



Real Estate Assets Department

SDC003

Pasadena College

S2012D-011-B000

Document Type

LEGAL DOCUMENTS



Sub - Category

AGREEMENTS



(33)

Real Estate Assets Department
TERMINATION OF AGREEMENT



Rec 1/29/24
NR1135

The following agreement for use of City-owned property will terminate as noted:

LESSEE	Pasadena College
LEASEHOLD ID	S201RD-011-A00
ACTUAL TERMINATION DATE	July 31, 2017
SECURITY DEPOSITS	Yes ☐ No ☒
TERMINATION INSPECTION DATE	
Subtenants?	Yes ☐ No ☒
Date Subtenants vacated property OR Date of new direct agreement with City	August 1, 2017

Agent Alexandra Clarke Date January 26, 2024 Supervisor MEP Date 1/30/24

*****Lease Billing Use Only*****

Lease Billing Supervisor SK Date 2/29/24
Data Entry _____ Date _____

Lease Billing Supervisor Termination Checklist:

- ☒ Terminate Lease in REportfolio
- ☒ If termination is in the middle of billing period, prorate invoice. Check with agent if necessary.
- ☒ If rent paid beyond termination date, process refund.
- ☒ Void any invoices that have been issued for period after termination date.
- ☒ Refund security deposit per agent instructions.
- ☒ Notify agent that termination, proration and refund (if any) are complete.

CITY OF SAN DIEGO
RIGHT OF ENTRY PERMIT

THIS CITY OF SAN DIEGO RIGHT OF ENTRY PERMIT ("Permit") is entered into by and between **THE CITY OF SAN DIEGO**, a California municipal corporation ("CITY"), and **Point Loma Nazarene University**, a California nonprofit corporation ("PERMITTEE"), to be effective as of November 1, 2019 (the "Effective Date"), when signed by the parties and approved by the San Diego City Attorney.

CITY hereby grants PERMITTEE the non-exclusive right to enter upon the Permit Area, based upon the following terms and conditions:

1. **Definitions:** As used in this Permit, the following terms shall be defined as follows:
 - 1.1 **"CITY Contact"** shall mean the CITY's Park and Recreation Department District Manager or designee. For purposes of this Permit, the CITY Contact is currently Daniel Daneri, who can be contacted at (619) 235-5914. If not available contact: Shoreline Parks Senior Park Ranger at (858) 581-9987 or Grounds Maintenance Manager Vincent Paniagua at (858) 581-9976.
 - 1.2 **"Permit Area"** shall mean that certain CITY-owned real property commonly referred to as the Western Loop Road located within Sunset Cliffs Natural Park ("Park") and as generally depicted in **Exhibit A: Permit Area**, attached hereto.
 - 1.3 **"PERMITTEE"** shall mean Point Loma Nazarene University, a California nonprofit corporation, which shall include PERMITTEE's agents and PERMITTEE's employees. PERMITTEE shall be responsible for all of PERMITTEE's agents and PERMITTEE's employees and ensure that they adhere to all conditions as stated in this Permit.
 - 1.4 **"PERMITTEE's Address for Notices"** shall be: 3900 Lomaland Drive, San Diego, California, 92106.
 - 1.5 **"CUP/CDP"** shall mean that certain Coastal Development Permit No. A-6-PEN-91-55 and Conditional Use Permit No. 87-0142 for Point Loma Nazarene College, recorded in the Official Records of the San Diego County Recorder's Office as Document Number 1995-0116061 on March 21, 1995.
 - 1.6 **"Original ROE"** shall mean that City of San Diego Right of Entry Permit effective as of August 1, 2017, and on file with CITY.
2. **Right to Enter:** The use of the Permit Area by PERMITTEE shall be limited to use and maintenance of the Permit Area for ordinary public road purposes and any improvements to

the Permit Area ("Activity"). PERMITTEE may use the Permit Area to provide access for its students, faculty, guests and invitees. The Permit Area shall be used for ordinary public road uses only. CITY reserves the right to enter upon the Permit Area at all times and to inspect and maintain the Permit Area as CITY deems necessary.

2.1 Maintenance: PERMITTEE shall, at its sole cost and expense, maintain the Permit Area to standards reasonably acceptable to the CITY, upon written notification to the CITY and CITY's advance written approval.

2.2 Improvements: Any improvements to the Permit Area other than ordinary replacement and repair of the Permit Area shall be subject to prior written CITY approval.

3. Fee: The processing fee for this Permit is hereby waived because the Activity provides a public benefit by providing maintenance of the road and public access and safety to the Park, as required by Coastal Development Permit No. A-6-PEN-91-55. The Permit Area is accessible only through the PERMITTEE's Campus and serves the purpose of providing public benefit in that it affords a means for public access to the Park, provides scenic vantage points and recreational access to pedestrians and bicycles. In addition, the Permit Area serves as a primary storm water conveyance route for this area.

4. Term: This Permit shall be effective upon the Effective Date, and shall expire at midnight on October 31, 2044, which is twenty-five (25) years from the date of the Effective Date ("Term").

4.1 Supersedes Prior Agreements. By the execution and delivery of this Permit, CITY and PERMITTEE hereby terminate the Original ROE as of the Effective Date of this Permit. It is mutually agreed that this Permit shall supersede any and all prior agreements between the parties, and their predecessors in interest, related to all or any portion of the Permit Area, except for the provisions of the CUP/CDP. The Original ROE shall be of no further force or effect, except as to any rights, remedies and obligations accrued thereunder prior to the Effective Date of this Permit and which survive such termination pursuant to Section 27 of the Original ROE.

5. CITY's Consent, Discretion. CITY's consent or approval under this Permit shall mean the written consent or approval of the Mayor of San Diego, or his or her designee ("Mayor"), unless otherwise required by law or expressly provided herein, and shall be made in the Mayor's discretion, subject to all applicable laws, rules, regulations and directives of competent governmental authorities, and the CUP/CDP.

6. Activity Coordination:

6.1 Activity Coordination: Except in the case of an emergency, in which case PERMITTEE shall act reasonably promptly, PERMITTEE shall contact CITY Contact a minimum of five (5) working days prior to the start date of any maintenance or improvements within the Permit Area. At that time, PERMITTEE shall submit all information requested by the CITY Contact concerning any maintenance or improvements within the Permit Area. CITY reserves the right to impose reasonable restrictions and scheduling conditions for any aspect of the maintenance or improvements within the Permit Area, and the

maintenance or improvements within the Permit Area shall not commence pursuant to this Permit without the prior written approval of the CITY Contact.

- 6.2. Public Access Approval: Notwithstanding the time periods set forth above, except in the case of an emergency, in which case PERMITTEE shall act reasonably promptly, PERMITTEE shall notify CITY Contact a minimum of ten (10) working days prior to start of any aspect of any maintenance or improvements within the Permit Area that may affect the use of any public access in the Permit Area.
7. Unauthorized Activities: PERMITTEE shall not engage in any activity on CITY-owned property other than pre-approved aspects of the Activity. Any work performed by PERMITTEE that was not previously approved or otherwise authorized by this Permit, shall be removed and the CITY-owned property shall be put back to its condition on the Effective Date at the PERMITTEE's sole cost and expense, subject to the satisfaction of the CITY Contact.
8. Insurance: PERMITTEE shall not begin any work on the Activity until it has: (a) provided to CITY insurance certificates reflecting evidence of all insurance required below; however, the CITY reserves the right to request, and the PERMITTEE shall submit, copies of any policy upon reasonable request by the CITY; (b) obtained CITY approval of each insurance company or companies; and (c) confirmed with CITY that all policies contain the specific provisions required below. PERMITTEE's liabilities, including but not limited to PERMITTEE's indemnity obligations, under this Permit, shall not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Permit and PERMITTEE's failure to maintain or renew coverage or to provide evidence of renewal during the Term may be treated as a material breach of contract by the CITY. The PERMITTEE shall not modify any policy or endorsement thereto which increases the CITY's exposure to loss for the Term.
- 8.1 Types of Insurance: At all times during the term of this Permit, the PERMITTEE shall maintain insurance coverage as follows:
- a. Commercial General Liability (CGL). Insurance written on an ISO Occurrence form CG 00 01 07 98 or an equivalent form providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of \$1 million per occurrence and subject to an annual aggregate of \$2 million. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.
 - b. Commercial Automobile Liability. For all of the PERMITTEE's automobiles including owned, hired and non-owned automobiles, the PERMITTEE shall keep in full force and effect, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1

million per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

- c. Workers' Compensation. For all of the PERMITTEE's employees who are subject to this Permit and to the extent required by the applicable state or federal law, the PERMITTEE shall keep in full force and effect, a Workers' Compensation policy. That policy shall provide a minimum of \$1 million of employers' liability coverage, and the PERMITTEE shall provide an endorsement that the insurer waives the right of subrogation against the CITY and its respective elected officials, officers, employees, agents and representatives.

8.2 Deductibles: All deductibles on any policy shall be the responsibility of the PERMITTEE and shall be disclosed to the CITY at the time the evidence of insurance is provided.

