DUPLICATE

# FIRST AMENDMENT TO LEASE AGREEMENT

THIS FIRST AMENDMENT [First Amendment] is made by and between the CITY of SAN DIEGO, a municipal corporation [CITY], and EXPERIMENTAL AIRCRAFT ASSOCIATION, CHAPTER 14, INC., a California non-profit corporation [LESSEE], to be effective as of the first day of the calendar month following the date of execution by CITY [Effective Date], when signed by the parties and approved by the San Diego City Attorney, as follows:

## RECITALS

1. By a ten (10) year Lease Agreement [Lease] between the CITY and LESSEE filed on January 17, 2007, in the Office of the Clerk in San Diego, California, Resolution number 302261, CITY leased to LESSEE certain real property on Brown Field Airport, in the City of San Diego, County of San Diego, State of California, more particularly described in the Lease; and

2. Currently, the CITY is negotiating a new, large-scale development on Brown Field Airport that will encompass more than 350 acres; and

3. The Airport Layout Plan and Airport Master Plan contemplate a new airport entrance to Brown Field Airport at Britannia Blvd. and Otay Mesa Road; and

4. The planned new development intends to incorporate into its construction plans, the construction of the new airport entrance at Britannia Blvd; however, LESSEE's current leasehold boundaries are within the planned new entrance area; and

5. The purpose of this First Amendment is to allow for the realignment of LESSEE's leasehold boundaries to accommodate the new airport entrance. A new rent and term structure will compensate LESSEE for agreeing to the leasehold modifications.

NOW, THEREFORE, CITY AND LESSEE agree that the Lease shall be amended and modified as follows:

1. Premises:

The terms and conditions set forth in Section 2.1 Commencement, shall be deleted in its entirety and replaced with the following:

CITY herby leases to LESSEE and LESSEE leases from CITY all of that certain real property consisting of approximately 2.07 acres situated on Brown Field Airport in the City of San Diego, County of San Diego, State of California, described in Exhibit "B", Initial Leased Premises, of this lease ("Premises").

DOCUMENT NO. RR-305158
FILED JUL 28 2009
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

2. Commencement:

The terms and conditions set forth in Section 2.1 Commencement, shall be deleted in its entirety and replaced with the following:

The term of this Lease shall be fourteen (14) years commencing on the Effective Date. "Lease Year" as used in this Lease shall mean the twelve (12) month period commencing on the Effective Date.

3. Option to Extend/Increase Premises:

Section 2.3 Option to Extend, and Section 2.4 Option to Increase Premises, shall be deleted in their entirety and replaced with the following:

2.3 Option to Extend.

Provided that LESSEE is not in default of its Lease, LESSEE will be given the right to extend this Lease for two (2), seven (7) year terms, subject to all original agreements, considerations, covenants and conditions of this Lease and upon the following terms and conditions:

a. LESSEE must give the CITY written notice of its intention to exercise its option to extend the Lease by exercising OPTION "A", as described as Parcel A in the attached Exhibit "B", and leasing an additional 0.689 acres of land at the Brown Field Airport no later than six (6) months prior to the expiration of the amended and restated term of this Lease;

b. LESSEE must submit a development plan and show due diligence and good faith toward obtaining development entitlements, building permits and FAA authorization on the Parcel A Area no later than six (6) months prior to the expiration of the amended and restated term of this Lease;

c. LESSEE must provide evidence of adequate and timely funding of the Parcel A development no later than six (6) months prior to the expiration of the amended and restated term of this Lease;

d. If LESSEE exercises OPTION "A" to the satisfaction of the CITY, LESSEE shall be granted a seven (7) year extension of the lease term;

e. Provided LESSEE is not in default of this Lease, and LESSEE has developed Parcel A to the CITY's satisfaction, LESSEE shall be given the opportunity to lease OPTION "B" and/or OPTION "C" as described as Parcel B and Parcel C in Exhibit 1. LESSEE must give written notice to the CITY to exercise OPTION "B" and/or OPTION "C" and increase the size of their Premises by an additional 0.989 acres for Parcel B and 0.470

acres for Parcel C on the Brown Field Airport no later than six (6) months prior to the expiration of the OPTION "A" term of the Lease;.

f. LESSEE must submit a development plan and show due diligence and good faith toward obtaining development entitlements, building permits and FAA authorization on the Parcel B and/or Parcel C no later than six (6) months prior to the expiration of the amended and restated term of this Lease;

g. LESSEE must provide evidence of adequate and timely funding for this Parcel B and/or Parcel C development no later than six (6) months prior to the expiration of the amended and restated term of this Lease;

h. If LESSEE exercises OPTION "B" and/or OPTION "C" to the satisfaction of CITY, LESSEE shall be granted an additional seven (7) year extension of the lease term.

