

MEMORANDUM OF UNDERSTANDING BETWEEN  
THE CITY OF HUNTINGTON BEACH AND  
FRIENDS OF THE SHIPLEY NATURE CENTER

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made and entered into on \_\_\_\_\_, 2023, by and between the CITY OF HUNTINGTON BEACH, a municipal corporation of the State of California (hereinafter referred to as “City”), and FRIENDS OF SHIPLEY NATURE CENTER, a California 501(c)(3) corporation (hereinafter referred to as “FSNC”).

WHEREAS, City currently operates the Central Park area in Huntington Beach, which includes an area dedicated exclusively by the Huntington Central Park Master Plan, attached hereto as Exhibit “A”, for use as the Shipley Nature Center (hereinafter referred to as "Shipley"); and

WHEREAS, City wishes to provide its citizens with a quality recreational area; and

WHEREAS, FSNC wishes to enter into an agreement with City for operation of the building and programs and services within the Shipley Nature Center by FSNC, and

WHEREAS, the Friends of Shipley Nature Center is a non-profit organization formed to manage the nature center as an ecological sanctuary for California native plants and wildlife and to provide environmental education in an urban setting in partnership with the City of Huntington Beach and the local community, and with the wider world.

WHEREAS, on September 4, 2007 City Council approved an annual allocation of \$40,000 for repairs and maintenance to Shipley Nature Center.

NOW, THEREFORE, for and in consideration of the promises and covenants hereinafter contained and intending to be legally bound, the parties covenant and agree as follows:

SECTION 1. TERM

This MOU will become effective on the date it is approved by the City Council of the City and shall terminate five (5) years thereafter, 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 five (5) year term.

## SECTION 2. OBLIGATIONS OF CITY

The obligations of City pursuant to this Agreement shall be as follows:

- The City liaison for maintenance related activity will be the Director of Public Works or their designee
- The City liaison for program related activity will be the Director of Community & Library Services or their designee.
- The City liaisons will be available periodically to interface with FSNC relative to providing information and access to Shipley. City will assign, a non-voting staff liaison to the FSNC Board of Directors.
- FSNC shall provide the City a detailed invoice quarterly for City annual allocation of funds.
- City will conduct an annual walk-through with FSNC to determine a work plan for all maintenance and capital needs.
- City will provide tree trimming, irrigation, lake, and building maintenance.
- City will provide yearly backflow testing and backflow maintenance.
- City will provide Capital Improvements, which will include but not be limited to painting, re-roofing, plumbing, replacement of roll-up doors, electrical upgrades and tree removal.
- City staff will, whenever possible within staff availability, assist FSNC with grant applications to seek joint funds for Shipley capital improvements as well as operational funding.

- City will provide access to the facility for authorized FSNC activities. The access will be provided by a City employee, or keys assigned to specific individuals within FSNC who will be responsible for opening/closing of the facility. Authorized activities will include watering trees, maintenance, fundraisers, tours, educational activities and monitoring, etc. The purpose of this section is to ensure that access to FSNC is for official, authorized events or activities relating to the maintenance, programming, or fundraising goals of the organization.
- City will assist FSNC by providing in-house printing of brochures, flyers, and other promotional material, not to exceed a total amount of twenty-four thousand (24,000), four-color ink pages per calendar year. In the event that out-sourcing of printing becomes necessary, FSNC will become responsible for their own printing.
- City will allow FSNC to post flyers and other material at community facilities, such as recreation centers.
- City will provide a liability waiver form that will list FSNC and City and will be completed by all volunteers entering Shipley. FSNC is required to collect completed liability waiver forms and provide to the City, upon request.
- City will maintain signage at Shipley indicating that the City and FSNC have entered into a public/private partnership to renovate and operate Shipley. Specific language and sign location(s) will be approved by both parties. The signage will include the FSNC contact number.
- City will maintain and repair the chain link perimeter fence at Shipley.
- City will assist FSNC by providing facilities for meetings and events, dependent upon availability, at Community & Library Services public facilities, such as recreation centers and parks, at no cost to FSNC, for up to 24 occurrences per year.

- City will support Shipley and FSNC as defined within this Agreement with the understanding that City may have fiscal constraints.
- City will waive City permit fees wherever feasible. City agrees to have staff support FSNC with acquisition of permits from external agencies. All costs associated with permit fees, studies, etc. needed for obtaining external permits are the responsibility of FSNC.

