

34687

FUNDING AGREEMENT

THIS Funding AGREEMENT (hereinafter referred to as AGREEMENT), made and entered into by and between the CITY OF LONG BEACH (hereinafter referred to as CITY) and the COUNTY OF LOS ANGELES (hereinafter referred to as COUNTY):

WITNESSETH

WHEREAS, CITY and COUNTY agree that it is in the public interest to provide a free pilot weekend shuttle SERVICE along Marina Drive South of 2nd Street to residents, tourists and visitors of Alamitos Bay Landing and City (hereinafter referred to as SERVICE); and

WHEREAS, CITY is willing to administer the contract for SERVICE; and

WHEREAS, COUNTY is willing to finance the operating cost of SERVICE for one-year not to exceed a maximum contribution of One Hundred Thousand and 00/100 Dollars (\$100,000.00); and

CITY and COUNTY and of the promises herein contained, it is hereby agreed as follows:

1. CITY'S RESPONSIBILITIES:

- A. CITY shall provide the SERVICE by operating on the weekends as described in Exhibit A.
- B. CITY shall provide contract administration, contractor monitoring of SERVICE, and pay their contractor for providing SERVICE.
- C. CITY agrees that the COUNTY'S Maximum Funding Amount for the SERVICE shall not exceed One Hundred Thousand and 00/100 Dollars (\$100,000.00). City shall not seek reimbursement from COUNTY for costs of SERVICE exceeding the Maximum Funding Amount.
- D. CITY understands and agrees that only the designated COUNTY Contract Manager is authorized to request or order work under this AGREEMENT. CITY acknowledges that the designated Contract Manager is not authorized to request or order any work that would cause the cost of SERVICE to exceed the Maximum Funding Amount.

- E. CITY shall invoice COUNTY pursuant to the following provisions:
1. CITY will invoice COUNTY within one hundred and twenty (120) days of the end of each month for the SERVICE. Subject to acceptance and approval of COUNTY'S Director of Public Works or his designee (hereinafter referred to as DIRECTOR), the payment will normally be made within thirty (30) days of County approval of a properly completed invoice. CITY'S failure to submit required documentation and/or information in response to County's request may delay payment of invoice until such time documentation is received and approved by COUNTY.
 2. The invoices shall be submitted to:

County of Los Angeles
Department of Public Works
Attention Fiscal Division, Accounts Payable
P.O. Box 7508
Alhambra, CA 91802-7508
- F. CITY shall prepare and submit to the DIRECTOR a monthly report showing CITY'S actual operating costs and documentation showing the revenue hours, revenue miles, and passenger counts for the SERVICE, during the term of this AGREEMENT.
- G. CITY shall comply and ensure their contractor complies with all applicable Federal, State, and local laws, rules, regulations, directives, or ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference.
- H. AUDIT PROVISIONS
1. COUNTY may inspect and audit CITY records pertaining to the SERVICE (SERVICE Records) at any reasonable time upon request to CITY'S Chief Executive Officer or his/her designee. Processing and records responsibilities shall be as follows:
 - a. The SERVICE Records will be maintained by CITY for a period of five (5) years after the expiration or termination of the AGREEMENT.
 - b. The SERVICE Records will be available for audit by authorized COUNTY representatives for a period of five years after the expiration or termination of the AGREEMENT.

2. If at any time during the term of this AGREEMENT, or at any time within one-year after the expiration or termination of this AGREEMENT, authorized representatives of COUNTY may conduct an audit of CITY records regarding the SERVICE under this AGREEMENT, and if such audit finds that COUNTY'S dollar liability for such SERVICES is less than payments made by COUNTY to CITY, then CITY agrees that the difference shall be either:
 - a. Repaid forthwith by CITY to COUNTY by cash payment, or
 - b. At DIRECTOR'S option, credited against any future payments hereunder due to CITY.
- I. In addition to all other indemnities in favor of COUNTY in this AGREEMENT, CITY shall indemnify, defend, and hold harmless COUNTY, BOARD, its officers, agents, employees, and its special districts, (hereafter collectively referred to as COUNTY indemnitees) from and against any and all liability, expense, including defense costs and legal fees, and claims for damages of any nature whatsoever including, but not limited to, bodily injury, death, or property damage arising from or connected with any alleged act or omission of CITY, or its contractor(s) in connection with the SERVICE, including, but not limited to, maintenance of equipment or operation of SERVICE, including any workers' compensation suits, liability, or expense and excepting any such loss or damage arising from the sole negligence or willful misconduct of COUNTY indemnitees. CITY expressly waives application of Government Code Section 895.2, which provides for joint and several liabilities of public entities entering into agreements absent inclusion of an indemnity provision to the contrary. The provisions of Section 2778 of the California Civil Code are made a part hereof.

