

MEETING DATE: 05/18/09

AGENDA ITEM: Approval of a Memorandum of Understanding with the Downtown Business Association to perform Maintenance Services in Downtown Culver City.

ATTACHMENTS

	<u>Pages</u>
1. Matrix describing maintenance services provided in Downtown	1
2. Proposed MOU for Fiscal Year 2009-10	2-7

ATTACHMENT 1

TASK LIST DBA - CITY - AGENCY MOU 2009-10

CITY/AGENCY DEPARTMENT	MAINTENANCE TASK	MINIMUM LEVEL OF SERVICE	CITY/AGENCY FUND TRANSFER
PUBLIC WORKS / REDEVELOPMENT	PRESSURE WASHING		\$23,760.00
	Main Street	Quarterly	(City: \$13,440)
	Sidewalks	Monthly	(Agency: \$10,320)
	Town Plaza	Monthly	
	Paseos		
	Kirk Douglas	Quarterly	
	Watseka	Quarterly	
	Cardiff	Quarterly	
	Canfield	Quarterly	
	Parking Garages		
	Stalls and Driveways	Biannually	
	Stairways and Landings	Monthly	
	Entrance/Exit Ramps	Monthly	
	Alleys	Monthly	
	WIPE DOWN WASHING		
	Parking Garages		
	Elevator Doors	Monthly	
SANITATION	TRASH		\$18,500.00
	Pedestrian Cans	1/day (Fri evening); 2/day (Sat/Sun.)	(Funded by City)
PARKS & RECREATION	STREETSCAPE		\$12,600.00
	Sidewalk Planters/Pots	Weekly	(Funded by City)
	Tree Wells	Weekly	
	Medians	Weekly	
	Bike Racks	As needed	
	TOWN PLAZA		
	Sidewalk Litter/Debris/Cleaning	Every other day	
	Planters/Pots	Weekly	
	Shrubs / Hedges	Weekly	
	TOTAL		\$112,100.00
			\$44,540 City \$67,560 Agency

AMENDED MEMORANDUM OF UNDERSTANDING BY AND AMONG THE CITY OF CULVER CITY, THE CULVER CITY REDEVELOPMENT AGENCY AND DOWNTOWN BUSINESS ASSOCIATION

This Amended Memorandum of Understanding (the "MOU") is entered into by and among the City of Culver City (hereinafter "the City"), a California municipal corporation, the Culver City Redevelopment Agency ("the Agency") and the Culver City Downtown Business Association (hereinafter "DBA"), a California non-profit corporation, for the purpose of providing for the maintenance of the landscaping, sidewalks, plazas, paseos, alleys and parking structures within the City of Culver City Downtown Business Improvement District boundaries.

RECITALS

WHEREAS, the City and Agency have a deep and abiding interest in the maintenance, beautification and preservation of the City of Culver City's Downtown Business Improvement District, as depicted on the map attached hereto as Exhibit "A" (the "BID") and incorporated herein by reference; and

WHEREAS, the City and Agency have expended significant resources toward the improvement of the sidewalks and general appearance of the City's downtown areas, including the BID, through the installation of sidewalks, street lighting, aesthetic improvements and planting displays; and

WHEREAS, the City, the Agency and the DBA have a common interest in protecting, promoting, and maintaining the BID as a healthy and growing area for commerce and an attractive, safe and enjoyable place for public enjoyment; and

WHEREAS, the DBA has the expertise and opportunity to provide maintenance management that is necessary to keep the City's BID attractive, clean and safe, and the DBA is willing to enter into an agreement with the City to carry out those objectives; and

WHEREAS, representatives from the City, the Agency and the DBA have met to discuss maintenance standards within the BID and identify ways of accomplishing their mutual objectives; and, as a result, all parties have committed to work toward the achievement of those mutual objectives.

