

Meeting Date: 1/19/2016

Report Type: Consent

Report ID: 2016-00070

Title: Lease Agreement: Lease of 2200 Front Street to California Vehicle Foundation

Location: District 4

Recommendation: Pass a Motion 1) approving a Lease Agreement to lease 2200 Front Street and adjacent parking lot (at 2100 Front Street) to the California Vehicle Foundation; and 2) authorizing the City Manager or his designee to execute the Lease Agreement.

Contact: Leslie Fritzsche, Senior Project Manager, (916) 808-7223, Economic Development Department; Bill Sinclair, Facilities and Real Property Superintendent, Public Works Department, (916) 808-1905

Presenter: None

Department: Economic Development Dept / Department of Public Works

Division: Citywide Development

Dept ID: 18001031

Attachments:

- 1-Description/Analysis
- 2-Site Location
- 3-Lease Agreement

City Attorney Review

Approved as to Form
Maila Hansen
1/12/2016 10:35:28 AM

Approvals/Acknowledgements

Department Director or Designee: Larry Burkhardt - 1/5/2016 3:02:37 PM

Description/Analysis

Issue Detail: The City owns the property located at 2200 Front Street and a 1.73-acre adjoining parking lot at 2100 Front Street (collectively, "Site"). Since 1988, the Site (refer to Attachment 1 for Site location) has been leased to the California Vehicle Foundation ("Foundation"), operator of the California Automobile Museum ("Museum"). The approximately 70,000 square foot warehouse building at 2200 Front Street was constructed in 1959 and has been adapted to its current use as an automobile museum. Under the previous lease (City Agreement No. 2010-1016), the Foundation was required to maintain the Site, including the roof. However, the building is in need of several major improvements, including replacement of the roof surface and repair of the roof structure (collectively, "Roof Repairs").

The Foundation would like to continue operation of the Museum at this location and complete significant structural and architectural improvements to the building. The City is interested in retaining this community asset and attraction within the City of Sacramento. The proposed lease (Attachment 2) with the Foundation includes an initial five-year term with three additional five-year options. However, if a developer is identified for the development of the Docks project, (a proposed mixed-use neighborhood west of Front Street, south of Embassy Suites to the Pioneer Bridge) which includes the 2200 Front Street parcel, the proposed agreement provides that the City can terminate the lease, but will reimburse the Foundation for major improvements made to the building up to \$1.65 million.

Policy Considerations: The recommendations in this report are in accordance with the provisions of City Code section 3.68.110(F). Staff recommends that the City Council provide for the continued lease of the Site by the Foundation without first calling for bids by finding that special circumstances exist making use of the bid procedure inappropriate. The lease of the Site to the Foundation will support the City's policy of investing in civic amenities.

The Museum is an existing use in the Docks area, but the use is inconsistent with the 2035 General Plan and the 2009 Docks Specific Plan.

Economic Impacts: The actions recommended in this report will assist in retaining attractions along the Sacramento River waterfront which benefits Old Sacramento businesses, other nearby attractions, and supports the City's range of civic amenities. The actions do not preclude future development of the Docks area since there are provisions for discontinuance of the lease upon identification of a developer for the area.

Environmental Considerations:

California Environmental Quality Act (CEQA): Under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, the leasing, repair and maintenance of an existing facility, where there is no expansion beyond the existing use, is considered categorically exempt from the requirements of CEQA.

Sustainability: This report does not address any sustainability issues.

Commission/Committee Action: None.

Rationale for Recommendation: The City-owned property located at 2200 Front Street contains an approximately 70,000 square foot building constructed in 1959. The

warehouse-type structure is characterized by a structural wood beam roof system (bowstring truss) which is currently showing significant signs of decay and loss of structural integrity. Further, the roof surface is beyond its useful life and needs replacement. The costs of these Roof Repairs exceed the building's estimated value (see Financial Considerations). Since the property is owned by the City, the City has liability for the building condition and has no current budget to repair or demolish the building.

The Foundation is interested in continuing to lease the building and has agreed to make the necessary repairs to the roof and other building upgrades. This will allow the Museum to keep the same location it has had for over twenty-five years. The Museum, with its over 55,000 visitors annually, serves as a showcase for an extensive collection of automobiles and displays of automobile history, a venue for local and regional events, and as a long-standing community asset.

Since the passage of the Docks Area Specific Plan in 2009 which called for the development of the Front Street area as a mixed-use neighborhood, the future of the Museum in its current location has been uncertain. As a result, representatives from the Museum have been looking at options to relocate the facility, and have considered locations outside the City limits.

The continuation of the lease to the Foundation will solidify the Museum's immediate future and will provide a strong foundation to begin an aggressive fundraising campaign to raise the capital for needed Roof Repairs and other building improvements, and to enhance the Museum's offerings.

Keeping this museum in its current location on Front Street is part of the City's desire to retain and further develop the Sacramento River waterfront as an active cultural and recreational corridor. The Powerhouse Science Center, Old Sacramento, the Railroad Museum, the Crocker Art Museum, and the Automobile Museum form a string of attractions for visitors and locals alike.

