

**NEWPORT BEACH LECTURE HALL
GREEN ROOM NAMING RIGHTS AGREEMENT**

THIS GREEN ROOM NAMING RIGHTS AGREEMENT ("Agreement") is made and entered into as of this 9th day of June 2026, ("Effective Date"), by and between the CITY OF NEWPORT BEACH, a California municipal corporation and charter city ("City"), the NEWPORT BEACH PUBLIC LIBRARY FOUNDATION, a California nonprofit public benefit corporation ("Foundation"), and Stephanie Jones Grody and Kenneth Bruce Grody ("Grody's") and Susan Croul and Spencer B. Croul ("Crouls") (collectively, "Donors"), and is made with reference to the following:

RECITALS

- A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of City.
- B. The Foundation is duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California.
- C. The Foundation and the City have entered a Memorandum of Understanding, executed on February 24, 2022, as subsequently amended by First, Second and Third Amendments thereto (collectively, the "Amended Memorandum of Understanding"), for the Foundation and the City to fund and the City to construct a community hall located at 1000 Avocado, Newport Beach, California ("Lecture Hall") to accommodate library, cultural, educational, informational, entertainment, civic, business and community focused events to serve the community. The Donors acknowledge receipt of a copy of the Amended Memorandum of Understanding, which is attached hereto as Exhibit "A," and incorporated herein by reference.
- D. The Foundation is completing its fundraising efforts to meet the contribution level contemplated by the Amended Memorandum of Understanding's Foundation Commitment. The Foundation is achieving its fundraising goals due to the extraordinary expenditure of time and effort, diligence and use of community goodwill and contacts exercised by the Foundation through its Board of Directors and associated Beyond Books Capital Campaign.
- E. The Grodys and Crouls have contributed **Two Hundred Fifty Thousand Dollars and 00/100 (\$250,000.00)** each for a total of **Five Hundred Thousand Dollars and 00/100 (\$500,000.00)** pursuant to the Amended Memorandum of Understanding for completion of the Lecture Hall ("Gift"). The Amended Memorandum of Understanding authorizes the Foundation to offer the right to a donor to place the name of the donor, donor's spouse, or donor's family at the location defined in Section 1.1 of this Agreement based upon the contribution by the Donors and subject to the City's absolute discretion and approval ("Naming").

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. DONORS' SUPPORT OF CONSTRUCTION OF LECTURE HALL

The Gift provided by the Donors under this Agreement shall be payable by the Foundation to the City as part of the Foundation Commitment (as that term is defined in Section 2.1 of the Amended Memorandum of Understanding) based on the timeframes and conditions of Section 2.4 of the Amended Memorandum of Understanding.

2. ACKNOWLEDGEMENT AND NAMING RIGHTS TO THE GREEN ROOM

2.1 In return for Donors' Gift, the City agrees to name the Green Room ("Location"), as approved by the City and the Donors, with the Naming displayed in Exhibit "C," which is attached hereto and incorporated herein by reference, and on the donor recognition wall in the Lobby, consistent with the aesthetics and architecture of the Lecture Hall.

2.2 Naming rights shall exist for the useful life of the Lecture Hall. In the event the Lecture Hall is demolished, destroyed, or ceases to be used by the City, or if the Location is relocated or substantially renovated, the City and the Foundation will work with the Donors, or the Donors' designee, successor or assigns to determine another appropriate form of recognition for the support provided by the Gift.

3. TERMINATION

3.1 In addition to any rights and remedies available at law, the City may terminate this Agreement and the Naming on behalf of itself and the Foundation and all rights and benefits of the Donors hereunder:

3.1.1 in the event of any default in payment of the entire Gift as provided in this Agreement to the Foundation; or

3.1.2 in the unlikely event the City determines in its reasonable and good faith opinion that circumstances have changed such that the Naming chosen by the Donors would adversely impact the reputation, image, mission, or integrity of the City or the Foundation due to the continued association by the City or the Foundation with the Donors and the continuation of the Naming provided for herein.

3.2 Upon any such termination of this Agreement and/or the Naming hereunder as set forth in Section 3.1 of this Agreement, the Foundation and the City shall share the cost of adjusting the signage set forth in Exhibit "C" to retain the name of the remaining donor but shall otherwise have no further obligation or liability to the Donors and shall not be required to return any portion of the Gift paid. The City together with the Foundation, however, may in their sole and absolute discretion determine an alternative recognition for the portion of the Gift received.

4. PUBLICITY

For purposes of publicizing the Gift and the Naming, the City and the Foundation shall have the right, without charge, to photograph the Donors and use the names, likenesses, and images of the Donors in photographic, audiovisual, digital, or any other form of medium

and to use, reproduce, distribute, exhibit, and publish such materials in any manner in whole or in part, including in brochures, website postings, informational and marketing materials, and reports and publications describing the Lecture Hall's activities.

5. ASSIGNMENT

This Agreement and the rights and benefits hereunder may not be assigned by any party without the prior written consent of the other parties, which consent shall be in the sole and absolute discretion of the non-assigning parties.

6. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the parties regarding the matters referred to herein, and supersedes all prior oral and written agreement, if any, of the parties in respect hereto. This Agreement may not be modified or amended except by written agreement executed by the parties hereto. The captions inserted in this Agreement are for convenience only and in no way define, limit, or otherwise describe the scope or intent of this Agreement, or any provision hereof, or in any way affect the interpretation of this Agreement.

7. APPLICABLE LAW

This Agreement represents the entire agreement of the parties, supersedes all prior discussions and agreements, and may not be amended except by written agreement signed by each of the parties hereto.

8. STANDARD PROVISIONS

8.1 Advice. The City and the Foundation encourage the Donors to seek their own tax or legal counsel concerning the treatment of any Gift.

8.2 Waiver. A waiver by any party of any breach, of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character.

8.3 Conflicts or Inconsistencies. In the event there are any conflicts or inconsistencies between this Agreement, or any other attachments attached hereto, the terms of this Agreement shall govern.

8.4 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against any party by reason of the authorship of the Agreement or any other rule of construction which might otherwise apply.

8.5 Amendments. This Agreement may be modified or amended only by a written document executed by the Donors, the Foundation, and the City and approved as to form by the City Attorney.

8.6 Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

8.7 Controlling Law and Venue. The laws of the State of California shall govern this Agreement and all matters relating to it and any action brought relating to this Agreement shall be adjudicated in a court of competent jurisdiction in the County of Orange, State of California.

8.8 No Attorneys' Fees. In the event of any dispute or legal action arising under this Agreement, the prevailing party shall not be entitled to attorneys' fees.

8.9 Binding on Successors and Assigns. This Agreement shall be binding on the Donors' successors and assigns, including without limitation the Donors' estate, which is hereby directed to pay the sums for which the Donors are obligated hereunder pursuant to the terms of this Agreement.

8.10 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one (1) and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the dates written below.

**APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE**

Date: 5/29/20

By: [Signature]
Aaron C. Harp
City Attorney

5-29-20RS

CITY: CITY OF NEWPORT BEACH,
a California municipal corporation

Date: _____

By: _____
Lauren Kleiman
Mayor

**FOUNDATION: THE NEWPORT BEACH
PUBLIC LIBRARY FOUNDATION,**
a California nonprofit public benefit corporation

Date: _____

By: _____
Jerold D. Kappel
Chief Executive Officer

Date: _____

By: _____
Mireya Llaurado
Secretary

ATTEST:

Date: _____

By: _____
Lena Shumway
City Clerk

**DONORS: STEPHANIE JONES GRODY
AND KENNETH BRUCE GRODY**

Date: _____

By: _____
Stephanie Jones Grody

Date: _____

By: _____
Kenneth Bruce Grody

**DONORS: SUSAN CROUL AND
SPENCER B. CROUL**

Date: _____

By: _____
Susan Croul

Date: _____

By: _____
Spencer B. Croul

[END OF SIGNATURES]

- Attachments: Exhibit A – Amended Memorandum of Understanding
- Exhibit B – Brief Description of the Lecture Hall Plans
- Exhibit C – Outline of Particular Place, Size and Other Attributes of the Name Recognition

EXHIBIT A
AMENDED MEMORANDUM OF UNDERSTANDING

C-7444-4

**THIRD AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF NEWPORT BEACH AND THE NEWPORT BEACH
PUBLIC LIBRARY FOUNDATION RELATED TO FUNDRAISING FOR THE
LECTURE HALL PROJECT**

This Third Amendment to Memorandum of Understanding ("Third Amendment") is entered into as of the 9 day of ~~JANUARY~~ 2024 ("Effective Date") by and between the City of Newport Beach, a California municipal corporation and charter city ("City") and the Newport Beach Public Library Foundation, a California nonprofit public benefit corporation ("Foundation"). City and Foundation are at times individually referred to herein as "Party" and collectively as "Parties."

RECITALS

- A. The Foundation and City are Parties to that certain Memorandum of Understanding entered into as of November 30, 2021, which was amended by First Amendment to Memorandum of Understanding entered into as of September 12, 2022, subsequently amended by Second Amendment to Memorandum of Understanding entered into as of November 15, 2022, and further amended by this Third Amendment to Memorandum of Understanding (collectively referred to herein as, the "MOU" or "Agreement").
- B. As contemplated in Section 2.4 of the MOU, the Project was competitively bid in September 2023 based upon construction drawings prepared by RCA (the "Construction Drawings") and the Estimated Project Costs based upon the lowest responsible bid and other expenses already incurred has nearly doubled.
- C. To complete the Project, the City's Commitment and Foundation's Commitment must increase from Six Million Five Hundred Thousand Dollars and 00/100 (\$6,500,000.00) to Eleven Million Seven Hundred Forty-Three Thousand Nine Hundred Sixty-Eight Dollars and 00/100 (\$11,743,968.00) respectively.
- D. The City has expended approximately Seven Hundred Fifty-Eight Thousand Seven Hundred Dollars and 00/100 (\$758,700.00) on design, environmental and permitting for the Project. Additionally, to complete the Project, the City must enter a construction contract without the Foundation's Commitment fully secured.

- E. As a result, the Foundation and City acknowledge and agree to amend the terms of the MOU to complete the Project, as provided herein.
- F. The Parties desire to reconfirm that the Library Lecture Hall will be a City owned facility and that it will host a variety of users including the Foundation programming consistent with the Foundation's mission statement and therefore it will hereinafter be referred to as the Lecture Hall ("Lecture Hall"). The Foundation further confirms that the priority of users of the Lecture Hall, other than uses by the Foundation, is not a matter over which the Foundation will have any control other than the Foundation's use of the Lecture Hall as provided in Section 3.6.
- G. The City and Foundation have conferred as contemplated by the MOU and have concluded that the Low Bid should be accepted and the MOU should be amended to (i) increase the Foundation Commitment and City Commitment in order to fully fund the Project and (ii) reflect the willingness of the City to award the Construction Contract and proceed with construction of the Project subject to the Foundation raising additional funds until the Foundation has met its revised Foundation Commitment and other amendments provided herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises set forth herein, the City and the Foundation do hereby agree as follows:

- 1. Section 1.1.2 shall be amended in its entirety to read as follows:
 - "2. Furniture, fixtures and equipment which is limited to chairs, a podium, audio-visual equipment, and physical items identified in the Construction Drawings ("FF&E")."
- 2. Section 1.3 of the MOU shall be amended in its entirety to read as follows:
 - "1.3 Project Costs. The Parties agree that the total Project costs based upon the Conceptual Design prepared by RCA and approved by the City Council is estimated to be Twenty-Three Million Four Hundred Eighty-Seven Thousand Nine Hundred Thirty-Five Dollars and 00/100 (\$23,487,935.00) (the "Estimated Project Cost"). The Estimated Project Cost includes all design related costs, including but not limited to the costs of Phases I-IV, and all anticipated costs of obtaining permits, construction of the Project based upon the lowest responsible bid of Nineteen Million Sixty-Eight Thousand Dollars and 00/100 (\$19,068,000.00) (the "Low Bid") received from AMG & Associates ("Low Bidder"), management of construction, inspections, other soft costs, FF&E and a contingency of One Million Nine Hundred Six Thousand

Eight Hundred Dollars and 00/100 (\$1,906,800.00) representing ten percent (10%) of the Low Bid for construction of the Project.”

