

**MEMORANDUM OF UNDERSTANDING FOR OCCUPANCY OF
9491 & 9515 AERO DRIVE – SAN DIEGO, CALIFORNIA 92123
BY ENGINEERING AND CAPITAL PROJECTS DEPARTMENT**

This Memorandum of Understanding ("MOU") is entered into by the **Economic Development Department – Real Estate Division**, ("CITY") and **Engineering and Capital Projects Department** ("DEPARTMENT") for the purpose of setting forth the terms and conditions in which the Department shall be permitted to occupy space at 9491 & 9515 Aero Drive for its operations.

CITY agrees to permit DEPARTMENT to occupy 9491 & 9515 Aero Drive, San Diego, California 92123 to conduct DEPARTMENT'S business on the following terms and conditions:

1. Premises. Approximately 14,880 square feet of office and industrial/flex space ("Premises").
2. Use of Premises. The use of the Premises shall be limited to general office usage, materials testing laboratory work and other related uses as may be approved in writing in advance by the City.
3. Term of Agreement. This MOU is to be effective as of July 1, 2025 (the "Effective Date") and shall continue on an annual basis ("Term") thereafter. This agreement may be terminated upon a one hundred and eighty (180) days prior written notice by either party, without necessity of cause.
4. Holdover. Any holding over by DEPARTMENT after termination shall not be considered a renewal or extension of the MOU. The occupancy of the Premises after termination of this MOU constitutes a month-to-month occupancy, and all other terms and conditions of this MOU shall continue in full force and effect; provided, however, CITY shall have the right to apply an increase in rent to bring the rent to fair market value and the right to terminate the holdover occupancy at will.
5. Rent. Rent payment shall be made monthly on the Effective Date in the amount of \$28,272.00 (\$339,264.00 annually), with no annual rent increases.
6. Assignment and Subletting. DEPARTMENT shall not assign this MOU or any interest therein and shall not sublet the Premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person, except employees, agents, and guests of DEPARTMENT, to use or occupy the Premises or any part thereof, without the prior written consent of the Mayor, or his designee, in each instance. A consent to assignment, subletting, occupation, or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation, or use by another person.

7. Accident Reports. DEPARTMENT shall report to CITY any accident causing more than ten thousand dollars (\$10,000) worth of property damage or any serious injury to persons on the Premises. This report shall contain the names and addresses of the parties involved, a statement of the circumstances, the date and hour, the names and addresses of any witnesses, and other pertinent information.
8. Prohibited Uses. DEPARTMENT may not do the following, unless approved in writing in advance by CITY: (a) utilize the Premises for anything but the use stated in Paragraph 2; (b) make any alterations or changes to the Premises; (c) effect any non-emergency repairs to the Premises amounting to more than five thousand dollars (\$5,000) per instance; (d) allow or permit any liens or encumbrances to be placed on the Premises; (e) utilize the Premises in any manner which may create a health, safety or fire hazard. In the event of an emergency, repairs amounting to more than five thousand dollars (\$5,000) may be made by DEPARTMENT and must be reported in writing to CITY within forty-eight (48) hours after the emergency.
9. Possession by Department. CITY has made no promise to alter or improve the Premises or made any representation concerning the condition thereof. DEPARTMENT is currently in possession of the Premises and acknowledges the Premises is in good order and condition. DEPARTMENT will maintain the Premises in good condition and repair, and will not cause or permit the Premises to be damaged or defaced or to deteriorate. DEPARTMENT will return the Premises at the termination of the MOU in good condition and repair, normal wear and tear excepted.
10. Amendment of Agreement. No amendment, modification or alteration of this MOU will be valid unless it is in writing and signed by all parties.
11. Entry and Inspection. CITY reserves and shall always have the right, but not the obligation, to enter Premises for the purpose of viewing and ascertaining the condition of the Premises, or to protect its interest in the Premises, or to inspect the operations conducted on the Premises. In the event that such entry or inspection by CITY discloses that the Premises are not in a decent, safe, healthy, and sanitary condition, CITY shall have the right, after ten (10) days written notice to DEPARTMENT, to have any necessary maintenance work done at the expense of DEPARTMENT. DEPARTMENT agrees to pay promptly any and all costs incurred by CITY in having such necessary maintenance work done, in order to keep the Premises in a decent, safe, healthy, and sanitary condition.
12. Improvements/Alterations. No improvements, structures or installations shall be constructed on the Premises, and the Premises may not be altered by DEPARTMENT without prior written approval by the City. Further, DEPARTMENT agrees that major structural or architectural design alterations to approved improvements, structures or installations may not be made on the Premises without prior written approval by the City and that such approval shall not be unreasonably withheld. This provision shall not relieve

DEPARTMENT of any obligation under this Agreement to maintain the Premises in a decent, safe, healthy, and sanitary condition, including structural repair and restoration of damaged or worn improvements. CITY shall not be obligated by this Agreement to make or assume any expense for any improvements or alterations.

