



AGENDA REPORT

Meeting Date: November 5, 2008
Item Number: F-12
To: Honorable Mayor & City Council
From: David L. Snowden, Chief of Police
Subject: **AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND MERCEDES BENZ OF BEVERLY HILLS FOR LOAN OF A MERCEDES BENZ VEHICLE FOR USE IN THE POLICE DEPARTMENT'S DRUG ABUSE RESISTANCE EDUCATION (DARE) PROGRAM**

Attachments: 1. Agreement

RECOMMENDATION

Staff recommends that the City Council move to approve an agreement between the City of Beverly Hills and Mercedes Benz of Beverly Hills for the loan of a Mercedes Benz vehicle for use in the Police Department's Drug Abuse Resistance Education (DARE) program.

INTRODUCTION

The attached agreement initiates an agreement between the City of Beverly Hills and Mercedes Benz of Beverly Hills for the loan of sport utility vehicle (2005 Mercedes Benz ML350) for use by the Police Department's Drug Abuse Resistance Education (DARE) program.

DISCUSSION

Bruce Schulman, General Manager of Mercedes Benz of Beverly Hills, has offered to donate a 2005 Mercedes Benz ML 350 to the Police Department's DARE program to increase student interest in the DARE program and reaffirm to the public the City's commitment to combat juvenile drug and alcohol use through education. The vehicle will be useful to the Police Department due to the deployment of officers at the public schools.

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This loan agreement, commencing on November 6, 2008 through November 5, 2009, permits the Mercedes Benz of Beverly Hills, with prior approval from the City, to publicize the vehicle donation using photos and or press releases.

FISCAL IMPACT

There are no direct costs associated with the approval of this Agreement. Fuel Expenditures for the vehicle are funded in the Police Department budget; insurance and liability coverage for the vehicle are included in the City's self insurance program; and as a condition of the vehicle loan, Mercedes Benz of Beverly Hills is responsible for performing all scheduled vehicle maintenance.



Noel Marquis
Finance Approval



David L. Snowden
Approved By

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS
AND MERCEDES BENZ OF BEVERLY HILLS FOR LOAN OF
A MERCEDES BENZ VEHICLE FOR USE IN THE POLICE
DEPARTMENT'S DRUG ABUSE AND RESISTANCE
EDUCATION (DARE) PROGRAM

THIS AGREEMENT is entered into by and between the City of Beverly Hills, a municipal corporation ("City"), and Mercedes Benz of Beverly Hills("Dealer").

RECITALS

A. Dealer has offered to loan a ML350 sport utility vehicle, Vehicle Identification Number 4JGBB86E96A033954, (the "Vehicle") to the City of Beverly Hills Police Department for use in the Police Department's Drug Abuse and Resistance Education ("DARE") Program.

B. City desires to enter into an agreement with Dealer for use of the Vehicle.

NOW, THEREFORE, City and Dealer agree as follows:

Section 1. Obligations of Dealer.

(a) Dealer shall loan the Vehicle to City for City Police Department's use in its DARE Program, unless the City's Chief of Police approves the Vehicle's use for other purposes.

(b) Dealer shall provide, at its cost, regular maintenance of the Vehicle during the term of this Agreement.

(c) The parties understand and agree that Dealer will modify the vehicle to City's specifications to accommodate police equipment.

(d) Dealer shall hold harmless and indemnify City from any and all claims, demands, causes of action, attorneys fees and expense of any nature arising from the Dealer's maintenance of the Vehicle while this Agreement remains in force and effect, and to reimburse City for any such loss or damage during said period.

Section 2. Obligations of City.

(a) City agrees that it has examined and inspected the Vehicle and that it is in first class mechanical and over-all condition.

(b) By mutual consent of the parties, City may authorize Dealer to publicize the donation of the Vehicle through the use of photographs and/or press releases.

(c) City shall not cause or allow the Vehicle to be loaned, rented, or driven by any person other than City employees. City's employees shall not operate the Vehicle while under the influence of alcohol or narcotics. City represents that only City employees who are duly authorized to operate a vehicle in the State of California shall operate the Vehicle.

(d) City agrees that while this Agreement is in force it will preserve and protect the Vehicle from loss or damage. City shall be liable for all costs of repairs to the Vehicle regardless of fault.

(e) City shall indemnify and hold harmless Dealer from and against any and all liability or claims for death or injury to persons or loss or damage of property, including, but not limited to, costs, expenses and attorneys fees arising out of or in connection with or resulting from the delivery, possession, use, operation or return of the Vehicle, either directly or indirectly, provided that (i) such claim, injury, loss or damage is due to the negligence or wanton act of City or its employees; (ii) Dealer gives City prompt notice of any and all such claims, injuries, losses and damages; (iii) Dealer permits City to control the defense using counsel of City's selection; and (iv) Dealer cooperates fully with City in the defense of such claims, injuries, losses and damages.