3. Section 1.4 is hereby deleted in its entirety.

4. Section 1.5 shall be amended in its entirety to read as follows:

“1.5 Change Orders. The City may unilaterally approve change orders related to construction issues at the Project that occur during construction and that the City deems necessary (a “Necessary Change Order”). If the City or the Foundation desire change orders to the design of the Lecture Hall or FF&E beyond what is identified in the Construction Drawings as of the effective date of this Third Amendment and which would create a cost in excess of the Estimated Project Cost, the Party requesting the Change Order shall notify the non-requesting Party of such desired change and shall provide all additional funds necessary to implement the Change Order over and above the requesting Party’s financial commitment set forth in Sections 2.1 and 3.1 respectively within seven (7) calendar days.”

5. Section 2.1 shall be amended in its entirety to read as follows:

“2.1 The Foundation Commitment. The Foundation expressly agrees that it shall collect donations in the amount of fifty percent (50%) of the Estimated Project Cost or Eleven Million Seven Hundred Forty-Three Thousand Nine Hundred Sixty-Eight Dollars and 00/100 (\$11,743,968.00), whichever is less (the “Foundation Commitment”) for the Project.

The Foundation shall place Seven Million One Hundred Thousand Dollars and 00/100 (\$7,100,000.00) in escrow on the date set forth in Section 2.4 below. The remainder of the Foundation Commitment in the amount of Four Million Six Hundred Forty-Three Thousand Nine Hundred Sixty-Eight Dollars and 00/100 (\$4,643,968.00) (“Remainder of Foundation Commitment”) shall be paid to the City within two (2) years of Effective Date of this Third Amendment or prior to the City Council adoption of the notice of completion of construction of the Lecture Hall in accordance with California Civil Code Section 9200 *et seq.* (“Remainder of Foundation Commitment Final Payment”), whichever occurs later. The Foundation agrees that it shall take appropriate legal action to collect all outstanding pledges.”

6. Section 2.4 shall be amended in its entirety to read as follows:

“2.4 Bidding; Payment of Donations. The City completed construction drawings, obtained required permits, placed the Project out to bid as a public works project, notified the Foundation of the date, time and place that the bids received for the Project were opened by the City, invited representatives of the Foundation to attend the bid opening, notified the Foundation of the City Council study session held on

November 14, 2023, and the January 9, 2024, meeting wherein the City Council will consider award of the construction contract to the lowest responsible bidder. The Foundation shall place Seven Million One Hundred Thousand Dollars and 00/100 (\$7,100,000.00) ("Escrowed Funds") of the Foundation Commitment into an escrow account at First American Title Company in Santa Ana, CA or other escrow company agreed to between the Parties ("Escrow Holder") not later than Friday, January 19, 2024. At such time as the City (i) thereafter demonstrates to the Foundation that the City has appropriated the City's Commitment set forth in Section 3.1 and (ii) has awarded the contract, finalized negotiations with the contractor and entered into a construction agreement for the Project wherein the City is legally bound to pay for and construct the Project (the "Release of Funds Conditions"), the Escrowed Funds shall be disbursed to the City. Upon the occurrence of the Release of Funds Conditions, Foundation agrees to promptly execute instructions if requested by Escrow Holder as a condition to the disbursement of the Escrowed Funds to the City.

Notwithstanding the foregoing, in the event of the termination or expiration of this MOU prior to the City entering into a construction contract for construction of the Project, the Escrowed Funds shall be returned to Foundation. Upon such termination or expiration of this MOU, the City agrees to promptly execute instructions if requested by Escrow Holder as a condition to the disbursement of the Escrowed Funds to the Foundation. Escrow fees of Escrow Holder shall be paid out of the Escrowed Funds."

7. Section 2.5 shall be amended in its entirety to read as follows:

"2.5 Future Project Enhancements. In the event the Foundation believes that certain enhancements or upgrades of the Lecture Hall or Bamboo Courtyard would be worthy of financial support of the Foundation following the Foundation's full payment of the entire Foundation Commitment, the City will work with the Foundation to implement those enhancements or upgrades desired by the Foundation that are reasonably acceptable to the City provided the Foundation pays the entire cost of any project enhancement."

8. Section 3.1 shall be amended in its entirety to read as follows:

"3.1 City's Commitment. The City has earmarked, and through this MOU commits to pay up to a maximum of fifty percent (50%) of the Estimated Project Cost or Eleven Million Seven Hundred Forty-Three Thousand Nine Hundred Sixty-Eight Dollars and 00/100 (\$11,743,968.00) whichever is less (the "City's Commitment") for the Project."

9. Section 3.6 shall be amended in its entirety to read as follows:

"3.6 Use of Lecture Hall. The Lecture Hall shall be owned and controlled by the City. Notwithstanding the foregoing, the Foundation shall have a right of first use of the Lecture Hall not to exceed fifty (50) days each fiscal year which may be exercised by providing the City with not less than six (6) months prior written notice bi-annually on July 1 and January 1. Use of the Lecture Hall by the Foundation shall at all times be subject to the Declaration of Special Land Use Restrictions, as amended, which are recorded on the Property. Any additional days requested by the Foundation will be evaluated by the City in coordination with all other requested uses and events. In the event of default in paying the Remainder of Foundation Commitment Final Payment by the deadline set forth in Section 2.1, the right of first use provided herein, excluding any Foundation events already booked, shall be suspended until the Remainder of Final Payment of Foundation Commitment is paid in full ("Cure Period"). During the Cure Period, the portion of the Foundation's annual endowment fund allocated to the Newport Beach Public Library, shall be paid to the City towards the Remainder of Final Payment of Foundation Commitment until the Foundation Commitment is paid in full. In order to help defray on-going costs of the Lecture Hall, the Foundation shall contribute to the City for each use by the Foundation of the Lecture Hall the lesser of (a) the per diem cost of Lecture Hall operations for the first year of use as determined by the City's cost study; (b) the lowest rate charged by the City for use of the Lecture Hall by any third party; or (c) \$700. Following the first year of the availability of the Lecture Hall for program use, this sum shall increase annually by the CPI - All Items (not to exceed 5% in any year)."

10. Section 4 shall be amended in its entirety to read as follows:

"Subject to the provisions of Section 11 below, the term of this MOU shall commence upon mutual execution of this MOU and shall continue until the sooner to occur of (i) completion of the Project and full payment of the Foundation Commitment to the City or (ii) five (5) years from the date of this agreement (the "Term"). Provided, however, once construction of the Project has commenced and for so long as it is being continuously pursued, this MOU shall remain in effect until construction is completed and the Foundation Commitment is paid to the City. If at the end of the Term, construction of the Project has not commenced, this MOU shall terminate regardless of any design work already completed or any funds expended by either party. However, the Parties may extend the term of this MOU by mutual written consent and an amendment to this MOU. The provisions of Section 2.5, Section 3.6, Section 11.5 and Section 12 of this MOU shall survive the expiration or earlier termination of this MOU."

11. Section 12.3 shall be amended in its entirety to read as follows:

"Other Naming Opportunities. In addition to the naming rights of the Named Donor, the City agrees that the Foundation may offer naming rights to the Bamboo

Courtyard, the lobby, the green room, the audio-visual booth at the rear of the Lecture Hall, the auditorium, audience seats, and a donor wall subject to prior review and approval of the City Council and execution of a Named Donor Agreement.”

12. Section 13.1 shall be amended in its entirety to read as follows:

“13.1 Compliance With all Laws. Foundation shall at its own cost and expense ensure that the Foundation entering into the MOU and any amendments comply with its obligations under all applicable statutes including, but not limited to, California Business and Professions Code Section 17510.8 or other statutes related to charitable contributions, ordinances, regulations and requirements of all federal, state, county or municipal entities including, but not limited to any interpretations or approvals by the California Attorney General Charitable Trust Division related to its obligations under this MOU.”

13. Except as amended by this Third Amendment, the MOU shall remain in full force and effect.

14. This Third Amendment may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute the same instrument.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Amendment No. Three to be executed on the dates written below.

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

CITY OF NEWPORT BEACH,
a California municipal corporation

Date: 1/2/24

Date: 1/9/2024

By: [Signature] for
Aaron C. Harp
City Attorney

By: [Signature]
Will O'Neill
Mayor

01.02.24
ama

ATTEST:

FOUNDATION:

Newport Beach Public Library
Foundation, a California Nonprofit
Corporation

Date: 1.11.2024

Date: January 10, 2024

By: [Signature]
Leilani I. Brown
City Clerk

By: [Signature]
Jerold D Kappel
Chief Executive Officer

Date: JANUARY 10, 2024



By: [Signature]
Marilyn Krahe
Secretary

[END OF SIGNATURES]

C-7444-4

**SECOND AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF NEWPORT BEACH AND THE NEWPORT BEACH
PUBLIC LIBRARY FOUNDATION RELATED TO FUNDRAISING FOR THE
LIBRARY LECTURE HALL PROJECT**

This Second Amendment to Memorandum of Understanding ("Second Amendment") is entered into as of the 15 day of NOVEMBER, 2022 ("Effective Date") by and between the City of Newport Beach, a California municipal corporation and charter city ("City") and the Newport Beach Public Library Foundation, a California nonprofit public benefit corporation ("Foundation"). City and Foundation are at times individually referred to as "Party" and collectively as "Parties" herein.

RECITALS

- A. The Foundation and the City are Parties to that certain Memorandum of Understanding entered into as of November 30, 2021 (the "MOU").
- B. The Parties entered into a First Amendment to MOU ("Amendment") dated as of September 12, 2022, related to the timing of the Foundation's payment, adding a naming opportunity of the audio-visual booth, and other revisions.
- C. The Parties desire to enter into this Second Amendment as set forth herein. Use of the terms "Agreement," "First Amendment" and "Second Amendment" are intended between the Parties to mean the MOU, First Amendment and this Second Amendment.
- D. Capitalized terms which are not otherwise defined in this Second Amendment shall have the meanings ascribed to those terms in the MOU and First Amendment.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises set forth herein, the City and the Foundation do hereby agree as follows:

- 1. Section 12.3 of the MOU shall be amended in its entirety to read as follows:

"12.3 Other Naming Opportunities. In addition to the naming rights of the Named Donor, the City agrees that the Foundation may offer naming rights to the Bamboo Courtyard, the lobby, the green room, the audio-visual booth at the rear of the Lecture Hall, the auditorium, and a donor wall subject to prior review and approval of the City Council and execution of a named donor agreement for such naming rights."

- 2. Except as amended by this Second Amendment, the First Amendment and MOU shall remain in full force and effect.

3. This Second Amendment may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute the same instrument.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed on the dates written below.

**APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE**

Date: 11/16/22

By: [Signature]
Aaron C. Harp
City Attorney

**CITY OF NEWPORT BEACH,
a California municipal corporation**

Date: _____

By: [Signature]
Kevin Muldoon
Mayor

ATTEST:

Date: 11/30/2022

By: [Signature]
Leilani I. Brown
City Clerk



FOUNDATION:

Newport Beach Public Library
Foundation, a California Nonprofit
Corporation

Date: 11/29/2022

By: [Signature]
Jerold D Kappel
Chief Executive Officer

Date: 11/29/2022

By: [Signature]
Dorothy Larson
Secretary

[END OF SIGNATURES]

C-7444-4

**FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF NEWPORT BEACH AND THE NEWPORT BEACH
PUBLIC LIBRARY FOUNDATION RELATED TO FUNDRAISING FOR THE
LIBRARY LECTURE HALL PROJECT**

This First Amendment to Memorandum of Understanding ("Amendment") is entered into as of the 12 day of SEPTEMBER, 2022 ("Effective Date") by and between the City of Newport Beach, a California municipal corporation and charter city ("City") and the Newport Beach Public Library Foundation, a California nonprofit public benefit corporation ("Foundation"). City and Foundation are at times individually referred to as "Party" and collectively as "Parties" herein.

RECITALS

- A. The Foundation and the City are Parties to that certain Memorandum of Understanding entered into as of November 30, 2021 (the "MOU").
- B. The Parties desire to enter into this Amendment as set forth herein. Use of the terms "Agreement" and "Amendment" are intended between the Parties to mean the MOU and this Amendment.
- C. Capitalized terms which are not otherwise defined in this Amendment shall have the meanings ascribed to those terms in the MOU.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises set forth herein, the City and the Foundation do hereby agree as follows:

- 1. Section 1.3 of the MOU shall be amended in its entirety to read as follows:

"1.3 Project Cost. The Parties agree that the total Project costs based upon the Conceptual Design prepared by RCA and approved by City Council, is estimated to be Twelve Million Eight Hundred Thousand Dollars and 00/100 (\$12,800,000.00) (the "Estimated Project Cost"). The Estimated Project Cost also includes all design related costs, including but not limited to the costs of Phases I-IV above, and all anticipated costs of obtaining permits, construction, management of construction, inspections, FF&E and a contingency. The Parties understand and agree that the Estimated Project Cost is an estimate based upon the best available information known to the Parties at the commencement of this Agreement and that the actual Project cost which is defined as the actual cost of designing the Project, including but not limited to the actual costs of Phases I-IV above, obtaining permits, constructing, managing construction, inspecting, and FF&E for the construction of the Project (the "Actual Project Cost") may vary based upon several contingencies, including but not limited to change(s) to the design and configuration of the Project and/or increase in the cost of materials and/or labor."

2. Section 2.2 of the MOU shall be amended in its entirety to read as follows:

"2.2 Control Over Fundraising. City shall have no control over the manner or mechanism in which Foundation chooses to manage, hold or invest funds or the manner or mechanism in which Foundation solicits or receives funds. City shall not direct or authorize any specific fundraising activity; nor shall City prohibit or otherwise interfere with Foundation's fundraising activities. Foundation shall be solely responsible for soliciting donors, establishing partnerships with local businesses and organizations, and handling all administrative and other responsibilities related to fundraising. Until Foundation has released the Foundation Commitment to the City, Foundation shall be solely responsible for determining the use or distribution of all funds raised. Notwithstanding the foregoing, the Foundation represents that no part of any donation shall inure to the benefit of any director, officer, member or employee of the Foundation, except in payment of reasonable compensation for services rendered. Notwithstanding such limit, the Foundation shall have the right to deduct from funds raised reasonable fundraising costs, costs of preparation of the reports required pursuant to this Agreement and other expenses directly related to fundraising for the Project ("Reasonable Expenses") unless the Library Lecture Hall Naming Rights Donation Agreement ("Named Donor Agreement") described in Section 12.1 dictates otherwise. This Section 2.2 shall not be construed as limiting Foundation's obligations in Section 5 (Reporting and Accounting Requirements). Nothing in this Agreement shall limit the right of the Foundation to raise funds for other existing or proposed projects, including but not limited to existing and future programming."

3. Section 2.4 of the MOU shall be amended in its entirety to read as follows:

"2.4 Bidding; Payment of Donations. Upon completion of construction drawings and permitting for the Project, the City shall put the Project out to bid as a public works project. The City shall notify the Foundation of the date, time and place that the bids received for the Project will be opened by the City and representatives of the Foundation shall be invited to attend the bid opening. Upon opening of the bids, or as soon thereafter as is practicable, City staff ("Staff") shall determine if it will recommend to the City Council that the City Council approve a contract to construct the Project with the lowest responsible bidder. If such determination is made by Staff after the bid opening, the City shall promptly notify the Foundation of the Staff's determination to make such a recommendation to the City Council. Thereafter, the City shall notify the Foundation of the date of the City Council meeting at which a contract with the lowest responsible bidder will be considered by the City Council, and if acceptable, awarded; provided, however, said City Council meeting shall not occur earlier than fifteen (15) days after the Foundation is given such notice of the date of such City Council meeting. The Foundation shall place one hundred percent (100%) of the Foundation Commitment into an escrow account at First American Title Company in Santa Ana, CA or other escrow company agreed to between the Parties ("Escrow Holder") not later than the Friday before said City Council meeting so long as the agenda item remains on the City Council's agenda for such meeting (i.e., the matter has not theretofore been removed from the City Council's agenda). At such time as the City (i) thereafter demonstrates to the Foundation that the

City has appropriated the City's Commitment set forth in Section 3.1 and (ii) has awarded the contract, finalized negotiations and entered into a construction agreement for the Project wherein the City is legally bound to pay for and construct the Project (the "Release of Funds Conditions"), the Escrowed Funds shall be disbursed to the City. Upon the occurrence of the Release of Funds Conditions, Foundation agrees to promptly execute instructions if requested by Escrow Holder as a condition to the disbursement of the Escrowed Funds to the City. In the event of the termination or expiration of this Agreement prior to the City entering into a construction contract for construction of the Project, the Escrowed Funds shall be returned to Foundation. Upon such termination or expiration of this Agreement, the City agrees to promptly execute instructions if requested by Escrow Holder as a condition to the disbursement of the Escrowed Funds to the Foundation. Escrow fees of Escrow Holder shall be paid out of the Escrowed Funds."

4. Section 12.1 of the MOU shall be amended in its entirety to read as follows:

"12.1 Naming Rights. Subject to City Council absolute discretion and approval, the Foundation may offer the right to a donor to place the name of the donor, donor's spouse or donor's family on the exterior of the Library Lecture Hall (the "Named Donor"). The amount of the contribution of the Named Donor shall not be less than a minimum amount agreed to by the City and Foundation (the "Named Donor Contribution") and shall be memorialized by way of the Named Donor Agreement between the City, the Foundation, and the Named Donor."

5. Section 12.3 of the MOU shall be amended in its entirety to read as follows:

"12.3 Other Naming Opportunities. In addition to the naming rights of the Named Donor, the City agrees that the Foundation may offer naming rights to the Bamboo Courtyard, the lobby, the green room, the audio-visual booth at the rear of the Lecture Hall, and a donor wall subject to prior review and approval of the City Council and execution of a named donor agreement for such naming rights."

6. Section 12.4 of the MOU shall be amended in its entirety to read as follows:

"12.4 Rights of Donors upon Termination of Agreement. The rights of a Donor under Section 12.3 upon termination of this Agreement shall be memorialized in named donor agreements for each Donor."

7. Except as amended by this Amendment, the MOU shall remain in full force and effect.

8. This Amendment may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute the same instrument.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed on the dates written below.

**APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE**

Date: 8/11/22

By: Aaron C. Harp
Aaron C. Harp
City Attorney

08.11.22
sm

**CITY OF NEWPORT BEACH,
a California municipal corporation**

Date: _____

By: [Signature]
Kevin Muldoon
Mayor

ATTEST:

Date: 9.12.2022

By: [Signature]
Leilani I. Brown
City Clerk

FOUNDATION:

Newport Beach Public Library
Foundation, a California Nonprofit
Corporation

Date: September 12, 2022

By: [Signature]
Jerold D Kappel
Chief Executive Officer

Date: 9/12/22

By: [Signature]
Dorothy Larson
Secretary



[END OF SIGNATURES]

C-7444-4

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF NEWPORT BEACH AND THE NEWPORT BEACH
PUBLIC LIBRARY FOUNDATION RELATED TO FUNDRAISING FOR THE
LIBRARY LECTURE HALL PROJECT**

This Memorandum of Understanding ("Agreement") is entered into as of the 30th day of November, 2021 ("Effective Date") by and between the City of Newport Beach, a California municipal corporation and charter city ("City") and The Newport Beach Public Library Foundation, a California nonprofit public benefit corporation ("Foundation"). City and Foundation are at times individually referred to as "Party" and collectively as "Parties" herein.

RECITALS

- A. The Foundation was incorporated in 1989 to raise funds for the construction of the City of Newport Beach Central Library ("Central Library") located at 1000 Avocado Avenue ("Property").
- B. The Central Library was first completed in 1994, and later expanded in 2013.
- C. After completion of the Central Library, the Foundation gradually began to produce programming at the Central Library as a way to bring people to the Central Library, raise funds to support the Central Library and otherwise encourage a rich cultural environment for the residents of the City.
- D. The Foundation has grown into an organization that employs three (3) full time employees, none of whom are City employees (i.e., no current or post-employment City obligations), whose primary function is to raise funds, and assist in the production of programming for, and otherwise support the Central Library and its branches.
- E. The Foundation has raised over Seven Million Dollars and 00/100 (\$7,000,000.00) over the ten (10) years prior to Covid-19 in furtherance of library programming or for valuable library enhancements and benefits, without cost to the City.
- F. The Friends Room at the Central Library hosts many Foundation funded programs including The Witte Lecture Series, Library Live speakers, It's Your Money and Medicine in your Backyard, in addition to programs sponsored by the City and by the Friends of the Library, the demand for many of which programs exceed the capacity of the Friends Room. The ability to attract/afford certain authors and prominent speakers to the Friends Room is limited by the size of the Friends Room, its portable plastic chair seating arrangement, flat floor with poor sightlines and rudimentary audio-visual equipment.
- G. There is a need for a modern facility at the Central Library (the "Library Lecture Hall") to accommodate Foundation programs as well as other library, cultural, educational, informational, entertainment, civic and community focused events to

serve Newport Beach residents and facilitate other City gatherings, including those of City employees for various purposes.

