

APPROVED

09-09-2016

BOARD OF RECREATION  
AND PARK COMMISSIONERS

**BOARD REPORT**

NO. 16-187

DATE September 09, 2016

C.D. 10

**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: LOS ANGELES CENTER FOR ENRICHED STUDIES – FACILITY USE PERMIT FOR JOINT USE OF RECREATIONAL FACILITIES FROM JULY 2016 THROUGH JUNE 2017; EXEMPTION FROM CALIFORNIA ENVIRONMENTAL QUALITY ACT

AP Diaz	_____	*V. Israel	_____
R. Barajas	_____	K. Regan	_____
H. Fujita	_____	N. Williams	_____

  
General Manager

Approved  \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATIONS

1. Approve a proposed Facility Use Permit (FUP), herein included as Attachment 1, issued by the Los Angeles Unified School District (LAUSD), defining details of the Department of Recreation and Parks' (RAP) joint use of aquatic and athletic facilities at the Los Angeles Center for Enriched Studies (LACES) from July 1, 2016, through June 30, 2017, subject to the approval of the City Attorney as to form;
2. Find the proposed project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article EI, Section 1, Class 1 (14) of the City CEQA Guidelines.
3. Direct the Board Secretary to transmit the proposed FUP to the City Attorney for review as to form;
4. Authorize RAP's General Manager of Designee to execute the FUP upon receipt of the City Attorney's approval; and
5. Authorize RAP's Chief Accounting Employee to make payment to LAUSD for reimbursement of maintenance-related services upon the receipt of invoices for periods between July 1, 2016, and June 30, 2017, from Fund 302, Department 88, Appropriation Account 3040, Contractual Services.

SUMMARY

LACES is a LAUSD magnet middle school and high school, enrolling students in middle school and high school, and is located at 5931 West 18th Street in Council District 10. The LACES campus encompasses a comprehensive athletic complex with an aquatics facility, a sports field, basketball courts, tennis courts, and an indoor gymnasium, a dance room, and a weight room, collectively called the Recreational Facilities. The Recreational Facilities in place today are the result of a significant capital improvement project funded in part by the City's Proposition K grant

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program. Due to the Proposition K grant, a Joint Use Agreement (JUA) was executed on June 4, 1998, between the City, acting through the Department of Recreation and Parks (RAP), and LAUSD. The mix of facilities at LACES is unusual for a JUA as it includes a swimming pool, outdoor sports facilities, and indoor athletic spaces, while typically Proposition K joint use agreements cover only one of those amenity groups. The term of the JUA is for fifteen (15) years after completion of the improvements, which occurred in 2005; joint use of LACES began in 2006. The JUA terminates in June of 2020 unless extended by the parties.

The joint use activity at LACES is different from any other joint use relationship between RAP and LAUSD for the following reasons.

- The operation of the swimming pool differs from all other pool joint use arrangements, in which RAP owns the pools on school property and operates them for both students and the public. At LACES, LAUSD owns the pool and takes responsibility for maintenance and repairs with costs to be shared between LAUSD and RAP. RAP's Aquatics staff still provides lifeguard services for classes and school activities and operates the pool during non-school hours for the public.
- The JUA accommodates general public access to the facilities on weekends and other non-school days and the school has a long-established pattern of public use by families for un-structured recreation. This differs from other joint use situations where access is strictly LAUSD students or RAP program participants and permittees.
- LAUSD has required RAP to pay school staff to perform maintenance, instead of RAP staff performing it during our time, because of the integration of the facilities and overlap of use at LACES.

Managing these unusual joint use circumstances at LACES creates some challenges from time to time for both RAP and school staff. The issues requiring most attention are coordinating activities to ensure that recreation program participants and students all have balanced access to the facilities, and achieving equity in maintenance of the facilities for the public as well as students. There is also the unusual mutual payment situation, where RAP reimburses LAUSD for maintenance while LAUSD separately reimburses RAP for lifeguarding services. Further, the JUA includes language in Section 10 that authorizes LAUSD to issue a written permit in conformance with the Civic Center Act and requires RAP to follow the procedures established by LAUSD to obtain that permit. This is the basis of the annual Facilities Use Permit (FUP) process, which captures the unique specifics of joint use at this site and meets the requirements of the 1998 JUA. The most recent FUP approved by the Board covered the period of July 1, 2015, through June 30, 2016 (Board Report No. 15-136, approved on June 18, 2015).

The proposed FUP is comparable to the FUPs approved since 2013 with one exception related to the swimming pool. It continues the limited weekday operations for RAP during the school year, in which public programming cannot begin until 6:00 p.m. on weekdays, and it continues the lifeguard services provided to LACES by RAP for physical education classes and athletic competition and events. However, at the end of the 2015-16 school year, LAUSD has closed the pool for major renovation, for installation of an all new circulating system, replacement of corroded electrical and plumbing, upgraded air handling systems, installation of LED lighting, and related

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painting, new tile, and miscellaneous repairs. This LAUSD project corrects for problems and damage caused by inadequate air circulation that was a flaw in the original project. The pool will remain closed until February 2017. Accordingly, LAUSD's estimate for maintenance costs to be reimbursed by RAP is reduced and RAP's estimated costs to provide lifeguard services to LAUSD at LACES is reduced to about four (4) months of the twelve (12) month term of this FUP and is estimated at twenty-seven thousand, eight-hundred and sixteen dollars and thirty-three cents (\$27,816.33).

