



AGENDA REPORT

Meeting Date: December 20, 2016
Item Number: D-14
To: Honorable Mayor & City Council
From: Chad Lynn, Assistant Director of Public Works
Subject: APPROVAL OF LEASE AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND THE CITY OF WEST HOLLYWOOD FOR CITY-OWNED PROPERTY AT 621 NORTH ROBERTSON BOULEVARD LOCATED IN THE CITY OF WEST HOLLYWOOD

Attachments:

1. Lease Agreement
2. Memorandum of Ground Lease

RECOMMENDATION

Staff recommends City Council move to approve the lease agreement between the City of Beverly Hills and the City of West Hollywood for City-owned property at 621 North Robertson Boulevard located in the City of West Hollywood.

INTRODUCTION

The City of Beverly Hills owns the property at 621 North Robertson Boulevard ('621 N. Robertson') in the City of West Hollywood. The building on site, known as the Log Cabin, currently serves the City of West Hollywood Lions Club for community-based programs. The adjacent surface lot served as a staging and storage area for the Water Operations Bureau for the City of Beverly Hills.

DISCUSSION

While exploring opportunities to expand the value and use of the City-owned property at 621 N. Robertson, the City of West Hollywood expressed interest in utilizing the open lot area, excluding the Log Cabin portion, to increase the parking capacity in this area.

At City Council direction, staff entered into lease negotiations with the City of West Hollywood for terms related to the lease of the surface lot of the property. Ongoing negotiations have resulted in a lease agreement, approved by the West Hollywood City Council at its November 7, 2016, meeting, under the following terms:

- Triple-net lease;

- Term of 5 years;
- Lease Commencement date of January 1, 2017;
- Rent - \$8000 monthly plus 50% of all Gross Revenues for the prior calendar month that exceeds \$10,000.
 - Example
 - If the lot earns revenues of \$2,000, the City of Beverly Hills will be paid the base rent of \$8,000;
 - If the lot earns revenues of \$9,000, the City of Beverly Hills will be paid the base rent of \$8,000;
 - If the lot earns revenues of \$15,000, as expected by the City of West Hollywood, the City of Beverly Hills will be paid the base rent of \$8,000, plus a revenue share of \$2,500 (50% of revenues over \$10,000) for a total rental payment of \$10,500.
- Take possession of the land starting January 1, 2017
 - The City of Beverly Hills requires this time to remove the current inventory of supplies and spare parts stored at this location. The inventory and supplies will be distributed between the Woodland Reservoir at 1025 Woodland Drive, the Public Works yard at 342 Foothill Road, and the Public Works Warehouse at 9357 Third Street.

FISCAL IMPACT

The City of West Hollywood has requested rental abatement for a two-month period. This equates to \$16,000 in foregone rent and would allow for tenant improvements. The initial rent payment of \$8,000 would be applicable on March 1, 2017.

The lease agreement represents positive revenue for the City. As this property is owned by the Water Enterprise Fund, the associated revenues will accrue to the benefit of Fund 800, the Water Enterprise Fund. The City would gain annual rent gross revenue of \$96,000 for the base rent, plus an additional 50% of all revenues over \$10,000 monthly. The City of West Hollywood projects revenues of \$15,000 monthly. Based on this estimate and in accordance with lease terms, the total annual rental value for the City and Water Fund would be \$126,000.



Don Rhoads
Approved By



George Chavez
Approved By

Attachment 1

GROUND LEASE

THIS GROUND LEASE (the "Lease") is dated December 20, 2016, and is entered into by and between the CITY OF BEVERLY HILLS, a municipal corporation ("Landlord"), and the CITY OF WEST HOLLYWOOD, a municipal corporation ("Tenant").

Recitals

A. Landlord owns the land more particularly described in Exhibit "A" attached hereto and the improvements thereon. Said land and improvements are hereinafter collectively referred to as the "Property".

B. Landlord desires to lease the Property to Tenant, and Tenant desires to Lease the Property from Landlord, upon the terms set forth below.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual promises contained herein, Landlord and Tenant agree as follows:

1. Lease of Property; Memorandum of Lease. Landlord hereby leases the Property to Tenant, and Tenant hereby leases the Property from Landlord, upon the terms hereafter set forth. Tenant shall promptly duly execute, and cause to be duly acknowledged and delivered to Landlord, a Memorandum of Lease and Certificate of Acceptance in the forms attached hereto as Exhibit "B" for recording.

2. Term of Lease; Possession.

2.1 Term. The term of this Lease (the "Term") shall commence (and possession shall be tendered to Tenant) on January 1, 2017 and shall continue until December 31, 2021; however, either party may, in its sole and absolute discretion, terminate this Lease upon one hundred and twenty (120) days prior written notice to the other. If Landlord so terminates this Lease, Landlord shall pay to Tenant the portion of the Improvement Costs (defined in Section 6.1 below) remaining unamortized as of the date of termination, calculated by amortizing the Improvement Costs over the Term of this Lease on a straight-line basis.

2.2 Possession. Subject to Section 8.3 below, Tenant shall be entitled to take possession of the Property upon the commencement of the Term. Tenant acknowledges that Tenant has inspected the Property and Tenant accepts the Property in its existing "AS IS" condition, subject to all matters of record, without representation or warranty (express or implied).

