

CITY OF SAN DIEGO
USE AND OCCUPANCY PERMIT

THIS CITY OF SAN DIEGO USE AND OCCUPANCY PERMIT ("Permit") is entered into by and between **THE CITY OF SAN DIEGO**, a California municipal corporation ("CITY"), and **NAMVAR'S, INC.**, a California corporation ("PERMITTEE"), to be effective when signed by the parties and approved by the San Diego City Attorney (the "Effective Date").

FOR VALUABLE CONSIDERATION, the sufficiency of which is acknowledged, the parties agree as follows:

1. **Definitions.** As used in this Permit, the following terms shall be defined as follows:

1.1 **"Permit Area"** shall mean an approximate .64 acre (27,878 square feet) portion of the property identified as Assessor's Parcel Number 340-080-64, comprised of fenced unimproved land located at 10320 Roselle Street, San Diego, California, 92121, as more particularly depicted in **Exhibit A: Permit Area**, attached hereto, and referred to by the CITY as Suite B.

1.2 **"Permit Administrative Fee"** shall mean a one-time, non-refundable permit processing fee in the amount of Nine Hundred Sixty Dollars (\$960) upon execution of this permit.

- 1.3 **"Permit Use"** shall mean the exclusive use of the Permit Area solely for storage of construction and landscaping equipment, an office trailer, storage container trucks, and plant materials, and for no other purpose whatsoever.

1.4 **"PERMITTEE's Address for Notices"** shall be:

Namvar's, Inc.
Attn: Ali Namvar
11815 Sorrento Valley Road
San Diego, CA 92121
(858) 371-1421

1.6 **"Security Deposit"** shall mean an amount equal to Fifteen Thousand Fifty-four Dollars (\$15,054.00).

2. **Use of Permit Area.** Subject to the terms and conditions of this Permit, CITY hereby grants permission to PERMITTEE and its officers, employees, agents and contractors to enter upon and use the Permit Area solely for the purpose of the Permit Use.

2.1. Notwithstanding any provision in this this Permit to the contrary, CITY reserves the right of entry to the Permit Area and continuous vehicular access at all times to (1) the existing 15" Trunk Sewer alignment, (2) all of the existing sewer manholes on site, (3) the existing path to the west of the site, (4) the Wastewater Collections

Vactor Dumping Site, (5) the Storm Water Dumping Site and (6) the San Diego Gas & Electric Access Path in or adjacent to the Permit Area, as shown on **Exhibit A**, for inspections and general maintenance. PERMITTEE shall not block or otherwise interfere with the CITY's access to the facilities listed in this section 2.1.

- 2.2. PERMITTEE's access to the Permit Area will be limited to the following hours:
7:00 a.m. to 5:00 p.m.

Notwithstanding any provision in this Permit to the contrary, CITY has the right to enter and use the Permit Area as CITY deems necessary.

3. Revocable License. This Permit is not a lease. It is a non-exclusive license to use CITY-owned property, and may be revoked at will by CITY, in its sole discretion; in a non-emergency situation, CITY may revoke this Permit upon one hundred twenty (120) days prior written notice delivered to PERMITTEE; in an emergency situation, CITY may revoke this Permit upon verbal notice left with PERMITTEE's contact as set forth in Section 1.4 above. CITY shall not be obligated for any burden or loss, financial or otherwise, which may be incurred by PERMITTEE as a result of such revocation or the termination of this Permit. PERMITTEE expressly waives any claim for expense or loss which PERMITTEE might incur as a result of CITY's revocation or termination of this Permit.
4. Lock/Keys Used to Access Permit Area. PERMITTEE will provide and install a lock on the existing daisy chain lock system at the entrance to the Property from Roselle Street. PERMITTEE shall also install lock systems on all gates associated with the perimeter fence for the Permit Area.
5. Term. The term of this Permit shall commence on the Effective Date and continue, unless terminated earlier, for a period not to exceed three (3) years ("Term").
6. No Holdover. There are no "holdover" rights allowed under this Permit. If PERMITTEE continues to occupy the Permit Area after the expiration or earlier termination of this Permit, such occupancy shall neither constitute a renewal or extension of this Permit, nor give PERMITTEE any rights in or to the Permit Area. Subject to the Late Removal provisions of this Permit, if PERMITTEE continues to occupy the Permit Area after the expiration or earlier termination of this Permit, CITY may demand and receive from PERMITTEE rent for the Permit Area calculated on a per diem basis at three (3) times the rental rate as of the date of the expiration or termination of this Permit; CITY, utilizing the services of qualified CITY staff, shall determine the amount of the rental rate to be applied as of the date of the expiration or termination of this Permit. CITY's acceptance of such rent shall neither constitute a renewal or extension of the license, nor give PERMITTEE any rights in or to the Permit Area.
7. Monthly Permit Area Charge. PERMITTEE shall pay to CITY a monthly Permit Area charge (hereinafter referred to as "Rent") in the amount of Five Thousand Eighteen Dollars (\$5,018.00) (27,878 square feet times \$0.18 per square foot) during the first year of the Term of this Permit. PERMITTEE shall pay the Rent in advance on the first day of each month during the Term. If the Effective Date is not the first day of a calendar month, then the Rent

payable for the partial month at the beginning of the Term shall be prorated on a per diem basis. Should this Permit be terminated early for any reason other than default of PERMITTEE, any Rent prepaid for any time period for which the Permit Area shall no longer be authorized to be used by PERMITTEE shall be reimbursed to PERMITTEE.

The Rent for the second and third years of the Term of this Permit shall be increased annually by three percent (3%) on each anniversary of the Effective Date.

8. Place of Payment. All payments to be paid by PERMITTEE under this Permit shall be made payable to "City Treasurer" and be mailed with an invoice to:

San Diego City Treasurer
P.O. Box 129030
San Diego, California 92112-9030

or be hand delivered to:

The Office of the City Treasurer
Civic Center Plaza
1200 Third Avenue, First Floor
San Diego, California 92101

CITY may change the place of payment at any time upon thirty (30) days written notice to PERMITTEE. Mailed payments shall be deemed paid upon the date the payment is postmarked by the postal authorities. If postmarks are illegible, the payment shall be deemed received only upon actual receipt.

