



**DATE:** August 7, 2013

**TO:** Honorable Mayor and City Councilmembers

**FROM:** Fire Department

**SUBJECT: APPROVAL OF A PROPERTY LEASE AGREEMENT BETWEEN THE CITY OF OCEANSIDE AND REACH AIR MEDICAL SERVICES FOR REAL PROPERTY AND FACILITIES AT 110 JONES ROAD**

**SYNOPSIS**

Staff recommends that the City Council approve of a property lease agreement with REACH Air Medical Services, LLC, of Santa Rosa, California, for the operation of emergency air medical transportation services in the amount of \$240,000 in rent for the initial term of five years for the use of a portion of City-owned property at 110 Jones Road for crew quarters and helipad base operation and for the use of a portion of the fire training center; an additional \$10,000 per year for branded name program and branding license fee, and \$156,000 per year for program coordination as set forth in the integrated fire department air ambulance agreement for a total revenue of \$1,070,000 during the five-year term; and authorize the City Manager to execute the lease and related documents.

**BACKGROUND**

REACH Air Medical Services ("REACH"), headquartered in Santa Rosa, provides aeromedical transportation via helicopter and airplane for critically ill or injured patients to local hospitals. REACH has bases in Concord, Imperial, Lakeport, Marysville, Redding, Sacramento, Santa Rosa, Stockton, Thermal, and Upland, California, as well as Corvallis, Oregon.

In November 2012, REACH contacted the Oceanside Fire Department ("Fire Department") to discuss the possibility of a public-private partnership between the City of Oceanside and REACH. The arrangement proposed would require REACH to provide the helicopter, pilots, mechanics, medical director, flight nurses, billing, and facilities, with the helicopter and staff to operate out of the Fire Training Facility at 110 Jones Road ("Property"). The vision of this public-private partnership proposed that Fire Department firefighter/paramedics be assigned to the helicopter, but fully funded by REACH.

At the May 1, 2013, City Council meeting, staff brought forward for approval a property lease agreement for the use of a portion of the Property and a professional services

agreement to pay for the firefighter/paramedics provided by the Fire Department and other related administrative services. After discussion, the City Council directed staff to only move forward with an agreement that did not provide City paramedics on the private helicopter. The lease agreement will require that REACH fully staff the emergency medical helicopter with REACH employees.

## **ANALYSIS**

Following City Council direction, staff renegotiated the proposed lease agreement and abandoned the proposed use of Fire Department personnel in the aeromedical transportation services thereby eliminating the need for the previously proposed professional services agreement with REACH.

Under the property lease agreement ("Lease"), a portion of the Property consisting of approximately 8,024 SF shall be used exclusively by REACH for helipad, crew quarters and parking ("Premises"). Additionally, under the Lease, REACH would also have the non-exclusive use of a portion of the Fire Training Center building ("Building"). Use of the Building would consist of the use of a 100 SF office area for classroom and training activities. The term of the Lease with REACH would be for a period of five years, commencing on September 1, 2013, with an opportunity for an additional five-year extension.

As a condition of the Lease, REACH would be required to install improvements to the Premises consisting of installation of the temporary mobile living quarters, asphalt paving and construction of a concrete helipad. Under the terms of the Lease, REACH would be required to obtain all of the necessary regulatory approvals within one year of the date the Agreement is approved by the City Council and complete the construction of the improvements within six months after receiving the project entitlements.

During the time between approving the Lease and REACH completing the tenant improvements to the Premises, REACH will be based and operating out of the Oceanside Municipal Airport (a/k/a Bob Maxwell Memorial Airfield). However, during that time REACH will be required to pay rents and other amounts due the City under the Lease and Air Ambulance Agreement.

A part of the Lease is an integrated fire department air ambulance agreement ("Air Ambulance Agreement") which, in addition to the terms and conditions of the Lease, further sets forth the operations of the emergency air transportation services. Under the terms and conditions of the Air Ambulance Agreement, REACH would be fully responsible for providing all of the staffing and equipment for the operation for the emergency air transportation program, including the helicopter(s), pilots, mechanics, medical director, registered nurses, flight safety equipment, general manager, and billing and records services.

The services provided by REACH will be a branded flight program under with the City and REACH will jointly select a unique name for the flight program that will include the

Oceanside name ("Branded Flight Program"). The helicopter(s) will be painted with the Branded Flight Program name and logo, REACH will be identified as the owner and operator of the helicopters in the color scheme that is mutually agreed upon by the City and REACH. REACH will pay the City an annual license fee of \$10,000 for the use of the Oceanside mark.

The City shall designate one or more existing staff positions/individuals to act as the coordinator for the Branded Flight Program. The program coordinator duties shall include: scheduling and use of City training facilities, identifying and determining the need for air service in the City, oversight of contractor payments, mediating any disputes or concerns over joint use of City facilities, assist in responding to concerns of other agencies, assist in management of team service delivery in communications and dispatch, and incidental and related tasks. The program coordinator will be City employee(s) or contractor(s) and under the control of the City. REACH will reimburse the City \$13,000 per month for the cost of providing these base management, supervision and administrative duties. This rate will be reassessed and adjusted accordingly by agreement of the parties.

REACH will provide a minimum of 25 hours for the first year and 20 hours of flight time annually thereafter for Branded Flight Program marketing and public relations. In addition, REACH will provide 20 hours flight time annually for Fire Department Incident Command platform use for aerial reconnaissance in connection with widespread natural disasters. At City's request, REACH will provide additional flight time hours for these services at the rate of \$1,000 per hour.

In addition to providing a revenue source during the term of the Lease and Air Ambulance Agreement, REACH will be providing a local base of operations for an air medical transportation service. The closest trauma centers to Oceanside are Scripps La Jolla and Palomar Hospital. Patients requiring a trauma facility are oftentimes sent by helicopter to ensure they receive the most expedient and appropriate medical care possible.

San Diego County aeromedical resources respond in accordance with closest available unit concept. An air medical services helicopter based in Oceanside would provide the community faster, more expedient service and will result in shorter response times. This will provide first responders the ability to return to service more rapidly. Neighboring communities will also benefit by having an additional medical helicopter in North San Diego County.

## **FISCAL IMPACT**

The Agreement with REACH provide for annual lease payments in the amount of \$42,000 for the crew housing and helipad area and \$6,000 per year for use of a portion of the fire training center facility for a total of \$240,000 over the five-year term. The \$48,000 annual payments will be appropriated to the general fund revenue account 1101.4351.0009. In addition, under the Agreement, \$10,000 per year will be received for the Branded Flight Program and the branding license fee and will be appropriated to the Fire Training account 550553101. The \$156,000 annual amount generated through the program coordinator portion of the Branded Fight Program will be appropriated to the Fire Department Admin account 550010101 to offset management salary costs associated with the program coordinator functions.

Staff request that the City Council approve Fiscal Year 2013-2014 budget adjustments in the prorated amounts of \$40,000 to the general fund revenue account, \$8,333 to the Fire Training account, and \$130,000 to the Fire Department Admin account, as payments of the annual amounts will commence as of September 1, 2013. REACH is also responsible for payment of the utility costs for the Premise.

## **INSURANCE REQUIREMENTS**

REACH will be required to maintain insurance as follows: i) for death, bodily injury, property damage and for personal injury and aviation liability insurance covering injury to passengers or third parties and damage to property for any one occurrence or series of occurrences arising out of one event in the amount of \$30,000,000; ii) professional medical liability insurance per claim and annual aggregate in the amount of \$5,000,000; iii) comprehensive automobile liability (including hired, owned and non-owned vehicle) per occurrence for bodily injury and for property damage in the amount of \$1,000,000; iv) worker's compensation in compliance with statutory limits; and v) all risk insurance covering all of the Lessee Improvements, trade fixtures, merchandise and personal property in the Premises, alterations and additions made by Lessee, in an amount not less than 100% of their full replacement, providing protection against perils included in the standard state form of all-risk insurance policy, plus insurance against vandalism and malicious mischief. Insurance coverage provided by REACH shall name the City as an additional insured in a form satisfactory to the City Attorney.

## **COMMISSION REPORT**

The Police and Fire Commission recommended approval of the lease and professional services agreement at its April 28, 2013, meeting. Since the City Council altered the direction at its May 1, 2013, meeting further commission action does not apply.

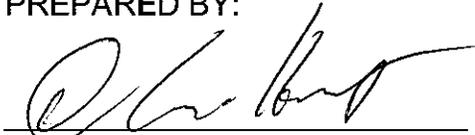
**CITY ATTORNEY'S ANALYSIS**

The referenced documents have been reviewed by the City Attorney and approved as to form.

**RECOMMENDATION**

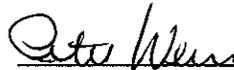
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PREPARED BY:



Darryl Hebert  
Fire Chief

SUBMITTED BY:



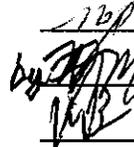
Peter A. Weiss  
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

Douglas Eddow, Real Estate Manager

Michael Blazenski, Interim Director of Financial Services



**PROPERTY LEASE AGREEMENT**

**BY AND BETWEEN**

**THE CITY OF OCEANSIDE**

**AND**

**REACH AIR MEDICAL SERVICES, LLC**

**FOR THE LEASE OF REAL PROPERTY**

**LOCATED AT**

**THE FIRE TRAINING FACILITY AND WATER UTILITIES SITE  
AT  
110 JONES ROAD, OCEANSIDE, CA**

**DATED**

**AUGUST 7, 2013**

# PROPERTY LEASE AGREEMENT

OCEANSIDE, CA

THIS PROPERTY LEASE AGREEMENT, herein after called "Lease", dated as of August 7, 2013 is executed between the **CITY OF OCEANSIDE**, a municipal corporation, hereinafter called "City", and **REACH AIR MEDICAL SERVICES, LLC**, a California limited liability company, hereinafter called "Lessee". Notwithstanding the date set forth above, the effective date of this Lease shall be the date the Oceanside City Council approves the Lease ("Effective Date").

## RECITALS

WHEREAS, City is the owner of that certain real property commonly known as the Fire Training Facility and Water Utilities site on Jones Road located in the City of Oceanside, County of San Diego, State of California;

WHEREAS, Lessee is a duly authorized air ambulance provider in the business of developing, operating, managing and maintaining air medical transportation services and facilities;

WHEREAS, Lessee is desirous of leasing a portion of the Fire Training Facility and Water Utilities site at 110 Jones Road, Oceanside, California ("Property") to enable Lessee to develop, operate, manage and maintain an air medical transportation service facility thereon together with related activities;

WHEREAS, City and Lessee are desirous of entering into this Lease agreement to see that an air medical transportation service facility is developed, operated, managed and maintained to provide critical medical transportation services to the citizens of Oceanside and neighboring communities in accordance with the terms and condition as set forth herein;

WHEREAS, City and Lessee are also desirous of entering into a separate Integrated Fire Department Air Ambulance Agreement in conjunction with the leasing of a portion of the Property so that Lessee can provide an air medical transportation service facility in the City of Oceanside, on terms and conditions outlined in the Integrated Fire Department Air Ambulance Agreement between City and Lessee; and

WHEREAS, City has determined that entering into this Lease and the Integrated Fire Department Air Ambulance Agreement is for the benefit of the citizens of Oceanside, protects public safety, health and welfare, and is in the furtherance of the public purposes of the City.

NOW THEREFORE, in consideration of the mutual terms, conditions, covenants and provisions contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby mutually agree as follows:

## A G R E E M E N T

### SECTION 1: USES

1.1 **Premises.** City hereby leases to Lessee and Lessee hereby leases from City, in accordance with the terms, conditions, covenants, and provisions of this Lease, a portion of that certain real property situated in the City of Oceanside, County of San Diego, State of California, commonly known as the Fire Training Facility and Water Utilities Site at 110 Jones Road (APN 146-090-35) consisting of approximately eight thousand twenty-four square feet (8,024 SF) shall be used exclusively by Lessee for helipad, crew quarters and parking, together with the non-exclusive use of portions of the Fire Training Facility building (location and facilities to be determined by City, at its sole and exclusive discretion), as schematically depicted in Exhibits "A" and "B" attached hereto and by this reference made a part of this Lease, together with non-exclusive access therefrom to an adjacent public right-of-way, if such property does not have direct access thereto. Said real property and access is hereinafter called the "Premises." For clarity, "Premises" does not include the Building (as defined below).

