DUPLICATE

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

LAND LEASE ON AIRPORT

Lease No: DTFAWN-15-L-00135

Geographical Location San Diego, CA

DOCUMENT NO R-312013
FILED OCT 23 2018
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

THIS LEASE is hereby entered into by City of San Diego whose address is Real Estate Assets Department Airports, 3750 John J. Montgomery Drive, San Diego, CA 92123, hereinafter referred to as the Lessor, and the United States of America, herein after referred to as the Government. This Lease shall become effective when it is fully executed by all parties, and approved by the City Attorney. The terms and provisions of this Lease, and the conditions herein, bind the Lessor and the Lessor's administrators, successors, and assigns.

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

1. PREMISES: The Lessor hereby leases to the Government all of that certain real property situated at Brown Field Airport (the "Airport") in the City of San Diego, County of San Diego, State of California, consisting of approximately 0.4827 acres of land more particularly depicted on **Exhibit "A"** as "Premises" and more particularly described in **Exhibit "A-1"** Legal Description (the "Premises"), and by this reference made part of this Lease, together with, and subject to having first obtained all necessary consents, permits, The Airport shall have the right to review and comment on plans covering work permitted under this paragraph, and/or other required authorizations therefor:

A. A right-of-way for ingress to and egress from the Premises (for Government Employees, their Agents and Assigns); 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 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; and

B. 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; and

C. 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.

2. TERMS AND CONDITIONS (July -10):

It is mutually understood and agreed that the Airport requires a FAA Air Traffic Control Tower (ATCT) and that the FAA requires an ATCT facility at the Airport in order to support Air Traffic Operations. Thus, in the interest of both parties it is hereby agreed that the Airport will allow the FAA to lease or construct, operate, and maintain a FAA ATCT facility in areas on the Airport that have been mutually determined and agreed upon for the term commencing on October 1, 2013 and continuing through September 30, 2033. The FAA can terminate this agreement, in whole or part at any time by giving at least (60) days' notice in writing. Said notice shall be sent by certified or registered mail.

3. CONSIDERATION (NO COST) (AUG-02): The Government shall pay the Lessor no monetary consideration in the form of rent, 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. INTERFERENCE WITH GOVERNMENT OPERATIONS (OCT-96):
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's 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.

5. FUNDING RESPONSIBILITY FOR GOVERNMENT FACILITIES (OCT-96):
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 which case such improvements or changes will be at the expense 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.

6. QUIET ENJOYMENT (OCT-96):
The Lessor warrants that it has good and valid title to the Premises, along with rights of ingress and egress, and warrants and covenants to defend the Government's use and enjoyment of said Premises against third party claims.

7. SUBORDINATION, NONDISTURBANCE AND ATTORNMENT (JAN-14):

A. Lessor warrants that it holds such title to or other interest in the Premises and other property as is necessary to the Government's access to the Premises and full use and enjoyment thereof in accordance with the provisions of this Lease. Government agrees, in consideration of the warranties and conditions set forth in this clause, that this Lease is subject and subordinate to any and all recorded mortgages, deeds of trust and other liens now or hereafter existing or imposed upon the Premises, and to any renewal, modification or extension thereof. It is the intention of the parties that this provision shall be self-operative and that no further instrument shall be required to effect the present or subsequent subordination of this Lease. Government agrees, however, within twenty (20) business days next following the Contracting Officer's receipt of a written demand, to execute such instruments as Lessor may reasonably request to evidence further the subordination of this Lease to any existing or future mortgage, deed of trust or other security interest pertaining to the Premises, and to any water, sewer or access easement necessary or desirable to serve the Premises or adjoining property owned in whole or in part by Lessor if such easement does not interfere with the full enjoyment of any right granted the Government under this Lease.

B. No such subordination, to either existing or future mortgages, deeds of trust or other lien or security instrument shall operate to affect adversely any right of the Government under this Lease so long as the Government is not in default under this Lease. Lessor will include in any future mortgage, deed of trust or other security instrument to which this Lease becomes subordinate, or in a separate non-disturbance agreement, a provision to the foregoing effect. Lessor warrants that the holders of all notes or other obligations secured by existing mortgages, deeds of trust or other security instruments have consented to the provisions of this clause, and agrees to provide true copies of all such consents to the Contracting Officer promptly upon demand.

C. In the event of any sale of the Premises or any portion thereof by foreclosure of the lien of any such mortgage, deed of trust or other security instrument, or the giving of a deed in lieu of foreclosure, the Government will be deemed to have attorned to any purchaser, purchasers, transferee or transferees of the Premises or any portion thereof and its or their successors and assigns, and any such purchasers and transferees will be deemed to have assumed all obligations of the Lessor under this Lease, so as to establish direct privity of estate and contract between Government and such purchasers or transferees, with the same force, effect and relative priority in time and right as if the Lease had initially been entered into between such purchasers or transferees and the Government; provided, further, that the Contracting Officer and such purchasers or transferees shall, with reasonable promptness following any such sale or deed delivery in lieu of foreclosure, execute all such revisions to this Lease, or other writings, as shall be necessary to document the foregoing relationship.

