FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #GP12-0003, DP14-3008 & RZ21-3262; CONTRA COSTA COUNTY (APPLICANT & OWNER)

PROJECT FINDINGS

A. General Plan Amendment

1. **Required Finding:** *Adoption of the proposed General Plan Amendment will not violate the County Urban Limit Line.*

   Project Finding: The portion of the project site where development may occur is fully located inside the County's Urban Limit Line (ULL), and therefore may be developed with "urban" or "non-urban" uses, as defined in the 2005-2020 Contra Costa County General Plan. The Public and Semi-Public (PS) land use designation for Byron Airport, including the General Plan Amendment to the 11.7-acre parcel, is non-urban. All proposed land uses, both aviation-related and non-aviation-related, will be located on land designated PS and within the ULL.

2. **Required Finding:** *Adoption of the proposed General Plan Amendment is consistent with the 65/35 Land Preservation Standard.*

   Project Finding: Adoption of the proposed General Plan Amendment (GPA) will not cause a violation of the 65/35 Land Preservation Standard (the "65/35 Standard"), originally approved by County voters through adoption of Measure C-1990 and reaffirmed through adoption of Measure L-2006. Under the 65/35 Standard, no more than 35 percent of the land in the County may be developed with urban uses and at least 65 percent of the land must be preserved for non-urban uses such as agriculture, open space, parks, wetlands, and public facilities. The existing land use designations for the subject site, Public and Semi-Public (PS) and Agricultural Lands (AL), are non-urban land use designation. Changing the land use designation for 11.7 acres from AL to PS does not change the percentage of land devoted to urban and non-urban uses.

3. **Required Finding:** *The proposed General Plan Amendment is consistent with the Contra Costa Transportation Authority Growth Management Program.*

   Project Finding: The project complies with the objectives and requirements of Measure J-2004, the Contra Costa Transit Authority (CCTA) Growth Management Program (GMP), and related CCTA resolutions. The CCTA GMP Implementation Guide (2021) sets forth procedures for local agency consultation and evaluation of impacts of proposed General Plan Amendments. The Byron Airport Development Program EIR was evaluated according to the CCTA GMP GPA Review Process and Technical Procedures for evaluating transportation impacts. Therefore, the project complies with the objectives and requirements of Measure J-2004, the Contra Costa Growth Management Program, and related CCTA resolutions.

4. **Required Finding:** *Following adoption of the proposed General Plan Amendment, the General Plan will remain internally consistent, as required under Government Code Section 65300.5.*

   Project Finding: The General Plan comprises an integrated, internally consistent, and compatible statement of policies governing development in the unincorporated areas. Although the proposed GPA involves revising policies to expand the allowed uses at Byron Airport and redesignating the 11.7-acre parcel to PS to be included as part of the Byron Airport Development Program, the expanded aviation and non-aviation uses are consistent with the PS designation of the land inside the ULL and will support the General Plan goal of operating two airports in the County, among other goals and policies. The two amended policies will also not cause inconsistencies, as they are very specific to Byron Airport and do not affect County policy unrelated to that facility. Therefore, adoption of the proposed GPA will not cause the General Plan to become internally inconsistent.

5. **Required Finding:** *Adoption of the proposed General Plan Amendment is in the public interest, as required under Government Code Section 65358(a).*

   Project Finding: Pursuant to Government Code Section 65358(a), the General Plan may be amended if such amendment is deemed to be "in the public interest." The proposed project would help implement General Plan Goal 5-Q, to encourage the development and operation of two general purpose public airports in the county, by supporting the financial self-sufficiency of Byron Airport. The project will support this through economic development around the airport, which will also serve to improve the severe jobs/housing imbalance in East County by adding high-quality employment opportunities at the airport.

6. **Required Finding:** *Adoption of the proposed General Plan Amendment would not exceed the limit on such amendments specified under Government Code Section 65358(b).*

   Project Finding: Pursuant to Government Code Section 65358(b), no mandatory element of the General Plan may be amended more than four times per calendar year. The proposed GPA affects the Land Use and Transportation and Circulation element, both mandatory elements, and is the third consolidated amendment for 2022.

B. <u>Growth Management Performance Standards</u>

1. **Traffic**: Implementation Measure 4-c under the Growth Management Program (GMP) of the County's General Plan requires a traffic impact analysis be conducted for any project that is estimated to generate 100 or more AM or PM peak-hour trips. The project involves a County-initiated General Plan Amendment (GPA),

Development Plan Modification (DPM), Rezone, and Airport Land Use Compatibility Plan (ALUCP) Amendment for the Byron Airport to expand the range of uses allowed on the airport property. As part of the EIR, a Traffic Impact Analysis (TIA) was prepared. The Draft EIR identified several impacts and mitigation measure based primarily on the results of the TIA. The project has the potential to increase the volume of truck traffic on the roadway network to serve warehousing and light industrial development. Although regional roadways, such as Byron Highway and SR-4, already safely handle significant volumes of truck traffic, the rural roads providing access to Byron Airport may not support the increase in truck traffic. Existing traffic volumes can be handled on these roads, but they may be inadequate for increased volumes of project-related traffic, including increased truck traffic. As such, the Draft EIR identified this as a potentially significant impact. Therefore, the project proponent would construct the street improvements along Armstrong Road, Byron Hot Springs Road, and Holey Road described in Draft EIR mitigation measure TRAF-9 to reduce access impacts related to heavy truck traffic.

2. **Water**: The project site is not connected to public water services; instead, the project site relies on existing on-site water wells and a 4,000-gallon on-site water tank for its domestic, non-potable water. Bottled water is used for drinking water. Currently, the well serving the airport property is insufficient to serve additional project development. According to the Water Supply Assessment completed for the proposed project, at the programmatic level of analysis, sufficient water supplies are available to serve its water demand under normal and dry conditions, including existing and planned land uses, over the 20-year projection period (Draft EIR Appendix I). This would be accomplished through the use of one or more of the proposed options, including on-site expansion of wells for extraction and treatment of additional groundwater, importation of treated water from Discovery Bay Community Services District (CSD), or importation and on-site treatment of additional water from Byron-Bethany Irrigation District (BBID). However, as development under the proposed project proceeds, each of the potential supplies considered would require additional feasibility analysis to determine the actual potential for project implementation, and would require appropriate agreements (e.g., will-serve letter) from the off-site suppliers before any development requiring potable water could be permitted. This process is incorporated into MM-UTIL-1. Connection to either Discovery Bay CSD or BBID may also conflict with the County's Urban Limit Line policy, so on-site expansion of groundwater systems would be the ideal method.

3. **Sanitary Sewer**: The project site is not connected to public sewer services; instead, the airport relies on an existing on-site septic system and leach field for its sanitary service. The Byron Airport Infrastructure Study considered two potential wastewater generation rates (Mead & Hunt 2013). The Infrastructure Study compared two generation rates for bulk warehousing and industrial development: the Central

Contra Costa Sanitary District's Collection System Master Plan rate of 1,000 gpd per gross acre, and the City of Oakland rate of 25 gpd per 1,000 square feet of building square footage. The Infrastructure Study used the Oakland rate of 25 gpd per 1,000 square feet, resulting in an estimated 96,000 gpd build-out demand. The development assumptions in the Infrastructure Study are greater than for the proposed project (146.9 acres and 3,840,000 square feet of building space, compared to 70 acres and 941,000 square feet of building space for the proposed project). Applying the Oakland rate to the proposed project would result in an estimated wastewater flow of 23,525 gpd. However, the Town of Discovery Bay, which contains the nearest wastewater treatment plant, uses a wastewater generation rate of 2,000 gpd per acre of industrial development and 1,600 gpd per acre of commercial development. Using these flow rates, wastewater flow would be 89,920 gpd for non-aviation uses. Therefore, the project's wastewater requirements would exceed existing infrastructure.

MM-UTIL-2 requires implementation of a wastewater system, per the recommendations of the Byron Airport Infrastructure Study (Mead & Hunt 2013), which studied several options for expansion of the on-site sewer system. The options include requiring each new use or development to provide for its own wastewater disposal, in effect distributing wastewater treatment to smaller leach fields throughout the site, or development of centralized treatment though use of an on-site package wastewater treatment plant and establishment of collection pipelines. For an on-site treatment plant, effluent disposal may be accomplished through landscape irrigation if the effluent is treated to a level to meet Title 22 CCR standards. A third option is connection to an existing sewer system: either the Discovery Bay Community Services District or the Byron Sanitary District. Connection to Discovery Bay would involve off-site construction of a force main and likely modifications to the existing sewage lift station (or a new lift station). Connection to Byron Sanitary District would likely require an expansion of Byron Sanitary District's wastewater treatment facility. Connection to either Discovery Bay or Byron Sanitary District may also conflict with the County's Urban Limit Line policy, so on-site expansion of septic systems and leach fields would be the ideal method.

4. **Fire Protection**: The nearest fire station to the project site is Station 59, which is located approximately 8 miles to the north. Project elements would comply with federal, state, and local requirements regarding fire protection, including the California Building Code and California Fire Code, and California Government Code Section 51182 and Public Resources Code Section 4291, which would reduce fire hazards to buildings and structures. Byron Airport maintains its own water system for fire suppression, which would be expanded prior to any airport-related industrial or commercial development.

