



REPORT TO PLANNING COMMISSION City of Sacramento

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915 I Street, Sacramento, CA 95814-2671

PUBLIC HEARING
November 18, 2010

To: Members of the Planning Commission

Subject: Pell Circle Billboard Relocation. A request to relocate three existing billboards from three different locations to a 45-foot tall billboard to be located at 3961 Pell Circle. (P10-065)

- A. Environmental Determination: Exempt per CEQA 15303
- B. Rezone of approximately 2.32 acres from the Light Industrial (M-1S-R) zone to the Light Industrial (M-1-R) zone.
- C. Relocation Agreement to relocate three existing billboards from three different locations to a 45-foot tall billboard to be located at 3961 Pell Circle in the Light Industrial (M-1-R) zone.
- D. Variance to exceed the 40-foot height limit for a detached sign in the Light Industrial (M-1-R) zone in order to construct a 45-foot tall billboard.

Location/Council District:

3961 Pell Circle, Sacramento, CA

Assessor's Parcel Number: 237-0400-016-0000

Council District 2

Recommendation: Staff recommends the Planning Commission recommend approval and forward the rezone and Billboard Relocation Agreement request to the City Council based on the findings listed in Attachments 3 and 4. The City Council has the final approval authority over items B and C. This recommendation is based upon the conclusion that the project is consistent with the applicable policies, requirements and findings for a relocation agreement established under Chapter 15.148 of the Sacramento City Code. Staff recommends the Planning Commission approve the variance based on the findings of fact. The Planning Commission has final approval authority over item D, above, and its decision is appealable to City Council.

Land Use Map



Contact: Antonio Ablog, Associate Planner, 808-7702, Lindsey Alagozian, Senior Planner, 808-2659.

Applicant: David Nybo, Rogers Media Company, Inc., 5409 Rogers Street, Davis, CA 95618

Owner: Alan K. Stahl, 3961 Pell Circle, Sacramento, CA 95838

Summary: The applicant is requesting approval of a billboard relocation agreement to allow for the removal of three existing billboards with a total of 4 advertising faces and allowing the construction of a new replacement billboard that will be located at 3961 Pell Circle, adjacent to Interstate 80. The new billboard will have a double face and will be 45 feet tall. The project requires a rezone from the Light Industrial (M-1S-R) zone to the Light Industrial (M-1-R) zone, and a variance to exceed the 40-foot height requirement for signs in the Light Industrial (M-1-R) zone. As of the time of writing the report there were no comments or objections from any neighborhood groups or adjacent property owners. **The project is not controversial.**

Table 1: Project Information
General Plan designation: Employment Center Low Rise
Existing zoning of site: Light Industrial (M-1S-R)
Existing use of site: Light Industrial (Viking Pools).
Property area: 2.32± Acres

Background Information: On October 16, 2007, the Sacramento City Council adopted Ordinance No. 2007-079, which prohibits the construction and operation of new billboards within the City, except for billboards approved under a relocation agreement as provided in Sacramento City Code Section 15.148.815, a part of the City Sign Code. Under Section 15.148.815, new billboards may be constructed in exchange for the permanent removal of existing billboards, resulting in a net reduction of both the number and total square footage of billboards then lawfully allowed. Section 15.148.815 prescribes when and how the City may enter into a relocation agreement.

Rogers Media Company wishes to construct a new billboard under a billboard relocation agreement. The proposed agreement (Attachment 4, Exhibit A) identifies the location of the proposed new billboard site (which is “freeway oriented”) and the location, general description, and size of the billboards proposed for permanent removal.

Public/Agency Outreach and Comments: The proposed project was routed to the Robla Park Community Association, as well as to landowners within a 500 foot radius of the project site. At the time of writing this report, staff has not received any comments, and staff is not aware of any opposition to the project.

As the proposed billboard is adjacent to Interstate 80, project information was sent to Caltrans for review. Caltrans has determined that the installation of the new billboard would be permitted.

Environmental Considerations: The Community Development Department, Environmental Planning Services Division has reviewed this project and determined that this is exempt from the provisions of the California Environmental Quality Act (CEQA) Section 15303, New Construction or Conversion of Small Structures. The project consists of the installation of a new small structure (billboard).

Policy Considerations: The subject site is designated Employment Center Low Rise on the 2030 General Plan Land Use and Urban Form Diagram. The proposed sign location is consistent with the land use designation. Locating the billboard sign on the southwest side of the site provides a buffer to the residential uses to the east.

The relocation agreement meets the requirements of Section 15.148.815 Sacramento City Code and the findings can be made to support the agreement. Under both Section 15.148.815 and the provisions of the Outdoor Advertising Act (Bus. And Prof. Code §5200 et seq.), the proposed new billboard may be located only on commercial or industrial zoned property. The subject site is proposed to be rezoned from Light Industrial Review (M-1S-R) to Light Industrial Review (M-1-R) in order to accept the relocated sign.

