



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Aitken
John Ristow
Jon Cicirelli
Matt Cano
Jim Shannon

SUBJECT: SEE BELOW

DATE: September 24, 2021

Approved

John St. Maguire

Date

09/24/21

REPLACEMENT

SUBJECT: ACTIONS RELATED TO THE 9821 – SJC GUADALUPE GARDENS FENCING PROJECT & TEMPORARY CLOSURE OF SPRING STREET, IRENE STREET, AND ASBURY STREET.

REASON FOR REPLACEMENT

Upon conclusion of the procurement process and subsequent review of bids, staff concluded that both bids were non-responsive for failing to provide the specific bidder's experience requested by the City. With no responsive bids, the City is unable to award the construction bid to the lowest responsive, responsible bidder as intended. The project is on a strict timeline in order to implement the Federal Aviation Administration (FAA) Guadalupe Gardens Corrective Action Plan as soon as possible. Allowing the Director of Public Works to award the construction project to an experienced contractor who is able to perform the work for a fair and reasonable price will help the city maintain its commitment to the FAA.

RECOMMENDATION

- (a) Adopt a resolution delegating authority to the Director of Public Works to award the construction contract for the 9821 – SJC Guadalupe Gardens Fencing Project pursuant to City Charter Section 1217(h), in an amount not greater than \$1,500,000.
- (b) Conduct a public hearing on the proposed temporary closure of Spring Street between Hedding Street and Asbury Street, and Asbury Street between Walnut Street and Irene Street, and Irene Street between Taylor Street and Asbury Street.

- (c) Adopt a resolution to temporarily close Spring Street between Hedding Street and Asbury Street, and Asbury Street between Walnut Street and Irene Street, and Irene Street between Taylor Street and Asbury Street.
- (d) Adopt the following 2021-2022 Appropriation Ordinance Amendments in the Airport Renewal and Replacement Fund:
 - (1) Decrease the Ending Fund Balance in the amount of \$700,000; and
 - (2) Increase the Guadalupe Gardens Fencing appropriation in the amount of \$700,000.

OUTCOME

Approval of the recommendations will allow the Airport Department to coordinate the temporary closure of three blocks of Spring Street, the temporary closure of a section of Asbury Street and Irene Street (ref. Exhibit 1 attached yellow highlighted streets) adjacent to the area to be fenced off and proceed with construction of a fence to keep federally regulated land (aka Guadalupe Gardens) clear of inhabitants. This outcome is consistent with the plan submitted to the Federal Aviation Administration (FAA) on July 28, 2021 and approved by the FAA on August 4, 2021.

BACKGROUND

On February 14, 1995, Council adopted Resolution 65732 authorizing the closure to vehicular traffic of 12 street segments in the Guadalupe Gardens area, and on September 15, 1998, Council adopted Resolution 68432 authorizing the closure to vehicular traffic of five additional street segments in the Guadalupe Gardens area and reuse for open space.

The Guadalupe Gardens Master Plan (Master Plan), adopted by the City Council in 2002, guides street closures and re-use of the Guadalupe Gardens (ref. Exhibit 2). The Master Plan proposes:

- Closure of part of Spring Street (from Hedding Street to Asbury Street) for implementation of the Master Plan.
- Conversion to a recreational path between Hedding and Asbury streets.

The City retains the discretion to re-open any or all of the closed streets which may be considered, as future development of the park occurs per the master plan.

The Airport Department, Department of Transportation (DOT) and the Department of Parks, Recreation and Neighborhood Services (PRNS) are requesting the temporary closure of Spring Street from Hedding to Asbury Streets within the Guadalupe Gardens to public vehicular traffic consistent with the Guadalupe Gardens Corrective Action Plan approved by the FAA. The temporary closure of Asbury Street and Irene Street is requested to create an orderly movement around Columbus Park, and the additional street closure would also be used for the upcoming Columbus Park Renovation Project. In support of the aforementioned temporary street closures representatives of the Police Department and PRNS' BeautifySJ staff report reoccurring

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challenges such as illegal dumping, violence, drug dealing and other criminal activity. The City has limited resources which are being stretched to continuously resolve the ongoing challenges in this area. The Police Department has recommended closure of the streets to address serious and continual criminal activity and illegal dumping in the area.

