

# OAKLAND CITY COUNCIL

Approved as to Form and Legality

  
Celso Ortiz (Oct 26, 2023 11:25 PDT)

City Attorney

RESOLUTION No. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

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**A RESOLUTION A) GRANTING A MASTER MAJOR ENCROACHMENT PERMIT TO IKE SMART CITY FOR FORTY (40) DIGITAL ADVERTISING KIOSKS WITH WAYFINDING CAPABILITIES WITHIN THE PUBLIC RIGHT-OF-WAY, LOCATED AT APPROXIMATELY 1807 TELEGRAPH AVE, 831 BROADWAY, 826 WASHINGTON ST, 2015 BROADWAY, 416 WATER ST, 1000 OAK ST, BELLEVUE AVE (LAKESIDE PARK NEAR GRAND AVE. AND BAY PL.), 2417 BROADWAY, 2225 TELEGRAPH AVE, 2228 BROADWAY, 3136 INTERNATIONAL BLVD, 3801 TELEGRAPH AVE, 5859 FOOTHILL BLVD, 1709 WEBSTER ST, 575 15TH ST, 490 THOMAS L BERKLEY WAY, 200 BROADWAY, 1000 BROADWAY, 150 FRANK H OGAWA PLAZA, 5110 TELEGRAPH AVE, 2630 BROADWAY, 540 17TH ST, 383 11TH ST, 1398 FRANKLIN ST, 600 14TH ST, BELLEVUE AVE (LAKESIDE PARK NEAR HARRISON ST. AND 21ST ST.), 1011 BROADWAY, 274 19TH ST, 400 9TH ST, BELLEVUE AVE (LAKESIDE PARK NEAR LAKESIDE DR. AND HARRISON ST.), 555 12TH ST, 2000 FRANKLIN ST, 1731 FRANKLIN ST, 274 19TH ST, 1423 BROADWAY, 2616 BROADWAY, 447 17TH ST, 1624 FRANKLIN ST, 2501 HARRISON ST AND 1212 BROADWAY; B) APPROVING AN ASSOCIATED MASTER INDENTURE AGREEMENT; AND C) ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

**WHEREAS**, the Oakland Department of Transportation is tasked with improving transportation choices and minimizing parking demand, congestion, and pollution, such as through transportation demand management programs in the City of Oakland (City); and

**WHEREAS**, IKE Smart City LLC (IKE), an advertising agency, provided an unsolicited proposal to install fifty (50) digital advertising and wayfinding kiosks in the City's right-of-way; and

**WHEREAS**, IKE and the City have negotiated terms of a non-exclusive franchise agreement that includes the installation of up to fifty IKE digital kiosks in the public right of way; and

**WHEREAS**, IKE and the City have proposed terms within their agreement about the equitable distribution and operation of the kiosks throughout the City; and

**WHEREAS,** IKE has conducted initial outreach, abutter business consultation and technical considerations for forty (40) locations at approximately 1807 Telegraph Ave, 831 Broadway, 826 Washington St, 2015 Broadway, 416 Water St, 1000 Oak St, Bellevue Ave (Lakeside Park near Grand Ave. and Bay Pl.), 2417 Broadway, 2225 Telegraph Ave, 2228 Broadway, 3136 International Blvd, 3801 Telegraph Ave, 5859 Foothill Blvd, 1709 Webster St, 575 15th St, 490 Thomas L Berkley Way, 200 Broadway, 1000 Broadway, 150 Frank H Ogawa Plaza, 5110 Telegraph Ave, 2630 Broadway, 540 17th St, 383 11th St, 1398 Franklin St, 600 14th St, Bellevue Ave (Lakeside Park near Harrison St. and 21st St.), 1011 Broadway, 274 19th St, 400 9th St, Bellevue Ave (Lakeside Park near Lakeside Dr. and Harrison St.), 555 12th St, 2000 Franklin St, 1731 Franklin St, 274 19th St, 1423 Broadway, 2616 Broadway, 447 17th St, 1624 Franklin St, 2501 Harrison St And 1212 Broadway, the exact encroachment limits of which are to be determined and submitted (Encroachments); and

**WHEREAS,** to facilitate and expedite the implementation of the digital kiosk program in the City, the City Council desires issue a Master Major Encroachment Permit to Grantee for the proposed forty (40) Kiosks in the Public Right of Way pursuant to Oakland Municipal Code Chapter 12.08 and section 12.08.030 et seq.;