Currently there are very few opportunities within the City to reduce the number of billboards through a relocation agreement. With the exception of the recent billboard relocation initiated by the City of Sacramento, there have been only two proposed billboard relocation agreement applications submitted to the Planning Department since the adoption of Ordinance No. 2007-079. Further, there are no other planned or anticipated relocation agreements in the near future. Ordinance No. 2007-79 requires that the Planning Commission conduct a hearing on and forward a recommendation on billboard relocation agreements to the City Council.

Rezone: The applicant is requesting to rezone the subject property from the Light Industrial Review (M-1S-R) Zone to the Light Industrial Review (M-1-R) Zone. This rezone would remove the "S" designation on the parcel. With respect to industrial zones, the "S" designation allows the same land uses as are allowed in the base M-1 Zone. The "S" designation denotes special development standards related to aesthetics and landscape setbacks. Specifically, the "S" designation requires properties to maintain a 20-foot landscape setback at any public street frontage, and requires that any industrial activities be screened from view from any public rights-of-way.

The subject site is also designated with an "-R" plan review designation. This designation affects the development of the site, but does not affect the sign relocation. The -R plan review designation will remain on the site to provide for plan review should the site be redeveloped.

Section 15.148.815 does not allow for the relocation of billboard signs to the M-1S zone. According to the sign code, sign regulations for the M-1S-R zone and the M-1-R zone are different to accommodate signage within the required landscape setback. Specifically, the sign code allows pole signs in the M-1 and M-2 zones but does not allow them in the M-1-S and M-2-S industrial zones. All freestanding signs in the "S" designated industrial zones shall be monument style and low profile in nature. The applicant is requesting to remove the S designation so that the site can be used for the relocated billboard. Staff supports this rezone as it; a) does not change any allowed/prohibited land uses for the site; b) the site has already been developed with the required 20-foot setback as prescribed by the M-1S-R zone; c) the proposed billboard is located along the side of the property and not within the required front landscape setback area; and d) it will allow for the removal of three existing billboard signs throughout the city.

Project Design: The site is a 2.2± acre industrial property currently occupied by a swimming pool installation business. The site is currently zoned Light Industrial (M-1S-R). The site is located adjacent to Interstate 80. To the north and west is industrial development. There are existing single-family homes to the east of the site.

Proposed Billboard Design: The applicant proposes to construct a new billboard on the southwest portion of the site. The new sign will be 45 feet high and supported by a single pole. The billboard will have a "V" shaped design for the sign faces. The east sign face will be 12 feet by 40 feet and the west face will be 14 feet by 48 feet for a total of 1,152 square feet of display area. Each face side will consist of a tri-face prism advertising display. The prism display must meet the requirements of the Sign Code which require that revolving prisms do not exceed a speed of one complete revolution, including the stationary condition of the prisms, in a thirty (30) second period

Variance: The Sign Code (Title 15.148) permits a maximum height of 40 feet for any detached sign in the M-1 zone. The applicant is requesting a variance for a height of 45 feet in order for the sign to be visible in both directions on interstate 80. The bridge over the Natomas East Main Drainage canal is to the west of the site and is elevated; therefore, the applicant is proposing the 45 foot height to provide greater visibility to the eastbound lanes of Interstate 80.

A variance from the provisions of the Sign Code may be approved by the Planning Commission only if the following findings are made concerning the proposed sign, as provided in Section 15.148.1040:

1. That exceptional or extraordinary circumstances or conditions apply to the proposed sign that do not apply generally in the same zoning district, and that the enforcement of the regulations of the Sign Code would have an unduly harsh result upon the utilization of the subject property.

The proposed new billboard meets this finding requirement in that the proposed sign is oriented to the freeway with nearby ramps and overpasses. The existing conditions are

such that strict adherence to the 40-foot height limit would limit the visibility of the proposed billboard sign.

2. That the variance will not result in a special privilege to one individual property owner, and that the variance would be appropriate for any property owner facing similar circumstances.

The proposed new billboard meets this finding requirement in that other variances for sign height have been granted in similar situations.

3. That the requested variance will not materially and adversely affect the health and safety of persons residing or working in the neighborhood, and will not be materially detrimental to the public welfare or injurious to property and improvements in the neighborhood.

The proposed new billboard meets this finding requirement in that the proposed billboard is located adjacent to the freeway in an area that is predominantly comprised of industrial uses. Further, the relocation of the billboard will allow for the removal of three existing billboard signs.

In addition, a use variance is not allowed.

