PLANNING AND DEVELOPMENT MEMORANDUM #13-11

April 15, 2013

TO:

Honorable Mayor Joyce Downing and City Council Members

FROM:

David Willett, Acting City Manager

Brook Svoboda, Director of Planning and Development

SUBJECT:

Mile High Outdoor Sign Proposal

SUMMARY OF ISSUE:

Staff has prepared this memorandum to update the City Council on a proposal from Mile High Outdoor for construction of an off-premise advertising sign (billboard) adjacent to I-25 in the City of Northglenn (ATTACHMENT A). In July of 2012, City Council acted to amend Article 35 of the Northglenn Zoning Ordinance to expand certain standards relating to Off-Premise Advertising in the City.

Pursuant to the zoning changes in 2012, Mile High Outdoor has submitted a sign permit application (ATTACHMENT B) to construct an Off-Premise advertising device in the location depicted in Attachment A. As part of the zoning changes, an annualized permit fee is required that would be negotiated by City Council. Mile High Outdoor has recently received Colorado Department of Transportation (CDOT) approval (ATTACHMENT C) for the billboard in the proposed location and would like to move forward with negotiation of the annual permit fee. Their submitted sign application meets the requirements of the amended zoning ordinance for Off-Premise Advertising devices.

The key points of the current proposal (Attachment D) are outlined below:

- In consideration for the annual permit fee Mile High Sign proposes the following:
 - o \$10,000 annual permit fee
 - 30% of all advertisement spots would be reserved for local Northglenn businesses and City content.

BUDGET/TIME IMPLICATIONS:

There are no specific budget or time implications other than the revenue generation offered by the proposal.

STAFF REFERENCE:

If Council members have any questions they may contact Brook Svoboda, Director of Planning and Development at 303-450-8937 or by e-mail at bsvoboda@northglenn.org.

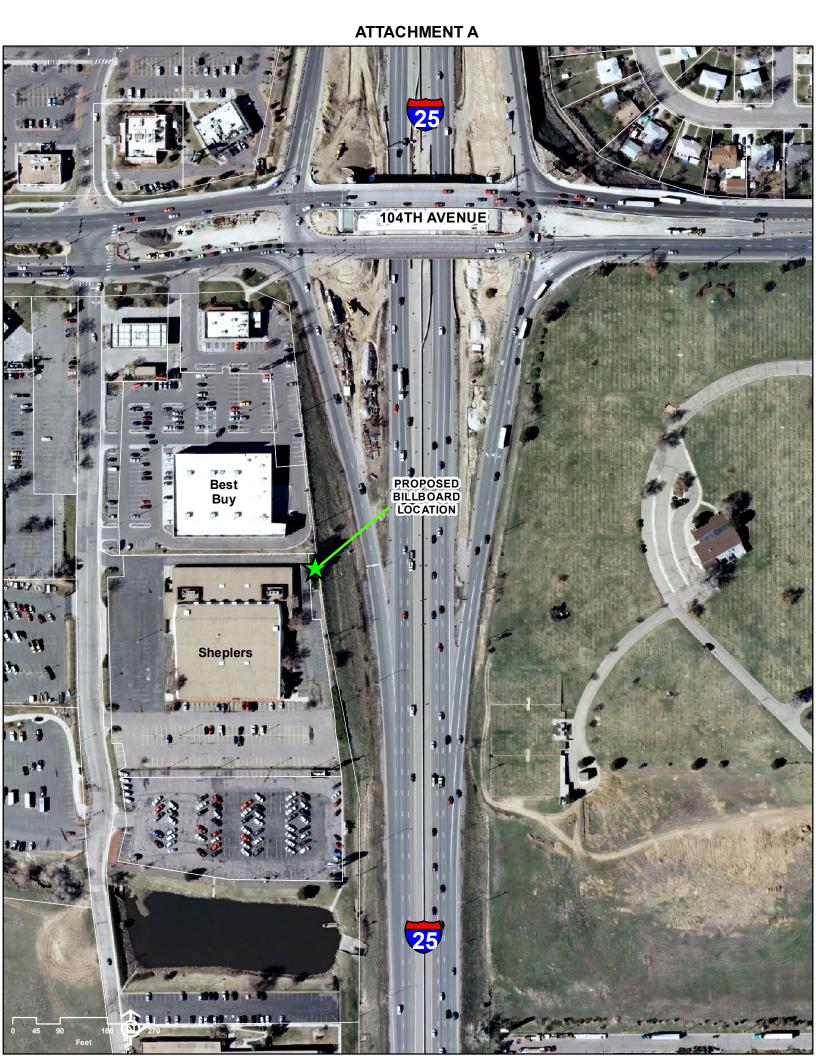
ATTACHMENTS:

A – Map of proposed location

B - Sign permit application

C – CDOT Approval

D – Proposed Agreement



CITY OF NORTHGLENN SIGN PERMIT

Complete all items on this application. Mark boxes where appropriate. For information, please call the Building Department.

(303)-450-8745

				(303)-430-6743	
Sign Address: 103	300 Bannock St	NG 80240	, Northglenn	Greens - NE Corner Lot 5	
North glenn G	reens Holding,	HC POO. Bo	x 247 Fastlahe	1/2 80/014 303-457-2966 Mage, CO 80112 303-783-4800	
Signowner VESIO	High Vutdoor 92	SO E. Costilla Ave	S. 120 Greenwood Vi	Mage, CO 80112 303-783-4800	
Contractor - sign faces 2	3770 Joliet St. J (sign structure) 573	address	39 30 3-373	phone	
<u>larton</u> Elect	(ic 1284 S. Che	whee St. Denver, C	0. 80223	303-722-5742	
Electrical Contractor		address		phone	
	DES	CRIPTION O	F PROJECT		
CLASS OF WORK:	NEW ALTERA	TION RELOCAT	TION		
TYPE OF SIGN:	DETATCHEDV	VALLOTHER_	off-premise, pol	e sign, electronic-changeab message	
	TEMPORARY	EXPIRATION DATE	n/a	- Me 22117 E	
FEATURES:			ED INDIRECT INT		
DIMENSIONS	WALL SIGNS SIGN	AREA	SIGNABLE AREA O)F FAÇADE	
	DETACHED SIGN	AREA 14x48 2 sides	HEIGHT 60	SETBACK 25	
VALUATION: \$ 500	2,000				
An illustration For detached sidev	H: See "Permit) on of the sign, showing d signs, please provide walks and bike paths ar as, please show a comp	g the sign's dimensi- a plot plan showing nd the set-back from	ons. s sign location, other si the street right-of-wa	ignificant structures onsite, ys. sions of signable area	
building Code governing loca	s agents, and employees shall contion, construction and erection of equired to call for inspections at vi-	the sign for which this permit arious stages of construction.	and requirements of the Northgl	lenn Zoning Ordinance and the International es or regulations may result in the revocation of enthylenn Building Official is required prior	
Sact SIGNATURE OF A	20 9250 E.	1 () ()	Zò, Greenwaad Villa	3e, CO 80113 10/16/12.	
OFFICE UES ONLY					
PERMIT FEE	USE TAX	TOTAL	RECEIPT NU	MBER	
APPROVED BY		DATE		PERMIT NUMBER	



9250 E. Costilla Ave. • Suite #120 Greenwood Village, CO 80112 Phone 303.783.4800 • Fax 303.783.4801 www.milehighoutdoor.com

October 15, 2012

Permit Notes:

Electronic Changeable Sign will adhere to the following standards, per the Northglenn Sign Ordinance:

Message Hold Time: Each message displayed shall remain static for a minimum of eight (8) seconds. All such signs shall have a default mode to prevent the display from malfunctioning in a flashing or intermittent fashion.

