

**AGREEMENT**

**BETWEEN**

**The City of Houston, Texas and**

**SignAd, Ltd.**

**THE STATE OF TEXAS**

§

**COUNTY OF HARRIS**

§

§

This Agreement, made and entered into by and between the **City of Houston**, a municipal corporation and home-rule city of the State of Texas, principally situated in Harris County ("City"), and **SignAd, Ltd.** ("SignAd").

**WITNESSETH:**

**WHEREAS**, SignAd has been operating off premise advertising signs as a licensed company within the City of Houston as required by Section 4606 of Chapter 46 of the City of Houston Building Code ("Sign Code"); and

**WHEREAS**, the City, through its Houston Sign Code and Office of Sign Administration, seeks to ensure public safety, fair business dealings, compliance and transparency; and

**WHEREAS**, SignAd respects the City's efforts to reduce the total number of off-premise signs within its jurisdiction, and the City and SignAd have agreed to amicably resolve all pending issues between the parties regarding certain existing SignAd off-premise signs within the City's jurisdiction; and

**WHEREAS**, the City has agreed to waive all fees related to violations and penalties, pursuant to Building Code, Chapter 46, Section 4604(d), and bonds as outlined in Section 4617(10), and revocation of licenses per Section 4604(c)(4), for currently expired signs; and

**WHEREAS**, the City and SignAd have agreed to their respective duties and obligations contained in the Agreement, including the timely voluntary removal of signs as described in Exhibit "A", and the operation, maintenance, repair, and extension of existing signs as described in Exhibit "B";

## AGREEMENT

**NOW, THEREFORE,** for and in consideration of the mutual covenants, agreements and benefits to the parties herein named, it is agreed as follows:

### REMOVALS

1. SignAd hereby agrees to remove the SignAd sign structures described in attached Exhibit A ("the Removal Signs") pursuant to the schedule specified in Section 4.

### EXTENSIONS

2. Notwithstanding any limitation period in Building Code, Chapter 46, Section 4617, the City hereby agrees to and provides extensions for the operation, use and enjoyment of the SignAd sign structures described in attached Exhibit B ("Extension Signs"). Such extensions are twenty years from the original expiration dates of the special permit for these structures, as set forth on Exhibit B.

### RELOCATION OF SIGN NO. 70251

3. Sign number 70251, formerly located at 7955 ½ Katy Freeway, can be replaced at that location by SignAd and will be permitted to remain at that location for six years from the date of completion of the erection of the sign, should Sign Administration confirm that such complies with all applicable provisions of the Sign Code. Should Sign Administration determine that the sign cannot be located at that location or should SignAd elect to relocate the sign, Sign Administration shall review any relocation permit application for sign number 70251 under Section 4617 of the City's Sign Code. If Sign Administration determines that the application for relocation complies with all applicable provisions of the Sign Code, the sign can be relocated for six years from the date of the completion of the erection of the sign. If the sign is not relocated pursuant to this section on or before March 1, 2021, then SignAd's right to relocate the sign shall automatically terminate.

### **SCHEDULE OF REMOVALS**

4. SignAd shall remove the Removal Signs described in Exhibit A on the following schedule: (1) Sign Nos. 28 – 30 (Ten Year Relocation Signs with Expired Permits) will be removed on or before April 30, 2015; and (2) commencing May 1, 2015, and concluding June 30, 2016, all other Removal Signs (starting with Sign Nos. 31-44 and concluding with Sign Nos. 1-27) will be removed with no less than two such signs removed each month. All the Removal Signs structures shall be dismantled and removed by SignAd entirely at its expense and all related permits shall be deemed void and extinguished as of the date of removal. SignAd shall provide written notice to the Director of the City's Sign Administration Department when each removal has been completed. Such notification shall be delivered by SignAd within five (5) days after each removal, and shall include before and after photographs of each removal site.

### **FAILURE OF REMOVAL**

5. If SignAd fails to timely remove any of the Removal Signs on the schedule specified in this Agreement, the City shall provide written notice to SignAd, and, in the event SignAd does not cure such failure within thirty days of such notification, then all the extensions described in Section 2 shall immediately terminate and SignAd shall promptly remove the sign structures described in such Section.

### **WAIVER OF PENALTIES AND FUTURE APPLICATION OF SIGN CODE**

6. The City waives all fees related to violations and penalties, pursuant to Building Code, Chapter 46, Section 4604(d), and bonds as outlined in Section 4617(10), and revocation of license per Section 4604(c)(4), for currently expired signs.

