



Johnson City Independent School District

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Richard Kolek, Superintendent

304 North LBJ Drive • P.O. Box 498 • Johnson City, Texas 78636 • Office: 830-868-7410 • Fax: 830-868-7375

June 14, 2022

Rick Schroder
Chief Administrative Officer
City of Johnson City
303 E. Pecan Dr.
P.O. Box 369
Johnson City, Texas 78636

Dear Rick Schroder:

On behalf of Johnson City ISD, I am formally requesting the City Council to consider deeding a portion of North LBJ Drive to the school district. The requested portion passes through the elementary playground between E. Cypress St. and E. Pecan St.

The school district and city signed a lease agreement for this portion of the road on October 1, 1995, to be utilized as a playground or open space. The district would like to obtain the deed for the purpose of creating a safer play area for our students.

Thank you for your consideration.

Respectfully,

A handwritten signature in cursive script that reads "Richard Kolek".

Richard Kolek
Superintendent
Johnson City ISD

Rick Schroder

From: Elizabeth Elleson
Sent: Monday, June 13, 2022 3:11 PM
To: Rick Schroder
Cc: Richard Kolek
Subject: Re: Transfer of Portions of N. LBJ Dr. to JCISD

Rick,

This would be a donation of the street to the school.

First, a petition, *i.e.*, a request, is required. Ordinarily, the petition to the City is from each of the owners abutting the street (Transportation Code Section 311.008). Since the JCISD is the only owner on both sides of the street, a letter from the JCISD would suffice as a petition. It should request that the City close the street and donate the property to the ISD.

Next step, the City donates the street. State law allows a City to convey a street without having to go through notice and bidding requirements (Local Government Code 272.001(b)(2)]. In addition, the law allows a donation to another political subdivision as long as the land is used for a purpose that benefits the public interest and the use maintains that public purpose (LGC 272.001(l)(1). The JCISD is a political subdivision. The only requirement is that title reverts to the City if the use is discontinued (LGC 272.001(l)(3). This reversion would be included in the deed.

For the title transfer, a deed to donate would be needed along with a survey of the donated portion of the street. The survey will include the utility line easements. As with all easements, the easement holder has access to the easement for its designated use. Accordingly, the JCISD must be made aware that there is no construction over the easements. If necessary, this condition can be noted in the deed. The City should check for other utility easements (PEC, phone, etc.) for inclusion in the survey.

So, procedurally, the ISD board would approve submitting to the City a request for the street. Next, the City Council approves the request and authorizes staff to prepare, execute and record the deed documents.

Note: because of the reversion, it is not recommended that the donated lot be combined with the adjoining lots.

Regarding the lease, with the expiration of the original ten-year term, the street is now being leased month to month. Upon donating the street, this lease can be formally terminated. A one-sentence/paragraph document would work. (Was this lease recorded? If so, the termination should also be recorded.)

EE

Elizabeth Elleson
City Attorney
City of Johnson City
Mobile: (512) 964-1220

LEASE AGREEMENT

THE STATE OF TEXAS §

COUNTY OF BLANCO §

This Lease Agreement is effective as of October 1, 1995, at Blanco County, Texas, by and between the City of Johnson City, hereinafter called Lessor, and Johnson City Independent School District, hereinafter called Lessee.

ARTICLE 1. DEMISE, DESCRIPTION, USE AND TERM

1.01. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, that certain property, hereinafter called the leased premises, situated in Blanco County, Texas, and described as follows:

BEING the public roadway known as L.B.J. Drive being approximately 70 feet in width between 6th and 7th Street in the City of Johnson City, Blanco County, Texas

to be used as a playground or open space, provided however, Lessor hereby reserves unto itself, its successors and assigns an easement for utilities over the entirety of the lease premises. Such right shall include the right to install, repair and maintain all utilities owned or operated by the City of Johnson City and all utilities for which a franchise is granted to any other provider, for the term of 10 years, commencing on October 1, 1995, and ending on Sept. 30, 2005, unless sooner terminated, as hereinafter provided.

ARTICLE 2. RENT

General Rent

2.01. Lessee agrees to and shall pay Lessor at P.O. Box 369, 303 E. 7th Street, Johnson City, Texas 78636, Blanco County, Texas, or at such other place as the Lessor shall designate from time to time in writing, as rent for the leased premises, the sum of ONE DOLLAR AND NO/100 (\$1.00) DOLLAR payable in advance on the 1st day of October commencing on October 1, 1995, and continuing annually thereafter during the term hereof.

ARTICLE 3. HOLDOVER

3.01. If Lessee holds over and continues in possession of the leased premises after expiration of the term of this lease or any extension of that term, Lessee will be deemed to be occupying the premises on the basis of a month-to-month tenancy, subject to all of the terms and conditions of this lease with rent payable annual on October 1st of each year.

ARTICLE 4. INSURANCE

Lessee's Obligations

4.01. Lessee agrees to include the leased premises in its commercial general liability insurance policy covering bodily injury and property damage.

Proof of Coverage

4.02. On securing the foregoing coverage, the Lessee shall give the Lessor written notice thereof together with a certified copy of the appropriate policy.

Protection Against Cancellation

4.03. Proof must also be given by Lessee to the Lessor, that the policy provided for in this article expressly provides that the policy shall not be cancelled or altered without ten (10) days' prior written notice to the Lessor.

ARTICLE 5. UTILITIES

5.01. Lessee shall during the term hereof pay all charges for telephone, gas, electricity, and water and all other utilities used in or on the leased premises and for the removal of rubbish therefrom before they shall become delinquent and shall hold Lessor harmless from any liability therefor.

