

CITY OF SEATTLE
ORDINANCE 126325
COUNCIL BILL 120033

AN ORDINANCE authorizing the Superintendent of Parks and Recreation to execute and accept from Seattle School District 1, on behalf of The City of Seattle, a Reciprocal Right of Entry License Agreement concerning Helene Madison Pool (Ingraham High School) and Southwest Teen Life Center and Pool (Chief Sealth High School).

WHEREAS, The City of Seattle’s Seattle Parks and Recreation Department (“City”) and Seattle School District 1 (“District”) have cooperated in shared use of grounds and facilities, including parking lots, at their adjacent facilities: Helene Madison Pool and Edward S. Ingraham High School, and Southwest Teen Life Center and Pool and Chief Sealth International High School, under separate reciprocal agreements entered into in 1958 and 2004 by the Board of Park Commissioners and the Seattle School Board of Directors (“Agreements”); and

WHEREAS, the prior Agreements have expired, and both the City and the District wish to cooperate on shared access to their adjacent facilities; and

WHEREAS, the District has expanded and remodeled Edward S. Ingraham High School and wishes to continue using Helene Madison Pool auxiliary parking lot for students and staff; and

WHEREAS, the City wishes to continue using the parking lot at Chief Sealth High School for users of the Southwest Teen Life Center and Pool; and

WHEREAS, the City has agreed to allow the District’s use of the Helene Madison Pool auxiliary parking lot for parking during school hours, and the District will allow the City’s use of a portion of the Chief Sealth High School parking lot for parking anytime during the day; and

1 WHEREAS, the District and City appraised their properties and determined that parking access
2 at Helene Madison Pool has equivalent value to parking access at Chief Sealth High
3 School; and

4 WHEREAS, the District and City wish to execute a new agreement to define terms, conditions,
5 maintenance responsibilities, insurance, and liability protections for their mutual benefit,
6 and establish a fixed term and a method for extension or termination;

7 NOW, THEREFORE,

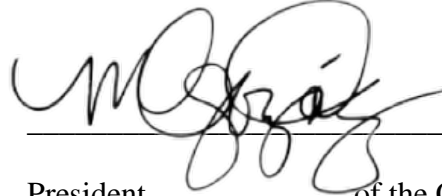
8 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

9 Section 1. The Superintendent of Parks and Recreation (“Superintendent”) or the
10 Superintendent’s designee is hereby authorized on behalf of the City of Seattle (“City”) to
11 execute a Reciprocal Right of Entry License Agreement (“Agreement”) with Seattle School
12 District No. 1 (“District”), substantially in the form of Attachment 1 to this ordinance.

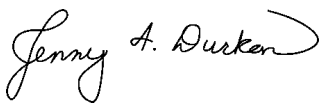
13 Section 2. This ordinance shall take effect and be in force 30 days after its approval by
14 the Mayor, but if not approved and returned by the Mayor within 10 days after presentation, it
15 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

16


1 Passed by the City Council the 10th day of May, 2021,
2 and signed by me in open session in authentication of its passage this 10th day of
3 May, 2021.

4 
5 _____
6 President _____ of the City Council

6 Approved / returned unsigned / vetoed this 13th day of May, 2021.

7
8 
9 _____
10 Jenny A. Durkan, Mayor

11 Filed by me this 13th day of May, 2021.

12 
13 _____
14 Monica Martinez Simmons, City Clerk

14 (Seal)

15 Attachments:
16 Attachment 1 – Reciprocal Right of Entry License Agreement Concerning Ingraham High
17 School and Helene Madison Pool and Related Properties Chief Sealth High School and
18 Southwest Teen Life Center and Pool

ATTACHMENT 1

RECIPROCAL RIGHT OF ENTRY LICENSE AGREEMENT

Concerning

Ingraham High School and Helene Madison Pool and Related Properties Chief Sealth High School and Southwest Teen Life Center and Pool

Parks to District and District to Parks

THIS RECIPROCAL RIGHT OF ENTRY LICENSE AGREEMENT (“Right of Entry Agreement” or “Agreement”) is made between SEATTLE SCHOOL DISTRICT NO. 1, (hereinafter called “District”), and the CITY OF SEATTLE, acting through its SEATTLE PARKS AND RECREATION DEPARTMENT (hereinafter called “City” referring to the corporate entity, or “SPR” referring specifically to the department of the City), hereby grant to each other the right to occupy, maintain, and use the other party’s property subject to the terms and conditions of this Right of Entry. Premises are legally described on Exhibit A, attached hereto.

