

RESOLUTION NO. 2010-244

Adopted by the Sacramento City Council

May 11, 2010

ADOPTING THE MITIGATED NEGATIVE DECLARATION AND THE MITIGATION MONITORING PROGRAM FOR THE DIGITAL BILLBOARDS PROJECT

BACKGROUND

- A. On March 25, 2010, the City Planning Commission conducted a public hearing on the Digital Billboards Project (Rezone and Relocation Agreement) and forwarded to the City Council a recommendation to approve the Project.
- B. On May 11, 2010, the City Council conducted a public hearing, for which notice was given pursuant Sacramento City Code Section 17.200.010(C)(1) (a), (b), and (c) (publication and mail to owners of property within 500 feet of the Project sites), and received and considered evidence concerning the Digital Billboards Project.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The City Council finds as follows:

The Project initial study identified potentially significant effects of the Project. Revisions to the Project made by or agreed to by the Project applicant before the proposed mitigated negative declaration and initial study were released for public review were determined by City's Environmental Planning Services to avoid or reduce the potentially significant effects to a less than significant level, and, therefore, there was no substantial evidence that the Project as revised and conditioned would have a significant effect on the environment. A Mitigated Negative Declaration (MND) for the Project was then completed, noticed, and circulated in accordance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the Sacramento Local Environmental Procedures, as follows:

- A. On December 3, 2009, a Notice of Intent to Adopt the MND (NOI) dated December 1, 2009, was circulated for public comments for 30 days. The NOI was sent to those public agencies that have jurisdiction by law with respect to the proposed Project and to other interested parties and agencies, including owners of property within 500 feet of the boundaries of the proposed Project. The comments of such persons and agencies were sought.
- B. On December 3, 2009, the NOI was published in the *Daily Recorder*, a newspaper of general circulation, and the NOI was posted in the office of the Sacramento County Clerk/Recorder.

- Section 2. The City Council has reviewed and considered the information contained in the MND, including the initial study and revised initial study, the revisions and conditions incorporated into the Project, and the comments received during the public review process and the hearing on the Project. The City Council has determined that the MND constitutes an adequate, accurate, objective, and complete review of the environmental effects of the proposed project.
- Section 4. Based on its review of the MND and on the basis of the whole record, the City Council finds that the MND reflects the City Council's independent judgment and analysis and that there is no substantial evidence that the Project will have a significant effect on the environment.
- Section 5. The City Council adopts the MND for the Project.
- Section 6. Pursuant to CEQA section 21081.6 and CEQA Guidelines section 15074, and in support of its approval of the Project, the City Council adopts a Mitigation Monitoring Program to require that all reasonably feasible mitigation measures be implemented by means of Project conditions, agreements, or other measures, as set forth in the Mitigation Monitoring Program.
- Section 7. Upon approval of the Project, the City's Environmental Planning Services shall file or cause to be filed a Notice of Determination with the Sacramento County Clerk/Recorder and, if the Project requires a discretionary approval from any state agency, with the State Office of Planning and Research, pursuant to CEQA section 21152(a) and CEQA Guidelines section 15075 .
- Section 8. Pursuant to CEQA Guidelines section 15091(e), the documents and other materials that constitute the record of proceedings upon which the City Council has based its decision are located in, and may be obtained from, the Office of the City Clerk at 915 I Street, Sacramento, California. The City Clerk is the custodian of records for all matters before the City Council.
- Section 9. Exhibit A is a part of this Resolution.

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Exhibit A: Mitigation Monitoring Program

Adopted by the City of Sacramento City Council on May 11, 2010 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy,
Tretheway, Waters, and Mayor Johnson.

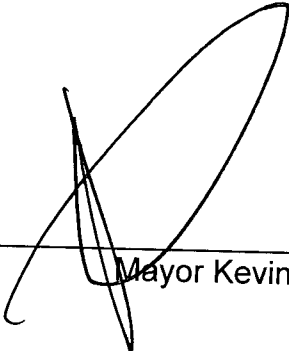
Noes: None.

Abstain: None.

Absent: None.

