



Real Estate Assets Department
SDC003

CITY/SD UNIFIED SCHOOL DISTRICT/04

CITY-933-A00

Document Type

LEGAL DOCUMENTS



Sub - Category

AGREEMENTS



6

Board Item #: I.44.
Board Date: 11/15/2022
Agreement No: SV22-0491-99

LICENSE AGREEMENT

THIS AGREEMENT is dated 11-15-22, 2022, ("Effective Date"), by and between SAN DIEGO UNIFIED SCHOOL DISTRICT, a California local education agency authorized by the state ("DISTRICT") and the CITY OF SAN DIEGO, a California municipal corporation ("CITY"), collectively, the Parties.

WHEREAS, CITY seeks to use DISTRICT's property located on a portion of Taft Middle School at 9191 Gramercy Dr, San Diego, CA 92123 (the "Premises"), more particularly described in the attached Exhibit "A", which is incorporated by reference, for the purpose specified in Paragraph 1 below.

NOW, THEREFORE, intending to be legally bound, the Parties agree as follows:

1. Use. DISTRICT hereby grants to CITY, its licensees, employees, agents and contractors, a non-exclusive, revocable License to enter upon and use the Premises, including the rights of ingress and egress, subject to the terms and conditions herein. CITY's use of the Premises is limited to staging approximately 300 mature palm trees, debris containers and placing green waste into such containers during non-school hours ("License"), as further described in the attached Exhibit "B". At no time shall CITY be permitted to use DISTRICT property for re-fueling of vehicles, including helicopters used in the removal of trees as specified in Exhibit "B".

2. Term. This License shall commence on December 17, 2022, and shall continue thru December 30, 2022 ("Term"). Notwithstanding the foregoing, either Party may terminate this License at any time by giving ten (10) days prior written notice to the other Party. At the expiration or earlier termination of this License, CITY shall immediately cease use of the Premises.

3. Consideration. As total consideration for this License, CITY shall pay to DISTRICT \$250.00 for DISTRICT legal review of License Agreement for form and legality; \$26.04 per hour for all hours debris containers are on site and \$46.00 per hour (\$69.00 per hour on DISTRICT holidays) for DISTRICT staff presence for all hours helicopter and/or CITY contractors are on site, to be invoiced based upon actual hours; invoice payable within seven days.

4. Conditions Applicable to License. This License is subject to all existing covenants, conditions, reservations, contracts, leases, licenses, easements, encumbrances, restrictions and rights of way with respect to the Premises, whether or not of record.

5. No Transfer or Assignment. This License is personal to CITY. Any attempt to transfer or assign this License shall terminate it.

6. Permits and Regulations. CITY shall be responsible for securing any required approvals, permits and authorizations from any federal, state or local agencies, including but not limited to, Federal Aviation Administration clearance, and shall comply with all applicable laws and regulations governing the CITY's use of the Premises. CITY shall comply with the requirements of the California Environmental Quality Act (CEQA) prior to using the Premises and is solely liable for any and all costs associated with CEQA compliance.

7. No Interference. CITY shall not interfere with the normal operation and activities of DISTRICT, and CITY shall conduct its activities on the Premises to minimize damage to the Premises and inconvenience to DISTRICT, its agents, employees and invitees.

8. Repair and Restoration. If CITY, its licensees, employees, agents or contractors cause any damage to the Premises, or to DISTRICT's roads, infrastructure or other property and improvements (collectively "Property") in connection with the exercise of this License, CITY shall repair and restore the Premises and Property to their original condition as it existed prior to CITY's use of the Premises pursuant to this License. CITY shall perform the repair and restoration required hereunder prior to the expiration of this License, or within ten (10) days of the earlier termination of CITY's rights hereunder. In the event that repair and restoration is performed following the termination of this License, the CITY's Indemnity and Insurance obligations in paragraphs 12 and 13 shall continue until one hundred and eighty (180) days after the repair and restoration is completed as provided herein.

9. Breach and Cure. In the event that CITY breaches any of its obligations under this License, DISTRICT shall send CITY written notice specifying the nature of such breach. CITY shall have ten (10) days from the receipt of such notice within which to cure such breach. If more time is reasonably required for CITY's performance, then CITY shall notify DISTRICT in writing of its proposed schedule for performance and commence performance within such ten (10) day period; thereafter, CITY shall diligently proceed to completion. If CITY fails to cure or to commence cure within such ten (10) day period, then DISTRICT shall have the right to terminate this License immediately by serving CITY with written notice of termination. DISTRICT shall have all rights and remedies available under California law including, but not limited to, actions for damages and specific performance, for any breach of CITY's obligations hereunder.

