

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

AGREEMENT

34250

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THIS AGREEMENT is made and entered, in duplicate, as of December 24, 2015 for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on October 20, 2015, by and between MAD PLANET, LLC, a California limited liability company ("Consultant"), with a place of business at 5120 E. 25th Street, Long Beach, California 90815, and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, the City requires specialized services requiring unique skills to be performed in connection with as-needed graphic design and creative services ("Project"); and

WHEREAS, City has selected Consultant in accordance with City's administrative procedures and City has determined that Consultant and its employees are qualified, licensed, if so required, and experienced in performing these specialized services; and

WHEREAS, City desires to have Consultant perform these specialized services, and Consultant is willing and able to do so on the terms and conditions in this Agreement;

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

1. SCOPE OF WORK OR SERVICES.

A. Consultant shall furnish specialized services more particularly described in Exhibit "A", attached to this Agreement and incorporated by this reference, in accordance with the standards of the profession, and City shall pay for these services in the manner described below, not to exceed Forty Thousand Dollars (\$40,000), at the rates or charges shown in Exhibit "B".

B. The City's obligation to pay the sum stated above for any one fiscal year shall be contingent upon the City Council of the City appropriating the

1 necessary funds for such payment by the City in each fiscal year during the term of
2 this Agreement. For the purposes of this Section, a fiscal year commences on
3 October 1 of the year and continues through September 30 of the following year. In
4 the event that the City Council of the City fails to appropriate the necessary funds
5 for any fiscal year, then, and in that event, the Agreement will terminate at no
6 additional cost or obligation to the City.

7 C. Consultant may select the time and place of performance for
8 these services provided, however, that access to City documents, records, and the
9 like, if needed by Consultant, shall be available only during City's normal business
10 hours and provided that milestones for performance, if any, are met.

11 D. Consultant has requested to receive regular payments. City
12 shall pay Consultant in due course of payments following receipt from Consultant
13 and approval by City of invoices showing the services or task performed, the time
14 expended (if billing is hourly), and the name of the Project. Consultant shall certify
15 on the invoices that Consultant has performed the services in full conformance with
16 this Agreement and is entitled to receive payment. Each invoice shall be
17 accompanied by a progress report indicating the progress to date of services
18 performed and covered by the invoice, including a brief statement of any Project
19 problems and potential causes of delay in performance, and listing those services
20 that are projected for performance by Consultant during the next invoice cycle.
21 Where billing is done and payment is made on an hourly basis, the parties
22 acknowledge that this arrangement is either customary practice for Consultant's
23 profession, industry, or business, or is necessary to satisfy audit and legal
24 requirements which may arise due to the fact that City is a municipality.

25 E. Consultant represents that Consultant has obtained all
26 necessary information on conditions and circumstances that may affect its
27 performance and has conducted site visits, if necessary.

28 F. CAUTION: Consultant shall not begin work until this

1 Agreement has been signed by both parties and until Consultant's evidence of
2 insurance has been delivered to and approved by the City.

3 2. TERM. The term of this Agreement shall commence at midnight on
4 December 1, 2015, and shall terminate at 11:59 p.m. on November 30, 2017, unless
5 sooner terminated as provided in this Agreement, or unless the services or the Project is
6 completed sooner. The parties have the option to extend the term for two (2) additional
7 one-year periods.

8 3. COORDINATION AND ORGANIZATION.

9 A. Consultant shall coordinate its performance with City's
10 representative, if any, named in Exhibit "C", attached to this Agreement and
11 incorporated by this reference. Consultant shall advise and inform City's
12 representative of the work in progress on the Project in sufficient detail so as to
13 assist City's representative in making presentations and in holding meetings on the
14 Project. City shall furnish to Consultant information or materials, if any, described
15 in Exhibit "D" attached to this Agreement and incorporated by this reference, and
16 shall perform any other tasks described in the Exhibit.

17 B. The parties acknowledge that a substantial inducement to City
18 for entering this Agreement was and is the reputation and skill of Consultant's key
19 employee, Glenn Talan. City shall have the right to approve any person proposed
20 by Consultant to replace that key employee.

