

AIRPORT PROPERTY ANALYSIS

EXECUTIVE SUMMARY

This summary provides a concise response to Castroville City Council direction tasking the Airport Manager to provide answers to questions about continuing City Airport property issues. The specific tasking is contained in an e-mail from Interim City Administrator Leroy Vidales to Airport Manager David Kirkpatrick, March 30, 2020.

Summarize what you currently have regarding the airport

The requirements the City must comply with regarding its Airport were clearly spelled out and agreed to by the City in the property transfer from the Federal Government in 1949 and have remained in effect throughout the history of the Airport. This fact is documented in City Council minutes, City correspondence, and legally binding agreements the City has made with State and Federal governments, and business operators at the Airport.

Consult with all active parties and the actions of what has been taken over the past few decades.

This report was prepared while conferring with TxDOT Aviation Division and FAA experts to review what the city has agreed to in the past, as well as understand our current obligations going forward. Previous City Council Members and Mayors have explained the context influencing decisions and confirmed our understanding of Federal requirements. Tenants and Airport Advisory Board members have guided Council decisions. The Board maintains a readily available on-going written history of the Airport. The City Public Works department actively supports day-to-day operations at the Airport and provided data and information to answer questions posed by City Council.

Ownership of well and minerals extracted

As certified on Airport land maps from TxDOT grant applications over the years, the City owns the well as part of the Airport property. The City also owns rights to ground water under Airport land with all revenues going to the Airport Account in accordance with the deed and further clarified in FAA Policy Notice of February 16, 1999, Policy and Procedures Concerning the Use of Airport Revenue.

How many acre-feet are we allowed to pump?

As established with the Edwards Aquifer Authority (EAA) the City is authorized to pump 236 acre-feet of Unrestricted Irrigation Groundwater (UIG), currently leased to City Public Works, and 236 acre-feet of Base Irrigation Groundwater (BIG), currently part of the agricultural lease with Carpe Diem Farms. As part of the acquisition of land in 2014 to extend the runway the City gained 28.7 acre-feet of BIG currently not aligned to irrigation.

How many gallons or acre-feet does the baseball, farmer, and airport use individually

Out of 201.37 acre-feet produced by the Airport well in calendar year 2019, the ball fields used 2.72 acre-feet (886,314.72 gallons); Carpe Diem Farms used 197.41 acre-feet (64,326,245.91 gallons); and the Airport used 1.24 acre-feet (404,055.24 gallons).

Does the City pay to use the well?

No, the Airport Account is not paid for use of the Airport well by any other City account. The well is operated by the Agricultural Lessee for irrigation. Incidental to this operation, a small portion of the water (2.7%) also furnishes the needs of the Airport and ball fields. The Airport Account pays the Utility Account monthly at the standard service rate for water used by the Airport. In 2014 the City Utility Account paid the Airport Account \$320,096.00 as compensation for a ten-year lease of water rights to 236 acre-feet of Airport Unrestricted Irrigation Groundwater (UIG) per year.

Ownership of the Airport:

The City of Castroville was deeded ownership of the Airport on July 26, 1949, as recorded in Medina County Deed records, February 4, 1950. Transfer was made at no monetary cost to the City, but contractually obligated the City to use the property for aviation.

Timeline history to include the following:

Deed: (see previous answer);

Installation of Airport well: September, 1973;

Financing: The City is required to operate the Airport for public use aviation, on a self-sufficient basis, with all revenue generated going to sustainment of the Airport.

Obligation to Baseball Field: Any formal agreements with the baseball league about use and/or maintenance of baseball fields particularly involving water:
The current agreement with Medina Valley Youth Baseball Association (MVYBA) includes provisions for watering fields, up to 12 acre-feet per year.

All projects that have been federally and state funded: The TXDOT Project Summary included in this report lists all Castroville Airport projects that have been funded with State or Federal dollars since 1975.

Report must be factually based on verifiable and documented information

All historical correspondence, legal documents, and actions by parties involved in the Airport over the years bear out the fact that the City owns all of the Airport land, and revenue produced from Airport land must go to the City Airport Account in the interest of keeping the Airport financially self-sustaining. The City has certified this to TXDOT multiple times as part of the grant process funding numerous projects.

AIRPORT PROPERTY ANALYSIS

This report responds to Castroville City Council direction tasking the Airport Manager to provide Council with answers to a number of questions associated with continuing Airport property issues. The specific tasking is contained in an e-mail from Interim City Administrator Leroy Vidales to Airport Manager David Kirkpatrick, March 30, 2020 (Attachment 1).

It also addresses similar topics contained in a proposed Resolution the Council considered and discussed at their March 24th meeting, prior to concluding that the property issues should be addressed in the tasking given to the Airport Manager. The related topics are: history of the Castroville Airport; relationship between City and Airport; status of contractual relationships and resultant limitations on use of Airport property; and recommendations regarding future use of Airport property and Airport management.

This Airport Property Analysis is not a comprehensive airport business plan, master plan, or development study, which require specialized airport planning capabilities encompassing much more time and money to accomplish. Investment in a professional airport planning study of this type is an expensive proposition. A more affordable approach used by small airports is to develop/update their airport master planning through a Federal Aviation Administration (FAA) approved Airport Layout Plan (ALP). The Castroville Airport ALP is currently being updated with Texas Department of Transportation (TXDOT) assistance, and is explained later in this report.

This document is organized by topic to follow the Interim City Administrator's tasking to the Airport Manager. Additional information relating to the proposed Resolution topics is inserted where relevant and not beyond the scope of the tasking.

Summarize what you currently have regarding the airport

Definitive answers to the questions raised by City Council are readily available in City documents and records, explained by Federal and State policy directives, and spelled out in City correspondence and agreements over the life of the Airport. The answers are the same as they were when the Airport property was transferred to the City, more than 70 years ago. Over the years some citizens and City officials have misunderstood what the City committed to 1949, and what is required to operate a public use Airport. Unfortunately, some may also advocate actions which violate City obligations, are

detrimental to Airport development, and undermine the potential benefits of the Airport to the City, the State, and the Nation.

During World War II the airfield now serving as the Castroville Municipal Airport was used by the US Army for aviation training. The Federal Government acquired land and aviation easements from 14 land owners in the early Forties to build two dirt landing strips, and create Auxiliary Field #3 to Kelly Army Air Field (now Port San Antonio)

Recognizing the strategic advantages of a continuing aviation capability following the U.S. victory in the War, Congress and President Truman moved to establish a planned system of civilian airports throughout the country. To expedite the disposition of Government surplus airfields, Congress passed Public Law 289 in 1947 modifying the Surplus Property Act of 1944. The stated intention of PL 289 was to foster the development of civilian aviation and preserve a strong, efficient, and properly maintained system of airports for national defense (Attachment 2).

Property transferred under PL 289 was to be used for public aviation, unless the Civil Aeronautics Administration (CAA) consented to a non-aviation use that would not adversely affect the airfield. This legislation set forth rules and policy for the CAA (later FAA) with respect to Airport property, operations, and financial management. The law further required that grantees receiving transferred airfield facilities protect aerial approaches and prevent creation of future airport hazards. The City's contractual obligations in accepting transfer of Kelly Auxiliary Field #3 property for use as the Castroville Municipal Airport were clearly communicated to the City by letter from the CAA in 1948 (Attachment 3). City Council voted unanimously to approve transfer of the airfield and accept the provisions of PL 289 (Attachment 4).

Section 13 (g) of the Surplus Property Act of 1944, which was continued in effect by section 602(a) of the Federal Property and Administrative Act of 1949 and amended by Public Law 311 in 1949, authorizes the conveyance or disposal of **all** right, title, and interest of the United States in and to any surplus real property to any State, political subdivision, municipality or tax-supported institution without monetary consideration to the United States. These provisions were incorporated in the Deed of July 26, 1949, and recorded by Medina County February 4, 1950 (Attachment 5), transferring the Airport property from the Federal Government to the City of Castroville.

Airport land conveyed as surplus, such as Kelly Auxiliary Field #3 was to the City of Castroville, is "dedicated" or federally obligated property for airport purposes in perpetuity (forever). The obligations incurred under the conveyance are intended to protect Federal taxpayer investment in the property. These facts have continued throughout the life of

the Airport. They are historically documented and acknowledged throughout the City's correspondence, City Council meeting minutes, and legally binding agreements the City has made with State and Federal governments, and business operators at the airport.

Unfortunately, there have been instances throughout the history of the Airport in which effort was made to disregard the City's obligations. In City Council minutes of August 13, 1974, the City Attorney incorrectly stated that nothing in the deed prohibited using money derived from the Airport for any purpose designated by the City. Minutes from the August 27, 1974 Council meeting then document that previous FAA letters from 1959, 1965, and 1968 stated that agriculture lease revenue be used only for operation, maintenance, or improvement of the Airport.

The City Secretary followed up with a call to the FAA, and the FAA sent a letter to the City dated September 6, 1974 once again clarifying policy concerning use of revenue derived from land transferred under Public Law 289. (Attachment 6). The FAA points out that in accepting the airfield in 1949, the Mayor pledged that the City would assure that all income produced by the transferred property be used for the Airport.

The FAA letter acknowledged that this revenue requirement was not required by rule or regulation, but definitely FAA policy they intended to enforce. The City was reminded that use of the property for any non-aviation purpose must be approved by the FAA, and unless the revenue is used for aviation, the FAA will not approve a non-aeronautical use. On April 16, 1999 the FAA issued an Airport Revenue Policy Notice, clarifying the original Congressional intent of PL 289, and more definitively establishing the legal basis for their airport revenue policy. The FAA Notice is discussed later in this report.

Given the City's obligations under the deed, what is the relationship between the City and the Airport? Airport finances must be segregated from other City accounts and Airport money not co-mingled with other City functions, but neither Airport nor City should be thought of separately from the other. In a sense, the Airport is the City and the City is the Airport. Managing money between the Airport Account and other City Accounts such as Public Works account(s) or Parks & Recreation account(s), are simply financial accounting functions internal to the City, not transactions between separate independent government jurisdictions or entities.

Just as it is important to refrain from viewing the Airport as its own independent organization, it is equally important to understand that the Airport is not a City owned and operated business for profit. The Airport is not a "profit center" providing direct financial benefit to citizens to subsidize other City programs. This contrasts with some City utilities which operate at a profit, generating revenue used for various other City purposes.

It is more accurate to think of the Airport as a City owned and operated transportation utility with Federal restrictions on the use of the revenue generated from Airport operations such as hangar leases, agricultural leases of Airport land, fuel sales, and Federal fuel taxes. These revenues flow to the City Airport Account for a legitimate local governmental activity, the operation and development of the City's Airport, and no other City activities. At the same time Federal law requires that the Airport be self-sustaining and not a drain on City taxpayers.

The Airport is an economic engine enabling business growth, corresponding commercial activity, and expanded tax revenues to the City. This was the case in 1949 when the Castroville City Council unanimously approved transfer of the airfield to the City, agreeing to the obligations and accepting the reservations and restrictions set forth in the deed. The benefits of the City-owned Airport are greater today, and potentially even more so into the future.

Consult with all active parties and the actions of what has been taken over the past few decades.

This report was prepared while conferring with TXDOT Aviation Division and FAA experts to review what the City has agreed to in the past, as well as understand our current obligations going forward. For many years the Airport was operated by an Airport Administrative Committee, which transitioned to an Airport Advisory Board as the City contracted with a Fixed-Based Operator (FBO) to run the Airport and eventually hired a City employee as Airport Manager.

Airport Administrative Committee and Airport Advisory Board members, past and present have been very active guiding the Airport consistent with FAA requirements. They also have provided valuable insight of actions taken, events leading to certain City Council decisions about the Airport, and why they were made. The Airport Advisory Board maintains a factual, on-going written history of the airport, which has frequently been presented to Council and is readily available upon request.

Several previous Council Members and Mayors have explained many details about the issues they faced and provided the historical context influencing decisions made. Furthermore, these past city leaders confirmed our understanding of Federal requirements and the City's obligations regarding the Airport.

Our Airport is blessed with a number of long-standing tenants who take pride in the Airport and are committed to supporting efforts to sustain and develop aviation to the betterment

of the City. Their collective aviation experience, knowledge of past Airport successes and failures, and perspective on issues addressed in this report are invaluable. The City Public Works department actively supports day-to-day operations at the Airport and provided data and information to answer questions posed by City Council.

Aviation, airport, and infrastructure consultant, TRIGON Consulting, has analyzed, validated, integrated, and explained much of the information in historical correspondence, the meaning of CAA and FAA policy directives, and helped research key elements of information defining answers to Council questions.

Note that some documentation refers to the Civil Aeronautics Administration (CAA). The Federal Aviation Act of 1958 created the Federal Aviation Agency which replaced the CAA, and picked up authority for aviation and airport policy. The Federal Aviation Agency later became the Federal Aviation Administration (FAA) which we have today.

The United States Air Force (USAF) Air Education and Training Command's History Office was contacted with respect to the Federal Government acquiring land for Kelly Auxiliary Field #3. They also provided insight into Army Air Corps training operations during the World War II, Air Force training during the Korean War, and their work with the City to transfer the airfield for use as Castroville's municipal airport.

Ownership of well and minerals extracted

Who owns the well at the Airport? The City owns the well as part of the Airport property under the Airport Account (not the City Public Works Utility Account). Successive City administrations have certified this on Airport Property Maps submitted as part of every grant application the City has made to TXDOT over the years (Attachment 7).

Throughout the Sixties, the Airport operations were significantly constrained by an unreliable water supply (Attachment 8). The City replaced an inadequate shallow well at the Airport by installing a deep Edwards Aquifer well (636 ft) in 1973. The deep well provided ample water for Airport operations and development, and enabled generation of additional aviation revenue through irrigation of Airport land leased for farming when not in aviation use. Consistent with Public Law 289, the enhanced revenue from irrigated leases has improved Airport facilities and helped make the Airport self-sustaining.

Who owns rights to the water from the well? The City through its ownership of the Airport owns rights to ground water under Airport land, but all revenues derived from this Airport water must be accounted for separately in the Airport Account. The definitive answer to this question is found in the FAA Notice of February 16, 1999, Policy and Procedures

Concerning the Use of Airport Revenue, Federal Register, Volume 64, No. 30, page 7702, Royalties From Mineral Extraction (Attachment 9).

This FAA decision is clear that the definition of airport revenue includes "...the sale of sponsor-owned mineral, natural, agricultural products, or **water** to be taken from the airport." And the FAA further states: "...mineral and **water rights** represent a part of the airport property and its value. Just as proceeds from the sale or lease of airport property constitute airport revenue, proceeds from the sale or lease of a partial interest in the property – i.e. **water** or mineral rights – should also be considered airport revenue." The City's Airport Account owns rights to the water and revenue derived from its extraction.

How many acre-feet are we allowed to pump?

As established with the Edwards Aquifer Authority (EAA) under water rights accruing to the Airport land, the City is authorized to pump 236 acre-feet of Base Irrigation Groundwater (BIG), and 236 acre-feet of Unrestricted Irrigation Groundwater (UIG). See Attachment 10, Edwards Aquifer Authority Initial Regular Permit (September 15, 2008).

Water rights to the 236 acre-feet of BIG (base groundwater) are tied to the irrigated acreage the Airport currently leases for agriculture. Rights to the 236 acre-feet of UIG (unrestricted groundwater) are leased to the City Public Works Utility Account through 2023. This ten- year water rights lease constitutes the Airport Account payment for funds transferred from the Utility Account to the Airport Account in 2014 and used as the City's matching funds to obtain the TXDOT grant money restoring the runway to its former length of 5000 feet and the Airport's capability to sell Jet-A fuel. With the City's purchase of 31 acres to extend the north end of the runway in 2014, an additional 28.7 acre-feet of BIG were acquired by the City as Airport property. These water rights are tied to the land but currently not used for irrigation.

How many gallons or acre-feet does the baseball, farmer, and airport use individually

Out of 201.37 acre-feet produced by the Airport well in calendar year 2019, the ball fields used 2.72 acre-feet (886,314.72 gallons); Carpe Diem Farms used 197.41 acre-feet (64,326,245.91 gallons); and the Airport used 1.24 acre-feet (404,055.24 gallons).

Does the City pay to use the well?

No, the Airport Account is not paid for use of the Airport well by any other City account. The Airport well, operated by the agricultural Lessee (Carpe Diem Farms), furnishes water for their irrigation. A small portion of the water produced (2.7%) also serves the

needs of the Airport and MVYBA ball fields. The Airport Account pays the Utility Account for the water used by the Airport on a monthly basis at the standard service rate.

Carpe Diem cultivates 107 acres of dry land, and 236 acres under irrigation. They are authorized to use up to 236 acre-feet per annum of City Base Irrigation Groundwater (BIG) water rights tied to this Airport land. Under the terms of the City's lease of Airport land, Carpe Diem is responsible for the cost of all labor, fuel, and utility services (electric bill) for the Airport well (Attachment 11). They are also responsible for repairing, replacing, and/or maintaining the irrigation/water system the Lessee uses to irrigate. Their irrigation uses roughly 97.3% of the water from the well.

On November 12, 2013 City Council approved a lease of 236 acre-feet of Airport Account water rights (UIG) to the Utility Fund (Attachment 12). The lease runs for ten years commencing January 1, 2014 and continuing through December 31, 2023. City Council determined the annual value of rights to an acre-foot of water to be \$136.00 over the ten-year lease, with no inflation adjustment over time. Under this lease the resulting lump sum of \$320,960.00 was transferred from the Utility Account to the Airport Account as compensation for the UIG water rights. The City then applied this money as their match to secure TXDOT funding restoring the runway length to its original 5000 feet and establishing Jet-A fueling capability at the Airport.

In a separate but related financing matter, City Council authorized a short-term loan of \$124,000.00 from the Water Acquisition Fund to the Utility Fund to help cover the lump sum \$320,960.00 payment going to TXDOT through the Airport Account. The in-house loan called for the Utility Account to annually pay \$31,000.00 to the Water Fund Account over four years (2015 to 2018). This reimbursement has been completed.

The annual Utility Fund payment of \$31,000 was not a payment to use the well at the Airport, since the City already owned the well, but the well is not connected to the Public Works distribution system as a water source. The payment was merely reimbursing the Water Acquisition Fund for the money it loaned the Utility Fund in 2014 to acquire ten years of water rights associated with Airport land. Public Works can pump additional Edwards water under these rights as needed from any of the City's distribution system wells. The City can also further lease these water rights to other Edwards Aquifer users, as was done in 2014 with the City of Natalia.

The Texas Department of Health (TDH), on behalf of the Texas Water Commission, noted a number of deficiencies with the Airport well in 1991 during a sanitary survey of the City water system. As stated by TDH: "Since the airport water system is owned and operated by the City of Castroville, we considered it part of the City's Public Water System (PWS).

We also understand you plan to tie this well into your main system in the next six to nine months". In response the City moved to make improvements to the Airport well, and acknowledged plans to connect the Airport well to the rest of the City water system.

The Texas Water Commission followed up in 1992 by reiterating the numerous areas of noncompliance, and determined that the Airport well was actually a separate non-community Public Water System since it had not been made a part of the rest of the City water system. As such, the Airport well would have to be brought up to more stringent PWS standards, and it was assigned a separate identification number for sampling and compliance purposes.

The City requested a re-classification of the Airport well in 1993 from a Noncommunity Water System to a Community Water System for the City, based on more definitive City plans to run a line from the well connecting to the existing City Public works distribution network (Attachment 14). To date, the Airport well has yet to be integrated into the Public Works water distribution network, and must still be operated as a separate non-community Public Water System.

Ownership of the Airport:

Who owns the airport? The City of Castroville owns the Castroville Municipal Airport. The 458-acre airfield formerly known as Kelly Auxiliary Field #3 and used for aviation training by the Army during World War II, was deeded to the City by the United States of America, War Assets Administration on July 26, 1949, as recorded in Volume 147, pages 264-270, Medina County Deed Records on February 4, 1950 (Attachment 5). This transfer was made under the provisions of Public Law 289 passed by Congress July 30, 1947.

While transfer was made at no monetary cost to the City, it contractually required the City to comply with a number of restrictions on the use of the property. Prominent among these are that the airfield be used for public use aviation, and as the Airport Sponsor the City is responsible for operating the Airport to CAA/FAA standards. Additionally, Federal policy requires: that Airport finances are segregated and no Airport monies co-mingled with other City accounts; that all revenues generated from Airport property go to the Airport Account; and that operation of the Airport be financially self-sustaining. By a unanimous vote of City Council in 1949, the City of Castroville agreed to abide by all deed restrictions (Attachment 4).

Why must financial management of the City-owned Airport property be separated from other City finances? As set forth in the deed and further established in each Federal and State grant funding maintenance, repair, or improvements at the airport, the City has

agreed to operate the Airport for the purpose of public use aviation, account for financial matters separate from other City accounts, and retain all revenue derived from Airport property and activities for the operation, sustainment, and development of the Airport.

Who owns the land on which the Medina Valley Youth Baseball Association (MVYBA) ball fields were built? The City owns the 18 acres of Airport land MVYBA occupies under a lease with the City. As set forth in the Airport deed restrictions and consistent with FAA rules, this non-aviation usage must reimburse the Airport Account for the fair market value of the land. Since 2014 the City Parks and Recreation Account has annually transferred \$8156.00 to the Airport account to satisfy this requirement.

This non-aviation use of Airport land has existed by City contract with the MVYBA since 1973. TXDOT has no record, however, of the formal Land Release required by the FAA for non-aviation use of Airport land obligated for aeronautical purposes. Property not needed for present or future aeronautical purposes, requires an amendment to, or a release from the deed agreement. A “release” is defined as the formal written authorization discharging or relinquishing the FAA’s right to enforce an airport sponsor’s contractual obligations.

A 2014 analysis by the City Attorney justified this use of Airport land as acceptable because it is seen as promoting an interest in aviation among local youth, pursuant to the FAA Policy Revenue Notice of 1999 (Attachment 15, Federal Register page 7721, “Providing Property for Public Community Purposes”).

The Airport community has strongly supported activities that help young people grow into responsible, productive citizens. Local pilots annually provide free airplane flights under the Young Eagles program. The October 2019 event was a huge success, flying 113 Young Eagles, giving them firsthand experience in the joy of flight. These flights spark interest in aviation, as well as motivating students to excel in science, technology, engineering, and math (STEM) subjects necessary for an aviation career.

Youth baseball is very popular in the Medina Valley community, and all City departments including the Airport have a long commendable record of accommodating the MVYBA. While this baseball program is a very beneficial youth development activity, realistically, it concentrates people during practices and games very near an active runway and taxiway, unnecessarily subjecting them to a potential aircraft collision, and creating a corresponding liability risk for the City.

For pilots this activity also constitutes a significant safety hazard, with its utility poles and facility obstructions to aircraft flight operations, and pilot vision impairment from distracting high intensity lights. In the Federal Government transfer of the airfield to the City, the City agreed to prevent and not allow hazards to safe aviation near the Airport. The City as Airport Sponsor also established Ordinance 245 (Attachment 16) in 1992 taking a strong position against allowing the introduction or existence of any hazard to aviation safety in the vicinity of the Airport.

The City is currently in a planning process to explore the possible relocation of the MVYBA fields. The Land Use Drawing (sheet 5 of 7) in the 2005 FAA-approved Airport Layout Plan, includes City-owned Airport acreage intended for recreational activities such as ball fields. Locating the MVYBA activities on this designated non-aviation related Airport land would provide much safer distance separation from the runway and aircraft operations. The City has also recently considered other possible sites for new ball fields on the east side of the City away from the Airport. Funds to plan, design, and construct improved ball fields are potentially available through grants and City development funds.

Removing the MVYBA ball fields from the Airport would improve airport safety and security, improve the safety of people at MVYBA activities, and allow for better instrument approach minimums. It would also improve the City's insurance risk, and enhance the attractiveness of the Airport for future aviation operations and development by making 18 acres of prime Airport land readily available for aviation use.

Part of this land could provide an ideal location for a new dual-use fire station. This facility would be situated to protect the City east of the Medina River, particularly the Alsatian Oaks development. At the same it would provide aviation fire protection, an essential Airport feature to attract future corporate aviation and associated tax revenue, and accommodate military aircraft fuel sales. The Pleasanton Airport, through a US Department of Agriculture Rural Development grant, recently built a dual-use fire station providing aviation fire protection and is now able to sell increased quantities of Jet-A fuel under Government contract.

Timeline history to include the following:

Deed

The Airport property was deeded to the City by the United States of America, War Assets Administration on July 26, 1949, as recorded in Volume 147, pages 264-270, Medina County Deed Records February 4, 1950 (Attachment 5). Transfer was made at no monetary cost to the City, but contractually obligated the City to use the property to operate a public use airport.