5. **Public Protection**: The County Sheriff's Office provides law enforcement services within the county. The nearest County Sheriff's station to the project site is Delta Station, located approximately 12.2 miles northwest in Oakley. Although the project would expand aviation and non-aviation uses at the site, which would increase the number of people on the site, the project would not include residential uses that would cause substantial population growth in the county. Furthermore, the project would primarily employ people residing in the region and would not substantially increase demand for housing or result in population growth (see Section 3.11 of the Draft EIR). Population is used by the Sheriff's Office to determine the need for new or expanded facilities (General Plan Policy 7-57). The project is not expected to increase demand for police protection services such that new or expanded facilities would be required.

6. **Parks and Recreation**: The County Public Works Department provides park and recreational services to the unincorporated County, including the project site. The project would not involve development of residential uses or result in a direct or indirect population growth that would, in turn, increase demand on regional parks and open spaces. Therefore, impacts related to parks and recreational resources would be less than significant.

7. **Flood Control and Drainage**: Flood zones identified on Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRMs) are identified as a Special Flood Hazard Area (SFHA). An SFHA is defined as the area that will be inundated by the flood event having a 1% chance of being equaled or exceeded in any given year. The 1%-annual-chance flood is also referred to as the base flood or 100-year flood. . FEMA has mapped SFHAs on the project site, which are labeled flood zones A, AE, and B. The flood zone widens significantly along Brushy Creek in an area located west of Runway 12-30 and west of Falcon Way, and spreads over low-lying areas between the two runways and south of Runway 5-23. The flood zone crosses Falcon Way near its intersection with Armstrong Road and crosses the northeastern end of Runway 5-23. Review of the flood zone shows that it is largely confined to areas of the project site that would be designated as habitat management or low intensity use. However, the flood zone intersects an area designated for airport-related uses just south of Armstrong Road, northwest of Runway 12-30. There is also a regulatory floodway along Brushy Creek, which intersects the northern edge of the proposed development area for airport-related uses. In addition, the 100-year flood hazard area terminates at the airport's 15-acre detention basin located southeast of Runway 12-30 and east of Runway 5-23. East of the detention basin, a 500-year hazard area (also referred to as a 0.2%-annual-chance flood hazard) is mapped by FEMA.

   Prior to and at full build-out, the project would involve substantial increases in the amount of impervious surfaces, which has the potential to substantially increase

the rate and volume of storm runoff during peak storm events without adequate measures to detain, retain, or slow the increased flows. The distribution and extent of impervious surfaces to be constructed is not known precisely at this time but would occur in a 70-acre area planned for non-aviation uses (46.6 acres) and the aviation area (23.5 acres). At full build-out, the total building footprint for all new uses is anticipated to be approximately 914,000 square feet (or 21 acres). Though some of this area may consist of landscaping or water quality control BMPs (e.g., swales, gravel, or pervious pavement), most of the building footprint is expected to consist of impervious surfaces, given the anticipated uses (e.g., typically 80% to 90% of the building footprint). The following subsections examine the impacts that altered flow regimes would have on erosion or siltation, on- or off-site flooding, the capacity of existing or planned stormwater drainage systems, and the impedance or redirection of flood flows. Due to the increases in impervious surfaces, could result in increases in runoff to the on-site detention basin and to Brushy Creek, which is a natural waterway. If not properly controlled, such increases in runoff could exacerbate on- or off-site flooding that already occurs as part of the existing conditions.

As discussed in Draft EIR Section 3.8.2, a drainage permit would be required to comply with Division 914 of the County Ordinance Code. Among other things, the ordinance prohibits the impairment or impedance of the natural flow of stormwaters; direct physical impacts to watercourses (e.g., through grading, excavation, filling, and/or development); or the construction, alteration or repair of a drainage structure, facility, or channel without first obtaining a permit from the public works department. Division 914 establishes on-site and off-site collect and convey requirements that must be met before development approvals are granted. Applicants are required to substantiate that both on-site and off-site drainage facilities have adequate capacity to convey specified design storm events, that the capacity and stability of natural watercourses are adequately protected, and that environmentally sensitive flow velocity attenuation techniques approved by the Public Works Department are implemented.

C. Rezone Findings

1. **Required Finding:** *The change proposed will substantially comply with the General Plan.*

   Project Finding: The proposed project is located primarily within the PS designation, in which public airports are a compatible use. The existing aviation facilities and the master-planned development areas are designated as PS. The proposed project also includes the redesignation of the 11.7-acre parcel from AL to PS, which, after its redesignation, would result in the entire project being located within the PS designation. The remainder of the airport property is designated OS,

consistent with the habitat management use for the non-developable airport property. The portion of the project site where development may occur is fully located inside the County's Urban Limit Line (ULL). All proposed land uses, both aviation-related and non-aviation-related, will be located on land designated PS and within the ULL.

The proposed GPA involves revising policies to expand the allowed uses at Byron Airport and redesignate the 11.7-acre parcel to PS to be included as part of the Byron Airport Development Program. The expanded aviation and non-aviation uses allowed under the P-1 zoning are consistent with the PS designation of the land inside the ULL and will support the General Plan goal of operating two airports in the county, among other goals and policies.

2. **Required Finding:** *The uses authorized or proposed in the land use district are compatible within the district and with uses authorized in adjacent districts.*

Project Finding: The airport property is currently zoned P-1. The P-1 zoning is intended to allow diversification in the relationship of various uses, buildings, structures, lot sizes, and open space areas while ensuring compliance with the General Plan and the intent of the County Code in requiring adequate standards necessary to satisfy the requirements of public health, safety, and general welfare. Currently, the Byron Airport P-1 zoning only allows aviation-related uses, agriculture, and open space. The amended Planned Unit District will identify four separate development areas: Aviation, Airport Related, Low-Intensity Use, and Habitat Management (see Attachment 7, Proposed Site Plan). The most important change would be to the airport-related uses, which would allow non-residential development that is compatible with the ALUCP for Byron Airport. These uses would include light industry, warehousing and logistics, commercial, and low-intensity office. In addition, the 11.7-acre parcel to be acquired by the County would be rezoned from A-3 to P-1 in order to be included as part of the Byron Airport Development Program.

Byron Airport is surrounded by low-intensity uses. Byron Hot Springs, a now abandoned resort and former World War II prisoner-of-war camp, is located north of the airport, agricultural and rural residential uses border the east and west sides of the airport property, and agricultural lands and property owned by East Bay Regional Park District are located to the south. The airport is the most developed property in the area. The proposed higher-intensity land uses are commonly located adjacent to airports and are compatible with the existing airport uses. While the surrounding properties have not been developed with higher intensity uses, the agricultural zoning allows uses of an industrial nature, such as packing plants, granaries, and warehouses, by right. The proposed uses are therefore compatible with the adjacent zoning.

3. **Required Finding:** *Community need has been demonstrated for the use proposed, but this does not require demonstration of future financial success.*

   Project Finding: Byon Airport currently operates at an annual net deficit. Allowing for more land uses and increased intensities within the Byron Airport planning area will increase revenue for the airport and County.

   Allowing for more land uses also helps improve the Jobs/Housing balance in East Contra Costa County. According to General Plan Table 2-4, the projected jobs/hosing ratio for East County in 2020 was 0.45 jobs per resident. This low ratio results in a large population of East County residents commuting out of the county for work, rather than commuting locally. This mass exodus from East County communities creates significant traffic along local roads and highways, among other negative impacts to the environment and quality of life. Providing new, high quality economic opportunities for residents in East County would help make a dent in the jobs/housing ratio.

D. Findings of Approval of P-1 Zoning District and Final Development Plan

1. **Required Finding:** *The applicant intends to start construction within two and one-half years from the effective date of the zoning change and plan approval.*

   Project Finding: The applicant has indicated that they intend to commence construction within 2 ½ years of the effective date of the zoning change and plan approval.

2. **Required Finding:** *The proposed planned unit development is consistent with the County General Plan.*

   Project Finding: The County General Plan designates the existing aviation facilities and the master-planned development areas as Public/Semi-Public (PS). The remainder of the airport property is designated as Open Space (consistent with the habitat management use for the non-developable airport property) (Contra Costa County 2017). The General Plan designation for the existing airport property will not change. The 11.7-acre acquisition parcel would be redesignated from Agricultural Lands (AL) to PS. General Plan Policy 5-66 states, "Establishment of commercial, industrial or residential development around the planned airport shall not be allowed" (Contra Costa County 2005b). This policy would be amended to specify that commercial or industrial development would be allowed on airport property if it is consistent with the ALUCP and the Airport Master Plan for Byron Airport. Policy 5-77 would be updated to reflect the new compatibility zone designations (Zone B-1 would become Safety Zone 2) and the additional uses at the airport that may be found compatible under the updated ALUCP for Byron Airport.

