

CONSTRUCTION STAGING AREA LICENSE

This Construction Staging Area License ("License") is entered into by MMM & X Holdings, LLC, a California limited liability company ("Property Owner"), and the City of San Diego, a California municipal corporation ("City"), to be effective when signed by the parties and approved by the San Diego City Attorney ("Effective Date"). The Property Owner and City may together be referred to in this License as the "Parties" and individually as a "Party."

RECITALS

- A. Property Owner is the owner of that certain 9,622-square foot parcel of unimproved vacant land located on the northeast corner of Cumberland Street and Reo Drive in San Diego, California 92139, identified as Assessor's Parcel Number 587-192-06 (the "Property"), as more particularly described in **EXHIBIT A** and depicted in **EXHIBIT B**, attached hereto.
- B. The City is working on a storm drain capital improvement project (the "Project") on and beneath public right-of-way within the City and desires to use the Property to store construction materials and equipment necessary for completion of the Project.
- C. Property Owner agrees to allow the City to use the Property subject to the terms and conditions of this License.

AGREEMENT

FOR VALUABLE CONSIDERATION, the sufficiency and receipt of which is acknowledged, the Parties agree as follows:

- 1. **PERMITTED USE.** Property Owner hereby grants to City, its agents, employees, and contractors, permission to enter upon and use the Property for construction staging activities related to the Project (the "Permitted Use"). The Permitted Use shall include access to and exclusive use of the Property to store and retrieve materials and equipment necessary to complete the Project (together, the "Materials and Equipment"). By way of example, Materials and Equipment will include (but not be limited to) pipes, grates, rebar, wood, sand, crushed rock, soil, ladders, bathroom, light towers, traffic control devices, steel plates, excavators, forklifts, Bobcats, and other construction-related vehicles. The Permitted Use shall also include City's use of: (a) a Hazardous Substances Management Plan ("HSMP") for handling and storage of potentially contaminated materials like excavated soil; and (b) Best Management Practices ("BMPs") for water quality protection, including but not limited to placing shaker plates and gravel at the entrance to the Property in order to reduce sediment transported onto the City's right of way from the Property by City vehicles carrying Materials and Equipment onto and away from the Property.
- 2. **APPROVALS.** City shall obtain all necessary governmental approvals, including permits, from applicable government entities, prior to accessing and using the Property for the Permitted Use.

3. **INSPECTION; RESTORATION.** Upon the expiration or termination of this License, City shall, as soon as practicable, remove all Materials and Equipment from the Property. Upon complete removal of all Materials and Equipment, City shall notify Property Owner of the same ("Removal Notice"), whereupon Property Owner shall have five (5) business days to notify City of its desire to inspect the Property ("Inspection Notice"). If City timely receives an Inspection Notice, the Parties will schedule a mutually convenient time to jointly inspect the Property to determine what work the City must do to restore any disturbed areas within the Property to the same condition as existed immediately prior to the Effective Date; provided, however, Property Owner acknowledges that City will not expend more than \$20,000 on such restoration work (the "Restoration Work Cap"). If the City does not timely receive an Inspection Notice, City will use its best judgment and, within the Restoration Work Cap, reasonably restore any disturbed areas within the Property to the same condition as existed immediately prior to the Effective Date, and Property Owner will be deemed to have accepted such work and waives any claim against City based on alleged inadequacy of the restoration of the Property. This Section 3 shall survive expiration or termination of the License.

 ID
ID

Property Owner's initials

4. **MONTHLY PAYMENT.** City shall pay Property Owner two thousand dollars (\$2,000.00) per month as consideration for this License ("Monthly Payment"). City shall make the Monthly Payment to Property Owner at the address set forth in Section 6 below by no later than the fifth (5th) day of each month of the Term as consideration for that month's use. The first Monthly Payment will include the prorated amount for the time between the Effective Date and the last day of the month containing the Effective Date. The last Monthly Payment will be prorated for the time between the first (1st) day of the month containing the Termination Date and the Termination Date.
5. **TERM; TERMINATION.** The permission herein granted shall commence upon the Effective Date (even though actual entry upon the Property may be a later date determined by City) and shall be in effect until the date of the Removal Notice (the "Term" and the last day of the Term, the "Termination Date"); provided, however, that in no event shall the Term of this License extend beyond the day immediately preceding the third (3rd) anniversary of the Effective Date, unless the License is amended and approved by the proper City authority according to the San Diego Municipal Code and City policy. Either Party may terminate this License for any reason or for no reason upon written notice to the other party.
6. **NOTICE.** Property Owner may contact the City's Resident Engineer, Eric Swanson, at (619) 916-6353 or eswanson@sandiego.gov, or the Project Manager, Amabelle Marchi, at (619) 613-1075 or amarchi@sandiego.gov, with any questions or concerns about the Property or City's use of the Property under this License. Notwithstanding the foregoing, all formal notices submitted by one party to the other party under or as required by this