Whereas, the District and SPR have previously cooperated in shared use of parking lots and grounds at their adjacent properties; and

Whereas, the District and SPR executed an agreement on July 1, 2004 allowing SPR to use a parking lot owned by District located at Chief Sealth High School (“Chief Sealth Property”) to serve the Southwest Teen Life Center and Pool; and

Whereas, the District and SPR executed an agreement on April 18, 2017 allowing the District to use a parking lot owned by the City located at Helene Madison Pool (“Madison Property”) to serve Ingraham High School; and

Whereas, both SPR and the District agree that the cooperative reciprocal use of the Chief Sealth Property and Madison Property has been mutually beneficial and desire to continue this use; and

Whereas, both the July 1, 2004 agreement and April 18, 2017 agreement have expired, the parties have agreed to enter into a new Right of Entry Agreement addressing the use of both properties; and

Whereas, the District and SPR agree to continue this mutually beneficial reciprocal use of the properties contingent on the continued delivery of mutual benefits to the District and its students and staff and to the City, its SPR users, and general public; and

Whereas, the District and SPR appraised the properties and determined that use rights for the Chief Sealth Property and Madison Property are of equivalent value and that exchange of rent is not required; and

Whereas, the District and SPR desire to enter into this Agreement in consideration for the mutual exchange of value in the form of reciprocal use rights for the Properties and associated public benefits to the District and the City; and

Whereas, the Seattle School Board, through policy 6882, has authorized the District to enter into a new Reciprocal Right of Entry License Agreement to continue its use and occupancy of the Properties per School Board; and

Whereas, the Seattle City Council, through Ordinance _____, has authorized SPR to enter into a new Right of Entry License Agreement to continue its use and occupancy of the Properties.

NOW, THEREFORE, District and SPR agree as follows:

I. DEFINITIONS

- A. "Chief Sealth Property" means the property comprising the parking lot of Chief Seattle High School described in Exhibit A, which is incorporated into this Agreement.
- B. "Madison Property" means the property comprising the parking lot of the Helene Madison Pool described in Exhibit B, which is incorporated into this Agreement.
- C. "Properties" means the Chief Sealth Property and Madison property together and "Property" means the Chief Sealth Property or Madison Property individually.
- D. "Parties" means the City and the District together and "Party" means the City or the District individually.
- E. "Owner" means the Party who owns and has jurisdiction over the Property. For purposes of this Agreement, the District is Owner of the Chief Sealth Property and the City is Owner of the Madison Property. When used without modifier, the Owner shall be a collective noun meaning both the District in its capacity as owner of the Chief Sealth Property and the City as owner of the Madison Property.
- F. "User" means the Party granted access to the Property under the terms and conditions of this Agreement. For purposes of this Agreement, the City is User of the Chief Sealth Property and the District is User of the Madison Property. When used without modifier, the User shall be a collective noun meaning both the District in its capacity as Party granted use rights to the Madison Property and the City in its capacity as the Party granted use rights to the Chief Sealth Property.
- G. "License" means a right to do something to or on another's property.

2. USE OF PREMISES

A. The District hereby agrees to allow the City to use the Chief Sealth Property for SPR parking lot purposes for the Southwest Teen Life Center and Pool subject to the terms and conditions of this Reciprocal Agreement.

B. The City hereby agrees to allow the District to use the Madison Property for parking lot purposes for Ingraham High School subject to the terms and conditions of this Reciprocal Agreement.

