

**REGULAR MEETING OF THE
MONTEREY PENINSULA AIRPORT DISTRICT
BOARD OF DIRECTORS**

**January 14, 2015 10:00 AM
Board Room, Terminal Building - Monterey Regional Airport**

(Unless you are a public safety official, please turn off your cell phone or place it on vibrate mode during the meeting. Thank you for your compliance.)

A. CALL TO ORDER/ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. COMMUNICATIONS/ANNOUNCEMENTS/INFORMATIONAL ITEMS

1. Introduction of New District Employee

<u>Name</u>	<u>Department</u>	<u>Position</u>
Patricia Winfield	Planning & Development	Office Technician

D. PUBLIC COMMENTS

Any person may address the Monterey Peninsula Airport District Board at this time. Presentations should not exceed three (3) minutes, should be directed to an item **NOT** on today's agenda, and should be within the jurisdiction of the Monterey Peninsula Airport District Board. Though not required, the Monterey Peninsula Airport District Board appreciates your cooperation in completing a speaker request form available on the staff table. Please give the completed form to the Monterey Peninsula Airport District Secretary. Comments concerning matters set forth on this agenda will be heard at the time the matter is considered.)

E. SEATING OF CHAIR

F. SELECTION OF CHAIR PRO TEM

G. APPOINTMENT OF COMMITTEES BY CHAIR

a. Standing Committees:

- i. Air Carrier Service/Marketing/Community Relations _____
- ii. Finance _____
- iii. Local Jurisdiction Liaison _____

b. Ad-Hoc Committees:

i.

c. Liaison/Representatives:

- i. Local Agency Formation Commission
- ii. Transportation Agency for Monterey County
- iii. Water Management District (Policy Advisory)
- iiii. Regional Taxi Authority

H. CONSENT AGENDA – ACTION ITEMS

(10:30AM – 10:45AM Estimated)

(The Consent Agenda consists of those items which are routine and for which a staff recommendation has been prepared. A Board member, member of the audience or staff may request that an item be placed on the deferred consent agenda for further discussion. One motion will cover all items on the Consent Agenda. The motion to approve will authorize the action or recommendation indicated.)

Approve 1. Minutes of the Regular Meeting of December 10, 2014

Approve 2. Minutes of the Special Meeting of December 19, 2014

I. DEFERRED CONSENT AGENDA - ACTION ITEMS

J. REGULAR AGENDA – ACTION ITEMS

(10:45AM-11:30AM Estimated)

Adopt 1. Resolution No. 1633, A Resolution Upon the Retirement of Frank Garcia Acknowledging Him for More Than Twenty-Eight Years of Distinguished and Dedicated Service to the District.

Adopt 2. Resolution 1634, Amending the Agreement for Professional Services with Kimley-Horn and Associates (RSA Project).

Presentation 3. Update on the Runway Safety Area (RSA) Project by Kimley-Horn and Associates.

Approve 4. Flight Way Self Storage LLC and Monterey Hi-Way Self Storage LLC Lease Term Amendment.

K. ACCEPTANCE OF DEPARTMENT REPORTS

(11:30AM – 12:00PM Estimated)

(The board receives department reports which do not require any action by the board)

LUNCH BREAK (12:00PM – 1:00PM Estimated)

L. BOARD COMMITTEE REPORTS

(1:00PM –1:30PM Estimated)

(Report on meetings attended by Board Members at Monterey Peninsula Airport District's expense - AB1234)

a. **Standing Committees:**

- i. Air Carrier Service/Marketing/Community Relations Directors Nelson & Leffel
- ii. Finance Directors Miller & Sabo
- iii. Local Jurisdiction Liaison Directors Miller & Searle

b. **Ad-Hoc Committees:**

- i. Personnel Directors Miller & Nelson

c. **Liaison/Representatives:**

- i. Local Agency Formation Commission Directors Leffel & Searle
- ii. Transportation Agency for Monterey County Directors Sabo/Nelson (alt)
- iii. Water Management District (Policy Advisory) Directors Leffel/Searle (alt)
- iiii. Regional Taxi Authority Director Leffel/GM Greer (alt)

M. CLOSED SESSION

(1:30PM – 2:30PM Estimated)

1. **CONFERENCE WITH LABOR NEGOTIATORS** (Pursuant to Government Code Section 54957.6)

Agency designated representatives: David Prentice, Prentice & Epperson LLP and Tonja Posey

2. **PUBLIC EMPLOYEE APPOINTMENT, EMPLOYMENT, DISCIPLINE, OR DISMISSAL** (Government Code Section 54957) regarding the following position: General Manager

N. RECONVENE TO OPEN SESSION

Adopt

1. Resolution No. 1635, A Resolution Amending Resolution No. 1622, A Resolution Authorizing and Approving the Fiscal Year 2014 Salary Schedule Listing Positions and Salary Ranges and Pay Steps for the Monterey Peninsula Airport District.

O. DISCUSSION OF FUTURE AGENDAS

(Any Board member may request the Board of Directors to instruct staff to report back to the Board at a future meeting concerning any matter or place a matter of business on a future agenda. Approval of such requests will be made by motion.)

P. ADJOURNMENT

AGENDA DEADLINE

All items submitted by the public for possible inclusion on the Board Agenda or in the Board packet must be received by 5:00 P.M. on the Monday before the first Wednesday of the month. This agenda is subject to revision and may be amended prior to the scheduled meeting. A final Agenda will be posted outside the District Offices in the Terminal Building at the Monterey Regional Airport 72 hours prior to the meeting.

Upon request and where feasible, the Monterey Peninsula Airport District will provide written agenda materials in appropriate alternate formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. In order to allow the District time within which to make appropriate arrangements, please submit a written request containing a brief description of the materials requested and preferred alternative format or auxiliary aid or service desired as far as possible in advance of the meeting. Requests should be sent to the District Secretary at 200 Fred Kane Drive, Suite 200, Monterey, California 93940.

MINUTES OF THE REGULAR MEETING OF THE MONTEREY PENINSULA AIRPORT DISTRICT
BOARD OF DIRECTORS December 10, 2014 10:00AM, BOARD ROOM

A. CALL TO ORDER/ROLL CALL

Chair Miller called to order the Regular Meeting of the Board of Directors. Directors Sabo, Searle, Nelson, and Leffel were present. The following District officers were present: General Manager Greer, Board Secretary Posey, Auditor Merritt and District Counsel Huber.

B. PLEDGE OF ALLEGIANCE

Director Nelson Led the Pledge of Allegiance

C. COMMUNICATIONS/ANNOUNCEMENTS/INFORMATIONAL ITEMS

General Manager Greer announced that Mark Bautista, Deputy General Manager and Neil Gabrielson passed the AAE Certified Member (C.M.) exam.

D. DECLARATION OF ELECTION RESULTS

- Adopt 1. Resolution No. 1630, A Resolution Acknowledging the Results of the Monterey Peninsula Airport District General Election held on November 4, 2014.

Director Leffel moved to approve Item D.1. Director Sabo seconded the motion. The motion passed by a roll call vote of 5-0.

RESOLUTION NO. 1630

**A RESOLUTION DECLARING THE RESULTS OF
THE MONTEREY PENINSULA AIRPORT GENERAL DISTRICT ELECTION
HELD NOVEMBER 4, 2014**

WHEREAS, a General District Election was held on November 4, 2014 in the County of Monterey, State of California, in accordance with the Monterey Peninsula Airport District Act as amended for the election of two (2) members of the Board of Directors of said District for the full term of four (4) years until each of their successors has been elected and has qualified for such office; and

WHEREAS, the official results of said election are detailed in that "Certification of the Registrar of Voters to the Statement of Votes Cast", executed on November 24, 2014 by Claudio Valenzuela, Registrar of Voters, County of Monterey, State of California, attached hereto as Exhibit "A" and incorporated herein by this reference;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA AIRPORT DISTRICT that the District Secretary is hereby authorized and directed to enter upon the records of the District a statement of the results of said election as follows: Matthew Nelson and Carl Miller, as listed by name and order on the ballot, each being duly qualified persons and having duly filed Nomination Papers, have received the highest number of

votes cast at the November 4, 2014 General District Election for membership on the Board of Directors for a full term of four (4) years each, and each said person hereinabove declared elected shall be given the Certified Oath of Office to be administered by the District Secretary.

ADOPTED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA AIRPORT DISTRICT: This 10th day of December 2014 by the following roll call vote:

AYES:	DIRECTORS:	Leffel, Nelson, Searle, Sabo, Miller
NOES:	DIRECTORS:	
ABSTAIN:	DIRECTORS:	
ABSENT:	DIRECTORS:	

E. ADMINISTER OATH OF OFFICE FOR ELECTED OFFICIALS

General Manager Greer administered the Oath of Office for Chair Miller and Director Nelson.

F. PUBLIC COMMENTS

None

G. CONSENT AGENDA - ACTION ITEMS

(The Consent Agenda consists of those items which are routine and for which a staff recommendation has been prepared. A Board member, member of the audience or staff may request that an item be placed on the deferred consent agenda for further discussion. One motion will cover all items on the Consent Agenda. The motion to approve will authorize the action or recommendation indicated.)

Approve 1. Minutes of the Adjourned Meeting of November 19, 2014

Accept 2. Monterey Peninsula Airport District Audited Financials for Fiscal Year 2014

Director Leffel moved to approve Item G.1 & G.2. Director Sabo asked that Item G.2 move to the Deferred Consent Agenda. Director Nelson seconded the motion to approve Item G.1. The motion passed unanimously.

H. DEFERRED CONSENT AGENDA - ACTION ITEMS

Accept 1. Monterey Peninsula Airport District Audited Financials for Fiscal Year 2014

Eugene Ma, Partner, MGO Certified Public Accountants gave a brief introduction of the audit stating that the district does a great job and has good management practices. MGO only had two minor housekeeping recommendations. The District should update its Accounting Manual and Fixed Assets Inventory.

Director Leffel moved to accept Item H.1. Director Sabo seconded the motion. The motion passed unanimously.

I. REGULAR AGENDA – ACTION ITEMS

- Presentation 1. Industry overview and review of MRV Air Service - Looking to 2015 and Beyond, by Joseph Pickering, Manager, Air Service Development, Mead & Hunt, Inc.

Joseph Pickering, Manager, Air Service Development, Mead & Hunt, Inc. gave an overview of the air service industry and a forecast of 2015 and beyond.

- Presentation 2. Update on the Runway Safety Area (RSA) Project by Kimley-Horn and Associates.

Bob Hamilton and Kevin Flynn of Kimley-Horn and Associates presented Item 1. 2.

- Adopt 3. Resolution No. 1631, a Resolution Approving Submission of FY 2016-20 Airport Capital Improvement Plan (ACIP); Approve Submittal to FAA; Authorize General Manager to Execute All Supporting Documents.

Director Leffel moved to approve Item 1.3. Director Nelson seconded the motion. The motion passed by a roll call vote of 5-0.

RESOLUTION NO. 1631

A RESOLUTION APPROVING SUBMISSION OF THE FY 2016 AIRPORT CAPITAL IMPROVEMENT PLAN TO THE FAA, DIRECTING THE GENERAL MANAGER TO SUBMIT ALL APPROPRIATE DOCUMENTS

WHEREAS, the Monterey Peninsula Airport District owns and operates the Monterey Peninsula Airport; and

WHEREAS, the District has held many strategic planning meetings, including review of current and future Monterey Regional Airport projects and the priorities for same; and

WHEREAS, the Monterey Peninsula Airport District has compiled a list of capital improvement projects in the Airport Capital Improvement Plan (ACIP) that will best serve current and future airport users while maintaining airport pavement and other improvements; and

WHEREAS, the Federal Aviation Administration (FAA) and the California Department of Transportation may provide grant funds for qualified ACIP projects;

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA AIRPORT DISTRICT THAT: the General Manager of the District, or his designee, is authorized and directed, for and on behalf of the Monterey Peninsula Airport District, to submit the attached FY 2016 ACIP to the FAA and application(s) in support thereof, and to execute and submit all future documents necessary to implement such ACIP and application(s), including grant agreements and any amendments thereto, and that the District Secretary or Acting District

Secretary is authorized to affix thereto the official seal of said District. Such grant agreements and amendments executed by the General Manager are hereby approved, as though set forth in full.

ADOPTED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA AIRPORT DISTRICT: This 10th day of December, 2014 by the following roll call vote:

AYES: DIRECTORS: Leffel, Nelson, Searle, Sabo, Miller
NOES: DIRECTORS:
ABSTAIN: DIRECTORS:
ABSENT: DIRECTORS:

Adopt 4. Resolution No. 1627, a Resolution adopting the Conflict of Interest Code of the Monterey Peninsula Airport District.

Director Leffel moved to approve Item 1.4. Director Sabo seconded the motion. The motion passed by a roll call vote of 5-0.

RESOLUTION NO. 1627

A RESOLUTION ADOPTING THE CONFLICT OF INTEREST CODE OF THE MONTEREY PENINSULA AIRPORT DISTRICT

WHEREAS, The Political Reform Act of 1974 (Government Code sections 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation, section 18730 of Title 2 of the California Code of Regulations, which contains the terms of a standard conflict of interest code that can be incorporated by reference in an agency's code; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA AIRPORT DISTRICT, the General Manager of the District, or his designee, will submit to the Monterey County Board of Supervisors the adopted code.

PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA AIRPORT DISTRICT: This 10th day of December, 2014 by the following roll call vote:

AYES: DIRECTORS: Leffel, Nelson, Searle, Sabo, Miller
NOES: DIRECTORS:
ABSTAIN: DIRECTORS:
ABSENT: DIRECTORS:

Approve 5. Retainer Agreement for Special Counsel between Monterey Peninsula Airport District and David A. Prentice, Prentice & Epperson LLP.

Director Sabo moved to approve Item 1.5. Director Nelson seconded the motion. The motion passed unanimously.

Adopt 6. Resolution No. 1632, a Resolution Requesting authorization from the Monterey County EMS Agency for the City of Monterey to provide Paramedic First Responder Services to the Monterey Peninsula Airport District.

Director Leffel moved to approve Item I.6. Director Sabo seconded the motion. The motion passed by a roll call vote of 5-0.

RESOLUTION NO. 1632

A RESOLUTION TO REQUEST AUTHORIZATION FROM THE MONTEREY COUNTY EMS AGENCY FOR THE CITY OF MONTEREY TO PROVIDE PARAMEDIC FIRST RESPONDER SERVICES TO THE MONTEREY PENINSULA AIRPORT DISTRICT PROPERTY

WHEREAS, The Monterey Peninsula Airport District wishes to continue to provide first responder Emergency Medical Services (EMS) to the Monterey Peninsula Airport District property based on its obligations under the California Health and Safety Code (Chapter 4, Article 1, section 1797.201); and

WHEREAS, The Monterey Peninsula Airport District provides EMS services through a contract with the City of Monterey; and

WHEREAS, The City of Monterey is applying with the Monterey County Emergency Medical Services Agency to become a Advanced Life Support (ALS) first responder agency; and therefore

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA AIRPORT DISTRICT: requests that the Monterey County Emergency Medical Services Agency authorizes the City of Monterey to provide Advanced Life Support within the boundaries of the Monterey Peninsula Airport District property.

PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA AIRPORT DISTRICT: This 10th day of December, 2014 by the following roll call vote:

AYES:	DIRECTORS:	Leffel, Nelson, Searle, Sabo, Miller
NOES:	DIRECTORS:	
ABSTAIN:	DIRECTORS:	
ABSENT:	DIRECTORS:	

Approve 7. Board Member attendance at the upcoming SWAAAE's 55th Annual Airport Management Short Course Conference January 25 – 28, 2015, Monterey, CA.

Director Sabo and Chair Miller expressed their interest in attending.

Director Leffel moved to approve Item I.7. Director Nelson seconded the motion. The motion passed unanimously.

Approve 8. Legal Services Agreement for District Counsel with Cota Cole, LLP.

Director Leffel moved to approve Item I.8. Director Searle seconded the motion. The motion passed unanimously.

J. ACCEPTANCE OF DEPARTMENT REPORTS

(The board receives department reports which do not require any action by the board)

K. BOARD COMMITTEE REPORTS

(Report on meetings attended by Board Members at Monterey Peninsula Airport District's expense - AB1234)

a. Standing Committees:

- i. Air Carrier Service/Marketing/Community Relations Directors Nelson & Leffel
- ii. Finance Directors Miller & Sabo
- iii. Local Jurisdiction Liaison Directors Miller & Searle

b. Ad-Hoc Committees:

- i. Personnel Directors Miller & Nelson

c. Liaison/Representatives:

- i. Local Agency Formation Commission Directors Leffel & Searle
- ii. Transportation Agency for Monterey County Directors Sabo/Nelson (alt)
- iii. Water Management District (Policy Advisory) Directors Leffel/Searle (alt)
- iiii. Regional Taxi Authority Director Leffel/GM Greer (alt)

L. CLOSED SESSION

(2:00PM – 2:45PM Estimated)

1. **CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION** (Pursuant to Government Code section 54956.9(b), the Board of Directors will meet with District Counsel, General Manager, Deputy General Manager/Designee, Planning & Development and District Consultants regarding potential litigation – one case
2. **CONFERENCE WITH LABOR NEGOTIATORS** (Pursuant to Government Code Section 54957.6) Police Officers Association (POA)

Agency designated representatives: David Prentice, Prentice and Epperson, LLP. and Tonja Posey

M. RECONVENE TO OPEN SESSION

Chair Miller reported that no action was taken in closed session.

N. DISCUSSION OF FUTURE AGENDAS

(Any Board member may request the Board of Directors to instruct staff to report back to the Board at a future meeting concerning any matter or place a matter of business on a future agenda. Approval of such requests will be made by motion.)

- *Leakage Study Presentation*

O. ADJOURNMENT

The meeting adjourned at 4:00pm

**MINUTES OF THE SPECIAL MEETING OF THE MONTEREY PENINSULA AIRPORT DISTRICT
BOARD OF DIRECTORS**

December 19, 2014 1:00PM, BOARD ROOM

A. CALL TO ORDER/ROLL CALL

Chair Miller called to order the Special Meeting of the Board of Directors. Directors Sabo, Searle, Nelson, and Leffel were present. The following District officers were present: Board Secretary Posey, and District Counsel Huber.

B. PLEDGE OF ALLEGIANCE

Director Sabo led the Pledge of Allegiance

C. COMMUNICATIONS/ANNOUNCEMENTS/INFORMATIONAL ITEMS

None

D. PUBLIC COMMENTS

None

E. REGULAR AGENDA – ACTION ITEMS

Discussion 1. Confer with ADK Consultants regarding the recruitment for General Manager.

Linda Frankl, Vice President of ADK consulted with the board in preparation for the recruitment of the General Manager position.

F. CLOSED SESSION

1. **PUBLIC EMPLOYEE APPOINTMENT, EMPLOYMENT, DISCIPLINE, OR DISMISSAL** (Government Code Section 54957) regarding the following position: General Manager

G. RECONVENE TO OPEN SESSION

The board did not meet in closed session

H. DISCUSSION OF FUTURE AGENDAS

None

I. ADJOURNMENT

The meeting adjourned at 4:55.

AGENDA ITEM: J.1
DATE: January 14, 2015

RESOLUTION NO. 1633

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA
AIRPORT DISTRICT UPON THE RETIREMENT OF FRANK GARCIA
ACKNOWLEDGING HIM FOR MORE THAN TWENTY-EIGHT YEARS OF DISTINGUISHED
AND DEDICATED SERVICE TO THE DISTRICT**

WHEREAS, Frank Garcia has faithfully served as an employee of the Monterey Peninsula Airport District's Police Department since May 15, 1986, providing more than twenty-eight years (approximately 60,000 hours) of commitment to the public safety of the District; and

WHEREAS, In December 2002 Frank Garcia was promoted to Sergeant. Frank's professionalism and attention to detail while serving the public is recognized throughout the district; and

WHEREAS, Frank served the district well. He has received several commendations including several letters of appreciation from the Federal Bureau of Investigation. Frank is respected throughout the airport district and the surrounding communities; and

WHEREAS, Frank's years of dedication and commitment to the success and safety of the airport district is appreciated;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Monterey Peninsula Airport District commend Frank Garcia for twenty-eight years of dedicated service to the district;

BE IT FURTHER RESOLVED, that the valuable services of Frank Garcia be memorialized by resolution on the occasion of his retirement from the Monterey Peninsula Airport District on December 30, 2014.

**PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA
AIRPORT DISTRICT:** This 14th day of January, 2015 by the following roll call vote:

AYES: DIRECTORS:
NOES: DIRECTORS:
ABSTAIN: DIRECTORS:
ABSENT: DIRECTORS:

Signed this 14th day of January, 2015

William Sabo, Chairman

ATTEST

Tonja Posey
District Secretary

AGENDA ITEM: J-2
DATE: January 14, 2015

TO: Monterey Peninsula Airport District Board of Directors
FROM: Mark Bautista, Deputy General Manager, Planning & Development
Chris Morello, Grants Manager, Planning & Development
DATE: January 7, 2015
SUBJ: Amend the Contract with Kimley-Horn and Associates, Inc. for the Runway
Safety Area Improvements Project, Construction Management

BACKGROUND. From an overview perspective, the Runway Safety Area (RSA) Project has been anything but typical. Two of the significant aspects were the litigation against the project, and the discovery of archeological artifacts, both of which resulted in timing (original project completion was scheduled for April 2014) and cost impacts (approximately \$1.9M) associated with construction management for the project. Coverage of the \$1.9M in cost impacts is included in the existing Federal Aviation Administration (FAA) Airport Improvement Program (AIP) grants to the District, and existing approved Passenger Facility Charges (PFCs), so funding is in place. However, there remains a need to amend the District's contract with Kimley-Horn and Associates, Inc. in order to provide continued construction management services to the end of the project construction, hence draft Resolution No. 1634 being proposed to the Board of Directors.

On August 11, 2010 in an open and public meeting in strict conformance with the notice, agenda, and public comment requirements of the Ralph M. Brown Act, the MPAD Board of Directors (BOD) considered approval of the Contract with Kimley Horn and Associates, Inc. and Adopted Resolution 1528, Authorizing a Professional Services Agreement with Kimley-Horn & Associates, Incorporated for design of the Runway Safety Area Project and construction administration services.

The original contract with Kimley-Horn Associates (KHA) was executed on August 24, 2010 and included a total cost of \$6,054,825 for a scope of work that included both design and construction management services (see attached).