- H. The City is interested in encouraging the quality cultural activities being brought to the City's residents in a convenient location and in a comfortable state of the art facility, and anticipates that the cost of developing the Library Lecture Hall in a manner befitting Newport Beach will necessitate significant private financial support from the community.
- I. The Foundation is interested in helping to fund the Project (as defined in Section 1.1 below) by seeking donations from its existing supporters as well as from the community at large.
- J. The City believes that there is a need for the Project and that it is in the best interest of the City.
- K. In furtherance of the development of the Project with substantial private funding through the Foundation, in December 2019, the City entered into a Professional Services Agreement with Robert R. Coffee Architects + Associates ("RCA") for the conceptual design of the Library Lecture Hall, and thereafter the completion of all construction documents and other project elements.
- L. The conceptual design of the Library Lecture Hall is complete and the Foundation has agreed to fundraise for the design and construction of the Library Lecture Hall substantially consistent with RCA's conceptual design (the "Conceptual Design"), and other commitments as provided herein.
- M. Through this Agreement, the Parties wish to memorialize their intention to equally share in the cost of the Project subject to other terms and conditions set forth below.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises set forth herein, the City and Foundation do hereby agree as follows:

1. PROJECT DESCRIPTION AND BUILDING COST OF CONSTRUCTION.

1.1 Project Description. Subject to the Newport Beach City Council final approval of the Conceptual Design, the Library Lecture Hall and related above and underground improvements and other work generally depicted in the Conceptual Design and supporting slides attached hereto and incorporated herein as **Exhibit "A"** and more particularly further described as follows (collectively, the "Project"):

1. An approximately 9,533 square foot building with a stage, green room, seating to accommodate between 270 and 299 fixed and/or moveable seats, ADA compliant paths of travel and an interior lobby area.

2. Furniture, fixtures and equipment including but not limited to chairs, podiums, audio-visual equipment, tables and the like ("FF&E").

3. Outdoor improvements and landscaping including but not limited to an expanded and refurbished Bamboo Courtyard, sidewalks, covered walkways, restrooms, donor wall and the like.

4. Site improvements including but not limited to necessary demolition and removals/hauling/disposals, grading, compacting and other earthwork, upgrading/relocating water, sewer and storm drain lines and facilities, installing electrical, telephone and other underground utility services and lines, construction of site and retaining walls, hardscape, water quality and erosion related improvements, signage and adding parking areas and changing the circulation pattern of the parking lot including drop off areas (collectively, the "Site Work").

1.2 Pre-Construction Project Phasing. The Pre-Construction Project phases estimated completion date for each phase and projected costs are as follows:

Phase	Description	Projected Deadline	Projected Cost
I	Conceptual design for the Project	Completed	
II	Refinement of the conceptual design including FF&E layouts	December 2021	
III	Completion of environmental exemption	December 2021	
IV	Completion of all construction documents needed for Project bidding including but not limited to mechanical, electrical and plumbing plans	May 2022	\$672,670 Phases I-IV

1.3 Project Cost. The Parties agree that the total Project costs based upon the Conceptual Design prepared by RCA and approved by City Council, is estimated to be Twelve Million Eight Hundred Thousand Dollars and 00/100 (\$12,800,000.00) (the "Estimated Project Cost"). The Estimated Project Cost also includes all design related costs, including but not limited to the costs of Phases I-IV above, and all anticipated costs of obtaining permits, construction, management of construction, inspections, FF&E and a contingency. The Parties understand and agree that the Estimated Project Cost is an estimate based upon the best available information known to the Parties at the commencement of this Agreement and that the actual Project cost (the "Actual Project Cost") may vary based upon several contingencies, including but not limited to, change(s)

to the design and configuration of the Project and/or increase in the cost of materials and/or labor.

1.4 Construction Contingency. The Parties agree that for the purposes of their respective commitments under Section 2.1 and Section 3.1 of this Agreement, they will plan for a construction contingency (the "Contingency") of ten percent (10%) of the contract amount awarded to the successful bidder (the "Contract Amount"). If the Contract Amount plus the Contingency exceeds Thirteen Million Dollars and 00/100 (\$13,000,000.00), the Parties shall meet at the request of either Party and confer in good faith to discuss alternatives for funding such excess.

1.5 Change Orders. The City may unilaterally approve of change orders that are related to construction issues at the Project that occur during construction and that the City deems necessary (a "Necessary Change Order"). If the City or the Foundation desire change orders to the design of the Library Lecture Hall (an "Optional Change Order"), each shall notify the other of such desired change and the Parties shall meet and confer in good faith to discuss the proposed change order and the reasons therefor provided the meet and confer process does not delay completion of the Project pursuant to the construction agreement. To the extent Necessary and Optional Change Orders in the aggregate (collectively, "Change Orders") exceed the Contingency, and the Contract Amount, plus the Contingency plus the amount of the Change Orders over the Contingency exceed Thirteen Million Dollars (\$13,000,000), the Parties shall meet as requested by either Party and confer in good faith to discuss alternatives for funding such excess.

2. FOUNDATION OBLIGATIONS

2.1 Fundraising Commitment. The Foundation expressly agrees that it shall use best efforts to collect donations in the amount of fifty percent (50%) of the Estimated Project Cost, or Six Million Five Hundred Thousand Dollars and 00/100 (\$6,500,000.00), whichever is less (the "Foundation Commitment"), to pay towards costs of the Project.

2.2 Control Over Fundraising. City shall have no control over the manner or mechanism in which Foundation chooses to manage, hold or invest funds or the manner or mechanism in which Foundation solicits or receives funds. City shall not direct or authorize any specific fundraising activity; nor shall City prohibit or otherwise interfere with Foundation's fundraising activities. Foundation shall be solely responsible for soliciting donors, establishing partnerships with local businesses and organizations, and handling all administrative and other responsibilities related to fundraising. Until Foundation has released the Foundation Commitment to the City, Foundation shall be solely responsible for determining the use or distribution of all funds raised. Notwithstanding the foregoing, the Foundation represents that no part of any donation shall inure to the benefit of any director, officer, member or employee of the Foundation, except in payment of reasonable compensation for services rendered. Notwithstanding such limit, the Foundation shall have the right to deduct from funds raised reasonable fundraising costs, costs of preparation of the reports required pursuant to this Agreement and other expenses directly related to fundraising for the Project ("Reasonable Expenses"). This Section 2.2 shall not be construed as limiting Foundation's obligations in Section 5 (Reporting and Accounting Requirements). Nothing in this Agreement shall

limit the right of the Foundation to raise funds for other existing or proposed projects, including but not limited to existing and future programming.

2.3 Fundraising Reports. From and after the commencement of this Agreement, the Foundation shall provide a report to the City Manager every six (6) months setting forth the total amount of donations received/collected for funding the Project including any donations pledged for the Actual Project Costs. Such written progress report may be transmitted in, and by, any format, including delivery by electronic mail.

2.4 Payment of Donation. Upon completion of construction drawings and permitting (but prior to the City issuing a notice inviting bids), the City shall give notice to the Foundation providing evidence reasonably satisfactory to the Foundation of such completion. Within forty-five (45) calendar days of receipt of such notice, the Foundation shall place one hundred percent (100%) of the Foundation Commitment into an escrow account at First American Title Company in Santa Ana, CA ("Escrow Holder"). At such time as the City (i) demonstrates to the Foundation that the City has appropriated the City's Commitment set forth in Section 3.1 and (ii) has awarded the contract, finalized negotiations and entered into a construction agreement for the Project wherein the City is legally bound to pay for and construct the Project (the "Release of Funds Conditions"), the Escrowed Funds shall be disbursed to the City. Upon the occurrence of the Release of Funds Conditions, Foundation agrees to promptly execute instructions if requested by Escrow Holder as a condition to the disbursement of the Escrowed Funds to the City. In the event of the termination or expiration of this Agreement prior to City's execution of an agreement for construction of the Project, the Escrowed Funds shall be returned to Foundation. Upon such termination or expiration of this Agreement, the City agrees to promptly execute instructions if requested by Escrow Holder as a condition to the disbursement of the Escrowed Funds to the Foundation. Escrow fees of Escrow Holder shall be paid out of the Escrowed Funds.

2.5 Future Project Enhancements. In the event that the Foundation believes that certain enhancements or upgrades of the Lecture Hall or Bamboo Courtyard would be worthy of financial support of the Foundation in future years, the City will work with the Foundation to implement those enhancements or upgrades desired by the Foundation that are reasonably acceptable to the City.

3. CITY OBLIGATIONS

3.1 City Commitment. Provided the Foundation is able to provide the amount set forth in Section 2.1, the City has earmarked, and through this Agreement commits to pay up to a maximum of fifty percent (50%) of the Estimated Project Cost or Six Million Five Hundred Thousand Dollars and 00/100 (\$6,500,000.00) (the "City's Commitment"), whichever is less, towards costs of the Project.

3.2 Phase Completion. The City shall use its reasonable efforts to complete Phases I through IV identified above by May 31, 2022.

3.3 Reporting. The City shall provide to the Foundation electronic copies of the contractor's construction draw requests when received by City (but without backup unless specifically requested by the Foundation) as well as a final report to the Foundation

documenting use of the Foundation Commitment within six (6) months of completion of the Project.

3.4 Project Control and Property Ownership. Except as provided in Section 3.6 below, City shall have sole responsibility for and control over, completion of the plans and specification of the Project consistent with the Conceptual Design, obtaining all required permits for the Project, bidding the Project, selection of the contractor for the Project, and the construction, project management, inspection and completion of the Project, and thereafter for the operation and maintenance of the Project. The Parties anticipate that construction of the Project will take approximately fifteen (15) months. At all times during and after the Term of this Agreement, the Library Lecture Hall, Site Work, and all related improvements including FF&E and the real property upon which the Project and related improvements are located shall be the sole property of the City.

3.5 Use of Donations; Refund of Excess Foundation Project Funding. City shall ensure that donated funds received from the Foundation shall be used solely for payment of Actual Project Costs. In the event that an audit (with the audit period ending no sooner than issuance of the notice of completion for the Project) determines that all or any part of the Foundation Commitment have been paid and such payments in the aggregate exceed the Foundation's Commitment, the City shall refund such excess amount to the Foundation within thirty (30) days.

3.6 Use of Library Lecture Hall. To the extent the City controls the use of the Library Lecture Hall, the Foundation shall have the right to use the Library Lecture Hall in accordance with the Board of Library Trustees Policy NBPL 15 attached hereto and incorporated herein as **Exhibit "B"**.

4. TERM

Subject to the provisions of Section 11 below, the term of this Agreement shall commence upon mutual execution of this Agreement and shall continue until the sooner to occur of (i) completion of the Project or (ii) five (5) years from the date of this Agreement (the "Term"). Provided, however, once construction of the Project has commenced and for so long as it is being continuously pursued, this Agreement shall remain in effect until construction is completed. If at the end of the Term, construction of the Project has not commenced, this Agreement shall terminate regardless of any design work already completed or any funds expended by either party. However, the Parties may extend the term of this Agreement by mutual written consent and an amendment to this Agreement. The provisions of Section 2.5, Section 3.6, Section 11.5 and Section 12 of this Agreement shall survive the expiration or earlier termination of this Agreement.

5. REPORTING AND ACCOUNTING REQUIREMENTS

5.1. Records. At all times during the term of this Agreement, Foundation shall maintain true, proper, and complete books, records, and accounts (collectively, "Books and Records") in which shall be entered fully and accurately all donations received for the Project as well as the expenditure of any funds donated for the Project or for Reasonable Expenses. Foundation shall maintain the Books and Records in accordance with

Generally Accepted Accounting Principles ("GAAP"). Foundation shall make available to City copies of such Books and Records upon City's request.

5.2 Inspection. City at City's expense shall have the right to designate its own employee representative(s) or designate a contracted representative(s) with an independent Certified Public Accounting firm who shall have the right to audit Foundation's accounting procedures and internal controls of Foundation's financial systems as they relate to this Agreement and to examine any cost, revenue, payment, claim, other records or supporting documentation resulting from any items set forth in this Agreement during the term of this Agreement and Record Retention period set forth in Section 5.3 of this Agreement. Any such audit(s) shall be undertaken by City or its representative(s) at mutually agreed upon reasonable times and in conformance with generally accepted auditing standards. Foundation agrees to fully cooperate with any such audit(s).

