



## AGENDA REPORT

**Meeting Date:** July 7, 2011  
**Item Number:** E-4  
**To:** Honorable Mayor & City Council  
**From:** Cheryl Friedling, Deputy City Manager for Public Affairs  
**Subject:** APPROVAL OF AN INTERIM FUNDING AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND THE BEVERLY HILLS CHAMBER OF COMMERCE AND CIVIC ASSOCIATION FOR THE NEW YORK BUSINESS ATTRACTION AND RETENTION MISSION FOR FISCAL YEAR 2011-2012; AND APPROVAL OF A PURCHASE ORDER IN A NOT-TO-EXCEED AMOUNT OF \$130,000 TO THE BEVERLY HILLS CHAMBER OF COMMERCE AND CIVIC ASSOCIATION FOR THESE SERVICES.

**Attachments:**

1. Agreement
2. Overview of the Beverly Hills New York Business Attraction and Retention Mission

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### **RECOMMENDATION**

It is recommended that the City Council approve the interim funding agreement between the City of Beverly Hills and the Beverly Hills Chamber of Commerce and Civic Association for the New York Business Attraction and Retention Mission for Fiscal Year 2011-2012 and approve a purchase order in a not-to-exceed amount of \$130,000 for these services.

### **INTRODUCTION**

The City contracts with the Beverly Hills Chamber of Commerce to provide a range of outsourced programs. The goals of these programs are to retain existing businesses in the City and to attract new businesses to the City. Additionally, the Chamber is contracted to assist with research and outreach initiatives and to promote strategic policies developed by the City to the business community.

### **DISCUSSION**

The Chamber of Commerce Liaison Committee (Mayor Brucker and Vice Mayor Brien) met with the Chamber of Commerce representatives to review a schedule for the Chamber's submission of a proposed work plan for Fiscal Year 2011-2012.

Recognizing that this past year has been a transitional year for the Chamber with the departure of its prior Executive Director and a new Executive Director who started in June, the Liaison Committee recommended that the Chamber receive interim funding associated with the preparation of the October 11-14, 2011 New York Business Attraction and Retention Mission and present a scope of work and budget request for that initiative. The Chamber will submit a formal Fiscal Year 2011-2012 budget request incorporating the remaining portfolio of services in August.

**FISCAL IMPACT**

The Liaison Committee has recommended a contract with the Chamber of Commerce for the New York Business Attraction and Retention Mission in the amount of \$150,000, of which the Chamber is requesting \$130,000 at this time (the additional \$20,000 in post-trip expenses will be submitted at a later date) to cover advance costs and deposits. A portfolio of proposed services for the remaining \$180,000 will be brought back to the Council Liaison Committee for review and the City Council will review the Chamber's proposal prior to contract development.

Funding for the Chamber of Commerce has been budgeted in the Business Development Program account 0101313 for Fiscal Year 2011-2012.

  
\_\_\_\_\_  
Scott Miller  
Finance Approval

Cheryl Friedling   
\_\_\_\_\_  
Approved By

# **Attachment 1**

INTERIM FUNDING AGREEMENT BETWEEN THE  
CITY OF BEVERLY HILLS AND THE BEVERLY  
HILLS CHAMBER OF COMMERCE AND CIVIC  
ASSOCIATION FOR THE NEW YORK BUSINESS  
ATTRACTION AND RETENTION MISSION FOR  
FISCAL YEAR 2011-2012

THIS AGREEMENT is made and entered into in the City of Beverly Hills by and between the City of Beverly Hills, a municipal corporation ("City") and the Beverly Hills Chamber of Commerce and Civic Association ("Chamber"), a non-profit corporation.

RECITALS

A. Chamber is located in the City of Beverly Hills and has special knowledge and experience to conduct or participate in business attraction and retention programs for the benefit of City.

B. The City's agreement between the City and Chamber is set to terminate on June 30, 2011.

C. City desires to continue to engage the services of Chamber to conduct or participate in such activities for an interim period while the City and Chamber conclude its negotiations for services for fiscal year 2011-2012.

D. Section 37110 of the State Government Code authorizes the expenditure of monies for promotion;

NOW, THEREFORE, in consideration of the mutual covenants of the parties hereto, the parties hereby agree as follows:

Section 1. Fund Authorization/Use of Funds.