The proposed Lease Agreement includes the Museum building at 2200 Front Street and the gravel surface parking lot to the north of the building at 2100 Front Street. The Agreement provides for use of the surface parking lot by staff, volunteers, or visitors of the City's Front Street Animal Shelter for up to 35 personal or fleet vehicles daily. The Front Street Shelter is located at 2127 Front Street, just to the east of the Museum. This parking arrangement has been undertaken on an informal basis to date.

Financial Considerations: The Lease Agreement requires the Foundation to make monthly rent payments to the City and perform structural improvements to the Museum building. There is an initial five-year term with three five-year option periods; lease payments are \$200 per month throughout the term. In late 2014, the City estimated the cost for the above-mentioned Roof Repairs to be \$1.2 million. In addition, there may be additional repairs or replacements needed to the existing heating and air conditioning system or other improvements that are required by law or regulations as a result of the roof repairs. With these additions, the total project cost is estimated to be \$1.65 million.

Under the terms of the Lease Agreement, the Foundation must provide evidence by February 1, 2017, that it has the funding to complete the above-mentioned improvements, and it must substantially complete the Roof Repairs by August 1, 2017. If either of these

timeframes is not met, the City can terminate the lease upon providing a 30-day notice to the Foundation.

In the event that the City exercises its option to terminate the Lease for any reason other than a breach or default by the Foundation, the City shall reimburse the Foundation up to a maximum of \$1.65 million for the costs paid by the Foundation for the Roof Repairs, improvements of the HVAC and/or evaporative cooling system, and any other improvements triggered by law or regulation as a result of the Roof Repairs. This amount will be depreciated monthly over 240 months beginning on January 1, 2021. It is envisioned that the City might only elect to terminate the lease if it has secured a developer for the Docks area and the developer will provide funds for the City's payment to the Foundation.

Local Business Enterprise (LBE): Not applicable.

California Automobile Museum Site

2200 Front Street (APN 009-0012-005) &

Adjacent Parking Lot at 2100 Front Street (Portion of APN 009-0012-075)



**LEASE BY AND BETWEEN
CITY OF SACRAMENTO AND THE CALIFORNIA VEHICLE FOUNDATION, INC.
2200 FRONT STREET, SACRAMENTO**

This Lease Agreement ("Lease") dated, for reference purposes only, as of _____, 2016, is made by and between the City of Sacramento, a municipal corporation, ("City") whose address is:

City of Sacramento
Public Works Department, Real Estate Services Section
915 I Street, 2nd Floor
Sacramento, CA 95814

and the California Vehicle Foundation, Inc., a California non-profit corporation ("Lessee") whose address is:

California Vehicle Foundation, Inc.
2200 Front Street
Sacramento, CA 95818

BACKGROUND

- A. City is the owner of real property which includes approximately seventy thousand (70,000) square feet of warehouse and office space at 2200 Front Street, and a semi-improved parking lot at 2100 Front Street, Sacramento, California, described in Exhibit "1A" and depicted in Exhibit "1B" hereto (collectively, the "Premises").
- B. Lessee currently operates the California Automobile Museum ("Museum") on the Premises and has been leasing the Premises since July 1988.
- C. Lessee would like to enter into this Lease with City to continue to operate the Museum for the display of historical and special interest vehicles and to conduct related commercial and administrative activities.
- D. City would like to lease the Premises to Lessee under the terms and conditions set forth herein.

NOW, THEREFORE, City and Lessee agree as follows:

1. LEASE AND TERM. Commencing on February 1, 2016 and ending on January 31, 2021 ("Term"), the City agrees to lease to Lessee, and Lessee agrees to lease from the City, the Premises, upon the terms and conditions set forth herein. The City grants Lessee an option to renew the existing lease for three (3) additional five (5)- year

terms. The lease rate for the three lease options shall be at the amount specified in Section 2. Lessee shall provide the City with written notification of its intent to exercise an option no later than four (4) months prior to the expiration of the existing lease term.

2. RENT. Rent in the amount of two-hundred dollars (\$200.00) per month shall be payable in advance on the first day of every month ("Due Date") at the following address or at another address that the City may designate by written notice to Lessee: City of Sacramento, Revenue Division, 915 I Street, Sacramento, California, 95814.
3. CHARGE FOR LATE PAYMENT. A late charge of six percent (6%) of the amount due may be added by City to any amount which is not received by the City on or before the Due Date. Acceptance of such late charges (and/or any portion of the overdue payment) by City shall in no event constitute a waiver of Lessee's default with respect to such overdue payment and shall not prevent City from exercising any of the rights and remedies granted hereunder.
4. UTILITIES. During the Term, Lessee shall pay, before delinquency, all charges or assessments for telephone, water, sewer, gas, heat, electricity, garbage disposal, trash disposal, communication services, and all other utilities and services of any kind that may be used on the Premises.
5. PERMITTED USES.
 - a. Lessee agrees that the public areas of Premises shall be available to all persons desiring to use the same, subject to all reasonably necessary rules and regulations, fees and charges established by the Lessee.
 - b. Lessee shall occupy, maintain, and operate the Premises solely as a museum facility for the purpose of preserving collectable vehicles, collectable vehicle sales, hosting community events, related gift shop sales and services, housing and displaying collectable vehicles, and related artifacts.
 - c. Lessee shall neither permit nor carry on any activity nor allow any condition on the Premises which is a public or private nuisance.
6. LESSEE OPERATIONAL REQUIREMENTS.
 - a. Lessee shall at all times maintain a written schedule delineating the operating hours for the Museum. The schedule shall be posted at a conspicuous place on the Premises. Upon request, Lessee shall furnish City a copy of the schedule.
 - b. Lessee agrees to operate and manage the Museum in a competent and efficient manner comparable to other well-managed operations of similar type.
 - c. Lessee shall at all times retain active, qualified, competent, and experienced personnel to supervise Lessee's operations and to represent and act for Lessee. Lessee shall require its employees and volunteers at the Premises, if any, to be

