

STATE OF TEXAS

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COUNTY OF FORT BEND

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**LEASE AGREEMENT**

THIS AGREEMENT made and entered into by and between FORT BEND COUNTY, a body corporate and politic under the laws of the State of Texas, (hereinafter "Lessor" or "County"), and MORTON CEMETARY, (hereinafter "Lessee").

In consideration of the mutual covenants and agreements herein set forth, and other good and valuable consideration, Lessor does hereby lease to Lessee, and Lessee does hereby lease from Lessor, those certain premises, being 323 square feet of usable office space located at 900 Morton Street, Suite B, Richmond, Texas 77469 (hereinafter "Leased Premises").

**ARTICLE I**  
**Term of Lease**

This Lease Agreement shall commence on \_\_\_\_\_, 2014, and end on March 31, 2017, for an initial term and renewable annually thereafter, if mutually agreeable by both parties. This Agreement may be terminated by either party for any reason by giving thirty (30) days written notice of the intent to terminate.

**ARTICLE II**  
**Rent**

Lessee agrees and promises to pay to Lessor the sum of SIX HUNDRED DOLLARS and 00/100 (\$600.00) per month for the initial term of this Lease Agreement. Lessor will provide a monthly invoice by the 15<sup>th</sup> of each month, due within thirty (30) days of Lessee's receipt. The monthly rent and all reimbursable expenses will be made payable to Fort Bend County, Attn: Skye Brockermeyer 301 Jackson St. Richmond, TX. 77469. If the Lease Agreement is renewed, the rental amount will be determined upon mutual agreement of Lessor and Lessee.

**ARTICLE III**  
**Utilities**

3.01 Lessee will, at its own expense, separately secure and contract for telephone and/or telecommunications services, including local and/or long distance telephone service as well as internet service, which may be necessary to Lessee in its enjoyment and use of the facility.

3.02 The monthly lease amount shall include all other utilities such as electricity, water, sewer, garbage removal and basic custodial services a minimum of two (2) times per week.

## **ARTICLE IV**

### **Use**

Lessee shall operate the Leased Premises solely as an office space for its Administrative Coordinator and Cemetery Manager to conduct burial purchase transactions.

## **ARTICLE V**

### **Maintenance and Surrender**

5.01 Lessee shall be responsible for maintaining the Leased Premises in good repair and condition during the term of the lease. All ordinary repair of the Leased Premises made necessary by ordinary use and wear thereof shall be made by Lessee properly and with due diligence after Lessee has been notified of the need for same.

5.02 Lessee agrees to properly and diligently make such repairs and replacements to the Leased Premises as are made necessary by the negligence or willful acts of Lessee, its agents, servants, employees, licensees, business guests or invitees and, at the termination or expiration of this lease. Lessee agrees to surrender and deliver the Leased Premises to Lessor in good order and condition, natural deterioration from ordinary wear and tear. Lessee agrees to make all necessary, incidental repairs to the interior of the Leased Premises and to maintain the interior in good condition. All maintenance and repairs shall be done with materials and equipment of a quality equal to that called for in the original plans and specifications and shall be in accordance with the then existing federal, state and local regulations regarding health and safety. All such repairs and replacements of the interior of the Leased Premises made by Lessee in and to the Leased Premises pursuant to this paragraph, exclusive of Lessee's furniture, fixtures and equipment, shall constitute a part of the fee estate remainder subject to this lease, and Lessee's rights, and title and interest therein shall be limited to its right of possession and use pursuant to the provisions of this lease and subject to all of the terms and provisions hereof.

5.03 Lessee's negligence and/or failure to observe, keep or perform any of its obligations to maintain and repair the Leased Premises in the time and manner provided in this Article shall constitute a default hereunder and if such default shall continue for fifteen (15) days after notice thereof, Lessor shall have the right to pursue the rights and remedies provided Lessor herein below.

## **ARTICLE VI**

### **Insurance, Waiver of Subrogation and Indemnity**

6.01 Lessee shall obtain and maintain throughout the term of this lease, a certificate of insurance indicating coverage in the amounts stated below and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. All policies shall be underwritten by insurance companies maintaining A.M. Best's ratings of A-VII or higher on insurance of the following types and minimum limits:

6.011 Worker's Compensation insurance in accordance with the laws of the State of Texas. Substitute policies other than Workers' Compensation Insurance will not be allowed.

6.012 Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.

6.013 Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.