In addition, without limiting the CITY'S foregoing indemnity in favor of COUNTY indemnitees, if CITY provides SERVICE through a contractor, CITY shall use its best effort to include in its contract with any contractor(s) providing SERVICE under this AGREEMENT a provision with the above terms whereby the contractor(s) agree(s) to indemnify, defend, and hold harmless COUNTY indemnitees, as third-party beneficiaries, on the same basis the CITY indemnifies, defends, and holds harmless the COUNTY indemnitees under this AGREEMENT and on the same basis the contractor(s) indemnifies the CITY.

- J. The CITY'S obligation to indemnify, defend and hold harmless COUNTY indemnitees in this AGREEMENT shall survive the termination or expiration of this AGREEMENT.

2. COUNTY'S RESPONSIBILITIES:

- A. COUNTY shall pay the operating costs of SERVICE that shall not exceed the Maximum Funding Amount for the one-year pilot SERVICE in the amount of One Hundred Thousand and 00/100 Dollars (\$100,000.00).
- B. COUNTY'S Contract Manager will be Lisa Chen of the County of Los Angeles Department of Public Works, Programs Development Division, who may be contacted at (626) 458-5935, or e-mail at lichen@dpw.lacounty.gov, Monday through Thursday, 7:15 a.m. to 5 p.m. The Contract Manager is the only person authorized by Public Works to request work of the CITY. From time to time, COUNTY may change Contract Manager. CITY will be notified in writing when there is a change in Contract Manager.

3. IT IS MUTUALLY UNDERSTOOD AND AGREED AS FOLLOWS:

- A. The term of this AGREEMENT is for 1-year from the execution of the AGREEMENT by the CITY and COUNTY.
- B. The parties agree that the Assumption of Liability Agreement No. 32067 approved by the Los Angeles County Board of Supervisors on December 27, 1977, and/or a Joint Indemnity Agreement approved by the Los Angeles County Board of Supervisors on October 8, 1991, shall not apply in relation to the SERVICE.
- C. Either party may terminate this AGREEMENT by giving thirty (30) calendar days prior written notice thereof to the other party. If this AGREEMENT is terminated prior to one-year, CITY shall calculate and report the operating costs that it has not already invoiced, as specified herein, less reimbursements specified in this AGREEMENT and invoice COUNTY accordingly, as provided herein. CITY shall credit to COUNTY any unused portion of the Operation costs previously paid by COUNTY.

D. CORRESPONDENCE

- 1. All correspondence and notices to the CITY shall be directed to:

Mr. Sean Crumby, Deputy Director of Public Works
City of Long Beach
333 West Ocean Boulevard
Long Beach, CA 90802
Attention Mr. George Ker

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by their respective officers, duly authorized, by the CITY OF LONG BEACH on 8/22, 2017, and by the COUNTY on 7/19, 2017, pursuant to authority delegated by the County of Los Angeles Board of Supervisors, Agenda Item No. 20, on September 6, 2016.

