

Future Use of Property

Article 9

(page 8 of the Agreement for the Sale and
Purchase of Real Property)

*"9.02 Its use shall be for any purpose other than parks, recreation,
open space, **educational**, or other community purposes."*

8.03 If the District elects not to correct the destruction or damage, the City shall have the power, upon written notice to the escrow holder, to cancel this escrow and to terminate this contract and to recover any and all amounts paid to the escrow holder on the account of the purchase price of the property.

ARTICLE 9

FUTURE USE OF PROPERTY

The City agrees and promises that the future use of the property shall be restricted as follows:

9.01 Its use shall be in accordance with governing law.

9.02 Its use shall not be for any purpose other than parks, recreational, open space, educational, or other community purposes.

9.03 The Grant Deed attached as Exhibit "C" setting forth the restrictions in Paragraph 9.02 is approved by the City and the District. Both agree that if the Pier Avenue School should ever revert to the District or its successor in interest becomes the sole owner of the property, the District or its successor in interest shall be specifically bound by provisions set forth in Paragraph 9.02 above and the restrictions set forth in the Grant Deed. Both the City and the District agree to abide by and waive any right that they have which will by implication void the deed restriction referred to above.

9.04 The City and the District agree that in addition to the use of the property provided in Paragraphs 9.01, 9.02, and 9.03 the property may be used for other purposes for a period not exceeding three consecutive days at any one time and on the further condition that the city council make a finding that such particular use is of an advantage to the citizens of Hermosa Beach, except that the premises may not be committed for the purposes of an ongoing commercial enterprise which is

Exhibit C

Grant Deed

*“The property granted herein shall not be used for any purpose other than for park, recreational, open space, **educational** or other community purposes.”*

Exhibit "c"

78- 241040

7634644- R. Nicholas

Recording Requested BY;

City of Hermosa Beach

When Recorded Mail To:

City of Hermosa Beach

Civic Center

Hermosa Beach, California 90254

RECORDED IN OFFICIAL RECORDS
OF LOS ANGELES COUNTY, CA
47 MIN. PAST 4 P.M. MAR 6 1978
Recorder's Office

FREE R

COMPUTED ON FULL VALUE OF PROPERTY CONVEYED
DOCUMENTARY TRANSFER TAX \$ None
Renee Nicholas Title Insurance and Trust Company
SIGNED - PARTY OR AGENT FIRM NAME
As instructed by Bank of America

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the HERMOSA BEACH CITY SCHOOL DISTRICT of Los Angeles, Grantor, hereby GRANTS, to the City of Hermosa Beach, a municipal corporation, Grantee, or its successor in interest, the following described real property in the City of Hermosa Beach, County of Los Angeles, State of California:

LEGAL DESCRIPTION ATTACHES HERETO, AS EXHIBIT A:

THE GRANT OF SAID PROPERTY IS SUBJECT TO THE FOLLOWING CONDITION AND SUBJECT TO AN AGREEMENT FOR SALE AND PURCHASE ENTERED INTO BY THE GRANTOR AND THE GRANTEE IN CONNECTION WITH THE SALE OF THE SUBJECT PROPERTY:

If the City of Hermosa Beach, a municipal corporation, or its successor in interest, shall ever trade, sell, exchange or otherwise divest the city of title or rezone the property described in this Deed, the Hermosa Beach City School District of Los Angeles, or its successor in interest, shall have the right to terminate the Grantee's interest herein through a legal proceeding filed in the Superior Court of the County of Los Angeles, State of California.

THIS CONVEYANCE IS MADE AND ACCEPTED UPON THE FOLLOWING EXPRESSED CONDITION, RESTRICTION AND COVENANT WHICH SHALL APPLY TO AND BIND THE LESSEES, GRANTEES, SUCCESSORS AND ASSIGNS OF THE PARTIES:

The property granted herein shall not be used for any purpose other than for park, recreational, open space, educational or other community purposes.

dated: February 28, 1978



Hermosa Beach City School District
of Los Angeles County

Andrew M Joyce
Andrew M Joyce

Andrew M. Joyce-District Superintendent

MAIL TAX STATEMENT TO RETURN ADDRESS LISTED ABOVE

Exhibit D

Arbitration Agreement

Article 4

*“4.01a It is the intent of the District and the City that the primary purpose of Pier Avenue School is for open space, park, recreational, **educational**, or other community purposes which purposes include activities which contribute to the cultural and recreational benefit of the community.”*

EXHIBIT "D"
ARBITRATION AGREEMENT

This Arbitration Agreement is entered into by and between the City of Hermosa Beach (City) and the Hermosa Beach City School District (District).

ARTICLE 1

RECITAL OF FACTS

1.01 This Arbitration Agreement is entered into concurrently with the agreement entitled, "Sale and Purchase of Real Property" to which this Agreement is attached as an exhibit.

1.02 The designation of the various parties of the subject matter and the designation of the various documents as to the future use of the property as set forth in the recitals are incorporated herein by reference as though fully set forth at this place.

1.03 It is the intention of the District and the City that if a controversy or dispute arises between the parties as to whether or not the property is being used within the intent and meaning of the Agreement referred to above that the matter shall be submitted to arbitration.

