

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 **CHOLLAS LAKE PARK FLYERS**, also known as **CHOLLAS R/C FLYERS**, a not-for-profit association ("PERMITTEE"), to be effective as of October 1, 2016 (the "Effective Date"), when signed by the parties and approved by the San Diego City Attorney.

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 that certain part of the CITY-owned property commonly known as Chollas Park/South Chollas Landfill and located at 5997 College Grove Drive, San Diego, California, 92115, as more particularly depicted in **Exhibit A: Permit Area**, attached hereto.

1.2 **"Permit Administrative Fee"** shall mean a one-time, non-refundable permit processing fee in the amount of Nine Hundred Eighty Dollars (\$980), which CITY received on August 10, 2016.

1.3 **"Permit Use"** shall mean the non-exclusive use of the Permit Area solely to fly radio-controlled aircraft ("Flight Activity") within the Permit Area.

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

Chollas Lake Park Flyers
Attn: Harley Davis
6205 Streamview Drive
San Diego, CA 92115

1.5 **"Term"** shall mean three (3) years, commencing on the Effective Date.

2. Use of Permit Area. Subject to the terms and conditions of this Permit, CITY hereby grants permission to PERMITTEE, its members, and members of the Academy of Model Aeronautics ("AMA") to enter upon and use the Permit Area solely for the purpose of the Permit Use. PERMITTEE shall ensure, at all times during this Permit, that each participant involved in a Flight Activity is a member of either PERMITTEE's association or the AMA. PERMITTEE shall also ensure that each participant in a Flight Activity complies at all times with the AMA Safety Code, attached hereto as **Exhibit C: AMA Safety Code**, and PERMITTEE's rules and regulations, attached hereto as **Exhibit D: Rules & Regulations**. PERMITTEE shall not allow any person to participate in any Flight Activity without each participant having first signed and delivered to PERMITTEE a "City of San Diego Waiver of Liability, Assumption of Risk, and Indemnity Agreement" form, substantially in the

form attached hereto as **Exhibit B: Waiver**. At the conclusion of each Flight Activity day, PERMITTEE shall clear all trash and debris resulting from the Flight Activities and/or PERMITTEE's use of the Permit Area on that day.

- a. Quarterly Reporting. PERMITTEE shall provide a written report on a quarterly basis to the Park and Recreation Director or Designee, summarizing any and all issues that may have occurred during each quarterly period concerning PERMITTEE's operations, programming, attendance or complaints from the public.
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 ninety (90) 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 has possession of their own lock and keys that allow access to the Permit Area. The lock must be removed upon expiration or early termination of the Permit. PERMITTEE shall not install new or additional locks on the entrance gate without CITY's prior written consent.
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.
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.
7. Annual Permit Area Charge. PERMITTEE shall pay to CITY an annual Permit Area charge (hereinafter referred to as "Rent") in the initial annual amount of Three Thousand Four Hundred Fifty and No/100 Dollars (\$3,450.00). Rent shall be payable each year of the Term in two (2) installments. The installment payments for the first year of the Term shall be One Thousand Seven Hundred Twenty-Five and No/100 Dollars (\$1,725.00) each. PERMITTEE shall pay the first installment of Rent for the first Permit year on or before the Effective Date, with the second installment due six (6) months later. For each successive Permit year, the first installment shall be due on or before each anniversary of the Effective Date, and the second installment shall be due on or before six (6) months thereafter. 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 adjusted annually, upward only, based on increases in the Consumer Price Index (CPI) as provided below.

- a. CPI Adjustments. On each anniversary of the Effective Date, the Rent shall be adjusted, upward only, to reflect any increase in the Consumer Price Index for "All Urban Consumers" for Los Angeles/ Riverside/Orange County, California (the "CPI") based on the average of the then three most recently published monthly indices just prior to each adjustment. If the CPI is no longer published, the index for adjustment shall be the U.S. Department of Labor's "Comprehensive Official Index" most comparable to the CPI.
- i. If a Rent adjustment is calculated using an index from a different base year than 1982-84, which equaled a base figure of 100 for the CPI, the base figure used shall first be converted under a formula supplied by the Bureau of Labor Statistics or its successor.
 - ii. If the Department of Labor indices are no longer published, CITY may use another index deemed by CITY to be reasonably comparable to the CPI, which shall then be the "CPI" under this Permit.
 - iii. CITY's failure to deliver timely notice of any Rent adjustment shall not constitute a waiver by CITY of its rights hereunder.
- b. CPI Adjustment Computation. The Rent shall be calculated as follows:

