



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Mukesh (Mookie) Patel
Christopher Burton

SUBJECT: See Below

DATE: October 28, 2024

Approved

Date:

11/1/2024

COUNCIL DISTRICT: Citywide

SUBJECT: Amendments to City Council Policy 6-4 and Authorization to Proceed with Request for Proposal for Large Format Signage/Billboards at the San José Mineta International Airport

RECOMMENDATION

- (a) Adopt a resolution adopting the Addendum to a Negative Declaration to incorporate revisions to the City Council Policy 6-4 for consideration of signs on City-owned property, including billboards, programmable electronic signs, and signs displaying off-site commercial speech.
- (b) Adopt a resolution approving amendments to City Council Policy 6-4 entitled Signs on City-owned Land, including Billboards, Programmable Electronic Signs and Signs displaying off-site Commercial Speech.
- (c) Direct staff to proceed with a Request for Proposal solicitation process on San José Mineta International Airport property for two large format electronic signage/ billboard locations.

SUMMARY AND OUTCOME

Approval of staff recommendations outlined in this memorandum will result in the issuance of one Request for Proposal (RFP) for two large format signs/ billboards on City-owned property at the San José Mineta International Airport (Airport). If the proposed amendment to City Council Policy 6-4 is approved by City Council, the approved amendment will be effective immediately and incorporated into the RFP.

BACKGROUND

On September 25, 2018, City Council approved the 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 City Council Priority #4 Electronic Billboards, options for public and private property that allow for installations of electronic digital off-site advertising signs or billboards. The revised City Council Policy 6-4 identified locations throughout the City, including four sites on Airport property in the “Airport Influence Area” that were environmentally cleared for additional commercial signage. Some of the locations were determined as not viable by the Airport and have been removed from the upcoming RFP.

On August 6, 2019, item 4.2, staff provided City Council an update on City Council Policy Priority #4 for electronic billboards. Amongst the updates, staff established that the four sites on Airport property referenced in City Council Policy 6-4 would not be included in the City’s RFP for electronic billboards. In this update, staff stated its intent to leverage the Airport’s existing concession advertising agreement with Clear Channel Outdoor, LLC. (Clear Channel) to address other advertising opportunities, including outdoor electronic signs, once the all-digital, in-terminal program was fully developed.

The agreement between the City and Clear Channel allows Clear Channel to propose additional marketing income opportunities at other locations on Airport premises and delegates authority to the Director of Aviation to approve and execute a project plan that outlines the scope and the proposed revenue to the City. On February 21, 2020, the Director of Aviation approved the project plan for the entitlement, development, and operation of two outdoor digital advertising billboards located at 2200 and 2341 Airport Boulevard, respectively, facing U.S. Highway 101 freeway and one located at 1128 Coleman Avenue. These signs, located within the Airport Influence Area, as listed in the revised City Council Policy 6-4, sit adjacent to U.S. Highway 101 freeway and are more than 0.06 light candles away from any residential or commercial areas. On April 22, 2020, the Airport and Clear Channel mutually agreed to remove the 1128 Coleman Avenue electronic sign. As of October 2024, the San José Airport Fire Department Station 20 building and the San José Police Department hangar were constructed on the parcel and the Airport concluded there is no space for a sign on the parcel. Therefore, this location has been removed from further consideration.

The City proceeded with the California Environmental Quality Act study for the two locations on Airport Boulevard. On February 15, 2022, item 5.1, the City Council approved the following actions.

- a) Adopt a resolution approving the addendum to the amendment to the Norman Y. Mineta San José International Airport Master Plan Environmental Impact Report (EIR) (SCH# 2018102020), certified by the San José City Council on April 18, 2020 (Resolution No. 79497), in accordance with the California Environmental Quality Act.
- b) Conduct a Public Hearing regarding the project plan for two Outdoor Advertising Digital Billboards under the Norman Y. Mineta San José International Airport City of San José Advertising Concession Agreement by and between the City of San José and Clear Channel Outdoors Inc. with estimated annual revenue to the Airport of \$490,000 and reaffirm the project plan.

In its action, which allowed Clear Channel to build two digital billboards adjacent to U.S. Highway 101, the City Council also included the following requirements and directions.

1. Clear Channel shall take down 12 billboards (16 faces) in San José. The majority of the billboards to be taken down are from communities that are below the 80% median income level or communities with crime rates higher than 20% of the norm.
2. The two new billboards are to use 100% renewable San José Clean Energy.
3. A 5:1 tree replacement ratio, which at the time was 215 new trees. These trees were to be planted in prioritized San José neighborhoods that lack adequate tree canopies, such as those in District 5 and District 7. These trees were to be maintained for three years by Clear Channel.
4. Direction to staff to amend City Council Policy 6-4 Billboards on City-Owned Land to require a 6:1 take down ratio for new digital billboards.
5. Direction to staff to issue an information memorandum on the terms accepted by Clear Channel.

