

AMENDMENT TO LEASE AGREEMENT BETWEEN
THE CITY OF HUNTINGTON BEACH AND
TANK FARM, LC

THIS AMENDMENT TO LEASE AGREEMENT BETWEEN THE CITY OF HUNTINGTON BEACH AND TANK FARM, LC (this “Amendment”) is made and entered into as of _____, 2025, but effective as of the Effective Date (defined below), by and between the CITY OF HUNTINGTON BEACH, a California municipal corporation, hereinafter referred to as “City,” or “Tenant” and TANK FARM, LC, a Utah limited liability company, hereinafter referred to as “Landlord.”

WHEREAS, City and Landlord are parties to that certain lease agreement, dated February 6, 2006, entitled “Lease Agreement Between Tank Farm, LC and the City of Huntington Beach” which agreement shall hereinafter be referred to as the “Original Agreement”;

WHEREAS, the current TERM of the Original Agreement is scheduled to expire on September 30, 2024; and

WHEREAS, City and Landlord wish to amend the Original Agreement to extend the term, and provide other additional provisions effective as of December 1, 2025 (“Effective Date”), on the terms and conditions set forth herein. The Original Agreement, as amended by this Amendment is referred to herein as the “Lease.”

NOW, THEREFORE, it is agreed by City and Landlord as follows:

1. TERM

The TERM of the Lease is extended for an additional fifteen (15) years (“Extension Term”; all references in the Lease to the TERM shall mean and refer to the TERM as extended by the Extension Term), commencing on October 1, 2025 and expiring on September 30, 2040, unless sooner terminated as provided therein. Section 21 of the Original Agreement is hereby

deleted in its entirety. The City shall have no further right or option to extend the TERM of the Lease.

2. RENT

During the Extension Term, the BASE RENT payable under the Original Agreement shall remain in effect until the date that the City Improvements identified in Section 5 of this Amendment are completed to Landlord's satisfaction in accordance with this Amendment ("Base Rent Adjustment Date"). Commencing on the Base Rent Adjustment Date, the BASE RENT to be paid from City to Landlord shall be adjusted to One Dollar (\$1.00) per year, which shall be paid on or before the first day of each calendar year during the remainder of the Extension Term.

3. LICENSE TO LANDLORD

Commencing on the Base Rent Adjustment Date through and including the expiration of the Extension Term ("License Term"), City hereby grants to Landlord an exclusive irrevocable license to use the Premises (the "License") for any and all lawful purposes, subject to City's Municipal and Zoning Codes, and all other such laws, regulations, rules that may apply to the Premises. The City will work with Landlord to obtain permits for Landlord to build a 5,000 square foot building, and related improvements, matching the existing buildings adjacent to the Premises. If Landlord shall fail to obtain such Approvals on or before the date that is one year after the Effective Date, Landlord shall have the unilateral right to declare this Amendment to be null and void, by delivering written notice thereof to City at any time thereafter, in which event and all provisions of this Amendment shall be null and void and City shall promptly surrender the Premises in accordance with the Original Agreement. Additionally, Landlord shall:

- a. Pay to City an annual License Fee of One Dollar (\$1.00).

b. The indemnification and insurance requirements in the Original Agreement shall not be in any way modified by this Amendment, however, with regard to this License to Landlord, Landlord hereby agrees to protect, defend, indemnify and hold harmless City, its officers, elected or appointed officials, employees, agents and volunteers from and against any claims, damages, losses, expenses, judgments, demands and reasonable defense costs (including, without limitation, reasonable costs and fees of litigation of every nature or liability of any kind or nature) (collectively, "Claims") arising out of or in connection with Landlord's (or Landlord's sub-licensee, if any) use of the Premises during the License Term pursuant to this License, including any negligent (or alleged negligent) performance of this License, but excluding the following Claims (collectively, "Excluded Claims") (i) Claims resulting from the negligence or willful misconduct of the City or its agents, representatives, officers, elected or appointed officials, employees, volunteers, contractors or consultants, (ii) Claims related to conditions present on the Premises prior to the commencement of the License Term or otherwise related to matters occurring or accruing prior to the commencement of the License Term, and (iii) Claims for which the City is liable under the Original Agreement (as amended hereby), including, without limitation, Claims resulting from the use or occupancy of the Premises by the City whenever occurring, whether during the original TERM or the Extended Term, including, without limitation, any environmental claims under the Original Agreement, all of which Excluded Claims shall remain the obligation and liability of the City. Landlord will conduct all defense at its sole cost and expense. This indemnity shall apply to all claims and liability, other than Excluded Claims,

regardless of whether any insurance policies are applicable. The policy limits do not act as limitation upon the amount of indemnification to be provided by Landlord.

c. Notwithstanding the foregoing License, City acknowledges and agrees that it shall remain responsible for all obligations and responsibilities of the Tenant under the Original Agreement. Without limiting the foregoing, City shall remain responsible for compliance with all Applicable Law in a timely manner. City represents and warrants to Landlord that as of the date hereof, City has complied in respects with all Applicable Laws, including, without limitation, making all required notifications and disclosures to all applicable governmental authorities as required by Applicable Law.