With approval of this FUP, RAP staff recommends Board authorization for the Chief Accounting Employee to pay LAUSD on invoices received for reimbursement of LAUSD maintenance costs for July 2016 to June 2017, with a not-to-exceed estimate of One Hundred Seven Thousand, Four Hundred Ninety-Seven Dollars and Sixty Cents (\$107,497.60). When receiving the invoices at the end of the fiscal year, RAP staff will ensure that they reflect actual times used for RAP programs at LACES and that there is no overlap between maintenance costs reimbursed by RAP with those funded annually by Proposition K maintenance funds, due to the credit likely to be applied with maintenance funds paid by Proposition K prior to actually invoicing for Fiscal Year 2016-17. The final charge to RAP likely will be reduced by several thousand dollars.

The Assistant General Manager of the Operations Branch, the Superintendent of the Pacific Region, and the Office of Council District 10, support continued joint use at LACES under these terms.

### ENVIRONMENTAL IMPACT STATEMENT

RAP staff has determined that the approval of the proposed FUP is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article EI, Section 1, Class 1 (14) of the City CEQA Guidelines. This exemption allows for the use of existing school facilities involving negligible or no expansion of use.

### FISCAL IMPACT STATEMENT:

RAP's obligations related to public operations and reimbursement for maintenance at LACES are funded through the Department's regular budget approval process. LAUSD has estimated annual maintenance reimbursement costs to be One Hundred Seven Thousand, Four Hundred Ninety-Seven Dollars and Sixty Cents (\$107,497.60). The estimate for reimbursement of maintenance for the term of the July 2016 to June 2017 FUP will be adjusted with refinements to the line items billed, and final bills will be reconciled with Department records of actual use. The estimate for lifeguard services for which LAUSD will be charged for the same July 2016 to June 2017 term is Twenty-Seven Thousand, Eight Hundred Sixteen Dollars and Thirty-Three Cents (\$27,816.33).

This report was prepared by Joel Alvarez, Senior Management Analyst, Partnership Division

### LIST OF ATTACHMENTS/EXHIBITS:

- 1) Attachment 1 - Proposed Facility Use Permit (FUP)

FACILITIES USE PERMIT

BETWEEN

THE LOS ANGELES UNIFIED SCHOOL DISTRICT OF LOS ANGELES COUNTY

-and-

THE CITY OF LOS ANGELES DEPARTMENT OF RECREATION AND PARKS

FOR

THE LOS ANGELES CENTER FOR ENRICHED STUDIES-5931 West 18<sup>th</sup> Street, Los Angeles, California

Part I: Basic Facilities Use Information

A. The term “**Recreational Facility**” shall collectively mean and refer to the facilities identified as follows in this Part I, A and shall be used in accordance with the scope of use set forth adjacent to each identified facility or as more particularly depicted as EXHIBIT A and A-1:

Facilities subject to this Permit:	Use of the Facilities:
1. The “Athletic Building” consisting of separate facility components for a gymnasium, swimming pool, dance studio/multipurpose room, and weight-training room;	1. CITY shall use the recreational facilities of the Athletic Building for classes, practices, games and other recreational activities generally recognized as a consistent and safe use of the particular facility in accordance with the purpose for which the facility was respectively designed and intended. The gymnasium, dance studio/multipurpose and weight-training rooms shall not be used for dodge ball or other activity that involves throwing balls or other equipment or devices at another person, the improvements or at fixtures. In order to minimize damage to the wood floors of the dance studio/multipurpose room, users shall wear soft-soled, non-marking footwear and be prohibited from wearing footwear with hard soles or any shoes that may mark or damage the flooring.
2. Outdoor Athletic Fields/Turf Areas;	2. The Outdoor Athletic Fields/Turf Areas is not a regulation sized field for soccer and football and such fact should be taken into consideration in the use of the field. CITY

	shall use the Outdoor Athletic Fields/Turf Areas for classes, practices, games and other recreational activities generally recognized as a consistent and safe use of the field in accordance with the purpose for which the facility was respectively designed and intended. Bicycles, motorcycles and other wheeled devices shall not be permitted on the field, except for maintenance purposes, in order to minimize damage to the field.
3. Running track;	3. CITY shall use the running track for classes, practices and track competition in a manner generally recognized as a consistent and safe use.
4. Outdoor basketball/volleyball courts and tennis court;	4. CITY shall use the outdoor basketball/volleyball courts and tennis courts for classes, practices, games and other recreational activities generally recognized as a consistent and safe use of the particular facility in accordance with the purpose for which the facility was respectively designed and intended. These outdoor courts shall not be used for rollerskating, rollerblading, roller hockey, bicycling and other activities that may increase the wear and tear or damage the hardcourt surface or pose a safety risk.
5. Staff/Faculty Parking Lot;	5. CITY and/or CITY Permittees, as defined below, shall use the staff/faculty parking lot, located along 18 <sup>th</sup> Street and as shown in Exhibit A, for the parking of automobiles, excluding commercial vehicles, on a non-exclusive first-come, first-served basis. Subject to supervision for safety, the Staff/Faculty Parking Lot may be used for vehicular and pedestrian ingress and egress to and from the adjoining street(s). CITY shall not allow the Staff/Faculty Parking Lot to be used for the sale and/or trade of automobiles in whole or in part, the maintenance or repair of automobiles, the exhibition of automobiles or as a flea market, swap meet, farmers market or other event in which new and/or used goods are offered for sale or barter. Any other use of

	the Parking Lot by CITY and/or CITY Permittees, as defined below, shall require the consent of both of the parties.
6. Shared Restrooms, as identified by DISTRICT	6. CITY shall use this facility for its commonly recognized intended purpose.