13. Maintenance of the Premises. Maintenance of the Premises. DEPARTMENT shall be responsible for all costs associated with the operation and maintenance of the Premises throughout the Term. DEPARTMENT shall, to CITY's satisfaction, maintain the Premises in a decent, safe, healthy and sanitary condition at all times. All applicable codes and standards of state and federal agencies shall be observed.
14. Compliance with Law. DEPARTMENT shall at all times in the construction, maintenance, occupancy, and operation of the Premises comply with all applicable City of San Diego Council Policies, all applicable City of San Diego Administration Regulations, all applicable laws, statutes, ordinances, and regulations of CITY, county, state, and federal governments at DEPARTMENT'S sole cost and expense. In addition, DEPARTMENT shall comply with any and all notices issued by the City or its authorized representative under the authority of any such law, statute, ordinance or regulation.
15. Hazardous/Toxic Waste.
 - a. Release. For purposes of this MOU, a "release" shall include without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or otherwise disposing of a Hazardous Substance.
 - b. Hazardous Substance. For purposes of this MOU, "Hazardous Substance" shall mean any substance listed by the Environmental Protection Agency or the State of California as a hazardous substance, and all types of petroleum related substances and their chemical constituents.
 - c. Remediation. If DEPARTMENT'S occupancy, use, development, maintenance or restoration of the Premises results in a release of a Hazardous Substance, DEPARTMENT shall pay all costs of remediation and removal to the CITY's satisfaction for unrestricted reuse of the Premises, and in accordance with all applicable laws, rules, regulations and directives of competent governmental authorities.
 - d. Removal. If DEAPRTMENT or DEPARTMENT'S contractor or agent has received approval and permits to store, utilize, generate or install, or otherwise bring Hazardous Substances to the Premises, DEPARTMENT and/or DEPARTMENT'S contractor or agent shall remove all Hazardous Substances in any type of container, equipment or device from the Premises immediately upon or prior to the termination of this MOU. DEPARTMENT reserves the right to conduct inspections of the Premises and/or request documentation demonstrating the legal removal and/or disposal of the hazardous materials, wastes or other containers, equipment or devices from the Premises. DEPARTMENT shall be responsible

for any and all costs incurred by DEPARTMENT to remove any container, equipment or device requiring disposal or removal as required by this provision.

e. Notice of Release. If DEPARTMENT knows or has reasonable cause to believe that a Hazardous Substance has been released on, from or beneath the Premises, DEPARTMENT shall immediately notify CITY and any appropriate regulatory or reporting agency pursuant to California Code of Regulations Title 19 and any other applicable laws or regulations. DEPARTMENT shall deliver a written report thereof to CITY within three (3) days after receipt of the knowledge or cause for belief and submit any required written reports to regulatory or reporting agencies as required by regulation or law. If DEPARTMENT knows or has reasonable cause to believe that such substance is an imminent release or is an imminent substantial danger to public health and safety, DEPARTMENT shall take all actions necessary to alleviate the danger. DEPARTMENT shall immediately notify CITY in writing of any violation, notice to comply, or notice of violation received or the initiation of environmental actions or private suits related to the Premises.

f. Notwithstanding the language contained within this Section 15, the DEPARTMENT shall be permitted to store its nuclear gauges used for soil testing within a secured, locked facility. In addition, CITY approves DEPARTMENT'S storage of a gas tank for use with its generator.

16. Asbestos Disclosure. CITY discloses to DEPARTMENT that portions of the structural components of the Premises may contain asbestos. DEPARTMENT acknowledges having received notice from CITY of the presence of such asbestos in accordance with Health and Safety Code Section 25915. DEPARTMENT shall disclose to the appropriate parties the existence of asbestos on the Premises, as required by Health and Safety Code Section 25915.

17. Asbestos.

a. Improvement and Repair - CITY and DEPARTMENT agree that the party who undertakes the improvements and repairs, as provided for in this Agreement, shall also be responsible for any asbestos removal, management or containment and all asbestos costs associated with such improvements.

b. General Guidelines - Such asbestos removal or management shall be conducted in accordance with all applicable laws and as approved by CITY.

CITY reserves the right to inspect any work undertaken by DEPARTMENT pursuant to this MOU and to station supervisory personnel at the work site, at CITY'S sole discretion, to ensure that DEPARTMENT'S obligations are carried out. Both parties shall coordinate any repair and improvements with each other and, except in the event

IN WITNESS WHEREOF, this Agreement shall be effective as of the date of mutual execution.

CITY OF SAN DIEGO – Engineering & Capital Projects
Department

By: 
Rania Amen
Director
Engineering & Capital Projects Department

Date: 02/11/2025

THE CITY OF SAN DIEGO, a California municipal
corporation

By: 
Aida L. Contreras
Deputy Director, Real Estate
Economic Development Department

Date: 02/20/2025

AERO DRIVE | MATERIAL'S LAB

