

MEETING DATE: **01.15.11**

AGENDA ITEM: **JOINT CITY COUNCIL/REDEVELOPMENT AGENCY
BOARD AGENDA ITEM: Approval of an Implementing
Agreement between the City of Culver City and the
Culver City Redevelopment Agency Relating to the
December 15, 2009 Cooperation Agreement.**

ATTACHMENTS

1. Proposed Implementing Agreement

Pages
1-7

ATTACHMENT 1

IMPLEMENTING AGREEMENT TO
DECEMBER 15, 2009 COOPERATION AGREEMENT

THIS IMPLEMENTING AGREEMENT (the "Agreement") is entered into this _____ day of January 2011, by and between the CITY OF CULVER CITY (the "City") and the CULVER CITY REDEVELOPMENT AGENCY (the "Agency"), with reference to the following facts:

A. On December 15, 2009, the Agency and City entered into that certain Cooperation Agreement (the "Cooperation Agreement") to provide for and facilitate the acquisition of real property, installation and construction of certain public improvements and facilities and to implement the Redevelopment Plan for the Culver City Redevelopment Project and to expend tax increment to accomplish the goals and objectives of the Redevelopment Project.

B. The projects associated with the Cooperation Agreement were approved on December 15, 2009 and are attached hereto as Exhibit No. 1 for informational purposes.

C. The City and the Agency desire to supplement the provisions of the Cooperation Agreement to add additional procedures for the orderly implementation of the Cooperation Agreement.

D. The obligations of the Agency under the Cooperation Agreement and this Agreement shall constitute an indebtedness of the Agency for the purpose of carrying out the Redevelopment Plan for the Project Areas. The obligations set forth in the Cooperation Agreement and this Agreement are contractual obligations that, if breached, will subject the Agency to damages and other liabilities or remedies.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. INTRODUCTORY PROVISIONS

The recitals above are an integral part of this Agreement and set forth the intentions of the parties and the premises on which the parties have decided to enter into this Agreement.

II. AGENCY'S OBLIGATIONS

The obligations of the Agency under this Agreement shall be payable out of net available tax increments, as defined herein. Wherever used in the Cooperation Agreement the term "net available tax increments" shall mean and include tax increment as defined or provided for in any applicable constitutional provision, statute or other provision of law now existing or adopted in the future, and allocated to (i) the Agency

ATTACHMENT 1

and/or (ii) any lawful successor entity of the Agency and/or (iii) any entity established by law to carry out the redevelopment plan for the Project Area and/or (iv) any entity established by law to expend tax increment and/or (v) any entity established by law to pay indebtedness of the Agency to be repaid in whole or in part with tax increment, pursuant to Section 33670, et seq., of the California Community Redevelopment Law or any applicable constitutional provision, statute or other provision of law now existing or adopted in the future.

All payments due to be made by the Agency to the City under the Cooperation Agreement shall be made by the Agency in accordance with the schedule set forth in Exhibit No. 2 which is incorporated herein by this reference and as otherwise necessary to reimburse the City for the cost to the City of performing its obligations hereunder. City shall provide Agency with a quarterly report accompanied by evidence reasonably satisfactory to the Agency's Executive Director that the City has progressed in the development and construction of the Project or Projects for which payment is made by the Agency commensurate with such payments and has incurred costs or obligations to make payments equal to or greater than such amount.

III. CITY'S OBLIGATIONS

1. The City shall accept any funds paid by the Agency pursuant to the Cooperation Agreement and shall devote those funds to completion of the Projects by (i) reimbursing the City or using such funds to make City expenditures to perform the work required to carry out and complete the Projects; (ii) utilizing such funds to pay debt service on bonds or other indebtedness or obligations that the City has or will incur for such purposes; and/or (iii) paying such funds into a special fund of the City to be held and expended only for the purpose of satisfying the obligations of the City hereunder.

2. The City shall timely complete the work required for each Project in accordance with the Schedule of Performance attached hereto as Exhibit No. 3 and incorporated herein by this reference.

IV. LIABILITY AND INDEMNIFICATION

In contemplation of the provisions of California Government Code Section 895.2 imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined by Government Code Section 895, the parties hereto, as between themselves, pursuant to the authorization contained in Government Code Sections 895.4 and 895.6, shall each assume the full liability imposed upon it, or any of its officers, agents or employees, by law for injury caused by negligent or wrongful acts or omissions occurring in the performance of this Agreement to the same extent that such liability would be imposed in the absence of Government Code Section 895.2. To achieve the above-stated purpose, each party indemnifies, defends and holds harmless the other party for any liability, losses, cost or expenses that may be incurred by such other party solely by reason of Government Code Section 895.2.