21 4. INDEPENDENT CONTRACTOR. In performing its services,
22 Consultant is and shall act as an independent contractor and not an employee,
23 representative, or agent of City. Consultant shall have control of Consultant's work and
24 the manner in which it is performed. Consultant shall be free to contract for similar services
25 to be performed for others during this Agreement provided, however, that Consultant acts
26 in accordance with Section 9 and Section 11 of this Agreement. Consultant acknowledges
27 and agrees that a) City will not withhold taxes of any kind from Consultant's compensation,
28 b) City will not secure workers' compensation or pay unemployment insurance to, for or on

1 Consultant's behalf, and c) City will not provide and Consultant is not entitled to any of the
2 usual and customary rights, benefits or privileges of City employees. Consultant expressly
3 warrants that neither Consultant nor any of Consultant's employees or agents shall
4 represent themselves to be employees or agents of City.

5 5. INSURANCE.

6 A. As a condition precedent to the effectiveness of this
7 Agreement, Consultant shall procure and maintain, at Consultant's expense for the
8 duration of this Agreement, from insurance companies that are admitted to write
9 insurance in California and have ratings of or equivalent to A:V by A.M. Best
10 Company or from authorized non-admitted insurance companies subject to Section
11 1763 of the California Insurance Code and that have ratings of or equivalent to A:VIII
12 by A.M. Best Company the following insurance:

13 (a) Commercial general liability insurance (equivalent in scope to
14 ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less than
15 \$1,000,000 per each occurrence and \$2,000,000 general aggregate. This
16 coverage shall include but not be limited to broad form contractual liability,
17 cross liability, independent contractors liability, and products and completed
18 operations liability. The City, its boards and commissions, and their officials,
19 employees and agents shall be named as additional insureds by
20 endorsement (on City's endorsement form or on an endorsement equivalent
21 in scope to ISO form CG 20 10 11 85 or CG 20 26 11 85 or both CG 20 10
22 07 04 and CG 20 37 07 04 or both CG 20 33 07 04 and CG 20 37 07 04),
23 and this insurance shall contain no special limitations on the scope of
24 protection given to the City, its boards and commissions, and their officials,
25 employees and agents. This policy shall be endorsed to state that the
26 insurer waives its right of subrogation against City, its boards and
27 commissions, and their officials, employees and agents.

28 (b) Workers' Compensation insurance as required by the California

1 Labor Code and employer's liability insurance in an amount not less than
2 \$1,000,000. This policy shall be endorsed to state that the insurer waives
3 its right of subrogation against City, its boards and commissions, and their
4 officials, employees and agents.

5 (c) Professional liability or errors and omissions insurance in an
6 amount not less than \$1,000,000 per claim.

7 (d) Commercial automobile liability insurance (equivalent in scope
8 to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an
9 amount not less than \$500,000 combined single limit per accident.

10 B. Any self-insurance program, self-insured retention, or
11 deductible must be separately approved in writing by City's Risk Manager or
12 designee and shall protect City, its officials, employees and agents in the same
13 manner and to the same extent as they would have been protected had the policy
14 or policies not contained retention or deductible provisions.

15 C. Each insurance policy shall be endorsed to state that coverage
16 shall not be reduced, non-renewed, or canceled except after thirty (30) days prior
17 written notice to City, shall be primary and not contributing to any other insurance
18 or self-insurance maintained by City, and shall be endorsed to state that coverage
19 maintained by City shall be excess to and shall not contribute to insurance or self-
20 insurance maintained by Consultant. Consultant shall notify the City in writing within
21 five (5) days after any insurance has been voided by the insurer or cancelled by the
22 insured.

23 D. If this coverage is written on a "claims made" basis, it must
24 provide for an extended reporting period of not less than one hundred eighty (180)
25 days, commencing on the date this Agreement expires or is terminated, unless
26 Consultant guarantees that Consultant will provide to the City evidence of
27 uninterrupted, continuing coverage for a period of not less than three (3) years,
28 commencing on the date this Agreement expires or is terminated.

1 E. Consultant shall require that all subconsultants or contractors
2 which Consultant uses in the performance of these services maintain insurance in
3 compliance with this Section unless otherwise agreed in writing by City's Risk
4 Manager or designee.

