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February 17, 2023

VIA ELECTRONIC MAIL

Marie Blankley, Mayor of the City of Gilroy  
Members of the Gilroy City Council  
City of Gilroy  
7351 Rosanna Street  
Gilroy, CA 95020

Re: Appeal of Planning Commission's February 2, 2023 Denial of Ordinance Change  
(Project Number: Z 18-04)

Dear Mayor Blankley and Honorable Members of the City Council:

Outfront Media, Inc. is an outdoor media company that provides digital advertising services for businesses so they can reach their target audiences. Although Outfront provides advertising services to businesses of all sizes, the majority of Outfront's users are small and local businesses.

By this letter, Outfront appeals the City Planning Commission's split decision on February 2, 2023 to deny a proposal to change the City's sign ordinances ("Proposed Ordinance").

Almost five years ago, on May 4, 2018, local business owner Mike Conrotto submitted an application for an ordinance change that would permit a maximum of two electronic billboards within the City. On January 19, 2023, the Planning Commission reviewed the application but continued the hearing for further discussion. On February 2, 2023 the Planning Commission resumed the Public Hearing and, on a close vote of four to three, decided to deny the application.

At the Planning Commission meetings, members of the local community and out-of-town members of a San Jose group called "No Digital Billboards in San Jose" spoke against the ordinance change. Meanwhile, members of the Gilroy business community spoke out in favor of the zoning amendment. The debate was spirited and, listening to both sides, one came away with the sense that the City had to choose between preservation of its small-town feel, on the one hand, and a significant influx of money to local businesses and the City, on the other. In this day and age, we are accustomed to binary debates — things are one thing or the other, and there is no in between.

The truth is, the City of Gilroy can have both.

A change to the City's sign ordinance could enhance commercial sales in City businesses by as much as \$16.7 million and City tax revenues by \$3.1 million. Local businesses would benefit most, according to studies and statistics. Meanwhile, the ordinance change would allow just two digital billboards in the entire City, and these billboards would be located in urbanized areas

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adjacent to the highway — areas of the City that already are lit up at night with illuminated business signs, parking lights, and continuous highway traffic. The first sign for consideration, which Mr. Conrotto has proposed,<sup>1</sup> would sit in a heavily used parking lot next to a Tesla dealership with modern, illuminated signage (see photos below). This site would not be visible to homes because the nearest home would sit almost two thousand feet away and on the far side of buildings and trees.



In the debate before the Planning Commission, one would believe, in the absence of fact-checking, that digital signs cause disease and other maladies. It is a tactic — and an effective

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<sup>1</sup> The City would consider this application separately, at a later date, the Proposed Ordinance changes are adopted.

one — for advocates of any cause to sensationalize claims. Unfortunately, this often comes at the expense of truth.

The City Council has a tradition of making fact-based decisions, and we request the Council continue this tradition and take a hard look at all claims and evidence in this matter. In this case, we note that the City hired an independent expert to examine the environmental impacts of the ordinance change, and would encourage the City to rely on the science-based analysis in the administrative record.

In this vein, Outfront would like to address certain misconceptions that have arisen in the course of these proceedings in the hopes of reassuring the City that digital signage is safe, and that Outfront has been a respectful neighbor in other jurisdictions — as well as a great partner with other local governments. Please consider, for instance, the following four misconceptions that have arisen, and the actual facts that matter:

1. **Misconception:** Billboards somehow will be allowed to showcase obscene images in the name of free speech, and the City will not be able to intervene.
  - **Fact 1:** Obscene materials cannot legally be displayed on a billboard and, as correctly explained by the City Attorney during the February 2, 2023 Planning Commission meeting, “the City will be fully protected” because the Proposed Ordinance incorporates a variety of protective mechanisms that would allow the City adequate control over the content of billboards. These mechanisms include: (i) the requirement for compliance with a Development Agreement with the City (which would be a result of an elaborate negotiation process between the City and the billboard company, and which would go through a comprehensive review process by the City’s Planning Commission, the City Council, and the public); (ii) the requirement for the billboards to comply with federal, state, and local laws which also, and already, prohibit obscenity; and (iii) the existing regulation provisions within the Proposed Ordinance. (February 2, 2023 Archive Meeting at 1:24:21.) Specifically, Section 30.55.40(a) of the Proposed Ordinance requires billboards to comply with all applicable federal, state, and local laws; Section 30.55.20(c) requires billboard owners and operators to work out a development agreement with the City; and Section 30.55.40 incorporates standard language prohibiting obscene, indecent, or immoral character as specified in the California Business and Professions Code Section 5402.
  - **Fact 2:** Furthermore, under the market participant doctrine, when a government is acting as a market participant, rather than a regulator, it is treated like any other private entity in the market place without being subject to certain constitutional restrictions that would normally apply to public actors. (See *Trojan Technologies, Inv. v. Com. of Pennsylvania*, 916 F.2d 903 (3rd Cir. 1990 [a state or state subdivision is not subject to Commerce Clause restraints where it acts as a market participant rather than a market regulator].) Since a development agreement between the City and a billboard company would be a private contract resulting from the parties’ negotiation and discussions, it would be enforceable and not subject to free speech challenges. Accordingly, and to reiterate the City Attorney’s correct statements, the City, through a development agreement, would

be able to prohibit content such as political speech, cannabis, and any other types of objectionable content.

- **Fact 3:** Insofar as Outfront is able to construct a sign on Mike Conrotto's property, Outfront and Mr. Conrotto have already agreed to content prohibitions on the sign. The relevant lease provision provides: "Lessee shall not display, or allow the display, on the Sign Structure or anywhere on the Leased Premises of (i) any political signage, (ii) any advertisement that promotes the sale or use of tobacco products, alternatives to tobacco products, cannabis or other illegal substances, or (iii) contains sexually oriented content." Outfront and Mr. Conrotto's can attest that their sensitivities are similar to the City's.
- **Fact 4:** Outfront would be more than willing to add content-based restrictions to any development agreement that it ultimately negotiates with the City. By that token, to the extent any specific billboard project moves forward, Outfront proposes to include the following language regarding content restrictions in the Proposed Ordinance:

Billboards may not display any message on the digital billboard that: (a) promotes the sale of use of firearms or tobacco products, whether directly or indirectly; (b) contains advertising for cannabis or cannabis-related products; (c) promotes adult entertainment, products, conventions, events, or websites; (d) contains "obscene matter," as that term is defined in local, California or federal law, including but not limited to any statements or words of an obscene, indecent or immoral character, or any picture or illustration of any human figure in such detail as to offend public morals or decency or any other matter or thing of an obscene, indecent or immoral character; (e) contains any "political advertising," which means advertising that promotes or opposes any candidate for public office or promotes or opposes a ballot measure, referendum, bond issue, or any federal, state or local legislation, regulation, or other discretionary action; or (f) contains language that presents a clear-and-present danger of causing riot, disorder, or other imminent threat to public safety, peace, or order.