8.3 Acceptability of Insurers: Except for the State Compensation Insurance Fund, all insurance required by this Permit shall only be carried by insurance companies with a rating of at least "A-, VI" by A.M. Best Company, that are authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by the CITY. CITY will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Eligible Surplus Lines Insurers (LESLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

8.4 Modification: To assure protection from and against the kind and extent of risk existing with the Activity, CITY, at its reasonable discretion, may require the revision of amounts and coverage at any time by giving PERMITTEE thirty (30) days prior written notice. PERMITTEE shall also obtain any additional insurance required by CITY for new improvements, changed circumstances, or CITY's reasonable re-evaluation of risk levels related to the Activity.

8.5 Accident Reports: PERMITTEE shall promptly report to CITY any accident causing property damage or injury to persons on the Permit Area or otherwise related to the Activity, upon becoming aware of any such accident. Such report, to the extent known by PERMITTEE, shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.

8.6 Required Endorsements: The following endorsements to the policies of insurance are required to be provided to CITY before any work is initiated under this Permit.

8.6.1 Commercial General Liability Insurance Endorsements:

- i. Additional Insured: To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy

or policies must be endorsed to include as an Additional Insured, on a blanket basis, the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of (a) ongoing operations performed by you or on your behalf, (b) your products, (c) your work, including but not limited to your completed operations performed by you or on your behalf, or (d) premises owned, leased, controlled or used by you.

ii. Primary and Non-Contributory Coverage: The policy or policies must be endorsed to provide that the insurance afforded by the Commercial General Liability policy or policies is, on a blanket basis, primary to any insurance or self-insurance of the City of San Diego and its elected officials, officers, employees, agents and representatives as respects operations of the Named Insured. Any insurance maintained by the City of San Diego and its elected officials, officers, employees, agents and representatives shall be in excess of PERMITTEE's insurance and shall not contribute to it.

iii. Severability of Interest. The policy or policies must be endorsed to provide that the PERMITTEE's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

8.6.2 Automobile Liability Insurance Endorsements:

i. Additional Insured. To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Additional Insured, on a blanket basis, the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of automobile owned, leased, hired or borrowed by or on behalf of the PERMITTEE.

ii. Severability Of Interest. The policy or policies must be endorsed to provide that PERMITTEE's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

8.6.3 Worker's Compensation Insurance Endorsements:

i. Waiver of Subrogation: The Worker's Compensation policy or policies must be endorsed to provide that the insurer will waive all rights of subrogation against CITY and its respective elected officials, officers, employees, agents and representatives for losses paid under the terms of this

policy or these policies which arise from work performed by the Named Insured for CITY.

9. Indemnification: PERMITTEE shall protect, defend, indemnify, 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 officers, employees, agents, contractors, invitees and guests, which arise out of or are in any manner directly or indirectly connected with PERMITTEE's use, maintenance, or restoration of the Permit Area, including damages arising out of release of hazardous materials by PERMITTEE, and all expenses of investigating and defending against same, including without limitation reasonable attorney fees and costs; provided, however, that PERMITTEE's duty to protect, defend, indemnify and hold harmless shall not include any claims asserted or liability established arising out of or in any manner directly or indirectly connected with the negligence, willful misconduct or other independent acts of CITY, its elected officials, officers, representatives, agents and employees, for which CITY shall similarly protect, defend, indemnify and hold harmless PERMITTEE, its officers, employees, agents, contractors, invitees and guests. Either party, in its capacity as an indemnitee, may, at its election and at its sole cost, participate in the defense of any claim related in any way to this indemnification. PERMITTEE's obligations under this Section 9 shall not apply to any claims asserted or liability established arising out of or in any manner directly or indirectly connected with the actions or conduct within the Permit Area by any members of the public who are not PERMITTEE's officers, employees, agents, contractors, invitees or guests.
10. No Discrimination: PERMITTEE shall not discriminate in any manner against any person or persons on account of race, color, religion, gender, gender identity, gender expression, sexual orientation, medical status, national origin, age, marital status, or 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.
11. Nuisance and Noise Disturbances: PERMITTEE shall not use the Permit Area in any manner which, in the opinion of CITY creates a nuisance or disturbs the quiet enjoyment of persons in the surrounding area or that violates CITY's Noise Abatement and Control Ordinance (Chapter 5, Article 9.5 of the San Diego Municipal Code, as amended from time to time).
12. Termination of Permit: This Permit is not a lease. It is a license to use CITY property. In the event that either party defaults in the performance or fulfillment of any covenant or condition herein required to be performed or fulfilled by that party and fails to cure said default within sixty (60) days following receipt of written notice of the default from the non-defaulting party specifying the nature of the default, then the non-defaulting party may, at its option without further notice or demand, immediately terminate this Permit. Notwithstanding the above provisions, in the event that the default cannot be cured within sixty (60) days of the receipt of the written notice of default, the non-defaulting party shall not terminate this Permit if the defaulting party has commenced to cure the default and diligently pursues such cure to completion.

13. Compliance with Law: PERMITTEE shall at all times in its use, occupancy, and maintenance of the Permit Area comply with all applicable laws, rules, regulations and directives of competent governmental authorities, and at PERMITTEE's sole cost and expense. If the Term of this Permit exceeds one (1) year, at least annually, PERMITTEE shall deliver to CITY copies of all documentary evidence of such compliance received by or otherwise available to PERMITTEE (e.g., validation of periodic inspections, if applicable).
14. Governmental Approvals: By entering into this Permit, neither CITY nor CITY's City Council is obligating itself to PERMITTEE or to any governmental agent, board, commission or agency with regard to any other discretionary action relating to PERMITTEE's occupancy, use, development, maintenance or restoration of the Permit Area. "Discretionary action" includes without limitation re-zonings, variances, environmental clearances and all other required governmental approvals.
15. No Assignment: PERMITTEE shall not assign any rights granted by this Permit nor any interest therein without the prior written approval of the CITY. Approval of any such proposed assignment may be withheld at the sole and absolute discretion of the CITY. Any assignment by operation of law shall automatically terminate this Permit.
16. Signs: PERMITTEE shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings or similar devices or advertising in the Permit Area without CITY's prior written consent. If any such unauthorized item is found on the Permit Area, PERMITTEE shall remove the item at its expense within twenty-four (24) hours after notice by CITY, or CITY may thereafter summarily remove the item at PERMITTEE's cost.
17. Security and Safety of Permit Area: PERMITTEE shall bear sole responsibility for the security and safety of the Permit Area in connection with affirmative actions taken by PERMITTEE for the maintenance or improvement of the Permit Area. CITY has no obligation to provide oversight of the Activity or staffing or resources for the Activity at the Permit Area during the Term.
18. Hazardous Materials: PERMITTEE shall not allow the illegal installation, storage, utilization, generation, sale or release of any Hazardous Substance or otherwise regulated substances in, on, under or from the Permit Area by any of PERMITTEE's officers, employees, agents, contractors, invitees and guests. PERMITTEE and PERMITTEE's officers, employees, agents, contractors, invitees and guests shall not install, store, utilize, generate or sell any Hazardous Substance on the Permit Area without CITY's prior written consent. PERMITTEE shall, prior to initiating any operations, obtain all required permits from applicable regulatory agencies, including without limitation the San Diego County Department of Environmental Health, local fire agencies, the San Diego County Department of Weights and Measures, the San Diego County Air Pollution Control District, and the San Diego Regional Water Quality Control Board. Installing, utilizing, storing, or any other presence of a Hazardous Substance includes boxes, bags, bottles, drums, cylinders, above or below ground tanks, equipment with tanks, or any other type of container, equipment or device which holds or incorporates a Hazardous Substance or hazardous waste.

- 18.1 Release. For all purposes of this Permit, a "release" shall include without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or otherwise disposing of a Hazardous Substance.
- 18.2 Hazardous Substance. For all purposes of this Permit, "Hazardous Substance" shall mean any substance listed by the Environmental Protection Agency or the State of California as a hazardous substance, and all types of petroleum-related substances and their chemical constituents.
- 18.3 Remediation. If PERMITTEE's use, maintenance, or restoration of the Permit Area results in a release of a Hazardous Substance, PERMITTEE shall pay all costs of remediation and removal to the CITY's satisfaction for unrestricted reuse of the Permit Area, and in accordance with all applicable laws, rules, and regulations of governmental authorities.
- 18.4 Removal. If PERMITTEE or PERMITTEE's officers, employees, agents, contractors, invitees and guests has received approval and permits to store, utilize, generate or install, or otherwise bring Hazardous Substances to the Permit Area, PERMITTEE shall remove all Hazardous Substances in any type of container, equipment or device from the Permit Area immediately upon or prior to the expiration or earlier termination of this Permit. CITY reserves the right to conduct inspections of the Permit Area and/or request documentation demonstrating the legal removal and/or disposal of the hazardous materials, wastes or other containers, equipment or devices from the Permit Area. PERMITTEE shall be responsible for any and all costs incurred by CITY to remove any container, equipment or device requiring disposal or removal as required by this provision.
- 18.5 Indemnity. PERMITTEE shall protect, defend, indemnify, and hold CITY harmless from any and all claims, costs, and expenses related to use, release, or storage of Hazardous Substances resulting from PERMITTEE's use, maintenance, or restoration of the Permit Area, including without limitation: (i) costs of environmental assessments; (ii) costs of regulatory remediation oversight; (iii) costs of remediation and removal; (iv) any necessary CITY response costs; (v) all fines, penalties or fees assessed by any regulatory agency; (vi) damages for injury to natural resources, PERMITTEE's officers, employees, invitees, guests, agents or contractors, or the public; and (vii) all costs of any health assessments or health effect studies.
- 18.6 Notice of Release. If PERMITTEE knows or has reasonable cause to believe that a Hazardous Substance has been released on, from or beneath the Permit Area, PERMITTEE shall immediately notify CITY and any appropriate regulatory or reporting agency pursuant to California Code of Regulations Title 19 and any other applicable laws or regulations. PERMITTEE shall deliver a written report thereof to CITY within three (3) days after receipt of the knowledge or cause for belief and submit any required written reports to regulatory or reporting agencies as required by regulation or law. If PERMITTEE knows or has reasonable cause to believe that

such substance is an imminent release or is an imminent substantial danger to public health and safety, PERMITTEE shall take all actions necessary to alleviate the danger. PERMITTEE shall immediately notify CITY in writing of any violation, notice to comply, or notice of violation received or the initiation of environmental actions or private suits related to the Permit Area.