D. None of the foregoing provisions may be deemed or construed to imply a waiver of the Government's rights as a sovereign.

8. NOTIFICATION OF CHANGE OF LAND TITLE (AUG-02):
If the Lessor sells or otherwise conveys to another party or parties any interest in the aforesaid land, rights of way thereto, and any areas affecting said demised Premises, it shall immediately notify the Government, in writing, of any such transfer or conveyance affecting the demised Premises within 30 calendar days after completion of the "change in property rights". Concurrent with the written notification, the Lessor shall provide the Government copies of the legal document(s) (acceptable to local authorities) for transferring and or conveying the property rights.

9. NOTICES (OCT-96):
All notices/correspondence shall be in writing, reference the Lease number, and be addressed as follows:

TO LESSOR:
City of San Diego
Attn: Deputy Director, Airports
3750 John J. Montgomery Drive
San Diego, CA 92123

TO GOVERNMENT:
Federal Aviation Administration
Real Estate and Utilities Group, AAQ-930
2200 S 216th Street
Des Moines, WA 98198

10. CONTRACT DISPUTES (11/03) - All contract disputes arising under or related to this lease contract will be resolved through the FAA dispute resolution system at the Office of Dispute Resolution for Acquisition (ODRA) and will be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and will apply only to final agency decisions. A Lessor may seek review of a final Government decision only after its administrative remedies have been exhausted.
All Contract Disputes will be in writing and will be filed at the following address:
Office of Dispute Resolution for Acquisition, AGC-70, Federal Aviation Administration, 800 Independence Avenue, S.W., Room 323, Washington, DC 20591,
Telephone: (202) 267-3290,
Facsimile: (202) 267-3720
A contract dispute against the FAA will be filed with the ODRA within two (2) years of the accrual of the lease contract claim involved. A contract dispute is considered to be filed on the date it is received by the ODRA.
The full text of the Contract Disputes clause is incorporated by reference. Upon request the full text will be provided by the RECO.

(a) All contract disputes arising under or related to this contract shall be resolved through the Federal Aviation Administration (FAA) dispute resolution system at the Office of Dispute Resolution for Acquisition (ODRA) and shall be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and shall apply only to final agency decisions. A contractor may seek review of a final FAA decision only after its administrative remedies have been exhausted.

(b) The filing of a contract dispute with the ODRA may be accomplished by mail, overnight delivery, hand delivery, or by facsimile, or if permitted by Order of the ODRA, by electronic filing. A contract dispute is considered to be filed on the date it is received by the ODRA during normal business hours. The ODRA's normal business hours are from 8:30am to 5:00 pm Eastern Time.

(c) Contract disputes are to be in writing and shall contain:

(1) The contractor's name, address, telephone and fax numbers and the name, address, telephone and fax numbers of the contractor's legal representative(s) (if any) for the contract dispute;

(2) The contract number and the name of the Contracting Officer;

(3) A detailed chronological statement of the facts and of the legal grounds for the contractor's positions regarding each element or count of the contract dispute (i.e., broken down by individual claim item), citing to relevant contract provisions and documents and attaching copies of those provisions and documents;

(4) All information establishing that the contract dispute was timely filed;

(5) A request for a specific remedy, and if a monetary remedy is requested, a sum certain must be specified and pertinent cost information and documentation (e.g., invoices and cancelled checks) attached, broken down by individual claim item and summarized; and

(6) The signature of a duly authorized representative of the initiating party.

(d) Contract disputes shall be filed at the following address:

(1) Office of Dispute Resolution for Acquisition Federal Aviation Administration
800 Independence Ave, S.W., Room 323
Washington, DC 20591

Telephone: (202) 267-3290
Facsimile: (202) 267-3720; or

(2) Other address as specified in 14 CFR Part 17.

(e) A contract dispute against the FAA shall be filed with the ODRA within two (2) years of the accrual of the contract claim involved. A contract dispute by the FAA against a contractor (excluding contract disputes alleging warranty issues, fraud or latent defects) likewise shall be filed within two (2) years after the accrual of the contract claim. If an underlying contract entered into prior to the effective date of this part provides for time limitations for filing of contract disputes with the ODRA which differ from the aforesaid two (2) year period, the limitation periods in the contract shall control over the limitation period of this section. In no event will either party be permitted to file with the ODRA a contract dispute seeking an equitable adjustment or other damages after the contractor has accepted final contract payment, with the exception of FAA claims related to warranty issues, gross mistakes amounting to fraud or latent defects. FAA claims against the contractor based on warranty issues must be filed within the time specified under applicable contract warranty provisions. Any FAA claims against the contractor based on gross mistakes amounting to fraud or latent defects shall be filed with the ODRA within two (2) years of the date on which the FAA knew or should have known of the presence of the fraud or latent defect.