The "adjustment multiplier" shall be calculated by dividing the "current index" by the "base index" as defined below:

The "base index" denominator for the calculation is 178.5. This is a fixed number representing the three (3) month average of the CPI indices for the months of July, August and September 2001.

The "current index" numerator for the calculation is a variable number that shall be the three (3) month average of the CPI indices for the months of July, August and September of the calendar year preceding the adjustment date.

The "base figure" for purposes of calculating the annual adjustment shall be a fixed amount of two thousand five hundred dollars (\$2,500).

Example Calculation:

Current Index (Third Quarter 2015)	246.275
	÷
Base Index (Third Quarter 2001)	178.5 =
Adjustment Multiplier	1.38

The base figure is then multiplied by the adjustment multiplier to determine the new Rent. Using the foregoing example, the adjusted Rent is calculated as follows:

\$2,500.00	(Base Figure)
X 1.38	(Adjustment Multiplier)
\$3,450.00	(Adjusted Rent)

(CURRENT INDEX ÷ BASE INDEX) X BASE FIGURE = NEW RENT AMOUNT

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. 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.

11. 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.

12. Defaults and Remedies.

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

1. PERMITTEE fails to make any payments required under this Permit when due; or
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
3. PERMITTEE shall voluntarily file or have involuntarily filed against it any petition under any bankruptcy or insolvency act or law; or
4. PERMITTEE shall be adjudicated a bankrupt; or
5. PERMITTEE shall make a general assignment for the benefit of creditors.

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

- (i) 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,
- (ii) in the case of a breach from something other than a failure to make a payment, CITY may:
 - (xx) terminate this Permit upon ten (10) days' prior notice of Intent to Terminate delivered to PERMITTEE (or any person claiming rights through PERMITTEE) if PERMITTEE has failed to cure said default within said ten (10) day period and said default is of

the type reasonably curable within ten (10) days; or (yy) 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) period and has also failed to diligently taken all actions necessary to pursue such cure to completion.

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:

- (a) the worth at the time of award of any unpaid Rent that was due at the time of termination;
- (b) 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
- (c) 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 (a) and (b), 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.

- 12.3 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.
13. Reservation of Right to Impose Restrictions and Scheduling Conditions. Because the Permit Area is located on a landfill, CITY shall at all times reserve the right to impose reasonable restrictions and scheduling conditions for any activities related to the PERMITTEE's operations on the Permit Area. If restrictions and scheduling conditions are issued, no activities/operations which in any way conflict with said restrictions and/or scheduling conditions shall commence without the prior written approval of CITY regardless of what may be written in this Permit. PERMITTEE agrees that CITY shall have no liability to PERMITTEE, or anyone operating through/associated with PERMITTEE, for any losses or damages that PERMITTEE may incur as a result of such reasonable restrictions and/or scheduling conditions.

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. 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 and Airport. 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. Inspection of Permit Area. CITY may at all times enter and inspect the Permit Area.
18. 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.
19. 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.
20. Improvements and Personal Property.
 - 20.1 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.

- 20.2 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.
- 20.3 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.
- 20.4 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.
21. 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:

- (a) 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.
- (b) 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.
- (c) 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.

21.1 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.

21.2 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.

21.3 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.

- 21.4 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.
- 21.5 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.
- 21.6 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.
- 21.7 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.
- 21.8 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.

- 21.9 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.
22. 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.
23. Restore and Vacate. 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, 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 20 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, normal wear and tear excepted, and vacate the Permit Area.
24. 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.
25. Governmental Approvals. 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.

26. 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.
27. 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).
28. 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.
29. 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, 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.
30. 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.

