Real Estate Assets Department

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UNITED STATES of AMERICA (ARMY)

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18

S4364B

LICENSE NO: PDE-4273-LIBRARY-2023-SD2

UNITED STATES OF AMERICA LICENSE FOR REAL PROPERTY
330 Park Blvd, San Diego, CA 92101

On this 25th day of Oct 2022 (the "Effective Date"), **the City of San Diego**, hereafter called the **Licensor**, whose address is **1200 Third Avenue, Suite 1700, San Diego, CA 92101**, does hereby grant a license to the UNITED STATES OF AMERICA, hereinafter called the **Licensee**, under the authority of Title 10, United States Code, Section 2661, real property to conduct field exercises and maneuvers, on the terms and conditions stated herein.

1. REVOCABLE LICENSE. **Licensor** grants to the **Licensee** the exclusive right to enter into, above, and upon the lands and premises described in paragraph 9 below (the "Premises" or the "Property") at any time during pre-coordinated training events within the period of **January 29, 2023** through **February 3, 2023**, in order to conduct military training. This License is revocable by **Licensor** pursuant to, among other applicable provisions of this License, paragraph 21 of the Addendum attached hereto and made a part hereof by this reference. To the extent any conflict exists between this License and the Addendum, the Addendum shall control.

2. COMPENSATION. The **Licensor** shall grant this license to the **Licensee** at no cost.

3. SCOPE OF TRAINING ACTIVITIES. The training event may include infil/exfil training on roof top (getting off and on helicopters), potential climbing on the building exterior (civilian attire and equipment). There will be no breaching, no force on force (role playing). The specific training activities that will be conducted pursuant to this License agreement will be discussed and agreed to between the **Licensor** and the **Licensee** during the walkthrough, described in paragraph 4, below.

4. WALKTHROUGH. Prior to the **Licensee**'s use of the Premises under this License, representatives of the **Licensee** and **Licensor** will conduct a walkthrough of the Premises to observe the general condition of the building and to discuss required preparations, the scope of training activities, and likely repairs by the **Licensee**, if any, that may be necessary as a result of the training. The **Licensee** will deliver a written memorandum to Licensor, documenting the scope of the training activities, repairs that the **Licensee** will perform at the conclusion of the training event, and the results of the walkthrough. Should the **Licensor** elect not to participate in the walkthrough, the **Licensee** will attach the memorandum to this License. In either case, **Licensor** shall counter-sign the memorandum, acknowledging its agreement with the contents of the memorandum. Subsequent to the training event, representatives of the **Licensee** and **Licensor** will conduct a second walkthrough to discuss cleanup and repair issues, if any.

5. LIABILITY. The **Licensee** is responsible, under the terms of the Federal Tort Claims Act (FTCA), 28 U.S.C. 1346(b), 2671-2680, or the Military Claims Act (MCA), 10 U.S.C. § 2733, as applicable, to **Licensor** and any third parties for any injury to persons or damage to property proximately caused by the acts or omissions of **Licensee** employees acting within the scope of their employment. The **Licensee** agrees to return the Property to the **Licensor** in substantially the same

condition it was prior to the training event, unless otherwise agreed upon. The **Licensee** reserves the right to make repairs to the Property that would return it to the condition that existed at the start of this License. The right to make repairs should not be construed as a modification of the rights and obligations under the FTCA or MCA. **Licensor** or injured third parties may use the FTCA or MCA to recover losses caused as a result of the training exercise that are not repaired or compensated adequately by the **Licensee** using other means.

a. The FTCA provides a means of recovery for negligent acts by **Licensee** personnel. The MCA provides a means of recovery for damages or injuries caused by military personnel conducting non-combat activities, including training, that are not the result of negligent acts. In no case will the **Licensee**'s liability exceed that allowable under applicable law, including the FTCA and MCA.

b. Liability to the Licensee. **Licensor** is not liable to **Licensee** for damage or destruction to **Licensee** property or equipment, or injury or death to **Licensee** personnel, unless negligence on the part of the **Licensor** causes said damage. **Licensor** makes no representation that the Property is suitable for the contemplated training. **Licensee** representatives will inspect and evaluate the suitability and safety of the Property for the proposed training. The **Licensee** acknowledges that these Premises may contain hazardous conditions.