(f) A party shall serve a copy of the contract dispute upon the other party, by means reasonably calculated to be received on the same day as the filing is to be received by the ODRA.

(g) After filing the contract dispute, the contractor should seek informal resolution with the Contracting Officer.

(h) The FAA requires continued performance with respect to contract disputes arising under this contract, in accordance with the provisions of the contract, pending a final FAA decision.

(i) The FAA will pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the contract dispute, or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on contract disputes shall be paid at the rate fixed by the Secretary of the Treasury that is applicable on the date the Contracting Officer receives the contract dispute and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary until payment is made. Interest will not accrue for more than one year.

(j) Additional information and guidance about the ODRA dispute resolution process for contract disputes can be found on the ODRA Website at http://www.faa.gov.

11. PROTEST (October 2011)
AS A CONDITION OF SUBMITTING AN OFFER OR RESPONSE TO THIS SIR (OR OTHER SOLICITATION, IF APPROPRIATE), THE OFFEROR OR POTENTIAL OFFEROR AGREES TO BE BOUND BY THE FOLLOWING PROVISIONS RELATING TO PROTESTS:

(a) Protests concerning Federal Aviation Administration Screening Information Requests (SIRs) or awards of contracts shall be resolved through the Federal Aviation Administration (FAA) dispute resolution system at the Office of Dispute Resolution for Acquisition (ODRA) and shall be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and shall apply only to final agency decisions. A protestor may seek review of a final FAA decision only after its administrative remedies have been exhausted.

(b) Offerors initially should attempt to resolve any issues concerning potential protests with the Contracting Officer. The Contracting Officer should make reasonable efforts to answer questions promptly and completely, and, where possible, to resolve concerns or controversies. The protest time limitations, however, will not be extended by attempts to resolve a potential protest with the Contracting Officer.

(c) The filing of a protest with the ODRA may be accomplished by mail, overnight delivery, hand delivery, or by facsimile or if permitted by order of the ODRA, by electronic filing. A protest is considered to be filed on the date it is received by the ODRA during normal business hours. The ODRA's normal business hours are from 8:30 am to 5:00 pm Eastern Time.

(d) Only an interested party may file a protest. An interested party is one whose direct economic interest has been or would be affected by the award or failure to award an FAA contract. Proposed subcontractors are not "interested parties" within this definition.

(e) A written protest must be filed with the ODRA within the times set forth below, or the protest shall be dismissed as untimely:

(1) Protests based upon alleged improprieties in a solicitation or a SIR that are apparent prior to bid opening or the time set for receipt of initial proposals shall be filed prior to bid opening or the time set for the receipt of initial proposals.

(2) In procurements where proposals are requested, alleged improprieties that do not exist in the initial solicitation, but which are subsequently incorporated into the solicitation, must be protested not later than the next closing time for receipt of proposals following the incorporation.

(3) For protests other than those related to alleged solicitation improprieties, the protest must be filed on the later of the following two dates:

(i) Not later than seven (7) business days after the date the protester knew or should have known of the grounds for the protest; or

(ii) If the protester has requested a post-award debriefing from the FAA Product Team, not later than five (5) business days after the date on which the Product Team holds that debriefing.

(f) Protests shall be filed at:

(1) Office of Dispute Resolution for Acquisition Federal Aviation Administration
800 Independence Ave., S.W.
Room 323
Washington, DC 20591

Telephone: (202) 267-3290
Facsimile: (202) 267-3720; or

(2) Other address as specified in 14 CFR Part 17.

(g) At the same time as filing the protest with the ODRA, the protester shall serve a copy of the protest on the Contracting Officer and any other official designated in the SIR for receipt of protests by means reasonably calculated to be received by the Contracting Officer on the same day as it is to be received by the ODRA. The protest shall include a signed statement from the protester, certifying to the ODRA the manner of service, date, and time when a copy of the protest was served on the Contracting Officer and other designated official(s).

(h) Additional information and guidance about the ODRA dispute resolution process for protests can be found on the ODRA Website at http://www.faa.gov.

13. COVENANT AGAINST CONTINGENT FEES (AUG-02):
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.

14. OFFICIALS NOT TO BENEFIT (OCT-96):
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.

15. NON-RESTORATION (OCT-96):
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.

16. HAZARDOUS SUBSTANCE CONTAMINATION (MAY-00):
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 (type of facility) facility. The Lessor agrees to remediate at its sole cost, any and all other hazardous substance contamination found on the leased Premises. The Lessor also agrees to save and hold the Government harmless for any and all costs, liabilities and/or claims by third parties that arise out of hazardous contamination found on the leased Premises not directly attributable to the installation, operation and/or maintenance of the (type of facility) facility.

