

CITY OF SAN DIEGO
REQUEST FOR
MAYORAL ACTION

TO: MAYOR	FROM: San Diego Police Department	DATE: 7/16/2007
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SUBJECT:
Lease agreement between the City (Police Department) and the Poway Unified School District for a police community storefront at Los Penasquitos Elementary School

ACTION REQUESTED:
Approve a lease agreement between the City and Poway Unified School District, Los Penasquitos Elementary School and authorize the monthly expenditure of \$1,600 for rent for FY 2008 from Police Department Fund No.100

SUPPORTING INFORMATION:
Environmental Impact: This activity is categorically exempt from CEQA pursuant to State CEQA Guidelines, Section 15301 (C).

Community Area : Rancho Penasquitos

Council District: 1

Attachments: Lease Agreement

Document No. C- 14317
Filed SEP 24 2007
Office of the City Clerk
San Diego, California

Due to a significant increase in rent, the Police Department was forced to close the police storefront located in the Carmel Mountain Ranch area in May of 2006. In an effort to better serve the community, the Department conducted a search of potential replacement sites for this storefront. The Poway Unified School District has offered to lease 960 square feet of space at Los Penasquitos Elementary School (14125 Cuca Street, San Diego, 92129) to the Police Department on a month-to-month basis for a period not to exceed three years.

Fiscal Impact: \$19,200 annually to be paid from San Diego Police Department Fund 100. Monthly utilities and maintenance will be paid by the Poway Unified School District.

PLEASE ROUTE TO THE APPROPRIATE AUTHORITY

			ROUTING AND APPROVAL		
			APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE
ACCOUNTING INFORMATION	BUDGETED	UNBUDGETED	ORIGINATING DEPARTMENT		
FUND	100			<i>[Signature]</i>	8/7/07
DEPARTMENT	110		CLEARING AUTHORITY		
ORGANIZATION	59921		<i>EAS</i>	<i>[Signature]</i>	8/21/07
OBJECT ACCOUNT	4682		CLEARING AUTHORITY		
JOB ORDER NUMBER	059921		<i>READ</i>	<i>[Signature]</i>	8/16/07
C.I.P. NO.	N/A		FINANCIAL MANAGEMENT		
FACILITY	N/A			<i>[Signature]</i>	8/9/07
AMOUNT	\$19,200.00		AUDITOR		
ESTIMATED COST:				<i>[Signature]</i>	8/17/07
\$19,200.00			DEPUTY CHIEF		
AUDITOR'S CERTIFICATE NUMBER:				<i>[Signature]</i>	9/12/07
(FOR AUDITOR'S USE ONLY)			ORIGINATING DEPARTMENT		
2800126				<i>[Signature]</i>	9/12/07
FOR INFORMATION CONTACT:			COO		
236-6986			<i>[Signature]</i>		9.17.07
NAME:			CITY ATTORNEY		
Rita Castillo / <i>CHARMAINE Gillis</i>				<i>[Signature]</i>	9.20.07
MAIL STATION:			STACY CITY CLERK		
770 (619) 525-8450			<i>READY</i>	<i>[Signature]</i>	9-24-07

The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE

AC 2800126

ORIGINATING

DEPT. NO.: 110

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: _____ Fund: _____

Purpose: _____

Date: _____ By: _____

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										

FUND OVERRIDE ☐

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$19,200.00

Vendor: Poway Unified School District, Los Penasquitos Elementary School

Purpose: Authorizing the expenditures for the lease agreement between the City and Poway Unified School District, Los Penasquitos Elementary School and authorize the monthly expenditure of \$1,600 for rent for FY 2008 from Police Department Fund No. 100

Date: August 17, 2007 By: 

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
1	0	100	110	59921	4682	59921				19,200.00
TOTAL										19,200.00

AC-361 (REV 2-92)

FUND OVERRIDE ☐

C- 14317

AC 2800126

LEASE AGREEMENT

This Lease Agreement, is entered into by and between POWAY UNIFIED SCHOOL DISTRICT of San Diego County, California, and the CITY OF SAN DIEGO, a California municipal corporation, whose address is Real Estate Assets Department, 1200 Third Avenue, Suite 1700, MS 51A, San Diego, CA 92101, hereinafter called respectively the "School District" and the "Lessee" without regard to number or gender.

