

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE ELECTRONIC SIGNS ON CITY-OWNED PROPERTY PROJECT – DOWNTOWN SITES MITIGATED NEGATIVE DECLARATION, 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 – Downtown Sites under Planning File No. ER23-034 (the “Initial Study/Mitigated Negative Declaration”), all in accordance with the requirements of the California Environmental Quality Act (“CEQA”); and

**WHEREAS**, the Electronic Signs on City-Owned Property Project – Downtown Sites (the “Project”) analyzed under the Initial Study/Mitigated Negative Declaration consists of the installation and operation of six programmable electronic signs on five City-owned parcels in the downtown San José area 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;

**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 Signs on City-Owned Property Project**  
**File Number ER23-034**  
**October 2024**

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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.

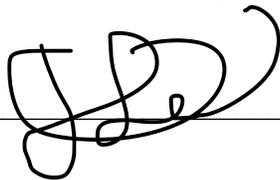
The Initial Study prepared for the Electronic Signs on City-Owned Property Project (“Project”) concluded that the implementation of the Project could result in significant effects on the environment and mitigation measures were incorporated into the proposed Project or are required as a condition of 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 Initial Study 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, Jibran Shermohammed, the applicant, on the behalf of Orange Barrel Media, hereby agree to fully implement the mitigation measures described below which have been developed in conjunction with the preparation of an EIR for my proposed 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 February 12, 2025



*Planning, Building and Code Enforcement*

CHRISTOPHER BURTON, DIRECTOR

**Electronic Signs on City-Owned  
Property Project / File No. ER23-034**

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>					
<b>Impact BIO-1:</b> Construction activities associated with the Project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment.					
<b>MM BIO-1.1:</b> Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the Project Applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31 (inclusive).	Notify the City’s Supervising Environmental Planner of approximate start and end date of site disturbance activities. Notification shall state whether work will occur during the nesting season (February 1 through August 31).	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.	Receive the Project Applicant’s notification.	Prior to any tree removal or the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).
<b>MM BIO-1.2:</b> If demolition and construction cannot be scheduled between September 1 and January 31 (inclusive), pre-construction surveys for nesting birds shall be completed	If demolition and construction cannot be scheduled between	Prior to any tree removal or the issuance of any	Director of Planning, Building and Code	Receive the qualified	Prior to any tree removal or the



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<p>by a qualified ornithologist/biologist to ensure that no nests are disturbed during Project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities. During this survey, the ornithologist/biologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.</p> <p>If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest to ensure that bird nests shall not be disturbed during Project construction.</p> <p>Prior to any tree removal, or approval of any grading or demolition permits (whichever</p>	<p>September 1 and January 31 (inclusive), a qualified ornithologist or biologist shall complete pre-construction surveys in accordance with MM BIO-1.2.</p> <p>If an active nest is discovered close to work areas, a construction free buffer shall be established in</p>	<p>demolition, grading, and/or building permits (whichever occurs earliest).</p>	<p>Enforcement or the Director's designee.</p>	<p>ornithologist or biologist report.</p>	<p>issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>



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occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the City’s Director of Planning, Building and Code Enforcement or the Director’s designee.	accordance with MM BIO-1.2.  The ornithologist/biologist shall submit the report indicating the results of the survey and any designated buffer zones.				
<b>CULTURAL RESOURCES</b>					
<b>Impact CUL-1:</b> Below-grade construction associated with the Center for Performing Arts would have the potential to encounter unknown subsurface archaeological resources.					
<b>MM CUL-1.1:</b> A qualified archaeologist and a Native American monitor that is traditionally and culturally affiliated with the geographic area pursuant to Public Resources Code Section 21080.3.1 shall monitor all ground-disturbing activity associated with the installation of signs at the Center for	Submit a copy of the executed agreement with a qualified archaeologist and Native American monitor to complete	Prior to below grade construction and following completion of below grade work.	Director of Planning, Building and Code Enforcement, or the Director’s designee.	Confirm qualified archaeologist and Native American monitor are contracted to	Prior to below grade construction and following completion of below grade work.



