

CITY OF HERMOSA BEACH

LICENSE AGREEMENT

THIS LICENSE AGREEMENT is made this _____ day of _____, 2020, by and between the City of Hermosa Beach, a California municipal corporation and the Hermosa Beach Kiwanis Club, a California nonprofit organization.

RECITALS

A. The City of Hermosa Beach ("City" or "Licensor") is the owner in fee title of real property located in the City of Hermosa Beach ("City"), State of California, commonly known as 710 Pier Avenue, Hermosa Beach, California and improved with the Hermosa Beach Community Center (the "Property").

B. The Hermosa Beach Kiwanis Club ("Kiwanis" or "Licensee") has historically used the east lawn of the Property as a holiday tree lot in November and December of each year as a fundraising venture to support its charitable operations and has stored equipment for the tree lot in the City's storage unit on the south side of the gymnasium at the Community Center.

C. The parties now desire to memorialize this historic practice in a written instrument that will set forth the terms of Licensee's use of the east lawn of the Property and the storage unit for a term of three years and establish compensation for the use thereof.

NOW, THEREFORE, in consideration of the foregoing and the promises herein contained, the parties agree as follows:

1. License. A revocable, nonexclusive license is hereby granted to Licensee on the east lawn portion of the Property as depicted in Exhibit A attached hereto and incorporated herein by reference (the "licensed area") during the dates set forth in Section 2 hereof and a revocable, exclusive license is hereby granted to Licensee for the use of the southern portion of the City's storage unit located south of the Community Center gymnasium for the sole purpose of storing event-related equipment, all in accordance with and subject to the terms and conditions of this license agreement ("license" or "agreement").
2. Term. This license shall commence on October _____, 2020 and shall thereafter remain in effect until December 31, 2022, unless revoked or terminated as provided herein. The license for the use of the east lawn shall be effective solely during the following periods of time:

Thanksgiving Day through December 25, 2020.

Thanksgiving Day through December 25, 2021.

Thanksgiving Day through December 25, 2022.

Licensee shall annually inform the City of its intent to conduct the event, including confirmation of event dates, event times, and set-up and cleanup schedule, no later than thirty (30) days prior to Thanksgiving Day. The license for the partial use of the storage unit shall be year-round. This Agreement may be extended upon request by Kiwanis for two additional one-year terms in the exclusive discretion of the City.

3. Termination/Revocation. This is a revocable license and may be revoked by the City at any time, with or without cause, in the City's sole discretion, upon giving Licensee thirty (30) days' advance written notice of revocation. Licensee expressly acknowledges that the City's plans for and/or use of the licensed area and storage unit may change at any time in a manner inconsistent with this license and that Licensee has no permanent right to the continued use of the licensed area and storage unit, nor does this license give rise to any such right, title or interest in the licensed area or the Property. In the event of revocation during Licensee's use of the licensed area, Licensee shall remove all of its improvements, equipment and personal property from the licensed area and restore the licensed area as provided in Paragraph 6 herein.
4. Fee. In consideration of its use of the licensed area as provided herein, Licensee shall pay to City a nonrefundable annual license fee in the amount of \$5,000.00 for each year this license is in effect. Payment shall be made to the City in a lump sum no later than 30 days following expiration of each annual license period, as described in Section 2. In consideration of its use of the storage unit, Licensee shall pay to City the fixed sum of \$225 per month. Licensee may pay the license fee in a lump sum (\$2,700) in advance or on a monthly basis.
5. Use of licensed area and storage unit. Licensee shall use the licensed area exclusively as a holiday tree lot and for no other purpose (the "event"). Licensee shall arrange its improvements in the licensed area as depicted in the site plan attached hereto as Exhibit B and incorporated herein by reference. A key or access information into the storage unit shall be provided to the City for use in emergency situations only. Only the storage of non-perishable equipment and materials is permitted in the storage unit.
6. Event Revenue. Licensee shall utilize any revenue collected as a result of the Event towards its philanthropic efforts in the Hermosa Beach community and other foundation activities.
7. Operational requirements.
 - a) Parking. Licensee shall post "No Parking" signs in mutually agreed upon spaces on 11th Place and in the Community Center parking lot at least 72 hours prior to the start of each annual event setup. Licensee will be responsible for maintaining these signs throughout the event to ensure they remain posted and legible.