Outfront is open to considering additional terms.

2. **Misconception:** Billboard companies are litigious.

- **Facts:** Outfront has had good, successful partnerships with dozens of cities and counties throughout California, including without limitation, the City of Santa Clara, the City of Millbrae, Alameda County, the City of South San Francisco, the City of San Pablo, the City of Fairfield, the City of El Monte, the City of Bell Gardens, City of Buena Park, and the City of Hawthorne. Never has any of these public agency partners in California ever found Outfront's digital signs to be in non-compliance with a local ordinance, and never has Outfront sued one of these public agency partners. The lawsuits that billboard opponents have referenced are either those brought by activist groups (not billboard companies), or rare, out-

of-state lawsuits initiated by Outfront to protect its rights against overreaching governments. Please consider, too, that:

- Outfront operates approximately 500,000 billboards across North America, and the existence of a few lawsuits does not mean Outfront is litigious.
- Governmental entities, which include hundreds of thousands of federal, state, and local agencies across the country, do not always act in accordance with the law.

At least one other local, California jurisdiction has reached out to the City to share its experience with Outfront, and we invite the City to talk with that agency — or any others — with whom Outfront has a partnership.

3. **Misconception**: Lights from billboards cause cancer and cognitive impairment.

- **Facts**: There is no evidence that billboards cause any health issues. Here, the City has surgically designed the Proposed Ordinance such that brightness levels of digital signs will effectively disappear after 250 feet. The sign operates, essentially, at the same brightness as a laptop screen and, while it will be visible beyond a distance of 250 feet, it will not cast light on the ground beyond that point. Members of the public, including scientists, have claimed that "scattered light" will cause deleterious effects, but they have misused existing studies to reach their conclusions. They have let advocacy cloud their scientific judgment.

The only study that was cited to for these purposes was the article entitled "Artificial Light at Night and Cancer: Global Study" article by Al-Naggar, A., Anil, S. However, this single article is not substantial evidence because:

- (a) the article focuses on the addition of light sources in *untouched, natural habitat* (e.g., forests) rather than urban areas, and is therefore irrelevant;
- (b) the article shows a limited *correlation* between light and disease, which is not the same thing as causation,<sup>2</sup> and the study acknowledges that other factors, such as *population size, electricity consumption, air pollution, forest coverage* also could be the culprit. Other unaccounted-for factors also include *water contamination, alcohol use, smoking, and obesity*; and
- (c) the article omits proof of its findings (the p-value of the correlation between exposure to ALAN and cancer rate) and therefore fails to substantiate its conclusion.

What people fear are the effects on their own interests. The astronomy community, for instance, is concerned about effects on the Lick Observatory, and yet this facility sits 25 miles away from the City of Gilroy. To indulge in the idea

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<sup>2</sup> It is a fallacy of logic to indulge in the idea that correlation even implies causation. The fallacy is recognized by the scientific community and even has its own Latin phrase, *cum hoc ergo propter hoc*.

that two digital billboards would have any impact would require ignoring the reality that two digital signs, within a 25-mile radius of the observatory, are two points of light among the billions of lights that shine in this area from the millions of homes, businesses, and cars that bustle through the greater San Jose area. The real fear, perhaps, is that two signs here will lead to more signs, but the City has full authority to draw the line at a single pair of signs, and its decision would be legally unassailable.

The claim that a digital billboard will cause cancer and other disease is an irresponsible claim.

4. **Misconception:** Billboards help big national companies at the expense of small businesses and local communities.
  - o **Facts:** Outdoor advertising is an industry that is geared towards small and local businesses. Nationally, small businesses make up 70% of outdoor advertising revenue, and, in the Bay Area, 64%.<sup>3</sup> In fact, small and local businesses, including travel-related businesses such as hotels, restaurants, gas stations, and businesses related to entertainment and tourism, are more reliant on billboards than other types of businesses due to the need to direct motorists to their location. Furthermore, billboards provide a much more affordable advertising platform than other conventional and modern platforms.<sup>4</sup>

Section I of this letter discusses and responds to the reasoning upon which the Planning Commission based their denial. For summary, Outfront would like to preliminarily address three main bases upon which a slim majority of the Planning Commission made their denial, as follows:

1. **Planning Commission assertion:** The Proposed Ordinance change does not cover concerns that other cities have addressed, such as prohibitive advertising, requirement for illumination, and height restriction.
  - o **Facts:** The Proposed Ordinance change addresses all of the above points. The City, in drafting the Proposed Ordinance, has made sure that the language in the Ordinance reflects what has been adopted by other cities and are legally sufficient and valid. Specifically:

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<sup>3</sup> FLORIDA TAX WATCH, THE ECONOMIC IMPACT OF FLORIDA'S OUTDOOR ADVERTISING INDUSTRY FROM A PRE- AND POST-SEPTEMBER 11, 2001 PERSPECTIVE at 3 (data from national surveys).

<sup>4</sup> On average, it costs \$7.50 to reach 1,000 people with digital place-based media. Compared to other media sources, it costs approximately \$6.75 for radio, \$23.33 for podcasts, \$13.24 for magazines, \$46.82 for newspaper, \$20 for broadcasting TV, \$12 for cable TV, and \$2.21 - \$10.47 for online advertising per 1,000 people. Soloman Partners, Media CPM Comparisons (January 2022); Outfront Media data.