WITNESSETH:

- A. Premises. That property hereinafter described will be leased to Lessee to be used exclusively for a San Diego Police Department Storefront, or Community Relations Storefront and for all reasonable and lawful purposes incidental thereto and for no other purposes.
1. Description of Leased Premises. The School District hereby leases to the Lessee and the Lessee hires from the School District a modular trailer ("Premises") comprising approximately nine hundred sixty (960) square feet located near and more particularly described as follows:

Room 25 or comparable space mutually agreed to by School District and Lessee on the Los Penasquitos Elementary School Site
14125 Cuca Street
San Diego, CA 92129
 2. The failure of the Lessee or any assignee or sub-Lessee of Lessee to use the Premises for the purposes for which they are demised shall be grounds for termination of the lease.
- B. Term of Lease. The term of this lease shall be on a month-to-month basis for a period not to exceed three (3) years, commencing on the first day of the month following execution by the School District and Lessee and approval by the City of San Diego Attorney. Lessee may terminate Lease with a 30 day advance written notice. School District may terminate lease with a 60 day advance written notice.
- C. Rent. The rent shall be One Thousand Six Hundred and no/100 (\$1,600.00) per month, payable to the Poway Unified School District in advance no later than the first day of each month.
- D. General Provisions It is further mutually agreed by the parties as follows that:
1. Quiet Possession. Lessee, paying the said rent and performing the covenants and agreements hereof, shall and may at all times during the said terms peaceably and quietly have, hold and enjoy the said Premises for the term aforesaid and access to the leased Premises twenty-four hours, seven days a week. If School District for any reason whatsoever cannot deliver possession of Premises to Lessee at commencement of said term as hereinbefore specified or, if Lessee is dispossessed

through action of a title superior to School Districts' then and in either of such events, this lease shall not be void or voidable nor shall School District be liable to Lessee for any loss or damage resulting therefrom; but there shall be determined and stated in writing by the Board of Trustees of the School District a proportionate deduction of the rent covering the period or periods during which Lessee is prevented from having the quiet possession of the demised Premises. It is agreed that School District and Lessee is not a partnership and School District shall not advertise San Diego Police Department in brochures or in any other manner.

2. Insurance. School District is aware that the Lessee is self insured. The City's Risk Management Department upon request will provide School District with proof of self insurance coverage which shall be kept in force at all times during the term of the lease. School District shall, throughout the term, provide, maintain and keep in force the following insurance covering landlords operations and the Premises: (a) commercial general liability insurance; (b) all risk insurance or fire insurance (with standard extended coverage endorsement perils covering all fixed improvements therein) and provide proof upon Lessee's request.
3. Improvements, Repair, Alterations. At its own expense, if in the opinion of the School District it is consistent with the purpose of this lease, Lessee may make any alterations or changes in the leased Premises or cause to be made, built or installed thereupon, any improvements necessary or desirable including signage for Lessee's use of said Premises and may alter and repair any such improvements; provided, however, that such alterations and changes shall not be made and such improvements shall not be built or installed and major repairs thereto shall not be made, except in accordance with plans and specifications previously submitted to said School District and approved, in writing, by it, which approval shall not be unreasonably denied. Lessee agrees to obtain any and all permits and governmental approvals, if any, as may be required by law in relation to any improvements repairs or alteration. Lessee further agrees to comply with CEQA and assume responsibility for any and all environmental review which may be required in relation to any improvements, repairs or alteration. Lessee agrees to take good care of the leased Premises, fixtures and appurtenances, and of all alterations, additions and improvements to any of them and make all repairs in and about the same that may be necessary to preserve them in good order and condition (which repairs shall be equal to the original work in respect to quality), and promptly pay the expense of such repairs. School District shall not be required to make any improvements, repairs or alterations not herein specifically required. Lessee hereby waives all right to make repairs at the expense of School District as provided in Section 1942 of the Civil Code of the State of California and all rights provided for by Section 1941 of said Civil Code. By entry hereunder, Lessee accepts the Premises as being in good, safe and sanitary order, condition and repair, and agrees on the last day of the term or any extension thereof or any sooner termination of this lease to surrender to School District the Premises with improvements in the same condition as when received or as they may have been put into, subject, however, to Section (5) hereinafter.

