Initial Study/Mitigated Negative Declaration

Electronic Signs on City-Owned Property Project

File Number ER23-034















Prepared by

CITY OF SAN JOSE

CAPITAL OF SILICON VALLEY

In Consultation with

DAVID J. POWERS & ASSOCIATES, INC.

ENVIRONMENTAL CONSULTANTS & PLANNERS

October 2024

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 – Downtown sites

PROJECT FILE NUMBER: ER23-034

PROJECT DESCRIPTION: The project 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. The proposed electronic signs are as follows:

1. Market & San Pedro Garage: One 1,176 sq. ft. attached, corner wrap sign at the northeast corner of the garage at the intersection of W. Saint John St. and Market St.
2. Tech Interactive Museum: One 800 sq. ft. attached, corner wrap sign at the northeast corner of the museum at the intersection of Park Avenue and S. Market Street.
3. Center for the Performing Arts: Two free-standing signs, consisting of one 900 sq. ft. sign at the southwest corner of Almaden Boulevard and Park Avenue and one 900 sq. ft. sign at the northwest corner of Almaden Boulevard and West San Carlos Street.
4. McEnery Convention Center: One 1,028 sq. ft. attached, dual-sided sign at the southwest portion of the building facing Almaden Boulevard.
5. Second & San Carlos Garage: One 1,120 sq. ft. attached sign at the southwest portion of the garage facing Second Street.

Location and Assessor's Parcel No.: The location, address, and assessor's parcel number (APN) for each of the six proposed signs are summarized in the table below.

Sign ID.	Name of City-Owned Property/Structure	Location	Address	APN
1	Market & San Pedro Garage	Northeast corner of the Market & San Pedro Garage (intersection of W. St. John Street and Market Street)	45 N San Pedro Street	259-34-039
2	The Tech Interactive Museum	Northeast corner of The Tech Interactive building (intersection off Park Avenue and S. Market Street)	201 S Market Street	259-42-087
3A 3B	Center for the Performing Arts	Southwest corner of Almaden Boulevard and Park Avenue Northwest corner of Almaden Boulevard and West San Carlos Street	255 S Almaden Boulevard	259-43-064
4	McEnery Convention Center	Southwest portion of the McEnery Convention Center building facing Almaden Boulevard	150 W San Carlos Street	264-29-113
5	Second & San Carlos Garage	Southwest corner of the Second & San Carlos Garage	280 S Second Street	467-46-097

COUNCIL DISTRICT: 3

APPLICANT CONTACT INFORMATION: Orange Barrel | Media (Attention: Jessica Burton); 9165 Sunset Blvd. West Hollywood, CA 90069; (214) 662-4633; jburton@obm.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: Construction activities associated with the project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment.

MM BIO-1.1: 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).

MM BIO-1.2: If demolition and construction cannot be scheduled between September 1 and January 31 (inclusive), pre-construction surveys for nesting birds shall be completed 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.

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.

Prior to any tree removal, or approval of any grading or demolition permits (whichever 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.

E. CULTURAL RESOURCES

Impact CUL-1: Below-grade construction associated with the Center for Performing Arts would have the potential to encounter unknown subsurface archaeological resources.

MM CUL-1.1: A qualified archaeologist and a Native American monitor that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.1 shall monitor all ground-disturbing activity associated with the installation of signs at the Center for Performing Arts site. The qualified archaeologist shall prepare a report to document the findings after construction is completed.

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.

Impact HAZ-1: 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.

MM HAZ-1.1: 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.

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.

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 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.

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 Enforcement and with the Supervising Environmental Compliance Officer in the City of San José's Environmental Services Department.

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

Impact TCR-1: Below-grade construction associated with the Project could have the potential to encounter unknown subsurface tribal cultural resources.

MM TCR-1.1: The following measures shall be implemented:

Comprehensive Monitoring Plan. 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 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.

Conduct Sensitivity Training. 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, Building and Code Enforcement or the Director's designee.

Treatment Plans. Ensure that the Native American Tribe is consulted in the development of any treatment plans for the handling of discovered resources. Their input can provide invaluable guidance on how to treat these finds respectfully and appropriately.

Documentation and Reporting. Keep thorough records of monitoring activities, findings, and any actions taken in response to discovered resources. Documentation should be shared with the Native American tribe and relevant authorities as appropriate.

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, cultural resources (including tribal cultural resources), and hazards and hazardous materials. 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 **November 15, 2024 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

10/11/24

Date

Cort Hitchens
Environmental Project Manager

Circulation period: October 25, 2024 to November 15, 2024

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All appendices are incorporated herein by reference.

Section 1.0 Introduction and Purpose

1.1 Purpose of the Initial Study

The City of San José, as the Lead Agency, has prepared this Initial Study for the Electronic Signs on City-Owned Property project in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations Section 15000 et. seq.) and the regulations and policies of the City of San José, California.

The project proposes to install and operate six programmable electronic signs on five City-owned properties in downtown San José:

- Market & San Pedro Garage (Sign 1) located at the northeast corner of the Market & San Pedro Garage
- The Tech Interactive Museum (Sign 2) located at the northeast corner of The Tech Interactive building
- Center for Performing Arts (Signs 3A and 3B) located at the southwest corner of Almaden Boulevard and Park Boulevard and northwest corner of Almaden Boulevard and West San Carlos Street, respectively
- McEnery Convention Center (Sign 4) located at the southwest portion of the McEnery Convention Center building facing Almaden Boulevard
- Second & San Carlos Garage (Sign 5) located at the southwest corner of the Second & San Carlos Garage

This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

On September 25, 2018, the San José City Council adopted an Initial Study/Negative Declaration (IS/ND) to allow new Programmable Electronic Signs[1] and Signs Displaying Off-site Commercial Speech on identified City-owned parcels (File No. PP18-058). The IS/ND evaluated the program-level environmental impacts of the amendments to the General Plan, Municipal Code, and Council Policy that would allow the City Council to consider approving use of designated City-owned sites (including the five sites evaluated in this Initial Study) for electronic signs and assumed that future signage installations would require project-level environmental review. This Initial Study tiers off the analysis in the adopted IS/ND. In addition, where applicable, this Initial Study tiers from the Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report (Final

[1] A programmable electronic sign is defined as a type of animated sign capable of displaying words, symbols, figures, or images that can be electronically or mechanically changed by remote or automatic means. The elements may be internally illuminated or may be illuminated by reflected light. The sign may be part of a permanent sign that is not a programmable electronic sign. "Programmable electronic sign" includes sign display screens commonly known as liquid crystal display (LCD), plasma and digital displays, and their functional equivalents. This definition applies whether the display is used to produce a series of still images, or images that appear to move on the display screen (San José Municipal Code Section 23.02.410).

EIR) (SCH 2009072096). All documents cited or referenced are incorporated into the Initial Study in accordance with CEQA Guidelines Section 15150.[2] The following documents are available for review at the City of San José Planning, Building, and Code Enforcement Department and on the City's Environmental Review Documents webpage (https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-review/environmental-review-documents):

- Initial Study/Negative Declaration (IS/ND) to allow new Programmable Electronic Signs and Signs Displaying Off-site Commercial Speech on identified City-owned parcels (File No. PP18-058)
- Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report (Final EIR) (SCH 2009072096)

1.2 Public Review Period

Publication of this Initial Study marks the beginning of a 20-day public review and comment period. During this period, the Initial Study will be available to local, state, and federal agencies and to interested organizations and individuals for review. Written comments concerning the environmental review contained in this Initial Study during the 20-day public review period should be sent to:

Cort Hitchens, Planner
Planning, Building and Code Enforcement
200 E. Santa Clara St. – 3rd Floor Tower
San José, CA 95113
(408) 794-7386
cort.hitchens@sanjoseca.gov

1.3 Consideration of the Initial Study and Project

Following the conclusion of the public review period, the City of San José will consider the adoption of the Initial Study/Mitigated Negative Declaration (MND) for the project at a regularly scheduled meeting. The City shall consider the Initial Study/MND together with any comments received during the public review process. Upon adoption of the MND, the City may proceed with project approval actions.

1.4 Notice of Determination

If the project is approved, City of San José will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office for 30 days. In addition, the NOD will be filed electronically with the Governor's Office of Planning and

[2] Where applicable, the referenced documents are summarized in the relevant section of this Initial Study.

Research (OPR). The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15075(g)).

Section 2.0 Project Information

2.1 Project Title

Electronic Signs on City-Owned Property

2.2 Lead Agency Contact

Cort Hitchens, Planner
Planning, Building and Code Enforcement
200 E. Santa Clara St. – 3rd Floor
San José, CA 95113
(408) 794-7386
cort.hitchens@sanjoseca.gov

2.3 Project Applicant

Jessica Burton
Orange Barrel | Media
9165 Sunset Blvd.
West Hollywood, CA 90069
(214) 662-4633
jburton@obm.com

2.4 Project Location, Assessor's Parcel Numbers, General Plan Designation, and Zoning

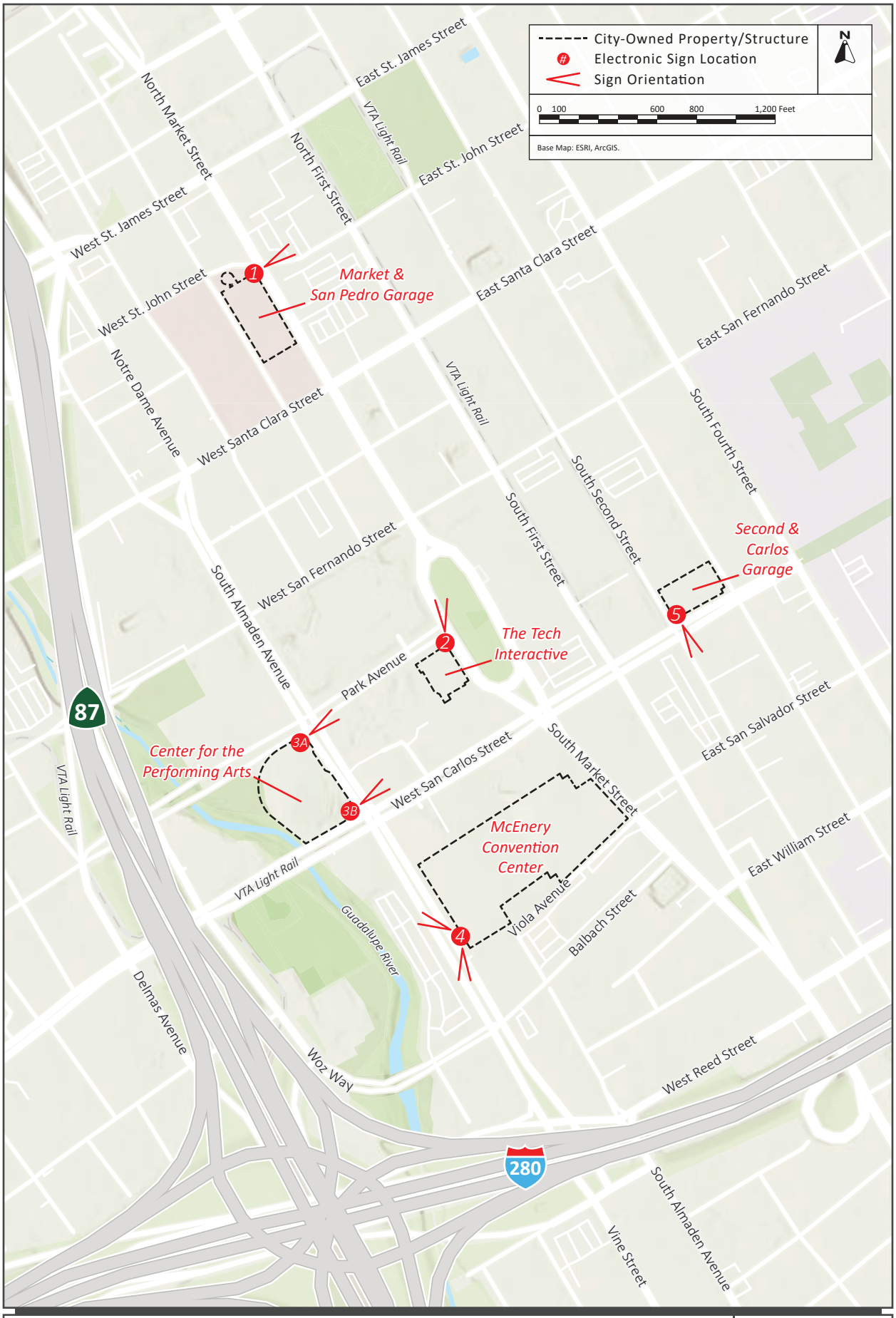
The project proposes to construct electronic signs on five City-owned properties in downtown San José, as summarized in Table 2.4-1 below. The locations of the proposed signs are shown on Figure 2.4-1, Figure 2.4-2, and Figure 2.4-3.

Table 2.4-1: Project Location Summary

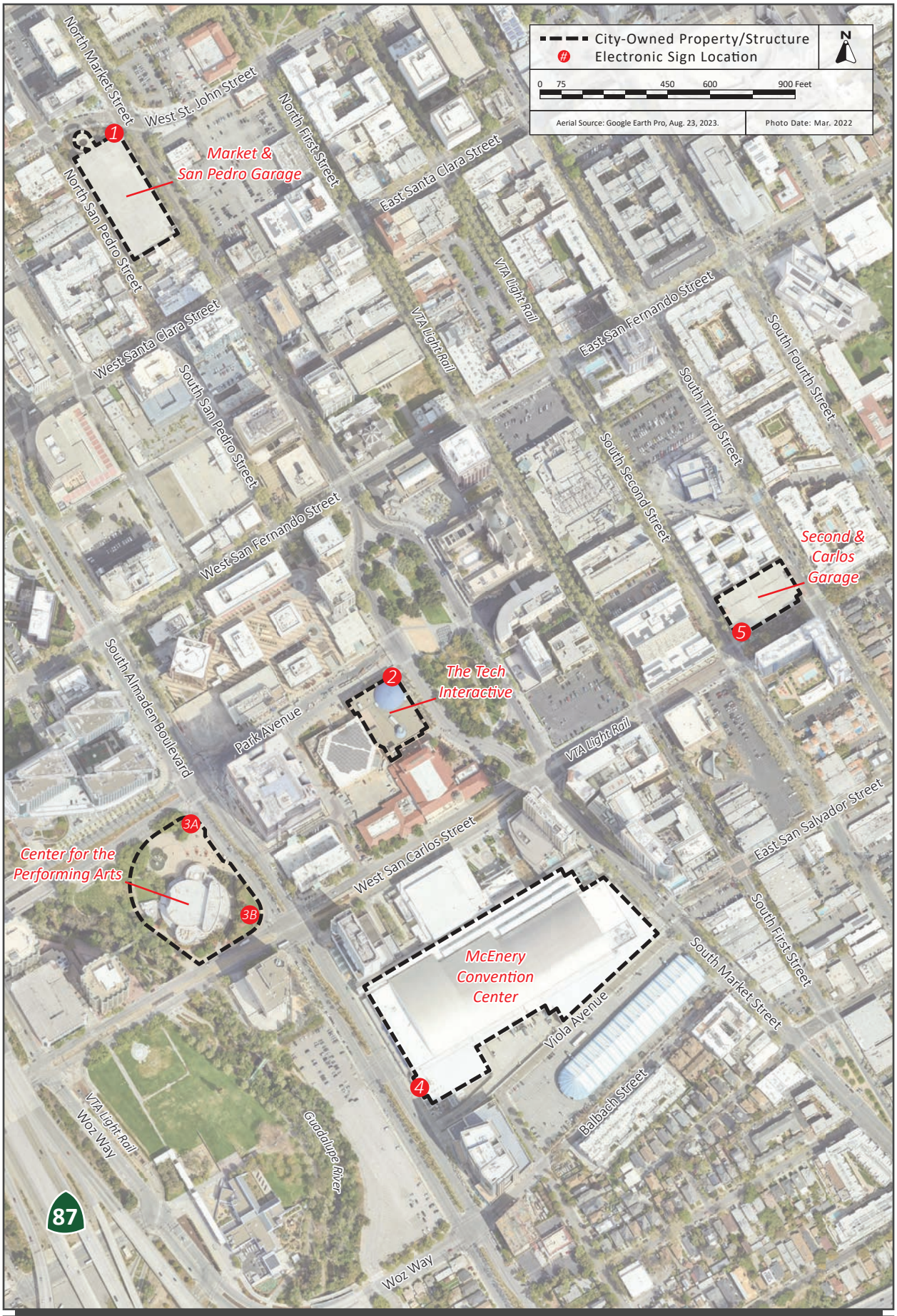
Sign ID.	Name of City-Owned Property/Structure	Location	Address	APN	General Plan Designation	Zoning District
1	Market & San Pedro Garage	Northeast corner of the Market & San Pedro Garage	45 N San Pedro Street	259-34-039	Downtown	DC
2	The Tech Interactive Museum	Northeast corner of The Tech Interactive building	201 S Market Street	259-42-087	Public/Quasi-Public	PQP
3A 3B	Center for the Performing Arts	Southwest corner of Almaden Boulevard and Park Boulevard Northwest corner of Almaden Boulevard and West San Carlos Street	255 S Almaden Boulevard	259-43-064	Public/Quasi-Public	PQP
4	McEnery Convention Center	Southwest portion of the McEnery Convention Center building facing Almaden Boulevard	150 W San Carlos Street	264-29-113	Public/Quasi-Public	PQP
5	Second & San Carlos Garage	Southwest corner of the Second & San Carlos Garage	280 S Second Street	467-46-097	Downtown	DC



REGIONAL MAP | FIGURE 2.4-1



VICINITY MAP | FIGURE 2.4-2



AERIAL MAP OF SITE AND ELECTRONIC SIGN LOCATIONS | FIGURE 2.4-3

2.4.1 Envision San José 2040 General Plan

Sign locations 1 and 5 are designated Downtown in the Envision 2040 General Plan (General Plan). The Downtown designation includes office, retail, service, residential, and entertainment uses in the Downtown. Development within this designation should enhance the "complete community," support pedestrian and bicycle circulation, and increase transit ridership downtown.

Sign locations 2, 3 and 4 are designated Public/Quasi-Public in the General Plan. This designation is used for public land uses, including schools, colleges, corporation yards, homeless shelters, permanent supportive housing, libraries, fire stations, water treatment facilities, convention centers and auditoriums, museums, governmental offices, and airports. In addition, joint development projects that include public and private participation are allowed. This category also is used to designate lands of some private entities, including private schools, daycare centers, hospitals, public utilities, and the facilities of any organization involved in the provision of public services that are consistent in character with established public land uses. Private community gathering facilities also are appropriate on lands with the Public/Quasi-Public designation.

2.4.2 Zoning

Sign locations 1 and 5 are located in the DC – Downtown Core district, which allows for a variety of uses include multi-family residential, office, general retails, education and training, entertainment, food services, health and veterinary services, and transportation (e.g., parking).

Sign locations 2, 3, and 4 are located in the PQP Public/Quasi-Public district, which is intended to provide for publicly serving uses on lots that are designated Public/Quasi-Public on the General Plan Land Use/Transportation Diagram. The appropriate intensity of development can vary considerably depending on potential impacts on surrounding uses and the particular Public/Quasi-Public use developed on a site.

2.5 Habitat Plan Designation

The project sites are designated Private Development Area 4: Urban development equal to or greater than two acres covered in the Santa Clara Valley Habitat Plan and has a Land Cover designation of "Urban-Suburban."[3]

2.6 Project-Related Approvals, Agreements, and Permits

- Development Permit
- Design Approval
- Architectural Review Approval

[3] Santa Clara Valley Habitat Agency. "Geobrowser." Accessed March 18, 2024. http://www.hcpmaps.com/habitat/

Section 3.0 Background and Project Description

3.1 Background

On September 25, 2018, the San José City Council approved amendments to General Plan Land Use Policy CD 10.4 and Title 23 of the San José Municipal Code, and adopted City Council Policy 6-4 to allow new Programmable Electronic Signs and Signs Displaying Off-Site Commercial Speech on identified City-owned parcels. City Council Policy 6-4 established selection criteria for City-owned land on which signs may be allowed and established limitations on the location, number, type, size, and height of signs that may be allowed under this policy. An IS/ND was adopted (File No. PP18-058) by the City in 2018 that evaluated the program-level environmental impacts of the amendments to the General Plan, Municipal Code, and Council Policy that would allow the City Council to consider approving use of designated City-owned sites for electronic signs. The IS/ND stated that future signage installations on specific City-owned sites would be subject to future site-specific environmental review, as may be required pursuant to CEQA.

In 2019, the City of San José issued a Request for Proposals (RFP) for leases to install, operate, and manage building-mounted static and/or digital commercial advertising signs in accordance with Title 23 of the San José Municipal Code and Council Policy 6-4 on City-owned properties that are prominent civic buildings or parking garages in downtown San José.

Orange Barrel | Media (OBM), the applicant for the project that is the subject of this Initial Study, was selected by the City through the RFP process to install and operate six programmable electronic signs on five-City owned properties in downtown San José.

3.2 Project Description

The project 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. The project does not include the removal any existing billboards, consistent with the City's requirements for new signs in the downtown. The physical characteristics and sign elements are described below.

3.2.1 Physical Characteristics

The project would include four attached signs and two free-standing signs. Per Municipal Code Sections 23.02.060 and 23.02.230:

- An "attached sign" is a sign which is either a part of a building or other improvement, or is attached to a building or other improvement. A sign shall be considered to be attached to a building or other improvement only if the sign would fall without support from the building or improvement. Attached signs include without limitation flat-mounted signs and projecting signs (San José Municipal Code Section 23.02.060).

- A “free-standing sign” is defined as a sign not attached to a building or other improvement but instead permanently erected upon or standing in the ground and usually supported from the ground by one or more poles, columns, uprights, braces, or cement anchors. Freestanding signs include monument signs but do not include portable signs (San José Municipal Code Section 23.02.230).

The message face of each of the proposed signs would range from approximately 800 to 1,200 square feet. The physical characteristics of the signs are described below and summarized in Table 3.2-1 below.

Table 3.2-1: Summary of Sign Physical Characteristics

Sign ID.	Name of City-Owned Property/Structure	Sign Type	Single or Dual-Sided	Dimensions (feet)	Message Face Area (square feet)
1	Market & San Pedro Garage	Attached	Single (corner wrap)	46’ x 21’ 10’ x 21’	1,176
2	The Tech Interactive Museum	Attached	Single (corner wrap)	20’ x 32’ 5’ x 32’	800
3A, 3B	Center for the Performing Arts	Free-standing Free-standing	Single Single	60’ x 15’ 60’ x 15’	900 900
4	McEnery Convention Center	Attached	Dual	42’-8” x 24	1,028
5	Second & San Carlos Garage	Attached	Single	28’ x 40’	1,120

3.2.1.1 *Market & San Pedro Garage (Sign 1)*

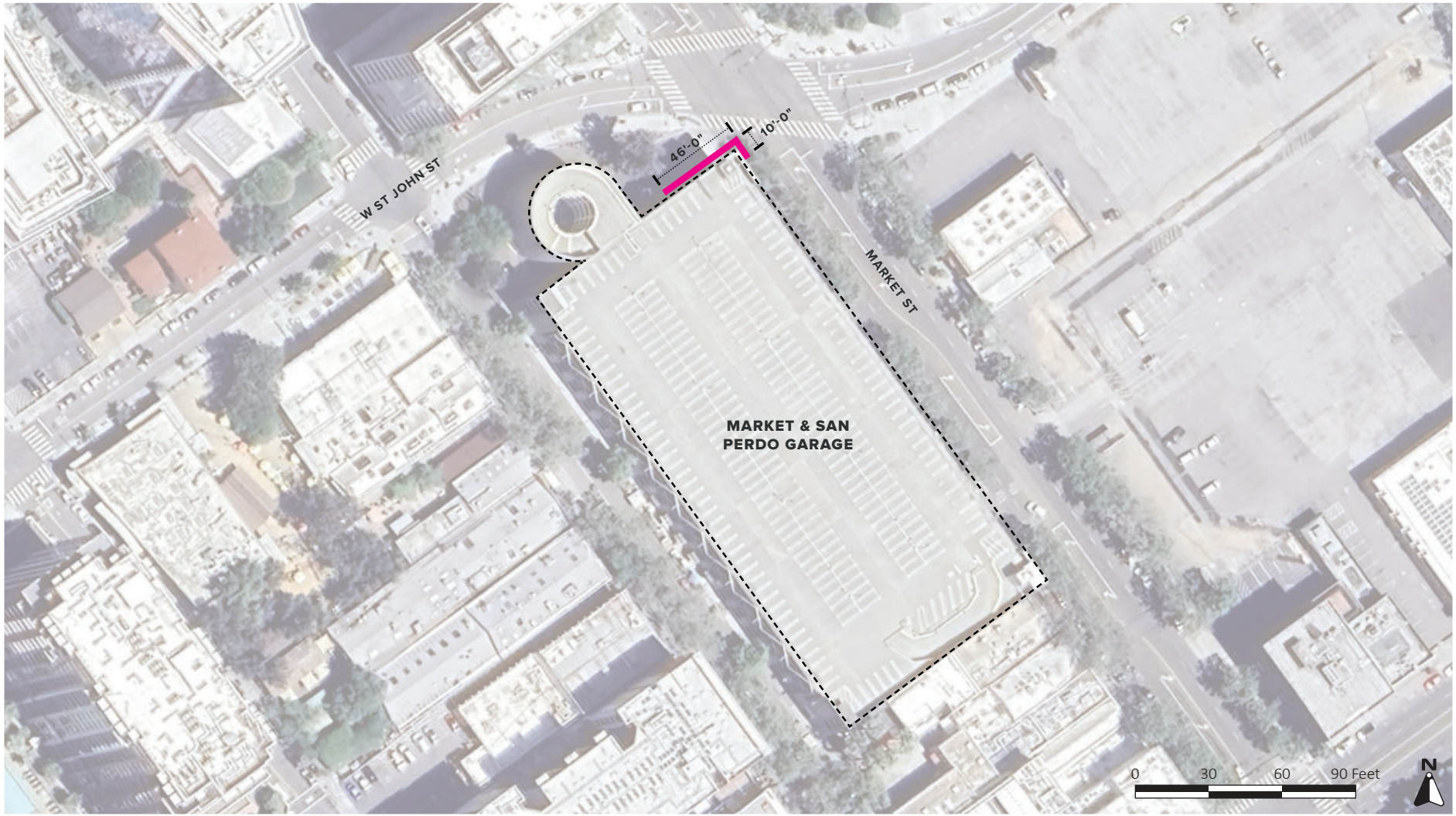
The project would install one, single-sided, attached corner wrapped[4] electronic sign on the Market & San Pedro Garage at the northeast corner of the structure at the intersection of South Market Street and West St. John Street. The top of the sign would be approximately 52 feet above ground and the sign would be mounted to the building.

The sign display would wrap around the corner of the parking garage and would measure 21 feet high by 46 feet wide on the West St. John Street frontage and 10 feet wide on the South Market Street frontage resulting in a message surface[5] of approximately 1,200 square feet. The sign would have digital LED displays on both the Market Street and St. John Street elevations. The bottom of the sign would include an internally illuminated "Orange Barrel Media" and City of San José logo, each measuring approximately 24 inches tall.

A conceptual site plan and rendering of Sign 1 are shown on Figure 3.2-1 and Figure 3.2-2, respectively.

[4] A corner wrapped sign has two faces that meet at 90 degrees.

[5] A message surface is defined as the surface on a sign from which the message of the sign is visually communicated (San José Municipal Code Section 23.02.330).



Source: Orange Barrel Media, September 2023.

MARKET & SAN PEDRO GARAGE (SIGN 1) SITE PLAN | FIGURE 3.2-1



Source: Orange Barrel Media, 2023.

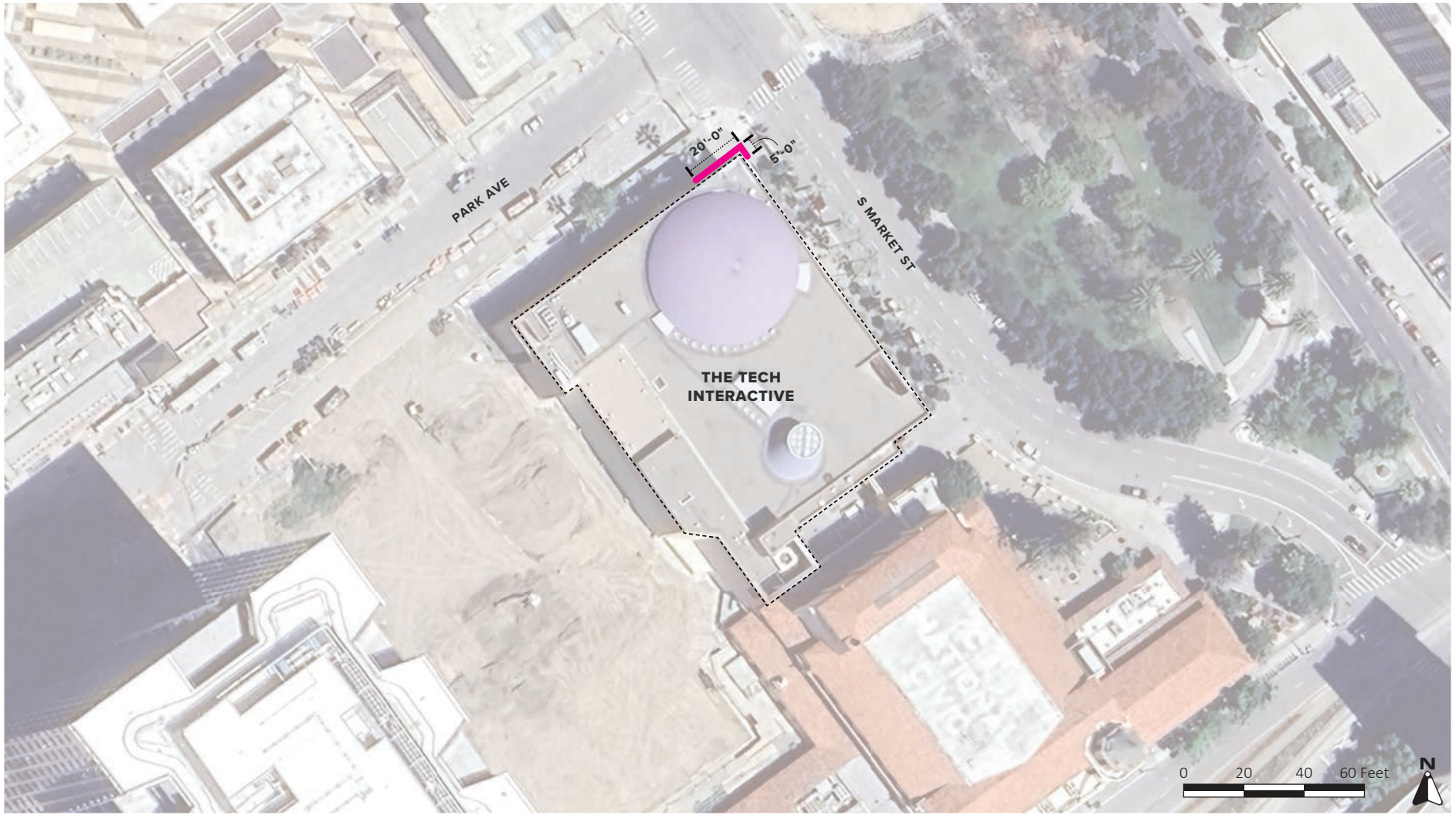
MARKET & SAN PEDRO GARAGE (SIGN 1) RENDERING FROM MARKET STREET LOOKING WEST | FIGURE 3.2-2

3.2.1.2 *The Tech Interactive (Sign 2)*

The project would install one, single-sided, attached corner wrapped electronic sign on northeast corner of The Tech Interactive building at the intersection of Market Street and Park Avenue. The sign would be approximately 55 feet above the ground and would be mounted to the building exterior wall.

The sign display would wrap around the corner of the building and would measure 32 feet high by five feet wide on the Market Street frontage and 20 feet wide on the Park Avenue frontage, resulting in a message surface of approximately 800 square feet**.** The top of the sign would include an internally illuminated "Orange Barrel Media" and City of San José logo, each measuring approximately 24 inches tall.

A conceptual site plan and rendering of Sign 2 are shown on Figure 3.2-3 and Figure 3.2-4, respectively.



Source: Orange Barrel Media, 2023.

THE TECH INTERACTIVE (SIGN 2) SITE PLAN

FIGURE 3.2-3



Source: Orange Barrel Media, 2024.

THE TECH INTERACTIVE (SIGN 2) RENDERING FROM MARKET STREET LOOKING WEST | FIGURE 3.2-4

3.2.1.3 *Center for Performing Arts (Sign 3A and 3B)*

The project would install two, curved, single-sided, freestanding electronic signs at the Center of Performing Arts.

Sign 3A

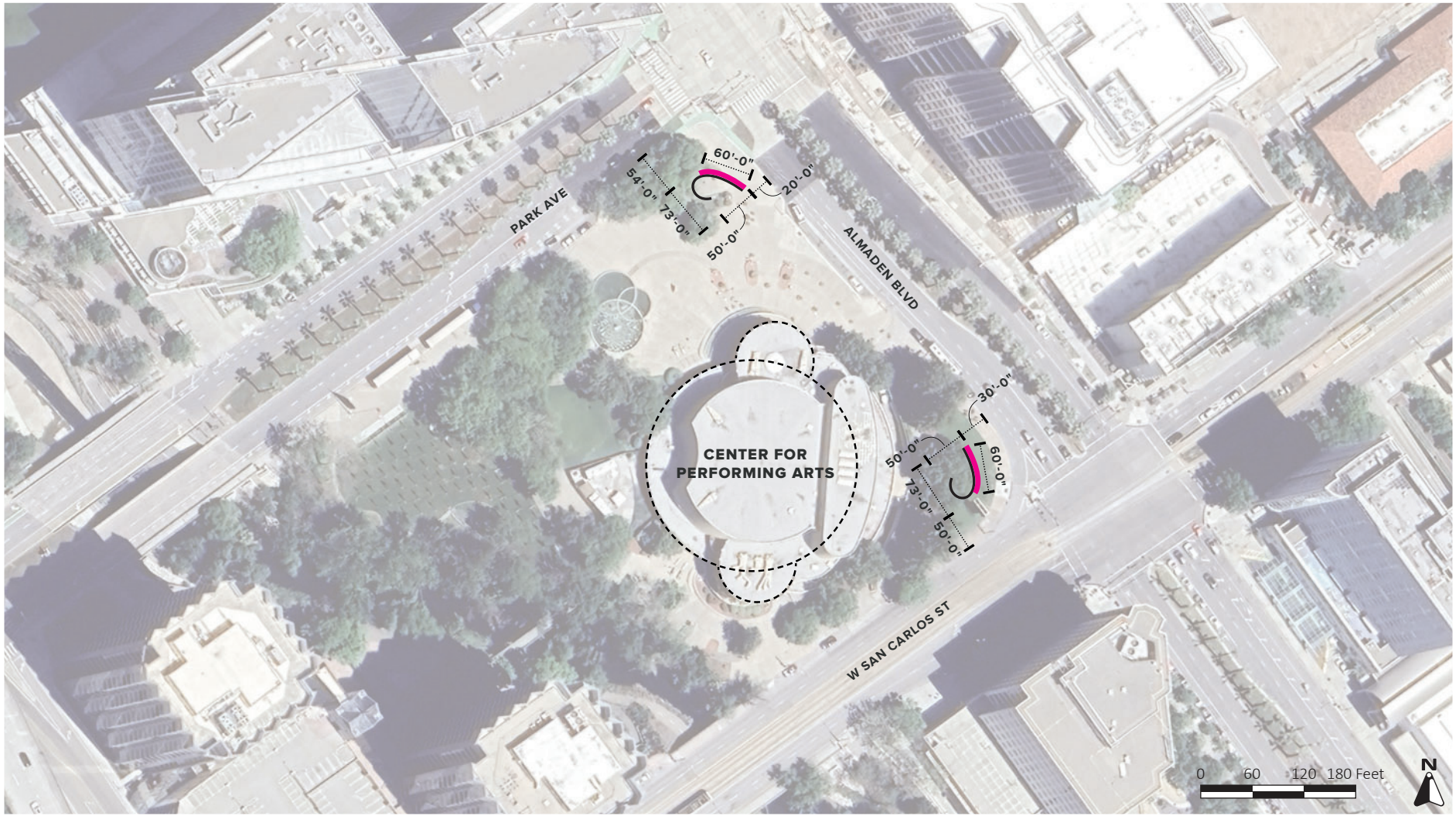
Sign 3A would be installed in an existing public plaza at the Center of Performing Arts property fronting the intersection of S. Almaden Boulevard and Park Avenue. The sign would be 22 feet tall at the highest point and would be installed at grade. The sign display would be approximately 60 feet wide by 15 feet tall, with a message surface area of approximately 900 square feet. The sign display would be enclosed within an architectural feature with a curved footprint bound within an approximately 73-foot-wide by 50-foot-tall rectangular area. The architectural feature would be clad architectural panels (concrete or wood finish) with low intensity accent lighting pointed at the architectural surface. Public seating will be provided and adjacent to the sign. The bottom of the sign would include an internally illuminated "Orange Barrel Media" and City of San José logo, each measuring approximately 24 inches tall.

A conceptual site plan and rendering of Sign 3A are shown on Figure 3.2-5 and Figure 3.2-6, respectively.

Sign 3B

Sign 3B would be installed within an existing landscaped area at the Center of Performing Arts property at the intersection of S. Almaden Boulevard and W. San Carlos Street. As part of the project, the existing freestanding, dual-sided sign would be removed. The new sign would be 22 feet tall at the highest point and would be installed at grade. The sign display would be approximately 60 feet wide by 15 feet tall, with a message surface of approximately 900 square feet. The sign display would be enclosed within an architectural feature with a curved footprint bound by a 73-foot-wide by 50-foot-tall rectangular area. The architectural feature would be clad in architectural panels (concrete or wood finish) with low intensity accent lighting pointed at the architectural surface. The bottom of the sign would include an internally illuminated "Orange Barrel Media" and City of San José logo, each measuring approximately 24 inches tall.

A conceptual site plan and rendering of Sign 3B are shown on Figure 3.2-5 and Figure 3.2-7 respectively.



Source: Orange Barrel Media, September 2023.

CENTER FOR PERFORMING ARTS (SIGN 3A AND 3B) SITE PLAN | FIGURE 3.2-5



Source: Orange Barrel Media, 2023.

CENTER FOR PERFORMING ARTS (SIGN 3A) RENDERING FROM ALMADEN BOULEVARD LOOKING SOUTHWEST | FIGURE 3.2-6



Source: Orange Barrel Media, 2023.

