

LICENSED REAL PROPERTY

I. REFERENCES AND RELATED POLICIES

- A. Section 100.4 (jj) of the Standing Orders of The Regents of the University of California
- B. UCSD Revised Long Range Development Plan - 1989
- C. UCSD Medical Center (Hillcrest) Long Range Development Plan - 1995
- D. UCSD Policy and Procedure Manual (PPM)
 - 300-40 Recharge and Other Income Producing Activity
 - 420-5 Special Uses for Undeveloped Lands
 - 510-1 Use of University Properties
 - II.C Related Policies
 - IV.D. Contracted Essential Services
 - IV.M. Conference Services
 - 516 Environment, Health & Safety
 - 523-2 Purchasing

II. SCOPE

A. The Regents as Licensor

Transactions concerning the restricted access, use and/or occupancy of University real property by an external entity require a license agreement between The Regents of the University of California (The Regents) and the external entity. The Regents (Licensor) on behalf of a UCSD/UCSDMC department/entity conveys to an external entity (Licensee) limited and revocable rights to access, use and/or occupy a specific real property owned by the University.

B. The Regents as Licensee

Transactions concerning the restricted access, use and/or occupancy of non-University real property by a UCSD/UCSDMC department/entity require a license agreement. The external entity (Licensor) gives The Regents (Licensee) on behalf of the UCSD/UCSDMC department/entity limited rights to access, use and/or occupy a specific real property owned by the external entity.

III. POLICY

All requests or inquiries regarding the licensing of real property should be directed to Real Estate Development (RED). No commitment may be made on behalf of the University, either orally or in writing, except by persons having formal delegations of authority for real property contract execution. Persons making unauthorized commitments may be held personally responsible for financial commitments.

IV. DEFINITIONS

For purposes of this issuance, the following terms shall be defined as follows:

A. Common Definitions

1. Initiating Party - either a UCSD/UCSDMC department/entity or an external entity. However, for purposes of this Section, an Initiating Party is a UCSD/UCSDMC department/entity requesting preparation and issuance of a license agreement.

NOTE: In the event the Initiating Party is an external entity that requests the preparation and issuance of a license agreement but is not sponsored by a UCSD/UCSDMC department/entity, as defined below, a different procedure, not specifically addressed herein but available from Real Estate Development (RED) by request, will apply.

2. Fixture - items of personal property attached to real property in such a manner as to become real property and of a regulated and/or fiduciary nature.
3. License - limited and revocable rights to access, use, and/or occupy real property.
4. License Agreement - the contractual document recording the terms and conditions of the License as negotiated between the parties and in accordance with University policy.
5. Personal Property - movable property; any property which is not real property.
6. Real Property - lands, buildings, and fixtures as defined above.

B. The Regents as Licensor

1. Licensed Property/Licensable Property - University owned property licensed or available for licensing. Such property includes, but is not limited to, the following categories and corresponding examples:
 - a) Developed Outdoor Land - Example: Paved parking lots under the management of Transportation/Parking Services
 - b) Undeveloped Outdoor Land - Example: Vacant dirt lots
 - c) Indoor Space - Example: Price Center Food and Specialty Vendors
2. Licensee - an individual or external entity granted permission via a written and properly executed contract to use Licensable Property. Examples of an external entity include but are not limited to the following: 1) government entities: city, county, state, or federal governments; 2) business entities: corporations; partnerships; sole proprietorships; limited liability companies; 3) charitable organizations; and 4) the various branches of the U.S. military.
3. Licensor - The Regents on behalf of the UCSD Campus, UCSDMC, and/or a particular UCSD/UCSDMC department/entity

C. The Regents as Licensee

1. Licensed Property/Licensable Property - real property owned by the external entity and the subject of the corresponding license agreement.
2. Licensee - The Regents on behalf of the UCSD Campus, UCSDMC, and/or a particular UCSD/UCSDMC department/entity.
3. Licensor - an individual or external entity granting permission to the University, via a written and properly executed contract, to use Licensable Property. Examples of an external entity include but are not limited to the following: 1) government entities: city, county, state, or federal governments; 2) business entities: corporations; partnerships; sole proprietorships; limited liability companies; 3) charitable organizations; and 4) the various branches of the U.S. military.

