


OFFICE OF CORPORATION COUNSEL

Date : June 6, 2013
To : Mayor Leclerc
From : Richard Gentile 
Re : Billboards – Connecticut Boulevard

Martin Motors, LLC, the O'Meara Foundation and the 1900 Corporation are the owners and assignees of the rights to maintain the billboard structures currently located at 275 Connecticut Boulevard. They have asked for the Town Council to authorize the relocation of the billboards to a location adjacent to I-84 (on the Freightliner property at 199 Roberts Street). This request is allowed under Code of Ordinances Section 3-30(c).

I have prepared and negotiated the attached contract for your review and Town Council approval. I draw your attention to the following beneficial paragraphs:

- 2. All rights to maintain billboards at the 275 Connecticut Boulevard site will be extinguished pursuant to a written declaration to be recorded on the Town's land records. This means that these billboards will be permanently removed from the Central Business District.
- 3. Adult oriented establishments and sexually oriented business will not be allowed to advertise on the billboards that will be located on I-84.
- 10. The existing billboards will be taken down and the gas station and parking area demolished before the new billboards are constructed.
- 12. The Town will have an ability to utilize the billboards for public service announcements.

The representations and obligations in the contract will be backed up by necessary title searches, opinions of Counsel and the aforementioned written declaration.

If you believe the contract is in order, kindly forward it to the Council for action at their June 18 meeting. I am available to attend that meeting and can prepare a draft resolution should the Chairman so request.

CC: Eileen Buckheit
Michael Dayton

DRAFT AGREEMENT BETWEEN THE TOWN OF EAST HARTFORD,
MARTIN MOTORS, LLC, THE O'MEARA FOUNDATION AND
THE 1900 CORPORATION RE: RELOCATION OF BILLBOARDS

June 5, 2013

This agreement is made this ____ day of June, 2013 by and between the Town of East Hartford ("Town") and The 1900 Corporation, Martin Motors, LLC and The O'Meara Foundation, Inc. (collectively referred to as "1900 Corp").

WHEREAS, the 1900 Corporation will secure the outdoor advertising rights at certain properties in the Town as the assignee of Martin Motors, LLC and The O'Meara Foundation, Inc.; and

WHEREAS, the billboards where such outdoor advertising rights exist currently impact the appearance of certain residential and/or commercial districts;

WHEREAS, the Town desires to reduce the overall number of billboards in town through the elimination of existing billboards at the end of their useful life;

WHEREAS, the Town's longstanding policy, as articulated through its ordinances, is to reduce the overall number of billboards in town through the elimination of existing billboards at the end of its useful life;

WHEREAS, the 1900 Corp is willing to permanently extinguish the outdoor advertising rights it has secured at the existing locations on Connecticut Boulevard, provided it can transfer rights to other locations along portions of Interstate 84 as authorized by Town ordinance and the East Hartford Zoning Regulations; and

NOW, THEREFORE, The Town and 1900 Corp hereby agree as follows:

1. Permission to Erect a New Billboard: The Town will grant an exception to the prohibition against construction of new billboards pursuant to Town of East Hartford Code of Ordinance Section 3-30 (c) to allow construction of one billboard structure with two electronic display panels, one electronic display panel facing east to westbound traffic and one electronic display panel facing west to eastbound traffic, to be located on property located at 199 Roberts Street, ("New Billboards") on the location indicated on the attached Site Plan (Exhibit A). The New Billboards will be no larger than 14 feet by 48 feet. In addition, each New Billboard allowed under this Agreement will be subject to the billboard zoning regulations effective August 30, 2006, as amended, a copy of which are attached hereto and incorporated herein as Exhibit B, including but not limited to any necessary site plan approvals.

2. Extinguishment of Rights: Prior to constructing the New Billboards, 1900 Corp will provide to the Town documentation from the owner of the property where the existing billboards are located. Such documentation shall be in a form satisfactory to the Town and will provide evidence of the property owner's intent to permanently extinguish any and all outdoor advertising rights at the following locations:

- a. One billboard located at 275 Connecticut Boulevard (approximately 14' by 48', or 672 square feet);
- b. One billboard located at 275 Connecticut Boulevard on Connecticut Boulevard approximately 300 feet west of South Prospect Street (approximately 10.6' by 22.9', or 242.74 square feet);
- c. One billboard located at 275 Connecticut Boulevard on Connecticut Boulevard approximately 150 feet west of South Prospect Street (approximately 10.6' by 22.9', or approximately 242.74 square feet);
- d. One billboard located at 275 Connecticut Boulevard on Connecticut Boulevard approximately 150 feet west of South Prospect Street (10.6' by 22.9', or approximately 242.74 square feet).