Installation of Airport well

Aviation at the Castroville Airport was quite active in the Sixties. Growth and development at the Airport were limited, however, by an inadequate and inconsistent water supply from a shallow well. (Attachment 8) The City replaced this shallow by installing a deep Edwards Aquifer well (636 ft) in 1973. The deep well provided adequate water for Airport operations and development. The well also enabled generation of more aviation revenue through irrigation of Airport land leased for farming when not in aviation use. As intended under Public Law 289, this has helped sustain the Airport.

Financing

As set forth in the Deed, the City is required to operate the Airport for public use aviation on a self-sufficient basis. Airport generated revenues flow to the City Airport Account for a legitimate local governmental activity, the operation and development of the City's Airport, and no other City activities. At the same time, Federal law requires that the Airport be self-sustaining and not a drain on City taxpayers. The Airport Account routinely pays other City Accounts and contractors for services provided to the Airport. It budgets available revenue to meet FAA safety standards, while accommodating public aviation demand.

This does not preclude the City from arranging finances to offset temporary shortfalls, or temporarily crediting the Airport Account by other means to finance timely maintenance, repair, or improvements. In the past, the City could obtain longer term bank loans for these purposes. Current State law requires that municipal indebtedness be paid off in the same budget cycle if funded by bank loan, or be secured through a Bond Issue for longer term indebtedness. The Airport Account then repays these finances.

The Airport receives Federal grant money from the FAA Airport Improvement Program (AIP) through TXDOT. These funds are generated primarily from Federal taxes on aviation fuel sales, so that a significant part of maintaining, repairing and improving the Airport is financed indirectly by the users of the Airport.

Through the annual Routine Airport Maintenance Program (RAMP), TXDOT will match City Airport Account expenditures up to a combined total of \$100,000, for a wide range of Airport upkeep activities. In the past unfortunately, the City Airport Account has not effectively utilized the TXDOT matching funds even though

maintenance and repair work were needed. This mismanagement was rectified in 2019 as the Airport Account earned \$46,595 of RAMP funding, the largest portion of a full \$50,000 match ever for the Castroville Airport.

Requirements on use of the Airport are set forth by the FAA in 39 distinct assurances the Airport must comply with for a 20-year period following each FAA/TXDOT grant the Airport receives. Among these grant assurances is proper accounting of Airport funds and revenue. The City's current grant assurance obligation runs through 2039. If the City fails to meet the grant assurances, funding can be terminated and the City required to repay all previous grant money, currently amounting to \$6,316,167.00!

Fuel sales, user fuel taxes, revenue from hangar leases, and revenue from agricultural leases of Airport land make the City's Airport financially self-sufficient, and not dependent on funding by the citizens of Castroville. This is completely consistent with the original provisions of the Federal transfer the City accepted.

Obligation to Baseball Field: Any formal agreements with the baseball league about use and/or maintenance of baseball fields particularly involving water

The current agreement with Medina Valley Youth Baseball Association (MVYBA) includes provisions for watering fields (Attachment 17). MVYBA is authorized to use up to 12 acre-feet per annum, but no more than 3 acre-feet in any 30-day period. The Airport Account is compensated for this water as part of the annual transfer of funds (\$8156.00), from the Parks and Recreation Account for use of the Airport land the ball fields occupy.

All projects that have been federally and state funded

The TXDOT Project Summary (Attachment 18), lists all Castroville Airport projects that have been funded with State or Federal dollars since 1975. Prior to that time, the U.S. Air Force funded a project to pave the runway in 1953 for USAF training use during the Korean War, and later resurfaced the runway. The City incurred no additional obligations related to these projects. To receive Federal/State grant money for Airport improvement projects such as those listed, TXDOT requires the Airport to master plan proposed projects and have an FAA-approved Airport Layout Plan.

Airport planning establishes objectives and guidelines for efficiently developing airports to address local, state and national priorities. It is a systematic process intended to efficiently apply available financial resources to meet aviation demand. FAA airport planning on a national level encompasses funded airports in a national system plan, known as the National Plan of Integrated Airport Systems (NPIAS). As a part of NPIAS each airport can receive Federal funding to pursue more specific goals as part of its localized airport master planning efforts. An airport master plan can be thought of as a blueprint for airport development.

A comprehensive master plan for a specific airport can be expensive, since it requires in-depth analysis of all relevant economic and operational elements, development methods, and unique factors affecting the future success of the airport including: quantifying and characterizing aviation activity demand on the airport; the contribution of the airport to the local economy, graphically depicting airport features, future development and land use; addressing all relevant issues and compliance with applicable regulations; and establishing a realistic financial plan and schedule for implementation. A formal master planning effort typically produces a current Airport Layout Plan to FAA standards.

The ALP is a scaled, graphical presentation of the existing and future airport facilities, their location on the airport, and dimensions of airport features. The term Airport Layout Plan sometimes refers to a single drawing covering the entire airport. But more often it describes the entire set of drawings including the Airport Layout Drawing(s), data sheet(s), and facilities layout plan sheet(s). The ALP shows boundaries and contemplated additions to airport property, location of non-aviation areas and future uses, and existing and planned location and type of buildings, facilities, and improvements. It serves as a critical planning tool for airport development. Standards for ALPs can be found in FAA Advisory Circular 150/5070-6B, Airport Master Plans.

The ALP can be just a few drawings for a small airport such as Castroville (currently seven sheets), or many more in the case of a larger airport with extensive airport planning in place. Currently Castroville's Airport Layout Plan approved by the FAA and TXDOT in 2012 (Attachment 19) consists of the following sheets:

AIRPORT LAYOUT DRAWING (1 of 7)

INSTRUMENT PROCEDURES APPROACH

SURFACES DRAWING RWY 15 (2 of 7)

INSTRUMENT PROCEDURES APPROACH

SURFACES DRAWING RWY 33	(3 of 7)
TERMINAL AREA DRAWING	(4 of 7)
LAND USE DRAWING	(5 of 7)
AIRPORT PROPERTY MAP	(6 of 7)
OBSTRUCTION SURFACES DRAWING – OBSTRUCTION SURVEY	(7 of 7)

Additionally, the Airport has developed two closely related sheets for future use in airport planning and updating the ALP:

Airport Hazard Zoning Map (1991)

Castroville Airport Property Map (Aerial Color, USGS 2017)

When a full master planning effort is not feasible, an airport may update their ALP through a simplified, more affordable process. Arrangements are in place with TXDOT to assist the Castroville Airport in updating our ALP this way in the next few years, and then eventually investing in a more comprehensive airport development study when funding is possible.

Report must be factually based on verifiable and documented information

This report presents definitive answers to City Council questions based on the facts. It was prepared from verifiable documentation and contextual comments from past and current City leaders contained in official City correspondence, City Council Meeting minutes, City Ordinances, Medina County documents, State of Texas documents, and Federal policy directives and correspondence. Despite here-say claims of ownership of Airport land by others, no documented evidence has been presented, nor did this extensive analysis uncover any contrary evidence.

All historical correspondence, legal documents, and actions by parties involved in the Airport over the years bear out the fact that the City owns all of the Airport land, and revenue produced from Airport land must go to the Airport Account. The City has certified this to TXDOT multiple times as part of the grant process funding numerous projects. (See Attachment 18, TXDOT Project Summary)

Attachments:

1. Tasking from Interim City Administrator
2. Public Law 289, July 30, 1947
3. CAA Letter to City, February 6, 1948
4. City Council Minutes: February 7, 1949; April 8, 1949
5. Airport Deed, July 26, 1949
6. City Council Minutes: August 13, 27, 1974; FAA Letter to City, September 6, 1974
7. Certified TXDOT Airport Property Map
8. City Council Meeting Minutes, discussing inadequate Airport water supply
9. FAA Airport Revenue Policy Notice, Federal Register, February 16, 1999, pages 7702, 7716
10. Edwards Aquifer Authority Initial Regular Permit, September 15, 2008
11. City Agreement with Carpe Diem Farms
12. City Council Minutes, November 12, 2013
13. City Council Budget Workshop Minutes, August 20, 2013
14. City Letter to Texas Water Commission, March 9, 1993
15. FAA Airport Revenue Policy Notice, Federal Register, February 16, 1999, page 7721
16. City Ordinance 245
17. City Agreement with Medina Valley Youth Baseball Association
18. TXDOT Project Summary
19. Airport Layout Plan 2012

January 20, 2021

Addendum:

Since this Airport Property Analysis Report was initially completed May 6, 2020 and provided to City Council, additional important questions concerning Airport land ownership and development in the vicinity of the Airport have emerged. This Addendum addresses these issues.

Is the Airport Property Analysis Report of May 6, 2020 a “legal” document/opinion with respect to City ownership of the Airport?

The Castroville City Attorney determined that the Airport Property Analysis Report accurately presents the City's ownership of the Airport property. The report is based on deed records and there is no information that indicates that the deed records are not accurate.

Is the document titled Attorney’s Certificate of Airport Property Interest the same as a title opinion?

In past applications for grants or loans to develop and maintain the Airport, the City Attorney has provided a Certificate of Airport Property Interest affirming that the City owned the Airport property. These documents are normally required to qualify for a grant or loan and represent collateral in the event of default. While the report is not an actual title opinion, the City would seek a title opinion in the event it is necessary for compliance with state or federal law.

What is the basis and legal implications of the Federal Government not warranting the Airport Deed?

The City of Castroville owns the Castroville Municipal Airport. The 458-acre airfield was deeded to the City from the Federal Government on July 26, 1949. There is an unfounded perception among some citizens that the City does not hold clear title to the Airport land and water rights since the transfer was made through a Deed Without Warranty.

During World War II the United States War Department acquired undeveloped land for the airfield near Castroville from families tracing ownership back to land grants from the sovereign Republic of Texas settled in the 1840's. Following the War the Federal Government transferred the airfield as surplus property to the City of Castroville under a Deed Without Warranty.

The United States as a sovereign nation typically self-insures its activities. As such the deed transferring the airfield is not warranted or insured by any other entity. Furthermore, the Government cannot be encumbered. Just as no one can sue the Government without the Government's consent, similarly no one can place a lien on public property. It would be meaningless for the Government to provide a warranty that the deed is unencumbered. All deeds from the Government (the sovereign) are by definition free and clear. This flows from the common law principle of sovereign immunity.

Any future claims or ownership questions regarding the property are not warranted by a title company, but come under the authority of the United States Government. This fact in and of itself has validated the City's ownership for more than 70 years since transfer, and there have been no claims or encumbrance issues advanced. This is ample basis for dispelling any lingering perceptions of ownership issues regarding segments of Airport property, especially the land for MVYBA ball fields, and water rights with the deep well.

Airport Area Development

There is increasing development on the eastern edge of the City near the Airport, and associated interest in including non-aeronautical Airport land in these projects. At the same time, there is growing demand for aviation facilities and services at the Airport. These trends call for carefully considered land use planning on and near the Airport. Taking Federal aviation policy into account, there are key property management principles that apply with respect to the City's Airport obligations and corresponding economic development potential of aviation restricted land.

As previously covered throughout this Airport Property Analysis document, federally obligated land such as that owned by the City of Castroville at the Castroville Municipal Airport is intended to serve public-use aviation. Portions of the Airport land directly support aviation operations and are considered aeronautical, while other land is non-aeronautical but serves public-use aviation by generating revenue to sustain airport operations.

The guiding principles in managing Airport property are to assure aviation safety, strongly support aviation activities, and engender a favorable Airport-Community relationship. As the Airport evolves it may be more beneficial to achieving the guiding principles by gaining FAA release of some non-aeronautical land for other development if there is a corresponding benefit to aviation operations at the Airport.

Land-use development actions that improve safety, such as eliminating obstructions, mitigating hazards, and avoiding encroachment are most desirable. The safety of the

flying public as well as the lives and property of the surrounding community are first and foremost the basis for certain distance, height, and location standards and guidelines applied to non-aviation activities on and near the Airport. These requirements serve as essential elements in any Airport area land use and development planning.

Steps taken to address public-use aviation demand are highly encouraged and have proven to economically benefit airport sponsors at many airports throughout the national airport system. For the Castroville Municipal Airport this currently includes doing those things that promote General Aviation, Corporate Aviation, and Skydiving. It may encompass other types of aviation in the future. With demand for hangar space exceeding availability by nearly 50%, the most prominent action the Airport can vigorously pursue is building additional aircraft storage on the Airport.

Transparency, open communications, and education of the value of aviation to the City must guide Airport management relations with the Castroville community, and especially Airport area land use planning. Given the detrimental effect uncoordinated development near the Airport can have on aviation operations and the Airport's benefit to the City, careful comprehensive planning among all stakeholders (City, FAA/TXDOT, developers, citizens, and users of the Airport, etc.) is needed.

Attachment # 1

From: Leroy Vidales <leroy.vidales@castrovilletx.gov>
Sent: Monday, March 30, 2020 3:12 PM
To: David Kirkpatrick <DKirkpatrick@castrovilletx.gov>
Cc: Debra Howe <debra.howe@castrovilletx.gov>
Subject: Official Task Order

David,

At the March 24th city council meeting, a motion was made by Mr. Carey and seconded by Mr. Tschirhart to assign the following task to the city:

- Summarize what you currently have regarding airport
- Consult with all active parties and the actions of what has been taken over the past few decades
- Ownership of well and minerals extracted
 - How many acre feet are we allowed to pump
 - How many gallons or acre feet does the baseball, farmers and airport use individually
- Ownership of airport
- Does the city pay to use the well
- Timeline history to include the following:
 - Deed
 - Insolation of airport well
 - Financing
 - Obligation to Baseball Field
 - Any formal agreements with the baseball league about use and/or maintenance of ball fields particularly involving water
 - All projects that have been federally and state funded
- I would like this summary/report to be factual information and not of public opinion

Please let Debra or I know if you need any other information on any of the above.

Thank you,

Leroy Vidales, M. Ed | Interim City Administrator | City of Castroville

CONFIDENTIALITY NOTICE

This transmission is intended for the individual or entity to which it is addressed, and may be information that is **PRIVILEGED & CONFIDENTIAL**. If you are not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient and have received this information in error, you are hereby notified that any dissemination, distribution or copying of this communication is prohibited. If you have received this communication in error, please notify us immediately by replying to the message and deleting it from your computer. Thank you.

Attachment # 2

(PUBLIC LAW 289--80TH CONGRESS)

(Chapter 404--1st Session)

(S. 364)

AN ACT

To expedite the disposition of Government surplus airports, airport facilities, and equipment and to assure their disposition in such manner as will best encourage and foster the development of civilian aviation and preserve for national defense purposes a strong, efficient, and properly maintained Nation-wide system of public airports, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 13 of the Surplus Property Act of 1944 (53 Stat. 765), as amended, is amended to read as follows:

"(c) No harbor or port terminal, including necessary operating equipment, shall be otherwise disposed of until it has first been offered, under regulations to be prescribed by the Administrator, for sale or lease to the State, political subdivision thereof, and any municipality, in which it is situated, and to all municipalities in the vicinity thereof."

Sec. 2. Section 13 of the Surplus Property Act of 1944 (53 Stat. 765), as amended, is hereby amended by adding a new subsection (g) reading as follows:

"(g) (1) Notwithstanding any other provision of this Act, any disposal agency designated pursuant to this Act may, with the approval of the Administrator, convey or dispose of to any State, political subdivision, municipality, or tax-supported institution, without monetary consideration to the United States, but subject to the terms, conditions, reservations, and restrictions hereinafter provided for, all of the right, title, and interest of the United States in and to any surplus real or personal property (exclusive of property the highest and best use of which is determined by the Administrator to be industrial and which shall be so classified for disposal without regard to the provisions of this subsection) which, in the determination of the Administrator of Civil Aeronautics, is essential, suitable, or desirable for the development, improvement, operation, or maintenance of a public airport as defined in the Federal Airport Act (60 Stat. 170) or reasonably necessary to fulfill the immediate and foreseeable future requirements of the grantee for the development, improvement, operation, or maintenance of a public airport, including property needed to develop sources of revenue from nonaviation businesses at a public airport.

"(2) Except as provided in paragraph (3) hereof, all property disposed of under the authority of this subsection shall be disposed of on and subject to the following terms, conditions, reservations, and restrictions:

"(A) No property disposed of under the authority of this subsection shall be used, leased, sold, salvaged, or disposed of by the grantee or transferee for other than airport purposes without the written consent of the Administrator of Civil Aeronautics, which consent shall be granted only

if the Administrator of Civil Aeronautics determines that the property can be used, leased, sold, salvaged, or disposed of for other than airport purposes without materially and adversely affecting the development, operation, or maintenance of the airport at which such property is located: Provided, That no structures disposed of hereunder shall be used as an industrial plant, factory, or similar facility within the meaning of section 23 of this Act, unless the public agency receiving title to such structures shall pay to the United States such sum as the Administrator shall determine to be a fair consideration for the removal of the restriction imposed by this proviso.

"(B) All property transferred for airport purposes shall be used and maintained for the use and benefit of the public, without unjust discrimination.

"(C) No exclusive right for the use of the airport at which the property disposed of is located shall be vested (either directly or indirectly) in any person or persons to the exclusion of others in the same class. For the purpose of this condition, an exclusive right is defined to mean--

"(1) any exclusive right to use the airport for conducting any particular aeronautical activity requiring operation of aircraft;

"(2) any exclusive right to engage in the sale or supplying of aircraft, aircraft accessories, equipment, or supplies (excluding the sale of gasoline and oil), or aircraft services necessary for the operation of aircraft (including the maintenance and repair of aircraft engines, propellers, and appliances).

"(D) The grantee shall, insofar as it is within its powers, adequately clear and protect the aerial approaches to the airport by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

"(E) During any national emergency declared by the President or by the Congress, the United States shall have the right to make exclusive or nonexclusive use and have exclusive or nonexclusive control and possession, without charge, of the airport at which the surplus property is located or used, or of such portion thereof as it may desire: Provided, however, That the United States shall be responsible for the entire cost of maintaining such part of the airport as it may use exclusively, or over which it may have exclusive possession and control, during the period of such use, possession, or control, and shall be obligated to contribute a reasonable share, commensurate with the use made by it, of the cost of maintenance of such property as it may use nonexclusively or over which it may have nonexclusive control and possession: Provided further, That the United States shall pay a fair rental for its use, control, or possession, exclusively or nonexclusively, of any improvements to the airport made without United States aid.

"(F) The United States shall at all times have the right to make non-exclusive use of the landing area of the airport at which the surplus

property is located or used, without charge: Provided, however, That such use may be limited as may be determined at any time by the Administrator of Civil Aeronautics to be necessary to prevent undue interference with use by other authorized aircraft: Provided further, That the United States shall be obligated to pay for damages caused by such use, or if its use of the landing area is substantial, to contribute a reasonable share of the cost of maintaining and operating the landing area, commensurate with the use made by it.

"(G) Any public agency accepting a conveyance of transfer of surplus property under the provisions of this subsection shall release the United States from any and all liability it may be under for restoration or other damages under any lease or other agreement covering the use by the United States of any airport, or part thereof, owned, controlled, or operated by the public agency upon which, adjacent to which, or in connection with which, the surplus property was located or used: Provided, That no such release shall be construed as depriving the public agency of any right it may otherwise have to receive reimbursement under section 17 of the Federal Airport Act for the necessary rehabilitation or repair of public airports heretofore or hereafter substantially damaged by any Federal agency.

"(H) In the event that any of the terms, conditions, reservations, and restrictions upon or subject to which the property is disposed of is not met, observed, or complied with, all of the property so disposed of or any portion thereof, shall, at the option of the United States, revert to the United States in its then existing condition.

"(3) In making any disposition of surplus property under this subsection (g), the disposal agency is authorized, upon the request of the Administrator of Civil Aeronautics, the Secretary of War, or the Secretary of the Navy, to omit from the instruments of disposal any of the terms, conditions, reservations, and restrictions required by paragraph (2) hereof, and to include any additional terms, conditions, reservations, and restrictions, if the Administrator of Civil Aeronautics, the Secretary of War, or the Secretary of the Navy determines that such omission or inclusion is necessary to protect or advance the interests of the United States in civil aviation or for national defense.

"(4) The Administrator of Civil Aeronautics shall have the sole responsibility for determining and enforcing compliance with the terms, conditions, reservations, and restrictions upon or subject to which surplus property is disposed of pursuant to this subsection.

"(5) All surplus property within the purview of this subsection which is not disposed of pursuant hereto shall be disposed of as provided elsewhere in this Act or other applicable Federal Statute.

"(6) Notwithstanding the provisions of subsection (f) of this section and subsection (e) of section 18, the disposal of surplus property under this subsection, which is determined by the Administrator to be available for the purposes enumerated in this subsection, shall be given priority immediately following transfers to other Government agencies under section 12."

Approved July 30, 1947.

Attachment # 3

DEPARTMENT OF COMMERCE
CIVIL AERONAUTICS ADMINISTRATION

IN REPLY ADDRESS
REGIONAL ADMINISTRATOR
CIVIL AERONAUTICS ADMINISTRATION
P. O. BOX 1689
FORT WORTH 1, TEXAS

FEBRUARY 6, 1948

THE HONORABLE A. A. MURRELL
MAYOR, CITY OF CASTROVILLE
CASTROVILLE, TEXAS

DEAR MAYOR MURRELL:

IN REFERENCE TO YOUR INQUIRY OF FEBRUARY 3, 1948, AS TO THE OBLIGATIONS OF A GRANTEE OF A SURPLUS GOVERNMENT AIRFIELD UNDER PROVISIONS OF PUBLIC LAW 289, WE ARE ENCLOSING A COPY OF THIS LAW WHICH SETS FORTH THE OBLIGATIONS IN A CLEAR MANNER.

BRIEFLY, SHOULD THE CITY OF CASTROVILLE ACQUIRE THE AUXILIARY AIRFIELD NO. 3 TO KELLY FIELD UNDER PUBLIC LAW 289, YOU WOULD BE EXPECTED TO OPERATE A PUBLIC AIRPORT OF A SIZE ADEQUATE TO SERVE CIVIL AVIATION IN YOUR COMMUNITY. OUR DISTRICT AIRPORT ENGINEER AT AUSTIN WILL BE GLAD TO ASSIST YOU IN DETERMINING THE SIZE AND EXACT LOCATION OF THE AREA NECESSARY FOR A CASTROVILLE MUNICIPAL AIRPORT AT THIS SITE. THAT PORTION OF THE EXISTING AIRFIELD NOT REQUIRED FOR CIVIL AVIATION PURPOSES MAY ALSO BE ACQUIRED UNDER PUBLIC LAW 289 AND USED FOR AGRICULTURE OR ANY OTHER ACTIVITY THAT WILL NOT INTERFERE WITH THE AIRPORT, PROVIDING THE REVENUE DERIVED THEREFROM IS USED IN THE OPERATION, MAINTENANCE AND DEVELOPMENT OF YOUR AIRPORT.

WE ARE REFERRING YOUR LETTER TO MR. F. J. SCHNITZER, DISTRICT AIRPORT ENGINEER, 1310 CONGRESS AVENUE, AUSTIN, TEXAS, WHO WILL UNDOUBTEDLY WANT TO CONSIDER THIS MATTER FURTHER WITH YOU.

VERY TRULY YOURS,

S. E. TRAVIS, JR.
SUPERINTENDENT, AIRPORTS BRANCH

BY: *S. E. Travis*
A. E. MATT
ASST. SUPERINTENDENT, AIRPORTS BRANCH

ENCLOSURE

Attachment # 4

MINUTES OF MEETING

City Council of the City of
Castroville

February 7, 1949

On this, the 7th day of February, 1949, the City Council of the City of Castroville, Texas, convened in regular session at the regular meeting place in Castroville, Texas, with the following members present:

A. A. Murrell, Mayor

Joe Hoog, Alderman

G. R. Hans, Alderman

W. W. Wernette, Alderman

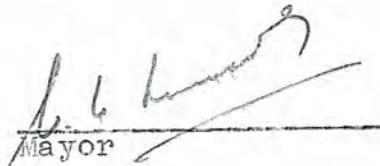
Jack Wernette, Secretary

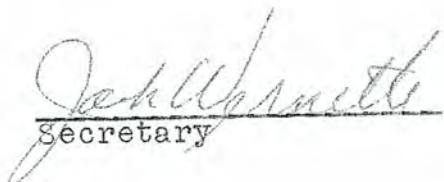
Ralph Tschirhart, Alderman

Also present was Mr. Stiles of the Civil Aeronautics Administration. After full discussion and upon motion by Alderman Ralph Tschirhart, seconded by Alderman Joe Hoog, it was agreed that the City of Castroville acquire Kelly Field Auxiliary #3 as a community airport under the provisions set forth by Public Law. The following voted AYES: Ralph Tschirhart, Joe Hoog, Frank Keller, G. R. Hans and W. W. Wernette----NOES: None, whereupon said motion was declared adopted.