- Regarding prohibitive advertising, proposed Section 30.55.40(c) provides that “No electronic billboard(s) shall display any statement or words of an obscene, indecent, or immoral character, pursuant to Business and Professions Code Section 5402 and judicial decisions in interpreting the same.” This content control mirrors the restrictions adopted by many other California cities, and what exists in state law.
  - Regarding controls on illumination, Section 30.55.40(i)(2) provides “Electronic billboard(s) shall be designed and operated with systems and monitoring in place to either turn the display off or show full black screen in the event of a malfunction.” Section 30.55.40(i)(5) also requires that the signs' brightness never exceed 0.3 foot-candles at 250 feet, which is a brightness level that matches 30 percent of light one would see from a candle on a table. Beyond 250 feet, brightness levels generally would not register on a light meter.
  - Regarding the height restriction, Section 30.55.30(e) provides “The maximum height of any electronic billboard(s) including any architectural design element shall be 75 feet as measured from grade at the base of the sign to the highest point of the sign structure, provided that the measured grade does not include fill or berms.” The City Council should be aware that taller signs are not preferred by sign companies, and generally taller heights are adopted only where there is an elevated freeway. Outfront prefers signs to be closer to the horizon, which make them easier for motorists to see.
2. **Planning Commission assertion:** Allowing two billboards would open the floodgates to more billboards
- **Facts and law:** The City would have the police power to enact and enforce its limitation on the number of billboards in the City, and any billboard companies that want to erect a third billboard within the City would have no legal basis to challenge the City's ordinance or the City's authority to enforce it. The idea that no public agency can put a limit on billboards is a fallacy; even state law puts a "freeze" on the number of billboards in certain parts of the state. (See, e.g., Cal. Bus. & Prof. Code § 5443).
3. **Planning Commission assertion:** Allowing billboards in the City would defeat several General Plan goals, including (a) maintaining the City's culturally rich and small-town quality, (b) revitalization of the City's Downtown, and (3) protecting productive agricultural lands and sensitive wildlife habitats.
- **Facts and law:** New billboards would not compromise the City's culture and small-town quality. As currently provided by the Proposed Ordinance, only two signs would only be permitted in the entire City, and they would have to be located in commercial and industrial areas near highways. (See Proposed Ordinance §§ 30.55.20(e), 3.055.30(a)(1) [allowing new signs only in General Services Commercial or City Gateway District].) These two signs would also

have to be located more than 1.5 miles away from one another. (Proposed Ordinance §§ 30.55.20(f), 33.55.30(b).) To put things into perspective, these two billboards would be located in already urbanized areas and subject to the City's individual approvals and development agreements. Additionally, the light footprint of the billboards would be no more than 250 feet from each of the billboards and, if one compares the area within this radius of light from each facing and compares it to the remainder of the City's area of 460.5 million square feet, it would be the case that areas lit by billboard facings would amount to 0.0000042 percent of area within the City's limits. To illustrate the types of locations where these signs could be placed, the sign contemplated by Mr. Conrotto (which is not part of the instant ordinance proposal, but would be considered separately and at a later date) would sit amid a major highway, a Tesla dealership, Buick GMC dealership, auto repair businesses, fueling stations, and similar uses, as well as amid numerous, similar illuminated signs and freestanding lights. The billboard would help revitalize the City by helping the City advertise its municipal and civic events, increasing foot traffic within the City and expanding the City's exposure to its current and prospective residents. The billboard would not have negative impacts on agricultural lands or sensitive wildlife habitats, and this fact has been substantiated by the Mitigated Negative Declaration prepared by a third party environmental consultant retained by the City.

Section II explains the benefits that billboards can bring to small and local businesses and the contributions that billboards can make to Gilroy's economy. Specifically, the City's economy is well-positioned to benefit from outdoor advertising. The City generates most of its sales tax revenue from industries that typically use billboards, such as outlet centers, auto dealers, service stations, and the hospitality industry. Together, these businesses contribute \$15.2 million to the City's annual sales tax revenue of \$18.3 million, and approximately \$1.35 million in transient occupancy taxes annually.<sup>5</sup> Since businesses estimate that outdoor advertising contributes up to 20% of their sales, outdoor advertising could add as much as \$16.7 million in commercial sales in City's businesses and \$3.1 million in additional City's sales tax per year, in addition to increases in transient occupancy taxes.

By this letter, Outfront appeals the Planning Commission's denial of the Proposed Ordinance change and, in doing so, hopes to clarify the misconceptions that punctuated and sidetracked the earlier discussions pertaining to the proposal.

### **I. Planning Commission's Bases for Denying Ordinance Change Request**

*a. Assertion 1: The Proposed Ordinance change does not cover concerns that other cities have addressed in their ordinances such as prohibitive advertising, requirement for non-illumination, sufficient height restriction.*

The Proposed Ordinance change addresses and sets relevant standards for all of the above points. The City, in drafting the Proposed Ordinance, appears to have made reference to and

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<sup>5</sup> CITY OF GILROY, ADOPTED BIENNIAL BUDGET 254 (adopted June 7, 2021), <https://www.cityofgilroy.org/DocumentCenter/View/12223/Fiscal-Year-2022-and-2023-Adopted-Budget>



incorporated provisions and controls from other existing and valid ordinances that California cities have adopted, as detailed in the table below.

To reiterate, Section 30.55.40(c) governs content prohibition, Sections 30.55.40 sets forth comprehensive and specific standards for illumination, and Section 30.55.40(c) provides legally adequate and legible height limitation. Furthermore, the Proposed Ordinance being considered by the City Council specifically conditions the construction of a billboard on the findings of consistence with the City’s General Plan, compatibility with the surrounding area, safety to vehicular and pedestrian traffic, and compliance with the general health, safety and welfare of City residents. (Section 30.55.50(f).) Additionally, section 30.55.20 requires any billboard projects to be consistent with local, state and federal law (which include the Highway Beautification Act of 1965 and the Outdoor Advertising Act), and be constructed with property owner consent and pursuant to the City’s agreement.

What follows is a list of cities and counties that have adopted similar billboard ordinances and, for convenience, we have identified the content, illumination, and height requirements in each of these local ordinances.