ATTACHMENT 1

V. ENTIRE AGREEMENT: WAIVERS AND AMENDMENTS

This Agreement shall be executed in triplicate originals, each of which is deemed to be an original. This Agreement consists of seven (7) pages, which, together with the Cooperation Agreement constitute the entire understanding and agreement of the parties.

This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to the subject matter of this Agreement; provided that this Agreement does not supersede the Cooperation Agreement except as expressly set forth herein.

This Agreement is intended solely for the benefit of the City and the Agency. Notwithstanding any reference in this Agreement to persons or entities other than the City and the Agency, there shall be no third party beneficiaries under this Agreement.

All waivers of the provisions of this Agreement and all amendments to this Agreement must be in writing and signed by the authorized representatives of the parties.

VI. SEVERABILITY

If any term, provisions, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, (i) the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability and (ii) the Cooperation Agreement shall continue in full force and effect.

VII. DEFAULT

If either party fails to perform or adequately perform an obligation required by this Agreement within thirty (30) calendar days of receiving written notice from the non-defaulting party, the party failing to perform shall be in default hereunder. In the event of default, the non-defaulting party will have all the rights and remedies available to it at law or in equity to enforce the provisions of this contract, including without limitation the right to sue for damages for breach of contract. The rights and remedies of the non-defaulting party enumerated in this paragraph are cumulative and shall not limit the non-defaulting party's rights under any other provision of this Agreement, or otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of the Agreement or hereinafter enacted or established, that may be available to the non-defaulting party against the defaulting party. All notices of defaults shall clearly indicate a notice of default under this Agreement.

ATTACHMENT 1

VIII. BINDING ON SUCCESSORS

This Agreement and the Cooperation Agreement shall be binding on and shall inure to the benefit of all successors and assigns of the parties, whether by agreement or operation of law.

IX. EFFECT ON COOPERATION AGREEMENT

Except as expressly set forth herein, the Cooperation Agreement shall continue in full force and effect in accordance with its terms.

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

Dated: _____

CITY OF CULVER CITY

BY: _____
Christopher Armenta, Mayor

Dated: _____

CULVER CITY REDEVELOPMENT AGENCY

BY: _____
John Nachbar, Executive Director

APPROVED AS TO FORM:

CAROL SCHWAB, City Attorney

KANE BALLMER BERKMAN

MURRAY O. KANE, Agency General Counsel

EXHIBIT NO. 1
LIST OF PROJECTS
APPROVED ON DECEMBER 15, 2009

Proposed Public Infrastructure Improvement	Estimated Cost to Agency
New Police Department Headquarters Facility ¹	\$31,200,000
Park Improvements	\$500,000
New Public Works Lay-down Facility	\$5,400,000
Overland Avenue Bridge Replacement	\$2,000,000
East Washington Medians	\$1,560,000
Improvements to Public Facilities	\$2,600,000
Street Light Replacement	\$8,740,000
Washington Boulevard Repaving	\$7,800,000
Expansion of Transfer Plant	\$3,120,000
New Fire Training Yard	\$2,700,000

ATTACHMENT 1

**EXHIBIT NO. 2
SCHEDULE OF AGENCY PAYMENTS**

	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	Total
Outstanding Obligations								
2009 Cooperation Agreement	-\$4.4	-\$5.0	-\$7.9	-\$11.5	-\$14.6	-\$19.1	-\$3.5	-\$66.0

EXHIBIT NO. 3

SCHEDULE OF CITY PERFORMANCE

Proposed Public Infrastructure Improvement	Commence Construction	Estimated Cost to Agency
New Police Department Headquarters Facility ¹	2020	\$31,200,000
Park Improvements	2016	\$500,000
New Public Works Lay-down Facility	2017	\$5,400,000
Overland Avenue Bridge Replacement	2016	\$2,000,000
East Washington Medians	2016	\$1,560,000
Improvements to Public Facilities	2018	\$2,600,000
Street Light Replacement	2019	\$8,740,000
Washington Boulevard Repaving	2019	\$7,800,000
Expansion of Transfer Plant	2018	\$3,120,000
New Fire Training Yard	2018	\$2,700,000