

LICENSE AGREEMENT

This License Agreement is made this 17<sup>th</sup> day of March 2016 ("Effective Date"), by and between Biola Community Services District, a community services district organized pursuant to the laws of the State of California ("District") and the VFW Post 5845, a chapter of a congressionally chartered veteran's organization (the "VFW") (collectively, the "Parties").

RECITALS

WHEREAS, District is a Community Services District providing various governmental services to the residents of the community of Biola; and

WHEREAS, the VFW is chapter of a non-profit congressionally chartered veterans organization providing services to veterans residing in the community of Biola, other surrounding areas; and

WHEREAS, District owns that certain facilities within the community of Biola more commonly known as the Biola Community Center ("Center"); and

WHEREAS, the VFW desires to use the Center for various events for a fee by users of the Center ("Permittees") as well as a meeting place for its members.

TERMS, CONDITIONS & COVENANTS

NOW, THEREFORE, for a good and valuable consideration, the Parties do hereby agree to the use the Center's facilities by the VFW on the terms and conditions set forth below.

1. Grant of License: Term. The District grants a one (1) year license ("License") commencing on April 1, 2016 and terminating on March 31, 2017 and renewable annually thereafter unless terminated by written notice at least sixty (60) days before the License termination date upon approval by the District Board of Directors in its sole discretion. The License is subject to immediate termination upon a material breach by the VFW. Upon termination, the VFW shall remove all of its personal property. Any personal property left behind shall be deemed abandoned and shall be disposed of as the District deems appropriate.
2. Scope of License. The License shall include the Center's meeting hall, kitchen, restrooms, rooms, and parking lot (collectively, the "Licensed Premises") excluding the office space (including file storage room) that is retained by the District. The VFW accepts the Licensed Premises as is.

3. Permitted Events. For the events permitted by the VFW, the rights, duties, and obligations of the Parties shall be as follows:

a. District.

- (1) Shall retain the right to approve, with the advice and collaboration of the VFW, any Permittee.
- (2) Shall be responsible for informing Permittees of their responsibilities, including use and clean up, before use by the Permittees. District reserves the right to have any Permittee sign an agreement to insure that the Permittees comply with use of the Center including requiring a deposit. District, or the VFW, shall be responsible for any Center tours as needed.
- (3) Shall return any Permittee deposits, less any appropriate charges in the event of a Permittee's non-compliance with the requirements of the District, including cleaning up after use of the Licensed Premises.
- (4) May collect, in coordination with the VFW, rental revenues, which shall be either money order or a check (no cash), from the Permittee as well as all deposits and any other use fees as determined by the District. The District shall keep a record of all payments received which shall be available for review during regular business hours by the VFW, or its authorized agent.
- (5) Shall, with the collaboration of the VFW, promote Center rentals by Permittees via media outlets including the District's website. District shall be in sole control of content regarding any such promotions.

b. VFW.

- (1) Shall provide qualified personnel to open and close the Center after each Permittee event. VFW, or the District, shall be responsible for any Center tours as needed.
- (2) Shall inspect, upon opening as well as upon closing, the Center to insure that the Permittee engages in cleanup activities after use. Failure to do so shall be documented by the VFW.
- (3) May collect, in coordination with the District, rental revenues, which shall be either money order or a check (no cash), from the Permittee as well as all deposits and any other use fees as determined by the District. The VFW shall keep a record of all payments received which shall be available

for review during regular business hours by the District, or its authorized agent.

- (4) Shall report to District representatives and to law enforcement any disturbance of the peace, mischief, vandalism, or other nonconformance with the rules of use by the Permittee of the Center. Such report shall include any documentation of misuse by the Permittee for any legal remedies that may be pursued by the District against the Permittee.
  - (5) Shall obey all laws regarding the provision of alcoholic beverages which shall be served only by authorized and qualified VFW members.
  - (6) Shall pay any and all sales tax, use fees, and all other taxes or assessments associated with the VFW's Licensed activities (collectively, "taxes").
  - (7) Shall, with the collaboration of the District, promote Center rentals by Permittees via media outlets including the District's website. District shall be in sole control of content regarding any such promotions
- c. Division of Expenses and Revenues. The division of expenses, fees and revenues shall be as follows:

- (1) Administrative Fee. District shall pay the VFW a \$50 administrative fee for each Permittee use of the Center which is not canceled by the Permittee.
- (2) Revenues Generated by Permittee Use. Given that the current cost to operate the Center is approximately \$25,000 annually, all revenues, net of deductions including taxes and excluding sales revenue from alcoholic beverages, generated by the Permittee's use ("Revenues") shall be credited or paid to defray this annual cost. The operating cost of the Center will be estimated and adjusted annually by the District for any annual extension of the License. On a quarterly basis, the VFW shall disclose all records of its Revenues it has generated, including the sales of alcoholic beverages, to the District.
- (3) Revenues to Defray Costs of Center Improvements. Certain enhancements are required to provide necessary improvements including, but not limited to, security cameras, an ice machine suitable for Permittee events, parking lot improvements, and ongoing maintenance for the foregoing (collectively, for ease of reference, referred to as "fixtures") as a result of the use of the Center by Permittees. Accordingly, any net revenues after \$25,000 shall be used to defray the costs of such fixtures which shall be the property of the District.

