

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF RIVERSIDE AND CALIFORNIA INLAND EMPIRE COUNCIL,
SCOUTING AMERICA**

Council Headquarters at Fairmount Park

This MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into on this ____ day of _____, _____, (“Effective Date”) by and between the City of Riverside, a California charter city and municipal corporation (“City”), and CALIFORNIA INLAND EMPIRE COUNCIL, SCOUTING AMERICA (“Scouts”), a California nonprofit public benefit corporation, to outline the terms and conditions under which the parties will negotiate for a potential lease of property, as further detailed below. The City and Scouts may be referred to individually as a “Party” or collectively as the “Parties.”

1. PURPOSE. This MOU establishes the framework for a cooperative framework under which the City will make available to Scouts a parcel of land for the development of a new Council Headquarters at Fairmount Park, offering numerous opportunities for youth, a scout store, and both indoor and outdoor meeting facilities. The Parties contemplate that such parcel shall be leased to Scouts.

2. SCOUTS OVERVIEW. To instill confidence with supporters and investors, Scouts would like to enter into this MOU with the City of Riverside to negotiate terms for: (i) a new headquarters at Fairmount Park; and (ii) a low- or no-cost, long-term lease in exchange for programming and improvements at Fairmount Park. Subsequently, Scouts will kick off a funding campaign to raise funds to design, permit, and build the headquarters with a goal of opening in two (2) years.

3. TERM. This MOU shall commence upon the Effective Date and shall remain in effect for six (6) years, unless otherwise terminated earlier. This MOU may be terminated in one of the following ways: (i) lapse of time up to the end date of the term; (ii) mutual agreement of the Parties; or (iii) the expiration of fifteen (15) days after one Party sends the other party written notice of the noticed Party's failure to timely and diligently perform any of its obligations under this MOU, and the noticed Party's failure to cure or correct the failure to perform within the same fifteen (15)-day period.

4. CITY SUPPORT AND LAND OFFER. The City intends to make available to Scouts for lease a vacant parcel of land located at Fairmount Park and generally depicted on the map attached hereto as Exhibit “A” and incorporated herein by reference (“Site”). Upon satisfaction of the prerequisites described in Section 5, the City Manager will present to the City Council for approval a long-term ground lease with Scouts which shall include, at a minimum, the following terms, with the City Manager reserving the right to add any additional terms as negotiated by the Parties:

- Lease Term: Forty (40) years, with an option to extend for an additional fifteen (15) years, for a total lease term not to exceed fifty-five (55) years.

- Lease Rate: To be negotiated, and can either be monetary or non-monetary, including Scouts providing facilities and opportunities for Riverside youth and adults at Fairmount Park or elsewhere in the City.
- Administrative Fee: To be negotiated.
- Purpose: Construction, operation, and maintenance of the Scouts headquarters.
- Lease Term commencement: Occurs only upon issuance of building permits for the new Scout headquarters.

5. PREREQUISITES TO LEASE APPROVAL. Scouts must meet the following milestones within the stated timelines as a prerequisite to the City Manager presenting a lease to the City Council for approval. All timelines begin on the Effective Date of this MOU:

- 5.1 Site and Architectural Plan Development (within two (2) years): Scouts shall prepare and submit to the City for review and approval a comprehensive site plan for the parcel.
- 5.2 Capital Funding (within three (3) years): Scouts shall provide satisfactory evidence that it has raised sufficient capital funding for project construction.
- 5.3 Plan Check and Building Permit Submittal (within four (4) years): Scouts shall submit complete architectural plans and engineering documents for City review and approval.
- 5.4 Permit Issuance and Lease Execution: Upon issuance of building permits, the City Manager will present to the City Council a long-term lease for approval.
- 5.5 Commencement of Construction (within 4 years): The lease shall require that Scouts shall commence construction within four (4) years of the effective date of the lease.