The project would help implement General Plan Goal 5-Q, to encourage the development and operation of two general purpose public airports in the county, by providing for the economic development and financial self-sufficiency of Byron Airport. The General Plan policies regarding the airport would be amended to clarify that compatible non-aviation uses would be allowed on airport property. General Plan Policy 5-66 would be amended to specify that commercial or industrial development would be allowed on-airport if it is consistent with the ALUCP and the Byron Airport Master Plan. Not only would increasing the economic viability of Byron Airport help it operate in a financially beneficial way to the County, but it would also help support the Jobs/Housing balance in East Contra Costa County. According to General Plan Table 2-4, the projected jobs/hosing ratio for East County in 2020 was 0.45 jobs per resident. This low ratio results in a large population of East County residents commuting westward for work, rather than commuting locally or eastward. This mass exodus from East County communities creates significant traffic along local roads and highways, among other negative impacts to the environment and quality of life. Providing new, high quality economic opportunities for residents in East County would help make a dent in the jobs/housing ratio, especially with the rapidly increasing population growth in East County. With the included amendments, the proposed project would be consistent with the County General Plan.

3. **Required Finding:** *In the case of residential development, it will constitute a residential environment of sustained desirability and stability and will be in harmony with the character of the surrounding neighborhood and community.*

   Project Finding: The project does not include any residential development.

4. **Required Finding:** *The development of a harmonious integrated plan justifies exceptions from the normal application of this code.*

   Project Finding: The airport property is currently zoned Planned Unit District (P-1). The P-1 zoning is intended to allow diversification in the relationship of various uses, buildings, structures, lot sizes, and open space areas while ensuring substantial compliance with the General Plan and the intent of the County Code in requiring adequate standards necessary to satisfy the requirements of public health, safety, and general welfare. Currently, the Byron Airport P-1 zoning only allows aviation-related uses, agriculture, and open space. The amended Planned Unit District will identify four separate development areas: Aviation, Airport Related, Low-Intensity Use, and Habitat Management. The most important change would be to the airport-related uses, which would allow non-residential development that is compatible with the ALUCP for Byron Airport. These uses would include light industry, warehousing and logistics, commercial, and low-intensity office.

The P-1 district for Byron Airport would also be revised to identify the land use categories used in the ALUCP: aviation, non-aviation, low intensity, and habitat management. Additional land uses that could be allowed within the aviation and non-aviation areas would be identified, as discussed in Section 2.6, Proposed Land Uses and Zoning, of the Draft EIR. The P-1 modification would specify that all proposed land uses must be reviewed by County staff for consistency with the current ALUCP. The zoning would also implement the ALUCP and General Plan standards for compatible land use, including height restrictions.

CONDITIONS OF APPROVAL

Administrative

1. Approval is granted for a General Plan Amendment to modify the land use designation of the subject 11.7-acre parcel to be acquired from Agricultural Lands (AL) to Public and Semi-Public (PS), in order to be included as part of the Byron Airport Development Program, and to modify the language of General Plan Policies 5-66 and 5-77.

2. Approval is granted for a Rezone to change the subject 11.7-acre parcel to be acquired by the County from Heavy Agricultural District (A-3) to Planned Unit District (P-1) in order to be included as part of the Byron Airport Development Program.

3. Approval is granted to amend the Airport Land Use Compatibility Plan (ALUCP) to allow for the additional compatible uses and updated policies regarding safety, noise, airspace protection, and overflight.

Development Plan Modification

4. Approval is granted for a Development Plan Modification to allow for the identified aviation, airport-related, low-intensity, and habitat management land uses.

5. Development standards for non-aviation uses are as follows:

    a. Setback: 25 feet

    b. Side Yard: 10 feet

    c. Aggregate Side Yard: 20 feet

    d. Height Limit: 40 feet

e. Floor Area Ratio (FAR):

   i. Logistics/Warehouse/Distribution: 0.30

   ii. Light Industry/Business Park: 0.35

   iii. Office: 0.40

   iv. Commercial: 0.30

6. Additional land uses allowed under the Byron Airport Development Plan are as listed in Attachment 8 of this document.

Aesthetics

7. Non-aviation development shall be subject to the following design requirements **(MM-AES-1)**:

   a. Long facades should be designed with building articulation and landscaping to break them up into smaller visual elements, avoiding public views of uninterrupted blank walls.

   b. For industrial and warehouse buildings, bright reflective colors and materials shall not be allowed. Paint colors should be earth tones. Natural finishes such as brick or stone facades may also be incorporated into the design.

   c. Project lighting shall comply with the policies of the Airport Land Use Compatibility Plan.

   d. Loading areas should be located and designed to minimize direct exposure to public views.

   e. Structures and parking lots located on the eastern edge of the airport property shall incorporate landscaping to screen public views. The type, quantity and placement of plant material should be selected for its compatibility with airport uses (tree heights, plants that are not wildlife attractants), as well as structure, texture, color and compatibility with the building design and materials.

   The design of non-aviation development shall be reviewed by both Department of Conservation and Development and Airports Division staff prior to issuance of building permits for conformance with these standards. Aviation uses shall be reviewed by Airports Division staff.

Air Quality

8. The project contractor would be required as conditions of approval to implement the following best management practices that are required of all projects **(MM-AQ-1)**:

    a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.

    b. All haul trucks transporting soil, sand, or other loose material off site shall be covered.

    c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

    d. All vehicle speeds on unpaved roads shall be limited to 15 mph.

    e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

    f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure, 13 CCR 2485). Clear signage shall be provided for construction workers at all access points.

    g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

    h. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

9. The project shall implement the following measures for all facilities in order to reduce operational air pollutant emissions to the extent feasible. To the extent that the measures below are addressed by MM-AQ-4 as part of any health risk assessment that is prepared, the measures in MM-AQ-4 shall take precedence **(MM-AQ-2)**.

    a. Only haul trucks meeting model year 2010 engine emission standards shall be used for the on-road transport of materials to and from the project site.

b. Legible, durable, weather-proof signs shall be placed at truck access gates, loading docks, and truck parking areas that identify applicable anti-idling regulations. At a minimum, each sign shall include: 1) instructions for truck drivers to shut off engines when not in use; 2) instructions for drivers of diesel trucks to restrict idling to no more than 5 minutes once the vehicle is stopped, the transmission is set to "neutral" or "park," and the parking brake is engaged; and 3) telephone numbers of the building facilities manager and the CARB to report violations.

c. Prior to tenant occupancy, the facility operator shall provide documentation to Contra Costa County demonstrating that occupants/tenants of the project site have been provided documentation on funding opportunities, such as the Carl Moyer Program, that provide incentives for using cleaner-than-required engines and equipment.

d. The minimum number of automobile electric vehicle (EV) charging stations required by the California Code of Regulations Title 24 shall be provided. In addition, the buildings shall include electrical infrastructure sufficiently sized to accommodate the potential installation of additional auto and truck EV charging stations in the future.

e. Conduit shall be installed to tractor trailer parking areas in logical locations determined by the facility operator during construction document plan check, for the purpose of accommodating the future installation of EV truck charging stations at such time this technology becomes commercially available.

10. For non-aviation facilities with construction proposed within 1,000 feet of off-site residential receptors, a construction health risk assessment shall be prepared to assess exposure of existing sensitive receptors to toxic air contaminants (TACs) during project construction. If the health risk assessment determines that cancer and non-cancer impacts would be less than significant, no additional measures are needed. Alternatively, the results of the health risk assessment may necessitate implementation of TAC exposure reduction strategies in order to reduce potential risk to less-than-significant levels, which could include, but are not limited to, the following **(MM-AQ-3)**:

    a. Portable equipment used during construction shall be powered by electricity from the grid instead of diesel-powered generators, to the maximum amount feasible.

    b. Equip heavy-duty diesel-powered construction equipment with Tier 4 Interim or better diesel engines, except where Tier 4 Interim or better engines are not available for specific construction equipment. Contra Costa County shall verify and approve all pieces within the construction fleet that would not meet Tier 4 Interim standards. At a minimum, Tier 3 engines will be required if Tier 4 engines are not available.

c. All conditions of approval/mitigations shall be placed on construction drawings and part of any construction contract. Physical copies of the plans shall be available at the on-site job trailer.

11. For non-aviation uses, a health risk assessment of long-term operations shall be prepared if the proposed facility is within 1,000 feet of off-site residential receptors and would result in any of the following **(MM-AQ-4)**:

    a. Accommodate more than 100 trucks per day, or

    b. Accommodate more than 40 trucks with operating TRUs per day, or

    c. Where TRU operations exceed 300 hours per week.

