

DATE SUBMITTED 11/29/2016
 SUBMITTED BY CHATWIN/HALLER
 DATE ACTION REQUIRED 12/07/2016

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: APPROVAL OF IMPERIAL COUNTY VETERANS
 MEMORIAL AGREEMENT**

1. APPROVAL OF THE REVISED AGREEMENT BETWEEN THE CITY OF IMPERIAL AND COUNTY OF IMPERIAL FOR MAINTENANCE SERVICES OF THE VETERANS MEMORIAL

DEPARTMENT INVOLVED: CITY MANAGER'S OFFICE/COMMUNITY SERVICES DEPARTMENT

BACKGROUND/SUMMARY:

On March 18, 2015 during a Special Meeting of the City Council for the City of Imperial, Council approved a Maintenance Agreement between the City of Imperial and County of Imperial for the upkeep of the Veterans Memorial located at 1099 Airport Road in Imperial, Ca. The contract was held for execution until the completion of the project. At the approach of project completion. The County and City of Imperial reviewed the contracts terms. Upon review it was decided to remove the line stating that the City of Imperial would pay the cost of utilities for the Veterans Memorial. Also, the line stating that the notice of termination will be revised to 60 days instead of 6 months. The County agreed to the revisions. We ask that Council approve the attached revised agreement.

REVISION SUMMARY:

City will NOT pay utility costs incurred by the Veterans Memorial.
 Notice of Termination notification will be 60 days instead of 6 months.

Maintenance will be performed on a "as-needed" basis; estimated two hours per week in the normal maintenance rotation.

FISCAL IMPACT: NONE

F.O. INITIALS: _____

Maintenance will be completed during normal park maintenance hours..

STAFF RECOMMENDATION:

It is the Department of Community Services recommendation to approve the contract between the County and City of Imperial for maintenance service of the Veteran's Memorial.

MANAGER'S RECOMMENDATION: It is the City Manager's recommendation to agree with Staff and ask Council to approve the Maintenance Agreement for the Veteran's Memorial.

MANAGER'S INITIALS 

MOTION:

SECONDED: APPROVED () REJECTED ()
 AYES: DISAPPROVED () DEFERRED ()
 NAYES:
 ABSENT: 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 _____, 2016 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, it is understood by City and County that the Project is to be located on land designated for aeronautical uses, and that federal money designated for such uses shall in no way be used for the construction or maintenance of 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 an agreement on the manner of the City's maintenance which will accommodate the Project as modified or expanded. Maintenance, as used herein, shall be in the nature of janitorial services. 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 effective date of the agreement 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 office of the City Manager.

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:
City Manager
420 S. Imperial Avenue
Imperial, CA 92251

COUNTY:
County Executive Office
940 W. Main St., Suite 208
El Centro, CA 92243

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.

SECTION 12. Severability. If any provision in this agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

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

CITY:

COUNTY:

BY: _____
Douglas Cox, Mayor

BY: _____
Jesus J. Terrazas, Chairman
Board of Supervisors

ATTEST:

ATTEST:

BY: _____
Debra Jackson, City Clerk

BY: _____
Blanca Acosta, Clerk of the Board

APPROVED AS TO FORM:
City Attorney

APPROVED AS TO FORM:
Katherine Turner, County Counsel

BY: _____
Dennis H. Morita, City Attorney

BY: _____
Adam G. Crook, Deputy County Counsel