Transition Method: Each electronic sign shall be limited to static messages only, and shall not have movement, or the appearance or optical illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign. This shall include the movement or appearance of movement of any illumination or the flashing, scintillating or varying of light intensity. The transition duration shall be instantaneous.

Brightness/Luminance:

- i. Each electronic sign shall be equipped with dimming technology that automatically varies the brightness of the electronic sign according to ambient light conditions.
- ii. The intensity of the light source shall not produce glare, the effect of which constitutes a traffic hazard or is otherwise detrimental to the public health, safety or welfare. Lighting from the message module shall not exceed 500 NIT (Candelas per square meter) between dusk and dawn as measured by the equivalent 'percentage of maximum brightness-nighttime' setting on the applicant's sign controlling software. Applications for sign permits containing an electronic display shall include the manufacturer's specifications and NIT rating. City officials shall have the right to view the technical specifications of the sign to determine compliance

COLORADO DEPARTMENT OF TRANSPORTAT		Region		Date (9-15-12
ROADSIDE SIGN PERMIT APPLICATION	ON	Section		Route
Leave no space blank. Attached exhibits are considered a part of this INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED	application.	County Adams		Milepost 220.75
APPLICANT INFORMATION Attach Exhibit A, a current notar	rized stateme	ent of property owne	r's consent	t or lease agreement.
Sign Owner Name (Company Name & Contact) M. U. HICH DUTAVOR HEVE RIC NOVELS Phone Pemail		ner Name (Company Nam Leny? Creevis Hol		
303-783-4800 Steve Divilehighactdoorcom	303-4	57-2966	rya	.c Ryan Carlson nearlson Deartsonland.no
Sign Owner Mailing Address (Street, City, State, ZIP)	Property Owner Mailing Address (Street, City, State, ZIP) P. U. Box 247			
925) E. Costilla Ave, Suite 120 Freenwood Village, Co. 80112	East lake, CO. 80614			
Parcel Number of Sign Location	Expiration da	te of consent/lease agre	ement and a	ny additional terms: mplite constaction of s
Subdivision Nurshiglenn Greens Block Lot 5+3	7	TOTAL TITLE	0.1 20	
SIGN DESCRIPTION Attach Exhibit B, a sketch of property, lesign location is eligible under the Kerr or Cotton Area Exception				
Height above ground (ft) Side of Highway West		Latitude 39, 88359	A	Longitude 104. 98835° W
Sign face Width (ft) No. of faces Distance from ROW (ft)		GPS Datum:		Surveyor:
Sign face height (ft) Total Area (SF) Date of Construction: $A = A + A + A + A + A + A + A + A + A + $	12	Provide later Kerr Area Exce (2 CCR 601-3 § IV.		Cotton Area Exception (2 CCR 601-3 § IV.F.2)
Sign Type: (Mark all that Wood Lighted Changeable apply.)		Spacing Along Highwa	ay (Ahead)	Spacing Along Highway (Back)
☐ Metal ☐ Reflectorized ☐ Electronic		What does the sign advertise? TBD various		
Other Date/Time/Te		Location of the item advertised		
LOCAL JURISDICTION APPROVAL Attach Exhibit C, a cert documenting zoning and date of zoning. Property must be zon				
☐ Approved ☐ Denied Date Reviewed:	Type of	Zoning nmerical C-	Ear	liest Effective Date of Zoning
Local Zoning Administrator approval*	Zoning	documentation was file	ed Boo	ok Page See attached + Ma)
Building Permit Issued?	1-4/		ate Expires	see at access t may
INCOMPLETE APPLICATION	ONS WI	LL NOT BE	PROCE	SSED
* Signature indicates local zoning certification and compliance with local	al sign ordinan	ces only, CDOT appro	val is also re	equired.
I DECLARE UNDER PENALTY OF PERJURY IN THE SECOI FEDERAL LAWS THAT THE STATEMENTS MADE ON THIS OF MY KNOWLEDGE. I UNDERSTAND THAT THE PERMIT REVOKED OR A RENEWAL DENIED IF:	DOCUMEN	T ARE TRUE, ACC	URATE AN	ND COMPLETE TO THE BES
 I provide false or misleading information on this application. Any violation of the rules and regulations of CDOT (20 Any violation of the provisions of the Outdoor Advertise. Any violation of CRS 43-1-409, § (1)(a) which states in from the date the permit was issued, then the permit is 	CCR 601-3), sing Act (CRS n part, If the	6 43-1-401) including sign authorized by a	permit is r	not erected within one year
Applicants/gnature: Date: 8/8/12	ACCE	PTED REJECTED		Received
Applicant signature witnessed by: Date	Received by	CDOT Inspector)		
Distribute aggred originals including all exhibits to: Previous editions a	re obsolete a	nd may not be used		CDOT Form 291 10/

