

**MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF
HAWAIIAN GARDENS AND CITY OF LONG BEACH REGARDING
CORTNER AVENUE ASPHALT IMPROVEMENTS**

35995

This Memorandum of Agreement ("MOA") is made, entered into, as of the date of the last Party signature set forth ("**Effective Date**"), by and among the City of Hawaiian Gardens, a municipal corporation ("**Hawaiian Gardens**") and the City of Long Beach, a municipal corporation ("**Long Beach**"). Each party may be referred to individually as "**Party**," and collectively as the "**Parties**", with respect to the following:

RECITALS

A. WHEREAS, Cortner Avenue, between 226th St. (A.K.A. E. Woosdon St) and E. Tula Street ("**Project Location**"), divides the city limits of Hawaiian Gardens and Long Beach; and

B. WHEREAS, the westernly half of Cortner Ave., at the Project Location, is owned by Long Beach, and the easternly half of Cortner Ave., at the Project Location, is owned by Hawaiian Gardens, which is described in more detail as set forth in Exhibit "A" which is attached and incorporated by reference herein; and

C. WHEREAS, Hawaiian Gardens intends to make improvements to its side of Cortner Ave., which includes street improvements ("**HG Project**"), the scope of work which is attached as Exhibit "B" and incorporated by reference herein; and

NOW, THEREFORE, in consideration of the mutual benefits and representations made herein, the Parties hereby agree as follows:

1. Incorporation of Recitals

The recitals above are incorporated by reference and hereby made a part of this MOA.

2. Construction of Improvements

2.1. Hawaiian Gardens is responsible for bidding their project, funding their project, and ensuring timely and complete compliance with the respective scope of work.

2.2. Hawaiian Gardens agrees, as a part of its scope of work, to grind, strip, and pave Cortner Ave. in its entirety at the Project Location, in exchange for Long Beach paying Hawaiian Gardens for such services, at a cost not to exceed fifty thousand dollars (\$50,000.00), and in accordance with Section 5 – Funding Street Repair.

3. Timing of Construction

- 3.1. Within three (3) weeks of completion of the Project, Hawaiian Gardens will provide notice to Long Beach of such completion in writing, as required in this MOA.

4. Information Sharing

- 4.1. All data shared among the Parties shall be provided "as is" and without warranties as to accuracy or as to any other characteristic, whether express or implied.

5. Funding Street Repair

- 5.1. In exchange for Hawaiian Gardens grinding, striping, and paving Cortner Ave. in its entirety at the Project Location, Long Beach agrees to pay Hawaiian Gardens for such services, at a cost not to exceed fifty thousand dollars (\$50,000.00).
- 5.2. Long Beach hereby acknowledges that Hawaiian Gardens has sole discretion, in accordance with Chapter 3.12 of its Municipal Code and the Public Contract Code, to select the contractor who will perform the HG Project.
- 5.3. Upon completion of the HG Project, Hawaiian Gardens will submit to Long Beach all paid invoices from the contractor relating to the grinding, striping, and paving of Cortner Ave. Long Beach will have thirty (30) days from receipt of the invoices to submit payment to Hawaiian Gardens.

6. Time is of the Essence

Time is of the essence in the performance of this MOA.

7. Term of MOA; Withdrawal

- 7.1. This MOA shall continue in effect until Hawaiian Gardens' receipt of the final payment by Long Beach for the work done relating to the grinding, striping, and paving of Cortner Ave., or a party withdraws as set forth herein.
- 7.2. A Party may withdraw from this MOA ("**Withdrawing Party**") by sending notice to the other Party in accordance with the notice provision of this MOA stating that Party's decision to withdraw from this MOA.

7.3. However, prior to withdrawing, the Withdrawing Party must be current on all financial obligations resulting from this MOA.

8. Entire Agreement

This MOA, including any other documents incorporated herein by specific reference, represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations or agreements, either written or oral.

9. Amendment

This MOA may be modified or amended, or provisions or breach may be waived, only by subsequent written agreement signed by all Parties.

10. Authority

Each of the persons executing this MOA on behalf of each Party represents and warrants that he or she has the authority to execute this MOA on behalf of such Party and has the authority to bind the Party to the performance of its obligations hereunder.

11. Counterparts

This MOA may be signed in counterparts, and each counterpart shall be deemed an original, but all of which shall constitute one and the same instrument.

12. Indemnification

12.1. Each Party shall indemnify, defend, and hold harmless every other Party, including its elected and appointed officers, employees, agents, attorneys, and designated volunteers from and against any and all liability, including, but not limited to demands, claims, actions, fees, costs, and expenses (including reasonable attorney's and expert witness fees), arising from or connected with the respective acts of that Party arising from or related to this MOA; provided, however, that no Party shall indemnify another Party for that Party's own negligence or willful misconduct. This provision shall survive termination of this MOA.

