

Appendix 1

Appendix 1A:	Text of Proposed Initiative
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INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

RECEIVED

The people of the City of Cupertino ordain as follows:

MAR 3 2016

Section 1. Title.

CUPERTINO CITY CLERK

This initiative measure shall be known and may be cited as “The Vallco Town Center Specific Plan Initiative” (the “Initiative”).

Section 2. Findings and Purpose.

A. Findings. The people of the City of Cupertino (“City”) find and declare the following:

1. The Vallco Shopping District Special Area is an approximately 58-acre planning area located in the City between Interstate 280 and Stevens Creek Boulevard and intersected by North Wolfe Road, as shown on pages A-1 and A-2 of Exhibit A hereto (“Vallco Shopping District” or “Property”). Approximately 51 acres of the Vallco Shopping District is the site of a failing enclosed regional mall (and associated parking) that is suffering from significant vacancies (the “Mall”). Due to a variety of challenges, including but not limited to, outdated infrastructure, a confusing and inefficient parking layout, weak anchor stores and shifts in consumer preferences, the Mall began to deteriorate in the 1990s, setting off a string of mortgage defaults and bankruptcy filings. Multiple ownership changes and redevelopment efforts ensued, yet all failed and occupancy continued its decline into the 2000s. Due to extraordinarily strong regional retail competition and the few tenants that remain today, the Mall cannot support the ongoing operation of the existing 1.2 million square feet of retail-only space.
2. Cupertino residents have long recognized the failures and inherent obsolescence of the Mall. The City Council and the community have spent years working to establish a new vision for revitalizing the Mall.
3. In December 2014, the City Council adopted an updated General Plan, *Community Vision 2040* (“General Plan”), which includes goals, policies and strategies specifically relating to the Vallco Shopping District. The General Plan provides the framework for a complete redevelopment and repositioning of the site into a new, mixed-use “town center,” with a vibrant mixture of retail, office, and residential uses that will become a destination for shopping, dining, entertainment, and commerce for Cupertino residents.
4. Based on this vision, the General Plan requires a specific plan to be adopted for the Vallco Shopping District prior to any redevelopment to specify the land uses, design standards and guidelines, and infrastructure improvements required to serve the Vallco Shopping District.
5. This Initiative implements and fulfills the requirements of the General Plan and the vision of the community by approving the Vallco Town Center Specific Plan (“Specific Plan”), attached hereto and incorporated herein as Exhibit C, allowing the complete redevelopment of the plan area into a vibrant, sustainable, walkable, and safe “town center” neighborhood with a mix of retail, dining, entertainment, recreation, offices, housing, hotel, education, civic, open space, and public amenities for Cupertino residents.
6. Implementation of the Specific Plan will elevate the quality of community life of Cupertino residents by creating a mix of thoughtfully designed public places of various scales, including amenities such as a market hall, a new, state-of-the-art movie theater and ice rink, civic, educational and wellness venues, as well as walkable streets, bicycle lanes, and transit facilities fitting for a true town center.
7. To ensure the type of extraordinary community benefits that Cupertino residents deserve, the Specific Plan requires a 30-acre greenway on the integrated roofs of the various town center buildings. This privately funded and maintained rooftop Community Park and Nature Area will include 3.8 miles of walking and jogging trails, meadows, vineyards, orchards and organic gardens and will be planted with native, drought-tolerant landscaping that thrives on little to no water that will be watered as necessary with recycled water delivered through a new recycled water line extended to the area. This one-of-a kind green amenity for Cupertino residents will provide a visual connection to the surrounding mountain ranges of San Francisco Bay, host a diverse set of active and

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passive community-oriented uses, help to visually integrate the plan area with the surrounding public streets, buffer the plan area, reduce the area's urban heat island effect, minimize water run-off and water and air quality impacts, and improve the energy efficiency of the buildings.

8. The Specific Plan area presents a unique opportunity to solve the City's sustainability challenges – economic, social, and environmental – through smart technologies and data. The Specific Plan shall seek to integrate physical, digital and human systems in the built environment to deliver a sustainable, prosperous and inclusive future for Cupertino residents. The goal for the Specific Plan area is to positively benefit the community through smart city development strategies, and its program, design, and operations will be the basis for this benefit.
 9. The Specific Plan will also provide additional, substantial public benefits and improvements. This includes new development under the Specific Plan to provide—in addition to the maximum state-mandated school fees—additional benefits to schools of approximately \$40 million to enhance Cupertino's excellent schools, such as a new High School Science and Engineering Innovation Center, solutions to create net additional enrollment capacity to enhance the quality of instruction and student learning, and space dedicated to local adult education programs. The Specific Plan also provides for charitable/civic space, including for local non-profits and civic organizations; dedicated senior housing units; an amphitheater to host outdoor concerts and movie nights; a destination play space for children; banquet and event space for large and small events; effective traffic solutions for pre-existing and future conditions (including spearheading and providing substantial funding for a free community shuttle in partnership with local employers and transit agencies, a new transit center, and a stringent vehicle trip reduction program through a comprehensive Transportation Demand Management plan); as well as very substantial economic and fiscal benefits in the form of one-time construction-related tax revenues to the City and new recurring property taxes, transient occupancy taxes, and retail sales taxes annually to the City.
 10. The goals, policies, and mandatory design features in the Specific Plan adopted by this Initiative, which includes required environmental design features, will ensure that the actions approved by this Initiative will be environmentally sound and in compliance with the City's policies, guidelines, and standards.
 11. The provisions of this Initiative, including the adoption of the Specific Plan, are in the public interest and are consistent with the General Plan as amended by this Initiative. Specific Plan consistency with the amended General Plan is shown in Exhibit D hereto.
 12. This Initiative serves the public health, safety, and welfare of Cupertino residents, as well as people in the surrounding region.
- B. Purpose. The purpose of this Initiative is ensure that, consistent with the City's General Plan, the failed Vallco Shopping District Special Area can be redeveloped into a vibrant, sustainable, walkable and safe new neighborhood with a mix of retail, dining, entertainment, recreation, offices, housing, open space, educational, civic, and public amenities, with exceptional community benefits and high-quality design, that will improve the quality of life of Cupertino residents.

Section 3. City of Cupertino General Plan Amendments.

The voters hereby amend the City of Cupertino General Plan as follows (new language to be inserted into the General Plan is shown as underlined text and language to be deleted is shown in ~~strikethrough text~~; language shown in regular or bold type reflects the existing General Plan text and is provided for informational/reference purposes):

- A. Amendments to the Land Use and Community Design Element.

The Land Use and Community Design Element of the Cupertino General Plan is amended as follows:

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The section titled “Vallco Shopping District Special Area,” which is within the “Special Areas” subsection of the “Planning Areas Goals and Policies” section of the Land Use and Community Design Element, is amended as follows:

Vallco Shopping District Special Area

The City envisions a complete redevelopment of the existing Vallco Fashion Mall into a vibrant mixed-use “town center” that is a focal point for regional visitors and the community. This new Vallco Shopping District will become a destination for shopping, dining and entertainment in the Santa Clara Valley.

GOAL LU-19

CREATE A DISTINCT AND MEMORABLE MIXED-USE “TOWN CENTER” THAT IS A REGIONAL DESTINATION AND A FOCAL POINT FOR THE COMMUNITY

Policy LU-19.1: Specific Plan

Create a Vallco ~~Shopping District~~ Town Center Specific Plan prior to any development on the site that lays out the land uses, design standards and guidelines, and infrastructure improvements required. The Specific Plan will be based on the following strategies:

Strategy LU-19.1.1: Master Developer. Redevelopment will require a master developer in order to remove the obstacles to the development of a cohesive district with the highest levels of urban design.

Strategy LU-19.1.2: Parcel assembly. Parcel assembly and a plan for complete redevelopment of the site are required prior to adding residential and office uses. Parcelization is highly discouraged in order to preserve the site for redevelopment in the future, unless parcelization includes adequate protective measures to provide incentives and guidelines for cooperation among owners.

Strategy LU-19.1.3: Complete Redevelopment. The “town center” plan should be based on complete redevelopment of the site in order to ensure that the site can be planned to carry out the community vision.

Strategy LU-19.1.4: Land use. To carry out the City’s vision for a vibrant mixed-use “town center,” the Vallco Town Center Specific Plan shall require a mix of the following uses on the site. The following uses are allowed on the site (see Figure LU-1 for residential densities and criteria):

1. Retail: High-performing retail, restaurant and entertainment uses. Maintain a minimum of 600,000 square feet of retail that provide a good source of sales tax for the City. Entertainment uses may be included but shall consist of no more than 30 percent of retail uses.
2. Hotel: ~~Encourage~~ Provide a business class hotel with conference center and active uses including main entrances, lobbies, retail and restaurants on the ground floor.
3. Residential: ~~Allow~~ Maintain residential on upper floors with retail and active uses on the ground floor. Encourage a mix of units for young professionals, couples and active seniors who like to live in an active “town center” environment. The residential component of the project shall dedicate the greater of 80 units, or 20% of the total units, as senior housing (in compliance with state and federal law).
4. Office: ~~Encourage~~ Maintain high-quality office space arranged in a pedestrian-oriented street grid with active uses on the ground floor, publicly-accessible streets and plazas/ green space. A minimum of 100,000 square feet shall be set aside for incubator, co- work space and/or multi-tenant spaces for start-ups, mid-sized companies and/or new and emerging technologies, with preference for local companies.

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5. Public, Quasi-Public, Open Space and Parks: Require property owner(s) to provide generous amounts of parks and open space, educational facilities, community gathering spaces, civic uses, public art, and community event spaces.

In addition, the following uses are allowed on the site, although not required:

Amenities: Amenities that are complementary or ancillary to any of the permitted uses, such as, but not limited to, cafeterias, lobbies, community halls, or meeting spaces are also permitted.

Strategy LU-19.1.5: “Town Center” layout. Create streets and blocks laid out using “transect planning” (appropriate street and building types for each area), which includes a discernible center and edges, public space at center, high quality public realm, and land uses appropriate to the street and building typology.

Strategy LU-19.1.6: Connectivity. Provide a newly configured complete street grid hierarchy of streets, boulevards and alleys that is pedestrian-oriented, connects to existing streets, and creates walkable urban blocks for buildings and open space. It should also incorporate transit facilities, provide connections to other transit nodes and coordinate with the potential expansion of Wolfe Road bridge over Interstate 280 to continue the walkable, bikeable boulevard concept along Wolfe Road. The project ~~should~~ shall also contribute towards a study and improvements to a potential Interstate 280 trail along the drainage channel south of the freeway and provide pedestrian and bicycle connections from the project sites to the trail. Any project that fully redevelops the existing mall in the Vallico Shopping District shall also fund transportation and transit infrastructure that provides effective traffic solutions, including providing approximately \$30 million toward planned transportation improvements at the I-280 and Wolfe Road interchange and other I-280 segments, partnering with local employers and transit agencies to provide a free community shuttle, providing an on-site transit center and/or mobility hub, and implementing a transportation demand management plan with an overall target of reducing office-generated weekday peak hour trips by 30 percent below applicable Institute of Transportation Engineers Office Use trip generation rates. This transportation and transit funding obligation shall not apply to any hotel project.

Strategy LU-19.1.7: Existing streets. Improve Stevens Creek Boulevard and Wolfe Road to become more bike and pedestrian-friendly with bike lanes, wide sidewalks, street trees, improved pedestrian intersections to accommodate the connections to Rosebowl and Main Street.

Strategy LU-19.1.8: Open space. Open space in the form of a central town square on the west and east sides of the district interspersed with plazas and “greens” that create community gathering spaces, locations for public art, and event space for community events.

Strategy LU-19.1.9: Building form. Buildings should have high-quality architecture, and an emphasis on aesthetics, human scale, and create a sense of place. Taller buildings should provide appropriate transitions to fit into the surrounding area.

Strategy LU-19.1.10: Gateway character. High-quality buildings with architecture and materials befitting the gateway character of the site. The project should provide gateway signage and treatment.

Strategy LU-19.1.11: Phasing plan. A phasing plan that lays out the timing of infrastructure, open space and land use improvements that ensures that elements desired by the community are included in early phases.

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Strategy LU-19.1.12: Parking. Parking in surface lots shall be located to the side or rear of buildings. Underground parking beneath buildings is preferred. Above grade structures shall not be located along major street frontages. In cases, where above-grade structures are allowed along internal street frontages, they shall be lined with retail, entries and active uses on the ground floor. All parking structures should be designed to be architecturally compatible with a high-quality “town center” environment.

Strategy LU-19.1.13: Trees. Retain trees along the Interstate 280, Wolfe Road and Stevens Creek Boulevard to the extent feasible, when new development are proposed.

Strategy LU-19.1.14: Neighborhood buffers. Consider buffers such as setbacks, landscaping and/or building transitions to buffer abutting single-family residential areas from visual and noise impacts.

Strategy LU-19.1.15: Green Roof and Recycled Water. To further enhance and complement the open space requirements set forth in Strategy LU-19.1.8 and to provide an exceptional community benefit, a publicly accessible green roof is required for the portion of a project that fully redevelops the existing mall within the Vallco Shopping District. The green roof shall be at least 30 acres in size with a minimum of 3.8 miles of publicly accessible trails. To minimize the water demand associated with a green roof, the use of recycled water and drought tolerant and native landscaping that thrives on little to no irrigated water will be utilized. To meet this obligation, future recycled water service shall be extended to the Vallco Shopping District by the developer. These requirements shall not apply to any hotel project.

B. Amendments to the Infrastructure Element.

Policy INF-2.5 (“Recycled Water Infrastructure”) of the Infrastructure Element is amended as follows:

Policy INF-2.5: Recycled Water Infrastructure

Plan for citywide access to recycled water and encourage its use.

Strategy INF-2.5.1: Availability. Expand the availability of a recycled water system through public infrastructure projects and development review.

Strategy INF-2.5.2: Use. Encourage private and public projects to incorporate the use of recycled water for landscaping and other uses.

Strategy INF-2.5.3: City Facilities. Design and retrofit City buildings, facilities and landscaping to use recycled water, to the extent feasible.

Strategy INF-2.5.4: Vallco Town Center Specific Plan. Require that any project that fully redevelops the existing mall within the Vallco Shopping District extend the recycled water line to the area covered by the Vallco Town Center Specific Plan and maximize use of recycled water. This requirement shall not apply to any hotel project within the Vallco Town Center Specific Plan area.

C. Amendments to Appendix A.

Appendix A (“Land Use Definitions”) to the General Plan is amended to include the following new land use category:

Vallco Town Center Specific Plan

The Vallco Town Center Specific Plan designation applies to the Vallco Shopping District Special Area, and allows a mix of uses, including retail, restaurant, entertainment, residential, office, hotel, public (including civic), quasi-public,

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educational, parks, open space, and amenities. Projects developed under this designation must be consistent with the Vallco Town Center Specific Plan.

D. Amendments to the Land Use Map.

The existing “City of Cupertino Land Use Map,” a copy of which is attached hereto for informational purposes only at page A-1 of Exhibit A hereto, is amended to redesignate the approximately 58 acre Property from Commercial/Office/Residential to Vallco Town Center Specific Plan, as set forth on page A-3 of Exhibit A .

Section 4. City of Cupertino Municipal Code Amendments.

The voters hereby amend the City of Cupertino Municipal Code as follows (new language to be inserted into the Municipal Code is shown as underlined text and language to be deleted is shown in ~~strikethrough text~~; language shown in regular type reflects the existing Municipal Code text and is provided for informational/reference purposes):

A new chapter titled “Vallco Town Center Specific Plan (VTCSP) Zone,” is added to Title 19 (“Zoning”) of the Municipal Code, as follows:

As envisioned by the General Plan, a zoning district entitled the “Vallco Town Center Specific Plan” district (VTCSP) is established as shown on the official zoning district map of City of Cupertino. The VTCSP zoning district implements the Vallco Town Center Specific Plan, incorporated by reference, a copy of which shall be on file in the office of the city clerk. The Vallco Town Center Specific Plan includes architectural and design guidelines, site development standards, public facility improvement plans, environmental design features and other development standards that satisfy zoning code requirements. The standards, guidelines and improvement plans contained in the Vallco Town Center Specific Plan shall govern the VTCSP zoning district. When the Vallco Town Center Specific Plan does not provide specific standards and/or procedures for review, approval and/or administration of development projects, the standards and procedures in this code shall apply, provided, however, that in no event shall application of the standards or procedures in this code frustrate or inhibit development of the Vallco Town Center Specific Plan.

Section 19.16.110 (“Zoning Districts Designated”) of Chapter 19.16 (“Designation and Establishment of Districts”) of Title 19 (“Zoning”) the Municipal Code, is amended to add the following Zoning Map Designation and District Name: VTCSP Vallco Town Center Specific Plan.

Section 19.156.040 (“Planned Development Permit and Conditional Use Permit–Findings and Conditions”) of Chapter 19.156 (“Development Permits, Conditional Use Permits and Variances”) of Title 19 (“Zoning”) of the Municipal Code, is amended as follows:

- A. The decision maker may grant a planned development permit or a conditional use permit only if all of the following findings are made:
 1. The proposed development and/or use, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience;
 2. The proposed development and/or use will be located and conducted in a manner in accord with the Cupertino Comprehensive General Plan, underlying zoning regulations, and the purpose of this title and complies with the California Environmental Quality Act (CEQA).
- B. For purposes of granting a conditional use permit to increase residential units within the Vallco Town Center Specific Plan district above the number of units specified in the Housing Element for the Vallco Shopping District Special Area, the conditional use permit shall be granted if the above findings are made. For

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purposes of finding (A)(1), the increase in residential units within the Vallco Town Center Specific Plan district shall be deemed not to be detrimental to the public health, safety, general welfare, or convenience if there are no new significant and unavoidable impacts beyond those identified in the Environmental Impact Report prepared for the *General Plan: Community Vision 2015 – 2040*, as to the residential units.

Section 20.04.040 (“Zoning District Applicable to a Specific Plan”) of Chapter 20.04 (“Specific Plans”) of Title 20 (“General and Specific Plans”) of the Municipal Code, is amended as follows:

All areas governed by a specific plan, with the exception of the Vallco Town Center Specific Plan area, shall be zoned as a planned development (P) zoning district under Chapter 19.48 of the City's Ordinance Code and all regulations governing land use approvals in a planned development zone shall be applicable to specific plans. A proposal for specific plan may be combined with any application for land use entitlements in the City's planned development zoning districts.

The existing “City of Cupertino Zoning Map,” a copy of which is attached for informational purposes only at page B-1 of Exhibit B hereto, is amended to change the Property’s zoning from P(Regional Shopping) and P(CG) to VTCSP(Vallco Town Center Specific Plan), as set forth on page B-3 of Exhibit B.

Section 5. Adoption of the Vallco Town Center Specific Plan.

The Vallco Town Center Specific Plan, attached hereto as Exhibit C, is hereby adopted. The full text of Exhibit C commences on page C-1 of this Initiative.

Section 6. Implementation of the Initiative.

- A. Upon the effective date of this Initiative, the City is directed to promptly take all appropriate actions needed to implement this Initiative. This Initiative is considered adopted and effective upon the earliest date legally possible after the Elections Official certifies the vote on the Initiative by the voters of the City of Cupertino.
- B. Upon the effective date of this Initiative, the provisions of Section 3 are hereby inserted into the General Plan; except that if the four amendments of the General Plan permitted by state law for any calendar year have already been utilized in the year in which this Initiative becomes effective, the General Plan amendments set forth in this Initiative shall be the first amendments inserted into the General Plan on January 1 of the next year.
- C. The General Plan in effect on the date of filing of the Notice of Intent to Circulate this Initiative (“Filing Date”), and the General Plan as amended by this Initiative, comprise an integrated, internally consistent and compatible statement of policies for the City. To ensure that the City’s General Plan remains an integrated, internally consistent and compatible statement of policies for the City, any provision of the General Plan that is adopted between the Filing Date and the effective date of the General Plan amendments adopted by this Initiative shall, to the extent that such interim-enacted provision is inconsistent with the General Plan amendments adopted by this Initiative, be amended as soon as possible and in the manner and time required by state law to ensure consistency between the provisions adopted by the Initiative and other elements of the General Plan.

Section 7. Effect of Other Measures on the Same Ballot.

In approving this Initiative, it is the voters’ intent to create a comprehensive regulatory plan to govern the future use and development of the Vallco Town Center Specific Plan area. To ensure that this intent is not frustrated, this Initiative is presented to the voters as an alternative to, and with the express intent that it will compete with, any and all voter initiatives placed on the same ballot as this Initiative and which, if approved, would regulate the use or development of property within the Vallco Town Center Specific Plan area in any manner whatsoever (each, a “Conflicting Initiative”). In the event that this Initiative and one or more Conflicting Initiatives are adopted by the voters at the same election, then only that measure which receives the greatest number of affirmative votes shall control in its entirety and said other measure or measures shall

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be rendered void and without any legal effect. In no event shall this Initiative be interpreted in a manner that would permit its operation in conjunction with any, including the non-conflicting, provisions of any Conflicting Initiative. If this Initiative is approved by the voters but superseded by law in whole or in part by any other Conflicting Initiative approved by the voters at the same election, and such Conflicting Initiative is later held invalid, this Initiative shall be self-executing and given full force of law.

