



CITY COUNCIL AGENDA REPORT

MEETING DATE: JUNE 19, 2007

ITEM NUMBER: _____

SUBJECT: MAINTENANCE AGREEMENT FOR PUBLIC RIGHT OF WAY IMPROVEMENTS WITHIN THE THEATER AND ARTS DISTRICT AREAS

DATE: JUNE 7, 2007

FROM: PUBLIC SERVICES/ADMINISTRATION DIVISION

PRESENTATION BY: WILLIAM J. MORRIS, DIRECTOR OF PUBLIC SERVICES

FOR FURTHER INFORMATION CONTACT: BRUCE HARTLEY, MAINTENANCE SERVICES MANAGER AT 714-754-5164

RECOMMENDATION:

Approve the Maintenance Agreement (Attachment 1) between South Coast Plaza (Developer A) and Maguire Properties-Pacific Arts Plaza, LLC (Developer B), and the City for landscape and other improvement maintenance within the Theater and Arts District (TAD) public right-of-way and surrounding areas.

BACKGROUND:

In March 2001, the City Council entered into a Development Agreement (DA) with the property owners/developers of the Segerstrom Town Center (DA-00-02) and Two Town Center (DA-00-04). The Development Agreements provided for multiple public benefits including the creation of a Theater and Arts District Plan.

In February 2004, the City Council adopted the Theater and Arts District Plan which provided for significant improvements to the TAD area within the public right-of-way including the construction of a roundabout at the intersection of Avenue of the Arts and Town Center Drive, and various street, median and parkway improvements. The TAD Plan also included the vacation of a portion of Town Center Drive, between Park Center Drive and Avenue of the Arts, for the creation of a new pedestrian plaza contained wholly on private property.

ANALYSIS:

The Theater and Arts District Plan, as well as the approved Development Agreements, requires that the two primary property owners in the area, South Coast Plaza and Maguire Properties enter into an agreement with the City to accept the maintenance of certain improvements located in the public right-of-way within the TAD and surrounding areas.

City staff and representatives of South Coast Plaza and Maquire Properties have been meeting to discuss and finalize the required Maintenance Agreement. The proposed Maintenance Agreement (Attachment 1) requires Developer A (South Coast Plaza) to

maintain, repair and replace median and parkway landscape improvements, including irrigation systems, listed by type and/or location shown on Schedule A of the Agreement. It also requires Developer B (Maguire Properties) to maintain, repair and replace median and parkway landscape improvements, including irrigation systems, listed by type and/or location shown on Schedule B of the Agreement. A map of the TAD area is attached for Council's reference (Attachment 2).

Each Developer will be required to maintain the improvements for which it is responsible in good condition and repair of a high quality level. Specifically, all landscaped areas, within this agreement, shall be kept trimmed and free of dead vegetation, all paved areas shall be cleaned and cleared of debris, and all painted surfaces and signage shall be cleaned as often as necessary to maintain a good appearance. Should the Developers fail to provide the required maintenance, the proposed Maintenance Agreement allows the City to perform the needed maintenance and requires the Developer to reimburse the City for the actual and documented costs.

The maintenance of future improvements within the public right-of-way as authorized in the Theater and Arts District Plan and Development Agreements will be added to Schedules A and B of the Agreement as they are completed, and will be the responsibility of the respective Developers. The proposed Maintenance Agreement provides the City with the right to enter and reasonably alter, if needed, the improvements listed in Schedules A and B.

The proposed Maintenance Agreement can be terminated at such time as the City desires to take over the maintenance of the subject improvements or by the execution and delivery of a written agreement between all parties terminating the obligations of the Developers.

ALTERNATIVES CONSIDERED:

The City Council may elect to not approve the proposed Maintenance Agreement. This would result in the City continuing to be responsible for the maintenance of the subject improvements, and would be contrary to certain provisions of the previously approved Development Agreements.

FISCAL REVIEW:

The City currently contracts out the maintenance of the parkways and medians within and near the TAD area. The City will experience a reduction in the cost of the existing landscape maintenance contract, estimated at \$20,985 annually, with the approval of this proposed Maintenance Agreement.

LEGAL REVIEW:

The City Attorney's Office has reviewed and approved the proposed Maintenance Agreement as to form. Staff has also reviewed the content of the proposed agreement to assure it is in conformance with the previously approved Development Agreements and TAD plan.

CONCLUSION:

The proposed Maintenance Agreement requires the two major developers within the TAD area to maintain certain improvements within the public right-of-way. In order to

effectuate this requirement, staff recommends that the City Council approve the proposed Maintenance Agreement (Attachment 1).

WILLIAM J. MORRIS
Public Services Director

BRUCE HARTLEY
Maintenance Services Manager

DISTRIBUTION: David Wilson, C. J. Segerstrom & Sons
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City Manager
Assistant City Manager
City Attorney
City Clerk
Staff

ATTACHMENTS: 1 [Proposed Maintenance Agreement](#)
2 [Theater and Arts District Area Map](#)

TAD Maint. Agreement Report

6/05/07

1:30 pm