COUNTY OF LOS ANGELES

By *Pat Doano*
for Director of Public Works
Date: 7/19/17

APPROVE AS TO FORM:

MARY C. WICKHAM
County Counsel

By *Rosinda*
Deputy

CITY OF LONG BEACH
Assistant City Manager

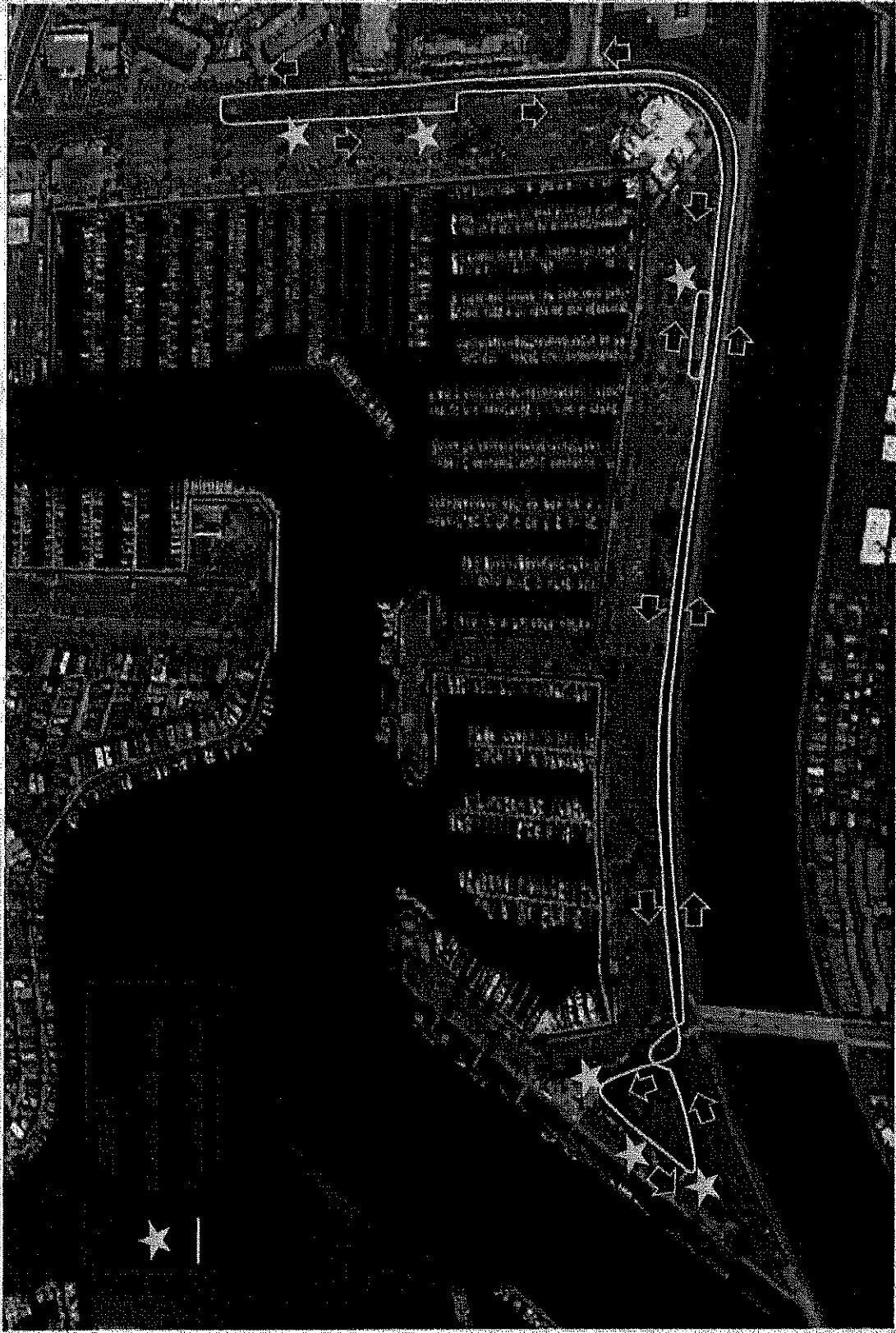
By *Tom Modica*
PHW
PATRICK H. WEST
City Manager
Date: 5/24/17

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

City of Long Beach Attorney

By _____
CHARLES PARKIN

APPROVED AS TO FORM
5/17 20 17
CHARLES PARKIN, City Attorney
By *Linda T. Vu*
LINDA T. VU
DEPUTY CITY ATTORNEY



Shuttle Service Available
Friday – Sunday, 5:00 p.m. to Midnight

Exhibit A