Section 8. Interpretation and Severability.

- A. This Initiative must be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, sub-section, sentence, clause, phrase, part, or portion of this Initiative is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision does not affect the validity of the remaining portions of this Initiative. The voters declare that this Initiative, and each section, sub-section, sentence, clause, phrase, part, or portion thereof, would have been adopted or passed irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, phrases, part, or portion is found to be invalid. If any provision of this Initiative is held invalid as applied to any person or circumstance, such invalidity does not affect any application of this Initiative that can be given effect without the invalid application.
- B. If any portion of this Initiative is held by a court of competent jurisdiction to be invalid, we the People of the City of Cupertino indicate our strong desire that: (i) the City Council use its best efforts to sustain and re-enact that portion, and (ii) the City Council implement this Initiative by taking all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Initiative, including adopting or reenacting any such portion in a manner consistent with the intent of this Initiative.
- C. This Initiative must be broadly construed in order to achieve the purposes stated above. It is the intent of the voters that the provisions of this Initiative be interpreted and implemented by the City and others in a manner that facilitates the purpose set forth in this Initiative.

Section 9. Amendment.

Prior to January 1, 2027, the provisions of this Initiative, including but not limited to the Vallco Town Center Specific Plan that it adopts, can be amended or repealed only by a majority of the voters of the City voting in an election held in accordance with state law. On or after January 1, 2027, a vote of the people shall not be required to amend or repeal any portion of this Initiative, and this Initiative may be amended or repealed by any procedure otherwise authorized by law.

Section 10. List of Initiative Exhibits.

The following exhibits to this Initiative are incorporated herein by reference:

- Exhibit A – Amendment to General Plan Land Use Map
- Exhibit B – Amendment to Zoning Map
- Exhibit C – Vallco Town Center Specific Plan
- Exhibit D – General Plan Consistency Chart

CITY ATTORNEY'S BALLOT TITLE AND SUMMARY FOR PROPOSED INITIATIVE
SUBMITTED ON MARCH 3, 2016

TITLE: Initiative adopting the Vallco Town Center Specific Plan to (1) provide that the Vallco Shopping District Special Area (“Area”) contains a mixture of residential, office, retail, civic and education uses; (2) require any development to fund or provide community benefits such as transit, schools, a green roof, and recycled water; and (3) grant the property owner initial entitlements to develop in accordance with the Initiative and establish a process for future approvals; and making related amendments to Cupertino’s General Plan and Municipal Code.

SUMMARY: The Initiative involves the property designated in Cupertino’s General Plan (Community Vision 2015 – 2040) as the Vallco Shopping District Special Area. Fifty-one acres of the 58-acre property are currently occupied by the Vallco Shopping Mall. The General Plan envisions redevelopment of the Area as a mixed-use project, sets forth development allocations, goals, policies and strategies, and requires adoption of a specific plan prior to any development.

The Initiative states that it implements and fulfills the requirements of the General Plan and the vision of the community by approving the Vallco Town Center Specific Plan (“Specific Plan”) establishing a mix of retail, dining, entertainment, recreation, offices, housing, hotel, education, civic, public open space, and amenities. The Initiative includes associated amendments to the General Plan and City of Cupertino Municipal Code.

The Initiative:

(1) States that it would entitle the property owners to develop the Area in accordance with the Specific Plan, exempt the Area from provisions of the Municipal Code not provided in the Specific Plan, and establish process for future approvals;

(2) Adopts a Specific Plan establishing development features for the Area including:

- (a) 389 residential units (minimum 20% senior apartments), which may be increased through a Conditional Use Permit process up to the General Plan allocations if there are no significant and unavoidable impacts beyond those identified in the General Plan Environmental Impact Report;
- (b) 2,000,000 square feet (“sf”) of office space (minimum of 100,000 sf of incubator space for businesses);
- (c) 640,000 sf of commercial space (regional retail, entertainment, and personal service);
- (d) 100,000 (minimum 50,000) sf of public/civic space;
- (e) Two Town Centers (3-acre minimum);

- (f) 30 acres minimum of Community Park and Nature Area or “green roof” (3.8 miles minimum to be publicly accessible trails), with drought tolerant landscaping and recycled water infrastructure;
- (g) 9,060 parking spaces below, above, and at grade level;
- (h) 80 feet (maximum) building height west of Wolfe Road and 95 feet (maximum) building height east of Wolfe Road, scaled to minimize impacts on residential; and
- (i) 191 hotel rooms (in addition to a previously approved hotel).

(3) Requires any development, other than on two sites proposed for hotels, to fund community benefits which may be incorporated into a development agreement, including transportation improvements (\$30 million for I-280, a free shuttle, transit center, and bike/pedestrian trails), 5,000 square feet of charitable civic space, and no less than 10 times what is legally required for schools (approximately \$40 million);

(4) Changes standards for “parcelization” (division of the property into smaller parcels);
and

(5) States that, until January 1, 2027, its provisions may only be amended or repealed by the voters.

NOTICE OF INTENT TO CIRCULATE PETITION

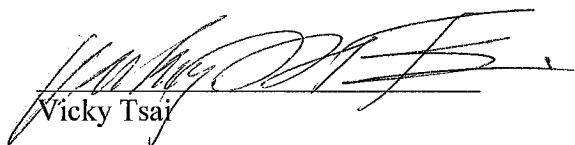
Notice is hereby given by the persons whose names appear hereon of their intention to circulate a petition within the City of Cupertino for the purpose of qualifying and enacting the Vallco Town Center Specific Plan Initiative. A statement of the reasons for the proposed action as contemplated in the petition is as follows:

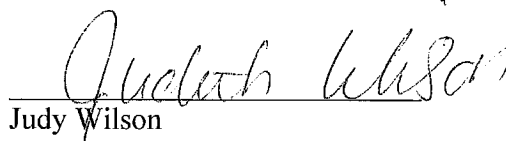
This Initiative fulfills the vision of the Cupertino General Plan by approving the Vallco Town Center Specific Plan ("Specific Plan"), which facilitates the complete redevelopment of the Vallco Shopping District Special Area ("Vallco Shopping District") into a vibrant, sustainable, walkable, and safe "town center" neighborhood with a mix of retail, dining, entertainment, recreation, offices, housing, hotel, education, civic, open space, and public amenities for Cupertino residents. Implementation of the Specific Plan will elevate the quality of life of Cupertino residents by creating a mix of thoughtfully designed public places of various scales, including amenities such as a market hall, a new state-of-the-art movie theater and ice rink, civic, educational venues, as well as walkable streets, bicycle lanes, and transit facilities fitting for a true town center.

Approximately 51 of the 58 acres of Vallco Shopping District is currently the site of a failing enclosed regional mall (and associated parking) that is suffering from significant vacancies (the "Mall"). Cupertino residents have long recognized the failures and obsolescence of the Mall. The City Council and the community have spent years working to establish a new vision for the area. In December 2014, the City Council adopted an updated General Plan, which includes goals, policies, and strategies specifically relating to the Vallco Shopping District, including a requirement that a specific plan be adopted for the Vallco Shopping District prior to any redevelopment to specify the land uses, design standards and guidelines, and infrastructure improvements required to serve the area. The Specific Plan proposed by this Initiative fulfills that objective.

To ensure the type of extraordinary community benefits that Cupertino residents deserve, the Specific Plan requires a 30-acre greenway on the integrated roofs of the town center buildings. This privately funded/maintained rooftop Community Park and Nature Area will include 3.8 miles of walking trails, meadows, vineyards, orchards and gardens to be planted with native, drought-tolerant landscaping, with recycled water delivered through a new recycled water line extension. This one-of-a kind amenity will host a diverse set of active and passive community-oriented uses, help visually integrate the plan area with the surrounding streets, reduce the area's heat island effect, minimize water run-off and water/air quality impacts, and improve the energy efficiency of buildings. As a new destination for local families, the Specific Plan also provides for an amphitheater to host outdoor concerts and movie nights, an outdoor play space for children, and banquet and event space for large and small events.

The Specific Plan also provides for substantial public benefits and improvements, including: new development under the Specific Plan to provide—in addition to the maximum state-mandated school fees—additional benefits of approximately \$40 million to enhance Cupertino's excellent schools, such as a new High School Science and Engineering Innovation Center, solutions to create net additional enrollment capacity, and space for adult education programs; effective traffic solutions for pre-existing and future conditions; space for local non-profits and civic organizations; dedicated senior housing units; and one-time construction-related tax revenues, new recurring property taxes, and retail sales taxes.


Vicky Tsai


Judy Wilson

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APPENDIX 2

SECTION-BY-SECTION DESCRIPTION AND SUMMARY OF INITIATIVE

This Appendix to the 9212 Report summarizes and describes each part of the Initiative. It was prepared by the City Attorney's office and outside counsel with the assistance of City planning staff. The text of the Initiative *without its exhibits* is set forth in Appendix 1A. The full text of the Initiative, including all exhibits, is over 300 pages long and is available on the City's website.

The Initiative states that it seeks to achieve its stated purposes by amending various provisions of the City of Cupertino's *General Plan (Community Vision 2015-2040)* and Municipal Code, as well as adopting the Vallco Town Center Specific Plan. California law requires each city and county to adopt and maintain a "general plan" that establishes permissible land uses and maximum development densities and intensities for all properties within that jurisdiction. A city's general plan effectively serves as its living "constitution" for all future land use decisions. Under state law, except for provisions adopted by initiative that require voter approval to change, a city council can amend the general plan up to four times per year, and may amend a specific plan as often as the city deems necessary, provided that the specific plan remains consistent with the general plan. A city can amend its municipal code as provided in state law.

The Initiative's proposed amendments to Cupertino's General Plan and Municipal Code, as well as the proposed Specific Plan, are described below in Part III. Where helpful to show the changes made by the Initiative, this summary adopts the Initiative's practice of showing proposed deletions to the existing General Plan in ~~striketrough~~ and new language inserted by the Initiative in underline.

I. Section 1. Title. (Page 1 of the Initiative)

Section 1 of the Initiative sets forth the title proposed by the Initiative proponents: "The Vallco Town Center Specific Plan Initiative." As is often the case, this title differs from the official title prepared by the City Attorney pursuant to Elections Code section 9203, which requires the City Attorney to prepare "a true and impartial statement of the purpose of the proposed measure in such language that the ballot title shall neither be an argument, nor be likely to create prejudice, for or against the proposed measure."

The City Attorney's official ballot title reads as follows: "Initiative adopting the Vallco Town Center Specific Plan to (1) provide that the Vallco Shopping District Special Area ("Area") contains a mixture of residential, office, retail, civic and education uses; (2) require any development to fund or provide community benefits such as transit, schools, a green roof, and recycled water; and (3) grant the property owner initial entitlements to develop in accordance with the Initiative and establish a process for future approvals; and making related amendments to Cupertino's General Plan and Municipal Code."

The City Attorney's full ballot title and summary for the Initiative is set forth in Appendix 1B.

II. Section 2. Findings and Purpose. (Pages 1-2 of the Initiative)

Section 2 of the Initiative contains the Initiative’s proposed “findings and purpose.” Section 2(A) sets forth the proposed “findings,” which summarize the proponents’ rationale for why the Initiative is needed at this time. Further information regarding the proponents’ reasons for proposing the Initiative are set forth in the Notice of Intent to Circulate Petition that the proponents submitted when they requested the official title and summary. The Notice of Intent is reproduced in Appendix 1C.

If the Initiative is adopted, these findings could help guide the City Council, or the courts in the event of a legal challenge, in determining how to interpret and apply any ambiguities in the provisions set forth in the Initiative.

Section 2(B) sets forth the Initiative’s “purpose,” which is to: “ensure that, consistent with the City’s General Plan, the failed Vallco Shopping District Special Area can be redeveloped into a vibrant, sustainable, walkable and safe new neighborhood with a mix of retail, dining, entertainment, recreation, offices, housing, open space, educational, civic, and public amenities, with exceptional community benefits and high-quality design, that will improve the quality of life of Cupertino residents.” The Initiative seeks to achieve this purpose by amending various provisions of the General Plan and Municipal Code, and adopting the Vallco Town Center Specific Plan.

Like the “findings” in Section 2(A), this stated purpose could help guide the City Council, or the courts in the event of a legal challenge, in determining how to interpret and apply any ambiguities in the General Plan amendments set forth in the Initiative. The City Council, however, has broad discretion to interpret any ambiguities in the General Plan and to balance competing policies, goals, and provisions of the General Plan, whether adopted by the Initiative or otherwise. *San Francisco Tomorrow v. City and County of San Francisco* (2014) 229 Cal.App.4th 498, 513-16. The City Council has the same broad discretion with respect to its Municipal Code and any specific plan.

III. Section 3. City of Cupertino General Plan Amendments. (Pages 2-6 and Exhibit A of the Initiative)

Section 3 of the Initiative sets forth the proposed changes to the General Plan. The changes are contained in four sub-sections. The first two sub-sections (A and B) contain amendments to two “elements” of the General Plan. The third sub-section (C) contains amendments to the General Plan’s Appendix A (“Land Use Definitions”). The fourth sub-section (D) contains amendments to the General Plan’s Land Use Map.

A. Section 3(A): Amendments to the Land Use and Community Design Element (Pages 2-5 of the Initiative)

This section amends several provisions in the “Vallco Shopping District Special Area” subsection of the Land Use and Community Design Element (General Plan Chapter 3). As the current General Plan explains, Chapter 3 “is the keystone” of the General Plan. “It unifies and informs the other Elements by providing an overall policy context for future physical

change.” The “Vallco Shopping District Special Area” subsection describes the City’s vision for redeveloping the existing Vallco Fashion Mall into a “vibrant mixed-use ‘town center’ that is a focal point for regional visitors and the community.” To achieve this vision, the General Plan requires the creation of a Specific Plan to govern development of the Vallco site and sets forth fourteen “strategies” to be incorporated into the Specific Plan.

The Initiative changes the name of the required specific plan to “Vallco ~~Shopping District~~ Town Center Specific Plan.” It also amends several of the strategies and adds a fifteenth strategy. Among other things, the Initiative:

- Provides an exception to the general rule that “parcelization,”: i.e., dividing land into smaller parcels, “is highly discouraged” in the Specific Plan area. The exception would permit “parcelization” whenever it “includes adequate protective measures to provide incentives and guidelines for cooperation among owners.”
- Requires (rather than allows) certain uses within the Specific Plan Area. For example:
 - The Initiative deletes the phrase, “The following uses are *allowed* on the site,” and replaces it with, “the Vallco Town Center Specific Plan *shall require a mix of the following uses* on the site” (emphasis added).
 - Similarly, the Initiative would require (rather than encourage) a hotel; require “[a] minimum of 100,000 square feet shall be set aside for incubator, co-work space and/or multi-tenant spaces for start-ups, mid-sized companies and/or new and emerging technologies, with preference for local companies”; and require the developer to “dedicate the greater of 80 [residential] units, or 20% of the total [residential] units, as senior housing (in compliance with state and federal law).”
 - Instead of “*allow[ing]* residential on upper floors with retail and active uses on the ground floor,” the Initiative requires that this residential development to be “*maintain[ed]*.” Similarly, the Initiative replaces “encourage” with “maintain” in describing the requirements for office space (“~~Encourage~~ Maintain high quality office space arranged in a pedestrian-oriented street grid with active uses on the ground floor, publicly-accessible streets and plazas/green space,”)¹
 - The Initiative also adds a new land use requirement that “property owner(s) ... provide generous amounts of parks and open space, educational facilities, community gathering spaces, civic uses, public art, and community even spaces,” and permits, but does not require, additional

¹ It is unclear what proponents mean by maintain in this context, because there is currently no residential. It appears this is a requirement to create and keep in place residential and office space.

“amenities,” such as cafeterias, lobbies, community halls, or meeting spaces.

- Adds a new transportation and transit funding requirement, which provides, among other things, that “[a]ny project that fully redevelops the existing mall in the Vallco Shopping District shall also fund transportation and transit infrastructure that provides effective traffic solutions, including providing approximately \$30 million toward planned transportation improvements at the I-280 and Wolf Road interchange and other I-280 segments, partnering with local employers and transit agencies to provide a free community shuttle. . . .” This transportation and transit funding requirement does not apply to any hotel project.
- Adds a new strategy, “Strategy LU-19.1.15: Green Roof and Recycled Water” requiring the developer to: (1) provide a public green roof at least 30 acres in size, with drought tolerant landscaping, and a minimum of 3.8 miles of publicly accessible trails; and (2) extend recycled water service to the Vallco Shopping District. As with the transportation and transit funding, these new green roof and recycled water requirements do not apply to any hotel project.

The requirements to provide transportation funding, a green roof, and recycled water would not apply to any proposal that does not “fully redevelop[] the existing mall in the Vallco Shopping District.” However, given the City’s discretion to interpret its General Plan, it is possible that the City could require the developer of a portion of the Specific Plan area to contribute a proportional amount of the specified benefits. The possible meaning and implications of this provision are discussed in more detail in Chapter III.A of the Report.

B. Section 3(B): Amendments to the Infrastructure Element (Page 5 of the Initiative)

This section adds a new strategy to Policy IF-2.5 of the General Plan’s Infrastructure Element. This policy governs recycled water infrastructure, and directs the City to plan for citywide access to recycled water and encourage its use. The Initiative adds Strategy INF-2.5.4: Vallco Town Center Specific Plan, which requires any project that “fully redevelops the existing mall within the Vallco Shopping District” to “extend the recycled water line to the area covered by the Vallco Town Center Specific Plan and maximize use of recycled water.” As with the new strategies proposed by the Initiative for the Land Use Element, this new strategy would not apply to any hotel project within the Vallco Town Center Specific Plan area.

In addition, and like the requirements for transportation funding, a green roof, and recycled water, this requirement would not apply to any proposal to develop less than the entire existing mall in the Specific Plan Area.

C. Section 3(C): Amendments to Appendix A (Pages 5-6 of the Initiative)

Section 3(C) of the Initiative adds a definition of “Vallco Town Center Specific Plan” to Appendix A (“Land Use Definitions”) of the General Plan. This definition provides:

The Vallco Town Center Specific Plan designation applies to the Vallco Shopping District Special Area, and allows a mix of uses, including retail, restaurant, entertainment, residential, office, hotel, public (including civic), quasi-public, educational, parks, open space, and amenities. Projects developed under this designation must be consistent with the Vallco Town Center Specific Plan.

D. Section 3(D): Amendments to the Land Use Map. (Page 6 and Exhibit A of the Initiative)

This section amends the existing “City of Cupertino Land Use Map” to redesignate the approximately 58-acre Specific Plan area from “Commercial/Office/Residential” to “Vallco Town Center Specific Plan.” Exhibit A to the Initiative includes two copies of the existing Land Use Map (at different scales), and two copies of the Land Use Map (at different scales) with the Specific Plan area redesignated as “Vallco Town Center Specific Plan.”

IV. Section 4. City of Cupertino Municipal Code Amendments. (Pages 6-7 of the Initiative)

This section makes several changes to Titles 19 (Zoning) of the City’s Municipal Code. First, it adds a new chapter, titled “Vallco Town Center Specific Plan (VTCSP) Zone.” This new chapter establishes the “Vallco Town Center Specific Plan” (“VTCSP”) district, and provides that “[t]he standards, guidelines and improvement plans contained in the Vallco Town Center Specific Plan shall govern the VTCSP zoning district.” The Initiative provides that general Municipal Code zoning provisions (including “specific standards and/or procedures for review, approval and/or administration of development projects”) will *not* apply to development within the VTCSP district unless the Vallco Town Center Specific Plan does not provide specific standards and/or procedures for some aspects of development. The Initiative further provides that the City cannot apply any standards or procedures in the Municipal Code that would frustrate or inhibit development of the Vallco Town Center Specific Plan. The implications of this provision are discussed in Chapter III.A of the Report.

This section also adds “VTCSP Vallco Town Center Specific Plan” to the list of designated zoning districts contained in Section 19.16.010 of the Municipal Code. The Initiative states that it would amend Section 19.16.110, entitled (“Zoning Districts Designated”), but the actual Code number for that section is 19.16.010. This apparent typographical error would not affect the validity of this provision.

This section also amends the Municipal Code section governing the City’s issuance of conditional use permits. A conditional use permit (“CUP”) grants permission for uses not allowed as a matter of right in a zone. *Sounhein v. City of San Dimas* (1996) 47 Cal.App.4th 1181, 1188. This enables the City to exercise control over certain sensitive land uses that may be desirable in small numbers but could be detrimental to the community in large numbers. *Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1184. For example, a city may require a CUP for construction of housing that exceeds a certain threshold. *Sounhein*, 47 Cal.App.4th at 1184-85.