As a result of the initial bidding process for the RSA Project, a Notice to Proceed (NTP) was issued to Granite Construction on November 17, 2011. Given the direction and duration of the RSA litigation, however, while some construction was accomplished and Granite remained in a holding pattern, it eventually became necessary to close out the construction contract with Granite Construction, and cease the associated construction oversight by KHA.

During the RSA litigation, KHA provided critical Engineering Services that assisted the District Legal Team in explaining the complex nature of the plan specifications to the Court. The services provided by KHA were instrumental in negotiating and finalizing a Settlement with the Highway 68 Coalition.

Subsequent to the approval of the Settlement Agreement and completion of the litigation process, both the Tree/Shrub Removal Project as awarded to Solid Oak Tree Management, and the RSA Improvements Project as awarded to Graniterock Company, began on February 1, 2014. Project completion is anticipated on or about February 1, 2016, for a total of 24 months. This is long past the original anticipated project completion date of April 2014, upon which the KHA contract was based.

Shortly thereafter, archeological artifacts were discovered and KHA had to bring in the firm of Pacific Legacy to help assess the situation, ultimately get several approvals, and commence/complete the removal of artifacts from the construction site.

As a result of the impacts caused by the litigation of the RSA Project, and the discovery of archeological artifacts on the site, the balance of available costs covered in the KHA contract are now almost at their limit. This proposed Amendment (see attached) provides a contracting mechanism for KHA to continue providing construction management services through completion of the project, to cover a shortfall, if you will, of \$1.9M. Funding for the costs of the Amendment are covered in existing AIP grants and PFCs for the project.

For construction projects to be eligible for reimbursement by the FAA, MPAD is required to provide qualified Construction Phase oversight. Failure to approve this Amendment to keep a qualified firm providing CPS could jeopardize project funding and FAA reimbursement.

STAFF ANALYSIS. The original contract between KHA and MPAD did not anticipate that the project would get bogged down in a lengthy lawsuit and the ramifications of settling the litigation, nor the discovery of archeological artifacts.

MPAD Staff has negotiated a draft amendment with KHA in the amount of \$1,880,052, resulting in a new total contract cost of \$7,935,377 (see attached). The increase in cost would be borne by the two current FAA AIP grants for the project and Passenger Facility Charges (PFCs).

SCOPE. District staff has engaged in ongoing meetings and discussions with the KHA, and the scope of work covers the remainder of the RSA Improvements Project as approved by the BOD on November 13, 2013.

SOURCE OF FUNDS. The RSA Project costs, including all construction management are included in the two AIP grants 03-06-0159-58 and 03-06-0159-61 at 95% by Airport Improvement Program (AIP) funds, with the balance paid for with PFC funds.

IMPACT ON REVENUES. The RSA Project is not anticipated to impact District operating revenues.

SCHEDULE. This Amendment will include construction management through construction and the Final Engineer's Close Out Reports, anticipated to be completed around February 2016.

IMPACT ON OPERATIONS. There will be temporary impacts on Airport Operations. Adverse impacts will be minimized and coordinated well in advance.

CONTINGENCY. n/a

STRATEGIC PLAN. The RSA Project directly implements Strategic Element No. 2 in the Five-year Strategic Plan, September 2011, as amended on April 10, 2013. More specifically, it implements Strategic Goal 2.3, by providing compliance with current federal guidelines; and Strategic Goal 2.5, by managing approved projects within the CIP/ACIP.

RECOMMENDATION. Adopt draft proposed Resolution No. 1634 (see attached), approving the Contract Amendment for Kimley-Horn and Associates, Inc. for the Runway Safety Area Improvements Project.

RESOLUTION NO. 1634

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN ASSOCIATES, INCORPORATED FOR RUNWAY SAFETY AREA IMPROVEMENTS PROJECT

WHEREAS, the Monterey Peninsula Airport District (MPAD) has previously approved a Professional Services Agreement with Kimley Horn Associates by Resolution 1528; and

WHEREAS, continuing the implementation of the Runway Safety Area (RSA) Improvements project at the Monterey Peninsula Airport (MRY) was approved by the MPAD Board of Directors at its November 13, 2013 meeting; and

WHEREAS, the Monterey Peninsula Airport District (MPAD) has previously submitted Airport Capital Improvement Programs (ACIPs) to the Federal Aviation Administration (FAA); and

WHEREAS, the Federal Aviation Administration (FAA) has funded the RSA project as approved by the MPAD Board of Directors with two grants, through the Airport Improvement Program (AIP) 03-06-0159-58 and 03-06-0159-61 to accomplish the construction; and

WHEREAS, to that end MPAD had previously approved a professional services agreement with Kimley-Horn Associates, Inc. (KHA) to complete design of Runway Safety Area standards for the Monterey Peninsula Airport, and provide construction administration services, in an amount not to exceed \$ 6,090,958; and

WHEREAS, MPAD has negotiated a proposed additional cost of \$1,880,052 with KHA for a total contract cost in an amount not to exceed \$ 7,935,377 in order to provide construction administration services through the anticipated end of the project;

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA AIRPORT DISTRICT: That MPAD amend the contract with the firm of Kimley-Horn & Associates, Incorporated that includes the additional construction administration services through RSA Improvements Project completion.

PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA AIRPORT DISTRICT: This 14th day of January 2015, by the following roll call vote:

/

/

/

/

/

/

1

AYES: DIRECTORS:
NOES: DIRECTORS:
ABSTAIN: DIRECTORS:
ABSENT: DIRECTORS:

Signed this 14th day of January 2015

William J. Sabo, Chairman

ATTEST

Tonja Posey
District Secretary

**KIMLEY HORN ASSOCIATES INC.
CONTRACT AMENDMENT SUMMARY**

THIS CONTRACT AMENDMENT is made effective January 14, 2015 ("Effective Date") by and between MONTEREY PENINSULA AIRPORT DISTRICT (District), a California special district and Kimley-Horn and Associates, Inc., (hereafter referred to as "KHA", or "Engineer") dated August 24, 2010 ("the Agreement") concerning the Runway Safety Area Enhancement Project at the Monterey Peninsula Airport (MRY).

NOW, THEREFORE, KHA and District agree as follows:

1. **Modify Schedule:** This agreement is extended through March 31, 2016
2. **Add Task 5.0:** Construction Phase Services (CPS) between December 1, 2014 and February 28, 2016.
 - a. KHA shall continue to provide Construction Phase Services between December 1, 2014 and January 30, 2016.
 - b. KHA is currently providing CPS on the project. This Amendment extends the time KHA will provide these services. Services being provided are identified in the original Agreement as well as identified in Attachment One (1). Attachment One (1) also includes the level of effort assumed for this Amendment.
 - c. KHA shall complete grant closeout paperwork and documentation at the completion of construction.
3. **Fees/Compensation:** The compensation for providing the services under this scope of work/Amendment shall be **\$1,880,552**. Services under Task 5.0 shall be provided on a **Lump Sum** basis for a total contract cost of \$7,935,377.

Assumptions, Comments, Clarifications, Caveats and Exclusions

- a. This Amendment is based on continuing the CPS consistent with the original Agreement and Attachment One (1).
- b. This Amendment assumes that all construction will be complete by the end of January, 2016 and that all final grant closeout documents can be prepared in February, 2016.
- c. No significant changes in the current construction schedule.
- d. The complete contract includes the original Agreement, Authorized Additional Services, and this Amendment. All clauses, terms and conditions, not modified by the approved and authorized Additional Services and this Amendment shall remain unchanged from the original Agreement.

**KIMLEY HORN ASSOCIATES INC.
CONTRACT AMENDMENT SUMMARY**

IN WITNESS WHEREOF, the Parties hereto have made and executed this Contract Amendment on _____, 2015, as of the Effective Date.

MONTEREY PENINSULA AIRPORT
DISTRICT, a California special district

KIMLEY HORN AND ASSOCIATES INC.

Board Chair

Kevin Flynn, Vice President

ATTEST

RECOMMENDED FOR APPROVAL

Tonja Posey, District Secretary

Mark Bautista, Deputy General Manager
Planning and Development

APPROVED AS TO FORM:

Scott Huber, District Counsel

ATTACHMENT:
Revised Exhibit A: Kimley Horn and Associates
Contract Summary

Attachment One (1)

Scope of Work and Level of Effort

Consultant will provide professional construction phase services as specifically stated below:

Visits to Site and Observation of Construction. Consultant will provide on-site construction observation services during the construction phase. Consultant will make visits at intervals as directed by Client in order to observe the progress of the Work. Such visits and observations by Consultant are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on Consultant's exercise of professional judgment. Based on information obtained during such visits and such observations, Consultant will evaluate whether Contractor's work is generally proceeding in accordance with the Contract Documents, and Consultant will keep Client informed of the general progress of the Work.

The purpose of Consultant's site visits will be to enable Consultant to better carry out the duties and responsibilities specifically assigned in this Agreement to Consultant, and to provide Client a greater degree of confidence that the completed Work will conform in general to the Contract Documents. Consultant shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work, nor shall KHA have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, nor for any failure of Contractor to comply with laws and regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Consultant neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

Recommendations with Respect to Defective Work. Consultant will recommend to Client that Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, Consultant believes that such work will not produce a completed Project that conforms generally to Contract Documents.

Clarifications and Interpretations. Consultant will respond to reasonable and appropriate Contractor requests for information and issue necessary clarifications and interpretations of the Contract Documents to Client as appropriate to the orderly completion of Contractor's work. Any orders authorizing variations from the Contract Documents will be made by Client.

Change Orders. Consultant may recommend Change Orders to Client, and will review and make recommendations related to Change Orders submitted or proposed by the Contractor.

Shop Drawings and Samples. Consultant will review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction or to related safety precautions and programs.

Substitutes and "or-equal." Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor in accordance with the Contract Documents, but subject to the provisions of applicable standards of state or local government entities.

Inspections and Tests. Consultant may require special inspections or tests of Contractor's work as Consultant deems appropriate, and may receive and review certificates of inspections within Consultant's area of responsibility or of tests and approvals required by laws and regulations or the Contract Documents. Consultant's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Consultant shall be entitled to rely on the results of such tests and the facts being certified.

Disagreements between Client and Contractor. Consultant will, if requested by Client, render written decision on all claims of Client and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the progress of Contractor's work. In rendering such decisions, Consultant shall be fair and not show partiality to Client or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.

Applications for Payment. Based on its observations and on review of applications for payment and accompanying supporting documentation, Consultant will determine the amounts that Consultant recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute Consultant's representation to Client, based on such observations and review, that, to the best of Consultant's knowledge, information and belief, Contractor's work has progressed to the point indicated and that such work-in-progress is generally in accordance with the Contract Documents subject to any qualifications stated in the recommendation. In the case of unit price work, Consultant's recommendations of payment will include determinations of quantities and classifications of Contractor's work, based on observations and measurements of quantities provided with pay requests.

By recommending any payment, Consultant shall not thereby be deemed to have represented that its observations to check Contractor's work have been exhaustive, extended to every aspect of Contractor's work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Consultant in this Agreement. It will also not impose responsibility on Consultant to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, nor to determine that title to any portion of the work in progress, materials, or equipment has passed to Client free and clear of any liens, claims, security interests, or encumbrances, nor that there

may not be other matters at issue between Client and Contractor that might affect the amount that should be paid.

Substantial Completion. Consultant will, promptly after notice from Contractor that it considers the entire Work ready for its intended use, in company with Client and Contractor, conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list. If after considering any objections of Client, Consultant considers the Work substantially complete, Consultant will notify Client and Contractor.

Final Notice of Acceptability of the Work. Consultant will conduct a final site visit to determine if the completed Work of Contractor is generally in accordance with the Contract Documents and the final punch list so that Consultant may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Consultant shall also provide a notice that the Work is generally in accordance with the Contract Documents to the best of Consultant's knowledge, information, and belief based on the extent of its services and based upon information provided to Consultant upon which it is entitled to rely.

Limitation of Responsibilities. Consultant shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing the Work. Consultant shall not have the authority or responsibility to stop the work of any Contractor.

**MONTEREY REGIONAL AIRPORT
KIMLEY-HORN CONTRACT SUMMARY**

REVISED EXHIBIT A - PAGE 14 - TO ORIGINAL CONTRACT OF AUGUST 24, 2010
 PROVIDE DESIGN AND CONSTRUCTION PHASE SERVICES
 RUNWAY SAFETY AREA (RSA) IMPROVEMENTS

Contract Task	Description	AIP Grant #	NTP Date	Budget Total
Task 1.0.	Design Services, Phase 1	56	8/25/2010	\$2,197,840
Task 3.0.	Design Services, Phase 2	57	3/14/2011	\$971,070
Task 2.0.	Construction Admin -CPS-NTP-1 (approx 10/3/11 through 12/31/2011)	58	10/3/2011	\$850,000
	Construction Admin - CPS-NTP-2 (Approx 1/1/2012 - 9/30/2012)	58	9/28/2012	\$648,573
Task 4.0.	Construction Admin - CPS-NTP-3	58/61	2/1/2014	\$1,387,342
Amendment Task 5.0	Construction Admin - CPS-NTP-AS-4	58/61	None Yet	\$1,880,552
Totals				\$7,935,377

Task	Scope		Subtask Total All Labor and Expenses
5.1	Project Administration		\$236,184.39
	Contract/Subcontract Management		\$102,343.13
	Coordination and Meetings		\$111,913.13
	Contractor Input		\$21,928.13
5.2	Construction Phase Services		\$1,644,367.61
	On site observation No 1		\$484,889.21
	On site observation No 2		\$484,889.21
	On site observation No 3		\$484,889.21
	On site observation No 4	Nite work	\$99,699.99
	ATGeosystems (Survey)		\$45,000.00
	EnvirotechNPDES		\$45,000.00
	Subtotal		\$1,880,552.00
	Total		\$1,880,552.00

**PROVIDE DESIGN AND CONSTRUCTION PHASE SERVICES
RUNWAY SAFETY AREA (RSA) IMPROVEMENTS**

PROJECT NO. 56
MONTEREY PENINSULA AIRPORT DISTRICT

AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN

MONTEREY PENINSULA AIRPORT DISTRICT AND KIMLEY-HORN AND ASSOCIATES, INC.

This Agreement for Professional Services ("Agreement"), is made and entered into effective this 24 day of August, 2010, by and between the Monterey Peninsula Airport District, a California special district ("District"), and Kimley-Horn and Associates, Inc., a North Carolina Corporation ("Consultant").

WHEREAS, Consultant represents that Consultant is specially trained, experienced, and competent to perform the professional services required by this Agreement; and

WHEREAS, Consultant is willing to render such professional services, as are hereinafter defined, on the following terms and conditions.

NOW, THEREFORE, Consultant and District agree as follows:

1. Scope of Service.

The project contemplated and the Consultant's services are described in Exhibit "A," attached hereto and incorporated herein by reference.

2. Completion Schedule.

Consultant shall complete the consulting services described in Exhibit "A" by the date set forth in Exhibit "A."

This Agreement is made in anticipation of conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control. Notwithstanding any other provision of this Agreement, the Consultant shall not have liability for or be deemed in breach because of delays caused by any factor outside of its reasonable control, including but not limited to natural disasters, adverse weather, or acts of the Client, third parties, or governmental agencies. The time allotted for the consulting services described in Exhibit "A" shall be automatically extended to the extent that delays beyond the time frames for review, response, and comment from the District or other reviewing or coordinating parties extends beyond the time provided for in the project schedule.

If work is not completed by the date or dates set forth in Exhibit "A", District will incur costs not contemplated by this Agreement, the exact amount of which would be extremely difficult and impracticable to fix. Therefore, if the work is not completed by the date or dates set forth in Exhibit "A", Consultant shall pay to District the sum of \$ 50.00 per day as liquidated damages, and not as a penalty. The parties agree that this sum represents a fair and reasonable estimate of the costs that District will incur by reason of late performance by Consultant. Acceptance of any liquidated damages shall not constitute a waiver of Consultant's default or prevent District from exercising any of the other rights and remedies available to District.

3. Compensation.

District hereby agrees to pay Consultant for services rendered to District pursuant to this Agreement in an amount not to exceed the amount indicated in the payment schedule in, and in the manner indicated and in accordance with, Exhibit "A"

4. Billing.

Consultant shall submit to District an itemized invoice, prepared in a form satisfactory to District, describing Consultant's services and costs for the period covered by the invoice. Except as specifically authorized by District, Consultant shall not bill District for duplicate services performed by more than one person. Consultant's bills shall include the following information to which such services or costs pertain:

- (a) a brief description of services performed;
- (b) the date the services were performed;
- (c) the number of hours spent and by whom;
- (d) a brief description of any costs incurred; and
- (e) Consultant's signature.

In no event shall Consultant submit any billing for an amount in excess of the maximum amount of compensation provided in Section 3, unless authorized pursuant to Section 5 hereof.

All such invoices shall be in full accord with any and all applicable provisions of this Agreement.

District shall make payment on each such invoice within forty-five (45) days of receipt; provided, however, that if Consultant submits an invoice which is incorrect, incomplete, or not in accord with the provisions of this Agreement, District shall not be obligated to process any payment to Consultant until forty-five (45) days after a correct and complying invoice has been submitted by Consultant.

5. Additional Services.

It is understood by District and Consultant that it may be necessary, in connection with the project, for Consultant to perform or secure the performance of consulting and related services other than those set forth in Exhibit "A." The parties have listed those additional consulting services which could be anticipated at the time of the execution of the Agreement as shown in Exhibit "B." If additional services are requested by District, Consultant shall advise District in writing of the cost of and estimated time to perform the services. Consultant shall not proceed to perform any such additional service until District has determined that such service is beyond the scope of the basic services to be provided by Consultant, is required, and has given District's written authorization to perform. Written approval for performance and compensation for additional services shown may be granted by the Deputy General Manager, Planning & Development Department.

Except as hereinabove stated, any additional service not shown on Exhibit "B" shall require an amendment to this Agreement and shall be subject to all of the provisions of this Agreement.

6. Additional Copies.

If District requires additional copies of reports, or any other material which Consultant is required to furnish in limited quantities as part of the services under this Agreement, Consultant

shall provide such additional copies as are requested, and District shall compensate Consultant for the actual costs of duplicating such copies.

7. Responsibility of Consultant.

(a) By executing this Agreement, Consultant agrees that Consultant is apprised of the scope of work to be performed under this Agreement and Consultant agrees that said work can and shall be performed in a fully competent manner. By executing this Agreement, Consultant further agrees and warrants to District that Consultant possesses, or shall arrange to secure from others, all of the necessary professional capabilities, experience, resources, and facilities necessary to provide District the services contemplated under this Agreement and that District relies upon the professional skills of Consultant to do and perform Consultant's work. Consultant further agrees and warrants that Consultant shall follow the current, generally accepted practices of the profession to make findings, render opinions, prepare factual presentations and provide professional advice and recommendations regarding the project for which the services are rendered under this Agreement.

(b) Consultant shall assign a single project director to have overall responsibility for the execution of this Agreement for Consultant. Kevin Flynn, Project Manager is hereby designated as the project director for Consultant. Any changes in the project director designee shall be subject to the prior written acceptance and approval of the Deputy General Manager, Planning & Development Department.

8. Responsibility of District.

To the extent appropriate to the project contemplated by this Agreement, District shall:

(a) Assist Consultant by placing at Consultant's disposal all available information pertinent to the project, including but not limited to, previous reports and any other data relative to the project. Nothing contained herein shall obligate District to incur any expense in connection with completion of studies or acquisition of information not otherwise in the possession of District.

(b) Make provision for Consultant to enter upon public and private property as required by Consultant to perform Consultant's services.

(c) Examine all studies, reports, sketches, drawings, specifications, proposals, and other documents presented by Consultant, and render verbally or in writing as may be appropriate, decisions pertaining thereto within a reasonable time so as not to delay the services of Consultant.

(d) Mr. Mark Bautista, Deputy General Manager, Planning & Development Department shall act as District's representative with respect to the work to be performed under this Agreement. Such person shall have the complete authority to transmit instructions, receive information, interpret and define District's policies and decisions with respect to the materials, equipment, elements and systems pertinent to Consultant's services. District may unilaterally change its representative upon notice to Consultant.

(e) Give prompt written notice to Consultant whenever District observes or otherwise becomes aware of any defect in the project.

(f) Furnish approvals and permits from all governmental authorities having jurisdiction over the project and such approvals and consents from others as may be necessary for completion of the project.

9. Acceptance of Work Not a Release.

Acceptance by District of the work performed under this Agreement does not operate as a release of Consultant from professional responsibility for the work performed.

10. Indemnification and Hold Harmless.

Consultant shall indemnify, defend and hold District and its officers, employees, agents and volunteers harmless from and against any and all liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to any property, or any violation of any federal, state, or municipal law or ordinance, or other cause in connection with the negligent intentional acts or omission of Consultant, Consultant's employees, subcontractors, or agents, or on account of the performance or character of the work, except for any such claim arising out of the negligence or willful misconduct of District, its officers, employees, agents, or representatives. Acceptance of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages. Consultant shall reimburse District for all costs and expenses (including but not limited to fees and charges of architects, engineers, attorneys, and other professionals, and court costs) incurred by District in enforcing the provisions of this section.

11. Insurance.

(a) Consultant shall, throughout the duration of this Agreement, maintain comprehensive general liability and property insurance covering all operations of Consultant, Consultant's agents and employees, performed in connection with this Agreement including but not limited to premises and automobile.

(b) Consultant shall maintain the following limits:

General Liability

Combined Single Limit Per Occurrence..... \$1 million
General Aggregate..... \$1.5 million
(The policy shall cover on an occurrence or an accident basis, and not on a claims made basis.)

Automobile Liability:

Combined Single Limit Per Occurrence..... \$1 million
(The policy shall cover on an occurrence or an accident basis, and not on a claims made basis.)

Workers Compensation..... Full Liability Coverage

Professional Errors and Omissions..... \$1 million (no more than \$25,000 deductible)
Consultant shall not disclaim responsibility or avoid liability for the negligent acts or omissions of Consultant's subcontractors or other professional consultants. The retroactive date of the policy must be shown and must be before the date of the Agreement.)

(c) With the exception of workers compensation and professional errors and omissions insurance, each insurance policy affording coverage to Consultant shall name District, its officers, employees, agents, and representatives as additional insureds and shall stipulate that the policy will operate as primary insurance for the work performed and that no other insurance maintained by District, its officers, employees, agents, or representatives will be called upon to contribute to a loss covered thereunder. The policy shall contain no special limitations on the scope of protections afforded to District, its officers, employees, agents, or representatives.