17. EXAMINATION OF RECORDS (AUG-02):
The Comptroller General of the United States, the Administrator of FAA or a duly authorized representative from either shall, until 3 years after final payment under this contract have access to and the right to examine any of the Lessor's directly pertinent books, documents, paper, or other records involving transactions related to this contract.

18. LEASE SUCCESSION (AUG-02):
This Lease supersedes lease no. DTFA08-03-L-22295 and all other previous agreements between the parties for the leased property described in this document.

19. ATTACHMENTS & EXHIBITS:

- Exhibit "A" Plat Map-Premises
- Exhibit "A-1" Legal Description
- Attachment "A" – ATCT Operation Agreement

20. SIGNATURE BLOCK (AUG-02):

IN WITNESS WHEREOF, the parties hereto have signed their names:

CITY OF SAN DIEGO
A CALIFORNIA MUNICIPAL CORPORATION:

BY: _____ Date: 11/14/18

DIRECTOR, REAL ESTATE ASSETS
(Official Title)

UNITED STATES OF AMERICA:

Wayne A. Darrington Date: 10/22/19

Wayne Darrington

Contracting Officer

Approved as to form this 19th day
of November, 2018.

MARA W. ELLIOTT, City Attorney

BY: Hilda R. Mendoza

Name: Hilda R. Mendoza

Title: Deputy City Attorney

EXHIBIT "A"