The question of supplying water to residents outside the City Limits was placed before the Council by Alderman W. W. Wernette. In discussion it was tentatively agreed to have the Attorney draw up a contract to be signed by parties concerned; i.e., the City would permit the parties concerned to tie in with the nearest existing water main at their expense. The water consumed at each residence would be measured by a city-owned meter, and each residence would be billed in accordance with the existing water rates of the City. The question was tabled, pending further consultation with the Attorney.

There being no further business, meeting adjourned.



Mayor

Secretary

MINUTES OF MEETING

City Council of the City of
Castroville

April 8, 1949

On this the 8th day of April, 1949, the City Council of the City of Castroville, Texas, convened in regular session at the regular meeting place in Castroville, Texas, with the following present: Mayor A. A. Murrell; Aldermen Wernette, Keller, Hoog, Tschirhart; Secretary Wernette. And the following absent: Alderman Hans.

Returns of the City General Election of April 5, 1949, were canvassed by the Council. A total of 44 votes was cast and the following candidates received the number of votes set opposite their names:

A. A. Murrell, for Mayor	44
Frank J. Keller, for Alderman	43
G. R. Hans, for Alderman	43

The Mayor then declared that A. A. Murrell was duly elected Mayor and that Frank J. Keller and G. R. Hans were duly elected aldermen of the City of Castroville.

After full discussion and upon motion by W. W. Wernette, seconded by Ralph L. Tschirhart, the following resolution was unanimously adopted:

RESOLVED: That the City of Castroville, for use of the Kelly Auxiliary #3 Airport, apply for Airport Property as listed in Schedule "a", in Notice from War Assets Administration, Region 7, dated April 4, 1949, in letter addressed to the Mayor of the City of Castroville, Texas.

That the Mayor be and he is hereby authorized and directed to accept delivery of all the airport property and to execute any and all instruments necessary to effect this transfer, and the City of Castroville agrees to accept and be bound by all the terms, reservations, restrictions, and conditions of transfer set forth in instrument of transfer pursuant to War Assets Administration Regulations.

Motion was made by Ralph L. Tschirhart, seconded by Frank J. Keller, that the old tank and tower of the water system be offered for sale to the highest bidder. Motion carried, and the City Secretary was instructed to advertise for bids, to be turned in by May 1, and to include complete removal of tank and supports.

There being no further business, meeting adjourned.

Jack Wernette
Secretary

W. W. Wernette
Mayor

Attachment # 5

No. 6107

147/264

DEED WITHOUT WARRANTY UNITED STATES OF AMERICA TO CITY OF CASTROVILLE, TEXAS

THIS INDENTURE, made this 26 day of July, 1949, between THE UNITED STATES OF AMERICA, acting by and through the General Services Administrator, under and pursuant to the powers and authority contained in the provisions of the Federal Property and Administrative Act of 1949, and the Surplus Property Act of 1944, as amended, thereby, and regulations and orders promulgated thereunder, party of the first part and the CITY OF CASTROVILLE, TEXAS, a body politic under the laws of the State of Texas, party of the second part,

WITNESSETH: That said party of the first part, for and in consideration of the assumption by the party of the second part of all the obligations and its taking subject to certain reservations, restrictions and conditions and its covenant to abide by and agreement to certain other reservations, restrictions and conditions, all as set out hereinafter, does hereby bargain, sell, grant and convey, but without warranty, express or implied, to the party of the second part, its successors and assigns, under and subject to the reservations, restrictions and conditions, exceptions and reservation of fissionable materials and rights hereinafter set out, all

265

its right, title and interest in the following described property situate in the County of Medina, State of Texas, to-wit:

A parcel of land containing approximately 458.88 acres of land in Medina County, Texas, being all of the L. M. Collard Survey No. 97-½ and parts of the Joseph Riediger Survey No. 15, the John Riediger Survey No. 16 and I&G.N. Railroad Company Surveys No. 4/17 and 6/17, and known as Castroville Field (Kelly Auxiliary Field No. 3). The said land is more particularly described as follows:

BEGINNING at a point, for the Northwest corner of this tract, on the West line of the I&G.N. Railroad Company Survey No. 6/17, this point being 4046.6 feet North of the Northwest corner of the Joseph Riediger Survey No. 15; Thence South 89° 49' East, 1613.3 feet; Thence South 0° 08' West, 29.9 feet; Thence North 89° 25' East, 906.7 feet; Thence South 78° 39' East, 464.2 feet; Thence South 01° 59' West, 1267.9 feet; Thence South 89° 00' 27" East, 1370.3 feet; Thence South 0° 18' West, 2439.2 feet; Thence South 85° 29' West, 693.7 feet; Thence South 0° 29' West, 1454.8 feet; Thence North 89° 48' West, 3592.4 feet; Thence North 0° 05' East, 5332.9 feet to the place of beginning; being the same property acquired by the United States of America by Deed or Declaration of Taking from various owners as set forth in Exhibit "A" attached hereto and made a part hereof. Said Deeds and Declarations of Taking being filed in the Records of Medina County, State of Texas, reference being hereto made to said Deeds or Declarations of Taking as if fully set out herein.

15 YEAR AVIGATION EASEMENTS:

40.5 acres of land, more or less, out of the L. M. Collard Survey No. 97, situated in the County of Medina, State of Texas, and described as follows, to-wit:

BEGINNING at the NW corner of the present Kelly Auxiliary Field No. 3, which is also the NE corner of a tract of land in the name of John & Adolph Vollmer; Thence along the N line of the present Auxiliary Field No. 3, S. 89 deg. 49 min. E. 1613.3 ft. to a point in said fence line, continuing on along said fence line N. 89 deg. 25 min. E. 1865.5 ft. to a point; Thence N. 01 deg. 59 min. E. 500 ft. to a point; Thence due west, parallel to and 500 ft. at right angle from the aforesaid fence line to a point 500 ft. from the NW corner of the present Auxiliary Field No. 3 and on the W line of the said Auxiliary Field Projected; Thence around a curve to the left with a radius of 500 ft. from said NW corner to the common line between the Joseph Courant 91.7 acres of which this tract is a part, and the tract of land owned by John and Adolph Vollmer; Thence along said common line approximately due east 500 ft. to the place of BEGINNING, containing approximately 40.5 acres,

being the same property conveyed by Avigation Easement Deed from Joseph Courant dated May 31, 1943, and filed for record in the Records of Medina County, State of Texas.

20.64 acres of land, more or less, out of the I. & G. N. Railroad Survey No. 4/17, situated in the County of Medina, State of Texas, described by metes and bounds as follows:

BEGINNING at a point in the south line of Joseph Courant 91.7 acres as shown in Volume 1C3, Page 328 of the Medina County Deed Records (a part of the same being the north line of this tract) where the most westerly east line of the present Kelly Auxiliary Field No. 3 projected intersects the same; Thence north 89 deg. 25 min. East, along the south fence line of the Courant tract 500 feet to a point in the same; Thence south 01 deg. 59 min. West, approximately 660.0 feet to an old fence line; Thence in an easterly direction approximately 230 feet to an old fence corner; Thence southerly along an old fence line passing West of an old building, a distance of approximately 230 feet to an East and West fence line; Thence easterly along said fence line approximately 70.0 feet to the West boundary line of an 80 acre tract of land in the name of Frank Schmitt, as shown in Volume 67, Page 454, Medina County Deed Records; Thence southerly along said fence line 550.0 feet to a southerly north boundary of the said Auxiliary

Field; Thence along the said boundary North 89 deg. 27 min. West to an inside corner of the present Auxiliary Field; Thence north 01 deg. 59 min. East, along a westerly east boundary line of said Auxiliary Field and across an old road to the PLACE OF BEGINNING, being the same property conveyed by Avigation Easement Deed from Alfred J. Schmitt and wife, Emilia Schmitt dated April 26, 1943, and filed for record in the Records of Medina County, State of Texas.

All that certain lot, tract or parcel of land lying and being situated in Medina County, Texas, out of and a part of the I & G N Railroad Survey No. 4/17, described by metes and bounds as follows:

BEGINNING at a point in the most southerly North line of the present Kelly Auxiliary Field No. 3, where the West line of an 80 acre tract intersects the same: Thence North along the West fence and property line of the said 80 acres a distance of 550.0 feet to a point: Thence South 89 deg. 27 min. East, approximately 662.0 feet to a fence line for the East boundary line of this tract: Thence South along said fence line 550.0 feet to a southerly Northeast corner of the present Auxiliary Field No. 3: Thence North 89 deg. 27 min. West along the aforesaid southerly North boundary of said Auxiliary Field No. 3, approximately 662.0 feet to the PLACE OF BEGINNING, being the same property conveyed by Avigation Easement Deed from Frank Schmitt and wife, Mathilda Schmitt dated April 9, 1943, and filed for record in the Records of Medina County, State of Texas.

34.3 acres out of and a part of a 126.8 acre tract of land out of the Eugene Tondre Survey No. 96, Abstract No. 1345 and the I & G N Railroad Survey No. 4/17, Abstract No. 1212;

BEGINNING at the most southerly Northeast corner of the present Kelly Auxiliary Field No. 3: Thence North 00 deg. 18 min. West along the boundary fence between the Frank Schmitt 80 acres as shown in Volume 67, Page 454 of Medina County Deed Records, and the West line of the aforesaid 126.8 acres, 550.0 feet to a point: Thence South 89 deg. 27 min. East, 500.0 feet to a point; Thence South 00 deg. 18 min. West, approximately 2989.2 feet to a point: Thence West 500.0 feet to the most northern Southeast corner of the present Kelly Auxiliary Field No. 3: Thence North 00 deg. 18 min. East, along the easterly boundary of said Auxiliary Field 2439.2 feet to the PLACE OF BEGINNING, being the same property conveyed by Avigation Easement Deed from Frits Tondre and wife, Genevieve Tondre dated April 9, 1943, and filed for record in the Records of Medina County, State of Texas.

3.38 acres of land, more or less, out of the Hubert Burger Survey No. 114, described by metes and bounds as follows:

BEGINNING at the northwest corner of the Hubert Burger Survey on the south line of the present Kelly Auxiliary Field No. 3; Thence east with the south line of said field and the north line of said Burger Survey 294 feet to a point; Thence south 500 feet to a point; Thence west 294 feet to the west line of the said Burger Survey and the west line of this tract; Thence north with said west line 500 feet to the PLACE OF BEGINNING.

being the same property conveyed by Avigation Easement Deed from Joseph Gross dated April 24, 1943, and filed for record in the Records of Medina County, State of Texas.

TOGETHER WITH 800 lineal feet of five-strand barbed wire fence.

The above described premises are transferred subject to existing easements for roads, highways, public utilities, railways and pipelines.

EXCEPTING, HOWEVER, from this conveyance all right, title and interest in and to all its property in the nature of equipment, furnishings and other personal property located on the above described premises which can be removed from the land without material injury to the land or structures located thereon, other than property of such nature located on the premises conveyed hereby which is reasonably necessary for the operation or maintenance of the airport or for the

operation or maintenance of the structures and improvements specifically listed hereinabove as being transferred hereby, for any reasonable use for which such structures or improvements are readily adaptable; and further excepting from this conveyance all its structures on said premises other than structures specifically described or enumerated above as being conveyed hereunder; and reserving to the party of the first part for itself and its lessees, licensees, permittees, agents and assigns the right to use the property and structures excepted hereby in such a manner as will not materially and adversely affect the development, improvement, operation or maintenance of the airport and the right of removal from said premises of such property and structures, all within a reasonable period of time after the date hereof, which shall not be construed to mean any period more than one (1) year after the date of this instrument, together with a right of ingress to and egress from said premises for such purposes.

And further excepting from this conveyance and reserving to the party of the first part, in accordance with Executive Order 9908, approved on December 5, 1947, (12 F.R. 8223), all uranium, thorium, and all other materials determined pursuant to section 5 (b) (1) of the Atomic Energy Act of 1946 (60 Stat. 761), to be peculiarly essential to the production of fissionable material, contained, in whatever concentration, in deposits in the lands covered by this instrument are hereby reserved for the use of the United States, together with the right of the United States through its authorized agents or representatives at any time to enter upon the land and prospect for, mine, and remove the same, making just compensation for any damage or injury occasioned thereby. However, such land may be used, and any rights otherwise acquired by this disposition may be exercised, as if no reservation of such materials had been made; except that, when such use results in the extraction of any such material from the land in quantities which may not be transferred or delivered without a license under the Atomic Energy Act of 1946, as it now exists or may hereafter be amended, such material shall be the property of the United States Atomic Energy Commission, and the Commission may require, delivery of such material to it by any possessor thereof after such material has been separated as such from the ores in which it was contained. If the Commission requires the delivery of such material to it, it shall pay to the person mining or extracting the same, or to such other person as the Commission determines to be entitled thereto, such sums, including profits, as the Commission deems fair and reasonable for the discovery, mining, development, production, extraction, and other services performed with respect to such material prior to such delivery, but such payment shall not include any amount on account of the value of such material before removal from its place of deposit in nature. If the Commission does not require delivery of such material to it, the reservation hereby made shall be of no further force or effect.

Said property transferred hereby was duly declared surplus and was assigned to the War Assets Administrator for disposal, acting pursuant to the provisions of the above mentioned Act, as amended, Executive Order 9689, and applicable rules, regulations and orders.

TO HAVE AND TO HOLD said premises, with appurtenances, except the fissionable materials and other property excepted above and the rights reserved above, and under and subject to the reservations, restrictions and conditions set forth in this instrument, unto the said party of the second part, its successors and assigns forever.

By the acceptance of this deed or any rights hereunder, the said party of the second part, for itself, its successors and assigns agrees that the transfer of the property transferred by this instrument, is accepted subject to the following restrictions set forth in subparagraphs (1) and (2) of this paragraph, which shall run with the land, imposed pursuant to the authority of Article 4, Section 3, Clause 2 of the Constitution of the United States of America, the Surplus Property Act of 1944, as amended, Reorganization Plan 1 of 1947 (12 F.R. 4534), the Federal

Property and Administrative Services Act of 1949 (P. L. 152 - 81st Congress) and applicable rules, regulations and orders:

(1) That, except as provided in subparagraph (6) of the next succeeding unnumbered paragraph, the land, buildings, structures, improvements and equipment in which this instrument transfers any interest shall be used for public airport purposes for the use and benefit of the public, on reasonable terms and without unjust discrimination and without grant or exercise of any exclusive right for use of the airport within the meaning of the term "exclusive right" as used in subparagraph (4) of the next succeeding paragraph. As used in this instrument, the term "airport" shall be deemed to include at least all such land, buildings, structures, improvements and equipment.

(2) That, except as provided in subparagraph (6) of the next succeeding paragraph, the entire landing area, as defined in WAA Regulation 16, dated June 26, 1946, and all structures, improvements, facilities and equipment in which this instrument transfers any interest shall be maintained for the use and benefit of the public at all times in good and serviceable condition, provided, however, that such maintenance shall be required as to structures, improvements, facilities and equipment only during the remainder of their estimated life, as determined by the Civil Aeronautics Administrator or his successor. In the event materials are required to rehabilitate or repair certain of the aforementioned structures, improvements, facilities or equipment, they may be procured by demolition of other structures, improvements, facilities or equipment transferred hereby and located on the above described premises which have outlived their use as airport property in the opinion of the Civil Aeronautics Administrator or his successor.

By the acceptance of this deed or any rights hereunder, the said party of the second part for itself, its successors and assigns, also assumes the obligations of, covenants to abide by and agrees to, and this transfer is made subject to, the following reservations and restrictions set forth in subparagraphs (1) to (7), inclusive, of this paragraph, which shall run with the land, imposed pursuant to the authority of Article 4, Section 3, Clause 2 of the Constitution of the United States of America, the Surplus Property Act of 1944, as amended, Reorganization Plan 1 of 1947 (12 F. R 4534), the Federal Property and Administrative Services Act of 1949 (P.L. 152 - 81st Congress) and applicable rules, regulations and orders:

(1) That insofar as it is within its powers, the party of the second part shall adequately clear and protect the aerial approaches to the airport by removing, lowering, relocating, marking or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

(2) That the United States of America (hereinafter sometimes referred to as the "Government") through any of its employees or agents shall at all times have the right to make nonexclusive use of the landing area of the airport at which any of the property transferred by this instrument is located or used, without charge: Provided, however, that such use may be limited as may be determined at any time by the Civil Aeronautics Administrator or his successor to be necessary to prevent undue interference with use by other authorized aircraft: Provided, further, that the Government shall be obligated to pay for damages caused by such use, or if its use of the landing area is substantial, to contribute a reasonable share of the cost of maintaining and operating the landing area, commensurate with the use made by it.

(3) That during any national emergency declared by the President of the United States of America or the Congress thereof, the Government shall have the right to make exclusive or non-exclusive use and have exclusive or nonexclusive control and possession, without charge, of the airport at which any of the property transferred by this instrument is located or used, or of such portion thereof as it may desire, provided, however, that the Government shall be responsible for the entire cost of maintaining such part of the airport as it may use exclusively, or

over which it may have exclusive possession or control, during the period of such use, possession, or control, and shall be obligated to contribute a reasonable share, commensurate with the use made by it, of the cost of maintenance of such property as it may use nonexclusively or over which it may have nonexclusive control and possession; Provided, further, that the Government shall pay a fair rental for its use, control, or possession, exclusively or nonexclusively of any improvements to the airport made without United States aid.

(4) That no exclusive right for the use of the airport at which the property transferred by this instrument is located shall be vested (directly or indirectly) in any person or persons to the exclusion of others in the same class, the term "exclusive right" being defined to mean

(1) any exclusive right to use the airport for conducting any particular aeronautical activity requiring operation of aircraft;

(2) any exclusive right to engage in the sale or supplying of aircraft, aircraft accessories, equipment, or supplies (excluding the sale of gasoline and oil), or aircraft services necessary for the operation of aircraft (including the maintenance and repair of aircraft, aircraft engines, propellers, and appliances).

(5) That, except as provided in subparagraph (6) of this paragraph, the property transferred hereby may be successively transferred only with the proviso that any such subsequent transferee assumes all the obligations imposed upon the party of the second part by the provisions of this instrument.

(6) That no property transferred by this instrument shall be used, leased, sold, salvaged, or disposed of by the party of the second part for other than airport purposes without the written consent of the Civil Aeronautics Administrator, which shall be granted only if said Administrator determines that the property can be used, leased, sold, salvaged or disposed of for other than airport purposes without materially and adversely affecting the development, improvement, operation or maintenance of the airport at which such property is located; Provided, that no structures disposed of hereunder shall be used as an industrial plant, factory, or similar facility within the meaning of Section 23 of the Surplus Property Act of 1944, as amended, unless the party of the second part shall pay to the United States such sum as the General Services Administrator or his successor in function shall determine to be a fair consideration for the removal of the restriction imposed by this proviso.

(7) The party of the second part does hereby release the Government, and will take whatever action may be required by the General Services Administrator to assure the complete release of the Government from any and all liability the Government may be under for restoration or other damages under any lease or other agreement covering the use by the Government of the airport, or part thereof, owned, controlled or operated by the party of the second part, upon which, adjacent to which, or in connection with which, any property transferred by this instrument was located or used; Provided, that no such release shall be construed as depriving the party of the second part of any right it may otherwise have to receive reimbursement under Section 17 of the Federal Airport Act for the necessary rehabilitation or repair of public airports heretofore or hereafter substantially damaged by any Federal agency.

By acceptance of this instrument or any rights hereunder, the party of the second part further agrees with the party of the first part as follows:

(1) That in the event that any of the aforesaid terms, conditions, reservations or restrictions is not met, observed, or complied with by the party of the second part or any subsequent transferee, whether caused by the legal inability of said party of the second part or subsequent transferee to perform any of the obligations herein set out, or otherwise, the title, right of possession and all other rights transferred by this instrument to the party of the second part,

or any portion thereof, shall at the option of the party of the first part revert to the party of the first party sixty (60) days following the date upon which demand to this effect is made in writing by the Civil Aeronautics Administrator or his successor in function, unless within said sixty (60) days such default or violation shall have been cured and all such terms, conditions, reservations and restrictions shall have been met, observed or complied with, in which event said reversion shall not occur and title, right of possession, and all other rights transferred hereby, except such, if any, as shall have previously reverted, shall remain vested in the party of the second part, its transferees, successors and assigns.

(2) That if the construction as covenants of any of the foregoing reservations and restrictions recited herein as covenants or the application of the same as covenants in any particular instance is held invalid, the particular reservations or restrictions in question shall be construed instead merely as conditions upon the breach of which the Government may exercise its option to cause the title, right of possession and all other rights transferred to the party of the second part, or any portion thereof, to revert to it, and the application of such reservations or restrictions as covenants in any other instance and the construction of the remainder of such reservations and restrictions as covenants shall not be affected thereby.

IN WITNESS WHEREOF, the party of the first part has caused these presents to be executed as of the day and year first above written.

Approved as to form and substance
John M. Montgomery
Atty.

UNITED STATES OF AMERICA
Acting by and through
General Services Administrator

WITNESSE:

Mary Rode
Varine Sanders

By Karl E. Wallace
Regional Director, Region 7
War Assets
GENERAL SERVICES ADMINISTRATION

STATE OF TEXAS }

COUNTY OF MEDINA } Before me, Margaret G. Beck, a Notary Public, in and for Dallas County, State of Texas, on this day personally appeared Karl E. Wallace, known to me to be the person whose name is subscribed to the foregoing instrument, and known to me to be the Regional Director, War Assets, General Services Administration, and acknowledged to me that the same was the act and deed of the United States of America, and the General Services Administrator; and that he executed the same as the act of the United States of America and of the General Services Administrator for the purposes and consideration therein expressed and in the capacity therein stated.

Given under my hand and seal of office, at Dallas, Texas, this 26th day of July, 1949.

(Seal) My Commission Expires:
June 1, 1951

Margaret G. Beck
Notary Public, in and for Dallas County, Texas.

Filed for record the 3rd day of February, A. D. 1950 at 11:45 o'clock A. M.

Recorded this the 4th day of February, A. D. 1950 at 8:45 o'clock A. M.

Howard H. Haby
Clerk County Court, Medina County, Texas.

Attachment # 6

GARBAGE RATES: Heard the report that at the present time the City has 243 residential subscribers and 27 business subscribers to the service. If residential were increased 50¢ a month and business \$1.00, it would increase the income from this service \$148.50 per month. Present billing is \$583.00 per month.

Concern was expressed that if the charge is increased, some of the subscribers would drop the service. It was pointed out that Devine has made it mandatory that all customers subscribe to the service. Councilwoman Keefer said she would like to see the service made mandatory. Att'y Lee said it would require an ordinance.

Council decided to hold any decision on the garbage service until a later date.

CONSUMER DEPOSITS: Council decided to continue on the existing basis.

SERVICE CHARGES: Heard the report there is still \$493.17 outstanding on Gas Service charges - three services have had nothing paid on them since the applications were made in 1973. Council agreed that if no effort is made to pay the services, they should be removed.

MUNICIPAL AIRPORT: Att'y Lee reported there is nothing in the deed from the U.S. Govt. to prohibit the use of money derived from the airport being used for any purpose designated by the City. Council instructed that the letters showing how airport income is to be used be placed before Council at the next meeting.

LOWER LACOSTE ROAD: Heard the report McDonough Bros. have repaired some of the pot holes in the road. Mayor Haby instructed that Mr. McAnelly write McDonough Bros. a proposal that the City crew do the repair work on the road and bill McDonough Bros. for it inasmuch as it appears they do not have the time to take care of the road properly.

Councilwoman Keefer asked Att'y Lee if it would be possible to prohibit trucks of certain weights using the Lower LaCoste Road, except for deliveries in the area or with special permission.

Att'y Lee said an Ordinance could be written with the weight restrictions, but it would have to apply to all trucks. The Ordinance could not be arbitrary as to content and enforcement. It must cover all trucks, it cannot be discriminatory or make exceptions.

Councilwoman Keefer expressed her disappointment and regret that nothing could be done to protect the citizens from the inconvenience of the truck traffic or the City from having its streets torn up.