6. CONTRACT DAMAGES TO PROPERTY. **Licensor** agrees to notify the **Licensee** of any damage to the Premises, beyond that discussed by the parties, within five (5) days of the expiration of the period outlined in paragraph 1, above. Failure to notify the **Licensee** within the five (5) day period constitutes a waiver of such damage claim. Payments made by the **Licensee** under this License are subject to the availability of funds for such purpose.

7. SECURITY. **Licensor** agrees not to enter or grant, permission to others to enter onto the Premises during a period of training without prior permission of the **Licensee**. **Licensor** consents to the **Licensee**'s placement of guards at various points to prevent observation and participation in the training by persons not authorized to do so.

8. LICENSOR'S REPRESENTATION. **Licensor** makes no representation as to whether the Premises are occupied or vacant. It is solely the **Licensee**'s responsibility to determine and maintain the vacancy of the Premises throughout the term of this License. **Licensor** represents only that neither **Licensor** nor any of its agents, contractors, or employees shall enter the Premises during the period of this License without **Licensee** consent, except to revoke this License pursuant to paragraph 1, above. See additional points on the Walkthrough/Waiver.

9. PROPERTY DESCRIPTION. The lands or premises affected by this License are located in the State of **CA**, County or City of **San Diego**, and are further described as:

330 Park Blvd, San Diego, CA.

10. FACSIMILE. The parties agree that a PDF of this License bearing signatures of the Parties' representatives is valid for all purposes.

11. NOTICE.

a. Any notice under this License shall be in writing signed by a duly authorized representative of the party giving such notice.

b. If given by the **Licensee**, such notice shall be addressed to the **Licensor** at the address above or by email of a scanned document to **mmcarlson@sandiego.gov** or by hand delivery. Notice is effective the day after the date of mailing, hand delivery to the **Licensor**, or transmission of e-mail.

c. If given by the **Licensor**, such notice shall be addressed to the **Licensee** at: P.O. Box 70660, Ft Bragg, N.C. 28307 by e-mail of a scanned document to **engineeroperations@gmail.com,** or by hand. Delivery notice is effective the day after the date of mailing, hand delivery to the **Licensor**, or transmission of e-mail.

12. AGAINST CONTINGENT FEES. The **Licensor** warrants that no person or selling agency has been employed or retained to solicit or secure this License upon an agreement or understanding for a commission, percentage, brokerage, or a contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the **Licensor** for the purpose of securing business. For breach or violation of this warranty the **Licensee** shall have the right to annul this License without liability therefor.

13. OFFICIALS NOT TO BENEFIT. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this License or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this License if made with a corporation for its general benefit.

14. GRATUITIES.

a. The **Licensee** may, by written notice to the **Licensor**, terminate the right of the **Licensor** to proceed under this License if it is found, after notice and hearing, by the Secretary of the Army or the Secretary of the Army's duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the **Licensor**, or any agent or representative of the **Licensor**, to any officer, or employee of the **Licensee** with a view toward securing a license or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing, of such a license; provided that the existence of facts upon which the Secretary of the Army or the Secretary of the Army's duly authorized representative makes such findings, shall be in issue and may be reviewed in any competent court.

b. In the event this License is terminated as provided in Article 14.a hereof, the **Licensee** shall be entitled: (i) to pursue the same remedies against the **Licensor** as it could pursue in the event of a breach of this License by the **Licensor**, and (ii) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Secretary of the Army or Secretary of the Army's duly authorized representative) which shall be not less than three nor more than ten times the costs incurred by the **Licensor** in providing any such gratuities to an such officer or employee.

c. The rights and remedies of the **Licensee** provided in this Article 14 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this License.

15. MODIFICATION. No change or modification of this License shall be effective unless it is in writing and signed by both parties to this License. See attached Addendum to License Agreement: City's Mandatory Clauses and Provisions.

16. DISPUTES CLAUSE.

a. All disputes arising under or relating to this License shall be resolved under the provisions of the Contract Disputes Act of 1978, as amended (41 U.S.C. §§601-613).

b. The Parties shall proceed diligently with their performance of this License, pending final resolution of any request for relief, claim, appeal, or action arising under the License.

