

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 **MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF**
2 **LONG BEACH AND THE CITY OF BELLFLOWER REGARDING THE**
3 **DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO VARIOUS**
4 **INTERSECTIONS PURSUANT TO THE AREA WIDE ADAPTIVE**
5 **TRAFFIC CONTROL SYSTEM (ATCS)**
6 **31388**

7 This MEMORANDUM OF UNDERSTANDING ("MOU") is made and
8 entered, in duplicate pursuant to a minute order adopted by the City Council of the City of
9 Long Beach at its meeting held on August 19, 2008, by and between the CITY OF LONG
10 BEACH, a municipal corporation, and the CITY OF BELLFLOWER, a municipal
11 corporation, pursuant to a minute order adopted by the City Council of the City of
12 Bellflower at its meeting held on October 26, 2009. CITY OF LONG BEACH and CITY
13 OF BELLFLOWER may hereinafter be referred to collectively as "PARTIES."

14
15 RECITALS

16 WHEREAS, development of the Douglas Park Project in the City of Long
17 Beach is anticipated to create traffic impacts in the City of Long Beach and adjacent
18 communities, including the cities of Lakewood, Signal Hill, Bellflower, and Cerritos (the
19 "Cooperating Cities"); and

20 WHEREAS, the Cooperating Cities desire to coordinate design and
21 construction of traffic signal systems in order to mitigate these traffic impacts on an area-
22 wide basis; and

23 WHEREAS, in order to address the specific traffic projects located within
24 the City of Bellflower, and more specifically set forth in Exhibit "A" (the "Project"), the
25 Parties desire to specify the terms and conditions under which the Project is to be
26 engineered, constructed and financed;

27 NOW, THEREFORE, the Parties agree as follows:

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1 SECTION I

2 CITY OF LONG BEACH AGREES:

3 1. To act as lead agency for the Project and to provide all necessary
4 plans and specifications, utility identification and location, and all necessary construction
5 engineering/management services.

6 2. To insure that the Project as designed will comply with all
7 environmental approvals as required from Federal or State agencies for the Project.

8 3. To obtain all required authorizations and permits from governmental
9 agencies necessary to construct the Project.

10 4. To obtain City of Bellflower's approval of final plans and
11 specifications prior to the Project being advertised for construction bids.

12 5. To cause, at no cost to the City of Bellflower, all construction work
13 and construction engineering done as part of or related to the Project.

14 6. Upon completion of the Project, to furnish City of Bellflower a
15 complete set of full-sized film positive reproducible as-built plans and the corresponding
16 electronic files.

17 7. The Project shall not be activated or put into operation until and
18 unless a separate agreement regarding licensing, if any, ownership, maintenance and
19 operation of the Project has been executed by the Parties (the "Operating Agreement")
20 and the Operating Agreement has itself become effective.

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22 SECTION II

23 CITY OF BELLFLOWER AGREES:

24 1. To provide to City of Long Beach and/or its designee all available
25 plans and survey data of existing City of Bellflower infrastructure necessary to design the
26 Project.

27 2. To enforce available rights under existing franchise agreements if
28 existing public and private utilities conflict with the construction of the Project.

1 3. To review and approve plans, and issue encroachment permits for
2 which the fee charged will be Bellflower's actual cost, within thirty (30) days after receipt
3 of final plans from City of Long Beach or its designee.

4 4. City of Long Beach is the lead agency for the environmental
5 clearance, design and construction of the Project.

6 5. The Project shall not be activated or put into operation until and
7 unless the Operating Agreement has been executed by the Parties and become effective.

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9 SECTION III

10 IT IS MUTUALLY AGREED AS FOLLOWS:

11 1. Design Plans signed by both the City Traffic Engineer of the City of
12 Long Beach and the Public Works Director of the City of Bellflower shall constitute
13 acceptance of and official approval of plans for the Project.

14 2. The duties of City of Long Beach under this agreement may be
15 performed either by City of Long Beach employees, its designee or The Boeing Company
16 or by persons or entities hired by City of Long Beach or the Boeing Company.

17 3. If existing public or private utilities conflict with the construction of the
18 Project, City of Long Beach will identify such utilities and City of Bellflower will make all
19 necessary arrangements with the owners of such utilities for their protection, relocation or
20 removal. City of Bellflower will coordinate and inspect the protection, relocation or
21 removal. If there are costs of such protection, relocation or removal, then City of Long
22 Beach or The Boeing Company will pay One Hundred Percent (100%) of the cost of said
23 protection, relocation or removal plus costs of engineering overhead and inspection.

24 4. In the construction of said work, City of Long Beach will furnish a
25 resident engineer and City of Bellflower shall furnish a representative. Said
26 representative and resident engineer will cooperate and consult with each other, but the
27 decisions of City of Long Beach's resident engineer shall remain the sole and primary
28 directive for all Project work. If material changes to the approved plans and

1 specifications are required to complete the Project, and said changes will impact the
2 Project, then City of Long Beach resident engineer shall obtain the City of Bellflower's
3 representative's approval before authorizing said changes.

4 5. During the course of construction, City of Bellflower may request City
5 of Long Beach to include additional work in Project. Said work shall be considered a
6 "betterment" if it is not directly required by the Project described in Exhibit "A". In
7 addition, the term betterment shall include any City of Bellflower-funded work City of
8 Bellflower desires to have constructed concurrently with the Project and for which City of
9 Long Beach is able to reasonably accommodate in the Project. Said betterment work
10 shall be accounted for separately. City of Long Beach or its designee may require a
11 deposit from City of Bellflower for the estimated cost of betterment prior to authorization.