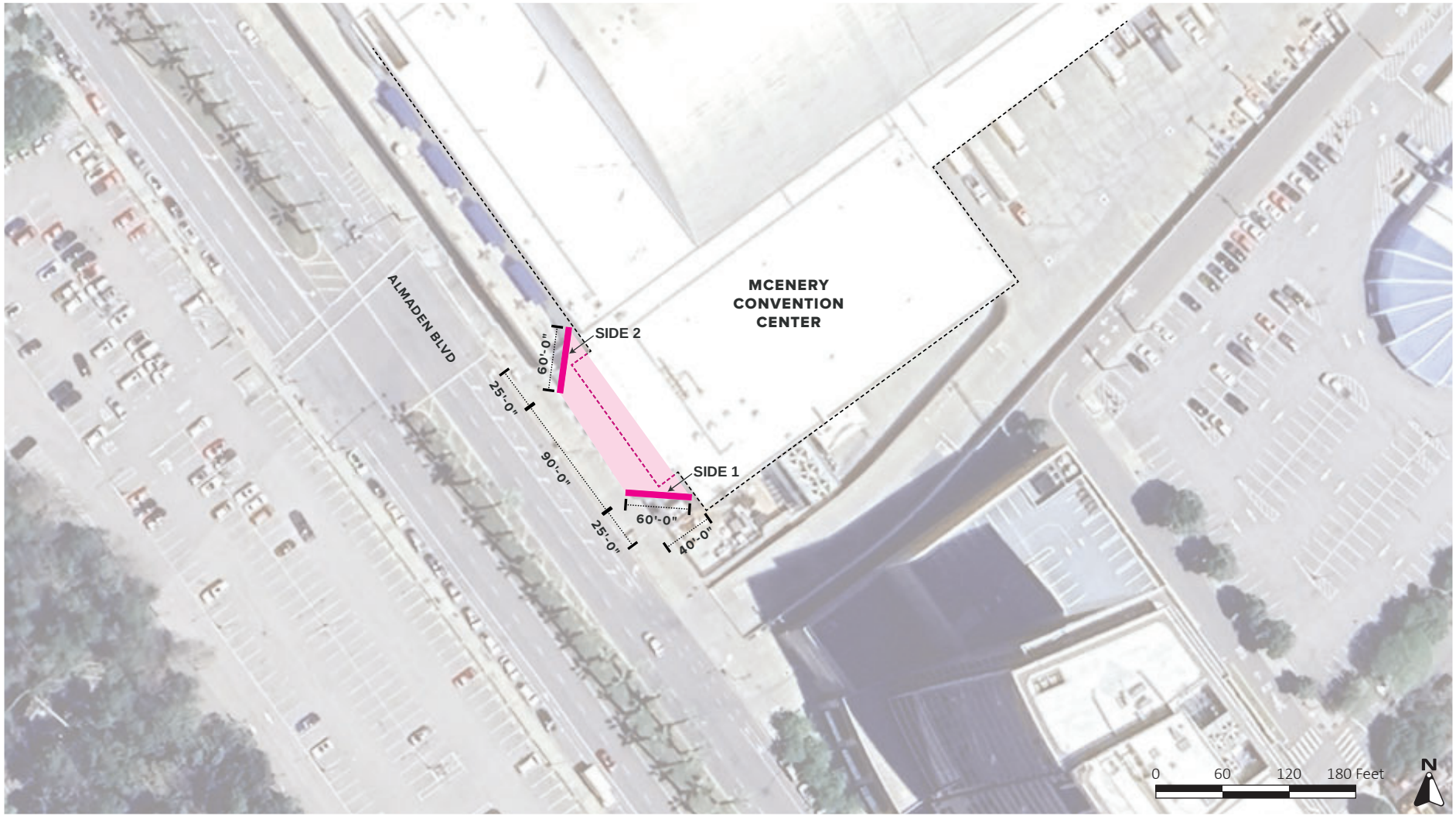
CENTER FOR PERFORMING ARTS (SIGN 3B) RENDERING FROM ALMADEN BOULEVARD LOOKING WEST | FIGURE 3.2-7

3.2.1.4 *McEnery Convention Center (Sign 4)*

The project would install one, dual sided, attached electronic sign on the McEnery Convention Center building facing S. Almaden Boulevard approximately 590 feet south of W. San Carlos Street. The sign would be approximately 60 above the ground and would be supported by the building wall and roof.

One message area would face south (Side 1) and the other would face north (Side 2) on Almaden Boulevard. Each message surface area would measure approximately 42 feet and eight inches wide by 24 feet tall for a total of approximately 1,030 square feet for each message area. The sign would be enveloped in an architectural volume clad in translucent architectural fabric and illuminated with internal architectural lighting. The bottom of the sign would include an internally illuminated "Orange Barrel Media" and City of San José logo, each measuring approximately 24 inches tall.

A conceptual site plan and renderings of Sign 4 are shown on Figure 3.2-8, Figure 3.2-9, and Figure 3.2-10, respectively.



Source: Orange Barrel Media, September 2023.

MCENERY CONVENTION CENTER (SIGN 4) SITE PLAN | FIGURE 3.2-8

MCENERY CONVENTION CENTER (SIGN 4 – SIDE 1) RENDERING FROM ALMADEN BOULEVARD LOOKING NORTH | FIGURE 3.2-9



Source: Orange Barrel Media, 2024.

MCENERY CONVENTION CENTER (SIGN 4 – SIDE 2) RENDERING FROM ALMADEN BOULEVARD LOOKING SOUTHEAST | FIGURE 3.2-10

3.2.1.5 *Second & San Carlos Garage (Sign 5)*

The project would install one, single-sided, attached electronic sign on the southwest corner Second & San Carlos Garage facing Second Street. The sign would be approximately 58 feet above ground and would be mounted to the building.

The sign display would measure approximately 28 feet wide by 40 feet tall, resulting in a message surface area of approximately 1,120 square feet. The sign will be wrapped in an ornamental painted metal frame. The bottom of the sign would include an internally illuminated “Orange Barrel Media” and City of San José logo, each measuring approximately 24 inches tall.

A conceptual site plan and rendering of Sign 4 are shown on Figure 3.2-11 and Figure 3.2-12 respectively.



Source: Orange Barrel Media, September 2023.

SECOND & SAN CARLOS GARAGE (SIGN 5) SITE PLAN | FIGURE 3.2-11



Source: Orange Barrel Media, 2024.

SECOND & SAN CARLOS GARAGE (SIGN 5) RENDERING FROM SECOND STREET LOOKING NORTH | FIGURE 3.2-12

3.2.2 Elements Common to All Sign Locations

3.2.2.1 *Programming*

Sign Operations

The proposed programmable electronic signs would operate pursuant to California Department of Transportation (Caltrans) regulations (California Outdoor Advertising Act), the City Municipal Code regulations (Title 23, Section 23.04.250), and Council Policy 6-4. The programming for the operation of the signs is described below.

California Outdoor Advertising Act

- If an on-site sign is located within 660 feet of the highway right-of-way, and it is a programmable electronic sign, the sign shall not be located within 1,000 feet of another message center display on the same side of the highway.
- No message center display shall include illumination or message change that is in motion or appears to be in motion, or that changes in intensity or exposes its message for less than four seconds.
- No signs shall be within 300 feet of the point of intersection of a highway or highway and railroad lines, and signs that could prevent any traveler of the highway from having a clear view of approaching vehicles for a distance of at least 500 feet.
- Maximum ambient light output of a sign shall be 0.3 foot candles at a distance of 350 feet from the signs faces.

Proposed Programming Consistent with the City Municipal Code Regulations

- Signs shall not display animated messages, including flashing, blinking, fading, rolling, shading, dissolving, or any other effect that gives the appearance of movement.
- Signs shall not include any audio message.
- No sign message shall be displayed for a period of time less than four seconds.
- Transitions from one message to another message shall appear instantaneous as perceived by the human eye.
- Each sign message shall be complete in and of itself and shall not continue on a subsequent sign message.
- Each sign shall utilize automatic dimming technology to adjust the brightness of the sign relative to ambient light so that at no time shall a sign exceed a brightness level of 0.3 foot candle above ambient light. Light measurements shall be taken with the meter aimed directly at the sign message face, or at the area of the sign emitting the brightest light if that area is not the sign message face, at the following distances:
    - 250 feet from the sign area being measured (signs that are 650 to 1,000 square feet) or
    - 350 feet from the sign area being measures (signs that are over 1,000 square feet in area)

- The signs shall contain a default mechanism that will cause the sign to revert immediately to a black screen if the sign malfunctions.
- Signs shall be located in a manner that the Director of Public Works determines based on reasonable evidence will not adversely interfere with the visibility or functioning of traffic signals and traffic signage, taking into consideration the physical elements of the sign and the surrounding area, such as information analyzing physical obstruction issues, line of sight issues, brightness issues and visual obstruction or impairment issues, but not including the message content on the sign.
- Advertisement for on- and off-site commercial speech[6], as well as emergency broadcasting messages when necessary.
- Signs attached to a historic building or structure shall not negatively impact the historic resource and shall confirm to the following standards:
    - Signs shall be attached in a manner that does not irreversibly damage the building surface in a visible location
    - Signs shall not cover or obscure from view a character-defining architectural feature of the historic building
- Signs shall be illuminated only with continuous external or internal lighting.
- Signs shall not include neon letters.

Proposed Programming Consistent with Council Policy 6-4

- Signs shall not be illuminated between the hours of 12:00 a.m. and 6:00 a.m.
- Signs shall be tilted downward toward the ground by at least 15 degrees and provide a rimmed edge along the top of the sign, or shall utilize other alternatives which the City determines would provide equivalent attenuation of upward illumination.[7]
- The signs shall utilize warmer colors, or display a background with bright text and/or images, and restrict white or bright backgrounds. The project applicant would provide alternative attenuation of the light.
- Signs shall not display a message that contains false advertising, speech inciting unlawful activity, defamatory speech, "fighting words" or obscene speech.
- Signs shall not have a total sign area in excess of twelve hundred (1,200) square feet.
- Signs shall not exceed 60 feet in height.

[6] "Off-site commercial speech" is defined as commercial speech that identifies or promotes any commercial activity, product, good or service that is conducted, manufactured or offered on a site that is not the site on which the commercial speech is displayed and that is not conducted, manufactured or offered on the same parcel of land on which the commercial speech is displayed (San José Municipal Code Section 23.02.104). "On-site commercial speech" is defined as commercial speech to identify and promote the presence of the commercial activities, products, goods or services conducted, manufactured or offered: (a) on the same parcel of land on which the Commercial Speech is displayed; or (b) on the same Business Center Site on which the Commercial Speech is displayed (San José Municipal Code Section 23.02.106).

[7] The project proposes to utilize Daktronics DB-6400 LED modules constructed in a vertical billboard, with 11 degrees upward beam limit, which will achieve attenuation of upward illumination to that of a sign (face) tilted downward a minimum 15 degrees consistent with Council Policy 6-4a. Source: David J. Powers & Associates. *Compliance with Council Policy Number 6-4 Signs on City-Owned Land.* September 9, 2019.

- Signs shall not be visible to any dwelling unit that is located within 150 linear feet of the sign.
- Signs shall be greater than 150 linear feet from the nearest boundary of a residential zoning district.

Lighting Controls

The proposed electronic signs would use multiple photoelectric sensors designed to measure ambient light forward and backward. The electronic sign controllers would use the input signals from the photo sensors to modulate sign power and brightness to maintain legibility of sign content.

At all times, the proposed signs would maintain a level of three percent or lower from their maximum brightness output, this being required to achieve a maximum illumination of 0.3 foot candle (three lux) over ambient conditions at the required distances (i.e., 250 or 350 feet from the sign area).

The proposed electronic signs would have built-in programmable controllers, allowing both time of day and intensity programming.

The proposed electronic signs would include the following lighting controls:

- Each programmable sign shall be equipped with sensors that modify the brightness of the sign in response to ambient lighting conditions and shall be required to occur gradually over time to prevent a sudden change in perceivable brightness levels by pedestrians and motorists, and to eliminate the possibility of disability glare. Each signage display shall have sensor averaging from multiple directions with a response time of no less that one minute such that sudden changes in brightness, luminance, to one side of the signage display does not cause sudden changes to signage brightness, luminance.
- The maximum brightness, forward luminance, of the White LED shall be set to 7,000 nits.
- The nighttime maximum brightness, forward luminance, shall be set to 300 nits.
- Digital signage shall be equipped with sensors that modify the brightness of the sign in response to ambient lighting conditions and shall be required to occur gradually, to prevent a sudden change in perceivable brightness levels by pedestrians and motorists and to eliminate the possibility of disability glare.
- Sign luminance shall transition smoothly between the hours of operation limits above over a time of no less than 5 minutes and no greater than 20 minutes. All transitions shall be completed so that the maximum allowable luminance is achieved by the stated time listed above, with 3840 Hz refresh rate to ensure change in brightness is not too rapid as to create a distraction.
- Digital displays shall not include large areas of reflective elements to reduce any means of glare.

3.2.3 Non-Commercial Art

Four of the electronic sign locations would include a non-commercial art accompaniment, as summarized in Table 3.2-2 and shown in Figure 3.2-9, Figure 3.2-10, and Figure 3.2-12 . The non-commercial art is also described further below.

Table 3.2-2: Summary of Non-Commercial Art

Sign ID.	Name of City-Owned Property/Structure	Non-Commercial Art	Art Sponsor	Art Media
1	Market & San Pedro Garage	Yes	City[1]	Sculptural*
2	The Tech Interactive Museum	Yes	OBM	To be determined*
3A, 3B	Center for the Performing Arts	No	N/A	N/A
4	McEnery Convention Center	Yes	OBM	Sculptural
5	Second & San Carlos Garage	Yes	OBM	Sculptural

Notes:
[1] Non-commercial art to be commissioned, permitted, and installed by the City of San José. Details are unknown at this time. *Indicates lighting would be part of the non-commercial art.

3.2.3.1 *Market & San Pedro Garage*

As noted in the table above, this location would include non-commercial art to be commissioned, permitted, and installed by the City of San José (not the project applicant, OMB) at a later date. Details are unknown at this time.

3.2.3.2 *The Tech Interactive Museum*

This location may include an art component; however, details are unknown at this time.

3.2.3.3 *McEnery Convention Center*

An approximately 40 feet wide by 28 feet high, text-based artwork would be placed below the sign at the McEnery Convention Center. Illuminated sign boxes with translucent acrylic faces would be embedded in portions of the artwork.

3.2.3.4 *Second & San Carlos Garage*

A clock sculpture would be installed on the south end of the west façade of Sign 5. At its maximum dimensions, the proposed art would be 16 feet wide, 15 feet high, and 16 inches deep. The clock would be fabricated out of a material that can be molded and finished with a durable, exterior-rated material and painted. The clock would not be internally illuminated, but a few accent lights would be installed on the face of the parking garage to showcase the sculpture at night. These would be directed at the wall surface to avoid transmitting light upward into the sky or downward at pedestrians or vehicles.

3.2.4 Construction Details

It is assumed that the signs would be constructed simultaneously, with each sign taking nine to 30 weeks to complete, as summarized in Table 3.2-3 below. The signs would be constructed over a period of approximately seven months.

Table 3.2-3: Construction Schedule

Sign ID.	Name of City-Owned Property/Structure	Construction Duration (approx. weeks)
1	Market & San Pedro Garage	9
2	The Tech Interactive Museum	13
3A, 3B	Center for the Performing Arts	27
4	McEnery Convention Center	30
5	Second & San Carlos Garage	11.5

Construction of each of the signs would require an approximately 800 to 1,500 square foot, secure, enclosed area for staging construction equipment and materials. This storage can be achieved through the placement of temporary construction conex boxes or lockable, enclosed fencing structures on-site or within existing paved parking areas.

It is anticipated that approximately 40 cubic yards of soil haul off-haul would be required for the free standing signs at the Center for Performing Arts. No tree removal is anticipated and no exiting billboards would be removed as a result of the project.

3.2.4.1 *Attached Signs*

The attached electronic signs consist of LED modules attached to a subframe. The subframe would be anchored to a steel structure secured to the building structure. The attached signs would result in no ground disturbance.

3.2.4.2 *Free-standing Signs*

The free-standing signs proposed at the Center for Performing Arts would require an excavation depth of 36 inches per sign for the concrete spread footing. The concrete spread footing is anticipated to be up to 24 inches deep with standard rebar throughout. The foundation would be 15 feet wide and 44 feet long at its widest point. Structural steel members would tie into the concrete footing to create a support frame for mounting of the electronic sign and the architectural metal elements above grade.

3.2.4.3 *Non-Commercial Art*

The proposed artwork at the McEnery Convention Center would be attached to a subframe, which would be anchored to the exterior wall of the building (approximately seven to eight feet above grade).

The proposed artwork at the Second & San Carlos Garage would include internal structural supports, which would anchor into the parking deck of the garage. The artwork would be mounted approximately 18 feet above grade.

Section 4.0 Environmental Setting, Checklist, and Impact Discussion

This section presents the discussion of impacts related to the following environmental subjects in their respective subsections:

4.1	Aesthetics	4.12	Mineral Resources
4.2	Agriculture and Forestry Resources	4.13	Noise
4.3	Air Quality	4.14	Population and Housing
4.4	Biological Resources	4.15	Public Services
4.5	Cultural Resources	4.16	Recreation
4.6	Energy	4.17	Transportation
4.7	Geology and Soils	4.18	Tribal Cultural Resources
4.8	Greenhouse Gas Emissions	4.19	Utilities and Service Systems
4.9	Hazards and Hazardous Materials	4.20	Wildfire
4.10	Hydrology and Water Quality	4.21	Mandatory Findings of Significance
4.11	Land Use and Planning		

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.
- **Impact Discussion** – This subsection 1) includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts and 2) discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Mitigation measures are numbered to correspond to the impact they address. For example, MM BIO-1.3 would refer to the third mitigation measure for the first impact in the Biological Resources section.

4.1 Aesthetics

The discussion in this section is based, in part, on a Lighting Analysis prepared for the project by The Lighting Design Alliance, Inc. dated December 2023. This report is included as Appendix A of this Initial Study.

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Outdoor Advertising Act

The Act is regulated by Caltrans and applies to signs located along primary highways and freeways, including the proposed project. This Act specifies that if an on-site sign is located within 660 feet of the highway right-of-way, and it is a programmable electronic sign, the sign cannot be located within 1,000 feet of another message center display on the same side of the highway. The Act states that no message center display may include illumination or message change that is in motion or appears to be in motion, or that changes in intensity or exposes its message for less than four seconds.[8] Further, this Act generally prohibits signs within 300 feet of the point of intersection of a highway or highway and railroad lines, and signs that could prevent any traveler of the highway from having a clear view of approaching vehicles for a distance of at least 500 feet. The Act declares that the maximum ambient light output of a sign should be 0.3 foot candles at a distance of 350 feet from the signs faces.

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by Caltrans. The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment.

Local

Envision San José 2040 General Plan

The General Plan identifies “gateways”, freeways, and rural scenic corridors where preservation and enhancement of views of the natural and man-made environment are crucial. Gateways are locations which announce to a visitor or resident that they are entering the city, or a unique neighborhood. San José has a number of Gateway locations including Coleman Avenue at Interstate 880, 13th Street at US 101, and Highway 101 in the vicinity of the Highway 85 Interchange. Urban Corridors designated in the Envision General Plan are all State and Interstate Highways within the

[8] California Department of Transportation. *Caltrans Division of Research and Innovation, Effects of Outdoor Advertising Displays on Driver Safety*. October 11, 2012.

City's Sphere of Influence. Rural scenic corridors exist predominantly along the eastern and southern borders of the city and outside the area where the project would occur.

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to aesthetics and are applicable to the project.

Policy	Description
CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.13	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
CD-1.28	To maintain and protect the integrity, character, and aesthetic environment of the streetscape in industrial, commercial, and residential neighborhoods, new billboards should be permitted only through a discretionary review process and only where they do not create visual clutter and blight. The relocation of existing billboards from impacted areas to locations where they would have a less visually blighting effect should be encouraged.
CD-1.29	Provide and implement regulations that encourage high quality signage, ensure that business and organizations can effectively communicate through sign displays, promote way finding, achieve visually vibrant streetscapes, and control excessive visual clutter.
CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
CD-9.6	Prohibit billboards adjacent to all Rural Scenic Routes

City of San José Municipal Code

Title 23 of the City of San José Municipal Code (Sign Ordinance) is intended to promote attractive signage and streetscapes, facilitate wayfinding and traffic safety, promote commerce, and to comprehensively address community aesthetic concerns about visual clutter and visual blight in the environment. The programing requirements for operation of electronic signs are summarized in Section 3.3.2.1 in Section 3.0 Project Description.

City Council Policy 6-4: Signs on City-Owned Land Including Billboards, Programmable Electronic Signs and Signs Displaying Off-Site Commercial Speech

Council Policy 6-4 allows for new off-site advertising on City-owned sites throughout the City, including the exchange of existing legal static billboards on other sites for new electronic billboards on City-owned sites, as well as the exchange of existing legal static billboards for new electronic billboards on non-City-owned existing freeway-facing billboard sites and/or new freeway-facing sites in the North San José Development Policy Area, and new off-site advertising on non-City owned sites in the Downtown Sign Zone, including exchange of existing legal static billboards on

other sites for new electronic billboards in the Downtown Sign Zone.[9] The policy includes regulations for the implementation of future signs. The policy requires signs to utilize automatic dimming technology to adjust the brightness of the sign relative to ambient light so that the sign never exceeds a brightness level of three-tenths (0.3) foot candle (lux) above ambient light. For signs over 1,000 square feet of area, such as the signs proposed by the project, the foot candles shall be measured at a distance of 350 feet from the sign.

San José Downtown Design Guidelines and Standards

The San José Downtown Design Guidelines and Standards (Downtown Design Guidelines) provide guidance for the form and design of buildings in Downtown, their appearance in the larger cityscape, and their interface with the street level Public Realm. The Design Guidelines document defines the design objectives for the elements that determine the image of Downtown and refines the concepts of other plans, translating them into an operational document that increases predictability for developers and their architects for development in Downtown. The following guidelines related to scenic quality are applicable to the project.[10]

Guidelines	Description
4.4.9a Lighting-Podium Level	Create safe, inviting Public Spaces and highlight distinctive architecture and features with building lighting at the Podium Level.
5.3.5 Signage - Podium Level and Pedestrian Level	Inform and attract while enhancing the appearance of Downtown with well-designed and located Podium Level and Pedestrian Level signage.

4.1.1.2 *Existing Conditions*

Visual Character

Downtown San José includes a mix of modern and historic buildings. Most of the buildings Downtown are very large, including the convention center structures, and several mid- to high-rise hotels that cluster around the convention center.

Market & San Pedro Garage

The Market & San Pedro Garage site is currently developed with a six-level, above ground, concrete parking structure (approximately 59 feet tall) that provides parking to nearby uses including those in San Pedro Square (see Photo 1). The first two floors of the parking structure are clad in decorative tile veneer, whereas the upper floors feature structural steel cross bracing.

[9] Per Municipal Code Section 13.01.100(D), the "Downtown Sign Zone" is the Downtown growth area as defined in the planned growth areas diagram of the General Plan.

[10] The Downtown Design Guidelines also include Policy 4.2.3 Civic Icon Adjacency. This policy pertains to new buildings in proximity to Civic Icons. The Policy says to "Design a building within the affected area of a Civic Icon to enhance the Icon's visibility and importance." While there are Civic Icon buildings within 200 feet of certain proposed signs, this policy is not applicable to the project because the project does not propose new buildings.

The Tech Interactive

The Tech Interactive site is currently developed with The Tech Interactive Museum, which is four-stories (approximately 49 feet tall) and rectangular in shape (see Photo 2). The building is clad in stucco with glazed tile detailing and has a flat roof with a dome. The dome of the building is visible from the street.

Center for Performing Arts

The Center for Performing Arts site is currently developed with the two- to three-story Center for Performing Arts building (see Photos 3 and 4). The building is clad in stucco and features several circular elements with a flat roof.

McEnery Convention Center

The San José McEnery Convention Center site is currently developed with a three-story convention center building (approximately 40 feet to the top of parapet) that includes meeting and event space, exhibition space, hotels, and parking (see Photo 5). The building has stucco cladding and a bowed roof surrounded by a flat roof.

Second & San Carlos Garage

The Second & San Carlos Garage site is developed with a four-level (approximately 39 feet tall) parking structure (see Photo 6). The parking garage is rectangular and features concrete columns that extend from the ground floor to the upper-most level.



Photo 1: View of Market & San Pedro Garage from Market Street (looking west).



Photo 2: View of The Interactive from Market Street (looking west).

PHOTOS 1 & 2



Photo 3: View of the Center for Performing Arts from Park Street (looking south).



Photo 4: View of the Center for Performing Arts from Almaden Boulevard (looking west).

PHOTOS 3 & 4



Photo 5: View of McEnery Convention Center from Almaden Boulevard (looking southeast).



Photo 6: View of Second & San Carlos Garage from Second Stret (looking north).

PHOTOS 5 & 6

Scenic Highways

There are no state-designated scenic highways in San José. Interstate 280 from the San Mateo County line to State Route (SR) 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.[11]

In Santa Clara County, the one state-designated scenic highway is SR 9 from the Santa Cruz County line to the Los Gatos City Limit. Eligible State Scenic Highways (not officially designated) include SR 17 from the Santa Cruz County line to SR 9, SR 35 from Santa Cruz County line to SR 9, Interstate 280 from the San Mateo County line to SR 17, and the entire length of SR 152 within the County.
Local

Light and Glare

Sources of light and glare are abundant in the urban environment of the project sites and project area, including but not limited to streetlights, parking lot lights, security lights, vehicular headlights, internal building lights, and reflective building surfaces and windows.

The following discussion provides details on the existing light environment around the project sites. The definition of key lighting terms are defined in Table 4.1-1 below for reference.

Table 4.1-1: Key Lighting Definitions

Lighting Term	Definition
Brightness	Also known as luminance. It is the amount of light emanating off a surface or light source.
Candela	A basic unit for measuring luminous intensity from a light source in a given direction.
Foot candle	A unit of illuminance. It is the amount of light landing on a surface.
Glare	The sensation produced by luminances within the visual field that are sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance or visibility.
Illuminance	The amount of light that falls on a given surface (measured in foot candles).
Horizontal Illuminance	The amount of light falling at ground level.

[11] California Department of Transportation. “Scenic Highways.” Accessed March 10, 2023. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

Lighting Term	Definition
Vertical Illuminance	The amount of light measured on a vertical plan at either 250 or 350 feet from the sign, as required by the City's municipal code.
Light Trespass	The encroachment of light, typically across property boundaries, causing annoyance, loss of privacy, or other nuisance.
Luminance	Also known as brightness (see above).
Nit or candela per square meter (cd/m2)	A unit of measurement of luminance (brightness).
Photometry	The measurement of quantities associated with light.

A lighting analysis was completed for the project and is provided in Appendix A. As part of the analysis, a survey was conducted to calculate existing light levels and brightness at each of the four sign locations. The survey involved documenting existing vertical and horizontal illuminance levels and brightness contributors (i.e., exiting illuminated signage, street parking or parking lot lighting, building lighting, etc.). Table 4.1-2 below summarizes existing light levels in the project vicinity of each sign location.

Table 4.1-2: Light Level Calculations for Existing Light Sources in Project Vicinity

		Brightness of Existing Sources					Level of Illuminance from Existing Sources	
ID.	**Name of City-Owned Property/Structure**	**Streetlights (nits)**	**Car Head Lights (nits)**	**Traffic Lights (nits)**	**Night Sky (nits)**	**Dark Façade (nits)**	**Sidewalk (fc)**	**Parking (fc)**
1	Market & San Pedro Garage	8,642	3,006	4,869	0.09	915	0.87	2.54
2	The Tech Interactive Museum	9,688	3,502	1,245	0.09	0.5	1.14	0.93
3A 3B	Center for the Performing Arts	4,011	3,502	1,621	0.09	0.29	1.03	1.97
4	McEnery Convention Center	4,490	*	4,261	0.16	0.61	1.62	1.45
5	Second & San Carlos Garage	9,326	2,148	4,869	0.10	2.63	3.30	4.92

Notes:
fc = foot candle
* data not collected

As shown in Table 4.1-2, the existing light environment is dominated by streetlights, car head lights and traffic lights (ranging from 2,148 to 9,326 nits). These existing sources of light were measured have an ambient output of approximately 0.87 to 4.92 foot candles on the surrounding sidewalks and parking lots.

4.1.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Except as provided in Public Resources Code Section 21099, would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☒	☐
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings?[12] If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☒	☐	☐

a) Would the project have a substantial adverse effect on a scenic vista?

The project area is flat and prominent views of the Diablo foothills, Santa Cruz Mountains, Santa Teresa Hills, and the Silver Creek hills are limited. The project sites and surrounding area have minimal to no scenic views due to the existing built environment with no designated scenic resources. The project would include four attached signs (i.e., attached to existing structures) and two free standing signs. The attached signs would be mounted to existing buildings (building heights range from approximately 39 feet to 59 feet tall) and the signs would have a maximum height of 60 feet above ground level (agl). While three of the attached signs (refer to Figure 3.2-4, Figure 3.2-9, Figure 3.2-10, and Figure 3.2-12) would be slightly taller than the existing buildings they would be mounted to, they would be consistent with other development in the area and would not obstruct scenic vistas beyond existing conditions, as shown in Figure 3.2-4, Figure 3.2-9, Figure 3.2-10, Figure 3.2-12 and Photos 2, 5 and 6. The proposed freestanding signs would have a maximum height of 22 feet agl and would be consistent with the surrounding development (refer to Figure 3.2-6, Figure 3.2-7, and Photos 3 and 4). Therefore, the project would not result in a substantial adverse effect on a scenic vista. **(Less than Significant Impact)**

[12] Public views are those that are experienced from publicly accessible vantage points.

b) Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

The project sites are not located along a state-designated scenic highway. The nearest state-designated highway is SR 9, located more than nine miles southwest of the project sites. The project does not propose to remove any on-site trees or street trees. Therefore, implementation of the proposed project would not damage any scenic resources, such as trees, rock outcroppings, and historic buildings within a state scenic highway. **(Less than Significant Impact)**

c) In non-urbanized areas, would the project substantially degrade the existing visual character or quality of public views of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

The project sites are located within an urbanized area of San José. The proposed project would comply with Title 23 of the San José Municipal Code, Council Policy 6-4, and the Caltrans Outdoor Advertising Act, which are zoning and regulations governing scenic quality. The proposed signs would have a maximum height of 60 feet, in conformance with the provisions of Title 23 of the San José Municipal Code. In addition, the signs would not exceed 1,200 square feet. As part of the development review process, the proposed project would also be subject to design review consistent with General Plan Policies CD-1.28 and CD-1.29, which would ensure that the proposed signs would not create visual clutter or blight. The signs are designed to be integrated with their supporting architecture or complementary to it for visual consistency. The signs also would be well-constructed and maintained to prevent blight.

In addition to General Plan Policies CD-1.28 and CD-1.29 described above, applicable regulations related to scenic quality also are contained in the Downtown Design Guidelines, namely Guidelines 4.4.9a Lighting-Podium Level and 5.3.5 Signage - Podium Level and Pedestrian Level. An analysis of the project's conformance with each of these Guidelines follows.

4.4.9a Lighting – Podium Level

According to this Guideline, architectural lighting at the Podium Level can enhance public safety and enjoyment, create local identity at the street level, and accentuate the district identity of places like SoFA and San Pedro Square. Lighting helps to create a feeling of safety and enables casual surveillance of Public Space, or eyes on the street. This Guideline encourages the illumination of distinctive features of the building, including entries, signage, canopies, and areas of architectural detail and interest. It does not directly address digital signs.

The signs would provide some light at the street level, which could facilitate a feeling of safety; therefore, the project is not inconsistent with this policy.

5.3.5 Signage - Podium Level and Pedestrian Level

Signs can be a visually unifying element and an attractor to a commercial area. Signs at the Podium Level and Pedestrian Level should be oriented to pedestrians and other people nearby. Signs in Downtown retail corridors should be larger, more prominently located, of brighter colors, and more brightly lit than in other areas to visually activate.

The project meets these standards by orienting the signs to be visible to both pedestrians and vehicles. In addition, the signs would be attached to the buildings in a manner that would not cover or obscure the buildings architectural features (refer to Figure 3.2-2, Figure 3.2-4, Figure 3.2-6, Figure 3.2-7, Figure 3.2-9, Figure 3.2-10, and Figure 3.2-12). As described above, the proposed signs would be appropriately lit pursuant to Title 23 of the San José Municipal Code, Council Policy 6-4, and the Caltrans Outdoor Advertising Act. Therefore, the project would be consistent with this Guideline.

As documented above, the project would not conflict with applicable zoning and other regulations governing scenic quality. **(Less than Significant Impact)**

d) Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Depending on factors such as brightness, size, reflectivity, and angle of viewing, lighting has the potential to cause substantial light impacts or glare that could adversely affect views.

The proposed signs would contain programmable electronic message faces that would introduce new sources of light in the project area. As discussed in Section 3.3.2.1, the proposed signs would operate pursuant to City Municipal Code regulations (Title 23, Section 23.04.250), Council Policy 6-4, and Caltrans regulations. Consistent with the City Municipal Code regulations, the proposed signs would utilize automatic dimming technology to adjust the brightness of the sign relative to ambient light so that at no time would any of the proposed signs exceed a brightness level of 0.3 foot candle above ambient light conditions at the required distances nor exceed the nighttime maximum brightness of 300 nits. The proposed signs would not be illuminated between the hours of 12:00 a.m. and 6:00 a.m.

The lighting analysis evaluated the project's potential for spillover of light and increase in ambient light levels at the ground level and at the adjacent property lines. The potential for routine spillover of light or an increase in ambient light levels is determined by considering the sign's proximity to light-sensitive uses[13], intensity of project light sources, and existing ambient light environment. Lighting calculations for each of the proposed signs is summarized in Table 4.1-3 below.

[13] Light-sensitive land uses include, but are not limited to, residences, including board and care facilities, commercial or institutional uses that require minimal nighttime illumination for proper function, physical comfort, or commerce, natural areas, and historic buildings.

Table 4.1-3: Maximum Illuminance Level of Proposed Signs

Sign ID.	Name of City-Owned Property/Structure	Light Value (Foot candle)	
		Ground Level[1]	Adjacent Property Line[2]
1	Market & San Pedro Garage	4.5	0.8
2	The Tech Interactive Museum	2.8	0.4
3A, 3B	Center for the Performing Arts	7.1	0.1
4	McEnery Convention Center	3.6	0.1
5	Second & San Carlos Garage	7.7	1.5

Notes:
[1] Refers to the maximum amount of light falling on a plane set at ground level (0 feet above ground) at ambient light levels. This calculation is made by measuring the horizontal illuminance of the sign at ground level.
[2] Refers to the maximum illuminance that would fall on any adjacent property line on the ground.

As shown in Table 4.1-3 above, the proposed signs would have a maximum illuminance of 2.8 to 7.7 foot candles when measured at ground level. The maximum horizontal illuminance would be experienced closest to the sign message face. The illuminance decreases to less than 0.1 foot candles at distances of 250 or 350 feet from the sign, depending on the sign area (refer to Appendix A of Appendix A of this Initial Study). The same is true for light spillover onto adjacent properties, the maximum illuminance would range between 0.1 and 1.5 foot candles and would incrementally decrease depending on the distance from the sign. Therefore, based upon the existing luminance levels (refer to Table 4.1-2 in Section 4.1.1.2) in the project area that range from 0.87 to 4.92 foot candles, the proposed signs would have minimal light spillover impact on the surrounding environment. Further, as described above, the proposed signs would not exceed a brightness level of 0.3 foot candle nor exceed 300 nits above ambient light conditions.

Lick Observatory is located approximately 13 miles east of the proposed sign locations.[14] To minimize impacts to the observatory, the proposed signs would not be illuminated between the hours of 12:00 a.m. and 6:00 a.m., consistent with Council Policy 6-4. In addition, the proposed signs would be tilted downward to attenuate upward illumination.[15] In order to determine whether the project would conflict with Lick Observatory operations, lighting calculations were made to determine the amount of light the proposed signs would generate on the observatory. It was determined that the project would generate a maximum light level of 0.000002 foot candles at a distance of 13 miles, which is comparable to the light levels generated by the existing street lights in the project area.[16,17] Based on the above, the project would have negligible contribution to light levels at Lick Observatory.

[14] Astronomical research requires observation of faint objects in dark skies.
[15] The project proposes to utilize Daktronics DB-6400 LED modules constructed in a vertical billboard, with 11 degrees upward beam limit.
[16] To calculate the amount of light on a surface, the luminous intensity is divided by distance squared.
[17] Stepniewski, Alex. Designer, Lighting Design Alliance. Personal Communication. February 22, 2024.

The Lighting Analysis also included an evaluation of the glare and safety hazards to aircraft pilots, air traffic controllers working in the nearby Airport Tower, and drivers from the proposed signs (refer to Section 4.8 Hazards and Hazardous Materials and 4.17 Transportation).

Sign 1 (Market & San Pedro Garage) and Sign 5 (Second & San Carlos Garage) would also be located in proximity to nearby residences. Sign 1 would be located approximately 600 feet west of the residences at The James Apartments. At this distance, the proposed sign would generate light levels of approximately 0.1 foot candles, which is comparable to the light levels generated by the existing street lights in the project area (refer to Appendix A). In addition, there is an existing, two-story commercial building located in between the proposed sign location and The James Apartments building that would block some of the view and illuminance from the sign. Sign 5 would be located approximately 120 feet north of The Grad San José. The proposed orientation of Sign 5, however, would face toward the Robert F. Peckham Federal Building on Second Street and away from The Grad on San Carlos Street. Based on lighting calculations, the project would result in a maximum of 2.8 foot candles on the Robert F. Peckham Federal Building. The light on the Robert F. Peckham Federal Building would have the potential to reflect onto The Grad, with that resulting reflection ranging from zero to 0.2 foot candles, which is comparable to the light levels generated by the existing street lights in the project area (refer to Appendix A). Therefore, the proposed signs would have minimal light spillover impact on nearby residences. Further, as described above, the proposed signs would not exceed a brightness level of 0.3 foot candles above ambient light conditions nor exceed 300 nits and would be designed to attenuate upward illumination in conformance with Policy 6-4.

With adherence to City Municipal Code regulations (Title 23, Section 23.04.250), Council Policy 6-4, and Caltrans regulations, the proposed electronic signs would not result in a new source of substantial light or glare which would adversely affect day or nighttime views in the area. **(Less than Significant Impact)**

4.2 Agriculture and Forestry Resources

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is identified as Prime Farmland. In CEQA analyses, the FMMP classifications and published county maps are used, in part, to identify whether agricultural resources that could be affected are present on-site or in the project area.[18]

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under a Williamson Act contract is used to also identify sites that may contain agricultural resources or are zoned for agricultural uses.[19]

Fire and Resource Assessment Program

The California Department of Forestry and Fire Protection (CAL FIRE) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[20] Programs such as CAL FIRE's Fire and Resource Assessment Program are used to identify whether forest land, timberland, or timberland production areas could be affected are located on or adjacent to a project site.[21]

[18] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed June 19, 2023. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[19] California Department of Conservation. "Williamson Act." http://www.conservation.ca.gov/dlrp/lca.
[20] Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).
[21] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed June 19, 2023. http://frap.fire.ca.gov/.

4.2.1.2 *Existing Conditions*

There are four farmland categories in the FMMP: Prime Farmland, Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance. According to the Santa Clara County Important Farmland map, the project sites are designated as Urban and Built-Up Urban, which is defined as land that is occupied by structures with a building density of at least one unit to 1.5 acres, or approximately six structures to a 10 acre-parcel.[22]

The project sites are designated Public/Quasi-Public and Downtown under the City's General Plan and are zoned either PQP Public/Quasi-Public or DC – Downtown Core. The project sites are not used for agriculture, forestry, or timberland; and are not the subject of a Williamson Act contract.

No lands adjacent to the project sites are used for agricultural production, forest land, or timberland. Surrounding properties are designated, zoned, and used for urban uses.

4.2.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒
d) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

[22] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed June 19, 2023. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.

a) Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

As discussed in Section 4.2.1.2 Existing Conditions, the project sites are not designated for agricultural use. As a result, the project would not convert farmland to a non-agricultural use. **(No Impact)**

b) Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?