Pursuant to Section 19.156.040, the applicable City “decision maker”² may grant a conditional use permit if two findings are made: (1) the proposed use “at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience,” and (2) the use “will be located and conducted in a manner in accord with the Cupertino Comprehensive General Plan, underlying zoning regulations, and the purpose of this title and complies with the California Environmental Quality Act (CEQA).”

The Initiative would add a new provision to Section 19.156.040 limiting the City’s ability to deny CUPs for additional residential units (above the 389 units allocated in the General Plan) within the Vallco Town Specific Plan district. When presented with an application for such a CUP, the Initiative provides that the City must—rather than “may”—grant the CUP if the two findings are made. In addition, the new provision states that, for purposes of the first required finding, an increase in residential units within the Vallco Town Specific Plan district “shall be deemed not to be detrimental to the public health, safety, general welfare, or convenience if there are no new significant and unavoidable impacts beyond those identified in the Environmental Impact Report prepared for the General Plan: Community Vision 2015 – 2040, as to the residential units.”

This provision would prohibit the City from finding that such residential development is detrimental to public health, safety, general welfare, or convenience unless it also finds the development would have significant and unavoidable impacts beyond those identified in the General Plan EIR. To the extent that this provision precludes the City from denying the CUP or imposing conditions that the City determines are in fact necessary to protect the public health, safety, or general welfare, a court could find it invalid. *See Davidson v. County of San Diego* (1996) 49 Cal.App.4th 639, 648-49 (legislation may not abdicate the police power, including the power to regulate land use to prevent potential danger to the health and safety of the public). Moreover, pursuant to Municipal Code section 19.156.040(A)(1), the City could still deny such a CUP if it found that the proposed residential development: would “be detrimental or injurious to property or improvements in the vicinity;” is inconsistent with the General Plan, underlying zoning regulations, and the purpose of the zoning ordinance; or does not comply with CEQA.

This section also amends Title 20 (“General and Specific Plans”) of the Municipal Code to exempt the Vallco Town Center Specific Plan area from the general requirement that all areas governed by a specific plan be zoned “planned development (P).” Under other provisions of the Initiative, the Vallco Town Center Specific Plan area will be zoned “VTCSP Vallco Town Center Specific Plan.”

Finally, this section amends the existing “City of Cupertino Zoning Map” to change the property’s zoning from P(Regional Shopping) and P(CG) to VTCSP(Vallco Town

² The applicable City “decision maker” depends upon the nature of the permit at issue and whether a permitting decision has been appealed. For purposes of this Initiative, the initial decision maker for any CUP would be the City Director of Community Development, with any appeal going directly to the City Council. *See Specific Plan, Chapter 9.1*

Center Specific Plan). This amendment essentially denotes on the City’s Zoning Map the changes made by Sections 4 and 5 of the Initiative. Copies of the existing City of Cupertino Zoning Map and the Zoning Map as amended by the Initiative are attached to the Initiative as Exhibit B.

V. Section 5. Adoption of the Vallco Town Center Specific Plan. (Page 7 and Exhibit C of the Initiative)

This section adopts the Vallco Town Center Specific Plan, which is attached as Exhibit C to the Initiative. The Specific Plan, which is more than 200 pages long, sets forth detailed standards and provisions governing development within the Vallco Town Center Specific Plan area. The Specific Plan is the heart of this Initiative.

Under state law, a specific plan is a legislative enactment that systematically implements the development policies of the city’s general plan. Gov. Code § 65450; *South Sutter, LLC v. LJ Sutter Partners, L.P.* (2011) 193 Cal.App.4th 634, 668. The process for preparing, adopting and amending a specific plan is the same as for a general plan, except that a specific plan may be amended as often as the city council “deems necessary.” Gov. Code § 65453; *Chandis Sec. Co. v. City of Dana Point* (1996) 52 Cal.App.4th 475, 481. The City’s Municipal Code further provides that a specific plan is intended “to provide a means of guiding land development or redevelopment of the City that is uniquely suited for planned coordination of land uses and to provide for a greater flexibility of land use intensity and design because of accessibility, ownership patterns, topographical considerations and community design objectives.” Muni. Code § 20.04.010.A. A specific plan is also intended “to encourage variety in the development pattern of the City, to promote a more desirable living environment, to encourage creative approaches in land development, to provide a means of reducing the amount of improvements required in development through better design and land planning, to conserve natural features, to facilitate a more aesthetic and efficient use of open spaces, and to encourage the creation of public and private common open space.” Muni. Code § 20.04.010.B.. The Cupertino General Plan, adopted in 2014, requires the preparation and adoption of a specific plan prior to any development within the Vallco Shopping District Special Area. The Specific Plan proposed to be adopted as part of the Initiative would satisfy this requirement of the General Plan.

The full text of the Vallco Town Center Specific Plan is attached as Exhibit C to the Initiative and available for review on the City’s website. The Specific Plan contains an Executive Summary and nine chapters: (1) Introduction, (2) Land Use & Development Standards; (3) Community Benefits; (4) Mobility & Connectivity; (5) Sustainable & Smart City Strategies; (6) Infrastructure & Public Facilities; (7) Landscaping & the Public Realm; (8) Town Center Design Guidelines; and (9) Administration, Implementation & Financing.

A. Executive Summary. (Pages C-4 to C-7)

The Executive Summary briefly describes the history of the mall at Vallco; the drafters’ goals in designing the Specific Plan; and the Plan’s vision and plan for redeveloping the Vallco Area into a “vibrant mixed-use Town Center.” According to the Executive Summary, the focus of the Specific Plan “is planning for the redevelopment of the “Mall property, which

includes blocks 1 through 12 (the Town Center, also known as Town Center/Community Park) and the potential future development of Block 14.”

B. Chapter 1: Introduction. (Pages C-12 to C-27)

Chapter 1 provides an introduction to the Specific Plan. Among other things, Chapter 1 describes the Specific Plan’s organization; its relationship to other City plans and policies, including the General Plan and Municipal Code; the history of the existing development within the Specific Plan area (i.e., the existing Valco Mall) and surrounding uses; and the potential subsequent project approvals necessary to carry out the development contemplated in the Specific Plan. It further notes that the illustrations in the Specific Plan are illustrative only, to “convey the concepts and intent” of the Plan. (C-16.) It reiterates that if there are any conflicts between the Specific Plan and the Cupertino Municipal Code, the Specific Plan controls the Plan Area. (C-20.)

C. Chapter 2: Land Use and Development Standards. (Pages C-29 to C-85)

Chapter 2 describes the conceptual land use plan for the 58-acre Specific Plan area (“Plan Area”); identifies the Specific Plan Objectives (including objectives for the Town Center); and sets forth development standards and permitted, conditional, and excluded land uses.

The Specific Plan divides the Plan Area into fourteen “Blocks” (see Figure 2-1, at Initiative Page C-30. As noted above, the principal focus of the Plan is the redevelopment of the Mall Property, which includes Blocks 1-12. Blocks 13 and 14 propose hotel developments that may be processed separately from the mall redevelopment project.

1. The Mall Property (Blocks 1-12)

To accomplish redevelopment of Blocks 1-12, the existing mall would be demolished and redeveloped with a new “Town Center” in accordance with the Specific Plan.

Section 2.2 lists the “objectives” for development of the Town Center. These objectives include “implement[ing] the vision in the City’s General Plan to completely redevelop the Plan Area,” providing “educational uses . . . for youth, seniors, and others in the Cupertino Community,” and mitigating impacts of the redevelopment. (C-32.)

Section 2.3 sets forth the land use plan for the Plan Area. The “key components” of this plan include the “Town Center,” “Community Park and Nature Area,” and “Education.” The Town Center envisions a traditional neighborhood layout. The core focus will be two Town Squares one located on each side of Wolfe Road. The Town Squares “may” be linked by pedestrian bridges. The movie theatre, bowling alley, ice rink and fitness center uses will be co-located to the northwest corner of the Town Center.

The Community Park and Nature Area is a 30-acre “rooftop landscape,” designed to rise from existing grade along the southwestern edge of the Plan Area along Stevens Creek

neighborhood to the center of the Plan Area, west of North Wolfe Road, and “then decrease in height east of North Wolfe Road.” The Community Park and Nature Area may be used for a variety of uses, including community gathering, performances, dining, relaxation, and native planting areas. As described below, the Community Park and Nature Area will also include 2.8 miles of trails for walking, hiking, jogging and docent-led educational tours.

The “Education” component of the plan centers on a commitment to provide “community benefits for local schools . . . valued in the aggregate at no less than 10 times the legally-required amount, which would represent a total financial contribution of approximately \$40 million.” (C-40.) Section 2.3.3 describes some options for providing this benefit, subject to school district approval. These options include “construction and 34-year charitable lease of a new 10,000 square foot, turn-key High School science and engineering ‘Innovation Center’”; Construction and 34-year charitable lease of up to 5,000 square feet of classroom and/or administrative space for FUHSD’s Adult School; a new 700 student elementary school at the former Nan Allan Elementary School site; and a community hub building of at least 6,000 square feet for use by study groups and parent volunteer meetings. The Specific Plan does not require a developer to provide any of these particular options, but rather describes them as possible ways of providing benefits for local schools “valued in the aggregate at no less than 10 times the legally-required amount.” (These benefits are further analyzed in Chapter III.A of the Report.)

Section 2.3.4 describes the types and amounts of development permitted within the Plan Area. Table 2-1, the “Land Use Summary,” (at page C-42 of the Initiative) sets forth the permitted uses and amounts in summary form. Permitted uses, which are further defined in Section 2.6 of the Plan (beginning at page C-77), include:

Residential. 389 residential units, which may be increased up to the maximum amount permitted under the General Plan with the issuance of a conditional use permit (or CUP). A minimum of 80 residential units, or 20% of the total number of residential units, whichever is greater, must be dedicated senior housing. As explained in Chapter III.A, these provisions could allow for an increase up to 800 units.

Office. A maximum of 2,000,000 sf of office space. At least 100,000 sf of the office space developed must be “incubator work space and multi-tenant spaces for start-ups and new and emerging technologies, per General Plan.”

Commercial. Approximately 640,000 sf of commercial, of which at least 600,000 sf must be retail (which includes “community and regional retail, entertainment, and personal services”); up to 40,000 sf may be “fitness” (e.g., a fitness center).

Public/Civic. At least 50,000 sf public/civic space, which may be increased up to 100,000 sf if office space is reduced commensurately.

Town Center Squares. Two “town squares” (Town Square West and Town Square East), which together must comprise at least 3 acres.

Community Park and Nature Area. A 30-acre rooftop community park and nature area accessible to the public. This rooftop park must also include at least 3.8 miles of public trails.

Services, Facility management, & Loading. 120,000 sf dedicated to services, facility management, and loading, including central plants, loading docks, and maintenance facilities.

Parking. Approximately 9,060 parking spaces located below grade, above grade and at street level. Deviation from this number by more than 5% (450 stalls) requires approval by the City's Community Development Director.

Hotel. The City has already approved a 148-room hotel on Block 13 of the Plan Area. The Specific Plan also permits a 191-room hotel on Block 14. However, parking shall also be a permitted use on Block 14.

Section 2.4 divides the Plan Area into five "land use districts," "to help describe the predominant land uses and their locations." However, the Plan also notes that these districts are not "meant to serve as zoning designations," and that "[t]he allocation of space for each land use may vary between districts and construction sequencing, as long as the total gross development area for each land use is not exceeded." (C-53.) These districts include:

Town Center Retail/Residential District (Blocks 1, 2, 4), bounded by Stevens Creek, the Portal Neighborhood, the Mixed-Use Entertainment District and North Wolfe Road. Commercial uses may include retail, personal services, civic, and small format medical uses. Residential uses are also envisioned on upper levels. This district will include a portion of Town Square West, a publicly-accessible plaza. A 10,000 square foot, turn-key High School Innovation Center may also be located in this district.

Town Center Retail/Entertainment/Office/Residential District (Blocks 3, 5, & 6), bounded by 2nd Street, N. Wolfe Road, Vallco Parkway, and A Street. The Plan anticipates that new and existing entertainment uses, including a multiplex movie theater, bowling alley, and ice rink, will be located in this district. A portion of Town Square West will also be included in this district.

Town Center Retail/Office District (Blocks 7 – 12), bounded by 2nd Street, N. Wolfe Road, Vallco Parkway, and E Street. This district will contain Class-A office space, Amenity & Support Space, and Town Square East, "a quiet compliment to the active heart of Town Square West." A transit center for employees is also envisioned in this district.

Town Center Hotel District (Blocks 3, 14), south of I-280 on either side of N. Wolfe Road. On the east side of North Wolfe Road, Block 13 is already approved for the development of a 148-room hotel. The majority of Block 14 is currently occupied by a surface parking lot. Block 14 may be developed with a hotel with up to 191 rooms; it also may remain a parking lot or be used as part of the planned North Wolfe Road/I-280 interchange improvements.

Community Park and Nature Area, a separate, landscaped roof structure over the redeveloped Mall portion of the Plan Area. This district will include an approximately 30-acre "Community Park and Nature Area." A majority of the roof structure will be open to the general public and accessible for all visitors. Some areas will be closed to public use for safety and security reasons; other areas may only be privately-accessible by residents and employees. This

district may also include retail uses, private amenities (e.g., pool and clubhouse), and community facilities (e.g., playground, community hub, banquet hall, amphitheater). The district will provide a variety of planting zones. (See Chapter 7 for description of landscaping and design elements.)

Section 2.5 provides development standards that apply to all districts in the Plan Area. According to this section, these standards address: (1) Ground Floor Activation; (2) Building Setbacks; (3) Building and Roof Height; (4) Parking; and (5) Parks and Open Space. Under these standards:

- Maximum building heights shall not exceed those shown on Figure 2-20. According to that figure, buildings in blocks 9-12 may be 80-95 feet high; buildings in the center of the site may be between 30-80 feet high; and buildings along the western edge may not exceed 65 feet high.³
- Figures 2-18 and 2-19 show 20 to 30 foot setbacks from public roadways and existing residential areas.
- There does not appear to be a maximum height for the separate green roof structure. However, rooftop pavilions cannot be higher than 24 feet (single story) from the finished floor elevation at Community Park and Nature Area level. Rooftop pavilions shall be set back from the edge the roof at least 100 feet if above westernmost Blocks 1 and 3 (and Block 14 if part of the park structure); they must also comply with the 1:1 building plane. No mechanical structures, other than those necessary to support the respective rooftop pavilions, may be placed on top of the rooftop.
- Parking must be provided in accordance with the City of Cupertino Municipal Code Parking Regulations, with certain adjustments. According to the Specific Plan, these regulations, as adjusted, would require 9,060 parking stalls for development of the Town Center, excluding development of Blocks 13 and 14.

The remaining development standards contained in Section 2.5 are fairly general and flexible. For example, Section 2.5.6 requires the Town Squares to “incorporate high-quality furnishings and materials” and “incorporate landscaping that is distinctive and visually attractive.” The Community Park and Nature Area must “[i]ncorporate thematic landscaping that is based on the native ecologies of Santa Clara Valley and is resilient to climate conditions, such as extended period of drought and increasing global temperatures.”

Table 2-2, included in Section 2.6, lists the permitted, conditional, and excluded uses. According to Section 2.6, “[t]hese descriptions are representative of the types of land uses envisioned and are not meant to be completely inclusive.” Other uses that, in the opinion of the City’s Director of Community Development, are similar to those listed in Table 2-2 and do not create significant adverse impacts, “are permitted or conditionally permitted.” Moreover, the

³ Section 2.5.4 notes that, because the Community Park and Nature Area will be on a separate green roof structure,

City’s Director of Community Development retains discretion to permit uses that are “fundamentally different.”

According to Table 2-2, a broad range of uses are permitted in four of the five land use districts (Town Center Retail/Residential; Town Center Retail/Entertainment/Office/Residential; Town Center Retail/Office; and Community Park and Nature Area). For example, within the Community Park and Nature Area, permitted uses include Alcohol Sales, Community Retail, Community Space, Educational Uses, Entertainment, Eating Establishments, Outdoor Dining, along with more traditional park uses such as Agricultural Uses, Outdoor Uses, and Parks and Open Space. Fewer uses are permitted in the Town Center Hotel District, but there remain numerous Conditional uses in that District as well. The remainder of Section 2.6 defines the various uses.

Section 2.7 contains general provisions applicable to all land uses within the Plan Area. Section 2.7.1 provides that, if any provision of the Specific Plan or application of the Plan is found to be invalid, that finding shall not affect the remaining provisions or applications. Section 2.7.3 provides that the Specific Plan will constitute the zoning for the Plan Area. Any subsequent development must be consistent with the development standards contained in the Specific Plan. Section 2.7.8 provides that existing uses within the Plan Area are deemed legal nonconforming uses, and can continue as an interim use “subject to the Cupertino Municipal Code.” The intent of the Specific Plan is that “legal nonconforming uses are allowed until such time as market conditions cause the property on which they are situated to be redeveloped.”

D. Chapter 3: Community Benefits (Pages C-86 to C-91)

Chapter 3 of the Specific Plan describes the “community benefits” that must, or, in some cases, may, be provided as part of a Development Agreement or as a condition of approval in the Master Site Development Agreement. The Specific Plan divides these “community benefits” into six categories.

3.2. Civic Benefits. The proposed Civic Benefits include

- A 30-acre “Green Roof and Community Park,” accessible to the public with 3.8 miles of public trails. The park must be privately constructed and maintained at no cost to taxpayers, and irrigated by recycled water.
- A sustainable design goal of achieving the highest level of certification from a globally recognized environmental sustainability certification program, such as LEED Platinum certification or its equivalency.
- Two ground-level “Town Squares” (totaling 3 acres) “programmed to accommodate civic, cultural, community, and school events, performances and celebrations.”
- Improvements to existing utility infrastructural system (including extension of recycled water infrastructure).

- Community facilities,⁴ including 20,000 square feet of banquet/event hall; community hub building (6,000 square feet); a 300-seat amphitheater; and a playground.
- Charitable lease(s) for 5,000 square feet of civic space.⁵
- An option for a project applicant to provide up to an additional 50,000 square feet for an appropriate, necessary and meritorious civic use subject to a separate agreement with the City. Any civic space over and above 50,000 square feet will require an equal reduction in the Vallco Area’s office space allocation.

Section 3.3. Education Benefits. The Specific Plan requires that, “[i]n addition to paying the maximum state-required school fees, which are expected to be approximately \$4 million, the Plan Area will provide . . . community benefits for local schools . . . valued in the aggregate at no less than 10 times the legally-required amount . . .” The Plan provides some examples of the types of “in-kind” or monetary contributions that would be “strongly encouraged” (e.g., providing space, buildings, facilities on-site, in lieu parcel tax), but notes that the relevant school districts (Fremont Unified High School District (“FUHSD”) and Cupertino Union School District (“CUSD”)) must be consulted about their needs before final plans approved.

Section 3.4. Housing Benefits. The Housing Benefits include a provision “strongly encourag[ing]” compliance with the City’s Below Market Rate (“BMR”) Housing Mitigation Program “by providing affordable units on-site rather than paying the City’s in-lieu fee.” Also, to the extent permitted by law, the Specific Plan would give CUSD and FUHSD teachers housing priority. At least 80 residential units (or 20% of total number of units, whichever is greater) would be dedicated senior housing.

Section 3.5. Land Use and City Revenue Benefits. These proposed benefits include:

- A requirement that at least 25% of the retail component, including a new multiplex movie theater, be delivered in the initial construction sequence of the Plan Area (not including the hotel on Block 13) and allowing for the continuous operation of the existing multiplex movie theater during initial construction sequence.
- A commitment to demolish 100% of the remaining existing Mall improvements within 6 months of receiving a certificate of occupancy for the initial retail component, “subject to existing leases and an appropriate temporary improvement plan for demolished areas.”

⁴ “Community Facilities” are not defined in the Specific Plan. However, “Community Space” is defined in Section 2.6.8.

⁵ The Specific Plan does not define “charitable leases.”

- A commitment to office tenant diversity by providing a minimum of 100,000 square feet of incubator work space and/or multi-tenant office spaces for multiple start-ups and/or emerging or mid-size companies, with a preference for local companies.
- A requirement to retain healthy trees and existing walls and encouraging inactive and/or generously set-back building facades along the Plan Area’s western property line, to protect adjacent residential property owners.

Section 3.6. Mobility and Connectivity. Section 3.6 requires contributions to local transportation improvements, including:

- donating \$6 million to the City for a bike/pedestrian trail along I-280 and “[c]onstruct and/or fund additional improvements to pedestrian and bike trail(s) throughout the Plan Area, including along the entirety of the existing Perimeter Road”;
- providing “fair share financial contribution of \$30 million for freeway infrastructure, specifically improvements for North Wolfe Road and I-280 overpass and interchange and future I-280 freeway segment improvements;”
- requiring a project applicant to “spearhead and provide substantial funding for a community effort to provide a free community shuttle, in partnership with the City, VTA, local school districts, property owners, and/or corporate employers”; and
- funding certain traffic signal timing improvements.