12 6. Prior to acceptance of the Project, as completed, under the terms of
13 the Project's construction contract, City of Long Beach will confer with City of Bellflower,
14 in good faith, to obtain City of Bellflower's concurrence that those components of the
15 Project have been completed in conformance with the approved plans and specifications.
16 It is understood that City of Bellflower will not unreasonably withhold said concurrence. If
17 City of Long Beach and City of Bellflower are unable to agree on Project completion as
18 discussed herein, then City of Long Beach and City of Bellflower shall meet and confer, in
19 good faith, to resolve the disagreement.

20 7. If any portion of the Project is financed with funds with specific
21 expenditure requirements or limitations, then all applicable laws, regulations and policies
22 relating to the use of such funds shall apply notwithstanding other provisions of this
23 Agreement.

24 8. Neither City of Long Beach nor any officer or employee, or person, or
25 a designee of City of Long Beach shall be responsible for any damage or liability
26 occurring by reason of any acts or omissions on the part of City of Bellflower delegated to
27 or determined to be the responsibility of City of Bellflower under this Agreement.
28 Pursuant to Government Code Section 895.4, City of Bellflower shall indemnify, defend

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1 and hold City of Long Beach harmless from any liability imposed for injury (as defined by
2 Government Code Section 810.8) occurring by reason of any acts or omissions on the
3 part of City of Bellflower delegated to or determined to be the responsibility of City of
4 Bellflower under this Agreement.

5 9. Neither City of Bellflower nor any officer or employee of City of
6 Bellflower shall be responsible for any damage or liability occurring by reason of any acts
7 or omissions on the part of City of Long Beach delegated to or determined to be the
8 responsibility of City of Long Beach under this Agreement. Pursuant to Government
9 Code Section 895.4, City of Long Beach shall indemnify, defend and hold City of
10 Bellflower harmless from any liability imposed for injury (as defined by Government Code
11 Section 810.8) occurring by reason of any acts or omissions on the part of City of Long
12 Beach delegated to or determined to be the responsibility of City of Long Beach under
13 this Agreement.

14 10. Every notice, demand, request, or other document or instrument
15 delivered pursuant to this Agreement shall be in writing, and shall be either personally
16 delivered by Federal Express or other reputable overnight courier, sent by facsimile
17 transmission with telephonic confirmation of actual receipt and the original subsequently
18 delivered by other means, or sent by certified United States mail, postage prepaid, return
19 receipt requested, to the addresses set forth below, or to such other address as a party
20 may designate from time to time:

21
22 City Of Long Beach
23 David Roseman
24 City Traffic Engineer
25 333 West Ocean Blvd, 10th floor
26 Long Beach, CA 90802

27 City of Bellflower
28 Deborah Chankin
 Director of Public Works
 16600 Civic Center Drive
 Bellflower, CA 90706

1 11. This Agreement constitutes the entire understanding and agreement
2 of the Parties and integrates all of the terms and conditions mentioned herein or
3 incidental hereto with respect to the subject matter hereof, and supersedes all
4 negotiations or previous agreements between the Parties with respect to all or part of the
5 subject matter hereof.

6 12. This Agreement may be amended in writing at any time by the
7 mutual consent of the Parties. No amendment shall have any force or effect unless
8 executed in writing by both Parties.

9 13. If any term, provision, covenant, or condition of this Agreement is
10 held by a court of competent jurisdiction to be invalid, void, or unenforceable, then the
11 remaining provisions of the Agreement shall continue in full force and effect, unless both
12 Parties would be materially altered or abridged by such interpretation.

13 14. This Agreement shall be construed and enforced in accordance with
14 the laws of the State of California.

15 15. Except as set forth herein, no Party shall assign or otherwise transfer
16 this Agreement or its right of interest or any part thereof to any third party without the
17 prior written consent of the other Party. Such consent shall not be unreasonably
18 withheld. No assignment of this Agreement shall relieve the assigning Party of its
19 obligations until such obligations have been assumed in writing by the assignee. When
20 duly assigned in accordance with the forgoing, this Agreement shall be binding upon and
21 inure to the benefit of the assignee.

22 This Agreement shall become effective on the date first approved as noted
23 above, upon its full execution and shall terminate upon City of Long Beach and City of
24 Bellflower's acceptance of the Project after completion; provided that the indemnification
25 provisions shall continue.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective officers as of the date first written above.

CITY OF LONG BEACH

By  Assistant City Manager 11.7, 2009
City Manager

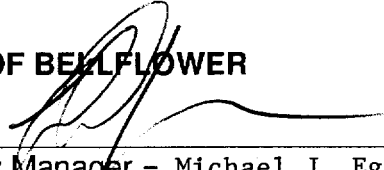
**EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.**

This Memorandum of Understanding is approved as to form on October 28, 2009.

ROBERT E. SHANNON, City Attorney

By 
Deputy

CITY OF BELLFLOWER

By  October 26, 2009
City Manager - Michael J. Egan

This Memorandum of Understanding is approved as to form on October 26, 2009.

By 
Assistant City Attorney
June S. Ailin

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EXHIBIT A

The Project will integrate the illustrated traffic signals into the area wide Advanced Traffic Control System. The Project will include, but not necessarily be limited to, work required to incorporate Bellflower Boulevard traffic signals from Rose Street to the State Route 91 Westbound ramps. The work will include the following:

- Furnish and install new 3" schedule 80 PVC conduit using boring method.
- Furnish and install all necessary wiring and communication hardware in the cabinet.
- Furnish and install new splice enclosure.
- Furnish and install new 12-strand SMFO drop cable at cabinets.
- Furnish and install new 24-strand SMFO backbone cable in new 3" schedule 80 PVC conduit
- Furnish and install System Detection Loops at the following intersections:
 - Bellflower Blvd and Artesia Blvd;
 - Bellflower Blvd and SR-91 EB and EB off-ramps

INSERT ILLUSTRATION

Figure 1.1: Project Area

