



AGENDA REPORT

Meeting Date: July 3, 2012

Item Number: G-8

To: Honorable Mayor & City Council

From: Therese Kosterman, Public Information Manager

Subject: AN AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS
AND PATCH MEDIA CORPORATION TO PROVIDE
ADVERTISING AND NOTICES.

Attachments: 1. Agreement

RECOMMENDATION

That the City Council approve an agreement between the City of Beverly Hills and Patch Media Corporation to provide advertising.

INTRODUCTION

At the June 7, 2012 City Council Study Session, the City Council directed staff to enter into an agreement with Patch Media Corporation for advertising in the Beverly Hills Patch for \$10,000 for the fiscal year 2012/13.

DISCUSSION

Beverly Hills Patch is a relatively new entrant to the local media community. As a subsidiary of AOL, Patch is an online source for local news and information. Patch websites operate in more than 500 localities in the United States.

The Beverly Hills Patch has seen significant growth in readership. When launched in early 2011, the Beverly Hills Patch had 16,471 monthly visitors. Recent data indicated that number has grown to more than 30,000 monthly visitors as of June 2012.

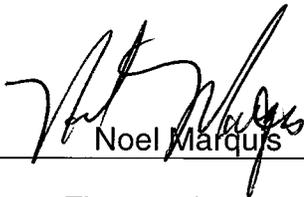
Patch's business model, like most other journalistic enterprises, does not require payment for news coverage. However, like most other news gathering organizations, Patch relies on advertising revenue to cover operational costs.

Staff has negotiated with Patch for an ongoing placement of a City ad in position 2B on all Patch inside pages (see attachment #2) for a period of eight months. An inside page is any page other than the homepage. The position will be shared 50% of the time with other advertisers. That is, every time a page is refreshed, a new ad will pop up in that position and 50% of the time it will be the City ad.

New City ads can be rotated into this position up to three times a month. This position has strong visibility, as 80% of Patch traffic comes in through one of the inside pages.

FISCAL IMPACT

The City Council directed that \$10,000 be allocated to Beverly Hills Patch in fiscal year 2012/13 to promote City events and initiatives. This amount is included in the adopted budget.


Noel Marquis

Finance Approval

Cheryl Friedling 

Approved By

Attachment 1

AGREEMENT BETWEEN THE CITY OF BEVERLY
HILLS AND THE PATCH MEDIA CORPORATION
TO PROVIDE ADVERTISING AND NOTICES

NAME OF VENDOR: Patch Media Corporation

RESPONSIBLE PRINCIPAL OF VENDOR: Evan Atkinson

VENDOR'S ADDRESS: 675 Avenue of the Americas, 3rd Floor
New York, NY 10010

CITY'S ADDRESS: City of Beverly Hills
455 N. Rexford Drive, Suite 290
Beverly Hills, CA 90210
Attention: Byron Pope
City Clerk

COMMENCEMENT DATE: August 1, 2012

TERMINATION DATE: March 31, 2013

CONSIDERATION: \$10,000 in accordance with the payment
schedule described in Exhibit B

AGREEMENT BETWEEN THE CITY OF BEVERLY
HILLS AND THE PATCH MEDIA CORPORATION
TO PROVIDE ADVERTISING AND NOTICES

THIS AGREEMENT (this "Agreement") is made by and between the City of Beverly Hills, a municipal corporation (hereinafter called "CITY"), and the Patch Media Corporation (hereinafter called "VENDOR").

RECITALS

A. CITY desires to have certain services provided (the "Services") as set forth in Exhibit A, attached hereto and incorporated herein.

B. VENDOR represents that it is qualified and able to perform the Services.

NOW, THEREFORE, the parties agree as follows:

Section 1. VENDOR's Services. VENDOR shall perform the Services as described in Exhibit A to the full satisfaction of CITY.

Section 2. Time of Performance. VENDOR shall perform the Services until the Termination Date set forth above.

