

LICENSE AGREEMENT

Foresthill Creative Arts Center Cooperative

This License Agreement For Use of space at Foresthill Elementary School ("Agreement") is entered into this ____ day of _____, 2016, between the Foresthill Union School District ("District" or "Licensor") and _____ (the "Licensee"). The Licensor and Licensee may collectively be referred to herein as "the Parties."

RECITALS

A. The District owns that certain real property located in the County of Placer, State of California, commonly known as the Foresthill Elementary School, located at 24750 Main Street, Foresthill, California (the "Property").

B. The Licensee desires to temporarily use certain space on a portion of the Property as part of a cooperative creative arts center and gallery space, known as the "Foresthill Creative Arts Center."

C. The District desires to provide the Licensee a license to use that portion of the Property described and depicted in **Attachment A**, attached hereto and incorporated herein (the "License Area"), and Licensee desires to accept the license, subject to the terms of this Agreement.

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, and for other good and valuable consideration, the District and Licensee hereby agree as follows:

AGREEMENT

1. **License.** In consideration of the payment of the License Fee and the performance of the covenants and conditions contained in this Agreement, District hereby grants to Licensee a non-exclusive license to use the License Area during the License Term subject to and on the terms and conditions set forth herein. The License granted hereunder shall include non-exclusive rights of ingress and egress to use the License Area.

2. **Term.** The term of the License shall be for _____ months commencing _____, 2016, and running through _____, 2016 ("Term").

3. **License Fee; Payment of License Fee.**

(a) Licensee agrees to pay District the License Fee specified in **Attachment B** to this Agreement for the use of the License Area.

(b) Licensee shall pay said fee without deduction, default, or delay no later than the 1st day of each month of the term of this Agreement. Payment of License Fee shall be made to the District's Business Office, at the address set forth below and must be in the form of a check payable to Foresthill Union School District, cash or other form of payment specifically approved by the District.

4. Permitted Use.

The License Area may be used by Licensee during the term hereof solely for the following purposes:

(a) The installation, operation and maintenance of an artist studio ("Artist Studio") available for the exclusive use of the Licensee pursuant to the Schedule of Use specified in **Attachment B** to this Agreement;

(b) Art gallery use of the gymnasium on the Property on days and times to be determined by the Parties.

(c) Use of restrooms, kitchen space, and other common area space on the Property in accordance with their intended uses.

5. Prohibited Use.

Licensee shall not use or occupy the License Area in violation of law or any applicable covenant, condition or restriction affecting the License Area, and shall, upon notice from District, immediately discontinue any use of the License Area which is declared by any governmental authority having jurisdiction to be a violation of law or the certificate of occupancy. Licensee, at Licensee's own cost and expense, shall comply with all laws, ordinances, regulations, rules and/or any directions of any governmental agencies or authorities having jurisdiction which shall, by reason of the nature of Licensee's use or occupancy of the License Area, impose any duty upon Licensee or District with respect to the License Area or its use or occupation, including any repairs, alterations or improvements triggered by Licensee's particular use of the License Area or any alterations, improvements or additions made by or on behalf of Licensee. A judgment of any court of competent jurisdiction that Licensee has violated any such laws, ordinances, regulations, rules and/or directions in the use of the License Area shall be deemed to be a conclusive determination of that fact as between District and Licensee.

Licensee shall not do or permit to be done anything which will invalidate or increase the cost of any fire, extended coverage or other insurance policy covering the License Area, and shall comply with all rules, orders, regulations, requirements and recommendations of the Insurance Services Office or any other organization performing a similar function. Licensee shall promptly upon demand reimburse District for any additional premium charged for such policy by reason of Licensee's failure to comply with the provisions of this section.

6. Licensee Responsibilities.

Licensee shall, at Licensee's sole cost, be responsible for:

(a) Supervision of any invitees, agents, employees, independent contractors, whom Licensee permits access and/or invites to the License Area and Property. Licensee shall provide District with the names of all individuals whom Licensee permits access or invites to the License Area.

(b) Maintaining the Artist Studio to District's reasonable appearance standards and repair and pay for within fifteen (15) days any damage to the License Area or the Property resulting from the operation of the Artist Studio; provided, however, that any damage creating a hazard shall be repaired promptly within 24 hours.

(c) Providing all equipment and supplies for Licensee's use of the License Area as an Artist Studio.

7. Keys. Licensee shall be given one (1) set of keys to access the License Area. Licensee may request additional key(s) from District for a deposit of \$35.00 per key. Licensee shall not make any copies of any District provided key(s) and must return all keys upon expiration or termination of this Agreement. A list of all individuals who have been provided a key by Licensee shall be maintained by the Licensee and provided to District.

