

AGREEMENT

THIS AGREEMENT (“Agreement”), dated effective as of January __, 2008 (the “Effective Date”), is entered into by and between the **CITY OF SAUSALITO**, a municipal corporation (the “City”), and the **SAUSALITO CHAMBER OF COMMERCE**, a California non-profit corporation (“Chamber”).

RECITALS

The following Recitals are a substantive part of this Agreement:

A. City has entered into the Amgen Tour of California City Participation Agreement with AEG Cycling (“AEG”) (the “Participation Agreement”) pursuant to which the City is entitled to host the Stage 1 Start of the 2008 Amgen Tour of California (the “Tour”).

B. The City and the Chamber have previously entered into Agreements pursuant to which the City and the Chamber worked cooperatively together in connection with the 2006 and 2007 Amgen Tours of California.

C. The City with the assistance of the Chamber has formed a “Local Organizing Committee” (“LOC”) to work with AEG and Medalist Sports. The LOC is comprised of representatives from the City and Chamber and interested members of the community.

D. Pursuant to the terms of the Participation Agreement, the City is entitled to hold certain “ancillary events” in connection with the Tour.

E. City and Chamber desire to enter into this Agreement in order to set forth the parties respective rights and obligations regarding the ancillary events.

AGREEMENT

In consideration of the mutual covenants and conditions contained in this Agreement City and Chamber hereby agree as follows:

Section 1. Events Defined. In accordance with the terms of the Participation Agreement, the City must receive approval from AEG and Medalist Sport prior to holding any ancillary events in connection with the Stage 1 Start of the Tour. As of the date of this Agreement certain ancillary events have been held, others have been pre-approved and the LOC is seeking approval from AEG and Medalist Sport for others. The following is a list of such events:

- a. Press Conference;

- b. Bicycle Blast Reception;
- c. Sausalito Marin City School District Assembly and Bikes for Kids Program;
- d. Official Team Presentation and Gala Evening Celebration;
- e. Expo/Biker Breakfast;
- f. Sausalito Bicycle Rodeo; and
- g. Stage-One Tour de Cuisine.

These events together with the Stage 1 Start itself and any other ancillary events which are approved by AEG and Medalist Sport in accordance with the terms of the Participation Agreement shall be referred to collectively herein as the “Events” and individually as an “Event.”

Section 2. Recognition. The City and the Chamber shall endeavor to ensure that both parties will be recognized jointly and equally in connection with the Events.

Section 3. Event Costs. City and Chamber hereby agree to share equally any and all “Events Costs” incurred by the City. As utilized herein the term “Events Costs” means any and all direct costs and expenses incurred by the City related to any Event, including without limitation: any costs incurred by the City under the Participation Agreement; the cost to the City of all goods and services in connection with each Event; the cost to the City for the provision of public safety personnel and department of public works personnel (including overtime for such public safety and public works personnel) in connection with an Event; cost of outside consultant to the City related to any Event; and, any maintenance and/or repair cost related to such Event(s). Events Costs shall only be incurred in accordance with all City rules, regulations, policies and procedures including, without limitation, the provisions of the City’s Municipal Code regarding purchasing.

Section 4. Revenue. The City and the Chamber agree that all revenue with respect to the Events including, but not limited to, revenue generated through the sale of local sponsorship and tickets to the Official Team Presentation and Gala Evening Celebration shall be collected by the City. The City shall keep a separate itemized accounting of all revenues received in connection with any Event identifying the: a) source of the funds; b) the date received; and c) the Event for which the funds were received. The Chamber shall have the right to review and/or audit the City’s books and records upon reasonable notice to verify compliance with the provisions of this Agreement. The Chamber acknowledges and agrees that such right to review and audit shall be limited to the books and records of the City directly related to this Agreement and that the costs of such audit shall be borne solely by the Chamber.

Section 5. Seed Money. The City shall earmark Five Thousand Dollars (\$5,000) from the FY 2008 Business Hospitality budget to be utilized in connection with the upfront costs which have been and will be incurred by the City in connection with obtaining the right to host and hosting the Stage 1 Start of the Tour (the “City Deposit”). The Chamber has agreed to

match such funds and prior to or concurrently with the execution of this Agreement the Chamber shall deliver to the City in cash or other immediately available funds the amount of Five Thousand Dollars (\$5,000) (the "Chamber Deposit"). Interest, if any, accrued in connection with the Chamber Deposit shall be retained by the City. The Chamber Deposit shall be utilized by the City to pay "Event Costs" as defined in Section 6a below.

