

1 MICHAEL J. AGUIRRE, City Attorney  
CARMEN A. BROCK, Deputy City Attorney  
2 California State Bar No. 162592  
Office of the City Attorney  
3 1200 Third Avenue  
Suite 1100  
4 San Diego, California 92101-4100  
Telephone: (619) 533-5800  
5 Facsimile: (619) 533-5856

6 Attorneys for Plaintiffs,  
People of the State of California,  
7 City of San Diego

Exempt from filing fees  
Gov.Code §6103

8 **SUPERIOR COURT OF CALIFORNIA**  
9 **COUNTY OF SAN DIEGO – CENTRAL DIVISION**

10 THE PEOPLE OF THE STATE OF )  
11 CALIFORNIA and THE CITY OF SAN )  
DIEGO, a municipal corporation, )  
12 )  
Petitioners and Plaintiffs, )  
13 )  
v. )  
14 )  
15 SUNROAD CENTRUM, L.P., a California )  
Limited Partnership, SUNROAD ASSET )  
16 MANAGEMENT, INC., a California )  
corporation, SUNROAD ENTERPRISES, )  
17 CALIFORNIA DEPARTMENT OF )  
TRANSPORTATION, AERONAUTICS )  
DIVISION, and DOES 1 through 50, inclusive, )  
18 )  
Respondents and Defendants. )

Case No. GIC 877054

**CITY OF SAN DIEGO'S RESPONSE  
TO SPECIAL INTERROGATORIES,  
SET ONE, PROPOUNDED BY  
SUNROAD CENTRUM, L.P.,  
SUNROAD ASSET MANAGEMENT,  
INC. AND SUNROAD ENTERPRISES**

Judge:  
Dept:  
Trial Date: Not Yet Set  
Complaint Filed: 12/15/06

19 SUNROAD CENTRUM, L.P., a California  
20 Limited Partnership, SUNROAD ASSET  
21 MANAGEMENT, INC., a California  
22 corporation, SUNROAD ENTERPRISES,  
Cross-Complainants and  
23 Petitioners,  
v.  
24 CITY OF SAN DIEGO, a municipal  
25 corporation, and ROES 1 through 10, inclusive,  
26 Cross-Defendants and  
Respondents  
27

**RECEIVED**  
MAR -7 2007  
Gerald Blank, Lawyer

1 **PROPOUNDING PARTY: DEFENDANTS SUNROAD CENTRUM, L.P.,**  
2 **SUNROAD ASSET MANAGEMENT, INC., AND**  
3 **SUNROAD ENTERPRISES**

3 **RESPONDING PARTY: PEOPLE OF THE ITY OF SAN DIEGO**

4 **SET NUMBER: ONE**

5 The Plaintiff and Petitioner, City of San Diego (“CITY”) responds to Sunroad  
6 Centrum L.P’s, Sunroad Asset Management, Inc., and Sunroad Enterprises’ (collectively,  
7 “SUNROAD”) Special Interrogatories (Set One) pursuant to Code of Civil Procedure §§  
8 2030.210 through 2030.310, as follows:

9  
10 **PRELIMINARY STATEMENT**

11 These responses are made solely for the purpose of, and in relation to, this action.  
12 Each response is given subject to all appropriate objections (including but not limited to  
13 objections concerning competency, relevancy, materiality, propriety and admissibility) which  
14 would require the exclusion of any evidence contained herein if the evidence was offered in  
15 court.

16 The party on whose behalf the responses are given has not yet completed its  
17 investigation of the facts relating to this action, has not yet completed its discovery in this  
18 action, and has not yet completed its preparation for trial. Consequently, the following  
19 responses are given without prejudice to the answering party's right to produce, at the time of  
20 trial, subsequently discovered evidence relating to the proof of any material facts, and to  
21 produce all evidence, whenever discovered, relating to the proof of facts subsequently  
22 discovered to be material.

23 Except for facts explicitly admitted herein, no admissions of any nature whatsoever  
24 are to be implied or inferred. The fact that any interrogatory and/or request herein has been  
25 answered should not be taken as an admission, or a concession of the existence, of any facts  
26 set forth or assumed by such interrogatory and/or request, or that such answer constitutes  
27 evidence of any fact thus set forth or assumed. All responses must be construed as given on  
28 the basis of present recollection.

1 **GENERAL OBJECTIONS**

2 1. Each and every response set forth below is answered subject to the specific  
3 limitations and objections set forth in the respective response and to the general limitations  
4 and objections set forth herein. These general limitations and objections form a part of the  
5 response to each and every category of the Special Interrogatories and are set forth here to  
6 avoid unnecessary duplication and repetition of stating them in each individual response.