### SECTION 3. OBLIGATIONS OF FSNC

FSNC shall provide City with the following to support their overall involvement with Shipley:

- Maintain and post hours of operation. Changes to hours of operation shall be upon mutual agreement of City and FSNC.
- FSNC will maintain all earth pathways and other areas located within Shipley that are built or designed to support programming. Pathway and trail deficiencies shall be filled with dirt or decomposed granite as needed. Additionally, FSNC will maintain interior signage, and displays; park furnishings; and trash enclosure within Shipley.
- FSNC will provide a point of contact for City as designated by the FSNC Board of Directors.
- FSNC will provide a schedule of all activities for review by City. FSNC shall provide a volunteer with the necessary certifications to apply herbicide. If this volunteer is not available, the City and FSNC may endeavor to work together to seek a solution to maintain the application schedule or seek an alternative solution to eradicate the new growth of non-native plant material.

- FSNC may only use fertilizer, pesticide, fungicide, herbicide, etc. that comply with all current standards, in accordance with Federal, State, County, and City regulations. FSNC shall comply with all land use regulations and codes.
- FSNC will hand water trees in containers until they are properly planted and established.
- FSNC may plant trees within Shipley with City's prior written approval, as long as the planting is in accordance with the current City Council approved master plan. Ownership of all plants, trees and other landscape materials donated by FSNC shall pass to City upon installation at Shipley.
- FSNC may schedule and lead docent tours and conduct other appropriate events for volunteer groups such as clean-up days and fundraisers. Fundraisers and events located within the Shipley footprint, where over 100 attendees, tenting services, or vendor/exhibitor booths are anticipated, may require a special permit at no cost to FSNC. FSNC will confirm with Community & Library Services staff if a permit is required for such events.
- FSNC will maintain and show proof to City, through the State of California, of its 501(c)(3) non-profit status.
- FSNC, with the review and approval of the City, may sell items on the site to support the FSNC such as California native plants, t-shirts, etc.
- FSNC may distribute membership and event flyers from Shipley.
- FSNC may have a separate telephone line or internet service into Shipley. It will be the sole responsibility of FSNC to pay for the monthly service cost of those services.
- FSNC may utilize a section of the wall of the Interpretive Center (specific areas to be mutually agreed upon by FSNC and the City) within Shipley for displays for FSNC.
- FSNC has discretionary authority for educational displays in the Interpretive Center.

- FSNC shall have a non-exclusive right to use the building and contents thereof for such activities as reasonable, necessary and consistent with the purpose of this Agreement. FSNC may install fixtures or construct permanent structural modifications to the building with City's prior written approval. Ownership of any such fixtures or modifications shall pass to City upon installation or completion thereof.
- FSNC will obtain any and all required permits necessitated by improvements or modifications made within Shipley, including the interpretive building. FSNC shall ensure that all permit inspections and final sign-offs will be obtained.
- FSNC shall notify City of necessary repairs of buildings, electrical, plumbing, paint, toilets, etc., that constitute general operations of a facility.
- FSNC shall be responsible for weekly janitorial services and procurement of supplies.
- FSNC shall be responsible for obtaining all vendor liability waiver forms and submitting to City, upon request.
- Should this agreement terminate for any reason, FSNC will remove all property that has not been deemed City property from the facility and grounds within 30 days.

#### SECTION 4. ACCESS TO CITY MARKS AND LOGOS

FSNC shall have the right to use the official Huntington Beach City logo with the prior written approval of City.

#### SECTION 5. HOLD HARMLESS

FSNC shall protect, defend, indemnify and hold harmless City, its 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 its obligations

contained in this MOU except such loss or damage which was caused by the sole negligence or willful misconduct of City.

#### SECTION 6. WORKERS' COMPENSATION INSURANCE

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

FSNC 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.

FSNC shall require all subcontractors to provide such workers' compensation insurance for all of the subcontractors' employees. FSNC shall furnish to City a certificate of waiver of subrogation under the terms of the workers' compensation insurance and FSNC shall similarly require all subcontractors to waive subrogation.

#### SECTION 7. GENERAL LIABILITY INSURANCE

In addition to the workers' compensation insurance and FSNC's covenant to indemnify City, FSNC shall obtain and furnish to City, a policy of general public liability insurance, including motor vehicle coverage. Said policy shall indemnify FSNC, 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 Agreement, 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 FSNC'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.

FSNC shall maintain continuous coverage of insurance as set forth in Sections 6 and 7 of this Agreement. FSNC shall upon annual insurance renewal, provide City with copies of current required certificates of liability.