5.3 Record Retention. Foundation agrees to retain all necessary records/documentation for a period of three (3) years or longer, if required by law, following the termination of this Agreement. Foundation agrees to retain all necessary records/documentation for the entire length of the audit period set forth in Section 5.2.

5.4 Donation Oversight. Foundation agrees to exercise prudent financial management processes including proper oversight of all donations.

6. INDEPENDENT ENTITY

In the performance of this Agreement, the Foundation, and the volunteers, agents and employees of Foundation, shall act in an independent capacity and are not officers, employees or agents of the City. Nothing in this Agreement shall be deemed to constitute approval for Foundation or any of Foundation's directors, officers, volunteers, employees or agents, to be the agents or employees of City.

7. INDEMNIFICATION

7.1 To the fullest extent permitted by law, Foundation shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers, agents, volunteers, and employees (collectively, the "City Indemnified Parties") from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever (individually, a Claim; collectively, "Claims"), which may arise from or in any manner relate (directly or indirectly) to the breach of this Agreement or the negligent and/or willful acts, errors and/or omissions of Foundation, its principals, officers, agents, employees vendors, suppliers, consultants, subcontractors, anyone employed directly or indirectly by any of them or for whose acts they may be liable or any or all of them.

Likewise and to the fullest extent permitted by law, the City shall indemnify, defend and hold harmless Foundation, its boards and commissions, officers, agents, volunteers, and employees (collectively, the "Foundation Indemnified Parties") from and against any and all Claim or Claims, which may arise from or in any manner relate (directly or

indirectly) to the breach of this Agreement or the negligent and/or willful acts, errors and/or omissions of City, its principals, officers, agents, employees vendors, suppliers, consultants, subcontractors, anyone employed directly or indirectly by any of them or for whose acts they may be liable or any or all of them.

8. INSURANCE

Without limiting Foundation's indemnification of City, Foundation shall obtain, provide and maintain at its own expense during the term of this Agreement or for other periods as specified in this Agreement, policies of insurance of the type, amounts, terms and conditions described in the Insurance Requirements attached hereto as **Exhibit "C,"** and incorporated herein by reference.

9. PROHIBITION AGAINST TRANSFER

Neither Party shall assign, sublease, hypothecate, or transfer this Agreement directly or indirectly, by operation of law or otherwise without prior written consent the other Party. Any attempt to do so without prior written consent of the other Party shall be null and void.

10. NOTICES

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the third business day after the deposit thereof in the United States mail, postage prepaid, first class mail, addressed as hereinafter provided.

All notices, demands, requests or approvals from Foundation to City shall be addressed to the City at:

Attn: City Manager
City of Newport Beach
100 Civic Center Drive
P.O. Box 1768
Newport Beach, CA 92658-8915

All notices, demands, requests or approvals from City to Foundation shall be addressed to Foundation at:

Attn: Chief Executive Officer
Newport Beach Public Library Foundation
1000 Avocado Avenue
Newport Beach, CA 92660

11. TERMINATION

11.1. Termination. This Agreement shall terminate as provided in Section 4, except as otherwise provided in this Section 11.

11.2 Termination for Cause. Foundation shall be in default if Foundation fails or refuses to perform any duty required by this Agreement or performs in a manner

inconsistent with the terms, conditions and restrictions in this Agreement. In such event, City shall give Foundation thirty (30) calendar days' written notice to cure, if the default can be cured (the "Cure Period"). City shall be entitled to terminate this Agreement if Foundation has not cured the default within the Cure Period but only if the notice of termination has been given before the default has been cured. City shall be entitled to immediately terminate this Agreement if the default cannot be cured through corrective action.

11.3. Termination without Cause. Prior to the occurrence of the Release of Escrowed Funds Condition, City may terminate this Agreement at any time with or without cause upon seven (7) days written notice to Foundation.

11.4. Specific Performance. If the City enters into an agreement for construction of the Project and the Foundation and/or Escrow Holder has/have not released the Foundation's Commitment, the Foundation agrees that the City shall have the right to specifically enforce Foundation's obligations.

11.5. Treatment of Donations Following Termination. In the event that this Agreement is terminated by the City for cause after the satisfaction of the Release of Funds Conditions, the Foundation shall deliver or cause to be delivered the Escrowed Funds and all other donations collected by Foundation for Actual Project Costs to the City, and the City shall thereafter complete the Project as soon as reasonably practicable.

12. NAMING RIGHTS

12.1. Naming Rights. Subject to City Council absolute discretion and approval, the Foundation may offer the right to a donor to place the name of the donor, donor's spouse or donor's family on the exterior of the Library Lecture Hall (the "Named Donor"). The amount of the contribution of the Named Donor shall not be less than a minimum amount agreed to by the City and Foundation (the "Named Donor Contribution") and shall be memorialized by way of an agreement between the City and the Named Donor (the "Named Donor Agreement").

12.2. Named Donor Signage. The location, size and design details of the signage identifying the Named Donor shall be memorialized in the Named Donor Agreement. The Parties anticipate Named Donor signage will be on the East elevation of the Lecture Hall, as well as an appropriately scaled monument sign along Avocado Avenue as reasonably determined by the City and approved by the Irvine Company.

12.3. Other Naming Opportunities. In addition to the naming rights of the Named Donor, the City agrees that the Foundation may offer naming rights to the Bamboo Courtyard, the lobby, the green room, and a donor wall subject to prior review and approval of the City Council and execution of a Named Donor Agreement.

12.4. Rights of Donors upon Termination of Agreement. The rights of a Named Donor upon termination of this Agreement shall be memorialized in the Named Donor Agreement.

13. STANDARD PROVISIONS

13.1 Compliance With all Laws. Foundation shall at its own cost and expense comply with all applicable statutes, ordinances, regulations and requirements of all governmental entities related to its obligations under this Agreement, including federal, state, county or municipal, whether now in force or hereinafter enacted.

13.2 Waiver. A waiver by either Party of any breach, of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character.

13.3 Integrated Contract. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions herein.

13.4 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of the Agreement or any other rule of construction which might otherwise apply.

13.5 Amendments. This Agreement may be modified or amended only by a written document executed by both Foundation and City and approved as to form by the City Attorney.

13.6 Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

13.7 Controlling Law and Venue. The laws of the State of California shall govern this Agreement and all matters relating to it and any action brought relating to this Agreement shall be adjudicated in a court of competent jurisdiction in the County of Orange, State of California.

13.8 Equal Opportunity Employment. Foundation represents that it is an equal opportunity employer and it shall not discriminate against any contractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age or any other impermissible basis under law.

13.9 No Attorney's Fees. In the event of any dispute or legal action arising under this Agreement, the prevailing party shall not be entitled to attorney's fees.

13.10 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute the same instrument.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the dates written below.

**APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE**

Date: 2/24/22

By: [Signature]
Aaron C. Harp
City Attorney

**CITY OF NEWPORT BEACH,
a California municipal corporation**

Date: _____

By: [Signature]
Kevin Muldoon
Mayor

ATTEST:

Date: 3.3.2022

By: [Signature]
Leilani I. Brown
City Clerk



FOUNDATION:

Newport Beach Public Library
Foundation, a California Nonprofit
Corporation

Date: 2-24-2022

By: [Signature]
Jerold D. Kappel
Chief Executive Officer

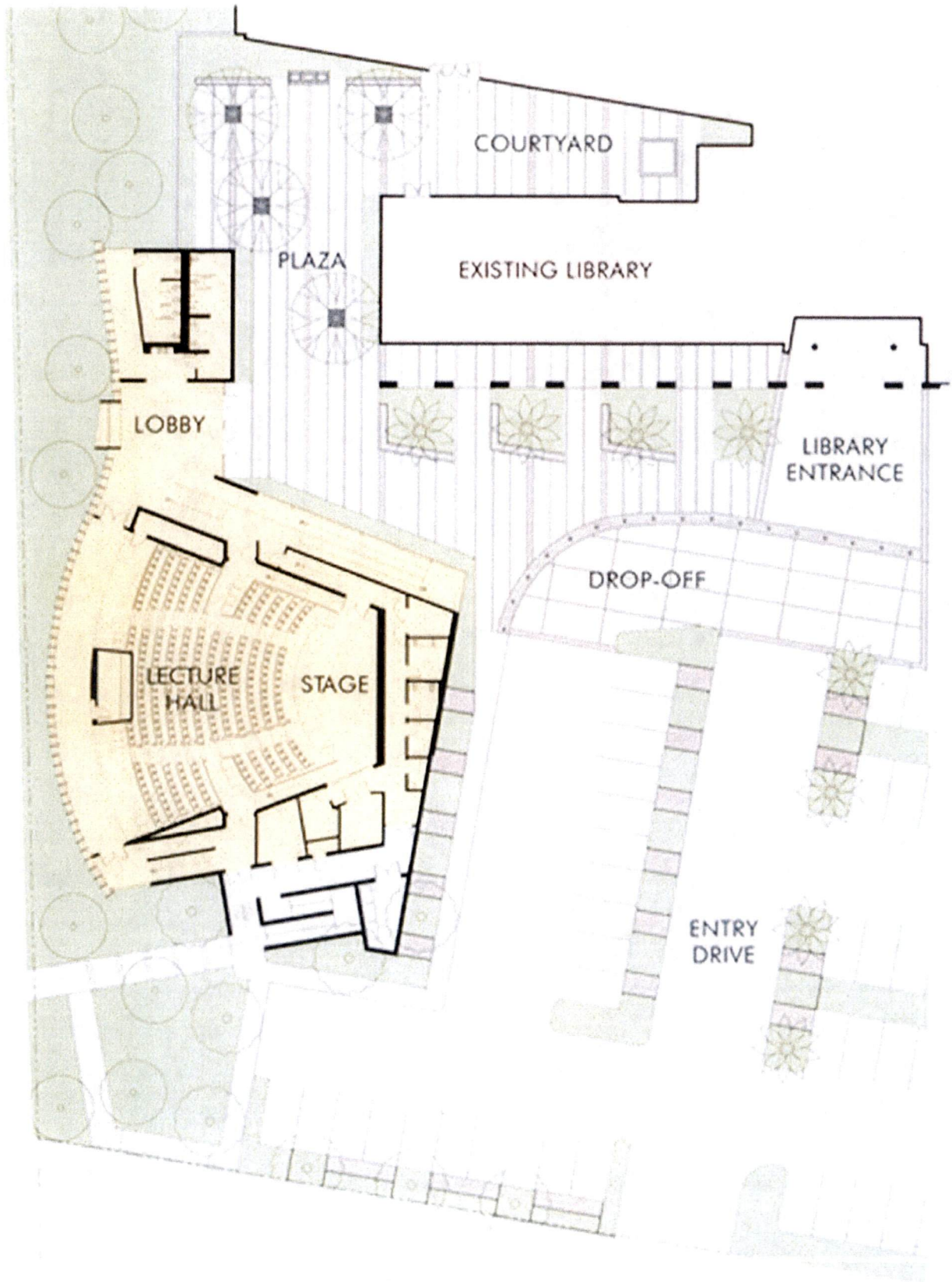
Date: 2/24/2022

By: [Signature]
Dorothy Larson
Secretary

[END OF SIGNATURES]