This section also requires, consistent with the Specific Plan’s “Environmental Design Features,” the preparation and implementation of a Transportation Demand Management (“TDM”) Plan “with an overall target of reducing Specific Plan office-generated weekday peak hour trips by 30 percent below applicable Institute of Transportation Engineers trip generation rates.” In addition, it sets “[a] goal to establish such a successful retail model, efficient traffic circulation plan, and popular bicyclist and pedestrian environment to enable the majority of the streets in the Plan Area to be permanently closed (market conditions permitting).”

Section 3.7. Environmental Design Feature Benefits. In addition to the community benefits listed in Chapter 3, the Specific Plan also requires “Environmental Design Features” (“EDF”), which are intended to mitigate potentially significant environmental impacts caused by development permitted by the Specific Plan. These additional EDFs are listed in Appendix A to the Specific Plan (Initiative pages C-211 – 227).

Chapter 3 further provides that these community benefits “may be agreed to through a [Development Agreement] or may be set forth as conditions of approval.” Section 3.1 (page 3-1; C-87). The timing for providing these benefits is largely left to subsequent approvals (either the Development Agreement or the “Master Site Development Permit,” discussed in Chapter 9 of the Specific Plan; *See*, Section 3.8, C-91).

E. Chapter 4: Mobility & Connectivity (Pages C-92 to C-128)

Chapter 4 describes the plans that must be prepared, and improvements that must be made, related to mobility and connectivity for pedestrians, bicyclists, public transit, automobiles, and service vehicles. Intersections “will be designed to accommodate vehicle, pedestrian, and bike traffic.” A new proposed intersection at Wolfe Road and 2nd Street will provide east-west bidirectional bike lanes to allow bicycles and pedestrians to cross without conflicts with turning vehicles. Chapter 4 discusses, among other things, a landscaped pedestrian bridge over North Wolfe Road to replace the existing enclosed bridge, and further describes access to the below-grade garages. The Plan describes two options for the Perimeter Road Tunnel: (1) modification to accommodate alternate modes of transportation, including bicycle, pedestrians, and small service vehicles; or (2) construction of dedicated off-or on-ramps from 280 in and out of the Town Center. (C-95) The Community Park and Nature area access will be provided through walkways and elevators. (See, Figure 4-3.)

The Plan also envisions a shared use path around its boundary to connect future trails. Chapter 4 also includes, among other items, improvements to Portal Avenue, Tantau Avenue, conceptual pedestrian and bicycle connectivity plan diagrams; descriptions of the planned “Mobility Hub” and transit centers; a conceptual vehicle access plan; conceptual street design elements; and a description of the As for Vehicle Circulation, the Plan calls for safe pedestrian and bicycle crossings at the access points, and temporary street closures during peak times. The Conceptual Vehicle Access Plan describes the primary roadway access points, the street hierarchy, connectors, and Traffic Zones which are closed to cars during events. Conceptual Plans for the Retail Entertainment Streets, Retail/Office Streets, Entrance Streets, and Municipal Streets describe vehicular and bicycle lanes of travel, as well as sidewalks and planting areas.

Off-Site Transportation improvements include projects to be coordinated with the VTA, Caltrans, and the City, and are listed in Appendix A Environmental Design Features. Transportation Demand Management (TDM) strategies (e.g., partial funding for free community shuttle, bicycle and pedestrian facilities) that “are committed to be implemented” as part of development of the Plan area. A TDM coordinator will be hired to “fully implement and sustain the TDM strategies. “[P]arking is closely related to the Town Center’s efforts to reduce driving. In correspondence with the mandatory reduction in trips, a reduction (compared to the Cupertino Municipal Code) in office parking spaces is planned.” (C-128). The Plan describes non-automobile transportation methods to support parking reduction including walking and cycling improvements.

F. Chapter 5: Sustainable & Smart City Strategies (Pages C-129 to C-137)

Chapter 5 describes strategies for addressing “economic, social and environmental sustainability.” These strategies include the provision of the 30-acre green roof, use of non-potable water for landscape irrigation, green building standards, urban design and accessibility goals, and provision of community spaces and recreational facilities. The stated sustainability goal is to achieve the highest level of “globally recognized environmental sustainability certification program, such as LEED Platinum, or equivalency.”

G. Chapter 6: Infrastructure & Public Facilities (Pages C-138 to C-148)

Chapter 6 describes the public services that will be required within the Plan Area (e.g., water, sewer, fire, etc.), including the entities responsible for providing those services and projected water supply and demand. Chapter 6 also describes necessary stormwater management including installation of a new public storm drain, treatment measures, wastewater system improvements, and other utility improvements. The Plan describes collection and reuse of rainwater for the Community Park and Nature Area. (C-141.) The Plan identifies a net increase of total water demand of 155 (Acre Feet per Year). The Conceptual Waste Water Plan will, among other things, reroute the main sewer, and upgrade existing lines to accommodate projected flows. (C-146.)

H. Chapter 7: Landscaping & the Public Realm (Pages C-149 to C-168)

Chapter 7 describes the landscape design principles applicable to the parks, streetscape, and public gathering spaces within the Plan Area. This Chapter clarifies that “a vast majority of the Community Park and Nature Area will be fully accessible by the public,” but that “there will be some limited access areas open only to residents and office workers.” (C-154.) The Tree Retention and Replanting Plan identifies 894 existing trees, and requires a developer to “maintain a majority of the existing trees located on North Wolfe Road, Stevens Creek Boulevard, and the landscape buffer along the western perimeter of the new Plan Area. (C-153.) Chapter 7 describes the Community Park and Nature Area’s planting zones, drainage, soils, typical planting cross sections, lighting, wind protection and safety. For the Town Squares, the Plan describes the streetscapes and plantings. The “private open space” for the residential units in the Community Park and Nature Area will be provided “in lieu of balconies or private back yards.” The Chapter also describes streetscape landscaping including canopy trees.

I. Chapter 8: Town Center Design Guidelines (Pages C-169 to C-195)

Chapter 8 sets forth design principles and guidelines for development within the Plan Area. According to the introduction to this Chapter, these guidelines augment but do not replace “applicable codes, standards, and ordinance provisions associated with the permitting process.” The extent to which the Initiative’s guidelines and standards would supplant other provisions of the City’s Municipal Code is discussed in Chapter III.A. This Chapter describes the streetscape furnishings, bicycle parking, lighting standards, design of transit shelters and public art which will be incorporated as defined by the Cupertino Municipal Code. (C-182.) It further provides site and building guidelines for future developers. This Chapter also requires the preparation of a Master Sign Program (“MSP”), which will not necessarily comply with the Zoning Code requirements of Chapter 19.104 of the Municipal Code. *See* page C-187. Instead, the MSP will comply with the design guidelines set forth in Sections 8.5.1 and 8.5.2 of the Specific Plan.

J. Chapter 9: Administration (Pages C-196 to C-210)

Chapter 9 describes the development review procedures applicable to any proposal for development under the Specific Plan. Section 9.1 provides that development within the Plan Area (except for Block 13 and any portion of Block 14 not processed as part of the

Town Center) is governed by the standards and guidelines of the Specific Plan. “Any issues not addressed in the Specific Plan shall be subject to the Cupertino Municipal Code unless a strict application of the Municipal Code would frustrate the intent of the Specific Plan.” If any provision of the Municipal Code conflicts with the Specific Plan, the provisions of the Specific Plan “shall control.” *See* page C-197. As noted above, the effect of these provisions on the standards in the City’s Municipal Code is discussed in Chapter III.A.

Any development under the Specific Plan will require at least two subsequent approvals by the Director of Community Development (“Director”): (1) a Master Site Development Permit (“MSDP”); and (2) Architectural and Site Review (“ASR”). In addition, as noted above, the Director may also approve a Conditional Use Permit to increase the number of residential units from 389 (the number allocated to the Vallco Site in the General Plan and Housing Element), provided the total number of units approved is consistent with the General Plan.

The Director must review any proposed MSDP or ASR for “substantial conformance” with the Specific Plan. Substantial conformance is further defined in Section 9.5.1. Any determinations or administrative interpretations by the Director regarding a proposed MSDP, ASR, or CUP may be appealed directly to the City Council. Additional approvals may be required (e.g., subdivision map, grading permits, encroachment permits, etc.).

Any application for an MSDP must include, among other information, “[t]he proposed conceptual site development plan indicating a street-level plan and roof-level Community Park and Nature Area plan for: the location of all buildings and structures; the location and types of land uses; paved areas, such as roadways, driveways, alleys, access points, and walkways; and general landscaping scheme.” Page C-201. The MSDP application must also contain a proposed traffic-circulation system and conceptual construction sequencing plan.

The Director “shall issue” the MSDP if the following findings can be made:

- The application promotes the goals and objectives contained in the General Plan; and
- The application substantially conforms with the Specific Plan.

(C-201.) Thus, as described in more detail in Chapter III.A of the Report, the Initiative would significantly limit the City’s authority or discretion to require changes to a development plan for the Vallco site as long the proposed MSDP “substantially conforms” to the Specific Plan.

Applications for Architectural and Site Review must include “architectural drawings of the proposed development, building additions or other structures;” color renderings of exterior facades, and a landscape plan. Once again, the Director “shall issue” an ASR approval if the following findings can be made:

- The application promotes the goals and objectives contained in the General Plan;
- The application substantially conforms with the Specific Plan; and

- The application substantially conforms with a number of listed design criteria, including the design guidelines from Chapter 8 of the Specific Plan.

(C-201.) This provision, like the one requiring approval of the MSDR, would significantly limit the City’s authority or discretion to require changes to architectural and site design plans for the Valco site as long the proposed ASR “substantially conforms” to the design guidelines in the Specific Plan.

Section 9.4.3 describes the process for reviewing applications for an MSDP or ASR. This section states that these permits “shall be reviewed for substantial conformance with the Specific Plan and approved administratively by the [Director] or designee.” (C-202.) MSDP and ASR approval require a public meeting, with public notice comparable to that provided for similar public meetings. The Plan states that “[n]o comment period shall be required for” approval of a MSDP or ASR. The MSDP or ASR approval expires within two years of its effective date unless certain conditions are met.

Section 9.5 defines “substantial conformance,” and lists a number of changes, modifications, and deviations from the Specific Plan that may be made and still remain in “substantial conformance.” This list includes minor modifications to development standards, landscape materials, architectural or design guidelines, etc.

This Section also provides that additional conditions, features, or mitigation measures that avoid or minimize environmental effects of the Specific Plan may be included in a MSDP or ASR without rendering those permits non-conforming, “provided that such features, conditions or measures are feasible, linked with a legitimate governmental interest (i.e., there is an essential nexus), roughly proportional, and consistent with the intent and purpose of this Specific Plan.” Page C-203. However, “in no event may additional conditions, Environmental Design Features, or mitigation measures conflict with or impede the final policy decision[s]” included in the Specific Plan, including those regarding permitted uses or densities, off-site transportation improvements, “administration, implementation and financing.” Thus, this provision, like the others discussed above, may significantly limit the City’s ability to impose any additional conditions or mitigation measures on the MSDP or ASR if doing so would conflict with or impeded development according to the Specific Plan.

Section 9.5.2 provides that, prior to January 1, 2027, the Specific Plan can only be amended “by ballot measure approved at an election by the City of Cupertino voters.” If there is litigation challenging the Initiative, this date will be extended for a period equal to the period of time during which the litigation is pending.

Section 9.6 describes the construction sequencing for development under the Specific Plan. This section explains that the Plan “may be implemented over time and in a sequenced approach.” (C-204.) “Demolition and subsequent construction of the Mall portion of the Plan Area is expected to occur in a single phase over five years.” However, “[t]he actual timing of construction may vary.” Demolition of all Mall buildings must begin within 6 months of the issuance of a Certificate of Occupancy for the first completed Mall buildings, unless the Director makes certain findings and allows an extension. Similarly, “[t]o ensure the timely construction of the Town Center Entertainment/Office/Residential District, no Certificate of

Occupancy shall be issued for any office building until the shell and core of building [sic] located in Blocks 3 and 6 (entertainment, civic, and office uses) has been substantially completed.” The “anticipated sequence of Plan Area construction” is shown in Figure 9-1. However, that sequencing is subject to change depending on events outside the reasonable control of the project applicant, such as significant adverse market and economic conditions, site access constraints, natural events (e.g., severe weather events, earthquakes, fire), and legal challenges.”

Section 9.7 states that all infrastructure, facilities, and improvements must be “installed, constructed, and completed prior to or concurrent with need.” Sections 9.7 and 9.8 then describe financing mechanisms that could be used to fund this work, including community facilities districts, landowner funding agreements, development impact fees, and private financing.

Section 9.9 refers to and incorporates Appendix A, which lists a number of “Environmental Design Features” required to be applied to any development under the Specific Plan. Section 9.9 further provides that the City shall implement a monitoring and enforcement program to ensure compliance with these EDFs. As part of the 9212 Report, the City has prepared an Environmental Analysis (Appendix 5 to the 9212 Report) that describes these EDFs and compares them to the measures that would typically be applied to a development project like the Specific Plan under the City’s normal environmental review and permitting process.

VI. Section 6. Implementation of the Initiative. (Page 16 of the Initiative)

This section contains three provisions related to when the Initiative would go into effect and what the City must do to implement the Initiative following the effective date. Subsection A requires the City to “promptly take all appropriate actions needed to implement this Initiative” once it is effective. This subsection also provides that the Initiative will be considered “adopted and effective upon the earliest date legally possible after the Elections Official certifies the vote on the Initiative by the voters of the City of Cupertino.” Under the Elections Code, an adopted initiative “shall go into effect 10 days after” the date the Elections Official certifies the vote. Elections Code § 9217.

Subsection B provides that, “[u]pon the effective date of this Initiative, the provisions of Section 3” (i.e., the Initiative’s changes to the General Plan) will be automatically inserted into the General Plan, unless, at that time, the City has already made the four General Plan Amendments permitted by state law in any year. If the City cannot make any additional changes to the General Plan in the year the Initiative is adopted, this subsection requires the City to make the General Plan amendments set forth in the Initiative on January 1 of the following year.

Subsection C states the proponents’ view that the General Plan in effect when they filed the “Notice of Intent to Circulate” the Initiative (“Filing Date”), and the General Plan as amended by the Initiative, “comprise an integrated, internally consistent and compatible statement of policies for the City.” State law requires that a City’s General Plan be internally consistent, i.e., that it not include substantial contradictions and inconsistencies that would prevent those subject to the plan from determining what it says should happen or not happen.

Friends of Aviara v. City of Carlsbad (2012) 210 Cal.App.4th 1103, 1112; . Gov. Code § 65300.5.

Subsection C further provides that, if any provision of the General Plan is amended between the Filing Date and the effective date of the Initiative’s General Plan amendments, and if these interim amendments are inconsistent with the Initiative’s General Plan amendments, the City must amend the General Plan “as soon as possible and in the manner and time required by state law to ensure consistency between the provisions adopted by the Initiative and other elements of the General Plan.”

Most land use initiatives contain similar “conformity” provisions authorizing and directing the governing city council or board of supervisors to implement the measure’s terms. To the extent this provision simply directs that the City implement the Initiative and revise subordinate laws to conform with the General Plan, these provisions appear to be valid. *See Pala Band of Mission Indians v. San Diego County* (1997) 54 Cal.App.4th 565, 577 n.8.

VII. Section 7. Effect of Other Measures on the Same Ballot. (Pages 7-8 of the Initiative)

This section provides that the purpose of the Initiative is to “create a comprehensive regulatory plan to govern the future use and development of the Vallco Town Center Specific Plan area.” Thus, if the voters adopt both this Initiative and another initiative on the same ballot that would “regulate the use or development of property within the Vallco Town Center Specific Plan area in any manner whatsoever” (“Conflicting Initiative”), only the measure that receives the greatest number of affirmative votes “shall control in its entirety.” All other conflicting measures “shall be rendered void and without any legal effect.” This section further provides that the Initiative shall not be interpreted to operate in conjunction with any Conflicting Initiative, even if some of the provisions of this Initiative and the Conflicting Initiative do not directly conflict. Moreover, if this Initiative and a Conflicting Initiative are adopted by the voters, and the Conflicting Initiative receives more affirmative votes but is later held invalid, “this Initiative shall be self-executing and given full force of law.”

This provision appears to be consistent with existing case law regarding “competing” ballot measures. Under existing law, the general rule is that, if provisions of two competing ballot measures conflict, and if both measures are passed at the same election, the provisions of the measure with the highest affirmative vote shall prevail. Cal. Const. Art. II, § 10(b); Elections Code § 9221; *see Taxpayers to Limit Campaign Spending v. Fair Political Practices Commission* (1990) 51 Cal.3d 744, 770; *Yoshisato v. Superior Court* (1992) 2 Cal.4th 978, 987-988. However, if measures are presented to voters as complementary or supplementary, the court should engage in a section-by-section comparison of the specific features of each measure to determine whether provisions of both measures can be given effect, at least in the absence of a specific provision in one or more of the initiatives specifying otherwise. *Yoshisato*, 2 Cal.4th at 987-988.

As of the date of this Report, there is one other initiative measure—the Cupertino Citizens Sensible Growth Initiative⁶ or “CCSGI”—that has qualified for the ballot in Cupertino and may conflict, at least in part, with this Initiative. In light of the existing case law and the provisions of Section 7, if both this Initiative and the CCSGI Initiative are adopted by the voters, then a court would likely conclude that the measure obtaining the most votes takes effect in its entirety and that the measure receiving fewer votes does not take effect at all.

VIII. Section 8. Interpretation and Severability. (Page 8 of the Initiative)

Subsection 8(A) contains a standard “severability” clause, similar to those found in most laws. This clause is designed to protect the rest of the Initiative if one or more provisions are held invalid by a court. This subsection also declares that, if any provision of the Initiative is found invalid as applied to one person or circumstance, that finding does not mean that the Initiative will necessarily be invalid as applied to other people or circumstances.

Subsection 8(B) provides that, if any portion of the Initiative is held invalid by a court, the voters have a “strong desire” for the City Council to re-enact that provision, “taking all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Initiative.” This subsection does not require the City to re-enact any portion of the Initiative that is held invalid, but rather expresses the voters desire for the City to try to do so.

Subsection 8(C) states that the Initiative “must be broadly construed in order to achieve the purposes stated above,” and that it is the intent of the voters that the City “and others” interpret and implement the Initiative “in a manner that facilitates the purpose set forth in the Initiative.” As noted above, both courts and the City would normally look to the purpose of the Initiative in interpreting and implementing its provisions. This subsection states the voters wish that the City and others do so.

IX. Section 9. Amendment. (Page 8 of the Initiative)

This section of the Initiative states that, prior to January 1, 2027, no provision of the Initiative, including the Vallco Town Center Specific Plan, may be amended without voter approval. On or after January 1, 2027, the Initiative, including the Specific Plan, may be amended or repealed by any procedure authorized by law. Under state law, legislation adopted by voter initiative may never be amended without voter approval unless the initiative itself provides otherwise. Elections Code § 9217. Thus, this section limits the requirement for future voter approval to amendments made within approximately ten years on the Initiative’s adoption.

X. Section 10. List of Initiative Exhibits. (Page 8 of the Initiative)

⁶ The official title for this other measure is: “Initiative amending Cupertino’s General Plan to limit redevelopment of the Vallco Shopping District, limit building heights and lot coverages in areas throughout the City, establish new setbacks and building planes on major thoroughfares, and require voter approval for any changes to these provisions.” (*Referred to in this Appendix as “the Better Cupertino Initiative.”*)

This section lists the exhibits attached to the Initiative and provides that the Exhibits are incorporated by reference into the Initiative. The Exhibits include:

Exhibit A – Amendment to General Plan Land Use Map;

Exhibit B – Amendment to Zoning Map;

Exhibit C – Vallco Town Center Specific Plan;

Exhibit D – General Plan Consistency Chart.⁷

⁷ Exhibits D is an 86-page table that lists a number of General Plan goals and policies and states the Initiative proponents' rationale for why the Specific Plan is consistent with these goals and policies. The Initiative states that this table is provided for "informational purposes only." As described in the Report, it appears that the Specific Plan is consistent with the City's General Plan as amended by the Initiative.

Appendix 3

California Elections Code, Section 9212

- (a) During the circulation of the petition, or before taking either action described in subdivisions (a) and (b) of Section 9214, or Section 9215, the legislative body may refer the proposed initiative measure to any city agency or agencies for a report on any or all of the following:
- (1) Its fiscal impact.
 - (2) Its effect on the internal consistency of the city's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.
 - (3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs.
 - (4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.
 - (5) Its impact on the community's ability to attract and retain business and employment.
 - (6) Its impact on the uses of vacant parcels of land.
 - (7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.
 - (8) Any other matters the legislative body requests to be in the report.
- (b) The report shall be presented to the legislative body within the time prescribed by the legislative body, but no later than 30 days after the elections official certifies to the legislative body the sufficiency of the petition.