7. SignAd shall timely obtain renewal operating permits as required under the Sign Code for each Extension Sign, and shall continuously maintain and repair each Extension Sign in accordance with the maintenance, safety, and structural requirements of Section 4607(a) and (b) and 4609(a), (b), (c), (d), (g), (h), and (o) of the Sign Code. This Agreement shall not be construed to release SignAd from compliance with any provision of the Sign Code, except as necessary to fulfill the terms of this Agreement.

### **INTERPRETATION OF SIGN CODE**

8. The City agrees that, commencing on the Effective Date of this Agreement, a special permit issued pursuant to Sign Code Section 4617(10), shall not be deemed to be issued until the date of the City's final inspection and approval of the relocated or altered sign.

### **COOPERATION ON CONDEMNATION ISSUES**

9. As growth within the City and its extra-territorial jurisdiction presents challenges with undertaking infrastructure projects and with the associated condemnation proceedings by the City, the Texas Department of Transportation, and other public entities, SignAd may continue to utilize relocation options pursuant to the Sign Code. The City and SignAd may work jointly to extend by special permit any sign that is built, or has been built, by special permit in order to expedite and reduce the costs of such projects. Such extension of a special permit may be allowed for any sign whose permit has not expired, provided that such extension is agreed to by the parties. The City will consider and as appropriate, grant relocation and extension opportunities to avoid the cost to governmental entities for the taking of other signs through eminent domain. This provision shall in no way restrict or limit the ability of the City to require the removal of any sign, including the Extension Signs described in Exhibit B, when such removal is necessary for and associated with any City road, street, or other publicly funded improvement project. Save and except as otherwise provided in this Agreement, in the event of such requirement to remove any Extension Sign, either party may exercise its right fully under law in connection with any takings claims, including without limitation, any eminent domain or condemnation rights.

### **APPROVAL AND IMPLEMENTATION OF AGREEMENT**

10. SignAd shall execute this Agreement in accordance with its corporate charter and the laws of the State of Texas and shall present said agreement to the City for approval.

Following receipt thereof, and in accordance with State law, including but not limited to the Texas Open Meetings Act and the provisions of the City Charter, City shall take those steps customary and reasonably required to adopt and implement the terms of this Agreement. SignAd and City shall cooperate with each other and support the enactment of an ordinance and any other measure incident to the approval and implementation of the terms of this Agreement. Should this Agreement not be approved by the City Council of the City of Houston, signed by the Mayor and countersigned by the City Controller, then this Agreement shall be null and void and the parties and their respective positions shall be unaffected thereby.

### REMEDIES

11. City and SignAd acknowledge that the subject matter of this Agreement involves real and personal property, and that damages caused by either party's failure to comply with the terms of this Agreement, or to timely comply with the terms of this Agreement, are difficult of calculation. For these reasons, the City and SignAd agree that specific performance of the terms of this Agreement is appropriate to remedy a breach of this Agreement by either the City or SignAd. This remedy is not exclusive but is cumulative of all remedies available to the City and SignAd under the law which exist now or may exist in the future, including but not limited to those administrative remedies available to the City.

12. If the City institutes a lawsuit to enforce this Agreement and obtains affirmative relief by Final Judgment in such lawsuit, SignAd shall pay all reasonable costs and expenses incurred by the City in connection with the lawsuit, including, but not limited to, reasonable attorney's fees charged by outside counsel, court costs, expert witness fees, investigation fees, the cost of computerized legal research and all other reasonable charges billed by or on behalf of a law firm or an attorney.

### ANNUAL INVENTORY

13. On or before May 15, 2015, and annually thereafter on or before January 31st of each year while operating a permit pursuant to Section 4605(a) of the Sign Code, SignAd shall file with the Sign Administrator a complete inventory of all its existing off-premise sign structures within the City's jurisdiction as of the preceding January 1st. Such inventory shall include the following information for each SignAd off-premise sign structure: street address,

GPS locators, size, height, number of faces, and not more than three digital photographs taken from street level portraying the front, back and end views of a sign. In addition, SignAd shall designate whether a sign is located on the federal highway system and whether a sign is located in a designated scenic district of the City. On or before April 15, 2015, the Sign Administrator shall provide written notice to SignAd regarding inventory requirements. Such instructions may be reasonably modified by the Administrator from time to time in the future by providing written notice to SignAd no later than December 1st of the year preceding the year to which such modifications apply. The filing of such inventory in compliance with the requirements specified by the Administrator constitutes compliance with Section 4612(i) of the Sign Code. SignAd shall provide written notice to the City of the removal of any of its off-premise sign structures within thirty days of such removal. The City shall provide written notice to SignAd of any material failure by SignAd to file an annual inventory in compliance with the requirements of this Section and the requirements specified by the Administrator.