properly dressed, clean, courteous to the public, efficient, and neat in appearance at all times. Lessee shall not utilize the services of any person at the Premises who uses offensive language or otherwise acts in an improper or discourteous manner. Lessee shall closely supervise personnel to insure the maintenance of a high standard of service to the public.

- d. All prices charged for goods, and/or services supplied to the public at or from the Premises shall be fair and reasonable.
- e. Lessee shall not operate any amplified sound or music system in a manner which interferes with the reasonable enjoyment of surrounding and adjacent properties. Lessee shall immediately comply with any written request of Lessor concerning the use of sound systems.
- f. Lessee shall provide to the City an adopted annual budget for the building by January 1st of each year during the Term. The budget shall be for the calendar year commencing on January 1 and ending December 31. The budget shall provide for expenditures by line items and shall identify anticipated revenue sources. Lessee may satisfy this requirement by providing City with a copy of Lessee's annual overall operating budget which contains line items for building repairs and maintenance, along with Lessee's other annual expenses.
- g. The Premises shall not be used for any other purpose other those stated herein without obtaining the prior written consent of City.
- h. Lessee shall be responsible for ensuring the Premises are in compliance with all federal and state disability laws, including the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101 et seq.

7. TERMS AND CONDITIONS APPLICABLE TO IMPROVEMENTS

- a. Lessee acknowledges that it has fully inspected the Premises and accepts the same and the improvements thereon in their existing condition and agrees that no demands for any alterations, additions, repairs, or replacements are to be made upon the City except in accordance with this Lease.
- b. Any additional improvements shall be installed at Lessee's sole cost and expense subject to advance written approval of the City, except as provided in Section 7(h).
- c. Lessee shall submit the design and scope of Lessee's proposed capital improvements, remodels and renovations of the building to the Real Estate Services Section of the City for approval in advance of any work. All submissions shall be sufficient in detail to enable City to make an informed judgment concerning the quality of the contemplated improvements and renovations. City shall approve, in its capacity as a landlord, Lessee's proposed plans, or if disapproved provide reasonably detailed comments describing what must be revised to obtain City's approval, within ten (10) business days after Lessee submits such plans to City for

approval. For each day of delay in City's approval of Lessee's plans beyond ten (10) business days for the Roof Repairs, the time for Lessee's completion of the Roof Repairs shall be extended by one day.

- d. City's approval of plans as the landlord pursuant to the foregoing shall not constitute approval of such plans in any manner except as required by this Lease. Lessee shall nonetheless apply for and obtain building permits from the City's Building Department for all improvements, if required, and shall comply with all laws and regulations applicable to such improvements including, but not limited to, building codes, fire codes, federal and state disability laws, the California Environmental Quality Act (Public Resources Code §§ 21000 et seq.), and zoning regulations. Lessee shall assume all fees and charges levied in connection with the issuance of permits.
- e. All work shall be performed in a good and workmanlike manner, shall substantially comply with any plans and specifications approved by City, and shall comply with all applicable governmental permits, laws, ordinances, and regulations. In addition, any work performed on the roof of the Premises shall be performed by a licensed contractor.
- f. Lessee shall notify the City at agreed upon stages of construction in order to permit City to inspect the progress and quality of improvements and the installation of any mechanical equipment as being in substantial compliance with the plans previously submitted by Lessee to City for approval. Issuance of a certificate of occupancy or final inspection by the City's Building Department shall be conclusive as to whether the improvements and any mechanical equipment have been substantially completed consistent with Lessee's plans and building permit requirements.
- g. Any new improvements placed by Lessee on the Premises are the property of the City. The City is not obligated to reimburse the Lessee for any improvements Lessee makes, except as specified in paragraph (h) of this section.
- h. In the event that the City exercises its option to terminate the Lease for any reason other than an uncured breach or default by Lessee pursuant to Section 11 and subject to availability of Net Proceeds if the City terminates pursuant to Section 10(a), the City shall reimburse Lessee, up to the maximum amount specified below and subject to the depreciation formula specified in Section 7(i), for the cost of replacing the roof and repairing the roof structure (collectively referred to as "Roof Repairs"), repairing or replacing the HVAC and/or evaporative cooler system, and any other improvements or alterations that are required by law or regulations as a result of the Roof Repairs, including, but not limited to, Title 24 of the California Code of Regulations and the Americans with Disabilities Act of 1990. If Lessee declines to renew the initial term of the Lease or any subsequent option term and the Lease expires, Lessee shall not be entitled to any reimbursement payments described in this Section 7(h) and in Section 7(i). Furthermore, Lessee shall not be entitled to reimbursement for any Roof Repairs if the Roof Repairs are not