1.2 **Ingress and Egress Over Property.** City further grants to Lessee the non-exclusive right for ingress and egress over the Property from Jones Road to the Premises, in a location and an area to be designated by City, in order to access the Premises and to allow Lessee to construct the Lessee Improvements as hereinafter defined, in accordance with the terms and conditions as set forth in this Lease. The non-exclusive right for ingress and egress also includes the primary approach and primary department flight path for the helicopter to and from the Helipad area as shown on Exhibit "B". City agrees to allow Lessee access to the Premises twenty-four (24) hours per day, seven (7) days a week.

1.3 **Uses.** It is expressly agreed that the Premises is leased to Lessee solely and exclusively for the purpose of operating an air medical transportation service facility consisting of a helipad and a temporary mobile living quarters together with related activities for the purpose of providing one (1) helicopter for air medical ambulance flight services (in accordance with the terms and conditions of this Lease and the Integrated Fire Department Air Ambulance Agreement described below), the non-exclusive use of portions of the Fire Training Facility building (location and facilities to be determined by City, at its sole and exclusive discretion) and for such other related or incidental purposes as may be first approved in writing by the City Manager of the City of Oceanside and for no other purpose whatsoever.

Said use of the Fire Training Facility building ("Building") shall be limited to the following uses: i) classroom, maximum of six (6) times per year; ii) command center training, maximum of two (2) times per year; and iii) hundred square foot (100SF) office space. City shall coordinate said uses with Lessee in scheduling the availability of said facilities for Lessee's use, but reserves the right to alter said schedule upon written notice to Lessee, said notice shall be given to Lessee to allow Lessee the reasonable opportunity to reschedule or relocate its planned activities affected by such altered schedule. The City reserves the right at its sole and exclusive discretion to provide similar facilities at a location deemed appropriate by City. The City's use of the Building is paramount to that of Lessee's use and Lessee hereby agrees and covenants that any interruption in Lessee's use of the Building shall not be deemed a breach of this Lease; nor shall it affect the rents and other payments due City under this Lease or the Integrated Fire Department Air Ambulance Agreement, unless provided for elsewhere herein.

Lessee covenants and agrees to actively and continuously use and operate the Premises for the above specified, limited and particular exclusive use and to diligently pursue said

purposes throughout the term of this Lease, except for failure to so use caused by reasons or events beyond the reasonable control of Lessee and acts of God. Said active and continuous use and operation enhances the value of the public's asset, provides needed public services, additional employment, taxes and other benefits to the general economy of the area. In the event that Lessee fails to continuously use the Premises for said purposes, or uses the Premises for purposes not expressly authorized herein or in the Integrated Fire Department Air Ambulance Agreement, Lessee shall be deemed in default under this Lease. Except as set forth above, Lessee shall not use the Premises in any manner which disrupts the quiet enjoyment of surrounding property owners' use of their property, it being understood, however, that the purpose of this Lease and the Lessee's helicopter operations therefrom shall entail frequent flights into and out of the Premises with associated noise and activity.

**1.4 Integrated Fire Department Air Ambulance Agreement.** It is expressly agreed that the Premises is leased to Lessee in conjunction with the fulfillment of the Integrated Fire Department Air Ambulance Agreement ("Air Ambulance Agreement") between City and Lessee so that Lessee can provide air medical ambulance flight services from the Premises. A copy of the Air Ambulance Agreement is attached as Exhibit "C" and is incorporated herein by this reference. As additional consideration for the lease of the Premises, Lessee agrees to timely satisfy the terms and conditions of the Air Ambulance Agreement. Failure by Lessee to perform pursuant to the terms and conditions of the Air Ambulance Agreement shall be deemed a default under this Lease. This Lease is expressly contingent upon the parties entering into said Air Ambulance Agreement. Notwithstanding anything contained herein to the contrary, if said Air Ambulance Agreement is terminated, either party shall likewise have the right to terminate this Lease upon written notice to the other party. Likewise, an extension or renewal of the Air Ambulance Agreement shall extend the term of this Lease for a like period, and the parties shall execute a confirming amendment at such time.

**1.5 Premises and Tenant Improvements.**

**a. City Improvement Obligations.** Except as otherwise expressly set forth herein, City shall deliver the Premises to Lessee in an "as is, where is" condition without any representation or warranties as to the suitability of the Premises for Lessee's intended use. Except for any express representations or warranties made by City herein, Lessee hereby accepts the Premises in said "as is, where is" condition and shall construct improvements thereon which are necessary for Lessee to use and occupy the Premises for its intended use in accordance with all applicable federal, state, and local laws, ordinances and codes.

**b. Lessee Improvement Obligations.** Lessee shall perform all of the work required to be performed by Lessee pursuant to the scope of work, cost, and schedule more specifically set forth in Exhibit "D" ("Lessee Improvements") attached hereto and incorporated herein by this reference. Notwithstanding the cost associated with any line item listed in said Exhibit "D", Lessee agrees to complete the improvements to the Premises in a good and workmanlike manner and in accordance with plans and specifications first approved in writing by City, whether or not the work is done under or over budget as listed in said Exhibit "D". Failure by Lessee to perform the work as described and/or as scheduled shall be deemed a default under this Lease.

**1.6 Related Discretionary Actions.** By the granting of this Lease, neither City nor the City Council is obligating itself to any other governmental agent, board, commission, or agency with regard to any other discretionary action relating to development or operation of the Premises. Discretionary action includes, but is not limited to rezoning, variances, conditional use permits, environmental clearances or any other governmental agency approvals which may be

required for the development and operation of the Premises. Notwithstanding the foregoing, City agrees to reasonably cooperate with Lessee as needed to obtain such required rezoning, variances, conditional use permits, environmental clearances and other governmental agency approvals at no cost to City.

1.7 **Quiet Possession.** Lessee, paying the rent and performing the covenants and agreements herein, including the Air Ambulance Agreement, shall at all times during the term hereof peaceably and quietly have, hold and enjoy the Premises.

1.8 **Reservation of Rights.** City shall not unreasonably or substantially interfere with Lessee's use of the Premises while Lessee is in possession of the Premises; however the City specifically retains the following rights which, however, shall be exercised at all times to cause the least interference practical to Lessee's operations:

a. **Subsurface Rights.** City hereby reserves all rights, title and interest in any and all subsurface natural gas, oil, minerals and water on or within the Premises. City shall not perform any surface drilling or other operations with respect to such subsurface natural gas, oil, minerals or water to the extent same would require removal or alteration of Lessee's improvements or unreasonably or substantially interfere with its operations.

b. **Easements.** City reserves the right to grant and use easements or to establish and use rights-of-way over, under, along and across the Premises for utilities as it deems advisable for the public good; however, if such grant or use adversely impacts Lessee's use of the Premises, then Lessee may terminate this Lease.

c. **Right to Enter.** City has the right to enter the Premises for the purpose of performing maintenance, inspections, repairs or improvements or developing municipal resources and services. City will pay the costs of the maintenance and repair of all City installations made pursuant to these reserved rights.

Notwithstanding the foregoing, except as to the rebuilding of the current fire training structure on the Property, City covenants and agrees with Lessee that it shall not erect or build (or allow the erection or construction) any structure on the Property located adjacent to the Premises that would invalidate Lessee's license to operate from the Premises or that would otherwise interfere with Lessee's operations due to the height of such structure or any lighting issuing therefrom.

1.9 **Temporary Helicopter Storage and Operations.** Until the Lessee Improvements are completed at the Premises and Lessee has received a Certificate of Occupancy to use the Lessee Improvements, Lessee shall temporarily store the helicopter at and use the Oceanside Municipal Airport (a/k/a Bob Maxwell Memorial Airfield) as its base of operations under the Air Ambulance Agreement ("Temporary Operations Location"). Notwithstanding said temporary storage and operations, Lessee shall be bound by the terms, conditions, covenants and obligations of this Lease and the Air Ambulance Agreement (including the payment of rents and other sums due City thereunder) as of the Effective Date hereof.

## **SECTION 2: TERM**

2.1 **Commencement and Term.** Subject to Section 1.04, the term of this Lease shall be for a period of five (5) years commencing on September 1, 2013; provided, however, if Lessee is not in default of any of the terms and conditions of this Lease or the Air Ambulance

Agreement this Lease shall automatically renew and extend for an additional five (5) year term, unless written notice of termination is given by either party to the other party at least 1 year prior to the fifth anniversary or any renewal anniversary hereof.

**2.2 Feasibility Period.** Beginning the Effective Date, Lessee shall conduct its feasibility analysis of the Premises and use thereof as follows:

a. **Due Diligence.** Lessee shall have up to thirty (30) days to conduct its due diligence of the Premises to determine the condition of the Premises for Lessee's intended use. Due diligence shall include, but not be limited to, geotechnical analysis, availability of utilities and ingress and egress to the Premises.

b. **Entitlements.** Lessee shall have up to twelve (12) months from the Effective Date to obtain the required regulatory entitlements, including but not limited to, the necessary County of San Diego ("County") permits and authorizations ("Regulatory Entitlements") needed by Lessee to conduct Lessee's business at the Premises and within the County. Lessee agrees that it will use its best efforts and diligently pursue obtaining the required Regulatory Entitlements needed by Lessee. In processing necessary discretionary permits and environmental review, City shall have full authority to include all necessary mitigation measures and/or project alternatives for the proposed Lessee Improvements.

c. **Termination.** In the event Lessee is not able to satisfy itself during the due diligence period or to obtain the Regulatory Entitlements within said twelve (12) month period, either party shall have the right to terminate this Lease by giving the other party at least thirty (30) days written notice. In the event of termination pursuant to this Section, neither party shall be required to pay any sum to the other party. It is expressly understood by Lessee that the City as landlord under this Lease and by entering into this Lease does not make any representations to Lessee that it has the authority to provide the regulatory discretionary approvals conferred upon the City of Oceanside as a regulatory agency.

**2.3 Tenant Improvement Period.** Upon obtaining the Regulatory Entitlements, Lessee shall be given the right to enter upon the Premises in order to complete the Lessee Improvements to the Premises as described in Exhibit "D", as of the Effective Date, provided such right of entry is subject to and in compliance with the terms, conditions, covenants and provision of this Lease, including, but not limited to Section 4 herein. It is further agreed by the parties that Lessee shall have the opportunity to more particularly describe the Lessee Improvements, subject to approval by City, which approval shall not be unreasonably withheld, once Lessee has processed the Lessee Improvements for regulatory approval during the twelve (12) month period set forth in Section 2.02 above. If applicable, a revised description of the Lessee Improvements, entitled Exhibit "D-1" will be attached to the Lease and replace the Exhibit "D" described herein. Lessee shall complete the construction of the Lessee Improvements within six (6) months of receiving the Regulatory Entitlements.

**2.4 Holdover.** Any holding over by Lessee after expiration or earlier termination of this Lease shall not be considered as a renewal or extension of this Lease. The occupancy of the Premises by Lessee or by Lessee's property after the expiration or termination of this Lease constitutes a month-to-month tenancy, and all other terms and conditions of this Lease, including rental adjustments, shall continue in full force and effect. In the event of any holding over, Lessee shall continue to, and pay monthly, the Rent as set forth in this Lease or the fair market value for similar operations in the Southern California area, whichever is higher during the holdover period.

**2.5 Abandonment by Lessee.** Even if Lessee breaches the Lease and abandons the Premises, this Lease shall continue in effect for so long as City does not terminate this Lease, and City may enforce all its rights and remedies hereunder, including but not limited to the right to recover any amounts owing under the Lease as said amount becomes due, plus damages.

