

**FIRST AMENDMENT TO FLAT RATE LEASE
CITY OF SAN DIEGO AND WITMAN RANCH, INC.**

This First Amendment to Percentage Lease [First Amendment] is entered into between the CITY OF SAN DIEGO [CITY] and WITMAN RANCH, INC. [LESSEE] with reference to the following Recitals:

Recitals

A. WHEREAS, CITY and LESSEE entered into a Flat Rate Lease filed December 15, 1986, in the Office of the City Clerk as Document No. RR-267330-2 [Lease]; and

B. WHEREAS, pursuant to the terms of the Lease, LESSEE currently occupies approximately 507 acres of APN No. 760-170-18, as shown on Exhibit A of the Lease; and

C. WHEREAS, Section 1.05 of the Lease permits CITY to establish and use right-of-way on the leased premises as it deems advisable for the public good; and

D. WHEREAS, if CITY establishes rights-of-way on the leasehold, Section 1.05 of the Lease also requires CITY to reimburse LESSEE for damages, if any, resulting from such establishment, which can be accomplished by a proportionate reduction in rent; and

E. WHEREAS, CITY has determined that approximately 5.04 acres of LESSEE's leasehold is needed for a system of public hiking, biking, and riding trails for the San Dieguito River Valley Park (Trail System); and

F. WHEREAS, pursuant to Section 3.02 of the Lease, the current annual rent for the leasehold is \$94,075.24 or \$23,518.81 per quarter, and the rent is subject to adjustment based on increases, if any, in the Consumer Price Index (CPI); and

G. WHEREAS, the San Dieguito River Park Joint Powers Authority, which will be responsible for the operation and maintenance of the trail system, and LESSEE have reached an agreement with respect to the operation of the trail system, a copy of which is attached hereto and incorporated herein as Exhibit "B."

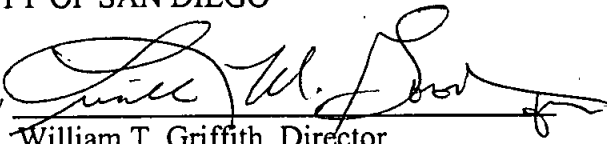
NOW, THEREFORE, in consideration of the above Recitals and the mutual obligations of the Parties as herein expressed, CITY and LESSEE agree as follows:

1. Exhibit A of the Lease, identified as Section 9.01 in the Lease Outline, is deleted in its entirety and a new Exhibit "A," with the leased premises outlined in green, a copy of which is attached hereto and incorporated herein by this reference, is substituted.
2. Pursuant to Section 1.05 of the Lease, effective September 1, 2000, the annual rent for the leasehold shall be reduced by \$935.17 (\$185.55 per acre x 5.04 acres) to \$93,140.07 with future CPI adjustments being applied to the reduced figure.
3. Nothing in this First Amendment is intended to modify or alter any other terms of the Lease. All other terms and conditions of the Lease shall remain in full force and effect.
4. This First Amendment shall be effective on September 1, 2000.

IN WITNESS WHEREOF, this First Amendment is executed by CITY, acting by and through its City Manager, and by LESSEE, acting by and through its lawfully authorized officers.

CITY OF SAN DIEGO

Date 10-26-00

By 
William T. Griffith, Director
Real Estate Assets Department

WITMAN RANCH, INC.

