

CONSENT TO ASSIGNMENT

THIS CONSENT TO ASSIGNMENT (Consent) is provided by THE CITY OF SAN DIEGO, a California municipal corporation (City), to be effective upon execution by City and approval by the San Diego City Attorney (Effective Date), as follows:

RECITALS

- A. City and Aviation Consulting International Corporation, dba Aviation International, entered into that certain City of San Diego Flat Rate Lease, on file with the Office of the San Diego City Clerk as Document No. RR-290937, which was amended by that certain First Amendment to Lease Agreement, on file with the Office of the San Diego City Clerk as Document No. RR-294450, which was assigned to Tactical Air Operations, Inc., a California corporation (Lessee/Assignor) and further amended by that certain City of San Diego Consent to Assignment of Lease Agreement, dated September 22, 2009 (collectively referred to herein as the "Lease"), relating to approximately 3.76 acres at 6929 Curran Street, located at Brown Field Airport, in the City of San Diego, County of San Diego, State of California, and more fully described in the Lease (Premises).
- B. Lessee/Assignor desires to assign all of its rights, title and interest to and under the Lease to Ramp 5 Holdings, LLC, a California limited liability company (Assignee).
- C. Lessee/Assignor and Assignee acknowledge that Section 4.2 of the Lease requires City's prior written consent to assign any interest in and to the Lease.

NOW, THEREFORE, for valuable consideration the receipt and sufficiency of which is acknowledged, City consents to the assignment as follows:

- 1. Subject to the terms and conditions herein, City hereby consents to Lessee/Assignor's request to assign all of its rights, title and interest to and under the Lease to Assignee. By giving this Consent, City is merely consenting to the requested assignment. All terms and conditions of the Lease shall control and supersede any inconsistent or contrary provisions in any assignment agreement executed between Lessee and the Assignee, except as otherwise approved herein; and
- 2. City's Consent is conditioned upon the following: (a) Assignee's written agreement that it will assume all rights and obligations as Lessee under the Lease and that Assignee will keep and perform all covenants, conditions, and provisions of the Lease; (b) payment to City of two percent (2%) of the gross amount to be paid for the Lease in connection with approval of this consent pursuant to Section 4.4 of the Lease; (c) Assignee to provide City certificates of insurance and relevant endorsement in accordance with Section 5.2 of the Lease; and (d) agreement and execution by Assignee to the Second Amendment to City of San Diego Flat Rate Lease, attached hereto as Exhibit A, in accordance with section 4.2 of the Lease; and
- 3. City does not release, discharge or modify Lessee/Assignor's obligations to City under the Lease. Lessee/Assignor shall remain primarily obligated as the lessee under the Lease. As set forth in applicable law, Lessee/Assignor's obligations under the Lease shall survive said assignment and shall continue through the termination dates of the Lease, as set forth therein.

City does not waive or relinquish any rights under the Lease against Lessee/Assignor or Assignee; and

4. This Consent does not constitute consent to any subsequent assignment of any interest in and to the Lease.
5. Lessee/Assignor agrees to pay City any applicable processing and/or administrative fee(s) for processing this Consent.
6. City shall not be liable for any brokerage commission or finder's fee in connection with the consummation of the assignment. Further, Lessee/Assignor agrees to protect, defend, indemnify, and hold City, its elected officials, officers, representatives, agents, and employees harmless from and against any claim for any brokerage commission or finder's fee related to the consummation of this Consent, and from and against any cost or expense (including without limitation attorney fees) incurred by City in resisting any claim for any such brokerage commission or finder's fee.

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IN WITNESS WHEREOF, this, Consent to Assignment is executed by City acting by and through its Mayor, or his designee.

THE CITY OF SAN DIEGO, a California municipal corporation

Date: 8/15/18

By: [Signature]
Cybele Thompson
Director, Real Estate Assets Department

ENVIRONMENTAL ANALYSIS SECTION ENVIRONMENTAL CLEARANCE:

The City of San Diego conducted an environmental review that determined the project would not have the potential for causing a significant effect on the environment pursuant to State CEQA Guidelines Section 15301 (Existing Facilities) which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures or facilities involving negligible or no expansion of use; and where the exceptions listed in CEQA Section 15300.2 would not apply in that no cumulative impacts were identified; no significant effects on the environment were identified; the project is not adjacent to a scenic highway; no historical resources would be affected by the action; and the project was not identified on a list of hazardous waste sites pursuant to Section 65962.5 of the Government Code.

Date: 8/9/18

By: [Signature]
Alyssa Muto
Deputy Director, Planning Department

Approved as to form this 10th
day of September, 2018.

