

**INTER-DEPARTMENT MEMORANDUM**

To:	Matthew J. Fertal	From:	Keith G. Jones
Dept:	City Manager	Dept:	Public Works
Subject:	REQUEST APPROVAL OF THE MAIN STREET ARCH	Date:	November 24, 2009

**OBJECTIVE**

Request for City Council approval to install a decorative arch on Main Street submitted by the Garden Grove Downtown Business Association (GGDBA).

**BACKGROUND**

On April 8, 2008, the Garden Grove Downtown Business Association (GGDBA) requested City Council to approve the construction of two arches to be located at both ends of Main Street. At that time, the City Council approved the arches in concept, subject to staff providing a complete breakdown on the construction costs, maintenance costs, the process, and the City's responsibilities during and after the installation so that City Council could make a final decision.

**DISCUSSION**

The scope of work for the original two arches has been reduced to one arch located at Garden Grove Boulevard and Main Street. The project construction is estimated to cost \$100,000 with an annual cost of \$120 for electrical service. The GGDBA has obtained a 5-year maintenance agreement as part of their installation costs from the contractor. Parts and labor are also covered for five years.

The table below shows the breakdown of construction costs.

DESCRIPTION	AMOUNT
Design Fee	
Structural Engineering	\$3,950.00
Electrical Engineering	
Permits and Service Fee	\$4,000.00
Arch Fabrication	
Arch Foundations	\$2,500.00
Arch Signage	
Electrical	\$915.00
Installation	\$56,878.00
	\$5,330.00
	\$12,760.00
	\$8,705.00
	\$4,962.00
<b>TOTAL</b>	<b>\$100,000.00</b>

REQUEST APPROVAL OF THE MAIN STREET ARCH

November 24, 2009

Page 2

If approved, the arch will be constructed in three phases and will take about two months for completion. Phase I (the footings) involves excavating the pavers and soil needed to run the electrical line.

Once footings are poured with anchor bolts in place, the site will be covered until final installation is ready. Phase 2 (the lamp post and arch metal fabrication) involves two posts - two mirror pieces for the curved ends with the truss work and the decorative berries and one center section that is the sign. Phase 3 will be the installation of the posts on day one, and then the archway on the second day. The contractor will need to close the street for about five hours each of those days. This operation will take two lifts and one crane.

The arch will have lighting, which requires very minimal power that can be supplied by the existing infrastructure. The arch has been designed using quality materials and is aesthetically pleasing. The Association will also retain full ownership, responsibility, and maintenance for the lifetime of the structure. Conditions in the building and encroachment permits would require the GGDBA to provide and maintain appropriate construction and commercial general liability insurance for the arch.

Because the project requires both a building permit and an encroachment permit, detailed plans were submitted and reviewed by staff. All conditions and comments have been addressed in the final plans and the project is ready to construct.

FINANCIAL IMPACT

There is no impact to the City's General Fund. Funding for this project has been secured by the County of Orange First District Supervisor Nguyen's Office.

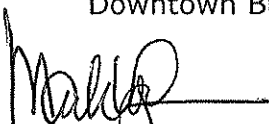
COMMUNITY VISION IMPLEMENTATION


This project is consistent with the community vision for fostering small business development, retention, and expansion.

RECOMMENDATION


It is recommended that the City Council:

- Approve the installation of the Main Street Arch submitted by the Garden Grove Downtown Business Association

