

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING A MITIGATED NEGATIVE DECLARATION FOR THE ELECTRONIC SIGNS ON CITY-OWNED PROPERTY PROJECT – WILLOW STREET SITE, FOR WHICH AN INITIAL STUDY WAS PREPARED, AND A RELATED MITIGATION MONITORING AND REPORTING PROGRAM ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**WHEREAS**, prior to the adoption of this Resolution, the Director of Planning, Building and Code Enforcement of the City of San José prepared an Initial Study and approved for circulation a Mitigated Negative Declaration for the Electronic Signs on City-Owned Property Project – Willow Street Site under Planning File No. ER23-130 (the “Initial Study/Mitigated Negative Declaration”), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively “CEQA”); and

**WHEREAS**, the Electronic Signs on City-Owned Property Project – Willow Street Site (the “Project”) analyzed under the Initial Study/Mitigated Negative Declaration consists of the installation and operation of one double-sided programmable electronic sign on one City-owned parcel located in the central portion of San José, approximately 95 feet east of SR-87 and approximately 95 feet north of Willow Street, in accordance with Title 23 of the San José Municipal Code and Council Policy 6-4 in San José, California; and

**WHEREAS**, the Initial Study/Mitigated Negative Declaration concluded that implementation of the Project would not result in any significant effects on the environment; and

**WHEREAS**, the City of San José is the lead agency on the Project, and the City Council is the decision-making body for the proposed approval to undertake the Project; and

**WHEREAS**, in connection with the approval of a project involving the preparation of an initial study/mitigated negative declaration that identifies one or more significant environmental effects, CEQA requires the decision-making body of the lead agency to incorporate feasible mitigation measures that would reduce those significant environmental effects to a less-than-significant level; and

**WHEREAS**, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a mitigation monitoring and reporting program to ensure compliance with the mitigation measures during project implementation, and such a mitigation monitoring and reporting program has been prepared for the Project for consideration by the decision-maker of the City of San José as lead agency for the Project (the “Mitigation Monitoring and Reporting Program”); and

**WHEREAS**, the City Council has reviewed and considered the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project and intends to take actions on the Project in compliance with CEQA and state and local guidelines implementing CEQA; and

**WHEREAS**, the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project are on file in the Office of the Director of Planning, Building and Code Enforcement, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, is available for inspection by any interested person at that location and electronically on the Department of Planning, Building and Code Enforcement webpage, and is, by this reference, incorporated into this Resolution as if fully set forth herein;

**NOW, THEREFORE,** BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE:

**THAT THE CITY COUNCIL** does hereby incorporate the foregoing recitals into this Resolution as if fully set forth herein.

**THAT THE CITY COUNCIL** does hereby make the following findings: (1) it has independently reviewed and analyzed the Initial Study/Mitigated Negative Declaration and other information in the record and has considered the information contained therein, prior to acting upon or approving the Project, (2) the Initial Study/Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA, and (3) the Initial Study/Mitigated Negative Declaration represents the independent judgment and analysis of the City of San José, as lead agency for the Project. The City Council designates the Director of Planning, Building and Code Enforcement at the Director's Office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and records of proceedings on which this decision is based.

**THAT THE CITY COUNCIL** does hereby find that based upon the entire record of proceedings before it and all information received that there is no substantial evidence that the Project will have a significant effect on the environment and does hereby adopt the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program prepared for the Project (Planning File No. ER23-034). The Mitigation Monitoring and Reporting Program for the Project, attached hereto as Exhibit "A" and fully incorporated herein. The Initial Study/Mitigated Negative Declaration is hereby incorporated by reference and is: (1) on file in the Office of the Director of Planning, Building and Code Enforcement, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California 95113, and electronically on the Department of Planning, Building

and Code Enforcement webpage and (2) available for inspection by any interested person.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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MATT MAHAN  
Mayor

ATTEST:

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TONI J. TABER, MMC  
City Clerk

# **MITIGATION MONITORING AND REPORTING PROGRAM**

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## **Electronic Sign on City-Owned Property Project Willow Street Billboard Site Initial Study Mitigated Negative Declaration File No. ER23-130 January 2025**

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## PREFACE

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

The Initial Study/Mitigated Negative Declaration (IS/MND) prepared for the proposed Willow Street Billboard Project (Project) concluded that the implementation of the Project could result in significant effects on the environment and mitigation measures were incorporated into the Project or are required as a condition of Project approval. This MMRP addresses those measures in terms of how and when they will be implemented.

This document does *not* discuss those subjects for which the IS/MND concluded that the impacts from implementation of the Project would be less than significant.

The mitigation measures enumerated in this document would reduce the level of impact of potential environmental effects of the proposed action. In all cases, these mitigation measures would reduce the impact of effects determined to be significant prior to mitigation to less-than-significant levels.

