



AGENDA REPORT

Meeting Date: February 21, 2012
Item Number: F-8
To: Honorable Mayor & City Council
From: Cheryl Friedling, Deputy City Manager for Public Affairs
Megan Roach, Marketing and Economic Sustainability Manager
Subject: AGREEMENT BY AND BETWEEN THE CITY OF BEVERLY HILLS
AND RODEO DRIVE, INC. FOR THE CONCOURS D'ELEGANCE
EVENT
Attachments: 1. Agreement

RECOMMENDATION

It is recommended that the City Council approve an agreement by and between the City of Beverly Hills and Rodeo Drive, Inc. for the Concours D'Elegance event.

INTRODUCTION

The Rodeo Drive Committee is comprised of seventy retailers, hotels and property owners. Founded in 1972, the Committee promotes Rodeo Drive through a variety of programs which enhance Rodeo Drive's image as a world-wide visitor destination.

In past years, the Rodeo Drive Committee has received City support for several promotional and special event programs. These include the Rodeo Drive Walk of Style, the Rodeo Drive Concours D'Elegance, Fashion's Night Out, and others.

DISCUSSION

On January 31st the CVB/Marketing Liaison Committee (Vice Mayor Brien and Councilmember Mirisch) met to review the Rodeo Drive Committee's mid-year funding request for the Concours D'Elegance event in June.

Last fall the City Council earmarked \$20,000 in tourism and marketing funding for the 2012 Concours D'Elegance event. This amount was intended to cover the cost of City permits and services such as police and traffic control officers and public works personnel. However, it is estimated that City permits and services will cost an additional \$4,000, thus the Liaison Committee is recommending a total event funding contribution of \$24,000.

FISCAL IMPACT

The City's Finance Division budgeted \$26,075,000 in Transient Occupancy Tax revenue for Fiscal Year 2011-2012, which results in a base tourism and marketing budget of \$3,725,000 (this figure does not include \$420,000 in carryovers from Fiscal Year 2010-2011) and this funding is budgeted in the Tourism and Marketing Program account 0101311.

The City Council has already approved a funding earmark of \$20,000 for Concours D'Elegance. The CVB/Marketing Liaison Committee recommends the remaining \$4,000 be funded from the tourism and marketing contingency programs budget, which has an available balance of \$80,000.



Scott Miller
Finance Approval

Cheryl Friedling 

Approved By

Attachment 1

**AGREEMENT BY AND BETWEEN THE CITY OF
BEVERLY HILLS AND RODEO DRIVE, INC. FOR THE
CONCOURS D'ELEGANCE EVENT**

THIS AGREEMENT is made by and between the City of Beverly Hills ("City") and Rodeo Drive, Inc. ("RDI"), a California corporation, for the Concours D'Elegance Event.

RECITALS

A. RDI is a business organization located in the City that has experience conducting or participating in the development of special events and promotional publicity programs for the benefit of City.

B. For a number of years, for the dual purpose of promoting Rodeo Drive and the City as a premier shopping destination, RDI has produced the Concours D'Elegance event.

C. Section 37110 of the California Government Code authorizes the expenditure of monies for promotion.

NOW, THEREFORE, in consideration of the mutual covenants of the parties hereto, it is agreed as follows:

Section 1. Scope of Work and Authorization of Funding. RDI shall provide the services (both personnel and deliverables) necessary to produce the Concours D'Elegance event for the promotion of the City and Rodeo Drive as set forth in Scope of Work attached hereto as Exhibit A. The funds shall be utilized and serve as compensation (including but not limited to overhead, third party costs, etc.) for RDI's implementation of the Scope of Work. In no event shall the RDI request that City Staff undertake any of the activities set forth in the Scope of Work.

Section 2. Payments.

