

City of Culver City, California
City Council Agenda Item Report

MEETING DATE 7/14/05

AGENDA ITEM **Consideration of Existing Agreements with Circle X Theatre
Company and the Other Side of the Hill Productions**

ATTACHMENTS

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Exhibit A – Mutual Termination and General Release for the Other Side of the Hill Productions	1-3
Exhibit B – Mutual Termination and General Release for The Circle X Theatre Company	4-6

MUTUAL TERMINATION AND GENERAL RELEASE AGREEMENT
[Civil Code Section 1542]

This Mutual Termination and General Release Agreement is entered into by and among the City of Culver City, a municipal corporation ("City") and The Other Side of the Hill Productions, Inc., a California non-profit corporation ("OSHP")

WHEREAS, City and OSHP entered into that certain services agreement dated February 3, 2005 (the "Grant Agreement"), whereby City agreed to grant OSHP Four Thousand Dollars (\$4,000 00) to assist with funding of a limited-time production to be performed at Ivy Substation (the "Grant"),

WHEREAS, pursuant to the Grant Agreement, City is authorized to terminate the Grant Agreement and Grant, as long as OSHP is compensated in an amount not to exceed the Grant for its efforts occurring prior to the termination, and

WHEREAS, the parties agree to the termination of the Grant Agreement pursuant to the Grant Agreement and this Mutual Termination and Release Agreement

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions contained herein, the parties do hereby agree as follows

1 Pursuant to the provisions of the Grant Agreement, the parties mutually agree the Grant Agreement is terminated as of the date of this Termination and General Release Agreement

2 Pursuant to the provisions of the Grant Agreement, City has decided, and OSHP agrees, Four Thousand Dollars (\$4,000 00) is the appropriate pro rata payment for services rendered to the date of notification of termination of the Grant Agreement (the "Termination Payment")

3 City shall pay the Termination Payment to OSHP concurrently with City's signing of this Mutual Termination and Release Agreement and upon that payment each party agrees neither will have any rights or obligations under the Grant Agreement

4 Mutual General Releases

Effective immediately upon the execution of the Grant Agreement, the general releases provided for hereinbelow shall become effective and legally binding upon each of the parties hereto

(a) Released Matters Except with respect to the obligations and rights created by this Mutual Termination and General Release Agreement, City, on the one hand, and OSHP, on the other hand, for themselves and for their respective heirs, executors, administrators, legal successors and assigns, release and absolutely and forever discharge each other, and their respective heirs, executors, administrators, legal successors and assigns, attorneys, agents,

servants, employees, partners and shareholders, and each of them, of and from any and all claims, demands, debts, liabilities, accounts, obligations, costs, expenses, actions and causes of action of every kind and nature whatsoever, whether now known or unknown, suspected or unsuspected, which he now has, owns or holds, or at any time heretofore had owned or held, known or unknown, suspected or unsuspected, existing as of the date of execution of this Mutual Termination and General Release Agreement by all parties hereto, regarding all claims, defenses and other matters which have arisen or might arise with respect to the water damage to the west side of the Property or any of the transactions or disputed referred to in the recitals to this Mutual Termination and General Release Agreement

(b) Civil Code Section 1542 Each party hereto acknowledges it is familiar with Section 1542 of the Civil Code of the State of California which is set forth below

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR

(c) Full and Final Release Each party hereto WAIVES AND RELINQUISHES any right or benefit which it has or may have under Section 1542 of the Civil Code of the State of California, as set forth above, to the full extent it may lawfully waive such rights and benefits pertaining to the matter herein released (the "Released Matter")

(d) Warranty The parties to this Mutual Termination and General Release Agreement, represent and warrant to each other they are the sole and lawful owners of all right, title and interest in and to the Released Matter and each of them has not heretofore assigned or transferred or purported to have assigned or transferred, to any person or entity, any of the Released Matter

(e) Indemnification The parties to this Mutual Termination and General Release Agreement, shall indemnify and defend each of the parties and hold them harmless from and against any claims based upon or arising in connection with such prior assignment or transfer, or any purported assignment or transfer of the Released Matter

5 Attorneys' Fees If any party hereto institutes any action or proceeding at law or in equity to enforce any provision of the Grant Agreement or this Mutual Termination and General Release Agreement, then the prevailing party shall be entitled to recover from the losing party, reasonable attorneys' fees

6 Entire Agreement This Mutual Termination and General Release Agreement constitutes the entire understanding and agreement of the parties with respect to the Grant Agreement and the subject matter of this Mutual Termination and General Release Agreement and any and all prior agreements, understandings and representations with respect to those subject matters are hereby terminated and canceled in their entirety and are of no further force and effect

IN WITNESS WHEREOF, each undersigned hereto has executed this Mutual Termination and General Release on behalf of each party