9. Delinquent Payments. If PERMITTEE fails to make any payments under this Permit when due, PERMITTEE shall pay to CITY, in addition to the unpaid amount, five percent (5%) of the unpaid amount which shall be additional Rent. If any amount of such payment remains unpaid after fifteen (15) days past due, PERMITTEE shall pay to CITY an additional five percent (5%) of the unpaid amount (being a total of ten percent [10%]), which shall be additional Rent. Notwithstanding the foregoing, in no event shall the charge for the late payment of Rent be less than One Hundred Dollars (\$100). After thirty (30) days past due, unpaid amounts due CITY under this Permit may be referred to the San Diego City Treasurer for collection, and shall be subject to San Diego Municipal Code section 22.1707, as may be amended from time to time. PERMITTEE shall pay to CITY any collection-referral fee and all other fees and charges plus interest as may be charged by the CITY's City Treasurer under authority of the San Diego Municipal Code. Acceptance of late charges and any portion of the late payment by CITY shall neither constitute a waiver of PERMITTEE's breach or default with respect to the late payment nor prevent CITY from exercising any other rights and remedies available at law or in equity. As required by law, PERMITTEE is hereby notified that a negative credit report may be submitted to a credit reporting agency if amounts due CITY are not paid when due.
10. Security Deposit. Upon execution of this Permit, PERMITTEE shall deliver the Security Deposit to CITY as security for the performance of PERMITTEE's obligations under this

Permit. CITY shall not be liable to PERMITTEE for any interest thereon. Any interest earned from such deposit or redeposit shall not become part of the Security Deposit, but shall be and remain the property of CITY. All or any portion of the Security Deposit shall be available unconditionally to CITY to cure, in whole or in part, any breach or default of this Permit by PERMITTEE, or for expenses incurred by CITY as a result of PERMITTEE's breach or default of this Permit. CITY shall keep detailed documentation and records of any such expenditures of the Security Deposit used to cure a breach or default of this Permit by PERMITTEE, or for expenses incurred as a result thereof, and shall provide such documentation and records to PERMITTEE upon written request therefor. PERMITTEE shall maintain the Security Deposit throughout the Term. Notwithstanding any other provision of this Permit to the contrary, if PERMITTEE does not deposit and maintain the Security Deposit as required by this Permit, then at any time after five (5) days prior written notice delivered to PERMITTEE at PERMITTEE's Address for Notices, but prior to PERMITTEE's deposit or maintenance of the Security Deposit as required by such notice, CITY may revoke this Permit, and such revocation shall be deemed reasonable. Upon such revocation, PERMITTEE shall immediately cease its use of the Permit Area and commence and diligently pursue the removal of its property from the Permit Area.

- 10.1. Utilization. If CITY utilizes all or any portion of the Security Deposit, then upon ten (10) days prior written notice, PERMITTEE shall reimburse the Security Deposit to the full required amount.
- 10.2. Increase. Upon thirty (30) days prior written notice by CITY, PERMITTEE shall deliver to CITY such additional funds as CITY may reasonably require to adequately secure PERMITTEE's obligations under this Permit.
- 10.3. Return. Provided PERMITTEE is not in breach or default of this Permit, CITY shall return the Security Deposit, or any balance thereof, to PERMITTEE accordingly to law.
11. CITY's Right to Inspect and Audit. In the event that a CITY audit, if applicable, discloses that PERMITTEE's payments, which payments shall include the payment of any delinquency charges, for the audited period, have been underpaid in excess of five percent (5%) of the total required payments, then PERMITTEE shall pay CITY the cost of the audit plus ten percent (10%) per year on the amount by which said payments were underpaid ("Underpayment Audit Cost"). PERMITTEE agrees to pay said Underpayment Audit Cost and further agrees that the Underpayment Audit Cost represents a fair and reasonable estimate of the costs that CITY will incur from PERMITTEE's under payment. Acceptance of any Underpayment Audit Costs and/or any portion of late PERMITTEE payments of any kind by CITY shall in no event constitute a waiver of any PERMITTEE default with respect to late payment(s), nor prevent CITY from exercising any of the other rights and remedies granted in this Permit.
12. Assignment and Sublicense. PERMITTEE shall not assign or sublicense any rights granted by this Permit or any interest in this Permit. Any assignment by operation of law shall automatically terminate this Permit.

13. Defaults and Remedies.

13.1. Default. PERMITTEE shall be in default of this Permit in the event that:

13.1.1. PERMITTEE fails to make any payments required under this Permit when due; or

13.1.2. PERMITTEE fails in its performance of any covenant or condition, other than the payment of monies owed, required by this Permit to be performed by PERMITTEE; or

13.1.3. PERMITTEE shall voluntarily file or have involuntarily filed against it any petition under any bankruptcy or insolvency act or law; or

13.1.4. PERMITTEE shall be adjudicated a bankrupt; or

13.1.5. PERMITTEE shall make a general assignment for the benefit of creditors.

13.2. Remedies. Upon PERMITTEE's default, CITY may, at its option:

13.2.1. in the case of a failure to make a timely payment, CITY may terminate this Permit upon three (3) business days' prior Notice to Pay or Quit delivered to PERMITTEE (or any person claiming rights through PERMITTEE) if PERMITTEE fails to thereafter make all payments due within the stated three (3) days; or,

13.2.2. in the case of a breach from something other than a failure to make a payment, CITY may:

13.2.2.1. terminate this Permit upon ten (10) day's prior notice of Intent to Terminate delivered to PERMITTEE (or any person claiming rights through PERMITTEE) if PERMITTEE has failed to cure said default is of the type reasonably curable within ten (10) days; or

13.2.2.2. if such default is not the type which is reasonably curable within said ten (10) day period, PERMITTEE has failed to cure the default(s) within said ten (10) day period and has also failed to diligently taken all actions necessary to pursue such cure to completion.

13.2.3. If CITY delivers such notices and PERMITTEE (or the persons claiming rights through PERMITTEE) does not cure the default within the stated time periods, CITY may, in compliance with all applicable laws, terminate this Permit and all rights of PERMITTEE (and/or each person claiming rights through PERMITTEE) to the Permit Area, take possession of the Permit Area, and, as awarded, recover from PERMITTEE the sum of:

13.2.3.1. the worth at the time of award of any unpaid Rent that was due at the time of termination;

13.2.3.2. any other amount necessary to compensate CITY for all the detriment proximately caused by PERMITTEE's breach and default, or that in the ordinary course of things, would be likely to result; and

13.2.3.3. all other amounts in addition to or in lieu of those previously stated as may be permitted at law or in equity.

As used in clauses 13.2.3.1 and 13.2.3.2, above, the "worth at the time of award" is computed by allowing interest at the rate of ten percent (10%) per annum. As used in this section, the term "monies" or "payment" shall include the Permit Area charge and any and all other amounts payable by PERMITTEE under this Permit.

