

APPROVED

JUL 11 2018

BOARD OF RECREATION AND PARK COMMISSIONERS

BOARD REPORT

NO. 18-131

DATE: July 11, 2018

C.D. 15

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: ANGELS GATE PARK – ACCESS AND MAINTENANCE AGREEMENT WITH THE LOS ANGELES UNIFIED SCHOOL DISTRICT FOR THE RESPECTIVE MAINTENANCE AND REPAIR OF CERTAIN STREET LIGHTS AND ROADS SHARED WITHIN PARK AND SCHOOL PROPERTY

AP Diaz _____ V. Israel _____
R. Barajas _____ S. Pina-Cortez _____
H. Fujita _____ *N. Williams NDW



General Manager

Approved _____

Disapproved _____

Withdrawn _____

RECOMMENDATIONS

1. Approve the proposed Access and Maintenance Agreement (Agreement) attached as Attachment 1, between the City of Los Angeles (City) and the Los Angeles Unified School District (LAUSD), delineating responsibilities regarding the future maintenance and repair, respectively, of certain street lights and roads within Angels Gate Park and San Pedro High School Olguin Campus in the community of San Pedro;
2. Direct the Board of Recreation and Park Commissioners (Board) Secretary to transmit the proposed Agreement concurrently to the City Attorney for review as to form and the Mayor in accordance with Executive Directive No. 3 (Villaraigosa Series); and
3. Authorize the Department of Recreation and Parks' (RAP) General Manager or designee to execute the Agreement upon obtaining the required approvals.

SUMMARY

In 1979, the City and LAUSD were deeded land from the federal government which was formerly known as the Fort MacArthur Military Reservation, now referred to as Angels Gate Park (Park) and San Pedro High School Olguin Campus (School) (collectively, the "Reservation"). When LAUSD constructed the School between 2010 and 2012 on the property deeded to LAUSD, they also made various parking and road improvements to the existing Barlow Saxton Road and Osgood-Farley Road, which meander through portions of Park and School property. Included with the road improvements was the development of a small parking lot on Park property and the installation of solar-powered street lights along Barlow-Saxton Road which runs through both School and Park property and said parking lot, as illustrated by the Site Plan attached to the proposed Agreement as Exhibit-A. Of the fifteen (15) solar lights installed,

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twelve (12) are located along Barlow-Saxton Road. Eight (8) solar powered lights are located on Park property and seven (7) on School property.

Although LAUSD and RAP presently have an existing Proposition K related joint use agreement (JUA) in place for RAP's use of the School's athletic field, which has been in place since the school opened in 2012, the proposed Agreement will have no impact on the JUA or the JUA on the proposed Agreement. The proposed 10-year Agreement (Attachment 1), with one 10-year option to renew upon mutual consent by the parties, will establish each parties responsibility for the future maintenance and repair of the roads, solar lights, and parking lot.

LAUSD originally constructed the road improvements and installed the solar lights to provide a safe path of travel for their students while accessing the School from South Gaffey Street. However the improvements have proven also to be a benefit to the general public as well, as the South Gaffey Street entrance is regularly used by Park visitors who are en route to the various amenities at the Park, including RAP's newly renovated "Hey Rookie Pool", and the privately operated bird sanctuary also located within the Reservation. Since the Barlow-Saxton Road serves LAUSD students on a daily basis, LAUSD agreed to be responsible for future repairs and maintenance of the twelve (12) solar lights located along said road, which are represented by the circled numbers 1 thru 12 on Exhibit A (Site Plan) of the proposed Agreement. RAP has agreed to be responsible for the three (3) solar lights located within the parking lot, as represented by the circled numbers 13 thru 15 on Exhibit A.

Since Barlow Saxton Road runs through a portion of land owned by LAUSD and portion of land owned by City, it was agreed that both City and LAUSD would share equally in the cost of future maintenance and repairs to this road, excluding the maintenance and repair of the solar lights which are covered by separate arrangements discussed above. The Osgood Farley Road and the parking area along Barlow-Saxton Road is City property, therefore RAP has agreed to be responsible for the future maintenance and repair of these improvements.