7 2. The CITY objects to each Special Interrogatory to the extent that it seeks  
8 information neither relevant to the subject matter of this litigation nor reasonably calculated to  
9 lead to the discovery of admissible evidence.

10 3. The CITY objects to each Special Interrogatory to the extent that it seeks  
11 information protected by the attorney-client privilege, the attorney work-product doctrine, or  
12 any other applicable privilege, protection or doctrine. Nothing contained herein is intended to  
13 be, or should be construed as, a waiver of the attorney-client privilege, the attorney work-  
14 product doctrine, or any other applicable privilege, protection or doctrine.

15 4. The CITY objects to each Special Interrogatory to the extent that they could be  
16 interpreted as calling for the production of trade secrets or other confidential or proprietary  
17 documents subsection to sections 860 and/or 1060 of the Evidence Code.

18 5. No response to any Special Interrogatory shall be deemed a waiver of any  
19 objection not set forth which could be made to any such Special Interrogatory, including, but  
20 not limited to, the relevancy of the Special Interrogatory and/or any other material affecting  
21 potential admissibility of such information at the trial of this action.

22 6. The CITY's responses, including objections, are based on discovery and  
23 information currently available to the CITY. Discovery and investigation of this matter are  
24 continuing. The CITY reserves the right to produce or rely upon evidence, facts, documents  
25 and information which have not been discovered, and the relevance of which have not been  
26 determined. The CITY reserves the right to supplement or modify these responses, including  
27 objections, should additional or different information become available.

28

1 Subject to, and without waiving the foregoing General Objections, the CITY responds  
2 to Plaintiff's Special Interrogatories as follows:

3 **RESPONSES**

4 **RESPONSE TO SPECIAL INTERROGATORY NO. 1:**

5 On April 24, 2006, the Federal Aviation Administration ("FAA") issued a "Notice of  
6 Presumed Hazard" specifically stated that the SUNROAD Centrum I Building  
7 ("BUILDING") at 180 feet above ground level ("AGL") would have an adverse effect upon  
8 navigable airspace or air navigation facilities at Montgomery Field. As such, it stated "the  
9 structure is presumed to be a hazard to air navigation." The FAA "Notice of Presumed  
10 Hazard" also specifically stated "THIS LETTER DOES NOT AURTHORIZE  
11 CONSTRUCTION OF THE STRUCTURE EVEN AT A REDUCED HEIGHT" (Caps in the  
12 original). On August 11, 2006, the FAA issued a "Determination of Hazard" for the  
13 BUILDING ("HAZARD DETERMINATION"). The aeronautical study conducted in  
14 support of the FAA HAZARD DETERMINATION found that the BUILDING would have a  
15 substantial adverse effect on the safe and efficient utilization of the navigable airspace by  
16 aircraft and/or on the operation of air navigation facilities at the CITY's Montgomery Field  
17 airport. The study analyzed the impact of the height of the BUILDING on proposed arrival,  
18 departure, and en route procedures for aircraft operating under both visual flight rules and  
19 instrument flight rules at Montgomery Field. The FAA found that the BUILDING, at a  
20 height of 180 feet AGL exceeded the Subpart C Obstruction Standards of Title 14 of the  
21 Code of Federal Regulations, Part 77 ("PART 77 OBSTRUCTION STANDARDS"), as  
22 applied to Montgomery Field by at least 19 feet. The CITY contends the BUILDING's  
23 violation of the FAA PART 77 OBSTRUCTION STANDARDS means the BUILDING  
24 violates the height restrictions established by the FAA as alleged in ¶ 21 of the First  
25 Amended Complaint ("FAC").

26 **RESPONSE TO SPECIAL INTERROGATORY NO. 2:**

27 The CITY IDENTIFIES the following PERSONS with knowledge of the facts  
28 supporting the CITY's contention that BUILDING violates "the height restrictions  
established by the FAA" as alleged in ¶21 of the FAC: Karen McDonald, FAA; Jeff Brown,  
CALTRANS; Gary Cathey, CALTRANS. Discovery has just begun. Therefore, the CITY

1 reserves the right to identify other PERSONS with knowledge of the facts as such  
2 information becomes available through discovery.

3 **RESPONSE TO SPECIAL INTERROGATORY NO. 3**

4 The CITY IDENTIFIES the following DOCUMENTS in support of its contention that  
5 the BUILDING violates “the height restrictions established by the FAA” as alleged in ¶21 of  
6 the FAC: FAA April 24, 2006 “Notice of Presumed Hazard;”. FAA August 11, 2006,  
7 “Determination of Hazard”. Discovery has just begun. Therefore, the CITY reserves the  
8 right to identify further DOCUMENTS as such information becomes available through  
9 discovery to the City.