#### MISCELLANEOUS

1. Parties Bound. This Agreement shall be binding upon and shall inure to the benefit of SignAd and the City and their respective parent corporations, subsidiary corporations, representatives, successors, and assigns.
2. Entire Agreement. This Agreement contains the entire Agreement between SignAd and the City and supersedes any and all prior agreements, arrangements, negotiations, discussions, or understandings between them pertaining to the subject matter hereof. No oral understandings, statements, promises, or inducements contrary to the terms of this Agreement have been made or relied upon by either SignAd or the City with respect to the subject matter hereof.
3. Effective Date. The "Effective Date" of this Agreement is the date on which all of the following shall have occurred: (1) this Agreement is duly approved and authorized by the Houston City Council by the passage and adoption of an appropriate ordinance; (2) this Agreement is duly executed by the Mayor of Houston; and (3) this Agreement is duly countersigned by the City Controller of Houston.

4. Disclaimer. It is expressly understood and agreed by and between the parties to this Agreement that this Agreement includes a compromise and settlement of disputed claims, and that the execution of this Agreement does not in any way constitute any admission of liability on the part of any party to this Agreement, but that all parties to this Agreement expressly disclaim any liability concerning the claims being compromised and settled herein.

5. Headings. The headings, captions, and arrangements used in this Agreement are, unless specified otherwise, for convenience only and shall not be deemed to limit, amplify, or modify the terms of this Agreement, nor to affect the meaning thereof. The captions are not restrictive of the subject matter of any paragraph of this Agreement.

6. Governing Law. This Agreement is being executed and delivered, and is intended to be performed in Houston, Texas; and the Charter and the Ordinances of the City and the laws of the State of Texas and of the United States of America shall govern the rights and the duties of the parties hereto and the validity, construction, enforcement and interpretation of this Agreement. Venue for any litigation relating to this Agreement shall be exclusively in the courts of Harris County, Texas, for any state court actions and in the courts of the Southern District of Texas for any federal court actions.

7. Non-Waiver. If either party fails to require the other to perform a term of this Agreement, that failure does not prevent the party from later enforcing that term and all other terms. If either party waives the other's breach of a term, that waiver does not waive a later breach of this Agreement.

8. Parties In Interest. This Agreement does not bestow any rights upon any third party, but binds and benefits the City and SignAd. To the extent that a court or administrative body issues an order or other ruling enjoining, restricting or otherwise limiting all or a portion of the terms or performance of this Agreement by either the City or SignAd, the City and SignAd promptly shall confer in good faith and shall attempt to agree upon the appropriate modifications to this Agreement to give effect to the parties' original intent. In the event that the City and SignAd cannot so agree, this Agreement shall become null and void, and the parties shall each be returned to their respective positions on the day before the Effective Date of this Agreement.



9. Written Amendment. Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only by written instrument executed on behalf of City (by authority of an ordinance adopted by the City Council) and SignAd.

10. Notices. All notices required to be given under this Agreement shall be sent by fax or first class mail and delivered as follows:

To SignAd:

SignAd, Ltd.  
Mr. Wes Gilbreath, Jr.  
P. O. Box 8626  
Houston, Texas

77249

With a copy to:  
Mr. Richard Rothfelder  
Rothfelder & Falick, LLP  
1201 Louisiana, Suite 550  
Houston, Texas 77002

and:

To the City:

City of Houston Sign Administrator-Code Enforcement  
Public Works and Engineering Department  
1002 Washington Avenue, Fourth Floor  
Houston, Texas 77002  
Fax: (832) 395-9607

11. Multiple Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes and all of which constitute, collectively, one agreement; but, in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

12. Interpretation. This Agreement shall not be construed against or unfavorably to any party because of such party's involvement in the preparation or drafting of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN TESTIMONY OF WHICH, this Agreement, in duplicate originals, each having equal force has been executed on behalf of the parties hereto as follows:

**SIGNAD**

SIGNAD, LTD.

