



TO: The Honorable Mayor and the City Council

FROM: Ty Livingston, Director of Planning & Community Development

DATE: January 12, 2021

SUBJECT: Lease Agreements with Adams Outdoor

BACKGROUND:

Based upon the Special Use petitions, two off-premises sign locations on City-owned property are being proposed. One is along I-74 in front of the Bass Pro store and the other is on the SW corner of Camp and Clock Tower. As mentioned previously, these signs will offer an entry point icon to the City and the Levee District as well as inserted messages of City events/communications in available time slots in addition to significant non-tax revenue for the City. The ultimate design of each sign base will be determined by the City Council but both will complement their surrounding areas. The signs are consistent with the City's goal of enhancing its brand.

The agreements contemplate a 20-year term with increases planned every 5 years. Much of the language is consistent with other agreements the City has with Adams Outdoor for other sign locations.

RECOMMENDATION: Approval of both leases, as presented.

ORDINANCE NO. 4544

**AN ORDINANCE APPROVING GROUND LEASES
WITH ADAMS OUTDOOR ADVERTISING FOR PLACEMENT OF
OFF-PREMISES SIGNS FOR THE LEVEE DISTRICT AND THE BASS PRO
COMMERCIAL DEVELOPMENT AREAS**

WHEREAS, Adams Outdoor Advertising Limited Partnership (“Adams Outdoor”) seeks to install off-premises signs along I-74 adjacent to the Bass Pro development area and on West Camp Street adjacent to the Levee District development area in East Peoria; and

WHEREAS, City Officials have determined that installation of off-premises signs adjacent to the Bass Pro development area and the Levee District development area will assist in the continued growth and development of these two commercial areas in the City, while also providing a source of revenue for the City; and

WHEREAS, the City owns property in the Bass Pro development area and along West Camp Street adjacent to the Levee District development area; and

WHEREAS, City Officials have negotiated the terms of a 20-year ground lease with Adams Outdoor for City property in the Bass Pro commercial development area as depicted in Exhibit A (attached hereto and incorporated by reference) and as described in the ground lease agreement set forth in Exhibit B, as attached hereto and incorporated by reference (the “Bass Pro Drive Lease”); and

WHEREAS, City Officials have negotiated the terms of a 20-year ground lease with Adams Outdoor for City property along West Camp Street adjacent to the Levee District commercial development area as depicted in Exhibit C (attached hereto and incorporated by reference) and as described in the ground lease agreement set forth in Exhibit D, as attached hereto and incorporated by reference (the “West Camp Street Lease”); and

WHEREAS, under the terms of the Bass Pro Drive Lease and the West Camp Street Lease, the City will be provided time slots on the sign message boards for advertising City events and City communications; and

WHEREAS, simultaneously to the City’s approval of the Bass Pro Drive Lease and the West Camp Street Lease under this Ordinance, Adams Outdoor is also receiving special use permits for each property location covered by these Leases that will permit the installation and maintenance of the off-premises signs contemplated by each Lease; and

WHEREAS, the City Council hereby finds that it is in the best interest of the City to enter into the Bass Pro Drive Lease and the West Camp Street Lease, as provided in Exhibit B and Exhibit D, with Adams Outdoor for constructing and maintaining the off-premises signs authorized under the special use permits for each location;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EAST PEORIA, TAZEWELL COUNTY, ILLINOIS, THAT:

Section 1. The findings and recitations hereinabove set forth are adopted and found to be true.

Section 2. The City hereby approves the Bass Pro Drive Lease, as provided in Exhibit B, with Adams Outdoor for constructing and maintaining an off-premises sign as authorized under the special use permit for the location off of Bass Pro Drive and adjacent to I-74.

Section 3. The City hereby approves the West Camp Street Lease, as provided in Exhibit D, with Adams Outdoor for constructing and maintaining an off-premises sign as authorized under the special use permit for the location at the northwest corner of the intersection of West Camp Street and Clock Tower Drive.