Relocation Agreement: New billboards that are the subject of a relocation agreement are exempt from Ordinance No. 2007-079, which prohibits the construction and operation of new billboards within the City. Section 15.148.815 allows an applicant to apply for a billboard relocation agreement under which new billboards may be constructed in exchange for the permanent removal of existing billboards, resulting in a net reduction in both the number and total square footage of billboards then lawfully allowed. Under the proposed billboard relocation agreement, a total of 3 existing billboards of different sizes will be removed, one of which is a double-faced sign. The new, double-face billboard will result in a net reduction of 2 billboards, 2 sign faces, and 12 square feet of existing billboard sign area. The list of signs proposed for removal is attached to the relocation agreement (Attachment 4, Exhibit A).

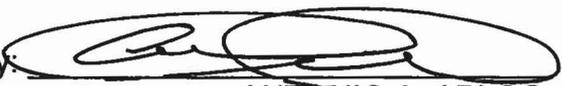
Billboard relocation agreements are subject to the same procedural and hearing requirements as a city council approved special permits under Section 17.212.060. A billboard relocation agreement may be approved only if the following findings are made concerning the proposed new signage:

1. The new billboards comply with the purpose and requirements of Sacramento City Code Chapter 15.148, including section 15.148.815.

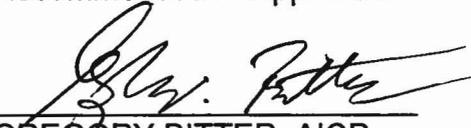
- 2. The new billboards are compatible with the uses and structures on the new sites and in the surrounding areas, including parks, trails, and other public facilities and amenities.
- 3. The new billboards will not interfere with onsite access, circulation, or visibility.
- 4. The new billboards will not create a traffic or safety hazard.
- 5. The new billboards will not result in any undue or significant increase in visual clutter in the areas surrounding the new billboards.

Conclusion

The relocation agreement proposes to remove 3 billboard signs with a total of 4 advertising faces and construct a new double-faced billboard adjacent to Interstate 80 at 3961 Pell Circle. The rezone will amend the zoning designation to Light Industrial (M-1-R) so that the site may be used for the proposed billboard. Staff supports this request as the applicant has met all relocation requirements which will result in a net reduction of signage, and the permanent removal of three existing billboards.

Respectfully submitted by: 
 ANTONIO A. ABLOG
 Associate Planner

Approved by: 
 LINDSEY ALAGOZIAN
 Senior Planner

Recommendation Approved:

 GREGORY BITTER, AICP
 Principal Planner

Attachments:

- | | |
|--------------|--------------------------------|
| Attachment 1 | Recommended Findings of Fact |
| Attachment 2 | Draft Environmental Resolution |
| Attachment 3 | Draft Rezone Ordinance |
| Exhibit A | Rezone |

Attachment 4	Draft Project Resolution
Exhibit A	Draft Relocation Agreement
Exhibit B	Site Plan
Exhibit C	Elevations
Exhibit D	Signs to be removed

Attachment 1

**Proposed Record of Decision
Pell Circle Billboard Relocation Project (P10-065)**

Findings of Fact

A. Environmental Determination: Exemption

Based on the determination and recommendation of the City's Environmental Planning Services Manager and the oral and documentary evidence received at the hearing on the Project, the Planning Commission finds that the Project is exempt from review under **15303, New Construction or Conversion of Small Structures** of the California Environmental Quality Act (CEQA) Guidelines as follows:

The proposed project is consistent with the construction of new, small structure as it consists of the construction of a new billboard sign on approximately 2.32 acres in the Light Industrial (M-1-R) zone.

B. The Planning Commission recommends approval and forwards to the City Council the **Rezoning** for the Project as set forth in Attachment 3.

C. The Planning Commission recommends approval and forwards to the City Council the **Relocation Agreement** for the Project based on the findings as set forth in Attachment 4.

D. The **Variance** to exceed the maximum allowed 40 foot height by 5 feet for a 45 foot high billboard within the M-1-R zone is approved based on the following Findings of Fact:

1. That exceptional or extraordinary circumstances or conditions apply to the proposed sign that do not apply generally in the same zoning district, and that the enforcement of the regulations of the Sign Code would have an unduly harsh result upon the utilization of the subject property in that the proposed sign is oriented to the freeway with nearby ramps and overpasses. The existing conditions are such that strict adherence to the 40-foot height limit would limit the visibility of the proposed billboard sign.

2. That the variance will not result in a special privilege to one individual property owner, and that the variance would be appropriate for any

property owner facing similar circumstances in that other variances for sign height have been granted in similar situations.

3. That the requested variance will not materially and adversely affect the health and safety of persons residing or working in the neighborhood, and will not be materially detrimental to the public welfare or injurious to property and improvements in the neighborhood in that the proposed billboard is located adjacent to the freeway in an area that is predominantly comprised of industrial uses. Further, the relocation of the billboard will allow for the removal of three existing billboard signs.

4. Granting the variance does not constitute a use variance in that a relocated billboard on the same site is allowed in the M-1-R zone with a relocation agreement.

