

San Mateo County Harbor District

Physical: 504 Avenue Alhambra, El Granada, CA 94018

Mailing: PO Box 1449, El Granada, CA 94018

Phone Number: (650)583-4400/ Fax Number (650)583-4611

Special Use Permit

(5-Year term: 2016/2017 through 2020/2021)

Permit Number: 2016-01

1. Special Use Permittee

- 1.1. Name of Permittee: Cartel Management, Inc.
- 1.2. Contact Person: Zoe Lee Ahn (Cartel)
- 1.3. Address of Permittee: 25 Johnson Pier, HMB, CA 94019
5870 Melrose Ave., LA 90038
- 1.4. Phone Number: Day: (510) 305-6262/ Cell: (310) 480-2577

2. Special Use Permit Description

- 2.1. This Special Use Permit is issued only for the purpose of using the portion of the property controlled by the San Mateo County Harbor District (“District”) and/or other District facilities as approved by the General Manager (collectively referred to as “District Property”) for use during a Surfing Event at Mavericks surf break (the “Event”). District Property is specified in Section 2.1.1, with an accompanying map for illustration purposes only attached as Exhibit A.

2.1.1 District Property to be utilized by Permittee is specifically defined as follows:

- a. West Trail (Law enforcement will have this blocked off and be controlling area)
- b. West Trail Parking Lot (a.k.a. “MIT Lot”)- Minimum is ½ the spaces. The Harbormaster can agree to include 100% of the spaces as needed for the success and safety of the event.
- c. “C-1” Lot - Minimum 25% of spaces. The Harbormaster can agree to include 50% and up to 100% of the spaces as needed for the success and safety of the event, 100% dependent on availability and seasonal needs of the space as Harbormaster and Staff will advise. (100% most likely not available November through January 3rd)
- d. Perch Beach – Exclusive use of up to 100% of the vacant space. The Harbormaster will work with Permittee to minimize the space based on area needed for the success and safety of the event;
- e. One lane of launch ramp;
- f. 10’ X 10’ tent at H dock in vicinity of Fuel Dock Ice Machine as determined by the Harbormaster that interference with commercial and charter boats is limited.

- 2.1.2 The District and Permittee understand that circumstances may change during the term of this Permit, such that Permittee may be required to seek additional or different access to District Property, and/or that the District may need to modify Permittee’s access to District Property. Therefore, the Parties mutually agree that, in the event that such changes are required, they will meet and confer in

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good faith, in concert with the General Manager or his designee, to reach agreement on such modifications.

- 2.2 The term of this Permit shall be for Five (5) “seasons,” each “season” being defined as the period from November 1 through March 31, and specifically November 1, 2016 through March 31, 2017, November 1, 2017 through March 31, 2018, November 1, 2018 through March 31, 2019, November 1, 2019 through March 31, 2020, and November 1, 2020 through March 31, 2021.
- 2.3 Each Event will be a paddle-in event and will take place on one day. The exact date will be determined by Permittee but must be between November 1 and March 31 for each season, as defined in 2.2 above, and as set forth more fully in Section 4.10.

3. Special Use Permit Fee

- 3.1 Payment by Permittee of the Application Fee of Five thousand dollars (\$5,000), which the District acknowledges for the 2016/2017 season was made on August 5, 2015. For each successive season, payment of the application fee shall be due by no later than July 1 of each season year (e.g. payment for the 2016/2017 season shall be due by July 1, 2016).
- 3.2 Payment by Permittee of a Permit Fee of Eleven thousand six hundred dollars (\$11,600.00), which shall be due on or before November 1 of each season (e.g. payment of the Permit Fee for the 2016/2017 season shall be due by November 1, 2016). The parties agree to the following with regard to the Permit Fees payable by the Permittee.
 - 3.2.1 The Permit Fee is intended to cover the District's costs for each season's Event, including administrative costs as well as costs incurred by the District in planning for and supporting Permittee's holding the Event each season. The Parties agree to work cooperatively to minimize costs where possible.
 - 3.2.2 To the extent the District costs relating to a specific season's Event are in excess of \$11,600.00, the District shall provide to the Permittee an invoice setting forth the costs incurred and the Permittee agrees to pay any undisputed invoice thirty days from the date of the invoice. This provision applies regardless of whether or not an Event actually occurs in a particular season.
 - 3.2.3 To the extent the District costs relating to a specific season's Event are less than \$11,600, the amount less than \$11,600 shall be credited to Permittee's Permit Fee for the following season. Notwithstanding the foregoing, The District will not refund any amount upon the expiration or termination of this Permit, even if District Costs associated with the 2020/2021 Event are less than \$11,600. This provision applies regardless of whether or not an Event actually occurs in a particular season.
 - 3.2.4 Along with any invoice submitted in accordance with Section 3.2.2, the District will provide Permittee an accounting of District Costs. Permittee will notify District within 15 days of receipt of any invoice if it disputes such accounting.