    Results of the health risk assessment may necessitate implementation of TAC exposure reduction strategies in order to reduce potential risk to less-than-significant levels, which could include, but are not limited to, the following:

    d. Idling of diesel equipment of any type shall be strictly prohibited at the premises. The property owner/tenant/lessee shall inform all business partners, visitors, etc., of the Zero-Idling Rule in effect for the subject property and area streets. Highly visible signs prohibiting idling shall be posted at each entrance and exist. Violators of this zero-idling rule are subject to fines and or criminal charges.

    e. Within 90 days of occupying the space, the facility operator shall submit to the Airports Division and the Department of Conservation and Development (DCD) the first of an annual inventory of all equipment that generates criteria pollutant, TACs, and GHG emissions operated at the subject location throughout the life of the project up to year 2035. The equipment inventory shall include the year, make, and model of the equipment that was used in the previous year, including annual hours of operation for each piece of equipment, including but not limited to heavy-duty drayage and non-drayage trucks, yard equipment, bulk material handling equipment (forklifts, etc.), and any other type of material handling equipment. The purpose of the inventory is to track emissions/equipment and to assist in technology reviews.

    f. The facility operator shall purchase/lease or otherwise acquire zero-emission vehicles/equipment (including: light/heavy duty trucks, drayage equipment, forklifts and generators) when commercially available as the attrition of gasoline/diesel equipment occurs. The property owner/tenant/lessee is encouraged to utilize any or all funding opportunities offered by CARB and other available programs. The availability of zero- emission equipment shall be

determined in a joint effort between the Airports Division and the facility operator as part of an annual technology review.

g. The facility operator shall adhere to the findings of the annual technologies review for reducing air emissions as part of the County Climate Action Plan and long-range sustainability goals, which encourage property owners and tenants to use cleaner technologies over time as they become available. A priority goal of the review will be the replacement of older equipment in operation at the subject site that generates the highest levels of criteria pollutant, TAC, and GHG emissions. The equipment to be replaced will be determined based on the level of emissions and cost-effectiveness of the emissions reduction (e.g., biggest reduction per dollar), and identify implementation mechanisms including, but not limited to, tenant-based improvements, grant programs, or a combination thereof, based on regulatory requirements and the feasibility analysis performed by the Airports Division. The Carl Moyer Program, or similar cost-effectiveness criteria, shall be used to assess the economic feasibility (e.g., cost effectiveness) of the identified new technologies. Zero-emission equipment employed pursuant to this mitigation may be replaced by other technologies or other types of equipment as long as the replacement equipment achieves the same or greater criteria pollutant, TAC, and GHG emission reductions as compared to the equipment identified as part of the technology review.

h. Every California based TRU and electronic-TRU (E-TRU) operational at the site must be registered with the Air Resource Board Equipment Registration and shall be labeled with a CARB Identification Number. Business operations handling TRUs shall install charging infrastructure and encourage E-TRUs on site and require those non-E-TRUs to plug in while stationary at the facility.

i. Prior to occupancy the facility operator shall demonstrate compliance with all newly adopted Ordinances/Statutes/Plans and requirements passed by all responsible agencies in relation to traffic, diesel emissions and air quality improvement measures.

Biological Resources

12. Swainson's Hawk Pre-Construction Survey, Avoidance, Minimization and Construction Monitoring & Migratory Bird Treaty Act Nesting Bird Avoidance **(MM-BIO-1)**:

    a. Prior to any ground disturbance related to covered activities that occurs during the nesting season (March 15–September 15), a qualified biologist shall conduct a preconstruction survey no more than 1 month prior to construction to establish whether Swainson's hawk nests within 1,000 feet of the project site are occupied. If potentially occupied nests within 1,000 feet are off the project site, then their

occupancy shall be determined by observation from public roads or by observations of Swainson's hawk activity (e.g., foraging) near the project site. If nests are occupied, minimization measures and construction monitoring are required (see below).

During the nesting season (March 15–September 15), covered activities within 1,000 feet of occupied nests or nests under construction shall be prohibited to prevent nest abandonment. If site-specific conditions or the nature of the covered activity (e.g., steep topography, dense vegetation, limited activities) indicate that a smaller buffer could be used, the East Contra Costa County Habitat Conservancy shall coordinate with the California Department of Fish and Wildlife (CDFW)/U.S. Fish and Wildlife Service (USFWS) to determine the appropriate buffer size.

If young fledge prior to September 15, covered activities can proceed normally. If the active nest site is shielded from view and noise from the project site by other development, topography, or other features, the project proponent can apply to the East Contra Costa County Habitat Conservancy for a waiver of this avoidance measure. Any waiver must also be approved by USFWS and CDFW. While the nest is occupied, activities outside the buffer can take place.
All active nest trees shall be preserved on site, if feasible. Nest trees, including non-native trees, lost to covered activities shall be mitigated by planting 15 saplings for every tree lost with the objective of having at least 5 mature trees established for every tree lost according. Preference shall be to provide on-site mitigation if feasible. Planting of replacement trees must be reviewed by the Airports Division for compatibility with airport operations. The project proponent shall either pay the East Contra Costa County Habitat Conservancy (Habitat Conservancy) an additional fee to purchase, plant, maintain, and monitor 15 saplings on the East Contra Costa County Habitat Conservation Plan (HCP)/Natural Community Conservation Plan (NCCP) Preserve System for every tree lost, or the project proponent shall plant, maintain, and monitor 15 saplings for every tree lost at a site to be approved by the Habitat Conservancy and per the requirements of the HCP/NCCP.

b. As part of the pre-construction survey for Swainson's Hawk, the qualified biologist approved by Contra Costa County shall also survey for native nesting birds protected by the Migratory Bird Treaty Act. If any active nests are observed during surveys, a suitable avoidance buffer from the nests shall be determined and flagged by the qualified biologist based on species, location and planned construction activity. Consultation with CDFW may be required to determine appropriate buffer distances. These nests shall be avoided until the chicks have fledged and the nests are no longer active, as determined by the qualified biologist. Any habitat (i.e., trees and brush) would be removed outside of the breeding bird season.

13. Western Burrowing Owl Pre-Construction Survey, Avoidance, Minimization, and Construction Monitoring **(MM-BIO-2)**:

    a. In accordance with Conditions on Covered Activities described in the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan, prior to any ground disturbance related to covered activities, a U.S. Fish and Wildlife Service (USFWS)/California Department of Fish and Wildlife (CDFW)-approved biologist shall conduct a preconstruction survey in grassland areas identified as having potential burrowing owl habitat. The surveys shall establish the presence or absence of western burrowing owl and/or habitat features and evaluate use by owls in accordance with CDFW survey guidelines (CDFG 1995).

    b. On the parcel where the activity is proposed, the biologist shall survey the proposed disturbance footprint and a 500-foot radius from the perimeter of the proposed footprint to identify burrows and owls. Adjacent parcels under different land ownership shall not be surveyed. Surveys should take place near sunrise or sunset in accordance with CDFW guidelines. All burrows or burrowing owls shall be identified and mapped. Surveys shall take place no more than 30 days prior to construction. During the breeding season (February 1–August 31), surveys shall document whether burrowing owls are nesting in or directly adjacent to disturbance areas. During the nonbreeding season (September 1–January 31), surveys shall document whether burrowing owls are using habitat in or directly adjacent to any disturbance area. Survey results shall be valid only for the season (breeding or nonbreeding) during which the survey is conducted.

    c. This measure incorporates avoidance and minimization guidelines from CDFW's *Staff Report on Burrowing Owl Mitigation* (California Department of Fish and Game 1995).

    d. If burrowing owls are found during the breeding season (February 1–August 31), the project proponent shall avoid all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young. Avoidance shall include establishment of a non-disturbance buffer zone (described below). Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation or that the juveniles from the occupied burrows have fledged. During the nonbreeding season (September 1–January 31), the project proponent should avoid the owls and the burrows they are using, if possible. Avoidance shall include the establishment of a buffer zone (described below).

    e. During the breeding season, buffer zones of at least 250 feet in which no construction activities can occur shall be established around each occupied burrow

(nest site). Buffer zones of 160 feet shall be established around each burrow being used during the nonbreeding season. The buffers shall be delineated by highly visible, temporary construction fencing.

f. If occupied burrows for burrowing owls are not avoided, passive relocation shall be implemented. Owls should be excluded from burrows in the immediate impact zone and within a 160-foot buffer zone by installing one-way doors in burrow entrances. These doors should be in place for 48 hours prior to excavation. The project area should be monitored daily for 1 week to confirm that the owl has abandoned the burrow. Whenever possible, burrows should be excavated using hand tools and refilled to prevent reoccupation (CDFG 1995). Plastic tubing or a similar structure should be inserted in the tunnels during excavation to maintain an escape route for any owls inside the burrow.

14. California Red-Legged Frog Avoidance **(MM-BIO-3)**:

a. Written notification to U.S. Fish and Wildlife Service (USFWS), California Department of Fish and Wildlife (CDFW), and the East Contra Costa County Habitat Conservancy, including, photos and habitat assessment, is required prior to disturbance of any suitable breeding habitat. The project proponent shall also notify these parties of the approximate date of removal of the breeding habitat at least 30 days prior to this removal to allow USFWS or CDFW staff to translocate individuals, if requested. USFWS or CDFW must notify the project proponent of their intent to translocate California red-legged frog within 14 days of receiving notice from the project proponent. The project proponent must allow USFWS or CDFW access to the site prior to construction if they request it.

b. There are no restrictions under the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan on the nature of the disturbance or the date of the disturbance unless CDFW or USFWS notify the project proponent of their intent to translocate individuals within the required time period. In this case, the project proponent must coordinate the timing of disturbance of the breeding habitat to allow USFWS or CDFW to translocate the individuals.

c. USFWS and CDFW shall be allowed 45 days to translocate individuals from the date the first written notification was submitted by the project proponent (or a longer period agreed to by the project proponent, USFWS, and CDFW).