10. Alteration in Writing. This License supersedes any and all prior understandings and agreements, whether written or oral, between the Parties with respect to the subject matter of this License. No alteration or variation of this License shall be valid unless made in writing and signed by DISTRICT and CITY.

11. Notice. Any notice required hereunder shall be in writing and shall be addressed as follows:

DISTRICT: San Diego Unified School District
Real Estate Department
4860 Ruffner Street, Annex 14
San Diego CA 92111
Fax: 858-541-7854

CITY: Parks and Recreation Department Director
City of San Diego
202 'C' Street, M.S. 37C
San Diego, California 92101
Fax: 619-525-8220

or to such other address as either Party may indicate in a written notice to the other. All notices and communications given under this License Agreement shall be deemed to have been duly given and received: (i) upon personal delivery, or (ii) as of the third business day after mailing by United States certified mail, return receipt requested, postage prepaid, addressed as set forth above, or (iii) the immediately succeeding business day after deposit (for next day delivery) with Federal Express or other similar overnight courier system, or (iv) 24 hours after facsimile transmittal with confirmation of receipt and followed by personal delivery, United States mail, or overnight delivery as specified in this Paragraph.

12. Indemnification. CITY shall indemnify, defend, and hold harmless DISTRICT, its officers, agents and employees, from and against any claims (including CEQA), damages, costs, expenses, or liabilities (collectively "Claims") arising directly or indirectly out of or in any way related to this License including, without limitation, Claims for loss or damage to any property, or for death or injury to any person or persons.

13. Insurance. CITY and DISTRICT acknowledge and warrant that they are self-insured in compliance with the laws of the State of California, that their self-insurance covers persons acting on their behalf or under their control, and that their self-insurance covers their use of the Premises as contemplated by this License. The Parties further warrant that they shall notify the other Party of any insurance coverage change at least thirty (30) days prior to the change in accordance with the notice provisions of this License. Any coverage change must be approved by the other Party, which approval shall not be unreasonably withheld.

14. Lien Free Condition. CITY shall not cause or permit any liens to be placed against the Premises or against DISTRICT's other property as a result of CITY's exercise of rights under this License. In the event of the filing of any such liens, CITY shall promptly cause such liens to be removed.

IN WITNESS WHEREOF, the Parties have executed this License Agreement the day and year first above written.

{SIGNATURES ON FOLLOWING PAGE}

DISTRICT

SAN DIEGO UNIFIED SCHOOL DISTRICT, a California local education agency authorized by the State of California

By: *Gene Fuller* Date: November 23, 2022
DocuSigned by:
 GENE FULLER, Director, Real Estate

APPROVED AS TO FORM AND LEGALITY	Approved in a public meeting of the Board of Education of the San Diego Unified School District on:
Date: <u>11/02/2022</u>	Date: <u>11/15/2022</u>
DocuSigned by: <u><i>Kimberly Chapin</i></u>	DocuSigned by: <u><i>Martha Stultz</i></u>
Kimberly A. Chapin, Assistant General Counsel II San Diego Unified School District	Martha Stultz, Board Action Officer San Diego Unified School District Board of Education

CITY

THE CITY OF SAN DIEGO, a California Municipal Corporation

By: *Penny Maus* Date: Dec 6, 2022
Penny Maus (Dec 6, 2022 10:19 PST)
 Director, DREAM

APPROVED AS TO FORM BY
 MARA W. ELLIOTT,
 CITY ATTORNEY

By: *Kevin Reisch*
Kevin Reisch (Dec 6, 2022 12:28 PST)
 Kevin Reisch
 Title: Deputy City Attorney
 Date: Dec 6, 2022

