

MEETING DATE: November 17, 2008

AGENDA ITEM: Consideration of Approval of an Amendment to Existing Memorandum of Understanding Among the City, the Redevelopment Agency and the Downtown Business Association to Include the Duties and Responsibilities of the Respective Parties as they Relate to the Downtown Holiday Tree Lighting Event, Including the Designation of the Downtown Tree Lighting as a City-Sponsored and Agency-Sponsored Event.

ATTACHMENTS

	<u>Pages</u>
1. MOU Among the City, the Redevelopment Agency and the Downtown Business Association.	1-6
2. City Council Policy Statement 2008-01.	7-13
3. Excerpts from City Council Meeting Minutes on November 5, 2007.	14

**MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN
THE CITY OF CULVER CITY,
THE CULVER CITY REDEVELOPMENT AGENCY
AND
DOWNTOWN BUSINESS ASSOCIATION**

This Memorandum of Understanding (the "MOU") is entered into by and between 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. The sidewalk trash receptacles 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, leaves and other debris shall be removed from the planting areas and pots;
3. Annually, no later than April 1st, plants and flowers shall be provided in the 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, plazas, alleys and parking structures shall be swept and pressure washed to maintain a clean appearance;
5. At least once per quarter, and when reasonably determined by the City's Public Works Director, paseos shall be swept and pressure washed to maintain a clean appearance
6. Daily, maintain the community compactors and immediately surrounding areas in a clean and sanitary manner, including, but not limited to, the clean-up of all solid and liquid waste spillover.
7. At least monthly, and when reasonably determined by the City's Public Works Director, the area around the community compactors shall be steam cleaned 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 2008/2009, an amount equal to Fifty-Four Thousand, Eight Hundred Sixty Dollars (\$54,860); 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 2008/2009 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 in the minimum amount of One Million Dollars (\$1,000,000) single limit coverage, City's Special Endorsement Form naming City as an additional insured, Automobile Liability in the minimum amount of \$500,000/\$500,000 and Workers Compensation insurance in statutorily required amounts.

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.

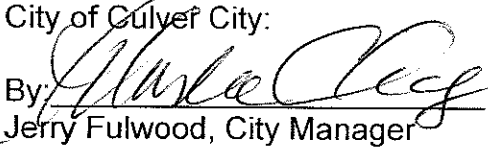
J. Term

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 E.

K. Effective Date

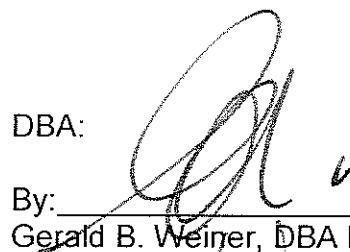
The effective date of this MOU shall be the date it is signed on behalf of the City and Agency.

City of Culver City:

By: 
Jerry Fulwood, City Manager

Dated: 7/4/08

DBA:

By: 
Gerald B. Weiner, DBA President

Dated: 7/13/08

(Signatures continued on Page 6)

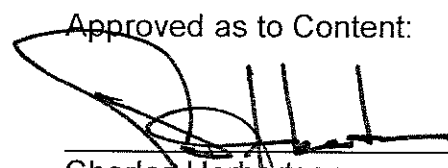
(Signatures continued from Page 5)

Culver City Redevelopment Agency:

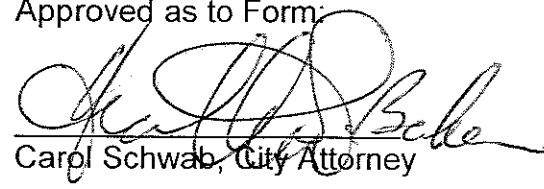
By: 
for Jerry Fulwood, Executive Director

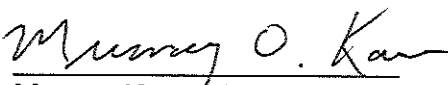
Dated: 7/31/08

Approved as to Content:


Charles Herbertson
Public Works Director/City Engineer

Approved as to Form:


for Carol Schwab, City Attorney


Murray Kane, Agency Counsel

Approved as to Financing:


Jeff Muir, Chief Financial Officer

ATTACHMENT 2

RESOLUTION NO. 2008-R 011

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF CULVER CITY, CALIFORNIA, ADOPTING CITY
COUNCIL POLICY STATEMENT NO. 2008-01 RELATED
TO COMMUNITY ORGANIZATIONS.

WHEREAS, on February 19, 2008 at a duly noticed public meeting of the City Council, the City Council discussed a proposed policy related to Culver City Community Organizations; and

WHEREAS, the proposed policy establishes objective criteria to assist in determining (1) whether a Community Organization or Community Event is considered "City Sponsored" for determination of rental rates at the Veterans Memorial Complex and/or other purposes; and (2) which Community Organizations and/or Community Events are eligible to place a banner on the City's banner poles; and

WHEREAS, the proposed policy further establishes a process for formalizing a relationship between the City and a particular Community Organization through a Memorandum of Understanding, or similar written agreement, to address the respective duties and responsibilities of the City and the Community Organization, which formalized relationship benefits the City, the Community Organization, the members of the Community Organization and the community at large.