Section 4. The Mayor or his designee is directed and authorized to execute the Bass Pro Drive Lease attached hereto as Exhibit B and the West Camp Street Lease attached hereto as Exhibit D with Adams Outdoor Advertising Limited Partnership, together with such changes therein to each lease agreement as the Mayor in his discretion deems appropriate; provided, however, that neither the Bass Pro Drive Lease or the West Camp Street Lease shall not be binding upon the City until an original executed copy of the respective lease agreement has been delivered to Adams Outdoor.

Section 5. This Ordinance is in addition to all other ordinances on the subject and shall be construed therewith excepting as to that part in direct conflict with any other ordinance, and in the event of such conflict, the provisions hereof shall govern.

Section 6. This Ordinance shall be in full force and effect from and after its passage in the manner as provided by law.

PASSED BY THE COUNCIL OF THE CITY OF EAST PEORIA, TAZEWELL COUNTY, ILLINOIS, IN REGULAR AND PUBLIC SESSION THIS _____ DAY OF _____, 2021.

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel

EXHIBIT A

Map of Leased Area for Bass Pro Drive Lease

Case 21-SU-04
1001 Bass Pro Drive
Adams Outdoor

Exhibit "A"

Legal Description: P.I.N.: 01-01-29-202-004



EXHIBIT B

Bass Pro Drive Lease with Adams Outdoor Advertising LP



ADAMS OUTDOOR ADVERTISING
LEASE AGREEMENT

Lease # PA20003AN

THIS LEASE AGREEMENT ("Lease"), made this _____ day of _____, 2021, by and between **ADAMS OUTDOOR ADVERTISING LIMITED PARTNERSHIP** ("Lessee"), whose address is: 911 S.W. Adams Street, Peoria, IL 61602 and **CITY OF EAST PEORIA** ("Lessor"), whose address is: 401 West Washington Street, East Peoria, IL 61611; WITNESSETH:

1. **DEMISE:** Lessor hereby leases the following described property ("Property") to Lessee for the purpose of erecting, operating, maintaining, repairing, modifying, upgrading, and reconstructing outdoor advertising structures, together with any equipment and accessories that Lessee may desire to place thereon ("Structures"), and Lessor covenants and warrants to Lessee: (a) the quiet enjoyment of the Property during the term of this Lease; (b) that Lessor shall ensure, and be responsible for maintaining, an unobstructed view of the Structures from conditions present or arising on or around the Property, now or in the future; and (c) that Lessor shall not enter into any agreement for or conditioned upon the removal of the Structures. The Property is located in the City of East Peoria in the State of Illinois, and is more particularly described as:

Part of Tax Parcel #: 01-01-32-202-004 located along the north side of I-74 and located at least 850 feet to the east of the Bass Pro Drive right-of-way where it crosses under I-74 within a distance of and not more than one hundred (100) feet from the I-74 right-of-way.

Lessor also hereby covenants and grants to Lessee the following non-exclusive easements over the Property and adjacent property owned or controlled by Lessor: (i) for reasonable access to the Structures; (ii) to maintain an unobstructed view of the advertising copy on the Structures, including, but not limited to, the right to trim and remove any trees and other vegetation as often as Lessee in its sole discretion deems appropriate to prevent obstructions; and (iii) to connect utilities to the Structures.

2. **TERM:** This Lease is for a term of twenty (20) years, commencing on the date the billboard is put into service but not later than the 1st day of July, 2021 and shall continue in full force and effect. Within 90 days of the end of the term, the Lessee shall be responsible for initiating renewal discussions with the Lessor.

3. **RENT:** Rent shall commence on the later of Lessee putting the Structure into service, or commencement of the term, and shall be payable annually. Rent shall be in the following amounts for the years indicated: Years 1-5; \$26,500 Years 6-10; \$28,000 Years 11-15; \$29,500 Years 16-20. In addition to Rent, Lessor shall have right to postings for community events and purposes on an "As-Available" basis at No Charge. Such Postings Shall NOT replace paying advertisers, except that Emergency Messaging in the case of civic emergencies (weather alerts, Amber Alert, etc.) shall be given full priority for messaging at No Charge to the Lessor.