10 **RESPONSE TO SPECIAL INTERROGATORY NO. 4**

11 On April 24, 2006, the FAA issued a “Notice of Presumed Hazard” specifically stated  
12 that the BUILDING at 180 feet AGL would have an adverse effect upon navigable airspace or  
13 air navigation facilities at Montgomery Field. The FAA further stated any height exceeding  
14 160 feet AGL would warrant an FAA “Determination of Hazard to Air Navigation.” The  
15 FAA “Notice of Presumed Hazard” also specifically stated “THIS LETTER DOES NOT  
16 AUTHORIZE CONSTRUCTION OF THE STRUCTURE EVEN AT A REDUCED  
17 HEIGHT” (Caps in the original). On June 20 2006, SUNROAD assured the FAA in writing  
18 that SUNROAD “agreed “ to the 160 height restriction set forth in the FAA APRIL NOTICE.  
19 SUNROAD also informed the FAA that they would verify the data previously submitted to  
20 the FAA and seek a re-evaluation if a variance was found. Notwithstanding the  
21 representations made to the FAA, SUNROAD completed the framing of the BUILDING to  
22 full height of 180 feet AGL within days of its June 20, 2006 letter. Promising to hold the  
23 building’s height to 160 feet AGL, SUNROAD filed a Notice of Completion with the FAA  
24 stating the BUILDING had reached its maximum height of 180 feet AGL. The CITY  
25 contends that SUNROAD’s false promise made to the FAA on June 20, 2006, that the  
26 BUILDING would not exceed 160 feet AGL), then completing the BUILDING to 180 feet  
27 AGL a few days thereafter, constitutes a submission of false and misleading information to  
28 the FAA as alleged in ¶29 of the FAC.

1 **RESPONSE TO SPECIAL INTERROGATORY NO. 6**

2 The CITY IDENTIFIES the following PERSONS with knowledge of the facts  
3 supporting the CITY's contention that SUNROAD submitted "false and misleading  
4 information" to the FAA as alleged in ¶29 of the FAC: Karen McDonald, FAA; Craig  
5 Bachmann, SUNROAD; Jeff Brown, CALTRANS; Gary Cathey, CALTRANS. The CITY  
6 reserves the right to identify other PERSONS with knowledge of the facts as such information  
7 becomes available through discovery.

8 **RESPONSE TO SPECIAL INTERROGATORY NO. 5**

9 The CITY IDENTIFIES the following DOCUMENTS it contends supports the CITY's  
10 contention that SUNROAD submitted "false and misleading information" to the FAA as  
11 alleged in ¶29 of the FAC: FAA Notice of Presumed Hazard from Karen Mc Donald dated  
12 4/26/06; Email from Karen McDonald to Craig Bachmann, SUNROAD, dated 6/20/06; Letter  
13 from SUNROAD (Craig Bachmann) to FAA (Karen Mc Donald) dated 20/06; FAA Hazard  
14 Determination dated 8/11/06. The CITY reserves the right to identify further DOCUMENTS  
15 as such information becomes available through discovery to the City.

16 **RESPONSE TO SPECIAL INTERROGATORY NO. 7**

17 SUNROAD has consistently advertised on its website that the BUILDING will stand  
18 12 stories tall and will be the tallest building in Kearny Mesa "clad in metal glass and stone  
19 and capped by a great architectural roof element reaching for the sky". SUNROAD has, and  
20 continues to advertise and misrepresent to the public that the "large upper portion of the  
21 structure will project a high-tech image for the 21st century with expansive floor to ceiling  
22 glazing" is not the subject of significant controversy. SUNROAD continues to make these  
23 misrepresentations of fact, not apprising the public, and/or any prospective lessee, that the top  
24 stories of the BUILDING have been declared a "hazard" to air navigation at the CITY's  
25 Montgomery Field airport. SUNROAD has never informed the public and prospective  
26 lessees that the building is currently subject to the CITY's nuisance abatement action and that  
27 the CITY is seeking to abate the nuisance, and hence the "hazard," by obtaining a mandatory  
28 order from the Court ordering SUNROAD to deconstruct any part of the BUILDING that is in

