, in no event shall the charge for late payments of rent be less than Twenty-Five Dollars ($25). LESSEE agrees to pay such amount and further agrees that the specific late charges represent a fair and reasonable estimate of the costs that CITY will incur from LESSEE'S late payment. Acceptance of late charges and any portion of the late payment by CITY shall in no event constitute a waiver of LESSEE default with respect to late payment, nor prevent CITY from exercising any of the other rights and remedies granted in this Lease.

SECTION 4: ASSIGNMENT

4.1 Time is of Essence; Provisions Binding on Successors.

Time is of the essence of all of the terms, covenants, and conditions of this Lease and, except as otherwise provided herein, all of the terms, covenants, and conditions of this Lease shall apply to, benefit, and bind the successors and assigns of the respective parties, jointly and individually.

4.2 Assignment and Subletting.

LESSEE shall not assign this Lease or any interest in this Lease and shall not sublet the Premises or any part of the Premises to any other organization or entity without the prior written permission of CITY, or any right or privilege appurtenant to the Premises, or suffer any other person, except employees, agents, members, and guests of LESSEE, to use or occupy the Premises or any part of the Premises. CITY and LESSEE agree that LESSEE will sublease hangar space, tie-down space and workshops to its members after obtaining written permission from CITY. LESSEE is solely responsible for any and all conduct, activities and violations of the LEASE committed in whole or in part by its visitors, guests, licensees, agents and/or members, including those members to whom it sublets hangar space, tie-down space and workshops.

4.3 Encumbrance.

LESSEE may not encumber this Lease or any improvements on the Premises by deed of trust, mortgage, chattel mortgage, or other security instrument.

4.4 Defaults and Remedies.

On the occurrence of a default by LESSEE, CITY shall have the right to pursue any one or more of the remedies listed in this section in addition to any other remedies now or later available to CITY in law or equity. These remedies are not exclusive but cumulative.

a. Defaults. Each of the following shall constitute an event of default under this Lease:

(1) LESSEE'S failure to make any payment required under this Lease when due if the failure continues for five (5) days following written notice of the failure by CITY; or

(2) LESSEE defaults in the performance of any covenant or condition required by this Lease, other than those requiring payment to CITY, to be performed by LESSEE and fails to cure the default within thirty (30) days following written notice from CITY; or if

any default, other than those requiring payment to CITY, is not curable within thirty (30) days, and fails to commence to cure the default(s) within the thirty-day period and diligently pursue the cure to completion; or

(3) LESSEE voluntarily files any petition under any bankruptcy or insolvency act or law; or

(4) LESSEE has involuntarily filed against it any petition under any bankruptcy or insolvency act or law and the matter is not dismissed within ninety (90) days of filing; or

(5) LESSEE is adjudicated as bankrupt, or

(6) LESSEE makes a general assignment for the benefit of creditors; or

(7) LESSEE uses the Premises for any unauthorized purpose.

b. Remedies

(1) For Default Based Upon Nonpayment. Upon default by LESSEE for nonpayment under Section 4.4a(1) above, CITY may, at its option, give LESSEE, or any person claiming rights through LESSEE, a written Three-Day Notice to Pay or Quit or CITY may terminate the Lease and all right of LESSEE and of all persons claiming right through LESSEE to the Premises or to possession of the Premises and CITY may enter and take possession of the Premises and may recover the sum set forth below.

(2) For Any Other Default. Upon default by LESSEE based upon Section 4.4a (2-7) above, CITY may, at its option, terminate the lease and all right of LESSEE and of all persons claiming right through LESSEE to the Premises or possession of the Premises, and CITY may enter and take possession of the Premises and may recover from LESSEE the sums set forth below. However, in the event that any default described in Sections 4.4a (2-7) is not curable within thirty (30) days after notice to LESSEE, CITY will not terminate this Lease pursuant to the default if LESSEE immediately commences to cure the default and diligently pursues the cure to completion.

(3) Upon termination of this Lease due to default, CITY may recover the sum of:

(a) the worth at the time of award of any unpaid rent that had been due at the time of termination;

(b) the worth at the time of award of the amount by which (i) the unpaid rent that would have been earned after termination until the time of award minus (ii) the amount of rent lost, if any, and LESSEE affirmatively proves could have been reasonably avoided;

(c) the worth at the time of award of the amount by which (i) the unpaid rent for the balance of the term after the time of the award minus (ii) the amount of rent lost, if any, as LESSEE affirmatively proves could be reasonably avoided;

(d) any other amount necessary to compensate CITY for the detriment proximately caused by LESSEE'S failure to perform LESSEE'S obligations or that, in the ordinary course of things, would be likely to result; and

(e) all other amounts in addition to or in lieu of those previously stated as may be permitted from time to time by California law, including those expenses, costs and fees incurred in defending, exercising CITY's rights under, or otherwise obtaining compliance with the terms, conditions and covenants of this LEASE. As used in clauses (a) and (b) of this Section, the "worth at time of award" is computed by allowing interest at the rate of ten percent (10%) per annum. As used in clause (c) of this Section, the "worth at the time of award" is computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus two percent (2%). As used in this Section, the term "rent" shall include base rent, percentage rent, if any, and any other payments required by LESSEE.

c. Abandonment by LESSEE. Even though LESSEE has breached the Lease and abandoned the Premises, this Lease will continue in effect so long as CITY does not terminate this Lease, and CITY may enforce all its rights and remedies under this Lease, including but not limited to the right to recover the rent as it becomes due, plus damages. Any personal property, regardless of ownership, left at the Premises thirty (30) days after the expiration or earlier termination of this Lease shall be considered abandoned and LESSEE forfeits all ownership to the abandoned personal property. CITY may dispose of the abandoned personal property as it deems appropriate, without further liability to LESSEE or any person claiming an interest in the personal property. CITY may, at its option,

remove or dispose of the abandoned personal property at LESSEE'S expense. LESSEE shall hold CITY harmless, indemnify CITY against, and reimburse CITY for any and all fees, costs and expenses of litigation and settlement incurred for any and all claims asserted by third persons and entities claiming an interest in or responsibility for the personal property. If the abandoned personal property is hazardous or toxic waste, substances or materials, or otherwise regulated by any local, state or federal governmental entity, LESSEE shall be responsible for any and all costs, fees or expenses incurred by CITY, its agents or assigns, with respect to notification, reporting, clean-up, disposal or other responsibilities. LESSEE accepts any and all liability associated with said regulated, hazardous or toxic wastes, substances or materials.

d. Waiver. Any CITY waiver of a default is not a waiver of any other default. Any waiver of a default must be in writing and be executed by the CITY MANAGER in order to constitute a valid and binding waiver. CITY delay or failure to exercise a remedy or right is not a waiver of that or any other remedy or right under this Lease. The use of one remedy or right for any default does not waive the use of another remedy or right for the same default or for another or later default. CITY'S acceptance of any rents is not a waiver of any default preceding the rent payment. The property constituting the Premises is CITY-owned and held in trust for the benefit of the citizens of the City of San Diego. Any failure by the CITY MANAGER or CITY staff to discover a default or take prompt action to require the cure of any default shall not result in an equitable estoppel, but CITY shall at all times, have the legal right to require the cure of any default when the defaults are discovered or when CITY Council directs the CITY MANAGER to take action or require the cure of any default after the default is brought to the attention of CITY Council by the CITY MANAGER or by any concerned citizen.