<b>B. General Use Periods:</b>	
1. District's Use Period.	6:00 a.m. to 6:00 p.m. Monday through Friday when the School is in session; PROVIDED, HOWEVER, that as set forth in Section 2(a) below District's Use Period may be extended to accommodate the School's programs such as, but not limited to, practices and competitions so long as DISTRICT provides CITY with written notice within a reasonable period of time prior to the School event.
2. City's Use Period:  --When the School is in session:	6:00 p.m. to 9:00 p.m. Monday through Friday or such time that School agrees to, except if the CITY elects to use less time or as modified by the DISTRICT pursuant to paragraph 2a of this Permit; PROVIDED, FURTHER, that CITY shall cease using the outdoor fields and hardcourts when there is insufficient sunlight to safely use those facilities. The foregoing sunlight requirement shall not apply to those facilities which comprise the Recreational Facility, are located indoors and may be safely used with existing artificial lighting. NOTWITHSTANDING the foregoing, CITY's use of the pool may be affected by the Pool and Equipment Upgrade Project as noted in Part II: General Provisions 2.ii.b.
-- When the School is not in session (closed for holidays recognized by DISTRICT, Winter and Spring Break and other intermissions between semesters or trimesters)	8:00 a.m. to 9:00 p.m. Saturday through Sunday and other applicable days, except if the CITY elects to use less time or as modified by the DISTRICT pursuant to paragraph 2a of this Permit; PROVIDED, FURTHER, that CITY shall cease using the outdoor fields and hardcourts when there is insufficient sunlight to safely use those facilities.

This FACILITIES USE PERMIT (this "Permit") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_, by and between the LOS ANGELES UNIFIED SCHOOL DISTRICT OF LOS ANGELES COUNTY, a school district, acting by and through its Board of Education, hereinafter identified as "**DISTRICT**," and THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its BOARD OF RECREATION AND PARK COMMISSIONERS, hereinafter identified as "**CITY**."

W I T N E S S E T H:

WHEREAS, DISTRICT has an existing school known as THE LOS ANGELES CENTER FOR ENRICHED STUDIES located at 5931 West 18<sup>th</sup> Street, Los Angeles, California 90035 (the "**School**").

WHEREAS, CITY and DISTRICT have agreed to share the use of the Recreational Facility, as defined in Part I above, and for the uses disclosed in Part I above and which use may be set forth in more detail in EXHIBIT A and A-1, attached hereto and incorporated herein by reference;

WHEREAS, this Permit is intended to set forth the parties' understanding as to the shared use of the Recreational Facility and the terms and conditions applicable to such shared use;

NOW, THEREFORE, in consideration of the covenants and conditions contained herein and the performance thereof, the parties hereto mutually agree as follows:

Part II: General Provisions

1. TERM

The term of this Permit (the "**Term**") shall commence on July 1, 2016 (the "**Commencement Date**") and shall expire on June 30, 2017. However, CITY and DISTRICT shall in good faith negotiate the terms and conditions of subsequent permits for the continued shared use of the Recreational Facility based on the terms of the Joint-Use Agreement that was executed on June 4, 1998 (so long as said Joint Use Agreement is valid and in full force and effect).

2. USE OF THE RECREATIONAL FACILITY

(a) Hours of Use. CITY and DISTRICT agree that the Recreational Facility shall be open for use during the time period of 6:00 a.m. to 9:00 p.m. each day of the week subject to District's Use Period, City's Use Period and the following:

(i) CITY acknowledges that DISTRICT's primary objective is to provide educational programming for students, and the concept of "education" involves more than academic instruction but includes providing opportunities for competition (sports, dance, etc.), recreation, art, social interaction and life skills for the students and their families. As examples, and not intended to be construed as limitations, of events that provide benefits to the

School and community, back-to-school events, athletic competitions, book fairs, school fairs and other fundraising activities, drama or musical rehearsals and productions, intramural sports leagues and enrichment educational and sports programs often occur after the School Hours, defined above. So long as DISTRICT provides CITY with a schedule of such School events prior to the commencement of each school semester, or if not practical to establish dates prior to the commencement of the semester, then within a reasonable period of time prior to the School event, such School events shall take priority in the use of the Recreational Facility. In the event DISTRICT would like to use the Recreational Facility for an unscheduled School event during City's Use Period, DISTRICT and CITY, in good faith, will negotiate and mutually agree on whether the event can be accommodated during City's Use Period. Only School events proposed after School Hours by DISTRICT will receive the priority of use.

(ii) As a means of generating funds for extracurricular activities for the benefit of the students, DISTRICT allows its Schools to be leased or licensed for non-School events such as, but not limited to, filming. DISTRICT shall provide written notice to CITY of any lease or license of the School, excluding the Recreational Facility, and the funds generated from such use shall be the sole property of DISTRICT. In the event the filming request is for or includes the Recreational Facility, CITY and DISTRICT, in good faith, shall coordinate their respective schedules to accommodate the filming if CITY does not have a previously scheduled event or program and the funds generated from such filming shall be the sole property of DISTRICT for the benefit of the School.

CITY and DISTRICT may mutually agree upon any changes to the use periods.

(b) Use of the Recreational Facility. CITY and DISTRICT agree that the Recreational Facility shall be used in a manner consistent with its intended purposes and within the scope of use set forth in Part I above. CITY and DISTRICT acknowledge that there will be a period of no use for the entire pool area by either party during the Pool and Equipment Upgrade Project with an expected duration of 230 Calendar days. CITY shall use the Joint Use Areas, including the Staff/Faculty Parking Lot, as permitted hereunder in compliance with applicable laws, including laws pertaining to Hazardous Substances. As used herein, the term "Hazardous Substances" shall mean any product, substance, chemical, material or waste whose presence, nature, quantity and/or intensity of existence, use, manufacture, disposal, transportation, spill, release or effect, either by itself or in combination with other materials, is either: (i) potentially injurious to the public health, safety or welfare, or the environment; (ii) regulated or monitored by any governmental authority; or (iii) a basis for liability of DISTRICT or CITY to any governmental agency or third party under any applicable statute or common law theory.