1 violation of FAA and CALTRANS regulations and laws, including the top floors.  
2 SUNROAD has not apprised the public, or prospective lessee as a fair business practices, that  
3 if they enter into a lease for any part of the violating portions of the BUILDING the lease  
4 contract may be declared void and their prospective lease terminated. Nor has SUNROAD  
5 ever advised the public through its advertisements, or informed prospective tenants that may  
6 rely upon a date certain to occupy the BUILDING, that the BUILDING is not likely to be  
7 issued an occupancy permit by the CITY until the BUILDING is reduced to a height found  
8 not to be a hazard by the FAA and CALTRANS. SUNROAD continues to advertise, and  
9 enter into contracts for lease on the basis that the BUILDING is “the first high-rise Class A  
10 high rise office building to come to the Kearny Mesa market and is being very well-received  
11 by prospective tenants and is leasing quickly.” SUNROAD has never disclosed the  
12 BUILDING has been declared a “hazard” by the FAA and was built without required  
13 CALTRANS permits, all of which is deceptive business dealing which misleads the public  
14 and prospective lessees and tenants, all in an effort to secure lease contracts in advance for  
15 unfair financial gain, all to the detriment of the public and individual lessees who may be so  
16 deceived and harmed. Therefore, the CITY contends SUNROAD’s has committed unfair,  
17 deceptive and misleading business acts as alleged in ¶64 of the FAC. The CITY reserves the  
18 right to amend this response as further facts become available through discovery.

19 **RESPONSE TO SPECIAL INTERROGATORY NO. 8**

20 The CITY IDENTIFIES the following PERSONS who have knowledge of the facts in  
21 support of the CITY’s contention that SUNROAD has committed unfair, deceptive and  
22 misleading business acts as alleged in ¶64 of the FAC: Tom Story, Richard Vann,  
23 SUNROAD; Mark Wayne, Dan Runyon, Eric Vann-- Burnham Real Estate Company; Gary  
24 Cathey, Jeff Brown (CALTRANS); Karen McDonald (FAA). The CITY reserves the right to  
25 identify other PERSONS with knowledge of the facts as such information becomes available  
26 through discovery.

1 RESPONSE TO SPECIAL INTERROGATORY NO. 9

2 The CITY IDENTIFIES the following DOCUMENTS in support of the CITY's  
3 contention that CITY's contention that SUNROAD has committed unfair, deceptive and  
4 misleading business acts as alleged in ¶64 of the FAC: Sunroad Centrum website; Burham  
5 Real Estate Company website; FAA Notice of Presumed Hazard from Karen Mc Donald  
6 dated 4/26/06; Email from Karen McDonald to Craig Bachmann, SUNROAD, dated 6/20/06;  
7 FAA Notice of Hazard from Karen Mc Donald to SUNROAD dated 8/11/06; Letter from  
8 CALTRANS (Jeff Brown) to SUNROAD dated 9/14/06; Letter from CALTRANS (Jeff  
9 Brown) to Barbara Lichman dated 9/29/06; Letter from CALTRANS (Jeff Brown) to CITY  
10 dated 10/25/06; CITY's Stop Work Notice dated 10/27/06; Letter from CALTRANS to CITY  
11 (Marcela Escobar-Eck) dated 11/9/06; Letter from CALTRANS (Raiyn Bain) to Barbara  
12 Lichman dated 11/27/06; CITY's Second Stop Work Notice dated 12/13/06; Letter from  
13 CALTRANS (Jeff Brown) to CITY (Jim Waring) dated 1/19/07; Daily Transcript website;  
14 Union Tribune website. The City reserves the right to identify further DOCUMENTS as such  
15 information becomes available through discovery to the CITY.

16 RESPONSE TO SPECIAL INTERROGATORY NO. 10

17 SUNROAD has consistently advertised on its website that the BUILDING will stand  
18 12 stories tall and will be the tallest building in Kearny Mesa "clad in metal glass and stone  
19 and capped by a great architectural roof element reaching for the sky". SUNROAD has, and  
20 continues to advertise and misrepresent to the public that the "large upper portion of the  
21 structure will project a high-tech image for the 21st century with expansive floor to ceiling  
22 glazing" is not the subject of significant controversy. SUNROAD continues to make these  
23 misrepresentations of fact, not apprising the public, and/or any prospective lessee, that the top  
24 stories of the BUILDING have been declared a "hazard" to air navigation at the CITY's  
25 Montgomery Field airport. SUNROAD has never informed the public and prospective  
26 lessees that the BUILDING is currently subject to the CITY's nuisance abatement action and  
27 that the CITY is seeking to abate the nuisance, and hence the "hazard," by obtaining a  
28 mandatory order from the Court ordering SUNROAD to deconstruct any part of the

