

**BILLBOARD REMOVAL AND RELOCATION AGREEMENT AMONG THE CITY OF
RIALTO, SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY, AND
LAMAR CENTRAL OUTDOOR, LLC**

1. PARTIES.

This Billboard Relocation Agreement (“Agreement”) is made this ____ day of _____ 2018, among the City of Rialto (“Rialto”), San Bernardino County Transportation Authority (“SBCTA”), and Lamar Central Outdoor, LLC, a Delaware Limited Liability Company (“Lamar”). Rialto, SBCTA, and Lamar are referred to collectively as “Parties.”

2. RECITALS.

2.1 WHEREAS, Rialto has, consistent with the California Outdoor Advertising Act (California Business & Professions Code, § 5200 et seq.), adopted certain regulations concerning outdoor advertising displays (“Billboards”) as part of the City Development Code per Rialto Municipal Code (“RMC”) Chapter 18.102; and

2.2 WHEREAS, the California Outdoor Advertising Act generally provides that compensation must be paid to Billboard owners for the removal, abatement or limitation of the customary maintenance, use or repair of certain lawfully erected Billboards; and

2.3 WHEREAS, the California Outdoor Advertising Act also contains language providing that “it is the policy of the State of California to encourage local entities to continue development in a planned manner without expenditure of public funds while allowing the continued maintenance or private investment and a medium of public communication.” As a result, “. . . local entities are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city . . . and adopt ordinances and resolutions providing for relocation of displays”; and

2.4 WHEREAS, Lamar maintains one Billboard within Rialto which it is willing and able to permanently remove (“Preexisting Billboard”); and

2.5 WHEREAS, Lamar maintains a Billboard within the City of Colton that meets the candidacy requirements for relocation to Rialto because it is proposed to be removed as a result of work being performed by SBCTA on the I-10 freeway (“Colton Billboard”); and

2.6 WHEREAS, Rialto is willing to accommodate the relocation of the Colton Billboard to Rialto in exchange for the removal of the Preexisting Billboard in accordance with the requirements of Chapter 18.102 of the RMC.

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

3. EFFECTIVE DATE AND TERM.

3.1 This Agreement shall be effective upon execution of this Agreement by all Parties (“Effective Date”).

3.2 This Agreement shall be effective until all obligations hereunder are complete.

4. TERMS.

4.1 Incorporation of Recitals and Exhibits. All recitals and the exhibits attached hereto are referred to in this Agreement are incorporated as though fully set forth in this Agreement.

4.2 Removal of Preexisting Billboard. Within ninety (90) days following the issuance of all permits necessary for the relocation of the Colton Billboard to Rialto described in Section 4.3, Lamar shall secure the legal right to remove, at its sole cost and expense, the following billboard, herein defined as Preexisting Billboard, and its associated support structures and components:

- A. Billboard No. [1]. Interstate 10 / Interstate 215 Interchange (“Colton Billboard”).
- B. Billboard No. [2]. Interstate 10 / North Line, .2 miles West of Cedar Ave.

4.3 Relocation of Colton Billboard. In consideration for Lamar’s actions as described in Section 4.2 above, Lamar shall be permitted to relocate the Colton Billboard to the area shown on the site plan (“Relocation Site”) attached hereto as Exhibit “A” to this Agreement. The Colton Billboard shall be relocated in compliance with the plans and specifications attached hereto as Exhibit “B” to this Agreement. A rendering of the Relocation Site is attached hereto as Exhibit “C” to this Agreement. Lamar agrees and understands that the relocation of the Colton Billboard may be subject to certain discretionary and environmental approvals issued by Rialto. Nothing contained herein shall be interpreted to require Rialto to approve the Colton Billboard. Rialto’s obligations with respect to this section shall be to review and consider approval, in good faith and as expeditiously as possible, the relocation of the Colton Billboard. The failure of Rialto to approve the relocation of the Colton Billboard shall not subject Rialto to the payment of compensation or monetary payment for the removal of any Billboard. Lamar understands and agrees that it is not entitled to nor shall it seek compensation or monetary payment of any type or relocation benefits, as may be provided by state or federal law for the removal of any Preexisting Billboard, from either Rialto or SBCTA. Lamar assumes all risks in removing any Preexisting Billboard described in this

Agreement prior to the receipt of any discretionary approval required for the relocation of the Colton Billboard.