**Table 1**

Agency	Ordinance
City of El Monte	<p><a href="#">El Monte Municipal Code section 17.82.040</a></p> <p><b>Prohibitive Content:</b></p> <p>“No digital billboard shall display any statement or words of an ‘obscene, indecent, or immoral character,’ as that phrase is used in Business and Professions Code Section 5402 and judicial decisions interpreting the same.”</p> <p><b>Brightness Level:</b></p> <p>“Digital billboards shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter [at a preset distance of] 250 feet [for face size of 14 feet x 48 feet].”</p> <p><b>Height Limit:</b></p> <p>“No billboard, inclusive of supporting structures, shall exceed 75 feet in height, measured from the finished grade of the freeway travel lane closest to the sign to the uppermost.”</p>

<b>City of Bell Gardens</b>	<p><a href="#">Municipal Code section 9.40.065</a></p> <p><b>Prohibitive Content:</b></p> <p>“No electronic billboard shall display any statement or words of an obscene, indecent, or immoral character, as that phrase is used in Business and Professions Code Section 5402 and judicial decisions interpreting the same.”</p> <p><b>Brightness Level:</b></p> <p>“Electronic billboards shall not operate at brightness levels of more than 0.3 foot-candles above ambient light, as measured using a foot-candle meter, at a preset distance [of] 250’ [for face size of 14’ x 48’].”</p> <p><b>Height Limit:</b></p> <p>“The maximum height of any electronic billboard, including nondigital sign faces, shall be 65 feet as measured from the bottom of the billboard supports to the highest point of the sign face.”</p>
<b>City of Buena Park</b>	<p><a href="#">Buena Park Municipal Code section 19.912.090</a></p> <p><b>Prohibitive Content:</b></p> <p>“No billboard shall display any statement or words of an “obscene, indecent, or immoral character,” as that phrase is used in Business and Professions Code Section 5402 and judicial decisions interpreting the same.”</p> <p>“No billboard shall display any advertising of any drugs, including, but not limited to, marijuana or tobacco products; adult-type uses, including, but not limited to, nude or topless bars or nightclubs, or establishments that feature nude or topless dancing or mud wrestling, or businesses featuring the sales of adult novelty items, books, magazines, videos, DVDs or tapes.”</p> <p><b>Brightness Level:</b></p> <p>“Digital billboards shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter at a pre-set distance [of] 250’ [for face size of 14’ x 48’].”</p> <p><b>Height Limit:</b></p> <p>No height limit</p>

<p><b>City of Hawthorne</b></p>	<p><a href="#">Hawthorne Municipal Code section 17.88.30</a></p> <p><b>Prohibitive Content:</b></p> <p>“No billboard shall display any statement or words of an “obscene, indecent, or immoral character,” as that phrase is used in Business and Professions Code Section 5402 and judicial decisions interpreting the same.”</p> <p><b>Brightness Level:</b></p> <p>“Digital billboards shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter at a pre-set distance [of] 250’ [for face size of 14’ x 48’].”</p> <p><b>Height Limit:</b></p> <p>Variable. The ordinance provides: “The maximum height of billboards has not been set to account for the grade differences of the freeways and to allow billboards to be designed to ensure freeway visibility. Height will be controlled through the billboard agreement and will be based upon the maximum necessary to ensure reasonable freeway visibility and minimize view and glare impacts on surrounding residential properties. If requested, the city will secure the services of a licensed engineer or architect to perform a viewshed analysis. The viewshed analysis will be funded by the applicant and will show the optimum height for visibility as well as address view impacts to adjacent residential uses.”</p>
<p><b>City of Pico Rivera</b></p>	<p><a href="#">Pico Rivera Municipal Code section 18.46.060</a></p> <p><b>Prohibitive Content:</b></p> <p>“No digital billboard shall display any statement or words of an obscene, indecent, or immoral character, as that phrase is used in Business and Professions Code Section 5402 and judicial decisions interpreting the same.”</p> <p><b>Brightness Level:</b></p> <p>“Digital billboards shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter, at a pre-set distance [of] 250’ [for face size of 14’ x 48’].”</p> <p><b>Height Limit:</b></p>

	"The maximum height of any digital billboard including non-digital sign faces shall be seventy-five feet as measured from the bottom of the billboard supports to the highest point of the sign face."
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b. Assertion 2: Allowing two signs would open the floodgates to more signs

The California Constitution confers the police power to local government to protect public health, safety, and welfare, stating that "[a] county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." (Cal Const art XI, §7.)

The City of Gilroy has both the power to enact the statutory cap on the number of billboards in the City and the power to enforce such cap. This power is well-established, broad, and evolving, and court have routinely upheld cities' exercise of their police power. (See, e.g., *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854, 881-82 [aesthetic reasons alone can justify the exercise of the police power]; *Ewing v. City of Carmel-by-the-Sea* (1991) 234 Cal.App.3d 1579 [protection of a city's "character," "stability," and "soul" is valid basis for invocation of the police power].)

As long as the City shows that the two-billboard cap is based on the City's exercise of its police power to protect the aesthetics and welfare of the City of Gilroy, the cap will be legally valid and cannot be challenged by any billboard company.

- During Planning Commission hearings, some concern arose over other constitutionality issues, such as equal protection. Specifically, the concern surfaced that, if the City allowed only two signs, other sign companies could sue the City based on discrimination. Such claim would fail.

Equal Protection requires that persons similarly situated with respect to the legitimate purpose of the law receive like treatment. (*College Area Renters & Landlord Ass'n v. City of San Diego* (1996) 43 Cal.App.4th 677, 686.) Legislative acts that do not impinge on fundamental rights or employ suspect classifications are presumed valid, and this presumption is overcome only by a "clear showing of arbitrariness and irrationality." (*Kawaoka v. City of Arroyo Granda* (1994) 17 F.3d 1227, 1234.) Here, billboard companies are not a suspect class because they do not involve race, religion, national origin, or alienage, so the two-billboard cap would be presumed valid. The City's law would fail only if it was arbitrary and irrational, and billboard companies wanting to erect a third billboard in Gilroy would not be able to make this showing. Fundamental land use considerations provide a solid foundation for an ordinance seeking to place a hard cap on the number of signs within its jurisdictional limits.

Accordingly, many jurisdictions, including the state, have limits on the number of billboards. (See, e.g., City of Modesto Municipal Code § 10-6.108(f)(3)(ii)(a)(4.5) [maximum of seven digital displays]; Cal. Bus. & Profs. Code 5443 [no increase in signs along landscaped freeway segments allowed].)

c. Assertion 3: Billboard companies are litigious, and litigations by billboard companies would be consuming of staff time and burdensome on City's budget

Outfront has had good, successful partnerships with dozens of cities and counties throughout California in operating digital billboards, including the City of Santa Clara, the City of Millbrae, Alameda County, the City of South San Francisco the City of Fairfield, the City of El Monte, the City of Bell Gardens, the City of Buena Park, the City of Hawthorne, the City of Carson, the City of Fountain Valley, the City of Lemon Grove, the City of Oakland, the City of Pico Rivera, and many more. This concern that approval of the digital billboard will result in billboard companies bringing litigation in the City is not substantiated by evidence. Never — not once — has Outfront sued one of these public partners in California, and never has a local government found one of Outfront's signs to fall out of compliance with the law.