I, Alex Belenson, the applicant, on the behalf of Outfront Foster Interstate, LLC, hereby agree to implement the mitigation measures described below which have been developed in conjunction with the preparation of an Initial Study/Mitigated Negative Declaration for the Project. I understand that these mitigation measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level.

Project Applicant's Signature \_\_\_\_\_

Date \_\_\_\_\_



*Planning, Building and Code Enforcement*  
CHRISTOPHER BURTON, DIRECTOR

Electronic Sign on City-owned Property  
Project, Willow Street Billboard Site  
ER23-130

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<b>Biological Resources</b>					
<p><b>Impact BIO-1:</b> The Project could have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.</p> <p><b>Impact BIO-4:</b> The Project could have a substantial adverse effect on the movement of western pond turtle, nesting birds, and roosting bats.</p>					
<p><b>Mitigation Measure BIO-1: Impacts to Western Pond Turtle</b></p> <p>A qualified Biologist shall survey the Project site within 48 hours prior to the initiation of construction activities. If western pond turtles are found within the Project site, the Biologist shall contact the California Department of Fish and Wildlife (CDFW) to determine the appropriate measures to prevent impacts on the species. After consultation with CDFW, turtles shall be captured and relocated to an appropriate location up or downstream of the construction area in coordination with CDFW.</p>	The Project applicant or its contractor shall contract a qualified biologist to conduct a preconstruction survey for western pond turtle.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).	Director of Planning, Building, and Code Enforcement or the Director's designee.	Review and approve the preconstruction survey report.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).
<p><b>Mitigation Measure BIO-2: Impacts on Nesting Birds</b></p> <p>The proposed Project shall implement the following measures to avoid impacts to nesting migratory birds:</p> <ul style="list-style-type: none"> <li>• <b>Avoidance:</b> Ground disturbance and vegetation removal activities shall be restricted to the nonbreeding season for birds (September 1 to January 31, inclusive), when feasible.</li> </ul>	Avoid construction activities during nesting seasons (February 1 through August 31, inclusive).	Prior to initiation of any ground disturbance permits.	Director of Planning, Building, and Code Enforcement or the Director's designee.		



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<ul style="list-style-type: none"> <li>• <b>Nesting Bird Surveys:</b> For ground disturbance and vegetation removal activities occurring during the bird nesting season (February 1 to August 31, inclusive), general pre-construction nesting bird surveys shall be conducted by a qualified Biologist within 48 hours prior to construction activities involving ground clearing, vegetation removal/trimming, or building demolition. The surveys shall include the disturbance area plus a 200-foot buffer around the site and a 500-foot buffer for raptors.</li> </ul>	If construction is scheduled during nesting bird season February 1 – August 31 (inclusive) the Project applicant or its contractor shall contract a qualified biologist to conduct preconstruction surveys for nesting birds.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).	Director of Planning, Building, and Code Enforcement or the Director’s designee.	Review and approve the preconstruction survey report.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).
<ul style="list-style-type: none"> <li>• <b>Buffer Zones:</b> If active nests are located, an appropriate avoidance buffer shall be established within which no work activity will be allowed that would impact the nests. The avoidance buffer shall be established by the qualified Biologist on a case-by-case basis, based on the species and site conditions and in consultation with the California Department of Fish and Wildlife (CDFW). In no case shall the buffer be smaller than 50 feet for non-raptor bird species or smaller than 200 feet for raptor species. Larger buffers may be required, depending on the status of the nest and the construction activities occurring near the nest. The buffer area(s) shall be closed to all construction personnel and equipment until juveniles have fledged and until the nest is inactive. The qualified Biologist shall confirm that breeding/nesting is completed and young have fledged the nest prior to removal of the buffer. If there are delays in on-site activities for more than 7 days during the breeding</li> </ul>	If an active nest is identified, project applicant or its contractor shall establish no-disturbance buffer zones around each nest, and monitor construction activities near suitable habitat, when applicable.	During construction, as needed.	Director of Planning, Building, and Code Enforcement or the Director’s designee.		



