



## AGENDA REPORT

**Meeting Date:** January 8, 2013  
**Item Number:** G-2  
**To:** Honorable Public Financing Authority  
**From:** Brenda Lavender, Real Estate & Property Manager  
**Subject:** NONDISTURBANCE AGREEMENT BY AND BETWEEN THE CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY AND PARTICIPANT MEDIA, LLC.  
**Attachments:** 1. Nondisturbance Agreement

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### **RECOMMENDATION**

It is recommended that the Public Financing Authority approve the Nondisturbance Agreement by and between the City of Beverly Hills Public Financing Authority and Participant Media, LLC. A copy of the agreement is on file with the City Clerk. Participant Media is currently located in the City's 331 Foothill Road building on the 2<sup>nd</sup> and 3<sup>rd</sup> floors of the building.

### **INTRODUCTION**

Participant Media is an entertainment company that specializes in socially conscience films and events to improve conditions around the world. Participant's film list includes An Inconvenient Truth, Darfur Now, Charlie Wilson's War, and The Soloist to name a few. Participant Media currently leases the entire 2<sup>nd</sup> 3<sup>rd</sup> floor of the building under the original lease and first amendment to lease.

### **DISCUSSION**

This Nondisturbance Agreement is being executed as a part of Participant Media's Second Amendment to Lease for the expansion of their leased premises. This agreement provides that so long as tenant is not in default under the space lease, the City will not disturb tenant's possession of the premises leased to tenant under the lease and as modified by the second amendment to lease. The details of the Second Amendment to Lease are included in a separate Agenda Report for City Council's approval.

Meeting Date: January 8, 2013

**FISCAL IMPACT**

There is no fiscal impact from the execution of this agreement.

*Jan Harrison*

*per*

Noel Marquis, Acting Director of  
Administrative Services, CFO

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Approved By

# **Attachment 1**

**Recording Requested By  
And When Recorded Mail To:**

City of Beverly Hills  
455 North Rexford Drive  
Beverly Hills, California 90210  
Attn: City Clerk

**NONDISTURBANCE AGREEMENT**

This Nondisturbance Agreement (“Agreement”) is dated as of January 8, 2013, and is entered into by and between the CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY, a California corporation (“Owner”), owner of the land described on Exhibit “A”, and PARTICIPANT MEDIA, LLC, a Delaware limited liability company (“Tenant”).

**RECITALS**

A. The City of Beverly Hills (“Landlord”) and Tenant entered into an Office Lease dated as of December 1, 2009, a Memorandum of Lease dated December 1, 2009 recorded on March 11, 2010 as Document No. 20100337997 in the Official Records of the County of Los Angeles, California (the “Memo”), a First Amendment of Office Lease dated August 16, 2011, recorded on September 9, 2011 as Document No. 2011128689 and a Second Amendment of Office Lease dated in 2012 (collectively, the “Original Lease”). Capitalized terms used in this Amendment but not defined herein shall have the meaning set forth in the Original Lease.

B. Landlord has a leasehold interest in the Land by virtue of a Ground Lease dated February 17, 2009 between Landlord and Owner (“Ground Lease”), a memorandum of which was recorded on December 21, 2009 as Instrument No. 20091944319, in the Official Records.

C. It is a condition to the effectiveness of the Lease that Owner execute this Agreement.

NOW THEREFORE, in consideration of the Lease, the foregoing recitals and other consideration, the sufficiency of which is hereby acknowledged, Owner hereby agrees that so long as Tenant is not in default under the Space Lease (beyond any period given in the Space Lease to cure such default), Owner will not disturb Tenant’s possession of the premises leased to Tenant under the Space Lease, nor shall the Space Lease be terminated or extinguished by reason of any termination of the Ground Lease under the terms of the Ground Lease and Owner agrees to assume all of the obligations of the Landlord under the Space Lease for the benefit of Tenant.

**“LANDLORD”**

CITY OF BEVERLY HILLS

ATTEST:

By: \_\_\_\_\_  
William W. Brien, M.D.,  
Mayor

\_\_\_\_\_ (SEAL)

By: \_\_\_\_\_  
Byron Pope  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Laurence S. Wiener, City Attorney and Authority  
Counsel

**“OWNER”**

CITY OF BEVERLY HILLS PUBLIC  
FINANCING AUTHORITY

By: \_\_\_\_\_  
William W. Brien, M.D.  
Chairman of Board of Directors

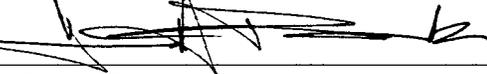
ATTEST:

\_\_\_\_\_ (SEAL)

By: \_\_\_\_\_  
Byron Pope  
Secretary to Board of Directors

**“TENANT”**

PARTICIPANT MEDIA, LLC,  
a Delaware limited liability company

By:   
\_\_\_\_\_  
James Berk,  
Chief Executive Director

By:   
\_\_\_\_\_  
Robert Murphy,  
Executive Vice President/Chief Financial  
Officer

(ALL SIGNATURES MUST BE ACKNOWLEDGED BY A NOTARY PUBLIC)

State of California )  
County of Los Angeles )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
(insert name and title of the officer)

Notary Public, personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument  
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that  
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

State of California )  
County of Los Angeles )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
(insert name and title of the officer)

Notary Public, personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument  
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

State of California )  
County of Los Angeles )

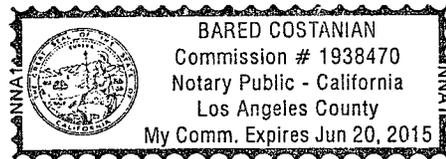
On December 20, 2012, before me, Bared Costanian,  
(insert name and title of the officer)

Notary Public, personally appeared James Burk,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument  
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that  
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature] (Seal)



State of California )  
County of Los Angeles )

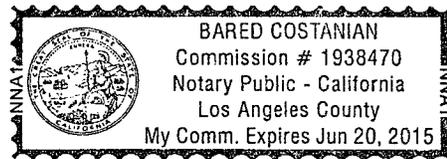
On December 20, 2012, before me, Bared Costanian,  
(insert name and title of the officer)

Notary Public, personally appeared Robert Murphy,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument  
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that  
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature] (Seal)



**EXHIBIT "A"**

**DESCRIPTION OF LAND**

A PORTION OF LOT 1 OF TRACT NO. 13349, IN THE CITY OF BEVERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA AS PER MAP RECORDED IN BOOK 311, PAGE 14 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY AND A PORTION OF LOT 1 OF BLOCK 17 OF TRACT NO. 5647, IN SAID CITY, AS PER MAP RECORDED IN BOOK 60, PAGE 88 OF MAPS, IN SAID OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF SAID LOT 1 OF TRACT NO. 13349, DISTANT THEREON SOUTH 0°09'01" EAST 263.51 FEET FROM THE NORTHEASTERLY CORNER OF SAID LOT 1; THENCE SOUTH 89°51'04" WEST 120.00 FEET; THENCE SOUTH 0°09'01" EAST 240.00 FEET TO THE NORTH LINE OF 3RD STREET, 60.00 FEET WIDE, AS SHOWN ON SAID TRACT NO. 13349; THENCE EASTERLY ALONG SAID NORTH LINE, NORTH 88°42'51" EAST 120.00 FEET TO THE EAST LINE OF SAID LOT 1 OF SAID TRACT NO. 5647; THENCE NORTHERLY ALONG SAID EAST LINE, NORTH 0°09'01" WEST 237.62 FEET TO THE POINT OF BEGINNING.