1 BUILDING that is in violation of FAA and CALTRANS regulations and laws. SUNROAD  
2 has not apprised the public that if they enter into a lease for any part of the violating portions  
3 of the BUILDING the lease contract may be declared void and their prospective lease  
4 terminated. Nor has SUNROAD ever advised the public through its advertisements that the  
5 BUILDING is not likely to be issued an occupancy permit by the CITY until the BUILDING  
6 is reduced to a height found not to be a hazard by the FAA and CALTRANS. SUNROAD  
7 continues to advertise that the BUILDING is the first high-rise Class A high rise office  
8 building to come to the Kearny Mesa market and is being very well-received by prospective  
9 tenants and is leasing quickly. SUNROAD has never disclosed the BUILDING has been  
10 declared a “hazard” by the FAA and was built without required CALTRANS permits, all of  
11 which is deceptive with the intent to mislead the public in an effort to secure lease contracts in  
12 advance for unfair financial gain, all to the detriment of the public and individual lessees who  
13 may be so deceived and harmed. Therefore, the CITY contends SUNROAD’s advertisement  
14 of the BUILDING is unfair, deceptive, untrue and misleading as alleged in ¶64 of the FAC.

15 **RESPONSE TO SPECIAL INTERROGATORY NO. 11**

16 The CITY IDENTIFIES the following PERSONS who have knowledge of the facts in  
17 support of the CITY’s contention that SUNROAD’s advertisement of the BUILDING is  
18 unfair, deceptive, untrue and misleading as alleged in ¶64 of the FAC: Tom Story, Richard  
19 Vann, SUNROAD; Mark Wayne, Dan Runyon, Eric Vann-- Burnham Real Estate Company;  
20 Gary Cathey, Jeff Brown (CALTRANS); Karen McDonald (FAA). The CITY reserves the  
21 right to identify other PERSONS with knowledge of the facts as such information becomes  
22 available through discovery.

23 **RESPONSE TO SPECIAL INTERROGATORY NO. 12**

24 The CITY IDENTIFIES the following DOCUMENTS in support of the CITY’s  
25 contention that SUNROAD’s advertisement of the BUILDING is unfair, deceptive, untrue  
26 and misleading as alleged in ¶64 of the FAC: Sunroad Centrum website; Burham Real Estate  
27 Company website; FAA Notice of Presumed Hazard from Karen Mc Donald dated 4/26/06;  
28 Email from Karen McDonald to Craig Bachmann, SUNROAD, dated 6/20/06; FAA Notice of

1 Hazard from Karen Mc Donald to SUNROAD dated 8/11/06; Letter from CALTRANS (Jeff  
2 Brown) to SUNROAD dated 9/14/06; Letter from CALTRANS (Jeff Brown) to Barbara  
3 Lichman dated 9/29/06; Letter from CALTRANS (Jeff Brown) to CITY dated 10/25/06;  
4 CITY's Stop Work Notice dated 10/27/06; Letter from CALTRANS to CITY (Marcela  
5 Escobar-Eck) dated 11/9/06; Letter from CALTRANS (Raiyn Bain) to Barbara Lichman  
6 dated 11/27/06; CITY's Second Stop Work Notice dated 12/13/06; Letter from CALTRANS  
7 (Jeff Brown) to CITY (Jim Waring) dated 1/19/07; Daily Transcript website; Union Tribune  
8 website. The City reserves the right to identify further DOCUMENTS as such information  
9 becomes available through discovery to the CITY.

10 **RESPONSE TO SPECIAL INTERROGATORY NO. 13**

11 Objection. Vague, ambiguous, overbroad, burdensome. Subject to the  
12 aforementioned objections, the CITY identifies the following COMMUNICATIONS between  
13 the FAA and the CITY regarding the BUILDING know to the CITY to date: Email from  
14 David Miller, DCA (CITY) to Karen McDonald (FAA) dated 8/3/06. The City reserves the  
15 right to identify further DOCUMENTS as such information becomes available through  
16 discovery.

17 **RESPONSE TO SPECIAL INTERROGATORY NO.14**

18 Objection. Vague, ambiguous, overbroad, burdensome. Subject to the  
19 aforementioned objections, the CITY identifies the following COMMUNICATIONS between  
20 CALTRANS and the CITY regarding the BUILDING know to the CITY to date: Letter from  
21 Jeff Brown (CALTRANS) to Marcela Escobar-Eck (CITY) dated 11/9/06; email from Jeff  
22 Brown (CALTRANS) to City staff dated 12/13/06; Letter from Jeff Brown (CALTRANS) to  
23 Jim Waring (CITY) dated 1/19/07; Letter from Jim Waring (CITY) to Jeff Brown  
24 (CALTRANS) dated 1/23/07. The City reserves the right to identify further DOCUMENTS as  
25 such information becomes available through discovery.

26 **RESPONSE TO SPECIAL INTERROGATORY NO. 15**

27 Objection. Vague, overbroad, burdensome. Subject to the attorney client and work-  
28 product privileges. Subject to the aforementioned objections, the CITY identifies: Email

1 correspondence from Kathy Yodice, Esq. (AOPA) dated January 9, 2007; Emails from Gerald  
2 Blank, Esq (CAASD) dated January 9, 10, 22, 2007. The City reserves the right to identify  
3 further DOCUMENTS as such information becomes available through discovery.

