



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kim Walesh

**SUBJECT:** SEE BELOW

**DATE:** July 15, 2019

Approved

Date

7/23/19

**SUBJECT: COUNCIL POLICY PRIORITY #4: ELECTRONIC BILLBOARDS - APPROVAL OF SCOPE AND TIMELINE FOR REQUEST FOR PROPOSALS FOR LARGE FORMAT SIGNAGE/BILLBOARDS ON CITY-OWNED PROPERTY**

## RECOMMENDATION

Accept staff recommendations for the scope and timeline of two Large Format Signage/Billboard Request for Proposals on City-owned property.

## OUTCOME

Approval of staff recommendations outlined in this memorandum will result in the issuance of two Requests for Proposals for large format signs or billboards on City-owned property.

## BACKGROUND

On September 25, 2018, the City Council approved proposed amendments to the General Plan Land Use Policy CD-10.4, City Council Policy 6-4, and Title 23 of the San José Municipal Code to allow signs on City-owned property, including billboards, programmable electronic signs, and signs displaying off-site commercial speech, as Phase 1 of a two-phase work plan. These amendments were in response to Council Priority #4 Electronic Billboards, options for public and private property that will allow electronic digital off-site advertising signs or billboard installations.

The Council's action supported the following objectives:

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*Commercial vibrancy and Downtown Sign Intensification.* Expanding the types of allowable signs on City-owned sites may enhance commercial vibrancy and create a more interesting visual environment in appropriate locations, such as Downtown.

*Reduction of visual clutter and blight.* Existing policy calls for eliminating billboards from locations where they are unsightly or incompatible with surrounding land uses and may reduce the overall number of existing billboards in the City.

*Revenue.* New sign proposals may generate revenue for the City, which could be used to support public amenities and place making efforts, as well as City-owned facilities, programs, or services.

*Exploration of best practices.* Allowing billboards, programmable electronic signs, and off-site displays on a limited number of City-owned sites in Phase 1 enables staff to assess best practices and criteria should the City Council proceed with a Phase 2 program on non-City-owned sites.

The City Council requested an opportunity to be updated on the scope of the Large Format Signage/Billboard Request for Proposal before issuing the solicitation.

## **ANALYSIS**

Since September 2018, staff has completed multiple rounds of outreach and discussion with stakeholder tenants and operators in the City-owned facilities (e.g. Convention Center, Museum of Art, Hammer Theatre and the Tech Interactive) that are locations for potential large format signs or billboards. These discussions allowed staff to identify aesthetic and programming standards and evaluation criteria desired by each stakeholder tenant and operator, and to address operational questions for each City-owned facility.

Through this process it became apparent that procurement would be less complicated if two request for proposals were issued simultaneously. Therefore, staff proposes that one Request for Proposal focus on previously identified City-owned properties located in the Downtown Sign Zone that have cleared environmental review (Select Request for Proposal) for building-mounted static or digital signs, and the other Request for Proposal seek proposals from companies that have identified other City-owned property for consideration of free-standing digital signs (Alternative Request for Proposal). Request for Proposals for unidentified City-owned locations will require substantially more due diligence, including but not limited to environmental review, and the requirements to evaluate these proposals will differ slightly.

Table 1 below lists the City-owned sites in the Downtown Sign Zone that will be included in the Select Request for Proposal described in this memorandum. Table 2 lists the City-owned sites that will be included in the Alternative Request for Proposal and Table 3 lists the City-owned

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sites that have been environmentally cleared for additional commercial signage but will not be included in either Request for Proposal in this process.

***Table 1. City-owned sites included in the Select Request for Proposal***

APN	CURRENT USE	ADDRESS	SIGNS
264-29-113	McEnergy Convention Center	150 West San Carlos	2
259-42-023	The Tech Interactive	201 South Market Street	1
259-40-066	San Jose Museum of Art	110 South Market Street	1
467-46-109	Hammer Theater	101 Paseo San Antonio	2
259-43-064	Center for Performing Arts	255 Almaden Boulevard	2
259-34-039	Market/ San Pedro Parking Garage	45 North Market Street	2
467-21-002	Third Street Parking Garage	95 North Third Street	1
467-46-097	Second and San Carlos Parking Garage	280 South Second Street	1

***Table 2. City-owned sites included in the Alternative Request for Proposal***

APN	CURRENT USE	ADDRESS	SIGNS
259-04-019	City of San Jose Parking Lot	Hwy 87 and West Mission	1
259-06-054	City of San Jose Parking Lot	737 North San Pedro Street	1

***Table 3. City-owned sites not included in either Request for Proposal***

APN	CURRENT USE	ADDRESS	SIGNS
254-01-004	Mabury Service Yard	1404 Mabury Road	1
259-28-043	SAP Center	525 West Santa Clara Street	2
230-37-020	Vacant Lot (Near National Guard)	Hwy 87 and West Hedding	1
101-03-009	Airport Facility	2500 Seaboard Avenue	1
230-01-058	Airport Facility	2200 Airport Boulevard	1
230-46-065	Airport Facility	1128 Coleman Avenue	1
230-02-021	Airport Facility	2341 Airport Boulevard	1

The sites listed in Table 1 and included in the Select Request for Proposal are the McEnergy Convention Center, the Tech Interactive, the San Jose Museum of Art, the Hammer Theatre, the Center for Performing Arts, the Market/San Pedro Garage, the Third Street Garage and the Second and San Carlos Street Garage. A total of 12 signs will be possible on these eight locations. The McEnergy Convention Center, Hammer Theatre, Center for Performing Arts and Market/San Pedro Garage have each been environmentally cleared for two signs. City-owned parking lots at Hwy 87 and Mission Street and North San Pedro Street listed in Table 2 have each also been environmentally cleared for one new off-site commercial sign. These two locations will be offered in the Alternative Request for Proposal solicitation.

