

CITY OF IRWINDALE

5050 N. IRWINDALE AVE., IRWINDALE CA 91706 • PHONE: (626) 430-2200



AMENDED

NOTICE AND AGENDA FOR THE SPECIAL AND REGULAR MEETING OF THE

CITY COUNCIL

SUCCESSOR AGENCY TO THE IRWINDALE COMMUNITY REDEVELOPMENT AGENCY

February 14, 2024

SPECIAL MEETING – 5:30 P.M.

REGULAR MEETING – 6:30 PM

**CLOSED SESSION – CONFERENCE ROOM
OPEN SESSION – CITY COUNCIL CHAMBER**

ALBERT F. AMBRIZ - Mayor

LARRY G. BURROLA - Mayor Pro Tem

MARK A. BRECEDA - Councilmember

MANUEL R. GARCIA - Councilmember

H. MANUEL ORTIZ - Councilmember

Via Zoom Webinar: <https://us02web.zoom.us/j/87104592389>

In the event that a Zoom broadcast is unavailable, staff will promptly notify the public through its social media platforms. The public meeting will proceed in accordance with The Brown Act.

Listen Over Phone: 1-669-900-6833; Webinar ID: 871-0459-2389

Spontaneous Communications: The public is encouraged to address the City Council on any matter listed on the agenda or on any other matter within its jurisdiction. The City Council will hear public comments on items listed on the agenda during discussion of the matter and prior to a vote. The City Council will hear public comments on matters not listed on the agenda during the Spontaneous Communications period.

Pursuant to provisions of the **Brown Act**, no action may be taken on a matter unless it is listed on the agenda, or unless certain emergency or special circumstances exist. The City Council may direct staff to investigate and/or schedule certain matters for consideration at a future City Council meeting.

Americans with Disabilities Act: In compliance with the ADA and Government Code section 54953(g), the City Council has adopted a reasonable accommodation policy to swiftly resolve accommodation requests. The policy can be found on the City's website: <https://www.irwindaleca.gov/DocumentCenter/View/8075/AB-2449-Reasonable-Accommodation-Policy>. If you need special assistance to participate in a City Council or Commission meeting or other services offered by this City, including an electronic or printed copy of the City's reasonable accommodation policy, please contact City Hall at (626) 430-2200. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the City staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

Note: Staff reports are available for inspection at the office of the Chief Deputy City Clerk, City Hall, 5050 N. Irwindale Avenue, during regular business hours (8:00 a.m. to 6:00 p.m., Monday through Thursday).

Code of Ethics

As City of Irwindale Council Members, our fundamental duty is to serve the public good. We are committed to the principle of an efficient and professional local government. We will be exemplary in obeying the letter and spirit of Local, State and Federal laws and City policies affecting the operation of the government and in our private life. We will be independent and impartial in our judgment and actions.

We will work for the common good of the City of Irwindale community and not for any private or personal interest. We will endeavor to treat all people with respect and civility. We will commit to observe the highest standards of morality and integrity, and to faithfully discharge the duties of our office regardless of personal consideration. We shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of others.

We will inform ourselves on public issues, listen attentively to public discussions before the body, and focus on the business at hand. We will base our decisions on the merit and substance of that business. We will be fair and equitable in all actions, claims or transactions. We shall not use our official position to influence government decisions in which we have a financial interest or where we have a personal relationship that could present a conflict of interest, or create a perception of a conflict of interest.

We shall not take advantage of services or opportunities for personal gain by virtue of our public office that are not available to the public in general. We shall refrain from accepting gifts, favors or promises of future benefit that might compromise our independence of judgment or action or give the appearance of being compromised.

We will behave in a manner that does not bring discredit or embarrassment to the City of Irwindale. We will be honest in thought and deed in both our personal and official lives.

Ultimate responsibility for complying with this Code of Ethics rests with the individual elected official. In addition to any other penalty as provided by law, violation of this Code of Ethics may be used as a basis for disciplinary action or censure of a Council Member.

These things we hereby pledge to do in the interest and purposes for which our government has been established.

IRWINDALE CITY COUNCIL



SPECIAL MEETING**1. CALL TO ORDER****2. ROLL CALL: Councilmembers: Mark A. Breceda, Manuel R. Garcia, H. Manuel Ortiz; Mayor Pro Tem Larry G. Burrola; Mayor Albert F. Ambriz****3. AB 2449 DISCLOSURES**

Remote participation by a member of the legislative body for just cause or emergency circumstances

4. SPONTANEOUS COMMUNICATIONS

Spontaneous communications are limited to the special meeting agenda items only.

5. RECESS TO CLOSED SESSION**A. Conference with Real Property Negotiator**

Pursuant to California Government Code Section 54956.8

A) Property: Las Casitas (5164 Ayon Avenue)

Parties: Northridge Group & Housing Authority

Under Negotiation: Price and terms of potential sale

B) Property: 16154 Arrow Highway (APNS 8417-029-024 and 025)

Agency negotiator: Fernando Lopez, Housing Coordinator

Negotiating parties: Rudolfo A. Dominguez Trustee

Under negotiation: Price and terms of payment

B. Conference with Legal Counsel – Existing Litigation

Pursuant to California Government Code Section 54956.9

Name of Case: Mariela Isabel Avila vs. City of Irwindale

Case Number: 23STCV0093

Name of Case: Robert Avila vs. City of Irwindale

Case Number: 23STCV05559

Name of Case: Five Points, LP vs. City of Irwindale

Case Number: 22STCV01394

6. RECONVENE IN OPEN SESSION**7. REPORT FROM CLOSED SESSION**

8. ADJOURNMENT

****Special meeting agenda amended on Tuesday, February 13, 2024 at 3:55 p.m. to include the highlighted item under Conference with Legal Counsel – Existing Litigation***

REGULAR MEETING**9. CALL TO ORDER****10. PLEDGE OF ALLEGIANCE****11. INVOCATION****12. ROLL CALL: Councilmembers: Mark A. Breceda, Manuel R. Garcia, H. Manuel Ortiz; Mayor Pro Tem Larry G. Burrola Mayor Albert F. Ambriz****13. AB 2449 DISCLOSURES**

Remote participation by a member of the legislative body for just cause or emergency circumstances

14. CHANGES TO THE AGENDA**15. COUNCIL MEMBER TRAVEL REPORTS****16. COUNCILMEMBER COMMENTS****17. INTRODUCTION OF NEW EMPLOYEES/PROMOTIONS****18. PROCLAMATIONS / PRESENTATIONS / COMMENDATIONS****19. CONSENT CALENDAR****A. Warrants / Demands / Payroll**

Department: Finance

Recommendation: Approve

B. Claim Rejection - Saida Gonzalez v. City of Irwindale

Department: City Clerk

Recommendation: Staff recommends City Council (1) Reject the claim of Saida Gonzalez vs. City of Irwindale; and (2) Direct staff to send a letter of rejection.

- C. Adoption of Resolution No. 2024-09-3486 Authorizing the Examination of Transactions and Use Tax Records

Department: Finance

Recommendation: **Adopt Resolution No. 2024-09-3486** entitled: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRWINDALE AUTHORIZING THE EXAMINATION OF TRANSACTIONS AND USE TAX RECORDS."

- D. Approve Appropriation of Asset Forfeiture Funds

Department: Police

Recommendation: **Adopt Resolution No. 2024-10-3487**, entitled: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRWINDALE APPROVING RECEIPT OF AND APPROPRIATING FEDERAL ASSET FORFEITURE FUNDS FOR USE BY THE POLICE DEPARTMENT."

- E. Professional Services Contract Agreement Amendment No. 3 with Steven A. Ormenyi & Associates

Department: Public Services

Recommendation: That the City Council approve Amendment No. 3 to the professional services contract agreement between Steven A. Ormenyi & Associates and the City of Irwindale for the contract administration during the construction of the Irwindale Park Improvements Project Phases IV, and V.

- F. Apply for the California Growth Strategic Council (SGC) Community Resilience Centers (CRC) Grant Funding in the amount of \$1,200,000 or Any Amount Approved for, and if Awarded, Authorize the City Manager to Execute the Standard Agreement.

Department: Public Services

Recommendation: **Adopt Resolution No. 2024-12-3489**, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRWINDALE AUTHORIZING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE TO APPLY FOR AND ACCEPT GRANT FUNDS FROM THE CALIFORNIA STRATEGIC GROWTH COUNCIL FOR THE COMMUNITY RESILIENCE CENTERS (CRC) PROGRAM ROUND 1 DEVELOPMENT GRANT IN THE AMOUNT OF \$1,200,000, OR ANY OTHER AMOUNT AWARDED, AND NEGOTIATE AND EXECUTE ANY RELATED DOCUMENTS NECESSARY TO ACCEPT THESE GRANT FUNDS."

20. SPONTANEOUS COMMUNICATIONS

This is the time set aside for members of the audience speak on items not on this agenda that are within the City Council's subject matter jurisdiction. State law prohibits any Council discussion or action on such communications unless 1) the Council by majority vote finds that a catastrophe or emergency exists; or 2) the Council by at least four votes finds that the matter (and need for action thereon) arose within the last five days. Since the Council cannot participate (except as stated), it is requested that all such communications be made in writing to be included on the next agenda for full discussion and action

All members of the public are asked to observe the City's Rules of Procedure and Public Meeting Decorum. The City's Rules of Procedure and Public Meeting Decorum can be found on the City's website, and Chapter 2.40 of the Irwindale Municipal Code. You may also contact the City Clerk's Office for copies.

Each speaker will be limited to 3 minutes unless such time limits are extended. If a member of the public wishes to donate their time to another speaker, both persons must be physically present and in attendance of the meeting. The Presiding Officer may, in his or her discretion, extend the 3-minute time limitation for the particular subject for all speakers. Organized groups of persons wishing to address the Council on the same subject should select a spokesperson to represent the group, so as to avoid unnecessary repetition. In no event shall the total amount of speaking time for exceed 6 minutes per person for the subject under discussion.

The Council may regulate a speaker who is speaking too long or out of order, being unduly repetitious, discussing irrelevancies, or extending to items not within its subject matter jurisdiction. Please be reminded that discrimination, abusive use of profanity, unruly disruption, and violent or physically threatening conduct is discouraged. Members of the public shall not disrupt the orderly conduct of the meeting. The Presiding Officer will request that a person cease any disruptive conduct, and if not immediately stopped, will direct the person to be removed from the meeting.

Public Comments will be heard in the following order:

1: In-person attendees

2: Teleconference attendees

3: In-person and teleconference attendees who have not previously provided comments on the matter(s) being discussed by the legislative body

21. NEW BUSINESS

At this time, members of the audience may ask to be heard regarding an item on New Business.

A. Update on Our Lady of Guadalupe Mission Repairs - Verbal
Department: Public Services

B. Irwindale's Targeted Business Outreach and Retention Strategy
Department: Economic Development

Recommendation: Receive and file the Targeted Business Outreach and Retention Strategy Memo and authorize staff to proceed in developing Irwindale's Business Visitation Team and commence visits to local businesses to better understand the business community, build relationships, and develop strategies that will support a healthy economy and jobs.

22. PUBLIC HEARINGS

At this time, members of the audience may ask to be heard regarding an item on Public Hearings.

A. Development Agreement No. 01-2020 for the Digital Conversion of an Existing Static Billboard Located at 4800 Rivergrade Road

Department: Community Development

Recommendation: That the City Council consider the Planning Commission's Resolution No. 821(24), recommending the City Council approve Development Agreement (DA) No. 01-2020 for the conversion of an existing static billboard into a digital display billboard located at 4800 Rivergrade Road; and

Introduce for first reading by title only with further reading waived:

Ordinance No. 775, approving Development Agreement (DA) No. 01-2020, entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRWINDALE APPROVING DEVELOPMENT AGREEMENT NO. 01-2020 BETWEEN CITY OF IRWINDALE AND RIVERGRADE HOLDING LLC TO ALLOW FOR THE DIGITAL CONVERSION OF AN EXISTING STATIC BILLBOARD LOCATED AT 4800 RIVERGRADE ROAD (APN: 8535-020-045, 8535-020-047, 8535-020-048) IN THE M-2 (HEAVY MANUFACTURING) ZONE SUBJECT TO THE CONDITIONS AS SET FORTH HEREIN AND MAKING FINDINGS IN SUPPORT THEREOF; AND FINDING THE PROJECT EXEMPT FROM THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT CEQA GUIDELINES SECTION 15302 (CLASS 2; REPLACEMENT AND RECONSTRUCTION)"

23. CITY MANAGER'S REPORT**24. FUTURE AGENDA ITEMS REQUESTED BY COUNCIL MEMBERS**

At this time, the City Council will deliberate and discuss whether these items should be placed on a future agenda. In order for any listed item to be placed on a future agenda for substantive discussion or action, the City Council must act by formal motion to direct the City Manager to place the item on a future agenda.

- A. Implementation of Youth in Government program - Requested by Councilmember Ortiz

Department: Administration

Recommendation: Receive and file or provide direction

25. ADJOURN

SUCCESSOR AGENCY TO THE IRWINDALE COMMUNITY
REDEVELOPMENT AGENCY

26. AB 2449 DISCLOSURES

Remote participation by a member of the legislative body for just cause or emergency circumstances

27. CONSENT CALENDAR

- A. Warrants / Demands / Payroll

Department: Finance

Recommendation: Approve

28. SPONTANEOUS COMMUNICATIONS

This is the time set aside for members of the audience to speak on items not on this agenda. Spontaneous Communications for the Successor Agency are subject to the same State prohibitions and City guidelines as cited on the City Council agenda.

29. NEW BUSINESS

At this time, members of the audience may ask to be heard regarding an item on New Business.

30. PUBLIC HEARINGS

At this time, members of the audience may ask to be heard regarding an item on Public Hearings.

31. ADJOURN

AFFIDAVIT OF POSTING

I, Laura M. Nieto, Chief Deputy City Clerk, certify that I caused the agenda for the regular meeting of the City Council and Irwindale Successor Agency to the Irwindale Community Redevelopment Agency, to be held on February 14, 2024, be posted at the City Hall, Library, and Post Office on February 9, 2024.



Laura M. Nieto, MMC
Chief Deputy City Clerk

Electronic Payments

December 2023

December 1 - 31, 2023



Number	Vendor Name	Date	Amount
ACH	BMO Bank	12/6/2023	23,240.90
WFB-10	CJPIA Excess Pool	12/14/2023	16,877.02
		Report Total:	40,117.92

Electronic Payments

January 2024

January 1 - 31, 2024



Number	Vendor Name	Date	Amount
ACH	BMO Bank	1/15/2024	21,333.64
Report Total:			21,333.64

CITY OF IRWINDALE
PAYROLL WARRANT REGISTER
January 2024

Payroll Batch DATE OF ISSUE 1/4/24	404-01-24 DEPARTMENT	AMOUNT
	51 Planning & Community Development	10,008.61
	Gross Payroll	10,008.61
	Required Deductions	(3,565.95)
	Voluntary Deductions	(100.00)
	Net Payroll	6,342.66
Payroll Batch DATE OF ISSUE 1/11/24	406-01-24, 405-01-24, 407-01-24 DEPARTMENT	AMOUNT
	11 City Council	1,731.15
	13 City Administrative Office	80,835.30
	14 Finance Department	48,404.43
	35 Police Department	226,477.65
	40 Recreation Department	37,595.30
	41 Aquatics Department	4,124.36
	42 Senior Citizens' Center	18,338.41
	44 Library	9,817.75
	51 Planning & Community Development	41,495.72
	52 Public Works - Engineering	29,493.23
	57 Public Works - Services	81,173.08
	Gross Payroll	579,486.38
	Required Deductions	(149,534.70)
	Voluntary Deductions	(29,349.46)
	Net Payroll	400,602.22
Payroll Batch DATE OF ISSUE 1/17/24	415-01-24 DEPARTMENT	AMOUNT
	40 Recreation Department	299.36
	Gross Payroll	299.36
	Required Deductions	(30.08)
	Voluntary Deductions	-
	Net Payroll	269.28
Payroll Batch DATE OF ISSUE 1/25/24	420-01-24, 421-01-24, 422-01-24, 425-01-24 DEPARTMENT	AMOUNT
	11 City Council	7,070.71
	13 City Administrative Office	72,518.51
	14 Finance Department	42,789.09
	35 Police Department	251,076.88
	40 Recreation Department	28,645.02
	41 Aquatics Department	3,555.39
	42 Senior Citizens' Center	16,334.76
	44 Library	18,831.08
	51 Planning & Community Development	45,459.34
	52 Public Works - Engineering	40,467.00
	57 Public Works - Services	79,612.72
	Gross Payroll	606,360.50
	Required Deductions	(163,103.24)
	Voluntary Deductions	(21,963.79)
	Net Payroll	421,293.47

Accounts Payable

Checks by Date - Summary by Check Number

User: imarin
Printed: 2/8/2024 11:41 AM



Check No	Vendor No	Vendor Name	Check Date	Check Amount
100736	CITYOF02	City Of Irwindale	01/18/2024	20.00
100738	ESPINO10	Iris Espino	01/18/2024	170.20
100739	EVAN02	Theresa Evans	01/18/2024	15.00
100740	FIER02	Stephanie Fierro	01/18/2024	10.00
100741	GARZA01	Leonard Garza	01/18/2024	154.34
100742	NATION22	National Training Concepts Inc	01/18/2024	315.00
100743	OPPEN01	Oppenheimer Investigations Group LLP	01/18/2024	18,676.49
100744	DEPTOF02	County of LA Dept of Animal Care & Cont	01/18/2024	5,205.90
100745	ALLIAN02	Alliant Insurance Services, Inc.- Irvine Mai	01/25/2024	198.00
100746	BURROL08	Larry Burrola	01/25/2024	740.72
100747	SANGAB11	California Newspapers Partnership	01/25/2024	5,657.97
100748	FRONT01	Frontier Communications	01/25/2024	9.36
100749	HERRER01	Rebecca Herrera	01/25/2024	37.00
100750	JOHN01	Roger William Johnson	01/25/2024	1,400.00
100751	KNOTTS01	Knott's Berry Farm	01/25/2024	1,757.00
100752	OPTUM01	OptumRx, Inc.	01/25/2024	49,095.36
100753	ORANGE01	Orange County Sheriff's	01/25/2024	65.00
100754	ORTIZH	H. Manuel Ortiz	01/25/2024	740.72
100755	LEGAL03	Pre-Paid Legal Services, Inc.	01/25/2024	37.90
100756	SALGAD02	Michele Salgado	01/25/2024	538.00
100757	SANCH01	Jaycon Sanchez	01/25/2024	1,613.01
100758	TEXAS01	Texas Life Insurance Co.	01/25/2024	5,022.09
100759	verizonw	Verizon Wireless	01/25/2024	830.15
100760	WILL01	April Williams	01/25/2024	1,102.50
100761	YEUNG01	Sanny Yeung	01/25/2024	15.00
100762	CALIFO56	California State Disbursement Unit	01/25/2024	604.15
100763	CALIFO57	California State Disbursement Unit	01/25/2024	143.07
100764	CITY01	City of Hope	01/25/2024	54.00
100765	FRANC06	Franchise Tax Board	01/25/2024	462.70
100766	ICEA	Irwindale City Employee Assoc.	01/25/2024	1,014.00
100767	IMEA	Irwindale Mgmt Employee Assoc.	01/25/2024	470.00
100768	IRWIND02	Irwindale Police Officers Assoc.	01/25/2024	3,238.00
100769	LOSANG31	Los Angeles County Sheriff's Dept.	01/25/2024	70.60
100770	DEPTOF02	County of LA Dept of Animal Care & Cont	01/30/2024	33.00
100771	SOUTHE24	Southern California Edison	01/30/2024	685.88
100772	ALLIAN02	Alliant Insurance Services, Inc.- Irvine Mai	02/01/2024	198.00
100773	AMERIFID	American Fidelity Assurance	02/01/2024	9,866.68
100774	AMERIC34	American Fidelity Assurance Co	02/01/2024	5,933.96
100775	AMESOL01	Luis Amesola	02/01/2024	2,960.41
100776	AZUSALW	Azusa Light & Water	02/01/2024	630.33
100777	NEST01	Blue Triton Brands, Inc.	02/01/2024	799.64
100778	CALIFO02	California American Water	02/01/2024	2,313.50
100779	CARILL01	Francisco Carrillo	02/01/2024	200.00
100780	COSTCO01	Costco Membership	02/01/2024	120.00
100781	PMIDEN	Delta Dental Insurance Company	02/01/2024	673.08
100782	PMIDEN01	Delta Dental of California	02/01/2024	13,344.17
100783	GAME20	Game Room Specialist, Inc.	02/01/2024	1,046.13

Check No	Vendor No	Vendor Name	Check Date	Check Amount
100784	GARC05	Ines Garcia	02/01/2024	15.00
100785	SOUTHE17	Golden State Water Company	02/01/2024	807.82
100786	GUZMAN04	Diana Guzman	02/01/2024	300.00
100787	LIEBERT	Liebert Cassidy Whitmore	02/01/2024	9,004.50
100788	MAINTE01	Maintex	02/01/2024	193.87
100789	NATION23	National Union Fire Insurance	02/01/2024	780.16
100790	NAVARR04	Humberto Navarro Jr.	02/01/2024	200.00
100791	OLIVAR03	Sandro Olivares	02/01/2024	300.00
100792	PENA001	Albert Penaloza	02/01/2024	97.86
100793	PUSEYS	Sandra Pusey	02/01/2024	300.00
100794	RAMOS07	Maria Ramos	02/01/2024	75.00
100795	SCFUELS	SC Fuels	02/01/2024	12,218.61
100796	SECT01	Sectran Security Inc.	02/01/2024	126.58
100797	GASCOM	SoCalGas	02/01/2024	2,597.47
100798	STANDA01	Standard Insurance Co. RV	02/01/2024	497.95
100799	STANDA03	Standard Insurance Company	02/01/2024	2,551.30
100800	TAPIA11	Sylvia Tapia	02/01/2024	1,500.00
100801	NORTHR	The Northridge Group, Inc.	02/01/2024	4,395.52
100802	VALLEY09	Valley View Mutual Water Co.	02/01/2024	86.42
100803	VISION01	Vision Service Plan - (CA)	02/01/2024	1,663.62
100804	VISION01	Vision Service Plan - (CA)	02/01/2024	4,664.46
100805	WOOT01	Alice Wooten	02/01/2024	290.00
100806	AMAZON1	Amazon Capital Services, Inc.	02/06/2024	821.72
100807	CHARTE01	Charter Communications	02/06/2024	184.89
100808	PETTYC05	City of Irwindale-Admin Petty Cash	02/06/2024	425.55
100809	PETTYC02	City of Irwindale-Rec Petty Cash	02/06/2024	703.29
100810	ACCO01	ACCO Engineering Systems	02/14/2024	848.82
100811	AFFORD01	Affordable Generator Services, Inc.	02/14/2024	607.99
100812	ALLCI01	All City Management Services, Inc	02/14/2024	2,894.49
100813	ALTEC01	Altec Industries, Inc.	02/14/2024	1,814.81
100814	AMAZON1	Amazon Capital Services, Inc.	02/14/2024	1,006.61
100815	STALKE01	Applied Concepts, Inc.	02/14/2024	11,989.69
100816	ARAM01	Aramark Uniform & Career Apparel Group	02/14/2024	649.86
100817	ASCAP01	ASCAP	02/14/2024	451.95
100818	MIJACA	Balcon Holdings, Inc.	02/14/2024	307.00
100819	BARNEY	Barney's Locksmith Service	02/14/2024	37.49
100820	BILLST	Bill's Truck Repair, Inc.	02/14/2024	175.00
100821	BMI01	BMI	02/14/2024	30.00
100822	BURRO01	Burro Canyon Ent. Inc.	02/14/2024	10.00
100823	CALBLE	Cal Blend Soils, Inc.	02/14/2024	71.66
100824	CALIFO42	California Building Standards	02/14/2024	194.40
100825	CALIFO25	California Library Association	02/14/2024	195.00
100826	Cat Spec	Cat Specialities Inc	02/14/2024	131.20
100827	CINTAS	Cintas Corporation #693	02/14/2024	593.96
100828	CITYOF11	City of Azusa	02/14/2024	3,850.00
100829	BALDWI02	City of Baldwin Park	02/14/2024	1,050.00
100830	CITYOF23	City Of West Covina	02/14/2024	7,800.00
100831	CIVIC02	CivicPlus, LLC	02/14/2024	8,325.94
100832	DEPTOF02	County of LA Dept of Animal Care & Cont	02/14/2024	4,137.36
100833	COUNTY04	County of Los Angeles	02/14/2024	18,791.99
100834	CWA01	CWA AIA, Inc	02/14/2024	172,966.95
100835	DEMCOI	Demco, Inc.	02/14/2024	342.98
100836	DIVISI01	Division of the State Architect	02/14/2024	46.75
100837	DOOLEY	Dooley Enterprises, Inc.	02/14/2024	11,555.11
100838	DUDEK01	Dudek	02/14/2024	675.00
100839	ECCONS	E C Construction Co.	02/14/2024	37,667.96
100840	ENVIRO05	Environmental Science Associates (ESA)	02/14/2024	20,850.60

Check No	Vendor No	Vendor Name	Check Date	Check Amount
100841	FCG01	FCG Consultants Inc.	02/14/2024	17,748.08
100842	FOOTH01	Foothill Communications, Inc.	02/14/2024	600.00
100843	GARV02	Garv Inc.	02/14/2024	8,426.74
100844	GARVEY	Garvey Equipment Co	02/14/2024	377.98
100845	HDLCOR	HdL Coren & Cone	02/14/2024	1,575.00
100846	HIGHPE	HPC Computers, Inc.	02/14/2024	116.99
100847	IACPME	IACP	02/14/2024	380.00
100848	IMEG01	IMEG Consultants Corp.	02/14/2024	15,813.00
100849	INTELL01	Intelli-tech, Inc.	02/14/2024	26.46
100850	JOEAGO	Joe A. Gonsalves & Son	02/14/2024	2,375.00
100851	KEYSTO	Keystone Uniform Depot	02/14/2024	570.87
100852	COORYE	Samir M. Khoury	02/14/2024	2,305.00
100853	LANCES	Lance, Soll & Lunghard LLP	02/14/2024	18,675.00
100854	LANDSC	Landscape Warehouse III Inc.	02/14/2024	239.68
100855	LAWE01	Law Enforcement Medical Services, Inc.	02/14/2024	450.00
100856	LEWISE	Lewis Engraving, Inc.	02/14/2024	168.68
100857	LEXISN	LexisNexis Risk Solutions	02/14/2024	303.00
100858	LG2WB01	LG2WB Engineers, Inc	02/14/2024	1,105.00
100859	MAINTE01	Maintex	02/14/2024	66.15
100860	MIDAS	Manuel C Muratalla	02/14/2024	3,426.04
100861	MARIPO	Mariposa Landscapes, Inc.	02/14/2024	9,411.72
100862	MIDWES	Midwest Tape	02/14/2024	3,000.00
100863	MOTOR02	Motorola Solutions	02/14/2024	254,111.40
100864	NOVA01	Nova Geotechnical & Inspection Services -	02/14/2024	11,025.00
100865	OCEAN01	Ocean Blue Enviromental Services, Inc.	02/14/2024	5,520.37
100866	OFFICE03	ODP Business Solutions, LLC	02/14/2024	286.27
100867	OGS01	OGS Technologies, Inc.	02/14/2024	1,962.96
100868	ORKINP	Orkin	02/14/2024	527.98
100869	PHASEII	PARS	02/14/2024	4,850.00
100870	PERF03	Performance Elevator Contractors, Inc.	02/14/2024	360.00
100871	PITNEY06	Pitney Bowes, Inc	02/14/2024	238.14
100872	PLACE01	PlaceWorks, Inc.	02/14/2024	15,057.24
100873	PROPRINT	Pro Printing, Inc.	02/14/2024	406.35
100874	ROSENO	RSG Inc.	02/14/2024	893.75
100875	SANG10	San Gabriel Valley Economic Partnership	02/14/2024	2,625.00
100876	SIMG01	Simgel Co. Inc	02/14/2024	383,750.37
100877	SWANA	SWANA	02/14/2024	45.00
100878	TEDJOH	Ted Johnson Propane	02/14/2024	50.88
100879	URBAN03	Urban Restoration Group US., Inc.	02/14/2024	852.33
100880	V&V01	V & V Manufacturing, Inc.	02/14/2024	826.88
100881	VARI01	Vari Sales Corporation	02/14/2024	5,315.36
100882	WALT01	Walters Wholesale Electric Co.	02/14/2024	686.32
100883	WESTCO05	West Coast Arborists, Inc.	02/14/2024	15,445.50
100884	HDSUP01	WHITE CAP, L.P.	02/14/2024	110.56
100885	YTIRES	Y Tire Sales	02/14/2024	412.11
Report Total (149 checks):				1,285,680.33

Item #19.B.

City of
IRWINDALE
AGENDA REPORT

Date: February 14, 2024
To: Honorable Mayor and Members of the City Council
From: Julian A. Miranda, City Manager
Issue: Claim Rejection - Saida Gonzalez v. City of Irwindale

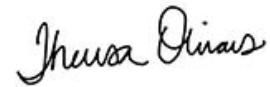
City Manager's Recommendation:

Staff recommends City Council (1) Reject the claim of Saida Gonzalez vs. City of Irwindale; and (2) Direct staff to send a letter of rejection.

Administrative Action:

Submitted by:

Theresa Olivares, Assistant City Manager



Prepared by:

Laura Nieto, Chief Deputy City Clerk



Reviewed by and Approved by

Adrian R. Guerra, City Attorney

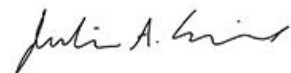


Kambiz Borhani, Finance Director / City Treasurer



Approved by:

Julian A. Miranda, City Manager



Background and Analysis:

On December 8, 2023, the City received a claim for damages from claimant Saida Gonzalez. Claimant Gonzalez alleges that while traveling eastbound on Live Oak Avenue, she made a left turn onto Arrow Highway and experienced an impact to the left front tire of her vehicle. Claimant alleges that this impact caused her vehicle to sustain damage to the left front tire, left strut, and left front carrier.

Additionally, two front tires were replaced and the car was aligned. Claimant alleges the City of Irwindale is responsible because there was a missing sign on the center divider, making the divider difficult to see when turning.

The claim was reviewed by the City's claims adjuster, Carl Warren & Co., who has recommended the rejection of the claim. Their recommendation is made on the basis that this was an isolated incident with no prior complaints having been reported to the City of Irwindale. Furthermore, the median island on the north approach is approximately forty feet from the limit line for southbound traffic and there is double yellow striping from the limit line to the median that is visible to oncoming traffic.

Accordingly, staff is recommending that the City Council reject the claim and direct staff to send a standard letter of rejection. Alternatively, the City Council may direct the City Manager to negotiate resolution of the claim.

Fiscal Impact:

None

Attachments:

1. Recommendation for Rejection
2. Claim for Damages Received December 8, 2023

TO: City of Irwindale

ATTENTION: Laura Nieto

RE: Claim : Saida Gonzalez V. City of Irwindale
Member : Saida Gonzalez
Date Rec'd by Mbr : 12-08-2023
Date of Event : 10-12-2023
CW File Number : CJP-3050522

Please allow this correspondence to acknowledge receipt of the captioned claim. Please take the following action:

- **CLAIM REJECTION:** Send a standard rejection letter to the claimant.

Please include proof of mailing with your rejection notice to the claimant. Please provide us with a copy of the Notice of Rejection and a copy of the Proof of Mailing. If you have any questions, feel free to contact the assigned adjuster or the undersigned claims specialist.

Very Truly Yours,

Janice Baluyut

Janice Baluyut

Claims Examiner

Carl Warren & Company, LLC | A Venbrook Company

Direct: 657.622.4326

Email: JBaluyut@CarlWarren.com



CITY OF IRWINDALE
**CLAIM FOR DAMAGES
TO PERSON OR PROPERTY**

RECEIVED

DEC 08 2023

CITY OF IRWINDALE
CITY CLERKS DEPT.

Clerk's Official
Filing Stamp

INSTRUCTIONS

1. Claims for death, injury to person or to personal property must be filed not later than 6 months after the occurrence.
2. Claims for damages to real property must be filed not later than 1 year after occurrence.
3. Read entire claim before filing.
4. See page 2 for diagram upon which to locate place of accident.
5. This claim for must be signed on page 2 at bottom.
6. Attach separate sheets if necessary to give full details. Sign each sheet.
7. File with City Clerk, 5050 N. Irwindale Ave., Irwindale, CA 91706

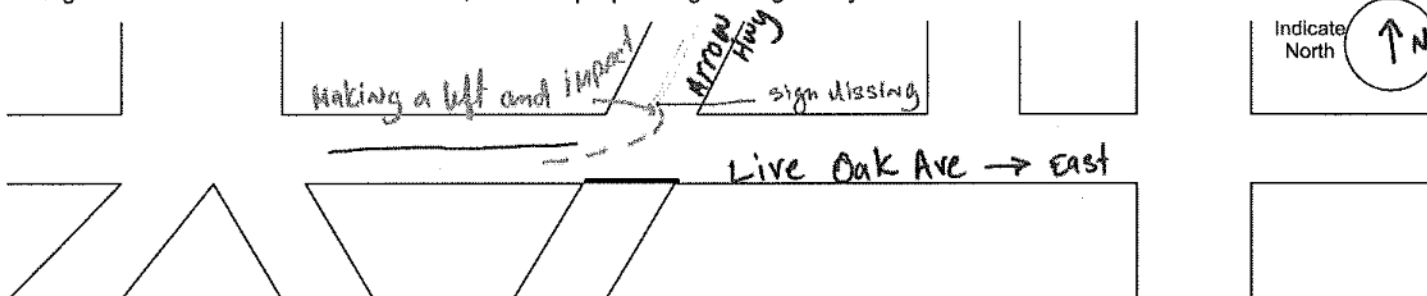
To: City of Irwindale		Claimant's Date of Birth [REDACTED]
Name of Claimant Saida Gonzalez		Claimant's Occupation Clerical Specialist
Home Address of Claimant [REDACTED]		Home Telephone Number [REDACTED]
Business Address of Claimant		Business Telephone Number
Name and address to which you desire notices or communications to be sent regarding this claim:		
When did DAMAGE or INJURY occur? Date: <u>10-12-2023</u> Time: <u>8:12am</u> If claim is for Equitable Indemnity, give date claimant served with complaint: _____	Names of any City employees involved in INJURY or DAMAGE N/a	
Where did DAMAGE or INJURY occur? Describe in full detail and locate on diagram on page 2. Where appropriate, give street names, addresses, and measurements from landmarks: Saida was traveling east bound on Live Oak Ave, as Saida was making a left turn onto Arrow Hwy, she experience an impact to the left front tire. After impact Saida noticed a slight change in the way the vehicle was driving. When she arrived At her work location, she noticed the left tire was damaged and noticed wheel was not sitting correctly. I've attached photos for your records.		
Describe in detail how the DAMAGE or INJURY occurred. Damage sustain was left front tire, left strut, left front carrier and replaced 2 tires and aligned vehicle.		
Why do you claim the City of Irwindale is responsible? After further research, there appears there was a sign alerting that there was a center divider. The sign was missing. When Making that turn, it's hard to see when making a left turn.		
What DAMAGE or INJURIES do you claim resulted? Give full extent of injuries or damage claimed. Damage to the left front tire, left spindle and strut. I've attach all documents.		

Claimant's Name: Saida Gonzalez		
State the amount which you are claiming as of the date of presentation of this claim. Give basis of computation. \$2,612.05		
Give estimated amount of future losses due to INJURY or DAMAGE: N/a		
Was damage and/or injury investigated by the police? <u>No</u> If yes, what City? _____ Were paramedics or ambulance called? _____ If yes, name City or ambulance _____ If injured, give name and address of your doctor and the date and time of your first visit: N/a		
Doctors and Hospitals:		
Doctor <u>N/a</u>	Address _____	Date Hospitalized _____
Hospital _____	Address _____	Date Hospitalized _____
Hospital _____	Address _____	Date Hospitalized _____
Witnesses to DAMAGE or INJURY: List all persons and addresses of persons known to have information:		
Name <u>N/a</u>	Address _____	Phone _____
Name _____	Address _____	Phone _____

READ CAREFULLY

For all accident claims, indicate on the diagram street names, including North, East, South, and West. Indicate place of accident with an "X". Indicate house numbers or distances to street corners.

If a City vehicle was involved, designate with an "A" the location of the City vehicle when you first saw it, and with "B" the location of yourself or your vehicle when you first saw the City vehicle. Indicate location of City vehicle at the time of accident by "A-1" and location of yourself or your vehicle at the time of the accident by "B-1". Mark the point of impact with an "X". Note: If diagram below does not fit the situation, attach a proper diagram signed by claimant.



Signature of Claimant (if other than claimant, indicate relationship) Husband	Typed Name Edwin Gonzalez	Date 12/6/2023
--	------------------------------	-------------------

Note: Claims must be filed with the City Clerk. **Presentation of a false claim is a felony (Penal Code Section 72)**



2151 Huntington Dr.
Duarte, Ca. 91010
Tel: (626) 359-0952
Fax: (626) 359-0147
E-Mail: rickb.amb@gmail.com
Lic.# 12673

INVOICE
14879
Org. Est. # 024438

INVOICE

Print Date : 10/18/2023

GONZALEZ, EDWIN

2015 BMW - X3 xDrive28i
L4 2.0L DOHC GAS Turbocharged

Lic # : [REDACTED] Odometer In : 121073
Unit # : Odometer Out : 121078
Vin # : [REDACTED]
Hat # :

Home [REDACTED]
[REDACTED]

Ref # :

Part Description / Number	Qty	Sale	Extended	Labor Description	Hours	Extended
LEFT FRONT STRUT BM31-31-6-796-315	1.00	515.00	515.00	CHECK VEHICLE FRONT LEFT SUSPENSION DAMAGE	4.00	600.00
LEFT FRONT CARRIER BM31-21-6-855-953	1.00	405.00	405.00	REMOVE AND REPLACE FRONT LEFT STRUT		
PIRELLI P-ZERO RUN FLAT 245/40-R20 99Y	2.00	350.00	700.00	REMOVE AND REPLACE LEFT FRONT SPINDLE		
Shop Supplies		3.00	3.00	REPLACE FRONT TIRES	0.47	70.00
				REMOVE AND REPLACED BOTH FRONT TIRES		
				MOUNT AND BALACE 2 TIRES FRONT		
				TIRE DISPOSAL FEE	0.07	10.00
				TIRE DISPOSAL FEE		
				PERFORM 4 WHEEL ALIGNMENT	1.00	120.00
				PERFORM 4 WHEEL ALIGNMENT		
				GAS \$20	0.13	20.00
				GAS \$20		
				Hazardous Materials		3.00

[Technicians : Please Select, Technician]

Org. Estimate \$2,592.05	Revisions \$0.00	Current Estimate \$ 2,592.05	Additional Cpst	Revised Estimate	Labor: 823.00
					Parts: 1,623.00
					Sublet: 0.00
					Sub: 2,446.00
					Tax: 166.05
					Total: 2,612.05
					Bal Due: \$2,612.05

[Payments -]

I hereby authorize the above repair work to be done along with the necessary material and hereby grant you and/or your employees permission to operate the car or truck herein described on street, highways or elsewhere for the purpose to testing and/or inspection. An express mechanic's lien is hereby acknowledged on above car or truck to secure the amount of repairs thereto. Warranty on parts and labor is one years or 12,000 miles whichever comes first. Warranty work has to be performed in our shop & cannot exceed the original cost of repair.

SIGNATURE..... Date..... Time.....