5 F. Prior to the start of performance, Consultant shall deliver to City
6 certificates of insurance and the endorsements for approval as to sufficiency and
7 form. In addition, Consultant, shall, within thirty (30) days prior to expiration of the
8 insurance, furnish to City certificates of insurance and endorsements evidencing
9 renewal of the insurance. City reserves the right to require complete certified copies
10 of all policies of Consultant and Consultant's subconsultants and contractors, at any
11 time. Consultant shall make available to City's Risk Manager or designee all books,
12 records and other information relating to this insurance, during normal business
13 hours.

14 G. Any modification or waiver of these insurance requirements
15 shall only be made with the approval of City's Risk Manager or designee. Not more
16 frequently than once a year, the City's Risk Manager or designee may require that
17 Consultant, Consultant's subconsultants and contractors change the amount, scope
18 or types of coverages required in this Section if, in his or her sole opinion, the
19 amount, scope, or types of coverages are not adequate.

20 H. The procuring or existence of insurance shall not be construed
21 or deemed as a limitation on liability relating to Consultant's performance or as full
22 performance of or compliance with the indemnification provisions of this Agreement.

23 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement
24 contemplates the personal services of Consultant and Consultant's employees, and the
25 parties acknowledge that a substantial inducement to City for entering this Agreement was
26 and is the professional reputation and competence of Consultant and Consultant's
27 employees. Consultant shall not assign its rights or delegate its duties under this
28 Agreement, or any interest in this Agreement, or any portion of it, without the prior approval

1 of City, except that Consultant may with the prior approval of the City Manager of City,
2 assign any moneys due or to become due the Consultant under this Agreement. Any
3 attempted assignment or delegation shall be void, and any assignee or delegate shall
4 acquire no right or interest by reason of an attempted assignment or delegation.
5 Furthermore, Consultant shall not subcontract any portion of its performance without the
6 prior approval of the City Manager or designee, or substitute an approved subconsultant
7 or contractor without approval prior to the substitution. Nothing stated in this Section shall
8 prevent Consultant from employing as many employees as Consultant deems necessary
9 for performance of this Agreement.

10 7. CONFLICT OF INTEREST. Consultant, by executing this Agreement,
11 certifies that, at the time Consultant executes this Agreement and for its duration,
12 Consultant does not and will not perform services for any other client which would create
13 a conflict, whether monetary or otherwise, as between the interests of City and the interests
14 of that other client. And, Consultant shall obtain similar certifications from Consultant's
15 employees, subconsultants and contractors.

16 8. MATERIALS. Consultant shall furnish all labor and supervision,
17 supplies, materials, tools, machinery, equipment, appliances, transportation, and services
18 necessary to or used in the performance of Consultant's obligations under this Agreement,
19 except as stated in Exhibit "D".

20 9. OWNERSHIP OF DATA. All materials, information and data
21 prepared, developed, or assembled by Consultant or furnished to Consultant in connection
22 with this Agreement, including but not limited to documents, estimates, calculations,
23 studies, maps, graphs, charts, computer disks, computer source documentation, samples,
24 models, reports, summaries, drawings, designs, notes, plans, information, material, and
25 memorandum ("Data") shall be the exclusive property of City. Data shall be given to City,
26 and City shall have the unrestricted right to use and disclose the Data in any manner and
27 for any purpose without payment of further compensation to Consultant. Copies of Data
28 may be retained by Consultant but Consultant warrants that Data shall not be made

1 available to any person or entity for use without the prior approval of City. This warranty
2 shall survive termination of this Agreement for five (5) years.

3 10. TERMINATION. Either party shall have the right to terminate this
4 Agreement for any reason or no reason at any time by giving fifteen (15) calendar days
5 prior written notice to the other party. In the event of termination under this Section, City
6 shall pay Consultant for services satisfactorily performed and costs incurred up to the
7 effective date of termination for which Consultant has not been previously paid. The
8 procedures for payment in Section 1.B. with regard to invoices shall apply. On the effective
9 date of termination, Consultant shall deliver to City all Data developed or accumulated in
10 the performance of this Agreement, whether in draft or final form, or in process. And,
11 Consultant acknowledges and agrees that City's obligation to make final payment is
12 conditioned on Consultant's delivery of the Data to the City.