- 18.7 Environmental Assessment. Upon reasonable cause to believe that PERMITTEE's use, maintenance, or restoration of the Permit Area resulted in any Hazardous Substance being released on, from or beneath the Permit Area, CITY may cause an environmental assessment under regulatory oversight of the suspect area to be performed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist or Registered Civil Engineer. The environmental assessment shall be obtained at PERMITTEE's sole cost and expense, and shall establish what, if any, Hazardous Substances have more likely than not been caused by PERMITTEE's use, maintenance, or restoration of the Permit Area, and in what quantities. If any such Hazardous Substances exist in quantities greater than allowed by CITY, county, state or federal laws, statutes, ordinances or regulations, or require future restricted re-use of the Permit Area, then the environmental assessment shall include a discussion of such substances with recommendations for remediation and removal necessary to effect unrestricted re-use and in compliance with those laws or statutes, and estimates of the cost of such remediation or removal. PERMITTEE shall cause, or if PERMITTEE fails to do so within a reasonable period of time, as determined by CITY in its sole discretion, then CITY may cause, the remediation and/or removal recommended in the environmental assessment such that unrestricted re-use of the Permit Area and compliance with environmental laws and regulations are achieved, and PERMITTEE shall pay all costs and expenses therefor.
19. Repair: PERMITTEE shall be responsible, at its sole cost and expense, for the repair or replacement of any damage caused by PERMITTEE or by PERMITTEE's Activity, including items that CITY staff has determined to be damaged by PERMITTEE. PERMITTEE shall comply with the direction of CITY Contact or other competent CITY staff with respect to the method of any repairs or replacement arising under this Permit.
20. Vehicular Traffic: All vehicular traffic shall be confined to concrete, asphalt or decomposed aggregate surfaces unless otherwise approved in writing by CITY Contact prior to the commencement of the Activity.
21. Restoration of Permit Area: Except as otherwise provided in this Permit, prior to the expiration or as soon as practicable after termination of this Permit, PERMITTEE shall restore the Permit Area to its condition on the Effective Date, subject to the satisfaction of CITY Contact.
22. Subcontractors: PERMITTEE shall provide a list of any and all contractors and subcontractors to CITY Contact, including name, address, email, fax, and phone number.

23. Storm Water Pollution Prevention Program: PERMITTEE shall comply with the CITY's Storm Water Management and Discharge Control provisions codified in Division 3 of Chapter 4 of the San Diego Municipal Code, as may be amended, and any and all applicable Minimum Best Management Practice requirements, as defined in the City's Jurisdictional Runoff Management Plan, in performing or delivering services within the Permit Area.

PERMITTEE shall comply with the CITY's Jurisdictional Runoff Management Plan encompassing Citywide programs and activities designed to prevent and reduce storm water pollution within CITY boundaries as adopted by the CITY's City Council on July 1, 2015, via Resolution No. 309791, as may be amended.

The storm water and run off patterns on the Permit Area existed before PERMITTEE owned PERMITTEE's property or use of Permit Area. PERMITTEE has complied with all requirements for storm water management under the CUP/CDP. This compliance has been memorialized by the CITY compliance review process.

PERMITTEE shall comply with each CITY facility or work site's Storm Water Pollution Prevention Plan, as applicable, and institute all controls needed while completing the services to minimize any negative impact to the storm water collection system and environment.

24. Grading and Barriers: PERMITTEE shall not change the surface grade or construct any permanent barriers within the Permit Area. Any violations shall be corrected by PERMITTEE at its sole expense to the satisfaction of the CITY and are grounds, at the CITY's option, for immediate termination of this Permit.
25. Prevailing Wages. Prevailing wage rates apply to alteration, demolition, repair and maintenance work in the Permit Area. PERMITTEE shall comply with State prevailing wage laws including, but not limited to, those requirements set forth in Exhibit B, attached hereto and incorporated herein by this reference.
26. Cumulative Remedies. Each party's rights and remedies under this Permit are cumulative and shall not limit or otherwise waive or deny either party's rights or remedies at law or in equity.
27. Survival. Any obligation which accrues under this Permit prior to its expiration or termination shall survive such expiration or termination.
28. Exhibits. All exhibits referenced in this Permit are incorporated into this Permit by this reference. In the event of a conflict between this Permit and any exhibit to this Permit, the terms, conditions, and obligations of this Permit shall control.
29. Acceptance of Permit Area. PERMITTEE represents and warrants only as of the Effective Date that it is not relying on any representation by CITY as to the condition of the Permit Area or its suitability for the Activity, and that PERMITTEE is relying solely on its own and independent inspections, tests, investigations and observations of the Permit Area in entering into this Permit. PERMITTEE accepts the Permit Area in its current condition. PERMITTEE acknowledges and agrees that unless set forth in this Permit, CITY has no obligation to improve, modify, repair, replace, alter, secure, or otherwise develop the Permit Area at any

time either prior to, on or after the Effective Date, except with respect to capital repairs or improvements that are deemed to be necessary by CITY, in CITY's sole discretion for the Permit Area after first consulting with PERMITTEE. PERMITTEE shall not hold CITY responsible for any defects in the Permit Area, unless such defects were caused by the CITY. PERMITTEE accepts and assumes all risk of harm to all persons and property from any defects in the Permit Area or any improvements thereon that have been caused by PERMITTEE.

30. Entire Agreement. This Permit constitutes the entire agreement between the parties regarding this Permit, and supersedes any and all prior understandings, representations, warranties and agreements between them pertaining to this Permit and PERMITTEE's use, maintenance, and restoration of the Permit Area, except for the provisions of the CUP/CDP and any surviving rights and obligations under the Original ROE. Any modification, alteration, or amendment of this Permit shall be in writing and signed by all the parties hereto.
31. No Affiliation. Nothing contained in this Permit shall be deemed or construed to create a partnership, joint venture or other affiliation between CITY and PERMITTEE or between CITY and any other entity or party, or cause CITY to be responsible in any way for the debts or obligations of PERMITTEE or any other party or entity. PERMITTEE Contact: The following are designated by PERMITTEE as PERMITTEE's contacts for all purposes of this Permit:

Name: Jeff Bolster

Alternate contact: Kevin A. Cahill

Cell Number: (619) 855-2363

Cell Number: (858) 229-5227

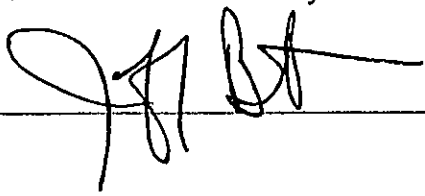
Office Number: (619) 849-2480

Office Number (619) 849-2413

33. Authority to Contract. Each individual executing this Permit on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Permit 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 Permit is binding upon such person or entity in accordance with its terms. Upon request, each person executing this Permit 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.

PERMITTEE:

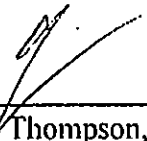
Point Loma Nazarene University

By: 

Date: 10/9/19

Jeff Bolster, Vice President for University Services
Point Loma Nazarene University

CITY:

By: 

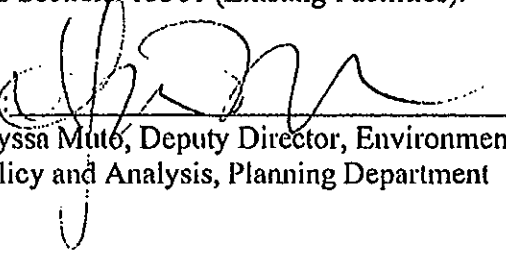
Date: 11/6/19

Cybele Thompson, RPA, FMA, CCIM, LEED AP - Lic # 01176298

Director, Real Estate Assets Department

ENVIRONMENTAL ANALYSIS SECTION ENVIRONMENTAL CLEARANCE:

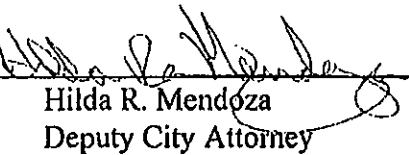
This activity (Right of Entry Permit for use of the Western Loop Road) is categorically exempt from CEQA pursuant to State CEQA Guidelines Sections 15301 (Existing Facilities).

