

Mitigation Monitoring and Reporting Program for the Electronic Billboard Ordinance Project Initial Study/Mitigated Negative Declaration City of Gilroy, Santa Clara County, California

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Report Date: May 13, 2022

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PREFACE

Pursuant to Public Resources Code Section 21081.6 and CEQA Guidelines Section 15097, the City of Gilroy (lead agency) hereby finds that the mitigation measures set forth in the Mitigation Monitoring and Reporting Program (MMRP) will reduce or avoid the potentially significant impacts of the proposed project to the extent feasible for the reasons described in the Draft Initial Study/Mitigated Negative Declaration (Draft IS/MND) and administrative record. The lead agency intends for each of the mitigation measures to be adopted as recommended in the Draft IS/MND. In the event of any inconsistencies between the mitigation measures set forth in the Draft IS/MND and the MMRP, the MMRP shall control.

This MMRP does not discuss those subjects that the environmental analysis demonstrates would result in less than significant impacts and for which no mitigation was proposed or necessary.

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Table 1: Electronic Billboard Ordinance Project Mitigation Monitoring and Reporting Program

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
3.1 Aesthetics					
MM AES-1: The signs’ operational lighting parameters shall be provided to the City of Gilroy Community Development Department for review and approval prior to the regular operation of the light-emitting diode (LED) billboards, and shall be implemented by the project proponent to ensure a driver would not be adversely affected or impacted by trespass glare lighting.	Review of project plans	Prior to regular operation of the LED billboards	City of Gilroy Community Development Department; project proponent		
3.2 Air Quality					
MM AIR-1: In order to comply with the Bay Area Air Quality Management District (BAAQMD) Best Management Practices (BMPs) during construction, prior to issuance of grading and construction permits, the project applicant and construction contractor shall: <ul style="list-style-type: none"> Exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered with non-potable water two times per day. All haul trucks transporting soil, sand, or other loose material off-site shall be covered. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. All roadways, driveways, and sidewalks shall be paved as soon as possible. Idling times shall be minimized either by shutting equipment off when not in use or by reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure Title 13, § 2485 of the California Code of Regulations [CCR]). Clear signage 	Incorporation into project construction documents Submittal of proof of implementation during construction On-site inspection	Prior to issuance of grading and construction permits During construction During construction	City of Gilroy Community Development Department; project applicant; construction contractor		

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<p>shall be provided for construction workers at all access points.</p> <ul style="list-style-type: none"> All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified visible emissions evaluator. A publicly visible sign shall be posted with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within 48 hours of a complaint or issue notification. The BAAQMD’s phone number shall also be visible to ensure compliance with applicable regulations. 					
<p>3.3 Biological Resources</p>					
<p>MM BIO-1: If possible, to prevent impacts to the Fish and Game Code and/or Migratory Bird Treaty Act (MBTA)-protected birds, including nesting raptors, and their nests, construction work should occur outside the nesting season (generally between February 1 and August 31). If construction (including tree and vegetation removal) cannot be conducted outside the nesting season, pre-construction surveys shall be conducted no more than 5 days before the start of work to verify the absence of active nests.</p>	<p>Confirm requested timing for construction</p>	<p>Prior to ground disturbance and construction</p>	<p>City of Gilroy Community Development Department; qualified biologist; project applicant; construction contractor</p>		
<p>MM BIO-2: If an active nest of a special-status bird species is located during pre-construction surveys, the United States Fish and Wildlife Service (USFWS) and/or California Department of Fish and Wildlife (CDFW) (as appropriate) shall be notified regarding the status of the nest.</p>	<p>Incorporation into project construction documents</p>	<p>If an active nest is located during pre-construction surveys</p>	<p>City of Gilroy Community Development Department; qualified biologist; project applicant; construction contractor; CDFW; USFWS</p>		

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<p>MM BIO-3: For nests of all species protected under Fish and Game Code and/or Migratory Bird Treaty Act (MBTA), construction activities shall be restricted as necessary to avoid disturbance of the nest until the young have left the nest, or the United States Fish and Wildlife Service (USFWS) and/or California Department of Fish and Wildlife (CDFW) (as appropriate) deem disturbance potential to be minimal. Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 100 feet around an active raptor nest and an appropriate radius around an active protected bird nest depending on the species and disturbance level as determined by a qualified Biologist) or alteration of the construction schedule.</p>	Incorporation into project construction documents	During construction	City of Gilroy Community Development Department; qualified biologist; project applicant; construction contractor; USFWS-approved Biologist		
<p>MM BIO-4: A qualified Biologist shall provide appropriate protection buffer sizes and locations, and the applicant shall physically mark the protection buffers using signs, environmentally sensitive area fencing, pin flags, and/or flagging tape. The buffer zone shall be maintained around the active nest site(s) until the young have fledged and are foraging independently.</p>	Incorporation into project construction documents	Prior to construction	City of Gilroy Community Development Department; qualified biologist; project applicant; construction contractor		
<p>MM BIO-5: No substances toxic to fish and wildlife shall be discharged or allowed to leach into Princevalle Channel. Reasonable precautions to protect aquatic habitats of Princevalle Channel from pollution with harmful materials (e.g., fuels, oils, lubricants, and solvents) shall be implemented. Specifically, all potentially hazardous materials shall be controlled, cleaned up, and properly disposed of in accordance with the project’s water quality control permits and plans. Materials deleterious or toxic to fish and wildlife including, but not limited to, asphalt, tires, concrete, construction materials, treated wood, and creosote containing materials shall not be stockpiled within 100 feet of the Princevalle Channel. Refueling and maintenance areas for</p>	Incorporation into project construction documents	Prior to and during construction	City of Gilroy Community Development Department; project applicant; construction contractor		