During Planning Commission hearings, references to a handful of lawsuits was made. These included two lawsuits in San Jose and a lawsuit in Royal Oak.

With respect to the first lawsuit in San Jose, it was a private property owner — not a sign company — that illegally constructed a sign near the interchange of Highways 101 and 80 in San Jose and that sued the City. (See Attachment A to the September 29, 2022 Response to Comments on MND for Outdoor Advertising Display 6490 Auto Mall Parkway [a March 17, 2021 article from the San Jose Spotlight that reports on the lawsuit].) Outfront adamantly opposed the illegal construction of this sign in the City of San Jose, and in January 2019 notified the California Department of Transportation about its construction and encouraged the State to investigate and take appropriate action to discourage this activity. (See January 8, 2019 Letter from Outfront to James Arbis from State of California Department of Transportation regarding Illegal Digital Sign in San Jose.)

A member of the public also pointed to the current lawsuit between Outfront and the City of San Jose as an example of Outfront's tendency to sue. Outfront is in a lawsuit with the City, but the context is important. This lawsuit asserts the City of San Jose circumvented its own laws by making a back-room deal with another sign company, without following the City's request for proposal ("RFP") process. Outfront has, on occasion, sued to enforce due process and other constitutional rights but, again, never has sued one of its partners.

A Planning Commissioner also brought up a lawsuit between Outfront and the City of Royal Oak, Michigan. To provide context, in 2013, Outfront and this city in Michigan reached an agreement that allowed Outfront to construct a billboard on a commercial property in exchange for ten weeks of free advertising and messaging space for the city. Outfront fulfilled its end of the bargain by offering the City free advertising space on its billboards. However, the City of Royal Oak breached its promise by causing Outfront's billboards to be removed from the commercial property and denying Outfront's subsequent request for a variance. The Circuit Court determined that the City of Royal Oak failed to fulfill its contractual obligations.

In conclusion, given Outfront's operation of 500,000 billboards across North America, lawsuits are inevitable. The existence of three lawsuits, which are based on circumstances that are not involved here, does not show Outfront is a bad partner. There are dozens of California cities and counties that would attest to this statement.

d. Assertion 4: Allowing billboards goes against several General Plan's goals

Some of the Planning Commissioners expressed a concern that allowing billboards in the City would be inconsistent with several of the City's General Plan's goals, including (a) maintaining the City's culturally rich and small-town quality, (b) revitalization of the City's Downtown, and (3) protecting productive agricultural lands and sensitive wildlife habitats.

An action, program or project is consistent with the general plan if, considering all of its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment." (Governor's Office of Planning and Research, *General Plan Guidelines* (2003).) Courts are also in agreement that land use plans must be functional from a practical perspective, and that perfect conformity with each particular policy is neither achievable nor required. (*Corona-Norco Unified Sch. Dist. v. City of Corona* (1993) 13 Cal.App.4th 1580; *Friends of Lagoon Valley v. City of Vacaville* (2007) 154 Cal.App.4th 807, 817 [to be consistent a project need only be "in agreement or harmony" with the applicable plan].)

Here, viewed in light of the correct analytical framework, the Proposed Ordinance is consistent with the General Plan policies. Nothing about the Proposed Ordinance frustrates or is incompatible with the goals and policies of the General Plan. In fact, the Proposed Ordinance conforms with and supports all of the General Plan policies mentioned by the Planning Commission; and the City Council, having unique competence to interpret the laws and policies it adopts (such as the General Plan), can make these findings.

**Table 2**

General Plan Policy	Proposed Billboard's Compatibility
<ul style="list-style-type: none"> <li>Guiding Principle 2: Cultivate a Downtown Renaissance. Restore Downtown to a vibrant destination with unique retail, entertainment, arts, and dining options. Support and attract businesses. Provide the infrastructure and amenities needed for the growth of Downtown. Preserve the historic character while supporting new development, including commercial, housing, and mixed-use projects.</li> </ul>	<p>The Proposed Ordinance is compatible with and supportive of this General Plan goal. Allowing billboard projects would help revitalize Gilroy's Downtown by attracting residents and nonresidents to local and small businesses that are located Downtown, thereby increasing foot traffic within the City and expanding the City's exposure to its current and prospective residents. Two new digital billboards could generate substantial revenue for local businesses, including business located in the City's Downtown area.</p> <p>Additionally, while it is not under consideration now before the City Council, Outfront's proposed billboard project, on Mr. Conrotto's property, would not compromise the City's historic character and small-town feel. First, this project site is not even located in or near the Downtown area.</p>

	<p>Second, the billboard would not be located in a historic district, and there are no historic resources on the property according to the MND. The nearest recorded historical building, meanwhile, is almost a mile away (the Gilroy Free Library), which is not within view of the project site, per the California Historical Resources List. This sign, which the City Council would consider separately, if it adopts the ordinance amendment, would be constructed in a parking lot where vehicle are stored, adjacent to automobile-related businesses (including a Tesla dealership, Buick GMC dealership, auto repair business, fueling stations, and similar uses, as well as amid numerous, similar illuminated signs and freestanding lights; see next section for further discussion of baseline conditions). The billboard site would be a non-sensitive, commercial portion of the City that is compatible with the proposed structure. As a result, the likelihood of the Project having an adverse effect on historic resources is low.</p>
<ul style="list-style-type: none"> <li>• LU-4 Goal: Encourage the growth and development of retail, office, service, and entertainment uses in Gilroy to provide jobs, support City services, and make Gilroy an attractive place to live.</li> </ul>	<p>The Proposed Ordinance is compatible with and supportive of this General Plan goal. For local businesses, billboards have the following benefits in that they: (i) help to communicate with and attract new customers; (ii) allow efficient targeting of consumers in a given trade area; and (iii) are cost-effective compared to other traditional media.</p> <p>Furthermore, the size and placement flexibility of billboards allow them to serve a function that is different from a business' on premise signage.<sup>6</sup> Small and local businesses, including travel-related businesses such as hotels, restaurants, gas stations, and other businesses related to entertainment and tourism, are more reliant</p>

<sup>6</sup> Charles R. Taylor, Business Perceptions of the Role of Billboards in the U.S. Economy, JOURNAL OF ADVERTISING RESEARCH at 152-53; see, e.g., FLORIDA TAXWATCH, THE ECONOMIC IMPACT OF FLORIDA'S OUTDOOR ADVERTISING INDUSTRY FROM A PRE- AND POST-SEPTEMBER 11, 2001 PERSPECTIVE at 3-4 & fns. 3-5 (February 2002) (showing similar data from multiple national surveys).