3. Rent.

3.1 Base Rent. Commencing on March 1, 2017, tenant shall pay to Landlord, without prior notice or demand and without abatement, deduction, offset or credit, as minimum base rent for the Property ("Base Rent"), the sum of \$8,000.00 per calendar month on or before the first business day of each calendar month.

3.2 First Month's Base Rent. Tenant shall pay the first month's rent (\$8,000) upon its execution and delivery of this Lease (which will be applied to March 2017 rent).

3.3 Percentage Rent. Commencing on March 1, 2017, in addition to the Base Rent, Tenant shall pay to Landlord, on a monthly basis without demand, deduction or offset, within thirty (30) days after the end of each calendar month (for the preceding month) fifty percent (50%) of all Gross Revenues from the Premises for the preceding calendar month that exceeds Ten Thousand Dollars (\$10,000.00) ("Percentage Rent"). As used herein, the term "Gross Revenues" shall mean all revenues of any type and from any source from the operation, use or occupancy of the Property, without deduction for any costs or expenses. Tenant shall also deliver to Landlord, within said thirty (30) day period, a reasonable written line item description of the Gross Revenues for the previous month certified by the Chief Financial Officer of the Tenant to be true and correct. Tenant shall keep reasonable separate books and records of Gross Revenues from the property at Tenant's City Hall, and Landlord (or an auditor or designated in writing by Landlord) may inspect the same upon two (2) business days' prior written notice to Tenant.

3.4 Place for Payment. All sums payable to Landlord under this Lease (collectively, "Rent") shall be paid to Landlord in lawful currency of the United States at Landlord's offices located at 455 N. Rexford Drive, Beverly Hills, California 90210, Attention: Treasurer, or at any other place or places that Landlord may designate by written notice to Tenant.

4. Utilities. Tenant shall arrange for, obtain and pay for all electricity, gas, water, sewer, waste water services and other utilities for the Property.

5. Net Lease. This Lease is a "triple-net" lease; all Rent shall be paid to Landlord absolutely net of all costs and expenses, except to the extent otherwise expressly provided in this Lease. Without limiting the generality of the foregoing, Tenant shall be responsible for all aspects of maintaining and operating the Property, including the payment when and as due of any real property taxes and assessments from time to time assessed against the Property or Tenant's possessory interest therein, and of all charges for gas, electricity, telephone service, water, sewer service, trash removal and other utilities and services furnished to the Property during the Term; provided, however, that Landlord may at any time, in its discretion, pay any such taxes, assessments and charges that Tenant fails to pay when and as due, including, in Landlord's discretion, any fees, penalties and charges assessed by reason of Tenant's failure to make timely payment, in which case Tenant shall reimburse Landlord within thirty (30) days after receipt of Landlord's written request for reimbursement.

Landlord acknowledges that so long as Landlord (a public entity exempt from property taxes) owns the Property, there should be no property taxes payable on Landlord's interest, and as long as this Lease is not assigned (with the consent of Landlord), Tenant should not be assessed any possessory interest taxes (as a public entity exempt from property taxes). Tenant acknowledges that Landlord is not exempt from assessments.

6. Use; Improvements; Hazardous Materials; Compliance with Laws; Inspections.

6.1 Use; Improvements. Tenant may use the Property for public parking purpose, but not for vehicle storage, repair or maintenance. Tenant shall not use or permit the Property or any portion of the Property to be improved, developed, used, or occupied in any manner or for any purpose that is in any way in violation of any federal, state or local law, ordinance, or regulation. Tenant may make the improvements to the Property that are described on Exhibit "C", subject to Landlord's reasonable approval of plans and specifications for such improvements and compliance with applicable law. Upon completion of the improvements, Tenant shall promptly provide Landlord with reasonable evidence of the total direct, out of pocket costs incurred by Tenant for such improvements (the "Improvement Costs").

Tenant hereby agrees to make, as part of its initial improvements, all improvements necessary for the Property to comply with the American with Disabilities Act and any other accessibility laws. Landlord hereby informs Tenant that the Premises have **not** been determined by a Certificate Access Specialist to meet applicable construction-related accessibility standards pursuant to California Civil Code Section 55.53.

6.2 Hazardous Materials.

(a) "Hazardous Materials" shall mean any substance that now or in the future requires investigation or remediation under, or is regulated or defined as a hazardous waste or hazardous substance, by any governmental authority or instrumentality or any law, regulation, rule or order, or any amendment thereto, including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9601 et seq. and the Resource Conservation and Recovery Act, 42 U.S.C. § 9601 et seq., or that is otherwise toxic, explosive, corrosive, flammable, infectious, mutagenic, radioactive, carcinogenic, a pollutant or a contaminant, including gasoline, diesel, petroleum hydrocarbons, polychlorinated biphenyls (PCBs), asbestos, radon and urea formaldehyde foam insulation.

(b) Indemnification by Tenant. In addition to, and not in derogation of any other indemnification contained in this Lease, Tenant agrees to indemnify, defend and hold harmless Landlord, its successors and assigns, and its and their directors, officers, shareholders, employees, agents and affiliates from all costs, expenses, damages, liabilities, claims, fines, penalties, interest, judgments, and losses of any kind arising from or in any way related to any release of Hazardous Materials on the Property during the Term unless caused solely by Landlord.

