

SETTLEMENT AGREEMENT

This Agreement is made this ^{13th} ~~16~~ day of MARCH, 1999 by and between City of Jacksonville, Florida ("City") and Racetrac Petroleum, Inc. ("Racetrac").

WITNESSETH:

WHEREAS, sign proliferation in the City of Jacksonville was addressed by the Mayor's Task Force on Growth Management beginning in 1984 and by the Jacksonville Community Council, Inc.'s "Visual Pollution Study" in 1985;

WHEREAS, a new sign ordinance was considered and debated over a two-year period beginning in late 1985;

WHEREAS, Ordinance 861523-871 became effective on March 21, 1987, and has been subsequently amended;

WHEREAS, Racetrac has filed suit in the Circuit Court, Fourth Judicial Circuit in and for Duval County, Florida, challenging the validity, constitutionality and enforceability of provisions of the City's Sign Laws;

WHEREAS, the parties desire to settle and resolve the current litigation and all disputes between Racetrac and the City regarding the City's Sign Laws;

WHEREAS, in order to induce Racetrac to enter into this Agreement, the City represents and warrants that this Agreement is valid and enforceable and that it has the authority to enter into this Agreement;

WHEREAS, in order to induce the City to enter into this Agreement, Racetrac represents and warrants that it has the authority to enter into this Agreement;

WHEREAS, Racetrac has agreed to remove certain signs and downsize other signs as further described in this Agreement in accordance with the time frame set forth herein and to take such other actions as are described herein.

NOW THEREFORE, in consideration of the mutual promises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties to this Agreement hereby agree as follows:

1. Definitions. As used in this Agreement, the following words and phrases shall have the following meanings:

(a) The term "sign" shall mean the combination of sign structure and sign face.

(b) The term "sign face" shall mean the part of a sign including trim and rectangular or other geometric background that includes the message or informative contents.

(c) The term "sign structure" shall mean all the interrelated parts and materials such as beams, poles and stringers which are constructed for the purpose of supporting the sign face.

(d) The term "the City's Sign Laws" shall mean Chapters 320, 326 and 656 of the Ordinance Code of the City of Jacksonville and Article 23 of the Charter of the City of Jacksonville.

(e) The term "Community Visual Enhancement Fund" or "Fund" shall mean the Jacksonville Community Foundation's Community Visual Enhancement Fund, which Funds shall be used for the beautification and other visual enhancement purposes including, but not limited to, the removal of the illegal or nonconforming signs and the landscaping of public right-of-way.

(f) The term "downsize" shall mean to reduce the size of the sign face to 300 square feet or such smaller size as required by law, and to reduce the height of the sign to meet any height requirements of applicable law as such exists at the execution of this Agreement. The term "downsize" in the contents of this Agreement shall include such action as is necessary to comply with any and all setback or other locational requirements of applicable law as such exists at the execution of this Agreement.

(g) The term "effective date" shall mean the date that this Agreement is signed by all parties hereto.

(h) The term "Racetrac" shall mean Racetrac Petroleum, Inc., a Georgia corporation, all of its successors, assignees, shareholders, directors and employees.

2. Representations and Warranties.

(a) Racetrac's Representations and Warranties. Racetrac makes the following representations and warranties in connection with this Agreement:

(1) Racetrac represents and warrants that the signs listed in Exhibit "A" represent all the signs located in Duval County, Florida in which Racetrac has ownership interest.

(2) Racetrac represents and warrants that the signs listed in Exhibit "B" represent those signs which will either be removed or downsized as provided in this Agreement.

(3) Racetrac represents and warrants that it has the ability to perform all of its obligations under this Agreement with respect to the signs identified in Exhibits "A" and "B".

(b) The City's Representations and Warranties. The City represents and warrants that it has the authority to enter into this Agreement and this Agreement is valid and enforceable in accordance with its terms, and that this representation and warranty is hereby severable and will survive this Agreement.

3. Repair and Maintenance of Existing Signs. Racetrac shall have the right to maintain and make repairs to its existing signs. This right shall be unlimited except that no changes may be made to a sign's height and/or size except as otherwise required in this Agreement. Racetrac shall obtain the required building permits prior to commencing repairs. Permits shall not be required for non-structural repairs including, but not limited to, replacement of bolts, angle irons, safety equipment and similar sign components.

4. Removal of Sign at 5948 Arlington Expressway. Within ninety (90) days of the effective date of this Agreement, Racetrac shall remove one of the two signs at 5948 Arlington Expressway. Racetrac shall downsize the remaining sign at 5948 Arlington Expressway in accordance with the provisions of paragraph 5 below.