6. RESPONSIBILITIES OF THE PARTIES

- 6.1 City Responsibilities. The City agrees to:
 - Coordinate with Scouts on planning, zoning, infrastructure, traffic, utilities, and permitting. As part of this coordination, determine who is responsible for any infrastructure improvements (roads, parking, water, electrical, gas, sewer, etc.)
 - During the term of this MOU, representatives of Scouts shall have the right of access to and entry upon the Site for the purpose of obtaining data and making surveys and tests that

Scouts deems necessary to carry out the Site analyses. Prior to such access and entry onto the Site, the Scouts and the City shall execute the City's standard Right of Entry with Scouts providing to City the requisite insurance naming the City as an additional insured. Scouts must coordinate with the City on access to, and entry upon, the Site.

- Expedite reviews consistent with City policies.
- Furnish to Scouts copies of all title reports, title documents, parcel maps, records of survey, and all related environmental documents pertaining to the Site and within the possession of the City.
- Present for City Council approval a long-term lease upon Scouts meeting the conditions in Section 5.

6.2 Scouts Responsibilities. Scouts agrees to:

- Lead all planning, design, fundraising, and construction activities.
- Prepare required studies, CEQA documentation, and site plans.
- Secure necessary funding.
- Comply with all codes and regulatory requirements.
- Commit to maintain and operate the Scouts Council Headquarters consistent with its mission as described in Section 1.
- At regular three (3)-month intervals, commencing on the Effective Date of this MOU, Scouts shall report to the City Manager or designee on the status of the performance of its obligations under the MOU to the City.
- Scouts shall furnish to the City copies of all title reports, title documents, parcel maps, records of survey, and all related environmental documents pertaining to the Site and acquired or developed by Scouts, or by a third party on Scouts' behalf, as the same become available.

7. DISCRETIONARY APPROVAL. The acceptance by the Parties hereto of the terms and provisions of this MOU is merely an accommodation to clarify the process the parties' desire to commence and pursue evaluation of the Site for a long-term lease as described herein. No agreement related to the lease of the Site or development of the Council Headquarters shall be binding upon the City until the City Council has had an adequate opportunity to consider any agreement for approval and has, in the free exercise of their discretion, approved such agreement. Scouts acknowledges and agrees that nothing

herein restricts nor shall be deemed to restrict the City Council in the free exercise of its discretion, or in the free exercise of its executive, quasi-judicative, or legislative powers.

8. LIMITATION ON REMEDIES. The City and Scouts each acknowledge and agree that neither the City nor Scouts would have entered into this MOU if it were to be liable to the other for monetary damages or other remedies. Accordingly, the City and Scouts each acknowledge and agree that their respective exclusive right and remedy upon the breach of this MOU by the other is to terminate this MOU.

9. INDEMNITY.

9.1 Except as to the sole negligence or willful misconduct of the City, Scouts shall indemnify and hold harmless the City, and the City's employees, officers, managers, agents, and council members from any liability, claim, damage, or action whatsoever, to the extent it is based or asserted upon any wrongful act or omission of Scouts, its officers, employees, subcontractors, agents, or representatives, or arises out of or in any way relates to this MOU, including, but not limited to, property damage, bodily injury, or death.

9.2 City shall indemnify and hold harmless the Scouts, and the Scouts' employees, officers, managers, agents, and board members from any liability, claim, damage, or action whatsoever, arising out of the sole negligence or willful misconduct of City, its officers, employees, subcontractors, agents, or including, but not limited to, property damage, bodily injury, or death.

10. INDEPENDENT CONTRACTOR. In the performance of this MOU, Scouts, and Scouts' employees, subcontractors, and agents, shall act in an independent capacity as independent contractors, and not as officers or employees of the City of Riverside. Scouts acknowledges and agrees that the City has no obligation to pay or withhold state or federal taxes or to provide workers' compensation or unemployment insurance to Scouts, or to Scouts' employees, subcontractors, and agents. Scouts, as an independent contractor, shall be responsible for any and all taxes that apply to Scouts as an employer.

11. NON-DISCRIMINATION. During Scouts' performance of this MOU, Scouts shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical disability, mental disability, medical condition, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS), or any condition related thereto, marital status, gender, gender identity, genetic information, gender expression, sex or sexual orientation, military and veteran status, in the selection and retention of employees and subcontractors and the procurement of materials and equipment, except as provided in Section 12940 of the California Government Code. Further, Scouts agrees to conform to the requirements of the Americans with Disabilities Act in the performance of this MOU.