(d) All insurance companies affording coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner to transact the business of insurance in the State of California.

(e) All insurance companies affording coverage shall provide not less than thirty days written notice by certified or registered mail to District should any policy be cancelled or reduced in coverage before the expiration date. For the purposes of this notice requirement, any material change prior to expiration shall be considered cancellation. A statement on the insurance certificate to the effect that the insurance company will endeavor to notify the certificate holder, "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents, or representatives" does not satisfy the requirements of this subsection. Consultant shall ensure that the above-quoted language is stricken from the certificate by the authorized representative of the insurance company.

(f) Consultant shall provide evidence of compliance with the insurance requirements listed above by providing certificates of insurance, in a form satisfactory to District's Risk Manager, concurrently with the submittal of this Agreement. Each insurance certificate shall also state the unpaid limits of the policy.

(g) Consultant shall provide a substitute certificate of insurance no later than thirty days prior to the expiration date of any required policy. Failure by Consultant to provide such a substitution and extend the policy expiration date shall be considered a default by Consultant.

(h) Maintenance of insurance by Consultant as specified in this Agreement shall in no way be interpreted as relieving Consultant of any responsibility whatsoever and Consultant may carry, at Consultant's own expense, such additional insurance as Consultant may deem necessary or desirable.

12. Access to Records.

Consultant shall maintain all preparatory books, records, documents, accounting ledgers, and similar materials including but not limited to calculation and survey notes relating to the work performed for District under this Agreement on file for at least three years following the date of final payment to Consultant by District. Any representative of District shall be provided with access to such records for the purpose of inspection, audit, and copying at all reasonable times during Consultant's usual and customary business hours. Consultant shall provide proper facilities for such access and inspection.

13. Assignment.

It is recognized by the parties hereto that a substantial inducement to District for entering into this Agreement was, and is, the professional reputation and competence of Consultant. This Agreement is personal to Consultant and shall not be assigned by Consultant without express written approval of District.

14. Changes to Scope of Work.

District may at any time and, upon a minimum of ten days written notice, seek to modify the scope of basic services to be provided under this Agreement. Consultant shall, upon receipt of said notice, determine the impact on both time and compensation of such change in scope and notify District in writing. The rate of compensation shall be based upon the hourly rates shown in Exhibit "B" of this Agreement. Upon agreement between District and Consultant as to the extent of said impacts to time and compensation, an amendment to this Agreement shall be prepared describing such changes. Execution of the amendment by District and Consultant shall constitute notice to Consultant to proceed with the changed scope.

15. Compliance with Laws, Rules, and Regulations.

Services performed by Consultant pursuant to this Agreement shall be performed in accordance and full compliance with all applicable federal, state, and District laws and any rules or regulations promulgated thereunder.

16. Licenses.

If a license of any kind, which term is intended to include evidence of registration, is required of Consultant, Consultant's employees, agents, or subcontractors by federal or state law, Consultant warrants that such license has been obtained, is valid and in good standing, and that any applicable bond has been posted in accordance with all applicable laws and regulations.

17. Exhibits Incorporated.

All exhibits referred to in this Agreement are hereby incorporated in it by this reference. In the event there is a conflict between any of the terms of this Agreement and of any of the terms of any exhibit to this Agreement, the terms of this Agreement shall control the respective duties and liabilities of the parties hereto.

18. Independent Contractor.

It is expressly understood and agreed that Consultant, while engaged in carrying out and complying with any of the terms and conditions of this Agreement, is an independent contractor and not an employee of District. Consultant shall refrain from representing, at any time or in any manner, that Consultant is an employee or agent of District.

19. Integration and Amendment.

This Agreement represents the entire understanding of District and Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or affect with respect to any matters contained herein. This Agreement may not be modified or altered except by amendment in writing signed by all parties hereto.

20. Jurisdiction.

This Agreement shall be administered and interpreted under the laws of the State of California. Venue for any litigation arising from this Agreement shall be in the State of California in the County of Monterey.

21. Severability.

If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void in so far as it is in conflict with said laws, but the remainder of this Agreement shall continue to be in full force and effect.

22. Notice to Proceed; Progress; Completion.

Upon execution of this Agreement by all parties, District shall give Consultant written notice to proceed with the work. Such notice may authorize Consultant to render all of the services contemplated herein, or such portions or phases as may be mutually agreed upon. In the latter event, District shall, in its sole discretion, issue subsequent notices from time to time regarding further portions or phases of the work. Upon receipt of such notices, Consultant shall diligently proceed with the work authorized and complete it within the agreed time period specified in said notice.

23. Ownership of Documents.

Title to all documents, drawings, specifications, data, reports, summaries, correspondence, photographs, computer software, video and audio tapes, and any other materials with respect to the work performed under this Agreement shall vest with District at such time as District has compensated Consultant, as provided herein, for the services rendered by Consultant in connection with which such materials were prepared

24. Subcontractors.

Consultant shall be entitled, to the extent determined appropriate by Consultant, to subcontract any portion of the work to be performed under this Agreement. Consultant shall be responsible to District for the actions of persons and firms performing subcontract work. The subcontracting of work by Consultant shall not relieve Consultant, in any manner, of the obligations and requirements imposed upon Consultant by this Agreement.

25. Termination.

(a) District may, for any reason whatsoever, upon written notice to Consultant, terminate this Agreement. Upon termination Consultant shall be entitled to payment of such amount as fairly compensates Consultant for all work satisfactorily performed up to the date of termination based upon hourly rates shown in Exhibit "A," except that in the event of termination by District for Consultant's default, District shall deduct from the amount due Consultant the total amount of additional expenses incurred by District as a result of such default. Such deduction from amounts due Consultant is made to compensate District for its actual additional cost incurred in securing satisfactory performance of the terms of this Agreement, including but not limited to, costs of engaging other consultants for such purposes. In the event that such additional expenses exceed amounts otherwise due and payable to Consultant hereunder, Consultant shall pay District the full amount of such expense.

(b) In the event that this Agreement is terminated by District for any reason, Consultant shall:

(1) Upon receipt of written notice of such termination promptly cease all services on this project, unless otherwise directed by District; and

(2) Deliver to District all documents, data, reports, summaries, correspondence, photographs, computer software, video and audio tapes, and any other materials provided to Consultant or prepared by or for Consultant or District in connection with this Agreement. Such material shall be delivered to District whether in completed form or in

process; however, notwithstanding the provisions of Section 23 above, District may condition payment for services rendered to the date of termination upon Consultant's delivery to District of such material.

(c) In the event that this Agreement is terminated by District for any reason, District is hereby expressly permitted to assume this project and complete it by any means, including but not limited to, an agreement with another party.

(d) The rights and remedies of District and Consultant provided in this section are not exclusive and are in addition to any other rights and remedies provided by law or appearing in any other section of this Agreement.

26. Audit and Examination of Accounts.

(a) Consultant shall keep and will cause any assignee or subcontractor under this Agreement to keep accurate books of record in account, in accordance with sound accounting principles, which records pertain to services to be performed under this Agreement.

(b) Any audit conducted of books and records and accounts shall be in accordance with generally accepted professional standards and guidelines for auditing.

(c) Consultant hereby agrees to disclose and make available any and all information, reports, or books of records or accounts pertaining to this Agreement to District and any government entity (including, but not limited to, the County of Monterey, the State of California and the federal government) which provides support funding for this project.

(d) All records provided for in this section are to be maintained and made available throughout the performance of this Agreement and for a period of not less than three years after full completion of services hereunder, except that any and all such records which pertain to actual disputes, litigation, appeals, or claims shall be maintained and made available for a period of not less than three years after final resolution of such disputes, litigation, appeals, or claims.

(e) Consultant hereby agrees to include the requirements of subsections (a) through (d) above in any and all contracts with assignees or consultants under this Agreement.

27. Notices.

(a) Written notices to District hereunder shall, until further notice by District, be addressed to:

Deputy General Manager, Planning & Development Department
Monterey Peninsula Airport District
200 Fred Kane Dr., Suite 200
Monterey, CA 93940

(b) Written notices to Consultant shall, until further notice by Consultant, be addressed to:

Mr. Kevin Flynn
Project Manager
Kimley-Horn and Associates, Inc.
765 The City Drive, Suite 400
Orange, CA 92868

(c) The execution of any such notices by the Deputy General Manager, Planning & Development Department of District shall be effective as to Consultant as if it were by resolution or order of District's Board of Directors.

(d) All such notices shall either be delivered personally, or shall be deposited in the United States mail, properly addressed as aforesaid, postage fully prepaid, and shall be effective the day following such deposit in the mail.

28. Nondiscrimination.

During the performance of this Agreement, Consultant shall not discriminate against any employee or applicant because of race, color, religion, ancestry, creed, sex, national origin, familial status, sexual orientation, age or disability. Consultant shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, ancestry, creed, sex, national origin, familial status, sexual orientation, age or disability.

29. Conflict of Interest.

Consultant warrants and declares that Consultant presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, in any manner or degree which will render the services required under the provisions of this Agreement a violation of any applicable state, local, or federal law. Consultant further declares that, in the performance of this Agreement, no subcontractor or person having such an interest shall be retained or employed. In the event that any conflict of interest should nevertheless hereafter arise, Consultant shall promptly notify District of the existence of such conflict of interest so that District may determine whether to terminate this Agreement.

30. Headings.

The section headings appearing herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of this Agreement.

31. FAA Requirements.

Contractor agrees to observe the provisions of the Standard Requirements attached hereto as Exhibit "C" and made a part hereof.

32. Continuing Services. Not Applicable

33. Multiple Copies of Agreement.

Multiple copies of this Agreement may be executed but the parties agree that the copy on file in the office of the District Secretary is the version that shall take precedence should any differences exist among counterparts of the documents.

IN WITNESS THEREOF, the parties hereto have made and executed this Agreement on the date first above written.

MONTEREY PENINSULA AIRPORT DISTRICT: KIMLEY HORN AND ASSOCIATES INC.:



William J. Sabo
Chair, Board of Directors



Nikki Kerry, P.E.
Vice President

ATTEST:

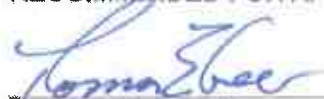


Charles Hayes,
District Secretary



Kevin Flynn
Project Manager

RECOMMENDED FOR APPROVAL:



Thomas Greer, AAE
General Manager

APPROVED AS TO FORM:



David Willoughby,
District Counsel

Attachments:

Exhibit A RSA Design and Construction Phase Services Scope of Work, consisting of [5] pages.

Attachment 1, Schedule OPC Level of Effort consisting of [13] pages.

Attachment 2, Project Sketches, consisting of [1] page.

Exhibit B RSA Design and Construction Phase Services, Additional Services consisting of [2] pages.

Exhibit C RSA Design and Construction Phase Services, Standard Requirements, consisting of [6] pages.

**PROVIDE DESIGN AND CONSTRUCTION PHASE SERVICES
RUNWAY SAFETY AREA (RSA) IMPROVEMENTS**

SCOPE OF WORK

CONTRACT FOR SERVICES

**KIMLEY-HORN AND ASSOCIATES, INC - MONTEREY PENINSULA AIRPORT
DISTRICT**

AUGUST, 2010

**I. DESCRIPTION OF PROJECT AND SCOPE OF BASIC CONSULTING
SERVICES**

Kimley-Horn and Associates, Inc. (KHA) will provide design and construction phase services for the Proposed Action ("Project") identified in the Environmental Assessment ("EA") entitled Proposed Runway Safety Area Improvements at Monterey Peninsula Airport, prepared by Coffman Associates dated June, 2010.

KHA will provide design and construction phase services for the following Project elements under this Scope:

1. Retaining walls, grading and drainage, east and west ends.
2. New access road and associated retaining walls around both the east and west runway safety area ends.
3. On-airport environmental mitigation and monitoring in accordance with the EA.
4. Shift Runway 10R-28L to the east per the EA. This element incorporates modifications to airfield marking, lighting, signage and navigation aids (NAVAIDs). This element also incorporates two (2) new access taxiways to the shifted runway on the west end.
5. Engineered Material Arresting Material (EMAS), approximately 390 feet by 175 feet, both the east and west runway ends.
6. Access road connection and associated improvements to Highway 68 on the east end.
7. Environmental mitigation incorporating modifications to Tarpy's restaurant access and parking area per the EA.

Assumptions, Clarifications and Comments:

- a) The Project will be completed as described and shown as the proposed action in the EA and per Exhibit A, Attachments 1 and 2.
- b) This Agreement, the scope of work, the breakdown of tasks, the schedule, the level of effort and associated fees were based on the following assumptions:
- Total construction cost of the Project will be between \$35M and \$40M.
 - There will be two (2) phases of construction.
 - All work will be completed within 36 months.
 - This Scope of Services will be completed in four (4) Phases or Tasks per the level of effort shown on Exhibit A, Attachment 1.
- c) There are a significant number of unknowns and variables on the Project, including, but not limited to:
- Timing and availability of funding.
 - Number of design and construction packages.
 - Amount of effort required for the CALTRANS encroachment permit process.
 - Amount of effort required for the Federal Aviation Administration (FAA) Reimbursable Agreement (RA) process.
 - Whether or not the FAA will design the modifications to the NAVAIDs or will oversee the design by KHA under the Reimbursable Agreement.
 - The final layout for the Highway 68 access and modifications, if any, to Tarpy's access and parking lot.
- d) Due to the number of variables and unknowns, KHA will complete:
- Task 1. (65% design and 100% bid/advertising of construction phase 1) on a lump sum basis and Tasks 2, 3 and 4 on a labor fee plus expense basis.
- KHA assumes that the Scope will be completed under a number of Tasks and Subtasks.
- Each Task to be completed under this Agreement will have a formal Notice to Proceed (NTP).
- e) There are a number of variables and processes that are beyond the control of KHA. While KHA will take reasonable steps and work closely with the District, there is no guarantee with regard to funding, airspace, encroachment permits, or other items beyond our control.

II. COMPLETION SCHEDULE FOR PERFORMANCE OF BASIC SERVICES

Barring circumstances beyond the control of KHA, It is anticipated that the Scope of Work described "Exhibit A" will be completed within thirty (36) months of KHA receiving an initial Notice to Proceed subsequent to the execution of this contract.

III. COMPENSATION FOR BASIC SERVICES

Task 1.0.:

KHA will provide the services under Task 1.0 of this Agreement for a lump sum fee of \$ 2,197,840. See Exhibit A, Attachment 1 for a breakdown of fees and level of effort.

Tasks 2.0, 3.0 and 4.0.:

Due to the number of variables, KHA will provide the Services in Tasks 2, 3 and 4 on a labor fee plus expense basis (see Exhibit A, Attachment 1 for a breakdown of anticipated fees and the associated level of effort).

Labor fee will be billed according to the rate schedule below. Fees will be invoiced monthly based on the actual amount of service performed and expenses incurred. Labor fee will be billed according to the rate schedule below.

Title	Hourly Rate
Principal	\$250.06
Project Manager	\$225.39
Senior Engineer/Task Manager	\$144.20
Engineer/Accountant/Analyst	\$100.02
Clerical/Administrative	\$83.35

⁽¹⁾ These rates are effective until June 30, 2011. A 5% escalation to cover salary increases will be applied on July 1st of each year

⁽²⁾ Direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.10 times cost. Technical use of computers for design, analysis, GIS, and graphics, etc. will be billed at \$10.00 per hour. All permitting, application, and similar project fees will be paid directly by the Client.

⁽³⁾ Subconsultant expenses and costs will be billed at 1.05 times cost.

EXHIBIT "A"

Based on the available information, the EA, and the assumptions described in this Scope, KHA estimates that the maximum costs for labor and expenses to be as follows:

Task	Summary	Fee	Type
1.0.	Project wide design to 65%. Complete 100% design and advertising for on airport grading, drainage, retaining walls and service road.	\$ 2,197,840	Lump Sum
2.0.	Construction Phase Services for on airport grading, drainage, retaining walls and service road.	\$ 1,498,573	Labor Fee Plus Expense, Time and Materials
3.0.	Complete 100% design for CALTRANS Hwy 68 connection and Tarpy's Modifications. Complete 100% design and advertising for on airport runways, taxiways, NAVAIDS, service roads.	\$ 971,070	Labor Fee Plus Expense, Time and Materials.
4.0.	Construction Phase Services for airport runways, taxiways, NAVAIDS, service roads, CALTRANS Hwy 68 connection and Tarpy's Modifications.	\$ 1,387,342	Labor Fee Plus Expense, Time and Materials
Totals		\$ 6,054,825	

EXHIBIT "A"

KHA shall not exceed \$6,054,825 without written approval by the District.

Fees and expenses will be invoiced monthly based, as applicable, upon the percentage of services completed or actual services performed and expenses incurred as of the invoice date.

Task	Summary	Includes	Comments, Clarifications	Mill Fee	Start	End
1	<p>1.a. Takes entire project to 65%.</p> <p>1.b. Takes design for construction phase 1 to 100% Bas Ready (plus advertising assistance)</p>	<p>1.a. All on airport elements to 65%.</p> <p>1.b. On airport grading, drainage, utilities, retaining walls and grading for perimeter roads.</p>	Does not include TARP's, CALTRANS	\$2,197,840	Apr-10	Apr-13
2	Construction Phase Services Related to Design Package One	On airport grading, drainage, utilities, retaining walls and grading for perimeter roads.		\$1,408,573	Apr-11	Apr-13
3	Design Package Two to 100% Bas Ready Plus Advertising Assistance	Acadco facilities including survey and layout, lighting, NAV/ADS and EMAS, access road panels, Hwy 16 connect and Terry's mitigation	Includes Hwy 66 and Terry's from 0% to 100% Design Includes balance of on airport elements from 65% to 100% Design Will be altered and constructed as one project.	\$971,070	Apr-11	Apr-13
4	Construction Phase Services Related to Design Package Two	Acadco facilities including survey and layout, lighting, NAV/ADS and EMAS, access road panels, Hwy 66 segment and Terry's mitigation		\$1,387,342	Apr-11	Apr-13

Task	Scope	Comments	Subtask Total All Labor and Expenses
1.1.	Project Administration		\$289,620
1.1.1.	Contract/Subcontract Management		\$87,876.85
1.1.2.	Coordination and Strategy Mtgs		\$135,163.98
1.1.4.	Project Meetings		\$65,979.64
			\$0.00
1.2.	Project Design Required Data and Analysis		\$610,573
1.2.1.	General Research		\$7,826.00
1.2.2.	Topographical Survey		\$128,576.99
1.2.3.	Utility Inventory		\$60,326.99
1.2.4.	Geotechnical Investigations		\$244,076.99
1.2.5.	Project Wide Drainage Study	Does not include Tarpy's	\$50,034.40
1.2.6.	Initiate Reimbursable Agreement		\$21,752.14
1.2.7.	CALTRANS Encroachment	For Temporary Construction Access	\$34,044.26
1.2.8.	Airspace Notifications/7460's		\$4,448.91
1.2.9.	Preliminary Phasing Plan		\$17,641.08
1.2.10.	Preliminary SWPPP SMARTS		\$23,753.10
1.2.11.	Design Criteria Report		\$18,091.11
			\$0.00
1.3	Design to 65% (On Airport)	Project-wide, except Hw 68 and Tarpy's	\$845,228
1.3.1.	Up Front Sheets		\$0.00
	Cover, Notes, Survey, Geotech	up to 3 sheets	\$12,000.50
	Safety and Phasing	up to 3 sheets	\$12,000.50
1.3.2.	Demolition		\$0.00
	Analysis, Engineering, Documentation for Permits and Engineers Design Report		\$11,136.64
	Plan Sheets	Up to 5 sheets	\$20,000.84
1.3.3.	Drainage		\$0.00
	Analysis, Engineering, Documentation for Permits and Engineers Design Report		\$20,258.81
	Plan Sheets	Up to 5 sheets	\$32,001.34
1.3.4.	Grading		\$0.00
	Analysis, Engineering, Documentation for Permits and Engineers Design Report		\$20,258.81

Task	Scope	Comments	Subtask Total All Labor and Expenses
	Plan Sheets	Up to 8 sheets	\$32,001.34
1.3.5.	Utilities		\$0.00
	Analysis, Engineering, Documentation for Permits and Engineers Design Report		\$20,258.81
	Plan Sheets	Up to 8 sheets	\$32,001.34
1.3.6.	Retaining Walls		\$0.00
	Analysis, Engineering, Documentation for Permits and Engineers Design Report		\$20,258.81
	Plan Sheets	Up to 8 sheets	\$32,001.34
1.3.7.	Landscape/Irrigation/Re-planting		\$0.00
	Analysis, Engineering, Documentation for Permits and Engineers Design Report		\$20,258.81
	Plan Sheets	Up to 8 sheets	\$32,001.34
1.3.8.	Runway/Taxiway Paving, Marking		\$0.00
	Analysis, Engineering, Documentation for Permits and Engineers Design Report		\$20,258.81
	Plan Sheets	Up to 5 sheets	\$32,001.34
1.3.9.	Airside Electrical and NAVAIDs		\$0.00
	Reimbursable Agreement		\$21,414.28
	Analysis, Engineering, Documentation for Permits and Engineers Design Report		\$20,258.81
	Plan Sheets	Up to 8 sheets	\$32,001.34
1.3.10.	Engineered Material Arresting System (EMAS)		\$0.00
	Analysis, Engineering, Documentation for Permits and Engineers Design Report		\$21,414.28
	Plan Sheets	Sub to ESCO - Total approx \$250k subcontract (200k here, 50k in final design)	\$231,414.28
1.3.11.	Access Road Paving	Grading will be const pkg 1, paving in const pkg 2	\$0.00
	Analysis, Engineering, Documentation for Permits and Engineers Design Report		\$20,258.81
	Plan Sheets	Up to 8 sheets	\$32,001.34
1.3.12.	Engineers Design Report		\$0.00
	Compile and Coordinate Design Elements		\$26,634.37
	Quality Control and Flow		\$22,273.28
	Draft EDR		\$24,328.81
	Final EDR		\$24,328.81
			\$0.00
1.4.	Design Package One to 100% plus Advertising		\$483,819

