

PARKING LOT CONSTRUCTION AGREEMENT

32498

This PARKING LOT CONSTRUCTION AGREEMENT ("Agreement") is made by and between THE VIRGINIA COUNTRY CLUB OF LONG BEACH, CALIFORNIA ("VCC"), a California Non-Profit Mutual Benefit Corporation, and the CITY OF LONG BEACH ("City"), a municipal corporation. VCC and City are collectively referred to herein as the "Parties". This Agreement is entered into and becomes effective as of the date upon which this Agreement is fully executed by the Parties.

I. RECITALS

WHEREAS VCC, the Rancho Los Cerritos Foundation, Inc., and City have previously executed that certain Improvement and Parking Agreement dated as of December 3, 2007 ("Improvement Agreement"), pursuant to which City is obligated to, among other things, construct an overflow parking lot ("Parking Lot") on certain property provided by VCC, in accordance with the terms of the Improvement Agreement; and

WHEREAS VCC has obtained bids and received a proposal for the construction of the Parking Lot for the amount of ninety-eight thousand dollars (\$98,000), a copy of which proposal has been provided to City; and

WHEREAS the Parties desire that construction of the Parking Lot as described in the Improvement Agreement be performed pursuant to the terms and conditions of a separate construction contract between VCC and its contractor (the "Construction Contract"), and

NOW THEREFORE, in consideration of the mutual promises and obligations contained herein,

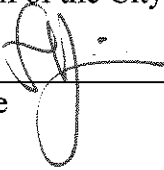
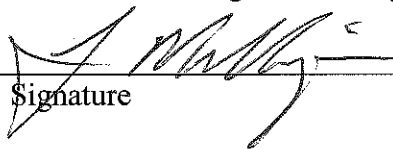
THE PARTIES hereby agree as follows:


II. TERMS

- A. Immediately upon full execution of this Agreement, VCC shall invoice City for the sum of ninety-eight thousand dollars (\$98,000).
- B. Within thirty days of receipt of the invoice referenced in section II.A of this Agreement, City shall pay to VCC the sum of ninety-eight thousand dollars (\$98,000.00) to be used exclusively for the construction of the Parking Lot.
- C. The payment of ninety-eight thousand dollars (\$98,000.00) shall discharge City's obligations to design and construct the Parking Lot under Sections 4A and 4B of the Improvement Agreement, and City shall have no further payment obligations under this Agreement.
- D. In exchange for the City's payment referenced in section II.B of this Agreement, VCC shall oversee the construction of the Parking Lot.
- E. For the purpose of this Agreement, the term "oversee" shall be defined to include maintaining communication with the contractor on all aspects of construction, monitoring the progress of the work performed on the Parking Lot, examining the work performed to ensure that the construction is being performed in compliance with the plans agreed upon by the Parties, and ensuring that the construction is being performed in a timely manner and otherwise in accordance with the terms of the Construction Contract. By overseeing the work performed by the contractor, VCC does not act as a guarantee or warrant the work of the contractor.

- F. VCC shall make available its own personnel to assist with excavation, drainage or other needs which develop during the construction as requested by the contractor and which are permissible for such personnel to perform under applicable law.
- G. The construction of the Parking Lot shall commence as soon as reasonably possible after receipt of the payment from City and otherwise in accordance with the terms of the Construction Contract.
- H. VCC shall periodically or when requested by City, apprise City of the progress of the construction of the Parking Lot.
- I. This Agreement is made and entered into in the State of California and shall in all respects be interpreted, enforced and governed by and under the laws of the State of California.
- J. No provision of this Agreement may be altered, modified or amended, except by a subsequent writing signed by the Parties hereto. The Parties hereto agree that they will make no claim at any time that this Agreement has been orally altered or modified or otherwise changed by oral communication of any kind or character.
- K. This Agreement may be executed in counterparts and a faxed or electronically transmitted signature shall be deemed enforceable, as if it were an original.
- L. This Agreement is intended by the Parties to supplement the Improvement Agreement, and except for as expressly described herein, no part of this Agreement modifies or amends the Improvement Agreement, which the Parties agree remains in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day indicated below:

<u>Patrick H. West, City Manager</u> Print Name and Title On Behalf of the City of Long Beach	<u>2.17.12</u> Date
<u></u> Signature	<u>Assistant City Manager</u> EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.
<u>JAMIE MULLIGAN, C.O.O.</u> Print Name and Title On Behalf of Virginia Country Club	<u>2/6/12</u> Date
<u></u> Signature	

APPROVED AS TO FORM
2-7-12
ROBERT E. SHANNON, City Attorney
By 
DEPUTY CITY ATTORNEY