Such documentation shall include, but not be limited to, a written declaration executed by Martin Motors, LLC, The O'Meara Foundation, Inc., The 1900 Corporation and all other parties that have or may claim any interest in outdoor advertising rights at the above locations permanently extinguishing any and all outdoor advertising rights with respect to the above locations (the "Declaration"). The Declaration will affirm that all state and local licenses or permits with respect to the above locations have been terminated and that all necessary summary process proceedings have been successfully concluded with respect to any and all parties claiming an interest in such locations. The Declaration shall become effective only upon the completion of all required local and state permitting of the New Billboards at which time the Declaration shall be recorded in the land records of the Town. The form of the Declaration is attached as Exhibit B.

3. Prohibition on Contract: 1900 Corp agrees that it will not allow any advertisements of adult-oriented establishments or adult cabarets as defined in section 200 of the East Hartford Zoning Regulations, as the same may be amended from time to time or of any sexually oriented business as defined in Section 8-61 of the Town of East Hartford Ordinances, as the same may be amended from time to time, on the New Billboards or any other billboards it may own or control in any fashion in East Hartford.

4. Amendment: This Agreement can only be modified by a written agreement duly signed by the persons authorized to sign agreements on behalf of the Town and 1900 Corp.

5. Severability: The invalidity or unenforceability of one or more provisions of this Agreement shall not affect any other provision of this Agreement.

6. Governing Law: This Agreement shall be governed and construed in accordance with the laws of the State of Connecticut. The parties agree to the jurisdiction and venue of the courts located in Hartford Superior Court.

7. Complete Agreement: This Agreement is the complete and exclusive statement of the Agreement between the parties as to the subject matter hereof and supersedes all communications between the parties related to the subject matter of this Agreement. Each party represents and warrants to the other that it has full power and authority to enter into and perform this Agreement.

8. Waiver and Default: A waiver of a breach or default under this Agreement shall not be a waiver of any other or subsequent breach of default. The failure or delay in enforcing compliance with any term or condition of this Agreement shall not constitute a waiver of such term or condition.

9. Transfer and Assignment: This Agreement and rights, duties and obligations accruing to 1900 Corp under this Agreement are not transferable or assignable. Any attempt by 1900 Corp to transfer or assign this Agreement or any of its rights, duties or obligations under this Agreement is void. Notwithstanding the foregoing, 1900 Corp or its successor may, upon written notice and consent of the Town which consent shall not be unreasonably withheld, assign its rights and obligations, to an entity which acquires all or substantially all of its assets or which acquires voting control through a purchase or merger.

10. Removal of Existing billboards: 1900 Corp agrees that the billboards listed in paragraph 2, above, will be removed, the existing gas station and asphalt parking area demolished, the underlying property cleared and landscaped to the reasonable satisfaction of the town, and the underlying property's use as offsite parking lot abandoned, within one year of the granting of all permits required by the Town and the State of Connecticut for the construction of the New Billboards and prior to the erection of the New Billboards. In the event that said conditions are not met within said time this Agreement shall, at the option of the Town of East Hartford, be null and void upon thirty (30) days written notice.

11. Indemnification: 1900 Corp will indemnify, defend and hold the town and its officials, officers, agents, and employees harmless from and against any and all cost, expenses, losses, attorney's fees, and liabilities resulting in any way from this Agreement, including but not limited to the claim of the current or future owner(s) of the property where the billboards listed in Paragraph 2 are located any third parties that leasehold, license or property rights have not been extinguished or that there had been an interference with contractual rights.

12. Town Use: The 1900 Corp agrees to allow the Town to use one electronic billboard turn on each New Billboard facing for at least fourteen (14) calendar days each year for public

service announcements. The dates of such use shall vary from year to year based upon availability. The 1900 Corp will bear the reasonable costs for the artwork and installation of such billboard advertising, and there will be no fee for the use of such billboard facing by the Town.