Section 6. Accounting/Distribution of Costs and Revenues. On or before May 31, 2008 the City shall provide the Chamber with an itemized list identifying all Event Costs and the revenue generated directly by the Events and actually received by the City including without limitation the revenues transferred to the City by the Chamber in accordance with Section 4 above (the "Event Revenues"). The Chamber acknowledges and agrees that Event Revenue specifically does not include amounts which are received by the City due to the fact that it is a governmental entity.

a. Payment of Excess Costs. In the event that the Event Costs exceed the Event Revenues (the "Excess Costs") the Chamber agrees that it shall be responsible for the payment of fifty percent (50%) of such Excess Costs (the "Chamber Share"). The Chamber's obligation to pay the Chamber Share shall be paid by first applying the Chamber Deposit. In the event that the Chamber Deposit does not satisfy the Chamber's obligation to pay the Chamber Share the Chamber shall pay the City the difference between the Chamber Deposit and the Chamber Share within fourteen (14) calendar days of Chamber's receipt of the accounting from the City. In the event that the Chamber Share is less than the Chamber Deposit the City shall return any excess amount of the Chamber Deposit to the Chamber along with the accounting.

b. Distribution of Net Profits. In the event that the Event Revenues exceed the Event Costs (the "Net Profit") such Net Profit shall be distributed as follows:

i. twenty five percent (25%) of the Net Profit shall be paid to the Chamber to be utilized by the Chamber to promote business and tourism in the City of Sausalito; and

ii. twenty five percent (25%) of the Net Profit shall be retained by the City and in the event that AEG Cycling presents a professional bicycle race similar to the Tour for the year 2009 and provided that the City Council directs staff to seek to have the City participate in such a tour, such funds shall be utilized as start up money to attempt to obtain the right to host a stage of such a tour. In the event that no tour is scheduled for 2009 or the City Council directs staff not to pursue participation in such a tour the City and the Chamber shall meet and jointly determine how to utilize such funds; and

iii. twenty five percent (25%) of the Net Profit shall be retained by the City and utilized to fund improvements to the City's parks; and

iv. twenty five percent (25%) shall be retained by the City and distributed equally to both the Marin County Bicycle Coalition and Trips for Kids which are both non-profit, 501c3 entities that promote health and wellness in Marin County.

Section 7. Attorneys' Fees. In the event of any action or proceeding brought by either party against the other pertaining to or arising out of this Agreement, the finally prevailing party shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, incurred on account of such action or proceeding.

Section 8. Remedies; Choice of Law. No remedy or election exercised hereunder shall be deemed exclusive but shall be cumulative with all other remedies at law or in equity. This Agreement shall be governed by the laws of the State of California.

Section 9. Severability. A final determination by a court of competent jurisdiction that any provision of this Agreement is invalid shall not affect the validity of any other provision, and any provision so determined to be invalid shall, to the extent possible, be construed to accomplish its reflected intent.

Section 10. Authority. Each individual executing this Agreement hereby warrants and represents that he/she is duly authorized to execute this Agreement.

Section 11. Time of Essence. Time is of the essence in the performance of each and every term, covenant and condition of this Agreement.

Section 12. Captions. The section captions contained herein are for reference purposes only and are not a part of this Agreement.

Section 13. Waiver. A waiver by City of any breach or default shall not be deemed a waiver of any other breach or default.

Section 14. Notices. Wherever in this Agreement it is required or permitted that notice or demand be given or served by either party to this Agreement to or on the other, such notice or demand shall be in writing and shall be deemed duly served or given only if personally delivered or sent by United States mail, certified or registered, postage prepaid, to the address of the parties as specified below.

To City

THE CITY OF SAUSALITO
CITY MANAGER
CITY OF SAUSALITO
420 LITHO STREET
SAUSALITO, CA 94965

To Chamber

SAUSALITO CHAMBER OF COMMERCE
PRESIDENT
10 LIBERTYSHIP WAY SUITE 250 BAY 2
SAUSALITO, CA 94965

Section 15. Execution. This Agreement may be executed in duplicate original counterparts each of which shall constitute one and the same instrument.

CITY:

CITY OF SAUSALITO, a municipal
corporation

Dated: _____, 2008

By: _____
Amy Belser, Mayor

ATTEST:

Deputy City Clerk

APPROVED AS TO FORM:

City Attorney

SAUSALITO CHAMBER OF COMMERCE:

Dated: _____, 2008

By: _____

Printed name: _____
Its: President