EXHIBIT A

PREMISES

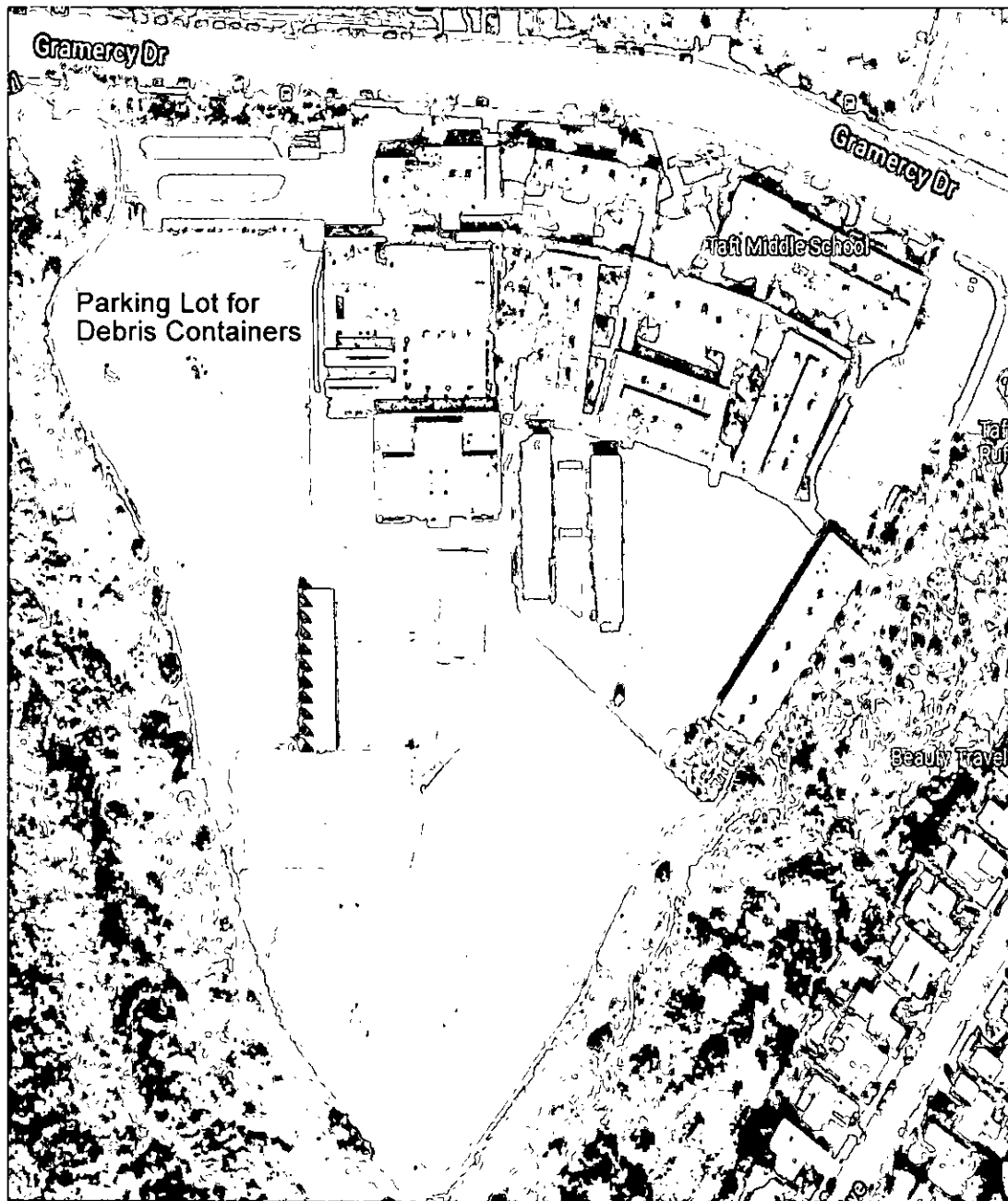


EXHIBIT B USE

The City of San Diego proposes to remove approximately 300 mature palm trees from Ruffin Canyon in the Serra Mesa community by use of a helicopter.

The CITY and its licensees, employees, agents and contractor(s) propose to cut the palms in the canyon area, remove the cut palms via helicopter and deposit the palms onto the paved playground area at the school site. The cut palms that are staged at the playground area would be loaded into debris containers also staged at the playground. The filled debris containers would then be hauled to an off-site location. **At no time shall CITY be permitted to land the helicopter on DISTRICT property.**

Ruffin Canyon Palm Tree Removal via Helicopter timeline:

- December 1 thru 18: felling palms within canyon. CITY shall not have access to DISTRICT property during this time.
- December 19 thru December 23 and (if necessary) December 26 thru December 30: helicopter work days and clean up, with campus access.
- Debris containers will be placed on school site between December 17-19 and will be removed no later than December 30, 2022.
- DISTRICT staff presence for all hours helicopter and/or CITY contractors are on site on DISTRICT holidays (December 23, 26 and 30, 2022) will be invoiced at \$69.00 per hour.