License shall be sent by messenger for immediate personal delivery, nationally recognized overnight (one business day) delivery service (i.e., United Parcel Service, Federal Express, etc.), or registered or certified first-class mail, postage prepaid, return receipt requested through the United States Postal Service, to the address of the recipient party designated below in this Section 6. Notice shall be considered received by the addressee, regardless of whether or when any return receipt is received by the sender or the date set forth on such return receipt, on the day the notice is sent by messenger for immediate personal delivery, one (1) business day after delivery to a nationally recognized overnight delivery service, or three (3) days after the notice is deposited with the United States Postal Service. Any attorney representing a party may give any notice on behalf of such party. The notice addresses for the parties, as of the Effective Date and which may be changed from time to time by the parties, are as follows:

To City: The City of San Diego
 Attention: Mary Carlson, Assistant Deputy Director
 Department of Real Estate
 1200 Third Avenue, 17th Floor
 San Diego, CA 92101

 With a copy to:
 San Diego City Attorney's Office
 Attention: Real Property Unit
 1200 Third Ave, 17th Floor
 San Diego, CA 92101

To Property Owner: MMM & X Holdings, LLC
 Attention: Iyabo O. Daramola, MD
 Caring Hearts Medical Clinic
 2401 Reo Drive
 San Diego, CA 92139-3025
 Office: (619) 479-6767
 Cell: (619) 274-8246
 mycaringhearts@gmail.com

7. COORDINATION. City's Project Manager shall coordinate with Property Owner or Property Owner's representatives regarding any Project details that materially affect the Property. City shall use commercially reasonable efforts to minimize negative impacts to the Property.
8. CONTRACTOR INSURANCE. City shall require contractor(s) accessing the Property to carry liability insurance as required in "Standard Specifications for Public Works Construction, 2021 Edition," as amended by all periodic supplemental amendments to such.
9. INTEGRATION. This License sets forth the entire agreement and understanding between the Parties with respect to the subject matter of this License and may not be amended,

modified, or altered except in a writing which is signed by all Parties and/or their successors or assigns.

10. **INCORPORATION BY REFERENCE.** All recitals and attached exhibits are incorporated into this License by this reference:

11. **AUTHORIZED SIGNERS.** Each individual executing this License on behalf of another person or legal entity represents and warrants that they are authorized to execute and deliver this License on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this License is binding upon such person or entity in accordance with its terms. Each person executing this License on behalf of another person or legal entity shall provide City with evidence, satisfactory to City, that such authority is valid and that such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

12. **COUNTERPARTS; ELECTRONIC SIGNATURES.** 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. Copies, electronic signatures, and "pdf's" shall be considered the equivalent of original signatures.

[Signatures on Following Page]

IN WITNESS WHEREOF, this License is executed to be effective as of the Effective Date.

Date: 03/12/2024

MMM & X HOLDINGS, LLC, a California limited liability company

BY: Iyabo O Daramola
Iyabo O Daramola (Mar 12, 2024 17:04 PDT)

Name: Iyabo O. Darabola

Title: President

Date: 03/12/2024

THE CITY OF SAN DIEGO, a California municipal corporation

BY: Christina Bibler

Name: Christina Bibler

Title: Director, Department Economic Development

Approved as to Form:

MARA W. ELLIOTT, San Diego City Attorney

BY: Brian Byun
Brian Byun (Mar 13, 2024 09:32 PDT)

Name: Brian Byun

Title: Deputy City Attorney

Date: Mar 13, 2024

EXHIBIT A: PROPERTY LEGAL DESCRIPTION

(APN: 587-192-06)

Lot 10, Block 20, of Paradise Hills, in the City of San Diego, County of San Diego, State of California, according to map therefore No. 1936, filed in the Office of County Recorder of San Diego County.

EXHIBIT B: PROPERTY SITE MAP

(APN: 587-192-06)

