

MEMORANDUM OF UNDERSTANDING BETWEEN
THE SOUTH BAY BOARDRIDERS CLUB AND THE
CITY OF MANHATTAN BEACH REGARDING THE
CATALINA CLASSIC COMMEMORATIVE STATUE

This Memorandum of Understanding ("MOU") is entered into as of November 16, 2021 ("Effective Date" hereinafter) by and between the City of Manhattan Beach, a California municipal corporation ("City"), and the South Bay Boardrider's Club, a California nonprofit corporation ("SBBC")

RECITALS

- A. The South Bay Boardriders Club, is a 501c3 nonprofit corporation, originally formed in 2009 to serve the South Bay ocean community.
- B. The Catalina Classic Paddleboard Association (CCPA) promotes a traditional and original paddleboard race from Catalina Island to the Manhattan Beach pier. The Catalina Classic Paddleboard Race is organized and conducted each year by volunteers of the CCPA. Established in 1955, the Catalina Classic is the oldest and most celebrated endurance paddleboard race in the world. This historic 32-mile marathon, which starts at Catalina's Isthmus Cove and ends at the Manhattan Beach Pier, attracts paddlers from all over the world and is known as the "Grand-Daddy of all paddleboard races."
- C. SBBC desires to create and install a Catalina Classic Commemorative Statue as shown on **Exhibit A** and **Exhibit B** (the "Project"), which, once completed, would be dedicated to the City as a public art feature.
- D. City currently has control over the proposed site for the Catalina Classic Statue (depicted on **Exhibit A**) which is located just south of the lower southern Pier parking lot in Manhattan Beach, California.
- E. SBBC has estimated that the cost of the Project will be **\$302,000** (referred to as the "Estimated Project Costs"), as set forth in detail on **Exhibit B**. SBBC shall raise funds necessary to pay the Estimated Project Costs, as well as any increase in the Project costs that may occur prior to completion of the Project.
- F. The City supports the Project, and desires to work with SBBC to accept the donation of the proposed public art feature, provide a site for the Project, and assume responsibility for the annual maintenance and upkeep of the Statue, as more particularly set forth herein.

NOW THEREFORE, IN CONSIDERATION OF THE PARTIES' PERFORMANCE OF THE PROMISES, COVENANTS, AND CONDITIONS STATED HEREIN, THE PARTIES AGREE AS FOLLOWS:

Section 1. Recitals. The recitals are hereby incorporated by this reference.

Section 2. Project Costs: Fundraising.

A. SBBC shall dedicate funds raised through its fundraising effort to the Project Costs. For purposes of this Agreement, "Project Costs" means all costs of the Project, including but not limited to costs of the Design Professional(s), Sculptor, Installation and Contractor.

B. SBBC has begun and shall continue to undertake a fundraising drive to secure and manage the funds necessary to complete the installation of the Statue pursuant to the MOU in accordance with the following schedule:

(i) SBBC represents to the City that fundraising has commenced as of the Effective Date of this MOU.

(ii) All funds raised by SBBC, less reasonable fundraising and operating expenses, shall be held in a separate segregated account in a recognized financial institution ("Account"), unless otherwise directed by the donor.

(iii) SBBC shall provide quarterly updates to the City of its fundraising efforts and the amounts deposited into the Account.

(iv) Within 48 months of the Effective Date, SBBC shall certify to the City that sufficient funds have been raised to cover the Project Costs.

(v) In the event SBBC is unable to meet the above deadline, the deadline may be extended upon mutual agreement of the City and SBBC.

C. The City will be under no obligation to contribute any money for the Project Costs..

Section 3. Design Professional. SBBC has engage the services of Michael Lee Architects, and will engage other design professionals as needed (the "Design Professional(s)") to prepare all necessary Project plans and the Total Estimated Project Cost. SBBC will use Account monies to compensate the Design Professionals.

Section 4. Sculptor. SBBC selected, and shall engage the services of, Chris Barela (Sculptor) to do all work associated with creating and installing the Statue ("Statue Sculpture"). SBBC will use Account monies to compensate Sculptor.

Section 5. Installation Contractor. SBBC shall engage the services of a

licensed general contractor (“Contractor”) to install the Statue Sculpture, including the concrete pedestal. SBBC will use Account monies to compensate the Contractor.

Section 6. Plans & City Review. The City Council reviewed and approved the Project at the City Council meeting held on November 16, 2021. SBBC shall cause the Design Professional(s) to prepare all necessary Project plans, which shall evolve from the concept as depicted and described in **Exhibits A and B**. SBBC shall cause the Design Professional(s) to complete all modifications of the Project plans as may be required by the City Building Department during the plan check approval process.

Section 7. City Obligations

A. The City will endeavor to work with SBBC to obtain all required approvals from the State of California, County of Los Angeles, and California Coastal Commission for completion of the Project.

