

**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 \_\_\_\_\_, 2022, 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 of Huntington Beach and its surrounding communities.

WHEREAS, the Mayor and City Council wish to provide a location and resources, named in this MOU, authorizing use of a meeting space for veterans within the City of Huntington Beach, which will be organized by POST 133, and;

WHEREAS, CITY wishes to reestablish a longstanding partnership with POST 133 that began in 1923. At that time, CITY provided dedicated space for POST 133 at the previous Memorial Hall, until the time of its demolition in 1974. CITY has continued over the years to provide POST 133 with meeting space at various locations, and;

WHEREAS, the purpose of this MOU is to address responsibilities of each of the parties related to the use of available space in the Memorial Hall, 1718 Orange Avenue, located at 17<sup>th</sup> Street Park and coordination of patriotic events and programs to serve the Huntington Beach community.

NOW, THEREFORE, the City Council of Huntington Beach hereby agrees to enter into a MOU with POST 133 and finds that such MOU is in the interest of serving a valuable public purpose for the general public and our community.

## **SECTION 1.     TERM**

This MOU will become effective on the date it is approved by City Council and shall terminate five-years (5) thereafter on December 31, 2027, except with respect to any obligations hereunder which are to be performed thereafter. Upon mutual written consent of the Parties, this MOU may be extended for one (1) additional five-year (5) term.

## **SECTION 2.     OBLIGATIONS OF CITY**

The obligations of the CITY pursuant to this MOU shall be as follows:

### Memorial Hall

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 17<sup>th</sup> 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 monthly membership meetings in which to conduct routine POST 133 business.

5. 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.
6. CITY shall consider, based on availability, additional event spaces for POST 133 at CITY-owned facilities, subject to standard CITY permit and reservation processes.
7. CITY shall erect a historical plaque on the grounds of 1718 Orange Avenue, memorializing Memorial Hall, to include recognition of the historic relationship between the CITY and POST 133.

### **SECTION 3.     OBLIGATIONS OF POST 133**

The obligations of POST 133 pursuant to this MOU shall be as follows:

#### **Memorial Hall**

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.

#### Other CITY Activities

1. 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 4.     ACCESS TO CITY MARKS AND LOGOS**

POST 133 shall have the right to use the official Huntington Beach City logo and CITY's "Surf City Huntington Beach" trademark with the prior written approval of CITY'S Director of Community and Library Services or their designee. POST 133 will use neither logo for commercial purposes.

#### **SECTION 5.     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 6.     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 7.     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 8.     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;
- (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 9. 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 10. 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 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 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 12. 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 13. WAIVER OF BREACH**

The waiver by either POST 133 or CITY of any breach by POST 133 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:

Director of Community and 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 15.    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 16.    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 17.    MODIFICATIONS IN WRITING**

This MOU contains and embraces the entire MOU 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 MOU between the parties unless such MOU be expressed in writing, signed and acknowledged by CITY and POST 133, or their successors in interest.

#### **SECTION 18.    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 19. 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 20. ENTIRETY**

The foregoing sets forth the entire MOU 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:



ROSS DOHRMANN

Print Name

Commander Post 133

Title

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

\_\_\_\_\_  
Mayor


APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney *ulu*

ATTEST:

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

INITIATED AND APPROVED:



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

REVIEWED AND APPROVED:

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