Date 10-24-00

By 
Matthew A. Witman, President

APPROVED AS TO FORM AND LEGALITY

CASEY GWINN, City Attorney

Date 10-27-00

By 
Deputy City Attorney

EXHIBIT A

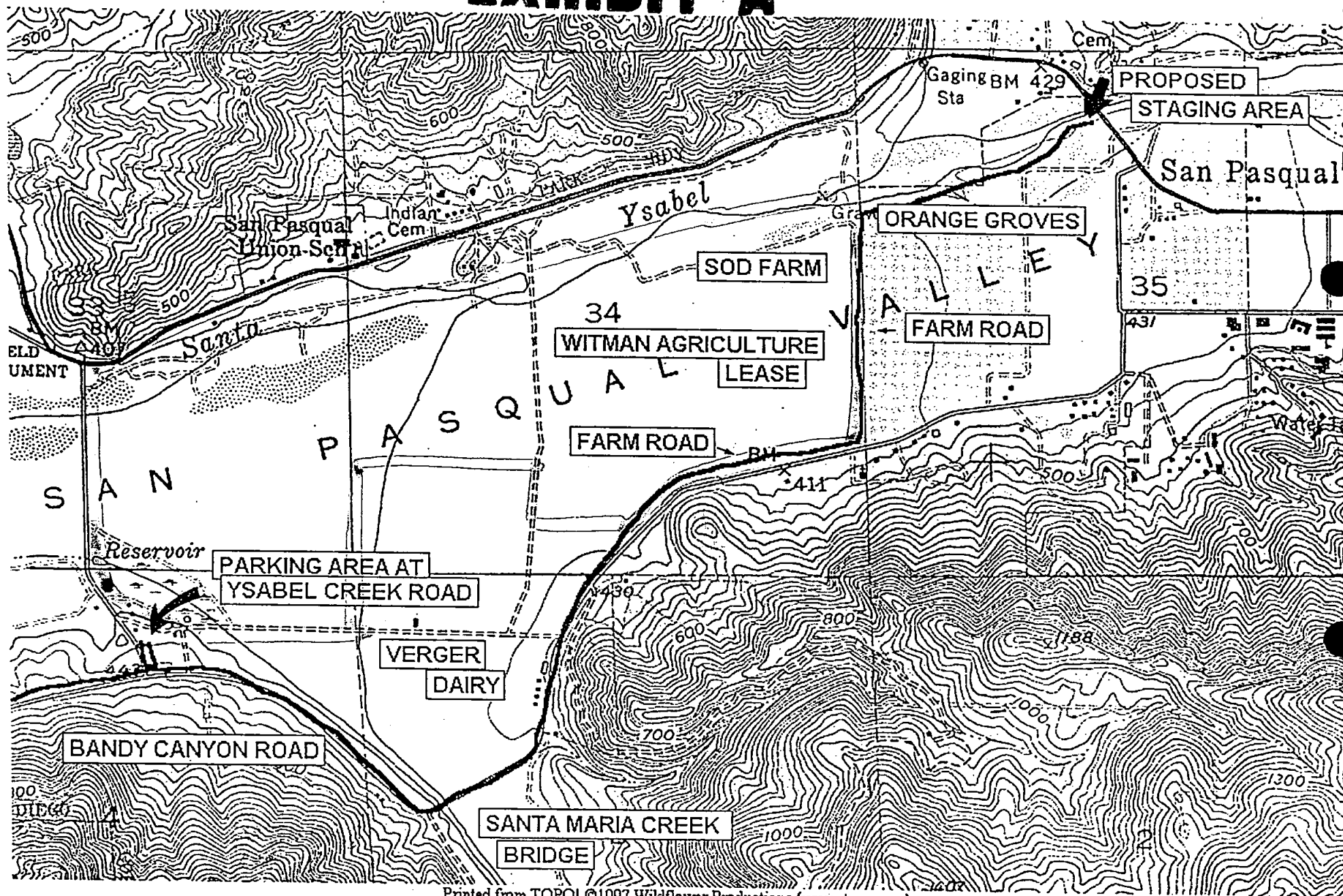


EXHIBIT B

AGREEMENT BETWEEN SAN DIEGUITO RIVER PARK JOINT POWERS AUTHORITY AND WITMAN RANCH/SLOOP & WITMAN, CITY OF SAN DIEGO LEASEHOLDER, WITH RESPECT TO MULE HILL/SAN PASQUAL VALLEY TRAIL

The San Dieguito River Park Joint Powers Authority acknowledges that agriculture is a pre-existing condition in the San Pasqual Valley and that conflicts could result from introduction of trail users onto the Mule Hill/San Pasqual Valley Trail. Consequently, the following agreement has been developed to address concerns raised by the leaseholder. All distances cited herein are approximate.