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In such an event, the parties agree mutually to use best efforts to try and resolve any dispute.

- 3.3 Payments of undisputed amounts not paid by the due date shall bear interest at 10.00% per annum until paid.
- 3.4 Permittee shall be charged \$30.00 for each check that is returned to the District for lack of sufficient funds.

4. Terms and Conditions

- 4.1 Operating Hours: This Permit is in force on the day of the Event from approximately 5 a.m. to approximately 11 p.m.
- 4.2 Permittee shall provide on-water safety arrangements during the Event that meet all District requirements and any other requirements imposed on Permittee by other regulatory agencies.
- 4.3 Public safety for the non-participating public during the Event is of paramount importance. Both Permittee and the District are committed to conducting the Event in a manner that allows for the public to view the Event safely. At the District's direction, Permittee shall prohibit public access (a) to the District's marsh parking lot, (b) to the trail connecting the District's marsh parking lot to the Maverick's beach and (c) to the Maverick's beach, and use of these areas may be limited to use by law enforcement and public safety personnel and equipment.
- 4.4 Permittee's access (a) to the District's marsh parking lot, and (b) to the trail connecting the District's marsh parking lot to the Maverick's beach shall be limited to access required to comply with the terms of Section 4.3 above, or as may otherwise be permitted in writing by the District's Harbormaster, or for emergency use by Permittee staff with prior notice to District staff.
- 4.5 Permittee shall not provide for or use the Property for Event vehicles parking, except as required to comply with the terms of Section 4.3 above, or as may otherwise be permitted in writing by the District's Harbormaster.
- 4.6 Permittee must use reasonable care and may not unreasonably increase the burden on the Property. Permittee shall ensure the immediate area of the Event and all of the Property are kept free of debris, trash, etc., and shall return the Property to its original condition following completion of the Event.
- 4.7 Permittee shall provide an adequate number of portable toilets as determined by the General Manager in consultation with the Harbor Master.
- 4.8 Solicitation of Business and Advertising
 - 4.8.1 On-site advertising, including informational and directional signs is allowed in the form prescribed at the discretion of the General Manager in consultation with the Harbor Master. Permittee shall obtain prior approval of the General Manager before placing any advertising or signs on the Property. Other than as set forth above, Permittee shall not alter, modify, remove any portion of, or affix any item

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to any structure on the Property at any time during the term of this Permit, except as specifically authorized by the District's General Manager or Harbor Master.

- 4.8.2 Companies other than those authorized by Permittee are not permitted to advertise on District property and any such advertising must comply with section 4.8.1.
- 4.9 Permittee shall be required to obtain and/or comply with the following:
 - 4.9.1 Permittee shall provide the District with a copy of the Seller's Permit issued from the California State Board of Equalization, which entitles the Permittee to sell products and any other licenses, which may be required by other agencies. Licenses shall be maintained in accordance with law and Permittee must be able to produce licenses when requested to do so by a representative of the District.
 - 4.9.2 The District will not grant a Commercial Activity Permit to other vendors for use of the Property for commercial purposes during the Event without prior authorization of the Permittee. Even with Permittee authorization, the District will grant any such Commercial Activity Permit at its sole discretion, to be exercised in accordance with its policies.
 - 4.9.3 A Certificate of Insurance for the Permittee's activities related to the Event described in Section 2.1 attesting to liability coverage consisting of a Comprehensive General Liability policy with a Broad Form Endorsement that provides coverage for bodily injury and property damage in the amount of \$1,000,000.00 per occurrence and \$2,000,000.00 per aggregate and a \$5,000,000.00 Umbrella and naming the San Mateo County Harbor District as an Additional Insured. The Certificate of Insurance shall provide evidence that the insurance includes the following endorsements: Additional Insured, Primary and Non-Contributory wording; and Waiver of Subrogation in favor of the District. It is understood that as provided for in Section 4.13 below, Permittee shall defend, indemnify, and hold harmless San Mateo County Harbor District. This certificate shall be maintained in full force and effect during the term of the permit. The Permittee will provide the District a Certificate of Insurance, or other proof of insurance, no later than November 1 for each season.
 - 4.9.4 Permittee shall obtain and comply with all permits and other approvals, licenses and certifications as required by other government agencies and departments. Permittee shall furnish satisfactory evidence of such compliance upon request of the District. In particular, the effectiveness of this permit is subject to the California Coastal Commission and/or San Mateo County granting a Coastal Development Permit as necessary, after appropriate environmental review under the California Environmental Quality Act; Permittee is expressly subject to any mitigation measures required through any environmental review process.
 - 4.9.5 Permittee shall not sell or permit to be sold alcoholic beverages on the Property.
- 4.10 Term of Permit. This Permit is effective from November 1, 2016, and shall terminate on the earlier of 11:00 pm on the day of the last Event for the 2020/2021 season, or on March 31, 2021. This Permit becomes immediately null and void should any of the

