

MEETING DATE: 02/26/07

AGENDA ITEM: Approval of a Memorandum of Understanding
between the City and the Culver City Historical Society for Long
Term Use of the Overflow Room in the Veterans Memorial Building.

ATTACHMENTS

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**MEMORANDUM OF UNDERSTANDING
(RE: Lease between the City and the Culver City Historical Society)**

This Memorandum of Understanding (hereinafter, "MOU") is made and entered into by and between the City of Culver City (hereinafter, "City") and the Culver City Historical Society (hereinafter, "Historical Society").

RECITALS AND DEFINITIONS

- A. City is the owner and operator of the subject property commonly known as the "Overflow Room," (hereinafter the "Premises") which is a part of the Veterans Memorial Complex (the "Facility"), located at 4117 Overland Blvd., in the City of Culver City, County of Los Angeles, State of California.
- B. On January 1, 2007, the City and Historical Society executed a Lease Agreement for the Premises to be used for public display and work/office space for cataloguing, research, scanning and storage. The Lease requires that City and Historical Society execute a memorandum of understanding which sets forth provisions relating to ownership, storage and exhibition of various historical items.
- C. Historical Society is a not-for-profit, tax exempt corporation consisting of members and supporting members with an interest in history, who are committed to preserving the history of the Culver City area. This is accomplished through a variety of activities, including but not limited to displays, lectures, programs, Living History projects, walking and bus tours, as well as acting as a cultural resource.
- D. The parties acknowledge that the Premises are located in the Veterans Memorial Complex, owned and operated by City for the benefit of the general public.
- E. The use of the Premises, as contemplated by the Lease and this MOU, will serve to benefit City and the community at large as a cultural attraction, which will assist in increasing public interest in City's history, as well as other events and programs in Veterans Memorial Complex. In addition, it will provide a facility to help preserve City's history and historical artifacts.

TERMS AND CONDITIONS

1. General Terms and Conditions

- A. The Lease between City and Historical Society for use of the Premises is attached hereto as Exhibit "A" and incorporated herein by reference. If there should arise a conflict between the provisions of the Lease and this MOU, the Lease shall prevail.
- B. Unless terminated as provided herein, the initial term of this MOU shall be from January 1, 2007 until December 31, 2011 (the "Initial Term"). At the conclusion of the Initial Term and unless otherwise terminated as provided herein, this MOU will automatically renew, annually, for additional one-year terms; provided, that Historical Society provides

written notice to City of its intent to renew this MOU on or before the October 1 immediately preceding each renewal period. Either party may terminate this MOU at any time, upon written notice to the other party; provided, that such termination shall be effective upon the 30th day after the date of the notice.

- C. Historical Society, its directors, officers, agents, employees, members and volunteers, shall not have any possessory interest in the Premises, except as specified in the Lease or this MOU.
- D. Historical Society, its directors, officers, agents, employees, members and volunteers, shall act in an independent capacity and not as officers, agents, representatives, or employees of City.
- E. This MOU shall be binding upon, and shall inure to the benefit of, each party and its directors, officers, officials, agents, employees, former employees, members, volunteers, successors and assigns, and all persons or entities acting by, through, under or in concert with them.
- F. This MOU, including the attached Lease, constitutes the entire agreement between the parties pertaining to the subject matters contained herein, and supersedes any and all prior or contemporaneous agreements, representations, or understandings of the parties.
- G. No supplement, alteration, variation, modification, or amendment of this MOU shall be binding, unless agreed upon in writing by both parties.
- H. Notwithstanding any contrary provisions contained herein, and to provide for enforcement of this MOU, the parties reserve to themselves the right to initiate and to pursue any legal action necessary to enforce the terms of this MOU. In the event of legal action, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorneys' fees and costs and expenses actually incurred, in addition to any other relief the court deems just and proper. The parties agree to provide each other with ninety (90) days' notice of intent to take legal action to enforce the terms and conditions, responsibilities and duties as outlined in this MOU, prior to the filing of any legal action. The parties further agree to participate in an alternative dispute resolution process, such as mediation, to try and resolve any disputes prior to litigation. The cost and expense of such alternative dispute resolution shall be paid by City. The parties further agree that the proper venue for such legal action shall be the Superior Court for the County of Los Angeles.
- I. The terms of this Agreement shall be interpreted according to the laws of the State of California.
- J. This MOU may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. A photocopy of a signed original of this

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MOU may be used for all purposes for which a signed original can be used.