**WHEREAS,** City staff will determine, in accordance with the Oakland Municipal Code Chapter 12.08 and based on review of IKE plans and investigation of the proposed locations and the area of the proposed Encroachments, that the Encroachments in the public right-of-way and their location will not interfere with the public use of the roadway, sidewalk, buried utilities, and will not endanger the public welfare and convenience during said public use; and

**WHEREAS,** the City has independently reviewed and considered the IKE digital kiosks program and finds and determines that that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15268 (Ministerial Projects), 15183 (Projects Consistent with a Community Plan, General Plan or Zoning), 15301(c) (Existing Facilities, Highways and Streets), 15302 (Replacement or Reconstruction), 15303 (Small Structures), 15304 (h) (minor alterations to land, and/or 15061 (b) (3) (No significant Effect on the Environment); each of the aforementioned provides a separate and independent basis for CEQA compliance; now, therefore, be it

**RESOLVED:** That the City Council has reviewed all relevant documents relating to its grant of the Master Major Encroachment Permit that is the subject of this resolution; and be it

**FURTHER RESOLVED:** The City Council has independently reviewed and considered the IKE digital kiosks program and finds and determines that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15268 (Ministerial Projects), 15183 (Projects Consistent with a Community Plan, General Plan or Zoning), 15301(c) (Existing Facilities, Highways and Streets), 15302 (Replacement or Reconstruction), 15303 (Small Structures), 15304 (h) (minor alterations to land, and/or 15061 (b) (3) (No significant Effect on the Environment); each of the aforementioned provides a separate and independent basis for CEQA compliance; and be it

**FURTHER RESOLVED:** and directs the City's Environmental Review Officer to file a Notice of Exemption with the Alameda County Clerk's Office and appropriate agencies; and be it

**FURTHER RESOLVED:** That the City Council hereby grants to IKE a conditional revocable Master Encroachment Permit to allow the Encroachments at up to forty (40) separate addresses, as shown in *Exhibit A*, which permit shall take effect only upon the City and IKE as Permittee entering into an Indenture Agreement in the form substantially attached hereto as

*Exhibit B* (Indenture Agreement), the conditions therein being incorporated into the Master Encroachment Permit, and IKE submitting fully engineered site plans for each location (as shown in the example included as *Exhibit C*); and be it

**FURTHER RESOLVED:** That the Master Encroachment Permit shall commence and continue in effect so long as Permittee satisfies, and continues to satisfy, all conditions and obligations set forth in the Indenture Agreement; and be it

**FURTHER RESOLVED:** the City Council delegates authority to the City Administrator to issue Major Encroachment Permits to IKE for the proposed forty (40) Kiosks in the Public Right of Way pursuant to Oakland Municipal Code Chapter 12.08 and section 12.08.030 et seq.;

**FURTHER RESOLVED:** That the City Council, at its sole discretion and at a future date not yet determined, may impose additional and continuing fees for use and occupancy of the public right-of-way; and be it

**FURTHER RESOLVED:** That the Master Encroachment Permit authorized by this Resolution shall take effect when all the conditions and obligations set forth in the Indenture Agreement shall have been complied with to the satisfaction of the City Attorney and the City Engineer of the City of Oakland and shall become null and void upon the failure of the Permittee to comply with the conditions and obligations set forth in the Indenture Agreement, subject to the notice and cure provisions set forth therein, or upon a termination by resolution of the City Council as being in the City's best interest; and be it

**FURTHER RESOLVED:** That the City Engineer is hereby directed to file a certified copy of this Resolution for recordation with the Office of the Alameda County Clerk-Recorder as an encumbrance of the title of the property identified above.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2023

**PASSED BY THE FOLLOWING VOTE:**

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID,  
AND PRESIDENT FORTUNATO BAS

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
Asha Reed  
City Clerk and Clerk of the Council  
of the City of Oakland, California

*Exhibit A:* Preliminary Site Plans For IKE Digital Kiosks (40 pages)

*Exhibit B:* Indenture Agreement (8 pages)

*Exhibit C:* Example Engineered Site Plan (1 page)

**EXHIBIT A: PRELIMINARY SITE PLAN FOR IKE DIGITAL KIOSKS**

**(Attached Separately)**

**EXHIBIT B: INDENTURE AGREEMENT**

**(Attached Separately)**

**EXHIBIT C: EXAMPLE ENGINEERED SITE PLAN**

**(Attached Separately)**