

5/3/2011

MAY 10, 2011 COUNCIL

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TO: TOWN COUNCIL

FROM: TOWN MANAGER



RE: CONSENT

LOOMIS BASIN HISTORIC SOCIETY DEPOT USE AGREEMENT

### ISSUE

It would be prudent to formalize the Loomis Basin Historic Society use of the Depot for storing and displaying historic artifacts.

### RECOMMENDATION

Approve agreement with Loomis Basin Historic Society and authorize Mayor to sign.

### CEQA

CEQA is not an issue because a policy for use of a Town facility is not a project requiring environmental review.

### MONEY

The Town is spending about \$12,000/year on maintaining the Depot and receiving about \$1,890 in rental fees. Up to now there has been no charge for the Historic Society use but a charge might be needed in the future in order to keep the Depot and its equipment in good shape. The agreement provides a charge of \$1.00 per year at this time because the Society provides the historic displays at the Depot that are enjoyed by residents and visitors alike.

### DISCUSSION

When the Depot was being designed the Loomis Basin Historic Society approached the Town with the idea that suitable areas of the interior be made available for displaying historic artifacts. A room that could be used for storing and sorting artifacts was also discussed. At one point a climate controlled room was considered but cost and practicality mitigated against creating such a room. There was however a small office (9' x 12') that was built for the Town's future office needs and is a room that can be used in the meanwhile for storage of artifacts. The Town also built display cabinets that have both viewing and storage areas. Also, portions of the Depot walls were made available for display purposes.

There was never a formal agreement between the Town and Historical Society. It would be prudent however to have an agreement so that officials down the line are not agonizing over what was intended in having the Society use portions of the Depot. An agreement will also be

**LICENSE AGREEMENT FOR TOWN OF LOOMIS DEPOT USE  
BY THE LOOMIS BASIN HISTORICAL SOCIETY**

THIS LICENSE AGREEMENT ("Agreement"), made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2011 ("Effective Date"), by and between LOOMIS BASIN HISTORICAL SOCIETY, a 501 3 C Non-profit Corporation organized and operating pursuant to the California \_\_\_\_\_ (hereinafter referred to as "SOCIETY") and TOWN OF LOOMIS, a California municipal corporation (hereinafter referred to as "TOWN").

**RECITALS**

A. TOWN owns and operates the Loomis Depot facility located at 5775 Horseshoe Bar Rd. ("Depot Facility"), in the Town of Loomis; and

B. SOCIETY desires to use the Depot Facility for the purposes of storing and displaying historical artifacts in the building's interior and TOWN desires to assist the SOCIETY in safeguarding the historical artifacts concerning the Town of Loomis.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein, the TOWN and SOCIETY hereby agree as follows:

1. TOWN AND SOCIETY APPROVAL: This Agreement is contingent upon any and all necessary approvals by the Town of Loomis and the Loomis Historical Society.
2. DEPOT USE: SOCIETY can use the Loomis Depot facility located at 5775 Horseshoe Bar Rd for the purposes of storing and displaying historical artifacts in the building's interior. No storage or display shall be done outside of the building unless prior agreement is obtained in writing from the TOWN. Historical artifacts can be stored in the small office (office 104) on the office suite side of the depot and in designated cabinets located in the office suite and in the main hall. Artifacts can be displayed on the interior walls and inside the designated cabinets.

