

STAFF REPORT

Date: November 15, 2017

To: Mayor and City Council

Thru: Sabra Newby, City Manager

Subject: J.2. Staff Report (For Possible Action): Discussion, direction and potential approval of Settlement Agreement between the City, Scenic Nevada, and Lamar Central Outdoor, LLC regarding dismissal of existing litigation, re-issuance of billboard sign permits, and re-issuance of banked receipts issued prior to October 24, 2012.

From: Karl Hall, City Attorney

Summary: Attached for City Council review and approval is a proposed Settlement Agreement between the City, Scenic Nevada, Inc., and Lamar Central Outdoor, LLC, regarding dismissal of existing litigation, re-issuance of billboard sign permits, and re-issuance of banked receipts issued prior to October 24, 2012.

Discussion: The key terms of the Settlement Agreement are as follows:

- **Dismissal of Litigation.** Upon the Parties' execution of this Agreement, the Parties hereby authorize and direct their attorneys to dismiss with prejudice all current and pending lawsuits: (i) *Scenic Nevada, Inc. v. City of Reno, Reno City Council*, Case No. CV17-00361; (ii) consolidated case *Lamar Central Outdoor, LLC. v. City of Reno, Reno City Council*, Case No. CV17-00474; (iii) *Lamar Central Outdoor, LLC. v. City of Reno, Reno City Council*, Case No. CV17-01876; and, (iv) all related appeals (collectively, the "Dismissed Litigation").

- **Release.** In consideration of the dismissal of litigation, the Parties, on behalf of themselves, their affiliates, subsidiaries, officers, directors, related persons, heirs, successors-in-interest, and/or entities, do hereby mutually release and forever discharge one another as to any and all claims, demands, liens, assignments, contracts, covenants, actions, suits, causes of action, costs, expenses, attorneys' fees, damages, losses, claims, controversies, judgments, orders, and liabilities of whatsoever kind and nature, at equity or otherwise, whether now known or unknown, suspected or unsuspected, and whether or not concealed or hidden in the pending litigation and with regard to the claims in the Dismissed Litigation, which have existed or may have existed, or which hereafter can, shall, or may exist. The Parties agree and stipulate that this settlement was arrived at in good faith within the meaning of NRS 17.245.

- **Sign Permits.** The City Council directs staff to re-affirm and re-issue sign permits for all permanent off-premises advertising displays that were removed and re-established or relocated pursuant to Ordinance Nos. 5295 (Conforming Ordinance) and 5461 (Banking Ordinance).

- **Banked Receipts.** The City Council directs staff to re-affirm and re-issue all unredeemed, unexpired banked receipts based on the most current City of Reno Off-Premise Advertising Inventory dated June 20, 2017, attached hereto as Exhibit 1, as well as the banked receipt issued by the City on August 8, 2017, and lodged with the Second Judicial District Court. Holders of banked receipts can rely on, and present to the City in satisfaction of RMC 18.16.908(c)(1), Exhibit 1, which shall be maintained and updated by the City as banked receipts expire and/or are redeemed. Reissued banked receipts will expire based on their original date of issuance with an additional twenty-nine (29) days added to the end of each stated expiration date of each banked receipt per Resolution No. 8293 adopted February 8, 2017, which was later repealed on September 13, 2017. Therefore, for example, a banked receipt originally issued on April 1, 2005, and set to expire on April 1, 2020, when reissued, will expire on April 30, 2020.

- **Banked Receipt Nos. D-79 (CC-122), D-148, and D-149.** Lamar agrees that Banked Receipt Nos. D-79 (CC-122), D-148, and D-149 must be redeemed before the City is obligated to honor any other banked receipts owned, controlled, or subsequently acquired by Lamar.

- **Vacation of Litigation Stay.** In light of the re-issuance of sign permits and banked receipts, the Parties agree that the validity of banked receipts issued prior to October 24, 2012, is resolved for purposes of R.M.C. § 18.16.908(e) (Litigation stay).

Financial Implications: None.

Legal Implications: None.

Recommendation: Staff recommends City Council approve the Settlement Agreement, and direct staff to and take all actions necessary and appropriate to carry out, give effect to, and comply with the terms and intent of the Settlement Agreement.

Proposed Motion: I move to approve staff recommendation.

Attachments:

- City Scenic Lamar Settlement Agt 101717 v3 (PDF)