

MEMORANDUM OF UNDERSTANDING BETWEEN THE
MANHATTAN BEACH PROPERTY OWNERS
ASSOCIATION, FRIENDS OF SENIOR & SCOUT
COMMUNITY CENTER, AND THE CITY OF
MANHATTAN BEACH REGARDING THE SCOUT
HOUSE RECONSTRUCTION PROJECT

This Memorandum of Understanding (“MOU”) is entered into as of _____, 2014 (“Effective Date” hereinafter) by and between the City of Manhattan Beach, a California municipal corporation, the Manhattan Beach Property Owners Association, a nonprofit corporation, and Friends of Senior & Scout Community Center, a non-profit corporation (collectively referred to as the “Parties”).

RECITALS

- A. The City of Manhattan Beach (“City”) currently owns and maintains the structure commonly known as the Scout House at the Joslyn Community Center, 1601 Valley Drive, Manhattan Beach, California.
- B. The Manhattan Beach Property Owners Association (“MBPOA”) is a non-profit organization in Manhattan Beach which was formed in 1939.
- C. Friends of Senior & Scout Community Center (“the Friends”) is a non-profit organization of supporters of Cub Scouts, Boy Scouts and Girl Scouts, as well as older adult programming, in Manhattan Beach, which was formed in 2013. Boy Scouts/Cub Scouts is available to all boys in Manhattan Beach between the ages of 7 and 20. Currently there are approximately 500 Boy Scouts in Manhattan Beach. Girl Scouts is available to all girls in Manhattan Beach from kindergarten through 12th grade. Currently, there are approximately 1,000 Girl Scouts belonging to 75 troops in Manhattan Beach. (Hereinafter, the Boy Scouts, Cub Scouts and Girl Scouts will be referred to as “the Scouts” collectively.)
- D. City, MBPOA, and the Friends desire to work together to replace the current Scout House with a new, two-story, approximately 6,000 square foot building, and use the area shown on Exhibit A (“Project”), which would be used primarily as a facility for scouting and City-sponsored older adult programming.
- E. MBPOA and Friends have estimated that the cost of a new building with a lifespan of at least 50 years will be \$2.1 million. MBPOA and Friends shall raise all funds necessary to pay the total cost of the Project, including all costs associated with construction, construction management, in-house inspection, the amount of the successful bid, CEQA compliance, and a 10% construction contingency amount. In exchange for raising such funds, the City wishes to grant the Friends and Scouts priority use of the new facility for the lifetime of the new building.

NOW THEREFORE, IN CONSIDERATION OF THE PARTIES' PERFORMANCE OF THE PROMISES, COVENANTS, AND CONDITIONS STATED HEREIN, THE PARTIES AGREE AS FOLLOWS:

Section 1. The recitals are hereby incorporated by this reference.

Section 2. The MBPOA shall donate \$500,000 to the project. The MBPOA will deposit such amount in an escrow account established by the City ("Escrow") within 30 days of the Effective Date. MBPOA will provide draft escrow instructions to the City for the City's review and approval. Subject to any mutually agreed extensions, the commitment by MBPOA will expire 42 months after the Effective Date in the event sufficient funds have not been raised to pay for the Project.

Section 3. The Friends shall undertake a fundraising drive to secure and manage the funds needed, in excess of the MBPOA donation, to construct the Project, in accordance with the following schedule. The Friends shall:

- A. Begin fundraising no later than 60 months after the Effective Date.
- B. Incorporate and obtain tax exempt status of the Friends no later than six months after the Effective Date.
- C. Hold all funds raised by the Friends, less reasonable fund raising and operating expenses, in a separate segregated bank or other account in a recognized financial institution ("Account"), unless otherwise directed by the donor.
- D. Provide quarterly updates to the City of its fundraising efforts and the amounts deposited into the Account.
- E. Within 42 months of the Effective Date, deposit in the Account all additional amounts needed to equal or exceed the total estimated project cost ("Total Estimated Project Cost") for the Project. Total Estimated Project Cost constitutes all costs associated with construction, construction management, in-house inspection and a 10% construction contingency amount.
- F. On or before 30 days prior to the City's advertising for bids for the Project, place the entire amount needed to cover the total Project cost in the Account for the City.

In the event the Friends are unable to meet any of the above deadlines, the City may, at its sole option, extend the fundraising period and defer the start of the Project until sufficient funds are provided by the Friends.

Section 4. The Friends shall engage the services of design professionals to prepare all necessary plans ("Plans") and the Total Estimated Project Cost. Prior to selecting the design professionals, Friends shall consult with the City Engineer. Friends may request that money from Escrow be used to compensate the design professionals.