MARA W. ELLIOTT, City Attorney

BY: [Signature]

Name: Hilda R. Mendoza

Title: Deputy City Attorney

ASSIGNMENT OF GROUND LEASE

This Assignment Agreement (the "Agreement") dated as of June 6, 2018 (the "Effective Date"), is by and between **TACTICAL AIR OPERATIONS, INC.** ("Assignor"), and **RAMP 5 HOLDINGS, LLC** ("Assignee").

WHEREAS, Assignor is the lessee under that certain Flat Rate Lease last executed November 23, 1998, a copy of which was filed as Document No. RR-290937, Filed with the Office of the City Clerk of the City of San Diego on November 10, 1998, a First Amendment to Lease filed on January 16, 2001 as Document No. RR-294450, as previously assigned ("Ground Lease") a copy of which is attached hereto as Exhibit A, and together with all improvements thereon and all easements, rights, benefits and appurtenances thereunto belonging (collectively, the "Property") consisting of 3.76 acres of land on ramp at Brown Field Airport and more particular described on Exhibit B hereto; and

WHEREAS, Assignor desires to assign to Assignee all of Assignor's right, title and interest in and to the Ground Lease on the terms and conditions set forth herein;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. **Purchase; Assignment.**

a. Assignor agrees to sell, and Assignee agrees to purchase, all of Assignor's right, title and interest in and to the Ground Lease and all interests in the Property for a total purchase price of \$1,225,000, with a closing to take place within five (5) business days following approval of this Agreement by the City of San Diego.

b. For good and valuable consideration, as of the Effective Date, Assignor assigns to Assignee all of Assignor's right, title and interest in and to the Ground Lease and all subleases and incorporated herein and Assignee assumes all of the ground lessee's obligations under the Ground Lease and all subleases accruing and to be performed from and after the Effective Date. Assignee hereby agrees to indemnify, defend and hold Assignor harmless from and against any and all claims, liabilities, damages and costs (including, without limitation reasonable attorneys' fees) arising out of or related to the Ground Lease and all subleases arising on or after the Effective Date.

c. At closing, all rents, property taxes and other expenses shall be prorated between Assignor and Assignee.

d. Closing costs shall be per local custom; provided, however, Assignor shall be responsible for all transfer fees imposed by the City of San Diego.

2. **Binding Agreement.** The terms and conditions of this Agreement shall be binding upon and inure to the benefit of Assignor and Assignee and their respective successors and assigns.

3. **Interpretation.** If there is any conflict as to the terms of this Agreement and any other agreement(s), written or oral, the terms of this Agreement shall prevail.

4. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of California applicable to contracts made and performed entirely therein.

5. Headings. The headings of this Agreement are for reference only and shall not limit or define the meaning of any provision of this Agreement.

6. Counterparts. The parties agree that this Agreement may be executed by the parties in one or more counterparts and each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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IN WITNESS WHEREOF, Assignor and Assignee have executed this Agreement as of the date set forth above.

ASSIGNOR:

TACTICAL AIR OPERATIONS, INC.

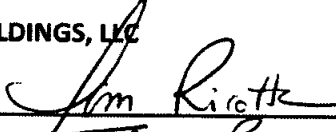
By: 

Name: Alan Fink

Title: President

ASSIGNEE:

RAMP 5 HOLDINGS, LLC

By: 

Name: Tom Ricotta

Its: President

EXHIBIT A

Copy of Ground Lease

[Attached]

EXHIBIT B

Description of Property

APN: 760-233-83-00

STREET ADDRESS: 6929 CURRAN STREET, SAN DIEGO, CALIFORNIA 92154

PUBLIC LAND CITY # RR-294450(01) IN BROWN FIELD

SECOND AMENDMENT TO CITY OF SAN DIEGO FLAT RATE LEASE

THIS SECOND AMENDMENT TO CITY OF SAN DIEGO FLAT RATE LEASE

("Second

Amendment") is entered into by and between the CITY OF SAN DIEGO, a California municipal corporation (CITY) and Ramp 5 Holdings, LLC, a California limited liability company (LESSEE), to be effective as of the date this Second Amendment is signed by the parties and approved by the San Diego City Attorney (the "Effective Date").