“substantially complete” (as the term is defined below) by August 1, 2017. For any improvements made that may become reimbursable, Lessee shall, within 30 days following substantial completion of any improvements identified in this paragraph, as evidenced by the City Building Department’s issuance of a certificate of occupancy or final inspection for such improvements, provide a detailed cost summary to the City, which will include copies of any and all invoices, receipts, or other proof of payment for the capital improvements made. Following issuance by the City of a notice of termination for any reason other than an uncured breach or default by Lessee pursuant to Section 11, the City shall reimburse Lessee, within 90 days of the notice of termination, for the cost of the improvements stated in this paragraph, up to a maximum of One Million Six Hundred Fifty Thousand Dollars (\$1,650,000) and in an amount based on the depreciation formula specified in Section 7(i). In the event the City elects to sell the Premises to Lessee, Lessee shall be granted a credit of the depreciated value of the improvements toward the sale of the Premises to Lessee, based on the depreciation formula set forth in Section 7(i) below. However, Lessee shall not be entitled to a credit for any Roof Repairs that are not “substantially complete” (as the term is defined below) by August 1, 2017. Furthermore, if the City sells the Premises to Lessee after the Lease has expired, Lessee shall not be granted a credit for the value of the improvements.

- i. The cost of the improvements stated in Section 7(h) will be depreciated monthly over 240 months beginning on January 1, 2021. The cost of the improvements shall depreciate at the rate of 0.41667% per month. However, as previously mentioned, once the Lease expires, Lessee shall not be entitled to any reimbursement or credit for the improvements described in Section 7(h).
- j. Lessee shall provide evidence, by February 1, 2017, that it possesses sufficient funding to complete the capital improvements described in Section 7(h). Lessee must demonstrate possession of actual funds, a loan, or a line of credit, as opposed to uncollected pledges. Failure to satisfy the requirements in this paragraph 7(j) shall entitle the City to terminate the Lease upon thirty (30) days’ prior written notice to Lessee.
- k. Lessee shall “substantially complete” the Roof Repairs as outlined in Section 7(h) by August 1, 2017. “Substantially complete” means that the City Building Department has issued a certificate of occupancy or final inspection for the Roof Repairs. Failure to satisfy the requirements in this Section 7(k) shall entitle the City to terminate the Lease upon thirty (30) days’ prior written notice to Lessee.
- l. In constructing the improvements, Lessee shall comply with all applicable state and City of Sacramento requirements for the bidding and construction of public projects including but not limited to the competitive bidding of the improvements and compliance with prevailing wage laws.

8. ALL MAINTENANCE, REPAIR AND REPLACEMENTS ON PREMISES AND IMPROVEMENTS BY LESSEE.

- a. Throughout the Term, Lessee shall, at Lessee's sole cost and expense, maintain the Premises (including, but not limited to, the roof, foundation and exterior walls), and any improvements, equipment, and other personal property thereon, in good sanitary order, condition and repair, ordinary wear and tear excepted, and in accordance with all applicable laws, rules, ordinances, orders, and regulations of (1) federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials; (2) the insurance underwriting board or insurance inspection bureau having or claiming jurisdiction; and (3) all insurance companies insuring all or any part of the Premises, or improvements, equipment, and other personal property at the Premises. All repairs shall be the sole duty of the Lessee and at Lessee's sole expense, except as specified in Section 7(h) of this Lease.
- b. No offensive matter, refuse, or any substance constituting an unnecessary, unreasonable or unlawful fire or environmental hazard shall ever be permitted to accumulate or remain at the Premises. All hazardous materials shall be disposed of according to applicable laws and regulations. The Premises shall be kept at all times in an orderly manner to the complete satisfaction of City.
- c. Upon failure to adequately maintain the premises, the City shall give Lessee a 30-day written notice to remedy the situation that describes with particularity the repair or maintenance problem and the City's desired outcome. If the Lessee fails to repair or maintain the item in question, the City reserves the right to enter the property and perform necessary maintenance and repairs and invoice Lessee for 115% of City's costs. Lessee will submit payment to City of the invoiced amount in Lessee's next monthly rent payment.
- d. Landscaping of Premises shall be maintained in good condition including weed control, mowing grass, and at least weekly removal of litter.

9. CITY MAINTENANCE. City shall have no responsibility whatsoever to make any improvements or repairs to the Premises or perform any maintenance on improvements installed on the Premises unless the improvements are removed or damaged by City, its employees, contractors or volunteers.