(c) Additional Delivery Requirements. Tenant shall deliver to Landlord prior to delivery to, or promptly after receipt from, any governmental authority or other person or entity copies of all permits, manifests, closure or remedial action plans, notices, investigations, inquiries, claims, citations, summons, complaints, writs, orders and all other communications or documents relating to Hazardous Materials at or about the Property.

(d) Release of Hazardous Materials. In the event of any release, of Hazardous Materials caused by the acts or omissions of the Tenant or its contractors or invitees, whether discovered by Landlord or Tenant, Tenant shall promptly document the facts relating to

the event, including the circumstances existing prior to and after the occurrence of the event, the precise nature of the release, discharge or event, including specific compounds and quantities involved, and all actions Tenant has taken and will take to remediate the release, discharge or event. Tenant shall pay the reasonable costs and fees charged by Landlord's environmental consultants to review such documentation and provide peer review confirming the adequacy of the measures, past and future, taken by Tenant to remediate the problem.

6.3 Compliance with Applicable Requirements. Tenant, shall, at Tenant's sole expense, fully, diligently and in a timely manner, comply with all applicable laws, building codes, regulations, ordinances, rules, directives, covenants, or restrictions of record, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Landlord's engineers and/or consultants which relate in any manner to the Property (collectively, "Applicable Requirements"), without regard to whether such Applicable Requirements are now in effect or become effective hereafter. Tenant shall, within ten (10) days after receipt of Landlord's written request, provide Landlord with copies of all permits and other documents, and other information evidencing Tenant's compliance with any Applicable Requirements specified by Landlord, and shall immediately upon receipt, notify Landlord in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Tenant or the Property to comply with any Applicable Requirements.

6.4 Inspection. Landlord and Landlord's consultants shall have the right, but not the obligation, to enter into the Property at any time, in the case of an emergency, and otherwise at reasonable times, for the purpose of (a) inspecting the condition of the Property, (b) verifying compliance by Tenant with this Lease and (c) remediate any release of Hazardous Materials if Tenant fails to do so (in which case Tenant shall reimburse Landlord for the costs thereof promptly after written demand).

7. Maintenance and Repairs.

7.1 Maintenance by Tenant. At all times during the Term, Tenant shall, at Tenant's own cost and expense, keep and maintain the Property (including all landscaped areas, driveways, parking lots, pavement, fences, and signs) in good order, condition and repair. Tenant's maintenance obligations shall include restorations and replacements when necessary to keep the Property and all improvements thereon in good order, condition and repair, including, when necessary, re-striping and re-surfacing. In keeping the Property in good order, condition and repair, Tenant shall exercise and perform good maintenance practices, specifically including the procurement and maintenance at Tenant's expense of service contracts, each with a contractor specializing and experienced in the maintenance of the applicable improvements. No deprivation, impairment or limitation of use resulting from any event or work contemplated by this Section shall entitle Tenant to any offset, abatement or reduction in rent nor to any termination or extension of the Term.

7.2 Requirements of Governmental Agencies. At all times during the Term, Tenant shall, at Tenant's own cost and expense:

(a) make all alterations, additions, or repairs to the Property (including the improvements on the Property) required by any law, ordinance, statute, order, or regulation now or hereafter made or issued by any federal, county, local, or other governmental agency or entity;

(b) observe and comply with all laws, ordinances, statutes, orders, and regulations now or hereafter made or issued respecting the Property by any federal, county, local, or other governmental agency or entity; and

(c) indemnify, defend and hold Landlord and the Property, free and harmless from any and all liabilities, losses, damages, fines, penalties, claims, and actions resulting from Tenant's failure to comply with the requirements of this Section 7.

7.3 Tenant's Duty to Restore Property. Should, at any time during the Term, any buildings or improvements now or hereafter on the Property be destroyed in whole or in part by fire, theft, the elements, or any other cause not the fault of Landlord, then Tenant shall repair and restore the damaged or destroyed improvements.

8. Indemnity and Insurance.

8.1 Exculpation of Landlord. Landlord shall not be liable to Tenant for any damage to Tenant or Tenant's property for any cause, except for any damage to Tenant or Tenant's property resulting from the gross negligence and willful misconduct of Landlord or its authorized representatives. Tenant waives all claims against Landlord for damage to person or property arising, or asserted to have arisen, for any reason, except that Landlord shall be liable to Tenant for any damage to Tenant resulting from the gross negligence or willful misconduct of Landlord, provided that under no circumstances shall Landlord be liable for any injury to Tenant's business or for any loss of income or profit. Subject to the foregoing provisions, Landlord agrees to, defend, indemnify and hold Tenant and its officers, directors, employees, agents and affiliates and their respective assets free and harmless against and from any and all liabilities, claims, losses, damages, and expenses (including attorneys' fees and court costs) resulting from or arising out of Landlord's failure to perform any of Landlord's obligations under this Lease when and as required by the terms hereof.