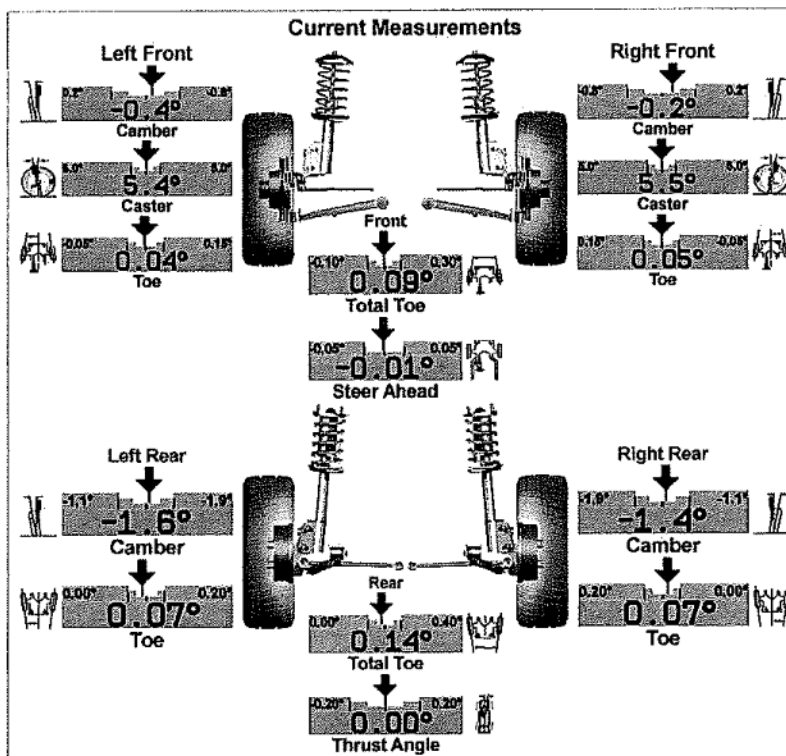
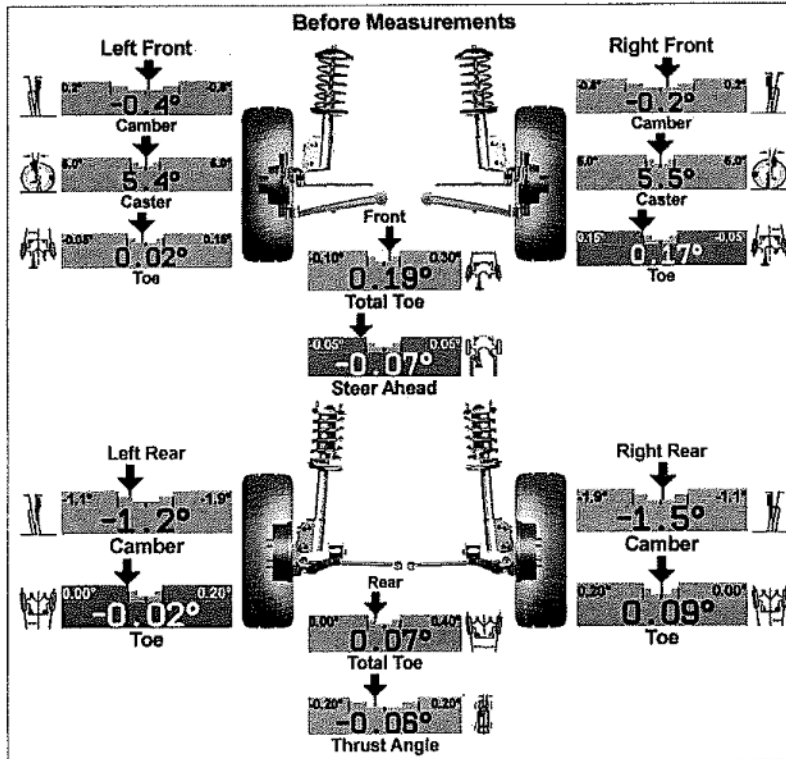
ARCADIA TIRES
15 E. DUARTE RD.
ARCADIA, CA. 91006
(626) 446-8863

VIN:
Date

10/18/23 9:41 AM



BMW 2011-17 F25 X3 4X4 20" Wheel (Modified Specification)



• One or more values are not within specification. Tire wear, handling and safety problems may result.

**AMB SERVICE CENTER
2151 HUNTINGTON DR.
DUARTE, CA 91010
626/359-0952**

SALE

	REF#: 00000001
Batch #: 292001	RRN: 734030590
10/19/23	07:40:16
Invoice #: 1	
APPR CODE: 07107D	
VISA	Chip
*****3774	**/**

AMOUNT \$2,612.05

APPROVED

**CHASE VISA
AID: A0000000031010
TVR: 00 80 00 80 00
TSI: E8 00**

**Thank You
Please Come Again**

CUSTOMER COPY

Google Maps 14254 Live Oak Ave



Imagery ©2023 Google, Imagery ©2023 Airbus, Map data ©2023 20 ft

Item #19.C.

City of
IRWINDALE
AGENDA REPORT

Date: February 14, 2024
To: Honorable Mayor and Members of the City Council
From: Julian A. Miranda, City Manager
Issue: Adoption of Resolution No. 2024-09-3486 Authorizing the Examination of Transactions and Use Tax Records

City Manager's Recommendation:

Adopt Resolution No. 2024-09-3486 entitled: **"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRWINDALE AUTHORIZING THE EXAMINATION OF TRANSACTIONS AND USE TAX RECORDS."**

Administrative Action:

Submitted/Prepared by:

Kambiz Borhani, Finance Director / City Treasurer



Reviewed by:

Adrian R. Guerra, City Attorney

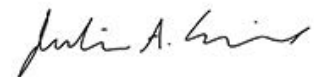


Kambiz Borhani, Finance Director / City Treasurer



Approved by:

Julian A. Miranda, City Manager



Background and Analysis:

On January 8, 2020, the Irwindale City Council adopted Resolution No. 2020-05-3166 authorizing specific City personnel and consulting firm of Hinderliter, de Llamas & Associates, Inc. (HdL) to examine transactions and use tax records on behalf of the City. As with all sales tax records, the transactions and use tax information are highly confidential and the California Department of Tax and Fee Administration (CDTFA) will only release this information to authorized City staff and consultants.

Due to changes in personnel titles and positions, the Resolution must now be updated to reflect the changes. The amended resolution will remove the titles of Community Development Manager and Economic Development Coordinator from the list and adds lists of departments (City Manager's Office, Finance and Community Development Departments) along with Office Specialist and Administrative Secretary under the Community Development Department as additional authorized personnel are now able to examine transactions and use tax records.

Fiscal Impact:

None.

Attachments:

1. Resolution No 2024-09-3486

RESOLUTION NO. 2024-09-3486

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF IRWINDALE AUTHORIZING THE EXAMINATION OF
TRANSACTIONS AND USE TAX RECORDS**

WHEREAS, pursuant to Ordinance No. 738 of the City of Irwindale (City), and Section 7270 of the Revenue and Taxation Code, the City entered into a contract with the California Department of Tax and Fee Administration (CDTFA) to perform all functions incident to the administration and operation of the Transactions and Use Tax Ordinance; and

WHEREAS, the City deems it desirable and necessary for authorized representatives of the City to examine confidential transactions and use tax records of the California Department of Tax and Fee Administration pertaining to transactions and use taxes collected by the Board for the District pursuant to that contract; and

WHEREAS, Section 7056 of the Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of California Department of Tax and Fee Administration records and establishes criminal penalties for the unlawful disclosure of information contained in or derived from, the transactions and use tax records of the CDTFA.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IRWINDALE, CALIFORNIA, HEREBY RESOLVES, DETERMINES, AND ORDERS AS FOLLOWS:

SECTION 1. The City Manager or other officer(s) or employee(s) of the City designated in writing by the City Manager to the CDTFA are hereby appointed to represent the City with authority to examine transactions and use tax records of the CDTFA pertaining to transactions and use taxes collected for the City by the CDTFA, pursuant to the agreement contract between the City and the CDTFA. The information obtained by examination of CDTFA records shall be used only for purposes related to the collection of the City's transactions and use taxes by the CDTFA pursuant to the contract.

The following City employees are hereby designated and authorized to receive and review sales and use tax transactions for the City of Irwindale:

City Manager's Office

- 1) City Manager
- 2) Assistant City Manager
- 3) Assistant to the City Manager

Finance Department

- 4) Finance Director/City Treasurer
- 5) Finance Manager

Community Development Department

- 6) Community Development Director
- 7) Office Specialist
- 8) Administrative Secretary

SECTION 2. The City Manager, or other officer or employee of the City designated in writing by the City Manager in Section 1, are hereby appointed to represent the City with authority to examine those transactions and use tax records of the CDTFA for purposes related to the following governmental functions of the City:

- a) City Administration
- b) Revenue Management and Budgeting
- c) Community and Economic Development
- d) Business License Tax Administration
- e) Other purposes as deemed necessary

The information obtained by examination of CDTFA records shall be used only for those governmental functions of the City listed above.

SECTION 3. Hinderliter, de Llamas & Associates, Inc (HdL) is hereby designated to examine the transactions and use tax records of the CDTFA pertaining to transactions and use taxes collected for the City by the CDTFA. The person or entity designated by this section meets all of the following conditions:

- a) Has an existing contract with the City to examine those transactions and use tax records; and
- b) Is required by that contract to disclose information contained in, or derived from those transactions and use tax records only to the officer or employee authorized under Section 1 (or Section 2) of this resolution to examine the information; and
- c) Is prohibited by that contract from performing consulting services for a retailer during the term of that contract; and
- d) Is prohibited by that contract from retaining the information contained in, or derived from those transactions and use tax records after that contract has expired.

SECTION 4. The information obtained by examination of CDTFA's records shall be used only for purposes related to the collection of City's transactions and use taxes by the CDTFA pursuant to the agreement contracts between the City and CDTFA.

SECTION 5. This resolution supersedes all prior transactions and use tax resolutions of the City adopted pursuant to subdivision (b) of Revenue and Taxation Section 7056.

PASSED, APPROVED AND ADOPTED this 14th day of February 2024.

Albert F. Ambriz, Mayor

ATTEST:

Laura M. Nieto, MMC
Chief Deputy City Clerk

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.
CITY OF IRWINDALE }

I, Laura M. Nieto, Chief Deputy City Clerk of the City of Irwindale, do hereby certify that the foregoing Resolution No. 2024-09-3486 as duly adopted by the City Council of the City of Irwindale, at a regular meeting held on the 14th day of February 2024, by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

ABSTAIN: Councilmembers:

Laura M. Nieto, MMC
Chief Deputy City Clerk

City of
IRWINDALE
AGENDA REPORT

Date: February 14, 2024
To: Honorable Mayor and Members of the City Council
From: Julian A. Miranda, City Manager
Issue: Approve Appropriation of Asset Forfeiture Funds

City Manager's Recommendation:

Adopt Resolution No. 2024-10-3487, entitled: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRWINDALE APPROVING RECEIPT OF AND APPROPRIATING FEDERAL ASSET FORFEITURE FUNDS FOR USE BY THE POLICE DEPARTMENT."

Administrative Action:

Submitted by:

Chris Hofford, Police Chief



Prepared by:

John Fraijo, Police Captain



Reviewed by:

Adrian R. Guerra, City Attorney

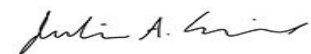


Kambiz Borhani, Finance Director / City Treasurer



Approved by:

Julian A. Miranda, City Manager



Background and Analysis:

The Department of Justice (DOJ) Equitable Sharing Program (Asset Forfeiture) was federally enacted in 1984. The primary purpose of this program is to assist law enforcement in the deterrence of crime by depriving criminals of the profits and proceeds of their criminal activities and to weaken criminal enterprises by removing the instrumentalities of crime. An ancillary purpose of this program is to enhance cooperation among federal, state and local law enforcement agencies through the equitable sharing of federal forfeiture proceeds.

The Irwindale Police Department in cooperation with federal, state, and local agencies, has participated in several investigations over the past four years that have resulted in the seizure of personal property to include automobiles and U.S. currency. Through the Equitable Sharing Program, the police department applied for and received a portion of funds from each related investigation from both federal and state equitable sharing programs. Allocations of funds through these programs are determined by the percentage of time and effort that a participating agency puts toward the case investigation that resulted in seized property.

Federal and state laws dictate permissible and non-permissible purchases that can be made with the received asset forfeiture funds under the asset forfeiture program. Permissible items for purchase with the received funds include law enforcement training in any area that is necessary to perform official law enforcement duties, equipment and operations for investigations and official law enforcement duties, telecommunications equipment, and law enforcement facilities and related items to include government furniture.

Asset forfeiture funds cannot be used for regular salaries of existing police officers, but may be used for the salary of police officers assigned to a specific task force for a specified period of time or under certain other conditions. The permissible appropriation of funds will include:

- Salary and overtime costs associated with asset forfeiture investigations
- Law enforcement training
- Hardware, software, wireless connectivity and other required equipment related to the department's reporting and telecommunications infrastructure
- Radio Communication Systems / In-car camera system / MDC-Mobile Data
- Video surveillance equipment
- Equipment and operations related to investigations
- Executive Conferences - In State/Out of State

The police department has received an additional \$846,160.51 for fiscal year 2023-2024 in federal asset forfeiture proceeds and \$1,560.81 in interest from the prior year. These IPD's federal asset forfeiture funds, are held in the Federal Treasury Fund (Fund 16). These funds are separate from the General Fund, and supplemental to the current operating budget.

Fiscal Impact:

The attached resolution allows for the receipt of, and an appropriation of \$847,721.32 in federal asset forfeiture revenue to be distributed to the City's expenditure accounts as follows:

- \$119,171.32 to Operating Supplies Account No.16-35-370-42200-0000
- \$569,050.00 to Vehicles Account No. 16-35-370-44400-0000
- \$30,000.00 to Computer Systems Account No. 16-35-370-44300-0000
- \$49,500.00 to Contract Services Account No. 16-35-370-42300-0000
- \$80,000.00 to Large Tools Account No. 16-35-370-44500-0000

Attachments:

1. Resolution Asset Forfeiture Appropriation 02-14-24

RESOLUTION NO. 2024-10-3487

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRWINDALE
APPROVING RECEIPT OF AND APPROPRIATING FEDERAL ASSET
FORFEITURE FUNDS FOR USE BY THE POLICE DEPARTMENT**

WHEREAS, the Irwindale Police Department wishes to enhance the quality of service to the community by seeking outside funding sources to supplement the Police Department budget; and

WHEREAS, the City of Irwindale Police Department has assisted federal, state and local law enforcement agencies with investigations related to illegal narcotics and other criminal activity over the past years; and

WHEREAS, the United States Department of Justice and the California Department of Justice have an Equitable Sharing Program that allows law enforcement agencies to share in federal forfeiture proceeds from property seized during these investigations; and

WHEREAS, federal and state laws dictate that these funds must be utilized by the Police Department for investigations and operations related to asset forfeiture investigations and/or training and equipment related to official law enforcement duties; and

WHEREAS, the Police Department has received an additional \$846,160.51 in federal asset forfeiture proceeds for fiscal year 2023-2024 and \$1,560.81 in interest from the prior year, which is ready for use by the Police Department in accordance with federal and state law requirements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IRWINDALE, CALIFORNIA, HEREBY RESOLVES, DETERMINES AND ORDERS AS FOLLOWS:

SECTION 1. Asset forfeiture funds obtained through the U.S. Department of Justice Equitable Sharing Program and interest, in the amount of \$847,721.32 are approved, received as supplemental to the Police Department Budget, available to be appropriated.

SECTION 2. The City Council hereby appropriates the \$847,721.32 in federal asset forfeiture funds to the following City of Irwindale Police Department expenditure accounts:

- \$119,171.32 to Operating Supplies Account No.16-35-370-42200-0000
- \$569,050.00 to Vehicles Account No. 16-35-370-44400-0000
- \$30,000.00 to Computer Systems Account No. 16-35-370-44300-0000
- \$49,500.00 to Contract Services Account No. 16-35-370-42300-0000
- \$80,000.00 to Large Tools Account No. 16-35-370-44500-0000

These funds shall be used in accordance with federal and state law for expenditure of federal asset forfeiture funds.

SECTION 3. The Chief Deputy City Clerk shall attest to the adoption of this resolution which shall, in turn, have immediate effect.

Resolution No.2024-10-3487

Page 1

PASSED, APPROVED AND ADOPTED this 14th day of February, 2024.

Albert F. Ambriz, Mayor

ATTEST:

Laura M. Nieto, MMC
Chief Deputy City Clerk

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.
CITY OF IRWINDALE }

I, Laura Nieto, Chief Deputy City Clerk of the City of Irwindale, do hereby certify that the foregoing Resolution No. 2024-10-3487 was duly adopted by the City Council of the City of Irwindale at a regular meeting thereof held on the 14th day of February, 2024, by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSTAIN: Councilmembers:

ABSENT: Councilmembers:

Laura M. Nieto, MMC
Chief Deputy City Clerk

Resolution No. 2024-10-3487
Page 2

City of
IRWINDALE
AGENDA REPORT

Date: February 14, 2024
To: Honorable Mayor and Members of the City Council
From: Theresa Olivares, Assistant City Manager
Issue: Professional Services Contract Agreement Amendment No. 3 with Steven A. Ormenyi & Associates

City Manager's Recommendation:

That the City Council approve Amendment No. 3 to the professional services contract agreement between Steven A. Ormenyi & Associates and the City of Irwindale for the contract administration during the construction of the Irwindale Park Improvements Project Phases IV, and V.

Administrative Action:

Submitted/Prepared by:



Elizabeth Rodriguez, Public Services Director

Reviewed by:



Adrian R. Guerra, City Attorney



Kambiz Borhani, Finance Director / City Treasurer

Approved by:



Theresa Olivares, Assistant City Manager

Background and Analysis:

On June 26, 2019, the City Council awarded a professional services contract with Steven A. Ormenyi & Associates ("Contractor"), in the amount of \$142,830.00, to prepare the construction bid package for the Irwindale Park Improvements Project Phases II and III (Project).

On February 26, 2020, the Council approved Amendment No. 1 to the Contract, in the amount of \$86,183.25, amending the scope of services to include an ADA accessible path and seating at the softball bleacher area, a new covered picnic area near the horseshoe pit, ADA accessibility to the horseshoe pit, the construction of an additional horseshoe pit, removal of the stairs along the west side of the Dan Diaz Recreation Center, installation of a dog friendly drinking fountain near the east parking lot, and enhanced lighting throughout the park to address safety concerns. The project phases were also renamed Phases III, IV, and V.

During construction of Phase III, the Project expanded to include the addition of a bus shelter walkway and lighting, ADA compliant handrails at the Dan Diaz Recreation Center, revised civil, electrical and irrigation plans, and additional project coordination and construction support due to project delays caused by weather, site conditions, manufacturer delays and additional work requested. As a result of these changes, on December 9, 2020, the Council approved Amendment No. 2 to the Contract in the amount of \$56,412.00; for a total contract amount of \$285,425.25.

The Council awarded the contract for Irwindale Park Improvements Project Phases IV & V on June 28, 2023, and construction commenced on September 5, 2023. During construction and the request for information process, it was determined that additional work and changes to the plans and construction were required. This included Southern California Edison's required upgrades to vault and transformers in order to provide service to Phase IV, moving the electrical pedestal outside the Phase IV restroom, revisions to the path of travel for ADA compliance, one (1) additional light pole to the playground area, additional project coordination and construction support due to project delays caused by weather, site conditions, manufacturer delays and additional work requested. Amendment No. 3 to the Contract is required to incorporate these changes in the amount of \$100,000.00 for a total contract amount of \$385,425.25.

Fiscal Impact:

Sufficient Funding is available in the amount of \$100,000 for Amendment No. 3 to the Agreement in the capital project budget account 48-80-800-45200-8243.

Attachments:

1. Irwindale Park Improvement Project IV - V Steven Ormenyi - AMENDMENT NO. 3(960610.1)
2. 2-14-2024 Irwindale Park - STEVEN ORMENYI LETTER TO CITY

CITY OF IRWINDALE

AMENDMENT NO. 3 TO CONTRACT SERVICES AGREEMENT FOR PROFESSIONAL DESIGN SERVICES FOR THE IRWINDALE PARK IMPROVEMENTS PROJECT PHASE II AND III IN THE CITY OF IRWINDALE

This AMENDMENT NO. 3 TO CONTRACT SERVICES AGREEMENT (herein "Amendment") is made and entered into this 14th day of February, 2024, by and between the CITY OF IRWINDALE, a municipal corporation, (herein "City") and STEVEN A. ORMENYI & ASSOCIATES, 20859 Kelvin Place, Woodland Hills, CA 91367 (herein "Contractor"). (The term Contractor includes professionals performed in a consulting capacity.)

RECITALS

WHEREAS, on June 26, 2019, the City and Contractor entered into that certain Contract Services Agreement for professional design services for the Irwindale Park Improvements Project Phase II and III ("Agreement"), which provided for updating the construction bid package to incorporate the current codes and regulations; and

WHEREAS, on December 11, 2019, the City Council approved the construction of the Park Improvements Project in three phases: Phase III, Phase IV, and Phase V, instead of the originally proposed construction of this project in one phase; and

WHEREAS, on February 26, 2020, the City Council approved Amendment No. 1 to the Agreement, amending the scope of services for additional improvements which included an ADA accessible path and seating at the softball bleacher area, a new covered picnic area near the horseshoe pit, ADA accessibility to the horseshoe pit, the construction of an additional horseshoe pit, removal of the stairs along the west side of the Dan Diaz Recreation Center, installation of a dog friendly drinking fountain near the east parking lot, and enhanced lighting throughout the park to address safety concerns; and

WHEREAS, the Project has expanded to include the addition of a bus shelter walkway and lighting, ADA compliant handrails at the Dan Diaz Recreation Center, revised civil, electrical and irrigation plans, and additional project coordination and construction support due to project delays caused by weather, site conditions, manufacturer delays and additional work requested, which are the additional improvements described in Amendment No. 2; and

WHEREAS, on December 9, 2020, the City Council approved Amendment No. 2 to the Agreement, amending Section 2.1, to increasing the Contract Sum by a total of \$56,412.00 for a total contract amount not to exceed \$285,425.30 to secure the Contractor to perform the required services to complete Phases III, IV, and V.

WHEREAS, construction for Phases IV and V has expanded the work and required additional changes to include an upgrade to Southern California Edison's vault and transformers, moving the electrical pedestal outside the Phase IV restroom, revisions to the path of travel for ADA compliance, additional project coordination and construction support due to project delays caused by weather, site conditions, manufacturer delays and additional work requested.

WHEREAS, the parties desire to amend Sections 2.1 and 3.4, pursuant to the terms of this Amendment No. 3, extending the term of the Contract and increasing the Contract Sum by a total of \$100,000.00 for a total contract amount not to exceed \$385,425.30 to secure the Contractor to perform the required services to complete Phases IV and V.

NOW, THEREFORE, the parties hereto agree as follows:

1. Section 2.1 of the Agreement entitled "Compensation" shall be amended in its entirety to read as follows:

2.1 Contract Sum. For the services rendered pursuant to this Agreement, Contractor shall be compensated in accordance with the "Schedule of Compensation" attached hereto as Exhibit "B" and incorporated herein by this reference, but not exceeding THREE HUNDRED EIGHTY-FIVE THOUSAND FOUR HUNDRED TWENTY-FIVE DOLLARS AND THIRTY CENTS (\$385,425.30).

2. Section 3.4 of the Agreement entitled "Term" shall be amended in its entirety to read as follows:

3.4 Term. Unless earlier terminated in accordance with section 7.8 of this Agreement, this Agreement shall continue in full force and effect until the filing of a Notice of Completion of the Irwindale Park Improvements Project phases IV and V, except as otherwise provided in the Schedule of Performance."

3. The Agreement shall be amended to include the additional tasks described in Exhibit "A-3" to this Amendment. Except as amended herein, all other provisions of the Agreement and its exhibits shall remain unmodified and in full force and effect.

4. Full Force and Effect. Except as expressly modified herein all other provisions of the Agreement shall remain unmodified and in full force and effect.

5. Corporate Authority. The persons executing this Amendment on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment on behalf of said party, (iii) by so executing this Amendment, such party is formally bound to the provisions of this Amendment, and (iv) the entering into this Amendment does not violate any provision of any other agreement to which said party is bound.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed and entered into this Agreement as of the date first written above.

CITY:

CITY OF IRWINDALE, a public body corporate and politic

Theresa Olivares, Assistant City Manager

ATTEST:

Laura M. Nieto, MMC
Chief Deputy City Clerk

APPROVED AS TO FORM:
Aleshire & Wynder, LLP

Adrian Guerra
City Attorney

CONTRACTOR:

Steven A. Ormenyi & Associates

By: _____
Name: Steven A. Ormenyi
Title: President
Address: 20859 Kelvin Place
Woodland Hills, CA 91367

[END OF SIGNATURES]

Exhibit "A-3"

Steven A. Ormenyi & Associates
Landscape Architects
20859 Kelvin Place
Woodland Hills, California
91367

Mobile: 213.500.0693
CALIFORNIA LICENSE 1733

4 February 2024

Ms. Elizabeth Rodriguez
Director of Public Works
City of Irwindale
5050 N. Irwindale Ave.
Irwindale, CA 91706

RE: Irwindale Park Phase 4 & 5 Remodel

Hello Ms. Rodriguez,

We have talked on the telephone and in person about the changes and growth in scope of the need to coordinate and assist the contractor in completing the construction of phases 4 &5 of the remodel of the park.
This letter intends to define and assign cost to the task at hand to complete the construction administration of the remodel of the Irwindale Park.

Consultants:	We were asked to replace the walkway in	
CIVIL	phase 5 from the Barbeque bldg. to the Parking lot.	15,000.00
(Ms. Barbara Hall)	This effort needed updated surveying and adjustment to the grade of the walkway to meet handicap and accessibility requirements. We also need The Civil to inspect the final installation and check the as built drawings.	
ELECTRIC	The light replacements for both Phases 4 & 5 have been installed with additional pull boxes to ease future maintenance repairs. We need the Electrical consultant to assist the contractor to install the correct number and size wires and additional sleeves needed to connect to the new pedestal. SCE has been late in informing the City and the Contractor that there would be delays in providing power to Park.	9,000.00
(Mr. Adi Ben-Shahar)		

	We still need the Electrical consultant to complete a final inspection of the installation and ensure that the installation meets the design goals for the electrical. installation.	
ARCHITECT (Mr. Victor Donoso and Steven Ormenyi)	We need additional services for final inspection and to provide as built documents.	5,000.00
IRRIGATION (Mr. Rick Dortsh)	Input is needed for finalizing and accepting the installation of the irrigation system. The main line routing has been changed to preserve the roots of the existing trees. The original design professional needs to inspect the installation and check the as-built drawings and provide maintenance instructions.	7,000.00
GRASS CONSULTANT	Coordination with grass consultant on Netlon Installation, lab report monitoring, inspections, and final inspections and training for city maintenance staff.	4,000.00
CONTRACT ADMINISTRATION FOR SAO&A	Site visits, Meetings, Request for information, inspections coordinating consultants, specialist and communicating with City staff.	60,000.00

CONSULTANTS EXTRA SERVICES REQUESTED	\$100,000.00
TOTAL CONSULTANTS EXTRA FEES	\$100,000.00

The above amount of \$100,000.00 would be a not exceed price for services. At the completion SAO&A will hand over As-Built drawings for Phase 4 & 5.

Respectfully Submitted:

STEVEN A. ORMENYI & ASSOCIATES

Steven A. Ormenyi
Principal

Accepted by:

Date:

Steven A. Ormenyi & Associates
Landscape Architects
20859 Kelvin Place
Woodland Hills, California 91367

Telephone: 213-500-0693
e-mail: sormenyi@gmail.com

CALIFORNIA LICENSE 1733

4 February 2024

Ms. Elizabeth Rodriquez
Director of Public Works
City of Irwindale
5050 North Irwindale Avenue
Irwindale, California 91706

Project: Irwindale Park Phase 4 & 5 Remodel

Dear Ms. Rodriquez,

We have talked on the telephone and in person about the changes and growth in scope of the need to coordinate and assist the contractor in completing the construction of phases 4 & 5 of the remodel of the park.

This letter intends to define and assign cost to the task at hand to complete the construction administration of the remodel of the Irwindale Park.

Consultants:

CIVIL (Ms. Barbara Hall): We were asked to replace the walkway in phase 5 from the Barbeque bldg. to the Parking lot. This effort needed updated surveying and adjustment to the grade of the walkway to meet handicap and accessibility requirements. We also need The Civil to inspect the final installation and check the as built drawings. \$15,000.00

ELECTRICAL (Mr. Adi Ben-Shahar): The light replacements for both Phases 4 & 5 have been installed with additional pull boxes to ease future maintenance repairs. We need the Electrical consultant to assist the contractor to install the correct number and size wires and additional sleeves needed to connect to the new pedestal. SCE has been late in informing the City and the Contractor that there would be delays in providing power to Park. We still need the Electrical consultant to complete a final inspection of the installation and ensure that the installation meets the design goals for the electrical installation. \$ 9,000.00

ARCHITECTURE (Mr. Victor Donoso and Steven Ormenyi) we need additional services for final inspection and to provide as built documents. \$5,000.00

IRRIGATION (Mr. Rick Dortsh) Input is needed for finalizing and accepting the installation of the irrigation system. The main line routing has been changed to preserve the roots of the existing trees. The original design professional needs to inspect the installation and check the as-built drawings and provide maintenance instructions. \$ 7,000.00

GRASS CONSULTANT. Coordination with grass consultant on Netlon Installation, lab report monitoring, inspections, and final inspections and training for city maintenance staff. \$ 4,000.00

CONTRACT ADMINISTRATION FOR SAO&A. Site visits, Meetings, Request for information, inspections coordinating consultants, specialist and communicating with City staff. \$ 60,000.00

CONSULTANT EXTRA FEES REQUESTED \$100,000.00
TOTAL CONSULTANTS EXTRA FEES \$100,000.00

The above amount of \$100,000.00 would be a not to exceed price for services. At the completion SAO& A will hand over "As built" drawings for Phases 4 & 5.

Respectfully Submitted:
STEVEN A. ORMENYI & ASSOCIATES

Steven A. Ormenyi
Principal Landscape Architect

Accepted by:

Date:

Item #19.F.

City of
IRWINDALE
AGENDA REPORT

Date: February 14, 2024

To: Honorable Mayor and Members of the City Council

From: Julian A. Miranda, City Manager

Issue: Apply for the California Growth Strategic Council (SGC) Community Resilience Centers (CRC) Grant Funding in the amount of \$1,200,000 or Any Amount Approved for, and if Awarded, Authorize the City Manager to Execute the Standard Agreement.

City Manager's Recommendation:

Adopt Resolution No. 2024-12-3489, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRWINDALE AUTHORIZING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE TO APPLY FOR AND ACCEPT GRANT FUNDS FROM THE CALIFORNIA STRATEGIC GROWTH COUNCIL FOR THE COMMUNITY RESILIENCE CENTERS (CRC) PROGRAM ROUND 1 DEVELOPMENT GRANT IN THE AMOUNT OF \$1,200,000, OR ANY OTHER AMOUNT AWARDED, AND NEGOTIATE AND EXECUTE ANY RELATED DOCUMENTS NECESSARY TO ACCEPT THESE GRANT FUNDS."

Administrative Action:

Submitted/Prepared by:



Elizabeth Rodriguez, Public Services Director

Reviewed by:

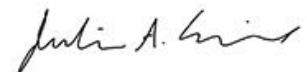


Adrian R. Guerra, City Attorney



Kambiz Borhani, Finance Director / City Treasurer

Approved by:



Julian A. Miranda, City Manager

Background and Analysis:

The California Governor's Office of Planning and Research, the California Growth Strategic Council (SGC) is responsible for advancing the state's key policy priorities through four (4) main categories: investment programs, collaborative policy initiatives, integrated policy and planning, and capacity building and technical assistance. The newest program to advance these policies is the Community Resilience Centers (CRC) Program, which builds upon community partnerships that align with the California Climate Adaptation Strategy, the Extreme Heat Action Plan, and other statewide efforts that focus on building local resilience across California communities.

California set a historic climate budget package in 2021-2022 to tackle wildfire and drought challenges, build more resilient communities, promote sustainable agriculture, and advance a nation-leading climate agenda. The budget also allocated \$100 million in funding for two rounds of new Community Resilience Centers (CRC) programs. Assembly Bill (AB) 179 (Ting, Chapter 249, Statutes of 2022), the Budget Act of 2022, increased SGC's CRC Round 1 funding from \$25 million to \$110 million and CRC Round 2 funding from \$75 million to \$160 million.

Senate Bill (SB) 155 (Committee on Budget and Fiscal Review, Chapter 258, Statutes of 2021) created SGC's CRC program to fund new construction or retrofit existing facilities to address the public health impacts associated with extreme heat, rolling blackouts, windstorm events, hurricanes, and any other emergencies resulting from climate change. This bill also requires SGC to ensure community-based organizations and residents participate in the decision-making and ensure transparency when developing or retrofitting community resilience centers.

Staff has identified, per Resolution No. 2021-25-3237, which adopted and amended the Emergency Operations Plan and Continuity of Operations Plan for the City of Irwindale and identified the Dan Diaz Recreation Center as an Emergency Evacuation Center. As a result, the City would like to reclassify the Dan Diaz Recreation Center as a Community Resilience Center to be used in the case of any emergency related to climate change. In order to do so, the Dan Diaz Recreation Center requires improvements, including but not limited to a seismic retrofit, new HVAC units, new windows and doors, and the creation of additional restrooms and classrooms to better serve the community.

In order to apply for a grant to start the design phase of the development of the Dan Diaz Recreation Center improvements and creation of a sustainable Community Resilience Center, the City Council must adopt a resolution authorizing the City Manager or the City Manager's designer to apply for, accept, and negotiate and execute any related documents necessary to enter into an agreement with the California Strategic Growth Council.

Fiscal Impact:

None.

Attachments:

1. Resolution No. 2024-12-3489

RESOLUTION NO. 2024-12-3489

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRWINDALE
AUTHORIZING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE TO
APPLY FOR AND ACCEPT GRANT FUNDS FROM THE CALIFORNIA STRATEGIC
GROWTH COUNCIL FOR THE COMMUNITY RESILIENCE CENTERS (CRC)
PROGRAM ROUND 1 DEVELOPMENT GRANT IN THE AMOUNT OF \$1,200,000, OR
ANY OTHER AMOUNT AWARDED, AND NEGOTIATE AND EXECUTE ANY
RELATED DOCUMENTS NECESSARY TO ACCEPT THESE GRANT FUNDS**

WHEREAS, through the California Governor's Office of Planning and Research, the California Strategic Council (SGC) advances the State's key policy priorities through four (4) main categories: investment programs, collaborative policy initiatives, integrated policy and planning, and capacity building and technical assistance; and

WHEREAS, the newest program developed by SGC to ensure the advancement of these policies is the Community Resilience Centers (CRC) Program, which builds upon SGC's foundation and key community partnerships, in alignment with California Climate Adaptation Strategy, Extreme Heat Action Plan, and other statewide efforts, to build local resilience across California communities; and

WHEREAS, the historic 2021-2022 State of California Climate Budget Package, which totaled over \$15 billion to tackle wildfire and drought challenges, build more resilient communities, promote sustainable agriculture, and advance a nation-leading climate agenda, also allocated \$100 million to SGC over two (2) rounds for a new Community Resilience Centers (CRC) program. Assembly Bill (AB) 179 (Ting, Chapter 249, Statutes of 2022), the Budget Act of 2022 increased SGC's CRC Round 1 funding from \$25 million to \$110 million and CRC Round 2 funding from \$75 million to \$160 million; and

WHEREAS, Senate Bill (SB) 155 (Committee on Budget and Fiscal Review, Chapter 258, Statutes of 2021) created SGC's CRC program to fund new construction or retrofit existing facilities to address the public health impacts associated with extreme heat, rolling blackouts, windstorm events, hurricanes, and any other emergencies resulting from climate change. This bill also requires SGC to ensure community-based organizations and residents participate in the decision-making and ensure transparency when developing or retrofitting for community resilience centers; and

WHEREAS, City Staff has identified, per Resolution No. 2021-25-3237, which adopted and amended Emergency Operations Plan and Continuity of Operations Plan for the City of Irwindale and identified the Dan Diaz Recreation Center as an Emergency Evacuation Center. As a result, the City would like to reclassify the Dan Diaz Recreation Center as a Community Resilience Center to be used in the case of any emergency related to climate change. In order to do so, the Dan Diaz Recreation Center requires improvements including but not limited to a seismic retrofit, new HVAC units, new

windows and doors, and the creation of additional restrooms and classrooms to better serve the community; and

WHEREAS, the City of Irwindale desires to apply for, accept, and negotiate and execute any related documents necessary to enter into an agreement with the California Strategic Growth Council for the Dan Diaz Recreation Center Improvement Project.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IRWINDALE, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. The City Council of the City of Irwindale hereby designates the Dan Diaz Recreation Center as a Community Resilience Center to be used in the case of any emergency related to climate change.

SECTION 3. The City Council of the City of Irwindale authorizes the City Manager or the City Manager's designee to apply for, accept, and negotiate and execute any related documents necessary to enter into an agreement with the California Strategic Growth Council for the Dan Diaz Recreation Center Improvement Project.

SECTION 4. The Chief Deputy City Clerk shall certify the adoption of this Resolution which shall, in turn, have immediate effect.

PASSED, APPROVED AND ADOPTED this 14th day of February 2024.

Albert F. Ambriz, Mayor

ATTEST:

Laura M. Nieto, MMC
Chief Deputy City Clerk

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.
CITY OF IRWINDALE }

I, Laura Nieto, Chief Deputy City Clerk of the City of Irwindale, do hereby certify that the foregoing Resolution No. 2024-12-3489 was adopted by the City Council of the City of Irwindale, at a regular meeting held on the 14th day of February 2024 by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

ABSTAIN: Councilmembers:

Laura M. Nieto, MMC
Chief Deputy City Clerk

Item #21.B.

City of
IRWINDALE
AGENDA REPORT

Date: February 14, 2024
To: Honorable Mayor and Members of the City Council
From: Julian A. Miranda, City Manager
Issue: Irwindale's Targeted Business Outreach and Retention Strategy

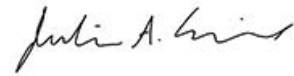
City Manager's Recommendation:

Receive and file the Targeted Business Outreach and Retention Strategy Memo and authorize staff to proceed in developing Irwindale's Business Visitation Team and commence visits to local businesses to better understand the business community, build relationships, and develop strategies that will support a healthy economy and jobs.

Administrative Action:

Submitted by:

Julian A. Miranda, City Manager



Prepared by:

Iris Espino, Assistant to the City Manager



Reviewed by:

Adrian R. Guerra, City Attorney

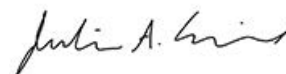


Kambiz Borhani, Finance Director / City Treasurer



Approved by:

Julian A. Miranda, City Manager



Background and Analysis:

The City of Irwindale is invested in providing support and economic opportunities that allow local businesses to grow and thrive. As part of a broader economic development program, the City is interested in establishing a Business Visitation Team which will conduct visits to local businesses to

better understand the business community's needs and develop actions that will help retain and grow a healthy economy and jobs.

In July 2023, the City retained RSG to analyze local economic data and business trends to identify key industry sectors for targeted outreach. The analysis was intended to help the City prioritize its limited resources and target industries that represent a significant part of the local economy and are poised for growth. The Targeted Business Outreach and Retention Strategy Memo (Attachment 1) summarizes RSG's data-driven approach to identifying key industry sectors and presents recommendations for the City's outreach campaign.

The analysis considered a variety of data points such as total employment, location quotient (LQ), long-term growth, and average wages in its evaluation of local industry sectors. A significant part of the analysis included calculating the LQ which measures the concentration of an industry within a local jurisdiction (Irwindale) compared to its regional (LA County) concentration. This helps identify which sectors the local jurisdictions have a strong standing in. The other highest-weighted factor in the analysis was long-term growth projections for each industry from 2020 to 2030. This helps the City set expectations about which sectors are expected to rise or decline.