12. NOTICES. Service of any notices, bills, invoices, or other documents required or permitted under this MOU shall be sufficient if sent by one party to the other by United States mail, postage prepaid, and addressed as follows:

To City

Parks and Recreation Department
City of Riverside
Attn: Director
3900 Main Street, 5th Floor
Riverside, CA 92522

To Scouts

California Inland Empire,
Scouting America
Attn: Matt Bear
2351 W. Lugonia Avenue, Suite F
Redlands, CA 92374

13. VENUE. Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this MOU shall be tried in the Superior Court of California, County of Riverside, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

14. WAIVER. No action or failure to act by the City shall constitute a waiver of any right or duty afforded City under this MOU, nor shall any action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically provided in this MOU or as may be agreed in writing.

15. SEVERABILITY. Each provision, term, condition, covenant, and/or restriction, in whole and in part, in this MOU shall be considered severable. In the event any provision, term, condition, covenant, and/or restriction, in whole and/or in part, in this MOU is declared invalid, unconstitutional, or void for any reason, such provision or part thereof shall be severed from this MOU and shall not affect any other provision, term, condition, covenant, and/or restriction of this MOU and the remainder of the MOU shall continue in full force and effect.

16. AMENDMENTS. This MOU may be modified or amended only by a written agreement executed by the Scouts and City.

17. AUTHORITY. The individuals executing this MOU and the instruments referenced herein on behalf of Scouts each represent and warrant that they have the legal power, right, and actual authority to bind Scouts to the terms and conditions hereof and thereof.

18. ENTIRE AGREEMENT. This MOU constitutes the final, complete, and exclusive statement of the terms of the agreement between the parties pertaining to the subject matter of this MOU and supersedes all prior and contemporaneous understandings or agreements of the parties. Neither party has been induced to enter into this MOU by, and neither party is relying on, any representation or warranty outside those expressly set forth in this MOU.

19. DIGITAL AND COUNTERPART SIGNATURES. Each party to this MOU intends and agrees to the use of digital signatures that meet the requirements of the California Uniform Electronic Transactions Act (Civil Code §§ 1633.1, et seq.), California Government Code § 16.5, and California Code of Regulations, Title 2, Division 7, Chapter 10, to execute this MOU. The parties further agree that the digital signatures of the parties included in this MOU are intended to authenticate this writing and to have the same force and effect as manual signatures for purposes of validity, enforceability, and

admissibility. For purposes of this section, a “digital signature” is defined in subdivision (d) of Section 16.5 of the Government Code and is a type of “electronic signature” as defined in subdivision (h) of Section 1633.2 of the Civil Code. This MOU may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each certified or authenticated electronic copy of an encrypted digital signature shall be deemed a duplicate original, constituting one and the same instrument and shall be binding on the parties hereto.

20. INTERPRETATION. City and Scouts acknowledge and agree that this MOU is the product of mutual arms-length negotiations and accordingly, the rule of construction, which provides that the ambiguities in a document shall be construed against the drafter of that document, shall have no application to the interpretation and enforcement of this MOU.

20.1 Titles and captions are for convenience of reference only and do not define, describe, or limit the scope or the intent of the MOU or any of its terms. Reference to section numbers are to sections in the MOU, unless expressly stated otherwise.

20.2 This MOU shall be governed by and construed in accordance with the laws of the State of California in effect at the time of the execution of this MOU.

[SIGNATURES ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be executed the day and year first above written.

CITY OF RIVERSIDE, a California
charter city and municipal corporation

CALIFORNIA INLAND EMPIRE
COUNCIL, SCOUTING AMERICA, a
California nonprofit public benefit
corporation

By: _____
City Manager

By:  _____
Name: **Matt Bear**
Title: **CEO**

ATTEST:

By: _____
City Clerk

and

APPROVED AS TO FORM:

By:  _____
Name: **Matthew Barth**
Title: **CIEC Council President**

By:  _____
Assistant City Attorney

EXHIBIT “A”

SITE MAP



Parking Plaza