In the future, the vacation of Spring Street to vehicular public traffic between Asbury and Hedding Streets and the future removal of the pavement and curb and gutter would advance the local street closure/pavement removal projects previously approved per the City Council as part of the “naturalization” of the Guadalupe Gardens area per the 2002 Master Plan.

Similarly, the future Columbus Park renovation project will require the vacation of Spring Street from Taylor Street to Asbury Street. DOT is also considering conversion of Asbury Street to a one-way single lane road to reduce traffic and vehicle speeds. The closure of Spring Street proposed in this memorandum will also assist the Columbus Park project in achieving its design and construction goals by eliminating cut through traffic.

The Airport Department and the Department of Public Works (DPW) are currently researching and working towards formal permanent vacation of Spring Street, Emory Street, University Avenue, Walnut Street, Bruce Avenue, and Irene Street between Asbury Street and Emory Street, which supports the goals of the Guadalupe Gardens Master Plan. Vacation and formal abandonment of the Spring Street right-of-way (ROW) from Hedding Street to Taylor Street also supports work being completed by PRNS through the Columbus Park renovation project. The City accepted the dedication of the street ROW for street purposes. Since the City does not intend to use the streets any longer for that purpose, the City will need to vacate the aforementioned streets through a formal vacation process since park uses are not authorized on street ROW.

The Airport Department, in close coordination with the stakeholders, located the perimeter fence line on the approximately 40-acre parcel of land considering utility easements, emergency response and other services access, close to the existing street curbs to minimize re-inhabitation of the area to maintain compliance with the City’s Corrective Action Plan submitted to the FAA July 28, 2021, was approved by the FAA August 4, 2021.

The 9821 – Guadalupe Gardens Fencing Project was advertised on September 1, 2021, and opened bids on September 16, 2021. Pending Council approval, construction is estimated to begin in October 2021 and is projected to be completed by June 2022 as outlined in the plan submitted to the FAA on July 28, 2021 and approved by the FAA on August 4, 2021.

Staff recommends delegating authority to the Director of Public Works to award and execute the contract to maintain compliance with the FAA approved Corrective Action Plan. The approximately 40-acres of Guadalupe Gardens needs to be completely cleared by July 28, 2022, otherwise future FAA grant funding and Passenger Facility Charges will be jeopardized. Based on the timing of the bids and the construction duration, in combination with the time required to complete the abatement, including relocation of the existing inhabitants, should the project be

otherwise awarded through the standard process of proceeding with a City Council Award through a future agenda process, staff anticipates the construction completion pushing beyond the July 28, 2022 compliance date provided by the FAA.

ANALYSIS

Bids for the 9821 – Guadalupe Gardens Fencing Project were opened on September 16, 2021 with the following results:

Contractor	Base Bid	Variance (% Over/under EE)	Bid Alternate
Engineer’s Estimate	\$1,261,714	-	\$77,050
California Commercial Fence	\$1,110,584	-11.96%	\$120, 600
Tucker Construction	\$1,537,079	21.82%	\$57,620

Upon review, staff concluded that both bids were non-responsive for failing to provide the specific bidder’s experience requested by the City. With no responsive bids, the City is unable to award the construction bid to the lowest responsive, responsible bidder as intended.

Under Charter Section 1217(h), Council can decide to not further comply with the City’s competitive bidding requirements when no responsive bids are received. In practice, foregoing additional competitive bidding means selecting a contractor, negotiating a construction contract, and awarding that contract. As San Jose Municipal Code Section 27.04.060B allows Council to delegate, by resolution, any such reserved authority to award and execute a construction contract, and as the project is on a strict timeline in order to implement the Federal Aviation Administration (FAA) Guadalupe Gardens Corrective Action Plan as soon as possible, staff recommends delegating authority to the Director of Public Works to award the construction project to an experienced contractor who is able to perform the work for a fair and reasonable price. Staff will start the process to select a contractor by first reaching out to the two non-responsive bidders to evaluate their ability to deliver the project. If the Public Works Director determines that one of these bidders cannot deliver the project within the required budget and timeline, the Director will perform further outreach within the construction community.