(a) In support of the Concours D'Elegance event and the services provided in Exhibit A, the City shall provide funding in the amount of \$24,000 to be used by RDI for the Concours D'Elegance event to be held on June 17, 2012. The City's contribution is based on RDI or its members incurring expenditures of at least a matching amount of \$24,000 for promotion of Rodeo Drive as a premiere shopping venue during the remaining fiscal year 2011-2012.

(b) "Promotion" as used herein means the expenditure of monies for and directly towards events that cause visitor traffic on Rodeo Drive such as, but not limited to, the Concours D'Elegance event. Upon request by the Deputy City Manager, RDI will produce documentation (e.g., invoices) to establish that it has fulfilled its matching requirements, as described in paragraph (a) above, to the City's satisfaction.

(c) RDI may submit a written invoice for the funding described in paragraph (a) above at least 30 days prior to the date of the Concours D'Elegance event, as the case may be, to the Deputy City Manager. Upon approval of the invoice by the City, payment shall be made to

RDI within 30 to 45 days of receipt of said invoice. If the requirements for funding set forth in Exhibit A with respect to the Concours D'Elegance event are not achieved by RDI to the City's reasonable satisfaction, then within a reasonable period following RDI's receipt of City's written notice of such dissatisfaction, RDI shall reimburse the City any monies provided to RDI for RDI's production of the Concours D'Elegance event. This provision shall survive termination of this Agreement and/or distribution of all funding hereunder.

(d) Any monies provided to RDI not expended by RDI for the Concours D'Elegance event shall be returned to the City within 10 days of the City's request.

Section 3. Reports.

(a) RDI shall submit a quarterly report to the City, which shall be in a form and content acceptable to the City Manager or his designee. The reports shall include, without limitation, information regarding its achievement of the items in the Scope of Services as set forth in Exhibit A.

(b) RDI shall also supply the City with an Annual Financial report prepared by a Certified Public Accountant for the Fiscal Year 2011-2012. The report shall provide separately detailed accounts for each event funded by City. Accordingly, RDI shall ensure that City funding is held in a separate account and that the detailed accounting indicates charges against such funding. The report shall be due within six months after June 30, 2012.

(c) With reasonable notice from the City, RDI shall provide to the City copies of any and all work product, documents reports, property and books produced by RDI in fulfillment of this Agreement (the "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). RDI's obligation to maintain such Documents shall continue for three years after the termination of this Agreement.

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

(e) RDI shall endeavor to develop, in consultation with the City, a program-based budget for the Concours D'Elegance event hereunder. 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 RDI or any third party contracted by the RDI, in the performance of this Agreement, whether or not paid in whole or in part by the funding provided

by this Agreement (“Work Product”), shall be and remain the property of the City without restriction or limitation upon its use or dissemination by the 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, trademarks and other proprietary rights, shall be and remain the property of City without restriction or limitation upon their use, duplication or dissemination by City. RDI shall not obtain or attempt to obtain copyright protection as to any of the Work Products.

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

(c) RDI 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 RDI 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 RDI and that RDI shall have no such rights.

(d) From time to time the RDI will engage photographers to take photographs or will purchase images for use in RDI’s marketing campaigns, collateral or other uses. As to those third party photographs or images whereby the RDI negotiates to purchase not only the photograph or image but also the copyright or other intellectual property rights with the monies provided hereunder for the Concourse D’Elegance program, the provisions of this Section 4 will apply. As to those third party photographs or images whereby the RDI 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) The City recognizes that the phrase “Concours D’Elegance” is a registered service mark owned by RDI and/or other third parties and as such, the City has no right to the ownership of such intellectual property. Accordingly, as to those uses whereby the Work Product is the Concours D’Elegance service mark, the provisions of this Section 4 will not apply.

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

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

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

Section 7. Term. This Agreement shall remain in full force and effect from February 21, 2012 until June 30, 2012, unless terminated earlier as provided in Section 8 of this Agreement.