4. CITY'S RIGHT OF FIRST REFUSAL

So long as no Event of Default has occurred under the Lease, Landlord grants to City a one-time right of first refusal (the "Right of First Refusal") to purchase the legal parcel on which the Premises are located which is commonly known as 19081 Huntington Street, Huntington Beach, California, and as more particularly described on Exhibit B attached hereto (the "ROFR Property") on the terms and conditions set forth herein:

a. Unless otherwise terminated as set forth herein, the term of the Right of First Refusal shall be concurrent with the TERM of the Original Agreement as extended by this Amendment, provided, however, that from and after the occurrence of any Event of Default by the City, the Right of First Refusal shall immediately terminate and be of no further force or effect.

b. If Landlord receives an offer to sale the ROFR Property, including or not the adjacent parcel and improvements (solicited or unsolicited) that Landlord is willing to accept, in its sole and absolute discretion ("Acceptable Offer"), Landlord shall notify City

of such Acceptable Offer and deliver to City a copy of the material terms thereof (“Material Terms”). City may exercise the Right of First Refusal by delivery to Landlord of written notice of acceptance of all of the Material Terms (the “Right of First Refusal Notice”) within thirty (30) days after City has received Landlord’s notice of such Acceptable Offer and the closing of the purchase and sale of the ROFR Property shall be substantially in accordance with the Material Terms. In the event City does not timely deliver a Right of First Refusal Notice exercising the Right of First Refusal, the City shall be conclusively deemed to have waived the Right of First Refusal and the Right of First Refusal shall expire and be of no further force or effect, Landlord may sell the ROFR Property to such buyer or any other buyer (on the Material Terms or any other terms acceptable to Landlord in its sole and absolute discretion) and Landlord’s interest in the Lease shall be assigned to the buyer and the Lease shall remain in full force.

c. The purchase price of the ROFR Property shall be as set forth in the Material Terms.

d. Landlord may transfer the ROFR Property, including, without limitation, the Premises and Landlord’s interest in the Lease, to any related party or any lender who is granted a security interest in the ROFR Property at its sole discretion without City approval and without triggering the First Right of Refusal clause. Landlord shall notify City following any change in ownership.

5. OBLIGATIONS REGARDING EXISTING IMPROVEMENTS

As soon as reasonably possible following the Effective Date, but in all events on or prior to one hundred twenty (120) days after the Effective Date, City shall remove all existing concrete and fencing on the Premises and unless, otherwise instructed by Landlord, City will remove all

existing utility lines from the Premises at City's sole cost and expense, and install new concrete and fencing over the entirety of the Premises, all pursuant to specifications and with materials as approved by Landlord in its sole and absolute discretion (collectively, the "City Improvements"), all at City's sole cost and expense. The City Improvements shall be performed by City in compliance with all applicable laws, statutes, ordinances, regulations, building codes and all orders from governmental and quasigovernmental authorities, including without limitation all applicable laws, statutes and ordinances related to hazardous substances and materials (collectively, "Applicable Law"). Within ten (10) business days after the Effective Date, City shall provide to Landlord its proposed schedule for the performance of such City Improvements. Landlord may, at Landlord's sole cost and expense, install new utility lines on the Premises prior to the installation of the new concrete. The City shall reasonably cooperate with Landlord regarding the timing of the completion of the City Improvements to allow adequate time for Landlord to install such new utility lines. The City Improvements shall not be deemed to be "complete" hereunder until such time as the City Improvements have been inspected and accepted by Landlord, in its sole and absolute discretion. At the expiration or earlier termination of the Lease, City shall remove such City Improvements and perform all other remediation and surrender obligations required under the Original Agreement. The City shall indemnify, defend and hold Landlord harmless from all Claims in any way resulting from the City Improvements or the construction or installation thereof.

6. ATTORNEY FEES

In the event of a dispute concerning the terms of this Amendment, the prevailing party shall be entitled to attorney fees.

7. DEPICTION OF PREMISES.

Exhibit A to the Original Agreement is hereby deleted in its entirety and replaced with Exhibit A attached hereto.

8. REAFFIRMATION

Except as otherwise specifically modified in this Amendment, the Original Agreement has not been modified, supplemented, amended, or otherwise changed in any way and the except as specifically modified herein, all other terms and conditions of the Original Agreement shall remain in full force and effect. To the extent of any inconsistency between the terms and conditions of the Original Agreement and the terms and conditions of this Amendment, the terms and conditions of this Amendment shall control.

9. SUCCESSORS AND ASSIGNS

This Amendment shall extend to, be binding upon, and inure to the benefit of, the respective successors and permitted assigns and beneficiaries of the parties hereto.