	<p>on billboards than other types of businesses due to the need to direct motorists to their location.</p> <p>With respect to the City of Gilroy, outdoor advertising could increase revenue for local retail stores and the hospitality industry within the City, which in turn are important to the vitality of the City's economic health. Hotels, restaurants, gas stations, and businesses related to entertainment and tourism are prime beneficiaries of outdoor advertising, which could boost sales by up to 20%. In the City of Gilroy, there are at least 17 hotels, 89 restaurants, 19 gas stations, and many other hospitality business. We understand these businesses especially thrive during City events such as the Garlic City Car Show and Gilroy Farmers' Market.</p>
<ul style="list-style-type: none"> <li>• LU-4.2: High Quality Design. Encourage distinctive and high quality commercial architecture that respects the character of Gilroy and discourages the use of "franchise architecture."</li> </ul>	<p>The Proposed Ordinance is compatible with and supportive of this General Plan goal. Areas within the City of Gilroy's Urban Growth Boundary, and only within commercial and industrial areas, are the only places in the City where electronic billboards would be allowed. Specifically, the Proposed Ordinance would allow no more than two billboards within the City, which would only be permitted on property designated as General Services Commercial or City Gateway District and within 660 feet of US—101 or SR-152.</p> <p>Although not considered at this time, Outfront's proposed billboard would be located in a parking lot where vehicles are stored, adjacent to automobile-related businesses (including a Tesla dealership, Buick GMC dealership, auto repair business, fueling stations, and similar uses, as well as amid numerous, similar illuminated signs and freestanding lights). The project site is a non-sensitive, commercial portion of the City that is compatible with the proposed structure.</p>
<ul style="list-style-type: none"> <li>• LU-5.1: Industrial Design Standards. Ensure that new industrial developments</li> </ul>	<p>The Proposed Ordinance is compatible with and supportive of this General Plan goal.</p>



<p>contribute to the overall attractiveness of the community through appropriate site design, architectural design, and landscaping.</p>	<p>Billboard designs would be reviewed and approved by the City under the Proposed Ordinance, at which time their compatibility with adjacent commercial and industrial uses could be evaluated. Again, the Proposed Ordinance would limit signs to very discrete areas. With respect to Outfront's potential sign on Mr. Conrotto's property, the aesthetic is that of a modern design that complements adjacent uses, including the Tesla store and other automobile dealerships.</p>
<ul style="list-style-type: none"> <li>• LU-8 Goal: Support growth and development that preserves and strengthens the City's historic, small-town character; provides and maintains safe, livable, and affordable neighborhoods; and creates beautiful places.</li> </ul>	<p>The Proposed Ordinance is compatible with and supportive of this General Plan goal. As demonstrated in the project's compatibility with LU-4.2 and LU 5.1, the Proposed Ordinance would allow up to two billboards in the City, which will help expand the City's exposure to both residents and nonresidents, support growth and development through increased foot-traffic within the City.</p> <p>All of such benefits from billboards would not compromise the City's historic, small-town character because any billboards would be located in already urbanized parts of the town and would be capped at two billboards.</p>
<ul style="list-style-type: none"> <li>• LU 8.2: Community Gateway. Require new developments at "gateways" to the city (i.e., including Monterey Road, Pacheco Pass, Hecker Pass, and U.S. 101 interchanges) to incorporate high-quality, site and architectural design, distinctive landscaping, public art and/or other improvements that enhance the visual integrity of such areas.</li> </ul>	<p>The Proposed Ordinance is compatible with and supportive of this General Plan goal. The Proposed Ordinance and Sign Ordinance amendments would allow up to two billboards within the City, which would only be permitted on property designated as General Services Commercial or City Gateway District and within 660 feet of US-101 or SR-152. Signs would have modern designs and include City of Gilroy signage under negotiated development agreements, which would serve a "place-making" function for passing motorists.</p>
<ul style="list-style-type: none"> <li>• LU-8.7: Signs and Billboards. Require the location of signs and billboards to respect the surrounding context in order to minimize any negative impact on the visual environment. Enforce sign regulations and design standards to</li> </ul>	<p>The Proposed Ordinance is compatible with and supportive of this General Plan goal. As established in Section 30.55.20, subdivisions c &amp; e, the Ordinance would only allow up to two billboards that will be located in urbanized areas, and the individual billboards</p>

<p>reduce sign clutter and illegal signage along corridors.</p>	<p>would be subject to the comprehensive review by the City and the public, and must be in constructed and designed in accordance with development agreements that the billboard companies would have with the City. Development Agreements would ensure that the two billboards to be constructed within the City would be constructed to the satisfaction of the City with respect to its design and scope. Furthermore, the existence of two signs in the City would not pose any issues of sign clutter or illegal signage along corridors given spacing requirements — a minimum of 1.5 miles between the signs — that are encoded in the Proposed Ordinance.</p>
<ul style="list-style-type: none"> <li>• LU-8.11: Historic Preservation and Restoration. Encourage new restorative maintenance to deteriorated buildings, particularly in Downtown and restrict the demolition of historically and/or architecturally significant buildings to accommodate new development. Encourage adaptive re-use of historic structures to maintain their historic character while supporting economic development.</li> </ul>	<p>The Proposed Ordinance is compatible with this General Plan goal because the Ordinance would only allow construction of billboards in already urbanized areas, and each billboard would have to go through the comprehensive CEQA process in order to ensure that it will not interfere or re-appropriate any historic resources.</p> <p>For example, Outfront’s proposed billboard, which would be considered by the City Council if the Proposed Ordinance passes, had to go through a comprehensive CEQA review conducted by a third party environmental consultant for the City, subject to extensive scrutiny by the City and the public. The MND for the billboard project finds that there are only two recorded historic cultural resources within the 0.5-mile search radius, and none of which are located within the project site. (MND at 47.)</p>
<ul style="list-style-type: none"> <li>• LU-8.3: Landscaping along U.S. 101. Coordinate with Caltrans and the County to enhance the landscaping along U.S. 101, and encourage new developments facing U.S. 101 to provide landscape screening and to protect and enhance views of farmland and the surrounding hills.</li> </ul>	<p>The Proposed Ordinance is compatible with and supportive of this General Plan goal. The Proposed Ordinance would make sure that any billboards to be erected within the City of Gilroy will comply with the California Highway Beautification Act and the Outdoor Advertising Act. Specifically, section 30.55.20(a) requires that “The owner and operator of the electronic billboard shall</p>

