

DEVELOPMENT AGREEMENT

(Decatur, IL– Billboards)

THIS DEVELOPMENT AGREEMENT (the "Agreement") is entered into as of the Effective Date (being the last date of execution by the parties), by and between **ROBINSON OUTDOOR, LLC.**, a Missouri limited liability company ("Developer"), and the **CITY OF DECATUR, ILLINOIS** a municipal corporation (the "City").

RECITALS

- A. WHEREAS**, Developer represents that it has an equitable and/or legal interest (being a leasehold interest) in a portion of the parcel of real property at the intersection of Illinois Route 121 and East Maryland Street in Macon County, Decatur, Illinois and having an assessor's parcel ID number (PIN) 09-13-28-101-009 (the "Route 121 Property") as shown in Exhibit A Site Plans, upon which Developer intends to develop and operate a digital off-premise sign (billboard) as shown in Exhibit B Billboard Renderings attached hereto (the "Route 121 Billboard"); and
- B. WHEREAS**, Developer represents that it has an equitable and/or legal interest the parcel of real property at the intersection of Illinois Route 48 and North Oakland Ave in Macon County, Decatur, Illinois and having an assessor's parcel ID number (PIN) 04-12-09-285-001 (the "Route 48 Property") as shown in Exhibit A Site Plans, upon which Developer intends to develop and operate a digital off-premise sign (billboard) as shown in Exhibit B Billboard Renderings attached hereto (the "Route 48 Billboard"); and
- C. WHEREAS**, Developer intends to convey the entire Route 48 Property to the City while maintaining a perpetual easement to gain access for maintenance of the Route 48 Billboard; and
- D. WHEREAS**, in conjunction with the development of the Route 121 and Route 48 Billboard on the Route 121 and Route 48, the City has agreed that it will allow for certain variances from the City's Zoning Ordinance described in Section 2 Variances; and
- E. WHEREAS**, the Plan Commission of the City, being a commission duly designated by the Corporate Authorities for such purpose has, on December 14, 2023, held a public hearing on the proposed variances described in Section 2 and recommended approval of the variances to the Decatur City Council by a unanimous vote in support of this recommendation; and
- F. WHEREAS**, due notice of said public hearing with respect to the proposed Variances was given and published in the manner required by law, and said public hearing was held in all respects in a manner conforming to law; and
- G. WHEREAS**, in conjunction with the development of the Route 121 and Route 48 Billboard on the Route 121 and Route 48 Properties, the Developer has agreed that it will provide certain Public Benefits to the City of Decatur described in Section 3 Public Benefits; and

H. **WHEREAS**, the parties desire to execute and deliver this Agreement to further evidence the terms, conditions, and agreements between the parties with respect to the transactions referenced above.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and conditions below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **BILLBOARD DEVELOPMENT PLANS.**

- 1.1 **Route 121 Billboard.** Developer intends to construct a 12-foot by 24-foot two sided digital off-premise sign (billboard) with back to back displays erected at no greater than a thirty (30) degree angle to each other as shown in Exhibit B Billboard Renderings.
- 1.2 **Route 48 Billboard.** Developer intends to construct a 12-foot by 24-foot three sided digital off-premise sign (billboard) as shown in Exhibit B Billboard Renderings.
- 1.3 **City Permits.** Developer shall apply for all applicable City building permits for each billboard and shall not commence construction until the applicable building permits are issued by the City's Building Inspection Division.
- 1.4 **State Permits.** Developer shall apply for all applicable State permits for each billboard and shall not commence construction until the applicable building permits are approved and provided to the City.
- 1.5 **Electronic Message Unit Sign Usage.** Developer shall operate each billboard in accordance with the requirements of Paragraphs XXVI.F.9.g, XXVI.F.9.h and XXVI.F.9.i in the City's Zoning Ordinance, listed below:
 - 1.5.1 Off-premise electronic message unit signs located in all permitted zoning districts shall be static, constant and steady in nature. Off-premise electronic message unit signs shall not scroll or travel, flash, grow, melt, x-ray, up or down, bounce, inverse, roll, twinkle, snow or present pictorials or other animation. Displayed messages shall not change at a rate greater than one (1) message per every ten (10) seconds.
 - 1.5.2 Off-premise electronic message unit signs shall adjust brightness in response to changes in light levels so that the signs are not unreasonably bright for the safety of the motoring public and the comfort of the neighboring residential uses. The spillover at any property line shall not exceed 0.5 foot-candles.
 - 1.5.3 All off-premise electronic message unit signs must be connected to the Emergency Communications Systems which may override any display at any time.

