



Agenda Item # _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Ward and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Richard Gill, Director of Parks and Recreation
Richard Thompson, Director of Community Development
Eric Haaland, Associate Planner
Mark Leyman, Recreation Services Manager

DATE: July 18, 2006

SUBJECT: Approval of 5-Year Coastal Development Permit for the Manhattan Beach Open Volleyball Tournament and Authorization for the City Manager to Execute a 5 year Agreement with the Association of Volleyball Professionals (AVP) to Co-Sponsor the 2006-10 Manhattan Beach Open to be Held Each Summer, and Adopt Resolution No. 6047.

RECOMMENDATION:

Staff recommends that the City Council a) Approve a 5-Year Coastal Development Permit for the Manhattan Beach Open Volleyball Tournament and b) Authorize the City Manager to Execute a 5 year Agreement with the Association of Volleyball Professionals (AVP) to Co-Sponsor the 2006-10 Manhattan Beach Open's to be Held Each Summer, c) and Adopt Resolution No. 6047.

If the City or the AVP alter the tournament in future years, staff will amend the agreement and return to Council for direction and approval.

FISCAL IMPLICATION:

If approved, under the terms of the attached contract, the AVP will reimburse the City for all of the direct costs associated with each event estimated to be \$45,000 annually. The AVP will retain all proceeds from the tournament. As a co-sponsored City event, the City has waived all fees for City permits, and the use of the City's name.

BACKGROUND:

The AVP and City of Manhattan Beach co-sponsored the Manhattan Beach Open Volleyball Tournament on August 19-21, 2005. The event consisted of 75% free stadium style seating, bleacher seating on the pier, areas for free courtside seating, food booths, live music and interactive game booths. It was considered a success in that staff received numerous compliments from the community.

The AVP set up the main stage on the east side of the beach, and south of the pier, with all speakers facing west. This configuration helped reduce the amplification that drifts into the surrounding neighborhoods. Also, per Council direction, the AVP identified all free seating areas. Before, during and after the event, staff evaluated and monitored the production of the tournament in regards to public concerns.

The Departments of Public Works, Police Department, Fire and Parks and Recreation evaluated the event in terms of its impact on the community and City services. Overall, the tournament ran very well.

DISCUSSION:

For this year's tournament, the AVP has one primary request; to load in bleacher material on Wednesday, August 2, five days before their first day of set-up. The bleacher material will be stored approximately 200 yards north of the Pier, near the comfort station, with green screen and fencing around the perimeter. The footprint of the storage material will be approximately 50 X 50 ft. The AVP contends that the set-up cannot be completed in time without the early load in of equipment. City staff agrees based on last year's experience.

Staff made two changes to the agreement from previous years: a) Require the AVP to provide two hours of instruction for a Parks and Recreation youth volleyball class during the week of the MBO, and b) the placement of a 20 X 3 ft. City of Manhattan Beach banner on the Pier railing.

Staff recommends the approval of the five year MBO agreement including the early load-in of bleacher material.

Aside from the AVP agreement, The AVP has submitted a permit to the County of Los Angeles Beaches and Harbors for the event which includes the sales and sampling of products. The County of Los Angeles has stated to the City and AVP that they will not issue the permit to the AVP for this event unless they too are allowed to sample on the beach. Currently the County has a sponsorship agreement with Arrowhead Water which allows Arrowhead to sample their product on County beaches up to 20 times per year.

Last year the City Council permitted sampling from the County's primary sponsors on the beach up to six times, which was the equivalent of the AVP's vendors sampling at the MBO. If permitted, the County will notify the City at least 7 days in advance, and the sponsor will have no more than two small canopies, tables and signage. Last year, County sponsors did not sample in Manhattan Beach.

Environmental Review

The proposed temporary event is exempt from the provisions of the California Environmental Quality Act (CEQA). Per the CEQA Guidelines, the event is exempt pursuant to the following provisions: Section 15304 (e), "Minor Alterations to Land"; Section 15311 (c), "Accessory Structures"; and Section 15323, "Normal Operations of Facilities for Public Gatherings".

The proposed event is a temporary activity being conducted on a public beach in which the event will not result in any degradation or alteration to the condition of land, water or vegetation. Based upon past events of this nature, no permanent environmental effects are anticipated.

Coastal Development Permit/Temporary Use Permit

The beach area is located within the “OS” (Open Space) district of the City’s Zoning Code, and is regulated by the provisions of the City’s certified Local Coastal Program (LCP). The Open Space District allows “Sporting Events where more than 75% of the total seating area is available free of charge” as a permitted use subject to a temporary use permit. Last year’s City Council temporary use permit approval included allowance of bleacher structure height of 41.5 feet as provided for in the OS regulations.

The previous tournament included generally the same size, time frame, and other components as proposed this year. Since staff is unaware of substantial issues regarding last year’s coastal development permit, and future tournaments are expected to be comparable, the proposed permit provides for the next 5 MBO tournaments. The proposed resolution would apply to each tournament through 2010 unless the size, time, or other components of the tournament are proposed to be changed. A new coastal development permit would be required for any substantial changes to the tournament during this 5-year period, as well as for any tournaments beyond 2010.

The required coastal permit notice was published in the Beach Reporter and mailed to properties within 100 feet of the tournament site. Notice of the Council’s action on the permit shall be provided to the California Coastal Commission. Staff’s review of the coastal development permit finds the proposed installation to be consistent with the city’s coastal program as follows:

1. The structures shall not obstruct access ways within the coastal zone. While they will occupy some space on the beach, access from the Strand, bike path, and pier to the coastline and surrounding beach shall remain available.
2. The proposed configuration shall permit public view of the center court volleyball competition from the adjacent Strand, pier, and bike path areas, which are prominent pedestrian routes within the coastal zone.
3. Any displacement of normal views or use of the space shall be temporary for the period allowed by the proposed permit.
4. Installation and use of the bleachers and related structures shall be subject to requirements regarding timing, paid seating, shuttle, signs, trash, etc. A 41.5 foot height limit is established by the project’s temporary use permit.