3. ACCESS TO PREMISES

For the term of this Reciprocal Agreement, District assures the City and the City assures the District that both vehicular and pedestrian access to the Properties will continue and be equal to that existing at the time of the execution of this Agreement. If at any time during the term of this Agreement, either Owner makes alterations to its ownership of grounds adjoining its Property that have the effect of also altering access to its Property, Owner agrees to make reasonable efforts to incorporate access for the User comparable to that existing at the time of execution of this Agreement.

4. PARKING

a. Southwest Teen Life Center and Pool /Chief Sealth High School

The City shall have authority to allow general public use, District use or to schedule special use (such as group activities or special events) of the Chief Sealth Property, at its sole discretion. The District may schedule up to 30 events each year using as much of the Chief Sealth Property as required, provided notice and arrangements as further defined in this paragraph are followed.

Notice to SPR of planned events with appropriate details will be provided as is consistent with the Seattle Public Schools & Seattle Parks and Recreation Joint Use Agreement each year to both the Coordinator of the Southwest Teen Life Center and Pool and the Parks Joint Use scheduling staff person. SPR acknowledges that the District's Master Use Permit (MUP) governing the athletic field complex requires that Parking be available and that these MUP conditions may require closing some or all of the Property to SPR use during such events.

b. Helene Madison Pool/Ingraham High School

The District shall be allowed to use the Madison Property, including 185 parking stalls, for eight hours per day, 185 days per year for use by Ingraham High School students and staff, subject to such restrictions as the District may place on student and staff use (the eight hours per day restriction corresponds with school hours, Monday through Friday and 185 days per year corresponds with the school calendar). The Madison Property will be available to the general public using Helene Madison Pool, on a space-available basis during school hours. The Madison Property will be open and available for use by the general public using Helene Madison Pool or visiting the park grounds

during park hours except for normal school hours. In addition, the District anticipates requesting the use of stalls six Friday evenings a year.

5. BUSINESS PURPOSE

Each Property is to be used by the User only for parking and access to adjoining facilities and events, and for circulation, including the pedestrian circulation, staff parking, and service deliveries. The Properties may be used by User for no other purpose. Any change in use shall require the District or SPR Ownership approval, which shall not be unreasonably withheld.

6. TERM

The term of this Agreement shall be 30 years and shall commence on the first day the agreement is fully executed (“Commencement Date”) and shall terminate 30 years from the commencement date (“Termination Date”). This Agreement may be extended for another 30 years upon mutual consent of the Parties. Either Party shall notify the other in writing at least 180 days prior to the termination date of its intention to request extension of this Agreement.

7. INSPECTION AND ALTERATIONS

In their capacity as User, the District and SPR have had access to both Properties, have inspected the Properties, and accept the Properties “AS IS” in their present condition. The User may alter and improve the Property at their expense, consistent with its permitted use, and with advance approval by the Owner. User work may be undertaken only after obtaining written approval from the Owner and making all arrangements the Owner determines is necessary to accommodate work, including provisions for access, delivery of materials, interruption of utility service, and noise. The Owner may withhold approval for any alterations which have been determined to adversely affect the Owner’s operations.

EXCEPT in the case of an emergency affecting the Property, notice shall be given by the User to the Owner sixty (60) days prior of intent to make any alteration that could impact use of the remainder of the school building and grounds. Alteration plans must be provided to the Owner and specifications for any alterations, additions, renovations or improvements to the Property.

During the term of this Agreement, the Owner shall have the right to enter and inspect the Properties at all times.

No alterations, additions, renovations or improvements in or to the Property shall be made without first obtaining the written consent of the Owner of that Property. All alterations, additions, renovations and improvements shall be at the sole cost and expense of the User and shall become a part of the real property and belong to the Owner and shall remain in and be surrendered with the Property as a part thereof at the termination of this Agreement, or be removed from the Property by the User at the sole discretion of the Owner. The User further agrees to indemnify, defend, and hold the Owner and the Property free and harmless from, and against, any and all damages, injuries, losses, liens,

costs or expenses (including attorneys' fees) incurred, claimed or arising out of said work. Owner reserves the right to review and approve the User's plans, specifications and contractor and, further, the Owner reserves the right to impose such restrictions or conditions upon its consent to the above work, including the requirement that the User appropriately bond the same, as the Owner may deem reasonably appropriate.