**2.6 Quitclaim of Lessee's Interest.** On the expiration or termination of this Lease for any reason, at City's sole discretion, City shall provide Lessee with and Lessee shall deliver to City a quitclaim deed in recordable form quitclaiming all its rights in and to the Premises. Lessee or its successor in interest shall deliver the same within five (5) business days after receiving written demand thereof. City may record such deed only on the expiration or earlier termination of this Lease. If Lessee fails or refuses to deliver the required deed, the City may prepare and record a notice reciting Lessee's failure to execute this lease provision and the notice will be conclusive evidence of the termination of this Lease and all Lessee's rights to the Premises.

**2.7 Surrender of Premises.** At the expiration or earlier termination of this Lease, Lessee shall surrender the Premises to City free and clear of all liens and encumbrances created by Lessee, except those liens and encumbrances which existed on the date of the execution of this Lease by City. The Premises, when surrendered by Lessee, shall be in a safe and sanitary condition and shall be in as good or better condition as the condition at commencement of this Lease, absent normal wear and tear.

**2.8 Time is of Essence.** Time is of the essence of all of the terms, covenants, conditions and provisions of this Lease.

### **SECTION 3: CONSIDERATION**

**3.1 Time and Place of Payment.** Rent (as hereinafter defined) payments shall be due to City by Lessee on the first day of each month of the term of the Lease and payable via wire transfer in United States Dollars by the fifth day of each month. Also, Lessee shall, concurrently with the filing of its quarterly State Board of Equalization tax statement, provide City with a copy of said statement. The requirements of this Section shall survive the expiration or sooner termination of this Lease.

City shall provide Lessee with wiring instructions for the payment of rents due under this Lease and additional amounts due city under the Air Ambulance Agreement. The place and time of payment may be changed at any time by City upon thirty (30) days written notice to Lessee. Lessee assumes all risk of loss and responsibility for late payment charges.

**3.2 Rent.** The annual rent amount during the term of this Lease shall be **Forty-two Thousand and No/100 Dollars (\$42,000.00)** which shall be due monthly in advance at the rate of **Three Thousand Five Hundred and No/100 Dollars (\$3,500.00)**, and the annual fee for the use of the Building shall be **Six Thousand and No/100 Dollars (\$6,000)** which shall be due monthly in advance at the rate of **Five Hundred and No/100 Dollars (\$500)**, on or before the first (1st) day of each new month and payable as stated in Section 3.01, hereinabove. For the purpose of this Lease the additional sums due City under the Air Ambulance Agreement shall be deemed and considered as rent.

**3.3 Extension of Term.** In the event this Lease and the Air Ambulance Agreement described in Section 1.04 above are extended, the annual rent amount of this Lease shall be

increased by three percent (3%) for each additional five (5) year period that the term of the Lease is extended pursuant thereto.

**3.4 Utilities.** Lessee agrees to order, obtain and pay for all utilities (e.g. electricity, gas, water, and sewer services), telephone, internet access, television connection, and refuse collection to and for the Premises in connection with the development, occupation, operation, management and maintenance of the Premises.

**3.5 Inspection of Records.** Lessee shall maintain accurate financial books and records for the operation of its business provided at, or from, the Premises. For the purposes of this Lease the point of sale for the payment of services rendered to patients and other sums collected within the City of Oceanside pursuant to the Air Ambulance Agreement shall be subject to Oceanside Business License fees and taxes. Said books and records shall be maintained in accordance with normal business standards and good accounting practice. Notwithstanding anything to contrary above, City's right to inspect Lessee's records are only limited to City's right to insure compliance with the terms of this Lease and the Air Ambulance Agreement.

**3.6 Delinquent Payments.** If Lessee fails to pay any amount within five (5) business days of the date when due, Lessee will pay in addition to the unpaid amount, five percent (5%) of the delinquent rent. If said amount is still unpaid at the end of fifteen (15) days, Lessee shall pay an additional five percent (5%) [being a total of ten percent (10%)] which is hereby mutually agreed by the parties to be appropriate to compensate City for loss resulting from delinquency, including lost interest, opportunities, legal costs, and the cost of servicing the delinquent account. Acceptance of late charges and any portion of the late payment by City shall in no event constitute a waiver by City of Lessee default with respect to late payment, nor prevent City from exercising any of the other rights and remedies granted in this Lease.

#### **SECTION 4: INSURANCE RISKS/SECURITY**

**4.1 Indemnity.** Lessee shall indemnify and hold harmless the City and its officers, agents and employees against all claims for damages to persons or property arising out of the conduct of the Lessee or its employees or agents in connection with its use and occupation of the Premises under this Lease, except only for those claims arising from the sole negligence or sole willful conduct of the City, its officers, agents, or employees. Lessee's indemnification shall include any and all costs, expenses, reasonable attorneys' fees and liability incurred by the City, its officers, agents, or employees in defending against such claims, whether the same proceed to judgment or not. Further, Lessee at its own expense shall, upon written request by the City, defend any such suit or action brought against the City, its officers, agents, or employees.

**4.2 Insurance.** At all times during the term of this Lease, Lessee shall maintain in full force and effect the following types and minimum coverage limits of insurance (or such greater limits as are required by applicable Law) to insure for the liability of Lessee:

(i) commercial general liability insurance for death, bodily injury, property damage and for personal injury and aviation liability insurance covering injuries to passengers or third parties and damage to property in an amount not less than \$30,000,000 for any one occurrence or series of occurrences arising out of any one event:

(ii) professional medical liability insurance in an amount not less than \$5,000,000 per claim and annual aggregate;

(iii) comprehensive automobile liability (including hired, owned and non-owned vehicles) in limits of not less than \$1,000,000 per occurrence, for bodily injury and for property damage;

(iv) all risk Insurance covering all of the Lessee Improvements, trade fixtures, merchandise and personal property in the Premises, alterations and additions made by Lessee, in an amount not less than 100% of their full replacement, providing protection against perils included in the standard state form of all-risk insurance policy, plus insurance against vandalism and malicious mischief; and

(v) workers' compensation in compliance with the applicable statutory limits.

a. All insurance companies affording commercial general liability, aviation liability and automobile liability coverage to the Lessee shall be required to add the City of Oceanside as "additional insured" with respect to Lessee's operations, under the insurance policy(s) required in accordance with this Lease (with the exception of workers' compensation policies). Insurance coverage provided to City as additional insured shall be primary insurance to City, its officers, agents and employees. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, agents and employees. Any insurance, self-insurance or other coverage maintained by City, its officers, agents and employees, shall not contribute to the insurance provided pursuant to this Section 4.02.

b. All insurance companies affording coverage to the Lessee shall be insurance organizations authorized by the Insurance Commissioner of the State Department of Insurance to provide such insurance in the State of California.

c. All insurance companies affording coverage shall provide thirty (30) days written notice to the City (ten (10) days in case of non-payment of premium) should the policy be cancelled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered cancellation.

d. Lessee shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, with proper endorsements, in a form satisfactory to the City Attorney, concurrently with the submittal of this Lease.

e. Lessee shall provide a substitute certificate of insurance no later than thirty (30) days prior to the policy expiration date.

f. Maintenance of insurance by the Lessee as specified in this Lease shall in no way be interpreted as relieving the Lessee of any responsibility whatever and the Lessee may carry, at its own expense, such additional insurance as it deems necessary.

g. If Lessee fails or refuses to take out and maintain the required insurance, or fails to provide the proof of coverage, City has the right to obtain the insurance. Lessee shall reimburse City for the premiums paid with interest at the maximum allowable legal rate then in effect in California. City shall give notice of the payment of premiums within thirty (30) days of payment stating the amount paid; the names of the insurer(s); and the rate of interest. Said reimbursement and interest shall be paid by Lessee on the first (1st) day of the month following the notice of payment by City.

Notwithstanding the preceding provisions of this Subsection, any failure or refusal by Lessee to take out or maintain insurance as required in this Lease, or failure to provide the proof

of insurance, shall be deemed a default under this Lease.

**h. Modification.** City, at its discretion, may reasonably require the revision of amounts and coverage at any time during the term of this Lease by giving Lessee sixty (60) days prior written notice. City's requirements shall be designed to assure protection from and against the kind and extent of risk existing on the Premises. Lessee also agrees to obtain any additional insurance reasonably required by City for new improvements, in order to meet the requirements of this Lease.

**4.3 Accident Reports.** Lessee shall, within seventy-two (72) hours after occurrence, report to City any accident causing property damage or any serious injury to persons on the Premises. This report shall contain the names and addresses of the parties involved; a statement of the circumstances; the date and hour; the names and addresses of any witnesses; and other pertinent information.

## **SECTION 5: IMPROVEMENTS/ALTERATIONS/REPAIRS**

**5.1 Acceptance of Premises.** Lessee represents and warrants that it has or will during the due diligence period independently inspected the Premises and made or will make all tests, investigations, and observations necessary to satisfy itself of the condition of the Premises, including but not limited to an environmental assessment and/or geotechnical analysis of the Premises. Lessee acknowledges it is relying solely on such independent inspection, tests, investigations, and observations in making this Lease. Lessee further acknowledges that Premises are in the condition called for by this Lease and that Lessee does not hold City responsible for any defects in the Premises which were not directly caused by City.

**5.2 Waste, Damage, or Destruction.** Lessee shall give written notice to City of any fire or other damage that occurs on the Premises within seventy-two (72) hours of such fire or damage. Lessee shall not commit or suffer to be committed any waste or injury or any public or private nuisance, agrees to keep the Premises clean and clear of refuse and obstructions, and to dispose of all garbage, trash, and rubbish in a manner satisfactory to City. Lessee shall comply with Oceanside City Code and AB 939 (California Integrated Waste Management Act) regarding the proper solid waste disposal and recycling by the separation and collection of identified recyclable materials (aluminum, plastic and glass beverage containers). Containers for recyclables may be obtained from City's Recycling Specialist by calling (760) 435-5160 or Lessee may choose to subscribe to the recycling services provided by Waste Management of North County by calling (760) 439-2824. If the Premises shall be damaged by any cause which puts the Premises into a condition which is not decent, safe, healthy and sanitary, Lessee agrees to make or cause to be made full repair of said damage and to restore the Premises to the condition which existed prior to said damage. Lessee shall be responsible for all costs incurred in the repair and restoration, or rebuilding of the Premises. Notwithstanding the foregoing, if such waste, damage, or destruction occurs during the final two (2) years of the term of this Lease and, in Lessee's reasonable judgment, prevents Lessee from being able to use and occupy the Premises, Lessee shall have the option of removing its improvements and restoring the Premises to their condition prior to the commencement of this Lease and terminating the Lease as of the date of such damage or destruction.

**5.3 Maintenance.** As part of the consideration for the Lease, Lessee agrees to assume full responsibility and cost for the operation, maintenance and repair of the Premises and the Lessee Improvements throughout the term of this Lease and without expense to City. Lessee will perform all maintenance, repairs and replacements necessary to maintain and preserve the

Premises in a decent, safe, healthy, and sanitary condition satisfactory to City and in compliance with all applicable laws. Lessee further agrees to provide approved containers for trash and garbage and to keep the Premises free and clear of rubbish and litter, or any other fire hazards. Lessee waives all right to make repairs at the expense of City as provided in Section 1942 of the California Civil Code and all rights provided by Section 1941 of said code.

For the purpose of keeping the Premises in a good, safe, healthy and sanitary condition, City shall always have the right, but not the duty, upon reasonable prior notice to Lessee (except in case of an emergency), to enter, view, inspect, determine the condition of, and protect its interests in, the Premises. In the event that City finds that the Premises are not in a decent, safe, healthy, and sanitary condition, Lessee must perform the necessary maintenance, repair or replacement work within ten (10) days after written notice from City. In the event Lessee fails to perform such work, City shall have the right, upon written notice to Lessee, to have any necessary maintenance work done at the expense of Lessee, and Lessee shall promptly pay any and all costs incurred by City in having such necessary maintenance work done, in order to keep said Premises in a decent, safe, healthy, and sanitary condition. Lessee shall make payment no later than ten (10) days after City's written demand therefore. City shall not be required at any time to perform maintenance or to make any improvements or repairs whatsoever, on or for the benefit of the Premises. The rights reserved in this section shall not create any obligations or increase obligations for City elsewhere in this Lease.