(c) Staffing. CITY, at its sole cost and expense, shall provide reasonable staffing and program personnel in its discretion for the intended use of the Recreational Facility during the City's Use Period. CITY shall provide lifeguard services for the District's Use Period as requested by DISTRICT and DISTRICT shall reimburse CITY for the cost of these services, based on an estimate and according to a standard formula template shown in Exhibit C, attached hereto and incorporated herein. Notwithstanding the above, during the period of no use by either party for the duration of the Pool and Equipment Upgrade Project, the CITY shall not provide lifeguard services and the DISTRICT shall only reimburse the CITY for the cost of any such

services based on the estimate and according to a standard formula template shown in Exhibit C if such services are provided any time other than the period of no use.

CITY shall not be required to provide reasonable staff and program personnel for the use of the Recreational Facility if CITY will not be exercising its priority to use the Recreational Facility either for itself or on behalf of any other person(s), organization(s) or entity(s) and City's Use Period shall be available for any public use pursuant to the issuance of a Civic Center Permit in accordance with DISTRICT procedures.

(d) Securing the Recreational Facility. If DISTRICT is the last user of the Recreational Facility or CITY has notified DISTRICT that it will not be using the Recreational Facility during City's Use Period on any identified day or days, DISTRICT shall lock and secure the Recreational Facility, including any gates for the Staff/Faculty Parking Lot. At the end of City's Use Period and any period of use during District's Use Period granted to CITY by a Civic Center Permit, if applicable, CITY shall lock and secure the Recreational Facility including, but not limited to, any gates for the Staff/Faculty Parking Lot.

(e) Clean and Sanitary Condition. At the end of District's Use Period and any period of use during City's Use Period granted by CITY, DISTRICT shall visually inspect the Recreational Facility including the Staff/Faculty Parking Lot and the restroom facilities provided for in Section 3 below, and perform custodial, trash removal, and grounds maintenance services including pick-up and removal of trash and debris so that these areas are in a clean condition for CITY's use. At the end of City's Use Period and any period of use during District's Use Period granted to CITY by a Civic Center Permit, CITY or its permittee shall visually inspect the Recreational Facility including the Parking Lot and restroom facilities provided for in Section 3 below, and pick-up trash and debris so that these areas are in a clean and sanitary condition prior to the next DISTRICT use. DISTRICT shall provide custodial, trash removal, and grounds maintenance services subsequent to City Use and prior to District Use in lieu of CITY performing such work and CITY shall reimburse District for those services ("Maintenance Charges"). Other DISTRICT maintenance responsibilities are set forth in the Joint Use Agreement for the Recreational Facility dated June 4, 1998.

(f) No Use of the Recreational Facility. The Maintenance Charges for all or any individual facility comprising the Recreational Facility and CITY shall not be liable for the damage and/or destruction of all or any portion of any individual facility comprising the Recreational Facility on the following situations:

(i) CITY is denied use of all or a portion of the Recreational Facility during City's Use Period for a period beyond three (3) consecutive days and; and/or

(ii) CITY elects not to use all or any individual facility comprising the Recreational Facility and CITY provides DISTRICT with a minimum of four (4) weeks prior written notice of such election.

As an example, and not as a limitation, if CITY elects not to use the dance studio/multipurpose room for a defined period and notifies DISTRICT accordingly, the

Maintenance Charges for the dance studio/multipurpose room shall be proportionally adjusted and CITY will not be liable for damage and/or destruction to the dance studio/multipurpose room for the defined period.

### 3. RESTROOM FACILITIES

During the City's Use Period and any period of use granted to CITY by a Civic Center Permit, CITY shall have access to the restroom facilities identified by DISTRICT (the "Shared Restrooms") upon the commencement of this Permit. DISTRICT shall replenish any supplies used for the Shared Restrooms and CITY shall pay a prorated amount of the cost to replenish the supplies based on CITY's use. During the District's Use Period and any period of use granted by written permission from CITY during City's Use Period, DISTRICT shall replenish any supplies used for the Shared Restrooms. DISTRICT may change the identification of the Shared Restrooms for maintenance, repair, renovation or improvement by providing thirty (30) days written notice to CITY in the event DISTRICT will repair, renovate or improve the Shared Restrooms.

### 4. MAINTENANCE CHARGES

DISTRICT shall provide general maintenance of the Recreational Facility. CITY agrees to reimburse DISTRICT for the costs and expenses incurred for the maintenance of the Recreational Facility including pool maintenance that are in accordance with the responsibilities that are enumerated in the Joint Use Agreement that was executed on June 4, 1998. CITY shall reimburse the District for its pro rata share of maintenance costs pursuant to EXHIBIT B, attached hereto and incorporated herein by reference. If DISTRICT's maintenance of any individual facility comprising the Recreational Facility is deemed inadequate by CITY for CITY's reasonable use during City's Use Period, CITY may perform the maintenance so long as all of the following conditions have been satisfied: (i) CITY shall notify DISTRICT in writing of the inadequate maintenance, with reasonably sufficient information to allow DISTRICT to assess whether the facility is below DISTRICT standards, including those of the Office of Environmental Health & Safety, for use by its students; and (ii) DISTRICT determines that it cannot physically commence performance of the work needed to bring the facility to DISTRICT standards within thirty (30) days of DISTRICT's receipt of CITY's written notice.

### 5. DAMAGE AND DESTRUCTION

(a) District Use Period. Any damage or destruction of the Recreational Facility that occurs during District's Use Period or any period of use granted by permission from CITY shall be repaired or replaced by DISTRICT, at its sole cost and expense, consistent with School standards.

(b) City Use Period. Any damage or destruction of the Recreational Facility that occurs during City's Use Period or any period of use granted by Civic Center Permit to CITY shall be repaired or replaced by DISTRICT consistent with School standards and CITY shall reimburse DISTRICT for the cost and expense of such repair or replacement.

