

**BILLBOARD BANKING AGREEMENT  
BY AND BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND  
OUTFRONT MEDIA LLC**

**PREAMBLE**

This billboard banking agreement ("Agreement") is by and between OUTFRONT Media LLC, a Delaware limited liability company, with its principal place of business located at 405 Lexington Avenue, New York, NY 10174 ("Advertiser"), and the City of Santa Clara, California, a chartered California municipal corporation with its primary business address at 1500 Warburton Avenue, Santa Clara, California 95050 ("City"). City and Advertiser may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement." This Agreement shall commence on the "Effective Date," which is the date that the final signatory executes the Agreement.

**RECITALS**

- A. WHEREAS, Sections 18.80.220-.221 of the Code of the City of Santa Clara, California ("SCCC") limit the total number of billboards within the City limits and prohibit the construction of additional billboards, except through billboard relocation agreements pursuant to Business & Professions Code section 5412 and the City Council Policy Statement for Billboard Relocation Agreements;
- B. WHEREAS, Pursuant to SCCC Section 18.80.220(b)(6), any billboard that has been dismantled or removed for a period of 120 consecutive calendar days would ordinarily cease to be counted towards the total permissible billboards within the City;
- C. WHEREAS, Advertiser is the owner of a number of billboard faces and structures within the City of Santa Clara including the following:
  - a. 4545 Stevens Creek Boulevard (2 faces)
  - b. 2983 El Camino Real (2 faces)
  - c. 3362 El Camino Real (2 faces)
  - d. 2550 Lafayette Street (1 face)
- D. WHEREAS, Advertiser wishes to construct, within the City, and at some future date, a two-sided digital billboard ("Proposed Sign");
- E. WHEREAS, In accordance with the City Council Policy Statement for Billboard Relocation Agreements, Advertiser must remove 3 existing billboard faces for each new digital face it wishes to install, such that a total of 6 existing billboard faces must be removed in order to install a new digital billboard with two faces;

- F. WHEREAS, Advertiser wishes to remove the two-sided billboard structure located at 4545 Stevens Creek Boulevard and "bank" those sides towards the future construction of the Proposed Sign; and
- G. WHEREAS, Advertiser believes that it will seek City approval of its construction of the Proposed Sign, at some future date, before December 31, 2020.

Now therefore, in consideration of the mutual promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

#### AGREEMENT PROVISIONS

1. The term of this Agreement shall begin on the Effective Date of this Agreement and terminate on December 31, 2020.
2. Advertiser agrees as follows:
  - a. Advertiser shall remove its 2-sided billboard structure from 4545 Stevens Creek Boulevard, including the billboard's two faces, within 90 days after the Effective Date of this Agreement, and
  - b. Advertiser shall remove the billboard face at 2550 Lafayette Street by December 31, 2020, and
  - c. Advertiser shall remove the remaining 4 billboard faces listed in Recital C, including billboard faces at 2983 and 3362 El Camino Real, on or before December 31, 2020 so long as Advertiser has successfully obtained all state and City approvals to construct and operate the Proposed Sign prior to December 31, 2020, and the statutes of limitation for legally opposing such approvals have expired without challenge. However, in Outfront's sole discretion, it may remove the remaining 4 billboard faces listed in Recital C prior to the expiration of any applicable statutes of limitation and satisfy the requirements of this paragraph.
3. In exchange for Advertiser's obligations concerning timely removal of the two-sided billboard structure at 4545 Stevens Creek Boulevard and its obligations concerning removal of the billboard face at 2550 Lafayette Street pursuant to the terms of Section 1 of this Agreement, City shall allow Advertiser to "bank" the two billboard faces from the removal of the 4545 Stevens Creek Boulevard structure, until December 31, 2020. Thus, in the event Advertiser applies for City approval of the construction of the Proposed Sign on or before December 31, 2020, Advertiser may credit the two billboard faces it removed from 4545 Stevens Creek Boulevard towards the total billboard faces required to be removed under the City Council Policy Statement.
4. If Advertiser fails to remove the seven (7) billboard structures described in this Agreement within the timeframes specified in Sections 1 to 3 of this Agreement (the "Deadlines"), and such failure is due to a delay caused by a public agency with approval authority over the removal work that has withheld a permit for Advertiser to proceed with the removal work, then the Deadlines shall

be tolled until such time as the public agency grants the permit required for the removal work to proceed. The Parties also agree that the Deadlines shall toll in the event there is a legal challenge to this Agreement or any approval for the removal work. The tolling period shall last until the date upon which any legal challenge is resolved. Nothing in this Agreement shall operate to constrain the City's discretion in considering any application by the Advertiser for the Proposed Sign.

5. Except as necessary to allow for the "banking" of the 2-sided billboard structure at 4545 Stevens Creek Boulevard, as set forth in Section 3 of this Agreement, within the timeframes set forth in Sections 1 to 4 of this Agreement, the Parties expressly acknowledge and agree that this Agreement does not affect, and has no bearing upon, Advertiser's rights and responsibilities with respect to satisfaction of any provision of California State law, City Code or Council Policy Statement, including, but not limited to, zoning codes, building codes, permit requirements, public service announcement requirements, and payment of fees. Advertiser must satisfy all other applicable requirements without reference to this Agreement.
6. This Agreement shall not be assigned or transferred without the prior written approval of City, though such approval shall not unreasonably be withheld.
7. This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.
8. To the extent permitted by law, Advertiser agrees to protect, defend, hold harmless and indemnify City, its City Council, commissions, officers, employees, volunteers and agents from and against any claim, injury, liability, loss, cost, and/or expense or damage, including all costs and reasonable attorney's fees in providing a defense to any claim arising therefrom, made by third parties for which City shall become liable arising from Advertiser's negligence, reckless or wrongful acts, errors, or omissions with respect to or in any way connected with this Agreement.
9. This Agreement may be amended only with the written consent of both Parties.
10. This Agreement represents the entire agreement between City and Advertiser with respect to the subject matter of this Agreement. No other understanding, agreements, conversations, or otherwise, with any representative of City prior to execution of this Agreement shall affect or modify any of the terms or obligations of this Agreement. Any verbal agreement shall be considered unofficial information and is not binding upon City.
11. In case any one or more of the provisions in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect.
12. Advertiser agrees that waiver by City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement.