8.2 Indemnity. Tenant agrees to, and does hereby defend, indemnify and hold Landlord and its officers, directors, employees, agents and affiliates and their respective assets, including the Property and all improvements now or hereafter on the Property, free and harmless against and from any and all liabilities, claims, losses, damages, and expenses (including attorneys' fees and court costs) resulting from or arising out of Tenant's occupation and use of the Property, specifically including any liability, claim, loss, damage, or expense arising by reason of:

(a) The death or injury of any person, including any person who is an employee or agent of Tenant, or the damage to or destruction of any property, including property owned by Tenant or by any person who is an employee or agent of Tenant, from any cause whatsoever while such person or property is on the Property;

(b) Any work performed on the Property or materials furnished to the Property at the instance or request of Tenant or any person or entity acting for or on behalf of Tenant; or

(c) Tenant's failure to comply with any requirement of law or any requirement imposed on Tenant or the Property by any governmental agency or authority;

(d) Tenant's failure to perform any of Tenant's obligations under this Lease when and as required by the terms hereof.

8.3 Insurance. Tenant shall, at Tenant's own cost and expense, secure and maintain during the entire Term reasonable liability insurance naming Landlord as additional insured, and shall provide Landlord with reasonable evidence thereof prior to entering the Property.

9. Assignment and Subletting. Tenant shall not assign, encumber or otherwise transfer this Lease or sublet the Property; however, Landlord acknowledges that Tenant may charge for parking at the Property.

10. Default and Remedies.

10.1 Events of Default. Any of the following events shall constitute an "Event of Default" under this Lease:

(a) Tenant fails to make any payment of money called for by any provision of this Lease (whether to Landlord or any third party) when due, or to provide reasonable evidence of any insurance required by the terms of this Lease, or to fulfill any other obligation under this Lease that, by not being fulfilled, endangers or threatens life or property, where such failure continues for a period of five (5) business days following written notice to Tenant; or

(b) Tenant fails to perform fully and when due any of its other covenants, conditions or obligations under this Lease and after written notice from Landlord specifying the nature of such failure of Tenant, Tenant (i) does not immediately commence taking all necessary and appropriate actions to remedy such failure, or (ii) does not thereafter diligently and continuously pursue all such remedial actions, or (iii) does not fully cure such failure within the minimum period of time reasonably required under the circumstances to achieve a cure, which minimum period shall be at least thirty (30) days after Landlord's written notice of such failure, in any event within ninety (90) days after Landlord's written notice of such failure, time being strictly of the essence; provided, however, that Tenant shall not be entitled to cure the breach of any covenant that is non-curable; or

(c) any voluntary or involuntary assignment, transfer or encumbrance of this Lease, or subletting, occurs in violation of Section 9; or

(d) any right or interest of Tenant is subjected to attachment, execution, or other levy, or to seizure under legal process, which is not released within sixty (60) days; or

(e) a receiver is appointed to take possession or control of Tenant's operations on the Property for any reason, including assignment for benefit of creditors or voluntary or involuntary bankruptcy proceedings; or

(f) Tenant makes a general assignment for the benefit of creditors or a voluntary or involuntary petition is filed by or against Tenant under any law for the purpose of adjudicating Tenant a bankrupt, or for extending time for payment, adjustment or satisfaction of Tenant's liabilities, or for reorganization, dissolution or arrangement on account of or to prevent bankruptcy or insolvency, unless such assignment or proceeding, and all consequent orders, adjudications, custodies and supervisions are dismissed, vacated or otherwise permanently stayed or terminated within sixty (60) days after such assignment, filing or other initial event.

10.2 Remedies. Upon the occurrence of any Event of Default, and without the giving of any additional notice not otherwise required hereunder or by law, Landlord may exercise the following rights and remedies in addition to all other rights and remedies provided by law or equity, either cumulatively or in the alternative:

(a) Terminate Tenant's right to possession of the Property by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Property to Landlord. In such event Landlord shall be entitled to recover from Tenant: (i) the unpaid Rent that had been earned at the time of termination; plus (ii) the worth at the time of award of the amount by which the unpaid Rent that would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus (iii) the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; plus (iv) any other amounts necessary to compensate Landlord for all the detriment approximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including the cost of recovering possession of the Property, expenses of reletting, including necessary renovation and alteration of the Property, reasonable attorneys' fees, and that portion of any leasing commission paid by Landlord in connection with this Lease applicable to the unexpired Term. The worth at the time of award of the amount referred to in clause (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%). If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Landlord shall have the right to recover in such proceeding any unpaid Base Rent, Percentage Rent and damages as are recoverable therein, or Landlord may reserve the right to recover all or any part thereof in a separate suit. If any notice required under Section 10.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Tenant under the unlawful detainer statute shall also be deemed to constitute the notice required by Section 10.1. In such case, any applicable grace period required by Section 10.1 and the unlawful detainer statute shall run concurrently, and the failure of Tenant to cure the Event of Default within the greater of the two such grace periods shall constitute both an unlawful detainer and an Event of Default entitling Landlord to the remedies provided for in this Lease and/or by said statute.

(b) Maintain this Lease and Tenant's right to possession of the Property in effect and continue to enforce all of Landlord's rights and remedies hereunder,

including the remedy described in California Civil Code Section 1951.4 (granting the landlord the right to continue a lease in effect after a tenant's breach and abandonment and to recover all rent as it becomes due if the tenant has the right to sublet or assign, subject only to reasonable limitations) provided that upon Landlord's election of such remedy, Landlord may not unreasonably withhold its consent to any assignment or subletting. Acts of maintenance or preservation or efforts to relet the Property or the appointment of a receiver upon initiative of Landlord to protect Landlord's interest under this Lease shall not constitute a termination of this Lease or Tenant's right to possession unless written notice of termination is given by Landlord to Tenant.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the State of California. The expiration or termination of this Lease and/or the termination of Tenant's right to possession shall not relieve Tenant from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the Term or by reason of Tenant's occupancy of the Property.