## 6. UTILITIES

CITY acknowledges and agrees that DISTRICT shall not be liable for the lack of utility service such as, but not limited to, electricity, water and sewer if such service cannot be provided for reasons beyond the control of DISTRICT. As an example, and not as a limitation, the main water line providing service to the School is severed by third parties.

## 7. CALIFORNIA CODE

The provisions of this Permit constitute an express agreement between DISTRICT and CITY with respect to any and all damage to, or destruction of, all or any part of the Recreational Facility, and any statute or regulation of the State of California, including, without limitation, Sections 1932(2) and 1933(4) of the California Civil Code, with respect to any rights or obligations concerning damage or destruction in the absence of an express agreement between the parties, and any other statute or regulation, now or hereafter in effect, shall have no application to this Permit or any damage or destruction to all or any part of the Recreational Facility.

## 8. NO RIGHTS TO SCHOOL

Notwithstanding any reference in this Permit to the School and/or the underlying real property for said School, nothing in this Permit is intended to give CITY any rights to use the facilities and real property of the School which are not identified as part of the Recreational Facility.

## 9. CONSIDERATION

No rent for the use of any of the Recreational Facility described herein shall be payable by either party to the other party.

## 10. NO TRANSFER

Neither party shall have the right to assign, sublease or otherwise transfer its interests in this Permit to any third party except as follows:

(a) DISTRICT. DISTRICT shall be permitted to allow the students and user groups of the School to use the Recreational Facility at the times and for the purposes DISTRICT is permitted to use the same under this Permit. DISTRICT shall be permitted to grant Civic Center Permits, pursuant to the Civic Center Act of the California Education Code, for the use of the Recreational Facility during District's Use Period on terms and conditions consistent with this Permit. The organizations to which DISTRICT grants a permit to use the Recreational Facility shall be collectively referred to herein as the "**District Permittees**" and permits permitted hereunder to be granted by DISTRICT to the District Permittees are referred to herein as the "**District Permits**." All District Permits shall be subject and subordinate to the terms and conditions of this Permit. The District Permits shall also expressly state that the District Permit

is revocable without notice or opportunity to cure in the event DISTRICT, in its sole discretion, determines that the District Permittee is not using the Recreational Facility including the Staff/Faculty Parking Lot and Shared Restroom in full compliance with the terms and conditions of this Permit. DISTRICT shall indemnify and hold harmless CITY. No District Permittee shall be considered a third party beneficiary of this Permit.

(b) CITY shall be permitted to allow the public and grant to youth sports organizations and/or teams, pursuant to CITY's standard permitting procedures and otherwise in compliance with all applicable laws, a permit to use the Recreational Facility for recreational purposes at the times and for the purposes CITY is permitted to use the same under this Permit. The youth sports organizations and/or teams to which CITY grants a permit to use the Recreational Facility shall be collectively referred to herein as the "**City Permittees**" and permits permitted hereunder to be granted to CITY to the City Permittees are referred to herein as the "**City Permits.**" All City Permits shall be subject and subordinate to the terms and conditions of this Permit. The City Permits shall also expressly state that the City Permit is revocable at the pleasure of the Board of Recreation and Park Commission. In the event DISTRICT, in its sole discretion, determines that the City Permittee is not using the Recreational Facility including the Staff/Faculty Parking Lot and Shared Restroom in full compliance with the terms and conditions of this Permit, DISTRICT shall notify CITY in writing and upon receipt of such written notification, CITY shall cause the City Permittee to comply with the terms and conditions of this Permit to the satisfaction of DISTRICT or CITY shall revoke the City Permit issued to said City Permittee. Further, CITY shall inform the City Permittees and those persons using the Recreational Facility in connection with the City Permits by expressly stating in the City Permits that DISTRICT shall have no liability for any reason or in any manner whatsoever to such persons or entities, including, without limitation, DISTRICT's exercise of its rights hereunder to cause the revocation of a City Permit. In the event that any City Permit is revoked, CITY shall indemnify and hold harmless DISTRICT. No City Permittee shall be considered a third party beneficiary of this Permit.

## 11. DEFAULTS

Any failure by either party hereto to observe and perform any provision of this Permit to be observed or performed by that party within fifteen (15) days after notice thereof has been provided to the non-observing party by the other party, or if performance is not possible within said period, any failure of the non-observing party to commence performance within said period and to diligently prosecute such performance to completion, shall constitute a default and breach of this Permit by the non-observing party. In the event of any default and breach by either party under this Permit, the non-observing party shall be liable to the other party for monetary damages incurred by said party in connection with said breach and default.

## 12. NOTICES

Any party delivering notice or requesting information from the other shall send such notice or request as indicated below:

DISTRICT: Los Angeles Unified School District  
Leasing & Space Utilization  
333 South Beaudry Avenue, 23<sup>rd</sup> Floor  
Los Angeles, California 90017  
Attn: Director of Leasing and Space Utilization  
Phone: (213) 241-6785 Fax: (213) 241-6784

With copy to: Los Angeles Unified School District  
Office of General Counsel, Facilities Services  
333 S. Beaudry Avenue, 23<sup>rd</sup> Floor  
Los Angeles, California 90017  
Attn: Mark A. Miller  
Phone: (213) 241-4989 Fax: (213) 241-8386

CITY: Department of Recreation and Parks  
City of Los Angeles  
3900 Chevy Chase Drive  
Los Angeles, California 90039  
Attn: Joel Alvarez, Partnership Division  
Phone: (818) 243-6488 Fax: (818) 243-6447

With copy to: City Attorney's Office  
200 N. Main Street, City Hall East, 7<sup>th</sup> Floor  
Los Angeles, California 90012  
Attn: Strefan Fauble, Deputy City Attorney  
Phone: (213) 978-8156 Fax: (213) 978-8211

### 13. DISTRICT AND CITY COMMUNICATION

On the part of CITY, the contact persons for daily operational issues shall be the Director of Van Ness Recreation Center and the Aquatics Supervisor for the School. On the part of DISTRICT, the contact persons for daily operational issues shall be the Athletic Director and the Vice Principal.

