

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE CERTIFYING THE NORMAN Y. MINETA SAN JOSE INTERNATIONAL AIRPORT MASTER PLAN AMENDMENT ENVIRONMENTAL IMPACT REPORT AND MAKING CERTAIN FINDINGS CONCERNING SIGNIFICANT IMPACTS, MITIGATION MEASURES AND ALTERNATIVES, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING AND REPORTING PROGRAM, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED

WHEREAS, the proposed Amendment to Norman Y. Mineta San José International Airport Master Plan Project includes a major amendment to the approved Norman Y. Mineta San José International Airport Master Plan which will: 1) modify certain components of the airfield to reduce the potential for runway incursions; 2) update the aviation demand forecasts and shift the horizon year from 2027 to 2037; and 3) modify future facilities requirements at the Airport to reflect updated demand forecast, all on an approximately 1,000-acre site generally bounded by U.S. 101 to the north, the Guadalupe River and State Route 87 to the east, Interstate 880 to the south, and Coleman Avenue and De la Cruz Boulevard to the west, in the City of San José, California (collectively referred to herein as the "Project"); and

WHEREAS, approval of the Project would constitute a Project under the provisions of the California Environmental Quality Act of 1970, together with related state and local implementation guidelines and policies promulgated thereunder, all as amended to date (collectively, "CEQA"); and

WHEREAS, the City is the lead agency for the Project, and has prepared a Final Environmental Impact Report for the Project pursuant to and in accordance with CEQA,

which the Final Environmental Impact Report is comprised of the Draft Environmental Impact Report for the Project (the "Draft EIR"), together with the First Amendment to the Draft EIR (collectively, all of said documents are referred to herein as the "FEIR"); and

WHEREAS, on March 11, 2020, the Planning Commission of the City of San José reviewed the FEIR prepared for the Project, and recommended to the City Council that it find the environmental clearance for the proposed Project was completed in accordance with the requirements of CEQA and further recommended the City Council adopt this Resolution; and

WHEREAS, CEQA requires that, in connection with the approval of a project for which an environmental impact report has been prepared which identifies one or more significant environmental effects of the project, the decision-making body of a public agency make certain findings regarding those effects and adopt a mitigation or monitoring program and overriding statement of consideration for any impact that may not be reduced to a less than significant level.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE:

1. That the above recitals are true and correct; and
2. That the City Council does hereby find and certify that the FEIR has been prepared and completed in compliance with CEQA; and
3. The City Council was presented with, and has independently reviewed and analyzed, the FEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the FEIR and the Project, prior to acting upon or approving the Project, and has found that the FEIR represents the independent judgment of the City of San José ("City") as lead agency for the Project, and designated the Director of Planning, Building and Code Enforcement at the Director's office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and record of proceedings on which the decision of the City is based; and

4. That the City Council does hereby find and recognize that the FEIR contains additions, clarifications, modifications, and other information in its response to comments on the Draft EIR or obtained by the City after the Draft EIR was issued and circulated for public review and does hereby find that such changes and additional information are not significant new information as that phrase is described under CEQA because such changes and additional information do not indicate that any of the following would result from approval and implementation of the Project: (i) any new significant environmental impact or substantially more severe environmental impact not already disclosed and evaluated in the Draft EIR, (ii) any feasible mitigation measure considerably different from those analyzed in the Draft EIR that would lessen a significant environmental impact of the Project has been proposed and would not be implemented, or (iii) any feasible alternative considerably different from those analyzed in the Draft EIR that would lessen a significant environmental impact of the Project has been proposed and would not be implemented; and
5. That the City Council does hereby find and determine that recirculation of the FEIR for further public review and comment is not warranted or required under the provisions of CEQA; and
6. The City Council does hereby make the following findings with respect to the significant effects of the environment of the Project, as identified in the FEIR, with the understanding that all of the information in this Resolution is intended as a summary of the full administrative record supporting the FEIR, which full administrative record should be consulted for the full details supporting these findings.

**AMENDMENT TO NORMAN Y. MINETA SAN JOSE INTERNATIONAL AIRPORT
MASTER PLAN PROJECT
SIGNIFICANT ENVIRONMENTAL IMPACTS**

Air Quality

Impact: **Impact AIR-1:** Due to significant emissions of NO_x and PM₁₀, the Project would be inconsistent with the Clean Air Plan.

Mitigation: Mitigation measures identified for Impact AIR-2 would also apply to Impact AIR-1 (refer to MM AIR-2.1 through MM AIR-2.5, below).

Finding: Although the Project includes mitigation measures (refer to MM AIR-2.1 through MM AIR-2.5) and other emissions reduction measures (refer to Table 4.3-5 of the Draft EIR) to reduce emissions to the extent feasible, the

Project would result in significant emissions of NO_x and PM₁₀. The Project, therefore, would be inconsistent with the Clean Air Plan. **(Significant Unavoidable Impact)**

Facts in Support of Finding: Although the Project does not disrupt or hinder any of the Clean Air Plan measures discussed in Section 4.3.5.1 of the EIR, when compared to existing conditions, the Project would result in an increase in NO_x and PM₁₀ emissions in excess of BAAQMD's CEQA significance thresholds, even with implementation of identified mitigation measures. Since the overall goal of the Clean Air Plan is a reduction in emissions of these pollutants, this increase in emissions would be inconsistent with the Clean Air Plan.

Impact: **Impact AIR-2:** The Project would result in significant NO_x emissions related to construction and significant NO_x and PM₁₀ emissions related to operation.

Mitigation: Construction Mitigation Measures:

MM AIR-2.1: All off-road equipment greater than 25 horsepower used in construction projects at the Airport shall have engines that meet Tier 4 Final off-road emission standards. The City's Director of Planning, Building, and Code Enforcement (or Director's designee) may waive this requirement if presented with documentation that demonstrates that a particular piece of off-road equipment with an engine meeting Tier 4 Final emission standards is not regionally available.

MM AIR-2.2: Diesel engines, whether for off-road or on-road equipment, shall not be left idling for more than two minutes, at any location, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment (e.g., traffic conditions, safe operating conditions). The contractor shall post legible and visible signs in English, Spanish and Chinese, in designated queuing areas and at the construction site to remind operators of the 2-minute idling limit.

MM AIR-2.3: The contractor shall instruct construction workers and equipment operators on the maintenance and tuning of construction equipment and require that such workers and operators properly maintain and tune equipment in accordance with manufacturer specifications.

MM AIR-2.4: Before starting any onsite ground disturbance, demolition, or construction activities, the contractor shall submit a Construction Emissions Minimization Plan to the City's Director of Planning, Building, and Code

Enforcement (or Director's designee) for review and approval. The plan shall demonstrate how the contractor will meet the requirements of MM AIR-2.1. The plan shall include estimates of the construction timeline, with a description of each piece of off-road equipment required. The description may include, but is not limited to, equipment type, equipment manufacturer, engine model year, engine certification (Tier rating), horsepower, and expected fuel usage and hours of operation. For off-road equipment using alternative fuels, the description shall also specify the type of alternative fuel being used.

The Airport shall ensure that all applicable requirements of the Construction Emissions Minimization Plan have been incorporated into the contract specifications. The plan shall include a certification statement that the contractor agrees to comply fully with the plan.

The contractor shall make the Construction Emissions Minimization Plan available to the public for review onsite during working hours. The contractor shall post at the construction site a legible and visible sign summarizing the plan. The sign shall also state that the public may ask to inspect the plan for the project at any time during working hours and shall explain how to request to inspect the plan. The contractor shall post at least one copy of the sign in a visible location on each side of the construction site facing a public right-of-way

Operational Mitigation Measure:

MM AIR-2.5: A minimum of 10 percent of the total number of spaces provided in the proposed short- and long-term parking garages (Projects T-4 and T-8, respectively) shall be designed and constructed for electric vehicle charging capability.

Finding: Although the Project includes mitigation measures (refer to MM AIR-2.1 through MM AIR-2.5), and other emissions reduction measures (refer to Table 4.3-5 of the Draft EIR) to reduce emissions to the extent feasible, the Project would result in significant emissions of NO_x and PM₁₀. **(Significant Unavoidable Impact)**

Facts in Support of Finding: Implementation of Mitigation Measures MM AIR-2.1 – MM AIR-2.4, which include the application Tier 4 Final off-road engine emissions standards and limitations on idling time, would reduce construction-related NO_x emissions by between 49 and 80%. As shown in Table 4.3-7 of the Draft EIR, mitigated daily average NO_x emissions from construction would be below significance thresholds for all years other than 2020 due primarily

to the large amount of construction anticipated to occur in that year. Therefore, the Project would result in a significant unavoidable impact associated with construction NO_x emissions.

Implementation MM AIR-2.5, in conjunction with an array of existing measures implemented by the airport to reduce vehicle trips (refer to Table 4.3-5), would incrementally reduce vehicle-related NO_x and PM₁₀ emissions to the extent feasible, though not to a less than significant level. As a result, the Project would result in a significant unavoidable impact associated with operational NO_x and PM₁₀ emissions.

Impact: **Impact AIR-C:** The Project would result in cumulatively considerable contributions to significant NO_x impacts during construction and significant NO_x and PM₁₀ impacts during operation.

Mitigation: Implement MM AIR-2.1 through MM AIR-2.5

Finding: Even with implementation of mitigation measures MM AIR-2.1 through MM AIR-2.5 and other emissions reduction measures (refer to Table 4.3-5) to reduce emissions to the extent feasible, the Project would result in cumulatively considerable contributions to significant NO_x impacts during construction and significant NO_x and PM₁₀ impacts during operation. **(Significant Unavoidable Impact)**

Facts in Support of Finding: The Project exceeds BAAQMD thresholds for criteria air pollutant emissions during both construction and operation, even with implementation of feasible mitigation measures. In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. 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. Since the Project exceeds BAAQMD thresholds for criteria air pollutant emissions during both construction and operation, even with the implementation of feasible mitigation measures, the Project would have a significant and unavoidable cumulative impact related to criteria air pollutant emissions.

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Biological Resources

Impact: **Impact BIO-1:** If determined to be present, the Project could have a substantial adverse effect on the Congdon's tarplant.

Mitigation: **MM BIO-1.1:** Pre-Activity Surveys. No more than five years prior to initial ground disturbance for any part of the Project that impacts ruderal grassland at the airfield, Fuel Farm, and VOR site, a focused survey for Congdon's tarplant shall be conducted within the project footprint and a 50-foot buffer around the project footprint during the appropriate blooming period (May 1st through November 30th, inclusive). This buffer may be increased by the qualified plant ecologist depending on site-specific conditions and activities planned in the areas but must be at least 50 feet wide. Situations for which a greater buffer may be required include proximity to proposed activities expected to generate large volumes of dust, such as grading; potential for project activities to alter hydrology supporting habitat for the species; or proximity to proposed structures that may shade areas farther than 50 feet away. Surveys are to be conducted in a year with near-average or above-average precipitation, based on National Weather Service data for San José. If Congdon's tarplant is not found in the impact area or the identified buffer, then no further mitigation shall be warranted. If Congdon's tarplant individuals are found in the impact area or identified, then MM BIO-1.2 and MM BIO-1.3 would be implemented. The survey will be submitted for review and approval by the City's Director of Planning, Building, and Code Enforcement or Director's designee.

Surveys for Congdon's tarplant may be conducted over large areas simultaneously (rather than having to be conducted prior to each individual project), but surveys for a particular project area must be performed within five years prior to the start of construction for that project to be valid.

MM BIO-1.2: Avoidance Buffers. To the extent feasible, and in consultation with a qualified plant ecologist, the City shall design and construct the Project to completely avoid impacts on all populations of Congdon's tarplant within the project footprints or within the identified buffers of the impact areas. Avoided Congdon's tarplant populations shall be protected by establishing and observing the identified buffer between plant populations and the impact area. All such populations located in the impact area or the identified buffer, and their associated designated avoidance areas, shall be clearly depicted on any construction plans. In addition, prior to initial ground disturbance or vegetation removal, the limits of the identified buffer around special-status plants to be avoided shall be marked in the field (e.g., with flagging, fencing, paint, or other means appropriate for the site in question).

This marking shall be maintained intact and in good condition throughout project-related construction activities.

If complete avoidance is not feasible and more than 10% of a population (by occupied area or individuals) would be impacted as determined by a qualified plant ecologist, MM BIO-1.3 shall be implemented.

MM BIO-1.3: Preserve and Manage Mitigation Populations. If avoidance of Congdon's tarplant is not feasible and more than 10% of the population would be impacted, compensatory mitigation would be provided via the preservation, enhancement, and management of occupied habitat for the species, or the creation and management of a new population. To compensate for impacts on Congdon's tarplant, off-site habitat occupied by the affected species shall be preserved and managed in perpetuity at a minimum 1:1 mitigation ratio (at least one plant preserved for each plant affected, and at least one occupied acre preserved for each occupied acre affected), for any impact over the 10% significance threshold. Alternately, seed from the population to be impacted may be harvested and used either to expand an existing population (by a similar number/occupied area to compensate for impacts to Congdon's tarplant beyond the 10% significance threshold) or establish an entirely new population in suitable habitat. The compensation area could be within the Airport grounds, for example within one of the burrowing owl mitigation sites, or off-site.

Additional criteria for the identification of suitable mitigation sites, success criteria for the mitigation, and mitigation management criteria are listed in Section 6.1.2 of Appendix E of the Draft EIR.

Finding: Implementation of Mitigation Measures MM BIO-1.1 through MM BIO-1.3 would reduce potential impacts to Congdon's tarplant to a less than significant level. **(Less than Significant Impact with Mitigation)**

Facts in Support of Finding: Completing pre-activity surveys determine if Congdon's tarplant is on-site. If determined that the species is present, the implementation of avoidance buffers would completely avoid impacts on all populations of Congdon's tarplant within the project's footprint or within the identified buffers of the impact areas. If avoidance is not feasible, impacts would be reduced to less than significant through the preservation, enhancement and management of occupied habitat for the species, or the creation and management of a new population. Compliance with Mitigation Measure MM BIO-1.1 through MM BIO-1.3 would reduce potential impacts to Congdon's tarplant to less than significant.

Impact: **Impact BIO-2:** If determined to be present, the Project could have a substantial adverse effect on nesting birds.

Mitigation: **MM BIO-2.1:** Avoidance and Inhibition of Nesting. Construction and tree removal/pruning activities shall be scheduled to avoid the nesting season. Tree removal and/or pruning shall be completed before the start of the nesting season to help preclude nesting. The nesting season for most birds and raptors in the San Francisco Bay Area extends from February 1st through August 31st, inclusive.