13 11. CONFIDENTIALITY. Consultant shall keep the Data confidential and
14 shall not disclose the Data or use the Data directly or indirectly other than in the course of
15 performing its services, during the term of this Agreement and for five (5) years following
16 expiration or termination of this Agreement. In addition, Consultant shall keep confidential
17 all information, whether written, oral, or visual, obtained by any means whatsoever in the
18 course of performing its services for the same period of time. Consultant shall not disclose
19 any or all of the Data to any third party, or use it for Consultant's own benefit or the benefit
20 of others except for the purpose of this Agreement.

21 12. BREACH OF CONFIDENTIALITY. Consultant shall not be liable for
22 a breach of confidentiality with respect to Data that: (a) Consultant demonstrates
23 Consultant knew prior to the time City disclosed it; or (b) is or becomes publicly available
24 without breach of this Agreement by Consultant; or (c) a third party who has a right to
25 disclose does so to Consultant without restrictions on further disclosure; or (d) must be
26 disclosed pursuant to subpoena or court order.

27 13. ADDITIONAL COSTS AND REDESIGN.

28 A. Any costs incurred by the City due to Consultant's failure to

1 meet the standards required by the scope of work or Consultant's failure to perform
2 fully the tasks described in the scope of work which, in either case, causes the City
3 to request that Consultant perform again all or part of the Scope of Work shall be at
4 the sole cost of Consultant and City shall not pay any additional compensation to
5 Consultant for its re-performance.

6 B. If the Project involves construction and the scope of work
7 requires Consultant to prepare plans and specifications with an estimate of the cost
8 of construction, then Consultant may be required to modify the plans and
9 specifications, any construction documents relating to the plans and specifications,
10 and Consultant's estimate, at no cost to City, when the lowest bid for construction
11 received by City exceeds by more than ten percent (10%) Consultant's estimate.
12 This modification shall be submitted in a timely fashion to allow City to receive new
13 bids within four (4) months after the date on which the original plans and
14 specifications were submitted by Consultant.

15 14. AMENDMENT. This Agreement, including all Exhibits, shall not be
16 amended, nor any provision or breach waived, except in writing signed by the parties which
17 expressly refers to this Agreement.

18 15. LAW. This Agreement shall be governed by and construed pursuant
19 to the laws of the State of California (except those provisions of California law pertaining
20 to conflicts of laws). Consultant shall comply with all laws, ordinances, rules and
21 regulations of and obtain all permits, licenses, and certificates required by all federal, state
22 and local governmental authorities.

23 16. ENTIRE AGREEMENT. This Agreement, including all Exhibits,
24 constitutes the entire understanding between the parties and supersedes all other
25 agreements, oral or written, with respect to the subject matter in this Agreement.

26 17. INDEMNITY.

27 A. Consultant shall indemnify, protect and hold harmless City, its
28 Boards, Commissions, and their officials, employees and agents ("Indemnified

1 Parties”), from and against any and all liability, claims, demands, damage, loss,
2 obligations, causes of action, proceedings, awards, fines, judgments, penalties,
3 costs and expenses, including attorneys’ fees, court costs, expert and witness fees,
4 and other costs and fees of litigation, arising or alleged to have arisen, in whole or
5 in part, out of or in connection with (1) Consultant’s breach or failure to comply with
6 any of its obligations contained in this Agreement, or (2) negligent or willful acts,
7 errors, omissions or misrepresentations committed by Consultant, its officers,
8 employees, agents, subcontractors, or anyone under Consultant’s control, in the
9 performance of work or services under this Agreement (collectively “Claims” or
10 individually “Claim”).

11 B. In addition to Consultant’s duty to indemnify, Consultant shall
12 have a separate and wholly independent duty to defend Indemnified Parties at
13 Consultant’s expense by legal counsel approved by City, from and against all
14 Claims, and shall continue this defense until the Claims are resolved, whether by
15 settlement, judgment or otherwise. No finding or judgment of negligence, fault,
16 breach, or the like on the part of Consultant shall be required for the duty to defend
17 to arise. City shall notify Consultant of any Claim, shall tender the defense of the
18 Claim to Consultant, and shall assist Consultant, as may be reasonably requested,
19 in the defense.

20 C. If a court of competent jurisdiction determines that a Claim was
21 caused by the sole negligence or willful misconduct of Indemnified Parties,
22 Consultant’s costs of defense and indemnity shall be (1) reimbursed in full if the
23 court determines sole negligence by the Indemnified Parties, or (2) reduced by the
24 percentage of willful misconduct attributed by the court to the Indemnified Parties.