- 13.3. Abandonment by PERMITTEE. Even though PERMITTEE has breached the Permit and abandoned the Permit Area, this Permit shall continue in effect for so long as CITY does not terminate this Permit, and CITY may enforce all its rights and remedies hereunder, including but not limited to the right to recover payments due as it becomes due, plus damages, in accordance with law.
14. Unauthorized Activities. PERMITTEE shall not engage in any activity on the Permit Area, or any adjacent CITY-owned property, other than as pre-approved by this Permit. Any work performed/activities conducted by PERMITTEE on the Permit Area that were not previously approved or otherwise authorized by this Permit, shall be considered a default of this Permit and shall subject this Permit to termination in accordance with Section.
15. Maintenance of the Permit Area.
- 15.1. Prior to starting any construction activities, PERMITTEE shall videotape or otherwise document, to CITY's satisfaction, the existing condition of the Property and provide such documentation to City. CITY shall have ten (10) business days to notify PERMITTEE of CITY's satisfaction with the documentation provided. If CITY fails to notify PERMITTEE as set forth in this section 15.1, it shall be deemed that CITY is not satisfied with the documentation provided. If CITY is not satisfied with the documentation provided, PERMITTEE shall resubmit new documentation until such time as CITY is satisfied therewith.
- 15.2. PERMITTEE shall replace existing perimeter fence and maintain the perimeter fence and the Permit Area in good repair and condition to CITY's reasonable satisfaction. At the expiration or early termination of this Permit, the perimeter fencing and gate shall be removed by the PERMITTEE at the PERMITTEE's sole expense.
- 15.3. PERMITTEE shall not allow any person to clean or perform any mechanical work, including on any vehicles, within the Permit Area.

- 15.4. In Permit Area(s) that do not have existing concrete or asphalt, PERMITTEE shall continuously maintain a rock substrate of decomposed granite over the Permit Area(s) to CITY's reasonable satisfaction. PERMITTEE shall install a rumble strip and gravel at all points of access.
- 15.5. PERMITTEE shall install and maintain drip pans below each vehicle and machinery stored on the Permit Area.
- 15.6. PERMITTEE shall ensure that debris and material scraps are not allowed to accumulate in the Permit Area.
- 15.7. PERMITTEE shall lock the gate at the entrance to the Property, as well as those gates attached to the fenced perimeter, at the end of each work day.
- 15.8. PERMITTEE shall not allow any third party not previously approved by CITY, access to the Permit Area at any time without an escort from PERMITTEE or its officers, employees, agents or contractors.

Notwithstanding anything to the contrary in this Permit, PERMITTEE shall, at PERMITTEE's sole cost and expense, and to CITY's satisfaction, maintain the Permit Area in good order and repair and in a safe, healthy and sanitary condition at all times during the Term, subject to normal and ordinary wear and tear resulting from PERMITTEE's authorized use of the Permit Area. CITY shall at no time during the Term of this Permit be required to make any improvements or repairs to the Permit Area. PERMITTEE shall keep the Permit Area free and clear of rubbish, debris and litter at all times. PERMITTEE shall keep the Permit Area free and clear of weeds and brush as reasonably directed by CITY and to CITY's reasonable satisfaction.

16. Security and Safety of Permit Area. PERMITTEE shall bear sole responsibility for the security and safety of its activities and property kept at the Permit Area. PERMITTEE shall be responsible for the routine maintenance, cleanup, and securing of the Permit Area, as appropriate, to ensure security and safety of the Permit Area. PERMITTEE shall comply with all applicable laws, rules, regulations and directives of competent governmental authorities, at PERMITTEE's sole cost and expense, with respect to maintaining the Permit Area in a safe and secure manner during the Term. CITY has no obligation to provide oversight of the Permit Area or staffing or resources for the maintenance of the Permit Area during the Term.
17. MHPA Land Use Adjacency Guidelines/Protection of Sensitive Biological Resources.
 - 17.1 PERMITTEE shall limit use of the Permit Area to the developed portion of the subject CITY-owned parcel.
 - 17.2 PERMITTEE shall maintain Permit Area perimeter fencing to prevent unauthorized access into the adjacent CITY-owned property, which contain sensitive biological resources, including the Multi-Habitat Planning Area ("MHPA") of the City of San

Diego Multiple Species Conservation Program Subarea Plan. Permittee shall maintain the fencing in a manner which does not result in any impacts to sensitive biological resources.

- 17.3 PERMITTEE shall not use/install any lighting on the Permit Area without CITY'S prior written consent. PERMITTEE shall direct any lighting authorized by CITY away from the MHPA and shield said lighting as necessary to avoid spillover into the MHPA.
- 17.4 PERMITTEE shall not allow or cause any vegetation to be planted within the Permit Area without CITY's prior written consent. PERMITTEE shall limit any planting which may be authorized by CITY to non-invasive species.
18. Inspection of Permit Area. CITY may at all times enter and inspect the Permit Area.
19. Utilities. Upon prior written approval by CITY in all instances, PERMITTEE shall order, obtain, and pay for all utilities and service and installation charges in connection with its use of the Permit Area. All newly-installed utilities shall, at CITY's option, be installed underground.
20. Improvements/Alterations. PERMITTEE shall not construct any improvements, structures, or installations on the Permit Area, and shall not otherwise alter the Permit Area, without the prior written consent of CITY in each instance. Except as may be required by law, CITY shall not be obligated to make any repair or assume any expense for any of PERMITTEE's improvements or alterations to the Permit Area.
21. Improvements and Personal Property.
 - 21.1. Improvements. Upon expiration or termination of this Permit, PERMITTEE shall remove any and all improvements, fixtures, structures, and installations or additions to the Permit Area that were constructed or installed on the Permit Area by PERMITTEE ("PERMITTEE Improvements"); this requirement to remove said PERMITTEE Improvements shall apply to PERMITTEE whether PERMITTEE constructed or installed said PERMITTEE Improvements during the current Term or during any previous time period wherein PERMITTEE was authorized to use the Permit Area. PERMITTEE shall, at PERMITTEE's sole cost and expense, remove PERMITTEE Improvements as soon as practicable, but in no event later than (60) calendar days after the expiration or earlier termination of this Permit. PERMITTEE, at its sole cost and expense, shall be responsible for the repair of any and all damage resulting from the removal of such PERMITTEE Improvements as required by this Permit. If PERMITTEE fails to remove PERMITTEE Improvements as required, CITY may, at its option, remove the same at PERMITTEE's sole cost and expense. Notwithstanding the foregoing, CITY may, upon notice to PERMITTEE at termination or at any time prior to the expiration of the Term, elect to assume ownership of all or any PERMITTEE Improvements as of the expiration or earlier termination of this Permit, at no cost to CITY. If CITY elects to assume ownership of all or any PERMITTEE Improvements, PERMITTEE shall honor such assumption

and execute and deliver all necessary and appropriate documents, materials and other items reasonably needed to affect such transfer of ownership to CITY.