The project sites are zoned either PQP Public/Quasi-Public or DC – Downtown Core. The project sites are not used for agriculture, forestry, or timberland; and are not the subject of a Williamson Act contract. Therefore, the project would not conflict with existing zoning for agricultural use or a Williamson Act contract. **(No Impact)**

c) Would the project conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production?

The project sites are not zoned for forest land, timberland, or timberland production. For these reasons, the project would not conflict with existing zoning or cause rezoning of forest land, timberland, or timberland production. **(No Impact)**

d) Would the project result in a loss of forest land or conversion of forest land to non-forest use?

The project sites are not used or designated for forest land and would not result in a loss of forest land or conversion of forestland to non-forest use. **(No Impact)**

e) Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

As described above in Section 4.2.1.2 Existing Conditions, the project sites and adjacent properties are not designated as farmland, nor are they used or zoned for agriculture use or forest land. For this reason, the project would not cause the conversion of farmland to non-agricultural use or forest land to non-forest use. **(No Impact)**

4.3 Air Quality

The following discussion is based, in part, on a Construction Air Quality and Health Risk Assessment prepared by Illingworth & Rodkin, Inc. A copy of the report, dated March 4, 2024, is attached to this Initial Study as Appendix B.

4.3.1 Environmental Setting

4.3.1.1 *Background Information*

Criteria Pollutants

Criteria air pollutants are pollutants that have established federal or state standards for outdoor concentrations to protect public health. Pursuant with the federal and state Clean Air Act, the United States Environmental Protection Agency (EPA) and the California Air Resources Board (CARB) have established and enforce the National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS), respectively. The NAAQS and CAAQS address the following criteria air pollutants: ozone (O_3), nitrogen dioxide (NO_2), carbon monoxide (CO), particulate matter with a diameter of 10 microns or less (PM_{10}), particulate matter with a diameter of 2.5 micros or less ($PM_{2.5}$), sulfur dioxide (SO_2), and lead. The CAAQS also includes visibility reducing particles, sulfates, hydrogen sulfide, and vinyl chloride.

Toxic Air Contaminants

Toxic air contaminants (TACs) include airborne chemicals that are known to have short- and long-term adverse health effects. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, diesel fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway). Unlike criteria air pollutants, which have a regional impact, TACs are highly localized and regulated at the individual emissions source level.

DPM is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).[23] Chemicals in diesel exhaust, such as benzene and formaldehyde, are also TACs identified by the CARB.

An overview of the sources of criteria pollutants and TACs, as well as their associated health effects, is provided in Table 4.3-1.

[23] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed January 23, 2024. https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health.

Table 4.3-1: Sources and Health Effects of Criteria Air Pollutants and Toxic Air Contaminants

Pollutants	Description and Sources	Primary Effects
Ozone (O_3)	O_3 is a secondary criteria air pollutant that is the result of a photochemical (sunlight) reaction between reactive organic gases (ROG) and nitrogen oxides (NO_x). Pollutants emitted by motor vehicles, power plants, industrial boilers, refineries, and chemical plants are the common source for this reaction. High O_3 levels are caused by the cumulative emissions of ROG and NO_X. These precursor pollutants react under certain meteorological conditions to form high O_3 levels. Commons sources of ROG and NO_x are vehicles, industrial plants, and consumer products.	• Aggravation of respiratory and cardiovascular diseases • Irritation of eyes • Cardiopulmonary function impairment
Nitrogen Dioxide (NO_2)	NO_2 is a reactive gas that combines with nitric oxide (NO) to form NO_x. NO_2 the byproduct of fuel combustion with common sources of NO_2 being emissions from cars, trucks, buses, power plants, and off-road equipment. Sources of NO_2 include motor vehicle exhaust, high temperature stationary combustion, and atmospheric reactions.	• Aggravation of respiratory illness • Reduced visibility
Carbon Monoxide (CO)	CO is a colorless, odorless, and toxic gas that is the product of incomplete combustion of carbon-containing substances (e.g., when something is burned). Common outdoor sources of CO include mobile vehicles (passenger cars and trucks) and machinery that burn fossil fuels.	• Interferes with oxygen delivery to the body's organ due to binding with the hemoglobin in the blood • Fatigue, headaches, confusion, and dizziness
Fine Particulate Matter ($PM_{2.5}$) and Coarse Particulate Matter (PM_{10})	Particulate Matter is any material that is emitted as liquid or solid particles or a gaseous material, such as dust, soot, aerosols, and fumes. PM_{10} and $PM_{2.5}$ are both small enough particulates to be inhaled into the human lungs, and $PM_{2.5}$ is small enough to deposit into the lungs, which poses an increased health risk compared to PM_{10}. Typical sources of particular matter include stationary combustion of solid fuels, construction activities, vehicles, industrial processes, and atmospheric chemical reactions.	• Reduced lung function, especially in children • Aggravation of respiratory and cardiorespiratory diseases • Increased cough and chest discomfort • Reduced visibility
Sulfur Dioxide (SO_2)	SO_2 is a pungent and colorless gaseous pollutant the is part of the sulfur oxides (SO_x) group and is the pollutant of greatest concern in the SO_x group. SO_x can react with other compounds in the atmosphere to form small particles. These particles contribute to particulate matter pollution. SO_2 is primarily formed from fossil fuel combustion at power plants and other industrial facilities. Sources of SO_2 include motor vehicles, locomotives, ships, and off-road diesel equipment that are operated with fuels that contain high levels of sulfur. Industrial	• Aggravation of respiratory illness • Respiratory irritation such as wheezing, shortness of breath and chest tightness • Increased incidence of pulmonary symptoms and disease, decreased pulmonary function

Pollutants	Description and Sources	Primary Effects
	processes, such as natural gas and petroleum extraction, oil refining, and metal processing.	
Lead	Lead is a naturally occurring element that can be found in all parts of the environment including the air, soil, and water. As an air pollutant, lead is present in small particles. The most common historic source of lead exposure was the past use of leaded gasoline in motor vehicles. The exhaust resulting from use of leaded gasoline would release lead emissions into the air. Now, major sources of lead in the air are from ore and metals processing plants and piston-engine aircraft operating on leaded aviation fuel. Other sources are waste incinerators, utilities, and lead-acid battery manufacturers. The highest air concentrations of lead are usually found near lead smelters.	• Adversely affect the nervous system, kidney function, immune system, reproductive and developmental systems and the cardiovascular system
Toxic Air Contaminants (TACs)	TACs include certain air pollutants known to increase the risk of cancer and/or other serious health effects that range from eye irritation, respiratory issues, and neurological damage. Sources of TAC include, but are not limited to, cars and trucks, especially diesel-fueled; industrial sources, such as chrome platers; dry cleaners and service stations; and building materials and products.	• Cancer • Chronic eye, lung, or skin irritation • Neurological and reproductive disorders

Sensitive Receptors

Some groups of people are more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools.

4.3.1.2 *Regulatory Framework*

Federal and State

Clean Air Act

At the federal level, the EPA is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean Air Act requires the EPA to set national ambient air quality standards for the six common criteria pollutants (discussed previously): PM, O_3, CO, SO_2, NO_2, and lead.[24]

[24] NO_x is the group of nitrogen compounds (NO_2 and nitric oxide [NO]) that typically represents NO_2 emissions because NO_2 emissions contribute the majority of NO_x exhaust emissions emitted from fuel combustion.

CARB is the state agency that regulates mobile sources throughout the state and oversees implementation of the state air quality laws and regulations, including the California Clean Air Act. The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate. Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. Attainment status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB.

Diesel Risk Reduction Plan

To address the issue of diesel emissions in the state, CARB developed the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles. In addition to requiring more stringent emission standards for new on-road and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, this plan involves application of emission control strategies to existing diesel vehicles and equipment to reduce DPM (in additional to other pollutants). Implementation of this plan, in conjunction with stringent federal and CARB-adopted emission limits for diesel fueled vehicles and equipment (including off-road equipment), will significantly reduce emissions of DPM and NO_X.

Regional

2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how federal and state air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan. The 2017 Clean Air Plan focuses on the following two related BAAQMD goals and how to achieve them:

- Protect air quality and health at the regional and local scale by attaining all state and national air quality standards and eliminating disparities among Bay Area communities in cancer health risk from TAC; and
- Protect the climate by reducing Bay Area GHG emissions 40 percent below 1990 levels by 2040 and 80 percent below 1990 levels by 2050.[25]

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. Jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing air quality impacts developed by BAAQMD within their CEQA Air Quality Guidelines. The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing

[25] Bay Area Air Quality Management District. *Final 2017 Clean Air Plan.* April 19, 2017. Page 12.

impacts, and recommended mitigation measures. The latest CEQA Air Quality Guidelines are the 2022 CEQA Air Quality Guidelines adopted on April 20, 2023 by the Air District Board of Directors.

Local

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to air quality and are applicable to the project and are applicable to the project.

Policy	Description
MS-10.1	Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
MS-11.3	Review projects generating significant heavy duty truck traffic to designate truck routes that minimize exposure of sensitive receptors to TACs and particulate matter.
MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At a minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

4.3.1.3 *Existing Conditions*

The San Francisco Bay Area (Bay Area) Air Basin is designated a nonattainment area for the federal O_3 and $PM_{2.5}$ standards and for the state O_3, PM_{10}, and $PM_{2.5}$ standards.[26,27] The area has attained both NAAQS and CAAQS for CO, SO_2, and NO_2. As the regional air district, BAAQMD is responsible for attaining the NAAQS and CAAQS for these pollutants. As part of an effort to attain and maintain ambient air quality standards for O_3, PM_{10}, and $PM_{2.5}$, BAAQMD has established thresholds of

[26] Bay Area Air Quality Management District. "Air Quality Standards and Attainment Status." Last Updated January 5, 2017. Accessed March 24, 2023.

[27] The area has attained both state and federal ambient air quality standards for CO. The project does not include substantial new emissions of SO2 or lead. These criteria pollutants are not discussed further.

significance for these air pollutants and their precursors that apply to both construction period and operational period impacts and are set at levels designed to bring the basin into compliance with applicable regulations. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce O_3 levels. The highest O_3 levels in the Bay Area occur in the eastern and southern inland valleys where temperatures are higher, there is less wind circulation, and sources of the precursor pollutants (ROG and NO_x) are prominent. In the Bay Area, most particulate matter is generated from the following activities: combustion, factories, construction, grading, demolition, agriculture, and motor vehicles. Motor vehicles are currently responsible for about half of particulates in the Bay Area. Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide emissions and localized emissions.

4.3.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	☐	☒	☐
c) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☒	☐

Note: Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the determinations.

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José has considered the air quality thresholds updated by BAAQMD in April 2023 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and $PM_{2.5}$. The BAAQMD CEQA Air Quality thresholds for criteria air pollutants and fugitive dust used in this analysis are identified in Table 4.3-2. Table 4.3-3 below lists the BAAQMD health risk and hazards thresholds for single-source and cumulative sources.

Table 4.3-2: BAAQMD Air Quality Significance Thresholds

Criteria Air Pollutant	Construction Thresholds*	Operation Thresholds	Operation Thresholds
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Annual Average Emissions (tons/year)
ROG and NO_x	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
CO	Not Applicable	9.0 ppm (eight-hour) or 20.0 ppm (one-hour)	
Fugitive Dust	Dust Control Measures/Best Management Practices	Not Applicable	

Notes: ROG = reactive organic gases; NO_X = oxides of nitrogen; PM_{10} = respirable particulate matter with an aerodynamic resistance diameter of 10 micrometers or less; $PM_{2.5}$= fine particulate matter with an aerodynamic resistance diameter of 2.5 micrometers or less; CO = carbon monoxide

* The Air District recommends that for construction projects that require less than one year to complete, lead agencies should annualize impacts over the scope of actual days that peak impacts would occur rather than over the full year. Additionally, for phased projects that results in concurrent construction and operational emissions. Construction-related exhaust emissions should be combined with operational emissions for all phases where construction and operations overlap.

Source: Bay Area Air Quality Management District. *2022 California Environmental Quality Act Air Quality Guidelines*. April 2023. Pages 3-5 and 3-6.

Table 4.3-3: BAAQMD Health Risks and Hazards Thresholds

Health Risk	Single Source	Combined Cumulative Sources
Cancer Risk	10 per one million	100 per one million
Non-Cancer Hazard Index	1.0	10.0
Annual $PM_{2.5}$ Concentration	0.3 $\mu g/m^3$	0.8 $\mu g/m^3$ (average)

Notes: $\mu g/m^3$ = micrograms per cubic meter; $PM_{2.5}$= fine particulate matter with an aerodynamic resistance diameter of 2.5 micrometers or less

Thresholds are applicable to construction and operational activities.

Source: Bay Area Air Quality Management District. *2022 California Environmental Quality Act Air Quality Guidelines*. April 2023. Pages 3-5 and 3-6.

a) Would the project conflict with or obstruct implementation of the applicable air quality plan?

As described in Section 4.3.1.2 Regulatory Framework, the most current air quality plan from BAAQMD is the 2017 Clean Air Plan. The BAAQMD Air Quality Guidelines state that a determination of consistency with the 2017 Clean Air Plan should demonstrate that the project a) supports the primary goals of the 2017 Clean Air Plan, b) includes applicable control measures from the 2017 Clean Air Plan, and c) does not disrupt or hinder implementation of any 2017 Clean Air Plan control measures.

Supports Primary Goals of the 2017 Clean Air Plan

The goals of the 2017 Clean Air Plan include protecting public health (as it relates to air quality) by progressing towards attaining air quality standards and eliminating health risks and protecting the climate. If a project exceeds the BAAQMD thresholds of significance for criteria air pollutants, its emissions are considered to result in significant adverse air quality impacts to the region's existing air quality conditions. Similarly, if the project exceeds the BAAQMD community health risk threshold of significance, the project would result in a community health risk. An analysis of the project's construction and operational criteria air pollutant emissions is provided below, as well as a discussion of the project's community health risk. The project's consistency with plans and policies designed to achieve GHG emission reductions aligned with the Clean Air Plan goals is discussed in 4.8 *Greenhouse Gas Emissions*.

Construction Criteria Air Pollutant Emissions

As discussed in Section 3.3.2.3 Construction Details, the project would be constructed over a period of approximately seven months, with construction of each sign taking nine to 30 weeks to complete. The majority of the electronic signs would be attached to the existing building structures. The free-standing signs proposed at the Center for Performing Arts would require an excavation depth of 36 inches for the concrete spread footing. The foundation would be 15 feet wide and 44 feet long at its widest point. The project's construction criteria pollutant emissions were modeled using the California Emissions Estimator model (CalEEMod) Version 2022. Construction emissions were modeled based on equipment list and schedule information provided by the applicant. Details about the equipment list, construction schedule, modeling, data inputs, and assumptions are included in Appendix B. Table 4.3-4 shows the estimated daily air emissions from construction of the proposed project.

Table 4.3-4: Construction Period Emissions

Year	ROG	NOx	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
Construction Emissions Per Year (Tons)				
Market & San Pedro Garage	<0.01	0.03	<0.01	<0.01
The Tech Interactive Museum	0.01	0.09	<0.01	<0.01
Center for the Performing Arts	0.02	0.19	0.01	0.01
McEnery Convention Center	0.02	0.24	0.01	0.01
Second & San Carlos Garage	<0.01	0.04	<0.01	<0.01
Total Project 2025 Emissions	*0.05*	*0.60*	*0.02*	*0.02*
Average Daily Construction Emissions per Year (pounds/per day)				
Market & San Pedro Garage	0.12	1.41	0.04	0.04
The Tech Interactive Museum	0.24	2.52	0.09	0.08
Center for the Performing Arts	0.25	2.86	0.08	0.07
McEnery Convention Center	0.29	3.24	0.09	0.09
Second & San Carlos Garage	0.10	1.19	0.03	0.03
Total Project 2025 (151 construction workdays)	*1.79*	*19.88*	*0.59*	*0.54*
BAAQMD Threshold	54	54	54	54
Exceed Threshold?	No	No	No	No

Source: Illingworth & Rodkin, Inc. *Electronic Signs on City-Owned Property (Downtown) Construction emission and Health Risk Assessment*. March 4, 2024.

As shown in Table 4.3-4 above, the project's construction period criteria pollutant emissions would not exceed the BAAQMD significance thresholds. The City requires, as a standard permit condition, the implementation of the following BAAQMD construction Best Management Practices (BMPs), which are routinely applied to construction projects throughout the Bay Area, to reduce construction air quality impacts.

Standard Permit Conditions:

The following measures shall be implemented during all phases of construction to control dust and exhaust at the project sites:

- Water all exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) two times per day.
- Cover all haul trucks transporting soil, sand, or other loose material off-site.
- Remove all visible mud or dirt track out onto adjacent public roads at least once per day using wet power vacuum street sweepers. The use of dry power sweeping is prohibited.
- Limit all vehicle speeds on unpaved roads to 15 mph.

- Pave all new roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Suspend all excavation, grading, and/or demolition activities when average wind speeds exceed 20 mph.
- Wash off all trucks and equipment, including their tires, prior to leaving the site.
- Treat unpaved roads providing access to sites located 100 feet or further from a paved road with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.
- Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to no more than 2 minutes (A 5-minute limit is required by the state airborne toxics control measure [Title 13, Sections 2449(d)(3) and 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at all access points to the site.
- Maintain and properly tune all construction equipment in accordance with the manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the name and phone number of an on-site construction coordinator to contact regarding dust complaints. The on-site construction coordinator shall respond and take corrective action within 48 hours. The sign shall also provide the City's Code Enforcement Complaints email and number and the Air District's General Air Pollution Complaints number to ensure compliance with applicable regulations.

The project, with the implementation of the standard permit condition listed above, would reduce fugitive dust emissions by controlling dust and exhaust, limiting exposed soil surfaces, and reducing PM_{10} and $PM_{2.5}$ exhaust emissions from construction equipment. BAAQMD considers construction criteria air pollutant impacts to be less than significant if a project's construction criteria air pollution emissions are below the BAAQMD thresholds and the project implements the above best management practices. Therefore, the project would have a less than significant construction criteria pollutant emissions impact.

Operational Criteria Air Pollutant Emissions

The long-term operation of each sign would include energy use for operation of the signs (i.e., electricity - not gasoline or natural gas) and minimal vehicle trips for maintenance activities. It is anticipated that each sign location would require a maximum of six maintenance visits annually. Since the signs would not generate regular or daily vehicle trips or use equipment, such as emergency generators that involve operational air emissions, operational air pollutant emissions would be minimal and would not exceed significance thresholds identified by BAAQMD.

Community Health Risk

The project's community health risk impact is discussed under checklist c) below and concluded to be less than significant.

With implementation of the above standard permit conditions, the project is consistent with the 2017 Clean Air Plan goal of protecting public health and eliminating health risk. The project's consistency with the goal to protect climate by reducing greenhouse gas emissions is discussed in 4.8 Greenhouse Gas Emissions and found to be less than significant.

Consistency with 2017 Clean Air Plan Control Measures

The project consists of the installation and operation of six programmable electronic signs. Because the project does not include stationary emissions sources, would not result in a notable increase in vehicle travel, would be served by San José Clean Energy (SJCE) and Pacific Gas & Electric (PG&E) (at least 90 percent carbon-free energy), it would not be inconsistent with the applicable 2017 CAP such that a conflict would occur.

In summary, based on the discussion above, the project with the implementation of the identified standard permit conditions would not conflict with or obstruct implementation of the applicable air quality plan. **(Less than Significant Impact)**

b) Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?

The Bay Area is designated a nonattainment area for the federal O_3 and $PM_{2.5}$ standards and for the State O_3, PM_{10}, and $PM_{2.5}$ standards. As described in the BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size to, by itself, result in nonattainment of ambient air quality standards. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. While the project would result in criteria pollutants in the Bay Area during construction and operation, the project would not result in any air pollutant emissions that would exceed the BAAQMD's significance thresholds (see discussion under checklist question a). In addition, as noted under checklist question a), the signs would be powered by electricity and not natural gas. As a result, criteria air pollutant emissions typically associated with natural gas use would not occur. As a result, the proposed project would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment. **(Less than Significant Impact)**

c) Would the project expose sensitive receptors to substantial pollutant concentrations?

Criteria Air Pollutants

In a 2018 decision (*Sierra Club v. County of Fresno*), the state Supreme Court determined CEQA requires that when a project's criteria air pollutant emissions would exceed applicable thresholds and contribute a cumulatively considerable contribution to a significant cumulative regional criteria pollutant impact, the potential for the project's emissions to affect human health in the air basin

must be disclosed. State and federal ambient air quality standards are health-based standards, and exceedances of those standards result in continued unhealthy levels of air pollutants. If a project has a less than significant impact for criteria pollutants, like the proposed project (refer to discussion under checklist question a) and b)) it would have a less than significant health effect and the impact would be less than significant.

Fugitive Dust

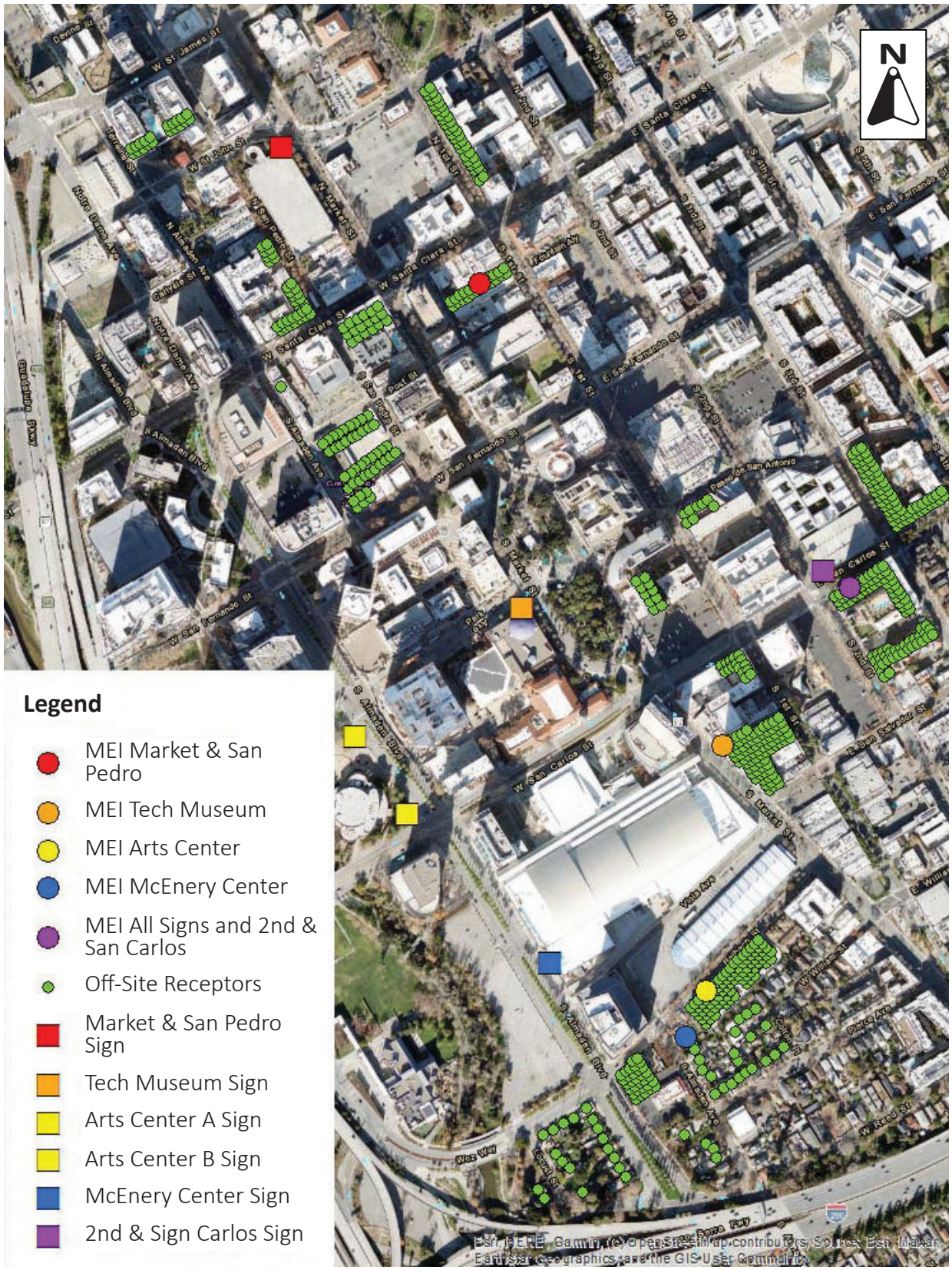
As discussed under checklist question a), the project's construction would occur over a short duration and would have a minimal footprint. The project would be required to implement standard permit conditions to control dust and exhaust at the project sites during construction. The BAAQMD CEQA Air Quality Guidelines consider these impacts to be less than significant if best management practices are implemented to reduce the emissions. With the implementation of the above standard permit condition, fugitive dust emissions would be minimized and reduced to less than significant levels through the use of measures (such as watering and covering exposed surfaces) to control the amount of fugitive dust generated during construction.

Community Health Risk

Construction activity and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC and could pose a health risk to nearby sensitive receptors. A construction community health risk assessment was prepared to address project construction impacts on the surrounding, off-site sensitive receptors within 1,000 feet of the sign locations.

Community Risk from Project Construction

The primary community risk impact issue associated with construction emissions are cancer risk from TACs and exposure to $PM_{2.5}$. Diesel exhaust poses both a potential health and nuisance impact to nearby receptors. The maximum modeled annual DPM and $PM_{2.5}$ concentrations were identified at nearby sensitive receptors to find the maximum exposed individuals (MEIs) for each sign location, as shown in Figure 4.3-1. The project's construction risk impacts are shown in Table 4.3-5 below.



Source: Illingworth & Rodkin, Inc., March 4, 2024.

LOCATION OF PROJECT CONSTRUCTION SITES, OFF-SITE SENSITIVE RECEPTORS, AND MAXIMUM TAC IMPACTS (MEIS) | FIGURE 4.3-1

Table 4.3-5: Construction Impacts at the Off-Site MEIs

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ (ug/m_3)	Hazard Index
Market & San Pedro Garage	0.07	<0.01	<0.01
The Tech Interactive Museum	0.21	<0.01	<0.01
Center for the Performing Arts	0.17	<0.01	<0.01
McEnery Convention Center	1.15	0.01	<0.01
Second & San Carlos Garage	2.10	0.01	<0.01
Total Project Construction	*2.14*	*0.01*	*<0.01*
BAAQMD Single-Source Threshold	10	0.3	1.0
Exceed Threshold?	No	No	No

As shown in Table 4.3-5, the maximum cancer risks, annual $PM_{2.5}$ concentration and Hazard Index from project construction activities at the MEI locations would not exceed the BAAQMD single-source significance threshold. **(Less than Significant Impact)**

d) Would the project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

The BAAQMD 2022 Air Quality CEQA Guidelines lists screening distances for land uses that generate substantial odors such as landfills, food manufacturing, compositing facilities, and chemical plants. Electronic signs are not listed and their operations do not generate odors; therefore, the project is not a source of significant odors that would result in complaints from surrounding uses. Construction of the proposed project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. These emissions may be noticeable from time to time by adjacent receptors; however, diesel exhaust has highly diffusive properties, and the odors would be localized and temporary. For these reasons, odor impacts from construction and operational activities would be less than significant. **(Less than Significant Impact)**

4.4 Biological Resources

The following discussion is based, in part, on a Biological Resources Report prepared by H.T. Harvey & Associates. The report, dated January 2024, is attached to this Initial Study as Appendix C.

4.4.1 Environmental Setting

4.4.1.1 *Regulatory Framework*

Federal and State

Endangered Species Act

Individual plant and animal species listed as rare, threatened, or endangered under state and federal Endangered Species Acts are considered special-status species. Federal and state endangered species legislation has provided the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Permits may be required from both the USFWS and CDFW if activities associated with a proposed project would result in the take of a species listed as threatened or endangered. To "take" a listed species, as defined by the State of California, is "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill" these species. Take is more broadly defined by the federal Endangered Species Act to include harm of a listed species.

In addition to species listed under state and federal Endangered Species Acts, Sections 15380(b) and (c) of the CEQA Guidelines provide that all potential rare or sensitive species, or habitats capable of supporting rare species, must be considered as part of the environmental review process. These may include plant species listed by the California Native Plant Society and CDFW-listed Species of Special Concern.

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. This includes direct and indirect acts, except for harassment and habitat modification, which are not included unless they result in direct loss of birds, nests, or eggs. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitat Regulations

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, state, and local regulations, and are generally subject to regulation by the United States Army Corps of Engineers (USACE), Regional Water Quality Control

Board (RWQCB), CDFW, and/or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act.

Fish and Game Code Section 1602

Streambeds and banks, as well as associated riparian habitat, are regulated by the CDFW per Section 1602 of the Fish and Game Code. Work within the bed or banks of a stream or the adjacent riparian habitat requires a Streambed Alteration Agreement from the CDFW.

Regional and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan) covers approximately 520,000 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (Valley Water), Santa Clara Valley Transportation Authority (VTA), USFWS, and CDFW. The Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to biological resources and are applicable to the project.

Policy	Description
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Any adverse effect on the health and longevity of such trees should be avoided through design measures, construction, and best maintenance practices. When tree preservation is not feasible include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.
ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.

Policy	Description
ER-6.3	Employ low-glaring lighting in areas developed adjacent to natural areas, including riparian woodlands. Any high-intensity lighting used near natural areas will be placed as close to the ground as possible and directed downward or away from natural areas.
ER-6.5	Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.
MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
MS-21.6	As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.
MS-21.8	For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals: • Avoid conflicts with nearby power lines. • Avoid potential conflicts between tree roots and developed areas. • Avoid use of invasive, non-native trees. • Remove existing invasive, non-native trees. • Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species. • Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species

City of San José Municipal Code

The City of San José Tree Removal Controls (San José Municipal Code, Sections 13.31.010 to 13.32.100) serve to protect all trees having a trunk that measures 38 inches or more in circumference (12.1 inches in diameter) at the height of 54 inches (4.5 feet) above the natural grade of slope. The ordinance protects both native and non-native tree species. A tree removal permit is required from the City of San José for the removal of ordinance-sized trees. Removal of or modifications to all trees on public property (e.g., street trees within a parking strip or the area between the curb and sidewalk) are handled by the City Arborist.

In addition, any tree found by the City Council to have special significance can be designated as a Heritage Tree, regardless of tree size or species. It is unlawful to vandalize, mutilate, remove, or destroy such Heritage Trees. Under the City's Tree Removal Ordinance, specific criteria or findings must be made before a permit for removal of a live or dead Heritage Tree would be granted.

4.4.1.2 *Existing Conditions*

The project sites are located Downtown and consist of existing developed areas, which are classified as ”Urban-Suburban” land cover type in the Habitat Plan. These areas include multi-story commercial buildings, paved asphalt roadways, parking lots, parking garages, and sidewalks that are interspersed with small islands of landscape vegetation. Landscape vegetation present within these areas includes trees such as nonnative London plane, silver dollar tree, and crepe myrtle, as well as locally nonnative coast redwood (refer to Appendix B for additional details). Common landscape shrubs and ground cover include Indian hawthorne, English ivy, various bottlebrushes, and turf lawn.

“Urban-Suburban” land cover serves as wildlife habitat only in a very limited capacity, and most wildlife species that occur in these areas are tolerant of frequent human disturbances. The project sites support a number of common, urban-adapted wildlife species, although due to its largely developed nature, the sites provide relatively low-quality habitat for most species and thus supports relatively small numbers of individuals of any one species. In general, the common wildlife species that occur on the sites are regionally abundant, are present in widely available habitats in the region.

Native resident bird species including the American crow, Anna’s hummingbird, and house finch will nest and forage in landscape vegetation in urban-suburban areas. Summer migrants such as the hooded oriole, white-throated swift, and cliff swallow are adapted to developed landscapes and may utilize urban structures and landscaping for nesting and foraging. During winter, non-breeding migrant birds such as the ruby-crowned kinglet, cedar waxwing, yellow-rumped warbler, and Townsend’s warbler will forage in the urban landscape. In addition to the common bird species listed above, an uncommon bird of prey, the peregrine falcon, was observed in multiple locations in the project area during the site visit (refer to Appendix B). Red-tailed hawks may occasionally perch on tall structures in urban-suburban areas as well, and Cooper’s hawks may nest and forage in surrounding urban areas.

Special-Status Species

No special-status plant species are known to occur in the project area. A number of special-status animal species are known to occur in the project vicinity, including along the Guadalupe River to the west. The monarch butterfly, Crotch’s bumble bee, yellow warbler, tricolored blackbird, and western red bat potentially occur on or adjacent to the project sites as nonbreeding migrants, transients, or foragers, but they are not known or expected to breed or occur in large numbers on or near the project sites.

Sensitive/Regulated Habitat

Two of the project sites, Center for Performing Arts and McEnery Convention Center, are located immediate east of the Guadalupe River, which supports mixed riparian forest and woodland

habitat.[28] The mixed riparian forest and woodland along the Guadalupe River adjacent to these two project sites is characterized by a moderately dense canopy with mature native trees such as western sycamore, Fremont box elder, and blue elder, as well as nonnative black walnut, tree of heaven, and Mexican fan palm. Several standing and fallen dead trees/snags are dispersed through the corridor. The riparian understory along this reach of the Guadalupe River varies in quality, with dense native understory in a few locations but a relatively thin assemblage of nonnative grasses, herbs, and shrubs in most areas.

Riparian habitats in California generally support exceptionally rich animal communities and contribute disproportionately to landscape-level species diversity. The presence of seasonal flows and abundant invertebrate fauna provide foraging opportunities and the diverse habitat structure provides cover and breeding opportunities for many species along this reach of the Guadalupe River. Reptiles such as the gopher snake, western fence lizard, and southern alligator lizard are present in the upland habitat along the Guadalupe River. The northwestern pond turtle can potentially forage in the channel near these two project sites, bask on emergent debris such as rocks or logs, and nest in the uplands along the river. Red-eared sliders and other nonnative turtles also occur in these waters. Native amphibians such as the arboreal salamander and California slender salamander may occur, and the Pacific treefrog is also commonly present. The reach of the Guadalupe River west of the Center for Performing Arts and the McEnery Convention Center project sites typically function as a migration corridor for the federally threatened Central California Coast steelhead as well as the Central Valley fall-run Chinook salmon, a California species of special concern, traveling between the San Francisco Bay and higher-quality spawning habitat farther upstream. Steelhead and salmon may attempt spawning in this reach if they are unable to access higher-quality habitat upstream due to seasonally low flows, and Chinook salmon have been documented spawning nearby.

Resident birds that are likely to use riparian habitats along the Guadalupe River west of the Center for Performing Arts and the McEnery Convention Center project sites for foraging and nesting include the American robin, Bewick's wren, and many others. Furthermore, summer visitors such as yellow warbler, Wilson's warbler, and northern rough-winged swallow may forage in the vicinity but are not expected to nest due to the high levels of human disturbance and lack of suitable breeding habitat. Numerous additional bird species use these riparian habitats for foraging and cover during migration and winter; these include the hermit thrush, white-crowned sparrow, yellow-rumped warbler, and ruby-crowned kinglet. Waterfowl that may forage and/or breed along the channel include the mallard, Canada goose, common merganser, and, in winter, hooded merganser.

As part of the site visit conducted for the Biological Resources Report, existing light sources in the project area were observed, including downward-facing streetlights, stoplights, and numerous downward-facing parking lot fixtures. Smaller lights and illuminated directional signs are also present on the adjacent buildings, and light from these signs is directed outwards towards the Guadalupe River was assessed. Other ambient light sources include lights from vehicular traffic.

[28] The Guadalupe River is located approximately 390 feet southwest of Sign 3A, 300 feet east of Sign 3B, and 295 feet west of Sign 4.

4.4.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) 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 (CDFW) or United States Fish and Wildlife Service (USFWS)?	☐	☒	☐	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	☐	☐	☒	☐
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☒	☐
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☐	☒	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☒	☐

a) Would the project 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 CDFW or USFWS?

Special-Status Species

As discussed in Section 4.4.1.2, the project sites do not support any special-status plant species. The monarch butterfly, Crotch's bumble bee, yellow warbler, tricolored blackbird, and western red bat potentially occur on or adjacent to the project sites as nonbreeding migrants, transients, or foragers, but they are not known or expected to breed or occur in large numbers on or near the project sites. The project would have some potential to impact foraging habitats and/or disturb individuals of these species. Construction activities might result in a temporary direct impact through the alteration of foraging patterns (e.g., avoidance of work sites because of increased noise and activity levels during maintenance activities) but would not result in the loss of individuals, as individuals of these species would move away from any construction areas or equipment before they could be injured or killed. Further, the project sites do not provide important foraging habitat used regularly or by large numbers of individuals of any of these species. As a result, the project would have little impact on these species' foraging habitat and no substantive impact on regional populations of these species. Therefore, impacts on nonbreeding special-status species would be less than significant.

Nesting Birds

Migratory birds, like nesting raptors, are protected under the Migratory Bird Treaty Act and CDFW Code Sections 3503, 3503.5, and 3800. The CDFW defines "taking" as causing abandonment and/or loss of reproductive efforts through disturbance. While no tree removal is proposed, construction activities on the project site could result in the loss of eggs or nests. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact.

Impact BIO-1: Construction activities associated with the project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment.

Mitigation Measures:

MM BIO-1.1: 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).

MM BIO-1.2: If demolition and construction cannot be scheduled between September 1 and January 31 (inclusive), pre-construction surveys for nesting birds shall be completed 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.

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.

Prior to any tree removal, or approval of any grading or demolition permits (whichever 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.

Implementation of mitigation measure MM BIO-1.1 would ensure that construction of the project takes place outside of the nesting season, thus avoiding any incidental loss of fertile eggs or nestlings, or nest abandonment. Alternatively, if construction cannot be scheduled between September 1 and January 31, the implementation of mitigation measure MM BIO-1.2 would identify and protect all active nests within the project's area of effect from being disturbed during construction. For these reasons, the project with the implementation of mitigation measures MM BIO-1.1 and MM BIO-1.2 would not result in significant impacts to nesting birds. **(Less than Significant Impact with Mitigation Incorporated)**

b) Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?

Two of the project sites, the Center for Performing Arts and McEnery Convention Center, are located immediately east of the Guadalupe River, which supports mixed riparian forest and woodland habitat. The entirety of project impacts would occur outside of the riparian habitat along the Guadalupe River, and east of the Guadalupe River Trail. The proposed signs at the Center of Performing Arts would be separated from the Guadalupe River by the existing Center for Performing Arts building. The McEnery Convention Center site is separated from the Guadalupe River by S Almaden Boulevard and a surface parking lot. For these reasons, the project would have no direct permanent or temporary impacts on riparian or aquatic habitat. In addition, due to the intervening distance between the Guadalupe River and the project sites (i.e., 295 to 390 feet), no indirect impacts within these areas (e.g., due to light runoff) is anticipated. As a result, implementation of the project would not adversely affect any riparian habitat or other sensitive natural community. **(Less than Significant Impact)**

c) Would the project have a substantial adverse effect on state or federally protected wetlands

through direct removal, filling, hydrological interruption, or other means?