DUMPING GROUND: Heard the report that someone from the Health Department told Mr. Kempf that he could no longer burn in the afternoon - it must be done in the morning. Inasmuch as Mr. Kempf is at the dumping ground only in the afternoon, except on Saturday, Mr. McAnelly said he would have his men do the burning in the morning as instructed, until something else can be worked out. It was noted that there is a possibility the dumping ground would need to be open in the morning instead of the afternoon. However, it was pointed out this schedule would be inconvenient

Mayor Pro-tem Garza asked if Mrs. Gilliam was a City employee and who would be responsible for her dismissal if she is no longer needed at the Park. Sec'y said she didn't know who hired her for Construction Fund bookkeeper, she presumed it was Wm. T. Tschirhart. However, she had asked Mrs. Gilliam to consider a position of bookkeeper in the City Office when park construction was completed and Mrs. Gilliam had declined, saying she was going to continue as bookkeeper and secretary for the Park.

Mr. McAnelly reported he has obtained a 1963 Ford $\frac{1}{2}$ T. pick-up for the Park, with fair tires for \$85.00 through Surplus Property.

It was agreed the old truck should be advertised for bids.

CITY EQUIPMENT: Mr. McAnelly reported he has a chance to get a 1963 pick-up to pull the garbage trailer if the option is not taken by Edinburg. It has a four-speed transmission and the price is \$150.00. His request for a tractor has been approved upon availability. He added that he has also looked at a 1961 Ford, good motor for \$80.00. However, Surplus Property has not gotten the papers on it thus far. He said he has had a requisition in for a shredder, but there has never been one available. He is also working through Kelly GSA.

MUNICIPAL AIRPORT: Noted letters from F.A.A., 1959, 1965 and 1968 (copies sent to Att'y Lee) stating that revenue derived from the agricultural leases is used only for operation, maintenance or improvement of the Castroville Municipal Airport. Also directive set forth in Municipal Airports Act relative to Application of Airport Revenues and Sale Proceeds.

Also noted letter from F.A.A. in 1966 which denied Council's request for release of the Castroville Municipal Airport from certain reservations in the deed to the City of Castroville.

Mayor Haby pointed out that inasmuch as the refusal was made in 1966, the situation may have changed now and recommended the matter be pursued. Instructions were given that Att'y Lee be contacted and asked to check on the variance that was granted the City of Hondo in connection with their airport - looking into the possibility of a similar variance being granted the City of Castroville.

TEST WELL AT AIRPORT: Mr. McAnelly reported U.S.G.S. has begun work are down 100'. To Mayor Haby's question, Mr. McAnelly reported they are 50' west of the fence on the line between the baseball field complex and Santleban. There is a 12' road between. Although they are now using part of the Santleban lease, they are paying him for the use and when they are finished, they will not be on his lease. They are also paying for the water they are using.

CITY WORK AT AIRPORT: To Councilman Gallegos question on completion Mr. McAnelly reported he is getting the equipment installed.

LOWER LACOSTE ROAD: Mrs. Clark stated Att'y Lee is giving the City wrong information on the Lower LaCoste Road. She said Council should ask him to cite the Statutes on the information he has given the City.

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DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

9/1/74

SEP 6 1974

SOUTHWEST REGION
Houston Airports District Office
8345 Telephone Road
Houston, Texas 77017



Mrs. Charlotte Lafferty
City Secretary, City of Castroville
P. O. Box 479
Castroville, Texas 78009

Dear Mrs. Lafferty:

This will confirm your telephone conversation with Mr. Lyon of this office on September 4, 1974, concerning the use of revenue derived from land transferred under Public Law 289.

Over two-thirds of the 458.88 acres transferred to the City of Castroville by deed dated July 26, 1949, was for non-aeronautical use as revenue producing property to assist the City in making the airport self-sustaining. Although increased aeronautical needs may have reduced the total acreage of non-aeronautical property, the intent of the transfer has not changed.

Mayor A. A. Murrell's letter dated February 8, 1949, requesting the above referenced transfer of land states the following, "The City of Castroville will at all times use diligence and do everything within its power to assure that all income produced by the properties transferred under this act will be allocated and used in the operation, maintenance and development of subject airport."

Further, subparagraph (6) of the Deed dated February 26, 1949, states that no property transferred by this instrument shall be used, leased, sold, salvaged, or disposed of by the City for other than airport purposes without the written consent of the Civil Aeronautics Administrator (now Federal Aviation Administrator). Approval of non-aeronautical leases will not be approved by this office unless it is agreed that the revenue will be used for improvement, operation and maintenance of the airport as intended in the original land transfer.

It has been our past experience that an airport with the relative size and operations of Castroville Municipal will require all the revenue derived from both aeronautical and non-aeronautical leases to improve, operate and maintain the airport in a manner to enhance safety and to provide the flying public with the facilities they deserve. Although not required by rule or regulation, we strongly recommend that all revenue including that derived from aeronautical

leases be used for airport purposes.

It should be noted that this office is responsible for determining the continued compliance with the requirements of all transfers of real property under Public Law 289, therefore, you should continue to maintain a yearly Budget for both income and expenditures related to Castroville Municipal Airport. These records shall be made available for inspection by an authorized representative of this office upon request..

This office is available to provide assistance at any time concerning recommendations for improvements, and maintenance of your airport.

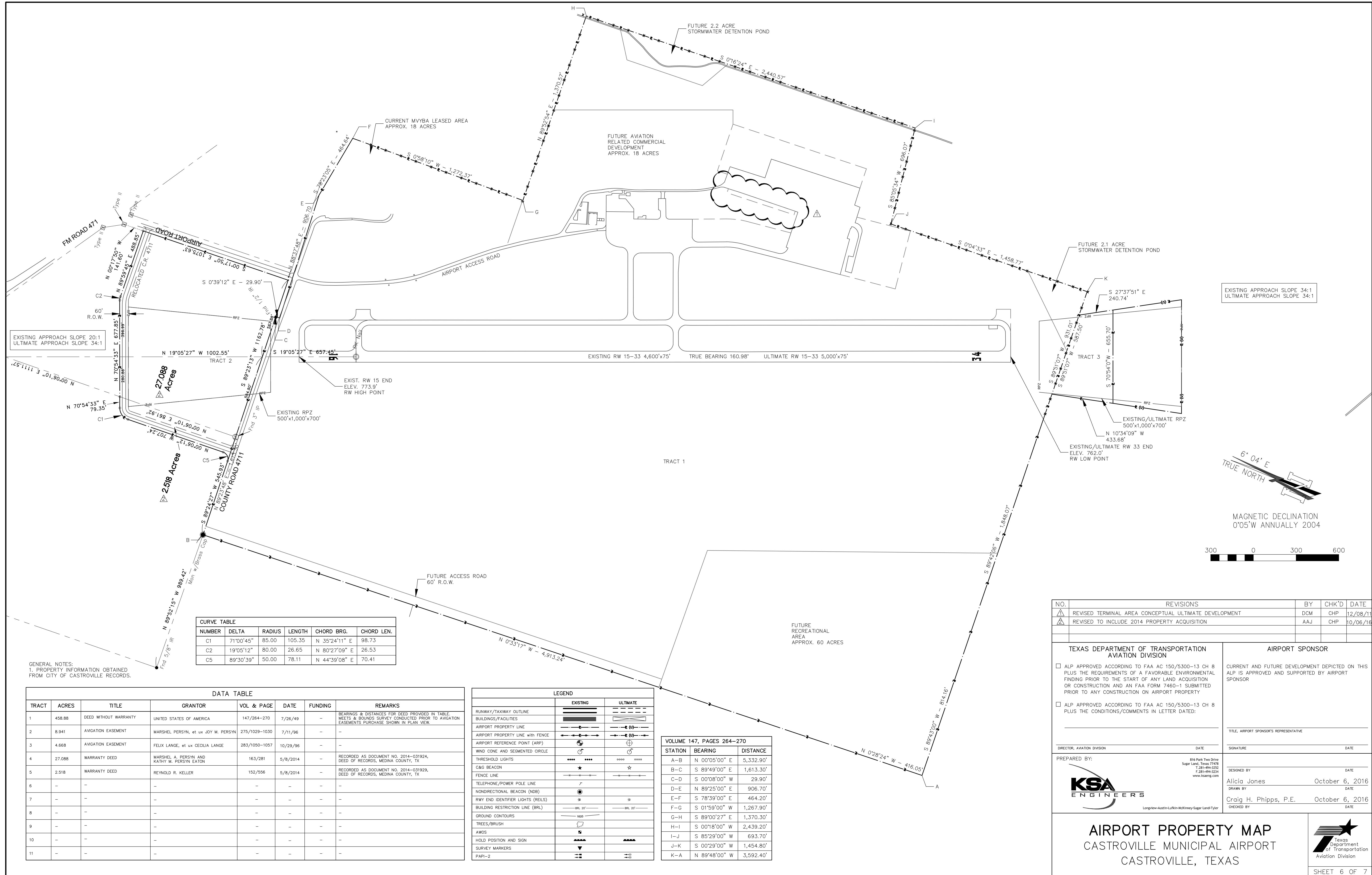
If you have additional questions concerning the requirements of Public Law 289, please contact this office.

Sincerely,

WILLIAM N. DALE
Chief, Houston Airports District Office



Attachment # 7



Attachment # 8

present time, he has only part-time carpenters.

Councilman Roman Garza asked how much money has been spent at the Park to date. Mr. Wm. T. Tschirhart said he didn't know the exact amount, but he can prepare a report.

AGRICULTURAL LEASES - CASTROVILLE MUNICIPAL AIRPORT: Noted current leases expire Aug. 31, 1973.

VACANCY - AIRPORT ADMINISTRATIVE COMMITTEE: Councilman Francisco Garza recommended that the Airport Administrative Committee be asked to meet with City Council at the next regular City Council meeting to discuss agricultural leases and appointment to the vacancy on the committee. Council unanimously agreed with his recommendation and Mayor Tschirhart instructed the meeting with the Committee be placed first on the Agenda of that meeting.

SHALLOW WELL - MUNICIPAL AIRPORT: Mr. McAnelly reported he added eighteen inches of pipe and presently there is only 8' of water in the well with an out-put of 100 gals. per day. Mr. McAnelly pointed out that when the farmers in the area are irrigating, there is plenty of water in the well, but there has been no need to irrigate this Spring, therefore no water has accumulated for other airport needs.

Councilman Brieden questioned the operation of the well, asking about the well that has been recommended for the Airport. Mr. McAnelly explained the existing well is a shallow well and the proposed well is a deep well.

It was generally agreed discussion of a deep well shall be included when Council and Airport Administrative Committee meet.

DRAINAGE - S. W. CASTROVILLE: Council was of the general opinion to wait for further recommendations from Engineer Jewett.

OTHER DRAINAGE: Letter from Col. Keefer placed before Council pointing out the need for proper drainage on the Lower LaCoste Road and asking for that area to be included in the aerial survey.

Mayor Tschirhart instructed a letter be written Col. Keefer assuring him that East Castroville will be included in the survey. He further instructed that Mr. McAnelly check on the existing problem and see what can be done to relieve the situation.

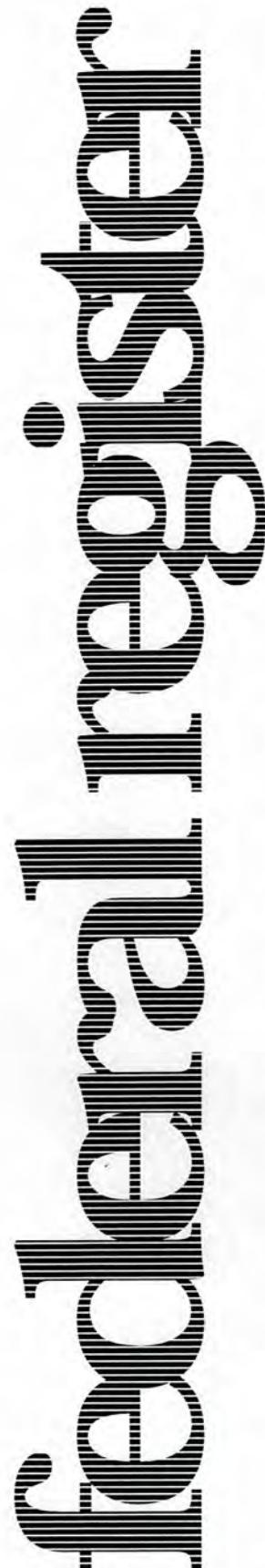
Council Brieden stated, in his opinion, we should wait for the aerial photograph before any drainage work is done. Councilman Roman Garza asked Councilman Brieden if he has drainage problems, to which Councilman Brieden replied he has them on his own property.

Mayor Tschirhart stated, in his opinion, we should start with aerial photography, pointing out that it would be helpful on all future work.

Mayor Fro-tom Fischer agreed with Mayor Tschirhart's statement, however adding, in the meantime Mr. McAnelly should take care of the small jobs. Special reference made to the problem on the Lower LaCoste Road and in N. W. Castroville.

Attachment # 9

Tuesday
February 16, 1999



Part II

**Department of
Transportation**

Federal Aviation Administration

**Policy and Procedures Concerning the
Use of Airport Revenue; Notice**

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration**

[Docket No. 28472]

Policy and Procedures Concerning the Use of Airport Revenue**AGENCY:** Federal Aviation Administration (FAA) DoT**ACTION:** Policy statement.

SUMMARY: This document announces the final publication of the Federal Aviation Administration policy on the use of airport revenue and maintenance of a self-sustaining rate structure by Federally-assisted airports. This statement of policy ("Final Policy") was required by the Federal Aviation Administration Authorization Act of 1994, and incorporates provisions of the Federal Aviation Administration Reauthorization Act of 1996. The Final Policy is also based on consideration of comments received on two notices of proposed policy issued by the FAA in February 1996, and December 1996, which were published in the **Federal Register** for public comment. The Final Policy describes the scope of airport revenue that is subject to the Federal requirements on airport revenue use and lists those requirements. The Final Policy also describes prohibited and permitted uses of airport revenue and outlines the FAA's enforcement policies and procedures. The Final Policy includes an outline of applicable record-keeping and reporting requirements for the use of airport revenue. Finally, the Final Policy includes the FAA's interpretation of the obligation of an airport sponsor to maintain a self-sustaining rate structure to the extent possible under the circumstances existing at each airport.

DATES: This Final Policy is effective February 16, 1999.

FOR FURTHER INFORMATION CONTACT: J. Kevin Kennedy, Airport Compliance Specialist, Airport Compliance Division, AAS-400, Office of Airport Safety and Standards, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-8725; Barry L. Molar, Manager, Airport Compliance Division, AAS-400, Office of Airport Safety and Standards, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-3446.

SUPPLEMENTARY INFORMATION:**Outline of Final Policy**

The Final Policy implements the statutory requirements that pertain to the use of airport revenue and the maintenance of an airport rate structure

that makes the airport as self-sustaining as possible. The Final Policy generally represents a continuation of basic FAA policy on airport revenue use that has been in effect since enactment of the Airport and Airway Improvement Act of 1982 (AAIA), currently codified at 49 U.S.C. § 47107(b). The FAA issued a comprehensive statement of this policy in the Notice of Proposed Policy dated February 26, 1996 (Proposed Policy), and addressed four particular issues in more detail in the Supplemental Notice of Proposed Policy dated December 18, 1996 (Supplemental Notice). The Final Policy includes provisions required by the Federal Aviation Administration Authorization Act of 1994, Public Law 103-305 (August 23, 1994) (FAA Authorization Act of 1994), and the Airport Revenue Protection Act of 1996, Title VIII of the Federal Aviation Administration Reauthorization Act of 1996, Public Law 104-264 (October 9, 1996), 110 Stat. 3269 (FAA Reauthorization Act of 1996). The Final Policy also includes changes adopted in response to comments on the Proposed Policy and Supplemental Notice.

The Final Policy contains nine sections. Section I is the Introduction, which explains the purpose for issuing the Final Policy and lists the statutory authorities under which the FAA is acting.

Section II, "Definitions," defines federal financial assistance, airport revenue and unlawful revenue diversion.

Section III, "Applicability of the Policy," describes the circumstances that make an airport owner or operator subject to this Final Policy.

Section IV, "Statutory Requirements for the Use of Airport Revenue," discusses the statutes that govern the use of airport revenue.

Section V, "Permitted Uses of Airport Revenue," describes categories and examples of uses of airport revenue that are considered to be permitted under 49 U.S.C. 47107(b). The discussion is not intended to be a complete list of all permitted uses but is intended to provide examples for practical guidance.

Section VI, "Prohibited Uses of Airport Revenue," describes categories and examples of uses of airport revenue not considered to be permitted under 49 U.S.C. 47107(b). The discussion is not intended to be a complete list of all prohibited uses but is intended to provide examples for practical guidance.

Section VII, "Policies Regarding Requirement for a Self-Sustaining Airport Rate Structure," describes policies regarding the requirement that

an airport maintain a self-sustaining airport rate structure. This is a new section of the policy, which provides more complete guidance on the subject than appeared in either the Proposed Policy or Supplemental Notice.

Section VIII, "Reporting and Audit Requirements," addresses the requirement for the filing of annual airport financial reports and the requirement for a review and opinion on airport revenue use in a single audit conducted under the Single Audit Act, 31 U.S.C. §§ 7501-7505.

Section IX, "Monitoring and Compliance," describes the FAA's activities for monitoring airport sponsor compliance with the revenue-use requirements and the requirement for a self-sustaining airport rate structure and the range of actions that the FAA may take to assure compliance with those requirements. Section IX also describes the sanctions available to FAA when a sponsor has failed to take corrective action to cure a violation of the revenue-use requirement.

Background**Governing Statutes**

Four statutes govern the use of airport revenue: the AAIA; the Airport and Airway Safety and Capacity Expansion Act of 1987; the FAA Authorization Act of 1994; and the FAA Reauthorization Act of 1996. These statutes are codified at 49 USC 47101, *et seq.*

Section 511(a)(12) of the AAIA, part of title V of the Tax Equity and Fiscal Responsibility Act, Public Law 97-248, (now codified at 49 USC 47107(b)) established the general requirement for use of airport revenue. As originally enacted, the revenue-use requirement directed public airport owners and operators to "use all revenues generated by the airport * * * for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and directly related to the actual transportation of passengers or property."

The original revenue-use requirement also contained an exception, or "grandfather" provision, permitting certain uses of airport revenue for non-airport purposes that predate the AAIA.

The Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100-223 (December 30, 1987), narrowed the permitted uses of airport revenues to nonairport facilities that are "substantially" as well as directly related to actual air transportation; required local taxes on aviation fuel enacted after December 30, 1987, to be

structure future contributions to permit reimbursement over a longer period of time in order to promote the financial stability of the airport. The six-year limitation, which is incorporated in the Final Policy, also addresses ATA's request for a time limit on the airport owner or operator's ability to claim recoupment for past unreimbursed requests.

The FAA does not accept the suggestion that the definition is an unauthorized taking of sponsor property without just compensation. First, as noted, the definition is supported by the 1996 FAA Reauthorization Act, which included an express provision for an exemption from the revenue use restriction for sale and lease proceeds. Second, all airport sponsors, including the airport commenters, voluntarily agreed to their restrictions on the use of airport revenue when they accepted grants-in-aid under the AIP program. Finally, the definition does not deprive the commenter of its property. The proceeds from the disposal will still flow to the commenter sponsor to be used for a legitimate local public purpose—operation and development of the commenter's airport.

The FAA acknowledged in the Proposed Policy that existing FAA internal orders contain provisions on the status of proceeds from the disposal of airport property that are inconsistent with this Final Policy. As stated in the Proposed Policy, this inconsistency does not preclude the FAA from defining proceeds from the disposal of airport property as airport revenue in this Final Policy. Rather, "the Policy takes precedence, and the orders will be revised to reflect the policies in this statement." 61 FR 7138. In addition, the provisions in the FAA internal orders are in conflict with the 1996 FAA Reauthorization Act. Because of this statutory conflict, the FAA cannot continue to apply them.

b. Revenue Generated by Off-airport Property

The Proposed Policy defined as airport revenue the revenue received for the use of property owned and controlled by a sponsor and used for airport-related purposes, but not located on the airport.

Airport operators: The ACI-NA/AAAE and two individual airport operators objected to this definition of airport revenue. The ACI-NA/AAAE stated that revenues received from off-airport activities should ordinarily not be counted as airport revenue. One airport operator argued that this definition is inconsistent with the statutory definition of airport in the

AAIA. The other airport operator (the State of Hawaii) is especially concerned about revenue generated by off-airport duty free shops.

No other comments were received. *Final Policy:* The Final Policy does not modify the definition of airport revenue as it pertains to off-airport revenue. This definition is consistent with FAA's prior interpretation, which has defined as airport revenue the revenues received by the airport owner or operator from remote airport parking lots, downtown airport terminals, and off-airport duty free shops.

After enactment of the original revenue-use requirement, the FAA initiated an administrative action to require the State of Hawaii to use its revenue from off-airport duty free sales in a manner consistent with section 47107(b). In response, Congress amended the revenue-use requirement to provide a specific and limited exemption to the State of Hawaii to permit up to \$250 million in off-airport duty-free sales revenue to be used for construction of highways that are part of the Federal-Aid highway system and that are located in the vicinity of an airport. See, 49 U.S.C. § 47107(j). The statutory exemption would only be necessary if the revenue from off-airport duty free shops is airport revenue within the meaning of the statute.

c. Royalties From Mineral Extraction

The Proposed Policy included royalties from mineral extraction on airport property earned by a sponsor as airport revenue.

Airport operators: One airport operator objected to including revenue from the sale of sponsor-owned mineral, natural, or agricultural products or water to be taken from the airport in the definition of airport revenue. The operator stated that the retention of mineral rights as airport property would represent a windfall to the airport at the sponsor's expense; that the Proposed Policy is contrary to congressional intent and that it would take, without compensation, valuable property rights from the sponsor. The operator also cited a prior decision where FAA concluded the production of natural gas at Erie, Pennsylvania, does not serve either the airport or any air transportation purpose. The royalties generated by such production were determined to be outside the scope of the revenue-use requirement.

Final Policy: The Final Policy retains the proposed definition of airport revenue to include the sale of sponsor-owned mineral, natural, agricultural products or water to be taken from the airport. On further review of the Erie

interpretation in this proceeding, the FAA no longer considers the analogy drawn in that interpretation—between mineral extraction and operation of a convention center or water treatment plant—to be appropriate. Rather, mineral and water rights represent a part of the airport property and its value. Just as proceeds from the sale or lease of airport property constitute airport revenue, proceeds from the sale or lease of a partial interest in the property—i.e. water or mineral rights—should also be considered airport revenue. The FAA will not require an airport owner or operator to reimburse the airport for past mineral royalty payments used for nonairport purposes based on the Erie interpretation. However, all airport owners and operators will be required to treat these payments as airport revenue prospectively, starting on the publication date of the Final Policy.

With respect to agricultural products, the FAA has always treated lease revenue from agricultural use of airport property as airport revenue, even if that revenue is calculated as a portion of the revenue generated by the crops grown on the airport property. The definition in the Final Policy will assure that the airport gets the full benefit of agricultural leases of airport property, regardless of the form of compensation it receives for agricultural use of airport property.

The FAA does not consider this interpretation to create a taking of airport owner or operator property. As discussed in other contexts, the limitation on the use of airport revenue was voluntarily undertaken by the airport operator upon receiving AIP grants. In addition, the revenues generated by these activities will still flow to the sponsor for its use for a legitimate local governmental activity, the operation and development of its airport.

d. Other Issues

The Final Policy includes a discussion of the requirement of 49 U.S.C. § 40116(d)(2)(A). This provision requires that taxes, fees or charges first taking effect after August 23, 1994, assessed by a governmental body exclusively upon businesses at a commercial service airport or upon businesses operating as a permittee of the airport be used for aeronautical, as well as airport purposes. This addition is included, at the suggestion of a commenter, to comply with the statutory provision, which was enacted as section 112(d) of the 1994 FAA Authorization Act.