Reports in regard to the cleanliness and sanitation of the Recreation Facilities, including conditions of the Pool, shall be sent to the Principal or his/her designee for immediate review and action as necessary.

### 14. ATTORNEYS' FEES

In the event either party brings an action or claim for breach of this Permit against the other party in a court, the prevailing party as determined by such court shall be entitled to recover its reasonable attorneys' fees and expenses actually incurred in the pursuit or defense of such claim, as required by law.

#### 15. ENTIRE AGREEMENT

It is understood and acknowledged that there are no oral agreements between the parties hereto affecting this Permit. This Permit, the exhibits and schedules attached hereto, contain all of the terms, covenants, conditions, and warranties of the parties relating in any manner to the use and occupancy of the Recreational Facility shall be considered to be the only agreement between the parties hereto and their representatives and agents, and none of the terms, covenants, conditions or provisions of this Permit can be modified, deleted or added to except in writing signed by the parties hereto.

#### 16. COUNTER-PARTS

This Permit may be executed in any number of counter parts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature page of any counterpart may be detached there from without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by other parties to this Permit attached thereto.

#### 17. DELAYS

Neither of the parties hereto shall be liable to the other party on account of any delay or inability to perform when such delay or inability is due in whole or in part to fire, strikes, labor disturbances, riots, civil disturbances, acts of nature, any present or future law or governmental regulation, or any cause beyond the control of the parties. If any delay is caused by such occurrences, the delayed party shall have the right to extend the time for performance of any act delayed thereby insofar as performance thereof is required.

#### 18. SEVERABILITY

If any term, covenant or condition of this Permit shall, to any extent, be invalid, void, illegal or unenforceable, the remainder of this Permit shall not be affected thereby, and each other term, covenant or condition of this Permit shall be valid and be enforced to the fullest extent permitted by law.

#### 19. WARRANTIES

(a) DISTRICT's Warranties: As an inducement to CITY to enter into this agreement, DISTRICT represents warrants and covenants as follows:

(i) that it is a regularly organized and existing school district under the laws of the State of California;

(ii) that it has the power and authority to carry on its function as a school district, to enter this Permit (subject to DISTRICT obtaining the approval of the Board of Education, if required, and any other required governmental approvals), and to consummate the

transaction herein contemplated;

(iii) subject to DISTRICT obtaining the approval of the Board of Education, if required, and any other required governmental approvals, that all actions to be taken by or on behalf of DISTRICT to authorize it to make, deliver and implement the terms of this Permit have been duly and properly taken prior to the execution of this Permit; and

(iv) subject to DISTRICT obtaining the approval of the Board of Education, if required, and any other required governmental approvals, that this Permit is a valid and binding obligation of DISTRICT, enforceable in accordance with its terms except as the same may be affected by subsequent changes in law, in court decisions, bankruptcy, insolvency, moratorium or similar laws, or by legal or equitable principles relating to or limiting the rights of contracting parties generally.

(b) CITY's Warranties: As an inducement to DISTRICT to enter into this agreement, CITY represents, warrants and covenants as follows:

(i) that it is a municipal corporation, duly organized and validly existing and in good standing under the laws of the State of California;

(ii) that it has the power and authority to carry on its function as a city, to enter into this Permit, and to consummate the transaction herein contemplated;

(iii) that all actions to be taken by or on behalf of the CITY to authorize it to make, deliver and implement the terms of this Permit have been duly and properly taken prior to the execution of this Permit; and

(iv) that this Permit is a valid and binding obligation of the CITY, enforceable in accordance with its terms except as the same may be affected by subsequent changes in law, court decisions, bankruptcy, insolvency, moratorium or similar laws, or by legal or equitable principles relating to or limiting the rights of contracting parties generally.

20. EXHIBITS

The parties hereto agree that the following exhibits shall be attached hereto and incorporated into this Permit:

- EXHIBIT A and A1: Site Plan, including Staff/Faculty Parking Lot and Athletic Building
- EXHIBIT B: Maintenance and Operation Yearly Cost Estimate Matrix
- EXHIBIT C: Estimated Costs of Recreation and Parks Service Lifeguard Services to LAUSD for July 2016 – June 2017 (12 months)

[SIGNATURES APPEAR ON THE FOLLOWING PAGE.]

IN WITNESS WHEREOF, the parties have executed this Permit to be effective as of the day and year set forth above.