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equipment shall be limited to areas 100 feet from the Princevalle Channel.					
MM BIO-6: At no time shall silt-laden runoff be allowed to enter the Princevalle Channel. Erosion control measures shall be utilized throughout all phases of construction where sediment runoff from the project may enter Princevalle Channel. Best Management Practices (BMPs) to avoid erosion and uncontrolled stormwater runoff shall be implemented. BMPs typically include silt fencing, coir rolls, and/or straw bale dikes.	Incorporation into project construction documents	Throughout all phases of construction where sediment runoff from the project may enter	Project applicant; construction contractor		
MM BIO-7: The project applicant shall submit a Santa Clara Valley Habitat Plan (SCVHP) Coverage Screening Form to the Planning Department for review and shall complete subsequent forms, reports, and/or studies as needed.	Submittal of SCVHP Coverage Screening Form	Prior to construction	City of Gilroy Community Development Department		
3.4 Cultural Resources and Tribal Cultural Resources					
<p>MM CUL-1: An Archaeologist who meets the Secretary of the Interior’s Professional Qualification Standards for archaeology should be present to monitor initial phases of ground disturbance. This may be followed by regular periodic or “spot-check” archaeological monitoring as determined by the Archaeologist. In the event a potentially significant cultural resource is encountered during subsurface earthwork activities, all construction activities within a 100-foot radius of the find shall cease and workers should avoid altering the materials until an Archaeologist who meets the Secretary of Interior’s Professional Qualification Standards for archaeology has evaluated the find. The applicant shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement.</p> <p>The qualified Archaeologist shall make recommendations to the Lead Agency on the measures that shall be implemented to protect the discovered resources, including but not limited</p>	<p>Inclusion of discovery clause in all construction contracts</p> <p>Qualified Archaeologist’s “spot-check” monitoring</p>	<p>Before construction</p> <p>Regularly during ground disturbance as needed</p>	<p>City of Gilroy Community Development Department;</p> <p>Qualified Archaeologist;</p> <p>project applicant;</p> <p>construction contractor</p>		

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to excavation and evaluation of the finds in accordance with Section 15064.5 of the CEQA Guidelines. Potentially significant cultural resources include, but are not limited to, stone, bone, glass, wood, or shell artifacts or features, including hearths, structural remains, or historic dumpsites. Any previously undiscovered resources found during construction within the project site shall be recorded on appropriate California Department of Parks and Recreation (DPR) 523 forms and will be submitted to the City of Gilroy, the Northwest Information Center (NWIC), and the California Office of Historic Preservation (OHP), as required.					
<p>MM CUL-2: In the event of the accidental discovery or recognition of any human remains, CEQA Guidelines Section 15064.5, Health and Safety Code Section 7050.5, and Public Resources Code Sections 5097.94 and Section 5097.98 shall be followed. If during the course of project construction, there is accidental discovery or recognition of any human remains, the following steps shall be taken:</p> <p>1. There shall be no further excavation or disturbance within 100 feet of the remains until the Santa Clara County Coroner is contacted to determine if the remains are Native American and if an investigation of the cause of death is required. If the coroner determines the remains to be Native American, the Coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours, and the NAHC shall identify the person or persons it believes to be the Most Likely Descendant (MLD) of the deceased Native American. The MLD may make recommendations to the landowner or the person responsible for the excavation work within 48 hours, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98.</p>	<p>Inclusion of discovery clause in all construction contracts</p> <p>County notification if human remains encountered</p> <p>County Coroner contacts NAHC and submits NAHC correspondence to County</p>	<p>Prior to construction</p> <p>During construction</p> <p>During construction</p>	<p>City of Gilroy Community Development Department; project applicant; construction contractor; Santa Clara Office of the Sheriff: Coroner’s Division; NAHC</p>		

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<p>2. Where the following conditions occur, the landowner or his or her authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity either in accordance with the recommendations of the MLD or on the project site in a location not subject to further subsurface disturbance:</p> <ul style="list-style-type: none"> • The NAHC is unable to identify an MLD or the MLD failed to make a recommendation within 48 hours after being notified by the NAHC; • The descendant identified fails to make a recommendation; or • The landowner or his authorized representative rejects the recommendation of the descendant, and mediation by the NAHC fails to provide measures acceptable to the landowner. 					