

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



133

FROM: Economic Development Agency

SUBMITTAL DATE:
May 23, 2012

SUBJECT: Ground Lease Agreement, Jacqueline Cochran Regional Airport

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Ground Lease between the County of Riverside and Thermal Operating Company, LLC, a California limited liability company as Lessee;
2. Authorize the Chairman of the Board of Supervisors to execute the Ground Lease; and
3. Authorize the Assistant County Executive Officer/EDA to execute any additional documents necessary to administer the Ground Lease.

BACKGROUND: (Commences on Page 2)

Lisa Brandl for

Robert Field
Assistant County Executive Officer/EDA
By: Lisa Brandl, Managing Director

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	No
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/12

COMPANION ITEM ON BOARD AGENDA: No

SOURCE OF FUNDS: NA

Positions To Be Deleted Per A-30	<input type="checkbox"/>
Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: *Jennifer L. Sargent*
Jennifer L. Sargent

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Benoit, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: June 12, 2012
xc: EDA

Kecia Harper-Ihem
Clerk of the Board
By: *Kecia Harper-Ihem*
Deputy

Prev. Agn. Ref.:

District: 4/4

Agenda Number:

3.19

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

FORM APPROVED COUNTY COUNSEL
BY: ANNIET SAHAR
Date: 5/23/12
Deputational Concurrence

Dep't Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

BACKGROUND:

Thermal Operating Company, LLC, ("Thermal") is a developer who is constructing a racetrack facility on an approximately 300-acre site south of the Jacqueline Cochran Airport ("Airport").

This Ground Lease enables Thermal to complete their off-site development requirements of improving drainage conditions by constructing a headwall and culvert, relocating certain utilities and performing associated grading work on the county-owned airport property. The drainage improvements will also be of benefit to the Airport by improving water run-off conditions.

The term of the Ground Lease is for thirty-five years with no options to extend.

The Riverside County Transportation & Land Management Agency (TLMA) determined that a 1.31 acre site is needed for the construction of the improvements. Therefore, this Ground Lease is coterminous to County engineering determination at the County Airport standard rate, calculated as follow for the current fiscal year:

County standard rate of \$522.74, (x) multiplied by the Leased Premises acreage of 1.31 acres equals (=) \$684.79 per month

All County airport standard rates are subject to annual market rate adjustments including every five years a property value assessment. All rate adjustments are placed at the beginning of each fiscal year. County Counsel has reviewed and approved the attached documents as to legal form.

GROUND LEASE**Drainage Improvements, Jacqueline Cochran Airport**

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3
4 THIS GROUND LEASE ("Ground Lease" or "Lease") is executed as of May 31, 2012,
5 and effective as of the Effective Date (defined in Section 2(a) below), by and between THE
6 COUNTY OF RIVERSIDE, a political subdivision of the State of California, ("Lessor" or
7 "County"), and Thermal Operating Company, LLC, a California limited liability company
8 ("Lessee"). Lessor and Lessee are hereafter collectively referred to as the "Parties" and each
9 as a "Party". The Parties enter into this Ground Lease based upon the following facts,
10 intentions and understandings:

11 A. Lessor is the owner of that certain approximate 1.31 acres of real property
12 located in the County of Riverside, State of California, a portion of the property more
13 commonly known as the Jacqueline Cochran Regional Airport, ("Airport") as depicted on
14 Exhibit "A" attached hereto ("Premises" or "Leased Premises").

15 B. Lessee desires to use the Premises for construction of drainage improvements
16 in connection with the construction of Lessee's adjacent project (the "Project") on real property
17 other than Airport property.

18 C. The drainage improvements constructed by Lessee will also be of benefit to the
19 Airport by improving water run-off conditions for the property at the Airport.

20 D. Lessor hereby agrees to lease the Premises to Lessee to be used solely for the
21 purposes hereinafter specified, upon and subject to the terms, reservations, covenants and
22 conditions hereinafter set forth.

23 E. Lessor and Lessee agree that pursuant to the Grant of Easement Deed
24 executed between the County of Riverside and the Coachella Valley County Water District
25 ("CVWD") dated March 15, 1956 (the "CVWD Easement"), a CVWD easement exists in the
26 same area of the Leased Premises, and that this Ground Lease is subject to the existing
27 CVWD Easement.

28

1 F. Lessee represents that it is in the process of obtaining the approval of CVWD for
2 the planning, permitting and construction of the Improvements as set forth in this Ground
3 Lease to the extent that such Improvements lie within the boundaries of the current CVWD
4 Easement referenced in recital "E" of this Ground Lease. Prior to the commencement of the
5 construction of any Improvements, Lessee will provide County with written documentation of
6 such CVWD approval.

7
8 NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of
9 which are hereby acknowledged, the Parties hereto hereby agree as follows:

10 1. Lease of Premises. In consideration of the payment of the Rent and
11 other charges and the performance of the covenant and conditions set forth herein, Lessor
12 does hereby lease to Lessee and Lessee does hereby lease from Lessor the Premises.

13 2. Term. The term of this Ground Lease (the "Term") shall be as follows:

14 a. Term. The Term of this Ground Lease shall commence on the
15 Effective Date and shall terminate at 11:59 p.m. on the day prior to the 34th Year of the
16 Ground Lease (the "Original Term"). As used herein, the term "Effective Date" shall mean
17 May 1, 2012.

18 b. Non-Exclusive Right. It is understood and agreed that nothing
19 herein contained will be construed to grant or authorize the granting of an exclusive right
20 within the meaning of Section 308 of the Federal Aviation Act of 1958 (49 U.S.C. 1349(a)). It
21 is further understood that nothing in this Lease shall be construed to allow any party to
22 perform any act in contravention and/or violation of FAA Order 5190.6A Airport Compliance
23 Requirements, dated October 2, 1989, as amended from time to time, and the FAA Grant
24 Assurances.

25 c. Termination. It is understood by the Parties that Lessee is leasing
26 the Premises for the sole purpose of planning and constructing drainage improvements as set
27 forth in paragraph 5 of this Ground Lease. In the event that Lessee completes said
28 improvements and receives governmental approval for the full completion of the

1 improvements, and, in addition, construction of a 65-acre retention basin is completed in
2 accordance with the FAA (defined below) concept plan for the long-term development of the
3 Airport dated December 14, 2004 (also known as the Airport Master Plan), Lessee shall have
4 the right to terminate this Ground Lease, without penalty, by delivering written notice of such
5 termination to Lessor. If the Ground Lease has not terminated for the above-stated reason,
6 this Ground Lease shall expire, at the very latest, at 11:59 p.m. on the last day of the Original
7 Term, and shall not be renewed, except upon agreement by the parties.