The User acknowledges and agrees that the Owner shall have no obligation whatsoever to make any alterations, additions, renovations or improvements to the Property or to determine if any alterations are necessary in order for the User conduct its business. If any federal, state, or City department or agency determines that certain alterations, additions, renovations or improvements are required to permit the User to use the Property for its business purpose(s), the Owner shall have no obligation to make such changes. If the User is unable, in its sole judgment, to make such changes, then this Agreement shall be terminated. In such case, the Owner may, at its option, decide to require the User to leave in place any alterations, additions, renovations or improvements or remove any portion or all, at the User's cost.

8. SIGNS OR ADVERTISING

With Owner approval, the User may install signage on the Property to identify User programs and activities, and to provide information or notice of regulation for the orderly operation thereof.

The Owner and User shall cooperate in placing signage that identifies the Property as a User facility and directs the public thereto.

9. MAINTENANCE and UPKEEP of the PREMISES

The User shall be responsible for all maintenance, repair, and day-to-day upkeep of the Property, except for damages caused by the Owner, its agents, employees, customers, visitors and invitees. The User shall employ qualified personnel for maintenance, who shall be licensed, if such is required by applicable law or ordinance.

In the event the User fails to maintain the Property in good order, condition and repair, the Owner shall give the User notice to do such acts as are reasonably required to so maintain the Property. In the event the User fails to commence such work within ten (10) days of notice and to diligently prosecute it to completion, then the Owner shall have the right, at its option and in addition to all other remedies, to do such acts and expend such funds to maintain the Property and to invoice the User and the User shall reimburse the Owner for reasonable costs incurred. The Owner shall have no liability to User for any damage, inconvenience or interference with the use of the Property by the User as a result of performing any such work. Nothing herein shall require the User to maintain the Property in a better condition than that of the average District or SPR facility of an equivalent type.

10. COMPLIANCE WITH LAWS and WITH DISTRICT POLICIES

The User shall comply fully with all federal and state statutes and City ordinances and comply fully with all Seattle School Board policies now or hereafter in force with

respect to the Property and the User's activities thereon provided that such policies are consistent with current laws or regulations.

11. OWNER USE OF PREMISES

The Owner may request use of the Property or portion thereof for Owners activities through the application procedures of the Joint Use Agreement between SPR and Seattle Public Schools as described in Section 3 (Parking) of that agreement herein.

12. LIENS AND ENCUMBRANCES

User shall keep the Property free and clear of any liens and encumbrances arising out of User's use or occupancy of same. At the Owner's request, the shall furnish the Owner with written proof of payment of any item which, if not paid, would or might constitute the basis for such a lien on the Owner's property.

13. HAZARDOUS SUBSTANCES

The User shall not allow the use or storage of hazardous substances on the Property other than those reasonably necessary for operating the facility. In the event User brings into or uses hazardous substances on the Property, User shall, at its sole cost, dispose of all hazardous substances that it brings into the Property. User shall be responsible for complying with all federal, state and local laws and regulations regarding the handling and disposing of hazardous substances. In no instance shall User allow the release or disposal of hazardous substances in the Property, or in the remainder of the Owner's building, or grounds.

