

Ground sublease Agreement between FIU and NOAA
Sublease Number 064WCF94003

Highlights

- Sublease agreement made and entered into November 30, 1993 (page 1)
- Sublease Term: shall expire 20 years from commencement date unless renewed or terminated. NOAA has an option to renew for an additional 20 years. Sublease term shall not exceed the term of Lease Agreement 2727. (page 3)
- Lease agreement 2727 is dated January 22, 1974 between State of Florida Board of Trustees of the Internal Improvement Trust Fund and Florida Board of Regents. (page 2)
- Rent: First 3-years of sublease agreement, an annual rent of \$82,000 at the rate of \$6,833.33 per calendar month. The fair market rental of the Premises shall be re-established for each subsequent 3-year period by an independent appraisal. (page 6)
- Joint Program: Additional consideration for sublease given if MOU established for a joint program between FIU and NOAA including education, research and public service. In consideration of the programmatic interrelationship established the rent may be waived after the first 24-months of rent (page 7)
- Weather Balloon Rights-of-Way: Within 200 feet of the upper air inflation building. Airspace over and above a plane lying 10 feet above the elevation of the floor of the Upper Air Inflation Building and land more than 200 feet but within 300 feet of the Upper Air Inflation Building (page 24)

GROUND SUBLEASE AGREEMENT

between

FLORIDA INTERNATIONAL UNIVERSITY

and

THE UNITED STATES OF AMERICA
Department of Commerce
National Oceanic and Atmospheric Administration

for

THE NATIONAL HURRICANE CENTER

SUBLEASE NO. 064WCF94003

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GROUND SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT is made and entered into this 30 day of November, 1993, by and between THE BOARD OF REGENTS OF THE STATE OF FLORIDA (BOR), an agency of the State of Florida, for and on behalf of Florida International University (FIU) collectively referred to hereinafter as LESSOR and THE UNITED STATES OF AMERICA, acting by and through the Department of Commerce, National Oceanic and Atmospheric Administration, pursuant to Section 110 of Public Law 102-567, hereinafter referred to as the GOVERNMENT.

RECITALS

WHEREAS, LESSOR leases a certain parcel of land which is known as the University Park Campus, formerly known as the Tamiami Campus of Florida International University from the STATE OF FLORIDA BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND under Lease Agreement 2727 dated January 22, 1974, as amended, and,

WHEREAS, the GOVERNMENT wishes to lease a portion of said land as described on Exhibit "A" hereto ("the Premises") for purposes of constructing the National Hurricane Center, Weather Forecast Office, an Upper Air Facility and associated site improvements (all to be referred to collectively hereinafter as the National Hurricane Center), all as described on Exhibit "B" on lands leased by the LESSOR on the University Park Campus, formerly known as the Tamiami Campus of Florida International University; and,

WHEREAS, LESSOR is willing to lease the Premises to the GOVERNMENT for and in consideration of the rental and in further consideration of the mutual interests and goals shared by the

parties,

NOW, THEREFORE, THE PARTIES DO AGREE AS FOLLOWS:

1. LESSOR'S WARRANTY. LESSOR warrants that it has the full right and authority to enter into this Sublease Agreement and that all necessary notifications and approvals to the exercise of its authority have been made and obtained, including the written notice and approval required by Lease Agreement 2727 dated January 22, 1974 between STATE OF FLORIDA BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND as Lessor and the FLORIDA BOARD OF REGENTS as Lessee.

2. SUBLEASED PREMISES. LESSOR hereby subleases to the GOVERNMENT the Premises subject to any easements, restrictions, exceptions and conditions which appear of record. The GOVERNMENT shall have rights-of-way for ingress to and egress from the Premises over existing access roads and aerial rights-of-way (except light poles and trees which are existing or which may be installed by the LESSOR) for weather balloon launches in the Clear Zones described in Exhibit "A"; all rights-of-way to be over the said lands and adjoining lands of the LESSOR, and, unless herein described otherwise, to be by routes reasonably determined to be convenient to the GOVERNMENT. The LESSOR hereby reserves unto itself easements to operate, repair, maintain and replace existing power, sewer, water, and fuel lines over, in, or upon said Premises.

3. SUBLEASE TERM. The term of this Sublease Agreement shall commence on the date it is fully signed by both parties and shall

expire twenty (20) years from such date unless renewed or sooner terminated as set forth herein. The GOVERNMENT shall have an option to renew this Sublease for an additional twenty (20) year term or for several renewal terms not to exceed an aggregate of twenty (20) years but the sublease term shall not exceed the term of Lease Agreement 2727 or any extension thereof.