V. GUIDELINES

A. Time Frame

The time frame for processing a license agreement varies due to the responsiveness and availability of all parties. Ideally, the full execution of a simple license agreement may take from one to four weeks. One that requires 1) review and/or approval by the Office of the President, the Office of the General Counsel of The Regents, The Regents in the case of a Regents- Item, the UCSD Campus/Community Planning Committee (C/CPC), the Marine Sciences Campus/Community Planning Committee (MSC/CPC), or a governmental entity; 2) preparation of an Initial Environmental Study or an Environmental Impact Report (not to be confused with an Environmental Impact Classification); or 3) analysis of any physical planning issue(s) will extend the time frame to approximately 2-6 months.

B. Sponsorship

A license activity requiring the preparation of a license agreement by RED and concerning the use of University developed or undeveloped lands or facilities by an external entity must be sponsored by a UCSD/UCSDMC department/entity. The purpose of such sponsorship is to ensure the proposed activity is in the best interest of the University and surrounding community. It is the responsibility of the sponsoring department/entity to 1) ensure the proposed activity is a) either directly or indirectly beneficial to the University, b) adheres to all University policies and c) undergoes an adequate evaluation process prior to submission to RED; 2) serve as liaison between the University and the Licensee; and 3) assume the role of internal advocate for the proposed activity. The sponsoring department/entity shall act reasonably and responsibly with respect to its support of the proposed use which must be within the scope and mission of the University. If the sponsoring department/entity is negligent with respect to such responsibility, UCSD's Risk Management will look to the sponsoring department/entity to cover all or a portion of the economic losses that may result from such negligence.

In the event the proposed activity involves the use of property that relates to an overall benefit to the Campus and/or the community, but is not directly involved with an existing University activity, the Office of the Vice Chancellor of Development and University Relations or the Office of the Chancellor will be asked to assume the responsibilities of sponsorship.

C. Approvals

Depending upon the nature of the license agreement, it may be reviewed by 3 to 12 or more parties/departments/agencies as indicated in Part VIII.A.5. below. Any one of these reviews may result in a denial of the approval of the proposed license activity.

VI. JURISDICTION

A. The Regents as Licensor

Numerous UCSD and/or UCSDMC departments are responsible for contracts that concern or address the subject of University property and its use. Therefore, criteria in the form of the following questions are provided to the reader to establish whether RED is the appropriate office to handle a specific agreement:

- # Is an external entity involved?
- # Is the property real property and/or a real property fixture, as defined in Part IV.A.2. above, and not personal property?
- # Are the rights of the external entity restricted or limited?
- # Is the use of the real property primary and not incidental?

A positive response to all of the questions above would indicate RED as the appropriate office to handle a specific agreement.

To determine if RED is the appropriate office to handle an agreement pursuant to this Section, the following two lists are provided:

1. Specific types of licenses handled by RED
 - a) Event Parking Licenses - use of University paved parking lots or vacant dirt lots for an external entity's limited use. Please note that although all parking lots are administered by Transportation/Parking Services, RED assists in the development and processing of this type of license agreement.
 - b) Price Center/Student Center Food and Specialty Vendor Contracts - use of retail space at the Price Center or Student Center by an external entity to provide services to the general University population.
 - c) Telecommunications Licenses - use of the University's telecommunications facilities and infrastructure and/or other properties by an external entity. Examples of this category include, but are not limited to, the following:
 - i) Mt. Soledad Antennae Site agreements
 - ii) Conduit agreements
 - iii) Roof top agreements (PCS, Cellular, Paging, etc. installations)
 - iv) Cable tv agreements

- d) ATM Services Licenses - use of University real property for the installation/housing of ATM machines that are either outdoor installations or interior fixtures and owned and operated by an external entity.
 - e) Construction Staging Licenses - use of paved parking lots or vacant dirt lots, separate from the corresponding construction site, by an external entity in connection with University related construction projects.
 - f) Research Related Licenses - use of University real property for research related projects of either an external entity or a joint program between the external entity and the University.
 - g) Black-s Beach Access Licenses - use of the access road and parking lot at Black-s Beach by owners of designated residences in the La Jolla Farms development.
 - h) Gliderport Activities - use of the vacant lot owned by the University which is adjacent to the Torrey Pines Glider Port and used for glider activities.
 - i) Miscellaneous Licenses - use of University real property not listed above as determined on a case by case basis by RED.
2. Other agreements concerning use of University property but handled by other UCSD departments
- a) Purchasing Services - (Refer to PPM Section 523-2) - Purchasing Services handles purchase contracts for items of personal property or services to be furnished to the University. Such purchase contracts involve, but are not limited to, the provision of telephone booths, newsstands, and food carts which are considered personal property rather than real property.
 - b) Conference Services (Refer to Section 510-1 IV.M) - Conference Services handles use of specific University facilities (classrooms, conference rooms, auditoriums, outdoor areas, housing facilities) by a non-University group through a *Request for Use of University Facilities/Sponsorship* form.
 - c) University Events - University Events handles use of University real property in connection with promotional activities/events.
 - d) Sports Facilities/Student Affairs - Sports Facilities/Student Affairs handles agreements concerning use of real property sports facilities such as the Main Gymnasium Complex, the Rec Gymnasium Complex, RIMAC, Canyonview, the Alex G. Spanos Facility, and the various sports fields on campus.
 - e) University Centers - The University Centers handle agreements concerning use of real property event facilities, such as the Price Center Ballroom, Conference Rooms, Plaza Student Center Program areas, and various University Centers facilities on campus.