#### SECTION 8. 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 a 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 be voluntary or involuntary, by operation of law or otherwise, is void and shall, at the option of the other party, terminate this MOU.

#### SECTION 9. TERMS BINDING ON SUCCESSORS

All the terms, covenants and conditions of this MOU shall inure to the benefit of and be binding upon the parties and their successors and assigns. The provisions of this Section shall not be deemed as a waiver of any of the conditions against assignment hereinbefore set forth.

#### SECTION 10. CONFLICT OF INTEREST

FSNC shall employ no City official nor 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 11. 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 Shipley activities. However, consistent with good safety practices, City will endeavor to give 24-hour advance notification of such activities to FSNC. In addition, if City receives compensation from such persons for such production within Shipley, City will grant 50% of such compensation to FSNC for support of FSNC's Shipley-related activities.

#### SECTION 12. NONDISCLOSURES/PRESS RELEASES

FSNC 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 herefrom.

#### SECTION 13. CUMULATIVE REMEDIES

The remedies given to the parties in this MOU shall not be exclusive but shall be cumulative and in addition to all remedies now or hereafter allowed by law or elsewhere provided in this MOU.

#### SECTION 14. WAIVER OF BREACH

The waiver by City of any breach by FSNC 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 FSNC either of the same or another provision of this MOU.

#### SECTION 15. FORCE MAJEURE - UNAVOIDABLE DELAYS

Should the performance of any act required by this MOU to be performed by either City or FSNC be prevented or delayed by reason of an act of God, strike, lockout, labor troubles, inability to secure materials, restrictive governmental laws or regulations, or any other cause (except financial inability) not the fault of the party required to perform the act, the time for performance of

the act will be extended for a period equivalent to the period of delay and performance of the act during the period of delay will be excused.

#### SECTION 16. 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:

City	FSNC
Director of Public Works City of Huntington Beach 2000 Main Street, P.O. Box 190 Huntington Beach, CA 92648 Phone: (714) 536-5495	Friends of Shipley Nature Center Attn: President P.O. Box 1052 Huntington Beach, CA 92647 Phone (714) 842-4772

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

#### SECTION 17. 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 18. CONTROLLING LAW AND VENUE

The rights and liabilities of the parties, and the interpretation and construction of this MOU, shall be determined in accordance with the laws of the State of California. Any controversy arising out of or under this MOU, if litigated, shall be adjudicated in a court of competent jurisdiction in Orange County, California.

#### SECTION 19. 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 20. TIME OF ESSENCE

Time is of the essence with respect to all provisions of this MOU in which a definite time for performance is specified including, but not limited to, the expiration of this MOU.

#### SECTION 21. SURVIVAL OF INDEMNITIES

Termination of this MOU shall not affect the right of City to enforce any and all indemnities given or made by FSNC under this MOU, nor shall it affect any provision of this MOU that expressly states that the provision shall survive termination thereof.

#### SECTION 22. NONLIABILITY OF CITY OFFICIAL, EMPLOYEES OR AGENTS

No elective or appointed City or City affiliated board, commission or member thereof, or officer, official, employee or agent of City shall be personally liable to FSNC, its successors and assigns, of any default or breach by City under this MOU or for any amount which may become due to FSNC, its successors and assigns, under this MOU or for any obligation of City under this MOU.

#### SECTION 23. TERMINATION

This MOU may be terminated by either party with or without cause upon sixty (60) days notice in writing.

#### SECTION 24. MOU 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 FSNC, or their successors in interest.

#### SECTION 25. PARTIAL INVALIDITY

Should any provision of this MOU be held by a court of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of this MOU shall remain in full force and

effect unimpaired by the holding, so long as the reasonable expectations of the parties hereto are not materially impaired.

SECTION 26. 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 27. NO TITLE INTEREST

No title interest of any kind is hereby given and FSNC shall never assert any claim or title to Shipley, Central Park or any other public property. Use of Shipley by FSNC is non-exclusive, and Shipley shall at all times during its operating hours remain open for use by the public.

SECTION 28. 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.