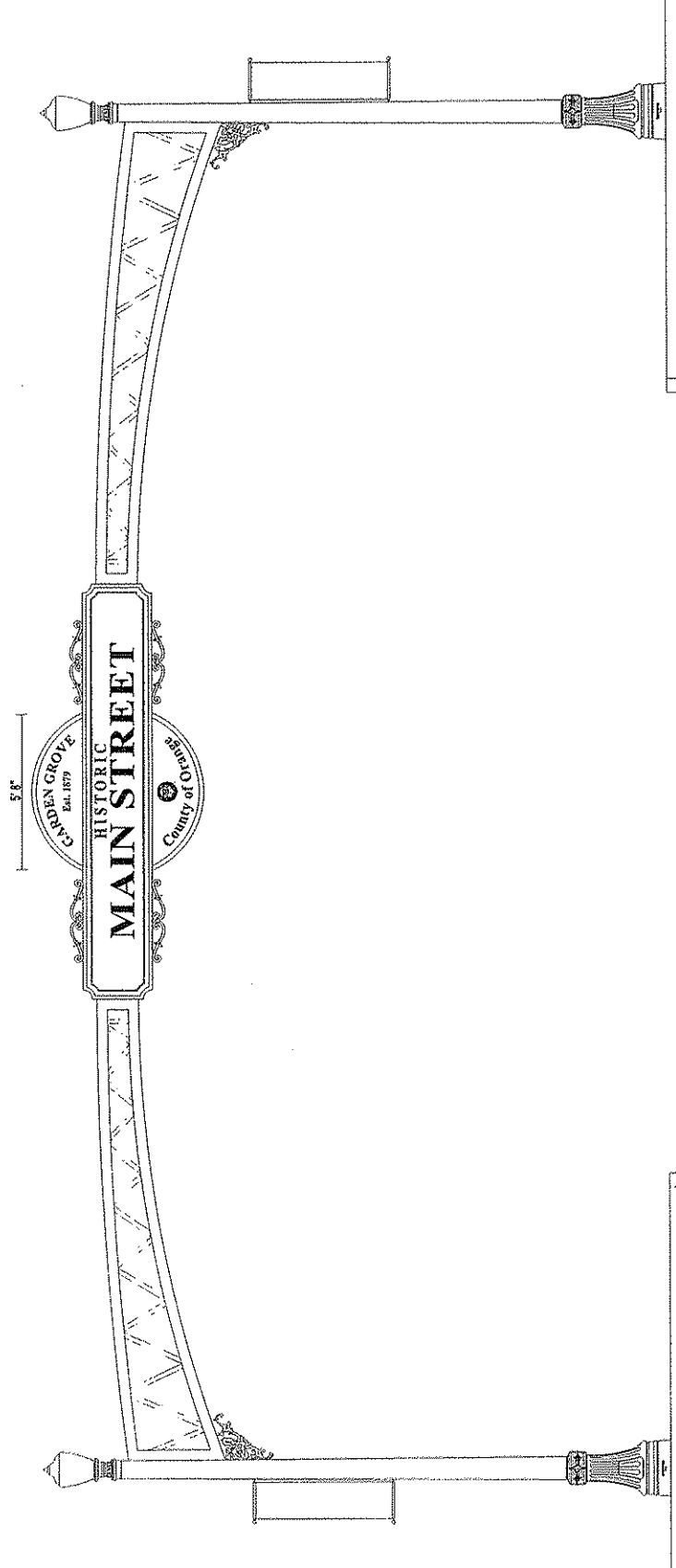
for   
KEITH G. JONES  
Director of Public Works

for   
By William E. Murray, P.E.  
for City Engineer

Recommended for Approval

  
Matthew Fertal  
City Manager  
for

- Attachment 1: Arch Rendering
- Attachment 2: County Agreement w/ GGDBA



SCALE: 1/4" = 1'



*County Executive Office*

**Memorandum**

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January 7, 2008

**To:** Scott Weimer, Garden Grove Downtown Business Association

**From:** Michelle Aguirre, Administrative Manager II  
County of Orange/County Budget Office

**Subject:** Agreement between County of Orange and Garden Grove Downtown Business Association

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The County Board of Supervisors approved an agreement between the County of Orange and Garden Grove Downtown Business Association on December 18, 2007 for allocation of \$100,000 for building of an entry arch gateway to historic Main Street. Attached are three copies of the agreement. Each copy of the agreement requires original authorized signatures.

Please return signed copies to:

County of Orange  
County Executive Office  
333 W. Santa Ana Blvd., 3<sup>rd</sup> Floor  
Santa Ana, CA 92701-4062  
Attn: Michelle Aguirre

A copy of the fully executed agreement will be forwarded to you. If you have questions or require additional information, please do not hesitate to contact me at (714) 834-3381.

Attachments

**AGREEMENT  
BETWEEN COUNTY OF ORANGE AND  
GARDEN GROVE DOWNTOWN BUSINESS ASSOCIATION  
TO FUND BUILDING OF AN ENTRY ARCH GATEWAY TO HISTORIC MAIN  
STREET**

This Agreement to fund the building of an entry arch gateway to Historic Main Street, Garden Grove, California (hereinafter "Agreement"), is made and entered into this 18<sup>th</sup> day of December, 2007, by and between the County of Orange, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and the Garden Grove Downtown Business Association, a non-profit corporation, hereinafter referred to as "ASSOCIATION," with a place of business located at 12866 Main Street, #100, Garden Grove, California 92840. COUNTY and ASSOCIATION are sometimes referred to herein as "party" or collectively as "parties."