31. 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.
32. 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:
 - 32.1 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;
 - 32.2 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;
 - 32.3 PERMITTEE shall post a statement addressing the requirements of the ADA in a prominent place at the work site;
 - 32.4 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; and,
 - 32.5 PERMITTEE shall include language in each sublicense agreement, if any, indicating the sublicensee's agreement to abide by the foregoing provisions.

PERMITTEE and each of its sublicensees 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.

33. 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.
34. 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.

35. 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.
36. 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.
37. 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.
38. 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.
39. 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.
40. 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.

- 40.1 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.
- 40.2 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.
- 40.3 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.
- 40.4 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.
- 40.5 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.

- 40.6 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.
- 40.7 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.
41. Water Quality Assurances. PERMITTEE shall, at its sole cost and expense, comply with all laws, rules, regulations and direction of competent governmental authority (such as the San Diego Regional Water Quality Control Board) relating to water quality assurance and storm water management. PERMITTEE acknowledges and agrees that such legal requirements may change at any time and from time to time.
- 41.1 NPDES. PERMITTEE shall comply with applicable requirements of the National Pollutant Discharge Elimination System ("NPDES") permit in force on the Effective Date of this Permit (i.e., Permit No. R9-2013-0001), and any and all amendments thereto and all applicable succeeding NPDES permits.

- 41.2 Stormwater Management. PERMITTEE shall comply with all applicable requirements of the San Diego Municipal Code Chapter 4, Article 3, Division 3: Stormwater Management and Discharge Control (the "Stormwater Code"), and employ "Best Management Practices," as that term is defined by the Stormwater Code, and as approved by the City of San Diego, in its governmental capacity, under its Stormwater Management Program.
42. 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.
43. 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.
44. Survival. Any obligation which accrues under this Permit prior to its expiration or termination shall survive such expiration or termination.
45. 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.
46. 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.
47. 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

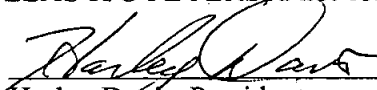
48. Entire Agreement. This Permit constitutes the entire agreement between the parties and supersedes any and all prior understandings, representations, warranties and agreements between them pertaining to this Permit. Any modification, alteration, or amendment of this Permit shall be in writing and signed by all the parties hereto.
49. 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.
50. 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.
51. 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.

Date: 9-12-2016

CHOLLAS LAKE PARK FLYERS, also known as
CHOLLAS R/C FLYERS, a not-for-profit association

BY:



Harley Davis, President

Date: 9-17-16

CHOLLAS LAKE PARK FLYERS, also known as
CHOLLAS R/C FLYERS, a not-for-profit association

BY: Eugene Tassin
Eugene Tassin, Vice President

Date: 9/13/16

THE CITY OF SAN DIEGO, a California municipal
corporation

BY: Cybele Thompson
Cybele Thompson
Director, Real Estate Assets Department

Environmental Analysis Section Environmental Clearance:

The activity is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

Date: 9/14/16

BY: Alyssa Muto
Name: Alyssa Muto
Title: Deputy Director, Environmental Planning Dept. Policy Analysis

Approved as to form this 15th day of
September, 2016.