4.4 Advertising Limitation. Lamar voluntarily covenants and agrees for itself, its successors and assigns, that any advertising displayed on the relocated Colton Billboard shall not contain any advertising for adult entertainment or nudity including, but not limited to, topless bars, nightclubs, establishments that feature nude dancing, mud wrestling, any adult business featuring retail sales of adult novelty items, books, magazines, videos and tapes, or any material that could be reasonably considered pornographic. Further, Lamar voluntarily covenants and agrees for itself, its successors and assigns, that any advertising displayed on the relocated Colton Billboard shall not contain any advertising for hard alcohol (beer, wine, spirits, etc. are permitted to be displayed) or tobacco products of any type, or any political messages or advertising. Rialto further reserves the right to object to any other advertising that may be considered detrimental to the image of Rialto. In such cases, Rialto shall inform Lamar in writing of the offensive advertising and request that it be removed. Lamar shall not unreasonably deny the request.

4.5 Maintenance and Operation of Colton Billboard. Lamar shall at its sole cost and expense pay for all maintenance and operation costs associated with operating the Colton Billboard upon relocation. Should the Colton Billboard and the surrounding sites not be maintained in accordance with all laws, codes, and ordinances, Rialto shall provide Lamar with thirty (30) days' notice to comply with such laws, code, and ordinances before Lamar shall be required to remove the Colton Billboard at its sole cost and expense.

4.6 Indemnification of Rialto. Lamar shall defend, indemnify and hold Rialto, its officials, officers, and agents free and harmless from any and all claims, liabilities, losses, costs, expenses, damages, injuries to property or persons, including wrongful death, in any manner arising out of or incident to any negligent acts, omissions or willful misconduct of Lamar, its officers and employees, agents, consultants and contractors arising out of or in connection with this Agreement or the removal, past-removal, construction, relocation, and installation of the Preexisting Billboard and Colton Billboard, including without limitation, the payment of all consequential damages, attorneys' fees and other related costs and expenses. At a minimum, this indemnification provision shall apply to the fullest extent of any warranty or guarantee implied by law or fact, or otherwise given to Indemnifying Parties by their contractors for the removal, past-removal, construction, relocation, and installation of the Preexisting Billboard and Colton Billboard. In addition, this indemnity provision and any such warranties or guarantees shall not limit any liability under law of such contractors. Without limiting the foregoing, this indemnity shall extend to any claims arising because Lamar has failed to properly secure any necessary contracts or permit approvals.

4.7 Assignment Without Consent Prohibited. This Agreement may not be assigned by any Party without the express written consent of the other Parties, and consent shall not be unreasonably withheld. Any attempted assignment of this Agreement not in compliance with the

terms of this Agreement shall be null and void and shall confer no rights or benefits upon the assignee.

4.8 Permit Fees and Submittal of Plans. Lamar hereby agrees to pay any and all permit fees associated with the required removal of any Preexisting Billboard and the relocation of the Colton Billboard. Lamar also agrees to submit any plans, studies, specifications, engineering studies and calculations needed by Rialto as part of its review of the removal of any Preexisting Billboard and the relocation of the Colton Billboard. Rialto's obligations with respect to the processing of any application shall be contingent upon payment by Lamar of any such fees and the submittal of necessary plans.

4.9 Attorneys' Fees. In the event of any action or proceeding, including arbitration, by any of the Parties to this Agreement against another Party for recovery of any sum due under this Agreement, or to enforce any of the terms, covenants or conditions contained herein, the prevailing Party in any such action or proceeding shall be entitled to reasonable attorneys' fees and costs of litigation, including, without limitation, filing fees, service fees, deposition costs and arbitration costs, in addition to all other legal and equitable remedies available to it. Each Party shall give prompt notice to the other Parties of any claim or suit instituted against it that may affect the other Parties.

4.10 Waiver. The waiver of any Party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of any other term, covenant, or condition, or of any subsequent breach of the same term, covenant, or condition. However, nothing contained in this Agreement shall be deemed to be an acknowledgment or acceptance by Rialto or SBCTA that compensation is owed as to any Billboard, either in whole or in part, to any Party having an interest in any of the Billboards herein.

4.11 Waiver of Civil Code Section 1542. It is the intention of the Parties that the releases entered into as part of this Agreement shall be effective as a bar to all actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and demands of any character, nature and kind, known or unknown, suspected or unsuspected, to be so barred; in furtherance of which intention the Parties expressly waive any and all right and benefit conferred upon them by the provisions of section 1542 of the California Civil Code, which reads as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

4.12 Notices. All notices shall be in writing and addressed as follows:

- A. To Rialto: City Manager, City of Rialto, 150 S Palm Ave., Rialto, CA 92376.

- B. To SBCTA: Director of Project Delivery, San Bernardino County Transportation Authority, 1170 W. 3rd Street, 2nd Floor, San Bernardino, CA 92410-1715.
- C. To LAMAR: Lamar Central Outdoor, LLC, Attn: Brian Smith, Real Estate Manager, 449 East Parkcenter Circle South, San Bernardino, CA 92408.

All notices shall be deemed made when personally delivered or when mailed forty-eight (48) hours after each deposit in the U.S. mail, first-class postage prepaid and addressed to Party as its applicable address.