By: 

Alyssa Muto, Deputy Director, Environmental
Policy and Analysis, Planning Department

Approved as to form
this 26th day of November 2019.

MARA W. ELLIOTT, City Attorney

By: 

Hilda R. Mendoza
Deputy City Attorney

Attachments: Exhibit A-Permit Area

cc: Kevin Cahill, General Counsel, Point Loma Nazarene University
Andrew Field, Interim Director, City of San Diego, Parks and Recreation Department
Casey Smith, Acting Asst. Director, City of San Diego, Parks and Recreation Dept.

EXHIBIT A
Permit Area



EXHIBIT B

PREVAILING WAGE REQUIREMENTS

By signing this Permit, PERMITTEE certifies that he or she is aware of the wage provisions described herein and shall comply with such provisions before commencing any work.

Pursuant to San Diego Municipal Code section 22.3019, construction, alteration, demolition, repair and maintenance work performed under this Permit is subject to State prevailing wage laws. For construction work performed under this Permit cumulatively exceeding \$25,000 and for alteration, demolition, repair and maintenance work performed under this Permit cumulatively exceeding \$15,000, PERMITTEE, its contractors and subcontractors shall comply with State prevailing wage laws including, but not limited to, the requirements listed below.

1. Compliance with Prevailing Wage Requirements. Pursuant to sections 1720 through 1861 of the California Labor Code, PERMITTEE, its contractors and subcontractors shall ensure that all workers who perform work under this Permit are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (DIR). This includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

1.1. Copies of such prevailing rate of per diem wages are on file at the City of San Diego's Equal Opportunity Contracting Department and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. PERMITTEE, its contractors and subcontractors shall post a copy of the prevailing rate of per diem wages determination at each job site and shall make them available to any interested party upon request.

1.2. The wage rates determined by the DIR refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, then the published rate of wage shall be in effect for the life of this Permit. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the DIR, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to this Permit in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of this Permit, each successive predetermined wage rate shall apply to this Permit on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of this Permit, such wage rate shall apply to the balance of the Permit.

2. Penalties for Violations. PERMITTEE, its contractors and subcontractors shall comply with California Labor Code section 1775 in the event a worker is paid less than the prevailing wage rate for the work or craft in which the worker is employed. This shall be in addition to any other applicable penalties allowed under Labor Code sections 1720 – 1861.

3. Payroll Records. PERMITTEE, its contractors and subcontractors shall comply with California Labor Code section 1776, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. PERMITTEE shall require its contractors and subcontractors to also comply with section 1776. PERMITTEE, its contractors and subcontractors shall submit weekly certified payroll records online via the CITY's web-based Labor Compliance Program. PERMITTEE is responsible for ensuring its contractors and subcontractors submit certified payroll records to the CITY. PERMITTEE, its contractors and subcontractors shall also furnish the records specified in Labor Code section 1776 directly to the Labor Commissioner in the manner required in Labor Code section 1771.4.

4. Apprentices. PERMITTEE, its contractors and subcontractors shall comply with California Labor Code sections 1777.5, 1777.6 and 1777.7 concerning the employment and wages of apprentices. PERMITTEE shall be held responsible for their compliance as well as the compliance of their contractors and subcontractors with sections 1777.5, 1777.6 and 1777.7.

5. Working Hours. PERMITTEE, its contractors and subcontractors shall comply with California Labor Code sections 1810 through 1815, including but not limited to: (i) restrict working hours on public works contracts to eight hours a day and forty hours a week, unless all hours worked in excess of 8 hours per day are compensated at not less than 1½ times the basic rate of pay; and (ii) specify penalties to be imposed on design professionals and subcontractors of \$25 per worker per day for each day the worker works more than 8 hours per day and 40 hours per week in violation of California Labor Code sections 1810 through 1815.

6. Required Provisions for Contracts and Subcontracts. PERMITTEE shall include at a minimum a copy of the following provisions in any contract they enter into with a contractor or subcontractor: California Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860 and 1861. PERMITTEE shall ensure its contractors shall include at a minimum a copy of the following provisions in any contract they enter into with a contractor or subcontractor: California Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860 and 1861.

7. Labor Code Section 1861 Certification. PERMITTEE in accordance with California Labor Code section 3700 is required to secure the payment of compensation of its employees and by signing this Permit, PERMITTEE certifies that "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Permit."

8. Labor Compliance Program. The CITY has its own Labor Compliance Program authorized in August 2011 by the DIR. PERMITTEE shall withhold contract payments pursuant to the contract between PERMITTEE and PERMITTEE's contractors or subcontractors when payroll records are delinquent or deemed inadequate by the CITY or other governmental entity, or it has been established after an investigation by the CITY or other governmental entity that underpayment(s) have occurred. For questions or assistance, please contact the City of San Diego's Equal Opportunity Contracting Department at 619-236-6000.

9. Contractor and Subcontractor Registration Requirements. This project is subject to compliance monitoring and enforcement by the DIR. A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or enter into any contract for public work, as defined in this chapter of the Labor Code unless currently registered and qualified to perform the work pursuant to Section 1725.5. In accordance with Labor Code section 1771.1(a), "[i]t is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded."

9.1. A contractor's inadvertent error in listing a subcontractor who is not registered pursuant to Labor Code section 1725.5 in a response to a solicitation shall not be grounds for filing a bid protest or grounds for considering the bid non-responsive provided that any of the following apply: (1) the subcontractor is registered prior to bid opening; (2) within twenty-four hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in Labor Code section 1725.5; or (3) the subcontractor is replaced by another registered contractor pursuant to Public Contract Code section 4107.

9.2. A contract entered into with any contractor or subcontractor in violation of Labor Code section 1771.1(a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of section 1725.5 of this section.

9.3. By signing this Permit, PERMITTEE certifies that he or she has verified that all contractors and subcontractors used on this public works project are registered with the DIR in compliance with Labor Code sections 1771.1 and 1725.5, and PERMITTEE shall provide proof of registration for themselves and all listed contractors and subcontractors to the CITY at the time of execution of this Permit or upon request.

10. **Stop Order.** For PERMITTEE or its contractor(s) or subcontractor(s) engaging in the performance of any public work contract without having been registered in violation of Labor Code sections 1725.5 or 1771.1, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractor(s) or unregistered subcontractor(s) on ALL public works until the unregistered contractor(s) or unregistered subcontractor(s) is registered. Failure to observe a stop order is a misdemeanor.

11. **List of all Subcontractors.** The CITY may ask PERMITTEE for the most current list of contractors or subcontractors (regardless of tier), along with their DIR registration numbers, utilized on this Permit at any time during performance of this Permit, and PERMITTEE shall provide the list within ten (10) working days of the CITY's request. PERMITTEE shall notify CITY of any contractors or subcontractors, including their DIR registration numbers, which have not previously performed work on this Permit prior to said contractors or subcontractors performing work on this Permit. Additionally, PERMITTEE shall provide the CITY with a complete list of all contractors or subcontractors utilized on this Permit (regardless of tier), within ten (10) working days of the completion of the work authorized by this Permit, along with their DIR registration numbers. PERMITTEE shall withhold final payment to contractor(s) until at least 30 days after this information is provided to the CITY.

12. **Exemptions for Small Projects.** There are limited exemptions for installation, alteration, demolition, or repair work done on projects of \$25,000 or less. PERMITTEE shall still comply with Labor Code sections 1720 et. seq. The only recognized exemptions are listed below:

12.1. **Registration.** PERMITTEE and its contractors will not be required to register with the DIR for small projects. (Labor Code section 1771.1).

12.2. **Certified Payroll Records.** The records required in Labor Code section 1776 shall be required to be kept and submitted to the CITY, but will not be required to be submitted online with the DIR directly. PERMITTEE will need to keep those records for at least three years following the completion of the contract. (Labor Code section 1771.4).

12.3. **List of all Subcontractors.** PERMITTEE and its contractors shall not be required to hire only registered subcontractors and is exempt from submitting the list of all subcontractors that is required in section 11 above. (Labor Code section 1773.3).

CITY OF SAN DIEGO
RIGHT OF ENTRY PERMIT

THIS CITY OF SAN DIEGO RIGHT OF ENTRY PERMIT ("Permit") is entered into by and between **THE CITY OF SAN DIEGO**, a California municipal corporation ("CITY"), and **Point Loma Nazarene University**, a California nonprofit corporation ("PERMITTEE"), to be effective as of November 1, 2019 (the "Effective Date"), when signed by the parties and approved by the San Diego City Attorney.