THE DEPARTMENT OF RECREATION  
AND PARKS, CITY OF LOS ANGELES

LOS ANGELES UNIFIED SCHOOL  
DISTRICT OF LOS ANGELES COUNTY

By: \_\_\_\_\_  
Name:  
General Manager

By: \_\_\_\_\_  
Eileen Ma  
Acting Director of Leasing and Space  
Utilization

Dated: \_\_\_\_\_, 201\_

Dated: \_\_\_\_\_, 201\_

APPROVED AS TO FORM & LEGALITY

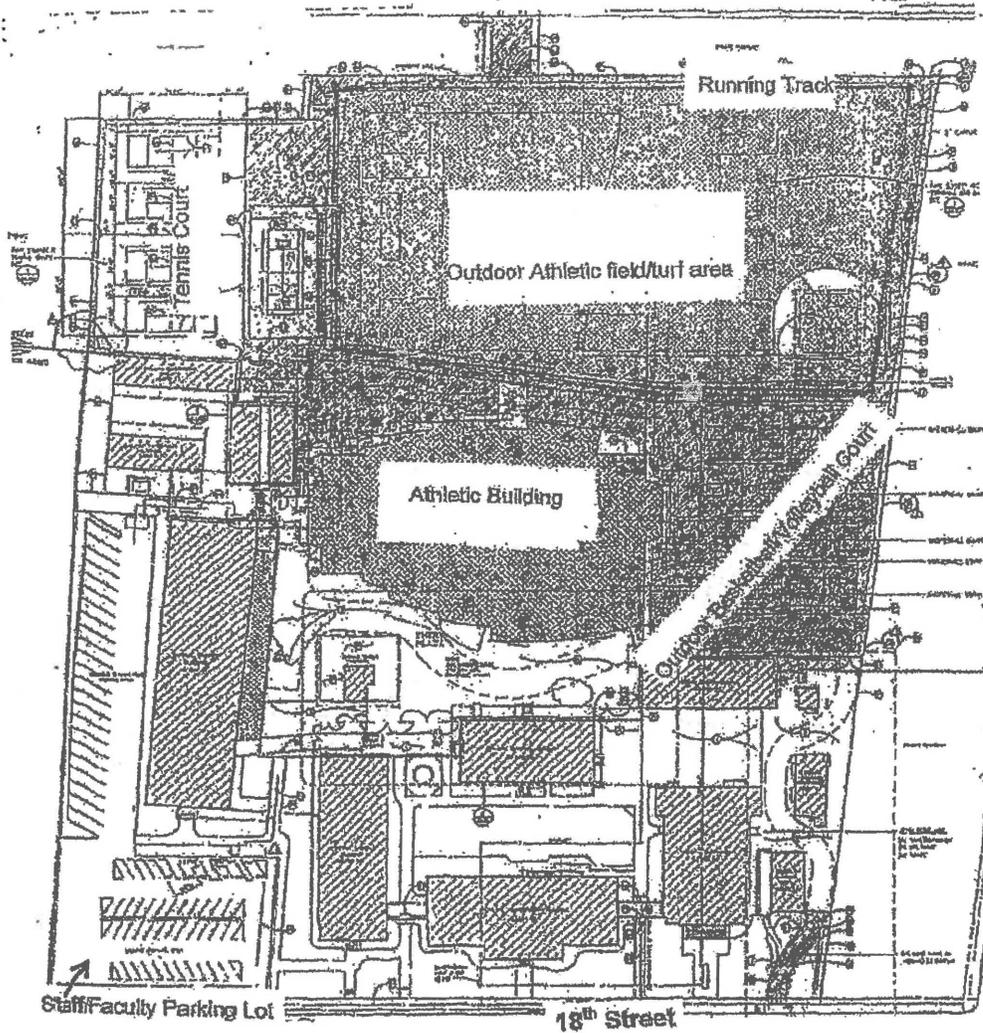
\_\_\_\_\_,  
CITY ATTORNEY,

Dated: \_\_\_\_\_, 201\_

By: \_\_\_\_\_  
Deputy City Attorney

EXHIBIT A and A-1

Site Plan



**EXHIBIT A**  
Recreational Facility

LOS ANGELES CENTER FOR ENRICHED STUDIES

Athletic Building

EXHIBIT A-1

LOS ANGELES CENTER FOR ENRICHED STUDIES  
(LACES)