No wetlands or other waters of the U.S. or state occur on the project sites. The Guadalupe River, located 295 to 390 feet west of the Center for Performing Arts and McEnery Convention Center project sites, is considered jurisdictional waters of the U.S. up to the ordinary high water mark, and the RWQCB may claim the banks of the creek and riparian habitat rooted below top of bank as waters of the state. The project would not directly or indirectly impact the Guadalupe River. Therefore, the project would not result in a substantial adverse effect on state or federally protected wetlands. **(Less than Significant Impact)**

d) Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Impacts on Wildlife

The project would result in the construction of electronic signs that would introduce new sources of lighting on and around the project sites. No up-lighting is proposed in the project design, and the signs would be tilted downwards, rimmed, and/or fitted with equivalent measures to attenuate any unwanted up-lighting. Depending on the location, direction, and intensity of lighting from the proposed signs, this lighting can potentially spill into adjacent natural areas, thereby resulting in an increase in lighting compared to existing conditions.

The intensity, spectral quality (i.e., the distribution of blue, green, red, and other portions of the light spectrum emitted by a light source), duration, and periodicity of exposure to light affect the biochemistry, physiology, and behavior of organisms. Many animals are sensitive to light cues, having evolved behavioral and/or physiological responses to natural variations in light levels resulting from the day–night cycle, the cycle of the moon, and the seasonal light cycle. Responses can affect processes as diverse as growth, metabolism, patterns of movement (e.g., migration), feeding, breeding behavior, molting, and hibernation. Artificial lighting has also been shown to increase the nocturnal activity of predators like owls, hawks, and mammalian predators. The following discussion focusses on the Center for Performing Arts and McEnery Convention Center sites, since both are located immediately east of the Guadalupe River, which supports mixed riparian forest and woodland habitat. The other signs are proposed in areas surrounded by urban development and would not substantially alter existing light conditions in a manner that would adversely affect the urban-adapted wildlife in those areas.

Center for Performing Arts

Signs 3A and 3B at the Center for Performing Arts site would be 390 feet and 300 feet east of the Guadalupe River, respectively. As shown in Figure 3.2-5 in Section 3.0, Signs 3A and 3B would be located on the east side of the building (i.e., the opposite side of the building that is fronting the river) and directed away from sensitive aquatic and riparian habitats along the river. As a result,

light from these signs would not increase illuminance within sensitive aquatic and riparian habitats along the Guadalupe River riparian corridor.

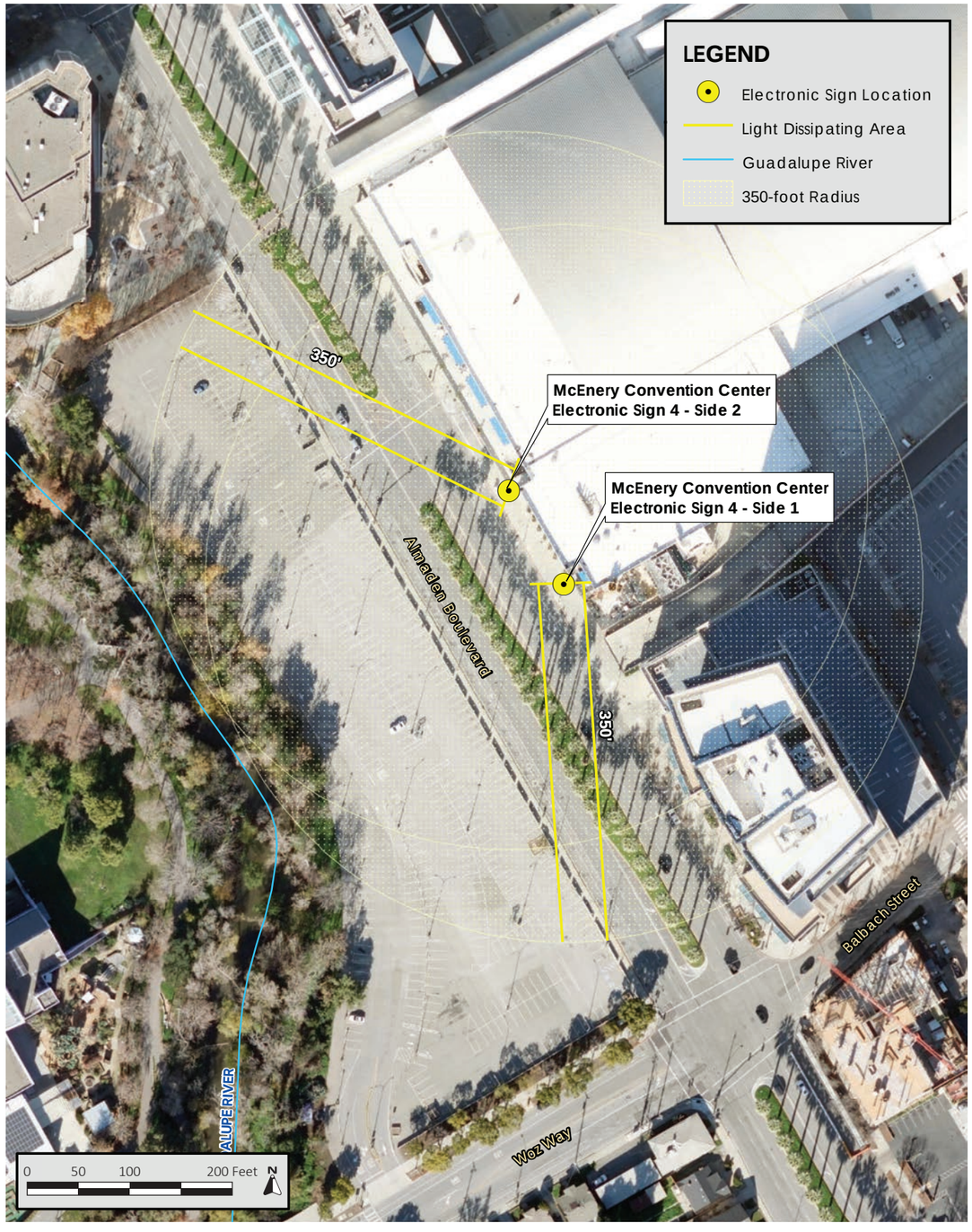
McEnery Convention Center

Sign 4 is located 295 feet from the Guadalupe River; Side 1 would be directed to the southwest, and Side 2 would be directed to the northwest (refer to Figure 3.2-8). While the signs are approximately 295 feet from the river, no buildings or other structures are present in between the proposed signs and the Guadalupe River. Thus, there is some potential for light from this sign to increase illuminance within sensitive aquatic and riparian habitats along the Guadalupe River.

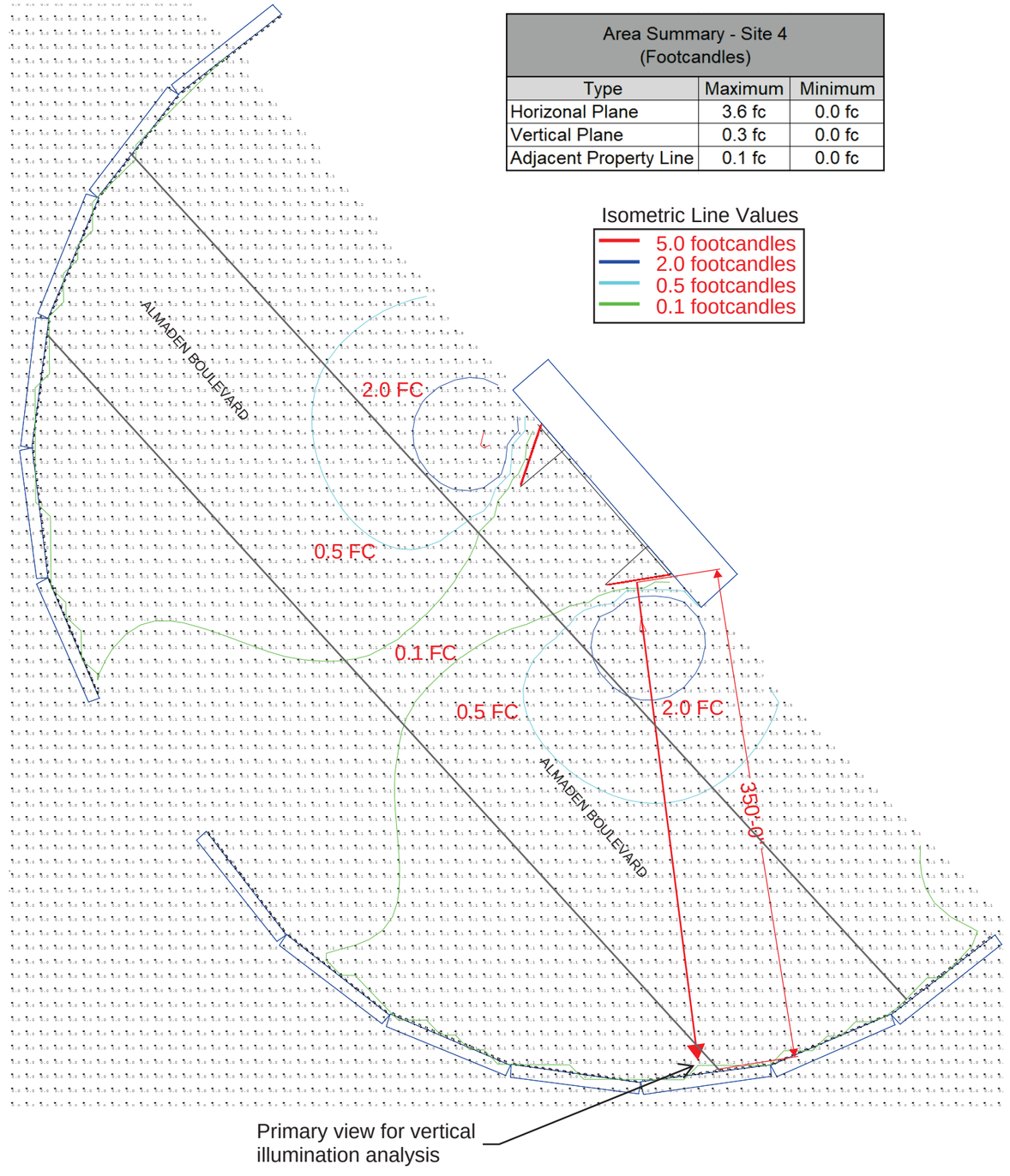
In dark environments, increases in illuminance of more than 0.1 foot candle could affect terrestrial wildlife. The existing environment at and around the McEnery Convention Center site, including the nearby riparian habitat, is not a dark environment. As discussed in Section 4.4.1.2 Existing Conditions, existing light sources in the project area include downward-facing streetlights, stoplights, and numerous downward-facing parking lot fixtures. Other ambient light sources include lights from vehicular traffic. Light measurements were taken at the parking lot adjacent to the riparian habitat and the existing illuminance was measured at up to 1.45 foot candles (refer to Appendix A). Any invertebrates, fish, amphibians, reptiles, birds, and mammals that use this area are acclimated to existing lighting levels. While relatively low increases in illuminance (e.g., more than 0.1 foot candle) can potentially affect wildlife communities that are acclimated to existing dark areas, a proportionally greater increase in illuminance would be necessary to alter the behaviors of wildlife that are acclimated to higher levels of ambient lighting in urban areas (such as the McEnery Convention Center site area).[29] For purposes of this analysis, an increase in illuminance of more than 0.1 footcandle is considered to be potentially harmful to terrestrial wildlife.[30]

During the site visit, the potential visibility of light from the proposed 60-foot-tall sign to aquatic species in the Guadalupe River was analyzed. It was confirmed that light from a 60-foot-tall sign would not directly shine on the surface of the Guadalupe River because the steep bank between the signs and the water's surface would block any direct light from the signs from shining on the aquatic habitat, and would prevent fish, turtles, or other aquatic organisms from seeing the signs. Based on the lighting analysis (refer to Appendix A), it was determined that Sign 4 would increase illuminance by no more than 0.1 foot candle at trees along the edge of the riparian corridor between dusk and midnight (refer to Figure 4.4-1).[31]

[29] H.T. Harvey & Associates. *San José Electronic Signs on City-Owned Properties Biological Resources Report.* March 2024.
[30] This threshold is based on City practice and the project biologist's professional opinion.
[31] The nighttime maximum brightness of all signs would be set to 300 nits (refer to Section 3.2.2.1).



Area Summary - Site 4 (Footcandles)		
Type	Maximum	Minimum
Horizonal Plane	3.6 fc	0.0 fc
Vertical Plane	0.3 fc	0.0 fc
Adjacent Property Line	0.1 fc	0.0 fc



Source: H.T. Harvey & Asscociates, January 2024; Lighting Design Alliance.

MCENERY CONVENTION CENTER (SIGN 4) LIGHT DISSIPATION AREA | FIGURE 4.4-1

Further, illumination from the sign on of the riparian habitat that is not along the immediate edge of the riparian corridor would result in less than a 0.1 foot candle increase due to shading from trees and other vegetation along the edge and shading by the steep riverbank.

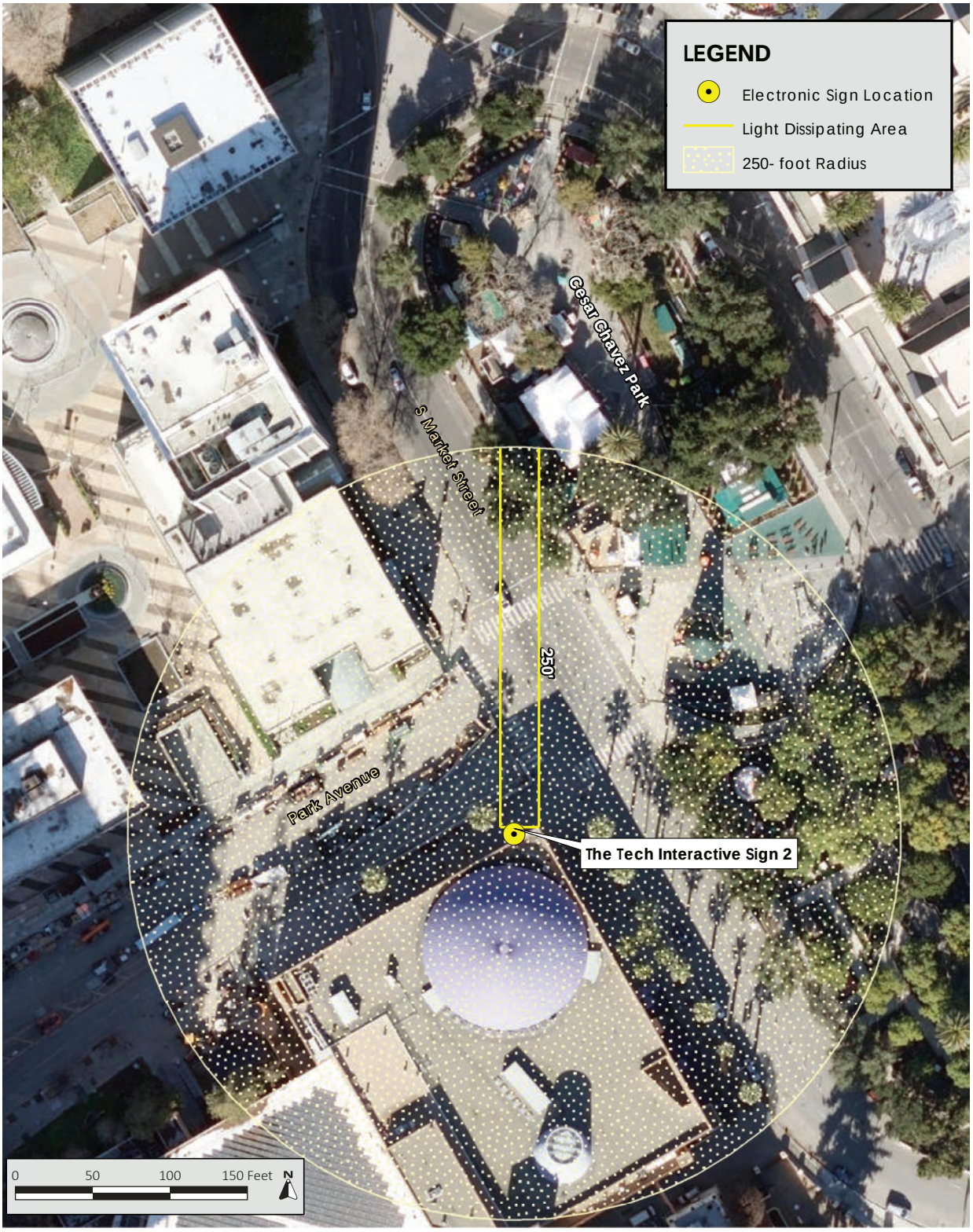
Therefore, because the existing environment is relatively illuminated (including the presence of the unshielded lights along the Guadalupe River Trail that shine light directly onto the riparian trees) from other existing light sources, the wildlife using the riparian habitat along the Guadalupe River are adapted to the artificial light in the area. The increase in illumination from the project (namely, Sign 4) would be less than a 0.1 foot candle increase, and would not substantially disturb wildlife currently using riparian habitats along the Guadalupe River.

Impacts on Local and Migratory Birds

Birds that currently frequent the project area could be affected by lighting from the proposed signs. As discussed above, many animals are sensitive to light cues, including birds that currently use the project sites and adjacent areas. However, the areas surrounding Sign 1 and 5 (Market & San Pedro Garage and Second & San Carlos Garage) are primarily developed urban habitats that do not support sensitive species that might be significantly impacted by illuminance from the project. In addition, these species would be acclimated to existing levels of illuminance in surrounding areas of San José. As previously discussed, the proposed electronic signs would incorporate programming elements to ensure that the signs are switched off from midnight until 6:00 a.m., are not animated, and reduce unwanted upward light.

Impacts to wildlife currently using riparian habitats along the Guadalupe River (including birds) is discussed above and concluded to be less than significant. Therefore, the following discussion focuses on The Tech Interactive Museum site, which is adjacent to Plaza de Cesar Chavez Park.

Plaza de Cesar Chavez Park supports a number of native oak trees and a relatively abundant community of birds. Existing horizontal illuminance (maximum amount of light falling at ground level) within the park was measured at 0.81 foot candle (refer to Appendix A). While the majority of illuminance from Sign 2 would be directed at an adjacent building, this sign would wrap around the corner of the Tech Interactive and shine some light east and north towards Plaza de Cesar Chavez Park. Thus, birds using this park would experience an increase in illuminance due to the new sign. As shown in Figure 4.4-2, the proposed sign is expected to result in an increase in horizontal illuminance within the park by 0.1 to 0.2 foot candle (in the areas directly across from and north of the sign), and an increase in vertical illuminance of 0.2 to 0.3 foot candle directly opposite the sign. Similar to the Guadalupe River, the park is currently illuminated throughout the night by existing fixtures, and any birds that use this area are acclimated to urban areas with relatively high existing lighting levels.



Source: H.T. Harvey Associates, January 2024.

TECH INTERACTIVE (SIGN 2) LIGHT DISSIPATION AREA | FIGURE 4.4-2

As discussed previously, while relatively low increases in illuminance (e.g., more than 0.1 foot candle) can potentially affect wildlife communities that are acclimated to existing dark areas, a proportionally greater increase in illuminance would be necessary to alter the behaviors of wildlife that are acclimated to higher levels of ambient lighting in urban areas, such as those at Plaza de Cesar Chavez Park. Further, the habitat at Plaza de Cesar Chavez Park is of relatively low quality compared to more extensive oak woodlands in the region. Therefore, the proportional increase in illuminance of 0.1 to 0.3 foot candle within the park from the operation of Sign 2 would be negligible to the bird community.

The visibility of the proposed electronic signs to birds in flight, and thus the risk they pose to migrating birds, depends primarily on the beam angles of the signs relative to the flight lines of birds and on the luminance (brightness) of the signs as perceived by the birds. Given that all signs would be no taller than 60 feet and a similar to (and sometimes shorter than) existing structures downtown; would be surrounded by an abundance of existing lit structures such as buildings and street lights; would be switched off at midnight through 6:00 a.m.; and would be tilted downward, rimmed, or fitted with other equivalent measures to attenuate up-lighting, migrating birds would be well above of the viewing angles of the signs. Thus, the proposed signs would result in less than significant lighting impacts on migrating birds.

As documented above, the project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. **(Less than Significant Impact)**

e) Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

The project does not propose to remove any on-site trees or street trees. As a result, the proposed project would not conflict with any ordinance protecting biological resources and would not result in a significant impact to trees and the community forest. **(No Impact)**

f) Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

The project sites are located in the Habitat Plan and are designated as "Urban-Suburban" land. [32] The project sites are within Private Development Area 4: Urban Development Equal to or Greater than 2 Acres Covered. Per the Santa Clara Valley Habitat Agency's online screening form, the project is not covered under the Habitat Plan because the proposed impact area is less than two acres in size. Therefore, project activities are not required to comply with the Habitat Plan conditions. **(Less than Significant Impact)**

[32] Santa Clara Valley Habitat Agency. "GIS Data & Key Maps." Accessed January 29, 2024. http://www.hcpmaps.com/habitat/.

4.5 Cultural Resources

The following discussion is based upon an Archaeological Sensitivity Assessment prepared by Archaeological/Historical Consultants in December 2023 and a Historic Resource Evaluation (HRE) prepared by TreanorHL in December 2023. A copy of the Archaeological Sensitivity Assessment, which is a confidential report, is on file at the City of San José Planning, Building, and Code Enforcement Department and is available upon request with appropriate credentials. A copy of the HRE is attached to this Initial Study as Appendix D.

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal and State

National Historic Preservation Act

Federal protection is legislated by the National Historic Preservation Act of 1966 (NHPA) and the Archaeological Resource Protection Act of 1979. These laws maintain processes for determination of the effects on historical properties eligible for listing in the National Register of Historic Places (NRHP). Section 106 of the NHPA and related regulations (36 Code of Federal Regulations [CFR] Part 800) constitute the primary federal regulatory framework guiding cultural resources investigations and require consideration of effects on properties that are listed or eligible for listing in the NRHP. Impacts to properties listed in the NRHP must be evaluated under CEQA.

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for state and local planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.[33]

Historical resources eligible for listing in the CRHR must meet the significance criteria described previously and retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. A resource that has lost its historic character or appearance may still have sufficient integrity for the CRHR if it maintains the potential to yield significant scientific or historical information or specific data.

The concept of integrity is essential to identifying the important physical characteristics of historical resources and, therefore, in evaluating adverse changes to them. Integrity is defined as "the

[33] California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6." Accessed August 31, 2020. http://www.ohp.parks.ca.gov/pages/1069/files/technical%20assistance%20bulletin%206%202011%20update.pdf.

authenticity of a historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance." The processes of determining integrity are similar for both the CRHR and NRHP and use the same seven variables or aspects to define integrity that are used to evaluate a resource's eligibility for listing. These seven characteristics include 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.

California Native American Historical, Cultural, and Sacred Sites Act

The California Native American Historical, Cultural, and Sacred Sites Act applies to both state and private lands. The act requires that upon discovery of human remains, construction or excavation activity must cease and the county coroner be notified.

Public Resources Code Sections 5097 and 5097.98

Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on non-federal land. These procedures are outlined in Public Resources Code Sections 5097 and 5097.98. These codes protect such remains from disturbance, vandalism, and inadvertent destruction, establish procedures to be implemented if Native American skeletal remains are discovered during construction of a project, and establish the Native American Heritage Commission (NAHC) as the authority to resolve disputes regarding disposition of such remains.

Pursuant to Public Resources Code Section 5097.98, in the event of human remains discovery, no further disturbance is allowed until the county coroner has made the necessary findings regarding the origin and disposition of the remains. If the remains are of a Native American, the county coroner must notify the NAHC. The NAHC then notifies those persons most likely to be related to the Native American remains. The code section also stipulates the procedures that the descendants may follow for treating or disposing of the remains and associated grave goods.

Local

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to cultural resources and are applicable to the project.

Policy	Description
LU-13.2	Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.
LU-13.4	Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.

Policy	Description
LU-13.6	Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.
LU-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

City of San José Historic Preservation Ordinance

The City of San José Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code) provides a framework for the City to identify, protect, and encourage the preservation of significant resources and foster civic pride in the City's cultural resources. The Historic Preservation Ordinance establishes processes for the designation of City Landmarks, City Landmark Districts and Conservation Areas, review of proposed exterior alterations to designated City Landmarks and properties within City Landmark Districts and Conservation Area, maintenance of a Historic Resources Inventory (HRI), and administration of Mills Act Contracts.

The City of San José also uses the significance criteria for City Landmark eligibility to evaluate properties that are 45 years or older that have not previously been determined to be a significant historical resource under CEQA (Discretionary Resource). Properties that meet the eligibility criteria for listing in the San José Historic Resources Inventory (HRI) as a Candidate City Landmark have special historical, architectural, cultural, aesthetic, or engineering interest or value of a historical nature and are significant under at least one of the following criteria:

1. Its character, interest or value as a part of the local, regional, State or national history, heritage or culture
2. Its location as a site of a significant historic event
3. Its identification with a person or persons who significantly contributed to the local, regional, State or national culture and history

4. Its exemplification of the cultural, economic, social or historic heritage of the city of San José
5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style
6. Its embodiment of distinguishing characteristics of an architectural type or specimen
7. Its identification as the work of an architect or master builder whose individual work has influenced the development of the city of San José
8. Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation, or which is unique.

San José Downtown Design Guidelines and Standards

The Downtown Design Guidelines provide guidance for the form and design of buildings in Downtown, their appearance in the larger cityscape, and their interface with the street level Public Realm. The Design Guidelines document defines the design objectives for the elements that determine the image of Downtown and refines the concepts of other plans, translating them into an operational document that increases predictability for developers and their architects for development in Downtown. The following guideline related to cultural resources is applicable to the project.

Guideline	Description
4.2.4 – Historic Adjacency	Incorporate essential urban and architectural characteristics of historic context.

San José Downtown Historic Design Guidelines

The Draft San José Downtown Historic Design Guidelines (May 2004) apply to the Downtown Core, which is roughly bounded by Julian Street to the north, Fourth Street to the east, interstate 280 to the south, and State Route 87 to the west. The San José Downtown Historic Design Guidelines provide guidance for improvements planned for historic buildings, new additions to historic buildings, and infill development adjacent to historic buildings. The goal of the Guidelines is to retain and enhance historic resources while welcoming an ever changing downtown. While these guidelines have not been officially adopted by the City, the City relies on them in practice.

4.5.1.2 *Existing Conditions*

Archaeological Resources

A record search was completed at the Northwest Information Center in November 2023 for the five sign locations. Three resources and one informal resource have been previously recorded within the five sign locations and eight additional resources have been recorded with a 1/8-mile radius.

Native American archaeological sites are most often found in flat locations with access to a perennial source of fresh water. Soils deposited during the Holocene era (11,700 years ago) are

more likely to contain buried archaeological deposits. In Santa Clara County, Native American sites are most often found with 0.5-mile of a major watercourses and 0.25-mile of minor watercourses.

Several factors can be used to determine an area's sensitivity for buried historic era archaeological resources. These include surface scatter of artifacts, documentary sources (i.e., historical maps, deeds or photographs), standing buildings or structures that suggest pattern of land use, and ecological or landscape features.

A summary of the project area's archaeological sensitivity is provided below.

Market & San Pedro Garage (Sign 1)

Native American Sensitivity

The Market & San Pedro Garage site is located on Holocene alluvial fan deposits approximately 350 feet west of a side channel of the Guadalupe River and approximately 0.3 miles west of the main river channel. Previously recorded Native American sites are within 0.3 miles of the project site. Due to the recent Holocene soils, proximity to the Guadalupe River, and known archaeological sites nearby, the Market & San Pedro site is considered sensitive for buried Native American resources.

Historic-era Sensitivity

By the mid-1880s, structures were present in the project area. The current parking garage structure is aboveground, and its construction is not likely to have disturbed all the historic structural remains and deposits associated with occupation of the site since at least the 1880s. The project site is therefore sensitive for buried historic-era resources.

The Tech Interactive (Sign 2)

Native American Sensitivity

The Tech Interactive site is located on Holocene alluvial fan deposits approximately 225 feet west of a side channel of the Guadalupe River and approximately 0.2 miles west of the main river channel. Previously recorded Native American sites are within 1,000 feet of the project site. Due to the recent Holocene soils, proximity to the Guadalupe River, and known archaeological sites nearby, the Tech Interactive site is considered highly sensitive for buried Native American resources.

Historic-era Sensitivity

The project site has been the site of historic-era habitation since at least the 1830s. During construction of the existing museum building in the 1990s, historic-era resources were encountered. Given the entire site was not fully excavated, the site is considered very sensitive for buried historic era resources.

Center for Performing Arts (Sign 3A and 3B)

Native American Sensitivity

The Center for Performing Arts site is located on Holocene alluvial fan deposits approximately 225 feet adjacent to the historical course of the Guadalupe River on its western border. Previously recorded Native American sites are within 1,100 feet of the project site. Due to the recent Holocene soils, proximity to the Guadalupe River, and known archaeological sites nearby, the Center for Performing Arts site is considered highly sensitive for buried Native American resources.

Historic-era Resources

The Center for Performing Arts site was developed by the 1880s. The existing structure on site does not include below grade parking, thereby making the site sensitive for undisturbed historical remains and deposits.

McEnery Convention Center (Sign 4)

Native American Sensitivity

The McEnery Convention Center site is located on Holocene alluvial fan deposits and is adjacent to the side channel of the Guadalupe River on its eastern side and 350 feet east of the main channel. Previously recorded Native American sites are within 100 feet of the project site. Due to the recent Holocene soils, close proximity to the Guadalupe River, and known archaeological sites nearby, the McEnery Convention Center site is considered highly sensitive for buried Native American resources.

Historic-era Resources

Development on the site began in the mid-1880s and by 1915, the project area was more heavily developed with dwellings and apartments. While development of the Convention Center likely disturbed historic era remains, it is possible that undisturbed historic era remains and deposits still exist.

Second & San Carlos Garage (Sign 5)

Native American Sensitivity

The Second & San Carlos Garage site is located on Holocene alluvial fan levee deposits approximately 0.23 miles west of a side channel of the Guadalupe River and 0.4 miles west of the main river channel. Previously recorded Native American sites are within 5,000 feet of this site. Due to the recent Holocene soils, proximity to the Guadalupe River, and known archaeological sites nearby, the McEnery Convention Center site is considered highly sensitive for buried Native American resources.

Historic-era Resources

The project area was developed by the mid-1880s with a mix of dwellings and accessory structures. The existing structure on site does not include below grade parking, thereby making the site sensitive for undisturbed historical remains and deposits.

A summary of the archaeological sensitivity of each of the project sites are provided in Table 4.5-1 below.

Table 4.5-1: Summary of Archaeological Sensitivity

Sign ID.	Name of City-Owned Property/Structure	Native American Sensitivity	Historic-era Sensitivity
1	Market & San Pedro Garage	Sensitive	Sensitive
2	The Tech Interactive Museum	Highly Sensitive	Very Sensitive
3A, 3B	Center for the Performing Arts	Highly Sensitive	Sensitive
4	McEnery Convention Center	Highly Sensitive	Sensitive
5	Second & San Carlos Garage	Sensitive	Sensitive

Historic Resources

On-Site Structures

The project consists of five City-owned properties in downtown San José. A summary of each of the properties age and Historic Resources Inventory (HRI) status is provided in Table 4.5-2. The Center for Performing Arts is listed as a Candidate City Landmark on the City's HRI. The structure was evaluated for eligibility for listing on the NRHP and CRHR in 2000, but did not qualify at the time because the building was less than 50 years old at the time. According to the HRE, the Center for Performing Arts is likely eligible for individual listing on both the NRHP and CRHR due its exceptional example of the work of Frank Lloyd Wright in San José.

Table 4.5-2: Summary of On-Site Structures

Sign ID.	Name of City-Owned Property/Structure	Year Constructed	Age	HRI
1	Market & San Pedro Garage	1968	56	No[1]
2	The Tech Interactive Museum	1998	26	No
3A, 3B	Center for the Performing Arts	1972	52	Yes
4	McEnery Convention Center	1989	35	No
5	Second & San Carlos Garage	1982	42	No

Notes:
[1] The Market & San Pedro Garage has not been evaluated for historic eligibility. Based on the building type and construction (i.e., concrete parking garage), it is unlikely the structure would be found eligible.

Adjacent Off-Site Properties

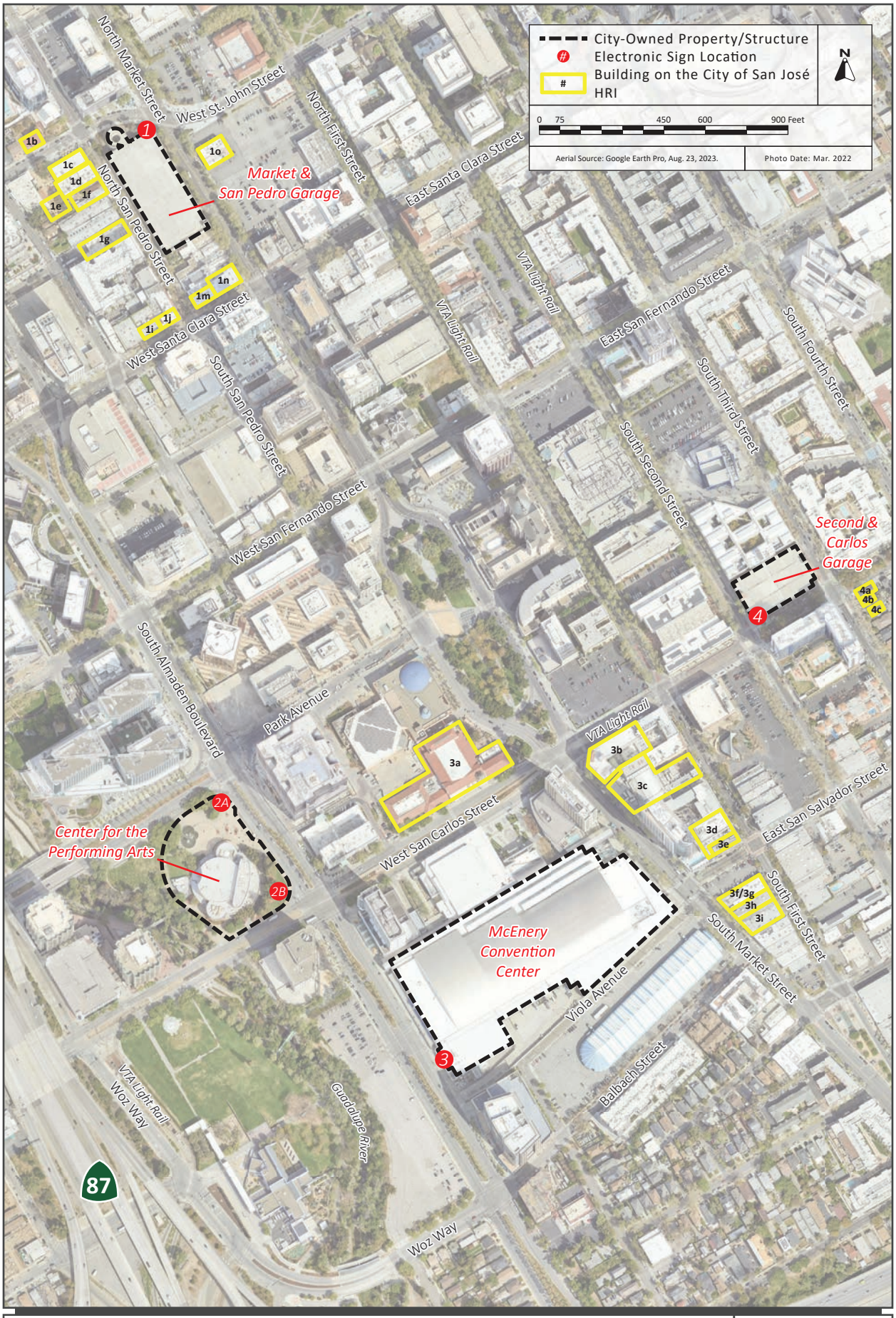
Based on a reconnaissance survey of 29 properties within 200 feet of the project site, 23 properties are listed on the City of San José HRI. The 23 properties and their Historic Resources Inventory classification status are provided below in Table 4.5-2 below and their locations shown on Figure 4.5-1.

The project sites are also near, but are not in the San José Downtown Commercial Historic District (also known as the San José Commercial District), which is a NRHP district located between East Santa Clara, South First, South Second, and South Fourth Streets (along East Santa Clara) to East San Fernando Street. The historic district contains architecturally and historically significant buildings dating from the 1870s to the early 1940s. As a listed NRHP district, the San José Downtown Commercial Historic District is automatically included on the CRHR.

Table 4.5-3: Buildings within 200 feet of the Project Sites Identified on the City of San José HRI

Map ID	Address	Year Built	Status
1b	175 W. St. John Street	1854	City Landmark
1c	170 W. St. John Street/55-69 (71) N. San Pedro Street	Pre-1901	Structure of Merit
1d	87 N. San Pedro Street	1904	Structure of Merit; eligible for NRHP and CRHR
1e	184 W. St. John Street	c. 1790	City Landmark, NRHP, and State Landmark
1f	73 N. San Pedro Street	1902	Structure of Merit, eligible for NRHP and CRHR
1g	51 N. San Pedro	Pre-1901	Structure of Merit, eligible for NRHP and CRHR
1i	161 W. Santa Clara Street	1883/1930	City Landmark
1j	151-155 W. Santa Clara Street	1877/1930	City Landmark
1m	143-145 W. Santa Clara Street / N. San Pedro Street	1870s	Structure of Merit
1n	101 W. Santa Clara Street	1942	City Landmark, eligible for NRHP and CRHR
1o	84-86 N. Market Street	1915	Identified Structure
2a/4a	145 W. San Carlos	1834 to 1836	City Landmark
4b	302 S. Market Street	1926	City Landmark and NRHP
4c	345 s. 1st Street	1927	City Landmark, eligible for CRHR
4d	371-387 1st Street	1925	City Landmark
4e	395-399 S. 1st Street	1950	Identified Structure

Map ID	Address	Year Built	Status
4f	417 S. 1st Street	Early 1920s	Structure of Merit, eligible for CRHR
4g	418 S. Market Street	1927	Structure of Merit, eligible for CRHR
4h	431 S. 1st Street	1923	Structure of Merit
4i	439 S. 1st Street	1920	Structure of Merit
5a	304-306 S. Third Street	1899	Structure of Merit
5b	310 S. Third Street	1902	Structure of Merit
5c	312 S. Third Street	1889	Candidate City Landmark



BUILDINGS WITHIN 200 FEET OF THE PROJECT SITES IDENTIFIED ON THE CITY OF SAN JOSÉ HRI | FIGURE 4.5-1

4.5.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?	☐	☒	☐	☐
b) Cause a substantial adverse change in the significance of an archaeological resource as pursuant to CEQA Guidelines Section 15064.5?	☐	☒	☐	☐
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☒	☐

a) Would the project cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?

As summarized in Table 3.2-1, the project proposes to install attached electronic signs at four locations and two free-standing signs at one location. No major alterations would occur to any of the existing structures as a result of project construction. As discussed in Section 4.5.1.2, the Center for Performing Arts is listed in the San José HRI as a Candidate City Landmark. Two free-standing electronic signs would be installed in an existing public plaza and landscape area surrounding the Center for Performing Arts building. None of the other sign locations are listed on the San José HRI, NRHP or CRHR; however, 23 listed properties are located within 200 feet of the project sites.

Impacts to historic resources are assessed for conformance with the Secretary of Interior's Standards for the Treatment of Historic Properties. The City of San José also utilizes its local design guidelines to inform CEQA impacts, including the San José Downtown Design Guidelines and Standards and San José Downtown Historic Guidelines.

Secretary of Interior's Standards Assessment

A project that has been determined to conform with the Secretary of the Interior's Standards for the Treatment of Historic Properties (Standards) can generally be considered to be a project that will not cause a significant impact on historical resources pursuant to CEQA Guidelines Section 15064.5. The proposed project's compliance with the Standards is assessed below.

