 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: July 29, 2013
	Agenda Item No. 46 Roll Call No. <u>13-1231(I)</u> Communication No. <u>13-400</u> Submitted by: Matthew A. Anderson, Assistant City Manager and Jeb E. Brewer, P.E., City Engineer

AGENDA HEADING:

Items regarding the approval of Amended and Restated Billboard Leases with Clear Channel Outdoor, Inc.

SYNOPSIS:

Recommend approval of Amended and Restated Billboard Leases with Clear Channel Outdoor, Inc. (CCO), Iowa Division, Jason Pomrenke, 4131 109th Street, Urbandale, IA, 50322, on City-owned property located at 227 63rd Street and west of I-235 Freeway between Ovid Avenue and Hull Avenue. A Real Property Exchange and Grant Agreement between the City and CCO was approved by City Council on July 15, 2013, authorizing the City to acquire CCO’s property at 849 Army Post Road, in exchange for 20 year lease extensions for two (2) excess City-owned properties that have been leased for billboard purposes. The leased properties are located at 227 63rd Street, which CCO has been leasing since 1995; and the other parcel is located on the west side of I-235, north of Hull Avenue, which CCO has been leasing since 1981. This action is required by Iowa law prior to making a final determination on the proposed leases by resolution; and the lease approvals are required to fulfill the terms of the property exchange agreement for commercial redevelopment of the northeast corner of Army Post Road and SW 9th Streets.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

The purpose of the acquisition of CCO’s property at 849 Army Post Road is for commercial redevelopment of the northeast corner of Army Post Road and SW 9th Streets, which has been vacant for approximately 10 years. The highest and best use of the property is for assemblage with the adjoining commercial property to the north to allow for a larger commercial redevelopment project. The City’s Office of Economic Development and Real Estate Division are working on the redevelopment of the property, and anticipate bringing a proposal to City Council following the City taking possession of the property. In the event that the adjoining commercial property is unable to be included in the redevelopment, the CCO property will be used by the City for greenspace and/or sold for smaller-scale redevelopment.

CCO has been leasing excess City-owned property at 227 63rd Street since 1995 and another parcel located on the west side of I-235, north of Hull Avenue, since 1981. Both leases are expired and CCO has offered to sell their property at 849 Army Post Road to the City, in exchange for 20 year lease