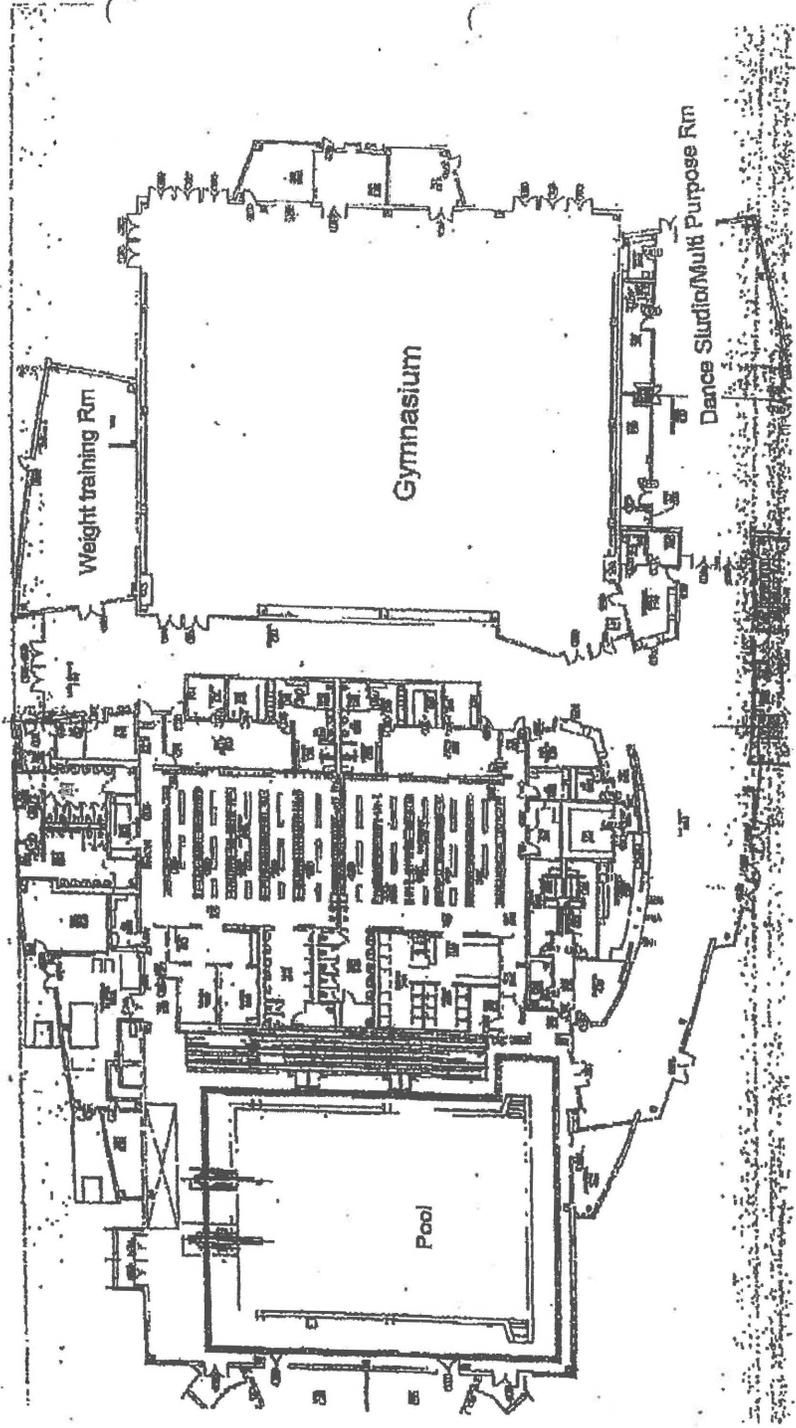


EXHIBIT B

Maintenance & Operations Yearly Cost Estimate Cost Matrix

FY 2016-17 LAUSD MAINTENANCE & OPERATIONS COSTS FOR JOINT USE OF THE ATHLETIC FACILITIES AT LACES

SCHOOL SITE AND USE INFORMATION	Total Use	Percentage of area based on use
Total square feet of LACES	667,649	
Approximate total square feet of indoor/outdoor athletic facility and percentage of area for joint-use	314,002	47.03%
LA CITY REC AND PARKS LACES FACILITY HOURS OF USE PER YEAR - M-F: 6 pm - 9 pm school days; 9 am - 9 pm summer and school breaks; 8 hrs SA, 6 hrs SU	1948	46.34%
LAUSD LACES FACILITY HOURS OF USE PER YEAR - 6 am - 6 pm school days	2256	53.66%
MAINTENANCE & OPERATIONS SERVICES	COSTS	FUNCTIONS
Pool Custodian labor (including benefits) - 8 hrs/day, 5 days/week	\$ 11,354.41	Services provided by LAUSD during and after partner (City) use. Pool Services: Evaluating water condition, monitoring and maintaining computerized chemical release and pool equipment, cleaning of pool area and decking. Also services restrooms, cleans buildings, grounds upkeep. Pool closed 7/1/16 - 2/15/16. Hours effective 2/16/16.
Weekend Custodial Staff (8 hrs Saturday & 6 hrs Sunday, Weekdays - 1 hour & 4 hrs during Summer, Holidays 8 hrs)	\$ 50,544.90	Services provided by LAUSD during and after partner (City) use. Athletic facility cleanup includes: sweeping, damp mopping, restroom cleaning and disinfecting surfaces, spot washing walls and doors, wall washing, servicing dispensers (toilet paper, paper towels, soap), light replacement, removing graffiti, trash removal, grounds upkeep.
Pool Chemicals	\$ 528.65	Charges for annual use of chlorine, acid, dry chemicals based on reduced time of 67% based on pool closure.
Gardening + Landscaping	\$ 7,012.77	LAUSD to maintain athletic field and other landscaped areas on a regular basis.
Annual Athletic Field Renovation	\$ 1,755.77	Aeration and renovation of athletic field once/year.
Pest Management	\$ 2,112.87	LAUSD to provide all services according to required Integrated Pest Management Program. City not to apply any pesticides.
Annual Gym Floor Refinishing	\$ 3,429.16	Includes all supplies and labor once/year.
Rubbish Collection	\$ 3,018.43	Charges based on annual rubbish collection contract.
Supplies	\$ 10,350.00	Based on daily use of paper towels, toilet paper, soap, etc.
	<b>SUBTOTAL</b>	
Administrative Costs	\$ 17,390.64	Standard and customary overhead reimbursement
<b>Total Payment Due LAUSD For Fiscal Year 2016-17</b>	<b>\$ 107,497.60</b>	

6/28/2016 1 of 1 LACES Invoice for FY 2016-17.xlsx

EXHIBIT C

Lifeguard Services Yearly Cost Estimate

EXHIBIT C - Estimated Costs of Recreation and Parks Lifeguard Service to LAUSD for January 2013-June 2014 (18 months)\*

	Total Labor	Full-Time CTO 21.18%	Total Gross Salaries	Full-Time Fringe Benefits 50.74%	Part-Time Fringe Benefits 8.71%	Full-Time Department Administration 17.47%	Part-Time Department Administration 17.47%	TOTAL Labor and Burden
<b>Full-Time Aquatics Facility Mgr</b>	\$24,590.50	\$5,208.27	\$29,798.77	\$15,119.89		\$5,205.84		\$50,124.51
<i>Based on actual 2012-13 hours: 850 hours for 18 months @ \$28.33/hr</i>								
<b>Part-time Lifeguard</b>	\$56,595.00							
<b>Part-time Seasonal Pool Mgr</b>	\$474.25							
<b>Part-time Sub-total</b>	\$57,069.25		\$57,069.25		\$4,970.73		\$9,970.00	\$72,009.98
<i>Lifeguard based on actual 2012-13 hours: 3500 hours for 18 months @ \$16.17/hr</i>								
<i>Seasonal Pool Mgr. based on average FY hours for four years: 25 hours for 18 months @ \$18.97/hr</i>								
<b>TOTAL Estimated for Services to LAUSD at LACES</b>								<b>\$122,134.49</b>

\* Estimate crosses fiscal years; actual total hours, hourly rates, and overhead rates may differ.