

EXHIBIT

"A"

AGREEMENT TO MAINTAIN A NON-CONFORMING BILLBOARD

This Agreement to Maintain a Non-Conforming Billboard (the "Agreement") is made and entered into this _____ day of _____, 2023 by and between **Lamar Advantage Holding Company**, a _____ corporation, ("Lamar"), and the **City of Round Rock, Texas**, a Texas home rule municipality, ("City").

WHEREAS, the City has adopted Chapter 8, Article IX of the Zoning and Development Code, Code of Ordinances, City of Round Rock (2018 Edition) (the "Code") which regulates signs in the City; and

WHEREAS, Sec. 8-81 of the Code lists types of signs that are prohibited in the City, which includes billboards; and

WHEREAS, Lamar has an existing billboard that was conforming prior to the adoption of the Code, but is now a non-conforming billboard under the terms of the Code; and

WHEREAS, the City and Lamar have reached an agreement whereby the City will permit Lamar to continue the display of an existing digital billboard as set forth herein;

NOW THEREFORE, in consideration of the mutual benefits and promises and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, City and Lamar agree as follows:

1. Existing Non-Conforming Billboard. Lamar is the owner of a non-conforming digital billboard located at 16912 ½ IH 35 (the "Billboard").

2. Maintenance of Non-Conforming Billboard. The Billboard shall continue to comply with all Texas Department of Transportation's regulations regarding billboards, as amended. In addition, the Billboard shall comply with the following requirements:

- a. The Billboard shall have only one digital face that is no more than fourteen (14) feet high and no more than forty-eight (48) feet wide.
- b. The overall height and size of the Billboard shall not be increased.
- c. The digital face of the Billboard shall automatically adjust so that the brightness of the display is no more than 0.3 foot candles over the ambient light conditions at a distance of two hundred fifty (250) feet from the display.
- d. The Billboard shall comply with all City building code requirements.
- e. The Billboard shall be structurally inspected and said inspection report shall be provided by Lamar to the City prior to the execution of this Agreement. A structural inspection shall be required by Lamar every five (5) years from the date of the last inspection in order to demonstrate the continued structural integrity of the sign. Lamar shall provide the City with a copy of each inspection report.

f. The electric service to the Billboard shall be installed underground. If electric service to the Billboard is currently served overhead, Lamar shall make the necessary changes to ensure that the Billboard complies with this Agreement.

3. **Advertising and Information Requirements.** Lamar agrees that the digital face of the Billboard shall not contain any flashing or scrolling information and all messages must comply with the Electronic Messaging Center standards in the Code and with all applicable TxDOT regulations, as amended. In the event that the Code and TxDOT regulations are in conflict, the more restrictive regulation shall apply. The digital face shall not include any advertising that could be considered obscene, offensive or otherwise not in keeping with community standards of the City. Lamar agrees to remove any such advertising within forty-eight (48) hours of receiving notice of same from the City. Lamar agrees that it will comply with 43 Texas Administrative Code, §21.258 regarding the display of emergency information important to the traveling public. Lamar agrees to coordinate with the City to establish procedures to quickly display such emergency messages. Lamar also agrees to provide templates to the City that will allow for rapid displays of emergency and other time sensitive messages.

In addition, Lamar agrees to reserve time slots on the digital display for the City to advertise and/or inform the public of City sponsored events. Lamar agrees that the digital display will have no more than nine (9) time slots for messaging. The aforementioned time slots shall change every eight (8) seconds. Lamar shall reserve one of these slots for the City for every day of the calendar year. For the purposes of this agreement, twenty-four (24) consecutive hours of use shall be defined as one (1) day. Lamar also agrees to offer additional time slots, free of charge, to the City as and if available.

4. **Annual Audit.** The City will perform an annual inspection and audit to verify that Lamar is in complete compliance with the terms of this Agreement. Lamar agrees to pay to the City an annual fee of \$750.00 on the anniversary date of this Agreement to reimburse the City for the cost of performing this audit. This annual fee will increase by ten (10) percent every ten (10) years. As part of this annual audit, Lamar agrees to provide the City with a copy of its annual permit from TxDot.
5. **Term.** This Agreement shall remain in effect in perpetuity, provided Lamar remains in compliance with the terms and conditions of the Agreement.
6. **Default.** If Lamar should default in the performance of any obligation of this Agreement, City shall provide Lamar written notice of the default, and a period of thirty (30) days to cure such default. If after thirty (30) days, Lamar has not cured the default to the satisfaction of the City, the City shall have the right to declare this Agreement terminated, and in that event, Lamar shall remove the Billboard within thirty (30) days after receiving written notice of such termination.
7. **Miscellaneous.**
 - a. **Attorneys' Fees.** If any legal action or proceeding is commenced in a court of competent jurisdiction between the City and Lamar to enforce provisions of this Agreement and recover damages for breach, the prevailing party in such legal action shall be entitled to recover its reasonable attorney's fees and expenses incurred by such action, to the extent allowed by law.

- b. Entire Agreement. This Agreement contains the entire agreement between the parties. This Agreement may only be amended, altered or revoked by written instrument signed by the City and Lamar.
- c. Binding Effect. This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns.
- d. Assignment. Lamar may not assign all or part of its rights and obligations to a third party without the express written consent of the City.
- e. Amendment. This Agreement may be amended by the mutual written agreement of the parties.
- f. Notice. Any notice and or statement required and permitted to be delivered shall be deemed delivered by actual delivery, facsimile with receipt of confirmation, or by depositing the same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses:

If to City: City of Round Rock
 221 E. Main Street
 Round Rock, TX 78664
 Attn: City Manager
 Phone: (512) 218-5400

With a required copy to:

 Sheets & Crossfield, PLLC
 309 E. Main Street
 Round Rock, TX 78664
 Attn: Stephanie L. Sandre
 Phone: (512) 255-8877
 Email: stephanie@scrrlaw.com

If to Lamar: Lamar Advantage Holding Company
 7020 Hwy. 290 East
 Austin, Texas 78723
 Attn: Alan B. Reeder
 Phone: (512) 451-1945
 Email: areeder@lamar.com

Either party may designate a different address upon written notice to the other party.

- g. Interpretation. Each of the parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute, however its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against any party.

- h. Applicable Law. This Agreement is made, and shall be construed and interpreted, under the laws of the State of Texas and venue shall lie in Williamson County, Texas.
- i. Severability. In the event any provisions of this Agreement are illegal, invalid or unenforceable under present or future laws, and in that event, it is the intention of the parties that the remainder of this Agreement shall not be affected. It is also the intention of the parties of this Agreement that in lieu of each clause and provision that is found to be illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid or enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.
- j. Paragraph Headings. The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.
- k. No Third Party Beneficiaries. This Agreement is not intended to confer any rights, privileges or causes of action upon any third party.

[Signatures on the following page.]

EXECUTED to be effective as of the ____ day of _____, 2023 (the "Effective Date").

CITY OF ROUND ROCK, TEXAS

By: _____
Craig Morgan, Mayor

APPROVED as to form:

Stephanie L. Sandre, City Attorney

LAMAR ADVANTAGE HOLDING COMPANY

By: _____
Alan B. Reeder, its Vice President and General
Manager