



# City of Culver City

## Staff Report

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**File #:** 22-390, **Version:** 1

**Item #:** C-11.

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### **CC - Approval of Modifications to the Existing Sublease with The Actors' Gang for use of the Ivy Substation.**

**Meeting Date:** October 25, 2021

**Contact Person/Dept:** Elaine Warner/Economic Development/CDD  
Todd Tipton/ Economic Development/CDD

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**Fiscal Impact:** Yes ☒ No ☐

**General Fund:** Yes ☒ No ☐

**Public Hearing:** ☐

**Action Item:** ☒

**Attachments:** Yes ☒ No ☐

**Commission Action Required:** Yes ☐ No ☒ **Date:**

**Commission Name:**

**Public Notification:** (E-Mail) Meetings and Agendas - City Council (10/20/2021); The Actors' Gang, Downtown Business Association (10/11/2021)

**Department Approval:** Sol Blumenfeld, Community Development Director (10/13/2021)

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### **RECOMMENDATION**

Staff recommends the City Council approve modifications to the existing sublease with The Actors' Gang (TAG) for use of the Ivy Substation.

### **BACKGROUND**

On June 8, 1987, the City of Los Angeles, and former Culver City Redevelopment Agency ("Agency") executed a 40-year lease for the Ivy Substation ("Lease"). The Lease terminates in 2037 and includes a 10-year option that has been exercised. In 2012, the Lease was conveyed to the Successor Agency pursuant to AB26 and AB1484 (Dissolution Act). The Lease was conveyed to the City in early 2020.

TAG occupied the Ivy Substation via a license agreement since 2005. The license agreement required the Agency to pay building utilities (averaging between \$17,000 and \$20,000 annually), and TAG to pay \$36,000 in annual rent and maintain the building.

In 2010 the license agreement was renewed with the following terms:

1. TAG to produce a minimum of 120 performances annually.
2. Agency provides 5 parking spaces (at no charge) to TAG employees.
3. TAG offers use of the building to community organizations for up to 60 days annually. They may charge a staffing/technical director fee.
4. TAG to prepare an annual report of operations that includes the number of performances and identifies maintenance activities and related cost.
5. Agency rents the Ivy Substation to TAG for \$1.00 in exchange for TAG paying for utilities and performing \$15,000 in annual maintenance.

The license agreement remained in place until June 2017.

In early 2017 the City contracted with Walker Consulting to assess the building's condition and recommend necessary improvements ("Maintenance Plan" - Attachment 1). The Maintenance Plan identifies the need for approximately \$700,000 in structural and aesthetic improvements over the next 10 years (approximately \$70,000 annually).

Following expiration of the license agreement in June 2017, extensive and lengthy negotiations occurred between the City and TAG that led to the City Council's acceptance of the following terms:

1. The license agreement was replaced by a sublease.
2. The annual sublease rate is \$1.
3. TAG's annual financial obligation capped at \$30,000 to fund the Maintenance Plan and routine maintenance (maintaining building systems to ensure they remain in operating condition).
4. The sublease term is 10-years with an 8-year option through 2037 (years remaining in City of Los Angeles lease).
5. TAG to produce 120 performances annually.
6. TAG to pay utilities and services.
7. Eighty percent (80%) of third-party rental income (TAG has not identified the amount of revenue third-party rentals generate annually) to fund \$30,000 Maintenance Plan obligation.
8. TAG to make the building available to City Performing Arts Grants recipients and "community organizations" (such as CCUSD) up to 50 days annually. TAG shall not charge such users a rental fee - users required to compensate TAG's technical staff only.
9. TAG to make the building available for City sponsored events when TAG deems the building available.
10. TAG permitted to remove non-permanent improvements it funds and makes to the building when the lease concludes. Improvements related to the building's mechanical systems (plumbing, electrical, HVAC, etc.) cannot be removed.
11. City to assist TAG with the installation of banners (four times per year) on adjacent Culver City streets and/or the building.

The license agreement term was extended numerous times while negotiations continued. TAG executed the sublease on January 22, 2019.

Upon later inspection of the signed sublease, the parties discovered an outdated version of the

document that did not reflect all the agreed upon terms had been executed and agreed to work together to resolve the discrepancies. In early 2020 the pandemic began, and discussions were suspended.

## **DISCUSSION:**

Negotiations regarding modifications to the sublease recommenced in May 2021, which resulted in the following recommended changes to the sublease:

### **Number of Performances**

The number of performances, activities and uses required by the sublease may be reasonably adjusted relative to pandemic impacts.

### **Other Organization Rentals**

Any non-sublessee user (excluding City use) shall be responsible for cleaning, security and other costs associated with use of the facility. City, Culver City Performing Arts Grant recipients and Culver City Unified School District shall not be charged a rental fee for the use of the Ivy Substation unless a rental fee is included in the specific grant or the organization charges rent to TAG for use of its own facilities.

### **Third Party Rentals:**

Eighty percent (80%) of all rental fees generated shall be set-aside by the TAG to be utilized solely to meet the required Maintenance Fee obligation of \$30,000 for implementation and execution of improvements and repairs as defined in the Maintenance Plan and reflected in the Annual Report. The eighty percent (80%) shall be applied toward TAG's financial obligation of \$30,000 for improvements, repairs and maintenance and shall be subject to audit by City.

### **Maintenance Plan Payment and Routine Building Maintenance**

- TAG may expend \$15,000 of the required \$30,000 Maintenance Plan obligation on "routine building maintenance" per year provided that at least \$15,000 of the Maintenance Fee shall be spent on the Maintenance Plan and invoices for all routine maintenance are submitted to the City. In recognition of the economic downturn during the COVID-19 pandemic, TAG's obligation for the Maintenance Plan Payment shall not commence until January 2024 and amounts spent during the COVID pandemic and prior to January 2025 for items included in the Maintenance Plan shall be credited against future amounts due under the Maintenance Plan.
- In the event the costs of TAG's obligation to maintain, manage and operate the property and improvements in good order and condition exceed the \$30,000 maintenance obligation, the parties will meet and confer in good faith to determine needed maintenance obligations and the allocation of related costs as between the parties.

### **Replacement of 2019 Sublease**

The modified sublease shall replace 2011 license agreement and the 2019 sublease.

### **Other Minor Modifications**

Additional formatting and other non-substantive clarifying edits have also been made to the sublease.

**FISCAL ANALYSIS:**

TAG is required to submit an annual report that documents their performance obligations and monies spent on annual improvements executed or in progress. TAG's total contribution under the sublease over 10 years would be \$150,000 - 300,000 (\$15 - \$30,000 annually excluding routine maintenance). However, pursuant to the proposed terms, TAG's obligation for the Maintenance Plan Payment shall not commence until January 2024 and amounts spent during the COVID pandemic and prior to January 2025 for items included in the Maintenance Plan shall be credited against future amounts due under the Maintenance Plan.

The Property maintenance is estimated at approximately \$700,000 over the next 10 years (\$70,000 annually). If the City Council accepts TAG's additional requests, City Council may consider funding additional Maintenance Plan costs during the annual budget process.

**ATTACHMENT:**

1. Ivy Substation Condition Assessment Report - Maintenance Plan

**MOTION**

That the City Council:

1. Approve modifications to the existing sublease with The Actors' Gang (TAG) for use of the Ivy Substation.
2. Authorize the City Attorney to review/prepare the necessary documents.
3. Authorize the City Manager to execute such documents on behalf of the City.