5. Downsizing of Sign at 5948 Arlington Expressway. Racetrac shall downsize its remaining sign at 5948 Arlington Expressway; (i) by April 1, 1999 in the event it elects not to exercise the option in (ii), (iii) or (iv) below; (ii) by March 1, 2005 provided that Racetrac makes payment of \$35,000 into the Community Visual Enhancement Fund within ninety (90) days of the effective date of this Agreement; or (iii) by March 1, 2018 provided Racetrac makes payment of the sum of \$75,000 into the Community Visual Enhancement Fund within ninety (90) days of the effective date; or (iv) by March 1, 2018 provided that Racetrac makes payment of \$35,000 into the Community Visual Enhancement Fund within ninety (90) days of the effective date of this Agreement, notifies City prior to March 1, 2005 of its intention to extend the downsize period to March 1, 2018 with such notice revocable by Racetrac at any time, and pay an additional sum of \$53,600 into the Community Visual Enhancement Fund on or before March 1, 2005.

6. Downsizing of Sign at 647 Cassat Avenue. Racetrac shall downsize its sign at 647 Cassat Avenue; (i) by April 1, 1999 in the event it elects not to exercise the option in (ii), (iii) or (iv) below; (ii) by March 1, 2005 provided that Racetrac makes payment of \$35,000 into the Community Visual Enhancement Fund within ninety (90) days of the effective date of this Agreement; or (iii) by March 1, 2018 provided Racetrac makes payment of the sum of \$75,000 into the Community Visual Enhancement Fund within ninety (90) days of the effective date; or (iv) by March 1, 2018 provided that Racetrac makes payment of \$35,000 into the Community Visual Enhancement Fund within ninety (90) days of the effective date of this Agreement, notifies City prior to March 1, 2005 of its intention to extend the downsize period to March 1, 2018 with such notice revocable by Racetrac at any time, and pay an additional sum of \$53,600 into the Community Visual Enhancement Fund on or before March 1, 2005.

7. Downsizing of Sign at 7801 Normandy Boulevard. Racetrac shall downsize its sign at 7801 Normandy Boulevard; (i) by April 1, 1999 in the event it elects not to exercise the option in (ii), (iii) or (iv) below; (ii) by March 1, 2005 provided that Racetrac makes payment of \$35,000 into the Community Visual Enhancement Fund within ninety (90) days of the effective date of this Agreement; or (iii) by March 1, 2018 provided Racetrac makes payment of the sum of \$75,000 into the Community Visual Enhancement Fund within ninety (90) days of the effective date; or (iv) by March 1, 2018 provided that Racetrac makes payment of \$35,000 into the Community Visual Enhancement Fund within ninety (90) days of the effective date of this Agreement, notifies City prior to March 1, 2005 of its intention to extend the downsize period to March 1, 2018 with such notice revocable by Racetrac at any time, and pay an additional sum of \$53,600 into the Community Visual Enhancement Fund on or before March 1, 2005.

8. Downsizing of Sign at 5109 University Boulevard. Racetrac shall downsize its sign at 5109 University Boulevard; (i) by April 1, 1999 in the event it elects not to exercise the option in (ii), (iii) or (iv) below; (ii) by March 1, 2005 provided that Racetrac makes payment of \$35,000 into the Community Visual Enhancement Fund within ninety (90) days of the effective date of this Agreement; or (iii) by March 1, 2018 provided Racetrac makes payment of the sum of \$75,000 into the Community Visual Enhancement Fund within ninety (90) days of the effective date; or (iv) by March 1, 2018 provided that Racetrac makes payment of \$35,000 into the Community Visual Enhancement Fund within ninety (90) days of the effective date of this Agreement, notifies City prior to March 1, 2005 of its intention to extend the downsize period to March 1, 2018 with such notice revocable by Racetrac at any time, and pay an additional sum of \$53,600 into the Community Visual Enhancement Fund on or before March 1, 2005.

9. Removal of Sign at 4544 Atlantic Boulevard. Within one hundred and eighty (180) days of the effective date of this Agreement, Racetrac shall remove the sign at 4544 Atlantic Boulevard.

