

AGREEMENT

BETWEEN THE

CITY OF SAN DIEGO

AND

SAN DIEGO UNIFIED SCHOOL DISTRICT

AND

LEASE OF PROPERTY ADJACENT TO ROOSEVELT JUNIOR HIGH SCHOOL

DOCUMENT NO. 749248FILED NOV 14 1974OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

This Lease Agreement is entered into by and between the CITY OF SAN DIEGO, a municipal corporation, hereinafter referred to as CITY, and the SAN DIEGO UNIFIED SCHOOL DISTRICT, a political subdivision of the State of California, hereinafter referred to as DISTRICT.

WITNESSETH:

WHEREAS, by deed dated June 6, 1921, pursuant to ratification by the electorate of the City of San Diego, a portion of Balboa Park was granted for school purposes to the DISTRICT and upon which has been constructed Roosevelt Junior High School; and

WHEREAS, adjacent to said school is a .784 acre parcel of City-owned land within Balboa Park bounded by Roosevelt School on the west, Park Boulevard on the east, and Zoo Drive on the south, which land is now grassed and maintained by the DISTRICT, more particularly described by legal description attached hereto as Exhibit "A."

WHEREAS, in order to comply with the Field Act requiring reconstruction of certain school buildings, DISTRICT desires to construct an encroachment upon a part of the aforesaid parcel of Balboa Park, said encroachment consisting of a Performing

Arts-Auditorium Building, a recreational and cultural facility for park and recreational use; and

WHEREAS, this portion of Balboa Park can best serve the public by being made available for such purpose.

NOW, THEREFORE, the CITY and the DISTRICT do mutually agree as follows:

I

RESPONSIBILITIES OF CITY

1. The CITY agrees that, for purposes of this Agreement, the .784 acres hereinbefore legally described at Exhibit "A" shall be divided into two (2) separate parcels to be identified and known respectively as parcel 1 and parcel 2. Legal descriptions for these two parcels are attached hereto as Exhibit "B" and Exhibit "C," respectively, and by this reference incorporated herein.

2. The CITY hereby grants to the DISTRICT a 50-year leasehold interest in parcel 2 as described in Exhibit "C." attached hereto.

3. CITY agrees that the DISTRICT may use said parcel 2 for the purpose of constructing, operating and maintaining thereon a portion of a Performing Arts-Auditorium Building, hereinafter referred to as the AUDITORIUM. Said portion of the AUDITORIUM shall be constructed in accordance with plans and specifications approved by the City Manager in advance of construction.

4. CITY hereby grants to the DISTRICT all necessary easements and all rights of way necessary for ingress, egress,

and use as to parcel 1 for the term of this Agreement. Said easements and rights of way are necessary in order that DISTRICT may perform its duties and responsibilities as to parcel 1 as more particularly described hereinafter.

5. CITY agrees to submit in writing to DISTRICT on or before April 1 of each calendar year, CITY's proposed schedule of uses of the AUDITORIUM. Said schedule shall be based upon CITY's use of the AUDITORIUM for 15 hours per week, or more, as agreed upon in consultation with DISTRICT.

6. CITY agrees to pay DISTRICT for all direct, out-of-pocket costs incurred by DISTRICT resulting from the use of the AUDITORIUM by CITY, which cost would not otherwise have been incurred by DISTRICT, such as custodial service, lights, heat and similar costs. CITY will not be required to pay DISTRICT for routine building maintenance, depreciation, reserves for replacements, water and sewer charges and other such expenses.

7. CITY reserves the right to enter AUDITORIUM for the purpose of viewing and ascertaining the condition thereof, upon reasonable notice to DISTRICT.

8. CITY has the following rights and responsibilities in the event DISTRICT defaults in the performance of this Agreement. In the event that DISTRICT shall default in the performance or fulfillment of any covenant or condition herein required to be performed or fulfilled by DISTRICT and shall fail to cure said default within 30 days following the service on DISTRICT of a written notice from CITY specifying the default complained of, then CITY may, at its option, without further

notice or demand upon DISTRICT or upon any person claiming through DISTRICT, immediately terminate this agreement and all rights of DISTRICT and of all persons claiming rights through DISTRICT. Notwithstanding the above provisions, in the event that any default cannot be cured within 30 days after the service of written notice upon DISTRICT, CITY shall not terminate this Agreement pursuant to said default if DISTRICT immediately commences to cure said default and diligently pursues such cure to completion. For purposes of this section, the following do not constitute a termination of DISTRICT's right to possession:

- a. Acts of maintenance, or preservation, or efforts by CITY to relet the property;
- b. The appointment of a receiver upon initiative of CITY to protect the CITY's interest under the Agreement.

The remedies provided by this paragraph are not exclusive and shall be cumulative to all other rights and remedies possessed by CITY, and nothing contained herein shall be construed so as to defeat any other rights or remedies to which CITY may be entitled.

II

RESPONSIBILITIES OF DISTRICT

1. DISTRICT warrants that parcel 1, parcel 2, and the AUDITORIUM shall be used for park purposes including, but not limited to, recreational and cultural programs and related events.

2. DISTRICT will make AUDITORIUM available to the

public for recreational and cultural purposes at such reasonable times as it is not actually being used by the CITY or the DISTRICT.

3. DISTRICT agrees to plant, landscape, grade, and maintain parcel 1 in partial consideration for CITY's granting DISTRICT the 50-year leasehold interest in parcel 2.

4. DISTRICT agrees not to assign this Agreement, or any interest herein, or any right or privilege appurtenant hereto, without the prior written consent of the City Manager of CITY or his authorized representative.

5. DISTRICT agrees to order, obtain and pay for all utilities, and service installation charges in connection with its use of parcel 1 and parcel 2 as provided herein.

