

September 27, 2016

34478

Patrick H. West, City Manager
City of Long Beach City Hall
333 W. Ocean Blvd.
Long Beach CA 90802

Subject: Letter of Agreement regarding City of Long Beach "Activate Uptown" Event on
October 1, 2016

Dear Mr. West,

This Letter of Agreement ("Agreement") is made by and between the **Southern California Association of Governments ("SCAG")** and the **City of Long Beach ("City")**, for the purpose of partnering on the production of a certain temporary open streets event to be held on Saturday, October 1, 2016 and as more fully described herein. The effective date of the agreement is October 1, 2016. SCAG and the City are individually referred to herein as "Party" and may be collectively referred to herein as "Parties."

1. Background

As background, SCAG is a Joint Powers Agency and a federally designated Metropolitan Planning Organization (MPO) for Southern California. As an MPO, SCAG is primarily responsible for the development of a Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) for the counties of Imperial, Los Angeles, Orange, San Bernardino, Riverside, and Ventura. Amongst other things, the RTP/SCS encourages an increased use of active transportation (walking and biking) which has resulted in the development of a comprehensive regional "Go Human" Active Transportation Safety and Encouragement Campaign ("Go Human Campaign").

SCAG has retained Alta Planning + Design, Inc. ("Consultant") to develop and implement a Tactical Urbanism component of the Go Human Campaign, which includes the production of temporary improvements (or "pop-ups"), street festivals or other activities throughout the SCAG region that demonstrate how existing streets can be transformed to promote active transportation and support complete street concepts.

SCAG is partnering with the City for the purpose of assisting with a temporary open streets event entitled "Activate Uptown" to be produced by the City and held on October 1, 2016 along Artesia Boulevard between Atlantic and Orange Avenues as well as Myrtle Avenue between Artesia Boulevard and Harding Street in the City of Long Beach between the hours of 10:00 am to 4:00 pm (hereinafter, referred to as the "Event"). The Parties agree to pursue the Event based upon the terms and conditions set forth in this Agreement, which shall describe the roles and responsibilities of the Parties, and shall supersede and replace any previous agreements between SCAG and the City related to the Event.

2. Roles and Responsibilities of the Parties

- a. City serves as the implementing agency for the Event and is fully responsible for producing the Event, including but not limited to, providing general oversight of the Event. For purposes of the Event, the City shall be responsible for the following:
- 1) Determine traffic control requirements, develop a street closure and traffic management plan for the event, and provide adequate staffing to implement the plan.
 - 2) Provide necessary staffing from the City's Public Works, Fire and Police Departments.
 - 3) Install sharrows along Myrtle Avenue in the City of Long Beach.
 - 4) Post "No Parking" signage along the demonstration route prior to temporary realignment.
 - 5) Fund event rentals including tables, chairs, tents and temporary restroom facilities.
 - 6) Provide insurance in accordance with SCAG's minimum requirements identified below.
 - 7) Sweep/clean streets prior to and after the event.
 - 8) Provide First Aid and emergency response services.
 - 9) Create content for and staffing any city-run community outreach/feedback stations.
 - 10) Coordinate and provide necessary equipment for programming along Artesia Boulevard and at music festival; and
 - 11) Coordinate and integrate with any existing events that will happen during the tactical urbanism event.
- b. SCAG serves as a sponsor of the Event and has retained the Consultant to assist the City in producing the Event. The City shall fully cooperate with SCAG and Consultant as may be reasonably necessary to produce the Event. SCAG is solely responsible for compensating Consultant for services rendered for the Event. At all times, Consultant (or SCAG-approved subconsultants of Consultant), acting as the agent of SCAG, bears the responsibility of conducting all necessary tasks to assist in producing the Event in accordance with the Scope of Work in SCAG Contract Number 16-042-C1, incorporated herein by reference. Consultant shall work with City to assist with the production of the Event and shall be responsible for the following:
- 1) Develop Site Plan that illustrates locations of all activities and programming including Artesia Boulevard (entertainment, stages, food/beverage) and Myrtle Avenue temporary improvements and programming.
 - 2) Submit Site Plan to Long Beach Fire Department.
 - 3) Complete implementation of temporary improvements along Myrtle Avenue, tabling at the Event and development of a passport program.

