

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SUNNYVALE CERTIFYING THE ENVIRONMENTAL
IMPACT REPORT FOR THE MARY AVENUE
EXTENSION PROJECT AND MAKING RELATED
FINDINGS, AND ADOPTING A MITIGATION
MONITORING AND REPORTING PROGRAM**

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE AS FOLLOWS:

SECTION 1. BACKGROUND AND PROJECT DESCRIPTION.

A. The following findings are hereby adopted by the City Council of the City of Sunnyvale (“City Council”) to comply with the requirements of the California Environmental Quality Act (“CEQA”; Pub. Resources Code, §§ 21000 et seq.), and Sections 15091, 15092, 15093, and 15162 of the CEQA Guidelines (14 Cal. Code Regs., § 15000 et seq.). These findings are made relative to the conclusions of the City of Sunnyvale Mary Avenue Extension Project Environmental Impact Report (State Clearinghouse No. 2007022024) (the “EIR”), which includes the Draft Environmental Impact Report (“Draft EIR”), Public Comments, and Responses to Comments. The EIR for the Project consists of the DEIR dated August 2007 and the FEIR dated August 2008 (Responses to Comments Document). These documents are collectively referred to as the “EIR” in this resolution. The EIR addresses the environmental impacts of the implementation of the proposed Project and is incorporated herein by reference.

B. Mitigation measures associated with the potentially significant impacts of the Project will be implemented through the Mitigation Monitoring and Reporting Program for the Project, which is the responsibility of the City, thereby ensuring that the City of Sunnyvale Mary Avenue Extension project (the “Project”) will have no significant adverse environmental impacts, except as noted herein.

C. The City of Sunnyvale (the “City”) is lead agency for the Project under the California Environmental Quality Act (“CEQA”), Public Resources Code 21067 as it has the principal responsibility to carry out and approve the Project, which may have a significant impact upon the environment.

D. Based upon review and consideration of the information contained therein, the City Council hereby certifies that the EIR was completed in compliance with CEQA and reflects the City of Sunnyvale’s independent judgment and analysis. The City Council has considered evidence and arguments presented during consideration of the Project and the EIR. In determining whether the Project may have a significant impact on the environment, and in adopting the findings set forth below, the City Council certifies that it has complied with Public Resources Code sections 21081, 21081.5, and 21082.2.

E. The City Council hereby finds, determines, and declares that no significant new information has been added to the EIR so as to warrant recirculation of all or a portion of the EIR.

SECTION 2. PROJECT INFORMATION.

A. Project Objectives. Over the course of the past 35 years or so, the City of Sunnyvale, Santa Clara County Traffic Authority, the Santa Clara Valley Transportation Authority (VTA), Caltrans, and Lockheed Martin Space Systems Company have explored and developed several concepts in the Mini-Triangle Area, which is formed by US 101, SR 237, and Mathilda Avenue, to address existing and future transportation deficiencies. Some of these concepts addressed regional deficiencies whereas others hoped to mitigate intraregional transportation issues.

The Mary Avenue Extension has been in the City's General Plan as part of the planned roadway network for several decades. Existing development, as well as future development, assumes this north-south connection will be constructed.

The proposed extension would help alleviate regional operational deficiencies by providing a vehicular, pedestrian, and bicycle alternative to the existing north-south connections in the City. Without an additional north-south connection, delay, congestion, and operational speeds along Mathilda Avenue are expected to worsen. Furthermore, within the Moffett Park Area and other areas adjacent to Mary Avenue, intersection operations are expected to further deteriorate without the proposed extension.

In summary, the project objectives are to:

- Provide an alternative vehicular, pedestrian, and bicycle north-south connector to lands north of US 101 and SR 237 (including the Moffett Park Area); and
- Alleviate existing and future traffic congestion in the Moffett Park Area and other areas adjacent to Mary Avenue.

B. Project Description. The project proposes to extend Mary Avenue from its current terminus at Almanor Avenue north over US 101 and SR 237, to Eleventh Avenue at E Street, a distance of approximately 0.5 miles. The proposed extension would include a 0.3-mile long bridge structure over the two freeways and the adjacent Light Rail Transit tracks. North and south of the bridge, the roadway extension would be supported by embankments.

The proposed bridge structure would be approximately 85 feet wide and 25 feet above existing ground at its highest point (i.e., over SR 237). The bridge structure would be supported by three to six feet in diameter concrete columns at 10 to 15 locations between Almanor Avenue and Eleventh Avenue. Three columns would be placed at each location.

The proposed bridge structure would have four lanes (two lanes in each direction), a raised four-foot wide median, six-foot wide sidewalks, and six-foot wide bike lanes on both sides of the bridge. Concrete barriers, railing, and chain linked fences would be constructed and placed on the eastern and western sides of the proposed bridge. The extension will include standard street lighting.

The embankments would be located at both ends of the proposed extension, one at the southerly end (i.e., Almanor Avenue) and the other at the northerly end (i.e., Eleventh Avenue). The southerly embankment would be contained by retaining walls and the northerly

embankment would include sloped embankments to the existing ground below with retaining walls.