JAN I. GOLDSMITH, City Attorney

BY: Hilda R. Mendoza
Name: Hilda R. Mendoza
Title: Deputy City Attorney

Exhibit A: Permit Area

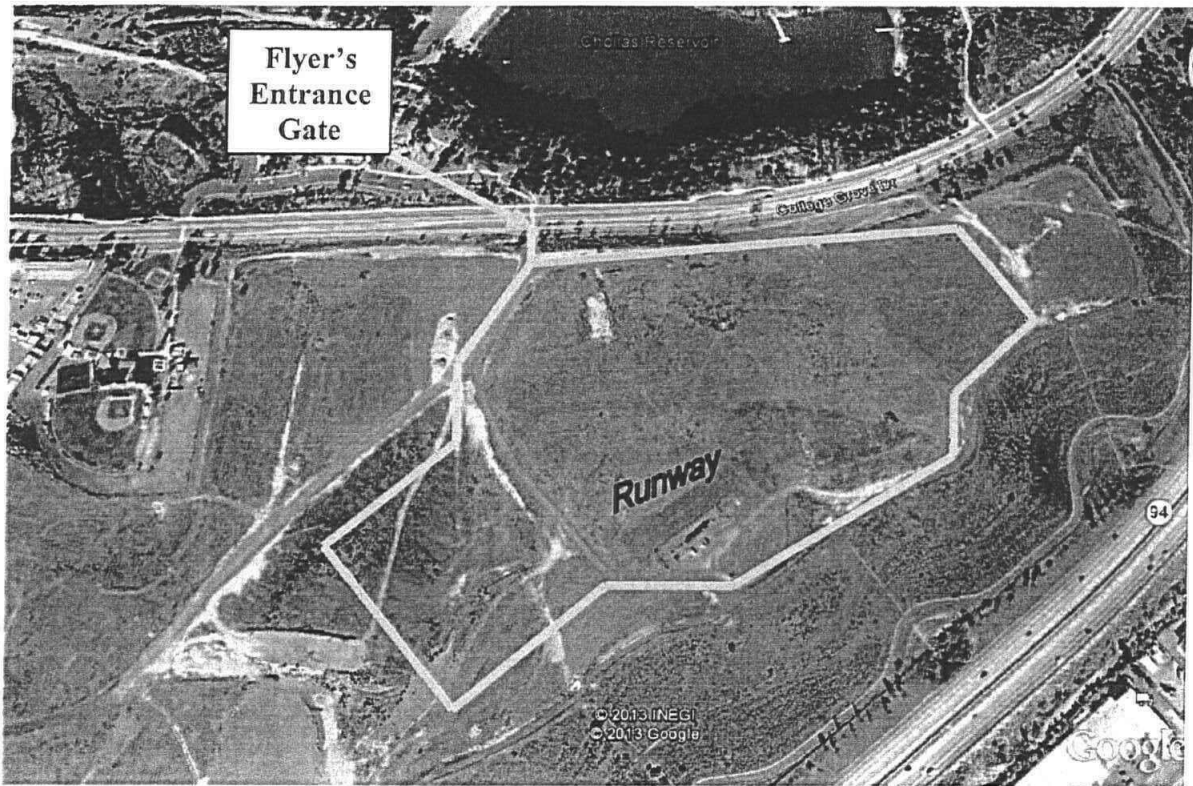


Exhibit B: Waiver

IMPORTANT: READ COMPLETELY BEFORE SIGNING (2 PAGES)

Participant's Name: _____
Please Print

CHOLLAS PARK R/C FLYERS RADIO-CONTROLLED AIRCRAFT FLIGHT ACTIVITY

**CITY OF SAN DIEGO
WAIVER OF LIABILITY, ASSUMPTION OF RISK, AND INDEMNITY
AGREEMENT**

I, **ACKNOWLEDGE** that flying radio-controlled aircraft is a dangerous activity and fully realize the dangers of participating in the **CHOLLAS PARK R/C/FLYERS RADIO-CONTROLLED AIRCRAFT FLIGHT ACTIVITY** ("Flight Activity") and preparation for such Flight Activity.

I **FULLY ASSUME THE RISKS** associated with my participation in the Flight Activity, any negligence of The City of San Diego and its elected officials, officers, representatives, agents and employees (collectively and individually, the "City"), and the possibility of serious physical and/or mental trauma, injury, permanent paralysis or death associated with my participation in the Flight Activity.

As consideration for permission to use the City's property, facilities, and services related to the Flight Activity, I, **FOR MYSELF, MY HEIRS, EXECUTORS, ADMINISTRATORS, LEGAL REPRESENTATIVE, ASSIGNEES, AND SUCCESSORS IN INTEREST, AGREE TO THE FOLLOWING:**

1. **Waiver:** I do hereby release, waive, and discharge the City from all liability, and covenant not to sue the City for any and all claims relating in any way to any negligence of the City resulting directly or indirectly in personal injury, accident or illness (including death), and property damage or loss arising from, but not limited to, my participation in the Flight Activity and use of the City's property, facilities, or services.