RECITALS

- A. City and Aviation Consulting International Corporation, dba Aviation International, entered into that certain City of San Diego Flat Rate Lease, on file with the Office of the San Diego City Clerk as Document No. RR-290937, which was amended by that certain First Amendment to Lease Agreement, on file with the Office of the San Diego City Clerk as Document No. RR-294450, which was assigned to Tactical Air Operations, Inc., a California corporation and further amended by that certain City of San Diego Consent to Assignment of Lease Agreement (Tac Air Consent), dated September 22, 2009 (collectively referred to herein as the "Lease"), and assigned to LESSEE pursuant to that certain Consent to Assignment, dated 9/10/18, relating to approximately 3.76 acres at 6929 Curran Street, located at Brown Field Airport, in the City of San Diego, County of San Diego, State of California, and more fully described in the Lease (Premises).
- B. CITY and LESSEE now wish to amend the Lease to include the standard City lease requirements in accordance with Section 4.2 of the Lease.
- C. Pursuant to Sections 4.2 and 7.3 of the Lease and the Mayor's authority to administer the Lease pursuant to San Diego Charter section 28 and San Diego Municipal Code section 22.0220, this Second Amendment is approved by the Mayor or his designee.
- D. Unless otherwise defined herein, capitalized terms as used in this Second Amendment shall have the same meanings as given therefor in the Lease.

NOW THEREFORE, in consideration of the above recitals, the mutual promises contained herein, and other valuable consideration the sufficiency and receipt of which is acknowledged, the parties agree as follows:

AGREEMENT

- 1. Section 5.2 of the Lease is deleted in its entirety and replaced with the following:

“5.2 Insurance. PERMITTEE shall deliver to CITY’S Real Estate Assets Department, Airports Division, a current certificate of insurance for:

- i. Commercial General Liability Insurance, providing coverage for the damages due to bodily injury, including death, personal injury, and property damage with limits of at least Ten Million Dollars (\$10,000,000) per occurrence, subject to an annual aggregate of at least Twenty Million Dollars (\$20,000,000), products and completed operations and if applicable, use of unlicensed vehicles that in any way arise from the use of the Leased Premises and operations of activities of the entity. Non-licensed vehicles operated on the movement area will require coverage in an amount not less than Five Million Dollars (\$5,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage.
- ii. Fire, extended coverage, and vandalism insurance policy on all City owned insurable property on the Premises, in an amount to cover one hundred percent (100%) of the replacement. Any proceeds from a loss shall be payable jointly to City and Lessee. The proceeds shall be placed in a trust fund to be reinvested in rebuilding or repairing the damaged property. Lessee shall submit to the City recommendations and an accounting of funds used to restore the leasehold improvements. If there is a mortgage or trust deed on the leasehold in accordance with Section 4.5, Encumbrance, hereof, the proceeds may be paid to the approved mortgagee or beneficiary so long as adequate provision reasonably satisfactory to City has been made in each case for the use of all proceeds for repair and restoration of damaged or destroyed improvements on the Premises.
- iii. Automobile Liability Insurance, providing coverage for all bodily injury and property damage, with a limit of at least One Million Dollars (\$1,000,000) per occurrence or Two Million Dollars (\$2,000,000) per occurrence for automobiles operated on airside. Such insurance shall cover liability arising out of any vehicle (including owned, hired, and non-owned vehicles) operated on the Premises. Coverage shall be written on ISO form CA 00 01 12 90, or a substitute form providing equivalent liability coverage.
- iv. Workers’ Compensation Insurance, as required by the laws of the State of California for all of Lessee’s employees who are subject to this Lease, with Employers’ Liability coverage with a limit of at least One Million Dollars (\$1,000,000).
- v. Hangar Keeper’s Insurance, sufficient to cover replacement cost and aircraft hangared for others, but no less than Ten Million Dollars (\$10,000,000).
- vi. Aircraft Liability Insurance, General Aircraft Operation Liability, in an amount of not less than Ten Million Dollars \$10,000,000 per occurrence.
- vii. Environmental Liability Insurance, providing coverage for gradual, sudden and accidental discharge or spill of pollutants including first party clean up and remediation of the Premises; wrongful delivery or misdelivery of fuel; loading and unloading of fuel to and from the Aboveground Storage Tank (AST) or Mobile Storage Tank (MST).

Additional Insureds. Pursuant to a separate endorsement [CG2010 (11/85) or equivalent form], "The City of San Diego, its elected officials, officers, employees, representatives, and agents" shall be named as additional insureds in all policies.

Primary and Non-Contributory. Insurance policies shall be endorsed such that the coverage is primary and non-contributory to any coverage carried or maintained by CITY. The policies shall be kept in force for the duration of the Term and any extended use. The certificate(s) of insurance shall be kept in force for the duration of the Term and any extended use.

Qualified Insurer(s). All insurance required by the terms of this Lease must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the current AM Best Ratings Guide and which are acceptable to City. Non-admitted surplus lines insurers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet City requirements.