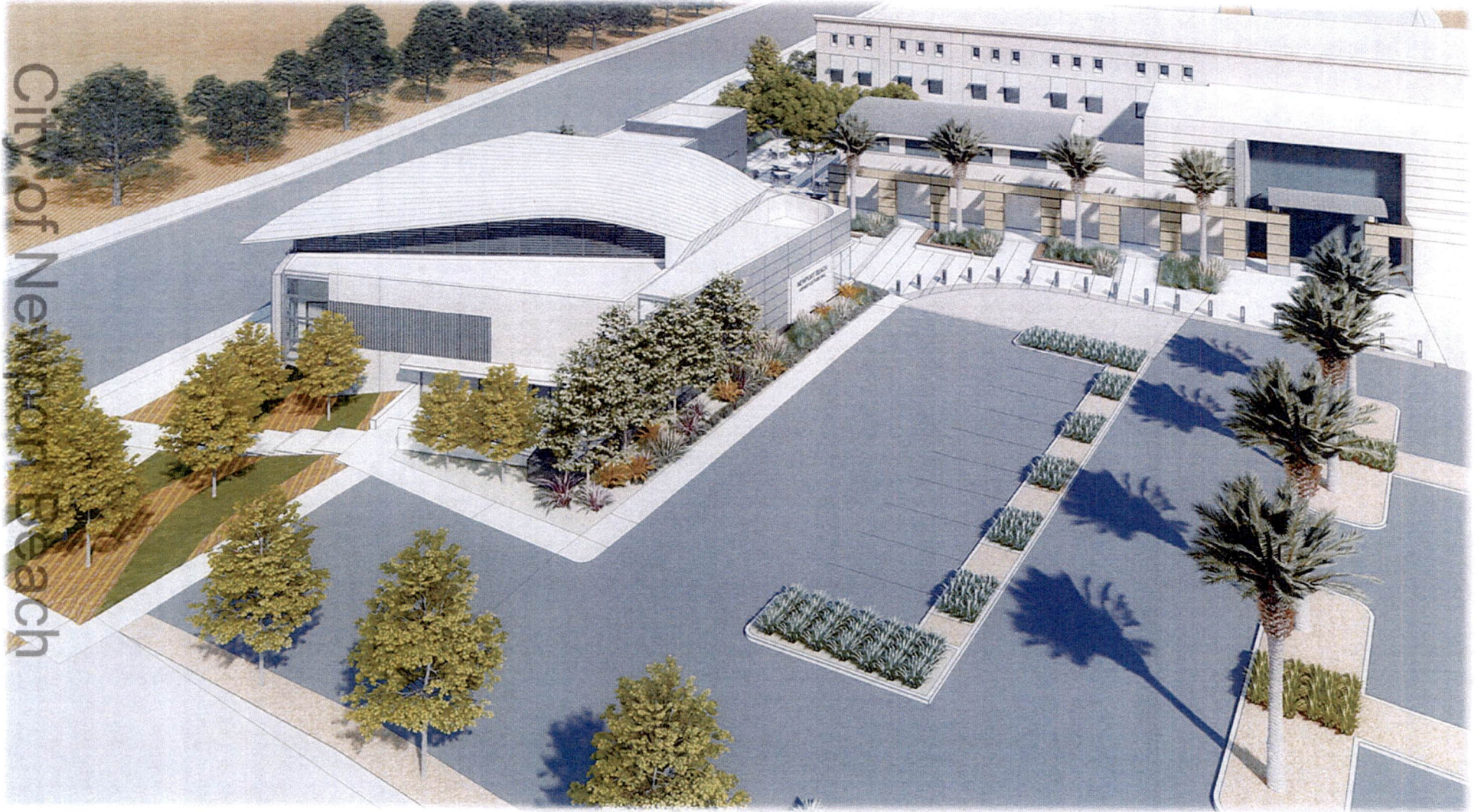
Attachments: Exhibit A – Conceptual Plan
Exhibit B – Board of Library Trustees Policy NBPL 15
Exhibit C – Insurance Requirements

EXHIBIT A
CONCEPTUAL PLAN



City of Newport Beach

LLHDC Recommended Conceptual Design



City of New Port Beach

LLHDC Recommended Conceptual Design

City of Newport Beach





City of Beach

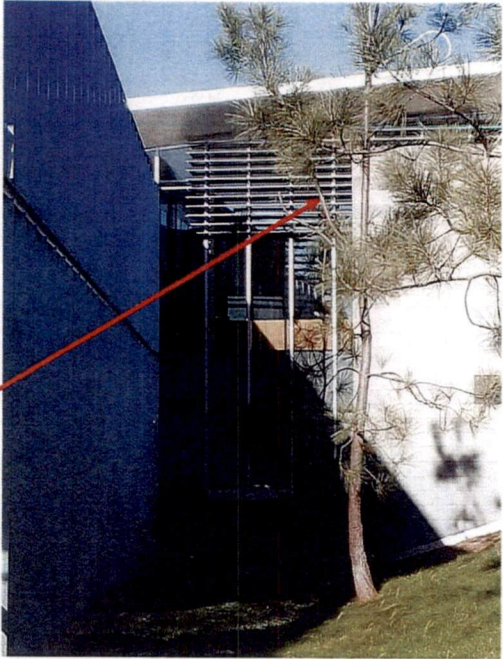
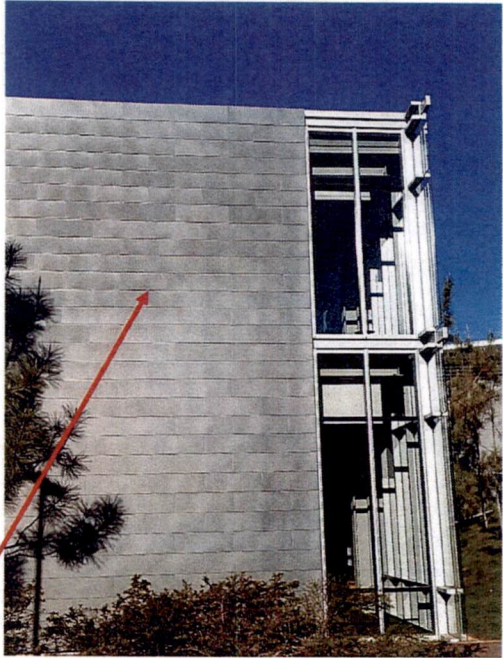
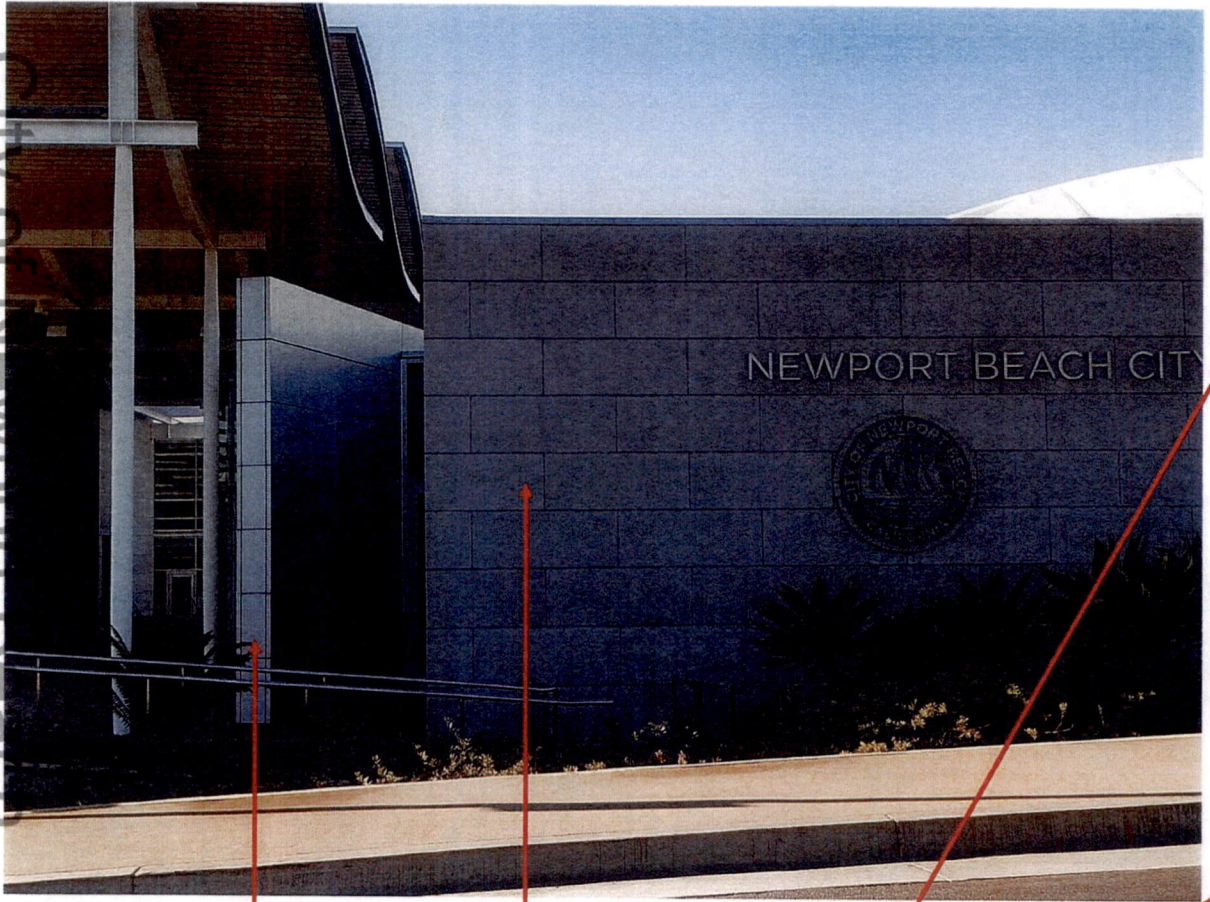


City of



Primary Materials

CITY OF NEWPORT BEACH



- Honed Stone
- Aluminum Composite Panels
- Lapped Metal Shingles
- Sunshade Louvers