4. Ownership of Improvements. All improvements hereafter situated upon the land hereby leased shall be and become a part of the leased Premises, and Lessee shall have only a leasehold interest therein, subject to all the terms and conditions of this lease; provided, however, the Lessee will, at the option of the School District at the termination of said lease, or any extension thereof, promptly remove any and all such improvements, said removal to be at no cost and expense to the School District, and the Lessee will fully repair any damage occasioned by said removals. Lessee will not be responsible for building structural, systems, parking lot and common areas.
5. Mechanic's Liens/Stop Notices. Lessee will save School District free and harmless, indemnify it against all claims for labor and materials in connection with improvements, repair or alterations to the leased Premises, and the costs of defending against such claims, including reasonable attorney's fees.

In the event that a lien is recorded under Chapter II of Title 4 of Part 3 of the California Code of Civil Procedure against the leased Premises and the lienholder attempts to perfect such lien by lawsuit and the Lessee has failed to comply with the requirements of this paragraph the School District may, at its option, forthwith terminate this lease.

6. Entry and Inspection. School District shall have the right to enter said Premises for emergency purposes only (with 48 hours or more advance written notice). In the event that such entry or inspection by School District discloses that said Premises are not in a safe, healthy and satisfactory condition, School District shall have the right, after ten (10) days written notice to Lessee, to have any necessary maintenance work done for and at the expense of Lessee, and Lessee hereby agrees to pay promptly any and all cost incurred by School District in having such necessary maintenance work done in order to keep said Premises in a safe and healthy condition. The rights reserved in this and the following section shall not create any obligation on School District or increase obligations elsewhere in this issue imposed on School District.
7. Assignment. Lessee shall not assign this lease, or any interest therein, and shall not sublet the said Premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person (the agents, officers and employees of School District excepted) to occupy or use the said Premises without the prior written consent of the Board of Trustees of the School District. Consent to assignment or subletting is contingent upon the assignee or subtenant fulfilling the purposes of this lease and agreeing in writing to be bound by all the terms of this lease. A consent to one assignment, subletting, occupation or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation or use by another person. Any such assignment or subletting without such consent shall be void and shall, at the option of School District, terminate this lease. This lease shall not, nor shall any interest therein, be assignable, as to the interest of Lessee, by operation of law by reason of any bankruptcy, insolvency, receivership proceedings

or attachment, execution or other judicial process or sale by or against said Lessee, without the written consent of the Board of Trustees of the School District.

8. Compliance with Law. The Lessee shall, at its sole cost and expense, comply and secure compliance with all the requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the said Premises, or the operations conducted thereon, and shall faithfully observe, and secure observance with, in the use of the Premises, all municipal ordinance and state and federal statutes now in force or which may hereafter be in force, and shall pay before delinquency all taxes, assessments, and fees assessed or levied upon the Lessee or the leased Premises by reason of any building, structures, machines, appliances or other improvements of any nature whatsoever, erected, installed or maintained by Lessee or by reason of the business or other activities of Lessee upon on in connection with the said demised Premises. The judgment of any court of competent jurisdiction, or the admission of Lessee or any sub-Lessee or permittee in any action or proceeding against them or any of them, whether the School District be a party thereto or not, that the Lessee, sub-Lessee or permittee has violated any such ordinance or statute in the use of the Premises shall be conclusive of that fact as between School District and Lessee.
9. Changes made to Premises. Any structural changes, alterations or additions in or to the Premises which may be necessary or required by reason of any law, rule, regulation or other order promulgated by competent governmental authority (including, without limitation, the Americans with Disabilities Act), and which is not occasioned by Lessee's use of the Premises, shall be made by and at the sole cost and expense of School District. Any structural change, alteration or addition to the Premises which may be necessary or required by reason of any law, rule, regulation or order promulgated by competent governmental authority (including, without limitation, the Americans with Disability Act) which alteration is required because of Lessee's use of the Premises shall be made by School District (or Lessee, at School District's election) at the sole cost and expense of Lessee. Either party to this Lease may contest the validity of any such law, rule, regulation or order, but the contesting party shall indemnify and save the other harmless against the consequences of continued violation thereof pending such contest.
10. Utilities and Custodial Support. The School District shall assume the responsibility for the utilities and custodial support of the facility. Custodial support shall be provided in the same manner, at the same level and at the same time intervals as such support is provided at the school site at large. Custodial support in addition to this level of service shall be undertaken at the expense of Lessee and performed during open hours, Monday through Fridays between 0900-1700.
11. Assigns. Time is of the essence of each and all of the terms and provisions of this lease and this lease shall inure to the be benefit of and be binding upon the parties hereto and any successors of Lessee as fully and to the same extent as though specifically mentioned in each instance, and all covenants, stipulations and