Section 8. Termination of Agreement. The City may terminate this Agreement early, at any time, with or without cause, upon thirty (30) days prior written notice to RDI. In the event of such termination, the City shall pay RDI for all costs and obligations reasonably incurred by RDI in performing its services under this Agreement prior to the date of the termination notice. Any payments made to RDI shall be in full satisfaction of City's obligations hereunder and in no event shall any payment made by the City exceed \$24,000. City shall not be obligated to pay additional funds for any aspect or part of the Concours D'Elegance event or such other events with respect to which RDI makes a commitment after the issuance 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 Rodeo Drive Inc., c/o The Donahue Group, 1463 Tamarind Avenue, Los Angeles, California 90028, 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. Indemnification and Insurance.

(a) RDI agrees 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 RDI or their officers, employees, agents or others employed by RDI in the conduct of the projects funded by this Agreement.

(b) RDI 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 RDI.

(c) RDI 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.

(d) RDI 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.

(e) RDI shall require each of its sub-consultants or sub-contractors engaged by the RDI for event management or other activities that require a City special event permit to maintain insurance coverage which meets all of the requirements of this Agreement unless otherwise determined by the City's Risk Manager. Prior to an event, RDI shall inform the City's Risk Manager in writing of said event to determine the level of insurance coverage, if any, required.

(f) 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.

(g) If RDI fails to keep the aforesaid insurance in full force and effect, City shall notify RDI that it is in breach of the Agreement and RDI has three (3) days to cure such breach. If such breach is not cured by RDI 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 RDI's expense, the premium thereon.

(h) At all times during the term of this Agreement, RDI 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. RDI 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 the 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.

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

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

Section 11. 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 12. City Not Obligated to Third Parties. The City shall not be obligated or liable under this Agreement to any party other than the RDI.

Section 13. 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.

Section 14. Banners. RDI 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 15. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the ____ day of _____ 2012, at Beverly Hills, California.

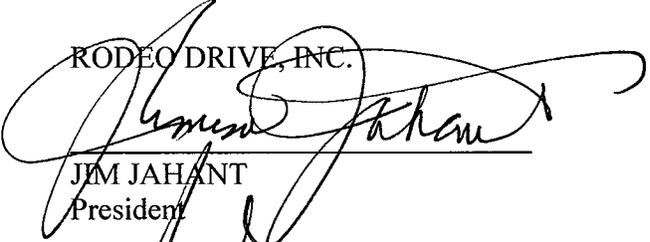
CITY OF BEVERLY HILLS
A Municipal Corporation

BARRY BRUCKER
Mayor of the City of Beverly Hills

ATTEST:

(SEAL)
BYRON POPE
City Clerk

RODEO DRIVE, INC.

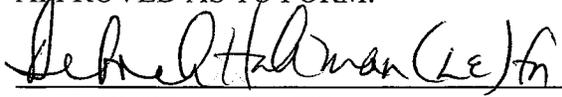


JIM JAHANT
President



MARK TRONSTEIN
Vice President

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY KOLIN
City Manager



CHERYL FRIEDLING
Deputy City Manager/Public Affairs



KARL KIRKMAN
Risk Manager

EXHIBIT A

SCOPE OF WORK

CONCOURS D'ELEGANCE

- The funding provided in this Agreement for \$24,000 shall be for the Concours D'Elegance event to be held on June 17, 2012 on Rodeo Drive with the elements described in Attachment 1 to this Exhibit A.
- RDI shall develop a process to obtain data and metrics for the Concours D'Elegance event and provide detailed information regarding the City's return-on-investment to City. Such metrics shall include but are not limited to measuring and analyzing year over year visitor traffic and dollars spent, receiving and analyzing partner feedback; measuring and analyzing marketing efforts, etc.
- RDI shall undertake the following activities:
 - Secure luxury sponsors/partners to help underwrite costs of the event.
 - Utilize the Rodeo Drive website to further promote the event and attract future sponsors and partnerships.
 - Execute banner program to further promote the event if budget allows.