4. **STRUCTURES:** All Structures on the Property, whether erected by (or for) Lessee, or its predecessors-in-interest, shall at all times be and remain the property of Lessee and, with the exception of the foundation, may be removed by Lessee before or within a reasonable time of termination of this Lease, notwithstanding that such Structures are intended by Lessor and Lessee to be permanent fixtures on the Property. Notwithstanding any rule, code, ordinance, or law to the contrary, and as a matter of contract between the parties, all license, permit, approval, and permission rights relating to the use of the Property for outdoor advertising purposes and the Structures are, and shall at all times be and remain, the property of the Lessee. If Lessee requires additional licenses, permits, approvals, or permissions for the Structures, Lessee has the right to, and Lessor's permission to, pursue and obtain the same, and Lessor covenants and warrants that it shall cooperate fully with Lessee and shall execute all instruments necessary or appropriate in the matter. In the event Lessee, in its sole discretion, deems it necessary to invest significant capital in the Structures (e.g., structural storm or other damage, face replacement, etc.), Rent shall be abated, and prorated, if necessary (and credited against future Rent, if Rent is paid in advance), until such time that Lessee recoups the cost of such capital expenditure through advertising revenues received with respect to the Structures, and the then current Term shall be extended for an amount of time equivalent to the Rent abatement period, not to exceed 120 days of rent abatement. This Structure shall be a digital, or equivalent technology, electronic changing face. At no time shall the Structure be converted to a Static Face without specific approval of the Lessor. The Structure Design shall be substantially similar to the illustration in Attachment "A" and constructed with a base attached to the ground, made of natural materials, i.e. granite, marble or other similar substance or masonry materials. Final design shall be subject to the approval of the Mayor or his designee. Such approval shall not be unreasonably withheld. The Lessee shall be responsible for the initial Landscaping of the structure, in a manner, style and level reasonably acceptable to the Lessor. Thereafter, the Lessor shall maintain the Landscaping as it deems appropriate, providing the visibility of the Structure's Messaging is not adversely impacted. Lessee shall maintain the sign in good structural condition at all times.

5. **REPRESENTATIONS:** Lessor represents that it is either: (a) the sole owner of the Property; or (b), the authorized agent of any and all owners of the Property, and thus has full authority to enter into this Lease as, or on behalf of, such owner(s). If ownership of the Property changes, Lessor shall notify Lessee within thirty (30) days of such change, and shall furnish the new owner with a copy of this Lease. Throughout the term of this Lease, Lessor covenants not to lease, sell, transfer, assign or otherwise alienate the Property, any adjacent property owned or controlled by Lessor, and/or the Lease, or any portion thereof, to any person or entity who competes with Lessee in the outdoor advertising and/or ground lease acquisition industries.

6. **CANCELLATION:** If, in Lessee's sole opinion : (a) the view of the advertising copy on any Structure becomes obstructed; (b) the Property cannot be used for the erection, maintenance, or operation of any Structure for any reason; (c) the value of any Structure is substantially diminished for any reason ;(d) the Lessee is unable to obtain, maintain , or continue in force any necessary permit for any Structure; or (e) the

use of any Structure is prevented by law or by exercise of any governmental power, then Lessee may, at its option, cancel this Lease and receive a refund of any prepaid rent, prorated as of the date of cancellation.

7. **INDEMNIFICATION:** Lessee shall indemnify and hold Lessor harmless from all injuries to the Property or third person caused by Lessee, Lessee's employees, agents, licensees and contractors; Lessor shall indemnify and hold Lessee harmless from all injuries to Structures or third persons caused by the Property, Lessor, Lessor's employees, agents, licensees and contractors.

8. **CONDEMNATION:** In the event that all or any part of the Property is acquired or sought to be acquired by power of eminent domain, whether by condemnation or sale in lieu thereof, Lessee shall be entitled, in its sole and absolute discretion, to: (a) contest the acquisition; (b) reconstruct any of its Structures on the remaining portion of the Property; and/or (c) recover damages and compensation for its property and leasehold interests taken or impacted by the acquisition.

9. **ASSIGNMENT:** This Lease is binding upon the heirs, successors and assigns of both Lessor and Lessee, with the exception of any termination rights of Lessor set forth in this Lease or any Addendum, which rights may only be exercised by the original Lessor (whose name is set forth at the top of this Lease). Lessor agrees not to terminate or assign this Lease for the benefit of any competitor of Lessee without Lessee's written permission. Lessee shall have the absolute right to assign its rights under this Lease.