Region Permit Office Staff Traffic and Safety Branch



9250 E. Costilla Ave. • Suite #120 Greenwood Village, CO 80112 Phone 303.783,4801 • Fax 303.783,4801 www.milehighoutdoor.com

Site Plan

3 5+ N

X Sheplars Best Buy †***** •2 ď > Google Earth
File Edit View Tools Add Help 10300 N. Bannock St., northglenn, co

T-25-7

Best Buy Duilding WHE

7.25

alley

Sheplar's Building

10300 N. Bannoch

Sign Site plan

Planter

Support pole

48-



9250 E. Costilla Ave. • Suite #120 Greenwood Village, CO 80112 Phone 303.783.4800 • Fax 303.783.4801 www.milehighoutdoor.com

ATTACHMENT C

STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION

Region 6 Traffic and Safety Roadside Advertising Inspector 2000 S. Holly Street Denver, Colorado 80222 (303) 512-4272 (303) 757-9886 FAX



March 5, 2013

Mile High Outdoor Advertising Steve Richards 9250 E. Costilla Ave., Suite 120 Greenwood Village, CO 80112

RE: Resubmitted State Advertising Permit Application

Dear Mr. Richards:

The Colorado Department of Transportation (CDOT) has reviewed your request by letter and resubmitted application of February 27, 2013, previously submitted for state advertising permit and denied October 30, 2012. Your appeal by CDOT HQ has concluded that your appeal has merit and the previous denial has been revoked at direction from the CDOT Roadside Advertising Program Manager. Therefore, your resubmitted application has been accepted and a copy is attached. Attached is a Construction Permit that allows for construction to proceed in accordance with its stated terms and conditions. When construction is completed please notify our office for an on-site review of the structure and advertising device. After a review has determined that the Construction Permit has been honored, our office will issue the actual permit.

If I can be of any further assistance please call me at 303-757-9629.

Sincerely,

James C/Blake

Outdoor Advertising Inspector

Attachments

cc: Jerry Miller - Statewide Advertising Coordinator

James C. Blake

File (Referral # 071712)

STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION Safety and Traffic Engineering Branch Roadside Advertising Program 4201 East Arkansas Avenue Denver, Colorado 80222 (303) 757-9273



ROADSIDE ADVERTISING DEVICE CONSTRUCTION PERMIT

This construction permit cannot be transferred without prior written CDOT approval.

CONSTRUCTION PERMIT EXPIRATION DATE: March 1, 2018 0

APPLICANT:

Mile High Outdoor Advertising 9250 E. Costilla Ave., Suite # 120 Greenwood Village, CO 80112

is authorized to erect a legal roadside advertising device with two (2) faces located on the west side of I-25 and south of 104th Ave. at latitude 39.88359N, longitude - 104.98835W and mile point 220.75, not closer than one (1) foot from the edge and outside of the State highway right-of-way. The overall structure height shall not exceed fifty-five (55) feet and each sign face shall not exceed fourteen (14) feet high or forty-eight (48) feet wide for an overall sign face area of not greater than six-hundred and seventy-two (672) square feet. The steel structure will be lighted and the sign faces will display changeable messages.