6. DISTRICT agrees to maintain public liability insurance as to parcel 2 and AUDITORIUM. Upon taking physical possession of said leased premises, DISTRICT shall maintain public liability insurance which names CITY as an additional insured with an insurance carrier licensed to do business in California and must have an A+ excellent rating in the current issue of Best's Insurance Guide to protect against loss from liability imposed by law for damages on account of bodily injury, including death resulting therefrom, suffered or alleged to be suffered by any person or persons whatsoever, resulting directly or indirectly from any act or activities of DISTRICT, DISTRICT's subtenants, or any person acting for DISTRICT or under DISTRICT's control or direction, and also to protect against loss from liability imposed by law for damages to any property of any person caused directly or indirectly

by or from acts or activities of DISTRICT, DISTRICT's subtenants or any person acting for DISTRICT or under DISTRICT's control or direction. Such public liability and property damage insurance shall be maintained in full force and effect during the entire term of this Agreement in the amount of not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) COMBINED SINGLE LIMIT LIABILITY.

7. During the term of this Agreement, DISTRICT agrees to defend in the name of, and on behalf of, CITY, all claims or suits for damages and all fixed costs and interest on all such legal proceedings and pay all sums which CITY may become liable to pay as damages imposed upon CITY by law arising out of accidental bodily injury or death suffered, or alleged to have been suffered, by any person while within or upon parcel 2 or AUDITORIUM as described in this Agreement or upon the sidewalks or other ways or premises adjacent thereto occasioned out of DISTRICT's use thereof. DISTRICT further agrees to pay all sums which CITY may become liable to pay as damages imposed upon CITY by law resulting from accidental injury to, or destruction of, property not owned, leased, occupied or used by, or in the care, custody or control of DISTRICT or of CITY or of any employee of DISTRICT or CITY arising out of DISTRICT's use of parcel 2 or AUDITORIUM subject to the following conditions:

- a. This agreement shall not apply to any injury or death caused by any employee of CITY.
- b. CITY shall not voluntarily assume any liability or incur any expenses or settle any claims without

the prior written consent of DISTRICT.

DISTRICT shall not use or permit the use of parcel 2 or AUDITORIUM for any purpose other than the purposes authorized herein. DISTRICT shall at its sole cost and expense comply and secure compliance with all insurance requirements necessary for the maintenance of reasonable fire and public liability insurance covering parcel 2 and AUDITORIUM.

III

CONSIDERATION

1. The CITY and the DISTRICT agree that parcel 1 shall be landscaped, planted and maintained by DISTRICT during the term of this Agreement in consideration for the CITY's granting to DISTRICT a 50-year leasehold interest in parcel 2.

2. The CITY and the DISTRICT further agree that DISTRICT's promise to make the AUDITORIUM available to CITY for a minimum of 15 hours per week, as more fully set forth herein, is full, adequate, and complete consideration for the 50-year leasehold interest granted by CITY to DISTRICT in parcel 2.

IV

CALIFORNIA LAW CONTROLS

It is expressly understood and agreed by CITY and DISTRICT that the law of the State of California shall govern them and the interpretation of this Agreement and that any limitation brought because of, or involving, the Agreement

shall be initiated exclusively in the Courts of the State of California.

V

TERM OF AGREEMENT

The term of this Agreement shall be 50 years, commencing upon the date this Agreement is approved and adopted by the City Council of the CITY, and running thenceforward for a continuous, uninterrupted period of 50 calendar years, inclusive.

VI

ADDITIONAL TERMS AND CONDITIONS

1. Indemnity. The DISTRICT agrees to indemnify and save the CITY, its agents and employees, harmless from any and all liability, claims, damages or injuries to any person caused by the independent acts of DISTRICT, its agents or employees in connection with the performance of this Agreement and the use of parcels 1 and 2 and the AUDITORIUM. The CITY agrees to indemnify and save the DISTRICT, its agents and employees, harmless from any and all liability, claims, damages or injuries to any person caused by the independent acts of CITY, its agents and employees in connection with the performance of this Agreement and the use of parcels 1 and 2 and the AUDITORIUM.

2. Improvements. All buildings and improvements installed upon said parcel 2 by DISTRICT, which right to install is hereby reserved, shall remain the property of DISTRICT during the term of the leasehold and will be removed by DISTRICT upon request by the CITY at termination of the leasehold, for whatever reason, and said property shall be returned to CITY

free of all legal encumbrances. In the event DISTRICT does not so remove said buildings and improvements prior to the expiration of this Agreement, as requested in writing by the CITY, CITY may remove, or sell, or destroy the same at the DISTRICT's expense.

3. Compliance With Law. The DISTRICT shall, at its sole cost and expense, comply and secure compliance with the applicable requirements of all municipal, county, state and federal building codes and assessment regulations and laws now in force, or which may hereafter be in force, pertaining to parcel 2 and the AUDITORIUM, or the operations conducted thereon, and shall faithfully observe, and secure observance with, in the use of parcel 2 and the AUDITORIUM, all municipal ordinances 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 DISTRICT or parcel 2 and the AUDITORIUM by reason of any buildings, structures, machines, appliances or other improvements or property of any nature erected, installed or maintained by DISTRICT or by reason of the business or other activities of DISTRICT upon or in connection therewith. The final judgment of any court of competent jurisdiction, or the admission of DISTRICT or any occupants or subtenants in any action or proceeding against them or any of them, whether the CITY be a party thereto or not, that the DISTRICT, occupants or subtenants has violated any such ordinances or statutes in the use of parcel 2 and the AUDITORIUM shall be conclusive of that fact as between CITY and DISTRICT.

4. Time of the Essence. Time is of the essence of each and all of the terms and provisions of this Agreement, and this Agreement shall inure to the benefit of and be binding upon the parties hereto

and any successor of DISTRICT as fully and to the same extent as though specifically mentioned in each instance, and all covenants, stipulations and agreements in this Agreement shall extend to and bind any occupants or subtenants of DISTRICT.

