

MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF HUNTINGTON BEACH AND THE AMERICAN LEGION HUNTINGTON BEACH POST 133 FOR THE USE OF CITY FACILITIES AND PROVISION OF VETERANS SERVICES

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made and entered into on _____, 20____, by and between the **CITY OF HUNTINGTON BEACH**, a municipal corporation of the State of California (hereinafter referred to as “CITY”), and **THE AMERICAN LEGION HUNTINGTON BEACH POST 133**, a California non-profit corporation (hereinafter referred to as “POST 133”).

WHEREAS, POST 133 is a non-profit that aids in the lives of veterans and transitioning service members in filing claims for the many benefits available to them through the Department of Veterans Affairs (VA) and provides valuable services to veterans within the CITY and its surrounding communities; and

CITY and POST 133 are parties to a Memorandum of Understanding dated November 29, 2022 regarding POST 133’s use of Memorial Hall; and a separate Memorandum of Understanding dated June 4, 2024 regarding POST 133’s use of space at Huntington Central Library (collectively referred to as the “Previous MOUs;” and

CITY and POST 133 desire to terminate the Previous MOUs and adopt a new MOU regarding the responsibilities of each Party related to POST 133’s use of available space for the Veterans Resource Center at Huntington Central Library, located at 7111 Talbert Avenue, Huntington Beach, and POST 133’s use of available space for veteran’s services in the Memorial Hall, 1718 Orange Avenue, Huntington Beach,

NOW, THEREFORE, the parties do hereby agree as follows:

SECTION 1. TERMINATION OF PREVIOUS MOUS

The Previous MOUs are hereby terminated in their entirety, effective upon the adoption of this MOU by the City Council of CITY.

SECTION 2. TERM

This MOU will become effective on the date approved by the City Council and shall terminate on December 31, 2035, except with respect to any obligations hereunder which are to be performed thereafter. Upon mutual written consent of the Parties, this Agreement may be extended for an additional ten (10) year period.

SECTION 3. OBLIGATIONS OF CITY

A. The obligations of CITY related to POST 133’s use of space at the Central Library pursuant to this Agreement shall be as follows:

1. CITY shall provide space, free of charge, for the Veterans Resource Center (VRC) at Huntington Beach Central Library.

2. CITY shall support technology needs for the VRC including access to computer(s), fax, printer, etc., and any other technology provided for VRC needs, as applicable.

3. CITY will provide meeting rooms for VRC programs free of charge.

4. CITY staff shall support POST 133 and VRC volunteers in providing veteran focused programming, to include room facilitation, calendaring, and creation of promotional materials.

5. CITY staff will assist POST 133 by providing in-house printing of brochures, flyers, and other printed promotional material for the VRC, not to exceed a total amount of twenty-four thousand (24,000) four-color ink pages per calendar year. In the event that outsourcing of printing becomes necessary, POST 133 will become responsible for their own printing. Promotional material (such as bags, pens, notebooks, etc.) are at the sole cost and expense of POST 133.

6. CITY shall provide basic office supplies as needed by the VRC. Items beyond those provided are at the sole cost and expense of POST 133.

7. CITY shall promote VRC through the LIBRARY website, calendars, and other CITY resources, with approval of content by the Director of Community and Library Services ("Director") or their designee.

B. The obligations of the CITY related to POST 133's use of space at Memorial Hall pursuant to this Agreement shall be as follows:

1. CITY shall provide, at no cost to POST 133, the use of a dedicated office space in the building known as Memorial Hall, located at 1718 Orange Avenue, in 17th Street Park, to maintain its records and correspondence and conduct official POST 133 business and activities. All furnishings and office supplies for said office space are the responsibility of POST 133, at their sole cost and expense.

2. CITY shall be responsible for all routine operations of Memorial Hall, including, but not limited to, scheduling of rentals and programming, routine facilities maintenance, utilities costs and future capital improvements as needed.

