



DATE: December 19, 2012

TO: Honorable Mayor and City Councilmembers

FROM: Neighborhood Services Department

SUBJECT: **APPROVAL OF A THREE-YEAR AGREEMENT WITH KINANE EVENTS TO ALLOW THE TURKEY TROT RUN ON THANKSGIVING DAY 2013, 2014, AND 2015**

### **SYNOPSIS**

Staff recommends that the City Council approve a three-year agreement with Kinane Events of Carlsbad to produce the Turkey Trot Run on Thanksgiving Day 2013, 2014, and 2015; and authorize the City Manager to execute the agreement.

### **BACKGROUND**

The Oceanside Turkey Trot Run was established in 2006 by Kinane Events. The event provides competitive running opportunities for both youth and adults with a 1-mile Kids Race, 5k Race, and 5-mile run. A portion of the race entry fees is allocated to benefit designated Oceanside Schools. Approximately \$60,000 has been donated to local schools since 2006.

### **ANALYSIS**

Staff recommends approval of a three-year agreement (attachment A) for the race event for Thanksgiving Day 2013, 2014, and 2015. The agreement includes an option for years 2016, 2017, and 2018. Any future agreement would require consideration of future downtown and Harbor construction projects.

Consistent with City Council direction from the May 5, 2004, Special Events Workshop, all major street closure requests require City Council approval.

Prior to each year's event, a resolution will be brought forward to Council approving temporary street closures for Coast Highway from Surfrider Way to Oceanside Boulevard, Mission Avenue from Coast Highway to Cleveland Street, Pacific Street from Surfrider Way to Wisconsin Street, The Strand from Wisconsin Street to Surfrider Way, southbound Coast Highway from Sportfisher Drive to Monterey Drive and westbound south Harbor Drive to Pacific Street from 5:00 a.m. to 11:00 a.m. on race days.

The run route traffic plan has been tentatively approved by the Development Services Department Transportation Engineering Division and the Police Department (Attachment B). Kinane Events is required to provide advance notification to all businesses and residents advising of the street closures, parking restrictions and detours. Upon approval of the requested temporary street closures, Kinane Events will be required to employ a licensed traffic control company to provide all traffic control equipment and staffing necessary to facilitate the temporary street closure, and will provide private security and event volunteers to monitor the events. At the City Council's direction, the Turkey Trot has become 100% self sustaining. Kinane Events is requesting no enforcement of parking lots on Thanksgiving morning from 6:00 a.m. to 1:00 p.m. Kinane Events will be paying for all City costs, estimated at \$12,072 per year and \$36,216 for the total cost of the 3 year agreement. City costs are subject to change, should event logistics warrant.

### **FISCAL IMPACT**

Kinane Events will pay the following City costs, deposited into the following department accounts:

500501101.4161.0016 with subledger S.100013 (Special events)

600625101.4352.0001 with subledger S 100013 (Special events)

1101.4182 with subledger S 100080 (parking Mach 1)

935936101.4358 with subledger S 100018 (Rec Rntl-General)

### **INSURANCE REQUIREMENTS**

The City's standard insurance requirements will be met.

### **COMMITTEE OR COMMISSION REPORT**

While the Special Events Committee does not have discretionary authority to close major arterial roadways, the Committee has reviewed the proposed traffic plan and tentatively approved the plan subject to City Council final approval.

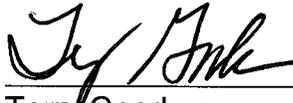
### **CITY ATTORNEY'S ANALYSIS**

The referenced documents have been reviewed by the City Attorney and approved as to form.

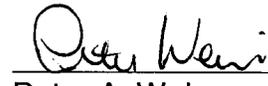
**RECOMMENDATION**

Staff recommends that the City Council approve a three-year agreement with Kinane Events of Carlsbad to produce the Turkey Trot Run on Thanksgiving Day 2013, 2014, and 2015; and authorize the City Manager to execute the agreement.

PREPARED BY:

  
\_\_\_\_\_  
Terry Goodman  
Recreation Supervisor

SUBMITTED BY:

  
\_\_\_\_\_  
Peter A. Weiss  
City Manager

REVIEWED BY:

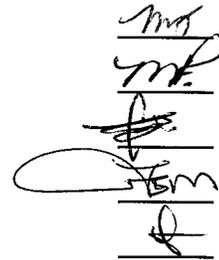
Michelle Skaggs-Lawrence, Deputy City Manager

Margery Pierce, Neighborhood Services Director

George Buell, Development Services Director

Frank McCoy, Police Chief

Teri Ferro, Financial Services Director







Agreement between the City of Oceanside and Kinane Events, Inc. to grant exclusive rights to manage the O' side Turkey Trot Run/Walk (hereinafter referred to as the "Event"), held annually on Thanksgiving Day.

This Agreement ("Agreement") is made this 5th day of December, 2012, between Kinane Events, Inc a California "S" Corporation (hereinafter referred to as "Kinane") and City of Oceanside, a municipal corporation of the State of California, hereinafter referred to as "City" .

Whereas Kinane wishes to stage a running/walking event on Thanksgiving in the City of Oceanside, California, on Thanksgiving Day from 2013 through 2015.

And Whereas the City wishes to have Kinane stage the event in and around the City based on the terms and conditions as provided for in this Agreement.

1) Agreement:

Kinane agrees to stage the O' side Turkey Trot in the City and the City grants Kinane the rights to stage the race in Oceanside on Thanksgiving Day annually, based upon the terms and conditions provided herein.

2) Permit Fees/Conditions and Direct Costs:

All costs and conditions that apply to each year's Event will be determined at the time of review through the Special Events Committee. These costs may include specific event permit fees, police costs, fire department permits and costs, and business license fees. Kinane is responsible for paying all associated City costs and fees 30 days in advance of the event. Kinane will also be responsible for obtaining Cal Trans Permits.