Mary Avenue and Almanor Avenue Intersection Improvements

The proposed project would slightly modify or realign the existing T-intersection of Mary Avenue and Almanor Avenue to conform to the proposed improvements and meet traffic operational and lane queuing requirements. The proposed improvements are:

- Signalizing the intersection;
- Including two through lanes, one exclusive left-turn lane, and two receiving lanes on the northerly leg;
- Including one shared through/right lane, one through lane, and two receiving lanes on the southerly leg;
- Including one exclusive right turn lane to northbound Mary Avenue, one left turn lane, and one receiving lane on the easterly leg; and
- Constructing ADA compliant pedestrian accessible sidewalks and bike lanes on each of the legs of Almanor Avenue and E Street.

Mary Avenue and Eleventh Avenue and E Street Intersection Improvements

The project proposes the following improvements to the existing intersection of Eleventh Avenue and E Street:

- Signalizing the intersection;
- Realigning and widening of the easterly leg to accommodate a shared through/right turn lane, a through lane, two left-turn lanes, and two receiving lanes;
- Widening of the westerly leg to provide two right-turn lanes, two through lanes, a left-turn lane, and two receiving lanes;
- Reconstructing a portion of E Street on the northerly leg of the intersection to accommodate one shared through/right lane, one exclusive left-turn lane, and one receiving lane;
- Inclusion of an exclusive right-turn lane, one shared through/left-turn lane, one exclusive left-turn lane, and two receiving lanes for northbound Mary Avenue; and
- Constructing ADA compliant pedestrian accessible sidewalks and bike lanes on each of the legs of Eleventh Avenue, E Street, and Mary Avenue.

Right-of-Way Requirements

The construction of the proposed project would require partial right-of-way (ROW) acquisitions from adjacent properties at the south and north ends of the project. The ROW required includes property acquisitions, aerial easements, foundation easements, roadway easements, temporary construction easements, public utilities easement, and public vehicular access easements. No existing buildings or structures will be impacted.

Other Project Components

- **Improvements at Adjacent Properties**

985 Almanor Avenue: The project would result in the removal of one access driveway and 190 parking stalls from 985 Almanor Avenue. To offset the project's impact on this property's accessibility, the project proposes to widen the easterly access driveway to this property along Almanor Avenue to support truck traffic that would typically use the driveway on Mary Avenue (which would be eliminated as a result of the proposed project). The project also proposes to re-configure the parking stalls and aisles to replace 58 of the 190 parking stalls removed. The City will compensate the property owner(s), as appropriate in accordance with state and federal laws.

785/787 Mary Avenue: The project would result in the removal of two access driveways and 52 parking stalls from 785/787 Mary Avenue. To offset the project's impacts to the access and circulation of this parcel, the project proposes to construct a frontage road to Mary Avenue to maintain the connectivity between the north and south parking lots of this parcel. The frontage road would consist of two, 12-foot lanes and would connect to the existing driveway to the property located at 785/787 Mary Avenue (refer to Figure 1.0-6). The project proposes to replace three of the 52 parking stalls removed at this property. The City will compensate the property owner(s), as appropriate in accordance with state and federal laws.

- **Utility Relocation.** It is anticipated that the construction of the proposed project would require the relocation or adjustment to existing water, storm drain, sanitary sewer, and gas lines; electric overhead lines and poles, and telephone/communication lines.
- **Drainage.** The proposed project includes connections to the existing storm drain facilities in Mary Avenue, US 101, SR 237, Mathilda Avenue, and the Moffett Park Area.
- **Highway Planting.** The proposed project includes planting, landscaping, and irrigation systems along Mary Avenue and the sidewalks and in the proposed median. Trees, shrubs, and groundcover species would be selected for their drought tolerance and disease resistant characteristics. Planting areas would be mulched to reduce weed growth, conserve moisture, and minimize maintenance operations.
- **LRT Bicycle/Pedestrian Connection.** As a potential option, the project may include a pedestrian/bicycle connection between the proposed Mary Avenue extension and the Moffett Park LRT Station. The connection would consist of vertical access between the Mary Avenue bridge and the LRT below. While this EIR provides CEQA clearance for this optional connection, the decision to construct it will be made based on factors such as projected usage, cost, availability of funding, operations and maintenance, and community input.

SECTION 3. RECORD OF PROCEEDINGS.

