

CITY OF OAKLAND

AGENDA REPORT

2010 MAR 25 PM 3:47

TO: Oakland City Council
FROM: Dan Lindheim, City Administrator
DATE: April 1, 2010

RE: Ordinance Authorizing The City Administrator To Negotiate And Execute A Billboard Relocation/Franchise Agreement And Sublease Amendments, Without Returning To Council, With Clear Channel Outdoor, Inc. (Clear Channel) Allowing Clear Channel To: (1) Construct A New Non-Digital Billboard At 165 98th Ave.; (2) Convert One Face Of A Billboard At Interstate 580 & Ettie Street To Light-Emitting Diode (LED) Technology; And (3) Standardize The Size Of And Convert To LED Technology A Sign On Land The City Subleases To Clear Channel At Oakport & Hassler ("Oakport Sign"), In Exchange For Increased Revenue Under The Oakport Sign Sublease, Removal Of 37 Existing Billboards, And Payment Of One Million Dollars To The City

SUMMARY

The City Council is asked to approve an Ordinance authorizing the City Administrator to enter into a Billboard Relocation/Franchise Agreement (herein "Billboard Agreement") and amendments to a sublease requiring Clear Channel Outdoor, Inc. (Clear Channel) to: (1) pay \$1,000,000 into the City's General Fund; (2) remove 4,632 square feet of existing billboard space; and (3) increase the City's existing annual revenue share from a tri-vision sign on land the City subleases ("Oakport Sublease") to Clear Channel at Oakport Street & Hassler Way ("Oakport Sign") to 30% of revenue, with a guaranteed annual minimum revenue of one hundred and fifty thousand dollars (\$150,000), in exchange for the City's approval for Clear Channel: to (1) convert one face of an existing freeway billboard on private property on Ettie Street to LED technology; (2) construct a new standard (non-digital) bulletin on private property at 98th Avenue & Bigge Street; and (3) standardize the size of and convert the Oakport Sign to LED.

The City would have the right to use unsold advertising space on all of the signs to promote City and community events at no cost to the City, as well as to use the signs for emergency messaging and AMBER alerts. The agreement would also result in the removal of 30 existing 8-sheet (6' x 12') signs, six existing 30-sheet (12' x 25') signs, and one existing 14' by 48' billboard in locations throughout the City, along with all their supporting structures. Due to the extensive number of sign removals, the City will

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attempt to streamline permits for the removals to the extent reasonably possible based on City resources and staff.

FISCAL IMPACT

The proposed Billboard Agreement and Oakport Sublease amendments will not result in any negative direct fiscal impact because Clear Channel is waiving its right to compensation, including all real property and personal property interests, for the removed signs specified below. Moreover, Clear Channel is providing the City with \$1,000,000 to the City's General Fund and an increased revenue share (with a guaranteed annual minimum revenue) for the Oakport Sign, as consideration for the Billboard Agreement.

BACKGROUND

A. City Billboard Regulation

- In 1997, the City of Oakland enacted an Ordinance prohibiting the installation of new billboards in Oakland.
- In 2002, the City of Oakland adopted an Ordinance to amend the Oakland Municipal Code to permit relocated and wholly reconstructed outdoor advertising signs pursuant to Billboard Relocation or Franchise Agreements.

The City of Oakland and Clear Channel have executed successful billboard agreements in the past. These agreements have resulted in Oakland removing more billboards than any other city in the Bay Area. Agreements with Clear Channel alone have resulted in over 93 sign removals since 2002, covering every City Council district.

B. Oakport Sign Sublease

The existing Oakport "Tri-Vision" Sign is governed by an existing City agreement with Clear Channel. When the City sold land to the Lexus Dealership near the Coliseum, the City negotiated with the Lexus dealer to lease back to the City a portion of the site. The City then subleased that land to Clear Channel for the Oakport Sign (the "Oakport Sublease"). The Oakport Sign is a "Tri-Vision" (not an LED) sign- it consists of three back-to-back rotating digital message boards (total of 6 sign displays). The Oakport Sublease requires Clear Channel to:

1. Give the City the exclusive right to use one of the three tri-vision message boards (2 displays) for its own uses (e.g., advertise community events, etc.)- Clear Channel pays all costs of the City's installation and maintenance of the City's advertising (except City pays for its own camera-ready copy).

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2. Pay the City the following revenue shares of Gross Revenue from Clear Channel's two tri-vision message boards (4 displays):

Years 1-5 10%

Years 6-11 17%

Years 12-66 22%

3. If the City doesn't use its one message board, the City can ask Clear Channel to sell its space, and Clear Channel pays the City fifty percent (50%) of Gross Revenue from those sales.