Section 5. CEQA Compliance. The Friends shall submit a project description to the City. Upon receipt of the project description, the City shall prepare an Initial

Study and proceed with the CEQA process. In the event that the City retains an independent consultant or otherwise incurs expenses to prepare the required CEQA documentation, the funding for such services shall be withdrawn from Escrow. In addition, the Friends will provide all funds necessary to pay for the implementation of any mitigation measures required as a result of the CEQA review process.

Section 6. The Friends shall submit to the City the Plans and the Total Estimated Project Cost for City review, input and approval at three intervals, as follows:

35% Completion: (1) The Plans; (2) Total Estimated Project Cost; and (3) amount of funds in the Account.

65% Completion: (1) The Plans, with modifications, if any; (2) Total Estimated Project Cost; and (3) amount of funds in the Account.

100% Completion: (1) The Final Plans; (2) Total Estimated Project Cost; and (3) amount of funds in the Account.

Section 7. The City shall review such submittals in a timely fashion, as follows:

35% Completion: The City Engineer will review the Plans and Total Estimated Project Cost, provide to Friends any corrections or changes, and provide a status report to the City Council as to the proposed plans, the estimated costs, and the amount of funds in the Account. The City Council reserves the right to change the plans.

65% Completion: The City Engineer will review the Plans and Total Estimated Project Cost, provide to Friends any corrections or changes, and provide a status report to the City Manager as to the proposed plans, the estimated costs, and the amount of funds in the Account.

100% Completion: The City Engineer will review the Final Plans and Total Estimated Project Cost, provide to Friends any corrections or changes, and provide a staff report to the City Council as to the Final Plans, the estimated costs, and the amount of funds in the Account. In the event there are sufficient funds in Escrow and the Account, the City Council may approve the plans and specifications and authorize staff to advertise for bids.

Section 8. Upon receipt of bids, staff shall issue a total final project cost ("Final Project Cost"). The Final Project Cost constitutes the lowest responsive and responsible bid, construction management, in-house inspection, costs associated with CEQA compliance (including analysis and mitigation measures) and a 10% construction contingency amount. In the event the amount of funds in Escrow and the Account exceeds the Final Project Cost, City staff shall place the Project on a City Council agenda for Council consideration to award a construction contract for the Project.

Section 9. In the event the lowest bid exceeds the amount of funds deposited in Escrow and in the Account, the City will be under no obligation to award the

construction contract for the Project. In such event, the parties will meet in good faith to consider whether to abandon the Project or other alternatives.

Section 10. City Obligations. City will be under no obligation to contribute any money for the Project. Nonetheless, City agrees to:

- A. Waive City fees associated with the construction of the new building.
- B. Any infrastructure improvements not related to Project or mitigation measures shall be the responsibility of the City.
- C. Provide long-term and routine maintenance of the finished building in the same manner and scope as City Hall. However, City shall not be responsible for general clean-up in the Scouts' designated space or after Scouts' events anywhere in the facility. City will continue to maintain responsibility for the general trash pick-up in the building and outside the building.
- D. Provide adequate building fire and other insurance at the same policy limits as all other City owned buildings of the approximate age and condition.

Section 11. Upon issuance of a certificate of occupancy and for the life of the building:

- A. Approximately the 1,000 square foot area shall be for the sole and exclusive use for the City's older adult programming. The designated space to be used for City's older adult programming will be built in such a way that it can be secured with a lock when not in use and will not be available for reservations, unless it is related to older adult activities.
- B. The Older Adult Program shall have exclusive use of the first floor common areas (in addition to the designated Older Adult space) during the hours of 6:00 a.m. to 2:45 p.m. Monday through Friday, except Wednesdays which will be 6:00 a.m. to 1:30 p.m.
- C. The Scouts shall have sole and exclusive use of the second floor, and priority scheduling of the first floor common areas from 3:00 p.m. each weekday, except Wednesdays which will be from 1:30 p.m., and 24 hours on Saturday and Sunday.
- D. Non-priority scheduling by entities other than the Scouts or for the City's older adult programming shall be allowed by the City no more than 30 days prior to an event and no less than 10 days before an event, if space is available.
- E. On an annual basis, the Director of Parks and Recreation shall meet with Scouting representatives and senior representatives to discuss the use of the building. If the City finds that the spaces are not needed for either the Scouts or older adult programming, the City in its discretion may re-allocate the use of the building.

F. MBPOA and the Friends may honor their financial contributors to this project. This may be done by having permanent, but simple, plaques, tiles, bricks or other building material affixed on or near the building, or in locations approved by City, listing the names of the contributors who wish to be so honored. Other means to permanently recognize contributors will not be unreasonably denied by City.

Section 12. Termination. Either party shall have the right to terminate this Agreement for any reason or for no reason upon 30 calendar days' written notice to the other parties. In the event of termination, the balance of the amounts that have been donated, less the amount already expended by the City, will be distributed to the donors in direct proportion to the amount donated by each party.