Spring Street, Asbury Street, and Irene Street through the Guadalupe Gardens are two-lane neighborhood collector roadways. The portion of Spring Street proposed for closure is approximately one-quarter of a mile long. The portion of Asbury Street and Irene Street proposed for temporary closure is approximately one-quarter of a mile long. Under California Vehicle Code 21101.4, streets may be temporarily closed by City Council when serious criminal activity or dumping is a concern along the streets and the Police Department recommends closure. There are no privately-owned parcels or residencies/businesses within the proposed closure boundaries.

The closure of Spring Street allows for the construction of a fence which will prevent people driving through the Gardens. Vehicular access has facilitated illegal camping and parking and supports access to the open space north of Columbus Park. The open space has been the site of encampments and dumping on the Airport's federally regulated land bounded by Coleman Avenue, Asbury Street, Hedding Street, and the Guadalupe River Park Trail.

The proposed closure was reviewed by all vested departments including but not limited to, Fire, Housing, PRNS' BeautifySJ, DPW, Police, and DOT. All departments concur in the proposed closure locations shown on the attached Exhibit 1. The street section and pavement will remain intact to maintain emergency vehicle access and park maintenance access for seasonal weed abatement through two vehicle gates located at each end of the proposed closure until such time where the Guadalupe Gardens Master Plan is implemented by the City. This plan does not include closure of the section of Spring Street from Asbury Street to Taylor Street through Columbus Park which will occur at a later date prior to the construction of that project.

The approximately 8-foot-tall perimeter fence enclosing the 40 acres will be constructed in a 2 or 3 phased manner beginning on the west side along Coleman Avenue and working towards the Guadalupe River. The construction schedule is based on the City's Corrective Action Plan, a planned abatement with an ability to adjust based on actual abatement progress.

In addition to the base bid scope of work there is one Add Alternate as follows: Add Alternate No. 1 – Barbed Wire.

CONCLUSION

Under Charter Section 1217(h), Council can decide to not further comply with the City's competitive bidding requirements when no responsive bids are received. Staff plans to further evaluate the experience of the two non-responsive bidders to see if either of them can deliver the project within the required budget and timeline. If that effort is unsuccessful, staff will reach out to other contractors who have satisfactorily completed City projects in the past.

The temporary closure of Spring Street, to restrict vehicular access between Hedding Street and Asbury Street, is needed as one measure to improve public safety by reducing opportunities for illegal activity in the Guadalupe Gardens in order to preserve the Airport's ability to receive FAA grant funding and continuous collection of Passenger Facility Charges. The temporary closure of Asbury Street and Irene Street will help staff in limiting the current inhabitants and vehicles from migrating to adjacent roadways Asbury and Irene Street. The temporary closures of Spring Street, Asbury Street, and Irene Street are not expected to create a neighborhood circulation issue or increase traffic or parking impacts for neighborhoods west of Coleman Avenue or east of Highway 87.

The approximately 40-acre perimeter fence will afford the City greater efficiency in the management of the area and continued ability to pursue appropriate development consistent with the approved Master Plan.

EVALUATION AND FOLLOW-UP

The temporary closure of Spring Street, Asbury Street, and Irene Street would be in effect for 18 months and are to be followed by a formal process to permanently vacate several ROW's within the Guadalupe Gardens. The request for permanent vacation will be presented in a following memorandum. Although it is not anticipated, if the permanent vacation process takes longer than 18 months, staff may request an extension of the temporary closures for an additional 18 months.

CLIMATE SMART SAN JOSE

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

POLICY ALTERNATIVES

Alternative #1: Council could choose not to award the contract and not approve the temporary closure of Spring Street, Asbury Street and Irene Street and the installation of the fence would be cancelled.

Pros: None

Cons: The Airport jeopardizes future federal grant funding and collection of Passenger Facility Charges since the land intended for enclosure was acquired with a FAA grant on the condition that it would remain uninhabited. The Guadalupe Gardens area would be encumbered with incompatible use and have noise and safety exposure to the inhabitants. Similarly, City's future plans to develop the area will become more difficult and costly if inhabitants and crime levels increase unabated.

Reason for not recommending: The additional loss of revenue would be detrimental to the ongoing maintenance, operation, and development of the Airport.

PUBLIC OUTREACH

The City, through the Housing Department, PRNS BeautifySJ, and Airport, is conducting outreach to the neighboring businesses as well as the unhoused inhabitants. This memorandum will be posted on the City's Council Agenda website for the September 28, 2021, Council Meeting.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

The Airport Commission received a top-level briefing on this at their August 9, 2021 meeting. There are no commission recommendations or input associated with this action.