5. Waiver. The waiver by CITY of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any other term, covenant or condition, or any subsequent breach of the same or any other term, covenant or condition of this Agreement.

6. Merger. The voluntary or other surrender of this Agreement by DISTRICT, or a mutual cancellation thereof, shall not work a merger, but shall at the option of CITY, terminate all or any existing occupants or subtenants, or shall, at the option of CITY, operate as an assignment to it of any or all such subleases or subtenancies.

7. Administration of Agreement; Notices. Control and administration of this Agreement is under the jurisdiction of the City Manager of CITY as to CITY's interest herein and any communication relative to the terms or conditions or any changes or approvals thereto or any notice or notices provided for by this Agreement or by law required to be given or served upon CITY may be given or served by registered letter deposited in the United States mails, postage prepaid, and addressed to the City Manager, City Administration Building, Community Concourse, San Diego, California 92101. Any notice or notices provided for by this Agreement or by law to be given or served upon DISTRICT may be given or served by depositing in the United States mails, postage prepaid, a registered letter

addressed to the San Diego Unified School District at 4100 Normal Street, San Diego, California 92103 Attn: Deputy Superintendent, Administration, or may be personally served upon DISTRICT or any person hereafter authorized by DISTRICT to receive such notice. 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 upon personal service or 48 hours after mailing in the manner required herein.

8. Legal Proceedings. Should it become necessary for CITY to commence legal proceedings to recover possession, or enforce any other provisions of this lease, the prevailing parties will be entitled to legal costs in connection therewith, including a reasonable sum as attorney's fees as determined by the court. The parties agree that the law of the State of California shall be used in interpreting this Agreement and will govern all disputes under this Agreement and will determine all rights thereunder. At the option of either party, venue of any action involving this Agreement may be in, or changed to the County of San Diego or the Southern District of California. Personal service either within or without the State of California shall be sufficient to give personal jurisdiction to any court in which an action is filed for litigation of rights under this Agreement.

9. Verbal Representations. This Agreement contains the complete expression of the whole agreement between the parties hereto and there are no promises, representations, agreements, warranties or inducements either expressed verbally or implied except as are fully set forth herein. This contract cannot be enlarged, modified or changed in any respect except by written agreement between the said parties.

10. Severance. If any part of the agreement contained

herein is found by a court of competent jurisdiction, over, the parties and the subject matter hereto, to be void or voidable, that portion which is so held to be defective shall be severed from the remainder hereof, the later to remain in full force and effect.

11. Amendment or Renewal. This Agreement may be amended or renewed in writing by mutual consent of the DISTRICT and the CITY as permitted by law.

12. Non-Discrimination. The DISTRICT, CITY, and all others who from time to time may use the property and buildings described hereinabove with the permission and on the terms and conditions specified by the DISTRICT, shall not discriminate in any manner against any person or persons on account of race, color, sex, creed or national origin, including, but not limited to the providing of goods, services, facilities, privileges, advantages, and the holding and obtaining of employment.

IN WITNESS WHEREOF, CITY and DISTRICT have caused this Agreement to be signed in their manner and on their behalf by their duly authorized representatives.

CITY

DISTRICT

CITY OF SAN DIEGO

SAN DIEGO UNIFIED SCHOOL DISTRICT

City Manager, acting pursuant to and in furtherance of Resolution No. 211907, adopted by the City Council on 10-31-74, 1974

By Thomas A. Shannon
Deputy Superintendent, Administration

Approved in public meeting of the Board of Education of the San Diego Unified School District on NOV 5 1974