Upon device completion in substantial accordance with this construction permit <u>and</u> prior to expiration of this construction permit, a Roadside Advertising Permit will be issued upon receipt of:

- 1) copy of local jurisdiction building permit (if required),
- 2) as-built drawings,
- 3) photographs of both front and back of entire structure, and
- 4) documentation of commercial or industrial zoning by law certified by local jurisdiction,

pursuant to Section 43-1-401, *et. seq.*, Colorado Revised Statutes and 2CCR 601-3, CDOT Roadside Advertising Rules and Regulations, both of which are available online at: http://www.coloradodot.info/library. The Roadside Advertising Permit is subject to concurrence with the local jurisdiction and all terms, conditions, standards and requirements contained within State statutes and Department rules, the permit application, and this construction permit. All construction work shall be completed without encroachment onto the State highway right-of-way at any time without prior specific written Department authorization.

CDOT Roadside Advertising Program Manager

CDOT Region Roadside Advertising Inspector

ATTACHMENT D

SIGN AGREEMENT

THIS SIGN AGREEMENT (the "Agreement") is made and executed this ____ day of ____, 2013, (the "Effective Date") by and between the CITY OF NORTHGLENN, a Colorado Home Rule Municipality (the "City") and COLORADO OUTDOOR, INC., a Delaware Corporation d/b/a MILE HIGH OUTDOOR ADVERTISING. 9250 E. Costilla Ave; Suite 120, Greenwood Village, CO 80112 ("Mile High") (individually a "Party" or collectively the "Parties").

WITNESSETH

WHEREAS, Mile High desires to construct a new Sign at 10300 N. Bannock, visible to I-25 traffic, with an electronic light emitting diode ("LED") format (the "Proposed Sign"), which is now permissible as the City has amended its Zoning Ordinance to permit the Proposed Sign; for which the location is shown on the map attached as **Exhibit A** (the "Location"); and

WHEREAS, the Parties desire to set forth the terms under which the Proposed Sign will be operated.

NOW, THEREFORE, in consideration of the performance of the mutual covenants and promises set forth herein, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows.

I. PROPOSED SIGN SPECIFICATIONS

The Proposed Sign shall be a monopole sign with decorative stucco wrap. The pole wrap shall match the 112th Avenue flyover bridge. The Proposed Sign shall also substantially comply with specifications in the attached **Exhibit B.**

In connection with repair and maintenance of the Proposed Sign, Mile High may replace one or both of the LED sign faces on the Proposed Sign with a substantially similar LED sign face to the corresponding face specified in **Exhibit B** or a different LED sign face approved in writing by the City.

II. ANNUAL FEE

Annually, Mile High shall pay to the City a sign fee of Ten Thousand Dollars (\$10,000.00) for so long as Mile High operates the Proposed Sign on the Location (the "Sign Fee"). The first annual payment shall be due within thirty (30) days after the completion of construction of the Proposed Sign and, in any event, before the Proposed Sign is put into regular operation (that is, operation other than testing).

III. CIVIC USE OF SIGN

For so long as Mile High operates the Proposed Sign, Mile High shall provide the City with thirty percent (30%) of the allotted time on the Proposed Sign, at no cost, or equal amount of allotted advertising space on other Mile High digital or static billboard signs in or near the City area, if the City desires. The City may place any messages it desires in this advertising spot; provided the messages do not violate applicable laws, Sign Lease Agreemen between Mile High and Northglenn Greens Holdings, LLC (executed by Mile High on May 1, 2012 and by Northglenn Greens Holdings, LLC on April 26, 2012). Mile High represents that there are no agreements binding on Mile High provided that Mile High shall not enter into any future agreements that limit the City's right to display messages on the Proposed Sign without the City's written approval. The City may allow third-parties to use the City's advertising spot, including local Northglenn businesses, and the City may charge a fee to the third-parties. Mile High shall not charge the City or the third-party for third-party use of the City's advertising spot.