	<p>comply with all applicable federal, state, or local laws when constructing, operating, improving, maintaining, repairing, and removing the electronic billboard(s), including the Highway Beautification Act of 1965 (23 U.S.C. § 131), the Outdoor Advertising Act (Cal. Bus. &amp; Prof. Code § 5200 <i>et seq.</i>), and the regulations promulgated to implement the Outdoor Advertising Act (4 Cal. Code Regs. § 2242(c) <i>et seq.</i>)." Moreover, consistent with federal and state law, any new signs would be located in industrial or commercial areas. (Cal. Bus. &amp; Prof. Code §§ 5205, 5405, 5408.)</p> <p>According to the MND prepared by the City's environmental consultant, "the Proposed Ordinance would allow up to two electronic billboards, which would only be permitted on property designated as General Services Commercial or City Gateway District and within US-101 or SR-152. The nearest scenic vistas are located over a mile west of US-101 or over 4 miles southeast of the US-101." Additionally, the US-101 segment that goes through the City is not a State Scenic Highway. (Project MND at p. 18.) No significant aesthetic impacts were found.</p>
<ul style="list-style-type: none"> <li>• LU 8.13: Limit Light Pollution Encourage measures to limit light pollution from outdoor sources, and direct outdoor lighting downward and away from sensitive receptors.</li> </ul>	<p>The Proposed Ordinance is compatible with and supportive of this General Plan goal. The MND concluded that future electronic billboards would not create a substantial change in illumination levels due to baseline light source.</p> <p>To bring the illumination requirements home, Outfront's proposed billboard project would commit to a maximum ambient light output level of 0.3 foot-candles at 250 feet above ambient levels from the billboard. This means that at 250 feet, light from the sign would be generally not perceptible, and would not register on a light meter. Please see Letter From Project Applicant re Outdoor Advertising Display 6490 Auto Mall Parkway (March 21, 2021) and Attachment A thereto, incorporated herein. Accordingly, the light</p>

	<p>contribution from the proposed display would not cumulate with other sources to produce a significant impact.</p> <p>The billboard also would reduce light pollution and glare by angling each of the individual LEDs downwards towards motorists, in contrast to a traditionally illuminated display that would create more significant sky glow and illuminate copy by reflecting light off display facings at a brightness level of 31 to 312 times greater than the brightness of LED displays. Letter From Project Proponent re Outdoor Advertising Display 6490 Auto Mall Parkway (March 21, 2021), p. 2.</p>
<ul style="list-style-type: none"> <li>• M-5.9: U.S. 101 Landscaping and View Protection. Coordinate with Caltrans and Santa Clara County to provide additional landscaping along the U.S. 101 right-of-way to enhance its attractiveness, recognizing that it is the primary “visitor-serving” traffic artery in the Planning Area. Also, encourage new developments facing U.S. 101 to provide landscape screening and to protect and enhance existing views of farmland and surrounding hills.</li> </ul>	<p>As demonstrated above in the Proposed Ordinance’ compatibility with LU-8.3, the Proposed Ordinance will not cause the existence of any billboards that would interfere with the City’s and Caltrans’ ability to landscape along the U.S. 101 right-of-way. According to the MND, “[a]reas within the City of Gilroy’s Urban Growth Boundary are the only places in the City where electronic billboards would be allowed. The proposed electronic billboard’s location would not affect scenic views because of its distance from scenic highways and scenic resources.” Moreover, we wish to clarify that Outfront’s proposed sign, which might be considered later by the City Council, is not located in any landscaped freeway area.</p> <p>Furthermore, because (1) installation of billboards would not be allowed in non-urbanized areas; (2) the proposed billboard would comply with design standards set forth in the proposed Electronic Billboard Ordinance; and (3) the proposed billboard would be one-sixth as bright as allowable state brightness maximums set forth in illumination intensity standards found in state law, impacts would be less than significant. Please see the March 21, 2021 Letter from the applicant re Outdoor Advertising Display 6490 Auto Mall Parkway, which addresses brightness standards, as well as its</p>

	<p>attachments, all of which are incorporated herein by this reference.</p> <p>Substantial evidence shows that digital billboards are in fact less obtrusive than traditional displays, as digital billboards have superior technology that directs light at limited audiences (here, motorists). By contrast, traditional displays are illuminated by reflecting light sources of the display's facings, at levels that are 31 to 212 brighter than LED bulbs. Additionally, with adoption of mitigation measure AES-1, which requires the City Community Development Department to review and approve the signs' operational lighting parameters to ensure a driver would not be adversely affected or impacts by trespass glare, the Project would have a less than significant impact.</p>
<ul style="list-style-type: none"> <li>Guiding Principle 3: Balance Growth and Open Space. Focus growth in areas that are already serviced by roads, sewers, and infrastructure. Support a balanced growth management strategy that protects productive agricultural lands and sensitive wildlife habitats while allowing for new economic opportunities. Ensure Gilroy retains its "small-town feel."</li> </ul>	<p>The Proposed Ordinance is compatible with and supportive of this General Plan goal. The Biological Resources section of the MND reviewed the impacts of the light from the digital billboard on wildlife and related habitat and determined that, with mitigation incorporated, there would be no significant impact. Under the CEQA thresholds of significance, a substantial adverse effect on a species protected by the California Department of Wildlife or United States Fish and Wildlife Service amounts to a significant impact. Only one special status species has the potential to occur within the project site, the white-tailed kite. Per the MND, there is marginal nesting habitat near the proposed display and potential foraging habitat located more than 800 feet to the northeast. Further, birds have co-existed with the existing urban landscape, including the myriad of illuminated signs, parking lot lights, vehicle headlights (which move at variable rates of speed), and other sources of illumination for a very long time in the project vicinity. Per the City's environmental report, the addition of a digital sign would not affect the status quo, and, in fact, digital billboards are <i>less impactful</i> than static light sources for the following reasons:</p>

	Studies show that birds are attracted to fixed lights, and the billboard would not constitute a fixed light, but would change its messaging every 8 seconds. message (and thus varying its light profile). Steady-burning red lights that result in the greatest impacts to bird species, and the outdoor advertising display would have a wide diversity of copy and it would never be the cast that the display would broadcast uninterrupted light of any hue.
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Unlike compliance with constitutional provisions, the City has discretion in the interpretation of its own policies – which is entitled to great deference unless it results in an unreasonable or unlawful interpretation. (See *Pfeiffer v. City of Sunnyvale City Council* (2011) 200 Cal.App.4th 1552, 1563 [city has broad discretion to construe its own policies]. But see *MHC Operating Limited Partnership v. City of San Jose* (2003) 106 Cal.App.4th 204, 217-20 [courts do not afford deference to a city’s unreasonable or unlawful interpretation of its policies].)