PROJECT DESCRIPTION

The proposed project calls for converting or constructing three standard 14' x 48' (672 square feet each per face) illuminated V-shaped bulletins. As part of the proposed Billboard Agreement, the City would allow Clear Channel to: (1) convert one face of the existing static sign at Interstate 580 & 3425 Ettie Street (APN: 007-0606-002-06) to LED technology (the Council previously approved construction of the (non-LED) Ettie Street sign on November 18, 2003; Resolution No.7820 C.M.S.), (2) construct one standard (non-digital) new billboard (two faces) at 165- 98th Avenue (APN: 044-5020-002-36); and (3) standardize the size of and convert the Oakport Sign to LED technology.

In exchange, Clear Channel agrees to: (1) provide free advertising space to the City on unused advertising space on each of the billboard faces; (2) remove at its sole cost billboards (and their supporting structures) that contain 4,632 total square feet of advertising space as listed on *Attachment A*; (3) pay the City \$1,000,000 for its General Fund; and (4) increase the City's existing annual revenue share from the Oakport Sign to 30% of revenue for the remaining term of the Oakport Sublease, with a guaranteed annual minimum rent of one hundred and fifty thousand dollars (\$150,000), whichever is greater. Clear Channel estimates that the 30% revenue share from the Oakport Sign will generate approximately \$300,000 in the first full year under the renegotiated lease terms.

Additional Terms include the following:

- Clear Channel Outdoor has agreed to operate the digital billboards with illumination levels that do not exceed 0.3 foot candles above ambient light and in any event, no more than existing levels.
- Clear Channel will be required to provide documentation acceptable to the City that none of the signs in *Attachment A* are scheduled for removal under the amortization program.

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- The Billboard Agreement shall prohibit any of the billboards from advertising alcohol, tobacco, or guns/firearms.
- Clear Channel will be required to defend, indemnify and hold harmless the City for any legal or other challenge arising out of the Billboard Agreement or the Oakport Sublease amendments (including CEQA challenges) (see Oakland Planning Code section 17.130.060), and any claims that may arise from the Master Lease regarding the Oakport Sublease amendments.

As part of this transaction, Clear Channel is proposing to amend the Oakport Sublease to increase the City's annual revenue share for the remaining Sublease term to thirty percent (30%), with a guaranteed minimum floor of \$150,000 annual rent, as described in this report. Any such renegotiation, however, will not decrease or adversely affect any existing rights the City has under the Oakport Sublease, including the City's right to have exclusive use of some significant portion (to be negotiated) of the advertising space on the LED-converted Oakport Sign and to share equally (50/50 split) any unused City space that Clear Channel sells for advertising.

The Council should be aware that, if the City Administrator requires Clear Channel to pay its required one million dollars before it obtains its required approvals, like all previously approved City/Clear Channel Billboard Agreements, the City would be required to refund to Clear Channel the \$1,000,000 consideration (or some pro-rata portion thereof) if, despite Clear Channel's diligent and best faith efforts, Clear Channel cannot obtain required approvals to construct or convert the signs (e.g., approvals from CalTrans).

KEY ISSUES AND IMPACTS

A. CEQA

The proposed signs are located in mostly light industrial and commercial areas. The proposed new sign at 98th Avenue is a traditional, "static" display (e.g., not utilizing LED, Tri-Vision, digital, rotating or similar technology) that does not generate the amount of light that may be associated with digital/LED displays. Conversion of one face of the existing sign at Ettie Street to LED occurs in a mixed industrial/housing use area. Conversion of the Oakport Sign from an existing Tri-Vision technology to LED occurs in a primarily commercial district. Clear Channel has agreed to limit billboards with illumination to levels that do not exceed 0.3 foot candles above ambient light and in any event, no more than existing levels. Any cumulative impacts are adequately addressed by the state's restrictions on the location of billboards adjacent to Freeways.

Therefore, the project is exempt from CEQA pursuant to CEQA Guidelines section 15302 (replacement or reconstruction of existing structures); 15303 (new construction of small structures); 15061(b)(3) (general rule of no possibility of a significant

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environmental impact); and /or 15183 (projects consistent with a general plan and/or zoning for which an Environmental Impact Report has been prepared). Each of the foregoing provides a separate and independent basis for a CEQA exemption and when viewed collectively provides an overall basis to support the finding that the project is exempt from CEQA.

B. BILLBOARD VALUATION

The valuation of billboards is a specialized discipline within the appraisal industry with only a handful of experts in the State of California. The appraisal of the billboards is considered a business valuation and not a real property valuation.

