

TEMPORARY ACCESS AND PARKING LICENSE

THIS TEMPORARY ACCESS AND PARKING LICENSE ("License") is entered into by and between 52 BLUE FALCON, LLC, a California corporation ("Property Owner"), and THE CITY OF SAN DIEGO, a California municipal corporation ("City"), to be effective as of December 1, 2017, (the "Effective Date"), when signed by the parties and approved by the San Diego City Attorney.

RECITALS

- A. Property Owner is the owner of that certain real property consisting of 1.8-acres located at 6650 Montezuma Road, San Diego, CA 92115, Assessor's Parcel Number 468-120-06 ("Property"). The former College Lutheran Church building, which is now vacant, is located on the Property. Property Owner seeks to demolish the improvements and redevelop the Property.
- B. City owns certain real property adjacent to the Property. The City's property is located at 6600 Montezuma Road, San Diego CA, 92115, upon which is the City of San Diego, College-Rolando Branch Library ("City Library"). The City Library does not have a driveway from Montezuma Road.
- C. On September 14, 2017, the City of San Diego Planning Commission considered Property Owner's Report No. PC-17-081 ("Report") requesting an amendment to the College Area Community Plan to re-designate the Property Owner's land from Low-Medium Density Residential and General Commercial to General Commercial that would allow for commercial and/or mixed-use residential uses (together the Community Plan and General Plan Amendment" are referred to as the "Amendment"). Property Owner acknowledges that the proposed Amendment is a discretionary action and this License does not constitute an endorsement of the proposed Amendment. Neither the City, nor the City Council is committed to recommend in favor or denial of the Amendment.
- D. City requests permission from Property Owner for the non-exclusive right to utilize the License Area (as defined herein) for ingress and egress by City (including City's agents, employees, invitees, contractors and consultants) and members of the general public in order to access the property and to park while using the City Library.
- E. Ultimately, City and Property Owner desire to enter into an Access and Shared Parking Agreement, with rights of ingress, egress and parking, as further described herein.
- F. By this reference, the above Recitals are hereby incorporated into, and made a part of this entire License.

TEMPORARY ACCESS AND PARKING LICENSE

1. Property Owner hereby grants City; City's agents, employees, consultants and contractors; and members of the general public (collectively, License Users"), permission to enter upon the Property to access the License Area via the driveways located off Montezuma Road and

Mohawk Road, and to park in the area designated on the attached Exhibit "A", for the sole purpose of accessing the City Library.

2. The License Area is located at the southwest portion of the Property, as depicted by the red outline on the attached Exhibit A ("License Area") and includes thirty-one (31) parking spaces.
3. As consideration for this License, City shall pay Property Owner the amount of One Thousand One Hundred Dollars (\$1,100.00) per month ("Rent") for use of the License Area.
4. If the Amendment is approved, Property Owner and City intend to negotiate a long-term Agreement to provide access and parking to the City Library that will include recognition of Property Owner's need to operate its Property in a safe manner during construction.
5. This License shall be effective on a month-to-month basis under the terms and conditions hereof.
6. This License may be terminated by either party with thirty-days written notice.
7. City shall, to the extent authorized by law, hold Property Owner harmless from any and all damages to the Property resulting from City's use of the License Area. City shall indemnify Property Owner against any and all claims asserted, causes of action, losses, damages, liabilities, judgements, and/or other demands arising out of or in any manner directly or indirectly connection with this License, including damages arising out of the release of hazardous material, and all expenses of investigating and defending the same, including, without limitation, paying reasonable attorneys' fees and costs; provided however that City's duty to indemnify and hold harmless shall not include claims or liability arising from the established sole negligence or intentional misconduct of the Property Owner. This indemnity obligation shall apply for the entire time that any third party can make a claim against or sue any or all of the indemnified parties arising out of any activity within or upon or related to the License Area or this License. This indemnity obligation shall include, without limitation, claims for bodily injury, property damage, emergency response costs, removal costs, clean-up costs, remediation costs, penalties and/or fines which arise out of or are in any manner directly or indirectly connected to this License and/or the acts of omissions of any third party or the License Users in connection with the exercise of the rights granted under this License, and all expense of investigating, prosecuting or defending against same, including any appeals. City will promptly provide the Property Owner with written notice of any event or circumstance, such as damages or losses related to the Licensed Use, which Property Owner reasonably believes may be covered by the defense and indemnification provisions of this License.
8. Any demand upon or notice required or permitted to be given by one party to the other party shall be in writing. Except as otherwise provided by law, any demand upon or notice required or permitted to be given by one party to the other party shall be effective: (a) on personal delivery; (b) on the second business day after mailing by certified or registered U.S. Mail, return-receipt requested; or (c) on the succeeding business day after mailing by Express Mail or after deposit with a private delivery service of general use (e.g., Federal Express) postage or fee prepaid as appropriate for next day service. All notices shall be addressed to the party(ies) at the address(es) shown below:

If to City: City of San Diego
ATTN: Director, Real Estate Assets Department
1200 Third Ave., Suite 1700
San Diego, CA 92101

If to Property Owner:
Shahin Edalatdju Blue Falcon, LLC
136121 Calvados Pl
San Diego, CA 92128
Phone Number: 619-701-2559

9. The approval or consent of City, whenever required in this License shall mean the written approval or consent of the Director of City's Real Estate Assets Department, unless other specified in this License. The Director can be reached by the address set forth above Section 8, or by telephone at (619) 236-6020.
10. By entering into this License, neither City nor City's City Council is obligating itself to Property Owner or to any governmental agent, board, commission or agency with regard to any other discretionary action relating to the License Area or the Property. "Discretionary action" includes without limitation re-zonings, variances, environmental clearances and all other required governmental approvals.
11. This License sets forth the entire agreement and understanding between the Property Owner and City with respect to the subject matter of this License and may not be modified or altered except in writing and signed by all parties hereto and/or their successors or assigns.
12. This License may be executed in any number of counterparts, each of which when executed shall be deemed an original, but all of which together shall constitute one and the same instrument.