Section 13. Notices. Any notices, bills, invoices, etc. required by this MOU shall be deemed received on (a) the day of delivery if delivered by hand during the receiving party's regular business hours or by facsimile before or during the receiving party's regular business hours; or (b) on the second business day following deposit in the United States mail, postage prepaid, to the addresses set forth below, or to such other addresses as the Parties may, from time to time, designate in writing pursuant to this section.

If to City: City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266
Attn: City Manager

If to MBPOA: Friends of Senior and Scout Community Center
1116 8th Street, Suite E
Manhattan Beach, CA 90266

If to the Friends: Manhattan Beach Property Owners Association
PO Box 3892
Manhattan Beach, Ca 90266

Section 14. Entire Agreement. This MOU represents the entire integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral. Other than extensions granted by the City Manager, this Agreement may be amended only by a written instrument signed by all Parties.

Section 15. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 16. City Not Obligated to Third Parties. City shall not be obligated or liable under this Agreement to any third parties.

Section 17. Corporate Authority. The persons executing this Agreement on behalf of the Parties warrant that they are duly authorized to execute this Agreement on

behalf of said Parties and that by their execution, the Parties are formally bound to the provision of this Agreement.

[Signatures begin next page]

EXECUTED on the date first written above at Manhattan Beach, California.

CITY OF MANHATTAN BEACH

MBPOA

JOHN JALILI
Interim City Manager

ATTEST:

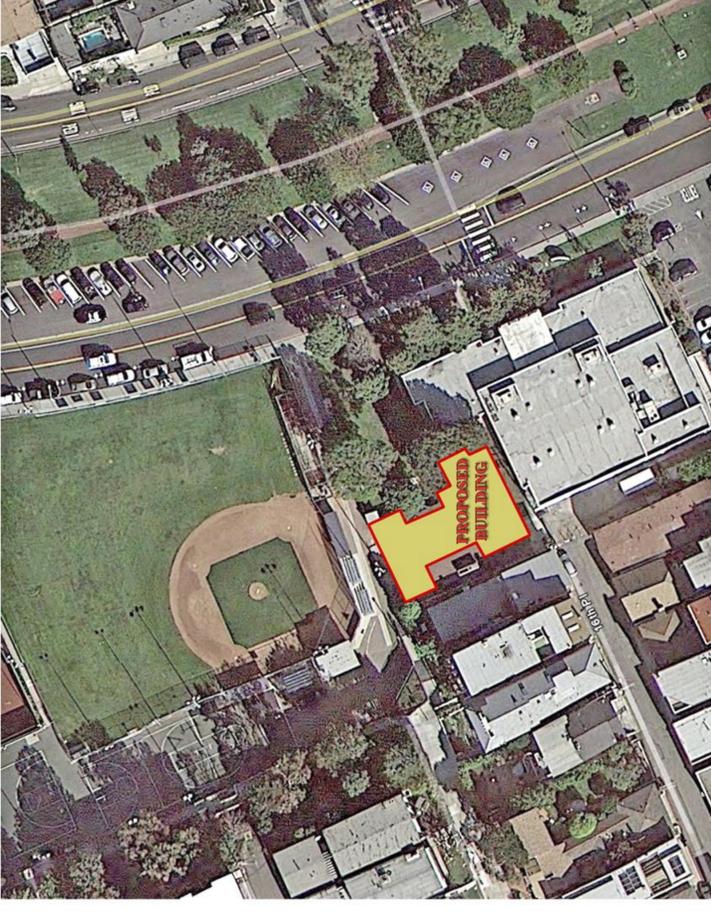
FRIENDS

Liza Tamura
City Clerk

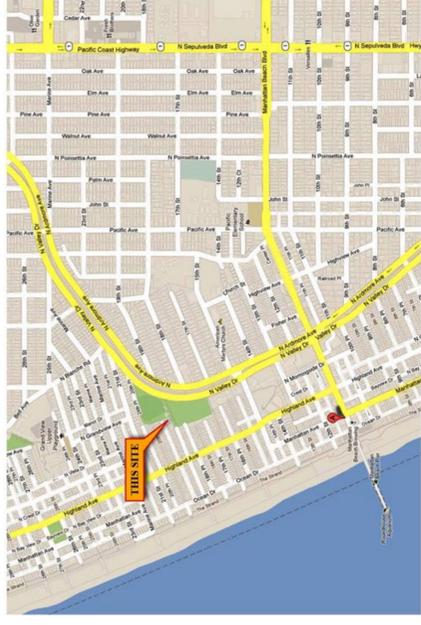
APPROVED AS TO FORM:

Quinn M. Barrow
City Attorney

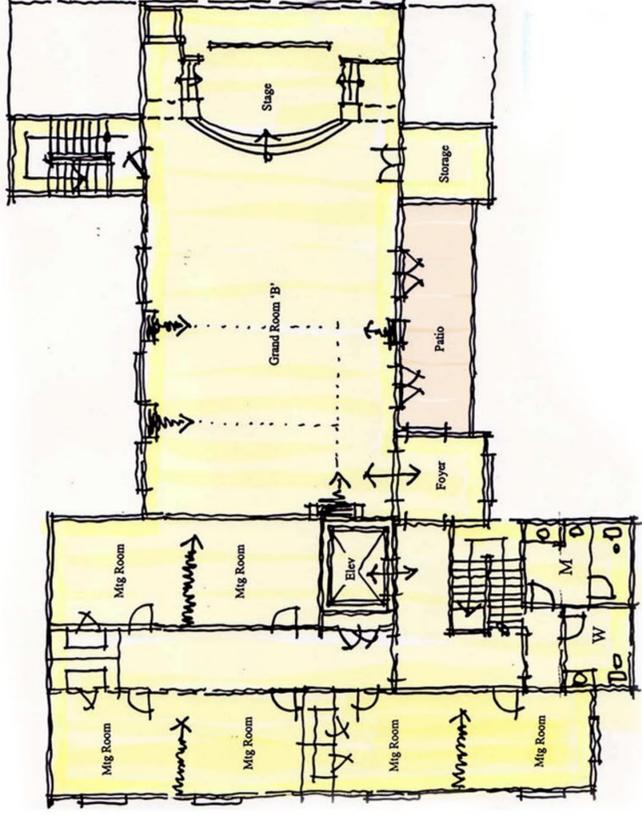
EXHIBIT A



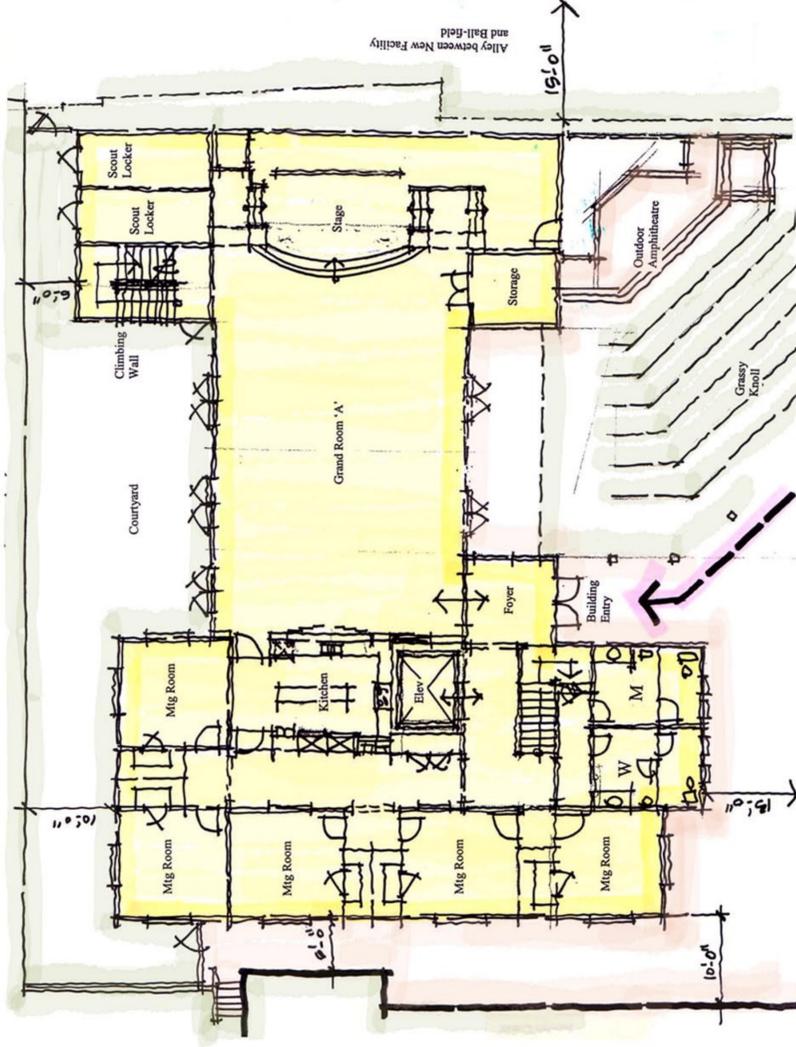
SITE MAP



VICINITY MAP



SECOND LEVEL



FIRST LEVEL



SENIORS + SCOUTS CONCEPT ILLUSTRATION

COMMUNITY CENTER
CITY OF MANHATTAN BEACH