Section 3. Compensation. CITY agrees to compensate VENDOR, and VENDOR agrees to accept in full satisfaction for the Services required by this Agreement the amount of \$10,000. Said Consideration shall constitute reimbursement of VENDOR's fee for the Services as well as the actual cost of any equipment, materials, and supplies necessary to provide the Services (including all labor, materials, delivery, tax, assembly, and installation, as applicable). CITY shall pay VENDOR said Consideration in accordance with the schedule of payment set forth in Exhibit B, attached hereto and incorporated herein.

Section 4. Independent Contractor. VENDOR is and shall at all times remain, as to CITY, a wholly independent contractor. Neither CITY nor any of its agents shall have control over the conduct of VENDOR or any of VENDOR's employees, except as herein set forth. VENDOR shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

Section 5. Assignment. This Agreement may not be assigned in whole or in part by either party, without the prior written consent of CITY.

Section 6. Responsible Principal.

(a) VENDOR's Responsible Principal set forth above shall be principally responsible for VENDOR's obligations under this Agreement and shall serve as principal liaison

between CITY and VENDOR. Designation of another Responsible by VENDOR shall not be made without prior written consent of CITY.

(b) CITY's Responsible Principal shall be the City Manager or his designee set forth above who shall administer the terms of this Agreement on behalf of CITY.

Section 7. Personnel. VENDOR represents that it has, or will secure at its own expense, all personnel required to perform the Services under this Agreement. All personnel engaged in the work shall be qualified to perform such services.

Section 8. Insurance.

(a) VENDOR shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, a policy or policies of Commercial 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 VENDOR.

(b) VENDOR shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, a policy or policies of Media Liability Coverage that includes errors and omissions coverage for public notices, with minimum limits of One Million Dollars (\$1,000,000) for each occurrence.

(c) VENDOR 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) VENDOR shall require each of its sub-consultants or sub-contractors to maintain insurance coverage which meets all of the requirements of this Agreement.

(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) VENDOR agrees that if it does not keep the aforesaid insurance in full force and effect CITY may immediately terminate this Agreement or, if insurance is available at a reasonable cost, CITY may take out the necessary insurance and pay, at VENDOR's expense, the premium thereon.

(g) At all times during the term of this Agreement, VENDOR shall maintain on file with the City Clerk a certificate or certificates of insurance on the form set forth in Exhibit C, attached hereto and incorporated herein, showing that the aforesaid policies are in effect in the required amounts. VENDOR 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 VENDOR 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. At the option of CITY, VENDOR shall either reduce or eliminate the deductibles or self-insured retentions with respect to CITY, or VENDOR shall procure a bond guaranteeing payment of losses and expenses.

Section 9. Indemnification. VENDOR agrees to indemnify, hold harmless and defend CITY, City Council and each member thereof, and every officer, employee and agent of CITY, from any claim, liability or financial loss (including, without limitation, attorneys fees and costs) arising from any claim of intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of VENDOR or any person employed by VENDOR in the performance of this Agreement.

Section 10. Termination.

(a) CITY may cancel this Agreement at any time upon five (5) days written notice to VENDOR. VENDOR agrees to cease all work under this Agreement on or before the effective date of such notice.

(b) In the event of termination or cancellation of this Agreement by CITY under paragraph (a), due to no fault or failure of performance by VENDOR, VENDOR shall be paid full compensation for all services performed by VENDOR *prior to* termination and CITY shall be reimbursed for the amount of days in which CITY has paid in advance at a rate of \$41.67 per day (such daily rate is calculated based on an advance payment of \$5,000 for 4 months consisting of 30 days each).

Section 11. Notice. Any notice required to be given to VENDOR shall be deemed duly and properly given upon delivery, if sent to VENDOR postage prepaid to the VENDOR's address set forth above or personally delivered to VENDOR at such address or other address specified to CITY in writing by VENDOR.

Any notice required to be given to CITY shall be deemed duly and properly given upon delivery, if sent to CITY postage prepaid to CITY's address set forth above or personally delivered to CITY at such address or other address specified to VENDOR in writing by CITY.