4. Numbering Sequence of Section 2 of the Lease:

Due to the deletion of former sections 2.3 and 2.4 into a single new section 2.3, it is the intention of the CITY and LESSE that section 2.4 shall intentionally be left blank.

5. Rent:

The first paragraph of Section 3.2 Rent of this Lease shall be deleted in its entirety and replaced with the following:

Upon the amended and restated Commencement Date, Rent shall be Five Hundred Eighty Three Dollars ($583.00) per acre per month or $1,206.81 per month. Any increase in the size of the Premises pursuant to Sections 1.1 and 2.3 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.

6. The following paragraph shall be added to the lease:

San Diego's Strong Mayor Form of Governance:

All references to "CITY Manager" in this Consent to Sublease shall be deemed to refer to "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. No Other Changes:

All other terms and conditions of the Lease shall remain in full force and effect.

IN WITNESS WHEREOF, the First Amendment is executed by CITY acting by and through its Mayor, or his designee, and by LESSEE acting by and through its lawful authorized designees.

EXPERIMENTAL AIRCRAFT ASSOCIATION, CHAPTER 14, INC.

Date: June 9, 2009 By: _____
Larry Rothrock, President

Date: 06/09/2009 By: _____
Joseph Russo, Vice President

Date: June 9, 2009 By: _____
~~Dennis Collum, Treasurer~~
Donna Ryan, Secretary

CITY OF SAN DIEGO

Date: 8/18/09 By: _____
**James F. Barwick, CCIM**
**Director, Real Estate Assets**

ENVIRONMENTAL ANALYSIS SECTION ENVIRONMENTAL CLEARANCE:

This activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section §15060(c)(3). Date: September 9, 2009

By: _____
Name: Myra Herrmann
Title: Senior Planner

APPROVED AS TO FORM AND LEGALITY
this 10th day of September, 2009.

JAN I. GOLDSMITH, City Attorney

By: _____
Debra L. Bevier, Deputy City Attorney

RECEIVED
CLERK'S OFFICE
09 AUG 20 PM 4:18
SAN DIEGO, CALIF.

R-305158

(R-2010-43)

RESOLUTION NUMBER R- 305158

DATE OF FINAL PASSAGE JUL 31 2009

A RESOLUTION OF THE CITY OF SAN DIEGO AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO ENTER INTO A FIRST AMENDMENT TO LEASE WITH EXPERIMENTAL AIRCRAFT ASSOCIATION, CHAPTER 14, INC., A CALIFORNIA NON-PROFIT CORPORATION, CONCERNING ITS LEASEHOLD AT BROWN FIELD AIRPORT.

WHEREAS, Airports Division [Airports] issued a Request for Proposal [RFP] soliciting proposals to develop and operate a Fixed Base Operator or other aviation-related business at Brown Field Airport; and

WHEREAS, the selected Proposal included the proposed construction of a new entrance to Brown Field, at a new location preferred by Airports; and

WHEREAS, the proposed new entrance to Brown Field would require an adjustment to the boundaries of an adjacent leasehold which is leased by Experimental Aircraft Association, Chapter 14, Inc.'s [EAA]; and

WHEREAS, a realignment of EAA's leasehold boundaries will benefit both Airport and EAA, regardless of whether a new entrance is constructed as part of the proposed development arising from the RFP or through another future project, as it will return to Airport's control the area necessary to construct a new entrance for Brown Field, and it will create a more developable leasehold area for EAA; and

WHEREAS, EAA has agreed to amend its lease and adjust its leasehold boundaries based on the terms and conditions set forth in the proposed First Amendment to Lease Agreement between the City of San Diego and EAA; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego that the Mayor, or his designee, is authorized to execute and take all actions necessary to administer, that certain First Amendment to Lease Agreement between the City of San Diego and the Experimental Aircraft Association, Chapter 14, Inc., on file with the Office of the City Clerk as Document No. RR-305158