B. The Regents as Licensee

1. RED handles license agreements that involve the use of an external entity's real property by the University. Examples of such license agreements are as follows:
 - a) Research License Agreements - use of an external entity's real property for purposes of staging or conducting a research activity, etc. in connection with University research.
 - b) Telecommunications License Agreements - use of an external entity's telecommunications facilities and/or other related properties by the University.
 - c) Storage License Agreements - use of an external entity's real property for purposes of storing research equipment or equipment connected with a University educational program. Please note this category does not include storage that can be accomplished via commercial means.
 - d) Miscellaneous - use of an external entity's real property not listed above as determined on a case by case basis by RED.
2. RED does not handle the following types of agreements:
 - a) Use Agreements - use of an external entity's medical or clinical space on a limited basis, both time wise and space wise.
 - b) Service Agreements - agreements where University employees provide services to an external entity at the entity's location.

VII. FINANCIAL POLICIES

A. The Regents as Licensor

1. User Fees
 - a) Depending on the nature of the license agreement, a fee may be charged to the Licensee as consideration for the use of the University real property. All fees shall cover the University costs of providing such use which shall be determined by RED and/or the Initiating Party. Prior to the full execution of the license agreement, the Initiating Party may be required to confirm in writing, by means of a *Data and Approval Sheet* or some other written form, that the amount of such fee is acceptable.
 - b) The basis of the user fee is not considered a recharge activity or other income producing activity as described in PPM Section 300-40; however, a user fee may include recharge activity fees or other income producing activity fees.

2. License Agreement Costs

In the event the approval process for a license agreement requires review by UCSD-s Environment, Health & Safety (EH&S) and/or Facilities Design & Construction (FD&C) departments, the Initiating Party will be responsible for all costs incurred for review and inspection of the University real property. The responsibility for any other costs associated with processing the license agreement will be determined on a case by case basis at the time of such processing.

3. Possessory Interest Tax

The Licensee may be liable for payment of possessory interest taxes related to its use of University real property.

B. The Regents as Licensee

1. Fees

Depending on the nature of the license agreement a fee may be required as consideration for the use of the external entity-s real property. Such fee shall be the financial responsibility of the Initiating Party. Prior to the full execution of the license agreement, the Initiating Party will be required to confirm in writing, by means of a Data and Approval Sheet (to be defined below) or some other written form, that it accepts the responsibility of paying such fee per the terms of the license agreement.

2. License Agreement Costs

In the event the approval process for a license agreement requires review by UCSD-S Environment, Health & Safety (EH&S) and/or UCSD-s Facilities Design & Construction (FD&C) Departments, the Initiating Party will be responsible for all costs incurred for review and inspection of the external entity-s real property. The responsibility for any other costs associated with processing the license agreement will be determined on a case by case basis at the time of such processing.

VIII. PROCEDURES - (Refer to Exhibit A and Exhibit B for flowchart of procedures for The Regents as Licensor and Licensee, respectively)

A. Initial License Agreement

1. Initial Request (Responsible Party: Initiating Party)

Prior to commencement of the proposed license activity, the Initiating Party shall notify RED of the proposed license activity and request the preparation of a license agreement or, in the case where a license agreement has already been prepared by the external entity, the review and processing of the license agreement on behalf of the University. To ensure an appropriate license agreement is prepared, reviewed and processed in a timely manner, it is recommended that the Initiating Party provide such notice to RED at the onset of any discussions of the proposed license activity between the Initiating Party and the external entity.

2. Information Sheet (Responsible Party: Initiating Party)

In the case where RED is to prepare a license agreement and upon notification of the proposed license activity, RED will send an *Information Sheet* (Refer to Exhibit C or Exhibit D, as applicable) to the Initiating Party. The *Information Sheet* provides RED with basic information about the parties and the proposed license activity. (Detailed information, if required, will be provided in the negotiation process.) The form must be completed in its entirety by the appropriate representative of the Initiating Party and signed by the department chair or equivalent to indicate acknowledgment and approval of the proposed license activity. In the case where the license agreement has already been prepared by the external entity, RED may still request acknowledgment and approval of the proposed license activity in some written form.