**5.4 Improvements/Alterations.** Except as set forth in Exhibit "D", no improvements, structures, or installations shall be constructed on the Premises, and the Premises may not be altered by Lessee without prior written approval by the City Manager, which shall not be unreasonably withheld, conditioned, or delayed. Further, Lessee agrees that major structural or architectural design alterations to approved improvements, structures, or installations may not be made on the Premises without prior written approval by the City Manager and that such approval shall not be unreasonably withheld, conditioned, or delayed. This provision shall not relieve Lessee of any obligation under this Lease to maintain the Premises in a decent, safe, healthy, and sanitary condition, including structural repair and restoration of damaged or worn improvements. City shall not be obligated by this Lease to make or assume any expense for any improvements or alterations.

**5.5 Liens.** Lessee shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, and encumbrance or claim on or with respect to all or any portion of the Premises without the prior written consent of the City Manager. Lessee shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, and encumbrance or claim on or with respect to all or any portion of the Premises for which Lessee does not have the prior written consent of the City Manager.

**5.6 Encumbrance.** Upon receiving prior consent by the City Manager, Lessee may encumber this Lease, its leasehold estate and its improvements thereon by deed of trust, mortgage, chattel mortgage or other security instrument to assure the payment of a promissory note or notes of Lessee, upon the express condition that the net proceeds of such loan or loans be devoted exclusively to the purpose of developing and/or improving the Premises. However, a reasonable portion of the loan proceeds may be disbursed for payment of incidental costs of construction, including but not limited to the following: off-site improvements for service of the Premises; on-site improvements; escrow charges; premiums for hazard insurance, or other insurance or bonds required by City; title insurance premiums; reasonable loan costs such as discounts, interest and commissions; and architectural, engineering and attorney's fees and such

other normal expenses incidental to such construction.

Any subsequent encumbrances on the Premises or on any permanent improvements thereon shall also have prior approval in writing of City Manager. Such subsequent encumbrances shall also be for the exclusive purpose of development of the Premises or otherwise to the benefit of the City at the discretion of the City Manager. Any deed of trust, mortgage or other security instrument shall be subject to all of the terms, covenants and conditions of this Lease and shall not amend or alter any of the terms, covenants or conditions of this Lease.

**5.7 Taxes.** Lessee shall pay, before delinquency, all taxes, assessments, and fees assessed or levied upon Lessee or the Premises, including the land, any buildings, structures, machines, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed, or maintained by Lessee or levied by reason of the business or other Lessee activities related to the Premises, including any licenses or permits.

Lessee recognizes and agrees that this Lease may create a possessory interest subject to property taxation, and that Lessee may be subject to the payment of taxes levied on such interest, and that Lessee shall pay all such possessory interest taxes.

**5.8 Signs.** Except as set forth in Exhibit "D" Lessee shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings, or similar devices or advertising without the prior written consent of the City Manager, which shall not be unreasonably withheld, conditioned, or delayed, and any such device(s) shall conform to all City of Oceanside ordinances and regulations. If any such unauthorized item is found on the Premises, Lessee shall remove the item at its expense within twenty-four (24) hours of written notice thereof by City, or City may thereupon remove the item at Lessee's cost.

**5.9 Ownership of Improvements and Personal Property.**

a. Following the expiration or sooner termination of this Lease, Lessee shall retain title to, and shall be entitled to remove from the Premises any fuel system and any crew quarters as may then be located on the Premises and any and all of Lessee's personal property and fixtures that may be located on the Premises. Any other improvements, structures, installations or additions to the Premises constructed on the Premises by Lessee shall at Lease expiration or termination be deemed to be part of the Premises and shall become City's property, free of all liens and claims except as otherwise provided in this Lease and in the Air Ambulance Agreement. At City's election, any items which Lessee is entitled to remove but fails to remove will be considered abandoned and become City's property free of all claims and liens, or City may, at its option, remove said items at Lessee's expense.

b. If any removal of such personal property by Lessee results in damage to the remaining improvements on the Premises, Lessee shall repair all such damage.

**5.10 Eminent Domain.** If all or part of the Premises is taken through condemnation proceedings or under threat of condemnation by any public authority with the power of eminent domain, the interests of City and Lessee (or beneficiary or mortgagee) will be as follows:

a. **Total Taking.** In the event the entire Premises are taken, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.

b. **Partial Taking.** In the event of a partial taking, if, in the opinion of Lessee, the remaining part of the Premises is unsuitable for the Lease operation, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.

In the event of a partial taking, if, in the opinion of Lessee, the remainder of the Premises is suitable for continued lease operation, this Lease shall terminate in regard to the portion taken on the date of the transfer of title or possession to the condemning authority, whichever first occurs, but shall continue for the portion not taken. The minimum rent shall be equitably reduced to reflect the portion of the Premises taken.

c. **Award.** All monies awarded in any such taking of the Premises shall belong to City, whether such taking results in diminution in value of the leasehold or the fee or both; provided, however, Lessee shall be entitled to any award attributable to the taking of or damages to Lessee's then remaining leasehold interest in the installations or improvements of Lessee. City shall have no liability to Lessee for any award not provided by the condemning authority.

d. **Transfer.** City has the right to transfer City's interests in the Premises in lieu of condemnation to any authority entitled to exercise the power of eminent domain. If a transfer occurs, Lessee shall retain whatever interest it may have in the fair market value of any improvements placed by it on the Premises in accordance with this Lease.

e. **No Inverse Condemnation.** The exercise of any City right under this Lease shall not be interpreted as an exercise of the power of eminent domain and shall not impose any liability upon City for inverse condemnation.

#### 5.11 Damage and Destruction to Improvements.

a. **City Reconstruction and Termination Right.** If any City Improvements upon the Premises are damaged or destroyed by any risk against which City has insured, City (subject to being able to obtain all necessary permits and approvals) shall, within one hundred and twenty (120) days after such damage or destruction elect to terminate the Lease or repair and reconstruct the Premises to substantially the same condition as the Premises were originally delivered to Lessee. City shall not be liable for interruption to Lessee's operation or for damage to or for the repair or reconstruction of any items.

b. **Lessee Reconstruction.** If any Lessee Improvements which Lessee is required to insure pursuant to the terms of this Lease is damaged or destroyed by fire or other risks to be so insured, Lessee (subject to being able to obtain all necessary permits and approvals) shall, within one hundred and twenty (120) days after such damage or destruction elect to terminate the Lease or repair and reconstruct the Lessee Improvements to substantially the same condition as prior to such damage or destruction.

### SECTION 6: GENERAL PROVISIONS

6.1 **Notices.** All notices, demands, requests, consents or other communications which this Lease contemplates or authorizes, or requires or permits either party to give to the other, shall be in writing and shall be personally delivered or mailed to the respective party as follows:

To City:

CITY OF OCEANSIDE  
Property Management Division  
300 North Coast Highway  
Oceanside, CA 92054

Attention: Real Estate Manager

To Lessee:

REACH Air Medical Services, LLC  
ATTN: President  
451 Aviation Blvd., Suite 101  
Santa Rosa, CA, 95403

Either party may change its address by notice to the other party as provided herein.

Communications shall be deemed to have been given and received on the first to occur of: i) actual receipt at the offices of the party to whom the communication is to be sent, as designated above; or (ii) three (3) working days following the deposit in the United States Mail of registered or certified mail, postage prepaid, return receipt requested, addressed to the offices of the party to whom the communication is to be sent, as designated above.

**6.2 City Approval.** The City Manager shall be the City's authorized representative in the interpretation and enforcement of all work performed in connection with this Lease. The City Manager may delegate authority in connection with this Lease to the City Manager's designee(s).

**6.3 Nondiscrimination.** Lessee agrees not to discriminate in any manner against any person or persons on account of race, marital status, familial status, sex, religious creed, color, ancestry, national origin, age, disability, medical condition or sexual orientation in Lessee's use of the Premises.

**6.4 Equal Opportunity.** Lessee shall take affirmative action to assure applicants are employed and that employees are treated during employment without regard to race, religious creed, color, religion, sex or national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age or sexual orientation. Lessee shall certify in writing to City that Lessee is in compliance and throughout the term of this Lease will comply with Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practices Act, and any other applicable Federal, State and Local law, regulation and policy (including without limitation those adopted by City) related to equal employment opportunity and affirmative action programs, including any such law, regulation, and policy hereinafter enacted.

Compliance and performance by Lessee of the equal employment opportunity and affirmative action program provision of this Lease is an express condition hereof and any failure by Lessee to so comply and perform shall be a default of this Lease and City may exercise and right as provided herein and as otherwise provided by law.

**6.5 Entire Agreement.** This Lease together with the Air Ambulance Agreement contains the entire understanding between the City and Lessee concerning the use and REACH Air Ambulance Lease

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occupation of the Premises and supersedes all prior negotiations, representations, or agreements. Each party has relied on its own examination of the Premises, advice from its own attorneys, and the warranties, representations, and covenants of the Lease itself.

**6.6 Interpretation.** The interpretation, validity and enforcement of the Lease shall be governed by and construed under the laws of the State of California. The venue of any judicial action brought to enforce any condition, covenant or provision of this Lease shall be in San Diego County, California. The Lease does not limit any other rights or remedies available to City.

The Lessee shall be responsible for complying with all Local, State, and Federal laws whether or not said laws are expressly stated or referred to herein.

Should any provision herein be found or deemed to be invalid, the Lease shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall remain in full force and effect, and to this end the provisions of this Lease are severable.

This Lease shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors, and assigns.

**6.7 Agreement Modification.** This Lease may not be modified orally or in any manner other than by an Agreement in writing signed by the parties hereto.

**6.8 Waiver.** Any City waiver of a default is not a waiver of any other default. Any waiver of a default must be in writing and be executed by the Redevelopment Manager in order to constitute a valid and binding waiver. City delay or failure to exercise a remedy or right is not a waiver of that or any other remedy or right under this Lease. The use of one remedy or right for any default does not waive the use of another remedy or right for the same default or for another or later default. City's acceptance of any amounts associated with this Lease is not a waiver of any default preceding the amount payment. City and Lessee specifically agree that the property constituting the Premises is City owned and held in trust for the benefit of the citizens of the City of Oceanside and that the failure of the City Manager or City staff to discover a default or take prompt action to require the cure of any default shall not result in an equitable estoppel, but City shall at all times, subject to applicable statute of limitations, have the legal right to require the cure of any default when and as such defaults are discovered or when and as the City Council directs the City Manager to take action or require the cure of any default after such default is brought to the attention of the City Council by the City Manager or by any concerned citizen.

**6.9 Attorney's Fees.** In the event a suit is commenced by City against Lessee to enforce payment of amounts due, or to enforce any of the terms and conditions hereof, or in case City shall commence summary action under the laws of the State of California relating to the unlawful detention of property, for forfeit of this Lease, and the possession of the Premises, provided City effects a recovery, Lessee shall pay City all costs expended in any action, together with a reasonable attorney's fee to be fixed by the Court.

**6.10 Assignment and Subletting - No Encumbrance.** A major consideration for this Lease is the unique expertise of Lessee in the operation and management of air medical service facilities. Accordingly, notwithstanding anything herein to the contrary, Lessee shall not assign to, contract for and/or allow another individual or entity to operate and/or manage the air medical service facility operation at the Premises. Further, this Lease and any portion thereof shall not be assigned, transferred, or sublet, nor shall any of the Lessee's duties be delegated, without the express written consent of City. Any attempt to assign or delegate this Lease without the express

written consent of City shall be void and of no force or effect. Consent by City to one assignment, transfer, sublease, or delegation shall not be deemed to be consent to any subsequent assignment, transfer, sublease, or delegation.