The proposed Agreement also reiterates and memorializes LAUSD's access to LAUSD property through the Park, which is also a stipulation of the 1979 Fort MacArthur Reservation Quit claim Deed No. 79-1016123 (Page 6). In addition, the proposed Agreement also states that City will be responsible to maintain and operate the metal gate at the South Gaffey Street entrance, which RAP does already as this access way is one (1) of the two (2) entrances to the Park.

FISCAL IMPACT STATEMENT

There is no anticipated impact to the RAP's General Fund associated with the proposed Agreement, as RAP's future responsibility for maintenance and repair of the three (3) parking area solar lights are a minor addition to RAP's existing maintenance duties at the Park, which already include the Osgood-Farley and Barlow-Saxton Roads.

This Report was prepared by Joel Alvarez, Senior Management Analyst II, Partnership Division.

Attachment: Proposed Access and Maintenance Agreement

AGREEMENT BETWEEN
THE CITY OF LOS ANGELES
DEPARTMENT OF RECREATION AND PARKS
AND
THE LOS ANGELES UNIFIED SCHOOL DISTRICT FOR
ACCESS AND MAINTENANCE OF CERTAIN STREET LIGHTS AND ROADS AT
ANGELS GATE PARK AND SAN PEDRO HIGH SCHOOL OLGUIN CAMPUS

This **ACCESS AND MAINTENANCE AGREEMENT** ("**Agreement**") is made and entered into this _____ day, of _____, 2018, by and between **THE CITY OF LOS ANGELES**, a municipal corporation, acting by and through its Board of Recreation and Parks Commissioners, hereinafter identified as "**CITY**," and the **LOS ANGELES UNIFIED SCHOOL DISTRICT**, a school district duly organized and existing under the laws of the State of California ("**LAUSD**") (collectively referred to as "the Parties"):

RECITALS

WHEREAS, in 1979 the Parties both acquired interests, deeded by the federal government (hereinafter referred to as "the deed"), in the property formerly known as Fort MacArthur Military Reservation.

WHEREAS, CITY is the owner of a portion of Gaffey Road commonly known as Barlow Saxton Road, as well as the extension of Barlow Saxton Road known as Osgood Farley Road, and the area known as Angels Gate Park (the "CITY Property"), as shown on Exhibit A attached hereto and hereby incorporated herein by this reference.

WHEREAS LAUSD is also the owner of a portion of Gaffey Road, commonly known as Barlow Saxton Road, and additional real property adjacent to Barlow Saxton Road and Osgood Farley Road which includes, among other things, the improved real property more commonly known as San Pedro High School Olguin Campus, 3210 South Alma Street, San Pedro, CA, 90731 ("School"), also shown on Exhibit A attached hereto ("LAUSD Property").

WHEREAS, as part of the interests deeded LAUSD by the federal government, LAUSD was granted an easement for access to the LAUSD Property on Barlow Saxton Road from South Gaffey Street Road including but not limited to Osgood Farley Road.

WHEREAS, an entrance to the former Fort MacArthur Military Reservation is located on CITY Property at South Gaffey Street and Barlow Saxton Road is currently secured by a chain-link metal gate, which metal gate is maintained and operated by CITY.

WHEREAS, LAUSD and CITY acknowledge that adequate lighting is necessary for a safe path of travel to the School, and subsequently, as part of the construction of the School, LAUSD performed various street improvements

including, but not limited to, a new roadway, curb, sidewalks and street lights at LAUSD's sole cost and expense, on Barlow Saxton Road and Osgood Farley Road ("Roadway Improvements"), as shown on the attached Exhibit A, mutually agreed to by both Parties in order to facilitate the ingress and egress rights LAUSD was granted under the deed.

WHEREAS, as part of the Roadway Improvements, LAUSD installed twelve (12) streetlights located along Barlow Saxton Road (the "LAUSD Street Lights") and three (3) additional streetlights located in a parking lot in Angels Gate Park (the "CITY Street Lights"), as shown on the attached Exhibit A.