- 21.2. Personal Property. PERMITTEE shall remove from the Permit Area all PERMITTEE-owned machines, appliances, equipment, trade fixtures, and other items of personal property upon the expiration of the Term, or as soon as practicable after earlier termination, but in no event later than ten (10) calendar days after the expiration or earlier termination of this Permit. Any such items which PERMITTEE fails to remove shall be deemed abandoned and, subject to applicable law, become CITY's property free of all claims and liens, or CITY may, at its option, remove such items at PERMITTEE's sole cost and expense. PERMITTEE, at its sole cost and expense, shall be responsible for the repair of any and all damage resulting from the removal of its personal property from the Permit Area.
- 21.3. Post-Permit License. CITY grants permission to PERMITTEE to enter upon and occupy the Permit Area after the expiration or earlier termination of this Permit solely for the purpose of removing PERMITTEE Improvements and PERMITTEE's personal property as provided by this Permit. This provision shall survive the expiration or earlier termination of this Permit for the limited time periods stated above.
- 21.4. Late Removal. Notwithstanding any provision of this Permit to the contrary, PERMITTEE shall pay Rent to CITY for any period of time after the expiration or earlier termination of this Permit needed to remove PERMITTEE Improvements or personal property as required by this Permit, whether by CITY or PERMITTEE. Such Rent shall be calculated on a per diem basis using the Rental rate in effect just prior to the expiration or earlier termination of this Permit.
22. Insurance. PERMITTEE shall obtain and maintain throughout the Term of this Permit, at its sole cost and expense, all insurance required by this Permit. PERMITTEE's liabilities under this Permit, including without limitation PERMITTEE's indemnity obligations, shall not be deemed limited in any way to the insurance coverage required herein. PERMITTEE's maintenance of the required insurance coverage is a material consideration for this Permit. Notwithstanding any provision of this Permit to the contrary, if PERMITTEE fails to maintain or renew the insurance coverage required herein, or fails to deliver evidence of same to CITY, PERMITTEE shall be in default of this Permit. PERMITTEE shall not modify any policy or endorsement thereto which increases CITY's exposure to loss. PERMITTEE shall obtain and deliver to CITY's Real Estate Assets Department a current certificate of insurance and relevant endorsements for the following insurance, which shall be subject to CITY's written approval thereof:
- 22.1. Commercial General Liability Insurance ("CGL") written on an *ISO Occurrence form CG 00 01 07 98* or an equivalent form providing coverage at least as broad which shall cover liability arising from any and all personal injury, including death, and property damage with limits of at least Two Million Dollars (\$2,000,000) per occurrence, subject to an annual aggregate of at least Four Million Dollars (\$4,000,000). There shall be no endorsement or modification of the CGL limiting

the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

- 22.2. Commercial Automobile Liability Insurance, providing coverage for all bodily injury, including death, and property damage on an *ISO form CA 00 01 12 90* or a later version of such form or an equivalent form providing coverage at least as broad for a combined single limit of at least One Million Dollars (\$1,000,000) per occurrence. Such insurance shall cover liability arising out of any vehicle (including owned, hired, and non-owned vehicles) operated in performing any and all work pursuant to this Permit.
- 22.3. Workers' Compensation Insurance, as required by applicable laws, for all of PERMITTEE's employees who are subject to this Permit, with employers' liability coverage with a limit of at least One Million Dollars (\$1,000,000), and an endorsement that the insurer waives the right of subrogation against The City of San Diego and its elected officials, officers, employees, representatives and agents.
- 22.4. Additional Insureds. To the fullest extent allowed by law, including without limitation California Insurance Code section 11580.04, each policy must be endorsed to include as insureds "The City of San Diego and its elected officials, officers, employees, representatives and agents" with respect to liability arising out of: (a) ongoing operations performed by PERMITTEE or on PERMITTEE's behalf; (b) PERMITTEE's products; (c) PERMITTEE's work, including without limitation PERMITTEE's completed operations performed by PERMITTEE or on PERMITTEE's behalf; or (d) the Permit Area.
- 22.5. Primary & Non-Contributory. Each policy must be endorsed to provide that the insurance afforded by Commercial General Liability policies is primary to any insurance or self-insurance of The City of San Diego and its elected officials, officers, employees, representatives and agents as respects operations of the named insured. Any insurance maintained by The City of San Diego and its elected officials, officers, employees, representatives and agents shall be in excess of PERMITTEE's insurance and shall not contribute to it.
- 22.6. Severability of Interest. Each policy must be endorsed to provide that PERMITTEE's insurance shall apply separately to each insured against whom claim is made or suit is bought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.
- 22.7. Qualified Insurer(s). Except for the State Compensation Insurance Fund, all insurance required by this Permit shall only be carried by insurance companies with a rating of at least "A-, VI" by A.M. Best Company that are authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by CITY. CITY may accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Eligible Surplus Lines Insurers (i.e., the LESLI list). All policies of insurance carried by non-admitted carriers shall be

subject to all of the requirements for policies of insurance provided by admitted carriers described herein. Each insurer shall be subject to CITY's approval in each instance.

- 22.8. Deductibles/Retentions. All deductibles and self-insured retentions on any insurance policy are the sole responsibility of PERMITTEE and must be disclosed and acceptable to CITY at the time evidence of insurance is provided.
- 22.9. Continuity of Coverage. All policies shall be in effect on or before the first day of the Term, except "course of construction fire insurance" shall be in force on commencement of all authorized construction, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. The policies shall be kept in force for the duration of the Term. At least thirty (30) days prior to the expiration of each insurance policy, PERMITTEE shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the requirements of this Permit. PERMITTEE shall provide proof of continuing insurance at least annually during the Term and otherwise upon CITY's request. If insurance lapses or is discontinued for any reason, PERMITTEE shall immediately notify CITY and shall immediately obtain replacement insurance as soon as possible.
- 22.10. Modification. To assure protection from and against the kind and extent of risk existing with the Permit Use, CITY, at its reasonable discretion, may require the revision of amounts and coverage at any time by giving PERMITTEE thirty (30) days prior written notice. PERMITTEE shall also obtain any additional insurance required by CITY for new improvements, changed circumstances, or CITY's reasonable re-evaluation of risk levels related to the Permit Use.
- 22.11. Accident Reports. PERMITTEE shall immediately report to CITY any accident causing property damage or injury to persons on the Permit Area or otherwise related to the Permit Use. Such report shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.
- 22.12. Causes of Loss - Special Form Property Insurance. PERMITTEE shall obtain and maintain, at its sole cost, Causes of Loss - Special Form Property Insurance on all of PERMITTEE's insurable property related to the Permit Use of the Permit Area under this Permit or the Permit Area in an amount to cover 100 percent (100%) of the replacement cost. PERMITTEE shall deliver a certificate of such insurance to CITY's Real Estate Assets Department.
23. Indemnification & Hold Harmless. PERMITTEE shall protect, defend, indemnify, and hold CITY and its elected officials, officers, employees, representatives, and agents harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to PERMITTEE's officers, employees, invitees, guests, agents, or contractors, which arise out of or are in any manner directly or indirectly connected with this Permit or PERMITTEE's exercising of the rights granted to PERMITTEE herein, and all expenses of investigating and defending against same, including without limitation

reasonable attorney fees and costs; provided, however, that PERMITTEE's duty to indemnify and hold harmless shall not include any established liability arising from the sole negligence or intentional misconduct of CITY and its elected officials, officers, employees, representatives, and agents. CITY may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, PERMITTEE shall pay all of the costs related thereto, including without limitation reasonable attorney fees and costs.