NOW THEREFORE, based on the foregoing Recitals, the City, the Agency and the DBA agree as follows:

A. Responsibilities of the DBA

Under this MOU, the DBA shall, in general, provide, either directly or indirectly through agreement with a duly qualified contractor or contractors for maintenance and care for shrubs, plants, planter areas, removal of litter from planting areas, emptying trash cans, plant and flower replacement and watering and weed removal within the BID. Specific maintenance services to be provided in the BID include, but are not limited to:

1. Sidewalk trash receptacles within the BID shall be emptied once per day every Friday and twice per day every Saturday and Sunday, at a minimum, to avoid spillover;
2. Weekly weed control shall be provided for planting beds, islands, tree wells, flower pots and sidewalk cracks. Dead vegetation, plants, leaves and other debris shall be removed from the planting areas and pots;
3. Annually, no later than April 30th, plants and flowers shall be provided in the existing planting areas and pots. The quantity and location of the annual plants and flowers will be determined by the resources available, as reasonably determined by the City's Parks, Recreation and Community Services Director;
4. At least once per month, and when reasonably determined by the City's Public Works Director, sidewalks, Town Plaza, and parking structure stairwells, landings, alleys and entrance ramps shall be swept and pressure washed, and elevators wiped down to maintain a clean appearance;
5. At least once every six months, parking structure stalls and drive lanes shall be pressure washed to maintain a clean appearance;
6. At least once per quarter, and when reasonably determined by the City's Public Works Director, paseos and Main Street shall be swept and pressure washed to maintain a clean appearance.

B. Responsibilities of the City

Under this MOU, the City:

1. Shall retain responsibility for repair and replacement of all landscape infrastructures, including, but not limited to, pots, planters, irrigation systems, sidewalks, parking structures and electrical systems.

2. Shall provide trash bags and free dumpster space to dispose of trash collected by the DBA from the sidewalk trash receptacles;
3. May, at the sole discretion of the City Council, appropriate in Fiscal Year 2009/2010, an amount equal to Forty-Four Thousand, Five Hundred Forty Dollars (\$44,540); and
4. May, for future fiscal years, consider funding for the services contemplated under this MOU. However, appropriation of such funding, in whole or in part, is at the sole discretion of the City Council.

C. Responsibilities of the Agency

Under this MOU, the Agency:

1. May, at the sole discretion of the Agency Board, appropriate in Fiscal Year 2009/2010 an amount equal to Sixty-Seven Thousand, Five Hundred Sixty Dollars (\$67,560); and
2. May, for future fiscal years, consider funding for the services contemplated under this MOU. However, appropriation of such funding, in whole or in part, is at the sole discretion of the Agency Board.

D. Disbursement of Funding

The funding appropriated by the City Council and Agency Board under Sections B(3), B(4), C(1) and C(2) hereof, if any, shall be available to the DBA on a monthly basis. The DBA may request reimbursement under the following conditions:

1. Once per month, the DBA may submit a reimbursement request for costs incurred to the DBA for performing services hereunder. Such reimbursement requests shall be in a form acceptable to the City and Agency, and include substantiation for amounts requested, including copies of invoices and other documentation as may be required by the City and Agency.
2. Upon receipt of such a reimbursement request, the City and Agency shall review the request, and upon approval, issue reimbursement to the DBA within thirty (30) days after receipt of the request.
3. If the reimbursement request is disallowed, in whole or in part by the City or Agency at its sole discretion, then the amount approved shall be paid in accordance with Section D(2) above. Within fifteen (15) days after receipt of a reimbursement request, the City shall transmit to the DBA, the amount and reason for any disallowed amounts with an explanation of why the City disallowed the reimbursement request.

4. In no case shall the total amount reimbursed to the DBA for the services performed hereunder during any fiscal year exceed the amount appropriated for these purposes by the City Council and Agency Board.