6.014 Business Automobile Liability coverage applying to owned, non-owned and hired automobiles with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.

6.015 Lessee is responsible to maintain fire and extended coverage insurance on all personal property belonging to Lessee located on the Leased Premises.

6.02 County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation and Professional Liability (if required). All Liability policies written on behalf of Contractor shall contain a waiver of subrogation in favor of County and members of Commissioners Court.

6.03 Lessee shall deliver to Lessor, prior to the lease commencement date, certificates or affidavits of such insurance and shall, at all times during the lease term, deliver to Lessor upon request true and correct copies of said insurance policies. Lessee shall deliver to Lessor certificates of renewal at least 30 days prior to the expiration date of each such policy and copies of new policies at least 30 days prior to terminating any such policies.

6.04 Lessee and Lessor hereby waive all claims, rights of recovery and causes of action that either party or any party claiming by, through or under such party may now or hereafter have by subrogation or otherwise against the other party for any loss or damage that may occur to the Leased Premises, Lessee's improvements or any of the contents of any of the foregoing by reason of fire or other casualty, or by reason of any other cause except gross negligence or willful misconduct (thus including simple negligence of the parties hereto or agents, employees or contractors), that could have been insured against under the terms of (1) in the case of Lessor, the standard fire and extended coverage insurance policies available in Texas at the time of the casualty and (2) in the case of Lessee, the fire and extended coverage insurance policy required to be obtained and maintained under 6.01; provided however, that the waiver set forth in this 6.04 shall (i) be ineffective against any insurer of Lessor or Lessee to the extent that the waiver is prohibited by the laws or insurance regulations of Texas or would invalidate any insurance coverage of Lessor or Lessee and (ii) not apply to any deductibles on insurance policies carried by Lessor or to any coinsurance penalty which Lessor might sustain. Lessor and Lessee hereby

agree to cause (if available) an endorsement to be issued to their respective insurance policies recognizing this waiver of subrogation.

6.05 To the extent allowed by law Lessee hereby assumes liability for, and agrees to defend, indemnify and hold harmless, Lessor and Lessor's agents, contractors and employees from and against, all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including court costs and reasonable attorneys fees) resulting from any injuries to or death of any person or damage to any property occurring during the lease terms in or about the Leased Premises.

## **ARTICLE VII**

### **Alterations and Signs**

7.01 Lessee shall not create any openings in the roof or exterior walls, nor make any alterations, additions, or improvements to the Leased Premises without the prior written consent of Lessor. Locks may not be changed or re-keyed at any time during lease. Consent for nonstructural alterations, additions, or improvements shall not be unreasonably withheld by Lessor.

7.02 Lessee shall have the right to erect signs on any portion of the Leased Premises, including, but not limited to, the exterior walls of the building, subject to applicable laws and deed restrictions, and subject further to the prior written approval of the Lessor. Lessee shall remove all signs at the termination of this lease, and shall repair any damage and close any holes caused by such removal.

## **ARTICLE VIII**

### **Lessee's Property and Certain Notices**

8.01 Lessor shall not be liable for any damage to or loss of personal property placed in, on or about the Leased Premises by Lessee or others, resulting from fire, theft, explosion, flood, windstorm, hurricane, or other casualty caused by acts of God or by the acts or omissions of other occupants of other space in the building.

8.02 Lessee shall give immediate notice to Lessor in the event of fire or other accidents or casualties within the Leased Premises or in or around the building, as prescribed by the fire and extended coverage insurance policy required herein to be carried thereon, and further, Lessee shall give immediate notice to Lessor of any defects in any of the fixtures or equipment located in the Leased Premises or in or around the building.

## **ARTICLE IX**

### **Assignment**

This Lease shall be binding on the heirs, successors and assigns of the parties hereto.

Lessee shall not assign, sublet or transfer its interest or obligations in and under this lease without the prior, written consent of Lessor. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of Lessee or Lessor.

## **ARTICLE X**

### **Inspection by Lessor**

Lessee shall permit Lessor and his agents to enter into and upon the Leased Premises at all times for the purpose of inspecting the same or for the purpose of maintaining or making repairs or alterations to the building.