15. California Tiger Salamander Minimization **(MM-BIO-4)**:

a. Written notification to USFWS, CDFW, and the Implementing Entity, including photos and breeding habitat assessment, is required prior to disturbance of any suitable breeding habitat. The project proponent will also notify these parties of

the approximate date of removal of the breeding habitat at least 30 days prior to this removal to allow USFWS or CDFW staff to translocate individuals, if requested. USFWS or CDFW must notify the project proponent of their intent to translocate California tiger salamanders within 14 days of receiving notice from the project proponent. The applicant must allow USFWS or CDFW access to the site prior to construction if they request it.

b. There are no restrictions under the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan on the nature of the disturbance or the date of the disturbance unless CDFW or USFWS notify the project proponent of their intent to translocate individual California tiger salamanders within the required time period. In this case, the project proponent must coordinate the timing of disturbance of the breeding habitat to allow USFWS or CDFW to translocate the individuals. USFWS and CDFW shall be allowed 45 days to translocate individuals from the date the first written notification was submitted by the project proponent (or a longer period agreed to by the project proponent, USFWS, and CDFW).

16. Rare Plant Surveys and Mitigation **(MM-BIO-5)**:

a. Prior to commencement of any project-related construction activity, Contra Costa County shall retain a qualified biologist/botanist to conduct protocol-level special-status plant surveys of the undisturbed areas of the project site for alkali milk-vetch (*Astragalus tener* var. *tener*), brittlescale (*Atriplex depressa*), big tarplant (*Blepharizonia plumosa*), round-leaved filaree (*California macrophylla*), Congdon's tarplant (*Centromadia parryi* ssp. *congdonii*), recurved larkspur (*Delphinium recurvatum*), spiny-sepaled button-celery (*Eryngium spinosepalum*), diamond-petaled poppy (*Eschscholzia rhombipetala*), and Contra Costa goldfields (*Lasthenia conjugens*).

b. As part of the East Contra Costa County Habitat Conservation Plan (HCP)/Natural Community Conservation Plan (NCCP) application for coverage, the surveys shall be conducted during the appropriate blooming periods. The surveys shall be conducted by a qualified biologist knowledgeable of the plant species in the region. These plant surveys shall be conducted in accordance with 2009 California Department of Fish and Wildlife (CDFW) rare plant survey protocols.

c. If any special-status plant species are observed during surveys, the project proponent shall notify the HCP/NCCP Implementing Entity (i.e., East Contra Costa County Habitat Conservancy) of the construction schedule so as to allow the HCP/NCCP Implementing Entity the option to salvage the population(s) in accordance with HCP/NCCP Conservation Measure 3.10 (Plant Salvage when Impacts are Unavoidable) described below. Additionally, the project proponent

shall confirm with the HCP/NCCP Implementing Entity that the take limits of the HCP/NCCP for the species identified have not been reached.

d. The following special-status plant species with potential to occur on the project site are covered by the HCP/NCCP: brittlescale, big tarplant, round-leaved filaree, and recurved larkspur. Alkali milk-vetch, diamond-petaled poppy, and Contra Costa goldfields are analyzed in the HCP/NCCP but are "no take" species, and avoidance is the only acceptable mitigation measure.

e. Congdon's tarplant and spiny-sepaled button-celery are not addressed in the HCP/NCCP. For these plants, mitigation shall consist of, in order of preference, (1) avoidance, (2) salvage and transplant as described below, or (3) off-site habitat enhancement or restoration in consultation with CDFW.

17. Plant Salvage when Impacts are Unavoidable (Covered Species) **(MM-BIO-5)**:

a. Perennial Covered Plants: Where impacts to covered plant species cannot be avoided and plants will be removed by approved covered activities, the HCP/NCCP Implementing Entity has the option of salvaging the covered plants. Salvage methods for perennial species shall be tested for whole individuals, cuttings, and seeds. Salvage measures shall include the evaluation of techniques for transplanting as well as germinating seed in garden or greenhouse and then transplanting to suitable habitat sites in the field.

Techniques shall be tested for each species, and appropriate methods shall be identified through research and adaptive management. Where plants are transplanted or seeds distributed to the field they shall be located in preserves in suitable habitat to establish new populations. Field trials shall be conducted to evaluate the efficacy of different methods and determine the best methods to establish new populations. New populations shall be located such that they constitute separate populations and do not become part of an existing population of the species, as measured by the potential for genetic exchange among individuals through pollen or propagule (e.g., seed, fruit) dispersal.

Transplanting within the preserves shall only minimally disturb existing native vegetation and soils. Supplemental watering may be provided as necessary to increase the chances of successful establishment, but must be removed following initial population establishment. See also *All Covered Plants*, below.

b. Annual Covered Plants: For annual covered plants, mature seeds shall be collected from all individuals for which impacts cannot be avoided (or if the population is large, a representative sample of individuals). If storage is necessary, seed storage studies shall be conducted to determine the best storage techniques for each

species. If needed, studies shall be conducted on seed germinated and plants grown to maturity in garden or greenhouse to propagate larger numbers of seed. Seed propagation methods shall ensure that genetic variation is not substantially affected by propagation (i.e., selection for plants best adapted to cultivated conditions). Field studies shall be conducted through the Adaptive Management Program to determine the efficacy and best approach to dispersal of seed into suitable habitat. Where seeds are distributed to the field, they shall be located in preserves in suitable habitat to establish new populations. If seed collection methods fail (e.g., due to excessive seed predation by insects), alternative propagation techniques shall be necessary. See also *All Covered Plants*, below.

c. All Covered Plants: All salvage operations shall be conducted by the HCP/NCCP Implementing Entity. To ensure enough time to plan salvage operations, project proponents shall notify the HCP/NCCP Implementing Entity of their schedule for removing the covered plant population.

   The HCP/NCCP Implementing Entity may conduct investigations into the efficacy of salvaging seeds from the soil seed bank for both perennial and annual species. The soil seed bank may add to the genetic variability of the population. Covered species may be separated from the soil though garden/greenhouse germination or other appropriate means. Topsoil taken from impact sites shall not be distributed into preserves because of the risk of spreading new non-native and invasive plants to preserves.

   The HCP/NCCP Implementing Entity will transplant new populations such that they constitute separate populations and do not become part of an existing population of the species, as measured by the potential for genetic exchange among individuals through pollen or propagule (e.g., seed, fruit) dispersal. Transplanting or seeding "receptor" sites (i.e., habitat suitable for establishing a new population) should be carefully selected on the basis of physical, biological, and logistical considerations (Fiedler and Laven 1996); some examples of these are listed below:

   i. Historic range of the species.

   ii. Soil type.

   iii. Soil moisture.

   iv. Topographic position, including slope and aspect.

   v. Site hydrology.

vi. Mycorrhizal associates (this may be important for Mount Diablo manzanita).

vii. Presence or absence of typical associated plant species.

viii. Presence or absence of herbivores or plant competitors.

ix. Site accessibility for establishment, monitoring, and protection from trampling by cattle or trail users.

18. Wetlands and Waters of the United States or State **(MM-BIO-6.a)**: Prior to commencement of any project-related construction activity, Contra Costa County (County) shall retain a qualified biologist or wetland scientist to prepare a jurisdictional delineation of the project site to determine the extent of potentially jurisdictional features within the project disturbance area. Impacts to wetlands and other waters of the United States or waters of the state shall require authorization from the U.S. Army Corps of Engineers in the form of a Clean Water Act (CWA) Section 404 Permit, from the Regional Water Quality Control Board in the form of a CWA Section 401 Water Quality Certification, and the California Department of Fish and Wildlife in the form of a California Fish and Game Code Section 1602 Streambed Alteration Agreement. Such permits typically include measures to avoid and minimize or mitigate impacts. Where avoidance of jurisdictional wetlands or waters is not feasible, replacement of resources is required in the form of restoration or creation. The project shall seek coverage under the East Contra Costa County Habitat Conservation Plan (HCP)/Natural Community Conservation Plan (NCCP) for impacts to jurisdictional waters or wetlands. If neither avoidance nor coverage under the HCP/NCCP is feasible, the County shall comply with the requirements of the 404 permit coverage for on- or off-site mitigation, at a replacement ration of no less than 1:1.

19. Brushy Creek Setback **(MM-BIO-6.b)**: Per the requirements of the HCP/NCCP and Contra Costa County General Plan policy, a development setback of 75 feet from Brushy Creek (measured from top of bank) is required. Note that a lesser setback (for an area less than 300 linear feet) may be approved in consultation with the East Contra Costa Habitat Conservancy.