**RECITALS**

**WHEREAS**, COUNTY, by Minute Order dated December 18, 2007 a copy of which is on file with the Clerk of the Board of Supervisors of Orange County and which by this reference is incorporated herein and made a part of hereof as if fully set forth, has determined, pursuant to Government Code Section 26227, to expend a portion of its general funds in the amount of \$100,000 [hereinafter "the funds"] for use by ASSOCIATION between December 19, 2007 and December 31, 2008 for the building of an entry arch gateway to Historic Main Street, Garden Grove, California, hereinafter referred to as "project."

**WHEREAS**, said project meets the social needs of the population of Orange County.

**THEREFORE**, in consideration of the mutual promises, covenants, and conditions hereinafter set forth, the parties agree as follows:

1. EFFECTIVE PERIOD – TERMINATION DATE

The effective period of this Agreement shall be the period beginning December 19, 2007 and ending December 31, 2008 subject to the provisions of Section 15 of this Agreement. ASSOCIATION agrees that the funds received under this Agreement shall be

disbursed or encumbered on or before December 31, 2008 and that any and all funds remaining as of January 1, 2009, which have not been disbursed or encumbered, shall be returned by ASSOCIATION to COUNTY. No expense of ASSOCIATION will be reimbursed by COUNTY if incurred after December 31, 2008.

2. PROJECT PROPOSAL

ASSOCIATION agrees to comply with all provisions set forth in this Agreement for use of the funds in a professional, timely and diligent manner. The parties hereto agree that concerning matters not specifically contained within the body of this Agreement, the COUNTY's determinations will be final and the COUNTY will control the use of the funds.

ASSOCIATION agrees that the funds will be used between December 19, 2007 and December 31, 2008 for the building of an entry arch gateway to Historic Main Street, Garden Grove, California.

Notwithstanding Section 1 herein, ASSOCIATION agrees to use any real or personal property or equipment that is constructed, acquired or improved with the funds for its entire useful life for the purposes, as described herein, for which the funds were granted to ASSOCIATION by COUNTY. ASSOCIATION agrees to notify COUNTY promptly if it ceases to use such property or equipment for the purposes described herein at any time before the end of its useful life. ASSOCIATION agrees to properly maintain, repair and keep in good working order all such property or equipment.

ASSOCIATION warrants that it will obtain and keep in full force and effect, during the term of this agreement and for the useful life of any real or personal property or equipment constructed, acquired or improved with the funds, all permits, licenses or other governmental approvals required for the project and for any services provided in or with property or equipment constructed, acquired or improved with the funds.

ASSOCIATION further agrees that lack of compliance constitutes grounds for COUNTY to pursue the remedies set forth in Section 15 of this Agreement and to reduce the level of payment that otherwise would be provided under Section 6 of the Agreement. Such reduction shall occur only as a result of action of the COUNTY Board of Supervisors. Before such reduction may be made, COUNTY shall provide ASSOCIATION with at least ten (10) days written notice of the proposed reduction and of the time and place where the Board of Supervisors shall consider the reduction.

3. MODIFICATION OF AGREEMENT TERMS

The parties hereto agree that the terms agreed upon in Section 2 may be modified so long as the amount of the total grant is not increased or reduced and the basic goals and objectives of the project are not altered. However, no such modification shall be made without the prior written approval of the County Executive Officer or his designee.

4. MAXIMUM UTILIZATION AND ACCESS TO RESIDENTS

ASSOCIATION agrees that its level of operation will be adequate to ensure maximum utilization by the public of the property, equipment, programs and/or services funded by this Agreement and that an opportunity to use and enjoy said property, equipment, programs and/or services shall be granted to all residents of the COUNTY on the same conditions under which the residents of the target area may use and enjoy it.

5. EVALUATION

ASSOCIATION agrees and understands that evaluation is an essential condition to this Agreement and that COUNTY will evaluate ASSOCIATION in accordance with this Agreement. The parties hereto agree that at any time, and for any purpose, the County Executive Officer, or his designee, may call for an Evaluation to be conducted.

6. PAYMENTS BY COUNTY

Upon the effective date of this Agreement, COUNTY agrees to make periodic payments to ASSOCIATION upon receipt of invoice(s) from ASSOCIATION showing actual amounts expended by ASSOCIATION for the project, or ASSOCIATION may invoice County upon receipt of invoice from service provider for approved project expenses as identified in Section 2. Total payment hereunder shall be limited to \$100,000.

7. CONFLICT OF INTEREST

ASSOCIATION agrees and understands that COUNTY's funds shall not be used by ASSOCIATION to pay or reimburse any staff person or consultant who is a member or officer of the Board of Directors or other official governing body of ASSOCIATION.

