

Appendix H

MALSR EASEMENT

This Appendix includes Monterey Peninsula Airport District's easement which grants the airport rights for construction, maintenance, and operation of the MALSR on the golf course. The easement was established in September 1996.

0.1006



U.S. Department of Transportation
Federal Aviation Administration

Easement No.: DTFA08-95-L-15082
Facility: Monterey Peninsula Airport
Medium Intensity Approach
Lighting System/Runway
Alignment Indicator Lights
(MALSR)

NON-EXCLUSIVE EASEMENT

between

MONTEREY PENINSULA AIRPORT DISTRICT

and

THE UNITED STATES OF AMERICA

This Easement, made and entered into this 10TH day of September
in the year one thousand nine hundred and ninety-six by and between,
MONTEREY PENINSULA AIRPORT DISTRICT

whose address is: MONTEREY PENINSULA AIRPORT DISTRICT.
200 Fred Kane Drive Suite 200
MONTEREY, CALIFORNIA 93940

for itself and its successors, and assigns, hereinafter called the Grantor and the UNITED STATES OF AMERICA, hereinafter called the Government:

WITNESSETH: The parties hereto for the consideration hereinafter mentioned covenant and agree as follows:

1. TERMS AND CONDITIONS: For the term beginning October 1, 1995 and ending Sept 30, 1996, the Grantor hereby grants to the Government the following described non-exclusive easement, hereinafter called the premises, viz:

(SEE PAGE 1A FOR LEGAL DESCRIPTION)

Initials T.S. & [Signature]
Grantor Gov't

E A S E M E N T

PARCEL D

Certain real property in the Monterey City Lands Tract No. 1, Monterey County, California, particularly described as follows:

BEGINNING at a point in the northwesterly boundary of Parcel IV, as said parcel is described in that certain deed from Del Monte Properties Company to the Monterey Peninsula Airport District, recorded in Volume 759 at Page 61, Official Records of Monterey County, California, which bears N. 28° 40' E., 361.22 feet from the northeasterly terminus of course numbered 12 of said Parcel IV; and running thence along course numbered 13 of said Parcel IV

- (1) N. 28° 40' E., 450.15 feet; thence
- (2) S. 74° 15' 50" E., 231.27 feet; thence
- (3) S. 22° 40' W., 475.59 feet; thence
- (4) N. 67° 20' W., 276.64 feet to the point of beginning and containing 2.67 acres, more or less.

Neill Engineers Corp.
June 5, 1995

W.O. 7521-D

a. Together with a right-of-way for ingress to and egress from the premises; and a right-of-way for subsurface power, communication and water lines to the premises; all rights-of-way to be over the said lands and adjoining lands of the Grantor, and unless herein described by metes and bounds, to be by routes reasonably determined by Grantor and the Government to be the most convenient.

b. And the right of grading, conditioning, and installing drainage facilities, and seeding the soil of the premises, and the removal of all obstructions from the premises which may constitute a hindrance to the establishment and maintenance of air navigation and telecommunications facilities.

c. And the right to make alterations, attach fixtures, and erect additions, structures, or signs so placed in or upon, or attached to the said premises which fixtures, additions, structures or signs shall be and remain the property of the Government, and may be removed upon the date of expiration or termination of this easement, or within ninety (90) days thereafter, by or on behalf of the Government, or its grantees, or purchasers of said alterations, fixtures, additions, structures, or signs.

2. RENEWALS: This easement may, at the option of the Government, be renewed from year to year and otherwise upon the terms and conditions herein specified. The Government's option shall be deemed exercised and the easement renewed each year for one (1) year unless the Government gives the Grantor sixty (60) days written notice that it will not exercise its option before this easement or any renewal thereof expires; PROVIDED, that no renewal shall extend this easement beyond the 30th day of September 2016.

3. CONSIDERATION: The Government shall pay the Grantor no monetary consideration, it being mutually agreed that the rights extended to the Government herein are in consideration of the obligations assumed by the Government in its establishment, operation and maintenance of facilities hereby contemplated.