3. **MEETINGS:** Use of the Depot by the SOCIETY shall not interfere with the TOWN use of the Depot for Council, Planning Commission and other meetings. SOCIETY can meet at the Depot for six (6) times per year without charge. Meetings shall be limited to the office suite side. If there is a need to meet in the main hall then SOCIETY will pay the customary and then current Depot rental rate. Meeting dates and times must be pre-scheduled with the TOWN.
4. **LICENSE FEE:** Upon the Effective Date and during the term of this Agreement, SOCIETY shall pay to TOWN the sum of One Dollar (\$1.00) per year payable annually on the first day of the month immediately following the Effective Date.
5. **MAINTENANCE:** SOCIETY shall clean up after meetings or other work done in the course of storing and displaying artifacts. If the facility needs cleaning as a result of SOCIETY use then such cleaning will be billed by the TOWN to the SOCIETY in the amount charged by the TOWN'S cleaning service.
6. **OWNERSHIP:** The Depot, including any improvements, are and shall remain the sole and separate property of the TOWN. The historical artifacts are and shall remain the sole and separate property of the SOCIETY. The SOCIETY shall not commit the Depot to any use whereby people visiting it would have to pay to look at historical artifacts without written permission of the TOWN.
7. **TERM AND TERMINATION:** The term of this Agreement shall be for an initial period of two (2) years commencing on the \_\_\_\_ day of \_\_\_\_\_ 2011, and ending on the \_\_\_\_ day of \_\_\_\_\_, 2013, and shall be automatically renewed from year to year unless one of the parties notifies the other of its intent not to renew. Notification shall be in writing and provide for at least six (6) months notice.
8. **NOTICES:** All notices to either party that may be required or authorized by this Agreement shall be in writing and may be personally delivered to the clerk of the chief executive officer of the party or may be deposited in the United States Mail, postage prepaid, addressed to the party's main office as set forth below.

**TO TOWN**

Town of Loomis  
P. O. Box 1330  
Loomis, CA 95650  
ATTN: Town Clerk

**TO SOCIETY**

Loomis Basin Historical Society  
P. O. Box 2195  
Loomis, CA 9565

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the U.S. Mail, (b) sent by overnight delivery using a nationally recognized overnight courier, in which case it shall be deemed delivered one (1) business day after deposit with such courier, or (c) sent by personal delivery. The above addresses may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Notices delivered by a party's legal counsel on behalf of such party shall be deemed delivered by such party.

9. **MUTUAL CROSS-INDEMNITY:** TOWN agrees to save harmless and to indemnify SOCIETY from every claim or demand of any kind or nature whatsoever which may be made by any person resulting from the action or inaction of the TOWN or its officers, agents, or employees in connection with the use of the Depot Facility; and SOCIETY agrees to save harmless and to indemnify TOWN from every claim or demand of any kind or nature whatsoever which may be made by any person resulting from the action or inaction of SOCIETY, its officers, agents or employees in connection with the use of the Depot Facility.

10. **INSURANCE:** The TOWN shall not be obligated to insure anything owned by the SOCIETY. The SOCIETY shall not be obligated to insure anything owned by the TOWN. The SOCIETY shall, however, carry its own insurance covering its historical artifacts located in the Depot Facility.

11. **ASSIGNMENT:** SOCIETY shall not assign this Agreement or any rights under this Agreement without prior written approval of TOWN, which shall not be unreasonably withheld.

12. **BINDING ON SUCCESSORS:** This Agreement shall inure to the benefit of and bind the parties hereto, and their successors or permitted assigns, including any and all public agencies to whom the real property and facilities herein referred to may be transferred by reason of incorporation, annexation, unification, consolidation or for any other reason.

13. **ATTORNEYS' FEES AND COSTS:** Should any legal action or proceeding be brought by either party hereto in connection with this Agreement, or the rights and duties of either party in relation thereto, the prevailing party shall be entitled, in addition to equitable relief or damages, or both, or other relief, to be reimbursed by the other party for all reasonable costs and expenses including, without limitation, attorneys' and experts' fees and costs.

14. **GOVERNING LAW AND VENUE:** This Agreement shall be interpreted, enforced, and governed by the laws of the State of California. Any legal action or proceedings to enforce or interpret this Agreement shall be brought in Placer County, California.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on behalf of the persons duly authorized by the governing boards of the parties hereto on the date first written above.

TOWN OF LOOMIS:

LOOMIS BASIN HISTORICAL SOCIETY

BY: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

Attest:

Attest:

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Town Attorney