4. USE OF PREMISES.

(a) The National Hurricane Center. The Premises shall be used for the construction and operation of the National Hurricane Center. The National Hurricane Center shall be built by the GOVERNMENT in accordance with plans and specifications to be prepared by the GOVERNMENT and reviewed and approved by LESSOR, which approval shall not be unreasonably withheld. As used throughout this document, the term "review and approve" shall mean the process of reviewing GOVERNMENT's plans and specifications by FIU on behalf of the BOR to insure that GOVERNMENT's plans and specifications meet or exceed the building standards adopted by the BOR. When the National Hurricane Center is completed, "as built" plans and specifications shall be incorporated into this Sublease Agreement by reference herein as Exhibit "C". The GOVERNMENT shall have the right during the existence of this Sublease or any renewals thereof to construct, name, occupy, maintain, expand, alter and replace the building housing the National Hurricane Center and any structures, fixtures, additions, improvements, and signs in, on, upon, or attached to the Premises or to the National Hurricane Center which are necessary for the full benefit thereof,

and all such structures, fixtures, additions, improvements, and signs shall be and shall remain the property of the GOVERNMENT, and may be removed upon the date of expiration or termination of this Sublease, or within nine (9) months thereafter, by or on behalf of the GOVERNMENT; however, nothing in this paragraph shall be construed to give the GOVERNMENT the right to expand the building beyond the leased Premises and onto additional state land. Any construction, expansion, alteration or replacement on the Premises shall be completed by the GOVERNMENT in accordance with the minimum standards set by the State University System Construction Procedures and Cost Containment Guidelines (then in force) or to more stringent standards, at the GOVERNMENT'S option.

(b) Substitution of Occupant. The GOVERNMENT may, from time to time with approval of the LESSOR, change the Government agency or agencies occupying the National Hurricane Center. The LESSOR'S approval shall not be unreasonably withheld, however upon an agreed substitution of occupant, LESSOR may adjust the rent according to an independent appraisal of the fair market rent of the Premises at the time of substitution and every three (3) years thereafter for the remainder of the Sublease term, or any renewal.

(c) Compliance with Rules and Regulations. The GOVERNMENT shall not use or permit the Premises to be used in violation of any applicable and valid laws, ordinances, rules or regulations of any public or local governmental authority at any time applicable thereto relating to the environment, sanitation or the public health, safety or welfare.

(d) Site Preparation. In preparation for construction of the National Hurricane Center, the GOVERNMENT shall have 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, with the review and approval of LESSOR, which approval shall not be unreasonably withheld, which may constitute a hindrance to the construction.

(e) Restoration. At the expiration of this Sublease or any option period or upon early termination thereof, or upon damage to the National Hurricane Center by natural elements or other circumstances over which the GOVERNMENT has no control or within nine (9) months after such expiration, termination, or damage (or within such additional time as may be mutually agreed), the GOVERNMENT shall have the right, but not the obligation, to remove all structures and/or permanent improvements erected on the Premises. If the GOVERNMENT removes any of said structures or permanent improvements, the GOVERNMENT shall restore the Premises to as good condition as that existing at the time of the GOVERNMENT's initial entry upon the Premises under this Sublease by grading, conditioning and seeding the soil in order to prevent deterioration of the land within ninety (90) days after removing said structures or permanent improvements, or within such additional time as may be mutually agreed upon. Alternatively, the GOVERNMENT and the LESSOR may agree that the GOVERNMENT shall abandon the improvements on the Premises and title to all the improvements on said Premises shall become the property of the

LESSOR, in full satisfaction of any obligation to restore the property.

5. CONSIDERATION.

(a) Rent. The GOVERNMENT shall pay to LESSOR, as full and sufficient rent for the first three (3) years of this Sublease Agreement, an annual rent of \$82,000 at the rate of \$6833.33 per calendar month in arrears; provided, however, that the first twenty-four months' rent shall be due in one lump sum of one hundred sixty-four thousand dollars and no cents (\$164,000) upon execution of this Sublease. The fair market rental of the Premises shall be re-established for each subsequent three (3) year period of the Term by an independent appraisal. The fair market rental for any subsequent option period, or upon a substitution of occupants in accordance with Paragraph 4(b) will be established by an independent appraisal made at the expense of GOVERNMENT as of the effective date of the occurrence.

(b) Joint Program. Concurrent with the execution of this Sublease, GOVERNMENT agrees, as additional consideration for the right to sublease state property, to enter into a Memorandum of Understanding for a joint program with FIU, of education, research, and public service that serves the educational and professional needs of the faculty and students of FIU and of the mission of the National Hurricane Center. The joint program will consist of opportunities for collaborative research and instruction, joint projects, presentation and participation in collaborative seminars and conferences, access by each party to the other's facilities and

services, opportunities for internships and training for FIU students, and which may include opportunities for obtaining grants and contracts, all as further defined in the Memorandum of Understanding. In consideration of the programmatic interrelationship established between National Hurricane Center and FIU through the Memorandum of Understanding, LESSOR may waive payment of rent under this Sublease after the first twenty-four (24) months' rent. A termination of the Memorandum of Understanding shall not terminate this Sublease. However, upon a termination of the Memorandum of Understanding, LESSOR may adjust the rent based upon an independent appraisal of the fair market rent of the Premises at the time of termination and every three (3) years thereafter for the remainder of the Sublease or any option period. The termination or expiration of this Sublease shall also terminate the Memorandum of Understanding.