NOW, THEREFORE, the City Council of the City of Culver City, California,
DOES RESOLVE as follows:

1. The City Council hereby adopts City Council Policy Statement No. 2008-01, entitled "Community Organizations," which City Council Policy Statement is attached hereto as Exhibit "A" to this resolution and incorporated herein by this reference.

1 2. The City Manager is hereby authorized to format this policy statement in a
2 format consistent with other City Council Policy Statements and shall include the final
3 version of this City Council Policy Statement with other adopted City Council Policy
4 Statements.

5 3. The City Manager shall distribute this City Council Policy Statement to
6 interested parties, which include, but are not limited to Culver City Community
7 Organizations and City Staff.
8

9 4. City Council Policy Statement No. 2008- 01 shall be effective on
10 the first day after the expiration of a specific Community Organization's existing rental
11 agreement with the City, or January 1, 2009, whichever date occurs first.

12 5. In the event there is a conflict between City Council Policy Statement
13 2008-01 and any other City policies, City Council Policy Statement No. 2008- 01
14 shall control.
15

16 6. The City Manager is hereby directed to prepare any proposed
17 amendments to City Council Policy Statements to resolve said conflicts, if any, and to
18 present those proposed amendments to the City Council as needed for consideration.
19

20 APPROVED and ADOPTED this 19th day of February, 2008.

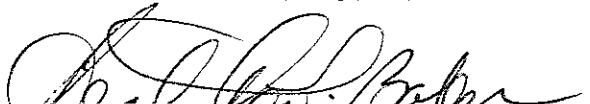
21 

22 ALAN CORLIN, MAYOR
23 City of Culver City, California

24 ATTEST:

25 
26
27 CHRISTOPHER ARMENTA, City Clerk

24 APPROVED AS TO FORM:

25 
26
27 CAROL A. SCHWAB, City Attorney

City Council Policy Statement No. 2008-01
Subject Matter: Community Organizations
Adopted by Resolution No. 2008-R 011

PURPOSE

The purpose of this policy is to provide objective criteria for application in determining the status of a Community Organization with respect to three areas:

- City Sponsorship
- Eligibility for use of the City's Banner Poles
- the Official Relationship between the City and the Community Organization

This Policy shall apply to all Community Organizations that are provided financial support by the City and/or the Redevelopment Agency. Additionally, this Policy shall provide additional clarification when determining if a Community Organization qualifies as "City Sponsored" for purposes of determining applicability of rental rates at the Veterans Memorial Complex and other City facilities and other purposes.

GENERAL DEFINITION OF CITY SPONSORED AND CIVIC EVENT OR ACTIVITY

"Sponsored" means that the City and/or Redevelopment Agency is (a) participating in an official capacity in the planning, preparation or promotion of the **Civic event or activity**; and (b) contributing 25% of the total estimated costs of the civic event or activity, or at least \$1,000, whichever is less. This contribution may take the form of funds, labor, staff time, materials, a waiver of fees, or any combination of the foregoing. (this definition is taken from Culver City Municipal Code Section 17.330.040.B.7.b.ii)

"Civic event or activity" means any event or activity organized or sponsored by the City or Redevelopment Agency including, but not limited to, (a) any public program or educational activity; and (b) the commemoration or celebration of any historical date, event or person, holiday or persons or events of local, state or national significance. (this definition is taken from Culver City Municipal Code Section 17.330.040.B.7.b.i)

COMMUNITY ORGNAIZATION CATEGORIES

Category 1: Official City Committees

To be eligible for this category, the Community Organization must meet the following criteria:

- (1) All members of the Community Organization are either appointed (a) directly by the City Council or (b) by any City Council/Agency created body upon direction of the City Council; **OR**
- (2) The Community Organization's members are approved and/or ratified by the City Council/Agency.

For clarification, the City Council, Redevelopment Agency, and City Staff (in the conduct of Official City Business) are also included in Category 1.

Summary Table

City and/or Agency Sponsored?	Banner ?	Lease/MOU Needed?
Yes	Yes	No

Category 2: Cooperative Community Groups

This category includes Community Organizations that meet **all** of the following criteria:

- (1) Members are **not** appointed by the City Council or a City Council created body
- (2) The Community Organization works closely with the City Council/Staff to organize civic events and/or activities organized or sponsored by the City or Redevelopment Agency (as those terms are defined in Section 17.330.040.B.7.b of the Municipal Code – Attachment 2)
- (3) Directly receives or provides City or Agency funds (**as opposed to a waiver of fees**) approved by the City Council;
- (4) The Community Group is a legally recognizable group (for example, a corporation, a 501(c)(3) organization, etc.)
- (5) The Community Group has negotiated and executed a Memorandum of Understanding (MOU)* with the City.

Summary Table

City and/or Agency Sponsored?	Banner ?	Lease/MOU Needed?
No	Maybe**	Yes

*The terms Lease/MOU refer to any written agreement approved by both the City/Agency and the Organization.