10.3 Landlord's Performance of Tenant's Obligations. If Tenant fails to perform any affirmative duty or obligation under this Lease within five (5) business days after written notice (or in case of an emergency, without notice), the Landlord may, at its option, perform such duty or obligation on Tenant's behalf, including the obtaining of reasonably required bonds, insurance policies, or governmental permits, licenses and approvals. The costs and expenses of any such performance by Landlord shall be due and payable by Tenant upon Landlord's written demand. If any check given to Landlord by Tenant shall not be honored by the bank upon which it is drawn, Landlord, at its option, may require that all future payments by Tenant to Landlord be made by bank cashier's check.

10.4 Remedies Cumulative. The remedies given to Landlord in this Section shall not be exclusive but shall be cumulative with and in addition to all remedies now or hereafter allowed by law and elsewhere provided in this Lease.

10.5 Waiver of Breach. The waiver by Landlord of any breach of Tenant of any of the provisions of this Lease shall not constitute a continuing waiver or a waiver of any subsequent breach by Tenant either of the same or a different provision of this Lease. No waiver, benefit, privilege or service voluntarily given or performed by either party shall give the other any contractual right by custom, estoppel or otherwise. The subsequent acceptance of rent pursuant to this Lease shall not constitute a waiver of any preceding default by Tenant other than default in the payment of the particular rental payment so accepted, regardless of Landlord's knowledge of the preceding breach at the time of accepting the rent, nor shall acceptance of rent or any other payment after termination constitute a reinstatement, extension or renewal of the Term or revocation of any notice or other act by Landlord.

11. Miscellaneous.

11.1 Tenant's Duty to Surrender Property. At the expiration or any earlier termination of the Term, Tenant shall surrender to Landlord the possession of the Property and all improvements and fixtures installed or constructed by or for Tenant thereon free and clear of all claims to or against them by Tenant or any third person or party. Tenant shall leave the

surrendered property in good, safe and broom-clean condition. All property that Tenant is required to surrender shall become Landlord's property at termination of this Lease, or, if Landlord so elects and upon written notice to Tenant, shall be demolished and removed by Tenant at Tenant's sole expense, and all property that Tenant is not required to surrender but that Tenant does not remove shall become Landlord's property at termination of this Lease, or, if Landlord so elects and upon written notice to Tenant, shall be demolished and removed by Tenant at Tenant's sole expense. If Tenant fails to surrender the Property at the expiration or earlier termination of this Lease, Tenant shall defend and indemnify Landlord from all liability and expense resulting from the delay or failure to surrender, including claims made by any succeeding tenant or any purchaser or prospective purchaser founded on or resulting from Tenant's failure to surrender.

11.2 Survival. Each obligation of Tenant's obligations under this Lease that, by its nature, is to be, or may need to be, performed after the expiration or any earlier termination of this Lease shall survive such expiration or termination. Without limiting the generality of the preceding sentence, Tenant's defense and indemnification obligations under this Lease shall survive the expiration or termination of this Lease.

11.3 Interest on Overdue Payments. All Rent and other sums of any nature that Tenant fails to pay to Landlord when due under any provision of this Lease or that Landlord pays to any third party on behalf of Tenant pursuant to any provision of this Lease shall bear interest from the date due to Landlord or paid by Landlord, as applicable (the "Due Date"), at the greater of the rate of eight percent (8%) per annum or the default rate required to be paid under Loan Documents, accruing daily but not compounded. Such interest shall be payable immediately and without the necessity of any demand by Landlord. The fact that Landlord is entitled to interest under this Section shall not be construed to excuse or mitigate any default by Tenant.

11.4 Attorneys' Fees. In the event either party brings a suit, action or other proceeding against the other party that in any way relates to or arises out of this Lease, the prevailing party (meaning the party that obtains substantially the relief sought by it) shall be entitled to have and recover from the other party all costs and expenses of the suit, action or proceeding, including attorneys' fees, from the commencement of the suit, action or proceeding through the entry of judgment. The trial court shall determine which party is the prevailing party as well as the amount of attorneys' fees and costs to be awarded immediately following the entry of judgment (and without awaiting any appeal) in a post-trial proceeding such as is conducted when a cost bill is submitted. If an appeal is timely filed and if the awarding or amount of attorneys' fees and costs is at issue in the appeal, then the appellate court (or the trial court, acting pursuant to an order of the appellate court) shall determine such issue, and the recoverable attorneys' fees and costs shall include those incurred through the entry of final judgment following the appeal. In the event that Landlord shall be a party to any legal proceedings instituted in connection with or arising out of this Lease where Tenant is named as a defendant, Tenant agrees to pay to Landlord all sums paid or incurred by Landlord as costs and expenses in such legal proceedings, including Landlord's reasonable attorneys' fees.