RSG identified the 14 high-priority industry sectors, focusing on those with high LQ and growth projections, which are summarized in Table 1 below. Appendix 1 summarizes RSG's analysis of all the industries in Irwindale. The memo provides a high-level summary along with examples of businesses in each priority industry sector.

Table 1: 14 Priority Industries in Irwindale

NAICS	Sectors in Irwindale	Percent of sector in City	Location Quotient	Growing industry	Weekly Pay
238	Specialty Trade Contractors	2.82%	1.22	12.57%	\$ 1,457
237	Heavy and Civil Engineering Construction	0.93%	2.00	10.19%	\$ 2,321
441	Motor Vehicle and Parts Dealers	1.54%	1.49	9.09%	\$ 1,618
444	Building Material and Garden Equipment and Supplies Dealers	1.24%	1.97	7.42%	\$ 961
424	Merchant Wholesalers, Nondurable Goods	5.30%	2.29	13.71%	\$ 1,446
423	Merchant Wholesalers, Durable Goods	7.75%	3.46	4.27%	\$ 1,660
518	Data Processing, Hosting, and Related Services	1.86%	6.94	57.14%	\$ 3,550
493	Warehousing and Storage	4.60%	8.64	19.59%	\$ 1,231
311	Food Manufacturing	15.89%	16.50	0.53%	\$ 1,146
335	Electrical Equipment, Appliance, and Component Manufacturing	1.26%	7.17	4.23%	\$ 1,637
339	Miscellaneous Manufacturing	4.28%	10.08	4.65%	\$ 1,628
561	Administrative and Support Services	4.15%	0.65	19.70%	\$ 1,591
621	Ambulatory Health Care Services	3.12%	0.53	16.39%	\$ 2,405
337	Furniture and Related Product Manufacturing	5.11%	19.58	-7.21%	\$ 1,157

To assist the City in its targeted outreach efforts the memo outlines two recommended strategies for the City to employ including:

1. Annual Business Walk, and
2. Monthly Visitation Program

The Annual Business Walks involve a team of City staff and other stakeholders visiting many local businesses in targeted sectors to engage in discussion and gain a better sense of the specific challenges and gaps in resources that businesses struggle with. This effort will also help build strong relationships with

businesses, build brand loyalty with the City, and inform more targeted economic development planning. Following the business walk, it is important for the City to follow up with a report that summarizes the results of their discussions, identifies common trends, shares feedback received from the participating businesses, and provides resources to help meet the businesses' needs.

Similarly, the Monthly Visitation Program will consist of regular, ongoing visits to local businesses by a team of City staff, government officials, and other business and economic leaders of the community. The City should establish an achievable goal for the number of visits to be conducted a month, such as 1-2, and select different businesses to visit each month based on different criteria such as high employers or high tax producers within the targeted industry sectors. As with the business walks, the visitation team should prepare specific and relevant questions ahead of time in order to best utilize the time with the business and should follow up after the visit with any resources or unanswered questions.

These strategies will help the City gain a better understanding of the specific challenges and goals that businesses in Irwindale face and build strong relationships with the business community. The outreach strategies recommended in the memo are foundational to the City developing other targeted economic development initiatives that will support local businesses in the future. As with any engagement effort, preparation is key to successful outreach that best utilizes staff and the businesses' time. Each industry is unique and by asking more specific questions at each visit, will demonstrate that the City is actively engaged in the local business ecosystem. The memo provides a list of example questions that the City might pose to each industry sector. While this list is not exhaustive, it is intended to help staff get started on planning their outreach.

With the guidance provided in the Targeted Business Outreach and Retention Strategy Memo, staff is prepared to begin developing a Business Visitation Team and conducting visits. At this time, staff is seeking direction from the Council to launch these efforts as well as any additional considerations that staff should take into account.

Fiscal Impact:

There is no fiscal impact at this time.

Attachments:

1. Targeted Business Outreach and Retention Strategy Memo



17872 GILLETTE AVE.
SUITE 350
IRVINE, CA 92614

714 541 4585
INFO@WEBRSG.COM
WEBRSG.COM

Via Electronic Mail

Date: August 23, 2023

To: Iris Espino, Assistant to the City Manager/ Public Information Officer
CITY OF IRWINDALE

From: Jim Simon, Principal
Kevin Ham, Director
Samantha Wu Rose, Senior Analyst

SUBJECT: TARGETED BUSINESS OUTREACH AND RETENTION STRATEGY

The City of Irwindale is invested in providing excellent support and economic opportunities that allow local businesses to grow and thrive in Irwindale. As part of a broader economic development program, the City's new business visitation team is preparing to commence visits to local businesses to better understand the local business community's needs and develop actions that will help retain and grow a healthy economy and jobs.

To be strategic on its outreach efforts, the City retained RSG to help identify key industry sectors that the City may want to target in their outreach efforts based on economic trends and business data analytics. This analysis is intended to help the City prioritize its limited resources and target industries that represent a significant part of the local economy and are poised for growth.

Employing a data-driven and best practices approach, this memo presents RSG's recommendations in four key areas of the outreach campaign:

1. Key industry sectors for prioritization in outreach activities,
2. Industry summaries of the top fourteen (14) sectors for focused outreach and retention,
3. Suggestions for the outreach committee/visitation team and KPIs to track success, and
4. Potential tactics that the City may employ to maximize their outreach efforts such as specific topics to discuss with the identified business sectors.

METHODOLOGY AND APPROACH

RSG considered a variety of factors in its analysis of key industry sectors such as their total employment in the City, location quotient (LQ), long-term growth forecasts, and average wages. Each of these factors is further described below:

- Total employment in the City by Industry Sector: RSG looked at business license data provided by the City to evaluate employment by North American Industry Classification System (NAICS) code. This provided insight into the industry sectors with the highest presence in the City.
- Location Quotient by Industry Sector: Location Quotient measures the concentration of an industry within a local jurisdiction compared to its concentration regionally. RSG used the City's business license data and obtained regional employment data for the County of Los

Angeles from the Employment Development Department's (EDD) Quarterly Census of Employment and Wages (QCEW) Report to calculate the ratio of local employment within an industry compared to its regional share. A LQ greater than 1.0 means there is a higher local concentration relative to the region and less than 1.0 means the industry has a less concentrated share than the rest of the region.

$$\frac{\% \text{ Share of Employment in Irwindale}}{\% \text{ Share of Employment in LA County}} = LQ$$

A high LQ is an indicator that that industry is a good target for the City to prioritize in its outreach efforts.

- Long-Term Industry Growth: EDD provides long-term projections of industry growth based on estimated employees in the next 10 years. RSG reviewed the Detailed Forecast Report from 2020-2023 for Los Angeles County to evaluate which industry sectors are expected to see the most growth in the region by 2030. The City needs to understand regional trends in economic growth or decline to set expectations about which sectors might be on the rise locally.
- Average Weekly Wages by Industry Sector: The QCEW report from EDD provides data on the average weekly wages earned by employees in each industry sector. This data gives insight on which industries are the highest paying and allows the City to prioritize outreach with those industries that are likely to bring lucrative jobs to the area.

Considering all these variables, RSG identified the top 14 industry sectors that Irwindale should prioritize in its outreach strategy. **Appendix 1** summarizes the RSG's analysis of all the industries in Irwindale. RSG then organized those industries into three categories: stars, emerging, and transforming industries. These categories provide insight into how the City may want to approach that industry and what kind of economic development strategies may be most applicable.

- "Stars" are industries with a high local presence and projected long-term growth. These are industries that perform well in the in the local jurisdiction and are expected to continue to perform well regionally. Outreach and economic development strategies to these industries may want to focus on retention and providing opportunities that support their continued growth such as evaluating land use and development opportunities in the City, investing in workforce development or providing capital incentives.
- "Emerging" industries have a low local presence in the City but high projected long-term growth. This means that while there is not currently a strong local concentration, this industry is expected to grow regionally, and the City may be well poised to attract some of that growth to their jurisdiction. Targeted outreach or economic strategies to these emerging industries would focus on getting new businesses to locate within the City by demonstrating that the city has the infrastructure, workforce, and consumer base to help that industry thrive.

- The third category is “Transforming” Industries which are industries that have a relatively high local concentration but show a decline in long-term employment projections. These businesses have likely been successful in the jurisdiction in the past but are expected to decline regionally. This projected decline may be attributed to changing industry trends on a macro scale that the local jurisdiction has little control over. Transforming industries are generally not high priority industries for outreach, however, the City may still wish to include these industries in their visitation plan to better understand their challenges, how businesses are adapting to changing industry trends, and what the needs of that workforce are.

PRIORITY INDUSTRIES

RSG has identified 14 priority industries in Irwindale. Each of the industries is described below with a few example businesses in Irwindale provided.

STARS

These industries are ideal for targeted retention strategies because they have a high local concentration of employment compared to the rest of the County and are expected to grow between now and 2030.

Specialty Trade Contractors (NAICS: 238):

- Share of employment in Irwindale: 2.82%
- LQ: 1.22
- Industry employment projection (2030): 12.57%
- Average weekly salary: \$1,457

Examples of businesses within this industry that are already in Irwindale include Crosstown Electrical & Dara Inc., and So Cal Elite Traffic Inc.

Specialty Trade Contractors perform specific activities, such as pouring concrete, site preparation, plumbing, painting, and electrical work, relating to construction. These establishments are usually subcontractors or work may be done directly for the property owner. There are substantial differences in the type of equipment and workforce skills required of and performed by specialty trade contractors.

Heavy and Civil Engineering Construction (NAICS 237)

- Share of employment in Irwindale: .93%
- LQ: 2.00
- Industry employment projection (2030): 10.19%
- Average weekly salary: \$2,321

Examples of businesses within this industry that are already in Irwindale include Mission Paving and Sealing Inc., and Gentry Brothers Inc.

Like specialty trade contractors, the heavy and civil engineering industry is involved in construction-related activities. However, this industry works on engineering projects on a significantly larger scale such as highways, dams, and utilities, that require a high degree of specialized knowledge and equipment.

Parts and Building Materials Dealers (NAICS: 441 and 444):

Motor vehicle and parts dealers (441) and building material and garden equipment dealers (444) are separate sub-industries which this report has grouped together due to the similarities between these industries.

- Share of employment in Irwindale: 2.78%
- LQ: 1.67
- Industry employment projection (2030): 8.00%
- Average weekly salary: \$961-\$1,618

Examples of businesses within this industry that are already in Irwindale include Arrow Pipe and Steel, Turbo Wholesale Tires, and Parts Authority, LLC

These industries fall under the much larger retail trade sector which comprises establishments that are engaged in the sale of merchandise. The retailing process is the final step in the distribution of merchandise at fixed point-of-sale locations. These locations are often chosen based on proximity to foot traffic to attract a high volume of walk-in customers. The motor parts and building materials sub-industries both require locations that can accommodate large showrooms and large and heavy merchandise. They also both rely on being able to employ staff with specialized knowledge in the use and maintenance of their specific products.

Merchant Wholesalers, Nondurable Goods (NAICS: 424)

- Share of employment in Irwindale: 5.30%
- LQ: 2.29
- Industry employment projection (2030): 13.71%
- Average weekly salary: \$1,446

Examples of businesses within this industry that are already in Irwindale include BEPC Limited, Charlies Produce, and Scholastic Book Fairs, Inc.

The wholesale of nondurable goods falls within the larger sector of wholesale trade which involves the sale of products generally without transformation and is considered the intermediate step in the distribution of merchandise. Wholesalers normally operate from a large warehouse or office and generally do not advertise to the public. The nondurable goods subsector includes items with a normal life expectancy of less than three years such as apparel, food, and other commonly consumed products.

Merchant Wholesalers, Durable Goods (NAICS: 423)

- Share of employment in Irwindale: 7.75%
- LQ: 3.46

- Industry employment projection (2030): 4.27%
- Average weekly salary: \$1,660

Examples of businesses within this industry that are already in Irwindale include Sierra Alloys Inc., Dealer Tire LLC, and Pacific Panel Products Corporation.

This Subsector is very similar to the wholesale of nondurable goods except these industries are focused on items with a normal life expectancy of three years or more. Durable goods wholesalers also generally take title to the goods that they sell, meaning they buy and sell goods on their account. The types of goods that are sold in this industry subsector vary widely but include vehicles, furniture, construction materials, machinery equipment, or metals and minerals. The outreach strategies for durable goods wholesalers will likely be akin to those for nondurable goods however these industries are focused on different customer bases and have very different scales at which they sell their products.

Data Processing, Hosting, and Related Services (NAICS: 518)

- Share of employment in Irwindale: 1.86%
- LQ: 6.94
- Industry employment projection (2030): 57.14%
- Average weekly salary: \$3,550

City of Hope is the only example industry in this sector.

The data processing, web hosting, and related services subsector provides computing infrastructure and services and is included within the larger information sector. Information sector industries are those engaged in producing and distributing information, cultural products, and data. Some of the unique characteristics of this industry include the production and distribution of non-tangible goods which can be consumed in a variety of ways, industries generally do not require direct contact with the consumer, and the value of the product is often determined by the informational, cultural, or entertainment value to the consumer.

Warehousing and Storage (NAICS: 493)

- Share of employment in Irwindale: 4.60%
- LQ: 8.64
- Industry employment projection (2030): 19.59%
- Average weekly salary: \$1,231

Examples of businesses within this industry that are already in Irwindale include Home Depot and AP Express LLC.

Industries in the Warehousing and Storage subsector provide facilities to store goods such as general merchandise, refrigerated goods, and other warehouse products. These establishments do not sell the goods that they handle. They may also provide services related to the distribution of goods such as inventory management, assembly, order fulfillment, price marking, and transportation arrangement.

Manufacturing (NAICS: 31-33)

Manufacturing includes many subsectors that further describe the specific products being produced. RSG has grouped the manufacturing subsectors together due to their similarities however it should be noted that there may be individual nuances to how the individual manufacturing subsectors are performing or expected to perform in Irwindale that should be considered in an outreach strategy.

As a whole, manufacturing makes up a large percentage of the total employment in Irwindale, over 30%. The individual sub-industries have varying LQs ranging from 0.02 to 19.58, and varying industry employment projections ranging from -35% to 5%. The manufacturing sub-sectors which have been identified as star industries in this report are those that have the highest employment in Irwindale, LQ, and expected growth. Note that not all of the manufacturing sub-sectors qualify as stars and may fall into other industry categories.

Food Manufacturing (NAICS: 311):

- Share of employment in Irwindale: 15.89%
- LQ: 16.50
- Industry employment projection (2030): 0.53%
- Average weekly salary: \$1,146
- Example industries: Ready Pac Produce, Q&B Foods

Electrical Equipment and Appliance Manufacturing (NAICS 335):

- Share of employment in Irwindale: 1.26%
- LQ: 7.17
- Industry employment projection (2030): 4.23%
- Average weekly salary: \$1,637
- Example industries: G&I Islas Industries, Commerce Lighting Supply

Miscellaneous Manufacturing (NAICS: 339):

- Share of employment in Irwindale: 4.28%
- LQ: 10.08
- Industry employment projection (2030): 4.65%
- Average weekly salary: \$1,628
- Example industries: Georg Fischer Signet LLC, A&M Engineering Inc., IHealth Manufacturing

The Manufacturing sector as a whole works with raw materials to mechanically, physically, or chemically transform them into new products. These establishments are often described as plants, factories, or mills and generally use power-driven machines and material-handling equipment. The subsectors in the manufacturing sector utilize distinct production processes and employee skills and are also distinctly impacted by various retailer and supply networks, government regulations, and other factors individually.

EMERGING

Emerging industries have a lower local concentration in Irwindale than in LA County as a whole (LQ below 1.00) but are expected to grow between now and 2030. These industries are ideal for targeted attraction strategies that aim to get new businesses to locate within the City.

Administrative and Support Services (NAICS: 561)

- Share of employment in Irwindale: 4.15%
- LQ: 0.65
- Industry employment projection (2030): 19.70%
- Average weekly salary: \$1,591

Examples of businesses within this industry that are already in Irwindale include Mastercorp Commercial Services LLC and Emtek Products.

Industries in the Administrative and Support Services subsector support the day-to-day operations of other organizations such as general management, personnel administration, clerical, and cleaning activities. These are functions that are integral to business in all sectors of the economy. A specific business may contract or purchase such services from businesses that specialize in such activities because they can provide the services more efficiently.

Ambulatory Health Care Services (NAICS: 621)

- Share of employment in Irwindale: 3.12%
- LQ: 0.53
- Industry employment projection (2030): 16.39%
- Average weekly salary: \$2,402

Examples of businesses within this industry that are already in Irwindale include American Medical Response Southern California and Medic 1 Ambulance.

Ambulatory Health Care Services industries provide outpatient healthcare services directly or indirectly to ambulatory patients. This subsector falls within the larger Health Care and Social Assistance sector which provides a continuum of care services from trained professionals who are generally defined by educational degree.

TRANSFORMING

These industries have a higher local concentration in Irwindale than in LA County as a whole (LQ above 1.00) but are expected to decline between now and 2030. Transforming industries are considered businesses at risk of losing jobs and may need to focus on adapting their business models to keep up with industry trends. However, the projected decline may also be due to larger factors such as global consumer trends that may be out of local control. Because transforming industries are not a high priority of outreach, this report has only included the one due to its high local presence and comparative concentration.

Furniture and Related Product Manufacturing (NAICS: 337)

- Share of employment in Irwindale: 5.11%
- LQ: 19.58
- Industry employment projection (2030): -7.21%
- Average weekly salary: \$1,157

Example industries in Irwindale include Decore Ative Specialties and Comfortever Upholstery.

The larger manufacturing sector was described earlier however the furniture and related product manufacturing subsector is being further described here due to its status as a transforming industry. These industries make furniture and related products and generally utilize processes that require specialized carpentry knowledge and equipment. Another facet of this industry is the integrated design process of function and aesthetics.

OUTREACH TACTICS

The City is preparing to conduct targeted outreach to these key industries to gain a better understanding of the specific challenges and goals that businesses in Irwindale face. There are many outreach strategies that staff, including the new business visitation team, may employ to connect with business some of which are described here. This section also provides potential conversation topics that relate to the individual sectors and their needs and priorities.

We suggest the following outreach activities:

1. Annual Business Walk, and
2. Monthly Visitation Program

ANNUAL BUSINESS WALK

Conducting an annual business walk with businesses is helpful to build strong City Brand Loyalty, helps the City better understand general and specific business needs and shows the business community the City cares about them and their employees. Business walks involve a team of selected city staff and other selected stakeholders visiting a large group of local businesses on one annual day to gain a better understanding of the specific challenges, needs, and potential opportunities that would help that industry grow and thrive in Irwindale. This outreach strategy will not only inform a more targeted approach to strategic economic development decisions but will also serve as a way of building relationships and foster a greater sense of community within Irwindale's business ecosystem.

In general, the steps to prepare and conduct a business walk involve:

1. Identifying target businesses to engage based on specific industries or areas. The industries in this report, form part of the list of businesses to target.
2. Establishing a team that will include City officials, and others such as members of a chamber of commerce, Mainstreet program or other similar organizations/programs. Each team that visits businesses should consist of no more than 2 people for the walk.

3. Preparing questions or topics of discussion that are specific to your community, the industries you visit, or the locations in which they are located. These questions should be written with the intent to facilitate a more informative conversation that takes the most advantage of the City's time with the business. Notices should be sent out ahead of time (at least 2 weeks) to let businesses know about the activity and your positive intentions for the visit. The number of questions should not exceed 10, and the time with the business should not be longer than between 20-30 minutes. Most questions should remain the same (8-9) with 1 or 2 rotating questions for each year. This allows for annual comparisons of responses.
4. A packet of information should be left with the businesses providing information on how to get immediate support, existing resources for their businesses, and connecting businesses to relevant services or networks such as the Small Business Development Center (SBDC) or the Service Core of Retired Executives (SCORE).
5. The City should maintain contact with businesses after the initial visit to inform the businesses of the survey results, ensure that the provided resources were able to be accessed, getting feedback on what benefits and gaps there were in those resources, and utilizing those relationships to provide information about upcoming activities and most importantly who to connect with when they need assistance.
6. Key Performance Indicators (KPIs) for Annual Business Walks can include the following:
 - a. Annual Survey report provided to the community with comparison to previous year's survey data and responses.
 - b. Number of businesses visited.

MONTHLY BUSINESS VISITATION PROGRAM

Similar to the Annual Business Walk, the goal of a Monthly Visitation program is to build strong City Brand Loyalty, to better understand general and specific business needs and show the business community the City cares about them and their employees. As with the Annual Business Walk, a well-executed Monthly Visitation program will inform a more targeted approach to strategic economic development decisions, but will also serve as a way of building relationships and foster a greater sense of community within Irwindale's business ecosystem.

In general, the steps to prepare and conduct a Monthly Visitation Program involve:

1. Creating a program name for brand recognition. For example, the City could call it the Irwindale CAREs program for Irwindale Communicates and Assists local businesses to Retain them and help them Expand. Another example could be the Irwindale MVP - Irwindale Monthly Visitation Program, or Irwindale could create their own name.
2. The make-up of the monthly visitation team is different than the business walk teams and should include no more than 5 people. Monthly visitation members should generally remain the same. With an occasional visiting member based on a special topic the businesses may want to address. In our experience having the following consistent members works best.

- a. The Mayor
- b. The City Manager or Assistance City Manager
- c. Community Development Director
- d. Economic Development staff lead
- e. Other deemed necessary

Depending on your specific needs and relationships you may consider involving the Chamber CEO, rotating in a Council Member, or others related to your specific community needs.

3. Goals need to be set for how many visits you hope to achieve each month or year. In our experience, due to the very busy schedules involved, attempting to have 2 visits a month and realistically having 1 is an achievable goal and can be worked into most busy professional schedules.
4. Business visit target businesses can be selected from any number of sources but should be based on the City's goals. They can include those on the City's business license list that fall into your targeted cluster industries, high sales tax producers or unique business you want to keep. It is suggested that the Economic Development lead stay informed of these targets with an eye focused on those that are looking to expand or leave Irwindale. Understanding which businesses may leave Irwindale, can be achieved by active participation in and with the business community, connecting with brokers, property owners, and/or reading local papers or business journals.
5. Setting up the meetings and creating the pre-visit packet are a critical part of the effort. The person undertaking this activity should know how to get through to the CEO or local company manager, advise them why the Mayor wants to visit, ask what they want to discuss during the visit and ask for a tour if possible. A pre-visit pack should be created and distributed to those who will visit the business at least 2 days in advance, so they can see who they will be visiting, prepare for any questions they may need to address and read up on the business. The packet should have a brief overview of the company and pages for notes. Usually, the first page or two of a business's website will be sufficient for this overview.
6. During the visit the conversation can be informal, but it is important to address all their questions and see if they have any more. The City should take the opportunity to advise why they are undertaking the visitation and take a tour if possible. We have found that the City and the businesses almost always like a tour, if it is possible. The businesses love to show what they are doing and the City gets a much better understanding on the specific business' operations and needs.
7. Follow up with any outstanding questions and unfinished conversations.
8. Key Performance Indicators (KPIs) for Monthly visitation can include the following:
 - a. Number of businesses visited per month/year.
 - b. Number of issues addressed.

- c. If a business has been saved from leaving Irwindale (and this does happen), record and recognize it.

While visiting a business during an annual business walk or monthly visit, those visiting, should be mindful to focus the discussions to the positive purpose of the visit and avoid bringing up regulatory concerns that they may notice. Those visiting may want to ask permission of participating businesses in taking photographs, collecting information and taking notes in a manner which may otherwise seem unclear or threatening without clarity provided by the City as to the purpose of these activities. Many businesses will be receptive to participating, but the City should understand that it's regulatory role may be what most businesses would expect these visits to be about; once they understand why the City is there, they may be more cooperative and forthcoming, but it is also important that the business visitation teams understand the scope of its activities to not violate trust and miss out on potential opportunities to assist a business grow and succeed in Irwindale.

DISCUSSION TOPICS/QUESTIONS

Coming prepared to outreach engagements with discussion questions and topics is crucial to demonstrating to local businesses that the City is aware of current industry trends and actively engaged in better understanding the specific needs of the local business ecosystem. The discussion topics are likely to change depending on the industry's workforce needs, consumer base, land use, etc. Each industry is different, and your outreach efforts will provide greater insight so you can ask more specific questions about specific industry needs as your program progresses. For example, companies that utilize raw plastics typically receive the materials in palletted crates called Gaylords. If you knew this and there was a shortage of Gaylords, you may be better positioned to address their needs more quickly. But again, these industry specific questions come with time and involvement with your specific cluster industries. Below are some specific topic ideas that will help City staff prepare for their outreach to specific industries.

1. What is the one thing that the City might be able to do to assist your business?
2. What one barrier might the City help remove, to help your business grow?
3. Are you planning on moving or when might your lease come up for renewal?
4. Do you need any specific suppliers or customers to be located nearby your facility?
5. Can we assist you with hiring resources?
6. Example questions for your different cluster industries.

Specialty Trade Contractors (NAICS: 238):

1. How is the process for acquiring permits for your work? Do you see any ways the City can improve on our permitting for these services?

Heavy and Civil Engineering Construction (NAICS 237)

1. How is the process for acquiring permits for your work? Do you see any ways the City can improve on our permitting for these services?

Parts and Building Materials Dealers (NAICS: 441 and 444):

1. Are there way the City might assist you with expediting the shipments or raw materials or finished products.

Merchant Wholesalers, Nondurable Goods (NAICS: 424)

1. Are there ways that we might be able to connect you to users of your products?

Merchant Wholesalers, Durable Goods (NAICS: 423)

1. Are there ways that we might be able to connect you to users of your products?

Data Processing, Hosting, and Related Services (NAICS: 518)

1. Are the cost or power or staffing and issue for your company and if so, do you have any thoughts on how the City.

Warehousing and Storage (NAICS: 493)

1. Do you have any suggestions on how the movement of goods could be improved by the City?

Manufacturing (NAICS: 31-33)

1. Could you use support for manufacturing training for current or future employees? If so, what skills are you looking for?

Administrative and Support Services (NAICS: 561)

1. Do you have need for employees or training of existing employees? If so, what types of positions are you looking to fill and what training is needed?

Ambulatory Health Care Services (NAICS: 621)

1. Do you have need for employees or training of existing employees? If so, what types of positions are you looking to fill and what training is needed?

Furniture and Related Product Manufacturing (NAICS: 337)

1. What type, if any, manufacturing do you do related to your products? Do you mostly import and do finishing or is it ground up manufacturing?

Appendix 1

NAICS	Sectors in Irwindale	Percent of sector in City	LQ	Growing industry	Weekly Pay
111	Crop Production	0.25%	3.04	0%	\$ 995
212	Mining (except Oil and Gas)	0.49%	55.41	0%	\$ 1,967
236	Construction of Buildings	0.94%	1.04	14%	\$ 1,568
237	Heavy and Civil Engineering Construction	0.93%	2.00	10%	\$ 2,321
238	Specialty Trade Contractors	2.82%	1.22	13%	\$ 1,457
311	Food Manufacturing	15.89%	16.50	1%	\$ 1,146
312	Beverage and Tobacco Product Manufacturing	1.21%	7.51	0%	\$ 1,449
313	Textile Mills	0.02%	0.19	-31%	\$ 1,067
314	Textile Product Mills	0.06%	0.57	0%	\$ 1,165
315	Apparel Manufacturing	0.01%	0.02	-35%	\$ 1,109
321	Wood Product Manufacturing	0.16%	2.55	0%	\$ 1,140
322	Paper Manufacturing	0.03%	0.22	-3%	\$ 1,586
323	Printing and Related Support Activities	0.52%	2.23	-25%	\$ 1,124
324	Petroleum and Coal Products Manufacturing	0.37%	2.86	2%	\$ 2,924
325	Chemical Manufacturing	0.66%	1.34	3%	\$ 1,683
326	Plastics and Rubber Products Manufacturing	0.32%	1.15	-15%	\$ 1,333
327	Nonmetallic Mineral Product Manufacturing	1.09%	7.16	0%	\$ 1,376
331	Primary Metal Manufacturing	1.11%	8.93	-7%	\$ 1,408
332	Fabricated Metal Product Manufacturing	0.53%	0.61	-7%	\$ 1,381
333	Machinery Manufacturing	0.85%	2.79	-12%	\$ 1,645
334	Computer and Electronic Product Manufacturing	1.45%	1.57	-4%	\$ 2,334
335	Manufacturing	1.26%	7.17	4%	\$ 1,637
336	Transportation Equipment Manufacturing	0.38%	0.32	-4%	\$ 2,207
337	Furniture and Related Product Manufacturing	5.11%	19.58	-7%	\$ 1,157
339	Miscellaneous Manufacturing	4.28%	10.08	5%	\$ 1,628
423	Merchant Wholesalers, Durable Goods	7.75%	3.46	4%	\$ 1,660
424	Merchant Wholesalers, Nondurable Goods	5.30%	2.29	14%	\$ 1,446
425	Wholesale Electronic Markets and Agents and Brokers	0.08%	0.35	-9%	\$ 1,646
441	Motor Vehicle and Parts Dealers	1.54%	1.49	9%	\$ 1,618
442	Furniture and Home Furnishings Stores	0.40%		6%	
444	Dealers	1.24%	1.97	7%	\$ 961
445	Food and Beverage Stores	0.22%	0.10	11%	\$ 1,007
446	Health and Personal Care Stores	0.49%		13%	
447	Gasoline Stations	0.34%		-3%	
448	Clothing and Clothing Accessories Stores	3.04%		28%	
449	Retailers	0.04%			
451	Stores	0.03%		-9%	
453	Miscellaneous Store Retailers	0.01%		14%	
456	Health and Personal Care Retailers	0.04%			
457	Gasoline Stations and Fuel Dealers	0.02%			
458	Retailers	0.01%			
459	Miscellaneous Retailers	0.07%			
484	Truck Transportation	2.62%	3.00	22%	\$ 1,231
485	Transit and Ground Passenger Transportation	0.00%	-	23%	\$ 1,520
488	Support Activities for Transportation	0.10%	0.07	20%	\$ 2,140
493	Warehousing and Storage	4.60%	8.64	20%	\$ 1,231
512	Motion Picture and Sound Recording Industries	0.00%	-	20%	\$ 2,161

Appendix 1

NAICS	Sectors in Irwindale	Percent of sector in City	LQ	Growing industry	Weekly Pay
513	Publishing Industries	0.58%			
515	Broadcasting (except Internet)	4.37%		18%	
517	Telecommunications	0.42%	1.23	-22%	\$ 2,065
518	Data Processing, Hosting, and Related Services	1.86%	6.94	57%	\$ 3,550
522	Credit Intermediation and Related Activities	1.79%	1.44	-7%	\$ 2,725
	Securities, Commodity Contracts, and Other Financial Investments and Related Activities	0.12%	0.20	13%	\$ 5,612
523	Real Estate	0.47%	0.30	15%	\$ 1,593
531	Rental and Leasing Services	0.08%	0.17	0%	\$ 1,335
532	Professional, Scientific, and Technical Services	2.63%	0.36	0%	\$ 2,281
541	Administrative and Support Services	4.15%	0.65	20%	\$ 1,591
561	Waste Management and Remediation Services	3.16%	10.64	0%	\$ 1,577
562	Educational Services	0.53%	0.06	0%	\$ 2,740
611	Ambulatory Health Care Services	3.12%	0.53	16%	\$ 2,405
621	Social Assistance	0.98%	0.13	33%	\$ 1,746
624	Industries	1.60%	1.39	47%	\$ 2,906
711	Amusement, Gambling, and Recreation Industries	0.08%	0.07	82%	\$ 757
713	Accommodation	0.01%	0.01	49%	\$ 1,983
721	Food Services and Drinking Places	1.26%	0.14	46%	\$ 805
722	Repair and Maintenance	0.72%	0.81	7%	\$ 2,266
811	Personal and Laundry Services	0.21%	0.15	51%	\$ 1,416
812	Organizations	1.48%	1.45	18%	\$ 1,377
813	Administration of Human Resource Programs	1.16%	1.49	0%	\$ 2,049
923	Administration of Economic Programs	0.50%	1.25	0%	\$ 1,924

*Empty cells indicate no data for that industry

Item #22.A.

City of
IRWINDALE
AGENDA REPORT

Date: February 14, 2024
To: Honorable Mayor and Members of the City Council
From: Julian A. Miranda, City Manager
Issue: Development Agreement No. 01-2020 for the Digital Conversion of an Existing Static Billboard Located at 4800 Rivergrade Road

City Manager's Recommendation:

That the City Council consider the Planning Commission's Resolution No. 821(24), recommending the City Council approve Development Agreement (DA) No. 01-2020 for the conversion of an existing static billboard into a digital display billboard located at 4800 Rivergrade Road; and

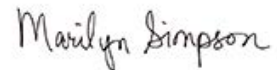
Introduce for first reading by title only with further reading waived:

Ordinance No. 775, approving Development Agreement (DA) No. 01-2020, entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRWINDALE APPROVING DEVELOPMENT AGREEMENT NO. 01-2020 BETWEEN CITY OF IRWINDALE AND RIVERGRADE HOLDING LLC TO ALLOW FOR THE DIGITAL CONVERSION OF AN EXISTING STATIC BILLBOARD LOCATED AT 4800 RIVERGRADE ROAD (APN: 8535-020-045, 8535-020-047, 8535-020-048) IN THE M-2 (HEAVY MANUFACTURING) ZONE SUBJECT TO THE CONDITIONS AS SET FORTH HEREIN AND MAKING FINDINGS IN SUPPORT THEREOF; AND FINDING THE PROJECT EXEMPT FROM THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT CEQA GUIDELINES SECTION 15302 (CLASS 2; REPLACEMENT AND RECONSTRUCTION)"

Administrative Action:

Submitted by:

Marilyn Simpson, Community Development Director



Prepared by:

Martin Romero, Planning Technician

Electronically Approved

Reviewed by:

Adrian R. Guerra, City Attorney



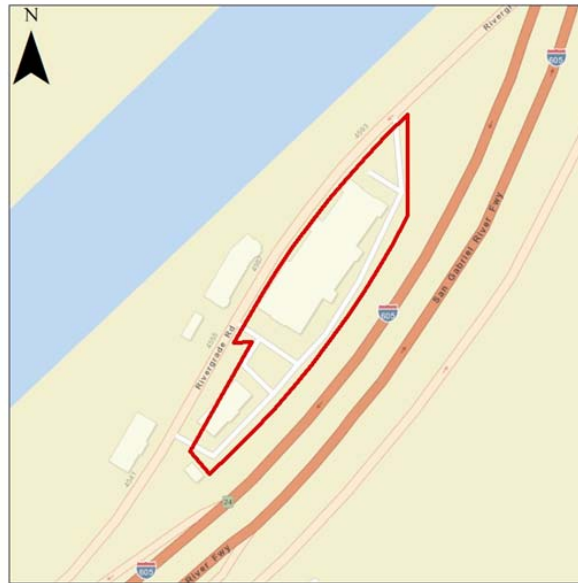
Kambiz Borhani, Finance Director / City Treasurer



Approved by:

Julian A. Miranda, City Manager

Julian A. Miranda



Background and Analysis:

REQUEST

The Applicant, Rivergrade Holding LLC, is requesting approval of a Development Agreement to allow the conversion of a freeway-oriented static billboard into a digital display billboard along Interstate 605 (I-605) Freeway just north of the Rivergrade Road and Lower Azusa Road intersection at 4800 Rivergrade Road. Per Irwindale Municipal Code (IMC) Section 17.72.030, the repair, replacement, or new installation of a static or digital billboard requires the approval of a Development Agreement with appropriate standards and public benefits to be negotiated with the City and complying with all other standards imposed by the Irwindale Municipal Code (IMC).

BACKGROUND

The site is located west of the I-605 freeway, east of Rivergrade Road. The site is currently occupied by four (4) buildings having a total square footage of $\pm 63,209$ square feet, formerly Hallett Boats. The subject billboard sits east of the buildings and faces the I-605 freeway. There is an existing static billboard located north of the project site sitting roughly 500 feet from the subject billboard. The digital conversion of the subject billboard meets the minimum distance requirement per IMC Subsection 17.72.50(D)(7).

PLANNING COMMISSION REVIEW

On January 17, 2024, Development Agreement No. 01-2020 was presented to the Planning Commission at the public hearing. The Planning Commission adopted Resolution No. 821(24) recommending that the City Council consider and adopt Ordinance No. 775, approving DA No.01-2020.

GENERAL PLAN AND ZONING

The Site is designated in the General Plan as Industrial/Business Park and zoned M-2 (Heavy Manufacturing).

The proposed billboard area is surrounded by the following zones and uses:

Direction	Existing Land Use	Zoning District
North	San Gabriel River	M-2 (Heavy Manufacturing) and A-1 (Agricultural)
South	I-605 Fwy	I-605 Fwy
East	I-605 Fwy	I-605 Fwy
West	San Gabriel River	M-2 (Heavy Manufacturing) and A-1 (Agricultural)

PROJECT DESCRIPTION/ANALYSIS

The Applicant is proposing to convert an existing static billboard consisting of two (2), 14'-0" x 48'-0" digital panels arranged in a "V" shaped panel configuration having both the north-facing and south-facing panels facing both directions of the I-605 Freeway. The proposed digital billboard is proposed to have the same height and face area as the existing static billboard it will be replacing. The proposed billboard will have a total height of 52'-4.8", falling below the 65-foot maximum height.

Key provisions of the Development Agreement include the following:

1. *Annual Development Fee.* Developer will pay Seventy Thousand Dollars (\$70,000.00) to the City of Irwindale per year (representing \$35,000 per Digital Display) with a 12.5% increase every 5 years.
2. *Community Benefit.* Developer will provide advertising space on the Digital Displays to the City free of charge on a space-available basis. Such advertising space shall only be made available for the use of City-related events or agencies.

3. *Prohibited Use.* Developer will not utilize any of the displays on the Billboard to advertise tobacco, marijuana, hashish, “gentlemen’s clubs,” adult entertainment businesses, sexually oriented materials, or use sexually oriented images or language, including, but not limited to, ads such as “Adult Con”, vulgar or obscene images or language.
4. *Annual Review.* The City Council will have the right to review this Agreement annually at the Developer’s sole cost, on or before the anniversary of the Term, to ascertain the good faith compliance by Developer with the terms of the Agreement (“Annual Review”).
5. *Indemnification.* Developer will indemnify the City for any damages or claims related to its construction and operation of the subject billboard.

DEVELOPMENT STANDARDS COMPLIANCE

Pursuant to the Irwindale Municipal Code Section 17.72.050, the proposed digital billboard complies with all of the required development standards, including, but not limited to the following (Refer to Exhibit B for a description of all general billboard standards):

A. *Sign Face Dimensions.*

1. The area of the sign face shall not exceed 675 square feet, excluding border, trim, cutouts and other special advertising features or additions and base or apron supports and other structural members.
2. Cutouts and other special advertising features or additions to a sign face shall not exceed in area 10% of the total sign face dimensions.
3. Three-dimensional design elements shall not extend more than 5 feet beyond the front of the sign face or sign side.
4. Bidirectional or double-faced signs shall be located on the same structure. For parallel double-faced signs, the distance between sign faces shall not exceed 8 feet. For "V-shaped" double-faced signs, the distance between sign faces shall not exceed 45 feet at their widest point and shall not exceed 8 feet at their closest point.
5. Billboard identification signs shall have a minimum character height of two feet.

B. *Structure Design.* Each structure shall have no more than two poles, and shall be constructed of noncombustible material.

C. *Height.* The height shall not exceed 65 feet or, exclusive of cutouts or special additions, measured from the higher of either:

1. The finished grade of the roadway adjacent to the lot on which the structure is located and from which the advertising display is to be viewed; or
2. the finished grade of the base of the sign.