CONCLUSION:

Staff recommends that the City Council:

1. Adopt Resolution No. 6047 approving the related Coastal Development Permit
2. Authorize the City Manager to execute the attached agreement for the Manhattan Beach Open
3. Provide direction for sampling at the event

Attachments: A. 2006 MBO/AVP Agreement
B. Resolution No. 6047 (coastal permit)

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C. AVP Site Map

**2006-2010
MBO/AVP AGREEMENT**

THIS AGREEMENT is made this 18th day of July 2006, by and between the City of Manhattan Beach ("CMB"), a municipal corporation organized under the laws of the State of California with its principal offices at 1400 Highland Avenue, Manhattan Beach, California 90266, and the AVP Pro Beach Volleyball Tour, Inc. ("AVP"), a Delaware Corporation with its principal office at 6100 Center Drive, Suite 900, Los Angeles, CA 90045

WITNESSETH

WHEREAS, CMB has conducted an annual amateur and professional beach volleyball event entitled "The Manhattan Beach Open" ("MBO") sometimes also referred to in this agreement as the "event" and is the registered owner of the title "Manhattan Beach Open";

WHEREAS, AVP manages the top professional beach volleyball players in the United States and manages an annual schedule of events on behalf of said players; and

WHEREAS, CMB and AVP wish to work together on the MBO in accordance with the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the premises and mutual covenants and conditions hereinafter set forth, and intending to be legally bound, the parties agree as follows:

I. THE EVENT. During the term of this 5 year agreement, CMB authorizes the AVP to conduct the annual MBO, the dates of which shall be selected by AVP and approved by CMB.

A) The agreed upon tournament format shall be a Pro-Amateur format including both Men's and Women's Divisions with amateur qualifying rounds being played for entry into the professional rounds of the event. The playing rules for the event shall be AVP rules.

B) The title of the event is "The Manhattan Beach Open"; however, permission has been granted to the AVP (if it elects) to insert AVP into the title naming it "The AVP Manhattan Beach Open". All public identification of or reference to the MBO shall be made in the following manner: "The [Primary Sponsor Name] Manhattan Beach Open", or "The AVP [Primary Sponsor's Name] Manhattan Beach Open". AVP specifically acknowledges and agrees that it shall not release any information about the event to the public which refers to the event solely as "The [Primary Sponsor Name] Open." Notwithstanding the foregoing, AVP shall have the right to include one or more "Presented By" sponsors as part of the official title of the event so long as the "Presented By" title(s) appear after the words "Manhattan Beach Open" (i.e., The [Primary Sponsor] Manhattan Beach Open Presented by [Presented By Sponsor]).

C) The CMB will not sponsor any other men's volleyball event(s) paying more than \$15,000 in prize money (or other benefits equaling more than \$15,000 in value) within thirty (30) days before or after the MBO, unless approved in writing by AVP.

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D) The event may use bleachers for the center court, outside courts and seating on the pier and the pier head provided that the aggregate of bleachers in connection with the event shall not exceed a total of 4,500 seats, of which the center court bleachers shall not exceed 3,500 seats. Additional seating, not to exceed 1,000 seats, may be placed around the outside courts. In addition, AVP shall have the right to have additional bleacher seating (which will not be included in the 4,500 seats on the beach) (i) on the pier behind the center court endzone bleachers up to 90' wide; and (ii) on the pier head adjacent to the lifeguard tower (provided that access ways to and from the pier and beach are not obstructed). In connection with the preceding two sentences and subject to the approval of the Department of Public Works (which the CMB shall use good faith efforts to obtain), CMB shall provide "softball" style bleachers at no charge for AVP's use in connection with the outside courts, the pier and the pier head. The City shall supply 5 sets of bleachers, provided they are not being used by Manhattan Little League for an event.

E) All amplified sound speakers will be placed facing to the west.

F) Restrictions on charging for admission shall be in accordance with the limitations (if any) set by the California Coastal Commission.

G) VIP tent and VIP seating shall be provided by the AVP as follows: (i) There shall be one (1) center court elevated VIP tent and one (1) sand VIP/"AVP Beach Club" tent; (ii) VIP/"AVP Beach Club" "riser" seating along one sideline and up to two (2) end zones; (iii) one (1) end zone bleacher reserved for VIP's, corporate sponsors, etc. All other seating shall be available to the public. Any additional center court VIP tents and/or seating will be subject to CMB approval, it being acknowledged that any luxury suites or reserved seating shall not be considered VIP tents and/or seating but will be subject to the charging restrictions set forth in I.F. above.

H) AVP shall have the right to have on-site entertainment in connection with the event. Such entertainment may include musical acts provided such entertainment does not increase the sound level of the event or increase the support required by CMB (e.g., additional police, fire company coverage, etc.). In addition, AVP shall have the right (subject to any applicable federal and/or state laws) to have skydivers land on the beach as part of the on-site entertainment in connection with the event; provided, however, that the skydiving company that is used to provide such entertainment shall provide CMB and AVP with evidence of general liability insurance coverage of not less than five million dollars (\$5,000,000.00) per occurrence and shall name CMB and AVP as additional insured by endorsement to such policy.

II. CMB RESPONSIBILITIES.

A) The CMB shall permit the AVP to conduct a Pro-Am Men's & Women's Two Person Volleyball Tournament and a Junior Two-Person Amateur Volleyball Tournament each summer from 2006-2010.

B) The CMB shall provide an event director to oversee and monitor the total operation of the event especially in all matters pertaining to event liability and public safety. All decisions of the event director shall be final with respect to any issues that involve compliance with the agreement as well as any issues that directly and/or adversely impact the community. Said director shall consult with a designated representative of the AVP and it shall be the goal of the parties to reach mutual

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agreement on matters of event operation. The CMB shall be entitled to a fee of \$2,000 for all of such event director's services in connection with the event.

C) The MBO shall use AVP Tournament Rules in the conduct of the event. The AVP shall have the right to save at least the first 24 seeded spots for men & 24 seeded spots for women for AVP entries.