ARTICLE 2

CONDITIONS TO SUBMISSION TO ARBITRATION

2.01 The District or the City shall give the other written notice in compliance with Article 12 of the Agreement for Sale and Purchase setting forth with particularity the District's or City's contention that the use of the Pier Avenue School is in violation of the intent and meaning of the Agreement for Sale and Purchase.

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2.02 If at the expiration of ten days the City or the District has failed to comply with the request of the other, then the City and the District within ten days thereafter shall meet and confer in good faith to determine the nature and extent of the contested use.

2.03 If within ten days after meeting and conferring in good faith the District and the City are not in accordance as to whether or not the premises are being used in accordance with the intent and meaning of this Agreement, then the matter shall be deemed to be at an impasse.

ARTICLE 3

IMPASSE PROCEDURE

3.01 Within seven days after an impasse has been declared the City and the District shall each designate one member from the City Council and one member from the School Board who in turn shall appoint a third member. If they cannot agree as to whom the third member shall be, then the third member shall be appointed by the then supervising judge of the Superior Court of the County of Los Angeles or its successor.

3.02 The arbitrator so appointed shall commence hearings within ten days after the appointment of the third arbitrator and hearing shall not be adjourned for a period longer than three days.

3.03 All hearings shall be held in the City of Hermosa Beach, County of Los Angeles.

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3.04 Subject to the foregoing the arbitrators shall designate the times and places for all hearings. Five days notice in writing for such hearings shall be given by the arbitrators except that no notice shall be required for adjourned hearings.

3.05 The matter shall be submitted to the arbitrators in accordance with the rules of American Arbitration Association and the arbitration laws enacted by the State of California in effect at the time the impasse arose.

3.06 The decision of the arbitrators shall be binding upon the parties and shall be deemed to be final in all respects. The findings and conclusions of the arbitrators shall be a complete bar to any claims or demands in favor of either party against the other unless the decision of the arbitrators is appealed pursuant to the laws of the State of California to the Superior Court of the County of Los Angeles and pursuant to the Rules of that Court.

3.07 The findings and conclusions by the arbitrators shall be binding on the Superior Court and no new evidence shall be submitted to the Superior Court which was known to the City or the District or could have been made available to the arbitrators by the City or the District with the exercise of due diligence. The Superior Court shall retain jurisdiction if the City or the District fails to comply with the judgment of the Court. The Superior Court may exercise any powers conferred on it by the legislature and the Constitution of the State of California including but not limited to its power to cite either the City or the District for contempt or to cause the clerk of the County of Los Angeles to sign any documents which either the District or the City could sign but refuses to sign.

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ARTICLE 4

FACTORS WHICH THE ARBITRATORS
SHALL USE IN MAKING THEIR DECISION

4.01 The arbitrators are to be guided, but not limited, in their decision by the following factors:

a. It is the intent of the District and the City that the primary purpose of the Pier Avenue School is for open space, park, recreational, educational or other community purposes which purposes include activities which contribute to the cultural and recreational benefit of the community.

b. The parties agree that the premises can be used as in (a) above except that said use may be for other purposes for a period not exceeding three consecutive days at any one time and on the further condition that the City Council make a finding that such particular use is to the benefit of the residents of Hermosa Beach.

c. It is the intent of the parties that the facilities be used as a community center with such public offices that are directly related thereto.

d. It is the intent of the parties that Hermosa Beach residents and property owners shall be given priority in the use of the facilities.

ARTICLE 5

COSTS OF ARBITRATION

5.01 Costs of arbitration shall be awarded to the prevailing party as decided by the arbitrators. Costs will include the staff

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time, attorney fees, costs necessary to supply documents or witnesses to the arbitrators.

THIS AGREEMENT HAS BEEN EXECUTED by the Mayor of the City of Hermosa Beach on behalf of the City on the 28th day of February, 1978, and by all the Trustees of the Hermosa Beach City School District in behalf of the District on the 14 day of Feb., 1978.

HERMOSA BEACH CITY SCHOOL DISTRICT

Lynn Schubert
John D. Rogers
Shirley D. Miller
Bonnie D. Grace
Ann Guleser

THE CITY OF HERMOSA BEACH

Mary E. Lyson
Mayor of the City of Hermosa Beach

ATTEST:

Babara Fleming
City Clerk

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Exhibit I

Letter from Gerald M. Hilby,
HBCSD Attorney

(page 1)

“... wherein the District may retain a future interest in the property or the partial use of the property for school, recreational or athletic purposes”

EXHIBITS "I and J"

LAW OFFICES

OF

GERALD M. HILBY

SUITE 303

1611 SOUTH PACIFIC COAST HIGHWAY
REDONDO BEACH, CALIFORNIA 90277
(213) 840-1100

January 20, 1978

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Board of Education
Hermosa Beach City School District
517 Seventeenth Street
Hermosa Beach, California 90254

Re: Sale of Pier Avenue School
710 Pier Avenue, Hermosa Beach

Dear Board Members:

I have read all the documents that the Hermosa Beach City School District (District) has unanimously approved in reference to the sale of the Pier Avenue School. I have also reviewed the Education Code that pertains to the sale of surplus property and the sections of the Education Code that pertain to the lease of the property. I have further read the applicable sections of the Government Code which pertain to the sale of surplus property by the District.