CITY hereby grants PERMITTEE the non-exclusive right to enter upon the Permit Area, based upon the following terms and conditions:

1. **Definitions:** As used in this Permit, the following terms shall be defined as follows:
 - 1.1 **"CITY Contact"** shall mean the CITY's Park and Recreation Department District Manager or designee. For purposes of this Permit, the CITY Contact is currently Daniel Daneri, who can be contacted at (619) 235-5914. If not available contact: Shoreline Parks Senior Park Ranger at (858) 581-9987 or Grounds Maintenance Manager Vincent Paniagua at (858) 581-9976.
 - 1.2 **"Permit Area"** shall mean that certain CITY-owned real property commonly referred to as the Western Loop Road located within Sunset Cliffs Natural Park ("Park") and as generally depicted in **Exhibit A: Permit Area**, attached hereto.
 - 1.3 **"PERMITTEE"** shall mean Point Loma Nazarene University, a California nonprofit corporation, which shall include PERMITTEE's agents and PERMITTEE's employees. PERMITTEE shall be responsible for all of PERMITTEE's agents and PERMITTEE's employees and ensure that they adhere to all conditions as stated in this Permit.
 - 1.4 **"PERMITTEE's Address for Notices"** shall be: 3900 Lomaland Drive, San Diego, California, 92106.
 - 1.5 **"CUP/CDP"** shall mean that certain Coastal Development Permit No. A-6-PEN-91-55 and Conditional Use Permit No. 87-0142 for Point Loma Nazarene College, recorded in the Official Records of the San Diego County Recorder's Office as Document Number 1995-0116061 on March 21, 1995.
 - 1.6 **"Original ROE"** shall mean that City of San Diego Right of Entry Permit effective as of August 1, 2017, and on file with CITY.
2. **Right to Enter:** The use of the Permit Area by PERMITTEE shall be limited to use and maintenance of the Permit Area for ordinary public road purposes and any improvements to

the Permit Area ("Activity"). PERMITTEE may use the Permit Area to provide access for its students, faculty, guests and invitees. The Permit Area shall be used for ordinary public road uses only. CITY reserves the right to enter upon the Permit Area at all times and to inspect and maintain the Permit Area as CITY deems necessary.

- 2.1 Maintenance: PERMITTEE shall, at its sole cost and expense, maintain the Permit Area to standards reasonably acceptable to the CITY, upon written notification to the CITY and CITY's advance written approval.
- 2.2 Improvements: Any improvements to the Permit Area other than ordinary replacement and repair of the Permit Area shall be subject to prior written CITY approval.
3. Fee: The processing fee for this Permit is hereby waived because the Activity provides a public benefit by providing maintenance of the road and public access and safety to the Park, as required by Coastal Development Permit No. A-6-PEN-91-55. The Permit Area is accessible only through the PERMITTEE's Campus and serves the purpose of providing public benefit in that it affords a means for public access to the Park, provides scenic vantage points and recreational access to pedestrians and bicycles. In addition, the Permit Area serves as a primary storm water conveyance route for this area.
4. Term: This Permit shall be effective upon the Effective Date, and shall expire at midnight on October 31, 2044, which is twenty-five (25) years from the date of the Effective Date ("Term").
 - 4.1 Supersedes Prior Agreements. By the execution and delivery of this Permit, CITY and PERMITTEE hereby terminate the Original ROE as of the Effective Date of this Permit. It is mutually agreed that this Permit shall supersede any and all prior agreements between the parties, and their predecessors in interest, related to all or any portion of the Permit Area, except for the provisions of the CUP/CDP. The Original ROE shall be of no further force or effect, except as to any rights, remedies and obligations accrued thereunder prior to the Effective Date of this Permit and which survive such termination pursuant to Section 27 of the Original ROE.
5. CITY's Consent, Discretion. CITY's consent or approval under this Permit shall mean the written consent or approval of the Mayor of San Diego, or his or her designee ("Mayor"), unless otherwise required by law or expressly provided herein, and shall be made in the Mayor's discretion, subject to all applicable laws, rules, regulations and directives of competent governmental authorities, and the CUP/CDP.
6. Activity Coordination:
 - 6.1 Activity Coordination: Except in the case of an emergency, in which case PERMITTEE shall act reasonably promptly, PERMITTEE shall contact CITY Contact a minimum of five (5) working days prior to the start date of any maintenance or improvements within the Permit Area. At that time, PERMITTEE shall submit all information requested by the CITY Contact concerning any maintenance or improvements within the Permit Area. CITY reserves the right to impose reasonable restrictions and scheduling conditions for any aspect of the maintenance or improvements within the Permit Area, and the

maintenance or improvements within the Permit Area shall not commence pursuant to this Permit without the prior written approval of the CITY Contact.

- 6.2. Public Access Approval: Notwithstanding the time periods set forth above, except in the case of an emergency, in which case PERMITTEE shall act reasonably promptly, PERMITTEE shall notify CITY Contact a minimum of ten (10) working days prior to start of any aspect of any maintenance or improvements within the Permit Area that may affect the use of any public access in the Permit Area.
7. Unauthorized Activities: PERMITTEE shall not engage in any activity on CITY-owned property other than pre-approved aspects of the Activity. Any work performed by PERMITTEE that was not previously approved or otherwise authorized by this Permit, shall be removed and the CITY-owned property shall be put back to its condition on the Effective Date at the PERMITTEE's sole cost and expense, subject to the satisfaction of the CITY Contact.
8. Insurance: PERMITTEE shall not begin any work on the Activity until it has: (a) provided to CITY insurance certificates reflecting evidence of all insurance required below; however, the CITY reserves the right to request, and the PERMITTEE shall submit, copies of any policy upon reasonable request by the CITY; (b) obtained CITY approval of each insurance company or companies; and (c) confirmed with CITY that all policies contain the specific provisions required below. PERMITTEE's liabilities, including but not limited to PERMITTEE's indemnity obligations, under this Permit, shall not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Permit and PERMITTEE's failure to maintain or renew coverage or to provide evidence of renewal during the Term may be treated as a material breach of contract by the CITY. The PERMITTEE shall not modify any policy or endorsement thereto which increases the CITY's exposure to loss for the Term.
- 8.1 Types of Insurance: At all times during the term of this Permit, the PERMITTEE shall maintain insurance coverage as follows:
- a. Commercial General Liability (CGL). Insurance written on an ISO Occurrence form CG 00 01 07 98 or an equivalent form providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of \$1 million per occurrence and subject to an annual aggregate of \$2 million. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.
 - b. Commercial Automobile Liability. For all of the PERMITTEE's automobiles including owned, hired and non-owned automobiles, the PERMITTEE shall keep in full force and effect, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1

million per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

- c. Workers' Compensation. For all of the PERMITTEE's employees who are subject to this Permit and to the extent required by the applicable state or federal law, the PERMITTEE shall keep in full force and effect, a Workers' Compensation policy. That policy shall provide a minimum of \$1 million of employers' liability coverage, and the PERMITTEE shall provide an endorsement that the insurer waives the right of subrogation against the CITY and its respective elected officials, officers, employees, agents and representatives.

8.2 Deductibles: All deductibles on any policy shall be the responsibility of the PERMITTEE and shall be disclosed to the CITY at the time the evidence of insurance is provided.

8.3 Acceptability of Insurers: Except for the State Compensation Insurance Fund, all insurance required by this Permit shall only be carried by insurance companies with a rating of at least "A-, VI" by A.M. Best Company, that are authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by the CITY. CITY will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Eligible Surplus Lines Insurers (LESLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

8.4 Modification: To assure protection from and against the kind and extent of risk existing with the Activity, CITY, at its reasonable discretion, may require the revision of amounts and coverage at any time by giving PERMITTEE thirty (30) days prior written notice. PERMITTEE shall also obtain any additional insurance required by CITY for new improvements, changed circumstances, or CITY's reasonable re-evaluation of risk levels related to the Activity.

8.5 Accident Reports: PERMITTEE shall promptly report to CITY any accident causing property damage or injury to persons on the Permit Area or otherwise related to the Activity, upon becoming aware of any such accident. Such report, to the extent known by PERMITTEE, shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.

8.6 Required Endorsements: The following endorsements to the policies of insurance are required to be provided to CITY before any work is initiated under this Permit.

8.6.1 Commercial General Liability Insurance Endorsements:

- i. Additional Insured: To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy

or policies must be endorsed to include as an Additional Insured, on a blanket basis, the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of (a) ongoing operations performed by you or on your behalf, (b) your products, (c) your work, including but not limited to your completed operations performed by you or on your behalf, or (d) premises owned, leased, controlled or used by you.

ii. Primary and Non-Contributory Coverage: The policy or policies must be endorsed to provide that the insurance afforded by the Commercial General Liability policy or policies is, on a blanket basis, primary to any insurance or self-insurance of the City of San Diego and its elected officials, officers, employees, agents and representatives as respects operations of the Named Insured. Any insurance maintained by the City of San Diego and its elected officials, officers, employees, agents and representatives shall be in excess of PERMITTEE's insurance and shall not contribute to it.

iii. Severability of Interest: The policy or policies must be endorsed to provide that the PERMITTEE's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

8.6.2 Automobile Liability Insurance Endorsements:

i. Additional Insured: To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Additional Insured, on a blanket basis, the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of automobile owned, leased, hired or borrowed by or on behalf of the PERMITTEE.

ii. Severability Of Interest: The policy or policies must be endorsed to provide that PERMITTEE's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

8.6.3 Worker's Compensation Insurance Endorsements:

i. Waiver of Subrogation: The Worker's Compensation policy or policies must be endorsed to provide that the insurer will waive all rights of subrogation against CITY and its respective elected officials, officers, employees, agents and representatives for losses paid under the terms of this

policy or these policies which arise from work performed by the Named Insured for CITY.