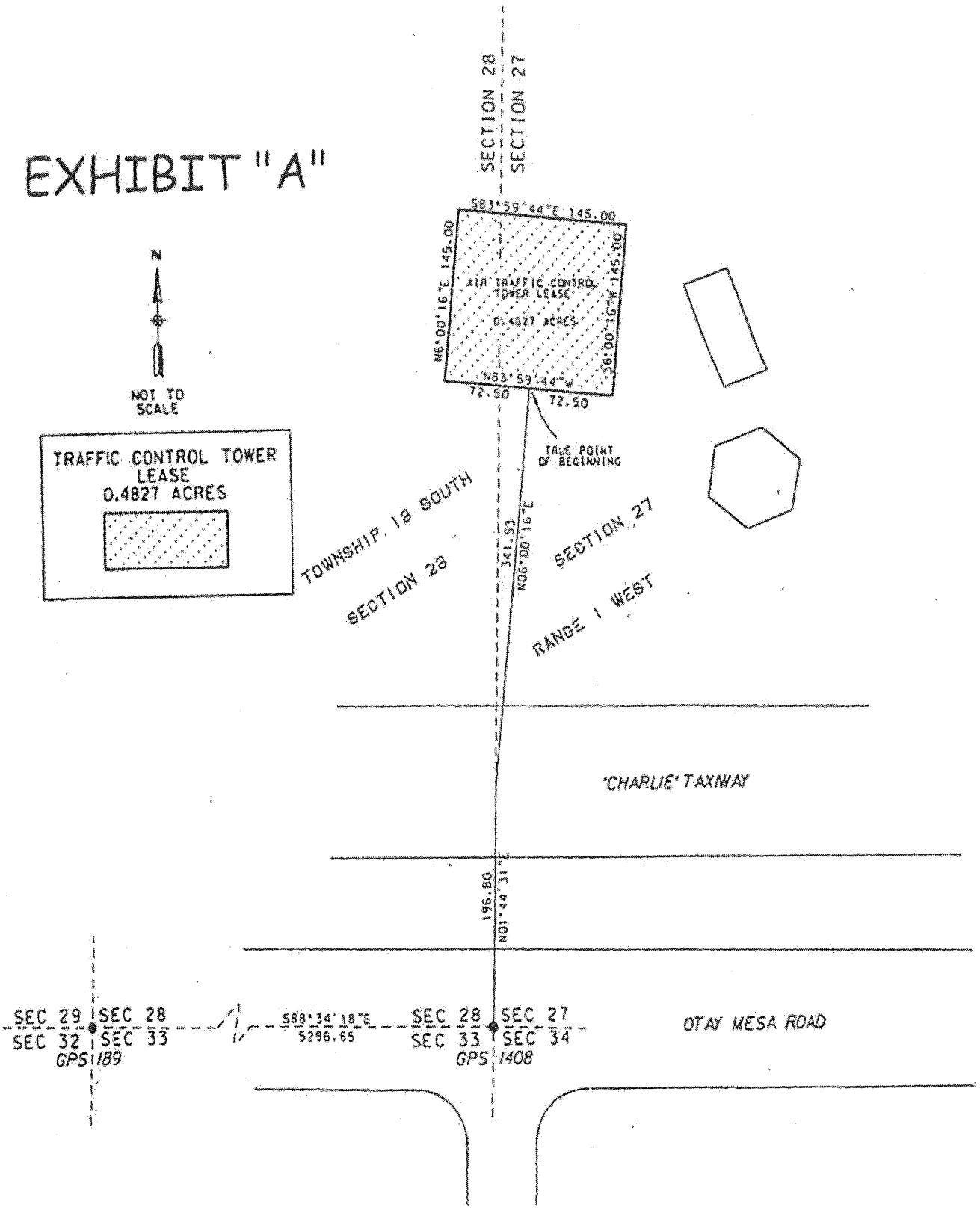

SECTION 28
SECTION 27
S83°59'44"E 145.00
N6°00'16"E 145.00
AIR TRAFFIC CONTROL TOWER LEASE
0.4827 ACRES
S6°00'16"W 145.00
N83°59'44"W
72.50
72.50
TRUE POINT OF BEGINNING
N
NOT TO SCALE
TRAFFIC CONTROL TOWER LEASE
0.4827 ACRES
TOWNSHIP 18 SOUTH
SECTION 28
341.53
N06°00'16"E
SECTION 27
RANGE 1 WEST
"CHARLIE" TAXWAY
196.80
N01°44'31"E
SEC 29 SEC 28
SEC 32 SEC 33
GPS 189
S88°34'18"E
5296.65
SEC 28 SEC 27
SEC 33 SEC 34
GPS 1408
OTAY MESA ROAD

EXHIBIT A-1

LEASE DESCRIPTION
BROWN FIELD AIR TRAFFIC CONTROL TOWER
OTAY MESA ROAD
SAN DIEGO, CALIFORNIA
(Revised 2/9/2006)

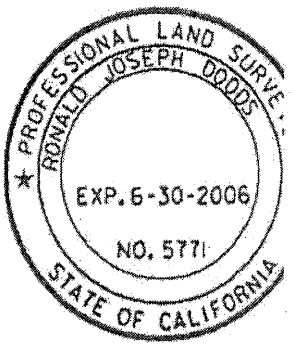
That portion of Sections 27 and 28, Township 18 South, Range 1 West, San Bernardino Base and Meridian, in the City of San Diego, County of San Diego, State of California, described as follows:

Commencing at the City of San Diego horizontal Control Station GPS 189, said control station being the Section Corner common to Sections 28, 29, 32 & 33, having a coordinate value of North 1787339.20 East 6331552.17 based on the North American Datum of 1983 (NAD83 Epoch 91.35), as shown on Record of Survey No. 14492, filed in the office of the County Recorder of above said San Diego County on 3/31/1994; Thence S 88°34'18" E along the south line of said Section 28, 5296.65 feet to City of San Diego horizontal Control Station GPS 1408, said control station being the Section Corner common to Sections 27, 28, 33 & 34, having a coordinate value of North 1787207.18 East 6336847.17 as shown on above said Record of Survey No. 14492; thence N 01°44'31" E along the west line of said Section 27, 196.80 feet; thence N 06°00'16" E 341.53 feet to the True Point of Beginning; thence N 83°59'44" W 72.50 feet; thence N 06°00'16" E 145.00 feet; thence S 83°59'44" E 145.00 feet; thence S 06°00'16" W 145.00 feet; thence N 83°59'44" W 72.50 feet to the True Point of Beginning.

Above described parcel of land contains 0.4827 acres.

Exhibit "A" attached and by this reference made a part here of.

Ronald J. Dodds, LS No. 5771
Associate Land Surveyor, Field Engineering
City of San Diego
My Registration Expires 06/30/2006



CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT **CIVIL CODE §1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) §
COUNTY OF San Diego)

On November 14, 2018 before me, Teresa Dolores Morse, Notary Public,
Date *Insert Name and Title of Officer Here*

personally appeared Cybele L. Thompson
Name of Signer

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

TERESA DOLORES MORSE
Commission # 2100028
Notary Public - California
San Diego County
My Comm. Expires Mar 9, 2019

I certify under the PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature Teresa Dolores Morse

PUBLIC AUTHORIZATION CERTIFICATE

If agreement is made with a State, County, Municipality, or other public authority, the following certificate shall be executed by an authorized official:

I, Cybele L. Thompson, certify that I am the Real Estate Assets Director of the City of San Diego named in the foregoing agreement; and that Cybele L. Thompson who signed said agreement on behalf of the City of San Diego was then the Real Estate Assets Director of said City of San Diego; that said agreement was duly signed for and on behalf of City of San Diego by authority of its governing body, and is within the scope of its powers.