LLHDC Recommended Conceptual Design



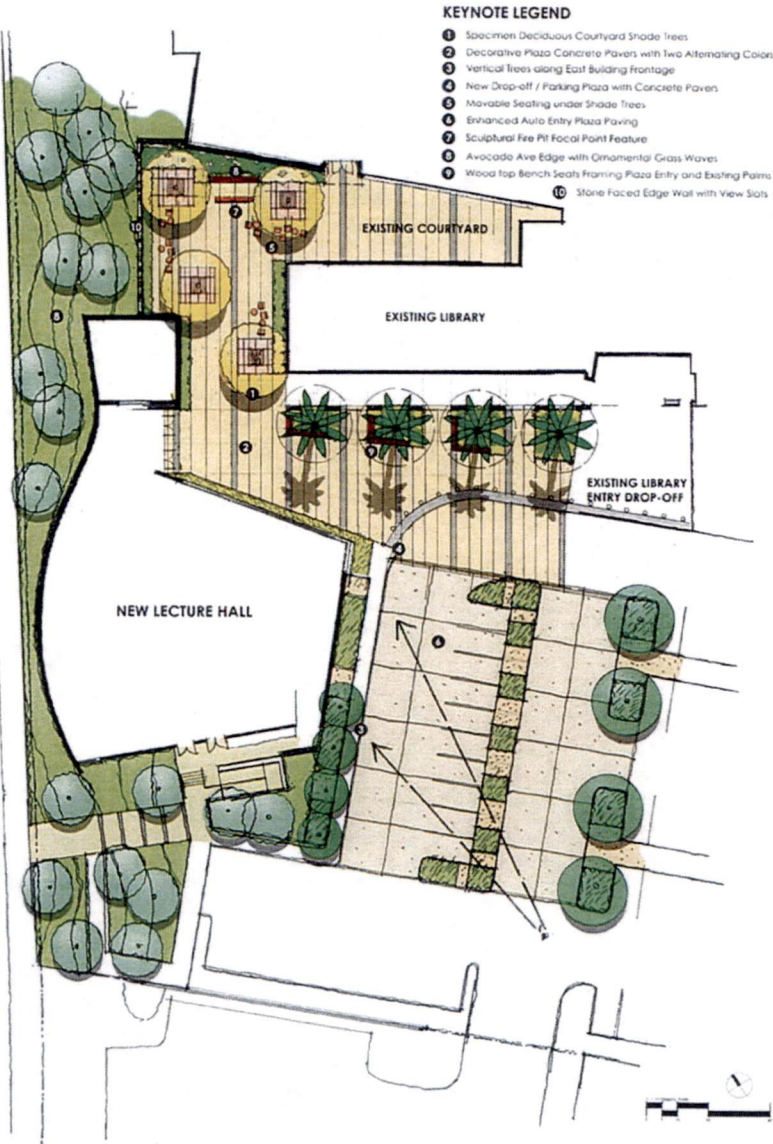
LLHDC Recommended Conceptual Design

City of Newport Beach



LLHDC Recommended Conceptual Design

City of Newport Beach



SCHEMATIC LANDSCAPE PLAN EXHIBIT
 NEWPORT BEACH LIBRARY LECTURE HALL

RobbersHejman

Date: 12/04/2020

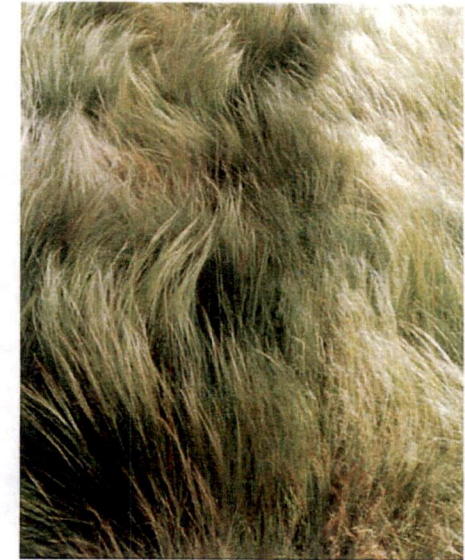


EXHIBIT B

Board of Library Trustees Policy NBPL 15

The Library Lecture Hall

Background

The auditorium at the Newport Beach Central Library is known as the Library Lecture Hall ("LLH").

The Library Board of Trustees and the Library Services Department administer the Library and the LLH. The LLH is an important source of meeting space for Library, Library-related, Library-affiliated, City of Newport Beach ("City") and outside lectures, programs, and activities. It is not unusual for Library and City officers and employees to have a need to use the LLH for Library and City business on short notice. Moreover, use of the LLH takes Library staff away from their normal duties and, if uncontrolled, can interfere with the public's use and enjoyment of the Library.

Applicability

Except as otherwise specifically provided to the contrary herein, this Policy shall not apply to First Priority and Second Priority uses (as defined below) of the LLH as provided below, although the users of such Priorities are required to complete in advance an Application For Use form for such uses. So long as they complete and file in advance the Application For Use form, such users shall be entitled to use the LLH with the permission of and subject to confirming availability with the Library Services Director. Moreover, it shall be permissible for such users to place an advance hold on recurring regularly scheduled dates of use by such users, e.g., the first Thursday morning of each month at 7:30 AM.

Purpose

The purpose of this Policy is to establish:

- A. Procedures for processing and approving or disapproving requests from applicable groups or organizations for permission to use the LLH;
- B. Priorities as set forth below for the use of the LLH and to resolve any conflict related to requests for use; and
- C. Standards and criteria for the use of the LLH to insure there is no significant impact on the workload of staff.

Priorities of Use

The mission of the Library is to be the cultural, educational, and informational heart of Newport Beach (the "Library Mission"). Subject to the Library Mission, to this Policy, and to all related terms and conditions, the LLH is available for use as provided herein. The fact that a group or organization is granted permission to use the LLH in no way constitutes endorsement of the policies or beliefs of that organization by the Library or the City. Even following an advance reservation pursuant to a completed Application For Use, NBPL has a right to preempt any event for a Library or Library-related event; in such rare instances, Library will use its reasonable efforts to assist the group in reserving another date for use of the LLH. The numerical listing below a particular Priority (e.g.,

First Priority) shall indicate the preference or priority within the stated Priority, e.g., First Priority A.1. shall have preference over First Priority A.2.

A. FIRST PRIORITY

1. The Newport Beach Public Library Foundation (the "Foundation") and, thereafter, other NBPL support groups including but not limited to The Friends of the Library and Project Adult Literacy.
2. Any official Library sponsored, co-sponsored, and/or conducted programs and activities that are directly related to the Library Mission and the Library's functions and purposes.

B. SECOND PRIORITY

1. Any meeting or activity of (i) the Newport Beach Chamber of Commerce, (ii) the Corona Del Mar Chamber of Commerce, (iii) Speak Up Newport, or (iv) any other local non-profit organization or entity which organization or entity is based in or around the City and whose meeting or activity is primarily and substantively designed to educate and inform the local community on current issues. With respect to subsection (iv), the Director shall have the discretion to determine whether an organization or entity meets the qualifications set forth in subsection (iv) and whether a meeting or activity meets the qualifications set forth in subsection (iv).
2. Any meeting or activity by local non-profit organizations or entities which organizations or entities are based in or around the City. The Director shall determine whether an organization or entity qualifies as a local non-profit organization or entity for purposes of Second Priority status.

C. THIRD PRIORITY

Use of the LLH may be granted by the Library Services Director to those persons, organizations, or entities listed below on a first come, first serve basis:

1. Sponsored educational or informational programs and activities of state or local public agencies such as local public schools or public districts.
2. Recreational, social, or civic organizations and/or groups that are promoted and sponsored by City residents or City non-profit organizations that are open to the public and have fifty percent (50%) or more of their memberships held by Newport Beach residents.
3. Recreational, social, or civic organizations and/or groups that are non-resident and are promoted and sponsored by non-profit organizations that are open to the public but do not qualify under C.2. above.
4. Schools, colleges, hospitals, or other similar groups not qualifying under the definition of non-profit. Non-profit status is defined as an organization that is so defined by the Internal Revenue Code Section 501(c) and has a State of California Tax Identification Number.

D. FOURTH PRIORITY

All other outside organizations, municipal agencies, individuals, and groups have Fourth Priority on all dates, and may reserve events on a first come, first serve basis under the terms, provisions, and documents required hereunder. All Fourth Priority users shall enter into an Agreement Regarding Use Of Library Lecture Hall For Outside Events ("Outside Events Contract") in form and content as the Director may specify from time to time, which Outside Events Contract shall include the Rules and Regulations (First Addendum to Outside Events Contract) in form and content as the Director may specify from time to time.

Procedure

All persons, groups or entities seeking permission to use the LLH ("applicant") shall submit an Application For Use on the form provided by the Department. The applicant shall provide all information requested in the application and such additional information as may be required by the Library Services Director to enable the Director to determine if use by the applicant will comply with this Policy. Applications shall not be considered complete unless accompanied by required fees, proof of insurance, and any additional requested information to the extent applicable. No person, group or entity shall be entitled to use of the LLH unless their application has been approved by the Library Services Director or the Director's designee. If an applicant fails to comply with the standard conditions of use or any special conditions imposed by the Director, no additional application by that applicant shall be considered for a one-year period following such failure.

Standard Conditions of Use Applicable to Third Priority and Fourth Priority Users

These standard conditions of use shall be and are applicable to Third Priority and Fourth Priority users only; with the exception of standard conditions B, D, and F, the standard conditions are not applicable to First Priority and Second Priority users; provided, however, other than in the case of the Foundation, the Director shall have the discretion to impose one or more such other standard conditions on First Priority and Second Priority users. An Application For Use of the LLH may be approved subject to the Third Priority User's and the Fourth Priority User's compliance with the following standard conditions of use and other conditions of use as may be imposed by the Library Services Director:

- A. The use of alcoholic beverages is prohibited unless expressly approved in writing by the Library Services Director and subject to the approval of the Alcoholic Beverage Control Board.
- B. Smoking, vaping of any kind, and other use of tobacco or similar products is prohibited in the LLH and the entire Library campus, including restrooms and all common areas.
- C. At least one (1) adult shall be present in the LLH when minors are in attendance.
- D. No person shall interfere with the normal use and activities of the Library by way of noise, disturbance, or other activity.
- E. Meetings or activities conducted in the LLH may not be advertised or promoted as City or Library sponsored activities unless approved in advance by the Library Services Director. All materials used for advertising or announcing a meeting or activity to be conducted in the LLH shall be submitted to the Library Services Director at least ten (10) days prior to the use for the sole purpose of determining if the materials comply with this condition. The Library Services Director shall notify the permittee of the Director's determination that the materials comply or do not comply with the condition within three business days after submittal.
- F. Events or activities in the LLH shall not exceed [274? Actual Number Of Fixed Seats And Possible Additional Mobile/Temp Chairs At Rear To Be Determined By Architectural Plan/NBFD Requirements And Approved by Library Services Director] persons unless approved in advance by the Library Services Director.
- G. Use of the LLH is limited from 9 a.m. to 9 p.m. Monday through Thursday, 9 a.m. to 10 p.m. Friday through Saturday, and 12 p.m. to 5 p.m. on Sundays, unless expressly approved in writing in advance by the Library Services Director.

- H. The provision of insurance should be general liability, naming the Library and City and their officers, agents, officials, employees, and volunteers as additional insureds, providing coverage in the amount of not less than \$1,000,000 for any claim, loss, injury, damage, or other casualty that is in any way related to the use and/or occupancy of the LLH by the permittee authorized to use the LLH pursuant to this Policy.
- I. The permittee agrees to defend, indemnify, and hold harmless the Library and the City and their officers and employees with respect to any claim, loss, or injury that arises out of, or is in any way related to permittee's use and occupancy of the LLH.
- J. Applications for reservations must be made no more than 90 days in advance and not more than once every 90 days.

Fees, Deposits and Cancellation Procedures

Fees may be charged for the use of the LLH. Fees shall be established by Resolution of and periodically adjusted by the Board of Library Trustees subject to approval of the City Council. Fees shall include an amount necessary to defray the costs associated with the administration of this Policy and the maintenance and repair associated with the use of the LLH. Notwithstanding anything to the contrary herein, the Director may impose fees and other charges on the First Priority Users and the Second Priority Users; provided, however, in the case of the Foundation, such fees and other charges shall be agreed upon in advance in writing by the Director and the Foundation.