MM BIO-2.2: Preconstruction Survey(s). If it is not possible to schedule construction activities during the period of September 1st through January 31st, inclusive, then a qualified ornithologist shall conduct a preconstruction survey for nesting raptors and other migratory birds within on-site trees as well as all trees within 250 feet of the site to identify active bird nests that may be disturbed during project construction. This survey shall be completed no more than fourteen days prior to the initiation of demolition/construction activities (including tree removal and pruning). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests.

If the survey does not identify any nesting birds that would be affected by construction activities, no further mitigation shall be required.

If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist (in consultation with the California Department of Fish & Wildlife - CDFW) shall designate a construction-free buffer zone to be established around the nest to ensure that no nests of species protected by the federal Migratory Bird Treaty Act (MBTA) and California Fish and Game Code would be disturbed during construction activities. The buffer shall remain in place until a qualified ornithologist has determined that the nest is no longer active.

MM BIO-2.3: Reporting. A final report on nesting birds and raptors, including survey methodology, survey date(s), map of identified active nests (if any), and protection measures (if required), shall be submitted and approved by the City's Director of Planning, Building, and Code Enforcement or Director's designee prior to the start of grading.

Finding: Implementation of mitigation measures MM BIO-2.1 through MM BIO-2.3 would reduce potential impacts to nesting birds to a less than significant level. **(Less than Significant Impact with Mitigation)**

Facts in Support of Finding: Scheduling construction and tree-removal/pruning activities outside of the nesting season would avoid disturbance to nesting birds. If not feasible, conducting pre-construction surveys and implementing a construction-free buffer zone around any migratory bird nests will ensure that raptor and migratory bird nests are not disturbed during project construction, under the Migratory Bird Treaty Act and California Fish and Game Code. The size of the buffer zones will be determined by consultation between the qualified ornithologist and the CDFW and based on scientific evidence and best management practices. Compliance with Mitigation Measure MM BIO-2.1 through MM BIO-2.3 would avoid impacts to nesting birds.

Impact: **Impact BIO-3:** If determined to be present, the Project could have a substantial adverse effect on roosting bats.

Mitigation: **MM BIO-3.1:** Conduct Pre-Activity Surveys for Roosting Bats. A Pre-activity survey for roosting bats shall be conducted prior to any removal or renovation of hangar buildings with metal siding or buildings with closed areas such as an attic space, particularly those that are unoccupied. No pre-activity survey is required for buildings without attics or metal siding. The survey shall be conducted by a qualified bat biologist. If no active roosts are found, then no further action shall be warranted. If a roost is present, a qualified bat biologist shall determine the species and number of individuals present.

MM BIO-3.2: Avoid Disturbance of Active Roosts. If an occupied roost is found in a structure that would be disturbed or removed by proposed activities, the Project may be redesigned to avoid the disturbance of the structure. If the roost is unoccupied at the time of the survey, the Airport may choose to install bat exclusion devices to prevent bats from taking up occupancy of the structure prior to the onset of the proposed activity. If avoidance is not feasible, MM BIO-3.3 and MM BIO-3.4 shall be implemented.

MM BIO-3.3: Avoid Disturbance of Maternity Roosts. If an active maternity roost is present within the building to be demolished and the Project cannot be redesigned to avoid removal or disturbance of the occupied roost, disturbance shall not take place during the maternity season (as determined by the qualified bat biologist, but roughly March 15th to August 31st,

inclusive), and an appropriate disturbance-free buffer zone (also determined by the qualified bat biologist) shall be observed during this period to avoid disturbing the roosting bats.

MM BIO-3.4: Exclude Bats Prior to Disturbance. If disturbance of an active non-breeding roost cannot be avoided, the individuals shall be safely evicted outside the maternity season (as determined by the qualified bat biologist) between approximately August 1st and March 15th, inclusive. Bats may be evicted through exclusion after notifying the CDFW. Exclusion methods may include the installation of one-way doors and/or use of ultrasonic deterrence devices. One-way doors and/or deterrence devices shall be left in place for a minimum of two weeks with a minimum of five fair-weather nights with no rainfall and temperatures no colder than 50°F.

Finding: Implementation of mitigation measures MM BIO-3.1 through MM BIO-3.4 would reduce impacts to roosting bats to less than significant levels. **(Less than Significant Impact with Mitigation)**

Facts in Support of Finding: Conducting pre-activity surveys and avoiding disturbance of any structures containing active roosts would ensure that active roosts are not disturbed during Project construction. The use of bat exclusion devices if a structure does not have roosting bats would prevent the later occupation of roosting bats. If it is not feasible to avoid disturbance to active roosts, then disturbance would be avoided during maternity season and disturbance-free buffer zones would be installed. If disturbance of an active non-breeding roost cannot be avoided, the individuals shall be safely evicted outside the maternity season. Compliance with Mitigation Measure MM BIO-3.1 through MM BIO-3.4 would avoid impacts to roosting bats.

Impact: **Impact BIO-4:** The Project would have a substantial adverse effect on burrowing owls.

Mitigation: **MM BIO-4.1:** Provide Compensatory Mitigation for Permanent Impacts on Burrowing Owl Nesting Habitat. The loss of acreage of on-Airport-occupied burrowing owl nesting habitat will occur as certain airfield reconfiguration projects are implemented. Compensatory mitigation shall be provided for permanent loss of 32.4 acres of occupied burrowing owl nesting habitat, as well as for the degradation of the remaining 83.4 acres of nesting and roosting habitat at the airfield and the expected increase in annual mortality of burrowing owls due to collisions with aircraft following Amendment implementation. Compensatory mitigation shall be provided via the payment of Santa Clara Valley Habitat Conservation Plan (Habitat Plan)

burrowing owl fees for all 32.4 acres of direct, permanent impacts on occupied habitat.

Because the Airport is located within the Habitat Plan area, even though airport improvement projects are not considered “covered activities” under the Habitat Plan, the payment of Habitat Plan burrowing owl fees would be appropriate in lieu of providing on-site and/or off-site mitigation. This mitigation approach is consistent with the Voluntary Fee Payments Policy of the Santa Clara Valley Habitat Agency, which states that such voluntary burrowing owl fees paid as mitigation “will be applied toward burrowing owl management agreements, burrowing owl habitat management and monitoring, as well as burrowing owl habitat restoration and land acquisition.” Payment of the full, per-acre Habitat Plan burrowing owl fee for all 32.4 acres of direct permanent impacts shall satisfy MM BIO-4.1.

Compensatory mitigation for impacts to burrowing owls (i.e., the payment of Habitat burrowing owl fees) may be phased in accordance with phasing of impacts, so that the amount of mitigation provided for a phased Project activity equals or exceeds that required based on the acreage of burrowing owl habitat impacted by that activity; the mitigation for impacts of a given phased Project activity shall be provided prior to those impacts occurring.

MM BIO-4.2: Update and Implement the Burrowing Owl Management Plan (BOMP). The existing BOMP was developed based on 1997 site conditions and owl management and monitoring methodologies. To improve management for burrowing owls at the Airport, the Airport shall implement the following updates to Section 3.2 of the BOMP:

- Conduct Preconstruction Surveys for Burrowing Owls. The existing BOMP requires preconstruction surveys for burrowing owls and suitable owl burrows prior to ground-disturbing activities, with one survey occurring during the prior fall/winter season and one survey occurring within 30 days of the start of construction. However, if the preconstruction survey is conducted 30 days in advance of the proposed activity, there is some potential for owls to change locations between the survey and the activity and potentially occur within the ground disturbance area, or close enough to this area to be disturbed by the activity. In order to ensure that take avoidance measures are successful, the BOMP shall be updated to require preconstruction surveys to be conducted per Habitat Plan survey requirements for take avoidance, which represent the latest methodology that is accepted by resource agencies.

- Preconstruction surveys for burrowing owls shall be conducted prior to the initiation of all Project construction activities within suitable burrowing owl nesting and roosting habitat (i.e., ruderal grassland habitat with burrows of California ground squirrels) at the airfield, or within 250 feet of this habitat. During the initial site visit, a qualified biologist shall survey the entire activity area and (to the extent that access allows) areas within 250 feet by walking transects with centerlines no more than 50 feet apart and ensure complete visual coverage and looking for suitable burrows that could be used by burrowing owls for nesting or roosting. If no suitable burrowing owl habitat (i.e., ruderal grasslands with burrows of California ground squirrels) is present, no additional surveys are required. If suitable burrows are determined to be present within 250 feet of the work area, a qualified biologist shall conduct a minimum of two additional surveys to determine whether owls are present in areas where they could be affected by proposed activities. The surveys would last a minimum of three hours, beginning one hour before sunrise and continuing until 2 hours after sunrise or beginning 2 hours before sunset and continuing until 1 hour after sunset. Additional time may be required if the work area is very large. The first survey shall occur up to 14 days prior to the start of construction activities in any given area, and the final survey shall be conducted within two days prior to the start of construction activities.
- Implement Buffer Zones for Burrowing Owls. The existing BOMP does not include the option to maintain disturbance-free buffers around active owl burrows (rather, the eviction of owls from burrows within and near work areas is assumed). This measure will minimize project impacts on owls by providing the option to avoid owl burrows, rather than requiring the eviction of any owls that may be present near work areas.

If burrowing owls are detected during the pre-activity survey, a 250-foot buffer, within which no newly initiated construction-related activities would be permissible, shall be maintained between construction activities and occupied burrows. Owls present between February 1st and August 31st, inclusive, shall be assumed to be nesting, and the 250-foot protected area shall remain in effect until August 31.

- Monitor Owls During Construction. If maintaining a 250-foot buffer around active owl burrows is not feasible, the buffer may be reduced if (1) the nest is not disturbed, and (2) the City develops an avoidance, minimization, and monitoring plan that shall be reviewed and approved by CDFW and U.S. Fish & Wildlife Service (USFWS)

prior to project commencement. The plan shall include the following measures:

- A qualified biologist shall monitor the owls for at least three days prior to construction as well as during construction.
- If the biologist observes no change in the owls' nesting and foraging behavior, construction activities may proceed.
- If changes in the owls' behaviors as a result of work activities are observed, activities shall cease within 250 feet of the active burrow location(s). Work activities may resume when the burrows are no longer occupied. If monitoring indicates that the burrow is no longer in use by owls, the disturbance-free buffer may be removed.
- Passive Relocation¹. If construction activities directly impact occupied burrows, a qualified biologist shall passively evict owls from burrows during the non-nesting season (September 1st to January 31st, inclusive). No burrowing owls shall be evicted during the nesting season (February 1st through August 31st, inclusive) except with CDFW's concurrence that evidence demonstrates that nesting is not actively occurring (e.g., because the owls have not yet begun nesting early in the season, or because the young have already fledged late in the season). Eviction shall occur through the use of one-way doors inserted into the occupied burrow and all burrows within impact areas that are within 250 feet of the occupied burrow (to prevent occupation of other burrows that would be impacted). One-way doors shall be installed by a qualified biologist and left in place for at least 48 hours before they are removed. The burrows shall then be backfilled to prevent re- occupation. Although relocation of owls may be necessary to avoid the direct injury or mortality of owls during construction, relocated owls may suffer predation, competition with other owls, or reduced health or reproductive success as a result of being relegated to more marginal habitat. However, the benefits of such relocation, in terms of avoiding direct injury or mortality, would outweigh any adverse effects.
- Compensatory Mitigation. Because the number of burrows that are present on the airfield does not appear to limit the existing population

¹ The passive relocation of burrowing owls is not currently permitted under the VHP because a positive growth trend in the owls' regional population has not yet been achieved. However, passive relocation is included here as a mitigation measure here because (1) Airport projects are not covered under the VHP, and (2) the proposed Amendment improvements are necessary to address aviation safety concerns at the Airport.

of owls at the airfield, compensatory mitigation for the eviction of owls for shall be provided as described in MM BIO-4.1 above rather than on a case-by-case basis each time an owl is evicted from a burrow. This mitigation would maintain sufficient numbers of burrows in the mitigation areas over the long term to provide habitat for any owls that may be evicted from the airfield as a result of the Project.

The City shall continue to implement the BOMP with the updates described above.

Finding: Implementation of mitigation measures MM BIO-4.1 through MM BIO-4.2 would reduce the impacts of the Project on burrowing owls to less than significant levels. **(Less than Significant Impact with Mitigation)**

Facts in Support of Finding: Payment of Habitat Plan burrowing owl fees would be appropriate in lieu of providing on-site and/or off-site mitigation. This mitigation approach would be consistent with the Voluntary Fee Payments Policy of the Santa Clara Valley Habitat Agency, which states that such voluntary burrowing owl fees paid as mitigation “will be applied toward burrowing owl management agreements, burrowing owl habitat management and monitoring, as well as burrowing owl habitat restoration and land acquisition.” Payment of the full, per-acre Habitat Plan burrowing owl fee for all 32.4 acres of direct permanent impacts would satisfy MM BIO-4.1. Updating and implementing the BOMP would improve management for burrowing owls at the Airport.

Impact: **Impact BIO-5:** The Project would have a substantial adverse effect on habitat utilized by the Bay checkerspot butterfly.

Mitigation: **MM BIO-5.1:** Although the Airport is owned and operated by the City of San José, a Local Partner in the Habitat Plan, and the Airport is located within the boundaries of Habitat Plan area, improvement projects at the Airport are excluded as covered activities under the Habitat Plan. Irrespective of this fact, the City as CEQA Lead Agency acknowledges the nitrogen deposition impacts of the Project and is committing to pay the nitrogen deposition fee that applies to covered activities, based on new daily vehicle trips. [Note: Per Table 6 in the traffic analysis prepared as part of this EIR, the Project will generate 29,332 new daily vehicle trips.] According to the Santa Clara Valley Habitat Agency, the fees collected from covered activities do not fully cover the costs related to mitigating nitrogen deposition impacts due to new development. Therefore, the Habitat Agency accepts fees from non-covered activities and states that “nitrogen deposition voluntary fee payments will be applied toward land acquisition,

management, and monitoring for Bay checkerspot butterfly and serpentine covered plant species.”