4.5 Eminent Domain.

If all or part of the Premises is taken through condemnation proceedings or under threat of condemnation by any public authority with the power of eminent domain, the interests of CITY and LESSEE will be as follows:

a. In the event the entire Premises are taken, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.

b. In the event of a partial taking, if, in the opinion of CITY, the remaining part of the Premises is unsuitable for the lease operation, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.

c. In the event of a partial taking, if, in the opinion of CITY, the remaining part of the Premises is suitable for continued lease operation, this Lease shall terminate in regard to the portion taken on the date of the transfer of title or possession to the condemning authority, whichever first occurs, but shall continue for the portion not taken. The rent shall be equitably reduced to reflect the portion of the Premises taken.

d. Award. All monies awarded in any such taking shall belong to CITY, whether such taking results in diminution in value of the leasehold or the fee or both; provided, however, LESSEE shall be entitled to any award attributable to the taking of, or damages to LESSEE'S then remaining leasehold interest in installations or improvements of LESSEE. CITY shall have no liability to LESSEE for any award not provided by the condemning authority.

e. Transfer. CITY has the right to transfer CITY'S interests in the Premises in lieu of condemnation to any authority entitled to exercise the power of eminent domain. If a transfer occurs, LESSEE shall retain whatever interest it may have in the fair market value of any improvements placed by it on the Premises in accordance with this Lease.

f. No Inverse Condemnation. The exercise of any CITY right under this Lease shall not be interpreted as an exercise of the power of eminent domain and shall not impose any liability upon CITY for inverse condemnation.

SECTION 5: INSURANCE RISKS/SECURITY

5.1 Indemnity.

LESSEE agrees to indemnify, and hold CITY, its officials, representatives, agents, officers, and employees harmless from and against any and all claims asserted or liability established by local, state or federal enforcement or regulatory entities and for damages or injuries to any person or property, including injury to LESSEE'S employees, invitees, guests, agents, or officers, which arise out of or are in any manner directly or indirectly connected with the development or operation of the leasehold or the work and operations to be performed under this Lease, and to reimburse CITY for any and all costs, fees and expenses incurred as a result of investigation, settlement, litigation or in preparation for litigation defending against or responding to same; provided, however, that LESSEE'S duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of CITY, its officials, representatives, agents, officers, or employees.

5.2 Insurance.

a. LESSEE shall take out and maintain at all times during the term of this Lease the following insurance at its sole expense:

(1) Commercial general liability insurance with limits of not less than Two Million Dollars ($2,000,000) per occurrence/Two Million Dollars ($2,000,000) aggregate. This policy shall cover all claims for personal or bodily injury, including death, or property damage suffered by any party or parties from acts or failures to act by CITY or LESSEE or by authorized representatives of CITY or LESSEE on or in connection with the use or operation of the Premises. This coverage must be primary and non-contributory with respect to any coverage or self-insurance maintained by CITY.

(2) Fire, extended coverage, and vandalism insurance policy on all insurable property on the Premises in an amount to cover one hundred percent (100%) of the replacement cost. Any proceeds from a loss shall be payable jointly to CITY and LESSEE. The proceeds shall be placed in a trust fund to be reinvested in rebuilding or repairing the damaged property.

b. LESSEE'S responsibility to maintain said insurance also includes the following:

(1) Additional Insured. All insurance policies will name CITY, its officials, representatives, agents, officers and employees, as additional insured, protect CITY against any legal costs in defending claims, and will not terminate without sixty (60) days prior written notice to CITY. A copy of the additional insured endorsement must be provided to CITY at the time evidence of insurance is required.

(2) Requirements. All insurance required by express provision of this Lease shall be carried only by insurers rated "A-, VI" or better by the current AM Best Rating Guide, which are licensed to do business in the State of California and approved by CITY. Any deductibles or self-insured retentions must be disclosed to and approved by CITY. All policies will be in effect, and a copy of which must be submitted to CITY, on or before the first day of the Lease, except "course of construction fire insurance" shall be in force on commencement of all authorized construction on the Premises, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. A copy of the insurance policy(ies) will remain on file with CITY during the entire term of this Lease. At least thirty (30) days prior to the

expiration of each policy, LESSEE shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the terms of this Lease.

(3) Modification. CITY, at its discretion, may require the revision of amounts and coverage at any time during the term by giving LESSEE sixty (60) days prior written notice. CITY'S requirements shall be designed to assure protection from and against the kind and extent of risk existing on the Premises. Such revised amounts shall not be unreasonable and shall be in keeping with similar local situations and market conditions. LESSEE also agrees to obtain any additional insurance required by CITY for new improvements, in order to meet the requirements of this Lease.

(4) Accident Reports. LESSEE shall report to CITY any accident causing serious injury to persons on the Premises and any accident causing more than Five Thousand Dollars ($5,000) worth of property damage on the Premises. This report shall contain the names and addresses of the parties involved, a statement of the circumstances, the date and hour, the names and addresses of any witnesses, and other pertinent information.

(5) Failure to Comply. If LESSEE fails or refuses to take out and maintain the required insurance or fails to provide the proof of coverage, CITY has the right to obtain the insurance. LESSEE shall reimburse CITY for the premiums paid with interest at the maximum allowable legal rate then in effect in California. CITY shall give notice of the payment of premiums within thirty (30) days of payment stating the amount paid, names of the insurer(s), and rate of interest. Said reimbursement and interest shall be paid by LESSEE on the first (1st) day of the month following the notice of payment by CITY.

Notwithstanding the preceding provisions of this Subsection (4), if LESSEE fails or refuses to take out or maintain insurance as required in this Lease or fails to provide the proof of insurance, CITY has the right to declare this Lease in default without further notice to LESSEE, and CITY shall be entitled to exercise all legal remedies in the event of such default.