CONSULTANT,

FRIENDS OF THE SHIPLEY NATURE  
CENTER

By: Kathryn E. Goddard  
KATHRYN E. GODDARD  
print name

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

AND

By: Denise Ruocco  
Denise Ruocco  
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:

[Signature]  
Director of Public Works

REVIEWED AND APPROVED:

\_\_\_\_\_  
City Manager

APPROVED AS TO FORM:

[Signature] cu  
City Attorney

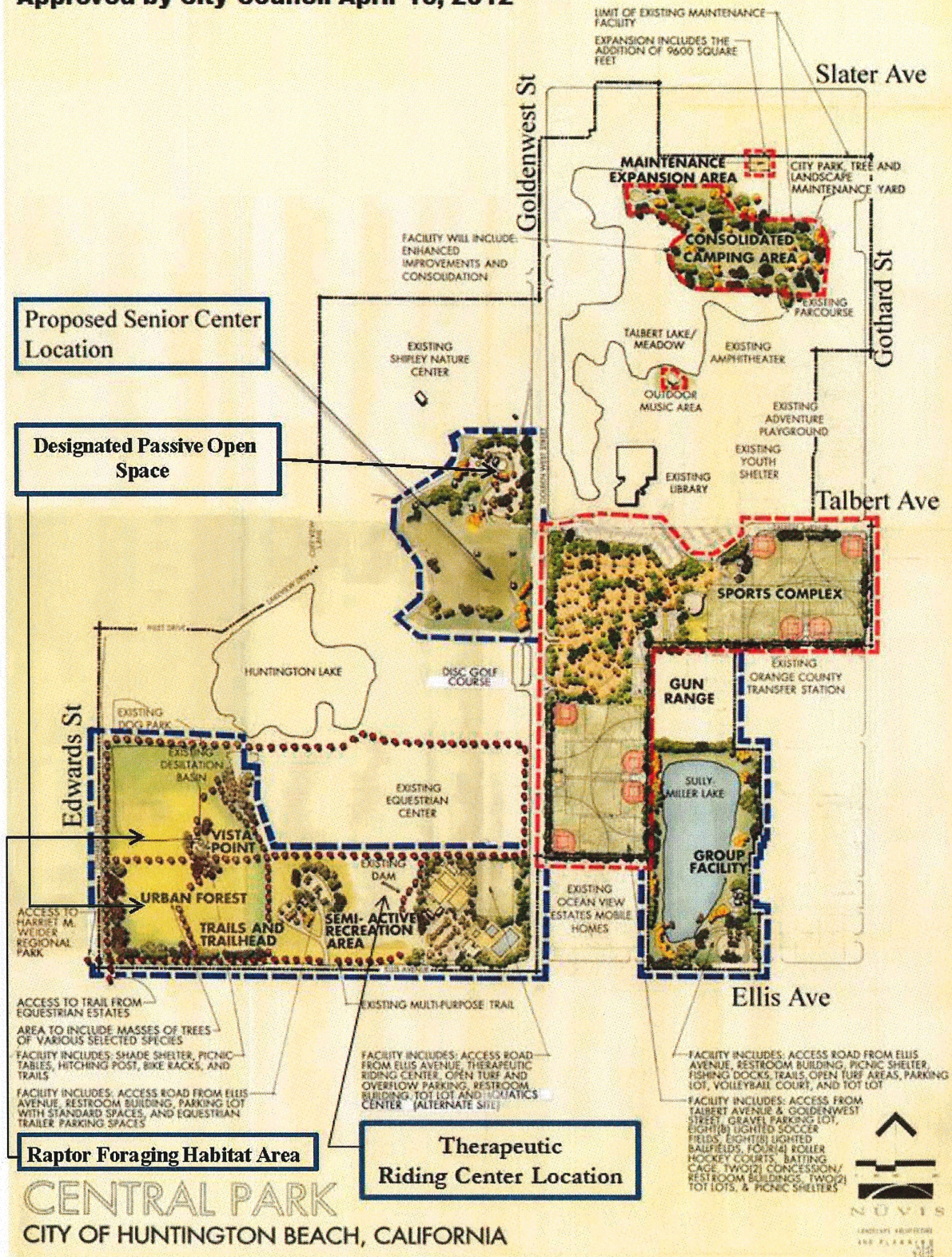
HUNTINGTON CENTRAL PARK MASTER PLAN

# EXHIBIT A



# CENTRAL PARK MASTER PLAN OF USES

Approved by City Council April 16, 2012







# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
01/06/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Bannister & Associates Insurance Agency CA License #0691071 305 17th Street Huntington Beach CA 92648	<b>CONTACT NAME:</b> Kerry Wakely	
	<b>PHONE (A/C, No, Ext):</b> (714) 536-6086	<b>FAX (A/C, No):</b> (714) 536-4054
	<b>E-MAIL ADDRESS:</b> kerry@bai-ins.com	
	<b>INSURER(S) AFFORDING COVERAGE</b>	<b>NAIC #</b>
	INSURER A: Nonprofits Ins Alliance of CA	
	INSURER B: State Comp Insurance Fund of CA	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

<b>COVERAGES</b>	<b>KW</b>	<b>CERTIFICATE NUMBER:</b> Cert ID 12279	<b>REVISION NUMBER:</b>
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.			