Date June __, 2005

CITY OF CULVER CITY

By _____
Jerry Fulwood
Chief Administrative Officer

APPROVED AS TO FORM

APPROVED AS TO CONTENT

Carol A Schwab, City Attorney

Susan Evans,
Community Development Director

APPROVED AS TO FINANCING

James Lavery, City Controller

Date June __, 2005
7/13

OTHER SIDE OF THE HILL OF THE HILL
PRODUCTIONS, INC , a California non-profit
corporation

By _____
Name Taylor Gilbert
Title VP OTHER SIDE OF THE HILL

By _____
Name LARRY BRUCE
Title PRESIDENT

MUTUAL TERMINATION AND GENERAL RELEASE AGREEMENT
[Civil Code Section 1542]

This Mutual Termination and General Release Agreement is entered into by and among the City of Culver City, a municipal corporation ("City ") and Circle X Theatre Company, a California non-profit corporation (" Circle X")

WHEREAS, City and Circle X entered into that certain services agreement dated February 22, 2004 (the "Grant Agreement "), whereby City agreed to grant Circle X Five Thousand Dollars (\$5,000 00) to assist with funding of a limited-time production to be performed at Ivy Substation (the "Grant "),

WHEREAS, pursuant to the Grant Agreement, City is authorized to terminate the Grant Agreement and Grant as long as Circle X is compensated in an amount not the exceed the Grant for its efforts occurring prior to the termination, and

WHEREAS, the parties agree to the termination of the Grant Agreement pursuant to the Grant Agreement and this Mutual Termination and Release Agreement

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions contained herein, the parties do hereby agree as follows

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3 City shall pay the Termination Payment to Circle X concurrently with City's signing of this Mutual Termination and Release Agreement and upon that payment each party agrees neither will have any rights or obligations under the Grant Agreement

4 Mutual General Releases

Effective immediately upon the execution of the Grant Agreement the general releases provided for hereinbelow shall become effective and legally binding upon each of the parties hereto

(a) Released Matters Except with respect to the obligations and rights created by this Mutual Termination and General Release Agreement, City, on the one hand, and Circle X, on the other hand, for themselves and for their respective heirs, executors, administrators, legal successors and assigns, release and absolutely and forever discharge each other, and their respective heirs, executors, administrators, legal successors and assigns, attorneys, agents,

servants, employees, partners and shareholders, and each of them, of and from any and all claims, demands, debts, liabilities accounts obligations, costs, expenses actions and causes of action of every kind and nature whatsoever, whether now known or unknown, suspected or unsuspected, which he now has, owns or holds, or at any time heretofore had owned or held, known or unknown, suspected or unsuspected, existing as of the date of execution of this Mutual Termination and General Release Agreement by all parties hereto, regarding all claims, defenses and other matters which have arisen or might arise with respect to the water damage to the west side of the Property or any of the transactions or disputed referred to in the recitals to this Mutual Termination and General Release Agreement

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(c) Full and Final Release Each party hereto WAIVES AND RELINQUISHES any right or benefit which it has or may have under Section 1542 of the Civil Code of the State of California, as set forth above, to the full extent it may lawfully waive such rights and benefits pertaining to the matter herein released (the "Released Matter")

(d) Warranty The parties to this Mutual Termination and General Release Agreement, represent and warrant to each other they are the sole and lawful owners of all right, title and interest in and to the Released Matter and each of them has not heretofore assigned or transferred or purported to have assigned or transferred, to any person or entity, any of the Released Matter

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IN WITNESS WHEREOF, each undersigned hereto has executed this Mutual Termination and General Release on behalf of each party

Date July __, 2005

CITY OF CULVER CITY

By

Jerry Fulwood
Chief Administrative Officer

APPROVED AS TO FORM

APPROVED AS TO CONTENT

Carol A Schwab, City Attorney

Susan Evans,
Community Development Director

APPROVED AS TO FINANCING

Marlee Chang, Acting City Controller

Date July 7, 2005

CIRCLE X THEATER COMPANY, a California non-profit corporation

By

Name TIM WRIGHT
Title ARTISTIC DIRECTOR

By

Name MATT BRETZ
Title BOARD President

City of Culver City, California
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servants, employees, partners and shareholders, and each of them, of and from any and all claims, demands, debts, liabilities, accounts, obligations, costs, expenses, actions and causes of action of every kind and nature whatsoever, whether now known or unknown, suspected or unsuspected, which he now has, owns or holds, or at any time heretofore had owned or held, known or unknown, suspected or unsuspected, existing as of the date of execution of this Mutual Termination and General Release Agreement by all parties hereto, regarding all claims, defenses and other matters which have arisen or might arise with respect to the water damage to the west side of the Property or any of the transactions or disputed referred to in the recitals to this Mutual Termination and General Release Agreement

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Name TIM WRIGHT
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