20. Alkali Grassland Avoidance and Mitigation **(MM-BIO-7)**: A portion of the aviation development area, adjacent to the existing facilities, includes alkali grassland. Ultimate development of this site shall require either avoidance, or establishment of like alkali grassland outside of the development area, which shall be made under consultation with the East Contra Costa County Habitat Conservancy. Because this area is relatively disturbed, is isolated from similar habitat, and is maintained on an on-going basis by airport staff, it does not represent an exemplary patch of alkali grassland. Mitigation ratios for impacts to alkali grassland will be determined in consultation with the East Contra Costa County Habitat Conservancy

21. San Joaquin Kit Fox Preconstruction Surveys, Avoidance and Minimization, and Construction Monitoring **(MM-BIO-8)**:

    a. Prior to any ground disturbance related to covered activities, a USFWS/CDFW–approved biologist shall conduct a preconstruction survey in areas identified in the planning surveys as supporting suitable breeding or denning habitat for San Joaquin kit fox. The surveys shall establish the presence or absence of San Joaquin kit foxes and/or suitable dens and evaluate use by kit foxes in accordance with USFWS survey guidelines (U.S. Fish and Wildlife Service 1999).

    b. Preconstruction surveys shall be conducted within 30 days of ground disturbance. On the parcel where the activity is proposed, the biologist shall survey the proposed disturbance footprint and a 250-foot radius from the perimeter of the proposed footprint to identify San Joaquin kit foxes and/or suitable dens. Adjacent parcels under different land ownership shall not be surveyed. The status of all dens shall be determined and mapped. Written results of preconstruction surveys shall be submitted to USFWS within 5 working days after survey completion and before the start of ground disturbance. Concurrence is not required prior to initiation of covered activities.

    c. If San Joaquin kit foxes and/or suitable dens are identified in the survey area, the measures described below shall be implemented:

        i. If a San Joaquin kit fox den is discovered in the proposed development footprint, the den shall be monitored for 3 days by a USFWS/CDFW–approved biologist using a tracking medium or an infrared beam camera to determine if the den is currently being used.

        ii. Unoccupied dens should be destroyed immediately to prevent subsequent use.

        iii. If a natal or pupping den is found, USFWS and CDFW shall be notified immediately. The den shall not be destroyed until the pups and adults have vacated and then only after further consultation with USFWS and CDFW.

        iv. If kit fox activity is observed at the den during the initial monitoring period, the den shall be monitored for an additional 5 consecutive days from the time of the first observation to allow any resident animals to move to another den while den use is actively discouraged. For dens other than natal or pupping dens, use of the den can be discouraged by partially plugging the entrance with soil such that any resident animal can easily escape. Once the den is determined to be unoccupied it may be excavated under the direction of the biologist. Alternatively, if the animal is still present after 5

or more consecutive days of plugging and monitoring, the den may have to be excavated when, in the judgment of a biologist, it is temporarily vacant (i.e., during the animal's normal foraging activities).

d. If dens are identified in the survey area outside the proposed disturbance footprint, exclusion zones around each den entrance or cluster of entrances shall be demarcated. The configuration of exclusion zones should be circular, with a radius measured outward from the den entrance(s). No covered activities shall occur within the exclusion zones. Exclusion zone radii for potential dens shall be at least 50 feet and shall be demarcated with four to five flagged stakes. Exclusion zone radii for known dens shall be at least 100 feet and shall be demarcated with staking and flagging that encircles each den or cluster of dens but does not prevent access to the den by kit fox.

22. East Contra Costa County HCP/NCCP Covered Shrimp Preconstruction Survey, Avoidance and Minimization, and Construction Monitoring **(MM-BIO-9)**:

a. Prior to any ground disturbance related to covered activities, a USFWS-approved biologist shall conduct a preconstruction survey in areas identified in the planning surveys as having suitable shrimp habitat. The surveys shall establish the presence or absence of covered shrimp and/or habitat features and evaluate use by listed shrimp in accordance with modified USFWS survey guidelines (USFWS 1996a). Project proponents are required to conduct USFWS protocol surveys in 1 year (rather than 2) to determine presence or absence of listed shrimp species. If covered shrimp are absent from the site, there are no further requirements related to covered shrimp. If covered shrimp are present, the following avoidance and minimization and construction monitoring measures are required:

i. To the maximum extent practicable, impacts on occupied habitat of covered shrimp shall be avoided by implementing the following measures based on existing mitigation standards (USFWS 1996b).

ii. If suitable habitat for covered shrimp will be retained on site, establish a buffer (described below) from the outer edge of all hydric vegetation associated with seasonal wetlands occupied by covered shrimp. Alternatively, at the request of the project proponent, representatives of the East Contra Costa County Habitat Conservancy and USFWS may conduct site visits to inspect the particular characteristics of specific project sites and may approve reductions of the buffer. Buffer reductions may be approved for all or portions of the site whenever reduced setbacks will maintain the hydrology of the seasonal wetland and achieve the same or greater habitat values as would be achieved by the original buffer.

iii. Activities inconsistent with the maintenance of seasonal wetlands within the buffers and disturbance of the on-site watershed shall be prohibited. Inconsistent activities include altering existing topography; placing new structures within the buffers; dumping, burning, and/or burying garbage or any other wastes or fill materials; building new roads or trails; removing or disturbing existing native vegetation; installing storm drains; and using pesticides or other toxic chemicals.

iv. Filling of seasonal wetlands, if unavoidable, shall be delayed until pools are dry and samples from the top 4 inches of wetland soils are collected. Soil collection will shall be sufficient to include a representative sample of plant and animal life present in the wetland by incorporating seeds, cysts, eggs, spores, and similar inocula. The amount of soil collected shall be determined by the size of the wetland filled and the variation in physical and biological conditions within the wetland. The number and size of samples shall be sufficient to capture this variation. For very small wetlands it may be most cost effective to simply collect all topsoil. These samples shall be provided to the East Contra Costa County Habitat Conservancy so that the soil can be translocated to suitable habitat within the inventory area unoccupied by covered shrimp or used to inoculate newly created seasonal wetlands on preserve lands.

v. Seasonal wetlands occupied by covered shrimp that are filled shall be offset by preserving or acquiring seasonal wetlands occupied by the covered shrimp species and restoring habitat suitable for the covered shrimp species in accordance with Conservation Measure 3.8. Such mitigation shall supersede requirements for mitigation of impacts on wetland habitat when covered species are present.

b. If suitable habitat for covered shrimp shall be retained on site, project proponents shall establish a buffer from the outer edge of all hydric vegetation associated with seasonal wetlands occupied (or assumed to be occupied) by covered shrimp. This buffer zone shall be determined in the field by the biologists as the immediate watershed feeding the seasonal wetland or a minimum of 50 feet, whichever is greater. Buffers shall be marked by brightly colored fencing or flagging throughout the construction process. Activities shall be prohibited within this buffer in accordance with the minimization measure above.

c. Construction personnel shall be trained to avoid affecting shrimp. A qualified biologist approved by USFWS shall inform all construction personnel about the life history of covered shrimp, the importance of avoiding their habitat, and the terms and conditions of the Eastern Contra Costa County Habitat Conservation

Plan/Natural Community Conservation Plan related to avoiding and minimizing impacts on covered shrimp.

Cultural Resources

23. Accidental Discovery of Archaeological Resources **(MM-CUL-1)**: Prior to commencement of any construction activities involving ground disturbance, Contra Costa County, a qualified archaeologist, representatives from interested Native American Tribes, and the construction contractor shall be invited to meet or otherwise discuss by conference call the project site's archaeological sensitivity and determine the duration and extent of monitoring for archaeological deposits that may be uncovered during construction. Given the present disturbed condition in some locations surrounding existing airport facilities, areas of elevated potential for encountering unanticipated resources should be considered those within 500 feet of the historic-era corral and Brushy Creek, and no deeper than 4 feet below the present ground surface. An archaeological monitor and a monitor from a culturally affiliated Native American Tribe shall be present for initial ground-disturbing work in these areas, after which the monitoring frequency shall be reduced to periodic spot-checks elsewhere. The monitoring strategy shall be adjusted (increased, decreased, or discontinued) based on the results of monitoring within areas of elevated archaeological sensitivity and as recommended by a qualified archaeologist meeting the Secretary of the Interior's Professional Qualification Standards, in consultation with culturally affiliated Native American Tribes. In the event that archaeological resources are exposed, work within 100 feet of the find shall be halted or directed to another location until a qualified archaeologist can evaluate the significance of the find. If the resources are determined to be historical resources or unique (pursuant to Section 15064.5 of the CEQA Guidelines), the qualified archaeologist shall make recommendations prioritizing resource avoidance, or, where avoidance is infeasible, data recovery.

24. Accidental Discovery of Human Remains **(MM-CUL-2)**: Pursuant to Section 5097.98 of the California Public Resources Code and Section 7050.5 of the California Health and Safety Code, as well as California Environmental Quality Act Guidelines Section 15064.5(e), in the event of the discovery of human remains, work shall be suspended within 100 feet of the find, and the Contra Costa County (County) Coroner/Sheriff shall be immediately notified. The County Coroner/Sheriff shall determine if an investigation is necessary. If the remains are determined to be Native American:

    a. The Coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours.

    b. The NAHC shall identify the person or persons it believes to be the most likely descendant (MLD) from the deceased Native American.

c. The MLD shall have an opportunity to make a recommendation to the County for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in California Public Resources Code Section 5097.98.

