

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement ("Agreement") is entered into this \_\_\_\_ day of December, 2000, by and between OUTDOOR MEDIA DIMENSIONS, a Nevada corporation ("OMD") and THE CITY OF RENO, a municipal corporation (the "City"). OMD and the City shall collectively be referred to herein as the "Settling Parties" or the "Parties".

RECITALS

A. OMD filed a complaint captioned *Outdoor Media Dimensions, a Nevada corporation v. The City of Reno, a municipal corporation*, Case Number CV-N-99-0668 ECR-RAM, in United States District Court, District of Nevada (the "Federal Action") on December 21, 1999, alleging various counts against the City;

B. The Settling Parties now seek to fully and finally compromise, settle, and resolve any and all claims and disputes relating to the allegations, claims and cause of actions filed in the Federal Action by and between the parties hereto on the terms and conditions contained in this Agreement.

NOW, THEREFORE, all parties to this Settlement Agreement and Mutual Release agree as follows:

**SECTION I**

**Payment**

1.1 The City shall pay OMD a total sum of Fifty Thousand and No/100 U.S. Dollars (\$50,000.00) (the "Settlement Amount") for OMD's attorneys' fees and costs.

1.2 All payments due and owing under this Agreement shall be paid by a check made

  
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payable to OMD and Michael Stein & Associate, Ltd. and delivered to 1771 E. Flamingo Road, Suite 211B, Las Vegas, Nevada 89119 on or before December 20, 2000.

**SECTION 2**

**Construction, Erection and Maintenance of Off-Premises Advertising Displays**

2.1 Pursuant to the terms, covenants, conditions and restrictions set forth below, OMD shall be entitled to construct, erect and maintain off-premises advertising displays at the following locations:

CASE NUMBER	DESCRIPTION	LOCATION
✓ 21-00	Union Pacific Railroad (0021)	This site is located on railroad right-of-way, on the west side of U.S. 395.
22-00	500 Stoker Avenue	This site is located at the southeast corner of I-80 and Stoker Avenue.
✓ 30-00	2790 East Fifth Street	This site is located on the East Fifth Street Mobile Home Park, located on the southwest corner of I-80 and East Fifth Street.
31-00	2061 East Fourth Street	This site is located at the Tap n' Tavern, located on the northwest corner of I-80 and East Fourth Street.
✓ LDC 01-00141 (consisting of two (2) off-premises advertising displays)	9190 South Virginia Street	This site is located between South Virginia Street and U.S. 395, on the south side of the southbound on-ramp.
LDC01-00142	255 Crummer Lane	This site is located on the northeast corner of U.S. 395 and Crummer Lane.
LDC01-00143	7800 North Virginia Street	This site is located between N. Virginia Street and U.S. 395.
LDC01-00145	2900 Clearacre Lane	This site is located at the southeast corner of Clearacre Lane and U.S. 395.

  
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✓ Permits that have not been issued

✓ LDC01-00146	U.S. 395	his site is located on the northeast side of U.S. 395, at the point where Offenhauser Drive becomes Gateway Drive.
LDC01-00150	1201 Stardust Street	This site is located at the northwest corner of Stardust Street and Keystone Avenue.
✓ LDC01-00161	U-Haul - 10405 Old Virginia Road	This site is located on the east side of South Virginia Street south of its intersection of South Meadows Parkway.

2.2 The issuance of the off-premises advertising display special use permits and sign/building permits for said off-premises advertising display permits by the City is conditioned upon the following:

2.2.1 The project shall comply with all applicable City codes, and plans, reports, materials, etc., as submitted. In the event of a conflict between said plans, reports and materials and City codes, City codes in effect at the time the building permit is applied for, shall prevail;

2.2.2 The applicant shall apply for a sign permit for the project within eighteen (18) months of the date of City Council approval, and continuously maintain the validity of that permit, or this approval shall be null and void;

2.2.3 The off-premises advertising displays shall be a monopole structure. Illumination shall shine upward and directed at the sign face only, and if legible from residentially used properties, the lights shall be turned off by 11:00 p.m.;

2.2.4 Prior to the issuance of a building permit, the applicant shall submit a notarized statement from the property owner authorizing the installation of an off-premises

Page 3

  
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advertising display(s). Attached to the statement shall be a map, also signed by the property owner, detailing the exact location of the proposed off-premises advertising display(s);

2.2.5 Prior to the issuance of a sign permit, the applicant shall submit the special use permit application fee after receiving credit for the six (6) applications previously denied;

2.2.6 In order to minimize visual clutter, each off-premises advertising display must maintain 500 feet spacing from any proposed or existing board on the same side of the street;

2.2.7 On developed parcels, an off-premises advertising display may not occupy required parking or landscaping. If the off-premises advertising display is located in existing landscaping, the landscaping must be relocated elsewhere on site. No tree may be removed for the installation of an off-premises advertising display;

2.2.8 On any developed site, the location of an off-premises advertising display shall not interfere with existing driveways;