- K. If the City Council finds that it is in the public interest, health and/or welfare, City reserves the right to change the Premises to a use to be determined by the City Council; provided, that any action taken by the City Council must be in compliance with the terms and conditions of the Lease and this MOU.
- L. Any notices, requests and demands made by City and/or Historical Society regarding the Premises and this MOU shall be directed as follows:

- i. To City:

- City of Culver City
Department of Parks, Recreation and Community Services
Attention: Director
9770 Culver Boulevard
Culver City, CA 90232

- City of Culver City
Office of the City Manager
9770 Culver Boulevard
Culver City, CA 90232

- ii. To Historical Society:

- Culver City Historical Society
P.O. Box 3428
Culver City, CA 90231-3428

2. Historical Society's Rights, Duties and Responsibilities

- A. If Historical Society alters its charitable non-profit status, City shall be notified and reserves the right to renegotiate and/or terminate this MOU.
- B. Historical Society shall cooperate with City while designing, renovating, developing, operating and maintaining the Premises, and shall submit any and all design proposals to the appropriate City Departments and/or City's designated representative for review and approval.
- C. Historical Society shall not alter the existing physical contours, features or improvements of the Premises (interior and exterior) without first requesting in writing and seeking approval from City, or its designated representative. City shall provide a written response within a reasonable time after the submission of any and all requests.
- D. Historical Society will, as much as financially feasible, provide the funds necessary to renovate, construct and develop the Premises for the purpose of operating it as a public display and work/archive area. By entering into this MOU or the Lease, City has not made any

commitments, whatsoever, to provide Historical Society with funding to renovate, construct or develop the Premises.

- E. Historical Society shall track and maintain financial records for funds expended for the renovation, development, operation and maintenance of the Premises, and maintain such records as legally obligated under the provisions of a 501(c)(3) charitable organization. These records shall be made available to City upon request.
- F. Should City need to close all or a portion of the Premises to allow for maintenance and/or repair as deemed necessary, Historical Society shall provide notice of such closure to the public.
- G. Historical Society shall:
 - i. reimburse City for any City staff expenses incurred if Historical Society requests the Facility to be open to the public at times other than when City Facility staff is on duty;
 - ii. pay the cost for installation and use of telephone service and internet access at the premises;
 - iii. pay the cost of all other utilities to service the premises in the amount of \$2,000 per year.
 - iv. assist in cataloguing and preserving important City records of historical interest;
 - v. display historical items;
 - vi. assist in providing orientation programs for City and visiting dignitaries with prior notification so as to insure that a representative of Historical Society is available;
 - vii. store and be the custodian of any City-owned historical items or artifacts provided to Historical Society (as described, in part, in Exhibit "B," attached hereto and incorporated herein by reference). Historical Society has the right to preserve, renovate, repair, maintain and display such artifacts; and shall handle such artifacts in a responsible, professional and secure manner;
 - viii. be responsible for all cleaning and maintenance and keep up the area in a clean, neat and organized manner and one that is professional and presentable to the public.

3. City's Rights, Duties and Responsibilities

- A. In consultation with Historical Society, City staff shall inspect and review any and all proposals for the design of the Premises and have the right to reject or amend such proposals at its sole discretion.
- B. After discussion with Historical Society, City shall inspect and review any and all proposals to alter the existing physical contours, features, or improvements of the Premises (interior and exterior) and have the right to reject or amend such proposals, in accordance with all applicable Federal, State and City laws, codes and regulations.
- C. Upon request by Historical Society, City shall provide all pertinent information necessary for Historical Society to effectively fulfill its

responsibilities under this MOU, except documents and information that do not constitute discloseable public records.

- D. If City requires information from Historical Society concerning issues related to the Premises which may arise, City shall request such information, and allow at least seven (7) business days for any and all written responses from Historical Society, unless otherwise requested.
- E. City shall have the right to close a portion or the entire Premises to allow for maintenance and/or repair as deemed necessary, including, but not limited to, the infrastructure, HVAC, and wet and dry utilities, and Historical Society shall provide notice of such closure to the public.
- F. City shall inspect, review and approve all proposed signs exterior to the Premises by Historical Society prior to their posting at the Premises, including, but not limited to, placards acknowledging the donors of exterior and interior amenities.
- G. City shall maintain the exterior of the Premises.
- H. City shall have no obligation for the security of the Premises; however, Facility staff shall report any breaches of security, if known to Facility staff, to the appropriate authorities and Historical Society in a timely manner.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum of Understanding to be executed by and through their respective authorized officers, as of the date written herein below.