In 2004, as part of the Uptown Project, the Agency paid for the leasehold value of a series of six outdoor advertising signs. The most expensive billboard located at 2022 Telegraph Avenue, was a single-face sign measuring 14 by 48 feet, with an orientation to southbound traffic on Telegraph Avenue. The average daily traffic count was about 7,425 in the southbound lanes. Based on revenue summaries and advertising contracts, the value of the sign was estimated at \$430,000 including the structure improvements and business value.

The following information was provided by Donna Desmond Associates, a Southern California firm that specializes in billboard appraisal. The firm completed the valuation assignment for the City of Oakland Redevelopment Agency for acquisition of all billboards for the Uptown Project.

Billboard Valuation is based on multiples of cash flow and gross income. Factors that influence value for billboards are location; visibility and traffic count on nearby streets, number of faces, size and shape of the face, technology (digital signage) and supply and demand. Desmond appraisal firm points out that there are numerous sales of billboard. Appraisal experts will track and inventory these sales to develop a data base for use in the valuation process. Based on the factors noted above, as well as other information obtained by the appraiser, cash flow multipliers and gross income multipliers are developed and applied to the appropriate income/revenue streams of an individual sign location to calculate its value. Based on the opinion of the valuation expert, the final value is reconciled and determined.

It is important to note that both CALTRANS and local municipalities are the primary regulatory agencies that permit the installation of billboards. CALTRANS' regulatory authority is activated when billboards are located along state highways.

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C. EXISTING BILLBOARD AGREEMENTS

On December 15, 2009, the Community and Economic Development Committee requested staff to provide information on the existing billboard relocation/franchise agreements approved by the City.

In the past, the City has entered into billboard relocation or franchise agreements with Clear Channel Outdoor, Inc., regarding the removal of older, intercity billboard structures (please refer to *Attachment B* to view a list of billboard transactions with Clear Channel).

A matrix of current City billboard leases and licenses is attached as *Attachment C*.

SUSTAINABLE OPPORTUNITIES

Economic: This proposal will bolster the City's General Fund by one million dollars (\$1,000,000) for the current year, and will provide ongoing revenue until the termination of the Oakport Sublease.

Environmental: The removal of the thirty-seven (37) billboards will improve the appearance of impacted neighborhoods, and light levels on the new signs will be comparable to the existing signs or, at times, will be less bright.

Social Equity: The City Council and the Mayor can use revenues from this agreement to fund vital city programs that provide social support to City residents.

DISABILITY AND SENIOR CITIZEN ACCESS

There are no issues of access to disabled persons and senior citizens raised in this report.

RECOMMENDATION(S) AND RATIONALE

Staff recommends approval of the ordinance authorizing the City Administrator to enter into a billboard relocation/ franchise agreement without returning to City Council with Clear Channel Outdoor, Inc. (Clear Channel) to: (1) convert one face of an existing Eddie St. sign to LED technology, (2) construct one standard (non-digital) new billboard (two faces) at 165- 98th Avenue; and (3) standardize the size of and convert the Oakport Sign to LED technology, in exchange, for Clear Channel's agreement to: (1) provide free advertising space to the City on unused advertising space on each of the billboard faces; (2) remove at its sole cost 4,632 total square feet of existing billboard and advertising spaces (along with their related structures);(3) pay the City \$1,000,000 for its General Fund; and (4) amend the existing Oakport Sign Sublease to increase the City's existing revenue share from the Oakport Sign to 30% of revenue with a minimum annual guaranteed revenue of \$150,000, whichever is larger.

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ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the City Council approve the proposed ordinance.

Respectfully submitted,



Dan Lindheim
City Administrator

- Attachment A (Billboards to be removed)
- Attachment B (Existing City Billboards Agreements)
- Attachment C (City Controlled Billboards)