12.2. In light of the provisions of Section 895.2 of the Government Code of the State of California imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement (as defined in Section 895 of said Code), each of the Parties hereto, pursuant to the authorization contained in Government Code Sections 895.4 and 895.6, shall assume the full liability imposed upon it or any of its officers, agents, or employees, by law for injury caused by any act or omission occurring in the performance of this MOA to the same extent such liability would be imposed in the absence of Section 895.2 of the Government Code. To

achieve the above stated purpose, each Party indemnifies, defends, and holds harmless every other Party for any liability, cost, or expense that may be imposed upon such other Party solely by virtue of said Section 895.2. The provisions of Section 2778 of the California Civil Code are made a part hereof as if incorporated herein.

13. Insurance

The Parties are self-insured public entities for purposes of Professional Liability, General Liability, and Worker's Compensation. The Parties warrant that through their programs of self-insurance, they have adequate Professional Liability, General Liability and Workers' Compensation to provide coverage for liabilities arising out of the Parties' performance of this MOA.

14. Notices

Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

Hawaiian Gardens	Long Beach
City of Hawaiian Gardens 21815 Pioneer Blvd. Hawaiian Gardens, CA 90716 ATTN: Mr. Ernesto Marquez City Manager	City of Long Beach 411 W Ocean Blvd, 11th Floor Long Beach, CA 90802 ATTN: Mr. Thomas Modica City Manager

15. Relationship of the Parties

The Parties are, and shall at all times remain as to each other, wholly independent entities. No Party to this MOA shall have power to incur any debt, obligation, or liability on behalf of any other Party or otherwise act on behalf of any other Party as an agent except as expressly provided by this MOA. No official, employee, agent, or officer of a Party shall represent that he, she or anyone else from that Party is in any manner an official, agent, employee or officer of another Party.

16. Governing Law

This MOA shall be governed, interpreted, construed and enforced in accordance with the law of the State of California. Venue for any legal action or other proceeding relating to this MOA shall be in the Los Angeles County Superior Court.

17. Severability

If any provision of this MOA shall be determined by any court to be invalid, illegal or unenforceable to any extent, the remainder of this MOA shall not be affected and this MOA shall be construed as if the invalid, illegal or unenforceable provision had never been contained in this MOA.

[Signature page to follow directly below]

IN WITNESS WHEREOF, the Parties have execute this MOA as of the Effective Date.

The City of Hawaiian Gardens,
a municipal corporation

By: [Signature]
Ernesto Marquez, City Manager

Date: July 27, 2021

Attest:

Approved as to Form:

By: [Signature]
Linda Hollinsworth
Acting City Clerk

By: [Signature]
Megan Garibaldi, City Attorney

The City of Long Beach,
a municipal corporation

By: [Signature]
Thomas B. Modica, City Manager

Date: 8/26/2021

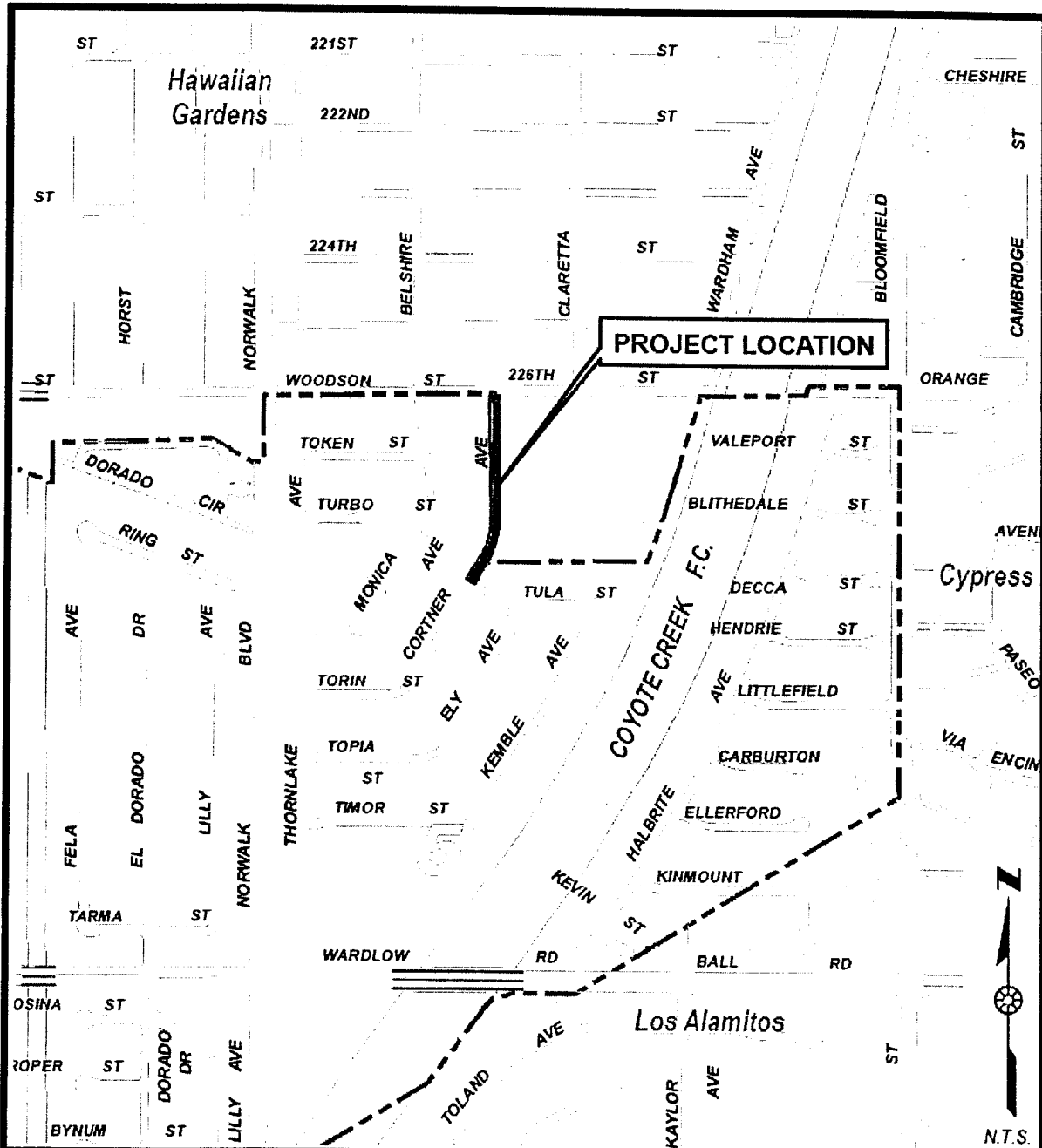
Attest: **EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER**