The Airport shall pay the nitrogen deposition fees that apply to covered activities under the VHP, based on net new daily vehicle trips. The Airport shall pursue an agreement with the Santa Clara Valley Habitat Agency within six months of City adoption of the amended Master Plan to pay the full fee within three months of award of the first construction contract for implementation of terminal area development comprising any component of Master Plan Project T-4 (new short-term public parking garage), T-13 (Terminal B South Concourse), or T-16 (new business hotel). The fee per vehicle trip shall be as set by the Habitat Agency at the time of payment.

Finding: Implementation of mitigation measure MM BIO-5.1 would reduce the impacts of the Project on habitat utilized by the Bay checkerspot butterfly to less than significant levels. **(Less than Significant Impact with Mitigation)**

Facts in Support of Finding: As discussed in Section 4.4.2.1, the City would pay the nitrogen deposition fee that applies to covered activities, based on new daily vehicle trips. A nexus study was completed for the Habitat Plan to assist with identifying appropriate fees to fund measures in the Habitat Plan. The nitrogen deposition fee was calculated and adopted based on Habitat Plan costs related to mitigating the impacts of airborne nitrogen deposition from covered activities in the Habitat Plan area. The fee-per-vehicle-trip is a surrogate that captures the overall effects of a project, recognizing that vehicle trips are not the only source of a project’s NOx emissions. The Habitat Agency accepts fees from non-covered activities and states that “nitrogen deposition voluntary fee payments will be applied toward land acquisition, management, and monitoring for Bay checkerspot butterfly and serpentine covered plant species.”

Impact: **Impact BIO-13:** The Project would conflict with local policies and ordinances protecting biological resources, specifically in relation to riparian buffer encroachment and bird collisions with buildings.

Mitigation: **MM BIO-13.1:** Detailed plans for the structures that may be constructed in or near the 100-foot riparian buffers along the Guadalupe River have not yet been prepared. However, the City shall strive to design the parking garage in such a way that encroachment into the riparian buffer can be avoided altogether, and fuel farm tanks shall be at least 100-feet from the edge of the riparian buffer. If the Airport needs to encroach into the riparian buffer, then the extent to which encroachment occurs (as determined both by the distance between the proposed development and the riparian

baseline and by the acreage of encroachment into the buffer) shall be minimized. If encroachment is avoided, so that no new, more intensive types of development occur within 100 feet of the buffer baseline, or any closer to the buffer baseline than existing development already occurs (e.g., buildings constructed within the 100-foot setback where only paved areas are currently present), no further mitigation for riparian buffer encroachment impacts shall be necessary. If any encroachment is proposed, MM BIO-13.2 shall be implemented to reduce the residual impact to less than significant levels.

MM BIO-13.2: If encroachment into the riparian buffer cannot be avoided, compensatory mitigation shall be provided to offset the impacts on the ecological functions and values of the riparian corridor. Such compensatory mitigation shall be provided in one of two ways:

1. At a minimum ratio of 1:1 (compensation: impact), on an acreage basis, existing development (e.g., buildings or hardscape) along the Guadalupe River, either on-site or off-site, shall be removed, and the developed area restored to native habitats and dedicated to natural habitat (rather than active human uses such as urban park). For example, if a portion of the study area were subject to riparian buffer encroachment, but a commensurate acreage of existing developed areas adjoining the Guadalupe River levee in other parts of the study area were restored to native habitat, that shall compensate for the riparian buffer encroachment impact.

At a minimum ratio of 2.5:1 (compensation: impact) on an acreage basis, riparian woodland habitat shall be restored or created as described below to provide ecological functions and values that offset those lost due to riparian buffer encroachment. To compensate for encroachment into the riparian buffer, riparian woodland habitat would be restored or created at a minimum ratio of 2.5:1 (compensation: impact) on an acreage basis, based on canopy area. This ratio is not higher due to the moderately high quality of the riparian woodland adjacent to the study area relative to more extensive, less fragmented riparian woodland elsewhere in the region, but is not lower due to the temporal loss of riparian functions and values that would result from the lag between impacts to the woodland adjacent to the study area and maturation of the mitigation habitat.

Compensation would be provided by planting riparian habitat so as to achieve the 2.5:1 ratio somewhere in the Santa Clara Valley, preferably along the Guadalupe River but along another stream if appropriate. Mitigation habitat may be hydrologically isolated from the stream in question

as long as it is located within 300 feet of the stream, is not separated from the stream by development other than a trail or levee, and is dominated by native riparian trees.

MM BIO-13.3: Implement Bird-Safe Building Design. Due to the potential for buildings within the study area to result in high numbers of bird collisions, the Airport shall implement the following bird-safe building design features for all buildings constructed or modified within 300 feet of the Guadalupe River:

- The use of glass on the façades of new buildings and additions shall be minimized to the extent feasible.
- No more than 10% of the surface area of the façades of buildings that face the Guadalupe River shall have untreated glazing between the ground and 60 feet above ground. Bird-safe glazing treatments may include fritting, netting, permanent stencils, frosted glass, exterior screens, and/or physical grids placed on the exterior of glazing or ultraviolet patterns visible to birds. Vertical elements of the window patterns shall be at least ¼-inch wide at a maximum spacing of 4 inches, or have horizontal elements at least 1/8-inch wide at a maximum spacing of 2 inches.
- No more than 10% of the surface area of façades facing the Guadalupe River and/or façade areas within 12 vertical feet above and/or below landscaped terraces shall have untreated glazing.
- All glazing panels at corners of façades that face the Guadalupe River between the ground and 60 feet above ground and/or within 12 vertical feet above and/or below landscaped terraces (regardless of their height above ground) shall be 100% treated.
- Exterior lighting on the sides of buildings facing the Guadalupe River shall be minimized to the extent feasible, except as needed for safety. All exterior lights shall be directed toward facilities on the project site (e.g., rather than directed upward or outward) and shielded to ensure that light is not directed outward towards the Guadalupe River.
- Exterior up-lighting shall not be used.
- Occupancy sensors or other switch control devices shall be installed on interior lights, with the exception of emergency lights or lights needed for safety purposes.

Finding: Implementation of mitigation measures MM BIO-13.1 through MM BIO-13.3 would reduce impacts to biological resources, specifically in relation to

riparian buffer encroachment and bird collisions with buildings, to a less than significant level. **(Less than Significant Impact with Mitigation)**

Facts in Support of Finding: If the project avoids encroachment into the riparian buffer so that no new, more intensive types of development occur within 100 feet of the buffer baseline, or any closer to the buffer baseline than existing development already occurs, then the project would require no further mitigation to avoid encroachment impacts. If any encroachment is proposed, compensatory mitigation to offset the impacts in the ecological functions and values of the riparian corridor would reduce impacts to less than significant.

Implementation of bird-safety building design features for all the buildings constructed or modified within 300 feet of the Guadalupe River, as discussed in Section 4.4.2.1, would reduce the potential for bird collisions to a less than significant level.

Impact: **Impact BIO-14:** The Project would conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan, specifically in relation to burrowing owls and nitrogen deposition.

Mitigation: Implement Mitigation Measures MM BIO-4.1, MM BIO-4.2, and MM BIO-5.1.

Finding: With the implementation of MM BIO-4.1, MM BIO-4.2, and MM BIO-5.1, the Project would be consistent with the goals of the Habitat Plan. **(Less than Significant Impact with Mitigation)**

Facts in Support of Finding: The Airport is located within the Habitat Plan permit area. However, Airport projects were excluded from the Plan's impact analysis, and projects at the Airport are not "covered projects" under the Habitat Plan. Thus, the Project is not considered a covered activity under the Habitat Plan. Nevertheless, the Habitat Plan's conservation strategy does relate directly to the Project with respect to the burrowing owl and nitrogen deposition. As described in Section 4.4.2.1, the Project would result in significant burrowing owl and nitrogen deposition impacts, which without mitigation would be inconsistent with the goals of the Habitat Plan. However, with the implementation of MM BIO-4.1, MM BIO-4.2, and MM BIO-5.1, the Project would be consistent with the goals of the Habitat Plan.

Impact: **Impact BIO-C:** The Project could result in a cumulatively considerable contribution to a significant biological resources impact.

Mitigation: Implement Mitigation Measures MM BIO-1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, 3.4, 4.1, 4.2, 5.1, 13.1, 13.2, and 13.3.

Finding: With implementation of mitigation measures and standard permit conditions, the Project would not result in a cumulatively considerable contribution to a significant biological resources impact. **(Less than Significant Impact with Mitigation)**

Facts in Support of Finding: Standard permit requirements imposed on all projects (i.e., tree replacement) avoids a significant cumulative impact because the end result is no net loss of trees. Local policies strongly discourage impacts to sensitive habitats (e.g., riparian corridors and wetlands) and where such impacts cannot be avoided, the creation of replacement habitat is mandated by various permitting agencies, thus avoiding a net loss of the resource. In addition, the Habitat Plan is a mechanism that allows projects to contribute their fair share to regional mitigation, thereby addressing cumulative effects. Finally, by the implementation of all the biological mitigation measures described in the EIR, the Project's contribution to a biological impact would not be cumulatively considerable.

Cultural Resources

Impact: **Impact CUL-2:** Portions of the Airport are considered archaeologically sensitive and therefore the construction of the Project could impact buried archaeological resources.

Mitigation: **MM CUL-2.1:** The archaeological monitoring program that is currently in effect at the Airport shall be continued by the City as part of the Project. Under this program, a qualified archaeologist shall monitor all subsurface construction activity for the identified projects located within designated archaeological sensitive areas. If prehistoric or historic archaeological resources are uncovered during construction activities, the monitoring archaeologist shall require that work be discontinued within a 100-foot radius of the find. A report evaluating the find and identifying mitigation for impacts shall be prepared by the archaeologist and submitted to the City's Director of Planning, Building, and Code Enforcement and the Director of the Airport.

Finding: Implementation of mitigation measure MM CUL-2.1 would reduce potential impacts to archaeological resources to a less than significant level **(Less than Significant Impact with Mitigation)**

Facts in Support of Finding: A significant impact could occur if the Project would disturb an archaeological resource. Implementation of MM CUL-2.1 would require monitoring of subsurface construction activity by an archaeologist. Work would discontinue within a 100-foot radius if prehistoric or historic archaeological resources are uncovered during construction activities. The archeologist would evaluate the find and identify mitigation as necessary. The mitigation would reduce potential risk to archaeological resources to a less than significant level.

Impact: **Impact CUL-3:** Directly related to impact CUL-2, above, if any buried archaeological resources are impacted by the Project, such resources could contain human remains.

Mitigation: **MM CUL-3.1:** In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 100-foot radius of the find shall be stopped. The Santa Clara County Coroner shall be notified and make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) immediately. Once the NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.

Finding: Implementation of mitigation measure MM CUL-3.1 would reduce potential impacts to archaeological resources, specifically human remains, to a less than significant level. **(Less than Significant Impact with Mitigation)**

Facts in Support of Finding: A significant impact could occur if the Project would disturb buried human remains. Implementation of MM CUL-3.1 would require all activity stop within a 100-foot radius of human remains discovered during excavation and/or grading of the site. The Santa Clara County Coroner and, if the remains are determined to be Native American, the Native American Heritage Commission and most likely descendants, would determine proper treatment and/or burial of the body. The mitigation would reduce potential risk to human remains to a less than significant level.

Greenhouse Gas Emissions

Impact: **Impact GHG-1:** The Project would generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment.

Mitigation: **MM GHG-1.1:** The Airport shall develop and implement a phased carbon management program that is consistent with the standards of ACI “Level 3+” Airport Carbon Accreditation Program, or equivalent, including calculation of annual carbon emissions from Airport activity, identifying emissions reduction targets, tracking progress toward achieving effective carbon management procedures, and publishing an ~~annual~~ biennial carbon footprint report as a component of the Airport’s broader environmental sustainability program.

Finding: Even with implementation of MM GHG-1.1 and other emissions reduction programs described in Section 4.8.4.1, the Project’s incremental increase in GHG emissions is considered significant and unavoidable due to forecasted increases in aircraft activity beyond the City’s control in operating the Airport. As described in Section 3.0, the decisions facing the City are whether, and how, to make improvements to the Airport to accommodate the increased activity or handle the increased activity within the framework of the existing Airport. **(Significant Unavoidable Impact)**

Facts in Support of Finding: As discussed in Section 4.8.4.1, the Project’s incremental increase in GHG emissions is considered significant and unavoidable due to forecasted increases in aircraft activity beyond the City’s control in operating the Airport.

Impact: **Impact GHG-2:** The Project would conflict with an applicable plan, policy or regulation adopted for the purpose of reducing GHG emissions.

Mitigation: Implement MM GHG 1.1.

Finding: Even with implementation of MM GHG-1.1 and other emissions reduction measures, the Project’s incremental increase in GHG emissions from aircraft activity serving the region as a whole would conflict with statewide emission reduction targets, resulting in a significant unavoidable impact. **(Significant Unavoidable Impact)**

Facts in Support of Finding: The Project would not impede or conflict with the City’s General Plan, Climate Smart San José, and Plan Bay Area 2040. However, because the Project’s incremental increase in GHG emissions would potentially conflict with statewide emission reduction targets, which strive to achieve long-range reductions in statewide emissions levels through 2050, and for which there are no feasible mitigation measures available, the Project would result in a significant and unavoidable impact.

Hazards and Hazardous Materials

Impact: **Impact HAZ-1:** The proposed expanded fuel storage facility could create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials.

Mitigation: **MM HAZ-1.1:** The Project shall be designed, constructed, and maintained in compliance with all applicable regulatory standards and policies, including provisions for full on-site containment, leak detection systems, and cathodic protection. In addition, a 100-foot setback from the Guadalupe River shall be maintained. The Airport and Airport tenants shall continue to implement its program to minimize accident risks at the fuel handling and storage facilities.

Finding: Implementation of mitigation measure MM HAZ-1.1 would reduce hazard risk to the public or the environment through routine transport, use, or disposal of hazardous materials to a less than significant level. **(Less than Significant Impact with Mitigation)**

Facts in Support of Finding: The Project's compliance with all applicable regulatory standards and policies and commitment to a 100-foot setback from the Guadalupe River would reduce the risk of exposing the public and environment to hazardous materials to a less than significant level.

Impact: **Impact HAZ-2:** The Project could create a significant risk if hazardous materials in sufficient concentrations are present in soils and those materials are, in turn, released into the environment during construction.