- 4) Program/activate Myrtle Avenue to illustrate potential improvements and disperse general active transportation safety and encouragement information.
- 5) Coordinate Event rentals including tables/chairs/tents/restroom facilities.
- 6) Develop branding and implement promotion.
- 7) Implement ad plan/social media/community outreach (e.g., flyering, press release, ad placement, BID outreach, school outreach).
- 8) Develop and implement programming along Artesia Boulevard.
- 9) Develop, produce and implement Event signage.
- 10) Coordinate vendors, including outreach, approval, coordination, and materials.
- 11) Coordinate volunteers for Event implementation.
- 12) Develop site planning for garbage/recycling.
- 13) Develop sponsor platform to raise additional funds.

3. MSRC Funding.

The Parties acknowledge that the City has received funding from the South Coast Air Quality Management District ("SCAQMD") through its AB 2766/MSRC Transportation Control Measure Partnership Program ("MSRC funding") to plan, coordinate and implement the Event. The Parties further acknowledge that SCAG's sponsorship of the Event, including the services to be provided by SCAG staff and SCAG's Consultant, shall contribute toward the required local match funds for the MSRC funding. SCAG shall cooperate with City to produce documentation that demonstrates the match funds provided.

4. Additional Provisions.

- a. Term. The Term of this Agreement shall begin on the Effective Date of the Agreement and continue until December 30, 2016, hereinafter referred to as the "Completion Date," unless terminated earlier as provided herein. Time is of the essence in the performance of services under this Agreement.
- b. Project Management. All work under this Agreement shall be coordinated with the City, SCAG staff and SCAG's Consultant the Project Managers. For purposes of this Agreement, the Parties have designated the following Project Managers:

For City: Nate Baird
City of Long Beach Mobility Officer
(562) 570-6618
Nathan.Baird@longbeach.gov

For SCAG: Stephen Patchan
SCAG Senior Regional Planner
(213) 236 1923
Patchan@scag.ca.gov

Ryan Johnson
Alta Planning and Design Senior Planner
(213) 437-3392
Ryanjohnson@altaplanning.com

- c. Independent Contractor. It is understood that in the production of the Event, SCAG and Consultant shall be an independent contractor, and is not an agent or employee of the City. It is also understood that City is an independent contractor, and is not an agent or employee of SCAG or Consultant. The Parties and Consultant shall retain the right to exercise full control over the employment, direction, compensation of its employees. SCAG shall be solely responsible for, and shall indemnify, defend and hold harmless City from all matters relating to the payment of Consultant for services rendered for production of the Event. Except as may otherwise be authorized in writing, the Parties or Consultant shall have no authority, express or implied, to act on behalf of or bind the other Party in any capacity whatsoever as agents or otherwise.
- d. Insurance. The City shall, at its own expense, procure and maintain the minimum required insurance coverage as set forth below, for the duration of the Agreement. The policies shall state they afford primary coverage.

Minimum Scope of Insurance – Coverage shall be at least as broad as:

- (1) Insurance Services Office Commercial General Liability coverage (Occurrence form CG0001), or its equivalent.
- (2) Insurance Services Office form number CA0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto) or its equivalent.
- (3) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
- (4) Professional Liability (Errors and Omissions) insurance appropriate to the Consultant's profession.

Minimum Limits of Insurance – Consultant shall maintain limits no less than:

- (1) General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- (2) Automobile Liability: Including contractual liability insuring owned, non-owned, hired and all vehicles by Consultant with a combined single limit of not less than \$1,000,000 applicable to bodily injury, or death, and loss of or damage to property

in any one occurrence.

- (3) Workers' Compensation Liability: Including Occupational Diseases in accordance with California Law and Employers' Liability Insurance with a limit of not less than \$1,000,000 each accident.
- (4) Professional Liability Insurance: With limits of not less than \$1,000,000 per claim and aggregate. In addition, it shall be required that the professional liability insurance policy remain in effect for six (6) months after the Completion Date of this Agreement.