RESOLUTION NO. 16-027

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO DIRECTING CITY STAFF TO PREPARE A REPORT ON THE EFFECTS OF THE PROPOSED INITIATIVE ENTITLED "INITIATIVE ADOPTING THE VALLCO TOWN CENTER SPECIFIC PLAN TO (1) PROVIDE THAT THE VALLCO SHOPPING DISTRICT SPECIAL AREA ("AREA") CONTAINS A MIXTURE OF RESIDENTIAL, OFFICE, RETAIL, CIVIC AND EDUCATION USES; (2) REQUIRE ANY DEVELOPMENT TO FUND OR PROVIDE COMMUNITY BENEFITS SUCH AS TRANSIT, SCHOOLS, A GREEN ROOF, AND RECYCLED WATER; AND (3) GRANT THE PROPERTY OWNER INITIAL ENTITLEMENTS TO DEVELOP IN ACCORDANCE WITH THE INITIATIVE AND ESTABLISH A PROCESS FOR FUTURE APPROVALS; AND MAKING RELATED AMENDMENTS TO CUPERTINO'S GENERAL PLAN AND MUNICIPAL CODE" AND TO APPROPRIATE FUNDS FOR THE PREPARATION OF THE REPORT

WHEREAS, on March 3, 2016, Vicky Tsai and Judy Wilson submitted to the City Clerk a Notice of Intent to circulate an initiative petition ("Vallco Initiative") and a request for the City Attorney to prepare the official ballot title and summary; and

WHEREAS, on March 18, 2016, the City Attorney prepared the Title and Summary for the Vallco Initiative and provided it to the proponents; and

WHEREAS, Elections Code section 9212 authorizes the City Council to direct City staff to prepare a report on the impacts of the Initiative, including seven specified types of impacts as well as on "any other matter" that the City Council requests to be included in the report; and

WHEREAS, the City Council has determined that such a report would provide valuable information about the Vallco Initiative to the Council and to all interested residents of the City; and

WHEREAS, the preparation of an Elections Code section 9212 report is not a project under provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA"), in that this is administrative action which does not involve a direct or reasonably foreseeable indirect impact on the physical environment; and;


NOW, THEREFORE, BE IT RESOLVED:

1. The City Council directs City staff to :
 - a. Prepare a Report on the effects of the Vallco Initiative pursuant to Elections Code section 9212, addressing each of the impacts specified in subsection (a)(1)-(7) of that section, to the extent applicable, as well as any other items identified by the City Council, including comparison to other pending initiatives; and
 - b. Retain, at the direction of the City Manager, any consultants that the City Manager determines are necessary to complete the Report, in an amount not to exceed \$180,000.00; and
 - c. Present the Report to the City Council no later than the latest date authorized by Elections Code section 9212(b); and
2. The City of Cupertino's Operating Budget for the Fiscal Year 2015/2016 is hereby amended to appropriate \$180,000.00 for the preparation of the Report.

PASSED AND ADOPTED at a special meeting of the City Council of the City of Cupertino this 31st day of March, 2016, by the following vote:

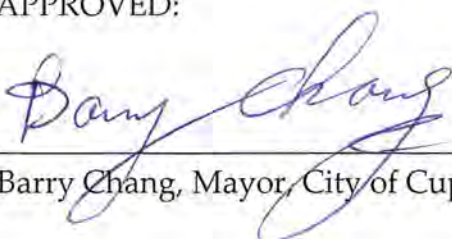
<u>Vote</u>	<u>Members of the City Council</u>
AYES:	Chang, Vaidhyanathan, Paul, Sinks, Wong
NOES:	None
ABSENT:	None
ABSTAIN:	None

ATTEST:



Grace Schmidt, City Clerk

APPROVED:



Barry Chang, Mayor, City of Cupertino

9212 Environmental Analysis

Initiative adopting the Vallco Town Center Specific Plan to (1) provide that the Vallco Shopping District Special Area (“Area”) contains a mixture of residential, office, retail, civic and educational uses; (2) require any development to fund or provide community benefits such as transit, schools, a green roof, and recycled water; and (3) grant the property owner initial entitlements to develop in accordance with the Initiative and establish a process for future approvals; and making related amendments to Cupertino’s General Plan and Municipal Code.

June 28, 2016

Prepared for:
City of Cupertino

Prepared by:



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SECTION 1.0 INTRODUCTION AND SUMMARY OF INITIATIVE

The purpose of this report is to analyze the environmental impacts of a proposed initiative for inclusion in an Elections Code 9212 report (9212 Report). The Initiative¹ would adopt the Vallco Town Center Specific Plan (VTCSP) to govern the development of the Vallco Shopping District Special Area (Vallco). The VTCSP is attached as Exhibit C to the Initiative.

Vallco is an approximately 58-acre area located at the North Wolfe Road/Vallco Parkway and North Wolfe Road/Stevens Creek Boulevard intersections in the City of Cupertino. Most of Vallco (approximately 51 acres) is developed with the Vallco Shopping Mall. A 148-room hotel was recently approved on approximately two acres in the northeastern portion of the area (Hyatt House Hotel).

General Plan Policy LU-19.1 requires a specific plan for Vallco prior to redevelopment of the site. The Initiative adopts a specific plan, which is the VTCSP. The VTCSP provides for a mixed-use development of 389 residential units (or up to 800 units with a Conditional Use Permit), 2.0 million square feet of office uses, 640,000 square feet of commercial uses, and 339 hotel rooms at Vallco. The VTCSP also allows the development of 50,000 square feet of public/civic space (or maximum of 100,000 square feet if office space is reduced on a per square foot basis). The Initiative also would amend the General Plan and the Municipal Code to incorporate the VTCSP.

The VTCSP includes Environmental Design Features (EDFs), which are described in Appendix A of the VTCSP, and include the following:

- 30-acre green roof,
- LEED Platinum certification (or equivalent),
- Utility infrastructure improvements,
- Town squares (minimum of three acres),
- Community/civic space (minimum of 50,000 square feet),
- School improvements, and
- Transportation improvements.

The intent of the EDFs is to avoid or minimize environmental impacts that could result from the implementation of the VTCSP.

¹ The City Attorney's official Ballot Title for the Initiative is: "Initiative adopting the Vallco Town Center Specific Plan to (1) provide that the Vallco Shopping District Special Area ("Area") contains a mixture of residential, office, retail, civic and educational uses; (2) require any development to fund or provide community benefits such as transit, schools, a green roof, and recycled water; and (3) grant the property owner initial entitlements to develop in accordance with the Initiative and establish a process for future approvals; and making related amendments to Cupertino's General Plan and Municipal Code." Pursuant to Section 1 of the Initiative, the short title used by the Initiative's proponents is: "The Vallco Town Center Specific Plan Initiative" or "the Initiative."

SECTION 2.0 ENVIRONMENTAL ANALYSIS

2.1 ADOPTED GENERAL PLAN VS. GENERAL PLAN WITH INITIATIVE

Pursuant to Elections Code Section 9212 and the City Council’s resolution authorizing preparation of a 9212 Report, this environmental analysis examines the differences between the adopted General Plan (i.e., without the Initiative) at buildout and the General Plan with the Initiative at buildout. In this way, the analysis, where possible, calculates and evaluates what the actual impacts of the Initiative will be.

Table 1 summarizes the development assumptions at buildout of the City in 2040 under both the adopted General Plan and the General Plan with Initiative. As shown in Table 1, the Initiative does not change the amount of development citywide under the adopted General Plan. As a result, the total number of housing units, population, and jobs in the City at buildout would not change with the Initiative (see Table 2).

Table 1: Comparison of Citywide Development Buildout in 2040 under Adopted General Plan and General Plan with Initiative			
Land Uses	Citywide^a		
	Adopted General Plan	General Plan with Initiative	Change with Initiative
Residential (units)	23,294	23,294	No Change
Commercial (sq. ft.)	4,430,982	4,430,982	No Change
Office (sq. ft.)	11,470,005	11,470,005	No Change
Hotel (rooms)	1,429	1,429	No Change
Note: ^a This table presents the maximum allowable buildout under each scenario, which is defined to include existing development “on the ground,” projects approved as of December 10, 2014, and potentially allowable future development through 2040. This definition is used consistently throughout this report.			

Table 2: Comparison of Population and Housing under the Adopted General Plan and General Plan with Initiative			
	Adopted General Plan	General Plan with Initiative	Change with Initiative
Housing Units	23,294	23,294	No Change
Population ^a	68,484	68,484	No Change
Jobs ^b	48,509 ^c	48,509	No Change
Notes: ^a Assumes 2.94 persons per household (City of Cupertino. <i>General Plan Amendment, Housing Element Update and Associated Rezoning EIR</i> . State Clearinghouse No. 2014032007. Certified December 2014. Table 4.11-3, footnote b.). ^b Assumes 1 job/300 sf of office; 1 job/450 sf of commercial; 0.3 jobs/hotel room (City of Cupertino. <i>General Plan Amendment, Housing Element Update and Associated Rezoning EIR</i> . State Clearinghouse No. 2014032007. Certified December 2014. Table 4.11-3, footnote c.) ^c 4,430,982 commercial sf/450 = 9,847 commercial jobs; 11,470,005 office sf/300 = 38,233 office jobs; 1,429 hotel rooms x 0.3 = 429 hotel jobs.			

In addition, the Initiative does not change the amount of development allowable at Vallco under the adopted General Plan (see Table 3). In Table 3, The Hills at Vallco development proposal is used as an example of a project that was proposed for the Vallco site under the adopted General Plan as a point of reference. By letter dated December 21, 2015, the applicant for The Hills at Vallco requested that the City and its consultants cease work on the Environmental Impact Report in light of the filing of the Cupertino Citizens' Sensible Growth Initiative.²

As shown in Table 3, while the adopted General Plan allows 389 residential units at Vallco, there is available housing allocation citywide to develop 800 residential units at Vallco. Unused allocations can be re-assigned elsewhere in the City (General Plan policy LU-1.2.3). For this reason, while the Initiative would not develop the maximum commercial square footage allowed by the adopted General Plan (see Table 3), there is no net decrease in citywide commercial development at buildout (see Table 2).

The difference between what is proposed under the Initiative and what is allowed under the adopted General Plan citywide and at Vallco is either nonexistent, or at most minimal, and therefore, would not result in substantially different environmental impacts.

Based on the above discussion, the magnitude of development and impacts from citywide buildout under the General Plan with Initiative would be the same as for citywide buildout under the adopted General Plan. The impacts of the adopted General Plan were evaluated in the certified 2014 General Plan Amendment, Housing Element Update and Associated Rezoning Environmental Impact Report (General Plan EIR) and 2015 General Plan Amendment, Housing Element Update and Associated Rezoning EIR Final Addendum (General Plan Addendum).³ The General Plan EIR assumed Vallco would be redeveloped with 800 residential units, 2.0 million square feet of office uses, 625,335 square feet of commercial uses, and 339 hotel rooms.

² The City Attorney's official Ballot Title for the Cupertino Citizens' Sensible Growth Initiative is: "Initiative amending Cupertino's General Plan to limit redevelopment of the Vallco Shopping District, limit building heights and lot coverages in areas throughout the City, establish new setbacks and building planes on major thoroughfares, and require voter approval for any changes to these provisions."

³ The General Plan EIR (City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning Environmental Impact Report*. State Clearinghouse No. 2014032007. Certified December 2014.) and General Plan Addendum (City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning EIR Final Addendum*. Adopted October 2015.) are the best resources available that evaluate the impacts of the adopted General Plan. The General Plan EIR, as amended by the Addendum, analyzed more intense development and greater citywide buildout than ultimately was approved by the City Council. Because the General Plan EIR and Addendum analyzed more development than was approved, the General Plan EIR and Addendum provide a conservative analysis of the environmental impacts from the buildout of the adopted General Plan.

Table 3: Comparison of Development Assumptions for Vallco

Land Uses	Vallco			
	Adopted General Plan		General Plan with Initiative	Increase/ (Decrease)
	As Currently Allowed	Assuming 2015 Sand Hill Proposal		
Residential (units) ^a	389	800 with CUP ^a	389, or 800 with CUP	No Change ^a
Office (sq. ft.)	2,000,000	2,000,000	2,000,000	No Change
Commercial (sq. ft.) ^b	1,200,000 (Minimum of 600,000 retained on site)	650,000	640,000	Minimal Change
Hotel (rooms) ^c	339	339	339 ^c	No Change

Notes:

^a The allowable number of housing units citywide would remain the same because the City's General Plan has additional housing units available in other Planning Areas that are not allocated to specific Housing Element sites. The adopted General Plan EIR analyzed the development of up to 800 residential dwelling units on Vallco.

^b While the Initiative would prescribe changes at the Specific Plan level, the changes are consistent with the adopted General Plan. The General Plan allows a reduction of commercial square feet to a minimum of 600,000 square feet, and the reallocation of the remaining square feet (difference between proposed square footage and maximum allowable build out of 1,207,744 at Vallco) within the Vallco Shopping District or elsewhere in the City. (Numbers shown above are rounded to nearest 10,000 square feet for ease of discussion and analysis.)

^c Vallco has an allocation of 339 hotel rooms, of which the City has already approved 148 rooms for the Hyatt House Hotel. No current development plans have been submitted for the remaining 191 rooms.

Following the Initiative sponsors' Notice of Intent to Circulate Petition for the Initiative, Steve Lynch, a representative of Sand Hill Property Company submitted the *Vallco Town Center Specific Plan Environmental Assessment* (April 2016) (EA). Given the time constraints for completing the 9212 Report, the length of the EA, and the date the EA was submitted to the City, it is not possible for the City or its consultants to complete an adequate technical peer review of the entire EA. Accordingly, the following is a high-level analysis of the site-specific impacts that could occur from the development contemplated in the VTCSP under the General Plan with Initiative with CUP scenario.⁴ This analysis assumed development of the VTCSP would include 800 residential units (160 of which would be age restricted senior housing), 2.0 million square feet of office uses, 640,000 square feet of commercial uses, 339 hotel rooms, 50,000 square feet of public/civic space, two town squares totaling three acres, and a 30-acre green roof.

This site-specific environmental analysis is primarily qualitative and based on available information and the professional judgement of the City's environmental consultant. This analysis is not a review of the Initiative under the California Environmental Quality Act (CEQA).

The site-specific analysis for each issue (1) identifies potential environmental impacts or constraints that could result from the implementation of the VTCSP and (2) discusses the adequacy of the VTCSP's Environmental Design Features (EDFs) to mitigate or avoid environmental impacts compared to mitigation and conditions of approval the City would typically require for such impacts under the standard approval process. A summary of the consistency of the VTCSP EDFs with the City's typical mitigation or conditions of approval is provided in Table 4 at the end of this section. Consistency of the VTCSP EDFs with mitigation measures identified in the General Plan EIR for future development is also discussed, as appropriate. Accordingly, this analysis identifies instances in which the conclusions in the EA differ from the conclusions of the 9212 Report based on the available information and professional judgement.

The environmental analysis looks at effects of implementing the Initiative on the following resources:

Infrastructure

- Transportation
- School Services
- Parks/Open Space
- Other Public Services (police, fire, library)
- Utilities and Service Systems

Other Environmental Issues

- Aesthetics/Community Form
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Noise

⁴ The environmental analysis focuses on the environmental impacts of the General Plan with Initiative with CUP scenario because it assumes the most development under the Initiative. Lesser development (i.e., development under the General Plan with Initiative without CUP) would result in lesser impacts.

The environmental analysis does not discuss the Initiative's impact on the following resources for the reasons specified below:

- **Agricultural and Forestry Resources** – Vallco is located in an urban, developed area. Vallco is not designated or used for agricultural or forestry uses; nor are properties adjacent to Vallco designated or used for agricultural or forestry uses.
- **Hydrology and Water Quality** – Impacts to hydrology and water quality from redevelopment of Vallco would be mitigated and avoided through compliance with existing policies and regulations.
- **Mineral Resources** – Vallco does not contain any known mineral resource, and is not designated as a locally important mineral resource recovery site.
- **Population and Housing** – As discussed in *Section 2.1*, the Initiative would not affect the population and housing projections from buildout of the adopted General Plan.
- **Solid Waste** – The estimated solid waste generation and disposal requirements for the City at buildout are the same with or without the Initiative. The solid waste impacts for buildout of the General Plan (including redevelopment of Vallco with or without the Initiative) are disclosed in the General Plan EIR.

A discussion of the Initiative's impacts on population and housing and land use are discussed in the 9212 Report.

2.2.1 Infrastructure

2.2.1.1 *Transportation*

Development of the VTCSP is subject to applicable General Plan policies that ensure adequate transportation facilities are available to the residents of Cupertino including Policies M-1.2, M-1.3, M-2.1 through 2.6, M-3.2 through M-3.6, M-3.8, M-4.4, M-4.7, M-5.2, M-7.1, M-8.3, M-8.4, M-9.2, and M-10.1 (refer to Attachment A for referenced policies). The development of the VTCSP could result in impacts to roadways and transit, bicycle, and pedestrian facilities. Other transportation-related concerns include parking and neighborhood intrusion.

The following discussion of transportation impacts is primarily based on the preliminary transportation technical assessment of the proposed The Hills at Vallco project prepared by *Fehr & Peers*, the City's traffic consultant.⁵ *Fehr & Peers* prepared a memo that compares the preliminary assessment of The Hills at Vallco to the transportation analysis in the EA. A copy of this memo is included in Attachment B. Some of the analyses differ due to the differences in methodology and assumptions applied. The transportation impacts from development of the VTCSP are discussed below.

⁵ As shown in Table 3, the proposed The Hills at Vallco project involved a similar amount of development at Vallco as the Initiative. Therefore, in general, the transportation impacts from implementation of the VTCSP would be similar to the impacts from implementation of The Hills at Vallco.

- **Intersection Level of Service Impacts** – Buildout of the General Plan (including redevelopment of Vallco with or without the Initiative) would result in significant congestion at intersections.⁶ As required by General Plan Policy M-10-2 and General Plan EIR Mitigation Measure TRAF-1, the City will prepare and implement a citywide Transportation Mitigation Fee Program (TMFP) to provide for funding for roadway and infrastructure improvements that would mitigate transportation impacts resulting from the buildout of the General Plan.⁷ As part of the TMFP, the City will prepare a “nexus” study that will serve as the basis for requiring development impact fees. The fees will be assessed when there is new construction, an increase in square footage in an existing building, or the conversion of existing square footage to a more intensive use. The City is currently in the initial stages of preparing the TMFP.

Based on preliminary analysis, it is likely that 15 intersections would be significantly impacted from the VTCSP development. The EA identified five intersections that would be significantly impacted by the VTCSP development. These significantly impacted intersections are listed below.

Due to the differences approach used by the City and in the EA in trip assignments for approved and pending development projects and in the amount of added project traffic, there are volume differences between what the City and the analysis in the EA assumed at intersections. These volume differences result in different impacts being identified by the City and in the EA. In addition, the EA did not evaluate traffic impacts under existing with project conditions.

Significantly Impacted Intersection		Identified by	
		City	EA
8	De Anza Boulevard/Homestead Road		✓
11	De Anza Boulevard/Stevens Creek Boulevard	✓	✓
12	De Anza Boulevard/McClellan Road	✓	✓
13	De Anza Boulevard/Bollinger Road	✓	✓
34	Wolfe Road/Stevens Creek Boulevard	✓	✓
37	Miller Avenue/Bollinger Road	✓	
44	Stevens Creek Boulevard/Tantau Avenue	✓	
45	Stevens Creek Boulevard/Calvert Drive-I-280 Ramps (east)	✓	
48	Stevens Creek Boulevard/Lawrence Expressway Ramps (west)	✓	
53	Lawrence Expressway/I-280 Southbound Ramps	✓	
54	Lawrence Expressway/Mitty Way	✓	
55	Lawrence Expressway/Bollinger Road	✓	
56	Lawrence Expressway/Doyle Road	✓	
57	Lawrence Expressway/Prospect Road	✓	
58	Lawrence Expressway/Saratoga Avenue	✓	
60	SR 85 (North)/Saratoga Avenue	✓	
Total Number of Significantly Identified Intersections		15	5

⁶ City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning EIR*. State Clearinghouse No. 2014032007. Certified December 2014. Page 4.13-52.

⁷ Ibid. Pages 4.13-53 through 4.13-56.

The VTCSF includes the following EDFs that would reduce impacts to significantly impacted intersections:

43. Level of Service (LOS) at Local Intersections: Prior to the issuance of the first certificate of occupancy, the Town Center/Community Park applicant and other project applicants for future development shall demonstrate to the reasonable satisfaction of the Public Works Director that geometric and/or signal improvements (in close collaboration with the applicable governing agencies) have been implemented at the following intersections alleviating the increase in delay due to the addition of net project traffic. To improve traffic operations where no geometrical improvements are deemed necessary, the Town Center/Community Park applicant, in conjunction with City Staff, shall contribute toward software acquisition and implementation that would improve traffic signal operations and signal coordination along the study area roadways. These improvements are subject to future City approval. The City shall have the discretion to modify these improvements or require alternative improvements, as determined by the Public Works Director, provided the modified or alternative improvements provide similar congestion relief and are similar in scope and cost.