10. DAMAGE OR DESTRUCTION; EMINENT DOMAIN.

- a. If, during the Term or any renewals thereof, the Premises are damaged from any cause, this Lease may be terminated at the option of the City if the damage cannot be repaired within six (6) months of the date of occurrence. "Damage" is defined as physical harm caused to the Premises that impair its value, usefulness, or normal function. Lessee shall notify the City in writing within 30 days of any damage to the Premises. Partial damage means damage or destruction to the improvements on the Premises, other than Lessee-owned alterations and utility installations, which can reasonably be repaired within six (6) months from the date

of the damage or destruction. Total destruction shall mean damage or destruction to the Premises which cannot reasonably be repaired within six (6) months from the date of the damage or destruction. The City will determine, in its sole discretion, whether the damage is partial or total. The City will notify Lessee in writing within sixty (60) days from the date of the damage or destruction or the date it receives Lessee's notice of damage, whichever occurs first, whether or not the Premises are partially or totally damaged or destroyed. If the Premises are partially damaged, the City may provide a reasonable time period for Lessee to repair the damage with prior approval of the repairs by the City and, if Lessee shall perform repairs as approved by the City, the City shall use the Net Proceeds from any insurance claim available to Lessee, to the extent the Net Proceeds are sufficient to cover the cost of such repairs, to reimburse Lessee for the costs of repairs made. Notwithstanding the foregoing provisions, in the event City exercises its above right to terminate this Lease due to total damage or destruction, then City shall use its Net Proceeds from any insurance claim to reimburse Lessee for the depreciated cost of improvements made to the Premises by Lessee in accordance with Section 7 above to the extent the Net Proceeds are sufficient to cover the cost of improvements.

- b. If the Premises are destroyed (in whole or in part) or are damaged by fire or other casualty, the parties hereto agree that the Net Proceeds of any insurance claim made by City shall constitute the property of the City. "Net Proceeds" for purposes of this Section 10 means any insurance proceeds paid to City with respect to the Premises, to the extent remaining after payment therefrom of all expenses incurred in the collection thereof.
- c. If, during the Term or any renewals thereof, all or twenty percent (20%) or more of the Premises are taken by eminent domain by a governmental agency other than the City (a "Total Taking"), then this Lease shall be terminated. If less than twenty percent (20%) of the Premises are taken by an exercise of the power of eminent domain (a "Partial Taking"), then this Lease shall remain in effect unless the Premises so remaining or the public street access or remaining parking lot at the Premises are insufficient, in Lessee's reasonable opinion, for Lessee to continue with the operation of its museum; in which event Lessee may terminate this Lease upon sixty (60) days' notice to City after the date of the Partial Taking. Any award of damages for a Total Taking shall be the property of City. Lessee shall have the right to pursue a claim against the condemning authority for relocation expenses, loss of goodwill, the value of Lessee's trade fixtures and other personal property so taken, and the unamortized value of Lessee's tenant improvements. In the event of a Partial Taking, City shall use the condemnation damages awarded to repair any damage to the Premises caused by such Partial Taking, except to the extent the Lessee is reimbursed therefor by the condemning authority. In the event of a Partial Taking where this Lease remains in effect, the monthly rent shall be abated in the same ratio that the square footage of the building taken bears to the total original square footage of the building at the Premises. Upon a Total Taking by a governmental agency other than the City, the City shall have the right to terminate

this Lease, but shall reimburse Lessee for the cost of improvements made to the Premises by Lessee in accordance with Section 7 above.

11. TERMINATION FOR BREACH OR DEFAULT. City shall have the right to terminate this Lease in its entirety immediately upon the happening of any of the following events, and upon occurrence of the following events City shall have no obligation for payments to Lessee under Section 7(h):

- a. Filing a petition, voluntarily or involuntarily, for the adjudication of Lessee as bankrupt;
- b. The making by Lessee of any general assignment for the benefit of creditors;
- c. The abandonment and discontinuance of operations by Lessee;
- d. The failure to perform, keep and observe any or all of the terms and conditions of this Lease by the Lessee, as follows:
 - (1) Ten (10) days from the date a written notice has been given to Lessee by City to correct a monetary default or breach for non-payment of all or any portion of rent due to City; or
 - (2) Thirty (30) days after City has given Lessee written notice for any and all other failures by Lessee to perform, keep and observe any of the other terms, covenants and conditions on the part of the Lessee to be performed, kept or observed and Lessee fails to cure after receipt of such notice; provided, however, if the cure of the alleged breach or default is not capable of being completed within thirty (30) days, then Lessee shall be given a reasonable time to complete the cure under the circumstances.
- e. The assignment or other transfer by Lessee of its rights under this Lease, or any part thereof, without City's consent.
- f. Entering into subleases, license agreements, or concession agreements or arrangements with third parties for operations within or at the Premises contrary to the terms of this Lease, without prior approval of City. The foregoing shall not be interpreted to prevent Lessee from entering into agreements with third parties for temporary use of one week or less of the Premises for purposes of conducting business or educational conferences, meetings, seminars, employee training activities, weddings, receptions, birthday parties, holiday parties, community events, etc. provided the primary use of the Premises continues to be use for the California Automobile Museum.

12. TERMINATION. Except if holding over as specified in Section 20(d), upon the expiration of the third option term, or upon any sooner termination, Lessee shall

immediately quit and surrender possession of the Premises to City. Except where this Lease has been terminated by City pursuant to Sections 10(a) or 10(c) of this Lease and subject to the conditions specified in Section 7(h) and Section 7(i), Lessee shall return the Premises to City in at least as good and usable a condition as the same were in at the time of commencement of this Lease, ordinary wear and tear and damage beyond the reasonable control of Lessee excepted.