- A. For purposes of CEQA, CEQA Guidelines section 15091(e), and these findings,

the Record of Proceedings for the Project consists of the following documents, at a minimum: (1) The Notice of Preparation, Notice of Completion, Notice of Availability, and all other public notices issued by the City of Sunnyvale in connection with the Project; (2) the Draft EIR; (3) the Final EIR; (4) all comments and correspondence submitted by public agencies or members of the public during the public review and comment period (August 24, 2007 through November 12, 2007) on the Draft EIR; (5) written and oral comments received or made at Bicycle and Pedestrian Advisory Commission meeting on September 18, 2008, Planning Commission meeting on September 22, 2008 and public outreach meetings on October 3, 2007 and October 10, 2007 (7) the Mitigation Monitoring and Reporting Program; (8) all findings and resolutions adopted by the City Council in connection with the Project, and all documents cited or referred to therein; (9) all final reports, studies, memoranda, maps, staff reports, or other planning documents relating to the Project prepared by the City of Sunnyvale, consultants, or responsible or trustee agencies with respect to the City of Sunnyvale's compliance with the requirements of CEQA, and with respect to the City of Sunnyvale's actions on the Project; (10) all documents timely submitted to the City of Sunnyvale by other public agencies or members of the public in connection with the Project; (11) minutes and/or verbatim transcripts of all public meetings and/or public hearings held by the City of Sunnyvale in connection with the Project; (12) matters of common knowledge to the City of Sunnyvale, including, but not limited to, federal, state, and local laws and regulations; (13) any documents expressly cited in these findings, in addition to those cited above; and (14) any other materials required to be in the record of proceedings by Public Resources Code section 21167.6(e).

B. The City issued a Notice of Preparation ("NOP") of an environmental impact report for the Project in January 2007. The NOP was sent to all responsible agencies, trustee agencies, adjacent property owners, and members of the public who had previously requested notice. The NOP was published in the Sunnyvale Sun, a paper of general distribution. The City held a publicly noticed scoping meeting for the general public and public agencies on February 21, 2007. All aspects of the NOP process complied with Public Resources Code 21080.4. All comments received during the scoping process were considered in preparing the EIR.

C. A Draft Environmental Impact Report for the Mary Avenue Extension project, State Clearing House Number 20077022024, ("DEIR") was prepared for the Project and circulated for public comment on August, 24, 2007 for an 81-day public comment period ending November 12, 2007. The DEIR includes a Traffic Report (Appendix B), a Noise Assessment (Appendix C), a Cultural Resources Report (Appendix D), a Tree Survey (Appendix E), a Preliminary Geotechnical Report (Appendix F), a Hazardous Materials Report (Appendix G), and a Supplemental Traffic Analysis for Project Alternatives(Appendix H). Copies of the DEIR were provided to all responsible agencies, trustee agencies, adjacent property owners, and members of the public who had previously requested notice. These agencies included, but were not limited to, the City of Mountain View, The California Division of Aeronautics, the California Air Resources Board, the California Highway Patrol, the California Department of Conservation, the California Department of Water Resources, Cal Fire, the Native American Heritage Commission, the California Department of Parks and Recreation, the California Public Utilities Commission, the Regional Water Quality Control Board Region 2, the California Resources Agency, the California Department of Transportation Headquarters Division of Transportation Planning, the California Department of Fish and Game (Region 3), the California Department of Transportation District 4, the Santa Clara Valley Transportation Authority ("VTA"), the Sunnyvale School District, the San Francisco Public Utilities Commission, the County of Santa Clara Roads and Airports Department, the National Aeronautics and Space Administration, and

various departments within the City of Sunnyvale. Copies of the DEIR were also made available at the City of Sunnyvale Public Works Department and the City of Sunnyvale public library. The City publicly noticed meetings for the general public and public agencies in October, 2007 to receive oral comments on the DEIR.

D. A Final Environmental Impact Report for the Mathilda Avenue Bridge Rehabilitation project, State Clearing House Number 2007022024 (“FEIR”), was published on October 17, 2008 and promptly provided to the public and all public agencies that commented on the project. The FEIR contains, among other things, the DEIR, responses to all oral and written comments received on the DEIR and text changes to the DEIR (Response to Comments Document), and a draft Mitigation Monitoring and Reporting Program.

E. On October 28, 2008, the Council voted to certify the FEIR, make the required CEQA findings, and adopt the Mitigation Monitoring and Reporting Program.

F. In addition to the public meetings and hearings described above, numerous other opportunities for public comment on and participation in Project decision-making were provided over the July 2005 through October 2008 time period, including duly noticed public meetings, community forums, and community resource group meetings as shown in Table ___ of the DEIR at page _____.

G. In taking action on the Project, the City Council fully reviewed and considered the information contained in the EIR, staff reports, oral and written testimony received from members of the public and other public agencies, and additional information contained in reports, correspondence, studies, proceedings, and other matters of record included or referenced in the administrative record of these proceedings.

H. Copies of all of the above-referenced documents, which constitute the record of proceedings upon which the City of Sunnyvale’s decision on the Project is based, are and have been available upon request at Sunnyvale City Hall, 456 W. Olive Street, Sunnyvale, California 94087.

SECTION 4. ADOPTION OF MITIGATION MONITORING AND REPORTING PROGRAM.

A. Pursuant to Public Resources Code section 21081.6, the City has prepared a Mitigation Monitoring and Reporting Program, (“MMRP”) which provides for implementation, monitoring reporting, and enforcement of all conditions and mitigation measures adopted to mitigate and/or avoid the Project’s significant environmental impacts. The MMRP is attached as Exhibit “A” to this resolution and incorporated herein.