- (4) Revenues Paid or Remitted to the VFW. After payment or deduction of the Revenues as set forth in 2 and 3 above, any other Revenues, except for revenues collected and retained by the VFW from alcoholic sales, shall be remitted or paid to the VFW ("VFW Revenues").
4. VFW Use. In addition to any Permittee use, the VFW may use the Center for its meetings, except for District office space (including file storage room), at times and days arranged by the District's manager and the VFW, separate and apart from a Permittee's use of the Center. During such times, the District agrees to provide utilities; use of the Center, except for the District's office space (including file storage room); use of the kitchen facilities; restroom facilities; and unreserved outdoor parking for meetings. The VFW shall insure that the Center is cleaned and rendered in the same condition as at the commencement of any such meetings at the Center. The VFW shall be responsible for any misuse or damage of the Center caused by any of its members at such meetings. The VFW shall comply with all rules and regulations or policies of the District for such use.
5. Insurance. The VFW, at its own expense, shall obtain and maintain in full force and effect, without interruption during the term of this License Agreement, the following minimum levels of insurance:
- a. The VFW shall obtain workers' compensation insurance for any person required to be covered pursuant to California law, covering the legal liability of the VFW and its subcontractors, if any, under the applicable worker compensation or occupational disease laws for claims for personal injuries and death resulting therefrom.
  - b. General liability insurance covering the legal liability (including liability assumed contractually, whether incidental or not) of the VFW and its subcontractors, if any, who may be engaged in the work or activities to be performed by the VFW, for claims for personal injuries (including death) and property damage resulting therefrom arising out of the work or activities to be performed by the VFW or its subcontractors in an amount not less than \$1,000,000.00 for any one occurrence. The VFW shall name the District as an additional insured on said policy.

Within fourteen (14) business days after the Effective Date of this License Agreement, the VFW shall submit to the District, certificates of insurance evidencing the coverages prescribed by this section and certifying that such policies have been endorsed as required by this section.

The provisions requiring the VFW to carry insurance shall not be construed as waiving, restricting, or limiting any liability imposed upon the VFW under this

License Agreement, whether or not the same is covered by insurance. It is the intent of the Parties, however, that to the extent there is in force insurance coverage available to cover the legal and contractually assumed liability of the VFW, any payments due as a result of such liability shall be made first from the proceeds of such policies to the extent of the coverage limits.

6. Indemnification. For purposes of this License Agreement, the term "Persons Indemnified" includes the District, its directors, officers, employees, and agents.

The VFW shall indemnify, hold harmless and defend each person or entity of the Persons Indemnified from and against any and all loss, damage or liability resulting from demands, claims, suits, or actions of any character presented or brought for any injuries (including death) to persons and for damages to property caused by or arising out of any negligent (including strict liability), wanton, or intentional act or omission of the VFW, any of its subcontractors, invitees, anyone directly or indirectly employed by any of them or anyone for whose acts any one of them may be liable, in any way associated or connected with the performance of the VFW's business activities and operations or its obligations under this License Agreement in whatever manner the same may be caused, and whether or not the same be caused by or arise out of the joint, concurrent, or contributory negligence of any person or entity of the Persons Indemnified. The foregoing indemnity shall include, but not be limited to, court costs, attorney's fees, costs of investigation, costs of defense, settlements, and judgments associated with such demands, claims, suits or actions. The indemnity provided in this section is intended for the benefit of Persons Indemnified and is in addition to the VFW's insurance requirements.

In addition to the VFW's indemnity obligations set forth above, the VFW shall be liable for the costs of repair or replacement of District property which is directly damaged by any negligent (including strict liability), wanton or intentional act or omission of the VFW hereunder. The VFW shall not, however, be liable for any property damage caused by or in connection with any defect in the facilities provided hereunder, or the drains, plumbing, wiring, electrical equipment or appurtenances, or caused by or growing out of fire, wind, leaks, seepage, rain or other cause beyond the reasonable control of the VFW.