D. *Location.* The location of billboards shall be restricted as follows:

1. Structures shall be located only in area immediately adjacent to the I-605 and I-210 freeways that is zoned for commercial, quarry or industrial uses.
2. Structures shall not be located on public property or rights-of-way. No portion of any sign or structure shall located on, project into, beneath, or above the public right-of-way.
3. Maintenance, repair and other related operations shall be operated completely upon the billboard site and shall not use or encroach on any public right-of-way.
4. Structures shall not be located within the setbacks that apply to the zone in which the structure is located.
5. Structures shall not be located within 5 feet of a building or other structure.
6. New billboards shall not be located within 2,500 feet of another billboard on the same side of the public right-of-way. Existing billboards may not be replaced unless they are outside of a minimum 500-foot buffer of another billboard. For purposes of this section, measurements shall be made from the centerline of the support structure if a single pole and from the angle of intersection if a perpendicular (V-shaped) sign. Development Agreements for new billboard structures with digital displays may provide for a reduced buffer, but not less than 1,500 feet in due consideration of other public benefits provided in the development agreements, including, but not limited to, the concurrent takedown of existing static displays or digital displays within the City.
7. When the replacement of a static billboard results in the construction of a new digital display, the new billboard shall not be located within a 500-foot radius of any existing billboards (static or digital) on the same side of the public right-of-way. For purposes of this section, measurements shall be made from the centerline of the support structure if a single pole and from the angle of intersection if a perpendicular (V-shaped) sign.

DEVELOPMENT AGREEMENT FINDINGS

California Government Code Section 65867.5 provides the following:

- (a) A Development Agreement is a legislative act that shall be approved by ordinance and is subject to referendum.
- (b) A Development Agreement shall not be approved unless the legislative body finds that the provisions of the agreement are consistent with the General Plan and any applicable specific plan.
- (c) A Development Agreement that includes a subdivision, as defined in Section 66473.7, shall not be approved unless the agreement provides that any tentative map prepared for the subdivision will comply with Section 66473.7.
- (d) Notwithstanding Section 65803, this section shall also apply to a charter city.

Accordingly, in order to approve the ordinance granting the Development Agreement, the City Council

is required to find that the provisions of the Development Agreement are consistent with the Irwindale General Plan. Staff recommends that the City Council make this finding based on the following:

- The proposed digital billboard conversion per Development Agreement No. 01-2020 is consistent with the General Plan, including the General Plan Land Use and Economic Development policies in the Community Development Element. These policies provide for comprehensive land use planning to preserve the overall mix of land uses and development in the community, which includes digital billboards, and provides for the pursuit and promotion of economic development to provide revenue to the City.

ENVIRONMENTAL REVIEW

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA) of 1970, as amended, and the City of Irwindale environmental guidelines, the City, as the Lead Agency, has analyzed the project and has determined that the Project is Categorically Exempt from the provisions of CEQA pursuant to Section 15302 (Class 2; Replacement and Reconstruction) and no further review is required. Also, the City has determined that this project will not have, either individually or cumulatively, an adverse impact on fish and wildlife resources.

Subject to approval of the project by the City Council based on a recommendation by the Planning Commission, a Notice of Exemption will be filed with the office of the Registrar-Recorder/County Clerk, County of Los Angeles.

Fiscal Impact:

The Development Agreement application is deposit-based and therefore does not have a negative impact on the City's General Fund. An annual development fee has been made part of the agreement that will generate Seventy Thousand Dollars (\$70,000) to the City of Irwindale per year (representing \$35,000 per digital display) with a 12.5% increase every 5 years.

Attachments:

1. CC Ordinance No. 775
2. Attachment B - 4800 Rivergrade Billboard Development Agreement Final
3. Attachment C - IMC Section 17.72.050 General Billboard Standards
4. Attachment D - Site Plan, Elevation
5. Attachment D2- Photo Simulation
6. Attachment E - City of Irwindale Planning Commission Staff Report with Resolution No. 821(24 and Development Agreement No. 01-2020

ATTACHMENT "A"

ORDINANCE NO. 775

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRWINDALE APPROVING DEVELOPMENT AGREEMENT NO. 01-2020 BETWEEN CITY OF IRWINDALE AND RIVERGRADE HOLDING LLC TO ALLOW FOR THE DIGITAL CONVERSION OF AN EXISTING STATIC BILLBOARD LOCATED AT 4800 RIVERGRADE ROAD (APN: 8535-020-045, 8535-020-047, 8535-020-048) IN THE M-2 (HEAVY MANUFACTURING) ZONE SUBJECT TO THE CONDITIONS AS SET FORTH HEREIN AND MAKING FINDINGS IN SUPPORT THEREOF; AND FINDING THE PROJECT EXEMPT FROM THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15302 (CLASS 2; REPLACEMENT AND RECONSTRUCTION)

WHEREAS, Andrew Goodman, on behalf of Rivergrade Holding LLC (the "Applicant") has made a request for approval of a Development Agreement (Exhibit A) to allow the conversion of an existing static billboard into a digital display billboard located at 4800 Rivergrade Road in Irwindale, APNs: 8535-020-045, 8535-020-047, 8535-020-048 ("Subject Property"). The proposed billboard conversion will consist of two (2), 14'-0" x 48'-0" digital panels arranged in a "V" shaped panel configuration having both the north-facing and south-facing panels facing both directions of the I-605 Freeway. The proposed digital billboard is proposed to have the same height and face area as the existing static billboard it will be replacing. The proposed billboard will have a total height of 52'-4.8", falling below the 65-foot maximum height; and

WHEREAS, the Subject Property is zoned M-2 (Heavy Manufacturing). Per Irwindale Municipal Code (IMC) Section 17.72.030, the repair, replacement, or new installation of a static or digital billboard requires the approval of a Development Agreement with appropriate standards and public benefits to be negotiated with the City and complying with all other standards imposed by the IMC; and

WHEREAS, pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA) of 1970, as amended, and the City of Irwindale environmental guidelines, the City, as the Lead Agency, has analyzed the project and has determined that the Project is Categorically Exempt from the provisions of CEQA pursuant to Section 15302 (Class 2; Replacement and Reconstruction) and no further review is required. Also, the City has determined that this project will not have, either individually or cumulatively, an adverse impact on fish and wildlife resources. Subject to approval of the project by the City Council based on a recommendation by the Planning Commission, a Notice of Exemption will be filed with the office of the Registrar-Recorder/County Clerk, County of Los Angeles; and

WHEREAS, on January 17, 2024, the Planning Commission conducted a duly noticed public hearing, at which time they received a presentation from staff; opened the public hearing and heard testimony from the Applicant and the public; closed the public hearing; discussed the Proposed Project; and, after discussion and consideration of substantial evidence including the testimony, staff report, and all attachments thereto,

ATTACHMENT “A”

approved and adopted Resolution No. 821(24) recommending that the City Council approve Development Agreement No. 01-2020; and

WHEREAS, on February 14, 2024, the project was scheduled before the City Council as a duly noticed public hearing, at which time they received the presentation from Staff, recommendation from the Planning Commission, testimony from the Applicant; heard public testimony; closed the public hearing; and, after discussion of the project, conducted a first reading of this Ordinance approving Development Agreement No. 01-2020; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IRWINDALE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds that all of the facts set forth in Recitals, Part A, of this Ordinance are true and correct, and incorporated herein by this reference.

SECTION 2. The City Council finds as follows:

- a. Based upon substantial evidence and testimony taken from the record as a whole, and received at the public hearing, both oral and written, including the recommendation of the Planning Commission, staff report, and all attachments thereto, all of which shall constitute the entire record of the matter, the City Council hereby finds that the proposed billboard conversion and Development Agreement No. 01-2020 complies with the General Standards imposed by Section 17.72.050 of the Irwindale Municipal Code.
- b. The proposed digital billboard conversion per Development Agreement No. 01-2020 is consistent with the General Plan, including the General Plan Land Use and Economic Development policies in the Community Development Element. These policies provide for comprehensive land use planning to preserve the overall mix of land uses and development in the community, which includes digital billboards, and provides for the pursuit and promotion of economic development to provide revenue to the City.
- c. Development Agreement No. 01-2020 contains a provision for annual review of Developer's compliance with its terms, is limited in duration for thirty (30) years following final permit approvals unless duly extended following negotiations between the City and Rivergrade Holding LLC and specifies the permitted use of the site related to the billboards and provisions for City access to the site when necessary.

ATTACHMENT "A"

- d. The City Council, on behalf of the City of Irwindale, as the Lead Agency, has analyzed the project and has determined that the Project is Categorically Exempt from the provisions of CEQA pursuant to Section 15302 (Class 2; Replacement and Reconstruction) and no further review is required. Also, this project will not have, either individually or cumulatively, an adverse impact on fish and wildlife resources.

SECTION 3. Based upon substantial evidence presented to this City Council during the public hearing conducted with regard to the Application and set forth herein above, this City Council hereby approves Development Agreement No. 01-2020, attached hereto as Exhibit A and by this reference incorporated herein. The Development Agreement is necessary to protect the public health, safety and general welfare and is reasonable and proper in accordance with the intent and purposes of Title 17 of the Irwindale Municipal Code. Therefore, the City Council hereby approves Development Agreement No. 01-2020 and authorizes its execution and all actions necessary to comply with its terms.

SECTION 4. The City Council hereby authorizes and directs the Mayor, Chief Deputy City Clerk to execute this Ordinance on behalf of the City of Irwindale forthwith upon its adoption.

SECTION 5. The Chief Deputy City Clerk Shall:

- a. Certify to the adoption of this Ordinance and shall cause the same to be published and/or posted at the designated locations in the City of Irwindale; and
- b. Forthwith transmit a certified copy of this Ordinance, by certified mail to the Applicant at the address of record set forth in the Application.

PASSED, APPROVED, AND ADOPTED this 14th day of February 2024.

Albert F. Ambriz, Mayor

ATTEST:

Laura M. Nieto, MMC
Chief Deputy City Clerk
STATE OF CALIFORNIA }

ATTACHMENT “A”

COUNTY OF LOS ANGELES }
CITY OF IRWINDALE }

ss.
}

I, Laura M. Nieto, Chief Deputy City Clerk of the City of Irwindale, do hereby certify that the foregoing Ordinance No. 775 was duly introduced by the City Council of the City of Irwindale, at a regular meeting held on the 14th day of February 2024, and was duly approved and adopted on second reading at its regular meeting held on the 28th day of February 2024, by the following vote of the Council:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

ABSTAIN: Councilmembers:

Laura M. Nieto, MMC
Chief Deputy City Clerk

EXHIBIT A

Recording Requested by And
When Recorded Return to:
CITY OF IRWINDALE
5050 N. Irwindale Ave.
Irwindale, CA 91706
Attn: City Clerk

[Exempt From Recording Fee Per Gov. Code §6103]

DEVELOPMENT AGREEMENT NO. 01-2020

This Development Agreement (“**Agreement**”) is entered into this ____ day of _____, 2024 (“**Effective Date**”) by and between the CITY OF IRWINDALE, a California municipal corporation (“**City**”) and RIVERGRADE HOLDING, LLC, a California limited liability company (“**Developer**”).

RECITALS

A. California Government Code Sections 65864, *et seq.*, (“**Development Agreement Law**”) authorizes cities to enter into binding development agreements with persons having a legal or equitable interest in real property for the development of such property, all for the purposes of strengthening the public planning process, encouraging private participation and comprehensive planning and identifying the economic costs of such development.

B. Developer is the grantee of that certain Grant of Easement for Billboard Sign and Access granting Developer an exclusive easement over a certain portion of real property, as further described below (such easement is referred to herein as the “**Billboard Sign Easement Site**”), which real property is located adjacent to the west side of the 605 Freeway and immediately east of Rivergrade Road in the City of Irwindale, at 4800 Rivergrade Road, Assessor Parcel Numbers 8535-020-045, 8535-020-047 and 8535-020-048, and as more specifically described in Exhibit “A-1”, attached hereto and incorporated herein (such real property is referred to herein as the “**Real Property Site**”). Grantee’s easement rights and obligations with regards to the Billboard Sign Easement Site have been modified or otherwise clarified through that certain First Amendment to Grant of Easement for Billboard Sign and Access, recorded October 10, 2023 with the County Recorder’s Office, having document number 20230687730.

C. The Billboard Sign Easement Site, which lies within the borders of the Real Property Site, is specifically described in Exhibit “A-2” and depicted in Exhibit “A-3”, attached hereto and incorporated herein and improved with one (1) existing lawfully-permitted double-sided printed billboard (such printed billboard is referred to herein as the “**Printed Billboard Structure**”).

D. Pursuant to the terms of this Agreement, Developer seeks to replace the Printed Billboard Structure with one double-faced digital billboard (such digital billboard is referred to herein as the “**Digital Billboard Structure**”), having a V-shaped design with one face oriented towards southbound traffic and the other face oriented toward northbound traffic on the 605 Freeway, using a new billboard foundation and pole structure in generally the same location where the Printed Billboard Structure is currently located. The Digital Billboard Structure will have

two faces of approximately 14 feet by 48 feet, or approximately 675 square feet (each referred to individually herein as a “**Digital Display Face**”). The Digital Billboard Structure will be supported by a single post.

E. Luos Investment LLC, a California limited liability company, owns the Real Property Site. Luo Investment, LLC has represented and warranted that it is the owner of the Real Property Site and that Rivergrade Holding LLC has (1) a valid current easement interest in the Billboard Sign Easement Site, (2) the exclusive, perpetual and irrevocable right to replace and modify (and all activities reasonably necessary in connection therewith) the Printed Billboard Structure, and (3) provided Luo Investment, LLC with notice of the replacement Digital Billboard Structure including a detailed description of the proposed Project. Developer, as the easement holder to the Billboard Sign Easement Site upon which the Printed Billboard Structure is located, has a legal and/or equitable interest in the Billboard Sign Easement Site and, thus, qualifies to enter into this Agreement in accordance with Development Agreement Law.

F. Developer is currently subject to an April 1, 2003 Billboard Lease Agreement, as assigned, with Regency Outdoor Advertising, Inc. and Clear Channel Outdoor, Inc. for the lease of each display face on the Printed Billboard Structure, which lease is on a month-to-month term and Developer, in its discretion intends to terminate such lease to allow for the Project and negotiate a new lease with an operator of Developer’s choice to utilize such Digital Billboard Structure and Digital Display Faces in pursuit of the approvals secured through this Agreement.

G. In exchange for the approvals sought to install the Digital Billboard Structure, Developer has offered to:

1. Pay to the City an annual Development Fee, as defined and provided in Section 2.6 below, for the cost to the City to mitigate the impact of the installation of the Digital Billboard Structure; and

2. Provide advertising time on the Digital Billboard Structure on a space-available basis to the City for public service and civic causes.

H. The Billboard Sign Easement Site is located within the City’s M-2 Heavy Manufacturing Zone and designated by the General Plan land use map as Commercial/Industrial.

I. Developer and City agree that a development agreement should be approved and adopted to memorialize the property expectations of City and Developer as more particularly described herein.

J. On January 17, 2024, the Planning Commission of the City, adopted Resolution No. 821(24) recommending approval of this Agreement and Ordinance No. 775 to the City Council and the filing of a Notice of Exemption pursuant to the provisions of the California Environmental Quality Act (“**CEQA**”).

K. On February 14, 2024, the City Council of the City, at a duly noticed hearing to consider the approval of this Agreement, considered the proposal, heard testimony, and introduced Ordinance No. 775, and authorized the adoption of a Notice of Exemption pursuant to Section 15302 of the CEQA Guidelines (Class 2 exemption for replacement or reconstruction of existing structures and facilities).

L. The City Council has found that this Agreement is in the best interest of the City and its residents, adopting this Agreement constitutes a prudent exercise of the City's police power, and this Agreement is consistent with the City's General Plan. This Agreement and the proposed Project (as hereinafter defined) will achieve several City objectives. Upon expiration or any termination of this Agreement, City and Developer shall be subject to Section 4.1 and Section 4.2 with respect to various rights and obligations to convert the Digital Billboard Structure back to a printed billboard with two facings, subject to obtaining any required permits.

M. On March 13, 2024, the City Council held the second reading of Ordinance No. 775, thereby approving this Agreement.

N. City finds and determines that all actions required of City precedent to approval of this Agreement by Ordinance No. 775 of the City Council have been duly and regularly taken.

COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS AND EXHIBITS.

1.1 **Definitions.** This Agreement uses a number of terms having specific meanings, as defined below. These specially defined terms are distinguished by having the initial letter capitalized, when used in the Agreement. In addition to the terms defined in the Recitals above, the defined terms include the following:

1.1.1 "Agreement" means this Development Agreement and all attachments and exhibits hereto.

1.1.2 "Billboard Sign Easement Site" shall have the meaning ascribed in the Recitals above.

1.1.3 "City" means the City of Irwindale, a California municipal corporation and charter city.

1.1.4 "City Council" means the City Council of the City.

1.1.5 "Developer" means Rivergrade Holding LLC, a California limited liability company, duly existing and operating, and its successors and assigns, doing business at 9454 Wilshire Boulevard, Suite 201, Beverly Hills, CA 90212.

1.1.6 "Development Approvals" means any and all permits or approvals necessary to carry out and complete the Project, including, but not limited to Ordinance No. ___, and as further described in Section 3.3 herein.

1.1.7 "Development Fee" shall have the definition given in Section 2.6 of this Agreement.

1.1.8 “Digital Billboard Structure” shall have the meaning ascribed in the Recitals above.

1.1.9 “Digital Display Face” shall have the meaning ascribed in the Recitals above.

1.1.10 “Effective Date” means the date inserted into the preamble of this Agreement, which is 30 days following approval of this Agreement by ordinance of the City Council, provided the Agreement is signed by the Developer and City.

1.1.11 “Fee Commencement Date” shall have the definition given in Section 2.6 of this Agreement.

1.1.12 “Final Permits” shall mean the final approval from the applicable governmental authorities and all required third party approvals, after the expiration of all applicable appeal periods, for any and all required permits to maintain and operate the Digital Billboard Structure as contemplated under this Agreement.

1.1.13 “Land Use Regulations” means all ordinances, resolutions, codes, rules, regulations and official policies of City, including, but not limited to, the City’s General Plan, Municipal Code, and Zoning Code, which govern development and use of the Billboard Sign Easement Site, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, the maximum height and size of the Digital Billboard Structure and the design, improvement and construction standards and specifications applicable to the development of the Billboard Sign Easement Site which are in full force and effect as of the Effective Date of this Agreement, subject to the terms of this Agreement. Land Use Regulations shall also include National Pollutant Discharge Elimination System (“**NPDES**”) regulations and approvals from the California Department of Transportation Outdoor Advertising Division, to the extent applicable.

1.1.14 “Mortgagee” means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security-device, a lender or each of their respective successors and assigns.

1.1.15 “Owner” means the fee simple owner of the Real Property Site encumbered by and subject to Developer’s exclusive grant of easement to the Billboard Sign Easement Site at a specific time. As of the Effective Date, Luos Investment, LLC is the Owner.

1.1.16 “Project” means the removal of the Printed Billboard Structure and installation, operation, improvement, replacement, upgrade, and maintenance of the Digital Billboard Structure on the Billboard Sign Easement Site, all in accordance with the Development Approvals and this Agreement, including the Scope of Development attached hereto as Exhibit “B”, Schedule of Performance attached hereto as Exhibit “D”, and all conditions of approval, and consistent with the approval from the California Department of Transportation Outdoor Advertising Division.

1.1.17 “Real Property Site” shall have the meaning ascribed in the Recitals above.

1.1.18 “Schedule of Performance” means the Schedule of Performance attached hereto as Exhibit “D” and incorporated herein.

1.1.19 “Scope of Development” means the Scope of Development attached hereto as Exhibit “B” and incorporated herein.

1.1.20 “Subsequent Development Approvals” means all Development Approvals issued subsequent to the Effective Date in connection with development of the Project, which shall include, without limitation, any changes to the Development Approvals.

1.1.21 “Subsequent Land Use Regulations” means any Land Use Regulations effective after the Effective Date of this Agreement (whether adopted prior to or after the Effective Date of this Agreement) which govern development and use of the Billboard Sign Easement Site.

1.1.22 “Term” shall have the meaning provided in Section 2.4, unless earlier terminated as provided in this Agreement.

1.2 **Exhibits.** The following documents are attached to, and by this reference made a part of, this Agreement: Exhibit “A-1” (Legal Description of Real Property Site), Exhibit A-2 (Legal Description of Billboard Sign Easement Site), Exhibit “A-3” (Depiction of Billboard Sign Easement Site), Exhibit “B” (Scope of Development), Exhibit “C” (Billboard Sign Easement Site Plan and Elevations), and Exhibit “D” (Schedule of Performance).

2. GENERAL PROVISIONS.

2.1 **Binding Effect of Agreement.** From and following the Effective Date, actions by the City and Developer with respect to the Project, including actions by the City on applications for Subsequent Development Approvals affecting the Billboard Sign Easement Site, shall be subject to the terms and provisions of this Agreement.

2.2 **Interest in Billboard Sign Easement Site.** Developer represents to City that Developer has a legal and/or equitable interest in the Billboard Sign Easement Site and thus is qualified to enter and be a party to this Agreement under the Development Agreement Law.

2.3 **Assignment.** Developer may assign or otherwise transfer this Agreement, or any part of this Agreement, to any other entity, upon presentation to the City of an assignment and assumption agreement in a form reasonably acceptable to the City Attorney and the City's written approval of such assignment or transfer by the City Manager, which shall not be unreasonably withheld if the assignee is able to demonstrate sufficient financial assets and experience in undertaking the obligations under this Agreement. However, Developer may, from time to time and one or more times, assign this Agreement, to another entity without City approval, but with written notice to the City, as long as (1) Developer has and maintains at least a twenty-five percent (25%) ownership interest in the assignee(s) or transferee(s); and (2) any assignee(s) or transferee(s) executes an assumption agreement assuming all of Developer's duties and obligations hereunder to the extent of the interest assigned or transferred. After a transfer or assignment as permitted by this Section, the City shall look solely to such assignee or transferee for compliance with the provisions of this Agreement which have been assigned or transferred.

2.4 **Term of Agreement.** Unless earlier terminated as provided in this Agreement, this Agreement shall continue in full force and effect until the earlier of: (i) thirty (30) years after the Fee Commencement Date; or (ii) the permanent removal of both Digital Display Faces constructed pursuant to the terms hereof (“**Term**”). If only one Digital Display Face is permanently removed from the Digital Billboard Structure and replaced with a printed billboard, the then-current Development Fee will be reduced by fifty percent (50%) and the Agreement will remain in full force and effect as to the remaining Digital Display Face. Within thirty (30) days after the expiration or termination of this Agreement, the parties shall execute a written cancellation of this Agreement which shall be recorded with the County Recorder pursuant to Section 9.1 below. If no extension of this Agreement is agreed to, then the Digital Display Faces shall be removed within the times and as set forth under Section 4 below.

2.5 **Processing Fee.** Developer has paid to City a processing fee (“**Processing Fee**”) in the total amount of \$13,526.20, which included (1) the Agreement application fee of \$2,000.00 (2) Environmental Documentation fee of \$250.00; (3) Agreement fee of \$10,000.00, as an initial deposit for the City Attorney costs of preparation (4) Public Hearing Notices deposit of \$350.00, which did not include the actual cost of ads; (5) a Noticing fee of \$12.00, representing \$2.00 per parcel times the number of parcels that received public hearing notices; and (6) a 35% Administrative and Overhead fee of \$914.20. The City shall retain and use the Processing Fee, or any part thereof, for any public purpose within the City’s discretion. In addition to the Processing Fee, any additional City Attorney fees incurred by City in the preparation and negotiation of the Agreement and processing of Project Development Approvals at a rate not to exceed \$400.00 per hour, plus the actual amount of the costs of the Public Hearing Notice ads, shall be Developer’s responsibility to pay. The Processing Fee shall be separate from all fees which are standard and uniformly applied to similar projects in the City, including, but not limited to, business license fees (due by Developer to City annually), a one-time plan check fee and building permit fee, and any other fees imposed by the City as may be applicable. Additionally, within thirty (30) days of the City providing Developer with a final invoice of legal fees (subject to the above cap) or fees incurred by City related to the negotiation and preparation of this Agreement and Public Hearing Notice ads, Developer shall pay City any outstanding balance of such fees.

2.6 **Development Fee.** The potential aesthetic impacts of the Project on City and surrounding community are discussed in the CEQA documents prepared as part of the review process of this Agreement. The parties agree an annual fee paid by Developer to City would adequately mitigate those aesthetic impacts, because that fee will provide City resources to install and maintain other aesthetic improvements throughout the community, including, but not limited to, landscaping, street medians, signs in public parks, street sweeping, street signs and street lighting. To that end, Developer and City agree that an annual development fee paid per Digital Display Face by Developer to City would adequately mitigate all such potential impacts. The parties therefore agree, subject to the obligations of Section 2.7 below, Developer shall pay an annual development fee to City of \$35,000 per Digital Display Face, increased by twelve and one half percent (12.5%) at the 6th, 11th, 16th, 21st, and 26th payments (“**Development Fee**”). For ease of reference, the Development Fees shall equal the following amounts during the Term:

Payment Number	Fee per Digital Display Face	Fee for Digital Billboard Structure (Project)
1 through 5	\$35,000	\$70,000

6 through 10	\$39,375	\$78,750
11 through 15	\$44,297	\$88,594
16 through 20	\$49,834	\$99,668
21 through 25	\$56,063	\$112,126
26 through 30	\$63,071	\$126,142

The first Development Fee payment for the Project shall be due no later than one (1) year after the Digital Billboard Structure becomes fully operational or within thirty (30) days after Developer receives any income from the use of the Digital Billboard Structure, whichever occurs first (“**Fee Commencement Date**”). On the one-year anniversary of the Fee Commencement Date, Developer shall make the second Development Fee payment and then annually thereafter in accordance with the above pay schedule. Developer shall notify City within five (5) days after the Digital Billboard Structure becomes fully operational or within five (5) days of its receipt of any income received from use of the Digital Billboard Structure, whichever occurs first, for the purpose of determining the Fee Commencement Date. Nothing herein relieves the City from its contractual duty to issue all municipal building permits that are associated with the Project if Developer is in compliance with the terms of this Agreement. In compliance with the provisions of Government Code section 65865(e), City shall maintain the Development Fee it receives pursuant to this Agreement and other similar agreements in a separate capital facilities account to be expended for the purpose of enhancing and/or improving the aesthetics of the community within the City of Irwindale, such as through new street signs, street lighting, increased landscaping, heightened landscape maintenance, removal of code violations that impact the aesthetics of the community, and other related aesthetic uses.

2.6.1 *Late Payment*

(a) Penalty. The City may notify the Developer if the Development Fee is not received within ten (10) business days after the due date (“**Late Notice**”); there shall be no penalty if payment is made within ten (10) business days following the Late Notice. The date of the Late Notice shall mean the date that it is received by the Developer after it has been placed by the City in the U.S. Mail, certified mail with return receipt. Failure to sign the return receipt shall not affect the date Late Notice is given. If City does not issue a Late Notice, penalties will begin to accrue if payment is not made within thirty (30) calendar days of the Due Date.

Late payment penalties shall be calculated as follows: 5% of the Development Fee due and payable for the current year shall be added to the Development Fee for that year for failure to make the full payment within ten (10) business days of the Late Notice. As an example, the Development Fee for Year 5 is \$70,000. A 5% penalty would result in a total amount due of \$73,500 (\$70,000 + \$3,500). Thereafter, for each additional ten (10) calendar days that the full Development Fee is not paid, including the penalty, the Developer shall incur an additional penalty of 5% of that year’s Development Fee, for a maximum penalty of 15% of that year’s Development Fee.

(b) Termination. Notwithstanding anything to the contrary in Article 6 of this Agreement, failure by Developer to pay the Development Fee to the City within thirty (30) days following the due date of each year during the Term of this Agreement is considered

a material breach of this Agreement, and if not paid in full to the City, including all late penalties, within ten (10) business days after written notice to Developer of such material breach, City may begin termination proceedings in accordance with Article 6 of Agreement.

2.7 Community Benefits. Developer shall also provide free of charge to City on a space-available basis, advertising space on the Digital Billboard Structure. Such advertising space shall only be made available for the use of City-related events or agencies. City will be responsible for creating the design of any displays, subject to review and approval of a suggested copy from City by Developer, with such Developer approval not to be unreasonably withheld, conditioned or delayed. Developer agrees to install, at no cost to the City, an unlit City emblem (the “**City Logo**”) on the sign column of each Digital Billboard Structure. Said logo shall be provided to the Developer by the City, as further detailed in “Exhibit B” attached hereto.

2.8 Prohibited Use. Developer shall not utilize any of the displays on the Digital Billboard Structure to advertise tobacco, marijuana, hashish, “gentlemen’s clubs,” adult entertainment businesses, sexually oriented materials, or use sexually oriented images or language, including, but not limited to, ads such as “Adult Con”, vulgar or obscene images or language, or as may be prohibited by any City ordinance existing as of the Effective Date of this Agreement or as may be amended or implemented from time-to-time after the Effective Date and equally-applicable to all digital displays by any duly adopted and valid City ordinance.

3. DEVELOPMENT AND IMPLEMENTATION OF THE PROJECT.

3.1 Rights to Develop Project on the Billboard Sign Easement Site. Subject to and during the Term of this Agreement, Developer shall develop, maintain, and operate the Project on the Billboard Sign Easement Site in accordance with, and to the extent of, the Development Approvals, the Land Use Regulations, and this Agreement.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement, the rules, regulations and official policies governing permitted uses of the Billboard Sign Easement Site, the density and intensity of use of the Billboard Sign Easement Site, the maximum height and size of the proposed Digital Display Face, and the design, improvement and construction standards and specifications applicable to development of the Project shall be as set forth in the Land Use Regulations, as such term is defined in Section 1.1.13, which are in full force and effect as of the Effective Date of this Agreement, subject to the terms of this Agreement.

3.3 Development Approvals. Developer shall, at its own expense and before commencement of demolition, construction or development of any structures or other work of improvement upon the Billboard Sign Easement Site, secure or cause to be secured all necessary Development Approvals, which shall include any and all permits and approvals which may be required by City or any other governmental agency or utility affected by such construction, development or work to be performed by Developer pursuant to the Scope of Development, including but not limited to, necessary building permits and all approvals required under the California Environmental Quality Act (“CEQA”). Not by way of limiting the foregoing, in developing and constructing the Project, Developer shall comply with all (1) applicable

development standards in City's Municipal Code, (2) applicable NPDES requirements pertaining to the Project, and (3) all applicable building codes, except as may be permitted through approved variances and modifications. Developer shall pay all normal and customary fees and charges applicable to such permits, and any fees and charges hereafter imposed by City in connection with the Project which are standard and uniformly applied to similar projects in the City.

3.4 Timing of Project; Scope of Development. Developer shall comply with all time requirements set forth in the Schedule of Performance, attached hereto as Exhibit "D". Developer shall remove the Printed Billboard Structure and install a Digital Billboard Structure and such Digital Billboard Structure and both Digital Display Faces shall be fully operational not later than one (1) year after the issuance of Final Permits for the Digital Billboard Structure, or two (2) years after the Effective Date, whichever occurs first. If the Digital Billboard Structure is not fully operational within such time, and after compliance with Section 5.4, City may terminate this Agreement and shall have no further obligation hereunder. However, City may allow for extensions of time for the conversions based on Developer's showing, and City's finding, of good cause for such delay, which extension shall be confirmed in writing by City to Developer.

If circumstances within the scope of Section 9.10 delay the commencement or completion of the Project, it would not constitute grounds for any termination rights found within this Agreement. In such case, the timeline to commence or complete the relevant task shall be extended in the manner set forth at Section 9.10. Notwithstanding the above, Developer shall, at all times, comply with all other obligations set forth in this Agreement regarding the construction of the Project on the Billboard Sign Easement Site. Developer shall also maintain the Digital Billboard Structure at all times during the Term in accordance with the maintenance provisions set forth in Section 3 of the Scope of Development, attached hereto as Exhibit "B".

The purpose of this Agreement is to set forth the rules and regulations applicable to the Project, which shall be accomplished in accordance with this Agreement, including the Scope of Development (Exhibit "B") which sets forth a description of the Project and the Schedule of Performance (Exhibit "D").

3.5 Changes and Amendments. Developer may determine that changes to the Development Approvals are appropriate and desirable. In the event Developer makes such a determination, Developer may apply in writing for an amendment to the Development Approvals to effectuate such change(s). The parties acknowledge that City shall be permitted to use its inherent land use authority in deciding whether to approve or deny any such amendment request; provided, however, that in exercising the foregoing the City shall use reasonable discretion and shall not apply a standard different than that used in evaluating requests of other developers. Accordingly, under no circumstance shall City be obligated in any manner to approve any amendment to the Development Approvals. The City Manager shall be authorized to approve any non-substantive amendment to the Development Approvals without processing an amendment to this Agreement. All other amendments shall require the approval of the City Council. The parties acknowledge that any extension of the Term for no more than twenty-four (24) months total is an example of a non-substantive change, which the City Manager, in his or her reasonable discretion, may approve in writing. Nothing herein shall cause Developer to be in default if it upgrades the Digital Billboard Structure installed pursuant to this Agreement during the term of this Agreement to incorporate newer technology; provided Developer shall secure all applicable ministerial

permits to do so and such upgrade is consistent with the dimensions and standards for the displays, as provided under this Agreement, Land Use Regulations and Subsequent Land Use Regulations.

3.6 Reservation of Authority.

3.6.1 *Limitations, Reservations and Exceptions.* Notwithstanding any other provision of this Agreement, the following Subsequent Land Use Regulations shall apply to the development of the Project:

(a) Processing fees and charges of every kind and nature imposed by City to cover the estimated actual costs to City of processing applications for Subsequent Development Approvals.

(b) Procedural regulations consistent with this Agreement relating to hearing bodies, petitions, applications, notices, findings, records, hearing, reports, recommendations, appeals and any other matter of procedure. Notwithstanding the foregoing, if such change materially changes Developer's costs or otherwise materially impacts its performance hereunder, Developer may terminate this Agreement upon ninety (90) days prior written notice.

(c) Changes adopted by the International Conference of Building Officials, or other similar body, as part of the then most current versions of the Uniform Building Code, Uniform Fire Code, Uniform Plumbing Code, Uniform Mechanical Code, or National Electrical Code, as adopted by City as Subsequent Land Use Regulations, if adopted prior to the issuance of a building permit for development of the Digital Billboard Structure. Notwithstanding the foregoing, if such change materially changes Developer's costs or otherwise materially impacts its performance hereunder, Developer may terminate this Agreement upon ninety (90) days prior written notice.

(d) Regulations that are not in conflict with the Development Approvals or this Agreement.

(e) Regulations that are in conflict with the Development Approvals or this Agreement, provided Developer has given written consent to the application of such regulations to development of the Project.

(f) Applicable Federal, State, County, and multi-jurisdictional laws and regulations which City is required to enforce as against the Billboard Sign Easement Site or the development of the Project and that do not have an exception for existing signs or legal nonconforming uses.

3.6.2 *Future Discretion of City.* This Agreement shall not prevent City from denying or conditionally approving any application for a Subsequent Development Approval on the basis of the Land Use Regulations.

3.6.3 *Modification or Suspension by Federal, State, County, or Multi-Jurisdictional Law.* In the event that applicable federal, State, County, or multi-jurisdictional laws or regulations, enacted after the Effective Date of this Agreement,

prevent or preclude compliance with one or more of the provisions of this Agreement, and there is no exception for the legal nonconforming use, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such federal, State, County, or multi-jurisdictional laws or regulations, and this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provision impractical to enforce. Notwithstanding the foregoing, if such change materially changes Developer's costs or otherwise materially impacts its performance hereunder, Developer may terminate this Agreement upon ninety (90) days prior written notice.

3.7 Regulation by Other Public Agencies. It is acknowledged by the parties that other public agencies not subject to control by City may possess authority to regulate aspects of the development of the Project as contemplated herein, and this Agreement does not limit the authority of such other public agencies. Developer acknowledges and represents that, in addition to the Land Use Regulations, Developer shall, at all times, comply with all applicable federal, State and local laws and regulations applicable to the Digital Billboard Structure and the Billboard Sign Easement Site that do not have an exception for a legal nonconforming use. To the extent such other public agencies preclude development or maintenance of the Project and that do not have an exception for a legal nonconforming use, Developer shall not be further obligated under this Agreement except as provided in Section 4.1. Notwithstanding the foregoing, if such action by another public agency materially changes Developer's costs or otherwise materially impacts its performance hereunder, Developer may terminate this Agreement upon ninety (90) days prior written notice.

3.8 Public Improvements. Notwithstanding any provision herein to the contrary, the City shall retain the right to condition any Subsequent Development Approvals to require Developer to pay any required development fees, and/or to construct the required public infrastructure ("**Exactions**") at such time as City shall determine subject to the following conditions.

3.8.1 The payment or construction must be to alleviate an impact caused by the Project or be of benefit to the Project; and

3.8.2 The timing of the Exaction should be reasonably related to the development of the Project and said public improvements shall be phased to be commensurate with the logical progression of the Project development as well as the reasonable needs of the public.

3.8.3 It being understood, however, that if there is a material increase in cost to Developer or such action by City otherwise materially impacts Developer's performance hereunder, Developer may terminate this Agreement upon ninety (90) days prior written notice.

3.9 Fees, Taxes and Assessments. During the Term of this Agreement, the City shall not, without the prior written consent of Developer, impose any additional fees, taxes or assessments on all or any portion of the Project, except such fees, taxes and assessments as are described in or required by this Agreement and/or the Development Approvals. However, this

Agreement shall not prohibit the application of fees, taxes or assessments upon the Billboard Sign Easement Site or Developer, including the following:

3.9.1 Developer shall be obligated to pay those fees, taxes or City assessments and any increases in same which exist as of the Effective Date or are included in the Development Approvals;

3.9.2 Developer shall be obligated to pay any fees or taxes, and increases thereof, imposed on a City-wide basis such as, but not limited to, business license fees or taxes or utility taxes;

3.9.3 Developer shall be obligated to pay all fees applicable to a permit application as charged by City at the time such application is filed by Developer;

3.9.4 Developer shall be obligated to pay any fees imposed pursuant to any Uniform Code that existed when the application is filed by the Developer or that exists when the Developer applies for any Subsequent Development Approval.

3.10 Notwithstanding anything to the contrary herein, if there is a change in such fees as of the full execution hereof or any additional fees are charged and such additional or increased fees materially change Developer's costs or otherwise materially impacts its performance hereunder, Developer may terminate this Agreement upon ninety (90) days prior written notice.

4. REMOVAL OF DIGITAL DISPLAY FACES

4.1 **Removal Upon Expiration.** Developer has the right to negotiate an extension of the Term as an amendment to this Agreement. If the extension of the Term is not granted by the City, the Digital Display Faces shall be removed and said displays shall be converted to printed displays within ninety (90) days following expiration of the Term, subject to obtaining any required permits. In the event Developer should fail to remove the Digital Display Faces and convert to a static billboard within ninety (90) days after the effective date of termination and City is required to enforce the terms of this Agreement and conversion of the Digital Display Faces to a printed billboard, City will have the right to convert the Digital Billboard Structure to a printed billboard at Developer's cost, and Developer shall reimburse City its reasonable City staff, consultant, and attorneys' fees and costs incurred in securing such conversion. Developer's obligations and City's rights under this Section 4.1 shall expressly survive expiration of this Agreement.