6. PLANS AND SPECIFICATIONS.

(a) Preparation of Plans and Submittal to LESSOR. Following execution of this Sublease Agreement, the GOVERNMENT shall promptly commence and diligently complete preparation of the plans and specifications required for construction or future major renovation of the National Hurricane Center. Preliminary and final plans and specifications shall be submitted to LESSOR for review and approval in accordance with Paragraph 6(b) below when they are available.

(b) Approvals. Nothing herein shall be deemed to restrict or limit the GOVERNMENT's right or ability to make changes as required so long as all changes and change orders are re-submitted to LESSOR

for its review and approval, which shall not be unreasonably withheld and shall be completed as timely as possible.

(c) Cost of Plans and Specifications. The GOVERNMENT shall pay for the cost of preparation of all plans and specifications.

(d) Delivery of Final Plans. Two complete sets of final plans and specifications shall be delivered to LESSOR.

7. CONSTRUCTION OF IMPROVEMENTS.

(a) Commencement of Construction. Subject to the availability of funds, the GOVERNMENT shall endeavor to commence construction of the National Hurricane Center not later than January 1, 1994 (the "Construction Commencement Date").

(b) Consultation, Review, and Inspection. The GOVERNMENT agrees to consult with the appropriate state and local government officials, to submit plans for review and approval upon their request, and to allow inspections in accordance with Section 21 of the Public Buildings Act of 1959 (40 U.S.C. 601-616), as amended by the Public Buildings Amendments of 1988, and in accordance with its obligations under this Sublease.

(c) Early Termination. In the event the GOVERNMENT has failed to commence construction of the National Hurricane Center within three (3) years after the Construction Commencement Date LESSOR shall have the right to cancel this Sublease Agreement upon written notice to the GOVERNMENT. The GOVERNMENT may, upon written notice to LESSOR, terminate this Sublease Agreement upon the occurrence of any of the following events:

- (1) When the GOVERNMENT has determined it is no longer desirable to build the National Hurricane Center on the Premises, or
- (2) When the GOVERNMENT, after due diligence, has determined necessary funding will not be appropriated, or
- (3) When soil tests conducted by the GOVERNMENT show to the reasonable satisfaction of the GOVERNMENT that the Premises cannot be used for construction of the National Hurricane Center.

If this Sublease Agreement is terminated or canceled pursuant to this provision, all rights and obligations of the parties hereunder shall cease and be of no further force and effect, and neither party shall have any claim against the other arising hereunder, except as otherwise provided herein.

(d) Notice of Commencement. Upon issuance of the Notice to Proceed to the GOVERNMENT's Contractor for construction of the National Hurricane Center, the GOVERNMENT shall deliver to LESSOR a duly executed and recorded Notice of Commencement of construction of the National Hurricane Center in form and substance satisfactory to LESSOR, identifying the GOVERNMENT as the party for whom the construction work is being performed.

(e) Recording of Memorandum of Sublease and Notice of Commencement. Within ten (10) days of receipt of the Notice of Commencement LESSOR shall cause the Memorandum of Sublease to be duly executed by its duly authorized officers, acknowledged and

recorded in the Public Records of Dade County, Florida.

(f) Quality of Construction. The GOVERNMENT shall expeditiously construct, or cause to be constructed, the National Hurricane Center, in a good workmanlike manner and substantially in accordance with the final approved plans and specifications including change orders authorized by GOVERNMENT. During the course of construction, the GOVERNMENT shall take adequate precautions to insure the safety of the University community.

(g) Right-of-Entry. After prior reasonable notice to the GOVERNMENT, LESSOR shall have the right to enter upon the Premises from time to time at reasonable times during the construction of the National Hurricane Center and to examine the condition and use thereof, to observe work in progress in order to ascertain that the work is progressing in an orderly manner and that it is being performed substantially in accordance with the final approved plans and specifications, and for other reasonable purposes. Nothing herein shall be deemed to give the LESSOR the right to interfere with, change, or stop the work in progress. LESSOR does not waive its right to immediately make a claim for default of this Sublease where GOVERNMENT fails to proceed in accordance with either the approved plans and specifications or the material provisions of this Sublease. GOVERNMENT agrees to investigate and correct any work not being completed in accordance with the approved plans and specifications.

(h) Furnishings and Equipment. The GOVERNMENT shall, at its own cost, furnish and equip the National Hurricane Center. The

GOVERNMENT shall be solely obligated to keep and maintain the National Hurricane Center and all fixtures and equipment furnished by the GOVERNMENT in the National Hurricane Center in good repair.

(i) Utility Connections. The GOVERNMENT shall not connect to any of the LESSOR's existing or future power, sewer, water, or fuel lines without the LESSOR's express permission. Should GOVERNMENT request and LESSOR permit any such utility connection(s), GOVERNMENT shall bear its share of the cost of improvements and fees, if any, as a result of the connection(s).