APPROVED: JAN I. GOLDSMITH, City Attorney

By _____
Debra J. Bevier
Deputy City Attorney

DJB:mm
07/08/09
Or.Dept:READ
R-2010-43
MMS#9846

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUL 28 2009.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: 7-31-09
(date)

_____
JERRY SANDERS, Mayor

Vetoed: _____
(date)

_____
JERRY SANDERS, Mayor



R-305158

Passed by the Council of The City of San Diego on July 28, 2009, by the following vote:

| | |
|---|---|
| **YEAS:** | **LIGHTNER, FAULCONER, GLORIA, YOUNG, DEMAIO, FRYE, EMERALD, HUESO.** |
| **NAYS:** | **NONE.** |
| **NOT PRESENT:** | **NONE.** |
| **RECUSED:** | **NONE.** |

AUTHENTICATED BY:

**JERRY SANDERS**

Mayor of The City of San Diego, California

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(Seal)

By: **SARA RICHARDSON**, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of RESOLUTION NO. **R-305158**, approved by the Mayor of The City of San Diego, California on **July 31, 2009**.

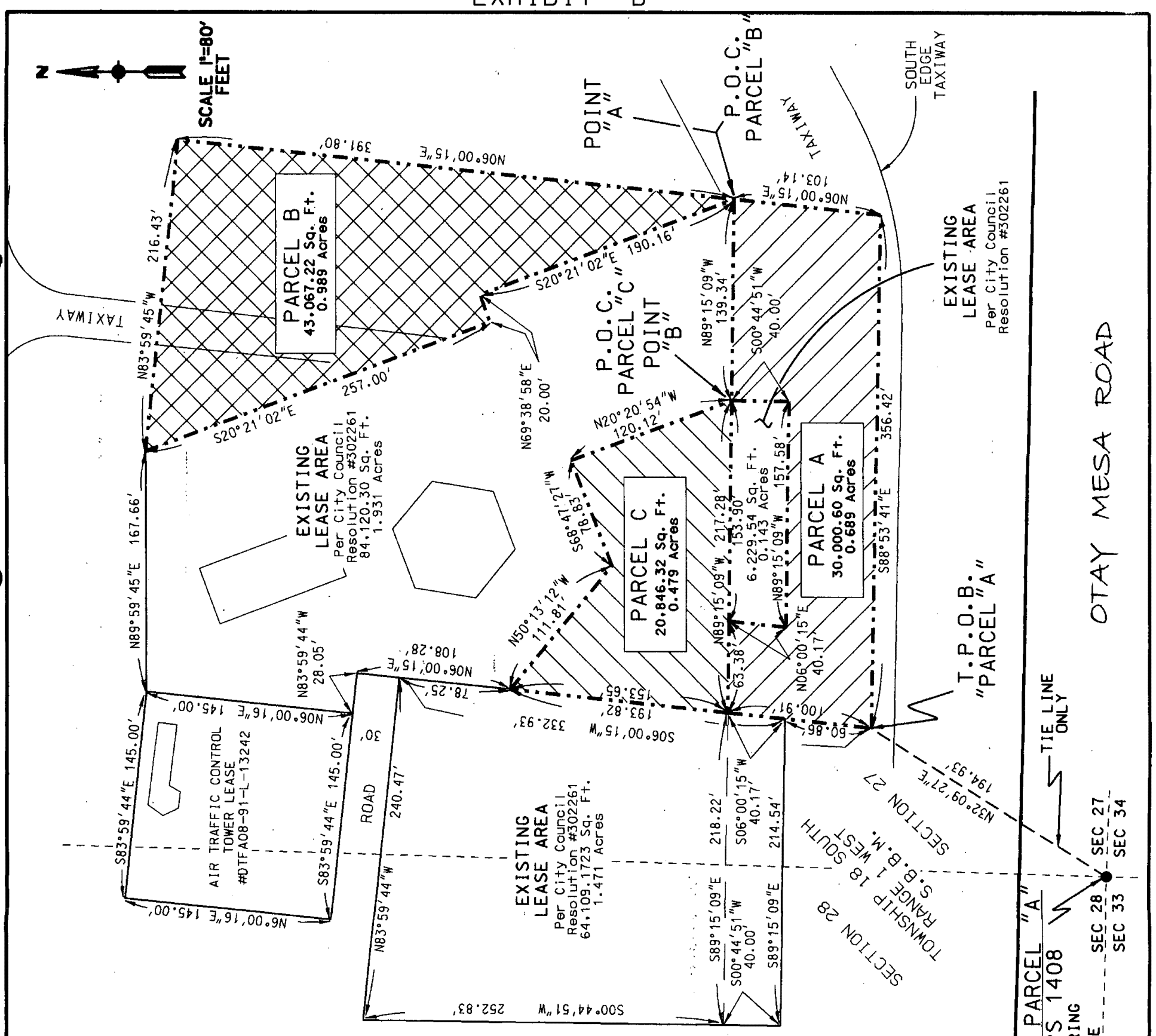
**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(SEAL)