FISCAL/POLICY ALIGNMENT

The San José Municipal Code requires that capital projects at the Airport be consistent with the adopted Airport Master Plan. The proposed improvement project would be a minor alteration of existing Airport facilities and is therefore consistent with the adopted Airport Master Plan pursuant to San José Municipal Code Section 25.04.210(B)(4). While this project is not identified in the 2002 Guadalupe Gardens Master Plan, it is consistent with the goals identified in the plan. The Master Plan identifies this area to remain as passive open space and to be developed into trails and parkland, which will be possible with the area cleared, as funding becomes available.

COST SUMMARY/IMPLICATIONS

The Administration recommends delegating authority to the Director of Public Works to award a construction contract for the SJC Guadalupe Gardens Fencing Project in an amount not to exceed \$1.5 million. As shown below, the Engineer's Estimate for the construction contract is \$1.3 million and the total remaining project cost is \$1.5 million. A budget increase of \$700,000 is included with this memorandum to ensure sufficient funding is available to award the not-to-exceed contract award amount. Future budget adjustments may be necessary to fully fund project delivery and contingency costs should the awarded construction contract substantially exceed the engineer's estimate.

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:

Project Delivery*	\$	289,456
Construction (Engineer’s Estimate)	\$	1,261,714
Contingency	\$	126,171
TOTAL	\$	1,677,341
Prior Year Expenditures	\$	(171,384)
REMAINING PROJECT COSTS	\$	1,505,957
(Reflects the amount of remaining project costs in the current and future fiscal years)		

*\$171,384 of the Project Delivery costs were expended during fiscal year 2020-2021.

2. COST ELEMENTS OF AGREEMENT/CONTRACT:

Construction of Fence (Engineer’s Estimate)	\$	1,132,954
Other/Miscellaneous (Engineer’s Estimate)	\$	128,760
ESTIMATED AGREEMENT/CONTRACT AMOUNT	\$	1,261,714

3. SOURCE OF FUNDING: 527 – Airport Renewal and Replacement Fund

4. FISCAL IMPACT: This project has been reviewed and was determined that it will have no significant adverse impact on the Airport operating budget.

BUDGET REFERENCE

The table below identifies the fund and appropriation adjustments necessary to allow for the delegated contract award authority recommended as part of this memorandum. Depending on the actual construction contract costs, additional budget adjustments may be necessary to ensure sufficient capacity for project delivery and contingency costs.

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Fund #	Appn #	Appn. Name	Current Total Appropriation	Rec. Budget Action	2021-2022 Proposed Capital Budget Page*	Last Budget Action (Date, Ord. No.)
527	423K	Guadalupe Gardens Fencing	\$819,000	\$700,000	V - 495	6/22/2021, Ord. No. 30621
527	8999	Unrestricted Ending Fund Balance	\$2,802,319	(\$700,000)	V - 499	6/22/2021, Ord. No. 30621

*The 2021-2022 Adopted Capital Budget was adopted by the City Council on June 22, 2021.

CEQA

Categorical Exemption, CEQA guidelines Section 15303(e) New Construction or Conversion of Small Structures, File Number ER21-005.