D) The CMB shall retain the right to conduct, if it desires, a pre-tournament competition including non-AVP players and retain the proceeds (it being acknowledged that such pre-tournament competition may only serve as the qualifying round for the MBO if approved by AVP). However, the CMB will grant the AVP permission to run these qualifying rounds if the AVP will open up the qualifiers and take a minimum of eight (8) Men's teams and eight (8) Women's teams to play into the professional rounds of the MBO. If the AVP is in agreement, the AVP shall retain all the qualifying entry fees. As part of whatever these teams may win as prizes for winning in the qualifying rounds, an AVP membership will be provided to them by the AVP, it being acknowledged that all players must sign the standard agreement in order to compete in the main draw of the event.

E) The CMB shall provide to the AVP any CMB services required for the event such as police, fire, etc. Expenses incurred by the CMB for these services will be billed to the AVP by the CMB. AVP agrees to pay the estimated costs for City services 30 days prior to the tournament.

F) The CMB shall coordinate all necessary city permits, including but not limited to permits for merchandise sales, if any, as approved by city council, television cameras, and volleyball competition. No city fees shall be charged for said permits unless there is a direct cost.

G) The CMB shall provide on-site parking spaces for television coverage equipment, AVP equipment trucks and personnel. The number of spaces shall be 71, consisting of all of the north and south lower parking lot, except for 10 spaces in the north lower parking lot (excluding the handicap spaces). The AVP shall provide adequate access to the event for people with disabilities satisfactorily to the CMB. The CMB will also provide street parking to the AVP on both sides on Manhattan Beach Boulevard below Ocean Drive. All parking expenses will be paid by the AVP. In addition, The CMB shall close Manhattan Beach Boulevard west of Ocean Drive to bike and vehicular traffic as deemed necessary by public safety personnel, and CMB shall cause all bike riders to walk their bikes on Manhattan Beach Boulevard, west of Ocean Drive.

H) The CMB shall allow sponsors' display booths and shall allow distribution of samples of their products during the MBO as long as such sampling does not include water (subject to agreement between CMB and LA County regarding approval of sales and sampling on the beach at the MBO), alcoholic and tobacco products and as long as such sampling is not in conflict with the restrictions detailed under IV., Merchandising Rights. CMB will not prohibit display booths, sampling or sales of non-restricted products at the base of the pier and on the sand at the MBO.

I) The CMB shall grant their right to the AVP to set up a Food Court & Merchandise Fair (which shall include the right to sample or sell merchandise and/or other items or services) made up of CMB and other merchants in compliance with the Los Angeles County Health Department codes and obtain permits as required.

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J) The CMB shall allow the use of portable bleachers and the placement of a video board on the base of the pier.

K) The CMB shall allow a non-alcoholic evening corporate outing for AVP sponsors culminating by 8:30 p.m.

III. AVP RESPONSIBILITIES.

A) AVP will not sanction any additional events in California to be played on the same dates as the MBO.

B) The AVP shall make their best efforts to guarantee the appearance of 15 of the top 20 AVP rated teams (to include 3 of the top 5 AVP rated teams, barring injury) for this event.

C) The AVP will provide, at its own expense, all event production including nets, sound equipment, volleyballs, scoreboards, announcer's platform, court siding, court lines, tents, booths, possible bleacher seating for up to 4,500 (not to exceed 3,500 in bleacher seating on center court), and no more than six (6) inflatables. The AVP shall transport the equipment to the site, set up said equipment in cooperative and timely fashion, and at the close of the tournament take down and remove the equipment. A designated AVP representative must remain on-site during the entire tear-down process of the event. Said equipment is to be totally removed from the site by 6 PM, the Wednesday after the tournament.. CMB reserves the right to determine limit on the use of said equipment as it pertains to CMB ordinances and shall enforce all for the protection of public health and safety. To ensure compliance with this date and time of removal, the AVP shall provide the CMB a \$10,000 security/clean-up deposit described in subsection G below. The parties will meet "on site" Wednesday, after each tournament, at approximately 4:00 PM to determine if the site, to include the beach and parking lots, has been reinstated to its original condition. The parties agree that based on reasonable expectations, the AVP will henceforth rectify any outstanding "clean-up" deficiency. If such deficiency is not rectified by the timelines set forth below, the AVP will forfeit the amount shown.

Thursday, after tournament @ 2:00 PM	\$3,000 plus City costs
Friday, after tournament @ 2:00 PM	\$3,000 additional (\$6,000 total) plus City costs
Saturday, after tournament @ 5:00 PM	Balance of \$10,000 (\$10,000 maximum)

CMB will return the \$10,000 security/clean-up deposit or remaining amount thereof by, October 1, of each year

D) The AVP shall provide all necessary funds, staff, equipment, and materials necessary to adequately promote and seek sponsorship for the event at no expense to CMB. Also, the AVP shall provide a designated representative to consult as necessary with the CMB director regarding all facets of event operation. Final decisions will be made by the CMB Director regarding compliance with the agreement as well as any issues that directly and/or adversely impact the community.

E) The AVP shall provide for the television broadcast of the Manhattan Beach Open. Within the television broadcast, the AVP shall provide for the CMB to be highlighted and promoted.

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F) The AVP shall provide on-site tournament staff to handle sponsor relations, television liaison, and player mediations.

G) The AVP shall reimburse the CMB for all its direct "in-house" services for each year's event. An estimate of these costs, which are currently projected to be \$45,000 for the 2006 MBO shall be paid to CMB 30 days in advance of the event. Actual City departmental costs shall be itemized and billed to the AVP upon completion of the event.

H) The AVP shall secure and pay for any permits required from the County of Los Angeles.