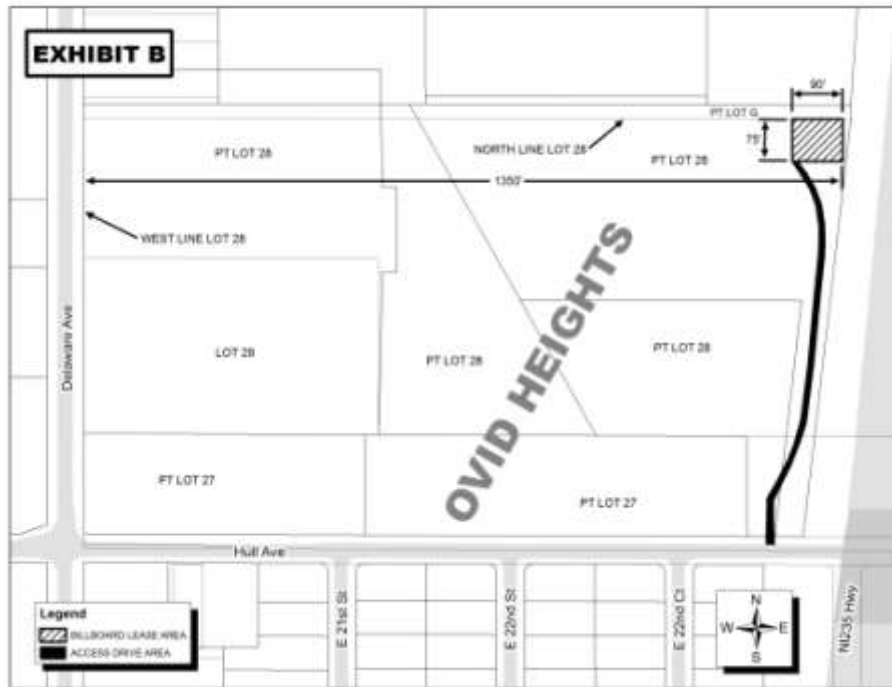
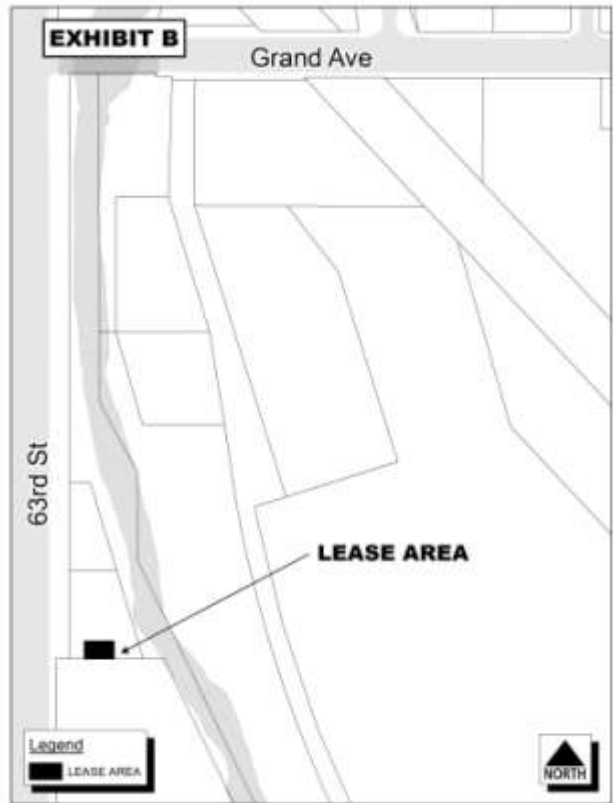
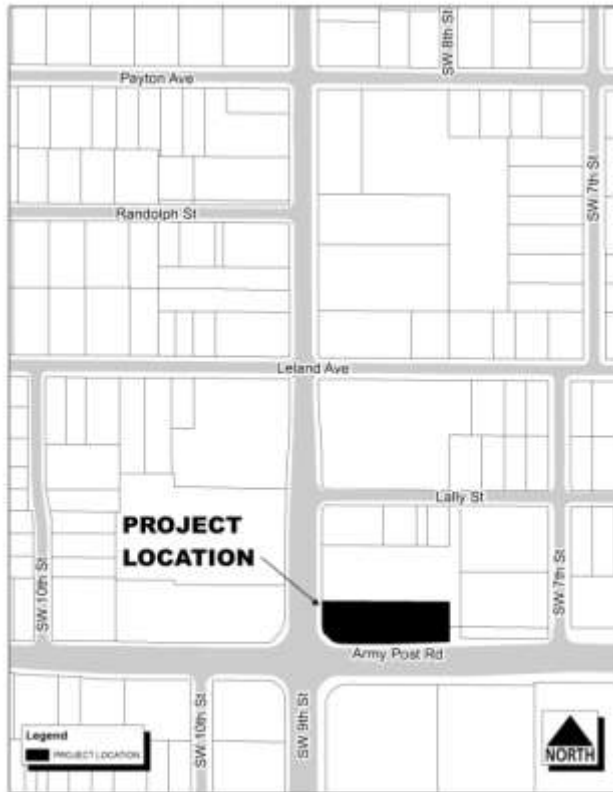
extensions for the existing billboards at the above locations. As a condition of the property exchange agreement, CCO requires the removal a mature Ash tree obstructing the view of the billboard at 227 63rd Street. CCO is solely responsible for the cost to remove the tree and must comply with the City's tree mitigation ordinance. The City's Municipal Arborist has inspected the ash tree, which measures 16" in diameter and has an approximate height of 30 feet. The tree is in excellent health with no apparent defects or health issues, but trimming the tree on top or "topping" is not a recommended practice and may jeopardize the health of the tree. Removing of the tree is the only apparent option to clear the obstruction to CCO's billboard. Standard mitigation requirements would consist of two replacement trees, if the tree is removed.