10. **OPTION RIGHT:** None.

11. **NOTICE:** In order for any notice ("Notice") to Lessor or Lessee to be effective, it must be in writing and sent certified mail, return receipt requested, or via a nationally recognized Next-Day courier service, and then shall only be effective upon the earlier of: (a) the date that said Notice is delivered and received by a person at the address specified in the Lease; or (b) the date that is three (3) days after mailing (postage prepaid) to such address; provided that in either case Notice shall be delivered to such other address as Lessor or Lessee, as the case may be, has previously designated in writing and provided to the other by Notice as set forth herein.

12. **MEMORANDUM OF LEASE:** Lessor agrees that Lessee may record a Memorandum of Lease (or similar document) with respect to the Lease and the Lessee's interest therein.

13. **MISCELLANEOUS:** In the event of litigation between Lessor and Lessee predicated upon this Lease, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs, provided, however, that the defaulting party shall first be given written Notice of any default, and shall have failed to cure such default within thirty (30) days of receipt of said Notice. Neither Lessor nor Lessee shall be bound by any terms, conditions, or oral representations that are not set forth in this Lease. The law of the state in which the Property is located shall govern. Lessor acknowledges and agrees that a breach by the Lessor of the covenants in Paragraph I shall entitle Lessee to the following, non-exclusive, remedies: (a) temporary and permanent injunctive relief curing such breach; (b) the sum of actual costs incurred for each day (or partial day) that such breach occurs (as liquidated damages and not a penalty); and (c) reimbursement of any and all attorney fees incurred by Lessee with respect to such breach. This Lease (and any Addendum) represents the entire agreement of Lessee and Lessor with respect to the Structures and the Property.

14. **ADDENDUM:** There is is not an addendum attached to this Lease and incorporated by this reference (check one).

ADAMS OUTDOOR ADVERTISING LIMITED PARTNERSHIP

By: Adams Outdoor GP, LLC
Its: General Partner

CITY OF EAST PEORIA

Name of Lessor or Authorized Representative

By: _____
Richard J. Zecchino
Vice President & General Counsel

By: _____

Print Name

Approved By: _____
General Manager

SSN or FEIN#: _____

Lessor's Phone #: _____

Witness (1)

Witness (1)

Witness (2)

Witness (2)

EXHIBIT C

Map of Leased Area for West Camp Street Lease

Case 21-SU-05
W Camp St at Clock Tower Dr
Adams Outdoor

Exhibit "A"

Legal Description: P.I.N.: 01-01-32-201-009



EXHIBIT D

West Camp Street Lease with Adams Outdoor Advertising LP



ADAMS OUTDOOR ADVERTISING
LEASE AGREEMENT

Lease # PA20002AN

THIS LEASE AGREEMENT ("Lease"), made this _____ day of _____, 2021, by and between **ADAMS OUTDOOR ADVERTISING LIMITED PARTNERSHIP** ("Lessee"), whose address is: 911 S.W. Adams Street, Peoria, IL 61602 and **CITY OF EAST PEORIA** ("Lessor"), whose address is: 401 West Washington Street, East Peoria, IL 61611; WITNESSETH:

1. **DEMISE:** Lessor hereby leases the following described property ("Property") to Lessee for the purpose of erecting, operating, maintaining, repairing, modifying, upgrading, and reconstructing outdoor advertising structures, together with any equipment and accessories that Lessee may desire to place thereon ("Structures"), and Lessor covenants and warrants to Lessee: (a) the quiet enjoyment of the Property during the term of this Lease; (b) that Lessor shall ensure, and be responsible for maintaining, an unobstructed view of the Structures from conditions present or arising on or around the Property, now or in the future; and (c) that Lessor shall not enter into any agreement for or conditioned upon the removal of the Structures. The Property is located in the City of East Peoria in the State of Illinois, and is more particularly described as:

Part of Tax Parcel #: 01-01-32-201-009 located at the southwest corner of Camp Street and Clock Tower Drive within a distance of and not more than fifty (50) feet from back of the Camp Street curb line and within a distance of and not more than four hundred (400) feet from the back of the Clock Tower Drive curb line.