agreements in this lease shall extend to, and bind any assigns or sub-Lessees of Lessee.

12. Waiver. The waiver by School District of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such terms, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by School District shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant or condition of this lease, other than the failure of Lessee to pay the particular rental so accepted, regardless of School District's knowledge of such preceding breach at the time of acceptance of such rent, nor shall any failure on the part of the School District to require or exact full and complete compliance with any of the covenants, conditions or agreements of this lease be construed as in any manner changing the terms hereof or to stop School District from enforcing the full provisions hereof, nor shall the terms of this lease be changed or altered in any manner whatsoever other than by written agreement of the School District and Lessee.
13. Merger. The voluntary or other surrender of this lease by Lessee or a mutual cancellation thereof, shall not work a merger, and shall, at the option of School District, terminate all or any existing subleases or subtenancies, or may, at the option of School District, operate as an assignment to it of any or all such subleases or subtenancies.
14. Notices. Any notice or notices provided for by this lease or by law to be given or served upon Lessee may be given or served by depositing in the United States mail, postage prepaid, a letter addressed to said Lessee at the address stated at the commencement hereof, or may be personally served upon said Lessee (or any one of them), or any person hereafter authorized by Lessee to receive such notice; and any notice or notices provided for by this lease to be served upon School District may be given or served by letter addresses to the Board of Trustees of the Poway Unified School District at 13626 Twin Peaks Road, Poway, California 92064-3034. Any notice or notices given or served as provided herein shall be effectual and binding for all purposes upon the principals of the parties so served.
15. Remedies of School District. In the event that Lessee shall default in the performance or fulfillment of any covenant or condition herein contained on his part to be performed or fulfilled and shall fail to cure such default within sixty (60) days following the service on him of a written notice from School District specifying the default or defaults complained of and the date on which his rights hereunder will be terminated as hereinafter provided if such default or defaults is or are not cured, then in either or any of said events, School District may at its option, without further notice or demand upon Lessee or upon any person or persons claiming by, through or under Lessee, immediately cancel and terminate this lease and terminate each, every and all of the rights of Lessee and of any and all persons claiming by, through or under Lessee in or to the leased Premises and in or to the further possession thereof and may thereupon enter into and upon the leased

Premises and repossess the same and expel Lessee and any and all persons claiming by, through or under Lessee. The rights and remedies of School District as hereinabove set forth, are cumulative only and shall in no wise be deemed to limit any of the other provisions of this lease or otherwise to deny to School District any right or remedy at law or in equity which School District may have or assert against Lessee under any law in effect at the date hereof or which may hereafter be enacted or become effective, it being the intent hereof that the rights and remedies of School District, as hereinabove set forth, shall supplement or be in addition to or in aid of the other provisions of this lease and of any right or remedy at law or in equity which School District may have against said Lessee.