3. Negotiations (Responsible Party: Initiating Party)

If RED is to draft a license agreement and depending upon the nature of the proposed license activity, formal negotiations between the parties may be required to determine the more detailed terms and conditions of the proposed license activity. It is the primary responsibility of the Initiating Party to negotiate such terms and conditions and to provide this information in written form to RED. If required or requested by the Initiating Party, RED will assist in the negotiations and/or any related business decisions.

4. Drafting of the License Agreement (Responsible Party: RED)

If RED is to draft a license agreement, it will begin such process once it receives the *Information Sheet* and, if required, the detailed terms and conditions in written form as referenced in Paragraph 3. above.

5. Review Process (Responsible Party: RED)

a) SPECIFIC TO LICENSE AGREEMENTS WITH THE REGENTS AS LICENSOR

RED will submit the draft license agreement to the following offices and/or entities, as appropriate, for their respective reviews:

- 1) Initiating Party - reviews terms and conditions of the proposed license agreement for accuracy.
- 2) EH&S - on occasion, EH&S may conduct general health and life safety inspections for a proposed license activity concerning University real property, i.e., public assembly, tents, pyrotechnics, fires, etc.
- 3) FD&C - on occasion, FD&C may conduct seismic and ADA reviews or other types of reviews and/or inspections for a proposed license activity concerning University real property.
- 4) PPS - on occasion, Physical Plant Services (PPS) notification and/or approval will be required depending on the nature of the proposed license activity.

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- 5) Physical Planning Office (PP) - reviews the proposed license activity with respect to its impact on the environment and/or the campus plans and for the purposes of controlling the use of University land. (The review will require the preparation of an Environmental Impact Classification and possible subsequent documentation depending upon the complexity of the request.) In addition, pursuant to Section 420-5 - Special Uses for Undeveloped Lands, review and approval of the proposed license activity by the Campus/Community Planning Committee (CCPC) and/or the Marine Sciences Campus/Community Planning Committee (MSCCPC) may be required.
 - 6) Governmental & Community Relations - reviews the proposed license activity with respect to its impact on governmental and community relations. If a Coastal Commission review of the proposed activity is required, this office will arrange for such review.
 - 7) Transportation/Parking Services - reviews the proposed license activity with respect to its impact on campus and community traffic and parking.
 - 8) Campus Police Department - reviews the proposed license activity with respect to safety and protection of the campus and community population and property.
 - 9) Risk Management - reviews any proposed license agreement that contains non-standard insurance and indemnification language.
 - 10) Office of the General Counsel of The Regents - reviews the proposed license agreement with respect to legal form.
 - 11) Office of the President - reviews the proposed license agreement if the agreement falls under Regental or Presidential Delegation. In the event a license agreement falls under Regental Delegation, the agreement will be submitted as a Regents- Item which requires special processing both on the campus and UC systemwide levels. The Real Estate Services Group (RESG) at the Office of the President processes all license agreements reviewed by the Office of the President.
 - 12) Government Agency(ies) - On occasion, a government agency will need to review a proposed license agreement for purposes of approval and/or informational input.
 - 13) Licensee and/or Licensee's (external entity-s) representative
- b) SPECIFIC TO LICENSE AGREEMENTS WITH THE REGENTS AS LICENSEE

RED will submit the proposed license agreement, whether prepared by RED or the external entity, to the following offices and/or entities, as appropriate, for their respective reviews:

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- 1) Initiating Party - Refer to Part VIII.A.5.a)l).
 - 2) EH&S - EH&S may conduct general health and life safety inspections if a building owned by the external entity is to be used by the University for a proposed license activity.
 - 3) FD&C - FD&C may conduct seismic and ADA reviews or other types of reviews and/or inspections if a building owned by the external entity is to be used for a proposed license activity.
 - 4) Physical Planning Office (PP) - PP may review the proposed license activity with respect to its impact on the environment. (The review will require the preparation of an Environmental Impact Classification and possible subsequent documentation depending upon the complexity of the request.) In most cases, however, this task will be conducted by the external entity.
 - 5) Governmental & Community Relations - Refer to Part VIII.A.5.a)vi).
 - 6) Risk Management - Refer to Part VIII.A.5.a)ix).
 - 7) Office of the General Counsel of The Regents - Refer to Part VIII.A.5.a)x).
 - 8) Office of the President - Refer to Part VIII.A.5.a)xi).
 - 9) Government Agency(ies) - Refer to Part VIII.A.5.a)xii).
 - 10) Licensor and/or Licensor's (external entity-s) representative - will review a draft prepared by RED or review any revisions resulting from the University-s review.
6. Data and Approval Sheet (Responsible Party: Initiating Party)
- At the election of RED, completion and routing of a *Data and Approval Sheet* (Refer to Exhibit E or Exhibit F, as applicable) may be required before the license agreement is submitted for the signature process. Approval signatures on this form indicate the acceptance of all terms and conditions of the proposed license agreement and all financial obligations.
7. Signature Process (Responsible Party: RED)
- As determined by UC policy and referenced in Section XXX-1 - General Policy - Signature Delegations, RED shall submit a license agreement for execution on behalf of The Regents to the appropriate University representative.
8. Administration of Provisions (Responsible Party: Initiating Party)
- Except as noted in Part VIII.B. below, it is the responsibility of the Initiating Party to ensure all provisions of the license agreement are fulfilled pursuant to its terms and conditions, including those of a fiduciary nature.

B. Administrative Responsibilities

1. Renewal of an Existing License Agreement

Renewal of an existing license agreement can be accomplished by either an amendment or a new license agreement, i.e., a renewal license agreement. Essentially the same procedure cited in Part VIII.A. is required; however, the procedure for a renewal license agreement will be less extensive unless major changes in the terms and conditions have occurred.

2. Amendment to an Existing License Agreement

In addition to extending an existing license agreement, an amendment is also used to document revisions of the terms and conditions in an existing license agreement. An amendment can be processed and executed at any time during the term of the license agreement.

3. Termination

On rare occasion, a party may choose to terminate an existing license agreement prior to the expiration date stated in the agreement. All terminations must be implemented in accordance with the appropriate term(s) of the existing license agreement.

4. Related Administration

a) Certificate(s) of Insurance

RED requests and monitors all certificate(s) of insurance evidencing the external entity-s and the University-s insurance coverage as required in the license agreement.

b) Ancillary Documents

It is the responsibility of RED to process and/or review all ancillary documents in connection with license agreements under its jurisdiction.