7. Access to Licensed Premises. The District and its representatives shall have the right to enter upon the Licensed Premises at all reasonable times, and in all emergency repair situations, for the purpose of inspecting same or for making repairs, additions or alterations, or for the purpose of exhibiting same to others.
8. Notices. All notices required or permitted under this License Agreement shall be in writing and shall be deemed duly given upon personal delivery or on the third day following the date on which each such notice is deposited, postage prepaid, in

the United States mail, certified, return receipt requested or on the next business day after being sent by a nationally recognized overnight courier service which provides signed acknowledgements of receipt. Notice may also be given by facsimile with proof of transmission or by overnight mail with proof of delivery. Notices may be sent to the Parties as follows:

To the District:  
Manager  
P.O. Box 57  
Biola, CA 93606

To the VFW:  
Post Commander  
VFW Post 5845  
P.O. Box 118  
Biola, CA 93606

Additional information regarding facsimile numbers or physical addresses shall be provided during the course of the License Agreement.

9. Designation of Party Representatives. For purposes of resolving any issues which is the subject of this License Agreement, in addition to alternative dispute resolution ("ADR"), the District's Manager and the VFW's Post Commander will meet and confer to attempt to resolve any issues that may arise. If necessary to facilitate resolution of issues, the Parties may agree to designate other individuals for this purpose.
10. Alternative Dispute Resolution ("ADR"). Except for remedies in equity and unlawful detainer, any dispute resolution which cannot be resolved as set forth in section 9, shall be subject to a mutually agreed voluntary mediation. If voluntary mediation is rejected or is not successful, the Parties agree to submit any such dispute to binding arbitration under the rules of the American Arbitration Association ("AAA").
11. Amendment. This License Agreement may be amended only by a writing duly executed by the Parties.
12. Counterparts. This License Agreement may be executed in multiple counterparts (no one of which need contain the signatures of more than one Party hereto so long as each Party hereto executes at least one such counterpart), each of which shall be deemed an original and all of which, when taken together, shall constitute and be one and the same instrument. Copies of signatures shall have the same force and effect as original signatures.

13. Captions. The paragraph headings of this License Agreement are for convenience only and are not intended, and shall not be construed to alter, limit or enlarge in any way the scope or meaning of the language contained in this License Agreement.
14. Governing Law. This License Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the District and the VFW have duly executed this License Agreement effective as of the day and year first above written.

THE BOARD OF DIRECTORS OF  
THE BIOLA COMMUNITY SERVICES DISTRICT

By: *Roger Lora*  
Its: *President*

VFW  
By: *Phillip Carter*  
Its: *Post Commander*

## LEASE AGREEMENT

This Lease Agreement is made this 17th day of November, 2017 ("Effective Date"), by and between Biola Community Services District, a community services district organized pursuant to the laws of the State of California ("District") and the VFW Post 5845, a chapter of a congressionally chartered veteran's organization (the "VFW") (collectively, the "Parties").

### RECITALS

**WHEREAS**, District is a Community Services District providing various governmental services to the residents of the community of Biola;

**WHEREAS**, the VFW is chapter of a non-profit congressionally chartered veterans organization providing services to veterans residing in the community of Biola, and other surrounding areas;

**WHEREAS**, The Parties previously entered into a license agreement wherein VFW is permitted to use the Biola Community Center ("Center") for various events in exchange for a revenue share arrangement ("License");

**WHEREAS**, District owns real property located adjacent to the Biola Community Center, and identified as Fresno County Assessor's Parcel No. 016-470-07T ("Property");

**WHEREAS**, the VFW desires to use the Property for storage purposes in conjunction with storage space already on the Property by the Center and the Biola Chamber of Commerce; and

**WHEREAS**, District is willing to authorize VFW to use the Property in accordance with and subject to the terms and conditions of this Agreement.

### TERMS, CONDITIONS & COVENANTS

**NOW, THEREFORE**, for a good and valuable consideration, VFW may use the Property as follows:

1. Grant of Lease; Term; and Rent. The District grants a twenty (20) year Lease ("Lease") commencing on December 1, 2017, and terminating on November 30, 2037, unless terminated earlier by mutual agreement of the Parties. The Lease is subject to immediate termination upon a material breach of the Lease by the VFW. Upon termination, the VFW shall remove all of its personal property. Any



personal property left behind shall be deemed abandoned and shall be disposed of as the District deems appropriate.

In exchange for the Lease, and in addition to the anticipated increase in revenue generated pursuant to the License and the other responsibilities contained herein, VFW agrees to pay District an annual rent of \$1, which may be paid in arrears at the end of each year.