Use Subject to Recorded Declaration of Special Land Use Restrictions

Use of the LLH shall at all times be subject to that certain Declaration of Special Land Use Restrictions, Right of First Refusal, Mortgage Lien and Option to Repurchase recorded May 8, 1992 as Instrument No. 92-304757 in the Official Records of Orange County, California, as modified by that certain amendment recorded November 24, 2010 as Instrument No. 2010-634195 and as further amended by that certain amendment (the "Second Amendment") recorded December 5, 2019 as Instrument No. 2019000509265 (all such recorded documents are referred to collectively as the "Declaration"). The Second Amendment (which as indicated is a part of the Declaration) specifically provides as follows:

1.2 Use of the Lecture Hall

Declarant expressly agrees that the use of the Lecture Hall by Grantee [City of Newport Beach, a California municipal corporation] to conduct library, cultural, training, educational, informational, entertainment, civic and community focused programming as well as for programming of library support groups, such as the Friends of Newport Beach Public Library and the Newport Beach Public Library Foundation (collectively, the "Intended Use"), are uses commonly associated with public libraries, as described in Section 2.1(a) of the Declaration, and these uses do not compete with the retail and commercial facilities in the Center [Newport Center]. Grantee may from time to time allow, and charge reasonable fees for, such uses of the Lecture Hall, and such other uses of the Lecture Hall that Grantee determines in its reasonable discretion are complementary to the use of the Land as a free, public library and will not interfere with the use of the Land by Grantee's library patrons and available parking for such library patrons; provided such other uses, in Declarant's reasonable discretion, do not materially compete with the retail and commercial facilities in and

around the Center, and in no event shall the Lecture Hall be used as a commercial banquet hall or conference center.

1.3 Parking

The number of parking spaces on the Land and available for public use is currently 172. Such number of parking spaces available for public use shall not be reduced without the prior written consent of Declarant as described in Section 2.2(a) of the Declaration.

Adopted by the Board of Library Trustees on November 15, 2021

This Policy will be periodically reviewed by the Board of Library Trustees on the first to occur of (i) as circumstances may require or (ii) every two years from the date of adoption, last amendment, or last review. Adopted, last amended, or last reviewed on November 15, 2021.

EXHIBIT C

INSURANCE REQUIREMENTS

1. Provision of Insurance. Without limiting Foundation's indemnification of City, Foundation shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to City. Foundation agrees to provide insurance in accordance with requirements set forth here. If Foundation uses existing coverage to comply and that coverage does not meet these requirements, Foundation agrees to amend, supplement or endorse the existing coverage.
2. Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.
3. Coverage Requirements.
 - A. Workers' Compensation Insurance. Foundation shall maintain Workers' Compensation Insurance, statutory limits, and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000) each accident for bodily injury by accident and each employee for bodily injury by disease in accordance with the laws of the State of California, Section 3700 of the Labor Code if the Foundation hires employees.

Foundation shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its City Council, boards and commissions, officers, agents, volunteers, and employees.

Foundation shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its City Council, boards and commissions, officers, agents, volunteers and employees.
 - B. General Liability Insurance. Foundation shall maintain commercial general liability insurance, and if necessary, umbrella liability insurance, with coverage at least as broad as provided by Insurance Services Office form CG 00 01, in an amount not less than one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) general aggregate. The policy shall cover liability arising from premises, operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

- C. Automobile Liability Insurance. Foundation shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of Foundation arising out of or connected in any way with the Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than one million dollars (\$1,000,000) combined single limit each accident.
4. Other Insurance Requirements. The policies are to contain, or be endorsed to contain, the following provisions:
- A. Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against City, its City Council, boards and commissions, officers, agents, volunteers, and employees or shall specifically allow Foundation or others providing insurance evidence in compliance with these requirements to waive their right of recovery prior to a loss. Foundation hereby waives its own right of recovery against City, and shall require similar written express waivers from each of its subcontractors.
 - B. Additional Insured Status. All liability policies including general liability, excess liability, pollution liability, and automobile liability, if required, but not including professional liability, shall provide or be endorsed to provide that City, its City Council, boards and commissions, officers, agents, volunteers, and employees shall be included as insureds under such policies.
 - C. Primary and Non-Contributory. All liability coverage shall apply on a primary basis and shall not require contribution from any insurance or self-insurance maintained by City.
 - D. Notice of Cancellation. All policies shall provide City with thirty (30) calendar days' notice of cancellation (except for nonpayment for which ten (10) calendar days' notice is required) or nonrenewal of coverage for each required coverage.
5. Additional Agreements Between the Parties. The Parties hereby agree to the following:
- A. Evidence of Insurance. Foundation shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation and other endorsements as specified herein for each coverage. Insurance certificates and endorsement must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this Agreement. The certificates and endorsements for each

insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced, Foundation shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

- B. City's Right to Revise Requirements. City reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving Foundation sixty (60) calendar days' advance written notice of such change. If such change results in substantial additional cost to Foundation, City and Foundation may renegotiate Foundation's compensation.
- C. Enforcement of Agreement Provisions. Foundation acknowledges and agrees that any actual or alleged failure on the part of City to inform Foundation of non-compliance with any requirement imposes no additional obligations on City nor does it waive any rights hereunder.
- D. Requirements not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Foundation maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for higher limits maintained by the Foundation. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.
- E. Self-insured Retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these requirements unless approved by City.
- F. City Remedies for Non-Compliance. If Foundation or any subcontractor fails to provide and maintain insurance as required herein, then City shall have the right but not the obligation, to purchase such insurance, to terminate this Agreement, or to suspend Foundation's right to proceed

until proper evidence of insurance is provided. Any amounts paid by City shall, at City's sole option, be deducted from amounts payable to Foundation or reimbursed by Foundation upon demand.

- G. Timely Notice of Claims. Foundation shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Foundation's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

- H. Foundation's Insurance. Foundation shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection.

EXHIBIT B

BRIEF DESCRIPTION OF THE LECTURE HALL PLANS

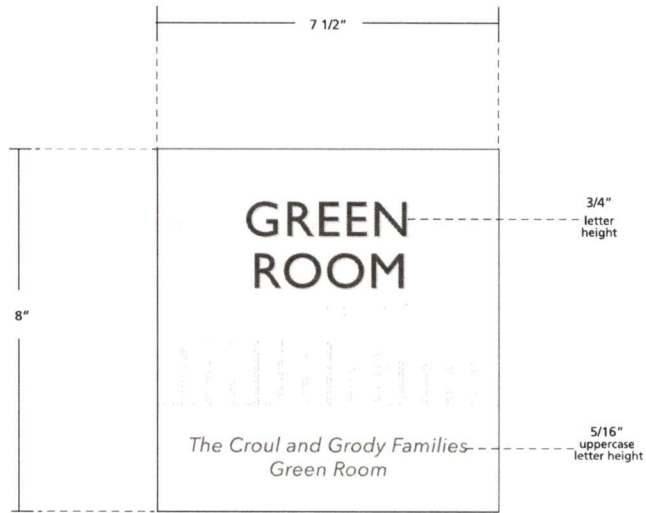
The Lecture Hall will be a modern auditorium with tiered, cushioned permanent seating accommodating up to 299 people, technically advanced stage lighting and audio-visual equipment, and excellent acoustics to house the expected range of planned presentations, from the Witte Lecture series to the Library Sunday Musicales, from documentary films to children's programs.

The Lecture Hall will be a free-standing building just under 10,000 square feet, sited on the Library grounds adjacent to Avocado Avenue and the current Bamboo Courtyard. The Bamboo Courtyard will also be expanded to provide outdoor pre-event and event space.

The Lecture Hall has been designed by Robert R. Coffee Architect + Associates.

EXHIBIT C
OUTLINE OF PARTICULAR PLACE, SIZE AND OTHER ATTRIBUTES
OF NAME RECOGNITION

Scale: 3/8" = 1"

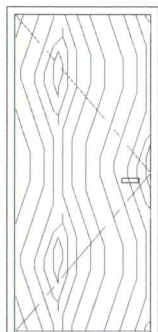


Sign Type D5.00: Green Room Donor Recognition Sign

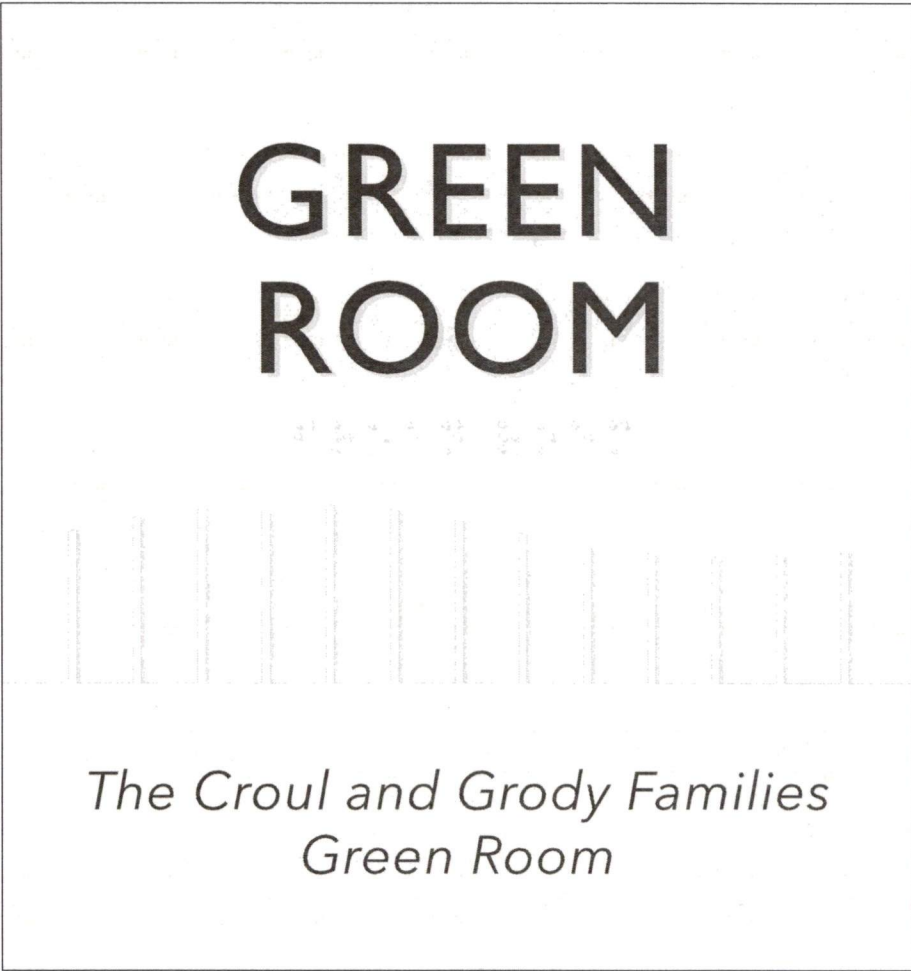
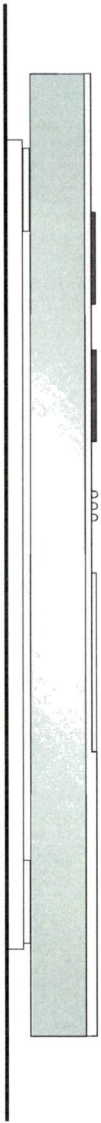
7 1/2" wide x 8" high chemically etched photopolymer sign face with painted finish and raised Braille / tactile graphics, laminated to a 1/2" thick transparent green acrylic backer with polished edges and face.

Tactile letters and donor text to be screen print to match sign program.

Scale: 3/8" = 1'-0"



Note: Signage Contractor to field verify precise location with GSD prior to installation.



Scale: Full-size

Sign Type D5.00: Green Room Donor Recognition Sign
7 1/2" wide x 8" high chemically etched photopolymer sign face with painted finish and raised Braille / tactile graphics, laminated to a 1/2" thick transparent green acrylic backer with polished edges and face.

Tactile letters and donor text to be screen print to match sign program.