- b) Logistical Meetings. Licensee shall participate in a logistical and planning meeting with relevant City departments as requested by the City but no less than 30 days prior to each annual event. Licensee will be required to provide the following at pre-event meetings:
 - i. Site plan;
 - ii. Complete Event timeline including setup and teardown activities;
 - iii. Parking and traffic control plans; and
 - iv. COVID-19 guidelines, consistent with the Los Angeles County Department of Public Health's health order.
 - c) Barricades. Licensee shall provide water-filled barricades along the perimeter of its event on Pacific Coast Highway and Pier Avenue to prevent vehicular traffic into the licensed area. Placement of these barricades will be mutually agreed upon during the pre-event meeting provided for in paragraph (b) above.
 - d) COVID-19 compliance. Licensee shall comply in all respects with State, City and Los Angeles County Department of Public Health health order for retail businesses. Licensee shall implement applicable safety measures as required by the Los Angeles County Department of Public Health in the event guidance on holiday tree lots are released.
 - e) Waste Collection. Licensee shall provide no less than a three-cubic yard dumpster to be used for event-related waste. Licensee shall use the City's franchised waste collection company. The size, location and placement of the dumpster shall be mutually agreed upon during the pre-event meeting provided for in paragraph (b) above.
 - f) Lawn Preparation. City shall provide markings on the Community's Center's east lawn to designate water lines and utilities prior to the installation of the fence.
 - g) Restroom Facilities. Use of the Community Center restrooms will be coordinated on an annual basis and will be made available based on use by other groups, facility needs, and facility safety measures. During the implementation of COVID-19 precautionary measures, restroom facilities may be used by event staff only.
8. Annual Review. Within 60 days following each Event, Licensee shall provide an annual overview to the Parks, Recreation and Community Resources Advisory Commission in the form of an agendaized presentation. The post-event presentation shall include: a general overview including the actual number of attendees; the success of the tree lot for Licensee's philanthropic purposes; actual impact(s) to the community as a result of the event; and any event struggle(s) and success(es).

9. Restoration of premises. Within thirty (30) days of the expiration of this license or earlier termination by City or abandonment of this license by Licensee, Licensee shall at its expense restore the licensed area to its condition prior to its use thereof. In the event Licensee fails to do so, the City shall have the option of restoring the property at Licensee's expense. Any cost incurred by the City in so doing shall constitute a debt of the Licensee to the City, recoverable by the City in any manner provided by law. Restoration shall include, but not be limited to, repair of turf.
10. Indemnification. Licensee shall indemnify and hold harmless the City, its officers, employees and agents from and against any and all claims, demands, losses, damages, costs and expenses (including but not limited to court costs, penalties, expert fees and reasonable attorneys' fees), judgments, liabilities and causes of action of any nature whatsoever and damages for injuries to persons and property arising from Licensee's use of the license area pursuant to this license, including but not limited to Licensee's negligent or wrongful acts, errors or omissions in the set-up, operation and tear-down of its improvements and use of the licensed area by Licensee's guests, patrons, invitees, customers, employees, officers, and contractors hired in connection with this license. Licensee shall promptly pay the amount of any final and non-appealable judgment rendered against City, its officers, employees and agents for any such indemnified claims, and reasonable costs, and reasonable expert and attorney fees incurred by City in the defense of such claims. Licensee's obligations under this Section shall survive any termination of this license.
11. Insurance. Licensee agrees to maintain at all times adequate general liability insurance with respect to the licensed area and the use and occupancy thereof in an amount not less than \$2,000,000.00 per occurrence. Such policy shall name City as an additional insured and shall specifically include coverage against claims for bodily injury, death and property damage occurring on or about the licensed area and contractual coverage with respect to the indemnity obligations set forth in this license. Licensee shall furnish City with evidence of such coverage before commencing any use or occupancy of the licensed area, and upon request from time to time thereafter. The insurance policy required herein shall not limit Licensee's indemnification obligations set forth in Section 10.
12. Right of Entry. Licensee acknowledges the City's absolute right to enter upon the licensed area for purposes of inspection, replacement, repair, or maintenance of public facilities and Licensee expressly waives any and all claims for damages to its property resulting from such actions, except as arises from the negligence or willful misconduct of the City, its agents, employees or contractors.
13. Damage to the Property. Licensee assumes responsibility for all damage to the Property and the licensed area caused by or arising from its operations pursuant to this license. In the event that Licensee does not promptly repair all such damage, Licensee agrees to reimburse the City for correction of any such damage. Upon failure of Licensee to so reimburse the City, the cost incurred by the City in repairing the Property shall be a debt of Licensee to the City, and recoverable by the City in any manner provided by law.

14. Compliance with Codes. Licensee shall conduct its operations in full compliance with all applicable codes, ordinances and laws, and obtain all necessary permits, including a City business license.
15. Notice. In the event that any notice is given under this permit, it shall be personally delivered, in which case it shall be effective upon delivery, or may be provided by nationally recognized overnight courier which provides proof of delivery, which notice shall become effective on the date of verified delivery to the addresses set forth below:

To Licensee: Hermosa Beach Kiwanis Club
 2515 Valley Drive
 Hermosa Beach, California 90254
 PHONE (310) 714-6907
 Attention: George Barks, President

To City: City of Hermosa Beach
 Attn: City Manager
 1315 Valley Drive
 Hermosa Beach, CA 90254
 Telephone: (310) 318-0216
 Email: suja@hermosabeach.gov

A party may change its address for notices by giving notice to the other party in the manner herein provided or may request that not more than two (2) additional copies of any notice be sent to addresses specified in a notice to the other party given pursuant to this paragraph.