5.3 Waste, Damage, or Destruction.

LESSEE agrees to give notice to CITY of any fire or other damage that may occur on the Premises within three (3) 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 waste, refuse and obstructions, and to dispose of all waste, garbage, trash, and rubbish in a manner

satisfactory to CITY and in accordance with all applicable local, state and federal laws, including environmental, health and safety laws. If the Premises shall be damaged by any cause which puts the Premises into a condition which is not decent, safe, healthy, and sanitary, or otherwise not in compliance with local, state, or federal laws, including environmental, health and safety laws, 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, at CITY'S option, LESSEE agrees to clear and remove from the Premises all debris and waste resulting from said damage and rebuild, restore and repair the Premises in accordance with plans and specifications previously submitted to 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 5.2, Insurance, hereof.

LESSEE agrees that preliminary steps toward performing repairs, restoration, or replacement of the Premises shall be commenced by LESSEE within thirty (30) days, and the required repairs, restoration, or replacement shall be completed within a reasonable time thereafter and in accordance with all applicable laws.

SECTION 6: IMPROVEMENTS/ALTERATIONS/REPAIRS

6.1 Acceptance of Premises.

By signing this Lease, LESSEE represents and warrants that it has independently inspected the Premises and made all tests, investigations, and observations necessary to satisfy itself of the condition of the Premises. LESSEE agrees it is relying solely on such independent inspection, tests, investigations, and observations in making this Lease. LESSEE further acknowledges that the Premises are in the condition called for by this Lease, that CITY has performed all work with respect to the Premises, and that LESSEE does not hold CITY responsible for any defects whether apparent or latent, in the Premises, including the presence of any hazardous wastes.

6.2 Entry and Inspection.

CITY reserves and shall always have the right, but not the obligation, to enter the 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 the Premises are not in a decent, safe, healthy, and sanitary condition, CITY shall have the right, after ten (10) days written notice to LESSEE, to have any necessary clean up, repair or maintenance work done at the expense of LESSEE, and LESSEE hereby agrees to pay promptly any and all costs and expenses incurred by CITY in having such necessary clean up, repair or maintenance work done, in order to keep the Premises in a decent, safe, healthy, and sanitary condition. Further, if at any time CITY determines that the 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 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.

6.3 Maintenance.

LESSEE agrees to assume full responsibility and cost for the operation and maintenance and clean up of the Premises throughout the term. LESSEE will make all repairs and replacements, and conduct all clean up and mitigation necessary to maintain and preserve the Premises in a decent, safe, healthy, and sanitary condition satisfactory to CITY and in compliance with the Development Plan described in Section 6.10, Development Plan, hereof and with all applicable laws.

6.4 Improvements/Alterations.

No improvements, structures, or installations shall be constructed on the Premises, and the Premises may not be altered by LESSEE without prior written approval by the CITY MANAGER. Further, LESSEE agrees that major structural or architectural design alterations to approved improvements, structures, or installations may not be made on the Premises without prior written approval by the CITY MANAGER and that such approval shall not be unreasonably withheld. This provision shall not relieve LESSEE of any obligation under this Lease to maintain the 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 or assume any expense for any improvements or alterations.

6.5 Utilities.

LESSEE shall order, obtain, and pay for all utilities and service and installation charges in connection with the development and operation of the Premises. All utilities will be installed underground. LESSEE shall install and maintain portable restrooms on the Premises at all times until permanent restrooms are constructed as set forth in Section 6.10 hereof. Said restrooms shall be operated and maintained in a safe, healthy and sanitary condition, and in accordance with all applicable laws at all times.

6.6 Liens.

LESSEE shall at all times save CITY free and harmless and indemnify CITY against all claims for labor or materials in connection with operations,

improvements, alterations or repairs on or to the Premises and the costs of defending against such claims, including reasonable attorneys' fees.

If improvements, alterations or repairs are made to the Premises by LESSEE or by any party other than CITY, and a lien or notice of lien is filed, LESSEE shall within five (5) days of such filing either:

a. take all actions necessary to record a valid release of lien, or

b. file with CITY a bond, cash or other security acceptable to CITY sufficient to pay in full all claims of all persons seeking relief under the lien.

6.7 Taxes.

LESSEE agrees to pay, before delinquency, all taxes, assessments, and fees assessed or levied upon LESSEE or the Premises, including the land, any buildings, structures, machines, equipment, appliances or other improvements or property of any nature whatsoever erected, installed, or maintained by LESSEE or levied by reason of the business or other LESSEE activities related to the Premises, including any licenses or permits. LESSEE recognizes and agrees that this Lease may create a possessory interest subject to property taxation, and that LESSEE may be subject to the payment of taxes levied on such interest, and that LESSEE shall pay all such possessory interest taxes. LESSEE further agrees that payment for such taxes, fees and assessments will not reduce any rent due CITY.

6.8 Signs.

LESSEE agrees not to erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings or similar devices or advertising without the prior written consent of CITY. If any such unauthorized item is found on the Premises, LESSEE agrees to remove the item at LESSEE'S expense within three (3) days notice thereof by CITY or CITY may thereupon remove the item at LESSEE'S cost.

6.9 Unavoidable Delay:

If the performance of any act required of CITY or LESSEE is directly prevented or delayed by reason of strikes, lockouts, labor disputes, unusual governmental delays, acts of God, fire, floods, epidemics, freight embargoes, or other causes beyond the reasonable control of the party required to perform an act, said party shall be excused from performing that act for the period equal to the period of the prevention or delay. Provided, however, this provision shall not apply to obligations to pay rent as required pursuant to this Lease. In the event LESSEE or CITY claims the existence of such a delay, the party claiming the delay shall notify the other party in writing of such fact within ten (10) days after the beginning of any such claimed delay.

6.10 Development Plan.

LESSEE shall develop the Premises in accordance with the General Development Plan approved by the CITY MANAGER and filed in the Office of the City Clerk, which plan is hereby incorporated by this reference. LESSEE shall develop the Premises in accordance with the General Development Plan within the first five (5) years of the Lease term. The general contents and provisions of the General Development Plan are described in Section 11.3 hereof. 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. Failure by LESSEE to comply with the terms of this Section 6.10 and the General Development Plan shall constitute a major default and subject this Lease to termination by CITY. LESSEE shall be responsible for obtaining all required permits and environmental clearances from CITY'S Development Services Department prior to the development of the Premises. The CITY MANAGER, in his sole discretion, may approve an extension to the date specified for completion of the Development Plan of up to one (1) year without further City Council approval.

6.11 Failure to Meet Development Schedule.

Should LESSEE fail to complete construction in accordance with the schedule of development of the General Development Plan hereof, it is specifically agreed by LESSEE and CITY that CITY will be entitled to damages in the amount of One Hundred Dollars ($100) for every day of failure to meet said schedule of development until completion of development, said amount representing liquidated damages therefore. In the event that construction is not completed within six (6) months following the date specified for completion in the Development Plan, CITY may, at its option, terminate this Lease.