Seven additional sites listed in Table 3 were environmentally cleared as part of the City Council action in September. Of these seven sites, one site - the Mabury Service Yard - is limited to

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displaying on-site commercial speech, three sites are committed to Sharks Sports and Entertainment as part of their Arena Management Agreement with the City of San Jose (SAP Center, Hwy 87 and West Hedding, and 2500 Seaboard Ave), and three sites are at Mineta San Jose International Airport. The Airport has an existing agreement with an advertising concessionaire who manages one cohesive facility-wide advertising program. This agreement expires in 2027. Airport staff is interested in leveraging their outdoor program to support in-terminal advertising. Airport staff and the advertising concessionaire are currently finalizing an in-terminal marketing/sponsorship program. The Airport intends to address other advertising opportunities, including outdoor billboard advertising, once the in-terminal program has been fully developed.

The material elements included in each Request for Proposal are City benefit, commercial advertising policy, technical requirements, lease term, procurement timeline, and proposal evaluation criteria.

*City benefit.* Both Request for Proposal solicitations seek a minimum annual cash guarantee or percentage of revenue as well as a percentage of time for City messaging on signs. The percentages requested are in line with industry standards based on staff research and inquiries of other cities. The solicitations also seek an art accompaniment (e.g. mural, artistic lighting installation, sculpture, etc.) to static sign(s). Each Request for Proposal also includes a request for periods of time where on-screen advertisement would be limited to advertising related to event sponsors of major national or international events with a presence at the designated City location or in a City designated Special Event Zone. This requirement is in anticipation of the City's future ability to attract events such as the World Cup, College Football Championship or Super Bowl.

*Commercial advertising policy.* The proposed commercial advertising policy is consistent with the policies of other public agencies such as the Valley Transportation Authority and San Francisco Municipal Transportation Agency. Generally, restrictions will be placed on proposed content that is demeaning, profane, promotes violence, unlawful, obscene, prurient, adverse to the City of San Jose, political, religious, false or misleading, or promotes the sale or use of firearms, tobacco marijuana, cannabis-related products or alcohol.

*Technical requirements.* The technical requirements of each sign (location, size, illumination, hours of operation, building placement, etc.) shall be consistent with criteria outlined in City Council Policy 6-4.

*Lease term.* As this is the first time the City of San Jose has allowed off-site advertising on City-owned property, staff has attempted to strike a balance between proposing a financially viable program for proposers and providing the City with the necessary degree of flexibility. Staff envisions an initial term of 10 years for the lease at each site with two additional 5-year term options. The execution of any lease between the City and the

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winning proposer of either Request for Proposal is conditioned on successful negotiations of an amendment to the existing agreement between the City and tenants and/or operators of the City-owned site.

*Procurement timeline and process.* Both Requests for Proposals will be released at the same time and will follow an identical solicitation timeline. Barring any major changes to the elements contained in each document by City Council, the Request for Proposals will be released through the City's BidSync system in mid-August and the procurement process will close at the end of September. The process will include a customary pre-proposal conference, objection and questions period and City's response to written objections and questions.

*Proposal evaluation criteria.* Both Requests for Proposals will contain experience, aesthetic quality standards, and City benefit categories as evaluation criteria. The Select Request for Proposal will contain additional site-specific evaluation criteria. The Alternative Request for Proposal will include the removal of existing free-standing billboards at a ratio of 4:1 as required by Council Policy 6-4 to promote the reduction of visual clutter and blight.

Pursuant to the City's Procurement and Contract Integrity and Conflict of Interest Policy (Resolution 77135, Section 7), potential proposers should not participate in the development of the specifications for the Request for Proposal. Once the Request for Proposal is issued, potential proposers must limit their inquiries to the designated representative for the Request for Proposal until the protest process is complete. Potential proposers that do not comply with these requirements could be precluded from participating in the procurement or disqualified. These precautions are intended to increase competition and ensure a fair and transparent procurement process.

## **EVALUATION AND FOLLOW-UP**

Pending no major changes to the proposed parameters of each request for proposal, and City Council approval, the Request for Proposals will be released to the public in mid-August. Staff will conduct this solicitation in accordance with standard City process and procedures around procurement and will return to Council by December 2019 for approval on the selection of a vendor(s).

## **PUBLIC OUTREACH**

The memorandum will be posted on the City's website for the August 6, 2019 City Council agenda.

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### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office, the Airport, and the Department of Planning, Building and Code Enforcement.

### **COMMISSION RECOMMENDATION/INPUT**

No commission recommendation is associated with this action.

### **FISCAL/POLICY ALIGNMENT**

The recommendations brought forward in this memorandum will result in the issuance of two Request for Proposals for large format signs or billboards on City-owned property which are anticipated to produce revenue for the City through a lease agreement with the successful proposer(s). The exact financial benefit to the City is currently unknown. The desired outcome of staff recommendations in this memorandum align with Council Priority # 4 Electronic Billboards.

### **CEQA**

Negative Declaration for General Plan Text, Municipal Code and Council Policy Amendments for Signs on City-owned Sites, including Billboards, Programmable Electronic Signs and Signs Displaying Off-site Commercial Speech, File No. PP18-058.

/s/

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For questions please contact Blage Zelalich, Downtown Manager, at (408) 535-8172.