



AGENDA REPORT

Meeting Date: September 15, 2009
Item Number: F-16
To: Honorable Mayor & City Council
From: Brenda Lavender, Real Estate & Property Manager
Subject: OFFICE LEASE AND MEMORANDUM OF LEASE BY AND BETWEEN THE CITY OF BEVERLY HILLS AND BEVERLY HILLS CPR
Attachments:

1. Office Lease
2. Memorandum of Lease

RECOMMENDATION

Staff recommends approval of the Office Lease and Memorandum of Lease between the City of Beverly Hills and Beverly Hills CPR a California nonprofit corporation for CPR and First Aid Training.

INTRODUCTION

An Office Lease and Memorandum of Lease have been prepared for City Council approval. The agreements approves the CPR training area which will be located within the City Hall campus as outlined in Exhibit A of the lease agreement. As a part of the ongoing community commitment, the City is providing this location for this public service.

DISCUSSION

The term of the lease is ten (10) years and because this lease serves a public service, monetary considerations have been set at \$1.00 annually. CPR will be responsible for conducting all of the CPR and First Aid Training. The City will maintain the Premises in conjunction with the rest of the City Hall campus.

FISCAL IMPACT

There is no out of pocket expense to the City for this agreement. The City's return on investment is difficult to quantify but includes the mandated training of City Staff, as well as invaluable training for residents and volunteers.

Scott G. Miller, Director of
Administrative Services, CFO

Approved By

CITY COUNCIL WILL BE ADVISED IF SIGNED
AGREEMENTS ARE NOT RECEIVED BEFORE 7PM
ON TUESDAY, SEPTEMBER 15, 2009.

CITY CLERK

Attachment 1

Office Lease

OFFICE LEASE

1. DATE; PARTIES. This Office Lease is dated as of _____, 2009 and is entered into by and between the CITY OF BEVERLY HILLS, a municipal corporation ("City") as City and BEVERLY HILLS CPR, a California nonprofit corporation ("Tenant").

2. PREMISES; PERSONAL PROPERTY, COMMON AREA. City hereby leases to Tenant, and Tenant hereby leases from City, the premises ("Premises") outlined on Exhibit "A" attached hereto located in the building at 444 N. Rexford Drive, Beverly Hills, California (the "Building") and the personal property owned by City and currently located in the Premises (the "Personal Property"). City makes no warranties or representations, express or implied, regarding the condition of the Premises or Personal Property and Tenant shall take possession of the Premises and Personal Property in their current "as is" condition.

As used herein, the term "Common Area" shall mean all areas within the exterior boundaries of the parcel of land on which the Building is located that is now or later made available for the general use of City, other persons entitled to occupy the Building, and the public, and the term "Project" shall mean the Building together with the parcel of land on which the Building is located. Tenant understands and acknowledges that, although included within the definition of "Common Area" herein, the parking structure and related facilities for the Project may, at City's sole and absolute option and in accordance with applicable laws and governmental requirements, be available and open to the general public for parking. City shall have the right to (a) utilize from time to time any portion of the Common Area for promotional, entertainment and related matters; (b) place permanent or temporary kiosks, displays, carts and stands in the Common Area and to lease same to tenants; (c) restrain the use of the Common Area by unauthorized persons; (d) temporarily close any portion of the Common Area for repairs, improvements or Alterations, to discourage non-customer use, to prevent dedication or an easement by prescription or for any other reason deemed sufficient in City's reasonable judgment; and (e) renovate, upgrade or change the shape and size of the Common Area or add, eliminate or change the location of improvements to the Common Area including, without limitation, buildings, parking areas, roadways and curb cuts, and to construct buildings on the Common Area.

3. TERM; EXTENSIONS. The term of this Lease ("Term") shall be ten years, commencing on _____, 2009 (the "Commencement Date"). Tenant may terminate this Lease upon ninety (90) days prior written notice in the event that Tenant's contract with the American Heart Association is terminated, Tenant decides to relocate consistent with Tenant's grant agreement, or Tenant's grant is discontinued.

4. RENT. Tenant shall pay to City as annual rent, without deduction, setoff, notice or demand, the sum of \$1 per year, in advance, on the first day of each calendar year and continuing during the Term. Tenant shall prepay all annual rent upon the execution of this Lease.