13. RELOCATION, EARLY TERMINATION OF LEASE.

- a. Lessee understands and acknowledges that the City intends to remove the improvements on the Premises and to redevelop the property as soon as conditions allow for redevelopment. This Lease and the use contemplated by this Lease are, therefore, temporary in nature. Lessee shall not by this Lease, or otherwise, be entitled to relocation benefits from City including, without limitation, costs to rent another facility, improving a new facility for Lessee's intended use, or moving vehicles and equipment to the new facility; nor shall Lessee be entitled to payment for the value of any improvements Lessee makes to the Premises during the Term of this Lease or prior to the making of this Lease, except as specified in Section 7(h) and 7(i), even though said costs and expenses may result from the expiration or early termination of this Lease.
- b. If, at the expiration or early termination of this Lease, the City takes any action to redevelop the Premises, Lessee expressly waives any and all compensation which it may be entitled to from City for the relocation of its operations to accommodate the public or private redevelopment project.
- c. Notwithstanding any other provision of this Lease, the City may terminate this Lease prior to the expiration of the Term upon twelve (12) months prior written notice to Lessee in order to implement any redevelopment or development plan approved by the City. If the City terminates pursuant to this paragraph, the City is responsible for the reimbursement payment specified in Sections 7(h) and 7(i).

14. LOCAL BUILDING, FIRE AND HEALTH LAWS. Lessee shall at all times, comply and adhere to all pertinent or applicable regulations and ordinances of the City of Sacramento and the County of Sacramento, all requirements of the local officials governing building, fire and health laws, and the laws of the State of California and the United States insofar as the same of any of them are applicable to Lessee's operation. Lessee shall obtain and keep in effect all necessary permits and licenses required for any and all operations permitted herein, and shall adhere to all requirements of City, County, State and Federal laws covering requirements for the storage and dispensing of volatile fuels and other hazardous materials.

15. RIGHT OF ENTRY AND INSPECTION. Lessee shall permit City to enter upon the Premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same.

16. INSURANCE REQUIREMENTS. During the term of this Lease, and until final completion and acceptance of any work required by this Lease, Lessee shall maintain in full force and effect at its own cost and expense the following insurance coverage. By requiring the insurance herein, the City does not represent that the coverage and limits will necessarily be adequate to protect the Lessee. It is understood and agreed by the Lessee that the required insurance coverage and limits shall not be deemed as a limitation on Lessee's liability under the indemnities granted to the City in this Lease. Insurance requirements are subject to review and revision every five (5) years to assure that policy terms, conditions and limits are maintained in accordance with current insurance industry standards for comparable premises and buildings.

A. Minimum Scope & Limits of Insurance Coverage

- (1) General Liability Insurance is required providing coverage at least as broad as ISO GL Form 00 01 on an occurrence basis for bodily injury including death of one or more persons, property damage and personal injury, with limits of not less than two million dollars (\$2,000,000). The policy shall include coverage for premises, operations, products and completed operations, contractual liability and liquor liability for the term of the policy. The policy shall include a fire legal liability limit of \$250,000. Lessee may satisfy the foregoing coverage requirements with a primary policy and an umbrella policy.
- (2) All Risk Property Insurance including coverage for special perils is required for all tenant improvements, non-removable fixtures and non-removable equipment installed by Lessee in the Premises. All property insurance must be for replacement value and name the City as the loss payee.
- (3) Workers' Compensation Insurance with statutory limits, and Employers' Liability Insurance with limits of not less than one million dollars (\$1,000,000) are required. The Workers' Compensation policy shall include a waiver of subrogation.
- (4) Automobile Liability Insurance providing coverage at least as broad as ISO Form CA 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than one million dollars (\$1,000,000) per occurrence. The policy shall provide coverage for owned, non-owned and/or hired autos as appropriate to the operations of the Lessee.
- (5) Liquor Liability Insurance coverage on a per event basis with a least two million dollars (\$2,000,000) coverage. Such insurance shall be provided by Lessee for all events where liquor is served in combination with the event. Lessee may satisfy this requirement by way of an endorsement to its General Liability Insurance policy and/or with a separate liquor liability policy, as well as with an umbrella policy to provide the required coverage

limits.

- (6) Physical Damage Coverage. Lessee shall require that owners of the vehicles housed at the Premises have physical damage coverage for all vehicles housed at the Premises.

B. Additional Insured Coverage

General Liability Insurance: The City, its officers, employees and volunteers shall be covered by policy terms or endorsement as additional insured as respects general liability arising out of activities performed by or on behalf of the Lessee including products and completed operations of Lessee and premises owned, leased or used by Lessee.

C. Other Insurance Provisions

The policies are to contain or be endorsed to contain the following provisions.

- (1) Lessee's insurance shall be primary as respects the City, its officers, employees and volunteers. Any insurance or self-insurance maintained by the City, its officials, employees or volunteers shall be in excess of Lessee's insurance and shall not contribute with it.
- (2) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, employees and volunteers.
- (3) Coverage shall state that Lessee's insurance shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.
- (4) The City will be provided with thirty (30) days written notice of cancellation or material change in the policy terms or language.