I) The AVP shall provide, at their expense, all staff, equipment and materials, to adequately advertise (including radio announcements) and run a shuttle bus service to and from the event from the Northrop Grumman parking lots to the Von's market at Valley Drive and Manhattan Beach Boulevard. This service shall provide for a minimum of one bus running at no less than fifteen-minute intervals to and from the event. Starting time should be one hour prior to the event's starting time and ending one hour after the completion of the last daily game. Service shall be for Saturday and Sunday only. CMB shall have approval over such shuttle service, such approval to not be unreasonably withheld. In addition, CMB shall have the right to contract directly with such shuttle service and AVP shall reimburse CMB for the cost thereof provided such cost does not exceed the amount AVP would have incurred if AVP had contracted directly with such shuttle service.

J) The AVP, at their expense, shall provide for adequate trash removal. They shall be responsible for making arrangements with the proper City of Manhattan Beach waste contractor for trash containers to be placed at the proper beach location at least one day prior to the event and removed by the next morning following the completion of the event.

K) The AVP shall allow the CMB to display a 3 ft. X 20 ft. Parks and Recreation Banner on the pier railing adjacent to the handicapped seating area on the pier or other mutually approved area, and a 10 ft. X 10 ft. pop-up tent with CMB Parks and Recreation Department signage.

L) The AVP shall provide a professional volleyball player to give at least two hours of instruction for a youth volleyball class sponsored by the CMB during the week of each tournament.

M) Unless otherwise expressly specified herein, the foregoing responsibilities of the AVP shall be discharged at the expense of AVP.

IV. MERCHANDISING, SPONSORSHIP AND LICENSING RIGHTS.

A) CMB grants to AVP a temporary exclusive license to the MBO which shall include, without limitation, all merchandising of the event plus the right to obtain sponsors and advertisers, to produce and sell programs, to produce programming and sell radio, television, and filming opportunities and to merchandise and license concessions.

B) AVP shall be allowed to solicit potential sponsors and contract with sponsors for sponsor exposure at the event so long as the following guidelines are observed:

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- 1) No sponsor will be solicited or accepted who manufactures, markets or are identified in any way with a feminine hygiene product, women's undergarments, any disease or birth control products or any product or service considered illegal under the laws of the United States or the State of California.
- 2) No sponsor shall be solicited or accepted who produces any form of sexually related film or product or any and all products not deemed by the CMB to be acceptable to public sensibilities or morals.
- 3) No sponsor shall be solicited or accepted who produces any form of tobacco products.
- 4) These guidelines are not intended to exclude as sponsors those that are manufacturers of or distributors of distilled spirits, wines, wine products, beer or fast foods.

C) CMB shall allow sign exposure areas at the event for sponsors, including but not limited to customary court banners, booths, hospitality areas and bleacher banners. In addition, AVP shall have the right to have signage on the railings on the south side of the pier and on the railings along the bike path in the area of the event. Further, CMB shall allow vehicles (e.g., automobiles, Army Humvee, etc.) and watercraft on the sand in connection with the event and allow vehicles to be used in connection with the player introductions.

V. MBO PROMOTION.

A) AVP shall provide all funds, staff, equipment, and materials necessary to adequately promote and advertise the MBO. CMB shall assume no advertising obligation except as specifically provided herein; however, it will promote the MBO as in the past years by cooperating with the press and agreeing to place posters in city-approved locations and assisting in the placement of street and pole banners. AVP will provide all publicity and promotional materials.

B) The CMB shall permit the AVP to advertise and promote the event within the CMB for a minimum of four (4) weeks prior to the tournament. This commitment shall include the following:

- 1) AVP shall be entitled to have exclusive access to the following locations for street banners commencing 30 days prior to the event if space is available, it being agreed by the AVP that such street banners may not be placed at any one location for more than two (2) weeks: subject to Caltrans approval, Sepulveda Boulevard/Marine Avenue and Sepulveda Boulevard/Manhattan Beach Boulevard;; Manhattan Avenue/12th Place; Manhattan Avenue/9th Street; Highland Avenue/13th Place; Highland Avenue/11th Street; Manhattan Beach Boulevard, east of Morningside Drive; and Manhattan Beach Boulevard, east of Manhattan Avenue AVP may reserve banner locations one year in advance of the tournament.

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2) AVP shall have the exclusive right to hang pole banners at the following locations for a period not to exceed thirty (30) days prior to the event: 10 poles on Manhattan Beach Boulevard (in median from Sepulveda to Meadows); 4 poles on Marine Avenue (in median from Sepulveda to Cedar); 43 poles on Rosecrans Avenue. (in median from Sepulveda to Aviation); 59 poles on Pacific Coast Highway/Sepulveda Boulevard (from Artesia to Rosecrans) (subject to Caltrans approval); and additional mutually approved locations (which shall number approximately 50) in the downtown area on Manhattan Beach Boulevard, Highland Avenue and Manhattan Avenue. All pole banners on Sepulveda are subject to Caltrans approval.

3) All street and pole banner designs must be approved by the CMB. AVP shall be responsible for the costs of hanging and removing all such banners; provided, however, that CMB shall not charge any permit or other fees in connection with such banners.

4) AVP shall have the right to distribute store front posters for the downtown businesses. The AVP shall be prohibited from placing any posters on any City property. In addition, the AVP shall be prohibited from handing out fliers, posters, index cards, and any other promotional material in the downtown area. In return, the City will make every effort to prohibit other non-event sponsors of the AVP from distributing product or promotional literature in the downtown area. In addition, AVP shall have the right to issue local newspaper releases.

C) All support and point-of-purchase materials will list the MBO and all event posters, counter cards and schedules will mention the CMB.

D) CMB will cause the Multiple Systems Operator/The Cable Company (MSO) to run an AVP promotional tape once per hour on the Public Service Announcement Channel. CMB will also cause the MSO to include a slide for the AVP, such slide to be included with the upcoming events. The AVP will provide all promotional tapes and material to the MSO.

E) CMB will include AVP in any local television programming that highlights upcoming events.

F) CMB will give the AVP MBO preferred placement on its web site, if possible.

VI. BROADCAST. AVP shall have the exclusive right to solicit and negotiate all radio, film, and television broadcast agreement proposals.