E. Indemnification

DBA shall indemnify, defend and hold harmless the City, Agency, and each of their respective elected officials, officers, employees, agents and volunteers, from and against any and all liability, claims, damages, judgments or awards, including costs, for damage to real or personal property, or personal injury or death (collectively, "Claims"), resulting from DBA's, any of its directors', officers', employees', agents', contractors', subcontractors' or volunteers' acts, errors or omissions arising out of or connected with providing the services contemplated by this MOU; provided, that DBA's obligations to indemnify and hold harmless shall only be to the extent DBA or any of its directors, officers, employees, agents, contractors, subcontractors or volunteers are a cause of the Claims.

F. Insurance

Without limiting its obligations pursuant to Section E of this MOU, the DBA shall submit one or more duly executed certificates of insurance for Comprehensive General Liability ("CGL") policy, at least as broad as ISO Form CG 0001, in the minimum amount of One Million Dollars (\$1,000,000) each occurrence, with not less than Two Million Dollars (\$2,000,000) in annual aggregate coverage.

The CGL Policy shall have the following requirements:

- a. The policy shall provide coverage for personal injury, bodily injury, death, accident and property damage and advertising injury, as those terms are understood in the context of a CGL policy. The coverage shall not be excess or contributing with respect to City's self-insurance or any pooled risk arrangements;
- b. The policy shall provide \$1,000,000 combined single limit coverage for owned, hired and non-owned automobile liability;
- c. The policy shall include coverage for liability undertaken by contract covering, to the maximum extent permitted by law. Consultant's obligation to indemnify the Indemnitees as required under Paragraph 6 of this agreement;
- d. The Policy shall not exclude coverage for Completed Operations Hazards or Athletic or Sports Participants; and
- e. The City of Culver City, members of its City Council, its boards and commissions, officers, agents, and employees will be named

as an additional insured in an endorsement to the policy, which shall be provided to the City and approved by the City Attorney.

G. Termination

Either party, upon the default hereunder by the other party, may terminate this MOU by providing at least thirty-days' (30-days') written notice to the other party. Services provided hereunder shall continue until the date of termination. Reimbursement for said services may be requested by the DBA up to sixty (60) days after the date of termination. Any and all reimbursement requests not received by that date shall not be reimbursed and neither party shall have any further obligation hereunder.

Unless terminated under the terms above, this Agreement shall terminate on June 30 ("Annual Termination Date") of each year unless extended in writing and executed by all parties hereto at least 60 days prior to the Annual Termination Date.

H. Default and Cure

Should either party allege default by the other party of its obligations hereunder, then the alleging party shall provide a written notice ("Notice of Default") to the other party ("Defaulting Party") including a description of the default and recommended actions to cure said default. The Defaulting Party shall, in good faith, attempt to cure the default within 15 days of receipt of the Notice of Default.

Failure to cure the default to the reasonable satisfaction of the other party shall be cause for termination of this MOU under Section E hereof.

I. Intent

The City, the Agency and the DBA are committed to actively pursue the items specified within this MOU toward the increased vitality of the BID. The parties agree the general terms of services set forth in this MOU form the basis for the specific maintenance services required and identified in Exhibit B, attached hereto and incorporated herein by this reference.

J. Term

The term of this MOU shall be for a period of one year from the effective date of this MOU, unless earlier terminated pursuant to Paragraph G.

K. Effective Date

The effective date of this MOU shall be the later of July 1, 2009, or the date it is signed on behalf of the City and Agency.

City of Culver City:

DBA:

By: Jerry Fulwood, City Manager

By: Ken Kaufman, President

Dated: _____

Dated: _____

Culver City Redevelopment Agency:

By: Jerry Fulwood, Executive Director

Dated: _____

Approved as to Content:

Approved as to Financing

Charles Herbertson
Public Works Director/City Engineer

Jeff Muir, Chief Financial Officer

Approved as to Form:

Approved as to Form:

Carol Schwab, City Attorney

Murray Kane, Agency General Counsel