Attachment 2

(Draft) RESOLUTION NO.

Adopted by the Sacramento City Council

**DETERMINING PELL CIRCLE BILLBOARD RELOCATION PROJECT EXEMPT
FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
(P10-065)**

BACKGROUND

- A. On November 18, 2010, the City Planning Commission conducted a hearing on, and forwarded to the City Council a recommendation to approve the Pell Circle Billboard Relocation Project.
- B. On _____, the City Council conducted a public hearing, for which notice was given pursuant Sacramento City Code Section 17.200.010(C)(1) (a), and (c) (publication and mail (500 feet), and received and considered evidence concerning the Pell Circle Billboard Relocation.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL
RESOLVES AS FOLLOWS:**

Section 1. Based on the determination and recommendation of the City's Environmental Planning Services Manager and the oral and documentary evidence received at the hearing on the Project, the City Council finds that the Project is exempt from review under Section 15303 of the California Environmental Quality Act Guidelines as follows:

- a. The proposed project is consistent with the construction of a new, small structure as it consists of the construction of a new billboard sign on approximately 2.32 acres in the Light Industrial (M-1-R) zone.

Attachment 3 - Draft Rezone Ordinance

(DRAFT) ORDINANCE NO.

Adopted by the Sacramento City Council

**AMENDING TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) BY REZONING CERTAIN REAL PROPERTY FROM LIGHT INDUSTRIAL REVIEW (M-1S-R) TO LIGHT INDUSTRIAL REVIEW (M-1-R).
(3961 PELL CIRCLE)(P10-070)(APN: 237-0400-016-0000)**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

Section 1. Title 17 of the Sacramento City Code (the Zoning Code) is amended by rezoning the property shown in the attached Exhibit A, generally described, known, and referred to as 3961 Pell Circle (APN: 237-0400-016-0000) and consisting of \pm 2.32 net acres, from Light Industrial Review (M-1S-R) to Light Industrial Review (M-1-R).

Section 2. Rezoning of the property shown in the attached Exhibit A, by the adoption of this Ordinance, will be considered to be in compliance with the requirements for the rezoning of property described in the Zoning Code, as amended, as those procedures have been affected by recent court decisions.

Section 3. The City Clerk of the City of Sacramento is directed to amend the official zoning maps, which are part of the Zoning Code, to conform to the provisions of this Ordinance.

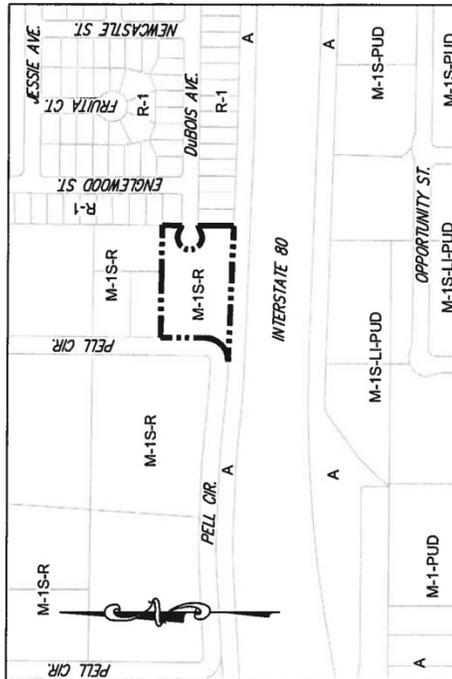
Table of Contents:

Exhibit A - Rezone

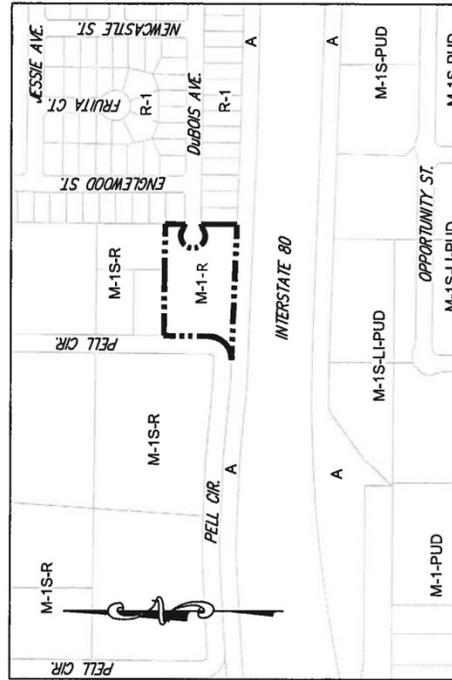
Rezone Exhibit
Pell Circle Billboard Relocation
 City of Sacramento
 October 28, 2010

SUMMARY TABLE

DESIGNATION	LAND USE	EXISTING	PROPOSED	DIFFERENCE
M-1S-R		2.33 ac.	0.00 ac.	-2.33 ac.
M-1		0.00 ac.	2.33 ac.	2.33 ac.
		2.33 ac.	2.33 ac.	