8. Improvements and Alterations. Licensee shall not make any alterations, structural modifications, restoration and/or other improvements to Licensed Area without the prior written consent of the District.

Prior to the commencement of any work of improvement on or to the License Area by Licensee, Licensee shall submit architectural plans and specifications for such work to the District for review and approval. District shall promptly review such submittals and advise Licensee of any required additions, deletions or modifications. No work of improvement shall be commenced on the License Area until final written approval of plans and specifications for such work have been delivered by District to Licensee. The District shall retain final authority for the nature and design of any improvements to be undertaken on the License Area. Licensee shall obtain and deliver to District such performance and payment bonds along with other items of assurance as District may require to ensure the successful completion of any improvement work undertaken to the License Area.

9. No Access to District Students. Licensee recognizes that the District will utilize a portion of the Property for the District's education programs during the term of this License. Neither Licensee or anyone whom Licensee permits access and/or invites to the License Area and Property shall: (1) have any contact with District students who are present on the Property; or (2) access to the upper campus portion of the Property as part of this License. Licensee agrees to take all necessary steps to prevent anyone whom Licensee permits access and/or invites to the License Area and Property from having any contact with District students or access to the upper campus of the Property.

10. Access By District. Licensee acknowledges that its right to use the License Area and Property is not exclusive. The District may use portions of the Property at any time so long as such use does not interfere with Licensee's rights under this License. Furthermore, Licensee shall permit District, its agents, representatives or employees, to enter the License Area for the purpose of inspecting same or to maintain and/or repair the Property or License Area.

11. Maintenance and Repairs. District shall be responsible for the maintenance and repair of the License Area and the Property.

Licensee agrees to repair, at its sole cost and expense, all injury, breakage, and damage to the License Area and Property caused by any act or omission of Licensee or anyone whom Licensee permits access and/or invites to the License Area and Property.

12. Utilities and Garbage. District shall provide all electricity, heat, air-conditioning, and water utilities for the License Area and Property.

13. Custodial and Garbage Disposal.

District will provided custodial services for common areas, including restrooms, on a weekly basis. Custodial services for License Area shall be the responsibility of the Licensee.

The District will pay for the cost of garbage collection from the dumpster on the Property. Licensee shall remove and deposit garbage from License Area into the dumpster.

14. Termination at Will. Notwithstanding anything contained herein, either party may terminate this License at any time and for any reason by giving the other party at least thirty (30) calendar days advance written notice of such termination.

15. Default/Termination for Cause. The occurrence of any one or more of the following events shall constitute a default and breach of this License by Licensee:

(a) If Licensee fails to pay the License Fee or any other charges when due;

(b) If Licensee fails to promptly and fully perform any covenant, condition or agreement contained in this License and such failure continues for ten (10) calendar days after written notice thereof from District to Licensee;

(c) If Licensee attempts to assign or sublease this License; or

(d) Any attempt to record this License by Licensee.

In the event of Licensee's default hereunder, then in addition to any other rights or remedies District may have under any law, District may terminate this License. Licensee shall compensate District for any and all detriment proximately caused by Licensee's failure to perform its obligations under this License or which in the ordinary course of business would be likely to result therefrom, including, but not limited to, any costs or expenses (including attorneys' fees).

16. Removal. Upon expiration or termination of the License, Licensee (at its sole cost) must remove all personal property located on the Property and in the License Area without damage to District's property. In the event of Licensee's failure to remove such property after reasonable notice, it shall be lawful for District to remove all persons, property and improvements from the License Area and the Property.

17. Indemnification. Licensee does hereby indemnify and hold the District, its officers, agents, and employees harmless from any claim which may arise against District by reason of any occurrence attributable to the existence of this License or attributable to any act, omission or neglect of Licensee, its agents, employees, contractors, clients, or invitees. The indemnity provisions of this Agreement shall survive the expiration or earlier termination of this Agreement.

18. Exemption of District from liability. Licensee, as a material part of the consideration to District, hereby acknowledges that there is a risk of harm to Licensee's property and injury to persons in, upon or about the License Area and Property arising from any cause or event, and Licensee agrees to assume all such risks of harm and Licensee hereby waives all claims in respect thereof against District, except for the sole negligence or willful misconduct of District, its employees, agents, and contractors.

