DATE: January 31, 2023

TO: Mayor and Council Members

FROM: Economic and Community Development Department

SUBJECT: Fourth Amendment to Agreement No. 10-66 with Sky Posters, Inc. to Extend the Display of Super Graphic Wall Sign Outdoor Advertising

RECOMMENDATION:
It is recommended that the Mayor and Council Members approve the Fourth Amendment to Agreement No. 10-66 with Sky Posters, Inc., to extend the display of super graphic wall sign outdoor advertising.

BACKGROUND:
On March 23, 2010, the City Council adopted Ordinance No. 10-05 to establish a City process by which the installation of Super Graphic Wall Signs could be authorized within 1,000 feet of a freeway, pursuant to a negotiated agreement providing for certain revenue sharing with the City of Inglewood.

On July 13, 2010, the City Council adopted Resolution No. 10-93, approving a three (3)-year agreement (Agreement No. 10-66) between the City and Sky Posters, Inc., to allow super graphic wall displays at 9800 S. La Cienega Boulevard.

On June 26, 2013, the City Council approved an Amendment to Agreement No. 10-66, approving an extension to January 31, 2014, between the City and Sky Posters, Inc. ("Sign Owner").

On October 4, 2013, Senate Bill No. 684 (SB 684) was signed into law by Governor Jerry Brown Jr., which provides that displays advertising businesses and activities within the boundary limits of a redevelopment agency project area may continue to do so as an on-premise display until January 1, 2023.

On January 28, 2014, the City Council approved a Second Amendment to Agreement No. 10-66, approving an extension to January 31, 2019.

On January 8, 2019, the City Council approved a Third Amendment to Agreement No. 10-66, approving an extension to January 31, 2023.
DISCUSSION:
Since the inception of the Super Graphic Wall Signs Ordinance in March of 2010, the City has collected in excess of Five Million Dollars ($5,000,000) in general fund revenue, based upon its negotiated share of revenues generated by the subject displays. Moreover, the amount of revenue per year has steadily increased as major advertisers continue to opt for extended contract periods.

The proposed Fourth Amendment to Agreement No. 10-66 with Sign Owner, among other things, recognizes that in satisfaction of the statutorily mandated terms and conditions of SB 684 (California Business and Professional Code of the Outdoor Advertising Act, Section 5273.1), a “good cause extension” request was officially made by the City to the California Department of Transportation (“Caltrans”) on October 10, 2022 (“Extension Request”), with respect to the continued authorization, operation, and display of the Super Graphic Wall Sign beyond January 1, 2023. Absent receipt by the City of official notification from Caltrans disapproving the City’s Extension Request, the parties, now subject to the requirements of SB 684 (including but not limited to the City’s Extension Request), desire to modify the Agreement to do the following: (a) extend the term of the Agreement, as established by this Fourth Amendment with regard to the display of the Super Graphic Wall Sign (the “Sign”) on the Building consistent with the terms of the Agreement and SB 684 for a period of five (5) years; and (b) effectuate any and all other changes necessary to implement the outdoor advertising requirements of SB 684 and the City.

The Sign Owner also acknowledges and agrees that the City is entering into this Fourth Amendment based upon Caltrans’ failure to officially disapprove the City’s Extension Request as of the Effective Date. However, notwithstanding anything contained in the Agreement and/or this Fourth Amendment, should any Subsequent Action(s) be officially taken, this Fourth Amendment and the Agreement shall immediately terminate; in which case, the City shall not have any liability to Sign Owner, its principals, agents, representatives, etc., for any claim of damages incurred, arising out of, attributable to, or resulting from any such Subsequent Actions and/or the termination of this Fourth Amendment and the Agreement.

FINANCIAL/FUNDING ISSUES AND SOURCES:
The approval of this request will not result in funding necessary to facilitate the agreements.

DESCRIPTION OF ANY ATTACHMENTS:
Attachment No. 1 - Fourth Amendment to Agreement No. 10-66 with Sky Posters, Inc.

PREPARED BY:
Christopher E. Jackson, Sr., Economic and Community Development Director

COUNCIL PRESENTER:
Christopher E. Jackson, Sr., Economic and Community Development Director
APPROVAL VERIFICATION SHEET

DEPARTMENT HEAD APPROVAL:
Christopher F. Jackson, Sr., ECD Dept. Director

CITY MANAGER APPROVAL:
Artie Fields, City Manager
ATTACHMENT NO. 1
FOURTH AMENDMENT TO
AGREEMENT NO: 10-66

THIS FOURTH AMENDMENT TO AGREEMENT (the “Fourth Amendment”) is made and entered into this ___ day of January, 2023 (the “Effective Date”) by and between the CITY OF INGLEWOOD, a municipal corporation (the “City”) and SKY POSTERS, INC., a California corporation (the “Sign Owner”) with its principal place of business located at 1300 Summit Drive, Beverly Hills, California 90210.