Attachment A

Panel	Sales Address	Street Address	Assessor's Parcel Number	Sign Dimensions	Total Sq. Footage
007028	E 12th St NS 50ft E/O 7th Av F/W - 1	E. 12th St.	020-0122-009	6'x12'	72
007029	E 12th St NS 150ft W/O 9th Av F/E - 1	1215 9th Ave.	020-0121-007	6'x12'	72
007030	E 12th St NS 10ft E/O 10th Av F/W - 1	1000 E. 12th St.	020-0119-015	6'x12'	72
007031	E 12th St SS 151ft E/O 12th Av F/W - 1	1241 E. 12th St.	019-0038-004-01	6'x12'	72
007041	International Blvd NS 50ft W/O 9th Av F/W - 1	940 International Blvd.	020-0138-010	6'x12'	72
007042	International Blvd SS 10ft E/O 9th Av F/W - 1	901 International Blvd.	020-0120-001	6'x12'	72
007044	International Blvd SS 63ft W/O 21st Av F/E - 1	2043 International Blvd.	020-0109-007-01	6'x12'	72
007052	International Blvd SS 95ft W/O 46th Av F/W - 1	4559 International Blvd.	034-2253-005	6'x12'	72
007082	Foothill Blvd SS 5ft W/O 48th Av F/E - 1	4743 Foothill Blvd.	035-2399-007	6'x12'	72
007084	Foothill Blvd SS 204ft W/O Vicksburg F/E - 1	5129 Foothill Blvd.	035-2387-025	6'x12'	72
007106	Martin Luther King WS 50ft N/O Mac Arthur F/N - 1	3807 Martin Luther King	012-0964-006	6'x12'	72
007155	Mac Arthur SS 340ft E/O Byron F/E - 1	10263 MacArthur Blvd.	047-5576-003-02	6'x12'	72
007162	Market ES 99ft S/O 45th St F/N - 1	897 45th St.	013-1088-024	6'x12'	72
007163	Market WS 80ft S/O Mac Arthur F/N - 1	921 W. MacArthur Blvd.	012-0957-033-01	6'x12'	72
007175	Peralta WS 52ft N/O 17th St F/S - 1	1703 Peralta St.	007-0561-007-01	6'x12'	72
007185	San Leandro SS 710ft E/O 85th Av F/W - 1	8707 San Leandro St.	042-4310-001-08	6'x12'	72
007188	San Leandro SS 123ft E/O 100th Av F/E - 1	10025 San Leandro St.	045-5232-004-03	6'x12'	72
007195	San Pablo WS 137ft N/O 62nd St F/N - 1	6225 San Pablo Ave.	016-1455-019	6'x12'	72
007196	San Pablo WS 137ft N/O 62nd St F/S - 1	6225 San Pablo Ave.	016-1455-019	6'x12'	72
007217	Telegraph WS 53ft S/O 63rd St F/S - 1	6221 Telegraph Ave.	015-1380-002	6'x12'	72
007220	Telegraph ES 51ft N/O 59th St F/N - 1	5914 Telegraph Ave.	016-1386-012-03	6'x12'	72
007221	Telegraph ES 173ft N/O Claremont F/N - 1	5248 Telegraph Ave.	014-1225-015-01	6'x12'	72
007223	Telegraph ES 10ft S/O 43rd St F/N - 1	497 43rd St.	013-1097-028-01	6'x12'	72
007225	West Grand NS 5ft E/O Union F/W - 1	Grand Ave.	008-0655-006	6'x12'	72
007231	West Grand SS 200ft E/O Martin Luther King F/E - 1	635 W. Grand Ave.	008-0659-026	6'x12'	72
007266	40th St SS 50ft E/O Martin Luther King F/E - 1	BART Right-Of-Way	No APN Assigned	6'x12'	72
007268	40th St NS 106ft W/O Broadway F/W - 1	316 40th St.	012-1000-013	6'x12'	72
007269	16th Av WS 65ft N/O E 12th St F/S - 1	1223 16th Ave.	020-0114-010	6'x12'	72
007270	23rd Av WS 27ft S/O E 16th St F/S - 1	1541 23rd Ave.	020-0159-022	6'x12'	72
007272	5th Av ES 100ft S/O International Blvd F/S - 1	1230 5th Ave.	020-0124-013	6'x12'	72
1669	Broadway ES 10' s/o Piedmont	3310 Broadway	009-0703-043	12'x25'	300
1670	Broadway ES 10' s/o Piedmont	3310 Broadway	009-0703-043	12'x25'	300
1875	Martin Luther King ES 125' n/o Sycamore	628 Sycamore St.	009-0682-012-01	12'x25'	300
1921	MacArthur SS 150' w/o Martin Luther King	657 W. MacArthur Blvd.	012-0965-001	12'x25'	300
2140	Telegraph WS 175' n/o Aileen	5659 Telegraph Ave.	015-1277-019-01	12'x25'	300
2141	Telegraph WS 175' n/o Aileen	5659 Telegraph Ave.	015-1277-019-01	12'x25'	300
1276	Foothill SS 150' e/o 23rd Ave	2301 Foothill Blvd.	020-0158-029-01	14'x48'	672
			Total # of Signs:	37	
			Sq. Footage Removed:		4632

Attachment B

EXISTING AND PENDING BILLBOARD AGREEMENTS BETWEEN CITY OF OAKLAND AND CLEAR CHANNEL OUTDOOR, INC. AS OF DECEMBER 18, 2009

I. Relocation and Sublease Agreement dated December 11, 2002:

Property/Billboard(s) Location: City subleases land to CCO for 66 years, and allows CCO to construct one (1) new 3-message board, back-to-back "Tri-Vision" digital sign (6 sign displays) at Oakport and Hassler Streets near the Lexus of Coliseum dealership.