6.12 Hazardous/Toxic Waste.

a. LESSEE shall not allow the release of hazardous, toxic or otherwire regulated substances, materials or chemicals in, on, under, or from the Premises. For the purposes of this provision, a release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous, toxic, or otherwise regulated substances, materials or chemicals. "Hazardous substances" shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into the State's list of hazardous substances. A copy of the presently effective EPA and the State lists is on file in the Office of the City Clerk as Document 769704 and by this reference is incorporated into this Lease.

b. If any release of a hazardous, toxic, or otherwise regulated substance, material or chemical occurs, LESSEE shall be responsible for all costs, fees and expenses of remediation and removal of the substances, materials and chemicals in accordance with all applicable rules and regulations of governmental authorities.

c. LESSEE shall defend, indemnify, and hold CITY harmless from, and reimburse CITY for, any and all claims, costs, fees and expenses related in any way to any and all liabilities, real or potential, resulting from LESSEE'S use, occupancy, maintenance and/or operations on, in or relating to litigation, preparation for litigation, settlement, and the development, use and implementation of environmental assessments, clean-up, abatement, disposal, containment, remediation and removal, any necessary response, damages for injury to natural resources or the public, and any health assessment or health effect studies.

d. If LESSEE knows or has reasonable cause to believe that any hazardous, toxic or otherwise regulated substance, material or chemical has been released on or beneath the Premises, LESSEE shall give written notice to the CITY MANAGER within twenty-four (24) hours of receipt of the knowledge or cause for belief. Provided, however, if LESSEE knows or has reasonable cause to believe that the substance is an imminent and substantial danger to public health and safety, LESSEE shall notify the CITY MANAGER immediately upon receipt of this knowledge or belief and shall take all actions necessary to alleviate and contain the danger. LESSEE shall notify the CITY MANAGER immediately of any notice of violation received or initiation of environmental actions or private suits relative to the Premises. LESSEE, LESSEE'S members, guests, licensees, or visitors, and LESSEE'S sublessees shall not use, sell, store, handle or dispose of any hazardous, toxic or otherwise regulated substance, material or chemical on or near the Premises without the prior written consent of CITY. If consent is given by CITY, said use, sale, storage, handling and or disposal shall only be allowed as long as it remains in compliance with all applicable local, state and federal laws.

e. CITY reserves the right to perform an Environmental Assessment(s) on the Premises to be completed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist, or Registered Civil Engineer, at any time before, during or after LESSEE takes possession of the Premises. Any hazardous, toxic or otherwise regulated substances, chemicals or materials found on the Premises during or after LESSEE'S occupancy shall be deemed as introduced by LESSEE, unless CITY's Environmental Assessment(s) determines otherwise. Any hazardous, toxic or otherwise regulated substances, chemicals or materials deemed as introduced by LESSEE shall be the sole responsibility of LESSEE with respect to any claims,

responsibilities or liabilities incurred for clean up, disposal, reporting, recordkeeping, remediation, containment or compliance with applicable local, state and federal laws. However, CITY reserves the right to initiate and complete any necessary clean up, disposal, reporting, recordkeeping, remediation, containment or compliance, and to seek reimbursement from LESSEE for any and all costs, fees and expenses relating to same.

6.13 Ownership of Improvements and Personal Property.

a. Any and all improvements, trade fixtures, structures, and installations or additions to the Premises now existing or constructed on the Premises by LESSEE, except the large hexagon hangar currently on the Premises, shall at Lease expiration or Lease termination be deemed to be part of the Premises and shall become, at CITY'S option, CITY'S property free of all liens and claims, except as otherwise provided in this Lease.

b. If CITY elects not to assume ownership of all or any improvements, trade fixtures, structures, and installations, CITY shall notify LESSEE thirty (30) days prior to Lease termination or one hundred eighty (180) days prior to Lease expiration, and LESSEE shall remove the improvements, structures and installations as directed by CITY at LESSEE'S sole cost on or before Lease expiration or Lease termination. If LESSEE fails to remove any improvements, structures, and installations as directed, LESSEE agrees to pay CITY the full cost of any removal.

c. LESSEE shall remove LESSEE-owned machines, appliances, equipment (other than trade fixtures), and other items of personal property by the date of the expiration or earlier termination of this Lease. Any items which LESSEE fails to remove will be considered abandoned and become CITY'S property free of all claims and liens, or CITY may, at its option, remove the items at LESSEE'S expense.

d. If any removal of personal property by LESSEE results in damage to the remaining improvements on the Premises, LESSEE agrees to repair all damage.

e. For any necessary removal by either CITY or LESSEE which takes place beyond the expiration or earlier termination of this Lease, LESSEE shall pay rent to CITY at the rate in effect immediately prior to the Lease expiration or Lease termination.

SECTION 7: GENERAL PROVISIONS

7.1 Notices.

a. Any notice required or permitted to be given under this Lease shall be in writing and may be served personally or by United States mail, postage

prepaid, addressed as follows or at such other address designated in writing:

CITY:

City of San Diego
Attention: Director, Real Estate Assets Department
1200 B Street, Suite 1700
San Diego, CA 92101

LESSEE:

Experimental Aircraft Association, Chapter 14, Inc.
Attention: President
1409 Continental Street
San Diego, CA 92154

b. Any party entitled or required to receive notice under this Lease may by like notice designate a different address to which notices shall be sent.

c. Notice served pursuant to the terms of this Section 7.1 shall be effective upon personal service or three (3) days after deposit in U.S. mail.

7.2 Compliance with Law.

LESSEE shall at all times in the construction, maintenance, occupancy, and operation of the Premises comply with all applicable laws, statutes, ordinances, and regulations of CITY, county, state, and federal governments at LESSEE'S sole cost and expense. In addition, LESSEE 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.

7.3 CITY Approval or Notice.

The approval or consent of CITY or notice to CITY, wherever required in this Lease, shall mean the written approval or consent of, or notice to, the CITY MANAGER or his authorized representative unless otherwise specified, without need for further resolution by CITY Council. "Authorized representative" shall mean the Director of the General Services Department or any other individual designated by the CITY MANAGER by written notice to LESSEE.

7.4 Nondiscrimination.

LESSEE agrees not to discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status or physical disability 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.

7.5 Compliance with CITY'S Equal Opportunity Contracting Program.

a. Equal Opportunity Contracting. LESSEE acknowledges and agrees that it is aware of, and will comply with, City Council Ordinance No. 18173 (San Diego Municipal Code Sections 22.2701 through 22.2708, as amended), EQUAL EMPLOYMENT OPPORTUNITY OUTREACH PROGRAM, a copy of which is on file in the Office of the City Clerk and by this reference is incorporated herein. LESSEE and all of 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 hereafter enacted. LESSEE will not discriminate against any employee or applicant for employment on any basis prohibited by law.

LESSEE submitted and 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 LESSEE will take to achieve CITY'S commitment to equal employment opportunities.