8 3. Rent.

9 a. Monthly Rent. Rent shall be payable in lawful money of the United
10 States, without demand, deduction or offset, to Lessor at the address stated herein or to such
11 other persons or at such other places as Lessor may designate in writing. Monthly
12 installments of Rent due under this Ground Lease shall be due and payable on the first (1st)
13 day of each calendar month during the Term. Rent for any period during the Term which is for
14 less than one (1) month shall be a pro rata portion of the monthly installment, which pro rata
15 portion shall be based on a 30 day month, 360 day year. Lessee's obligation to pay Rent
16 under this Ground Lease shall commence on the Effective Date (the "Rent Commencement
17 Date"). The rent shall be the product of 1.31 (acres) multiplied by the then current leasehold
18 rate of Five Hundred Twenty Two and 74/Dollars (\$522.74) per month which equals \$684.79
19 per month ("Rent"). Commencing on July 1 immediately following the Effective Date and every
20 year thereafter, the monthly Rent will be adjusted by multiplying the Total Acres times the
21 monthly Rent per acre as shown in the following table:

22 July 1, 2012, \$569.76 per acre x 1.31 acres = \$746.39 per month

23 July 1, 2013, \$620.91 per acre x 1.31 acres = \$813.39 per month

24 July 1, 2014, \$676.67 per acre x 1.31 acres = \$886.44 per month

25 b. Monthly Rent Adjustment. Beginning on the July 1, 2015 of the
26 every fifth year thereafter, the monthly Rent shall be adjusted to one-twelfth (1/12) of eight
27 percent (8%) of the then-current fair market value of the Land. Said fair market value shall be
28 for the Land only and shall not include the value of the Improvements or other structures

1 placed on the Leased Premises by Lessee. In no event will application of this paragraph
2 result in a monthly Rent amount for the Premises which is lower than the highest previous
3 monthly Rent for the Premises. The fair market value for the Premises will be established by
4 a property appraisal performed by an independent appraiser, knowledgeable and experienced
5 in the valuation of aviation property within the southern California Counties of Riverside, San
6 Bernardino, San Diego and Los Angeles. The appraiser shall be certified by, and be, in good
7 standing with the Appraisal Institute of Chicago, IL, with a current designation of "MAI" and the
8 appraisal shall be conducted in strict compliance with the Uniform Standards of Professional
9 Appraisal Practice ("USPAP"). No less than two hundred and forty (240) days prior to the rent
10 adjustment date, County will notify by US Mail, Lessee of its intent to issue a Request for
11 Qualifications and Proposal ("RFQP") and submit a copy of the Draft RFQP form it intends to
12 use. No less than one hundred and eighty (180) days prior to the rent adjustment date,
13 County will give reasonable consideration to the comments received from Lessee and shall
14 issue a Final RFQP to a minimum of five (5) appraisers meeting the foregoing qualifications.
15 Upon receipt of the responses to the RFQP, the County shall offer the responses to the
16 Lessee for viewing and comment for a period of fourteen (14) days, and after reasonable
17 consideration of the comments made, County shall select the appraiser pursuant to the
18 County's standard practice. The cost of the appraisal and related processes shall be borne by
19 the County. Once established, the monthly Rent for the land shall be increased annually by
20 two and one-half (2.5%) except for those years coinciding with the appraisals conducted every
21 fifth year as referenced above.

22 4. Permitted Uses/Lessor's Reserved Rights.

23 a. Business Conducted. Lessee shall use the Premises for drainage
24 improvements (which improvements shall also be of benefit to the Airport), and the Premises
25 shall be used by Lessee, its agents and contractors in connection with the construction and
26 maintenance of the improvements related to the Project and incidental purposes only
27 (collectively, the "Permitted Use").

28 b. Compliance with Laws. During the Term, Lessee, at its sole cost

1 and expense, shall comply with, and shall not use the Premises or suffer or permit anything to
2 be done in or about the Premises which will in any way conflict with, (i) any and all present
3 and future laws, statutes, zoning restrictions, ordinances, orders, regulations, directions, rules
4 and requirements of all governmental authorities having jurisdiction over all or any part of the
5 Premises (including, but not limited to, state, municipal, county and federal government and
6 their departments, bureaus, boards and officials) pertaining to the use or occupancy of, or
7 applicable to, the Premises or privileges appurtenant to or in connection with the enjoyment of
8 the Premises, (ii) any and all applicable federal, state and local laws, regulations or ordinances
9 pertaining to air and water quality, "Hazardous Materials" (as hereafter defined), waste
10 disposal, air emissions and other environmental or health and safety matters, zoning, land use
11 and utility availability, which impose any duty upon Lessor or Lessee directly or with respect to
12 the use or occupation of the Premises, and (iii) any covenants, conditions and restrictions,
13 easements or other matter of record now affecting or encumbering the Premises including the
14 existing easement dated March 15, 1956, between the County of Riverside and the Coachella
15 Valley Water District, including, but not limited to, all restrictions to Permitted Uses set forth in
16 Section 4(e) of this Ground Lease (collectively, (i) through (iii) above are hereinafter referred
17 to as "Applicable Laws").

18 c. "As Is" Acceptance. Lessee shall accept and take possession of
19 the Premises "As Is" and acknowledges represents, covenants and agrees that Lessee has
20 inspected the Premises and has found the lands and appurtenances to be in good condition of
21 repair. If any deficiencies are discovered the Lessee agrees to accept the property and
22 continue with said Lease, the deficiencies shall be stated in writing and provided to the
23 Lessor. Said deficiencies, if any, shall not be the responsibility of the Lessee upon vacation of
24 the site.

25 d. Additional Permits. Lessee may apply for permits and other
26 governmental approvals for the Premises, including but not limited to approval of storm water
27 pollution prevention plans, if required for the Permitted Use. Lessor shall, at Lessee's notice
28 or request, cooperate with Lessee in permits, certifications, reports, proceedings, notices of

1 intent, notices of termination and related applications and execute any documents necessary
2 for Lessee to obtain such permits and other governmental approvals.

3 e. Permitted Uses/Reservations to Lessor.

4 1. Expenses. This Lease is a ground lease; and all expenses
5 attributable to Lessee's use or occupancy of the Premises, whether for operations,
6 maintenance or otherwise, including, but not limited to, all operating and management costs,
7 utilities, insurance, security, and maintenance services, and all other matters will be borne by
8 Lessee.