B. Airport Revenue

1. All fees, charges, rents, or other payments received by or accruing to the sponsor for any one of the following reasons are considered to be airport revenue:

a. Revenue from air carriers, tenants, lessees, purchasers of airport properties, airport permittees making use of airport property and services, and other parties. Airport revenue includes all revenue received by the sponsor for the activities of others or the transfer of rights to others relating to the airport, including revenue received:

i. For the right to conduct an activity on the airport or to use or occupy airport property;

ii. For the sale, transfer, or disposition of airport real property (as specified in the applicability section of this policy statement) not acquired with Federal assistance or personal airport property not acquired with Federal assistance, or any interest in that property, including transfer through a condemnation proceeding;

iii. For the sale of (or sale or lease of rights in) sponsor-owned mineral, natural, or agricultural products or water to be taken from the airport; or

iv. For the right to conduct an activity on, or for the use or disposition of, real or personal property or any interest therein owned or controlled by the sponsor and used for an airport-related purpose but not located on the airport (e.g., a downtown duty-free shop).

b. Revenue from sponsor activities on the airport. Airport revenue generally includes all revenue received by the sponsor for activities conducted by the sponsor itself as airport owner and operator, including revenue received:

i. From any activity conducted by the sponsor on airport property acquired with Federal assistance;

ii. From any aeronautical activity conducted by the sponsor which is directly connected to a sponsor's ownership of an airport subject to 49 U.S.C. §§ 47107(b) or 47133; or

iii. From any nonaeronautical activity conducted by the sponsor on airport property not acquired with Federal assistance, but only to the extent of the fair rental value of the airport property. The fair rental value will be based on the fair market value.

2. State or local taxes on aviation fuel (except taxes in effect on December 30, 1987) are considered to be airport revenue subject to the revenue-use requirement. However, revenues from state taxes on aviation fuel may be used to support state aviation programs or for noise mitigation purposes, on or off the airport.

3. While not considered to be airport revenue, the proceeds from the sale of land donated by the United States or acquired with Federal grants must be used in accordance with the agreement between the FAA and the sponsor. Where such an agreement gives the FAA discretion, FAA may consider this policy as a relevant factor in specifying the permissible use or uses of the proceeds.

C. Unlawful Revenue Diversion

Unlawful revenue diversion is the use of airport revenue for purposes other than the capital or operating costs of the airport, the local airport system, or other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property, when the use is not "grandfathered" under 49 U.S.C. § 47107(b)(2). When a use would be diversion of revenue but is grandfathered, the use is considered lawful revenue diversion. See Section VI, Prohibited Uses of Airport Revenue.

D. Airport Sponsor

The airport sponsor is the owner or operator of the airport that accepts Federal assistance and executes grant agreements or other documents required for the receipt of Federal assistance.

Section III—Applicability of the Policy**A. Policy and Procedures on the Use of Airport Revenue and State or Local Taxes on Aviation Fuel**

1. With respect to the use of airport revenue, the policies and procedures in the Policy Statement are applicable to all public agencies that have received a grant for airport development since September 3, 1982, under the Airport and Airway Improvement Act of 1982 (AAIA), as amended, recodified without substantive change by Public Law 103-272 (July 5, 1994) at 49 U.S.C. 47101, et seq., and which had grant obligations regarding the use of airport revenue in effect on October 1, 1996 (the effective date of the FAA Authorization Act of 1996). Grants issued under that statutory authority are commonly referred to as Airport Improvement Program (AIP) grants. The Policy Statement applies to revenue uses at such airports even if the sponsor has not received an AIP grant since October 1, 1996.

2. With respect to the use of state and local taxes on aviation fuel, this Policy Statement is applicable to all public agencies that have received an AIP development grant since December 30, 1987, and which had grant obligations regarding the use of state and local taxes

on aviation fuel in effect of October 1, 1996.

3. Pursuant to 49 U.S.C. § 47133, this Policy Statement applies to any airport for which Federal assistance has been received after October 1, 1996, whether or not the airport owner is subject to the airport revenue-use grant assurance, and applies to any airport for which the airport revenue-use grant obligation is in effect on or after October 1, 1996. Section 47133 does not apply to an airport that has received Federal assistance prior to October 1, 1996, and does not have AIP airport development grant assurances in effect on that date.

4. Requirements regarding the use of airport revenue applicable to a particular airport or airport operator on or after October 1, 1996, as a result of the provisions of 49 U.S.C. § 47133, do not expire.

5. The FAA will not reconsider agency determinations and adjudications dated prior to the date of this Policy Statement, based on the issuance of this Policy Statement.

B. Policies and Procedures on the Requirement for a Self-Sustaining Airport Rate Structure

1. These policies and procedures apply to the operators of publicly owned airports that have received an AIP development grant and that have grant obligations in effect on or after the effective date of this policy.

2. Grant assurance obligations regarding maintenance of a self-sustaining airport rate structure in effect on or after the effective date of this policy apply until the end of the useful life of each airport development project or 20 years, whichever is less, except obligations under a grant for land acquisition, which do not expire.

C. Application of the Policy to Airport Privatization

1. The Airport Privatization Pilot Program, codified at 49 U.S.C. § 47134, provides for the sale or lease of general aviation airports and the lease of air carrier airports. Under the program, the FAA is authorized to exempt up to five airports from Federal statutory and regulatory requirements governing the use of airport revenue. The FAA can exempt an airport sponsor from its obligations to repay Federal grants, in the event of a sale, to return property acquired with Federal assistance and to use the proceeds of the sale or lease exclusively for airport purposes. The exemptions are subject to a number of conditions.

2. Except as specifically provided by the terms of an exemption granted under the Airport Privatization Pilot

Attachment # 10

**EDWARDS AQUIFER AUTHORITY
WATER RIGHTS FILING
INSTRUCTIONS FOR COUNTY CLERKS**

Please file this sheet and the attached Edwards Aquifer Authority, State of Texas "Initial Regular Permit (IRP)" in the Official Public Records using "Edwards Water Rights" as the document type.

1. **DATE OF EXECUTION:** SEP 15 2008
2. **DOCUMENT TYPE:** Edwards Water Rights
3. **GRANTOR:** Edwards Aquifer Authority
4. **GRANTEE(S) (Permittee):** City of Castroville
5. **LEGAL PLACE OF USE:**

Legal Description Reference	County	County Clerk Document No.	Volume/ Book	Page(s)
Deed Without Warranty	Medina	6107	147	264 - 270

Survey / Abstract No	NCB	CB	Lot	Subdivision
97 et al				

6. **INITIAL REGULAR PERMIT TO WITHDRAW GROUNDWATER FROM THE EDWARDS AQUIFER NO. P101-598 (ME00599)**
7. **ANNUAL WITHDRAWAL AMOUNT: 472.000 Acre-Feet / Annum**
8. **REASON FOR REISSUANCE:** The Passage of Senate Bill No. 3 by The Texas Legislation in 2007 increased the pumping cap from 450,000 acre-feet to 572,000 acre-feet per annum.
9. **AFTER RECORDING RETURN TO:**

*Edwards Aquifer Authority
1615 N. Saint Mary's St.
San Antonio, TX 78215*

EDWARDS AQUIFER AUTHORITY
STATE OF TEXAS
INITIAL REGULAR PERMIT No. PI01-598 (ME00599)

THIS CERTIFIES THAT: City of Castroville
1209 Fiorella Street
Castroville, TX 78009

has been issued this Initial Regular Permit by the Board of Directors of the Edwards Aquifer Authority to withdraw groundwater from the Edwards Aquifer. This Permit is issued without a term. All prior permits or other approvals are superceded by this Permit.

Permit Derivation: ME00599 Purpose: Irrigation Pool: San Antonio

Authorized Annual Groundwater Withdrawal Amount: 472,000 acre-feet per calendar year of which 236,000 acre-feet are unrestricted irrigation groundwater and 236,000 acre-feet are base irrigation groundwater.

Place of Use: The tract(s) of land more fully described in Deed Without Warranty dated 7/26/1949 as recorded with Clerk as Document # 6107, Volume 147, Pages 264 - 270, Official Public Records, Medina County, Texas

Withdrawal Point(s); Metering; Maximum Withdrawal Rate:

EAA WELL NO.	LOCATION	MEASURING METHOD	WITHDRAWAL RATE
W101-378 (ME00599-001)	29-21,00-57.02 / 98-51,00-8.90	Meter	2700 gpm

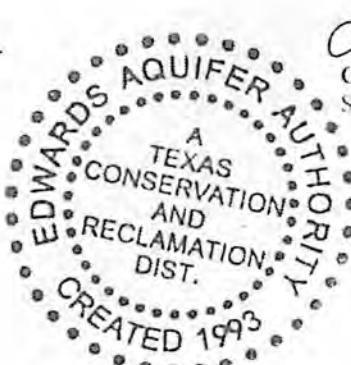
Conditions: Edwards Aquifer groundwater may be withdrawn only under the terms and conditions of this Permit, the Edwards Aquifer Authority Act (Act of May 30, 1993, 73rd Leg., R.S., ch. 626, 1993 Tex. Gen. Laws 2350), other applicable general law, and Authority rules, as these may be amended from time to time. This permit is subject to the continuing jurisdiction and supervision of the Authority, and may be amended from time to time consistent with applicable law.

THIS INITIAL REGULAR PERMIT IS ISSUED, EXECUTED, AND EFFECTIVE THIS 15th day of
Sept, 2008

ATTEST:

Douglas R Miller
DOUGLAS R. MILLER
Chairman, Board of Directors

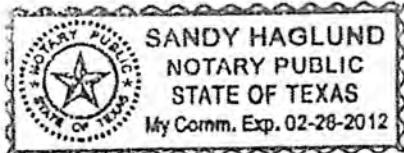
Carol G. Patterson
CAROL G. PATTERSON
Secretary, Board of Directors



ACKNOWLEDGMENT

STATE OF TEXAS)
COUNTY OF BEXAR)

ON BEHALF OF THE AUTHORITY, THIS PERMIT WAS ACKNOWLEDGED before me on
Sept 15, 2008 by DOUGLAS R. MILLER, Chairman, and CAROL G. PATTERSON, Secretary, Board of
Directors, Edwards Aquifer Authority, a conservation and reclamation district created pursuant to Art. XVI, Sec.59,
Texas Constitution.



Sandy Haglund

Notary Public in and for the State of Texas

AFTER RECORDING RETURN TO:

Docket Clerk
Edwards Aquifer Authority
1615 N. St. Mary's St.
San Antonio, Texas 78215

Any provision here which restricts the sale,
rental or use of the described real property
because of color or race is invalid and
unenforceable under federal law.
THE STATE OF TEXAS
COUNTY OF MEDINA
hereby certify that the Instrument FILED in
number sequence and stamped hereon by
me and was duly RECORDED in the Official
Records of Medina County Texas on 09/24/2008
COUNTY CLERK
MEDINA COUNTY, TEXAS



Linda A. Jensen, CLerk

Attachment # 11

FARMLAND LEASE

STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS

COUNTY OF MEDINA

§

This Farmland Lease ("Lease"), made this 27th day of October, 2015 by and between the CITY OF CASTROVILLE, TEXAS, a municipal corporation, 1209 Fiorella Street, Castroville, Medina County, TX 78009 ("Lessor") and Carpe Diem Farms, LLC, P.O. Box 1568, Castroville, Texas, 78009 ("Lessee"), witnesseth:

In consideration of the mutual covenants and agreements herein set forth, and other good and valuable consideration, Lessor does hereby lease to Lessee, and Lessee does hereby lease from Lessor, approximately 236 acres of irrigated land with 236 acre feet of water, more or less, and the approximately 107+- acres of dry land lying north and east of the runway at the Castroville Municipal Airport ("Airport"), situated in Medina County, Texas, as described in Exhibit "A," Pages 1 and 2, attached hereto and incorporated herein for all purposes ("Land").

I. Use of Land

The Land shall be used for land farming and for no other purpose. Lessee shall grow thereon low growing crops and no crops shall be grown within two hundred (200) feet adjacent to the runway, and twenty-five (25) feet adjacent to the taxiway and apron edges. These areas next to the taxiway and apron edges are to be mowed and maintained by the Airport staff.

The following areas shall not be used to grow any crops and are specifically excluded from the Land leased under this Lease.

1. County Road on the North end of the runway;
2. Road to the City metering stations; and
3. Shallow well at the Airport.

The space above the Land shall be held for free and unobstructed air passage of aircraft in, through and across air space above said Land. Lessee accepts this Lease subject to such retained interest in and to the Land.

Lessee's activities shall not interfere with Airport activities.

Anything to the contrary herein contained notwithstanding, this Lease and Lessee's rights hereunder are subject to the provisions contained in the deed from the United States of America to the City of Castroville, recorded in Volume 147, Pages 264-270, Medina County Deed Records, which deed and record thereof is attached hereto as Exhibit "B," and incorporated herein for all purposes ("Deed").

II. Term

This Lease is for a term of twenty-four (24) months, beginning 27th day of October, 2015. This Lease may be renewed on an annual basis, under the same terms and conditions, for up to three (3) additional one (1) year terms ending October 27, 2020.

III. Rent

The consideration for this Lease is the payment by Lessee of the following:

1. One Hundred and Eighty-One Dollars (\$181.00) per irrigated acre payable as follows:

\$21,358.00, (50%) immediately upon execution of this Lease by Lessee;

\$21,358.00 (50%) on February 27, 20116.

\$21,358.00 (50%) on October 27, 2016.

\$21,358.00 (50%) on February 27, 2017.

2. Fifty-One Dollars (\$51.00) per acre for the dry land payable as follows:

\$2,728.50, (50%) immediately upon execution of this Lease by Lessee;

\$2,728.00, (50%) on February 27, 2016.

\$2,728.50, (50%) on October 27, 2016.

\$2,728.00, (50%) on February 27, 2017.

In the event the water for the irrigated acreage is reduced, the lease price per acre will be reduced by an equal percentage. In the event the Edwards Aquifer Authority prohibits any pumping of water for irrigation, the price per acre for the irrigated land will be reduced to Fifty-One Dollars (\$51.00) per acre. If the water is reduced or the pumping of water prohibited after the initial payment, the amount due on February 27, 2016 will be reduced accordingly and a refund issued if necessary.

If the Parties decide to convert this Lease to a multi-year Lease, the base rent will be as follows: One Hundred and Eighty-One Dollars (\$181.00) per irrigated acre and Fifty-One Dollars (\$51.00) for dry land for up to three (3) years. All other provisions pertaining to reduction or prohibition of water will remain applicable to the new base rent.

If Lessee fails to pay the amounts stated above, then Lessor may declare the Lease forfeited at its discretion.

IV. Recapture

The Deed gives the United States Government rights with respect to said Land. In the event the United States Government, or any of its agencies, exercises its rights to recapture or recover the Land, or any portion thereof, during the term of this Lease, and Lessee is not in default hereunder, Lessor agrees to refund to Lessee the pro-rata share of the unearned rent to cover that portion of the year in which the Land, or that portion of the Land, is recaptured.

The Lessor reserves the right to recapture all or a portion of the Land at any time during the term hereof. The Lessor also reserves the right to exempt up to thirteen (13) acres of property for City Capital Improvement Project(s). If either the terms of recapture or the need for the exemption is not known at the time of the term for this Lease or any subsequent option term, Lessor agrees to give Lessee a minimum of thirty (30) days advance written notice should recapture or exemption be desired by the Lessor. In the event of recapture or exemption, and provided Lessee is not in default hereunder, Lessor agrees to refund to Lessee the pro-rata share of the unearned rent for the remaining portion for the year for which the annual rent has been paid. If possible, Lessor agrees to permit Lessee's growing crops to mature and for Lessee to harvest said crops growing at the time of notice of recapture or exemption to the fullest extent feasible. Should recapture or exemption and termination of this Lease occur under conditions which prohibit the allowance of time necessary to mature and harvest crops, then in addition to a refund of unearned rent, Lessee shall be reimbursed for actual expenses incurred in the production of the crops on the recaptured Land. Said reimbursement shall cover costs incurred for ground preparation, including fuel, seed, fertilizer, equipment rental and/or depreciation and other expenses as reflected in Lessee's books and records. Reimbursement for expenses shall be limited to the recapture acreage only and shall be the only compensation or damages due Lessee by virtue of termination and recapture by Lessor.

V. Subordination

This Lease shall be subordinate to the provisions of any existing or future agreements between Lessor and the United States Government or any federal or state agency relative to the operations or maintenance of the airport. The Lease is further subject to the Minimum Standards for Fixed Base Operators and Airport Lessees at the Castroville Municipal Airport ("Standards") now in effect and any modifications adopted by the City Council. In the event of a conflict between the terms and provisions of the Standards and these provisions, the Standards shall govern.

VI. Insurance

Lessee shall, at all times, have insurance in the amounts listed on Insurance Addendum to Lease, Exhibit "C," attached hereto and incorporated herein for all purposes.

VII. Clauses and Covenants

A. Lessee agrees to—

1. Lease the Land for the entire Term beginning on the Commencement Date and ending on the Termination Date.
2. Accept the Land in its present condition "AS IS," the Land being currently suitable for the Permitted Use.
3. Obey all laws, ordinances, orders, and rules and regulations applicable to the use, condition, and occupancy of the Land, including the rules and regulations of the United States Department of Agriculture and the Texas Agriculture Commissioner. Follow all best practice techniques with regard to crop rotation to include but not limited to the following:
 - a. Cotton shall not be planted without prior written consent of Lessor.
 - b. At the Lessor's discretion all crops shall be turned over (disked) within seven (7) days after harvest to reduce attracting wildlife.
4. Pay the Base Rent when it is due to Lessor at Lessor's Address.
5. Pay a late charge of five (5%) percent of any Rent not received by Lessor by the tenth day after it is due.
6. Pay for all labor, fuel, and utility services, including but not limited to the electric bill for the well pump, used by Lessee.
7. Pay all taxes on the crops raised on and Lessee's property located on the Land.
8. Allow Lessor to enter the Land to inspect the Land and show the Land to prospective purchasers or Lessees.
9. Repair, replace, and/or maintain any part of the Land used by Lessee.
10. Repair any damage to the Land or Excluded Improvements caused by Lessee.

11. Repair, replace and/or maintain the irrigation/water lines, water pumps, and any other portion of the irrigation/water system that Lessee uses to irrigate the Land.

12. Maintain the insurance coverages described in the attached Insurance Addendum.

13. INDEMNIFY, DEFEND, AND HOLD LESSOR HARMLESS FROM ANY INJURY (AND ANY RESULTING OR RELATED CLAIM, ACTION, LOSS, LIABILITY, OR REASONABLE EXPENSE, INCLUDING ATTORNEY'S FEES AND OTHER FEES AND COURT AND OTHER COSTS) ARISING OUT OF LESSEE'S USE OF THE LAND. **THE INDEMNITY CONTAINED IN THIS PARAGRAPH (a) IS INDEPENDENT OF LESSEE'S INSURANCE, (b) WILL NOT BE LIMITED BY COMPARATIVE NEGLIGENCE STATUTES OR DAMAGES PAID UNDER THE WORKERS' COMPENSATION ACT OR SIMILAR EMPLOYEE BENEFIT ACTS, (c) WILL SURVIVE THE END OF THE TERM, AND (d) WILL APPLY EVEN IF AN INJURY IS CAUSED IN WHOLE OR IN PART BY THE ORDINARY NEGLIGENCE OR STRICT LIABILITY OF LESSOR BUT WILL NOT APPLY TO THE EXTENT AN INJURY IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LESSOR.**

14. Deliver to Lessor a financing statement perfecting the security interest.

15. Vacate the Land on the last day of the Term.

16. Pay all costs of planting, raising, and harvesting the crops.

17. Cultivate the Land in a timely, thorough, and farmerlike manner, employing the best methods of farming customarily practiced on like crops in the area.

18. Pay all costs to return the Land to a cleared, fallow state.

19. Maintain adequate records on all matters related to farming the Land and provide Lessor with a copy.

20. Keep all gates on the Land closed and locked.

21. Enter and exit the Land only at those places designated by Lessor.

B. Water Right and Irrigation Water

A. Lessee hereby acknowledge that Lessor is the owner and has the exclusive right to use all property rights to and for the ground water which relate to the Premises, including but not limited to, the right to withdraw and /or beneficially use, sever, lease, sell or otherwise transfer the Edwards Aquifer water (or any other water) permitted; all real and personal property rights, appurtenances, permits, authorities, licenses, consents and contracts, if any, pertaining to all such property rights; rights under Permit No. (P101598) all interim authorization rights, withdrawal permits or other permits; and all modifications, amendments, renewals, extensions or successor or substitute permits

relating thereto including, without limitation and permit rights from the Edwards Aquifer Authority ("EAA"), or any water conservation or similar district or entity, now existing or hereafter created ("Water Conservation District") (collectively, the "Water Rights").

B. Provided that Lessee is not in default under the terms of this Lease, Lessor hereby grants to Lessee the exclusive right during the Term (as defined below), to the extent available time-to-time under the rules and regulations of the EAA, to beneficially use up to 236 acre feet per annum of Edwards Aquifer water out of Lessor's EAA Permit No. (P101598) relating to that portion of the Premises which is to be irrigated ("Irrigated Acreage"), for the purpose of irrigating the crops to be grown on the Premises by Lessee ("Irrigation Water") as the terms are defined by the EAA Act or Rules. Notwithstanding anything contained in this Lease to the contrary, the Irrigation Water shall only be used by Lessee's and its agents on the Irrigated Acreage in connection with the production of crops grown on the Premises and Lessee shall not use or export such water to any other lands other than such Irrigated Acreage, or use such water for any purpose not authorized by this lease without Lessor's prior written consent. Lessee shall be responsible for timely submitting complete and accurate reports required by the EAA, including consumption and allocation reports, and shall provide to Lessor a copy of all such reports submitted prior to submission, which obligation shall survive the expiration of the Term or the earlier termination of this Lease. Lessee shall also be responsible for timely paying all fees, penalties and fines by the EAA or any Water Conservation District that are associated with or due to Lessee's withdrawal and use of the Irrigation Water, including all late fees and penalties for over-pumping or otherwise failing to comply with applicable laws governing the use or withdrawal of the water. If Lessee fails to timely pay any amount required by any governmental body, including the EAA or any Water Conservation District, by virtue of Lessee's use or withdrawal of the irrigation water, Lessor may in its discretion pay such amount and Lessor shall repay Lessor upon demand the amount so expended together with interest at the maximum rate allowed by law and any and all costs and expenses, including attorneys' fees, incurred by Lessor in connection therewith, which obligation shall survive the expiration of the Term or earlier termination. Lessor shall have the continuing right to measure the consumption of Irrigation Water by the measurements from flow meters for the purpose of monitoring compliance with Lessee's obligations hereunder.

C. All other terms of this Lease notwithstanding, in the event the amount of the Water Lessor is permitted or otherwise authorized for withdrawal from the Edwards Aquifer is at any time reduced on a temporary or permanent basis by any law, statute, code, rule, ordinance, regulation or action promulgated by Federal, State, County, City, or local authorities (collectively, "Laws"), including, without limitation, the EAA or any Water Conservation District, the right of Lessee to use the Irrigation Water shall be reduced by an amount designated by Lessor; provided, that if such reduction causes the Premises to be unusable by Lessee for the purposes permitted under this Lease, Lessee shall have the right, as its sole and exclusive remedy, to terminate this Lease by written notice to Lessor within 30 days following Lessor's notice of the reduction in the Irrigation Water.

D. Lessee acknowledges that the Irrigation Water rights are subject to all current and future Laws and rules and regulations, inclusive of rules relating to "Critical Period Management" promulgated by Federal, State or local authorities, including, without limitation, the EAA or any Water Conservation District. Lessee agrees to cooperate with Lessor in connection with any proceedings or actions (i) relating to the Water Rights, including but not limited to, actions contesting the validity or amount of fees assessed to or levied upon the Water Rights, and/or (ii) protecting, defending, and/or preserving the rights to withdraw water from the Edwards Aquifer. Lessee hereby agrees to abide by any Laws and action of such Federal, State or local authorities and provide to Lessor or the EAA (or any Water Conservation District) any records in Lessee's possession related thereto, and to modify this Lease in any manner which is consistent with the application of such actions.

E. All fees, assessments, fines, penalties, charges, taxes, tariffs, and other costs imposed by the EAA, any Water Conservation District, or any other governmental authority exercising jurisdiction over water used by Lessee on the Premises, shall be paid timely by Lessee, which obligation shall survive the expiration of the Term or earlier termination of this Lease. Lessee shall maintain adequate records of water and/or fuel use related to the Premises for such payment purposes, shall provide Lessor with a copy of any reports to, notices from or correspondence with the EAA or any Water Conservation District, and make any such records available to the Lessor upon request.

F. Lessor shall not be in default under any provision of this Lease or liable to Lessee in any way if Lessee is denied the use of all or part of the Irrigation Water by reason of:

- (i) Any Laws, restrictions, regulations, governmental action or other acts, including, without limitation, acts of the EAA, or any Water Conservation District;
- (ii) The acts of others in using water that reduces the amount of water available to Lessee, whether by overproduction, regulation or otherwise; or
- (iii) Any water well ceases production for any reason whatsoever, and in every such event, Lessee hereby waives any claims against Lessor therefore:

Lessee acknowledges that Landlord has no duty or obligation to provide water to meet Tenant's needs and uses. Lessee further acknowledges that Lessor makes no representation or guarantee as to the suitability of the Irrigation Water for Lessee's purposes, either in terms of quantity or quality.