11.5 Estoppel Certificates by Tenant. Tenant shall within ten (10) days after written notice from Landlord execute, acknowledge and deliver to Landlord an estoppel certificate in writing, which may be given by Landlord to any prospective encumbrancer of the

Property, to the effect that (a) the terms and provisions of this Lease have not been changed except as otherwise represented by Landlord; (b) this Lease has not been canceled or terminated except as otherwise represented by Landlord; (c) not more than one month's rent has been paid in advance; and (d) Landlord is not in default under this Lease.

11.6 Limitation on Landlord's Liability. The obligations of Landlord under this Lease shall not constitute personal obligations of Landlord or its directors, officers, employees or affiliates, and Tenant shall look to the Property, and not to any other assets of Landlord, for the satisfaction of any liability of Landlord with respect to this Lease, and shall not seek recourse against Landlord or its individual directors, officers, employees or affiliates, or any of their personal assets for such satisfaction.

11.7 Reservations by Landlord. Landlord reserves to itself the right, from time to time and without the consent or joinder of Tenant, to grant such easements, rights and dedications as Landlord may deem necessary, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights, dedications, maps and restrictions do not unreasonably interfere with the use of the Property by Tenant. Tenant agrees to sign any documents reasonably requested by Landlord to effectuate any such easement rights, dedication, map or restrictions.

11.8 Quiet Enjoyment. Tenant shall and may peacefully and quietly have, hold and enjoy the Property hereby demised, for the Term, on the terms and subject to the conditions contained in this Lease.

11.9 Notices. All notices required or permitted by this Lease shall be in writing and shall be delivered by certified mail, with postage prepaid. Until changed by a notice given in accordance with the provisions of this Section, the respective addresses of Landlord and Tenant for the purpose of receiving notices required or permitted by this Lease are as follows:

Landlord:

City of Beverly Hills
455 North Rexford Drive
Beverly Hills, California 90210
Attention: City Manager

Tenant:

City of West Hollywood
8300 Santa Monica Boulevard
West Hollywood, CA 90069
Attention: City Manager

Any notice sent by certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given on the third business day after the same is addressed as required herein and mailed with postage prepaid.

11.10 Time of Essence. Time is expressly declared to be the essence of this Lease.

11.11 Counterparts. This Lease may be executed in counterparts, all of which together shall constitute one and the same document.

11.12 Partial Invalidity. Should any provision of this Lease be held by a court of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of this Lease shall remain in full force and effect unimpaired by the holding.

11.13 Entire Agreement. This instrument constitutes the sole and only agreement between Landlord and Tenant respecting the Property, the leasing of the Property to Tenant, and the other subject matter of this Lease, and correctly sets forth the obligations of Landlord and Tenant to each other as of its date. Any agreements or representations respecting the Property, their leasing to Tenant by Landlord, or any other matter discussed in this Lease not expressly set forth in this instrument are hereby superseded and are null and void.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the date first above written.

TENANT:

CITY OF WEST HOLLYWOOD,
a municipal corporation

By: *Paul Arevalo*
Print Name: Paul Arevalo
Title: City Manager

LANDLORD:

CITY OF BEVERLY HILLS,
a municipal corporation

By: _____
Print Name: _____
Title: _____

ATTEST:

Yvonne Quarker
Yvonne Quarker, City Clerk

ATTEST:

Byron Pope, City Clerk

APPROVED AS TO FORM:

Michael Jenkins
Michael Jenkins, City Attorney

APPROVED AS TO FORM:

Laurence S. Wiener fn (BG)
Laurence S. Wiener, City Attorney

EXHIBIT "A"

DESCRIPTION OF LEASED PROPERTY

(See attached diagram.)



EXHIBIT "B"

FORM OF MEMORANDUM OF GROUND LEASE

(Attached.)

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Beverly Hills
Office of the City Manager
455 North Rexford Drive
Beverly Hills, California 90210
Attn: City Clerk

APNs: 4336-010-270, and 271

SPACE ABOVE THIS LINE FOR RECORDER'S USE

The undersigned Lessor declares that this Memorandum of Ground Lease is exempt from Recording Fees pursuant to California Government Code Section 27383.

Exempt from Documentary Transfer Tax: Term less than 35 years, and tenant is a public entity (transfer to a public entity).

MEMORANDUM OF GROUND LEASE

THIS MEMORANDUM OF GROUND LEASE (this "**Memorandum**") is dated as of October 1, 2016 and is entered into by and between the CITY OF BEVERLY HILLS, a municipal corporation ("**Landlord**") and the CITY OF WEST HOLLYWOOD, a municipal corporation ("**Tenant**").

RECITALS

A. Landlord and Tenant executed that certain Ground Lease dated December 20, 2016 (the "**Lease**") affecting the land described on Exhibit "A" (the Property).

B. Landlord and Tenant now desire to record this Memorandum in order to, among other things, comply with law requiring that municipal leases be recorded, giving constructive notice of the existence of the Lease, and permitting the Tenant to obtain title insurance.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, and the covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. Ground Lease. Landlord has leased the Property to Tenant, and Tenant has leased the Property from Landlord, upon and subject to the terms and conditions set forth in the Lease. The Lease is hereby incorporated herein by this reference.

2. Term. The term of the Lease commences on January 1, 2017 and expires on December 31, 2021.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Memorandum as of the date and year first above written.