Mitigation: **MM HAZ-2.1:** Prior to beginning construction, the Airport shall investigate construction work areas to characterize soil and groundwater quality at potentially contaminated sites by completing a limited soil and groundwater investigation. Samples shall be collected from each of the proposed work areas that will be disturbed during project construction and to the depth of the planned excavation. Soil samples will be analyzed for any chemical of concern including, but not limited to, petroleum (as gasoline, diesel, and waste oil), Title 22 metals, Organochlorine Pesticides, and Volatile Organic Compounds to evaluate the potential presence of contamination. Groundwater samples shall be collected if construction projects are anticipated to require dewatering. The results of these soil and groundwater investigations shall be included in the Site Management Plan per MM HAZ-2.2.

MM HAZ-2.2: The City shall require the construction contractor for each project to develop and implement a Site Management Plan (SMP) or similar document to manage the cleanup of contaminated soils. If applicable, a SMP shall be prepared prior to construction to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of contaminated soils. At a minimum, the SMP shall include the following: 1) results from any limited soil and groundwater sampling conducted per MM HAZ-2.1; 2) stockpile management including dust control, sampling, stormwater pollution prevention and the installation of BMPs; 3) proper disposal procedures of contaminated materials; 4) monitoring, reporting, and regulatory oversight notifications; and 5) a health and safety plan for each contractor and subcontractor working at the site that addresses the safety and health hazards of each phase of site operations with the requirements and procedures for employee protection. The health and safety plan shall also outline proper soil and/or groundwater handling procedures and health and safety requirements to minimize worker and public exposure to contaminated soil and/or groundwater during construction.

Finding: Implementation of mitigation measure MM HAZ-2.1 through MM HAZ-2.2 would reduce the risk of possible hazardous materials in sufficient concentrations in the soil being released into the environment during construction to a less than significant level. **(Less than Significant Impact with Mitigation)**

Facts in Support of Finding: Implementation of remediation measures in an SMP would reduce potential impacts from on-site soil contamination to construction workers to a less than significant level.

FINDINGS CONCERNING ALTERNATIVES

In order to comply with the purposes of CEQA, it is important to identify alternatives that reduce the significant impacts that are anticipated to occur if the Project is implemented and to try to meet as many of the Project's objectives as possible. The CEQA Guidelines emphasize a common sense approach -- the alternatives should be reasonable, should "foster informed decision making and public participation," and should focus on alternatives that avoid or substantially lessen the significant impacts.

The alternatives analyzed in the FEIR were developed with the goal of being at least potentially feasible, given Project objectives and site constraints, while avoiding or reducing the Project's identified environmental effects. The following are evaluated as alternatives to the proposed Project:

1. Use of Moffett Federal Airfield Alternative
2. Relocate San José Airport to New Airport Site in the Region Alternative
3. Accommodate Air transportation Demand at Other Bay Area Airports Alternative
4. No Project Alternative #1 – No New Facilities at the Airport
5. No Project Alternative #2 – Existing Airport Master Plan

1. Use of Moffett Federal Airfield Alternative

- A. Description of Alternative:** This alternative would result in the relocation of all operations at San José Airport to Moffett Federal Airfield (Moffett), which is adjacent to the Cities of Mountain View and Sunnyvale. Formerly operated by the U.S. Navy as Moffett Field Naval Air Station, the 952-acre airport was transferred to the National Aeronautics and Space Administration (NASA) in 1994 and, with minor exceptions, remains closed to civil aviation use.

For purposes of analysis, it is assumed that Moffett could accommodate the demand for air transportation that is forecasted for San José in 2037. Therefore, this alternative could be characterized as being the same as the Project but in a different location.

- B. Comparison of Environmental Impacts:** The operational environmental impacts associated with the development of a civil airport at Moffett that would accommodate San José's air passenger, air cargo, and general aviation demand would be similar to those identified for the Project. The primary difference between the use of Moffett and the Project would be the location where the impacts would occur. For example, the noise impacts associated with aircraft operations would be moved from the neighborhoods near San José Airport to the neighborhoods near Moffett. Similarly, airport-related traffic impacts would move from roadways in San José and Santa Clara to those in Sunnyvale and Mountain View. Burrowing owls are present at both San José Airport and Moffett, so moving operations from San José to Moffett would not avoid impacts to that species. Again, this is a transference of impacts from one location to another.

The abandonment of San José Airport as an airport serving the greater San José area would have significant economic and land use implications. Many of the businesses that exist in the vicinity of the Airport are located there to take advantage of doing business near the Airport. Relocation of San José Airport to Moffett could affect the viability of many of these businesses and could result in the relocation of many businesses to Mountain View or Sunnyvale. In addition, decisions regarding the future land uses of the Airport property would be required, and the environmental impacts of such land use decisions could be significant.

- C. **Finding:** The Use of Moffett Federal Airfield Alternative would not meet the objective of accommodating current and future demand for commercial aviation services at San José Airport. While this alternative would eliminate the significant impacts of the Project at San José, the same impacts would simply be transferred approximately six miles to the west to Moffett. Therefore, this alternative is rejected.

2. Relocate San José Airport to New Airport Site in the Region Alternative

- A. **Description of Alternative:** This alternative would result in the development of a new airport at another location in the greater San José area. Such a location is speculative since no location has been identified by the FAA or any regional planning agencies such as the Metropolitan Transportation Commission.

A new airport in the greater San José area would require at least 1,000 acres of property (i.e., at least the same size as San José Airport) and likely would require more property to ensure that land use compatibility and noise impacts are adequately addressed.

For purposes of analysis, it is assumed that a new airport could accommodate the demand for air transportation that is forecasted for San José in 2037. Therefore, this alternative could be characterized as being the same as the Project but in a different location.

- B. **Comparison of Environmental Impacts:** The operational environmental impacts associated with the development of a new airport that would accommodate San José's air passenger, air cargo, and general aviation demand would be similar to those of the Project. The primary difference would be the location where the impacts would occur.

Any vacant site that would be of sufficient size to accommodate the relocation of the Airport would likely involve a substantial loss of agricultural and open space lands, as well as impacts to any biological resources at that location. Further, when compared to the existing Airport location, a relocated facility would be more distant from residents and businesses it serves, which would increase VMT, energy consumption, and emissions of pollutants.

Similar to the Use of Moffett Federal Airfield Alternative, the abandonment of San José Airport as an airport serving the greater San José area would have significant economic and land use implications. Many of the businesses existing in the vicinity of the Airport are located there to take advantage of doing

business near the Airport. Relocation to a new airport could affect the viability of many of these businesses and could result in the relocation of many businesses. In addition, decisions regarding the future land uses of the Airport property would be required, and the environmental impacts of such land use decisions could be significant.

- C. **Finding:** The Relocate San José Airport to New Airport Site in the Region Alternative is inconsistent with the project objective of continuing to provide aviation services at San José Airport. The existing facilities at San José Airport represent a substantial public investment. No planning activity is underway or proposed by any federal, state, regional, or local agency regarding development of a replacement for San José Airport at a different location. Selection of an alternative airport location would require extensive design and environmental study well beyond the scope of the Project and would take years to implement even if a suitable site was ultimately selected and secured. Further, the environmental impacts of developing a major airport at a new location would be significantly greater than the impacts of the Project. Therefore, this alternative is rejected.

3. Accommodate Air Transportation Demand at Other Bay Area Airports Alternative

- A. **Description of Alternative:** This alternative would relocate all operations at San José Airport to either Metropolitan Oakland International Airport (OAK) or San Francisco International Airport (SFO). For purposes of analysis, it is assumed that OAK or SFO or a combination of the two airports could accommodate San José's projected 2037 demand. This alternative does not acknowledge whether the airfield or landside capacity at either airport could accommodate the existing and projected demand for San José and neighboring cities in Santa Clara County while accommodating projected demand in their respective service areas.
- B. **Comparison of Environmental Impacts:** The operational environmental impacts associated with the redistribution of San José operations to OAK or SFO would further increase the environmental impacts associated with the operation of those two airports. While aircraft-generated noise impacts would be eliminated in the vicinity of San José Airport, noise impacts at OAK or SFO would increase as additional flights are added at those facilities. In addition, the number of vehicle miles traveled (VMT) in the Bay Area would increase as air passengers in the greater San José area would be required to travel farther to use an airport. This would translate into increased air pollutant emissions within the air basin.

The abandonment of San José Airport as an airport serving the greater San José area would have significant economic and land use implications. Many of the businesses existing in the vicinity of the Airport are located there to take advantage of doing business near the Airport. Redistribution of air transportation services to OAK or SFO could affect the viability of many of these businesses and could result in the relocation of many businesses to areas around OAK or SFO. In addition, decisions regarding the future land uses of the Airport property would be required, and the environmental impacts of such land use decisions could be significant.

- C. **Finding:** The Accommodating Air Transportation Demand at Other Bay Area Airports Alternative would not meet the objective of accommodating current and future demand for commercial air transportation services at San José Airport. The City has no jurisdiction over the use of OAK or SFO. Further, while this alternative would eliminate the significant impacts of the Project at San José, it would result in the transfer of those same impacts to OAK and/or SFO. Therefore, this alternative is rejected.

4. No Project Alternative # 1 – No New Facilities at the Airport

- A. **Description of Alternative:** No Project Alternative #1 would consist of no new or expanded or altered facilities at the Airport beyond those that currently exist or are under construction. None of the improvements listed in Table 3.3-1 would be implemented. None of the future improvements to the airfield would occur, the airfield modifications recommended by the RIM Study would not be implemented, and existing Runway 11/29 would remain. Other key improvement projects that would not be constructed would be the South Concourse of Terminal B, the final phase of the long-term parking garage, a short-term parking garage near Terminal B, a new 330-room business hotel, new air cargo facilities, new belly freight facilities, and the expansion of the fuel storage facility.

It is important to note that, although No Project Alternative #1 would consist of no new facilities, activity levels at the Airport are forecasted to continue to increase over 2018/baseline conditions. In other words, activity levels will increase irrespective of any decision to approve or disapprove the Project because the forecasts are based on projected economic, demographic, and market conditions in the region. So long as there is a market for air transportation services and there are facilities to accommodate the demand, activity will continue to increase. For an expanded discussion of this topic, including the City's inability to directly regulate activity levels at the Airport pursuant to the Airline Deregulation Act of 1978, please see the discussion at the start of Section 3.0, Project Description.

In light of the above, the relevant question is how much of the forecasted demand for air transportation services in 2037 can be accommodated by the existing facilities at the Airport. To address this question, an analysis was undertaken by HNTB, an aviation planning firm with expertise in airport facilities. The analysis, a copy of which is Appendix L of this EIR, evaluated the capacity of the Airport's existing facilities to determine if their size would result in some portion of the demand not being served. Facilities evaluated included the airfield, passenger terminals, aircraft gates, parking supply, cargo and freight, general aviation, rental cars, and roadways. A key part of the analysis involved reviewing facility design capacities and comparing them to actual activity data at airports from around the country.

The analysis concluded that the projected 2037 demand can be accommodated by the Airport's existing facilities, albeit under congested conditions with delays and poor levels of service. This conclusion comes from the data that show that people will endure delays and crowded conditions associated with facilities operating in excess of design capacity if there is service to a desired destination at an affordable price. In practical terms, this means that the 2037 forecasted activity levels that are shown in Table 3.2-1 are assumed to occur under No Project Alternative #1.

- B. Comparison of Environmental Impacts:** The No Project – No New Facilities at the Airport Alternative will avoid all the construction-related environmental impacts identified in the FEIR. The Alternative would avoid the impacts of the Project to the burrowing owl because no new facilities that would impact the owl and its habitat would be constructed. The No Project – No New Facilities at the Airport Alternative will result in similar noise impacts as the Project, with a slight shift of areas within the 65 dB CNEL contour as Runway 11/29 will be used instead of converted to a taxiway under the Project. Criteria Air Pollutants and GHG emissions will be slightly higher than the Project because of lengthened taxi times and delays due to more constrained/congested facilities.
- C. Finding:** The No Project - No New Facilities at the Airport Alternative would not meet the objective of reasonably and efficiently accommodating existing and future for air transportation services at the Airport. As stated previously, the projected 2037 demand could be accommodated by the Airport's existing facilities, albeit under congested conditions with delays and poor levels of service. Without the improvements to the airfield that are part of the Project, the airfield would not function efficiently under No Project Alternative #1. The lack of adequate taxiways that provide connections between runways, ramps, and aircraft parking areas would make the taxiing phases of flight more circuitous with resulting increases in delay. Further, No Project Alternative #1

would not include any of the improvements to the airfield recommended by the Runway Incursion Mitigation (RIM) Study, such improvements that would enhance safety. Therefore, this alternative is rejected.

5. No Project Alternative #2 – Existing Airport Master Plan

A. Description of Alternative: No Project Alternative #2 would consist of building the remaining, yet-to-be-constructed capital improvement projects that are identified in the existing Airport Master Plan. Those improvement projects are listed in Table 3.3-1, where they are compared side-by-side to those improvements that would be constructed under the proposed Project. As can be seen from Table 3.3-1, many of the improvements listed under the existing Airport Master Plan are similar to those listed under the proposed Project. The key differences are summarized in Table 8.5-3.

B. Comparison of Environmental Impacts: For criteria air pollutants and GHGs, the efficiencies associated with the new and expanded facilities of the Project will result in a reduction of those emissions, as compared to No Project Alternative #2. Emissions from aircraft during the taxiing phases of flights will be lower under the Project because the proposed airfield improvements will reduce delay; this reduction in taxiing time due to the Project is quantified in Table 3.35.

For noise, since Runway 11/29 will be in use under No Project Alternative #2 and will be removed under the Project conditions, there will be a very slight shift in noise. This negligible shift is reflected in Table 8.5-1 and 8.5-2. In Table 8.5-1, CNEL values would be the same at all reference grid point locations except #17 where the change is 0.1 dB, which is imperceptible. Similarly, Table 8.5-2 shows that the difference in total acreage within the 65-dB CNEL contour between the Project and No Project Alternative #2 would be only 12 acres, a change of one half of one percent. [Note: The noise impacts of No Project Alternatives #1 and # 2 are identical.]

C. Finding: The No Project – Existing Airport Master Plan Alternative would not include improvements recommended by the RIM study nor would it include improvements to accommodate current and future demand forecasts for commercial aviation services through 2037. Therefore, this alternative is rejected.