5. USE. Tenant shall use said Premises solely for the purpose of conducting CPR and First Aid Training to City Staff and to the public; provided, however, that City reserves the right to use the Premises from time to time for training purposes and related purposes so long as the City's uses do not conflict with scheduled Tenant events and are scheduled in advance with Tenant.

Tenant shall not use or permit the Premises to be used for any other purpose without the prior written consent of City, which may be withheld in the City's sole and absolute discretion.

6. ALTERATIONS AND IMPROVEMENTS. Tenant must obtain City's written approval with respect to any changes, alterations or additions to the Premises. City's approval process will be in addition to any municipal code, regulatory and legal requirements. All alterations, additions, or changes to be made to the structure or improvements on the Premises shall be under the supervision of a competent architect or competent licensed structural engineer and made in accordance with the plans and specifications with respect thereto, and all work must be done in a good and workmanlike manner and diligently prosecuted to completion.

7. MAINTENANCE. City shall, at its sole cost and expense, maintain the Premises (including plumbing, heating, HVAC and electrical systems) in good order, condition, and repair. City shall provide janitorial services in accordance with the City's janitorial service contract for the Building, as amended from time to time.

8. ASSIGNMENT AND SUBLETTING. Tenant shall not either voluntarily, or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest herein, or any right or privilege appurtenant hereto, or allow any other person (the employees, agents, servants and invitees of Tenant excepted) to occupy or use the Premises, or any portion thereof, without first obtaining the written consent of City, which consent may be withheld in the City's sole and absolute discretion. A consent to one assignment, subletting, occupation or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation or use by another person. Consent to any such assignment or subletting shall in no way relieve Tenant of any liability under this Lease, whether or not the term of the Lease is extended by the assignee or sublessee. Any such assignment or subletting without such consent shall be void, and shall, at the option of the City, constitute a default under this Lease.

9. INDEMNIFICATION. Tenant shall indemnify and hold harmless City, the City Council and each member thereof, and City's officers, employees and agents (all collectively referred to as "Indemnitee") against and from any and all claims, losses, damages, liabilities, costs and expenses (including attorneys' fees and costs) to the extent arising from Tenant's use of the Premises or from the conduct of its business or from any activity, work, or other things done, suffered by the Tenant in or about the Premises (excluding acts and omissions by Landlord or Landlord's contractors). If any action or proceeding be brought against any Indemnitee by reason of any such claim, Tenant, upon notice from any Indemnitee, shall defend the Indemnitees at Tenant's expense, by counsel reasonably satisfactory to Indemnitees. Tenant shall give prompt notice to City in case of casualty or accidents in the Premises.

10. INSURANCE. Tenant shall maintain all insurance required by the American Heart Association for Tenant's activities.

11. UTILITIES. Landlord shall provide and pay for utilities.

12. SIGNS. Tenant shall not, without City's prior written approval, install or affix any lighting or plumbing fixtures, shades, awnings, or decorations (including exterior painting), signs, lettering, placards, or the like on the exterior of Premises; display or sell merchandise on, or otherwise obstruct, any area outside the exterior walls of the Premises; or cause or permit to be used

any advertising, loudspeakers, unusually bright or flashing lights, and similar devices which may be seen or heard outside the Premises.

13. COMPLIANCE WITH LAW. Tenant, at its expense, shall comply promptly with all applicable laws, ordinances, regulations, and orders of any governmental authority pertaining to the Premises or Tenant's use or occupancy of the Premises or improvement of the Premises (including laws, ordinances, regulations and orders pertaining to non-structural improvements required by law, the location and maintenance of trade fixtures, equipment, and other personal property; the conduct of Tenant's employees; preparation, storage, and service of food and drink, and the like, but excluding new laws or changes in laws that require improvements to the structural components of the Premises).

14. RIGHT OF ACCESS. The City and City's officers, employees, and agents shall at all reasonable times have the right to enter the Premises for the purpose of inspecting the same, posting notices of non-responsibility or any other notices required by law for the protection of the City, doing any work that City is permitted or required to perform under this Lease, and making any reasonable repairs which the City determines may be required. Tenant shall furnish City with a pass key to the Premises which the City shall use only in case of emergency to prevent or investigate a crime, or in such cases where access is necessary to prevent damage to the Building or to the Premises or to make repairs necessary to ensure continuous operation of the Building. City shall have the right to enter the Premises and post "For Lease" or "For Rent" signs in any windows of the Premises: (i) during any period while Tenant is in default, and (ii) after delivery of any notice of termination. In conducting its activities on the Premises as allowed in this section City shall use good faith efforts to attempt to minimize the inconvenience, annoyance, or disturbance to Tenant.