A) The AVP shall have the right to conduct a modeling competition similar to the Sports Illustrated modeling competitions previously held by AVP as long as it is presented in a professional and tasteful manner, as determined by City staff.

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B) A live broadcast by the sponsor radio station/filming of the event shall be allowed at the MBO. All broadcast and/or filming set-ups are to be approved and licensed by the proper city representatives who shall be available and on hand at the time of set up. Approval shall take into account the desire of the parties to allow a first quality broadcast and the technical needs of the broadcasters.

C) AVP shall provide one 3/4" video finished copy of the MBO, if filmed or taped, to CMB within one (1) month (or as soon as available) of such MBO.

D) AVP shall own all rights to all radio, film, and television productions of the MBO. CMB shall be afforded the right to use said radio, film, and television productions as long as they are used for non-commercial purposes such as historical documentation and promotion of the event.

VII. CONCESSIONS.

A) CMB shall not prohibit the sale of AVP-related or event merchandise, AVP or AVP-Sponsor apparel, sponsor-related merchandise and apparel or Wilson Volleyballs at the base of the pier or on the sand.

B) Event-specific apparel and non-consumable souvenir merchandise will be developed by the AVP. The AVP shall have the exclusive right to create, market and license said event-specific merchandise. All event-specific merchandise shall comply with the title requirements set forth in section I. B. above.

C) No other consumables or non-consumables shall be sold or given away at the site except as specified in this Agreement or as approved by the CMB.

VIII. MBO REVENUES.

A) Gross revenue from the seeded teams will be 100% retained by the AVP. The AVP will set the standard entry fee for the event consistent with similar AVP events.

B) Gross revenue from all other entries into the event, 100% retained by CMB unless the AVP agrees to conditions in II. D.

C) Gross revenue from (i) on-site sales of any AVP-related or event apparel and non-consumable souvenir merchandise; (ii) on-site revenue in connection with the Food Court and Merchandising Fair (net of third parties' share of such revenue); (iii) sponsorships; (iv) "AVP Beach Club" membership; and (v) any other revenue generated in connection with the event, shall be retained 100% by AVP.

IX. EVENT BUDGET. It is understood by both parties that AVP shall provide for a minimum of sixty-two thousand five hundred dollars (\$62,500) prize money for each of the Men's & Women's Open Division.

X. TERM. This Agreement shall be effective for a period of five (5) years commencing with the 2006 Manhattan Beach Open; provided, however, that AVP shall have the right to

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terminate this Agreement on 60 days written notice. Set up for the event will begin on the Monday prior to the event. The event, including the qualifier, will be on Thursday, Friday, Saturday & Sunday of the agreed upon dates each year and breakdown will be completed by 6:00 P.M. on the Wednesday following the event. The CMB and AVP must mutually agree upon an event date by February 1 of each year.

XI. REPRESENTATIONS AND WARRANTIES.

A) CMB represents and warrants to AVP that: (i) CMB has the full right and authority to enter into and perform its obligations under this Agreement; (ii) the rights granted to AVP hereunder will not violate the rights of any third party and the full right to exercise the same have in no way been limited, diminished, or impaired; and (iii) the execution, delivery and performance of this agreement will not violate the provision of any agreement to which CMB is a party or by which it is bound.

B) AVP represent and warrant to CMB that: (i) AVP has the full right and authority to enter into and perform its obligations under this agreement; (ii) the rights granted to CMB hereunder will not violate the rights of any third party and the full right to exercise the same have in no way been limited, diminished, or impaired; and (iii) the execution, delivery and performance of this agreement will not violate the provision of any agreement to which it is a party or by which it is bound.

XII. USE OF TRADEMARKS OR SERVICE MARKS. CMB hereby grants a limited license to AVP, for the 2006 through 2010 Tournaments only, to use of the name "Manhattan Beach Open." CMB expressly reserves to itself all other rights to use of the name "Manhattan Beach Open" which the parties hereto acknowledge is the sole property of CMB. Except as expressly provided herein, neither party shall have the right to use in any way the corporate or trade name, trademark(s), service mark(s), logo(s), or other identification of the other party without its prior written consent.

XIII. CONTINGENCIES. This Agreement is contingent upon issuance by CMB of all necessary governmental approvals, including but not limited, to all required City of Manhattan Beach and Los Angeles County, or Coastal Commission (if any) approvals and environmental review (if any) required under the California Environmental Quality Act ("CEQA").

XIV. INSURANCE.

A) Commencement. AVP shall not commence activities under this Agreement until it has obtained CMB approved insurance. Before beginning any activities hereunder, during the entire period of this Agreement, for any extensions hereto, and for periods after the end of this Agreement as indicated below, AVP must have and maintain in place, all of the insurance coverages required by this Section XIV. AVP's insurance shall comply with all items specified by this Agreement. Any subcontractors of AVP shall be subject to all of the requirements of this section XIV. and AVP shall be responsible to obtain evidence of insurance from each subcontractor and provide it to CMB before the subcontractor commences work.

All insurance policies used to satisfy the requirements imposed hereunder shall be issued by insurers authorized to do business in the State of California. Insurers shall have a current A.M. Best's rating of not less than A-VII unless otherwise approved by CMB.

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B) Coverages, Limits and Policy Requirements. AVP shall maintain the types of coverages and limits indicated below:

1) **COMMERCIAL GENERAL LIABILITY INSURANCE** - a policy for occurrence coverage, including all coverages provided by and to the extent afforded by Insurance Services Office Form CG 0001 ed. 11/88 or 11/85, with no special limitations affecting CMB. The limit for all coverages under this policy shall be no less than two million dollars (\$2,000,000.00) per occurrence. CMB, its employees, officials and agents, shall be added as additional insureds by endorsement to the policy. The insurer shall agree to provide the CMB with thirty (30) days prior written notice of any cancellation, non-renewal or material change in coverage. The policy shall contain no provision that would make this policy excess over, contributory with, or invalidated by the existence of any insurance, self-insurance or other risk financing program maintained by CMB. In the event the policy contains such an "other insurance" clause, the policy shall be modified by endorsement to show that it is primary for any claim arising out of the work performed under this Agreement. The City of Manhattan Beach Insurance Endorsement Form No. 1 (General Liability) must be executed by the applicable insurance underwriters.