ASSISTANT TO THE City Manager

RALPH D. STERN
Schools Attorney and
Assistant Secretary of Board

By Billie N. Clarkson
(Mrs.) Billie N. Clarkson
Recording Secretary

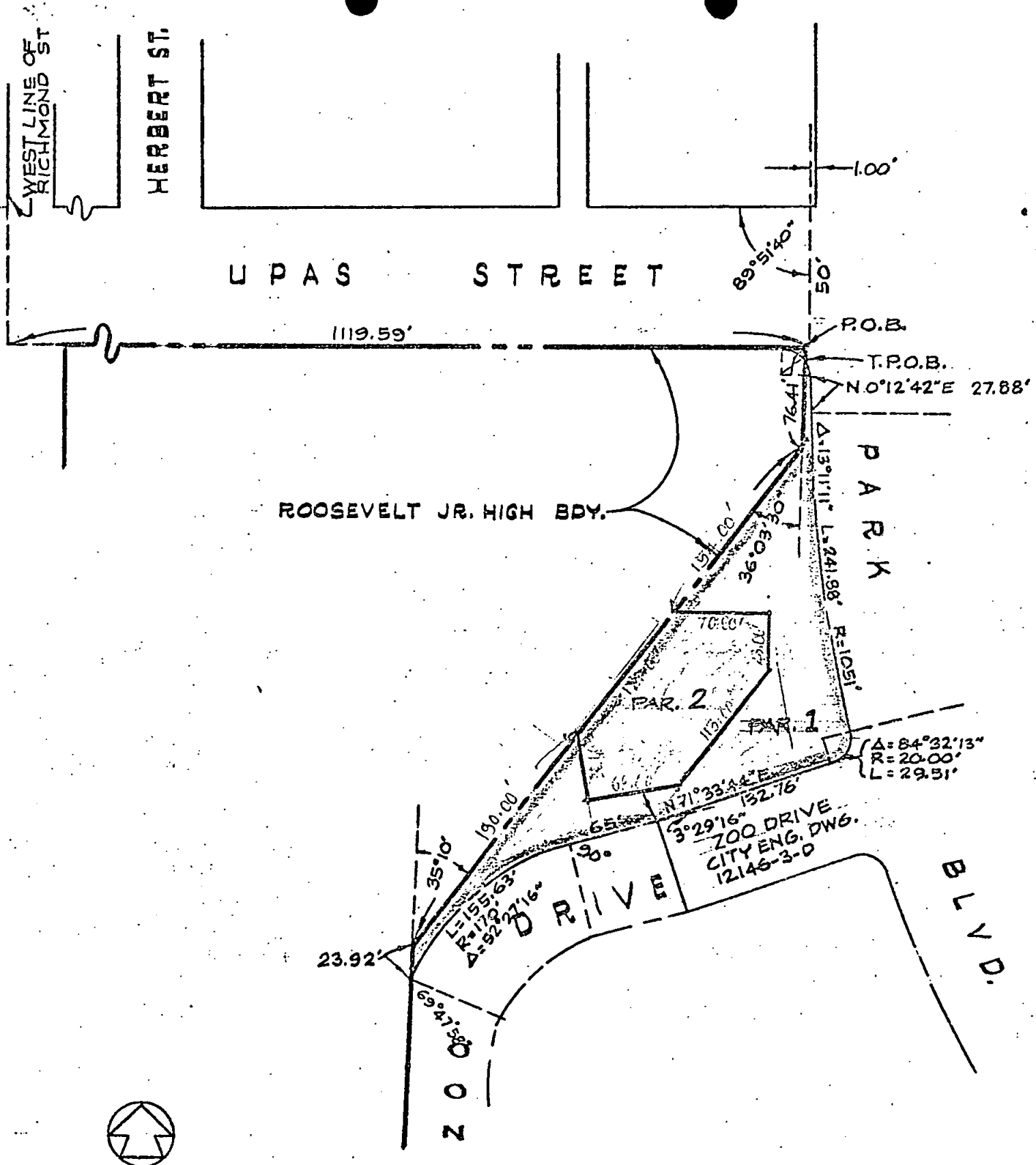
LEGALITY AND FORM APPROVED:
RALPH D. STERN, Schools Attorney
DEN LICHENBERG
Senior Deputy Schools Attorney
San Diego Unified School District
4160 Normal Street
San Diego, California 92103
Tel. (714) 298-4521

211907

LEGAL DESCRIPTION

All of the following described portions and parcels of Balboa Park, situated within the City of San Diego, County of San Diego, State of California, to-wit:

Beginning at a point on the North line of Balboa Park distant 1119.59 feet Easterly along said North line from the West line of Richmond Street, in said City as now established, said point being the Northeastern corner of Roosevelt Junior High School; thence South along the Easterly line of said Roosevelt Junior High School, making an angle of $91^{\circ} 17' 30''$ to the right with said North line a distance of 11.02 feet to the TRUE POINT OF BEGINNING; thence continuing South along said Easterly line a distance of 65.39 feet; thence making an angle of $36^{\circ} 03' 30''$ to the right a distance of 465.00 feet; thence making an angle of $35^{\circ} 10' 00''$ to the left a distance of 23.92 feet to a point on a 170.00 foot radius curve concave Southeasterly and the radial line through said point making an angle of $69^{\circ} 47' 58''$ to the left with the last described course; thence Northeasterly along the arc of said curve through a central angle of $52^{\circ} 27' 16''$ a distance of 155.63 feet; thence tangent Northeasterly a distance of 65.00 feet to the Northwestern corner of Zoo Drive as shown on City Engineer's Drawing No. 12146-3-D filed in the office of the City Engineer, City of San Diego, said Northwestern corner shown as having Coordinates N. 209816.525 and E. 1724115.138; thence making an angle of $3^{\circ} 29' 16''$ to the left along the Northwestern line of Zoo Drive as shown on said Drawing No. 12146-3-D, North $71^{\circ} 33' 44''$ East 132.76 feet to the beginning of a tangent 20.00 foot radius curve concave Northwesternly; thence Northeasterly, Northerly and Northwesternly along the arc of said curve through a central angle of $84^{\circ} 32' 13''$ a distance of 29.51 feet to a point of reverse curvature with a 1051.00 foot radius curve concave Easterly; thence Northwesternly and Northerly along the arc of said 1051.00 foot reverse curve, being also along the Westerly line of Park Blvd. as shown on said Drawing No. 12146-3-D, through a central angle of $13^{\circ} 11' 11''$ a distance of 241.88 feet; thence tangent and along the Westerly line of Park Blvd. North $0^{\circ} 12' 42''$ East 27.88 feet to the beginning of a tangent 20.00 foot radius curve concave Southwesterly; thence Northwesternly along the arc of said curve through a central angle of $26^{\circ} 40' 27''$ a distance of 9.31 feet to the TRUE POINT OF BEGINNING. Containing 0.784 Acres.



SCALE : 1"=100'

PORTION OF ROOSEVELT JR. HIGH
SHOWING AREA OF PROPOSED ENCROACHMENT

PARCEL '1
LEGAL DESCRIPTION

All of the following described portions and parcels of Balboa Park, situated within the City of San Diego, County of San Diego, State of California, to-wit:

Beginning at a point on the North line of Balboa Park distant 1119.59 feet Easterly along said North line from the West line of Richmond Street, in said City as now established, said point being the Northeasterly corner of Roosevelt Junior High School; thence South along the Easterly line of said Roosevelt Junior High School, making an angle of $91^{\circ} 17' 30''$ to the right with said North line a distance of 11.02 feet to the TRUE POINT OF BEGINNING; thence continuing South along said Easterly line a distance of 65.39 feet; thence making an angle of $36^{\circ} 03' 30''$ to the right a distance of 465.00 feet; thence making an angle of $35^{\circ} 10' 00''$ to the left a distance of 23.92 feet to a point on a 170.00 foot radius curve concave Southeasterly and the radial line through said point making an angle of $69^{\circ} 47' 58''$ to the left with the last described course; thence Northeasterly along the arc of said curve through a central angle of $52^{\circ} 27' 16''$ a distance of 155.63 feet; thence tangent Northeasterly a distance of 65.00 feet to the Northwesterly corner of Zoo Drive as shown on City Engineer's Drawing No. 12146-3-D filed in the office of the City Engineer, City of San Diego, said Northwesterly corner shown as having Coordinates N. 209816.525 and E. 1724115.138; thence making an angle of $3^{\circ} 29' 16''$ to the left along the Northwesterly line of Zoo Drive as shown on said Drawing No. 12146-3-D, North $71^{\circ} 33' 44''$ East 132.76 feet to the beginning of a tangent 20.00 foot radius curve concave Northwesterly; thence Northeasterly, Northerly and Northwesterly along the arc of said curve through a central angle of $84^{\circ} 32' 13''$ a distance of 29.51 feet to a point of reverse curvature with a 1051.00 foot radius curve concave Easterly; thence Northwesterly and Northerly along the arc of said 1051.00 foot reverse curve, being also along the Westerly line of Park Blvd. as shown on said Drawing No. 12146-3-D, through a central angle of $13^{\circ} 11' 11''$ a distance of 241.88 feet; thence tangent and along the Westerly line of Park Blvd. North $0^{\circ} 12' 42''$ East 27.88 feet to the beginning of a tangent 20.00 foot radius curve concave Southwesterly; thence Northwesterly along the arc of said curve through a central angle of $26^{\circ} 40' 27''$ a distance of 9.31 feet to the TRUE POINT OF BEGINNING. Containing 0.784 Acres.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL, herein referred to as Parcel 2:

Beginning at a point on the North line of Balboa Park distant 1119.59 feet Easterly along said North line from the West line of Richmond Street, in said City as now established, said point being the Northeasterly corner of Roosevelt Junior High School, thence South along the Easterly line of said Roosevelt Junior High School, making an angle of $91^{\circ} 17' 30''$ to the right with said North line a distance of 76.41 feet; thence making an angle of $36^{\circ} 03' 30''$ to the right, a distance of 154.00 feet to the TRUE POINT OF BEGINNING; thence making an angle of $137^{\circ} 21' 00''$ to the left, 70.00 feet; thence making an angle to the right, 43.00 feet;

thence making an angle of $37^{\circ} 21' 00''$ to the right, 113.00 feet;
thence making an angle of $42^{\circ} 19' 00''$ to the right, 68.00 feet;
thence making an angle of $90^{\circ} 00' 00''$ to the right, 50.00 feet;
thence making an angle of $47^{\circ} 41' 00''$ to the right, 121.00 feet,
more or less to the TRUE POINT OF BEGINNING. Containing 0.288 Acres.

PARCEL 2
LEGAL DESCRIPTION

All of the following described portions and parcels of Balboa Park, situated within the City of San Diego, County of San Diego, State of California, to-wit:

Beginning at a point on the North line of Balboa Park distant 1119.59 feet Easterly along said North line from the West line of Richmond Street, in said City as now established, said point being the Northeasterly corner of Roosevelt Junior High School, thence South along the Easterly line of said Roosevelt Junior High School, making an angle of $91^{\circ} 17' 30''$ to the right with said North line a distance of 76.41 feet; thence making an angle of $36^{\circ} 03' 30''$ to the right, a distance of 154.00 feet to the TRUE POINT OF BEGINNING; thence making an angle of $137^{\circ} 21' 00''$ to the left, 70.00 feet; thence making an angle to the right, 43.00 feet; thence making an angle of $37^{\circ} 21' 00''$ to the right, 113.00 feet; thence making an angle of $42^{\circ} 19' 00''$ to the right, 68.00 feet; thence making an angle of $90^{\circ} 00' 00''$ to the right, 50.00 feet; thence making an angle of $47^{\circ} 41' 00''$ to the right, 121.00 feet, more or less to the TRUE POINT OF BEGINNING. Containing 0.288 Acres.

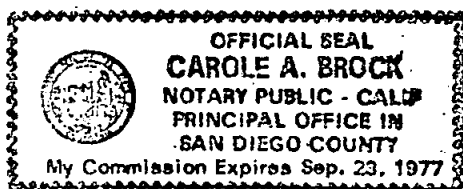
STATE OF CALIFORNIA,)
) SS.
COUNTY OF SAN DIEGO.)

On October 31, 1974, before me, the undersigned, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared Martin Breslauer, known to me to be the Assistant to the City Manager of The City of San Diego, the municipal corporation that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal, in the County of San Diego, State of California, the day and year in this certificate first above written.

(Insert Notary
Stamp below)

Carol A. Drock
Notary Public in and for said San Diego County,
State of California.



File 1 Leases

City - San Diego School Dist

*Por Balboa Park
n/e cor*

Property - Hagar

51 A

RESOLUTION NO. 211907

R-75-950

OCT 31 1974

WHEREAS, by deed dated June 6, 1921, pursuant to ratification by the electorate of the City of San Diego, a 17-acre portion of Balboa Park was granted for school purposes to the San Diego Unified School District upon which has been constructed Roosevelt Junior High School; and

WHEREAS, in connection with reconstruction of Roosevelt school buildings under the mandate of the Field Act, the most desirable and logical location of the auditorium to be built requires an encroachment onto approximately .288 acres of adjacent Balboa Park property; and

WHEREAS, the auditorium is to be used as a recreational and cultural facility by the San Diego Unified School District; and

WHEREAS, the School District has requested that the City lease .288 acres to the School District for a term of 50 years; and

WHEREAS, under the terms of the proposed lease .288 acres would be used for auditorium purposes and the adjacent .496 acres would be planted, landscaped and maintained by the District for public open space park purposes; and