## **ARTICLE XI**

### **Default**

In the event of any default by the Lessee in any of the terms, conditions, covenants, or agreements herein contained, Lessor may enforce the performance of this Agreement in any manner provided by law including forfeiting and terminating at Lessor's discretion if such default continues for a period of twenty (20) days after Lessor notifies Lessee in writing of such default and its intention to declare this Agreement terminated. Unless Lessee shall have completely removed and cured such default as aforesaid, this Agreement shall terminate and come to an end as if that were the day originally fixed herein for the expiration of the term. The Lessor's representatives shall have the right, without further notice or demand, to reenter and remove all persons and Lessee's property therefrom without being deemed guilty of any trespass, and also without prejudice to any remedies for breach of covenant.

## **ARTICLE XII**

### **Miscellaneous**

12.01 All notices provided to be given under this lease shall be given by certified mail or registered mail, addressed to the proper party or delivered in person at the following addresses:

Lessee: Morton Cemetery Association  
P.O. Box 300  
Richmond, Texas 77406-0300  
Attention: Pat McDonald

Lessor: Fort Bend County  
401 Jackson Street, 1<sup>st</sup> Floor  
Richmond, Texas 77469  
Facsimile: 281-633-7022  
Attention: County Judge

Copy to: Facilities Management & Planning  
301 Jackson Street  
Richmond, Texas 77469  
Facsimile: 281-238-3577  
Attention: Don Brady

12.02 This lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this lease.

12.03 This lease shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Fort Bend County, Texas.

12.04 In case any one or more of the provisions contained in this lease shall be for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions thereof and this lease shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

12.05 This lease constitutes the sole and only lease of the parties hereto and supersedes any prior understandings or written or oral leases between the parties respecting the within subject matter.

12.06 No amendment, modification, or alteration of the terms hereof shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

12.07 The rights and remedies provided by this lease are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

12.08 No waiver by the parties hereto of any default or breach of any term, condition, or covenant of this lease shall be deemed to be waiver of any other breach of the same or any other term, condition, or covenant contained herein.

12.09 Neither Lessor nor Lessee shall be required to perform any term, condition, or covenant in this lease so long as such performance is delayed or prevented by force majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riot, floods, and any other cause not reasonably within the control of Lessor or Lessee and which by the exercise of due diligence Lessor or Lessee is unable, wholly or in part, to prevent or overcome.

12.10 Time is of the essence of this lease.

12.11 Lessee's leasehold estate, created hereby and all of Lessee's rights, titles and interests, hereunder are subject and subordinate to any mortgage presently existing.