Attest:


Shirley Concolino, City Clerk



Mayor Kevin Johnson

**DIGITAL BILLBOARDS
MITIGATION MONITORING PROGRAM**

Mitigation Measure	Monitoring Party	Compliance Milestone / Confirm Compliance
<p>1. TRANSPORTATION / CIRCULATION</p> <p>Transportation 1 The operation of digital billboards by the operator within the City of Sacramento shall comply with the following at all times:</p> <ul style="list-style-type: none"> a. No special visual effects that include moving or flashing lights shall accompany the transition between two successive messages, and no special visual effects shall accompany any message display; b. The operator shall report its intention of installing, implementing or using any technology that would allow interaction with drivers, vehicles or any device located in vehicles, including, but not limited to a radio frequency identification device, geographic positions system, or other device, in advance of such operation, in the annual report required in Mitigation Measure Transportation 2. <p>Transportation 2 The operator of any digital billboard operated within the City of Sacramento shall submit, within thirty days following June 30 of each year, a written report regarding operation of each digital billboard during the preceding period of July 1 to June 30. The operator may submit a combined report for all such digital billboards operated by such operator within the City limits. The report shall, when appropriate, identify incidents or facts that relate to specific digital billboards. The report shall be submitted to the Director of the Community Development Department, Director of Department of Transportation and the City Attorney, and shall include information relating to the following:</p> <ul style="list-style-type: none"> a. Status of the operator's license as required by California Business and Professions Code §§5300 et seq.; b. Status of the required permit for individual digital billboards, as required by California Business and Professions Code §§5350 et seq.; 	<p align="center">City of Sacramento; Community Development Department; & Department of Transportation;</p>	<p>Provide annual written reports by July 30 each year detailing the information outlined in Mitigation Measure Transportation 2 to the Directors of the City of Sacramento Community Development Department and the Department of Transportation</p>

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<ul style="list-style-type: none"> c. Compliance with the California Outdoor Advertising Act, California Business and Professions Code §§5200 and all regulations adopted pursuant to such Act; d. Compliance with California Vehicle Code §§21466.5 and 21467; e. Compliance with provisions of written agreements between the U.S. Department of Transportation and the California Department of Transportation pursuant to the federal Highway Beautification Act (23 U.S.C. §131); f. Compliance with mitigation measures identified in this Initial Study and in the Mitigated Negative Declaration adopted as part of project approval; g. Each written or oral complaint received by the operator, or conveyed to the operator by any government agency or any other person, regarding operation of digital billboards within the City of Sacramento; h. Each malfunction or failure of a digital billboard approved by the City of Sacramento and operated by the operator within the City of Sacramento, which shall include only those malfunctions or failures that are visible to the naked eye, including reason for the malfunction, duration and confirmation of repair; and i. Operating status of each digital billboard operated by the operator within the City of Sacramento, including estimated date of repair and return to normal operation of any digital billboard identified in the report as not operating in normal mode. 		
<p>2. <u>AESTHETICS</u> See Mitigation Measures Transportation 1 and 2</p>	See Mitigation Measures Transportation 1 and 2	See Mitigation Measures Transportation 1 and 2

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<p>4. BIOLOGICAL RESOURCES</p>		
<p>BIO-1 (Location 2-Interstate 5 and Richards Boulevard) The following mitigation measures shall be implemented on the project site:</p> <ul style="list-style-type: none"> a. Fence and flag all areas to be avoided. Provide a minimum setback of at least 20 feet from the dripline of the elderberry plant located at the base of the electrical tower to the south. b. Brief contractors on the need to avoid damaging the elderberry plants and the possible penalties for not complying with these requirements. c. Put up signs every 50 feet along the edge of the avoidance areas with the following information: "This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines, and imprisonment." The signs should be clearly readable from a distance of 20 feet, and must be maintained for the duration of construction. Signs shall be removed following construction. d. Instruct work crews about the status of the beetle and the need to protect its elderberry host plant. 	<p>City of Sacramento Community Development Department</p>	<p>Measures shall be shown and confirmed on construction plans for Location 2.</p> <p>Prior to issuance of grading and/or building permits.</p>
<p>BIO-2 (Location 2-Interstate 5 and Richards Boulevard) If construction occurs during the breeding season (February 1–August 31), the developer will conduct CDFG-recommended protocol-level surveys within 0.8 kilometer (0.5 mile) of the project area prior to construction as required by the <i>Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley</i> or as required by the CDFG in the future. If no active nests are identified during the survey, no additional mitigation is required.</p> <p>If active nests are found in the vicinity of the construction area, mitigation measures consistent with the <i>Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California</i> will be incorporated in the following manner or as directed by the CDFG.</p>	<p>City of Sacramento Community Development Department</p>	<p>Measures shall be shown and confirmed on construction plans.</p> <p>Provide written report verifying</p>