9 2. Uses. Lessee shall not use or permit the use of the Premises
10 for any other purpose other than that set forth in this Lease, and Lessee shall comply with all
11 rules and regulation of the Federal Aviation Administration ("FAA"), such as those set forth in
12 the Federally Required Lease Provisions, a copy of which is attached hereto and incorporated
13 by reference herein as Exhibit "B"; provided, however, Lessee shall be obligated to undertake
14 an affirmative action program pursuant to Paragraph 7 of Exhibit "B" only to the extent that
15 Lessee has employees.

16 a. There is hereby reserved to Lessor, for the use and
17 benefit of the public, a right of flight for the passage of aircraft in the airspace above the
18 surface of the Premises. Tenant shall not make use of the Premises in any manner which
19 might interfere with the flight, landing and taking off of aircraft from the Airport, or which might
20 otherwise constitute a hazard. In the event the aforesaid covenant is breached, Lessor
21 reserves the right to enter upon the Premises and cause the abatement of such interference,
22 at the expense of Lessee.

23 b. Lessee, by accepting this Ground Lease, expressly
24 agrees that it will not permit any natural growth or other obstruction on the land leased
25 hereunder above a height as determined by the application of the requirements of Part 77 of
26 the Federal Aviation Regulations. In the event the aforesaid covenants are breached, Lessor
27 reserves the right to remove any offending structure or object, at the expense of Lessee.

28 c. Lessee shall use reasonable precautions to prevent

1 unauthorized persons from gaining access to restricted flight and aircraft operational areas.
2 Lessee is also responsible for maintaining security in and around the Premises or any other
3 area adjacent to or upon the Airport property which Lessee has a right to use or which Lessee
4 otherwise controls.

5 d. This Ground Lease shall be subject to whatever right
6 the United States Government now has, or in the future may have or acquire, affecting the
7 control, operation, regulation and taking over of said Airport, or the exclusive or nonexclusive
8 use of Airport property, by the United States during the time of war or national emergency or
9 otherwise.

10 e. Lessor reserves the right to further develop or improve
11 the aircraft operating area of the Airport as it deems appropriate. Lessor also reserves the
12 right, but shall not be obligated to Lessee, to maintain and keep in repair any areas of the
13 Airport, together with the right to direct and control all activities of Lessee in this regard.

14 f. Further Reservations to Lessor. Lessee further accepts
15 the Premises subject to any and all existing easements. Lessor reserves the right without
16 obligation to install, lay, construct, maintain and repair utilities and appurtenances necessary
17 or convenient in connection therewith in, over, upon, through, across, under and along the
18 Premises or any part thereof, and to enter the Premises for any and all such purposes.
19 Lessor also reserves the right to grant easements, rights-of-way and permits in, over, upon,
20 through, across under and along any and all portions of the Premises. Notwithstanding
21 anything to the contrary contained herein, no right reserved by Lessor in Section 4.e.2. or on
22 Exhibit "B" attached hereto shall be so exercised as to interfere unreasonably with Lessee's
23 operation hereunder.

24 g. Lessee shall have, hold and quietly enjoy the use of the
25 Premises so long as Lessee shall fully and faithfully perform the terms and conditions that
26 Lessee is required to do under this Ground Lease.

27 h. This Ground Lease shall be subordinate to the provisions
28 and requirements of any existing or future agreement between Lessor and the United States

1 relative to the development, operation or maintenance of the Airport.

2 5. Improvements to the Premises. Lessee shall have the right to make
3 improvements to the Premises, which improvements will include drainage improvements
4 (herein the "Improvements"); specifically, Lessee intends to construct a headwall and culvert,
5 perform associated grading work, and relocate certain utilities, at Lessee's sole cost and
6 expense. Said improvements shall be constructed only where necessary in furtherance of the
7 purpose in which Lessee has leased the Premises and all the necessary permits or approvals
8 have been obtained by Lessee. Any improvements, alterations and installation of fixtures to
9 be undertaken by Lessee shall have the prior written approval of Lessor after Lessee has
10 submitted to Lessor the proposed site plans, building plans and specifications therefore, in
11 writing. In addition, Lessee understands and agrees that such improvements may be subject
12 to County Ordinance Nos. 348 and 457, as well as other applicable County ordinances, and
13 that Lessee shall fully comply with such ordinances prior to the commencement of any
14 construction in connection therewith. All such work which may be done on the Premises by
15 Lessee shall be done at no expense to Lessor and shall be completed in accordance with all
16 Applicable Laws, including, but not limited to, those restrictions as to use set forth in section 4,
17 above. Upon expiration or termination of the Ground Lease, Lessee shall be responsible for
18 removing any and all such improvements unless the Parties agree otherwise. The surrender
19 of the Premises shall be done in accordance with Section 15 herein.

20 6. Maintenance. Lessee shall, at Lessee's own cost and expense, keep the
21 Premises and every part thereof, and the personal property and equipment thereon in good,
22 clean and sanitary order, condition and repair. Lessee may remove, restore and/or replace its
23 personal property and equipment thereon as and when Lessee deems necessary in its good
24 faith business judgment. Lessee shall be required to make any repairs or otherwise to
25 maintain the Premises where Lessee has caused the need for a repair or to maintain pursuant
26 to the terms and conditions of this Ground Lease.

27 7. Utilities. Lessee shall be responsible for obtaining and shall fully and
28 promptly pay all costs directly to the appropriate supplier for all water, gas, heat, light, power,

1 telephone service and other public utilities of every kind furnished to the Premises throughout
2 the Term. Lessee shall maintain all such utilities in its own name. Lessee may provide field
3 sanitary facilities for its workers, which facilities shall be in compliance with all Applicable
4 Laws.

5 8. Indemnification.

6 a. Except in the event of the gross negligence or willful misconduct of
7 any Lessor Party (defined below), Lessee shall indemnify and hold harmless the County of
8 Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors,
9 officers, Board of Supervisors, elected and appointed officials, employees, agents and
10 representatives (collectively, the "Lessor Parties," and each, a "Lessor Party") from any
11 liability whatsoever, based or asserted upon (i) Lessee's use of the Premises, the conduct of
12 Lessee's business or any activity, work done, permitted or suffered by Lessee in or about the
13 Premises or elsewhere and (ii) any breach or default in the performance of any obligation on
14 Lessee's part to be performed under the terms of this Ground Lease; and (iii) any act or
15 omission of Lessee, its officers, employees, subcontractors, agents or representatives arising
16 out of or in any way relating to or in any way connected with the Leased Premises or this
17 Lease, including but not limited to property damage, bodily injury, or death or any other
18 element of any kind or nature whatsoever. Except in the event of any gross negligence or
19 willful misconduct of any Lessor Party, Lessee shall defend, at its sole expense, all costs and
20 fees including, but not limited, to attorney fees, cost of investigation, defense and settlements
21 or awards, the Lessor Parties in any claim or action based upon such alleged acts or
22 omissions. Lessee, as a material part of the consideration to Lessor, hereby assumes all risk
23 of damage to property or injury to persons in, upon or about the Premises arising from any
24 cause; and Lessee hereby waives all claims in respect thereof against Lessor except to the
25 extent such claims are caused by any Lessor Party's gross negligence or willful misconduct.