(j) Storm Drains. Drains or other facilities provided by the GOVERNMENT for the purpose of disposing of storm or other waters shall conform to the requirements of applicable local governmental authorities. GOVERNMENT shall bear any stormwater utility fees imposed as a result of its construction of improvements on the Premises to the extent permitted by law.

8. OWNERSHIP OF IMPROVEMENTS. The GOVERNMENT shall at all times during the term of this Sublease Agreement, and during any option period thereof, have title to the National Hurricane Center, all improvements made and any furnishings, equipment and fixtures supplied by it to the National Hurricane Center. Title to furnishings, equipment and fixtures supplied to the National Hurricane Center, if any, by LESSOR shall remain with LESSOR regardless of expiration or early termination of this Sublease Agreement, whether or not for cause.

9. INTERESTS OF THE PARTIES NOT SUBJECT TO LIENS. It is mutually intended, stipulated and agreed that neither the LESSOR'S

interest nor the GOVERNMENT's subleasehold interest in the Premises may be subjected to liens of any nature arising by reason of the GOVERNMENT's construction of improvements upon the Premises or by reason of any other act or omission of the GOVERNMENT or any person claiming under, by or through the GOVERNMENT, including, but not limited to, mechanics', materialmen's, and judgment liens. All persons dealing with the LESSOR or the GOVERNMENT are hereby placed on notice that any improvements constructed upon the Premises are the property of the GOVERNMENT and are constructed for the GOVERNMENT's use and benefit. The GOVERNMENT has no power, right or authority to subject LESSOR's subleasehold interest in the Premises to any mechanics' or materialmen's lien or claim of lien.

10. ENCUMBRANCES. Unless otherwise agreed to in writing, neither the GOVERNMENT's subleasehold interest in the Premises nor the GOVERNMENT's ownership of the National Hurricane Center shall be subject to any encumbrances other than by the subleasehold interest created herein, or easements created pursuant hereto. No act taken pursuant to or in furtherance of this Agreement shall be or be construed to be, a pledge of the credit of the State of Florida, or any agency, political subdivision, department or board thereof.

11. ASSIGNMENT AND SUBLETTING.

(a) Notice. Except as otherwise agreed to in writing, the GOVERNMENT shall not assign, sublet, or transfer any portion of its interest in this Sublease Agreement unless in compliance with the terms of this Sublease. If the GOVERNMENT requests to assign,

sublet or transfer any portion of its interest in this Sublease Agreement, the GOVERNMENT shall provide written notice of same in advance to LESSOR containing (i) the names and addresses of the proposed assignee(s), sublessee(s), or transferee(s); (ii) the terms and conditions of the proposed assignment, sublease or transfer; and (iii) the nature of the business of the proposed assignee(s), sublessee(s) or transferee(s). LESSOR shall expressly consent to any proposed assignment, sublet or transfer, however, its approval shall not be unreasonably withheld.

(b) Bound By Terms. It is expressly understood and agreed that any such assignment, sublease, sale or transfer shall not relieve the GOVERNMENT of any of its responsibilities and obligations under this Sublease and that any and all assignees, sublessees or transferee shall be subject to, and bound by all of the applicable terms, covenants and conditions contained in this Sublease, unless LESSOR shall otherwise agree upon the giving of consent.

12. UTILITY EASEMENTS. With approval of the GOVERNMENT, LESSOR may grant non-exclusive utility easements, licenses, rights-of-way and other rights or privileges in the nature of easements to others over, under, through, across or on the Premises; provided, however, that such grant is not detrimental to the use or operation of the National Hurricane Center, will not damage or disrupt the physical facilities of the Premises, and will not impose any cost upon the GOVERNMENT. Upon request of the GOVERNMENT, LESSOR shall grant such easements, licenses, rights-of-way and other rights or

privileges in the nature of easements, over, under, through, across or on the Premises which may be required for the construction or operation of the National Hurricane Center.

13. LANDSCAPING. The GOVERNMENT, at its own cost and expense shall install complete landscaping upon the Premises. The GOVERNMENT's landscaping plans shall be submitted to LESSOR for review and approval, which approval shall not be unreasonably withheld, as provided in Paragraph 6 of this Sublease Agreement. The GOVERNMENT shall periodically and fully maintain such landscaping, including the lawn surrounding the National Hurricane Center, unless otherwise agreed to in writing by the parties.

14. PARKING LOTS. The GOVERNMENT may, at its own expense, erect a fence or other barrier, to restrict access to the Premises. The GOVERNMENT may restrict parking in its lots to persons it authorizes, however, it shall be solely responsible for monitoring enforcement of parking on the Premises. The GOVERNMENT shall also be responsible for ensuring that the parking lots on the Premises are maintained in clean and safe condition and in good repair.

15. TAXES.

(a) Responsibilities. Each party shall be responsible for its respective tax, fee, and license obligations, if any, relating to this Sublease Agreement.