Task	Scope	Comments	Subtask Total All Labor and Expenses
			\$0.00
1.4.1.	Up Front Sheets		\$0.00
	Cover, Notes, Survey, Geotech, Safety and Phasing (Refined)	refine up to 6 sheets from 65% set	\$12,165.50
	Cover, Notes, Survey, Geotech, Safety and Phasing (New)	Up to 3 sheets	\$12,000.50
	Task Specific Constructability and Site Visits	2 people, 2-one day trips	\$7,809.62
1.4.2.	Demolition		\$0.00
	Plan Sheets (Refine)	Refine up to 5 sheets from 65%	\$10,137.92
	Plan Sheets (New)	Up to 3 additional Sheets	\$12,000.50
	Technical Specification and OPC		\$8,506.42
	Task Specific Constructability and Site Visits	2 people, 2-one day trips	\$7,809.62
1.4.3.	Drainage		\$0.00
	Plan Sheets (Refine)	Refine up to 8 sheets from 65%	\$16,220.67
	Plan Sheets (New)	Up to 3 sheets	\$12,006.50
	Technical Specification and OPC		\$8,506.42
	Task Specific Constructability and Site Visits	2 people, 2-one day trips	\$7,809.62
1.4.4.	Grading		\$0.00
	Plan Sheets (Refine)	Refine up to 8 sheets from 65%	\$15,780.67
	Plan Sheets (New)	Up to 3 sheets	\$12,275.50
	Technical Specification and OPC		\$8,671.42
	Task Specific Constructability and Site Visits	2 people, 2-one day trips	\$7,809.62
1.4.5.	Utilities		\$0.00
	Plan Sheets (Refine)	Refine up to 6 sheets from 65%	\$15,780.67
	Plan Sheets (New)	Up to 3 sheets	\$12,275.50
	Technical Specification and OPC		\$8,671.42
	Task Specific Constructability and Site Visits	2 people, 2-one day trips	\$7,809.62
1.4.6.	Retaining Walls		\$0.00

Task	Scope	Comments	Subtask Total All Labor and Expenses
	Plan Sheets (Refine)	Refine up to 8 sheets from 65%	\$15,780.87
	Plan Sheets (New)	Up to 3 sheets	\$12,275.50
	Technical Specification and OPC		\$8,671.42
	Task Specific Constructability and Site Visits	2 people, 2-one day trips	\$7,809.62
1.4.7.	Landscape/Irrigation/Re-planting		\$0.00
	Plan Sheets (Refine)	Refine up to 8 sheets from 65%	\$16,220.67
	Plan Sheets (New)	Up to 3 sheets	\$12,000.50
	Technical Specification and OPC		\$8,506.42
	Task Specific Constructability and Site Visits	2 people, 2-one day trips	\$7,809.62
1.4.8.	Access Road (grading, drainage and compaction only in this phase)		\$0.00
	Plan Sheets (Refine)	Refine up to 8 sheets from 65%	\$17,234.24
	Plan Sheets (New)	Up to 3 sheets	\$13,014.08
	Technical Specification and OPC		\$9,519.99
	Task Specific Constructability and Site Visits	2 people, 2-one day trips	\$7,809.62
1.4.9.	Specifications		\$0.00
	Front Ends		\$21,414.28
	General and Special Provisions		\$21,414.28
	Technical Sections		\$23,694.62
1.4.10.	Advertising		\$0.00
	Publications		\$14,060.88
	Pre-Bid		\$15,151.10
	Bid Opening		\$7,669.41
	Bid Review and Recommendation of Award		\$8,920.46
			\$0.00
			\$0.00
	Project Totals		\$2,197,840

Task	Scope	Comments	Subtask Total All Labor and Expenses
2.1.	Project Administration		\$239,617
	Contract/Subcontract Management		\$107,872.97
	Coordination and Strategy Mtgs		\$107,872.97
	Contractor Input Workshop		\$23,871.11
			\$0.00
2.2.	Construction Phase Services		\$1,258,956
	Quality Assurance Testing/QC/QA Lab	Cornerstone	\$204,181.70
	On Site Observation - No 1	KHA - Full Time On Site, 52 Weeks	\$376,885.82
	On Site Observation - No 2	Neill Consulting Engineers	\$285,335.82
	On Site Observation - No 3 - Nights	KHA - 3 Months/13 weeks/Nights	\$151,141.84
	Environmental Mitigation and Monitoring	Coffman/SWCA	\$137,797.99
	Specialty/Lead Mtgs and Inspections	2 people, 2 day trip, once per month	\$103,612.42
			\$0.00
			\$0.00
	Project Totals		\$1,498,573

Task	Scope	Comments	Subtask Total All Labor and Expenses
3.1.	Project Administration, Phase 2, 100% Design and Advertising		\$101,426
3.1.1.	Contract/Subcontract Management		\$26,214.40
3.1.2.	Coordination and Strategy Mtgs		\$28,494.94
3.1.3.	Public Outreach		\$23,933.66
3.1.4.	EA Update/Modification		\$22,782.61
3.2.	Hwy 68 Connection and Tarpy's Reconfiguration to 65%		\$383,299
3.2.1.	Research		\$9,648.38
3.2.2.	Topographical Survey		\$88,398.38
3.2.3.	Utility Inventory		\$35,898.38
3.2.4.	Geotechnical Investigations		\$68,399.38
3.2.5.	Area-Wide Drainage Study		\$21,400.77
3.2.6.	CALTRANS Encroachment		\$25,975.36
3.2.7.	Preliminary Phasing Plan		\$16,959.62
3.2.8.	Preliminary SWPPP SMARTS		\$15,697.72
3.2.9.	Design Criteria Report/Engineers Design Report	Neill Consulting Engineer	\$11,418.79
3.2.10.	Demolition Plans (to 65%)	Neill Consulting Engineer	\$11,583.79
3.2.11.	Grading and Drainage Plans (to 65%)	Neill Consulting Engineer	\$11,583.79
3.2.12.	Utility Plans(to 65%)	Neill Consulting Engineer	\$11,583.79
3.2.13.	Paving Plans (to 65%)	Neill Consulting Engineer	\$11,583.79
3.2.14.	Landscaping (to 65%)	Neill Consulting Engineer	\$11,583.79
3.2.15.	Marking and Signage (to 65%)	Neill Consulting Engineer	\$11,583.79
3.3.	Design Package 2 to 100%		\$486,345
3.3.1.	Up Front Sheets		\$0.00
3.3.1.1.	Cover, Notes, Survey, Geotech, Safety and Phasing (Refined)	refine up to 6 sheets from 65% set	\$12,165.50
3.3.1.2.	Cover, Notes, Survey, Geotech, Safety and Phasing (New)	Up to 3 sheets	\$12,000.50
3.3.2.	On Airport		
3.3.2.1.	Demolition		\$0.00
	Plan Sheets (Refine)	Refine up to 5 sheets from 65%	\$12,430.28
	Plan Sheets (New)	Up to 3 additional Sheets	\$12,320.28
	Technical Specification and OPC		\$8,506.42

Task	Scope	Comments	Subtask Total All Labor and Expenses
3.3.2.2.	Drainage		\$0.00
	Plan Sheets (Refine)	Refine up to 8 sheets from 65%	\$16,220.67
	Plan Sheets (New)	Up to 3 sheets	\$12,000.50
	Technical Specification and OPC		\$8,506.42
3.3.2.3.	Grading		\$0.00
	Plan Sheets (Refine)	Refine up to 8 sheets from 65%	\$16,220.67
	Plan Sheets (New)	Up to 3 sheets	\$12,000.50
	Technical Specification and OPC		\$8,506.42
3.3.2.4.	Access Road (paving, marking and signage)		\$0.00
	Plan Sheets (Refine)	Refine up to 8 sheets from 65%	\$16,220.67
	Plan Sheets (New)	Up to 3 sheets	\$12,000.50
	Technical Specification and OPC		\$8,506.42
	Task Specific Constructability and Site Visits	2 people, 2-one day trips	\$7,809.62
3.3.2.5.	Runway/Taxiway Paving, Marking		\$0.00
	Plan Sheets (Refine)	Refine up to 8 sheets from 65%	\$16,220.67
	Plan Sheets (New)	Up to 3 sheets	\$12,000.50
	Technical Specification and OPC		\$8,506.42
	Project Meetings and Site Visits	2 people, 2-one day trips	\$7,809.62
3.3.2.6.	Airside Electrical and NAVAIDs		\$0.00
	Plan Sheets (Refine)	Refine up to 8 sheets from 65%	\$16,220.67
	Plan Sheets (New)	Up to 3 sheets	\$12,000.50
	Technical Specification and OPC		\$8,506.42
	Project Meetings and Site Visits	2 people, 2-one day trips	\$7,809.62
3.3.2.7.	Engineered Material Arresting System (EMAS)		\$0.00
	Plan Sheets (Refine)	ESCO	\$4,894.66
	Plan Sheets (New)	ESCO	\$57,119.66

Task	Scope	Comments	Subtask Total All Labor and Expenses
	Technical Specification and OPC		\$6,681.99
	Project Meetings and Site Visits	2 people, 2-one day trips	\$7,509.62
3.3.3	Hwy 68 Connection and Tarp's Modifications to 100%		\$0.00
3.3.3.1.	Demolition Plans	Neill Consulting Engineer	\$13,812.47
3.3.3.2.	Grading and Drainage Plans	Neill Consulting Engineer	\$13,812.47
3.3.3.3.	Utility Plans	Neill Consulting Engineer	\$13,812.47
3.3.3.4.	Paving Plans	Neill Consulting Engineer	\$13,812.47
3.3.3.5.	Landscaping	Neill Consulting Engineer	\$13,812.47
3.3.3.6.	Marking and Signage	Neill Consulting Engineer	\$13,812.47
3.3.3.7.	Technical Specification and OPC		\$6,681.99
3.3.4	Advertising - Design Pkg 2 Complete		\$0.00
3.3.4.1.	Compile and QC Bid Package		\$14,060.88
3.3.4.2.	Publications		\$14,060.88
3.3.4.3.	Pre-Bid		\$13,116.10
3.3.4.4.	Bid Opening		\$5,634.41
3.3.4.5.	Bid Review and Recommendation of Award		\$8,920.46
			\$0.00
			\$0.00
	Project Totals		\$971,070

Task	Scope	Comments	Subtask Total All Labor and Expenses
4.1.	Project Administration		\$248,135
4.1.1.	Contract/Subcontract Management		\$107,872.97
4.1.2.	Coordination and Strategy Migs		\$107,872.97
4.1.3.	Public Outreach		\$19,746.11
4.1.4.	Contractor Input Workshop		\$13,642.46
			\$0.00
4.2.	Construction Phase Services		\$1,138,206
4.2.1.	Quality Assurance Testing/QC/QA Lab	Cornerstone	\$204,181.70
4.2.2.	On Site Observation - No 1	KHA - Full Time On Site, 65Weeks	\$393,935.82
4.2.3.	On Site Observation - No 2	Neill Consulting Engineers	\$285,335.82
4.2.4.	On Site Observation - No 3 - Nights	KHA - 3 Months/13 weeks/Nights	\$151,141.84
4.2.5.	Specialty/Lead Migs and Inspections	2 people, 2 day trip, once per month	\$103,612.42
			\$0.00
			\$0.00
	Project Totals		\$1,387,342



MONTEREY PENINSULA AIRPORT
Opinion of Probable Construction Costs

			Date:	29-Jun-10
--	--	--	--------------	------------------

The Engineer has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to Engineer at this time and represent only the Engineer's judgment as a design professional familiar with the construction industry. The Engineer cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

Construction Package	Element Description	Quantity for OPC	Unit	Unit Price for OPC	Total
1	Mobilization	1	LS	\$ 921,479.78	\$921,480
1	Earthwork (Hillside Grading)				
1	Cut Common Earth	288	CY	\$ 11.50	\$3,306
1	Fill Common Earth	1,725	CY	\$ 11.50	\$19,838
1	Hauling	1,438	CY	\$ 14.95	\$21,491
1	Retaining Wall	6,038	SF Face	\$ 46.00	\$277,725
1	Subdrainage	403	LF	\$ 40.25	\$16,201
1	Drainage Modifications	1	LS	\$ 17,250.00	\$17,250
1	Environmental Mitigation	1	LS	\$ 977,500.00	\$977,500
1	Landscaping	126,500	SF	\$ 2.30	\$290,950
1	Irrigation	126,500	SF	\$ 1.15	\$145,475
1	Earthwork (Hillside Grading)			\$ -	
1	Cut Common Earth	206,425	CY	\$ 11.50	\$2,373,888
1	Fill Common Earth	1,725	CY	\$ 11.50	\$19,838
1	Hauling	124,200	CY	\$ 14.95	\$1,856,790
1	Retaining Wall	136,735	SF	\$ 46.00	\$6,289,810
1	Subdrainage	6,619	LF	\$ 28.75	\$190,308
1	Drainage Modifications	1	LS	\$ 204,125.00	\$204,125
1	Utilities			\$ -	
1	10" Water Main	2,703	LF	\$ 86.25	\$233,091
1	Gate Valves	9	Each	\$ 4,600.00	\$42,320
1	8" PVC Sewer	2,703	LF	\$ 92.00	\$248,630
1	Sewer Manhole (4' Dia)	17	Each	\$ 5,750.00	\$99,188
1	Dry Utilities	2,703	LF	\$ 74.75	\$202,012
1	Environmental Mitigation	1	LS	\$ 172,500.00	\$172,500
1	Landscaping	41,768	SF	\$ 2.30	\$96,066
1	Irrigation	41,768	SF	\$ 1.15	\$48,033
1	Earthwork (Hillside Grading)			\$ -	
1	Cut Common Earth	6,900	CY	\$ 11.50	\$79,350
1	Fill Common Earth	87,400	CY	\$ 11.50	\$1,005,100
1	Hauling	80,500	CY	\$ 14.95	\$1,203,475
1	Retaining Wall	38,640	SF Face	\$ 46.00	\$1,777,440
1	Subdrainage	3,741	LF	\$ 40.25	\$150,573
1	Drainage Modifications	1	LS	\$ 57,500.00	\$57,500
1	Perimeter Chain Link Fence	1,610	LF	\$ 57.50	\$92,575
1	Security Gate	1	LS	\$ 17,250.00	\$17,250
1	Reimbursable Agreement (FAA)				\$200,000
				Subtotal	\$19,351,075
				Construction 1	

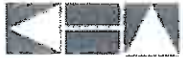


MONTEREY PENINSULA AIRPORT
Opinion of Probable Construction Costs

			Date:	29-Jun-10
--	--	--	--------------	------------------

The Engineer has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to Engineer at this time and represent only the Engineer's judgment as a design professional familiar with the construction industry. The Engineer cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

Construction Package	Element Description	Quantity for OPC	Unit	Unit Price for OPC	Total
2	Mobilization	1	LS	\$ 841,229.31	\$841,229
2	Demolish Existing Runway Pvmt	5,060	SY	\$ 11.50	\$58,190
2	Runway Construction				
2	Runway Markings	123,510	SF	\$ 1.44	\$177,546
2	Existing Marking Removal	126,500	SF	\$ 0.86	\$109,106
2	Taxiway Modifications			\$ -	
2	Existing Pavement Removal	5,980	SY	\$ 20.70	\$123,786
2	New Connecting Taxiway Pavement	11,155	SY	\$ 57.50	\$641,413
2	Airfield Electrical (modifications & new)	1	LS	\$ 201,250.00	\$201,250
2	NAVAID's Relocation			\$ -	
2	Glide Slope	1	LS	\$ 109,250.00	\$109,250
2	EMAS (390' bed -- 70 kts @ MTOW for 737)	2	LS	\$7,015,000.00	\$14,030,000
2	Demolish Existing Blast Pad	4,370	SY	\$ 11.50	\$50,255
2	Airfield Electrical (modifications & new)	1	LS	\$ 86,250.00	\$86,250
2	NAVAID's Relocation			\$ -	
2	VASI	1	LS	\$ 46,000.00	\$46,000
2	Street Lighting	2,760	LF	\$ 115.00	\$317,400
2	Roadway Construction			\$ -	
2	3.5" Asphalt Concrete Pavement (140 pcf)	427	Ton	\$ 172.50	\$73,597
2	4" CTB (140 pcf)	478	Ton	\$ 28.75	\$13,754
2	Roadway Signage	1	LS	\$ 17,250.00	\$17,250
2	Roadway Markings	2,652	LF	\$ 11.50	\$30,497
2	Power Pole Relocation	9	Each	\$ 28,750.00	\$264,500
2	Chain link Fence	920	LF	\$ 28.75	\$26,450
2	Earthwork (Hillside Grading)	1,750	CY	\$ 8.63	\$15,096
2	Hauling	1,279	CY	\$ 9.20	\$11,765
2	Retaining Wall	176	LF	\$ 287.50	\$50,586
2	Drainage Modifications	1	LS	\$ 57,500.00	\$57,500
2	Roadway Construction			\$ -	
2	Mill and Resurface	2,873	SY	\$ 13.80	\$39,643
2	3.5" Asphalt Concrete Pavement	237	Ton	\$ 161.00	\$38,141
2	4" CTB	308	Ton	\$ 19.55	\$6,025
2	Roadway Markings	920	SF	\$ 23.00	\$21,160
2	Chain link Fence	920	LF	\$ 28.75	\$26,450
2	Earthwork (Hillside Grading)	1,750	CY	\$ 8.63	\$15,096
2	Hauling	1,279	CY	\$ 9.20	\$11,765
2	Retaining Wall	176	LF	\$ 287.50	\$50,586
2	Drainage Modifications	1	LS	\$ 57,500.00	\$57,500
2	Roadway Construction			\$ -	
2	Mill and Resurface	2,873	SY	\$ 13.80	\$39,643
2	3.5" Asphalt Concrete Pavement	237	Ton	\$ 161.00	\$38,141
2	4" CTB	308	Ton	\$ 19.55	\$6,025



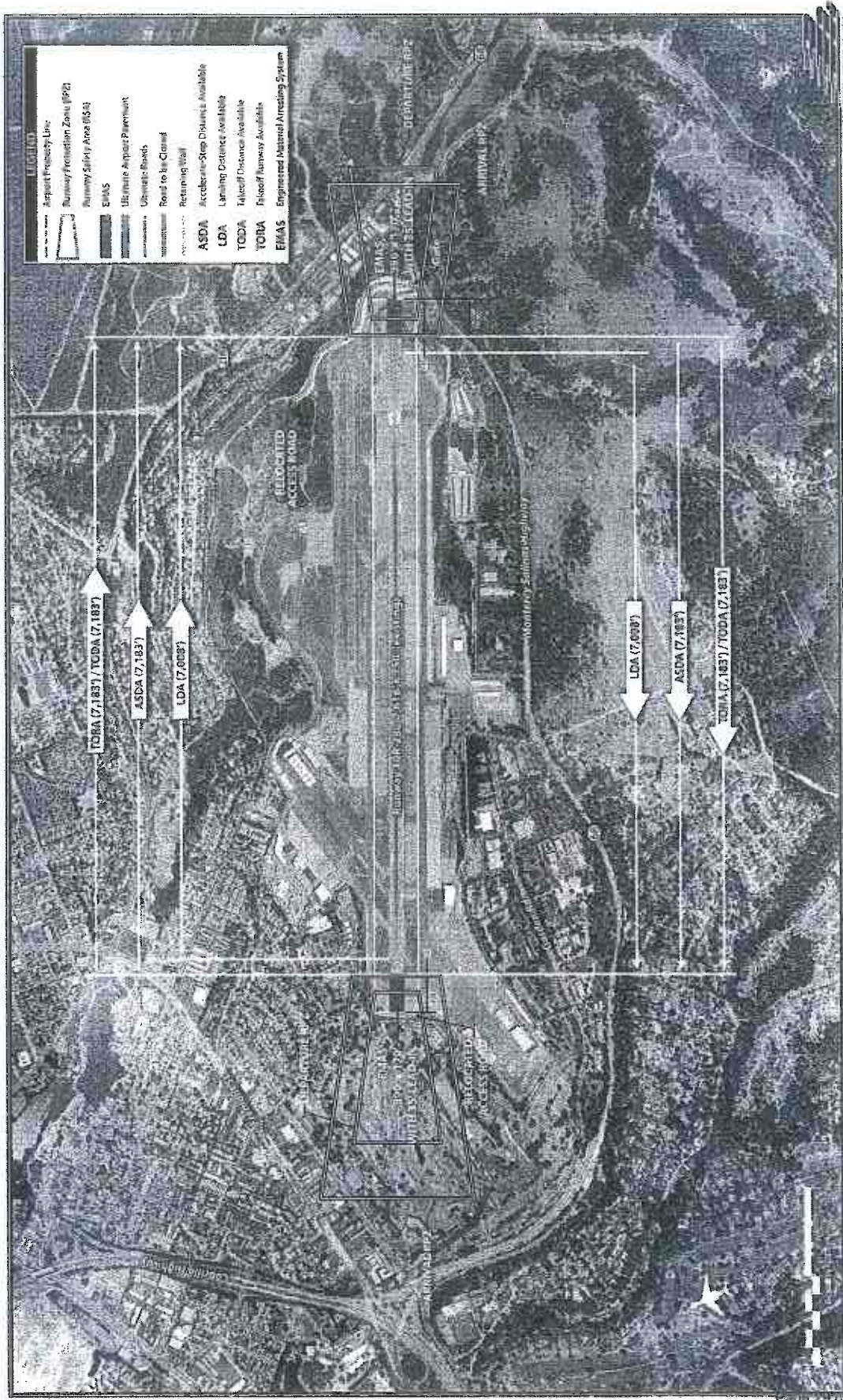
Kimley-Horn
and Associates, Inc.

MONTEREY PENINSULA AIRPORT
Opinion of Probable Construction Costs

			<u>Date:</u>	29-Jun-10
--	--	--	--------------	-----------

The Engineer has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to Engineer at this time and represent only the Engineer's judgment as a design professional familiar with the construction industry. The Engineer cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

2	Roadway Markings	920	SF	\$ 23.00	\$21,160
				Subtotal	\$17,724,005
				Construction 2	



- LEGEND**
- ▬ Airport Property Line
 - ▬ Runway Protection Zone (RPZ)
 - ▬ Runway Safety Area (RSA)
 - EMAS
 - ▬ Ultimate Airport Pavement
 - ▬ Ultimate Runway
 - ▬ Road to be Closed
 - ▬ Retaining Wall
 - ASDA Accelerate-Stop Distance Available
 - LDA Landing Distance Available
 - TODA Takeoff Distance Available
 - TORA Takeoff Runway Available
 - EMAS Engineered Material Arresting System

PROPOSED ACTION

ADDITIONAL SERVICES**PROVIDE DESIGN AND CONSTRUCTION PHASE SERVICES
RUNWAY SAFETY AREA (RSA) IMPROVEMENTS****CONTRACT FOR SERVICES****KIMLEY-HORN AND ASSOCIATES, INC - MONTEREY PENINSULA AIRPORT
DISTRICT****AUGUST, 2010****I. Scope of Additional Consulting Services**

1. Attend and/or organize additional meetings with the District and/or the Federal Aviation Administration and other Stakeholders at the local, regional and national level.
2. Provide additional copies of deliverables.
3. Additional project evaluation with respect to NEPA and CEQA processes.
4. Assistance with coordination and negotiation with Tarcy's

II. Completion Schedule (Additional Services)

Schedules for additional services will be based on a case-by-case basis in mutual agreement with the District.