- The trail will leave the shoulder of Bandy Canyon Road just to the east of the existing gate where the palm trees are located. JPA will install a trail gate. The trail will be six-foot-wide and stay close to the road right-of-way in order to leave maximum clearance for farm vehicles. Placement of the trail will leave a clearance of 15 feet between the fence and the palm trees. JPA will install a 5-foot-high wire mesh fence between the trail and the trees, a distance of 1,400 feet.
- At the end of the palm trees, the trail, now eight-foot-wide, will continue eastward, staying within or at the edge of the road right-of-way, with a five-foot-high wire mesh fence installed by the JPA between the farmed area and the trail. JPA will install a gate at the truck entrance on Bandy Canyon Road (located 1,200 feet west of the orange grove). The gate will remain open unless the trail has to be closed during pesticide spraying, at which time Park Rangers or other designees will close and lock the gate. (The locks can be opened by the agricultural lessee or his operators at any time).
- At the junction with the orange grove, the trail will turn north toward the river for a distance of 2,100 feet. For this length the trail will go between the sod farm and the orange grove. This section of the trail will be 8 feet wide. JPA will install five-foot-high wire mesh fencing on both sides of the trail. The location of the trail will be in the middle of the existing dirt area so as to leave adequate clearance for farm equipment on both sides of the trail (at least 14 feet on the east side). As it heads north, the trail will be located on the west side of the ditch, designed not to impact the water pump. In this section the trail will be graded to conform to the existing grading so as not to change the drainage flow.
- Near the river the trail will turn east, cross the ditch via a simple trail bridge that does not impede water flow, and go along the edge of the orange grove for a distance of 2,400 feet. In this area the trail will be six feet wide, and will be aligned as close to the river as possible. Proposed fencing is a five-foot-high wire mesh fence. Nevertheless, up to 20 orange trees will have to be removed. JPA agrees to reimburse the lessee for the orange trees, at the total value proposed by the lessee of \$300 per tree. Criteria for removing a tree is whenever the distance from the edge of the trail to the trunk of the tree is less than 20 feet.
- JPA will utilize that portion of the large lot adjacent to Highway 78 and Bandy Canyon Road that does not interfere with your use of the property, as a staging area/trailhead. Access will be via a new gate just north of the existing road gate. Signage and fencing will direct vehicles toward the parking/staging area. JPA will install four strand barbed wire fencing on the westward side of the area traversed by cars/rigs arriving at the staging area. Two gates will be installed for the lessee's use. The parking/staging area will be demarcated with signage and lodgepole fencing such as is used at our Highland Valley Trail staging area. A unisex portable toilet will be located in the staging area.

- JPA will install interpretive signage about the crops grown in this area, with the lessee's input.
- JPA will provide indemnity to the Witman leasehold from potential lawsuits by trail users, per separate policy.
- JPA will name the Witman leasehold as an additional insured on the JPA's liability insurance policy.
- To minimize opportunities for theft of produce, JPA will close the Hwy 78/Bandy Canyon trailhead at night, install bollards at key trail access points to prevent entry by motor vehicles, and regularly patrol the trail with our Volunteer Patrol.
- JPA will place signage at the trailhead warning that theft of produce is a crime and will be prosecuted. Signage will also warn against drinking non-potable irrigation water.
- JPA will close the trail to trail users when notified by the lessee per an agreed upon Protocol for Trail Closure. Please notify JPA at (858) 674-2270 when you will be spraying with any "restricted" chemical with permit conditions that require closure, whenever you will be doing an aerial application, and at any other time at your discretion that you believe the trail should be closed during a spraying application.
- JPA recognizes that the trail crosses agricultural pipe lines in some places, therefore in those locations the trail may be impacted in the future if you or your operators need to maintain or repair the pipes.
- JPA will install NO PARKING signs within 100 feet of gates and at places other than the trailheads or designated parking areas which could be used by persons intending to access the trail.
- JPA's Senior Ranger will work with the lessee to make sure that any additional details of the trail and fence and gate placement are carefully designed and thought-out before construction begins. JPA recognizes that additional gates may be needed, or have to be relocated.
- JPA will seek to have the speed limit reduced on Bandy Canyon Road.
- JPA will support the City maintaining Ysabel Creek Road as a usable road on a year-round basis.
- JPA encourages the Witman leasehold to consider establishing a produce stall, perhaps at the staging area, for potential sales to trail users, subject to approval by the City of San Diego.