Section 8. Construction & Installation.

A. Construction and installation shall begin no sooner than SBBC certification, and City verification, that SBBC has raised sufficient funds equal to the Project Costs. If any Project Costs are incurred and paid by SBBC such costs shall be included in the calculation of the total of the funds raised.

B. Prior to installation, SBBC shall provide the following to City:

(i) an updated estimate of Project Costs, including but not limited to documentation of any expenditures as of that date, the outstanding balance owed the Design Professional(s) and Sculptor, and a signed contract with the Contractor, in form reasonably satisfactory to the City’s Director of Parks and Recreation (the “Director”);

(ii) documentation reasonably satisfactory to the Director that sufficient funds are available to pay all Project Costs and complete installation of the Statute Sculpture; and

(iii) documentation reasonably satisfactory to the Director and the City Attorney transferring title to the Statute Sculpture to the City of Manhattan Beach upon completion of the installation, including a release from the Sculptor of all rights, title to, and interest in the Statute Sculpture, including but not limited to all rights under California Civil Code Section 982 *et seq*, the federal Visual Artists Rights Act, and the California Art Preservation Act.

C. SBBC shall cause the Contractor to commence and diligently complete construction upon the occurrence of the following:

(i) certification by the Director that the documentation required by paragraph B has been received and is satisfactory;

(ii) approval by the City Building Department of construction drawings and issuance of a building permit; and

(iii) SBBC obtaining all required approvals from the State of California, County of Los Angeles, and California Coastal Commission.

Section 9. Project Use and Management. The following obligations shall survive the installation of the Statue Sculpture and completion of the Project:

A. The City will provide long-term and routine maintenance of the finished Sculpture and sculpture area, in a manner consistent with standard City practice.

B. SBBC shall be responsible for the cost of updating the statue area with the most current winners.

C. On an annual basis, the Director of Parks and Recreation shall meet with SBBC representatives to discuss the use of the Statue.

Section 10. Project Donors. SBBC and CCPA may honor the financial contributors to this Project. This may be done by having permanent, but simple, plaques, tiles, bricks or other building material (collectively "Memorial Plaques") affixed on or near the Sculpture or in locations approved by the City, listing the names of the contributors who wish to be so honored. The design, number, and location of the Memorial Plaques must be approved by the City Council prior to installation of the Statute Sculpture. The intent of the parties is that all such Memorial Plaques be installed at or near the time of the installation of the Statute Sculpture.

Section 11. Termination.

A. Prior to satisfaction of the conditions in Section 8.C and the start of construction of the Statue Sculpture, either party shall have the right to terminate this Agreement for any reason or for no reason upon 30 calendar days' written notice to the other parties if prior to the start of construction. Thereafter there shall be no termination option.

B. In the event of termination, SBBC shall cause the balance of the amounts that have been donated, less the amount already expended or obligated, to be distributed to the donors in a manner and in amounts determined by SBBC.

Section 12. Notices. Any notices, bills, invoices, etc., required by this MOU shall be deemed received on (a) the day of delivery if delivered by hand during the receiving party's regular business hours; or (b) on the second business day

following deposit in the United States mail, postage prepaid, to the addresses set forth below, or to such other addresses as the Parties may, from time to time, designate in writing pursuant to this section.

If to City: City of Manhattan Beach
 1400 Highland Avenue
 Manhattan Beach, CA 90266
 Attn: City Manager

If to SBBC South Bay Boardriders Club
 c/o Ed McKeegan
 1221 10th Street
 Manhattan Beach CA 90266

Section 13. Entire Agreement. This MOU represents the entire integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral. Other than extensions granted by the City Manager, this Agreement may be amended only by a written instrument signed by all Parties.

Section 14. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 15. City not Obligated to Third Parties. The City shall not be obligated or liable under this Agreement to any third parties.

Section 16. Corporate Authority. The persons executing this Agreement on behalf of the Parties warrant that they are duly authorized to execute this Agreement on behalf of said Parties and that by their execution, the Parties are formally bound to the provision of this Agreement.

[signatures on next page]

EXECUTED on the date first written above at Manhattan Beach, California.

CITY OF MANHATTAN BEACH,
a California municipal corporation

SOUTH BAY BOARDRIDERS CLUB

By: DocuSigned by:
Bruce Moe 1/3/2022
EAD3C00640684FC
Bruce Moe, City Manager

By: DocuSigned by:
Tom Horton 12/15/2021
F06BA30696B5442...
Tom Horton, President

ATTEST:

DocuSigned by:
Liza Tamura 1/3/2022
0020020E0001400...
Liza Tamura, City Clerk

APPROVED AS TO FORM:

DocuSigned by:
Quinn M. Barrow 12/31/2021
C0CC9C3688B24EB...
Quinn M. Barrow, City Attorney