Lessor also hereby covenants and grants to Lessee the following non-exclusive easements over the Property and adjacent property owned or controlled by Lessor: (i) for reasonable access to the Structures; (ii) to maintain an unobstructed view of the advertising copy on the Structures, including, but not limited to, the right to trim and remove any trees and other vegetation as often as Lessee in its sole discretion deems appropriate to prevent obstructions; and (iii) to connect utilities to the Structures.

2. **TERM:** This Lease is for a term of twenty (20) years, commencing on the date the billboard is put into service but not later than 1st day of July, 2021 and shall continue in full force and effect. Within 90 days of the end of the term, the Lessee shall be responsible for initiating renewal discussions with the Lessor.

3. **RENT:** Rent shall commence on the later of Lessee putting the Structure into service, or commencement of the term, and shall be payable annually. Rent shall be in the following amounts for the years indicated: Years 1-5; \$21,000 Years 6-10; \$22,000 Years 11-15; \$23,000 Years 16-20. In addition to Rent, Lessor shall have right to postings for community events and purposes on an "As-Available" basis at No Charge. Such Postings Shall NOT replace paying advertisers, except that Emergency Messaging in the case of civic emergencies (weather alerts, Amber Alert, etc.) shall be given full priority for messaging at No Charge to the Lessor.

4. **STRUCTURES:** All Structures on the Property, whether erected by (or for) Lessee, or its predecessors-in-interest, shall at all times be and remain the property of Lessee and, with the exception of the foundation, may be removed by Lessee before or within a reasonable time of termination of this Lease, notwithstanding that such Structures are intended by Lessor and Lessee to be permanent fixtures on the Property. Notwithstanding any rule, code, ordinance, or law to the contrary, and as a matter of contract between the parties, all license, permit, approval, and permission rights relating to the use of the Property for outdoor advertising purposes and the Structures are, and shall at all times be and remain, the property of the Lessee. If Lessee requires additional licenses, permits, approvals, or permissions for the Structures, Lessee has the right to, and Lessor's permission to, pursue and obtain the same, and Lessor covenants and warrants that it shall cooperate fully with Lessee and shall execute all instruments necessary or appropriate in the matter. In the event Lessee, in its sole discretion, deems it necessary to invest significant capital in the Structures (e.g., structural storm or other damage, face replacement, etc.), Rent shall be abated, and prorated, if necessary (and credited against future Rent, if Rent is paid in advance), until such time that Lessee recoups the cost of such capital expenditure through advertising revenues received with respect to the Structures, and the then current Term shall be extended for an amount of time equivalent to the Rent abatement period, not to exceed 120 days of rent abatement. This Structure shall be a digital, or equivalent technology, electronic changing face. At no time shall the Structure be converted to a Static Face without specific approval of the Lessor. The Structure Design shall be substantially similar to the illustration in Attachment "A" and constructed with a base attached to the ground, made of natural materials, i.e. granite, marble or other similar substance or masonry materials. Final design shall be subject to the approval of the Mayor or his designee. Such approval shall not be unreasonably withheld. The Lessee shall be responsible for the initial Landscaping of the structure, in a manner, style and level reasonably acceptable to the Lessor. Thereafter, the Lessor shall maintain the Landscaping as it deems appropriate, providing the visibility of the Structure's Messaging is not adversely impacted. Lessee shall maintain the sign in good structural condition at all times.

5. **REPRESENTATIONS:** Lessor represents that it is either: (a) the sole owner of the Property; or (b), the authorized agent of any and all owners of the Property, and thus has full authority to enter into this Lease as, or on behalf of, such owner(s). If ownership of the Property changes, Lessor shall notify Lessee with in thirty (30) days of such change, and shall furnish the new owner with a copy of this Lease. Throughout the term of this Lease, Lessor covenants not to lease, sell, transfer, assign or otherwise alienate the Property, any adjacent property owned or controlled by Lessor, and/or the Lease, or any portion thereof, to any person or entity who competes with Lessee in the outdoor advertising and/or ground lease acquisition industries.

