

MEETING DATE: October 13, 2008

AGENDA ITEM: Approval of a License Agreement with C.W. Driver for Surface Parking at the City Parking Lot along Culver Boulevard, between Coombs Avenue and Elenda Avenue, with a Completion Date of May 3, 2009 and a Possible Extension of an Additional Nine (9) Months on a Month-to-Month Basis through January 2010.

ATTACHMENTS

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CITY OF CULVER CITY
LICENSE AGREEMENT WITH
C.W. DRIVER
FOR SURFACE PARKING AT
"ARMORY" PARKING LOT

The City of Culver City ("City") hereby grants a partially exclusive, temporary irrevocable License to C.W. Driver, Inc. a California corporation ("Licensee") for the use by Licensee of City real property located adjacent to and south of Culver Boulevard between Elenda Street and Coombs Avenue, representing approximately 120 parking spaces, comprised of Lot 5 (58 spaces) on the eastern end and Lot 6 (62 spaces) on the western end and commonly referred to as the Armory Parking Lot (as described in the exhibit map attached as Exhibit A) ("Premises"), subject to all the following terms and conditions:

1. USE: Except as provided herein and subject to all the following, Licensee shall have exclusive use of the Premises only for vehicular parking by Licensee's employees and subcontractors directly associated with the construction project Licensee is performing at the Sony Pictures Entertainment (SPE) lot located between Madison Avenue, Washington Boulevard, Overland Avenue and Culver Boulevard ("SPE Property").:
 - a. Licensee agrees to allow pedestrian access over the Premises by the public, and pedestrian access over the Premises by current City tenants for entry to their facilities, and National Guard vehicular access over the Premises to the National Guard parking lot via the existing Armory lot driveway which shall remain open at all times.
 - b. Licensee agrees to allow access onto the Premises by City staff and City landscape contractors; provided, that such access does not unreasonably interfere with Licensee's use of the Premises as reasonably determined by City's City Manager (or his/her designee).
 - c. Licensee will provide shuttle service between the Premises and the construction site on the SPE Property. To the extent required, as reasonably determined by City's City Manager, or his/her designee, in consultation with Licensee, Licensee shall provide security. If security is deemed necessary, Licensee shall provide security only during the hours of exclusive usage noted below.
 - d. The days and hours of Licensee's exclusive usage of the Premises shall only be Monday – Friday, between the hours of 6:00 am – 5:00 pm and non-exclusive use shall be between the hours of 5:00 pm – 7:00 pm, all excluding those dates listed in subparagraph f., below.
 - e. The term of this License shall be through the end of the nine (9) full calendar months immediately following the effective date, as defined below. In addition, Licensee shall have the option to extend this License on a month-to-month basis for nine (9) additional calendar months, but only through November 27, 2009; During the first two (2) calendar

months of the initial term of this License and for each monthly extension up to the maximum of nine (9) calendar months, Licensee may, at their sole discretion, reduce their usage to fifty percent (50%) of the capacity of the Premises. If this option is exercised, the Licensee shall use the entirety of Lot 5 and none of the capacity of the Lot 6 portion of the Premises. Licensee shall notify City in writing thirty (30) days prior to the exercise of this option and pay the applicable fee (for fifty percent (50%) capacity utilization in accordance with the provisions of Paragraph 7 below), prior to Licensee's commencement of each month's extended use.

- f. Licensee shall not have exclusive use of the Premises on any of the following dates ("Black-out Dates"):
 - One (1) mid-week day in March, 2009, as determined by City's City Manager, or his/her designee, for the Mayor's Luncheon,
 - Seven (7) consecutive days in August, 2008, and seven (7) consecutive days in August, 2009, as determined by City's City Manager, or his/her designee, for the Fiesta La Ballona,
 - Five (5) days in September or October, 2008, and five (5) days in September or October, 2009, as determined by City's City Manager, or his/her designee, for the High Holy Days,
 - Dates needed by the National Guard in the event of a force majeure.
 - A maximum of three (3) additional dates if needed, as determined by City's City Manager, or his/her designee.
 - g. Except for use by the National Guard as a result of a force majeure, City shall provide at least sixty-days' (60-days') prior written notice of the Black-out Dates to Licensee for the above dates and events.
 - h. At the time of City's written notice to Licensee of any proposed Black-out Dates, the parties shall explore the possibility of shared usage of the Premises during the period of the applicable Black-out Dates. In addition, a per-space prorated adjustment, based on the per-space rate set forth in Paragraph 7, below, shall be made for the Black-out Dates and for any days in which the Premises are needed by the National Guard as a result of force majeure.
 - i. City shall be responsible for posting signage at the Premises informing the public of the temporary partial exclusive use of the Premises by Licensee. Signage shall include language stating that unauthorized cars parked on Premises during Licensee's usage may be towed at owner's expense.
 - j. City shall provide Licensee's vehicles authorization to park on Premises overnight provided a parking permit (supplied by Licensee, to be agreed upon by Licensee and City) is visible in vehicle's window.
2. CITY REQUIREMENTS: In connection with its use of the Premises, Licensee shall comply with all applicable City rules and regulations.