LESSEE agrees to insert the foregoing provisions in all subcontracts for any work covered by this Lease so that such provisions will be binding upon each subcontractor. LESSEE agrees that compliance with EEO provisions flowing from the authority of both parties will be implemented, monitored, and reviewed by CITY'S Equal Opportunity Contracting Program staff.

b. Local Business and Employment. LESSEE acknowledges that the City of San Diego seeks to promote employment and business opportunities for local residents and firms in 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 Lease from local residents and firms as opportunities occur. LESSEE agrees to hire qualified local residents and firms whenever feasible.

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 Lease and debarment from participating in CITY contracts for a period of not less than one (1) year.

7.6 Partial Invalidity.

If any term, covenant, condition, or provision of this Lease is found invalid, void or unenforceable by a court of competent jurisdiction, the remaining provisions will remain in full force and effect.

7.7 Legal Fees.

In the event of any litigation regarding this Lease, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorneys' fees.

7.8 Number and Gender.

Words of any gender used in this Lease shall include any other gender, and words in the singular number shall include the plural, when the tense requires.

7.9 Captions.

The Lease Outline, section headings, and captions for various articles and paragraphs shall not be held to define, limit, augment, or describe the scope, content, or intent of any or all parts of this Lease. The numbers of the paragraphs and pages of this Lease may not be consecutive. Such lack of consecutive numbers is intentional and shall have no effect on the enforceability of this Lease.

7.10 Entire Understanding.

This Lease contains the entire understanding of the parties. CITY and LESSEE, by signing this Lease, agree that there is no other written or oral understanding between the parties with respect to the Premises. Each party has relied on its own examination of the Premises, advice from its own attorneys, and the warranties, representations, and covenants of this Lease. Each of the parties to this Lease agrees that no other party, agent, or attorney of any other party has made any promise, representation or warranty whatsoever which is not contained in this Lease.

The failure or refusal of any party to read this Lease or other documents, inspect the Premises, and obtain legal or other advice relevant to this transaction constitutes a waiver of any objection, contention, or claim that might have been based on these actions. No modification, amendment, or alteration of this Lease will be valid unless it is in writing and signed by all parties.

7.11 CITY Employee Participation Policy.

It is the policy of CITY that all CITY contracts, agreements, or leases with consultants, vendors, or LESSEES shall include a condition that the contract, agreement or lease may, at the sole option of CITY, be unilaterally and immediately terminated by CITY if the contractor or LESSEE employs an individual who, within the twelve months immediately preceding such employment, did in his/her capacity as a CITY officer or employee participate in negotiations with or otherwise have an influence on the recommendation made to CITY Council in connection with the selection of the contractor or LESSEE. It is not the intent of this policy that these provisions apply to members of CITY Council.

7.12 Drug-free Workplace.

LESSEE shall be required to abide by the omnibus drug legislation passed by Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:

a. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of controlled substances are prohibited on the leasehold and specifying the actions that will be taken against employees for violations of the prohibition.

b. Establishing a drug-free awareness program to inform employees about all of the following:

(1) The dangers of drug abuse in the workplace.

(2) LESSEE'S policy of maintaining a drug-free workplace.

(3) Any available drug counseling rehabilitation, and employee's assistance programs.

(4) The penalties that may be imposed upon employees' for drug abuse violations.

c. LESSEE shall include in each sublease agreement language which indicates the sublessee's agreement to abide by the provisions of a drug-free workplace. LESSEE and sublessees shall be individually responsible for their own drug-free workplace programs.

7.13 San Diego's Strong Mayor Form of Governance.

All references to "City Manager" in this Lease shall be deemed to refer to "the Mayor or his/her designee." This section shall remain in effect for the duration CITY operates under the mayor-council (commonly referred to as "strong

mayor") form of governance pursuant to Article XV of the San Diego City Charter.

7.14 Disabled Access Compliance.

LESSEE agrees to comply with the California Government Code, Sections 11135-11139.5; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990 (ADA); and any other applicable state and federal laws and regulations hereafter enacted protecting the rights of people with disabilities. LESSEE'S compliance shall include but not necessarily be limited to the following:

a. LESSEE shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.

b. No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs or activities of LESSEE.

c. LESSEE shall post a statement addressing the requirements of the ADA in a prominent place at the work site.

d. Where required by law, LESSEE shall comply with CITY'S disabled access requirements by bringing up to code and making accessible any areas of the Premises which deny access to disabled persons. All such improvements and alterations shall be at the sole cost of LESSEE.

e. LESSEE shall include language in each sublease agreement which indicates the sublessee's agreement to abide by the foregoing provisions. LESSEE and sublessees shall be individually responsible for their own ADA employment programs.

LESSEE understands that failure to comply with the above requirements and/or submitting false information in response to these requirements shall constitute a default under this Lease.

SECTION 8: SPECIAL PROVISIONS

8.1 Standard of Employees.

LESSEE and its employees shall at all times conduct themselves and the operations on the Premises in a creditable manner.

8.2 Supersedure.

It is mutually agreed that this Lease, upon execution, supersedes and annuls that certain lease with San Diego Chapter 14 Experimental Aircraft Association filed in the Office of the City Clerk on September 29, 1992, as Document No. RR-280754, which is hereafter void and of no effect except as to any rentals and fees which may have accrued or any rights and remedies accrued or granted to CITY under such agreement.

8.3 Relocation Payments.

LESSEE understands and agrees that LESSEE shall not be entitled to any relocation payment whatsoever by the CITY upon any termination of this Lease.

8.4 City's Right to Relocate Lessee:

a) At any time during the term of this Permit , City shall have the right to relocate Lessee to a Comparable Space (as hereinafter defined) within the Brown Field Airport. (Relocation Space)

b) For purposes of this section, "Relocation Space" shall mean space located within the perimeter of the Brown Field Airport, as designated by the City. "Comparable Space shall mean space of at least 2.3244 acres. However, if Lessee has exercised its option to occupy more space pursuant to section 2.4 the term "Comparable Space" shall refer to the expanded acreage occupied.

c) If CITY elects to relocate Lessee to Comparable Space within Brown Field Airport, CITY shall provide Lessee with prior written notice of such election ("Relocation Notice"). Relocation Notice shall set out the alternative Relocation Space available to Lessee. Lessee shall have ten (10) days following delivery of the Relocation Notice to provide a written acceptance of Relocation Space. If Lessee fails to accept a Relocation Space within such ten (10) day period, this Lease shall be terminated one hundred and eighty (180) days following the delivery of the Relocation Notice to Lessee, and Lessee shall have one hundred and eighty (180) days following the delivery of the Relocation Notice to vacate the current premises. Should Lessee accept a Relocation Space within such ten (10) day period, Lessee shall have one hundred and eighty (180) days following the delivery by CITY to Lessee of the Relocation Notice to complete the move to the Relocation Space.

d) Upon Lessee's taking possession of the Relocation Space, such space shall be:
(1) deemed to be the "PERMIT AREA" for the purposes of this PERMIT;
(2) subject to each of the terms, covenants, and conditions contained herein.

e) All expenses associated with the relocation shall be the responsibility of LESSEE. All improvements, permits and studies required for the Relocation Space shall be done by LESSEE and at LESSEE's expense.

f) CITY shall not be obligated for any loss, financial or otherwise, which may be incurred by LESSEE as a result of any relocation of the Premises under this Lease, and LESSEE expressly waives any claim for expense or loss which LESSEE might incur as a result thereof.