26 b. With respect to any action or claim subject to indemnification
27 herein by Lessee, Lessee shall, at their sole cost, have the right to use counsel of their own
28 choice and shall have the right to adjust, settle, or compromise any such action or claim

1 without the prior consent of Lessor; provided, however, that any such adjustment, settlement
2 or compromise in no manner whatsoever limits or circumscribes Lessee's indemnification to
3 Lessor as set forth herein.

4 c. Lessee's obligation hereunder shall be satisfied when Lessee has
5 provided to Lessor the appropriate form of dismissal relieving Lessor from any liability for the
6 action or claim involved.

7 d. The specified insurance limits required in this Lease shall in no
8 way limit or circumscribe Lessee's obligations to indemnify and hold harmless the Lessor
9 herein from third party claims.

10 e. In the event there is conflict between this clause and California
11 Civil Code Section 2782, this clause shall be interpreted to comply with California Civil Code
12 Section 2782. Such interpretation shall not relieve the Lessee from indemnifying the Lessor
13 to the fullest extent allowed by law.

14 9. Insurance.

15 a. Lessee Insurance Policies. Without limiting or diminishing the
16 Lessee's obligation to indemnify or hold Lessor harmless, Lessee shall procure and maintain
17 or cause to be maintained, at its sole cost and expense, the following insurance coverage, in
18 the amounts of not less than that specified herein or in minimum amounts as may be
19 subsequently adjusted by the Lessor in the exercise of their commercial business judgment
20 and consistent with airport industry practice for similar kinds of activities, during the term of
21 this Lease. As respects to the insurance section only, the Lessor herein refers to the County
22 of Riverside, its Agencies, Districts, and Departments, their respective directors, officers,
23 Board of Supervisors, employees, elected or appointed officials, agents or representatives as
24 Additional Insureds.

25 (i) Commercial General Liability Insurance. Lessee shall
26 maintain Commercial General Liability insurance coverage, including but not limited to,
27 premises liability, contractual liability, products and completed operations liability, personal
28 and advertising injury, and cross liability coverage, covering claims which may arise from or

1 out of Lessee's performance of its obligations hereunder. Such policy shall name Lessor as
2 Additional Insured. Such policy limit of liability shall not be less than \$2,000,000 per
3 occurrence combined single limit. If such insurance contains a general aggregate limit, it shall
4 apply separately to this Lease or be no less than the occurrence limit amount.

5 (ii) Automobile Liability Insurance. If vehicles or mobile
6 equipment are used in the performance of the obligations under this Lease, then Lessee shall
7 maintain liability insurance for all owned, maintenance, non-owned or hired vehicles so used
8 in an amount not less than \$2,000,000 per occurrence combined single limit. If such
9 insurance contains a general aggregate limit, it shall apply separately to this Lease or be no
10 less than two (2) times the occurrence limit. Such policy shall name the County as Additional
11 Insured.

12 (iii) Workers' Compensation and Employer's Liability Insurance.
13 If the Lessee has employees as defined by the State of California, the Lessee shall maintain
14 statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the
15 State of California. Such policy shall include Employers' Liability (Coverage B) including
16 Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy
17 shall be endorsed to waive subrogation in favor of the Lessor.

18 (iv) Course of Construction Insurance. During the full term of
19 construction of the planned improvements, Lessee shall purchase and maintain or cause to
20 be purchased and maintained All Risk Builder's Risk insurance (Completed Value Form). The
21 Course of Construction coverage limit of insurance shall equal or exceed the highest values
22 exposed to loss at any one time during the project term. Policy shall include the Lessor as
23 named Additional Insured.

24 (v) Real and Personal Property Insurance. All-Risk real and
25 personal insurance coverage for the full replacement cost value of building, structures,
26 fixtures, equipment, improvements/alterations and systems on the premises for property that
27 the Lessee owns or is contractually responsible for. Such policy shall name Lessor as a Loss
28 Payee as their individual interests may appear and provide a Waiver of Subrogation in favor of

1 County.

2 b. General.

3 (i) Insurance Companies. Insurance required to be maintained
4 by the Parties shall be written by companies licensed to do business in California and having
5 a having an A.M. Best Insurance Rating of not less than A-VII.

6 (ii) It is understood and agreed to by the parties hereto that the
7 Lessee's insurance shall be construed as primary insurance, and the Lessor's insurance
8 and/or deductibles and/or self-insured retention's or self-insured programs shall not be
9 construed as contributory.

10 (iii) Lessee shall pass down the insurance obligations contained
11 herein to all tiers of subcontractors working under this Lease. Lessee shall also require that
12 the contractors and subcontractors to Waive Subrogation for workers' compensation
13 insurance and name Lessor as Additional Insured for Liability Insurance.

14 (iv) Lessee agrees to notify Lessor of any claim by a third party
15 or any incident or event that may give rise to a claim under any of Lessee's insurance policies
16 arising from this Lease.

17 (v) Waiver of Subrogation. Each Party hereby waives all rights
18 of recovery against the other (and the other's agents) on account of loss and damage to the
19 property of such waiving Party to the extent that the loss or damage is insured under the
20 waiving Party's insurance policies (or would have been insured if such waiving Party carried
21 the insurance required to be carried hereunder). By this waiver it is the intent of the Parties
22 that neither Lessor nor Lessee shall be liable to any insurance company (by way of
23 subrogation or otherwise) insuring the other Party for any loss or damage insured against
24 under any insurance policies maintained (or required to be maintained) pursuant to this
25 Lease, even though such loss or damage might be occasioned by the negligence of such
26 Party, its agents, employees, contractors, guests or invitees.