Procedural Flowchart- The Regents as Licensor

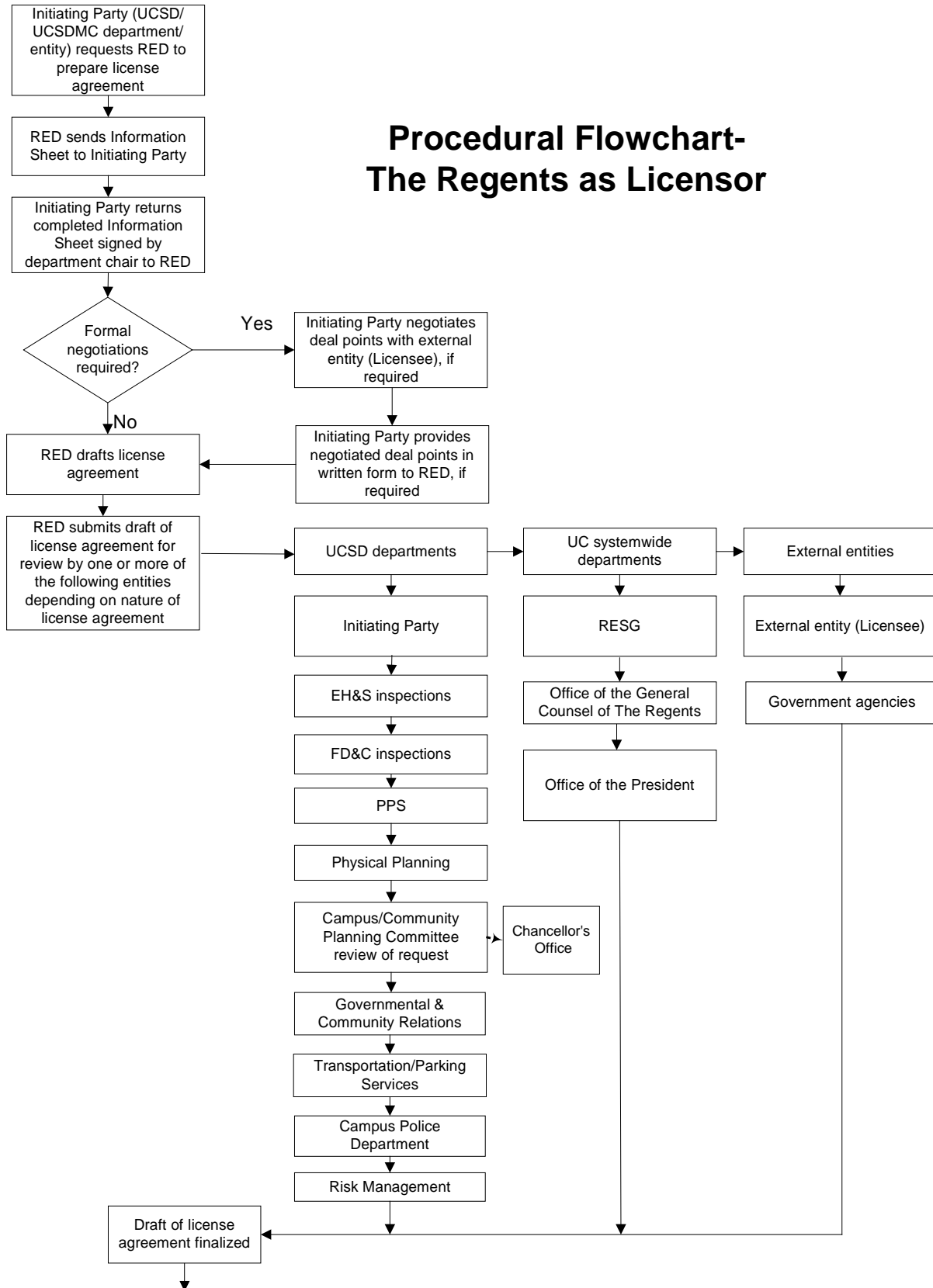
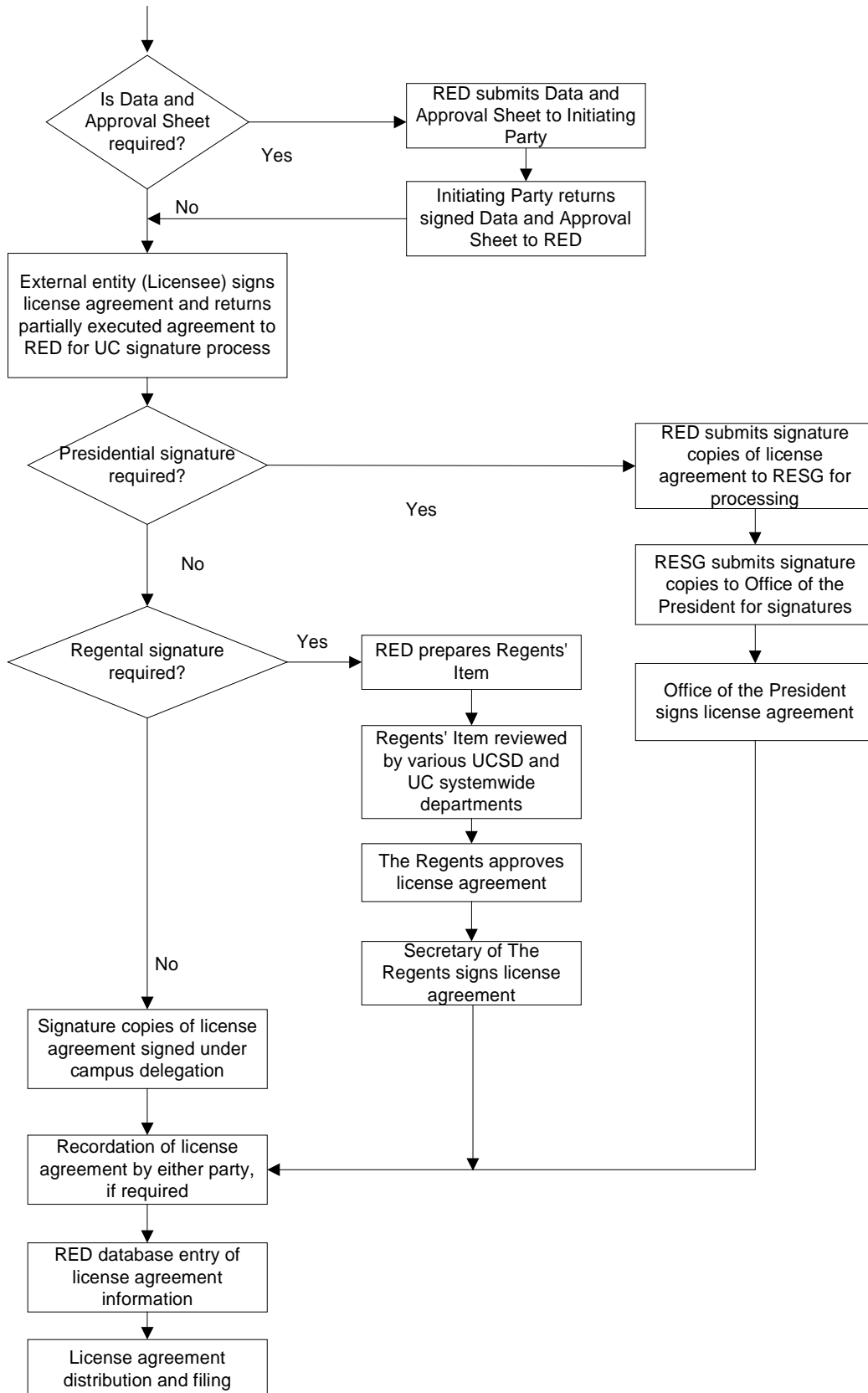