4. TERMINATION: The Government may terminate this easement, in whole or in part, at any time by giving at least sixty (60) days notice in writing to the Grantor. Said notice shall be sent by certified or registered mail.

5. RESTORATION: The Government shall surrender possession of the premise upon the date of expiration or termination of this easement. If the Grantor by written notice at least thirty (30) days before the date of expiration or termination requests restoration of the premises, the Government shall within ninety (90) days after such expiration or termination, or within such additional time as may be mutually agreed upon, restore the premises to as good condition as that existing at the time of the Government's initial entry upon the premises under this easement or any preceding easement (changes to the premises in accordance with paragraph 1.(a), 1.(b) and 1.(c) above, ordinary wear and tear, damage by natural elements and by circumstances over which the Government has no control, excepted).

6. DISPUTES:

a. This contract is subject to the Contract Disputes Act of 1978, as amended (41 USC 601-613).

b. Except as provided in the Act, all disputes arising under or relating to this easement shall be resolved under this clause.

c. "Claim", as used in this clause, means a written demand or assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Grantor seeking the payment of money exceeding \$50,000 is not a claim under the Act until certified as required by subparagraph (d)(2) below. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

d. (1) A claim by the Grantor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the Government against the Grantor shall be subject to a written decision by the Contracting Officer.

(2) For Grantor claims exceeding \$50,000, the Grantor shall submit with the claim a certification that--

- (i) The claim is made in good faith;
- (ii) Supporting data are accurate and complete to the best of the Grantor's knowledge and belief; and
- (iii) The amount requested accurately reflects the contract adjustment for which the Grantor believes the Government is liable.

e. For Grantor claims of \$50,000 or less, the Contracting Officer must, if requested in writing by the Grantor, render a decision within 60 days of the request. For Grantor certified claims over \$50,000, the Contracting Officer must, within 60 days, decide the claim or notify the Grantor of the date by which the decision will be made.

f. The Contracting Officer's decision shall be final unless the Grantor appeals or files a suit as provided in the Act.

g. At the time a claim by the Grantor is submitted to the Contracting Officer or a claim by the Government is presented to the Grantor, the parties, by mutual consent, may agree to use alternative means of dispute resolution. When using alternate dispute resolution procedures, any claim, regardless of amount, shall be accompanied by the certification described in paragraph (d)(2) of this clause.

h. The Government shall pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the claim (property certified if required), or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

i. The Grantor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

7. OFFICIALS NOT TO BENEFIT: No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit.

8. COVENANT AGAINST CONTINGENT FEES:

a. The Grantor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of the contingent fee.

b. "Bona Fide Agency," as used in this clause, means an established commercial or selling agency (including licensed real estate agents or brokers), maintained by the Grantor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Bona Fide Employee," as used in this clause, means a person, employed by the Grantor and subject to the Grantor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

"Contingent Fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

"Improper Influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

9. NOTICES: All notices sent to the parties under the easement shall be addressed as follows:

To the Grantor:

MONTEREY PENINSULA AIRPORT DISTRICT
200 Fred Kane Drive Suite 200
MONTEREY, CALIFORNIA 93940

To the Government:

Department of Transportation
Federal Aviation Administration
Real Estate & Utilities Team, AWP-54B
P.O. Box 92007, World Way Postal Center
Los Angeles, CA 90009-2007

10. RELOCATION: The Grantor agrees that any relocation, replacement, or modification of any Federal Aviation Administration facilities, covered by this easement during its term or any renewal thereof made necessary by airport improvements or changes which impair or interrupt the technical and/or operational characteristics of the facilities, will be at the expense of the Grantor; except, when such improvements or changes are made at the specific request of the Government. In the event such relocations or modifications are necessitated due to causes not attributable to either the Grantor or the Government, funding responsibility shall be determined by the Government.