On March 15, 2022, staff provided an informational memorandum to City Council reaffirming Clear Channel's commitment to the additional requirements and direction from City Council's February 15, 2022 meeting.

On August 30, 2022, an additional informational memorandum was provided to City Council identifying the 12 billboards to be removed, which included locations in Districts 1, 3, 5, 6, and 7, and affirmed the plan for Clear Channel to pay the off-site tree replacement fee to the Department of Transportation to support the San José Community Forest Management Plan.

Following the City Council's February 15, 2022 approval, OutFront, Media, LLC filed a lawsuit against the City and Clear Channel and argued that the City violated its own City Council Policy 6-4 by failing to solicit proposals for the rights to the billboards. The court ruled against the City and required the City to rescind the project plan and the first amendment to the project plan with Clear Channel that allowed Clear Channel to put up billboards pursuant to the concession agreement. The City complied with the judgement and rescinded the project plan and the amendment to the project plan.

On October 24, 2022, the Community and Economic Development Committee discussed the desire to further amend City Council Policy 6-4 so that future RFPs would be held to the same requirements as the proposed billboards at the Airport. Staff shared that two requirements would need to be added: 1) to use 100% renewable San José Clean Energy and 2) to use the existing tree replacement policy pursuant to the California Environmental Quality Act.

On December 13, 2022, the City Council directed staff to amend City Council Policy 6-4 to include the requirements listed below.

1. 6:1 take down ratio for new digital billboards (i.e., for every new billboard that is installed, six existing billboards in the City would be required to be taken down);
2. 5:1 tree replacement ratio to be planted in prioritized San José neighborhoods that lack adequate tree canopies, such as those in District 5 and District 7. These trees must be maintained for three years; and
3. Use 100% renewable San José Clean Energy replacement.

ANALYSIS

Amendments to City Council Policy 6-4

As discussed in the Background section of this memorandum, on February 15, 2022, the City Council directed staff to return with amendments to City Council Policy 6-4 to require that six existing billboards be taken down for every new digital billboard that is erected, consistent with the requirements imposed for the two proposed Airport property billboards.

During the October 24, 2022 Community and Economic Development Committee status update, staff noted they would bring the City Council Policy 6-4 amendment to change the billboard takedown ratio from 4:1 to 6:1 to City Council by the second fiscal quarter of 2023, but a redirection of staff priorities significantly delayed this timeline. Staff further indicated that the timeframe for the policy amendment would be aligned so that any future RFP under the policy would be subject to the new takedown ratio. Pursuant to prior City Council direction, staff is now bringing forth the amendment to City Council Policy 6-4 for consideration.

On December 13, 2022, the City Council directed staff to return to City Council with amendments to City Council Policy 6-4 to include 100% renewable San José Clean Energy requirements and a tree replacement ratio. The amendment includes the following changes consistent with City Council's action in 2022.

- a) Update billboard takedown ratio from 4:1 to 6:1;
- b) Include tree replacement ratio of 5:1 to be planted in prioritized San José neighborhoods that lack adequate tree canopies with maintenance of the replacement trees for three years;
- c) Include a 100% renewable San José Clean Energy requirement.

City Council Approval to Issue RFP

City staff believes that there is significant value in adding electronic billboards within the approved locations on Airport property in accordance with the revised City Council Policy 6-4 and requests approval to release an RFP for the two previously approved large format electronic signage/ billboards on Airport property.

The two previously approved free-standing digital sign locations are both located at the following City-owned Airport properties:

APN	CURRENT USE	ADDRESS	SIGNS
230-01-058	Airport Facility	2200 Airport Boulevard	1
230-02-021	Airport Facility	2341 Airport Boulevard	1

These billboards would provide the City with a number of benefits that advance the following City goals.

- a) Providing revenue to the Airport to help pay for its ongoing operations;
- b) Free advertising for the Airport to promote travel to/from the Airport;

- c) The removal of 12 billboards in locations throughout the City, including potentially in residential neighborhoods;
- d) Support for the City's tree canopy goals; and
- e) Use of carbon-free electricity with the requirement to use 100% renewable electricity from San José Clean Energy.

The material elements that will be included in the RFP are City/Airport benefit, commercial advertising policy, technical requirements, lease term, procurement timeline and process, compliance with the Revised City Council Policy 6-4, and proposal evaluation criteria.