WHEREAS, said proposed lease further grants the City a guaranteed minimum of 15 hours per week use of the auditorium for recreational and cultural purposes and District further agrees that the auditorium will be available to the public for recreational and cultural purposes at such reasonable times as it is not actually being used by the City or the District; and

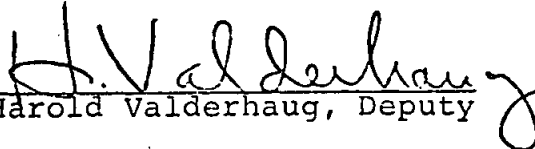
WHEREAS, the use of park property for an auditorium is a proper park purpose; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

That the City Manager is hereby authorized and empowered to execute, for and on behalf of The City of San Diego, a Lease Agreement for .288 acres of unused Balboa Park lands to the SAN DIEGO UNIFIED SCHOOL DISTRICT for the purpose of supplementing the area necessary for construction of a Performing Arts Auditorium Building at Roosevelt Junior High School, under the terms and conditions set forth in the form of lease agreement on file in the office of the City Clerk as Document No. 749144.

APPROVED: JOHN W. WITT, City Attorney

By


Harold Valderhaug, Deputy

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RECREATION AGREEMENT

CITY OF SAN DIEGO -- SAN DIEGO UNIFIED SCHOOL DISTRICT

The City of San Diego and the San Diego Unified School District have entered into a contractual agreement for operation of a Recreation program for the citizens of the community.

To clarify and expand policies pursuant to the agreement, the contract and comments on procedure are here presented. The procedures are an effort to state the position of the School Administration and the City Recreation Administration on important questions.

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Agreement Executed September 1948
Comments and Procedures Revised January 1, 1956

RECREATION AGREEMENT

CITY OF SAN DIEGO -- SAN DIEGO UNIFIED SCHOOL DISTRICT

CONTRACT

WHEREAS, The City of San Diego, through its Park and Recreation Department and the San Diego Unified School District are mutually interested in and concerned with the provision of adequate facilities for the recreation and physical well-being of the people of the City of San Diego; and

WHEREAS, the San Diego Unified School District has certain play areas, toilets, auditoriums, gymnasiums and other educational facilities under their jurisdiction, suitable for a community recreation program, and the City, in its Park and Recreation Department has in its employ certain employees well qualified to supervise, direct and conduct such a community recreation program; and

WHEREAS, for the many years past, The City of San Diego and the San Diego Unified School District have maintained a cooperative working arrangement whereunder many school grounds and facilities have been and are being used by the two authorities for general recreational purposes, thus affording to the community greatly increased recreational opportunities at costs much below what would otherwise be necessary; NOW THEREFORE,

In order to continue and improve the cooperative efforts of the San Diego Park and Recreation Department and the San Diego Unified School District.

COMMENTS AND PROCEDURES

THE PROVISION OF SCHOOL FACILITIES FOR RECREATION

School buildings are community centers and should be used as many hours of the day as possible. To make possible the fullest use of the facilities will require cooperation and understanding of both the School District and the Park and Recreation Department. The Recreation Division will need to to organize, execute, and evaluate both the general recreation program and the specific activities maintained on each site. School Administrators will need to assume responsibility for the planning, administering and follow through of all community programs in accord with school objectives.

The emphasis on activities at school locations will be upon school centered programs but the whole community must be served to justify supervision for a recreation program.

Problems will arise but can be minimized by understanding the purpose of the agreement. There will be more wear on facilities by the use; however, the total service to the community will be the justification.

CONTRACT

IT IS HEREBY MUTUALLY AGREED BETWEEN the said San Diego Unified School District hereinafter known as the "District" and the City of San Diego, for and on behalf of its Department of Parks and Recreation hereinafter designated as the "City," that:

The District will make available to the City for community recreation activities:

- a. All permanently operated playground areas which are suitable for community recreation activities; these areas are to be selected by the Park and Recreation Director of the City of San Diego and approved by the Manager of the City and the Superintendent of the District.

COMMENTS AND PROCEDURES

KINDS OF SITES AVAILABLE FOR RECREATION

The City of San Diego operates after school and vacation time recreation programs on, or adjacent to selected elementary schools and secondary schools. Areas shall be selected and operated as: (1) need is determined, (2) funds become available to the City, and (3) approval of the Superintendent of Schools and the City Manager is given.

TYPES OF RECREATION PROGRAMS

Depending upon need and funds available, programs are operated on various schedules, such as regular school year and summer operation.

REQUEST FOR NEW SCHOOL SITE OPERATION INITIATED BY THE SCHOOL ADMINISTRATION

If a new recreation operation is desired on a school area, the school principal should contact the office of the Supervisor of Physical Education and explain the need, the facilities available and suggest the type of program possible on the area. The school Supervisor of Physical Education will then contact the City Recreation Superintendent. Since the proposed budget of the Recreation Division is made by March of each year for operation the following July 1, all requests for new programs must be made prior to March 1.

CONTRACT

COMMENTS AND PROCEDURES

REQUEST FOR NEW SCHOOL SITE OPERATION. INITIATED BY THE COMMUNITY

If a new recreation operation is desired on a school area by a community group, the community group should write a request to the Recreation Commission through the Park and Recreation Director. The Park and Recreation Director, through his representatives, will contact the school principal and the school Supervisor of Physical Education for recommendations. This request and these recommendations will be presented to the Park and Recreation Commission for action.

STORAGE SPACE

Adequate storage space (approximately 50 square feet) is to be made available by the school district for the storage of Park and Recreation Department equipment and supplies.

CLASSROOMS, AUDITORIUMS, CAFETERIAS, GYMNASIUMS, ETC.