Intersection	Improvements
De Anza Blvd/ Homestead Rd	In the AM peak, provide an eastbound right turn overlap phase
De Anza Blvd/ Stevens Creek Blvd	In the PM peak, provide an eastbound right turn and a northbound right turn overlap phases
De Anza Blvd/ McClellan Rd	In the PM peak, provide an eastbound right turn overlap phase
De Anza Blvd/ Bollinger Rd	In the AM peak, provide a westbound right turn overlap phase
Wolfe Rd/Stevens Creek Blvd	Add a second southbound left turn lane by widening 400 feet along project frontage and modify the signal accordingly. In addition, provide an overlap phase for the southbound right turn and the eastbound right turn. Alternatively, if the City prioritizes the retention of trees, the City has the option to require the applicant to provide \$250,000 as an in lieu payment for traffic improvements in the area
Stevens Creek Blvd/ Calvert Dr/ I-280 Ramps	The intersection traffic operations will benefit due to the implementation of new traffic signal software

45. Queues at Local Intersections: Prior to the issuance of the first certificate of occupancy, the Town Center/Community Park applicant and other project applicants for future development shall demonstrate to the satisfaction of the Public Works Director that geometrical improvements and signal phasing improvements (in close collaboration with the applicable governing agencies) have been implemented at the following intersections to alleviate queue length due to the addition of the net project traffic. To improve traffic operations where no geometrical improvements are deemed necessary, the Town Center/Community Park applicant and other project applicants for future development shall contribute \$2,000,000 to \$3,000,000 toward software acquisition and implementation that would improve traffic signal operations and signal coordination along the following study area intersections, subject to modifications approved by the Director of Public Works in coordination with other agencies:

Intersections

- De Anza Boulevard/I-280 Ramps North
- De Anza Boulevard/Stevens Creek Boulevard
- De Anza Boulevard/McClellan Road
- De Anza Boulevard/Bollinger Road
- De Anza Boulevard/SR 85 Ramps South

- Stevens Creek Blvd/Perimeter Road
- Wolfe Road/El Camino Real
- Wolfe Road/Fremont Ave
- Wolfe Road/Iverness Avenue
- Wolfe Road/Vallco Parkway
- Wolfe Road/Stevens Creek Boulevard
- Tantau Avenue/Pruneridge Avenue
- Stevens Creek Blvd/Agilent Driveway

46. Queues at Intersection - De Anza Boulevard/Stevens Creek Boulevard, PM Peak, Westbound Left: To potentially eliminate the need to lengthen the westbound left turn pocket at this intersection, and prior to the issuance of final occupancy for each building sequence, the Town Center/Community Park applicant and other project applicants for future development shall evaluate the PM peak hour queue length to confirm if alternative signal phasing and/or geometric improvements would achieve level of service or queue that is equivalent to lengthening the westbound left turn pocket at this intersection. If geometric and/or signal phasing improvements would result in the same or better level of service and queue, then lengthening the left-turn pocket would not be required.

52. Transportation Demand Management Plan: Prior to the issuance of the first certificate of occupancy, the Town Center/Community Park applicant and other project applicants for future office development shall prepare and implement a Transportation Demand Management (TDM) Plan with an overall target of reducing Specific Plan office-generated weekday peak hour trips by 30 percent below applicable Institute of Transportation Engineers trip generation rates. Future project applicant(s) for office developments must demonstrate to the satisfaction of the Public Works Director that a TDM manager has been appointed and retained with the responsibility to implement and monitor the TDM Plan....⁸

55. Queues at Intersection- Lawrence Expressway/Saratoga Avenue, AM Peak, Eastbound Left: To potentially eliminate the need to lengthen the eastbound left turn pocket at this intersection, and prior to the issuance of certificate(s) of occupancy that triggers a level of service equivalent to the existing occupied Vallco Mall level of service, the Town Center/Community Park applicant and other project applicants for future development shall evaluate the queue length to confirm if alternative signal phasing and/or geometric improvements would achieve level of service and queue that is environmentally equivalent to lengthening the eastbound left turn pocket at this intersection . If geometric and/ or signal phasing improvements would result in an equivalent level of service and queue, then lengthening of the left-turn pocket would not be required.

56. County Expressway Facilities: Lawrence Expressway: Prior to the issuance of certificate(s) of occupancy that triggers a level of service equivalent to the existing occupied Vallco Mall level of service, the Town Center/Community Park applicant and other project applicants for future development shall pay a fair share contribution towards the following planned transportation improvements along Lawrence Expressway. The fair share shall be calculated as a portion of the total Specific Plan percentage fair share and consultation with County Roads and Airports Department subject to design optimization based on level of service standard, other funding sources, and local match.

- Lawrence Expressway/Homestead Rd
- Lawrence Expressway/Pruneridge Ave
- Lawrence Expressway/Prospect Rd

⁸ The full text of EDF 52 is provided in Appendix A of the VTCSP.

A discussion of the consistency of each EDF with what the City would typically require as mitigation or a condition of approval is provided below. Table 6 in Attachment B lists each impacted intersection and the corresponding EDF and/or mitigation that would typically be identified by the City under the standard approval process.

VTCSF EDF 43 provides for geometric and/or signal improvements at specified intersections. The City's support of the identified improvements in EDF 43 are summarized below. Overall, most of the identified improvements in EDF 43 are not acceptable to the City and other improvements, which are identified below, would be required by the City during the standard approval process.

Intersection	VTCSF EDF 43 Improvements	Consistency with City's typical mitigation or conditions of approval
8. De Anza Blvd/ Homestead Rd	In the AM peak, provide an eastbound right turn overlap phase	The City would not support the proposed improvement. Because the City would not likely identify a significant impact at this intersection, no improvements would be required under the standard approval process at this intersection.
11. De Anza Blvd/ Stevens Creek Blvd	In the PM peak, provide an eastbound right turn and a northbound right turn overlap phases	The City would not support the proposed improvement. The City would likely require the developer to pay a fair share contribution to the addition of a westbound right-turn lane from Stevens Creek Boulevard to De Anza Boulevard under the standard approval process.
12. De Anza Blvd/ McClellan Rd	In the PM peak, provide an eastbound right turn overlap phase	The City would not support the proposed improvement. The City would likely require the developer to realign the current off-set intersection and provide double left-turn lanes on the northbound and southbound De Anza Boulevard (with associated receiving lanes) under the standard approval process.
13. De Anza Blvd/ Bollinger Rd	In the AM peak, provide a westbound right turn overlap phase	The City would not support the proposed improvement. There is no feasible mitigation for this intersection that the City would support.
34. Wolfe Rd/ Stevens Creek Blvd	Add a second southbound left turn lane by widening 400 feet along project frontage and modify the signal accordingly. In addition, provide an overlap phase for the southbound right turn and the eastbound right turn. Alternatively, if the City prioritizes the retention of trees, the City has the option to require the applicant to provide \$250,000 as an in lieu payment for traffic improvements in the area	The City would support the addition of a second southbound left turn lane and signal improvements. The City would not support an overlap phase for the southbound right turn and eastbound right turn (nor the alternative in-lieu payment). Additionally, the City would likely require the developer to restripe the westbound leg to provide a designated right-turn lane by narrowing all existing lanes.
45. Stevens Creek Blvd/ Calvert Dr/ I-280 Ramps	The intersection traffic operations will benefit due to the implementation of new traffic signal software	The City would support new traffic signal software.

VTCSF EDF 45 is consistent with what the City would typically require during the standard approval process to improve operations along De Anza Boulevard (between I-280 and SR 85), Wolfe Road (generally between El Camino Real and Stevens Creek Boulevard), select locations on Stevens Creek Boulevard (Agilent Driveway and Perimeter Road), and the intersection of Tantau Avenue and Pruneridge Avenue. It should be noted that as written in EDF 45, the \$2 million to \$3 million contribution would not solely come from the Town Center/Community Park applicant, but also other project applicants in the area; though the other project applicants are not identified. In addition, contributions toward signal software and improved signal coordination would be based on the project's fair share contribution would typically be finalized in consultation with the City and other appropriate agencies under the standard approval process. Thus, the contribution amount could be different than what is identified in EDF 45.

VTCSF EDFs 46 and 55 are consistent with what the City would typically require to reduce queue lengths. Typically the City would require queue lengths be evaluated and necessary improvements identified prior to development approval rather than prior to issuance of final occupancy permits/certificates, however. The necessary improvements would need to be completed prior to issuance of occupancy permits.

VTCSF EDF 52 is consistent with what the City would typically require to reduce intersection and freeway impacts under the standard approval process. VTCSF EDF 52 is unclear how the office trip generation would be monitored. Because the office uses do not have exclusive parking areas with driveways that are separated from the remaining uses in the VTCSF, the monitoring for the TDM plan would need to be resolved in order to determine whether the TDM goals were met.

VTCSF EDF 56 is consistent with what the City would require during the standard approval process to reduce impacts on Lawrence Expressway. However, because the fair share calculation is based on the number of trips added by the VTCSF and the EA identified a lower trip generation than the City would likely identify, the EA contribution would be less than what would be required by the City during the standard approval process. Additionally, VTCSF EDF 56 identifies only three intersections along Lawrence Expressway (Homestead Road, Pruneridge Avenue, and Prospect Road) that would receive funding while the City would have likely identified additional locations on Lawrence Expressway, including the I-280 southbound ramps at Stevens Creek Boulevard, Mitty Way, Bollinger Road, Doyle Road, and Saratoga Avenue and require the payment of fair-share contributions to improvements at those intersections as well. For these reasons, VTCSF EDF 56 is inconsistent with and insufficient compared to what the City would typically require during the standard approval process.

The City identified significantly impacted intersections that are not addressed by EDFs because of the reasons stated above regarding differences in methodology and approach. Those intersections identified by the City are listed below along with the mitigation or conditions of approval the City would likely require during the standard approval process.

#	Intersection	City's Typical Mitigation or Conditions of Approval
37	Miller Avenue/Bollinger Road	The City would likely require the developer to pay a fair share contribution to provide a dedicated right-turn lane on southbound Miller Avenue.
44	Stevens Creek Boulevard/Tantau Avenue	The City would likely require the developer to construct an additional separate left-turn lane on northbound Tantau Avenue.
60	SR 85 (North)/Saratoga Avenue	The City would likely require the developer to pay a fair share contribution toward reconfiguring the northbound off-ramp approach to include two left-turn lanes and two right-turn lanes.

- Freeway Level of Service Impacts** – Buildout of the General Plan (including the redevelopment of Vallco with or without the Initiative) would result in significant freeway impacts. Improvements to freeways are under the jurisdiction of the California Department of Transportation (Caltrans), not the City of Cupertino. The City will cooperate with Caltrans to identify improvements to the affected freeway segments and include identified freeway improvements as part of the City's TMFP (when adopted) so that proposed projects pay their fair-share towards mitigating improvements.⁹ The City is currently in the initial stages of preparing the TMFP.

A summary of the number of significantly impacted freeway segments from the VTCSP development is provided below. Refer to Attachment B for a list impacted freeway segments.

Freeway	Number of Identified Segments Impacted by	
	City	EA
Existing with VTCSP conditions		
SR 17	2	0
SR 85	5	14
I-280	10	16
I-880	3	0
<i>Total Segments Impacted</i>	20	30
Cumulative with VTCSP conditions		
SR 17	2	3
SR 85	5	18
I-280	15	18
I-880	4	0
<i>Total Segments Impacted</i>	26	39

⁹ City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning EIR*. State Clearinghouse No. 2014032007. Certified December 2014. Page 4.13-59.

Overall, the EA identified more significantly impacted freeway segments than the City would have likely identified. Specifically, the EA identified fewer impacted segments on SR 17, more impacted segments on SR 85, more impacted segments on I-280, and fewer impacted segments on I-880. The difference in freeway impacts identified by the City and in the EA are due to differences in trip generation assumptions, trip dispersion, and the volume of traffic assigned to HOV lanes.

The VTCSP includes the following EDFs that would reduce freeway impacts:

22. Freeway Interchange, Overpass, and Segment Funding: Consistent with the Plan Area's environmental design features, provide a fair share financial contribution of \$30 million for freeway infrastructure, specifically the build-out of the roadway improvements planned for North Wolfe Road and I-280 overpass and interchange and future I-280 freeway segment improvements, to address traffic congestion.¹⁰

44. Level of Service at Freeway Segments: Prior to the issuance of the first certificate of occupancy, the Town Center/ Community Park applicant and other project applicants for future development shall pay a voluntary fair share contribution of \$4,000,000 towards planned transportation projects identified in VTA's Valley Transportation Plan 2040 (VTP 2040) that would improve traffic operations of the impacted freeway segments and provide added transportation capacity on parallel facilities. The fair share contribution amount will be calculated in consultation with VTA staff with the development's contribution to the impacted freeway segment.

52. Transportation Demand Management Plan: Prior to the issuance of the first certificate of occupancy, the Town Center/Community Park applicant and other project applicants for future office development shall prepare and implement a Transportation Demand Management (TDM) Plan with an overall target of reducing Specific Plan office-generated weekday peak hour trips by 30 percent below applicable Institute of Transportation Engineers trip generation rates. Future project applicant(s) for office developments must demonstrate to the satisfaction of the Public Works Director that a TDM manager has been appointed and retained with the responsibility to implement and monitor the TDM Plan....¹¹

54. Wolfe Road Interchange: Prior to the issuance of certificate(s) of occupancy that triggers a level of service equivalent to the existing occupied Vallco Mall level of service, the Town Center/ Community Park applicant and other project applicants for future development shall pay \$26 million contribution towards the planned transportation improvements at the I-280 and Wolfe Road interchange subject to design optimization based on level of service standard, other funding sources, and local match.¹²

The concept of fair share contributions towards improvements at impacted freeway segments in Specific Plan EDFs 22, 44, and 54 is consistent with what the City would typically require under the standard approval process, although the monetary contribution by the Specific Plan would be assessed to determine the appropriate fair share contribution for all impacted freeway segments identified by the City and finalized in consultation with the City and other

¹⁰ Of the \$30 million contribution, it is assumed \$26 million is for improvements to the North Wolfe Road and I-280 interchange (EDF 54) and the remaining \$4 million would be for future I-280 and other freeway segment improvements (EDF 44).

¹¹ The full text of EDF 52 is provided in Appendix A of the VTCSP.

¹² The \$26 million payment by the VTCSP towards the planned improvements at the I-280/Wolfe Road interchange equates to approximately 25 percent of the total cost of reconstructing the interchange.

appropriate agencies under the standard approval process. Thus, the contribution amounts could be different than what are identified in EDFs 22, 44, 54.

VTCSF EDF 52 is consistent with what the City would typically require to reduce freeway impacts under the standard approval process. It is unclear how the office trip generation would be monitored, however. Because the office uses do not have exclusive parking areas with driveways that are discrete from the remaining uses in the VTCSF, the monitoring for the TDM plan would need to be resolved.

- **Impacts to Transit Facilities** – The addition of traffic on roadways from the development of the VTCSF could impact transit service and performance. The City and VTA do not have a specified significance threshold for transit delay, however, the City is not opposed to the transit delay analysis and conclusion in the EA. The analysis in the EA concluded that the development of the VTCSF would not result in significant delays in transit service.

The VTCSF includes the following EDFs to enhance transit service:

19. **Free Community Shuttle:** Require that a project applicant spearhead and provide substantial funding for a community effort to provide a free community shuttle, in partnership with the City, VTA, local school districts, property owners, and/ or corporate employers.

47. **Transit/ East Side Transit Center & Community Shuttle:** The Town Center/ Community Park applicant and other project applicants for future development shall implement the following transit improvements prior to issuance of certificate(s) of occupancy that trigger a level of service equivalent to the existing occupied Vallco Mall level of service:

1. Install a public transit center on the east side of the Specific Plan Area to serve office workers.
2. Spearhead and provide substantial funding for a partnership with the City, VTA, local school districts, property owners, and/ or corporate employers....¹³

48. **Transit/Mobility Hub:** The Town Center/Community Park applicant and other project applicants for future development shall implement the following transit improvements prior to issuance of certificate(s) of occupancy for (i) the Block 1 buildings or (ii) the entirety of the Residential allocation: Install a public transit center as part of the Mobility Hub on the north side of Stevens Creek Boulevard.

VTCSF EDFs 19, 47, and 48 are consistent with the City would typically require for a development such as VTCSF during the standard approval process. Transit improvements are typically coordinated with and agreed upon by the VTA during the standard approval process to ensure that the improvements are consistent with VTA's long-term plans and needs.

¹³ The full text of EDF 47 is provided in Appendix A of the VTCSF.

- **Impacts to Bicycle and Pedestrian Facilities** – The City would review a project’s impact on bicycle and pedestrian quality of service during the standard approval process. As part of the review, the City would typically measure features of the physical environment that affect comfort and safety for bicyclists and pedestrians and require bicycle and pedestrian improvements to reduce impacts.

The VTCSP includes the following EDFs to improve bicycle and pedestrian facilities:

49. Bicycles and Pedestrian Improvements: The Town Center/Community Park applicant shall, prior to the issuance of the first certificate of occupancy, and to the extent not already constructed or funded by other existing commitments, implement the following bicycle and pedestrian improvements:

1. Install green color backed sharrows on Tantau Avenue between Stevens Creek Boulevard and Bollinger Road for Class III facilities.
2. Install marked bike loop-detectors on southbound Portal Avenue at Stevens Creek Boulevard and convert all-way stop-control to two-way stop-control at the Portal Avenue and Wheaton Drive intersection with stops on Wheaton Drive.
3. On Portal Avenue between Stevens Creek Boulevard and Wheaton Drive, install green color backed sharrows for a Class III facility, and install a ladderstyle crosswalk at Amherst Drive and Portal Avenue, and install “neighborhood greenway” signage along Portal Avenue.

50. Bicycle and Pedestrian Funding: The Town Center/ Community Park applicant shall, prior to the issuance of the final certificate of occupancy, and to the extent not already constructed or funded by other existing commitments, implement the following bicycle and pedestrian improvements:

If approved by the City, provide a \$6 million cash donation to the City for the express purpose to analyze and construct a 2-mile bicycle/ pedestrian trail along the southern edge of Interstate 280 between De Anza Boulevard and Wolfe Road (See Community Benefit 17).

VTCSP EDF 49 is generally consistent with what the City would typically require during the standard approval process but would require some adjustments to conform to City standards. VTCSP EDF 50 is consistent with what the City would typically require during the standard approval process.

Additionally, the City would likely require green or buffered bicycle lanes on Wolfe Road; Class IV bike lanes (i.e., separated bikeways) on Stevens Creek Boulevard; removal of pork chop islands at Stevens Creek Boulevard/Wolfe Road; and enhanced pedestrian crossing at Stevens Creek Boulevard intersections at Perimeter Road and Wolfe Road, as well as the Vallco Parkway intersections at Wolfe Road and Perimeter Road. While EDFs 49 and 50 do not specifically require these additional improvements, the Specific Plan requires a developer to “construct and/or fund additional improvements to pedestrian and bike trail(s) throughout the Plan Area, including along the entirety of the existing Perimeter road, and in the Plan Area vicinity to improve Safe Routes to Schools and address both bike and pedestrian safety and traffic concerns.” (C-90.) Therefore, the Specific Plan contemplates that additional measures, like those the City would typically require, are required community benefits.

- **Parking** – Based on the City’s Municipal Code, the Specific Plan would be required to provide 10,413 vehicle parking spaces. The VTCSP proposes 9,060 vehicle parking

spaces.¹⁴ The proposed parking for the VTCSP, therefore, would not meet the City’s parking standards. However, under Municipal Code Section 19.124.060(c), if a proposed project does not meet the standard parking requirements, an applicant can request alternative parking standards. To obtain approval of these alternative parking standards, a detailed parking study is conducted to determine the required parking supply. The proposed parking for the Specific Plan, therefore, would not meet either the City’s standard parking standards requirements, but could meet an alternative parking standard if supported by a detailed parking study.

Pursuant to the City’s Municipal Code, and based on the vehicle parking supply, the VTCSP would be required to provide 1,022 Class I bicycle parking spaces and 128 Class II bicycle parking spaces.^{15,16} The EA identified a bicycle parking supply of 487 Class I facilities and 81 Class II facilities. The bicycle parking supply presented in the EA for the VTCSP is deficient by 535 Class I bicycle parking spaces and 47 Class II bicycle parking spaces compared to what the City would require under the standard approval process.

- **Neighborhood Intrusion** – There is a potential for vehicles traveling to and from the VTCSP to divert to Blaney Avenue, Portal Avenue, Finch Avenue, and Tantau Avenue to avoid potential congestion on Stevens Creek Boulevard, De Anza Boulevard, and Wolfe Road. The VTCSP includes the following EDF to reduce neighborhood intrusion:

53. Potential Neighborhood Intrusion: The Town Center/ Community Park applicant and other project applicants for future development shall fund neighborhood traffic monitoring studies and provide fees to implement potential traffic calming improvements to minimize neighborhood traffic if needed. The City of Cupertino Traffic Calming Programs should be considered when evaluating traffic calming measures. Prior to the issuance of the first certificate of occupancy, the Town Center/Community Park applicant and other project applicants for future development shall provide up to \$300,000 for the City of Cupertino for potential neighborhood traffic improvements. The monitoring program could include the following items:

- Identifying the monitoring areas (roadways where the monitoring will occur);
- Setting baseline conditions (number of parked vehicles and traffic volumes on the roadways);
- Determining thresholds for parking and traffic volume increases requiring action;
- Establishing the monitoring schedule; and
- Creating reporting protocols.