City agrees to waive the parking fees for all downtown lots for volunteers, vendors and participants from 4 AM until 2PM on Thanksgiving Day. Kinane will provide a city - approved participant parking plan, annually.

City reserves the right to cap the number of participants, should there be a negative impact on the downtown businesses.

2) Term: Extension:

This agreement shall apply to the Event for the years 2013, 2014 and 2015. This agreement may be extended, upon mutual agreement of the parties, for an additional three years to include 2016, 2017, 2018.

The city may terminate this agreement with 10 months written notice if:

- a) Kinane fails to comply with the conditions of approval for the Event, or
- b) Kinane fails to pay assigned fees in advance of the event, as set forth each year by the Special Events Committee

3) Exclusivity:

For the term of the Agreement, the sole and exclusive 5 Mile, 10K and or 5k race conducted in the Downtown/Beach/Strand area 30 days prior to and 30 days after the Event shall be the O'side Turkey Trot.

4) Indemnity:

To the greatest extent allowed by law, Kinane agrees to indemnify, defend and hold the City of Oceanside and its officers, agents and employees safe and harmless from and against any and all actions, manner of actions, causes of actions, liabilities, claims and demands, suits, damages, losses or injuries, expenses or otherwise arising from the staging, conduct or operation of the Event or in connection with the performance of Kinane's obligations pursuant to this Agreement, except for those claims arising from the willful misconduct, sole or active negligence of the city, its officers, agents or employees.

5) Insurance :

Kinane shall obtain general liability insurance of not less than 2 million dollars (\$2,000,000) for the Event and all incidental matters related to the Event. The Event shall name the City of Oceanside and Oceanside Small Craft Harbor District as additional insured under such policy.

The insurance coverage provided the City and the Harbor District as additional insured shall be primary insurance and other insurance maintained by the City of Oceanside, its officers, agents and employees, shall be excess only and not contributing with insurance provided pursuant to this section. All insurance companies affording coverage to Kinane pursuant to this agreement shall be insurance organizations admitted by the Insurance Commissioner of the State of California to transact business of insurance in the State or be rated as A-X or higher by A. M. Best. Kinane shall provide

evidence of compliance with the insurance requirement listed above by providing a Certificate of Insurance and applicable endorsements, in a form satisfactory to the City Attorney.

6) Course/Route:

Kinane agrees to make course adjustments as necessary to accommodate construction on an as-needed basis, and to absorb any of those costs. City agrees to notify Kinane by June of each year, of any permits that are approved for street closure on pre approved 5 Mile/10K, 5K or Kids course, during the third week in November.

7) No Partnership:

Nothing in this agreement shall be deemed in any way or for any purpose to constitute any party, a partner or any other party to this agreement in the conduct of any business, or a member of a joint venture or joint enterprise with any other party to this agreement.

8) Force Majeure:

In the event that the Event does not take place, in whole or in part, due to any Act of God or force majeure, including, without limitation, weather, fire, flood, strike, labor dispute, civil commotion, riot or threat of violence or similar cause beyond the control of the parties, neither party will be liable for losses due to the cancellations.

7) Entirety:

The parties acknowledge and agree that they are entering into this agreement freely and voluntarily. The parties also acknowledge and agree that no representations, inducements, promises, agreements or warranties, oral or otherwise, have been made by that party or anyone acting on that party's behalf nor have they executed this agreement in reliance on any representation, inducement, promise, agreement, warranty, fact or circumstance not expressly set forth in this agreement. This agreement, and the attached exhibits, if any, contain the entire agreement between the parties respecting the subject matter of this agreement, and supersede all prior understanding and agreements whether oral or in writing between the parties respecting the subject matter hereof.

8) Notices:

All notices, requests, demands or other communications by the terms hereof required or permitted to be given by one party to another shall be given in writing by personal delivery or by registered mail, postage prepaid, or facsimile transmission addressed to such other party or delivered to such other party as follows:

To City:

City of Oceanside  
300 N. Coast Highway  
Oceanside, CA 92054  
Attn: Peter Weiss

To Kinane Events:

Kinane Events, Inc.  
800 Grand Ave. Ste. C-10  
Carlsbad, CA 92008  
Attn: Kathy Kinane

In Witness Whereof, the parties hereto have caused this agreement to be executed By and through their authorized officers on \_\_\_\_\_ 2012.

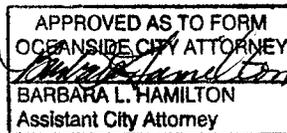
By:



Kathleen Kinane, President  
Kinane Events, Inc.  
California "S" Corporation



Peter Weiss, City Manager  
City of Oceanside, a Municipal  
Corporation of the State of California



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of SAN DIEGO

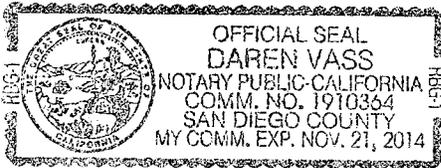
On 28 NOVEMBER 2012 before me, DAREN VASS NOTARY PUBLIC  
Date Here Insert Name and Title of the Officer

personally appeared KATHLEEN KIRBY  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal Above

Signature [Signature]  
Signature of Notary Public

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

**Description of Attached Document**

Title or Type of Document: AGREEMENT

Document Date: 5 DECEMBER 2012 Number of Pages: 4

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

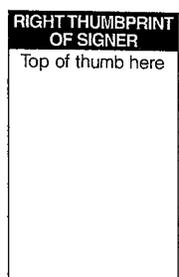
- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_





