

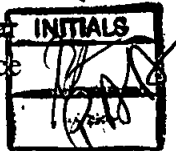
CITY OF SAN DIEGO

RIGHT OF ENTRY PERMIT

THIS RIGHT OF ENTRY PERMIT ("Permit") is executed by and between the CITY OF SAN DIEGO, a municipal corporation ("City"), and POINT LOMA ASSOCIATION, a California nonprofit corporation ("Permittee").

1. Grant. City hereby grants permission to Permittee to enter upon City-owned property located at the northwest corner of Tennyson Street and Nimitz Boulevard, consisting of approximately 4,660 square feet, as specifically set forth on the attached Exhibit "A" ("Permit Area"), incorporated by this reference. Permission to enter the Permit Area is conditioned upon the terms set forth below.
2. Use of Permit Area. Permittee's nonexclusive use of the Permit Area shall be limited to planting and maintaining landscaping at its expense in accordance with the landscaping plan attached as Exhibit "B".
3. Permit Fee. Consideration to City for granting this Permit shall be ~~a Six Hundred Dollar (\$600) non-refundable processing fee~~ and the landscape improvements and maintenance of the Permit Area commencing on the Effective Date, as defined below.
4. Effective Date and Term. This Permit shall be in effect upon execution by City and Permittee and as of the approval date of the City Attorney ("Effective Date") and shall proceed on a month-to-month basis until terminated by City with a thirty (30) day written notice to Permittee. This Permit shall in no event exceed a total of three (3) years from the date of execution.
5. Insurance. Prior to approval of this Permit by City, Permittee shall deliver to City a certificate of insurance for public liability and property damage in which "The City of San Diego, its elected officials, officers, representatives, agents and employees" are named as additional insured, in an amount of not less than Two Million Dollars (\$2,000,000) combined single limit liability with an occurrence claims form. The policy shall be kept in force for the duration of this Permit. The certificate of insurance shall be filed with City's Real Estate Assets Department upon execution of this Permit.
6. Hold Harmless. Permittee agrees to defend, indemnify, protect, and hold City, its elected officials, officers, representatives, agents and employees, harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to Permittee's employees, invitees, guests, agents, or officers, which arise out of or are in any manner directly or indirectly connected with the grant of

*waived on 12/23/05
Memo is in the
file.*



this Permit to the Permittee, the development or operation of the Permit Area or the work and operations to be performed under this Permit, and all expenses of investigating and defending against same; provided, however, that Permittee's duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of City, its elected officials, officers, representatives, agents and employees.

7. No Discrimination. Permittee shall not discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or physical disability in Permittee's use of the Permit Area, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.
8. Permittee's Risk. All risks in connection with Permittee's use of the Permit Area and any damages to the improvements thereon, thereunder, or in the vicinity thereof shall be borne in full by Permittee.
9. Nuisance. Permittee shall not use the Permit Area in any manner which, in the opinion of the City Manager, creates a nuisance or disturbs the quiet enjoyment of persons in the surrounding area.
10. Revocable Permit. This Permit is not a lease. It is a license to use City property. It is mutually agreed that City shall not be obligated for any loss, financial or otherwise, which may be incurred by Permittee as a result of termination of this Permit, and, further, that Permittee expressly waives any claim for expense or loss which Permittee might incur as a result of termination of this Permit. City shall have and maintain the right at all times to enter upon the Permit Area in City's sole discretion.
11. Possessory Interest Tax. Permittee recognizes and understands that this Permit may create a possessory interest subject to property taxation and that Permittee may be subject to the payment of property taxes levied on such interest. Such tax payment shall not reduce any fee paid City under this Permit. Permittee shall pay any tax or assessment before it becomes delinquent.
12. Compliance with Laws. Permittee shall at its sole cost and expense comply with all the requirements of all municipal, state, and federal authorities now in effect or which may hereafter be in effect, which pertain to the Permit Area.
13. No Assignment. Permittee shall not assign any rights granted by this Permit nor any interest therein without the prior written approval of the City Manager. Approval of any proposed assignment may be withheld in the sole and absolute discretion of the City Manager. Any assignment by operation of law shall automatically terminate this Permit.
14. Signs. No signs shall be displayed on the Permit Area without the prior written consent

of the City Manager.