By: Sara Richardson, Deputy

# EXHIBIT "B"




## LEGEND

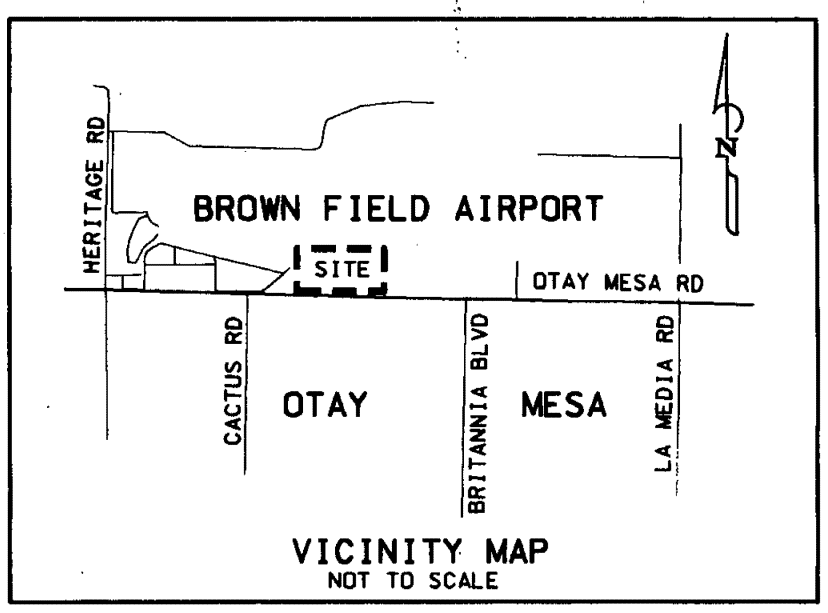
P.O.C. POINT OF COMMENCEMENT

T.B.O.B. TRUE POINT OF BEGINNING

LEASE AREA "A"
0.689 ACRES, 30,000.60 SQ. FT.

LEASE AREA "B"
0.989 ACRES, 93, 914.35 SQ. FT.

LEASE AREA "C"
0.479 ACRES, 20,846.32 SQ. FT.




VICINITY MAP
NOT TO SCALE

## OWNER

CITY OF SAN DIEGO

## ASSESSOR PARCEL NUMBER

760-233-02/11

## BASIS OF BEARINGS

FOR THIS PROJECT IS THE SOUTH LINE OF SECTION 28, T18S R1W, SAN BERNARDINO MERIDIAN, BETWEEN GPS CONTROL POINTS 189 & 1408 PER R.O.S. 14492.
S 88° 34'18" E 5296.65'

## REFERENCES

CITY OF SAN DIEGO SURVEY FIELD NOTES
MCCORMICK, BROWNFIELD EAA LEASE, 1/19/06, W.O. 251008, L.C. 146-1773
RECORD OF SURVEY: 14492

PREPARED BY:

THE CITY OF SAN DIEGO ENGINEERING & CAPITAL PROJECTS DEPT., FIELD DIV, LAND SURVEY SECTION, UNDER THE DIRECTION OF RONALD J. DODDS, SENIOR LAND SURVEYOR.