25 D. To the extent this Agreement is a professional service
26 agreement for work or services performed by a design professional (architect,
27 landscape architect, professional engineer or professional land surveyor), the
28 provisions of this Section regarding Consultant’s duty to defend and indemnify shall

1 be limited as provided in California Civil Code Section 2782.8, and shall apply only
2 to Claims that arise out of, pertain to, or relate to the negligence, recklessness, or
3 willful misconduct of the Consultant.

4 E. The provisions of this Section shall survive the expiration or
5 termination of this Agreement.

6 18. AMBIGUITY. In the event of any conflict or ambiguity between this
7 Agreement and any Exhibit, the provisions of this Agreement shall govern.

8 19. NONDISCRIMINATION.

9 A. In connection with performance of this Agreement and subject
10 to applicable rules and regulations, Consultant shall not discriminate against any
11 employee or applicant for employment because of race, religion, national origin,
12 color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap, or
13 disability. Consultant shall ensure that applicants are employed, and that employees
14 are treated during their employment, without regard to these bases. These actions
15 shall include, but not be limited to, the following: employment, upgrading, demotion
16 or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay
17 or other forms of compensation, and selection for training, including apprenticeship.

18 B. It is the policy of City to encourage the participation of
19 Disadvantaged, Minority and Women-owned Business Enterprises in City's
20 procurement process, and Consultant agrees to use its best efforts to carry out this
21 policy in its use of subconsultants and contractors to the fullest extent consistent
22 with the efficient performance of this Agreement. Consultant may rely on written
23 representations by subconsultants and contractors regarding their status.
24 Consultant shall report to City in May and in December or, in the case of short-term
25 agreements, prior to invoicing for final payment, the names of all subconsultants
26 and contractors hired by Consultant for this Project and information on whether or
27 not they are a Disadvantaged, Minority or Women-Owned Business Enterprise, as
28 defined in Section 8 of the Small Business Act (15 U.S.C. Sec. 637).

1 20. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in
2 accordance with the provisions of the Ordinance, this Agreement is subject to the
3 applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the
4 Long Beach Municipal Code, as amended from time to time.

5 A. During the performance of this Agreement, the Consultant
6 certifies and represents that the Consultant will comply with the EBO. The
7 Consultant agrees to post the following statement in conspicuous places at its place
8 of business available to employees and applicants for employment:

9 “During the performance of a contract with the City of Long Beach, the
10 Consultant will provide equal benefits to employees with spouses and its
11 employees with domestic partners. Additional information about the City of
12 Long Beach’s Equal Benefits Ordinance may be obtained from the City of
13 Long Beach Business Services Division at 562-570-6200.”

14 B. The failure of the Consultant to comply with the EBO will be
15 deemed to be a material breach of the Agreement by the City.

16 C. If the Consultant fails to comply with the EBO, the City may
17 cancel, terminate or suspend the Agreement, in whole or in part, and monies due or
18 to become due under the Agreement may be retained by the City. The City may
19 also pursue any and all other remedies at law or in equity for any breach.

20 D. Failure to comply with the EBO may be used as evidence
21 against the Consultant in actions taken pursuant to the provisions of Long Beach
22 Municipal Code 2.93 et seq., Contractor Responsibility.

23 E. If the City determines that the Consultant has set up or used its
24 contracting entity for the purpose of evading the intent of the EBO, the City may
25 terminate the Agreement on behalf of the City. Violation of this provision may be
26 used as evidence against the Consultant in actions taken pursuant to the provisions
27 of Long Beach Municipal Code section 2.93 et seq., Contractor Responsibility.

28 ///

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 21. NOTICES. Any notice or approval required by this Agreement shall
2 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,
3 postage prepaid, addressed to Consultant at the address first stated above, and to the City
4 at 333 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager with a
5 copy to the City Engineer at the same address. Notice of change of address shall be given
6 in the same manner as stated for other notices. Notice shall be deemed given on the date
7 deposited in the mail or on the date personal delivery is made, whichever occurs first.

8 22. COPYRIGHTS AND PATENT RIGHTS.