The baseline conditions shall be established prior to but within 1 year of initial occupancy. Monitoring would then occur annually for 5 years.

VTCSP EDF 53 is consistent with what the City would typically require during the standard approval process. Overall, the \$300,000 is reasonable for the area of impact compared to the funding the City required of Apple Campus 2 for monitor neighborhood intrusion (\$250,000 for monitoring within the City Santa Clara and \$500,000 for monitoring within the City of Sunnyvale).

¹⁴ Under the Specific Plan, this number may be increased or decreased by five percent (450 stalls) without approval of the Community Development Director. It further contemplates that parking beyond the five percent deviation can be granted by the Community Development Director with “justification for the adjustment being sought.”

¹⁵ Class I bicycle parking facilities are usually enclosed and intended for long-term parking while Class II bicycle parking is intended for short-term parking and typically includes bike racks.

¹⁶ Though not specified in the Municipal Code, the City typically applies the bicycle parking supply rates to the gross vehicle parking supply numbers.

- **Safety Hazards and Accessibility** – Under the standard approval process, the City would typically review a project for the potential to increase hazards due to a design feature or incompatible use. This process would still occur if the Initiative is approved. The City would review the potential for safety hazards (e.g., inadequate sight distance, inadequate emergency vehicle access, impacts of proposed programmable electronic signs on driver safety, etc.) and compatibility with Americans with Disabilities Act (ADA) requirements during subsequent City approvals for the VTCSP.
- **Construction-Related Traffic Impacts** – Construction vehicles, including construction workers’ vehicles and trucks carrying construction materials or hauling excavated soil from the site, would travel to and from the site as part of the development of the VTCSP. The EA estimates that the number of average daily construction trips could be up to 661 (which represents approximately two percent of the average daily trips from the VTCSP development once the project is completed). Construction-related vehicle trips are temporary and would likely be spread out over the day.

The VTCSP includes the following EDF that would reduce impacts from construction-related traffic:

51. **Construction Traffic Management:** The Town Center/Community Park applicant and other project applicants for future development shall prepare and maintain a Construction Management Plan (CMP) to minimize disruption to transportation facilities caused by short term construction activities. The CMP will include flagmen, schedules of potential closures, a construction hotline, delineation layout, truck routes, delivery schedules, and alternative routes, per city industry standards and requirements.

VTCSP EDF 51 is consistent with what the City would require during the standard approval process.

2.2.1.2 *School Services*

The following discussion is based on a school impact analysis completed by *Schoolhouse Services* in February 2016. Vallco is located within the Cupertino Union School District (CUSD) and Fremont Union High School District (FUHSD). Both CUSD and FUHSD have grown steadily in recent decades. Due to maturing households and the rapid increase in the cost of housing, however, CUSD enrollment is projected to decrease by about 400 elementary and 500 middle school students over the next five years. FUHSD enrollment is expected to increase by about 600 students over the same five year period, then either stabilize or begin to decline as fewer students move up from the younger grades.

Students generated from residential development at Vallco would likely attend Collins Elementary, Lawson Middle, and Cupertino High schools. The development of 800 residential units (160 of which would be age-restricted senior units) at Vallco would generate about 218 students (122 elementary school students, 58 middle school students, and 38 high school students).^{17,18}

The projected rate of decline in enrollment at CUSD is different among the three areas of the district. Most of the schools within CUSD north and northeast of I-280 are anticipated to continue experiencing some growth, thereby worsening existing capacity issues at local schools. Schools in the central area lying south of I-280 and Bollinger Road overall are crowded, although not to the extent of the northern schools. These central schools, including Collins Elementary School, are beginning to experience decreases in enrollment. The schools in the southern portion of the district are not at capacity, and are projected to have a continued decline in enrollment in the future.

Collins Elementary School has an enrollment capacity of 700 students and is currently 19 students over capacity. Projected enrollment is anticipated to decline by 49 students by 2019, providing available capacity at the school. The projected available capacity, however, is not sufficient to accommodate the 122 students projected from redevelopment of Vallco.¹⁹

Lawson Middle School has an enrollment capacity of about 1,500 students and is currently 250 students below capacity. There is sufficient capacity at Lawson Middle School to accommodate future projected enrollment, including the 58 students estimated from redevelopment of Vallco.²⁰

Cupertino High School has an enrollment capacity of about 2,268 students and is currently 35 students below capacity.²¹ There is not sufficient capacity at Cupertino High School to accommodate projected enrollment nor the estimated 38 high school students projected from redevelopment of Vallco. There is, however, sufficient capacity at Lynbrook High School whose attendance area lies south of the attendance area for Cupertino High School.²² In January 2016, the School Board acted to allow students from Miller Middle School (which feeds into Cupertino High School) to choose to enroll at Lynbrook instead and appointed a committee to study options for changes in district attendance assignment policies.²³

CUSD and FUHSD could add capacity to local schools by constructing new buildings on existing campuses, constructing new buildings on newly purchased land, and/or repurposing existing properties.²⁴

¹⁷ The number of students was estimated based on the following student generation rates: 0.19 elementary school students per unit; 0.09 middle school students per unit, and 0.06 high school students per unit (Source: Schoolhouse Services. *Enrollment and Fiscal Impact Analysis for The Hills at Vallco*. February 2016. Table I-6.).

¹⁸ If 389 residential units (80 of which would be age-restricted senior units) were developed at Vallco, approximately 105 students would be generated (59 elementary school students, 28 middle school students, and 19 high school students).

¹⁹ Schoolhouse Services. *Enrollment and Fiscal Impact Analysis for The Hills at Vallco*. February 2016, pages 12-13.

²⁰ Ibid, pages 1 and 14.

²¹ Ibid, page 14.

²² Ibid.

²³ Ibid.

²⁴ Schoolhouse Services. *School Enrollment and Fiscal Impact Analysis General Plan Amendment Alternatives*. June 2014. Page 34.

Pursuant to Senate Bill 50 (SB 50) and the adopted school fees, the VTCSP development is required to pay school impact fees based on the square footage of the development. Under SB 50, payment of school impact fees provides full and complete school facilities mitigation for new development.

The VTCSP includes the following EDF that would reduce impacts to the local school districts:²⁵

9. **Exceptional Educational Benefits:** In addition to paying the maximum state-required school fees, which are expected to be approximately \$4 million, to recognize the important asset that schools are to the larger Cupertino community and in an effort to make a net positive impact on the local school districts, the Plan Area will provide exceptional community benefits, summarized below, to the local schools including Fremont Union High School District (“FUHSD”) and Cupertino Union School District (“CUSD”). While the precise nature of these benefits must be determined in coordination and cooperation with the school districts, the community benefits for local schools shall be valued at approximately \$40 million....

The benefits for local schools may include the following:

- Construction and 34-year charitable lease of a new 10,000 square foot high school science and engineering “Innovation Center;”
- Construction and 34-year charitable lease of up to 5,000 square feet of classroom and/or administrative space for FUHSD’s Adult School;
- A new 700-student elementary school at the former Nan Allan Elementary School site;
- Replacement of all portable classrooms at Collins Elementary School with permanent classrooms;
- Improvement and expanded utilization of athletic and recreation facilities at the Nan Allan/Collins Elementary School location;
- Fund a \$1.0 million endowment for the CUSD 8th Grade Yosemite Science Program; and
- Payment of the equivalent applicable parcel tax to each school district for each unrestricted apartment unit.²⁶

The VTCSP EDF 10 would enhance school services:

10. **Facilitating Experienced Based Learning:** Leases shall include obligations that office and retail tenants in the Plan Area participate in the enhancement of FUHSD students’ experience-based knowledge and opportunities for learning-by-doing by, for example, offering business environment internship, scholarship and/or mentoring opportunities or classroom-environment special curriculum, among others.

The CUSD and FUHSD recently approved educational facilities and donation agreements with the Valco Property Owner, LLC regarding local school benefits. During the typical approval process, the impacts for school facility improvements and projects would be analyzed and mitigation to reduce significant impacts would be required.

The City can only require the VTCSP pay the school fees adopted pursuant to SB 50 to mitigate impacts on schools. The General Plan EIR concluded that the compliance of future development with SB 50 would mitigate impacts on schools. VTCSP EDFs 9 and 10, therefore, exceed what the City could require as mitigation or as a condition of approval for the development of the VTCSP under the standard approval process.

²⁵ Approximately \$4 million of the SB 50 school fees identified in EDF 9 is based on the development of 800 residential dwelling units.

²⁶ Kimley Horn. *Valco Town Center Specific Plan Environmental Assessment*. Appendix A, Page C-212.

2.2.1.3 *Parks/Open Space*

The development of the VTCSP is subject to the Quimby Act²⁷ and applicable General Plan policies to provide adequate park land/open space including Policies RPC-2.4 and RPC-2.5 (refer to Attachment A for referenced policies). In addition, the development of the VTCSP is subject to the City's Municipal Code, which requires residential developers to dedicate park land or pay in-lieu fees to accommodate and offset their fair share of the provision of park and recreational facilities (Chapter 13.08 and 18.24). The General Plan EIR concluded that future development, in compliance with applicable General Plan policies (including Policy RPC-2.4) and the City's Municipal Code Chapter 18.24, would not result in significant impacts to parks.²⁸

Pursuant to the City's Municipal Code, VTCSP would be required to provide about four acres of park land.²⁹ The VTCSP includes the following EDFs that would reduce impacts to park and open space:

1. **Green Roof & Community Park:** A 30-acre rooftop Community Park & Nature Area, accessible to the public, privately constructed and maintained at no cost to taxpayers, and irrigated by recycled water.
2. **Rooftop Trails:** A minimum of 3.8 miles of accessible walking and jogging trails, through native and drought-tolerant landscaping, meadows, vineyards, orchards and organic gardens in the Community Park & Nature Area.
5. **Town Squares:** Two ground-level Town Squares totaling at least 3 acres in area, programmed to accommodate civic, cultural, community, and school events, performances, and celebrations, among other uses.

The VTCSP EDFs listed above include a total of three acres of publicly accessible open space (the town squares) and a 30-acre roof top open space which appears to include about nine acres of publically accessible space. VTCSP EDFs 1, 2, and 5, therefore, would exceed what the City would typically require as mitigation or as conditions of approval for the development of the VTCSP under the standard approval process.

In addition, VTCSP EDF 9 includes community benefits for local schools valued at approximately \$40 million which may include improving and expanding the athletic and recreation facilities at the Nan Allan/Collins Elementary School location. The improvement of existing school fields, however, does not qualify as park land mitigation under the City's Municipal Code.

²⁷ The 1975 Quimby Act, Government Code section 66477, authorizes the City to adopt ordinances requiring that developers set aside land, donate conservation easements, or pay fees for park improvements.

²⁸ City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning EIR*. State Clearinghouse No. 2014032007. Certified December 2014. Page 4.12-32.

²⁹ The estimated amount of park land required is based on the development of the VTCSP with 800 residential units (160 of which would be senior units). If the VTCSP were developed with 389 residential units (80 of which would be senior units), approximately two acres of park land would be required.

2.2.2 Other Public Services

2.2.2.1 *Police Services*

The City of Cupertino contracts with the Santa Clara County Sheriff's Office for police services. Development of the VTCSP is subject to General Plan policies that ensure adequate police protection services in the City, including Policies HS-4.2 and HS-4.3 (refer to Attachment A for referenced policies). The buildout of the General Plan would increase the number of calls for police services; however, buildout of the General Plan (with or without the Initiative) would not result in the need for expansion or addition of police facilities or personnel.³⁰ In addition, the increase in property tax revenue from buildout of the General Plan could offset additional costs incurred by the City to increase its service contract with the Sheriff's Department, if required.³¹

Development of the VTCSP would increase the property taxes collected from the site, compared to existing conditions, due to the resulting increase in property value. The VTCSP includes the following EDF that could potentially enhance police services:

7. **Charitable-Civic Space:** A charitable lease or leases for at least 5,000 square feet of civic space dedicated for use and potentially shared by local non-profits and civic organizations, such as the Cupertino Historical Society (for museum and office space), the Cupertino Library (for a materials pick-up and/ or return annex), *the Sheriff's Department (for a substation)* [emphasis added], and the Fire District (for a substation).

The Santa Clara County Sheriff's Office expressed a desire to explore locating a new substation at Vallco during the planning process for The Hills at Vallco. The City would not likely require new or expansion of existing police facilities to serve the VTCSP, however, given the analysis and conclusion in the General Plan EIR. VTCSP EDF 7, therefore, exceeds what the City would typically require as mitigation or as a condition of approval for the development of the VTCSP under the standard approval process.

2.2.2.2 *Fire Services*

Development of the VTCSP is subject to General Plan policies that ensure adequate fire protection in the City including Policies HS-3.2, HS-3.4, and HS-3.7 (refer to Attachment A for referenced policies) and the City's Fire Code (Municipal Code Chapter 16.40). The existing fire protection facilities, equipment, and staff are adequate to accommodate growth anticipated from buildout of the General Plan (with or without the Initiative).³² The increase in property tax revenue from buildout of the General Plan would result in additional funding available to the Santa Clara County Fire Department for future growth, if needed.³³

Development of the VTCSP would result in an increase in property taxes collected from the site, compared to existing conditions, due to its increase in property value. The VTCSP includes the following EDF that could potentially enhance fire services:

³⁰ City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning EIR*. State Clearinghouse No. 2014032007. Certified December 2014. Page 4.12-11.

³¹ *Ibid*, pages 4.12-12 and 4.12-13.

³² *Ibid*, page 4.12-7.

³³ *Ibid*.

7. **Charitable-Civic Space:** A charitable lease or leases for at least 5,000 square feet of civic space dedicated for use and potentially shared by local non-profits and civic organizations, such as the Cupertino Historical Society (for museum and office space), the Cupertino Library (for a materials pick-up and/ or return annex), the Sheriff's Department (for a substation), and the *Fire District (for a substation)* [emphasis added].

The Santa Clara County Fire Department expressed a desire to explore locating a new substation at Vallco during the planning process for The Hills at Vallco. The City would not likely require new or expansion of existing fire facilities to serve the VTCSP, however, given the analysis and conclusion in the General Plan EIR. VTCSP EDF 7, therefore, exceeds what the City would typically require as mitigation or as a condition of approval for the development of the VTCSP under the standard approval process.

2.2.2.3 *Library Service*

The existing employees and library facilities in the Santa Clara County Library system are sufficient to accommodate the increased demand in library services from buildout of the General Plan (with or without the Initiative) and no physical expansion of library facilities is required.³⁴ Library services are primarily funded by County property taxes.

Development of the VTCSP would result in an increase in property taxes collected from the site, compared to existing conditions, due to its increase in property value. The VTCSP includes the following EDF that could potentially reduce impacts to library services:

7. **Charitable-Civic Space:** A charitable lease or leases for at least 5,000 square feet of civic space dedicated for use and potentially shared by local non-profits and civic organizations, such as the Cupertino Historical Society (for museum and office space), *the Cupertino Library (for a materials pick-up and/ or return annex)* [emphasis added], the Sheriff's Department (for a substation), and the Fire District (for a substation).

The City would not likely require new or expansion of existing library facilities to serve the VTCSP, given the analysis and conclusion in the General Plan EIR. VTCSP EDF 7, therefore, exceeds what the City would typically require as mitigation or as a condition of approval for the development of the VTCSP under the standard approval process.

2.2.3 Utilities and Service Systems

2.2.3.1 *Wastewater Treatment/Sanitary Sewer System*

A discussion of the VTCSP's potential impacts on wastewater treatment capacity and local sewer system is provided below.

- **Wastewater Treatment Capacity** – Wastewater generated in the City is treated at the San Jose/Santa Clara Regional Wastewater Facility and the City of Sunnyvale Water Pollution Control Plant. The existing design and permitted capacity of both plants are sufficient to treat the wastewater generated from buildout of the General Plan (with or without the

³⁴ Ibid, page 4.12-24.

Initiative).³⁵ In addition, the City has sufficient wastewater treatment capacity at the plants to serve the buildout of the General Plan (with or without the Initiative).³⁶

- **Sanitary Sewer System Capacity** – The existing sewer lines in the vicinity of Vallco are in North Wolfe Road, Vallco Parkway, and Stevens Creek Boulevard. Most sewage generated at Vallco discharges to the 15-inch sewer main in North Wolfe Road. Under existing peak wet weather flow conditions, flows to this 15-inch sewer main in North Wolfe Road exceed its capacity.³⁷

Development of the VTCSP would intensify the use of the site, which would result in an increase in sewage generated from the site compared to existing conditions. For this reason, the development of the VTCSP would require sewer system improvements to ensure sufficient conveyance capacity. Based on preliminary analysis, redevelopment of Vallco under the General Plan would require the construction of a parallel pipe to the existing 15-inch sewer main in North Wolfe Road.³⁸

The VTCSP includes the following EDF that would reduce impacts to the sewer system:

57. **Sanitary Sewer Conveyance Facilities:** Prior to the issuance of occupancy permit(s) for the final construction sequence, the Town Center/Community Park applicant and other project applicants for future development shall demonstrate to the reasonable satisfaction of the Public Works Director that adequate sanitary sewer services are available.

VTCSP EDF 57 are consistent with what the City would typically require to ensure adequate sewer service under the standard approval process. Typically the City would determine sewer system capacity and identify necessary improvements prior to development approval rather than prior to issuance of occupancy permits, however. In addition, the City would evaluate downstream capacity of the sewer collection system and the need for improvements to downstream capacity. In any case, the City would require any necessary utility improvements to be constructed concurrent with the development and be financed by the developer.

³⁵ Ibid, pages 4.14-33 through 4.14-41.

³⁶ Cupertino Sanitary District. *District Response to your letter dated November 10, 2015*. December 8, 2015.

³⁷ Cupertino Sanitary District. *Letter RE: Questions regarding Cupertino Sanitary District Services relative to Vallco Development*. Received November 19, 2015.

³⁸ Ibid.

2.2.3.2 Water

There is sufficient water supply from San Jose Water Company and Cal Water to serve buildout of the adopted General Plan (with or without the Initiative). No new or expanded entitlements are required.³⁹

Development of the VTCSP is subject to existing water regulations that promote water efficiency and conservation including the following:

- Water Conservation Act of 2009
- 2010 California Plumbing Code
- Cupertino's Landscaping Ordinance
- Cupertino's Water Conservation Ordinance
- San Jose Water Company's, Cal Water's, and Santa Clara Valley Water District's water supply and demand management strategies and water shortage contingency plans
- Cupertino Municipal Code (including Green Building Ordinance)

Existing water lines in the Vallco area are located in North Wolfe Road, Vallco Parkway, Stevens Creek Boulevard, and Perimeter Road. Currently, recycled water service and infrastructure is not available in the Vallco vicinity. Connections to existing water lines and improvements to meet current fire flow standards would likely be required for the development of the VTCSP.

The VTCSP includes the following EDFs that would reduce impacts to water service:

3. **Sustainability Leadership/Recycled Water:** A sustainable design goal of achieving the highest level of certification from a globally recognized environmental sustainability certification program, such as LEED Platinum certification or its equivalency, which shall be achieved in part by providing recycled water for such purposes as irrigation, toilet flushing, and heating and cooling systems, among other design features.

58. **Potable Water Supply:** Prior to the issuance of building permits, the Town Center/Community Park applicant and other project applicants for future development shall demonstrate, to the satisfaction of the Public Works Director, that adequate water facilities are available at the time of permit issuance and will continue to be available until time of occupancy.

59. **Potable Water Lines:** Prior to issuance of any grading permits or improvement plans, the Town Center/Community Park applicant and other project applicants for future development shall design public water facilities in conjunction with the California Water Service Company engineer and City and the City of Cupertino engineer for implementation into the proposed improvements.

60. **Recycled Water Lines:** Prior to the issuance of any grading permits or improvement plans, the Town Center/Community Park applicant and other project applicants for future development shall design landscape and irrigation plans utilizing recycled water as a source to meet all non-potable water demands as discussed in the Sustainability Strategies element in the Specific Plan.

61. **Recycled Water Line Extension:** Prior to the issuance of final occupancy permits for 500,000 square feet of office space, the Town Center/Community Park applicant and other project applicants for future development shall provide to the Director of Public Works a status update of the Santa Clara Valley Water

³⁹ City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning EIR*. State Clearinghouse No. 2014032007. Certified December 2014. Page 4.14-22.

District's Wolfe Road Recycled Water Facilities Project. Once the Wolfe Road Recycled Water Facilities Project is complete north to I-280, the applicant shall initiate the design, permitting and construction of the recycled line extension across I-280 to Wolfe Road at Stevens Creek Boulevard.