9. Indemnification: PERMITTEE shall protect, defend, indemnify, 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 officers, employees, agents, contractors, invitees and guests, which arise out of or are in any manner directly or indirectly connected with PERMITTEE's use, maintenance, or restoration of the Permit Area, including damages arising out of release of hazardous materials by PERMITTEE, and all expenses of investigating and defending against same, including without limitation reasonable attorney fees and costs; provided, however, that PERMITTEE's duty to protect, defend, indemnify and hold harmless shall not include any claims asserted or liability established arising out of or in any manner directly or indirectly connected with the negligence, willful misconduct or other independent acts of CITY, its elected officials, officers, representatives, agents and employees, for which CITY shall similarly protect, defend, indemnify and hold harmless PERMITTEE, its officers, employees, agents, contractors, invitees and guests. Either party, in its capacity as an indemnitee, may, at its election and at its sole cost, participate in the defense of any claim related in any way to this indemnification. PERMITTEE's obligations under this Section 9 shall not apply to any claims asserted or liability established arising out of or in any manner directly or indirectly connected with the actions or conduct within the Permit Area by any members of the public who are not PERMITTEE's officers, employees, agents, contractors, invitees or guests.
10. No Discrimination: PERMITTEE shall not discriminate in any manner against any person or persons on account of race, color, religion, gender, gender identity, gender expression, sexual orientation, medical status, national origin, age, marital status, or 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.
11. Nuisance and Noise Disturbances: PERMITTEE shall not use the Permit Area in any manner which, in the opinion of CITY creates a nuisance or disturbs the quiet enjoyment of persons in the surrounding area or that violates CITY's Noise Abatement and Control Ordinance (Chapter 5, Article 9.5 of the San Diego Municipal Code, as amended from time to time).
12. Termination of Permit: This Permit is not a lease. It is a license to use CITY property. In the event that either party defaults in the performance or fulfillment of any covenant or condition herein required to be performed or fulfilled by that party and fails to cure said default within sixty (60) days following receipt of written notice of the default from the non-defaulting party specifying the nature of the default, then the non-defaulting party may, at its option without further notice or demand, immediately terminate this Permit. Notwithstanding the above provisions, in the event that the default cannot be cured within sixty (60) days of the receipt of the written notice of default, the non-defaulting party shall not terminate this Permit if the defaulting party has commenced to cure the default and diligently pursues such cure to completion.

13. Compliance with Law: PERMITTEE shall at all times in its use, occupancy, and maintenance of the Permit Area comply with all applicable laws, rules, regulations and directives of competent governmental authorities, and at PERMITTEE's sole cost and expense. If the Term of this Permit exceeds one (1) year, at least annually, PERMITTEE shall deliver to CITY copies of all documentary evidence of such compliance received by or otherwise available to PERMITTEE (e.g., validation of periodic inspections, if applicable).
14. Governmental Approvals: By entering into this Permit, neither CITY nor CITY's City Council is obligating itself to PERMITTEE or to any governmental agent, board, commission or agency with regard to any other discretionary action relating to PERMITTEE's occupancy, use, development, maintenance or restoration of the Permit Area. "Discretionary action" includes without limitation re-zonings, variances, environmental clearances and all other required governmental approvals.
15. No Assignment: PERMITTEE shall not assign any rights granted by this Permit nor any interest therein without the prior written approval of the CITY. Approval of any such proposed assignment may be withheld at the sole and absolute discretion of the CITY. Any assignment by operation of law shall automatically terminate this Permit.
16. Signs: PERMITTEE shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings or similar devices or advertising in the Permit Area without CITY's prior written consent. If any such unauthorized item is found on the Permit Area, PERMITTEE shall remove the item at its expense within twenty-four (24) hours after notice by CITY, or CITY may thereafter summarily remove the item at PERMITTEE's cost.
17. Security and Safety of Permit Area: PERMITTEE shall bear sole responsibility for the security and safety of the Permit Area in connection with affirmative actions taken by PERMITTEE for the maintenance or improvement of the Permit Area. CITY has no obligation to provide oversight of the Activity or staffing or resources for the Activity at the Permit Area during the Term.
18. Hazardous Materials: PERMITTEE shall not allow the illegal installation, storage, utilization, generation, sale or release of any Hazardous Substance or otherwise regulated substances in, on, under or from the Permit Area by any of PERMITTEE's officers, employees, agents, contractors, invitees and guests. PERMITTEE and PERMITTEE's officers, employees, agents, contractors, invitees and guests shall not install, store, utilize, generate or sell any Hazardous Substance on the Permit Area without CITY's prior written consent. PERMITTEE shall, prior to initiating any operations, obtain all required permits from applicable regulatory agencies, including without limitation the San Diego County Department of Environmental Health, local fire agencies, the San Diego County Department of Weights and Measures, the San Diego County Air Pollution Control District, and the San Diego Regional Water Quality Control Board. Installing, utilizing, storing, or any other presence of a Hazardous Substance includes boxes, bags, bottles, drums, cylinders, above or below ground tanks, equipment with tanks, or any other type of container, equipment or device which holds or incorporates a Hazardous Substance or hazardous waste.

- 18.1 Release. For all purposes of this Permit, a "release" shall include without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or otherwise disposing of a Hazardous Substance.
- 18.2 Hazardous Substance. For all purposes of this Permit, "Hazardous Substance" shall mean any substance listed by the Environmental Protection Agency or the State of California as a hazardous substance, and all types of petroleum-related substances and their chemical constituents.
- 18.3 Remediation. If PERMITTEE's use, maintenance, or restoration of the Permit Area results in a release of a Hazardous Substance, PERMITTEE shall pay all costs of remediation and removal to the CITY's satisfaction for unrestricted reuse of the Permit Area, and in accordance with all applicable laws, rules, and regulations of governmental authorities.
- 18.4 Removal. If PERMITTEE or PERMITTEE's officers, employees, agents, contractors, invitees and guests has received approval and permits to store, utilize, generate or install, or otherwise bring Hazardous Substances to the Permit Area, PERMITTEE shall remove all Hazardous Substances in any type of container, equipment or device from the Permit Area immediately upon or prior to the expiration or earlier termination of this Permit. CITY reserves the right to conduct inspections of the Permit Area and/or request documentation demonstrating the legal removal and/or disposal of the hazardous materials, wastes or other containers, equipment or devices from the Permit Area. PERMITTEE shall be responsible for any and all costs incurred by CITY to remove any container, equipment or device requiring disposal or removal as required by this provision.
- 18.5 Indemnity. PERMITTEE shall protect, defend, indemnify, and hold CITY harmless from any and all claims, costs, and expenses related to use, release, or storage of Hazardous Substances resulting from PERMITTEE's use, maintenance, or restoration of the Permit Area, including without limitation: (i) costs of environmental assessments; (ii) costs of regulatory remediation oversight; (iii) costs of remediation and removal; (iv) any necessary CITY response costs; (v) all fines, penalties or fees assessed by any regulatory agency; (vi) damages for injury to natural resources, PERMITTEE's officers, employees, invitees, guests, agents or contractors, or the public; and (vii) all costs of any health assessments or health effect studies.
- 18.6 Notice of Release. If PERMITTEE knows or has reasonable cause to believe that a Hazardous Substance has been released on, from or beneath the Permit Area, PERMITTEE shall immediately notify CITY and any appropriate regulatory or reporting agency pursuant to California Code of Regulations Title 19 and any other applicable laws or regulations. PERMITTEE shall deliver a written report thereof to CITY within three (3) days after receipt of the knowledge or cause for belief and submit any required written reports to regulatory or reporting agencies as required by regulation or law. If PERMITTEE knows or has reasonable cause to believe that

such substance is an imminent release or is an imminent substantial danger to public health and safety, PERMITTEE shall take all actions necessary to alleviate the danger. PERMITTEE shall immediately notify CITY in writing of any violation, notice to comply, or notice of violation received or the initiation of environmental actions or private suits related to the Permit Area.