Environmentally Superior Alternative

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Alternatives 1-3 were determined to be infeasible, and thus cannot be

considered environmentally superior. Alternatives 4 and 5 are variations of the No Project Alternative. The significant unavoidable impacts of the Project are associated with emissions of criteria air pollutants and GHGs. All other impacts were either determined to be less than significant or would be reduced to a less than significant level with mitigation. For criteria air pollutants and GHGs resulting from project operation, the efficiencies associated with the new and expanded facilities of the Project would result in a reduction of those emissions compared to No Project Alternative #1 and No Project Alternative #2. In other words, the two feasible alternatives to the Project would exacerbate the significant unavoidable operational impacts of the Project. However, No Project Alternative #1, which would not include any construction activities, would avoid the Project's significant unavoidable impact associated with NO_x emissions during construction, and is environmentally superior in that respect.

CEQA Guidelines Section 15126.6(e)(1) states "if the environmentally superior alternative is the 'no project' alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives." As described above, the only feasible alternatives to the project are No Project Alternative #1 and No Project Alternative #2. As a result, the environmentally superior alternative other than No Project Alternative #1 is the Project itself.

MITIGATION MONITORING AND REPORTING PROGRAM

Attached to this Resolution as Exhibit "A" and incorporated and adopted as part of this Resolution herein is the Mitigation Monitoring and Reporting Program ("MMRP") for the Project required under Section 21081.6 of the CEQA Statute and Section 15097(b) of the CEQA Guidelines. The MMRP identifies impacts of the Project, corresponding mitigation, designation of responsibility for mitigation implementation and the agency responsible for the monitoring action.

STATEMENT OF OVERRIDING CONSIDERATIONS

- A. **Significant Unavoidable Impacts.** With respect to the foregoing findings and in recognition of those facts that are included in the record, the City has determined that the Project will result in significant unmitigated or unavoidable impacts, as set forth above, associated with air quality (emissions of NO_x during construction and operational phases and emissions of PM₁₀ during the operational phase) and greenhouse gas emissions.
- B. **Overriding Considerations.** The City Council specifically adopts and makes this Statement of Overriding Considerations that this Project has eliminated or substantially lessened all significant effects on the environment where feasible, and finds that the remaining significant,

unavoidable impacts of the Project are acceptable in light of the economic, legal, environmental, social, technological or other considerations noted below, because the benefits of the Project outweigh its significant adverse environmental impact of the Project. The City Council finds that each of the overriding considerations set forth below constitutes a separate and independent basis for finding that the benefits of the Project outweigh its significant adverse environmental impacts and is an overriding consideration warranting approval of the Project. These matters are supported by evidence in the record that includes, but is not limited to, the Envision San José 2040 General Plan, San José International Airport Comprehensive Land Use Plan, and Santa Clara Valley Habitat Plan.

C. **Benefits of the Project.** The City Council has considered the public record of proceedings on the proposed Project and other written materials presented to the City as well as oral and written testimony at all public hearings related to the Project, and does hereby determine that implementation of the Project as specifically provided in the Project documents would result in the following substantial public benefits:

1. **Safety.** The Project will modify certain components of the airfield to reduce the potential for runway incursions. This will improve compliance with current FAA design standards. Recommendations from the Runway Incursion Mitigation (RIM) study will be implemented, which will reduce the risk of runway incursions and conform with current FAA airfield design standards and criteria to ensure a high level of airfield safety.
2. **Meet demand forecasts.** The Project will extend the forecast year to 2037 in order to plan for the types and sizes of facilities needed to accommodate the demand at a reasonable level of service. The Project identified a phased program of specific airfield and landslide facility improvements to accommodate, to the extent reasonable and feasible, current and future demand for commercial air carrier services.
3. **Efficiency.** The Project creates a plan that designates the most efficient and productive aviation-related use of all Airport property in conformance with all applicable FAA standards.
4. **Reduction in emissions due to delay.** The Project will result in a reduction of air pollutants and GHGs due to the new and expanded facilities allowing for operational efficiency. Planes and cars will spend less time idling. Emissions from aircraft during the taxiing phases of flights will be lower because the proposed airfield improvements will reduce delay.
5. **Economic Benefits.** The project will result in economic benefits to the City of San José and the region. The proposed Airport Master Plan

Amendment provides the ability to accommodate projected aviation demand for the year 2037 more efficiently and safely, and with acceptable levels of customer service. According to estimates developed by the Airport Department and the City's Office of Economic Development, each new airline flight at the Airport generates an economic benefit to the region in the range of \$5 million to \$10 million annually for short and medium haul service, to upwards of \$100 million annually for transoceanic international service. Further, the project supports Strategy 9 in the City's Economic Development Strategy, which is to "keep developing a competitive, world class airport, and attract new air service."

The City Council has weighed each of the above benefits of the proposed Project against its unavoidable environmental risks and adverse environmental effects identified in the Final Environmental Impact Report and hereby determines that those benefits outweigh the risks and adverse environmental effects of the Project and, therefore, further determines that these risks and adverse environmental effects are acceptable and overridden.

LOCATION AND CUSTODIAN OF RECORDS

The documents and other materials that constitute the record of proceedings on which the City Council based the foregoing findings and approval of the Project are located at the City's Department of Planning, Building and Code Enforcement, San José City Hall, 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113. The City Council hereby designates the City's Director of Planning, Building, and Code Enforcement at the Director's office at 200 East Santa Clara Street, 3rd Floor Tower, San José California, 95113, as the custodian of documents and records of proceedings on which this decision is based.

ADOPTED this ____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

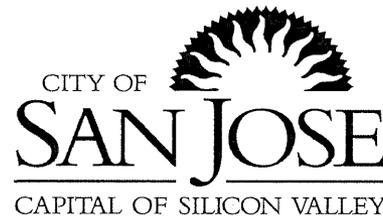
SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

**Amendment to Norman Y. Mineta San José International Airport
Master Plan Project
State Clearinghouse No. 2018102020
(File No. PP18-103)
February 2020**



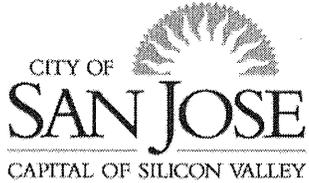
PREFACE

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) whenever it approves a Project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during Project implementation.

The Environmental Impact Report (EIR) prepared for the Amendment to Norman Y. Mineta San José International Airport Master Plan Project concluded that the implementation of the Project could result in significant effects on the environment and mitigation measures were incorporated into the proposed Project. This MMRP addresses those measures in terms of how and when they will be implemented.

This document does *not* discuss those subjects for which the EIR concluded that the impacts from implementation of the Project would be less than significant. Project conditions identified in the EIR are listed at the end of the MMRP.

The City of San José hereby agrees to fully implement the mitigation measures described below which have been developed in conjunction with the preparation of an EIR for the proposed project. The City understands that these mitigation measures or substantially similar measures shall be adopted as conditions of approval to avoid or significantly reduce potential environmental impacts to a less than significant level.



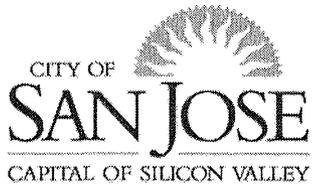
Planning, Building and Code Enforcement

ROSALYNN HUGHEY, DIRECTOR

Amendment to Norman Y. Mineta San José International Airport Master Plan Project

File No. PP18-103

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
AIR QUALITY					
Impact AIR-2: The Project would result in significant NO _x emissions related to construction and significant NO _x and PM ₁₀ emissions related to operation.					
Construction Mitigation Measures					
<p>MM AIR-2.1: All off-road equipment greater than 25 horsepower used in construction Projects at the Airport shall have engines that meet Tier 4 Final off-road emissions standards. The City’s Director of Planning, Building and Code Enforcement (PBCE) or Director’s designee may waive this requirement if presented with documentation that demonstrates that a particular piece of off-road equipment with an engine meeting Tier 4 Final emission standards is not regionally available.</p>	<p>For each construction project, the contractor shall prepare a Construction Emission Minimization Plan (required under MM AIR-2.4), which shall include specifications that all off-road equipment greater than 25 horsepower used in construction Projects at the Airport shall have engines that meet Tier 4 Final off-road emissions standards. Specifications shall be included on all contract specifications and on construction plans for each project.</p>	<p>Specifications shall be listed in all contracts and on all final construction plans prior to any approvals by the appropriate approving body (Director of the Department of Public Works or City Council). Measures shall be implemented during construction activities.</p>	<p>The City’s Director of PBCE (or Director’s designee).</p>	<p>The City’s Director of PBCE (or Director’s designee) shall review the equipment specified in the Construction Emission Minimization Plan and shall enforce or waive this requirement.</p>	<p>Construction Emission Minimization Plan shall be approved prior to approval of any construction plans or contracts. Measures shall be implemented throughout construction.</p>



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<p>MM AIR-2.2: Diesel engines, whether for off-road or on-road equipment, shall not be left idling for more than two minutes, at any location, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment (e.g., traffic conditions, safe operating conditions). The contractor shall post legible and visible signs in English, Spanish, and Chinese, in designated queuing areas and at the construction site to remind operators of the 2-minute idling limit.</p>	<p>All contract specifications and approved construction plans shall include this measure. The measure shall be implemented for the duration of construction activities for each construction project.</p>	<p>The measure shall be included on all contract documents and construction plans prior to any approvals. Implementation of the measure shall occur throughout construction.</p>	<p>The City's Director of PBCE (or Director's designee) and Project Contractor</p>	<p>Director of PBCE or Director's designee shall review draft contract and construction plans prior to approval to ensure measure is present. Airport staff and contractor shall implement measures during construction.</p>	<p>Measure on plans and contracts prior to approval of CEMP and implement throughout construction</p>
<p>MM AIR-2.3: The contractor shall instruct construction workers and equipment operators on the maintenance and tuning of construction equipment and require that such workers and operators properly maintain and tune equipment in accordance with manufacturer specifications.</p>	<p>All contract specifications and approved construction plans shall include this measure. The measure shall be implemented for the duration of construction activities for each construction project.</p>	<p>The measure shall be included on all contract documents and construction plans prior to any approvals. Implementation of the measure shall occur throughout construction.</p>	<p>The City's Director of PBCE (or Director's designee) and Project Contractor</p>	<p>Director of PBCE or Director's designee shall review draft contract and construction plans prior to any approvals to ensure measure is present. Airport staff and contractor shall implement</p>	<p>Measure on plans and contracts prior to any approvals and implement throughout construction</p>



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				measures during construction.	
<p>MM AIR-2.4: Before starting any onsite ground disturbance, demolition, or construction activities, the contractor shall submit a Construction Emissions Minimization Plan (CEMP) to the City’s Director of PBCE (or Director’s designee) for review and approval. The plan shall demonstrate how the contractor shall meet the requirements of MM AIR-2.1. The plan shall include estimates of the construction timeline, with a description of each piece of off-road equipment required. The description may include, but is not limited to, equipment type, equipment manufacturer, engine model year, engine certification (Tier rating), horsepower, and expected fuel usage and hours of operation. For off-road equipment using alternative fuels, the description shall also specify the type of alternative fuel being used.</p> <p>The Airport shall ensure that all applicable requirements of the CEMP have been incorporated into the contract specifications. The plan shall include a certification statement that the contractor agrees to comply fully with the plan.</p>	<p>Submit a CEMP to the City’s Director of PBCE (or Director’s designee) for review and approval. The Airport shall ensure that all applicable requirements of the CEMP have been incorporated into the contract specifications and approved project plans. The plan shall be available for public review. The contractor shall post at least one copy of the sign in a visible location on each side of the construction site facing a public right-of-way.</p>	<p>The measures in the CEMP shall be included on all contract specification and construction plans prior to any approvals. Implementation of the measures in the CEMP shall occur throughout construction.</p>	<p>The City’s Director of PBCE (or Director’s designee), Airport, and Contractor</p>	<p>Director of PBCE or Director’s designee shall review and approve CEMP prior to any final approval of plans and contracts. Airport staff and contractor shall ensure measures in CEMP are carried out during construction.</p>	<p>Prior to commencing any onsite ground disturbance, demolition, or construction activities.</p>



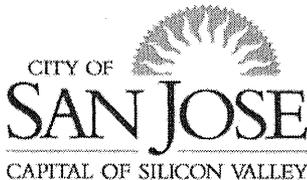
Planning, Building and Code Enforcement

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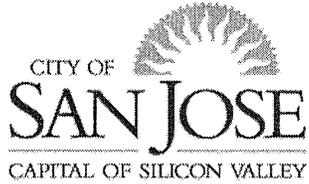
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<p>Contractor shall make the CEMP available to the public for review onsite during working hours. Contractor shall post at the construction site a legible & visible sign summarizing the plan. The sign shall state that the public may ask to inspect the plan for the Project at any time during working hours and shall explain how to request to inspect the plan. Contractor shall post at least one copy of the sign in a visible location on each side of the construction site facing a public right-of-way.</p>					
Operational Mitigation Measures					
<p>MM AIR-2.5: A minimum of 10 percent of the total number of spaces provided in the proposed short-and long-term parking garages (Projects T-4 and T-8, respectively) shall be designed and constructed for electric vehicle (EV) charging capability.</p>	<p>Design & construction plans for T-4 and T-8 shall include 10% of parking spaces designed and constructed for electric vehicle charging capacity.</p>	<p>Prior to any approvals of construction plans during the design phase of projects T-4 and T-8.</p>	<p>The City’s Director of PBCE (or Director’s designee)</p>	<p>Review design & construction plans to confirm number of EV spaces is provided.</p>	<p>Prior to any final approvals of design and construction plans.</p>



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BIOLOGICAL RESOURCES					
Impact BIO-1: If determined to be present, the Project could have a substantial adverse effect on the Congdon's tarplant					
<p>MM BIO-1.1: Pre-Activity Surveys. No more than five years prior to initial ground disturbance for any part of the Project that impacts ruderal grassland at the airfield, Fuel Farm, or Very High-Frequency Omnidirectional Range (VOR) site, a focused survey for Congdon's tarplant shall be conducted within the Project footprint and a 50-foot buffer around the Project footprint during the appropriate blooming period (May 31st to November 30th, inclusive). This buffer may be increased by the qualified plant ecologist depending on site-specific conditions and activities planned in the areas but must be at least 50 feet wide. Situations for which a greater buffer may be required include proximity to proposed activities expected to generate large volumes of dust, such as grading; potential for Project activities to alter hydrology supporting habitat for the species; or proximity to proposed structures that may shade areas farther than 50 feet away. Surveys are to be conducted in a year with near-average or above-average precipitation, based on National Weather Service data for San José.</p>	<p>Project plant ecologist shall prepare and submit the results of the pre-activity survey to the Director of PBCE or Director's designee.</p>	<p>No more than five years prior to initial ground disturbance and during the appropriate blooming period (May 31st to November 30th, inclusive). Surveys are to be conducted in a year with near-average or above-average precipitation, based on National Weather Service data for San José.</p>	<p>The City's Director of PBCE (or Director's designee).</p>	<p>Review and approve the focused survey for Congdon's tarplant.</p>	<p>Prior to the start of any ground disturbance or vegetation removal on the identified ruderal grassland, Fuel Farm, or the VOR site.</p>



