

CONDITIONS OF APPROVAL [**DRAFT**]
 AS APPROVED BY PLANNING COMMISSION

Project Name: Billboard Replacement and Relocation Project

Site Location: 37 Bridgehead Road (portion of APN # 378-010-024)

I. Description of Permit

- A. These conditions apply to and constitute the approval of Use Permit (Permit #11PLN-0034) to allow Construction of a 48’ high, two-sided, 14’ x 48’ light emitting diode (LED) digital display billboard at 37 Bridgehead Road (replacing a static billboard of similar size to be removed from 35 Bridgehead Road).
- B. **The Planning Commission’s Approval of the subject Use Permit is conditional upon the City Council’s approval of: a) Municipal Code Text Amendments, allowing the possible relocation of existing nonconforming Non-Accessory Signs (billboards), subject to the City Council’s approval of a Relocation Agreement; and b) Adoption of the Relocation Agreement**

II. Exhibits

The following exhibits are incorporated as conditions of approval, except where specifically modified by these conditions:

EXHIBIT	RECEIVED ON	PREPARED BY
“Billboard Relocation Agreement” booklet	August 19, 2011	CBS Outdoor

All construction plans shall conform to these exhibits. Where a plan or further information is required by these conditions, it is subject to review and approval by the Planning Division, Engineering Division and Building Department or as noted.

III. Building Permit(s) and Site Development Permit(s) Requirements

- A. Location of replacement billboard shall be approximately 550 feet north of the existing billboard to be removed. Prior to commencing demolition and construction, the applicant shall obtain all required Building permit(s), Site Development Permits(s), as required by the Chief Building Official and City Engineer, as well as any applicable permit required by the California Department of Transportation (Caltrans). Such plans include the following, and are subject to the approval of the Chief Building Official, City Engineer and Planning Staff:
 - 1. Prior to issuance of a construction permit(s), the applicant shall submit documentation showing property owner’s approval of proposed construction.

2. A site plan, drawn to scale, showing the column pipe footing and cantilevered sign structure in relation to all property lines, roadways, roadway easements, utility easements or other improvements that could be adversely impacted by the proposed construction. The footing structure may not encroach across a property line(s) or into any easement, or as approved by the Chief Building Official, City Engineer and Planning Staff.
 3. Plans submitted for a building permit for new construction shall incorporate the recommendations of a geotechnical investigation prepared for the site, and a qualified geotechnical engineer shall inspect and test all geotechnical aspects of the project's construction. The geotechnical report shall be accompanied by a signed statement from the author of the report or other licensed geologist or engineer with relevant expertise, certifying that the plans comply with the report's recommendations. **(Initial Study Mitigation Measure GEO-1)**
 4. All required structural calculations and structural details for the column pipe and cantilevered sign structure shall be submitted and approved by the City's Building Department prior to issuance of permits.
- B. The billboard support structure (e.g. column pipe, spreader, torsion pipe etc.) shall be painted black or dark green as depicted in the Initial Study visual simulations, and be permanently maintained as such.

IV. Billboard Lighting and Messaging Limitations

- A. Billboard operation shall comply with the regulations for "message display center" as defined in the California Outdoor advertising Act (Business and Professional Code Section 5200), which included but is not limited to: a) flashing, intermittent or moving lights are prohibited; b) no display may include illumination or message change that is in motion, appears to be in motion, changes intensity or exposes the message for less than four seconds; c) no message center shall be located within 1,000 feet of another message center on the same side of the interstate; and d) shall not be illuminated so as to impair vision as set forth in the California Vehicle Code (Section 21466.5).
- B. Billboard luminance shall be limited to 6,500 nits (candela per square metre) in full sunlight and 300 nits at night. Luminance shall be managed by a light sensing device that automatically adjusts the brightness based on ambient (surrounding) light conditions. The Billboard shall include an internal backup system(s) so that the luminance will remain within the above limits should the light sensing device fail.