- 18.7 Environmental Assessment. Upon reasonable cause to believe that PERMITTEE's use, maintenance, or restoration of the Permit Area resulted in any Hazardous Substance being released on, from or beneath the Permit Area, CITY may cause an environmental assessment under regulatory oversight of the suspect area to be performed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist or Registered Civil Engineer. The environmental assessment shall be obtained at PERMITTEE's sole cost and expense, and shall establish what, if any, Hazardous Substances have more likely than not been caused by PERMITTEE's use, maintenance, or restoration of the Permit Area, and in what quantities. If any such Hazardous Substances exist in quantities greater than allowed by CITY, county, state or federal laws, statutes, ordinances or regulations, or require future restricted re-use of the Permit Area, then the environmental assessment shall include a discussion of such substances with recommendations for remediation and removal necessary to effect unrestricted re-use and in compliance with those laws or statutes, and estimates of the cost of such remediation or removal. PERMITTEE shall cause, or if PERMITTEE fails to do so within a reasonable period of time, as determined by CITY in its sole discretion, then CITY may cause, the remediation and/or removal recommended in the environmental assessment such that unrestricted re-use of the Permit Area and compliance with environmental laws and regulations are achieved, and PERMITTEE shall pay all costs and expenses therefor.
19. Repair: PERMITTEE shall be responsible, at its sole cost and expense, for the repair or replacement of any damage caused by PERMITTEE or by PERMITTEE's Activity, including items that CITY staff has determined to be damaged by PERMITTEE. PERMITTEE shall comply with the direction of CITY Contact or other competent CITY staff with respect to the method of any repairs or replacement arising under this Permit.
20. Vehicular Traffic: All vehicular traffic shall be confined to concrete, asphalt or decomposed aggregate surfaces unless otherwise approved in writing by CITY Contact prior to the commencement of the Activity.
21. Restoration of Permit Area: Except as otherwise provided in this Permit, prior to the expiration or as soon as practicable after termination of this Permit, PERMITTEE shall restore the Permit Area to its condition on the Effective Date, subject to the satisfaction of CITY Contact.
22. Subcontractors: PERMITTEE shall provide a list of any and all contractors and subcontractors to CITY Contact, including name, address, email, fax, and phone number.

23. Storm Water Pollution Prevention Program: PERMITTEE shall comply with the CITY's Storm Water Management and Discharge Control provisions codified in Division 3 of Chapter 4 of the San Diego Municipal Code, as may be amended, and any and all applicable Minimum Best Management Practice requirements, as defined in the City's Jurisdictional Runoff Management Plan, in performing or delivering services within the Permit Area.

PERMITTEE shall comply with the CITY's Jurisdictional Runoff Management Plan encompassing Citywide programs and activities designed to prevent and reduce storm water pollution within CITY boundaries as adopted by the CITY's City Council on July 1, 2015, via Resolution No. 309791, as may be amended.

The storm water and run off patterns on the Permit Area existed before PERMITTEE owned PERMITTEE's property or use of Permit Area. PERMITTEE has complied with all requirements for storm water management under the CUP/CDP. This compliance has been memorialized by the CITY compliance review process.

PERMITTEE shall comply with each CITY facility or work site's Storm Water Pollution Prevention Plan, as applicable, and institute all controls needed while completing the services to minimize any negative impact to the storm water collection system and environment.

24. Grading and Barriers: PERMITTEE shall not change the surface grade or construct any permanent barriers within the Permit Area. Any violations shall be corrected by PERMITTEE at its sole expense to the satisfaction of the CITY and are grounds, at the CITY's option, for immediate termination of this Permit.
25. Prevailing Wages. Prevailing wage rates apply to alteration, demolition, repair and maintenance work in the Permit Area. PERMITTEE shall comply with State prevailing wage laws including, but not limited to, those requirements set forth in Exhibit B, attached hereto and incorporated herein by this reference.
26. Cumulative Remedies. Each party's rights and remedies under this Permit are cumulative and shall not limit or otherwise waive or deny either party's rights or remedies at law or in equity.
27. Survival. Any obligation which accrues under this Permit prior to its expiration or termination shall survive such expiration or termination.
28. Exhibits. All exhibits referenced in this Permit are incorporated into this Permit by this reference. In the event of a conflict between this Permit and any exhibit to this Permit, the terms, conditions, and obligations of this Permit shall control.
29. Acceptance of Permit Area. PERMITTEE represents and warrants only as of the Effective Date that it is not relying on any representation by CITY as to the condition of the Permit Area or its suitability for the Activity, and that PERMITTEE is relying solely on its own and independent inspections, tests, investigations and observations of the Permit Area in entering into this Permit. PERMITTEE accepts the Permit Area in its current condition. PERMITTEE acknowledges and agrees that unless set forth in this Permit, CITY has no obligation to improve, modify, repair, replace, alter, secure, or otherwise develop the Permit Area at any

time either prior to, on or after the Effective Date, except with respect to capital repairs or improvements that are deemed to be necessary by CITY, in CITY's sole discretion for the Permit Area after first consulting with PERMITTEE. PERMITTEE shall not hold CITY responsible for any defects in the Permit Area, unless such defects were caused by the CITY. PERMITTEE accepts and assumes all risk of harm to all persons and property from any defects in the Permit Area or any improvements thereon that have been caused by PERMITTEE.

30. Entire Agreement. This Permit constitutes the entire agreement between the parties regarding this Permit, and supersedes any and all prior understandings, representations, warranties and agreements between them pertaining to this Permit and PERMITTEE's use, maintenance, and restoration of the Permit Area, except for the provisions of the CUP/CDP and any surviving rights and obligations under the Original ROE. Any modification, alteration, or amendment of this Permit shall be in writing and signed by all the parties hereto.
31. No Affiliation. Nothing contained in this Permit shall be deemed or construed to create a partnership, joint venture or other affiliation between CITY and PERMITTEE or between CITY and any other entity or party, or cause CITY to be responsible in any way for the debts or obligations of PERMITTEE or any other party or entity. PERMITTEE Contact: The following are designated by PERMITTEE as PERMITTEE's contacts for all purposes of this Permit:

Name: Jeff Bolster

Alternate contact: Kevin A. Cahill

Cell Number: (619) 855-2363

Cell Number: (858) 229-5227

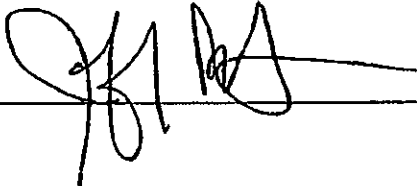
Office Number: (619) 849-2480

Office Number (619) 849-2413

33. Authority to Contract. Each individual executing this Permit on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Permit 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 Permit is binding upon such person or entity in accordance with its terms. Upon request, each person executing this Permit 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.

PERMITTEE:

Point Loma Nazarene University

By: 

Date: 10/9/19

Jeff Bolster, Vice President for University Services
Point Loma Nazarene University

CITY:

By: _____ Date: _____
Cybele T. Thompson, RPA, FMA, CCIM, LEED AP - Lic # 01176298

Director, Real Estate Assets Department

ENVIRONMENTAL ANALYSIS SECTION ENVIRONMENTAL CLEARANCE:

This activity (Right of Entry Permit for use of the Western Loop Road) is categorically exempt from CEQA pursuant to State CEQA Guidelines Sections 15301 (Existing Facilities).

By: _____
Alyssa Muto, Deputy Director, Environmental
Policy and Analysis, Planning Department

Approved as to form
this _____ day of _____, 2019.

MARA W. ELLIOTT, City Attorney

By: _____
Hilda R. Mendoza
Deputy City Attorney

Attachments: Exhibit A-Permit Area

cc: Kevin Cahill, General Counsel, Point Loma Nazarene University
Andrew Field, Interim Director, City of San Diego, Parks and Recreation Department
Casey Smith, Acting Asst. Director, City of San Diego, Parks and Recreation Dept.