C. Lessee agrees not to—

1. Use the Land for any purpose other than the Permitted Use.
2. Create or allow a nuisance or permit any waste of the Land.
3. Change Lessor's lock system.
4. Alter the Land, including clearing new roads, moving or erecting any fences, or locating on the Land any type of manufactured housing or mobile home.
5. Assign this Lease or sublease any portion of the Land without Lessor's written consent.
6. Make any new or change any existing agreement with any governmental entity.
7. Hunt or fish on the Land or allow anyone else to do so.
8. Litter or leave trash or debris on the Land.
9. Allow a lien to be placed on the Land.
10. Allow a lien to be placed on the crops raised on or harvested from the Land.

D. Lessor agrees to—

1. Lease to Lessee the Land for the entire Term beginning on the Commencement Date and ending on the Termination Date.

E. Lessor agrees not to—

1. Allow any use of the Land inconsistent with the Permitted Use as long as Lessee is not in default.
2. Unreasonably withhold consent to a proposed assignment or sublease.

F. Lessor and Lessee agree to the following:

1. *Alterations.* Any physical additions or improvements to the Land made by Lessee will become the property of Lessor. Lessor may require that Lessee, at termination of this Lease and at Lessee's expense, remove any physical additions and

improvements, repair any alterations, and restore the Land to the condition existing at the Commencement Date, normal wear excepted.

2. *Sublease or Assignment.* Lessee shall have the right to sub-let the Land only with the prior written consent of the City Administrator of the Lessor. Should Lessee sublease the Land, Sub-Lessee shall agree to abide by the same rules.

3. *Right to Enter.* Lessor retains the right to enter on and use and/or permit third parties to enter on and use the Land for any lawful purpose that does not materially interfere with Lessee's farming rights, or to ensure that Lessee is occupying the Land in accordance with the terms and provisions hereof, and without limiting the generality of the foregoing, for the purpose of keeping fence lines clean, should it become necessary.

4. *Abatement.* Lessee's covenant to pay Rent and Lessor's covenants are independent. Except as otherwise provided, Lessee will not be entitled to abate Rent for any reason.

5. *Release of Claims/Subrogation.* LESSEE RELEASES LESSOR FROM ALL CLAIMS OR LIABILITIES FOR ANY INJURY TO LESSEE OR TO LESSEE'S PROPERTY LOCATED ON THE LAND. THE RELEASE IN THIS PARAGRAPH WILL APPLY EVEN IF THE DAMAGE OR LOSS IS CAUSED IN WHOLE OR IN PART BY THE ORDINARY NEGLIGENCE OR STRICT LIABILITY OF LESSOR BUT WILL NOT APPLY TO THE EXTENT THE DAMAGE OR LOSS IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LESSOR.

6. *Condemnation/Substantial or Partial Taking*

- a. If the Land cannot be used for the Permitted Use because of condemnation or purchase in lieu of condemnation, this Lease will terminate.
- b. If there is a condemnation or purchase in lieu of condemnation and this Lease is not terminated, the Rent payable during the unexpired portion of the Term will be adjusted as may be fair and reasonable.
- c. Lessee will have no claim to the condemnation award or proceeds in lieu of condemnation.

7. *Lessor's Lien.* Lessee grants to Lessor a security interest in the collateral to secure payment and performance by Lessee of all obligations and payments due from Lessee under this Lease. The collateral will include all of Lessee's crops and personal property located or to be located on the Land, and all products, proceeds, increase, governmental payments, insurance proceeds, documents of title, and warehouse receipts relating to such property.

This Lease is a security agreement under both article 9 of the Texas Business and Commerce Code and the federal Food Security Act of 1985. Lessee agrees to furnish to

Lessor a list of the names and addresses of any buyer, commission merchant, or selling agent to or through whom Lessee may sell the collateral. Lessee agrees to notify Lessor of the identity of any buyer, commission merchant, selling agent, or warehouse to or with whom Lessee intends to sell or store the collateral within seven (7) days before any sale or storage of the collateral.

8. *Default by Lessor/Events.* A default by Lessor is the failure to comply with any provision of this Lease that is not cured within thirty (30) days after written notice.

9. *Default by Lessor/Lessee's Remedies.* Lessee's remedies for Lessor's default are to sue for damages and terminate this Lease.

10. *Default by Lessee/Events.* Defaults by Lessee are (a) failing to pay timely Rent; (b) abandoning or vacating a substantial portion of the Land; and (c) failing to comply within ten (10) days after written notice with any provision of this Lease other than the defaults set forth in (a) and (b) above.

11. *Default by Lessee/Lessor's Remedies.* Lessor's remedies for Lessee's default are to (a) enter and take possession of the Land, after which Lessor may relet the Land on behalf of Lessee and receive the Rent directly by reason of the reletting, and Lessee agrees to reimburse Lessor for any expenditures made in order to relet; (b) enter the Land and perform Lessee's obligations; and (c) terminate this Lease by written notice and sue for damages. Lessor may enter and take possession of the Land by self-help, by picking or changing locks if necessary, and may lock out Lessee or any other person who may be farming the Land, until the default is cured, without being liable for damages.

12. *Default/Waiver/Mitigation.* It is not a waiver of default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this Lease does not preclude pursuit of other remedies in this Lease or provided by law. Lessor and Lessee have a duty to mitigate damages.

13. *Limitation of Warranties.* THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS LEASE.

14. *Notices.* Any notice required or permitted under this Lease must be in writing. Any notice required by this Lease will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Lease. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

15. *Holdover.* If Lessee does not vacate the Land following termination of this Lease, Lessee will become a Lessee at will and must vacate the Land on receipt of notice from Lessor. No holding over by Lessee, whether with or without the consent of Lessor, will extend the Term.

16. *Alternative Dispute Resolution.* Lessor and Lessee agree to mediate in good faith before filing a suit for damages.

17. *Force Majeure.* Neither Lessor nor Lessee shall be required to perform any term, condition, or covenant of this Lease so long as performance is delayed or prevented by *force majeure*, which shall mean acts of God, drought, floods, material, and labor restrictions by any governmental authority, and any other cause not reasonably within the control of either party, and which by the exercise of due diligence, Lessor or Lessee is unable, wholly or in part, to prevent or overcome.

18. *Attorney's Fees.* If either party retains an attorney to enforce this Lease, the party prevailing in litigation is entitled to recover reasonable attorney's fees and other fees and court and other costs.

19. *Venue.* Exclusive venue is in Medina County, Texas.

20. *Entire Agreement.* This Lease, together with the attached exhibits and riders, is the entire agreement of the parties, and there are no oral representations, warranties, agreements, or promises pertaining to this Lease or to any expressly mentioned exhibits and riders not incorporated in writing in this Lease.

21. *Amendment of Lease.* This Lease may be amended only by an instrument in writing signed by Lessor and Lessee.

LESSOR:

CITY OF CASTROVILLE, TEXAS

By: Mack B. Reiter

City Administrator

ATTEST:

Oliver J. Moore
City Secretary

LESSEE:

Carpe Diem Farms, LLC
P.O. Box 1568
Castroville, Texas 78009

By:

Exhibit "A" – Legal Description

Exhibit "B" – Deed

Exhibit "C" - Insurance

EXHIBIT "A"

**Legal Description
(Two Pages)**

EXHIBIT "B"

Deed from the United States of America to the City of Castroville

EXHIBIT "C"

Insurance Addendum to Lease

Lease
Lease

Date:

Lessor: City of Castroville, Medina County, Texas, a municipal corporation

Lessee: Carpe Diem Farms, LLC

This insurance addendum is part of the Lease.

Lessee agrees to—

1. Maintain the liability insurance policies required below (mark applicable boxes) during the Term and any period before or after the Term when Lessor is present on the Land:

Type of Insurance	Minimum Policy Limit
<input type="checkbox"/> Commercial general liability (occurrence basis) endorsed to cover farm operations	Per occurrence: \$ 500,000.00 Aggregate: \$ 1,000,000.00

Or

Farm owner's on a renter's form such as AAIS Form No. FO-4

Or

Farm liability policy

Workers' compensation \$500,000

Employer's liability \$ _____

Business automobile liability \$ _____

Umbrella/excess liability (occurrence basis) \$ _____

2. Comply with the following additional insurance requirements:
 - a. All liability policies must be endorsed to name Lessor as an "additional insured" on a form that does not exclude coverage for the sole or contributory ordinary negligence of Lessor and must not be endorsed to exclude the sole negligence of Lessor from the definition of "insured contract."
 - b. Certificates of insurance and copies of any additional insured and waiver of subrogation endorsements must be delivered by Lessee to Lessor before entering the Land and thereafter at least ten days before the expiration of the policies.

Attachment # 12

B. Consider and take appropriate action on nominating a candidate to be considered for a place on the ballot for a position on the Appraisal District Board of Directors for Medina County – City Secretary Debra Howe.

City Secretary Debra Howe said two years previously the council had submitted Tim Hardt to be placed on the county ballot as a nominee for Castroville. During the voting process Mr. Hardt had requested to withdraw and recommended to council to submit their votes for the Medina Valley School District's choice – Michael Groff. Ms. Howe said she had a confirmation that Mr. Groff was going to resubmit his application for consideration and said if the council wished to support him again they could wait on the official ballot. Council all agreed to wait until the official ballot came out to vote. **No action was taken.**

C. Consider and take appropriate action on Airport Water Rights Lease Agreement for a ten (10) year period commencing January 2014 and continuing through December 31, 2023 for a lump sum payment of \$320,960.00 – Director of Administrative Services Marie Gelles.

Director of Administrative Services Marie Gelles said the current water rights lease agreement expired on December 31, 2013. The information provided for council showed the lease amount per acre foot was \$136.00. Earlier in the meeting Mr. Alexander stated this amount was too high. Mayor Lee said he had spoken with EAA, SARA (agent for purchasing water for the Habitat Conservation Plan), and a one of the private entities that leased small quantities of water and found that the \$136.00 per acre foot the staff was recommending was a valid number. Mayor Lee said after his research, SAWs and SARA set the lease level as they are the only large volume leasing entities. Mayor Lee said as discussed in the past the water leased from the airport had helped the city in times of drought restrictions. Mayor Lee said with the additional water the city had more flexibility during pumping reductions are enforced. There was discussion on who owned the water, the city or the airport. Mr. Hofmann said he had read the language and the airport owns the water and the city leases it. They could not give away anything of value and this was stated in the old airport deed language from the government. During the citizens comments there was disagreements on how the lease agreement funded and paying for the lease annually instead of in one lumps sum a suggestion. Director of Administrative Services Marie Gelles continued and spoke on both C. airport water leasing and D. funding for the lease since they were related. Councilmember Tschirhart had concerns on the water pricing and also thought \$136.00 per acre foot was high. He thought it should be less due to this being a 10 year lease but in line if it was on an annual basis. He had spoken with past council members on the water acquisition fund uses and his understanding was to use the fund for the purchase of permanent water rights. Mr. Tschirhart understood that the leased water at the airport was a buffer the city had. Mr. Tschirhart felt the airport owned the water not the city and should be purchase from the utility fund (cost of goods sold). Councilmember Cherry agreed and felt the \$124,000.00 shown in the Water Acquisition Fund should be used to purchase water rights and loan the \$320,000 from the Utility Fund to the Airport. He felt the rate payers should be making a profit. Mr. Cherry said if the amount they had in the Acquisition Fund could purchase 25 acre feet then that would stretch the buffer.

(Cont)

Mr. Cherry said the city should use the fund to secure water for future growth. Mr. Hofmann said during the subdivision ordinance there was discussion on what the formula would be for water rights required by the city for new developments to keep up with the growth. Mayor Lee said he only saw water increasing in value. **A motion was made by Mayor Pro Tem Gardner and duly seconded by Councilmember McVay to approve an Airport Water Rights Lease Agreement for a period of ten (10) years commencing January 1, 2014 and continuing through December 31, 2023 for a lump sum of \$320,960.00.**

Councilmember Tschirhart requested clarification on the agenda item. It was clarified that this agenda item was the approval of the lease not how it was being funded. That was the next agenda item. Councilmember Cherry reiterated he wanted the acquisition fund to be used for purchasing water and this would allow the city to lease out the additional water for a profit. Mr. Hofmann said the city could do that now. Mayor Lee said the way this funding had been structured was to take care of the Jet Fuel and Runway extension projects. These improvements would help attract jets which would produce more ad valorem taxes, helping the city. **A vote was taken (4 ayes: 1 nay (Cherry)) the motion carried by a majority vote.**

D. Consider and take appropriate action regarding approval of a Resolution adopting a policy on the use of the Water Acquisition Funds and authorizing a short term loan from the Water Acquisition Fund to the Utility Fund for the lease of water rights from the Castroville Municipal Airport – Director of Administrations Marie Gelles.

Mayor Lee read the resolution approving the funding for the water right lease. Councilmember Cherry asked if this loan was a low interest loan. Mr. Hofmann said it had not been presented as an interest baring loan. **A motion was made by Mayor Pro Tem Gardner and duly seconded by Councilmember McVay to approve a Resolution adopting a policy on the use of the Water Acquisition Funds and authorizing a short term loan from the Water Acquisition Fund to the Utility Fund for the lease of water rights from the Castroville Municipal Airport. A vote was taken (4 ayes: 1 nay (Cherry)) the motion carried by a majority vote.**

E. Consider and take appropriate action on cancelling November 26, 2013 and December 24, 2013 Council Meetings – City Secretary Debra Howe.

City Secretary Debra Howe said each year the council had cancelled the second meeting in November and this year the second council meeting in December fell on a designated city holiday. **A motion was made by Councilmember Tschirhart and duly seconded by Councilmember Ortiz to cancel the November 26, 2013 and the December 24, 2013 council meetings. A vote was taken (5:0 all ayes) the motion carried by all present.**

Attachment # 13

**CITY OF CASTROVILLE CITY COUNCIL
BUDGET WORKSHOP MEETING**

1209 Fiorella
City Council Chamber
August 20, 2013
Tuesday
6:00 P.M.

MINUTES

I. Call to order

The meeting was called to order at 6:04 p.m. by Mayor Robert Lee.

II. Roll Call

Present: Mayor Robert Lee
Councilmember Kyle McVay
Mayor Pro Tem Jeff Gardner
Councilmember Victor Ortiz
Councilmember Eric Cherry

Absent:
Councilmember Sammy Tschirhart

Paul Hofmann, City Administrator
Debra Howe, City Secretary
Marie Gelles, Director of Administrative Services
Kim Davis, Director of Public Services
Mike Schmidt, Public Services Operations Manager

*Councilmember Cherry arrived after the roll call at 6:10p.m.

III. REVIEW PROPOSED FY14 BUDGET

City Administrator Paul Hofmann spoke on the fiscal forecast showing the city re-leasing the airport water rights. The one time expenditure was shown as \$320,000 and would be funded from the utility fund and the water acquisition fund. Mr. Hofmann said there was concern expressed at the last budget meeting on depleting the water acquisition fund completely. After the meeting, Councilmember Cherry suggested the city do an in-house loan and payback the water acquisition fund with utility funds. A self-loan repaid at \$31,000 per year for four years with no interest. Mr. Hofmann said the payments would start in FY15. Mr. Hofmann said they would come back at a later date with repayment documentation for review. At this time it would not impact the airport fund. Mayor Lee said he had discussion with Mr. Hofmann on deciding what amount of water the city needed in the future and stop purchasing or leasing water once the goal was met. The water acquisition fund would then be dissolved. Councilmember Cherry felt the city should continue to purchase water rights when available and establish a reserve, then lease out to others for a profit. Council touched on requiring purple pipe and effluent use for landscaping to help with water conservation efforts. Mr. Hofmann said other projects that would impact the utility fund were the River Bluff Electric Distribution Replacement project. Schneider Engineering had almost completed the scope of work for the project. The request from council had been to look at phasing-in the upgrades to the area. The 90 day reserve would not be met starting in FY16 – 18. Phase I and II were estimated at two million and this would include installation of protection at the transformers, downstream protection to help solve the bounce back at the re-closures. Phase I was estimated at \$440,000.

Attachment # 14



March 9, 1993

Mr. Jerry Hidalgo, P.E.
Plan Review Team - Water Utilities Division
Texas Water Commission
Post Office Box 13087
Austin, Texas 78711-3087

Subject: Re-Classification Request
Airport Water System, I.D. #1630033
City of Castroville, Medina County, Texas

Dear Mr. Hidalgo:

Please consider this correspondence and supporting documentation as our formal request to initiate the process of re-classifying the above subject water system from a Noncommunity Water System to a Community Water System for the City of Castroville.

The Airport Water System currently is used for the irrigation of 250 acres of adjacent City Airport property that is leased for agricultural purposes, and for providing water to our Airport and a nearby Little League Complex. The airport well was constructed for the City in 1973, and approximately 99% of the well's production is used for irrigation. The remaining well production serves the City Airport and a nearby Little League Complex. Airport service consists of two (2) mobile home residential connections, one (1) commercial connection to the office of the Airport's Fixed Base Operator, and six (6) randomly spaced hose bibbs. Service to the Little League Complex consists of drinking fountains, and grass watering of five (5) ball fields.

When the airport well is being used for irrigation, the well pumps through approximately 18 feet of 10" discharge piping to a surge tank, where water then flows by gravity to the farmland being irrigated.

When the airport well is not being used for irrigation, the well pumps through approximately 14 feet of 10" line, that reduces to 140 feet of 6" line feeding a 6,500 gallon precast concrete standpipe. Water is then chlorinated, and two (2) small booster pumps pump into a pressure tank. From the pressure tank, water is supplied through approximately 2,300 feet of 6" line to a fire hydrant in the center of the Airport. Downstream of the fire hydrant, the distribution system continues with approximately 700 feet of 2" line that dead-ends at a hose bibb used to wash aircraft. Just downstream of the pressure tank, the 6" line is tapped for service to the Little League Complex.

Mr. Jerry Hidalgo, P.E.

March 9, 1993

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Currently we have three (3) wells in town that produce approximately 1,350 gallons per minute. As you will see noted on the attached Driller's Log, the approximate yield of the airport well in September 1973 was 2,700 gallons per minute.

Connecting the airport well to our distribution system has two (2) advantages. First, it can serve as a high capacity "back-up" well when any combination of our wells in town are out of service for maintenance or repair. And second, this well has the potential to greatly increase our available groundwater supply to handle future growth. Until such time as water demand from growth dictates, this well will continue to be used primarily for farmland irrigation.

Our ultimate goal is to connect the airport well to the City's water distribution system on the east end of town by installing approximately 6,000 feet of new waterline that will provide two (2) flow patterns. One pattern will supply water to town from the airport well, and the other pattern will supply water to the Airport and Little League Complex from the City's distribution system. The layout of this proposed waterline is shown on the attached U. S. Geological Survey Map.

Because adequately sized water storage facilities between the well and the distribution system do not exist, we realize that this 6,000 feet of new waterline must serve as a chlorine contact "chamber", and as such, must be sized for flow velocities that will achieve a chlorination detention time of at least twenty (20) minutes. Since this new line must serve as a chlorine contact chamber, we also realize that no service connections can be made on this line until water storage facilities are constructed between the well and the distribution system.

Existing Features:

1. The well site is graded and drains adequately.
2. The concrete sealing block is 6 feet square and sloped for drainage away from the casing.
3. A sampling cock is located on the well discharge piping.
4. An all-weather access road is within 130 feet of the wellhead.
5. The well, standpipe, booster pumps and pressure tank are all on City Airport property, exclusively controlled by the City. It is also approximately 100 feet from the Airport runway and runway protective zone.
6. The well is approximately 636 feet deep, contains 491 feet of 3/8" wall 16" diameter steel casing cemented top to bottom, 14" pump bowl, 10" discharge column, and rated at 125 Hp.

Mr. Jerry Hidalgo, P.E.

March 9, 1993

Page 3

Proposed Improvements:

1. Construct a new chlorination facility adjacent to the well on City Airport property, sized to match the well's flow capacity.
2. Construct a new intruder-resistant fence with lockable gates around the wellhead and new chlorination facility, and another fence around the existing standpipe, booster pumps and pressure tank.
3. Extend the existing well casing at least 18" above the existing concrete sealing block.
4. Install a screened well casing vent.
5. Modify the existing well discharge piping to include a flow meter.
6. Construct 6,000 feet of new waterline from the well to the City's distribution system.
7. Install a water level indicator on the precast concrete standpipe.
8. Develop a coliform sample siting plan for the airport system and retain the plan for review by Texas Water Commission personnel.

Enclosed you will find the following supporting documentation and background information;

1. U. S. Geological Survey Map - showing the location of the airport well by coordinates - Latitude 29°20'56" / Longitude 98°51'21", and showing the layout of the proposed waterline connecting the airport well to the City's distribution system.
2. Photocopy of the Driller's Well Log, dated September 19, 1973.
3. Photocopy of a letter dated June 7, 1991 from Mr. Raymond Whitley with the Texas Department of Health to former Mayor Jerald Foxworthy.
4. Photocopy of a letter from City Administrator Stevan Gallegos to Mr. Raymond Whitley.
5. Photocopy of a letter dated October 23, 1992 from Mr. Mike Lannen with the Texas Water Commission to me.
6. Photocopy of a letter dated November 23, 1992 from me to Mr. Lannen.
7. Two (2) Plan View Layouts of the existing Airport Water System.
8. Photocopy of recent chemical and bacteriological results is forthcoming.

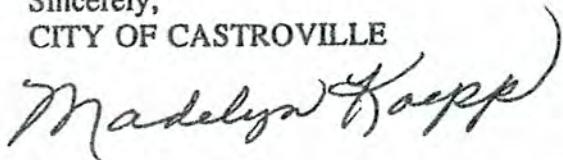
Mr. Jerry Hidalgo, P.E.

March 9, 1993

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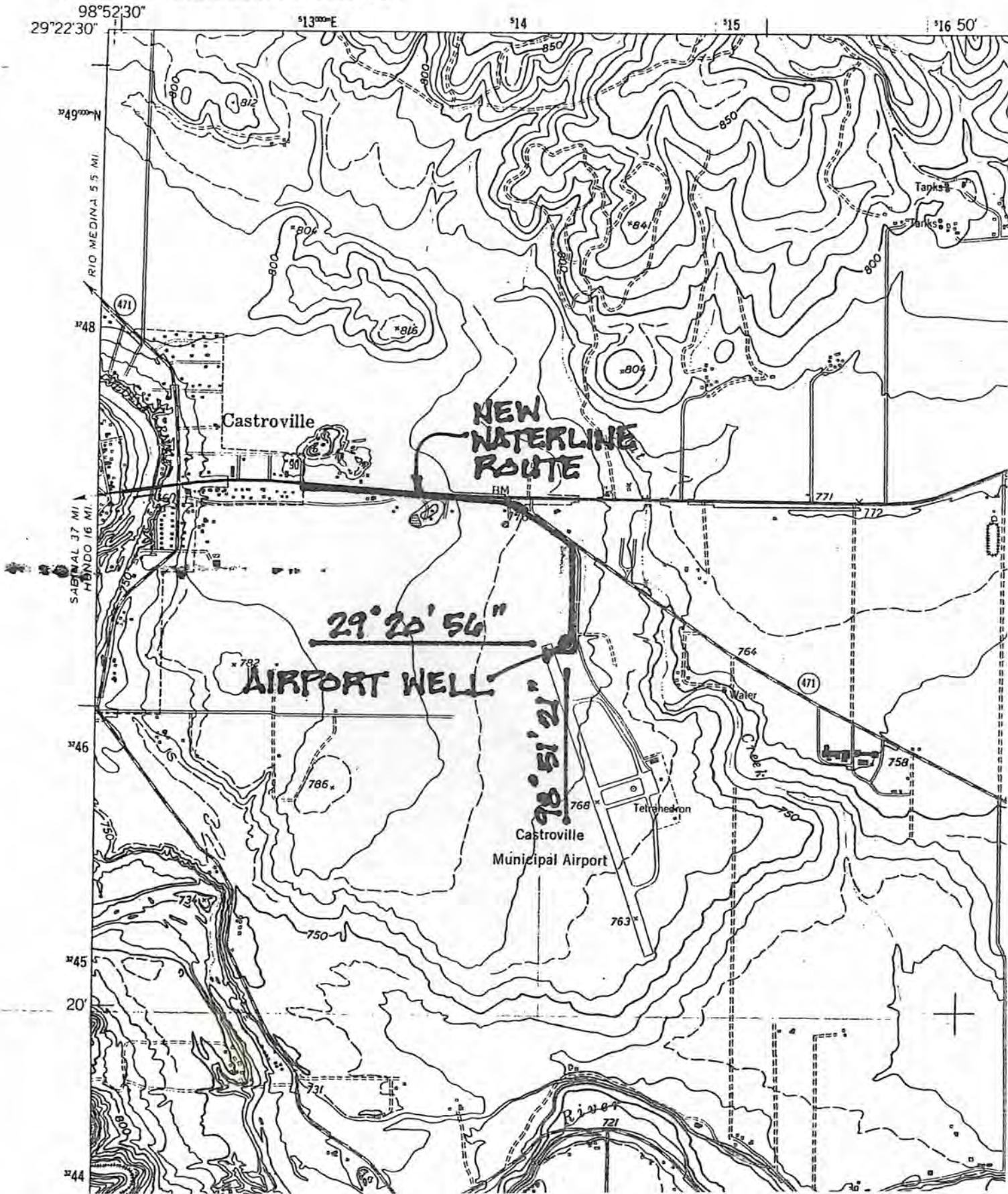
We trust this is the information you require. Should you have questions, comments, or require additional information, at your earliest convenience please contact Mr. Stevan Gallegos - City Administrator at 210-538-2224, or Mr. Les Harvey, P.E. - City Engineer at 210-249-2849. Thank you for your time and assistance.