14. INDEMNIFICATION

- 14.1 User to Indemnify Owner: Except as provided in Paragraph 14.3 hereof, the User shall indemnify and hold the Owner harmless from any and all losses, claims, actions and damages suffered by any person or entity by reason of or resulting from any negligent, reckless, or intentionally wrongful act or omission of the User or any of its officers, employees, agents or invitees on the Property; and if, as a consequence of any such act or omission, any suit or action is brought against the Owner, the User, upon notice of the commencement thereof, shall defend the same at no cost and expense to the Owner, and promptly satisfy any final judgment adverse to the Owner; provided that in the event the Owner determines that one or more principles of governmental or public law are involved, the Owner retains the right to participate in such action.
- 14.2 The indemnification provided pursuant to paragraph 14.1 hereof, shall not apply to the extent of the indemnitee's negligence.
- 14.3 Prorating of Costs and Expenses in Event of Joint Liability: In the event that both parties are held to have been or agree to be treated as having been jointly liable in any suit arising out of their acts or omissions under this Agreement, the costs and expenses arising therefrom shall be prorated between the parties according to the relative degrees of their liability.

- 14.4 Waiver of Immunity and Liability Limitations Regarding Industrial Insurance: For purposes of this Agreement only, each of the parties hereto specifically and expressly waives, with respect to the other, its immunity and limitations on liability under any industrial insurance legislation including but not limited to Title 51 RCW and acknowledges that this waiver was specifically entered into after mutual negotiation.
- 14.5 The indemnification obligations set forth in this Section 14 shall survive the expiration or earlier termination of this Agreement.

15. PROPERTY INSURANCE/LIABILITY

Parties acknowledge that both SPR and the District are self-insured, and the District does not require further evidence of insurance for purposes of this Agreement.

16. DAMAGE OR DESTRUCTION or DECLARATION AS SURPLUS

- 16.1 In the event the Property are partially or wholly destroyed or damaged by fire, earthquake, or other casualty, neither the District nor SPR shall be required to repair or rebuild the same.
- 16.2 In the event the Owner's property or the improvements thereon are damaged by fire, earthquake, act of war, or other extraordinary casualty to such an extent as to render the Property unusable the User may, at its option, repair or rebuild the Property or terminate this Agreement by written notice thereof to the Owner.
- 16.3 In the event that the Property are damaged in substantial part thereof or destroyed to such an extent that, in the opinion of the Owner, it is not practical to repair or rebuild, the Owner may terminate. In such event, Owner agrees to discuss replacement facilities in good faith.
- 16.4 In the event the property is declared to be surplus; and the Owner decides to sell the property, this Agreement shall terminate.

17. EARLY TERMINATION

In the event Owner determines at any time during the term of this Agreement that the Property are required for Owner programs, this Agreement shall be subject to cancellation by the Owner upon ninety (90) days' written notice to the User.

18. SURRENDER OR REMOVAL OF IMPROVEMENTS

Upon expiration of this Agreement or subsequent extensions of this Agreement, the Property shall be surrendered to the Owner in good condition. At the sole discretion of the Owner, the Property may be required to be returned to its condition as a parking lot as it existed at the time of execution of this Agreement, at the expense of the User. Alternately, at the discretion of the Owner, all alterations, additions, renovations and improvements made by the User may become a part of the real property and belong to the Owner and may remain in and be surrendered with the Property as a part thereof at the termination of this Agreement or be removed from the Property by the User at no cost to the Owner. Removal of the improvements must not unreasonably disturb the remainder of the building or

grounds or leave the building or the grounds in a condition that could be hazardous or injurious to the public.

19. COST AND ATTORNEY'S FEES

If, by reason of any default or breach hereunder by the Owner or by the User, it becomes necessary to institute suit, the prevailing party in such suit shall be entitled to recover, as part of any judgment, such amount as the court shall determine reasonable attorney's fees for the prevailing party in such suit, together with taxable costs.

20. NONWAIVER OF BREACH

The failure of either party to insist upon strict performance of any of the covenants and agreements of this Agreement or to exercise any option herein conferred in any one or more instances shall not be construed to be a waiver or relinquishment of any such other covenant or agreement, but the same shall be and remain in full force and effect.

21. SUCCESSORS and ASSIGNMENT

All the covenants, agreements, terms and conditions contained in this Agreement shall apply to and be binding upon the District and SPR and their respective successors and assigns.