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conditions specified in Section 4 not be met, or should any required certificates expire or be revoked or suspended.

- 4.11 This Permit shall be the sole Permit issued for the purpose of using the Property in connection with holding a Surfing Event(s) at Mavericks surf break during the term of this Permit.
- 4.12 This Permit is for Permittee's exclusive use and is not assignable without the prior consent of the District, to be granted at its sole discretion.
- 4.13 Permittee, as a material part of the consideration to be rendered to the District under this Permit, waives all claims against the District for damages to all personal property in, on or about the District's facilities, and for injuries to persons in or about the District's facilities from any cause arising at any time. Permittee hereby agrees to defend, indemnify, and save harmless the District, its governing board, officers, employees and agents, from and against any and all claims, suits, actions liability, loss, damage, expense, cost (including, without limitation, costs and fees of litigation) of every nature, kind or description, which may be brought against, or suffered or sustained by, the District, its governing board, officers, employees or agents arising or resulting from the use of the Property by Permittee, its agents, employees, contractors, subcontractors or invitees or Permittee's breach of this Permit. The duty of the Permittee to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code. It is the express intent of the parties that Permittee will indemnify and hold harmless the District from any and all claims, suits or actions arising from any cause whatsoever as set forth above, other than the sole negligence, willful misconduct or criminal acts of the District. Permittee waives any and all rights to any type of express or implied indemnity against the JPB arising out of Permittee's use of or activities on the Property. This indemnity shall survive expiration or termination of this Permit.
- 4.14 Should either party to this agreement bring any legal action, dispute, or proceeding arising out of or relating to this permit, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall be permitted to file legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be paid equally by the parties. If a mediated settlement is reached neither party shall be deemed the prevailing party for purposes of settlement and each party shall bear its own legal fees and costs.
- 4.15 The laws of the State of California shall govern this agreement and any suit or action initiated by either party shall be brought in the County of San Mateo, California. In the event of litigation between the parties hereto to enforce any provision of the agreement, the unsuccessful party will pay the reasonable attorney's fees, court costs, discovery costs and expenses of litigation of the successful party.
- 4.16 Permittee shall pay a fee pursuant to Section 1719 of the Civil Code for the State of California for each check that is returned to the District for lack of sufficient funds.

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4.17 Any person, firm or corporation Permittee authorizes to work upon or enter upon the Property, including any contractor(s) and subcontractor(s), shall be deemed to be Producer's agent and shall be subject to all the applicable terms of this Permit.

5.0 Revocation or Suspension of Permit

This Permit is effective from **November 1, 2016**, and shall terminate on **March 31, 2021**. This Permit becomes immediately null and void should Permittee not submit the Permit Fee by November 1 of each year, should any of the conditions specified in Section 4 above not be met, or should any required certificates or permits expire or be revoked or suspended.

This Permit may be revoked or suspended by the San Mateo County Harbor District at any time and without notice by the District for violation of any Terms or Conditions of the Permit, or for violation of the Ordinances of the District.

PERMITTEE:

**SAN MATEO COUNTY
HARBOR DISTRICT**

Zoe Lee Ahn

Glenn Larof

Print Name

DocuSigned by:

Print Name



Glenn Larof

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Cartel Management, Inc. – Signature

SMCHD

10/28/2015

11/6/2015

Date

Date