8. ACCESS AND RECORDS

Unless otherwise agreed in writing by the County Executive Officer, or designee, ASSOCIATION shall maintain separate accounting records for all funds received from COUNTY under this Agreement. All accounting records and evidence pertaining to all costs of ASSOCIATION shall be kept available at ASSOCIATION's office or place of business

during duration of this Agreement and thereafter for a period not less than five (5) years. ASSOCIATION shall make all of its records available to COUNTY upon request during regular business hours for the purpose of evaluation or auditing and shall furnish clerical assistance for these purposes to COUNTY as required. ASSOCIATION agrees to implement all accounting and/or record-keeping recommendations made by COUNTY. In the event ASSOCIATION does not make its books and financial records available to COUNTY, ASSOCIATION agrees to pay all necessary and reasonable expenses, including attorney's fees, incurred by COUNTY in obtaining the records and conducting an audit or evaluation.

9. INDEMNIFICATION AND INSURANCE

ASSOCIATION agrees to indemnify, defend with counsel approved in writing by COUNTY, and hold COUNTY, its elected and appointed officials, officers, employees, agents and those special districts and agencies for which COUNTY'S Board of Supervisors acts as the governing Board ("COUNTY INDEMNITEES") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the performance provided by ASSOCIATION pursuant to this Agreement. If judgment is entered against ASSOCIATION and COUNTY by a court of competent jurisdiction because of the concurrent active negligence of COUNTY or COUNTY INDEMNITEES, ASSOCIATION and COUNTY agree that liability will be apportioned as determined by the court or jury.

ASSOCIATION will obtain and keep in full force and effect all insurance required by COUNTY, as indicated in Exhibit A hereto, which is incorporated herein and made a part hereof by reference. ASSOCIATION agrees that no obligation of COUNTY hereunder shall arise until ASSOCIATION has obtained the required insurance and submitted the required insurance certificates.

10. CORPORATE STATUS

If ASSOCIATION is a non-profit or public benefit corporation, it must at all times be listed as being in good standing, without suspension, by the California Secretary of State, Franchise Tax Board and Internal Revenue Service. Any change in such corporate status, or any suspension, shall be reported immediately to COUNTY.



11. INDEPENDENT CONTRACTOR

ASSOCIATION shall be considered an independent contractor and neither its employees nor subcontractors, agents or anyone else working under or on behalf of ASSOCIATION shall be considered an agent or an employee of COUNTY. Further, neither ASSOCIATION's employees nor subcontractors, agents or anyone else working under or on behalf of ASSOCIATION shall qualify for workers' compensation or other fringe benefits of any kind through COUNTY.

12. ASSIGNMENT OR SUBCONTRACTING

The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this Agreement nor any portion thereof may be assigned or sub-contracted by ASSOCIATION without the express written consent of COUNTY. Any attempt by ASSOCIATION to assign or sub-contract the performance or any portion thereof of this Agreement without the express written consent of COUNTY shall be invalid and shall constitute a breach of this Agreement.

13. NON-DISCRIMINATION

ASSOCIATION shall not unlawfully discriminate in any way with respect to performance of this Agreement, on the basis of race, religion, gender, sexual orientation, age, national origin, ancestry, medical condition, or physical or mental disability and/or in violation of any applicable State or federal law or regulation, including but not limited to the federal Age Discrimination Act of 1975, Section 504 of the federal Rehabilitation Act of 1973, the Americans with Disabilities Act., the federal Civil Rights Act of 1964, Title VII of the federal Civil Rights Act of 1968, California Government Code section 11135 et seq., and the Unruh Civil Rights Act, as those acts may have been amended.

ASSOCIATION agrees that in the performance of this Agreement it will comply with all applicable requirements of California Labor Code Section 1735, California Government Code Section 12940 et seq., and federal statutes and regulations pertaining to employment discrimination, and will not engage in nor permit any subcontractor to engage in unlawful discrimination in employment of persons. This prohibition shall pertain to employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay and other forms of compensation; selection for training, including

apprenticeship; and any other action or inaction pertaining to employment matters. ASSOCIATION acknowledges that a violation of this provision shall subject ASSOCIATION to all the penalties imposed for a violation of anti-discrimination law or regulation, including but not limited to, Section 1720 et seq. of the California Labor Code.

14. PROHIBITION AGAINST LOBBYING

ASSOCIATION shall not use any part of the funds received under this Agreement for the purpose of lobbying or for other activities intended to influence any legislation or the outcome of any election.