LANDLORD:

CITY OF BEVERLY HILLS,
a municipal corporation

By: _____
Print Name: _____
Title: _____

ATTEST:

Byron Pope, City Clerk

TENANT:

CITY OF WEST HOLLYWOOD,
a municipal corporation

By: _____
Print Name: _____
Title: _____

ATTEST:

_____, City Clerk

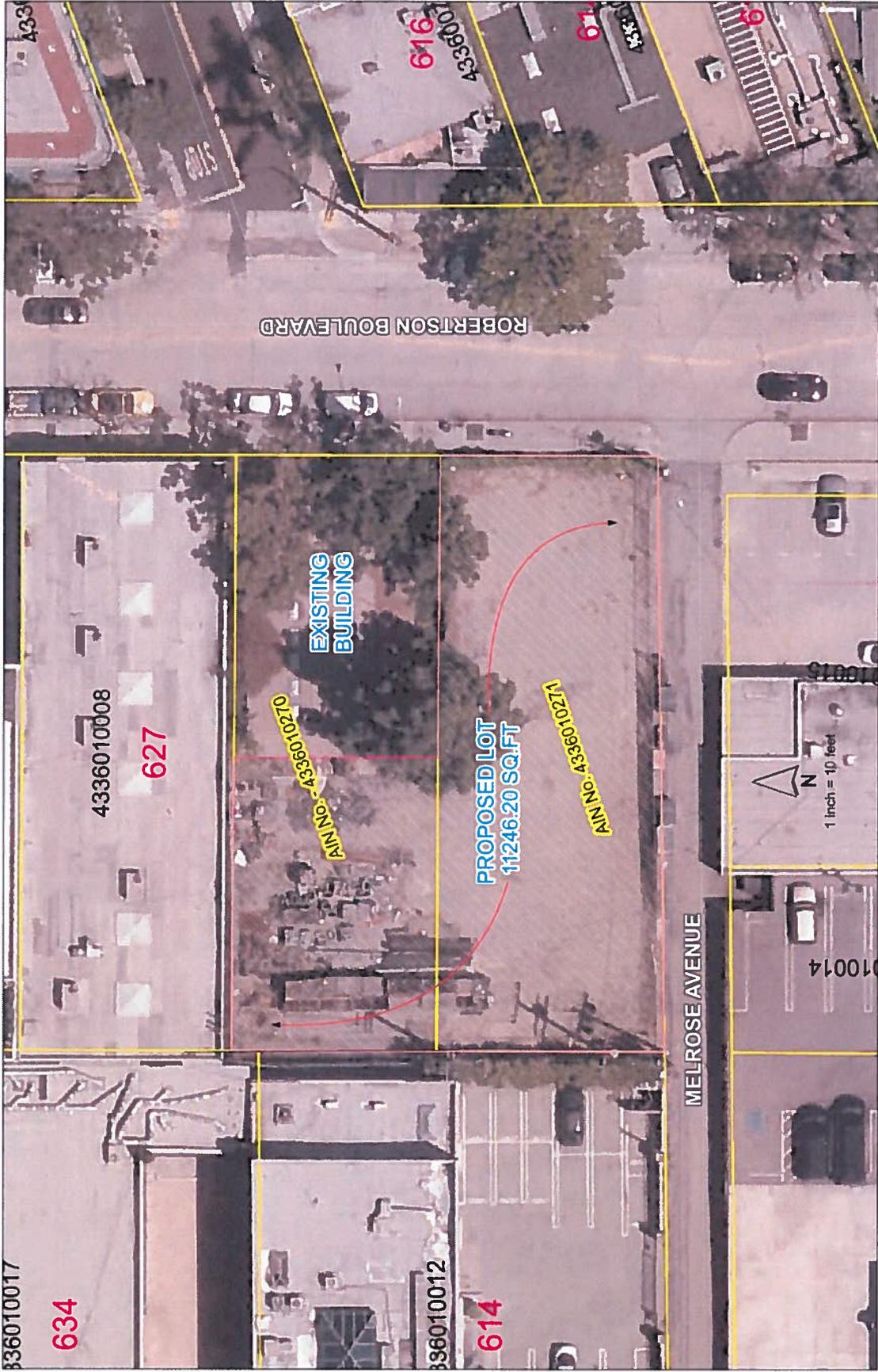
EXHIBIT "A"

DESCRIPTION OF LAND

Real property in the City of West Hollywood, County of Los Angeles, State of California, described as follows:

PORTION OF LOTS 6 AND 7 OF TRACT NO. 6167, IN THE CITY OF WEST HOLLYWOOD, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 63, PAGE 54 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

SEE ATTACHED DIAGRAM.



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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WITNESS my hand and official seal.