<u>Standard 1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.</u>

None of the identified historic resources within 200 feet of the Market & San Pedro, The Tech Interactive Museum, McEnery Convention Center, and Second & San Carlos Garage would change in

use, nor would they be physically altered by the project. The Center for Performing Arts building is listed in the San José HRI as a Candidate City Landmark. The construction of two free-standing signs in the plaza surrounding the building would not affect any character defining features or change the use of the building. In addition, the proposed signs in the Center for Performing Arts plaza would include information that support the use of the Center for Performing Arts.

The project complies with Standard 1.

Standard 2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.

The project does not propose to remove or alter any historic resources. While the project proposes to install two free-standing signs in the plaza of the Center of Performing Arts property, these signs would not remove any historic resources and would not alter the building as the signs are free-standing and located at least 35 feet from the building.

The project complies with Standard 2.

Standard 3. Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

The project does not include changes that would create a fall sense of historical development.

The project complies with Standard 3.

Standard 4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.

The project does not propose to alter any historic resources. Historic resources within 200 feet would not be altered. The proposed free-standing signs in the plaza of the Center for Performing Arts would not result in any changes to the building itself or any elements of the property that have acquired historic significance.

The project complies with Standard 4.

Standard 5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

The project does not propose to alter any historic resources. Historic resources within 200 feet would not be altered and their distinctive features would be retained. The proposed free-standing signs in the plaza of the Center for Performing Arts would not alter the distinctive materials, features, finishes, construction techniques, and examples of craftsmanship that characterize the building.

The project complies with Standard 5.

Standard 6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

The project does not propose any repairs or replacements to historic resources or within 200 feet or the Center of Performing Arts building.

The project complies with Standard 6.

Standard 7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

The project does not include chemical or physical treatments to historic resources within 200 feet or the Center of Performing Arts.

The project complies with Standard 7.

Standard 8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

Refer to discussion under checklist question b) below, which concludes adherence with standard permit condition and mitigation measure would ensure that the project has a less than significant impact on archaeological resources.

The project complies with Standard 8.

Standard 9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

As previously stated, of the five City-owned properties, only one building is a historic resource under CEQA (Center for Performing Arts Building). The three other buildings are not historic resources under CEQA. The project proposes to install two free-standing signs in the plaza of the Center for Performing Arts; however, the new construction would not destroy any historic materials on the building. While the installation of the free-standing signs would alter the street view, the historic character of the building would remain. The new signs would clearly be differentiated from the building due to location and materials, and would be compatible as the curvilinear shape of the proposed signs reference the rounded forms of the Center for Performing Arts' building.

The project complies with Standard 9.

Standard 10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

The project does not propose new additions or construction that would affect any of the historic properties within 200 feet or the Center for Performing Arts building. Therefore, the integrity of the historic resources would be retained, and the environment of the historic property would be unimpaired. As discussed under Standard 9, the integrity of the Center of Performing Arts environment would not be affected.

The project complies with Standard 10.

As documented above, the project would comply with Standards 1-10. Overall, the project would not result in a substantial adverse change in the significance of the Center for Performing Arts building nor the historic resources within 200 feet of the other sign locations with the implementation of the standard condition and mitigation measure MM CUL-1.1 discussed under checklist question b) below.

City of San José Downtown Design Guidelines and Standards

An evaluation of the proposed design of the project for conformance with the City of San José Downtown Design Guidelines and Standards (DDGS) was completed as part of the HRE to help inform the analysis of on- and off-site aesthetic and cultural resources impacts. Guideline 4.2.4 (Historic Adjacency) is applicable to the project because four of the sites have an adjacent historic context. A summary of conformance with the applicable design standards is outlined below. In addition, analysis of conformance with Guidelines 4.4.9a (Lighting – Podium Level) and 5.3.5 (Signage - Podium Level and Pedestrian Level) are discussed in Section 4.1 Aesthetics in the context of aesthetics.

Standard 4.2.4 – Historic Adjacency

The DDGS establish a definition of “historic adjacency” to guide when the historic context guidelines and standards should apply. A site has Historic Adjacency when any of these are true:

a) At least 50 percent of buildings fully or partially within 200 feet are on the San José HRI or are eligible for HRI listing;
b) The site is within 100 feet of a Designated or Candidate City Landmark or contributor to a district or conservation area; or
c) The site is adjacent to a historic building on the HRI or eligible for HRI listing.

As described in Section 4.5.1.2 and summarized in Table 4.5-2 above, several buildings on the San José HRI are within 200 feet of the project sites. The project’s historic adjacency is summarized in Table 4.5-3 below.

Table 4.5-4: Historic Adjacency Summary

Sign ID.	Name of City-Owned Property/Structure	Historic Adjacency	Map ID
1	Market & San Pedro Garage	Yes (under sub-category (c))	1b, 1c, 1d, 1e, 1f, 1g, 1i, 1j, 1m, 1n, 1o
2	The Tech Interactive Museum	Yes (under sub-category (b) and (c))	2a
3A, 3B	Center for the Performing Arts	No	--
4	McEnery Convention Center	Yes (under sub-category (a))	4a through 4i
5	Second & San Carlos Garage	Yes (under sub-category (c))	5a through 5c

As shown in Table 4.5-3 above, Market & San Pedro Garage, The Tech Interactive Museum, McEnery Convention Center, and Second & San Carlos Garage all maintain Historic Adjacency. The Center for Performing Arts building is listed is on the HRI. The following discusses the project's conformance with the *Historic Adjacency* criterion.

Market & San Pedro Garage (Sign 1)

The project would install one, single-sided, attached corner wrapped electronic sign on the Market & San Pedro Garage. The top of the sign would be approximately 50 feet above ground and the sign would be mounted to the building, which is over 45 years old but not identified a historic resource. While the Market & San Pedro Garage has not been evaluated for historic eligibility, it is unlikely the structure would be found eligible based on its building type and construction (i.e., concrete parking garage). However, as noted above, the Market & San Pedro Garage location possesses Historic Adjacency. The Market & San Pedro Garage is adjacent to San Pedro Square, where most of the historic resources associated with this site are located. The proposed electronic sign would be attached to the existing, six level, approximately 59-foot tall, concrete parking structure and would represent a minor feature in comparison to the overall massing of the garage itself (refer to Figure 3.2-2). As such, the proposed sign would not alter existing conditions of the non-historic, large parking structure within 200 feet of historic resources and would not have a significant impact on nor contribute to impacts to surrounding historic resources.

The Tech Interactive (Sign 2)

The project would install one, single-sided, attached corner wrapped electronic sign on The Tech Interactive building. The sign would be approximately 55 feet above the ground and would be mounted to the building exterior wall. The existing Tech Interactive building is a contemporary structure that does not contribute to the historic context of the adjacent City National Civic Building. The addition of the proposed attached electronic sign on The Tech Interactive building would constitute a minor change consistent with a contemporary museum and would not further disrupt the existing historic context.

Center for Performing Arts (Signs 3A and 3B)

The project would install two, curved, single-sided, freestanding electronic signs in the plaza of the Center of Performing Arts building. The signs would be 22 feet tall at the highest point and would be installed at grade. The sign displays would be approximately 60 feet wide by 15 feet tall, with a message surface area of approximately 900 square feet. Both sign displays would be enclosed within an architectural feature with a curved footprint bound by a 73-foot-wide by 50-foot-tall rectangular area.

The Center for Performing Arts building is listed on the San José HRI; however, the proposed freestanding signs would face away from the building and are located approximately 90 feet from the building. As noted above, the signs would include curved and rounded features, relating to the form of the existing building, would not adversely affect any of the Center for Performing Arts' character defining features, and would include information designed to promote Center for Performing Arts' programming. Therefore, the proposed signs would be compatible with the Center for Performing Arts building.

McEnery Convention Center (Sign 4)

The project would install one, dual sided, attached electronic sign on the McEnery Convention Center building, which is a contemporary building. The top of the sign would be approximately 60 feet above the ground and would be supported by the building wall and roof. The sign would be attached to the McEnery Convention Center building and facing Almaden Boulevard, away from the historic resources within 200 feet on San Carlos Street, South Market Street, and South First Street.

Given the physical distance between the proposed sign and the historic buildings within 200 feet (the distance in which includes the McEnery Convention Center and the widths of Almaden Boulevard and San Carlos Street) and the orientation of the proposed sign away from the historic buildings (i.e., not visible), the sign would not adversely affect the historic context of the adjacent historic buildings.

Second & San Carlos Garage (Sign 5)

The project would install one, single-sided, attached electronic sign on the Second & San Carlos Garage. The sign would be approximately 58 feet above ground and would be mounted to the building. The proposed sign would be placed on the corner of Second and San Carlos Street, away from the historic resources within 200 feet on South Third and San Carlos streets (approximately 400 feet northwest). The surrounding area consists of a mix of two- and three-story office or governmental buildings constructed in the mid-20th century and recently constructed high-rise office buildings. The proposed sign would be compatible with the surrounding historic context because it would respond to the characteristics and patterns of contemporary development in the area.

Note that the project was also reviewed for conformance with Guidelines 4.4.9a Lighting – Podium Level and 5.3.5 Signage - Podium Level and Pedestrian Level in the Downtown Design Guidelines

under checklist question d) in Section 3.1 Aesthetics and the signs were found consistent with the rationale of these Guidelines.

San José Downtown Historic Design Guidelines (Draft 2004)

The following discussion summarizes the project's consistency with the applicable San José Downtown Historic Design Guidelines.

Chapter 3 – Rehabilitation of Historic Buildings. Add new signs on historic buildings where necessary that are designed to be compatible in profile, texture, and color, differentiated from the historic signage, and removal without irreparable damage to the building. Where documentation is available, historic signs can be constructed with like and compatible materials. Signage should not obstruct or compromise the integrity of character-defining features, details, materials, or craftsmanship.

The project proposes to install two free-standing signs in the plaza of the Center for Performing Arts building, which is listed as a Candidate City Landmark on the San José HRI. None of the other proposed sign locations are determined eligible for listing on the HRI. The signs proposed at the Center of Performing Arts site are not proposed to be attached to the Center for Performing Arts building. The proposed signs would be at least 35 feet from the building and would be compatible with the design of the Center for Performing Arts building because the screen is curved, referencing the curved form of the structure. The signs proposed at the Center of Performing Arts site also are differentiated from the historic resource through the use of contemporary materials, including digital screens. As a result, the project would not alter the building's character-defining features, details, materials, or craftsmanship.

Chapter 6 Streetscape. Street Signage: Retain existing street signage that belongs to historic development periods.

The project proposes to remove an existing freestanding sign at the Center of Performing Arts site. The sign was constructed and installed between 1980 and 1981, after the Center to Performing Arts building was constructed and the area was mostly developed. Therefore, the project would not remove existing street signage that belongs to historic development of the building. The project would not remove any other signage at any other proposed sites.

Street Signage: Add new street signage that is designed to be compatible in size, scale, proportion, color and material and differentiated from existing downtown streetscape of historic resources rather than designed to look as if they belonged to an earlier period.

The proposed electronic signs would not be designed to look as if they belong to an earlier period in history and would be differentiated from historic resources within 200 feet of the sign locations. The proposed signs would all be located in downtown San José in areas characterized by high-rise and low-rise buildings, including some very large and contemporary buildings. As a result, the proposed electronic signs would generally be compatible in size, scale, proportion, and material.

As documented above, the project would not adversely affect surrounding historic buildings and would conform with the San José Historic Design Guidelines.

In summary, the project complies with Standards 1-10 of the Secretary of Interior Standards for the Treatment of Historic Properties with the incorporation of the standard permit conditions and mitigation measure MM CUL-1.1 to reduce impacts to archaeological resources, described under checklist question b). The project would not result in a substantial adverse change in the significance of the Center for Performing Arts building nor the historic resources within 200 feet of the other sign locations. In addition, the project would conform with the rationale of the applicable City of San José Downtown Design Guidelines and Downtown Historic Design Guidelines and would not adversely impact a historic district. Therefore, the project would not cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. **(Less than Significant Impact with Mitigation Incorporated)**

b) Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?

Under CEQA, damage to a unique archeological resource is considered a significant impact. A unique archaeological resource is defined as an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria: (1) contains information needed to answer important scientific research questions and there is a demonstrable public interest in that information; (2) has a special and particular quality such as being the oldest of its type or the best available example of its type; or (3) is directly associated with a scientifically recognized important prehistoric or historic event or person. A nonunique archaeological resource is defined as an archaeological artifact, object, or site that does not meet these criteria. A nonunique archaeological resource need be given no further consideration, other than the simple recording of its existence by the lead agency if it so elects.

As summarized in Table 4.5-1 in Section 4.5.1.2, the project sites are considered sensitive to highly sensitive for both buried Native American resources and historic-era resources. As described in Section 3.3.2.3, the attached signs would be secured directly to the building structure and would involve minimal ground disturbance. The free-standing signs proposed at the Center for Performing Arts would require an excavation depth of 36 inches for the concrete spread footing. The foundation would be 15 feet wide and 44 feet long at its widest point.

Standard Permit Condition:

- If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped until a qualified archaeologist says it is safe to resume activity, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified and a qualified archaeologist in consultation with a Native American Tribal

representative registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.1 shall examine the find. The archaeologist in consultation with the Tribal representative shall (1) evaluate the find(s) to determine if they meet the definition of a historical or unique archaeological or tribal cultural resource; and (2) make appropriate recommendations regarding the disposition treatment of such finds prior to issuance of building permits. Recommendations could include avoidance, preservation in place, capping, collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery treatment actions shall be submitted to the Director of PBCE or the Director's designee, the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

In accordance with General Plan Policy ER-10.3, the project would be required to implement the above standard permit condition to reduce or avoid impacts to unknown subsurface cultural resources. Even with implementation of the above standard permit condition, the project would have the potential to encounter unknown subsurface archaeological resources.

Impact CUL-1: Below-grade construction associated with the Center for Performing Arts would have the potential to encounter unknown subsurface archaeological resources.

Mitigation Measure:

MM CUL-1.1: A qualified archaeologist and a Native American monitor that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.1 shall monitor all ground-disturbing activity associated with the installation of signs at the Center for Performing Arts site. The qualified archaeologist shall prepare a report to document the findings after construction is completed.

Adherence to mitigation measure MM CUL-1.1 would ensure that a qualified archaeologist and Native American monitor is present during all ground disturbing activities to quickly identify if any resources are encountered to stop work. Adherence to the standard permit condition described above would ensure that any objects encountered during ground-disturbing activities that meet the definition of a prehistoric or historic resource, unique archeological resource, or tribal cultural resource are appropriately identified and protected. Adherence with the above standard permit condition and mitigation measure would ensure that the project has a less than significant impact on prehistoric, historic, and unique archaeological resources. **(Less than Significant Impact with Mitigation Incorporated)**

c) Would the project disturb any human remains, including those interred outside of dedicated cemeteries?

Human graves are most often associated with prehistoric occupation sites. Although unlikely, it is possible that project construction activities, such as excavation and grading, could disturb undiscovered human remains at the project sites. The City has a standard permit condition to ensure that the appropriate process is followed in the event of accidental discovery of human remains during project construction.

Standard Permit Condition:

- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
    i. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
    ii. The MLD identified fails to make a recommendation; or
    iii. The landowner or his authorized representative rejects the recommendation of the MLD, and, if invoked, mediation by the NAHC fails to provide measures acceptable to the landowner.

By following the process set forth in this standard permit condition, the project would ensure that any human remains encountered during ground-disturbing activities are appropriately identified and treated, and the impact reduced to a less than significant level. **(Less than Significant Impact)**

4.6 Energy

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal and State

Energy Star and Fuel Efficiency

At the federal level, energy standards set by the EPA apply to numerous consumer products and appliances (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

Renewables Portfolio Standard Program

In 2002, California established its Renewables Portfolio Standard Program, with the goal of increasing the percentage of renewable energy in the state's electricity mix to 20 percent of retail sales by 2010. Governor Schwarzenegger issued Executive Order (EO) S-3-05, requiring statewide emissions reductions to 80 percent below 1990 levels by 2050. In 2008, EO S-14-08 set a goal for retail sellers of electricity to serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from renewable sources by 2030. SB 100, passed in 2018, requires 100 percent of electricity in California to be provided by 100 percent renewable and carbon-free sources by 2045. In 2022, the state adopted another update to the RPS program, SB 1020, which requires eligible renewable energy resources and zero-carbon resources supply the following percentages of all retail sales of electricity: 90 percent by December 31, 2035; 95 percent by December 31, 2040; and 100 percent by December 31, 2045; and 100 percent of electricity procured to serve all state agencies by December 31, 2035.

Executive Order B-55-18 and Assembly Bill 1279

Executive Order B-55-18 was issued in September 2018. It ordered a new statewide goal of achieving carbon neutrality no later than 2045 and to maintain net negative emissions thereafter. Assembly Bill 1279, also known as the California Climate Crisis Act, was approved on September 16, 2022 and codifies the statewide goal set by Executive Order B-55-18 of achieving net zero GHG emissions no later than the year 2045 and maintaining net negative emissions thereafter. In addition, this bill has a statewide goal of reducing anthropogenic GHG emissions by 85 percent below the 1990 levels by the year 2045. The bill requires CARB to work with relevant state agencies to ensure that updates to the scoping plan identify and recommend measures to achieve these policy goals and implement strategies that enable CO_2 removal solutions and carbon capture, utilization, and storage technologies in California. The bill requires CARB to submit an annual report.

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years.[34] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[35] Currently, development projects must comply with 2022 Title 24, which will be updated in 2025 to apply to construction permits issued after January 1, 2026.

California Green Building Standards Code

CALGreen is Part 11 of Title 24 and establishes mandatory green building standards for buildings in California. CALGreen was developed to reduce GHG emissions from buildings, promote environmentally responsible and healthier places to live and work, reduce energy and water consumption, and respond to state environmental directives. CALGreen covers five categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars II program in 2022 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2026 through 2035. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[36]

Advanced Clean Trucks

CARB adopted the Advance Clean Trucks program in 2021. The purpose of the regulation is to accelerate the market for on-road zero-emission vehicles and to reduce emissions of Nox, PM, other criteria pollutants, TACs, and GHG from medium- and heavy-duty on-road vehicles.

[34] California Building Standards Commission. "California Building Standards Code." Accessed January 22, 2024. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[35] California Energy Commission (CEC). "2022 Building Energy Efficiency Standards." Accessed January 22, 2024.https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency.
[36] California Air Resources Board. "Advanced Clean Cars II." Accessed January 22, 2024. https://ww2.arb.ca.gov/our-work/programs/advanced-clean-cars-program/advanced-clean-cars-ii

Local

Climate Smart San José

Climate Smart San José is a plan to reduce air pollution, save water, and create a stronger and healthier community. The City approved goals and milestones in February 2018 to ensure the City can substantially reduce GHG emissions through reaching the following goals and milestones:

- All new residential buildings will be Zero Net Carbon Emissions (ZNE) by 2020 and all new commercial buildings will be ZNE by 2030 (Note that ZNE buildings would be all electric with a carbon-free electricity source).
- SJCE will provide 100-percent carbon-free base power by 2021.
- One gigawatt of solar power will be installed in San José by 2040.
- 61 percent of passenger vehicles will be powered by electricity by 2030.

2030 Greenhouse Gas Reduction Strategy

The 2030 Greenhouse Gas Reduction Strategy (GHGRS) serves as a Qualified Climate Action Plan for purposes of tiering and streamlining under CEQA. The Development Compliance Checklist serves to apply the relevant General Plan and 2030 GHGRS policies through a streamlined review process for proposed new development projects that are subject to discretionary review and that trigger environmental review under CEQA.

While Climate Smart San José is the City's overarching visionary plan to reduce emissions geared toward the Paris Agreement and state greenhouse gas reduction goals, the 2030 GHGRS provides a focused near-term or interim target to guide measurable actions the City can take to reduce its GHG emissions over this decade to achieve the 2030 target. While the emissions reduction measures in the 2030 GHGRS are consistent with the Climate Smart San José strategies, the 2030 GHGRS is prepared for a slightly different purpose; it is prepared in accordance with BAAQMD's CEQA Guidelines to allow future development projects in the city that demonstrate consistency with the 2030 GHGRS to streamline their GHG emissions analysis for environmental review purposes.

San José Construction and Demolition Diversion Program

The Construction and Demolition Diversion Deposit Program (CDDD) requires projects to divert at least 50 percent of total projected project waste to be refunded the deposit. Permit holders pay this fully refundable deposit upon application for the construction permit with the City if the project is a demolition, alteration, renovation, or a certain type of tenant improvement. The minimum project valuation for a deposit is $2,000 for an alteration-renovation residential project and $5,000 for a non-residential project. There is no minimum valuation for a demolition project and no square footage limit for the deposit applicability. The deposit is fully refundable if construction and demolition materials were reused, donated, or recycled at a City-certified processing facility. Reuse and donation require acceptable documentation, such as photos, estimated weight quantities, and receipts from donations centers stating materials and quantities.

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 6,765 trillion British thermal units (Btu) in the year 2021, the most recent year for which this data was available.[37] Out of the 50 states, California is ranked second in total energy consumption and 49th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,229 trillion Btu) for residential uses, 17 percent (1,157 trillion Btu) for commercial uses, 24 percent (1,595 trillion Btu) for industrial uses, and 41 percent (2,784 trillion Btu) for transportation.[38] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2021 was consumed primarily by the non-residential sector (74 percent), followed by the residential sector consuming 23 percent. In 2021, a total of approximately 16,408 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[39]

SJCE is the primary and default electricity provider for residents and businesses in the City of San José. SJCE sources the electricity and PG&E delivers it to customers over their existing utility lines. SJCE customers are automatically enrolled in the GreenSource program, which provides 95 percent GHG emission-free electricity, with 60 percent of the electricity from renewable sources. Customers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission-free electricity from entirely renewable sources. Customers may also choose to opt-out of SJCE and receive electricity directly from PG&E.

Natural Gas

PG&E provides natural gas services within San José. In 2022, California's natural gas supply came from a combination of in-state production and imported supplies from other western states and Canada.[40] In 2021 residential and commercial customers in California used 33 percent of the state's natural gas, power plants used 0.01 percent, the industrial sector used 33 percent.[41] In 2021, Santa Clara County used less than one percent of the state's total consumption of natural gas.[42]

[37] United States Energy Information Administration. "California State Energy Profile." Accessed January 9, 2024. https://www.eia.gov/state/print.php?sid=CA.
[38] Ibid.
[39] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed January 22, 2024. http://ecdms.energy.ca.gov/elecbycounty.aspx.
[40] California Gas and Electric Utilities. 2022 *California Gas Report.* Accessed January 22, 2024. https://www.socalgas.com/sites/default/files/Joint_Utility_Biennial_Comprehensive_California_Gas_Report_2022.pdf.
[41] United States Energy Information Administration. "Natural Gas Consumption by End Use. 2021." Accessed January 22, 2024. https://www.eia.gov/state/?sid=CA#tabs-2.
[42] California Energy Commission. "Natural Gas Consumption by County." Accessed January 22, 2024. http://ecdms.energy.ca.gov/gasbycounty.aspx.

Fuel for Motor Vehicles

In 2022, California produced 124 million barrels of crude oil and in 2019, 11.7 billion gallons of gasoline were sold in California.[43, 44] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 25.4 mpg in 2021.[45] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was updated in April 2022 to require all cars and light duty trucks achieve an overall industry average fuel economy of 49 mpg by model year 2026. [46,47]

4.6.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	☒	☐
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☒	☐

a) Would the project result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

Construction

Construction of the project would require energy for the manufacture and transportation of the signs, preparation of the project sites, and the installation of the signs. The proposed project would implement several measures that would improve the efficiency of the construction process such as

[43] U.S. Energy Information Administration. "Petroleum & Other Liquids, California Field Production of Crude Oil." January 22, 2024. https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=mcrfpca1&f=a

[44] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed January 22, 2024. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.

[45] United States Environmental Protection Agency. "The 2022 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." December 2022. https://www.epa.gov/system/files/documents/2022-12/420s22001.pdf

[46] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed January 22, 2024. http://www.afdc.energy.gov/laws/eisa.

[47] United States Department of Transportation. USDOT Announces New Vehicle Fuel Economy Standards for Model Year 2024-2026." Accessed January 22,2024. https://www.nhtsa.gov/press-releases/usdot-announces-new-vehicle-fuel-economy-standards-model-year-2024-2026

restricting equipment idle times to five minutes or less and requiring the applicant to post signs on-site reminding workers to shut off idle equipment (refer Standard Permit Conditions identified in Section 4.3 Air Quality). Additionally, the project would comply with the City's Construction and Demolition Diversion Program. For these reasons, project construction would not result in a significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction.

Operation

Operation of the six signs would use approximately 1,728 megawatt hours (MWHs) of electricity per year, or less than 0.01 percent of electricity consumed in Santa Clara County.[48] The signs would be required to comply with Title 24 requirements for energy efficiency and would be dimmable to reflect ambient conditions. Furthermore, the signs would utilize LED lights, which are more efficient than standard incandescent light bulbs. Therefore, although the proposed project would increase energy use, this increase would not be considered wasteful or inefficient given the required compliance with energy and lighting efficiency standards in Title 24. In addition, unlike regular signs no new material that requires energy resources, such as vinyl, is needed when the message changes and similarly, at the time of message change, vinyl waste, which takes energy to remove and dispose, is not generated.

Electronic signs require occasional upkeep and maintenance activities that generate vehicle trips which would generally combust fuel, primarily diesel and gasoline. Since the project would not generate many regular or daily vehicle trips, and would require trips only when needed for maintenance, it would not result in an inefficient use of energy resources.

Therefore, the project would not result in a significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during construction and operation of the project. **(Less than Significant Impact)**

b) Would the project conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

The project would connect to the existing building's electricity source. Electricity to the existing site are provided by SJCE's GreenSource program (which provides 95 percent GHG emission-free electricity, with 60 percent of the electricity from renewable sources) and PG&E (which provides 95 percent GHG emission-free and/or renewable electricity). Enrollment in GreenSource wouldn't preclude future enrollment in SJCE'S TotalGreen. In addition, the project would be built in accordance with CALGreen requirements, Title 24 of the City's Municipal Code, and the City's Green Building Ordinance. Implementation of the proposed project would not conflict with or obstruct implementation of a state or local plan for renewable energy or energy efficiency. For these

[48] Assumes each signs uses approximately 287.85 megawatt hours of electricity per year. Source: Orange Barrel Media.

reasons, future sign development would not obstruct any plans for renewable energy or efficiency. **(Less than Significant Impact)**

4.7 Geology and Soils

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act was passed following the 1971 San Fernando earthquake. The act regulates development in California near known active faults due to hazards associated with surface fault ruptures. Alquist-Priolo maps are distributed to affected cities, counties, and state agencies for their use in planning and controlling new construction. Areas within the Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault.

Seismic Hazards Mapping Act

The Seismic Hazards Mapping Act (SHMA) was passed in 1990 following the 1989 Loma Prieta earthquake. The SHMA directs the California Geological Survey (CGS) to identify and map areas prone to liquefaction, earthquake-induced landslides, and amplified ground shaking. CGS has completed seismic hazard mapping for the portions of California most susceptible to liquefaction, landslides, and ground shaking, including the central San Francisco Bay Area. The SHMA requires that agencies only approve projects in seismic hazard zones following site-specific geotechnical investigations to determine if the seismic hazard is present and identify measures to reduce earthquake-related hazards.

California Building Standards Code

The CBC prescribes standards for general building design and construction requirements, including electronic signs and support structures. The CBC contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, ground strength, and distance to seismic sources. The CBC requires that a site-specific geotechnical investigation report be prepared for most development projects to evaluate seismic and geologic conditions such as surface fault ruptures, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability. The CBC is updated every three years.

California Division of Occupational Safety and Health Regulations

Excavation, shoring, and trenching activities during construction are subject to occupational safety standards for stabilization by the California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA) under Title 8 of the California Code of Regulations and

Excavation Rules. These regulations minimize the potential for instability and collapse that could injure construction workers on the site.

Public Resources Code Section 5097.5

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. These materials are valued for the information they yield about the history of the earth and its past ecological settings. California Public Resources Code Section 5097.5 specifies that unauthorized removal of a paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it would disturb or destroy a unique paleontological resource or site or unique geologic feature.

Local

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to geology and soils and are applicable to the project.

Policy	Description
EC-3.2	Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.
EC-4.2	Approve development in areas subject to soils and geologic hazards, including un-engineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
EC-4.7	Consistent with the San José Geologic Hazard Ordinance, prepare geotechnical and geological investigation reports for projects in areas of known concern to address the implications of irrigated landscaping to slope stability and to determine if hazards can be adequately mitigated.
ES-4.9	Permit development only in those areas where potential danger to the health, safety, and welfare of persons in that area can be mitigated to an acceptable level.

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the current California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.04 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

4.7.1.2 *Existing Conditions*

Geology and Soils

The City of San José is located in the northern Santa Clara Valley, an alluvial basin underlain by sedimentary and metamorphic rocks of the Franciscan Complex. These alluvial deposits consist of unconsolidated to semi-consolidated sand, silt, clay, and gravel. The Santa Clara Valley is bounded by the Diablo Range to the east and the Santa Cruz Mountains to the west. The Valley was formed when sediments derived from both mountain ranges were exposed by tectonic uplift and regression of the inland sea which previously inundated this area. Soil types in this region include clay in the low-lying central areas, loam and gravelly loam in the upper portions of the valley and eroded rocky clay loam in the foothills.

The project sites are located in the Downtown area, which is relatively flat with an average elevation of approximately 100 feet above mean sea level.[49]

Seismic Hazards

The San Francisco Bay Area is considered to be the most seismically active region in the U.S. Faults in the region are capable of generating earthquakes of magnitude 6.7 or higher, and strong-to-very-strong ground shaking would be expected to occur at the project site during a major earthquake on one of the nearby faults. The closest active fault to the Downtown area is the Hayward fault zone, located approximately five miles to the east. Other potentially active faults within 10 miles include the San Andreas, Monte Vista-Shannon, and Calaveras faults. There are no active faults in the project area.[50] None of the project sites are located within an Alquist-Priolo Earthquake Fault Zone.[51]

[49] City of San José. *Integrated Final Environmental Impact Report Downtown Strategy 2040*. SCH. 2003042127. December 2018. Page 132.
[50] Ibid.
[51] California Department of Conservation. "Regulatory Maps." Accessed June 21, 2023. https://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps.

Landslides and Liquefaction

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. The project sites are located in a State Seismic Hazard Zone for Liquefaction.[52]

Landslides occur when the stability of a slope changes from a stable to an unstable condition. The project sites are not located in a State Seismic Hazard Zone for Landslides.[53]

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as a steep bank of a stream channel. Areas of San José most prone to lateral spreading include lands adjacent to Guadalupe River and Coyote Creek. The Downtown area has the potential for lateral spreading.[54]

Expansive Soils

Expansive soils possess a "shrink-swell" characteristic. Shrink-swell is the cyclic change in volume (expansion and contraction) that occurs in fine-grained clay sediments from the process of wetting and drying. Structural damage may result over a long period of time, usually the result of inadequate soil and foundation engineering or the placement of structures directly on expansive soils. Although expansive soil can be a hazard, it is generally mitigated through adherence with the standard engineering and building practices and techniques specified in the CBC and through implementation of design-level geotechnical report recommendations. The project sites are located on expansive soil.[55]

Paleontological Resources

Paleontological resources are the fossilized remains of organisms from prehistoric environments preserved in geologic strata. Most of the City is situated on alluvial fan deposits of Holocene age that generally have a low potential to contain significant nonrenewable paleontological resources; however, in some cases, Holocene materials in Santa Clara Valley may have some level of sensitivity for paleontological resources. According to the City's Paleontological Sensitivity Map, the project sites are located in an area of high paleontological sensitivity at depth.[56,57]

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[52] California Department of Conservation. *Earthquake Zones of Required Investigation*. Accessed June 21, 2023. https://maps.conservation.ca.gov/cgs/EQZApp/app/.
[53] Ibid.
[54] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. SCH: 2009072096. September 2011. Appendix F.
[55] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. SCH: 2009072096. September 2011. Appendix F.
[56] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. SCH: 2009072096. September 2011. Figure 3.11-1.
[57] Palaeontologic sensitivity is defined as the potential for a geologic unit to produce scientifically significant fossils. Potentially sensitive areas for the presence of paleontological resources within the City are identified on Figure

4.7.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
- Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	☐	☐	☐	☒
- Strong seismic ground shaking?	☐	☐	☒	☐
- Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
- Landslides?	☐	☐	☐	☒
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐
d) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒
f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☒	☐

a) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated

3.11-1 of the General Plan EIR based on the underlying geologic formation. Areas with the highest sensitivity are those where geologic formations known to contain fossils are found close to the ground surface. Areas with resources at depth will vary depending on geography.

on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking; seismic-related ground failure, including liquefaction; or landslides?

Fault Rupture

As discussed in Section 4.7.1.2 Existing Conditions, there are no active faults in the project area.[58] Further, none of the project sites are located within an Alquist-Priolo Earthquake Fault Zone, making fault rupture unlikely.[59] While existing faults are located within 10 miles of the sites, such as the Calaveras Fault and Hayward Fault, the proposed sign locations are outside of the fault zones, and significant impacts from fault ruptures would not occur since the proposed signs are not would not be inhabited.

Seismic Ground Shaking

The project sites are located within the seismically active San Francisco Bay Area, where faults are capable of generating earthquakes of magnitude 6.7 or higher. During an earthquake, very strong ground shaking could occur at the project sites. Consistent with the City's General Plan and Municipal Code, to avoid and/or minimize potential damage from seismic shaking, the proposed project would be built using standard engineering and seismic safety design techniques. Consistent with these requirements, the following condition shall be implemented to ensure the proposed project is designed to address seismic hazards.

Standard Permit Conditions:

a) A Geotechnical Report shall be submitted, reviewed, and approved by the City Geologist. The Geotechnical Report shall determine the site-specific soil conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with State of California guidelines for the preparation of seismic hazard evaluation reports (CGS Special Publication 117A, 2008, and the Southern California Earthquake Center report, SCEC, 1999). A recommended minimum depth of 50 feet should be explored and evaluated in the investigation. [Note to City: Confirm whether this depth is applicable to the project] The City Geologist will review the Geotechnical Report and issue a Geologic Clearance.

b) All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.

c) Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.

d) Ditches shall be installed to divert runoff around excavations and graded areas if necessary.

[58] City of San José. *San José Downtown Strategy 2000 EIR*. 2005.
[59] California Department of Conservation. Regulatory Maps. Accessed June 21, 2023. https://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps.

e) The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

f) If dewatering is needed, the design-level geotechnical investigations to be prepared for individual future development projects shall evaluate the underlying sediments and determine the potential for settlements to occur. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.

With implementation of the above Standard Permit Condition, which requires preparation of a design-level geotechnical investigation, it would be confirmed that the existing structures for the attached signs have sufficient capacity to support the additional loading. For these reasons, the proposed project would not result in significant seismic and seismic related impacts.

Liquefaction and Lateral Spreading

The project sites are located in a State Hazard Zone for Liquefaction.[60] In addition, as discussed above in Section 4.7.1.2 Existing Conditions, the Downtown area has the potential for lateral spreading due to its proximity to Guadalupe River. By requiring the proposed project be reviewed by the City of San José's Geologist and adhering to the Standard Permit Conditions described above that require appropriate design and construction techniques, hazards posed by seismically induced liquefaction and lateral spreading would be reduced to less than significant.

Landslides

The project sites are not located in a State Hazard Zone for Landslides. As such, the proposed project would not pose a risk to human or building safety due to earthquake-induced landslides.

With implementation of standard permit conditions, the project would not directly or indirectly cause substantial adverse effects, including loss, injury, or death from fault rupture, seismic-related ground shaking or ground failure, or landsliding. **(Less than Significant Impact)**

b) Would the project result in substantial soil erosion or the loss of topsoil?

Ground disturbance on the project sites would occur during the construction of the proposed electronic signs. The attached signs would be secured to the existing building structures and involve minimal ground disturbance. The two free-standing signs (Signs 3A and 3B) at the Center for Performing Arts site would require an excavation depth of 36 inches and 15 feet wide and 44 feet long at its widest point.. Construction of the foundations for the free-standing signs (Sign 3A and 3B) may result in exposure of soil to wind and water, resulting in the potential for soil erosion and

[60] California Department of Conservation. Regulatory Maps. Accessed June 21, 2023. https://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps.

loss of topsoil. Consistent with City requirements, the above Standard Permit Conditions listed under checklist question a) shall be implemented to ensure that construction of the proposed project does not result in substantial erosion or soil loss.

The project would also be required to complete an erosion control plan for any grading occurring between October 1 and April 30. The erosion control plan shall be reviewed and approved by the City and ensure that grading operations do not impact local creeks and storm drainage systems.

The General Plan FEIR concluded that with the regulatory programs currently in place (i.e., the City's Municipal Code and City's standard permit conditions for projects less than one acre), the possible impacts of accelerated erosion during construction would be less than significant.[61] Because the project would comply with the regulations identified in the General Plan FEIR and adhere to the standard permit conditions above, the project would not result in substantial soil erosion. **(Less than Significant Impact)**

c) Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

As discussed under checklist question a), the project sites are located within the seismically active San Francisco Bay Area and within a state-designated liquefaction hazard zone. The project would be constructed in accordance with a design-level geotechnical investigation (identified as a standard permit condition under checklist question a) to reduce risk of landsliding, liquefaction and other forms of ground failure to a less than significant level. As part of the design-level geotechnical investigation, it would be confirmed that the existing structures for the attached signs have sufficient capacity to support the additional loading. Additionally, the project shall implement the following standard permit condition requiring a grading permit. The purpose of the grading permit is to ensure that private property is graded so that it drains properly, not impacting adjacent properties and not creating erosion problems. Improper grading can result in localized flooding, landslides, and differential settlement. These problems not only affect the graded property but can also impact adjacent properties.

The project would not result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse by employing standard design and engineering practices and adhering to the City's above Standard Permit Conditions (listed under checklist question a) and grading permit requirements that prevent on- and off-site flooding, landslides, and differential settlement. **(Less than Significant Impact)**

[61] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* SCH: 2009072096. September 2011. Page 529.

d) Would the project be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?

The project sites are located on expansive soil.[62] Consistent with the General Plan policies identified in Section 3.7.1.1 and as previously noted, the project would be required as a standard permit condition to prepare a design-level geotechnical report and implement recommendations regarding the structural design and engineering techniques to reduce impacts from expansive soils (as well as other geologic hazards). Consistent with the conclusions of the General Plan FEIR, by conforming with state and local regulations and the recommendations of the design-level geotechnical report, the project (which includes no habitable structures) would not pose a substantial direct or indirect risk to life or property. [63] **(Less than Significant Impact)**

e) Would the project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

The proposed electronic signs would not require the use of septic tanks or alternative wastewater disposal systems. **(No Impact)**

f) Would the project directly or indirectly destroy a unique paleontological resource or site or unique geological feature?

The General Plan FEIR recognized that while development allowed under the General Plan could directly impact paleontological resources, implementation of General Plan policies and existing regulations and programs would reduce potential impacts to a less than significant level by the incorporation of measures to avoid or limit possible disturbance of resources if they are accidentally encountered.[64] According to the City's Paleontological Sensitivity Map, the project sites are located in an area of high paleontological sensitivity at depth.[65] As such, the following standard permit condition would be applied to the project to reduce and avoid impacts to unidentified paleontological resources.

