



CITY COUNCIL AGENDA REPORT

MEETING DATE: MAY 20, 2008

ITEM NUMBER: _____

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

DATE: May 8, 2008

FROM: PUBLIC SERVICES/ADMINISTRATION DIVISION

PRESENTATION BY: PETER NAGHAVI, DIRECTOR OF PUBLIC SERVICES

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

RECOMMENDATION:

Approve the revised 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.

BACKGROUND:

In March 2001, the City Council entered into a Development Agreement with the property owners/developers of the Segerstrom Town Center and Two Town Center. 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 traffic circle 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.

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.

In June 2007, the City Council approved a formal Maintenance Agreement (Attachment 2) that specified South Coast Plaza's and Maguire Properties' responsibilities for the maintenance of new landscape and hardscape improvements within the TAD area. Due to minor issues, the Maintenance Agreement was never executed by South Coast Plaza and Maguire Properties, and both property owners requested changes to the Maintenance

Agreement approved by City Council to better define details of the roles and responsibilities for each entity. The previously approved Maintenance Agreement with changes indicated in strike-out and bold text is provided as Attachment 3.

ANALYSIS:

City staff and representatives of South Coast Plaza and Maquire Properties met to discuss and finalize revisions to the required Maintenance Agreement. The proposed revised 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. The revisions to the original Maintenance Agreement approved in June 2007 specify that the maintenance and repair of road pavement adjacent to the landscaped parkways and medians is not the responsibility of the Developers. The revision also removes the embedded lit pedestrian crosswalk on Town Center Drive from Schedule A. The end result of the revisions is that the City, and not the Developers, will be responsible for all street and road repair in the TAD area, and the City will also be responsible for the repair and maintenance of the embedded lit pedestrian crosswalk on Town Center Drive.

Each Developer will be required to maintain the improvements for which it is responsible in good condition and repair at 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 revised 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 revised 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 revised 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 revised 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 approval of this proposed revised Maintenance Agreement will result in a reduction in the cost of the City’s existing landscape maintenance contract, which is estimated at \$20,985 annually.

LEGAL REVIEW:

The City Attorney’s Office has reviewed and approved the proposed revised 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 City Council, in June of 2007 approved a Maintenance Agreement for landscape and hardscape improvements within the TAD area. South Coast Plaza and Maguire Properties have requested certain changes to the previously Council approved Maintenance Agreement. Staff worked with representatives from South Coast Plaza and Maguire properties to make final revisions to the proposed Maintenance Agreement. The proposed revised Maintenance Agreement requires the two major developers within the TAD area to maintain certain improvements within the public right-of-way, but specifically excludes road and street repair, and the embedded lit pedestrian crosswalk on Town Center Drive. Staff recommends that the City Council approve the proposed revised Maintenance Agreement (Attachment 1).

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BRUCE HARTLEY
Maintenance Services Manager

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City Manager
Assistant City Manager
City Attorney
City Clerk
Staff

ATTACHMENTS: 1 [Proposed Revised Maintenance Agreement](#)
2 [Maintenance Agreement Approved June 2007](#)
3 [Revised Maintenance Agreement with edits](#)
4 [Theater and Arts District Area Map](#)