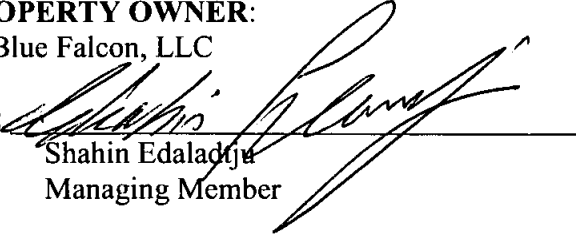
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13. With the promises contained herein as consideration, the parties hereto agree to the terms of this License, as evidenced by their signatures below.

Date: 11/16/17

PROPERTY OWNER:

52 Blue Falcon, LLC

BY: 

Shahin Edalati
Managing Member

THE CITY OF SAN DIEGO, a California
municipal corporation

Date: 11/20/17

BY: 

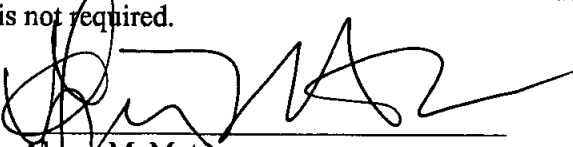
Name: Corinne Thompson

Title: Director, Planning & Community Development

Environmental Analysis Section Environmental Clearance:

This activity, a Temporary Access and Parking License, is not subject to CEQA pursuant to Section 15060(c)(2) as it would not in a direct or reasonably foreseeable indirect physical change in environment. The determination is not appealable and a Notice of Right to Appeal the Environmental Determination (NORA) is not required.

BY:

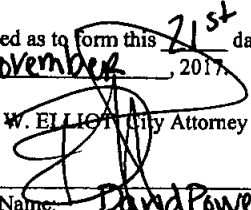

Alyssa M. Muto

Deputy Director, Environmental and Policy Analysis,
Planning Department

Approved as to form this 21st day
of November, 2017.

MARA W. ELLIOTT City Attorney

BY:

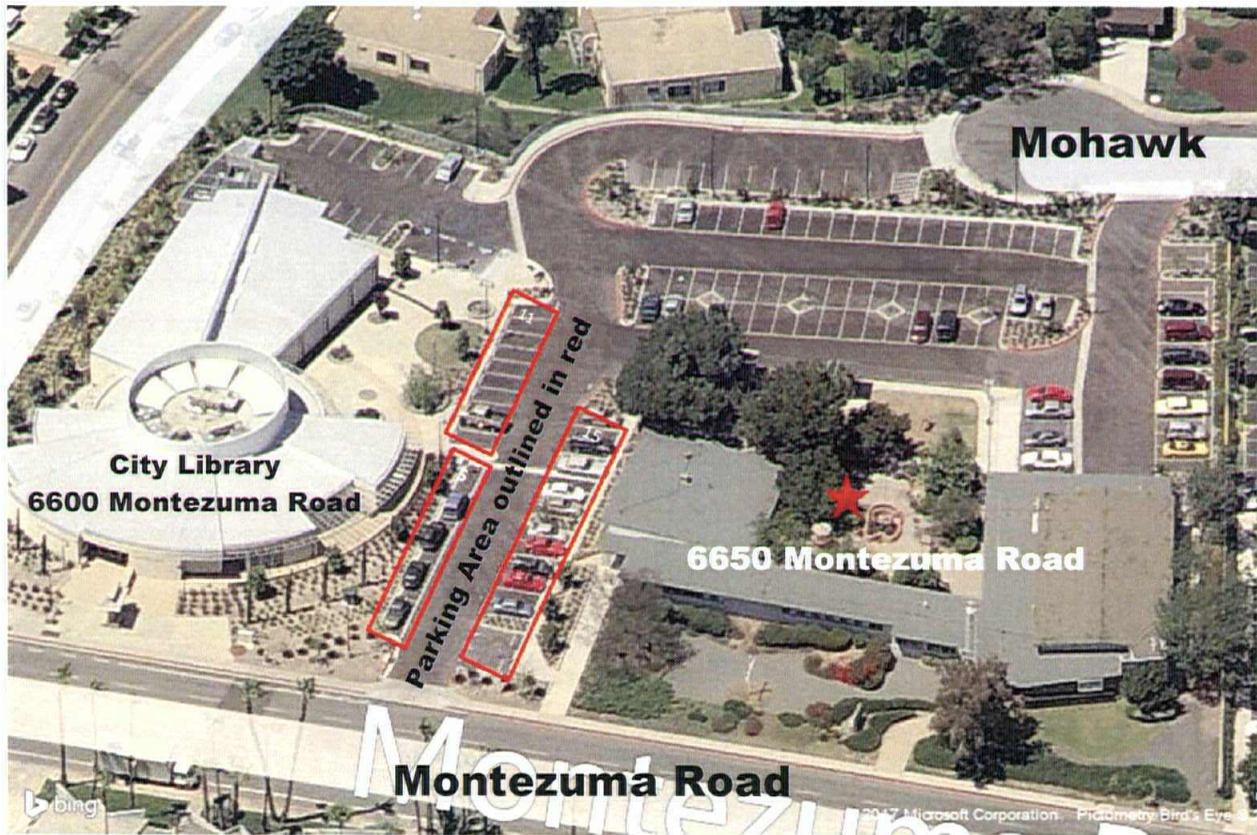

Name:

David Powell

Title:

Deputy City Attorney

Exhibit A: License Area



Parking Space location may be relocated to accommodate demolition and construction