**6.11 Defaults and Termination.** It is mutually understood and agreed that if any default be made in the payment of amounts as herein provided and such default continues for five (5) business days after written notice thereof, or in the performance of the covenants, conditions, or agreements herein, including any terms and conditions of the Air Ambulance Agreement referenced as part of the Lease (any covenant or agreement shall be construed and considered as a condition) which continues for thirty (30) days after written notice thereof; or should Lessee fail to fulfill in any manner the uses and purposes for which the Premises are leased as stated in this Lease, and such default is not cured within thirty (30) days after written notice thereof if default is in the submittal of amounts due as required in this Lease; or ten (10) days after written notice thereof if default is in the performance of the failure to use provisions pursuant to Section 1.02 of this Lease; or thirty (30) days after written notice thereof if default is in the performance of any other covenant, condition and agreements (any covenant or agreement shall be construed and considered as a condition), City shall have the right to immediately terminate this Lease; and that in the event of such termination, Lessee shall have no further rights hereunder and Lessee shall thereupon forthwith remove from the Premises and shall have no further right to claim thereto, and City shall immediately thereupon, without recourse to the courts, have the right to reenter and take possession of the Premises. City shall further have all other rights and remedies as provided by law, including without limitation the right to recover damages from Lessee in the amount necessary to compensate City for all the detriment proximately caused by the Lessee's failure to perform its obligations under the Lease or which in the ordinary course of things would be likely to result there from.

In the event City consents to an encumbrance of the Lease for security purposes in accordance with Section 5.06 of this Lease, it is understood and agreed that City shall furnish copies of all notices of defaults to the beneficiary or mortgagee under said encumbrance by certified mail contemporaneously with the furnishing of such notices to Lessee, and in the event Lessee shall fail to cure such default or defaults within the time allowed above, said beneficiary or mortgagee shall be afforded the right to cure such default at any time within five (5) days, if the default is for the failure to submit rent as required, or within fifteen (15) days following the expiration of the period within which Lessee may cure such default, provided, however, City shall not be required to furnish any further notice of default to said beneficiary or mortgagee.

In the event of the termination of this Lease pursuant to the provisions of this section, City shall have any rights to which it would be entitled in the event of the expiration or sooner termination of this Lease under the provisions of Sections 5.10 and 5.11 of this Lease.

**6.12 Bankruptcy.** In the event Lessee becomes insolvent, makes an assignment for the benefit of creditors, becomes the subject of a bankruptcy proceeding, reorganization, arrangement, insolvency, receivership, liquidation, or dissolution proceedings, or in the event of any judicial sale of Lessee's interest under this Lease, City shall have the right to declare this Lease in default.

The conditions of this section shall not be applicable or binding on Lessee or the beneficiary in any deed of trust, mortgage, or other security instrument on the demised Premises which is of record with City and has been consented to by resolution of the City Council, or to said beneficiary's successors in interest consented to by resolution of the City Council, as long as there remains monies to be paid by Lessee to such beneficiary under the terms of such deed of

trust; provided that such beneficiary or its successors in interest, continuously pay to City all rent due or coming due under the provisions of this Lease and the Premises are continuously and actively used in accordance with Section 1.02 of this Lease.

**6.13 Section Headings.** The Table of Contents and the section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision thereof.

**6.14 Gender/Singular/Plural.** The neuter gender includes the feminine and masculine, the masculine includes the feminine and neuter, and the feminine includes the masculine and neuter, and each includes corporation, partnership, or other legal entity when the context so requires. The singular number includes the plural whenever the context so requires.

**6.15 Drafting Ambiguities.** Each party to this Lease and its counsel have reviewed and revised this Lease. The rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Lease or of any amendments or exhibits to this Lease.

**6.16 No Obligations to Third Parties.** Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the parties thereto, to any person or entity other than the parties hereto.

**6.17 Exhibits and Schedules.** The Exhibits and Schedules attached hereto are hereby incorporated herein by this reference.

**6.18 Counterparts.** This Lease may be executed in one or more counterparts (including by means of signature pages delivered by a facsimile machine or electronic mail), all of which taken together shall constitute one and the same instrument.

## **SECTION 7: SPECIAL PROVISIONS**

**7.1 Standards of Operation.** Lessee agrees that it shall operate and manage the services and facilities offered upon or from the Premises in a first class manner.

**7.2 Hours of Operation.** The Lessee agrees that it shall conduct business on the Premises twenty-four (24) hours a day, Seven (7) days a week of operation as established in the Air Ambulance Agreement, and in the best interest of the public, as reasonably determined by Lessee and the Program Coordinator (as such term is defined in the Air Ambulance Agreement) subject to any applicable regulatory approvals.

**7.3 Manner of Providing Service.** Lessee shall provide an experienced and well qualified "on-site" supervisor to oversee all operations conducted by Lessee on the Premises. Said supervisor shall be empowered with authority to act on behalf of Lessee in response to reasonable requests from City to perform maintenance, repairs, and replacements of Lessee Improvements on the Premises, and all required maintenance of the helicopter as required by all applicable regulations and Laws, to insure the public's health, safety, and welfare. Lessee shall ensure that its employees shall at all times conduct themselves in a creditable and dignified manner, and they shall conform to all laws, rules, regulations and requirements for the operation of an emergency air ambulance transportation service, as well as all reasonable rules and regulations as hereafter may be promulgated, or put into operation by the City. In the event of a conflict between the terms of this Lease and such rules and regulations, the more restrictive

requirements shall control. Lessee shall continuously maintain all required authorizations from all applicable federal, state and county government agencies necessary to conduct its operations at the Premises and Temporary Operations Location.

**7.5 Continued Occupancy.** Lessee covenants and agrees to, and it is the intent of this Lease that the Lessee shall, continuously and uninterruptedly during the term of the Lease, occupy and use the Premises for the purposes hereinabove specified, except while Premises are untenantable by reason of fire, flood, or other unavoidable casualty, and, in that event, City shall be promptly notified by Lessee.

**7.6 Hazardous Substances.** No goods, merchandise or material shall be kept, stored or sold in or on the Premises which are in any way explosive or hazardous; and no offensive or dangerous trade, business or occupation shall be carried on therein or thereon, and nothing shall be done on said Premises, which will cause an increase in the rate of or cause a suspension or cancellation of the insurance upon said or other premises and the improvements thereon.

No machinery or apparatus shall be used or operated on or about the Premises which will in any way injure the Premises or improvements thereon, or adjacent or other premises, or improvements thereon, or to persons; provided, however, that nothing contained in this section shall preclude Lessee from bringing, keeping or using on or about the Premises such materials, supplies, equipment and machinery as are appropriate or customary in carrying on its said business, or from carrying on its business in all usual respects.

Subject to (a), below, open flame burning, gasoline, or other fuel storage is expressly prohibited without prior written consent of the City.

**a. Helicopter Refueling.** As part of Lessee's use of the Premises as an air medical service facility providing a helicopter ambulance service, Lessee may, subject to complying with all federal, state and local laws and ordinances applicable thereto, bring a fuel transporting vehicle on the Premises for the sole purpose of refueling the helicopter that is permitted to operate at the Premises. Lessee shall otherwise comply with the terms and conditions of Section 7.06 above.

**7.7 Memorandum of Lease and Air Ambulance Agreement.** City and Lessee agree the Lease and the Air Ambulance Agreement shall not be recorded and that the parties shall execute a Memorandum of Lease and Air Ambulance Agreement to be recorded. The form of this Memorandum of Lease and Air Ambulance Agreement is as shown on Exhibit "E" attached hereto and incorporated herein by this reference, and shall be recorded in the Official Records of the County of San Diego.

**7.8 Representations.** City represents and warrants that (i) it is the owner in fee simple of the Premises; (ii) it has full right to lease the leased Premises for the term set out herein and any extension terms, if applicable, (iii) it has no knowledge of any condemnation or threat of condemnation affecting any portion of the leased Premises, (iv) there are no unpaid assessments against the leased Premises, and (v) during the Term and any extension thereof it will not mortgage or encumber the Premises or Lessee's leasehold estate therein, grant any easement or license encumbering the leased Premises (except as provided for under Section 1.08 hereinabove), impose any restrictive covenants on the Premises, or amend or modify the zoning classification of the Premises, unless such encumbrance, restriction or amendment does not take effect until after the expiration or earlier termination of this Lease or unless it first obtains the prior written consent of Lessee.

**7.9 Limitation on Structures.** Except as to the rebuilding of the current fire training structure on the Property City covenants and agrees with Lessee that it shall not erect or build (or allow the erection or construction) any structure on the Property located adjacent to the Premises that would invalidate Lessee's license to operate from the Premises or that would otherwise interfere with Lessee's operations due to the height of such structure or any lighting issuing therefrom.

**7.10 Subsequent Encumbrances.** City represents and warrants to Lessee that the Premises are not subject to any prior mortgage, deed of trust, or other lien instrument. Should the Premises become subject to a mortgage, deed of trust, or other lien instrument subsequent to the date hereof, Lessee agrees to subordinate its interest in the Premises to that of City's mortgagee and will agree to attorn to City's mortgagee (or to a transferee of City) solely upon City's presentation to Lessee of a fully-executed non-disturbance agreement in recordable form and in form and substance reasonably satisfactory to Lessee. In the absence of such a subordination and non-disturbance agreement, this Lease shall be superior to subsequent encumbrances of the Premises.

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**SECTION 8: SIGNATURES**

**8.01 Signature Page.** The individuals executing this Lease represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Lease on behalf of the respective legal entities of the Lessee and the City.

IN WITNESS WHEREOF the parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Property Lease Agreement to be executed by setting hereunto their signatures on the day and year respectively written herein below.

**"CITY"**

THE CITY OF OCEANSIDE,  
a municipal corporation

Date \_\_\_\_\_

By: \_\_\_\_\_  
City Manager

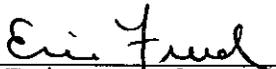
APPROVED AS TO FORM:  
CITY ATTORNEY'S OFFICE

By:  \_\_\_\_\_  
City Attorney

**"LESSEE"**

REACH AIR MEDICAL SERVICES, LLC,  
a California limited liability company

Date 7/25/2013

By:  \_\_\_\_\_  
Name: Eric Freed  
Title: Vice-President

Date 7/25/2013

By:  \_\_\_\_\_  
Name: Michelle Blancy  
Title: Assistant Secretary

**NOTARY ACKNOWLEDGMENTS OF LESSEE'S SIGNATURE(S) MUST BE ATTACHED**

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

State of CALIFORNIA )

County of SONOMA )<sup>SS.</sup>

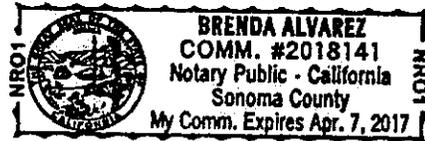
On JULY 25, 2013 before me, BRENDA ALVAREZ, NOTARY PUBLIC,  
Date Name and Title of Officer (e.g. "Jane Doe, Notary Public")

personally appeared ERIC DONALD FREED  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Brenda Alvarez  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable for persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer**