By:  \_\_\_\_\_

Printed Name: Wes Gilbreath

Title: President

**CITY OF HOUSTON**

ATTEST/SEAL:

CITY OF HOUSTON, TEXAS

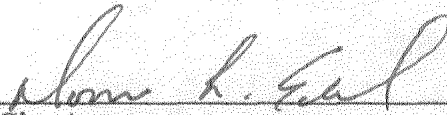
Signed by:

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Mayor

APPROVED:

COUNTERSIGNED BY:

  
\_\_\_\_\_  
City Attorney  
L.D. File No. 0391400344001

\_\_\_\_\_  
City Controller

DATE COUNTERSIGNED:

\_\_\_\_\_

## LIST OF EXHIBITS

Exhibit "A": Removal Signs  
Exhibit "B": Extension Signs

## Exhibit A

### Signs to be Removed

BD No.	Street Address	LOCATION	Permit No.	Size	Faces	Sq Ft	Districts	
1	10031 123 ALMA ST	North Fwy/S. of N. Main	011233A	10x40	1	400	H	
2	10051 3026 HOUSTON AVE	N. Fwy. @ N. Main	11231	10x40	1	400	H	
3	10151 1508 CORDELL	North Fwy N/O Cavalcade	011235A	12x48	1	576	H	
4	16151 2701 FM 1960	FM 1960 @ Treaschwig	96011059	14x48	2	1344	B	
5	21711 860 EASTEX FWY	U.S. 59/S of New Caney	95037840	16x40	1	640	ETJ	
6	29841 16900 US HWY 90	16900 Hwy 90 E. of Sheldon Rd.	045334A	10x35	1	350	ETJ	
7	29869 7401 C E KING PKY	7900 C.E. King @ Hwy. 90	045335A	10x20	1	200	ETJ	
8	29871 7900 C E KING PKY	C E King Pkway N. of Hwy 90	045023A	10x40	2	800	ETJ	
9	39600 4747 S. SHAVER	4747 S Shaver/600' N of Greshaw	47162	10x44	2	880	I	
10	40009 3615 GULF FWY	3615 1/2 Gulf Fwy/S of Downtown	96015779	18x86	1	1548	I	
11	44620 10530 TELEPHONE RD	10530 1/2 Telephone Rd @ Fuqua	5281	10x24	2	480	D	
12	54480 13900 S MAIN	13900 Main Hwy 90A, N of Hillcroft	001555A	10x40	1	400	K	
13	74640 9100 N HWY 6	Hwy 6 N S/O Hwy 290	045591A	10x40	2	800	A	
14	75820 18844 FM 529	1844 FM 529/W of Barker Cypress	045045A	10x40	2	800	A	
15	75840 18846 FM 529	18846 FM 529/W of Barker Cypress	045044A	10x40	2	800	A	
16	76011 11200 HEMPSTEAD RD	11200 Hempstead Rd. @ Antoine	011203A	10x30	1	300	A	
17	76391 19335 NORTHWEST FWY	Hwy 290/E. of Hwy 6	93065455	14x32	1	448	A/ETJ	
18	82240 12050 SH 249	12050 SH 249/N of W Mt Houston	045340A	10x40	2	800	ETJ	
19	84120 12114 Bammel N. Houston	12114 Bammel N. Hou./N of Greens	100618A	10x40	2	800	ETJ	
20	85420 18928 KUYKENDAHIL RD	18928 Kuykendahl/S of Sp Cypress	96057280	10x24	1	240	A/ETJ	
21	85480 19832 KUYKENDAHIL RD	19832 Kuykendahl/N of Rhodes Rd.	100619	10x40	2	800	A/B/ETJ	
SCENIC BOARDS	22	10160 303 TARVER	303 Tarver/North Fwy N/O Cavalcade	11236	12x48	1	672	H
	23	10180 3130 NORTH FWY	N. Fwy./5mi S/O N Loop	96110523	10x30	1	300	H
	24	15711 3003 N SAM HOUSTON PKY E	3003 N Sam Houston Pkwy E/O Morale	011225A	14x48	1	672	B