(b) Exemption of the Parties. It is believed that LESSOR and the GOVERNMENT are exempt from ad valorem taxation on their respective facilities which are used for public purposes. However, should the Premises or any interest therein or improvement thereon

ever become subject to any taxes of any kind, as a result of activities conducted by the GOVERNMENT, then the parties shall have the right, but not the obligation, to contest the tax in accordance with the provisions of subparagraph (c) below.

(c) Right to Contest. The GOVERNMENT shall, after notifying LESSOR of its intention to do so, have the right in its own name or behalf, or in the name and behalf of LESSOR, to contest in good faith by all appropriate proceedings the amount, applicability or validity of any such tax, fee, obligation or assessment, however denominated, and in connection with such contest the GOVERNMENT may refrain from paying such tax, fee, obligation or assessment so long as such contest will not subject any part of the Premises to forfeiture or loss, in which event such taxes shall be paid promptly under protest. LESSOR shall, upon request by the GOVERNMENT, assist and cooperate with the GOVERNMENT in any such proceedings; provided, however, that LESSOR shall have no obligation to incur any cost or expenses in connection with the rendering of such assistance. This provision shall in no way be construed as restricting LESSOR from contesting the legality of such tax, fee, obligation or assessment if it so desires. Upon a determination by a court of competent jurisdiction that the GOVERNMENT is obliged to pay any such tax, LESSOR, to the extent permitted by law, shall satisfy the obligation and the GOVERNMENT shall reimburse LESSOR as an extraordinary payment under this Agreement.

16. NO WAIVERS. No waiver by LESSOR or by the GOVERNMENT at any time of any of the terms or conditions of this Sublease

Agreement, or non-compliance therewith, shall be deemed a waiver of the right to insist upon full compliance thereafter.

17. INVALIDITY OF SUBLEASE. In the event a suit or other proceeding results in this Sublease Agreement or any part hereof being declared void or invalid the parties hereto agree to enter into renegotiation efforts to arrive at a valid agreement which will be legal and satisfactory to both parties.

18. QUIET ENJOYMENT. LESSOR agrees that the GOVERNMENT, upon observing and keeping the agreements and covenants of this Sublease Agreement to be observed and kept on its part, shall lawfully and quietly hold, occupy and enjoy the Premises during the term of this Sublease Agreement, without hindrance from LESSOR or anyone claiming by, through or under LESSOR.

19. TERMS BINDING UPON SUCCESSORS. All the terms, conditions and covenants of this Sublease Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto and upon anyone claiming by, through or under the parties.

20. CONDEMNATION. In the event that any person or corporation, public or private, shall by virtue of eminent domain or condemnation proceedings, or by purchase in lieu thereof, at any time during the term of this Sublease Agreement acquire title to the Premises (which for the purpose of this section only shall include not only the land hereby demised but also the National Hurricane Center and other improvements erected thereon by the GOVERNMENT) or acquire title to such substantial portion thereof so that the GOVERNMENT cannot make use of the residue for the purposes

intended by this Sublease Agreement, such acquisition of title shall terminate this Sublease Agreement, effective as of the date on which the condemning party takes possession thereof. If such taking is subsequent to the commencement of construction of the National Hurricane Center, LESSOR and the GOVERNMENT shall be entitled to separate awards. Prior to or during construction of the National Hurricane Center, if the condemning party acquires title to a portion of the Premises only, and the GOVERNMENT can make beneficial use of the residue thereof for the purposes intended by this Sublease Agreement, then this Sublease Agreement shall continue in full force and effect. The proceeds of condemnation after payment of reasonable attorney's fees and other necessary expenses incurred by either party in connection therewith shall be applied first to the repair or restoration of the improvements by the GOVERNMENT in accordance with plans and specifications approved by LESSOR. Any remaining balance of the condemnation proceeds shall be divided between the parties according to the proportion of their ownership or subleasehold interests in the Premises which were taken.

It is understood that the foregoing provisions of this Section shall not in any way restrict the right of LESSOR or the GOVERNMENT to appeal the award made by any court or other public agency in any condemnation proceeding.

21. 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.

22. COVENANT AGAINST CONTINGENT FEES. The LESSOR warrants that no person or selling agency has been employed or retained to solicit or secure this Sublease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the LESSOR for the purpose of securing business. For breach or violation of this warranty the GOVERNMENT shall have the right to annul this Sublease without liability or in its discretion to deduct from the rental price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee. (Licensed real estate agents or brokers having listings on property for rent, in accordance with general business practice, and who have not obtained such licenses for the sole purpose of effecting this Sublease, may be considered as bona fide employees or agencies within the exception contained in this clause.)