3. CITY shall provide POST 133's designated representative(s) a key-card or other appropriate access method to enter Memorial Hall for use by POST 133. POST 133 shall not enter the building during non-scheduled hours, and may not interrupt private rental events held at Memorial Hall. If POST 133 needs to enter the building during non-scheduled hours, arrangements must be made in advance with CITY in effort to avoid disruption of other scheduled events.

4. CITY shall, with confirmation of availability and at no cost, provide POST 133 with the use of meeting room space within Memorial Hall for holding twenty four (24) monthly membership meetings in which to conduct routine POST 133 business each calendar year.

5. CITY shall, with confirmation of availability and at no cost, provide POST 133 with the use of Memorial Hall for holding POST 133 other meetings and special events, up to twelve (12) times per calendar year.

6. CITY shall, at no cost, provide POST 133 with the use of the Lake Park BBQ and Lake Park Clubhouse for one (1) day during the Labor Day holiday weekend, typically on the Labor Day holiday, plus three (3) additional uses of Lake Park each calendar year.

7. CITY shall provide space and staffing resources when available to assist with additional events, including, but not limited to, Memorial Day, Patriot Day (9/11) and Veteran's Day. CITY may ask POST 133 to participate in other CITY organized or sponsored events, subject to POST 133's availability.

8. CITY shall consider, based on availability, additional event spaces for POST 133 at CITY-owned facilities, subject to standard CITY permit and reservation processes and City Council approved fees.

9. CITY shall erect a historical plaque on the grounds of 1718 Orange Ave, memorializing Memorial Hall, to include recognition of the historic relationship between the CITY and POST 133.

SECTION 4. OBLIGATIONS OF POST 133

A. The obligations of POST 133 related to POST 133's use of space at the Central Library pursuant to this Agreement shall be that POST 133, as a veterans' organization, shall provide civic duties to the CITY, to include but not limited to the following:

1. POST 133 shall provide volunteers and work with Library staff to train volunteers to assist veterans at the VRC.

2. POST 133 shall work with Library staff to ensure volunteers complete applications and forms as required.

3. POST 133 shall work with Library staff to design veteran focused programming.

4. POST 133 shall attend special events to help promote the VRC and assist in promoting VRC events through veteran networks.

5. POST 133 shall assist the HBPL in collecting statistics on volunteers and participants.

6. POST 133 may directly collect contact information from patrons and event participants at VRC events. In keeping with California Law regarding public records and library patron confidentiality (CA Government Code 7297.105(c)), patron information including event registration names and email addresses will not be shared with non-Library staff.

B. The obligations of POST 133 related to POST 133's use of space at Memorial Hall pursuant to this Agreement shall be as follows:

1. POST 133 shall maintain and replace the American flag and POW flag as needed.

2. POST 133 shall maintain the appearance and cleanliness of the office space provided by CITY. POST 133 shall not use the office area for storage beyond items that can be maintained efficiently within the office space. Storage of event items and use of electrical cords, shall be maintained in a manner to comply with the CITY's fire code regulations, and may not cause overcrowding of the space or overload of the electrical system. The office space is subject to Fire inspection. CITY reserves the right to request stored items to be removed. CITY will make every effort to notify POST 133 before entering the POST 133 office area, but CITY retains the right to enter the area at any time for inspections or to conduct maintenance. POST 133 may not add any additional locks to the office doors or change the existing locks.

3. POST 133 shall conduct post-meeting/post-event clean-up and ensure the facility is returned to normal conditions after meetings and events, removing all items except tables and chairs from the meeting space. All POST 133 property must be contained within the office space after use and may not utilize common spaces outside of the provided office space.

4. POST 133 shall obtain Director or their designee's approval prior to scheduling events outside of normal membership meetings.

5. POST 133 shall organize and coordinate standard annual patriotic and veteran oriented events, unless otherwise requested by CITY. These events include, but may not be limited to Memorial Day, Patriot Day (9/11), and Veterans Day events. CITY may request veteran and/or military related services at other events, subject to POST 133 availability.