SIGNS TO BE REMOVED

25	20020	903 CHARTRES	Eastex Fwy @ Walker S/O Minute	142613	14x48	2	1344	I
	29970	300 EAST SAM HOUSTON PKY	300 1/2 E Sam Hou Pkwy/S of Wallisv	9053246	12x40	2	960	ETJ
	70060	301 YALE	I-10 @ 301 Yale	11200	14x48	2	1344	I
28	20112	3628 WILEY	Eastex Fwy @ Parker	3022940	10x30	1	300	H
29	21451	21837 EASTEX FWY	21837 1/2 Hwy 59/S/McClellan	98001621	14x48	2	1344	ETJ
10 YEAR RELOS	21460	22323 EASTEX FWY	Hwy 59 N/McClellan	97042359	10x40	2	800	E
	17241	706 SPRING CYPRESS	706 Spring Cypress E/O Dean	124716	10x40	2	800	ETJ
32	17800	400 LOOP 494	400 Loop 494 S/O Ford	045024A	10x24	2	480	ETJ
33	39210	3448 RICHEY RD	3448 Richey S E/O Forest Oaks	005283A	10x44	1	440	E
34	49435	4111 FM 2351	4111 FM 2351 W/O Beamer	045031A	10x40	2	800	ETJ
35	75980	406 TIDWELL RD	406 Tidwell W W/O Hamilton	96116838	8x28	1	224	H
36	84920	1412 GREENS	1412 Greens E/O Trickey @1418 Gears	045345A	10x40	2	800	ETJ
37	84960	5052 LOUETTA	5052 Louetta E/O Strack	100623A	12x40	2	960	B
2009 AMORTIZED	49431	4103 FM 2351	4103 FM 2351 W/O Beamer	045030A	10x40	2	800	ETJ
	62440	13600 BELLAIRE RD	13600 Bellaire Blvd W/O Eldridge	044916A	10x40	2	800	ETJ
	62460	13800 BELLAIRE RD	13800 Bellaire Blvd E/O Sugarland Howell	044915A	10x40	2	800	ETJ
	84700	11670 JONES RD	11670 Jones Rd. S/O Woodedge	045328A	14x48	2	1344	ETJ
	84800	13620 CYPRESS NORTH HOUSTON RD	13620 Cypress N Houston E/O Hufmeister	045329A	10x24	2	480	ETJ
	87311	2931 FM 2920	2931 FM 2920 W/O Foster	045343A	10x40	2	800	ETJ
	87315	2933 FM 2920	2933 FM 2920 W/O Foster	045342A	10x40	2	800	ETJ
TOTAL SQ FT							31870	
2013 AMORTIZED								

## Exhibit B Extensions of Permits for Relocated Boards

BD No.	Street Address	LOCATION	Permit No.	Size	Faces	Sq Ft	Term Beginning	New Term Expiration	Districts
1	10982 13600 NORTH FWY	13600 n. Frwy @ Rankin	125431	12x27	1	324	12/19/2014	12/19/2034	B/ET1
2	10991 13801 NORTH FWY	13801 1/2 N. frwy, N/Rankin	98074082	10x40	2	800	8/14/2008	8/14/2028	B/ET1
3	11120 16000 NORTH FWY	145 N @ Richey Rd	97079174	14x48	2	1344	8/19/2007	8/19/2027	B/ET1
4	11680 25690 NORTH FWY	25690 1/2 N. Frwy, N/Rayford	4549333A	14x48	2	1344	6/19/2006	6/19/2026	ET1
5	40498 10500 GULF FWY	10500 Gulf Frwy/N/Edgebrook	2063420	10x40	2	800	12/31/2012	12/31/2032	I
6	40591 12375 GULF FWY	12375 1/2 Gulf Frwy N/O Fuqua	98004574	14x48	2	1344	3/31/2008	3/31/2028	E
7	60151 5545 SOUTHWEST FWY	5545 SW Frwy W/O West Loop	990337174	10x40	2	800	8/13/2009	8/13/2029	G
8	60230 6222 SOUTHWEST FWY	6222 1/2 SW Frwy @ Westpark	98042691	14x48	1	672	12/22/2008	12/22/2028	J
9	60420 11420 SOUTHWEST FWY	11420 SW Frwy, N/Bellfort	98006640	14x48	1	672	2/23/2008	2/23/2028	K
10	60440 11700 WILCREST	SW Frwy 1 S, Wilcrest Dr	97072093	14x48	2	1344	9/18/2004	9/18/2024	F
11	70511 11211 KATY FWY	11211 Katy Frwy, E/Chimney Rock	99100919	10x36	2	720	11/16/2009	11/16/2029	G
12	70611 15625 KATY FWY	15625 1/2 Katy Frwy, 1/2 W/SH 6	98015402	14x48	2	1344	3/31/2008	3/31/2028	G
13	82740 21326 SH 249	21326 SH 249, N/Louetta	97038547	14x48	2	1344	9/10/2007	9/10/2027	ET1
<b>TOTAL SQ FT</b>						<b>12852</b>			