23. LESSOR CERTIFICATION REGARDING HAZARDOUS SUBSTANCES AND/OR WASTE.

The LESSOR represents and certifies that to the best of its knowledge--

(a) That the Premises is not and was not a site used for any of the following operations:

(1) generation of hazardous substances and/or waste,

- (2) treatment, or temporary or permanent storage, or disposal of solid or hazardous substances and/or waste,
- (3) storage of hazardous substances and/or waste, or petroleum products,
- (4) used/waste oil storage or reclamation units,
- (5) laboratory or rifle range,
- (6) chemical manufacturing or storage,
- (7) military or intelligence weapons or ammunition training or testing,
- (8) ordnance and/or weapons production, storage, or handling, or

(b) That if any of the above operations ever occurred at the site, that appropriate cleanup or other action was performed in accordance with the local, state and Federal laws and that documentation of such cleanup will be provided.

The LESSOR acknowledges that this certification regarding hazardous substances and/or waste is a material representation of fact upon which the GOVERNMENT relies when executing this Sublease. If it is later determined that the presence of hazardous substances and/or waste, or inappropriate handling thereof, has been misrepresented, the GOVERNMENT reserves the right to require the LESSOR, at no cost to the GOVERNMENT, to take the necessary action to mitigate the hazardous waste condition, in accordance with local, state and Federal laws, or alternatively the GOVERNMENT may terminate the Sublease. This is in addition to other remedies

available to the GOVERNMENT.

24. DISPUTES. This Sublease is subject to the Contract Disputes Act of 1978, 41 USC 601-13, to be referred to as "the Act." Except as provided in the Act, all disputes arising under or relating to this Sublease shall be resolved under the Act and in accordance with FAR 52.233-1, as may be amended from time to time.

25. MISCELLANEOUS.

(a) Responsibility of parties. Each party agrees that to the extent and limits permitted by law including the Federal Tort Claims Act, 28 U.S.C. Sec. 2671 et seq., and Section 768.28, Florida Statutes, it shall be responsible for the claims, demands, losses, costs, damages, liens, suits, judgments, penalties, expenses, and liabilities of any kind or nature whatsoever (including attorneys' fees) which are directly caused by the acts or omissions of its officers, employees, or agents in connection with the construction and operation of the National Hurricane Center. Nothing in this Agreement shall be deemed to affect the rights, privileges, and immunities afforded the State of Florida, the BOR, FIU or the GOVERNMENT by law.

(b) Non-Interference. Each party shall use its best efforts to limit future construction or modification of its facilities that adversely affects, interferes with, or renders useless the other parties instruments, equipment, facilities and/or related control or signal lines.

(c) Laws of Florida Govern. The parties' obligations under this Sublease shall be governed by, and be construed in accordance

with the laws of the State of Florida except where federal law or regulation exists.

(d) Force Majeure. Except as otherwise expressly provided herein, neither party shall be responsible for any delay in their respective performances called for under this Sublease Agreement which is caused by acts of God, war, national emergency, labor strike, shortages of material, or local governmental regulations or control.

(e) Entire Agreement. It is mutually acknowledged and agreed by the parties hereto that this Sublease Agreement contains the entire agreement between LESSOR and the GOVERNMENT with respect to the terms and conditions of the Ground Sublease for the National Hurricane Center. Any change, modification, release, discharge or waiver of any provision contained herein shall be of no force, effect, or value, unless in writing and signed with the same formalities as this Sublease Agreement by the party to be bound.

(f) Relationship of the Parties. Nothing herein contained shall be deemed to create a partnership or joint venture, nor shall the relationship between the parties be construed as principal and agent, or other than lessor and lessee. Nothing in this agreement shall be deemed to give the other party permission to use the names, marks and logos of the other or to trade upon or do business on the credit of the other party.

(g) Memorandum of Sublease. Upon the execution of this Sublease Agreement, the parties shall execute a Memorandum of Sublease for recording in a form suitable to LESSOR and to the

GOVERNMENT and at no cost to GOVERNMENT.

(h) Captions. The captions of this Sublease Agreement are inserted solely for convenience of reference and under no circumstances shall they be treated or construed as part of, or as affecting, this Sublease Agreement.

(i) Contingency Statement. All of LESSOR's and the GOVERNMENT'S obligations under this Sublease and Memorandum of Understanding are subject to and contingent upon an authorization and an appropriation from their respective legislative bodies for the purposes required.

(j) Notice and Delivery. Any notice or items required or desired to be given hereunder, may be served or delivered personally or by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the GOVERNMENT:

Facilities and Logistics Division
NOAA Central Administrative Support Center
Room 1749
601 E. 12th St.
Kansas City, MO 64106

If to LESSOR:

Vice President, Business & Finance
Florida International University
Miami, Florida 33199

with a copy to:

Vice-Chancellor
Capital Projects
Education Building
Tallahassee, Florida 32399

or such other address or party as may be designated from time to time in writing.

(End of Ground Sublease Agreement)

IN WITNESS WHEREOF, LESSOR and the GOVERNMENT have caused this Ground Sublease Agreement to be executed in ten copies, any of which may be considered an original, the day and year first above written.