B. The City Council hereby adopts the MMRP for the Project attached hereto and incorporated by reference, and finds, determines, and declares that adoption of the MMRP will ensure enforcement and continued imposition of the mitigation measures recommended in the EIR, and set forth in the MMRP, in order to mitigate or avoid significant impacts on the environment.

SECTION 5. IMPACTS DETERMINED TO BE LESS THAN SIGNIFICANT. The Council has read and considered the EIR prepared for the Project, has considered each potential

environmental impact of the Project, and has considered each mitigation measure and alternative evaluated in the EIR. In accordance with the requirements of CEQA and the Guidelines promulgated thereunder, the Council makes the following findings based upon substantial evidence in the record:

A. A Notice of Preparation for the Project was prepared and distributed in January 2007 to all responsible and trustee agencies and interested parties. The notice solicited views of interested persons and agencies as to the scope and content of the environmental information to be studied in the Draft EIR. The City of Sunnyvale also held a public scoping meeting to receive public comments and suggestions on the Project on February 21, 2007. Through the scoping process, which included both agency consultation pursuant to Public Resources Code section 21080.4(a) and CEQA Guidelines section 15082, and early public consultation pursuant to CEQA Guidelines section 15083, the City identified the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in the Draft EIR and eliminated from detailed study environmental issues found not to be important.

B. The City Council finds that the EIR identifies no significant or potentially significant adverse impacts in the areas of land use, flooding and hydrology, noise (post-construction), visual/aesthetic resources, and air quality.

C. The City Council hereby finds, determines, and declares that it has reviewed the EIR with respect to the areas of potential impacts set forth above and finds that the conclusions of the Draft EIR and Final EIR are supported by substantial evidence in the record, including the detailed descriptions of potential impacts contained in the EIR, and the additional information and analysis contained in the Final EIR. The City Council further finds that no evidence has been introduced that would tend to call into question any of the conclusions of the Draft EIR or the Final EIR with respect to such impacts. The City Council has independently exercised its judgment to conclude that each of the above impacts is less-than-significant or no impact, and therefore requires no mitigation except as embodied in the Project.

SECTION 6. SIGNIFICANT IMPACTS THAT CAN BE AVOIDED OR MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL. The EIR concluded that the Project would result in potentially significant environmental impacts in the areas listed below. Through the imposition of the identified mitigation measures, the identified potentially significant environmental impacts will be reduced to less-than-significant impacts.

Significant Environmental Impact	Mitigation and/or Avoidance Measures
Transportation	
<p>Impact TRAN – 1: The proposed project would result in significant traffic impacts to the intersection of Mary Avenue and Maude Avenue.</p>	<p>The project proposes to implement the following mitigation measures to reduce level of service impacts to Mary Avenue and Maude Avenue intersection to a less than significant level:</p> <p>MM TRAN – 1.1: Construct a new southbound right-turn lane at the Mary Avenue and Maude Avenue intersection. This would require approximately 1,200</p>

Significant Environmental Impact	Mitigation and/or Avoidance Measures
	<p>square feet of ROW from the property located at the northwest quadrant of Mary Avenue and Maude Avenue. The ROW needed mostly consists of perimeter landscaping.</p> <p>Less Than Significant Impact with Mitigation Incorporated</p>
Noise	
<p>Impact NOI – 1: The construction of the proposed project would result in construction-related noise impacts to nearby commercial and light industrial uses.</p>	<p>The project proposes to implement the following measures to reduce construction-related noise impacts to nearby commercial/light industrial uses to a less than significant level:</p> <p>MM NOI – 1.1: For pile driving within 200 feet of a commercial/industrial building, the pile driving will be restricted to between 8:00 AM and 5:00 PM on Saturdays.</p> <p>MM NOI – 1.2: For pile driving where the closest commercial/industrial building is greater than 200 feet away, the pile driving will be restricted to between 8:00 AM and 5:00 PM, Mondays through Saturdays.</p> <p>MM NOI – 1.3: Noise-generating construction activities shall be restricted to between 7:00 AM and 6:00 PM, Mondays through Fridays, and between 8:00 AM and 5:00 PM on Saturdays (Municipal Code 16.08.110). An exception to this time restriction will be allowed if required by VTA to avoid impacts to LRT operations and/or if required by Caltrans to avoid impacts to freeway operations.</p> <p>MM NOI – 1.4: All internal combustion engine-driven equipment shall be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment.</p> <p>MM NOI – 1.5: Utilize “quiet” air compressors and other stationary noise sources where technology exists.</p>