RECITALS

WHEREAS, pursuant to the enactment of Senate Bill 684 (California Business & Professional Code 5273, “SB 684”), the Sign Owner and the City entered into that certain Agreement No. 10-66 dated July 13, 2010 (the “Initial Agreement”) providing for the outdoor advertising display of a “Super Graphic Wall Sign” specifically owned and installed by Sign Owner on a building located at 9800 La Cienega Boulevard, Inglewood, California (the “Building”). The Initial Agreement was as amended by an Amendment to Agreement No. 10-66 dated June 26, 2013 (City Agreement No. 13-080) and a Second Amendment to Agreement No. 10-66 dated January 24, 2014 (City Agreement No. 14-001)(both the Initial Agreement and the amendments are hereby collectively referred herein as the “Agreement”).

WHEREAS, pursuant to and in satisfaction of the statutorily mandated terms and conditions SB 684 (California Business & Professional Code of the Outdoor Advertising Act, Section 5273.1, “SB 684”), a “good cause extension” request was officially made by the City to the California Department of Transportation (“Caltrans”) on October 10, 2022 (“Extension Request”) with respect to the continued authorization, operation and display of the Super Graphic Wall Sign beyond January 1, 2023.

WHEREAS, absent the receipt by the City of official notification from Caltrans disapproving the City’s Extension Request, the parties, now subject to the requirements of SB 684 (including but not limited to the City’s Extension Request) now desire to enter into this proposed Fourth Amendment to modify the Agreement, as appropriate, to: (a) extend the term of the Agreement as established by this Fourth Amendment with regard to the display of the Super
Graphic Wall Sign (the “Sign”) on the Building consistent with the terms of the Agreement and SB 684; and (b) effectuate any and all other changes necessary to implement the outdoor advertising requirements of SB 684 and the City.

NOW THEREFORE, in consideration of the mutual covenants contained herein, Sign Owner and City hereby agree as follows:

SECTION 1. TERM OF FOURTH AMENDMENT. The Sign Owner and City hereby agree that notwithstanding anything contained in the Agreement to the contrary, the term of this Fourth Amendment shall govern the display period for the Sign and shall consist of a term commencing on the Effective Date of this Fourth Amendment and terminating on January 31, 2028 (the “New Term”).

SECTION 2. SUBSEQUENT CALTRANS/LEGISLATIVE ACTIONS. The Sign Owner hereby acknowledges and agrees that the effectiveness of this Fourth Amendment, the New Term as established by this Fourth Amendment, and the Agreement, may be subject to subsequent Caltrans action and/or subsequently enacted legislation requiring the discontinuance of the operation and display of the Sign by the Sign Owner (“Subsequent Actions”), and notwithstanding the potential risk of any Subsequent Actions, hereby elects to enter into this Fourth Amendment.

SECTION 3. NONLIABILITY OF CITY RE AGREEMENT AND FOURTH AMENDMENT. The Sign Owner hereby also acknowledges and agrees that the City is entering into this Fourth Amendment based upon Caltrans’ failure to officially disapprove the City’s Extension Request as of the Effective Date. However, notwithstanding anything contained in the Agreement and/or this Fourth Amendment, should a Subsequent Action(s) be officially taken, this Fourth Amendment and the Agreement shall immediately terminate; in which case, the City shall not have any liability to Sign Owner, its principals, agents, representatives, etc., (collectively, “Sign Parties”) for any claim of damages incurred arising out of, attributable to, or resulting from any such Subsequent Actions and/or the termination of this Fourth Amendment and the Agreement by the City.
SECTION 4. MISCELLANEOUS. Subject to the above provisions, the terms and conditions of this Fourth Amendment shall be fully enforceable and binding on the parties hereto and shall supersede any and all terms and conditions of the Agreement to the contrary. However, to the extent the terms and conditions of the Agreement are not specifically and expressly amended and/or modified by this Fourth Amendment, all such terms and provisions of the Agreement shall remain fully enforceable and binding upon the parties hereto.

SECTION 5. SEVERABILITY. In the event that any provision of this Fifth Amendment is found and determined to be invalid or unenforceable by any Subsequent Action, judgment or court order, the remaining provisions shall remain fully enforceable and binding on the parties hereto.

IN WITNESS WHEREOF, the Sign Owner and City have executed this Fourth Amendment to Agreement No.10-66 as of the Effective Date first above written.

CITY OF INGLEWOOD
a Municipal Corporation

By: JAMES T. BUTTS, JR.,
     Mayor

ATTEST:

By: AISHA THOMPSON
     City Clerk

SKY POSTERS, INC.
a California Corporation

By: MICHAEL MCNEILLY,
    President

APPROVED AS TO FORM:

By: KENNETH R. CAMPOS,
     City Attorney

APPROVED:

By: Royce K. Jones
     KANE BALLMER & BERKMAN
     City Special Counsel