CULVER CITY HISTORICAL SOCIETY

Cathy Zermeno, President

Date: _____

Robin Turner, 2nd Vice President

Date: _____

CITY OF CULVER CITY

Jerry Fulwood, City Manager

Date: _____

(Signatures Continued on Page 6)

(Signatures Continued from Page 5)

APPROVED AS TO CONTENT:

William LaPointe
Parks, Recreation and Community
Services Director

APPROVED AS TO FORM:

Carol A. Schwab
City Attorney

APPROVED AS TO FINANCING:

Marlee Chang, City Controller

EXHIBIT "A" to Contract No. 2006-203

Contract No. 2006-180

LEASE

WITH: Culver City Historical Society

FOR: Lease of a Portion of 4117 Overland Avenue

THIS LEASE is made and entered into by and between CITY OF CULVER CITY, a municipal corporation, hereinafter referred to as "City", and the CULVER CITY HISTORICAL SOCIETY, a local non-profit corporation, hereinafter described as "Historical Society."

1. PREMISES LEASED AND USE THEREOF. City is fee simple owner of real property, and all improvements thereon, including, but not limited to, a building, parking area and landscaping, commonly referred to as Veteran's Memorial Complex (the "Facility"). The Facility contains several separate rooms which City leases for community functions. One of those rooms is the overflow room from the Multi-Purpose Room (commonly known as the "Overflow Room"). For purposes of this Agreement, the interior of the Overflow Room shall be defined as the "Premises." City hereby agrees to lease, exclusively, to Historical Society the Premises for public display and work/office space for cataloguing, research, scanning and storage; provided, that such permission is conditioned on City and Historical Society executing, within ninety (90) days after the effective date of this Agreement, a memorandum of understanding ("MOU") which sets forth provisions relating to the ownership, storage and exhibition of various historical items.
2. USE OF MULTI-PURPOSE ROOM. Historical Society acknowledges and understands that the Multi-Purpose Room, located immediately adjacent to the Premises, is frequently rented by other parties for uses which may be incompatible with events that may be planned by Historical Society on the Premises. In recognition of the foregoing, City reserves the right to rent the Multi-Purpose Room to third parties even if the Historical Society has already scheduled an event in the Premises; provided, that prior to City finalizing the rental of the Multi-Purpose Room to that third party, City shall provide Historical Society 48-hours' notice of the opportunity to rent the Multi-Purpose Room for the same fee being paid by that third party. If Historical Society agrees to pay that same fee, then City shall not rent the Multi-Purpose Room to that third party. Otherwise, City, in its sole discretion, retains full authority to rent the Multi-Purpose Room to any third party for any event.
3. TERM OF LEASE. Unless terminated as provided herein, the initial term of this Lease shall be from January 1, 2007 until December 31, 2011, (the "Initial Term"). At the conclusion of the Initial Term and unless otherwise terminated as provided herein, this Lease will automatically renew, annually, for additional one-year terms; provided, that Historical Society

provides written notice to City of its intent to renew this Lease on or before the October 1st immediately preceding each renewal period.

4. CONSIDERATION FOR LEASE. In consideration of this Lease, Historical Society shall, on or before January 31, 2007, and January 1st of each subsequent year this Lease remains in effect, pay City One Dollar (\$1.00) per year. In addition, Historical Society shall provide all the following consideration to City for this Lease:

- a. reimburse City for any City-staff costs incurred if Historical Society requests the Facility to be open to the public at times other than when City Facility staff is on duty;
- b. pay the cost for installation and use of telephone service and internet access at the Premises;
- c. pay the cost of all other utilities to service the Premises in the amount of \$2,000.00 per year;
- d. assist in cataloguing and preserving important City records;
- e. display historical items;
- f. store historical items that are the property of the City (more fully described in the MOU), as agreed upon by the parties;
- g. provide orientation programs for City and visiting dignitaries; and
- h. continue development of City historical tours and docent training.

The use of the Premises, as contemplated by this Lease and the MOU, will serve to benefit the City and the community at large as a cultural resource and attraction, which will assist in increasing public interest in the City's history, as well as other events and programs in the Veterans Memorial Building. In addition, it will provide a facility to help preserve the City's history and historical artifacts.

4. HOLD HARMLESS. Historical Society shall be responsible for any and all injuries to or death of any person, and for any and all damage to any and all real or personal property, including the Premises, caused by or resulting from any acts, errors or omission of Historical Society, its directors, officers, employees, agents, members, volunteers and invitees, arising out of this Lease. Historical Society shall defend, hold harmless and indemnify City, its officials, officers, employees, agents and volunteers, from any and all liability claims, including costs, for damages to real or personal property, or personal injury or death, resulting from Historical Society's, its directors', officers', employees', agents', members', volunteers' and invitees', acts, errors or omissions arising out of this Lease.