SECTION 5. ACCESS TO CITY MARKS AND LOGOS

POST 133 may use the official Huntington Beach City logo that is approved and in-line with current CITY's branding policies at the time of use. Prior to use, POST 133 shall consult with Library staff to determine proper logo usage. POST 133 may use the CITY's "Surf City Huntington Beach" trademark with the prior written approval of Director or their designee. The surfboard logo is not the property of CITY and should not be used. POST 133 shall use no City logo or mark for commercial purposes.

SECTION 6. HOLD HARMLESS

POST 133 and CITY shall protect, defend, indemnify and hold harmless each other, their officers, officials, employees, and agents from and against any and all liability, loss, damage, expenses, costs (including without limitation, costs and fees of litigation of every nature) arising out of or in connection with performance of this MOU or its failure to comply with any of their obligations contained in this MOU except such loss or damage which was caused by the sole negligence or willful misconduct of the other.

SECTION 7. WORKERS' COMPENSATION INSURANCE

Pursuant to California Labor Code Section 1861, POST 133 acknowledges awareness of Section 3700 et seq. of said Code, which requires every employer to be insured against liability for workers' compensation; POST 133 covenants that it will comply with such provisions prior to commencing performance of the work hereunder.

In the event POST 133 directly hires employees, POST 133 shall maintain workers' compensation insurance in an amount of not less than One Hundred Thousand Dollars (\$100,000) bodily injury by accident, each occurrence, One Hundred Thousand Dollars (\$100,000) bodily injury by disease, each employee, Two Hundred Fifty Thousand Dollars (\$250,000) bodily injury by disease, policy limit.

SECTION 8. GENERAL LIABILITY INSURANCE

In addition to the workers' compensation insurance (if needed) and POST 133's covenant to indemnify CITY, POST 133 shall obtain and furnish to CITY, a policy of general public liability insurance, including motor vehicle coverage. Said policy shall indemnify POST 133, its officers, agents and employees, while acting within the scope of their duties, against any and all claims arising out of or in connection with this MOU, and shall provide coverage in not less than the following amount: combined single limit bodily injury and property damage, including products/completed operations liability and blanket contractual liability, of \$1,000,000 per occurrence. If coverage is provided under a form which includes a designated general aggregate limit, the aggregate limit must be no less than \$1,000,000. Said policy shall name CITY, its agents, its officers, employees and volunteers as Additional Insureds, and shall specifically provide that any other insurance coverage which may be applicable shall be deemed excess coverage and that POST 133's insurance shall be primary.

Under no circumstances shall the above-mentioned insurance contain a self-insured retention, or a "deductible," or any other similar form of limitation on the required coverage.

SECTION 9. CERTIFICATES OF INSURANCE; ADDITIONAL INSURED ENDORSEMENTS

Prior to commencement of this MOU, POST 133 shall furnish to CITY certificates of insurance subject to approval of the City Attorney evidencing the foregoing insurance coverage as required by this MOU; these certificates shall:

- (a) provide the name and policy number of each carrier and policy; and
- (b) state that the policy is currently in force; and
- (c) promise to provide that such policies shall not be canceled or modified without thirty (30) days' prior written notice of CITY; however, ten (10) days' prior written notice in the event of cancellation for nonpayment of premium.

POST 133 shall maintain the foregoing insurance coverage in force during the entire term of the MOU or any renewals or extensions thereof or during any holdover period.

The requirement for carrying the foregoing insurance coverage shall not derogate from POST 133's defense, hold harmless and indemnification obligations as set forth in this MOU. CITY or its representatives shall at all times have the right to demand the original or a copy of any or all the policies of insurance. POST 133 shall pay, in a prompt and timely manner, the premiums on all insurance hereinabove required.

SECTION 10. ASSIGNING AS BREACH

Neither party shall encumber, assign, or otherwise transfer this MOU, or any right or interest in this MOU, without the express written consent of the other party. A consent by party to one assignment or transfer to another person shall not be deemed to be a consent to any subsequent assignment or transfer to another person. Any encumbrance, assignment or transfer, without the prior written consent of the other party, whether it is voluntary or involuntary, by operation of law or otherwise, is void and shall, at the option of the other party, terminate this MOU.