9 A. Consultant shall place the following copyright protection on all
10 Data: © City of Long Beach, California ____, inserting the appropriate year.

11 B. City reserves the exclusive right to seek and obtain a patent or
12 copyright registration on any Data or other result arising from Consultant's
13 performance of this Agreement. By executing this Agreement, Consultant assigns
14 any ownership interest Consultant may have in the Data to the City.

15 C. Consultant warrants that the Data does not violate or infringe
16 any patent, copyright, trade secret or other proprietary right of any other party.
17 Consultant agrees to and shall protect, defend, indemnify and hold City, its officials
18 and employees harmless from any and all claims, demands, damages, loss, liability,
19 causes of action, costs or expenses (including reasonable attorneys' fees) whether
20 or not reduced to judgment, arising from any breach or alleged breach of this
21 warranty.

22 23. COVENANT AGAINST CONTINGENT FEES. Consultant warrants
23 that Consultant has not employed or retained any entity or person to solicit or obtain this
24 Agreement and that Consultant has not paid or agreed to pay any entity or person any fee,
25 commission, or other monies based on or from the award of this Agreement. If Consultant
26 breaches this warranty, City shall have the right to terminate this Agreement immediately
27 notwithstanding the provisions of Section 10 or, in its discretion, to deduct from payments
28 due under this Agreement or otherwise recover the full amount of the fee, commission, or

1 other monies.

2 24. WAIVER. The acceptance of any services or the payment of any
3 money by City shall not operate as a waiver of any provision of this Agreement or of any
4 right to damages or indemnity stated in this Agreement. The waiver of any breach of this
5 Agreement shall not constitute a waiver of any other or subsequent breach of this
6 Agreement.

7 25. CONTINUATION. Termination or expiration of this Agreement shall
8 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,
9 17, 19, 22, and 28 prior to termination or expiration of this Agreement.

10 26. TAX REPORTING. As required by federal and state law, City is
11 obligated to and will report the payment of compensation to Consultant on Form 1099-
12 Misc. Consultant shall be solely responsible for payment of all federal and state taxes
13 resulting from payments under this Agreement. Consultant shall submit Consultant's
14 Employer Identification Number (EIN), or Consultant's Social Security Number if
15 Consultant does not have an EIN, in writing to City's Accounts Payable, Department of
16 Financial Management. Consultant acknowledges and agrees that City has no obligation
17 to pay Consultant until Consultant provides one of these numbers.

18 27. ADVERTISING. Consultant shall not use the name of City, its officials
19 or employees in any advertising or solicitation for business or as a reference, without the
20 prior approval of the City Manager or designee.

21 28. AUDIT. City shall have the right at all reasonable times during the
22 term of this Agreement and for a period of five (5) years after termination or expiration of
23 this Agreement to examine, audit, inspect, review, extract information from, and copy all
24 books, records, accounts, and other documents of Consultant relating to this Agreement.

25 29. THIRD PARTY BENEFICIARY. This Agreement is not intended or
26 designed to or entered for the purpose of creating any benefit or right for any person or
27 entity of any kind that is not a party to this Agreement.

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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.

MAD PLANET, LLC, a California limited liability company

February 19th, 2016

By [Signature]
Name GLEN C. TILMAN
Title CREATIVE DIRECTOR

February 19th, 2016

By [Signature]
Name Cathy Brewer
Title Asst. Director

"Consultant"

CITY OF LONG BEACH, a municipal corporation

April 27, 2016

By [Signature]
City Manager
Assistant City Manager

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

"City"

This Agreement is approved as to form on 3-7, 2016.

CHARLES PARKIN, City Attorney

By [Signature]
Deputy

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Lona Beach, CA 90802-4664

EXHIBIT “A”

Scope of Work



City of Long Beach
Purchasing Division
333 West Ocean Boulevard, 7th Floor
Long Beach, CA 90802

1. **OVERVIEW OF PROJECT**

The City of Long Beach is one of the most ethnically and culturally diverse communities in the United States. The Department of Development Services (Department) is committed to enriching the community by carrying out projects that build on the City's goals to eliminate blight, balance new development with historic structures and neighborhoods, promote neighborhood improvement, and provide a safe place to live, work and play.

The Department is pleased to present this opportunity to one or more qualified Consultants to provide as-needed creative services for a variety of print materials and interactive media in support of the Department's marketing and communication efforts.