EXHIBIT A
Permit Area

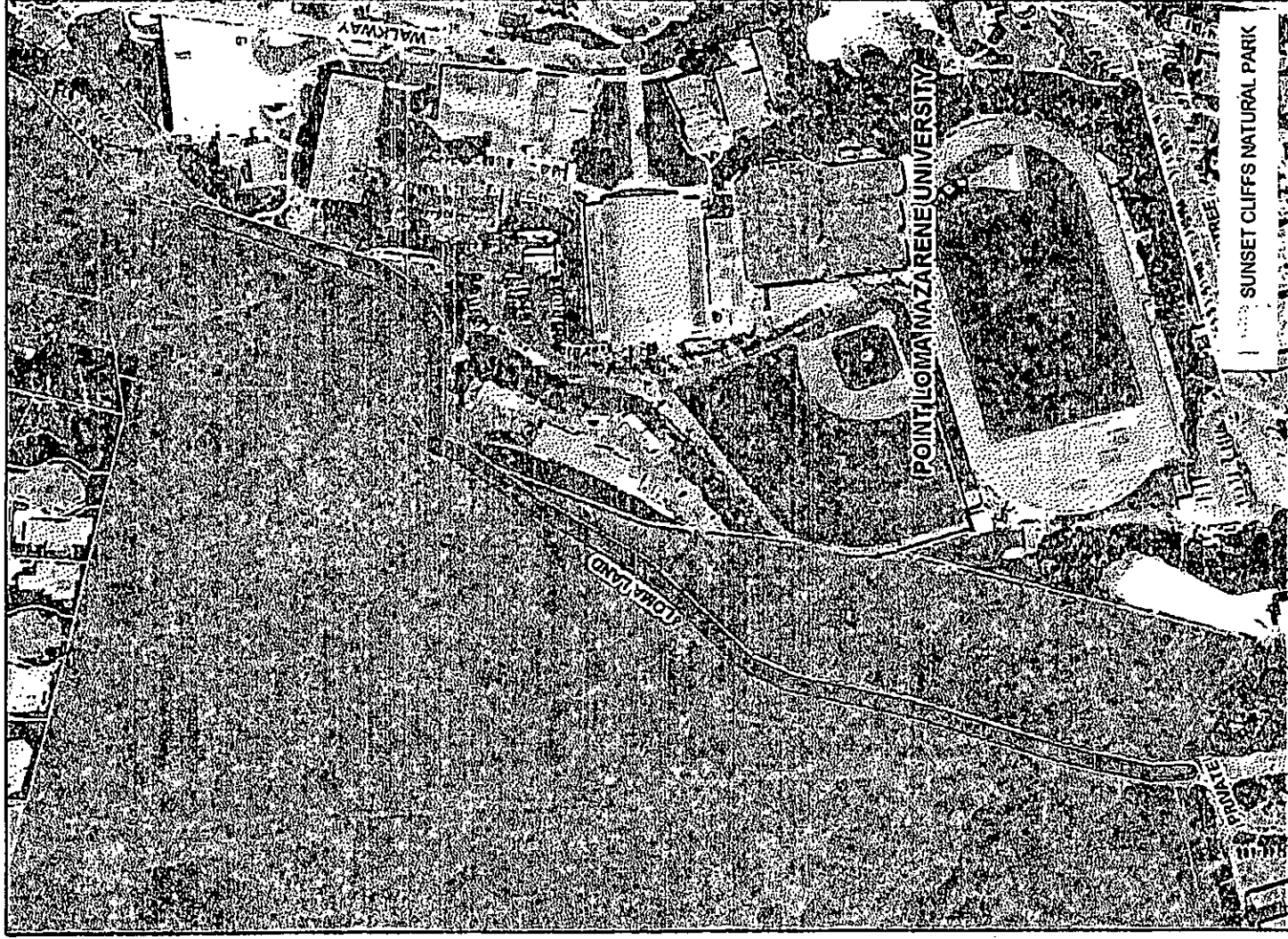


EXHIBIT B

PREVAILING WAGE REQUIREMENTS

By signing this Permit, PERMITTEE certifies that he or she is aware of the wage provisions described herein and shall comply with such provisions before commencing any work.

Pursuant to San Diego Municipal Code section 22.3019, construction, alteration, demolition, repair and maintenance work performed under this Permit is subject to State prevailing wage laws. For construction work performed under this Permit cumulatively exceeding \$25,000 and for alteration, demolition, repair and maintenance work performed under this Permit cumulatively exceeding \$15,000, PERMITTEE, its contractors and subcontractors shall comply with State prevailing wage laws including, but not limited to, the requirements listed below.

1. Compliance with Prevailing Wage Requirements. Pursuant to sections 1720 through 1861 of the California Labor Code, PERMITTEE, its contractors and subcontractors shall ensure that all workers who perform work under this Permit are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (DIR). This includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

1.1. Copies of such prevailing rate of per diem wages are on file at the City of San Diego's Equal Opportunity Contracting Department and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at <http://www.dir.ca.gov/OPRI/DPreWageDetermination.htm>. PERMITTEE, its contractors and subcontractors shall post a copy of the prevailing rate of per diem wages determination at each job site and shall make them available to any interested party upon request.

1.2. The wage rates determined by the DIR refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, then the published rate of wage shall be in effect for the life of this Permit. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the DIR, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to this Permit in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of this Permit, each successive predetermined wage rate shall apply to this Permit on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of this Permit, such wage rate shall apply to the balance of the Permit.

2. Penalties for Violations. PERMITTEE, its contractors and subcontractors shall comply with California Labor Code section 1775 in the event a worker is paid less than the prevailing wage rate for the work or craft in which the worker is employed. This shall be in addition to any other applicable penalties allowed under Labor Code sections 1720 -- 1861.

3. Payroll Records. PERMITTEE, its contractors and subcontractors shall comply with California Labor Code section 1776, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. PERMITTEE shall require its contractors and subcontractors to also comply with section 1776. PERMITTEE, its contractors and subcontractors shall submit weekly certified payroll records online via the CITY's web-based Labor Compliance Program. PERMITTEE is responsible for ensuring its contractors and subcontractors submit certified payroll records to the CITY. PERMITTEE, its contractors and subcontractors shall also furnish the records specified in Labor Code section 1776 directly to the Labor Commissioner in the manner required in Labor Code section 1771.4.

4. Apprentices. PERMITTEE, its contractors and subcontractors shall comply with California Labor Code sections 1777.5, 1777.6 and 1777.7 concerning the employment and wages of apprentices. PERMITTEE shall be held responsible for their compliance as well as the compliance of their contractors and subcontractors with sections 1777.5, 1777.6 and 1777.7.

5. Working Hours. PERMITTEE, its contractors and subcontractors shall comply with California Labor Code sections 1810 through 1815, including but not limited to: (i) restrict working hours on public works contracts to eight hours a day and forty hours a week, unless all hours worked in excess of 8 hours per day are compensated at not less than 1½ times the basic rate of pay; and (ii) specify penalties to be imposed on design professionals and subcontractors of \$25 per worker per day for each day the worker works more than 8 hours per day and 40 hours per week in violation of California Labor Code sections 1810 through 1815.

6. Required Provisions for Contracts and Subcontracts. PERMITTEE shall include at a minimum a copy of the following provisions in any contract they enter into with a contractor or subcontractor: California Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860 and 1861. PERMITTEE shall ensure its contractors shall include at a minimum a copy of the following provisions in any contract they enter into with a contractor or subcontractor: California Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860 and 1861.

7. Labor Code Section 1861 Certification. PERMITTEE in accordance with California Labor Code section 3700 is required to secure the payment of compensation of its employees and by signing this Permit, PERMITTEE certifies that "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Permit."

8. Labor Compliance Program. The CITY has its own Labor Compliance Program authorized in August 2011 by the DIR. PERMITTEE shall withhold contract payments pursuant to the contract between PERMITTEE and PERMITTEE's contractors or subcontractors when payroll records are delinquent or deemed inadequate by the CITY or other governmental entity, or it has been established after an investigation by the CITY or other governmental entity that underpayment(s) have occurred. For questions or assistance, please contact the City of San Diego's Equal Opportunity Contracting Department at 619-236-6000.

9. Contractor and Subcontractor Registration Requirements. This project is subject to compliance monitoring and enforcement by the DIR. A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or enter into any contract for public work, as defined in this chapter of the Labor Code unless currently registered and qualified to perform the work pursuant to Section 1725.5. In accordance with Labor Code section 1771.1(a), "[i]t is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded."

9.1. A contractor's inadvertent error in listing a subcontractor who is not registered pursuant to Labor Code section 1725.5 in a response to a solicitation shall not be grounds for filing a bid protest or grounds for considering the bid non-responsive provided that any of the following apply: (1) the subcontractor is registered prior to bid opening; (2) within twenty-four hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in Labor Code section 1725.5; or (3) the subcontractor is replaced by another registered contractor pursuant to Public Contract Code section 4107.

9.2. A contract entered into with any contractor or subcontractor in violation of Labor Code section 1771.1(a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of section 1725.5 of this section.

9.3. By signing this Permit, PERMITTEE certifies that he or she has verified that all contractors and subcontractors used on this public works project are registered with the DIR in compliance with Labor Code sections 1771.1 and 1725.5, and PERMITTEE shall provide proof of registration for themselves and all listed contractors and subcontractors to the CITY at the time of execution of this Permit or upon request.

10. Stop Order. For PERMITTEE or its contractor(s) or subcontractor(s) engaging in the performance of any public work contract without having been registered in violation of Labor Code sections 1725.5 or 1771.1, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractor(s) or unregistered subcontractor(s) on ALL public works until the unregistered contractor(s) or unregistered subcontractor(s) is registered. Failure to observe a stop order is a misdemeanor.

11. List of all Subcontractors. The CITY may ask PERMITTEE for the most current list of contractors or subcontractors (regardless of tier), along with their DIR registration numbers, utilized on this Permit at any time during performance of this Permit, and PERMITTEE shall provide the list within ten (10) working days of the CITY's request. PERMITTEE shall notify CITY of any contractors or subcontractors, including their DIR registration numbers, which have not previously performed work on this Permit prior to said contractors or subcontractors performing work on this Permit. Additionally, PERMITTEE shall provide the CITY with a complete list of all contractors or subcontractors utilized on this Permit (regardless of tier), within ten (10) working days of the completion of the work authorized by this Permit, along with their DIR registration numbers. PERMITTEE shall withhold final payment to contractor(s) until at least 30 days after this information is provided to the CITY.

12. Exemptions for Small Projects. There are limited exemptions for installation, alteration, demolition, or repair work done on projects of \$25,000 or less. PERMITTEE shall still comply with Labor Code sections 1720 et. seq. The only recognized exemptions are listed below:

12.1. Registration. PERMITTEE and its contractors will not be required to register with the DIR for small projects. (Labor Code section 1771.1).

12.2. Certified Payroll Records. The records required in Labor Code section 1776 shall be required to be kept and submitted to the CITY, but will not be required to be submitted online with the DIR directly. PERMITTEE will need to keep those records for at least three years following the completion of the contract. (Labor Code section 1771.4).

12.3. List of all Subcontractors. PERMITTEE and its contractors shall not be required to hire only registered subcontractors and is exempt from submitting the list of all subcontractors that is required in section 11 above. (Labor Code section 1773.3).