City/Airport Benefit. RFP solicitations seek a minimum annual cash guarantee or percentage of revenue as well as a percentage of time for Airport messaging on signs. The percentages requested will be in line with industry standards based on staff research and inquiries of other cities. The Airport will also receive up to 10% of the advertising time to use for the sole purpose of promoting the Airport.

Commercial Advertising Policy. The proposed commercial advertising policy is consistent with the policies of other public agencies, such as the Santa Clara Valley Transportation Authority and the 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, 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 in addition to any other regulatory agencies.

Lease Term. The initial term will be for 10 years at each site with one additional 10-year term option.

Procurement Timeline and Process. The RFP will be released through the City's Biddingo system, ideally in calendar year 2025. The process will include a customary pre-proposal conference, objection and questions period, and the City's response to written objections and questions.

Compliance with the Revised City Council Policy 6-4.

Carbon Free Electricity. All proposers must use the 100% renewable San José Clean Energy for their electricity.

Takedown and Tree Replacement. All proposers must comply with City Council Policy 6-4 billboard and tree replacement policies.

Proposal Evaluation Criteria. RFPs will contain experience, aesthetic quality standards, and City benefit categories as evaluation criteria. The RFP will also contain additional site-specific evaluation criteria.

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 RFP. Once the RFP is issued, potential proposers must limit their inquiries to the designated representative for the RFP until the protest process is complete. Potential proposers that do not comply with these requirements could be precluded from participating in the procurement or be 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 the RFP and City Council approval, the RFP will be released to the public by the end of calendar year 2025. Staff will conduct this solicitation in accordance with standard City processes and procedures for a procurement and will return to City Council for approval on the selection of a vendor(s).

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office, and the City Manager's Office of Economic Development and Cultural Affairs.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the November 19, 2024 City Council meeting.

October 28, 2024

Subject: Amendments to City Council Policy 6-4 and Authorization to Proceed with Request for Proposal for Large Format Signage/Billboards at the San José Mineta International Airport

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COMMISSION RECOMMENDATION AND INPUT

The Airport Commission was notified of the Airport Department's intention to seek City Council approval to go out for an RFP at its August 12, 2024 meeting.

CEQA

For Recommendations (a) and (b):

Amendments to City Council Policy 6-4: Addendum to a Negative Declaration (File No. PP18 058 adopted on September 25, 2018) to Incorporate Revisions to the City Council Policy 6-4 for consideration of signs on City-owned property, including billboards, programmable electronic signs, and signs displaying off-site commercial speech, File No. PP24-003. See **Attachment** - An Addendum to a Negative Declaration to Incorporate Revisions to City Council Policy 6-4 for Consideration of Signs on City-Owned Property, Including Billboards, Programmable Electronic Signs, and Signs Displaying Off-Site Commercial Speech.

For Recommendation (c):

RFP: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

Mukesh (Mookie) Patel, C.M.
Director of Aviation

/s/

Christopher Burton
Director of Planning, Building,
and Code Enforcement

The principal author of this memorandum is Matthew Kazmierczak, Division Manager, Airport Department. For questions, please contact mkazmierczak@sjc.org or (408) 392-3640.

ATTACHMENT: Addendum to a Negative Declaration to Incorporate Revisions to City Council Policy 6-4 for Consideration of Signs on City-Owned Property, Including Billboards, Programmable Electronic Signs, and Signs Displaying Off-Site Commercial Speech

**AN ADDENDUM TO A NEGATIVE DECLARATION TO INCORPORATE
REVISIONS TO CITY COUNCIL POLICY 6-4 FOR
CONSIDERATION OF SIGNS ON CITY-OWNED
PROPERTY, INCLUDING BILLBOARDS,
PROGRAMMABLE ELECTRONIC SIGNS, AND SIGNS
DISPLAYING OFF-SITE COMMERCIAL SPEECH.**

Pursuant to Section 15168 of the California Environmental Quality Act (CEQA) Guidelines, the City of San José has prepared an Addendum ((File No. PP24-003)) to the prior Negative Declaration (File No. PP18-058) adopted on September 25, 2018, and which deleted General Plan Land Use Policy CD10.4, revised City Council Policy 6-4, and made amendments to Sections 23.02.870 and 23.02.1310 of Title 23 (the Sign Code) of the Municipal Code for consideration of signs on city-owned property, including billboards, programmable electronic signs, and signs displaying off-site commercial speech. This project proposes specific amendments to City Council Policy 6-4 as described below that are pursuant to, in furtherance of, and within the scope of the adopted Negative Declaration and do not raise new issues about the significant impacts on the environment beyond those analyzed in the Negative Declaration.

File Number and Project Name: PP24-003: Proposed amendments to Council Policy 6-4 include updates related to replacement ratios consistent with the City Council's direction on December 13, 2022. The proposed actions include revisions to City Council Policy 6-4 to specifically update the billboard takedown ratio from 4:1 to 6:1, incorporate a tree replacement ratio of 5:1, and include a 100% renewable Clean Energy requirement.