Standard Permit Condition:

- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning, Building and Code Enforcement (PBCE) or the Director's

[62] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. SCH: 2009072096. September 2011. Appendix F.
[63] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. SCH: 2009072096. September 2011. Page 528.
[64] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* SCH: 2009072096. September 2011. Page 724.
[65] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. SCH: 2009072096. September 2011. Figure 3.11-1.

designee shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of PBCE or the Director's designee.

Consistent with the conclusions of the General Plan FEIR, implementation of the standard permit conditions described above, the project would enable the identification and preservation of any undiscovered paleontological resources encountered during construction and ensure that impacts to paleontological resources would be less than significant. **(Less than Significant Impact)**

4.8 Greenhouse Gas Emissions

The following discussion is based, in part, on a 2030 Greenhouse Gas Reduction Strategy Compliance Checklist completed by the applicant. A copy of this checklist is attached to this Initial Study as Appendix E.

4.8.1 Environmental Setting

4.8.1.1 *Background Information*

Greenhouse gases (GHG) are gases that trap heat in the atmosphere and regulate the earth's temperature. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate. In GHG emission inventories, the weight of each gas is multiplied by its global warming potential (GWP) and is measured in units of CO_2 equivalents (CO_2e). The most common GHGs are carbon dioxide (CO_2) and water vapor but there are also several others, most importantly methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6). These are released into the earth's atmosphere through a variety of natural processes and human activities (anthropogenic). Natural and anthropogenic sources of GHGs are generally as follows:

- CO_2 exchange between the atmosphere, ocean, and land surface
- CO_2, CH_4, and N_2O are emitted from wildfires and volcanic eruptions
- CO_2 and N_2O are byproducts of fossil fuel combustion
- N_2O is associated with agricultural operations such as fertilization of crops
- CH_4 is commonly created by off-gassing from agricultural practices (e.g., keeping livestock) and landfill operations
- Chlorofluorocarbons (CFCs) were widely used as refrigerants, propellants, and cleaning solvents, but their production has been stopped by international treaty
- HFCs are now used as a substitute for CFCs in refrigeration and cooling
- PFCs and SF_6 emissions are commonly created by industries such as aluminum production and semiconductor manufacturing

An expanding body of scientific research supports the theory that global climate change is currently causing changes in weather patterns, average sea level, ocean acidification, chemical reaction rates, and precipitation rates, and that it will increasingly do so in the future. Per the 2022 Scoping Plan from CARB, atmospheric concentrations of CO_2 have increased by 50 percent since the Industrial Revolution and continue to increase at a rate of two parts per million each year, which will result in increased global temperatures.[66] The climate within California are adversely affected by the global warming trend. Increased precipitation and sea level rise will increase coastal flooding, saltwater intrusion, and degradation of wetlands. Mass migration and loss of plant and animal species could also occur. Potential effects of global climate change that could adversely affect human health include more extreme heat waves and heat-related stress; an increase in climate-sensitive diseases;

[66] CARB. *2022 Scoping Plan for Achieving Carbon Neutrality*. December 2022. Page 3.

more frequent and intense natural disasters such as flooding, hurricanes and drought; and increased levels of air pollution.

4.8.1.2 *Regulatory Framework*

State

Assembly Bill 32 and State Bill 32

Under the California Global Warming Solutions Act, known as AB 32, CARB established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHGs, and adopted a comprehensive plan, known as the Climate Change Scoping Plan, identifying how emission reductions would be achieved from significant GHG sources. The first Scoping Plan was approved by CARB in 2008 and must be updated at least every five years. Since 2008, there have been two updates to the Scoping Plan.

In 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to accelerate 2030 statewide target in terms of million metric tons of CO_2e ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 $MMTCO_2e$.

2022 Scoping Plan

On December 15, 2022, CARB approved the 2022 Scoping Plan. The 2022 Scoping Plan provides a sector-by-sector guide on how to reduce man-made (i.e., anthropogenic) GHG emissions by 85 percent below 1990 levels and achieve carbon neutrality by 2045 over a 25-year horizon.[67] The primary focus of the 2022 Scoping Plan is to reduce the usage of fossil fuels by electricizing the transportation sector, procuring electricity from renewable resources, phasing out natural gas in land use developments, and building transit-oriented communities that encourage multi-modal transportation. If implemented successfully, the 2022 Scoping Plan would not only reduce GHG emissions but also reduce smog-forming air pollution (NO_x) by 71 percent and reduce fossil fuel demand by 94 percent. The 2022 Scoping Plan also details natural carbon capture and storage process along with mechanical carbon capture programs to address the remaining 15 of anthropogenic GHG emissions that will remain post-2045. To meet these goals, CARB also includes a revised goal of reducing state GHG emissions 48 percent below 1990 levels by 2030.

Senate Bill 375 and Plan Bay Area 2050

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035. The per capita GHG

[67] CARB. *2022 Scoping Plan for Achieving Carbon Neutrality*. December 2022. Page 5.

emissions reduction targets for passenger vehicles in the Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan process. The SCS is referred to as Plan Bay Area 2050.

Plan Bay Area 2050 is a long-range plan for the nine-county San Francisco Bay Area that provides strategies that increase the availability of affordable housing, support a more equitable and efficient economy, improve the transportation network, and enhance the region's environmental resilience. Plan Bay Area 2050 promotes the development of a variety of housing types and densities within identified priority development areas (PDAs). PDAs are areas generally near existing job centers or frequent transit that are locally identified for housing and job growth.[68]

Play Bay Area 2050 includes a goal to increase the number of households that live within 0.5 mile of frequent transit by 2050. Plan Bay Area 2050 promotes strategies that support active and shared modes, combined with a transit-supportive land use patterns, which together are forecasted to lower the share of Bay Area residents that drive to work alone from 50 percent in 2015 to 33 percent in 2050, resulting in a decrease in GHG emissions. Plan Bay Area 2050 also provides a path to emissions reductions via goals to expand TDM initiatives that support and augment employers' commute programs.

SB 100 and SB 1020

SB 100, known as the 100 Percent Clean Energy Act of 2018, was adopted on September 10, 2018. The overall goal is to have all retail electricity sold in California be procured from 100 percent renewable and zero-carbon resources by the year 2045. SB 100 also modified the renewables portfolio standard to 50 percent by 2025 and 60 percent by 2030.

SB 1020, known as the Clean Energy, Jobs, and Affordability Act of 2022, was adopted on September 16, 2022. SB 1020 adds interim targets to the policy framework originally established in SB 100 to require renewable energy and zero-carbon resources to supply 90 percent of all retail electricity sales by 2035 and 95 percent of all retail electricity sales by 2040. The inclusion of interim targets will ensure that the state makes steady and accountable progress towards the full decarbonization of California's electricity grid.

Executive Order B-55-18 and Assembly Bill 1279

Executive Order B-55-18 was issued in September 2018. It ordered a new statewide goal of achieving carbon neutrality no later than 2045 and to maintain net negative emissions thereafter.

[68] Association of Bay Area Governments and Metropolitan Transportation Commission. *Plan Bay Area 2050.* October 21, 2021. Page 20.

Assembly Bill 1279, also known as the California Climate Crisis Act, was approved on September 16, 2022, and codifies the statewide goal set by Executive Order B-55-18 of achieving net zero GHG emissions no later than the year 2045 and maintaining net negative emissions thereafter. In addition, this bill has a statewide goal of reducing anthropogenic GHG emissions by 85 percent below the 1990 levels by the year 2045. The bill requires CARB to work with relevant state agencies to ensure that updates to the scoping plan identify and recommend measures to achieve these policy goals and implement strategies that enable CO_2 removal solutions and carbon capture, utilization, and storage technologies in California. The bill requires CARB to submit an annual report.

Advanced Clean Cars II Regulation

To continue reducing air pollutants and GHG emissions in the transportation sector, CARB adopted the Advanced Clean Cars II Regulations (Resolution 22-12) on August 25, 2022. The new regulation requires that by 2035 all new passenger cars, trucks, and SUVs sold in California will be zero-emission vehicles. This regulation bans the sale of new gasoline or diesel passenger cars, trucks, and SUVs in California from automakers. Beginning in 2026, 35 percent of new vehicle sales must be zero-emission vehicles and plug-in hybrid electric vehicles (EV) and that percentage will increase per year. By 2030, 70 percent of new vehicle sales will be zero-emissions vehicles and by the 2035 model year 100 percent of new vehicle sales will be zero-emissions. CARB will limit the use of plug-in hybrid EVs in the percentage requirements to keep the manufacturing of zero-emissions as the primary goal. Existing gasoline cars can continue to be driven and sold as used cars beyond 2035. CARB is required to track and report on the zero-emissions vehicle market development annually.

Advanced Clean Trucks

CARB adopted the Advance Clean Trucks program in 2021. The purpose of the regulation is to accelerate the market for on-road zero-emission vehicles and to reduce emissions of Nox, PM, other criteria pollutants, TACs, and GHG from medium- and heavy-duty on-road vehicles.

Regional and Local

2017 Clean Air Plan

To protect the climate, the 2017 Clean Air Plan prepared by BAAQMD includes control measures designed to reduce emissions of methane and other super-GHGs that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

BAAQMD CEQA Thresholds for Evaluating Climate Impacts from Land Use Projects and Plans

In April 2022, the BAAQMD Board of Directors adopted the Justification Report: CEQA Thresholds for Evaluating the Significance of Climate Impacts from Land Use Projects and Plans. The report includes BAAQMD's thresholds of significance for use in determining whether a proposed project or plan will have a significant impact on climate change and provides substantial evidence to support these thresholds. The April 2022 GHG thresholds have been incorporated into the 2022 BAAQMD

CEQA Air Quality Guidelines and represent what is required of new land use development projects and plans to achieve California's long-term climate goal of carbon neutrality by 2045.

Climate Smart San José

Climate Smart San José is a plan to reduce air pollution, save water, and create a stronger and healthier community. The City approved goals and milestones in February 2018 to ensure the City can substantially reduce GHG emissions through reaching the following goals and milestones:

- All new residential buildings will be ZNE by 2020 and all new commercial buildings will be ZNE by 2030 (Note that ZNE buildings would be all electric with a carbon-free electricity source).
- SJCE will provide 100-percent carbon-free base power by 2021.
- One gigawatt of solar power will be installed in San José by 2040.
- 61 percent of passenger vehicles will be powered by electricity by 2030.

San José 2030 Greenhouse Gas Reduction Strategy

The 2030 Greenhouse Gas Reduction Strategy (GHGRS) is the latest update to the City's GHGRS and is designed to meet statewide GHG reduction targets for 2030 set by SB 32. As a qualified Climate Action Plan, the 2030 GHGRS allows for tiering and streamlining of GHG analyses under CEQA. The GHGRS identifies General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multi-modal transportation, water conservation, and solid waste reduction. Projects that comply with the policies and strategies outlined in the 2030 GHGRS, would have less than significant GHG impacts under CEQA.

4.8.1.3 *Existing Conditions*

Unlike emissions of criteria and toxic air pollutants, which have regional and local impacts, emissions of GHGs have a broader, global impact. Global warming is a process whereby GHGs accumulating in the upper atmosphere contribute to an increase in the temperature of the earth and changes in weather patterns.

4.8.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs?	☐	☐	☒	☐

a) Would the project generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment?

Construction Emissions

Construction activities on-site would result in temporary GHG emissions. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Neither the City of San José nor BAAQMD has established a quantitative threshold or standard for determining whether a project's construction related GHG emissions are significant. Project construction would occur over a period of approximately seven months and would not result in a permanent increase in emissions. In addition, the project would incorporate standard measures to control dust and exhaust during project construction (refer to discussion under checklist question a) in Section 4.3 Air Quality). The proposed project would not interfere with the implementation of SB 32.

Operational Emissions

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. Pursuant to the latest CEQA Air Quality Guidelines, a local government may prepare a Qualified GHGRS that is consistent with AB 32 goals. If a project is consistent with the City's GHGRS, it can be presumed that the project would not have significant GHG emissions under CEQA. The proposed project would comply with the 2030 GHGRS, as discussed below under checklist question b. Therefore, the project would result in a less than significant GHG emissions impact. **(Less than Significant Impact)**

b) Would the project conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs?

As mentioned previously, projects that are consistent with an adopted GHGRS consistent with AB 32 goals would have a less than significant impact related to GHG emissions through 2030. The City's GHGRS includes seven strategies for emissions reductions. These include use of San José Clean Energy, achieving zero net carbon for residential construction, renewable energy development, retrofits of existing buildings to remove natural gas demands, achieving a zero-waste goal, modernization of Caltrain, and water conservation. Since the project involves installation of electronic signs on existing City-owned buildings, these measures do not apply. However, the project would not use natural gas and would use mostly carbon-free electricity. For these reasons, the project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. Consistent with Plan Bay Area 2050, the project is developing in an already developed urban area. In addition, the project would not interfere with Plan Bay Area 2050's goal to reduce VMT, as minimal vehicle trips are anticipated during project operation. **(Less than Significant Impact)**

4.9 Hazards and Hazardous Materials

The following discussion is based, in part, on a Limited Environmental Site Assessment prepared for the project by Cornerstone Earth Group, dated November 2023. This report is included as Appendix F of this Initial Study.

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Overview

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. In California, the EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

Worker health and safety and public safety are key issues when dealing with hazardous materials. Proper handling and disposal of hazardous material is vital if it is disturbed during project construction. Cal/OSHA enforces state worker health and safety regulations related to construction activities. Regulations include exposure limits, requirements for protective clothing, and training requirements to prevent exposure to hazardous materials. Cal/OSHA also enforces occupational health and safety regulations specific to lead and asbestos investigations and abatement.

Federal and State

<u>Federal Aviation Regulations Part 77</u>

Federal Aviation Regulations, Part 77 Objects Affecting Navigable Airspace (FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above the ground.

<u>Comprehensive Environmental Response, Compensation, and Liability Act</u>

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on December 11, 1980. This law created a tax on the chemical and petroleum industries and provided broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the

environment. Over five years, $1.6 billion was collected and the tax went to a trust fund for cleaning up abandoned or uncontrolled hazardous waste sites. CERCLA accomplished the following objectives:

- Established prohibitions and requirements concerning closed and abandoned hazardous waste sites;
- Provided for liability of persons responsible for releases of hazardous waste at these sites; and
- Established a trust fund to provide for cleanup when no responsible party could be identified.

The law authorizes two kinds of response actions:

- Short-term removals, where actions may be taken to address releases or threatened releases requiring prompt response; and
- Long-term remedial response actions that permanently and significantly reduce the dangers associated with releases or threats of releases of hazardous substances that are serious, but not immediately life-threatening. These actions can be completed only at sites listed on the EPA's National Priorities List.

CERCLA also enabled the revision of the National Contingency Plan (NCP). The NCP provided the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The NCP also established the National Priorities List. CERCLA was amended by the Superfund Amendments and Reauthorization Act on October 17, 1986.[69]

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA), enacted in 1976, is the principal federal law in the United States governing the disposal of solid waste and hazardous waste. RCRA gives the EPA the authority to control hazardous waste from the "cradle to the grave." This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also sets forth a framework for the management of non-hazardous solid wastes.

The Federal Hazardous and Solid Waste Amendments (HSWA) are the 1984 amendments to RCRA that focused on waste minimization, phasing out land disposal of hazardous waste, and corrective action for releases. Some of the other mandates of this law include increased enforcement

[69] United States Environmental Protection Agency. "Superfund: CERCLA Overview." Accessed November 20, 2023. https://www.epa.gov/superfund/superfund-cercla-overview.

authority for the EPA, more stringent hazardous waste management standards, and a comprehensive underground storage tank program.[70]

Government Code Section 65962.5

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by state and local agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC) and State Water Resources Control Board (SWRCB).[71]

Toxic Substances Control Act

The Toxic Substances Control Act (TSCA) of 1976 provides the EPA with authority to require reporting, record-keeping and testing requirements, and restrictions relating to chemical substances and/or mixtures. Certain substances are generally excluded from TSCA, including, among others, food, drugs, cosmetics, and pesticides. The TSCA addresses the production, importation, use, and disposal of specific chemicals including polychlorinated biphenyls (PCBs), asbestos, radon, and lead-based paint.

California Accidental Release Prevention Program

The California Accidental Release Prevention (CalARP) Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond the boundaries of a property. Facilities that are required to participate in the CalARP Program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. The Santa Clara County Department of Environmental Health (SCCDEH) reviews CalARP risk management plans as the CUPA.

Asbestos-Containing Materials

Friable asbestos is any asbestos-containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand, allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl floor tiles, and transite siding made with cement. The EPA began phasing out use of friable asbestos products in 1973 and issued a ban in 1978 on manufacture, import, processing, and distribution of some asbestos-containing products and new uses of asbestos products.[72] The EPA is currently considering a proposed ban on on-going use of

[70] United States Environmental Protection Agency. "Summary of the Resource Conservation and Recovery Act." Accessed November 20, 2023. https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act.
[71] California Environmental Protection Agency. "Cortese List Data Resources." Accessed November 20, 2023. https://calepa.ca.gov/sitecleanup/corteselist/.
[72] United States Environmental Protection Agency. "EPA Actions to Protect the Public from Exposure to Asbestos." Accessed November 20, 2023. https://www.epa.gov/asbestos/epa-actions-protect-public-exposure-asbestos

asbestos.[73] National Emission Standards for Hazardous Air Pollutants (NESHAP) guidelines require that potentially friable ACMs be removed prior to building demolition or remodeling that may disturb the ACMs.

CCR Title 8, Section 1532.1

The United States Consumer Product Safety Commission banned the use of lead-based paint in 1978. Removal of older structures with lead-based paint is subject to requirements outlined by the Cal/OSHA Lead in Construction Standard, CCR Title 8, Section 1532.1 during demolition activities. Requirements include employee training, employee air monitoring, and dust control. If lead-based paint is peeling, flaking, or blistered, it is required to be removed prior to demolition.

Local

Envision San José 2040 General Plan

The following General Plan policies are specific to hazards and hazardous materials and are applicable to the proposed project:

Policy	Description
EC-6.1	Require all users and producers of hazardous materials and wastes to clearly identify and inventory the hazardous materials that they store, use, or transport in conformance with local, state, and federal laws, regulations, and guidelines.
EC-6.2	Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Require proper disposal of hazardous materials and wastes at licensed facilities.
EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.
EC-7.5	In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed

[73] Ibid.

Policy	Description
	land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.
EC-7.8	Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
EC-7.9	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
TR-14.3	For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.
TR-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as condition of approval of development in the vicinity of airports.

City of San José Emergency Operations Plan

The City of San José Emergency Operations Plan (EOP) provides an overview of the jurisdiction's approach to emergency operations. It identifies emergency response policies, describes the response and recovery organization, and assigns specific roles and responsibilities to City departments, agencies, and community partners. The City's EOP principally is designed to establish the foundational policies and procedures that define how the City will effectively prepare for, respond to, recover from, and mitigate against natural or human-caused disasters. This includes assigning City departmental roles and responsibilities during disaster response and recovery activities, establishing communication and coordination procedures, and the logistics for disseminating information and resources, among other similar items.

San José Mineta International Airport Comprehensive Land Use Plan

The San José Mineta International Airport (SJC) Comprehensive Land Use Plan (CLUP) is intended to safeguard the general welfare of the inhabitants within the vicinity of the airport and aircraft occupants. The CLUP establishes an airport land use planning area, referred to as the Airport Influence Area (AIA). The AIA is a composite of areas surrounding the airport that are affected by noise, height, and safety considerations. The CLUP includes land use compatibility guidelines, with topics such as noise, safety (i.e., lighting and glare), and building height, to ensure that surrounding land uses and development do not interfere with the airport's continuing operations. The following CLUP safety compatibility policies are relevant to the project:

- Policy G-6: Any proposed uses that may cause a hazard to aircraft in flight are not permitted within the Airport Influence Area. Such uses include electrical interference, high intensity lighting, attraction of birds (certain agricultural uses, sanitary landfills), and activities that may produce smoke, dust, or glare.

- Policy G-7: All new exterior lighting within the Airport Influence Area shall be designed so as to create no interference with aircraft operations. Such lighting shall be constructed and located so that only the intended area is illuminated, and off-site glare is fully controlled. The lighting shall be arrayed in such a manner that it cannot be mistaken for airport approach or runway lights by pilots.

- Policy H-2: Any project that may exceed a FAR Part 77 surface must notify the FAA as required by FAR Part 77, Subpart B on FAA Form 7460-1, Notice of Proposed Construction or Alteration. (Notification to the FAA under FAR Part 77, Subpart B, is required even for certain proposed construction that does not exceed the height limits allowed by Subpart C of the FARs).

4.9.1.2 *Existing Conditions*

A Limited Environmental Site Assessment was prepared for the Center for Performing Arts site, where ground disturbance is anticipated.

Center for Performing Arts

On-Site

Based on a review of historical photographs and maps, the Center for Performing Arts site was developed by the late 1800s with multiple residences, as well as several commercial buildings. During the 1950s, the site was developed with auto repair uses, a gasoline station, and a used car dealer. The prior structures were removed by 1968 and the existing Center for the Performing Arts building was constructed by 1974.

No hazardous materials or evidence of spills were observed at the Center for Performing Arts site.

Off-Site

Based on the findings of the Limited Environmental Site Assessment, there are two nearby spill incidents; however, neither presents a threat to the project site.

- **City of San Jose LUST Case, West San Carlos Street and Almaden Boulevard:** A leaking underground storage tank (LUST) case was identified at the western corner of the intersection of West San Carlos Street and Almaden Boulevard. In 1985, a 750-gallon diesel underground storage tank (UST) was removed. The UST was located beneath the street, within City of San Jose right-of-way, immediately east of the Center for the Performing Arts parcel. Low concentrations of total petroleum hydrocarbons as gasoline (TPHg) (at 1.1

milligrams per kilogram (mg/kg)) and diesel (TPHd) (at 150 mg/kg) were detected in soil below the UST. The LUST case subsequently was closed by the Santa Clara Valley Water District in 1998.

- **River Park Development, Lincoln Properties – 333 W. San Carlos Street:** From 1920 to the mid-1970s, the River Park Development property was used by a laundry and dry cleaning business. Subsequent uses, through 1984, included car rental, auto restoration, metal salvage, auto body repair, tire reclamation, and residences. River Park Development, Lincoln Properties, acquired the property in 1984. In 1985, two, 17-story office buildings and an eight-story parking garage were constructed.

  Volatile organic compounds (VOCs) were encountered during soil and foundation investigations in 1985. Subsequent investigations detected levels of tetrachloroethene (PCE) up to 321,221 micrograms per kilogram (µg/kg) in the soil and 6,245 µg/L in the upper, unsaturated groundwater zone.[74] In 1986, 41,900 cubic feet of PCE-contaminated soil were excavated from the area of the office tower, aerated, and returned to the property. VOCs were also found in the deeper, saturated groundwater zone at levels as high as 2,159 µg/L. A northeasterly groundwater flow direction was reported.

  A groundwater extraction and treatment system was installed under RWQCB oversight. The system was shut down in May 1996 after cleanup levels were achieved. The Water Board's initial cleanup order, Order No. 86-67, was rescinded July 15, 1998. Remaining VOC concentrations in groundwater reportedly did not exceed drinking water maximum contaminant levels (MCLs). VOC concentrations, consisting mainly of PCE, have been reported in dewatering systems that operate at the Adobe Inc. buildings located adjacent to the northwest of the site, as well as at the City View Plaza property (150 Almaden Boulevard) located to the north. The detected VOC concentrations typically have been near or below the MCLs. The source of this VOC impacted groundwater in the site vicinity appears likely to be River Park Development property.

Other Contaminants

Asbestos-Containing Materials

Due to changes in federal regulations regarding the use of products containing asbestos, buildings constructed prior to the 1970s have a higher potential to contain asbestos in roof coatings, floor tiles, Asbestos ceiling tiles, and cementitious products such as pipes or shingles.

Based on the year of construction (1964-1974), it is likely that the existing buildings at the Market & San Pedro Garage and Center for Performing Arts sites contain asbestos. The Tech Interactive, McEnery Convention Center and Second & San Carlos Garage were constructed post 1980 and, therefore, do not likely contain asbestos.

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Lead Based Paint

In 1978, the U.S. Consumer Product Safety Commission lowered the permissible levels of lead contained in paints and prohibited application of lead-based paint to housing constructed or rehabilitated with federal assistance. Based on the age of the buildings located at the Market & San Pedro Garage and Center for Performing Arts, lead-based paint is likely to be present. Lead-based paint is unlikely to be present at the Tech Interactive, McEnery Convention Center and Second & San Carlos Garage, given the age of the buildings (post 1980).

Airport Operations

SJC is located approximately 1.6 miles north of the closest sign location.[75] As previously mentioned, FAR Part 77 requires that the FAA be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above ground. Table 4.9-1 below summarizes the noticing requirement for structures at the project sites. Structures that would exceed these heights would require submittal to the FAA for airspace safety review (consistent with CLUP Policy H-2).

Table 4.9-1: FAA Notice Requirements

Sign ID.	Name of City-Owned Property/Structure	Address	Elevation Above Sea Level (AMSL) (feet)	Notice Requirement (structure height above ground level (AGL)in feet)[1]
1	Market & San Pedro Garage	45 N San Pedro Street	82	59 AGL/141 AMSL
2	The Tech Interactive Museum	201 S Market Street	89	72 AGL/161AMSL
3A 3B	Center for the Performing Arts	255 S Almaden Boulevard	85	75 AGL/160 AMSL 79 AGL/164 AMSL
4	McEnery Convention Center	150 W San Carlos Street	85	88 AGL/173 AMSL
5	Second & San Carlos Garage	280 S Second Street	85	83 AGL/168 AMSL

Notes:
[1] The noticing requirement is determined by subtracting the site's elevation from the FAA elevation contours.
Source: Norman Y. Mineta San José International Airport. Notice Requirement Criteria for Filing FAA Form 7460-1. September 2013.

Wildfires

The project sites are located in an urbanized area of San José, which is not located in or near SRAs or LRA lands classified as very high fire hazard severity zones.[76]

[75] Measured from the southern property line of the airport to the Market & San Pedro Garage site.
[76] CalFire. "California Fire Hazard Severity Zone Viewer". Accessed January 8, 2024. https://egis.fire.ca.gov/FHSZ/

4.9.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☒	☐	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☒	☐	☐
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	☐	☐	☒	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☒	☐
f) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒

a) Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

The project proposes to construct electronic signs, which would not involve the routine use, storage, or disposal of hazardous materials during its operation. Construction of the project would involve the use of potentially hazardous materials, including vehicle fuels, oils, and fluids. All hazardous materials would be transported, contained, stored, used, and disposed of in accordance with manufacturers' instructions and would be handled in compliance with all applicable standards

and regulations. For these reasons, the project would not create a significant hazard. **(Less than Significant Impact)**

b) Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Construction of the attached signs would involve no ground disturbance. The two free-standing signs (Signs 3A and 3B) at the Center for Performing Arts site would require excavation.

As discussed in Section 4.9.1.2, past uses at the Center for Performing Arts site include auto repair uses, a gasoline station, and a used car dealer. As a result, ground disturbance associated with sign footings at the Center for Performing Arts locations could potentially expose workers to hazardous materials if any are present in the soil but such workers would have been trained in the handling of such materials and would follow California OSHA rules and regulations. Nevertheless, even though accidents and upsets by workers handling hazardous materials, if any, are unlikely, mitigation measure HAZ-1.1 would reduce the low risk even more.

Impact HAZ-1: 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.

Mitigation Measure:

MM HAZ-1.1: 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.

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.

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 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.

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 Enforcement and with the Supervising Environmental Compliance Officer in the City of San José's Environmental Services Department.

With implementation of mitigation measure MM HAZ-1.1 above, contaminated soils on-site would be properly identified, characterized, removed and disposed of properly, using techniques designed to prevent accidental release and upset, prior to ground-disturbing activities, thus preventing exposure of nearby sensitive receptors and the environment to contaminants from accidents or upsets during construction of the project. **(Less than Significant Impact with Mitigation Incorporated)**

c) Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

San José State University is located approximately 0.09 miles east of the Second & San Carlos Garage site. As previously discussed under checklist question a), once operational, the electronic signs would not involve the routine use, storage, or disposal of hazardous materials. As discussed under checklist question b), construction associated with the Center for Performing Arts site could potentially expose the environment to hazardous materials if any are present in the soil and construction workers do not proceed in a manner designed to prevent accidental release or upset. The project would be required to implement mitigation measure MM HAZ-1.1 identified under checklist question b), which would prevent exposure of construction workers, nearby sensitive receptors, and the environment to soil contaminants from construction of the project. For these reasons, the project would not result in hazards or hazardous materials impacts within proximity to existing schools. **(Less than Significant Impact with Mitigation Incorporated)**

d) Would the project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it

create a significant hazard to the public or the environment?

The McEnery Convention Center site is on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 due to the closed LUST case at the intersection of South Market Street and Viola Avenue. None of the other sites are on a list of hazardous materials site pursuant to Government Code Section 65962.5. As discussed under checklist question b), construction at this location involves no ground disturbance. For these reasons, the project would not create a significant hazard to the public or environment. **(Less than Significant Impact)**

e) If located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

San José Mineta International Airport Comprehensive Land Use Plan

The project sites are located between 1.6 and 2.0 miles from SJC. None of the sign locations are located within the ALUC safety restriction areas.[77] The sites are, however, located within the AIA of the CLUP for SJC and, therefore, the CLUP's safety compatibility policies apply.

Consistency with CLUP Safety Compatibility Policies G-6 and G-7 – Safety Hazards to Aviation

Under certain conditions, various types of outdoor lighting, including electronic signs and billboards, have the potential to create hazards for aviation. The hazards occur when the light from these facilities interferes with a person's ability to adequately see their surroundings while engaged in vision-critical activities such as piloting an aircraft and controlling air traffic. Factors that determine whether lighting will result in such hazards include the quality and strength of the light source, the distance between the light source and receiver, the viewing angle between the light source and receiver, the presence or absence of motion at the source, and ambient light conditions.

For aviation, nighttime vision is critically important for both pilots and air traffic controllers, especially in an airport's environs. Ambient lighting in a controller's or pilot's field of vision should allow and not obscure the ability to see aircraft approaching/departing the airport as well as airfield facilities (i.e., runways, taxiways, and associated signs and lights). As discussed in Section 4.9.1.1, the ALUC's CLUP contains safety policies (Policy G-6 and G-7) designed to address these issues.

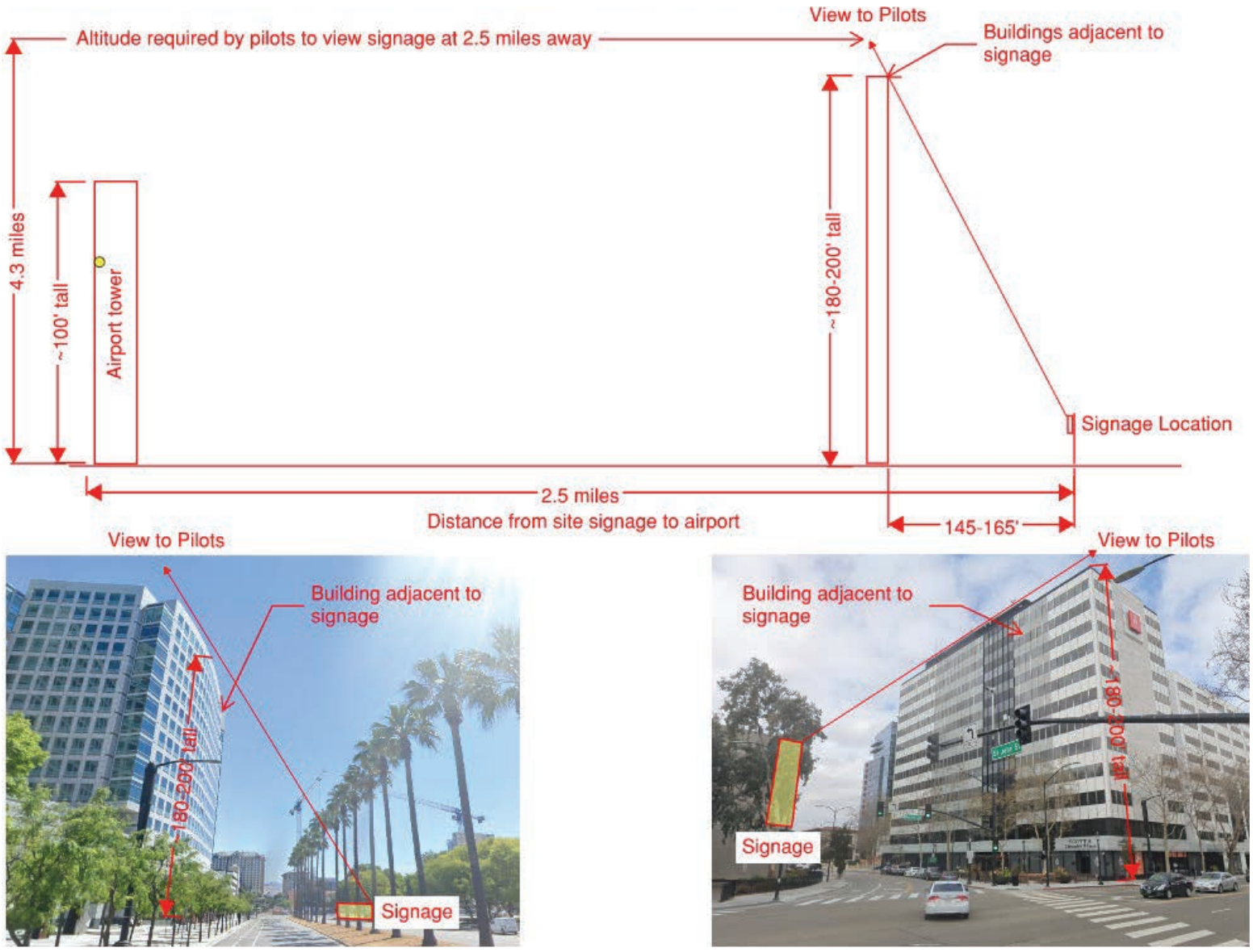
Due to the proximity of the project sites to nearby SJC, an analysis was undertaken to determine if the proposed signs would interfere with the nighttime vision of air traffic controllers and/or pilots. A copy of the analysis is contained in Appendix A. The analysis accounted for the proposed height of the signs, heights of the buildings adjacent to the proposed signs, 2.5-mile distance from the signs

[77] None of the sites are located within any ALUC safety restriction areas (safety zones). Airport safety zones are established to minimize the number of people exposed to potential aircraft accidents in the vicinity of the Airport by imposing density and use limitations within these zones.

to the air traffic control tower at SJC, and height of aircraft passing over the project site as they approach the runway at SJC as shown in Figure 4.9-1.

As shown in Figure 4.9-1, the proposed signs would not be visible to, or interfere with, controllers in SJC's air traffic control tower. This statement is based on the facts that 1) views of the highest signs (at 60 feet above the ground) would be blocked by adjacent buildings that have heights of up to 200 feet, and 2) the 100-foot height of the air traffic control tower is substantially lower than what would be needed to view signs given the heights of the adjacent buildings. The proposed signs would also not be visible to, or interfere with, pilots in aircraft on final approach for landing at SJC as the aircraft overfly Downtown San Jose.[78] This is based on the presence of buildings up to 200 feet in height next to the proposed signs. As illustrated in Figure 4.9-1, an aircraft would need to be at an altitude of 4.3 miles (22,700 feet) at a distance of 2.5 miles from the signs for a pilot to see the sign(s). However, aircraft approaching SJC over Downtown are at substantially lower altitudes (i.e., less than 500 feet). At such altitudes, pilots would not have views of the proposed signs. Based on the above-described analysis, the project would not result in a safety hazard for aviation.

[78] Aircraft departures from SJC over the Downtown occur roughly 20% of the time in a typical year. Unlike aircraft on final approach to SJC for landing, as aircraft ascend during takeoff and climb-out, views of the ground are not critical.



PROJECT RELATIONSHIP TO AIRPORT TRAFFIC CONTROL TOWER AND PILOTS | FIGURE 4.9-1

Consistency with CLUP Safety Compatibility Policy H-2: Federal Aviation Regulation, Part 77

Regarding FAA Airspace Safety Review, the project sites are located within the FAA's surface height notification zone per Federal Aviation Regulation, Part 77. As shown in Table 4.9-2 below, none of the proposed signs would be required to submit filing pursuant to Part 77.

Table : FAA Notice Requirements for Proposed Electronic Signs

Sign ID.	Name of City-Owned Property/Structure	Address	Notice Requirement (structure height AGL in feet)[1]	Proposed Sign Height (AGL)[1]	Notice Required
1	Market & San Pedro Garage	45 N San Pedro Street	59	60	No[2]
2	The Tech Interactive Museum	201 S Market Street	72	55	No
3A 3B	Center for the Performing Arts	255 S Almaden Boulevard	75 79	22 22	No
4	McEnery Convention Center	150 W San Carlos Street	88	60	No
5	Second & San Carlos Garage	280 S Second Street	83	58	No

Notes:
[1] The proposed sign heights are shown on Figure 3.2-2, Figure 3.2-4, Figure 3.2-6, Figure 3.2-9, and Figure 3.2-12.
[2] The sign does not increase the maximum height of the building so no filing is required.

Aircraft Noise

As discussed in Section 4.13 Noise, the sites are located within the 60 to 65 Dba CNEL aircraft noise contour identified in the CLUP; however, the project proposes to construct six electronic signs and would not expose people to excessive noise levels as no people would be living at the site.

As documented above, the project would not result in a safety hazard or excessive noise for people residing or working in the project area. **(Less than Significant Impact)**

f) Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Construction and operation of the project, which would be done in accordance with City building and fire codes and regulations, would not impair implementation of or physically interfere with the City's adopted EOP. For these reasons, the project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. **(Less than Significant Impact)**

g) Would the project expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?

As discussed in Section 4.9.1.2 Existing Conditions, the project sites are located in an urbanized area of San José and are not located in or near state responsibility areas or lands classified as very high fire hazard severity zones. Therefore, the project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires. **(No Impact)**

4.10 Hydrology and Water Quality

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Federal and State

Clean Water Act

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality in California. Regulations set forth by the EPA and the SWRCB have been developed to fulfill the requirements of this legislation. EPA regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the RWQCBs.

Under Section 303(d) of the federal Clean Water Act, the SWRCB and RWQCBs are required to identify impaired surface water bodies that do not meet water quality standards and develop total maximum daily loads (TMDLs) for contaminants of concern. The list of the state's identified impaired surface water bodies, known as the "303(d) list" can be found on the on the SWRCB's website.[79]

National Flood Insurance Program

The Federal Emergency Management Agency (FEMA) established the National Flood Insurance Program (NFIP) to reduce impacts of flooding on private and public properties. The program provides subsidized flood insurance to communities that comply with FEMA regulations protecting development in floodplains. As part of the program, FEMA publishes Flood Insurance Rate Maps (FIRMs) that identify Special Flood Hazard Areas (SFHAs). An SFHA is an area that would be inundated by the one-percent annual chance flood, which is also referred to as the base flood or 100-year flood.

Regional and Local

San Francisco Bay Basin Plan

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Basin Plan lists the beneficial uses that the San Francisco Bay RWQCB has identified for local aquifers, streams, marshes, rivers, and the San Francisco Bay, as well as the water quality objectives and criteria that must be met to protect these uses. The San Francisco Bay RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements, including permits for nonpoint sources such as the urban runoff discharged

[79] California State Water Resources Control Board. "2020-2022 California Integrated Report (Clean Water Act Section 303(d) List and 305(b) Report)." May 11, 2022.

by a City's stormwater drainage system. The Basin Plan also describes watershed management programs and water quality attainment strategies.