2. **VARIANCES.**

2.1. **Route 121 Billboard.**

- 2.1.1. Developer is requesting a variance from Section XXVI.F.9.c of the City's Zoning Ordinance to allow the placement of this billboard within 750 feet of another billboard. The billboard is proposed to be more than 650 feet, but less than 750 feet,

from an existing multi-tenant sign for the Walmart Shopping Center which is considered a billboard due to its offsite advertisement, as shown in Exhibit B Site Plans

2.2. Route 48 Billboard.

- 2.2.1. Developer is requesting a variance from Section XXVI.F.9.k of the City's Zoning Ordinance to allow the billboard to be placed in between Pershing Rd and the Sangamon River on IL Route 48.
- 2.2.2. Developer is requesting a variance from Section XXVI.F.9.a of the City's Zoning Ordinance to allow for a three-sided billboard. The Zoning Ordinance only allows for one or two -sided billboards.
- 2.2.3. Developer is requesting a variance from Section XXVI.B.10 of the City's Zoning Ordinance to allow the billboard to be placed in a right-of-way, boulevard or other publicly-owned space. Developer intends to convey the Route 48 Property to the City while maintaining a perpetual easement to gain access for maintenance of the Route 48 Billboard. Proof of liability insurance and indemnification of the City for placement of this billboard on publicly-owned property is shown on Exhibit D.

3. PUBLIC BENEFITS.

- 3.1.1. Developer shall convey the Route 48 Property to the City after the billboard is constructed and all Sign Permit inspections are completed and approved. The Warranty Deed conveying the property to the City and the perpetual easement granting the Developer maintenance access for the billboard to be recorded after the sign permit inspections are completed and approved are shown in Exhibit C. The City shall reserve the right to not accept the property based on the environmental reports of the property. Should the City not accept the property, the City shall still have the right to utilize the property as a publicly-owned space, at no cost to the City.
- 3.1.2. The City will receive \$65,000 for this agreement which is intended to be used in this neighborhood to offset the impact of this new sign. The payment shall be provided within 30 days of the approval of this agreement.
- 3.1.3. The City will have the right display any public service announcement within a reasonably requested timeframe. Additionally, the City shall receive free advertising on any vacancies with Robinson Outdoor Digital Billboards in Decatur and the surrounding area as long as any of these two billboards are in operation.

4. DEFAULT AND REMEDIES.

- 4.1. **General Default by a Party.** Except as otherwise provided in this Agreement, if a party breaches any provision of this Agreement and fails to remedy such breach within thirty (30) days of notice thereof from the other party (unless such cure is not reasonably possible within such 30-day period and the breaching party has commenced and is pursuing with reasonable diligence such cure), the non-defaulting party may institute legal action against the defaulting party for specific performance, injunctive or declaratory relief, damages, and/or any other remedy provided by law or in equity. All remedies hereunder shall be deemed

cumulative and not exclusive. In addition to any and all other declarations of default contained elsewhere in this contract, events of default shall include but not be limited to the following:

4.2. Misrepresentation. If any material representation made by the Redeveloper or the City in this Agreement, or in any certificate, notice, demand or request made by the Redeveloper or the City in writing and delivered to the other party pursuant to or in connection with any of said documents shall prove to be untrue or incorrect in any material respect as of the date made; or

4.3. Breach. Breach by the Redeveloper or the City of any material covenant, warranty or obligation set forth in this Agreement.

5. NOTICE. All notices hereunder shall be in writing and given by personal delivery or sent by (i) certified mail return receipt requested, postage prepaid, (ii) nationally recognized overnight courier service, or (iii) electronic mail (e-mail) transmission, to the addresses set forth below (unless changed in accordance herewith). Notice will be deemed received on the earlier of (a) actual receipt, (b) three (3) business days after deposit in the U.S. Mail, (c) the first business day after deposit with an overnight courier, or (d) if provided by e-mail, on the same day, if delivered on a business day during business hours, and on the following business day if otherwise, provided that the sender does not receive any notice of failure of delivery (i.e., an automatic response).