ARTICLE 6. WASTE AND NUISANCE

6.01. Lessee shall not commit, or suffer to be committed, any waste on the leased premises, nor shall he maintain, commit, or permit the maintenance or commission of any nuisance on the leased premises or use the leased premises for any unlawful purpose.

ARTICLE 7. REPAIRS
Lessor's Duty

7.01. Lessor shall have no duty to repair anything in connection with the leased premises.

Lessee's Duties

7.02. (1) To keep the leased premises as clean and sanitary as the condition of the premises permits.

(2) To dispose from the leased premises all rubbish, garbage, and other waste, in a clean and sanitary manner.

(3) Abide by all laws, regulations and ordinances of any governmental authority having jurisdiction over the leased premises.

ARTICLE 8. ALTERATIONS, IMPROVEMENTS AND FIXTURES

8.01. Lessee shall not make any permanent alterations or improvements to the leased premises without the prior written consent of Lessor to do so.

ARTICLE 9. EARLIER TERMINATION OF LEASE

9.01. Lessee, at Lessee's option, may terminate this lease anytime during the term hereof upon 60 days written notice to Lessor.

9.02 This Lease shall automatically terminate if Lessee abandons the use of the property for a period of 90 continuous days (excepting summer recess from school).

ARTICLE 10. SURRENDER OF PREMISES

Removal of Property

10.01. Lessee shall, at Lessee's own cost and expense within three (3) days after expiration or sooner termination of the term hereof or of any extended term hereof remove all property belonging to Lessee and all alterations, additions or improvements, and fixtures which by the terms hereof Lessee is permitted to remove, repair all damage to the leased premises caused by such removal, and restore the leased premises to the condition they were in prior to the installation of the property so removed. Any property not so removed shall be deemed to have been abandoned by Lessee and may be retained or disposed of by Lessor.

ARTICLE 11. DEFAULT

Default by Lessee

11.01. If Lessee defaults under the terms of this lease or should any other person than Lessee secure possession of the premises, or any part thereof, by whatever means, Lessor may at Lessor's option, without notice to Lessee, terminate this lease, or in the alternative, Lessor may re-enter and take possession of said premises and remove all persons and property therefrom, without being deemed guilty of any manner of trespass.

All rights and remedies of Lessor under this lease shall be cumulative, and none shall exclude any other right or remedy at law. Such rights and remedies may be exercised and enforced concurrently and whenever and as often as occasion therefor arises.

Default by Lessor

11.02. If Lessor defaults in the performance of any term, covenant, or condition required to be performed by him under this agreement, Lessee may elect to terminate this agreement as its sole remedy, hereby waiving all other remedies at law or in equity on giving at least thirty (30) days' notice to Lessor of such intention, thereby terminating this agreement on the date designated in such notice, unless Lessor shall have cured such default prior to expiration of the thirty (30) day period.

ARTICLE 12. ASSIGNMENT AND SUBLEASE

Assignment and Subletting by Lessee

12.01. Lessee shall not assign this lease nor sublet all or a portion of the leased premises without the prior written consent of Lessor.

Assignment by Lessor

12.02. Lessor is expressly given the right to assign any or all of Lessor's interest under the terms of this lease.

ARTICLE 13. INDEMNITY

13.01. Lessee agrees to indemnify and hold Lessor harmless against any and all claims, demands, damages, costs and expenses, including reasonable attorney's fees for

the defense thereof, arising from the conduct or management of Lessee's use of the leased premises or from any breach on the part of Lessee of any conditions of this lease, or from any act or negligence of Lessee, its agents, contractors, employees, concessionaires, or licensees in or about the leased premises. In case of any action or proceeding brought against Lessor by reason of any such claim, Lessee, upon notice from Lessor, covenants to defend such action or proceeding by counsel acceptable to Lessor. Nothing herein shall be construed to indemnify Lessor from Lessor's own negligence.

ARTICLE 14. MISCELLANEOUS

Notices

14.01. Any notice or communication hereunder must be in writing, and may be given by registered or certified mail, shall be deemed to have been given and received when a registered or certified letter containing such notice, properly wrapped and addressed, with postage prepaid, is deposited in Texas, in the United States mail; and if given otherwise than by registered or certified mail, it shall be deemed to have been given when delivered to and actually received by the party to whom it is addressed. Such notices or communications shall be given to the parties hereto at the following addresses:

LESSOR:

City of Johnson City
P.O. Box 369
303 E. 7th Street
Johnson City, Texas 78636

LESSEE:

Parties Bound

14.02. This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representative, successors, and assigns where permitted by this agreement.

Texas Law to Apply

14.03. This agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Blanco County.

Prior Agreements Superseded

14.04. This agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understanding or written or oral agreements between the parties respecting the within subject matter.

Amendment

14.05. No amendment, modification, or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

Attorneys' Fees

14.06. In the event Lessor or Lessee breaches any of the terms of this agreement whereby the party not in default employs attorneys to protect or enforce its rights hereunder and prevails, then the defaulting party agrees to pay the other party reasonable attorneys' fees so incurred by such other party.

Time of Essence

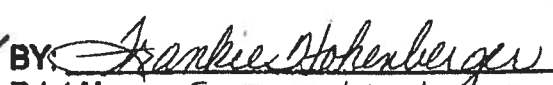
14.07. Time is of the essence of this agreement.

IN WITNESS WHEREOF, the undersigned Lessor and Lessee hereto execute this agreement to be effective as of the day and year first above written.

CITY OF JOHNSON CITY

JOHNSON CITY INDEPENDENT
SCHOOL DISTRICT

BY: 
KERMIT ROEDER, Mayor
LESSOR

BY: 
Print Name: FRANKIE Hohenberger
Office Held: President
LESSEE

ATTEST:


Pat Dildine, City Secretary