10. COUNTERPARTS

This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same Amendment. For purposes of this Amendment, signatures by facsimile or electronic PDF shall be binding to the same extent as original signatures.

11. AUTHORITY

Landlord and City each represents that the individual signing this Amendment on behalf of such party has the authority to execute and deliver this Amendment on behalf of such party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed
by and through their authorized officers on _____, 2025.

TANK FARM, LC, a Utah
Limited liability company

CITY OF HUNTINGTON BEACH
a California municipal corporation

By: _____
Its: _____

Mayor

AND

City Clerk

By: _____
Its: _____

APPROVED AS TO FORM:

City Attorney

INITIATED AND APPROVED:

REVIEWED AND APPROVED:

Fire Chief

City Manager

Exhibit A

Depiction of the Premises

The Premises leased to the TENANT consist of a portion of improved real property located in the City of Huntington Beach, County of Orange, State of California. The entire parcel of improved real property is commonly known as 19081 Huntington Street, Huntington Beach, California and is more particularly described as Parcel 1 of Parcel Map 82-575 recorded in Book 177 at Page 26 of Maps in the office of the Orange County Recorder.

The leased portion of said real property, referred to herein as the Premises, is depicted in the diagram below, and it is designated as the lightly shaded portion of the parcel. The Premises are that portion of the parcel containing four tanks enclosed by the immediately adjacent chain-link fencing.

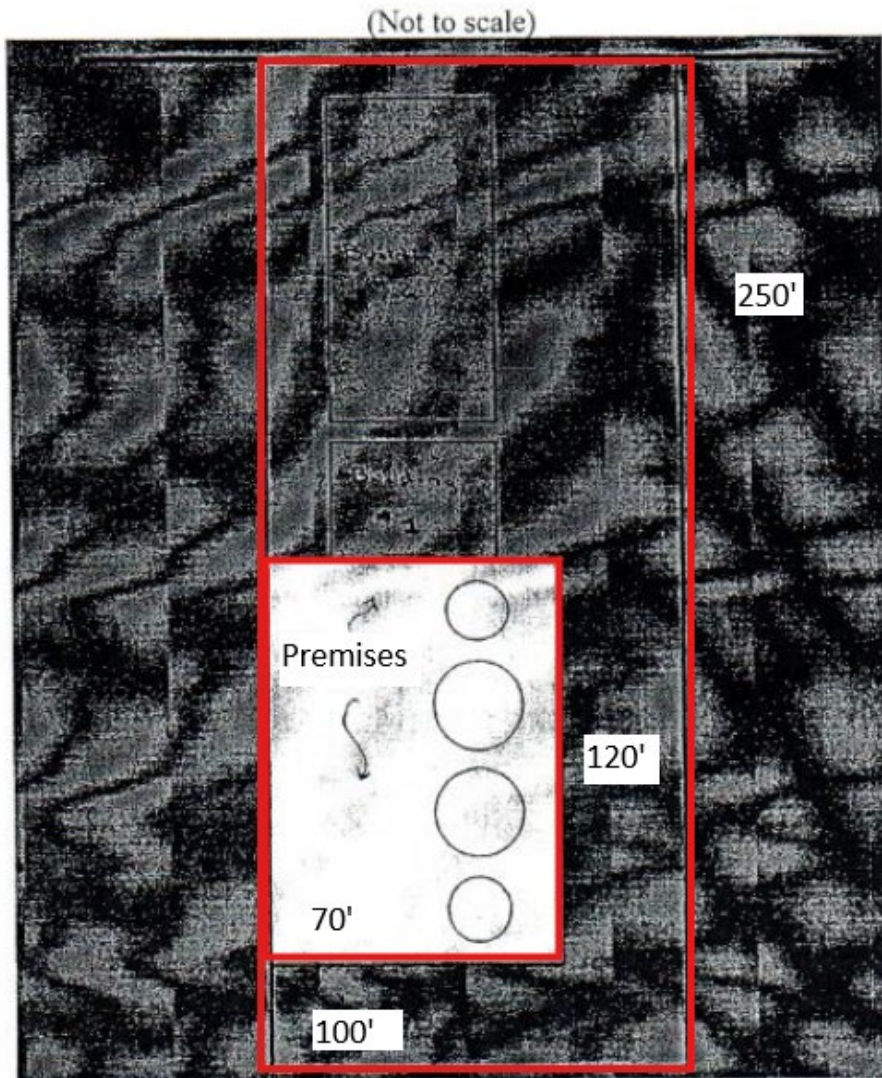


Exhibit B

Legal Description of the ROFR Property

That certain real property located in the City of Huntington Beach, County of Orange, State of California, and more particularly described as Parcel 1 of Parcel Map 82-575 recorded in Book 177 at Page 26 of Maps in the office of the Orange County Recorder.