Significant Environmental Impact	Mitigation and/or Avoidance Measures
	<p>MM NOI – 1.6: The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with the adjacent facilities so that construction can be scheduled to minimize noise disturbance.</p> <p>MM NOI – 1.7: Designate a “disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall require that reasonable measures warranted to correct the problem be implemented.</p> <p>MM NOI – 1.8: Conspicuously post the telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.</p> <p>MM NOI – 1.9: Multiple-pile drivers shall be considered to expedite construction. Although noise levels generated by multiple pile drivers would be higher than the noise generated by a single pile driver, the total duration of pile driving activities would be reduced if multiple pile drivers are used.</p> <p>MM NOI – 1.10: Foundation pile holes shall be pre-drilled to minimize the number of impacts required to seat the pile. Pre-drilling foundation pile holes are a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile.</p> <p>MM NOI – 1.11: Shroud the pile driver with acoustical blankets or, alternatively, erect temporary noise barriers or acoustical blankets along building facades in the immediate vicinity of pile driving activities. Such shielding typically provides five to 10</p>

Significant Environmental Impact	Mitigation and/or Avoidance Measures
	<p>dB reduction in noise.</p> <p>Less Than Significant Impact with Mitigation Incorporated</p>
Cultural Resources	
<p>Impact CUL – 1: The construction of the proposed project could impact buried cultural resources.</p>	<p>The project proposes to implement the following mitigation measures to reduce impacts to prehistoric resources:</p> <p>MM CUL – 1.1: Archaeological test investigations shall be completed once the Area of Direct Impact for the project has been defined. Fieldwork shall include mechanical coring and hand excavations.</p> <p>MM CUL – 1.2: Geoarchaeological explorations shall be completed. Fieldwork shall entail coring to appropriate depths in the portions of the Area of Direct Impact where such construction impacts are planned.</p> <p>MM CUL – 1.3: If intact deposits are documented during testing within the Area of Direct Impact (at CA-SCL-12/H or at previously undocumented deeply buried archaeological sites) all work shall stop within 25 feet of the exposure and the City of Sunnyvale (and Caltrans if located within Caltrans right-of-way) shall be notified of the find within 24 hours. As required by federal and state laws, a Finding of Effect shall be prepared and submitted to the City (and Caltrans if applicable) who shall determine the appropriate measures for resolving the adverse effects and ensuring these measures are implemented.</p> <p>MM CUL – 1.4: A qualified archaeologist and a Native American monitor shall be present during any subsequent phase of the project that may involve ground disturbance/ excavation (pursuant to California Health and Safety Code Section 7050.5 and 7051, and Public Resources Code Sections 5097.98 and 5097.99.</p>

Significant Environmental Impact	Mitigation and/or Avoidance Measures
	Less Than Significant Impact with Mitigation Incorporated
Biological Resources	
<p>Impact BIO – 1: Burrowing owls could be present within the project alignment at the time of construction.</p>	<p>The project proposes to implement the following mitigation measure to reduce impacts to burrowing owls to a less than significant level:</p> <p>MM BIO – 1.1: In conformance with federal and state regulations against direct “take,” pre-construction surveys for burrowing owls shall be completed by a qualified ornithologist prior to any soil-altering activity or development occurring within the project area. The preconstruction surveys shall be completed per California Department of Fish and Game (CDFG) guidelines (currently no more than 30 days prior to the start of site grading), regardless of the time of year in which grading occurs.</p> <ul style="list-style-type: none"> • If no burrowing owls are found, then no further mitigation would be warranted. If breeding owls are located on or immediately adjacent to the site, a construction-free buffer zone around the active burrow must be established as determined by the ornithologist in consultation with CDFG. No activities that may disturb breeding owls, including grading or other construction work or evictions of owls, shall proceed. • If burrowing owls are found, and avoiding development of owl occupied areas is not feasible, then the owls may be evicted outside of the breeding season, with the authorization of the CDFG. The CDFG typically only allows eviction of owls outside of the breeding season (non-breeding season is September 1 through January 31) by a qualified ornithologist, and generally requires habitat compensation on off-site mitigation lands. <p>Less Than Significant Impact with Mitigation Incorporated</p>

Significant Environmental Impact	Mitigation and/or Avoidance Measures
<p>Impact BIO – 2: Construction activities during the nesting season may result in the disturbance or destruction of breeding raptors or their nests.</p>	<p>The project proposes to implement the following mitigation measure to reduce impacts to nesting raptors to a less than significant level:</p> <p>MM BIO – 2.1: Construction shall be scheduled to avoid the nesting season to the extent feasible. In the South San Francisco Bay area, most raptors breed from January through August. If construction can be scheduled to occur between September and December, the nesting season would be avoided, and no impacts to nesting birds/raptors would be expected.</p> <ul style="list-style-type: none"> • If it is not feasible to schedule construction between September and December, preconstruction surveys for nesting raptors shall be conducted by a qualified ornithologist to ensure that no raptor nests will be disturbed during project implementation. These surveys shall be conducted no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (January through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist shall inspect all trees in, and immediately adjacent to, the impact areas for raptor nests. If an active raptor nest is found close enough to the construction/demolition area to be disturbed by these activities, the ornithologist, in consultation with California Department of Fish and Game, will determine the extent of a construction-free buffer zone, typically 250 feet, to be established around the nest. Pre-construction surveys during the non-breeding season are not necessary for tree nesting raptors, as they are expected to abandon their roosts during staging. <p>Less Than Significant Impact with Mitigation Incorporated</p>