2. Conditions of Use.

- a. Permitted Use. The District shall allow VFW to use the Property for general/storage purposes. The expansion or change to the permitted use may only be amended by a writing duly executed by the Parties.
- b. Improvements. VFW shall be permitted to install a building of approximately 24' by 36' on the Property. The precise location of the building shall be subject to approval by the District. VFW shall construct, to the extent necessary for installation, and install the building in conformance with all applicable Federal, State, and County laws, rules, and regulations, and shall obtain the required permits from the County of Fresno, to be reviewed in advance by the District, before commencing relocation and installation of the building. No other improvements shall be authorized without prior written authorization by the District.

All of VFW's construction and installation work performing the improvements shall be performed at VFW's sole cost and expense and in a good and workmanlike manner. VFW shall cause all improvements to occur lien-free and in compliance with all applicable laws and ordinances, and shall discharge or bond any mechanic's lien filed or recorded. VFW shall keep the site for the Property clean and secure during construction, and shall take all reasonable safety precautions. VFW shall use any and all appropriate means of restricting access to the Property, including, without limitation, the construction and installation of the building. All contractors who perform the improvements shall be appropriately licensed and VFW shall cover the contractor, and/or require each contractor to adhere to all the insurance and indemnification requirements contained herein.

- c. Maintenance. VFW, at its sole cost and expense, shall at all times during the term of this Agreement keep and maintain the Property, and all personal property, buildings, structures and improvements thereon in good order and condition, and free from rubbish, all satisfactory to the District and in compliance with all applicable laws.

- d. Landscaping. VFW shall be responsible for removal of any debris and brush, including weeds, adjacent to its building area so that it conforms to the same yard and landscape maintenance standards at the Center.
- e. Licenses, Permits, and Taxes. VFW shall procure all licenses and permits, if any, required for the use of the Property at VFW's sole cost and expense. Although this License creates no interest in the Property, VFW acknowledges that, pursuant to California Revenue and Taxation Code section 107.6, under some circumstances, VFW's use of the Property may be subject to property taxation. VFW shall be solely responsible for any property taxes arising out of VFW's use of the Property.
- f. Utilities. VFW shall be solely responsible for all applicable utilities and services furnished to or used by VFW. VFW shall open an account with the District for water and sewer services at the Property.
- g. Hazardous Material. VFW shall not use, generate, manufacture, produce, store, dispose of, or allow another person or entity to use any part of the Property for the storage, use, treatment, manufacture or sale of Hazardous Materials. "Hazardous Materials" means hazardous or toxic substances which are, or becomes regulated by any local, State or Federal governmental authority.
- h. Waste and Nuisance. VFW shall not use the Property, or allow the Property to be used, in any manner that will constitute a waste, nuisance, or unreasonable annoyance to the neighborhood adjacent to the Property.
- i. Liens and Claims. If any liens or claims are filed against the Property, VFW shall remove the liens and claims at VFW's own expense. If VFW fails to remove the liens or claims and any judgment is entered thereon or thereunder, VFW shall pay that judgment. Should VFW fail, neglect, or refuse to remove any lien or claim or to pay any judgment in a timely manner, and in no event later than six (6) months from the date of the lien, claim, or judgment, in addition to the right to terminate this Lease, District shall have the right to pay any amount required to release any such liens or claims, or to defend any action brought on the liens or claims and to pay any judgment entered on the liens or claims. Under those circumstances, VFW shall be liable to District for all costs, damages, reasonable attorneys' fees, and any amounts expended in defending any proceedings or in the payment of any of said liens or claims or any judgment obtained therefore. District may post and maintain upon the Property a notice of nonresponsibility.

3. Insurance. The VFW, at its own expense, shall maintain in full force and effect, without interruption during the term of this Lease Agreement, the following minimum levels of insurance:
  - a. The VFW shall obtain workers' compensation insurance for any person required to be covered pursuant to California law, including for all work performed for the improvements, covering the legal liability of the VFW and its subcontractors, if any, under the applicable worker compensation or occupational disease laws for claims for personal injuries and death resulting therefrom.
  - b. General liability insurance covering the legal liability (including liability assumed contractually, whether incidental or not) of the VFW and its subcontractors, if any, who may be engaged in the work or activities to be performed by the VFW, for claims for personal injuries (including death) and property damage resulting therefrom arising out of the work or activities to be performed by the VFW or its subcontractors in an amount not less than \$1,000,000.00 for any one occurrence. The VFW shall name the District as an additional insured on said policy.
  - c. Builders' Risk coverage with limits equal to 90% of the insurable value of the improvements. Such coverage must include contractor's interest in items of labor and materials connected therewith whether in or adjacent to the structure insured.