Deductibles/Retentions. All deductibles and self-insured retentions on any insurance policy are the sole responsibility of Lessee and must be disclosed and acceptable to City at the time evidence of insurance is provided.

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. At least thirty (30) days prior to the expiration of each insurance policy, Lessee shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the requirements of this Lease.

Modification. To assure protection from and against the kind and extent of risk existing on the Premises, City, at its discretion, may require the revision of amounts and coverage at any time during the Term by giving Lessee thirty (30) days prior written notice. Lessee 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 Lessee's use of the Premises.

Accident Reports. Lessee shall immediately report to City any accident causing property damage or injury to persons on the Premises. 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.

Causes of Loss - Special Form Property Insurance. Lessee shall obtain and maintain, at its sole cost, Causes of Loss - Special Form Property Insurance on all of Lessee's insurable property on the Premises, excepting wells, irrigation piping, and plant material, in an amount to cover one hundred percent (100%) of the replacement cost. Lessee shall deliver to City a certificate of such insurance.

2. Section 7.1 of the Lease and Section 20 of the Tac Air Consent are deleted in their entirety and replaced with the following:

"7.1 Notices. Any notice, request, payment, demand, or other communication required or permitted to be given under this Lease shall be in writing and deemed received upon personal service, delivery by a reputable overnight courier service with receipt signature required, or delivery by United States mail, return receipt requested, postage prepaid, and addressed to the parties, or any such notice, request, payment, demand or other communication required or permitted may be given electronically via written email communication. Electronic notification is considered received upon electronic delivery and reply confirming receipt thereof from the receiving party, as follows:

CITY:

THE CITY OF SAN DIEGO
Real Estate Assets Depart
Attention: Director
1200 Third Avenue, Suite 1700 (MS 51 A)
San Diego, California 92101

and

THE CITY OF SAN DIEGO
Attention: Deputy Director, Airports
3750 John J. Montgomery Drive
San Diego, California 92123

LESSEE:

RAMP 5 HOLDINGS, LLC
6929 Curran Street #11
San Diego, CA 92154

3. Section 7.4 of the Lease is deleted in its entirety and replaced with the following:

"7.4 No Discrimination. LESSEE shall not discriminate in any manner against any person or persons on account of race, color, religion, gender, gender expression, gender identity, sexual orientation, medical status, national origin, age, marital status, or physical disability in LESSEE's use of the premises, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment."

4. Section 9.12 of the Lease is deleted in its entirety and replaced with the following:

“9.12 Equal Opportunity. LESSEE 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 laws, rules and regulations of competent governmental authority. LESSEE shall not discriminate against any employee or applicant for employment based on race, religion, color, ancestry, age, gender, gender expression, gender identity, sexual orientation, disability, medical condition or place of birth. LESSEE shall cause the foregoing provisions to be inserted in all commercial subleases and all contracts for any work covered by this Lease so that such provisions will be binding upon each commercial sublessee and contractor. LESSEE shall fully cooperate with any investigation conducted by the City of San Diego, in its governmental capacity, pursuant to its Nondiscrimination in Contracting Ordinance [San Diego Municipal Code sections 22.3501-22.3517, as amended from time to time], and upon CITY’s request, LESSEE shall submit a current Workforce Report. LESSEE 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 Lease and debarment from participating in CITY contracts for a period of not less than one (1) year.”

5. Section 8 of the Tac Air Consent is deleted in its entirety and Section 9.22 is added to the Lease to read as follows:

“9.22 Water Quality – Best Management Practices. CITY and LESSEE are committed to the implementation of controls (best management practices, or BMPs) contained in the Montgomery-Gibbs Executive Airport Storm Water Pollution Prevention Plan (“SDM SWPPP”) to manage activities on the premises in a manner which aids in the protection of CITY’s precious water resources. It is LESSEE’s responsibility to identify and implement an effective combination of BMPs so as not to cause pollutant discharges to the storm drain system in violation of San Diego Storm Water Management and Discharge Control Ordinance (San Diego Municipal Code sections 43.0301 to 43.0312) or the SDM SWPPP.

Therefore, LESSEE shall, at a minimum, implement and comply, as applicable, with the Minimum Industrial and Commercial BMPs adopted under San Diego Municipal Code section 43.0307(a) and the SDM SWPPP.