Approved as to Form:

By: _____
Monique De La Garza, CMC
City Clerk

By: [Signature]
Charles Parkin, City Attorney

Exhibit A
Legal Description of Cortner Ave. at Project Location



CITY OF LONG BEACH - CALIFORNIA
DEPARTMENT OF PUBLIC WORKS, ENGINEERING BUREAU

VICINITY MAP FOR
CORTNER AVENUE
BETWEEN TULA ST AND 226TH ST
COUNCIL DISTRICT 5

Attachment A

Exhibit B

Copy of City of Hawaiian Gardens Scope of Work

ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	UNIT PRICES	EXTENDED AMOUNT
1a.	Mobilization/ Demobilization (Not to exceed 3% of total of all other prime contract Bid Items)	LS	1	\$	\$
2a.	Traffic Control	LS	1	\$	\$
3a.	Sawcut and Remove Existing Concrete Sidewalk	SF	2,095	\$	\$
4a.	Sawcut and Remove Existing Concrete Curb/Curb and Gutter	LF	303	\$	\$
5a.	Sawcut and Remove Existing Concrete Curb Ramp	EA	4	\$	\$
6a.	Sawcut and Remove Existing Concrete Driveway Approach	SF	470	\$	\$
8a.	Sawcut and Remove Existing Concrete Alley Intersection	SF	598	\$	\$
10a.	Cold Mill Existing Asphalt Concrete (AC) Pavement (2" depth)	SF	45,671	\$	\$
11a.	Sawcut and Remove AC Pavement, Base, and Subgrade	CY	23	\$	\$
12a.	Crack Sealing	LS	1	\$	\$
13a.	Construct Concrete Sidewalk	SF	2,095	\$	\$
14a.	Construct Concrete Curb and Gutter	LF	303	\$	\$
15a.	Construct Concrete Curb Ramp	EA	4	\$	\$
16a.	Construct Concrete Driveway Approach	SF	470	\$	\$
18a.	Construct Concrete Alley Intersection	SF	598	\$	\$
19a.	Place/Install Detectable Warning Surface	EA	1	\$	\$
20a.	Provide and Place 6" Crushed Miscellaneous Base (CMB)	TON	46	\$	\$
21a.	Place Slurry Seal Type II with 3% Latex	ELT	38	\$	\$
22a.	Construct ARHM Overlay (2" Thick)	TON	552	\$	\$
23a.	Construct ARHM Overlay (4" Thick)	TON	18	\$	\$
24a.	Adjust Existing Storm Drain/ Sewer/ Utility Manhole Frames and Covers to Finished Grade	EA	4	\$	\$
25a.	Adjust Existing Water Valve Can and Cover to Finished Grade	EA	9	\$	\$
26a.	Adjust Existing Water Meter Box and Cover to Finished Grade, Replace Broken Cover/Box	EA	4	\$	\$
27a.	Traffic Striping, Marking, Curb Painting, House Addresses, and Signs	LS	1	\$	\$
33a.	Install Public Improvement Project Signs	EA	2	\$	\$
34a.	Provide Construction Survey	LS	1	\$	\$
TOTAL of Bid Schedule A:					\$