


# OAKLAND CITY COUNCIL

Approved as to Form and Legality

RESOLUTION NO. \_\_\_\_\_ C.M.S.

  
\_\_\_\_\_  
City Attorney

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

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**RESOLUTION (A) GRANTING A CONDITIONAL AND REVOCABLE MASTER MAJOR ENCROACHMENT PERMIT TO IKE SMART CITY LLC TO ALLOW FOR THE INSTALLATION AND ENCROACHMENT INTO THE PUBLIC RIGHT OF WAY OF DIGITAL KIOSKS AT UP TO FIFTY ADDRESSES TO BE DETERMINED, (B) AUTHORIZING THE CITY ADMINISTRATOR TO SPECIFY THE ADDRESSES IN ACCORDANCE WITH THE FRANCHISE 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; and

**WHEREAS**, IKE Smart City LLC (IKE), an advertising agency, provided an unsolicited proposal to install fifty (50) digital advertising and wayfinding kiosks in Oakland’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 and the City have a general understanding of where the IKE kiosks will be located (see *Exhibit A*), but the specific addresses and exact location of the kiosks will be determined through a process that includes both community outreach, abutter business consultation and technical considerations; and

**WHEREAS**, in order to facilitate and expedite the implementation of the digital kiosk program in Oakland, the City Council desires to authorize the City Administrator, or his or her designee, to issue Major Encroachment Permits to Grantee for the proposed fifty (50) Kiosks in the Public Right of Way pursuant to Oakland Municipal Code Chapter 12.08 and section 12.08.030 et seq.;

**WHEREAS**, the report supporting this resolution also supports an ordinance that, if adopted, would grantee IKE a non-exclusive franchise to design and deploy a digital kiosk platform in the City's public right of way for a term of not less than ten year and for as many as two additional five year terms; and

**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 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 Permit to allow the Encroachments at up to fifty separate addresses, which Permit shall take effect only upon the City and Permittee entering into an Indenture Agreement in the form substantially attached hereto as *Exhibit B* (Indenture Agreement), the conditions therein being incorporated into the Permit; and be it

**FURTHER RESOLVED:** That the Master 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, or his or her designee, to issue Major Encroachment Permits to Grantee for the proposed fifty (50) 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 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, \_\_\_\_\_, 2022

**PASSED BY THE FOLLOWING VOTE:**

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO 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 plan for IKE digital kiosks  
*Exhibit B:* Indenture Agreement (8 pages)

**EXHIBIT A: Preliminary Site Plan for IKE Digital Kiosks**

**(Attached Separately)**

**EXHIBIT B: INDENTURE AGREEMENT**

**(Attached Separately)**