Section 12. Records Audit. VENDOR shall keep and maintain full and accurate records with respect to all matters governed by this Agreement. CITY or its representative, including a third party auditor, shall be entitled to full access, without charge, during normal business hours to all records of VENDOR as deemed appropriate by CITY to determine

compliance with this Agreement and shall have the right to examine, inspect and audit the same and to make transcripts or copies therefrom. If CITY or its representative determines that the rates paid by the CITY for advertising exceed the rates paid by any other advertiser of VENDOR (based on a daily rate of \$41.67) for the same advertising other than special introductory rates or special rates offered to advertisers who contract to purchase a slot everyday for at more than (9) months, VENDOR shall promptly reimburse CITY for all fees paid in excess of those paid pursuant to this Agreement. In addition, VENDOR shall reimburse CITY for all costs and expenses incurred by CITY in connection with such audit.

Section 13. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and VENDOR, and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both CITY and VENDOR.

Section 14. Attorney's Fees. In the event that CITY or VENDOR commences any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to recover its costs of suit, including reasonable attorney's fees.

Section 15. Governing Law. The interpretation and implementation of this Agreement shall be governed by the law of the State of California.

Section 16. 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 _____, 2012, at Beverly Hills, California.

CITY OF BEVERLY HILLS
A Municipal Corporation

WILLIAM W. BRIEN, M.D.
Mayor of the City of Beverly Hills,
California

ATTEST:

BYRON POPE
City Clerk

VENDOR: PATCH MEDIA
CORPORATION

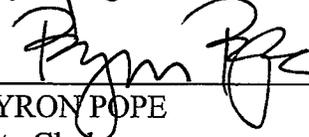

Name: John Kueker
Title: VP Finance 6/28/12

APPROVED AS TO FORM:


LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:


JEFFREY KOLIN
City Manager


BYRON POPE
City Clerk

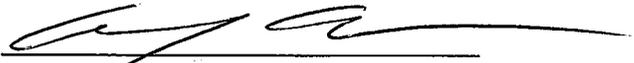

KARL KIRKMAN
Risk Manager

EXHIBIT A

Scope of Services

VENDOR shall, at CITY's written request, perform the following services to the satisfaction of CITY:

Publish, on a non-exclusive basis, correctly and in a first-class manner, for CITY, all legal advertising and notices of whatever kind or nature that may be requested in writing by an officer, board, commission or department of CITY, to be published, at the location referred to as Slot 2B of the internal pages of the Beverly Hills Patch website located on the internet at <http://beverlyhills.patch.com/> from August 1, 2012 through and including March 31, 2013. The City will share Slot 2B 50% of the time with other advertisers. Such Slot 2B is the second box from the top located on the right hand side of the internal pages of the Beverly Hills Patch as indicated on Exhibit D hereto. New City ads can be rotated in Slot 2B up to three times a month.

All advertisements to be published under this Agreement shall be published for the number of days directed in writing by the officer or employee requesting such publication and no more.

CITY shall provide VENDOR with a camera-ready copy of all legal notices and advertising to be posted in the Beverly Hills Patch website.

In the event VENDOR fails to post an advertisement or notice, or posts improperly, VENDOR shall, at the election of CITY, repost the advertisement or notice immediately at no charge to CITY. CITY shall be entitled to reimbursement for each day in which the advertisement or notice is not posted or posted improperly based on a daily rate of \$41.67.

VENDOR's deadline for publication of notices/advertising shall be 5 a.m. (Pacific Time) three days before the advertising start date. The advertisement shall appear on the internet no later than 6 p.m. on the advertisement start date.

EXHIBIT B

Schedule of Payment

CITY shall pay VENDOR for the Services described in Exhibit A in accordance with the following schedule:

<u>Due Date</u>	<u>Amount</u>
August 1, 2012	\$5,000
December 1, 2012	5,000
Total	\$10,000

EXHIBIT C

CERTIFICATE OF INSURANCE

This is to certify that the following endorsement is part of the policy(ies) described below:

NAMED INSURED

AOL Inc.