13. Duration: Pursuant to Section 3-30(c)(iii) of Town Ordinances, 1900 Corp agrees to remove the New Billboards no later than forty (40) years from the date of the issuance of a certificate of occupancy for the erection of the new billboard following the granting of permits required for the New Billboards by the Town and State of Connecticut.

IN WITNESS WHEREOF, the parties hereto have signed the Agreement as of the date and year act forth above.

TOWN OF EAST HARTFORD

THE 1900 CORPORATION

By:
Duly Authorized

By:
Duly Authorized

MARTIN MOTORS, LLC

THE O'MEARA FOUNDATION, INC.

By:
Duly Authorized

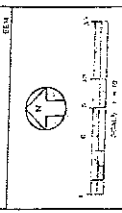
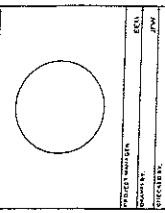
By:
Duly Authorized

ZUMVIC CAMP
AND ASSOCIATES
CONSULTING ENGINEERS
1750 Main Street, Suite 200
Hartford, CT 06103
Tel: 860-234-1100

NOTES:
THE DEVELOPER SHALL OBTAIN THE TOWN OF EAST HARTFORD ENGINEERING DEPARTMENT'S REVIEW AND APPROVAL OF THE SITE PLAN AND ALL OTHER NECESSARY PERMITS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION. THE TOWN ENGINEER'S REVIEW OF THE PRELIMINARY SITE PLAN IS FOR INFORMATION ONLY AND DOES NOT CONSTITUTE AN ENDORSEMENT OF THE PROJECT OR A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED BY THE DEVELOPER. THE TOWN ENGINEER'S REVIEW OF THE PRELIMINARY SITE PLAN IS FOR INFORMATION ONLY AND DOES NOT CONSTITUTE AN ENDORSEMENT OF THE PROJECT OR A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED BY THE DEVELOPER.

TOWN OF EAST HARTFORD
PLANNING AND ZONING COMMISSION
SITE OF APPROVAL
APPROVAL DATE: _____
EXPIRATION DATE: _____
CHAIRMAN: _____

PROJECT NUMBER	222
DATE	06/10/08
DESIGNER	ZUMVIC CAMP AND ASSOCIATES
SCALE	AS SHOWN



PROJECT OWNER:
LINKEN LLC
222 ROBERTS STREET
EAST HARTFORD, CT
06108

PROPOSED PROJECT:
PROPOSED BILLBOARD
199 ROBERTS STREET
EAST HARTFORD, CT

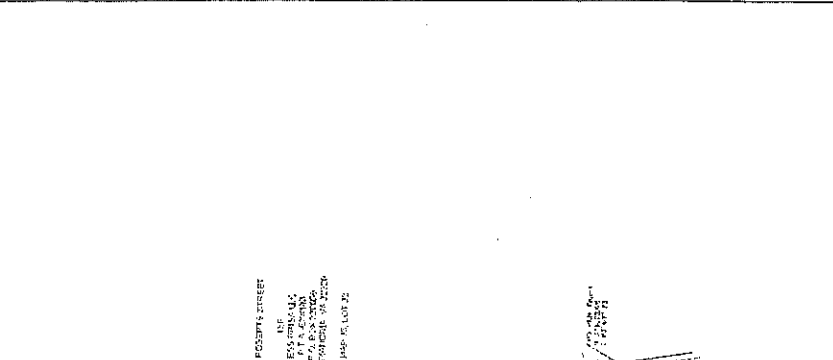
TITLE:
SITE PLAN

DATE: _____
DRAWN BY: _____
CHECKED BY: _____
SCALE: _____

SP-1

PARKING SCHEDULE (PER SECTION 2.07)

USE	SPACES REQUIRED	SPACES PROVIDED
OFFICE (2 FLOORS)	74	74
OFFICE STORAGE	12	12
OFFICE PARKING	3	3
UNREGISTERED VEHICLES	1	1
VEHICLE STORAGE	16	16
TOTAL OFFICE PARKING	106	106
VEHICLE STORAGE	16	16
TOTAL TRUCK PARKING	16	16