Sincerely,
CITY OF CASTROVILLE



Madelyn Koepp
Mayor

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY



Attachment # 15

to charge fair market rates to aeronautical users. Rather, for charges to aeronautical users, the FAA considers the self-sustaining assurance to be satisfied by airport charges that reflect the cost to the sponsor of providing aeronautical services and facilities to users. A fee for aeronautical users set pursuant to a residual costing methodology satisfies the requirement for a self-sustaining airport rate structure.

6. In establishing new fees, and generating revenues from all sources, airport owners and operators should not seek to create revenue surpluses that exceed the amounts to be used for airport system purposes and for other purposes for which airport revenues may be spent under 49 U.S.C. § 47107(b)(1), including reasonable reserves and other funds to facilitate financing and to cover contingencies. While fees charged to nonaeronautical users are not subject to the reasonableness requirement or the Department of Transportation Policy on airport rates and charges, the surplus funds accumulated from those fees must be used in accordance with 49 U.S.C. § 47107(b).

C. Policy on Charges for Nonaeronautical Facilities and Services

Subject to the general guidance set forth above and the specific exceptions noted below, the FAA interprets the self-sustaining assurance to require that the airport receive fair market value for the provision of nonaeronautical facilities and services, to the extent practicable considering the circumstances at the airport.

D. Providing Property for Public Community Purposes

Making airport property available at less than fair market rental value for public recreational and other community uses, for the purpose of maintaining positive airport-community relations, can be a legitimate function of an airport proprietor in operating the airport. Accordingly, in certain circumstances, providing airport land for such purposes will not be considered a violation of the self-sustaining requirement. **Generally, the circumstances in which below-market use of airport land for community purposes will be considered consistent with the grant assurances are:**

1. The contribution of the airport property enhances public acceptance of the airport in a community in the immediate area of the airport; the property is put to a **general public use** desired by the local community; and the **public use does not adversely affect the**

capacity, security, safety or operations of the airport. Examples of acceptable uses include public parks, recreation facilities, and bike or jogging paths. Examples of uses that would not be eligible are road maintenance equipment storage; and police, fire department, and other government facilities if they do not directly support the operation of the airport.

2. The property involved would not reasonably be expected to produce more than *de minimis* revenue at the time the community use is contemplated, and the property is not reasonably expected to be used by an aeronautical tenant or otherwise be needed for airport operations in the foreseeable future. When airport property reasonably may be expected to earn more than minimal revenue, it still may be used for community purposes at less than FMV if the revenue earned from the community use approximates the revenue that could otherwise be generated, provided that the other provisions of VII. D. are met.

3. The community use does not preclude reuse of the property for airport purposes if, in the opinion of the airport sponsor, such reuse will provide greater benefits to the airport than continuation of the community use.

4. Airport revenue is not to be used to support the capital or operating costs associated with the community use.

E. Use of Property by Not-for-Profit Aviation Organizations

1. An airport operator may charge reduced rental rates and fees to the following not-for-profit aviation organizations, to the extent that the reduction is reasonably justified by the tangible or intangible benefits to the airport or to civil aviation:

- a. Aviation museums;
- b. Aeronautical secondary and post-secondary education programs conducted by accredited educational institutions; or
- c. Civil Air Patrol units operating aircraft at the airport;

2. Police or fire-fighting units operating aircraft at the airport generally will be expected to pay a reasonable rate for aeronautical use of airport property, but the value of any services provided by the unit to the airport may be offset against the applicable reasonable rate.

F. Use of Property by Military Units

The FAA acknowledges that many airports provide facilities to military units with aeronautical missions at nominal lease rates. The FAA does not consider this practice inconsistent with the requirement for a self-sustaining airport rate structure. Military units

with aeronautical missions may include the Air National Guard, aviation units of the Army National Guard, U.S. Air Force Reserve, and Naval Reserve air units operating aircraft at the airport. Reserve and Guard units typically have an historical presence at the airport that precedes the Airport and Airway Improvement Act of 1982, and provide services that directly benefit airport operations and safety, such as snow removal and supplementary ARFF capability.

G. Use of Property for Transit Projects

Making airport property available at less than fair market rental for public transit terminals, right-of-way, and related facilities will not be considered a violation of 49 U.S.C. §§ 47107(b), 47133 or 47107(a)(13) if the transit system is publicly owned and operated (or operated by contract on behalf of the public owner), and the facilities are directly and substantially related to the air transportation of passengers or property, including use by airport visitors and employees. A lease of nominal value in the circumstances described in this section would be considered consistent with the self-sustaining requirement.

H. Private Transit Systems

Generally, private ground transportation services are charged as a nonaeronautical use of the airport. In cases where publicly-owned transit services are extremely limited and where a private transit service (i.e., bus, rail, or ferry) provides the primary source of public transportation, making property available at less than fair market rental to this private service would not be considered inconsistent with 49 U.S.C. §§ 47107(b), 47133 or 47107(a)(13).

Section VIII—Reporting and Audit Requirements

The Federal Aviation Administration Authorization Act of 1994 established a new requirement for airports to submit annual financial reports to the Secretary, and the Act required the Secretary to compile the reports and to submit a summary report to Congress. The Federal Aviation Reauthorization Act of 1996 established a new requirement for airports to include, as part of their audits under the Single Audit Act, a review and opinion on the use of airport revenue.

A. Annual Financial Reports

Section 111(a)(4) of the 1994 Authorization Act, 49 U.S.C. § 47107(a)(19), requires airport owners or operators to submit to the Secretary

Attachment # 16

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE CASTROVILLE MUNICIPAL AIRPORT HAZARD ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES.

This Ordinance is adopted pursuant to the authority conferred by the Airport Zoning Act, V.C.T.A. Local Gov't. Cod, §§241.001 et seq.

It is hereby found that an obstruction has the potential for endangering the lives and property of users of Castroville Municipal Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing instrument approach minimums of Castroville Municipal Airport, and the public investment therein. Accordingly it is declared that:

1. Castroville Municipal Airport fulfills an essential community purpose; and
2. The creation or establishment of an obstruction has the potential of being a nuisance and may injure the area served by the Castroville Municipal Airport; and
3. It is necessary in the interest of public health, public safety, and general welfare that the creation or establishment of airspace obstructions that are a hazard to air navigation be prevented; and
4. The prevention of these airspace obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which the City of Castroville may raise and expend public funds and acquire land or interested in land.

BE IT ORDAINED BY THE JOINT AIRPORT ZONING BOARD OF THE CITY OF CASTROVILLE AND THE COUNTY OF MEDINA, THE CITY COUNCIL OF THE CITY OF CASTROVILLE, TEXAS AND THE COMMISSIONERS COURT OF THE COUNTY OF MEDINA, TEXAS:

Section 1. Short Title - This ordinance shall be known and may be cited as "Castroville Municipal Airport Hazard Zoning Ordinance".

Section 2. Definitions - As used in this Ordinance:

- A. **Airport** - means Castroville Municipal Airport.
- B. **Airport Elevation** - means the established elevation of the highest point on the usable landing area measured in feet from mean sea level, which is seven hundred seventy-two (772) feet above mean sea level located on the runway centerline at the end of Runway 15 at Castroville Municipal Airport.
- C. **Airport Hazard** - means any structure or tree or use of land which obstructs the air space restrictions

(1)

which obstructs the air space required for the flights of aircraft or which obstructs or interferes with the control or tracking and/or data acquisition in the landing, taking off or flight at an airport, or at any installation or facility relating to flight, and tracking and/or data acquisition of the flight craft; is hazardous, interferes with or obstructs such landing, taking off or flight of aircraft or which is hazardous to or interferes with tracking and/or data acquisition pertaining to flight and flight vehicles.

D. **Airport Hazard Area** - means any area of land or water as described in the Castroville Municipal Airport Hazard Zoning Map (Exhibit A) upon which an airport hazard might be established if not prevented as provided in this Ordinance.

E. **Airport Reference Point** - means the point established as the approximate geographic center of the airport landing area and so designated. The coordinates of the Castroville Municipal Airport Reference Point are North latitude 29° 20' 32.0'; West longitude 98° 51' 02.9'.

F. **Approach Surface** - a surface longitudinally centered on the extended runway centerline, extending outward and upward from the ends of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 4 of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

G. **Approach, Transitional, Horizontal, and Conical Zones** - these zones are set forth in Section 3 of this Ordinance.

H. **Board of Adjustment** - A Board consisting of five (5) members appointed by the Castroville-Medina County Joint Airport Zoning Board, as provided by V.C.T.A. Local Gov't. Code, §241.032.

I. **Conical Surface** - A surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) to one (1) for a horizontal distance of four thousand (4,000) feet extending to a height of three hundred fifty (350) feet above the airport elevation which is one thousand one hundred twenty-two (1,122) feet above mean sea level at Castroville Municipal Airport as reference in B above.

J. **Hazard to Air Navigation** - A obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace within the zoning boundaries as set forth in this Ordinance.

K. **Height** - For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation.

L. **Horizontal Surface** - A horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone which is nine hundred twenty-two (922) feet above mean sea level of the Castroville Municipal Airport.

M. **Joint Airport Zoning Board** - means a board consisting of five (5) members, two (2) members appointed by the City Council of the City of Castroville, Texas and two (2) members appointed by the Commissioners

Court of Medina County, Texas. The four (4) members so appointed shall elect a fifth (5th) member who shall serve as chairman of said Castroville-Medina County Joint Airport Zoning Board.

- N. **Landing Area** - means the surface area of the airport used for landing, take-off or taxiing of aircraft.
- O. **Nonconforming Use** - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this ordinance or an amendment thereto.
- P. **Non-precision Instrument Runway** - A runway having an existing instrument approach procedure utilizing air navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.
- Q. **Obstruction** - Any structure which exceeds a height limit as set forth in Section 4 of this Ordinance.
- R. **Person** - means an individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.
- S. **Primary Surface** - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway. The width of the primary surface of the runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end the runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is five hundred (500) feet for a utility runway having a non-precision instrument approach on one end and a visual approach on the other end.
- T. **Runway** - A defined area at the airport prepared for landing and take-off of aircraft along its length.
- U. **Structure** - An object constructed or installed by man, including, but not limited to buildings, towers, cranes, smokestacks, earth formation and any object of natural growth.
- V. **Transitional Surfaces** - These surfaces extend outward at ninety (90) degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal surface.
- W. **Tree** - Any object of natural growth.
- X. **Utility Runway** - A runway that is constructed for and intended to be used by an aircraft twelve thousand five-hundred (12,500) pounds maximum gross weight and less.
- Y. **Visual Runway** - A runway that is intended solely for the operation of aircraft using visual approach procedures.

Section 3. - In order to carry out the provisions of this ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach

surfaces, transition surfaces, horizontal surface and conical surface as they apply to the Castroville Municipal Airport. Such zones are shown on the zoning map (Exhibit A) consisting of one (1) sheet, prepared by the Texas Department of Aviation, Austin, Texas and dated May 10, 1991, which is attached to this Ordinance and made a part thereof. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

A. Approach Zones

(1) Runway 33 - Approach zones is established beneath the approach surface at the end of Runway 33 on Castroville Municipal Airport for non-precision instrument landings and take-offs. The inner edge of the approach zone shall have a width of five hundred (500) feet which coincides with the width of the primary surface at a distance of two hundred (200) feet beyond the end of the runway, widening thereafter uniformly to a width of two-thousand (2,000) feet at a horizontal distance of five thousand (5,000) feet beyond the end of the primary surface, its centerline being the continuation of the centerline of the runway.

(2) Runway 15 - Approach zone is established beneath the approach surface at the end of Runway 15 on Castroville Municipal Airport for visual landings and take-offs. The inner edge of the approach zone shall have a width of five hundred (500) feet which coincides with the width of the primary surface at a distance of two hundred (200) feet beyond the end of the runway, widening thereafter uniformly to a width of one thousand two hundred fifty (1,250) feet at a horizontal distance of five thousand (5,000) feet beyond the end of the primary surface, its centerline being the continuation of the centerline of the runway.

B. Transitional Zones - Transitional zones are hereby established beneath the transitional surface adjacent to the runway and approach surfaces as indicated on the zoning map. Transitional surfaces, symmetrically located on either side of the runway, have variable widths as shown on the zoning map. Transitional surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of seven (7) to one (1) from the sides of the primary surface and from the sides of the approach surfaces.

C. Horizontal Zone - The area beneath a horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of five thousand (5,000) feet radii from the center of each end of the primary surface of Runway 15-33 and connecting the adjacent arcs by lines tangent to those arcs.

D. Conical Zone - The area beneath the conical surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) to one (1) for a horizontal distance of four thousand (4,000) feet.

Section 4. Height Limitations - Except as otherwise provided in this Ordinance, no structure shall be erected, altered or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height limits herein established for such zone. Such applicable

height limitations are hereby established for each of the zones in question as follows:

A. Approach Zones

Runway 15-33 - One (1) foot in height for each twenty (20) feet in horizontal distance beginning at the end of and at the elevation of the primary surface and extending to a point five thousand (5,000) feet from the end of the primary surface.

- B. Transitional Zone - Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surfaces, and extending to a height of one hundred fifty (150) feet above the airport elevation which is seven hundred seventy-two (772) feet above mean sea level.
- C. Horizontal Zone - Established at one hundred fifty (150) feet above the airport elevation, or a height of nine hundred twenty-two (922) feet above mean sea level.
- D. Conical Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at one hundred fifty (150) feet above the airport elevation and extending to a height of three hundred fifty (350) feet above the airport elevation.
- E. Excepted Height Limitations - Nothing in this Ordinance shall be construed as prohibiting the growth, construction, or maintenance of any tree or structure to a height up to fifty (50) feet above the surface of the land.

Section 5. Land Use Restrictions - Notwithstanding any other provisions of this ordinance, no use may be made of land or water within any zone established by this ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport light and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, taking off, or maneuvering of aircraft intending to use the airport.

THESE LAND USE RESTRICTIONS DO NOT PRECLUDE:

- A. The occasional burning of flammable materials or the production of dense smoke, or shining of non-permanent, bright lights for a temporary, short period of time, when such occurrence is scheduled with the airport manager and a NOTAM on the event is issued by the airport manager to the FAA.
- B. The conduct of any normal agricultural or ranching activity, such as the planting, cultivation, and harvesting of field or row crops with mechanical equipment, the growth of pastures and the livestock grazing thereon, and the erection of agricultural structures etc., except when such erections will exceed fifty (50) feet above ground level.

Section 6. Nonconforming Uses -

- A. Regulations not Retroactive - The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other change or alteration

of any structure or tree not conforming to the regulation as of the effective date of this Ordinance, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance and is diligently prosecuted.

B. **Marking and Lighting** - Notwithstanding the preceding provision of this section, the owner of any nonconforming structure is hereby required to allow the installation, operation, and maintenance theron of such markers and lights as shall be deemed necessary by the City Administrator of the City of Castroville, Texas to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. Such markers and light shall be installed, operated, maintained at the expense of the city of Castroville, Texas.

Section 7. Permits -

A. **Future Uses** - Except as specifically provided in (1) and (2) hereunder, no structure shall be erected in excess of the "excepted height limitation" allowed in Section 4, Par. E, unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the height of the structure of which the permit is desired, with sufficient particularity to allow it to be determined whether the resulting structure would conform to the regulation herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for height inconsistent with the provisions of this ordinance shall be granted unless a variance has been approved in accordance with Section 7 Par. D.

- (1) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any structure less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such structure would extend above the height limits prescribed for such zones.
- (2) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than four thousand two hundred (4,200) feet from each end of the runway, no permit shall be required for any structure less than seventy-five (75) feet of vertical height above the ground, except when such structure would extend above the height limit prescribed for such approach zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction or alteration of any structure in excess of the height limits established by this Ordinance except as set forth in Section 4, Par. E.

B. **Existing Uses** - Except as stated in Section 7, Par. A (1) & (2), no permit shall be granted that would allow any structure to be made or become higher, than it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made. Unless a variance as indicated; all applications for such permit shall be granted.

- C. Nonconforming Uses Abandoned or Destroyed - whenever the City Administrator of the City of Castroville, Texas and approve by Commissioners Court of the County of Medina determines that a nonconforming structure within the bound of the zoned area has been abandoned for a period of more than six (6) months, starting from the first day of notice by mail and by publication, or more than eighty (80) percent torn down, except by an Act of God, deteriorated, or decayed, no permit shall be granted that would allow such structure to exceed the applicable height limit or otherwise deviate from the zoning regulations, unless a variance has been approve in accordance with Section 7 Par. D.
- D. Variances - Any person desiring to erect or increase the height of any structure in violation of the regulations prescribed in the Ordinance, may apply to the Board of Adjustment for a variance from such regulations in question. Applications for permits shall be made to the City Administrator of the City of Castroville, Texas upon a form published for that purpose. Applications required by this Ordinance are to be submitted to the City Administrator of the City of Castroville, Texas who will see that the application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Applications for variance shall be made to the board of adjustment by the City Administrator of the City of Castroville, Texas who shall forthwith transmit said application to the board of adjustment for determination. Such variance shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and the relief granted would not be contrary to the public interest, but do substantial justice, and be in accordance with the spirit of this Ordinance. Additionally, no application for variance to the requirements of this Ordinance may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Castroville Municipal Airport Advisory Board for advice as to the aeronautical effects of the variance. If the Castroville Municipal Airport advisory Board does not respond to the application within fifteen (15) days after receipt, the Board of Adjustment may act on its own to grant or deny said application. In no case shall the entire process take more than sixty (60) days for approval or denial of said application.
- E. Obstruction Marking and Lighting - Any permit or variance may, if such action is deemed advisable by the City Administrator of the City of Castroville, Texas or the Board of Adjustment to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure in question to allow the City Administrator of the City of Castroville, Texas to install, operate, and maintain, at the expense of the City of Castroville, Texas such markings and lights as may be necessary.

Section 8. Enforcement - It shall be the duty of the City Administrator of the City of Castroville, Texas to administer and enforce the regulations prescribed herein.

Section 9. Board of Adjustment

A. There is hereby created a Board of Adjustment to have and exercise the following powers:

- (1) To hear and decide appeals from any order, requirement, decision, or determination made by the City Administrator of the City of Castroville, Texas in the enforcement of this Ordinance;
- (2) To hear and decide special exceptions to the terms of this Ordinance upon which such Board of Adjustment under such regulations may be required to pass;
- (3) To hear and decide specific variances.

B. The Board of Adjustment shall consist of five (5) members appointed by the Castroville-Medina County Joint Airport Zoning Board and each shall serve for a term of two (2) years with a limit of four (4) years total service and removable for cause by the appointment authority upon written charges, after a public hearing. The City Council of the City of Castroville and the Commissioners Court of Medina County shall recommend names to the Joint Airport Zoning Board for consideration for appointment to the Board of Adjustment.

C. The Board of Adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this Ordinance. Meetings of the Board of Adjustment shall be held at the call of the chairman and at such times as the Board of Adjustment may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. All meetings of the Board of Adjustment shall keep minutes of its proceedings showing the vote, of each member upon each question or the fact that a member is absent or fails to vote, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the City Secretary of the City of Castroville, Texas and shall be a public record.

D. The Board of Adjustment shall make written findings of fact and state the facts upon which it relied when making its conclusions in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this Ordinance.

E. The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order requirement, decision, or determination of the City Administrator of the City of Castroville, Texas or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in this Ordinance as provided in the V.C.T.A. Local Gov't., §241.032(d).

Section 10. Appeals

A. Any person aggrieved, or any taxpayer affected, by any decision of the City Administrator of the City of Castroville, Texas made in his administration of this Ordinance, is of the opinion that a decision of the City Administrator of the City of Castroville, Texas is an improper application of these regulations, may appeal to the Board of Adjustment.

- B. All appeals hereunder must have action taken within 60 days as to be provided by the rules of the Board of Adjustment, by filing with the City Administrator of the City of Castroville, Texas a notice of appeal specifying the grounds thereof. The City Administrator of the City of Castroville, Texas shall forthwith transmit to the Board of Adjustment all the papers constituting the record which the action appealed from was taken.
- C. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the City Administrator of the City of Castroville, Texas certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate, a stay would, in the opinion of the City Administrator of the City of Castroville, Texas cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the City Administrator of the City of Castroville, Texas and on due cause shown.
- D. The Board of Adjustment shall fix a period of time for public hearing appeals that is within 45 days of filing a notice of appeals with the City Administrator of the City of Castroville, give public notice and due notice to the parties in interest, and decide the same within 15 days following hearing. Upon the hearing any party may appear in person and/or by agent and/or by attorney.
- E. The Board of Adjustment may in conformity with the provisions of this Ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination, as may be appropriate under the circumstances.

Section 11. Judicial Review - Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to a court of competent jurisdiction, as provided by the Airport Zoning Act, V.T.C.A. Local Gov't. Code, §241.041.

Section 12. Enforcement and Remedies - The City Council of the City of Castroville, Texas may institute in any court of competent jurisdiction, an action to prevent, restrain, correct, or abate any violation of this Ordinance or of any order or ruling made in connection with its administration or enforcement, including, but not limited to, an action for injunctive relief as provided by the Airport Zoning Act., V.T.C.A. Local Gov't. Code, §241.0044.

Section 13. Penalties - Each violation of this Ordinance shall constitute a misdemeanor and upon conviction shall be punishable by a fine of not more than \$200.00 and each day a violation continues to exist shall constitute a separate offense.

Section 14. Conflicting Regulations - Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, if the conflict is with respect to the height of structures, the more stringent limitation or requirement shall govern and prevail as provided by the Airport Zoning Act, V.T.C.A. Local Gov't. Code, §241.901.

Section 15. Severability - If any of the provisions of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions

or application of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declare to be severable.

Section 16. Amendments - No amendments to this Ordinance shall be made without due process as administered by the Joint Airport Zoning Board.

Section 17. Effective Date - Whereas this Ordinance shall be in full force and effect from and after its passage by the Joint Airport Zoning Board and publication and posting as required by law. Adopted by the Castroville-Medina County Joint Airport Zoning Board this 15th day of December 1992.