III. Compensation (Additional Services)

Services provided by KHA under this Agreement on a labor fee plus expense basis. Labor fee will be billed according to the rate schedule below. Fees will be invoiced monthly based on the actual amount of service performed and expenses incurred. Labor fee will be billed according to the following rate schedule below.

Title	Hourly Rate
Principal	\$250.06
Project Manager	\$225.39
Senior Legal	\$295.00
Senior Engineer/Task Manager	\$144.20
Engineer/Accountant/Analyst	\$100.02
Clerical/Administrative	\$83.35

- (1) These rates are effective until June 30, 2011. A 5% escalation to cover salary increases will be applied on July 1st of each year
- (2) Direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.10 times cost. Technical use of computers for design, analysis, GIS, and graphics, etc. will be billed at \$10.00 per hour. All permitting, application, and similar project fees will be paid directly by the Client.
- (3) Subconsultant expenses and costs will be billed at 1.05 times cost.

Fees and expenses will be invoiced monthly based, as applicable, upon the percentage of services completed or actual services performed and expenses incurred as of the invoice date.

Invoices will be submitted by the Consultant to the Client periodically for services performed and expenses incurred. The Client is also responsible for payment of any taxes, including sales tax. Payment of each invoice will be due within forty-five (45) days of receipt. Interest will be added to accounts not paid within 45 days at the maximum rate allowed by law. If the Client fails to make any payment due the Consultant for services and expenses under this or any other agreement within forty-five (45) days after the Consultant's transmittal of its invoice therefore, the Consultant may, after giving notice to the Client, suspend services under this Agreement or the IPO in question until it has been paid in full all amounts due.

If the Client objects to any charge on an invoice, it shall so advise the Consultant in writing giving its reasons within fourteen (14) days of receipt of the invoice or all such objections shall be waived and the amount stated in the invoice shall conclusively be deemed due and owing.

If the Consultant initiates legal proceedings to collect payment, it may recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at the Consultant's normal billing rates, of the time devoted to such proceedings by its employees.

The Client agrees that payment to the Consultant is not subject to any contingency. The Consultant may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing the right of the Consultant to collect additional amounts from the Client.

STANDARD REQUIREMENTS

CIVIL RIGHTS ACT OF 1964, TITLE VI - CONTRACTOR CONTRACTUAL REQUIREMENTS

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1.1 Compliance with Regulations.

The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

1.2 Nondiscrimination.

The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

1.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment.

In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

1.4 Information and Reports.

The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the sponsor or

the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

1.5 Sanctions for Noncompliance.

In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

- a. Withholding of payments to the contractor under the contract until the contractor complies, and/or
- b. Cancellation, termination, or suspension of the contract, in whole or in part.

1.6 Incorporation of Provisions.

The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982, SECTION 520 - GENERAL CIVIL RIGHTS PROVISIONS

The contractor assures that it will comply with pertinent statutes, Executive orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport a program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

(1) No Federal appropriated funds shall be paid, by or on behalf of the contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant and the amendment or modification of any Federal grant.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal grant, the contractor shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

ACCESS TO RECORDS AND REPORTS

The Contractor shall maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representative's access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

DISADVANTAGED BUSINESS ENTERPRISES

Contract Assurance (§26.13)

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

Prompt Payment (§26.29)

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the Monterey Peninsula Airport District. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval

of the Monterey Peninsula Airport District. This clause applies to both DBE and non-DBE subcontractors.

RIGHTS TO INVENTIONS

All rights to inventions and materials generated under this contract are subject to regulations issued by the FAA and the Sponsor of the Federal grant under which this contract is executed.

TRADE RESTRICTION CLAUSE

The contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

Further, the contractor agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The contractor shall provide immediate written notice to the sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

TERMINATION OF CONTRACT

- a. The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the Sponsor.
- b. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.
- c. If the termination is due to failure to fulfill the contractor's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor shall be liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.
- d. If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination shall be deemed to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price shall be made as provided in paragraph 2 of this clause.
- e. The rights and remedies of the sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

The bidder/offeror certifies, by submission of this proposal or acceptance of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees by submitting this proposal that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the bidder/offeror/contractor or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this solicitation/proposal.

BREACH OF CONTRACT TERMS

Any violation or breach of terms of this contract on the part of the contractor or their subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

TO: Board of Directors, Monterey Peninsula Airport District
FROM: Thomas E. Greer, General Manager
Scott E. Huber, District Counsel
SUBJ: Flight Way Self Storage LLC and Monterey Hi-Way Self Storage LLC Lease Term Amendment

BACKGROUND. The Monterey Peninsula Airport District ("MPAD") entered into three ground leases with Flight Way Self Storage LLC and Monterey Hi-Way Self Storage LLC ("LLCs") for approximately 10.5 acres of property immediately contiguous to the Monterey Airport, which property is for the purpose of the development and operation of self-storage facilities.

During construction of Phase 3 of the self-storage development project, a dispute arose related to the an alleged disturbance of on-site mitigation lands in the course of the subject construction, as well as alleged construction of certain elements without a building permit. Subsequently, the parties resolved the issue by entering into a Release and Compromise Agreement, which was approved by the Board of Directors at the August 10, 2011 Board meeting. A copy of the Release and Compromise Agreement is attached as Exhibit A to this Staff Report.

The Release and Compromise Agreement provides for payment by the LLCs of \$200,000 to MPAD for the purchase of CEQA mitigation property and the planting of habitat restoration and maintenance. Paragraph 2.2.4 of the Release and Compromise Agreement provides that MPAD will extend the three ground leases for an additional 15 years.

The LLCs have complied with their obligations contained in the Release and Compromise Agreement. The LLCs have asked that MPAD execute formal lease term amendments to the three leases. Accordingly, Staff has prepared the attached lease term amendments, which extend each lease by a period of 15 years, which were previously approved by the Board of Directors on August 10, 2011. The lease term amendments, including the original leases, are attached to this Staff Report as Exhibits B, C, and D, respectively.

IMPACT ON OPERATIONS. None.

IMPACT ON OPERATING REVENUE. None.

OPERATING BUDGET IMPACT. None.

CAPITAL BUDGET IMPACT. None.

RECOMMENDATION. By motion, approve the lease term amendments between Monterey Peninsula Airport District, as lessor and Flight Way Self Storage LLC and Monterey Hi-Way Self Storage LLC, as lessees.

EXHIBIT "A"

RELEASE AND COMPROMISE

This Release and Compromise Agreement ("Agreement") is entered into on August 10, 2011, by and between the Monterey Peninsula Airport District ("MPAD"), on the one hand, and Flight Way Self Storage LLC, a California Limited Liability Company; and Monterey Hi-Way Self Storage LLC, a California Limited Liability Company (the "LLCs"), on the other, for purposes of resolving all claims and disputes between these settling parties arising from the development by the LLCs of self-storage facilities contiguous to the Monterey Airport. This Agreement is entered into for purposes of a final and binding resolution of disputes without admission of liability by any of these settling parties.

RECITALS

A. The LLCs lease from MPAD approximately 10.5 acres of property immediately contiguous to the Monterey Airport, which property is leased for the purpose of development and operation of self-storage facilities. In 2008, FWSS commenced construction of Phase 3 of the self-storage development project ("Phase 3 Construction").

B. In or about January 2009, MPAD "red-tagged" the Phase 3 Construction, ordering that all work be stopped due to an alleged disturbance of on-site mitigation lands in the course of the subject construction and construction of certain elements without a building permit. The impacted on-site mitigation lands were allegedly part of the Habitat Restoration Area previously established to satisfy California Environmental Quality Act ("CEQA") and FAA National Environmental Policy Act ("NEPA") requirements for all three phases of the self-storage development project, which mitigation area had been previously approved by the Fish and Wildlife Service of the U.S. Department of the Interior and the Federal Aviation Agency.

C. The LLCs disputed the validity of the "red-tag," and specifically disputed that any environmental requirements had been violated by their self storage project.

D. A dispute arose between the LLCs and MPAD with regard to the Stop Work Order and the scope of the mitigation requirements for the Phase 3 Construction. These settling parties desire now to settle all such disputes, known and unknown, for the consideration acknowledged and accepted herein.

AGREEMENT

I. For the consideration described herein, the LLCs, through their authorized agent, shall deposit with MPAD the sum of Two Hundred Thousand Dollars (\$200,000), which payment shall be made in the form of a cashier's check delivered to MPAD at the District offices on or before the close of business on August 10, 2011.

1.1 The LLCs understand and agree that the sums deposited with MPAD shall be utilized as herein described below.

2. In consideration of the \$200,000 payment by the LLCs, MPAD agrees to complete the following under the terms and conditions specified:

2.1 MPAD, by order of its Board, shall withdraw and rescind the "Red-Tag" Stop-Work Order for the Phase 3 Construction, effective upon deposit of the required funds and execution of this Agreement by all parties.

2.2 MPAD will deposit the funds received from the LLCs into a dedicated bank account maintained, in part, for the purpose of funding the purchase of acreage acres of off-site property, on-site property, or a combination of the two equal to 3.08 acres, and, in part, for the purpose of planning, preparing, planting and monitoring the subject 3.08 acres as restored native habitat in mitigation of alleged environmental impact.

2.2.1 If the purchase of the subject 3.08 acres and the planning and execution of the subject habitat restoration are accomplished for a cost of less than \$200,000, the balance will be returned to the LLCs at the end of all applicable mitigation periods.

2.2.2 If the costs of habitat restoration described herein exceeds \$200,000, the LLCs shall deposit the necessary sums within 30 days of notice of necessity by MPAD.

2.2.3 MPAD will make available on a quarterly basis an itemized accounting of expenditures from the \$200,000 sum deposited pursuant to paragraph 1 above.

2.2.4 In consideration of the foregoing, MPAD will extend the current lease described in section A for an additional 15 years and further agrees that upon the expiration of year 14 of this extension, MPAD will meet and confer with the LLCs and their representatives for the purposes of negotiating an additional extension agreeable to both parties.

3. In consideration of the mutual promises and consideration set forth in this Agreement, the sufficiency of which is hereby acknowledged and accepted, each party hereto and his/its heirs, executors, agents, officers, and directors, assigns successors and affiliates hereby and forever generally and completely release, discharge and dismiss the other from any and all claims, demands, debts, duties, obligations, promises, liabilities, damages, accounts, payments, liens, acts, costs, expenses, sums due or claimed, actions or causes of action of every kind, whether in law, equity or otherwise, known or unknown, suspected or unsuspected, for damages actual and consequential arising out of or in any way related to the parties' pending dispute regarding MPAD's Stop-Work Order on the Phase 3 Construction and the related disputes regarding the LLCs' use of the leased property and their compliance with environmental mitigation requirements for the Phase 3 Construction.

3.1 Expressly excepted from this comprehensive release of claims is the parties' obligation to comply with and fulfill the terms and responsibilities of this Agreement and to fully comply with any and all permits existing for the construction of Phase 3.

4. It is the intention of the parties that, except as expressly reserved by the terms of this Agreement, the foregoing shall constitute a full and final resolution of all claims and demands of whatsoever nature, including attorneys' fees, and claims, liabilities and demands in law or equity, known or unknown, suspected or unexpected. The parties acknowledge that they are familiar with Section 1542 of the California Civil Code and expressly waive the benefits of this statute or any similar provisions in equity. Section 1542 states:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE WHICH, IF KNOWN BY HIM OR HER, MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

5. The parties acknowledge they have received the advice of counsel regarding the advisability of all releases provided for within, including the release per California Civil Code section 1542. The parties are aware that, following execution of this Agreement, they may discover claims or facts in addition to or different from those they now know or believe to be true in relation to the matters addressed in this Agreement. Nonetheless, it is their intention to fully and finally settle and release the claims they have or may have against each other regarding the issues and disputes defined above, except as reserved herein.

6. The parties acknowledge they have read this Agreement, have had the opportunity to have the Agreement explained to them by counsel of their choice, are aware of its content and legal effect, and are signing this Agreement freely and voluntarily.

7. Each of the undersigned represents that he has the authority to bind the party on whose behalf that he has executed this Agreement. The Agreement may be executed in counterparts and in duplicate original. If so executed, then upon proof of execution of at least one copy, the Agreement shall be effective from the date of the last signature. If executed in duplicate, each duplicate copy shall be valid as an original copy.

8. This Agreement has been jointly negotiated and drafted. The language of this Agreement shall be construed as a whole according to its fair meaning, and not strictly for or against any party said to be the party drafting or proposing any specific term.

9. This Agreement constitutes the entire agreement between the parties. No modification of this Agreement shall be valid unless in writing and signed by the parties, or unless provided for by order of the Monterey County Superior Court shown as approved as to form and content by the parties. The parties shall not be bound by any representation, warranty, promise, or statement unless it is specifically set forth in this Agreement.

10. This Agreement shall be deemed to have been entered into in and shall be construed and enforced in accordance with the laws of the State of California. Should any term of this Agreement be adjudicated unlawful, the balance of the Agreement shall remain in full

force and effect. The place of performance shall be the County of Monterey, State of California, and, in the event of litigation, the exclusive venue shall be the County of Monterey.

11. This Agreement shall bind the heirs, personal representatives, successors, and assigns of the parties, and inure to the benefit of each party, its successors and assigns.

12. Each party hereby agrees to bear all of its own attorneys' fees, expenses, and costs, including, without limitation, consultant and expert costs, arising out of or related to the above-described issues and disputes. Each party further agrees to waive any claims against any of the other parties for any fees or costs.

13. If a legal action or proceeding is filed or commenced to enforce or interpret this Agreement, the prevailing party shall be entitled to recovery from the non-prevailing party its reasonable attorneys' fees together with any costs of suit.


14. The parties agree to execute and deliver any other instrument or document convenient or necessary to carry out the terms of this Agreement.

15. Failure of any of the parties to insist upon the strict observance of, or compliance with, all of the terms of this Agreement or any one of the terms of this Agreement in one or more instances, shall not be deemed to be a waiver by any of the parties of their respective rights to insist upon such observance or compliance with the other terms of this Agreement.

16. This Agreement and all of its conditions and covenants shall be appended as an exhibit to the Lease described in recital A and shall become a part of said Lease as if fully stated therein.

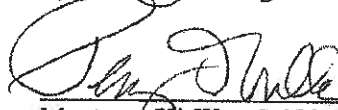
AGREED:

Dated: August 10, 2011




Flight Way Self Storage LLC,
by its authorized Agent

Dated: August 10, 2011



Monterey Hi-Way Self Storage LLC,
By it's authorized Agent

Dated: August 10, 2011




Perry Miller

Dated: August 10, 2011

Sebastian Bordonaro

Dated: August 10, 2011



Richard Searle for
Monterey Peninsula Airport
District

JAMS
ARBITRATION/MEDIATION

SABASTIAN J. BORDONARO AND THE
BORDONARO LIVING TRUST,

Claimants,

v.

THE PERRY AND BARBARA MILLER
FAMILY LIMITED PARTNERSHIP,

Respondent.

Reference No. 1120009508

**ARBITRATION ORDER NO. 2 –
ORDERING SABASTIAN J.
BORDONARO AND PERRY MILLER
TO EXECUTE THE MITIGATION
AGREEMENT WITH THE
MONTEREY PENINSULA AIRPORT
DISTRICT**

WHEREAS on April 28, 2010, SABASTIAN J. BORDONARO, trustee of THE BORDONARO LIVING TRUST (“Bordonaro”), made demand for arbitration pertaining to disputes between THE BORDONARO LIVING TRUST and THE PERRY AND BARBARA MILLER FAMILY LIMITED PARTNERSHIP (“Miller”) relating to the management of Flight Way Self Storage, LLC, a California limited liability company (“Flight Way”) pursuant to Section 4.6 of the Operating Agreement for Flight Way, and

WHEREAS Bordonaro and Miller stipulated to a combined arbitration and mediation before JAMS, specifically with Justice Nat A. Agliano (retired) to conduct the resolution process, and

WHEREAS on May 7, 2010, Bordonaro served Miller an amended demand for

arbitration, which included 2965 Monterey Hi-Way Self Storage, LLC as part of the arbitration process, and

WHEREAS arbitration/mediation sessions were held by Justice Agliano on May 27 and 28, 2010, and June 4, 2010, and

WHEREAS at the June 4, 2010 session, an agreement was reached between the parties, including Perry Miller and Sabastian Bordonaro in their individual capacities, which was reduced to writing and duly signed by the parties and approved as to form by their respective counsel. The agreement vested certain powers in Justice Agliano with specific reference to environmental mitigation issues demanded by the Monterey Peninsula Airport District ("MPAD") as a condition to lifting a red-tag of the parties' Phase III mini-storage project, and

WHEREAS Paragraph 8 of said agreement between the parties expressly empowers Justice Agliano to determine that certain terms and amounts are reasonable with reference to an agreement with MPAD concerning mitigation and lifting of the red-tag and to order the execution of a mitigation agreement with MPAD in accordance with his decision and further, the parties agreed that Justice Agliano's decision would be binding, and

WHEREAS MPAD has made a proposal to resolve the mitigation issue which is attached hereto as Exhibit 1, Justice Agliano having reviewed said proposal and the circumstances concerning said mitigation agreement and having discussed the same with the respective parties and their counsel, and Miller having indicated his willingness to sign said agreement and fund said agreement, good cause appearing:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

1. The arbitrator determines that the mitigation agreement terms and amounts set

forth in the attached Exhibit 1 are reasonable.

2. The proposed mitigation agreement by MPAD on the terms and conditions set forth in Exhibit 1 should be accepted by the parties individually and their representative capacities on behalf of Flight Way, and 2965 Monterey Hi-way Self Storage, LLC.

3. Miller and Bordonaro, in their individual and representative capacities, are ordered to execute the attached Exhibit 1 in its final form forthwith so that a fully executed version thereof may be submitted in a timely fashion to MPAD no later than August 8, 2011, so that the matter may be heard at MPAD's scheduled board meeting on August 10, 2011.

4. Perry Miller shall be responsible for timely submission of a cashier's check in the amount of \$200,000.00, payable to MPAD as required by the attached mitigation agreement.

5. Failure by any party to abide by this order will result in the arbitrator using all of his powers, including but not limited to assessment of sanctions and the signing of the documents on behalf of the party who refuses to sign the attached settlement agreement.

IT IS SO ORDERED.

DATED: August 8, 2011



Justice Nat A. Agliano (Ret.)
Arbitrator

PROOF OF SERVICE BY EMAIL & U.S. MAIL

Re: In Re: Flight Way Self Storage LLC
Reference No. 1120009508

I, Kathleen Hanley, not a party to the within action, hereby declare that on August 08, 2011 I served the attached Arbitration Order No. 2 -- Ordering Sabastian J. Bordonaro And Perry Miller To Execute The Mitigation Agreement With The Monterey Peninsula Airport District on the parties in the within action by Email and by depositing true copies thereof enclosed in sealed envelopes with postage thereon fully prepaid, in the United States Mail, at Walnut Creek, CALIFORNIA, addressed as follows:

James Heisinger, Jr. Esq.
Heisinger, Buck & Morris
PO Box 5427
Carmel by the Sea, CA 93921
Phone: 831-624-3891
jim@carmellaw.com


Daniel Ballesteros Esq.
Hoge, Fenton, Jones & Appel, Inc.
60 S. Market St.
Suite 1400
San Jose, CA 95113-2396
Phone: 408-287-9501
dwb@hogefenton.com

Frear Schmid Esq.
L/O Frear Stephen Schmid
177 Post St.
Suite 890
San Francisco, CA 94108
Phone: 415-788-5957
frearschmid@aol.com

Lloyd Lowrey Jr., Esq.
Noland, Hamerly, Etienne, et al.
333 Salinas St.
Suite 2510
Salinas, CA 93902-2510
Phone: 831-424-1414
lloyrey@nheh.com

Archie Robinson Esq.
Robinson & Wood
227 N. First St.
San Jose, CA 95113-1016
Phone: 408-298-7120
asr@robinsonwood.com

I declare under penalty of perjury the foregoing to be true and correct. Executed at Walnut Creek, CALIFORNIA on August 08, 2011.



Kathleen Hanley
khanley@jamsadr.com

EXHIBIT "B"

PHASE ONE LEASE TERM AMENDMENT

THIS LEASE TERM AMENDMENT (“Lease Term Amendment”) is made effective August 10, 2011 (“Effective Date”) by and between MONTEREY PENINSULA AIRPORT DISTRICT, a California special district (“Lessor”) and 2965 MONTEREY HI-WAY SELF STORAGE, LLC, a California limited liability company (“Lessee”) based upon the following:

A. Effective September 1, 2003, Lessor and Lessee entered into that certain Amended and Restated Phase One Lease Agreement (“Lease”) for the lease of real property located in Monterey County, California, attached hereto as **Exhibit A** and incorporated herein by this reference.

B. In accordance with Section 2.2.4 of the certain Release and Compromise Agreement between Lessor and Lessee dated August 10, 2011, the Lease shall be extended for an additional fifteen (15) years from and after August 1, 2047. Lessor and Lessee intend hereby to specifically document the Lease extension.

NOW, THEREFORE, the Parties agree as follows:

1. AMENDMENT OF LEASE TERM.

(a) Recital A of the Lease is amended by deleting “(the “Commencement Date”)", leaving the first line of Recital A to read, “Effective August 1, 1997 Lessor”....

