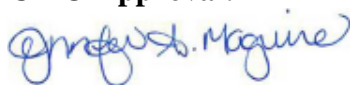


**CITY COUNCIL ACTION REQUEST**

<b>Department(s):</b> Airport	<b>CEQA:</b> Environmental Impact Report for Norman Y. Mineta San Jose International Airport Master Plan (Resolution No. 79497 and SCH#2018102020), File No. PP18-103.	<b>Coordination:</b> City Attorney's Office and Department of Planning, Building, and Code Enforcement	<b>Dept. Approval:</b> /s/ John Aitken
<b>Council District(s):</b> Citywide			<b>CMO Approval:</b>  10-23-20

**SUBJECT: AGREEMENT WITH SANTA CLARA VALLEY HABITAT AGENCY FOR AIRPORT ENVIRONMENTAL MITIGATION FEE PAYMENTS**

**RECOMMENDATION:**

Approve an agreement with the Santa Clara Valley Habitat Agency setting forth a schedule of mitigation fee payments to be payable to the Agency, in conformance with the Airport Master Plan Environmental Impact Report, in an amount not to exceed \$2.75 million.

**BASIS FOR RECOMMENDATION:**

On April 28, 2020, Council certified an Environmental Impact Report (EIR) for a proposed amendment to the San Jose International Airport Master Plan (also adopted on that date) to extend and revise the long-range Airport development program out to the year 2037. The EIR identified 27 mitigation measures to address potential significant impacts resulting from continued Airport development and operation. Two of those measures call for the Airport to make fee payments to the Santa Clara Valley Habitat Agency:

- EIR Mitigation Measure "BIO-4.1" requires compensatory mitigation for the ultimate loss of 32.4 acres of burrowing owl nesting habitat resulting from implementation of a set of Master Plan airfield taxiway and apron improvements.
- EIR Mitigation Measure "BIO-5.1" requires payment of nitrogen deposition fees for the degradation of habitat for the Bay checkerspot butterfly resulting from the projected increase in daily vehicle trips (29,332) at the Airport out to 2037.

As presented in the Airport Master Plan EIR Mitigation Monitoring and Reporting Program, the mitigation payments to the Habitat Agency are proposed to be made at the time specific Airport capital projects generating the impacts are approved for construction, but the agreement is being brought forward now as the Program calls for a City agreement with the Habitat Agency within six months of the amended Airport Master Plan/EIR adoption that occurred on April 28, 2020. The burrowing owl fee payments would be tied to the habitat acreage displaced by construction of seven specific airfield improvement projects, and be phased over approximately 15 years as those projects are implemented. The nitrogen deposition fee payments would be tied to approval of construction of one of three specific terminal area improvement projects, and be a one-time payment. It should be noted that award of construction for the first project that would trigger one of these payments is likely three years away at best, and be one of the designated airfield improvement projects which are included in the Airport's Five-Year Capital Improvement Program "RIM Implementation" project, contingent upon Federal Aviation Administration grant funding.

The fees will be paid at the rates adopted by the Habitat Agency at the time of payment (per acre for the burrowing owl impacts, per vehicle trip for the nitrogen deposition impacts). Total payments will not exceed \$2.75 million unless the agreement is amended by both parties. Habitat Agency staff concurs with the proposed fee payment agreement.

Climate Smart San Jose: The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

Commission Recommendation/Input: No commission recommendation or input is associated with this action.

**COST AND FUNDING SOURCE:** Not applicable. Funds to be appropriated when approval of construction occurs for the identified capital projects.

**FOR QUESTIONS CONTACT:** Matthew Kazmierczak, Manager of Strategy & Policy, 408-392-3640.