27 (vi) Self Insurance by Lessee. Notwithstanding any provision in
28 this Section 9 to the contrary, Lessor hereby permits Lessee, and if Lessee hereby elects, to

1 self-insure with regard to the insurance requirements specified in Section 9(a) of this Lease.
2 Lessee shall only have the right to self-insure as long as Lessee has a tangible net worth at
3 least equal to Fifty Million and 00/100 Dollars (\$50,000,000.00) and as long as the program of
4 self-insurance is acceptable to Lessor. If applicable, Lessee must declare its insurance self-
5 insured retention for each coverage required herein. If any such self-insured retention
6 exceeds \$500,000 per occurrence each such retention shall have the prior written consent of
7 the County's Risk manager before the commencement of operations under this Ground
8 Lease. Upon notification of self-insured retention unacceptable to the County, and at the
9 election of the County's Risk Manager, Lessee shall either: 1) reduce or eliminate such self-
10 insured retention as respects this Lease with Lessor, or 2) procure a bond which guarantees
11 payments of losses and related investigations claims administration, and defense costs and
12 expenses. To the extent Lessee elects not to self-insure, then Lessee shall promptly inform
13 Lessor of the such election, and procure the insurance required by this Lease and timely
14 deliver evidence thereof to Lessor; provided, however, in no event shall there be deemed to
15 be any break in coverage between the time Lessee elects not to self-insure and the time
16 Lessee procures the required insurance policies.

17 10. Taxes.

18 a. Real Property Taxes. Lessee acknowledges that Lessor is a
19 public agency and a tax exempt agency. Lessee shall secure and maintain, at its sole
20 expense, all necessary permits and licenses as it may be required to obtain or hold, and
21 Lessee shall pay prior to delinquency all fees, taxes and penalties levied by any authorized
22 public entity. Lessee recognizes and understands that this Lease may create a possessory
23 interest subject to property taxation and that Lessee may be subject to the payment of
24 property taxes levied on such interest. Failure to pay such sums in a timely manner shall be a
25 material default hereunder.

26 b. Personal Property Taxes. Lessee shall pay all taxes charged
27 against trade fixtures, furnishings, equipment or any other personal property owned by or
28 belonging to Lessee. Lessee shall use reasonable efforts to have all such personal property

1 taxed separately from the Premises. If any of Lessee's personal property is taxed with the
2 Premises and Lessor pays such taxes, Lessee shall reimburse Lessor the amount of such
3 taxes within fifteen (15) days after receipt of Lessor's written statement or invoice therefore,
4 which statement or invoice shall be accompanied by reasonable evidence of the amount paid.

5 11. Assignment and Subletting. Lessee may not assign or sublet any portion
6 of the Premises for any purpose, without the prior consent of Lessor, which will not be
7 unreasonably withheld.

8 12. Liens. Lessee shall not suffer or permit any liens, encumbrances or
9 charges against the Premises or any part thereof or Lessor's interest therein, including,
10 without limitation, any mechanics', materialmen's, contractors' or other liens arising from, or
11 any claims for damages growing out of, any work of repair or alteration as herein authorized
12 or otherwise arising; and Lessee shall pay or cause to be paid all of said liens and claims
13 before any action is brought to enforce the same against Lessor or the Premises; provided,
14 however, Lessee shall not be required to pay any of said liens or claims being contested, so
15 long as within thirty (30) days after the date of filing or service of any such lien or claim
16 Lessee diligently prosecutes such dispute or contest to a prompt determination and pays all
17 amounts ultimately determined to be owing by Lessee. Lessee shall indemnify, protect,
18 defend and hold Lessor and the Premises free and harmless from all liability for any and all
19 such liens and claims and all costs and expenses in connection therewith. Lessee shall give
20 Lessor no less than thirty (30) days prior notice in writing before commencing construction of
21 any kind on the Premises so that Lessor may post notices of non-responsibility.

22 13. No Right to Encumber. Lessee agrees that it will not encumber or assign,
23 for the benefit of a lender, this Ground Lease, nor any leasehold estate created hereunder by
24 a Deed of Trust, mortgage or other security-type interest, to assure the payment of a
25 promissory note of Lessee, unless the Parties agree to amend this Ground Lease to allow
26 such encumbrance.

27 14. Condemnation. If at any time title to the Premises transfers to a
28 condemning authority, pursuant to a taking of all or a portion of the Premises sufficient to

1 render the Premises reasonably unsuitable for Lessee's use, then upon written notice by
2 Lessor or Lessee (as applicable) to the other, this Lease shall terminate, and Rent shall be
3 pro-rated up until said date. Lessor and Lessee shall each be entitled to pursue their own
4 separate awards with respect to such taking. Sale of all or part of the Premises to a
5 purchaser with the power of eminent domain in the face of the exercise of the power shall be
6 treated as a taking by condemnation.

7 15. Default and Lessor's Remedies.

8 a. Events of Default. The occurrence of any of the following, at
9 Lessor's option, shall constitute an "Event of Default":

10 (i) Any failure by Lessee to pay rent, required to be made by
11 Lessee hereunder where such failure continues for fifteen (15) days after payment is due
12 without the necessity of a written notice to Lessee.

13 (ii) A failure by Lessee to observe and perform any other
14 provision of this Lease, other than the obligation to pay rent, to be observed or performed by
15 Lessee where such failure continues for thirty (30) days after written notice thereof by Lessor
16 to Lessee; provided, however, that if such default is of a type which by reasons other than
17 within the reasonable control of Lessee is not susceptible of cure within such thirty (30) day
18 period, but is susceptible of cure within a reasonable period of time, then no Event of Default
19 shall occur hereunder unless Lessee shall fail to commence to cure such default within such
20 thirty (30)-day period or shall fail to diligently pursue the cure of such default to completion
21 within a reasonable period of time thereafter, which reasonable period shall in no event
22 exceed ninety (90) days after written notice of such condition.

23 (iii) The making of a general assignment by Lessee for the
24 benefit of creditors, the filing of a voluntary petition by Lessee or the filing of an involuntary
25 petition by any of Lessee's creditors seeking the rehabilitation, liquidation or reorganization of
26 Lessee under any law relating to bankruptcy, insolvency or other relief of debtors and, in the
27 case of an involuntary action, the failure to remove or discharge the same within sixty (60)
28 days of such filing, the appointment of a receiver or other custodian to take possession of

1 substantially all of Lessee's assets or this leasehold, Lessee's insolvency or inability to pay
2 Lessee's debts or failure generally to pay Lessee's debts when due, any court entering a
3 decree or order directing the winding up or liquidation of Lessee or of substantially all of
4 Lessee's assets, Lessee taking any action toward the dissolution or winding up of Lessee's
5 affairs, or the attachment, execution or other judicial seizure of substantially all of Lessee's
6 assets or this leasehold.

7 b. Remedies of Lessor. In the event of an Event of Default, in
8 addition to any other remedies available to Lessor at law or in equity, Lessor shall have the
9 right to terminate this Lease and all rights of Lessee hereunder by giving written notice of such
10 intention to terminate to Lessee and, on the date specified in such notice, this Lease shall
11 terminate.