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<p>Performing Arts site. The qualified archaeologist shall prepare a report to document the findings after construction is completed.</p>	<p>monitoring pursuant to MM CUL-1.1.</p> <p>A qualified archaeologist and a Native American monitor shall be retained and present during below grade construction at the Center for Performing Arts site. A qualified archaeologist shall prepare a report to document the findings after construction is completed.</p>			<p>monitor ground-disturbing activities and review archaeologist's summary report.</p>	



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<b>HAZARDS AND HAZARDOUS MATERIALS</b>					
<b>Impact HAZ-1:</b> Construction of Signs 3A and 3B at the Center for Performing Arts location could result in exposure of adjacent uses and the environment to soil contamination from past uses, including residual contamination from automotive uses, lead-based paint, and/or pesticides.					
<b>MM HAZ-1.1:</b> Prior to issuance of construction permits for the signs to be located at the Center for Performing Arts site, the Project Applicant shall prepare a Site Management Plan and Health and Safety Plan (“SMP and HSP”) to guide activities during demolition, excavation, and initial construction to ensure that potentially contaminated soils, groundwater, and/or other material are identified, characterized, removed, and disposed of properly. The purpose of the SMP and HSP is to establish appropriate management practices for handling impacted soil, groundwater, or other materials that may be encountered during construction activities.	Prepare a SMP and HSP, submit a copy of the HSP employee training sign-in log to the Director of Planning, Building and Code Enforcement or Director’s designee and Municipal Environmental Compliance Officer, conduct soil sampling and testing, and submit results of soil sampling and testing to the Director of Planning, Building and Code	Prior to the issuance of any demolition or grading permits (whichever occurs earliest)	Director of Planning, Building and Code Enforcement or the Director’s designee, City’s Supervising Environmental Compliance Officer, and the Santa Clara County Department of Environmental Health (only if contaminants are found exceeding	Receive the HSP employee training sign-in log, soil sampling and testing results, SMP and HSP and review for compliance with MM HAZ-1.1.	Prior to the issuance of any demolition or grading permits (whichever occurs earliest).



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<p>The SMP shall provide the protocols for sampling of in-place soil to facilitate the profiling of the soil for appropriate off-site disposal or reuse, and for construction worker safety, dust mitigation during construction and potential exposure of contaminated soil to future users of the site. The soil profiling shall include (but not limited to) the collection of shallow soil samples (upper one foot) and analyses for lead and organochlorine pesticides. The soil profiling shall be performed prior to any significant earthwork.</p> <p>If there are no contaminants identified on the Project sites that exceed applicable screening levels published by the Regional Water Quality Control Board, Department of Toxic Substances Control, and/or Environmental Protection Agency (“applicable screening levels”), the SMP does not need to be</p>	<p>Enforcement or Director’s designee and Municipal Environmental Compliance Officer.</p> <p>If contaminated soils are found that exceed applicable screening levels, Project Applicant shall submit the SMP and HSP to the Santa Clara County Department of Environmental Health agency with a copy to the City. If no contaminants are found, Project Applicant shall</p>		<p>applicable screening levels)</p>		



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<p>submitted to an oversight agency and only submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the Environmental Compliance Officer in the Environmental Services Department prior to construction earthwork activities.</p> <p>If contaminants are identified at concentrations exceeding applicable screening levels, the Project Applicant shall enter the County of Santa Clara Department of Environmental Health Site Cleanup Program. The SMP and planned remedial measures shall be reviewed and approved by the Santa Clara County Department of Environmental Health. A copy of the SMP and HSP shall be submitted to the Supervising Environmental Planner of the Department of Planning, Building and Code</p>	<p>submit SMP and HSP to the City only.</p>				