Suitable school facilities are available to make possible a well-rounded community recreation program. School classrooms, restrooms, auditoriums, cafeterias, gymnasiums, social rooms and other special facilities may be contracted for by the City Park and Recreation Department, when in keeping with school objectives, during the hours that these facilities are not used for school planned programs.

- b. The District further agrees to allow the City Park and Recreation Department to use other selected school facilities which are suitable for community recreation programs. These facilities are to be selected by the Park and Recreation Director, approved by the Manager of the City and the Superintendent of the District.

CONTRACT

- c. The use of such selected school facilities shall be in accordance with the regular procedures of the School District in granting permits for use of school facilities as provided for by laws of California and the rules and regulations of the Board of Education.
- d. Schedules shall be established for said use of selected school facilities by designated representatives of the Superintendent of Schools and the City Manager.

COMMENTS AND PROCEDURES

BUILDINGS USED PRIMARILY FOR RECREATION

Separate unit buildings on school areas now used primarily for recreation purposes shall become the responsibility of the Park and Recreation Department to repair and maintain. The present policy of the School Board and the City of San Diego is to make use of regular school building facilities rather than to install separate recreation units on school areas.

REQUEST FOR USE OF SCHOOL FACILITIES

All requests for community recreation use of School facilities shall be channelled through the Park and Recreation Department.

The contracts for use of school facilities by the City Park and Recreation Department will be made by the City Recreation Central Office through the School District Business Office. Use of permanently operated school facilities shall be contracted for on a semester, annual or summer vacation period basis. Occasional use shall be per individual contract. Both central offices must be notified if any changes in contracts are made.

Four copies of each contract are made. The original is retained in the School Business Office, one copy is sent to the school involved, one to the School Physical Education Office and one to the City Recreation Office.

School activities which are held during regular school hours with assistance of the City Park and Recreation leader do not require a contract for building use as they are the responsibility of the school. Scheduling and arrangements are to be made between the School Principal and the Recreation Leader of the area.

CONTRACT

IT IS FURTHER AGREED that when an admission charge is made to cover expenses only for a community recreation event in a selected school facility other than the Russ Auditorium, there shall be no rental fee charged to the City.

IT IS HEREBY AGREED that in the event the City shall schedule a community recreation event in the Russ Auditorium and an admission charge is made to cover expenses only, then the District shall charge the City the minimum rental fee as established by the District.

IT IS HEREBY AGREED that a schedule of dates for the use of the School District facilities will be worked out in advance; that this schedule will be so arranged as to avoid any conflict between the school and the Park and Recreation Department use; that in the scheduling of said facilities, school events and programs shall have the first priority and the recreation program established by the Park and Recreation Department shall have second priority and any other events by other groups or agencies shall have third priority.

COMMENTS AND PROCEDURES

CITY PLAYGROUNDS AND COMMUNITY CENTERS AVAILABLE FOR SCHOOL USE

City Recreation Division playground and community center facilities may be available for school activities when not in use for park and recreation programs. Such contracts shall originate with the school (Principals, Administrators or School Physical Education Supervisor responsible for the supervision of the activity) through the leader in charge of the facilities desired and approved by the City Recreation Central Office.

BALBOA PARK FACILITIES AVAILABLE FOR SCHOOL USE

Municipally operated facilities in Balboa Park for which a rental fee has been established will be available at no charge for school district sponsored activities provided the rental charges for said events would be paid out of tax funds (City Resolution No. 93275, April 5, 1949.) Student activities will pay the minimum fee for use of these facilities.

CONTRACT

IT IS FURTHER UNDERSTOOD AND AGREED that this schedule may be changed at the request of either party by the mutual consent of the other.

The City through its employees in the City Park and Recreation Department agrees to provide adequate personnel to supervise the recreation activities which take place after school hours and during holiday and vacation periods at the above selected areas.

It shall be permissible where such activities are beneficial to both school and recreation programs to allow the working hours of the City personnel to be integrated with school hours. In the event such activities are conducted during school hours with school children, the employee of the Park and Recreation Department shall be subject to the administrative authority and supervision of the principal of the school.

IT IS HEREBY UNDERSTOOD that the personnel employed by the City of San Diego in its Park and Recreation Department shall be under the supervision of the City Park and Recreation Department except as outlined above.

COMMENTS AND PROCEDURES

BALBOA STADIUM USE

Balboa Stadium is operated under a separate San Diego City and San Diego Unified School District contract.

MUNICIPAL SWIMMING POOLS AVAILABLE FOR SCHOOL USE

Municipal swimming pools and plunges may be available to the School District for instructional classes at no charge. Extra curricular activity groups will pay a minimum fee.

RESPONSIBILITY FOR SUPERVISION

The City Park and Recreation Department is responsible for the supervision of recreation activities on school areas after school hours and during vacation periods. All employees are under civil service regulations and are qualified by examination, both written and oral. Full responsibility for the conduct of such activities is assumed by the City Park and Recreation Department. Original program planning is the responsibility of the recreation leader, the district supervisor of the Recreation Division and the school principal.

CONTRACT

IT IS UNDERSTOOD AND AGREED that school principals are expected to and will advise in the planning and administering of a recreation program to be conducted by the City Park and Recreation Department, on or in the facilities under said principals' jurisdiction.

IT IS RECOGNIZED that school properties and facilities are intended primarily for school purposes and for the benefit of children of school age. It is therefore agreed that, in planning programs and scheduling activities on school grounds, the recreational needs and opportunities of such children will be well provided for and adequately protected.

COMMENTS AND PROCEDURES

SUCCESS OF CONTRACTUAL AGREEMENT

The success of this contractual agreement lies in the words of this paragraph. THE SCHOOL ADMINISTRATOR WHO FEELS A RELATIONSHIP WITH THE RECREATION LEADER IN HIS AREA SIMILAR TO THAT OF A TEACHER ON HIS STAFF CAN ASSIST MATERIALLY IN SERVING THE COMMUNITY IN THE RECREATION FIELD. The technicalities of authority may of necessity be with the City Park and Recreation Department but the responsibility for overall planning and administering of activities within the school facilities lies primarily with the person responsible for that facility -- be it Adult Education, Park and Recreation Department, Parent-Teachers Association or community group using the facilities.