2021 Groundwater Management Plan

The 2021 Groundwater Management Plan (GWMP) describes Valley Water's comprehensive groundwater management framework, including existing and potential actions to achieve basin sustainability goals and ensure continued sustainable groundwater management. The GWMP covers the Santa Clara and Llagas subbasins, which are located entirely in Santa Clara County. Valley Water manages a diverse water supply portfolio, with sources including groundwater, local surface water, imported water, and recycled water. About half of the county's water supply comes from local sources and the other half comes from imported sources. Imported water includes the District's State Water Project and Central Valley contract supplies and supplies delivered by the San Francisco Public Utilities Commission (SFPUC) to cities in northern Santa Clara County. Local sources include natural groundwater recharge and surface water supplies. A small portion of the county's water supply is recycled water.

Local groundwater resources make up the foundation of the county's water supply, but they need to be augmented by Valley Water's comprehensive water supply management activities to reliably meet the county's needs. These include the managed recharge of imported and local surface water and in-lieu groundwater recharge through the provision of treated surface water and raw water, acquisition of supplemental water supplies, and water conservation and recycling.[80]

Construction Dewatering Waste Discharge Requirements

Each of the RWQCBs regulates construction dewatering discharges to storm drains or surface waters within its Region under the NPDES program and Waste Discharge Requirements.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to hydrology and water quality and are applicable to the project.

Policy	Description
EC-5.1	The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the "100-year" flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.
EC-5.3	Preserve designated floodway areas for non-urban uses.

[80] Valley Water. *2021 Groundwater Management Plan, Santa Clara and Llagas Subbasins*. November 2021.

Policy	Description
ER-8.4	Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities.
ER-9.5	Protect groundwater recharge areas, particularly creeks and riparian corridors.

City of San José Grading Ordinance

All development projects, whether subject to the Construction General Permit or not, shall comply with the City of San José's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while the site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1 to April 30), projects are required to submit to the Director of Public Works and Erosion Control Plan detailing Best Management Practices (BMPs) that will prevent the discharge of stormwater pollutants.

4.10.1.2 *Existing Conditions*

The project sites are within the jurisdiction of the San Francisco Bay RWQCB.

Hydrology and Drainage

The project sites are located within the Guadalupe River watershed.[81] The Guadalupe River Watershed drains a 170-square mile area through San José, Los Gatos, Monte Sereno, Campbell, and Santa Clara.[82] Elevations in the watershed range from mean sea level at the Bay to over 4,000 feet above sea level. The Guadalupe River has one major tributary, Los Gatos Creek, upstream of which the river is known as the Upper Guadalupe River. Further upstream, it is known as Guadalupe Creek. There are also several surface reservoirs in the Guadalupe River system and groundwater recharge ponds that border the system.

Surface Water Quality

The Guadalupe River watershed has a number of hazardous waste sites that may contribute pollutants from either surface runoff from these sites or high groundwater flow through the contaminated soils of these sites. There are several reported releases of hazardous materials, mostly from leaking underground storage tanks, along the Guadalupe River through San José. According to the EPA, the Guadalupe River is currently listed on the 303(d) list of impaired waterways for pesticides, mercury, and trash.[83]

[81] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. SCH: 2009072096. September 2011. Figure 3.7-1.
[82] City of San José. *Envision San José 2040 General Plan, Appendix G.* December 2010.
[83] United States Environmental Protection Agency. Waterbody Quality Assessment Report for 2016 Waterbody Report for Guadalupe River (Santa Clara Co.). 2016. Accessed June 21, 2023. https://mywaterway.epa.gov/community/95050/overview.

Flooding

The project sites are located in either Flood Zone D or Flood Zone X, as summarized below in Table 4.10-1.[84] Zone D is an area of undetermined but possible flood hazard outside the 100-year flood plain. There are no City floodplain requirements for Zone D. Zone X (unshaded) is an area determined by FEMA to have minimal flood hazard (outside of the 0.2 percent annual chance floodplain).

Table 4.10-1: FEMA Flood Zones

Sign ID.	Name of City-Owned Property/Structure	Address	FEMA Flood Zone
1	Market & San Pedro Garage	45 N San Pedro Street	Zone D
2	The Tech Interactive Museum	201 S Market Street	Zone D
3A 3B	Center for the Performing Arts	255 S Almaden Boulevard	Zone X (unshaded)
4	McEnery Convention Center	150 W San Carlos Street	Zone X (unshaded)
5	Second & San Carlos Garage	280 S Second Street	Zone D

Seiches and Tsunamis

A seiche is the oscillation of water in an enclosed body of water such as a lake or the San Francisco Bay. There are no landlocked bodies of water near the project sites that would affect the sites in the event of a seiche.

A tsunami is a sea wave generated by an earthquake, landslide, or other large displacement of water in the ocean. There are no bodies of water near the project sites that would affect the site in the event of a tsunami.[85]

Groundwater

Average groundwater depths in the project area are zero to 10 feet below ground surface (bgs).[86] Groundwater levels can fluctuate temporally due to a variety of factors, including seasonal variations in precipitation and temperature, and rates of groundwater extraction in the surrounding area. The project sites are not located within a designated groundwater recharge zone.[87]

[84] City of San José. Public GIS Viewer. Accessed June 21, 2023. https://gisdata-csj.opendata.arcgis.com/
[85] Association of Bay Area Governments. "Tsunami Maps and Information." Accessed June 21, 2023. MTC/ABAG Hazard Viewer Map (arcgis.com).
[86] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. SCH: 2009072096. September 2011. Appendix G.
[87] Valley Water. *2021 Groundwater Management Plan*. Figure 2-1. November 2021.

4.10.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☒	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	☐	☐	☒	☐
- result in substantial erosion or siltation on- or off-site;	☐	☐	☒	☐
- substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☒	☐
- create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☒	☐
- impede or redirect flood flows?	☐	☐	☒	☐
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☒	☐
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☒	☐

a) Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

Construction Impacts

Impacts to Surface Water Quality

The project proposes to construct four attached signs and two free standing signs. The attached signs would be secured to the existing building structures and involve no ground disturbance. The two free-standing signs (Signs 3A and 3B) at the Center for Performing Arts site would require an excavation for the concrete footings. For these reasons, construction of the foundations for Signs 3A and 3B may result in temporary impacts to surface water quality. Construction at each of the project sites would disturb less than one acre, therefore, the project is not required to comply with the Construction General Permit.[88]

Development projects in San José are required to comply with the City's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while a site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1 to April 30), the project applicant is required to submit an Erosion Control Plan for the project. The Erosion Control Plan would detail the BMPs to be implemented during the construction phase to prevent the discard of stormwater pollutants and minimize erosion (refer to Section 3.7 Geology and Soils for more information regarding the implementation and requirements of the City's Grading Ordinance and Erosion Control Plan). Pursuant to City requirements, the following standard permit conditions are required of the project to reduce potential construction-related water quality impacts.

Standard Permit Conditions:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.

[88] The SWRCB has implemented an NPDES General Construction Permit for the State of California (Construction General Permit). For projects disturbing one acre or more of soil, a Notice of Intent (NOI) must be filed with the RWQCB by the project sponsor, and a Storm Water Pollution Prevention Plan (SWPPP) must be prepared by a qualified professional prior to commencement of construction and filed with the RWQCB by the project sponsor.

- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Compliance with the requirements of the City's Grading Ordinance and the City's standard permit conditions, which require submittal an Erosion Control Plan and implementation of BMPs to prevent the discard of stormwater pollutants and minimize erosion, would ensure that non-significant quantities of soil and construction byproducts enters the storm drain system and local waterways as a result of the project.

Impacts from Dewatering

Groundwater depth in the project area ranges between zero and 10 feet bgs. Signs 3A and 3B would require excavation up to 24 inches deep. Therefore, dewatering would not be required during project construction.

Post-Construction Impacts

The project would not add or replace more than 5,000 square feet of impervious surface area and, therefore, would not be subject to conformance with Provision C.3 of the Municipal Regional Stormwater NPDES Permit (MRP).[89] Stormwater treatment control measures would not be required of the proposed project since the project would involve attaching electronic signs to existing buildings and two free-standing signs and would not result in new sources of stormwater runoff that require treatment.

With implementation of the identified Standard Permit Conditions, the proposed project would result in a less than significant impact on water quality during project construction and operation. **(Less than Significant Impact)**

b) Would the project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

[89] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 5,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. L

Construction of the project would require excavation at a maximum depth of 24 inches bgs. Because groundwater in the project area is known to range from zero to 10 feet bgs, dewatering would not be required during project construction.

As discussed above in Section 4.10.1.2 Existing Conditions, the project sites are not located within a natural or facility groundwater recharge area. Nor would the two signs located on the ground substantially alter water infiltration or runoff. For these reasons, the project would not substantially decrease groundwater supplies or interfere with groundwater recharge.

Based on the above discussion, the project would not substantially decrease groundwater supplies or interfere with groundwater recharge. **(Less than Significant Impact)**

c) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows?

The project would involve minimal ground disturbance with the exception of the foundations for the two free standing signs (Sign 3A and 3B) at the Center for Performing Arts and would not substantially alter the existing drainage pattern of the site or area, nor would it alter the course of any stream or river, including the Guadalupe River.

The proposed foundation systems would not substantially increase impervious surfaces. During construction, the project would be required to comply with the City's Grading Ordinance and Erosion Control Plan. Once operational, the proposed project would not increase stormwater runoff at a rate which would result in flooding on- or off-site or exceed the capacity of the existing drainage system because the project would not substantially increase impervious surfaces compared to existing conditions. The drainage pattern of the site would remain the same upon project implementation, with stormwater flows being absorbed by the ground surrounding the sign foundations or flowing (either directly or via storm drains in the area) into the Guadalupe River. Based on the above, the proposed project would not substantially increase polluted runoff or impede or redirect flood flows. **(Less than Significant Impact)**

d) Would the project risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones?

The project would not involve the routine use, storage, or disposal of hazardous materials during its operation. Construction of the project would involve the use of potentially hazardous materials, including vehicle fuels, oils, and fluids. Since the risk of flooding on the site is not significant (i.e., the site is not located within a 100-year floodplain, or subject to seiches or tsunamis), the project

would result in a less than significant risk for releasing pollutants due to inundation. **(Less than Significant Impact)**

e) Would the project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

Water Quality Control Plans

Basin Plan

The project would be required to comply with the City's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while a site is under construction. The project would also implement the City's standard permit conditions identified in the discussion for checklist question a), addressing construction-related surface runoff quality. Thus, the project would not conflict with or obstruct implementation of the San Francisco Bay Basin Plan.

Construction Dewatering Waste Discharge Requirements

Discharge to the storm drain system requires approval from the San Francisco Bay RWQCB. Compliance with local and regional policies and regulations and mitigation measure MM HAZ-1.1 that require all dewatering effluent be contained prior to discharge to the storm or sanitary sewer system would avoid any water quality impacts to groundwater during construction. Thus, the project would not conflict with the NPDES Program.

Groundwater Management Plan

The project site is within the Santa Clara groundwater subbasin and this subbasin has not been identified in the Groundwater Management Plan as being over drafted. Implementation of the project would not interfere with any actions set forth by Valley Water in its Groundwater Management Plan in regard to groundwater recharge, transport of groundwater, and/or groundwater quality. In addition, as discussed under checklist question b), the project would not substantially decrease groundwater supplies or substantially interfere with groundwater recharge. Operation of the project does not involve use of groundwater and would have no impact on it.

The project with the implementation of standard permit conditions identified under checklist question a) would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. **(Less than Significant Impact)**

4.11 Land Use and Planning

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

Federal

Federal Aviation Regulations Part 77

FAR Part 77 sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the FAA be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above the ground.

Regional and Local

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to land use and planning and are applicable to the project.

Policy	Description
CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
CD-6.10	Design buildings with site, façade, and rooftop locations and facilities to accommodate effective signage. Encourage Downtown businesses and organizations to invest in height quality signs, especially those that enliven the pedestrian experience or enhance the Downtown skyline.
IP-1.5	Maintain a Zoning Ordinance and Subdivision Ordinance that aligns with and supports the Land Use/Transportation Diagram and the 2040 General Plan goals and policies. Develop new Zoning Districts which enumerate uses and establish development standards including heights to achieve vital mixed-use complete communities and facilitate their implementation.
TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.

City of San José Municipal Code

Council Policy 6-4 revised Title 23 of the San José Municipal Code to allow for new off-site advertising on City-owned sites throughout the City, including the exchange of existing legal static billboards on other sites for new electronic billboards on City-owned sites, as well as the exchange of existing legal static billboards for new electronic billboards on non-City-owned existing freeway-facing billboard sites and/or new freeway-facing sites in the North San José Development Policy

Area, and new off-site advertising on non-City-owned sites in the Downtown Sign Zone, including exchange of existing legal static billboards on other sites for new electronic billboards in the Downtown Sign Zone. The policy includes regulations for the implementation of future signs (refer to Section 3.3.2.1). City Council Policy 6-4 established the following selection criteria for City-owned land on which signs may be allowed:

1. The site, which may consist of parcels, a parcel, or a portion of a parcel, has a General Plan Land Use/Transportation Diagram designation other than Open Space, Parkland, Habitat, Lower Hillside, Agriculture, Private Recreation and Open Space, Open Hillside, Mixed-use Neighborhood, Transit Residential, Urban Residential or Residential Neighborhood.
2. The site is in a Zoning District other than OS Open Space or A Agricultural.
3. A Sign can be located on the site consistent with Council Policy 6-34 (Riparian Corridor Protection and Bird Safe Design).
4. A Sign can be located on the site consistent with City policies and design guidelines for development in proximity to or on Structures designated as historical resources as defined in CEQA Guidelines Section 15064.5, or historic landmarks or candidate historic landmarks by the City, State, or Federal government, and shall conform to the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, as well as Chapter 13.48, "Historic Preservation," of Title 13 of the Municipal Code.
5. Locating a Sign on the site would be compatible with any existing use on the site or any potential use of the site for purposes other than a Sign.
6. The Finance Department has determined that the site can, or may potentially be, used for a Sign without violating bond covenants or other financing restrictions. Final clearance from the Finance Department will be required prior to completion of the approval process for placement of a Sign on the site pursuant to the section of this Policy entitled "Sign Approval Process".

<u>San José Mineta International Airport Comprehensive Land Use Plan</u>

The SJC CLUP is intended to safeguard the general welfare of the inhabitants within the vicinity of the airport and aircraft occupants. The CLUP establishes an airport land use planning area, referred to as the AIA. The AIA is a composite of areas surrounding the airport that are affected by noise, height, and safety considerations. The CLUP includes land use compatibility guidelines, with topics such as noise, safety (i.e., lighting and glare), and building height, to ensure that surrounding land uses and development do not interfere with the airport's continuing operations. Relevant CLUP policies include G-6, G-7, and H-2 (refer to Section 4.9 Hazards and Hazardous Materials).

<u>Santa Clara Valley Habitat Plan/Natural Community Conservation Plan</u>

The Habitat Plan covers approximately 520,000 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Valley Water, VTA, USFWS, and CDFW. The Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and

function, while accommodating planned growth in southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

4.11.1.2 *Existing Conditions*

The five City-owned properties are located in downtown San José. Existing and surrounding uses at each of the five sites are discussed in the following sections.

Market & San Pedro Garage

The Market & San Pedro Garage site has a Downtown General Plan land use designation and is zoned Downtown Commercial. The site is currently developed with a six-level parking structure that provides parking to nearby San Pedro Square. Surrounding land uses include office to the north, commercial to the south and west, and a surface parking lot and commercial to the east.

The Tech Interactive

The Tech Interactive site has a Public/Quasi-Public General Plan land use designation and is zoned Public/Quasi-Public. The site is currently developed with The Tech Interactive Museum. Surrounding land uses include commercial and office to the north, civic uses to the south, a park (i.e., Plaza de César Chávez) to the east, and commercial to the west.

Center for Performing Arts

The Center for Performing Arts site has a Public/Quasi-Public General Plan land use designation and is zoned Public/Quasi-Public. The site is currently developed with the Center for Performing Arts building. Surrounding land uses include office to the north, south and east, the San José McEnery Convention Center to the southeast (which includes meeting and event space, hotels, and parking) and the Guadalupe River to the west.

McEnery Convention Center

The San José McEnery Convention Center site has a Public/Quasi-Public General Plan land use designation and is zoned Public/Quasi-Public. The site is currently developed with a convention center that includes meeting and event space, exhibition space, hotels, and parking. Surrounding land uses include office, parking and the Guadalupe River to the west.

Second & San Carlos Garage

The Second & San Carlos Garage site has a Downtown General Plan land use designation and is zoned Downtown Commercial. The site is developed with a four-level parking structure that provides parking for the Downtown. Surrounding land uses include office to the north and west, commercial, hotel, and residential uses to the south, and commercial to the east.

4.11.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Physically divide an established community?	☐	☐	☒	☐
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☒	☐

a) Would the project physically divide an established community?

A physical division of an established community typically refers to the construction of a physical feature (such as a wall, roadway, or railroad tracks) or the removal of a means of access (such as a local roadway or bridge) that would impair mobility within an existing community or between communities.

The project consists of the installation and operation of six programmable electronic signs on five City-owned parcels in downtown San José in accordance with Title 23 of the San José Municipal Code and Council Policy 6-4. The project would include four attached signs and two free-standing signs. The proposed signs do not include any features that would physically divide the community, such as a new roadway, railway, or highway may. For these reasons, the project would not physically divide an established community. **(Less than Significant Impact)**

b) Would the project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

Federal Aviation Regulations Part 77

The project sites are located within the FAA's surface height notification zone per Federal Aviation Regulation, Part 77. As discussed in Section 4.9 Hazards and Hazardous Materials, none of the proposed signs would be required to submit filing pursuant to Part 77. For these reasons, the project would not conflict with Part 77.

Norman Y. Mineta San José International Airport Comprehensive Land Use Plan

The sites are located within the AIA of the CLUP for SJC and are subject to review by the ALUC. The CLUP focuses on the three areas of ALUC's responsibility: 1) aircraft noise, 2) the safety of persons on the ground and in aircraft, and 3) the control of objects in navigable airspace. As discussed in Section 4.13 Noise, the sites are located within the 60 to 65 Dba CNEL aircraft noise contour

identified in the CLUP; however, the project proposes to construct six electronic signs and would not expose people to excessive noise levels as no people would be living at the site.

As discussed in Section 4.9. Hazards and Hazardous Materials, the ALUC's CLUP contains safety policies (Policy G-6 and G-7) designed to address nighttime vision safety for both pilots and air traffic controllers. The proposed signs would not be visible to, or interfere with, controllers in SJC's air traffic control tower (refer to discussion under checklist question e) in Section 4.9 Hazards and Hazardous Materials). The proposed signs would also not be visible to, or interfere with, pilots in aircraft on final approach for landing at SJC as the aircraft overfly Downtown San José. For these reasons, the project would not conflict with the CLUP's safety policies.

Lastly, as discussed above, none of the proposed signs would be required to submit filing pursuant to Part 77. For these reasons, the project would not conflict with Part 77 and would be consistent with CLUP Policy H-2.

Council Policy 6-4

City Council Policy 6-4 established selection criteria for City-owned land on which signs may be allowed and established limitations on the location, number, type, size, and height of signs that may be allowed under this policy. Consistent with the City's site selection criteria, the proposed sign locations have a General Plan designation of Public/Quasi-Public and Downtown; the sign locations are located in either the PQP Public/Quasi-Public or Downtown Core zoning districts; the proposed signs would comply with the Secretary of Interior Standards, City of San José Downtown Design Guidelines, and Downtown Historic Design Guidelines (refer to discussion under checklist question a) in Section 4.5); and the proposed signs would be compatible with the existing buildings on site. The proposed signs would be operated in accordance with Title 23 of the San José Municipal Code and Council Policy 6-4 (refer to Section 3.3.2.1 of Section 3.0 Project Description). As discussed in Section 4.1 Aesthetics, all of the proposed signs would be within the allowed 0.3 foot candle brightness level at the required distance (250 or 350 feet).

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

As discussed under checklist question f) in Section 4.4 Biological Resources, the proposed project is not covered under the SCVHP because the proposed impact area is less than 2 acres in size. Therefore, project activities are not required to comply with, and would not conflict with, SCVHP conditions.

With adherence to the San José Municipal Code and Council Policy 6-4, the project would not conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.**(Less than Significant Impact)**

4.12 Mineral Resources

4.12.1 Environmental Setting

4.12.1.1 *Regulatory Framework*

State

Surface Mining and Reclamation Act

The Surface Mining and Reclamation Act (SMARA) was enacted by the California legislature in 1975 to address the need for a continuing supply of mineral resources, and to prevent or minimize the negative impacts of surface mining to public health, property, and the environment. As mandated under SMARA, the State Geologist has designated mineral land classifications in order to help identify and protect mineral resources in areas within the state subject to urban expansion or other irreversible land uses which would preclude mineral extraction. SMARA also allowed the State Mining and Geology Board (SMGB), after receiving classification information from the State Geologist, to designate lands containing mineral deposits of regional or statewide significance.

4.12.1.2 *Existing Conditions*

The only area in San José that is designated by the SMGB under the SMARA as containing mineral deposits that are of regional significance is the Communications Hill area, which is over two miles southeast of the Downtown area.

4.12.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	☐	☐	☐	☒
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

a) Would the project result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state?

As discussed above in Section 4.12.1.2 Existing Conditions, the Communications Hill area is the only area within the City of San José that is designated as containing mineral deposits of regional

significance. The project sites are not on or adjacent to Communications Hill. Therefore, the project would not result in the loss of availability of a known mineral resource. **(No Impact)**

b) Would the project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

The project sites are not located in an area of San José or Santa Clara County with known mineral resources. As a result, the project would not result in the loss of availability of a locally important mineral resource recovery site. **(No Impact)**

4.13 Noise

The following discussion is based, in part, on a Vibration Memo prepared by Illingworth & Rodkin, Inc. A copy of the report, dated April 11, 2024, is attached to this Initial Study as Appendix G.

4.13.1 Environmental Setting

4.13.1.1 *Regulatory Framework*

4.13.1.1 *Background Information*

Noise

Factors that influence sound as it is perceived by the human ear, include the actual level of sound, period of exposure, frequencies involved, and fluctuation in the noise level during exposure. Noise is measured on a decibel scale, which serves as an index of loudness. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Each 10 decibel increase in sound level is perceived as approximately a doubling of loudness. Because the human ear cannot hear all pitches or frequencies, sound levels are frequently adjusted or weighted to correspond to human hearing. This adjusted unit is known as the A-weighted decibel, or Dba.

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including L_{eq}, DNL, or CNEL.[90] These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Vibration amplitude can be quantified using Peak Particle Velocity (PPV), which is defined as the maximum instantaneous positive or negative peak of the vibration wave. PPV has been routinely used to measure and assess ground-borne construction vibration. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 inches/second (in/sec) PPV.

[90] L_{eq} is a measurement of average energy level intensity of noise over a given period of time. Day-Night Level (DNL) is a 24-hour average of noise levels, with a 10 dB penalty applied to noise occurring between 10:00 PM and 7:00 AM. Community Noise Equivalent Level (CNEL) includes an additional five dB applied to noise occurring between 7:00 PM and 10:00 PM. Where traffic noise predominates, the CNEL and DNL are typically within two dBA of the peak-hour L_{eq}.

4.13.1.2 *Regulatory Framework*

Local

Envision San José 2040 General Plan

The General Plan includes the following noise policies applicable to the proposed project. The City's noise and land use compatibility guidelines are shown in Table 4.13-1, below.

Policy	Description
EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: Interior Noise Levels • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 Dba DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 Dba DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Envision General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. Exterior Noise Levels • The City's acceptable exterior noise level objective is 60 Dba DNL or less for residential and most institutional land uses (refer to Table EC-1 in the General Plan). The acceptable exterior noise level objective is established for the City, except in the environs of the San Jose International Airport and the Downtown, as described below: o For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 Dba DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 Dba DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 Dba DNL standard for noise from sources other than aircraft and elevated roadway segments. o For single-family residential uses, use a standard 60 Dba DNL for exterior noise in private usable outdoor activity areas, such as backyards.

Policy	Description
EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by five Dba DNL or more where the noise levels would remain "Normally Acceptable"; or • Cause the DNL at noise sensitive receptors to increase by three Dba DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
EC-1.3	Mitigate noise generation of new nonresidential land uses to 55 Dba DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.
EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
EC-2.3	Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or building that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Equipment or activities typical of generating continuous vibration include but are not limited to: excavation equipment; static compaction equipment; vibratory pile drivers; pile-extraction equipment; and vibratory compaction equipment. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of historical buildings, or buildings in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction. Transient vibration impacts may exceed a vibration limit of 0.08 in/sec PPV only when and where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

Table 4.13-1: Land Use Compatibility Guidelines for Community Noise in San José

LAND USE CATEGORY	EXTERIOR NOISE EXPOSURE (DNL IN DECIBELS (DBA)) 55 60 65 70 75 80
1. Residential, Hotels and Motels, Hospitals and Residential Care[1]	
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds	
3. Schools, Libraries, Museums, Meeting Halls, Churches	
4. Office Buildings, Business Commercial, and Professional Offices	
5. Sports Arena, Outdoor Spectator Sports	
6. Public and Quasi-Public Auditoriums, Concert Halls, Amphitheaters	

[1]Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.

Normally Acceptable:

- Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.

Conditionally Acceptable:

- Specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features included in the design.

Unacceptable:

- New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies.

City of San José Municipal Code

Section 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 a.m. to 7:00 p.m. on Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

The Zoning Ordinance limits noise levels to 55 Dba L_{eq} at any residential property line and 60 Dba L_{eq} at commercial property lines, unless otherwise expressly allowed in a Development Permit or other planning approval.

Title 23, Section 23.04.250 of the Municipal Code restricts signs from having audio messages.

Norman Y. Mineta San José International Airport Comprehensive Land Use Plan

The Norman Y. Mineta San José International Airport CLUP is intended to safeguard the general welfare of the inhabitants within the vicinity of the airport and aircraft occupants. The CLUP

establishes an airport land use planning area, referred to as the AIA. The AIA is a composite of areas surrounding the airport that are affected by noise, height, and safety considerations. The CLUP includes land use compatibility guidelines, with topics such as noise and building height, to ensure that surrounding land uses and development do not interfere with the airport's continuing operations.

4.13.1.3 *Existing Conditions*

The predominant noise sources contributing to ambient noise levels in the project area are transportation-related noise sources including vehicle traffic along highways and roadways (including Interstate 280 [I-280] and State Route [SR] 87), heavy-rail and light-rail trains, and aircraft operations associated with SJC. Ambient noise levels in the project area range from 68 to 72 Dba DNL.[91]

SJC is located approximately between 1.6 and 2.0 miles north of the project area. Noise exposure from airport operations is developed and reported in the CLUP. The project sites are located within the CLUP 60 to 65 Dba CNEL noise contour.[92,93]

4.13.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project result in:				
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☒	☐
b) Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☒	☐

[91] City of San José. *Integrated Final EIR Downtown Strategy 2040*. State Clearinghouse Number 2003042127. December 2018. Page 221.
[92] Norman Y. Mineta San José International Airport. *Airport Master Plan*. 2037 CNEL Contours. July 28, 2020. Accessed January 19, 2024. https://www.flysanjose.com/sites/default/files/noise/2037_CNEL.pdf
[93] The 65 dBA CNEL noise contour represents the noise impact boundary for new residential development.

a) Would the project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Construction Noise Impacts

Noise impacts resulting from construction depend upon the noise generated by various pieces of construction equipment, timing and duration of noise-generating activities, and distance between construction noise sources and noise-sensitive areas. Construction noise impacts primarily result when construction activities occur during noise-sensitive times of the day (e.g., early morning, evening, or nighttime hours), the construction occurs in areas immediately adjoining noise-sensitive land uses, or when construction lasts over extended periods of time.

Construction of the project is planned to occur between the hours of 8:00 a.m. and 500 p.m., Monday through Friday, over a period of seven months. The planned hours of construction are consistent with the City's Zoning Code related to when construction noise is permitted. Pursuant to General Plan Policy EC-1.7, the City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would and would involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. Because project construction would last less than 12 months, construction noise impacts would be considered less than significant.

As previously discussed, the project would involve minimal ground disturbance and would utilize standard construction equipment, such as trenchers, contractor lifts, electric scissor lifts, boom lifts, and mobile cranes. The project would be required to comply with the City's standard permit conditions, which include measures to avoid or reduce short-term noise impacts associated with construction of the project.

Standard Permit Conditions:

The project applicant shall implement the following noise minimization measures:

- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.

- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.

With the implementation of General Plan Policy EC-1.7, Zoning Code requirements, and the above standard permit conditions, temporary construction noise would be less than significant.

Operational Noise Impacts

Based on General Plan Policy EC-1.2, a significant impact would occur if the permanent noise level increase due to project-generated traffic was three Dba CNEL and equaled or exceeded the "normally acceptable" level of 60 Dba, or if the noise level increase from the project was five Dba CNEL or greater and remained within the "normally acceptable" range.

The electronic signs would not create or result in noticeable operational noise or vibration, as noise-emitting sound is not allowed under the provisions of the Municipal Code. The proposed project would generate minimal vehicle trips for maintenance, and noise from the vehicles would be occasional and not be noticeable given the relatively high noise levels in the immediate vicinity.

As discussed above, the construction and operation of the proposed project would have a less than significant noise impact. **(Less than Significant Impact)**

b) Would the project result in generation of excessive groundborne vibration or groundborne noise levels?

The project would be constructed over a period of approximately seven months, with each sign taking nine to 30 weeks to complete. Construction of the project may generate vibration when heavy equipment or impact tools are used. The project would not involve pile driving or the continuous use of heavy equipment known to produce high vibration levels such as tracked vehicles, vibratory compactors, jackhammers, hoe rams, etc.

Pursuant to General Plan Policy EC-2.3, vibration at the façade of historic buildings should not exceed 0.08 in/sec PPV and a continuous vibration limit of 0.20 in/sec PPV is the limit at buildings of normal conventional construction as well as the nearest non-vibration sensitive structures. Table 4.13-2 below summarizes the minimum setback distances of equipment to meet the 0.2 and 0.08 in/sec PPV thresholds that would be applied to the nearest buildings. Note that aerial lifts and cranes that would be used during construction of some of the signs would not produce vibration

levels that would affect nearby buildings; therefore, these pieces of equipment are not listed in Table 4.13-2.

Table 4.13-2: Vibration Source Levels for Construction Equipment

Equipment		PPV at 25 ft. (in/sec)	Minimum Distance to Meet 0.08 in/sec PPV (feet)
Clam shovel drop		0.202	59
Hydromill (slurry wall)	in soil	0.008	4
	in rock	0.017	7
Vibratory Roller		0.210	61
Hoe Ram		0.089	28
Large bulldozer		0.089	28
Caisson drilling		0.089	28
Loaded trucks		0.076	24
Jackhammer		0.035	12
Small bulldozer		0.003	2

Market & San Pedro Garage

Construction activities associated with the installation of the electronic sign at the Market & San Pedro Garage would include site preparation and building exterior building work.

The nearest buildings of conventional construction are located approximately 150 feet north across W St John Street and 290 feet northwest across W St John Street. The nearest historic buildings, Garden City Modern Bakery, Argonaut Rooms, and the Fallon Residence, are located approximately 180 feet west across N San Pedro Street, 180 feet southeast across Market Street, and 330 feet northwest across W St John Street from the proposed sign location, respectively. The Market & San Pedro Garage is a non-vibration sensitive structure designed to withstand the vibration generated from vehicles circulating within the structure and is subject to much higher vibration levels due to daily use. As shown in Table 4.13-2, project-generated vibration levels would fall below the General Plan threshold of 0.2 in/sec PPV at the nearest buildings of normal conventional construction and 0.08 in/sec PPV at the nearest historic buildings.

The Tech Interactive Museum

Construction activities associated with the installation of the electronic sign at the Tech Interactive would include site preparation and building exterior building work. The nearest buildings of convention construction are located approximately 140 feet north across Park Avenue and 180 feet to the southwest of the proposed sign location. The nearest historic building, the Civic Auditorium, is located approximately 250 feet south of the proposed sign location. Calculations were made to estimate vibration levels at distances of 5, 140, 180, and 250 feet from the site to represent other

nearby buildings. Project-generated vibration levels would fall below the General Plan threshold of 0.2 in/sec PPV at the nearest buildings of normal conventional construction and 0.08 in/sec PPV at the nearest historic buildings.

Center for Performing Arts

Construction activities associated with the installation of the electronic signs at the Center for Performing Arts would include demolition, site preparation, grading/excavation, trenching/foundation, and exterior building work.

The nearest buildings of conventional construction are located approximately 180 feet north across Park Avenue and 140 to 170 feet east across S Almaden Boulevard. The nearest historic building is the Center for Performing Arts, which is located approximately 90 feet northwest from Sign 3B and 120 feet southwest from Sign 3A. Calculations were made to estimate vibration levels at distances of 90, 120, 140 and 170 feet from the site to represent vibration levels expected at nearby buildings, as summarized in Table 4.13-3 below.

Table 4.13-3: Calculated Vibration Levels for Construction Equipment (Center for Performing Arts)

Equipment	PPV at 90 feet (in/sec)	PPV at 120 feet (in/sec)	PPV at 140 feet (in/sec)	PPV at 170 feet (in/sec)
Clam shovel drop	0.049	0.036	0.030	0.025
Hoe Ram	0.022	0.016	0.013	0.011
Large Bulldozer	0.022	0.016	0.013	0.011

As shown in Table 4.13-3 above, project construction activities would be expected to generate vibration levels up to 0.049 in/sec PPV at the Center for Performing Arts building. Project-generated vibration levels would fall below the below the General Plan threshold of 0.08 in/sec PPV at the Center for Performing Arts and the General Plan threshold of 0.2 in/sec PPV at buildings of normal conventional construction located at least 140 feet from the site.

McEnery Convention Center

Construction activities associated with the installation of the electronic sign at the McEnery Convention Center would include demolition, site preparation, exterior building work, and interior building work.

The nearest buildings of convention construction are located approximately 90 feet south of the proposed sign location and the nearest historic buildings, the Gerhard Residence and 515 Vine Street, are located approximately 530 feet southeast and 600 feet south from the proposed sign location, respectively. Based on these distances to nearby buildings and the vibration levels and distances in Table 4.13-2, project-generated vibration levels would fall below the General Plan threshold of 0.2 in/sec PPV at the nearest buildings of normal conventional construction and 0.08 in/sec PPV at the nearest historic buildings.

Second & San Carlos Garage

Construction activities associated with the installation of the electronic sign at the Second and San Carlos Garage would include site preparation, building exterior building work, and building interior work.

The nearest conventional buildings are located south of the proposed sign across San Carlos Street and southwest across S Second Street, both conventional buildings at least 85 feet from the site. The two nearest historic buildings, the Hales Department Store and the Tennant Residence, are located approximately 250 feet southwest and 360 feet northeast, respectively from the proposed sign location. The 2nd & San Carlos Garage is a non-vibration sensitive structure and is subject to much higher vibration levels due to daily use. Based on these distances to nearby buildings and the vibration levels and distances in Table 4.13-2, project-generated vibration levels would fall below the General Plan threshold of 0.2 in/sec PPV at the nearest buildings of normal conventional construction and 0.08 in/sec PPV at the nearest historic buildings.

As documented above, construction vibration levels from construction of all the proposed signs would fall below the General Plan threshold of 0.2 in/sec PPV at the nearest buildings of normal conventional construction and 0.08 in/sec PPV at the nearest historic buildings. For these reasons, the project would not result in significant vibration impacts. **(Less than Significant Impact)**

c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

The project sites are located between 1.6 and 2.0 miles from the nearby SJC. The sites are located within the 60 to 65 dBa CNEL aircraft noise contour identified in the CLUP; however, the project proposes to construct six electronic signs and would not expose people to excessive noise levels as no people would be living at the site. **(Less than Significant Impact)**

4.14 Population and Housing

4.14.1 Environmental Setting

4.14.1.1 *Existing Conditions*

The population of San José was estimated to be approximately 976,482 in January 2022 with an average of 2.91 persons per household. Full build out of the General Plan includes 120,000 new dwelling units and 382,200 new jobs by 2040. Development approved under the General Plan is projected to increase the City's residential population to 1,313,811.

The project sites are currently developed with existing uses, including the Center for Perming Arts, McEnery Convention Center, Second & San Carlos Garage, and Market & San Pedro Garage.

4.14.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

a) Would the project induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

A project can induce substantial population growth by: 1) proposing new housing beyond projected or planned development levels, 2) generating demand for housing as a result of new businesses, 3) extending roads or other infrastructure to previously undeveloped areas, or 4) removing obstacles to population growth (e.g., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

The project consists of the construction of six programmable electronic signs. The project would not add substantial new jobs or add new land uses or population in the city. As a result, the project would not induce substantial unplanned population growth, either directly or indirectly. **(No Impact)**

b) Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

The project would not require demolition of housing units and, therefore, would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere. **(No Impact)**

4.15 Public Services

4.15.1 Environmental Setting

4.15.1.1 *Existing Conditions*

The project sites are served by existing fire and police protection services, schools, parks, and other public facilities via the San José Fire Department, San José Police Department, San José Unified School District, and City of San José, respectively.

4.15.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
– Fire Protection?	☐	☐	☐	☒
– Police Protection?	☐	☐	☐	☒
– Schools?	☐	☐	☐	☒
– Parks?	☐	☐	☒	☐
– Other Public Facilities?	☐	☐	☐	☒

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services: Fire Protection? Police Protection? Schools? Parks? Other Public Facilities?

The proposed electronic signs would not generate demand for public services because they would not be occupied or inhabited by people, who are the principle causes of increased demand for public services. However, each sign location would be visited by two to three maintenance workers up to six times per year. It is possible that maintenance workers would utilize nearby recreational facilities before or after their site visit. The incremental use of these facilities by maintenance workers would not result in the need for new or expanded facilities. The project, therefore, would

not significantly impact public services or recreational facilities or require the expansion of such facilities. **(Less than Significant Impact)**

4.16 Recreation

4.16.1 Environmental Setting

4.16.1.1 *Existing Conditions*

The City of San José provide parklands, open space, and community facilities for public recreation and community services in the project area.

4.16.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	☐	☐	☒	☐
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

The proposed project would not have any occupants that would increase the use of existing neighborhood and regional parks or recreational facilities; however, each sign location would be visited by two to three maintenance workers up to six times per year. It is possible that maintenance workers would utilize nearby parks before or after their site visit. However, physical deterioration of recreation facilities would not occur as a result of the project based on the infrequency of the maintenance trips. **(Less than Significant Impact)**

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

The proposed project does not include any recreational facilities, and the project would not have any occupants or visitors that could increase use of recreational facilities. Accordingly, the project would not, directly or indirectly, require the construction or expansion of recreational facilities that could have an adverse physical effect on the environment. **(No Impact)**

4.17 Transportation

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

State

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a vehicle miles traveled (VMT) metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires analysis of VMT in determining the significance of transportation impacts. Local jurisdictions were required by the Governor's Office of Planning and Research (OPR) to implement a VMT policy by July 1, 2020.