Significant Environmental Impact	Mitigation and/or Avoidance Measures
<p>Impact BIO – 3: The construction of the proposed project could result in the removal of 120 trees, including 62 significant sized trees, which are mostly located in the southern half of the project alignment.</p>	<p>The project proposes to implement the following mitigation measure to reduce impacts to trees to a less than significant level:</p> <p>MM BIO – 3.1: The project shall conform to the City’s Tree Preservation Ordinance (Municipal Code, Chapter 19.94). At the discretion of the Director of Community Development, significant size trees that are to be removed shall be replaced, replanted, or relocated (Municipal Code, Sections 19.94.080, 19.94.090, and 19.94.100).</p> <p>Less Than Significant Impact with Mitigation Incorporated</p>
Geology and Soils	
<p>Impact GEO – 2: The proposed project, with the implementation of the above standard requirement, would not result in significant seismic-related hazards. The proposed project, however, could still result in significant liquefaction impacts based on the types of soils on-site.</p>	<p>The project proposes to implement the following measure to reduce liquefaction impacts to a less than significant level:</p> <p>MM GEO – 2.1: A detailed design-level geotechnical investigation shall be completed and the project design and construction shall follow the recommendations of the investigation. The design-level investigation shall include subsurface exploration at the site (to address liquefaction potential at the site) and evaluation of appropriate foundation systems for proposed structures, as well as site preparation and pavement design.</p> <p>Due to the depth of groundwater in the project area, the investigation shall also address any need for dewatering during construction. If dewatering is required, this report shall also identify the amount of depth of dewatering and the specifics regarding disposal of the water.</p> <p>Less Than Significant Impact with Mitigation Incorporated</p>
Hazards and Hazardous Materials	
<p>Impact HAZ – 1: The soil and groundwater within the project alignment could be contaminated with pesticides,</p>	<p>The project proposes to implement the following measures to reduce and/or avoid significant impacts related to soil and</p>

Significant Environmental Impact	Mitigation and/or Avoidance Measures
<p>metals, lead, VOCs (including TCE and PCE), and petroleum hydrocarbons.</p>	<p>groundwater contamination to a less than significant level:</p> <p>MM HAZ – 1.1: If the project involves excavation of soils in the project area, soil and groundwater testing shall be completed for pesticides, metals, VOCs, and petroleum hydrocarbons to determine whether contamination is present in levels that exceed applicable standards. The number of test samples shall be determined by a qualified hazardous materials specialist. If such contamination is found to be present, special procedures regarding handling and disposal of such material shall be implemented per applicable regulations.</p> <p>MM HAZ – 1.2: Within the project limits, shallow soil within Caltrans ROW (e.g., along US 101 and SR 237) shall be tested for aerially deposited lead. If concentrations of lead are found to exceed applicable standards, the soil shall be buried and covered within the ROW if permitted, or the soil shall be transported to a Class 1 facility for disposal.</p> <p>MM HAZ – 1.3: A Health and Safety Plan shall be in place during construction to safeguard workers who would handle or be exposed to any of the above described hazardous materials.</p> <p>MM HAZ – 1.4: If USTs, water wells, and/or dry wells are encountered during construction, a permit for removal shall be obtained from the City of Sunnyvale Department of Public Safety. All wells shall be closed with permit through the Santa Clara Valley Water District.</p> <p>Less Than Significant Impact with Mitigation Incorporated</p>

The EIR analyzed all of the Project’s potentially significant environmental impacts, including indirect environmental impacts associated with the Project’s socioeconomic impacts. Based on information in the EIR and other documents in the record, the Council finds that the

significant impacts to transportation, construction noise, cultural resources, biological resources, geology and soils, and hazards and hazardous can be avoided or mitigated to a less than significant level.

SECTION 7. SIGNIFICANT AND UNAVOIDABLE IMPACTS. The EIR does not identify any significant and unavoidable impacts.

SECTION 8. ANALYSIS OF ALTERNATIVES. The EIR analyzes a reasonable range of alternatives to the Project and Project components sufficient to foster public participation and informed decision making and to permit a reasoned choice, and the EIR adequately discusses and evaluates the comparative merits of the alternatives. Of the eight alternatives assessed in the EIR, the alternative with the least environmental impact is the No Project – No Subsequent Development Alternative. Section 15126.6(e)(2) of the CEQA Guidelines state that if the environmentally superior alternative is the no project alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives.

