

**OAKLAND CITY COUNCIL**  
**ORDINANCE No. 13022 C.M.S.**

**AN AMENDMENT TO ORDINANCE NO. 13003 C.M.S. (AUTHORIZING A BILLBOARD AGREEMENT AND SUBLEASE AMENDMENTS WITH CLEAR CHANNEL OUTDOOR, INC. (CLEAR CHANNEL) RELATING TO THREE SIGNS AT 165 98TH AVE., INTERSTATE 580 & ETTIE STREET, AND OAKPORT & HASSLER) DELETING THE REQUIREMENTS THAT THE CITY HAVE: (1) EXCLUSIVE USE OF, AND AN EVEN (50/50) SPLIT OF REVENUE FROM, A PORTION OF THE OAKPORT & HASSLER SIGN; AND (2) THE RIGHT TO USE UNSOLD ADVERTISING SPACE ON ALL THREE SIGNS, AND PROVIDING INSTEAD THAT CLEAR CHANNEL ALLOW THE CITY TO USE FIFTY PERCENT (50%) OF ANY UNSOLD SPACE ON THE OAKPORT & HASSLER SIGN.**

**WHEREAS**, on April 20, 2010, the City Council passed Ordinance No. 13003 C.M.S., that authorized the City Administrator to negotiate and execute a Billboard/Franchise Agreement (“Billboard Agreement”) and amendments to a sublease (the “Oakport Sublease”) of City-leased land on which Clear Channel operates an existing billboard at Oakport Street and Hassler Way (the “Oakport Sign”), to allow Clear Channel to construct or convert three billboards in the City; and

**WHEREAS**, Ordinance No. 13003 C.M.S., among other things, authorized the Billboard Agreement and Oakport Sublease amendments in exchange for Clear Channel’s agreement to: (1) remove 37 existing advertising signs in the City, (2) pay to the City One Million Dollars (\$1,000,000), and (3) let the City use free of charge any unsold advertising space on the three new signs (“City Advertising Right”); and

**WHEREAS**, Ordinance No. 13003 C.M.S. also authorized amendments to the Oakport Sublease allowing Clear Channel to convert the existing Oakport Sign to a more updated digital LED advertising sign in exchange for an increased revenue share to the City of 30%, with a minimum annual guarantee of \$150,000, whichever is greater; and

**WHEREAS**, Ordinance No. 13003 C.M.S. also provided that the Oakport Sublease amendments would give the City the right to have exclusive use of some significant portion (to be negotiated) of the newly-converted LED Oakport Sign, and to share equally (50/50 split) the revenue generated from any unused space exclusively attributed to the City that Clear Channel sells for advertising (collectively the “Exclusive Use Terms”); and

**WHEREAS**, Clear Channel has advised staff that the City Advertising Right and the Exclusive Use Terms in Ordinance No. 13003 C.M.S. were not consistent with their deal discussions with staff and, if required to be implemented, would make the transaction not

economically feasible for Clear Channel; and

**WHEREAS**, the City wishes to successfully finalize the Billboard Agreement and Oakport Sublease amendments with Clear Channel to obtain, among other things, the following benefits to the City: (1) removal of 37 billboards throughout the City; (2) a \$1,000,000 payment to the City's general fund; and (3) an increased revenue share under the Oakport Sublease; and

**WHEREAS**, to make the deal economically feasible for Clear Channel, and to obtain the substantial benefits to the City as described herein, the City agrees that it will be necessary to delete from the transaction the Exclusive Use Terms and to modify the City Advertising Right, now, therefore,

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

**SECTION 1** . Ordinance No. 13003 C.M.S. is hereby amended as follows:

(A) That portion of the tenth (10<sup>th</sup>) "WHEREAS" clause that reads: "... (2) the right to use unsold advertising space to promote City and community events at no cost to the City on the billboards..." is hereby amended to read as follows:

"... (2) the right to use fifty percent (50%) of any unsold advertising space to promote City and community events at no cost to the City on the Oakport Sign..."

(B) The last "WHEREAS" clause is hereby deleted and the following substituted therefor:

"**WHEREAS**, the amendments to the Oakport Sublease will, among other things, delete the City's right to space or revenue from any exclusive portion of the LED-converted Oakport Sign; and

"**WHEREAS**, except as otherwise specified herein, this Ordinance does not change the terms and conditions of the existing Oakport Sublease; now, therefore,"

**SECTION 2**. Except as amended by this Ordinance, in all other respects, Ordinance No. 13003 C.M.S. remains in full force and effect.

**SECTION 3.** 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, JUN 15 2010, 2010

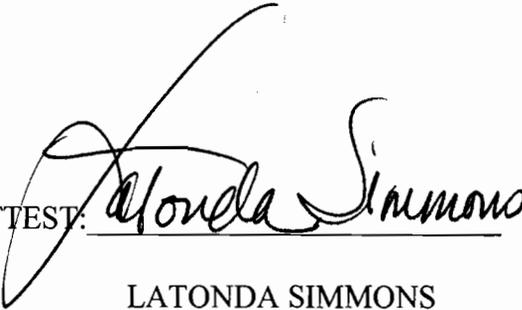
**PASSED BY THE FOLLOWING VOTE:**

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

NOES- *President Brunner - 7*  
*De La Fuente - 1*

ABSENT- *0*

ABSTENTION- *0*

ATTEST: 

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

DATE OF ATTESTATION: 10/25/10