At the end of the 20 year lease periods, the City will have the option to renew or terminate the leases, at the City's discretion. If the City chooses to terminate the leases at the end of the 20 year term, CCO is required to remove the billboards at their expense. In addition to the above lease extensions, the acquisition of CCO's property will be subject to easements to allow the existing billboard off Army Post Road at this location to remain in place, including a vision clearance easement and access easement to maintain the billboard. These easements will not have an adverse impact on the future redevelopment of the site.

The estimated value of the lease extensions is \$220,000, which is equal to the estimated fair market value of CCO's property at 849 Army Post Road, plus CCO has agreed to complete items 1-3 below at an additional estimated cost of \$50,000. The fair market value of the leases includes consideration for converting the billboard to LED display for the 63rd Street location only, as this sign appears to be a legal conforming sign and may qualify for conversion under the City sign ordinances and policies. Staff has confirmed that the other billboard located on the west side of I-235 cannot be modified or converted to LED display, as this sign is also regulated by the Iowa Department of Transportation (IDOT) due to the proximity of I-235, and the sign is currently legal non-conforming under the IDOT's sign regulations. Both of these signs appear to be located at sites that would not be subject to enforcement action under current ordinance. Staff has also verified with independent appraisers that the terms of the leases are comparable to the current market for billboard leases, including LED displays, located off other major streets and highways within the City. According to the independent appraisers, the duration of billboard leases typically range from 15-40 years, so the City's term of 20 years is within the market range of other billboard leases. Due to the equal value of property interests to be exchanged, no funds will be required to complete this transaction. In addition, CCO has agreed to perform the following work on their property at 849 Army Post Road, prior to closing on the sale by the City:

- 1) Remove existing underground hydraulic oil tanks that were discovered on the property, at their cost, and subject to Iowa Department of Natural Resources (IDNR) requirements and the City's satisfaction.
- 2) Remove all existing hard surfaces to the back of sidewalk, backfill, regrade, and seed the property to create an acceptable temporary greenspace until redevelopment occurs.
- 3) Closure of remaining monitoring well(s) on the CCO site, at CCO cost and subject to Iowa DNR requirements and the City's satisfaction.

The above work by CCO and closing is expected to be completed by November 30, 2013. The City has also hired a consultant to perform a Phase 1 environmental assessment on the City's behalf following CCO's completion of the above work and prior to closing on the property acquisition.



PREVIOUS COUNCIL ACTION(S):

Date: July 15, 2013

Roll Call Number: [13-1158](#)

Action: [Real](#) Estate Property Exchange and Grant Agreement with Clear Channel Outdoor, Inc. and authorizing acquisition of property at 849 Army Post Road. ([Council Communication No. 13-376](#)) Moved by Meyer to adopt. Motion Carried 7-0.

Date: July 25, 2011

Roll Call Number: [11-1327](#)

Action: [Receive](#) request from Clear Channel Outdoor to consider the City's acquisition of property at 849 Army Post Road. Sponsor: Meyer. Moved by Meyer to adopt. Motion Carried 7-0.

Date: May 7, 2007

Roll Call Number: [07-917](#)

Action: [Receive](#) and file Des Moines Southside Revitalization Plan (March 2006) and communication from South Side Revitalization Partnership regarding implementation strategy priorities. ([Council Communication No. 278](#)) Moved by Meyer to approve and to refer to the City Manager for action, as appropriate. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the first floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to cityclerk@dmgov.org.