Date

Signature of Adult Participant

Signature of Parent/Guardian of Minor

PRINT NAME & RELATIONSHIP

2. **Indemnification and Hold Harmless.** I shall protect, defend, indemnify, and hold the City, its elected officials, officers, representatives, agents and employees, harmless from and against any and all claims asserted or liability established which arise out of or are in any manner directly or indirectly related to my participation in the Flight Activity, and my use of the city's property, facilities or services, and all costs and expenses of investigating and defending against same,

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

3. **Severability.** I further expressly agree that this City of San Diego Waiver Of Liability Assumption of Risk, And Indemnity Agreement ("Agreement") is intended to be as broad and inclusive as permitted by the law of the State of California and that if any portion hereof is held to be invalid, it is agreed that the balance of this Agreement shall, notwithstanding such partial invalidity, continue in full legal forced and effect.

4. **Acknowledgement of Understanding.**

I HAVE READ THIS AGREEMENT, FULLY UNDERSTAND ITS TERMS, AND UNDERSTAND THAT I AM GIVING UP SUBSTANTIAL RIGHTS, INCLUDING MY RIGHT TO SUE. I ACKNOWLEDGE THAT I AM SIGNING THIS AGREEMENT FREELY AND VOLUNTARILY AND INTEND BY MY SIGNATURE THAT IT BE A COMPLETE AND UNCONDITIONAL RELEASE OF ALL LIABILITY TO THE GREATEST EXTEND ALLOWED BY LAW.