3. EFFECTIVE DATE OF LICENSE: This License shall be effective beginning June 1, 2008.
4. IMPROVEMENT COSTS: If required by Licensee, Licensee (i) shall be responsible to pay for all costs of improvements, made by Licensee to the Premises and (ii) shall not make any improvements of any kind to the Premises without the prior written consent of the City.
5. OPERATIONAL COSTS: Licensee shall be responsible to pay for all costs of parking operations, including supervision by a parking attendant if Licensee elects to provide an attendant. City shall provide reasonable cooperation, including exercise of its police powers as needed, to enforce the exclusive rights granted to Licensee under this Agreement.
6. CONDITION ON RETURN OF PREMISES: Upon termination of this License, Licensee shall return the Premises to City in the same condition, less reasonable wear and tear, in which it existed on the effective date of this License.
7. FEE: Licensee shall pay City a license fee of Sixty Dollars (\$60) per month per space based on one hundred (100) spaces, or Seven Thousand Two Hundred Dollars (\$7,200) per month. The fee for fifty percent (50%) capacity utilization shall be Three Thousand Six Hundred Dollars (\$3,600) per month. The fee is due on or before the fifth day of each month, by check payable to City.
8. RIGHT OF ENTRY: In addition to the provisions of Paragraph 1, above, provided such right does not unreasonably interfere with Licensee's use of the Premises, during the term of this License, City and its agents shall have the right to enter the Premises.
9. LICENSEE OBLIGATIONS AFTER TERMINATION: Termination of this License shall not terminate Licensee's obligations pursuant to Paragraphs 10 and 11.
10. TAXABLE INTEREST: This License is not intended to create any interest in real property. However, if it is determined this License creates a taxable possessory interest, then Licensee shall be solely responsible to pay such taxes. Except for possessory interest tax, City shall pay all other required property taxes, if any.
11. HOLD HARMLESS: Licensee agrees to and hereby does hold harmless, indemnify and defend City and each of their officers, agents and employees from any liability, damages, claim, loss or expense arising out of the use of the Premises by Licensee; provided, that Licensee's obligation to hold harmless and indemnify as described herein, shall only be to the extent

Licensee caused the liability, damages, claim, loss or expense. Without limiting the obligation set forth in the immediately preceding sentence, Licensee shall provide evidence of liability insurance naming City and its officers, agents and employees as additional insureds, in a form and with endorsements approved by the City Attorney. Notwithstanding any of the foregoing, unless such liability, damages, claim, loss or expense is alleged to have arisen in any regard out of the negligence or willful misconduct of Licensee, the provisions of this Paragraph 11 shall not be applicable to any liability, damages, claim, loss or expense arising out of City tenants' access or National Guard vehicular access permitted by Paragraph 1.a, above, or by City's staff, landscape contractors and agents access rights set for in Paragraph 1.b. and Paragraph 8, above.

12. NO LIENS ON PREMISES: Licensee shall not permit or suffer any mechanic's or materialman's or other lien of any kind or nature to be recorded or enforced against the Premises for any work done or materials furnished thereon at the instance of requirement of or on behalf of Licensee; and Licensee agrees to indemnify and hold harmless City and the Premises against and from any and all liens, claims, demands, costs and expenses of whatsoever nature in any way connected with such work done, labor performed or material furnished in connection with Licensee's use of the Premises.
13. RIGHT TO TERMINATE/NO DISPLACEMENT LIABILITY: City shall have the right to terminate this License, with or without cause, upon ninety-days' (90-days') written notice to Licensee. Licensee shall have the right to terminate this License, with or without cause, upon thirty-days' (30-days') written notice to City. City shall not be liable for any displacement or relocation benefits or expense experienced by Licensee, or for reimbursement for any improvements installed by Licensee, as a result of any termination of this License by either City or Licensee.
14. GOVERNING LAW: The terms of this License shall be interpreted according to the laws of the State of California. If litigation arises out of this License, then venue shall be in the Superior Court of Los Angeles County.
15. LITIGATION FEES: If litigation arises out of this License for the performance thereof, then the court shall award costs and expenses, including reasonable attorney's fees, to the prevailing party. In awarding attorney's fees, the court shall not be bound by any court fee schedule but shall award the full amount of costs, expenses and reasonable attorney's fees paid or incurred in good faith.
16. TRANSFERABILITY AND ASSIGNABILITY: The License is neither transferable nor assignable by Licensee. City may assign or transfer this License.