The User shall not transfer or assign this Agreement, in whole or in part, or sublet the Property or any part thereof.

22. NOTICES

All notices, statements, demands, requests, consents, approvals, authorizations, offers, agreements, appointments, or designations under this Agreement by either party to the other shall be in writing and shall be served upon the other party or sent by certified mail, return receipt requested, postage prepaid and addressed as follows, or to such other place as the Owner or SPR may designate from time to time.

To SPR, addressed to:
Seattle Parks and Recreation
Property Management
300 Elliott Avenue West; Suite 100
Seattle, WA 98119

To District, addressed to:
Seattle School District
Property Management Office, MS 23-365
PO Box 34165
Seattle, WA 98124-1165

23. MISCELLANEOUS

23.1 The paragraph and section heading hereof are for convenience only and shall not be used to expand or interpret the meaning of any part of this Agreement.

- 23.2 Time is of the essence in this Agreement.
- 23.3 If any portion of this Agreement shall be deemed void, illegal or unenforceable, the balance of this Agreement shall remain valid.
- 23.4 This Agreement shall be interpreted under the laws of the State of Washington.
- 23.5 The parties agree that the Superior Court of the State of Washington for King County shall have sole jurisdiction over any question, claim, loss or injury arising hereunder.

SEATTLE SCHOOL DISTRICT NO. 1

SEATTLE PARKS AND RECREATION

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

STATE OF WASHINGTON)
)
COUNTY OF KING) ss.

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of SEATTLE PARKS AND RECREATION, a Washington Municipal Corporation, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 20__.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)
Notary public in and for the state of Washington,
residing at _____
My appointment expires _____

STATE OF WASHINGTON)
)
COUNTY OF KING) ss.

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of SEATTLE SCHOOL DISTRICT NO. 1, a Washington Municipal Corporation, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 20__.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)
Notary public in and for the state of Washington,
residing at _____
My appointment expires _____

Exhibit A: Legal Description of Chief Sealth Parking Lot serving the Southwest Teen Life Center and Pool (“Chief Sealth Property”)

The District hereby leases to SPR and SPR hereby leases from the District the grounds described as:

That portion of the southeast ¼ of the northwest ¼ of Section 36, Township 24 North, Range 3 East, WM, in King County, Washington, described as follows:

Beginning at a concrete monument at the northwest corner of said southeast ¼; thence south 89°57'26" east along the north line of said southeast ¼ a distance of 463.00 feet; thence south 0°02'34" west a distance of 30.00 feet to the south margin of SW Thistle Street; thence south 89°57'26" east along said south margin a distance of 242.00 feet; thence south 0°02'34" west a distance of 258.00 feet to the true point of beginning; thence north 89°57'26" west a distance of 150.00 feet; thence south 0°02'34" west a distance of 71.75 feet; thence south 89°57'26" east a distance of 200 feet; thence north 0°02'34" east a distance of 71.75 feet, to a point which lies south 89°57'26" east, 50.00 feet from the true point of beginning; thence north 89°57'26" west a distance of 50.00 feet to the true point of beginning.

(Containing 14,350 square feet or .33 acres)