Date

Signature of Adult Participant

Signature of Parent/Guardian of Minor

PRINT NAME & RELATIONSHIP

Exhibit C: AMA Safety Code

Academy of Model Aeronautics National Model Aircraft Safety Code

Effective January 1, 2014

- A. **GENERAL:** A model aircraft is a non-human-carrying aircraft capable of sustained flight in the atmosphere. It may not exceed limitations of this code and is intended exclusively for sport, recreation, education and/or competition. All model flights must be conducted in accordance with this safety code and any additional rules specific to the flying site.
- Model aircraft will not be flown:
 - In a careless or reckless manner.
 - At a location where model aircraft activities are prohibited.
 - Model aircraft pilots will:
 - Yield the right of way to all human-carrying aircraft.
 - See and avoid all aircraft and a spotter must be used when appropriate. (AMA Document #540-D.)
 - Not fly higher than approximately 400 feet above ground level within three (3) miles of an airport without notifying the airport operator.
 - Not interfere with operations and traffic patterns at any airport, heliport or seaplane base except where there is a mixed use agreement.
 - Not exceed a takeoff weight, including fuel, of 55 pounds unless in compliance with the AMA Large Model Airplane program. (AMA Document 520-A.)
 - Ensure the aircraft is identified with the name and address or AMA number of the owner on the inside or affixed to the outside of the model aircraft. (This does not apply to model aircraft flown indoors.)
 - Not operate aircraft with metal-blade propellers or with gaseous boosts except for helicopters operated under the provisions of AMA Document #555.
 - Not operate model aircraft while under the influence of alcohol or while using any drug that could adversely affect the pilot's ability to safely control the model.
 - Not operate model aircraft carrying pyrotechnic devices that explode or burn, or any device which propels a projectile or drops any object that creates a hazard to persons or property.
Exceptions:
 - Free Flight fuses or devices that burn producing smoke and are securely attached to the model aircraft during flight.
 - Rocket motors (using solid propellant) up to a G-series size may be used provided they remain attached to the model during flight. Model rockets may be flown in accordance with the National Model Rocketry Safety Code but may not be launched from model aircraft.
 - Officially designated AMA Air Show Teams (AST) are authorized to use devices and practices as defined within the Team AMA Program Document. (AMA Document #718.)
 - Not operate a turbine-powered aircraft, unless in compliance with the AMA turbine regulations. (AMA Document #510-A.)
 - Model aircraft will not be flown in AMA sanctioned events, air shows or model demonstrations unless:
 - The aircraft, control system and pilot skills have successfully demonstrated all maneuvers intended or anticipated prior to the specific event.
 - An inexperienced pilot is assisted by an experienced pilot.
 - When and where required by rule, helmets must be properly worn and fastened. They must be OSHA, DOT, ANSI, SNELL or NOCSAE approved or comply with comparable standards.
- B. **RADIO CONTROL (RC)**
- All pilots shall avoid flying directly over unprotected people, vessels, vehicles or structures and shall avoid endangerment of life and property of others.
 - A successful radio equipment ground-range check in accordance with manufacturer's recommendations will be completed before the first flight of a new or repaired model aircraft.
 - At all flying sites a safety line(s) must be established in front of which all flying takes place. (AMA Document #706.)
 - Only personnel associated with flying the model aircraft are allowed at or in front of the safety line.
 - At air shows or demonstrations, a straight safety line must be established.
 - An area away from the safety line must be maintained for spectators.
 - Intentional flying behind the safety line is prohibited.
 - RC model aircraft must use the radio-control frequencies currently allowed by the Federal Communications Commission (FCC). Only individuals properly licensed by the FCC are authorized to operate equipment on Amateur Band frequencies.
 - RC model aircraft will not knowingly operate within three (3) miles of any pre-existing flying site without a frequency-management agreement. (AMA Documents #922 and #923.)
 - With the exception of events flown under official AMA Competition Regulations, excluding takeoff and landing, no powered model may be flown outdoors closer than 25 feet to any individual, except for the pilot and the pilot's helper(s) located at the flightline.
 - Under no circumstances may a pilot or other person touch an outdoor model aircraft in flight while it is still under power, except to divert it from striking an individual.
 - RC night flying requires a lighting system providing the pilot with a clear view of the model's attitude and orientation at all times. Hand-held illumination systems are inadequate for night flying operations.
 - The pilot of an RC model aircraft shall:
 - Maintain control during the entire flight, maintaining visual contact without enhancement other than by corrective lenses prescribed for the pilot.
 - Fly using the assistance of a camera or First-Person View (FPV) only in accordance with the procedures outlined in AMA Document #550.
 - Fly using the assistance of autopilot or stabilization system only in accordance with the procedures outlined in AMA Document #560.
- C. **FREE FLIGHT**
- Must be at least 100 feet downwind of spectators and automobile parking when the model aircraft is launched.
 - Launch area must be clear of all individuals except mechanics, officials, and other fliers.
 - An effective device will be used to extinguish any fuse on the model aircraft after the fuse has completed its function.
- D. **CONTROL LINE**
- The complete control system (including the safety thong where applicable) must have an inspection and pull test prior to flying.
 - The pull test will be in accordance with the current Competition Regulations for the applicable model aircraft category.
 - Model aircraft not fitting a specific category shall use those pull-test requirements as indicated for Control Line Precision Aerobatics.
 - The flying area must be clear of all utility wires or poles and a model aircraft will not be flown closer than 50 feet to any above-ground electric utility lines.
 - The flying area must be clear of all nonessential participants and spectators before the engine is started.

Exhibit D: Rules & Regulations

CHOLLAS PARK RC FLYERS

AMA CHARTER No. 1567

BYLAWS OF THE CHOLLAS PARK RC FLYERS

ARTICLE I (Structure)

1.01 The name of the club shall be "The Chollas Park R/C Flyers"; hereinafter referred to as "CPRCF" or "Club".

1.02 The Club shall be operated as a non-profit organization under a charter granted by the Academy of Model Aeronautics (AMA).

ARTICLE II (Goals and Policies)

2.01 The primary goal of the CPRCF shall be to provide a framework to further the hobby of model aviation and to promote the goals of the AMA in an atmosphere of brotherhood and fellowship.

2.02 The Club shall, at all times, implement nonpartisan, nonsectarian, nonracial and nondiscriminatory policies in all of its activities.

ARTICLE III (Officers)

3.01 The officers of the club shall be President, Vice President, Secretary, Treasurer and Safety Officer.

3.02 The officers of the Club and the immediate past President or if unavailable, a past club officer will be selected by the President to comprise the Executive Committee. The Executive Committee shall hold meetings as necessary at the discretion of its members to conduct Club business. Special meetings of the Executive Committee may be called upon by any two members of the Committee.

3.03 The duties of the Club officers shall include, but not be limited to the following:

1. President: preside over all general club meetings and meetings of the Executive Committee, appoint all committees and supervise all Club activities.
2. Vice President: assume all the duties of the President in the President's absence and coordinate the activities of all committees
3. Secretary: record the minutes of all Club meetings; conduct Club correspondence, send notices of all special events and maintain Club records.