4.2 **Removal Upon Termination.** Should this Agreement be terminated for any reason, City and Developer shall cause a termination agreement or memorialization of the termination (in the event the Agreement has already been terminated pursuant to Section 6.1), to be recorded with the County Recorder's Office. Upon termination, Developer shall remove the Digital Display Faces and convert said displays to printed displays within ninety (90) days from the effective date of termination, , subject to obtaining any required permits. City will have the right to convert the Digital Billboard Structure to a printed billboard at Developer's cost, and Developer shall reimburse City its reasonable City staff, consultant, and attorneys' fees and costs incurred in securing such conversion, in the event Developer should fail to remove the Digital Display Faces and convert to a static billboard within ninety (90) days after the effective date of termination. Developer's obligations and City's rights under this Section 4.2 shall expressly survive termination of this Agreement.

5. REVIEW FOR COMPLIANCE.

5.1 **Annual Review.** The City Council shall have the right to review this Agreement annually at Developer's sole cost, on or before the anniversary of the Effective Date, to ascertain the good faith compliance by Developer with the terms of the Agreement ("**Annual Review**"). However, no failure on the part of City to conduct or complete an Annual Review as provided herein shall have any impact on the validity of this Agreement. Upon receipt of written request from the City, Developer shall cooperate with the City in the conduct of such an Annual Review and provide the following information and documentation to the City at least thirty (30) days before the anniversary of the Effective Date: (1) description of all complaints from Caltrans or the City regarding the Digital Billboard Structure, (2) description of all complaints from the public regarding the display unrelated to any content of the message displayed, (3) any updates to Developer's contact information related to complaints concerning the Digital Billboard Structure, as required in Section 6(m) of the conditions at Exhibit "B", herein, (4) status and amount of all payment obligations to the City required under this Agreement for the year in question and cumulatively for the entire Term of the Agreement, (5) any easement or lease changes that could in any way materially impact the City or the obligations under this Agreement, (6) any utility changes that could in any way materially impact the City or the obligations under this Agreement, (7) any maintenance issues addressed or needing to be addressed per the requirements of Exhibit "B", and (8) whether any City messages per Section 2.8 have been displayed during the preceding year of the Term and a description of the duration of such displays.

5.2 **Special Review.** The City Council may, in its sole and absolute discretion, order a special review of compliance with this Agreement at any time at City's sole cost ("**Special Review**"). Developer shall cooperate with the City in the conduct of any such Special Review.

5.3 **Intentionally Omitted.**

5.4 **Procedure.** Each party shall have a reasonable opportunity to assert matters which it believes have not been undertaken in accordance with the Agreement, to explain the basis for such assertion, and to receive from the other party a justification of its position on such matters. If, on the basis of the parties' review of any terms of the Agreement, either party concludes that the other party has not complied in good faith with the terms of the Agreement, then such party may issue a written "**Notice of Non-Compliance**" or "**Notice**" specifying the grounds therefor and all facts demonstrating such non-compliance. The party receiving a Notice of Non-Compliance shall have thirty (30) days to cure or remedy the non-compliance identified in the Notice of Non-Compliance, or if such cure or remedy is not reasonably capable of being cured or remedied within such thirty (30) days period, to commence to cure or remedy the non-compliance and to diligently and in good faith prosecute such cure or remedy to completion. If the party receiving the Notice of Non-Compliance does not believe it is out of compliance and contests the Notice, it shall do so by responding in writing to said Notice within thirty (30) days after receipt of the Notice. If the response to the Notice of Non-Compliance is not delivered to the party alleging the non-compliance within the prescribed time period, the Notice of Non-Compliance shall be conclusively presumed to be valid. If a Notice of Non-Compliance is contested, the parties shall, for a period of not less than fifteen (15) days following receipt of the response, seek to arrive at a mutually acceptable resolution of the matter(s) occasioning the Notice. If a cure or remedy is not timely effected or, if the Notice is contested and the parties are not able to arrive at a mutually acceptable resolution of

the matter(s) by the end of the fifteen (15) day period, the party alleging the non-compliance may thereupon pursue the remedies provided in Section 6. Neither party hereto shall be deemed in breach if the reason for non-compliance is due to a “force majeure” as defined in, and subject to the provisions of, Section 9.10.

5.5 Certificate of Agreement Compliance. If, at the conclusion of an Annual Review or a Special Review, Developer is found to be in compliance with this Agreement, City shall, upon request by Developer, issue a Certificate of Agreement Compliance ("**Certificate**") to Developer stating that, after the most recent Annual Review or Special Review, and based upon the information known or made known to the City Manager and City Council, that (1) this Agreement remains in effect and (2) Developer is in compliance. The Certificate, whether issued after an Annual Review or Special Review, shall be in recordable form and shall contain information necessary to communicate constructive record notice of the finding of compliance. Developer may record the Certificate with the County Recorder. Additionally, Developer may, at any time, request from the City a Certificate stating, in addition to the foregoing, which obligations under this Agreement have been fully satisfied with respect to the Billboard Sign Easement Site.

6. DEFAULT AND REMEDIES.

6.1 Termination of Agreement.

6.1.1 Termination of Agreement for Material Default of Developer. City, in its discretion, may terminate this Agreement for any material failure of Developer to perform any material duty or obligation of Developer hereunder or to comply in good faith with the terms of this Agreement (hereinafter referred to as "**default**" or "**breach**"); provided, however, City may terminate this Agreement pursuant to this Section only after following the procedure set forth in Section 5.4. In the event of a termination by City under this Section 6.1.1, Developer acknowledges and agrees that City may retain all fees accrued up to the date of the termination, including the Processing Fee and the Development Fee paid up to the date of termination, and Developer shall pay the prorated amount of the Development Fee within sixty (60) days after the date of termination and removal of the Digital Display Faces that equates to the percentage of time elapsed in the year of the Term at the time of termination.

6.1.2 Termination of Agreement for Material Default of City. Developer, in its discretion, may terminate this Agreement for any material failure of City to perform any material duty or obligation of City hereunder or to comply in good faith with the term of this Agreement; provided, however, Developer may terminate this Agreement pursuant to this Section only after following the procedure set forth in Section 5.4. In addition, Developer may terminate this Agreement if, despite Developer's good faith efforts, it is unable to secure the Development Approvals, including the Final Permits and/or compliance with requirements under laws necessary to effectuate the Project. In the event of a termination by Developer under this Section 6.1.2, Developer acknowledges and agrees that City may retain all fees, including the Processing Fee and the Development Fee paid up to the date of termination, and Developer shall pay the prorated amount of the Development Fee within sixty (60) days after the date of termination and removal of the Digital Display Faces that equates to the percentage of time elapsed in the year of the Term at the time of termination.

6.1.3 *Termination of Agreement Economic Infeasibility of Developer.* Developer, in its discretion, may terminate this Agreement upon ninety (90) days prior written notice if, pursuant to Section 7.2.1, Developer is required to defend, pay judgment, or settle by payment of funds any action or actions filed in connection with claims or liabilities for which Developer is required to save and hold the City and its officers, agents, and employees harmless, and Developer determines it is no longer economically feasible to operate the Digital Billboard Structure or a printed billboard with two facings on the Billboard Sign Easement Site, provided Developer's obligations under Section 7.2.1. shall survive any such termination under this Section 6.1.3. Developer acknowledges and agrees that City may retain all fees, including the Processing Fee and the Development Fee paid up to the date of termination, and Developer shall pay the prorated amount of the Development Fee within sixty (60) days after the date of termination that equates to the percentage of time elapsed in the year of the Term at the time of termination.

6.1.4 *Rights and Duties Following Expiration and Termination.* Upon the expiration or sooner termination of this Agreement, neither party shall have any further right or obligation hereunder except with respect to (i) any obligations to have been performed prior to said termination, (ii) any default in the performance of the provisions of this Agreement which has occurred prior to said termination, (iii) Developer's obligations under Section 4.1 and Section 4.2, and (iv) any continuing obligations to indemnify, defend and hold harmless the other party under Section 7.2.

6.1.5 *No Damages.* Notwithstanding anything else in this Agreement to the contrary, Developer acknowledges that the City would not have entered this Agreement had it been exposed to damage claims from Developer for any breach hereof. As such, the parties agree that in no event shall Developer be entitled to recover damages of any kind whatsoever against City or any of its officials, officers, agents, or employees for breach of this Agreement.

7. INSURANCE, INDEMNIFICATION AND WAIVERS.

7.1 Insurance.

7.1.1 Types of Insurance.

(a) *Liability Insurance.* Beginning on the Effective Date hereof and until completion of the Term, Developer shall, at its sole cost and expense, keep or cause to be kept in force for the mutual benefit of City, as additional insured, comprehensive broad form general liability insurance against claims and liabilities covered by the indemnification provisions of Section 7.2. Developer has agreed to indemnify City hereunder with respect to its use, occupancy, disuse or condition of the Billboard Sign Easement Site, improvements or adjoining areas or ways, affected by such use of the Billboard Sign Easement Site or for property damage, providing protection of at least Two Million Dollars (\$2,000,000) for any one accident or occurrence for bodily injury or death and property damage. Developer shall also furnish or cause to be furnished to City evidence that any contractors with whom Developer has contracted for the performance of any work for which Developer is responsible maintains the same coverage required of Developer.

(b) *Worker's Compensation.* Developer shall also furnish or cause to be furnished to City evidence that any contractor with whom Developer has contracted for the performance of any work for which Developer is responsible hereunder carries worker's compensation insurance as required by law.

(c) *Insurance Policy Form, Sufficiency, Content, and Insurer.* All insurance required by express provisions hereof shall be carried only by responsible insurance companies qualified to do business by California with an AM Best Rating of no less than "A". All such policies shall be non-assignable and shall contain language, to the extent obtainable, to the effect that (i) the insurer waives the right of subrogation against City and against City's agents and representatives except as provided in this Section; (ii) the policies are primary and noncontributing with any insurance that may be carried by City, but only with respect to the liabilities assumed by Developer under this agreement; and (iii) the policies cannot be canceled or materially changed except after written notice by the insurer to City or City's designated representative as expeditiously as insurance company agrees to provide notice. Developer shall furnish City with certificates and endorsements evidencing the insurance required in this Section 7.1. City shall be named as an additional insured on all liability policies of insurance required to be procured by the terms of this Agreement.

7.1.2 *Failure to Maintain Insurance and Proof of Compliance.* Developer shall deliver to City, in the manner required for notices, copies of certificates and endorsements of all insurance policies required of each policy within the following time limits:

(1) For insurance required above, within seven (7) days after the Effective Date or consistent with the requirements of Exhibit "D" (Schedule of Performance), Item No. 4.

(2) The City may request to see updated copies of the current certificates and endorsements of all insurance policies required at any time.

If Developer fails or refuses to procure or maintain insurance as required hereby or fails or refuses to furnish City with required proof that the insurance has been procured and is in force and paid for, after complying with the requirements of Section 5.4, the City may view such failure or refusal to be a default hereunder.

7.2 **Indemnification.**

7.2.1 *General.* Developer shall indemnify the City, and its officers, employees, and agents against, and will hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions, or liabilities (herein "claims or liabilities") that may be asserted or claimed by any person, firm, or entity arising out of or in connection with the work, operations, or activities of Developer, its agents, employees, contractors, subcontractors, or invitees, hereunder, upon the Billboard Sign Easement Site or to attack,

set aside, void or annul, any approval of the City, its advisory agencies, appeal boards, or legislative body concerning this Agreement and related Resolutions or Ordinance approving this Agreement. The City will promptly notify Developer of any such claim, action, or proceeding against the City and will cooperate fully in the defense. To this end,

(a) Developer will defend and if circumstances warrant, settle any action or actions filed in connection with any of said claims or liabilities covered by the indemnification provisions herein and will pay all reasonable costs and expenses, including legal costs and attorneys' fees incurred in connection therewith.

(b) Developer will promptly pay any judgment rendered against the City or its officers, agents, or employees for any such claims or liabilities arising out of or in connection with such work, operations, or activities of the Developer hereunder, and Developer agrees to save and hold the City and its officers, agents, and employees harmless therefrom.

7.2.2 Exceptions. The foregoing indemnity shall not include claims or liabilities arising from the sole negligence or willful misconduct of the City, or its officers, agents, or employees, who are directly responsible for the City.

7.2.3 Additional Coverage. Without limiting the generality of the foregoing, Developer's indemnity, defense, and hold harmless obligations shall include any liability arising by reason of:

(a) Any accident or other occurrence in or on the Billboard Sign Easement Site causing injury to any person or property whatsoever caused by Developer, its agents, employees, contractors, subcontractors, or invitees;

(b) Any failure of Developer to comply with performance of any of the provisions of this Agreement;

(c) Any harm, delays, injuries, or other damages incurred by any party as a result of any subsurface conditions on the Billboard Sign Easement Site caused by Developer, its agents, employees, contractors, subcontractors, or invitees, including but not limited to, the presence of buried debris, hazardous materials, hydrocarbons, or any form of soil contamination.

7.2.4 Loss and Damage. Except as set forth below, City shall not be liable for any damage to property of Developer or others located on the Billboard Sign Easement Site, nor for the loss of or damage to any property of Developer, or others by theft or otherwise. Except as set forth below, City shall not be liable for any injury or damage to persons or property resulting from fire, explosion, steam, gas, electricity, water, rain, dampness or leaks from any part of the Billboard Sign Easement Site or from the pipes or plumbing, or from the street, or from any environmental or soil contamination or hazard, or from any other latent or patent defect in the soil, subsurface or physical condition of the Billboard Sign Easement Site, or by any other cause of whatsoever nature. The foregoing two (2) sentences shall not apply (i) to the extent City or its agents, employees, subcontractors, invitees or representatives causes such injury or damage or to the extent they cause any damage to any improvements thereon, including by condemnation, whether

with or without the exercise of eminent domain, temporarily or permanently, or (ii) to the extent covered in any permit to enter executed by the City. Nothing in this Section 7.2.4 allows the City or any government authorities to condemn all or any part of the Billboard Sign Easement Site or the Digital Billboard Structure, whether with or without the exercise of eminent domain, without the payment of just compensation, and as further set forth in Section 9.17 herein.

7.2.5 Period of Indemnification. The obligations to indemnify, defend, and hold harmless under this Section 7.2 shall begin upon the Effective Date and shall survive expiration or sooner termination of this Agreement.

7.3 Waiver of Subrogation. Developer and City each agrees that it shall not make any claim against, or seek to recover from the other or its agents, servants, or employees, for any loss or damage to it or to any person or property relating to this Project, except as specifically provided hereunder which include but is not limited to, a claim or liability arising from the sole negligence or willful misconduct of the City, its officers, agents, or employees, who are directly responsible for the City.

8. MORTGAGEE PROTECTION.

The parties hereto agree that this Agreement shall not prevent or limit Developer, in any manner, at Developer's sole discretion, from encumbering the Billboard Sign Easement Site or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Billboard Sign Easement Site. City acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and City agrees upon request, from time to time, to meet with Developer and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. Subject to compliance with applicable laws, City will not unreasonably withhold its consent to any such requested interpretation or modification provided City determines such interpretation or modification is consistent with the intent and purposes of this Agreement. Any Mortgagee of the Billboard Sign Easement Site shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Project, the Digital Billboard Structure, or the Billboard Sign Easement Site made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Project, the Digital Billboard Structure, or the Billboard Sign Easement Site, or any part thereof, which Mortgagee has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive written notification from City of any default by Developer in the performance of Developer's obligations under this Agreement.

(c) If City timely receives a request from a Mortgagee requesting a copy of any notice of default given to Developer under the terms of this Agreement, City shall make a good faith effort to provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to Developer. The Mortgagee

shall have the right, but not the obligation, to cure the default during the period that is the longer of (i) the remaining cure period allowed Developer under this Agreement, or (ii) sixty (60) days.

(d) Any Mortgagee who comes into possession of the Project, the Digital Billboard Structure, or the Billboard Sign Easement Site, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Project, the Digital Billboard Structure, or the Billboard Sign Easement Site, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of Developer's obligations or other affirmative covenants of Developer hereunder, or to guarantee such performance; except that (i) to the extent that any covenant to be performed by Developer is a condition precedent to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder, and (ii) in the event any Mortgagee seeks to develop or use any portion of the Project, the Digital Billboard Structure, or the Billboard Sign Easement Site acquired by such Mortgagee by foreclosure, deed of trust, or deed in lieu of foreclosure, such Mortgagee shall strictly comply with all of the terms, conditions and requirements of this Agreement and the Development Approvals applicable to the Project, the Digital Billboard Structure, or the Billboard Sign Easement Site or such part thereof so acquired by the Mortgagee.

9. MISCELLANEOUS PROVISIONS.

9.1 **Recordation of Agreement.** This Agreement shall be recorded with the County Recorder by the City Clerk within ten (10) days of execution, as required by Government Code Section 65868.5. Amendments approved by the parties, and any cancellation, shall be similarly recorded.

9.2 **Entire Agreement.** This Agreement sets forth and contains the entire understanding and agreement of the parties with respect to the subject matter set forth herein, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

9.3 **Severability.** If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, then that term, provision, covenant or condition of this Agreement shall be stricken and the remaining portion of this Agreement shall remain valid and enforceable if that stricken term, provision, covenant or condition is not material to the main purpose of this Agreement, which is to allow the Project to be permitted and operated and to provide the Development Fee to the City; otherwise, this Agreement shall terminate in its entirety, unless the parties otherwise agree in writing, which agreement shall not be unreasonably withheld.

9.4 **Interpretation and Governing Law.** This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning, to achieve the objectives and purposes of the parties hereto. The rule of construction, to the effect

that ambiguities are to be resolved against the drafting party or in favor of the non-drafting party, shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

9.5 **Section Headings.** All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

9.6 **Singular and Plural.** As used herein, the singular of any word includes the plural.

9.7 **Time of Essence.** Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

9.8 **Waiver.** Failure of a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

9.9 **No Third-Party Beneficiaries.** This Agreement is made and entered into for the sole protection and benefit of the parties, as well as their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

9.10 **Force Majeure.** Notwithstanding the contrary herein, neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by earthquakes, other acts of God, fires, rains, winds, wars, pandemics, terrorism, riots or similar hostilities, strikes and other labor difficulties beyond the party's control (including the party's employment force), government actions and regulations (other than those of the City), court actions (such as restraining orders or injunctions), or other causes beyond the party's reasonable control. If any such events shall occur, the term of this Agreement and the time for performance shall be extended for the duration of each such event, provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years and further provided that if such delay is longer than six (6) months, Developer may terminate this Agreement upon written notice to City and City shall return to Developer any portion of the Development Fee paid for any period after the effective date of such termination.

9.11 **Mutual Covenants.** The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

9.12 **Counterparts.** This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all the parties had executed the same instrument.

9.13 **Litigation.** Any action at law or in equity arising under this Agreement or brought by any party hereto for the purpose of enforcing, construing, or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Los Angeles, State of California, or such other appropriate court in said county. Service of process on City shall be made in accordance with California law. Service of process on Developer shall be made in any manner permitted by California law and shall be effective whether served inside or outside California. In the event of any action between City and Developer seeking enforcement of

any of the terms and conditions to this Agreement, the prevailing party in such action shall be awarded, in addition to such relief to which such party is entitled under this Agreement, its reasonable litigation costs and expenses, including without limitation its expert witness fees and reasonable attorneys' fees.

9.14 **Covenant Not To Sue.** The parties to this Agreement, and each of them, agree that this Agreement and each term hereof is legal, valid, binding, and enforceable. The parties to this Agreement, and each of them, hereby covenant and agree that each of them will not commence, maintain, or prosecute any claim, demand, cause of action, suit, or other proceeding against any other party to this Agreement, in law or in equity, which is based on an allegation, or assert in any such action, that this Agreement or any term hereof is void, invalid, or unenforceable.

9.15 **Project as a Private Undertaking.** It is specifically understood and agreed by and between the parties hereto that the development of the Project is a private activity, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between City and Developer is that of a government entity regulating the development of private property, on the one hand, and the holder of a legal or equitable interest in such property on the other hand. City agrees that by its approval of, and entering into, this Agreement, that it is not taking any action which would transform this private Project into a "public work" project, and that nothing herein shall be interpreted to convey upon Developer any benefit which would transform Developer's private project into a public work project, it being understood that this Agreement is entered into by City and Developer upon the exchange of consideration described in this Agreement, including the Recitals to this Agreement which are incorporated into this Agreement and made a part hereof, and that City is receiving by and through this Agreement the full measure of benefit in exchange for the burdens placed on Developer by this Agreement.

9.16 **Further Actions and Instruments.** Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

9.17 **Eminent Domain.** No provision of this Agreement shall be construed to limit or restrict the exercise by City of its power of eminent domain or Developer's right to seek and collect just compensation or any other remedy available to it.

9.18 **Amendments in Writing/Cooperation.** This Agreement may be amended only by written consent of both parties specifically approving the amendment and in accordance with the Government Code provisions for the amendment of development agreements. The parties shall cooperate in good faith with respect to any amendment proposed in order to clarify the intent and application of this Agreement and shall treat any such proposal on its own merits, and not as a basis for the introduction of unrelated matters. Minor, non-material modifications may be

approved by the City Manager upon approval by the City Attorney.

9.19 **Corporate Authority.** The person(s) executing this Agreement on behalf of each of the parties hereto represent and warrant that (i) such party, if not an individual, is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which such party is bound.

9.20 **Notices.** All notices under this Agreement shall be effective when delivered by United States Postal Service mail, registered or certified, postage prepaid return receipt requested; and addressed to the respective parties as set forth below or as to such other address as the parties may from time to time designate in writing by providing notice to the other party:

Original To City:	City of Irwindale 5050 N. Irwindale Ave. Irwindale, CA 91706 Attn: City Manager
With Copy to:	Aleshire & Wynder, LLP 1 Park Plaza, Suite 1000 Irvine, CA 92614 Attn: Adrian R. Guerra, City Attorney
To Developer:	Rivergrade Holding, LLC 9454 Wilshire Boulevard, Suite 201 Beverly Hills, CA 90212 Attn: Caspar Chou, Managing Member
With Copy to:	Tepper & Associates, APC 9454 Wilshire Boulevard, Suite 201 Beverly Hills, CA 90212 Attn: Foster Tepper

9.21 **Nonliability of City Officials.** No officer, official, member, employee, agent, or representatives of City shall be liable for any amounts due hereunder, and no judgment or execution thereon entered in any action hereon shall be personally enforced against any such officer, official, member, employee, agent, or representative.

9.22 **No Brokers.** City and Developer represent and warrant to the other that neither has employed any broker and/or finder to represent its interest in this transaction. Each party agrees to indemnify and hold the other free and harmless from and against any and all liability, loss, cost, or expense (including court costs and reasonable attorneys' fees) in any manner connected with a claim asserted by any individual or entity for any commission or finder's fee in connection with this Agreement or arising out of agreements by the indemnifying party to pay any commission or finder's fee.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first set forth above.

CITY OF IRWINDALE

By: .

Albert F. Ambriz, Mayor

ATTEST:

By

Laura Nieto, Chief Deputy City Clerk

APPROVED AS TO FORM:

By

Adrian R. Guerra, City Attorney

RIVERGRADE HOLDING, LLC

By: _____

Name: Caspar Chou

Title: Manager:

By: _____

Name:

Title:

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Notary Signature _____ (Seal)

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Notary Signature _____ (Seal)

EXHIBIT A-1

LEGAL DESCRIPTION OF REAL PROPERTY SITE

Real property in the City of Irwindale, County of Los Angeles, State of California, described as follows:

PARCEL 3:

A STRIP OF LAND WITHIN LOT 4 OF FRACTIONAL SECTION 12, TOWNSHIP 1 SOUTH, RANGE 11 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF IRWINDALE, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE, DESCRIBED AS FOLLOWS:

THE SOUTHEASTERLY 35.00 FEET OF RIVERGRADE ROAD, AS DESCRIBED IN PARCEL A OF THE LAND DESIGNATED AS PARCEL NO. 1-11 IN THE SUPERIOR COURT OF LOS ANGELES COUNTY, CASE NO. 602687, NOTICE OF THE PENDENCY OF SAID ACTION WAS RECORDED ON AUGUST 11, 1952, AS [INSTRUMENT NO. 2031](#), IN [BOOK 39577, PAGE 345](#) OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

SAID STRIP TO TERMINATE NORTHEASTERLY IN THE EAST LINE OF SAID LOT 4 AND SOUTHWESTERLY IN THE SOUTH LINE OF SAID LOT 4.

PARCEL 4:

THAT PORTION OF LOT 4 IN SECTION 12, TOWNSHIP 1 SOUTH, RANGE 11 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF IRWINDALE, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE JANUARY 7, 1868 DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 4;
THENCE ALONG THE EASTERLY LINE OF SAID LOT 4, TO THE SOUTHEASTERLY LINE OF RIVERGRADE ROAD, AS DESCRIBED IN PARCEL A OF THE LAND DESIGNATED AS PARCEL 1-11 IN THE SUPERIOR COURT OF LOS ANGELES COUNTY, CASE NO. 602687, NOTICE OF THE PENDENCY OF SAID ACTION WAS RECORDED ON AUGUST 11, 1952 AS [INSTRUMENT NO. 2031](#), IN [BOOK 39577, PAGE 345](#) OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY;
THENCE SOUTHWESTERLY ALONG SAID RIVERGRADE ROAD TO THE SOUTHERLY LINE OF SAID LOT 4;
THENCE EASTERLY ALONG SAID SOUTHERLY LINE TO THE POINT OF BEGINNING.

EXCEPT THEREFROM THAT PORTION OF SAID LAND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID LOT 4;
THENCE ALONG THE EASTERLY LINE OF SAID LOT 4 NORTH 00° 26' 40" WEST 297.76 FEET TO A POINT IN A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 2000.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 63° 27' 08" EAST;
THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH AN ANGLE OF 10° 08' 23" AN ARC DISTANCE OF 353.94 FEET TO THE SOUTHERLY LINE OF SAID LOT 4;
THENCE ALONG SAID SOUTHERLY LINE NORTH 89° 00' 14" EAST 187.65 FEET TO THE POINT OF BEGINNING.

PARCEL 5:

PARCEL 2, AS SHOWN ON THE PARCEL MAP NO. 23240 FILED IN [BOOK 257 PAGES 34](#) AND 35 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, AND AS MODIFIED BY THAT CERTIFICATE OF CORRECTION RECORDED FEBRUARY 16, 1993 AS [INSTRUMENT NO. 93-291037, OF OFFICIAL RECORDS.](#)

EXCEPT THEREFROM ALL MINERALS, OILS, GASES, AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN THAT MAY BE WITHIN OR UNDER THE PARCEL OF LAND HEREINABOVE DESCRIBED WITHOUT, HOWEVER, THE RIGHT TO DRILL, DIG OR MINE THROUGH THE SURFACE OF THE UPPER 500 FEET THEREOF, AS RESERVED BY THE STATE OF CALIFORNIA IN DEED RECORDED JUNE 27, 1972 AS [INSTRUMENT NO. 3793, OF OFFICIAL RECORDS.](#)

APNs: 8535-020-045, 8535-020-047 and 8535-020-048

EXHIBIT A-2

LEGAL DESCRIPTION OF BILLBOARD SIGN EASEMENT SITE

LEGAL DESCRIPTION
BILLBOARD SIGN PARCEL

THAT PORTION OF LOT 4 IN FRACTIONAL SECTION 12, TOWNSHIP 1 SOUTH RANGE II WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF IRWINDALE, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE JANUARY 7, 1968 DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 4; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 4 SOUTH 89° 00' 14" WEST 187.65 FEET TO A POINT IN A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 2,000 FEET; TO WHICH POINT A RADIAL LINE BEARS SOUTH 53° 18' 45" WEST; THENCE NORTHEASTERLY 11.12 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 0° 19' 07" TO THE TRUE POINT OF BEGINNING; THENCE NORTH 53° 46' 28" WEST 53.67 FEET; THENCE NORTH 33° 04' 33" EAST 54.51 FEET; THENCE SOUTH 55° 05' 26" EAST 56.04 FEET TO A POINT IN A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 2,000 FEET; TO WHICH POINT, A RADIAL LINE BEARS SOUTH 55° 14' 02" EAST; THENCE SOUTHWESTERLY 55.95 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 1° 38' 10" TO THE TRUE POINT OF BEGINNING.

CONTAINING 3,588 SQUARE FEET, MORE OR LESS.

Description prepared by:

Samir M. Khoury
Samir M. Khoury
R.C.E. No. 30567

APRIL 13, 2004
Date



EXHIBIT A-3

DEPICTION OF BILLBOARD SIGN EASEMENT SITE

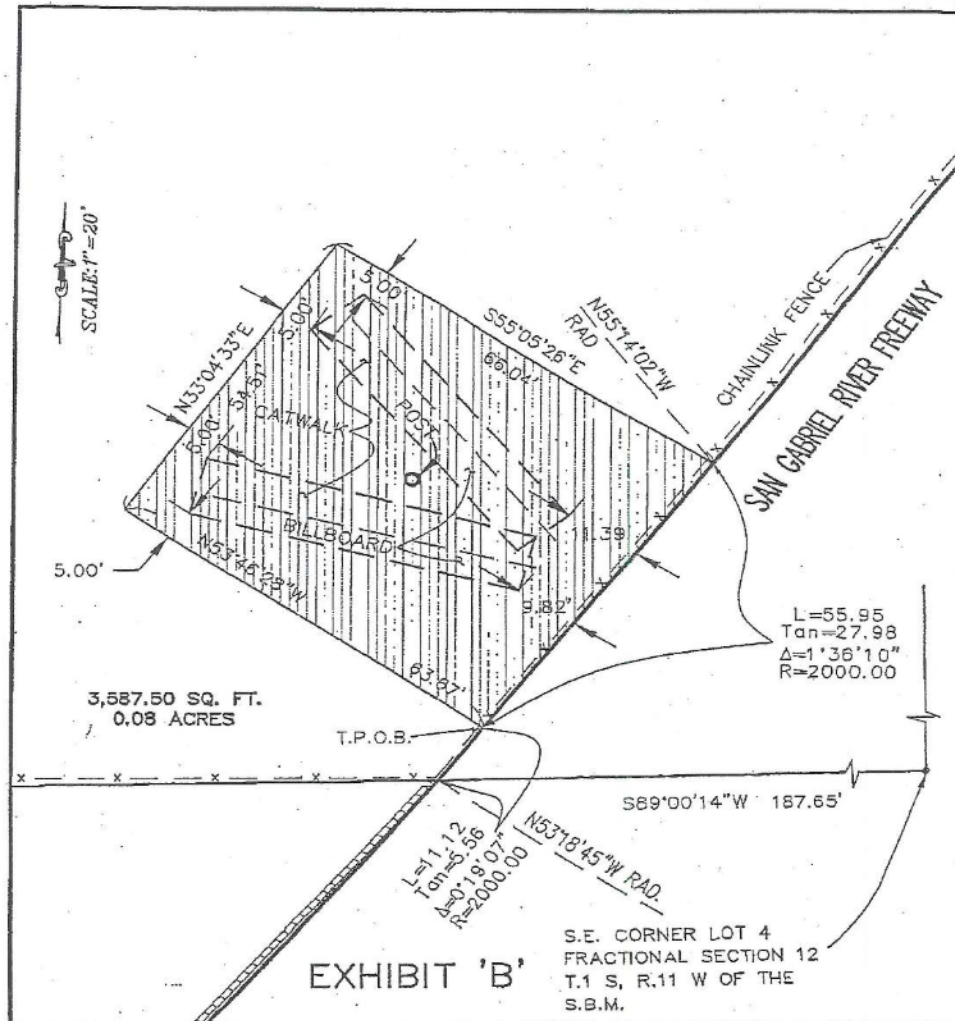


EXHIBIT B

SCOPE OF DEVELOPMENT

Developer and City agree that the Project shall be undertaken in accordance with the terms of the Agreement, which include the following:

1. The Project. This Agreement allows for demolition of one Printed Billboard Structure and installation of one Digital Billboard Structure. The existing Printed Billboard Structure has double-sided printed displays. A Digital Billboard Structure, as further defined in this Agreement, is a billboard with Digital Display Faces that uses digital technology to change the messages on the sign faces electronically. This type of display shall not contain video, animation, movement, flashing, or the appearance of movement. The Digital Display Faces contain messages that are static for eight (8) seconds at a time and then change to the next message. To this end, Developer shall replace the existing Printed Billboard Structure with a 14 x 48 foot double-sided V-display or back-to-back Digital Billboard Structure, with Digital Display Faces facing north and south, at the same general location as the existing Printed Billboard Structure. Developer shall operate and maintain the Digital Billboard Structure on the Billboard Sign Easement Site in accordance with the Development Approvals and this Agreement and all conditions of approval and consistent with the approval from the California Department of Transportation Outdoor Advertising Division.

The Digital Billboard Structure shall comply with Section 17.72.050, General Standards, of the Irwindale Municipal Code. Specifically, the area of the sign face shall not exceed six hundred seventy-five (675) square feet, excluding border, trim, cutouts and other special advertising features or additions and base or apron supports and other structural members. The building height may not exceed sixty-five (65) feet, exclusive of cutouts or special additions, measured from the higher of either: 1) the finished grade of the roadway adjacent to the lot on which the structure is located (the 605 Freeway) and from which the advertising display is to be viewed; or 2) the finished grade of the base of the sign. Developer shall underground all utilities necessary for the Digital Billboard Structure. The Digital Billboard Structure shall be constructed in the location shown therefor on Exhibits "A-2 and A-3". In addition, Developer agrees to install, at no cost to the City, an unlit City emblem (the "**City Logo**") on the sign column of the Digital Billboard Structure.

2. Processing Fees. Developer shall pay all applicable City Processing Fees, as described in Section 2.5 of this Agreement, prior to the time that a building permit is issued for the installation of the Digital Billboard Structure on the Billboard Sign Easement Site.

3. Maintenance and Access. Developer, for itself and its successors and assigns, hereby covenants and agrees to be responsible for the following:

(a) Maintenance and repair of the Digital Billboard Structure, including but not limited to, the Digital Display Faces installed thereon, and all related on-site improvements, easements, rights-of-way and, if applicable, at its sole cost and expense, including, without limitation, poles, lighting, signs and walls, in good repair, free of graffiti, rubbish, debris and other hazards to persons using the same, and in accordance with all applicable laws, rules, ordinances and regulations of all federal, State, and local bodies and agencies having

jurisdiction over the Billboard Sign Easement Site unless those federal, State, and local bodies have an exception for a legal nonconforming use. Such maintenance and repair shall include, but not be limited to, the following: (i) sweeping and trash removal related to the Project; (ii) the ongoing maintenance by the Developer of any access road to the Digital Billboard Structure to minimize dust caused by the Project; (iii) the adequate and complete removal or painting over of all graffiti within 48 hours of notice of such graffiti being affixed on the Digital Billboard Structure; and (iv) the repair, replacement and repainting of the Digital Billboard Structure and Digital Display Faces as necessary to maintain such Digital Billboard Structure in good condition and repair. In addition, Developer has the explicit right to change the Light Emitting Diode (“LED”) displays from time to time as determined necessary in Developer’s sole discretion, subject to obtaining any required permits.

(b) Maintenance of the Billboard Sign Easement Site in such a manner as to avoid the reasonable determination of a duly authorized official of the City that a public nuisance has been created by the absence of adequate maintenance of the Project such as to be detrimental to the public health, safety or general welfare or that such a condition of deterioration or disrepair causes appreciable harm or is materially detrimental to property or improvements within three hundred (300) feet of the Billboard Sign Easement Site.

4. Other Rights of City. In the event of any violation or threatened violation of any of the provisions of this Exhibit “B,” then in addition to, but not in lieu of, any of the rights or remedies the City may have to enforce the provisions of this Agreement, the City shall have the right, after complying with Section 5.4 of this Agreement, (i) to enforce the provisions hereof by undertaking any maintenance or repairs required by Developer under Section 3 of this Exhibit “B” and charging Developer for any actual maintenance costs incurred in performing same, and (ii) to withhold or revoke, after giving written notice of said violation, any building permits, occupancy permits, certificates of occupancy, business licenses and similar matters or approvals pertaining to the Billboard Sign Easement Site or any part thereof or interests therein as to the violating person or one threatening violation.

5. No City Liability. The granting of a right of enforcement to the City does not create a mandatory duty on the part of the City to enforce any provision of this Agreement. The failure of the City to enforce this Agreement shall not give rise to a cause of action on the part of any person. No officer or employee of the City shall be personally liable to the Developer, its successors, transferees, or assigns, for any default or breach by the City under this Agreement.

6. Conditions of Approval. The following additional conditions shall apply to the installation of the Digital Billboard Structure and shall conform to all applicable provisions of the Irwindale Municipal Code (“IMC”), including but not limited to the Outdoor Advertising provisions of the IMC at Section 17.72.030, and the following conditions, in a manner subject to the approval of the Community Development Director or designee:

(a) Conditions to be met before Final Permits. Prior to the issuance of a business license, occupancy permit, final inspection by the Community Development Department, and Final Permits, all applicable conditions of approval (except those

involving construction permits) shall be completed to the reasonable satisfaction of the City.

(b) Building Permit. A building permit from the Building and Safety Division will be required, structural calculations shall be prepared by a licensed civil engineer and approved by the City Building Official. All construction shall be in compliance with the Irwindale Building Code and all applicable regulations including Caltrans Advertising Department.

(c) Plans. The use and improvements authorized by this Agreement shall conform to the plans as finally approved by the City (date stamped _____) as conditioned herein, and any appreciable modification of the plans or mode of operation, as determined by the Director of Community Development, shall require the prior approval of the Planning Commission.

(d) Digital Display Face dimensions. The size of each Digital Display Face shall not exceed a maximum area of 675 square feet, with no more than 128 total feet of extensions or borders, and the Digital Billboard Structure shall not exceed a maximum height of 65 feet, as measured per Section 17.72.050 standards, including all extensions, and shall be consistent with the Elevations at Exhibit "C" approved by the City as part of the Development Approvals.

(e) Plan Check. Plans and specifications for the proposed installation of the Digital Billboard Structure, including plans for all utilities, shall be submitted to the City Community Development and Building Departments for plan check and approval prior to the issuance of building permits. Per the requirements of the County of Los Angeles Building and Safety Division, serving as the City's contract building department, the building plans must contain the following items to be submitted for plan check, as such requirements may be revised before final approval of such plans:

(1) Site Plan: Lot size, locations and dimensions of property lines, adjacent streets, setbacks from property lines, locations of other structures, easements, north arrow, scale, contours/drainage pattern.

(2) General Notes: Applicable codes, occupancy classification, type of construction, allowable area analysis, and occupant load analysis, description of work, material specifications.

(3) Exterior Elevations: Wall covering material, plate and building heights, finish grade lines, veneers.

(4) Foundation Plan: Locations of all new footings, anchor bolt and hold-down schedules, complete foundation details.

(5) Framing Plan: Size, spacing, and span of all floor and ceiling joists, roof rafters, valleys and hips, beams, and headers. All lateral force resisting elements, including shear wall locations and schedule, and diaphragm construction specifications.

(6) **Structural Analysis:** Calculations shall be provided to substantiate the structural plans where new structural elements are proposed or existing structural elements are altered. The structural calculations shall address both vertical and lateral forces and shall be wet stamped and signed by a licensed engineer or architect registered in the state of California.

(7) **Schedules:** exterior/interior finish.

(8) **Details:** Complete framing and foundation details for all new structural elements, complete accessible path of travel details, required fire rated assembly details.

(f) **Compliance with applicable law.** Developer shall maintain the Billboard Sign Easement Site and use thereof in full compliance with all applicable and duly adopted codes, standards, policies, and regulations imposed by the City, County, State, and federal agencies, unless the Project or Digital Billboard Structure is exempted as a legal nonconforming use.

(g) **Caltrans approvals.** Developer shall, at all times, comply with the approval for the Digital Billboard Structure from the California Department of Transportation Outdoor Advertising Division (“Caltrans”) that may be necessary in order to allow for the construction and installation of the Digital Billboard Structure pursuant to the California Outdoor Advertising Act and shall maintain acceptable clearance between the Digital Billboard Structure and utility distribution lines.

(h) **Fees.** The Developer shall pay any and all applicable fees due to any public agency prior to the issuance of the Development Approvals and Final Permits.