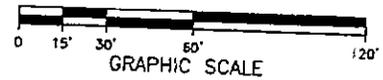
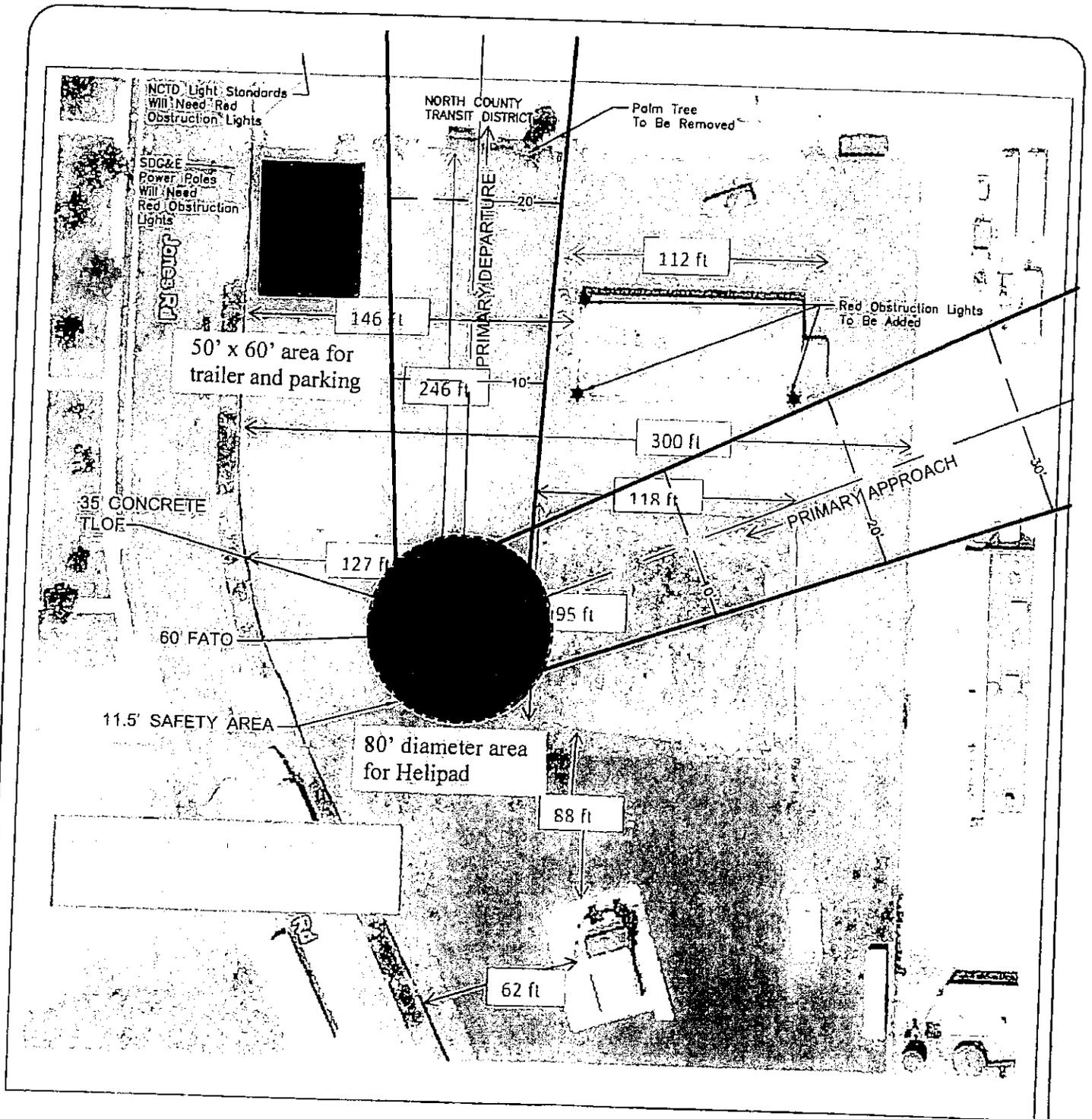
Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer – Title(s): \_\_\_\_\_
- Partner –  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here





# EXHIBIT "B"



**Heliplanners**

[www.heliplanners.com](http://www.heliplanners.com)

Aviation Planning Consultants Heliport Specialists

## EXHIBIT "C"

### INTEGRATED FIRE DEPARTMENT AIR AMBULANCE AGREEMENT

THIS INTEGRATED FIRE DEPARTMENT AIR AMBULANCE AGREEMENT (the "Agreement") is entered into as of August 7, 2013, by and between REACH Air Medical Services, LLC, a California limited liability company ("REACH"), and City of Oceanside, a municipal corporation ("Oceanside").

#### Preliminary Statement

A. The City of Oceanside Fire Department has identified an opportunity to improve service delivery, patient access and customer service to its constituents with air ambulance Transport Services (as defined below).

B. REACH is in the business of providing specially-equipped helicopters to provide emergency medical transport services to critically-ill and injured patients.

#### Agreement

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

1. Air Ambulance Transport Services. REACH will provide emergency air ambulance services (both scene response and hospital to hospital transfers) to critically-ill and injured patients in the City of Oceanside, CA, and surrounding geographical area (the "Service Area"), as more fully described herein (the "Transport Services"). In connection with the Transport Services, REACH will hold, and be responsible for, all licenses necessary to operate the Branded Flight Program (as hereinafter defined). There may be a transition time period necessary to establish the Base (as hereinafter defined) between the date this Agreement is signed and the date Transport Services are actually provided under this Agreement. The parties anticipate that Transport Services will commence on or before September 1, 2013. The date on which the Transport Services actually commence shall be the "Effective Date."

(a) Standards of Performance of Transport Services. REACH shall ensure that Transport Services are at all times rendered in compliance with all applicable laws, statutes, rules, regulations, ordinances and other pronouncements having the effect of law of the United States or any state, county, city or other political subdivision thereof or of any federal, state or local governmental regulatory agency, commission, bureau, authority, court or arbitration tribunal ("Laws"). REACH will immediately notify Oceanside if the Branded Flight Program becomes the subject of any investigation or enforcement action (e.g. FAA) which notice shall describe the nature of the investigation or enforcement action. REACH will update Oceanside on the status and outcome of any such investigation or enforcement action.

(b) Operational Control of Helicopter. REACH shall retain operational control and shall have sole responsibility for all Helicopters (as defined below) and all Transport Services provided under this Agreement. The name of the Branded Flight Program will be a "DBA" for REACH, an FAA Part 135 certificate holder and operator. Accordingly, all transportation by air that is done by the Branded Flight Program will be, in fact, done by REACH. All Branded Flight Program aircraft and flights will be under the sole operational control of REACH, and all Branded Flight Program operations will be conducted under REACH operations specifications (OpSpecs). REACH will have sole responsibility for ensuring all Branded Flight Program aircraft are airworthy and are in compliance with their FAA-approved inspection/maintenance programs. REACH will specify the conditions under which flights may

be operated. All Branded Flight Program flight crewmembers (and medical crew members) assigned to a flight by REACH must be qualified, and trained under REACH's approved training program. Oceanside will not have any control over the operations of the Helicopters.

(c) Helicopter. REACH will provide an EC135 helicopter for the Branded (Oceanside Fire Department) Flight Program. Any helicopter that is provided by REACH for the Branded Flight Program (individually, a "Helicopter" and collectively, the "Helicopters") shall be maintained with an emergency medical service configuration capable of transporting at least one (1) patient and a crew of up to three (3), including one (1) pilot. REACH shall maintain the Helicopters in compliance with all Laws that are applicable to the ownership or operation of the Helicopters. REACH shall provide all fuel and lubricants for the Helicopters for all activities required under this Agreement. REACH will use reasonable commercial efforts to have the Helicopters available for use for Transport Services twenty-four (24) hours a day, seven (7) days a week.

(d) Pilots. REACH will provide the services of FAA qualified pilots to the Branded Flight Program, and will use its best efforts to provide such services on a twenty four (24) hours a day, seven (7) days a week basis.

(e) Mechanics. REACH shall provide the services of certified Airframe and Power Plant mechanics to perform all required maintenance of Helicopters provided hereunder.

(f) Medical Direction. REACH shall provide the medical director for the Branded Flight Program. All decisions concerning medical care and treatment of patients transported by the Branded Flight Program shall be made under the direction of, and protocols approved by, the Branded Flight Program Medical Director. This Medical Director will function as an associate Medical Director for REACH.

(g) Registered Nurses. REACH shall provide all registered nurses for the Branded Flight Program.

(h) Flight Safety Equipment. REACH will furnish all crew members with two standard issues flight suits and one helmet each.

(i) General Manager. REACH shall provide a "General Manager" for the Branded Flight Program. The General Manager will be responsible for coordination between REACH and Oceanside and for the marketing of the Branded Flight Program.

(j) Billings and Records. REACH shall be solely responsible for all billing and collections with respect to the Branded Flight Program and shall be entitled to all proceeds therefrom. REACH shall receive all income from Transport Services provided hereunder and such income shall be the sole property of REACH. REACH shall cause records to be maintained which adequately reflect the provision of Transport Services hereunder and shall comply with all applicable Laws in preparing its billings, reports and other records in connection with the performance of services hereunder.

## 2. Branded Flight Program Base Location; Facilities.

(a) Crew Quarters Land Lease. The Branded Flight Program crew quarters will be located at 110 Jones Road, Oceanside, CA. REACH will lease from Oceanside the land for the crew quarters and for an exclusive use helipad. REACH will pay Oceanside fair market value rent for the land lease (agreed to be \$42,000 annually) to be paid in equal monthly payments of \$3,500/mo., as provided in a separate lease to be executed contemporaneously herewith. REACH will provide and maintain the crew

quarters (i.e., mobile home or modular unit), which will be removed upon termination of the Agreement. REACH will construct an exclusive use helipad at the location subject to all applicable permit requirements of Oceanside. REACH will also have access to the training center in accordance with the separate lease executed contemporaneously herewith, and REACH shall pay Oceanside \$6,000 annually to be paid in equal monthly installments for use of the training center.

(b) Other Facilities. REACH will provide all offsite facilities necessary for the Branded Flight Program (e.g., hangar and fuel facilities).

(c) Additional Bases. From time to time, REACH and Oceanside may agree to add additional bases of which, Oceanside shall have preferred choice of location. The bases shall operate and display similar branding and terms agreed to by both parties.

3. Co-ordination of Integrated Program.

(a) Branded Flight Program Name; Branding License Fee. REACH and Oceanside will jointly select a unique name for the flight program (which will include "Oceanside") to be operated pursuant to this Agreement (the "**Branded Flight Program**"). The Helicopter will be painted with the Branded Flight Program name and logo and in a color scheme that is agreed to by REACH and Oceanside; provided, REACH will be clearly identified as the owner and operator of the Helicopters. The Oceanside mark will continue to be owned by Oceanside. Oceanside hereby exclusively licenses to REACH the use of such mark for air ambulance services. Because of the significant mark recognition value, REACH will pay Oceanside \$10,000 per year as a license fee to use the mark as REACH performs Transport Services. Such amount will be paid in equal monthly installments of \$833.33 each, via wire transfer by the fifth day of each month after the Effective Date. The parties believe such license fee amount represents the fair market value royalty for its use. Oceanside may terminate the mark license granted to REACH for use of the mark upon 90 days' written notice to REACH, after which the license fee will no longer be due or payable, and during which notice period the parties will jointly select a new name for the Branded Flight Program. If the name is changed at Oceanside's behest, Oceanside shall bear the cost of changing the names on the helicopter.

(b) Program Management and Startup Transition Services. Oceanside will designate one or more individuals to act as the supervisor for the Branded Flight Program as provided for herein. Such individual(s) will provide management services in lieu of REACH hiring its own employee to manage the startup of the Branded Flight Program. In addition, the Oceanside Fire Department on duty Battalion Chief or designee will work with REACH in an advisory capacity to oversee the daily operations of the Branded Flight Program. Such onsite supervisory, advisory and administrative program management services will include establishing dispatch and communication center relationships, assisting with obtaining county permits and approvals, identifying and interviewing base medical personnel, establishing appropriate measurement/metric systems, customer and public relations and business development. Such personnel provided by Oceanside shall be either employees or contractors of Oceanside and under the control of Oceanside. REACH will reimburse Oceanside \$13,000 per month (payable via wire transfer by the fifth day of each month after the Effective Date) for the cost of providing these base management, supervision and administrative duties. This section will be effective for only the first 12 months after the date hereof. Thereafter, both parties will review and identify the need for any such services and the reimbursement rate therefor, including program oversight and general management needs for the Branded Flight Program will be reassessed, and adjusted accordingly by agreement of the parties. Notwithstanding anything contained herein to the contrary, if the parties do not reach mutual agreement on the need for such services or the reimbursement rate therefor, then either party may terminate this Agreement and the related Lease with sixty (60) days written notice to the other party.

(c) Marketing Flights. REACH will provide a minimum of 25 hours for the first year and 20 hours of flight time annually thereafter for Branded Flight Program marketing and public relations. Unused hours may not be carried over from one year to the next. At the request of Oceanside, REACH will provide additional hours of flight time for Oceanside marketing and public relations at a rate of \$1,000 per hour. For the avoidance of doubt, flight time shall not include any period of time during which a Helicopter is static at a Branded Flight Program base or public relations location, but shall include repositioning time; *i.e.*, when flying a Helicopter from a Branded Flight Program base to remote location and return.