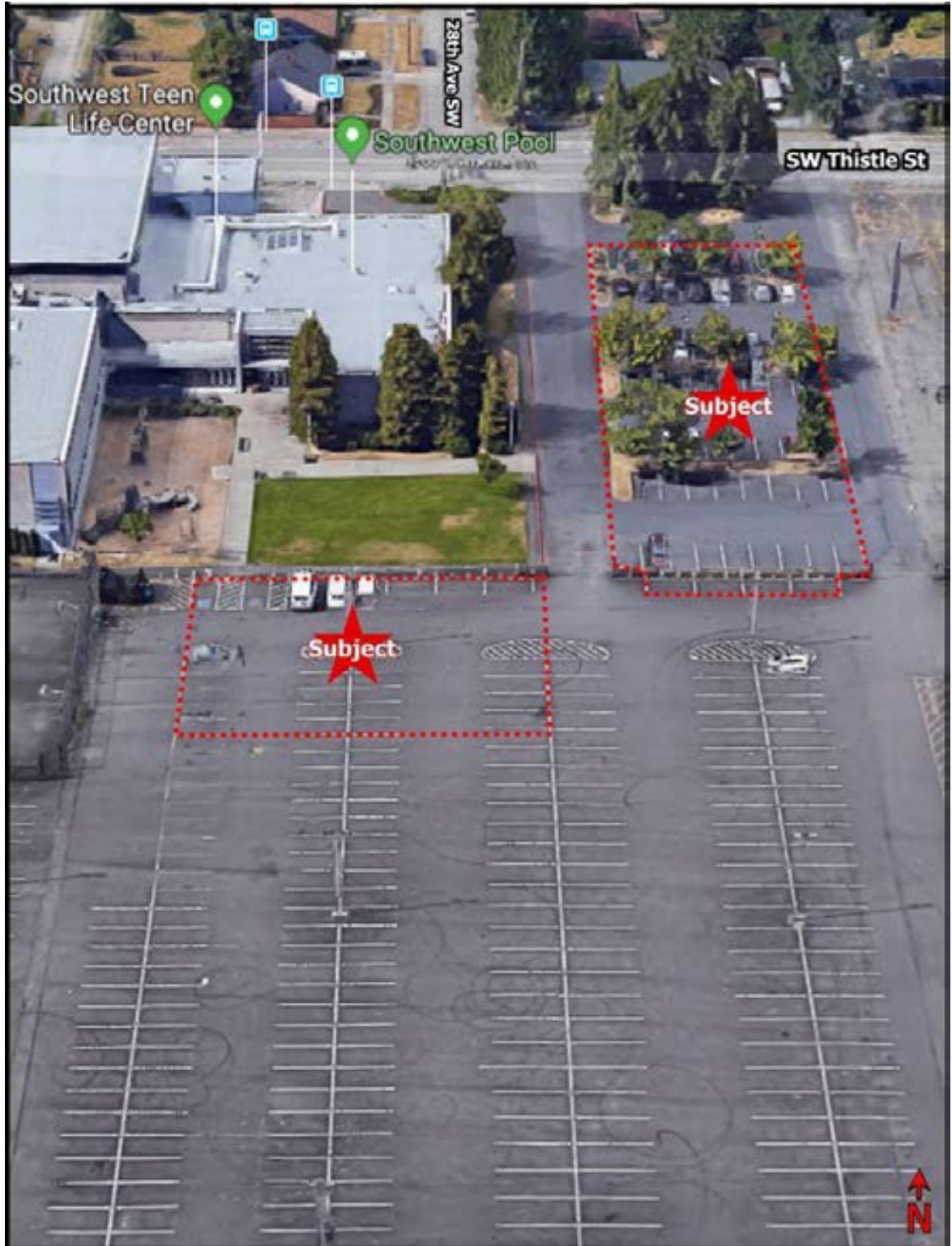


Exhibit B: Legal Description of Helene Madison Pool Parking Lot serving Ingraham High School (“Madison Property”)

SPR hereby leases to the District and the District hereby leases from SPR the property described as:

That portion of the E ½ of the NE ¼ of the NE ¼ of the SE ¼ of Section 19, Township 26N, Range 4E, W.M., situate in King County, Washington, beginning at a point N 0°05'53" W 286.06 feet from the SW corner of said subdivision; thence continuing N 0°05'53" W along the west line of said subdivision 348.65 feet to the south margin of North 135th Street; thence S 89°52'35" E 302.84 feet along said south margin to an intersection with the west margin of Meridian Avenue North; thence S 0°04'05" E 140 feet along said west margin; thence N 89°52'35" W 200 feet; thence S 0°04'05" E 160 feet; thence S 64 °38'53" W 113.11 feet, to the true point of beginning.

(containing 60,432 square feet or 1.39 acre, more or less)