(i) **Use within Billboard Sign Easement Site.** The activities proposed in this Agreement shall be conducted completely upon the Billboard Sign Easement Site and shall not use or encroach on any public right-of-way.

(j) **Access Roads.** Developer shall ensure that all access to the Digital Billboard Structure is kept restricted from the general public to the extent permitted under local laws.

(k) **Landscaping.** If any portion of the landscape or artwork installed adjacent to the Digital Billboard Structure is damaged by the Project and becomes damaged, or otherwise in need of replacement, as determined by the City’s Community Development Department Director or designee, the Developer shall ensure that the replacement is accomplished within fourteen (14) days of notification by the City, unless such time is extended by the City’s Community Development Director or designee if Developer shows unusual circumstances requiring more time to accomplish such replacement. Developer may trim such landscaping so as not to block the Digital Display Faces.

(l) **Utilities.** Developer shall be required to install all utilities underground in connection with the Digital Billboard Structure. To this end, City shall cooperate with the applicable utility provider’s requirement upon Developer to upgrade Developer’s current electrical service to the Digital Billboard Structure.

(m) Light/Glare. Developer shall comply with State law regarding the limitation of light or glare or such other standards as adopted by the Outdoor Advertising Association of America, Inc. (“OAAA”), including but not limited to, the 0.3 foot-candles limitation over ambient light levels and ensuring additional flexibility in further reducing such maximum light level standard given the lighting environment upon request by the City’s Development Services Director or designee, the obligation to have automatic dimming capabilities, as well as providing the City’s Development Services Director or designee with a designated Developer employee’s phone number and/or email address for emergencies or complaints that will be monitored 24 hours a day/7 days per week. Upon any reasonable complaint by the City’s Development Services Director or its designee, Developer shall perform a brightness measurement of the display using OAAA standards, or such lower level given the lighting environment, and provide City with the results of same within five (5) business days of the City’s complaint. Developer shall dim the display to the appropriate setting immediately upon the conclusion of any such measurement that concluded that the light standards were exceeded.

(n) Public Works:

(1) NPDES. Developer shall comply with all necessary NPDES requirements pertaining to the proposed use, to the extent applicable.

(2) Separate permits are required for all work performed within the public right-of- way. Developer shall be responsible for all fees for the necessary permits and construction inspections for work performed within the public-right-of-way.

EXHIBIT C

BILLBOARD SIGN EASEMENT SITE PLAN AND ELEVATIONS

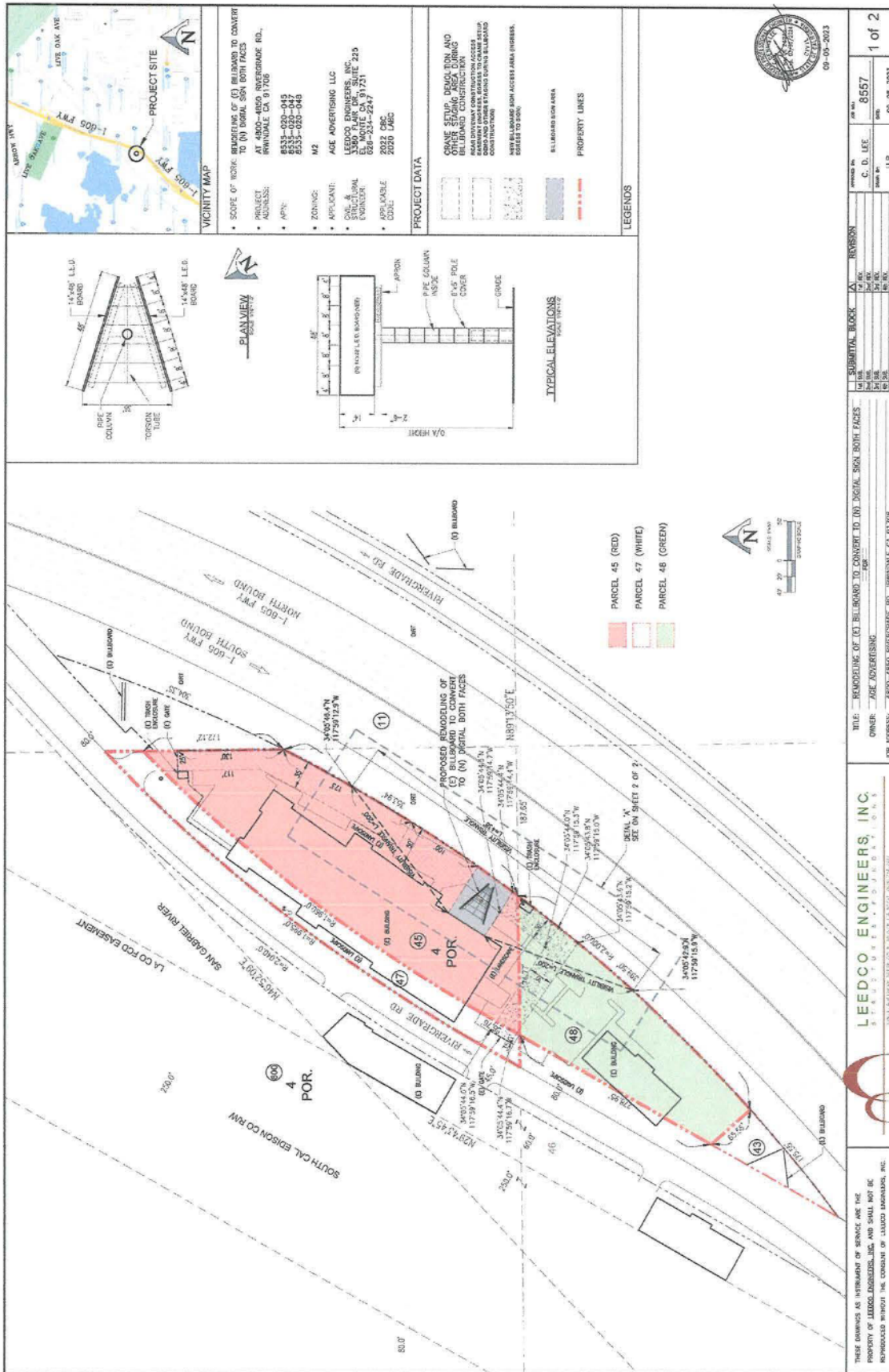


EXHIBIT D

SCHEDULE OF PERFORMANCE

ITEM OF PERFORMANCE	TIME FOR PERFORMANCE	REFERENCE
1. Effective Date of this Agreement.	30 days following Council's second reading of Ordinance.	1.1.10
2. Developer prepares and submits to City working drawings, specifications, and engineering for the Digital Billboard Structure; City commences approval process.	Within 180 days of the Effective Date.	Ex. B(6)(e)
3. Developer to submit proof of insurance to City.	Prior to commencing any inspections and work on the Project.	7.1.2
4. The Digital Billboard Structure shall be fully operational.	Not later than one (1) year after the issuance of Final Permits for the Digital Billboard Structure, or two (2) years after the Effective Date, whichever occurs first.	3.4
5. Developer pays City first installment of Development Fee if Developer receives Final Permits.	Within 1 year after the Digital Billboard Structure becomes fully operational or within 30 days after Developer receives any income from the use of the Digital Billboard Structure, whichever occurs first.	2.6
6. Developer pays City second through final installments of Development Fee if Developer receives Final Permits for the Digital Billboard Structure.	Upon each anniversary date of the Fee Commencement Date, as defined in Section 2.6 of this Agreement, for the Digital Billboard Structure.	2.6

It is understood that this Schedule of Performance is subject to all the terms and conditions of the text of the Agreement. The summary of the items of performance in this Schedule of Performance is not intended to supersede or modify the more complete description in the text; in the event of any conflict or inconsistency between this Schedule of Performance and the text of the Agreement, the text shall govern.

The time periods set forth in this Schedule of Performance may be altered or amended only by written agreement signed by both the Developer and the City. Notwithstanding any extension of the Term in the manner described in, and subject to the provisions of, Section 3.5, the City Manager shall have the authority to approve extensions of time set forth in this Schedule of Performance without action of the City Council not to exceed a cumulative total of 180 days.

The provisions of this section are in addition to any standards imposed by the development agreement, provided, however, that where any standard imposed by a development agreement, lease or license differ from the general standards set forth in this section, the standards imposed by the development agreement shall apply over the general standards as a matter of public interest.

- A. Sign Face Dimensions. The area of the sign face of a billboard shall not exceed six hundred seventy-five square feet, excluding border, trim, cutouts and other special advertising features or additions and base or apron supports and other structural members.
 - 1. Cutouts and other special advertising features or additions to a sign face shall not exceed in area ten percent of the total sign face dimensions.
 - 2. Three-dimensional design elements shall not extend more than five feet beyond the front of the sign face or sign side.
 - 3. Bidirectional or double-faced signs shall be located on the same structure. For parallel double-faced signs, the distance between sign faces shall not exceed eight feet. For "V-shaped" double-faced signs, the distance between sign faces shall not exceed forty-five feet at their widest point and shall not exceed eight feet at their closest point.
 - 4. Billboard identification signs shall have a minimum character height of two feet.
- B. Structure Design. Each structure shall have no more than two poles, and shall be constructed of noncombustible material.
- C. Height. The overall height of each structure shall not be limited to the maximum height limit of the zone, in which the billboard is located. The height shall not exceed sixty-five feet or, exclusive of cutouts or special additions, measured from the higher of either:
 - 1. The finished grade of the roadway adjacent to the lot on which the structure is located and from which the advertising display is to be viewed; or
 - 2. The finished grade of the base of the sign.
- D. Location. The location of billboards shall be restricted as follows:
 - 1. Structures shall be located only in area immediately adjacent to the I-605 and I-210 freeways that is zoned for commercial, quarry or industrial uses.
 - 2. Structures shall not be located on public property or rights-of-way. No portion of any sign or structure shall located on, project into, beneath, or above the public right-of-way.
 - 3. Maintenance, repair and other related operations shall be operated completely upon the billboard site and shall not use or encroach on any public right-of-way.
 - 4. Structures shall not be located within the setbacks that apply to the zone in which the structure is located.

5. Structures shall not be located within five feet of a building or other structure.
 6. New billboards shall not be located within two thousand five hundred feet of another billboard on the same side of the public right-of-way. Existing billboards may not be replaced unless they are outside of a minimum five hundred foot buffer of another billboard. For purposes of this section, measurements shall be made from the centerline of the support structure if a single pole and from the angle of intersection if a perpendicular (V-shaped) sign. Development agreements for new billboard structures with digital displays may provide for a reduced buffer, but not less than one thousand five hundred feet in due consideration of other public benefits provided in the development agreements, including, but not limited to, the concurrent takedown of existing static displays or digital displays within the city.
 7. When the replacement of a static billboard results in the construction of a new digital display, the new billboard shall not be located within a five hundred foot radius of any existing billboards (static or digital) on the same side of the public right-of-way. For purposes of this section, measurements shall be made from the centerline of the support structure if a single pole and from the angle of intersection if a perpendicular (V-shaped) sign.
- E. Prohibited Signs. The following types of signs shall not be permitted on billboards:
1. Any form of moving, animated, oscillating or rotating sign, or any other design intended to attract attention through movement or the semblance of movement of the whole or any part of the sign or any other method or device that suggests movement;
 2. Inflatable signs (including generator driven/externally powered inflatables);
 3. Flashing signs, containing internally and/or externally illuminated light or other devices which are intermittently on and off, which change in intensity, or which create the illusion of flashing in any manner, except that a digital display may be allowed subject to appropriate standards.
- F. Appearance. No billboard, including its supporting structure and lighting, shall present any hazard to the safety of pedestrian or vehicular traffic by obstructing the flow of such traffic, obstructing the sight lines required for the safe movement of pedestrian or vehicular traffic, interfering with the visibility and effectiveness of any traffic control or warning device, or in any other manner, as determined by the city manager or his designee.
1. Specifications regarding illumination, intermittent messaging, intensity, flashing and/or any other visual transformations shall be detailed in the development agreement.
 2. The images on the digital billboard faces will not change more often than every eight seconds. The images will change instantaneously, with no special effects or video. Any form of moving, animated, oscillating or rotating sign, or any other design intended to

attract attention through movement or the semblance of movement of the whole or any part of the sign or any other method or device that suggests movement is prohibited.

3. All signs shall be designed and maintained to be compatible with the design and materials used in the structure on which the sign is located.
4. No sign face or sign area shall be added to an existing sign unless within a permanent frame or panel indicated for such purpose on approved plans for the total sign structure.
5. All signs shall be maintained in good condition and working order, as determined by the city manager or his designee, and free of graffiti, peeling paint, faded colors and/or broken and damaged materials.

G. General Standards. All billboards must comply with the following standards:

1. Billboard modifications and replacements shall only apply to legal conforming and legal non-conforming signs. Any illegal signs must be removed.
2. The developer shall, at all times, comply with the approvals of the California Department of Transportation Outdoor Advertising Division.
3. The developer shall underground all utilities installed in connection with the billboard, where feasible.

H. Adjacent Landscaping. Where appropriate, the properties upon which billboards are located shall be landscaped to achieve a consistent freeway corridor landscaping theme in accordance with the following guidelines:

1. The landscaping objective is to see the property on which the structure is located landscaped completely along the freeway frontage, or on larger parcels with more than one billboard, a distance determined to be a proportionate share of the property's freeway frontage. Landscaping is not intended to block the view of the structures within their view shed, a distance of one-quarter mile from the sign face.
2. The structures shall be landscaped with a backdrop effect, utilizing fast growing, vertical formed trees, such as California Bay; Fern Pine; Coast Live Oak; or other similar non-invasive species.
3. The structures should be framed with trees of a broad form, such as native oak varieties, or other similar non-invasive species.
4. Sites that are on quarry or landfill properties shall be landscaped with shrubs and trees so as to effectively screen the property from freeway views.
5. The plant materials used for landscaping shall be drought-resistant and irrigated with an automatic drip irrigation system. Irrigation systems may be installed on the surface if a licensed landscape architect establishes a maintenance plan that may allow the irrigation

to be discontinued if the plant materials reach a level of maturity and condition that would permit it without damage to the plant material.

6. Landscape plans shall be accompanied by a photographic view study of the structure; both within its view shed and from a more distant approach to the view shed of the structure. This study shall demonstrate the effectiveness of the proposed landscape plan and its compliance with the preceding provisions.

(Ord. No. 659, § 4, 8-8-12)

BILLBOARD SITE PLAN

[illegible]

UNDERGROUND SERVICE ALERT

1. ATTENTION IS DRAWN TO THE POSSIBLE EXISTENCE OF FACILITIES NOT SHOWN OR IN A LOCATION DIFFERENT FROM SHOWN ON PLANS OR DESCRIBED IN THE SPECIAL PROVISIONS. THE CONTRACTOR SHALL TAKE STEPS TO ASCERTAIN THE EXACT LOCATION OF ALL UNDERGROUND FACILITIES PRIOR TO DOING WORK THAT SUCH FACILITIES OR INTERFERE WITH THEIR SERVICE.

2. BEFORE EXCAVATING, THE CONTRACTOR SHALL VERIFY THE LOCATION OF UNDERGROUND UTILITIES BY CONTACTING THE UNDERGROUND UTILITY LOCATOR AT 811. AT LEAST TWO (2) DAYS PRIOR TO BEGINNING EXCAVATION, THE CONTRACTOR SHALL CALL 811 TO OBTAIN A PRELIMINARY LOCATION OF ALL UNDERGROUND FACILITIES.

BENCHMARK

[illegible]

DATE	
APPROVED	ARSLANUS M. HANNA, P.E. CITY ENGINEER/BUILDING OFFICIAL
RECOMMENDED	
CHECKED	
DRAWN BY	
PREPARED UNDER THE SUPERVISION OF:	

PLANS PREPARED BY:



ALLIANCE
LAND PLANNING & ENGINEERING, INC.

2248 FARQUAY AVE.
CARLSBAD, CA 92008
TEL: (760) 431-8899
FAX: (760) 431-8821

27413 TOURNEY ROAD
SUITE 120
MELBOURNE, CA 91356
TEL: (760) 793-2700

LAND ENGINEERING • LAND DRAINAGE • LAND USE DESIGN • SUBDIVISION



SITE PLAN
4800 RIVERGRADE

IRVINDALE, CALIFORNIA

1 OF 1



It's time for Dodger Baseball in:

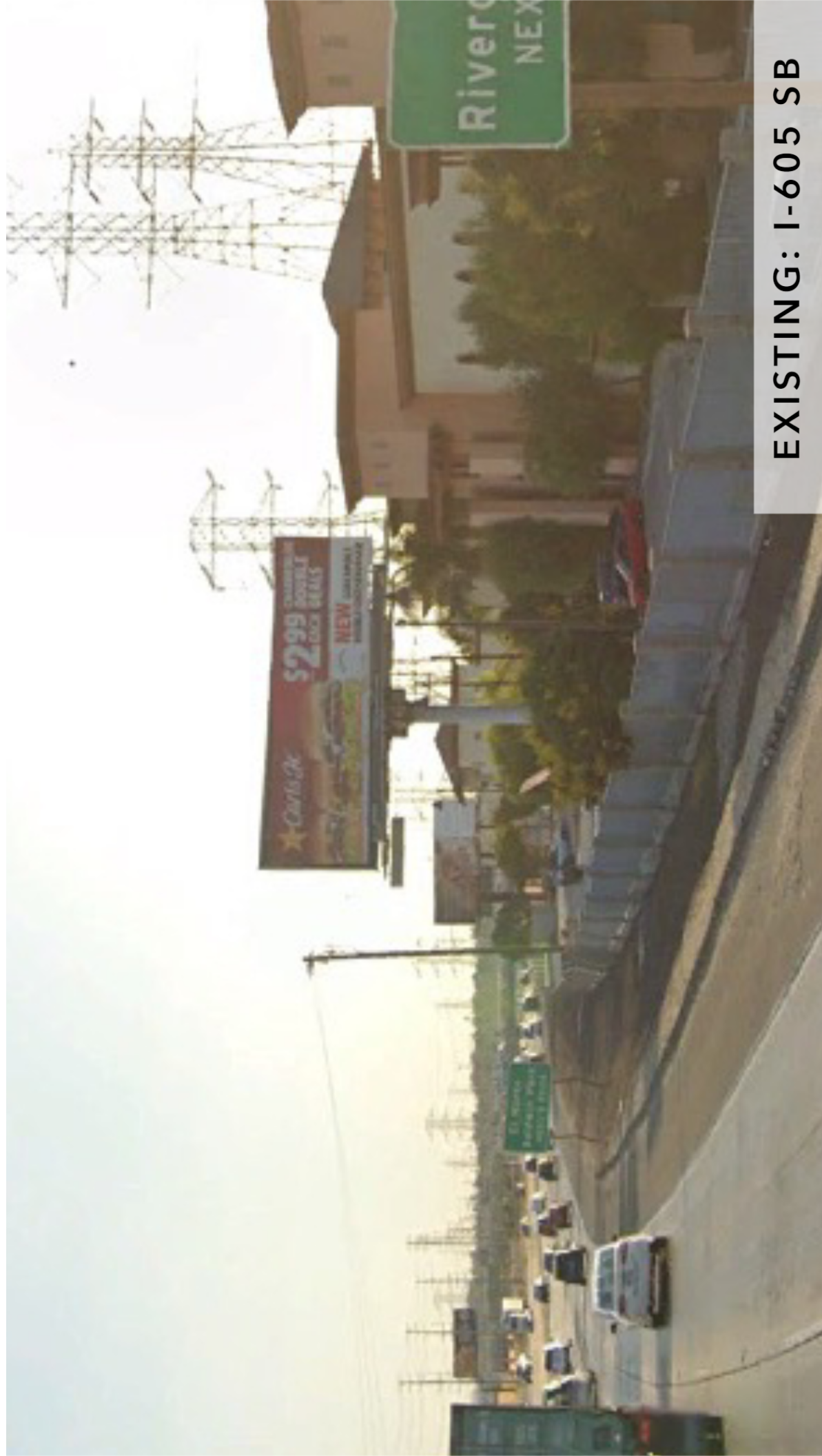
00 : 04 : 29

DAYS HOURS MINUTES

dodgers.com



PROPOSED: I-605 NB



EXISTING: I-605 SB



Rivero
NEX

El Estero
Piedra Blanca
100% S. 100%

PROPOSED: I-605 SB



**CITY OF IRWINDALE
PLANNING COMMISSION STAFF REPORT**
**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**



Date: January 17, 2024 **Agenda Item No. 4-A**

To: Honorable Chair and Members of the Planning Commission

From: Marilyn Simpson, AICP, Community Development Director

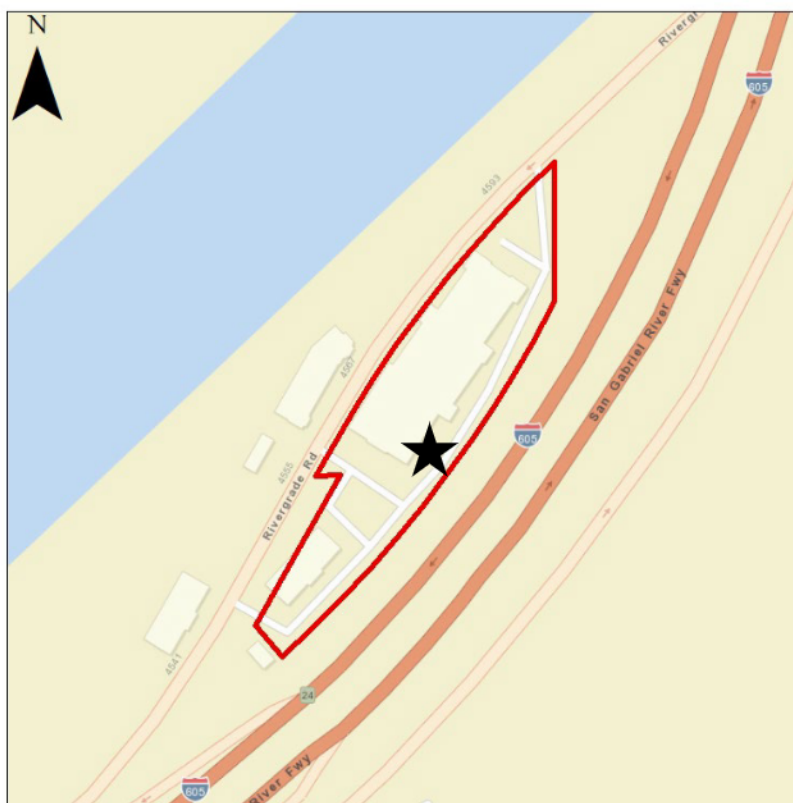
Project Planner: Martin Romero, Planning Technician

Project: Development Agreement No. 01-2020;
4800 Rivergrade Road – Digital Billboard Conversion

Applicants: Rivergrade Holding LLC

Property Owner: Rivergrade Holding LLC

Project Location: 4800 Rivergrade Road (APNs: 8535-020-045, 8535-020-047, and 8535-020-048)



Sources: Los Angeles County, City of Irwindale, ESRI
Map dated: January 2024

Staff Recommendation: That the Planning Commission adopt Resolution No. 821(24) recommending to the City Council an exemption from CEQA and approval of Development Agreement No. 01-2020 subject to the Conditions of Approval.

REQUEST

The Applicant, Rivergrade Holding LLC, is requesting approval of a Development Agreement to allow the conversion of a freeway-oriented static billboard into a digital display billboard at the property 4800 Rivergrade Road. Per Irwindale Municipal Code (IMC) section 17.72.030, the repair, replacement, or new installation of a static or digital billboard requires the approval of a Development Agreement with appropriate standards and public benefits to be negotiated with the City and complying with all other standards imposed by the IMC.

BACKGROUND

The site is located west of the I-605 freeway, east of Rivergrade Road. The site is currently occupied by four (4) buildings having a total square footage of ± 63,209 SF, formerly Hallett Boats. The subject billboard sits east of the buildings and faces the I-605 freeway. There is an existing static billboard located north of the project site sitting roughly 500 feet from the subject billboard. The digital conversion of the subject billboard meets the minimum distance requirement per IMC Subsection 17.72.50(D)(7).

GENERAL PLAN AND ZONING

The Site is designated in the General Plan as Industrial/Business Park and zoned M-2 (Heavy Manufacturing).

The proposed billboard area is surrounded by the following zones and uses:

Direction	Existing Land Use	Zoning District
North	San Gabriel River	M-2 (Heavy Manufacturing) and A-1 (Agricultural)
South	I-605 Fwy	I-605 Fwy
East	I-605 Fwy	I-605 Fwy
West	San Gabriel River	M-2 (Heavy Manufacturing) and A-1 (Agricultural)

PROJECT DESCRIPTION/ANALYSIS

The Applicant is proposing to convert an existing static billboard consisting of two (2), 16'-4.8" x 50'-0" digital panels arranged in a "V" shaped panel configuration having both the north-facing and south-facing panels facing both directions of the I-605 Freeway. The proposed digital billboard is proposed to have the same height and face area as the existing static billboard it will be replacing. The proposed billboard will have a total height of 52'-4.8", falling below the 65-foot maximum height.

Key provisions of the Development Agreement include the following:

1. *Annual Development Fee.* Developer will pay Seventy Thousand Dollars (\$70,000.00) to the City of Irwindale per year (representing \$35,000 per Digital Display) with a 12.5% increase every 5 years.
2. *Community Benefit.* Developer will provide advertising space on the Digital Displays to the City free of charge on a space-available basis. Such advertising space shall only be made available for the use of City-related events or agencies.
3. *Prohibited Use.* Developer will not utilize any of the displays on the Billboard to advertise tobacco, marijuana, hashish, "gentlemen's clubs," adult entertainment businesses, sexually oriented materials, or use sexually oriented images or language, including, but not limited to, ads such as "Adult Con", vulgar or obscene images or language.
4. *Annual Review.* The City Council will have the right to review this Agreement annually at the Developer's sole cost, on or before the anniversary of the Term, to ascertain the good faith compliance by Developer with the terms of the Agreement ("Annual Review").
5. *Indemnification.* Developer will indemnify the City for any damages or claims related to its construction and operation of the subject billboard.

DEVELOPMENT STANDARDS COMPLIANCE

Pursuant to IMC section 17.72.050, the proposed digital billboard complies with all of the required development standards, including, but not limited to the following (Refer to Exhibit B for a description of all general billboard standards):

A. Sign Face Dimensions.

1. The area of the sign face shall not exceed 675 square feet, excluding border, trim, cutouts and other special advertising features or additions and base or apron supports and other structural members.
2. Cutouts and other special advertising features or additions to a sign face shall not exceed in area 10% of the total sign face dimensions.
3. Three-dimensional design elements shall not extend more than 5 feet beyond the front of the sign face or sign side.
4. Bidirectional or double-faced signs shall be located on the same structure. For parallel double-faced signs, the distance between sign faces shall not exceed 8 feet. For "V-shaped" double-faced signs, the distance between sign faces shall not exceed 45 feet at their widest point and shall not exceed 8 feet at their closest point.
5. Billboard identification signs shall have a minimum character height of two feet.

- B. *Structure Design.* Each structure shall have no more than two poles, and shall be constructed of noncombustible material.
- C. *Height.* The height shall not exceed 65 feet or, exclusive of cutouts or special additions, measured from the higher of either:
1. The finished grade of the roadway adjacent to the lot on which the structure is located and from which the advertising display is to be viewed; or
 2. the finished grade of the base of the sign.
- D. *Location.* The location of billboards shall be restricted as follows:
1. Structures shall be located only in area immediately adjacent to the I-605 and I-210 freeways that is zoned for commercial, quarry or industrial uses.
 2. Structures shall not be located on public property or rights-of-way. No portion of any sign or structure shall located on, project into, beneath, or above the public right-of-way.
 3. Maintenance, repair and other related operations shall be operated completely upon the billboard site and shall not use or encroach on any public right-of-way.
 4. Structures shall not be located within the setbacks that apply to the zone in which the structure is located.
 5. Structures shall not be located within 5 feet of a building or other structure.
 6. New billboards shall not be located within 2,500 feet of another billboard on the same side of the public right-of-way. Existing billboards may not be replaced unless they are outside of a minimum 500-foot buffer of another billboard. For purposes of this section, measurements shall be made from the centerline of the support structure if a single pole and from the angle of intersection if a perpendicular (V-shaped) sign. Development agreements for new billboard structures with digital displays may provide for a reduced buffer, but not less than 1,500 feet in due consideration of other public benefits provided in the development agreements, including, but not limited to, the concurrent takedown of existing static displays or digital displays within the city.
 7. When the replacement of a static billboard results in the construction of a new digital display, the new billboard shall not be located within a 500-foot radius of any existing billboards (static or digital) on the same side of the public right-of-way. For purposes of this section, measurements shall be made from the centerline of the support structure if a single pole and from the angle of intersection if a perpendicular (V-shaped) sign.

ENVIRONMENTAL REVIEW

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA) of 1970, as amended, and the City of Irwindale environmental guidelines, the City, as the Lead Agency, has analyzed the project and has determined that the Project is Categorically Exempt from the provisions of CEQA pursuant to Section 15302 (Class 2; Replacement or Reconstruction) and no further review is required. Also, the City has determined that this project will not have, either individually or cumulatively, an adverse impact on fish and wildlife resources.

Subject to approval of the project by the City Council based on a recommendation by the Planning Commission, a Notice of Exemption will be filed with the office of the Registrar-Recorder/County Clerk, County of Los Angeles.

RECOMMENDATION

That the Planning Commission adopt Resolution No. 821(24) recommending to the City Council approval of Development Agreement No. 01-2020 subject to the Conditions of Approval.

ATTACHMENTS

- Exhibit A: Resolution No. 821(24) with Development Agreement
- Exhibit B: IMC Section 17.72.050, General (Billboard) Standards
- Exhibit C: Site Plan, Elevations, and Photo Simulations

EXHIBIT “A”

RESOLUTION NO. 821(24)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IRWINDALE RECOMMENDING THAT THE CITY COUNCIL APPROVE DEVELOPMENT AGREEMENT NO. 01-2020 TO ALLOW FOR THE CONVERSION OF AN EXISTING STATIC BILLBOARD LOCATED AT 4800 RIVERGRADE ROAD (APNS: 8535-020-045, 8535-020-047, AND 8535-020-048) IN THE M-2 (HEAVY MANUFACTURING) ZONE SUBJECT TO THE CONDITIONS AS SET FORTH HEREIN AND MAKING FINDINGS IN SUPPORT THEREOF, AND FIND THE PROJECT EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15302 (CLASS 2; REPLACEMENT AND RECONSTRUCTION)

A. RECITALS.

- (i) Andrew Goodman, on behalf of Rivergrade Holding, LLC, (the “Applicant”), has made a request for approval of a Development Agreement (Exhibit A) to allow the conversion of an existing static billboard into a digital display billboard at 4800 Rivergrade Road in Irwindale, APNs: 8535-020-045, 8535-020-047, and 8535-020-048 (“Subject Property”). The proposed billboard conversion will consist of two (2) 16’-4.8” x 50’-0” digital panels facing north and south bound traffic just west of the I-605 Freeway. The digital billboard panels will be placed on a similar structure as the existing and will not increase the height of the existing structure. The digital billboard will have a total height of 52 feet 4.8 inches.
- (ii) The Subject Property is zoned M-2 (Heavy Manufacturing). Per Irwindale Municipal Code (IMC) section 17.72.030, the repair, replacement, or new installation of a static or digital billboard requires the approval of a Development Agreement with appropriate standards and public benefits to be negotiated with the City and complying with all other standards imposed by the IMC.
- (iii) Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA) of 1970, as amended, and the City of Irwindale environmental guidelines, the City, as the Lead Agency, has analyzed the project and has determined that the Project is Categorically Exempt from the provisions of CEQA pursuant to Section 15302 (Class 2; Replacement and Reconstruction) and no further review is required. Also, the City has determined that this project will not have, either individually or cumulatively, an adverse impact on fish and wildlife resources. Subject to approval of the project by the City Council based on a recommendation by the Planning Commission, a Notice of Exemption will be filed with the office of the Registrar-Recorder/County Clerk, County of Los Angeles.

- (iv) On January 17, 2024, the Planning Commission conducted a duly noticed public hearing, at which time they received a presentation from staff; opened the public hearing and heard testimony from the Applicant and the public; closed the public hearing; and discussed the Proposed Project; and, after discussion and consideration of substantial evidence including the testimony, staff report, and all attachments thereto, approved this Resolution recommending that the City Council approve Development Agreement No. 01-2020.
- (v) All legal prerequisites to the adoption of this Resolution have occurred.

B. RESOLUTION.

NOW, THEREFORE, it is hereby found, determined and resolved by the Planning Commission of the City of Irwindale as follows:

- (i) The Planning Commission hereby specifically finds that all of the facts set forth in Recitals, Part A, of this Resolution are true and correct and incorporated herein by this reference.
- (ii) The Planning Commission hereby specifically finds and determines that the project, as proposed, is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to 15302 (Class 2; Replacement and Reconstruction). The Planning Commission therefore recommends that the City Council find the project exempt from further CEQA review.
- (iii) Based upon substantial evidence and testimony taken from the record as a whole, and received at the public hearing, both oral and written, including the staff report, and all attachments thereto, all of which shall constitute the entire record of the matter, the Planning Commission hereby finds that the proposed billboard conversion complies with the General Standards imposed by Section 17.72.050 of the Irwindale Municipal Code.
- (iv) Based upon the substantial evidence and conclusions set forth herein above, this Planning Commission hereby recommends to the City Council approval of the Development Agreement subject to the conditions set forth in the Development Agreement attached hereto as Exhibit A and by this reference incorporated herein, which conditions are deemed necessary to protect the public health, safety and general welfare and are reasonable and proper in accordance with the intent and purposes of Title 17 of the Irwindale Municipal Code.

The Secretary shall:

- a. Certify to the adoption of this Resolution; and
- b. Forthwith transmit a certified copy of this Resolution, by certified mail, to the Applicant at the address of record set forth in the Application.

ADOPTED AND APPROVED this 17th day of January 2024.

David Fuentes, Chair
City of Irwindale Planning Commission

ATTEST:

Marilyn Simpson, AICP, Secretary

CITY OF IRWINDALE
COUNTY OF LOS ANGELES
STATE OF CALIFORNIA

} ss.

I, Marilyn Simpson, AICP, Community Development Director of the City of Irwindale, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Planning Commission of the City of Irwindale held on the 17th day of January 2024, by the following vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

Marilyn Simpson, AICP, Secretary

Draft Development Agreement

Recording Requested by And
 When Recorded Return to:
 CITY OF IRWINDALE
 5050 N. Irwindale Ave.
 Irwindale, CA 91706
 Attn: City Clerk

[Exempt From Recording Fee Per Gov. Code §6103]

DEVELOPMENT AGREEMENT NO.

This Development Agreement (“**Agreement**”) is entered into this ____ day of _____, 2023 (“**Effective Date**”) by and between the CITY OF IRWINDALE, a California municipal corporation (“**City**”) and RIVERGRADE HOLDING, LLC, a California limited liability company (“**Developer**”).

RECITALS

A. California Government Code Sections 65864, *et seq.*, (“**Development Agreement Law**”) authorizes cities to enter into binding development agreements with persons having a legal or equitable interest in real property for the development of such property, all for the purposes of strengthening the public planning process, encouraging private participation and comprehensive planning and identifying the economic costs of such development.

B. Developer is the grantee of that certain Grant of Easement for Billboard Sign and Access granting Developer an exclusive easement over a certain portion of real property, as further described below (such easement is referred to herein as the “**Billboard Sign Easement Site**”), which real property is located adjacent to the west side of the 605 Freeway and immediately east of Rivergrade Road in the City of Irwindale, at 4800 Rivergrade Road, Assessor Parcel Numbers 8535-020-045, 8535-020-047 and 8535-020-048, and as more specifically described in Exhibit “A-1”, attached hereto and incorporated herein (such real property is referred to herein as the “**Real Property Site**”). Grantee’s easement rights and obligations with regards to the Billboard Sign Easement Site have been modified or otherwise clarified through that certain First Amendment to Grant of Easement for Billboard Sign and Access, recorded October 10, 2023 with the County Recorder’s Office, having document number 20230687730.

C. The Billboard Sign Easement Site, which lies within the borders of the Real Property Site, is specifically described in Exhibit “A-2” and depicted in Exhibit “A-3”, attached hereto and incorporated herein and improved with one (1) existing lawfully-permitted double-sided printed billboard (such printed billboard is referred to herein as the “**Printed Billboard Structure**”).

D. Pursuant to the terms of this Agreement, Developer seeks to replace the Printed Billboard Structure with one double-faced digital billboard (such digital billboard is referred to herein as the “**Digital Billboard Structure**”), having a V-shaped design with one face oriented towards southbound traffic and the other face oriented toward northbound traffic on the 605 Freeway, using a new billboard foundation and pole structure in generally the same location where the Printed Billboard Structure is currently located. The Digital Billboard Structure will have

two faces of approximately 14 feet by 48 feet, or approximately 675 square feet (each referred to individually herein as a “**Digital Display Face**”). The Digital Billboard Structure will be supported by a single post.

E. Luos Investment LLC, a California limited liability company, owns the Real Property Site. Luo Investment, LLC has represented and warranted that it is the owner of the Real Property Site and that Rivergrade Holding LLC has (1) a valid current easement interest in the Billboard Sign Easement Site, (2) the exclusive, perpetual and irrevocable right to replace and modify (and all activities reasonably necessary in connection therewith) the Printed Billboard Structure, and (3) provided Luo Investment, LLC with notice of the replacement Digital Billboard Structure including a detailed description of the proposed Project. Developer, as the easement holder to the Billboard Sign Easement Site upon which the Printed Billboard Structure is located, has a legal and/or equitable interest in the Billboard Sign Easement Site and, thus, qualifies to enter into this Agreement in accordance with Development Agreement Law.

F. Developer is currently subject to an April 1, 2003 Billboard Lease Agreement, as assigned, with Regency Outdoor Advertising, Inc. and Clear Channel Outdoor, Inc. for the lease of each display face on the Printed Billboard Structure, which lease is on a month-to-month term and Developer, in its discretion intends to terminate such lease to allow for the Project and negotiate a new lease with an operator of Developer’s choice to utilize such Digital Billboard Structure and Digital Display Faces in pursuit of the approvals secured through this Agreement.

G. In exchange for the approvals sought to install the Digital Billboard Structure, Developer has offered to:

1. Pay to the City an annual Development Fee, as defined and provided in Section 2.6 below, for the cost to the City to mitigate the impact of the installation of the Digital Billboard Structure; and

2. Provide advertising time on the Digital Billboard Structure on a space-available basis to the City for public service and civic causes.

H. The Billboard Sign Easement Site is located within the City’s M-2 Heavy Manufacturing Zone and designated by the General Plan land use map as Commercial/Industrial.

I. Developer and City agree that a development agreement should be approved and adopted to memorialize the property expectations of City and Developer as more particularly described herein.

J. On _____, 2022, the Planning Commission of the City, adopted Resolution No. _____ recommending approval of this Agreement and Ordinance No. _____ to the City Council and the filing of a Notice of Exemption pursuant to the provisions of the California Environmental Quality Act (“CEQA”).

K. On _____, 2022, the City Council of the City, at a duly noticed hearing to consider the approval of this Agreement, considered the proposal, heard testimony, and introduced Ordinance No. _____, and authorized the adoption of a Notice of Exemption pursuant to Section 15302 of the CEQA Guidelines (Class 2 exemption for replacement or reconstruction of existing structures and facilities).

L. The City Council has found that this Agreement is in the best interest of the City and its residents, adopting this Agreement constitutes a prudent exercise of the City's police power, and this Agreement is consistent with the City's General Plan. This Agreement and the proposed Project (as hereinafter defined) will achieve several City objectives. Upon expiration or any termination of this Agreement, City and Developer shall be subject to Section 4.1 and Section 4.2 with respect to various rights and obligations to convert the Digital Billboard Structure back to a printed billboard with two facings, subject to obtaining any required permits.