Location: Citywide

The environmental impacts of proposed revisions to Council Policy 6-4 were addressed by the Negative Declaration (File No. PP18-058) for amendments to the Envision San Jose 2040 General Plan that previously deleted General Plan Land Use Policy CD10.4, revised City Council Policy 6-4, and amended Sections 23.02.870 and 23.02.1310 of Title 23 (the Sign Code) of the Municipal Code to allow consideration of signs on city-owned property, including billboards, programmable electronic signs, and signs displaying off-site commercial speech:

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Aesthetics | <input checked="" type="checkbox"/> Agriculture Resources | <input checked="" type="checkbox"/> Air Quality |
| <input checked="" type="checkbox"/> Biological Resources | <input checked="" type="checkbox"/> Cultural Resources | <input checked="" type="checkbox"/> Geology and Soils |
| <input checked="" type="checkbox"/> Greenhouse Gas Emissions | <input checked="" type="checkbox"/> Hazardous Materials | <input checked="" type="checkbox"/> Hydrology & Water Quality |
| <input checked="" type="checkbox"/> Land Use | <input checked="" type="checkbox"/> Mineral Resources | <input checked="" type="checkbox"/> Noise |
| <input checked="" type="checkbox"/> Population and Housing | <input checked="" type="checkbox"/> Public Services | <input checked="" type="checkbox"/> Recreation |
| <input checked="" type="checkbox"/> Transportation/Traffic | <input checked="" type="checkbox"/> Utilities & Service Systems | <input checked="" type="checkbox"/> Energy |
| <input checked="" type="checkbox"/> Growth Inducing | <input checked="" type="checkbox"/> Cumulative Impacts | <input checked="" type="checkbox"/> Mandatory Findings of Significance |

BACKGROUND

On February 15, 2022, the City Council directed staff to return to with an update to Council Policy 6-4 to require a 6:1 take-down ratio. The policy currently requires a 4:1 take-down ratio for digital signage projects on City land where Council directs that existing billboards are removed in exchange for new digital billboards. This amendment will require that for every new billboard proposed to be installed, six existing billboards in the city would be required to be taken down.

On October 24, 2022, the CED Committee discussed the desire to further amend City Council Policy 6-4 Billboards on City-Owned Land to incorporate two requirements: 1) to use 100% renewable San José Clean Energy, and 2) to use the City's existing tree replacement policy pursuant to the California Environmental Quality Act.

On December 13, 2022, the City Council directed staff to amend City Council Policy 6-4 Billboards on City-Owned Land to require a) 6:1 take-down ratio for new digital billboards (i.e., for every new billboard that is installed, six existing billboards in the City would be required to be taken down), b) 5:1 tree replacement ratio to be planted in prioritized San José neighborhoods that lack adequate tree canopies and require maintenance of these trees for three years, and c) Use 100% renewable San José Clean Energy replacement.

ANALYSIS

Pursuant to City Council direction, the staff is proposing the City Council Policy 6-4 amendment for consideration. Staff indicated earlier that the timeframe for the Policy amendment will be aligned so that any future RFP under the Policy would be subject to the new take-down ratio.

This amendment includes the following changes consistent with Council's action in 2022:

- a. Update billboard takedown ratio from 4:1 to 6:1.
- b. Include tree replacement ratio of 5:1
- c. Include 100% renewable Clean Energy requirement Consistency

Based on the earlier direction, this project's proposed amendments incorporate a more restrictive revision to the previously adopted Negative Declaration, in that the scope of this project will (a) require increased ratio (6:1) for take-down of existing static billboards to address the visual clutter. (b) Include minimum tree replacement ratio of 5:1 for any tree proposed for removal in conjunction with installation of a new sign. These trees must be planted in prioritized San José neighborhoods that lack adequate tree canopies and maintained for three years; and (c) Include 100% renewable San José Clean Energy for proposals.

Conclusion

The proposed project is within the scope of the Negative Declaration (File No. PP18-058) for the specific amendment to the City Council Policy 6-4 for signs on city-owned property, including billboards, programmable electronic signs, and signs displaying off-site commercial speech. It includes specific and more restrictive revisions to the Policy 6-4 provisions. No change is proposed to location, design, and operational requirements for signs that may be approved pursuant to this Policy. The proposed project, therefore, will not result in new impacts or impacts

of greater severity than those previously identified in the previously adopted Negative Declaration.

Christopher Burton, Director
Planning, Building and Code Enforcement

22/10/24

Date

Martina Davis

Deputy

Project Manager: Aparna Ankola