**Subject to the terms of the MOU and compliance with CCMC Section 17.330.040.

Category 3: City Sponsored Events

This category is for **events** which are produced by City Organizations that are not Official City Committees (Category 1) or Cooperative Community Groups (Category 2). To be considered a City Sponsored Event, the event must:

- (1) be a civic event or activity organized or sponsored by the City or Redevelopment Agency (CCMC Section 17.330.040.B.7.a); **and**,
- (2) To determine whether the civic event or activity is "sponsored" by the City or Redevelopment Agency, the following criteria must be met: The City and/or Redevelopment Agency is (a) participating in an **official capacity** in the planning, preparation, or promotion of the event or activity; **and** (b) contributes 25% of the total estimated cost of the event or activity or at least \$1,000, whichever is less. (Note: this contribution may take the form of funds, labor, staff time, materials, a waiver of fees, or any combination of the foregoing); **and**,
- (3) By specific action, the City Council has determined that the above criteria have been met

Summary Table

City and/or Agency Sponsored?	Banner ?	Lease/MOU Needed?
Yes	Yes	No*

Category 4: City Facility Lessees

These are Community Organizations which are parties to a lease agreement with the City and/or the Redevelopment Agency. The lease agreement is subject to the legal review and approval of the City Attorney's Office and approval by the City Council.

The lease agreements embody the responsibilities of both the City/Agency and the lessee (Community Organization). Additionally, leases can only be executed between the City/Agency and a legally recognizable group.

Summary Table

City and/or Agency Sponsored?	Banner ?	Lease/MOU Needed?
No	No	Yes

Category 5: Volunteer Organizations and Individuals

No specific privileges are granted to volunteer organizations or individuals, in general. However, Volunteer Organizations may request the City Council enter into a MOU or similar agreement which would require the City Council's approval (so long as the Volunteer Organization is a Legally Recognized Entity).

Summary Table

City and/or Agency Sponsored?	Banner ?	Lease/MOU Needed?
No	No	Maybe

Category 6: Other Organizations

This category captures those Community Organizations which do not qualify for the other 5 categories. Community Organizations which petition the City for benefits are required to enter into either a lease agreement (in which case they would qualify for Category 4) or enter into an MOU with the City. Additionally, the number of Organizations which qualify for Category 6 should be small in number.

Summary Table

City and/or Agency Sponsored?	Banner ?	Lease/MOU Needed?
No	No	Maybe

LEGALLY RECOGNIZED STATUS

Community Organizations who wish to receive support from the City shall be organized in a legally recognizable way. Following are several examples of a legally recognized entity:

- Corporation
- Partnership (including limited partnership)
- Charitable Organization 501(c)(3) or equivalent
- Sole Proprietorship

The City Attorney's Office may determine other legally recognizable entities which would be eligible to enter into agreements with the City.

FISCAL REPORTING

Because of the importance of carefully monitoring of the use of the public's money, staff is directed to include in all MOUs with Community Organizations a requirement to report at least semi-annually to the City Council on the financial activities of the Organization. This provides the Organization with an opportunity to inform the City Council of its activities over the last six-month period and provides the City Council with an opportunity to ask questions of the Organization.

IMPLEMENTATION DATE

This policy shall become effective: The first day after the expiration of a specific Community Organization's existing rental agreement with the City, or January 1, 2009, whichever date occurs first.

ATTACHMENT 3

Page 3 of 7
Agency Minutes
November 5, 2007

Moved by Agency Member Rose and seconded by Agency Member Gross to assign the topic to the Economic Development Subcommittee to formalize a recommendation by the City Council.

Council discussion focused on whether or not the Economic Development Subcommittee was the appropriate committee for the item.

Agency Member Silbiger moved to have a new committee set up with the specific task of gathering information and having neighborhood participation at an early stage. Motion died with no second.

MOVED BY AGENCY MEMBER ROSE AND SECONDED BY AGENCY MEMBER GROSS THAT THE ECONOMIC DEVELOPMENT SUBCOMMITTEE CLARIFY THE DIRECTION RELATED TO THE NOTIFICATION OF NEIGHBORHOOD ASSOCIATIONS OF PERMITS FILED WITH THE CITY/AGENCY. VOTING ON THE MOTION WAS UNANIMOUS.

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Item J-2

A Joint Item of the City Council and the Redevelopment Agency to Provide Input and Direction Regarding Holiday Celebrations and Authorize Acquisition of an Artificial Tree for the Holiday Season

Staff provided a summary of the material of record.

Andy Weitzman, Downtown Business Association, reported meeting with staff to discuss holiday decorations.

Council discussion included the following topics: using an artificial tree instead of a live one; types of lights and decorations; reuse of previous year's decorations; and combining the Veterans Auditorium and Town Plaza events.

MOVED BY AGENCY MEMBER GROSS AND SECONDED BY AGENCY MEMBER ROSE TO APPROVE THE PURCHASE OF AN ARTIFICIAL TREE AND POSTPONE DISCUSSION OF THE CELEBRATION TO NEXT WEEK. VOTING ON THE MOTION WAS UNANIMOUS.

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