10. Downsizing of Sign at 9940 Atlantic Boulevard. Racetrac shall downsize its sign at 9940 Atlantic Boulevard; (i) by April 1, 1999 in the event it elects not to exercise the option in (ii), (iii) or (iv) below; (ii) by March 1, 2005 provided that Racetrac makes payment of \$35,000 into the Community Visual Enhancement Fund within ninety (90) days of the effective date of this Agreement; or (iii) by March 1, 2018 provided Racetrac makes payment of the sum of \$75,000 into the Community Visual Enhancement Fund within ninety (90) days of the effective date; or (iv) by March 1, 2018 provided that Racetrac makes payment of \$35,000 into the Community Visual Enhancement Fund within ninety (90) days of the effective date of this Agreement, notifies City prior to March 1, 2005 of its intention to extend the downsize period to March 1, 2018 with such notice revocable by Racetrac at any time, and pay an additional sum of \$53,600 into the Community Visual Enhancement Fund on or before March 1, 2005.

11. Additional Sign Regulation. In consideration for Racetrac's agreements as provided herein, the City covenants that it shall not sue or otherwise bring any enforcement or

regulatory actions against Racetrac, its successor or assignees, in connection with the signs listed in Exhibits "A" and "B" insofar as those signs and the specific rights granted herein to maintain and repair said signs are affected by any existing or additional regulations governing (i) height, (ii) size, (iii) placement (including but not limited to setbacks and other locational criteria), (iv) orientation, (v) appropriate or permissible land use, and (vi) maintenance and repair, from the Effective Date until March 1, 2018. During the term of this Agreement, and provided Racetrac complies with all the provisions of this Agreement, then Racetrac's signs as listed in Exhibits "A" and "B" are declared to be in conformance with all legislation enacted by or governing the City of Jacksonville prior to and on the Effective Date; and to the extent that they are not in compliance, the non-compliance is waived during the remaining term of this Agreement provided Racetrac complies with all the provisions of this Agreement. City covenants that it will evaluate and process Racetrac's permit application for the replacement price sign at 4544 Atlantic Boulevard within 45 days of submittal. City covenants that its approval of Racetrac's permit application for the replacement sign at 4544 Atlantic Boulevard will not be unreasonably withheld. City further covenants that it will not deny Racetrac remodeling permits for any Racetrac store located in the Jacksonville metropolitan area based on any issue covered in this Agreement. Nothing herein shall be construed to limit or impair the City's authority to enact ordinances governing sign regulations; provided, however, that enforcement of such regulations shall not conflict or be inconsistent with the rights set forth in this Agreement.

12. Pending Litigation. Upon submission of this Agreement to the City Council, City and Racetrac agree to jointly request that the pending actions in the Circuit Court, Fourth Judicial Circuit, in and for Duval County, Florida, Case Nos. 94-3052-CA and 93-000080-AP, be stayed pending approval of this Agreement by the City Council. Upon this Agreement becoming effective, Racetrac and the City agree to file joint motions for the entry of stipulated final judgments approving the settlement agreement in the pending actions in the Circuit Court, Fourth Judicial Circuit, in and for Duval County, Florida, Case Nos. 94-3052-CA and 93-000080-AP. The final judgments shall operate as a release of the parties' claims out of or in any way relating to the pending litigation, with prejudice, which final judgments shall not operate to prevent any party from maintaining a separate action to enforce compliance with the terms of this Agreement. Except as provided in this Agreement, or any supplement agreement, each party shall bear its own costs, including attorneys' fees incurred in the pending litigation.

13. Release and Waiver. The City hereby releases and forever holds harmless Racetrac, its officers, directors, shareholders, agents and employees, from any and all claims, actions, causes of actions, damages and costs arising out of violations, actual and alleged, of Chapter 320, 326 or 656 of the Jacksonville Ordinance Code which have been or might have been brought as of the time of this Agreement. Racetrac hereby releases and forever discharges the City, its elected officials, agents and employees, from any and all claims, actions, causes of actions, damages or costs that were or could have been subject to the pending actions in the Circuit Court, Fourth Judicial Circuit, in and for Duval County, Florida, Case Nos. 94-3052-CA and 93-000080-AP. However, neither the City nor Racetrac shall be deemed to have waived or abandoned any right to bring an action to enforce the terms, conditions and limitations of this Agreement.

14. Proof of Compliance with Settlement Agreement. Within (30) thirty days of receipt of written notice from the City mailed to: General Counsel, Racetrac Petroleum 300 Technology Court, Smyrna, Ga. 30087, Racetrac and any successors in interest shall furnish proof of compliance with the Settlement Agreement in connection with the removal and/or downsizing of signs. Such proof shall include delivery of photographs showing the sign location both before and after removal of the sign, or the sign location both before and after downsizing of the sign. The photographs shall be labeled to show the permit number of each sign depicted in the photograph, the address of the same, the date of removal or downsizing, and the permit number issued by the City for the removal or downsizing.