17. ENTIRE AGREEMENT.

a. This License contains all terms and conditions agreed to by the parties and no other verbal statement or conditions will be honored without an amendment to this License in writing as provided in Article 15, above. The failure of either party to insist on strict performance of any covenant or condition hereof or to exercise any option herein contained shall not be construed as a waiver of such covenant, condition, or option in any other instance. For a waiver to be effective, it must be in writing and signed by the party against whom waiver is asserted.

b. This License cannot be changed or terminated orally. The provisions of this License shall apply to, bind and inure to the benefit of **Licensor** and **Licensee**, and their respective heirs, successors, legal representatives and assigns of the parties hereto.

c. Nothing in this license agreement shall constitute, or be deemed to constitute an obligation of future appropriations by the **Licensee**, for the costs herein set forth.

IN WITNESS WHEREOF, the parties have subscribed their names as of the date first above written.

LICENSE NO: PDE-4273-LIBRARY-2023-SD2

CITY OF SAN DIEGO

By: Penny Maus (Dec 28, 2022 19:37 PST)

Penny Maus
Director, Department of
Real Estate & Airport Management

Phone: (619) 236-7346
Email: pmaus@sandiego.gov

Address for notice:
City of San Diego
1200 Third Ave., Suite 1700
San Diego, CA 92101
Attn: Mary Carlson

UNITED STATES OF AMERICA

By: _____

John M. Borland
Government Representative

Phone: 910-643-5431
Email: engineeroperations@gmail.com

Address for notice:
United States of America
P.O. Box 70660
Ft. Bragg, NC 28307

Approved as to form:
Mara W. Elliott, City Attorney

BY: Brian Byun (Dec 29, 2022 09:25 PST)

Name: Brian Byun
Title: Deputy City Attorney
Date: Dec 29, 2022

LICENSE NO: PDE-4273-LIBRARY-2023-SD2

SUBJECT: Walk-through/Waiver

1. As a result of the walk-through/waiver conducted on 25 OCT 22 by representatives of the **Licensee** and the **Licensor**, the following agreements were made:

a. Explosive door breaching: N/A

b. Mechanical door breaching: N/A

c. Explosive window breaching: N/A

d. Mechanical window breaching: N/A

e. Other breaching (vaults, roofs, etc.): N/A

f. Re-securing the building: The **Licensee** is responsible for securing the building and maintaining the security of the building throughout the training events. Once training is complete a **Licensee** representative will return the keys to the owner or representative.

g. Debris removal: The **Licensee** will remove all debris associated with training.

h. Climbing limitations: None

i. Off limits areas: All off-limits areas will be marked in accordance with standing operating procedures by placing an "X" with tape over areas designated "OFF-LIMITS" by the owner.

j. Simunitions/paintballs: Authorized

k. Flash bangs: Authorized

l. Additional Points: N/A.

m. Helicopter landings: Authorized around the buildings

Printed Name of **Licensor**:
Penny Maus

Penny Maus (Dec 13, 2022 19:32 PST)

Licensee Representative:
Print Name: Philip Ehorn

License No: PDE-4273-LIBRARY-2023-SD2

ADDENDUM TO LICENSE AGREEMENT

CITY'S MANDATORY CLAUSES AND PROVISIONS

1. Unauthorized Activities. Licensee shall not engage in any activity on the Premises without coordinating such activity and receiving pre-approval for the activity as set forth in Sections 3 and 4 of the License Agreement to which this Addendum is attached and made a part thereof by this reference. All capitalized terms used but not defined in this Addendum shall have the meaning ascribed to them in the License Agreement. Any work performed by Licensee that was not previously approved or otherwise authorized by this License, shall be removed and the premises shall be put back to its condition on the Effective Date at the Licensee's sole cost and expense, subject to the satisfaction of the Licensor.

2. Improvements and Alterations. The Licensee shall not construct any improvements, structures or installations on the Premises or make any alterations to the Premises without the written consent of the Licensor, which consent shall be in the Licensor's sole discretion.