13. All notices to the Parties shall, unless otherwise requested in writing, be sent to City addressed as follows:

City of Santa Clara  
Attention: City Manager's Office  
1500 Warburton Avenue  
Santa Clara, California 95050  
or by facsimile at (408) 241-6771

And to Advertiser addressed as follows:

Name:           OUTFRONT Media LLC  
Address:       1695 Eastshore Hwy  
                  Berkeley, CA 94710

With a copy to: Miller Starr Regalia  
                  Attention: Anthony M. Leones, Esq.  
                  1331 N. California Blvd., Fifth Floor  
                  Walnut Creek, CA 94596

If notice is sent via facsimile, a signed, hard copy of the material shall also be mailed. The workday the facsimile was sent shall control the date notice was deemed given if there is a facsimile machine generated document on the date of transmission. A facsimile transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following Monday.

14. This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California. The venue of any suit filed by either Party shall be vested in the state courts of the County of Santa Clara, or if appropriate, in the United States District Court, Northern District of California, San Jose, California.

15. Dispute Resolution.

- A. Unless otherwise mutually agreed to by the Parties, any controversies between Advertiser and City regarding the construction or application of this Agreement, and claims arising out of this Agreement or its breach, shall be submitted to mediation within thirty (30) days of the written request of one Party after the service of that request on the other Party.
- B. The Parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request the Superior Court of Santa Clara County to appoint a mediator. The mediation meeting shall not exceed one day (eight (8) hours). The Parties may agree to extend the time allowed for mediation under this Agreement.
- C. The costs of mediation shall be borne by the Parties equally, except as provided in Section 15(D) of this Agreement
- D. For any contract dispute, mediation under this section is a condition precedent to filing an action in any court. In the event of mediation which arises out of any dispute related to this Agreement, the Parties shall each pay their respective attorney's fees, expert witness

costs and cost of suit through mediation only. In the event of litigation, the prevailing Party shall recover its reasonable costs of suit, expert's fees, and attorney's fees. If mediation does not resolve the dispute, the Parties agree that the matter shall be litigated in a court of law, and not subject to the arbitration provisions of the Public Contracts Code.

16. This Agreement does not prevent either Party from entering into similar agreements with other parties. To prevent a conflict of interest, Advertiser certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Advertiser and that no person associated with Advertiser has any interest, direct or indirect, which could conflict with Advertiser's faithful performance of this Agreement. Advertiser is familiar with the provisions of California Government Code Section 87100 and following, and certifies that it does not know of any facts which would violate these code provisions. Advertiser will advise City if a conflict arises.
17. This Agreement is a fully integrated agreement and sets forth the entire understanding between the Parties with respect to the matters stated in this Agreement and supersedes any and all prior agreements or understandings between the Parties, whether oral or written.
18. In case any one or more of the provisions in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect.
19. Interpretation and construction:
  - A. The Parties represent and declare that, in executing this Agreement, they relied solely upon their own judgment, belief and knowledge, and that they have obtained the advice and recommendations of their own independently selected counsel concerning the nature, extent or duration of their rights and claims; and that they have not been influenced to any extent whatsoever in executing this Agreement by any representations or statements not expressly contained or referred to in this Agreement.
  - B. The preparation of this Agreement has been a joint effort of the Parties, and thus any term or provision contained herein may not be construed more strictly or liberally for or against any of the Parties.
20. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument.
21. The Parties agree that signatures on this Agreement, including those transmitted by facsimile, shall be sufficient to bind the Parties. Advertiser represents that Advertiser's signatory to this Agreement is authorized by resolution, bylaws, constitution, or other authorization of Advertiser, which resolution, bylaw, constitution, or other authorization is currently in full force and effect, to execute this Agreement on Advertiser's behalf. The City represents that this Agreement is authorized by local ordinance, regulation, policy, or other law, and that the City Manager is authorized to sign this Agreement on behalf of the City, to execute amendments thereto, and to take any other action necessary to implement this Agreement.

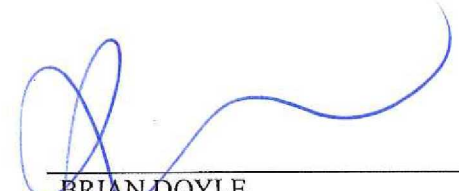
The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives.

**CITY OF SANTA CLARA, CALIFORNIA**

a chartered California municipal corporation

APPROVED AS TO FORM:

Dated: 5.11.17

  
BRIAN DOYLE  
Interim City Attorney

  
RAJEEV BATRA  
Interim City Manager  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Telephone: (408) 615-2210  
Fax: (408) 241-6771

ATTEST:

  
For ROD DIRIDON, JR.  
City Clerk

"CITY"

**OUTFRONT MEDIA LLC**

A Delaware corporation

Dated: 5-4-17

By:   
(Signature of Person executing on behalf of Advertiser)

Printed Name: Rob Shilling

Title: General Manager

Address: 1695 Eastshore Hwy  
Berkeley, CA 94710

Email Address: Rob.Shilling@outfrontmedia.com

Telephone: (510) 559-1133

Fax: ( )

"ADVERTISER"