GOVERNMENT: UNITED STATES OF AMERICA,
Department of Commerce,
National Oceanic and
Atmospheric Administration

By: Kenneth L. Leonard
Contracting Officer

ATTEST: Donna A. Kramer

LESSOR: THE BOARD OF REGENTS OF THE
STATE UNIVERSITY SYSTEM, STATE
OF FLORIDA for and on behalf of
FLORIDA INTERNATIONAL UNIVERSITY

By: Frank B. Reed
Chancellor

ATTEST: MayAnne Bestkremfje
Corporate Secretary

APPROVED: STATE OF FLORIDA BOARD OF
TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND

By: Daniel T. Crabb

ATTEST: Gloria C. Nelson

APPROVED AS TO FORM AND LEGALITY

By: George E. M. Collins
DEP Attorney

EXHIBIT "A"
LAND DESCRIPTIONS

SUBLEASED Premises:

A parcel of land lying within the Northwest 1/4 of Section 7, Township 54 South, Range 40 East, Dade County, Florida described as follows:

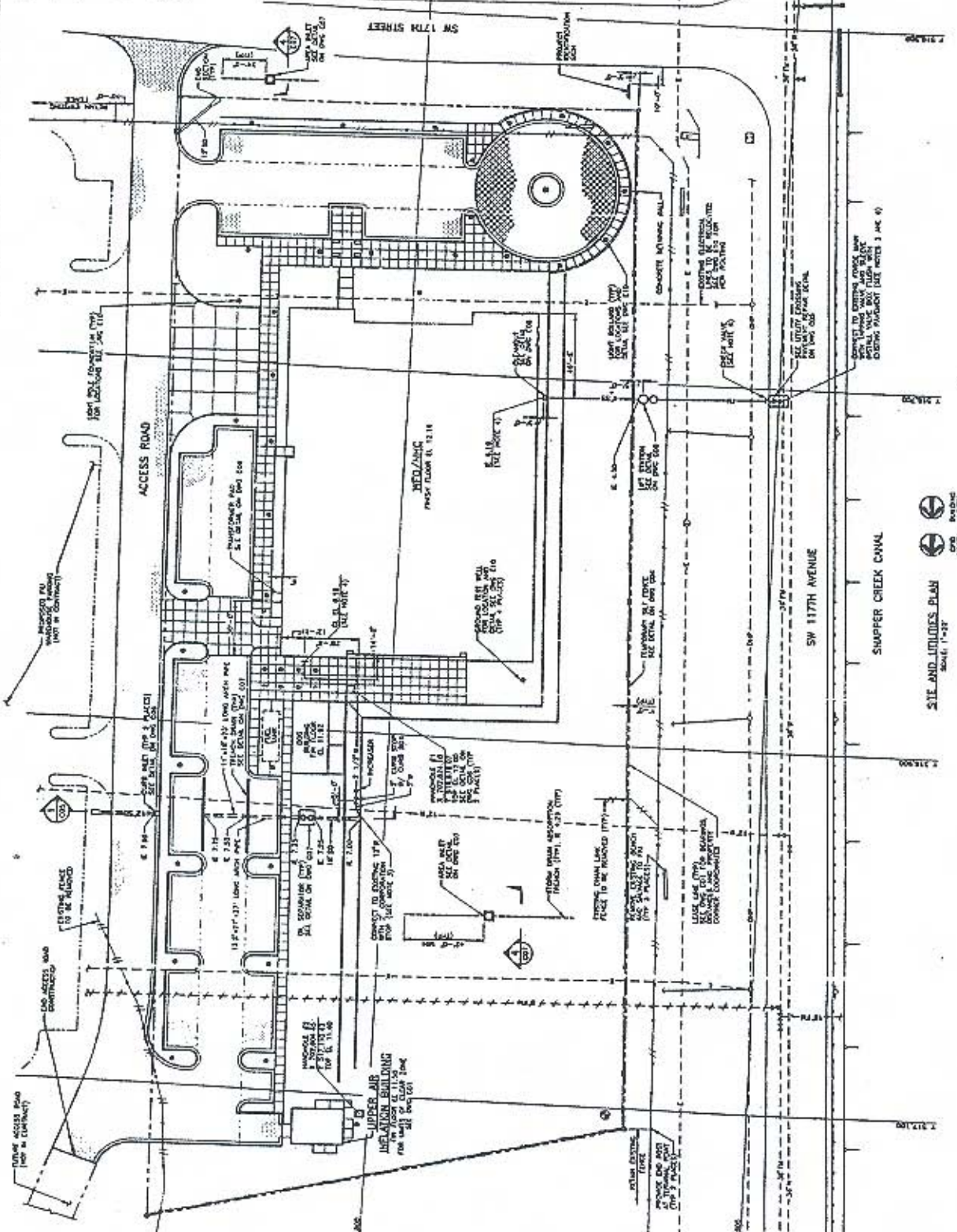
Commence at the Southwest corner of Section 7, Township 54 South, Range 40 East, Dade County, Florida, said Southwest corner having State Plane Co-ordinate of X=702,628.320, Y=513,829.790 said State Plane Co-ordinates shown hereon are relative to the National Geodetic Survey Traverse Mercator Co-ordinates, Florida East Zone, based on adjustment of October 1974, the west line of said Section 7 having a bearing of North 01°58'48" West, this and subsequent bearings being referenced to above mentioned State Plane Co-ordinates System; thence North 01°58'48" West for 3245.33 feet along Westerly boundary of said Section 7; thence North 75°36'53" East for 153.58 feet to POINT OF BEGINNING referenced by 1/2"x18" pipe and plastic cap LB #3653 set September 3, 1992; thence continue North 75°36'53" East for 254.94 feet to a 1/2"x18" pipe and plastic cap LB #3653 set September 3, 1992; thence South 01°58'48" East for 620.00 feet to a 1/2"x18" pipe and plastic cap LB #3653 set September 3, 1992; thence South 88°32'01" West for 249.00 feet to a 1/2"x18" pipe and cap LB #3653 set September 3, 1992 at Easterly right-of-way of S.W. 117th Avenue; thence North 01°58'48" West for 563.00 feet along said Easterly right-of-way to a plastic pipe and cap LB #3653 set September 3, 1992 being at the POINT OF BEGINNING, containing 147,278 square feet or 3.3810 acres more or less.