Approval of the project would help the City achieve its 2040 General Plan goals by providing the City with free advertising that would give the City exposure to both residents and nonresidents, streamlining the City’s community outreach efforts, and encouraging public engagement with the City’s civic and municipal activities. Moreover, the increased foot traffic that the billboard would bring to its users will have a spillover effect to other areas of the City and thereby showcasing the bucolic and small-town feel of the City. The City has discretion to and is advised to interpret the Proposed Ordinance as compatible and supportive of the City’s General Plan policies. All the while, the Proposed Ordinance would not negatively affect the City’s small town feel and its agricultural and wildlife resources.

In conclusion, the Proposed Ordinance will allow no more than two billboards that would be located in already urbanized areas and subject to the City’s individual approvals and development agreements. Additionally, the light footprint of a billboard would be no more than 250 feet from the billboard,<sup>7</sup> and this minimal footprint covers an infinitesimal fraction of the City’s area.

e. Assertion 5: Billboard project goes against City’s Climate Action Plan of reducing energy reducing light emission, light out policy at night, and reducing light projects and emission.

Outfront shares a similar climate pledge with the City and seeks to reduce its carbon footprint. In its efforts towards its climate pledge, Outfront has taken the following steps:

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<sup>7</sup> For example, Outfront’s proposed billboard commits to a maximum ambient light output level of a 0.3 foot-candle at 250 feet from the billboard, meaning at 250 feet, light from the sign is generally not perceptible, and does not register on a light meter. See 2022/09/29 Response to Comments, Responses to Comments A9, G2, and I2.

- Outfront's billboard vinyl is repurposed via Outfront's partnerships with Rareform and Sky Group
- Nearly all of Outfront's billboards, digital and static, have been converted to more energy efficient LED illumination. Compared to digital signage from years ago, Outfront has reduced its signs' energy consumption by 76.79% from pre-conversion levels.
- All of Outfront's markets can accept PE Ecoflexx recyclable paper for standard billboards that are 14' x 48' or smaller.
- Outfront is the largest operator of transit system advertising in the U.S and the revenue shares Outfront pays to the various municipalities help fund this important public resource that enables millions of commuters to reach their destinations without using private vehicles – eliminating significant GHG emissions.
- Outfront's first EVs went into service late last year and early this year, and Outfront hopes to electrify as much of our fleet as practical.

Additionally, future billboards would be installed pursuant to current electrical codes, including Title 24 of the State Building Code, and adopt the latest digital technology. These standards would ensure that electrical energy would be used efficiently. The Greenhouse Gas Section of the MND finds that the Project would have a less than significant impact. Operation of the Project is expected to emit only 6 MT CO<sub>2</sub>e per year. This is far below the 660 MT CO<sub>2</sub>e per year threshold of significance. In the Hazards and Hazardous Materials section, the MND explains that the Project will not generate any electronic waste. Accordingly, substantial evidence supports a determination the proposed display would not have a significant impact with respect to energy consumption.

The exponential growth of technology has helped accelerate Outfront's energy reduction goals. The amount of energy used today by Outfront's billboards is four times less than a few years ago and, even since the MND was prepared, Outfront's most recent technology has reduced energy consumption even further. Specifically, the MND for Outfront's proposed billboard assessed the billboard's energy consumption to be approximately 52,400 kwh/year. More recently, energy usage was reduced to 40,000-48,000 kwh/year, and after reviewing the latest technologies, annual energy draw per sign facing could be as low as 18,160 kwh (or approximately 37,000 kwh per billboard structure). (See the September 29, 2022 Response to Comments on MND for Outdoor Advertising Display 6490 Auto Mall Parkway, Responses A12 & F10.) Outfront's technology is quickly getting better, and Outfront is as motivated as the City to use as little power as possible. (*Id.*)

## **II. Economic Impact of Billboards**

As an advertising tool for businesses of all sizes, billboards provide a significant contribution to the economic health of local governments. Billboards do so by increasing the visibility of mom-and-pop businesses; increasing sales for larger formula retail stores; and promoting local involvement (i.e., advertising civic and municipal events to attract people to the City to spend money on local businesses). Billboards thereby increase profits for local businesses and sales tax revenue for local governments.

For the City of Gilroy, a modest allowance for digital, outdoor advertising would offer the following potential economic benefits:

- An enhancement of commercial sales in City businesses, including without limitation its retail shopping outlets, Newman Development, Regency Center, and Downtown Core, by \$4.1 million to \$16.7 million (representing a conservative range of 5 to 20%).<sup>8</sup>
- An increase in City sales and other tax revenues by \$760,000 and \$3.1 million (representing a conservative range of 5 to 20%), which could fund a variety of public programs, such as salary increases for police, fire, and other city workers, or improvements in public infrastructure and equipment.

In conclusion, this letter of appeal aims to correct any misunderstandings that interfered with the Planning Commission's evaluation of the proposed project and asks that the City Council continue its practice of considering only established facts, supported by evidence.<sup>9</sup> This evidence shows the City will be able to have the additional revenue from billboards without compromising its culture or its agricultural resources. Again, access to billboards would generate up to \$16.7 million in additional business revenue for small businesses and up to \$3.1 million in the City's additional sales tax revenue.

Very truly yours,



Sean R. Marciniak  
Partner



Huong (Jenny) Dao  
Associate

cc: Clients  
Mike Conrotto  
Sharon Goei, Community Development Director, City of Gilroy  
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<sup>8</sup> The potential upside is a 25% increase in sales, although we chose to present a more conservative figure of 20% increase.

<sup>9</sup> This letter further incorporates by reference all of the materials in the City's administrative records.