(d) Command ICS Platform Use. REACH will provide a minimum of 20 hours of flight time annually for Fire Department Incident Command platform use for aerial reconnaissance in connection with widespread natural disasters or other emergencies; however, the pilot in command will retain full authority to accept or decline any such flights due to safety concerns. Unused hours may not be carried over from one year to the next. At the request of Oceanside, REACH will provide additional hours of flight time for Incident Command platform use at a rate of \$1,000 per hour. For the avoidance of doubt, flight time shall not include any period of time during which a Helicopter is static at a Branded Flight Program base or other location, but shall include repositioning time; *i.e.*, when flying a Helicopter from a Branded Flight Program base to remote location and return.

(e) CAMTS Accreditation. The parties will reasonably cooperate to have the Branded Flight Program be, and remain, CAMTS accredited.

(f) Cooperative Relationship: Qualified Staff. REACH and Oceanside acknowledge and agree that the relationship between them and their respective staff, administration and employees is of a professional nature and that cooperation between Oceanside and REACH is vital to the functioning of the air ambulance program contemplated by this Agreement. Accordingly, the parties agree to adopt policies designed to cause their respective staff, administration and employees to maintain a professional working relationship with patients and with one another, and to take reasonable steps to avoid patterns of conflict, insubordination and intemperate behavior. The parties shall assign only qualified individuals to provide services under this Agreement. If either Oceanside or REACH becomes aware of questions or concerns with respect to the professional qualifications or performance of any individual providing services under this Agreement, the same shall be communicated promptly to the other party in order that a resolution of the problem can be made.

(g) Independent Contractors; No Partnership or Joint Venture. The Branded Flight Program is owned and operated by REACH. The Branded Flight Program is not a partnership or joint venture between the parties. Oceanside, as an independent contractor, is providing certain assets and services to REACH in connection with REACH's operation of the Branded Flight Program. For all purposes of this Agreement and the transactions contemplated hereby, REACH and Oceanside each are and shall be deemed to be an independent contractor and each party shall be expressly prohibited from doing any acts or making any statements which do or may create the impression or inference that it is an agent or representative of the other party. Nothing in this Agreement shall be deemed or construed (i) to create a partnership or joint venture between REACH and Oceanside, (ii) to cause either party to be responsible in any way for the debts, liabilities or obligations of the other party or (iii) to constitute either party an employer, employee, agent or representative of the other party. Each party will be solely responsible for compensating its respective employees who are providing services on behalf of such party. REACH shall at all times have sole control over the manner, means and method of performance of Transport Services hereunder.

(h) Healthcare Compliance Matters. Each party represents and warrants that it, and any individual providing services on its behalf hereunder, is not currently listed by a federal agency as excluded, debarred, or otherwise ineligible for participation in any federal health care program (as defined

under 42 USC §1320a-7b(f), and hereinafter referred to as “Federal Health Care Program”). In performing its obligations under this Agreement, neither party shall employ, contract with, or otherwise use items from, or the services of, any individual or entity whom it knows or should have known, (I) has been convicted of a criminal offense related to healthcare (unless the individual has been reinstated to participation in Medicare and all other Federal Health Care Programs after being excluded because of the conviction), or (II) is currently listed by a Federal agency as excluded, debarred, or otherwise ineligible for participation in any Federal Health Care Program. Each party covenants that upon becoming aware of an entity or individual which it employs, contracts with, or has a relationship in which it uses the entity’s or individual’s items or services in performing its obligations under this Agreement, being (I) convicted of a criminal offense related to healthcare, or (II) listed by a federal agency as excluded, debarred, or otherwise ineligible for participation in any Federal Health Care Program, it shall promptly notify the other party.

In performing its obligations under this Agreement, each party will comply, and will cause its employees to comply with, the requirements of all applicable Laws, including those that pertain to the confidentiality of patient information. Without limiting the foregoing, each party agrees to timely comply with the Health Insurance Portability and Accountability Act (HIPAA) and all regulations promulgated thereunder, as amended from time to time. Each party will take such actions as are reasonably requested by the other party to achieve HIPAA compliance relative to this Agreement. In addition, the parties intend to comply fully with all applicable state and federal laws and regulations, including but not limited to The Social Security Act, the federal Anti-Kickback Statute, the federal False Claims Act, and all applicable state and federal fraud and abuse laws and rules. If any terms or conditions of this Agreement are determined by any court or by the OIG of the Department of Health and Human Services to be contrary to any such statutes or regulations, the parties agree to promptly and in good faith confer and resolve any issues so as to make the performance of this Agreement consistent with all applicable statutes and regulations. Additionally, the parties hereto agree that any patient transfers shall be in compliance with EMTALA, 42 U.S.C. 1395dd et seq. and any amendments thereto, and such other requirements as may be imposed by the Secretary of Health and Human Services, and any applicable state transfer laws.

Each party acknowledges that the other party promotes full compliance with the Law and has established a culture that fosters the prevention, detection and resolution of instances of misconduct. Each party agrees to cooperate with the administration of the other party’s compliance program during the term of this Agreement. Such cooperation shall include participating in training, providing access to necessary billing documentation, participating in contract and claims audits and other aspects of the other party’s compliance program and upon request, cooperating and assisting during any internal compliance review, investigation and/or audit. Each party shall promptly notify the other party of any violation of the other party’s compliance policies and procedures or any applicable law or regulation of which such party becomes aware of during the term hereof. Each party shall cooperate with the other party in responding to and resolving any compliance investigation, inquiry or review initiated by a governmental agency, third party payor or other organization.

4. **Term and Termination.** This Agreement shall be effective from the date hereof for a period of 5 years; provided, however, this Agreement shall automatically renew and extend for an additional 5 year term, unless written notice of termination is given by either party to the other party at least 1 year prior to the fifth anniversary hereof.

(a) **Termination by Mutual Agreement.** The parties may terminate this Agreement without any further obligation hereunder (other than obligations under any provision of this Agreement that is expressly stated to survive the termination hereof) by mutual agreement at any time.

(b) Termination for Material Breach. If either party shall default in the performance of any of the covenants or obligations of performance or payment imposed upon it under this Agreement (except where such failure is excused pursuant to any other provision of this Agreement), then the other party may give written notice to such defaulting party, which notice shall set forth in reasonable detail the reason for which the notice is given (a “Default Notice”). If, within thirty (30) days after receipt of a Default Notice, the defaulting party does not commence with diligence and in good faith to remedy the default, then the party not in default may terminate this Agreement by giving thirty (30) days advance written notice thereof to the other party without any further obligation hereunder (other than obligations under any provision of this Agreement that is expressly stated to survive the termination hereof); provided, that nothing herein shall be deemed to release either party from any liability for any breach by such party of the terms and provisions of this Agreement.

(c) Termination for Significant Change in Financial Performance. If there is a significant adverse change in Branded Flight Program financial performance at any time (either from comparing budgeted forecasts to actual results or from comparing actual results over time), whether resulting from decreased flight volume (including lower flight requests or lower capture rates due to medical crew unavailability or weather, average loaded miles or reimbursement rates or resulting from adverse changes in payor mix or operational expenses (including relating to aircraft capability) or otherwise), for which REACH would consider terminating this Agreement, then REACH may give Oceanside written notice thereof. For sixty (60) days after delivery of such notice, the parties shall negotiate exclusively with each other in good faith to restructure their relationship in a mutually satisfactory manner (such as Oceanside purchasing all or part of the assets of the Branded Flight Program with REACH as a sole source aviation vendor). If the parties do not reach such a mutually satisfactory result within such time period, then REACH shall continue to operate normally hereunder until this Agreement is terminated by REACH, which it may do by giving written notice thereof to Oceanside as of any time after one hundred twenty (120) days after the end of the foregoing sixty (60) days time period.

## 5. Insurance.

(a) REACH’s Insurance Obligations. At all times during the term of this Agreement, REACH shall maintain in full force and effect, with insurance carriers duly authorized to do business in the jurisdictions in which the Branded Flight Program operates, the following types and minimum coverage limits of insurance (or such greater limits as are required by applicable Law) to insure for the liability of REACH: (i) commercial general liability insurance for death, bodily injury, property damage and for personal injury and aviation liability insurance covering injuries to passengers or third parties and damage to property in an amount not less than \$30,000,000 for any one occurrence or series of occurrences arising out of any one event, (ii) professional medical liability insurance in an amount not less than \$5,000,000 per claim and annual aggregate, (iii) comprehensive automobile liability (including hired, owned and non-owned vehicles) in limits of not less than \$1,000,000 per occurrence, for bodily injury and for property damage and (iv) workers’ compensation in compliance with the applicable statutory limits.

By appropriate riders or endorsements to REACH’s insurance policies, Oceanside shall be included as an additional insured with respect to the operations of REACH (with the exception of workers’ compensation policies).

REACH shall furnish to Oceanside a certificate of insurance from its insurance carriers or agent reflecting that REACH’s insurance coverages are consistent with all requirements under this Section.

(b) Oceanside's Insurance Obligations. At all times during the term of this Agreement, Oceanside shall be lawfully self-insured pursuant to the provisions of Government Code Section 990 et seq.

(c) Waiver of Subrogation. Oceanside and REACH each release and relieve the other, and waive the entire right to recover damages (whether in contract or tort) against the other for damage or loss to the releasing party's property arising out of an incident relating to the perils required to be insured against above.

(d) Survival. The provisions of this Section 5 shall survive the termination of this Agreement.

6. Indemnification.

(a) REACH's Indemnification Obligations. REACH agrees to indemnify, defend and hold harmless Oceanside from and against any loss, liability, demand, claim, action, cause of action, cost, damage, deficiency, tax, penalty, fine or expense, whether or not arising out of third party claims (including any of the foregoing to the extent they involve death or injury to any person or damage to any property and including interest, penalties, reasonable attorneys' fees and expenses and other reasonable dispute resolution costs and all amounts paid in investigation, defense or settlement of any of the foregoing) (collectively, "**Losses**") to the extent resulting from, in connection with or relating to: (i) any misrepresentation by REACH under this Agreement or breach by REACH of any warranty made by it in this Agreement, (ii) any breach by REACH of any of covenants, agreements or obligations in this Agreement, (iii) any wrongful or negligent acts or omissions of REACH relating to Transport Services; or (iv) any third party medical malpractice claim. Further, REACH at its own expense shall, upon written request by Oceanside, defend any such suit or action brought against Oceanside, its officers, agents, or employees founded upon, resulting or arising from the wrongful or negligent acts or omissions of REACH.

(b) Limitations. Neither REACH nor Oceanside shall indemnify the other party for any Losses resulting from the willful or negligent acts of the other party. In no event, whether as a result of contract, tort, strict liability or otherwise, shall either party be liable to the other for any punitive, special, indirect or consequential damages, including without limitation loss of profits, loss of use or loss of contract. The indemnification obligations shall be reduced by any insurance coverage or insurance proceeds a party may have with respect to a claim.

(c) Survival. The provisions of this Section 6 shall survive the termination of this Agreement.