(b) Section 2.0 of the Lease is amended to read as follows:

2.0 Term. “Commencement Date” as used in this Agreement means August 1, 2012. The term of this Agreement is Fifty (50) years, running from the Commencement Date stated above. One year before the end of the term of this agreement, Lessor will meet and confer with Lessee and their representatives for the purposes of negotiating an additional extension agreeable to both parties. Lessee shall have no entitlement, express or implied, to any extension or renewal of this Agreement. No officer, employee or agent of Lessor is authorized to contract, commit, obligate or otherwise convey any entitlement to renew or extend the term of this Agreement, to grant any options or otherwise amend this Agreement. Any amendments to renew or amend the term of this Agreement shall only be authorized through action by Lessor’s Board of Directors at a duly noticed public meeting.

2. FULL FORCE AND EFFECT. Except as amended hereby, the parties acknowledge and agree that the Lease shall remain in full force and effect during the extended Lease term hereof.

///

///

3. MEMORANDUM. A Memorandum of this Lease Term Amendment will be recorded in the office of the Monterey County Recorder.

IN WITNESS WHEREOF, the Parties have executed this Lease Term Amendment on _____, 2015, as of the Effective Date.

LESSOR:
MONTEREY PENINSULA AIRPORT
DISTRICT, a California special district

Board Chair

ATTEST

Tonja Posey, District Secretary

LESSEE:
2965 MONTEREY HI-WAY SELF
STORAGE, LLC., a California limited
liability company
By: Its Managing Member,
Bordonaro & Miller Management Corporation,
a California corporation

Perry D. Miller, President

Susan Bordonaro, Secretary

EXHIBIT A

LEASE FOR PHASE ONE

AMENDED AND RESTATED
PHASE ONE
LEASE AGREEMENT

This Amended and Restated Phase One Lease Agreement (this "Agreement") is (subject to the consent described in Section 27.0 being obtained) made effective September 1, 2003 by and between the Monterey Peninsula Airport District, a California special district ("Lessor") and 2965 Monterey Hi-Way Self Storage, LLC, a California limited liability company ("Lessee") with reference to the following facts and objectives:

A. Effective August 1, 1997 (the "Commencement Date") Lessor entered into a lease (the "Lease") with Sabastian Bordonaro, who signed as President of "Monterey Airport Self Storage, a California corporation", which corporation was not yet formed. The Lease covered the same premises as this Agreement as well as additional property (collectively referred to as the "Project Site").

B. Subsequently, Mr. Bordonaro formulated plans for the development of the property. An environmental review and approval process with respect to development of the entire approximately 11 acre Project Site was undertaken, resulting in Lessor's adoption of its Resolution No. 1162. In order to reflect the mitigation requirements of Resolution No. 1162 Lessor and Mr. Bordonaro (again signing as President of Monterey Airport Self Storage) entered into a First Amendment to the Lease dated June 10, 1998 (the "First Amendment").

C. With the knowledge of Lessor a limited liability company was formed by Sabastian Bordonaro and Perry Miller in lieu of a California corporation. In order to accurately reflect Lessee as the lessee of the Project Site and the operator of the self-storage business located thereon Lessor and Lessee (collectively the "Parties") entered into a Revised and Restated Lease Agreement effective June 1, 2001 (the "Restated Lease").

D. The Lease and the First Amendment each provided for a thirty-five (35) year base term and a single fifteen (15) year option. The Restated Lease provided for a fifty (50) year term with no option to extend the Lease.

E. Construction of Phase 1 of the development contemplated by the Lease and Resolution No. 1162 has been completed. Lessee is seeking financing to be secured by Lessee's leasehold interest in Phase 1. The Parties desire by this Agreement to redefine the

premises to conform to that portion of the Project Site previously referred to as the "Phase 1 area."

Now, therefore, the Parties hereby agree as follows:

1.0 PREMISES. Lessor hereby leases to Lessee and Lessee hereby hires from Lessor, upon and subject to all of the terms, provisions, covenants and conditions herein contained, that certain real property located in the County of Monterey, State of California, more particularly described in Exhibit "A" attached hereto, together with any and all appurtenances, rights, privileges and easements benefitting, belonging or pertaining thereto, hereinafter sometimes referred to in this Agreement as the "Premises".

2.0 TERM. The term of this Agreement is fifty (50) years, running from the Commencement Date stated above. Lessee shall have no entitlement, express or implied, to any extension or renewal of this Agreement. No officer, employee or agent of Lessor is authorized to contract, commit, obligate or otherwise convey any entitlement to renew or extend the term of this Agreement, to grant any options or otherwise amend this Agreement. Any amendments to renew or amend the term of this Agreement shall only be authorized through the adoption of an ordinance by Lessor's Board of Directors.

3.0 USE.

3.1 Permitted Uses. The following uses of the Premises shall be authorized:

- a. Self storage;
- b. Occupancy of recreational vehicles, boats, trailers or the like stored on the Premises is prohibited. No overnight occupancy shall be allowed within the Premises at any time. No hook-ups shall be provided for recreational vehicles, boats, trailers or the like. Recreational vehicle park type use is prohibited. Only storage type use is authorized.
- c. No uses other than those set forth above shall be authorized without the prior written approval of Lessor. At the discretion of Lessor, such approval may be subject to adjustment of rent and/or renegotiation of terms and conditions.

3.2 Noise Impacts. Lessee acknowledges that the Premises are adjacent to an active commercial and general aviation airport, the

Monterey Peninsula Airport ("Airport"). By entry into this Agreement Lessee hereby waives all claims against Lessor for noise, odor, vibration or any other detriment associated with operation of the Airport and expressly acknowledges the right of Lessor to continue to operate the Airport throughout the term of this Agreement. Lessee shall indemnify, defend and hold Lessor harmless from and against any and all claims, demands, actions, damages, liability and expense in connection with any similar complaints from users of the Premises.

4.0 RENT, FEES AND CHARGES.

4.1 Initial Rent. Beginning on the Commencement Date, Lessee was obligated to pay Lessor at the office of Lessor without reduction, abatement, offset or any prior demand therefore in advance of the first day of each calendar month and subject to adjustment as provided below, rent in the sum of Five Hundred Dollars (\$500) per month for the Project Site.

4.2 Pre-Construction Rent. Commencing on November 1, 1998, Lessee was obligated to pay rent in the sum of One Thousand Dollars (\$1,000) per month for the Project Site.

4.3 Post-Construction Rent.

a. Commencing on November 1, 1999, and continuing on the first day of each calendar month thereafter, Lessee became obligated to pay Lessor as monthly rent for the Project Site the greater of (i) the percentage of gross revenues (as defined in accordance with Section 4.4 below) earned by Lessee during the prior calendar month determined in accordance with the schedule set forth in Subsection 4.3(c) below, or (ii) the then current minimum monthly rent, as determined in accordance with Subsection 4.3(b) below. The monthly rent shall be payable as follows: the minimum monthly rent then in effect shall be due and payable on or before the first (1st) day of each calendar month in advance, and Lessee shall pay any percentage rent owing in excess of the minimum monthly rent on or before the fifteenth (15th) day of each calendar month. On or before the fifteenth (15th) day of each calendar month Lessee shall also submit to Lessor a written report detailing the gross revenues earned by Lessee during the prior calendar month.

b. Commencing on November 1, 1999, the minimum rent was adjusted to Two Thousand Dollars (\$2,000) per month for the Project Site. Commencing on November 1, 2000, the minimum monthly rent was adjusted to Three Thousand Dollars (\$3,000) per month for the Project Site. Commencing on July 1, 2002, the minimum monthly rent

was adjusted in accordance with changes in the consumer price index. Commencing on the effective date of this Agreement the minimum rent for the Premises shall be established as One Thousand One Hundred Dollars (\$1,100) per month to be adjusted in accordance with section 4.5 below.

c. The percentage rent due and payable for each calendar month shall be as follows:

- (1) open recreational vehicle and boat storage:
25% of gross revenues
- (2) covered recreational vehicle and boat storage:
20% of gross revenues
- (3) enclosed self-storage: 15% of gross revenues

4.4 Definition of Gross Revenues. Gross revenues shall be defined as all rents, monies or other consideration paid or payable to Lessee or required to be paid by customers of Lessee for or in connection with occupancy of any unit on the Premises and/or any or all rentals made by Lessee for cash or credit (less federal, state, county or municipal sales or use taxes now in effect or hereinafter levied on Lessee which are separately stated and collected from customers of Lessee).

4.5 Annual Adjustment Applicable During Lease Term. Beginning on July 1, 2004, and on July 1 of each year thereafter during the lease term, the minimum monthly rent shall be adjusted as follows: The base for computing the adjustment is the Consumer Price Index for All Urban Consumers, San Francisco - Oakland - San Jose Metropolitan Area published by the United States Department of Labor, Bureau of Labor Statistics ("Index"). The Index published for the month of April 2003 shall hereinafter be considered the beginning index. The minimum monthly rent for each year beginning on an adjustment date shall be set by multiplying the minimum monthly rent set forth in section 4.3(b) above by a fraction, the numerator of which is the Index published for the month of April of the year of adjustment and the denominator of which is the beginning index. Lessor may round the resulting figure up to the nearest five dollar (\$5) increment. In no case shall the minimum monthly rent be less than the minimum monthly rent established for the preceding year. On adjustment of the minimum monthly rent, Lessor shall notify Lessee of the new minimum monthly rent. Lessor's failure to promptly notify Lessee of a change in the minimum monthly rent shall not be considered a waiver of Lessor's rights to adjust the minimum monthly rent due, nor shall it affect Lessee's obligations to pay any increased minimum monthly rent. If

the Index is changed so that the base year differs from that used as of the date immediately preceding the Commencement Date the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the term hereof such other governmental index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

4.6 Utilities.

a. Lessee understands that Lessor will allocate no water from its existing water allocation from the Monterey Peninsula Water Management District ("MPWMD") or from its existing water service from California American Water Company ("Cal-Am") to the Premises, that Lessee shall provide its own well and/or water system to support development and operation of the Premises, and that Lessee shall bear the costs to provide the well and/or water system. Lessee's source of water and/or use of water on the Premises shall not be allowed to reduce or have the effect of reducing Lessor's allocation of water from the MPWMD and/or water service from Cal-Am. Lessee shall not sell or provide water from said well or water system to other parties or properties without the prior written approval of Lessor.

b. Lessee shall pay all charges for electricity, gas, water, sewer, trash disposal and other utility services which may be used or consumed on the Premises. Lessee may at its sole cost and expense provide additional utility service to the Premises or upgrade existing utilities as may reasonably be required by Lessee subject to Lessor's prior written approval of plans and specifications therefor, which approval shall not unreasonably be withheld. No utilities are provided through Lessor, and Lessee shall be responsible for the payment for any and all utilities directly to the appropriate utility provider.

4.7 Late Payments and Charges.

a. If Lessee shall fail to pay, when the same is due and payable, any rent, amounts or charges payable hereunder, such unpaid amount shall bear interest from the due date to the date of payment at the rate of one percent (1%) per month up to the maximum rate allowed by applicable usury law. Interest shall not be assessed if payment in full is made at or before 5:00 p.m. on the twentieth (20th) day of the month when due.

b. Lessee acknowledges that late payment by Lessee to Lessor of rent or other charges payable hereunder will cause Lessor to incur costs not contemplated by this Agreement, the exact amount of which are extremely difficult and impracticable to fix. Such costs include, without limitation, processing and accounting charges, late charges which may be imposed on Lessor and additional property management expenses. Therefore, if any installment of rent or other charges payable hereunder due from Lessee is not received by Lessor prior to 5:00 p.m. on the twentieth (20th) day of the month when due, Lessee shall pay to Lessor as a late charge an additional sum of five percent (5%) of the amount of rent which is due but unpaid. The parties agree that this late charge represents a fair and reasonable estimate of the costs that Lessor will incur by reason of late payment by Lessee. Acceptance of any late charge shall not constitute a waiver of Lessee's default with respect to the overdue amount, or prevent Lessor from exercising any of the other rights and remedies available to Lessor.

4.8 Fire Protection Fees. Lessor shall not initially charge Lessee a fee for fire department responses to the Premises. However, if in the discretion of Lessor, Lessor determines that such calls have become excessive or unreasonably expensive, then Lessor reserves the right to impose as additional rent a public safety fee for fire department responses. The fee shall be calculated by taking the aggregate total hourly compensation paid to each member of the fire department responding to the call and increasing that sum by an overhead factor of fifty percent (50%). The total so derived shall be multiplied by the number of whole hours, or any fraction thereof, spent on the call (with a minimum of two (2) hours charged). To the product of that multiplication shall be added an administrative charge of twenty-five percent (25%). The resulting total shall be the public safety fee applicable to the call. In addition, charges may be made for the use of equipment and for materials consumed. Lessee may contract with another entity for the provision of public safety services only with the prior written consent of Lessor.

5.0 SECURITY DEPOSIT. Lessee has deposited with Lessor, as security for the faithful performance of the terms, covenants and conditions of this Agreement, a bond or letter of credit, or deposit in a sum equal to Five Thousand Dollars (\$5,000). The bond/letter of credit/deposit amount shall be adjusted every five (5) years based on changes in the Index. Lessee shall on demand pay to Lessor a sum equal to the portion of the security deposit or performance bond expended or applied by Lessor to cure any default of Lessee or to compensate Lessor for any damage or loss sustained by reason of Lessee's default. Upon final accounting by Lessor,

any balance of said deposit shall be refunded to Lessee without interest.

6.0 DEVELOPMENT OF PREMISES.

6.1 Development. The parties acknowledge that the Premises are already developed.

6.2 Construction Requirements. All work by Lessee shall be in accordance with good construction practices, applicable laws and codes, labor regulations, the requirements of any insurance policy providing coverage to the Premises and the general and special conditions, and plans and specifications approved by Lessor. Lessee shall provide all bonds and insurance required by Lessor, including such proof of bonding and insurance coverage as Lessor may require. All work shall be carried out by licensed contractors. Lessee shall at its sole cost obtain all necessary permits, licenses and authorizations in connection with the construction. Lessee's work shall be subject to the general inspection of Lessor. Lessee shall provide proof satisfactory to Lessor that Lessee's contractor will (a) provide warranties for not less than one (1) year against defects in workmanship, materials, and equipment; (b) carry or cause to be carried worker's compensation insurance covering all of the contractor's and its subcontractor's employees; and (c) carry public liability and property damage insurance which names Lessor as an insured and requires thirty (30) days prior written notice to Lessor before any change in or cancellation of coverage becomes effective. The policy or policies shall contain liability limits of not less than One Million Dollars (\$1,000,000) combined single limit coverage. All improvements, additions to or alterations of the Premises except movable furniture and trade fixtures shall at the termination of this Agreement remain attached to and become part of the Premises or at the option of Lessor all improvements other than pavement and underground utilities shall be removed by Lessee and the Premises restored to the same condition which existed prior to the installation of any improvements. Lessor shall have the right to post a notice of non-responsibility for liens arising out of any work performed, materials furnished or obligations incurred by Lessee. Lessee agrees to advise Lessor in writing at least twenty (20) business days in advance of the date upon which construction will be commenced in order to permit Lessor to post such a notice. Lessee shall keep the Premises free from any and all liens arising out of any work performed, materials furnished or obligations incurred by Lessee. Lessee shall indemnify, defend and hold Lessor harmless against any claim, demand, liability or expense on account of claims for work done or materials supplied for Lessee or person claiming under it.

6.3 Additional Improvements and Alterations. Lessee shall not install or make any physical alterations or improvements to the Premises or any part thereof without prior written consent of Lessor which shall not unreasonably be withheld. Construction requirements set forth in section 6.2 of this Agreement shall apply to additional improvements and alterations.

6.4 Development Standards and Construction Requirements. Lessee shall comply with the Monterey Peninsula Airport District standard Development Standards and Construction Requirements as they may from time to time be amended. Lessee shall also comply with all uniform codes adopted by Lessor now or in the future, including without limitation the National Electrical Code, the Uniform Building Code, the Uniform Fire Code and Uniform Fire Code Standards, the Uniform Mechanical Code and the Uniform Plumbing Code.

6.5 Access Road.

a. Lessee acknowledges that Lessee was required, at Lessee's sole cost and expense, to provide a means for immediate, direct vehicular access from State Route 68 to the Premises. Lessee and Lessee's patrons, customers, invitees and guests shall be required to access the Premises via the State Route 68 access and not via the terminal area, parking area, operations area or other developed or functional areas of the Airport.

b. Lessee acknowledges that Lessee was required, at Lessee's sole cost and expense, to provide a means for additional immediate, direct vehicular access between the Premises and the Airport for emergency use by Lessor's police and fire departments, such access to be controlled solely by Lessor. Plans for the construction of such an access road connecting the Premises to the Airport were approved by Lessor and such access road has been completed by Lessee.

7.0 MAINTENANCE OF PREMISES.

7.1 As Is. Lessee agrees that it accepted the Premises in an "as-is" condition. Lessee acknowledges that it inspected the Premises as thoroughly as Lessee desired. Lessee agrees that Lessor made no warranties or representations of any kind respecting the condition of the Premises or the condition of any improvements or utilities located thereon.

7.2 Maintenance. Lessee at its sole cost and expense shall at all times maintain the Premises, including landscaping, grounds,

buildings, structures, pavement, fencing, and all other improvements in a good state of repair and in a safe, clean, neat, orderly, attractive and sanitary condition. Lessee hereby waives the provisions of sections 1941 and 1942 of the Civil Code of the State of California and any statutes, laws or ordinances now or hereafter enacted permitting Lessee to make repairs at the expense of the Lessor or to terminate the Restated Lease by reason of the condition of the Premises. In the event Lessee fails to make any repairs required to be made by Lessee in accordance with the terms of this section, Lessor shall have the option but not the obligation to make such repairs at the expense of Lessee. Lessee shall pay as additional rent due hereunder upon demand all costs of Lessor for making such repairs. Lessor shall have no liability to Lessee for any damage, inconvenience or interference with the use of the Premises by Lessee as a result of the making of any repairs made by Lessor and the rent shall not be abated by reason thereof.

7.3 Storm Water Run-Off. Lessee shall maintain all drainage control and detention improvements in accordance with the drainage control plan adopted for the development of the Project Site. Failure to so maintain the improvements shall be deemed a failure to perform covenants subject to section 14.2 of this Agreement.

7.4 Erosion Control. Lessee shall maintain all erosion control improvements in accordance with the erosion control plan adopted for the development of the Project Site. Failure to so maintain the improvements shall be deemed a failure to perform covenants subject to section 14.2 of this Agreement.

7.5 Habitat Areas. Lessee shall maintain all habitat areas and make all reports identified in the maritime chaparral habitat restoration and monitoring program adopted for the development of the Project Site. Failure to so maintain the habitat areas or make the required reports shall be deemed a failure to perform covenants subject to section 14.2 of this Agreement.

8.0 DAMAGE, DESTRUCTION OR CONDEMNATION.

8.1 Damage or Destruction. In the event that the improvements to the Premises are damaged or destroyed (whether such loss is insured or not), then Lessee shall be obligated to repair, rebuild, or replace the improvements. In the event that the improvements to the Premises are destroyed or damaged beyond economical repair, Lessee may elect to terminate this Agreement by giving notice of such election in writing to Lessor within sixty (60) days after the occurrence of the event causing the damage or destruction. The availability of insurance proceeds will be a

factor in determining whether damage is beyond economical repair. If Lessee elects to terminate, all insurance proceeds received by either Party as a result of such damage shall belong to Lessor. If Lessee does not elect to terminate, this Agreement shall continue and Lessee shall diligently complete the repair or rebuilding of the improvements to the Premises. If Lessee elects to repair or rebuild, the damage shall be promptly repaired by Lessee at Lessee's expense, provided that Lessee shall apply any insurance proceeds received as a result of such damage to the repair or replacement. Lessor shall not be liable for any damage occasioned by the damage or destruction of any part or the whole of the Premises, nor by reason of the fact that the Premises may be out of repair except for willful and/or negligent conduct by Lessor, its agents, officers or employees. Lessee hereby waives any rights it may have under the provisions of California Civil Code section 1932(2) and section 1933(4) or any successor statute thereto regarding repair and termination after destruction of part or all of the Premises.

8.2 Taking of Entire Premises. If the entire Premises, or any portion thereof which is sufficient to render the remaining portion of the Premises unsuitable for continued leasing by Lessee, shall be taken in or by condemnation or other proceedings pursuant to law, or sold in avoidance of such condemnation or other proceedings (each of which is hereinafter referred to as a "Taking") by any entity other than Lessor, then Lessee shall give notice to Lessor of Lessee's intention to terminate this Agreement on any date after the taking of possession by the condemning authority, but not more than ninety (90) days thereafter, and this Agreement shall thereupon terminate as of such date specified by Lessee. In such event the award, settlement or payment resulting from such Taking (including any award, settlement or payment as compensation by way of severance damage suffered by such portion of the Premises as may not be taken) shall be divided between the Parties as follows:

a. For each whole year, or any fraction thereof, which has elapsed since the Commencement Date through the date of the taking of possession by the condemning authority Lessor shall be entitled to two percent (2%) of the award, settlement or payment.

b. The balance of such award, settlement or payment, if any, shall be paid to Lessee.

8.3 Lesser Taking. If a lesser portion of the Premises not giving rise to the termination of this Agreement shall be taken by any entity other than Lessor, or if the use or occupancy of the Premises or any part thereof shall be temporarily requisitioned by

any governmental authority other than Lessor, civil or military, this Agreement shall continue in full force and effect. In the event of such temporary requisition there shall be no abatement of any rent payable hereunder and Lessee shall receive the entire award or payment resulting from such temporary requisition. In the event of such lesser Taking (other than a temporary requisition), not resulting in termination of this Agreement, the award, settlement or payment for such Taking (including any award, settlement or payment as compensation by way of severance damage suffered by such portion of the Premises as may not be taken) shall be divided between the Parties in the manner specified in section 8.2 of this Agreement. The minimum monthly rent payable by Lessee to Lessor under this Agreement after such Taking shall be reduced to an amount equal to the product of the multiplication of the minimum monthly rent otherwise payable from time to time under this Agreement by a fraction the numerator of which shall be the total number of square feet of the developed portion of the Premises remaining after the Taking and the denominator of which shall be the total number of square feet of the developed portion of the Premises prior to such Taking. Such reduction in the minimum monthly rent shall be effective as of the date of taking of possession by the condemning authority. Each Party hereby waives the provisions of California Code of Civil Procedure section 1265.130 or any similar statute allowing either Party to petition the Superior Court to terminate this Agreement in the event of the partial taking of the Premises.

8.4 Taking by Lessor. If all or any portion of the Premises shall be taken in or by condemnation or other proceedings pursuant to law by Lessor, then the award, settlement or payment for such Taking (including any award settlement or payment as compensation by way of severance damage suffered by such portion of the Premises as may not be taken) shall belong to Lessee.

