MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

PROJECT NAME: Electronic Signs on City-Owned Property Project – West Mission Street and Mabury Road sites

PROJECT FILE NUMBER: ER23-052

PROJECT DESCRIPTION: The project consists of the installation and operation of two, double-sided electronic billboards on two separate City-owned properties in accordance with Title 23 of the San José Municipal Code and Council Policy 6-4. The proposed billboards would be back-to-back designs with north- and south-facing displays. The proposed billboards would be approximately 45 feet in height. The billboard faces proposed for the West Mission Street project site would be 14 feet by 48 feet, and the billboard faces proposed for the Mabury Road project site would be 17 feet by 58 feet. The billboard frames would be equipped with upper and lower rear catwalks extending along the length of the back of the billboards.

The West Mission Street billboard project site is located at the southeast corner of Guadalupe Parkway and West Mission Street, on a parcel that is used as a San José Police Department parking lot. Within the parcel, the proposed billboard would be installed in the northwest corner of the lot. The Mabury Road billboard project site is located at 1404 Mabury Road. The eastern portion of the elongated parcel is used as a City service yard, while the western portion includes the Coyote Creek and an associated trail. Operation hours of both signs would be as governed by City Council Policy 6-4, which are currently 6:00 a.m. to midnight; the signs would operate 7 days per week.

LOCATION AND ASSESSOR'S PARCEL NOS.: The project consists of two sites:

West Mission Street site: Southeast corner of SR 87 (Guadalupe Parkway) and West Mission Street, San José, CA, 95110; APN: 259-04-019

Mabury Road site: 1404 Mabury Road, San José, CA 95133; APN: 254-01-004

COUNCIL DISTRICT: 3

APPLICANT CONTACT INFORMATION: Clear Channel Outdoor (Attention: Sarah Fishleder); 555 12th Street, Suite 950; Oakland, CA 94607; (510) 446-7215; sarahfishleder@clearchannel.com

FINDING
The Director of Planning, Building and Code Enforcement finds the project described above would not have a significant effect on the environment if certain mitigation measures are incorporated into the project. The attached Initial Study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this Mitigated Negative Declaration (MND), has made or agrees to make project revisions that will clearly mitigate the potentially significant effects to a less than significant level.

ENVIRONMENTAL RESOURCE AREAS AND MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

A. AESTHETICS – The project would not have a significant impact on this resource, therefore no mitigation is required.

B. AGRICULTURE AND FORESTRY RESOURCES – The project would not have a significant impact on this resource, therefore no mitigation is required.

C. AIR QUALITY – The project would not have a significant impact on this resource, therefore no mitigation is required.

D. BIOLOGICAL RESOURCES

Impact BIO-1: 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.

Impact BIO-4: The Project could have a substantial adverse effect on the movement of nesting birds and roosting bats.

MM BIO-1: Impacts to Nesting Birds
The proposed Project shall implement the following measures to avoid impacts to nesting migratory birds:

- **Avoidance:** Ground disturbance and vegetation removal activities shall be restricted to the nonbreeding season for birds (September 1 to January 31, inclusive), when feasible.

- **Nesting Bird Surveys:** 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 not more than 14 days 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.

- **Buffer Zones:** 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 sit conditions. 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 14 days during the breeding season, an additional survey shall be required within 14 days prior to the start of work.

- **Limitation on Noise:** 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.

MM BIO-2: Protection from Potential Light Impacts.
The Project applicant shall implement the following measures to avoid sources of light impacts on birds:

- Keep billboard intensity below 300 nit from 30 minutes before sunset until midnight.

MM BIO-3: Impacts to Roosting Bats
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 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:

- 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).

- 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. 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. 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).

- Removal of trees with active or potentially active roost sites shall follow a two-step removal process:
    - 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.
    - 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).

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 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 the roost.

E. **CULTURAL RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.

F. **ENERGY** – The project would not have a significant impact on this resource, therefore no mitigation is required.

G. **GEOLOGY AND SOILS** – The project would not have a significant impact on this resource, therefore no mitigation is required.

H. **GREENHOUSE GAS EMISSIONS** – The project would not have a significant impact on this resource, therefore no mitigation is required.

I. **HAZARDS AND HAZARDOUS MATERIALS** – The project would not have a significant impact on this resource, therefore no mitigation is required.

J. **HYDROLOGY AND WATER QUALITY** – The project would not have a significant impact on this resource, therefore no mitigation is required.

K. **LAND USE AND PLANNING** – The project would not have a significant impact on this resource, therefore no mitigation is required.

L. **MINERAL RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.

M. **NOISE** – The project would not have a significant impact on this resource, therefore no mitigation is required.

N. **POPULATION AND HOUSING** – The project would not have a significant impact on this

resource, therefore no mitigation is required.

O. **PUBLIC SERVICES** – The project would not have a significant impact on this resource, therefore no mitigation is required.

P. **RECREATION** – The project would not have a significant impact on this resource, therefore no mitigation is required.

Q. **TRANSPORTATION** – The project would not have a significant impact on this resource, therefore no mitigation is required.

R. **TRIBAL CULTURAL RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.

S. **UTILITIES AND SERVICE SYSTEMS** – The project would not have a significant impact on this resource, therefore no mitigation is required.

T. **WILDFIRE –** The project would not have a significant impact on this resource, therefore no mitigation is required.

U. **MANDATORY FINDINGS OF SIGNIFICANCE.**

Cumulative impacts would be less than significant. The project would comply with existing regulations and City standard conditions of approval. The proposed project would implement the identified mitigation measures and would either have no impacts or less than significant impacts on riparian habitat or other sensitive natural communities, migration of species, applicable biological resources protection ordinances, and cultural resources (including tribal cultural resources). Therefore, the proposed project would not contribute to any cumulative impact for these resources. The project would not cause changes in the environment that have any potential to cause substantial adverse direct or indirect effects on human beings.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **March 14, 2025, 2025 at 5:00 p.m.** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) and attached Initial Study as an informational document only; or

2. Submit written comments regarding the information and analysis in the Draft MND/Initial Study. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND/Initial Study, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND. Please submit comments to: Cort Hitchens, Environmental Project Manager; 200 E. Santa Clara Street – Tower 3; San Jose, CA 95113 or via e-mail at **cort.hitchens@sanjoseca.gov**.

CHRISTOPHER BURTON, Director
Planning, Building and Code Enforcement

Deputy

2/7/25

Date

Cort Hitchens
Environmental Project Manager

Circulation period: February 12, 2025 to March 14, 2025