Terms: Requires CCO to:

1. Give the City the exclusive right to use one of the tree tri-vision message boards (2 displays) for its own uses (e.g., advertise community events, etc.)- CC pays *all* costs of the City's installation and maintenance of the City's advertising (except City pays for its own camera-ready copy). (Agreement Section 4.1);
2. Pay the City the following revenue shares of Gross Revenue from CC's two tri-vision message boards (4 displays) (Agreement Section 4.2):

Years 1-5	10%
Years 6-11	17%
Years 12-66	22%
3. If the City doesn't use its one message board, the City can ask CC to sell its space, and CC pays the City fifty percent (50%) of Gross Revenue from those sales (Agreement, Exhibit D, paragraph L).

II. Sign Relocation and Indemnification Agreement dated October 24, 2003:

Property/Billboard(s) Location: City allows CCO to reconstruct a sign at Hegenberger Road and San Leandro Blvd.

Terms: CCO demolishes at its cost: (1) six billboards in the Uptown Area to facilitate development of the Uptown Project; and (2) two billboards at 1414-73rd Avenue.

III. Business Retention and Sign Agreement dated January 30, 2004:

Property/Billboard(s) Location: City allows CCO to: (1) reconstruct/renovate an existing sign at 743 High St.; and (2) construct a new sign at 3425 Ettie Street.

Terms: CCO: (1) demolishes at its cost a number of billboards in the City consisting of approximately 5400 s.f.; (2) retains its office and operational facilities in the City for at least 10 years; and (3) pays \$100,000 to the City's General Fund.

IV. Sign Relocation Agreement dated January 31, 2008:

Property/Billboard(s) Location: City allows CCO to: (1) relocate/reconstruct a billboard from 381-5th St. to 377-5th St.; and (2) relocate/reconstruct a billboard at 3420 Louise Street to an adjacent lot.

Terms: CCO demolishes at its cost: (1) a number of billboards throughout the City; and (2) pays \$125,000 to the City's General Fund and \$125,000 to the Chabot Space and Science Center.

V. Sign Relocation Agreement dated November 12, 2009:

Property/Billboard(s) Location: City allows CCO to construct one new sign at Wattling St. & 38th Ave.

Terms: CCO demolishes at its cost: (1) a number of billboards throughout the City; and (2) pays \$125,000 to the After School Sports Program at the Cesar Chavez Education Center, Oakland.

VI. (Currently being Prepared) Sign Agreement (Terms approved at Council's 11/17/09 Meeting)

Property/Billboard(s) Location: City allows CCO to: (1) reconstruct/renovate one existing sign on EBMUD property near the Bay Bridge; and (2) construct one new sign on EBMUD land near the Bay Bridge.

Terms: CCO demolishes at its cost: (1) 16 billboards throughout the City, totaling 4166,s.f.; and (2) pays to the City's General Fund: (1) \$400,000; plus (2) annual revenue sharing of no less than ten percent (10%) of both new billboards for the term of CCO's lease with EBMUD.

Attachment C
City Controlled Billboards

Billboard Company	Property	Location	Date / Type of Agreement	Size of Billboard	Revenue Per year	Comments
Clear Channel Outdoor Inc. (CCO)	>City owned parcel > size is 400 square feet	Northeast corner of West Grand Avenue and Union Street	>July 1991 >Year to Year License Agreement	Two Signs at this location: > 6 ft. by 12 Ft. Single Pole sign > 12 Ft. by 25 ft. Steel Sign	\$2,400	Property was acquired by the City as a part of Right of Way project. Real Estate Division completed an evaluation of value at this location and the traffic count on West Grand Avenue had not increase to justify a rent increase.
Clear Channel Outdoor Inc.	>Property is owned by B.E. Fitzpatrick Development Corporation. Lexus Property > Size is 900 square feet	Northeastern Corner of Oakport Street and Hassler Way	>November 11, 2002 and it expires on April of 2068 >City has a Master ground lease for 66 years with an option to renew for an additional 66 years for a \$1.00 a year	Tri-Vision Structure face sign 25 Ft. by 25 Ft. for the maximum advertising area of 625 Square Feet 60 feet tall	*CCO pays a monthly rent of 50% of gross revenue for face No. 13443 + 17% of gross revenue for face No. 13441 and 13442. per flip Average at \$5,200 per month	In 2002, Redevelopment Agency executed a DDA with Fitzpatrick Development Corporation for Lexus Property. City succeeded the right of the port for a billboard at this location. Subsequently City executed a master ground lease on subject site and entered into a relocation and sublease agreement with Clear Channel Outdoor Inc. on December 11, 2002 to generate revenue for the City. *City has the right to use one side (flip) of the north and south faces free of charge to convey its messages; in addition, Clear Channel pays for the all related costs for preparation and marketing of the message. CCO pays 50% of revenue of the flip when the flip is not being used by City of Oakland.

