

October 9, 2006

Honorable Mayor and Members of
the Hermosa Beach City Council

Regular Meeting of
October 24, 2006

**RENEWAL OF LEASE WITH KIWANIS CLUB OF HERMOSA BEACH FOR
USE OF PREMISES AT 2515 VALLEY DRIVE**

Recommendation:

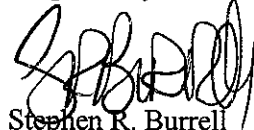
That the City Council approve the revised lease with Kiwanis Club of Hermosa Beach for another 25 years and authorize the Mayor to execute it on behalf of the City.

Background:

The City and Kiwanis Club of Hermosa Beach have had an on-going relationship since 1956. The Kiwanis Club built the building at 2515 Valley Drive under the first 25 year lease. The proposed lease is for another 25 years and has been updated by the City Attorney and a committee from the Kiwanis Club. The lease ensures that the building will continue to serve the youth groups that regularly use the building and also provide for scheduled use by the City Recreational Program. The lease specifies that rental proceeds will continue to be used to maintain the building.

The lease contains a termination clause that provides for a one (1) year notice should the City Council decide to use the area for some other purpose.

Respectfully submitted,



Stephen R. Burrell
City Manager

LEASE AGREEMENT

This Lease Agreement ("Lease" or "Lease Agreement") is made and entered into on this day of _____, 2006, by and between the City of Hermosa Beach, a municipal corporation ("City") and Kiwanis Club of Hermosa Beach, a California nonprofit corporation ("Lessee").

R E C I T A L S:

- A. City is the owner of certain real property with a building (the "building") located thereon at 2515 Valley Drive, Hermosa Beach, CA, the legal description of which is set forth in Exhibit A attached hereto and incorporated herein by this reference thereto (the "premises").
- B. The premises are located in a City park and are subject to certain deed restrictions restricting its use for community park and recreational purposes.
- C. Lessee, a nonprofit civic service club, constructed the building and has managed and maintained the building for fifty years, all at its sole cost and expense, for the benefit of the City, Lessee and the community. In order to continue such beneficial relationship, Lessee desires to lease the premises from City and City is willing to lease the premises to Lessee for the purposes and on the terms and conditions set out herein.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **Lease.** City hereby leases the premises to Lessee subject to the terms and conditions set forth herein.
2. **Term.** The term of this Lease shall be for a period of twenty-five (25) years commencing on the 12th day of August, 2006, and ending on the 11th day of August, 2031, unless earlier terminated as provided herein.
3. **Rent.** Lessee agrees to pay to the City rent in the amount of \$1 per year, payable annually on the anniversary date of this Lease or payable in advance in a single lump sum.
4. **Use.** Lessee agrees to use the premises only for the following purpose or purposes and for no other purpose, without the express written consent of City: Kiwanis club house, youth center and for such other municipal recreational activities as shall be determined by City in its sole discretion (including but not limited to programmed youth recreational activities sponsored by the City). On or before May 1 of each year this Lease is in effect, the parties shall consult with each other and develop a schedule for the City's use of the building for the ensuing fiscal year. The schedule may be modified from time to

time by City. Lessee may, when the premises are not scheduled for programmed use, rent the premises for private events provided that the proceeds from such rentals are used exclusively for maintenance, insurance, upkeep, capital improvements, repair or replacement of the premises.

5. **Insurance.** Lessee shall obtain and maintain at all times during the term of this Lease:

Comprehensive General and Automobile Liability insurance. Protecting Lessee in amounts not less than \$1,000,000 for personal injury to any one person, \$1,000,000 for injuries arising out of any one occurrence, and \$1,000,000 for property damage or a combined single limit of \$1,000,000. Such insurance shall name City of Hermosa Beach and its officers, employees, and agents as additional insured parties. Coverage shall be in accordance with the sample certificates and endorsements attached hereto and must include the coverage and provisions indicated.

Lessee shall file and maintain the required certificate(s) of insurance with City at all times during the term of this agreement. The certificate(s) is to be filed prior to the commencement of the work or event and should state clearly:

1. The additional insured requested;
2. Thirty day prior notice of change or cancellation to the City of Hermosa Beach;
3. Insurance is primary to that of the Additional Insured;
4. Coverage included;
5. Cross-liability clause.

Worker's Compensation Insurance. Lessee shall obtain and maintain at all times during the term of this agreement Worker's Compensation and Employers Liability insurance and furnish the City with a certificate showing proof of such coverage. Such insurance shall not be canceled or materially changed without a thirty (30) day prior written notice to: City Manager, City of Hermosa Beach.

Building and Improvements. Insurance covering the Building, Lessee's improvements and trade fixtures, merchandise and personal property from time to time in, on or upon the building. Such insurance shall cover not less than 100% of the full replacement cost of the foregoing from time to time during the term, and shall provide protection against any peril included within the classification of fire, extended coverage, sprinkler leakage, vandalism, theft, malicious mischief and special extended perils (all risk). Any policy proceeds shall be used for the repair or replacement of the property damaged or destroyed. Such policy shall name City as the loss payee and shall be appropriately endorsed to that effect.

Insurance Companies. Insurance companies must be rated (B:XIII) or better in Best's Insurance Rating Guide.