Signed _____

Cybele Thompson
Director, Real Estate Assets

#100A
(R-2019-192) 10/23/18

RESOLUTION NUMBER R- 312013

DATE OF FINAL PASSAGE OCT 26 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE EXECUTION OF THE U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION LAND LEASE ON AIRPORT, LEASE NO. DTFAWN-15-L-00135, WITH THE UNITED STATES OF AMERICA FOR THE LEASE OF APPROXIMATELY 0.4827 ACRES OF CITY-OWNED REAL PROPERTY AT BROWN FIELD MUNICIPAL AIRPORT FOR AIR TRAFFIC CONTROL TOWER FACILITIES.

WHEREAS, Brown Field Municipal Airport (Airport) was originally established as a military airfield in 1918. In 1962, the Airport was conveyed to the City of San Diego (City) by the United States of America (Government); and

WHEREAS, on June 30, 1972, the City and the Government on behalf of the Federal Aviation Administration (FAA) entered into a lease for 19 years for the purpose of establishing, constructing, operating, and maintaining an air traffic control tower (ATCT) at the Airport. The FAA built the ATCT on the site and has maintained and operated the ATCT at the Airport since 1972; and

WHEREAS, in 1994, the Council of the City of San Diego (Council) authorized the execution of a one-year lease with nine one-year options; and

WHEREAS, in 2004, the Council authorized the execution of a ten-year lease, which expired on September 30, 2013, and is currently in holdover status; and

WHEREAS, City staff and the Government have negotiated a proposed new lease (Lease) for a 20-year term with a retroactive effective date of October 1, 2013, for the Government to continue the maintenance and operation of the ATCT; and

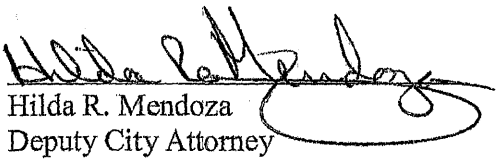
WHEREAS, the ATCT provides essential aeronautical services to aircraft operating in the airspace surrounding the Airport and to aircraft operating on the surface of the Airport through the use of air and ground communications and other devices; and

WHEREAS, the ATCT is vital to the safe operation of the Airport as a general aviation airport; and

WHEREAS, the market value of the real estate subject to the Lease, as appraised by City staff, is $46,000; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor, or his designee, is authorized and directed to execute the U.S. Department of Transportation Federal Aviation Administration Land Lease on Airport, Lease No. DTFAWN-15-L-00135, with the United States of America, which is on file in the Office of the City Clerk as Document No. RR-312013, for the lease of approximately 0.4827 acres of land at Brown Field Municipal Airport to maintain and operate air traffic control tower facilities under the terms and conditions set forth therein.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Hilda R. Mendoza
Deputy City Attorney

HRM:nja
09/18/18
Or. Dept: READ
Doc. No.: 1838464

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of OCT 23 2018.

ELIZABETH S. MALAND
City Clerk

By Linda Irwin
Deputy City Clerk

Approved: 10/26/18
(date)

KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on OCT 23 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	☒	☐	☐	☐
Lorie Zapf	☒	☐	☐	☐
Chris Ward	☒	☐	☐	☐
Myrtle Cole	☒	☐	☐	☐
Mark Kersey	☒	☐	☐	☐
Chris Cate	☒	☐	☐	☐
Scott Sherman	☒	☐	☐	☐
David Alvarez	☒	☐	☐	☐
Georgette Gomez	☒	☐	☐	☐

Date of final passage OCT 26 2018.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Linda Truen, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 312013

Passed by the Council of The City of San Diego on October 23, 2018, by the following vote:

YEAS:	**BRY, ZAPF, WARD, COLE, KERSEY, CATE, SHERMAN, ALVAREZ, GÓMEZ.**
NAYS:	**NONE.**
NOT PRESENT:	**NONE.**
RECUSED:	**NONE.**

AUTHENTICATED BY:

KEVIN L. FAULCONER

Mayor of The City of San Diego, California

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(Seal)

By: Linda Irvin, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of RESOLUTION NO. **R-312013**, approved on **October 23, 2018**. The date of final passage is **October 26, 2018.**

ELIZABETH S. MALAND

City Clerk of the City of San Diego, California

(Seal)

By: Linda Irvin, Deputy

DUPLICATE

ATCT Lease No.: DTFAWN-15-L-00135
Attachment: "A"

DOCUMENT NO R-312013
FILED OCT 23 2018
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

OPERATION AGREEMENT FOR AIRPORT TRAFFIC CONTROL TOWER

I. THIS AGREEMENT is hereby attached to and made a part of ATCT Lease #DTFAWN-15-L-00135 by and between the United States of America, acting by and through the Federal Aviation Administration, hereinafter called the Government, and the City of San Diego, operating its airport known as Brown Field Municipal Airport, located at 1424 Continental Street, San Diego, CA 92154, hereinafter called the Airport. This Agreement shall be executed by the parties hereto, and approved by the City Attorney, independently of said Lease to which it is a part.