M. On _____, 2022, the City Council held the second reading of Ordinance No. _____, thereby approving this Agreement.

N. City finds and determines that all actions required of City precedent to approval of this Agreement by Ordinance No. _____ of the City Council have been duly and regularly taken.

COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS AND EXHIBITS.

1.1 **Definitions.** This Agreement uses a number of terms having specific meanings, as defined below. These specially defined terms are distinguished by having the initial letter capitalized, when used in the Agreement. In addition to the terms defined in the Recitals above, the defined terms include the following:

1.1.1 "Agreement" means this Development Agreement and all attachments and exhibits hereto.

1.1.2 "Billboard Sign Easement Site" shall have the meaning ascribed in the Recitals above.

1.1.3 "City" means the City of Irwindale, a California municipal corporation and charter city.

1.1.4 "City Council" means the City Council of the City.

1.1.5 "Developer" means Rivergrade Holding LLC, a California limited liability company, duly existing and operating, and its successors and assigns, doing business at 9454 Wilshire Boulevard, Suite 201, Beverly Hills, CA 90212.

1.1.6 "Development Approvals" means any and all permits or approvals necessary to carry out and complete the Project, including, but not limited to Ordinance No. ___, and as further described in Section 3.3 herein.

1.1.7 "Development Fee" shall have the definition given in Section 2.6 of this Agreement.

1.1.8 “Digital Billboard Structure” shall have the meaning ascribed in the Recitals above.

1.1.9 “Digital Display Face” shall have the meaning ascribed in the Recitals above.

1.1.10 “Effective Date” means the date inserted into the preamble of this Agreement, which is 30 days following approval of this Agreement by ordinance of the City Council, provided the Agreement is signed by the Developer and City.

1.1.11 “Fee Commencement Date” shall have the definition given in Section 2.6 of this Agreement.

1.1.12 “Final Permits” shall mean the final approval from the applicable governmental authorities and all required third party approvals, after the expiration of all applicable appeal periods, for any and all required permits to maintain and operate the Digital Billboard Structure as contemplated under this Agreement.

1.1.13 “Land Use Regulations” means all ordinances, resolutions, codes, rules, regulations and official policies of City, including, but not limited to, the City’s General Plan, Municipal Code, and Zoning Code, which govern development and use of the Billboard Sign Easement Site, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, the maximum height and size of the Digital Billboard Structure and the design, improvement and construction standards and specifications applicable to the development of the Billboard Sign Easement Site which are in full force and effect as of the Effective Date of this Agreement, subject to the terms of this Agreement. Land Use Regulations shall also include National Pollutant Discharge Elimination System (“**NPDES**”) regulations and approvals from the California Department of Transportation Outdoor Advertising Division, to the extent applicable.

1.1.14 “Mortgagee” means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security-device, a lender or each of their respective successors and assigns.

1.1.15 “Owner” means the fee simple owner of the Real Property Site encumbered by and subject to Developer’s exclusive grant of easement to the Billboard Sign Easement Site at a specific time. As of the Effective Date, Luos Investment, LLC is the Owner.

1.1.16 “Project” means the removal of the Printed Billboard Structure and installation, operation, improvement, replacement, upgrade, and maintenance of the Digital Billboard Structure on the Billboard Sign Easement Site, all in accordance with the Development Approvals and this Agreement, including the Scope of Development attached hereto as Exhibit “B”, Schedule of Performance attached hereto as Exhibit “D”, and all conditions of approval, and consistent with the approval from the California Department of Transportation Outdoor Advertising Division.

1.1.17 “Real Property Site” shall have the meaning ascribed in the Recitals above.

1.1.18 “Schedule of Performance” means the Schedule of Performance attached hereto as Exhibit “D” and incorporated herein.

1.1.19 “Scope of Development” means the Scope of Development attached hereto as Exhibit “B” and incorporated herein.

1.1.20 “Subsequent Development Approvals” means all Development Approvals issued subsequent to the Effective Date in connection with development of the Project, which shall include, without limitation, any changes to the Development Approvals.

1.1.21 “Subsequent Land Use Regulations” means any Land Use Regulations effective after the Effective Date of this Agreement (whether adopted prior to or after the Effective Date of this Agreement) which govern development and use of the Billboard Sign Easement Site.

1.1.22 “Term” shall have the meaning provided in Section 2.4, unless earlier terminated as provided in this Agreement.

1.2 **Exhibits.** The following documents are attached to, and by this reference made a part of, this Agreement: Exhibit “A-1” (Legal Description of Real Property Site), Exhibit A-2 (Legal Description of Billboard Sign Easement Site), Exhibit “A-3” (Depiction of Billboard Sign Easement Site), Exhibit “B” (Scope of Development), Exhibit “C” (Billboard Sign Easement Site Plan and Elevations), and Exhibit “D” (Schedule of Performance).

2. GENERAL PROVISIONS.

2.1 **Binding Effect of Agreement.** From and following the Effective Date, actions by the City and Developer with respect to the Project, including actions by the City on applications for Subsequent Development Approvals affecting the Billboard Sign Easement Site, shall be subject to the terms and provisions of this Agreement.

2.2 **Interest in Billboard Sign Easement Site.** Developer represents to City that Developer has a legal and/or equitable interest in the Billboard Sign Easement Site and thus is qualified to enter and be a party to this Agreement under the Development Agreement Law.

2.3 **Assignment.** Developer may assign or otherwise transfer this Agreement, or any part of this Agreement, to any other entity, upon presentation to the City of an assignment and assumption agreement in a form reasonably acceptable to the City Attorney and the City's written approval of such assignment or transfer by the City Manager, which shall not be unreasonably withheld if the assignee is able to demonstrate sufficient financial assets and experience in undertaking the obligations under this Agreement. However, Developer may, from time to time and one or more times, assign this Agreement, to another entity without City approval, but with written notice to the City, as long as (1) Developer has and maintains at least a twenty-five percent (25%) ownership interest in the assignee(s) or transferee(s); and (2) any assignee(s) or transferee(s) executes an assumption agreement assuming all of Developer's duties and obligations hereunder to the extent of the interest assigned or transferred. After a transfer or assignment as permitted by this Section, the City shall look solely to such assignee or transferee for compliance with the provisions of this Agreement which have been assigned or transferred.

2.4 Term of Agreement. Unless earlier terminated as provided in this Agreement, this Agreement shall continue in full force and effect until the earlier of: (i) thirty (30) years after the Fee Commencement Date; or (ii) the permanent removal of both Digital Display Faces constructed pursuant to the terms hereof (“**Term**”). If only one Digital Display Face is permanently removed from the Digital Billboard Structure and replaced with a printed billboard, the then-current Development Fee will be reduced by fifty percent (50%) and the Agreement will remain in full force and effect as to the remaining Digital Display Face. Within thirty (30) days after the expiration or termination of this Agreement, the parties shall execute a written cancellation of this Agreement which shall be recorded with the County Recorder pursuant to Section 9.1 below. If no extension of this Agreement is agreed to, then the Digital Display Faces shall be removed within the times and as set forth under Section 4 below.

2.5 Processing Fee. Developer has paid to City a processing fee (“**Processing Fee**”) in the total amount of \$13,526.20, which included (1) the Agreement application fee of \$2,000.00 (2) Environmental Documentation fee of \$250.00; (3) Agreement fee of \$10,000.00, as an initial deposit for the City Attorney costs of preparation (4) Public Hearing Notices deposit of \$350.00, which did not include the actual cost of ads; (5) a Noticing fee of \$12.00, representing \$2.00 per parcel times the number of parcels that received public hearing notices; and (6) a 35% Administrative and Overhead fee of \$914.20. The City shall retain and use the Processing Fee, or any part thereof, for any public purpose within the City’s discretion. In addition to the Processing Fee, any additional City Attorney fees incurred by City in the preparation and negotiation of the Agreement and processing of Project Development Approvals at a rate not to exceed \$400.00 per hour, plus the actual amount of the costs of the Public Hearing Notice ads, shall be Developer’s responsibility to pay. The Processing Fee shall be separate from all fees which are standard and uniformly applied to similar projects in the City, including, but not limited to, business license fees (due by Developer to City annually), a one-time plan check fee and building permit fee, and any other fees imposed by the City as may be applicable. Additionally, within thirty (30) days of the City providing Developer with a final invoice of legal fees (subject to the above cap) or fees incurred by City related to the negotiation and preparation of this Agreement and Public Hearing Notice ads, Developer shall pay City any outstanding balance of such fees.

2.6 Development Fee. The potential aesthetic impacts of the Project on City and surrounding community are discussed in the CEQA documents prepared as part of the review process of this Agreement. The parties agree an annual fee paid by Developer to City would adequately mitigate those aesthetic impacts, because that fee will provide City resources to install and maintain other aesthetic improvements throughout the community, including, but not limited to, landscaping, street medians, signs in public parks, street sweeping, street signs and street lighting. To that end, Developer and City agree that an annual development fee paid per Digital Display Face by Developer to City would adequately mitigate all such potential impacts. The parties therefore agree, subject to the obligations of Section 2.7 below, Developer shall pay an annual development fee to City of \$35,000 per Digital Display Face, increased by twelve and one half percent (12.5%) at the 6th, 11th, 16th, 21st, and 26th payments (“**Development Fee**”). For ease of reference, the Development Fees shall equal the following amounts during the Term:

Payment Number	Fee per Digital Display Face	Fee for Digital Billboard Structure (Project)
1 through 5	\$35,000	\$70,000

6 through 10	\$39,375	\$78,750
11 through 15	\$44,297	\$88,594
16 through 20	\$49,834	\$99,668
21 through 25	\$56,063	\$112,126
26 through 30	\$63,071	\$126,142

The first Development Fee payment for the Project shall be due no later than one (1) year after the Digital Billboard Structure becomes fully operational or within thirty (30) days after Developer receives any income from the use of the Digital Billboard Structure, whichever occurs first (“**Fee Commencement Date**”). On the one-year anniversary of the Fee Commencement Date, Developer shall make the second Development Fee payment and then annually thereafter in accordance with the above pay schedule. Developer shall notify City within five (5) days after the Digital Billboard Structure becomes fully operational or within five (5) days of its receipt of any income received from use of the Digital Billboard Structure, whichever occurs first, for the purpose of determining the Fee Commencement Date. Nothing herein relieves the City from its contractual duty to issue all municipal building permits that are associated with the Project if Developer is in compliance with the terms of this Agreement. In compliance with the provisions of Government Code section 65865(e), City shall maintain the Development Fee it receives pursuant to this Agreement and other similar agreements in a separate capital facilities account to be expended for the purpose of enhancing and/or improving the aesthetics of the community within the City of Irwindale, such as through new street signs, street lighting, increased landscaping, heightened landscape maintenance, removal of code violations that impact the aesthetics of the community, and other related aesthetic uses.

2.6.1 *Late Payment*

(a) Penalty. The City may notify the Developer if the Development Fee is not received within ten (10) business days after the due date (“**Late Notice**”); there shall be no penalty if payment is made within ten (10) business days following the Late Notice. The date of the Late Notice shall mean the date that it is received by the Developer after it has been placed by the City in the U.S. Mail, certified mail with return receipt. Failure to sign the return receipt shall not affect the date Late Notice is given. If City does not issue a Late Notice, penalties will begin to accrue if payment is not made within thirty (30) calendar days of the Due Date.

Late payment penalties shall be calculated as follows: 5% of the Development Fee due and payable for the current year shall be added to the Development Fee for that year for failure to make the full payment within ten (10) business days of the Late Notice. As an example, the Development Fee for Year 5 is \$70,000. A 5% penalty would result in a total amount due of \$73,500 (\$70,000 + \$3,500). Thereafter, for each additional ten (10) calendar days that the full Development Fee is not paid, including the penalty, the Developer shall incur an additional penalty of 5% of that year’s Development Fee, for a maximum penalty of 15% of that year’s Development Fee.

(b) Termination. Notwithstanding anything to the contrary in Article 6 of this Agreement, failure by Developer to pay the Development Fee to the City within thirty (30) days following the due date of each year during the Term of this Agreement is considered

a material breach of this Agreement, and if not paid in full to the City, including all late penalties, within ten (10) business days after written notice to Developer of such material breach, City may begin termination proceedings in accordance with Article 6 of Agreement.

2.7 Community Benefits. Developer shall also provide free of charge to City on a space-available basis, advertising space on the Digital Billboard Structure. Such advertising space shall only be made available for the use of City-related events or agencies. City will be responsible for creating the design of any displays, subject to review and approval of a suggested copy from City by Developer, with such Developer approval not to be unreasonably withheld, conditioned or delayed. Developer agrees to install, at no cost to the City, an unlit City emblem (the “**City Logo**”) on the sign column of each Digital Billboard Structure. Said logo shall be provided to the Developer by the City, as further detailed in “Exhibit B” attached hereto.

2.8 Prohibited Use. Developer shall not utilize any of the displays on the Digital Billboard Structure to advertise tobacco, marijuana, hashish, “gentlemen’s clubs,” adult entertainment businesses, sexually oriented materials, or use sexually oriented images or language, including, but not limited to, ads such as “Adult Con”, vulgar or obscene images or language, or as may be prohibited by any City ordinance existing as of the Effective Date of this Agreement or as may be amended or implemented from time-to-time after the Effective Date and equally-applicable to all digital displays by any duly adopted and valid City ordinance.

3. DEVELOPMENT AND IMPLEMENTATION OF THE PROJECT.

3.1 Rights to Develop Project on the Billboard Sign Easement Site. Subject to and during the Term of this Agreement, Developer shall develop, maintain, and operate the Project on the Billboard Sign Easement Site in accordance with, and to the extent of, the Development Approvals, the Land Use Regulations, and this Agreement.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement, the rules, regulations and official policies governing permitted uses of the Billboard Sign Easement Site, the density and intensity of use of the Billboard Sign Easement Site, the maximum height and size of the proposed Digital Display Face, and the design, improvement and construction standards and specifications applicable to development of the Project shall be as set forth in the Land Use Regulations, as such term is defined in Section 1.1.13, which are in full force and effect as of the Effective Date of this Agreement, subject to the terms of this Agreement.

3.3 Development Approvals. Developer shall, at its own expense and before commencement of demolition, construction or development of any structures or other work of improvement upon the Billboard Sign Easement Site, secure or cause to be secured all necessary Development Approvals, which shall include any and all permits and approvals which may be required by City or any other governmental agency or utility affected by such construction, development or work to be performed by Developer pursuant to the Scope of Development, including but not limited to, necessary building permits and all approvals required under the California Environmental Quality Act (“CEQA”). Not by way of limiting the foregoing, in developing and constructing the Project, Developer shall comply with all (1) applicable

development standards in City's Municipal Code, (2) applicable NPDES requirements pertaining to the Project, and (3) all applicable building codes, except as may be permitted through approved variances and modifications. Developer shall pay all normal and customary fees and charges applicable to such permits, and any fees and charges hereafter imposed by City in connection with the Project which are standard and uniformly applied to similar projects in the City.

3.4 Timing of Project; Scope of Development. Developer shall comply with all time requirements set forth in the Schedule of Performance, attached hereto as Exhibit "D". Developer shall remove the Printed Billboard Structure and install a Digital Billboard Structure and such Digital Billboard Structure and both Digital Display Faces shall be fully operational not later than one (1) year after the issuance of Final Permits for the Digital Billboard Structure, or two (2) years after the Effective Date, whichever occurs first. If the Digital Billboard Structure is not fully operational within such time, and after compliance with Section 5.4, City may terminate this Agreement and shall have no further obligation hereunder. However, City may allow for extensions of time for the conversions based on Developer's showing, and City's finding, of good cause for such delay, which extension shall be confirmed in writing by City to Developer.

If circumstances within the scope of Section 9.10 delay the commencement or completion of the Project, it would not constitute grounds for any termination rights found within this Agreement. In such case, the timeline to commence or complete the relevant task shall be extended in the manner set forth at Section 9.10. Notwithstanding the above, Developer shall, at all times, comply with all other obligations set forth in this Agreement regarding the construction of the Project on the Billboard Sign Easement Site. Developer shall also maintain the Digital Billboard Structure at all times during the Term in accordance with the maintenance provisions set forth in Section 3 of the Scope of Development, attached hereto as Exhibit "B".

The purpose of this Agreement is to set forth the rules and regulations applicable to the Project, which shall be accomplished in accordance with this Agreement, including the Scope of Development (Exhibit "B") which sets forth a description of the Project and the Schedule of Performance (Exhibit "D").

3.5 Changes and Amendments. Developer may determine that changes to the Development Approvals are appropriate and desirable. In the event Developer makes such a determination, Developer may apply in writing for an amendment to the Development Approvals to effectuate such change(s). The parties acknowledge that City shall be permitted to use its inherent land use authority in deciding whether to approve or deny any such amendment request; provided, however, that in exercising the foregoing the City shall use reasonable discretion and shall not apply a standard different than that used in evaluating requests of other developers. Accordingly, under no circumstance shall City be obligated in any manner to approve any amendment to the Development Approvals. The City Manager shall be authorized to approve any non-substantive amendment to the Development Approvals without processing an amendment to this Agreement. All other amendments shall require the approval of the City Council. The parties acknowledge that any extension of the Term for no more than twenty-four (24) months total is an example of a non-substantive change, which the City Manager, in his or her reasonable discretion, may approve in writing. Nothing herein shall cause Developer to be in default if it upgrades the Digital Billboard Structure installed pursuant to this Agreement during the term of this Agreement to incorporate newer technology; provided Developer shall secure all applicable ministerial

permits to do so and such upgrade is consistent with the dimensions and standards for the displays, as provided under this Agreement, Land Use Regulations and Subsequent Land Use Regulations.

3.6 **Reservation of Authority.**

3.6.1 *Limitations, Reservations and Exceptions.* Notwithstanding any other provision of this Agreement, the following Subsequent Land Use Regulations shall apply to the development of the Project:

(a) Processing fees and charges of every kind and nature imposed by City to cover the estimated actual costs to City of processing applications for Subsequent Development Approvals.

(b) Procedural regulations consistent with this Agreement relating to hearing bodies, petitions, applications, notices, findings, records, hearing, reports, recommendations, appeals and any other matter of procedure. Notwithstanding the foregoing, if such change materially changes Developer's costs or otherwise materially impacts its performance hereunder, Developer may terminate this Agreement upon ninety (90) days prior written notice.

(c) Changes adopted by the International Conference of Building Officials, or other similar body, as part of the then most current versions of the Uniform Building Code, Uniform Fire Code, Uniform Plumbing Code, Uniform Mechanical Code, or National Electrical Code, as adopted by City as Subsequent Land Use Regulations, if adopted prior to the issuance of a building permit for development of the Digital Billboard Structure. Notwithstanding the foregoing, if such change materially changes Developer's costs or otherwise materially impacts its performance hereunder, Developer may terminate this Agreement upon ninety (90) days prior written notice.

(d) Regulations that are not in conflict with the Development Approvals or this Agreement.

(e) Regulations that are in conflict with the Development Approvals or this Agreement, provided Developer has given written consent to the application of such regulations to development of the Project.

(f) Applicable Federal, State, County, and multi-jurisdictional laws and regulations which City is required to enforce as against the Billboard Sign Easement Site or the development of the Project and that do not have an exception for existing signs or legal nonconforming uses.

3.6.2 *Future Discretion of City.* This Agreement shall not prevent City from denying or conditionally approving any application for a Subsequent Development Approval on the basis of the Land Use Regulations.

3.6.3 *Modification or Suspension by Federal, State, County, or Multi-Jurisdictional Law.* In the event that applicable federal, State, County, or multi-jurisdictional laws or regulations, enacted after the Effective Date of this Agreement,

prevent or preclude compliance with one or more of the provisions of this Agreement, and there is no exception for the legal nonconforming use, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such federal, State, County, or multi-jurisdictional laws or regulations, and this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provision impractical to enforce. Notwithstanding the foregoing, if such change materially changes Developer's costs or otherwise materially impacts its performance hereunder, Developer may terminate this Agreement upon ninety (90) days prior written notice.

3.7 Regulation by Other Public Agencies. It is acknowledged by the parties that other public agencies not subject to control by City may possess authority to regulate aspects of the development of the Project as contemplated herein, and this Agreement does not limit the authority of such other public agencies. Developer acknowledges and represents that, in addition to the Land Use Regulations, Developer shall, at all times, comply with all applicable federal, State and local laws and regulations applicable to the Digital Billboard Structure and the Billboard Sign Easement Site that do not have an exception for a legal nonconforming use. To the extent such other public agencies preclude development or maintenance of the Project and that do not have an exception for a legal nonconforming use, Developer shall not be further obligated under this Agreement except as provided in Section 4.1. Notwithstanding the foregoing, if such action by another public agency materially changes Developer's costs or otherwise materially impacts its performance hereunder, Developer may terminate this Agreement upon ninety (90) days prior written notice.

3.8 Public Improvements. Notwithstanding any provision herein to the contrary, the City shall retain the right to condition any Subsequent Development Approvals to require Developer to pay any required development fees, and/or to construct the required public infrastructure ("**Exactions**") at such time as City shall determine subject to the following conditions.

3.8.1 The payment or construction must be to alleviate an impact caused by the Project or be of benefit to the Project; and

3.8.2 The timing of the Exaction should be reasonably related to the development of the Project and said public improvements shall be phased to be commensurate with the logical progression of the Project development as well as the reasonable needs of the public.

3.8.3 It being understood, however, that if there is a material increase in cost to Developer or such action by City otherwise materially impacts Developer's performance hereunder, Developer may terminate this Agreement upon ninety (90) days prior written notice.

3.9 Fees, Taxes and Assessments. During the Term of this Agreement, the City shall not, without the prior written consent of Developer, impose any additional fees, taxes or assessments on all or any portion of the Project, except such fees, taxes and assessments as are described in or required by this Agreement and/or the Development Approvals. However, this

Agreement shall not prohibit the application of fees, taxes or assessments upon the Billboard Sign Easement Site or Developer, including the following:

3.9.1 Developer shall be obligated to pay those fees, taxes or City assessments and any increases in same which exist as of the Effective Date or are included in the Development Approvals;

3.9.2 Developer shall be obligated to pay any fees or taxes, and increases thereof, imposed on a City-wide basis such as, but not limited to, business license fees or taxes or utility taxes;

3.9.3 Developer shall be obligated to pay all fees applicable to a permit application as charged by City at the time such application is filed by Developer;

3.9.4 Developer shall be obligated to pay any fees imposed pursuant to any Uniform Code that existed when the application is filed by the Developer or that exists when the Developer applies for any Subsequent Development Approval.

3.10 Notwithstanding anything to the contrary herein, if there is a change in such fees as of the full execution hereof or any additional fees are charged and such additional or increased fees materially change Developer's costs or otherwise materially impacts its performance hereunder, Developer may terminate this Agreement upon ninety (90) days prior written notice.

4. REMOVAL OF DIGITAL DISPLAY FACES

4.1 **Removal Upon Expiration.** Developer has the right to negotiate an extension of the Term as an amendment to this Agreement. If the extension of the Term is not granted by the City, the Digital Display Faces shall be removed and said displays shall be converted to printed displays within ninety (90) days following expiration of the Term, subject to obtaining any required permits. In the event Developer should fail to remove the Digital Display Faces and convert to a static billboard within ninety (90) days after the effective date of termination and City is required to enforce the terms of this Agreement and conversion of the Digital Display Faces to a printed billboard, City will have the right to convert the Digital Billboard Structure to a printed billboard at Developer's cost, and Developer shall reimburse City its reasonable City staff, consultant, and attorneys' fees and costs incurred in securing such conversion. Developer's obligations and City's rights under this Section 4.1 shall expressly survive expiration of this Agreement.

4.2 **Removal Upon Termination.** Should this Agreement be terminated for any reason, City and Developer shall cause a termination agreement or memorialization of the termination (in the event the Agreement has already been terminated pursuant to Section 6.1), to be recorded with the County Recorder's Office. Upon termination, Developer shall remove the Digital Display Faces and convert said displays to printed displays within ninety (90) days from the effective date of termination, , subject to obtaining any required permits. City will have the right to convert the Digital Billboard Structure to a printed billboard at Developer's cost, and Developer shall reimburse City its reasonable City staff, consultant, and attorneys' fees and costs incurred in securing such conversion, in the event Developer should fail to remove the Digital Display Faces and convert to a static billboard within ninety (90) days after the effective date of termination. Developer's obligations and City's rights under this Section 4.2 shall expressly survive termination of this Agreement.

5. REVIEW FOR COMPLIANCE.

5.1 **Annual Review.** The City Council shall have the right to review this Agreement annually at Developer's sole cost, on or before the anniversary of the Effective Date, to ascertain the good faith compliance by Developer with the terms of the Agreement ("**Annual Review**"). However, no failure on the part of City to conduct or complete an Annual Review as provided herein shall have any impact on the validity of this Agreement. Upon receipt of written request from the City, Developer shall cooperate with the City in the conduct of such an Annual Review and provide the following information and documentation to the City at least thirty (30) days before the anniversary of the Effective Date: (1) description of all complaints from Caltrans or the City regarding the Digital Billboard Structure, (2) description of all complaints from the public regarding the display unrelated to any content of the message displayed, (3) any updates to Developer's contact information related to complaints concerning the Digital Billboard Structure, as required in Section 6(m) of the conditions at Exhibit "B", herein, (4) status and amount of all payment obligations to the City required under this Agreement for the year in question and cumulatively for the entire Term of the Agreement, (5) any easement or lease changes that could in any way materially impact the City or the obligations under this Agreement, (6) any utility changes that could in any way materially impact the City or the obligations under this Agreement, (7) any maintenance issues addressed or needing to be addressed per the requirements of Exhibit "B", and (8) whether any City messages per Section 2.8 have been displayed during the preceding year of the Term and a description of the duration of such displays.

5.2 **Special Review.** The City Council may, in its sole and absolute discretion, order a special review of compliance with this Agreement at any time at City's sole cost ("**Special Review**"). Developer shall cooperate with the City in the conduct of any such Special Review.

5.3 **Intentionally Omitted.**

5.4 **Procedure.** Each party shall have a reasonable opportunity to assert matters which it believes have not been undertaken in accordance with the Agreement, to explain the basis for such assertion, and to receive from the other party a justification of its position on such matters. If, on the basis of the parties' review of any terms of the Agreement, either party concludes that the other party has not complied in good faith with the terms of the Agreement, then such party may issue a written "**Notice of Non-Compliance**" or "**Notice**" specifying the grounds therefor and all facts demonstrating such non-compliance. The party receiving a Notice of Non-Compliance shall have thirty (30) days to cure or remedy the non-compliance identified in the Notice of Non-Compliance, or if such cure or remedy is not reasonably capable of being cured or remedied within such thirty (30) days period, to commence to cure or remedy the non-compliance and to diligently and in good faith prosecute such cure or remedy to completion. If the party receiving the Notice of Non-Compliance does not believe it is out of compliance and contests the Notice, it shall do so by responding in writing to said Notice within thirty (30) days after receipt of the Notice. If the response to the Notice of Non-Compliance is not delivered to the party alleging the non-compliance within the prescribed time period, the Notice of Non-Compliance shall be conclusively presumed to be valid. If a Notice of Non-Compliance is contested, the parties shall, for a period of not less than fifteen (15) days following receipt of the response, seek to arrive at a mutually acceptable resolution of the matter(s) occasioning the Notice. If a cure or remedy is not timely effected or, if the Notice is contested and the parties are not able to arrive at a mutually acceptable resolution of

the matter(s) by the end of the fifteen (15) day period, the party alleging the non-compliance may thereupon pursue the remedies provided in Section 6. Neither party hereto shall be deemed in breach if the reason for non-compliance is due to a “force majeure” as defined in, and subject to the provisions of, Section 9.10.

5.5 Certificate of Agreement Compliance. If, at the conclusion of an Annual Review or a Special Review, Developer is found to be in compliance with this Agreement, City shall, upon request by Developer, issue a Certificate of Agreement Compliance (“**Certificate**”) to Developer stating that, after the most recent Annual Review or Special Review, and based upon the information known or made known to the City Manager and City Council, that (1) this Agreement remains in effect and (2) Developer is in compliance. The Certificate, whether issued after an Annual Review or Special Review, shall be in recordable form and shall contain information necessary to communicate constructive record notice of the finding of compliance. Developer may record the Certificate with the County Recorder. Additionally, Developer may, at any time, request from the City a Certificate stating, in addition to the foregoing, which obligations under this Agreement have been fully satisfied with respect to the Billboard Sign Easement Site.

6. DEFAULT AND REMEDIES.

6.1 Termination of Agreement.

6.1.1 Termination of Agreement for Material Default of Developer. City, in its discretion, may terminate this Agreement for any material failure of Developer to perform any material duty or obligation of Developer hereunder or to comply in good faith with the terms of this Agreement (hereinafter referred to as “**default**” or “**breach**”); provided, however, City may terminate this Agreement pursuant to this Section only after following the procedure set forth in Section 5.4. In the event of a termination by City under this Section 6.1.1, Developer acknowledges and agrees that City may retain all fees accrued up to the date of the termination, including the Processing Fee and the Development Fee paid up to the date of termination, and Developer shall pay the prorated amount of the Development Fee within sixty (60) days after the date of termination and removal of the Digital Display Faces that equates to the percentage of time elapsed in the year of the Term at the time of termination.

6.1.2 Termination of Agreement for Material Default of City. Developer, in its discretion, may terminate this Agreement for any material failure of City to perform any material duty or obligation of City hereunder or to comply in good faith with the term of this Agreement; provided, however, Developer may terminate this Agreement pursuant to this Section only after following the procedure set forth in Section 5.4. In addition, Developer may terminate this Agreement if, despite Developer’s good faith efforts, it is unable to secure the Development Approvals, including the Final Permits and/or compliance with requirements under laws necessary to effectuate the Project. In the event of a termination by Developer under this Section 6.1.2, Developer acknowledges and agrees that City may retain all fees, including the Processing Fee and the Development Fee paid up to the date of termination, and Developer shall pay the prorated amount of the Development Fee within sixty (60) days after the date of termination and removal of the Digital Display Faces that equates to the percentage of time elapsed in the year of the Term at the time of termination.

6.1.3 *Termination of Agreement Economic Infeasibility of Developer.* Developer, in its discretion, may terminate this Agreement upon ninety (90) days prior written notice if, pursuant to Section 7.2.1, Developer is required to defend, pay judgment, or settle by payment of funds any action or actions filed in connection with claims or liabilities for which Developer is required to save and hold the City and its officers, agents, and employees harmless, and Developer determines it is no longer economically feasible to operate the Digital Billboard Structure or a printed billboard with two facings on the Billboard Sign Easement Site, provided Developer's obligations under Section 7.2.1. shall survive any such termination under this Section 6.1.3. Developer acknowledges and agrees that City may retain all fees, including the Processing Fee and the Development Fee paid up to the date of termination, and Developer shall pay the prorated amount of the Development Fee within sixty (60) days after the date of termination that equates to the percentage of time elapsed in the year of the Term at the time of termination.

6.1.4 *Rights and Duties Following Expiration and Termination.* Upon the expiration or sooner termination of this Agreement, neither party shall have any further right or obligation hereunder except with respect to (i) any obligations to have been performed prior to said termination, (ii) any default in the performance of the provisions of this Agreement which has occurred prior to said termination, (iii) Developer's obligations under Section 4.1 and Section 4.2, and (iv) any continuing obligations to indemnify, defend and hold harmless the other party under Section 7.2.

6.1.5 *No Damages.* Notwithstanding anything else in this Agreement to the contrary, Developer acknowledges that the City would not have entered this Agreement had it been exposed to damage claims from Developer for any breach hereof. As such, the parties agree that in no event shall Developer be entitled to recover damages of any kind whatsoever against City or any of its officials, officers, agents, or employees for breach of this Agreement.

7. INSURANCE, INDEMNIFICATION AND WAIVERS.

7.1 Insurance.

7.1.1 Types of Insurance.

(a) *Liability Insurance.* Beginning on the Effective Date hereof and until completion of the Term, Developer shall, at its sole cost and expense, keep or cause to be kept in force for the mutual benefit of City, as additional insured, comprehensive broad form general liability insurance against claims and liabilities covered by the indemnification provisions of Section 7.2. Developer has agreed to indemnify City hereunder with respect to its use, occupancy, disuse or condition of the Billboard Sign Easement Site, improvements or adjoining areas or ways, affected by such use of the Billboard Sign Easement Site or for property damage, providing protection of at least Two Million Dollars (\$2,000,000) for any one accident or occurrence for bodily injury or death and property damage. Developer shall also furnish or cause to be furnished to City evidence that any contractors with whom Developer has contracted for the performance of any work for which Developer is responsible maintains the same coverage required of Developer.

(b) *Worker's Compensation.* Developer shall also furnish or cause to be furnished to City evidence that any contractor with whom Developer has contracted for the performance of any work for which Developer is responsible hereunder carries worker's compensation insurance as required by law.

(c) *Insurance Policy Form, Sufficiency, Content, and Insurer.* All insurance required by express provisions hereof shall be carried only by responsible insurance companies qualified to do business by California with an AM Best Rating of no less than "A". All such policies shall be non-assignable and shall contain language, to the extent obtainable, to the effect that (i) the insurer waives the right of subrogation against City and against City's agents and representatives except as provided in this Section; (ii) the policies are primary and noncontributing with any insurance that may be carried by City, but only with respect to the liabilities assumed by Developer under this agreement; and (iii) the policies cannot be canceled or materially changed except after written notice by the insurer to City or City's designated representative as expeditiously as insurance company agrees to provide notice. Developer shall furnish City with certificates and endorsements evidencing the insurance required in this Section 7.1. City shall be named as an additional insured on all liability policies of insurance required to be procured by the terms of this Agreement.

7.1.2 *Failure to Maintain Insurance and Proof of Compliance.* Developer shall deliver to City, in the manner required for notices, copies of certificates and endorsements of all insurance policies required of each policy within the following time limits:

(1) For insurance required above, within seven (7) days after the Effective Date or consistent with the requirements of Exhibit "D" (Schedule of Performance), Item No. 4.

(2) The City may request to see updated copies of the current certificates and endorsements of all insurance policies required at any time.

If Developer fails or refuses to procure or maintain insurance as required hereby or fails or refuses to furnish City with required proof that the insurance has been procured and is in force and paid for, after complying with the requirements of Section 5.4, the City may view such failure or refusal to be a default hereunder.

7.2 **Indemnification.**

7.2.1 *General.* Developer shall indemnify the City, and its officers, employees, and agents against, and will hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions, or liabilities (herein "claims or liabilities") that may be asserted or claimed by any person, firm, or entity arising out of or in connection with the work, operations, or activities of Developer, its agents, employees, contractors, subcontractors, or invitees, hereunder, upon the Billboard Sign Easement Site or to attack,

set aside, void or annul, any approval of the City, its advisory agencies, appeal boards, or legislative body concerning this Agreement and related Resolutions or Ordinance approving this Agreement. The City will promptly notify Developer of any such claim, action, or proceeding against the City and will cooperate fully in the defense. To this end,

(a) Developer will defend and if circumstances warrant, settle any action or actions filed in connection with any of said claims or liabilities covered by the indemnification provisions herein and will pay all reasonable costs and expenses, including legal costs and attorneys' fees incurred in connection therewith.

(b) Developer will promptly pay any judgment rendered against the City or its officers, agents, or employees for any such claims or liabilities arising out of or in connection with such work, operations, or activities of the Developer hereunder, and Developer agrees to save and hold the City and its officers, agents, and employees harmless therefrom.

7.2.2 Exceptions. The foregoing indemnity shall not include claims or liabilities arising from the sole negligence or willful misconduct of the City, or its officers, agents, or employees, who are directly responsible for the City.

7.2.3 Additional Coverage. Without limiting the generality of the foregoing, Developer's indemnity, defense, and hold harmless obligations shall include any liability arising by reason of:

(a) Any accident or other occurrence in or on the Billboard Sign Easement Site causing injury to any person or property whatsoever caused by Developer, its agents, employees, contractors, subcontractors, or invitees;

(b) Any failure of Developer to comply with performance of any of the provisions of this Agreement;

(c) Any harm, delays, injuries, or other damages incurred by any party as a result of any subsurface conditions on the Billboard Sign Easement Site caused by Developer, its agents, employees, contractors, subcontractors, or invitees, including but not limited to, the presence of buried debris, hazardous materials, hydrocarbons, or any form of soil contamination.

7.2.4 Loss and Damage. Except as set forth below, City shall not be liable for any damage to property of Developer or others located on the Billboard Sign Easement Site, nor for the loss of or damage to any property of Developer, or others by theft or otherwise. Except as set forth below, City shall not be liable for any injury or damage to persons or property resulting from fire, explosion, steam, gas, electricity, water, rain, dampness or leaks from any part of the Billboard Sign Easement Site or from the pipes or plumbing, or from the street, or from any environmental or soil contamination or hazard, or from any other latent or patent defect in the soil, subsurface or physical condition of the Billboard Sign Easement Site, or by any other cause of whatsoever nature. The foregoing two (2) sentences shall not apply (i) to the extent City or its agents, employees, subcontractors, invitees or representatives causes such injury or damage or to the extent they cause any damage to any improvements thereon, including by condemnation, whether

with or without the exercise of eminent domain, temporarily or permanently, or (ii) to the extent covered in any permit to enter executed by the City. Nothing in this Section 7.2.4 allows the City or any government authorities to condemn all or any part of the Billboard Sign Easement Site or the Digital Billboard Structure, whether with or without the exercise of eminent domain, without the payment of just compensation, and as further set forth in Section 9.17 herein.

7.2.5 Period of Indemnification. The obligations to indemnify, defend, and hold harmless under this Section 7.2 shall begin upon the Effective Date and shall survive expiration or sooner termination of this Agreement.

7.3 Waiver of Subrogation. Developer and City each agrees that it shall not make any claim against, or seek to recover from the other or its agents, servants, or employees, for any loss or damage to it or to any person or property relating to this Project, except as specifically provided hereunder which include but is not limited to, a claim or liability arising from the sole negligence or willful misconduct of the City, its officers, agents, or employees, who are directly responsible for the City.

8. MORTGAGEE PROTECTION.

The parties hereto agree that this Agreement shall not prevent or limit Developer, in any manner, at Developer's sole discretion, from encumbering the Billboard Sign Easement Site or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Billboard Sign Easement Site. City acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and City agrees upon request, from time to time, to meet with Developer and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. Subject to compliance with applicable laws, City will not unreasonably withhold its consent to any such requested interpretation or modification provided City determines such interpretation or modification is consistent with the intent and purposes of this Agreement. Any Mortgagee of the Billboard Sign Easement Site shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Project, the Digital Billboard Structure, or the Billboard Sign Easement Site made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Project, the Digital Billboard Structure, or the Billboard Sign Easement Site, or any part thereof, which Mortgagee has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive written notification from City of any default by Developer in the performance of Developer's obligations under this Agreement.

(c) If City timely receives a request from a Mortgagee requesting a copy of any notice of default given to Developer under the terms of this Agreement, City shall make a good faith effort to provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to Developer. The Mortgagee

shall have the right, but not the obligation, to cure the default during the period that is the longer of (i) the remaining cure period allowed Developer under this Agreement, or (ii) sixty (60) days.

(d) Any Mortgagee who comes into possession of the Project, the Digital Billboard Structure, or the Billboard Sign Easement Site, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Project, the Digital Billboard Structure, or the Billboard Sign Easement Site, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of Developer's obligations or other affirmative covenants of Developer hereunder, or to guarantee such performance; except that (i) to the extent that any covenant to be performed by Developer is a condition precedent to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder, and (ii) in the event any Mortgagee seeks to develop or use any portion of the Project, the Digital Billboard Structure, or the Billboard Sign Easement Site acquired by such Mortgagee by foreclosure, deed of trust, or deed in lieu of foreclosure, such Mortgagee shall strictly comply with all of the terms, conditions and requirements of this Agreement and the Development Approvals applicable to the Project, the Digital Billboard Structure, or the Billboard Sign Easement Site or such part thereof so acquired by the Mortgagee.