Ronald J. Dodds 6/03/09

RONALD J. DODDS P.L.S. 5771 DATE

PROFESSIONAL LAND SURVEYOR
RONALD J. DODDS
EXP. 6-30-2010
NO. 5771
STATE OF CALIFORNIA

## EXPERIMENTAL AIRCRAFT ASSOCIATION, BROWN FIELD

IN SECTION 27, T. 18 S., R. 1 W., SBM

| DESCRIPTION | BY | APPROVED | DATE | FILMED |
|---|---|---|---|---|
| ORIGINAL | TAM | RJD | 6/3/09 | |
| | | | | |
| | | | | |

CITY OF SAN DIEGO, CALIFORNIA

SHEET 1 OF 1 SHEET

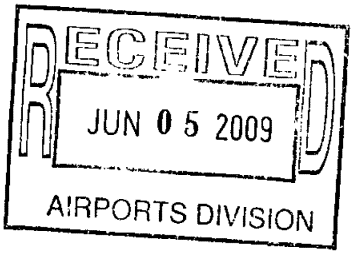
W.O. 251008

146-1773

NAD 27 COORDINATES

**CITY OF SAN DIEGO**
**ENGINEERING & CAPITAL PROJECTS DEPARTMENT**
**Field Division / Survey Section**
**9485 Aero Drive**
**San Diego, California 92123**
**Telephone (619) 627-3228 Fax (619) 627-3297**

# LETTER OF TRANSMITTAL




**To: Christian Anderson**

**From: Teresa Munyer**

**Date: 6/3/09**

**Subject: EAA Lease Brown Field**

**Work Order: 251008**

**Company / Location : Airports MS 14**

---

**We are sending you :**

**2 copies of the 11x17 drawing**
**2 copies of the legal descriptions**

**These are:**

( ) For approval.
( ) Revised for approval.
( ) Disapproved. Please revise and resubmit.
( ) Approved as submitted.
( ) Approved as noted.
(x) For your files and use.
( ) Please return this copy with signature.

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**Comments:**

**Copies To:**

**Signed By:**

EXHIBIT "A"

# LEASE PARCELS

# EXPERIMENTAL AIRCRAFT ASSOCIATION, BROWN FIELD

APN: 760-233-02/11

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

**Parcel "A"**

Commencing at the City of San Diego horizontal Control Station GPS 1408, said control station being the Section Corner common to Sections 27, 28, 33 & 34, Township 18 South Range 1 West, San Bernardino Base and Meridian having a coordinate value of North 1,787,207.18 East 6,336,847.17 based on the North American Datum of 1983 (Epoch 1991.35), as shown on Record of Survey No. 14492, filed in the office of the County Recorder of said San Diego County on 3/31/1994, said GPS 1408 lying distant thereon, South 88°34'18" East 5296.65 feet, from City of San Diego horizontal Control Station GPS 189, said control station being the Southwest Corner of said Section 28, having a coordinate value of North 1,787,339.20 East 6,331,552.17 feet as shown on said Record of Survey No. 14492; Thence North 32°09'27" East 194.93 feet to the **True Point of Beginning;** Thence South 88°53'41" East 356.42 feet; Thence North 06°00'15" East 103.14 feet to a point hereon designated as **Point "A"**, said point being the southeast corner of an existing lease per City Council Resolution No. 302261 dated January 09, 2007; Thence continuing along the said existing lease North 89°15'09" West 139.34 feet to a point hereon designated as **Point "B";** Thence South 00°44'51" East 40.00 feet; Thence North 89°15'09" West 157.58 feet; Thence North 06°00'15" East 40.17 feet; Thence North 89°15'09" West 63.38 feet to a point on an existing lease per City Council Resolution No. 302261 dated January 09, 2007; Thence South 06°00'15" East 40.17 feet along the said lease to the southeast corner thereof;

Thence continuing along said bearing South 06°00'15" East 60.86 feet to the **True Point of Beginning.**

Excluding therefrom that portion of above said existing lease.

Above described Parcel "A" contains 30,000.60 Square Feet, 0.689 Acres.

**Parcel "B"**

**Commencing** at above said **Point "A",** Thence North 06°00'15" East 391.80 feet; Thence North 83°59'45" West 216.43 feet to an angle point on an existing lease per said City Council Resolution No. 302261; Thence continuing along the said existing lease South 20°21'02" East 257.00 feet; Thence North 69°38'58" East 20.00 feet; Thence South 20°21'02" East 190.16 feet to the **Point of Commencement.**

Above described Parcel "B" contains 43,067.22 Square Feet, 0.989 Acres.