25. Should a potential tribal cultural resource (TCR) be inadvertently encountered, construction activities within 100 feet of the TCR shall be halted and Contra Costa County Department of Conservation and Development (Department) notified. The Department shall notify Native American tribes that have been identified by the Native American Heritage Commission to be traditionally and culturally affiliated with the geographic area of the project. Any affected tribe shall be provided a reasonable period of time to conduct a site visit and make recommendations regarding future ground disturbance activities as well as the treatment and disposition of any discovered TCR. Depending on the nature of the potential resource and tribal recommendations, review by a qualified archaeologist may be required. Implementation of proposed recommendations shall be made based on the determination of the County that the approach is reasonable and feasible. All activities shall be conducted in accordance with regulatory requirements. **(MM-CUL-3)**

26. Worker Environmental Awareness Program (WEAP) **(MM-CUL-4)**: The County shall require the contractor to provide a cultural resources and tribal cultural resources sensitivity and awareness training program (Worker Environmental Awareness Program [WEAP]) for all personnel involved in project construction, including field consultants and construction workers. The WEAP shall be developed in coordination with an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for Archeology, as well as culturally affiliated Native American tribes. The County will invite Native American representatives from interested culturally affiliated Native American tribes to participate. The WEAP shall be conducted before any ground-disturbing construction activities begin at the project site. The WEAP shall include relevant information regarding sensitive cultural resources and tribal cultural resources, including applicable regulations, protocols for avoidance, and consequences of violating State laws and regulations.

    The WEAP shall also describe appropriate avoidance and impact minimization measures for cultural resources and tribal cultural resources that could be located at the project site and shall outline what to do and who to contact if any potential cultural resources or tribal cultural resources are encountered. The WEAP shall emphasize the requirement for confidentiality and culturally appropriate treatment of any discovery of significance to Native Americans and shall discuss appropriate behaviors and responsive actions, consistent with Native American tribal values.

Geology, Soils, and Minerals

27. Prior to the approval of any building or improvement plans, a geotechnical report shall be prepared by a registered civil or geotechnical engineer and submitted to the County

Department of Conservation and Development. The report shall address the specific approach to development. This report shall include the following **(MM-GEO-1)**:

a. Provide specific criteria and standards for identifying suitable imported fill materials;

b. If import fills may be expansive or corrosive, provisions shall be made for the import fill materials;

c. If import fills may be expansive or corrosive, provisions shall be made for testing of soils on rough-graded pads and providing design measures to avoid/control damage to foundations and buried utilities;

d. Provide criteria for placement of engineered fill;

e. Provide further evaluation of seismic settlement and other types of seismically induced ground failure by recognized methods appropriate to soil conditions discovered during subsurface investigation;

f. Provide detailed evaluation of the compressibility of the alluvial soils and forecast the anticipated amount of total settlement and timing of settlement to occur or placing a surcharge on the site to speed settlement;

g. Provide California Building Code seismic parameters;

h. Outline recommendations for geotechnical observation and testing services during site preparation-, grading-and foundation-related work. Improvement, grading, and building plans shall carry out the recommendations of the approved report.

28. If paleontological resources (i.e., fossil bones, teeth, shells, plants, or trace fossils) are exposed during construction activities for the project, all construction work occurring within 100 feet of the find shall immediately stop until a qualified paleontologist, meeting the Society of Vertebrate Paleontology standards, can evaluate the significance of the find and determine whether or not additional study is warranted. The paleontologist shall be empowered to temporarily stop or redirect grading activities to allow removal of abundant or large paleontological resources. Depending upon the significance of the find, the qualified paleontologist may simply remove and record the find and allow work to continue. If the discovery proves significant under the California Environmental Quality Act, additional work, such as data recovery and extended specimen removal, may be warranted. The qualified paleontologist shall prepare a Paleontological Resources Impact Mitigation Program for the project, which outlines where paleontological monitoring is required based on the location of the discovery, geotechnical reports, and construction plans. The qualified paleontologist shall also be required to curate specimens in a

repository with permanent retrievable storage and submit a final written report to the repository and lead agency for review. **(MM-GEO-2)**

Greenhouse Gas Emissions

29. The individual development projects shall include the following transit-oriented and alternative transportation development design features to reduce the use of single-occupancy fossil fueled vehicles and vehicle miles traveled **(MM-GHG-1)**:

    a. Provide preferred parking for zero/low emission vehicles. Bicycle parking and only the minimum amount of auto parking shall be provided to encourage alternative forms of travel.

    b. Install conduits from the building(s) to the parking lot(s), to allow for installation of EV charging stations for vehicles. The proportion of EV parking spaces shall comply with the applicable CALGreen standards.

    c. The proposed project shall promote ridesharing programs through a multifaceted approach, such as designating a certain percentage of parking spaces for ridesharing vehicles; designating adequate passenger loading and unloading and waiting areas for ridesharing vehicles; or providing a website or message board for coordinating rides.

    d. The proposed project shall implement marketing strategies to reduce commute trips. Information sharing and marketing are important components to successful commute trip-reduction strategies. Implementing commute trip-reduction strategies without a complementary marketing strategy would result in lower vehicle miles traveled reductions. Marketing strategies may include: new employee orientation of trip reduction and alternative mode options; event promotions; or publications.

30. The individual development projects shall include the following design features to reduce the demand for energy use and greenhouse gas emissions **(MM-GHG-2)**:

    a. Obtain Leadership in Energy and Environmental Design (LEED) Certification for building construction, where feasible.

    b. Provide the maximum amount of skylights to reduce electricity use associated with interior lighting.

    c. All facility lighting shall meet or exceed the applicable Title 24 requirements.

d. All installed appliances (e.g., washer/dryers, refrigerators, dishwashers) shall be Energy Star rated or equivalent.

e. Design proposed buildings with:

i. Roof structure with additional load (defined as 1 to 2 pounds per square foot) capacity to allow the future installation of solar panels without retrofitting. The installation of solar panels would comply with the policy and procedures set forth in the Interim Policy for FAA Review of Solar Energy System Projects on Federally Obligated Airports (78 FR 63276).

ii. Installation of an above market sized electrical infrastructure system (larger electrical room for future expansion, underground conduits (car, truck and loading dock) for future electrical charging systems, as well as additional conduits into the grid system for future expand-ability.

31. The individual development projects shall incorporate the following design features to conserve water **(MM-GHG-3)**:

a. Install low flow plumbing fixtures, such as faucets, toilets, and showers.

b. Utilize water efficient landscaping to reduce the usage of outdoor water on the premises.

c. Construct dual plumbing for both potable and recycled water for exterior landscape irrigation, unless determined infeasible by Department of Conservation and Development, Current Planning Division

Hazards and Hazardous Materials

32. Prior to initiation of grading and construction, a Hazardous Materials Contingency Plan shall be in-place and consist of the following **(MM-HAZ-1)**:

a. Identification of areas of potential fuel- or oil-impacted soils on a site plan.

b. Protocol for identifying suspected contaminated soils (e.g., discoloring, odor, positive photoionization detector readings), utilizing personnel trained in recognition of contaminated soils/groundwater and certified with respect to Occupational Safety and Health Administration Hazardous Waste Operations and Emergency Response (i.e., OSHA HAZWOPER training).

c. Procedures for notification and reporting, including internal management and to Contra Costa Environmental Health Department and local agencies, as needed.

d. Procedures for temporary cessation of construction activity and evaluation of the level of environmental concern.

e. Procedures for limiting access to the contaminated area to personnel with OSHA HAZWOPER training.

f. A worker health and safety plan for excavation of contaminated soil and/or groundwater.

g. Procedures for characterizing, managing, and disposing of potentially contaminated soils.

33. Prior to development of the former agricultural areas identified ion Figure 3.7-1, Hazards Site Map, soil samples shall be collected and tested for pesticides. Shallow soil samples shall be collected from the upper 0.5 to –1.0 foot of ground surface from the site soils and analyzed for organochlorine pesticides by U.S. Environmental Protection Agency (EPA) Method 8081A and arsenic by EPA Method 6010B. The soil samples shall be analyzed by a California Environmental Laboratory Accreditation Program-certified laboratory.

    The pesticide sampling data shall be compared to applicable regulatory threshold levels such as the EPA Regional Screening Levels and the Department of Toxic Substances Control Human and Ecological Risk Office Note 3 screening levels. The arsenic sampling data shall be compared to California typical background levels, such as those in the 1996 Kearney Foundation Special Report on Background Concentrations of Trace and Major Elements in California Soils.