4 **RESPONSE TO SPECIAL INTERROGATORY NO. 16**

5 The CITY contends the BUILDING is a clear and present danger to the health and  
6 welfare of the City, its citizens and all those who rely upon the CITY's Montgomery field  
7 because it has been declared a "hazard" to air navigation by the FAA and CALTRANS. On  
8 August 11, 2006, the FAA issued a "Notice of Hazard Determination" ("HAZARD  
9 DETERMINATION") for the BUILDING that specifically stated "...it is determined that the  
10 structure [BUILDING] has a substantial adverse effect on the safe and efficient utilization of  
11 the navigable airspace[at Montgomery Field] by aircraft and is a hazard to air navigation."  
12 The HAZARD DETERMINATION has not been lifted by the FAA and remains in place for  
13 the BUILDING. The FAA is the federal agency charged with the duty to enforce the Federal  
14 Aviation Act of 1958. The FAA, is the federal agency charged with the duty to promulgate  
15 aviation safety rules. The CITY contends that if the FAA has determined the BUILDING is  
16 a "hazard," to the airport operations and those on the ground, then the BUILDING presents a  
17 clear and present danger to the health and welfare of the CITY, its citizens and all those who  
18 rely upon and utilize the CITY's Montgomery Field airport. Further, CALTRANS is the  
19 California regulatory agency with the duty to foster and promote the development of a safe,  
20 efficient, dependable, and environmentally compatible air transportation system within the  
21 State and is charged with the duty in California to enforce the State Aeronautics Act, Public  
22 Utilities Code ("PUC")§ 21001 et seq. The PUC is basis for all CALTRANS' aviation  
23 policies. CALTRANS provides for aviation system planning and for the integration of  
24 aviation into transportation system planning on a regional, statewide, and national basis.  
25 CALTRANS' Division of Aeronautics administers noise regulation and land use planning  
26 laws that foster compatible land use around airports, and regulates other impacts caused by  
27 aviation. CALTRANS notified SUNROAD the construction of the BUILDING could not  
28 proceed without a CALTRANS permit to construct the BUILDING because, as a "hazard" it

1 posed risk to air navigation at the CITY's Montgomery Field airport and to all those on the  
2 ground at or near Montgomery Field. On September 14, 2006, SUNROAD was notified by  
3 CALTRANS that it was "unlawful" to proceed with construction of the BUILDING as it  
4 violated PUC §21659. On September 29, 2006, CALTRANS notified SUNROAD that if it  
5 proceeded with the construction of the BUILDING, it was proceeding at its own risk because  
6 the BUILDING presented a clear and present danger to the health and welfare of those  
7 persons and structures within CALTRANS' jurisdiction. CALTRANS thereafter requested  
8 the CITY issue a Stop Work Notice for the BUILDING and suggested the CITY undertake  
9 building permit revocation procedures. The CITY, therefore, believes the BUILDING is a  
10 clear and present threat to the health and welfare of the CITY, its citizens and those who rely  
11 upon and use Montgomery Field as alleged in ¶48 of the FAC.

12 **RESPONSE TO SPECIAL INTERROGATORY NO. 17**

13 The CITY identifies the following PERSONS who have knowledge of the facts  
14 supporting the CITY's contention that the BUILDING is a clear and present danger to the  
15 health and welfare of the CITY, its citizens, and all those who rely upon and utilize the City's  
16 Montgomery Field, as alleged in ¶ 48 of the FAC: Karen Mc Donald, FAA; Jeff R. Brown,  
17 CALTRANS; Gary Cathey, CALTRANS. The City reserves the right to identify other  
18 PERSONS with knowledge of the facts as such information becomes available through  
19 discovery.

20 **RESPONSE TO SPECIAL INTERROGATORY NO. 18**

21 The CITY identifies the following DOCUMENTS that support its contention that the  
22 BUILDING is a clear and present danger to the health and welfare of the CITY, its citizens,  
23 and all those who rely upon and utilize the City's Montgomery Field, as alleged in ¶ 48 of the  
24 FAC: FAA Notice of Presumed Hazard from Karen Mc Donald dated 4/26/06; Email from  
25 Karen McDonald to Craig Bachmann, SUNROAD, dated 6/20/06; FAA Notice of Hazard  
26 from Karen Mc Donald to SUNROAD dated 8/11/06; Letter from CALTRANS (Jeff Brown)  
27 to SUNROAD dated 9/14/06; Letter from CALTRANS (Jeff Brown) to Barbara Lichman  
28 dated 9/29/06; Letter from CALTRANS (Jeff Brown) to CITY dated 10/25/06; CITY's Stop