EXHIBIT A
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Procedural Flowchart- The Regents as Licensee

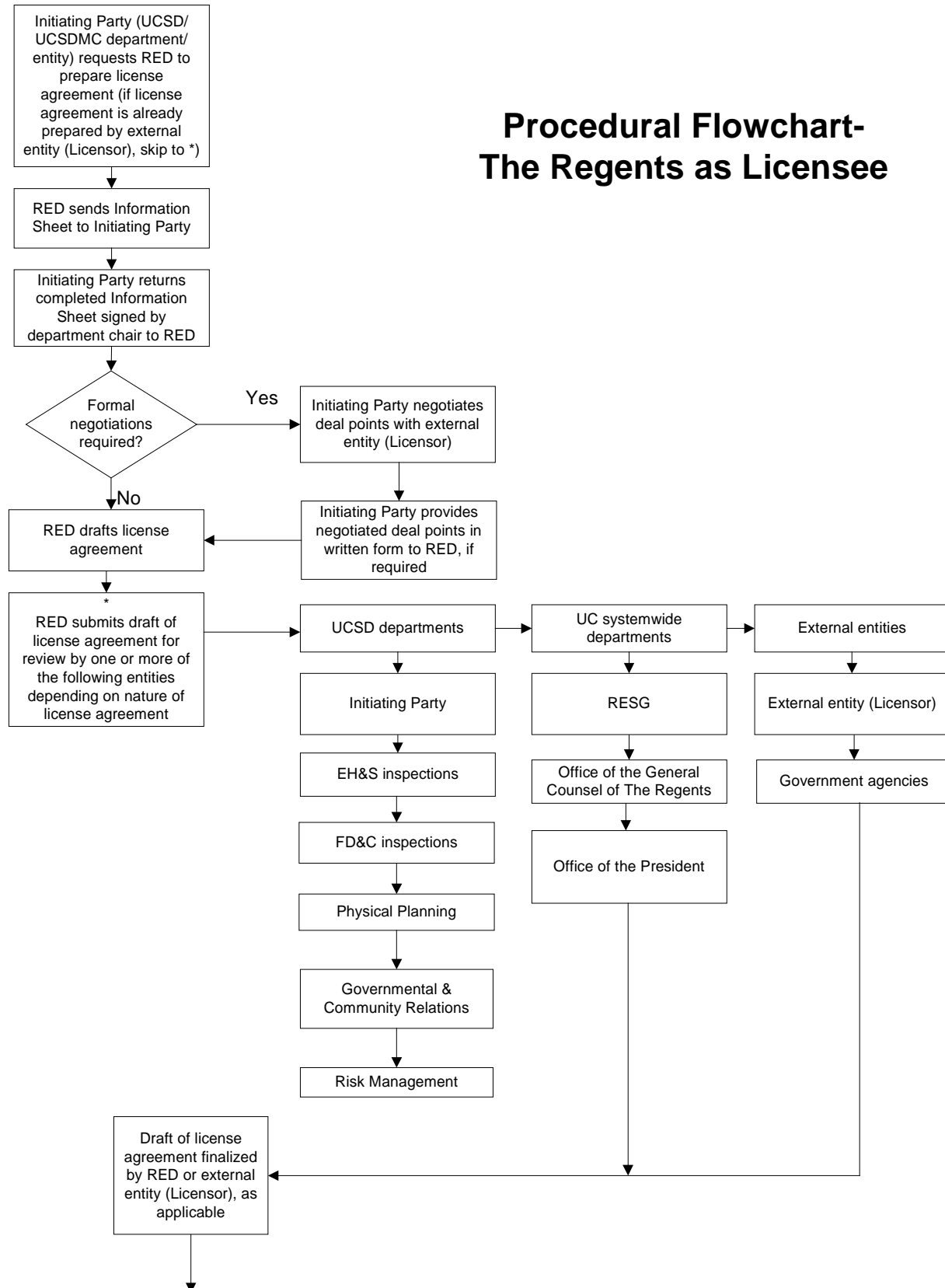