24. Restore and Vacate. Subject to the restrictions of Section 17, prior to the expiration of this Permit or upon PERMITTEE's earlier termination of this Permit, PERMITTEE shall restore the Permit Area to the same or similar condition that existed on the Effective Date, and as otherwise required by environmental impact reports, and to CITY's satisfaction, normal wear and tear excepted for authorized Permit Uses, and upon such expiration or earlier termination immediately vacate the Permit Area. Upon CITY's earlier termination of this Permit, PERMITTEE shall immediately cease all operations on the Permit Area and as soon as practicable (see above Section 21 Improvements and Personal Property" for applicable timelines for removal of PERMITTEE Improvements) restore the Permit Area to the same or similar condition that existed on the Effective Date (again, subject to the restrictions of Section 17), normal wear and tear excepted, and vacate the Permit Area.
25. Superior Interests. This Permit is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, permits and licenses, easements, and rights-of-way pertaining to the Permit Area, whether or not of record. PERMITTEE shall obtain all licenses, permits, and agreements from such third parties as may be or become necessary or reasonably advisable to allow its use of the Permit Area, relative to any such superior interest. If PERMITTEE's use of the Permit Area is or becomes inconsistent or incompatible with a preexisting, superior interest, PERMITTEE shall take such actions and pay all costs and expenses necessary to remove such inconsistency or incompatibility to the satisfaction of the holder of the superior interest.
26. Governmental Approvals. **PERMITTEE represents that it has made its own investigation with the CITY's Development Services Department to ensure the Permit Use complies with applicable zoning and all other applicable CITY development regulations.** By entering into this Permit, neither CITY nor CITY's City Council is obligating itself to PERMITTEE or to any governmental agent, board, commission, or agency with regard to any other discretionary action relating to PERMITTEE's use of the Permit Area. "Discretionary action" includes without limitation re-zonings, variances, environmental clearances and all other required governmental approvals.
27. CITY's Consent, Discretion. CITY's consent or approval under this Permit shall mean the written consent or approval of the Mayor of San Diego, or his designee ("Mayor"), unless otherwise required by law or expressly provided herein. CITY's discretionary acts hereunder shall be made in the Mayor's discretion, unless otherwise expressly provided or required by law.

28. Compliance with Laws. PERMITTEE shall at all times in its use, occupancy, and maintenance of the Permit Area comply with all applicable laws, rules and regulations and direction by competent governmental authorities, and all at PERMITTEE's sole cost and expense. At least annually, PERMITTEE shall deliver to CITY copies of all documentary evidence of such compliance received by or otherwise available to PERMITTEE (e.g., validation of periodic inspection of PERMITTEE's fire-suppression equipment used for/in conjunction with PERMITTEE's use of the Permit Area).
29. Permits and Approvals. PERMITTEE shall at all times in its use, occupancy, maintenance, and restoration of the Permit Area comply with all applicable laws, rules, regulations and directives of competent governmental authorities, and at PERMITTEE's sole cost and expense. At least annually, PERMITTEE shall deliver to CITY copies of all documentary evidence of such compliance received by or otherwise available to PERMITTEE (e.g., validation of periodic inspections, if applicable).
30. California Public Records Act. CITY shall determine, in its sole discretion, whether information provided by PERMITTEE pursuant to this Permit is or is not a public record subject to disclosure under the California Public Records Act ("CPRA"). PERMITTEE shall hold CITY and its elected officials, officers and employees harmless for CITY's disclosure of any such information in response to a request for information under the CPRA. Upon CITY's request, PERMITTEE shall provide CITY with specific and detailed legal grounds, including any applicable case law, upon which CITY may rely, in CITY's sole discretion, for withholding any information requested pursuant to the CPRA. If CITY withholds disclosure of information in reliance on such legal analysis provided by PERMITTEE, PERMITTEE shall protect, defend, indemnify and hold CITY and its elected officials, officers, employees, representatives and agents harmless for and from legal actions or challenges seeking to obtain the information from CITY and all costs incurred by CITY associated therewith, and shall defend, at PERMITTEE's sole expense, any action brought against CITY resulting from CITY's nondisclosure of the information. CITY may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, PERMITTEE shall pay all of the costs related thereto, including without limitation reasonable attorney fees and costs.
- 30.1 CITY shall not be liable or obligated for any burden or loss (financial or otherwise) incurred by PERMITTEE as a result of CITY's disclosure or non-disclosure of this Permit or PERMITTEE information requested pursuant to the CPRA. PERMITTEE EXPRESSLY WAIVES ANY CLAIM AGAINST CITY AND ITS ELECTED OFFICIALS, OFFICERS, EMPLOYEES, REPRESENTATIVES AND AGENTS FOR ANY BURDEN, EXPENSE OR LOSS WHICH PERMITTEE INCURS AS A RESULT OF CITY'S DISCLOSURE OR NON-DISCLOSURE OF THIS PERMIT OR ANY PERMITTEE INFORMATION REQUESTED PURSUANT TO THE CPRA.
31. No Discrimination. PERMITTEE shall not discriminate in any manner against any person on account of race, color, religion, gender, sexual orientation, sexual identity, sexual

expression, medical status, national origin, ethnicity, age, marital status, or disability in PERMITTEE's use of the Permit Area, including without limitation the provision of goods, services, facilities, privileges, advantages, and accommodations, and the hiring and retention of employees and contractors.

32. Equal Opportunity. PERMITTEE shall comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375 and 12086; the California Fair Employment Practices Act; and all other related and applicable federal and state laws and regulations. PERMITTEE shall not discriminate against any employee or applicant for employment based on race, religion, color, ancestry, age, gender, sexual orientation, disability, medical condition or place of birth. PERMITTEE shall cause the foregoing provisions to be inserted in all PERMITTEE's contracts for work related to this Permit so that such provisions will be binding upon each of PERMITTEE's contractors. PERMITTEE shall fully cooperate with any investigation conducted by CITY pursuant to CITY's Nondiscrimination in Contracting Ordinance (i.e., San Diego Municipal Code sections 22.3501-22.3517, as amended from time to time), and upon CITY's request PERMITTEE shall submit a current Workforce Report. PERMITTEE acknowledges that failure to comply with the requirements of this section and/or submitting false information in response to these requirements may result in termination of this Permit and debarment from participating in CITY contracts for a period of not less than one (1) year.
33. Equal Benefits. PERMITTEE shall comply with San Diego Municipal Code sections 22.4301-22.4308, which require applicable parties to offer the same employment benefits to employees with spouses and employees with domestic partners. PERMITTEE shall certify that it will maintain such equal benefits throughout the term of this Permit. PERMITTEE's failure to maintain equal benefits shall be a material breach of this Permit.
34. Disabled Access Compliance. PERMITTEE shall comply with Title 24 of the California Code of Regulations (i.e., the "Building Code"); the Americans with Disabilities Act of 1990 ("ADA"); and any other applicable state and federal laws and regulations enacted protecting the rights of people with disabilities. PERMITTEE's compliance shall include without limitation the following:
 - 34.1 PERMITTEE shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs and termination of employment;
 - 34.2 No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs or activities of PERMITTEE;
 - 34.3 PERMITTEE shall post a statement addressing the requirements of the ADA in a prominent place at the work site;
 - 34.4 Where required by law, PERMITTEE shall, at PERMITTEE's sole cost in conformance with all applicable codes and accessibility regulations, comply with

applicable disabled-access requirements by making accessible any areas of the Permit Area which deny access to disabled persons;