3. Notice of Potential Presence of Lead-Based Paint ("LBP") and Asbestos-Containing Material ("ACM"). The Premises contain improvements constructed before 1979 that are presumed to contain LBP and ACM. Licensor discloses the potential presence of LBP and/or LBP hazards and ACM and/or ACM hazards in the Property. Licensor has no special knowledge of the presence of LBP and/or ACM on the Property and lacks knowledge related to Licensee's planned activities regarding handling instructions necessary to prevent or minimize release of, and exposure to, LBP or ACM and the potential health impacts resulting from exposure to LBP or ACM on the Premises. Licensee is encouraged to contact other local or state public health agencies for more information about the presence of and/or risk of exposure to LBP or ACM. No express or implied warranties are given by Licensor regarding the environmental condition of the Property, including, without limitation, whether the Property does or does not contain LBP or ACM or whether the Premises are or are not safe for any particular purpose. The failure of a Licensee to inspect the Property for ACM or LBP or to be fully informed as to the condition of all or any portion of the Property will not constitute grounds for any claim by the Licensee against the Licensor. Licensee, to the extent permissible under applicable law, shall indemnify, defend, and hold harmless the Licensor from any loss or claim arising or resulting from the presence of LBP and/or ACM on the Property.

4. Security. All site security shall be the responsibility of Licensee.

5. Notices Related to Training Impacts. Licensee will be responsible for providing notice to individuals, neighbors and the surrounding community that may be impacted by the training activities. As part of the walkthrough, Licensor and Licensee will agree on

specific notice requirements in the Memorandum Between Licensor and Licensee, attached hereto.

6. Surrender. Upon the termination of this License, the Licensee shall surrender the Premises to Licensor in a decent, safe, and sanitary condition, and free and clear of all liens and encumbrances caused by or resulting from the Licensee's occupancy and use, except those liens and encumbrances which: (1) existed on the Effective Date, and (2) exist after the Effective Date and are not the result of the Licensee's use or occupancy of the Premises. The Premises shall be surrendered in the same condition as they were in, prior to the Licensee's use of the Premises, normal wear and tear, damage from the elements, and circumstances over which the Licensee has no control excepted. This provision shall survive termination of the License.

7. Restore and Vacate. Upon termination of this License, Licensee shall immediately cease all operations on the Premises and as soon as practicable thereafter restore the Premises to a condition which is the same or similar as it was on the Effective Date, normal wear and tear excepted, and vacate the Premises. This provision shall survive termination of the License.

8. Waste, Damage or Destruction. The Licensee shall immediately give notice to Licensor of any fire or any other damage that occurs on the Premises. The Licensee shall not commit, or allow to be committed, any waste or injury or any public or private nuisance in connection with the Licensee's use or occupancy of the Premises. The Licensee shall dispose of all of its garbage, trash, and rubbish in a manner satisfactory to Licensor. This provision shall survive termination of the License.

   a. The Licensee shall commence preliminary steps toward performing repairs and/or restoration of the Premises or Property as soon as practicable, but no later than ten (10) calendar days after the occurrence of the fire or damage, and shall complete the required repairs and/or restoration of the Premises or Property within sixty (60) calendar days after such occurrence. Failure to timely repair damage to the Premises or Property will be considered a default under this License. This provision shall survive termination of the License.

9. Licensee's Risk. Licensee shall bear all risks and liability arising out of or in any manner directly or indirectly connected with Licensee's entry upon, occupancy, use, development, maintenance, and restoration of the Premises and any damages to the improvements on, under, or in the vicinity of the Premises resulting directly or indirectly thereby.

10. Superior Interests. This License is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, licenses, easements, and rights-of-way pertaining to the Premises, whether or not of record, that existed as of the Effective Date. The Licensee shall obtain all licenses, permits, and agreements from such third parties as may be or may become necessary or reasonably advisable to allow Licensee's occupancy and use of the Premises, relative to any such superior interest. If the Licensee's occupancy and use are or become inconsistent or incompatible with a

preexisting, superior interest, the Licensee shall take such actions and pay all costs and expenses necessary to remove such inconsistency or incompatibility to the satisfaction of the holder of the superior interest, or either party may choose to terminate the License.

11. Acceptance of Site. The Licensee represents and warrants that the Licensee has independently inspected the Premises and made all tests, investigations, and observations necessary to satisfy itself of the condition of the Premises as applicable. The Licensee agrees that it is relying solely on its independent inspections, tests, investigations, and observations in entering into this License. The Licensee acknowledges that the Premises are in the condition called for herein and that Licensee shall not hold the Licensor responsible for any defects, whether apparent or latent at the Premises. The Licensee has been given the opportunity to investigate the Premises for the presence of any Hazardous Substances, including without limitation the opportunity to perform soil boring and other tests. The Licensee shall notify the Licensor if its investigations indicate the presence of any Hazardous Substances on the Premises. To the extent permitted by applicable federal law, the Licensee waives any claims against Licensor that may result from the presence of Hazardous Substances on the Premises.