11. OBSTRUCTION: The Grantor further agrees not to erect or to allow to be erected on the property subject to this easement or on adjacent property of the Grantor, any structure or obstruction of whatsoever kind or nature as will interfere or constitute a hindrance with the proper operation of the facilities to be installed by the Government under the terms of this easement unless consent thereto shall first be secured from the Government in writing.

12. HAZARDOUS MATERIALS: The Government agrees to remediate, at its sole cost, all hazardous substance contamination on the premises that is found to have occurred as direct result of the installation, operation, and/or maintenance of the facility. The Grantor agrees to remediate, at its sole cost, any and all other hazardous substance contamination found on the easement premises. The Grantor also agrees to save and hold the Government harmless for any and all costs, liabilities and/or claims by third parties that arise out of hazardous contamination found on the easement premises not directly attributable to the installation, operation and/or maintenance of the facility.

13. The following are attached and made a part hereof:

EXHIBIT "1" & EXHIBIT "2"

14. The following changes were made in this easement prior to its execution:

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

GRANTOR:

By: *Tex Armin*

Title: Chairman

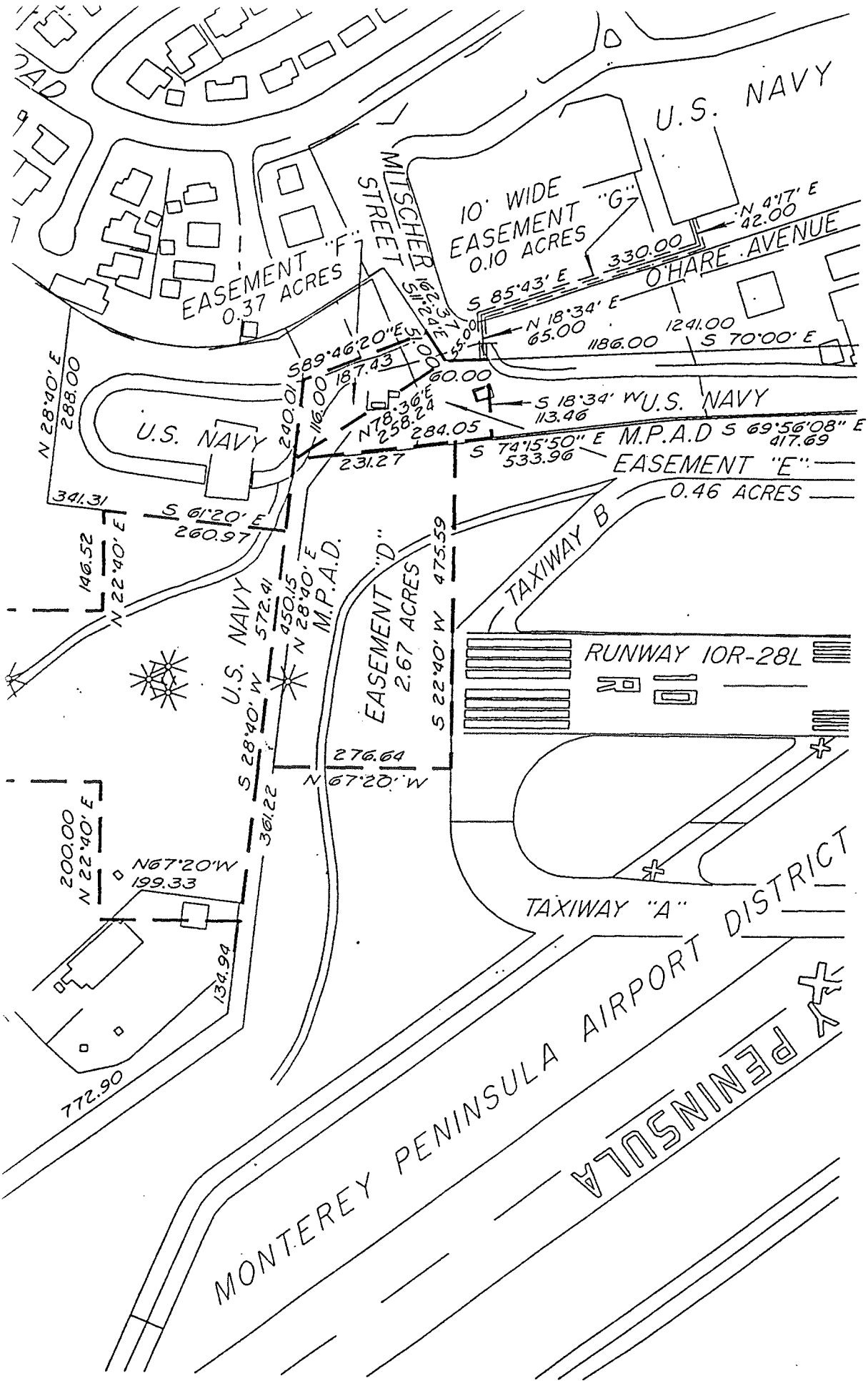
THE UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