4. Treasurer: maintain adequate Club financial records, collect all dues and fees. Pay all bills in a timely manner and submit an annual financial statement at the regularly scheduled 4th quarter meeting.
5. Safety Officer: appoints Field Marshalls who will together enforce all safety rules as directed by AMA and CPRCF Field Rules. Each member should respect and obey all safety rules when pointed out by either the Safety Officer or Field Marshalls. A member verbally warned of a violation of safety rules may receive written notice from the Executive Committee and possible suspension of flying privileges.

3.04 All checks drawn on Club bank accounts must be signed by the Treasurer. All contracts involving the Club shall be signed by the President and any one of the other elected officers. Any and all expenditures of CPRCF funds in excess of \$400 shall be authorized in advance by majority vote of the membership at a regularly scheduled Club meeting. Annual expenditures will not exceed \$1,500 unless authorized by a 51% voting majority Permit or lease with the city shall be exempt from this requirement.

3.05 The President will appoint a Nominating Committee of three (3) regular members which will include the immediate past President in October of each year. The Nominating Committee will present at least one nomination for each elective office at the 4th quarter meeting of the Club. Nominations may be made from the floor subject to personal acceptance by the nominees. Newly elected officers will be installed during the regular first quarter Club meeting.

3.06 Officers will be elected to serve a one year term of office. A member may serve more than one term consecutively as a club Officer provided they are elected annually by a majority of voting members. Early vacancies shall be filled by a majority vote of the membership at a special election to be held at the next regularly scheduled club meeting.

ARTICLE IV (Membership)

4.01 Membership in the CPRCF shall be open to persons with an active interest in radio control model aircraft. Members will be responsible for any personal injury or property damage caused and conform to the Club safety rules and Field Rules. A membership may be cancelled by the Executive Committee if an injury, accident or property damage claim is not settled within 60 days by the responsible party. Any member deliberately violating the Club safety or field rules or not acting in a sportsman-like manner may be subject to suspension from the Club or other disciplinary measures including expulsion by action of the Executive Committee.

4.02 The total number of active memberships in the Club will be open unless action by the Executive Committee is necessary to limit membership due to safety concerns at the flying field.

4.03 An applicant for CPRCF membership must be a current AMA member. Applicants may be reviewed by the Executive Committee at the Committee's discretion.

There shall be two (2) classes of membership within the Club:

1. Senior: those members eighteen (18) years of age or older

2. Junior: those members under eighteen (18) years old

The rights, privileges and interest of each class of membership shall be equal except the Junior must have parental permission to sign their application and can not vote on Club expenditures exceeding the amount of their annual dues.

4.04 Any person desiring new membership in the CPRCF must submit the following:

1. A signed current membership application
2. Proof of current year AMA membership
3. Check including Field charge plus current annual dues (no proration). See the current membership application form for prices.

A signed membership application signifies that the individual is familiar with and will abide by both AMA and CPRCF safety rules.

4.05 The President will appoint a Safety Officer and Field Marshalls who will enforce all field rules. Members may receive a verbal warning for infractions of by laws or Field Rules. Additional similar infractions either reported by a member or Safety Office or Field Marshall will result in a written warning from the Executive Committee and a hearing scheduled to determine appropriate discipline.

4.06 Upon receiving a complaint concerning a Club member, the member will be notified in writing of the complaint by the Executive Committee. For a serious or repeated infraction, the Committee may suspend the member and they will be notified in writing of the suspension and offered the opportunity to appear before the Executive Committee at a mutually acceptable scheduled meeting of the Executive Committee. Failure to appear at the discipline hearing by the charged member will result in indefinite suspension of flying privileges.

4.07 Current AMA members who are not members of CPRCF may fly twice as guests of the Club after which they must join the Club to continue flying.

ARTICLE V (DUES and Fees)

5.01 Club dues shall be collected and accounted for by the Treasurer. The Treasurer shall keep such records as are necessary to insure that all members keep their dues current. All dues, fees and assessments collected by the Treasurer become the sole property of CPRCF and are not refundable.