INTRODUCED BY COUNCIL MEMBER _____
OFFICE OF THE CLERK OF THE CITY OF OAKLAND

[Signature]
City Attorney

2010 MAR 25 PM 3:47

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A BILLBOARD RELOCATION/FRANCHISE AGREEMENT AND SUBLEASE AMENDMENTS, WITHOUT RETURNING TO COUNCIL, WITH CLEAR CHANNEL OUTDOOR, INC. (CLEAR CHANNEL) ALLOWING CLEAR CHANNEL TO: (1) CONSTRUCT A NEW NON-DIGITAL BILLBOARD AT 165 98TH AVE.; (2) CONVERT ONE FACE OF A BILLBOARD AT INTERSTATE 580 & ETTIE STREET TO LIGHT-EMITTING DIODE (LED) TECHNOLOGY; AND (3) STANDARDIZE THE SIZE OF AND CONVERT TO LED TECHNOLOGY A SIGN ON LAND THE CITY SUBLEASES TO CLEAR CHANNEL AT OAKPORT & HASSLER ("OAKPORT SIGN"), IN EXCHANGE FOR INCREASED REVENUE UNDER THE OAKPORT SIGN SUBLEASE, REMOVAL OF 37 EXISTING BILLBOARDS, AND PAYMENT OF ONE MILLION DOLLARS TO THE CITY

WHEREAS, the City regulates the construction of new billboards through its Planning Code and requires that a Billboard Relocation or Franchise Agreement ("Billboard Agreement") be approved by the City Council for such new billboards; and

WHEREAS, the City currently subleases land (the "Oakport Sublease") at Oakport Street and Hassler Way to Clear Channel for Clear Channel's operation of a Tri-Vision advertising sign (the "Oakport Sign"); and

WHEREAS, Clear Channel Outdoor, Inc. ("Clear Channel") and the City desire to enter into a Billboard Agreement and amendments to the Oakport Sublease which provide, in part, for removal of billboards in the City, payment to City, and other provisions; and

WHEREAS, removal of a number of billboards at various locations throughout the City is consistent with the City's objective to remove billboard signage throughout Oakland to enhance the City's aesthetic attributes; and

WHEREAS, all the proposed billboards will be removed by Clear Channel at its sole cost and expense; and

WHEREAS, the proposed Billboard Agreement and Oakport Sublease amendments will not result in any direct fiscal impact because Clear Channel is waiving its right to compensation, including all real property and personal property interests, for the removed billboards, thereby eliminating the various billboards at no cost to the City; and

WHEREAS, the Oakport Sublease currently provides, among other things, that: (1) Clear Channel will pay the City a portion of its gross revenue from the Tri-Vision Oakport Sign as follows: for years 1 through 5- ten percent (10%); for years 6 through 11- seventeen percent

(17%); and for years 12 through 66-twenty-two percent (22%); (2) the City shall have free use of one "flip" (2 displays) of the north and south faces of the three Tri-Vision's "flips" on the sign's rotating message boards (the "City's Flip"); and (3) Clear Channel will pay the City fifty percent (50%) of any revenue generated from the City's Flip when the City is not using its space; and

WHEREAS, the proposed Billboard Agreement and Oakport Sublease amendments will permit Clear Channel to: (1) construct one new standard (non-digital) billboard (two faces) totaling 1,344 square feet of advertising space at 165-98th Avenue; (2) convert to LED technology one face of an existing "static" billboard at Highway 580 & Eddie Street, totaling 672 square feet of advertising space; and (3) standardize the size of and convert to LED technology the existing Tri-Vision Oakport Sign, as detailed in the accompanying Agenda Report (and any supplements thereto) to the City Council (the "Agenda Report"); and

WHEREAS, Clear Channel will remove at least thirty-seven signs totaling at least 4,632 square feet from various locations around the City of Oakland, as shown on Exhibit A, along with all of their supporting structures-resulting in a net decrease of sign area in the City, as detailed in the Agenda Report; and

WHEREAS, the City Council will receive from Clear Channel: (1) for allocation and appropriation to the City's General Fund: (A) a one-time payment of \$1,000,000; and (B) an increase of the City's existing revenue share under the Oakport Sublease to 30%, with a minimum revenue payment of one hundred and fifty thousand dollars (\$150,000) annually-whichever is greater; and (2) the right to use unsold advertising space to promote City and community events at no cost to the City on the billboards; and