District does not assume, by this Agreement or otherwise, any responsibility for, or to protect against, any loss, damage, theft, or vandalism of any property or material which Licensee may place upon or in the License Area. Licensee hereby agrees that District shall not be liable for injury to Licensee's business or any loss of income therefrom, or for loss of, or damage to, the goods, wares, merchandise, or other property of Licensee, Licensee's employees, invitees, customers, or any other person in or about the License Area and Property, nor shall District be liable for injury to the person of Licensee, Licensee's employees, agents or contractors, or invitees whether such damage or injury is caused by or results from theft, fire, electricity, gas, water, or from any other cause, whether said damage or injury results from conditions arising from, in, or upon the License Area or Property, or from other sources or places.

19. Insurance.

Licensee shall maintain in force at all times during the duration of this Agreement, the policies of insurance specified in this Section. Such insurance must have the approval of the District as to limit, form, and amount, and shall be placed with insurers with a current A.M. Best's rating of no less than A:VII.

(a) Commercial General Liability. Licensee shall carry, with respect to the License Area, commercial general liability insurance for claims related to bodily injury or death and property damage with minimum combined single limits of One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) in the aggregate, which policy shall, by endorsement, name the District as an additional insured.

(b) Workers' Compensation. Licensee shall carry workers' compensation insurance as required by law.

Licensee shall provide the District with a Certificate of Insurance evidencing such coverage and additional insured endorsement prior to entry onto the Property and License Area, and thereafter, upon receipt of a written request from the District. Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled, terminated by either party, or reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the District.

20. Independent Contractor Status. It is mutually understood that this License is by and between independent contractors and is not intended to and shall not be construed as to create the relationship of agent, servant, employee, partner, joint venturer or association between or among the parties. Accordingly, personnel employed by the Licensee who are conducting activities on District property and/or facilities shall be under the supervision of Licensee. Except as specified in writing between the parties, neither party shall have the authority, express or implied, to either act on behalf of the other party in any capacity whatsoever as an agent or bind the other party to any obligation whatsoever.

21. Compliance with Laws. Licensee shall at its sole cost and expense, comply with all of the requirements of all city, county, District, State of California, and Federal statutes, laws, ordinances and regulations now in force, or which may be in force pertaining to the Artist Studio and the License Area.

22. Hazardous Materials. Licensee will not cause the storage, treatment or disposal of any Hazardous Materials in, on, or about the License Area in violation of any applicable environmental laws. Licensee will not use the License Area in a manner that may cause the License Area to be contaminated by any Hazardous Materials in violation of any applicable environmental laws. Licensee will be solely responsible for and will defend, indemnify and hold District, its officers, agents and employees harmless from and against any and all direct claims, costs and liabilities, including reasonable attorneys' fees and costs, arising out of or in connection with the cleanup or restoration of Hazardous Materials introduced to the License Area by Licensee. "Hazardous Materials" means any hazardous substance, waste or materials as defined in any federal, state or local environmental or safety law or regulation, including, but not limited to, CERCLA. This section shall survive the expiration or earlier termination of this Agreement.

23. Waste. Licensee shall not shall not cause, maintain or permit any nuisance in, on or about the License Area or Property, or commit, suffer, or permit any waste on the License Area Property or any acts to be done thereon in violation of any laws or ordinances, and shall not use or permit the use of the License Area for any illegal or immoral purposes.

24. Disclaimer of Warranties THE DISTRICT MAKES NO AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE LICENSEE OF THE LICENSE AREA OR ANY PORTION THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LICENSE AREA OR ANY PORTION THEREOF. THE LICENSEE ACKNOWLEDGES THAT THE DISTRICT IS NOT A MANUFACTURER OF

ANY PORTION OF THE LICENSE AREA OR A DEALER THEREIN, THAT THE LICENSE AREA ARE BEING PROVIDED AS-IS, IT BEING AGREED THAT ALL OF THE AFOREMENTIONED RISKS ARE TO BE BORNE BY THE LICENSEE. IN NO EVENT SHALL THE DISTRICT BE LIABLE FOR INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, IN CONNECTION WITH OR ARISING OUT OF THIS LICENSE FOR THE EXISTENCE, FURNISHING, FUNCTIONING OR LICENSEE'S USE OF THE LICENSE AREA.

25. Payment of Taxes. The Licensee agrees to pay all lawful taxes, assessments or charges which at any time may be levied by any public entity upon any interest in this License or any possessory right which Licensee may have in or to the License Area or the improvements thereon by reason of Licensee's use or occupancy thereof or otherwise as well as all taxes, assessments, and charges on goods, merchandise, fixtures, appliances, equipment and property owned by Licensee in or about said License Area or the Property. It is further understood that this License may create a possessory interest subject to property taxation and Licensee may be subject to the payment of the property taxes levied on such interest.