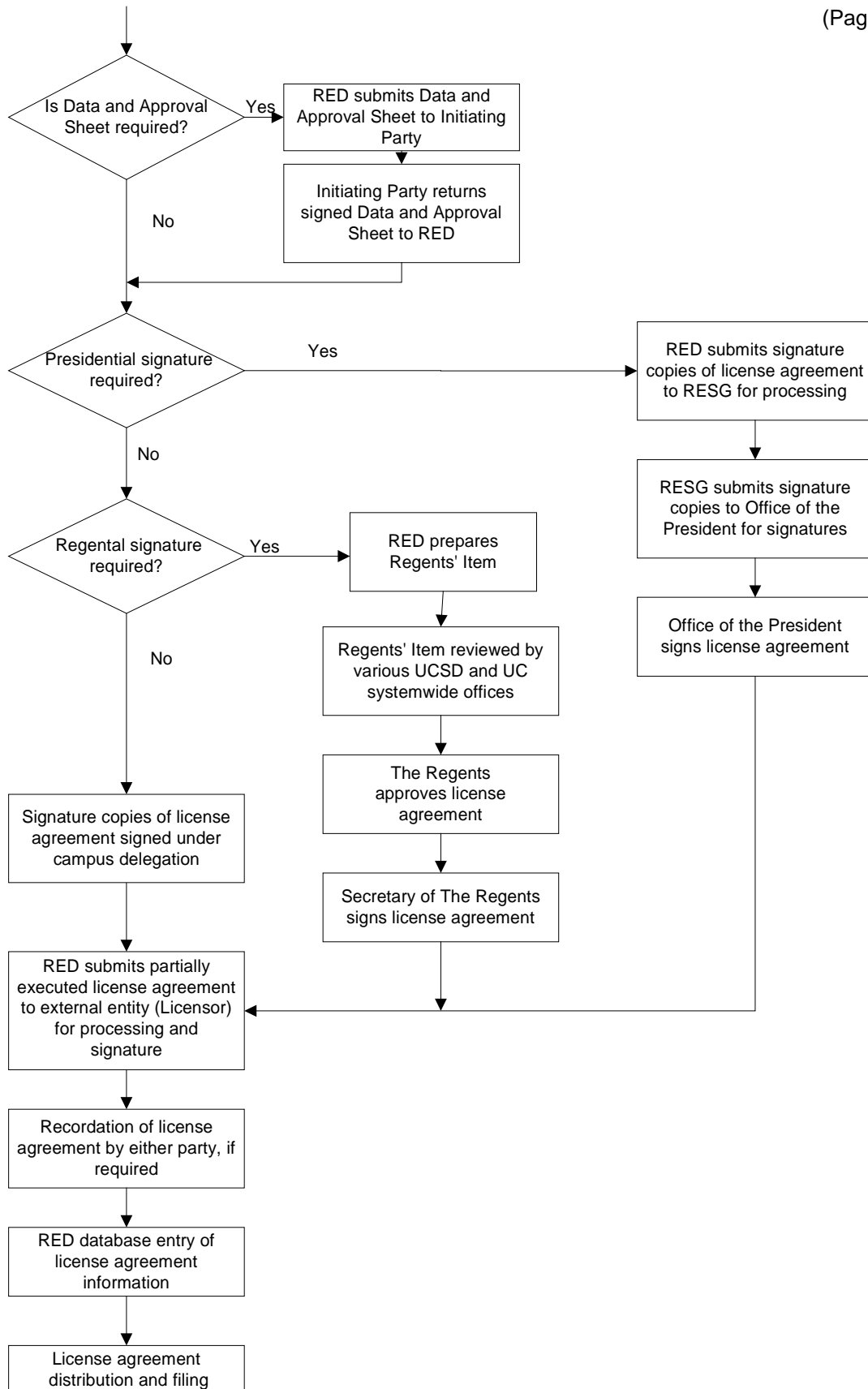


EXHIBIT B
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EXHIBIT C
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