

# **STAFF REPORT**

## **CITY OF YORBA LINDA**

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**Parks and Recreation Department**

**DATE: JUNE 2, 2009**

**TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL**

**FROM: SUSAN LETO, DIRECTOR OF PARKS AND RECREATION**

**SUBJECT: AMENDMENT NO. 2 - THE VETERANS MEMORIAL MONUMENT AGREEMENT TO INCLUDE ACTIVE MILITARY FOR THE MEMORIAL BRICK PROGRAM**

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### **RECOMMENDATION**

It is recommended that the City Council approve Amendment No. 2 to the Veterans Memorial Monument Agreement to include the active military for the purpose of the Memorial Brick Program and authorize the Mayor to sign, and City Clerk to attest said Amendment.

### **BACKGROUND**

On May 20, 2008, the City Council approved the agreement between the City and the Yorba Linda Veterans Memorial Association (Association) for the construction, funding, and site plan preparation for a Veterans Memorial Monument. This unique partnership gives the Yorba Linda City Council, the Association, and all citizens of Yorba Linda the opportunity to express their gratitude to those who have made sacrifices and dedicated their lives in serving our country in pursuit of liberty. In addition, the City Council approved the location of the monument be in the northwest corner of Veterans Park.

On April 21, 2009, the City Council approved Amendment No. 1 to include the Gold Star Walk as part of the Memorial Brick Program. Sales and installations of the Memorial Bricks shall continue under the supervision of the Association or its designee after completion of construction of the Memorial until such time as all space on the walkways designated for such purposes has been so fully utilized.

**DISCUSSION/ANALYSIS**

The Association established the Memorial Bricks program whereby members of the public may, for a donation, purchase and have installed a brick on the walkways of the Memorial containing the name and other information for an individual who was a veteran of active military service or to honor recognized veterans organizations. After the May 3, 2009 dedication of the Memorial, the Association determined that Active Military should be included as part of the Memorial Brick Program. The purpose of this Amendment is to clarify in the Agreement that the "Memorial Bricks" component also encompasses Active Military.

**FISCAL IMPACT**

There is no fiscal impact with including the Active Military as part of the Memorial Brick Program. Per the Agreement, the ongoing maintenance costs are absorbed in the Parks Maintenance budget.

**RECOMMENDATION**

It is recommended that the City Council approve Amendment No. 2 to the Veterans Memorial Monument Agreement to include the active military for the purpose of the Memorial Brick Program and authorize the Mayor to sign, and City Clerk to attest said Amendment.

**ALTERNATIVES**

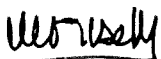
The only alternative available to the City Council is to deny Amendment No. 2, which would result in Active Military personnel being ineligible for the Memorial Brick Program.

**ATTACHMENTS**

Amendment No. 2 – Yorba Linda Veterans Memorial Monument Agreement

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Approved by:



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William R. Kelly  
Interim City Manager

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Certified as to Fiscal Impacts:



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Susan L. Hartman  
Finance Director

**AMENDMENT NO. 2 TO VETERANS MEMORIAL MONUMENT AGREEMENT**

This Amendment No. 2 (“Amendment No. 2”), effective as of June 2, 2009, is entered into by and between the City of Yorba Linda and the Yorba Linda Veterans Memorial Association concerning the Veterans’ Memorial Monument.

**RECITALS**

A. The City of Yorba Linda (“City”) is a general law city duly organized and existing under and by virtue of the laws of the State of California.

B. The Yorba Linda Veterans Memorial Association (“Association”) is a non-profit corporation (EIN 83-0435079) duly organized under the laws of the State of California and has qualified as a non-profit organization for purposes of Internal Revenue Code § 501(c)(3).

C. The City and Association duly executed and entered into that certain Veterans Memorial Monument Agreement (“Agreement”) on or about May 20, 2008, and have entered into an Amendment No. 1 thereof.

D. The purpose of this Amendment is to include those in active military duty for purposes of the Memorial Bricks component of the Memorial.

E. The “Recitals” and “Terms and Conditions” of the Agreement are not affected hereby to the extent consistent with hereof. Nor does this Amendment No. 2 affect Amendment No. 1 or the Gold Star Walk of Honor as defined therein.

**TERMS AND CONDITIONS**

In consideration of the following terms and conditions, the Parties agree as follows:

1. The Memorial Bricks component of the Memorial as defined in the Agreement is designated as encompassing “veterans” as defined in paragraph 3 of the Agreement and its Exhibit A. The class of persons who may be honored by a Memorial Brick is hereby expanded to include anyone presently enrolled in active military duty in the armed forces of the United States, including those in the National Guard or Military Reserve forces presently assigned to active military duty. The expansion of the Brick Program provided for herein is evidenced in part by the terms and conditions of the brick order form attached hereto as Exhibit C.

2. In no event shall any active military honoree as defined in paragraph 1 hereof have more than one memorial brick. If such honoree becomes a “veteran” as defined or qualifies for

the Gold Star of Walk of Honor as defined in Amendment No. 1, then such honoree may be the subject of a new brick, as the case may be, provided by any donor or purchaser under the terms of the Agreement or Amendment No. 1. Any previously installed brick for the honoree as active military hereunder shall be removed.

3. Consistent with paragraph 3 of the Agreement and Amendment No. 1, neither the Association nor the City shall have obligation or liability for the accuracy placed on the Memorial Bricks at the direction of the purchasers or donees, including the veracity of the claimed active military status or other information.

So executed effective as of June 2, 2009 by the City and the Association.

**City of Yorba Linda**

**Yorba Linda Veterans Memorial Association**

By: \_\_\_\_\_  
Mark Schwing  
Mayor

By: \_\_\_\_\_  
Its \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Kathie M. Mendoza  
City Clerk

**APPROVED AS TO FORM AND CONTENT:**

LOCKE LORD BISSELL & LIDDELL LLP

\_\_\_\_\_  
By William S. Davis  
Attorneys for YORBA LINDA VETERANS  
MEMORIAL ASSOCIATION

Dated: \_\_\_\_\_

BEST BEST & KRIEGER LLP

\_\_\_\_\_  
By Jamie L. Raymond  
Attorneys for CITY OF YORBA LINDA

Dated: \_\_\_\_\_



of the law. *The Yorba Linda Veterans Memorial Association reserves the right to approve all brick wording submitted.*  
For more information, please call (714) 777-4551. Thank you for your support of veterans and their families.

**Yorba Linda Veterans Memorial Association**

**Post Office Box 144 Yorba Linda, CA 92885 (714) 777-4551**