Outdoor Advertising Act

Caltrans regulates outdoor advertising under the Act). The Act specifies that signage located within 660 feet of the highway right-of-way cannot be located within 1,000 feet of another programmable electronic sign on the same side of the highway. The Act states that no message center display may include illumination or message change that is in motion or appears to be in motion, or that changes in intensity or exposes its message for less than four seconds. Further, the Act prohibits signs within 300 feet of the point of intersection of a highway or highway and railroad lines, as well as signs that could prevent any traveler of the highway from having a clear view of approaching vehicles for a distance of at least 500 feet. The Act declares that the maximum ambient light output of a sign should be 0.3 foot candles at a distance of 350 feet from the signs faces.

Regional and Local

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, Transportation Analysis Policy, the City of San José uses VMT as the metric to assess transportation impacts from new development.

If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access and recommend transportation improvements. The VMT policy does not negate Area Development policies and Transportation Development policies approved prior to adoption of Policy 5-1; however, it does negate the City's Protected Intersection policy as defined in Policy 5-3.

City of San José Municipal Code

Title 23 of the City of San José Municipal Code (Sign Ordinance) is intended to promote attractive signage and streetscapes, facilitate way-finding and traffic safety, promote commerce, and to comprehensively address community aesthetic concerns about visual clutter and visual blight in the environment. The programing requirements for operation of electronic signs are summarized in Section 3.3.2.1.

Council Policy 6-4

City Council Policy 6-4 established selection criteria for City-owned land on which signs may be allowed and established limitations on the location, number, type, size, and height of signs that may be allowed under this policy. Signs allowed under City Council Policy 6-4 must meet programming requirements, as summarized in Section 3.3.2.1.

4.17.1.2 *Existing Conditions*

Regional access to the Downtown is provided via SR 87, I-280, I-880, I-680 and U.S. Highway 101 (US 101). Local access to the project sites is provided by various roadways including, W San Carlos Street, S Almaden Boulevard, Market Street, N San Pedro and S Second Street.

Pedestrian facilities in the Downtown area consist primarily of sidewalks, pedestrian push buttons, and signal heads at intersections. There are several bicycle facilities in the Downtown area. Bicycle facilities include Class I bikeways (defined as bike paths off street, which is shared with pedestrians and excludes general motor vehicle traffic), Class II bikeways (defined as striped bike lanes on street), Class III bike routes (defined as roads with bike route signage where bicyclists share the road with motor vehicles), and Class IV cycle tracks (bike lanes physically separated from vehicle traffic by a vertical element.

Connections between bus lines, light rail, and the Caltrain are provided throughout the Downtown area. Existing transit service within the greater Downtown area is provided by the VTA, Altamont Commuter Express (ACE), Amtrak, and Caltrain.

4.17.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?	☐	☐	☒	☐
b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	☐	☐	☒	☐
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	☐	☐	☒	☐
d) Result in inadequate emergency access?	☐	☐	☒	☐

a) Would the project conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?

The proposed electronic signs would be programmed in accordance with Caltrans and City of San José regulations regarding the operation of electronic signs, which are described in Section 3.3.2.1. The project would not conflict with any existing or planned bicycle or pedestrian facilities, or transit facilities. Due to the temporary nature of construction (seven months), construction-related traffic would not substantially affect the roadway system. As the electronic signs would not be used or inhabited by people, and only vehicle trips associated with project operation are those required for as needed maintenance and repair of the signs, which would be infrequent (about six visits per year per sign). In addition, the proposed freestanding signs would not alter or obstruct bicycle lanes or pedestrian facilities. Based on the above, the project would not conflict with a program, plan, ordinance, or policy regarding bicycle and pedestrian facilities. **(Less than Significant Impact)**

b) Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

The project would not have any regular occupants or visitors, and would not generate vehicle trips besides the infrequent trips for maintenance. Based on the above, the project would not affect VMT and would not conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b). **(Less than Significant Impact)**

c) Would the project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

The proposed electronic signs would be subject to Caltrans regulations and the requirements of Section 23.04.250 of the City's Municipal Code as they relate to programmable electronic signs. These regulations include required design measures to ensure signs do not increase hazards on adjacent roadways, including use of automated dimming technology to adjust the brightness of the sign relative to ambient light and limiting the display of sign messages to a minimum of four seconds. All Municipal Code regulations, which the project proposes to comply with, are identified in Section 3.2.2.1. Because the proposed signs are designed in compliance with these regulations, the project would not increase hazards along local roadways.

As discussed in Section 4.9 Hazards and Hazardous Materials, the proposed project would not result in a safety hazard in relation to the airport since the proposed signs would not be visible to, or interfere with, controllers in the SJC's air traffic control tower or pilots in aircraft.

Based on the above, the project would not introduce increased hazards from new geometric design features or incompatible uses.**(Less than Significant Impact)**

d) Would the project result in inadequate emergency access?

The proposed project would not result in changes to surrounding circulation systems or established evacuation routes. Therefore, the proposed project would have a less than significant impact on emergency access. **(Less than Significant Impact)**

4.18 Tribal Cultural Resources

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

Federal

Native American Graves Protection and Repatriation Act

The Federal Native American Graves Protection and Repatriation Act requires federal agencies and institutions that receive federal funds, including museums, universities, state agencies, and local governments, to repatriate or transfer Native American human remains and other cultural items to the appropriate parties upon request of a culturally affiliated lineal descendant, Indian tribe, or Native Hawaiian organization (43 Code of Federal Regulations [CFR] Section 10.10). The Federal Native American Graves Protection and Repatriation Act regulations (43 CFR Part 10) provide the process for determining the rights of culturally affiliated lineal descendants, Native American tribes, and Native Hawaiian organizations to certain Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony, which are indigenous to Alaska, Hawaii, and the continental United States but not to territories of the United States, that are (i) in federal possession or control,(ii) in the possession or control of any institution or state or local government receiving federal funds, or (iii) excavated intentionally or discovered inadvertently on federal or tribal lands.

State

Public Resources Code (Section 5097.98)

California PRC Section 5097.98 stipulates that whenever the commission receives notification of a discovery of Native American human remains from a county coroner pursuant to Health and Safety Code Section 7050.5(c) of the, it shall immediately notify those persons it believes to be most likely descended from the deceased Native American. The decedents may, with the permission of the landowner, or his or her authorized representative, inspect the site of the discovery of the Native American remains and may recommend to the owner or the person responsible for the excavation work means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The descendants shall complete their inspection and make their recommendation within 24 hours of their notification by the Native American Heritage Commission. The recommendation may include the scientific removal and nondestructive analysis of human remains and items associated with Native American burials.

Assembly Bill 52

The Native American Historic Resource Protection Act (AB 52), effective July 2015, established a new category of resources for consideration by public agencies called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project

may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or until it is concluded that mutual agreement cannot be reached.

Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the California Register of Historic Resources, or
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe. (PRC Section 21074(a)(2)).

A cultural landscape that meets the above criteria to be a TCR is one to the extent that the landscape is geographically defined in terms of the size and scope of the landscape (Section 21074[b]). In addition, a historical resource, as described in Section 21084.1; a unique archaeological resource, as defined in subdivision (g) of Section 21083.2; or a "nonunique archaeological resource," as defined in subdivision (h) of Section 21083.2, may also be a tribal cultural resource if it conforms with the criteria listed above to be a tribal cultural resource (Section 21074[c]).

The following is a brief outline of the consultation process (PRC Sections 21080.3.1–3.3).

1. A California Native American tribe asks agencies in the geographic area with which it is traditionally and culturally affiliated to be notified about projects. Tribes must ask in writing.
2. Within 14 days of deciding to undertake a project or determining that a project application is complete, the lead agency must provide formal written notification to all tribes who have requested it.
3. A tribe must respond within 30 days of receiving the notification if it wishes to engage in consultation.
4. The lead agency must initiate consultation within 30 days of receiving the request from the tribe.
5. Consultation concludes when both parties have agreed on measures to mitigate or avoid a significant effect on a tribal cultural resource, or a party, after a reasonable effort in good faith, decides that mutual agreement cannot be reached.
6. Regardless of the outcome of the consultation, the CEQA document must disclose significant impacts on tribal cultural resources and discuss feasible alternatives or mitigation that avoid or lessen the impact.

Public agencies must, when feasible, avoid damaging effects to any tribal cultural resource (PRC Section 21084.3(a)). If the lead agency determines that a project may cause a substantial adverse change in a tribal cultural resource, and measures are not otherwise identified in the consultation process provided in PRC Section 21080.3.2, state law provides mitigation measures that, if feasible, may be considered to avoid or minimize the significant adverse impacts (PRC Section 21084.3(b)). These measures include avoidance and preservation in place, including incorporation of the resource into open spaces, parks, or green spaces; treating the resource with appropriate dignity, including protecting the cultural character and integrity of the resource, protecting the traditional use of the resource, and protecting the confidentiality of the resource; establishing conservation easements or other interests in real property with culturally appropriate management criteria for purposes of preserving or utilizing the resource in place; or otherwise protecting the resource.

California Native American Historic Resources Protection Act

The California Native American Historic Resources Protection Act of 2002 imposes civil penalties, including imprisonment and fines of up to $50,000 per violation, for persons who unlawfully and maliciously excavate, remove, destroy, injure, or deface a Native American historic, cultural, or sacred site that is listed or may be listed in the California Register.

California Native American Graves Protection and Repatriation Act The California Native American Graves Protection and Repatriation Act of 2001, as amended, requires all state agencies and state-funded museums that have possession or control over collections of California Native American human remains or cultural items to provide a process for the identification, inventory, and repatriation of these items to the appropriate tribes. Lineal descendants of human remains or cultural items may file a claim for the return of the materials by demonstrating the relationship between the lineal descendent and the materials.

Local

Envision San José 2040 General Plan

The City's General Plan includes the following tribal cultural resource policies and archaeological resources policies, which are included because archaeological resources sometimes also are tribal cultural resources:

Policy	Description
ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction, development activity will cease until

	professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
ER-10.3	Ensure that city, State, and federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.
ER-10.4	The City will maintain a file of archaeological and paleontological survey reports by location to make such information retrievable for research purposes over time.

4.18.2 Existing Conditions

There are no known TCRs on the project sites. A Sacred Lands File Search request was submitted to the NAHC for the project area. A response was received on December 26, 2023, stating that the search results were positive. A positive Sacred Lands File Search indicates that there is presumably a location nearby that a tribe, in this case the Muwekma Ohlone Tribe, feels is important. A positive result does not necessarily indicate that a resource is present on the site.

As discussed in Section 4.4 Cultural Resources, the project area is sensitive for buried Native American archaeological deposits. No known tribal cultural features, including sites, features, places, cultural landscapes or sacred places have been identified on the project sites based on available information.

AB 52 requires lead agencies to complete formal consultations with California Native American tribes during the CEQA process to identify TCRs that may be significantly impacted by a project. Where a project may have a significant impact on a TCR, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the Lead Agency.

In 2017, the City had sent a letter to tribal representatives in the area to welcome participation in the consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. The Ohlone Tribe submitted a request in July of 2018 for notification of projects requiring a Negative Declaration, a Mitigated Negative Declaration, or an Environmental Impact Report that would involve ground-disturbing activities within the City of San José. Then, in response to a more specific verbal request in a meeting with City staff and the representative on July 12, 2018, clarification was received that such notification be sent only for projects in the City of San José that involve ground disturbing activities in Downtown, and that such requests may be sent via e-mail only. In addition, on May 28, 2021, the Tamien Nation requested notification of all projects requiring a Negative Declaration, a Mitigated Negative Declaration, or an Environmental Impact Report within the City of San José.

On January 3, 2024, the City send out AB 52 notifications for the project. The City received requests to consult pursuant to AB 52 from representatives of the Tamien Nation and the Indian Canyon Band of Costanoan Ohlone People. No other tribes, including the Muwekma Ohlone Tribe, that the City sent notifications to that are geographically affiliated with the area requested consultation. The

City met with Chairwoman Quirina Geary (Tamien Nation) on January 18, 2024, and Kanyon-Sayers-Rood (Indian Canyon Band of Costanoan Ohlone People) on February 14, 2024. Consultation concluded with the Tamien Nation on February 27, 2024 and with the Indian Band of Costanoan Ohlone People on February 14,2024. As a result of consultation, the City agreed that the project would implement additional requirements during construction, as described below under mitigation measures MM TCR-1.1.

4.18.3 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	☐	☒	☐	☐
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☒	☐	☐

a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?

The project area is considered sensitive for buried Native American archaeological deposits. No tribal cultural features, including sites, features, places, cultural landscapes or sacred places have been identified on the project site based on available information. The project would implement the standard permit conditions and mitigation measure MM CUL-1.1 under checklist question b) in Section 4.5 Cultural Resources to reduce the potential for adverse impacts to buried cultural resources (including TCRs) to a less than significant level. These measures protect against adverse impacts on TCRs by requiring a tribal monitor during ground disturbing activities and consultation

with a tribal representative if a resource is inadvertently uncovered. In addition, the project would be required to implement the following mitigation measures to further reduce impacts to TCRs.

Impact TCR-1: Below-grade construction associated with the Project could have the potential to encounter unknown subsurface tribal cultural resources.

Mitigation Measure:

MM TCR-1.1: The following measures shall be implemented:

- Comprehensive Monitoring Plan. 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 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.

- Conduct Sensitivity Training. 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, Building and Code Enforcement or the Director's designee.

- Treatment Plans. Ensure that the Native American Tribe is consulted in the development of any treatment plans for the handling of discovered resources. Their input can provide invaluable guidance on how to treat these finds respectfully and appropriately.

- Documentation and Reporting. Keep thorough records of monitoring activities, findings, and any actions taken in response to discovered resources. Documentation should be shared with the Native American tribe and relevant authorities as appropriate.

With the implementation of the standard permit conditions, mitigation measure MM CUL-1.1, and mitigation measure MM TCR-1.1, would ensure that a qualified archaeologist and Native American

monitor is present during all ground disturbing activities to quickly identify if any resources are encountered to stop work. Mitigation measure TCR-1.1 would ensure that the construction monitoring process is collaborative and inclusive of the appropriate Native American tribe. Adherence to the standard permit condition described above would ensure that any objects encountered during ground-disturbing activities that meet the definition of a prehistoric or historic resource, unique archeological resource, or tribal cultural resource are appropriately identified and protected. **(Less than Significant Impact with Mitigation Incorporated)**

b) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?

The project sites do not contain any known TCRs. Refer to the discussion under checklist question a). With the implementation of the standard permit condition and MM CUL-1.1 identified under checklist question b) in Section 4.5 Cultural Resources would not cause a substantial adverse change in the significance of a TCR. **(Less than Significant Impact with Mitigation Incorporated)**

4.19 Utilities and Service Systems

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State

Assembly Bill 939

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000.

Assembly Bill 341

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program for businesses that generate four or more cubic yards of commercial solid waste per week and multi-family dwellings with five or more units in California. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Assembly Bill 1826

AB 1826 sets forth the requirements of the statewide mandatory commercial organics recycling program for businesses and multi-family dwellings with five or more units that generate two or more cubic yards of commercial solid waste per week. AB 1826 sets a statewide goal for 50 percent reduction in organic waste disposal by the year 2020.

Senate Bill 1383

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that at least 20 percent of currently disposed edible food is recovered for human consumption by 2025.

California Green Building Standards Code Compliance for Construction, Waste Reduction, Disposal and Recycling

In January 2023, the State of California adopted the most recent version of the California Green Building Standards Code ("CALGreen"), establishing mandatory green building standards for all new and qualifying remodeled structures in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental quality. These standards include the following mandatory set

of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 65 percent of nonhazardous construction and demolition ("C&D") debris, or meeting the local construction and demolition waste management ordinance, whichever is more stringent (see San José-specific CALGreen building code requirements in the local regulatory framework section below); and
- Providing readily accessible areas for recycling by occupants.

Local

San José Zero Waste Strategic Plan/Climate Smart San José

Climate Smart San José provides a comprehensive approach to achieving sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Climate Smart San José goals, including 75 percent diversion of waste from the landfill by 2013 and zero waste by 2022. Climate Smart San José also includes ambitious goals for economic growth, environmental sustainability, and enhanced quality of life for San José residents and businesses.

City of San Jose Municipal Code" with "California Green Building Standards Code Compliance for Construction, Waste Reduction, Disposal and Recycling

The City of San José requires 75 percent diversion of nonhazardous construction and demolition debris for projects that qualify under CALGreen, which is more stringent than the state requirement of 65 percent (Section 9.10.2480).

4.19.1.2 *Existing Conditions*

In general, the project area is served by existing water, wastewater, storm drainage, and solid waste facilities.

4.19.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐
b) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐
d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☒	☐
e) Be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

a) Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Unlike typical development projects (e.g. residential, commercial, industrial, etc.) that would result in water usage and wastewater generation, the proposed project would have no occupants. The project, therefore, would not generate demand for water or wastewater services that could necessitate the relocation or construction of new or expanded facilities. The project sites are currently impervious (except Sign 3B at the Center for Performing Arts), and there would be no substantial change in impervious surfaces nor the resulting stormwater runoff amount. The electricity demand generated by the proposed project would be negligible (refer to discussion under checklist question a) in Section 4.6) and would not require the construction or relocation of electricity facilities. No natural gas demand or additional telecommunication facilities are associated with the project. **(Less than Significant Impact)**

b) Would the project have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

Construction of the project would use a negligible amount of water on a temporary basis for dust control. The operation of the project would generate no demand for water and, therefore, would not exceed existing water entitlements. **(Less than Significant Impact)**

c) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

The proposed electronic signs would generate little or no demand for wastewater services. For these reasons, the project would not result in a substantial increase in the amount of wastewater generated and would not exceed the City's allocated capacity. **(Less than Significant Impact)**

d) Would the project generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

The proposed project would generate solid waste during construction in the form of off-hauling of soils, waste cleaning products, and other waste generated by construction workers while they are on-site. Due to the project size and the temporary nature of construction, waste generated during construction would be incremental and would not exceed the capacity of landfill facilities. During operation, maintenance would occur approximately six times per year and generate minimal waste. Accordingly, the project would not impair the attainment of solid waste reduction goals. **(Less than Significant Impact)**

e) Would the project be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?

As discussed under checklist question d) above, the project would comply with the City's CDDD Program during project construction. Once operational, the project would generate minimal solid waste. Implementation of recycling measures during the construction of the project would contribute to the City's compliance with the waste diversion requirements under state law. **(Less than Significant Impact)**

4.20 Wildfire

4.20.1 Environmental Setting

4.20.1.1 *Regulatory Framework*

State

Fire Hazard Severity Zones

CAL FIRE is required by law to map areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors. Referred to as Fire Hazard Severity Zones (FHSZs), these maps influence how people construct buildings and protect property to reduce risk associated with wildland fires. FHSZs are divided into areas where the state has financial responsibility for wildland fire protection, known as state responsibility areas (SRAs), and areas where local governments have financial responsibility for wildland fire protection, known as local responsibility areas (LRAs). Only lands zoned for very high fire hazard are identified within LRAs.

Local

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to wildfire.

Policy	Description
EC-8.1	Minimize development in very high fire hazard zone areas. Plan and construct permitted development so as to reduce exposure to fire hazards and to facilitate fire suppression efforts in the event of a wildfire.
EC-8.2	Avoid actions which increase fire risk, such as increasing public access roads in very high fire hazard areas, because of the great environmental damage and economic loss associated with a large wildfire.
EC-8.3	For development proposed on parcels located within a very high fire hazard severity zone or wildland-urban interface area, implement requirements for building materials and assemblies to provide a reasonable level of exterior wildfire exposure protection in accordance with City-adopted requirements in the California Building Code.

4.20.1.2 *Existing Conditions*

The project sites are located in the Downtown and are not located in Very High Fire Hazard Severity Zone as defined by Cal Fire.[94]

[94] CalFire. *FHSZ Viewer*. Accessed July 18, 2023. https://egis.fire.ca.gov/FHSZ/

4.20.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒

The project sites are not located in or near SRAs or lands classified as very high fire hazard severity zones; therefore, the project would result in wildfire impacts. **(No Impact)**

4.21 Mandatory Findings of Significance

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a)	Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐
b)	Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	☐	☒	☐	☐
c)	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☒	☐	☐

a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

As discussed in prior sections of this Initial Study, the proposed project would not degrade the quality of the environment with the implementation of the identified Standard Permit Conditions and mitigation measures.

As discussed in Section 4.4 Biological Resources, the project would not impact sensitive habitats or any special-status species. The project would implement mitigation measure MM BIO-1.1 and BIO-1.2 to avoid abandonment of raptor and other protected migratory bird nests. To avoid impacts to as yet unidentified archaeological resources, human remains, and/or TCRs, the proposed project would implement Mitigation Measure CUL-1.1 and the standard permit conditions discussed in Section 4.5 Cultural Resources.

Based on the above, with the implementation of standard permit conditions and mitigation measures, the project would not substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory. **(Less than Significant Impact with Mitigation Incorporated)**

b) Does the project have impacts that are individually limited, but cumulatively considerable?

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." In addition, under Section 15152(f) of the CEQA Guidelines, where a lead agency has determined that a cumulative effect has been adequately addressed in a prior EIR, the effect is not treated as significant for purposes of later environmental review and need not be discussed in detail.

The project would not impact agricultural or forestry resources or mineral resources, therefore, the project would have no contribution to cumulative impacts to these resources. Nor would the project contribute to any cumulative impacts associated with wildfire risk, as the project site is not located in or near an SRA or lands classified as very high fire hazard severity zones.

The project would not add new land uses or population in the city. As a result, the project would not induce substantial unplanned population growth, either directly or indirectly. The proposed electronic signs would not generate cumulatively considerable demand for public services, recreational facilities, or utilities and service systems because they would not be occupied or inhabited by people, who are the principle causes of increased public services, recreational facilities, and utilities and service systems.

The geographic area for cumulative aesthetic impacts for the project is the immediate surrounding area. As noted in Section 3.2.3, the City is proposing to install a non-commercial art feature at the Market & San Pedro Garage site. The art feature would include lighting, however, specific details are not known at this time. Therefore, it is speculative to evaluate the cumulative impacts of the project with this artwork. Lighting installed by future cumulative development within the geographic study area would be subject to the design and height standards of City Council Policy 4-3, and required to utilize exterior materials and lighting fixtures that reduce daytime glare, as required by the Citywide Design Standards Guidelines regarding site lighting, awnings, sunshades, screens, and materials and color. Therefore, the project would not contribute to a cumulatively significant light and glare impact.

As part of the adopted 2018 IS/ND prepared for the amendments to the General Plan, Municipal Code and Council Policy that allows the City Council to consider approving use of designated City-owned sites for electronic signs (File No. PP18-058), the City evaluated the program-level impacts (including aesthetics) of up to 22 new signs on 17 City-owned sites (including the five project sites evaluated in this Initial Study). The 2018 IS/ND concluded that the aesthetic impacts of the signs on City-owned properties would be less than significant with compliance to Title 23, Section 23.04.250 of the Municipal Code and Council Policy 6-4. For this reason, the project (which is consistent with the assumptions in the 2018 IS/ND) would not contribute to a significant cumulative aesthetic impact.

In general, an individual project's impact on air quality, energy, GHGs, and VMT are evaluated at a cumulative level. That is, if a project results in a significant impact to air quality (specifically criteria air pollutants), energy, GHGs, and VMT, the project would be considered to have a significant cumulative impact to those resources. In addition, the BAAQMD thresholds used by the City of San José were developed such that a project-level impact would also be a cumulatively considerable impact. The project would not result in a significant emissions of criteria air pollutants or GHG emissions under BAAQMD thresholds and, therefore, would not make a substantial contribution to cumulative air quality or GHG emissions impacts (see sections 4.3 Air Quality and 4.8 Greenhouse Gas Emissions). The project's consumption of electricity and gasoline was assessed in comparison with consumption at the state and county level (see Section 4.6 Energy) and was found to result in less than significant impacts with adherence to local, state, and federal policies. Therefore, the proposed project would not make a substantial contribution to cumulative energy use impacts. As discussed in Section 4.17 Transportation, the project would not generate vehicle trips besides the infrequent trips associated with project maintenance and would not contribute to cumulative VMT impacts.

Land uses in the City are primarily regulated through the City's General Plan and Municipal Code. As discussed in Sections 4.11 Land Use, the project is consistent with the General Plan designation for the site, would comply with the Municipal Code, and comply with applicable General Plan policies, mitigation measures and standard permit conditions described throughout this Initial Study to reduce land use impacts to a less than significant level.

The geographic area for cumulative biology, cultural resources, TCRs, geology and soils, hazards and hazardous materials, and hydrology and water quality impacts is generally the surrounding area of the project sites because it would affect common resources and impacts would be limited to the immediate vicinity. The General Plan EIR concluded that future development, such as the proposed project, would comply with the existing state, regional, and local regulations including the MBTA, Fish and Game Code, NHPA, CRHR, California Native American Historical, Cultural, and Sacred Sites Act, PRC Sections 5097 and 5097.98, CBC, City's Grading Ordinance, General Plan policies, and Municipal Code regulations identified in Section 4.4 Biological Resources, Section 4.5 Cultural Resources, 4.7 Geology and Soils, 4.9 Hazards and Hazardous Materials, and 4.10 Hydrology and Water Quality of this document to reduce impacts to biology, cultural resources, TCRs, geology and soils, hazards and hazardous materials, and hydrology and water quality to a less than significant level. The project would comply with the same regulations identified in the General Plan EIR via

implementation of City standard permit conditions and project-specific mitigation measures (such as BIO-1.1 and BIO-1.2). For this reason, the project would not result in new or substantially more severe significant cumulative impacts than disclosed in the General Plan EIR for these resources.[95]

Cumulative Health Risk Impacts

Cumulative health risk assessments look at all substantial sources of TACs located within 1,000 feet of a project site (i.e., influence area) that can affect sensitive receptors. These sources include rail lines, highways, busy surface streets, and stationary sources identified by BAAQMD. The BAAQMD's geographic information systems (GIS) screening tools were used to determine if the local roadways rail lines, and stationary sources within the 1,000-foot influence area could have cumulative health risk impacts at the total project MEI. The total project MEI was used instead of the individual sign MEIs since it was where the maximum construction risk impact occurred from the total project. Table 4.21-1 below shows the cumulative community risk impacts.

Table 4.21-1: Cumulative Community Risk Impacts from Combined TAC Sources at MEI

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ (ug/m_3)	Hazard Index
Project Construction	2.14 (infant)	0.01	<0.01
BAAQMD Cumulative Local Roadways Raster Data	22.75	0.35	0.06
BAAQMD Cumulative Local Rail Lines Raster Data	0.05	<0.01	<0.01
BAAQMD Cumulative Stations Source GIS Data	**149.92**	**1.08**	0.08
Cumulative Total	***174.86***	***1.45***	*<0.16*
BAAQMD Cumulative Threshold	***>100***	***>0.8***	***>10.0***
Exceed Threshold?	**Yes**	**Yes**	No

Source: Illingworth & Rodkin, Inc. *Electronic Signs on City-Owned Property (Downtown) Construction emission and Health Risk Assessment*. March 4, 2024.

As shown in Table 4.21-1, the cancer risk and $PM_{2.5}$ concentration from existing sources alone exceeds the cumulative threshold at 172.72 per million cancer risk and 1.46 µg/m^3 $PM_{2.5}$ concentration. Cumulative risks exceed the cancer risk and $PM_{2.5}$ concentration threshold because of existing stationary sources near the total project MEI.[96] The project's cancer risk and $PM_{2.5}$ concentration only represents one percent of the total cumulative risk and concentration. In addition, according to BAAQMD, health risks would be less-than-significant to the MEI if the risks from the project are reduced below the single-source thresholds.[97] Therefore, the project would

[95] City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. September 2011. Pages 866-867, 871-872.
[96] The total project MEI refers to where the maximum construction risk impact will occur from the total project (refer to Figure 4.3-1).
[97] Flores, Areana. MSc, Environmental Planner, BAAQMD. Personal Communication. February 23, 2021.

not substantially contribute to the total cumulative cancer risk and $PM_{2.5}$ concentration. The project would not be cumulatively considerable, and no additional mitigation would be required on the part of the project to mitigate the exceedance of the cumulative source threshold for maximum cancer risk and annual $PM_{2.5}$ concentration. As discussion in Section 4.3 Air Quality, the project would implement BMPs to reduce construction emissions, including those of DPM and $PM_{2.5}$.
Given the above discussion, the proposed project would not result in cumulatively considerable contributions to significant cumulative impacts. **(Less than Significant Impact with Mitigation Incorporated)**

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include air quality, hazardous materials, and noise. As documented in Section 4.3, 4.7, 4.9, and 4.13 of this Initial Study, implementation of the General Plan policies, Standard Permit Conditions, and mitigation measures that have been identified would reduce these impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified. **(Less than Significant Impact with Mitigation Incorporated)**

Section 5.0 References

The analysis in this Initial Study is based on the professional judgement and expertise of the environmental specialists preparing this document, based upon review of the site, surrounding conditions, site plans, and the following references:

Association of Bay Area Governments. "Tsunami Maps and Information." Accessed June 21, 2023. MTC/ABAG Hazard Viewer Map (arcgis.com).

Bay Area Air Quality Management District. *Final 2017 Clean Air Plan.* April 19, 2017.

---. "Air Quality Standards and Attainment Status." Last Updated January 5, 2017. Accessed March 24, 2023.

California Air Resources Board. "Advanced Clean Cars II." Accessed January 22, 2024. https://ww2.arb.ca.gov/our-work/programs/advanced-clean-cars-program/advanced-clean-cars-ii

California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed January 23, 2024. https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health.

California Building Standards Commission. "California Building Standards Code." Accessed January 22, 2024. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.

California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed June 19, 2023. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.

---. "Williamson Act." http://www.conservation.ca.gov/dlrp/lca.

---. Earthquake Zones of Required Investigation. Accessed June 21, 2023. https://maps.conservation.ca.gov/cgs/EQZApp/app/.

---. Regulatory Maps. Accessed June 21, 2023. https://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps.

California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed June 19, 2023. http://frap.fire.ca.gov/.

---. "California Fire Hazard Severity Zone Viewer". Accessed January 8, 2024. https://egis.fire.ca.gov/FHSZ/

California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed January 22, 2024. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.

California Department of Transportation. Caltrans Division of Research and Innovation, Effects of Outdoor Advertising Displays on Driver Safety. October 11, 2012.

---. "Scenic Highways." Accessed March 10, 2023. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

California Department of Conservation. Regulatory Maps. Accessed June 21, 2023. https://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps.

California Energy Commission (CEC). "2022 Building Energy Efficiency Standards." Accessed January 22, 2024.https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency.

---. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed January 22, 2024. http://ecdms.energy.ca.gov/elecbycounty.aspx.

---. "Natural Gas Consumption by County." Accessed January 22, 2024. http://ecdms.energy.ca.gov/gasbycounty.aspx.

California Environmental Quality Act Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6. Accessed November 29, 2021. http://www.ohp.parks.ca.gov/pages/1069/files/technical%20assistance%20bulletin%206%202011%20update.pdf.

---. "Cortese List Data Resources." Accessed November 20, 2023. https://calepa.ca.gov/sitecleanup/corteselist/.

California Gas and Electric Utilities. 2022 *California Gas Report.* Accessed January 22, 2024. https://www.socalgas.com/sites/default/files/Joint_Utility_Biennial_Comprehensive_California_Gas_Report_2022.pdf.

California State Water Resources Control Board. "2020-2022 California Integrated Report (Clean Water Act Section 303(d) List and 305(b) Report)." May 11, 2022.

City of San José. *Integrated Final Environmental Impact Report Downtown Strategy 2040*. SCH. 2003042127. December 2018.

---. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. SCH: 2009072096. September 2011.

---. Public GIS Viewer. Accessed June 21, 2023. https://gisdata-csj.opendata.arcgis.com/

David J. Powers & Associates. *Compliance with Council Policy Number 6-4 Signs on City-Owned Land.* September 9, 2019.

Illingworth & Rodkin, Inc. *Electronic Signs on City-Owned Property (Downtown) Construction emission and Health Risk Assessment*. March 4, 2024.

Norman Y. Mineta San José International Airport. *Airport Master Plan*. 2037 CNEL Contours. July 28, 2020. Accessed January 19, 2024. https://www.flysanjose.com/sites/default/files/noise/2037_CNEL.pdf

Santa Clara Valley Habitat Agency. Geobrowser. Accessed June 19, 2023. Habitat Agency Geobrowser (hcpmaps.com)

U.S. Energy Information Administration. "Petroleum & Other Liquids, California Field Production of Crude Oil." January 22, 2024. https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=mcrfpca1&f=a

United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed January 22, 2024. http://www.afdc.energy.gov/laws/eisa.

United States Department of Transportation. USDOT Announces New Vehicle Fuel Economy Standards for Model Year 2024-2026." Accessed January 22,2024. https://www.nhtsa.gov/press-releases/usdot-announces-new-vehicle-fuel-economy-standards-model-year-2024-2026

United States Energy Information Administration. "California State Energy Profile." Accessed January 9, 2024. https://www.eia.gov/state/print.php?sid=CA.

United States Environmental Protection Agency. "The 2022 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." December 2022. https://www.epa.gov/system/files/documents/2022-12/420s22001.pdf

---. "Summary of the Resource Conservation and Recovery Act." Accessed November 20, 2023. https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act.

---. "Superfund: CERCLA Overview." Accessed November 20, 2023. https://www.epa.gov/superfund/superfund-cercla-overview.

---. "EPA Actions to Protect the Public from Exposure to Asbestos." Accessed November 20, 2023. https://www.epa.gov/asbestos/epa-actions-protect-public-exposure-asbestos

---. Waterbody Quality Assessment Report for 2016 Waterbody Report for Guadalupe River (Santa Clara Co.). 2016. Accessed June 21, 2023. https://mywaterway.epa.gov/community/95050/overview.

Valley Water. *2021 Groundwater Management Plan, Santa Clara and Llagas Subbasins*. November 2021.

Section 6.0 Lead Agency and Consultants

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Section 7.0 Acronyms and Abbreviations

AB	Assembly Bill
ABAG	Association of Bay Area Governments
ACE	Altamont Commuter Express
ACM	Asbestos-Containing Material
Act	California Outdoor Advertising Act
agl	Above ground level
AIA	Airport Influence Area
ALUC	Airport Land Use Commission
APN	Assessor's Parcel Number
ATCM	Asbestos Airborne Toxic Control Measure
BAAQMD	Bay Area Air Quality Management District
Bay Area	San Francisco Bay Area
bgs	Below ground surface
BMPs	Best Management Practices
Btu	British Thermal Unit
CAAQS	California Ambient Air Quality Standard
CAL FIRE	California Department of Forestry and Fire Protection
Cal/OSHA	California Department of Industrial Relations, Division of Occupational Safety and Health
CalARP	California Accidental Release Prevention
CalEPA	California Environmental Protection Agency
CALGreen	California Green Building Standards
Caltrans	California Department of Transportation
CARB	California Air Resources Board
CBC	California Building Standards Code
CDFW	California Department of Fish and Wildlife
cd/m2	Nit or candela per square meter
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CDDD	Construction and Demolition Diversion Deposit

CFC	Chlorofluorocarbon
CFR	Code of Federal Regulations
CGS	California Geological Survey
CRHR	California Register of Historical Resources
CH_4	Methane
CLUP	Comprehensive Land Use Plan
CNEL	Community Noise Equivalent Level
CO	Carbon Monoxide
CO_2	Carbon Dioxide
CO_2e	Carbon Dioxide Equivalents
CRHR	California Register of Historical Resources
CUPA	Certified Unified Program Agency
dBA	A-weighted decibel
DNL	Day/Night Average Sound Level
DPM	Diesel Particulate Matter
DTSC	Department of Toxic Substances Control
EIR	Environmental Impact Report
EO	Executive Order
EOP	City of San José Emergency Operations Plan
EPA	Environmental Protection Agency
ESA	Environmental Site Assessment
EV	Electric vehicle
FAA	Federal Aviation Administration
FAR	Federal Aviation Regulations
fc	Foot candle
FEMA	Federal Emergency Management Agency
FHSZ	Fire Hazard Severity Zone
FIRMs	Flood Insurance Rate Maps
FMMP	Farmland Mapping and Monitoring Program
GHG	Greenhouse Gases
GHGRS	Greenhouse Gas Reduction Strategy

GWh	Gigawatt Hour
GWMP	Groundwater Management Plan
GWP	Global Warming Potential
Habitat Plan	Santa Clara Valley Habitat Plan
HFCs	hydrofluorocarbons
HRE	Historic Resource Evaluation
HRI	Historic Resources Inventory
HSWA	Hazardous and Solid Waste Amendments
IS	Initial Study
L_{eq}	Energy-Equivalent Sound/Noise Descriptor
L_{max}	Maximum A-weighted noise level during a measurement period
LOS	Level of Service
LRA	Local Responsibility Area
LUST	Leaking underground storage tank
MBTA	Migratory Bird Treaty Act
MCL	Maximum contaminant levels
mg/kg	milligrams per kilogram
$MMTCO_2e$	Million Metric Tons of Carbon Dioxide Equivalent
MND	Mitigated Negative Declaration
mpg	Miles per Gallon
MSL	Mean Sea Level
MTC	Metropolitan Transportation Commission
MWHs	megawatt hours
N_2O	Nitrous Oxide
NAAQS	National Ambient Air Quality Standard
NAHC	Native American Heritage Commission
NCP	National Contingency Plan
ND	Negative Declaration
NESHAP	National Emission Standards for Hazardous Air Pollutants
NHPA	National Historic Preservation Act of 1966
NO_2	Nitrogen Dioxide

NOA	Naturally Occurring Asbestos
NOD	Notice of Determination
NO_x	Nitrogen Oxides
NRHP	National Register of Historic Places
NPDES	National Pollutant Discharge Elimination System
OBM	Orange Barrel Media
O_3	Ozone
OPR	Office of Planning and Research
PCB	Polychlorinated Biphenyls
PCBE	Planning, Building and Code Enforcement
PCF	Perfluorocarbon
PDA	Priority Development Areas
PG&E	Pacific Gas and Electric Company
PM	Particulate Matter
PM_{10}	Particulate matter with a diameter of 10 microns or less
$PM_{2.5}$	Particulate matter with a diameter of 2.5 microns or less
PPV	Peak Particle Velocity
R&D	Research and Development
RAP	Removal Action Plan
RCRA	Resource Conservation and Recovery Act
RFP	Request for Proposals
ROG	Reactive Organic Gases
RTP	Regional Transportation Plan
RWQCB	Regional Water Quality Control Board
SB	State Bill
SCCDEH	Santa Clara County Department of Environmental Health
SCS	Sustainable Communities Strategy
SF_6	Sulfur Hexafluoride
SFHA	Special Flood Hazard Area
SFPUC	San Francisco Public Utilities Commission
SHMA	Seismic Hazards Mapping Act

SJC	San José Mineta International Airport
SJCE	San José Clean Energy
SMARA	Surface Mining and Reclamation Act
SMGB	State Mining and Geology Board
SMP	Site Management Plan
SO_x	Sulfur Oxides
SR	State Route
SRA	State Responsibility Area
SWRCB	State Water Resources Control Board
TAC	Toxic Air Contaminants
TCR	Tribal Cultural Resource
Title 24	Title 24, Part 6 of the California Code of Regulations
TMDL	total maximum daily load
TPHd	total petroleum hydrocarbons as diesel
TPHg	total petroleum hydrocarbons as gasoline
TSCA	Toxic Substances Control Act
µg/m^3	micrograms per cubic meter
USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
UST	Underground storage tank
Valley Water	Santa Clara Valley Water District
VMT	Vehicle Miles Traveled
VOC	Volatile organic compound
VTA	Santa Clara Valley Transportation Authority
Williamson Act	California Land Conservation Act
WUI	Wildland-Urban Interface
ZNE	Zero Net Carbon Emission