- 34.5 PERMITTEE shall include language in each sublicense agreement, if any, indicating the sub-licensee's agreement to abide by the foregoing provision; and,
- 34.6 PERMITTEE and each of its sub-licensees shall be individually responsible for their own ADA compliance program. PERMITTEE's failure to comply with the above requirements and/or submitting false information in response to those requirements shall be a default under this Permit.
35. CITY Employee Participation Policy. CITY may unilaterally and immediately terminate this Permit if PERMITTEE employs an individual who, within the twelve (12) months immediately preceding such employment did, in their capacity as a CITY officer or employee, participate in negotiations with or otherwise have an influence on a recommendation made to the San Diego City Council related to the selection of PERMITTEE for this Permit. It is not the intent of this policy that these provisions apply to members of the City Council.
36. Local Business and Employment. PERMITTEE acknowledges that CITY seeks to promote employment and business opportunities for local residents and firms in all CITY contracts. For work associated with this Permit and to the extent legally possible, PERMITTEE shall use its best efforts to solicit applications for employment and bids and proposals for contracts from local residents and firms as opportunities occur. PERMITTEE shall use its best efforts to hire qualified local residents and firms whenever practicable.
37. PERMITTEE's Risk. PERMITTEE shall bear all risks and liability arising out of or in any manner directly or indirectly connected with PERMITTEE's use or occupancy of the Permit Area and any damages to the improvements on, under or in the vicinity of the Permit Area resulting directly or indirectly thereby.
38. No Nuisance. PERMITTEE shall not use the Permit Area in any manner which creates a nuisance or unreasonably disturbs the quiet enjoyment of persons in and to the surrounding area.
39. Signs. PERMITTEE shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings or similar devices or advertising without CITY's prior written consent. If any such unauthorized item is found on the Permit Area, PERMITTEE shall remove the item at its expense within twenty-four (24) hours after notice by CITY, or CITY may thereafter summarily remove the item at PERMITTEE's cost.
40. Encumbrances. PERMITTEE shall keep the Permit Area free from all encumbrances and liens of any nature which arise out of or are in any manner directly or indirectly connected with PERMITTEE's use or occupancy of the Permit Area. PERMITTEE shall protect, defend, indemnify, and hold CITY harmless from and against any and all such encumbrances and/or liens, and from and against any claim, liability, cost or expense, including without

limitation all attorney fees and costs, relating to or charged against the Permit Area, including without limitation PERMITTEE's failure, or the failure of any contractor or subcontractor hired by PERMITTEE, to pay any person or persons entitled to lien or encumber the Permit Area pursuant to California Civil Code.

41. Taxes. PERMITTEE shall pay, before delinquency, all taxes, assessments, and fees assessed or levied upon PERMITTEE or the Permit Area during the Term, including the land, any buildings, structures, machinery, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed, or maintained by PERMITTEE, or levied by reason of PERMITTEE's occupancy, use, development, maintenance or restoration of the Permit Area, including without limitation licensing and permitting costs and fees. PERMITTEE acknowledges that this Permit may create a possessory interest subject to property taxation, and that PERMITTEE may be subject to the payment of taxes levied on that interest. PERMITTEE shall pay all such possessory interest taxes. PERMITTEE's payment for such taxes, fees, and assessments shall not reduce any payment due CITY.
42. Above Ground Storage Tanks.
 - 42.1 Monitoring. If CITY, as permittor under this Permit (rather than in its governmental capacity) allows, and if PERMITTEE installs or maintains, any aboveground storage tanks within the Permit Area (individually and collectively, "Aboveground Tanks"), PERMITTEE shall monitor each Aboveground Tank during the Term in compliance with this Permit and all applicable laws, rules and regulations. PERMITTEE shall conduct daily visual inspections of all Aboveground Tanks and shall permit the San Diego Regional Water Quality Control Board (the "Water Quality Board"), CITY, and all responsible governmental agencies, to conduct periodic inspections of all Aboveground Tanks.
 - 42.2 Reporting. PERMITTEE shall report to CITY each and every unauthorized release of a hazardous substance from Aboveground Tanks within twenty-four (24) hours of each such release.
 - 42.3 Fees and Costs. PERMITTEE shall pay all fees and costs related to unauthorized releases of hazardous substances from Aboveground Tanks, including without limitation investigative, surface, groundwater cleanup and expert and agency fees. PERMITTEE shall maintain insurance or other financial means to ensure the fulfillment of its obligations hereunder to pay such fees and costs, including without limitation the costs of corrective actions, compensating third parties for personal injuries or property damage, and compensating CITY for damages to the Permit Area and surrounding CITY-owned property, directly or indirectly caused by any and all releases from Aboveground Tanks. PERMITTEE shall deliver to CITY and maintain evidence, satisfactory to CITY, of such financial responsibility. PERMITTEE shall pay all costs and expenses related to Aboveground Tanks, including without limitation costs and expenses to comply with PERMITTEE's obligations under this Permit.