City of Long Beach
Purchasing Division
333 West Ocean Boulevard, 7th Floor
Long Beach, CA 90802

3. **SCOPE OF PROJECT**

The City of Long Beach (City), Department of Development Services (Department) is seeking proposals from one or more qualified professional Consultant(s) to provide creative services (i.e., graphic design, copy development, copy editing, and production) for a variety of print materials/public information pieces and interactive media on an as-needed basis. This includes, but is not limited to:

- Year in Review/Annual Reports
- Permitting Guidelines Brochures
- Land Use Policy Documents
 - General Plan Elements, Specific Plans
- Collateral material and web content for grant-funded projects, programs and services
- Collateral material for new and existing programs and services
- Promotional materials related to special events and community meetings
- Postcards
- Flyers
- Infographics
- Artwork for promotional items
- Advertising

Existing color palettes and templates will be used for some services. Examples of reports, brochures, newsletters, and land use policy documents can be found on the Publications page of the LBDS web site (<http://www.lbds.info>). The Consultant will work one-on-one with key Department personnel to achieve cost effective, visually appealing results.

Consultant should demonstrate an understanding of the City of Long Beach and Long Beach Development Services goals and objectives. Experience working with government agencies is desirable, but not required. Consultant must submit three (3) samples of materials similar to those listed above or three samples of materials that best represents the agency's creative identity.

EXHIBIT “B”

Rates or Charges



Cost Proposal - Schedule of Fees

Hourly rates:

Design	\$85.00
Production.....	\$75.00
Copywriting	\$90.00
Administrative.....	\$45.00
Press-Check	\$75.00
Project Management	\$100.00

Sample cost of Tri-Panel Brochure\$850.00

Revisions are as below.

***Revisions (see page 11) :**

Revisions allowed for each project before hourly rate of \$85.00 is charged is 3.
Two design concepts per job will be given per each project. Revisions are design changes and not complete redesigns. Any redesign pricing will have to be negotiated at the time of commencement.

Retainers & Billable guidelines:

A 35% Deposit is required for each project commencement. 33% billable upon 3rd proof and final 32% will be billed at final acceptance of the composition.



In response to Section 13.7

Standard Contract

Payment Terms: All projects are billable after the design is approved or three weeks after submission of the design, whichever comes first. All invoices are due within 15 days of receipt.

All payments will be made via check to Madplanet LLC. at 5120 E. 25th street Long Beach CA. 90815.

Final File Format: A final PDF print ready format will be given to the client at the end of each project. No working files are to be given to client unless client pays a negotiable buy out fee for the raw artwork. No fonts will be given to the client due to copywrite infringement issues. City of Long Beach, Department of Development Services(LBDS) owns all rights to artwork when completed.

***Revisions:** Because minor revisions are a normal part of the design process, this price includes three rounds of revisions. What are "revisions"? Minor corrections, additions or rewording and small design changes. Major changes are re-laying out the collateral graphically to all or part of the design. Along with all new photo selections and several color variations.

The Legal Fine Print: Indemnification/Hold Harmless – LBDS agrees to indemnify and hold Madplanet LLC. free and harmless for any representations, statements, or claims made in communication material(s) that Madplanet LLC. creates on behalf of LBDS or any of LBDS'S operating units / clients, as a result of this project or any future projects.

LBDS agrees to indemnify Madplanet LLC. against, and hold Madplanet LLC. free and harmless from any and all liabilities, loss, costs, expenses, or obligations including, but not limited to, attorney's fees, court costs, expenses and other expenses incurred by Madplanet LLC. in defending itself against claims arising out of: (1) LBDS'S breach of any obligation under this agreement, and (2) any inaccuracy of any information which LBDS or LBDS'S clients may have provided Madplanet LLC. under this agreement or future agreements (both verbal and written).

This agreement is made upon the express written condition that Madplanet LLC. shall not be held liable, or suffer loss, or incur any liability by reason of the use of materials, supplies, or equipment, or any publication or communication placed or caused to be placed, by Madplanet LLC., after approval by LBDS.

EXHIBIT “C”

City’s Representative:

City Manager or Appointed Designee

EXHIBIT “D”

Materials/Information Furnished: None