ATTACHMENT 1

2012 Concours d'Elegance Budget as of 1/30/12

NOTES		2012 Estimates
BH Courier 2 full page ads plus e-blast to 7,200 online subscribers.	BH Courier	\$ 4,000.00
Advertising	BH Courier	\$ 2,100.00
Miss Information to Local Collectors	Miss Information	\$ 350.00
2 weeks on main page	BH Courier	\$ 550.00
Curators for Cars	Shin Takei/Fred Bogardus.	\$ 10,000.00
"Svend Ingerslev Award for Best of Show," "Mayor's Award" "Rodeo Drive Award for Best in Show," "Chairman's Award for Most Sporting Classic", ""Icon" Award ,		\$ 250.00
Awards		\$ 2,200.00
Booths - 1' x 8' (\$127.50 each), directional - 2' x 33; (\$97.50 ea), fender busters (\$20) each + tax	MBE Digital	\$ 3,100.00
26 on Rodeo and 4 on Wilshire @ \$227/each+tax=\$6,500+Design+Street Use Permit (109.60) plus install and brackets.	MBE/Brand Id/City BH	\$ 8,600.00
On site signage		\$ 1,500.00
On site signage		\$ 190.60
Waters, Sodas, Snacks Lunch - See Exhibitor Lunches		\$ 500.00
Ribbons, Exhibitor Forms, Frames		\$ 1,600.00
Registration Form mailing	Pacific Rim Printers	\$ 426.00
160 Ribbons	Southeast Ribbon & Badge Co	\$ 450.00
150 frames	dipslays2Go	\$ 700.00
	dipslays2Go	\$ 2,500.00
Includes Crew Meals & BHPD lunches (15)	Basic Bites	\$ 1,900.00
Golf Carts, Walkie Talkie, Magliners, Rope	Misc	\$ 1,400.00
Walkie Talkeis	SJM	\$ 380.00
	Apache Rental Group	\$ 500.00
17' box truck \$95/day	BHRAC	\$ 229.81
(4) spools - only have a half spool + cuttings	Textile Brokers Co.	\$ 403.40
	LA Fixture	

Ads, Postcards, Signage, . Does not include Banner Designs	Brand ID, spent \$600 on La Dolce Vita	\$	2,200.00
\$19/hr + supplies. \$28.50/hr OT	Expo Clean: Layla	\$	550.00
4 comp rooms Luxe, 1 comp room BW	3 rooms from Luxe	\$	1,000.00
15 Gallons Coffee, 25 doz donuts, milk, sugar, cup, napkin, plate. Note they did not send enough napkins or milk in 2009	Joe to Go	\$	550.00
	VMS/Burrelles/Lighting Dubs	\$	1,000.00
TDG July exp invoice		\$	300.00
Miscellaneous Event expense	Misc	\$	1,550.00
\$25 each. 15 qty	9900 Wilshire Holdings	\$	500.00
Country Food Permit	LA County		1100
Photography	BEI	\$	1,100.00
	On site & Pre-Production Staffing	\$	7,280.00
Video		\$	2,500.00
	Estimate Onsite Add'l Staff	\$	2,380.00
	Estimate pre-production Assstnce	\$	920.00
Publicity	TDG	\$	10,000.00
Rentals	Classic	\$	17,656.65
8 VIPs, 1 ADA added luxury sink	Andy Gump	\$	1,695.75
Security	Staff Pro		3400
Audio	Cutting Edge	\$	8,502.00
Sponsorship	Various	\$	14,700.00
Shirts	Wear it now	\$	5,100.00
City Costs (ACTUAL2011)	City BH	\$	23,806.00
City Deposit	City BH	\$	5,000.00
WATER FOR K-RAIL	Mel Underwood Water Trucks	\$	400.00
K-RAIL		\$	220.00
Subtotal		\$	157,240.21
Production Fees	TDG	\$	23,586.03
Estimated Total		\$	180,826.24
INCOME	City of Beverly Hills	\$	24,000.00
	Rodeo Drive Committee & Sponsors	\$	160,826.24