Signature _____ (Seal)

CERTIFICATE OF ACCEPTANCE
(California Government Code Section 27281)

This is to certify that the leasehold interest in real property conveyed to the City of West Hollywood by that certain Ground Lease dated December 20, 2016, executed by the City of Beverly Hills, as landlord, and the City of West Hollywood, as tenant, is hereby accepted by the undersigned officer on behalf of the City of West Hollywood pursuant to the authority conferred by action of the City of West Hollywood on _____, 2016 and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____, 201__

Print Name: _____
Title: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT "C"

NARRATIVE DESCRIPTION OF TENANT IMPROVEMENTS

(Attached)

Proposed Tenant Improvements

1. Fencing: Remove and replace existing fencing and gate.
2. Electrical: Install new light poles, fixtures and panel
3. Paving & Striping: Tack and pave 2" over existing surface and stripe all parking stalls
4. Pay Station: Install a new pay station
5. Signage: Install illuminated rate sign at the entrance and regulatory signs around the property
6. Wheel Stops: Install wheel stops at all parking stalls



ADDITIONAL COVERED PARTY:

City of Beverly Hills
455 North Rexford Drive
Beverly Hills, California 90210
Attention: Executive Director

RE: EVIDENCE OF COVERAGE & ADDITIONAL COVERED PARTY ENDORSEMENT AS REQUIRED BY AGREEMENT OR CONTRACT; ENDORSEMENT NUMBER 16-333-WE

Only as respects the ground lease dated October, 2016, for the property located at: Lots 6 And 7 of Tract No. 6167, in the City of West Hollywood, County of Los Angeles, State of California, as per map recorded In Book 63, Page 54 of Maps, in the Office of the County Recorder of said County.

Please be advised that the City of West Hollywood participates in PARSAC, the Public Agency Risk Sharing Authority of California. As such, it is collectively and permissibly self-insured under Sections 990.4 and 990.8 of the California Government Code. The specifics of the self-insured program are listed below:

COVERAGE YEAR: JULY 1, 2016 - JULY 1, 2017

- General and Automobile Liability
- Public Officials Errors & Omission
 - Limit: \$1 Million per occurrence group self-insurance
 - Occurrence Retention: \$ 100,000

CONDITIONS OF THIS ADDITIONAL COVERED PARTY ENDORSEMENT

Effective Date: October 25, 2016 Expiration Date: July 1, 2017

The coverage afforded as described above is subject to all terms, exclusions, conditions, definitions, and other provisions of the Public Agency Risk Sharing Authority of California's Memorandum of Coverage. The coverage is afforded hereunder only where City of West Hollywood is required by agreement or contract to name the City of Beverly Hills as an Additional Covered Party.

If the City of West Hollywood is required by agreement or contract to name the City of Beverly Hills as an Additional Covered Party and the agreement or contract requires the coverage provided to the Additional Covered Party to be primary, then the coverage provided by this endorsement shall be primary. In all other events, if collectible insurance with any insurer, coverage with any other joint powers authority or other self-funding mechanism is available to the Additional Covered Party named above covering a loss to which the PARSAC Memorandum of Coverage applies (whether on a primary, excess or contingent basis), the coverage of this Memorandum shall be in excess of, and shall not contribute with such other insurance or coverage; provided that this clause does not apply with respect to excess insurance or coverage purchased specifically to be in excess of such Memorandum. The bankruptcy of, insolvency of, or placement into rehabilitation or receivership by any regulatory agency of any joint powers authority or insurance company providing joint powers authority protection or insurance coverage to the Additional Covered Party, named above, shall not amend the application of this condition.

This Endorsement does not apply to liability arising out of the sole negligence of the Additional Covered Party named above.

Coverage is in effect as stated above and will not be cancelled except upon 30 days written notice to the Additional Covered Party.



Kin Ong, ARM
Risk Manager

October 25, 2016

cc: Aileen Ward, City of West Hollywood

Template Revised 6/29/15

Attachment 2

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Beverly Hills
Office of the City Manager
455 North Rexford Drive
Beverly Hills, California 90210
Attn: City Clerk

APNs: 4336-010-270, and 271

SPACE ABOVE THIS LINE FOR RECORDER'S USE

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2. Term. The term of the Lease commences on January 1, 2017 and expires on December 31, 2021.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Memorandum as of the date and year first above written.

LANDLORD:

CITY OF BEVERLY HILLS,
a municipal corporation

By: _____
Print Name: _____
Title: _____

ATTEST:

Byron Pope, City Clerk

TENANT:

CITY OF WEST HOLLYWOOD,
a municipal corporation

By: *Paul Arevalo*
Print Name: Paul Arevalo
Title: City Manager

ATTEST:

Yvonne Quarker
Yvonne Quarker, City Clerk

EXHIBIT "A"

DESCRIPTION OF LAND

Real property in the City of West Hollywood, County of Los Angeles, State of California, described as follows:

PORTION OF LOTS 6 AND 7 OF TRACT NO. 6167, IN THE CITY OF WEST HOLLYWOOD, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 63, PAGE 54 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

SEE ATTACHED DIAGRAM.



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State of California)
County of Los Angeles)

On Dec. 7, 2016, before me, Catherine F. Ross, Notary Public,
(insert name and title of the officer)

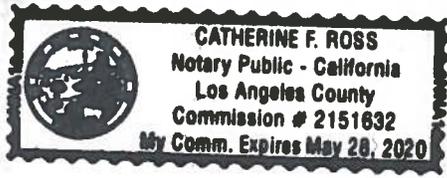
Notary Public, personally appeared David Wilson,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~
subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same
in his/~~her~~/~~their~~ authorized capacity(~~ies~~), and that by his/~~her~~/~~their~~ signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Catherine F. Ross

(Seal)



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State of California)
County of Los Angeles)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)