2) **COMMERCIAL AUTO LIABILITY INSURANCE** - a policy including all coverages provided by and to the extent afforded by Insurance Services Office form CA 0001, ed. 12/93, including Symbol 1 (any auto) with no special limitations affecting the CMB. The limit for bodily injury and property damage liability shall be no less than one million dollars (\$1,000,000) per accident. CMB, its employees, officials and agents, shall be added as additional insureds by endorsement to the policy. The insurer shall agree to provide the CMB with thirty (30) days prior written notice of any cancellation, non-renewal or material change in coverage. The policy shall contain no provision that would make this policy excess over, contributory with, or invalidated by the existence of any insurance, self-insurance or other risk financing program maintained by CMB. In the event the policy contains such an "other insurance" clause, the policy shall be modified by endorsement to show that it is primary for any claim arising out of the work performed under this Agreement. The City of Manhattan Beach Insurance Endorsement Form No. 2 (Auto) must be executed by the applicable insurance underwriters.

3) **WORKERS' COMPENSATION INSURANCE** - a policy which meets all statutory benefit requirements of the Labor Code, or other applicable law, of the State of California. Employer's Liability Insurance with a minimum limit of not less than one million dollars (\$1,000,000) per claim. The policy shall contain, or be endorsed to include, a waiver of subrogation in favor of CMB.

CMB

AVP



C) Additional Requirements. The procuring of such required policies of insurance shall not be construed to limit AVP's liability hereunder, nor to fulfill the indemnification provisions and requirements of this Agreement. There shall be no recourse against CMB for payment of premiums or other amounts with respect thereto. CMB shall notify AVP in writing of changes in the insurance requirements. If AVP does not deposit copies of acceptable insurance policies with CMB incorporating such changes within sixty (60) days of receipt of such notice, AVP shall be deemed in default hereunder. Any deductibles or self-insured retentions must be declared to and approved by CMB. Any deductible exceeding an amount acceptable to CMB shall be subject to the following changes:

- 1) Either the insurer shall eliminate, or reduce, such deductibles or self-insured retentions with respect to CMB and its officials, employees and agents (with additional premium, if any, to be paid by AVP) ; or
- 2) AVP shall provide satisfactory financial guarantee for payment of losses and related investigations, claim administration, and defense expenses.

D) Verification of Compliance. AVP shall furnish CMB with original endorsements effecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by the insurer to bind coverage on its behalf. All endorsements are to be received and approved by CMB before activity commences. Not less than fifteen (15) days prior to the expiration date of any policy of insurance required by this Agreement, AVP shall deliver to CMB a binder or certificate of insurance with respect to each renewal policy, bearing a notation evidencing payment of the premium therefor, or accompanied by other proof of payment satisfactory to CMB.

XV. INDEMNIFICATION. AVP agrees to indemnify, defend, and hold harmless CMB and its elective or appointive boards, officers, agents, attorneys and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees arising out of, or in any way connected with performance of, this Agreement by AVP, AVP's agents, officers, employees, subcontractors, or independent contractor(s) hired by AVP, including, but not limited to, any legal action challenging the validity of the event or the permits therefore. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by AVP.

CMB agrees to indemnify, defend, and hold harmless AVP and its elective or appointive boards, officers, agents, attorneys and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees arising out of, or in any way connected with performance of, this Agreement by CMB, CMB's agents, officers, employees, subcontractors, or independent contractor(s) hired by CMB, including, but not limited to, any legal action challenging the validity of the event or the permits therefore. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CMB.

XVI. INDEPENDENT CONTRACTOR. CMB and AVP shall each be and act as independent contractors and under no circumstances shall this agreement be construed as one of agency

CMB

AVP



or partnership between CMB and AVP. Each party acknowledges and agrees that it neither has nor will give the appearance or impression of having any legal authority to bind or commit the other party in any way other than as authorized by this Agreement. Nothing in this Agreement shall be construed to create a joint venture between the parties hereto or to obligate either party for debts or obligations incurred by the other party in the performance of this Agreement.

XVII. FAILURE TO OBJECT NOT A WAIVER. The failure of either party to this agreement to object to or to take affirmative action with respect to any conduct of the other party which is in violation of the terms hereof shall not be construed as a waiver thereof, nor of any future breach of subsequent wrongful conduct.

XVIII. NOTICES. All notices required or permitted hereunder shall be deemed duly given on the date sent by certified mail, postage prepaid, addressed to the parties as follows:

If to AVP: AVP
6100 Center Drive, Suite 900
Los Angeles, CA 90045
Attn: Chief Operating Officer

If to CMB: City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266
ATTN: Richard Gill

XIX. LIMITATION ON ASSIGNMENT.

A) The rights and obligations under this Agreement may be assigned or delegated by the parties hereto only with the prior written consent of the other party. Any attempted assignment or delegation, without the prior written consent of the other party shall be voidable at the discretion of the non-assigning party.

B) This Agreement and all of the terms and provisions hereof will be binding upon and will insure to the benefit of the parties hereto and their respective successors and assigns.

XX. APPROVAL. Whenever approval, consent, information, or data is herein required of either or both parties, the same shall not be unreasonably or arbitrarily delayed or withheld.

XXI. COMPLIANCE WITH THE LAW. Should it be determined that this agreement or any provision hereof violates any federal, state, or local law or regulation, then the parties shall promptly modify this Agreement to the extent necessary to bring about compliance with such law and/or regulation; provided, however, that if such modification would cause this Agreement to fail in its essential purpose or purposes, it shall be deemed cancelled by mutual agreement of the parties and neither party shall have any further obligations or liabilities with respect to this Agreement.