9.0 ASSUMPTION OF RISKS. Lessor is not aware of any hidden, latent or other dangerous conditions upon the Premises. Notwithstanding the foregoing, Lessee represents that Lessee has inspected the Premises, and all facilities thereupon and in connection therewith, and that Lessee accepts the condition of same and fully assumes all risks incidental to the use thereof. Lessor shall not be liable to Lessee for any damages or injuries to the property or person, or to the agents, employees or business visitors of Lessee, which may result from hidden, latent or other dangerous conditions upon the Premises or which may result from any condition of fire, earthquake, flood, rainfall, or escape of water from any channel, regardless of the cause thereof.

10.0 INDEMNITY AND INSURANCE.

10.1 Release. Lessee fully discharges Lessor and any and all of its agents, employees, officers, directors and representatives and any other person, firm or corporation from which Lessee should at any time in the future demand damages for detriment alleged to have been sustained as a result of any breach or failure of any promise, covenant or representation alleged to have been made prior to the date of execution of this Agreement or for detriment alleged to have been sustained as a result of leasing any property to any person, firm or corporation at any time prior to the date of execution of this Agreement, or for any other claim or cause of action of any kind or character whatsoever, accruing or arising at any date prior to the date of execution of this Agreement, whether the same be now known or unknown, or whether the same be now anticipated or unanticipated. Lessee hereby relinquishes and waives any and all rights conferred by the provisions of section 1542 of the Civil Code of the State of California, which reads as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known to him must have materially affected his settlement with the debtor."

10.2 Waiver. This Agreement is made upon the express condition that Lessee hereby waives all claims against Lessor for damages to property or for injury or death to any person or persons from any cause except the negligence of Lessor or any of its agents, employees or servants.

10.3 Indemnity. Lessee hereby agrees, on behalf of itself and all persons or entities who may claim by or through it, to and shall indemnify and defend Lessor against and hold Lessor harmless from any and all claims, demands, actions, damages, liability and expense in connection with or for loss of or damage to property or injury or death to any person from any cause whatsoever while in, upon or about the Premises or any such claims, demand or the like arising from or out of any occurrence in, upon or at the Premises from or in connection with the occupancy or use by Lessee of the Premises or any part thereof or from or in connection with the business conducted by Lessee in Premises or occasioned wholly or in part by any act or omission of Lessee, its agents, contractors, employees, licensees or concessionaires except the negligence of Lessor or any of its agents, employees or servants. Lessee further agrees to and shall indemnify and defend lessor against and hold Lessor harmless from any and all claims, demands, actions, damages,

liability and expense in connection with any challenges to the approval by Lessor of this Agreement or the development contemplated hereby, including without limitation any action in law or equity brought pursuant to provisions of the California Environmental Quality Act. The covenants set forth in this section 10.3 shall survive the expiration or sooner termination of the term of this Agreement.

10.4 Insurance Coverage. Upon execution of this Agreement and prior to Lessee's exercising any of the rights and privileges herein granted, Lessee shall, throughout the life of this Agreement, maintain in full force and effect, a broad form comprehensive coverage policy or policies of public liability insurance protecting both Lessee and Lessor from claims of bodily injury and property damage which may arise out of Lessee's occupancy(ies) and use(s) of the Premises or any portion thereof, or which may arise as a result of any one, more, and/or all of Lessee's activities/operations on, to or from the Airport under authority hereof. Such insurance shall include bodily injury and property damage coverage of not less than Three Million Dollars (\$3,000,000) combined single limit. Said general liability policy shall include Blanket Contractual Liability and Products Liability. All such policies shall name Lessor as an additional insured. Lessee shall also maintain Worker's Compensation and Employers' Liability policies written in accordance with laws of the State of California and providing coverage for any and all employees of Lessee. All insurance shall be with a company or companies satisfactory to Lessor in the amounts of not less than that specified herein or in minimum amounts as may be subsequently adjusted by Lessor in the exercise of its reasonable business judgment. Lessee shall at all times during the term of this Agreement, including any extensions or renewal hereof, provide Lessor with a certificate from the insurance carrier or carriers insuring Lessor and Lessee as set forth herein. Insurance policies shall not be subject to cancellation except after notice to Lessor by certified mail at least thirty (30) days prior to such cancellation. Where policies have normal expirations during the term of this Agreement or any extension thereof written evidence of renewal shall be furnished to Lessor thirty (30) days prior to such expiration.

10.5 Waiver of Subrogation. The Parties release each other and their respective authorized representatives from any claims for damage to any person or to the Premises and to the fixtures, personal property, Lessee improvements and alterations by Lessor or Lessee in or on the Premises that are caused by or result from risks insured against under any insurance policy carried by either Party and in force at the time of any such damage to the extent of

the insurance proceeds received from such policy. Each Party shall cause each insurance policy obtained by it to provide that the insurance company waives all right of recovery by way of subrogation against either Party in connection with any damage covered by any policy. If the insurance cannot be obtained or the Party in whose favor a waiver of subrogation is desired refuses to pay the additional premium charged the other Party is relieved of the obligation to obtain a waiver of subrogation right with respect to the particular insurance involved.

11.0 USE RESTRICTIONS.

11.1 Security. Lessee shall provide for security within the Premises including all on-site facilities. Lessee shall provide either (a) adequate all-night illumination of the perimeter of all buildings, vehicular parking lots and pedestrian walkways or (b) a motion-activated lighting system for the adequate nighttime illumination of all such areas at all such times as any person may be present. For portions of the Premises adjacent to the Airport security perimeter, Lessee shall install and maintain perimeter security fencing in accordance with Federal Aviation Administration (hereinafter referred to as "FAA") and/or Transportation Security Administration (hereinafter referred to as "TSA") Regulations. With respect to the Premises, it shall be the responsibility of Lessee to take all necessary measures to carry out security requirements imposed by the FAA and/or TSA on Lessor as an airport operator; and Lessee shall be required to pay any and all civil penalties imposed by the FAA and/or TSA on Lessor in the event that Lessee fails to carry out any such security requirements.

11.2 Compliance with Rules and Regulations. Lessee shall at all times during the term of this Agreement or any renewal or extension hereof comply with and observe all reasonable rules, regulations, ordinances, orders and laws which have been or may be promulgated by Lessor relating to the Premises or Lessee's use of the Premises. Such rules and regulations are hereby made a part of this Agreement and Lessee's failure to keep or observe any rule or regulation shall constitute a breach of the terms of this Agreement in like manner as if the same was contained herein as a covenant or condition. Lessor reserves the right to amend or supplement the rules or regulations or to adopt additional rules or regulations applicable to the Premises or Lessee's use of the Premises as may be required for proper, safe, efficient operation of the airport. Lessor shall have no obligation to Lessee as a result of the violation of any such rule or regulation by any other person. Lessee shall at all times during the term of this Agreement or any renewal or extension hereof comply with and observe all statutes, codes, ordinances, orders, laws, rules and regulations which have

been or may be promulgated by the United States of America, the State of California, the County of Monterey or any other governmental entity having jurisdiction over the Airport, the Premises, or Lessee's operations.

11.3 Waste, Quiet Conduct. Lessee shall not commit or suffer to be committed any waste upon the Premises or any public or private nuisance or any other act or thing which may disturb the quiet enjoyment of any other person or organization at or off the Airport. Lessee shall provide as necessary separate drainage, collection, treatment and/or separation systems to ensure that no untreated solid or liquid waste from any type of operation will enter the Airport storm drainage or sanitary sewer system or will pollute the soil, groundwater or air. Lessee shall not permit any activity which directly or indirectly produces objectionable or unlawful amounts or levels of air pollution (gases, particulate matter, odor, fumes, smoke, or dust), water pollution, noise, glare, heat emissions, electronic or radio interference with navigational or communication facilities for the operation of the Airport or for its use by aircraft, trash or refuse accumulation, vibration, or which is hazardous or dangerous by reason or risk of explosion, fire or harmful emission.

12.0 HAZARDOUS SUBSTANCES. The provisions of this section 12, which govern Lessee's obligations with regard to hazardous substances, as defined below, shall survive termination of this Agreement.

12.1 Responsibility for and Definition of Hazardous Substances. Lessee shall, at Lessee's sole cost and expense, be responsible for the receiving, use, storage, handling, transportation, generation, spillage, migration, discharge, release, and disposition of all hazardous waste, toxic substances, or related materials including, without limitation, gasoline, oil, grease, battery acid, diesel fuel, flammable, combustible, explosive, corrosive, caustic, carcinogenic or radioactive matter, human or other biological wastes or any other Hazardous Substances to the extent any such are used, stored, brought onto, located on or shipped from within, the Premises in connection with Lessee's occupancy and use thereof, in accordance with all applicable rules, regulations, orders, ordinances, statutes, codes and laws. For purposes of this Agreement, "Hazardous Substances" shall include but not be limited to petroleum or petroleum related materials and/or substances defined as "hazardous substances", "hazardous materials", "hazardous waste" or "toxic substances" in any federal, state or local laws or regulations adopted or publications promulgated pursuant to said laws (hereinafter collectively referred to as the "Laws"). Lessee shall, at Lessee's sole cost

and expense, comply fully with all requirements of the Laws applicable to Lessee's use of the Premises and obligations contained herein.

12.2 Cleanup of Hazardous Substances. In the event of a release, leak, spill, or threatened or actual contamination or deterioration of the Premises or groundwater by a Hazardous Substance, whether the result of an act or omission of Lessee or its agents, employees, contractors, licensees, or invitees or any other third parties, Lessee shall, immediately notify Lessor and all appropriate health, safety and environmental regulatory agencies. Lessee hereby covenants and agrees to implement and complete, at its sole cost and expense, and to the satisfaction of Lessor, all investigation and remediation measures required by such agency or agencies. If Lessee fails to take such action Lessor may, but shall not be obligated to, take such action. In such event, all costs incurred by Lessor with respect to such cleanup activities shall be for the account of Lessee and Lessee shall promptly make reimbursement therefore. Lessee shall not take any remedial action in response to the presence of any Hazardous Substances in or about the Premises, nor enter into any settlement agreement, consent decree or other compromise in respect to any claims relating to any Hazardous Substances in any way connected with the Premises without first notifying the Lessor of Lessee's intention to do so and affording Lessor ample opportunity to appear, intervene or otherwise appropriately assess and protect its interest with respect thereto.

12.3 Indemnity Regarding Hazardous Substances.

a. Lessee agrees to indemnify and hold Lessor harmless from and against all liabilities, claims, actions, foreseeable and unforeseeable consequential damages, costs and expenses (including sums paid in settlement of claims and all consultant, expert and legal fees and expenses of Lessor's counsel) or loss directly or indirectly arising out of or resulting from the presence of any Hazardous Substances as a result of Lessee's or any subtenant's activities, whether before, during or after construction, in or around any part of the Premises or the soil, groundwater or soil vapor on or under the Premises, including those incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work, or any resulting damages or injuries to person or property or to any natural resources. Upon demand by Lessor, Lessee shall defend any investigation, action or proceeding alleging the presence of any Hazardous Substances in any such location, which affects the Premises or which is brought or commenced against Lessor, whether alone or together with Lessee or any other person, all at Lessee's own cost

and by counsel to be approved by Lessor in the exercise of its reasonable judgment. In the alternative, Lessor may elect to conduct its own defense at the expense of Lessee.

b. Lessor agrees to indemnify and hold Lessee harmless from and against all liabilities, claims, actions, foreseeable and unforeseeable consequential damages, costs and expenses or loss directly or indirectly arising out of or resulting from the presence of any Hazardous Substances in or around any part of the Premises or under the Premises prior to the Commencement Date of this Agreement.

12.4 Compliance Regarding Hazardous Substances. Lessee shall comply and cause all occupants of the Premises to comply, with all statutes, codes, regulations, rules, ordinances, orders and other laws governing or applicable to Hazardous Substances as well as the recommendations of any qualified environmental engineer or other expert which apply or pertain to the Premises, Lessee's use of the Premises or of the facilities of the Airport. Lessee acknowledges that the presence of Hazardous Substances may permanently and materially impair the value and use of the Premises.

12.5 Notice Regarding Hazardous Substances. Lessee shall promptly notify Lessor if Lessee knows, suspects or believes that there may be any Hazardous Substances in or around the Premises, or in the soil, groundwater or soil vapor on or under the Premises, or that Lessee or the Premises may be subject to any threatened or pending investigation by any governmental agency under any statute, code, regulation, rule, ordinance, order or other law pertaining to any Hazardous Substances.

12.6 Site Visits, Observations, and Testing. Lessor and its agents and representatives shall have the right at any reasonable time to enter and visit the Premises to make observations of the Premises, take and remove soil or groundwater samples, and conduct tests. Lessor is under no duty, however, to visit or observe the Premises or to conduct tests. No site visit, observation or testing by Lessor shall result in a waiver of any default of Lessee or impose any liability on Lessor. In no event shall any site visit, observation or testing by Lessor be a representation that Hazardous Substances are or are not present in, or that there has been compliance with any statute, code, regulation, rule, ordinance, order or other law pertaining to Hazardous Substances. In each instance, Lessor shall give Lessee reasonable notice before entering the Premises. Lessor shall make reasonable efforts to avoid interfering with Lessee's use of the Premises in exercising any right provided in this Section.

12.7 Business Response Plan. Lessee has prepared and maintained to the satisfaction of the Airport Fire Marshall a "Business Response Plan" in accordance with Section 25500 et seq. of the Health and Safety Code. Said plan must be kept current and on file in the Airport Fire Marshall's office.

13.0 SURRENDER OF PREMISES. Upon the expiration or earlier termination of this Agreement, Lessee shall vacate and surrender the Premises and all improvements and alterations made thereto in good condition, reasonable use and wear excepted. All improvements made or attached to the Premises (other than removable trade fixtures) shall, at the termination of this Agreement, or of any renewal or extension thereof, or the sooner termination of Lessee's tenancy, remain attached to and become a part of the Premises, at the option of Lessor. If required by Lessor, Lessee shall remove prior to the date of termination at Lessee's expense, any or all of its improvements, equipment, machinery, materials or other personal property which are not an integral part of the Premises and shall repair any damage to the Premises caused thereby. This covenant shall survive the expiration or sooner termination of the term of this Agreement.

14.0 DEFAULT BY LESSEE. Each of the following events shall be an event of default hereunder by Lessee and a breach of this Agreement:

14.1 Failure To Pay Rent. The failure by Lessee to pay Lessor any rent or other charges due under this Agreement as and when the same become due and payable if such nonpayment continues for a period of three (3) days after written notice thereof by Lessor to Lessee.

14.2 Failure to Perform Covenants. The failure by Lessee to perform or observe any other agreements, terms, covenants or conditions hereof if such nonperformance or nonobservance continues for a period of ten (10) days after written notice thereof by Lessor to Lessee or if such performance or observance cannot be had within such 10-day period then if Lessee has not in good faith commenced such performance within such 10-day period and does not diligently proceed therewith to completion.

14.3 Bankruptcy. The filing by or against Lessee in any court pursuant to any statute of the United States or of any state of a petition in bankruptcy or insolvency or for reorganization or arrangement or for the appointment of a receiver or trustee of all or any portion of Lessee's property if within thirty (30) days

after the commencement of any such proceedings against Lessee or after such assignment for the benefit of creditors such petition shall not have been dismissed or such assignment shall not have been revoked.

14.4 Unpermitted Transfer. The transfer or attempted transfer of Lessee's interest in this Agreement to any person, firm or corporation whether voluntarily or by operation of law except in the manner expressly permitted in this Agreement.

14.5 Abandonment. Vacating or abandoning the Premises by Lessee at any time during the term hereof for a period in excess of fourteen (14) consecutive days.

15.0 LESSOR'S REMEDIES. Lessor shall have the following remedies in the event of default. The remedies are not exclusive - they are cumulative and in addition to any remedies now or later allowed by law. Lessor can continue this Agreement in full force and effect. This Agreement will continue in effect as long as Lessor does not terminate Lessee's right to possession and Lessor shall have the right to collect rent when due during the period Lessee is in default. Lessor can enter the Premises and relet them or any part of them to third parties for Lessee's account. No act by Lessor in reletting the Premises allowed by this section shall terminate this Agreement unless Lessor notifies Lessee that Lessor elects to terminate this Agreement. Lessor can terminate Lessee's right to possession of the Premises at any time upon giving notice to Lessee. No act by Lessor other than giving notice to Lessee shall terminate this Agreement. In the event of Lessee's default and Lessor's re-entering of the Premises, Lessee agrees to pay Lessor as an additional item of damages the cost of repairs that exceed reasonable wear and tear.

16.0 NOTICES. Wherever notice is required by the terms of this Agreement, notice shall be deemed complete upon personal service of written notice upon the Party to whom such notice is given or seventy-two (72) hours after deposit in the United States mail within the State of California of prepaid first-class mail addressed to Lessor at 200 Fred Kane Drive, Suite 200, Monterey, California, 93940 or addressed to Lessee at Post Office Box 22055, Carmel, CA 93922.

17.0 ASSIGNMENT AND SUBLEASING.

17.1 Sublease. Sublease(s) are permitted for uses authorized under Section 3.1 of this Agreement.

17.2 Assignment. Without Lessor's prior written consent, Lessee shall not assign, hypothecate, or encumber this Agreement, or any interest in this Agreement. Any transfer of this Agreement from Lessee by merger, consolidation or liquidation, or the sale, conveyance or other transfer of a controlling interest in Lessee to any entity or person other than its current owners (or any trust created for the benefit of such owners or their family members) shall constitute an assignment for purposes of this section. Lessee represents that it is a limited liability company organized and existing under and by virtue of the laws of the State of California and all membership interests in it are currently held by Sabastian Bordonaro and Perry Miller. It is a condition of this Agreement that a controlling interest shall not be transferred to any other entity or person without the consent of Lessor, which consent shall not unreasonably be withheld. In the event of such transfer without such consent of Lessor, Lessor at its option may terminate this Agreement. Lessee's obligations under this Agreement shall be personally guarantied by Sabastian Bordonaro and Perry Miller in the form attached hereto as Exhibit B. Lessor's acceptance of any rent or any other payment in the nature of rent from Lessee's assignee shall not constitute Lessor's consent to such assignment, a waiver of any provision of this Agreement, nor any release of Lessee from the full performance of all Lessee's obligations under this Agreement.

17.3 Request for Consent to Assign. Should Lessee (including any subsequent assignee) request Lessor's consent to an assignment of this Agreement, Lessee shall submit in writing to Lessor the following:

- a. The name and address of the proposed assignee.
- b. The terms and conditions of the proposed assignment.
- c. The nature and character of the business of the proposed assignee.
- d. Banking, financial and other credit information relating to the proposed assignee reasonably sufficient to enable Lessor to determine the proposed assignee's financial responsibility.

17.4 Payment of Expenses. Lessee shall pay to Lessor, on demand, all costs incurred by Lessor in connection with extraordinary requirements for reviewing any request for assignment of this Agreement, including Lessor's attorney fees.

17.5 Lessor's Rights With Respect to Assignments. Lessor shall not unreasonably withhold its consent to the request by Lessee for assignment. Lessee agrees that the consent of Lessor shall not be deemed or considered unreasonably withheld if Lessor refuses to consent to an assignment to any person, firm or corporation for any new or changed use which will, in the reasonable business judgment of Lessor, adversely affect the image or other valuable aspect of Lessor's property or result in excessive noise, traffic or interference with Lessor's operations.

18.0 AUDIT. For the purpose of ascertaining the amount payable as percentage rent Lessee shall keep or cause to be kept full, complete and proper books, records and accounts of all revenues. The records for each calendar year required herein shall be kept for at least five (5) years after the expiration of such calendar year. Lessor or the authorized representatives of Lessor shall have the right to examine Lessee's records at all reasonable times. At its option, Lessor may cause from time to time throughout the term of this Agreement on seventy-two (72) hours prior written notice to Lessee a complete audit to be made of Lessee's entire business affairs and records relating to Lessee's revenues for the period covered by any statement submitted by Lessee as required by this Agreement provided, however, that no such audit shall be made at a time which is more than three (3) years following the end of the period covered by such statement. If the books of account and records of Lessee are kept at some location other than the Premises, Lessee agrees at Lessee's expense to transport said books and records to the Premises for such audit. The cost of the first audit conducted in any calendar year shall be paid by Lessee. The cost of any subsequent audit in any calendar year shall be borne by Lessor unless the audit reveals a deficiency in excess of five percent (5%) of the percentage rent theretofore computed and paid by Lessee for the period covered by the audit, in which instance Lessee shall also immediately pay Lessor the cost of the audit in addition to the percentage rent. The audit shall be performed by a public accountant selected by Lessor and shall be binding upon the parties. If it shall be determined as a result of such audit that there has been a deficiency in the payment of percentage rent then such deficiency shall become immediately due and payable with interest at the maximum rate allowed by applicable usury law, or if there is no such rate at eighteen percent (18%) per annum from the date when the payment should have been made.

19.0 ATTORNEY'S FEES. In the event of any action at law or in equity between Lessor and Lessee arising out of or concerning this Agreement or any right or obligation derived herefrom, then in addition to all other relief at law or in equity, the prevailing

Party shall be entitled to recover from the unsuccessful Party all attorneys' fees and costs incurred therein by the prevailing Party.

20.0 POSSESSORY INTEREST TAX. In the event a possessory interest tax is levied by the appropriate taxing authority of the County of Monterey or the State of California it is understood that Lessee shall be solely responsible for the payment of such tax.

21.0 DISCRIMINATION. The Standard Nondiscrimination and Airport Development Provisions for Leases attached hereto as Exhibit C are incorporated herein by this reference. Lessee's failure to abide by the requirements set forth therein shall constitute a breach of the terms of this Agreement in like manner as if the same were contained herein as covenants and conditions.

22.0 CONSTRUCTION AND INTERPRETATION.

22.1 Time. Time is of the essence of this Agreement and of each and every one of the provisions herein contained.

22.2 Covenants Made Conditions. All covenants and agreements on the part of Lessee herein mentioned or contained are expressly made conditions hereof. All provisions of this Agreement requiring Lessee to perform certain acts or to refrain from certain acts or to abide by designations made from time to time by Lessor are hereby expressly made conditions of this Agreement.

