



## RESOLUTION NO. 39890

1 A RESOLUTION relating to billboards, authorizing the City Manager to execute  
2 an Agreement with the Lamar Company, LLC, d.b.a. Lamar Advertising  
3 of Seattle ("Lamar"), and providing for the obligations of the City and  
Lamar upon passage of Ordinance No. 28476.

4 WHEREAS, in 1997, the City Council enacted amendments to the City's  
5 Sign Code, imposing a ten-year amortization period for removing non-conforming  
6 billboards, and

7 WHEREAS, in 2007, Clear Channel brought a lawsuit against the City,  
8 alleging that the City's Sign Code unconstitutionally regulated speech (e.g.  
9 regulations were impermissibly content based and impermissibly favored one form  
10 of speech over another), and

11 WHEREAS, in 2010, the City and Clear Channel settled and dismissed the  
12 lawsuit through a settlement agreement, allowing Clear Channel to refile its lawsuit  
13 if the City Council did not adopt an ordinance allowing digital billboards, and

14 WHEREAS, in 2011, the Planning Commission and City Council rejected an  
15 ordinance that would allow digital billboards in the City, and

16 WHEREAS, in August 2011, the City filed a declaratory judgement action  
17 against Clear Channel, seeking to invalidate the settlement agreement, and  
18 adopted Ordinance No. 28009, implementing additional billboard regulations and  
19 prohibiting digital billboards, and

20 WHEREAS, on December 5, 2011, the Court granted in part, and denied in  
21 part, Clear Channel's Motion to Dismiss the City's lawsuit, leaving in place some of  
22 the City's claims for declaratory relief, and

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1 WHEREAS, in August 2012, the City and Clear Channel entered into a  
2 Standstill Agreement, providing that (1) the City's complaint would be dismissed  
3 without prejudice; (2) the statute of limitations would be tolled for the claims raised  
4 by the City and Clear Channel; (3) enforcement of the 2011 ordinance updating  
5 billboard regulations and prohibiting digital billboards would be stayed for two  
6 years; (4) the City and Clear Channel would continue discussions toward a  
7 possible resolution; (5) Clear Channel would relinquish its rights in banked signed  
8 permits; and (6) Clear Channel would remove 31 sign panels (faces) and  
9 undertake maintenance of 18 billboards, and  
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11 WHEREAS, in 2014, the Tacoma Billboards Community Working  
12 Group ("CWG") convened to explore alternative options for billboard regulation,  
13 and in 2015, the City Council, pursuant to Resolution No. 39145, directed the  
14 City Manager to work with billboard owners, community stakeholders, and the  
15 Planning Commission to develop recommendations for removing and  
16 consolidating billboards, and  
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18 WHEREAS, between March 2015 and December 2016, City staff and the  
19 Planning Commission continued to review proposed amendments to the Sign  
20 Code and to engage in discussions with Clear Channel to come to a mutually  
21 acceptable agreement to resolve Clear Channel's claims, and  
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23 WHEREAS the Lamar Company, LLC ("Lamar") acquired all Clear Channel  
24 billboards in the Tacoma-Seattle Region in early 2017, whereupon City staff began  
25 discussions with Lamar to determine if a mutually acceptable agreement could be  
26 reached to preclude a legal challenge to the Sign Code, and



1 WHEREAS, throughout the course of the City Council's and City Manager's  
2 efforts to seek enforcement of, and propose amendments to, the City's billboard  
3 regulations, the City Council and City Manager have received legal advice from the  
4 City Attorney and outside counsel regarding the legal and economic risks  
5 associated with enforcement of the current and proposed billboard regulations, and

6 WHEREAS the discussions with Lamar have led Lamar to propose an  
7 agreement with the City that, if approved and implemented by the City Council,  
8 would resolve the dispute with Lamar and require Lamar's removal of 111 sign  
9 faces over a five-year period, implement a permanent cap (225) upon the  
10 maximum number of sign faces that could be owned by Lamar in the City, preserve  
11 Lamar's vested rights contained in the settlement agreement between Clear  
12 Channel and Lamar, prohibit Lamar from bringing a legal challenge to Ordinance  
13 No. 28476 if it should be passed by the City Council, require the City to defend any  
14 legal challenges to Ordinance No. 28476, and obligate the City to compensate  
15 Lamar for the fair market value of any signs remove or eliminated as a result of  
16 enactment of a future amendment to the billboard regulations, and

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19 WHEREAS, unless and until the City Council enacts Ordinance No. 28476,  
20 the City and Lamar will retain the same rights they possessed prior to execution of  
21 the proposed agreement, and

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23 WHEREAS the proposed agreement would not limit or impair the City's  
24 authority to enact future ordinances or regulations governing signs or limit or impair  
25 the City's police power authority in any way, and would not affect the City's current  
26 regulations prohibiting digital billboards and the internal illumination of signs, and



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WHEREAS the City Council, having been in all matters fully advised and having considered all matters related hereto, finds that it is in the best interest of the public welfare and the City to approve the agreement as proposed and authorize its execution by the City Manager on behalf of the City; Now Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the City Manager is hereby authorized to execute an agreement with the Lamar Company, LLC, d.b.a. Lamar Advertising of Seattle, said agreement to be substantially in the form of the document on file with the City Clerk.

Adopted \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

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Chief Deputy City Attorney