

Robert E. Shannon
City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664
Telephone (562) 570-2200

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AGREEMENT FOR LANDSCAPE AND LANDSCAPE MAINTENANCE

29928

THIS AGREEMENT is made and entered, in duplicate, as of October 15, 2006 for reference purposes only, pursuant to a minute order of the City Council of the City of Long Beach at its meeting on October 10, 2006, and an order of the City Council of the City of Lakewood at its meeting on July 25, 2006, by and between the CITY OF LONG BEACH, a municipal corporation ("Long Beach"), and the CITY OF LAKEWOOD, a municipal corporation ("Lakewood").

WHEREAS, the parties desire to beautify an unimproved parkway located on the north side of Carson Street between the San Gabriel River and Los Coyotes Diagonal; and

WHEREAS, it is in the best interests of the parties to share the responsibility for this beautification effort and they desire to describe those responsibilities in this Agreement;

NOW, THEREFORE, in consideration of the mutual terms and conditions in this Agreement, the parties agree as follows:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Location of Site. The site to be improved and maintained is located on the north side of Carson Street between the San Gabriel River and Los Coyotes Diagonal, as more particularly shown on Exhibit "A" attached to this Agreement and incorporated by reference (the "Site").

Section 3. Long Beach Responsibilities. Long Beach shall perform the following tasks at the Site, at no cost to Lakewood: (a) initial clearing of weeds and vegetation; (b) design and installation of a solar-powered irrigation system with six to eight valve zones; (c) grading; (d) planting fifteen trees and approximately 200 shrubs; and (e) applying approximately 100 cubic yards of ~~mud~~ ^{mulch} ~~bl. p. 10~~

Section 4. Lakewood Responsibilities. Lakewood shall perform the

1 following tasks at the Site at no cost to Long Beach, after Long Beach has completed the
2 tasks described in Section 3: (a) maintenance of the Site which shall include watering via
3 the irrigation system, weeding, edging, trash removal and replacement of dead, diseased
4 or damaged plants to the same level or standards that Lakewood provides for its own sites;
5 (b) removal of all graffiti at the Site; (c) repair of any damage at or to the Site, including but
6 not limited to damage to the irrigation system and to the plants within 24 hours after
7 knowledge of damage, and the duty to repair shall include the duty to replace; (d)
8 installation of a water meter to show the water usage for irrigation at the Site; and (e)
9 removal of graffiti.

10 Section 5. Utilities. A. Lakewood shall provide water for the irrigation and
11 shall submit an invoice to Long Beach for the cost of the water so provided. On receipt of
12 the invoice from Lakewood, Long Beach shall reimburse Lakewood for Lakewood's actual
13 cost of water through the meter, at Lakewood's irrigation rate.

14 B. As of the date of this Agreement, the parties will not have any electricity
15 costs due to the use of solar energy. However, if solar energy cannot be used or its use
16 ceases during the term of this Agreement, then Long Beach shall pay the cost of electricity.

17 C. There are no other utilities to be provided at the Site, except the trash
18 removal described in Section 4.

19 Section 6. Term and Termination. The term of this Agreement shall begin
20 on October 15, 2006 and end on September 30, 2011. This Agreement may be extended
21 on the same terms and conditions for one additional period of five (5) years, on mutual
22 agreement of the parties. Either party may terminate this Agreement by giving at least
23 thirty days prior notice to the other party.

24 Section 7. Assignment. Neither party shall assign its rights or delegate its
25 duties under this Agreement or any part of this Agreement. Any attempted assignment or
26 delegation shall be void, and any purported assignee or delegate shall acquire no right or
27 interest by reason of such attempted assignment or delegation.

