

**MEMORANDUM OF UNDERSTANDING BETWEEN  
THE CITY OF HUNTINGTON BEACH AND THE HUNTINGTON BEACH  
CENTRAL PARK CONSERVANCY, INC.**

This Memorandum of Understanding ("MOU"), dated this \_\_\_\_\_ day of April, 2022, is between the City of Huntington Beach ("City") and the Huntington Beach Central Park Conservancy, Inc. ("HBCPC") (collectively, "the Parties").

WHEREAS, HBCPC is a charitable non-profit organization dedicated to enhancing and preserving Huntington Beach Central Park (the "Park") as a vital urban green space and as a cultural and recreational resource that enhances the quality of life for residents and guests of the City; and

WHEREAS, in part, HBCPC wishes to provide a donation to support a Huntington Beach Central Park, Park Ranger Program; and

WHEREAS, part of HBCPC's mission is to improve the quality of open space in the City of Huntington Beach for the enjoyment of its residents and guests and to be a "Welcome Mat Promoting Outdoor Recreation;" and

WHEREAS, the City and HBCPC have created a cooperative and collaborative relationship to help preserve, restore, develop, enhance, rehabilitate, operate and maintain Huntington Central Park; and

WHEREAS, the City and HBCPC wish to enter into this MOU to more formally recount the partnership and obligations of the parties with regard to Huntington Beach Central Park; and

NOW, THEREFORE, for and in consideration of the promises and covenants hereinafter contained, the parties agree as follows:

**SECTION 1. TERM**

This MOU will become effective on the date it is approved by City Council and shall terminate five (5) years thereafter, unless terminated as provided herein, and except with respect to any obligations hereunder which are to be performed thereafter. Upon mutual written consent of the parties, this MOU Agreement may be extended for additional five (5) year terms. This MOU may be terminated by either party with or without cause upon sixty (60) day written notice.

**SECTION 2. OBLIGATIONS OF CITY**

1. The City has complete authority to make all decisions regarding the Park operations, or Park Projects including but not limited to maintenance, repair, programing, infrastructure, landscaping, amenities, utilities, and equipment, including signage. The City's authority over the Park extends to projects funded by HBCPC. At its sole discretion, the City will work with HBCPC with regard to Park operations or projects funded by HBCPC.

2. Maintain a separate account to receive donations made by HBCPC for use to support the Park programs such as Park Rangers.
3. Provide a non-voting staff liaison to the HBCPC, to be present at regularly scheduled, agendaized HBCPC meetings.
4. At the City's sole discretion, provide staff assistance and logistical support, for HBCPC fundraising programs.
5. The City will provide meeting rooms and park space (as available) for HBCPC use without charge, for HBCPC purposes only, and subject to the City's calendar of activities and approval.

### **SECTION 3. OBLIGATIONS OF HBCPC**

1. Maintain status as a 501(c) 3 Charitable Organization and accept public and private donations and grants intended for the Park.
2. HBCPC may conduct certain fundraising activities or campaigns, capital or otherwise to raise money to support the Park. Upon mutual agreement of both parties, donations to HBCPC will be given/donated to the City and placed in a separate account for use to support the Park programs, such as the park ranger program, and capital improvement projects.
3. Manage and oversee all monies raised and funds received through the HBCPC's 501(c)3 charitable organization status, including but not limited to, sales, proceeds, donations, grants, auxiliary memberships and/or gifts.
4. Provide volunteer support and community outreach for the Park.
5. Cultivate partnerships and collaboration with the community in support of the Park, through other likeminded groups or organizations.
6. HBCPC may operate donor and sponsor recognition programs in the Park in an effort to encourage donors and sponsors for the Park's continued care, maintenance, operation and programming. Such efforts include donor recognition in connection with capital improvements. The method of donor recognition and recognition levels are upon mutual agreement of City and HBCPC.

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

HBCPC shall have the right to use the official Huntington Beach City logo, surfboard logo, and CITY's "Surf City Huntington Beach" trademark with the prior written approval of CITY'S Director of Community and Library Services. The surfboard logo is not the property of CITY. HBCPC will use neither logo for commercial purposes.

### **SECTION 5. HOLD HARMLESS**

HBCPC 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 6. 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 7. CONFLICT OF INTEREST**

HBCPC 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 8. 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 HBCPC activities. However, consistent with good safety practices, CITY will endeavor to give 24-hour advance notification of such activities to HBCPC. In addition, if CITY receives compensation from such persons for such production, CITY will grant 50% of such compensation to HBCPC for support of HBCPC's activities as set forth under this MOU.

#### **SECTION 9. NONDISCLOSURES/PRESS RELEASES**

HBCPC 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 10. WAIVER OF BREACH**

The waiver by either HBCPC or CITY of any breach by HBCPC or City 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 14. 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	Huntington Beach Central Park Conservancy, Inc.
Director of Community and Library Services	Attn: HBCPC President
City of Huntington Beach	708 Main Street
2000 Main Street, P.O. Box 190	Huntington Beach, CA 92648
Huntington Beach, CA 92648	
Phone: (714)536-5291	

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 11. 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 12. 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 13. 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 HBCPC, or their successors in interest.

#### **SECTION 14. 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 15. 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 16. 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.

CENTRAL PARK CONSERVANCY,  
INC.

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

By: Cathy Green  
Cathy Green  
Print Name

Secretary  
Title

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

City Attorney *My*

INITIATED AND APPROVED:

Director of Community & Library  
Services

REVIEWED AND APPROVED:

City Manager

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CENTRAL PARK CONSERVANCY,  
INC.

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

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

ATTEST:


\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

INITIATED AND APPROVED:

  
\_\_\_\_\_  
Director of Community & Library  
Services

REVIEWED AND APPROVED:

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