26. Notices. All notices required by this Agreement shall be delivered to the following addresses:

To District: Foresthill Union School District
Attn: District Secretary
22888 Foresthill Road
Foresthill, California 95631
Attention: District Superintendent c/o District Secretary

To Licensee: Name: _____
Address: _____
Phone #: _____

27. Assignment and Subletting. Licensee shall not, by operation of law or otherwise, assign, sublease, or otherwise transfer or encumber this Agreement, the License or the rights granted hereunder, or grant any licenses to others of the whole or any part of the License Area. Any such transfer shall at District's option be null, void and of no effect.

28. No Real Property Interest. Licensee agrees that it does not have and shall not claim any interest or estate whatsoever in the License Area by virtue of this Agreement or Licensee's occupancy or use under this Agreement.

29. Liens. Licensee shall keep the License Area free from any mechanics or similar liens or other such encumbrances in connection with any work on or respecting the License Area, and shall indemnify and hold the District harmless from and against any claims, liabilities, judgments, or costs (including attorneys' fees) arising out of the same or in connection therewith.

30. Late Fees. Licensee acknowledges that the late payment of the License Fee will cause District to lose the use of that money and incur costs and expenses not contemplated under this License, including without limitation, administrative and collection costs and processing and accounting expenses, the exact amount of which is extremely difficult to ascertain. Therefore, if any such installment is not received by District within ten (10) days from the date it is due, Licensee shall pay District a late charge equal to 10% of such installment. District and Licensee agree that this late charge represents a reasonable estimate of such costs and expenses and is fair compensation to District for the loss suffered from such nonpayment by Licensee. Acceptance of a late charge shall not constitute a waiver of Licensee's default with respect to such nonpayment by Licensee or prevent District from exercising any other rights or remedies available to District under this License.

31. Condition Upon Surrender. Except as expressly provided in this Agreement, Licensee shall return the License Area to District in a condition which is at least as good as the condition in which the License Area was delivered to Licensee, reasonable wear and tear excepted, and Licensee shall remove any personal property from the License Area.

32. No Recording. Licensee shall not record this Agreement or any memorandum thereof.

33. Miscellaneous.

(a) **Entire Agreement.** This Agreement contains all of the agreements between the parties relating to the License Area, and may not be modified in any manner other than by agreement, in writing, signed by both parties. The terms, covenants and conditions contained herein shall inure to the benefit of and be binding upon the District, Licensee and their successors and assigns, except as provided herein to the contrary.

(b) **Interpretation.** This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. This Agreement shall be construed in accordance with the laws of the State of California in effect at the time of the execution of this Agreement, with the place of venue in the County of Placer.

(c) **Severability.** If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

(d) **Effect of Recitals.** The Recitals herein are deemed true and correct, are hereby incorporated into this Section as though fully set forth herein, and the Parties acknowledge and agree that they are each bound by the same.

(e) **Time of the Essence.** Time is of the essence for this Agreement.

(f) **Captions.** The captions contained in this Agreement are inserted for convenience only and are not intended to be part of the Agreement. They shall not affect or be utilized in the construction or interpretation of the Agreement.

(g) **Rights and Remedies are Cumulative.** Except as may be otherwise expressly stated in this License, the rights and remedies of the parties are cumulative, and the exercise by any party of one or more of its right or remedies shall not preclude the exercise by it, at the same time or at different times, of any other rights or remedies for the same default or any other default by another party or parties.

(h) **Provisions Required by Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this License shall be deemed to be inserted herein and the License shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon application of any party the License shall forthwith be physically amended to make such insertion or correction.

(i) **Mutually Drafted.** The doctrine that any ambiguity contained in a contract shall be construed against the party whose counsel has drafted the contract is expressly waived by each of the parties hereto with respect to this License.

(j) **Third Party Beneficiaries.** Nothing in this License shall be construed to confer any rights upon any party not a signatory to this License.

(k) **Authority.** The individuals signing this License on behalf of a party represent and warrant that they are fully empowered to so act on behalf of said entities. Furthermore, District and Licensee are fully empowered to execute, deliver and perform the various obligations under this License.

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(l) **Execution in Counterparts.** This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

Executed as of the date(s) set forth below:

DISTRICT:

Foresthill Union School District, a California school district

By: _____
Shannon Jacinto, Superintendent

Dated: _____

LICENSEE:

By: _____

Name: _____

Address: _____

Dated: _____

ATTACHMENT "A"

LICENSE AREA

[IDENTIFY WHICH SPECIFIC ROOM # OR OTHER DESIGNATION FOR LICENSE AREA, GYM, RESTROOM, ETC. – MAYBE INCLUDE A MAP]

ATTACHMENT "B"
SCHEDULE OF USE

FEE SCHEDULE