The VFW shall provide a certificate of insurance for the above referenced policies. VFW may not suspend, void or cancel the applicable policies without providing thirty (30) days prior written notice to the District.

The provisions requiring the VFW to carry insurance shall not be construed as waiving, restricting, or limiting any liability imposed upon the VFW under this Lease Agreement, whether or not the same is covered by insurance. It is the intent of the Parties, however, that to the extent there is in force insurance coverage available to cover the legal and contractually assumed liability of the VFW, any payments due as a result of such liability shall be made first from the proceeds of such policies to the extent of the coverage limits.

4. Indemnification. For purposes of this Lease Agreement, the term "Persons Indemnified" includes the District, its directors, officers, employees, and agents.

The VFW shall indemnify, hold harmless and defend each person or entity of the Persons Indemnified from and against any and all loss, damage or liability resulting from demands, claims, suits, or actions of any character presented or

brought for any injuries (including death) to persons and for damages to property caused by or arising out of any negligent (including strict liability), wanton, or intentional act or omission of the VFW, any of its subcontractors, invitees, anyone directly or indirectly employed by any of them or anyone for whose acts any one of them may be liable, in any way associated or connected with the performance of the VFW's business activities and operations or its obligations under this Lease Agreement in whatever manner the same may be caused, and whether or not the same be caused by or arise out of the joint, concurrent, or contributory negligence of any person or entity of the Persons Indemnified. The foregoing indemnity shall include, but not be limited to, court costs, attorney's fees, costs of investigation, costs of defense, settlements, and judgments associated with such demands, claims, suits or actions. The indemnity provided in this section is intended for the benefit of Persons Indemnified and is in addition to the VFW's insurance requirements.

In addition to the VFW's indemnity obligations set forth above, the VFW shall be liable for the costs of repair or replacement of District property which is directly damaged by any negligent (including strict liability), wanton or intentional act or omission of the VFW hereunder.

5. Access to Property. The District and its representatives shall have the right to enter upon the Property at all reasonable times, and in all emergency repair situations, for the purpose of inspecting same or for making repairs, additions or alterations, or for the purpose of exhibiting same to others.
6. Notices. All notices required or permitted under this Lease Agreement shall be in writing and shall be deemed duly given upon personal delivery or on the third day following the date on which each such notice is deposited, postage prepaid, in the United States mail, certified, return receipt requested or on the next business day after being sent by a nationally recognized overnight courier service which provides signed acknowledgements of receipt. Notice may also be given by facsimile with proof of transmission or by overnight mail with proof of delivery. Notices may be sent to the Parties as follows:

To the District:

Manager  
Biola Community Services District  
P.O. Box 57  
Biola, CA 93606

To the VFW:

Post Commander  
VFW Post 5845  
P.O. Box 118  
Biola, CA 93606

Additional information regarding facsimile numbers or physical addresses shall be provided during the course of the Lease Agreement.

7. Designation of Party Representatives. For purposes of resolving any issues which are the subject of this Lease Agreement, in addition to alternative dispute resolution ("ADR"), the District's Manager and the VFW's Post Commander will meet and confer to attempt to resolve any issues that may arise. If necessary to facilitate resolution of issues, the Parties may agree to designate other individuals for this purpose.
8. Alternative Dispute Resolution ("ADR"). Except for remedies in equity and unlawful detainer, any dispute resolution which cannot be resolved as set forth in section 7, shall be subject to a mutually agreed voluntary mediation. If voluntary mediation is rejected or is not successful, the Parties agree to submit any such dispute to binding arbitration under the rules of the American Arbitration Association ("AAA").
9. Amendment. This Lease Agreement may be amended only by a writing duly executed by the Parties.
10. Counterparts. This Lease Agreement may be executed in multiple counterparts (no one of which need contain the signatures of more than one Party hereto so long as each Party hereto executes at least one such counterpart), each of which shall be deemed an original and all of which, when taken together, shall constitute and be one and the same instrument. Copies of signatures shall have the same force and effect as original signatures.
11. Captions. The paragraph headings of this Lease Agreement are for convenience only and are not intended, and shall not be construed to alter, limit or enlarge in any way the scope or meaning of the language contained in this Lease Agreement.
12. Governing Law. This Lease Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the District and the VFW have duly executed this Lease Agreement effective as of the day and year first above written.

**THE BOARD OF DIRECTORS OF  
THE BIOLA COMMUNITY SERVICES DISTRICT**

By: Reyes Lozano  
Its: Reyes Lozano

VFW  
By: Phillip Cervantes  
Its: Phillip Cervantes