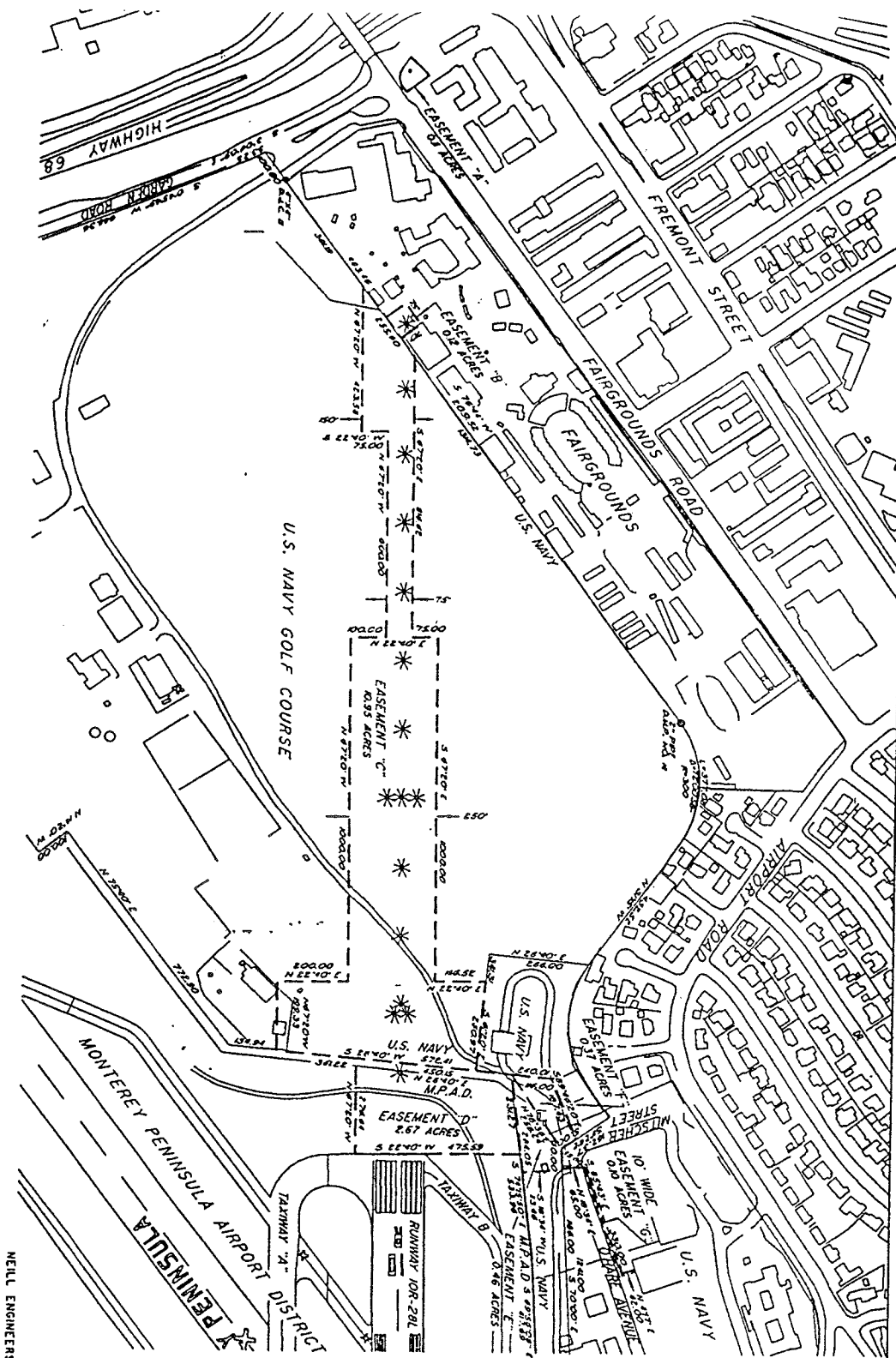
By: *Nector Alvarado*

Contracting Officer, Real Estate
& Utilities Team, AWP-54B

Title: _____

Date: 9/10/96





NELL ENGINEERS CORP.  CARMEL, CALIFORNIA
EASEMENT PLAT
APPROACH LIGHTING SYSTEM

FOR THE FEDERAL AVIATION ADMINISTRATION
 AT THE MONTEREY PENINSULA AIRPORT

MONTEREY CITY LANDS TRACT NO. 1
 MONTEREY COUNTY, CALIFORNIA

ORDINANCE NO. 606

AN ORDINANCE AUTHORIZING AND APPROVING THE NON-EXCLUSIVE EASEMENT FOR LANDS AND PROPERTIES OWNED BY THE MONTEREY PENINSULA AIRPORT DISTRICT, A PUBLIC CORPORATION OF THE STATE OF CALIFORNIA, TO THE UNITED STATES GOVERNMENT AND AUTHORIZING THE EXECUTION OF AGREEMENTS RELATING THERETO

THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA AIRPORT DISTRICT DO ORDAIN AS FOLLOWS:

SECTION I: The non-exclusive easement with the United States Government of that certain land, owned by the Monterey Peninsula Airport District and described in that certain non-exclusive easement number DTFA08-95-L-15082 is hereby approved and authorized subject to the provisions and considerations set forth in said non-exclusive easement which is on file in the District Office.

SECTION II: The term of this non-exclusive easement shall be from October 1, 1995 and ending September 30, 1996, subject to annual renewals through September 30, 2016.