SECTION 9: AIRPORTS PROVISIONS

9.1 LESSEE Use to Conform with Law and Other Rules.

LESSEE is granted the nonexclusive use of all public airport facilities including, but not limited to, taxiways, runways, aprons, navigational aids and other facilities related to the normal function of any aircraft under LESSEE'S or its sublessee's control. LESSEE agrees that such use shall be in accord with existing or future laws, rules and regulations of the United States of America, the State of California and CITY in regard to their aviation and air navigation authority.

9.2 LESSEE Use and Construction to Conform with Federal Aviation Regulations.

LESSEE agrees to conform to all applicable Federal Aviation Regulations in any operation or construction on the Premises. LESSEE agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations (which may be amended or replaced by other regulations from time to time) before constructing any improvements or modifying or altering any structure on the Premises.

9.3 LESSEE'S Noninterference with Aircraft.

LESSEE and LESSEE'S successors, assigns and sublessees agree not to use the Premises in any manner or act in any manner that might interfere with any aircraft landing or taking off from Brown Field Airport or otherwise create a hazard. If this covenant is breached in any way, CITY reserves the right to enter the Premises and abate or eliminate the interference at the expense of LESSEE.

9.4 Lease Subordinate to CITY-United States Agreements.

This Lease shall be subordinate to the terms of any existing or future agreements between CITY and the United States, or to any United States legal requirement relative to the development, operation or maintenance of the airport.

9.5 Height Limitation.

LESSEE and LESSEE'S successors, sublessees and assigns agree not to erect or permit any structure or tree on the Premises that conflicts with any FAA regulation. If this covenant is breached in any way, CITY reserves the right to enter the Premises and remove the structure, object, or tree, at the expense of LESSEE.

9.6 Right of Flight Easement.

CITY and its successors and assigns reserve a right of flight for the passage of aircraft in the air space above the Premises, for the benefit and use of the public. This right includes the right to make noise inherent in the operation of existing or future aircraft that operate in any way on or near Brown Field Airport.

9.7 War or National Emergency.

In the event of war or national emergency, this Lease and all of its provisions shall be subject to any United States Government right, existing now or in the future, affecting the control, operation, regulation, take over, or exclusive or nonexclusive use of Brown Field Airport.

9.8 Airport Development.

CITY reserves the right to further develop, change or improve Brown Field Airport and its routes and landing areas as CITY sees fit, without LESSEE interference or hindrance and regardless of LESSEE'S views and desires.

9.9 Nonexclusive Right.

LESSEE understands and agrees that nothing in this Lease shall be construed to grant or authorize an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958 (Title 49, Section 1349 of the United States Code).

9.10 Landing Area Maintenance.

CITY reserves the right, but not the obligation, to maintain and repair the airport landing area and all other public facilities. CITY also has the right to direct and control all LESSEE activities affecting the maintenance and repair of these facilities.

9.11 FAA Nondiscrimination Covenant.

a. LESSEE and LESSEE'S representatives, successors, sublessees and assigns agree, as part of the consideration that:

(1) No person shall be denied benefits, participation or subjected to discrimination in the use of facilities on the Premises based on race, color, sex or national origin.

(2) No person shall be denied benefits, excluded from participation in or subject to discrimination in the construction of any improvements nor the furnishing of any services on the Premises, based on race, color, sex or national origin.

(3) LESSEE shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations (CFR), Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964," as now exists or may be amended in the future.

b. If any of the provisions are breached, CITY may terminate this Lease and reenter and repossess the Premises as if this Lease had never been made. This provision is not effective until the procedures of 49 CFR Part 21 are allowed and completed, including expiration of appeal rights.

c. LESSEE agrees to furnish accommodations and services on a fair and equal basis to all users and will charge fair, reasonable and equal prices for each item or service. LESSEE is allowed to make reasonable and nondiscriminatory discounts, rebates or similar price reductions to volume purchasers. If LESSEE does not comply with this provision, CITY has the right to terminate this Lease, without liability or either CITY or the United States may judicially enforce this entire covenant.

d. LESSEE agrees to include the entire covenant in any sublease or lease agreement by which LESSEE grants any right or privilege to any firm, corporation or person providing services or accommodations to the public on the Premises.

9.12 Equal Opportunity.

LESSEE, LESSEE'S successors, assigns, sublessees, and any suborganizations agree to undertake an equal opportunity program as required by Title 14, Code of Federal Regulations, Part 152, Subpart E, to insure that no person shall be excluded from any employment program or opportunity, nor be denied any service described, based on race, creed, color, national origin or sex.

9.13 CITY to Mitigate Impacts of Subordination.

If subordination agreements between CITY and United States of America result in LESSEE'S inability to operate as a business on the Premises, or if the business operations permitted under this Lease are materially affected during a period of subordination, CITY agrees to make a reasonable rental reduction or adjustment, as determined by CITY. LESSEE agrees that any damages claimed during this subordination period will be limited to this rental relief.

9.14 CITY to Mitigate Impacts of Subordination by Termination or Extension.

If subordination agreements between CITY and the United States of America result in LESSEE'S inability to operate as a business on the Premises, or if the

business operations permitted under this Lease are materially affected during a period of subordination, CITY, upon written request from LESSEE, will terminate this Lease or extend the term of this Lease for the period of time that LESSEE'S operation is affected, and no rent shall accrue during any period of inoperation.

9.15 Hangar Keeper's Insurance.

LESSEE agrees to maintain the following insurance at its sole expense, during the term of this Lease: Hangar Keeper's Insurance sufficient to cover any aircraft hangared for others.

This insurance is subject to the same requirements, restrictions and penalties in the event of failure to provide or maintain as detailed under the insurance provision of this Lease.

9.16 Licenses and Certifications.

LESSEE agrees that it will not maintain any activities such as a flight school, air charter, air taxi or grounds school, without the required FAA certifications and licenses. Failure to comply with this provision constitutes a default and CITY then has the right to terminate this Lease without liability.

9.17 Employee Conduct.

LESSEE shall be responsible for the conduct of any employee on the entire property, if that employee is on airport property during any period of employment.