12 16. Surrender of Premises. This Lease shall terminate and become null and
13 void without further notice upon the expiration of the Term; and any holding over by Lessee
14 after such expiration shall not constitute a renewal hereof or give Lessee any rights under this
15 Lease, except by and with the written approval of Lessor. If Lessee shall hold over for any
16 period after the expiration of the Term, Lessor may, at its option, exercised by written notice
17 given at any time to Lessee, treat Lessee as a tenant from month-to-month commencing on
18 the later to occur of (a) the first (1st) day following the expiration of the Original Term, or, if
19 applicable, any extended term of this Lease, or (b) the first (1st) day of the next month after
20 such notice is given. Any such month-to-month tenancy shall be subject to the terms and
21 conditions herein contained. Unless other terms are agreed to in writing between the Parties,
22 Lessee shall restore the Premises to a neat, clean and clear condition and remove any
23 improvements installed by Lessee, and repair and restore the Premises in a condition that
24 existed prior to the improvements, provided, however, Lessee shall have no obligation to
25 remove any improvements, including, without limitation, headwalls and road crossings at the
26 Avenue 62 Drainage Channel, which have been installed by Lessee or any of its affiliates for
27 the purpose of providing storm water protection in addition to any on-site mitigation
28 implemented within the Premises.

1 17. Payment and Notices. All rents and other sums payable by Lessee to
 2 Lessor hereunder shall be paid to Lessor at the address designated below or at such other
 3 place as Lessor may hereafter designate in writing. Any notice to be given or other document
 4 to be delivered by either party to the other hereunder may be delivered in person to Lessor or
 5 to Lessee or may be deposited in the United States mail, duly registered or certified, postage
 6 prepaid, and addressed to the respective party at the address designated below. Either party
 7 hereto may from time to time, by five (5) days' prior written notice to the other, served in the
 8 manner herein provided, designate a different address. If any notice or other document is
 9 sent by mail, as aforesaid, the same shall be deemed served or delivered forty-eight (48)
 10 hours after the mailing thereof.

11 IF TO COUNTY:

County of Riverside
 Economic Development Agency – Aviation Department
 Attn: Assistant County Executive Office/EDA
 3403 10th Street, Suite 500
 Riverside, CA 92501
 Phone: 951-955-9722
 FAX: 951-955-6686

16 IF TO LESSEE:

Thermal Operating Company, LLC
 c/o Tower Energy Group
 1983 West 190th Street
 Torrance, California 90504
 Attn: Tim Rogers
 FAX: (310) 538-8013.

20 These addresses may be changed by written notice to the other party, provided that no
 21 notice of a change of address shall be effective until actual receipt of that notice.
 22 Copies of notices are for informational purposes only, and a failure to give or receive
 23 copies of any notice shall not be deemed a failure to give notice.

24 18. Waivers. No waiver by Lessor of any provision hereof shall be deemed a
 25 waiver of any other provision hereof or of any subsequent breach by Lessee of the same or
 26 any other provision. Lessor's consent to or approval of any act shall not be deemed to render
 27 unnecessary the obtaining of Lessor's consent to or approval of any subsequent act by
 28 Lessee.

1 19. Scope and Amendment. This Lease is and shall be considered to be the
2 only agreement between the parties hereto related to the Premises. All negotiations and oral
3 agreements acceptable to both parties are included herein. No amendment or other
4 modification of this Lease shall be effective unless in writing signed by Lessor and Lessee.

5 20. Hazardous Materials.

6 a. Definition. For purposes of this Lease, the term "Hazardous
7 Materials" includes (i) any "hazardous materials" as defined in Section 25501(o) of the
8 California Health and Safety Code unless Lessee establishes, to the satisfaction of Lessor,
9 that because of the quantity, concentration, or physical or chemical characteristics, such
10 substance or matter does not pose a significant present or potential hazard human health and
11 safety or the environment, (ii) any other substance or matter which results in liability to any
12 person or entity from exposure to such substance or matter under any statutory or common
13 law theory and (iii) any substance or matter which is in excess of relevant and appropriate
14 levels set forth in any federal, state or local law or regulation pertaining to any hazardous or
15 toxic substance, material or waste or for which any federal, state or local agency orders or
16 otherwise requires removal, treatment or remediation.

17 b. Use. Lessee shall not cause or permit any Hazardous Materials to
18 be brought upon, stored, and used, on the Premises by Lessee, its agents, employees,
19 contractors or invitees without the prior written consent of Lessor. Without limiting any other
20 rights or remedies of Lessor under this Lease, Lessee shall pay the cost of any clean-up work
21 performed on, under or about the Premises as required by this Lease or any Applicable Laws
22 in connection with the removal, disposal, neutralization or other treatment of such Hazardous
23 Materials.

24 c. Incident Reporting. Lessee shall promptly notify Lessor of, and
25 shall promptly provide Lessor with true, correct, complete and legible copies of all of the
26 following environmental items relating to the Premises which may be filed or prepared by or
27 on behalf of, or delivered to or served upon, Lessee: all orders, reports, notices, listings and
28 correspondence (even those which may be considered confidential) of or concerning the

1 release, investigation of, compliance, clean up, remedial and corrective actions, and
2 abatement of Hazardous Materials whether or not required by Applicable Laws, including, but
3 not limited to, reports and notices required by or given pursuant to any Applicable Laws and
4 all complaints, pleadings and other legal documents filed against Lessee related to Lessee's
5 use, handling, storage or disposal of Hazardous Materials. In the event of a release of any
6 Hazardous Materials on the Premises or to the environment, Lessee shall promptly provide
7 Lessor with copies of all reports and correspondence with or from all governmental agencies,
8 authorities or any other persons relating to such release.

9 d. Indemnification. Lessee shall indemnify, hold harmless, protect
10 and defend Lessor and Lessor's agents, and any successors to all or any portion of Lessor's
11 interest in the Premises and their officials, directors, officers, employees, authorized agents,
12 representatives, from and against any and all liabilities, losses, damages, diminution in the
13 value of the Premises, judgments, fines, demands, claims, recoveries, deficiencies, costs and
14 expenses (including, but not limited to, reasonable attorneys' fees, disbursements and court
15 costs), whether foreseeable or unforeseeable, arising directly or indirectly out of the presence,
16 use, generation, storage, treatment, on or off-site disposal or transportation of Hazardous
17 Materials on, into, from, under or about the Premises by Lessee, its agents, employees,
18 contractors, licensees or invitees, and specifically including the cost of any required or
19 necessary repair, restoration, clean-up (including, but not limited to, the costs of investigation
20 and removal of Hazardous Materials) or detoxification of the Premises and the preparation of
21 any closure or other required plans, whether or not such action is required or necessary
22 during the Term or after the expiration of this Lease. Neither the written consent by Lessor to
23 the presence of Hazardous Materials on, under or about the Premises nor the strict
24 compliance by Lessee with any Applicable Laws shall excuse Lessee from Lessee's
25 obligation of indemnification pursuant hereto. Notwithstanding any other provision of this
26 Lease, Lessee's obligations pursuant to the foregoing indemnity shall survive the termination
27 of this Lease.