16. Holding Over. Any holding-over after the expiration of said term for any cause shall be construed to be a tenancy from month to month, at the proportionate rate of the rental which has been effect immediately prior to the expiration of said term, and shall otherwise be on the terms and conditions herein specified so far as applicable. Such holding-over shall include any time employed by Lessee in removing fixtures and improvements as hereinbefore provided.
17. Mutual Indemnification by Lessee. Lessee and its successors, assigns, and guarantors, if any, jointly and severally agree to protect, indemnify, defend (with counsel selected by School District) reimburse and hold School District and its officers, employees and agents harmless from any claims, judgments, damages, penalties, fines, costs or expenses (known or unknown, contingent or otherwise), liabilities (including sums paid in settlement of claims), personal injury (including wrongful death), property damage (real or personal) or loss, including reasonable attorneys' fees, consultants' fees, and experts' fees (consultants and experts to be selected by School District) which arise as a result of Lessee's occupancy of the Premises. The Indemnification provisions in this Agreement shall be in addition to any and all obligations and liabilities Lessee may have to School District at common law, and any remedies provided for herein shall survive the expiration or termination of this Lease Agreement and/or any transfer of all or any portion of the Premises, or of any interest in the Premises occupied by Lessee, and shall be governed by the laws of the State of California.
18. Damage or Destruction of Improvements. The damage or destruction of improvements on the Premises shall not terminate this lease.
19. Waste: Care of Premises. Lessee shall give prompt notice to the School District of any damage to the leased Premises. Lessee shall not commit, or suffer to be committed, any waste or injury, or any public or private nuisance on the leased Premises and shall keep the Premises clean and clear of refuse and obstructions and shall dispose of all garbage, trash and rubbish in a manner satisfactory to the County.

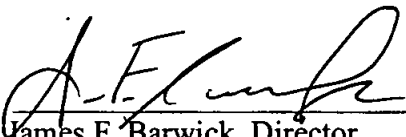
E. Special Provisions. It is further mutually agreed by the parties as follows: that

Covenants of Parties. School District covenants and agrees to keep and perform all the terms and conditions hereof on its part to be kept and performed, and that Lessee, paying the rent in the amounts, at the times and in the manner herein provided and keeping and performing all the terms and conditions hereof on its part to be kept and performed, may, subject to the terms and conditions hereof, have and hold the property hereby leased, for the term hereof, without let or hindrance by School District.

Lessee covenants and agrees to pay the rent and all other sums required to be paid by Lessee hereunder in the amounts, at the times and in the manner herein provided and to keep and perform all the terms and conditions hereof on its part to be kept and performed, and, at the expiration or sooner termination of this lease, peaceably and quietly to quit and surrender to School District the property hereby leased in order and condition subject to the other provisions of this lease. The performance of each and every covenant of Lessee hereunder shall be a condition of nonperformance for which this lease may be terminated, as in this lease provided.

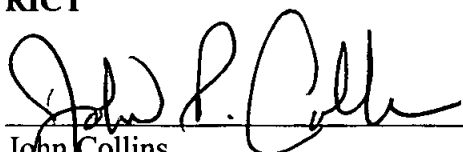
IN WITNESS WHEREOF, the parties hereto have executed this instrument in duplicate by proper persons thereunto duly authorized as of the day and year first hereinabove written.