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<p>a. If an active nest is found, no intensive new disturbances (e.g., construction activities that create sudden loud noises or vibrations) or other project-related activities that may cause nest abandonment or forced fledging, can be initiated within 200 yards (buffer zone) of an active nest between March 1 and September 15. The size of the buffer area may be adjusted if a qualified biologist and the CDFG determine it would not be likely to have adverse effects on the hawks. No project activity will commence within the buffer area until a qualified biologist confirms that the nest is no longer active.</p> <p>b. If construction or other project-related activities that may cause nest abandonment or forced fledging are necessary within the buffer zone, monitoring of the nest site (funded by the project proponent) by a qualified biologist will be required to determine if the nest is abandoned. If the nest is abandoned and if the nestlings are still alive, the project proponent will fund the recovery and hacking (controlled release of captive reared young) of the nestling(s).</p> <p>Routine disturbances, such as routine maintenance activities within 0.4 kilometer (0.25 mile) of an active nest, will not be prohibited unless consultation with the CDFG determines that these activities will affect the active nest.</p>		<p>compliance with BIO -2 for Location 2</p> <p>Prior to issuance of grading and/or building permits</p>
<p>5. CULTURAL RESOURCES</p> <p>CR-1 (Location 2-Interstate 5 and Richards Boulevard) For the proposed billboard sites located within archaeologically sensitive areas, as shown in the General Plan MEIR, Figure 6.4-1, the developer shall have test bores conducted by a qualified archaeologist in the location and to depth of the proposed excavation (drilling of the foundation holes). The archaeologist shall assess the significance of any finds in the test bores. The archaeologist shall coordinate the testing and provide written findings to the City's Preservation Director. If the find is determined to be significant by the archaeologist and the Preservation Director, the archaeologist and the Preservation Director shall coordinate to determine the appropriate course of action to be undertaken prior to initiation of construction.</p>	<p>City of Sacramento</p> <p>Community Development Department</p>	<p>Measures shall be shown and confirmed on construction plans.</p> <p>Provide a written report of the findings of testing to the</p>

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<p>CR-2 (All Locations) In the event that any prehistoric subsurface archeological features or deposits, including locally darkened soil ("midden"), that could conceal cultural deposits, animal bone, obsidian and/or mortars are discovered during construction-related earth-moving activities, all work shall be halted, and the City shall consult with a qualified archeologist, at the applicant's cost, to assess the significance of the find. Archeological test excavations shall be conducted by a qualified archeologist to aid in determining the nature and integrity of the find. If the find is determined to be significant by the qualified archeologist, representatives of the City and the qualified archeologist shall coordinate to determine the appropriate course of action. All significant cultural materials recovered shall be subject to scientific analysis and professional museum curation. In addition, a report shall be prepared by the qualified archeologist according to current professional standards.</p>	<p align="center">City Preservation Director</p>	<p align="center">City's Preservation Director for Location 2.</p> <p align="center">Prior to Construction activities</p>
<p>CR-3 (All locations) If a Native American site is discovered, the evaluation process shall include consultation with the appropriate Native American representatives.</p> <p>If Native American archeological, ethnographic, or spiritual resources are involved, all identification and treatment shall be conducted by qualified archeologists, who are certified by the Society of Professional Archeologists (SOPA) and/or meet the federal standards as stated in the Code of Federal Regulations (36 CFR 61), and Native American representatives, who are approved by the local Native American community as scholars of the cultural traditions.</p> <p>In the event that no such Native American is available, persons who represent tribal governments and/or organizations in the locale in which resources could be affected shall be consulted. If historic archeological sites are involved, all identified treatment is to be carried out by qualified historical archeologists, who shall meet either Register of Professional Archeologists (RPA), or 36 CFR 61 requirements.</p>	<p align="center">City of Sacramento</p> <p align="center">Community Development Department</p> <p align="center">City Preservation Director</p>	<p align="center">Measures shall be shown and confirmed on construction plans.</p> <p align="center">During Construction activities</p>
<p>CR-4 (All Locations) If a human bone or bone of unknown origin is found during construction, all work shall stop in the vicinity of the find, and the County Coroner shall be contacted immediately. If</p>		

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<p>the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission, who shall notify the person most likely believed to be a descendant. The most likely descendant shall work with the contractor to develop a program for re-internment of the human remains and any associated artifacts. No additional work is to take place within the immediate vicinity of the find until the identified appropriate actions have taken place.</p>		
<p>7. HAZARDS</p> <p>HAZ -1 Prior to issuance of a building permit for the sites Location 2 (Interstate 5 and Richards Boulevard) and Location 3 (Raption Honda), the contractor shall submit a written report that either provides evidence that construction activities will not cause a release of contaminated soils or expose construction workers to contaminated soils prior to issuance of building or grading permits, or identifies the status of soils, plans for avoidance or remediation and the local or state agency that will have jurisdiction over site remediation.</p> <p>HAZ-2 The contractor shall comply with all requirements of the deed restrictions for the sites and coordinate with the applicable regulatory agencies overseeing the Operation and Maintenance Agreements for the affected sites.</p>	<p align="center">City of Sacramento</p> <p align="center">Community Development Department</p>	<p>Measures shall be shown and confirmed on construction plans.</p> <p>Provide written report verifying measures identified in HAZ – 1 for Location 3.</p> <p>Prior to issuance of any grading or building permit.</p>