28 21. Discrimination or Segregation

1 (a) Lessee shall not discriminate in Lessee's recruiting, hiring,
2 promotion, demotion or termination practice on the basis of race, religious creed, color,
3 national origin, ancestry, sex, age, physical handicap, medical condition, or marital status
4 with respect to its use of the Leased Premises hereunder, and Lessee shall comply with the
5 provisions of the California Fair Employment and Housing Act (Government Code Sections
6 12900 et seq.), the Federal Civil Rights Act of 1964 (P. L. 88-352), and all amendments
7 thereto, Executive Order No. 11246 (30 Federal Register 12319), as amended, and all
8 Administrative Rules and Regulations issued pursuant to said Acts and orders with respect to
9 its use of the Leased Premises.

10 (b) Lessee shall not discriminate against or cause the segregation of
11 any person or group of persons on account of race, religious creed, color, national origin,
12 ancestry, sex, age, physical handicap, medical condition, or marital status in the occupancy,
13 use, tenure or enjoyment of the Leased Premises, nor shall Lessee, or any person claiming
14 under or through Lessee, establish or permit any such practice or practices of discrimination
15 or segregation with reference to the selection, location, number, use, or occupancy of any
16 persons within the Leased Premises.

17 (c) Lessee assures that it will undertake an affirmative action
18 program as required by 49 CFR, Part 21, to insure that no person shall on the grounds of
19 race, creed, color, national origin, or sex be excluded from participating in any employment
20 activities covered in 49 CFR, Part 21, with respect to its use of the Leased Premises. Lessee
21 further assures that no person shall be excluded on these grounds from participating in or
22 receiving services or benefits of any program or activity covered herein with respect to its use
23 of the Leased Premises. Lessee further assures that it will require that its subcontractors
24 and independent contractors provide assurance to Lessee that they similarly will undertake
25 affirmative action programs and that they will require assurances from their subcontractors
26 and independent contractors, as required by 49 CFR, Part 21, to the same effect with respect
27 to their use of the Leased Premises.

28 22. Miscellaneous. Lessee and Lessor each represent and warrant to the

1 other that it has not employed any broker, finder or other similar person in connection with the
2 transactions contemplated by this Lease; and each indemnifies the other from and against
3 any liability, loss or cost (including without limitation, reasonable attorneys' fees and court
4 costs) should its representation and warranty prove incorrect. Lessee understands and
5 agrees that the time and manner set forth in this Lease for the performance of the terms and
6 conditions contained herein are critical provisions of this Lease, that strict compliance
7 therewith is a material consideration for this Lease and that such provisions may be altered
8 only by a writing executed by Lessor and Lessee expressly reciting that it is an amendment to
9 this Lease. The headings herein are used only for the purpose of convenience and shall not
10 be deemed to contain or limit the subject matter of thereof, nor to be considered in the
11 construction thereof. Each and all of the obligations, covenants, conditions and restrictions of
12 this Lease shall inure to the benefit of and be binding upon and enforceable against, as the
13 case may require, the successors and assigns of Lessor and, subject to the restrictions
14 against assignments and subletting in this Lease contained, any authorized assigns,
15 transferee, sublessee and other successor in interest of Lessee. Any provision of this Lease
16 determined to be invalid by a court of competent jurisdiction shall in no way affect any other
17 provision hereof. In this Lease the neuter gender includes the feminine and masculine and
18 the singular number includes the plural and vice versa, wherever the context so requires.
19 This Lease may be executed in any number of counterparts, each of which is an original, but
20 all of which shall constitute one instrument. This Lease shall be governed by and construed in
21 accordance with the laws of the State of California. All rights, options and remedies of Lessor
22 contained herein shall be construed and held to be cumulative and no one of them shall be
23 exclusive of the other; and Lessor shall have the right to pursue any one or all of such
24 remedies or any other remedy or relief which may be provided by law, or in equity, whether or
25 not stated in this Lease.

26 23. FAA Consent to Lease. Lessee acknowledges that the Airport was
27 transferred to the County by the Federal Government and, as such, may require FAA consent
28 to the Lease. If so required, the Federal government's approval shall be considered a

1 condition precedent under this Lease.

2 24. Memorandum of Lease. Lessee shall not record this Lease or a short
3 form memorandum hereof without Lessor's prior written consent; provided, however, Lessor
4 acknowledges that Lessee desires to record a memorandum of this Lease promptly following
5 the execution by the parties of this Lease and the parties shall use their good faith efforts to
6 execute and record a memorandum of this Lease as soon as reasonably practicable; provided
7 that Lessee has obtained the necessary approval of CVWD for the planning, permitting and
8 construction of the Improvements on the Leased Premises.

9 25. Lessor's Representative. Lessor hereby appoints the Assistant County
10 Executive Officer/EDA, as its authorized representative to administer this Ground Lease.

11 26. Execution by County. This Ground Lease shall not be binding or
12 consummated until its approval and execution by the Riverside County Board of Supervisors.


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14 [signature page follows]
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IN WITNESS WHEREOF, Lessee and Lessor have hereunto subscribed their names the day and year first hereinabove written.