15. TAXES. Tenant shall pay or cause to be paid, before delinquency, any and all taxes levied and assessed which become payable during the term hereof against its interest in the Premises, upon improvements made by Tenant, or any equipment, furniture, fixtures, and any other personal property located in or on the Premises, or which become a lien against the Premises or Tenant's interest therein. **TENANT RECOGNIZES AND UNDERSTANDS THAT THIS LEASE MAY CREATE A POSSESSORY INTEREST SUBJECT TO PROPERTY TAXES LEVIED UPON SUCH INTEREST, AND THAT IN SUCH EVENT TENANT SHALL BE OBLIGATED TO PAY SUCH TAX OR PURSUE AN EXEMPTION.**

16. RULES AND REGULATIONS. Tenant shall faithfully observe and comply with the rules and regulations that City shall from time to time promulgate and/or modify. The rules and regulations shall be binding upon the Tenant upon delivery of a copy of them to Tenant. City shall not be responsible to Tenant for the nonperformance of any said rules and regulations by any other lessees or occupants of the Building.

17. TENANT'S DEFAULT. The occurrence of any one or more of the following events shall constitute a default and breach of this Lease by Tenant the failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by the Tenant, other than described where such failure shall continue for a period of thirty (30) days after written notice thereof by City to Tenant; provided, however, that if the nature of Tenant's default is such that more than thirty (30) days are reasonably required for its cure, then Tenant shall

not be deemed to be in default if Tenant commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

18. REMEDIES UPON TENANT DEFAULT. In the event of any such default or breach by Tenant, City may at any time thereafter, in its sole discretion, with or without notice or demand and without limiting City in the exercise of a right or remedy which City may have by reason of such default or breach terminate Tenant's right to possession of the Premises by written notice to Tenant, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to City. City may also pursue any other remedy now or hereafter available to City under the laws or judicial decisions of the State of California.

19. DEFAULT BY CITY. City shall not be in default unless City fails to perform obligations required of City within thirty (30) days after written notice by Tenant to City specifying wherein City has failed to perform such obligation; provided, however, that if the nature of City's obligation is such that more than thirty (30) days are required for performance then City shall not be in default if City commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

20. DAMAGE; RECONSTRUCTION. In the event the Premises are damaged by fire or other perils, City may terminate this Lease by written notice to Tenant.

21. EMINENT DOMAIN. If any portion of the Building or the Premises shall be taken or appropriated by any authority under the power of eminent domain, City may terminate this Lease by written notice to Tenant.

22. PAYMENTS AND NOTICES. All rental payments hereunder shall be paid by Tenant to the Office of the Cashier of the City at 455 North Rexford Drive, Beverly Hills, California 90210 or at such other address or to such other persons as the City may from time to time designate in writing, and all notices delivered (separately) to the City Clerk of City and to the Chief Financial Officer of City at 455 North Rexford Drive, Beverly Hills, California 90210, or at such other addresses or to such other persons as the City may from time to time designate in writing. All notices given by City to Tenant hereunder shall be in writing and delivered to Tenant at the Premises.

23. SUCCESSORS. Each and every one of the terms, covenants, and conditions of this Lease shall inure to the benefit of and shall bind, as the case may be, not only the parties hereto but each and everyone of the heirs, executors, administrators, successors, assigns, and legal representatives of the parties hereto; provided, however, that any subletting or assignment by Tenant of the whole or any part of the Premises or any interest therein shall be subject to the provisions of Section 9 of this Lease.

24. HOLDING OVER. If Tenant, with City's prior written consent, remains in possession of the Premises after expiration or termination of the term, or after the date in any notice given by City to Tenant terminating this Lease, such possession by Tenant shall be deemed to be tenancy at will (or as otherwise expressly agreed by City in its written consent), terminable upon notice given at any time by either Party, at a monthly rental equal to the fair rental value of the Premises, as determined by City in its good faith discretion. All provisions of this Lease except those pertaining to rent and term shall apply to the tenancy.