WHEREAS, the Parties now wish to memorialize their understanding and agreement regarding the repair and maintenance of the Roadway Improvements and to allow LAUSD continued access onto CITY Property in order to repair and maintain the LAUSD Street Lights.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

AGREEMENT

Purpose and Term. The purpose of this Agreement is to set forth the roles and responsibilities of the Parties for the maintenance and as-needed repair of the LAUSD Street Lights, City Street Lights, and certain Roadway Improvements, in accordance with the terms and condition of this Agreement. This Agreement shall become effective as of the Commencement Date listed above, and shall remain effective for an initial period of ten (10) years ("Initial Term"). Parties agree that within six (6) months prior to this Agreement's expiration, Parties shall discuss continuing the arrangements stipulated in this Agreement, and if Parties mutually agree, this Agreement shall be extended for a subsequent period of ten (10) years ("Subsequent Term"), subject to any mutually accepted amendments or supplements between Parties that shall be thereafter made a part of this Agreement.

1. Maintenance of Street Lights.

a. LAUSD shall be solely responsible for the maintenance and repair of the twelve (12) LAUSD Street Lights including, but not limited to, the performance of all repair, maintenance, replacement, relocation or removal work (collectively, "Maintenance"), provided, however, that to the extent the need for such Maintenance is caused by the negligence or willful misconduct of CITY or the employees, agents, guests or invitees of CITY, or any third party associated with CITY, then CITY shall reimburse LAUSD for the reasonable cost of such Maintenance within ninety (90) days after receipt of written notice by LAUSD along with supporting documentation.

b. City solely shall be responsible for the Maintenance of the three (3) CITY Street Lights located at the parking area on CITY Property ("CITY Parking Area"), as depicted by Exhibit A, and other roads, amenities and improvements located on CITY Property; provided, however, that to the extent the need for such Maintenance is caused by the negligence or willful misconduct of LAUSD or the employees, agents, guests or invitees of LAUSD, or any third party associated with LAUSD, then LAUSD shall reimburse CITY for the reasonable cost of such Maintenance within ninety (90) days after receipt of written notice by CITY along with supporting documentation.

2. Grant of Access. CITY grants to LAUSD, its employees and contractors the right to enter onto the City Property for the purpose of undertaking Maintenance of the LAUSD Street Lights (but not the City Street Lights) located on the City Property.

3. Maintenance of Barlow Saxton Road. The Parties shall share the costs equally for repair and maintenance of the portion of the Roadway Improvements (with exception of LAUSD Street Lights) along Barlow Saxton Road. Should LAUSD determine that repair and maintenance to Barlow Saxton Road is required, LAUSD shall provide notice to CITY prior to beginning any repair or maintenance to Barlow Saxton Road. Within thirty (30) days receipt of such notice, CITY shall have the option to request a meeting to discuss the scope of work, costs, timeline and other related issues. At that time, CITY after consultation and agreement with LAUSD as to the nature and cost of the work may exercise the right to execute the project and charge LAUSD with half of the costs for such repair and maintenance work.

4. Maintenance of Osgood Farley Road and Parking Area in Angels Gate Park. City shall be solely responsible for any repair and maintenance of Osgood Farley Road and Angels Gate Park, including the CITY Parking Area along Barlow Saxton Road. City agrees that it will not install any gates along Barlow Saxton Road which would restrict LAUSD use of the roadway. Should the City commence construction or repair work on Osgood Farley Road or the Parking Area in Angels Gate Park, CITY shall do so without materially interfering with LAUSD's right of access or any right provided hereunder over Osgood Farley Road or any portion hereto.

5. Operation and Maintenance of the South Gaffey Street Gate. CITY shall be solely responsible for the operation, repair and maintenance of the access gate at South Gaffey Street. City shall open the gate in the morning, no later than 6:30 a.m., and close the gate in the evening, no earlier than 6 p.m., so as to ensure LAUSD its right to access the School Property and to perform LAUSD's duties and obligations as set forth under this Agreement.