9.18 Subordination to Brown Field Quitclaim Deed.

LESSEE agrees that this Lease is subordinate to the provisions of the Brown Field Quitclaim Deed to CITY.

9.19 Aircraft Parking.

LESSEE shall require that all aircraft under its control be parked only on the Premises, except as otherwise provided by the direction of the CITY MANAGER. At no time shall any aircraft, vehicle or other object, including refuse, under LESSEE'S control, be allowed to obstruct any designated taxiways.

9.20 Minority Business Policy.

If LESSEE receives any federal funds governed by Title 49, Code of Federal Regulations, Part 23, LESSEE agrees that it and its contractor will ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts and subcontracts. LESSEE and LESSEE'S contractors agree

not to discriminate on the basis of race, color, national origin or sex in the award and performance of any Federal Department of Transportation-assisted contracts.

9.21 CITY Termination.

If CITY should require the Premises in connection with the future expansion and/or operation of Brown Field Airport, CITY may, with ninety (90) days written notice, terminate this Lease.

[The remainder of this page intentionally left blank.]

SECTION 10: SIGNATURES

10.1 Signature Page.

IN WITNESS WHEREOF, this Lease is executed by CITY, acting by and through its Mayor, and by LESSEE, acting by and through its lawfully authorized officers.

CITY OF SAN DIEGO

Date Feb 27, 2007

By _____
James T. Waring, Deputy Chief of Land Use and Economic Development

LESSEE: EXPERIMENTAL AIRCRAFT ASSOCIATION, CHAPTER 14, INC.

Date October 21, 2006

By _____
Name L.E. ROTHROCK
President

Date October 21 2006

By _____
Name DENNIS F. CULLION
Treasurer

10/21/06
Joseph Russo
Vice President

APPROVED as to form and legality this 20th day of November, 2006.

MICHAEL J. AGUIRRE, CITY ATTORNEY

By _____

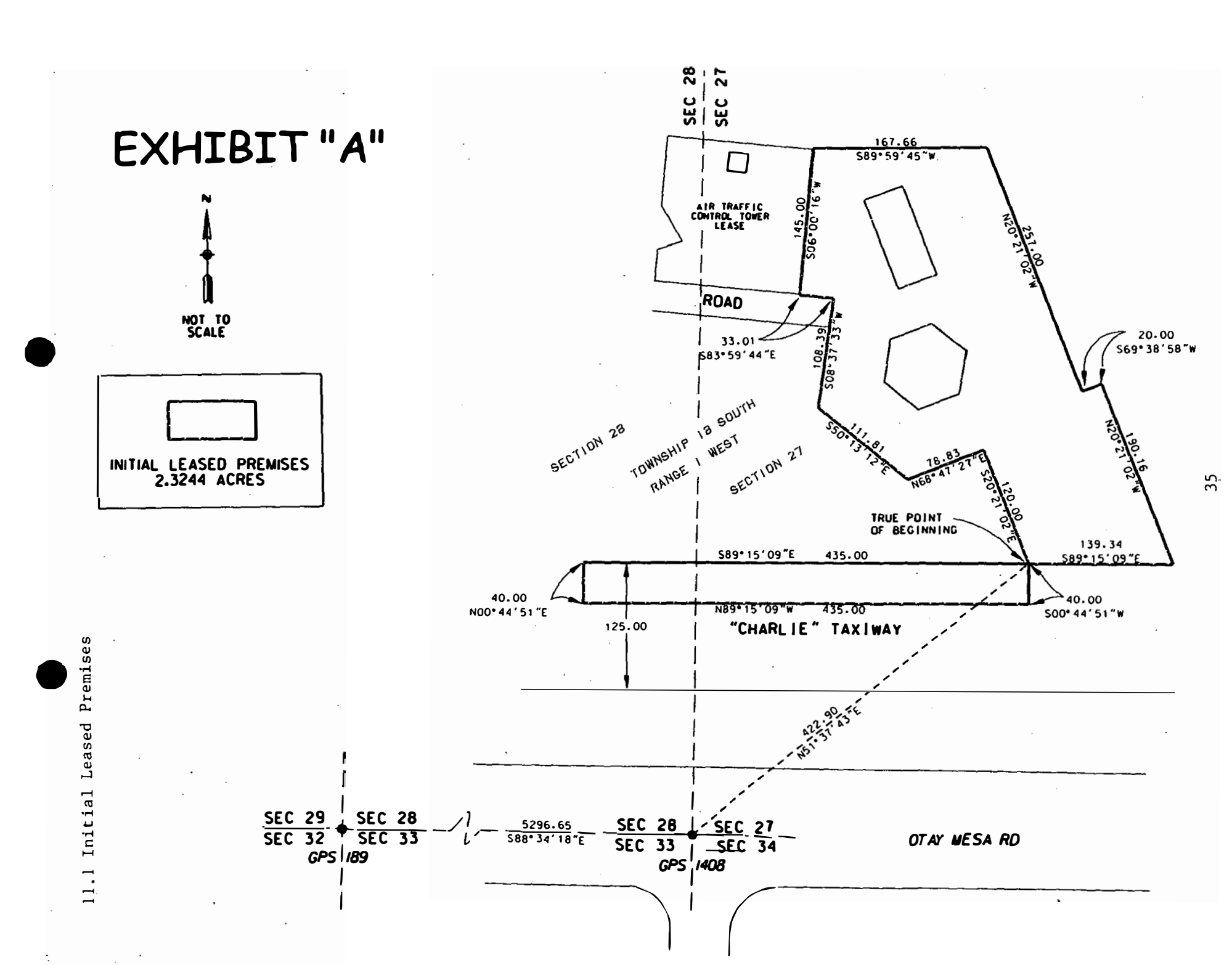
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R- 302261