(a) For the interim period of July 1, 2011 through September 30, 2011 ("Interim Period"), City shall provide the Chamber from the marketing allocation of the City's General Fund for expenditures not to exceed \$130,000 in support of the Chamber's New York Business Attraction and Retention Mission as detailed in Exhibit A, attached hereto and incorporated herein. If there are any funds remaining from this allocation to the Chamber, such funds shall be reallocated to the Chamber for the remainder of fiscal year 2011-2012 at the discretion of City. In any event, the funding provided herein shall be made part of any future agreement for support of the Chamber's programs and activities during fiscal year 2011-2012.

(b) Chamber shall use the funds from the City during the Interim Period as specified in Exhibit A.

(c) In connection with Chamber's programs and activities, Chamber may, on behalf of and at the sole discretion of City, use the funds to produce, purchase, install and de-install light pole banners or other displays in the public-right-of-way. All such light pole banners shall comply with the City's adopted Banner Policy, copies of which are available from the Office of Communications and Marketing, and shall be approved in writing in advance by City prior to installation. City shall have sole discretion over the design, placement, and duration of display and shall retain ownership of all banners funded under this Agreement.

Section 2. Payments. Chamber shall submit written requests for advanced payments for expenditures based on the Chamber's adopted budgets for the various projects as set forth in Exhibit A. City shall provide payment to the Chamber upon approval of the request by the City's Chief Financial Officer. City shall use its best efforts to make payment to Chamber within 15-days of receipt of request. Any monies not expended in the Interim Period may be carried over to the remainder of fiscal year 2011-2012 at the discretion of the City. If not carried over, any excess monies not expended shall be returned to the City.

Section 3. Reports.

(a) Prior to the conclusion of the Interim Period, the Chamber shall submit a report to City and shall be in a form and content acceptable to the City Manager or his designee. The reports shall include, without limitation, information on overall project management and achievement of goals in relation to Chamber's work plan and budget as set forth in Exhibit A, including the percentage of services completed and defined measurements of goal achievement for the Interim Period. If the City and Chamber enter into an agreement for funding for the remainder of Fiscal Year 2011-2012, the Chamber shall be relieved of compliance with this paragraph (a) and is not required to provide the report set forth herein.

(b) Chamber shall also supply the City with an Audited Annual Financial report prepared by a Certified Public Accountant for the Interim Period. Such report shall provide consolidated financial reporting for Chamber as a whole, and separately detailed accounts for each program funded by City. The report shall be due within six months of the end of Chamber's 2011-2012 fiscal year. At City's sole discretion, consolidated annual accounts may be substituted for full audited accounts. This provision shall survive termination of this Agreement. Notwithstanding, if the City and Chamber enter into an agreement for funding for the remainder of Fiscal Year 2011-2012, the Chamber shall be relieved of compliance with this paragraph (b) and is not required to provide the Audited Annual Financial report required herein.

(c) With reasonable notice from City, Chamber shall provide to City copies of any and all work product, documents reports, property and books produced by chamber in fulfillment of this Agreement (“Documents”). This shall be solely for the purpose of confirming and evaluating the execution of the programs described in this Agreement and shall not include records and documents unrelated to the execution of such programs (e.g., personnel records). Chamber’s obligation to maintain such Documents shall continue for three years after the termination of this Agreement. If the City and Chamber enter into an agreement for funding for the remainder of Fiscal Year 2011-2012, the Chamber shall be relieved of compliance with this paragraph (c).

(d) Chamber shall establish and maintain an accounting system in accordance with generally accepted accounting principles and standards. The system shall detail all costs chargeable to City under this Agreement and shall substantiate all such costs, and comply with any applicable State and Federal standards.

(e) Chamber shall endeavor to develop, in consultation with City, a program-based budget for all City-funded programs. Implementation of a program-based budget is not intended to affect the requirements outlined in paragraph (d) of this Section relating to generally accepted accounting principles.

Section 4. Ownership of Work Product.