22.3 Entire Lease. This Agreement supersedes all prior leases, contracts and understandings between the Parties. This Agreement sets forth all the covenants, agreements and conditions between Lessor and Lessee concerning the Premises and there are no other covenants, promises, agreements, conditions or understandings either oral or written between them. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon Lessor or Lessee unless reduced to writing and signed by each of them.

22.4 Captions. The headings and titles to the paragraphs or sections of this Agreement are not part of this Agreement and shall have no effect on the construction or interpretation of any part of this Agreement.

22.5 Applicable Law. The laws of the State of California shall govern the validity, performance and enforcement of this Agreement.

22.6 Partial Invalidity. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each term, covenant and condition shall be valid and enforced to the fullest extent permitted by law.

22.7 Tense, Number and Gender. Each number, tense and gender used in this Agreement shall include any other tense, number or gender where the context and the Parties hereto or the context and references therein shall require.

22.8 Negotiated Agreement. It is acknowledged, agreed and understood by the Parties that this Agreement and its wording have been arrived at through a process of negotiation between the Parties in which each Party participated to the fullest extent desired by that Party and that neither Party is to be deemed the Party which prepared this Agreement or the Party who caused any uncertainty to exist within the meaning of California Civil Code section 1654.

22.9 Inurement. This Agreement shall be binding upon and inure to the benefit of the Parties as well as their assigns and successors in interest.

23.0 ENVIRONMENTAL REVIEW. The Parties acknowledge that an Initial Study for the development of the Premises contemplated by this Agreement (the "Project") was prepared and circulated together with a proposed mitigated negative declaration in accordance with the California Environmental Quality Act. The Parties further acknowledge that Lessor has approved a Mitigated Negative Declaration for the Project and that the Notice of Determination for that action was filed in accordance with law on May 19, 1998. Lessee acknowledges that Lessor's approval of the Project requires continuing environmental review of in the form of annual monitoring of species of concern located on the Premises as provided in the mitigation monitoring plan approved for the Project.

24.0 TERMINATION OF RESTATED LEASE. The Restated Lease is hereby terminated as of the effective date of this Agreement.

25.0 WATER DISTRIBUTION SYSTEM. The Parties acknowledge that water service to the Project Site has been provided through a well located on the Project Site and that the Monterey Peninsula Water Management District ("MPWMD") has determined that the well is considered to be a "grandfathered single-parcel water distribution system" and as such no further MPWMD is needed if the service to

one legal parcel continues. See letter attached hereto as Exhibit D. This Agreement shall not become effective unless and until Lessee provides to Lessor evidence meeting the satisfaction of Lessor's counsel that the division of the Project Site into three leaseholds will not constitute a subdivision within the meaning of MPWMD regulations and that such division will not trigger the need to obtain or amend any water distribution system permit or call for the installation of separate wells to serve each leasehold. In addition, Lessee shall provide to Lessor evidence meeting the satisfaction of Lessor's counsel that an agreement regarding the use, maintenance and sharing of the existing well has been entered into by and between the respective tenants of all leaseholds within the Project Site and that such agreement may not be amended, revoked or terminated without the consent of Lessor. Such agreement shall provide for assignability to future tenants of such leaseholds.

26.0 RESERVATION OF ACCESS AND UTILITIES RIGHTS. Lessor reserves to itself for the use and benefit of Lessor's properties (including any parcels comprising the Project Site) and/or the tenants thereof a right of access and use for roadway and utility purposes over a strip of land 30 feet wide northerly of the southernmost boundary of the Premises (i.e., that boundary running N 66° 22' 00" W). Lessee shall enjoy this right with respect to those portions of the Project Site not within the Premises.

27.0 CONSENT BY MONTEREY COUNTY BANK. The Parties acknowledge that on or about September 27, 2001 Lessor consented to the assignment of the Restated Lease to Monterey County Bank ("Lender") in connection with a loan secured by 2965 Monterey Hi-Way Self Storage, LLC's ("Borrower") leasehold interest in the Project Site. This Agreement shall not become effective unless and until Lessee provides to Lessor either (a) written notice from Lender that Borrower has fully performed under the loan and that the assignment may be ended or (b) Lender's written consent to this Agreement.

28.0 SURFACE WATER RUN-OFF. In accordance with the drainage control plan adopted for the development of the Project Site, surface water run-off has been and will continue to be accepted over an existing drainage course on other lands owned by Lessor situated to the east of the Project Site and lying between the Project Site and Highway 68. Lessor reserves to itself for the use and benefit of Lessor's properties (including any parcels comprising the Project Site) and/or the tenants thereof a right of access and use for utilities, roads, detention ponds, storm drains and other drainage control improvements as more particularly described in Exhibit E hereto. Lessee shall enjoy this right with respect to those portions of the Project Site not within the Premises.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates below indicated.

Date: 9/25/03, 2003

LESSOR:
MONTEREY PENINSULA AIRPORT DISTRICT

By: Richard D. Searle
Richard D. Searle, Chairman

A T T E S T

Barbara Sadler
Barbara Sadler
District Secretary

Date: 9-25-03, 2003

LESSEE:
2965 MONTEREY HI-WAY SELF STORAGE, LLC

By: Bordonaro & Miller Management Corporation, a California corporation

By: Perry D. Miller
Perry D. Miller, President

By: Sabastian J. Bordonaro
Sabastian J. Bordonaro, Secretary
Managing Member

LIST OF EXHIBITS

- A Legal Description of Premises
- B Guaranty of Lease
- C Standard Nondiscrimination and Airport Development Provisions for Leases
- D Monterey Peninsula Water Management District letter of July 18, 2003.
- E Utility, Road and Drainage Control Improvements

EXHIBIT "B"

GUARANTY OF LEASE

Sabastian Bordonaro and Perry Miller (collectively the "Guarantors"), as a material inducement to and in consideration of the Monterey Peninsula Airport District ("Landlord") entering into a written lease (the "Lease") with 2965 Monterey Hi-Way Self Storage, LLC, ("Tenant"), of even date herewith unconditionally, absolutely and irrevocably guaranty and promise to and for the benefit of Landlord that Tenant shall perform all provisions of the Lease that Tenant is to perform.

Guarantors' obligations hereunder are joint and several, and independent of Tenant's obligations. A separate action or actions may be brought or prosecuted against any Guarantor whether action is brought or prosecuted against any other Guarantor or Tenant, or all, or whether any other Guarantor or Tenant, or all, are joined in any such action or actions. Guarantors waive the benefit of any statute of limitations affecting Guarantors' liability hereunder.

The provisions of the Lease may be changed by agreement between Landlord and Tenant at any time, or by course of conduct, without the consent of or without notice to Guarantors. This Guaranty shall guaranty the performance of the Lease as changed. Assignment of the Lease (as may be permitted by the Lease) shall not affect this Guaranty.

If Tenant defaults under the Lease, Landlord can proceed immediately against Guarantors or Tenant, or any of them or Landlord can enforce against Guarantors or Tenant, or any of them, any rights that Landlord has under the Lease or pursuant to any applicable law. If the Lease terminates and Landlord has any rights it can enforce against Tenant after termination, Landlord can enforce those rights against Guarantors without giving previous notice to Tenant or Guarantors, or without making any demand on any of them.

Guarantors waive any right to require Landlord to; (1) proceed against Tenant; (2) proceed against or exhaust any security that Landlord holds from Tenant; or (3) pursue any other remedy in Landlord's power whatsoever. Guarantors waive any defense by reason of any disability or other defense of Tenant, or by reason of the cessation from any cause whatsoever of the liability of Tenant. Until all Tenant's obligations to Landlord have been discharged in full, Guarantors; (1) shall have no right of subrogation against Tenant; (2) waive any right to enforce any remedy which Landlord now has, or hereafter may have, against

Tenant, and; (3) waive any right to participate in any security now or hereafter held by Landlord. Guarantors waive all presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, and notices of acceptance of this Guaranty, and waive all notices of the existence, creation or incurring of new or additional obligations.

This Guaranty shall not be affected by Landlord's failure or delay to enforce any of its rights against Tenant.

Any indebtedness of Tenant now or hereafter held by Guarantors is hereby subordinated to the indebtedness of Tenant to Landlord; and such indebtedness of Tenant to Guarantors if Landlord so requests shall be collected, enforced and received by Guarantors as trustees for Landlord and be paid over to Landlord on account of the indebtedness of Tenant to Landlord but without reducing or affecting in any manner the liability of Guarantors under the other provisions of this Guaranty.


If Landlord disposes of Landlord's interest in the Lease, "Landlord" as used in this Guaranty shall also mean Landlord's successor. Guarantors' obligations under this Guaranty shall be binding on Guarantors' successors.

Guarantors agree to pay all reasonable attorneys' fees and all other costs or expenses which may be incurred by Landlord in the enforcement of this Guaranty.

IN WITNESS WHEREOF the undersigned have executed this Guaranty on the day and year hereafter written.

Dated: 9/25/03, 2003

Dated: 9-25-03, 2003


Sebastian Bordonaro

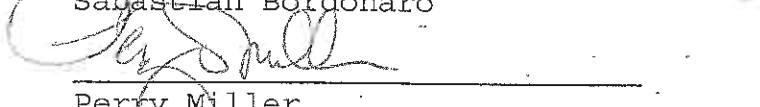

Perry Miller

EXHIBIT "C"

STANDARD NONDISCRIMINATION AND AIRPORT DEVELOPMENT
PROVISIONS FOR LEASES

1. Lessee for himself/herself/itself and all heirs, personal representatives, successors in interest, and assigns, as a part of the consideration for the lease to which these Standard Nondiscrimination And Airport Development Provisions For Leases are attached or made a part (hereinafter, the "Lease"), does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in the Lease (the "Premises") for a purpose for which a United States Department of Transportation ("DOT") program or activity is extended or for another purpose involving the provision of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, 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, and as said Regulations may be amended.
2. Lessee for himself/herself/itself and all personal representatives, successors in interest, and assigns, as a part of the consideration for the Lease, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, and (3) that Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
3. Lessee for himself/herself/itself and all personal representatives, successors in interest, and assigns, as a part of the consideration for the Lease, does hereby covenant

and agree as a covenant running with the land that in the event of breach of any of the above nondiscrimination covenants, Lessor shall have the right to terminate the Lease and to reenter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed including expiration of appeal rights.

4. Lessee shall furnish all accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.
5. Non-compliance with Provision 4 above shall constitute a material breach of the Lease and in the event of such non-compliance Lessor shall have the right to terminate the Lease and the estate thereby created without liability therefore or at the election of Lessor or the United States either or both said governments shall have the right to judicially enforce these provisions.
6. Lessee agrees that Lessee shall insert the above five provisions in any sublease, lease agreement or other contract by which Lessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the Premises.
7. Lessee assures that Lessee will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Lessee assures that Lessee will require that Lessee's covered suborganizations provide assurances to Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR 152, Subpart E, to the same effect.
8. Lessor reserves the right to further develop or improve the landing area of the Monterey Peninsula Airport (the "Airport")

as Lessor sees fit, regardless of the desires or view of Lessee and without interference or hindrance.

9. Lessor reserves the right, but shall not be obligated to Lessee to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard.
10. The Lease shall be subordinate to the provisions and requirements of any existing or future agreement between Lessor and the United States, relative to the development, operation or maintenance of the Airport.
11. There is hereby reserved to Lessor, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operation of the Airport.
12. Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises.
13. Lessee by accepting the Lease expressly agrees for himself/herself/itself and all successors and assigns that Lessee will not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the Premises above the mean sea level elevation * feet, except as specifically shown on construction plans approved in writing by Lessor following any applicable Federal Aviation Administration review. In the event the aforesaid covenants are breached, Lessor reserves the right to enter upon the Premises and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of Lessee.
14. Lessee by accepting the Lease expressly agrees for himself/herself/itself and all successors and assigns that Lessee will not make use of the Premises in any manner which might interfere with the landing and taking off of aircraft from the Monterey Peninsula Airport or otherwise constitute a

hazard. In the event the aforesaid covenant is breached, Lessor reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of Lessee.

15. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. 1349a).

16. The Lease and all the provisions thereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of the Airport or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

* as required by federal aviation regulations

EXHIBIT "C"

PHASE TWO LEASE TERM AMENDMENT

THIS LEASE TERM AMENDMENT ("Lease Term Amendment") is made effective August 10, 2011, ("Effective Date") by and between MONTEREY PENINSULA AIRPORT DISTRICT, a California special district ("Lessor") and 2965 MONTEREY HI-WAY SELF STORAGE, LLC, a California limited liability company ("Lessee") based upon the following:

A. Effective September 1, 2003, Lessor and Lessee entered into that certain Phase Two Lease Agreement ("Lease") for the lease of real property located in Monterey County, California, attached hereto as **Exhibit A** and incorporated herein by this reference.

B. In accordance with Section 2.2.4 of the certain Release and Compromise Agreement between Lessor and Lessee dated August 10, 2011, the Lease shall be extended for an additional fifteen (15) years. Lessor and Lessee intend hereby to specifically document the Lease extension.

NOW, THEREFORE, the Parties agree as follows:

1. AMENDMENT OF LEASE TERM.

(a) Recital A of the Lease is amended by deleting '(the "Commencement Date")', leaving the first line of Recital A to read, "Effective August 1, 1997 Lessor"....

(b) Section 2.0 of the Lease is amended to read as follows:

2.0 Term. "Commencement Date" as used in this Agreement means August 1, 2012. The term of this Agreement is Fifty (50) years, running from the Commencement Date stated above. One year before the end of the term of this agreement, Lessor will meet and confer with Lessee and their representatives for the purposes of negotiating an additional extension agreeable to both parties. Lessee shall have no entitlement, express or implied, to any extension or renewal of this Agreement. No officer, employee or agent of Lessor is authorized to contract, commit, obligate or otherwise convey any entitlement to renew or extend the term of this Agreement, to grant any options or otherwise amend this Agreement. Any amendments to renew or amend the term of this Agreement shall only be authorized through action by Lessor's Board of Directors at a duly noticed public meeting.

2. FULL FORCE AND EFFECT. Except as amended hereby, the parties acknowledge and agree that the Lease shall remain in full force and effect during the extended Lease term hereof.

///

///

3. MEMORANDUM. A Memorandum of this Lease Term Amendment will be recorded in the office of the Monterey County Recorder.

IN WITNESS WHEREOF, the Parties have executed this Lease Term Amendment on _____, 2015, as of the Effective Date.

LESSOR:
MONTEREY PENINSULA AIRPORT
DISTRICT, a California special district

Board Chair

ATTEST

Tonja Posey, District Secretary

LESSEE:
2965 MONTEREY HI-WAY SELF
STORAGE, LLC., a California limited
liability company
By: Its Managing Member,
Bordonaro & Miller Management Corporation,
a California corporation

Perry D. Miller, President

Susan Bordonaro, Secretary

EXHIBIT A

LEASE FOR PHASE TWO

PHASE TWO
LEASE AGREEMENT

This Phase Two Lease Agreement (this "Agreement") is (subject to the consent described in Section 27.0 being obtained) made effective September 1, 2003 by and between the Monterey Peninsula Airport District, a California special district ("Lessor") and 2965 Monterey Hi-Way Self Storage, LLC, a California limited liability company ("Lessee") with reference to the following facts and objectives:

A. Effective August 1, 1997 (the "Commencement Date") Lessor entered into a lease (the "Lease") with Sabastian Bordonaro, who signed as President of "Monterey Airport Self Storage, a California corporation", which corporation was not yet formed. The Lease covered the same premises as this Agreement as well as additional property (collectively referred to as the "Project Site").

B. Subsequently, Mr. Bordonaro formulated plans for the development of the property. An environmental review and approval process with respect to development of the entire approximately 11 acre Project Site was undertaken, resulting in Lessor's adoption of its Resolution No. 1162. In order to reflect the mitigation requirements of Resolution No. 1162 Lessor and Mr. Bordonaro (again signing as President of Monterey Airport Self Storage) entered into a First Amendment to the Lease dated June 10, 1998 (the "First Amendment").

C. With the knowledge of Lessor a limited liability company was formed by Sabastian Bordonaro and Perry Miller in lieu of a California corporation. In order to accurately reflect Lessee as the lessee of the Project Site and the operator of the self-storage business located thereon Lessor and Lessee (collectively the "Parties") entered into a Revised and Restated Lease Agreement effective June 1, 2001 (the "Restated Lease").

D. The Lease and the First Amendment each provided for a thirty-five (35) year base term and a single fifteen (15) year option. The Restated Lease provided for a fifty (50) year term with no option to extend the Lease.

E. Construction of Phase 2 of the development contemplated by the Lease and Resolution No. 1162 has been completed. Lessee is seeking financing to be secured by Lessee's leasehold interest in Phase 2. The Parties desire by this Agreement to redefine the

premises to conform to that portion of the Project Site previously referred to as the "Phase 2 area."

Now, therefore, the Parties hereby agree as follows:

1.0 PREMISES. Lessor hereby leases to Lessee and Lessee hereby hires from Lessor, upon and subject to all of the terms, provisions, covenants and conditions herein contained, that certain real property located in the County of Monterey, State of California, more particularly described in Exhibit "A" attached hereto, together with any and all appurtenances, rights, privileges and easements benefitting, belonging or pertaining thereto, hereinafter sometimes referred to in this Agreement as the "Premises".

2.0 TERM. The term of this Agreement is fifty (50) years, running from the Commencement Date stated above. Lessee shall have no entitlement, express or implied, to any extension or renewal of this Agreement. No officer, employee or agent of Lessor is authorized to contract, commit, obligate or otherwise convey any entitlement to renew or extend the term of this Agreement, to grant any options or otherwise amend this Agreement. Any amendments to renew or amend the term of this Agreement shall only be authorized through the adoption of an ordinance by Lessor's Board of Directors.

3.0 USE.

3.1 Permitted Uses. The following uses of the Premises shall be authorized:

a. Self storage;

b. Occupancy of recreational vehicles, boats, trailers or the like stored on the Premises is prohibited. No overnight occupancy shall be allowed within the Premises at any time. No hook-ups shall be provided for recreational vehicles, boats, trailers or the like. Recreational vehicle park type use is prohibited. Only storage type use is authorized.

c. No uses other than those set forth above shall be authorized without the prior written approval of Lessor. At the discretion of Lessor, such approval may be subject to adjustment of rent and/or renegotiation of terms and conditions.

3.2 Noise Impacts. Lessee acknowledges that the Premises are adjacent to an active commercial and general aviation airport, the

Monterey Peninsula Airport ("Airport"). By entry into this Agreement Lessee hereby waives all claims against Lessor for noise, odor, vibration or any other detriment associated with operation of the Airport and expressly acknowledges the right of Lessor to continue to operate the Airport throughout the term of this Agreement. Lessee shall indemnify, defend and hold Lessor harmless from and against any and all claims, demands, actions, damages, liability and expense in connection with any similar complaints from users of the Premises.

4.0 RENT, FEES AND CHARGES.

4.1 Initial Rent. Beginning on the Commencement Date, Lessee was obligated to pay Lessor at the office of Lessor without reduction, abatement, offset or any prior demand therefore in advance of the first day of each calendar month and subject to adjustment as provided below, rent in the sum of Five Hundred Dollars (\$500) per month for the Project Site.

4.2 Pre-Construction Rent. Commencing on November 1, 1998, Lessee was obligated to pay rent in the sum of One Thousand Dollars (\$1,000) per month for the Project Site.

4.3 Post-Construction Rent.

a. Commencing on November 1, 1999, and continuing on the first day of each calendar month thereafter, Lessee became obligated to pay Lessor as monthly rent for the Project Site the greater of (i) the percentage of gross revenues (as defined in accordance with Section 4.4 below) earned by Lessee during the prior calendar month determined in accordance with the schedule set forth in Subsection 4.3(c) below, or (ii) the then current minimum monthly rent, as determined in accordance with Subsection 4.3(b) below. The monthly rent shall be payable as follows: the minimum monthly rent then in effect shall be due and payable on or before the first (1st) day of each calendar month in advance, and Lessee shall pay any percentage rent owing in excess of the minimum monthly rent on or before the fifteenth (15th) day of each calendar month. On or before the fifteenth (15th) day of each calendar month Lessee shall also submit to Lessor a written report detailing the gross revenues earned by Lessee during the prior calendar month.

b. Commencing on November 1, 1999, the minimum rent was adjusted to Two Thousand Dollars (\$2,000) per month for the Project Site. Commencing on November 1, 2000, the minimum monthly rent was adjusted to Three Thousand Dollars (\$3,000) per month for the Project Site. Commencing on July 1, 2002, the minimum monthly rent

was adjusted in accordance with changes in the consumer price index. Commencing on the effective date of this Agreement the minimum rent for the Premises shall be established as One Thousand One Hundred Dollars (\$1,100) per month to be adjusted in accordance with section 4.5 below.

c. The percentage rent due and payable for each calendar month shall be as follows:

- (1) open recreational vehicle and boat storage:
25% of gross revenues
- (2) covered recreational vehicle and boat storage:
20% of gross revenues
- (3) enclosed self-storage: 15% of gross revenues

4.4 Definition of Gross Revenues. Gross revenues shall be defined as all rents, monies or other consideration paid or payable to Lessee or required to be paid by customers of Lessee for or in connection with occupancy of any unit on the Premises and/or any or all rentals made by Lessee for cash or credit (less federal, state, county or municipal sales or use taxes now in effect or hereinafter levied on Lessee which are separately stated and collected from customers of Lessee).

4.5 Annual Adjustment Applicable During Lease Term. Beginning on July 1, 2004, and on July 1 of each year thereafter during the lease term, the minimum monthly rent shall be adjusted as follows: The base for computing the adjustment is the Consumer Price Index for All Urban Consumers, San Francisco - Oakland - San Jose Metropolitan Area published by the United States Department of Labor, Bureau of Labor Statistics ("Index"). The Index published for the month of April 2003 shall hereinafter be considered the beginning index. The minimum monthly rent for each year beginning on an adjustment date shall be set by multiplying the minimum monthly rent set forth in section 4.3(b) above by a fraction, the numerator of which is the Index published for the month of April of the year of adjustment and the denominator of which is the beginning index. Lessor may round the resulting figure up to the nearest five dollar (\$5) increment. In no case shall the minimum monthly rent be less than the minimum monthly rent established for the preceding year. On adjustment of the minimum monthly rent, Lessor shall notify Lessee of the new minimum monthly rent. Lessor's failure to promptly notify Lessee of a change in the minimum monthly rent shall not be considered a waiver of Lessor's rights to adjust the minimum monthly rent due, nor shall it affect Lessee's obligations to pay any increased minimum monthly rent. If