(f) City shall not use the Vehicle, cause or permit the Vehicle to be used in any manner whatsoever in violation or contravention of any Municipal, County, State or Federal law, ordinance or regulation.

(g) City agrees that in the event of any accident involving the Vehicle it shall, within twenty four (24) hours following such accident, furnish to Dealer a full and complete report thereof, and shall report such accident to the Department of Motor Vehicles of the State within the time and in the manner prescribed under the provisions of the Vehicle Code of the State, or, in the event of loss or destruction of the Vehicle or any of its accessories or of loss of possession thereof or inability to return the Vehicle to Dealer on demand for any reason whatsoever, City shall pay Dealer the market value of the Vehicle and reasonable market value for loss of accessories.

(h) No waiver by Dealer of any default on the part of City hereunder or of any right and remedy consequent thereon shall constitute a continuing waiver or a waiver of any other default or of any right or remedy consequent hereon.

(i) It is further agreed that if any action at law or in equity is brought to enforce or interpret this Agreement, the prevailing party shall be entitled to reasonable attorneys fees and costs in addition to any other relief to which that party may be entitled.

(j) The Vehicle shall be returned by City to Dealer at 9250 Beverly Boulevard, Beverly Hills, California by November 5, 2009, unless this Agreement is terminated sooner pursuant to Section F of this Agreement.

(k) City shall, at its sole risk and expense, maintain Bodily Injury and Property Damage Liability Insurance covering the use of the Vehicle during the time it is in City's possession and until it is returned to Dealer or equivalent self-insurance. Dealer shall not

be required to carry or provide Bodily Injury or Property Damage Liability Insurance during said period of time.

Section 3. Compensation. City shall not pay monetary compensation to Dealer for the City's use of the Vehicle.

Section 4. Entire Agreement. This Agreement represents the entire and integrated Agreement between City and Dealer and supersedes any and all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both City and Dealer.

Section 5. Term. The term of this Agreement shall commence on November 6, 2008 and shall terminate on November 5, 2009, unless terminated sooner pursuant to Section F of this Agreement.

Section 6. Termination. City or Dealer may terminate this Agreement at any time upon thirty (30) days written notice to the other party.

Section 7. Notices. All notices submitted under this Agreement shall be sent to City as follows:

City of Beverly Hills
Police Department
455 North Rexford Drive
Beverly Hills, CA 90210

Notices submitted under this Agreement shall be sent to Dealer as follows:

Mercedes Benz of Beverly Hills
9250 Beverly Boulevard
Beverly Hills, California 90210
Attention: Bruce Schulman, General Manager

Section 8. Governing Laws. This Agreement shall be governed by the laws of the State of California.

Section 9. Effective Date of this Agreement. This Agreement is entered into as of the ____ day of _____, 200 ____.

CITY OF BEVERLY HILLS
A Municipal Corporation

BARRY BRUCKER
Mayor of the City of
Beverly Hills, California

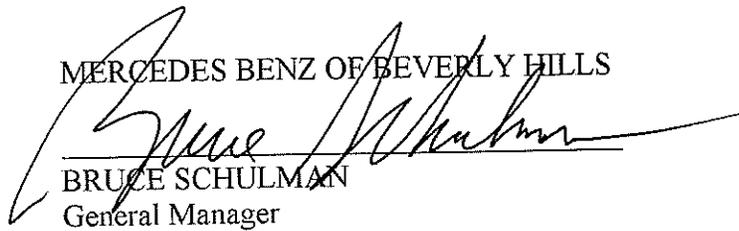
[Signatures continue]

ATTEST:

_____(SEAL)

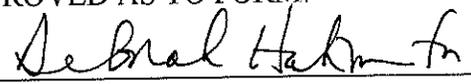
BYRON POPE
City Clerk

MERCEDES BENZ OF BEVERLY HILLS



BRUCE SCHULMAN
General Manager

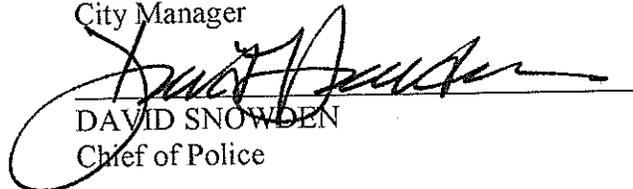
APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

RODERICK J. WOOD
City Manager



DAVID SNOWDEN
Chief of Police

KARL KIRKMAN
Risk Manager