**Parcel "C"**

**Commencing** at above said **Point "B",** Thence along an existing lease per said City Council Resolution No. 302261 North 20°20'54" West 120.12 feet; Thence South 68°47'27" West 78.83 feet; Thence North 50°13'12" East 111.81 feet; Thence South 06°00'15" West 153.65 feet; Thence South 89°15'09" East 63.38 feet to an angle point on said existing lease; Thence continuing along said lease South 89°15'09" East 153.90 feet to the **Point of Commencement.**

Above described Parcel "C" contains 20,846.32 Square Feet, 0.479 Acres.

Total Area containing Parcels A, B and C for the Experimental Aircraft Association Lease Area contains 93,914.14 Square Feet, 2.157 Acres.

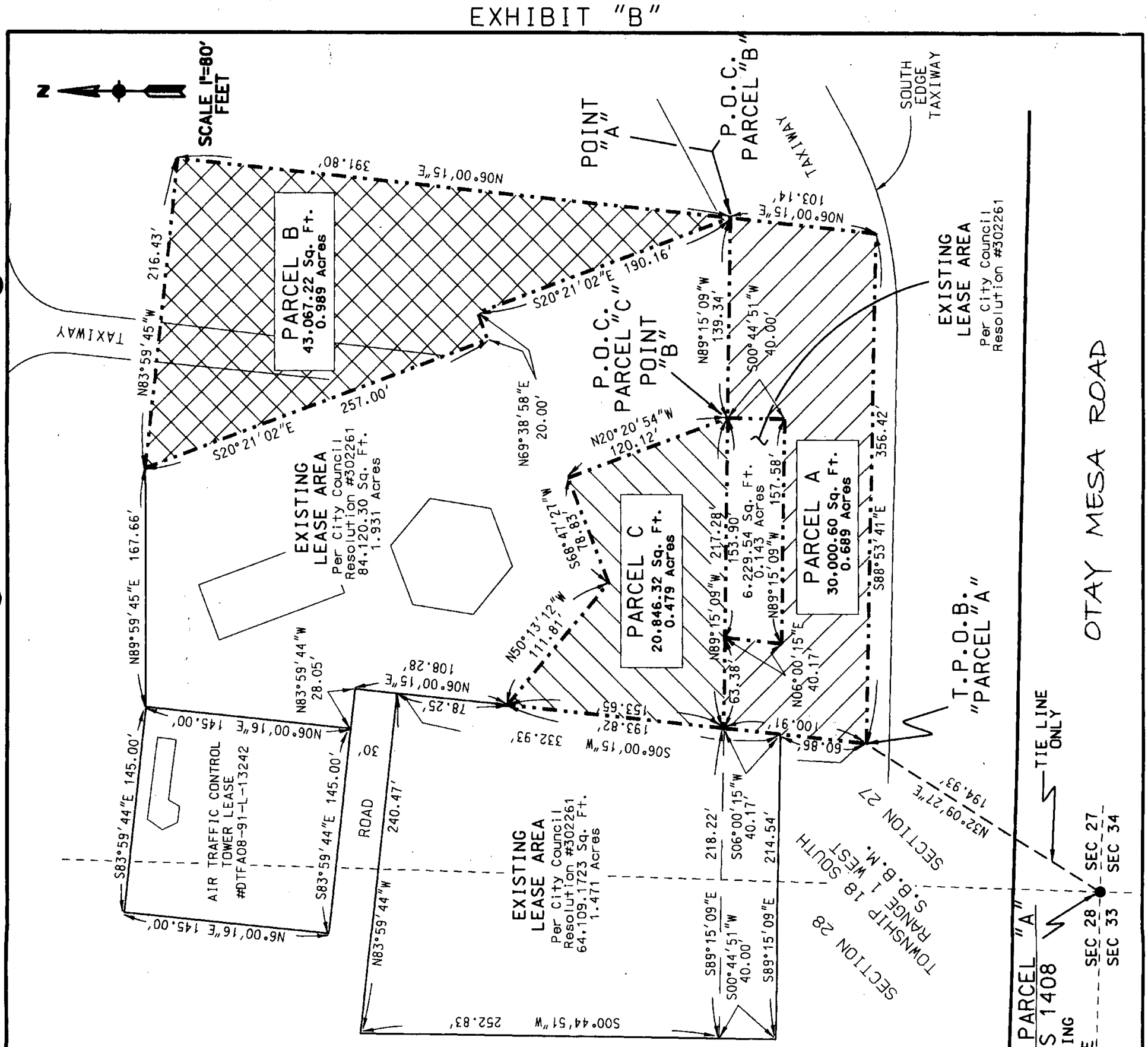
Exhibit "B" attached and by this reference is made a part hereto.