Federal Environmental Protection Agency (EPA) rules for above ground tank systems (“ASTs”) and oil pollution prevention require that each facility that owns or operates above ground tank systems (including refueler trucks) that contain an aggregate storage capacity of 1,320 gallons or higher must prepare a Spill Prevention Control and Countermeasures (“SPCC Plan”) Program, pursuant to 40 C.F.R. Part 112. The plan includes requirements for secondary containment, loading/unloading of fuel and oil, discharge of accumulated rainwater, inspections, training, updates to the plan, and other miscellaneous items. LESSEE shall prepare a site specific SPCC Plan and provide a copy to

CITY.

It is LESSEE's responsibility to prevent pollutant discharges to the storm drain system. LESSEE shall identify and implement any additional BMPs that may be required to avoid the discharge of pollutants to the storm drain system."

6. Section 9.23 is added to the Lease read as follows:

"9.23 Accessibility Assessment. In accordance with California Civil Code section 1938, CITY hereby states that the premises has not been inspected by a Certified Access Specialist (CASP).

Further, pursuant to California Civil Code section 1938(e), CITY is required to state: A Certified Access Specialist (CASP) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.'"

7. Section 9.24 is added to the Lease to read as follows:

" 9.24 Equal Benefits. LESSEE shall comply with San Diego Municipal Code sections 22.4301-22.4308, as amended from time to time, which require lessees of CITY-owned property to offer the same employment benefits to employees with spouses and employees with domestic partners. LESSEE certifies that it will maintain such equal benefits throughout the term of this Lease"

8. Section 9.25 is added to the Lease to read as follows:

"6.16 Equal Pay Ordinance. Unless an exception applies, LESSEE shall comply with the Equal Pay Ordinance codified in San Diego Municipal Code sections 22.4801 through 22.4809. By signing this Lease, LESSEE certifies that it will comply with the requirements of the Equal Pay Ordinance throughout the term of this Lease.

The Equal Pay Ordinance applies to any sub-lessee of the Premises to the same extent as it would apply to LESSEE. LESSEE shall require sub-lessees to certify compliance with the Equal Pay Ordinance in their subleases.

LESSEE must post a notice informing its employees of their rights under the Equal Pay Ordinance in their workplace or job site.”

9. Section 9.26 is added to the Lease to read as follows:

“9.26 California Public Records Act. CITY shall determine, in its sole discretion, whether information provided to CITY by LESSEE is or is not a public record subject to disclosure under the California Public Records Act (CPRA). If LESSEE notifies CITY that it objects to the disclosure of certain information to a third party, LESSEE shall deliver to CITY, with such notice, specific and detailed legal grounds, including any applicable case law, upon which CITY may rely for withholding any information requested pursuant to the CPRA. If CITY withholds disclosure of information in reliance on such legal analysis provided by LESSEE, LESSEE 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 LESSEE’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, LESSEE shall pay all of the costs related thereto, including without limitation reasonable attorney fees and costs.

CITY shall not be liable or obligated for any burden or loss (financial or otherwise) incurred by LESSEE as a result of CITY’s disclosure or non-disclosure of LESSEE information requested pursuant to the CPRA.

LESSEE’s Waiver. LESSEE EXPRESSLY WAIVES ANY CLAIM AGAINST CITY AND ITS ELECTED OFFICIALS, OFFICERS, EMPLOYEES, REPRESENTATIVES AND AGENTS FOR ANY BURDEN, EXPENSE OR LOSS THAT LESSEE INCURS AS A RESULT OF CITY’S DISCLOSURE OR NON-DISCLOSURE OF LESSEE INFORMATION REQUESTED PURSUANT TO THE CPRA.”

10. No Other Changes. All other terms and conditions of the Lease shall remain in full force and effect, and if there are any conflicts between the Lease and this Second Amendment, said conflicts shall be resolved in favor of the terms and conditions of this Second Amendment.
11. Authority. Each individual executing this Second Amendment on behalf of another person or legal entity represents and warrants that they are authorized to execute and deliver this Second Amendment 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 Second Amendment is binding upon such person or entity in accordance with its terms.

Each person executing this Second Amendment 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.

12. Recitals. The Recitals are incorporated into this Second Amendment and made a part hereof.

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IN WITNESS WHEREOF, CITY and LESSEE have duly executed this Second Amendment to be effective as of the Effective Date.

RAMP 5 HOLDINGS, LLC, a California limited liability company

By: _____

Tom Ricotta
Owner

CITY OF SAN DIEGO, a California municipal corporation

By: _____

Cybele L. Thompson
Director, Real Estate Assets

Approved as to form this 17th day
of September 2018.

MARA W. ELLIOTT, City Attorney

By: _____

Name: Hilda P. Hernandez

Title: Deputy City Attorney