ADDRESS 22000 AOL Way, Dulles, VA
20166

COMPANIES AFFORDING COVERAGE

A. Liberty Mutual Fire Insurance Co.
B. Liberty Insurance Corp
C.

COMPANY (A. B. C.)	COVERAGE	POLICY NUMBER	EXPIRATION DATE	LIMITS		AGGREGATE
				B.I.	P.D.	
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY	AS2-621-	509876-081			
A	<input checked="" type="checkbox"/> GENERAL LIABILITY		12/9/12			\$1,000,000
A	<input checked="" type="checkbox"/> PRODUCTS/COMPLETED OPERATIONS	TB2-631-	509876-021			\$2,000,000
	<input checked="" type="checkbox"/> BLANKET CONTRACTUAL		12/9/12			
	<input type="checkbox"/> CONTRACTOR'S PROTECTIVE					
	<input checked="" type="checkbox"/> PERSONAL INJURY					
	<input type="checkbox"/> EXCESS LIABILITY	WC7-631-	509876-011			
B	<input checked="" type="checkbox"/> WORKERS' COMPENSATION		12/9/12			Statutory/EL \$1,000,000

It is hereby understood and agreed that the City of Beverly Hills, its City Council and each member thereof and every officer and employee of the City shall be named as joint and several assureds with respect to claims arising out of the following project or agreement:

It is further agreed that the following indemnity agreement between the City of Beverly Hills and the named insured is covered under the policy: Contractor 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 liability or financial loss resulting from any suits, claims, losses or actions brought against and from all costs 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 wrongful or negligent actions of contractor's officers, employees, agents or others employed by Contractor while engaged by Contractor in the (performance of this agreement) construction of this project.

It is further agreed that the inclusion of more than one assured shall not operate to increase the limit of the company's liability and that insurer waives any right of contribution with insurance which may be available to the City of Beverly Hills.

In the event of cancellation or material change in the above coverage, the company will give 30 days' written notice of cancellation or material change to the certificate holder.

Except to certify that the policy(ies) described above have the above endorsement attached, this certificate or verification of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

DATE: June 26, 2012

BY: Margaret M. V. P.
Authorized Insurance Representative

TITLE: S.V.P.

AGENCY: Willis of New York

ADDRESS: 200 Liberty Street, WFC.
New York, NY 10281

RM02.DOC REVISED 10/14/96.

EXHIBIT D

Slot 2B

Position 2B Patch Internal pages

Editor: Marie Cunningham mariec@patch.com   Like 879 Patch Newsletter Nearby  Join Sign In

BeverlyHillsPatch

 69°

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BROWSE BY

Month

- All
- June 2012
- May 2012
- April 2012
- March 2012

Author

- All
- City News Service
- Laurie Lande
- Marie Cunningham
- Paul Chavez
- Sara Fay

MONDAY, JUNE 18, 2012

Readers' Choice: Nominate Beverly Hills' Best Businesses

Let us know the best businesses in Beverly Hills so we can put them to a vote and find out which ones are the Readers' Choice 2012 winners.

BUSINESS Marie Cunningham Monday, June 18



Patch is relaunching its Readers' Choice program and we're asking you, your family, friends, neighbors, co-workers and anyone else to nominate the best...

IN THIS ARTICLE: Readers' Choice: Nominate Your Favorite

Pizza, Readers' Choice: Nominate Your Favorite French Fries,

Readers' Choice: Nominate Your Favorite Lox & Bagels, and 23 more >

3 Comments Photos (1)

cutop

11:41 am on Saturday, June 23, 2012

Best Indian Restaurant... more >

Flag as inappropriate

THURSDAY, JUNE 7, 2012

Whole Foods in Beverly Hills Donates to BHEF

The store presented a check for \$4,939.15 to the Beverly Hills Education Foundation.

SCHOOLS Marie Cunningham Thursday, June 7

Got a Hot Tip?

You shouldn't have to run to the bank, too.



Get daily news on your doorstep.

Sign Up