SECTION III: That the Chairman of the Board of Directors of said District is hereby authorized to execute and deliver said non-exclusive easement to the United States Government, on behalf of said District and that the Secretary of said District is authorized to affix thereto the official seal of the said District.

PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA AIRPORT DISTRICT: This 14th day of August, 1996, by the following roll call vote:

AYES:	DIRECTORS:	Faul, Haskell, Nakamura, Searle, Chairman Irwin
NOES:	DIRECTORS:	None
ABSENT:	DIRECTORS:	None

Signed this 14th day of August, 1996



Tex Irwin, Chairman

A T T E S T


Barbara Sadler
District Secretary

G 10541

R. 743

WHEN RECORDED MAIL TO

RECORDED AT REQUEST OF

Other marker

Monterey Peninsula Airport District
P. O. Box 550
Monterey, CA 93940

MAR 25 11 00 AM '82

OFFICE OF RECORDER
COUNTY OF MONTEREY
SALINAS, CALIFORNIA

SPACE ABOVE THIS LINE FOR RECORDER'S USE

AGREEMENT AND GRANT OF EASEMENT

Agency: Parks and Recreation
Project: Asilomar State Beach
File: EAS 81-46

THIS AGREEMENT AND GRANT OF EASEMENT is made and entered into by and between the STATE OF CALIFORNIA, acting by and through its DIRECTOR OF GENERAL SERVICES, hereinafter called State, and Monterey Peninsula Airport District, hereinafter called Grantee.