Existing Zoning



Proposed Zoning

Job No.: 10002
 Designed: AA
 Scale: 1"=500'
 Date: 10/28/2010
 Sheet: _____ of _____

KELLEY
ENGINEERING & SURVEYING

1000 SAN BENITO STREET, HOLLISTER, CA 95023
 OFFICE (831) 636-1104 FAX (831) 636-1837

Attachment 4 - Draft Project Resolution

(DRAFT) RESOLUTION NO.

Adopted by the Sacramento City Council

**ADOPTING FINDINGS OF FACT AND APPROVING THE PELL CIRCLE
BILLBOARD RELOCATION PROJECT (P10-065)**

BACKGROUND

A. November 18, 2010, the City Planning Commission conducted a public hearing on, and forwarded to the City Council a recommendation to approve the Pell Circle Billboard Relocation Project.

B. On _____, the City Council conducted a public hearing, for which notice was given pursuant Sacramento City Code Section 17.200.010(C)(1) (a), and (c) (publication and mail (500 feet), and received and considered evidence concerning the Pell Circle Billboard Relocation Project.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL
RESOLVES AS FOLLOWS:**

Section 1. Based on the verbal and documentary evidence received at the hearing on the Pell Circle Billboard Relocation Project, the City Council approves the Relocation Agreement as attached in Exhibit A, based on the findings of fact as set forth below.

Section 2. Findings of fact:

B. Relocation Agreement: The Billboard Relocation Agreement for the Project is approved based on the following findings of fact:

1. The new billboards comply with the purpose and requirements of Sacramento City Code Chapter 15.148, including section 15.148.815.
2. The new billboards are compatible with the uses and structures on the new sites and in the surrounding areas, including parks, trails, and other public facilities and amenities.
3. The new billboards will not interfere with onsite access, circulation, or visibility.
4. The new billboards will not create a traffic or safety hazard.

5. The new billboards will not result in any undue or significant increase in visual clutter in the areas surrounding the new billboards.

Exhibit A: Draft Proposed Relocation Agreement

Billboard Relocation AgreementCity of Sacramento and **Rogers Media Company, Inc.**

This agreement, dated [REDACTED], 2010, for purposes of identification, is between the **City of Sacramento** (the "City"), a California municipal corporation; and **Rogers Media Company, Inc.** ("RMC"), a California corporation.

Background

A. On October 16, 2007, the Sacramento City Council adopted Ordinance No. 2007-079, which prohibits the construction and operation of new billboards within the City. Ordinance No. 2007-079 also provides, however, that this prohibition does not limit the City's ability to enter into relocation agreements under which new billboards may be constructed in exchange for the permanent removal of existing billboards, as encouraged by the Outdoor Advertising Act.¹ Section 15.148.815 of the Sacramento City Code ("Section 15.148.815") prescribes when and how the City may enter into a relocation agreement.

B. **RMC** desires to construct, maintain, and operate a new billboard on privately owned land within the City's jurisdiction, at **RMC's** sole expense (the "New Billboard"). The first column of **Exhibit A** to this agreement identifies the land on which **RMC** proposes to locate the New Billboard (the "New Billboard Site").

C. **RMC** owns the existing billboards identified in the second column of **Exhibit A**, each of which is located on privately owned land within the City's jurisdiction (the "Existing Billboards"). To fulfill the requirement that **RMC** remove existing billboards in return for the right to construct, operate, and maintain the New Billboard on the New Billboard Site, **RMC** applied to the City for a relocation agreement covering the Existing Billboards (Project No. P10-065). Removal of the Existing Billboards will result in a net reduction within the City of both (1) the total number of lawfully permitted offsite signs and (2) the total square footage of lawfully permitted offsite signage, as required by Section 15.148.815.

D. In accordance with Section 15.148.815, on [REDACTED], 2010, the City's Planning Commission held a public hearing on **RMC's** application for a relocation agreement and then forwarded a recommendation of approval to the City Council; and on [REDACTED], 2010, the City Council held a public hearing on the application and approved it based on the findings of fact, and subject to the conditions of approval (if any), set out in Resolution No. 2010-[REDACTED].

With these background facts in mind, the City and RMC agree as follows:

¹ Chapter 2 (beginning with section 5200) in division 3 of the California Business and Professions Code.