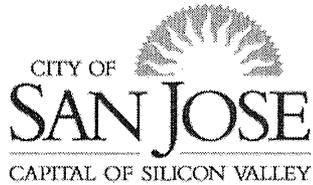
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<p>If Congdon’s tarplant is not found in the impact area or the identified buffer, then no further mitigation shall be warranted. If Congdon’s tarplant individuals are found in the impact area or identified, then MM BIO-1.2 and MM BIO-1.3 shall be implemented. The survey shall be submitted for review and approval by the City’s Director of PBCE or Director’s designee.</p> <p>Surveys for Congdon’s tarplant may be conducted over large areas simultaneously (rather than having to be conducted prior to each individual Project), but surveys for a particular project area must be performed within five years prior to the start of construction for that Project to be valid.</p>					



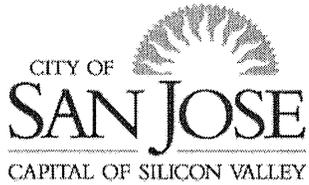
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<p>MM BIO-1.2: Avoidance Buffers. To the extent feasible, and in consultation with a qualified plant ecologist, the City shall design and construct the Project to completely avoid impacts on all populations of Congdon’s tarplant within the Project footprints or within the identified buffers of the impact areas. Avoided Congdon’s tarplant populations shall be protected by establishing and observing the identified buffer between plant populations and the impact area. All such populations located in the impact area or the identified buffer, and their associated designated avoidance areas, shall be clearly depicted on any construction plans. In addition, prior to initial ground disturbance or vegetation removal, the limits of the identified buffer around special-status plants to be avoided shall be marked in the field (e.g., with flagging, fencing, paint, or other means appropriate for the site in question). This marking shall be maintained intact and in good condition throughout Project-related construction activities.</p> <p>If complete avoidance is not feasible and more than 10% of a population (by occupied area or individuals) would be impacted as determined by a qualified plant ecologist, MM BIO-1.3 shall be implemented.</p>	<p>If Congdon’s tarplant individuals found in the survey under MM BIO-1.1, construction plans shall incorporate buffers as identified by the project plant ecologist, with a letter from the plant ecologist confirming the buffers provide adequate protection. The construction buffers and plant ecologist letter shall be submitted to the Director of PBCE or Director’s designee prior to the start of ground disturbing activities or vegetation removal.</p>	<p>Prior to the start of any ground disturbance or vegetation removal.</p>	<p>Director of PBCE or Director’s designee, Airport Dept., and contractor</p>	<p>PBCE shall review and approve buffer and letter from plant ecologist. Airport and contractor shall ensure buffers are maintained throughout project-related construction activities.</p>	<p>Buffer shall be approved and marked prior to the start of any ground disturbance or vegetation removal.</p>



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<p>MM BIO-1.3: Preserve and Manage Mitigation Populations. If avoidance of Congdon’s tarplant is not feasible and more than 10% of the population would be impacted, compensatory mitigation shall be provided via the preservation, enhancement, and management of occupied habitat for the species, or the creation and management of a new population. To compensate for impacts on Congdon’s tarplant, off-site habitat occupied by the affected species shall be preserved and managed in perpetuity at a minimum 1:1 mitigation ratio (at least one plant preserved for each plant affected, and at least one occupied acre preserved for each occupied acre affected), for any impact over the 10% significance threshold. Alternately, seed from the population to be impacted may be harvested and used either to expand an existing population (by a similar number/occupied area to compensate for impacts to Congdon’s tarplant beyond the 10% significance threshold) or establish an entirely new population in suitable habitat. The compensation area could be within the Airport grounds, for example within one of the burrowing owl mitigation sites, or off-site.</p>	<p>If required, a plan for the preservation and mitigation shall be developed by a plant ecologist shall be prepared and submitted to the Director of PBCE or Director’s designee for review prior to initial ground disturbance or vegetation removal.</p>	<p>Plan for preservation and mitigation shall be developed and submitted to the Director of PBCE or Director’s designee for review prior to the start of any ground disturbance or vegetation removal. If required, mitigation shall be established within two years of the time when the impacts occur.</p>	<p>The City’s Director of PBCE (or Director’s designee) and Airport staff.</p>	<p>Director of PBCE or Director’s designee shall review and approve preservation and mitigation plan. Plan shall be implemented by the Airport staff.</p>	<p>Plan approval prior to any ground disturbance or vegetation removal; implementation within 2 years of when impacts occur.</p>



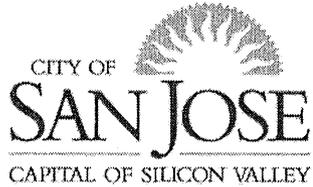
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Additional criteria for the identification of suitable mitigation sites, success criteria for the mitigation, and mitigation management criteria are listed in Section 6.1.2 of Appendix E to the Draft EIR.					
Impact BIO-2: If determined to be present, the Project could have a substantial adverse effect on nesting birds.					
MM BIO-2.1: Avoidance and Inhibition of Nesting. Construction and tree removal/pruning activities shall be scheduled to avoid the nesting season. Tree removal and/or pruning shall be completed before the start of the nesting season to help preclude nesting. The nesting season for most birds and raptors in the San Francisco Bay Area extends from February 1st through August 31st, inclusive.	If feasible, construction and tree removal/pruning activities shall be scheduled to avoid the nesting season. (Does not apply to projects on the airfield as no trees are present or nearby.)	Tree removal and/or pruning shall be completed before the start of the nesting season to help preclude nesting. The nesting season for most birds and raptors in the San Francisco Bay Area extends from February 1st through August 31st, inclusive.	The City's Director of PBCE (or Director's designee) and Airport staff.	Confirm that demolition and construction activities are scheduled outside of the nesting season.	Prior to the start of any ground disturbance and related activities



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<p>MM BIO-2.2: Preconstruction Survey(s). If it is not possible to schedule construction activities during the period of September 1st through January 31st, inclusive, then a qualified ornithologist shall conduct a preconstruction survey for nesting raptors and other migratory birds within on-site trees as well as all trees within 250 feet of the site to identify active bird nests that may be disturbed during Project construction. This survey shall be completed no more than fourteen days prior to the initiation of demolition/construction activities (including tree removal and pruning). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests.</p> <p>If the survey does not identify any nesting birds that would be affected by construction activities, no further mitigation shall be required.</p> <p>If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist (in consultation with the California Department of Fish & Wildlife) shall designate a construction-free buffer zone to be established around the nest to ensure that no nests of species protected by the federal Migratory Bird Treaty Act (MBTA) and California Fish and Game Code would be disturbed</p>	<p>If it is not possible to schedule construction activities during the period of September 1st through January 31st, inclusive, then a qualified ornithologist shall conduct a preconstruction survey for nesting raptors and other migratory birds within on-site trees as well as all trees within 250 feet of the site to identify active bird nests that may be disturbed during Project construction within 14 days prior to the proposed activities. [Does not apply to projects on the airfield as no trees are present or nearby.]</p> <p>Results of these surveys shall be submitted to the Director of PBCE or Director's designee.</p>	<p>This survey shall be completed no more than 14 days prior to the initiation of any demolition/construction activities (including tree removal and pruning).</p>	<p>The City's Director of PBCE (or Director's designee).</p>	<p>Review and approve the preconstruction survey.</p>	<p>Prior to the start of any construction activities within 250 feet of trees.</p>



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during construction activities. The buffer shall remain in place until a qualified ornithologist has determined that the nest is no longer active.					
MM BIO-2.3: A final report on nesting birds and raptors, including survey methodology, survey date(s), map of identified active nests (if any), and protection measures (if required), shall be submitted and approved by the City’s Director of PBCE or Director’s designee prior to the start of grading, tree removal, or construction activities.	Submit a final report on nesting birds and raptors, including survey methodology, survey date(s), map of identified active nests (if any), and protection measures (if required) to the City’s Director of PBCE.	Prior to the start of any tree removal, grading, demolition, and/or building permit or activities.	The City’s Director of PBCE or Director’s designee.	Review and approve a final report on nesting birds and raptors.	Prior to any tree removal, grading, demolition, and/or construction activities.



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Impact BIO-3: If determined to be present, the Project could have a substantial adverse effect on roosting bats.					
MM BIO-3.1: <u>Conduct Pre-Activity Surveys for Roosting Bats.</u> A Pre-activity survey for roosting bats shall be conducted prior to any removal or renovation of hangar buildings with metal siding or buildings with closed areas such as an attic space, particularly those that are unoccupied. No pre-activity survey is required for buildings without attics or metal siding. The survey shall be conducted by a qualified bat biologist. If no active roosts are found, then no further action shall be warranted. If a roost is present, a qualified bat biologist shall determine the species and number of individuals present.	A report with the findings of the pre-activity bat survey shall be prepared and submitted to the Director of PBCE or Director's designee.	Prior to any removal or renovation of hangar buildings with metal siding or buildings with closed areas such as an attic space, particularly those that are unoccupied.	The City's Director of PBCE or Director's designee.	Review and approve the pre-activity survey for roosting bats.	Prior to any removal or renovation of specified building types.
MM BIO-3.2: <u>Avoid Disturbance of Active Roosts.</u> If an occupied roost is found in a structure that would be disturbed or removed by proposed activities, the Project shall be redesigned to avoid the disturbance of the structure. If the roost is unoccupied at the time of the survey, the Airport may choose to install bat exclusion devices to prevent bats from taking up occupancy of the structure prior to the onset of the proposed activity. If avoidance is not feasible, MM BIO-3.3 and MM BIO-3.4 shall be implemented.	If an occupied roost is found in a structure that would be disturbed or removed by proposed activities, the Project shall be redesigned to avoid the disturbance of the structure. If the roost is unoccupied at the time of the survey, the City may choose to install bat exclusion devices to prevent bats from taking up	Prior to any removal or renovation of hangar buildings with metal siding or buildings with closed areas such as an attic space, particularly those that are unoccupied, if an active roost is found during the pre-construction survey outlined in MM BIO-3.1.	The City's Director of PBCE or Director's designee.	Ensure Project is redesigned if an occupied roost would be disturbed. If the roost is unoccupied at the time of the survey and Project redesign is not planned, then ensure bat	Prior to any removal or renovation of specified building types.



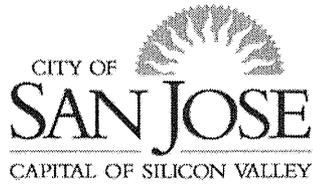
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ROSALYNN HUGHEY, DIRECTOR

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	occupancy of the structure prior to the onset of the proposed activity.			exclusion devices are installed.	
<p>MM BIO-3.3: <u>Avoid Disturbance of Maternity Roosts.</u> If an active maternity roost is present within the building to be demolished and the Project cannot be redesigned to avoid removal or disturbance of the occupied roost, disturbance shall not take place during the maternity season (as determined by the qualified bat biologist, but roughly March 15th to August 31st, inclusive), and an appropriate disturbance-free buffer zone (also determined by the qualified bat biologist) shall be observed during this period to avoid disturbing the roosting bats.</p>	<p>Roost disturbance shall not take place during the maternity season and an appropriate disturbance-free buffer zone as determined by the qualified bat biologist shall be observed during this period to avoid disturbing the roosting bats. A memo from the bat biologist with findings on the maternity season and the buffer zone shall be prepared, and measures shall be included on approved construction plans.</p>	<p>The memo from the bat biologist shall be submitted for review and approval by the City’s Director of PBCE or Director’s designee prior to the start of any demolition or renovation activities. The measures shall be implemented during building demolition or renovation.</p>	<p>The City’s Director of PBCE or Director’s designee and Airport Staff.</p>	<p>Review and approve memo from the bat biologist. Measures shall be implemented during demolition or renovation activities.</p>	<p>Review prior to any demolition or renovation activities.</p>



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<p>MM BIO-3.4: Exclude Bats Prior to Disturbance. If disturbance of an active non-breeding roost cannot be avoided, the individuals shall be safely evicted outside the maternity season (as determined by the qualified bat biologist) between approximately August 1st and March 15th, inclusive. Bats may be evicted through exclusion after notifying the CDFW. Exclusion methods may include the installation of one-way doors and/or use of ultrasonic deterrence devices. One-way doors and/or deterrence devices shall be left in place for a minimum of two weeks with a minimum of five fair-weather nights with no rainfall and temperatures no colder than 50° Fahrenheit.</p>	<p>A memo from the bat biologist specifying measures for exclusion and the notice to the CDFW shall be provided to the Director of PBCE or Director's designee prior to exclusion activities.</p>	<p>Prior to any exclusion activities.</p>	<p>The City's Director of PBCE or Director's designee.</p>	<p>Review and approve memo and CDFW notification.</p>	<p>Prior to any exclusion activities.</p>



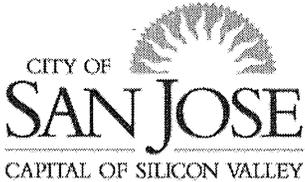
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Impact BIO-4: The Project would have a substantial adverse effect on the burrowing owl.					
<p>MM BIO-4.1: Provide Compensatory Mitigation for Permanent Impacts on Burrowing Owl Nesting Habitat. The loss of acreage of on-Airport-occupied burrowing owl nesting habitat will occur as certain airfield reconfiguration projects are implemented. Compensatory mitigation shall be provided for permanent loss of 32.4 acres of occupied burrowing owl nesting habitat, as well as for the degradation of the remaining 83.4 acres of nesting and roosting habitat at the airfield and the expected increase in annual mortality of burrowing owls due to collisions with aircraft following Amendment implementation. Compensatory mitigation shall be provided via the payment of Santa Clara Valley Habitat Conservation Plan (Habitat Plan) burrowing owl fees for all 32.4 acres of direct, permanent impacts on occupied habitat.</p> <p>Because the Airport is located within the Habitat Plan area, even though airport improvement Projects are not considered "covered activities" under the Habitat Plan, the payment of Habitat Plan burrowing owl fees shall be appropriate in lieu of providing on-site and/or off-site mitigation. This mitigation approach is consistent with the Voluntary Fee Payments Policy of the Santa Clara Valley Habitat Agency (Habitat Agency), which</p>	<p>Compensatory mitigation shall be provided via the payment of VHP burrowing owl fees for all 32.4 acres of direct, permanent impacts on occupied habitat.</p>	<p>The Airport shall pursue an agreement with the Santa Clara Valley Habitat Agency (Habitat Agency) within 6 months of City adoption of the amended Master Plan regarding the payment fee schedule. Subject to refinement by that agreement, the Airport proposes to pay the fee according to the following milestones:</p> <ul style="list-style-type: none"> • Payment for 19.0 acres within 6 months of award of the first construction contract for implementation of Master Plan Project A-26, A-27, or A-38 (new Taxiway V and associated cross taxiways). 	<p>The City's Director of PBCE or Director's designee.</p>	<p>Review and ensure payment of VHP burrowing owl fees for each project phase.</p>	<p>Confirmation of payment within 6 months of award of each identified construction contract.</p>