State, pursuant to the provisions of Section 14666 of the Government Code of the State of California, and in consideration of the sum of \$ 750.00, receipt of which is hereby acknowledged, hereby grants unto Grantee, its successors and assigns forever, an easement for the construction, installation and operation of instrument landing devices and equipment and navigational aids for the Monterey Peninsula Airport on that certain real property situate in the County of Monterey, State of California, more particularly described as follows:

A portion of that certain real property described in deed from the State of California, recorded in Book 1717, Page 100 to 107, of Official Records of Monterey County, California, being a portion of Parcel One, Asilomar property. Beginning at the NE corner of Asilomar property, and the boundary of Asilomar Avenue, recorded in Book 1717, Page 103, thence along Asilomar property line, and City boundary line South 79° 52' West a distance of 578.58 feet to a M No. 3 corner of Asilomar property; thence South 23° 48' East a distance of 96.9 feet; thence South 9° 10' West a distance of 397.6 feet; thence North 67° 20' West a distance of 55.0 feet to the TRUE POINT OF BEGINNING of the leased parcel;

Thence North 22° 40' East a distance of 40 feet;
thence North 67° 20' West a distance of 65.0 feet;
thence South 22° 40' West a distance of 80 feet;
thence South 67° 20' East a distance of 65.0 feet;
thence North 22° 40' East a distance of 40 feet to the true point of beginning, said parcel consisting of 0.11 acres, more or less.

THE PROVISIONS ON THE REVERSE SIDE HEREOF CONSTITUTE A PART OF THIS AGREEMENT

Dated FEB 16 1982

GRANTEE [Signature]
Kel Nakamura, Chairman
Board of Directors, Monterey Peninsula Airport
Distri

STATE OF CALIFORNIA
By [Signature]
Department of Parks and Recreation

By [Signature]
Department of General Services H-12

PROVIDED, this Grant of Easement is subject to the following terms and conditions:

1. This Grant is subject to existing contracts, leases, licenses, easements, encumbrances, and claims which may affect said property and the use of the word "Grant" herein shall not be construed as a covenant against the existence of any thereof.
2. Grantee waives all claims against State, its officers, agents, and employees, for loss or damage caused by, arising out of, or in any way connected with the exercise of this Easement, and Grantee agrees to save harmless, indemnify, and defend State, its officers, agents, and employees, from any and all loss, damage or liability which may be suffered or incurred by State, its officers, agents, and employees caused by, arising out of, or in any way connected with exercise by Grantee of the rights hereby granted, except those arising out of the sole negligence of State.
3. State reserves the right to use said real property in any manner, provided such use does not unreasonably interfere with Grantee's rights hereunder.
4. State reserves the right to require Grantee, at State expense, to remove and relocate all improvements placed by Grantee upon said real property, upon determination by State that the same interfere with future development of State's property. Within 180 days after State's written notice and demand for removal and relocation of the improvements, Grantee shall remove and relocate the improvements to a feasible location on the property of State, as designated by State, and State shall furnish Grantee with an easement in such new location, on the same terms and conditions as herein stated, all without cost to Grantee, and Grantee thereupon shall reconvey to State the easement herein granted.
5. This Easement shall terminate in the event Grantee fails for a continuous period of 18 months to use the Easement for the purposes herein granted. Upon such termination, Grantee shall forthwith upon service of written demand, deliver to State a quitclaim deed, to its right, title and interest hereunder, and shall, on State request, without cost to State, and within 90 days from written demand by State, remove all property placed by or for Grantee upon said property and restore said premises as nearly as possible to the same condition they were in prior to the execution of this Easement. In the event Grantee should fail to restore the premises in accordance with such request, State may do so at the risk of Grantee, and all costs of such removal and restoration shall be paid by Grantee upon demand.
6. It is understood and agreed that ingress and egress to the above described easement area shall be limited to such roads and trails as may be located by State on Asilomar State Beach.
7. It is further understood and agreed that Grantee may permit the subject area to be used by the United States of America for purposes consistent with this Agreement and Grant of Easement.