7. Confidentiality. During the term of this Agreement and for a period of 2 years thereafter, each party shall keep the other party's Confidential Information (as defined below) confidential, and shall not disclose any such Confidential Information to others and shall not cause or permit others to use any such Confidential Information except as permitted hereunder. "**Confidential Information**" means all information of a confidential or proprietary nature (whether or not specifically labeled or identified as "confidential"), in any form or medium, that relates to the business, products, services or research or development of either party to this Agreement or their respective suppliers, distributors, customers, independent contractors, referring agencies or other business relations. Confidential Information includes, but is not limited to, the following: (i) internal business information (including information relating to strategic and staffing plans and practices, business, training, marketing, promotional and sales plans and practices, cost, transport volumes, rate and pricing structures and accounting and business methods), (ii) identities of, individual requirements of, specific contractual arrangements with, and information about, such party's suppliers, distributors, customers, independent contractors, referring agencies or other business relations and their confidential information, (iii) trade

secrets, know-how, compilations of data and analyses, techniques, systems, formulae, research, records, reports, manuals, documentation, models, data and data bases relating thereto, and (iv) inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports and all similar or related information (whether or not patentable); provided, however, that "Confidential Information" shall not include any information with respect to Oceanside or REACH that (x) is or becomes generally available to the public other than as a result of an unauthorized disclosure by the other party or its representatives, (y) becomes available to Oceanside or REACH, as the case may be, on a non-confidential basis from a source other than the other party or its representatives (provided that such source is not known by Oceanside or REACH, as the case may be, after reasonable inquiry to be bound by a confidentiality agreement with the other party or otherwise prohibited from transmitting the information to it by a contractual, legal or fiduciary obligation) or (z) the other party can establish was independently developed by it without violating the provisions of this Agreement.

Upon the termination of this Agreement, each party will return or destroy the other party's Confidential Information, except that (i) one archival copy to be kept confidential and segregated from such party's regular files may be retained by the party's legal counsel solely for verification purposes and (ii) archived electronic files may be retained subject to the foregoing confidentiality obligation. The provisions of this Section shall survive the termination of this Agreement.

Notwithstanding the foregoing, either party may disclose Confidential Information (A) if such party is required by subpoena or order in any judicial or administrative proceeding or by any authorized governmental entity to disclose Confidential Information or (B) if such party is required by the California Public Records Act, California Government Code Sections 6250 et seq. to disclose Confidential Information; provided, such party shall promptly notify the other party (if legally permissible) in writing of such request, so that the other party may resist such disclosure or seek an appropriate protective order or other remedy.

#### 8. Miscellaneous.

(a) Force Majeure. Neither REACH nor Oceanside shall be liable for any failure or delay in performance hereunder if the failure or delay is due to any cause beyond the reasonable control of such party, including war, terrorism or civil disorder, labor strike, acts of God, flood, earthquake, lightning, fire, storm or other natural disaster, failure of or accident to machinery or equipment, failure or delay of any third party to deliver equipment or supplies or change in any law, regulation, order or direction of any governmental authority (a "**Force Majeure Event**"). If either party is unable to perform by reason of a Force Majeure Event, it shall promptly notify the other party of the Force Majeure Event and the anticipated length of the delay in performance by reason thereof. If the Force Majeure Event extends without cure for more than 90 days after the date of such notice, either party shall have the right to terminate this Agreement, whereupon neither party shall have any further obligation hereunder (other than obligations under any provision of this Agreement that is expressly stated to survive the termination hereof). During any time for which a party is excused from its performance by a Force Majeure Event, the other party shall be (i) excused from any corresponding obligation to pay for such performance and (ii) authorized to cover such lack of performance internally or with third party suppliers.

(b) Interpretation. As used in this Agreement, the word "including" means without limitation, the word "or" is not exclusive and the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Each defined term used in this Agreement shall have a comparable meaning when used in its plural or singular form. Unless the context otherwise requires, references herein: (i) to Sections, Exhibits and Schedules mean the Sections of and the Exhibits and Schedules (if any) attached to this Agreement, (ii) to an agreement, instrument or document means such agreement, instrument or document as amended, supplemented and modified from time to time to the

extent permitted by the provisions thereof and not prohibited by this Agreement and (iii) to a statute means such statute as amended from time to time and includes any successor legislation thereto. The headings and captions used in this Agreement or in any Schedule or Exhibit hereto are for convenience of reference only and do not constitute a part of this Agreement and shall not be deemed to limit, characterize or in any way affect any provision of this Agreement or any Schedule or Exhibit hereto, and all provisions of this Agreement and the Schedules and Exhibits hereto shall be enforced and construed as if no caption or heading had been used herein or therein. Any capitalized terms used in any Schedule or Exhibit attached hereto and not otherwise defined therein shall have the meanings set forth in this Agreement. The Schedules and Exhibits referred to herein shall be construed with and as an integral part of this Agreement to the same extent as if they were set forth verbatim herein. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

(c) Entire Agreement. This Agreement contains the entire agreement and understanding among the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether written or oral, relating to such subject matter in any way. The preamble and preliminary statements set forth above are incorporated in this Agreement by reference and made a part hereof.

(d) Amendment and Waiver. This Agreement may be amended, and any provision of this Agreement may be waived; provided, that any such amendment or waiver will be binding on the parties only if such amendment or waiver is set forth in a writing executed by the parties. No course of dealing between or among any persons having any interest in this Agreement will be deemed effective to modify, amend or discharge any part of this Agreement or any rights or obligations of any person under or by reason of this Agreement. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver.

(e) No Third Party Beneficiary. Nothing in this Agreement, express or implied, is intended to confer upon any person other than Oceanside and REACH, or their respective successors or permitted assigns, any rights or remedies under or by reason of this Agreement, such third parties specifically including employees and creditors of either party.

(f) Assignment. This Agreement and the rights and obligations of the parties hereunder shall not be assignable or transferable by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed, and neither party shall assign, delegate or subcontract this Agreement or the performance of the services to be performed by such party hereunder, or any part thereof, to any other person without the prior written consent of the other party; provided, however, that (i) REACH shall have the right to assign, delegate or subcontract this Agreement or the performance of the services to be performed by it hereunder, or any part thereof, to any of its subsidiaries and to any purchaser of a material portion of its assets, so long as REACH remains liable for such subsidiary's or purchaser's obligations hereunder and is not the owner or operator, directly or indirectly, of another emergency air transportation services provider in the Service Area and (ii) REACH may assign its rights hereunder for collateral security purposes to any lender or lenders (including any agent for any such lender or lenders) providing financing to REACH or its Affiliates, or to any assignee or assignees of any such lender, lenders or agent.

(g) Notices. All notices, demands and other communications to be given or delivered under this Agreement shall be in writing and shall be deemed to have been given (i) when

personally delivered or sent by telecopy or electronic mail (with hard copy to follow) or (ii) one business day after being sent by reputable overnight express courier (charges prepaid), or (iii) five business days following mailing by certified or registered mail, postage prepaid and return receipt requested. Unless another address is specified in writing, notices, demands and communications to the parties shall be sent to the addresses indicated below:

Notices to Oceanside:

City of Oceanside  
Peter Weiss, City Manager  
300 North Coast Hwy  
Oceanside, CA 92054  
Telephone: (760) 435-3066

with a copy to:

City of Oceanside  
Darryl Hebert, Fire Chief  
300 North Coast Hwy  
Oceanside, CA 92054  
Telephone: (760) 435-4088  
Email: [DHebert@ci.oceanside.ca.us](mailto:DHebert@ci.oceanside.ca.us)

Notices to REACH:

REACH Air Medical Services, LLC  
Attn: Vice President  
451 Aviation Blvd., Suite 101  
Santa Rosa, CA 95403  
Telephone: 707.324.2418  
Telecopy: 707.324.2478  
Email: [eric\\_freed@reachair.com](mailto:eric_freed@reachair.com)

with a copy to:

Attn: General Counsel  
Air Medical Group Holdings, Inc.  
1001 Boardwalk Springs Place, Suite 250  
O'Fallon, MO 63368  
Telephone: 866.587.0504  
Telecopy: 866.650.0963  
Email: [cookthomas@amgh.us](mailto:cookthomas@amgh.us)

(h) Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable Law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

(i) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE DOMESTIC LAWS OF THE STATE OF CALIFORNIA, WITHOUT GIVING EFFECT TO ANY CHOICE OR CONFLICTS OF LAW PROVISION OR RULE. Prevailing Parties. In the event of any litigation with regard to this Agreement, the prevailing party or parties shall be entitled to receive from the non-prevailing party or parties, and the

non-prevailing party or parties shall pay, all legal fees and expenses and court costs incurred by the prevailing party or parties in connection with the resolution of such litigation.

(k) Counterparts. This Agreement may be executed in one or more counterparts (including by means of signature pages delivered by a facsimile machine or electronic mail), all of which taken together shall constitute one and the same instrument.

*[signature page next]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of, but not necessarily on, the date first above written.

**OCEANSIDE:**

**COMPANY:**

City of Oceanside, California

REACH Air Medical Services, LLC

By: \_\_\_\_\_  
Name: Peter Weiss  
Title: City Manager

By: \_\_\_\_\_  
Name: Eric Freed  
Title: Vice-President

State of California )  
County of \_\_\_\_\_ )

State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_, 2013 before me, \_\_\_\_\_, personally appeared Peter Weiss, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

On \_\_\_\_\_, 2013 before me, \_\_\_\_\_, personally appeared Eric Freed, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

Signature \_\_\_\_\_

(Seal)

(Seal)

**EXHIBIT "D"**  
**LESSEE IMPROVEMENTS**

**REACH Air Medical**  
**Oceanside FD Training Facility**  
**110 Jones Road**  
**Heliport and Related Facilities**

<u>Scope of Work</u>	<u>Est. Cost</u>
<b>Consultants</b>	
Heliport layout design & State/Fed entitlements	\$ 38,000
Engineering services (civil, electrical, architectural, etc.)	\$ 32,000
<b>Fees and Permits</b>	
Government, utility fees and permits	\$ 24,000
<b>Construction Improvements</b>	
Heliport (approximate 80' diameter as shown on Lease Exhibit B)	
Sitework preparation	\$ 25,000
Concrete & asphalt (1)	\$ 48,000
Lighting and electrical service connections	\$ 40,000
Crew Base & Utilities	
Pad improvements for crew trailer	\$ 23,000
Water, sewer & electrical connections	\$ 18,000
Total:	\$ 248,000

- (1) Includes additional asphalt surfacing outside of Heliport area as shown on Lease Exhibit B.

EXHIBIT "E"

Recording Requested by:  
When Recorded Return to:

CITY CLERK, CITY OF OCEANSIDE  
300 North Coast Highway  
Oceanside, CA 92054

(For Recorder's Use)

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**MEMORANDUM  
of  
PROPERTY LEASE AGREEMENT  
and  
INTEGRATED FIRE DEPARTMENT  
AIR AMBULANCE AGREEMENT**

THIS MEMORANDUM OF PROPERTY LEASE AGREEMENT AND INTEGRATED FIRE DEPARTMENT AIR AMBULANCE AGREEMENT ("Memorandum") is made as of August 7, 2013, by and between THE CITY OF OCEANSIDE, a municipal corporation ("City") and REACH AIR MEDICAL SERVICES, LLC, a California limited liability company ("Reach").

City and Reach have entered into that certain Property Lease Agreement dated August 7, 2013 ("Lease") and that certain Integrated Fire Department Air Ambulance Agreement ("Air Ambulance Agreement") of even date as the Lease, pursuant to which City and Reach have agreed to certain services to be performed and which the City has leased to Reach, and Reach has leased from City, that certain property located in the City of Oceanside, County of San Diego, State of California situated at 110 Jones Road, all subject to the terms and covenants set forth in the Lease and Air Ambulance Agreement, which are public records on file in the Office of the City Clerk of the City of Oceanside. The purpose of this Memorandum is to give notice of the existence of the Lease and the Air Ambulance Agreement and the provisions thereof, including without limitation provisions providing for an initial term of five (5) years and providing for one (1) successive five (5) year extension of the term [if applicable]. To the extent that any provision of this Memorandum conflicts with any provision of the Lease and the Air Ambulance Agreement, the Lease and Air Ambulance Agreement shall control.

This Memorandum may be executed in counterparts, each of which shall be an original, but all of which, together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Memorandum as of, but not necessarily on, the date first written above.

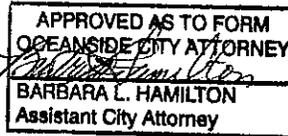
“CITY”

THE CITY OF OCEANSIDE,  
a municipal corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



“REACH”

REACH AIR MEDICAL SERVICES, LLC  
a California limited liability company

By: Eric Freed

Name: Eric Freed

Its: Vice President

Title: Vice President