

## BUSINESS IMPROVEMENT DISTRICT FUNDING AGREEMENT

### RIVERSIDE NEW CAR DEALERS ASSOCIATION, INC.

#### Display on Riverside Auto Center Sign

On this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, the CITY OF RIVERSIDE, a California charter city and municipal corporation (“City”), and **RIVERSIDE NEW CAR DEALERS ASSOCIATION, INC.**, a California corporation (“New Car Dealers”), mutually agree as follows:

1. **Scope of Services.** New Car Dealers agrees to provide and/or reserve for the City a minimum of fifteen percent (15%) of advertising time daily (approximately 171 minutes per day) on New Car Dealers freeway-oriented electronic pylon reader board, located south of State Route 91 Freeway and north of Susan Street in the Riverside Auto Center. City shall retain exclusive control over the content of the display during the City’s portion of the advertising time. City shall draft a policy to provide consistency in the information advertised on the New Car Dealers freeway oriented electronic pylon reader board.

2. **Term.** This Agreement shall be in effect for five years, beginning on the date of execution through June 30, 2028, unless otherwise terminated pursuant to the provisions herein.

3. **Payment.** City shall pay New Car Dealers the sum of One Hundred Thousand Dollars (\$100,000) per year for the use of the electronic display. Annual payments shall be due by September 1<sup>st</sup> of each year.

4. **Maintenance.** New Car Dealers shall be responsible for the repair and maintenance of the electronic reader board, all of its components, and all landscaping surrounding the pylon reader board.

5. **Business Tax Certificate.** As a condition of this Agreement, New Car Dealers shall secure a business tax certificate to operate in the City of Riverside pursuant to Chapter 5.04 of the Riverside Municipal Code, and shall also secure any other licenses or permits which may be required.

6. **Assignment.** Neither party shall assign any right, interest, or obligation in or under this Agreement to any other entity without prior written consent of the other party.

7. **Termination.** This Agreement may be terminated by either party upon default of any of the terms or conditions of this Agreement. Prior to termination, the non-defaulting party shall give the other party written notice of the alleged default. The defaulting party shall then have fifteen (15) days in which to cure said default. If the default cannot be cured within fifteen (15) days, so long as the defaulting party has taken steps to cure the default, this agreement will continue. If however, the default has not been cured, or the defaulting party has not taken steps to cure the default, then this Agreement shall automatically terminate.

8. **Non-Discrimination.** During performance of this Agreement, neither party shall discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical disability, mental disability, medical condition including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, gender, gender identity, genetic information, gender expression, sex or sexual orientation, military and veteran status, in the selection and retention of employees and subcontractors and the procurement of materials and equipment, except as provided in Section 12940 of the California Government Code. Further, both parties agree to conform to the requirements of the Americans with Disabilities Act in the performance of this Agreement.

9. **Notices.** Service of any notices, bills, invoices or other documents required or permitted under this Agreement shall be sufficient if sent by one party to the other by United States mail, postage prepaid and addressed as follows:

To City

City Manager's Office  
City of Riverside  
Attn: City Manager  
3900 Main Street  
Riverside, CA 92522

To Contractor

New Car Dealers Association, Inc.  
Attn: David Crain  
P.O. Box 4066  
Riverside, CA 92514

10. **Venue.** Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in the Superior Court of California, County of Riverside and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

11. **Waiver.** No action or failure to act by the City shall constitute a waiver of any right or duty afforded City under this Agreement, nor shall any action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically provided in this Agreement or as may be agreed in writing.

12. **Severability.** Each provision, term, condition, covenant and/or restriction, in whole and in part, in this Agreement shall be considered severable. In the event any provision, term, condition, covenant and/or restriction, in whole and/or in part, in this Agreement is declared invalid, unconstitutional, or void for any reason, such provision or part thereof shall be severed from this Agreement and shall not affect any other provision, term, condition, covenant and/or restriction of this Agreement and the remainder of the Agreement shall continue in full force and effect.

13. **Amendments.** It is mutually understood and agreed that this Agreement may be modified or amended only by a written agreement executed by the parties hereto.

14. **Authority.** The individuals executing this Agreement and the instruments referenced herein on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions hereof and thereof.

15. **Entire Agreement.** This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the parties pertaining to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings or agreements of the parties. Neither party has been induced to enter into this Agreement by, and neither party is relying on, any representation or warranty outside those expressly set forth in this Agreement.

16. **Digital and Counterpart Signatures.** Each party to this Agreement intends and agrees to the use of digital signatures that meet the requirements of the California Uniform Electronic Transactions Act (Civil Code §§ 1633.1, et seq.), California Government Code § 16.5, and California Code of Regulations Title 2 Division 7 Chapter 10, to execute this Agreement. The parties further agree that the digital signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures for purposes of validity, enforceability, and admissibility. For purposes of this section, a “digital signature” is defined in subdivision (d) of Section 16.5 of the Government Code and is a type of “electronic signature” as defined in subdivision (h) of Section 1633.2 of the Civil Code. This Agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each certified or authenticated electronic copy of an encrypted digital signature shall be deemed a duplicate original, constituting one and the same instrument and shall be binding on the parties hereto.

17. **Interpretation.** City and New Car Dealers acknowledge and agree that this Agreement is the product of mutual arms-length negotiations and accordingly, the rule of construction, which provides that the ambiguities in a document shall be construed against the drafter of that document, shall have no application to the interpretation and enforcement of this Agreement.

17.1 Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of the Agreement or any of its terms. Reference to section numbers, are to sections in the Agreement unless expressly stated otherwise.

17.2 This Agreement shall be governed by and construed in accordance with the laws of the State of California in effect at the time of the execution of this Agreement.

**[SIGNATURES ON FOLLOWING PAGE]**

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF RIVERSIDE,  
a California charter city and municipal  
corporation

RIVERSIDE NEW CAR DEALERS  
ASSOCIATION, INC.,  
a California corporation

By: \_\_\_\_\_  
City Manager

By:   
Dave Crain (Jul 31, 2023 12:08 PDT)  
Print Name: Dave Crain  
Title: President

Attest: \_\_\_\_\_  
City Clerk

**and**

Certified as to Availability of Funds:

By:   
Jonathan Kienle (Jul 31, 2023 12:01 PDT)  
Print Name: Jonathan Kienle  
Title: Treasure

By: \_\_\_\_\_  
Chief Financial Officer

Approved as to Form:

By: *Susan Wilson*  
Susan Wilson (Jul 31, 2023 13:22 PDT)  
Deputy City Attorney