5. INSURANCE. Without limiting its obligations pursuant to Paragraph 4 of this Lease, Historical Society shall submit one or more duly executed certificates of insurance for Comprehensive General Liability in the minimum amount of One Million Dollars (\$1,000,000.00) single limit coverage (endorsed by an endorsement, approved by the City Attorney, attached hereto as Exhibit "A" and incorporated herein by reference) and for Property Damage Coverage in the minimum amount of One Million Dollars (\$1,000,000.00).
6. ASSIGNMENT; HYPOTHECATION. This Lease is for the specific benefit of Historical Society and any attempt by Historical Society to assign the benefits or burdens of this Lease without prior written approval of City shall be prohibited and shall be null and void. Historical Society shall not mortgage, pledge, or otherwise hypothecate the Premises as security for the payment of any debt, for the purpose of securing funds for Historical Society's use, and any such instrument shall be null and void insofar as the Premises are concerned.
7. DESTRUCTION OF BUILDING. If the Facility or Premises is substantially destroyed by fire or other means, or by acts of nature, so as to make the building or Premises unusable, then either party may terminate this Lease. "Substantially destroyed" shall mean the cost of repair is not less than fifty percent (50%) of replacement costs.
8. NO IMPROVEMENTS. Historical Society shall not make any improvements or alterations to the Premises, including those necessary to complete the obligations in Subparagraph 3.b, without prior approval from City; provided, that all costs incurred for any improvements or alterations whatsoever of the Premises shall be the sole responsibility of Historical Society; and further provided, that Historical Society shall return the Premises to their original condition within a reasonable period of time after termination of this Lease upon prior written request by City.
9. NO OBLIGATION TO CITY TO MAINTAIN PREMISES. City shall have no obligation or duty, whatsoever, to operate, maintain, repair or replace the Premises or any of the improvements on the Premises. Historical Society shall properly maintain, in good order and repair (reasonable wear and tear excepted), the portions of the Premises hereby leased. Historical Society shall properly maintain the Premises free and clean of trash, debris and damage.
10. PAYMENT OF PROPERTY AND OTHER TAXES. If any taxes are assessed based on this Lease or Historical Society's use of the Premises, then Historical Society shall be solely responsible for paying such taxes.
11. APPLICABLE LAWS, CODES AND REGULATIONS. Historical Society shall comply with all applicable Federal, State and local laws, codes and regulations.

12. MODIFICATION OF LEASE. This Lease may not be modified, nor may any of the terms, provisions or conditions be modified or waived or otherwise affected, except by a written amendment signed by all parties hereto.
13. RIGHT TO TERMINATE. Either party may terminate this Lease at any time, upon written notice to the other party; provided, that such termination shall be effective upon the thirtieth (30th) day after the date of the notice.
14. NOTICES. All notices given or required to be given pursuant to this Lease shall be in writing and may be given by personal delivery or by mail. Notice sent by mail shall be addressed as follows:
- To City: City of Culver City
Attn: Parks, Rec. and Comm. Services. Dir.
P. O. Box 507
Culver City, CA 90232-0507
- To Historical Society: Culver City Historical Society
Attn: President
P.O. Box 3428
Culver City, CA 90231-3428
15. WAIVER. If at any time one party shall waive any term, provision or condition of this Lease, either before or after any breach thereof, no party shall thereafter be deemed to have consented to any future failure of full performance hereunder.
16. GOVERNING LAW. The terms of this Lease shall be interpreted according to the laws of the State of California. If litigation arises out of this Lease, then the parties shall attempt to mediate the dispute, in good faith, prior to taking any other action. If mediation is unsuccessful, the parties may agree to arbitrate the dispute in accordance with the rules of the American Arbitration Association. If either party does not agree to arbitration or is unsatisfied with the results of the arbitration, then venue shall be in the Superior Court of Los Angeles County.
17. CITY RIGHT TO ENTER PREMISES. City shall retain the right to enter the Premises at any reasonable time for the purpose of inspecting and maintaining the Premises.
18. LITIGATION FEES. If litigation arises out of this Lease for the performance thereof, then the court shall award reasonable costs and expenses, including attorney's fees, to the prevailing party.
19. INTEGRATED AGREEMENT. This Lease represents the entire Agreement between City and Historical Society regarding the subject

matter hereof, and all preliminary negotiations and agreements are deemed a part of this Lease. No verbal agreement or implied covenant shall be held to vary the provisions of this Lease. This Lease shall bind and inure to the benefit of the parties to this Lease, and any subsequent successors and assigns.

20. SEVERABILITY. If any section, paragraph, sentence, clause, phrase or portion of this Lease is deemed invalid, then that invalidity shall not affect the validity of the remainder of this Lease.