15. BREACH-SANCTIONS

If, through any cause, ASSOCIATION fails to fulfill in a timely and proper manner any of its obligations under this Agreement, or if ASSOCIATION violates any of the terms and conditions of this Agreement or any prior Agreement whereby COUNTY funds were received by ASSOCIATION, or if ASSOCIATION reports inaccurately, or if an Audit Report makes disallowances, ASSOCIATION shall promptly remedy its acts or omissions or repay COUNTY all amounts spent in violation thereof. For any such failures or violations, COUNTY shall have the right to:

- (a) Discontinue project support until such time as ASSOCIATION fulfills its obligation under this Agreement or any prior Agreement between COUNTY and ASSOCIATION;
- (b) Collect such outstanding amounts as are determined by COUNTY to be due COUNTY from ASSOCIATION;
- (c) Terminate this Agreement by giving written notice to ASSOCIATION of such termination and specifying the effective date thereof.

16. SOLE AGREEMENT

This Agreement expresses all the understandings of the parties concerning all matters covered. No addition to or alteration of the terms of this Agreement shall be valid unless made in the form of a written Amendment to this Agreement formally approved by the parties hereto. Any addition or alteration of the Agreement may be subject to approval by the COUNTY Board of Supervisors.

17. GOVERNING LAW AND VENUE

This Agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for trial to another County.

18. NOTICES

Where required to be given under this Agreement, notices shall be in writing and deemed given when transmitted by e-mail or delivered personally or deposited in the United States mail, postage prepaid, certified, addressed as follows:

COUNTY: County Executive Office  
County of Orange  
333 W. Santa Ana Boulevard, 3<sup>rd</sup> Floor  
Santa Ana, CA 92701-4062  
Attn: Michelle Aguirre

ASSOCIATION: Garden Grove Downtown Business Association  
12866 Main Street, #100  
Garden Grove, CA 92840  
Attn: Scott Weimer

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IN WITNESS WHEREOF, the parties hereto certify that they have read and understand all the terms and conditions contained herein and have duly authorized and caused this Agreement to be executed as of the date first above written.

COUNTY OF ORANGE, a subdivision of the State of California

DATE: 2-14-08

BY:

TITLE: CHAIRMAN, BOARD OF SUPERVISORS

APPROVED AS TO FORM:  
COUNTY COUNSEL  
ORANGE COUNTY, CALIFORNIA

DATE: 12/17/07

BY:

Deputy

GARDEN GROVE DOWNTOWN BUSINESS ASSOCIATION, a California Nonprofit Corporation

DATE: 1-21-08

BY:

TITLE: PRESIDENT

DATE: \_\_\_\_\_

BY:

TITLE: Secretary

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD



Darlene J. Bloom  
Clerk of the Board of Supervisors

**CHARITABLE ORGANIZATION  
INSURANCE REQUIREMENTS**

**NAME OF CHARITABLE ORGANIZATION:** Garden Grove Downtown Business Association

**TERM OF AGREEMENT:** From December 19, 2007 To December 31, 2007

The County of Orange requires charitable organizations using County funds, staff, property or resources to carry insurance that protects the County in case of litigation. In addition, the County encourages charitable organizations to carry adequate insurance to protect themselves. The County requires the above-named charitable organization to carry insurance that is acceptable to the County, as indicated below, covering the charitable organization's entire performance of the project described in the Agreement to which this Exhibit is attached.

**Insurance Required By the County**

		<u>Per occurrence*</u>	<u>Annual aggregate*</u>	
<input checked="" type="checkbox"/>	General Liability	\$1,000,000	\$1,000,000	County must be named as additional insured.
<input type="checkbox"/>	Automobile Liability	\$ _____	\$ _____	County must be named as additional insured. This insurance is required if the project involves use of any type of motor vehicle.
<input type="checkbox"/>	Sexual Misconduct Liability	\$1,000,000	\$1,000,000	County must be named as additional insured. Required if the project involves minors.
<input checked="" type="checkbox"/>	Worker's Compensation	Statutory	Statutory	Required only if charitable organization has paid employees.
<input checked="" type="checkbox"/>	Loss or damage to property or equipment constructed, acquired or improved with funds granted by COUNTY	Market value of property or equipment	Market value of property or equipment	Required only if property or equipment of substantial value is constructed, acquired or improved with funds granted by COUNTY

**Insurance Recommended By the County**

<input type="checkbox"/>	Directors and Officers Liability	\$1,000,000	Not Required by the County
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**Certificate of Insurance**

For those boxes checked that require the County be named as additional insured, please submit a copy of the insurance certificate so indicating to Michelle Aguirre, Administrative Manager II, County Executive Office, 333 W. Santa Ana Blvd., 3<sup>rd</sup> Floor, Santa Ana, CA 92701.

The County will not be obligated under or begin performance of this Agreement until the above-indicated insurance is obtained and the certificate, if required, is submitted.

\*The standard required coverage is \$1,000,000.