    If the soil sampling concentrations, using the 95% upper confidence level or other statistical evaluation, exceed the screening level, mitigation shall include removal of impacted soil for off-site disposal prior to or during construction grading. A soil management plan, including a health and safety plan, shall be prepared to properly manage the excavated soil and protect worker and public health and safety. **(MM-HAZ-2)**

Hydrology and Water Quality

34. Hydrology and Drainage Study **(MM-HYD-1)**:

    a. Prior to approval of individual development plans, a Hydrology and Drainage Study shall be prepared for the project to refine the size and hydrologic characteristics of drainage areas that intersect the project site, to estimate pre- and post-project flow

rates and volumes under 10- 25-, 50- and 100-year storm events, and to provide recommendations for needed improvements. The Hydrology and Drainage Study shall quantify the capacity of the existing detention basin; determine whether or not it will be sufficient to serve future land uses; and establish the hydrology performance criteria and design standards applicable to potential future tenants, based on the destination of runoff (i.e., detention basin or Bushy Creek) and the degree of impervious surface coverage. The study shall be consistent with the hydrology performance criteria and design standards contained within the Contra Costa County Drainage Ordinance (Division 914), which include but are not limited to:

i. Drainage facilities shall be designed to convey a minimum (with sufficient freeboard) of the runoff produced by a) a 10-year storm event for facilities draining an area of less than 1 square mile, b) a 25-year storm event for facilities draining an area of between 1 and 4 square miles, and c) a 50-year storm event (and 100-year event without freeboard) for facilities draining an area of more than 4 square mile.

ii. Finished floors shall be elevated above the base flood elevation of the one-hundred-year frequency storm runoff, as determined using the maximum potential development of the drainage basin or watershed shall.

iii. Storm flows shall be collected and conveyed in a manner that avoids damage to any improvement, building site or dwelling which may be constructed as part of the project.

iv. Detention basins shall be sized to contain without freeboard a one-hundred-year average recurrence interval runoff, unless it can be shown that a one- hundred-year average recurrence interval runoff can be safely passed through the detention basin without damage to the detention basin or any other property.

v. Drainage capacity shall be provided that accounts for the full build-out of uses anticipated with the drainage area.

b. The study shall be submitted to the Contra Costa County Public Works Department (Flood Control District) for review and approval prior to finalizing individual development plans. In addition, the Hydrology and Drainage Study shall be reviewed by Airports Division staff to ensure any drainage basins proposed are consistent with Federal Aviation Administration aviation obstruction standards for avian attractants (e.g., requirement to drain ponded water within 48 hours of a major storm event).

35. Drainage Protection and Flood Control **(MM-HYD-2)**: For all areas of the project within the Federal Emergency Management Agency (FEMA) 100-year floodplain (Special Flood Hazard Area [SFHA]), Contra Costa County shall ensure that development proposals are consistent with the requirements of the Contra Costa County Floodplain Management Ordinance (Municipal Code Chapter 82-28), Contra Costa County Flood Control Ordinance, and FEMA National Flood Insurance Program. Development proposals in this area shall be submitted to the Contra Costa County Public Works Department for review and approval, and all requirements imposed by the department shall be satisfied. Such requirements may include floodproofing measures (such as elevating structures above the base flood elevation and providing the required freeboard). In the event development proposals involve encroachment onto or undergrounding of Brushy Creek, a Clean Water Act Section 404 Permit from the U.S. Army Corps of Engineers shall be obtained, per MM-BIO-6, and the Contra Costa County Public Works Department shall be provided with drainage studies and engineering reports sufficient to demonstrate that flood flows on Brushy Creek would not be impeded or redirected. For all development planned within the FEMA 100-year floodplain, subject to approval of the Contra Costa County Public Works Department, the developer would be required to file a Conditional Letter of Map Revision to process the change and shall obtain a FEMA modification of the SFHA as shown on the Flood Insurance Rate Map.

Transportation and Traffic

36. Construct a protected receiving lane on Byron Highway at Holey Road for eastbound left turns, an eastbound left turn pocket, and a northbound left turn pocket. The receiving lane would transition to a through-lane across the railroad tracks north of the Byron Highway/Holey Road intersection. **(MM-TRA-1)**

37. Construct a signal and a northbound left turn pocket at the intersection of Byron Highway and Byron Hot Springs Road. **(MM-TRA-2)**

38. Implement overlap phasing for the eastbound right turn movement at the intersection of Byron Highway and Camino Diablo. Alternatively, construct a roundabout if feasible (considering right of way constraints from the railroad). **(MM-TRA-3)**

39. Convert the intersection of Holway Drive and Camino Diablo to an all-way stop controlled intersection and construct an eastbound left turn lane at this intersection. **(MM-TRA-4)**

40. Implement the following at the Byron Highway and Holway Drive intersection **(MM-TRA-5)**:

a. Construction of a signal; and,

b. Construction of a southbound right turn pocket; and,

c. Construction of a northbound left turn pocket; and,

d. Realignment of the three intersections into one signalized intersection.

OR

e. Construction of a roundabout (may be infeasible due to railroad right of way).

OR

f. Termination of Holway Drive south of the railroad tracks; and,

g. Construction of a roundabout at the intersection of Byron Highway and Camino Diablo.

41. Construct an additional westbound right turn pocket on Camino Diablo at Vasco Road. Extend the northbound right and southbound left turn. **(MM-TRA-6)**

42. Prior to the completion of the first airport-related development that would serve heavy trucks, the project proponent shall construct the following local street improvements **(MM-TRA-7)**:

    a. Widen Byron Hot Springs Road to provide two 12-foot travel lanes from Byron Highway to Holey Road.

    b. Widen Holey Road to provide two 12-foot travel lanes from the Airport property line to Byron Highway.

    c. Ensure an adequate paved turn-radius at the intersection of Byron Hot Springs Road and Armstrong Road.

    d. Ensure an adequate paved turn-radius at the intersection of Byron Hot Springs Road and Holey Road.

43. Implement MM-TRA-1 at Byron Highway and Holey Road. The project applicant shall pay the project's fair share of the intersection improvement cost. **(MM-TRA-8)**

44. Implement MM-TRA-2 at Byron Highway and Byron Hot Springs Road. The project applicant shall pay the project's fair share of the intersection improvement cost. **(MM-TRA-9)**

45. Implement MM-TRA-3 and extend the northbound left turn pocket to accommodate the 95th percentile queue on Byron Highway at Camino Diablo. The project applicant shall pay the project's fair share of the intersection improvement cost. **(MM-TRA-10)**

46. Construct a signal at the intersection of Holway Drive and Camino Diablo. Construct an eastbound left turn pocket (per MM-TRA-4) and a westbound left turn pocket. Alternatively, construct a roundabout at this location. The project applicant shall pay the project's fair share of the intersection improvement cost. **(MM-TRA-11)**

47. Implement MM-TRA-5 at Byron Highway and Holway Drive. The project applicant shall pay the project's fair share of the intersection improvement cost. **(MM-TRA-12)**

48. Construct an urban compact interchange consistent with long-range planning for the Vasco corridor. The project applicant shall pay the project's fair share of the intersection improvement cost. **(MM-TRA-13)**

Utilities

49. Prior to (1) the development of non-aviation uses, or (2) the expansion of aviation uses that would increase water demand in excess of the current well system, Contra Costa County (County) shall conduct a feasibility study of the water supply sources identified in the proposed project's Water Supply Assessment. If the water supply is to consist of connection to the Byron-Bethany Irrigation District or the Town of Discovery Bay, the County shall not permit development to proceed until the feasibility of the water supply has been confirmed, and appropriate agreements or will-serve letters have been obtained from the chosen supplier(s). If part or all of the supply is to come from on-site groundwater, the County shall obtain a water supply permit from the State Water Resource Control Board Division of Drinking Water, a well drilling permit from Contra Costa County Public Works, and all other applicable permits and approvals prior to development. The feasibility study, will-serve letters, and water supply permit(s) approvals shall be required prior to the start of construction of any uses that involve human occupancy or demand water in excess of currently available supply. **(MM-UTIL-1)**

50. Prior to (1) the development of non-aviation uses, or (2) the expansion of aviation uses that involve additional human occupancy, Contra Costa County shall prepare a study for the provision of adequate wastewater disposal. Options for disposal to be studied may include expansion of the on-site septic system, construction of an on-site package wastewater plant, and connection to the Town of Discovery Bay or Byron-Bethany Irrigation District sewer systems. The study shall demonstrate feasibility of the proposed

system and compliance with all applicable Contra Costa County and Regional Water Quality Control Board standards for wastewater treatment, including waste discharge requirements. If connection to an off-site system is proposed, the study shall demonstrate that the provider has adequate capacity to serve build-out of the proposed project, in addition to existing and proposed future users. Also see MM-HYD-2 above. (**MM-UTIL-2)**

ADVISORY NOTES

THE FOLLOWING INFORMATION DOES NOT CONSTITUTE CONDITIONS OF APPROVAL. IT IS PROVIDED TO ALERT THE APPLICANT TO LEGAL REQUIREMENTS OF THE COUNTY AND OTHER PUBLIC AGENCIES TO WHICH THIS PROJECT MAY BE SUBJECT.

A. Notice of 90-day opportunity to protest fees, dedications, reservation, or other exactions pertaining to the approval of this permit.

This notice is intended to advise the applicant that pursuant to Government Code Section 66000, et seq., the applicant has the opportunity to protest fees, dedications, reservation, and/or exactions required as part of this project approval. The opportunity to protest is limited to a 90-day period after the project is approved.

The ninety (90) day period in which you may protest the amount of any fee or imposition of any dedication, reservation, or other exaction required by the approved permit, begins on the date this permit was approved. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and delivered to the Department of Conservation & Development, Community Development Division within the 90 days of the approval date of this permit.