D. Acceptability of Insurers

Insurance shall be placed with insurers with a Bests' rating of not less than A:V. Self-insured retentions, policy terms or other variations that do not comply with the requirements of this section must be declared to City's representative and approved by the City Risk Management Division.

E. Verification of Coverage

- (1) LESSEE shall provide initial insurance documents to the City representative upon request, prior to execution of the final contract. All future insurance renewal documents shall be sent to:

City of Sacramento
c/o EBIX RCS
P.O. Box 257
Portland, MI 48875-0257
Email: CertsOnly-Portland@ebix.com

- (2) The City may terminate this Lease if the certificates of insurance and endorsements required have not been provided prior to commencement of the Term of this Lease. Failure to provide insurance certificates and endorsements and keep such certificates and endorsements current will be considered a material breach by Lessee of this Lease.

F. Contractors

Lessee shall require and verify that all contractors and subcontractors maintain insurance coverage that meets the minimum scope and limits of insurance coverage specified in subsections A, C and D above.

G. Waiver of Subrogation.

Lessee and City each hereby release and relieve the other, and waive their rights of recovery against the other, for loss or damage arising out of or incident to the perils insured against under Section 16.A.(2), which perils occur in, on, or about the Premises, whether due to the negligence of City or Lessee or their agents, employees, contractors and/or invitees.

17. INDEMNITY. Lessee shall hold City harmless and defend City from and against any and all losses, damages, claims, or liability for any damage to any property or injury, illness or death of any person: (a) occurring in, on, or about the Premises, or any part thereof, arising at any time and from any cause whatsoever other than to the extent of the negligence or willful misconduct of City, its employees or agents; and (b) occurring in, on, or about any part of the building other than the Premises, to the extent such damage, injury, illness or death shall be caused in whole or in part by the negligence of willful misconduct of Lessee, its agents, employees, invitees or licensees. City shall hold Lessee harmless, indemnify and defend Lessee from and against any and all losses, damages, claims, or liability for any damage to any property or injury, illness or death of any person occurring in, on, or about any part of the Premises to the extent such damage, injury, illness or death shall be caused by negligence or willful misconduct of City, its employees or agents. The provisions of this Paragraph shall survive the termination of this Lease with respect to any damage, injury, illness or death occurring prior to such termination.

18. ASSIGNING, SUBLETTING AND ENCUMBERING. Lessee shall not mortgage, pledge, hypothecate, encumber, transfer, or assign the Lessee's rights and or

responsibilities under this Lease, or any part or portion hereof, without the prior written consent of City, and such consent not to be unreasonably withheld, delayed or conditioned except that the Premises must continue to be used for the California Automobile Museum.

19. LICENSES, FEES AND TAXES. Lessee shall secure all necessary permits and licenses and shall comply with all local, State and Federal laws and regulations applicable to the use of the Premises for the purposes contemplated herein. Lessee shall be liable for, and shall pay throughout the term of this Lease, all license fees and taxes covering the business conducted at the Premises, and any taxes on property of Lessee at the Premises. This Lease creates a possessory interest and the Lessee shall pay any and all possessory interest tax levied by the County.

20. GENERAL PROVISIONS.

- a. Notices. Any notice, demand, request, consent, approval, waiver, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail. Any notice, demand, request, consent, approval, waiver, or communication that either party desires or is required to give to the other party shall be addressed to the other party at the address set forth on page 1 (Introduction) of this Lease. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this Section 19.
- b. Compliance with Law. Lessee shall not use the Premises or permit anything to be done in or about the Premises which will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated. Lessee shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force, and with the requirements of any board of fire insurance underwriters or other similar bodies now or hereafter constituted, related to, or affecting the condition, use or occupancy of the Premises. The judgment of any court of competent jurisdiction or the admission of Lessee in any action against Lessee, whether City be a party thereto or not, that Lessee has violated any law, statute, ordinance or governmental rule, regulation or requirement, shall be conclusive of that fact as between City and Lessee.
- c. Holding Over. If Lessee remains in possession of the Premises or any part thereof after the expiration of the term hereof and City accepts rent from Lessee, such occupancy shall be a tenancy from month-to-month at a rental at the same rate as the rental in effect on the date of expiration, plus all other charges payable hereunder, and upon all the provisions hereof.
- d. Corporate Authority. If either party hereto is a corporation, each party executing this Lease on behalf of the corporation represents and warrants that he or she is

duly authorized to execute and deliver this Lease on behalf of said corporation, in accordance with a duly adopted resolution of the board of directors of the corporation or in accordance with the by-laws of the corporation, and that this Lease is binding upon the corporation in accordance with its terms.

e. Waiver:

1. The waiver by City of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or of any other any term, covenant, or condition herein contained. The subsequent acceptance of any sum due hereunder by City shall not be deemed to be a waiver of any prior occurring breach by Lessee of any term, covenant, or condition of this Lease other than the failure of Lessee to pay the particular sum so accepted regardless of City's knowledge of such prior existing breach at the time of acceptance of such sum.
2. The receipt and acceptance by City of delinquent rent or late charges shall not constitute a waiver of any other default and breach; it shall constitute only a waiver of timely payment for the particular rent payment involved.

