

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 referred to as "Historical Society" or "Lessee".

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 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, 2016 until December 31, 2020, (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 1<sup>st</sup> immediately preceding each renewal period.

4. CONSIDERATION FOR LEASE. In consideration of this Lease, Historical Society shall, on or before January 31, 2016, and January 1<sup>st</sup> 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. To the fullest extent permitted by law, Lessee shall indemnify, defend (at Lessee's sole expense, with legal counsel approved by City) and hold harmless the City of Culver City, members of its City Council, its boards and commissions, officers, agents, and employees (hereinafter, "Indemnitees"), from and against all loss, damage, cost, expense, liability, claims, demands, suits, attorneys' fees and judgments arising out of or in any manner related to this Lease. This indemnification includes, but is not limited to, tort liability to a third person for bodily injury and property damage.

Lessee agrees that this obligation to indemnify, defend and hold harmless extends to liability and/or claims arising from Indemnitees' active or passive negligence.

Notwithstanding the foregoing, nothing herein shall be construed to require Lessee to indemnify an Indemnitee from any claim arising from the sole negligence or willful misconduct of that Indemnitee.

The duty to defend referenced herein is wholly independent from the duty to indemnify, arises upon written notice by City to Lessee of a claim within the potential scope of this indemnification provision, and exists regardless of any determination of the ultimate liability of Lessee, City or any Indemnitee.

5. INSURANCE. Without limiting its obligations pursuant to Section 4 of this Lease, Lessee shall procure and maintain, at Lessee's sole cost and expense and for the duration of this Lease, insurance coverage as set forth in "Insurance Requirements" attached to and incorporated into this Lease as Exhibit "A."
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.

21. EFFECTIVE DATE. The effective date of this Lease is January 1, 2016, 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: \_\_\_\_\_

By \_\_\_\_\_  
Michelle Bernardin, President

CITY OF CULVER CITY, CALIFORNIA

Dated: \_\_\_\_\_

By \_\_\_\_\_  
John Nachbar, City Manager

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:

\_\_\_\_\_  
Daniel Hernandez, PRCS Director

\_\_\_\_\_  
Carol A. Schwab, City Attorney

EXHIBIT A  
to  
LEASE

WITH: Culver City Historical Society

FOR: Lease of a Portion of 4117 Overland Avenue

**INSURANCE REQUIREMENTS**

**A. Policy Requirements.**

Lessee shall submit duly executed certificates of insurance for the following:

1. An occurrence based Commercial General Liability ("CGL") policy, at least as broad as ISO Form CG 0001, in the minimum amount of One Million Dollars (\$1,000,000) each occurrence, with not less than Two Million Dollars (\$2,000,000) in annual aggregate coverage.

The CGL Policy shall have the following requirements:

- a. The policy shall provide coverage for personal injury, bodily injury, death, accident and property damage (in the minimum amount of \$1,000,000) and advertising injury, as those terms are understood in the context of a CGL policy. The coverage shall not be excess or contributing with respect to City's self-insurance or any pooled risk arrangements;
  - b. Reserved.
  - c. The policy shall include coverage for liability undertaken by contract covering, to the maximum extent permitted by law. Consultant's obligation to indemnify the Indemnitees as required under Section 4 of this Lease;
  - d. The Policy shall not exclude coverage for Completed Operations, Hazards or Athletic or Sports Participants; and
  - e. **The City of Culver City, members of its City Council, its boards and commissions, officers, agents, and employees will be named as an additional insured** in an endorsement to the policy, which shall be provided to the City and approved by the City Attorney.
2. Reserved.

3. Reserved.
4. Workers' Compensation limits as required by the Labor Code of the State of California with Employers' Liability limits of One Million Dollars (\$1,000,000.00) per accident, if the Agreement will have Lessee employees working within the City limits.

**B. Waiver by City.**

City may waive one or more of the coverages listed in Section A, above. This waiver must be express and in writing, and will only be made upon a showing by the Consultant that its operations in and with respect to City are not such as to impose liability within the scope of that particular coverage.

**C. Additional Insurance Requirements.**

1. All insurance listed in Paragraph A shall be issued by companies licensed to do business in the State of California, with a claims paying ability rating of "BBB" or better by S&P (and the equivalent by any other Rating Agency) and a rating of A-:VII or better in the current Best's Insurance Reports;
2. Lessee shall provide City with at least thirty (30) days prior written notice of any modification, reduction or cancellation of any of the Policies required in Paragraph A, or a minimum of ten (10) days' notice for cancellation due to non-payment.
3. City may increase the scope or dollar amount of coverage required under any of the policies described above, or may require different or additional coverages, upon prior written notice to Lessee.