16. General Provisions.

- a) Controlling Law. The laws of the State of California shall govern the interpretation and performance of this license.
- b) Severability. If a court of competent jurisdiction voids or invalidates on its face any provision of this license, such action shall not affect the remainder of this license. If a court of competent jurisdiction voids or invalidates the application of any provision of this license to a person or circumstance, such action shall not affect the application of the provision to other persons or circumstances.
- c) Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
- d) Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the subject matter herein and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto.

- e) Venue. In the event that suit shall be brought by either party to this license, the parties agree that venue shall be exclusively vested in the state courts of the County of Los Angeles, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Central District of California.
- f) Assignment. This license shall not be assigned or transferred without the written consent of the City. Any such purported assignment or transfer shall be void and of no effect.

IN WITNESS WHEREOF, the parties have executed this License Agreement, effective as of the date written above.

THE HERMOSA BEACH KIWANIS CLUB

By:_____

Its: _____

CITY OF HERMOSA BEACH

By:_____
CITY MANAGER

ATTEST:

CITY CLERK

EXHIBIT A

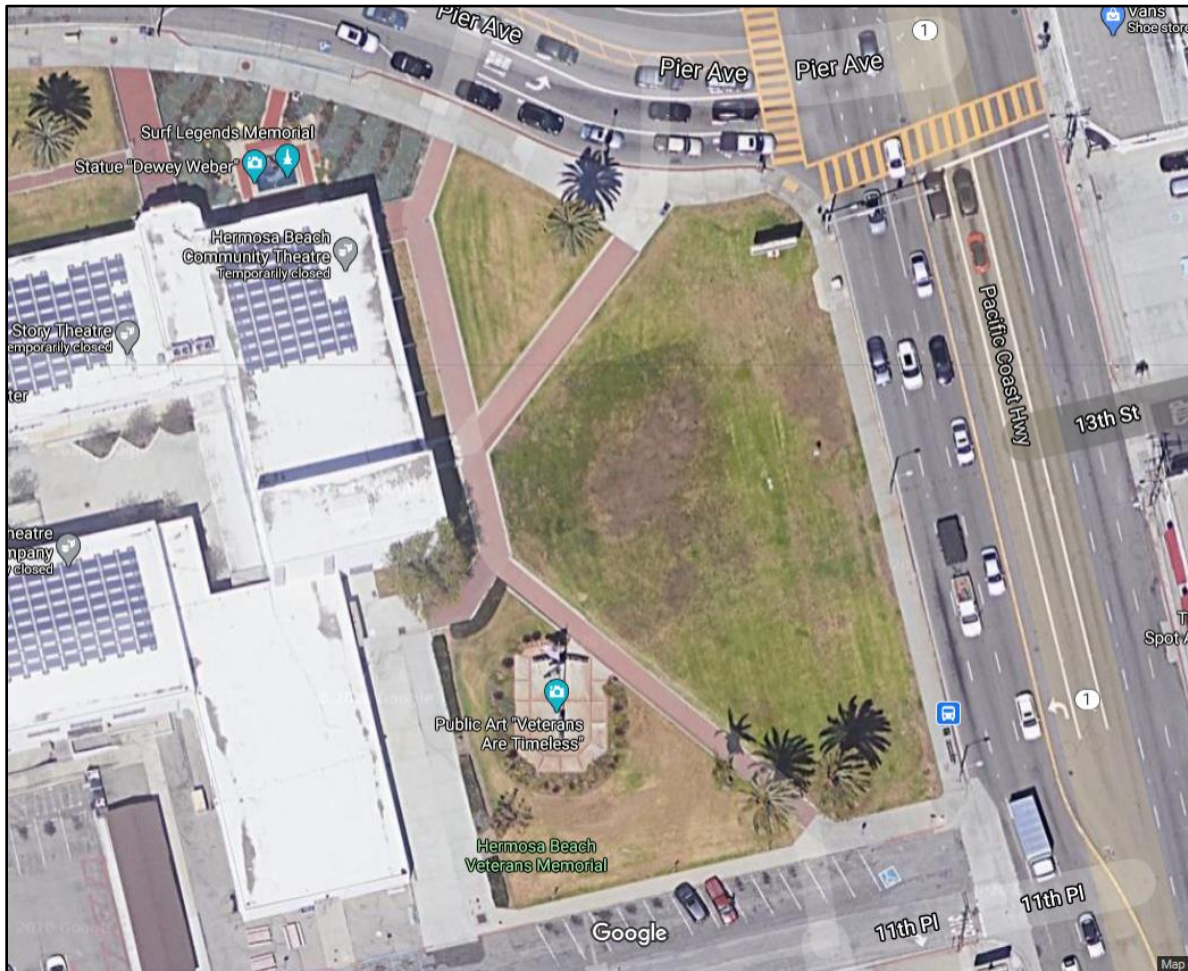


EXHIBIT B