LESSEE: CITY OF SAN DIEGO

By: 
James F. Barwick, Director
Real Estate Assets Department

By: 
Deputy City Attorney

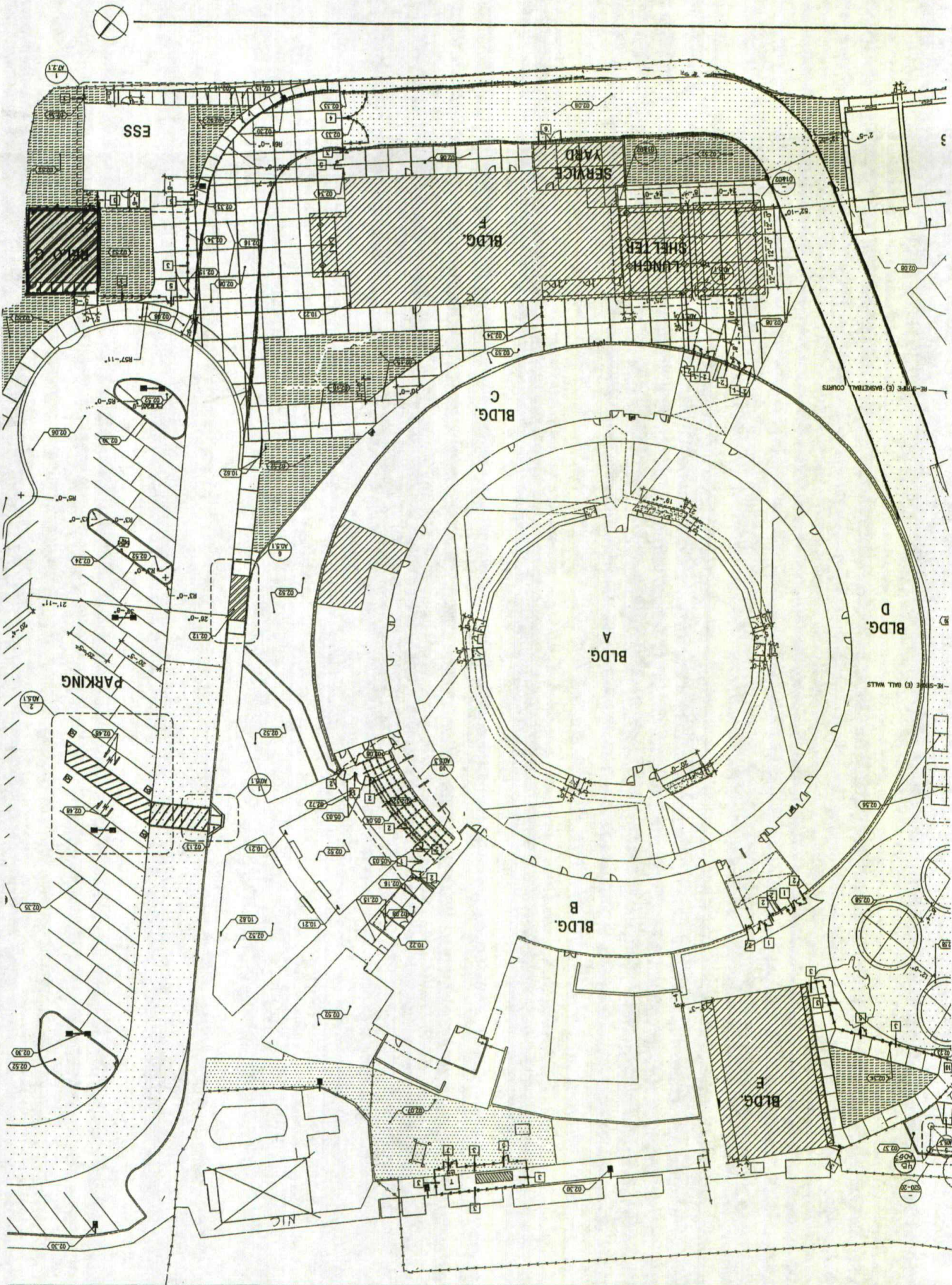
LESSOR: POWAY UNIFIED SCHOOL DISTRICT

By: 
John Collins
Deputy Superintendent 9-11-2007

CG/nb

7/24/07

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DUPLICATE

Document No. C-14317
Filed SEP 24 2007
Office of the City Clerk
San Diego, California

LEASE AGREEMENT

This Lease Agreement, is entered into by and between POWAY UNIFIED SCHOOL DISTRICT of San Diego County, California, and the CITY OF SAN DIEGO, a California municipal corporation, whose address is Real Estate Assets Department, 1200 Third Avenue, Suite 1700, MS 51A, San Diego, CA 92101, hereinafter called respectively the "School District" and the "Lessee" without regard to number or gender.

WITNESSETH:

- A. Premises. That property hereinafter described will be leased to Lessee to be used exclusively for a San Diego Police Department Storefront, or Community Relations Storefront and for all reasonable and lawful purposes incidental thereto and for no other purposes.
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Room 25 or comparable space mutually agreed to by School District and Lessee on the Los Penasquitos Elementary School Site
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1. Quiet Possession. Lessee, paying the said rent and performing the covenants and agreements hereof, shall and may at all times during the said terms peaceably and quietly have, hold and enjoy the said Premises for the term aforesaid and access to the leased Premises twenty-four hours, seven days a week. If School District for any reason whatsoever cannot deliver possession of Premises to Lessee at commencement of said term as hereinbefore specified or, if Lessee is dispossessed

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