To Developer:

Robinson Outdoor, LLC

Attn: Delbert Riehn

50 Robinson Industrial Drive

Perryville, MO 63775

To City:

City of Decatur

Attn: City Manager

1 Gary K. Anderson Plaza

Decatur, Illinois 62523

6. INDEMNITY. To the fullest extent allowed by applicable law, each party (the "Indemnifying Party") hereto hereby agrees to indemnify, defend and hold the other party, its affiliates and their respective, managers, members, officers, directors, employees and agents (collectively, the "Indemnified Parties"), harmless from and against any and all claims, losses, costs, damages, liabilities, or expenses (including, without limitation, reasonable attorneys' fees) ("Claims") arising from or in relation to the gross negligence or willful misconduct of the Indemnifying Party (or any person acting at its direction or on its behalf), except to the extent such Claims are a result of the action, inaction, gross negligence or willful misconduct of any of the Indemnified Parties. The obligations of this Section 5 shall survive the expiration, termination or completion of this Agreement.

7. REPRESENTATION AND WARRANTIES.

7.1. Of the Developer. Developer represents and warrants that (i) Developer is a Missouri limited liability company duly organized, validly existing and in good standing under the laws of the State of Missouri (ii) Developer has the full and complete right, power and authority to enter into this Agreement and to perform its duties and obligations under this Agreement in accordance with the terms and conditions hereof; and (iii) the individual executing this Agreement on behalf of Developer is duly authorized and empowered to do so and by such execution, binds Developer under this Agreement.

7.2. Of the City. The City represents and warrants that (i) the City is a validly existing municipal corporation; (ii) the City has the full and complete right, power and authority to enter into this Agreement and to perform its duties and obligations under this Agreement in accordance with the terms and conditions hereof; and (iii) the individual executing this Agreement on behalf of the City is duly authorized and empowered to do so and by such execution, binds the City under this Agreement.

8. MISCELLANEOUS. This Agreement embodies the entire understanding of the parties with respect to the subject matter hereof and shall be binding upon and inure to the parties, their respective successors and assigns. The terms hereof shall not be construed in favor of or against either party, but shall be construed as if jointly prepared by the parties, it being understood and agreed that each party hereto had sufficient opportunity to participate in the drafting of this Agreement and to seek legal advice in relation hereto. If any provisions of this Agreement shall be held to be void or unenforceable for any reason, said provision shall be deemed modified so as to constitute a provision conforming as nearly as possible to said void or unenforceable provision while still remaining valid and enforceable, and the remaining terms or provisions hereof shall not be affected thereby. No modification of this Agreement shall be effective unless in writing and signed by the parties hereto. Nothing contained in this Agreement shall constitute or be construed to be a partnership or joint venture between the parties or their respective successors and assigns. This Agreement may only be assigned by either party upon the prior written consent of the other party. This Agreement shall be governed by, interpreted and enforced, in accordance with the internal laws of the State of Illinois without regard to its choice of law principles. The Circuit Court of Macon County, Illinois shall be the sole venue for any lawsuit arising out of a dispute involving this agreement. This Agreement may be executed by facsimile, electronic or original signature of the parties and in counterparts which, assuming no modification or alteration, shall constitute an original and when taken together, shall constitute one and the same instrument. The terms and provisions of this Section 8 shall survive the expiration, termination or completion of this Agreement.

9. NO JOINT VENTURE, AGENCY, OR PARTNERSHIP CREATED. Neither anything in this Agreement nor any acts of the parties to this Agreement shall be construed by the parties or any third person to create the relationship of the partnership, agency, or joint venture between or among such parties.

10. ADDITIONAL REQUIREMENTS. Both the City and Developer shall be required to execute and deliver such additional documents as may be reasonably be required to carry out the intent of this agreement.

EXECUTED BY THE PARTIES to be effective as of the Effective Date.

DEVELOPER:

ROBINSON OUTDOOR, LLC.,

A Missouri limited liability company

By: _____

Name: _____

Title: _____

Date of Execution: _____, 2023

CITY:

THE CITY OF DECATUR, ILLINOIS

a municipal corporation

By: _____

Name: _____

Title: _____

Date of Execution: _____, 2023

EXHIBITS

Exhibit A: Site Plans (to be submitted upon approval of RDA)

Exhibit B: Billboard Renderings

Exhibit C: Route 48 Property Warranty Deed and Perpetual Easement (to be submitted upon approval of RDA)

Exhibit D: Developer's proof of liability insurance and indemnification of the City (to be submitted upon approval of RDA)