16. No Assignment. Permittee shall not assign any rights granted by this Permit nor any interest therein without the prior written approval of the City Manager. Approval of any such proposed assignment may be withheld in the sole and absolute discretion of the City Manager. Any assignment by operation of law shall automatically terminate this Permit.
17. Encumbrances. Permittee shall keep the Permit Area free from all encumbrances and liens of any nature during the term of this Permit. Permittee shall defend, hold harmless and indemnify City from and against any and all encumbrances and/or liens and from and against any claim, liability, cost or expense (including all costs and attorneys' fees), which may be filed or instituted against the Permit Area (including without limitation Permittee's failure or the failure of any contractor or subcontractor hired by Permittee) to pay any person or persons referred to in Section 3181 of the California Civil Code or other applicable sections.
18. Maintenance of the Permit Area. Permittee shall be solely responsible for maintaining the Permit Area in a decent, safe, healthy and sanitary condition at all times during the entire term of this Permit to the satisfaction of the City Manager or designee.
19. Waiver. The failure of City to insist upon strict performance by Permittee of any condition of this Permit, in one or more instances, shall not be construed as a waiver of any condition, and the same shall remain in full force and effect.
20. Oral Representations. This Permit contains the complete expression of the agreement between the parties, and there are no promises, representations, agreements, warranties or inducements, either expressed orally or implied, except as set forth herein. The conditions hereof cannot be changed in any respect except by written agreement between the parties.
21. Inspection. City may enter and inspect the operations permitted under this Permit at any time.
22. Legal Proceedings. Should it become necessary for City to commence legal proceedings to enforce any condition of this Permit, Permittee agrees to pay all legal costs in connection therewith, including reasonable attorneys' fees.
23. Hazardous/Toxic Waste.
 - a. Permittee shall not allow the release of hazardous substances in, on, under or from the Permit Area. For the purposes of this provision, a release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping or otherwise disposing of hazardous substances. "Hazardous substances" shall mean those hazardous substances listed by

the Environmental Protection Agency in regularly released reports and any other substances incorporated into the State's list of hazardous substances. A copy of the presently effective EPA and the State lists is on file in the Office of the City Clerk as Document No. 769704 and by this reference is incorporated in this Permit.

- b. If any release of a hazardous substance occurs, Permittee shall be responsible for all costs of remediation and removal of such substances in accordance with all applicable rules and regulations of governmental authorities.
- c. Permittee shall defend, indemnify, and hold City harmless from any and all claims, costs and expenses related to environmental liabilities resulting from Permittee's operations on the Permit Area, including but not limited to costs of environmental assessments, costs of remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies.

24. Notices.

Notices to City shall be mailed to:

City of San Diego
Real Estate Assets Department
Attention: Deputy Director, Asset Management and Marketing Division
1200 Third Avenue, Suite 1700 (MS 51A)
San Diego, CA 92101

Notices to Permittee shall be mailed to:

Point Loma Association
Attention: Patti Adams
PO Box 60212
San Diego, CA 9216-0212

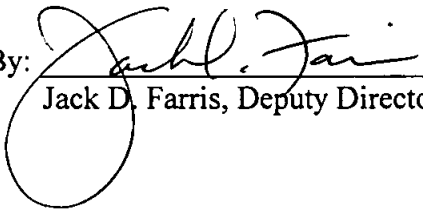
or notices may be delivered to Permittee.

- 25. Counterparts. This Permit may be signed in several counterparts, each of which shall be deemed an original, and all counterparts shall constitute one and the same instrument. The signature of a party to any counterpart sent to the other party via facsimile shall be a valid and binding signature of such party.
- 26. Restoration of Property. Upon expiration or earlier termination of this Permit, Permittee shall at its sole cost remove all materials and repair and/or restore the Permit Area to its original condition to the satisfaction of the City Manager.

IN WITNESS WHEREOF, this Right of Entry Permit is executed by City, acting by and through its City Manager, and by Permittee, acting by and through its lawfully authorized officer.

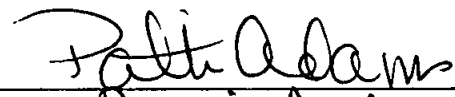
CITY OF SAN DIEGO, a municipal corporation

Date: 10/28/05

By: 
Jack D. Farris, Deputy Director

POINT LOMA ASSOCIATION, a California nonprofit corporation

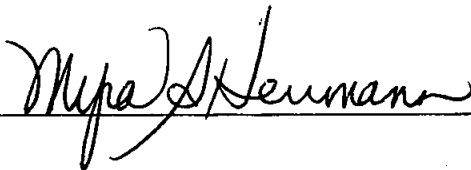
Date: 11/9/05

By: 
Name: PATTI ADAMS
Title: Chair

This activity is categorically exempt from CEQA pursuant to State CEQA Guidelines, Section 15301.

ENVIRONMENTAL ANALYSIS SECTION
ENVIRONMENTAL CLEARANCE:

Date: 11/4/05

By: 

APPROVED AS TO FORM AND LEGALITY:

MICHAEL J. AGUIRRE, City Attorney

Date: 11/9/05

By: 
Deputy City Attorney

WABASKA CT. (WORDEN ST.)

WABASKA BLVD.

WORDEN ST.