XXII. ENTIRE AGREEMENT. This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes any and all

CMB

AVP

AK

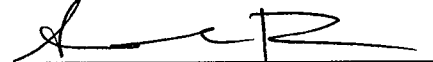
prior understandings or agreements in regard hereto. This Agreement cannot be altered or modified except by an agreement in writing signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

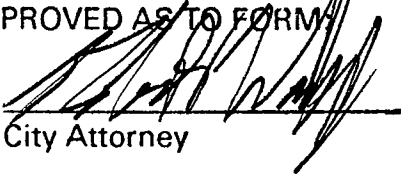
CITY OF MANHATTAN BEACH

BY: _____
DATE: _____
TITLE: _____

AVP PRO BEACH VOLLEYBALL TOUR, INC.

BY: 
DATE: 7-14-06
TITLE: COO

APPROVED AS TO FORM

By 
City Attorney

RESOLUTION NO. 6047

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING A 5-YEAR COASTAL DEVELOPMENT PERMIT FOR THE PROPERTY LOCATED AT THE SOUTH SIDE OF THE MANHATTAN BEACH PIER IN THE CITY OF MANHATTAN BEACH (Association of Volleyball Professionals)

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council of the City of Manhattan Beach hereby makes the following findings:

- A. The City Council conducted a public hearing on the proposed coastal development permit, and testimony was invited and received, on July 18, 2006.
- B. The applicant for the coastal development permit is the Association of Volleyball Professionals.
- C. The City Council, at its regular meeting of July 18, 2006, approved a temporary use permit/program for the 2006 Manhattan Beach Open volleyball tournament and an agreement with the Association of Volleyball Professionals to partner with the City of Manhattan Beach to produce the event.
- D. A coastal development permit was also submitted by the Association of Volleyball Professionals to allow temporary spectator bleachers and related structures seating 3,500 people for a single 10 day period (including setup and breakdown) for the Manhattan Beach Open each summer for the years 2006 through 2010
- E. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section pursuant to Sections 15304(e) "Minor Alterations to Land", 15311(c) "Accessory Structures", and 15323 "Normal Operations of Facilities for Public Gatherings".
- F. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- G. The project, as conditioned herein, is in accordance with the objectives and policies of the Manhattan Beach Coastal Program, as follows:
 - a) The proposed temporary bleacher structures comply with the applicable standards of the Manhattan Beach Coastal Zone Zoning Code.
 - b) The structures shall not obstruct accessways within the coastal zone. While they will occupy some space on the beach, access from the Strand, bike path, and pier to the coastline and surrounding beach area shall remain available.
 - c) The proposed configuration shall permit public view of the center court volleyball competition from the adjacent Strand, pier, and bike path areas, which are prominent pedestrian routes within the coastal zone.
 - d) Any displacement of normal views or use of the space shall be temporary for the period allowed by the proposed permit.
 - e) Installation and use of the bleachers and related structures shall be subject to the restrictions (timing, shuttle, signs, trash, etc.) of the City's tournament agreement with the AVP.

- H. This Resolution upon its effectiveness constitutes the Coastal Development Permit for each Manhattan Beach Open volleyball tournament for the years 2006 through 2010, that conform to the description and conditions provided herein.

SECTION 2. The City Council of the City of Manhattan Beach hereby approves the proposed Coastal Development Permit Amendment for temporary bleachers and related structures for 3,500 spectators at the Manhattan Beach Open volleyball tournament for the summers of 2006 through 2010, subject to the following conditions:

1. The project shall be in substantial conformance with the plans submitted to, and approved by the City Council on July 18, 2006.
2. The project shall conform to the city-approved Agreements with the Association of Volleyball Professionals for each applicable Manhattan Beach Open to minimally include requirements equivalent to those contained in the 2005 Letter of Agreement attached as Exhibit A.
3. *Interpretation.* Any questions of intent or interpretation of any condition will be resolved by the City Council.
4. *Inspections.* The Community Development Department Staff shall be allowed to inspect the site and the development during construction subject to 24-hour advance notice.
5. *Effective Date.* This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030, and the City of Manhattan Beach Local Coastal Program - Implementation Program Section A.96.160 have expired; and, following the subsequent Coastal Commission appeal period (if applicable) which is 10 working days following notification of final local action.
6. The subject Coastal Development Permit will be implemented in conformance with all provisions and policies of the Certified Manhattan Beach Local Coastal Program (LCP) and all applicable development regulations of the LCP - Implementation Program.
7. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code section 711.4(c), the project is not operative, vested or final until the required filing fees are paid.
8. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.
9. All structures associated with the project shall be limited to 41.5 feet in height pursuant to the City Council's previous establishment of such height limit within the 2005 Manhattan Beach Open temporary use permit approval.

SECTION 3. Pursuant to Government Code Section 65907 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution. The City Clerk shall send a certified copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

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Res. 6047

SECTION 4. This resolution shall take effect immediately. The City Clerk shall make this resolution readily available for public inspection within thirty (30) days of the date this resolution is adopted.

SECTION 5. The City Clerk shall certify to the adoption of this resolution and thenceforth and thereafter the same shall be in full force and effect.

PASSED, APPROVED and ADOPTED this 18th day of July, 2006.

Ayes:
Noes:
Absent:
Abstain:

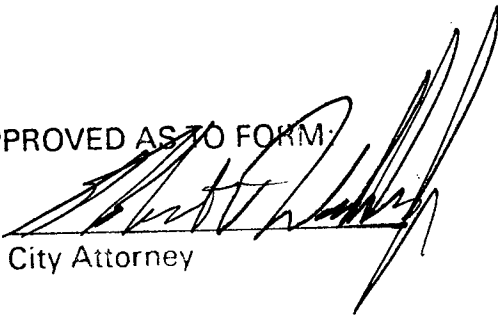
Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk

APPROVED AS TO FORM:

By



City Attorney

11

Exhibit A – Resolution No. 6047

LETTER OF AGREEMENT – 2005 MBO/AVP AGREEMENT

This letter of agreement is made this 31st day of February 2005 by and between the City of Manhattan Beach and the Association of Volleyball Professional, Inc. (“AVP”). It is agreed to by the respective parties that the specific terms as detailed below will supersede those terms included in the “2005 MBO/AVP Agreement” and be binding to both parties.