1 Work Notice dated 10/27/06; Letter from CALTRANS to CITY (Marcela Escobar-Eck) dated  
2 11/9/06; Letter from CALTRANS (Raiyn Bain) to Barbara Lichman dated 11/27/06; CITY's  
3 Second Stop Work Notice dated 12/13/06; Letter from CALTRANS (Jeff Brown) to CITY  
4 (Jim Waring) dated 1/19/07; The City reserves the right to identify further DOCUMENTS as  
5 such information becomes available through discovery.

6 **RESPONSE TO SPECIAL INTERROGATORY NO. 19**

7 Objection. Vague, ambiguous, overbroad, burdensome, conjunctive. Subject to the  
8 aforementioned objections, the CITY responds it would not have issued a building permit for  
9 any BUILDING declared a "hazard" to air navigation by the FAA at or near the CITY's  
10 Montgomery Field Airport. The CITY's Airport Director was not made aware of the issue  
11 because SUNROAD failed to timely comply with Title 14 of the Code of Federal  
12 Regulations, Chapter I, Subchapter E, Part 77 ("PART 77"). According to PART 77,  
13 SUNROAD had an independent obligation to notify the FAA of any proposed construction  
14 within specified distances from runways set forth by FAA regulations. Pursuant to PART 77  
15 and the provisions of the California Aeronautics Act, SUNROAD had an obligation to obtain  
16 a hazard determination from the FAA for the BUILDING at least 30 days prior to  
17 SUNROAD's application for a building permit from the CITY, and prior to construction of  
18 the BUILDING, not after the building was under construction and the frame was nearing, or  
19 had surpassed, the FAA obstruction standard heights. The CITY contends had it been made  
20 aware of the "Presumed Hazard" determination issued by the FAA on April 24, 2006, it  
21 would not have issued any permit for the BUILDING as alleged in ¶ 33 of the FAC.

22 **RESPONSE TO SPECIAL INTERROGATORY NO. 20**

23 Objection. Vague, ambiguous, overbroad, burdensome, conjunctive. Subject to the  
24 aforementioned objections, the CITY identifies the following PERSONS who have  
25 knowledge of the facts supporting the CITY's contention that had the CITY been provided  
26 with the FAA's Hazard Determination at the time Sunroad submitted its permit application to  
27 the CITY, the CITY would not have issued a building permit for the BUILDING as alleged  
28 in ¶ 33 of the FAC: James Waring, CITY. The City reserves the right to identify other

1 PERSONS with knowledge of the facts as such information becomes available through  
2 discovery.

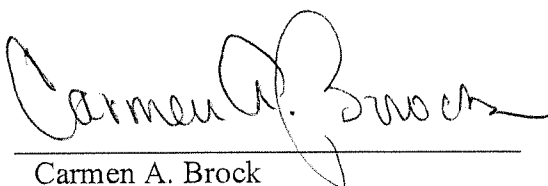
3 **RESPONSE TO SPECIAL INTERROGATORY NO. 21**

4 Objection. Vague, ambiguous, overbroad, burdensome, conjunctive. Subject to the  
5 aforementioned objections , the CITY identifies the following DOCUMENTS that support its  
6 contention that had the CITY been provided with the FAA's Hazard Determination at the  
7 time Sunroad submitted its permit application to the CITY, the CITY would not have issued a  
8 building permit for the BUILDING as alleged in ¶ 33 of the FAC: FAA Notice of Presumed  
9 Hazard from Karen Mc Donald dated 4/26/06; Email from Karen McDonald to Craig  
10 Bachmann, SUNROAD, dated 6/20/06; FAA Notice of Hazard from Karen Mc Donald to  
11 SUNROAD dated 8/11/06; Letter from CALTRANS (Jeff Brown) to SUNROAD dated  
12 9/14/06; Letter from CALTRANS (Jeff Brown) to Barbara Lichman dated 9/29/06; Letter  
13 from CALTRANS (Jeff Brown) to CITY dated 10/25/06; CITY's Stop Work Notice dated  
14 10/27/06; Letter from CALTRANS to CITY (Marcela Escobar-Eck) dated 11/9/06; Letter  
15 from CALTRANS (Raiyn Bain) to Barbara Lichman dated 11/27/06; CITY's Second Stop  
16 Work Notice dated 12/13/06; Letter from CALTRANS (Jeff Brown) to CITY (Jim Waring)  
17 dated 1/19/07; The City reserves the right to identify further DOCUMENTS as such  
18 information becomes available through discovery to the City.