25. NOTICE PRIOR TO EXPIRATION; SURRENDER. At the expiration or termination of the term of this Lease, Tenant shall surrender the Premises to the City in the same condition as received, reasonable wear and tear excepted; provided, however, that: (i) all of Tenant's machinery, equipment and other trade fixtures shall remain Tenant's property and Tenant may remove the Personal Property, provided Tenant removes such machinery, equipment, trade fixtures and Personal Property at Tenant's cost prior to the expiration of the Term or within thirty (30) days after any earlier termination of the Term; and (ii) City may require Tenant to remove all fixtures, personal property and alterations installed by Tenant and/or the Personal Property by written notice given at least thirty (30) days prior to the expiration of the Term or concurrently with City's termination notice, as applicable. It is understood and agreed that it is in light of the public purpose of this Lease to provide CPR training to City staff and the public, that Tenant has been given the right to remove and retain the Personal Property as described in this Section, and Tenant agrees to provide such training in exchange for the Personal Property.

26. GENERAL PROVISIONS.

A. Waiver. The waiver by City of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The acceptance of rent hereunder by City shall not be deemed to be a waiver of any default by Tenant of any term, covenant or condition herein contained, regardless of City's knowledge of such default at the time of the acceptance of such rent.

B. Time. Time is of the essence of this Lease and each and all of its provisions.

C. Prior Agreements. This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreements or understanding pertaining to any such matters shall be effective for any purpose.

D. Inability to Perform. This Lease and the obligations of the Tenant hereunder shall not be affected or impaired because the City is unable to fulfill any of its obligations hereunder or is delayed in doing so, if such inability or delay is caused by reason of strike, labor troubles, acts of nature, or any cause beyond the reasonable control of the City.

E. Partial Invalidity. Any provision of this Lease which shall prove to be invalid, void, or illegal shall in no way affect, impair or invalidate any other provision hereof and such other provision shall remain in full force and effect.

F. City's Approvals. Neither City's execution of this Lease nor any consent or approval given by City hereunder in its capacity as City shall waive, abridge, impair or otherwise affect City's powers and duties as a governmental body. Any requirements under this Lease that Tenant obtain consents or approvals of City are in addition to and not in lieu of any requirements of law that Tenant obtain approvals or permits.

G. Brokers. Tenant represents and warrants that it has not had any dealings with realtors, brokers or agents in connection with the negotiation of this Lease.

Executed as of the date first written above.

CITY:

CITY OF BEVERLY HILLS,
a municipal corporation

By: _____
NANCY KRASNE,
Mayor

ATTEST:

(SEAL)

BYRON POPE,
City Clerk

Approved as to content:

RODERICK J. WOOD, ICMA-CM,
Interim City Manager

TENANT:

BEVERLY HILLS CPR,
a California nonprofit corporation

By: _____
Martin Geimer,
President

SCOTT MILLER,
Director of Administrative Services/CFO

By: _____
Valerie Wisot,
Secretary

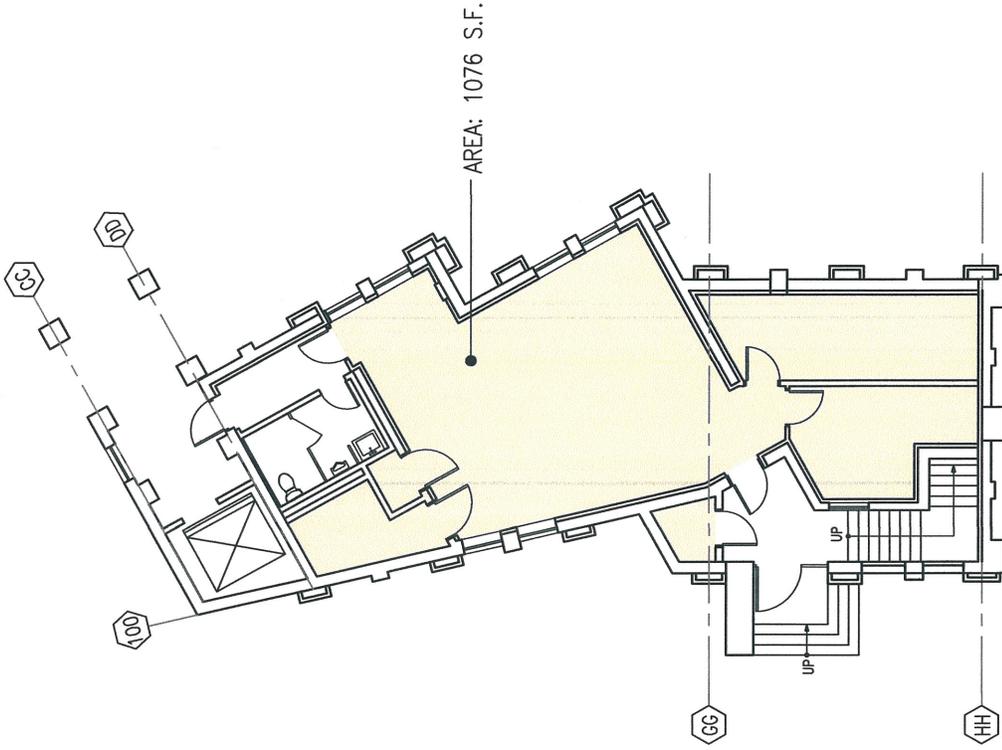
Approved as to form:

LAURENCE WIENER,
City Attorney

EXHIBIT "A"

DESCRIPTION OF LEASED PREMISES

[Attached.]



PARTIAL FIRST FLOOR PLAN 

<p>RTK</p>	<p>CITY OF Beverly Hills FIRE STATION- PARTIAL FLOOR PLAN</p>	<p>RTK # 0703710 JUNE 25 2009</p>	<p>SCALE: 1/16" = 1'-0"</p>	<p>SK-1</p>
-------------------	--	--	-----------------------------	-------------

Attachment 2

Memorandum of Lease

RECORDING REQUESTED BY:
WHEN RECORDED RETURN TO:

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

[Space Above For Recorder's Use Only]

The undersigned declare that this Memorandum of Lease is exempt from Recording Fees pursuant to California Government Code Section 27383 and exempt from Documentary Transfer Tax pursuant to California Revenue and Taxation Code Section 11922.

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (this "**Memorandum**") is made as of _____ 2009, by and between the CITY OF BEVERLY HILLS ("City"), and BEVERLY HILLS CPR, a California nonprofit corporation ("Tenant").

RECITALS

A. Tenant and City have entered into that certain Office Lease of substantially even date herewith (the "Lease"), pursuant to which City has agreed to lease and demise to Tenant, and Tenant has agreed to lease and accept from City, a portion (the "Premises") of that certain building located in the City of Beverly Hills, County of Los Angeles, State of California, commonly known as 444 North Rexford Drive. The Building is located on the land more particularly described on Exhibit A attached hereto (the "Property"). The Premises are more particularly described in the Lease.

B. Tenant and City now desire to enter into this Memorandum to comply with applicable law requiring that principal lease be recorded.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Tenant and City agree as follows:

1. Lease. City hereby leases and demises to Tenant, and Tenant hereby leases and accepts from City, the portion of the Property defined as the "Premises" for ten (10) years, unless terminated earlier as more particularly described in the Lease. The commencement date, rental rate and other terms and conditions of the Lease are set forth in the Lease (including any options to extend the Term of the Lease), which terms and conditions are incorporated herein by this reference.

2. Purpose. This Memorandum is prepared for the purposes of recordation only and in no way modifies the terms and conditions of the Lease. In the event any provision of this

Memorandum is inconsistent with any term or condition of the Lease, the term or condition of the Lease shall prevail.

3. Counterparts. This Memorandum may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, taken together, shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Lease as of the date first written above.

CITY:

THE CITY OF BEVERLY HILLS

By: _____
Nancy Krasne
Mayor

ATTEST:

Byron Pope, City Clerk

TENANT:

BEVERLY HILLS CPR,
a California nonprofit corporation

By: _____
Martin Geimer,
President

By: _____
Valerie Wisot,
Secretary

ACKNOWLEDGMENT

State of California)
)
County of _____)

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

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)
Signature of Notary Public

State of California)
)
County of _____)

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

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)
Signature of Notary Public

State of California)
)
County of _____)

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

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)
Signature of Notary Public

State of California)
)
County of _____)

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

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)
Signature of Notary Public