WHEREAS, the Billboard Agreement and the Oakport Sublease amendments will contain other requirements as detailed in the Agenda Report, including without limitation, the fact that no billboard or any face thereon shall advertise alcohol, tobacco or firearms; and

WHEREAS, the amendments to the Oakport Sublease will, among other things, not decrease or adversely affect any existing rights the City has under the Oakport Sublease, including the City's right to have exclusive use of some significant portion (to be negotiated) of the advertising space on the LED-converted Oakport Sign and to share equally (50/50 split) any unused City space that Clear Channel sells for advertising; now, therefore,

THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. That the City Council authorizes the City Administrator, or designee to negotiate and execute a Billboard Agreement with Clear Channel under the terms stated herein and the Agenda Report and including other conditions and enforcement mechanisms as may be recommended by the City Attorney, and to take whatever other steps are necessary to implement the agreement, consistent with the intent of this ordinance, without being required to return to the Council for approval.

SECTION 2. The City Administrator, or his designee, is hereby authorized to negotiate and execute, pursuant to the terms of the Billboard Agreement and without returning to Council, amendments to the Oakport Sublease, as detailed in the accompanying Agenda Report for this matter, and in accordance with the terms of this Ordinance, and including other conditions and enforcement mechanisms as may be recommended by the City Attorney, and to take whatever other steps are necessary to implement the amendments, consistent with the intent of this

ordinance.

SECTION 3. That there is hereby allocated and appropriated to the City's General Fund the revenue generated from the Billboard Agreement consisting of: (A) a one-time payment from Clear Channel to the City of \$1,000,000; and (B) the increased revenue from the Oakport Sublease.

SECTION 4. The City Administrator or his designee, is hereby authorized and directed to take all necessary actions to negotiate, complete, and execute the Billboard Agreement and amendments to the Oakport Sublease, and any further amendments and modifications thereto, at his discretion, consistent with the intent of this Ordinance.

SECTION 5. That the City Council finds that this project is exempt from CEQA pursuant to CEQA Guidelines section 15302 (replacement or reconstruction of existing structures); 15303 (new construction of small structures); 15061(b)(3) (general rule of no possibility of a significant environmental impact); and /or 15183 (projects consistent with a general plan and/or zoning for which an Environmental Impact Report has been prepared). Each of the foregoing provides a separate and independent basis for a CEQA exemption and when viewed collectively provides an overall basis to support the finding that the project is exempt from CEQA.

SECTION 6. The Billboard Agreement and the Oakport Sublease amendments shall be approved as to form and legality by the City Attorney's Office and copies shall be filed with the Office of the City Clerk.

SECTION 7. This Ordinance shall become effective immediately on the final adoption if it receives six or more affirmative votes; otherwise, it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2010

PASSED BY THE FOLLOWING VOTE:

AYES-BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID AND
PRESIDENT BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____