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Liquor Liability GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		2023-13278	02/04/2023	02/04/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 20,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			2023-13278	02/04/2023	02/04/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	9154159-23	03/03/2023	03/03/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Directors & Officers Liab Employment Practices Liab			2023-13278-DO-NPO	02/04/2023	02/04/2024	Limit (each wrongful act): \$ 1,000,000 Limit (aggregate): \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The City of Huntington Beach, its officers, elected or appointed officials, employees, agents and volunteers are named as additional insureds with respects general liability policy limits. RE: All insured California operations

APPROVED AS TO FORM

By:   
MICHAEL E. GATES  
CITY ATTORNEY  
CITY OF HUNTINGTON BEACH

<b>CERTIFICATE HOLDER</b> City of Huntington Beach 2000 Main Street Huntington Beach CA 92648	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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POLICY NUMBER: 2023-13278  
Named Insured: Friends of Shipley Nature Center

COMMERCIAL GENERAL LIABILITY  
CG 20 37 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

### **SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s)</b>	<b>Location And Description Of Completed Operations</b>
The City of Huntington Beach, its officers, elected or appointed officials, employees, agents and volunteers	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

- A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".
- However:
1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
  2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

- B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s)</b>	<b>Location(s) Of Covered Operations</b>
The City of Huntington Beach, its officers, elected or appointed officials, employees, agents and volunteers	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and

**2.** If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED  
PRIMARY AND NON-CONTRIBUTORY  
ENDORSEMENT FOR PUBLIC ENTITIES**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

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**SCHEDULE**

**Name of Person or Organization:**

**A. Section II – WHO IS AN INSURED** is amended to include:

4. Any public entity as an additional insured, and the officers, officials, employees, agents and/or volunteers of that public entity, as applicable, who may be named in the Schedule above, when you have agreed in a written contract or written agreement presently in effect or becoming effective during the term of this policy, that such public entity and/or its officers, officials, employees, agents and/or volunteers be added as an additional insured(s) on your policy, but only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by:

- a. Your negligent acts or omissions; or
- b. The negligent acts or omissions of those acting on your behalf;

in the performance of your ongoing operations.

No such public entity or individual is an additional insured for liability arising out of the sole negligence by that public entity or its designated individuals. The additional insured status will not be afforded with respect to liability arising out of or related to your activities as a real estate manager for that person or organization.

**B. Section III – LIMITS OF INSURANCE** is amended to include:

8. The limits of insurance applicable to the public entity and applicable individuals identified as an additional insured(s) pursuant to Provision A.4. above, are those specified in the written contract between you and that public entity, or the limits available under this policy, whichever are less. These limits are part of and not in addition to the limits of insurance under this policy.

**C. With respect to the insurance provided to the additional insured(s), Condition 4. Other Insurance of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS** is replaced by the following:

**4. Other Insurance**

**a. Primary Insurance**

This insurance is primary if you have agreed in a written contract or written agreement:

- (1) That this insurance be primary. If other insurance is also primary, we will share with all that other insurance as described in c. below; or

- (2) The coverage afforded by this insurance is primary and non-contributory with the additional insured(s)' own insurance.

Paragraphs (1) and (2) do not apply to other insurance to which the additional insured(s) has been added as an additional insured or to other insurance described in paragraph **b.** below.

**b. Excess Insurance**

This insurance is excess over:

1. Any of the other insurance, whether primary, excess, contingent or on any other basis:
  - (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
  - (b) That is fire, lightning, or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;
  - (c) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises temporarily occupied by you with permission of the owner; or
  - (d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of **SECTION I – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE.**
  - (e) Any other insurance available to an additional insured(s) under this Endorsement covering liability for damages which are subject to this endorsement and for which the additional insured(s) has been added as an additional insured by that other insurance.
- (1) When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the additional insured(s) against any "suit" if any other insurer has a duty to defend the additional insured(s) against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the additional insured(s)' rights against all those other insurers.
- (2) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:
  - (a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
  - (b) The total of all deductible and self-insured amounts under all that other insurance.
- (3) We will share the remaining loss, if any, with any other insurance that is not described in this **Excess Insurance** provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

**c. Methods of Sharing**

If all of the other insurance available to the additional insured(s) permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any other the other insurance available to the additional insured(s) does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.