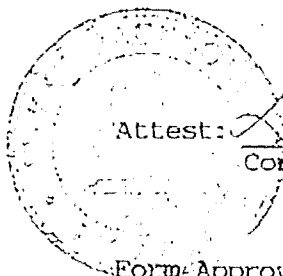
15. Assignees, Purchasers and Successors in Interest. This Agreement shall, at the option of Racetrac, be binding upon future owners of the signs covered by the Agreement. Any person who hereafter acquires any interest in a sign structure or sign face covered by this Agreement shall be obligated at Racetrac's option to comply with the required removal and/or downsizing of signs or to fulfill the obligations under this Agreement. If Racetrac elects to exercise its option to assign, the person who purchases any sign covered by this Agreement shall execute an agreement in the form attached hereto as Exhibit "C" whereby the purchaser acknowledges the terms, limitations and conditions of this Agreement and the purchaser agrees to be bound thereby and agrees to have the same form of Agreement be executed by any and all subsequent purchasers.

16. Entire Agreement. This is the entire agreement by and between the City and Racetrac, and no verbal or written assurance or promise by any party hereto is effective or binding unless included in this document.

17. Binding Effect. This Agreement shall be binding on and shall inure to the benefit of the successors and assignees of all parties to this Agreement. Racetrac agrees not to transfer or otherwise convey any ownership interest in any sign listed in Exhibits "A" and "B" unless the transferee shall execute an agreement to be bound by the terms and conditions of this Agreement, which agreement shall be in substantially the form attached hereto as Exhibit "C."

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the undersigned officials as duly authorized.

THE CITY OF JACKSONVILLE



Attest: Louise Williams
Corporation Secretary

By: John Delaney
John Delaney, Mayor

Form Approved:

Tracey A. Arpen, Jr.
Deputy General Counsel
City of Jacksonville

RACETRAC PETROLEUM, INC.

By: Max Latta
President

EXHIBIT "A"

[Signs owned by Racetrac in Jacksonville, Duval County, Florida]

1. 5948 Arlington Expressway, Jacksonville, Florida
2. 5948 Arlington Expressway, Jacksonville, Florida
3. 647 Cassat Avenue, Jacksonville, Florida
4. 7801 Normandy Boulevard, Jacksonville, Florida
5. 5109 University Boulevard, Jacksonville, Florida
6. 4544 Atlantic Boulevard, Jacksonville, Florida
7. 9940 Atlantic Boulevard, Jacksonville, Florida
8. 6425 Trout River Boulevard, Jacksonville, Florida
9. 7780 Blanding Boulevard, Jacksonville, Florida
10. 8405 Beach Boulevard, Jacksonville, Florida
11. 9980 New Kings Road, Jacksonville, Florida

EXHIBIT "B"

[Signs owned by Racetrac in Jacksonville, Duval County, Florida,
which will be removed and/or downsized pursuant to Settlement Agreement]

To be Removed

1. 5948 Arlington Expressway, Jacksonville, Florida (one of two signs located on property)
2. 4544 Atlantic Boulevard, Jacksonville, Florida

To be Downsized

3. 5948 Arlington Expressway, Jacksonville, Florida (remaining sign not removed above)
4. 647 Cassat Avenue, Jacksonville, Florida
5. 7801 Normandy Boulevard, Jacksonville, Florida
6. 5109 University Boulevard, Jacksonville, Florida
7. 9940 Atlantic Boulevard, Jacksonville, Florida

EXHIBIT "C"

AGREEMENT OF TRANSFEREE

Under this Agreement of Transferee, made this ___ day of _____,
_____, _____ ("Transferee") acknowledges
and agrees as follows:

1. Transferee acknowledges that _____ is transferring one or more signs to Transferee as listed in Exhibit 1 attached hereto.
2. Transferee acknowledges that Racetrac Petroleum, Inc. and the City of Jacksonville have entered into a settlement agreement dated as of _____, 1998, which governs the sign(s) listed in Exhibit 1 attached hereto. Transferee acknowledges having received a copy of said settlement agreement and understands all of the terms, provisions, conditions, and limitations of that settlement agreement.
3. In consideration of receiving the benefits of the transfer of the sign(s) and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Transferee agrees to be bound by all of the terms, provisions, conditions, and limitations of that settlement agreement as the same may apply to the signs owned by the undersigned or in which the undersigned has an interest, including the condition that the undersigned Transferee obtain the same agreement from any subsequent transferee.

By _____