f. Time. Time is of the essence of this Lease and each and all of its provisions in which performance is a factor.

g. Prior Agreements; Amendment. This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreements or understanding pertaining to any such matters shall be in effect for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest. The City Manager is authorized to enter into minor lease amendments. This Lease shall not be in effect or be binding on any party until fully executed by both parties hereto.

h. Inability to Perform. A party will not be in default because of a delay or failure of performance due to war, insurrection, acts of terrorism, strikes, walkouts, riots, energy rationing, fuel or materials shortages, floods, torrential downpour, earthquakes, fires caused by a third party, casualties, acts of God, governmental restrictions imposed or mandated by other governmental entities, City Building Department's failure to inspect in an expeditious manner any improvements installed at the Premises by Lessee, enactment of conflicting federal or state laws or regulations, new or supplementary environmental regulations, litigation by third parties, or similar bases for excused performance. If written notice with supporting documentation of such delay or failure is given to City within 30 days of the commencement of such delay or failure, then an extension of time for such cause will be granted for the period of the delay or failure or for any longer period that the Parties may agree upon.

- i. No Joint Venture. City shall not become or be deemed a partner or a joint venture with Lessee by reasons of the provisions of this Lease.
- j. Severability. Any provision of this Lease which shall prove to be invalid, void, illegal or unenforceable shall in no way affect, impair or invalidate any other provision hereof and such other provision shall remain in full force and effect.
- k. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.
- l. Choice of Law, Venue. This Lease shall be construed, interpreted and governed in accordance with the laws of the State of California. Any action or proceeding to enforce or interpret any provision of this Lease shall be brought, commenced and prosecuted in Sacramento County, California.
- m. Captions, Table of Contents. The captions and the Table of Contents of this Lease shall have no effect on the interpretation of this Lease.
- n. Singular and Plural. When required by the context of this Lease, the singular shall include the plural.

21. PARKING RIGHTS FOR CITY ANIMAL CARE FACILITY STAFF. Lessee agrees to allow the staff, volunteers and visitors of the City's Animal Care Shelter located at 2127 Front Street to park up to 35 personal or fleet vehicles along the north side of the premises in the parking lot located on a portion of Assessor Parcel Number 009-0012-075 on a daily basis. Lessee shall have no liability for any damage that might take place to any vehicles parked by staff, volunteers and visitors of the City's Animal Care Shelter on a portion of Assessor Parcel Number 009-0012-075, except if such damage is due to the negligence or willful misconduct of Lessee. If Lessee has an event which precludes the use of the parking lot by City personnel, Lessee will give City's Animal Care management a minimum of twenty-four (24) hours advance notice to make other parking arrangements.

IN WITNESS WHEREOF, the Parties hereto have executed this Lease as of the date first above written.

CITY OF SACRAMENTO,
A Municipal Corporation

CALIFORNIA VEHICLE FOUNDATION, INC.
A California Non-profit Corporation

By: John F. Shirey
Title: City Manager



By: Delta Pick Mello
Executive Director

APPROVED AS TO FORM:

By: Joseph Hensler
President, Board of Directors

By: _____
City Attorney

ATTEST:

By: _____
City Clerk

EXHIBIT 1A – Description of Premises

APN 009-0012-005:

All that real property situated in the City of Sacramento, County of Sacramento, State of California, described as follows:

All of Parcel 2 as shown on the "Parcel Map of Block 10 and Portions of Block 9, 12, 13, & 14 of Brannan's Addition (1 B.M. 13) and a Portion of the Blocks Bounded by Front and 2nd, 'U' and 'W' Streets of the City of Sacramento According to the Official Plat Thereof" in Book 145 of Parcel Maps, Page 3 filed in the office of the Recorder in the County of Sacramento.

Portion of APN 009-0012-075

All that certain real property situated in the City of Sacramento, County of Sacramento, State of California, described as follows:

A Portion of Parcel 1 shown on the "Parcel Map of Block 10 and Portions of Block 9, 12, 13, & 14 of Brannan's Addition in Book 1 of Maps, Page 13 and a Portion of the Blocks Bounded by Front and 2nd, 'U' and 'W' Street of the City of Sacramento According to the Official Plat Thereof" in Book 145 of Parcel Maps, Page 3 filed in the office of the Recorder in the County of Sacramento described as follows:

Beginning at a point on the northeast corner of said Parcel 1 marked by a 1 ½ inch iron pipe with tag "LS 3185"; thence from said Point of Beginning along the east line of said Parcel 1, being also the west line of Front Street to the northeast corner of Parcel 2 as shown on said Parcel Map marked by a 1½ inch iron pipe with tag "LS 3185", South 18°26'41" West, 280.18 feet; thence along the north line of said Parcel 2 to the northwest corner of said Parcel 2, North 71°31'08" West, 268.55 feet; thence along the northerly projection of the westerly line of said Parcel 2 to the northerly line of said Parcel 1, North 18°28'51" East, 280.14 feet; thence along said northerly line South 71°31'38" East, 268.37 feet to the Point of Beginning, containing 75,211 square feet, more or less.

EXHIBIT 1B – Depiction of Premises