James M. Brinkler
Chairman

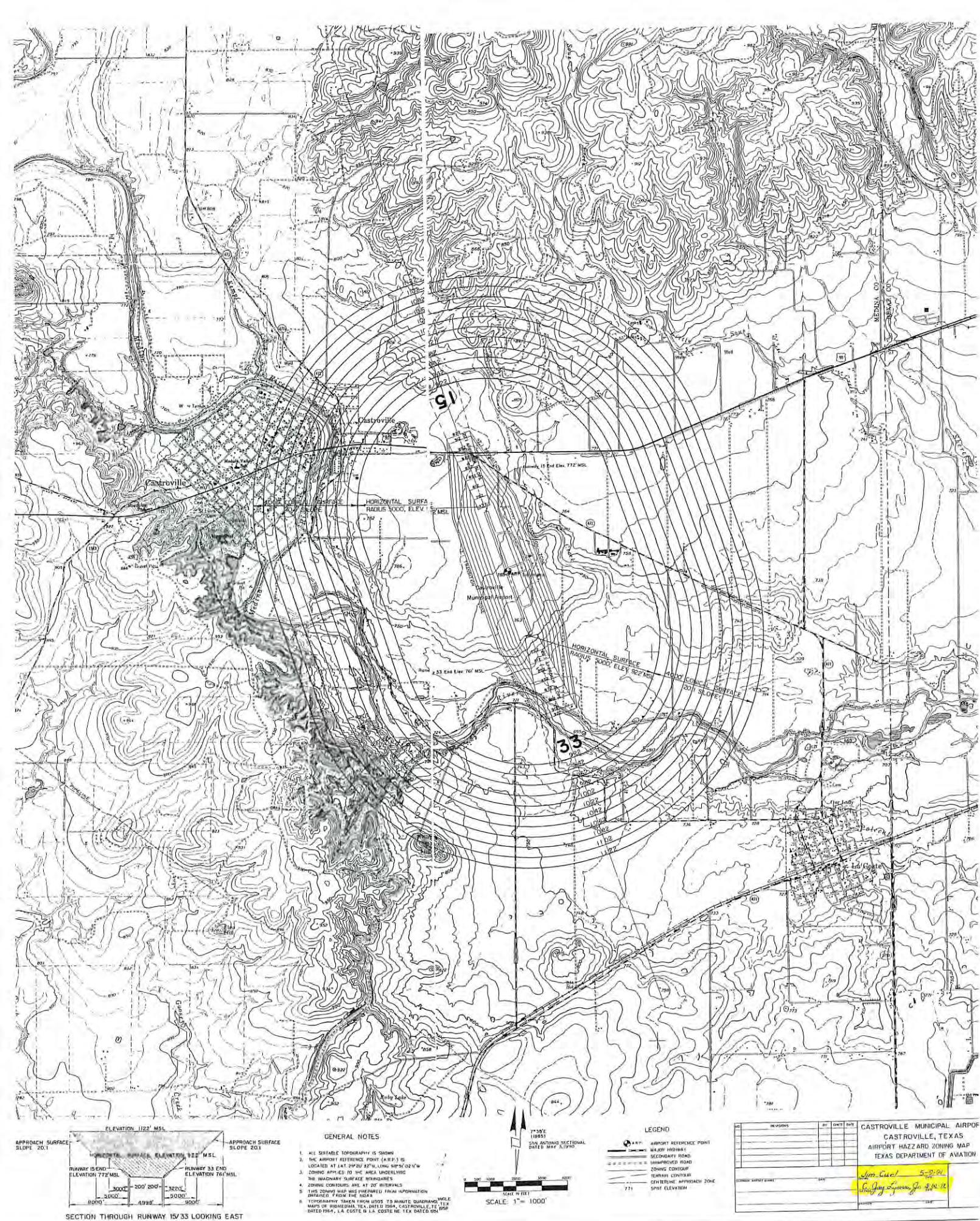
L. M. H.
Member

Linda Higgin
Member

Robert J. Nichols
Member

Donald J. Murphy
Member

ATTEST:
James M. Brinkler
Secretary



SECTION THROUGH RUNWAY 15/33 LOOKING EAST
SCALE, VERTICAL 1"=200', HORIZONTAL 1"=4000'

SCALE 1" = 1000'

SECTION	ROW	UNIT	CASTROVILLE MUNICIPAL AIRPORT
			CASTROVILLE, TEXAS
			AIRPORT HAZARD ZONING MAP
			TEXAS DEPARTMENT OF AVIATION
SUBMITTING AIRPORT		DATE	John Cuel 5-28-94
			Long Key Signature: J. Cuel 5-28-94
RECEIVED		RELEASER	

Attachment # 17

STATE OF TEXAS
COUNTY OF MEDINA

*Current Lease
Agreement*
**OFFICIAL
COPY**

LEASE AGREEMENT

THIS AGREEMENT is entered into by and between the City of Castroville, a Texas Municipal Corporation, and political subdivision, ("LESSOR") acting by and through its Mayor, and Medina Valley Youth Baseball, Inc., a non-profit corporation formed under the laws of Texas, ("LESSEE"), acting by and through its President. LESSOR and LESSEE will collectively be referred to as the Parties. This LEASE replaces and supersedes all prior Lease agreements and amendments between the Parties, including but not limited to: a lease agreement, entered into by and between the Parties on February 24, 1989; an undated first amendment, to be effective on February 24, 1992; and an undated second amendment, to be effective February 24, 2007.

WITNESSETH:

WHEREAS, LESSEE provides athletic opportunities for the youth of the City of Castroville through the promotion and operation of youth baseball and softball programs; and

WHEREAS, the LESSOR finds the services provided by LESSEE promotes the health, safety, morals and or general welfare of the residents of the City of Castroville; and

WHEREAS, there exists a lease agreement, entered into by and between the Parties on February 24, 1989, and amended by an undated first amendment, to be effective on February 24, 1992, and an undated second amendment, to be effective February 24, 2007;

WHEREAS, pursuant to the prior lease agreement, and amendments thereto, LESSEE has made certain improvements to the Property in furtherance of LESSEE'S baseball and softball programs; and

WHEREAS, the Property is Castroville Municipal Airport Property; and

WHEREAS, in regards to Airport Property Federal Registrar, Volume 64, No.30, Page 7721 dated February 16, 1999), which addresses: "*Policy and Procedures Concerning the Use of Airport Revenue*", provides in Section D., (entitled "*Providing Property for Public Community Purposes*") therein: "*Making airport property available at less than fair market rental value for public recreational and other community uses, for the purpose of maintaining positive airport-community relations, can be a legitimate function of an airport proprietor in operating the airport. Accordingly, in certain circumstances, providing airport land for such purposes will not be considered a violation of the self-sustaining requirement. . .*"; and

WHEREAS, Texas Constitution Article 3, Section 52(a) prohibits, in relevant part, municipalities from lending its credit or to grant public money or thing of value in aid of, or to any individual, association or corporation; and

WHEREAS, the Texas Attorney General in Op. Tex. Att'y Gen. No. GA-0188 (2004), when asked to interpret Article 3, Section 52(a) opined: *“the predominant purpose of a statute [or ordinance] requiring a public expenditure must be to accomplish a public purpose, not to benefit private parties, and the statute [or ordinance] must retain public control over the funds to ensure that the public purpose is accomplished and to protect the public’s investment and ensure that the political subdivision receives a return benefit”*; and

WHEREAS, the continued efficient operation of LESSOR’s sanitary sewer system requires the placement of a Sanitary Sewer Lift Station on property within the current LEASED PREMISES that should be removed from the new LEASED PREMISES, to serve the City of Castroville’s sanitary sewer system; and

WHEREAS, LESSEE has no objection to the release of the segment of property associated with the placement of the Sanitary Sewer Lift Station from within the LEASED PREMISES; and

WHEREAS, the Parties desire to execute a new lease agreement, with a revised leasehold area, in order for the use of City Airport Property to be in compliance with the requirements of the Texas Constitution and the Federal Register, and for the continued efficient operation of the City of Castroville’s sanitary sewer system; and

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency thereof is hereby acknowledged the Parties agree to this LEASE AGREEMENT, dated February 1, 2016, as follows:

Section One: Leased Premises

That LESSOR has leased and demised to LESSEE, and LESSEE has leased from LESSOR, subject to the terms and conditions herein stated, the following described real property in Medina County, Texas, known and described as per Exhibit A: Legal Description, attached hereto and incorporated by reference.

Section Two: Purpose

The Parties agree and acknowledge that the purpose of the lease, as was the purpose of the prior lease between the Parties, is to promote the health, safety, morals and or general welfare of the residents of the City of Castroville and surrounding Medina Valley area through offering a youth baseball program, available to anyone wishing to participate and not based on skill level. The Parties agree and acknowledge that no member of the public will ever be denied the opportunity to participate or benefit from this Lease on the basis of race, creed, color, national origin, sex, age or disability. The Parties further agree and acknowledge that LESSEE will have sole and exclusive

oversight and control of the program contemplated and that no joint venture, partnership or any other relationship shall exist between the Parties other than that of LESSOR and LESSEE.

Section Three: Term and Consideration

The term of this Lease shall be for a period of five (5) years beginning February 1, 2016.

LESSOR agrees to give to LESSEE two (2) additional five (5) year option periods provided LESSEE abides by the terms and conditions of the Lease, and provides six (6) months written notice of its intention to exercise the option period, and the Lease is not terminated for some other reason.

Consideration during the term and any extensions of this Lease shall be the following:

1. Rental payment of ONE DOLLAR per year, due at the time of execution of the Lease and each year on that same date.
2. The installation and maintenance of all capital improvements to the facilities that serve the programs.
3. The payment for all utilities used at the facilities excluding water.
4. The general cleaning, mowing and maintenance of the leasehold.
5. LESSEE shall have the right to use up to twelve (12) acre feet of potable water per year, not to exceed three (3) acre feet of potable water in any one calendar month, with said water to be used in accordance with the City of Castroville water use restrictions. LESSEE shall reduce, limit or cease the use of water for irrigation equal to those same actions being required of other water customers. All water used shall be metered and any monthly use exceeding three (3) acre feet allotment shall be billed at the current commercial use rate.

Section Four: LESSEE'S Performance Standards

- a) Schedule. At a minimum, LESSEE shall provide a spring/summer league that is held each year running approximately from February through August. LESSEE may additionally, at its sole choosing, offer a fall ball league under the terms of this Lease.
- b) Non-profit. LESSEE must reacquire its non-profit status within one year of the effective date of this Lease.
- c) Number of Participant. Each season, LESSEE shall strive to serve the youth who reside within the Castroville city limits by actively marketing league participation to the youth living within the city. Within 30 days of completion of each season's registration, LESSEE shall send to LESSOR a copy of its registration ledger showing the number of Castroville residents participating.
- d) Fee Schedule. Prior to registration, LESSEE shall send to LESSOR a copy of its fee schedule showing charges to youth baseball and softball participants and

admission to games and other events. The City Council shall review the fee schedule to verify affordability for its citizens who participate in the program. The fees schedule shall be deemed approved unless $\frac{1}{4}$ of the City Council finds the fees to be excessive. In the event that the fees are approved by the City Council for one season, the fee schedule for subsequent seasons shall not be required to be submitted to City Council unless such fees increase by more than 10% in any one season.

- e) Once a year, between the end of any season play and the beginning of the next season's play, LESSEE shall meet with LESSOR to discuss any issues existing with the LEASED PREMISES, the programs overseen by LESSEE, or the terms of this AGREEMENT to determine whether any changes or amendments should be recommended to the City Council of Castroville.
- f) Compliance with the Americans with Disability Act. LESSEE acknowledges and agrees that it has been informed that it has obligations to the general public under the terms of the Americans with Disability Act of 1990 as codified in 42 U.S.C. § 12101(a)(1) and (2) and as amended from time to time. LESSEE covenants and agrees that it will comply with all the terms and obligations, and, as part of its indemnification of LESSOR, indemnify, hold harmless and defend LESSOR from all claims which might arise from LESSEE'S activities under this Agreement.
- g) Default by: Any of the following events shall constitute default by LESSEE under this Agreement:
 - (i) LESSEE shall fail to maintain its non-profit or 501(c)(3) status and operate a nationally organized sports league; or
 - (ii) LESSEE shall fail to keep, observe, or perform any material covenant, agreement, term, or provision of this Agreement to be kept, observed, or performed by LESSEE, and such default shall continue for a period of ten (10) days after notice by LESSOR to LESSEE, or if such default cannot be cured within thirty (30) days, then such additional period as shall be reasonable provided that LESSEE has commenced to cure such default; or
 - (iii) LESSEE fails to comply promptly with all laws, rules, and orders of Federal, State and Municipal Governments and all of their departments applicable to the leased premises.
- h) LESSEE agrees that all revenue generated by LESSEE through the use of LESSOR's property must be used for League-related or Facility improvement expenditures. All concession revenue must also be used for Facility or League improvements. Lessee agrees to provide LESSOR with a Comprehensive Financial Report at the end of each season.

- i) It is agreed for all purposes hereunder; the LESSEE is an independent contractor and is not an agent or employee of the LESSOR. LESSEE shall indemnify and hold harmless and defend the LESSOR from and against any and all claims, liens, suits, demands, and/or actions for damages, injuries (including death) to persons, property damage (including loss of use), and expenses (including court costs, attorney's fees, and other reasonable costs) arising out of or resulting from LESSEE's use of facilities as authorized in this Lease specifically including any environmental hazards created by the tenancy.

Further, LESSOR assumes no responsibility or liability for harm, injury, or any damaging events which are directly or indirectly attributable to premises defects which may now exist or which may hereafter arise upon the premises, responsibility or liability for any and all such premises defects being expressly assumed by the LESSEE.

LESSEE agrees that this indemnity provision shall be considered as additional remedy for LESSOR and not as an exclusive remedy.

- j) LESSEE agrees to provide and to maintain the following types and amounts of insurance, for the term of this agreement:

TYPE: Commercial (Public) Liability - including, but not limited to, (a) Premises/Operations, and (b) Contractual Liability (insuring indemnity provisions).

AMOUNT: Combined Single Limit for Bodily Injury and Property Damage: \$500,000 per occurrence or per claim.

LESSEE further agrees that as respects the above-required insurance, LESSOR shall:

- 1) Be named as an additional insured.
- 2) Be provided with 30 days advance written notice of cancellation or material change.
- 3) Be provided notice of any insurance claim filed against the policy naming the City as an additional insured.

LESSEE further agrees that with respect of the above-required insurance, it shall provide evidence of insurance to LESSOR to satisfy the insurance requirements of this Lease.

- k) Remedies of LESSOR: Upon the occurrence of an event of default by LESSEE as specified in this AGREEMENT, LESSOR shall be entitled to terminate this AGREEMENT by providing thirty (30) days written notice of termination. After

such termination, LESSEE shall have no further rights to access the Premises, shall immediately cease all activities thereon and LESSOR shall have no further obligation under the terms of this AGREEMENT. LESSOR shall have ninety (90) days following termination of this AGREEMENT to remove any personal property and fixtures from the LEASED PREMISES and return the LEASED PREMISES back to its original condition. Any property or fixtures remaining on the LEASED PREMISES at the end of the ninety (90) day period shall become the property of LESSOR.

Notwithstanding the foregoing, LESSOR agrees that any exercise of LESSOR'S right to terminate under this section will be done in a manner that does not impact the ability of the participants to complete the season of play if the default occurs during a season. LESSOR reserves the right, however, to oversee, or to designate an overseer for the remainder of the season in which the default occurs, in its sole discretion, if the underlying default involves conduct constituting moral turpitude.

Section Five: General Provisions

1. **APPLICABLE LAW AND VENUE** - This agreement shall be construed and governed according to the laws of the State of Texas. Venue for any legal proceedings shall be in Medina County, Texas.
2. **AIRPORT CONSIDERATIONS**- LESSEE hereby agrees that any improvements and activities within the leasehold shall meet all rules and regulations as set forth by the Federal Aviation Administration, the Texas Department of Transportation, Aviation Division, and the City of Castroville. Should it be determined that the leasehold is necessary for aeronautical purposes, LESSOR may terminate this Lease upon thirty (30) days notice to LESSEE
3. **RIGHT OF ENTRY**- LESSOR or its representatives shall have the right to enter the premises at all reasonable hours to inspect the premises for compliance with the terms of this Lease.
4. **NOTICE**- Any notice given regarding the provisions of this Lease may be hand delivered or mailed via regular mail to individuals at the address noted below:

LESSOR: City of Castroville
 Marie Gelles, Interim City Administrator
 1209 Fiorella Street
 Castroville, Texas 78009

LESSEE: Medina Valley Youth Baseball, Inc
 Jason Bippert, President
 P.O. Box 881
 Castroville, Texas 78009

5. SUBJECT TO DEED- The Parties agree and acknowledge that this Lease is subject to the terms and provisions of the deed without warranty conveying the premises to the City of Castroville, filed of record in Volume 147, Pages 264, et seq, Deed Records, Medina County, Texas and said terms and provisions are incorporated by reference.

Executed to be effective this 27th day of January, 2016

LESSEE

Medina Valley Youth Baseball

By: Jason Bippert

Printed Name: Jason Bippert

Title: President - MVYBA

LESSOR

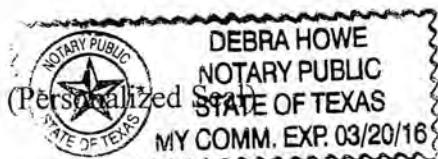
City of Castroville

By: Marie Gelles

MARIE GELLES, Interim City Administrator

State of Texas
County of Medina

This instrument was acknowledged before me on January 25, 2016 by Jason Bippert, President of Medina Valley Youth Baseball, a Texas not for profit corporation, on behalf of said corporation.



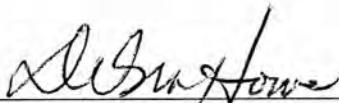
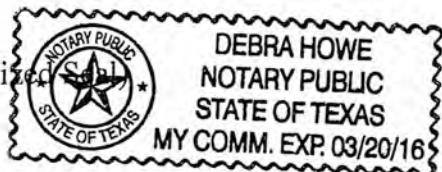
Debra Howe

Notary Public's Signature

State of Texas
County of Medina

This instrument was acknowledged before me on January 27, 2016 by Marie Gelles,
Interim City Administrator of the City of Castroville, Texas, on behalf of said municipality.

(Personalized Seal)



Notary Public's Signature

Attachment # 18

Texas Airport System Plan
Airport Development Worksheet
AIRPORT PROJECT HISTORY

Printed: 03/26/2020

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Airport: CASTROVILLE MUNI

Airport ID: CVB

Associated City: CASTROVILLE

NPIAS Site #: 48-0039

FAA Site #: 23574.1*A

FYR	Agency	Local (\$)	State (\$)	Federal (\$)	Project Description
1975	TAC		7,000		Install lighting.
1978	TAC		3,420		NDB.
1996	FAA	2,289	2,289	41,205	Acquire avigation easements RPZ RW 33 (4.668 ac) & RW 15 (8.941 ac).
1996	BOTH	102,023	83,172	1,497,114	Reconstruct RW 15-33 (4600 x 75), recon/realign parallel TW (5080 x 35), apron (10,200 sy), stub TW (420 x 35), hangar access TW (800 x 35); replace LIRLS w/MIRLS (4600 lf), segmented circle; replace rotating beacon; improve drainage & grading; install fencing (8300 lf).
2003	TXDOT	14,566	14,566		RAMP: Fog seal ramp, repair lighting, herbicide, drainage work, restroom repair, hangar lighting, renovate terminal building
2004	TXDOT		177,188		Design and construction services to construct a terminal building and aircraft ramp parking area
2004	TXDOT		278,748		Loan
2004	TXDOT	3,983	35,848		prepare an airport layout plan
2004	TXDOT	30,000	30,000		RAMP: Ramp paving, crackseal and fog seal existing ramp pavement, taxiway and runway, herbicide, hangar taxiway drainage improvements, repair hangar roof, airport fencing, lighting and NDB maintenance, purchase GCO
2005	TXDOT	21,285		63,854	Install AWOS NPE 2005 \$63,854
2005	TXDOT	15,255	15,255		RAMP: City to contract for pavement renovation in hangar, pave ramp at commercial hangar, seal coat exist ramp and hangar paving, installation of electric service for PLASI, replacement of roll-up doors on hangars, fencing along airport road to terminal building, professional services to prepare 7460, purchase lighting supplies, herbicide
2006	TXDOT	4,994	4,994		RAMP: Sponsor to contract for reconstruction/repave airport road to hangars, existing drainage ditch maintenance, services to replace airport hangar roof and doors, maintenance and supplies for NDB, lighting and approach aids, installation of fencing, professional services for SPCC, construction of fuel containment area , tree trimming part 77 surfaces, AWOS NADIN fees, purchase herbicide
2006	TXDOT	9,001		81,007	design and construction services to pave aircraft ramp area around commercial hangar #3
2006	TXDOT	28,288	254,597		design to extend Runway 15 end; rehabilitate and mark Runway 15-33; rehabilitate and mark stub taxiways; rehabilitate and mark hangar access taxiways; rehabilitate and mark parallel taxiway Runway 15-33; reconstruct hangar access taxiways; rehabilitate apron; extend and mark parallel taxiway to Runway 15 end; extend medium intensity runway lights Runway 15 end; install precision approach path indicators- 2 Runway 15-33; relocate county road; install fence; prepare a traffic engineering study; and survey and appraisal services
2008	TXDOT				RAMP: TxDOT to contract for AWOS Maintenance, Sponsor to contract for NADIN, AWOS repairs, crack seal on airport pavements.
2009	TXDOT	5,591	5,591		RAMP: TxDOT for AWOS maint.; Spon. Avi-Met, AWOS repairs/parts replacement; water pump repairs; airfield lighting repairs/maintenance; and, beacon repairs/maintenance.
2009	TXDOT	38,310	689,587	38,310	Install PAPI-2 RW 33; Mark RW 15-33 (25,600 sf); Contingency, mobilization, RPR, etc.; Run-up Area pad at RW 15; Install PAPI-2 RW 15; Rehab & mark parallel TW RW 15-33 (4,785 x 35); Rehab & mark hangar access TWs (25,500 sy); Rehab & mark stub TWs (1,130x35); Rehab apron (10,990 sy); Construct hangar access taxilanes; Rehab RW 15-33 (4,600 x 75) SBGP-2009-57 38,310
2010	TXDOT	7,214	7,214		RAMP: MISCELLANEOUS-TxDOT to contract for AWOS maintenance, Sponsor to contract for AWOS AviMet Data Link, AWOS repairs/parts replacement.
2011	TXDOT	15,278	15,278		RAMP: TxDOT Contract for AWOS Maintenance, Sponsor to perform airport general maintenance.
2012	TXDOT	23,641	23,641		RAMP: TxDOT to contract for AWOS Maintenance, Sponsor to contract for airport general maintenance projects.
2012	TXDOT	78,479		706,307	Engineering and design for Box Hangars and access pavement; Contingency, administration, RPR, etc. for Box Hangar project; Construct access pavement for Box Hangars (30x380); Construct 8 unit Box Hangars (NPE '10 & '11) SBGP-085-2013 \$599,435.51; SBGP-057-2009 \$49,366.56; SBGP-067-2010 \$9,582.52; SBGP-72-2011 \$8,509.92; PLANNING GRANT 2011-08 \$39,412.80
2013	TXDOT	45,988	45,988		RAMP: TxDOT Contract for AWOS Maintenance, Sponsor to perform airport general maintenance.

Texas Airport System Plan
Airport Development Worksheet
AIRPORT PROJECT HISTORY

Printed: 03/26/2020

Page 2 of 2

Airport: CASTROVILLE MUNI

Airport ID: CVB

Associated City: CASTROVILLE

NPIAS Site #: 48-0039

FAA Site #: 23574.1*A

FYR	Agency	Local (\$)	State (\$)	Federal (\$)	Project Description
2013	TXDOT	120,168		1,081,512	Survey, Appraisal and Environmental Studies; Acquire land for runway extension and county road relocation (31 ac) SBGP-80-2012 \$62,959; SBGP-75-2011 \$1,015,356; SBGP-87-2014 \$3,197
2014	TXDOT	260,738	2,346,641		Extend and mark RW 15 end (400 x75); Contingency for RW Extension; Construct Hangar Apron Pavement to new 8-unit T-hangar (32 x 320) ; Extend MIRL RW 15 end (400 lf); Reconstruct South Apron; Construction Administration, Testing, RPR, etc; Relocate PAPI RW 15 end; Install signage; Extend & mark parallel TW to RW 15 end (590x35); Relocate County Road 4711; Install fencing and gate - new boundary; Construct Permanent Run-up Area
2014	TXDOT	14,368	14,368		RAMP: TxDOT Contract for AWOS Maintenance, Sponsor to perform airport general maintenance.
2015	TXDOT	15,352	15,352		RAMP: Sponsor to perform airport general maintenance.
2016	TXDOT	28,919	28,919		RAMP: Sponsor to perform airport general maintenance.
2017	TXDOT	90,190		270,569	Design and Install Jet A Fuel System - 2015 and 2016 NPE SBGP-096-2016 \$150,000; SBGP-097-2016 \$120,569.34
2017	TXDOT	23,696	23,696		RAMP: Sponsor to perform airport general maintenance.
2018	TXDOT	32,139	32,139		RAMP: Sponsor to perform airport general maintenance.
2019	TXDOT	46,595	46,595		RAMP: Sponsor to perform airport general maintenance.
Total Project (\$)		1,078,350	4,202,086	3,779,878	

Attachment # 19