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Dated: March 6, 2007

MICHAEL J. AGUIRRE, City Attorney

By   
Carmen A. Brock  
Deputy City Attorney


Attorneys for Petitioners and Plaintiffs  
The People of the State of California and  
The City of San Diego

**VERIFICATION**

I, Sue Sabbagh, am an agent for purposes of making this verification on behalf of the City of San Diego and make these answers and responses to Defendants Sunroad Centrum, L.P., Sunroad Asset Management, Inc., and Sunroad Enterprises' First Set of Special Interrogatories. These responses are based upon information furnished to me by others and to the best of my knowledge, information and belief, said responses are true and correct.

I declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct.

Executed, this 15<sup>th</sup> day of March 2007, at San Diego, California.

  
\_\_\_\_\_  
Sue Sabbagh  
City Attorney Investigator

1 MICHAEL J. AGUIRRE, City Attorney  
2 CARMEN A. BROCK, Deputy City Attorney  
3 California State Bar No. 162592  
4 Office of the City Attorney  
5 1200 Third Avenue, Suite 1100  
6 San Diego, California 92101-4100  
7 (619) 533-5800; fax (619) 533-5856  
8 Attorneys for Respondent CITY OF SAN DIEGO

Case No. GIC 877054

9  
10 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**

11 DECLARATION  
12 OF SERVICE

*People, et al. v. Sunroad Centrum LP*  
I/C Judge: Hon. John S. Meyer Dept. 61

13 I am employed in the City of San Diego, California. I am over the age of 18 and not a party to  
14 the within action; my business address is: 1200 Third Avenue, Suite 1100, San Diego, California 92101.

15 On March 6, 2007, I caused to be served the following document(s) described as:

- 16  
17 1. **CITY OF SAN DIEGO'S RESPONSE TO SPECIAL INTERROGATORIES,  
18 SET ONE PROPOUNDED BY SUNROAD CENTRUM, L.P., SUNROAD  
19 ASSET MANAGEMENT, INC. AND SUNROAD ENTERPRISES**

20 in this action by placing the true copies thereof enclosed in a sealed envelope addressed as  
21 follows:

22 **(Via Personal Service)**

23 Steven M. Strauss  
24 COOLEY GODWARD KRONISH  
25 4401 Eastgate Mall  
26 San Diego, CA 92121  
27 (858) 550-6000; (858) 550-6420 (Fax)  
28 *Attorneys for Sunroad Centrum; Sunroad Asset  
Management, Inc., and Sunroad Enterprises*

**(Via U.S. Mail)**

Gerald Blank  
LAW OFFICES OF GERALD BLANK  
444 West C Street, Ste. 210  
San Diego, CA 92101  
(619) 238-1111; (619) 238-1126 (Fax)  
*Attorneys for Community Airfields  
Association of San Diego, Inc.*

**(Via U.S. Mail)**

Jim Pokorny  
LAW OFFICES OF JAMES F. POKORNY  
110 West C Street, Ste. 1504  
San Diego, CA 92101  
(619) 239-8142; (619) 239-8141 (Fax)  
*Attorneys for Aircraft Owners and Pilots Assoc.*

**(Via U.S. Mail)**

Raiyn Bain  
Julie A. Jordan  
Dept. of Transportation – Legal Dept.  
4050 Taylor Street, MS 130  
San Diego, CA 92110  
(619) 688-2351; (619) 688-6905 (Fax)  
*Attorneys for Dept. of Transportation,  
Division of Aeronautics*

**(BY MAIL)** I served the individual named by placing the documents in a sealed envelope. I  
then placed it for collection and mailing with the United States Postal Service this same day, at  
my address shown above, following ordinary business practices.

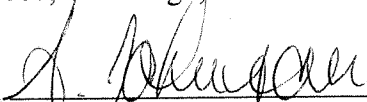
**(BY FAX)** At \*\*, I transmitted the above-described document by facsimile machine to the  
above-listed fax number. The transmission originated from facsimile phone number (619) 236-  
7215 and was reported as complete and without error. The facsimile machine properly issued a  
transmission report, a copy of which is attached hereto. [CCP section 1013(e); CRC Rule 2008].

**(BY OVERNIGHT DELIVERY)** I caused the envelope(s) to be delivered overnight via an  
overnight delivery service in lieu of delivery by mail to the addressee(s). [CCP. section 1013]

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[XX] (BY PERSONAL SERVICE) I served the individual named by personally delivering a copy to the office Steven M. Strauss of Cooley Godward Kronish via **American Messenger Services**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on March 6, 2007, San Diego, California.

  
\_\_\_\_\_  
Amelda M. Johnson