(a) Unless otherwise agreed upon in writing, all reports, documents, or other written or visual material or any other material in any media, including any images, taglines, logos, or other media created or developed by Chamber or any third party contracted by the Chamber, in the performance of this Agreement, if paid in whole or in part by the funding provided by this Agreement (“Work Product”) shall be and remain the property of City without restriction or limitation upon its use or dissemination by City. All Work Product shall be considered to be “works made for hire”, and all such Work Product and any and all intellectual property rights arising from their creation, including, but not limited to, all copyrights and other proprietary rights, shall be and remain the property of City without restriction or limitation upon their use, duplication or dissemination by City. Chamber shall not obtain or attempt to obtain copyright protection as to any of the Work Products.

(b) Chamber hereby irrevocably assigns exclusively to City, all right, title and interest in such trademarks and/or copyrights or other intellectual property rights in the Work Products. Chamber shall take all acts requested by the City in order to enforce City’s rights under this Section.

(c) Chamber shall not retain ownership of or any right, title or interest in any of the Work Products, including, but not limited to, in any related trademarks, copyrights, or other proprietary rights. The City and Chamber agree that the Work Product and all such rights, title and interest in or to the Work Products belong to and are being sold and assigned in their entirety to City for whatever use it desires, and that City does and shall at all times own, solely and exclusively, complete and unencumbered, all

right, title and interest in and to all of the Work Product worldwide, any modifications thereto and any derivative works based thereon (including, but not limited to, all patent, copyright, trademark, service mark and trade secret rights). Nothing contained herein shall be deemed to constitute a mere license or franchise in City. The parties further agree that City will be free to use, modify, distribute, sell, license or otherwise exploit all such Work Products and any modifications to or derivative works based thereon without any restrictions or limitations or any obligations or payments to Chamber and that Chamber shall have no such rights.

(d) From time to time the Chamber will engage photographers to take photographs or will purchase images for use in Chamber's marketing campaigns, collateral or other uses. As to those third party photographs or images whereby the Chamber negotiates to purchase not only the photograph or image but also the copyright or other intellectual property rights, the provisions of this Section 4 will apply. As to those third party photographs or images whereby the Chamber negotiates to purchase only the use of the photograph or image and the copyright is maintained with the photographer, the provisions of this Section 4 will not apply.

(e) This section shall survive termination of this Agreement.

Section 5. Assignment. This Agreement shall not be assigned by Chamber without the written consent of City.

Section 6. Independent Contractor. At all times during the term of this Agreement Chamber shall be independent contractors and Chamber, their officers, employees and agents shall not be employees of City.

Section 7. Term. This Agreement shall remain in full force and effect from July 1, 2011 until September 30, 2011, unless terminated earlier as provided in Section 8 of this Agreement.

Section 8. Termination of Agreement. City may terminate this Agreement at any time, with or without cause, upon fifteen days (15) written notice to Chamber. In the event of such termination, City shall pay Chamber for all costs and obligations reasonably incurred by Chamber in performing its services under this Agreement prior to the date of termination and such payment shall be in full satisfaction of City's obligations hereunder. City shall not be obligated to pay additional funds after issuance or receipt of such notice.

Section 9. Notice. Whenever it shall be necessary for any party to serve notice on another respecting this Agreement, such notice shall be served by certified mail addressed to the City Clerk of the City of Beverly Hills, 455 North Rexford Drive, Beverly Hills, California 90210; or to Beverly Hills Chamber of Commerce and Civic Association, 239 South Beverly Drive, Beverly Hills, California 90212, unless and until a different address may be furnished in writing by any party, and such notice shall be deemed to have been served within seventy-two (72) hours after the same has been

deposited in the United States Post Office by certified mail. This shall be valid and sufficient service of notice for all purposes.

Section 10. Insurance

(a) Chamber shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, a policy or policies of Comprehensive General Liability Insurance with minimum limits of Two Million Dollars (\$2,000,000) for each occurrence, combined single limit, against any personal injury, death, loss or damage resulting from the wrongful or negligent acts by Chamber.

(b) Chamber shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, a policy or policies of Comprehensive Vehicle Liability insurance covering personal injury and property damage, with minimum limits of One Million Dollars (\$1,000,000) per occurrence combined single limit, covering any vehicle utilized by Contractor in performing the services required by this Agreement.

(c) Chamber agrees to maintain in force at all times during the performance of work under this Agreement workers' compensation and employer's liability insurance as required by law.