The alternatives analysis resulted in no comparable alternative that meets the project objectives and is environmentally superior. In addition to the proposed project, eight alternatives were quantitatively evaluated in the EIR to determine if they could meet the project objectives, while at the same time avoiding the significant impacts of the project. These are:

1. No Project
2. H Street Alignment
3. Improve Other North-South Sunnyvale Corridors
4. Widen SR 85
5. Reduce the number of lanes on Mary Avenue south of Evelyn Avenue
6. Two-Lane Mary Avenue Extension
7. No Thru Traffic at Mary Avenue and Evelyn
8. Two Lanes Entire Length of Mary Avenue

Among the other alternatives, the Project Alternative is determined to be the environmentally superior alternative because it meets the objectives of the Project for the following reasons:

- Of the eight alternatives analyzed and the five feasible build alternatives, the five feasible build alternatives would result in similar and significant impacts with regard to construction noise, cultural resources, biology, geology, and hazardous materials.
- Of the five feasible build alternatives, the H Street Alignment Alternative, the Downgrade Mary Avenue Alternative, the No Through Traffic on Mary Avenue Alternative, the Two-Lane Mary Avenue the length of Mary Avenue Alternative, and the Two-Lane Mary Avenue Extension Alternative would each result in greater traffic impacts than the proposed project.

All other alternatives evaluated in the EIR are rejected because they are infeasible; they would either impair or prevent attainment of the Project objectives or are not environmentally superior. The particular reasons for rejecting each of the alternatives include the following:

The “No Project” and “Widen SR 85” alternatives were found to not meet the project objectives. State Route (SR) 85 parallels Mary Avenue to the west, generally along the

Sunnyvale-Los Altos border. As such, its widening could potentially achieve the basic project objective of increasing north-south capacity in the Sunnyvale area. SR 85, however, is not under the jurisdiction or control of the City. SR 85 is a freeway owned and operated by the State of California, Department of Transportation (Caltrans). Therefore, under CEQA Guidelines § 15126.6(f)(1), this alternative is considered infeasible because the City cannot “reasonably acquire, control, or otherwise have access to” SR 85.

The “Improve Other North-South Sunnyvale Corridors” alternative was found, from a traffic engineering perspective, to be feasible to construct additional lane(s) in each direction on Mathilda Avenue and/or Fair Oaks Avenue. However, there is insufficient room to construct any new lanes within the existing rights-of-way of either street. The additional right-of-way would need to be purchased and would necessitate the removal/displacement of hundreds of homes and businesses that front both sides of these two streets. The costs to the City, both in terms of buying the right-of-way and in terms of the effects on businesses and residents, would be extraordinary. For these reasons, this alternative is considered infeasible.

The four “Mary Avenue” alternatives are variations on the proposed project in that they all include either a 2- or 4- lane extension over U.S. 1010 and SR 237. They also include various measures aimed at reducing traffic volumes on Mary Avenue, either by removing existing lanes or by closing Mary Avenue to thru north-south traffic at Evelyn Avenue.

Because each of the four “Mary Avenue” alternatives include the northerly extension of Mary Avenue into the Moffett Park area, some benefit to that area is provided, which is consistent with the project objective. However, when compared to the proposed project, each of the four alternatives results in greater traffic impacts. The primary reason for this is that, by reducing capacity on Mary Avenue to varying degrees, the traffic that would otherwise use Mary Avenue as the shortest route to its destination would instead use alternate routes. This would increase traffic on nearby streets such as Bernardo Avenue, Pastoria Avenue, Hollenbeck Road, Sunset Avenue, and Mathilda Avenue. In other words, because traffic demand is generated by land uses, reducing capacity on Mary Avenue does not reduce such demand; rather the demand is simply accommodated on alternate routes.

The H Street alignment alternative also is no longer feasible, as the City Council acted to release right of way for this alternative to facilitate completion of the Moffett Towers project. This alignment was released based on the findings in the Draft EIR that an H Street alignment would have greater traffic and cultural resource impacts than the proposed project.

In addition to the alternatives identified in the EIR and FEIR, five additional alternatives were suggested by members of the public. These alternatives were analyzed as follows:

Improve transit service and expand transit facilities – The City studied the alternative of improving transit service and expanding transit facilities in the *Transportation Strategic Program* (2003). The analysis concluded that vehicle trips would be reduced by only 5 % and there will still be a 25% increase in PM peak-hour vehicle trips by 2020 when compared to existing conditions, thus this alternative does not meet project objectives.

Construct North-South Transit Improvements in Sunnyvale – A report by VTA *Tasman Corridor Project* studied five proposed light rail transit extensions and concluded that the Sunnyvale extension was not feasible because it would require acquiring substantial number of

residences and businesses, in addition to other adverse impacts along proposed alignments for traffic, noise and visual/aesthetics, thus this alternative is not feasible.

Construct Light Rail Spur in Moffett Business Park – Constructing an additional spur line off the light rail line would reduce performance because it would involve a dead-end line requiring a plan for a return loop. Shuttle service is currently provided and funded by Moffett Business Park employers and the VTA to Caltrain stations and the Great America ACE train station. This alternative would not achieve the project goals.

Construct Regional Highway Improvements – Five major studies have been previously performed analyzing regional highway improvements and various geometries to address the northern Sunnyvale traffic areas discussed and contrasted in a Table, some of which included the Mary Avenue extension as an alternative. Other alternatives, having been rejected, found the project to be a better alternative in addressing regional operational deficiencies and alternatives for limited north-south connections within Sunnyvale.