17. **NOTICES:** All notices given or required to be given pursuant to this License shall be in writing and may be given by personal delivery or by mail. Notice sent by mail shall be addressed as follows:

To City:

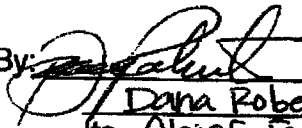
Pam Robinson, VMC Manager
City of Culver City
4117 Overland Avenue
Culver City, CA 90230

To Licensee:

C. W. Driver
Attn: Mike Byrne
468 North Rosemead Boulevard
Pasadena, CA 91107

18. **ENTIRE AGREEMENT:** This License constitutes the entire agreement of the parties hereto relating to the Premises and shall supersede prospectively from the date it is entered into any and all prior written or oral negotiations or agreements of the parties relating to the Premises. This License shall not be modified in any particular except by a written amendment duly executed by the parties.
19. **AMENDMENT:** This License shall not be modified in any particular except by written amendment duly executed by the parties.

C.W. DRIVER

By: 
Dana Roberts 12/13/07
Its Chief Executive Officer 054987

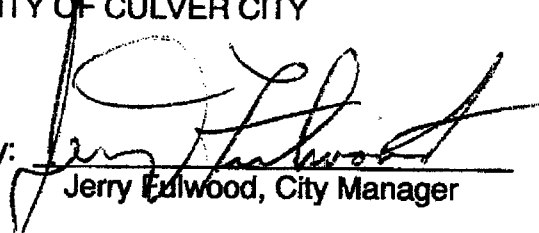
By: _____
Its _____

[SIGNATURES CONTINUED ON PAGE 6]

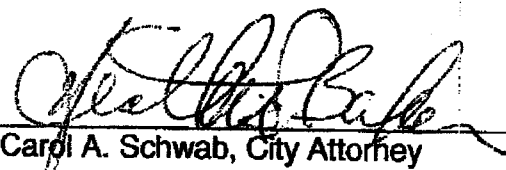
[SIGNATURES CONTINUED FROM PAGE 5]

CITY OF CULVER CITY

By:


Jerry Fulwood, City Manager

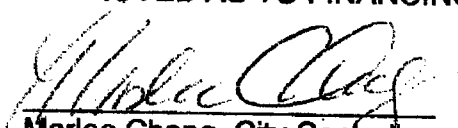
APPROVED AS TO FORM:


Carol A. Schwab, City Attorney

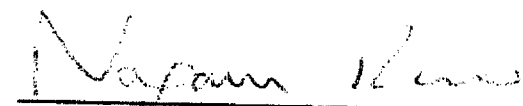
APPROVED AS TO CONTENT:


William LaPointe,
Parks, Recreation and Community Services Director

APPROVED AS TO FINANCING:

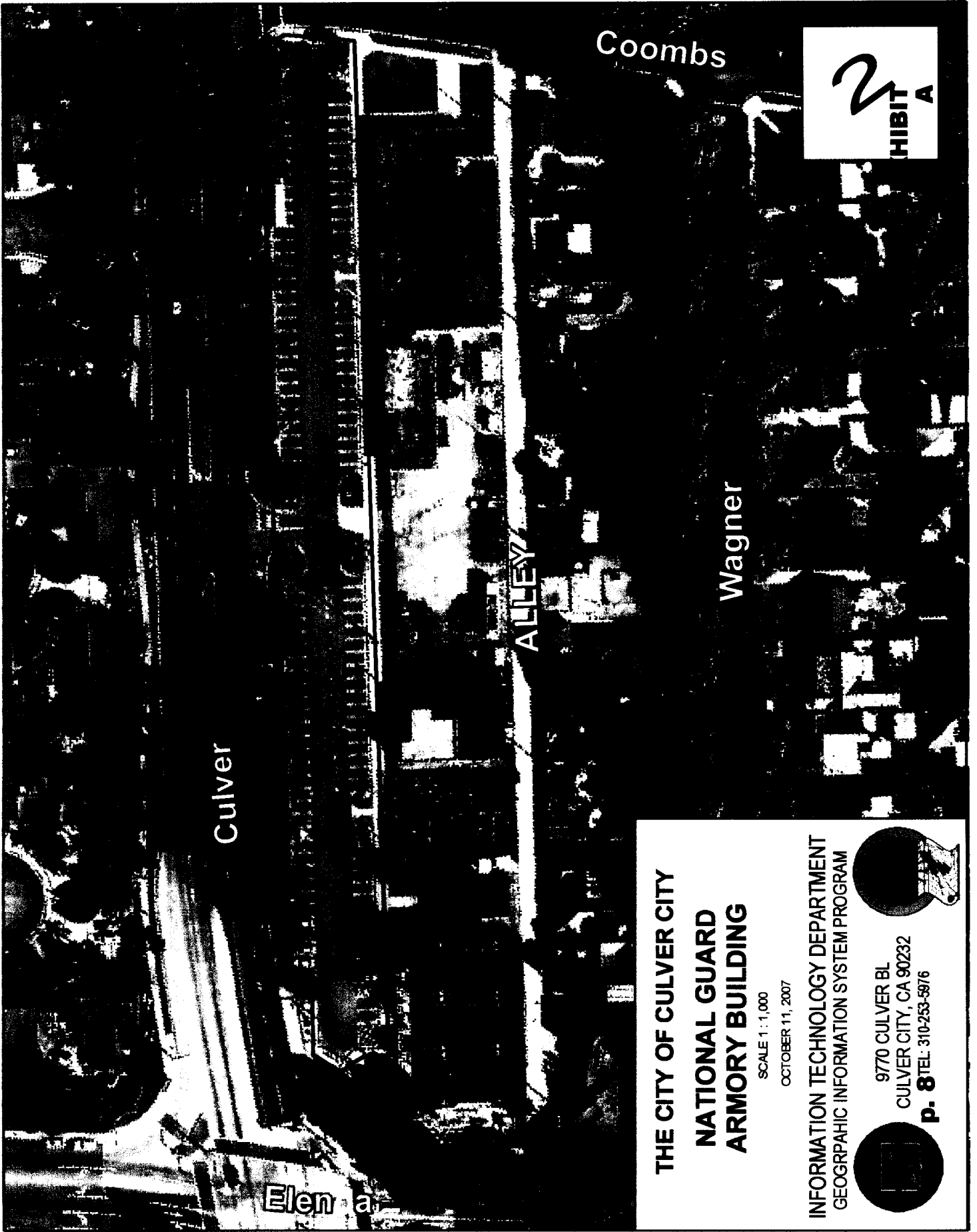

Marlee Chang, City Controller

APPROVED AS TO BUSINESS TAX CERTIFICATE:


Crystal Alexander, City Treasurer

**EXHIBIT A
PREMISES DESCRIPTION**

City of Culver City existing off-street parking map for Lots one (1) through six (6).



Culver

ALLEY

Coombs

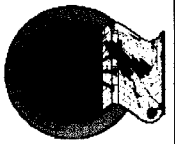
Wagner

2
HIBIT
A

THE CITY OF CULVER CITY
NATIONAL GUARD
ARMORY BUILDING

SCALE 1 : 1,000
OCTOBER 11, 2007

INFORMATION TECHNOLOGY DEPARTMENT
GEOGRAPHIC INFORMATION SYSTEM PROGRAM



9770 CULVER BL
CULVER CITY, CA 90232
p. 8 TEL: 310-253-5976



ATTACHMENT 2

**CITY OF CULVER CITY
AMENDMENT TO CONTRACT**

WITH: C.W. DRIVER

FOR: SURFACE PARKING AT "ARMORY" PARKING LOT

This Amendment to Standard Form Contract is made and entered into by and between the CITY OF CULVER CITY, a municipal corporation, hereinafter referred to as "City", and C.W. Driver, Inc., hereinafter referred to as "Licensee".

WHEREAS, on January 1, 2008, the parties entered into a contract for the use by Licensee of City real property located adjacent to and south of Culver Boulevard between Elenda Street and Coombs Avenue for the exclusive use for vehicular parking (the "Agreement"); and

WHEREAS, the parties desire to modify and amend a certain provision of the Agreement.

NOW THEREFORE, in consideration of the foregoing, City and Licensee mutually agree as follows:

1. The effective date of license shall be changed from June 1, 2008 to August 4, 2008.
2. The extension to the term of the license shall be changed from November 27, 2009 to January 27, 2010.
3. Except as expressly set forth herein, all terms and conditions of the Agreement shall remain in full force and effect.

4. This Amendment shall be effective on the date it is signed on behalf of the City.

Consultant

Dated: _____

By _____

By _____

CITY OF CULVER CITY

Dated: _____

By _____

Jerry Fulwood
City Manager

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:

William LaPointe
Parks, Recreation and
Community Services Director

Carol A. Schwab
City Attorney

APPROVED AS TO BUSINESS
TAX CERTIFICATE:

APPROVED AS TO FINANCING:

Treasury Division

Jeff Muir
Chief Financial Officer