6. Indemnification. Pursuant to Government Code Sections 895.2 and 895.4, each party hereto indemnifies and holds harmless the other party, its boards, as applicable, council, as applicable, officers, agents, employees and independent

contractors from and against any and all loss, cost, damage, expense, claims and liability, including, court costs and reasonable attorneys' fees (collectively "**Claims**") imposed by law upon such other party which results from, or is caused by, any negligent or wrongful act or omission occurring in the performance of this Agreement by the indemnifying party or its officers, directors, agents, employees, contractors, invitees, guests and licensees. In the event that third-party loss is attributable to the negligence or wrongful act or omission of both parties, the ultimate financial responsibility of each party shall be proportionate to its percentage of fault as determined by mutual agreement between the parties or by a court of competent jurisdiction. The provisions of California Civil Code Section 2778 regarding interpretation of indemnity agreements are made a part hereof as if fully set forth herein. Notwithstanding anything herein to the contrary, in no event shall the parties be liable to each other for any consequential damages sustained by the other party. The provisions of this Section 7 shall survive the expiration or sooner termination of this Agreement with respect to any Claims occurring prior to such expiration or termination.

7. LAUSD's Self-Insurance. LAUSD shall furnish CITY with a certificate or other written evidence of LAUSD's coverage under a risk pooling, risk retention, or self-insurance program or any combination thereof.

8. Notices. Any notice required or permitted to be given hereunder shall be in writing and signed by the party, officer, agent or attorney of the party from whom it is to be sent, and shall be either (i) personally delivered to the party to whom it is to be sent, (ii) sent by reputable overnight courier service (such as Federal Express) (iii) sent by certified or registered mail, return receipt requested, postage prepaid, to the respective addresses of the parties set forth below, or (iv) sent via e-mail to the email addresses provided herein. Each notice shall be deemed to have been given on the date of receipt (or refusal to accept delivery) as indicated on the customary receipt used by the delivering service.

If to CITY:	If to LAUSD:
City of Los Angeles General Manager Department of Recreation and Parks 221 North Figueroa Street, STE 350 Los Angeles, California 90012 Attention: General Manager Phone: (213) 202-2633 Fax: (213) 202-2614	Los Angeles Unified School District Facilities Asset Development 333 South Beaudry Avenue, 23rd Floor Los Angeles, CA 90017 Attention: Asset Development Director Phone: (213) 241-6457 Fax: (213) 241-2043
with a copy of any notice to: Office of the City Attorney General Counsel Division Attn: Department of Recreation & Parks City Hall East, Rm 701 200 North Main Street	with a copy of any notice to: Office of General Counsel, Facilities Services Los Angeles Unified School District 333 South Beaudry Avenue, 23 rd Floor Los Angeles, CA 90071

Los Angeles, California 90012 Phone: (213) 978-8130 Fax: (213) 978-8090	Attn: Chief Facilities Counsel Phone: (213) 241-4968 Fax: (213) 241-8386
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9. Miscellaneous. Nothing in this Agreement shall at any time be construed to create a relationship of employer and employee, partnership, principal and agent, or joint venture between CITY and LAUSD. LAUSD shall ensure that all of its agents who conduct any activities on the Property pursuant to this Agreement are informed of the provisions of this Agreement. CITY and LAUSD acknowledge and agree that time is of the essence with respect to performance of their obligations under the Agreement. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated. This Agreement may be signed in counterparts, each of which shall be an original, and all of which shall constitute one and the same Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of California. The prevailing party in any suit or action brought under or pursuant to this Agreement shall be entitled to recover its reasonable attorney's fees and expenses actually incurred. This Agreement shall be binding upon and shall inure to the benefit of the parties to this Agreement and their successors and assigns. No modification of this Agreement shall be effective unless in writing and signed by each party hereto.

List of Exhibits:

Exhibit A – Site Plan

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, this Agreement is duly executed by CITY and LAUSD as of the date provided below.

CITY: By: _____
Name: _____
Title: _____
Date: _____

LAUSD: LOS ANGELES UNIFIED SCHOOL DISTRICT, a school district duly organized and existing under the laws of the State of California
By: _____
Name: _____
Title: _____
Date: _____

APPROVED AS TO FORM:

MICHAEL N. FEUER, City Attorney

By: _____
Deputy City Attorney

Date: _____

Exhibit A
Site Plan