- 42.4 Development, Maintenance and Repair. PERMITTEE shall develop, maintain and repair all Aboveground Tanks in compliance with all applicable laws, rules and regulations of competent governmental authorities, including without limitation the California Health and Safety Code, as presently existing and as may be amended from time to time ("Health & Safety Code"). PERMITTEE shall obtain all required permits and produce and deliver such documents as any and all responsible governmental agencies may require. PERMITTEE shall: (a) comply with all valid orders of the Water Quality Board; (b) file all required aboveground storage tank statements; (c) establish and maintain all required monitoring programs and systems; (d) report all spills as required; and (e) pay all lawfully-imposed penalties and fines.
43. Hazardous Substances. PERMITTEE shall not allow the illegal installation, storage, utilization, generation, sale or release of Hazardous Substance or otherwise regulated substances in, on, under or from the Permit Area. Except for as to the Permit Use, PERMITTEE and PERMITTEE's agents and contractors shall not install, store, utilize, generate or sell any Hazardous Substance on the Permit Area without CITY's prior written consent. PERMITTEE shall, prior to initiating any operations, obtain all required permits from applicable regulatory agencies, including without limitation the San Diego County Department of Environmental Health, local fire agencies, the San Diego County Department of Weights and Measures, the San Diego County Air Pollution Control District, and the San Diego Regional Water Quality Control Board. Installing, utilizing, storing, or any other presence of a Hazardous Substance includes boxes, bags, bottles, drums, cylinders, above or below ground tanks, equipment with tanks, or any other type of container, equipment or device which holds or incorporates a Hazardous Substance or hazardous waste.
- 43.1 Release. For all purposes of this Permit, a "release" shall include without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or otherwise disposing of Hazardous Substances.
- 43.2 Hazardous Substances. For all purposes of this Permit, "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.
- 43.3 Remediation. If PERMITTEE's occupancy, use, development, maintenance, or restoration of the Permit Area ("PERMITTEE's Operations") results in a release of a Hazardous Substance, PERMITTEE shall pay all costs of remediation and removal to the CITY's satisfaction for unrestricted reuse of the Permit Area, and in accordance with all applicable laws, rules, and regulations of governmental authorities.
- 43.4 Removal. If PERMITTEE or PERMITTEE's contractor or agent has received approval and permits to store, utilize, generate, or install, or otherwise bring Hazardous Substances to the Permit Area, PERMITTEE and/or PERMITTEE's contractor or agent shall remove all Hazardous Substances in any type of container, equipment, or device from the Permit Area immediately upon or prior to the expiration or earlier termination of this Permit. CITY reserves the right to conduct inspections of the Permit Area and/or request documentation demonstrating the legal

removal and/or disposal of the hazardous materials, wastes or other containers, equipment, or devices from the Permit Area. PERMITTEE shall be responsible for any and all costs incurred by CITY to remove any container, equipment, or device requiring disposal or removal as required by this provision.

- 43.5 Indemnity. PERMITTEE shall protect, defend, indemnify, and hold CITY harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from PERMITTEE's Operations including without limitation: (i) costs of environmental assessments; (ii) costs of regulatory remediation oversight; (iii) costs of remediation and removal; (iv) any necessary CITY response costs; (v) all fines, penalties or fees assessed by any regulatory agency; (vi) damages for injury to natural resources, PERMITTEE's officers, employees, invitees, guests, agents, or contractors, or the public; and (vii) all costs of any health assessments or health effect studies.
- 43.6 Notice of Release. If PERMITTEE knows or has reasonable cause to believe that a Hazardous Substance has been released on, from, or beneath the Permit Area, PERMITTEE 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. PERMITTEE 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 PERMITTEE 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, PERMITTEE shall take all actions necessary to alleviate the danger. PERMITTEE 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 Permit Area.
- 43.7 Environmental Assessment. Upon reasonable cause to believe that PERMITTEE's Operations resulted in any Hazardous Substance being released on, from or beneath the Permit Area, CITY may cause an environmental assessment under regulatory oversight of the suspect area to be performed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist or Registered Civil Engineer. The environmental assessment shall be obtained at PERMITTEE's sole cost and expense, and shall establish what, if any, Hazardous Substances have more likely than not been caused by PERMITTEE'S Operations on, in, from or under the Permit Area, and in what quantities. If any such Hazardous Substances exist in quantities greater than allowed by city, county, state, or federal laws, statutes, ordinances, or regulations, or require future restricted re-use of the Permit Area, then the environmental assessment shall include a discussion of such substances with recommendations for remediation and removal necessary to effect unrestricted re-use and in compliance with those laws or statutes, and estimates of the cost of such remediation or removal. PERMITTEE shall cause, or if PERMITTEE fails to do so within a reasonable period of time, as determined by CITY in its sole discretion, then CITY may cause the remediation and/or removal recommended in the environmental assessment such that unrestricted

re-use of the Permit Area and compliance with environmental laws and regulations are achieved, and PERMITTEE shall pay all costs and expenses therefor.

44. Storm Water Pollution Prevention Program. PERMITTEE shall comply with the CITY's Storm Water Management and Discharge Control provisions codified in Division 3 of Chapter 4 of the San Diego Municipal Code, as may be amended, and any and all applicable Minimum Best Management Practice requirements, as defined in the City's Jurisdictional Runoff Management Plan, in performing or delivering services at City owned, leased, or managed property, or in performance of services and activities on behalf of CITY regardless of location.

PERMITTEE shall comply with the CITY's Jurisdictional Runoff Management Plan encompassing Citywide programs and activities designed to prevent and reduce storm water pollution within CITY boundaries as adopted by the CITY's City Council on July 1, 2015, via Resolution No. 309791, as may be amended.

PERMITTEE shall comply with each CITY facility or work site's Storm Water Pollution Prevention Plan, as applicable, and institute all controls needed while completing the services to minimize any negative impact to the storm water collection system and environment.

45. Accessibility Assessment. In accordance with California Civil Code section 1938, CITY hereby states that the Permit Area has not been inspected by a Certified Access Specialist (CASP).
46. Waiver. The property constituting the Permit Area is publicly owned and held in trust for the benefit of CITY's citizens. CITY's failure to insist upon the strict performance of any of PERMITTEE's obligations under this Permit, in one or more instance, shall not be construed as a waiver of any such obligation, and the same shall remain in full force and effect. CITY's waiver of a default shall not be a waiver of any other default. Any waiver of a default must be in a writing executed by CITY to constitute a valid and binding waiver. CITY's delay or failure to exercise a right or seek a remedy shall not be deemed a waiver of that or any other right or remedy under this Permit, at law or in equity. The exercise of any particular right or the use of any particular remedy for any default shall not waive the use of any other right or remedy for the same default or for another or later default. CITY's acceptance of any rents shall not be a waiver of any default preceding the rent payment. CITY's failure to discover a default or take prompt action to require the cure of any default shall not result in an equitable estoppel, but CITY may at any and all times require the cure of the default.
47. Cumulative Remedies. CITY's rights and remedies under this Permit are cumulative and shall not limit or otherwise waive or deny any of CITY's rights or remedies at law or in equity.
48. Survival. Any obligation which accrues under this Permit prior to its expiration or termination shall survive such expiration or termination.