Mile High and the City will coordinate to schedule civic use. Should the City not provide Mile High with content to run on its 30% of time allotted, Mile High may schedule said content space at its own discretion.

IV. ABANDONMENT AND REDUCTION

Except as otherwise provided in this Article IV, if Mile High ceases to operate the Proposed Sign for any reason, including without limitation, failure of the Proposed Sign to function, for more than one hundred eighty (180) continuous days, or 270 days in the aggregate during any five (5) year period, Mile High shall be in breach of this Agreement.

In the event that one or both LED sign faces is indefinitely obstructed from public view from Interstate Highway 25, the volume of traffic on Interstate Highway 25 in the viewing area of the sign is substantially and indefinitely diminished, Mile High's lease of the property on which the sign is located expires or is terminated, any governmental authority determines that the Proposed Sign or elements of the Proposed Sign are unlawful, or in Mile High's reasonable determination it is otherwise no longer economical for Mile High to operate the Proposed Sign as it then exists, Mile High shall remove the Proposed Sign in its entirety.

V. INDEMNIFICATION

Mile High agrees to indemnify and hold harmless the City and its officers, insurers, volunteers, representatives, agents, employees, heirs and assigns from and against all

claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Mile High, any subcontractor of Mile High, or any officer, employee, representative, or agent of Mile High, or which arise out of any worker's compensation claim of any employee of Mile High or of any employee of any subcontractor of Mile High.

VI. REMEDIES

In the event Mile High breaches this Agreement and fails to cure such breach within thirty (30) days after receipt of written notice thereof, then the City may have recourse to any of the following remedies that may apply:

- 1. The City may terminate this Agreement by written notice to Mile High unless the breach is first cured. If this Agreement is terminated in accordance with this paragraph, Mile High shall remove the Proposed Sign in its entirety.
- 2. If the breach consists of a failure to pay the Sign Fee when and as required by this Agreement, the City may, with or without terminating this Agreement, pursue claims to recover the amount due and unpaid.
- 3. If the breach consists of a failure to provide the City the advertising spot on LED sign faces as required by Article III above, the City shall be entitled to an order for specific performance compelling Mile High to provide such advertising time or provide additional time to compensate for the lost time.
- 4. The City may pursue any other remedies to which it may be entitled by law for Mile High's breach of contract.

If Mile High's right to operate the Proposed Sign is terminated pursuant to Article VI.1. above and Mile High fails to remove the Proposed Sign within thirty (30) days after receipt of notice of termination, the City shall be entitled to remove the LED sign faces and dispose of them at a public or private sale (conducted in a commercially reasonable manner) and remit the net proceeds of the sale to Mile High; provided, however, that Mile High shall be liable to reimburse all the City's costs of removal, storage and sale, and such costs shall be deducted from any proceeds remitted to Mile High.

VII. MISCELLANEOUS

- A. <u>Governing Law and Venue.</u> This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Adams County, Colorado.
- B. <u>No Waiver.</u> Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the City shall not constitute a waiver of any of the other terms or obligation of this Agreement.
- C. <u>Integration</u>. This Agreement and any attached exhibits constitute the entire Agreement between Contractor and the City, superseding all prior oral or written communications.
- D. <u>Third Parties</u>. There are no intended third-party beneficiaries to this Agreement.
- E. <u>Notice</u>. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the party at the following addresses set forth on the first page of this Agreement

If to the City:	

If to Mile High: Mile High Outdoor Advertising

Attn: President

9250 E. Costilla Ave, Suite 120 Greenwood Village, CO 80112

Either party may change such notice address upon prior written notice to the other party.