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Enforcement and with the Supervising Environmental Compliance Officer in the City of San José’s Environmental Services Department.					
<b>TRIBAL CULTURAL RESOURCES</b>					
<b>Impact TCR-1:</b> Below-grade construction associated with the Project could have the potential to encounter unknown subsurface tribal cultural resources.					
<b>MM TCR-1.1:</b> The following measures shall be implemented: <ul style="list-style-type: none"> <li>• <u>Comprehensive Monitoring Plan.</u> Prior to issuance of any tree removal, grading, and/or building permits or activities, the archaeologist shall collaborate with a representative from a Native American Tribe that is traditionally and culturally affiliated with the geographic area pursuant to Public Resources Code Section 21080.3.1 (see MM CUL-1.1) to establish a detailed written monitoring</li> </ul>	The qualified archaeologist, in collaboration with representatives from the Native American Tribe shall prepare a Comprehensive Monitoring plan.	Prior to issuance of any tree removal, grading, and/or building permits or activities.	Director of Planning, Building and Code Enforcement, or the Director’s designee.	Receive and approve monitoring plan.	Prior to issuance of any tree removal, grading, and/or building permits or activities.



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<p>plan. This plan should outline how monitoring will be conducted, the specific roles and responsibilities of all parties involved, and the steps to be taken if Native American Tribal cultural resources (“tribal cultural resources”) are discovered.</p> <ul style="list-style-type: none"> <li>• <u>Conduct Sensitivity Training.</u> Implement cultural resources sensitivity training for all Project staff and contractors who will be onsite during ground disturbance. This training shall cover the significance of the sites, the importance of respecting cultural resources, and the specific protocols to follow if artifacts or other items of cultural importance are found. Documentation (i.e., sign in sheets) verifying that Cultural Sensitivity Training has been conducted shall be submitted to the Director of Planning,</li> </ul>	<p>Provide at least one cultural sensitivity training to construction personnel and submit documentation (i.e., sign sheets) to the Director of Planning, Building and Code Enforcement or the Director’s designee.</p>	<p>Prior to issuance of any tree removal, grading, and/or building permits or activities.</p>	<p>Director of Planning, Building and Code Enforcement, or the Director’s designee.</p>	<p>Review documentation that cultural resources sensitivity training has been completed.</p>	<p>Prior to issuance of any tree removal, grading, and/or building permits or activities.</p>



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<p>Building and Code Enforcement or the Director’s designee.</p> <ul style="list-style-type: none"> <li>• <u>Treatment Plans.</u> Ensure that the Native American Tribe is consulted in the development of any treatment plans for the handling of discovered tribal cultural resources. Their input can provide invaluable guidance on how to treat these finds respectfully and appropriately.</li> <li>• <u>Documentation and Reporting.</u> Keep thorough records of monitoring activities, findings, and any actions taken in response to discovered tribal cultural resources. Documentation should be shared with the Native American tribe and relevant authorities as appropriate.</li> </ul>	<p>If tribal cultural resources are discovered, the qualified archaeologist shall prepare a treatment plan in collaboration with the Native American Tribe.</p> <p>The qualified archaeologist shall keep thorough records of monitoring activities, findings, and any actions taken in response to discovered tribal cultural resources. The records shall be shared with the Native</p>	<p>If and when tribal resources are discovered during ground disturbing activities.</p> <p>During and following training and monitoring activities.</p>	<p>Director of Planning, Building and Code Enforcement, or the Director’s designee.</p> <p>Director of Planning, Building and Code Enforcement, or the Director’s designee.</p>	<p>Receive and approve treatment plan.</p> <p>Receive documentation.</p>	<p>If resources are discovered during ground disturbing activities.</p> <p>Following completion of below grade construction.</p>



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	American Tribe and relevant authorities as appropriate.				

**Source:** City of San José. *Electronic Signs on City-Owned Property Project Initial Study*. October 2024.