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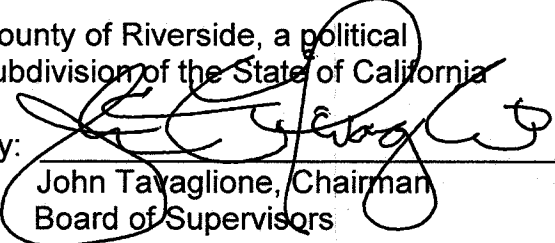
ATTEST:

Kecia Harper Ihem

By: 
Deputy

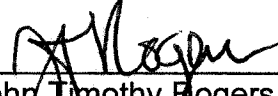
LESSOR:

County of Riverside, a political subdivision of the State of California

By: 
John Tavaglione, Chairman
Board of Supervisors

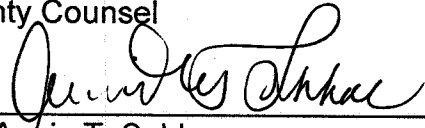
LESSEE:

Thermal Operating Company, LLC

By: 
John Timothy Rogers
President

By: Approved as to Form

PAMELA J. WALLS
County Counsel

By: 
Annie T. Sahhar
Deputy County Counsel

ACKNOWLEDGMENT

State of California
County of Los Angeles)

On May 31, 2012 before me, Kimberly Scioli, Notary Public
(insert name and title of the officer)

personally appeared John Timothy Rogers
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature Kimberly Scioli (Seal)

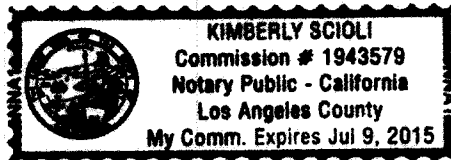


EXHIBIT A - LEGAL DESCRIPTION
PORTION SECTION 28, TOWNSHIP 6 SOUTH, RANGE 8 EAST, S.B.M.,
IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

LEGAL DESCRIPTION

PARCEL 1

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 6 SOUTH, RANGE 8 EAST, S.B.M., IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ALSO BEING A PORTION OF THAT CERTAIN EASEMENT DEDICATED TO THE COACHELLA VALLEY COUNTY WATER DISTRICT, AS DESCRIBED IN A DEED RECORDED IN BOOK 1885, PAGE 391 OF OFFICIAL RECORDS OF SAID COUNTY, SAID PORTION MORE PARTICULARLY DESCRIBED AS BEING THE NORTHERLY 100.00 FEET OF THE SOUTHERLY 130.00 FEET OF THE WESTERLY 150.00 FEET OF THE EASTERLY 2,430.00 FEET OF SAID SOUTHEAST QUARTER OF SECTION 28.

SAID LAND CONTAINS 15,000 SQUARE FEET (0.34 AC), MORE OR LESS.

PARCEL 2

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 6 SOUTH, RANGE 8 EAST, S.B.M., IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ALSO BEING A PORTION OF THAT CERTAIN EASEMENT DEDICATED TO THE COACHELLA VALLEY COUNTY WATER DISTRICT, AS DESCRIBED IN A DEED RECORDED IN BOOK 1885, PAGE 391 OF OFFICIAL RECORDS OF SAID COUNTY, SAID PORTION MORE PARTICULARLY DESCRIBED AS BEING THE NORTHERLY 20.00 FEET OF THE SOUTHERLY 50.00 FEET OF THE WESTERLY 2,105.00 FEET OF THE EASTERLY 2,280.00 FEET OF SAID SOUTHEAST QUARTER OF SECTION 28.

SAID LAND CONTAINS 42,100 SQUARE FEET (0.97 AC), MORE OR LESS.

PREPARED BY:



LAND DEVELOPMENT CONSULTANTS
LAND PLANNERS
SURVEYORS
CIVIL ENGINEERS
1520 BROOKHOLLOW DRIVE, SUITE 33
SANTA ANA, CA 92705
(714) 557-7700 (714) 557-7707 FAX

PREPARED FOR:

THERMAL OPERATING COMPANY, LLC
1983 WEST 190TH STREET
TORRANCE, CA 90504
(310) 538-8000

EXHIBIT A - LEGAL DESCRIPTION

PORTION SECTION 28, TOWNSHIP 6 SOUTH,
RANGE 8 EAST, S.B.M.,
IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

DATE:

JANUARY 6, 2011

FEDERALLY REQUIRED LEASE PROVISIONS

1. The Lessee for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, 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 this lease agreement for a purpose for which a U.S. Department of Transportation (DOT) program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other 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. The Lessee for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, 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 such land 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 the 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. That in the event of breach of any of the above nondiscrimination covenants, the County of Riverside, herein called the County, shall have the right to terminate the lease agreement and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease agreement 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. The Lessee shall furnish its accommodations and/or services on a fair, equal, and not unjustly discriminatory basis to all users thereof, and it shall charge fair, reasonable, and not unjustly discriminatory prices for each unit or service; provided, however, that the 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 thereof, and in the event of such noncompliance, the County shall have the right to terminate this lease agreement and the estate thereby created without liability therefore or, at the election of the County or the United States, either or both said Governments shall have the right to judicially enforce these Provisions.
6. The Lessee agrees that it shall insert the above five provisions in any sublease agreement by which said Lessee grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public on the premises herein leased.
7. The Lessee assures that it will undertake an affirmative action program as required by 14 CFR Par 152, Subpart E, to ensure 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. The 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. The Lessee assures that it will require that its covered suborganizations provide assurances to the 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 effort.
8. The County reserves the right to further develop or improve the landing area of the airport as it sees fit, regardless of the desires or view of the Lessee and without interference or hindrance.
9. The County reserves the right, but shall not be obligated to the 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 the Lessee in this regard.
10. This lease agreement shall be subordinate to the provisions and requirements of any existing or future agreement between the County and the United States relative to the development, operation, or maintenance of the airport.
11. There is hereby reserved to the County, 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 herein leased. 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 operating on the Jacqueline Cochran Regional Airport.

12. The 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 leased premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the leased premises.
13. The Lessee, by accepting this lease agreement, expressly agrees for itself, its successors and assigns that it will neither erect nor permit the erection of any structure or object, nor permit the growth of any tree, on land leased hereunder with a height that exceeds the height limitation formula specified in Part 77 of the Federal Aviation Regulations without first obtaining the approval of the DOT and the County, which approval can be sought by submitting FAA Form 7460-1 (copy attached). In the event that the aforesaid covenants are breached, the County reserves the right to enter upon the land leased hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of the Lessee.
14. The Lessee, by accepting this lease agreement, agrees for itself, its successors and assigns that it will not make use of the leased premises in any manner, which might interfere with the landing and taking off of aircraft from Jacqueline Cochran Regional Airport or otherwise constitute a hazard. In the event that the aforesaid covenant is breached, the County reserves the right to enter upon the premises hereby leased and cause the abatement of such interference at the expense of the 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 USC 1349a)
16. This lease agreement and all the provisions hereof 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 said airport or the exclusive or non-exclusive use of the airport by the United States during time of war or national emergency.

S:\EDCOM\AIRPORTS\Documents\Lease - Exhibit B - JCRA FAA Federally Required Lease Provisions.doc

Attachment "B"
 Contractor Participation
 Agreement is:
 FORM APPROVED COUNTY COUNSEL
 BY: Annie T. Sahhar 5/23/12 DATE