Ronald J. Dodds 6/03/2009

Ronald J. Dodds, LS No. 5771 Date
Senior Land Surveyor, Field Engineering
City of San Diego
My Registration Expires 06/30/2010



# EXHIBIT "B"




## LEGEND

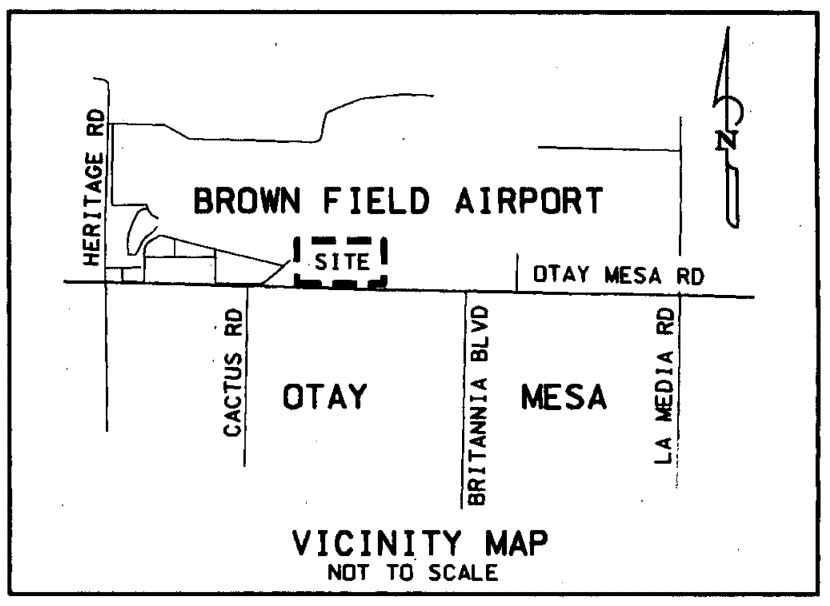
P.O.C. POINT OF COMMENCEMENT

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VICINITY MAP
NOT TO SCALE

## OWNER

CITY OF SAN DIEGO

## ASSESSOR PARCEL NUMBER

760-233-02/11

## BASIS OF BEARINGS

FOR THIS PROJECT IS THE SOUTH LINE OF SECTION 28, T18S R1W, SAN BERNARDINO MERIDIAN, BETWEEN GPS CONTROL POINTS 189 & 1408 PER R.O.S. 14492.
S 88° 34'18" E 5296.65'

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MCCORMICK, BROWNFIELD EAA LEASE, 1/19/06, W.O. 251008, L.C. 146-1773
RECORD OF SURVEY: 14492

## PREPARED BY:

THE CITY OF SAN DIEGO ENGINEERING & CAPITAL PROJECTS DEPT., FIELD DIV, LAND SURVEY SECTION, UNDER THE DIRECTION OF RONALD J. DODDS, SENIOR LAND SURVEYOR.

Ronald J. Dodds 6/03/09

RONALD J. DODDS P.L.S. 5771 DATE

PROFESSIONAL LAND SURVEYOR
RONALD J. DODDS
EXP. 6-30-2010
NO. 5771
STATE OF CALIFORNIA

## EXPERIMENTAL AIRCRAFT ASSOCIATION, BROWN FIELD

IN SECTION 27, T. 18 S., R. 1 W., SBM

| DESCRIPTION | BY | APPROVED | DATE | FILMED |
|---|---|---|---|---|
| ORIGINAL | TAM | RJD | 6/3/09 | |
| | | | | |
| | | | | |

CITY OF SAN DIEGO, CALIFORNIA

SHEET 1 OF 1 SHEET

W.O. 251008

146-1773

NAD 27 COORDINATES