Item I D

Fees for Preferred Courtside Seating

The general public shall be provided with free public access to viewing and seating areas within the event area. The AVP shall post clearly legible signs to designate at least 75% of the total seating capacity at each court (including bleachers, sand areas and viewing platforms/risers surrounding each court) that is reserved for the general public for free on a first-come, first-served basis. The signs, at least two square feet in area, shall state “Free Admission eating Area” The remaining 25% (or less) of the total seating capacity at each court (including bleachers sand areas and viewing platforms/risers surrounding each court) may be paid seating, or reserved for preferred Beach Club/VIP seating and/or access. The applicant is permitted to collect fees to access to the preferred seating areas. On Saturday and Sunday (August 20 & 21, 2005), the applicant shall count and record the number of Beach Club members and VIP’s within the event area, and shall provide the City and the Coastal Commission with the data by September 16, 2005.

The AVP will adhere to the site plan (attachment A). The yellow shaded areas are public seating and pink shaded areas are for VIP’s and Beach Club members. The numbers below also correlate to the numbers on the site plan;

Item III I

Parking and Traffic Management and Beach Shuttle Bus Plan

The AVP shall implement a traffic and parking management plan and free beach shuttle bus plan. The traffic plan will include the following items:

Handicapped Parking

All existing handicapped (HC) parking spaced in the upper and lower pier parking lot, and lower pier parking lots, and along Manhattan Beach Boulevard, are reserved for use by persons with vehicles displaying valid handicapped placards. Vehicles associated with the applicant or the event shall not reserve or occupy any handicapped parking spaces unless such vehicle displays a valid handicapped placard.

Public Beach Parking Lots

Commencing on Monday, August 15, 2005, and continuing through Wednesday, August 24, 2005, the AVP shall be permitted exclusive use of only the two lower pier parking lots located at the base of the Manhattan Beach State Pier (71 stalls not including HC stalls). All public parking spaces within the upper pier parking lots shall be reserved for the general public on a first-come, first served basis (54 stalls including HC stalls)

Remote Parking Supply

On Saturday and Sunday (August 20 & 21, 2005), the AVP shall provide the free remote parking supply at the Northrop Grumman parking lot for the general public (i.e., beachgoers, event spectators and AVP guests). The AVP shall monitor and record the number of persons and cars using the remote parking lot on each day and provide the City and the Commission with the data by September 16, 2005.

Free Shuttle Bus Service

On Saturday and Sunday (August 20 & 21, 2005), the AVP shall provide a free shuttle bus service to transport people (i.e., beachgoers, event spectators and AVP guests) between the remote parking lot (Northrop Grumman parking lot) and the downtown drop-off point (Von's Supermarket). At least two shuttle buses, each holding at least fifty persons, shall run continuously between the drop-off point and the remote parking lot each day between the hours of 7 a.m. to 7 p.m. One or both of the shuttle buses shall accommodate wheelchairs and handicapped persons. The "headway" time between shuttle service pick-ups shall be not more than fifteen (15) minutes.

Signage

Commencing on Tuesday, August 16, 2005, the AVP shall provide conspicuously posted on-street informational signs and banners to direct visitors to the free remote parking lot and inform them of the free beach shuttle bus stops. The signs and banners shall also inform the public of the availability of a free bus shuttle for both event spectators and the general public. No fewer than ten informational signs shall be placed along major intersections leading into the City (i.e. I-405 Inglewood exit, Manhattan Beach Boulevard, Highland Avenue, Manhattan Avenue, Valley Drive, Ardmore Avenue, and Aviation Boulevard). The signs and banners shall be no smaller than 2'X3". All signage shall be retrieved and properly disposed on Monday, August 22, 2005.

Advertisements

Commencing on Tuesday, August 16, 2005, the AVP shall provide no fewer than eight radio announcements and three newspaper advertisement within the Los Angeles County area informing the public of the service. These stations shall represent all diverse ethnic and cultural Los Angeles radio markets and shall include Spanish language, youth and news stations. The applicant shall provide copies of each print advertisement to the City and the Coastal Commission by September 16, 2005.

Item III L

Manhattan Beach Pier

The event shall not interfere with the public's access to and use of the Manhattan Beach Pier. Pedestrian access to and from the pier shall remain open and unobstructed at all times. No tents, vehicles (except for emergency vehicles), fences, barriers or other similar structures shall be placed in the pier. If authorized by the City of Manhattan Beach Fire Department and the California Department of Parks and Recreation, the applicant may erect one set of bleachers on the pier, with a seating capacity not to exceed

250 persons. The applicant shall monitor the pier in order to prevent any unpermitted encroachments by event sponsors and vendors.

Bicycle Path on The Strand

The event shall not interfere with the public's use of the bicycle path and The Strand, a public walkway that parallels the beach. The bicycle path and The Strand shall remain open and unobstructed. No fences, vehicles, materials or structures shall be parked or placed on the bicycle path or The Strand. The applicant shall monitor The Strand and bicycle path in order to prevent any encroachments by event sponsors and vendors.

Public Access to and Along the Water

The proposed event, and all associated development, shall not encroach any closer to the shoreline than fifty feet (50'), measured from the highest water mark.

Item III J

Protection of Water Quality

By acceptance of this coastal development permit, the applicant agrees to remove and legally dispose of all trash, waste, oil, grease, and other materials that may be deposited on-site incidental to the volleyball tournament, associated activities, and the general public's use of the event site, pier and adjacent parking facilities. Such clean-up and disposal shall be completed at the end of each days activities.

INWITNESS WHEREOF, the parties hereto have executed this letter Of Agreement as of the date first written above.

CITY OF MANHATTAN BEACH

BY: _____
DATE: _____
TITLE: _____

ASSOCIATION VOLLEYBALL PROFESSIONALS, INC.

BY: _____
DATE: _____
TITLE: _____