- F. <u>Severability</u>. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.
- G. <u>Modification</u>. This Agreement may only be modified upon written agreement of the Parties.
- H. <u>Assignment.</u> The City may withhold its consent to an assignment of this Agreement in its sole discretion; provided that Mile High may assign this agreement if Mile High conveys ownership of the Proposed Sign to a third-party and if the third-party executes an agreement with the City acknowledging that upon conveyance of ownership of the Proposed Sign, the third-party assumes all obligations of Mile High

under this Agreement, including without limitation the obligation to make the payment set forth in Section II and provide the advertising space in Section III. Provided that the third-party executes such an agreement, Mile High shall have no liability for obligations accruing under this Agreement from and after the effective date of the third-party's assumption of Mile High's obligations.

- I. <u>Governmental Immunity.</u> The City, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently one hundred fifty thousand dollars (\$150,000.00) per person and six hundred thousand dollars (\$600,000.00) per occurrence, or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S § 24-10-101, *et seq.*, as amended, or otherwise available to the City and its officers or employees.
- J. <u>Rights and Remedies</u>. The rights and remedies of the City under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the City's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.
- K. <u>Subject to Annual Appropriations</u>. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligations of the City not performed during the current fiscal year are subject to annual appropriation, and thus any obligations of the City hereunder shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement or liability beyond the current fiscal year.
- L. <u>Attorney's Fees.</u> In the event of any litigation hereunder, the party prevailing on the more substantial portion of its claims and defenses, if any, shall be entitled to an award of its reasonable attorney's fees and other related costs.

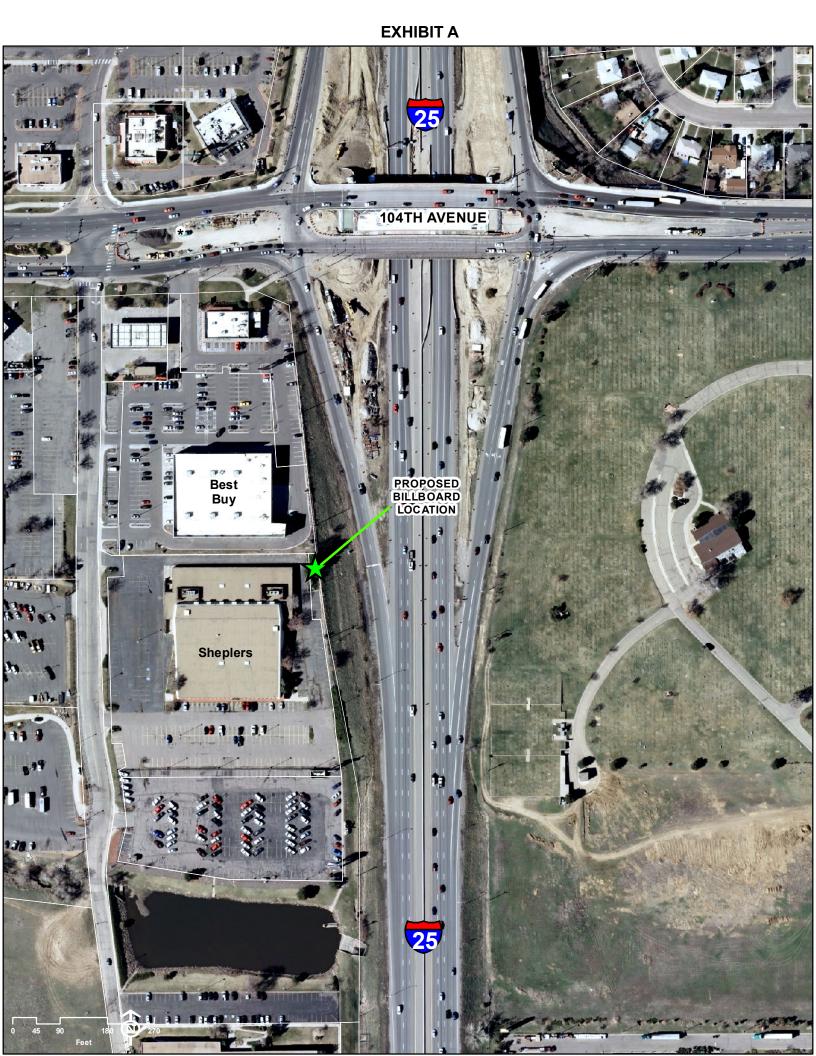
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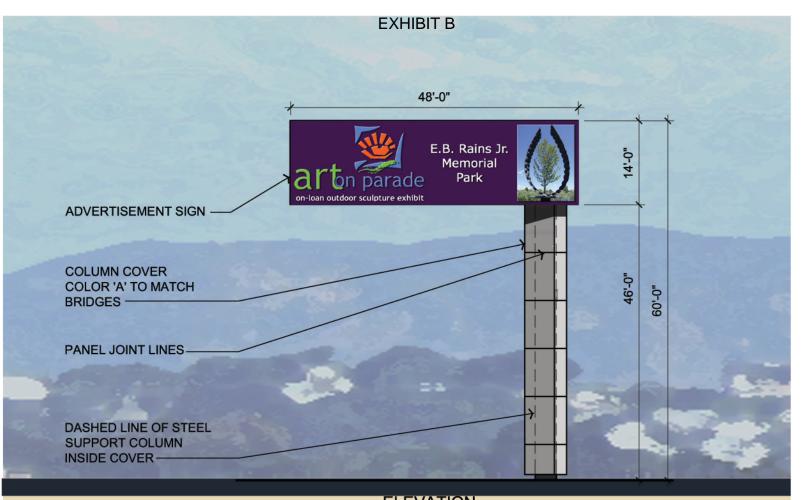
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first set forth above.