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season, an additional survey shall be required within 48 hours prior to the start of work.					
<ul style="list-style-type: none"> <li><b>Limitation on Noise:</b> If no nests are found, construction may proceed within normal limits of noise. If noises are to regularly exceed 110 decibel (dB) (such as piledriving), additional bird surveys and a Biological Monitor should be employed during the duration of the noise, and the Biological Monitor shall stop construction if any protected species are harassed by construction activities.</li> </ul>	The Project applicant or its contractor shall contract a qualified biologist to conduct additional bird surveys.	During construction, as needed.	Director of Planning, Building, and Code Enforcement or the Director's designee.		
<b>Mitigation Measure BIO-3: Protection from Potential Light Impacts.</b> The Project applicant shall implement the following measure to avoid sources of light impacts on birds: <ul style="list-style-type: none"> <li>Keep billboard intensity below 300 NIT from 30 minutes before sunset until midnight.</li> </ul>	The Project applicant or its contractor shall ensure measures are implemented and include the requirement on all construction documents.	During construction; immediately following construction (establishing billboard display setting)	Director of Planning, Building, and Code Enforcement or the Director's designee.		
<b>Mitigation Measure BIO-4: Impacts to Roosting Bats</b> No more than 7 days in advance of tree and structure removal or adaptive reuse, a qualified Biologist shall conduct a pre-construction survey for special-status bats to characterize potential bat habitat and identify active roost sites within 100 feet of the Project site. The results of the survey and the locations of any designated buffer zones shall be submitted to the Director of Planning, Building and Code Enforcement (PBCE), or the Director's designee, for review and approval prior to issuance of any demolition or building permits. Should potential roosting	The Project applicant or its contractor shall contract a qualified biologist to conduct a preconstruction survey for roosting bats.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).	Director of Planning, Building, and Code Enforcement or the Director's designee.	Review and approve the preconstruction survey report.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest); during construction.



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<p>habitat or active bat roosts be found in trees and/or structures to be removed or renovated under the Project or within a 100-foot buffer zone from these areas, the following measures shall be implemented:</p> <ul style="list-style-type: none"> <li>• Removal of trees and structures with active roosts shall occur when bats are active, approximately between March 1 and April 15, inclusive, and between September 1 and October 15, inclusive. To the extent feasible, removal shall occur outside of bat maternity roosting season (approximately April 15 to August 31, inclusive) and outside of the months of winter torpor (approximately October 16 to February 28, inclusive).</li> <li>• If removing trees and structures during the periods when bats are active is not feasible and active bat roosts being used for maternity or hibernation purposes are found on or in the immediate vicinity of the Project area where tree and structure removal is planned, a no-disturbance buffer shall be established around these roost sites, typically 100 feet or an area determined to be adequate by the qualified Biologist, based on site conditions, construction activity, species, number of roosting individuals, and/or noise attenuation and frequency, along with coordination with the California Department of Fish and Wildlife (CDFW), if necessary, until the qualified Biologist has determined that they are no longer active.</li> </ul> <p>The qualified Biologist shall be present during removal of trees and structures when active bat roosts not being used for maternity or hibernation purposes are present.</p>					



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<p>Trees and structures with active roosts shall be removed only when no rain is occurring and rain is not forecast to occur for 3 days following removal of the roost, and when daytime temperatures are at least 50°F (degrees Fahrenheit).</p> <ul style="list-style-type: none"> <li>Removal of trees with active or potentially active roost sites shall follow a two-step removal process:               <ol style="list-style-type: none"> <li>On the first day of tree removal and under the supervision of the qualified Biologist, branches and limbs that do not contain cavities or fissures in which bats could roost shall be cut only using chain saws. Removal of the canopy makes the tree unappealing for bats to return that evening to roost.</li> <li>On the following day and under the supervision of the qualified Biologist, after confirmation that bats have not returned, the remainder of the tree may be removed, using either chain saws or other equipment (e.g., excavator or backhoe).</li> </ol> </li> </ul> <p>Structures that contain or are suspected to contain active bat roosts, but that are not being used for maternity or hibernation purposes, shall be dismantled under the supervision of the qualified Biologist in the evening, after the bats have emerged from the roost to forage. The structures shall be partially dismantled to substantially change roost conditions, causing the bats to abandon and not return to roost.</p>					



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<b>Cultural Resources</b>					
<b>Impact CUL-TCR-4:</b> The Project could cause a substantial adverse change in the significance of tribal cultural resources pursuant to Public Resources Code Section 5024.1					
<b>Mitigation Measure TCR-1: Tribal Cultural Resources Awareness Training</b> Prior to start of construction, all construction personnel must undergo Tribal Cultural Resources Training. The training shall be presented by a representative of a tribe that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.1. The training shall be held virtually or in person, but it may not be pre-recorded.	A Native American representative of a tribe that is traditionally and culturally affiliated with the geographic area shall conduct training for all construction personnel who will work at the site. The Project applicant and the qualified archeologist shall submit documentation verifying training has been conducted to the City.	Prior to any grading or excavation activities.	Director of Planning, Building, and Code Enforcement or the Director's designee.	Review and approve completion of Tribal Cultural Resources Awareness Training for all construction personnel who will work at the site.	Prior to any grading or excavation activities.

Source: ISMND, Willow Street Billboard Project, City of San José, January 2025.