49. Joint and Several Liability. If PERMITTEE is comprised of more than one person or legal entity, such persons and entities, and each of them, shall be jointly and severally liable for the performance of each and every obligation of PERMITTEE under this Permit.
50. No Affiliation. Nothing contained in this Permit shall be deemed or construed to create a partnership, joint venture or other affiliation between CITY and PERMITTEE or between CITY and any other entity or party, or cause CITY to be responsible in any way for the debts or obligations of PERMITTEE or any other party or entity.
51. Notices. Any notice required or permitted to be given under this Permit shall be in writing and may be served personally or delivered by United States mail, postage prepaid, and addressed to PERMITTEE at PERMITTEE's Address for Notices, and to CITY as follows:

THE CITY OF SAN DIEGO

Attention: Director, Real Estate Assets Department (619) 236-6020

1200 Third Avenue, Suite 1700 (MS 51A)

San Diego, California 92101

52. Entire Agreement. This Permit constitutes the entire agreement between the parties and supersedes any and all prior understandings, representations, warranties and agreements between them pertaining to this Permit. Any modification, alteration, or amendment of this Permit shall be in writing and signed by all the parties hereto.
53. Counterparts. This Permit may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which, when taken together, shall constitute one and the same instrument.
54. Authority to Contract. Each individual executing this Permit on behalf of another person or legal entity represents and warrants that they are authorized to execute and deliver this Permit on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Permit is binding upon such person or entity in accordance with its terms. Each person executing this Permit on behalf of another person or legal entity represents and warrants such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

[Remainder of page intentionally left blank.]

55. Acceptance of Permit Area. By signing this Permit, PERMITTEE represents and warrants that it has independently inspected the Permit Area and made all tests, investigations, and observations necessary to satisfy itself as to the condition of the Permit Area and its suitability for the Permit Use. PERMITTEE further represents and warrants that it is not relying on any representation by CITY as to the condition of the Permit Area or its suitability for the Permit Use, and that PERMITTEE is relying solely on its own and independent inspections, tests, investigations and observations of the Permit Area in entering into this Permit. PERMITTEE accepts the Permit Area in its current condition. PERMITTEE acknowledges and agrees that unless set forth in this Permit, CITY has no obligation to improve, modify, repair, replace, alter, secure, or otherwise develop the Permit Area at any time either prior to, on or after the Effective Date. PERMITTEE shall not hold CITY responsible for any defects in the Permit Area. PERMITTEE accepts and assumes all risk of harm to all persons and property, including without limitation PERMITTEE's employees, from any defects in the Permit Area, and shall be solely responsible therefore.

IN WITNESS WHEREOF, this Permit is executed to be effective as of the Effective Date.

NAMVAR'S, INC.,
a California corporation

BY: _____

Ali Namvar
Principal

THE CITY OF SAN DIEGO,
a California municipal corporation

By: _____

Cybele Thompson
Director, Real Estate Assets

Environmental Analysis Section Environmental Clearance:

THIS ACTIVITY IS CATEGORICALLY EXEMPT FROM
CEDA PURSUANT TO STATE CEDA GUIDELINES
SECTION 15303.

Date: _____

10/26/17

BY: _____

Nicole A. McGinnis
Senior Planner, Public Utilities Department

Approved as to form:

MARA W. ELLIOTT, CITY ATTORNEY

By: _____

Name: Marco A. Verdugo

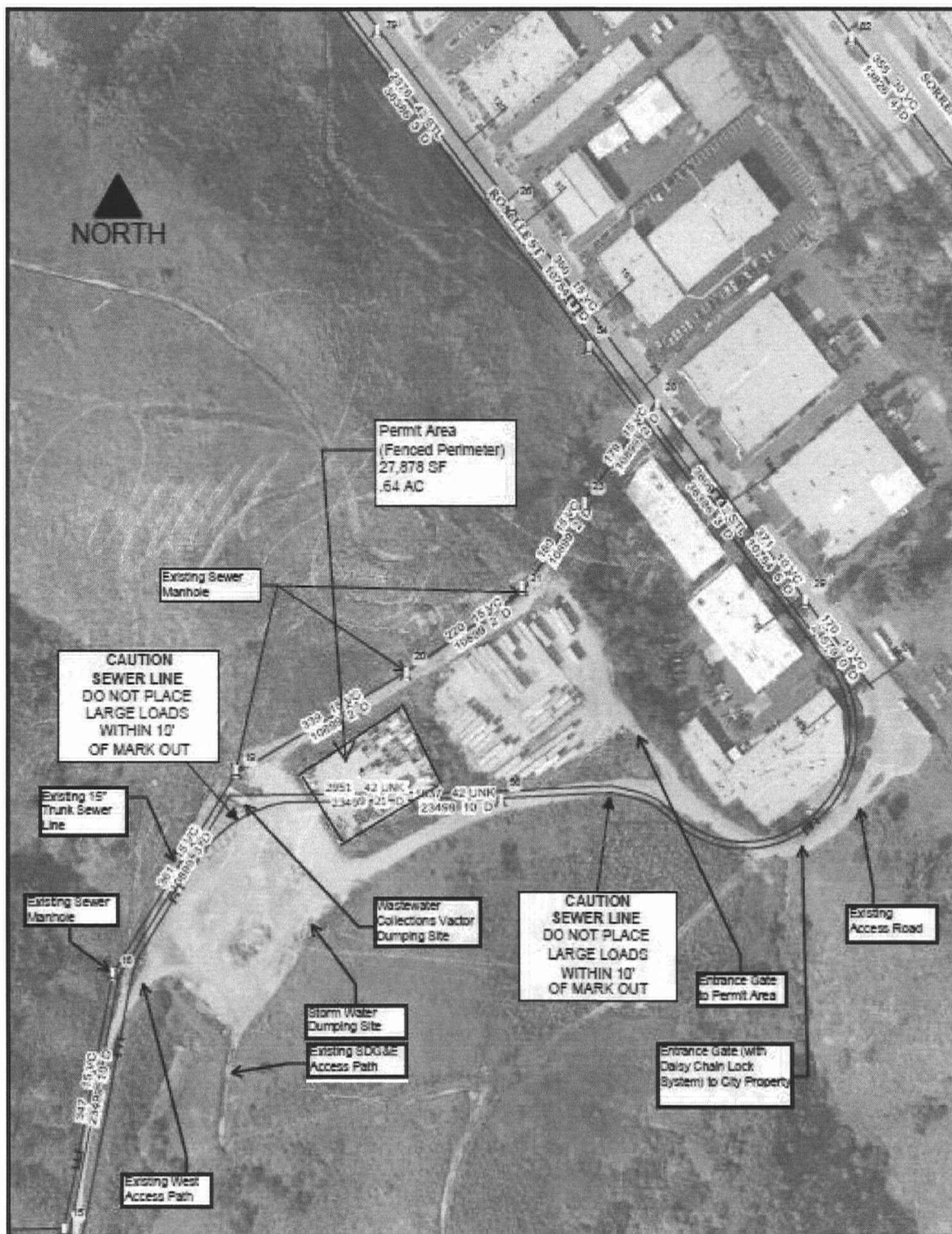
Title: Deputy City Attorney

Date: 10/27/17

I:\READ\FARST\Namvars\FINAL UO Permit - Namvars - 10320 Roselle 10.17.17



Exhibit A: Permit Area



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