28 Section 8. Insurance. As a condition precedent to the effectiveness of this

1 Agreement, each party shall procure and maintain at its sole expense for the duration of
2 this Agreement self insurance or insurance from an insurance company that is admitted
3 to write insurance in the State of California or that has a rating of or equivalent to an A:VIII
4 by A.M. Best and Company, as follows:

5 (a) Commercial general liability insurance or self-insurance
6 equivalent in coverage scope to ISO form CG 00 01 10 93 in an amount not
7 less than \$1,000,000 per occurrence and \$2,000,000 general aggregate;

8 (b) Worker's compensation insurance as required by the
9 California Labor Code;

10 (c) Automobile liability insurance equivalent in coverage scope
11 to ISO form CA 00 01 06 92 in an amount not less than \$500,000 combined
12 single limit (CSL) covering owned, non-owned, and hired automobiles.

13 Each party shall deliver to the other party certificates of insurance or self
14 insurance prior to the start of performance. The certificates shall contain the original
15 signature of a person authorized to bind coverage on its behalf. Insurance shall not be
16 deemed to limit each party's liability relating to performance under this Agreement.

17 Section 9. Amendment. This Agreement shall not be amended nor any
18 provision or breach waived except in writing signed by the parties which expressly refers
19 to this Agreement.

20 Section 10. Indemnity. A. In accordance with Section 895 through 895.8
21 of the California Government Code, each party hereby assumes the liability imposed on
22 it, its officials and employees for injury (as defined in Section 810.8 of the California
23 Government Code) caused by a negligent or wrongful act or omission occurring in the
24 performance or in the failure to perform obligations in this Agreement to the same extent
25 that such liability would be imposed in the absence of these Sections of the Government
26 Code. To that end, each party shall defend, indemnify and hold harmless the other party
27 for any claim, demand, cause of action, loss, liability, damages, penalty, cost, or expense
28 (including attorney's fees and court costs) (collectively in this Section "Claim") that may be

1 imposed on such party solely by virtue of Section 895.2 of the California Government
2 Code.

3 Section 11. Law. This Agreement shall be governed by and construed in
4 accordance with the laws of the State of California.

5 Section 12. Entire Agreement. This Agreement, including exhibits,
6 constitutes the entire understanding between the parties and supersedes all other
7 agreements, oral or written, with respect to the subject matter herein.

8 Section 13. Costs. If there is any legal proceeding between the parties to
9 enforce or interpret this Agreement or to protect or establish any rights or remedies under
10 this Agreement, then the prevailing party shall be entitled to its costs and expenses,
11 including reasonable attorney's fees and court costs.

12 Section 14. Notices. Any notice given under this Agreement shall be in
13 writing and personally delivered or deposited in the United States Postal Service, first
14 class, postage prepaid, addressed to Long Beach at 333 West Ocean Boulevard, 13th
15 Floor, Long Beach, CA 90802 Attn: City Manager and to Lakewood at 5050 Clark Avenue,
16 Lakewood, CA 90712-2603 Attn: City Clerk. Notice of change of address shall be given
17 in the same manner as stated for other notices. Notice shall be deemed given on the date
18 personal delivery is made or forty-eight (48) hours after deposit in the mail.

19 Section 15. No Waiver. The payment of money by Long Beach shall not
20 operate as a waiver of any provision of this Agreement or of any right to damages or
21 indemnity. The waiver of any breach by either party shall not constitute a waiver of any
22 other breach or of a subsequent, similar breach.

23 Section 16. Third Party Beneficiary. This Agreement is intended by the
24 parties to benefit themselves only and is not in any way intended or designed to or entered
25 for the purpose of creating any benefit or right of any kind for any person or entity that is
26 not a party to this Agreement.

27 Section 17. Joint Effort. This Agreement is created as a joint effort of the
28 parties and shall not be construed or interpreted against either party as the drafter.

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Section 18. Severability. If any part of this Agreement is found by a court to be invalid, illegal or unenforceable, then the remaining parts shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

CITY OF LONG BEACH, a municipal corporation

By 
City Manager 12-11-06

"Long Beach"


CITY OF LAKEWOOD, a municipal corporation

By 
Mayor

"Lakewood"

This Agreement is approved as to form on November 20, 2006.

ROBERT E. SHANNON City Attorney

By 
Senior Deputy
Principal



Parkway North of Carson
Between Los Coyotes Diagonal and San Gabriel River
EXHIBIT "A"