2.2.9 Prior to the issuance of a sign permit, the applicant shall demonstrate that any off-premises advertising display will have a ten (10) foot setback from a sidewalk or bus stop. Notwithstanding the foregoing, case number 150-00 shall only require a five (5) foot setback from a sidewalk or bus stop;

2.2.10 All billboards, which require electrical service, shall provide underground service to the pole, with all wiring located inside the pole. There shall be no overhead power, or exterior wiring;

Page 4

  
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2.2.11 All sign structures shall be painted pale blue;

2.2.12 Prior to the issuance of a sign permit, the applicant shall demonstrate that legal access can be provided to the site;

2.2.13 The bottom of a sign face shall not exceed fifteen (15) feet above said rail or sound wall;

2.2.14 The bottom of the off-premises advertising display for Case number LDC01-00142 shall be no more than 10 feet taller than the roofline of the J.C. Penney Furniture Store. The sign face shall not exceed fourteen (14) feet in height by forty-eight (48) feet in width; and

2.2.15 The off-premises advertising display displays in case numbers 21-00, 22-00 and LDC01-00150 shall not exceed twelve (12) feet in height by thirty-six (36) feet in width.

2.2.16 The off-premises advertising display in case number 31-00 shall be located to the far north end of the parcel;

2.2.17 The sign face of the off-premises advertising display in case number LDC01-00145 shall be oriented to minimize the impact on nearby residences;

2.2.18 Maintenance of the sign shall occur only during daylight hours;

2.2.19 The off-premises advertising display shall be maintained or repaired within 36 hours of the sign company being notified;

Page 5

  
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2.2.20 The structures shall be galvanized;

2.3 OMD shall withdraw the requests for special use permits for case numbers 19-00, 20-00, 26-00, LDC01-00144; LDC01-00152, LDC01-00153, LDC01-00154, LDC01-00155, LDC01-00156, LDC01-00160 and LDC01-00162.

### SECTION 3

#### Mutual Releases and Dismissal

3.1 The Settling Parties, and each of them, do hereby, for themselves, and for their current and/or former partners, members, officers, directors, shareholders, and, if any, affiliated corporations, employees, agents, spouses, representatives, attorneys, legal successors and assigns, and each of them, expressly release and absolutely and forever discharge each other and their current and/or former members, officers, directors, shareholders, partners, and, if any, employees, agents, spouses, representatives, attorneys, legal successors and assigns, and each of them, of and from any and all claims, demands, damages, debts, liabilities, obligations, costs, expenses, liens, actions and causes of action of every kind and nature whatsoever, whether known or unknown, suspected or unsuspected, that each Party now has, owns or holds, or at any time heretofore ever had, owned or held, or could, shall or may hereafter have, own or hold against each other, based upon or related to the Federal Action.

3.5 Upon execution of this Agreement, payment of the FIFTY THOUSAND and NO/100 DOLLARS and issuance of the special use permits, sign permits and building permits, OMD shall prepare and file a stipulation for dismissal, with prejudice, for the Federal Action. The parties hereby stipulate to the retention of jurisdiction by the United States District Court for

Page 6

  
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enforcement of the terms of this Agreement by any available remedy, including injunctive relief, fines or contempt proceedings.

#### SECTION 4

##### No Third-Party Beneficiaries

4.1 Except as otherwise provided in this Agreement, nothing expressed or implied herein is intended, or shall be construed, to confer upon or give any person or entity not a party to this Agreement any rights or remedies under, or by reason of, any term, provision, condition, undertaking, warranty, representation or agreement contained herein.

#### SECTION 5

##### Time of the Essence

5.1 Time is of the essence for this Agreement and all of its terms, provisions, conditions, and covenants.

#### SECTION 6

##### Successors and Assigns

6.1 This Agreement shall be binding upon and inure to the benefit of the Settling Parties hereto, and each of them, and each and all of their respective representatives, successors, assigns, employees and agents.

#### SECTION 7

##### Contract Execution

7.1 This Agreement may be executed in any number of counterparts with the same force and effect as if all signatures were set forth in a single instrument. Each counterpart when

Page 7

  
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duly executed and delivered shall be an original, but all such counterparts shall constitute one and the same agreement. Any signature page of this Agreement may be detached from any counterpart without impairing the legal effect of any signatures, and may be attached to another counterpart, identical in form, but having attached to it one or more additional signature pages. This Agreement and any counterpart may be executed by signatures provided by electronic facsimile transmission (also known as "fax" copies), which facsimile signatures shall be as binding and effective as original signatures. Any Party providing a signature by fax copy shall promptly thereafter deliver to the attorney for the other side a counterpart of this Agreement bearing the original signature of that Party.