V. Noise Control, Dust and Conditions for Business and Construction Activity

- A. Bridgehead Road shall remain open during construction, unless otherwise approved by the City.
- B. All business activities shall be constructed in such a manner that noise, dust and wastewater are confined on-site and/or properly treated as to prevent pollution of air soil and water, as per the standards of the applicable regional authority.
- C. All construction activities shall conform to the City's Noise Control Ordinance, Chapter 8.34 of the Municipal Code: Construction activities are limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday; and 9:00 a.m. to 5 p.m. Saturday and Sunday. The permittee shall post a sign on the site notifying all workers of these restrictions. No equipment shall be started or delineation take place on the streets before or after the specified operations hours.
 - 1. Indoor noise levels not to exceed 45 d_{BA} CNEL.
 - 2. Private outdoor noise levels not to exceed 60 d_{BA} CNEL.
- D. Contractor shall ensure that surrounding streets stay free and clear of silt, dirt, dust, tracked mud, etc. coming in from or in any way related to project construction. Paved areas and access roads shall be swept on a regular basis. All trucks to be covered.
- E. Contractors shall be required to employ the quietest construction equipment available, and to muffle noise from construction equipment and to keep all mufflers in good working order in accordance with State law
- F. Speeds of construction equipment shall be limited to **10** miles per hour. This includes equipment traveling on local streets to and from the site.
- G. There shall be no parking of construction equipment or construction worker's cars on residential streets at any time.
- H. Prior to construction, contractor shall contact City inspector for a pre-construction meeting.

VI. Agreements, Fees and Bonds

- A. Prior to approval of the plans and issuance of permits, applicant shall pay all applicable fees and deposits including plan check and inspection fees, in accordance with the fee schedule in effect of time of payment
- B. All improvement agreements required in connection with said plans shall be submitted to and approved by City and other agencies having jurisdiction prior to issuance of the building, encroachment, grading or site development permit, whichever comes first.

- C. All fees and deposits required by City and other agencies having jurisdiction shall be paid prior to issuance of the Building, Encroachment, Grading or Site Development Permit, whichever comes first.

VII. Other Standard Requirements

- A. A Site Development Permit is required prior to construction.
- B. Construction shall comply with all applicable City and State building codes and requirements including handicapped and energy conservation requirements, grading and erosion control ordinances.

VIII. Validity of Permit Approval

- A. Planning Commission approval of Permit: #11PLN-0034 is subject to appeal to the City Council within ten calendar days of the approval.
- B. The permit and approval shall expire in one year from the date on which they became effective (unless extended under C) unless a building permit is obtained and construction begun within the one year time period. The effective date of the permit approval is August 23, 2011.
- C. The time extension of the expiration date, August 23, 2012, of a permit or approval can be considered if an application with required fee is filed at least 45 days before the original expiration date. (Otherwise a new application is required.) A public hearing will be required for all extension applications, except those involving only Variance and Design Review. Extensions are not automatically approved. Changes in conditions, City policies, surrounding neighborhood, and other factors permitted to be considered under the law, may require or permit denial.
- D. Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Martinez, or other public agency having jurisdiction.
- E. The permit applicant, CBS Outdoor/Collin Smith, Representative, shall defend, indemnify and hold harmless the City and its agents, officers, attorneys and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys or employees to attack, set aside, void, or annul the Community & Economic Development Department's decision to approve Permit: #11PLN-0034. This indemnification shall include damages or fees awarded against the City, if any, cost of suit, attorneys' fees, and other costs and expenses incurred in connection with such action whether incurred by CBS Outdoor/ Collin Smith, Representative, the City, and/or the parties initiating or bringing such action.
- F. CBS Outdoor/ Collin Smith, Representative shall defend, indemnify and hold harmless the City, its agents, officers, employees and attorneys for all costs incurred in additional investigation of, or study of, or for supplementing, preparing, redrafting, revising, or amending any document (such as the

Negative Declaration), if made necessary by said legal action and if CBS Outdoor/ Collin Smith, Representative desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents, in a form and under conditions approved by the City Attorney.

- G. In the event that a claim, action or proceeding described in Subsection E, above, is brought, the City shall promptly notify CBS Outdoor/ Collin Smith, Representative of the existence of the claim, action or proceeding, and the City will cooperate fully in the defense of such claim, action or proceeding. Nothing herein shall prohibit the City from participating in the defense of any claim, action or proceeding. In the event that CBS Outdoor/ Collin Smith, Representative is required to defend the City in connection with any said claim, action, or proceeding, the City shall retain the right to (i) approve the counsel to so defend the City, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably withheld. The City shall also have the right not to participate in said defense, except that the City agrees to cooperate with CBS Outdoor/ Collin Smith, Representative in the defense of said claim, action or proceeding. If the City chooses to have counsel of its own to defend any claim, action or proceeding where CBS Outdoor/Collin Smith, Representative has already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the City, except that the fees and expenses of the City Attorney shall be paid by the applicant.
- H. CBS Outdoor/ Collin Smith, Representative shall indemnify the City for all the City's costs, fees, and damages, which the City incurs in enforcing the above indemnification provisions.
- I. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirement, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.