II. WHEREAS, an Airport Traffic Control Tower (ATCT) will be or has been erected on the plot described in the ATCT Lease -by and at the expense of the Government; and

III. WHEREAS, it is in the public interest that the above described ATCT be operated by the Government, subject to the availability of funds, in accordance with standards established by the Government;

IV. NOW, THEREFORE, the Airport agrees to the following conditions:

1. The Airport shall, at no expense to the Government, provide the lighting control panels in the ATCT and shall provide all electrical circuits and current, on a continuing basis, necessary for the operation of boundary, flood and obstruction lights, including those which may be operated by the Government; all airport lighting which the Government determines is essential to aircraft operations, including the foregoing, and all such air traffic control devices which are designed to be directly or remotely controlled from the ATCT, and the Airport shall be responsible for the proper and continued functioning of any locally installed lights or other device placed under the Government's control.

2. The Airport shall be responsible for the proper and continued functioning of all equipment and devices which the Government determines are necessary for air traffic control, but which cannot be placed in operation or controlled from said Tower, or are not otherwise operated by or under the control of the Government.

3. The Airport shall promptly advise the Government's duly authorized representative(s) in said ATCT of any conditions which render all, or any, area(s) of the Airport unsafe for normal utilization by aircraft and will, upon demand, appropriately mark any such

DUPLICATE

area(s) in a manner approved by the Government which properly indicates the existing condition(s); the Lessor shall promptly give notice to the Government's ATCT representative(s) prior to the time any maintenance or construction is begun on the airport landing area unless such action is in accordance with a schedule which has been previously coordinated with the said ATCT; said notice shall be given not less than thirty (30) days prior to the scheduled date from beginning the first item of construction and/or maintenance on the schedule.

4. The Government shall have absolute control of the operation of said ATCT and its associated facilities at all times and shall not be subject to direction from the Airport in this regard. In accordance with and subject to the conditions, limitations and exceptions set forth in the Federal Tort Claims Act of 1948, as amended (28 U.S.C. 2671, et., seq.), hereafter termed "The Act," the government will be liable to persons damaged by any personal injury, death or injury to or loss of property, which is caused by a negligent or wrongful act or omission of any employees of the Government while acting within the scope of his office or employment under the same circumstances where a private person would be liable in accordance with the law of the place where the Act or omission occurred. The foregoing shall not be deemed to extend the Government's liability beyond that existing under the Act at the time of such act or omission or to preclude the Government from using any defense available in law or equity.

5. The Airport, upon request from the Government, agrees to provide two-way ground control communication equipment in its maintenance and emergency vehicles scheduled to regularly operate in the Airport landing areas, and such equipment shall be capable of maintaining radio communications with the Government's ATCT on said Airport.

6. The Airport, agrees to pay (and the Government shall not pay any part of such costs other than those provided by any existing Federal Aid to Airports Programs) for the relocation of said ATCT and its associated facilities if such relocation is made necessary by Airport improvement or changes which impair the technical and/or operational characteristics of said ATCT and its associated facilities.

7. The Airport shall, as a protection to the proper operation of the ATCT by the Government, prohibit and refrain from the erection or construction of any structures or improvements which may interfere with the visibility of the Air Traffic Controllers' line of sight to all traffic patterns, approaches, runways, taxiways, operational portions of the aprons and other operational areas necessary for the control of ground and air traffic.

8. In accordance with the provisions of clause 2. of the ATCT Lease, the Government shall have the right and privilege to maintain the ATCT on the Airport Premises and to install and maintain antennas and antenna wires and appurtenances for Air Traffic operating facilities at the ATCT site and other locations on the Airport where deemed necessary, together with the right to install, operate and maintain necessary connecting cables and wires where needed to perform the necessary linking of facilities. The Government shall have the right to install, operate and maintain such cables, conduits and wiring necessary to link and connect its facilities located on Airport property.

IN WITNESS WHEREOF, the parties hereto have subscribed their names hereunder as of the _____ of _____, 2017.

CITY OF SAN DIEGO, a CALIFORNIA MUNICIPAL CORPORATION
ADMINISTRATION

By: _____

Title: DIRECTOR, REAL ESTATE ASSETS

Date: 11/14/18

THE UNITED STATES OF AMERICA
FEDERAL AVIATION

By: Wayne C. Dunnington

Title: REAL ESTATE CONTRACTING OFFICER

Date: 10/22/19

Approved as to form this 19th day
of November, 2018.

