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INTRODUCED BY COUNCIL MEMBER
2010 APR 8 PM 2:43

Stanne Miller

City Attorney

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; provided, however, that the Billboard Agreement and Oakport Sublease amendment must include the following term that is non-negotiable: Clear Channel will agree 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 on a light day.

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
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