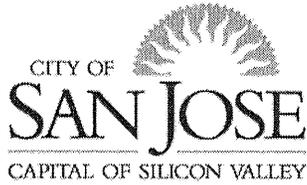


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<p>states that such voluntary burrowing owl fees paid as mitigation "shall be applied toward burrowing owl management agreements, burrowing owl habitat management and monitoring, as well as burrowing owl habitat restoration and land acquisition." Payment of the full, per-acre Habitat Plan burrowing owl fee for all 32.4 acres of direct permanent impacts shall satisfy MM BIO-4.1.</p> <p>Compensatory mitigation for impacts to burrowing owls (i.e., payment of Habitat Plan burrowing owl fees) may be phased in accordance with phasing of impacts, so that the amount of mitigation provided equals or exceeds that required based on the acreage of impacts. However, compensatory mitigation for impacts to a certain acreage of burrowing owl habitat must be implemented prior to those impacts occurring.</p>		<ul style="list-style-type: none"> • Payment for 2.0 acres within 6 months of award of the first construction contract for implementation of Master Plan Project A-17 (Taxiway W south extension). • Payment for 5.5 acres within 6 months of award of the first construction contract for implementation of Master Plan Project A-37 (replacement of existing Taxiway V by a new taxi lane). • Payment for 4.9 acres within 6 months of award of the first construction contract or first lease agreement (whichever comes first) for implementation of Master Plan Project G-9 (expansion of 			



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		general aviation apron out to new taxilane). <ul style="list-style-type: none"> • Payment for 1.0 acres within 6 months of award of the first construction contract for Project A-23 (widening of Taxiway J intersection at Runway 12R/30L). 			
<p>MM BIO-4.2: Update and Implement the Burrowing Owl Management Plan (BOMP). The existing BOMP was developed based on 1997 site conditions and owl management and monitoring methodologies. To improve management for burrowing owls at the Airport, the Airport shall implement the following updates to Section 3.2 of the BOMP.</p> <ul style="list-style-type: none"> • Conduct Preconstruction Surveys for Burrowing Owls. The existing BOMP requires preconstruction surveys for burrowing owls and suitable owl burrows prior to ground-disturbing activities, with one survey occurring during the prior fall/winter season and one survey occurring within 30 days of the start of construction. However, if 	The Airport shall implement all the updates to the BOMP as described in MM BIO-4.2	The updates to the BOMP described in MM BIO-4.2 shall be prepared within 6 months of Airport Master Plan Amendment approval, or prior to any initiation of design for the first airfield project identified in the amended Airport Master Plan (whichever comes first), and shall be provided to the Director	The City's Director of PBCE or Director's designee.	Review and approve all the updates to the BOMP as described in MM BIO-4.2 are implemented.	Within 6 months of Airport Master Plan Amendment approval, or prior to any initiation of design for the first airfield project identified in the amended Airport Master Plan (whichever comes first).



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<p>the preconstruction survey is conducted 30 days in advance of the proposed activity, there is some potential for owls to change locations between the survey and the activity and potentially occur within the ground disturbance area, or close enough to this area to be disturbed by the activity. In order to ensure that take avoidance measures are successful, the BOMP shall be updated to require preconstruction surveys to be conducted per Habitat Plan survey requirements for take avoidance, which represent the latest methodology that is accepted by resource agencies.</p> <ul style="list-style-type: none"> • Preconstruction surveys for burrowing owls shall be conducted prior to the initiation of all Project construction activities within suitable burrowing owl nesting and roosting habitat (i.e., ruderal grassland habitat with burrows of California ground squirrels) at the airfield, or within 250 feet of this habitat. During the initial site visit, a qualified biologist shall survey the entire activity area and (to the extent that access allows) areas within 250 feet by walking transects with centerlines no more than 50 feet apart and ensure complete visual coverage and looking for suitable 		<p>of PBCE or Director's for approval.</p>			



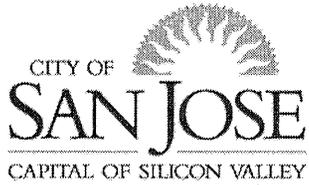
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<p>burrows that could be used by burrowing owls for nesting or roosting. If no suitable burrowing owl habitat (i.e., ruderal grasslands with burrows of California ground squirrels) is present, no additional surveys are required. If suitable burrows are determined to be present within 250 feet of the work area, a qualified biologist shall conduct a minimum of two additional surveys to determine whether owls are present in areas where they could be affected by proposed activities. The surveys shall last a minimum of three hours, beginning one hour before sunrise and continuing until 2 hours after sunrise or beginning 2 hours before sunset and continuing until 1 hour after sunset. Additional time may be required if the work area is very large. The first survey shall occur up to 14 days prior to the start of construction activities in any given area, and the final survey shall be conducted within two days prior to the start of construction activities.</p> <ul style="list-style-type: none"> Implement Buffer Zones for Burrowing Owls. The existing BOMP does not include the option to maintain disturbance-free buffers around active owl burrows (rather, the eviction of owls from burrows within and near 					



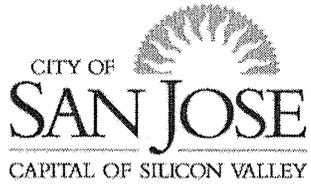
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<p>work areas is assumed). This measure minimizes Project impacts on owls by providing the option to avoid owl burrows, rather than requiring the eviction of any owls that may be present near work areas.</p> <ul style="list-style-type: none"> • If burrowing owls are detected during the pre-activity survey, a 250-foot buffer, within which no newly initiated construction-related activities would be permissible, shall be maintained between construction activities and occupied burrows. Owls present between February 1st and August 31st, inclusive, shall be assumed to be nesting, and the 250-foot protected area shall remain in effect until August 31st. • Monitor Owls During Construction. If maintaining a 250-foot buffer around active owl burrows is not feasible, the buffer shall be reduced if (1) the nest is not disturbed, and (2) the City develops an avoidance, minimization, and monitoring plan that shall be reviewed and approved by CDFW and U.S. Fish & Wildlife Service (USFWS) prior to Project commencement. The plan shall include the following measures: 					



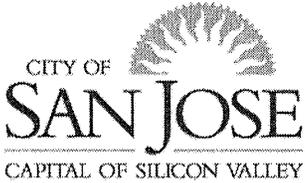
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<ul style="list-style-type: none"> ○ A qualified biologist shall monitor the owls for at least three days prior to construction as well as during construction. ○ If the biologist observes no change in the owls' nesting and foraging behavior, construction activities may proceed. ○ If changes in the owls' behaviors as a result of work activities are observed, activities shall cease within 250 feet of the active burrow location(s). Work activities may resume when the burrows are no longer occupied. If monitoring indicates that the burrow is no longer in use by owls, the disturbance-free buffer may be removed. 					



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<ul style="list-style-type: none"> <u>Passive Relocation</u>¹. If construction activities directly impact occupied burrows, a qualified biologist shall passively evict owls from burrows during the non-nesting season (September 1st to January 31st, inclusive). No burrowing owls shall be evicted during the nesting season (February 1st through August 31st, inclusive) except with CDFW's concurrence that evidence demonstrates that nesting is not actively occurring (e.g., because the owls have not yet begun nesting early in the season, or because the young have already fledged late in the season). Eviction shall occur through the use of one-way doors inserted into the occupied burrow and all burrows within impact areas that are within 250 feet of the occupied burrow (to prevent occupation of other burrows that would be impacted). One-way doors shall be installed by a qualified biologist and left in place for at least 48 hours before they are removed. The burrows shall then be backfilled to prevent re-occupation. Although relocation of owls may 					

¹ The passive relocation of burrowing owls is not currently permitted under the VHP because a positive growth trend in the owls' regional population has not yet been achieved. However, passive relocation is included here as a mitigation measure because (1) Airport Projects are not covered under the VHP, and (2) the proposed Amendment improvements are necessary to address aviation safety concerns at the Airport.



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<p>be necessary to avoid the direct injury or mortality of owls during construction, relocated owls may suffer predation, competition with other owls, or reduced health or reproductive success as a result of being relegated to more marginal habitat. However, the benefits of such relocation, in terms of avoiding direct injury or mortality, would outweigh any adverse effects.</p> <ul style="list-style-type: none"> • <u>Compensatory Mitigation.</u> Because the number of burrows that are present on the airfield does not appear to limit the existing population of owls at the airfield, compensatory mitigation for the eviction of owls shall be provided as described in MM BIO-4.1 above rather than on a case-by-case basis each time an owl is evicted from a burrow. This mitigation shall maintain sufficient numbers of burrows in the mitigation areas over the long term to provide habitat for any owls that may be evicted from the airfield as a result of the Project. <p>The City shall continue to implement the BOMP with the updates described above.</p>					



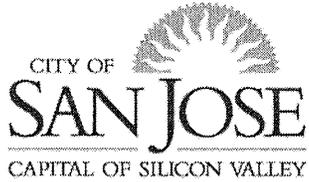
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Impact BIO-5: The Project would have a substantial adverse effect on habitat utilized by the Bay checkerspot butterfly.					
<p>MM BIO-5.1: Although the Airport is owned and operated by the City of San José, a Local Partner in the Habitat Plan, and the Airport is located within the boundaries of Habitat Plan area, improvement Projects at the Airport are excluded as covered activities under the Habitat Plan. Irrespective of this fact, the City as CEQA Lead Agency acknowledges the nitrogen deposition impacts of the Project and is committing to pay the nitrogen deposition fee that applies to covered activities, based on new daily vehicle trips. [Note: Per Table 6 in the traffic analysis prepared as part of this EIR, the Project will generate 29,332 new daily vehicle trips.] According to the Santa Clara Valley Habitat Agency, the fees collected from covered activities do not fully cover the costs related to mitigating nitrogen deposition impacts due to new development. Therefore, the Habitat Agency accepts fees from non-covered activities and states that “nitrogen deposition voluntary fee payments shall be applied toward land acquisition, management, and monitoring for Bay checkerspot butterfly and serpentine covered plant species.”</p>	<p>The Airport shall pay the nitrogen deposition fees that apply to covered activities under the Habitat Plan, based on net new daily vehicle trips.</p>	<p>The Airport shall pursue an agreement with the Santa Clara Valley Habitat Agency within 6 months of City adoption of the amended Master Plan to pay the full fee within 3 months of award of the first construction contract for implementation of terminal area development comprising any component of Master Plan Project T-4 (new short-term public parking garage), T-13 (Terminal B South Concourse), or T-16 (new business hotel).</p>	<p>The City’s Director of PBCE or Director’s designee.</p>	<p>Ensure nitrogen deposition fees are paid as they apply to covered activities under the Habitat Plan, based on new daily vehicle trips.</p>	<p>Confirm payment of fees within 3 months of award of the first construction contract for implementation of terminal area development comprising any component of Master Plan Project T-4 (new short-term public parking garage), T-13 (Terminal B South Concourse), or T-16 (new business hotel).</p>



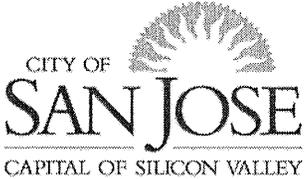
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<p>The Airport shall pay the nitrogen deposition fees that apply to covered activities under the VHP, based on net new daily vehicle trips. The Airport shall pursue an agreement with the Santa Clara Valley Habitat Agency within 6 months of City adoption of the amended Master Plan to pay the full fee within 3 months of award of the first construction contract for implementation of terminal area development comprising any component of Master Plan Project T-4 (new short-term public parking garage), T-13 (Terminal B South Concourse), or T-16 (new business hotel). The fee per vehicle trip shall be as set by the Habitat Agency at the time of payment.</p>					



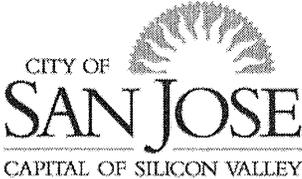
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<p>Impact BIO-13: The Project would conflict with local policies and ordinances protecting biological resources, specifically in relation to riparian buffer encroachment and bird collisions with buildings.</p>					
<p>MM BIO-13.1: Detailed plans for the structures that may be constructed in or near the 100-foot riparian buffers along the Guadalupe River have not yet been prepared. However, the City shall strive to design the parking garage in such a way that encroachment into the riparian buffer can be avoided altogether, and fuel farm tanks shall be at least 100 feet from the edge of the riparian buffer. If the City needs to encroach into the riparian buffer, then the extent to which encroachment occurs (as determined both by the distance between the proposed development and the riparian baseline and by the acreage of encroachment into the buffer) shall be minimized. If encroachment is avoided, so that no new, more intensive types of development occur within 100 feet of the buffer baseline, or any closer to the buffer baseline than existing development already occurs (e.g., buildings constructed within the 100-foot setback where only paved areas are currently present), no further mitigation for riparian buffer encroachment impacts shall be necessary. If any encroachment is proposed, MM BIO-13.2 shall be implemented to reduce the residual impact to less than significant levels.</p>	<p>The Airport shall ensure that new development is outside of the 100-foot riparian buffer along the Guadalupe River. If this is not feasible and an encroachment into the 100-foot riparian buffer cannot be avoided, the measures outlined in MM BIO-13.2 must be implemented.</p>	<p>Prior to any construction plan approval of future structures that may be constructed in or near the 100-foot riparian buffers along the Guadalupe River.</p>	<p>The City’s Director of PBCE or Director’s designee.</p>	<p>Review construction plans to ensure mitigation is incorporated for future construction in or near the 100-foot riparian buffers along the Guadalupe River.</p>	<p>Prior to any plan approval of future structures that may be constructed in or near the 100-foot riparian buffers along the Guadalupe River.</p>