9. MISCELLANEOUS PROVISIONS.

9.1 **Recordation of Agreement.** This Agreement shall be recorded with the County Recorder by the City Clerk within ten (10) days of execution, as required by Government Code Section 65868.5. Amendments approved by the parties, and any cancellation, shall be similarly recorded.

9.2 **Entire Agreement.** This Agreement sets forth and contains the entire understanding and agreement of the parties with respect to the subject matter set forth herein, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

9.3 **Severability.** If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, then that term, provision, covenant or condition of this Agreement shall be stricken and the remaining portion of this Agreement shall remain valid and enforceable if that stricken term, provision, covenant or condition is not material to the main purpose of this Agreement, which is to allow the Project to be permitted and operated and to provide the Development Fee to the City; otherwise, this Agreement shall terminate in its entirety, unless the parties otherwise agree in writing, which agreement shall not be unreasonably withheld.

9.4 **Interpretation and Governing Law.** This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning, to achieve the objectives and purposes of the parties hereto. The rule of construction, to the effect

that ambiguities are to be resolved against the drafting party or in favor of the non-drafting party, shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

9.5 **Section Headings.** All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

9.6 **Singular and Plural.** As used herein, the singular of any word includes the plural.

9.7 **Time of Essence.** Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

9.8 **Waiver.** Failure of a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

9.9 **No Third-Party Beneficiaries.** This Agreement is made and entered into for the sole protection and benefit of the parties, as well as their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

9.10 **Force Majeure.** Notwithstanding the contrary herein, neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by earthquakes, other acts of God, fires, rains, winds, wars, pandemics, terrorism, riots or similar hostilities, strikes and other labor difficulties beyond the party's control (including the party's employment force), government actions and regulations (other than those of the City), court actions (such as restraining orders or injunctions), or other causes beyond the party's reasonable control. If any such events shall occur, the term of this Agreement and the time for performance shall be extended for the duration of each such event, provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years and further provided that if such delay is longer than six (6) months, Developer may terminate this Agreement upon written notice to City and City shall return to Developer any portion of the Development Fee paid for any period after the effective date of such termination.

9.11 **Mutual Covenants.** The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

9.12 **Counterparts.** This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all the parties had executed the same instrument.

9.13 **Litigation.** Any action at law or in equity arising under this Agreement or brought by any party hereto for the purpose of enforcing, construing, or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Los Angeles, State of California, or such other appropriate court in said county. Service of process on City shall be made in accordance with California law. Service of process on Developer shall be made in any manner permitted by California law and shall be effective whether served inside or outside California. In the event of any action between City and Developer seeking enforcement of

any of the terms and conditions to this Agreement, the prevailing party in such action shall be awarded, in addition to such relief to which such party is entitled under this Agreement, its reasonable litigation costs and expenses, including without limitation its expert witness fees and reasonable attorneys' fees.

9.14 **Covenant Not To Sue.** The parties to this Agreement, and each of them, agree that this Agreement and each term hereof is legal, valid, binding, and enforceable. The parties to this Agreement, and each of them, hereby covenant and agree that each of them will not commence, maintain, or prosecute any claim, demand, cause of action, suit, or other proceeding against any other party to this Agreement, in law or in equity, which is based on an allegation, or assert in any such action, that this Agreement or any term hereof is void, invalid, or unenforceable.

9.15 **Project as a Private Undertaking.** It is specifically understood and agreed by and between the parties hereto that the development of the Project is a private activity, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between City and Developer is that of a government entity regulating the development of private property, on the one hand, and the holder of a legal or equitable interest in such property on the other hand. City agrees that by its approval of, and entering into, this Agreement, that it is not taking any action which would transform this private Project into a "public work" project, and that nothing herein shall be interpreted to convey upon Developer any benefit which would transform Developer's private project into a public work project, it being understood that this Agreement is entered into by City and Developer upon the exchange of consideration described in this Agreement, including the Recitals to this Agreement which are incorporated into this Agreement and made a part hereof, and that City is receiving by and through this Agreement the full measure of benefit in exchange for the burdens placed on Developer by this Agreement.

9.16 **Further Actions and Instruments.** Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

9.17 **Eminent Domain.** No provision of this Agreement shall be construed to limit or restrict the exercise by City of its power of eminent domain or Developer's right to seek and collect just compensation or any other remedy available to it.

9.18 **Amendments in Writing/Cooperation.** This Agreement may be amended only by written consent of both parties specifically approving the amendment and in accordance with the Government Code provisions for the amendment of development agreements. The parties shall cooperate in good faith with respect to any amendment proposed in order to clarify the intent and application of this Agreement and shall treat any such proposal on its own merits, and not as a basis for the introduction of unrelated matters. Minor, non-material modifications may be

approved by the City Manager upon approval by the City Attorney.

9.19 **Corporate Authority.** The person(s) executing this Agreement on behalf of each of the parties hereto represent and warrant that (i) such party, if not an individual, is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which such party is bound.

9.20 **Notices.** All notices under this Agreement shall be effective when delivered by United States Postal Service mail, registered or certified, postage prepaid return receipt requested; and addressed to the respective parties as set forth below or as to such other address as the parties may from time to time designate in writing by providing notice to the other party:

Original To City:	City of Irwindale 5050 N. Irwindale Ave. Irwindale, CA 91706 Attn: City Manager
With Copy to:	Aleshire & Wynder, LLP 1 Park Plaza, Suite 1000 Irvine, CA 92614 Attn: Adrian R. Guerra, City Attorney
To Developer:	Rivergrade Holding, LLC 9454 Wilshire Boulevard, Suite 201 Beverly Hills, CA 90212 Attn: Caspar Chou, Managing Member
With Copy to:	Tepper & Associates, APC 9454 Wilshire Boulevard, Suite 201 Beverly Hills, CA 90212 Attn: Foster Tepper

9.21 **Nonliability of City Officials.** No officer, official, member, employee, agent, or representatives of City shall be liable for any amounts due hereunder, and no judgment or execution thereon entered in any action hereon shall be personally enforced against any such officer, official, member, employee, agent, or representative.

9.22 **No Brokers.** City and Developer represent and warrant to the other that neither has employed any broker and/or finder to represent its interest in this transaction. Each party agrees to indemnify and hold the other free and harmless from and against any and all liability, loss, cost, or expense (including court costs and reasonable attorneys' fees) in any manner connected with a claim asserted by any individual or entity for any commission or finder's fee in connection with this Agreement or arising out of agreements by the indemnifying party to pay any commission or finder's fee.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first set forth above.

CITY OF IRWINDALE

By: .

H. Manuel Ortiz, Mayor

ATTEST:

By

Laura Nieto, Chief Deputy City Clerk

APPROVED AS TO FORM:

By

Adrian R. Guerra, City Attorney

RIVERGRADE HOLDING, LLC

By: _____

Name: Caspar Chou

Title: Manager:

By: _____

Name:

Title:

(Seal)

(Seal)

EXHIBIT A-1LEGAL DESCRIPTION OF REAL PROPERTY SITE

Real property in the City of Irwindale, County of Los Angeles, State of California, described as follows:

PARCEL 3:

A STRIP OF LAND WITHIN LOT 4 OF FRACTIONAL SECTION 12, TOWNSHIP 1 SOUTH, RANGE 11 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF IRWINDALE, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE, DESCRIBED AS FOLLOWS:

THE SOUTHEASTERLY 35.00 FEET OF RIVERGRADE ROAD, AS DESCRIBED IN PARCEL A OF THE LAND DESIGNATED AS PARCEL NO. 1-11 IN THE SUPERIOR COURT OF LOS ANGELES COUNTY, CASE NO. 602687, NOTICE OF THE PENDENCY OF SAID ACTION WAS RECORDED ON AUGUST 11, 1952, AS [INSTRUMENT NO. 2031](#), IN [BOOK 39577, PAGE 345](#) OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

SAID STRIP TO TERMINATE NORTHEASTERLY IN THE EAST LINE OF SAID LOT 4 AND SOUTHWESTERLY IN THE SOUTH LINE OF SAID LOT 4.

PARCEL 4:

THAT PORTION OF LOT 4 IN SECTION 12, TOWNSHIP 1 SOUTH, RANGE 11 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF IRWINDALE, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE JANUARY 7, 1868 DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 4;
THENCE ALONG THE EASTERLY LINE OF SAID LOT 4, TO THE SOUTHEASTERLY LINE OF RIVERGRADE ROAD, AS DESCRIBED IN PARCEL A OF THE LAND DESIGNATED AS PARCEL 1-11 IN THE SUPERIOR COURT OF LOS ANGELES COUNTY, CASE NO. 602687, NOTICE OF THE PENDENCY OF SAID ACTION WAS RECORDED ON AUGUST 11, 1952 AS [INSTRUMENT NO. 2031](#), IN [BOOK 39577, PAGE 345](#) OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY;
THENCE SOUTHWESTERLY ALONG SAID RIVERGRADE ROAD TO THE SOUTHERLY LINE OF SAID LOT 4;
THENCE EASTERLY ALONG SAID SOUTHERLY LINE TO THE POINT OF BEGINNING.

EXCEPT THEREFROM THAT PORTION OF SAID LAND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID LOT 4;
THENCE ALONG THE EASTERLY LINE OF SAID LOT 4 NORTH 00° 26' 40" WEST 297.76 FEET TO A POINT IN A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 2000.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 63° 27' 08" EAST;
THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH AN ANGLE OF 10° 08' 23" AN ARC DISTANCE OF 353.94 FEET TO THE SOUTHERLY LINE OF SAID LOT 4;
THENCE ALONG SAID SOUTHERLY LINE NORTH 89° 00' 14" EAST 187.65 FEET TO THE POINT OF BEGINNING.

PARCEL 5:

PARCEL 2, AS SHOWN ON THE PARCEL MAP NO. 23240 FILED IN [BOOK 257 PAGES 34](#) AND 35 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, AND AS MODIFIED BY THAT CERTIFICATE OF CORRECTION RECORDED FEBRUARY 16, 1993 AS [INSTRUMENT NO. 93-291037, OF OFFICIAL RECORDS.](#)

EXCEPT THEREFROM ALL MINERALS, OILS, GASES, AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN THAT MAY BE WITHIN OR UNDER THE PARCEL OF LAND HEREINABOVE DESCRIBED WITHOUT, HOWEVER, THE RIGHT TO DRILL, DIG OR MINE THROUGH THE SURFACE OF THE UPPER 500 FEET THEREOF, AS RESERVED BY THE STATE OF CALIFORNIA IN DEED RECORDED JUNE 27, 1972 AS [INSTRUMENT NO. 3793, OF OFFICIAL RECORDS.](#)

APNs: 8535-020-045, 8535-020-047 and 8535-020-048

EXHIBIT A-2LEGAL DESCRIPTION OF BILLBOARD SIGN EASEMENT SITE**LEGAL DESCRIPTION**
BILLBOARD SIGN PARCEL

THAT PORTION OF LOT 4 IN FRACTIONAL SECTION 12, TOWNSHIP 1 SOUTH RANGE II WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF IRWINDALE, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE JANUARY 7, 1968 DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 4; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 4 SOUTH 89° 00' 14" WEST 187.65 FEET TO A POINT IN A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 2,000 FEET; TO WHICH POINT A RADIAL LINE BEARS SOUTH 53° 18' 45" WEST; THENCE NORTHEASTERLY 11.12 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 0° 19' 07" TO THE TRUE POINT OF BEGINNING; THENCE NORTH 53° 46' 28" WEST 53.67 FEET; THENCE NORTH 33° 04' 33" EAST 54.51 FEET; THENCE SOUTH 55° 05' 26" EAST 56.04 FEET TO A POINT IN A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 2,000 FEET; TO WHICH POINT, A RADIAL LINE BEARS SOUTH 55° 14' 02" EAST; THENCE SOUTHWESTERLY 55.95 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 1° 38' 10" TO THE TRUE POINT OF BEGINNING.

CONTAINING 3,588 SQUARE FEET, MORE OR LESS.

Description prepared by:

Samir M. Khoury
Samir M. Khoury
R.C.E. No. 30567

APRIL 13, 2004
Date



EXHIBIT A-3

DEPICTION OF BILLBOARD SIGN EASEMENT SITE

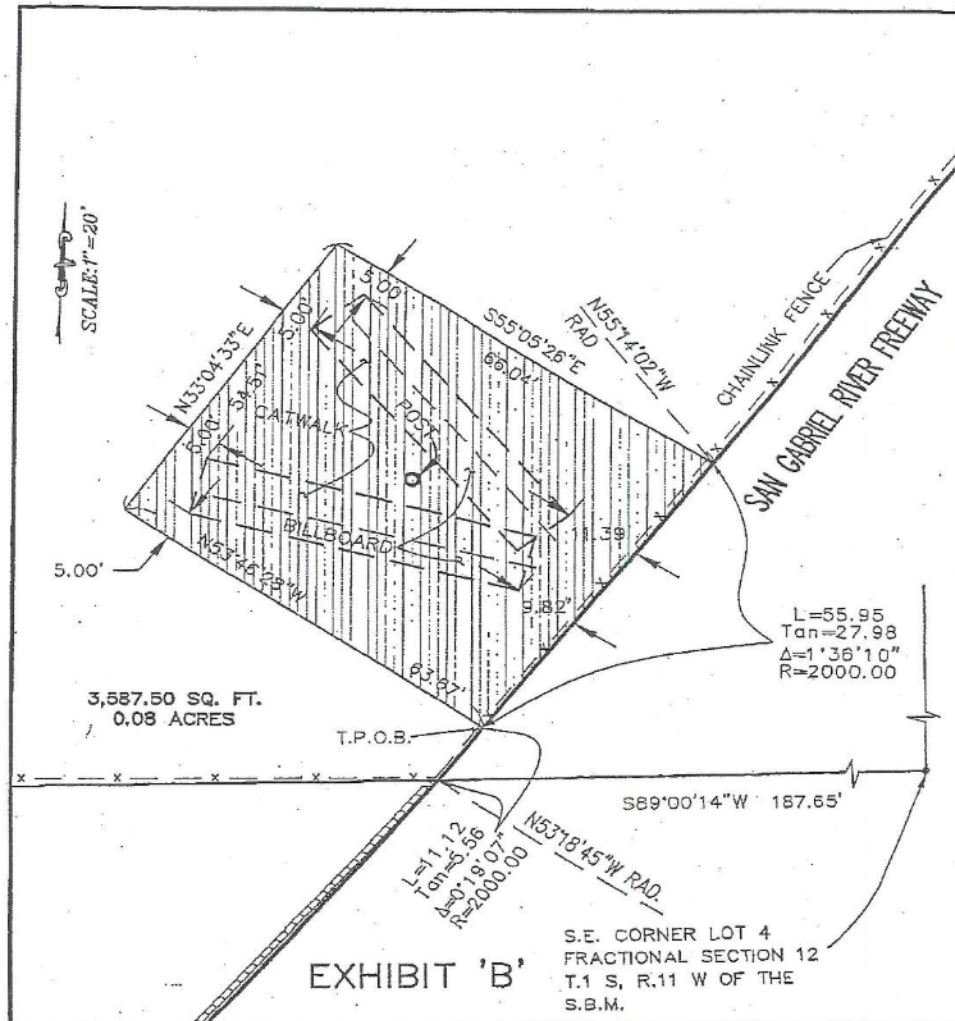


EXHIBIT B

SCOPE OF DEVELOPMENT

Developer and City agree that the Project shall be undertaken in accordance with the terms of the Agreement, which include the following:

1. The Project. This Agreement allows for demolition of one Printed Billboard Structure and installation of one Digital Billboard Structure. The existing Printed Billboard Structure has double-sided printed displays. A Digital Billboard Structure, as further defined in this Agreement, is a billboard with Digital Display Faces that uses digital technology to change the messages on the sign faces electronically. This type of display shall not contain video, animation, movement, flashing, or the appearance of movement. The Digital Display Faces contain messages that are static for eight (8) seconds at a time and then change to the next message. To this end, Developer shall replace the existing Printed Billboard Structure with a 14 x 48 foot double-sided V-display or back-to-back Digital Billboard Structure, with Digital Display Faces facing north and south, at the same general location as the existing Printed Billboard Structure. Developer shall operate and maintain the Digital Billboard Structure on the Billboard Sign Easement Site in accordance with the Development Approvals and this Agreement and all conditions of approval and consistent with the approval from the California Department of Transportation Outdoor Advertising Division.

The Digital Billboard Structure shall comply with Section 17.72.050, General Standards, of the Irwindale Municipal Code. Specifically, the area of the sign face shall not exceed six hundred seventy-five (675) square feet, excluding border, trim, cutouts and other special advertising features or additions and base or apron supports and other structural members. The building height may not exceed sixty-five (65) feet, exclusive of cutouts or special additions, measured from the higher of either: 1) the finished grade of the roadway adjacent to the lot on which the structure is located (the 605 Freeway) and from which the advertising display is to be viewed; or 2) the finished grade of the base of the sign. Developer shall underground all utilities necessary for the Digital Billboard Structure. The Digital Billboard Structure shall be constructed in the location shown therefor on Exhibits "A-2 and A-3". In addition, Developer agrees to install, at no cost to the City, an unlit City emblem (the "**City Logo**") on the sign column of the Digital Billboard Structure.

2. Processing Fees. Developer shall pay all applicable City Processing Fees, as described in Section 2.5 of this Agreement, prior to the time that a building permit is issued for the installation of the Digital Billboard Structure on the Billboard Sign Easement Site.

3. Maintenance and Access. Developer, for itself and its successors and assigns, hereby covenants and agrees to be responsible for the following:

(a) Maintenance and repair of the Digital Billboard Structure, including but not limited to, the Digital Display Faces installed thereon, and all related on-site improvements, easements, rights-of-way and, if applicable, at its sole cost and expense, including, without limitation, poles, lighting, signs and walls, in good repair, free of graffiti, rubbish, debris and other hazards to persons using the same, and in accordance with all applicable laws, rules, ordinances and regulations of all federal, State, and local bodies and agencies having

jurisdiction over the Billboard Sign Easement Site unless those federal, State, and local bodies have an exception for a legal nonconforming use. Such maintenance and repair shall include, but not be limited to, the following: (i) sweeping and trash removal related to the Project; (ii) the ongoing maintenance by the Developer of any access road to the Digital Billboard Structure to minimize dust caused by the Project; (iii) the adequate and complete removal or painting over of all graffiti within 48 hours of notice of such graffiti being affixed on the Digital Billboard Structure; and (iv) the repair, replacement and repainting of the Digital Billboard Structure and Digital Display Faces as necessary to maintain such Digital Billboard Structure in good condition and repair. In addition, Developer has the explicit right to change the Light Emitting Diode (“LED”) displays from time to time as determined necessary in Developer’s sole discretion, subject to obtaining any required permits.

(b) Maintenance of the Billboard Sign Easement Site in such a manner as to avoid the reasonable determination of a duly authorized official of the City that a public nuisance has been created by the absence of adequate maintenance of the Project such as to be detrimental to the public health, safety or general welfare or that such a condition of deterioration or disrepair causes appreciable harm or is materially detrimental to property or improvements within three hundred (300) feet of the Billboard Sign Easement Site.

4. Other Rights of City. In the event of any violation or threatened violation of any of the provisions of this Exhibit “B,” then in addition to, but not in lieu of, any of the rights or remedies the City may have to enforce the provisions of this Agreement, the City shall have the right, after complying with Section 5.4 of this Agreement, (i) to enforce the provisions hereof by undertaking any maintenance or repairs required by Developer under Section 3 of this Exhibit “B” and charging Developer for any actual maintenance costs incurred in performing same, and (ii) to withhold or revoke, after giving written notice of said violation, any building permits, occupancy permits, certificates of occupancy, business licenses and similar matters or approvals pertaining to the Billboard Sign Easement Site or any part thereof or interests therein as to the violating person or one threatening violation.

5. No City Liability. The granting of a right of enforcement to the City does not create a mandatory duty on the part of the City to enforce any provision of this Agreement. The failure of the City to enforce this Agreement shall not give rise to a cause of action on the part of any person. No officer or employee of the City shall be personally liable to the Developer, its successors, transferees, or assigns, for any default or breach by the City under this Agreement.

6. Conditions of Approval. The following additional conditions shall apply to the installation of the Digital Billboard Structure and shall conform to all applicable provisions of the Irwindale Municipal Code (“IMC”), including but not limited to the Outdoor Advertising provisions of the IMC at Section 17.72.030, and the following conditions, in a manner subject to the approval of the Community Development Director or designee:

(a) Conditions to be met before Final Permits. Prior to the issuance of a business license, occupancy permit, final inspection by the Community Development Department, and Final Permits, all applicable conditions of approval (except those

involving construction permits) shall be completed to the reasonable satisfaction of the City.

(b) Building Permit. A building permit from the Building and Safety Division will be required, structural calculations shall be prepared by a licensed civil engineer and approved by the City Building Official. All construction shall be in compliance with the Irwindale Building Code and all applicable regulations including Caltrans Advertising Department.

(c) Plans. The use and improvements authorized by this Agreement shall conform to the plans as finally approved by the City (date stamped _____) as conditioned herein, and any appreciable modification of the plans or mode of operation, as determined by the Director of Community Development, shall require the prior approval of the Planning Commission.

(d) Digital Display Face dimensions. The size of each Digital Display Face shall not exceed a maximum area of 675 square feet, with no more than 128 total feet of extensions or borders, and the Digital Billboard Structure shall not exceed a maximum height of 65 feet, as measured per Section 17.72.050 standards, including all extensions, and shall be consistent with the Elevations at Exhibit "C" approved by the City as part of the Development Approvals.

(e) Plan Check. Plans and specifications for the proposed installation of the Digital Billboard Structure, including plans for all utilities, shall be submitted to the City Community Development and Building Departments for plan check and approval prior to the issuance of building permits. Per the requirements of the County of Los Angeles Building and Safety Division, serving as the City's contract building department, the building plans must contain the following items to be submitted for plan check, as such requirements may be revised before final approval of such plans:

(1) Site Plan: Lot size, locations and dimensions of property lines, adjacent streets, setbacks from property lines, locations of other structures, easements, north arrow, scale, contours/drainage pattern.

(2) General Notes: Applicable codes, occupancy classification, type of construction, allowable area analysis, and occupant load analysis, description of work, material specifications.

(3) Exterior Elevations: Wall covering material, plate and building heights, finish grade lines, veneers.

(4) Foundation Plan: Locations of all new footings, anchor bolt and hold-down schedules, complete foundation details.

(5) Framing Plan: Size, spacing, and span of all floor and ceiling joists, roof rafters, valleys and hips, beams, and headers. All lateral force resisting elements, including shear wall locations and schedule, and diaphragm construction specifications.

(6) **Structural Analysis:** Calculations shall be provided to substantiate the structural plans where new structural elements are proposed or existing structural elements are altered. The structural calculations shall address both vertical and lateral forces and shall be wet stamped and signed by a licensed engineer or architect registered in the state of California.

(7) **Schedules:** exterior/interior finish.

(8) **Details:** Complete framing and foundation details for all new structural elements, complete accessible path of travel details, required fire rated assembly details.

(f) **Compliance with applicable law.** Developer shall maintain the Billboard Sign Easement Site and use thereof in full compliance with all applicable and duly adopted codes, standards, policies, and regulations imposed by the City, County, State, and federal agencies, unless the Project or Digital Billboard Structure is exempted as a legal nonconforming use.

(g) **Caltrans approvals.** Developer shall, at all times, comply with the approval for the Digital Billboard Structure from the California Department of Transportation Outdoor Advertising Division (“Caltrans”) that may be necessary in order to allow for the construction and installation of the Digital Billboard Structure pursuant to the California Outdoor Advertising Act and shall maintain acceptable clearance between the Digital Billboard Structure and utility distribution lines.

(h) **Fees.** The Developer shall pay any and all applicable fees due to any public agency prior to the issuance of the Development Approvals and Final Permits.

(i) **Use within Billboard Sign Easement Site.** The activities proposed in this Agreement shall be conducted completely upon the Billboard Sign Easement Site and shall not use or encroach on any public right-of-way.

(j) **Access Roads.** Developer shall ensure that all access to the Digital Billboard Structure is kept restricted from the general public to the extent permitted under local laws.

(k) **Landscaping.** If any portion of the landscape or artwork installed adjacent to the Digital Billboard Structure is damaged by the Project and becomes damaged, or otherwise in need of replacement, as determined by the City’s Community Development Department Director or designee, the Developer shall ensure that the replacement is accomplished within fourteen (14) days of notification by the City, unless such time is extended by the City’s Community Development Director or designee if Developer shows unusual circumstances requiring more time to accomplish such replacement. Developer may trim such landscaping so as not to block the Digital Display Faces.

(l) **Utilities.** Developer shall be required to install all utilities underground in connection with the Digital Billboard Structure. To this end, City shall cooperate with the applicable utility provider’s requirement upon Developer to upgrade Developer’s current electrical service to the Digital Billboard Structure.

(m) Light/Glare. Developer shall comply with State law regarding the limitation of light or glare or such other standards as adopted by the Outdoor Advertising Association of America, Inc. (“OAAA”), including but not limited to, the 0.3 foot-candles limitation over ambient light levels and ensuring additional flexibility in further reducing such maximum light level standard given the lighting environment upon request by the City’s Development Services Director or designee, the obligation to have automatic dimming capabilities, as well as providing the City’s Development Services Director or designee with a designated Developer employee’s phone number and/or email address for emergencies or complaints that will be monitored 24 hours a day/7 days per week. Upon any reasonable complaint by the City’s Development Services Director or its designee, Developer shall perform a brightness measurement of the display using OAAA standards, or such lower level given the lighting environment, and provide City with the results of same within five (5) business days of the City’s complaint. Developer shall dim the display to the appropriate setting immediately upon the conclusion of any such measurement that concluded that the light standards were exceeded.

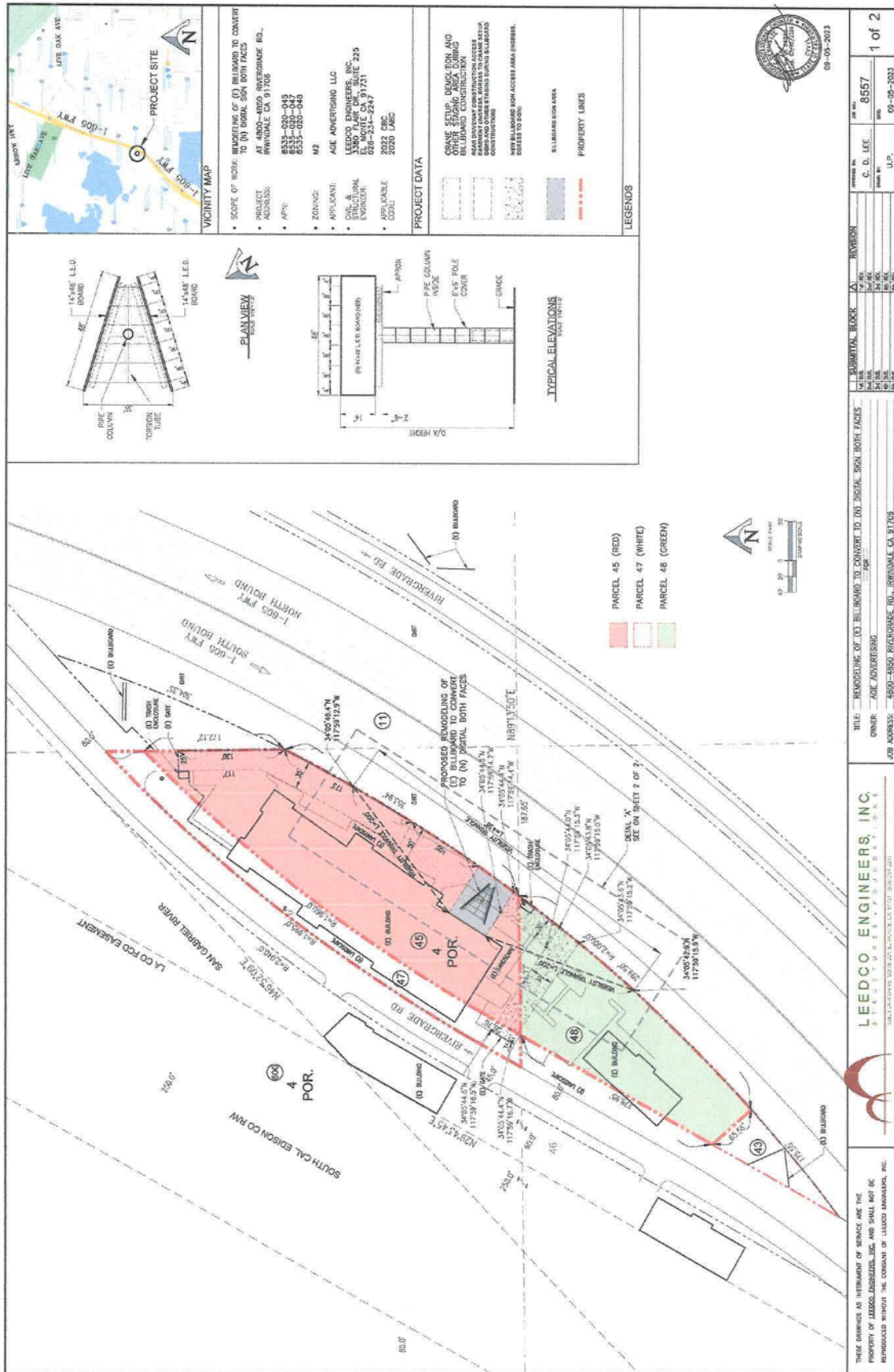
(n) Public Works:

(1) NPDES. Developer shall comply with all necessary NPDES requirements pertaining to the proposed use, to the extent applicable.

(2) Separate permits are required for all work performed within the public right-of- way. Developer shall be responsible for all fees for the necessary permits and construction inspections for work performed within the public-right-of-way.

EXHIBIT C

BILLBOARD SIGN EASEMENT SITE PLAN AND ELEVATIONS



QLC



EXHIBIT DSCHEDULE OF PERFORMANCE

ITEM OF PERFORMANCE	TIME FOR PERFORMANCE	REFERENCE
1. Effective Date of this Agreement.	30 days following Council's second reading of Ordinance.	1.1.10
2. Developer prepares and submits to City working drawings, specifications, and engineering for the Digital Billboard Structure; City commences approval process.	Within 180 days of the Effective Date.	Ex. B(6)(e)
3. Developer to submit proof of insurance to City.	Prior to commencing any inspections and work on the Project.	7.1.2
4. The Digital Billboard Structure shall be fully operational.	Not later than one (1) year after the issuance of Final Permits for the Digital Billboard Structure, or two (2) years after the Effective Date, whichever occurs first.	3.4
5. Developer pays City first installment of Development Fee if Developer receives Final Permits.	Within 1 year after the Digital Billboard Structure becomes fully operational or within 30 days after Developer receives any income from the use of the Digital Billboard Structure, whichever occurs first.	2.6
6. Developer pays City second through final installments of Development Fee if Developer receives Final Permits for the Digital Billboard Structure.	Upon each anniversary date of the Fee Commencement Date, as defined in Section 2.6 of this Agreement, for the Digital Billboard Structure.	2.6

It is understood that this Schedule of Performance is subject to all the terms and conditions of the text of the Agreement. The summary of the items of performance in this Schedule of Performance is not intended to supersede or modify the more complete description in the text; in the event of any conflict or inconsistency between this Schedule of Performance and the text of the Agreement, the text shall govern.

The time periods set forth in this Schedule of Performance may be altered or amended only by written agreement signed by both the Developer and the City. Notwithstanding any extension of the Term in the manner described in, and subject to the provisions of, Section 3.5, the City Manager shall have the authority to approve extensions of time set forth in this Schedule of Performance without action of the City Council not to exceed a cumulative total of 180 days.

EXHIBIT "B"

The provisions of this section are in addition to any standards imposed by the development agreement, provided, however, that where any standard imposed by a development agreement, lease or license differ from the general standards set forth in this section, the standards imposed by the development agreement shall apply over the general standards as a matter of public interest.

- A. Sign Face Dimensions. The area of the sign face of a billboard shall not exceed six hundred seventy-five square feet, excluding border, trim, cutouts and other special advertising features or additions and base or apron supports and other structural members.
 1. Cutouts and other special advertising features or additions to a sign face shall not exceed in area ten percent of the total sign face dimensions.
 2. Three-dimensional design elements shall not extend more than five feet beyond the front of the sign face or sign side.
 3. Bidirectional or double-faced signs shall be located on the same structure. For parallel double-faced signs, the distance between sign faces shall not exceed eight feet. For "V-shaped" double-faced signs, the distance between sign faces shall not exceed forty-five feet at their widest point and shall not exceed eight feet at their closest point.
 4. Billboard identification signs shall have a minimum character height of two feet.
- B. Structure Design. Each structure shall have no more than two poles, and shall be constructed of noncombustible material.
- C. Height. The overall height of each structure shall not be limited to the maximum height limit of the zone, in which the billboard is located. The height shall not exceed sixty-five feet or, exclusive of cutouts or special additions, measured from the higher of either:
 1. The finished grade of the roadway adjacent to the lot on which the structure is located and from which the advertising display is to be viewed; or
 2. The finished grade of the base of the sign.
- D. Location. The location of billboards shall be restricted as follows:
 1. Structures shall be located only in area immediately adjacent to the I-605 and I-210 freeways that is zoned for commercial, quarry or industrial uses.
 2. Structures shall not be located on public property or rights-of-way. No portion of any sign or structure shall located on, project into, beneath, or above the public right-of-way.
 3. Maintenance, repair and other related operations shall be operated completely upon the billboard site and shall not use or encroach on any public right-of-way.
 4. Structures shall not be located within the setbacks that apply to the zone in which the structure is located.

5. Structures shall not be located within five feet of a building or other structure.
 6. New billboards shall not be located within two thousand five hundred feet of another billboard on the same side of the public right-of-way. Existing billboards may not be replaced unless they are outside of a minimum five hundred foot buffer of another billboard. For purposes of this section, measurements shall be made from the centerline of the support structure if a single pole and from the angle of intersection if a perpendicular (V-shaped) sign. Development agreements for new billboard structures with digital displays may provide for a reduced buffer, but not less than one thousand five hundred feet in due consideration of other public benefits provided in the development agreements, including, but not limited to, the concurrent takedown of existing static displays or digital displays within the city.
 7. When the replacement of a static billboard results in the construction of a new digital display, the new billboard shall not be located within a five hundred foot radius of any existing billboards (static or digital) on the same side of the public right-of-way. For purposes of this section, measurements shall be made from the centerline of the support structure if a single pole and from the angle of intersection if a perpendicular (V-shaped) sign.
- E. Prohibited Signs. The following types of signs shall not be permitted on billboards:
1. Any form of moving, animated, oscillating or rotating sign, or any other design intended to attract attention through movement or the semblance of movement of the whole or any part of the sign or any other method or device that suggests movement;
 2. Inflatable signs (including generator driven/externally powered inflatables);
 3. Flashing signs, containing internally and/or externally illuminated light or other devices which are intermittently on and off, which change in intensity, or which create the illusion of flashing in any manner, except that a digital display may be allowed subject to appropriate standards.
- F. Appearance. No billboard, including its supporting structure and lighting, shall present any hazard to the safety of pedestrian or vehicular traffic by obstructing the flow of such traffic, obstructing the sight lines required for the safe movement of pedestrian or vehicular traffic, interfering with the visibility and effectiveness of any traffic control or warning device, or in any other manner, as determined by the city manager or his designee.
1. Specifications regarding illumination, intermittent messaging, intensity, flashing and/or any other visual transformations shall be detailed in the development agreement.
 2. The images on the digital billboard faces will not change more often than every eight seconds. The images will change instantaneously, with no special effects or video. Any form of moving, animated, oscillating or rotating sign, or any other design intended to

attract attention through movement or the semblance of movement of the whole or any part of the sign or any other method or device that suggests movement is prohibited.

3. All signs shall be designed and maintained to be compatible with the design and materials used in the structure on which the sign is located.
4. No sign face or sign area shall be added to an existing sign unless within a permanent frame or panel indicated for such purpose on approved plans for the total sign structure.
5. All signs shall be maintained in good condition and working order, as determined by the city manager or his designee, and free of graffiti, peeling paint, faded colors and/or broken and damaged materials.

G. General Standards. All billboards must comply with the following standards:

1. Billboard modifications and replacements shall only apply to legal conforming and legal non-conforming signs. Any illegal signs must be removed.
2. The developer shall, at all times, comply with the approvals of the California Department of Transportation Outdoor Advertising Division.
3. The developer shall underground all utilities installed in connection with the billboard, where feasible.

H. Adjacent Landscaping. Where appropriate, the properties upon which billboards are located shall be landscaped to achieve a consistent freeway corridor landscaping theme in accordance with the following guidelines:

1. The landscaping objective is to see the property on which the structure is located landscaped completely along the freeway frontage, or on larger parcels with more than one billboard, a distance determined to be a proportionate share of the property's freeway frontage. Landscaping is not intended to block the view of the structures within their view shed, a distance of one-quarter mile from the sign face.
2. The structures shall be landscaped with a backdrop effect, utilizing fast growing, vertical formed trees, such as California Bay; Fern Pine; Coast Live Oak; or other similar non-invasive species.
3. The structures should be framed with trees of a broad form, such as native oak varieties, or other similar non-invasive species.
4. Sites that are on quarry or landfill properties shall be landscaped with shrubs and trees so as to effectively screen the property from freeway views.
5. The plant materials used for landscaping shall be drought-resistant and irrigated with an automatic drip irrigation system. Irrigation systems may be installed on the surface if a licensed landscape architect establishes a maintenance plan that may allow the irrigation

to be discontinued if the plant materials reach a level of maturity and condition that would permit it without damage to the plant material.

6. Landscape plans shall be accompanied by a photographic view study of the structure; both within its view shed and from a more distant approach to the view shed of the structure. This study shall demonstrate the effectiveness of the proposed landscape plan and its compliance with the preceding provisions.

(Ord. No. 659, § 4, 8-8-12)

Item #24.A.

City of
IRWINDALE
AGENDA REPORT

Date: February 14, 2024
To: Honorable Mayor and Members of the City Council
From: Julian A. Miranda, City Manager
Issue: Implementation of Youth in Government program - Requested by Councilmember Ortiz

City Manager's Recommendation:

Receive and file or provide direction

Administrative Action:

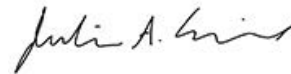
Submitted/Prepared by:

Theresa Olivares, Assistant City Manager



Approved by:

Julian A. Miranda, City Manager



Background and Analysis:

This matter has been placed on the agenda at the request of Councilmember H. Manuel Ortiz. Items listed under Future Agenda Items Requested by Council Members allow the requesting councilmember to have a general discussion with the City Council and determine whether the subject matter warrants placement on a future agenda.

Following the council's discussion, the council will have the following options for consideration:

1. Take no action, then this item will not move forward.
2. Motion to place this item on a future agenda under New Business. This action requires a majority vote.
 - a. If a majority vote is received, the item will be placed under the New Business section on a future agenda.
 - b. If there is no majority vote, then this item will not move forward.

Fiscal Impact:

None

Item 27.A.

Electronic Payments

Successor Agency

January 2024

January 1 - 31, 2024



Number	Vendor Name	Date	Amount
WF-11	2014 TA Rfdg Pty Bond		23,925.00
WF-12	2006 TA Rf Parity Bd		1,856,183.75
WF-13	2014 Taxable Housing Tax		13,721.88
WF-14	2005 Taxable Housing TA Prty Bond		136,591.00
Report Total:			2,030,421.63