Construct Expressway Improvements Alternative – This alternative was studied by the County in the *Comprehensive County Expressway Planning Study* and found that while improvements would reduce delay on Lawrence Expressway, such improvements would not reduce delays on Mathilda Avenue, thus this alternative does not achieve project objectives for relieving future traffic congestion north of SR 237 and US 101.

SECTION 9. FINDING REGARDING MITIGATION OR AVOIDANCE OF IMPACTS. Based on the adopted mitigation measures and alternative components, changes or alterations have been required in, or incorporated into, the project which mitigate or avoid all of the Project's potentially significant environmental effects.

SECTION 10. MITIGATION MEASURES FOR WHICH OTHER AGENCIES ARE RESPONSIBLE. There are no changes or alterations that are partially or wholly within the responsibility and jurisdiction of other public agencies and that can and should be adopted by those other agencies.

The City Council finds that the Mary Avenue Extension Project is consistent with the City's General Plan because it complies with the following land use and transportation policies:

- *C3 - Attain a transportation system that is effective, safe, pleasant and convenient.* The project provides a new transportation facility to accommodate anticipated future traffic growth which will address traffic congestion that would make the transportation system less effective and less safe. The project will provide new transportation access to and from the southwestern area of the Moffett Industrial Park, which will improve convenience for transportation system users.
- *C3.4 - Maintain roadways and traffic control devices in good operating condition.* The project upgrades roadway and pedestrian facilities in accordance with modern design criteria and constructs new facilities in accordance with those criteria.
- *C3.1.4 - Study and implement physical and operational improvements to optimize roadway and intersection capacities.* The project improves traffic operations on Mathilda Avenue and provides new roadway and intersection capacity.

- *C3.5 - Support a variety of transportation modes.* The project includes new sidewalks, pedestrian ramps and bike lanes, which will facilitate bicycle and pedestrian traffic in the area.

The City Council finds that each significant impact identified in the EIR is acceptable because mitigation measures have been required in order to reduce each effect to the extent feasible.

The City Council finds that on balance, of the eight alternatives that were evaluated in the EIR, the Project provides the greatest overall benefit to the community when considering environmental, social, technical, and economic factors. Of the eight alternatives, only one meets all of the project objectives.

Adopted by the City Council at a regular meeting held on October 28, 2008, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM AND LEGALITY:

David Kahn, City Attorney

ATTACHMENT J

**TRAVEL TIME INFORMATION FROM
COUNCIL MEMBER MOYLAN**

New Data Regarding Transit Times on Mary Avenue

C.R. Moylan

Several citizens have expressed a concern that if the Mary Avenue Overpass were constructed, it would create a shortcut for commuters currently on the freeway. If so, morning commuters would exit northbound Route 85 at their first opportunity in Sunnyvale (Fremont Avenue), choosing to drive through the city on Mary Avenue rather than staying on 85, Route 237, and exiting at Maude Avenue to reach Mary and the overpass to work sites, as the project intends. If that happened, the net result would be a transfer of traffic from the freeway to a city street, which everyone agrees would be undesirable. The traffic simulations reported in the EIR indicate that this situation would not occur, but I prefer experimental data if they are available.

Over the last several weeks, I have gotten on northbound 85 at Homestead during the morning commute 14 times and driven past the intersection of Mary and Maude. For half of the trips, I stayed on the freeway, taking 85 to 237 to Maude to Mary. The other half, I exited at Fremont, turned left onto Mary, and stayed on it. I alternated routes each time, stayed with traffic, and did not speed. Using a digital timer, I timed the trip from the “gore point” at the Fremont exit (where the dotted line to the exit becomes a solid line) to the point at which I had cleared the intersection at Maude and Mary. The results are as follows.

Date	Route	Starting Time	Trip Duration
September 26	freeway	8:26	10:45
September 29	Mary	8:24	15:03
September 30	freeway	8:23	9:52
October 3	Mary	8:27	10:51
October 6	freeway	8:30	8:48
October 7	Mary	8:31	14:02
October 8	freeway	8:36	10:44
October 10	Mary	8:41	12:06
October 13	freeway	8:27	7:34
October 16	Mary	8:25	12:04
October 17	freeway	8:27	8:05
October 20	Mary	8:25	13:07
October 21	freeway	8:26	9:20
October 22	Mary	8:23	9:34

Traffic was unusually light on both October 13 and 22. The former might be explained by Columbus Day; the explanation for the latter is unknown. Neither data point meets the statistical Q test to justify discarding it. Both represented unusually good but real commute experiences.

Average trip time using freeway route: 9:18 ± 1:14

Average trip time using Mary route: 12:24 ± 1:52, 33% longer

The average result of a decision to use Mary Avenue rather than the freeway would be a delay of three minutes. We can therefore be reassured that Mary Avenue would not represent a shortcut to Moffett Park, and that commuters would stay on northbound 85 in the morning because they would get to work faster.