## SECTION 8

### Integration Clause

8.1 This written Agreement represents and contains the entire understanding between the Parties in connection with the subject matter of this Agreement. This Agreement shall not be altered or varied except by a writing duly signed by all of the Parties, and the Parties acknowledge and agree that, in the absence of such a writing signed by the Parties, they will make no claim that this Agreement has been orally altered or modified in any respect whatsoever. The Parties each acknowledge that no Party, nor any agent or attorney of any Party or any other individual, has made any promise, representation or warranty whatsoever, express or implied, which is not contained herein concerning the subject matter hereof to induce any Party to execute this Agreement. Except for the foregoing, the Parties further acknowledge that they have not executed this Agreement or any other such document in reliance on any promise,

Page 8

  
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representation or warranty not contained herein. The waiver of any breach of this Agreement by any Party shall not be a waiver of any subsequent or prior breach. All amendments, modifications and waivers of this Agreement must be in writing and signed by all Parties.

## SECTION 9

### Governing Law and Exclusive Choice of Forum

9.1 The laws of the State of Nevada applicable to contracts made or to be wholly performed there (without giving effect to the choice of law or conflict of law principles) shall govern the validity, construction, performance, effect and enforcement of this Agreement. The United States District Court, District of Nevada, shall maintain jurisdiction of Case No. CV-N-99-0668 ECR for the purpose of enforcing this Agreement. To the extent the Court refuses to exercise jurisdiction to enforce this Agreement, any lawsuit to interpret or enforce this Agreement may be brought only in a court of competent jurisdiction in the State of Nevada.

## SECTION 10

### Attorneys' Fees

10.1 If there is any legal action or proceeding, including any mediation or arbitration proceeding, to enforce or interpret any provision of this Agreement or to protect or establish any right or remedy of any Party, the unsuccessful Party to such action or proceeding, whether such action or proceeding is settled or prosecuted to final judgment, shall pay to the prevailing Party as finally determined, all costs and expenses, including reasonable attorneys' fees and costs, incurred by such prevailing Party in such action or proceeding, in enforcing such judgment, and in connection with any appeal from such judgment. Reasonable attorneys' fees and costs

Page 9

  
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incurred in enforcing any judgment or in connection with any appeal shall be recoverable separately from and in addition to any other amount included in such judgment. The prevailing Party's rights under this Section 9 shall not merge into any judgment and shall survive until all such fees and costs have been paid.

**SECTION 11**

**Construction; Joint Drafting**

11.1 The terms and conditions of this Agreement shall be construed as a whole, according to its fair meaning, and not strictly for or against any Party. The Settling Parties acknowledge that each of them has reviewed this Agreement and has had the opportunity to have it reviewed by their attorneys, and that any rules or construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply in the interpretation of this Agreement.

**SECTION 12**

**Authority to Execute Agreement**

12.1 The persons signing this Agreement each warrant that they have the authority to sign this Agreement individually, or on behalf of the entity for which they are signing, as the case may be.

**SECTION 13**

**Necessary Action**

13.1 Each of the Parties shall do any act or thing and execute any or all documents or instruments necessary or proper to effectuate the provisions and intent of this Agreement.

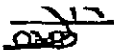
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SECTION 14

Miscellaneous

14.1 The captions appearing at the commencement of the sections of this Agreement are descriptive only and for convenience in reference to this Agreement and shall not define, limit or describe the scope or intent of this Agreement, nor in any way effect this Agreement.

14.2 Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places in this Agreement in which the context requires such substitution or substitutions.

14.3 If any one or more of the provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions of this Agreement shall not be affected thereby, and the Parties will use all reasonable efforts to substitute for such invalid, illegal or unenforceable provisions one or more valid, legal and enforceable provisions which, insofar as practicable, implement the purposes and intents hereof. To the extent permitted by applicable law, each Party waives any provision of law, which renders any provision of this Agreement invalid, illegal or unenforceable in any respect.

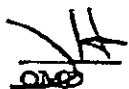
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14.4 Notices. Any and all notices and demands required or desired to be given pursuant to this Section shall be in writing and shall be validly given or made if served either personally or deposited with the United States Postal Service, in certified or registered mail, postage prepaid, return receipt requested and addressed as hereinafter provided. If such notice or demand be served by registered or certified mail in the manner provided above, service shall be conclusively deemed given one (1) business day after mailing or upon receipt, whichever is sooner.

- (a) To OMD: **CO Michael Stein, Esq.**  
1771 E. Flamingo Rd., Suite 211B  
Las Vegas, Nevada 89119
- (b) To City of Reno: **Reno City Attorneys Office**  
490 South Center Street, Room 204  
Reno, Nevada 89505-1900

**IN WITNESS WHEREOF**, the Parties have entered into this Agreement as of the date first written above.

**OUTDOOR MEDIA DIMENSIONS**

By: Jeffrey Nelson  
Jeffrey Nelson, authorized officer

**THE CITY OF RENO**

By: Shirley K. Gyle  
Vice-Mayor

**APPROVED AS TO FORM AND CONTENT:**

**MICHAEL STEIN & ASSOCIATES, LTD.**

By: Michael Stein  
Michael Stein, Esq., counsel for  
Outdoor Media Dimensions

**RENO CITY ATTORNEYS OFFICE**

By: Patricia Lynch  
Patricia Lynch, Esq., Reno City  
Attorney

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