6. **CANCELLATION:** If, in Lessee's sole opinion: (a) the view of the advertising copy on any Structure becomes obstructed; (b) the Property cannot be used for the erection, maintenance, or operation of any Structure for any reason; (c) the value of any Structure is substantially diminished for any reason; (d) the Lessee is unable to obtain, maintain, or continue in force any necessary permit for any Structure; or (e) the use of any Structure

is prevented by law or by exercise of any governmental power, then Lessee may, at its option, cancel this Lease and receive a refund of any prepaid rent, prorated as of the date of cancellation.

7. **INDEMNIFICATION:** Lessee shall indemnify and hold Lessor harmless from all injuries to the Property or third person caused by Lessee, Lessee's employees, agents, licensees and contractors; Lessor shall indemnify and hold Lessee harmless from all injuries to Structures or third persons caused by the Property, Lessor, Lessor's employees, agents, licensees and contractors.

8. **CONDEMNATION:** In the event that all or any part of the Property is acquired or sought to be acquired by power of eminent domain, whether by condemnation or sale in lieu thereof, Lessee shall be entitled, in its sole and absolute discretion, to: (a) contest the acquisition; (b) reconstruct any of its Structures on the remaining portion of the Property; and/or (c) recover damages and compensation for its property and leasehold interests taken or impacted by the acquisition.

9. **ASSIGNMENT:** This Lease is binding upon the heirs, successors and assigns of both Lessor and Lessee, with the exception of any termination rights of Lessor set forth in this Lease or any Addendum, which rights may only be exercised by the original Lessor (whose name is set forth at the top of this Lease). Lessor agrees not to terminate or assign this Lease for the benefit of any competitor of Lessee without Lessee's written permission. Lessee shall have the absolute right to assign its rights under this Lease.

10. **OPTION RIGHT:** None.

11. **NOTICE:** In order for any notice ("Notice") to Lessor or Lessee to be effective, it must be in writing and sent certified mail, return receipt requested, or via a nationally recognized Next-Day courier service, and then shall only be effective upon the earlier of: (a) the date that said Notice is delivered and received by a person at the address specified in the Lease; or (b) the date that is three (3) days after mailing (postage prepaid) to such address; provided that in either case Notice shall be delivered to such other address as Lessor or Lessee, as the case may be, has previously designated in writing and provided to the other by Notice as set forth herein.

12. **MEMORANDUM OF LEASE:** Lessor agrees that Lessee may record a Memorandum of Lease (or similar document) with respect to the Lease and the Lessee's interest therein.

13. **MISCELLANEOUS:** In the event of litigation between Lessor and Lessee predicated upon this Lease, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs, provided, however, that the defaulting party shall first be given written Notice of any default, and shall have failed to cure such default within thirty (30) days of receipt of said Notice. Neither Lessor nor Lessee shall be bound by any terms, conditions, or oral representations that are not set forth in this Lease. The law of the state in which the Property is located shall govern. Lessor acknowledges and agrees that a breach by the Lessor of the covenants in Paragraph 1 shall entitle Lessee to the following, non-exclusive, remedies: (a) temporary and permanent injunctive relief curing such breach; (b) the sum of actual costs incurred for each day (or partial day) that such breach occurs (as liquidated damages and not a penalty); and (c) reimbursement of any and all attorney fees incurred by Lessee with respect to such breach. This Lease (and any Addendum) represents the entire agreement of Lessee and Lessor with respect to the Structures and the Property.

14. **ADDENDUM:** There is is not an addendum attached to this Lease and incorporated by this reference (check one).

ADAMS OUTDOOR ADVERTISING LIMITED PARTNERSHIP

By: Adams Outdoor GP, LLC
Its: General Partner

CITY OF EAST PEORIA

Name of Lessor or Authorized Representative

By: _____
Richard J. Zecchino
Vice President & General Counsel

By: _____

Print Name

Approved By: _____
General Manager

SSN or FEIN#: _____

Lessor's Phone #: _____

Witness (1)

Witness (1)

Witness (2)

Witness (2)