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<p>MM BIO-13.2: If encroachment into the riparian buffer cannot be avoided, compensatory mitigation shall be provided to offset the impacts on the ecological functions and values of the riparian corridor. Such compensatory mitigation shall be provided in one of two ways:</p> <ol style="list-style-type: none"> At a minimum ratio of 1:1 (compensation: impact), on an acreage basis, existing development (e.g., buildings or hardscape) along the Guadalupe River, either on-site or off-site, shall be removed, and the developed area restored to native habitats and dedicated to natural habitat (rather than active human uses such as urban park). For example, if a portion of the study area were subject to riparian buffer encroachment, but a commensurate acreage of existing developed areas adjoining the Guadalupe River levee in other parts of the study area were restored to native habitat, that shall compensate for the riparian buffer encroachment impact. At a minimum of 2.5:1 (compensation:impact) on an acreage basis, riparian woodland habitat shall be restored or created as described below to provide ecological functions and values that 	<p>If an encroachment into the 100-foot riparian buffer is necessary, the Airport, in consultation with a qualified biologist, shall prepare a plan for compensatory mitigation and submit it to the Director of PBCE or Director's designee prior to the approval of construction plans for encroaching improvements.</p> <p>To confirm implementation, a memo from a qualified biologist confirming the success of the mitigation shall be submitted to the Director of PBCE or Director's designee.</p>	<p>Compensatory mitigation plan shall be prepared prior to approval of any construction plans.</p> <p>Compensatory mitigation shall be implemented within two years from the date when construction occurs within the riparian setback.</p> <p>Mitigation shall be implemented within two years from the date when construction occurs.</p>	<p>The City's Director of PBCE or Director's designee.</p>	<p>The Director of PBCE or Director's designee shall review the compensatory mitigation plan to ensure the compensatory mitigation is incorporated at the required ratios described in MM BIO-13.2.</p> <p>Within two years from the date when construction occurs, the Director of PBCE or Director's designee shall review the biologist memo confirming success of the mitigation.</p>	<p>Compensatory mitigation plan shall be approved prior to approval of any construction plans.</p> <p>Mitigation shall be implemented within two years from the date when construction occurs within the riparian setback.</p>



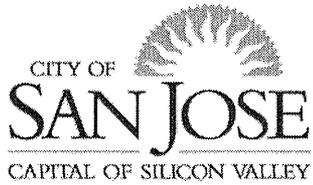
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ROSALYNN HUGHEY, DIRECTOR

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offset those lost due to riparian buffer encroachment.					
<p>MM BIO-13.3: Implement Bird-Safe Building Design. Due to the potential for buildings within the study area to result in high numbers of bird collisions, the Airport shall implement the following bird-safe building design features for all building constructed or modified within 300 feet of the Guadalupe River:</p> <ul style="list-style-type: none"> The use of glass on the facades of new buildings and additions shall be minimized to the extent feasible. No more than 10% of the surface area of the façades of buildings that face the Guadalupe River shall have untreated glazing between the ground and 60 feet above ground. Bird-safe glazing treatments may include fritting, netting, permanent stencils, frosted glass, exterior screens, and/or physical grids placed on the exterior of glazing or ultraviolet patterns visible to birds. Vertical elements of the window patterns shall be at least ¼-inch wide at a maximum spacing of 4 inches, or have horizontal elements at least 1/8-inch wide at a maximum spacing of 2 inches. No more than 10% of the surface area of façades facing the Guadalupe River and/or 	<p>For all buildings constructed or modified within 300 feet of the Guadalupe River, construction plans shall implement the Bird-Safe Building Design features as listed in MM BIO-13.3. These measures shall be highlighted on construction plans to be submitted for review and approval by the Director of PBCE or Director’s designee.</p>	<p>Bird-Safe Building Design features shall be included on all approved construction plans for specified buildings.</p> <p>Measures shall be installed during construction of the Project.</p>	<p>The City’s Director of PBCE or Director’s designee.</p>	<p>Director of PBCE or Director’s designee shall review construction plans to ensure all the Bird-Safe Building Design features for all buildings constructed or modified within 300 feet of the Guadalupe River, as listed in MM BIO-13.3, prior to approval of construction plans.</p>	<p>Measures must be reviewed and approved prior to approval of any construction plans and implemented during Project design and construction.</p>



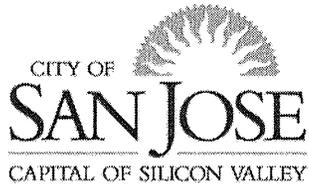
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<p>façade areas within 12 vertical feet above and/or below landscaped terraces shall have untreated glazing.</p> <ul style="list-style-type: none"> All glazing panels at corners of façades that face the Guadalupe River between the ground and 60 feet above ground and/or within 12 vertical feet above and/or below landscaped terraces (regardless of their height above ground) shall be 100% treated. Exterior lighting on the sides of the buildings facing the Guadalupe River shall be minimized to the extent feasible, except as needed for safety. All exterior lights shall be directed toward facilities on the Project site (e.g., rather than directed upward or outward) and shielded to ensure that light is not directed outward towards the Guadalupe River. Exterior up-lighting shall not be used. <p>Occupancy sensors or other switch control devices shall be installed on interior lights, with the exception of emergency lights or lights needed for safety purposes.</p>					



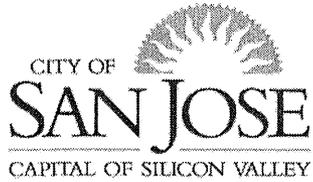
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CULTURAL RESOURCES					
Impact CUL-2: Portions of the Airport are considered archaeologically sensitive and therefore the construction of the Project could impact buried archaeological resources.					
<p>MM CUL-2.1: The archaeological monitoring program that is currently in effect at the Airport shall be continued by the City as part of the Project. Under this program, a qualified archaeologist shall monitor all subsurface construction activity for the identified Projects located within designated archeologically sensitive areas. If prehistoric or historic archaeological resources are uncovered during construction activities, the monitoring archaeologist shall require that work be discontinued within a 100-foot radius of the find. A report evaluating the find and identifying mitigation for impacts shall be prepared by the archaeologist and submitted to the City’s Director of PBCE and the Director of the Airport.</p>	<p>The archaeological monitoring program that is currently in effect at the Airport shall be continued by the City as part of the Project.</p> <p>If resources are discovered during monitoring, a report evaluating the find and identifying mitigation for impacts should be prepared by the archaeologist and submitted to the City’s Director of PBCE and the Director of the Airport.</p>	<p>Monitoring shall occur during any subsurface construction activities.</p>	<p>The City’s Director of PBCE or Director’s designee.</p>	<p>Ensure the archaeological monitoring program that is currently in effect at the Airport is continued as part of the Project.</p> <p>If prehistoric or historic archaeological resources are uncovered during construction activities, review report evaluating the find and identifying mitigation for impacts.</p>	<p>During any subsurface construction activities.</p>



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Impact CUL-3: Directly related to impact CUL-2, above, if any buried archaeological resources are impacted by the Project, such resources could contain human remains.					
<p>MM CUL-3.1: In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 100-foot radius of the find shall be stopped. The Santa Clara County Coroner shall be notified and make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) immediately. Once the NAHC identifies the most likely descendants, the descendants will make recommendations regarding the proper burial, which shall be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.</p>	<p>Measure for procedures in the event of discovery shall be included on all approved construction plans.</p> <p>If human remains found, Director of PBCE or Director's designee shall be notified along with the Santa Clara County Coroner. If determined to be Native American, documentation on recommendations by the most likely descendant (MLD) and confirmation of subsequent implementation shall be provided to the Director of PBCE or Director's designee.</p>	<p>Measures shall be included on approved construction plans and shall be implemented during any excavation and/or grading activities.</p>	<p>The City's Director of PBCE or Director's designee, the Santa Clara County Coroner, and the NAHC.</p>	<p>Director of PBCE or Director's designee shall ensure measures are included on approved construction plans. If remains are Native American, documentation of recommendation of MLD and implementation shall be reviewed.</p>	<p>Ensure measures are included on approved construction plans and implemented during any excavation and/or grading activities</p>



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GREENHOUSE GAS EMISSIONS					
Impact GHG-1: The Project would generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment.					
<p>MM GHG-1.1: The Airport shall develop and implement a phased carbon management program that is consistent with the standards of Airports Council International (ACI) "Level 3+" Airport Carbon Accreditation Program, or equivalent, including calculation of carbon emissions from Airport activity, identifying emissions reduction targets, tracking progress toward achieving effective carbon management procedures, and publishing a biennial carbon footprint report as a component of the Airport's broader environmental sustainability program.</p>	<p>The Airport shall develop and implement a phased carbon management program that is consistent with the standards of ACI "Level 3+" Airport Carbon Accreditation Program, or equivalent.</p>	<p>The Airport shall achieve Level 2 ACI standards (or equivalent) by 2023, Level 3 ACI standards (or equivalent) by 2026, and Level 3+ standards (or equivalent) by 2029. The City's Director of Aviation shall ensure that the phased carbon management program is developed, implemented, and documented in a biennial report. The first biennial report shall be prepared in 2022.</p>	<p>The City's Director of PBCE or Director's designee, and the City's Director of Aviation.</p>	<p>Director of PBCE or Director's designee and the Director of Aviation shall review the carbon management program and evidence of ACI accreditation or equivalent. Both parties shall ensure that the phased carbon management program is developed, implemented, and documented in a biennial report.</p>	<p>Monitoring shall occur consistent with the milestones listed under Timing of Compliance column.</p>

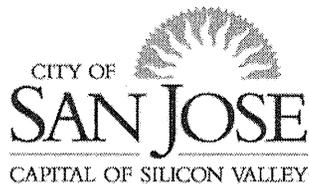


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HAZARDS AND HAZARDOUS MATERIALS					
Impact HAZ-1: The proposed expanded fuel storage facility could create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials.					
<p>MM HAZ-1.1: The Project shall be designed, constructed, and maintained in compliance with all applicable regulatory standards and policies, including provisions for full on-site containment, leak detection systems, and cathodic protection. In addition, a 100-foot setback from the Guadalupe River shall be maintained. The Airport and Airport tenants shall continue to implement its program to minimize accident risks at the fuel handling and storage facilities.</p>	<p>Construction plans for the project shall demonstrate that the project shall be designed, constructed, and maintained in compliance with all applicable regulatory standards and policies, including provisions for full on-site containment, leak detection systems, and cathodic protection. In addition, construction plans shall show a 100-foot setback from the Guadalupe River. Construction plans shall be reviewed by the Director of PBCE or Director’s designee prior to any construction plan approval.</p>	<p>Approved construction plans shall demonstrate compliance with MM HAZ-1.1 prior to start of grading or construction activities. The mitigation measure shall be implemented throughout all design, construction and maintenance of the Project.</p>	<p>The City’s Director of PBCE or Director’s designee.</p>	<p>The Director of PBCE or Director’s designee shall review construction plans to ensure the Project is designed and constructed pursuant to MM HAZ-1.1. Project shall be maintained in compliance with all applicable regulatory standards and policies.</p>	<p>Construction plans shall be reviewed prior to start of any grading or construction activities. Measures shall be implemented throughout operation of project.</p>



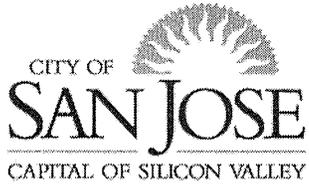
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Impact HAZ-2: The Project could create a significant risk if hazardous materials in sufficient concentrations are present in soils and those materials are, in turn, released into the environment during construction.					
MM HAZ-2.1: Prior to beginning construction, the City shall investigate construction work areas to characterize soil and groundwater quality at potentially contaminated sites by completing a limited soil and groundwater investigation. Samples shall be collected from each of the work areas that are disturbed during Project construction and to the depth of the planned excavation. Soil samples shall be analyzed for any chemical of concern including, but not limited to, petroleum (as gasoline, diesel, and waste oil), Title 22 metals, Organochlorine Pesticides, and Volatile Organic Compounds to evaluate the potential presence of contamination. Groundwater samples shall be collected if construction Projects are anticipated to require dewatering. The results of these soil and groundwater investigations shall be included in the Site Management Plan per MM HAZ-2.2.	Prepare an SMP with the results of soil and groundwater samples.	Prior to the start of any grading and construction activities.	The City's Director of PBCE or Director's designee.	Review SMP prior to start of grading and construction activities.	Prior to the start of any grading and construction activities.



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<p>MM HAZ-2.2: The City shall require the construction contractor for each Project to develop and implement a Site Management Plan (SMP) or similar document to manage the cleanup of contaminated soils. If applicable, a SMP shall be prepared prior to construction to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of contaminated soils. At a minimum, the SMP shall include the following: 1) results from any limited soil and groundwater sampling conducted per MM HAZ-2.1; 2) stockpile management including dust control, sampling, stormwater pollution prevention and the installation of BMPs; 3) proper disposal procedures of contaminated materials; 4) monitoring, reporting, and regulatory oversight notifications; and 5) a health and safety plan for each contractor and subcontractor working at the site that addresses the safety and health hazards of each phase of site operations with the requirements and procedures for employee protection. The health and safety plan shall also outline proper soil and/or groundwater handling procedures and health and safety requirements to minimize worker and public exposure to contaminated soil and/or groundwater during construction.</p>	<p>Develop and implement the SMP. Measures in the SMP shall be included on approved construction plans and implemented during construction activities.</p>	<p>Prior to approval of any construction plans and prior to the start of any construction activities.</p> <p>Measures shall be implemented during construction activities.</p>	<p>The City's Director of PBCE or Director's designee.</p>	<p>Review SMP and ensure it includes all requirements listed in MM HAZ-2.2 and all measures are included on approved construction plans.</p>	<p>Prior to the start of any construction activities.</p>

PBCE = Planning, Building, and Code Enforcement

Sources: City of San José. *Draft Environmental Impact Report. Amendment to Norman Y. Mineta San José International Airport Master Plan Project.* November 2019.

City of San José. *First Amendment to the Draft Environmental Impact Report. Amendment to Norman Y. Mineta San José International Airport Master Plan Project.* February 2020.