In my opinion, the District has complied with these code sections as set forth hereafter:

1. The District has duly noticed and published pursuant to Section 15051 et seq. of the Education Code which permits the District to sell surplus property for less than fair market value.
2. The District has duly declared the Pier Avenue School to be surplus property with a reservation as set forth in the Lease Agreement permitting the District to use a limited portion of the Pier Avenue School for educational purposes for a period of fifty years subject to the terms and conditions set forth in the Lease Agreement in compliance with Section 15051 of the Education Code, wherein the District may retain a future interest in the property or the partial use of the property for school, recreational or athletic purposes.
3. The District has given notice to those governmental entities set forth in the Government Code which are entitled to first priority to purchase surplus school property.

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Exhibit J

Letter from J.B. Mirassou,
HB City Attorney

(page 2 and 3)

“In conjunction with the sale the City is entering into a leasing agreement with the district. In my opinion the City has the power and the right to enter into that leasing agreement. Upon closing the lease will be a valid and subsisting document.”

*“The parties have entered into agreements limiting the future use of the property. This use is limited to parks, recreation, open space, **educational**, or other community purposes.”*

J.B. MIRASSOU
ATTORNEY AT LAW

January 20, 1978

1811 SOUTH PACIFIC COAST HIGHWAY, SUITE 304
REDONDO BEACH, CALIFORNIA 90277
(213) 540-5201

Honorable Mayor and
Members of the City Council
City of Hermosa Beach
Hermosa Beach, California

Re: Purchase and Sale of Pier Avenue School

Dear Mayor and Council Members:

This letter is intended to summarize the City's present legal position with reference to the purchase of Pier Avenue School from the Hermosa Beach City School District.

It is the intent of the City to purchase Pier Avenue School with general fund monies and through a grant of monies from the Department of Housing and Urban Development with the purpose of utilizing the property as open space and as areas for public use and enjoyment and to limit the future use of the property to those purposes.

The City has the power and right to purchase Pier Avenue School for these purposes and to so limit the future use of the property pursuant to the powers granted cities by the State legislature. Those powers are set out in Government Code §6950 et seq.

These laws were implemented by the City of Hermosa Beach by submitting the matter to the City Council.

This matter came before the City Council on the 11th day of January, 1977. The City Council adopted Resolution No. 77-4099 authorizing the acquisition of Pier Avenue School.

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Honorable Mayor and
Members of the City Council
January 20, 1978
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In my opinion the proceeding before the City Council met all legal requirements.

I have reviewed the opinion letter of Mr. Gerald Hilby, Esq., Special Counsel for the Hermosa Beach City School District and am satisfied that the School District has the right and power to sell Pier Avenue School to the City.

I have reviewed the Preliminary Title Report issued by Title Insurance and Trust Company and am satisfied that the restrictions and reservations of record will not impair the City's use of the property.

In conjunction with the sale the City is entering into a leasing agreement with the District. In my opinion the City has the power and the right to enter into that leasing agreement. Upon closing the lease will be a valid and subsisting document.

I have reviewed the existing restrictions for the use of the property imposed by the Department of Housing and Urban Development and am satisfied that the City's proposed use of the property and the District's proposed use of the property are consistent with those restrictions.

If in the future the conditions imposed by the Department of Housing and Urban Development are deemed unacceptable to the City and School District or if the District uses the properties in violation of some future restriction imposed by the Department of Housing and Urban Development, then the parties have agreed to cause said sums to be repaid to that Department and each party shall pay one-half of said sums except that the District's obligation shall not exceed a sum in excess of fifty (50%) per cent of the original grant of monies by the Department of Housing and Urban Development.

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Honorable Mayor and
Members of the City Council
January 20, 1978
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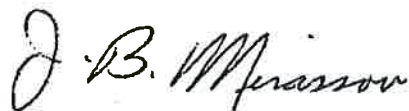
The parties have entered into agreements limiting the future use of the property. This use is limited to parks, recreational, open space, educational, or other community purposes.

This restriction has been embodied in the Grant Deed which will be utilized to transfer the property to the City. I have reviewed that Grant Deed and in my opinion the future use of the property is limited to those purposes. I am relying upon the case of the City of Palos Verdes Estates v. Willet (1946) 75 C.A. 2d 394, 171 P. 2d 26, in rendering this opinion.

I have reviewed and read the agreement for sale and purchase of real property and the exhibits attached thereto and have been present at the meetings between the School District and the City wherein the terms and conditions were negotiated and the agreements were reached and I am satisfied that those documents set forth the agreements made by the parties.

I will submit to you an additional letter upon the closing of the escrow setting forth my opinions concerning the performance of conditions of the escrow and that the escrow closed in accordance with the agreements of the parties.

Respectfully submitted,



J. B. MIRASSOU
City Attorney

JBM:bh

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