

DATE SUBMITTED 3/17/2015
 SUBMITTED BY PARKS & REC
 DATE ACTION REQUIRED 3/18/2015

COUNCIL ACTION (X)
 PUBLIC HEARING REQUIRED ()
 RESOLUTION ()
 ORDINANCE 1ST READING ()
 ORDINANCE 2ND READING ()
 CITY CLERK'S INITIALS ()

**IMPERIAL CITY COUNCIL
 AGENDA ITEM**

SUBJECT: DISCUSSION/ACTION: IMPERIAL COUNTY VETERANS MEMORIAL

- I. AGREEMENT BETWEEN THE CITY OF IMPERIAL AND COUNTY OF IMPERIAL TO PROVIDE MAINTENANCE OF THE VETERAN'S MEMORIAL

DEPARTMENT INVOLVED: PARKS & RECREATION

BACKGROUND/SUMMARY:

The City of Imperial Department of Parks and Recreation will enter into an agreement with the County of Imperial to provide general maintenance and up keep of the Veteran's Memorial located at the Imperial County Airport in Imperial, CA. The City of Imperial Parks & Recreation Department will agree to provide maintenance on an as-needed basis; estimated up to two hours per week. The City will bring all major issues to the County's attention within five business days. The City and County have the right to terminate this agreement with no less than 60 days written notice.

*Attached for your review is the draft Agreement.

FISCAL IMPACT (ANNUALLY): Maintenance duties will be performed along with other maintenance duties already scheduled.

F.O. INITIALS: WJ

STAFF RECOMMENDATION: It is staff's recommendation for the City Council of the City of Imperial to approve the Veteran's Memorial maintenance agreement between the City of Imperial and County of Imperial.

MANAGER'S RECOMMENDATION: It is my position as the City Manager of the City of Imperial to agree with staff and recommend Council approve the agreement between the City and County of Imperial for the maintenance of the Veteran's Memorial.

MANAGER'S INITIALS WDB

MOTION:

SECONDED:
 AYES:
 NAYES:
 ABSENT:

APPROVED () REJECTED ()
 DISAPPROVED () DEFERRED ()
 REFERRED TO:

AGREEMENT BETWEEN THE CITY OF IMPERIAL
AND COUNTY OF IMPERIAL FOR MAINTENANCE OF
VETERANS MEMORIAL

THIS AGREEMENT is made and entered into this ___ day of _____, 2015 by and between the City of Imperial, a municipal corporation of the State of California (“City”) and the County of Imperial, a political subdivision of the State of California (“County”).

RECITALS

WHEREAS, Joaquin Antonio Villegas developed the Imperial County Veterans Memorial Project as his Eagle Scout project (“Project”); and

WHEREAS, the Project is located on property owned by the County in the vicinity of the entrance to the Imperial County Airport; and

WHEREAS, the Project is also located within the incorporated area of the City; and

WHEREAS, the Project has received approval by the County, the Imperial County Airport Land Use Commission and construction plans have been approved by the City (“Plans”); and

WHEREAS, the community has generously donated money and contractors have committed to donate their skill, time and work to the construction of the Project; and

WHEREAS, upon completion of the Project, it will be dedicated to the County and the County will thereafter own the Project; and

WHEREAS, City and County mutually desire to cooperate and to specify herein the terms and conditions of the maintenance to be performed by City on the Project.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1. Recitals. The recitals hereto are true and correct and are incorporated by this reference.

SECTION 2. Scope of Work. City shall maintain the Project as described and depicted in the Plans approved as of the date of the signing of this agreement. In the event the Project is modified or expanded after the signing of this agreement, the parties will meet and confer and attempt to reach agreement on the manner City’s maintenance will accommodate the Project as modified or expanded. Maintenance, as used herein, shall be in the nature of janitorial services. City shall clean the Project and tend

landscaping and shall pay the utility costs associated with the Project. Maintenance does not include repair or replacement of any of the Project features nor does it include maintenance of improvements not shown on the Plans.

SECTION 3. Term of Agreement. The term of this agreement shall commence on the date written above and shall continue on a month-to-month basis until terminated by sixty (60) days written notice by either party as permitted by this agreement.

SECTION 4. Schedule of Performance. The services of City will be provided on an as-needed basis. Maintenance will be done as the workload of City's forces permits but City will use its best efforts to address maintenance issues brought to its attention by County within five (5) business days of such notification in writing to the City Parks and Recreation Department.

SECTION 5. Indemnification. County and City agree to indemnify, defend and hold harmless each other from any and all liability, claims, suits, actions losses, expenses, or any injury or damage of any kind whatsoever, whether actual, alleged or threatened, actual attorney fees, court costs, interest, defense costs and expenses associated therewith and any other costs of any nature without restriction incurred in relation to, as a consequence of, or arising out of, the performance of this agreement or the condition of the Project and attributable to the fault of the other. Following a determination of the percentage of fault and/or liability by agreement between the parties or a court of competent jurisdiction, the party responsible for liability to the other will indemnify the other party to this agreement for the percentage of liability determined as set forth herein.

SECTION 6. Survival of Terms. The indemnification provisions of Section 5 shall survive termination of this agreement and completion of the services provided by City.

SECTION 7. Termination.

a). City and County shall have the right to terminate this agreement, without cause, by giving not less than sixty (60) days written notice of termination.

b). In the event of termination, City shall deliver to County copies of all work papers, schedules, reports and other work performed by City.

SECTION 8. Compliance with Laws. The parties shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments.

SECTION 9. Governing Law. The parties agree that the law governing this agreement shall be that of the State of California. Any suit brought by either party against the other arising out of the performance of this agreement shall be filed and maintained in the Superior Court of the County of Imperial.

SECTION 10. Prior Agreements and Amendments. This agreement represents the entire understanding of the parties as to those matters contained herein. No prior oral or

written understanding shall be of any force or effect with respect to those matters covered hereunder. This agreement may only be modified by a written amendment

SECTION 11. Notices. All notices shall be addressed and/or personally delivered as follows:

CITY:
Marlene Best, City Manager
420 S. Imperial Avenue
Imperial, CA 92251

COUNTY:

Either party may, by written notice to the other, change its address where notice shall be made. All notices shall be effective five (5) days after deposit in the U.S. Mail, postage prepaid, first class mail, or in the case of personal delivery, effective upon receipt.

WITNESS THE EXECUTION HEREOF, on the day and year first hereinabove written.

CITY:
BY: _____

COUNTY:
BY: _____

ATTEST:
BY: _____

ATTEST:
BY: _____

APPROVED AS TO FORM:
City Attorney
BY: _____

APPROVED AS TO FORM:
Office of the County Counsel
BY: _____