Other Insurance Provisions –

- (1) SCAG, its officials and employees shall be covered as additional insureds, as respects to liability arising out of the activities performed by or on behalf of City. The coverage shall contain no special limitations on the scope of protection afforded to SCAG, its officials and employees.
- (2) For any claims related to this Event, the City's insurance coverage shall be primary insurance as respects City, its officials and employees. Any insurance maintained by SCAG or Consultant shall be excess of City's insurance and shall not contribute with it.
- (3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to City, its officials and employees.
- (4) SCAG or Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Verification of Coverage – City shall furnish SCAG with original endorsements and certificates of insurance evidencing coverage required by this clause. All documents are to be signed by a person authorized by that insurer to bind coverage on its behalf. All documents are to be received and approved by SCAG before work commences. Upon request of SCAG at any time, Consultant shall provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

- e. Mutual Indemnification. Except for the negligence or willful misconduct of the other Party and any of its officers, agents, employees, assigns, and successors in interest, each Party undertakes and agrees to defend, indemnify, and hold harmless the other and any of its directors, officers, agents, employees, assigns, and successors in interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including SCAG's Consultant(s), employees and agents, or damage or destruction of any property of either party hereto or of third

parties, arising in any manner by reason of the negligent acts, errors or omissions or violations of law by the Party, employees and agents in connection with its activities under this Agreement.

- f. Disputes. Except as otherwise provided in this Agreement, any dispute arising under this Agreement which is not disposed of by mutual agreement shall be decided through binding arbitration by a three (3) member panel in accordance with the rules of the American Arbitration Association.
- g. Non-Assignment. Neither Party shall assign this Agreement, or any part thereof, without the written consent of each Party to this Agreement. Any assignment without such written consent shall be void and unenforceable.
- h. Release of Information. The City shall not release any information to a third party or otherwise publish or utilize any information obtained or produced by it as a result of or in connection with the performance of services under this Agreement without the prior written authorization of SCAG.
- i. Severability. If any provision of this Agreement is held to be illegal, invalid, or unenforceable, in whole or in part, such provision shall be modified to the minimum extent necessary to make it legal, valid, and enforceable, and the legality, validity, and enforceability of the remaining provisions shall not be affected thereby.
- j. Jurisdiction and Venue. This Agreement shall be deemed an agreement under the laws of the State of California, and for all purposes shall be interpreted in accordance with such laws. Both Parties hereby agree and consent to the exclusive jurisdiction of the courts of the State of California and that the venue of any action brought thereunder shall be Los Angeles County, California.
- k. Standard of Care. The Parties shall perform the work required for the production of the Event under this Agreement in accordance with generally accepted industry standards, practices, and principles applicable to such work.
- l. Force Majeure. Neither City, SCAG or SCAG's Consultant shall be liable or deemed to be in default for any delay or failure in performance under this Agreement or interruption of services resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, war, strikes, labor disputes, or any other similar cause beyond the reasonable control of the City, SCAG or SCAG's Consultant.
- m. Entire Agreement. This Agreement represents and contains the entire agreement of the Parties with respect to the matters set forth herein. This Agreement supersedes any and all prior negotiations, discussions and, if any, previous agreements between the Parties. This Agreement may not be modified or altered without the formal written amendment signed by the Parties.

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If the terms and conditions of this Agreement are acceptable to you, please sign and date below, and thereafter return the Agreement to SCAG's Project Manager Stephen Patchan. The date in which you sign the Agreement shall serve as the effective date of this Agreement. This Agreement may be signed by manual or authorized digital signature. Delivery of an executed signature by way of an electronic scanned page shall also be deemed effective as a delivery of a manually or digitally executed signature to this Agreement.

Sincerely,

Basil Panas
Chief Financial Officer

Agreed and Accepted By:



Patrick H. West, City Manager, Long Beach
Assistant City Manager

Date 1/17/17

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

APPROVED AS TO FORM

1/5, 2017
CHARLES PARKIN, City Attorney
By _____
LINDA T. VU
DEPUTY CITY ATTORNEY