- 1. Removal of Existing Billboards.** In return for the City's approval of the New Billboard (Project No. P10-065), and to comply with Ordinance No. 2007-079, Section 15.148.815, and the Outdoor Advertising Act, RMC shall remove the Existing Billboards according to the schedule set forth in the second column of **Exhibit A**.
- 2. Compliance with Law.** While removing the Existing Billboards and while constructing, operating, and maintaining the New Billboard on the New Billboard Site, RMC shall comply with all conditions of approval set out in Resolution No. 2010- and with valid and applicable statutes, ordinances, regulations, rules, and orders that concern the Existing Billboards, the New Billboard, or the New Billboard Site, including Section 15.148.815 and the Outdoor Advertising Act, whether enacted or issued before, on, or after the effective date of this agreement (see Section 6(i), below).
- 3. Waiver of Compensation.** RMC hereby waives and releases all claims for compensation RMC has or may have in the future that are against the City or the City's elected officials, officers, employees, or agents and are related to, or connected with, RMC's removal of the Existing Billboards. This waiver and release includes any claims made or arising under the California Government Claims Act,² the Outdoor Advertising Act, the California Constitution, the federal Highway Beautification Act of 1965,³ or the United States Constitution.
- 4. Release of Claims.** RMC unconditionally and forever releases and discharges the City and the City's elected officials, officers, employees, and agents from all liabilities, claims, demands, damages, and costs (including reasonable attorneys' fees and litigation costs through final resolution on appeal) that in any way arise from, or are connected with, RMC's removal of the Existing Billboards. This release and discharge covers all claims, rights, liabilities, demands, obligations, duties, promises, costs, expenses, damages, and other losses or rights of any kind, past, present, and future, whatever the theory of recovery, and whether known or unknown, patent or latent, suspected or unsuspected, fixed or contingent, or matured or unmatured. RMC hereby waives all rights it has or may have in the future under section 1542 of the California Civil Code, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known to him or her must have materially affected his or her settlement with the debtor."
- 5. Indemnity.** RMC shall indemnify, defend (upon the City's written request), protect, and hold the City and the City's elected officials, officers, employees, and agents harmless against all liabilities, claims, demands, damages, and costs (including reasonable attorneys' fees and litigation costs through appeal) that arise in any way from either or both of the following:

² Parts 1 through 7 (beginning with section 810) in division 3.6 of title 1 of the California Government Code.

³ Title 23 United States Code section 131.

- (a) The acts or omissions of RMC or RMC’s officers, employees, or agents in removing the Existing Billboards.
- (b) The City’s processing and approval of RMC’s application for this relocation agreement. RMC’s obligation under this Section 5(b) includes all claims by the owner of property from which an Existing Billboard is removed, including claims based on the California Government Claims Act, the Outdoor Advertising Act, the California Constitution, the federal Highway Beautification Act of 1965, or the United States Constitution.

6. Miscellaneous.

- (a) *Notices.* Any notice or other communication under this agreement must be in writing and will be considered properly given and effective only when mailed or delivered in the manner provided by this Section 6(a) to the persons identified below. A mailed notice or other communication will be effective or will be considered to have been given on the third day after it is deposited in the United States Mail (certified mail and return receipt requested), addressed as set forth below, with postage prepaid. A notice or other communication sent in any other manner will be effective or will be considered properly given when actually delivered. Any party may change its address for these purposes by giving written notice of the change to the other party in the manner provided in this section.

If to the City:

City of Sacramento
 Community Development Department
 Planning Division
 300 Richards Boulevard, Third Floor
 Sacramento, California 95811
 Attention:

[Antonio Ablog](#)
 Associate Planner

If to RMC:

[Rogers Media Company, Inc.](#)
[5409 Rogers Street](#)
[Davis, California 95618](#)
 Attention:

[David Nybo](#)
 Vice President

- (b) *Assignment.* A party may not assign or otherwise transfer this agreement or any interest in it without the other party’s written consent. An assignment or other transfer made contrary to this Section 6(b) is void.
- (c) *Successors and Assigns.* This agreement binds and inures to the benefit of the successors and assigns of the parties. This Section 6(c) does not constitute the City’s consent to any assignment of this agreement or any interest in this agreement.
- (d) *Interpretation.* This agreement is to be interpreted and applied in accordance with California law, without regard to conflict-of-law principles, subject to the following:

- (1) Sections 3, 4, and 5 of this agreement are to be interpreted so as to provide the City and the City's elected officials, officers, employees, and agents with the maximum protection possible against any obligation or liability that in any way arises from, or is connected with, RMC's removal of the Existing Billboards.
 - (2) The rule of interpretation in Civil Code section 1654 will not apply.
 - (3) "Includes" and "including" are not restrictive. "Includes" means "includes but not limited to," and "including" means "including but not limited to."
 - (4) Exhibit A is part of this agreement.
- (e) *Waiver of Breach.* A party's failure to insist on strict performance of this agreement or to exercise any right or remedy upon the other party's breach of this agreement will not constitute a waiver of the performance, right, or remedy. A party's waiver of the other party's breach of any term or provision in this agreement will not constitute a continuing waiver or a waiver of any subsequent breach of the same or any other term or provision. A waiver is binding only if set forth in writing and signed by the waiving party.
- (f) *Attorney's Fees.* The party prevailing in any litigation concerning this agreement will be entitled to an award by the court of reasonable attorneys' fees and litigation costs through final resolution on appeal in addition to any other relief that may be granted in the litigation. If the City is the prevailing party, then this Section 6(f) will apply whether the City is represented in the litigation by the Office of the City Attorney or by outside counsel.
- (g) *Severability.* If a court with jurisdiction holds any nonmaterial provision of this agreement to be invalid, void, or unenforceable, then the remaining provisions will remain in full force.
- (h) *Counterparts.* The parties may execute this agreement in counterparts, each of which will be considered an original, but all of which will constitute the same agreement.
- (i) *Effective Date.* This agreement is effective as of the date on which both the City and RMC have signed it, as indicated by the dates in the signature blocks below.
- (j) *Time of Essence.* Time is of the essence of this agreement.
- (k) *Integration and Modification.* This agreement sets forth the parties' entire understanding regarding the matters addressed. It supersedes all prior or contemporaneous agreements, representations, and negotiations (written, oral, express, or implied) and may be modified only by another written agreement signed by both parties.

(Signature Page Follows)

City of Sacramento

Rogers Media Company, Inc.

By: _____
Gus Vina
Interim City Manager
Dated: _____, 2010

By: _____
David Nybo
vice President
Dated: _____, 2010

Approved as to Form
Sacramento City Attorney

Approved as to Form
[Firm Name]

By: _____
Joseph Cerullo Jr.
Senior Deputy City Attorney

By: _____
Jeffrey Dorso
Attorneys for Rogers Media Company

Exhibit A to Billboard Relocation Agreement

City of Sacramento and [Rogers Media Company, Inc.](#)

New Billboard	Existing Billboards
<p>New Billboard <i>General Location:</i> 3961 Pell Circle <i>APN:</i> 237-0400-016-000 <i>Zoning:</i> M-1-R (Light Industrial) <i>General Description:</i> double-faced billboard oriented toward Interstate 80, with one 14' X 48' face and one 12' X 40' face <i>Total Display Area:</i> 1,152 square feet</p>	<p>RMC shall permanently remove these three Existing Billboards from the indicated locations before RMC begins constructing the New Billboard:</p> <p>Existing Billboard 1 <i>General Location:</i> 118 El Camino Place <i>APN:</i> 277-0061-021-000 <i>RMC Location Number:</i> SIG-0707252 <i>General Description:</i> Single-face billboard (8' X 36') <i>Total Display Area:</i> 288 square feet</p> <p>Existing Billboard 2 <i>General Location:</i> 5905 Elvas Avenue <i>APN:</i> 005-0010-013 <i>RMC Location Number:</i> SIG 0708480 <i>General Description:</i> single-face billboard (20' X 15') <i>Total Display Area:</i> 300 square feet</p> <p>Existing Billboard 3 <i>General Location:</i> 3950 Power Inn Road <i>APN:</i> 061-0023-025-0000 <i>RMC Location Number:</i> SIG-0604633 <i>General Description:</i> double-faced billboard (each face 8' X 36') <i>Total Display Area:</i> 576 square feet</p>

Net Reduction in Number of Signs:	2 signs
Net Reduction in Number of Display Faces:	2 faces
Net Reduction in Display Area:	12 square feet