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21. EFFECTIVE DATE. The effective date of this Lease is the date it is signed on behalf of City, and shall remain in full force and effect until amended or terminated; provided, that the indemnification and hold harmless provisions shall survive the termination.

CULVER CITY HISTORICAL SOCIETY, a
California non-profit corporation

Dated: 12-27-06

By Catherine Zermeno
CATHERINE ZERMEÑO
Its President

Dated: 12/27/04

By Robin D. Turner
Robin D. Turner
Its 2nd Vice President

CITY OF CULVER CITY, CALIFORNIA

Dated: 28 DEC 2006

By Martin L. Cole, Acm
Jerry Fulwood,
FOR City Manager

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:

William La Pointe
William La Pointe,
Parks, Recreation and Community
Services Director

Carol A. Schwab
for Carol A. Schwab,
City Attorney

APPROVED AS TO FINANCING:

Marlee Chang
Marlee Chang,
City Controller

EXHIBIT "B" to Contract No. 2006-203

LIST OF CITY-OWNED HISTORICAL ITEMS IN THE CARE AND CUSTODY OF THE HISTORICAL SOCIETY

Pursuant to the terms of Paragraph 2(G)(vii) of the Memorandum of Understanding, the Historical Society shall store and be the custodian of City-owned historical items or artifacts provided to Historical Society. Historical Society has the right to preserve, renovate, repair, maintain and display such artifacts; and shall handle such artifacts in a responsible, professional and secure manner. These items and artifacts include, but are not limited to, the following:

- The Gragg wood carvings
- Miscellaneous costumes bequeathed to the City by Metro-Goldwyn-Meyer (MGM) Studio
- Miscellaneous historical documents

REGULAR MEETING OF THE
CITY COUNCIL, CITY OF CULVER CITY,
CALIFORNIA

September 25, 2006
5:30 P.M.

Call to Order & Roll Call

The meeting of the City Council was called to order at 5:30 P.M.

Present: Mayor Gary Silbiger
Vice Mayor Alan Corlin
Councilmember Carol Gross
Councilmember D. Scott Malsin
Councilmember Steven Rose

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The following Action Items were discussed and voted on separately:

Item A-2
(out of sequence)

Approval of Long Term Agreement with the Culver City Historical Society for Its Use of the Multi-Purpose Room in the Veterans Memorial Building.

William LaPointe, Director of Parks, Recreation and Community Services gave the staff report. Mr. LaPointe clarified the use of the Overflow Room, not the Multi-Purpose Room, is being requested.

Councilmember Rose explained why he was recusing himself from this item. Staff advised Councilmember Rose he did not have to recuse himself but it was his option. Councilmember Rose opted to participate in the discussion.

The following members of the audience addressed the City Council:

Anita Shapiro
Efrem Violin
Cathy Zermeno
Susan Deen
Julie-Lugo Cerra
Steve Newton
Robin Turner

Christopher Armenta, City Clerk read written comments submitted by the following:

Neil and Toby Rubenstein
Lester and Barbara Silverstein
Sol and Martha Sigall
Judy Stangler
Lynn Baril
George Zermeno
John Riordan
Kevin Lachoff
Michele Cerra Lachoff
Paul Jacobs
Mary Gibson
James Gibson

Jacqueline McCain
Charles R. McCain
Marty Nicholson
Stuart Freeman
Fred Yglesias
Tzerl Seltzer
Louise Coffey-Webb
Willy Parrish
Greta Dean

Councilmember Gross proposed a motion per the staff recommendation. Councilmember Rose seconded the motion.

Councilmember Corlin suggested that the formation of a museum be approved along with a memorandum of understanding with the Historical Society which would codify and specify all the obligations involved.

At this time, members of the Historical Society responded to Council inquiries regarding their plans and goals for a museum.

Following discussion, the following motion was made:

MOVED BY COUNCILMEMBER GROSS, SECONDED BY COUNCILMEMBER ROSE AND UNANIMOUSLY CARRIED, THAT THE CITY COUNCIL:

1. APPROVE A LONG TERM AGREEMENT WITH THE CULVER CITY HISTORICAL SOCIETY FOR RENTAL OF THE OVERFLOW ROOM AT THE VETERANS MEMORIAL BUILDING;
2. AUTHORIZE THE CITY ATTORNEY TO PREPARE THE NECESSARY DOCUMENTS AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE DOCUMENTS ON BEHALF OF THE CITY; AND
3. DIRECT STAFF TO RETURN WITHIN 90 DAYS WITH A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE CULVER CITY HISTORICAL SOCIETY.

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