WEATHER BALLOON RIGHTS-OF-WAY:

Clear Zone A: Air space over and above that land lying west of the proposed Access Road adjoining the east side Subleases Premises and within 200 feet of the Upper Air Inflation Building.

Clear Zone B: Air space over and above a plane lying 10 feet above the elevation of the floor of the Upper Air Inflation Building and above that land lying west of the proposed Access Road adjoining the east side Subleases Premises and more than 200 feet but within 300 feet of the Upper Air Inflation Building.

- NOTES**
1. FOR DRAWING NOTES AND APPROPRIATIONS SEE SHEET 111.
 2. FOR GENERAL NOTES SEE SHEET 112.
 3. FIELD SURVEY MADE TO VERIFY SHOWN IS APPROXIMATE.
 4. THE CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM ALL AFFECTED AGENCIES AND AUTHORITIES PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.
 5. ALL THE WORK FOR ALL ITEMS SHALL BE COMPLETED TO THE SATISFACTION OF THE CONTRACTOR TO THE SCHEDULED DATE OF COMPLETION.
 6. THE LOCATION OF ALL UTILITIES, SERVICES AND STRUCTURES SHALL BE SHOWN ON THIS PLAN.
 7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL AFFECTED AGENCIES AND AUTHORITIES PRIOR TO CONSTRUCTION.
 8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL AFFECTED AGENCIES AND AUTHORITIES PRIOR TO CONSTRUCTION.



PRELIMINARY
NOT TO BE USED FOR CONSTRUCTION

DATE: 10/15/2010
DRAWN BY: J.S.K. / J.S.K.

- UTILITY DESIGNATION**
- 12" WATER
 - 12" SEWER
 - 12" GAS
 - 12" ELECTRIC
 - 12" TELEPHONE
 - 12" CABLE
 - 12" FIBER OPTIC
 - 12" RAINWATER
 - 12" STORM SEWER
 - 12" SANITARY SEWER
 - 12" POTABLE WATER
 - 12" INDUSTRIAL WATER
 - 12" FIRE WATER
 - 12" COOLING WATER
 - 12" CONDENSATE
 - 12" GREASE
 - 12" SLAG
 - 12" ASH
 - 12" SLUDGE
 - 12" GROUNDWATER
 - 12" SURFACE WATER
 - 12" RAINWATER
 - 12" STORM SEWER
 - 12" SANITARY SEWER
 - 12" POTABLE WATER
 - 12" INDUSTRIAL WATER
 - 12" FIRE WATER
 - 12" COOLING WATER
 - 12" CONDENSATE
 - 12" GREASE
 - 12" SLAG
 - 12" ASH
 - 12" SLUDGE
 - 12" GROUNDWATER
 - 12" SURFACE WATER
- LEGEND**
- 12" WATER
 - 12" SEWER
 - 12" GAS
 - 12" ELECTRIC
 - 12" TELEPHONE
 - 12" CABLE
 - 12" FIBER OPTIC
 - 12" RAINWATER
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 - 12" CONDENSATE
 - 12" GREASE
 - 12" SLAG
 - 12" ASH
 - 12" SLUDGE
 - 12" GROUNDWATER
 - 12" SURFACE WATER
- CONSTRUCTION**
- 12" WATER
 - 12" SEWER
 - 12" GAS
 - 12" ELECTRIC
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 - 12" CONDENSATE
 - 12" GREASE
 - 12" SLAG
 - 12" ASH
 - 12" SLUDGE
 - 12" GROUNDWATER
 - 12" SURFACE WATER

SITE AND UTILITIES PLAN
Scale: 1"=20'