12. Hold Harmless. For the purposes of this License, the Licensee is considered to be self-insured. In conformity with, and to the fullest extent permitted by the Federal Anti-Deficiency Act (31 U.S.C. section 1341), Federal Tort Claims Act (28 U.S.C. section 2671-2680), and other applicable federal law, the Licensee agrees to release and hold Licensor, its elected and appointed officials, officers, employees, representatives, and agents harmless from all claims asserted or liability established for damages or injuries to any person or property, including Licensee's officers, employees, independent contractors, invitees, and agents, which arise out of or are in any manner directly or indirectly connected with this License, except for the Licensor's gross negligence or willful misconduct. Nothing in this License shall be construed to preclude or affect any investigation, prosecution, or proceeding that may occur under Title 18 of the U.S. Code or other Federal criminal or civil regulatory law, including the assessment of fines and penalties.

13. Hazardous Materials. The Licensee 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 premises or property by any of the Licensee's officers, employees, agents, contractors, invitees and guests. "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. For the purpose of this License, 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. The Licensee and its officers, employees, agents, contractors, invitees and guests shall not install, store, utilize, generate or sell any Hazardous Substance within any container (including but not limited to 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) on the Premises or Property without Licensor's prior written consent. The Licensee shall 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.

If the Licensee's operations result in a release of a Hazardous Substance, the Licensee shall pay all costs of remediation and removal to the Licensor's satisfaction for the unrestricted reuse of the Premises and Property, and in accordance with all applicable laws, rules, and regulations of governmental authorities, subject to the availability of appropriated funds.

If the Licensee or its 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 Premises, the Licensee shall remove all such Hazardous Substances in any type of container, equipment or device from the Premises and Property immediately upon termination of this License. The Licensor reserves the right to conduct inspections of the Premises and/or request documentation demonstrating the legal removal and/or disposal of the Hazardous Substances, wastes, or other containers, equipment or devices from the Premises and Property. The Licensee shall be responsible for any and all costs incurred by the Licensee or Licensor to remove any container, equipment or device requiring disposal or removal as required by this provision.

To the extent provided in the Federal Tort Claims Act, 28 U.S.C. sections 1345(b) and 2671-2680, the Licensee shall be liable for, and shall hold harmless Licensor's elected and appointed officials, officers, employees and agents from, any and all damages, liabilities, losses, fines, penalties, judgments, demands or actions and costs and expenses, including reasonable attorneys' fees, suffered or incurred related to environmental liabilities resulting from, and proportionate to, the Licensee's own activities on the Premises, including, without limitation, (i) costs of environmental assessments, (ii) costs of regulatory remediation oversight, (iii) costs of remediation and removal, (iv) any necessary Licensor or Licensee response costs, damages for injury to natural resources or the public, (v) all fines, penalties, and fees assessed by any regulatory agency, (vi) damages for injury to natural resources, Licensee's or Licensor's officers, employees, agents, contractors, invitees and guests, or the public, and (vii) costs of any health assessments or health effect studies.

If the Licensee knows or has reasonable cause to believe that a Hazardous Substance has been released on or beneath the Premises or the Property, the Licensee shall immediately notify the Licensor and any appropriate regulatory agency or reporting agency pursuant to California Code of Regulations Title 19 and any other applicable laws or regulations. The Licensee shall deliver a written report thereof to the Licensor within three (3) calendar 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 the Licensee knows or has reasonable cause to believe that such substance is an imminent and substantial danger to public health and/or safety, the Licensee may take all actions necessary to alleviate the danger. The Licensee shall notify the Licensor immediately 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 Premises.

14. Competent Management. The Licensee shall provide competent management of the Premises for the permitted uses to the reasonable satisfaction of each party. "Competent management" shall mean demonstrated ability in the management and operation of the permitted training activities and related activities in a responsible manner.