**IN WITNESS WHEREOF**, this Agreement has been executed in duplicate originals as follows:

**[The remainder of this page intentionally left blank.]**

**LESSOR  
FORT BEND COUNTY**

By: \_\_\_\_\_

Robert E. Hebert, County Judge

Date: \_\_\_\_\_

3-4-2014

ATTEST: \_\_\_\_\_

*Dianne Wilson*

Dianne Wilson, County Clerk

APPROVED: \_\_\_\_\_

*Don Brady*

Don Brady, Director  
County Facilities Management & Planning



**LESSEE  
MORTON CEMETARY ASSOCIATION**

By: \_\_\_\_\_

Mark Herfort, President

Date: \_\_\_\_\_

2-27-2014

By: \_\_\_\_\_

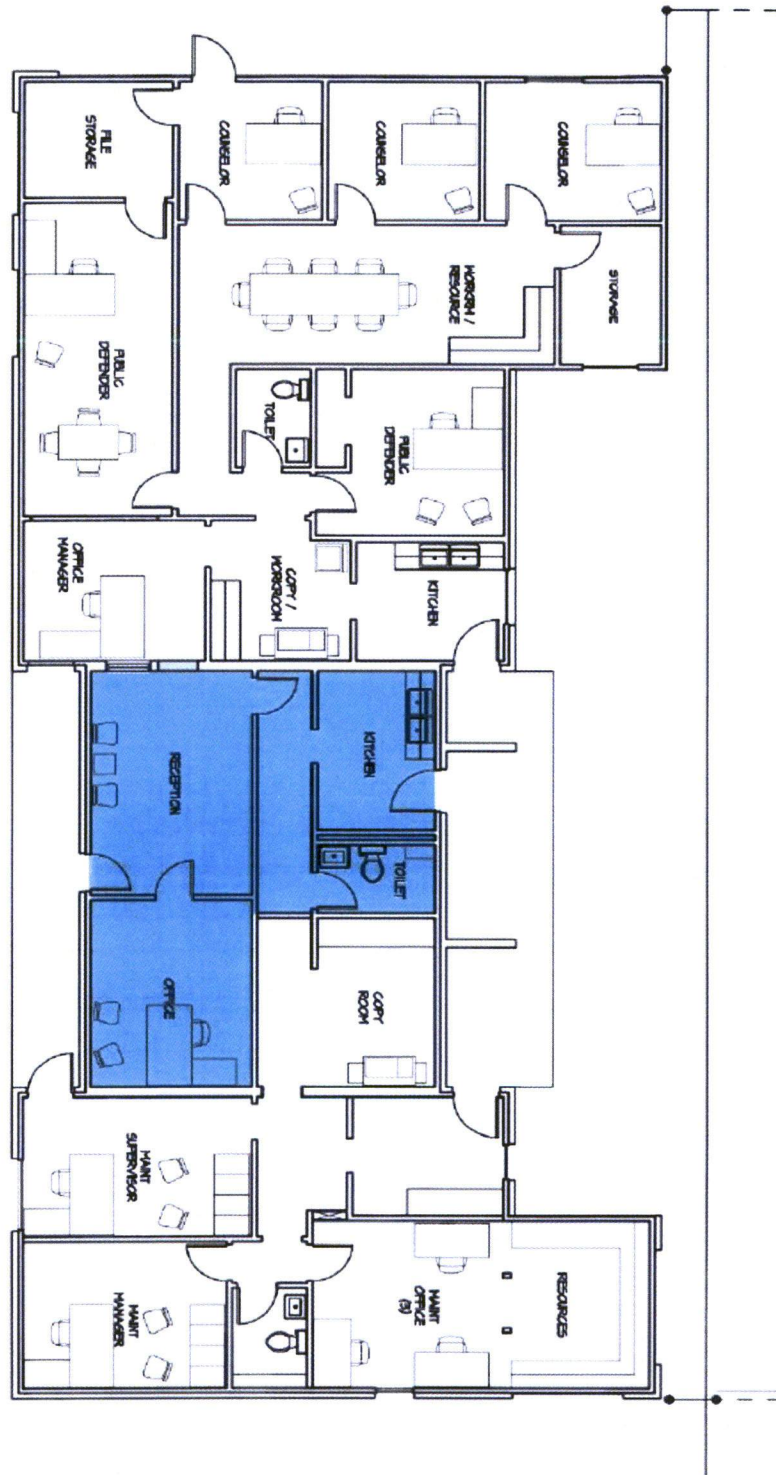
*Pat McDonald*

Pat McDonald, Treasurer

Date: \_\_\_\_\_

2-27-2014

# EXHIBIT A



FACILITIES MANAGEMENT & PLANNING  
MORTON STREET





# CERTIFICATE OF LIABILITY INSURANCE

MORTO-3

OP ID: KW

DATE (MM/DD/YYYY)

02/27/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER  
SIG/ McDonald & Wessendorff  
611 Morton Street  
Richmond, TX 77469

CONTACT NAME: Kathryn Williams

PHONE (A/C, No, Ext): 281-762-5215

FAX (A/C, No): 281-342-7367

E-MAIL ADDRESS: kathryn.williams@sig4you.com

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A: Texas Mutual Ins. Co.

INSURER B: Hartford/Direct Bill

INSURER C:

INSURER D:

INSURER E:

INSURER F:

INSURED Morton Cemetery Association  
P O Box 300  
Richmond, TX 77406-0300

## COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER: 002

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR			61 SBA VK0044	09/18/2013	09/18/2014	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			61 SBA VK0044	09/18/2013	09/18/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (PER ACCIDENT) \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
A	<input type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	SBP-0001000600	12/28/2013	12/28/2014	<input checked="" type="checkbox"/> WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

General Liability & Auto policies include a blanket waiver of subrogation and an automatic additional insured endorsement that provides additional insured status to the certificate holder only when there is a written contract between the named insured and the certificate holder that requires such status.  
(See page 2)

## CERTIFICATE HOLDER

FBCRIC

Fort Bend County  
301 Jackson St., Suite 224  
Richmond, TX 77469

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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**NOTEPAD:**

HOLDER CODE **FBCRICH**  
INSURED'S NAME **Morton Cemetery Association**

**MORTO-3**  
**OP ID: KW**

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Date **02/27/2014**

General Liability & Auto policies include a notice of cancellation providing for 30 days advance notice if the policy is canceled by the company other than for non-payment of premium.