(d) Chamber shall require each of its sub-consultants or sub-contractors to maintain insurance coverage, which meets all of the requirements of this Agreement unless otherwise determined by the City's Risk Manager.

(e) The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least a B+;VII in the latest edition of Best's Insurance Guide.

(f) If Chamber fails to keep the aforesaid insurance in full force and effect, City shall notify Chamber that it is in breach of the Agreement and Chamber has three (3) days to cure such breach. If such breach is not cured by Chamber as required in this paragraph, City may terminate the Agreement or, if insurance is available at a reasonable cost, City may take out the necessary insurance and pay, at Chamber's expense, the premium thereon.

(g) At all times during the term of this Agreement, Chamber shall maintain on file with the City Clerk a certificate or certificates of insurance on the form required by the City, showing that the aforesaid policies are in effect in the required amounts. Chamber shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The policies of insurance required by this Agreement shall contain an endorsement naming the City as an additional insured. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to City, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

(h) The insurance provided by Chamber shall be primary to any coverage available to City. The policies of insurance required by this Agreement shall include provisions for waiver of subrogation.

(i) Any deductibles or self-insured retentions must be declared to and approved by City prior to commencing work under this Agreement.

Section 11. Indemnification. Chamber agree to indemnify, hold harmless and defend City, its City Council and each member thereof and every officer and employee of City from any and all claims, liability or financial loss resulting from any suits, claims, losses or actions, and from all cost and expenses of litigation, brought against City, its City Council and each member thereof and any officer or employee of City which results directly or indirectly from the actions or omissions of Chamber or their officers, employees, agents or others employed by Chamber in the conduct of the projects funded by this Agreement.

Section 12. Extent of Agreement. This Agreement represents the entire and integrated Agreement between the parties on the matters included herein 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 all parties to the Agreement.

Section 13. City Not Obligated to Third Parties. The City shall not be obligated or liable under this Agreement to any party other than Chamber.

Section 14. Severability. Invalidation of any provision contained herein or the application thereof to any person or entity by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions, or provisions hereof, or the application thereof to any other person or entity, and the same shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the  
\_\_\_\_\_ day of \_\_\_\_\_ 2011, at Beverly Hills, California.

CITY OF BEVERLY HILLS, A municipal  
corporation

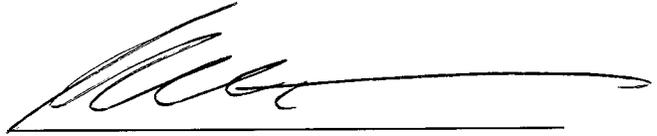
\_\_\_\_\_  
BARRY BRUCKER  
Mayor of the City of Beverly Hills,  
California

ATTEST:

\_\_\_\_\_  
BYRON POPE  
City Clerk

(SEAL)

BEVERLY HILLS CHAMBER OF  
COMMERCE AND CIVIC  
ASSOCIATION



ALEXANDER STETTINSKI  
Executive Director



BRUCE SCHULMAN  
Board Chairman

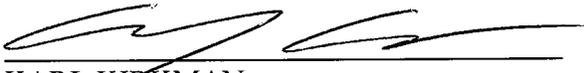
APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
JEFFREY KOLIN  
City Manager

  
\_\_\_\_\_  
CHERYL FRIEDLING  
Deputy City Manager for Public Affairs

  
\_\_\_\_\_  
KARL KIRKMAN  
Risk Manager

## **Exhibit A**

City shall provide funding to the Chamber for the interim period of July 1, 2011 through September 30, 2011 for the 2011 New York Business Attraction and Retention Mission in the amount of \$130,000\* for operational and programming costs.

The programming elements to be carried out by the Chamber pursuant to this Agreement during the Interim Period are as follows:

1. Develop, organize and implement the New York Business Attraction and Retention Mission, which includes the Mayoral Executive Luncheon in New York;
2. Conduct outreach (telephone, meetings, letters, etc.) to significant New York retailers;  
and

The \$130,000 funding amount shall be utilized to provide the services and collateral related to items 1 and 2 above which include but are not limited to, deposits and payment of Mayor's Executive Luncheon, invitation design, printing costs, supplies, travel expenses, other deposits and costs such as audio/visual services, florists, transportation, etc.