		CITY OF NORTHGLENN, COLORADO
		By: Joyce Downing, Mayor
ATTEST:		
Johanna Sma City Clerk	all, CMC	
APPROVEC	AS TO FORM:	
Corey Y. Ho	offmann, City Attorney	
		COLORADO OUTDOOR, INC. d/b/a MILE HIGH OUTDOOR ADVERTISING
		By: Steve Richards
		Its: <u>President</u>
STATE OF _)	
COUNTY O) ss. F)	
The f	foregoing instrument was ack	knowledged before me this day of, 2013, by
	as the d/b/a Mile High Outdoor.	of Colorado Outdoor, Inc., a Delaware
•	My commission expires:	
(SEAL)	Notary Public	

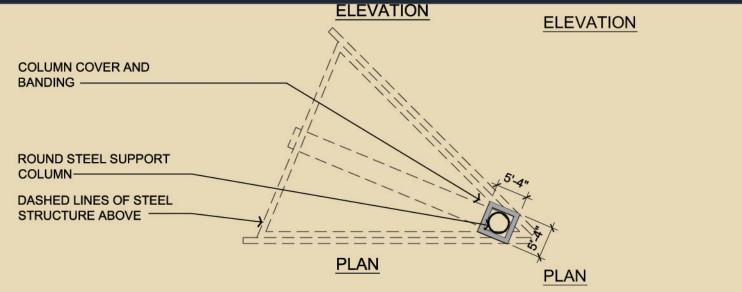
PROPERTY OWNER CONSENT

("Owner") right of the rights provi	the property upon which the Proposed Signage shall be located,hereby consents to the terms of this Agreement, including, without limitation, the City to enter onto the property where the Proposed Sign is located to carry out the ded to the City under this Agreement. This consent shall run with the land and be all assigns and successors-in-interest of Owner.
	By:
	Its:
The	foregoing instrument was acknowledged before me this day of
2013, by	as the of
	My commission expires:
(SEAL)	
	Notary Public









MILE HIGH OUTDOOR

NORTHGLENN CONCEPT 4

SCALE 1/16" = 1'-0"

10/20/12