ZONING REGULATORY DATA (ZONE: INDUSTRIAL (I-1))

SECTION	DEVELOPMENT	REGULATION	MAXIMUM	PROPOSED
102.3	Min Lot Area	20,000 S.F.	20,000 S.F.	20,000 S.F.
102.4	Min Lot Width	30'	30'	30'
102.5	Min Lot Depth	30'	30'	30'
102.6	Min Front Yards	25'	25'	25'
102.7	Min Side Yards	5'	5'	5'
102.8	Min Rear Yards	20'	20'	20'
102.9	Min Building Height	15'	15'	15'
103.0	Max Lot Coverage	75%	75%	75%
103.1	Max Building Height	35'	35'	35'

ADDITIONAL PARKING

TRUCK PARKING PROVISIONS
TOTAL TRUCK PARKING SPACES: 16
TOTAL TRUCK PARKING: 16



IN PROGRESS STREET
EAST HARTFORD STREET
ROBERTS STREET
PROPOSED BILLBOARD SIGN

LINKEN LLC
222 ROBERTS STREET
EAST HARTFORD, CT
06108

PROPOSED BILLBOARD SIGN
199 ROBERTS STREET
EAST HARTFORD, CT

PROPOSED BILLBOARD SIGN
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EAST HARTFORD, CT

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199 ROBERTS STREET
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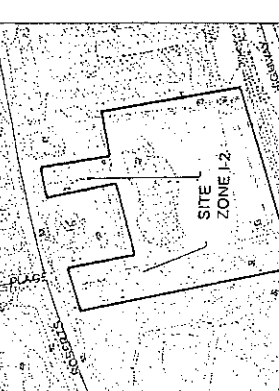
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EAST HARTFORD, CT

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EAST HARTFORD, CT

EXHIBIT B
DECLARATION OF TERMINATION
OF BILLBOARD RIGHTS

Martin Motors, LLC, The O'Meara Foundation, Inc., and The 1900 Corporation, as successor to the interests of Martin Motors, LLC and the O'Meara Foundation, Inc. (the "Declarants") hereby declare their intent to forever extinguish, abandon and terminate the Billboard Rights existing at the following locations:

1. One billboard located at 275 Connecticut Boulevard (approximately 14' by 48', or 672 square feet);
2. One billboard located at 275 Connecticut Boulevard on Connecticut Boulevard approximately 300 feet west of South Prospect Street (approximately 10.6' by 22.9', or 242.74 square feet);
3. One billboard located at 275 Connecticut Boulevard on Connecticut Boulevard approximately 150 feet west of South Prospect Street (approximately 10.6' by 22.9', or approximately 242.74 square feet);
4. One billboard located at 275 Connecticut Boulevard on Connecticut Boulevard approximately 150 feet west of South Prospect Street (10.6' by 22.9', or approximately 242.74 square feet).

As employed herein, the term "Billboard Rights" is defined as the exclusive authority, subject to federal, state and municipal legislative-regulatory constraints, to lease, own, maintain and operate billboard structures at specific geographic locations for the purpose of exhibiting signs as a medium to communicate information, publicity, and advertising to the general public.

The Declarants affirm that all municipal, state and federal license and/or permits with respect to the above-listed locations have been terminated and that all necessary summary process proceedings have been successfully concluded with respect to any and all parties known to claim an interest in or possession of outdoor advertising rights at the above-identified locations.

Nothing contained in this declaration shall be construed to limit the rights of the Declarants, their successors and assigns, with respect to the erection, maintenance, repair and replacement of business signs announcing or advertising any business or activity taking place on the premises where the sign is located.

Dated this ___ day of _____, 2013.

THE DECLARANT,
MARTIN MOTORS, LLC

Witness
(Print Name)

By:
Its:

Witness
(Print Name)

STATE OF CONNECTICUT)

) ss. at _____

COUNTY OF HARTFORD)

Personally appeared before me, the undersigned officer, this ____ day of _____, 2013, _____, signer and sealer of the foregoing instrument, and declared the same to be his/her free act and deed.

Notary Public/Commissioner