/s/
MATT CANO
Director of Public Works

/s/
JOHN AITKEN, A.A.E.
Director of Aviation

/s/
JOHN RISTOW,
Director of Transportation

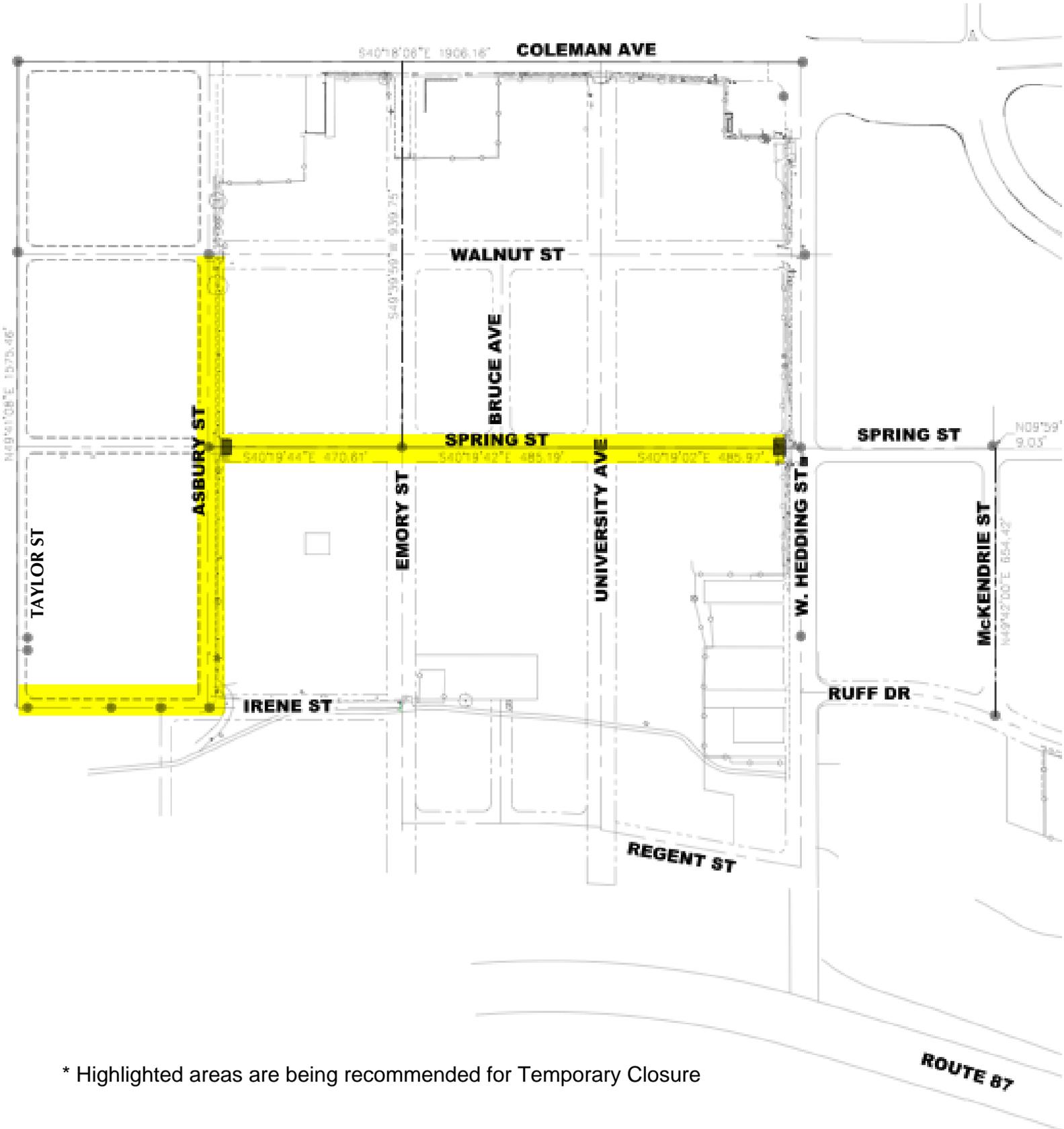

JIM SHANNON
Budget Director

/s/
JON CICIRELLI,
Director of Parks, Recreation & Neighborhood Services

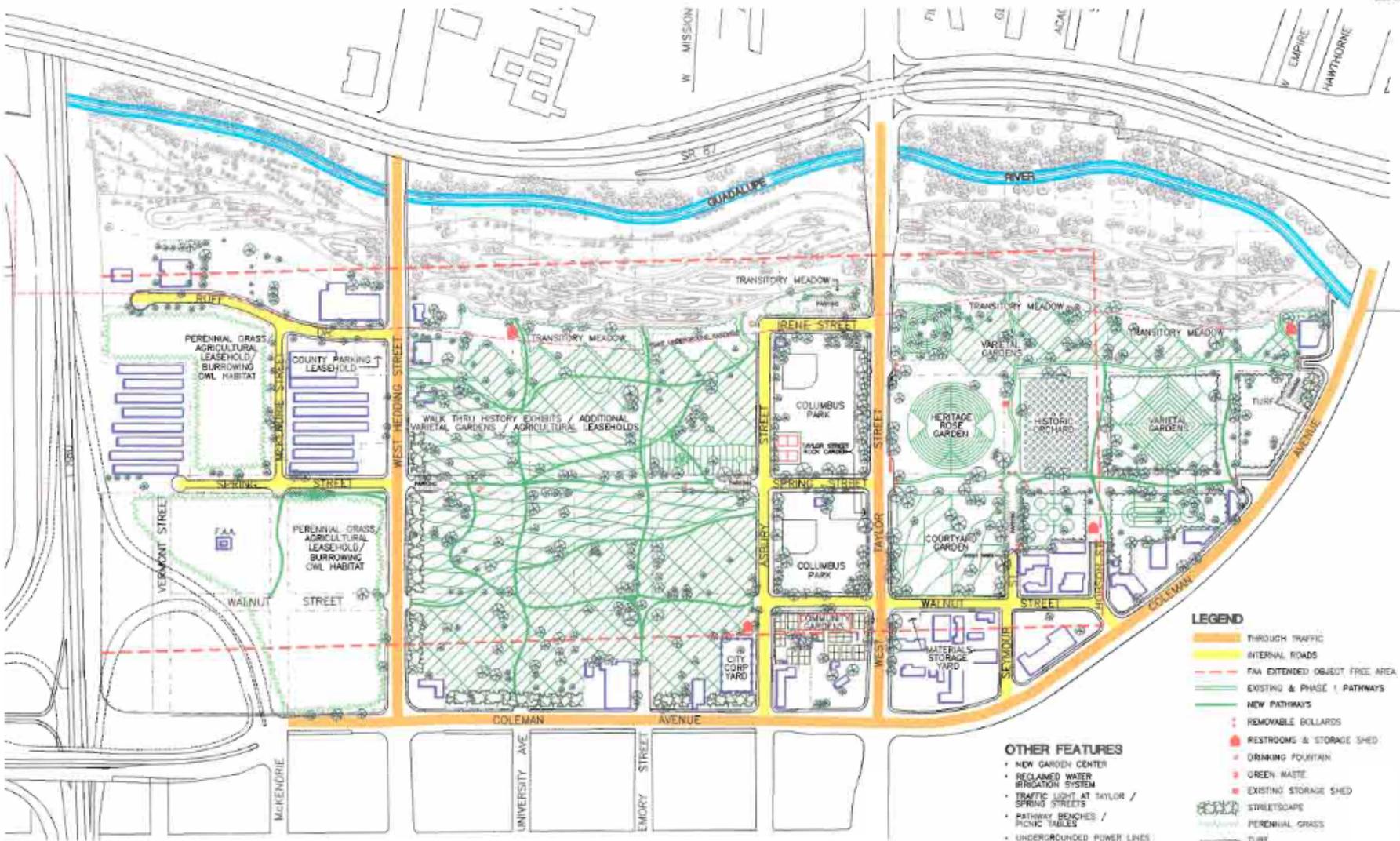
For questions, please contact Matthew Kazmierczak, Manager of Strategy and Policy for the Airport, at (408) 392-3640.

Attachments: Exhibits

Exhibit 1



* Highlighted areas are being recommended for Temporary Closure



↑ GUADALUPE RIVER PARK
 ↓ GUADALUPE GARDENS

- LEGEND**
- THROUGH TRAFFIC
 - INTERNAL ROADS
 - FAA EXTENDED OBJECT FREE AREA
 - EXISTING & PHASE 1 PATHWAYS
 - NEW PATHWAYS
 - REMOVABLE BOLLARDS
 - RESTROOMS & STORAGE SHED
 - DRINKING FOUNTAIN
 - GREEN WASTE
 - EXISTING STORAGE SHED
 - STREETSCAPE
 - PERENNIAL GRASS
 - TURF
 - TRANSITORY MEADOW
 - FENCE

- OTHER FEATURES**
- NEW GARDEN CENTER
 - RECLAIMED WATER IRRIGATION SYSTEM
 - TRAFFIC LIGHT AT TAYLOR / SPRING STREETS
 - PATHWAY BENCHES / PICNIC TABLES
 - UNDERGROUND POWER LINES
 - SIGNAGE
 - POTENTIAL ACQUISITION OF ADJACENT PRIVATE PROPERTY

GUADALUPE GARDENS MASTER PLAN - PHASE 2



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