

MEETING DATE:

05/18/09

AGENDA ITEM:

Approval of a Cooperation Agreement between the City of
Culver City and the Culver City Redevelopment Agency

ATTACHMENT

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COOPERATION AGREEMENT

THIS COOPERATION AGREEMENT (the "Agreement") is entered into this _____ day of _____, 2009 (the "Effective Date"), by and between the CITY OF CULVER CITY, a municipal corporation (the "City") and the CULVER CITY REDEVELOPMENT AGENCY, a public body, corporate and politic (the "Agency"), with reference to the following facts:

A. Redevelopment Plan for the Culver City Redevelopment Project:

1. Pursuant to Ordinance No. CS-712, adopted on July 26, 1971, the City Council for the City of Culver City (the "City Council") adopted a final redevelopment plan for the Slauson-Sepulveda Redevelopment Project, Project No. 1 ("Project Area No.1"); and
2. The redevelopment plan for Project Area No. 1 was amended by the City Council pursuant to Ordinance Numbers CS-892 (adopted on June 6, 1977), 89-034 (adopted on December 11, 1989, and 94-034 (adopted on December 27, 1994); and
3. Pursuant to Ordinance No. CS-729, adopted on December 28, 1971, the City Council adopted a final redevelopment plan for the Overland-Jefferson Redevelopment Project No. 2 ("Project Area No. 2"); and
4. The redevelopment plan for Project Area No. 2 was amended by the City Council pursuant to Ordinance Number 94-035 (adopted on December 27, 1994); and
5. Pursuant to Ordinance No. CS-862, adopted on November 24, 1975, the City Council adopted a final redevelopment plan for the Washington-Culver Redevelopment Project No. 3 ("Project Area No. 3"); and
6. The redevelopment plan for Project Area No. 3 was amended by the City Council pursuant to Ordinance Number 94-036 (adopted on December 27, 1994); and
7. Project Area No. 1, Project Area No. 2, and Project Area No. 3 were merged into the Culver City Redevelopment Project (as Component Areas Nos. 1, 2, and 3, respectively, of the "Project"), and the Redevelopment Plan for Culver City Redevelopment Project (the "Redevelopment Plan") was adopted pursuant to Ordinance No. 98-014 (adopted on November 23, 1998); and
8. Pursuant to Ordinance No. 98-015, adopted on November 23, 1998, the City Council added Component Area No. 4 to the Project; and
9. The Redevelopment Plan was amended by the City Council pursuant to Ordinance Number 2004-001 (adopted on January 12, 2004); and
10. The Redevelopment Plan was amended by the City Council pursuant to Ordinance Number 2005-006 (adopted on September 12, 2005); and
11. The Redevelopment Plan is incorporated herein by reference and made part hereof as though fully set forth herein.

B. The Agency and the City wish to cooperate with one another to bring about the redevelopment of the Project and accomplish various tasks set forth in the Redevelopment Plan.

C. Pursuant to Section 33220 of the California Community Redevelopment Law (Health & Safety Code, Section 33000 *et seq.*), for the purposes of aiding and cooperating in the planning, undertaking, construction or operation of the redevelopment projects in the Project, the City may, among other things, exercise the following powers: sell any of its property to the Agency; cause public improvements to be furnished in connection with redevelopment; plan or replan and zone or rezone any part of such area and make any legal exceptions from building regulations and ordinances; and enter into agreements with the Agency respecting action to be taken to any of the foregoing powers.

D. As outlined in Recital A above, the City has engaged in such redevelopment activities pursuant to Section 33220 of the California Community Redevelopment Law (Health & Safety Code, Section 33000 *et seq.*) that has aided and assisted in implementing the Redevelopment Plan, and intends to engage in further redevelopment activities.

E. The Agency and the City Council now desire to enter into this Agreement to provide for redevelopment activities within the Project, and to make payments by the Agency to the City of certain costs related to such redevelopment activities, subject to all of the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and promises contained herein, the parties hereto agree as follows:

TERMS

1. 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.