4.13 Authority to Enter Agreement. All Parties have all requisite power and authority to execute, deliver, and perform the Agreement. All Parties warrant that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

4.14 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days or calendar weeks, and not work days. All references to any Party shall include its respective directors, elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

4.15 Amendment/Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by all Parties.

4.16 No Third-Party Beneficiaries. There are no intended third-party beneficiaries of any right or obligation assumed by the Parties.

4.17 Invalidity/Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

4.18 Governing Law and Venue. This Agreement shall be governed by the laws of the State of California. Venue shall be in San Bernardino County.

4.19 Time is of the Essence. Time is of the essence in each and every provision of this Agreement.

4.20 Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both Parties.

4.21 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

4.22 Binding Agreement. Subject to any limitation on assignment elsewhere set forth herein, all terms of this Agreement shall be binding upon, inure to be benefit of, and be enforceable by the Parties hereto and their respective legal representatives, successors and assigns.

[SIGNATURES ON FOLLOWING PAGE]

**SIGNATURE PAGE TO
BILLBOARD REMOVAL AND RELOCATION AGREEMENT AMONG THE CITY OF
RIALTO, SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY, AND
LAMAR CENTRAL OUTDOOR, LLC**

CITY OF RIALTO

LAMAR CENTRAL OUTDOOR, LLC

Robb Steel, Interim City Administrator

[Name, Title]

ATTEST:

City Clerk

[Name, Title]

APPROVED AS TO FORM:

City Attorney

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

Raymond Wolfe, Executive Director

ATTEST:

Board Clerk

APPROVED AS TO FORM:

Craig G. Farrington/Alyson C. Suh

EXHIBIT A
RELOCATION SITE PLAN



EXHIBIT B

PLANS AND SPECIFICATIONS FOR RELOCATION OF COLTON BILLBOARD

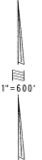
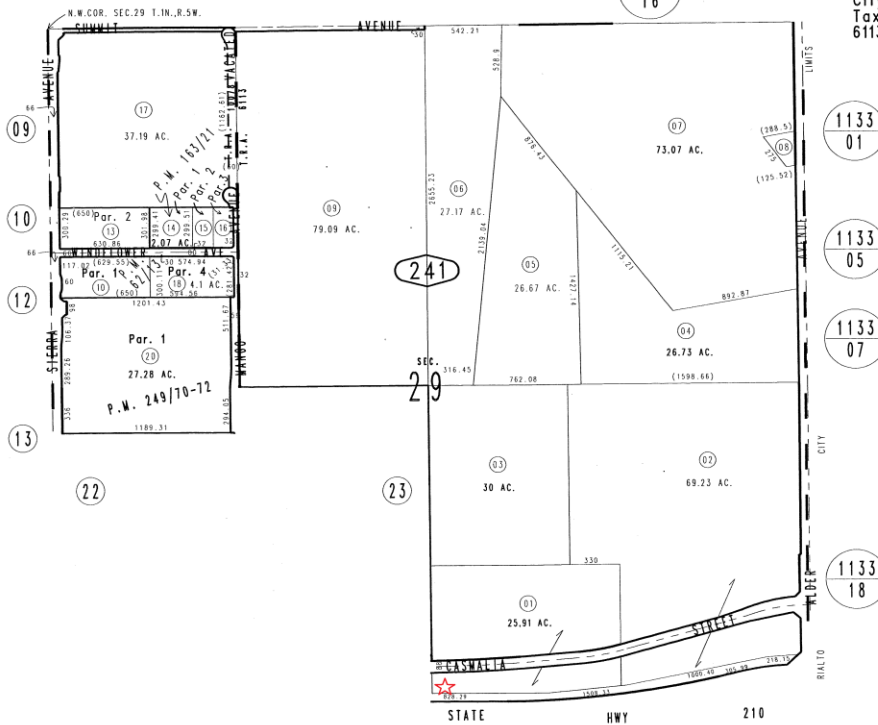
THIS MAP IS FOR THE PURPOSE
OF AD VALOREM TAXATION ONLY.



Ptn. Sec.29, T.1N.,R.5W., S.B.M. 0239 16

City of Rialto
City of Fontana
Tax Rate Area
6113 10078

1119 - 24



AUGUST 2004

Parcel Map No. 19693, P.M. 249/70-72
Parcel Map No. 12724, P.M. 163/21
Ptn. Parcel Map No. 6294, P.M. 62/13

0240 17

0240 19

Assessor's Map
Book 1119 Page 24
San Bernardino County

APR 05 2018
REVISED
10/08/15 RU
10/22/15 RU
07/26/16 GW
12/15/16 KC-MC
10/27/17 KC
03/12/18 KA

EXHIBIT C
RELOCATION SITE RENDERING