The contractual agreement is a means of assisting one governmental agency (the San Diego Park and Recreation Department) that is responsible for the program of leisure time activities of the entire community. Some cities have two agencies responsible for such a program, the schools for school areas and the municipality for municipal areas; usually one department not knowing what the other is doing often duplicating program and facilities. In the interest of economy, full use of present facilities is the best saving of public monies. Building and maintaining separate facilities when, for the most part, use is heaviest at different times of the day and similar facilities are required is a waste of public money.

CONTRACT

CONTENTS AND PROCEDURES

PROCEDURE IN CASE OF PROBLEMS

In event that disputes or differences arise as a result of the recreation program being conducted on school facilities, the school teacher or principal should attempt to arrive at satisfactory settlement by working with the playground leader and the City Recreation Division's District Supervisor. If a settlement through these channels is not possible then the problem should be referred as follows:

1. Recreation--refer problem to Recreation Division's Central Office.
2. School
 - (a) If the problem is instructional, refer problem to the office of the Supervisor of Physical Education.
 - (b) If the problem is on use of facilities, refer problem to Business Office.

IT IS FURTHER AGREED that in the event any dispute or difference arises as a result of the recreation program being conducted on the sites jointly used and selected as above outlined or as to the use of school district facility, then, in that event, said dispute or difference shall be settled and arbitrated by appealing to the respective department heads of the School District and the City, in accordance with regular heretofore established procedures.

IT IS FURTHER AGREED that the City Park and Recreation Department will furnish and supply all expendable materials necessary for carrying on a community recreation program for all ages.

INSTALLATION AND MAINTENANCE OF EQUIPMENT

All school playground areas are to be master planned. Both school and Park and Recreation Department needs should be considered in such planning.

The school district will install and maintain as needed for the elementary school program various types of apparatus.

IT IS FURTHER UNDERSTOOD AND AGREED that the School District will install and maintain all fences, play apparatus and facilities necessary for its school program and that said equipment, apparatus and facilities may be used by said Park and Recreation Department for community recreation purposes.

CONTRACT

IT IS FURTHER UNDERSTOOD AND AGREED that the City Park and Recreation Department with the approval of the school board will furnish and supply all the facilities and equipment necessary for the community recreation program which are not included as a requirement for the school program and that, in that event, the facilities and equipment so furnished may be used by the school district for school purposes.

IT IS FURTHER AGREED that the School District will provide all the custodial services for auditorium, gymnasiums, toilets and other indoor facilities of any school plant used by the City Park and Recreation Department.

COMMENTS AND PROCEDURES

The City Park and Recreation Department may, with approval of the Board of Education, install and maintain facilities on school areas if necessary for the community recreation program as funds are available. Such requests are to be channelled through the school district Physical Education Department.

A. Elementary Schools:

1. Large cage type backstops
2. Lights for fields and play areas.
3. Bleachers with protective fencing for softball and baseball fields.
4. Tennis courts
5. Regulation basketball courts and standards.
6. Any other facilities needed for a community recreation program and not necessary for an elementary school education program.

B. Junior High Schools:

1. Large cage type backstops
2. Bleachers with protective fencing for softball and baseball fields.
3. Lights for fields and play areas.
4. Any other equipment needed for a community recreation program and not necessary for a junior high school education program.

CUSTODIAL SERVICES

Custodial services, including regular cleaning, for indoor facilities are to be provided by the School District. These services will be arranged by the school principal.

CONTRACT

COMMENTS AND PROCEDURES

The School District further agrees that it will prepare and maintain the school play areas for regular school activities and that in the event said school play areas are used by the City Park and Recreation Department for a community recreation purpose, the City Park and Recreation Department will prepare and maintain said school play areas for said recreation activities.

IT IS HEREBY FURTHER AGREED that the City, for and on behalf of the Park and Recreation Department shall be responsible for any and all damages to school property which may be incurred as a proximate result of any recreation activity being conducted by the City Park and Recreation Department.

DAMAGE TO SCHOOL DISTRICT PROPERTY

The school principal should report damage to the facilities used by the Park and Recreation Department by letter to the School District Business Office giving complete details as to the cause and extent of damage.

The School District further agrees to inform the proper officers of the City whenever new school sites are to be selected so that the City may purchase adjoining property for the location of additional recreational facilities in event the City desires to do so.

CONTRACT

IN WITNESS WHEREOF, The City of San Diego has caused this agreement to be executed by its City Manager pursuant to Resolution No. 89539 of the Council of said City, and the San Diego Unified School District has caused this agreement to be executed by its Superintendent and the President of the Governing Board of the San Diego Unified School District, San Diego County, State of California, pursuant to resolution of said governing board, this 7th day of September, 1948.

THE CITY OF SAN DIEGO

(Signed) By F. A. Rhodes
City Manager

CONTRACT

THE SAN DIEGO UNIFIED SCHOOL DISTRICT
SAN DIEGO COUNTY, STATE OF CALIFORNIA

(Signed) By Will C. Crawford

(Signed) By Fred E. Lindley
President of the Governing Board

I HEREBY APPROVE the form and legality of the foregoing Agreement, this 28th day of September, 1948.

J. J. DuPaul, City Attorney

(Signed) By Louis M. Karp
Deputy City Attorney

I HEREBY APPROVE the form and legality of the foregoing Agreement, this 28th day of September, 1948.

James Don Keller, District Attorney
and County Counsel

(Signed) By Carroll H. Smith
Deputy District Attorney