2. OBLIGATIONS

a. The City agrees to accept payments equal to that certain Sign Revenue (defined below) by the Agency as consideration for such redevelopment activities that have aided and assisted in the implementation of the Redevelopment Plan, and will further aid and assist in the implementation of the Redevelopment Plan pursuant to Section 33220 of the California Community Redevelopment Law (Health & Safety Code, Section 33000 *et seq.*).

b. The Agency agrees to make payments under this Section 2 solely from sign revenue when and as received by the Agency under that certain Owner Participation Agreement (the "OPA"), effective April 2008, by and between the Agency and Fox Hills Mall, LP and CMF Fox Hills, LLC, as described in Section 5.4 therein (sometimes referred to herein as the "Sign Revenue").

c. The Agency's obligation to pay consideration to the City under this Section 2 is sometimes referred to herein as the "Agency Obligation." The Agency Obligation shall

continue until the expiration of the sharing of said Sign Revenue in accordance with Section 5.4 of the OPA.

d. The obligation of the Agency to make payments to the City shall, without necessity of further action by the Agency or City, be junior and subordinate to all other obligations or indebtedness heretofore or hereafter voluntarily incurred by the Agency to the extent, if any, that the Agency expressly provides to contrary effect in the instruments creating such other obligations or indebtedness.

3. LIABILITY AND INDEMNIFICATION

In contemplation of the provisions of Section 895.2 of the California Government Code imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined by Section 895 of the California Government Code, the parties hereto, as between themselves, pursuant to the authorization contained in Sections 895.4 and 895.6 of the California Government Code, 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 Section 895.2 of the California Government Code. 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 Section 895.2 of the California Government Code. The provisions of Section 2778 of the California Civil Code are made a part hereof as if fully set forth herein.

4. MISCELLANEOUS PROVISIONS

a. Time of Essence. Time is expressly declared to be of the essence in this Agreement and of every provision hereof in which time is an element.

b. Notices. Any notice to be given or other document to be delivered by any party to the other or others hereunder, may be delivered in person to an officer of any party, or may be deposited in the United States mail, duly certified or registered, return receipt requested, with postage prepaid, or by Federal Express or other similar overnight delivery service, or by facsimile machine if concurrently delivered by another permissible method set forth in this Paragraph, and addressed to the party for whom intended, as follows:

City: City of Culver City
9770 Culver Boulevard
Culver City, CA 90232
Attention: City Manager
Telephone: (310) 253-6000

Agency: Culver City Redevelopment Agency
9770 Culver Boulevard
Culver City, CA 90232
Attention: Assistant Executive Director
Telephone: (310) 253-5760

Any notice that is personally delivered (including by means of professional messenger

service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt; and any notice that is sent by United States mail, duly certified and registered, with postage prepaid shall be deemed received on the third day after mailing.

c. Binding Effect. This Agreement shall be binding on and inure to the benefit of the parties to this Agreement and their respective heirs, personal representatives, successors and assigns, except as otherwise provided in this Agreement.

d. Titles and Captions. Titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Agreement or any provision hereof. All references to "Paragraph" shall mean the Paragraphs of this Agreement unless otherwise specified.

e. Interpretation. No provision in this Agreement is to be interpreted for or against either party because that party or his legal representatives drafted such provision.

f. Further Assurances. The parties agree to promptly execute such other documents and take such other actions as may be reasonably necessary to further the purposes of this Agreement.

g. Severance. If any provision of this Agreement is determined by a court of competent jurisdiction to be illegal, invalid or unenforceable, such provision shall be deemed to be severed and deleted from the Agreement, and the severance and deletion shall not in any way affect the validity of the remaining provisions of this Agreement.

h. Entire Agreement; Waivers and Amendments. 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 all or part of the subject matter hereof. The terms of this Agreement are only for the benefit of the City and the Agency, and there are no other intended or incidental third party beneficiaries hereto.

All waivers of any of the provisions of this Agreement must be mutually agreed upon in writing and signed by the authorized representatives of the parties.

This Agreement may be amended any number of times upon the mutual approval of the Agency and the City and must be in writing and signed by the authorized representatives of the parties.

[Signatures begin on following page]

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

Dated: _____

CITY OF CULVER CITY

By _____

City Manager

Dated: _____

CULVER CITY REDEVELOPMENT
AGENCY

By _____

Micheál O'Leary
Chairman

APPROVED AS TO FORM:

CITY ATTORNEY

Carol Schwab
City Attorney

KANE BALLMER BERKMAN

Murray O. Kane
Agency General Counsel