THE FOREGOING IS AGREED AND ACCEPTED AS STATED ABOVE:

Matt Witman
WITMAN RANCH

9-25-00
DATE

William Witman
SLOOP AND WITMAN

9-25-00
DATE

SAN DIEGUITO RIVER PARK JOINT POWERS AUTHORITY

By: Dick Bobatz
Name

Exec. Dir.
Title

8-11-00
DATE



THE CITY OF

SAN DIEGO

CITY ADMINISTRATION BUILDING • 202 C STREET • SAN DIEGO, CALIF. 92101

OFFICE OF THE
CITY MANAGER

October 21, 1991

File: Witman Ranch, Inc.

RECEIVED
NOV 13 1991
PROPERTY DEPT.

William Witman, President
Witman Ranch, Inc.
P. O. Box 1959
Escondido, CA 92025

Dear Mr. Witman:

Re: Use of Leasehold for Nursery Items and Joint Venture Operations

In his letter of September 16, 1991, subject as above, Jim Spotts acknowledged receipt of your letter of September 16, 1991 and indicated a full response would be forthcoming as soon as Deputy City Attorney Valderhaug returned from vacation. Subsequently, Mr. Valderhaug has opined that the City's position with respect to the issues involving the nursery items and joint ventures is as follows:

Planting nursery items (palms) on your 507-acre leasehold, which was leased for growing agricultural crops, without the approval of the City Manager, is an unauthorized use of the property and a violation of the lease agreement. In this one instance however, inasmuch as you have agreed to pay rent at the nursery rate for the 12-acre parcel on which the palms are planted, the City Manager is willing to consider the planting an incidental and related use under the lease, subject to your agreeing to the following conditions:

1. The palms are to be limited to the 12-acre parcel on which they are presently growing. No further nursery items of any kind, nor trees or vines are to be planted on the leased premises without the prior written approval of the City Manager.
2. Effective March 3, 1991, the City is to be paid an additional rent of \$200 per acre per year for the 12-acre parcel of palms. Accordingly, the annual rent for your 507-acre leasehold is increased from \$72,450 to \$74,850 (12 ac. x \$200 = \$2,400 + \$72,450 = \$74,850). You will be invoiced shortly for \$2,000, which is the rent due the City for the period March through December 1991.

As far as your joint venture/partnership agreements are concerned, as Mr. Spotts previously indicated, the City Manager must approve all such agreements prior to their effective date. Section 4.02 of your agreement clearly specifies, "the lessee shall not assign [the] lease or any interest therein or any right or privilege appurtenant thereto without prior written approval by the City Manager." Joint venture agreements and the sharing of profits from such use falls within the above provision and therefore require prior consent of the City Manager. The City has

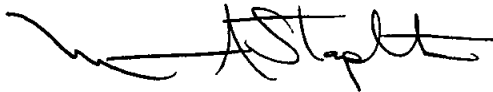
the right to know and the responsibility to be aware of who is using its property and for what purpose. As a minimum, the City Council expects the City Manager to screen various partners and joint ventures on City leases to assure that the City's interests are being served and any such persons involved in City leaseholds are reputable.

In view of the above, you are again put on notice that you must obtain the City Manager's written consent prior to entering into all subleases, joint venture and partnership agreements. Your failure to comply with this notice will result in your lease agreement being placed in default.

If you have any questions regarding this matter, I suggest you and your lawyer meet with Deputy City Attorney Valderhaug and Jim Spotts to discuss your differences.

Please signify your agreement to the above condition regarding the 12-acre parcel by signing where indicated below and returning this letter to the Property Department, attention Bill Knowles.

Sincerely,

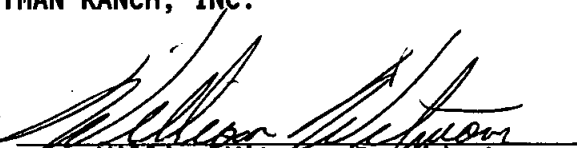


Maureen A. Stapleton
Assistant City Manager

JLS:WRK:jw(3)

AGREED TO THIS 7 ^{November} DAY OF ~~OCTOBER~~ 1991.
WITMAN RANCH, INC.

BY


William Witman, President