Exhibit A

Panel	Sales Address	Street Address	Assessor's Parcel Number	Sign Dimensions	Total Sq. Footage
007028	E 12th St NS 50ft E/O 7th Av F/W - 1	E. 12th St.	020-0122-009	6'x12'	72
007029	E 12th St NS 150ft W/O 9th Av F/E - 1	1215 9th Ave.	020-0121-007	6'x12'	72
007030	E 12th St NS 10ft E/O 10th Av F/W - 1	1000 E. 12th St.	020-0119-015	6'x12'	72
007031	E 12th St SS 151ft E/O 12th Av F/W - 1	1241 E. 12th St.	019-0038-004-01	6'x12'	72
007041	International Blvd NS 50ft W/O 9th Av F/W - 1	940 International Blvd.	020-0138-010	6'x12'	72
007042	International Blvd SS 10ft E/O 9th Av F/W - 1	901 International Blvd.	020-0120-001	6'x12'	72
007044	International Blvd SS 63ft W/O 21st Av F/E - 1	2043 International Blvd.	020-0109-007-01	6'x12'	72
007052	International Blvd SS 95ft W/O 46th Av F/W - 1	4559 International Blvd.	034-2253-005	6'x12'	72
007082	Foothill Blvd SS 5ft W/O 48th Av F/E - 1	4743 Foothill Blvd.	035-2399-007	6'x12'	72
007084	Foothill Blvd SS 204ft W/O Vicksburg F/E - 1	5129 Foothill Blvd.	035-2387-025	6'x12'	72
007106	Martin Luther King WS 50ft N/O Mac Arthur F/N - 1	3807 Martin Luther King	012-0964-006	6'x12'	72
007155	Mac Arthur SS 340ft E/O Byron F/E - 1	10263 MacArthur Blvd.	047-5576-003-02	6'x12'	72
007162	Market ES 99ft S/O 45th St F/N - 1	897 45th St.	013-1088-024	6'x12'	72
007163	Market WS 80ft S/O Mac Arthur F/N - 1	921 W. MacArthur Blvd.	012-0957-033-01	6'x12'	72
007175	Peralta WS 52ft N/O 17th St F/S - 1	1703 Peralta St.	007-0561-007-01	6'x12'	72
007185	San Leandro SS 710ft E/O 85th Av F/W - 1	8707 San Leandro St.	042-4310-001-08	6'x12'	72
007188	San Leandro SS 123ft E/O 100th Av F/E - 1	10025 San Leandro St.	045-5232-004-03	6'x12'	72
007195	San Pablo WS 137ft N/O 62nd St F/N - 1	6225 San Pablo Ave.	016-1455-019	6'x12'	72
007196	San Pablo WS 137ft N/O 62nd St F/S - 1	6225 San Pablo Ave.	016-1455-019	6'x12'	72
007217	Telegraph WS 53ft S/O 63rd St F/S - 1	6221 Telegraph Ave.	015-1380-002	6'x12'	72
007220	Telegraph ES 51ft N/O 59th St F/N - 1	5914 Telegraph Ave.	016-1386-012-03	6'x12'	72
007221	Telegraph ES 173ft N/O Claremont F/N - 1	5248 Telegraph Ave.	014-1225-015-01	6'x12'	72
007223	Telegraph ES 10ft S/O 43rd St F/N - 1	497 43rd St.	013-1097-028-01	6'x12'	72
007225	West Grand NS 5ft E/O Union F/W - 1	Grand Ave.	008-0655-006	6'x12'	72
007231	West Grand SS 200ft E/O Martin Luther King F/E - 1	635 W. Grand Ave.	008-0659-026	6'x12'	72
007266	40th St SS 50ft E/O Martin Luther King F/E - 1	BART Right-Of-Way	No APN Assigned	6'x12'	72
007268	40th St NS 106ft W/O Broadway F/W - 1	316 40th St.	012-1000-013	6'x12'	72
007269	16th Av WS 65ft N/O E 12th St F/S - 1	1223 16th Ave.	020-0114-010	6'x12'	72
007270	23rd Av WS 27ft S/O E 16th St F/S - 1	1541 23rd Ave.	020-0159-022	6'x12'	72
007272	5th Av ES 100ft S/O International Blvd F/S - 1	1230 5th Ave.	020-0124-013	6'x12'	72
1669	Broadway ES 10' s/o Piedmont	3310 Broadway	009-0703-043	12'x25'	300
1670	Broadway ES 10' s/o Piedmont	3310 Broadway	009-0703-043	12'x25'	300
1875	Martin Luther King ES 125' n/o Sycamore	628 Sycamore St.	009-0682-012-01	12'x25'	300
1921	MacArthur SS 150' w/o Martin Luther King	657 W. MacArthur Blvd.	012-0965-001	12'x25'	300
2140	Telegraph WS 175' n/o Aileen	5659 Telegraph Ave.	015-1277-019-01	12'x25'	300
2141	Telegraph WS 175' n/o Aileen	5659 Telegraph Ave.	015-1277-019-01	12'x25'	300
1276	Foothill SS 150' e/o 23rd Ave	2301 Foothill Blvd.	020-0158-029-01	14'x48'	672
			Total # of Signs:	37	
			Sq. Footage Removed:		4632

NOTICE AND DIGEST

ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A BILLBOARD RELOCATION/FRANCHISE AGREEMENT AND SUBLEASE AMENDMENTS, WITHOUT RETURNING TO COUNCIL, WITH CLEAR CHANNEL OUTDOOR, INC. (CLEAR CHANNEL) ALLOWING CLEAR CHANNEL TO: (1) CONSTRUCT A NEW NON-DIGITAL BILLBOARD AT 165 98TH AVE.; (2) CONVERT ONE FACE OF A BILLBOARD AT INTERSTATE 580 & ETTIE STREET TO LIGHT-EMITTING DIODE (LED) TECHNOLOGY; AND (3) STANDARDIZE THE SIZE OF AND CONVERT TO LED TECHNOLOGY A SIGN ON LAND THE CITY SUBLEASES TO CLEAR CHANNEL AT OAKPORT & HASSLER ("OAKPORT SIGN"), IN EXCHANGE FOR INCREASED REVENUE UNDER THE OAKPORT SIGN SUBLEASE, REMOVAL OF 37 EXISTING BILLBOARDS, AND PAYMENT OF ONE MILLION DOLLARS TO THE CITY

This ordinance authorizes the City Administrator to negotiate and execute a billboard agreement and amendments to a sublease of City-leased property at Oakport St. and Hassler Way in Oakland with Clear Channel Outdoor, Inc. regarding advertising signs.