Exhibit B – Site Plan

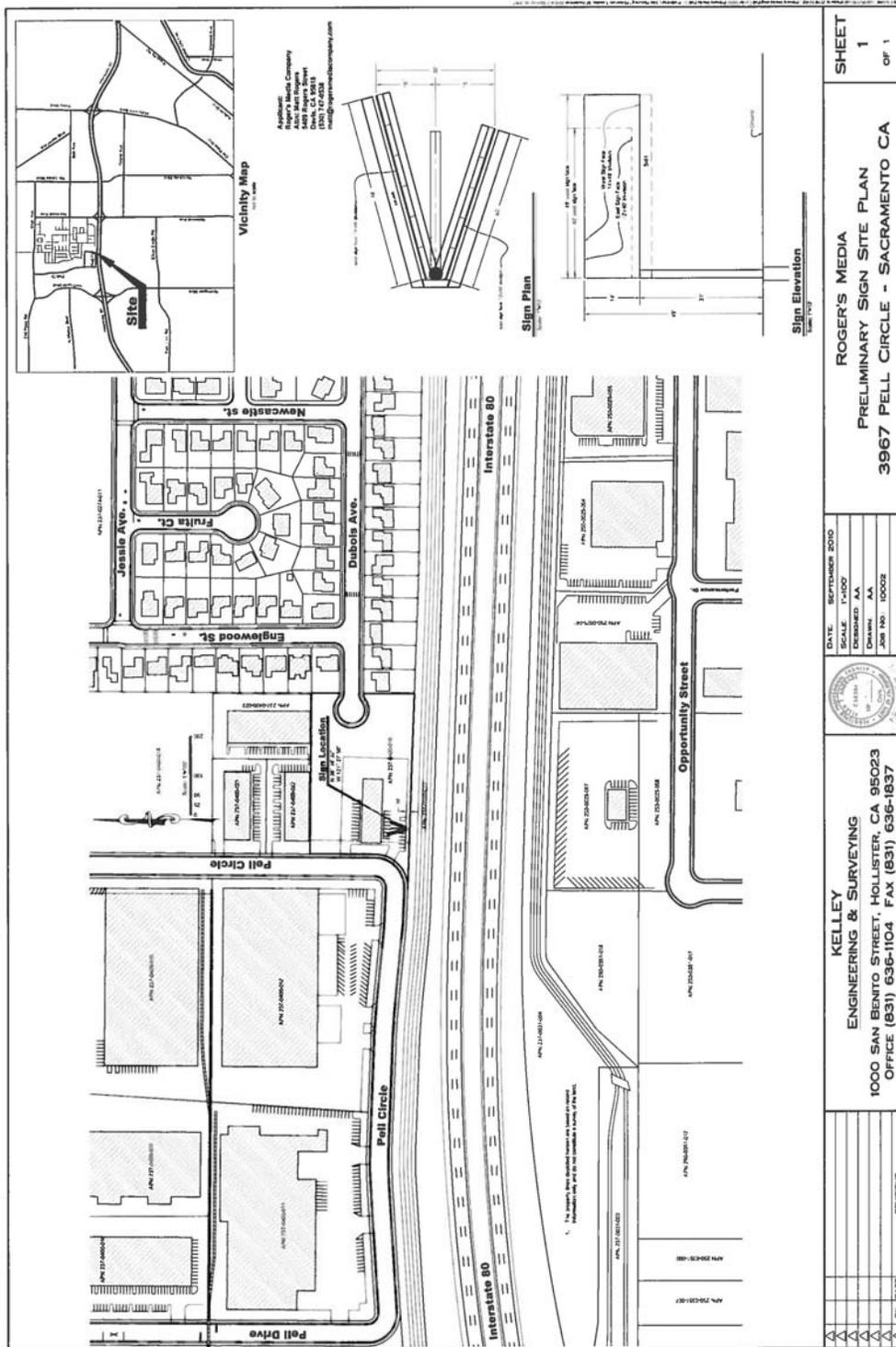


Exhibit C – Photosimulations

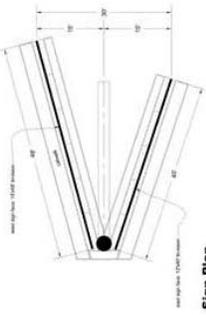


EAST FACE

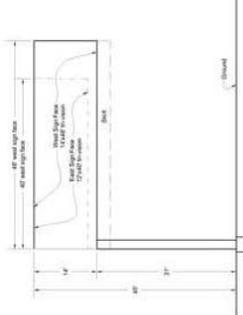


Vicinity Map
1/8" = 10' SCALE

Prepared by:
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 (916) 752-1000
 media@rogersmediacompany.com



Sign Plan
Scale: 1/8" = 10'



Sign Elevation
Scale: 1/8" = 10'

	DATE: SEPTEMBER 2010						
	SCALE:						
	DESIGNED:						
	DRAWN:						
	JOB NO.:						
BY:	DATE:	REVISIONS					

ROGER'S MEDIA
PHOTOGRAPH SIMULATION
3967 PELL CIRCLE - SACRAMENTO CA

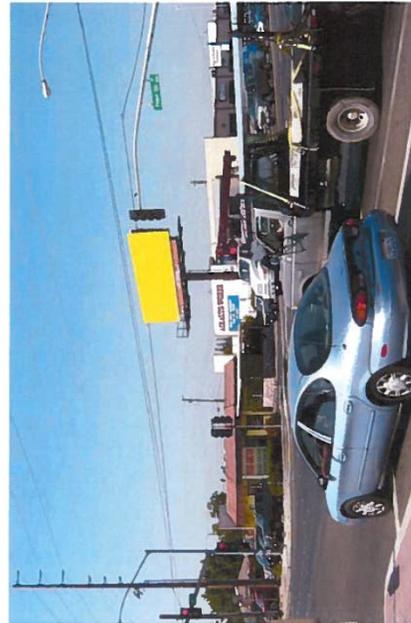
SHEET
1
OF 1

Exhibit D – Billboards to be removed

Pell Circle Billboard Relocation – Photographs of To Be Removed Billboards



14th Avenue (West Face) at Power Inn Road



14th Avenue (West Face) at Power Inn Road

Pell Circle Billboard Relocation – Photographs of To Be Removed Billboards



Elvas Avenue before J Street Overpass



El Camino Avenue East of Interstate 80