SECTION 11: EXHIBITS

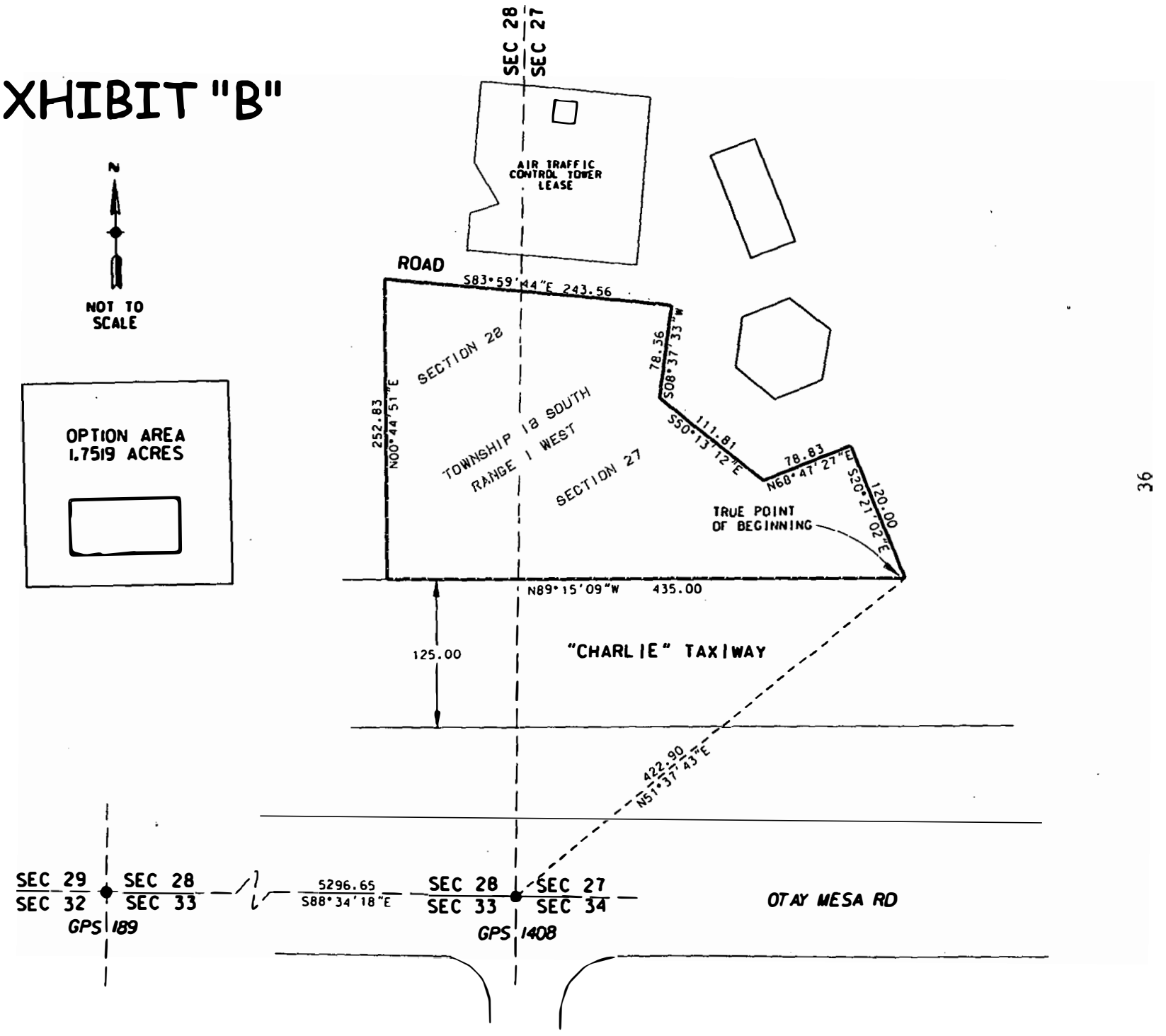
SEE ATTACHED

EXHIBIT "A"



11.1 Initial Leased Premises

EXHIBIT "B"


N
NOT TO SCALE
OPTION AREA
1.7519 ACRES
SEC 28
SEC 27
AIR TRAFFIC CONTROL TOWER LEASE
ROAD
S83°59'44"E 243.56
78.36
S08°37'33"W
111.81
S50°13'12"E
78.83
N60°47'27"E
120.00
S20°21'02"E
TRUE POINT OF BEGINNING
252.83
N00°44'51"E
SECTION 28
TOWNSHIP 18 SOUTH
RANGE 1 WEST
SECTION 27
N89°15'09"W 435.00
125.00
"CHARLIE" TAXIWAY
422.90
N51°37'43"E
SEC 29
SEC 32
SEC 28
SEC 33
GPS 189
5296.65
S88°34'18"E
SEC 28
SEC 33
SEC 27
SEC 34
GPS 1408
OTAY MESA RD

11.3 General Development Plan.

LESSEE shall invest at least One Hundred Fifty Thousand Dollars ($150,000) in facilities, site preparation, skilled and unskilled labor and professional services as follows:

- Design and construct innovative row hangars and/or other suitable aircraft shelters.
- Refurbish box hangars and other property.
- Construct improved restroom facilities.
- Establish aircraft tie-down areas.
- Establish outdoor educational areas and construct additional hangars after exercising the option for additional leasehold acreage set forth in Section 11.2.

LESSEE shall submit drawings and detailed plans for approval by the CITY MANAGER within one (1) year following the execution of this Lease by the CITY MANAGER.

RESOLUTION NUMBER R- 302261

DATE OF FINAL PASSAGE JAN 17 2007

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A TEN YEAR LEASE AGREEMENT, WITH AN OPTION TO RENEW FOR AN ADDITIONAL FIVE YEARS, WITH SAN DIEGO CHAPTER 14 EXPERIMENTAL AIRCRAFT ASSOCIATION, AT BROWN FIELD AIRPORT, FOR THE PURPOSE OF EDUCATING MEMBERS IN AERONAUTICAL SCIENCES AND ENGINEERING

WHEREAS, the San Diego Chapter 14 Experimental Aircraft Association (EAA), a California Nonprofit Corporation, has operated at Brown Field Airport since 1981; and

WHEREAS, the EAA is dedicated to the education of its members in the aeronautical sciences and engineering, the introduction and education of young people in flying and aircraft building, the promotion of general aviation and safety and in outreach to the San Diego community; and

WHEREAS, the EAA has a long history of being a tenant in good standing with the City of San Diego; and

WHEREAS, the new lease agreement will increase EAA's leasehold from 1.150 acres to 2.3244 acres and requires them to develop hangars and tie-down areas, refurbish the existing hangars, and construct improved restroom facilities; NOW THEREFORE,

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

That the Mayor is hereby authorized to execute, for and on behalf of the City of San Diego, a 10-year lease agreement with the San Diego Chapter 14 Experimental Aircraft Association (EAA), a California nonprofit corporation, for the purpose of educating members in aeronautical sciences and engineering, at an initial annual rent of $18,684, under the terms and

conditions set forth in that lease agreement on file in the office of the City Clerk as Document No. RR- 302261

BE IT FURTHER RESOLVED, that this agreement shall include a 5-year option to extend and one option to increase the size of the premises; and

BE IT FURTHER RESOLVED, that the City council hereby waives Council Policy 700-41, regarding the use of the RFP process for the lease of City-owned land, for the reasons that EAA is a nonprofit aeronautic use and an existing lessee.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By _____
John H. Serrano
Deputy City Attorney

JHS:amp
11/20/2006
Or.Dept:READ
R-2007-596

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JAN 09 2007.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: 1.17.07
(date)

_____
JERRY SANDERS, Mayor

Vetoed: _____
(date)

_____
JERRY SANDERS, Mayor

R- 302261