MARA W. ELLIOTT, City Attorney

BY: Hilda R. Mendoza
Name: Hilda R. Mendoza
Title: Deputy City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT **CIVIL CODE §1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) §
COUNTY OF San Diego)

On November 14, 2018 before me, Teresa Dolores Morse, Notary Public,
Date *Insert Name and Title of Officer Here*

personally appeared Cybele L. Thompson
Name of Signer

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

TERESA DOLORES MORSE
Commission # 2100028
Notary Public - California
San Diego County
My Comm. Expires Mar 9, 2019

Place Notary Seal Above

I certify under the PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Teresa Dolores Morse

PUBLIC AUTHORIZATION CERTIFICATE

If agreement is made with a State, County, Municipality, or other public authority, the following certificate shall be executed by an authorized official:

I, Cybele L. Thompson, certify that I am the Real Estate Assets Director of the City of San Diego named in the foregoing agreement; and that Cybele L. Thompson who signed said agreement on behalf of the City of San Diego was then the Real Estate Assets Director of said City of San Diego; that said agreement was duly signed for and on behalf of City of San Diego by authority of its governing body, and is within the scope of its powers.

Signed_____

Cybele Thompson
Director, Real Estate Assets

#100A
(R-2019-192) 10/23/18

RESOLUTION NUMBER R- 312013

DATE OF FINAL PASSAGE OCT 26 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE EXECUTION OF THE U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION LAND LEASE ON AIRPORT, LEASE NO. DTFAWN-15-L-00135, WITH THE UNITED STATES OF AMERICA FOR THE LEASE OF APPROXIMATELY 0.4827 ACRES OF CITY-OWNED REAL PROPERTY AT BROWN FIELD MUNICIPAL AIRPORT FOR AIR TRAFFIC CONTROL TOWER FACILITIES.

WHEREAS, Brown Field Municipal Airport (Airport) was originally established as a military airfield in 1918. In 1962, the Airport was conveyed to the City of San Diego (City) by the United States of America (Government); and

WHEREAS, on June 30, 1972, the City and the Government on behalf of the Federal Aviation Administration (FAA) entered into a lease for 19 years for the purpose of establishing, constructing, operating, and maintaining an air traffic control tower (ATCT) at the Airport. The FAA built the ATCT on the site and has maintained and operated the ATCT at the Airport since 1972; and

WHEREAS, in 1994, the Council of the City of San Diego (Council) authorized the execution of a one-year lease with nine one-year options; and

WHEREAS, in 2004, the Council authorized the execution of a ten-year lease, which expired on September 30, 2013, and is currently in holdover status; and

WHEREAS, City staff and the Government have negotiated a proposed new lease (Lease) for a 20-year term with a retroactive effective date of October 1, 2013, for the Government to continue the maintenance and operation of the ATCT; and

WHEREAS, the ATCT provides essential aeronautical services to aircraft operating in the airspace surrounding the Airport and to aircraft operating on the surface of the Airport through the use of air and ground communications and other devices; and

WHEREAS, the ATCT is vital to the safe operation of the Airport as a general aviation airport; and

WHEREAS, the market value of the real estate subject to the Lease, as appraised by City staff, is $46,000; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor, or his designee, is authorized and directed to execute the U.S. Department of Transportation Federal Aviation Administration Land Lease on Airport, Lease No. DTFAWN-15-L-00135, with the United States of America, which is on file in the Office of the City Clerk as Document No. RR-312018, for the lease of approximately 0.4827 acres of land at Brown Field Municipal Airport to maintain and operate air traffic control tower facilities under the terms and conditions set forth therein.

APPROVED: MARA W. ELLIOTT, City Attorney

By _____
Hilda R. Mendoza
Deputy City Attorney

HRM:nja
09/18/18
Or. Dept: READ
Doc. No.: 1838464

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of OCT 23 2018.

ELIZABETH S. MALAND
City Clerk

By Linda Irwin
Deputy City Clerk

Approved: 10/26/18
(date)

KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on OCT 23 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	☒	☐	☐	☐
Lorie Zapf	☒	☐	☐	☐
Chris Ward	☒	☐	☐	☐
Myrtle Cole	☒	☐	☐	☐
Mark Kersey	☒	☐	☐	☐
Chris Cate	☒	☐	☐	☐
Scott Sherman	☒	☐	☐	☐
David Alvarez	☒	☐	☐	☐
Georgette Gomez	☒	☐	☐	☐

Date of final passage OCT 26 2018.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Linda Irwin, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 312013

Passed by the Council of The City of San Diego on October 23, 2018, by the following vote:

YEAS:	**BRY, ZAPF, WARD, COLE, KERSEY, CATE, SHERMAN, ALVAREZ, GÓMEZ.**
NAYS:	**NONE.**
NOT PRESENT:	**NONE.**
RECUSED:	**NONE.**

AUTHENTICATED BY:

KEVIN L. FAULCONER

Mayor of The City of San Diego, California

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(Seal)

By: Linda Irvin, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of RESOLUTION NO. **R-312013**, approved on **October 23, 2018**. The date of final passage is **October 26, 2018.**

ELIZABETH S. MALAND

City Clerk of the City of San Diego, California

(Seal)

By: Linda Irvin, Deputy