6. **Condition of the Premises Upon Termination of the Lease.** Lessee agrees to keep and maintain the premises in good condition and repair and to return to City the premises upon termination of this Lease in the same condition as when Lessee took possession of the premises excepting any repairs or alterations which were approved by the City, reasonable wear and tear excepted, and does promise to pay the City upon demand the reasonable sums to repair the premises in the event of a violation of this provision.

7. **Construction.** Lessee is prohibited from making any alterations or performing any construction or remodeling that requires issuance of a building permit on the premises without the express written approval of City. Any such approval shall include provisions to protect the City from potential liens of labor and material persons.

8. **Destruction, Partial Destruction or Necessity to Repair because of Conditions Caused by Other than Lessee.** City has no duty or obligation to reconstruct the premises in the event of destruction or partial destruction of the premises. City at its option may reconstruct or repair the premises, whereupon this Lease shall remain in full force and effect except that no rent will be owing to City during said period of reconstruction or repair if such reconstruction or repair interferes with the tenancy created herein to the extent that the premises cannot be used for the purposes intended. In the event City, at its sole discretion, determines not to reconstruct or repair the premises then either party at its option may cause this Lease to be terminated and neither party shall have any liability each to each other.

9. **Hold Harmless.**

a. Lessee shall hold harmless and indemnify the City, its officers, agents and employees from every claim or demand which may be made by reason of any injury and/or death to persons and/or injury to property caused by any direct or indirect act or any omission of Lessee, its officers, agents and employees arising out of Lessee's use of the premises. Lessee, at its own cost, expense and risk shall defend any and all actions, suits or other proceedings that may be brought or instituted against the City on any such claim or demand, and pay or satisfy any judgment that may be rendered against the City on any such action, suit, or legal proceedings as a result hereof.

b. City shall hold harmless and indemnify Lessee, its officers, agents and employees from every claim or demand which may be made by reason of any injury and/or death to persons and/or injury to property caused by any direct or indirect act or any omission of the City, its officers, agents and employees arising out of the City's use of the premises. City, at its own cost, expense and risk shall defend any and all actions, suits or other proceedings that may be brought or instituted against Lessee on any such claim or demand, and pay or satisfy any judgment that may be rendered against the Lessee on any such action, suit, or legal proceedings as a result hereof.

10. **Rules, Regulations and Ordinances.** Lessee agrees to comply strictly with all applicable laws, ordinances and regulations pertaining to occupancy and use of the building. Lessee shall provide access to the premises to City's officials and employees at any time upon request, to inspect the condition of the premises and to otherwise assure compliance with the terms and conditions of this Lease.

11. **Taxes and Charges.** Lessee agrees to pay when due any and all taxes, assessments or charges levied by any governmental agency on or to the leasehold premises. Lessee acknowledges that the leasehold interest may be subject to a possessory interest tax, for which it is responsible under this paragraph.

12. **Default.** Should Lessee fail to perform any obligation required pursuant to the terms of this Lease within thirty days after notice from the City, City may immediately cause this Lease to be terminated and thereafter take any action and pursue all remedies available in law and equity.

13. **Notice.** Any notice required to be made or given pursuant to the provisions of this lease may be either personally served upon the party or deposited in the United States mail, postage prepaid.

City: CITY OF HERMOSA BEACH
CITY HALL
1315 VALLEY DRIVE
HERMOSA BEACH, CA. 90254

Lessee: KIWANIS CLUB OF HERMOSA BEACH
P.O. BOX 121
HERMOSA BEACH, CA 90254
ATTN: PRESIDENT

Any notices so given pursuant to the provisions of this paragraph will be deemed served twenty-four hours after the deposit thereof in the United States mail.

14. **Attorneys Fees.** The parties agree that in the event any action is instituted concerning any of the provisions of this Lease Agreement, the prevailing party may in the discretion of the court be granted reasonable attorneys fees and costs of suit.

15. **Assignment and Subletting.** Lessee shall not assign or sublease all or any portion of the premises without the written consent of the City, which consent may be granted or denied at the exclusive and total discretion of the City. This paragraph 15 does not apply to rentals permitted pursuant to paragraph 4.

16. **Successors.** Subject to prior provisions, this Lease is binding upon the heirs, assigns and successors of interest of the parties.

17. **Termination.** Notwithstanding any other provision of this Lease, Lessee may terminate this Lease at any time, and Lessor may terminate the Lease at any time and without cause if: (i) City's City Council, following a noticed public hearing (as to which Lessee is provided written notice), finds that the premises must be used for another municipal purpose, and (ii) City thereafter provides Lessee one (1) year written notice of termination.

18. **Non-discrimination.** Lessee shall not in the management, operation, rental, use, or maintenance of the premises discriminate against any person or group based on race, religion, color, medical condition, sex, national origin, political affiliation or opinion, or pregnancy or pregnancy-related condition.

In Witness Whereof, the parties have executed this Lease Agreement at Hermosa Beach, CA on the day first herein above set forth.

HERMOSA BEACH, a
Municipal Corporation, Lessor

By _____
Mayor

ATTEST:

_____ CITY CLERK

APPROVED AS TO FORM:

_____ CITY ATTORNEY

DATE:

LESSEE:

_____ President