15. Compliance with Laws and Policies. The Licensee's operations shall at all times be in compliance with all applicable laws, statutes, ordinances, and regulations of city, county, state and federal government, at the Licensee's sole cost and expense. The Licensee shall comply with all notices issued by any such government entity under the authority of all current or future laws, statutes, ordinances, or regulations. Upon receipt of same, the Licensee shall promptly deliver to the Licensor copies of all documentary evidence of such compliance received by or otherwise available to the Licensee.

16. Water Quality - Best Management Practices. The Licensor and Licensee are committed to the implementation of controls (best management practices, or BMPs) to manage activities on the Premises in a manner which aids in the protection of the City of San Diego's precious water resources. It is the Licensee's responsibility to identify and implement an effective combination of BMPs so as not to cause pollutant discharges to the storm drain system in violation of the San Diego Storm Water Management and Discharge Control Ordinance (San Diego Municipal Code Section 43.0301 to 43.0312).

    Therefore, Licensee shall, at a minimum, implement and comply, as applicable, with the Minimum Industrial and Commercial BMPs adopted under the San Diego Municipal Code Section 43.0307(a). It is ultimately the Licensee's responsibility to prevent pollutant discharges to the storm drain system.

    Therefore, the Licensee will identify and implement any additional BMPs that may be required to avoid the discharge of pollutants to the storm drain system.

17. Signs. Licensee shall only post signs required by Federal, state, or local regulations, including without limitation, safety signs required by OSHA, FAA, and/or FCC. Licensee shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings, or similar devices or advertising on the Premises and/or Property without Licensor's prior written consent, which consent shall be in Licensor's sole discretion. If any such unauthorized item is found on the Premises and/or Property, Licensee shall remove the item at Licensee's sole cost and expense. Licensee shall post a clearly marked sign at the Premises indicating Licensee's name and emergency telephone number.

18. Other Governmental Actions. By entering into this License, Licensor is not in any way obligating itself to any other governmental agent, board, commission, or agency with regard to any other discretionary action relating to the development, occupancy, use, or maintenance of the Premises. Discretionary action includes but is not limited to any rezoning, variance, environmental clearance or any other governmental approval that may be required for the Licensee's allowed uses of the premises. The Licensee shall diligently seek, at its sole costs and expense, all entitlements and actions from Licensor and any other governmental agencies with jurisdiction over the Premises as are necessary for the Licensee's use of the Premises.

19. Transfer. Licensee shall not assign, sublicense, convey, grant, hypothecate, sell, or otherwise transfer this License or any interest therein, whether by operation of law, voluntarily or involuntarily, directly or indirectly, without Licensor's prior written consent, which consent shall be in Licensor's sole discretion.

20. Licensor's Consent, Discretion. Whenever required under this License, Licensor's consent or approval shall mean the written consent or approval of the Mayor, or his or her designee, unless otherwise expressly provided, without need for further resolution by the City Council. Licensor's discretionary acts hereunder shall be made in the Mayor's (or his or her designee's) discretion, unless otherwise expressly provided.

21. Revocable License. This License is not a lease, easement, or any conveyance of an estate in any real or personal property. It is a license to use property owned by the Licensor for the specific and limited purpose described in Section 3 of the License ("Scope of Training Activities"), as further memorialized in the memorandum described in Section 4 ("Walkthrough"), and subject to Section 1 of this Addendum, and may be revoked at will by the Licensor, in its sole discretion upon providing sixty (60) days written notice. Licensor shall not be obligated for any loss, financial or otherwise, which may be incurred by Licensee as a result of such revocation or the termination of this License. Licensee expressly waives any claim for expense or loss which Licensee might incur as a result of Licensor's revocation or termination of this License.

22. Waiver. Either Parties' waiver of a default shall not constitute a waiver of any other default. Any waiver of a default shall be in a writing executed by the non-defaulting Party in order to constitute a valid and binding waiver. The non-defaulting Party's delay or failure to exercise a remedy or right shall not be a waiver of that or any other remedy or right under this License. The use of one remedy or right for any default shall not waive the use of another remedy or right for the same or any other default. The property constituting the Premises are publicly owned lands, held in trust for the benefit of the citizens of the City of San Diego, as applicable. A Party's failure to discover a breach or default or take prompt action to require the cure of any breach or default shall not result in an equitable estoppel, but a non-defaulting Party may, at all times, require the cure of any breach or default regardless of when discovered.