\*This amount represents a portion of the total cost of \$150,000 for the 2011 New York Business Attraction and Retention Mission

# **Attachment 2**



**Overview of the Beverly Hills**  
**New York Business Attraction and Retention Mission**

The Beverly Hills Chamber of Commerce's Economic Development Division has coordinated and managed a New York Business Attraction and Retention Mission on behalf of the City of Beverly Hills for nine years. The goals, strategy and methodology underpinning the Mission's execution are annually reviewed by the City and the Chamber to ensure that the City's specific and evolving attraction and retention goals are being most effectively met.

The objectives of the New York Business and Attraction Mission include both "business attraction" and "business retention". An important component of the business retention strategy is the Mayor's Executive Luncheon where the City hosts the New York based Chief Executive Officers and senior corporate management of the brands and designers that have a retail or restaurant establishment in Beverly Hills. The program of the luncheon includes information about the City's current priorities and activities that impact or may be of interest to the audience as well as significant time for questions and dialogue between the audience and the City and Chamber leadership.

The attraction strategy includes identifying and outreaching to unique retailers and brands to solicit interest in establishing an interest in Beverly Hills while also using the opportunity to understand emerging market trends and gather competitive intelligence from the New York market. The trip also allows the City and business leadership to meet with real estate developers, investors and brokers to familiarize them with the benefits of doing business in Beverly Hills with the goal of attracting high level commercial, retail and hospitality investments.



## **Some Components of New York Business Attraction and Retention Mission**

### **Planning and Preparation**

**Cost \$35,000**

- Identification and updating of Beverly Hills stores that have a New York presence
- Research to secure and update contact information of CEO and/or senior executives
- Manage Contacts Database
- Research and identify venue for location of Mayor's Executive Luncheon (working with on-site events consultant)
- Manage New York based Event consultant
- Create Luncheon program in collaboration with City, including program, graphics, content, remarks, etc.
- Coordinate and manage Luncheon logistics, e.g. menu selection, flower selection, etc.
- Research and identification of vendors (A/V, Florist, Ground transportation, etc.)
- Contract negotiation with restaurant and vendors
- Invitation/Hold the Date design
- Printing
- Postage
- Travel: Advance trip to conduct site visit of location, meet with vendors and conduct preparation meetings with potential October appointments
- Arrangement of appointments for October trip including development of individual and group schedules, scheduling appointments for bi-lateral meeting tracks for delegates (2 days for 2 to 3 separate tracks).
- Outreach to attraction targets, coordinate appointments
- Preparation of briefing book: research, writing, collation, etc.
- Coordinate delegation's travel and hotel plans in conjunction with CVB

### **Mission Supervision and Coordination**

**Cost \$50,000**

- On-site management of delegation
- Lead and provide support for on-site daily briefings
- Provide on-site guidance, direction and support to delegates, e.g. coordinate ground travel, confirm daily appointments, etc.
- Manage Luncheon program, including attendance, check-in, vendors, etc.
- Luncheon costs: hosting 40-60 people, vendor costs, etc.
- Attend and participate in meetings and all functions

**Post – trip follow-up**

**Cost \$10,000**

- Thank you messages
- Follow up on requests for assistance, information, etc.,
- Post – Trip Third Party Survey
- Identifying and selecting vendor
- Managing vendor (including contract management)
- Determine survey content
- Review and evaluate results and analysis
- Incorporate feedback appropriately
- Follow-up with survey subjects as requested
- Briefing City Council and City staff

**Ongoing Follow-up and Research**

**Cost \$25,000**

- Ongoing research of potential attraction targets that are unique, emerging and/or especially suitable or desirable for Beverly Hills
- Ongoing evaluation of appropriate attraction targets with Beverly Hills decision makers and stakeholders
- Updating Pipeline Matrix of attraction targets with new entries and current outreach efforts
- Ongoing outreach to identified attraction targets, including sharing timely information about Beverly Hills, referrals to available locations and properties, inquiry of current interest, solicitation of questions and offers of assistance
- Ongoing contacts and communications with representatives of Beverly Hills retailers and restaurants that participated in New York Mission or that were invited but did not attend
- Ongoing identification of Beverly Hills stores that have a New York presence
- Ongoing updating of New York contacts database

Contingency amount for unexpected expenses

**Cost \$10,000**

**Total Cost \$130,000**