SECTION 11. CONFLICT OF INTEREST

POST 133 shall employ no CITY official or any regular CITY employee in the work performed pursuant to this MOU. No officer or employee of CITY shall have any financial interest in this MOU in violation of the applicable provisions of the California Government Code.

SECTION 12. PHOTOGRAPHY

CITY may grant permits to persons engaged in the production of still and motion pictures, television programs, advertising and related activities, to take photographs and/or motion pictures of POST 133 activities. However, consistent with good safety practices, CITY will endeavor to give 24-hour advance notification of such activities to POST 133. In addition, if CITY receives compensation from such persons for such production, CITY will grant 50% of such compensation to POST 133 for support of POST 133's activities as set forth under this MOU.

SECTION 13. NONDISCLOSURES/PRESS RELEASES

POST 133 shall consult with CITY prior to issuing any press releases or otherwise making any public statements with respect to this MOU, the transactions contemplated herein, or matters arising here from.

SECTION 14. WAIVER OF BREACH

The waiver by either party of any breach by the other party of any of the provisions of this MOU, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such breach or a waiver of any subsequent breach by the other party, either of the same or another provision of this MOU.

SECTION 15. NOTICE

Any written notice, given under the terms of this MOU, shall be either delivered personally or mailed, certified mail, postage prepaid, addressed to the party concerned, as follows:

Director, Community & Library Services
CITY OF HUNTINGTON BEACH
2000 Main Street
Huntington Beach, CA 92648

AMERICAN LEGION, POST 133
PO Box 133
Huntington Beach, CA 92648

If a party desires to change the address for notices set forth herein, said party shall provide 30 days advance written notice to the other party of any such change.

SECTION 16. ATTORNEY'S FEES

In the event suit is brought by either party to enforce the terms and provisions of this MOU or to secure the performance hereof, each party shall bear its own attorney's fees. The prevailing party shall not be entitled to recover its attorney's fees from the non-prevailing party.

SECTION 17. SECTION TITLES

The section titles in this MOU are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of intent of this MOU or in any way affect this MOU.

SECTION 18. MODIFICATIONS IN WRITING

This MOU contains and embraces the entire agreement between the parties hereto and neither it nor any part of it may be changed, altered, modified, limited or extended orally or by any other agreement between the parties unless such agreement be expressed in writing, signed and acknowledged by CITY and POST 133, or their successors in interest.

SECTION 19. PARTIAL INVALIDITY

Should any provision of this MOU be held by court of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of this MOU shall remain in full force and their effect unimpaired by the holding, so long as the reasonable expectations of the parties hereto are not materially impaired.

SECTION 20. MOU IN COUNTERPARTS

This MOU may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same document.

SECTION 21. ENTIRETY

The foregoing sets forth the entire agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be executed by and through their authorized officers the day, month and year first above written.

AMERICAN LEGION POST 133

By: Jim Rossman

Jim Rossman
print name

ITS: (circle one) Chairman/President/Vice President

AND

By: Dennis Bauer

Dennis Bauer
print name

ITS: (circle one) Secretary/Chief Financial
Officer/Asst. Secretary - Treasurer

CITY OF HUNTINGTON BEACH, a
municipal corporation of the State of
California

Mayor

City Clerk

INITIATED AND APPROVED:

Director of Community & Library Services

REVIEWED AND APPROVED:

City Manager

APPROVED AS TO FORM:

City Attorney

SECTION 19. PARTIAL INVALIDITY

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AMERICAN LEGION POST 133

By: _____

print name

ITS: (circle one) Chairman/President/Vice President

AND

By: _____

print name

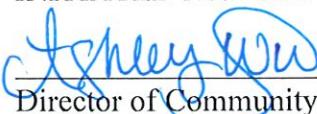
ITS: (circle one) Secretary/Chief Financial Officer/Asst. Secretary - Treasurer

CITY OF HUNTINGTON BEACH, a municipal corporation of the State of California

Mayor

City Clerk

INITIATED AND APPROVED:



Director of Community & Library Services

REVIEWED AND APPROVED:

City Manager

APPROVED AS TO FORM:

City Attorney