TENNYSON

ALICIA DRIVE

ATASCADERO DRIVE

WELLS STREET

BLK 34

BLK 33

BLK 38

M1106

M1523

449-38

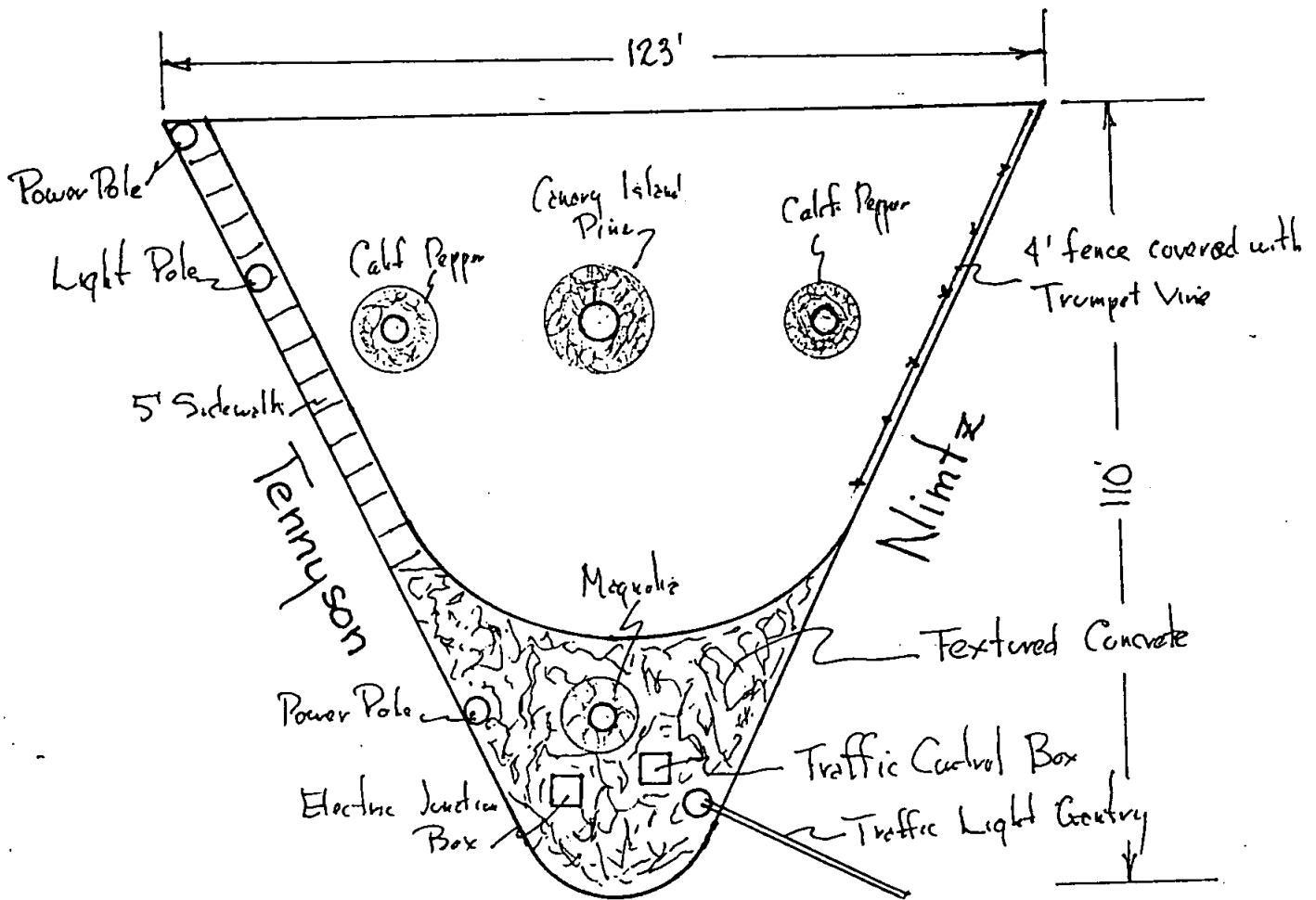
213563

1" = 100'

MAP 1523 - POINT LOMA HTS RESUB BLKS 2

MAP 1106 - POINT LOMA HEIGHTS

-7-



Flowers planted -

- A- 15 Margueritas - yellow.
- C- 26 Raphidepsis
- E- 4 Clusters of Lilies
- G- California Poppies
- J- Trumpet Vine

- B- 7 Margueritas - white
- D- 5 Society Garlic
- F- 5 Agapanthas
- H- 3 Pestemon
- K- Ceanothus





THE CITY OF SAN DIEGO

June 15, 2006

Dear Lessees:

Effective immediately please make a correction to the General Provisions section of your lease outline with the City of San Diego.

Under the NOTICES section there is a paragraph informing lessees where to mail any written notices. This needs to be changed to the following address:

City of San Diego
Real Estate Assets Department
Attention: Real Estate Assets Director
1200 Third Avenue, Suite 1700 (M. S. 51A)
San Diego, CA 92101-9586

Sincerely,

James Barwick
Real Estate Assets Director

KC/cj

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Real Estate Assets

1200 Third Avenue, Suite 1700, MS 51A • San Diego, CA 92101-4199
Tel (619) 236-6020 Fax (619) 236-6706