23. Governing Law. The procedural and substantive laws of the State of California shall govern the interpretation and enforcement of this License, without application of conflicts of laws principles or statutes. The Parties acknowledge and agree that this License is entered into, is to be fully performed in and relates to real property located in the County of San Diego. All legal actions arising from this License therefore shall be filed in the Superior Court for the County of San Diego or in the United States District Court for the Southern District of California.

24. Warranty Against Payment of Consideration for Agreement. Licensee represents and warrants to Licensor that: (a) Licensee has not employed or retained any person to solicit or secure this License upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees of Licensee; and (b) no gratuities, in the form of entertainment, gifts or otherwise have been or will be given by Licensee or any of the Licensee's agents, employees, or representatives to any elected or appointed official or employee of Licensor in an attempt to secure this License or favorable terms or conditions thereof. Breach of the representations or warranties in this Section 24 shall entitle Licensor to terminate this License immediately.

25. No Third Party Beneficiaries. Nothing in this License, express or implied, is intended to confer any rights or remedies under or by any reason of this License on any person other than the parties hereto and their respective permitted successors and assigns (if any), nor is anything in this License intended to relieve or discharge any obligation of any third person to any party or give any third party any right of subrogation or action over or against any party.

DEPARTMENT OF THE ARMY
UNITED STATES ARMY SPECIAL OPERATIONS
COMMAND FORT BRAGG, NC 28307-5000

DATE: 21 December 2022

MEMORANDUM FOR RECORD

SUBJECT: Statement of Use for Overhead Imagery Collection

1. I, Penny Maus, hereby grant consent to the United States Government to collect overhead imagery and remote sensing date of (Address):
Central Library
330 Park Boulevard
San Diego, California 92101

And surrounding area, Grid: 11 SMS 85542 19006 (the "Surrounding Area") in support of government activities related to License No. _____ (the "License"). As Owner/Manager, I am authorized to provide this consent. I understand that the data collection will take place between 15 November 2022 and 28 January 2023. I also provide permission for the utilization of previously collected imagery of the License property and Surrounding Area for the limited purpose set forth in the License. The foregoing consents are subject to the following limitation: I do not consent to any imagery collected pursuant to this consent to be used for the purpose of supporting local, state or federal law enforcement.

2. The point of contact for this action is SFC Aaron M. Del Valle, at 910-643-5657, or aaron.m.delvalle.mil@army.mil.

OWNER/MANAGER PRINT: Penny Maus, Director
Department of Real Estate and Airport Management

OWNER/MANAGER SIGNATURE: Penny Maus (Dec 28, 2022 19:32 PST)

DATE: Dec 28, 2022

12/21/2022

SD Planning

Attachment B

Environmental Determination (NORA)	
Environmental Planner	Vanessa Sandoval (vmsandoval@sandiego.gov)
Project Name	License Agreement between the City of San Diego and the United States of America for the use of 330 Park Boulevard
Environmental Determination	Categorically exempt from CEQA pursuant to State CEQA Guidelines Sections 15301 (Existing Facilities) and 15322 (Educational or Training Programs Involving No Physical Changes).
Date NORA Posted	12/13/2022
Date NORA Removed	12/20/2022

Date of Notice: December 13, 2022

NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

PLANNING DEPARTMENT

PROJECT NAME/NUMBER: License Agreement between the City of San Diego and the United States of America for the use of 330 Park Boulevard

COMMUNITY PLAN AREA: Downtown
COUNCIL DISTRICT: 3
LOCATION: 330 Park Boulevard, San Diego, CA 92101

PROJECT DESCRIPTION: This License Agreement is between the United States of America (USA) and the City of San Diego. The City is granting the USA the exclusive right to enter into, above, and upon the land and premises as described as 330 Park Boulevard, San Diego, CA 92101 so that the US Army may perform military training operations in urban terrain. Training activities may include: infil/exfil training on roof top (getting off and on helicopters) and potential climbing on the building exterior (civilian attire and equipment). There will be no breaching and no force on force (role playing).

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego

ENVIRONMENTAL DETERMINATION: Categorically exempt from CEQA pursuant to State CEQA Guidelines Sections 15301 (Existing Facilities) and 15322 (Educational or Training Programs Involving No Physical Changes).

ENTITY MAKING ENVIRONMENTAL DETERMINATION: City of San Diego Mayor-Appointed Designee.

STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION:
The City of San Diego conducted an environmental review that determined the project would not have the potential for causing a significant effect on the environment pursuant to State CEQA Guidelines Section 15301 (Existing Facilities) which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use; and Section 15322 (Educational or Training Programs Involving No Physical Changes), which consists of the adoption, alteration, or termination of educational or training programs which involve no physical alteration in the area affected or which involve physical changes only in the interior of existing school or training structures. The exceptions listed in CEQA Guidelines Section 15300.2 would not apply in that no cumulative impacts were identified; no significant effects on the environment were identified; the project is not adjacent to a scenic highway; no historical resources would be affected by the action; and the project was not identified on a list of hazardous waste sites pursuant to Section 65962.5 of the Government Code.

CITY CONTACT: Mary Carlson, Program Manager

MAILING ADDRESS: Department of Real Estate and Airport Management
1200 Third Ave, Suite 1700, San Diego, CA 92101

PHONE NUMBER/E-MAIL: 619-236-6079/ MMcarlson@sandiego.gov

On December 13, 2022 the City of San Diego made the above-referenced environmental determination pursuant to CEQA. This determination is appealable to the City Council. If you have any questions about this determination, contact the City Contact listed above.

Applications to appeal the CEQA determination to the City Council must be filed with the Office of the Clerk within five business days from the date of the posting of this Notice **(December 20, 2022)**. Per the revised Public Notice issued by the Office of the City Clerk on September 28, 2021, appeals to the City Clerk must be filed via e-mail or in-person as follows:

1. Appeals filed via Email: Send the appeal by email to Hearings1@sandiego.gov; your email appeal will be acknowledged within 24 hours. You must separately mail the required appeal fee by check payable to the City Treasurer to: **City of San Diego Planning Department, Attn: Vanessa Sandoval, 9485 Aero Drive, MS 413, San Diego, CA 92123**. The appeal filing fee must be postmarked within 5 business days of the date the appeal is filed.

2. Appeals filed In-Person: The appeal application can be obtained in the Lobby of the City Administration Building located at 202 'C' Street, San Diego, CA 92101. The completed appeal package must include the required appeal fee in the form of a check payable to the City Treasurer to: **City of San Diego Planning Department, Attn: Vanessa Sandoval, 9485 Aero Drive, MS 413, San Diego, CA 92123**.

If you have any questions regarding the procedures to file the appeal, please contact **Vanessa Sandoval** at **vmsandoval@sandiego.gov**. The revised Public Notice can be found here: https://www.sandiego.gov/sites/default/files/office_of_the_city_clerk_public_notice_rev09252020_v2.pdf.

This information will be made available in alternative formats upon request.

POSTED ON THE CITY'S CEQA WEBSITE

POSTED: 12/13/2022

REMOVED: 12/20/2022

POSTED: [illegible]

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12/29/22 emailed to Army to sign

Department of Real Estate and Airport Management

Document Routing Form

License Agreement – 330 Park Blvd
Title of document to be signed

Mary Carlson
Your Name/Property Agent's Name

Program Manager/Supervisor Signature

December 22, 2022
Date

Print name of City Attorney: Brian Byun & Jon Dwyer

NORA: ☒ Yes Date: 12/13/22
☐ No, see explanation below

Appeal: ☐ Yes ☒ No ☐ N/A

Date City Attorney approval: See attached emails

Explanation/Notes:

The United States of America ("Army") requested permission to perform training at various City-owned properties January 29, 2023 through February 3, 2023. The Mayor's office issued the attached "letter of invitation" for the training. The training would be supported by San Diego Police and is vital for public safety as well as the safety of Army individuals who perform complicated activities for the benefit of the USA.

This license is for use of the Central Library at 330 Park Blvd. The Library Department has approved the use (see attached email).

City is requested to sign this license first since the USA is a higher agency.

Environmental Determination Notes (if applicable):

N/A – See NORA info above.

Deputy Signature: Lucy Contreras Date: Dec 28, 2022

Attachments:

- Brian Byun email dated 12/6/22
- Jon Dwyer, Deputy City Attorney and Raul Gudino, Deputy Director, Library Operations emails 12/7/22
- 10/19/22 Letter of Invitation from Mayor Gloria
- License
- Imagery Request
- NORA