5.02 The dues structure of CPRCF will be established by the Executive Committee as necessary to meet the financial responsibilities of the Club.

5.03 Special assessment may be levied on the membership after a sixty seven (67%) percent approval vote by a quorum during a Club general meeting.

5.04 Annual Club dues are payable with membership allocation. All current memberships must be reinstated by January 1st of each year with proof of current AMA membership for the coming year. Exceptions can only be granted by the Club President personally.

ARTICLE VI (Meetings)

6.01 Regular scheduled business meetings are normally held once a calendar quarter on a Saturday at the flying field starting at 10AM weather permitting. Any proposed permanent changes in the time and place of the regular meetings must be submitted to a vote of the members for majority approval.

6.02 The use of Robert's Rules of Order will be followed at all official business meetings of the Club unless waived by a majority of those present.

ARTICLE VII (Voting)

7.01 The presence of ten (10%) percent of the paid up members at a regularly scheduled meeting shall constitute a quorum for the purpose of conducting Club business.

ARTICLE VIII (Amendments)

8.01 Member suggestions for changing Club rules, procedures, dues structure, field safety rules, etc. should be submitted in writing to the Executive Committee for evaluation. The committee will report back its findings to the membership.

8.02 Any member may propose a change, addition or amendment to the bylaws. All such proposals shall be submitted in writing to the President for reading to the full membership at the next regularly schedule Club meeting, at which time one (1) written copy of the proposed change shall be passed around to the membership present.

At the next Club business meeting following the presentation of the proposed change to the members, the proposal shall be submitted to the members for a vote. A two-thirds (2/3) majority is required for approval of change.

ARTICLE IX (Pilot Qualifications)

9.01 All new Club members will be certified for solo flight by the Safety Officer or Field Marshall. Certification shall consist of a solo flight demonstrating the following pilot skills:

1. Take off or close tail in hover if Helo pilot
2. Left Hand pattern and landing
3. Right hand pattern and landing
4. Dead stick landing or auto rotation landing if helo pilot



Date of Notice: August 26, 2016

NOTICE OF RIGHT TO APPEAL

ENVIRONMENTAL DETERMINATION

PLANNING DEPARTMENT

PROJECT NAME/NUMBER: Use and Occupancy Permit – Chollas Lake Flyers.

COMMUNITY PLAN AREA: Mid-City: Eastern Area

COUNCIL DISTRICT: 4

LOCATION: City-owned property known as Chollas Park/South Chollas Landfill located at 5997 College Grove Drive, San Diego, California.

PROJECT DESCRIPTION: Use and Occupancy Permit for the non-exclusive use of the Permit Area solely to fly radio-controlled aircraft (Flight Activity) within Chollas Park. Each participant in the Flight Activity must be a member of the permittee's association or the Academy of Model Aeronautics (AMA). All AMA safety codes must be strictly adhered to by all members while on City-owned property. The permit area is accessed through a Flyer's Entrance Gate on the south side of College Grove Drive.

ENTITY CONSIDERING PROJECT APPROVAL: Mayor-Appointed Designee in the Real Estate Assets Department

ENVIRONMENTAL DETERMINATION: The activity is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

ENTITY MAKING ENVIRONMENTAL DETERMINATION: City of San Diego Environment and Policy Analysis.

STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION: The activity is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The permit area is confined to the area identified in the Use & Occupancy Permit Exhibit A and would not result in a physical effect on the environment.

PROPERTY AGENT:

Barry Slotten

MAILING ADDRESS:

1200 3RD Avenue, Suite 1700
San Diego CA 92101 MS 51A

PHONE NUMBER:

619- 236-6724

On August 26, 2016, the City of San Diego made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the City Project Manager listed above.

Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk within 10 business days from the date of the posting of this Notice (**September 12, 2016**). The appeal application can be obtained from the City Clerk, 202 'C' Street, Second Floor, San Diego, CA 92101.

This information will be made available in alternative formats upon request.

POSTED IN THE OFFICE OF DSD

POSTED: 8/26/16

REMOVED: 09/13/16

POSTED: M. Hermann