VTCSF EDFs 58 and 59 are consistent with what the City would typically require of a proposed development to ensure adequate water supply and service under the standard approval process. Typically the City would determine water supply availability and identify necessary improvements prior to development approval rather than prior to issuance of grading permits, however. In addition, the Santa Clara County Fire Department would typically review all design and construction management plans for building construction to ensure that adequate water and fire hydrants are available to serve the proposed development. In any case, the City would require any necessary utility improvements to be constructed concurrent with the development and be financed by the developer.

The Hills at Vallco proposed a similar development with landscaping as is included in the VTCSF. A Water Supply Assessment (WSA) was completed by *Yarne & Associates, Inc.* on behalf of the California Water Service (Cal Water) in March 2016 for The Hills at Vallco development project. Cal Water, specifically the Los Altos Suburban District, provides potable water service to the Vallco area. The WSA concluded there were adequate water supplies to meet projected demands of The Hills at Vallco project and those of all existing customers and other anticipated future customers for normal, single dry year, and multiple dry year conditions.⁴⁰ Therefore, there is likely sufficient water supply to serve the development of the VTCSF. In addition, the WSA did not account for future use of recycled water at Vallco, which would substantially reduce potable water demand. It is estimated that recycled water could be used to meet 33 percent of the VTCSF water demand.⁴¹

VTCSF EDF 61 is the extension of the Wolfe Road Recycled Water Facilities project from the Apple Campus 2 to Vallco. VTCSF EDF 61 is in excess of what the City would require during the standard approval process. The City of Sunnyvale (recycled water producer), Santa Clara Valley Water District (wholesaler), Cal Water (retailer), and Apple Inc. (customer) have partnered to extend the City of Sunnyvale's existing recycled water system south in Wolfe Road to the Apple Campus 2 in Cupertino (referred to as the Wolfe Road Recycled Water Facilities project). The system will extend from the existing San Lucar Pump Station near the intersection of Wolfe Road and Kifer Road to the Apple Campus 2, just north of Vallco, and include a booster pump station.

As part of the agreement for the Wolfe Road Recycled Water Facilities project, the WPCP will supply a minimum of 1,095 acre feet of recycled water to the Santa Clara Valley Water District (SCVWD) per fiscal year.⁴² SCVWD has contracted with the City of Sunnyvale to guarantee 595 acre feet per year (AFY) to cover projects within Sunnyvale and retailers outside of the City of Sunnyvale, including Apple Campus 2, will be allotted at least 500 AFY.⁴³ Apple Campus 2 demand

⁴⁰ Yarne & Associates, Inc. *Vallco Shopping District Specific Plan and The Hills at Vallco Project SB610 Water Supply Assessment Cupertino, California*. March 1, 2016.

⁴¹ Kimley Horn. *Vallco Town Center Specific Plan Environmental Assessment*. Appendix UT-C.

⁴² Recycled Water Supply and Distribution Agreement Between City of Sunnyvale and Santa Clara Valley Water District. SCVWD Board meeting March 24, 2015 authorized SCVWD CEQ to execute agreement.

⁴³ Sources: 1) Santa Clara Valley Water District. *Wolfe Road Recycled Water Facilities Project No. 91244001 Planning Study Report*. December 2014; and 2) Recycled Water Supply and Distribution Agreement Between City of Sunnyvale and Santa Clara Valley Water District. SCVWD Board meeting March 24, 2015 authorized SCVWD CEQ to execute agreement.

is estimated to be 235-500 AFY.⁴⁴ It is estimated that the recycled water demand for The Hamptons project is 35 AFY and 99 AFY for VTCSP.⁴⁵ There are existing constraints that may affect the availability of the recycled water to reach the VTCSP site including the amount of recycled water able to be produced from the Donald M. Somers Water Pollution Control Plant⁴⁶, the supply available to Cupertino users, and the demand of upstream recycled water users from the VTCSP site.

The capacity of the booster pump station that would be constructed as part of the Wolfe Road Recycled Water Facilities project should be evaluated to ensure sufficient capacity exists to serve the recycled water needs of the downstream users (e.g., Apple Campus 2, The Hamptons, and VTCSP).

The City would typically require environmental analysis of utility improvements (such as the extension of the recycled water line) proposed to serve a development prior to development approval. Because the pipeline extension would occur within the existing road rights-of-way for Wolfe Road and I-280, it is likely that environmental impacts associated with construction could be mitigated or avoided with the implementation of standard practices and measures (e.g., standard tree replacement requirements and standard construction-related noise and air quality best management practices).

VTCSP EDF 3 identifies a “design goal of achieving the highest level of certification from a globally recognized environmental sustainability certification program, such as LEED Platinum certification or its equivalency” for future development at Vallco. Pursuant to the City’s Green Building Ordinance, a development such as VTCSP would be required to achieve LEED Silver.⁴⁷ VTCSP EDF 3, therefore, exceeds what the City would typically require of a development such as VTCSP under the City’s Green Building Ordinance.

2.2.3.3 Energy

No new energy supply facilities or distribution infrastructure or capacity-enhancing alterations to existing facilities are required to serve buildout of the General Plan (with or without the Initiative).⁴⁸ The development of the VTCSP is subject to applicable General Plan policies that ensure efficient use of energy resources including Policies ES-1.1, ES-2.1, and ES-3.1 (refer to Attachment A for referenced policies), as well as the Cal Green Building Code and the City’s Green Building Ordinance.

⁴⁴ Sources: 1) HydroScience. *City of Sunnyvale Feasibility Study for Recycled Water Expansion Report*. June 2013; and 2) City of Sunnyvale. *CEQA Addendum to the Mitigated Negative Declaration for the Wolfe Road Recycled Water Project*. Adopted September 24, 2013.

⁴⁵ Kimley Horn. *Vallco Town Center Specific Plan Environmental Assessment*. Appendix UT-A.

⁴⁶ The City of Sunnyvale has prepared and is circulating an Environmental Impact Report for the Sunnyvale Water Pollution Control Plant Master Plan Program. The proposed Master Plan includes improvements to the plant’s infrastructure that would increase the amount of recycled water produced.

⁴⁷ Projects pursuing LEED (Leadership in Energy and Environmental Design) certification earn points across several areas that address sustainability issues. Based on the number of points achieved, a project then receives one of four LEED rating levels: Certified, Silver, Gold and Platinum. LEED Certified being the lowest level and LEED Platinum being the highest level.

⁴⁸ As stated in footnote 3, the General Plan EIR analyzed more intense development and greater buildout of the City than ultimately approved by the City Council. The amount of development and buildout assumptions in the General Plan EIR are greater than the development assumptions from the buildout of the General Plan with Initiative. The General Plan EIR concluded that no new energy supply facilities or distribution infrastructure or capacity-enhancing alterations to existing facilities are required to serve buildout of the General Plan (City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning EIR*. State Clearinghouse No. 2014032007. Certified December 2014. Page 4.14-63.). The buildout of the General Plan with Initiative, therefore, would not require new or expanded energy supply facilities or distribution infrastructure.

The VTCSP includes the following EDF that minimizes energy use:

3. **Sustainability Leadership/Recycled Water:** A sustainable design goal of achieving the highest level of certification from a globally recognized environmental sustainability certification program, such as LEED Platinum certification or its equivalency, which shall be achieved in part by providing recycled water for such purposes as irrigation, toilet flushing, and heating and cooling systems, among other design features.

Pursuant to the City's Green Building Ordinance, a development such as VTCSP would be required to achieve LEED Silver. VTCSP EDF 3, therefore, exceeds what the City would typically require of a development such as VTCSP under the City's Green Building Ordinance.

2.2.4 Other Environmental Issues

2.2.4.1 *Aesthetics/Community Form*

Pursuant to General Plan Policy LU-19.1, a specific plan is to be created for Vallco that would include design standards and guidelines. The General Plan includes supporting Strategies to provide a street grid system (LU-19.1.6), open space in the form of town squares (LU-19.1.8), transitions from taller buildings on-site to existing buildings (LU-19.1.10), tree preservation (LU-19.1.13), and neighborhood buffers (LU-19.1.14). The Initiative amends Strategy LU-19.1.6, but does not change the intent of the strategy, which is to improve connectivity. The Initiative would result in the adoption of a specific plan (VTCSP) that includes design standards and guidelines for a street grid system, town squares, building setbacks, tree retention, and low-intensity frontages. The development of VTCSP could result in the aesthetic impacts discussed below.

- **Change in visual character** – The development of the VTCSP would result in a substantial change to the visual character of the site as it currently exists. The VTCSP identifies a minimum 35 foot setback from the eastern and western site boundaries, and a maximum building height of 95 feet (four to six stories tall) on the east side of North Wolfe Road. The maximum building height on the west side of North Wolfe would be 80 feet with a maximum building height of 65 feet for buildings along the western edge of the site. The top of the roofs, which would include mechanical equipment, would be up to 25 feet above the maximum building height. Rooftop pavilions would be no greater than 24 feet in height. Buildings on the western edge would have a minimum building plane of 1:1 and include “privacy measures (i.e., minimal interface, no or minimal windows on the outermost west-facing facades),” which would minimize visual intrusion to the existing, adjacent residential neighborhood west of Vallco.

The General Plan EIR assumed that the redevelopment of Vallco would include buildings with a maximum height of 160 feet on the east side of North Wolfe Road and a maximum building height of 85 feet on the west side of North Wolfe Road.⁴⁹ The General Plan EIR also assumed that the redevelopment of Vallco would include “suitable building setbacks from public rights of way” and “appropriate buffers and/or height transitions for buildings

⁴⁹ City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning EIR*. State Clearinghouse No. 2014032007. Certified December 2014. Page 4.1-31.

adjacent to low-density residential development.”⁵⁰ The General Plan EIR concluded that redevelopment of Vallco as envisioned in the General Plan would not result in a significant change in visual character. The maximum building heights proposed under the VTCSP are lower than the maximum building heights assumed for the redevelopment of Vallco in the General Plan EIR.

While the development of the VTCSP would change the visual character of the Vallco site compared to existing conditions, the development of the VTCSP would not result in a significant change in visual character for the following reasons:

- The development of the VTCSP is consistent with the development envisioned for the site in the adopted General Plan;
- The VTCSP maximum building heights are lower than what was assumed for the site in the General Plan EIR and the General Plan EIR concluded that development of Vallco as envisioned by the General Plan would not result in a significant change in visual character; and
- The VTCSP requires:
 - A 35-foot minimum setback from the eastern and western site boundaries,
 - A 20-foot minimum setback from North Wolfe Road and Vallco Parkway,
 - A minimum building plane of 1:1 on the western edge, and
 - Privacy measures (including VTCSP EDF 16. **Residential-Area Plan Sensitivity:** Protect adjacent residential property owners by retaining healthy trees and existing walls and encouraging inactive and/or generously set-back building facades along the Plan Area’s western property line.).
- **Scenic vistas** – Scenic vistas are generally interpreted as long-range views of a specific scenic feature (e.g., open space lands, mountain ridges, bay, or ocean views).⁵¹ In the Vallco area, views of the Santa Cruz Mountains and eastern foothills are intermittent and obscured by existing development and mature landscaping. The development of the VTCSP, therefore, would not substantially effect scenic vistas. This conclusion is consistent with the conclusion in the General Plan EIR.⁵²
- **Scenic highway viewshed** – Vallco is not within the viewshed of an officially designated state scenic highway. The segment of I-280 adjacent to Vallco is, however, an eligible state scenic highway. Views of Vallco from I-280 are obscured by existing, mature trees. While greater in mass and scale than the existing development on-site, the development of the VTCSP would not result in substantial adverse impacts to the existing I-280 viewshed because the VTCSP includes the preservation of most of the existing trees along the site’s perimeter⁵³ and there are intermittent views of urban development (including Apple Campus 2) from I-280 within the same viewshed. This conclusion is consistent with the conclusion in the General Plan EIR.⁵⁴

⁵⁰ Ibid.

⁵¹ Ibid, page 4.1-21.

⁵² City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning EIR*. State Clearinghouse No. 2014032007. Certified December 2014. Page 4.1-24.

⁵³ Kimley Horn. *Vallco Town Center Specific Plan Environmental Assessment*. April 2016. Page 7-4.

⁵⁴ City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning EIR*. State Clearinghouse No. 2014032007. Certified December 2014. Page 4.1-31.

- **Light and glare** – The development of the VTCSP would include nighttime and security lighting, and may include building material that is reflective. The development of the VTCSP, therefore, could result in light and glare impacts.

The VTCSP includes the following EDFs that would reduce light and glare impacts:

EDF 24. **Lighting:** The Town Center/Community Park applicant and other project applicants for future development shall comply with the lighting guidelines in the Specific Plan which would prevent unnecessary glare from unshielded or undiffused light sources. The following guidelines are required to avoid light trespass across property lines:

- Unnecessary glare from unshielded or undiffused light sources should be avoided. Commercial buildings and landscaping can be illuminated indirectly by concealing light features within buildings and landscaping to highlight architectural features and avoid intrusion into neighborhood properties.
- Light fixtures should be directed downward from the horizontal plane of the light source to prevent unnecessary light spillover.

EDF 27. **Building Materials:** To limit reflectivity and prevent exterior glass from attracting birds, projects shall use low-reflectivity glass to minimize bird collision. Low-reflectivity glass shall be used for the entirety of a building's glass surface (not just the lower levels nearest trees where bird collisions may be the most common), and other measures shall be undertaken for avian safety.

VTCSP EDFs 24 and 27 are consistent with what the City would typically require of a project under the standard approval process. The City typically requires outdoor lighting to be directed downward and not spill over onto adjacent properties, consistent with Municipal Code Chapter 1.09 and Section 19.168. To ensure development projects would not result in significant glare impacts, the City would typically review proposed building materials for highly reflective materials (such as mirrored glass) and large, uninterrupted expanses of glass or other highly reflective materials. This process would still occur if the Initiative is approved. The City would review the potential for proposed building materials to result in glare impacts during subsequent City approvals for the VTCSP.

2.2.4.2 *Air Quality*

Development of the VTCSP is subject to applicable General Plan policies to minimize air quality impacts including Policies ES-4.1 and ES-4.3 (refer to Attachment A for referenced policies). Development of the VTCSP would result in air pollutant emissions during construction and operation. The development of the VTCSP could result in the air quality impacts discussed below.

- **Clean Air Plan consistency** – Based on preliminary analysis, it appears that the VTCSP is consistent with the Bay Area 2010 Clean Air Plan. The VTCSP would result in a reduction in vehicle miles traveled per capita citywide⁵⁵ and includes EDFs that are consistent with

⁵⁵ Fehr & Peers. *Memorandum Review of the Vallco Town Center Plan Environmental Assessment, Cupertino, California*. June 23, 2016. Pages 34-35.

applicable mobile, transportation, and energy control measures in the CAP, including the following:

1. **Green Roof & Community Park;**
 3. **Sustainability Leadership/Recycled Water;**
 18. **Transportation Demand Management Plan;**
 19. **Free Community Shuttle;**
 20. **Bike-Pedestrian Trails Funding;**
 21. **Bike-Pedestrian Improvements;**
 26. **Construction Emissions Minimization;**
 47. **Transit/East Side Transit Center & Community Shuttle;** and
 48. **Transit/Mobility Hub.**
- **Construction-related emissions** – Construction-related emissions would occur as *fugitive dust emissions* associated with demolition and ground disturbance and *exhaust emissions* from construction equipment, truck travel, and worker traffic. The development proposed under the VTCSP exceeds the Bay Area Air Quality Management District (BAAQMD) construction criteria pollutant screening criteria and, therefore, it is possible that the construction of the VTCSP could exceed BAAQMD thresholds of significance.

The VTCSP includes the following EDF that would reduce fugitive dust emissions during construction:

EDF 25. **Dust Control:** The Bay Area Air Quality Management District (BAAQMD) Best Management Practices for dust control shall be required for all construction activities within the Town Center/Community Park. These measures will reduce dust emissions primarily during soil movement, grading and demolition activities, but also during vehicle and equipment movement on unpaved project sites:

- (1) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- (2) All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- (3) 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.
- (4) All vehicle speeds on unpaved roads shall be limited to 15 mph.
- (5) All streets, 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.
- (6) 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 Title 13, Section 2485 of CCR). Clear signage shall be provided for construction workers at all access points.
- (7) 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.
- (8) A publicly visible sign shall be posted 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. BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

VTCSF EDF 25 is consistent with the mitigation identified in the General Plan EIR⁵⁶ and with what the City would typically require of a project to reduce fugitive dust emissions under the standard approval process.

The VTCSF includes the following EDFs that would reduce construction-related exhaust emissions (specifically NO_x):

EDF 26. Construction Emissions Minimization: The Town Center/Community Park applicant and other project applicants for future development shall require in its construction specifications an Emissions Reduction Plan that requires the following:

- That all off-road equipment shall have engines that meet either U.S. EPA or California Air Resources Board (CARB) Tier 4 final off-road emission standards. If engines that comply with Tier 4 off-road emission standards are not commercially available, then the contractor shall provide the next cleanest piece of off-road equipment as provided by the step down schedules in the table below. “Commercially available” shall mean the availability of Tier 4 equipment taking into consideration factors such as: (i) critical path timing of construction; (ii) geographic proximity to the Project site of equipment; and (iii) geographic proximity of access to off haul deposit sites. The applicant(s) and contractor shall maintain records concerning its efforts to comply with this requirement.

Off-Road Equipment Compliance Step-Down Schedule

Compliance Alternative	Engine Emission Standard
■ 1	■ Tier 4 Interim
■ 2	■ Tier 3
■ 3	■ Tier 2

Abbreviations:

CARB = California Air Resources Board

N/A = not applicable

Note: How to use the table: If the requirements of the above bullet cannot be met, Compliance Alternative 1 shall be met. If Compliance Alternative 1 cannot be met, then Compliance Alternative 2 would need to be met. If Compliance Alternative 2 cannot be met, then Compliance Alternative 3 would need to be met.

- The idling time for off-road and on-road equipment be limited to no more than two minutes, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment. Legible and visible signs shall be posted in multiple languages (English, Spanish, and Chinese) in designated queuing areas and at the construction site to remind operators of the two minute idling limit.
- Construction operators shall properly maintain and tune equipment in accordance with manufacturer specifications.

VTCSF EDF 26 is consistent with what the City would typically require to reduce significant construction-related exhaust emissions impacts under the standard approval process.

⁵⁶ City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning EIR*. State Clearinghouse No. 2014032007. Certified December 2014. Page 4.2-55.

- **Operation-related emissions** – Operation-related emissions would mostly occur from vehicles traveling to and from the site. The development proposed under the VTCSP exceeds the BAAQMD operational criteria pollutant screening criteria and, therefore, it is possible that the operation of the VTCSP could exceed BAAQMD thresholds of significance.

The VTCSP includes the following EDF that would reduce operation-related emissions:

EDF 18. **Transportation Demand Management Plan:** Consistent with the Plan Area’s environmental design features, require the preparation and implementation of a Transportation Demand Management (“TDM”) Plan with an overall target of reducing Specific Plan office-generated weekday peak hour trips by 30 percent below applicable Institute of Transportation Engineers trip generation rates, an unprecedented restriction on a “specific plan” area.

The VTCSP EDF 18 is consistent with what the City would typically require to reduce operation-related emissions under the standard approval process.

- **Community risk** – There is a potential for community risk impacts to nearby sensitive receptors from construction-related toxic air contaminants (TACs).

The VTCSP includes the following EDF that would reduce community risk to nearby sensitive receptors from project construction:

EDF 26. **Construction Emissions Minimization:** The Town Center/Community Park applicant and other project applicants for future development shall require in its construction specifications an Emissions Reduction Plan that requires the following:

- That all off-road equipment shall have engines that meet either U.S. EPA or California Air Resources Board (CARB) Tier 4 final off-road emission standards. If engines that comply with Tier 4 off-road emission standards are not commercially available, then the contractor shall provide the next cleanest piece of off-road equipment as provided by the step down schedules in the table below. “Commercially available” shall mean the availability of Tier 4 equipment taking into consideration factors such as: (i) critical path timing of construction; (ii) geographic proximity to the Project site of equipment; and (iii) geographic proximity of access to off haul deposit sites. The applicant(s) and contractor shall maintain records concerning its efforts to comply with this requirement.

Off-Road Equipment Compliance Step-Down Schedule

Compliance Alternative	Engine Emission Standard
■ 1	■ Tier 4 Interim
■ 2	■ Tier 3
■ 3	■ Tier 2

Abbreviations:

CARB = California Air Resources Board

N/A = not applicable

Note: How to use the table: If the requirements of the above bullet cannot be met, Compliance Alternative 1 shall be met. If Compliance Alternative 1 cannot be met, then Compliance Alternative 2 would need to be met. If Compliance Alternative 2 cannot be met, then Compliance Alternative 3 would need to be met.

- The idling time for off-road and on-road equipment be limited to no more than two minutes, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment. Legible and visible signs shall be posted in multiple languages (English, Spanish, and Chinese) in designated queuing areas and at the construction site to remind operators of the two minute idling limit.
- Construction operators shall properly maintain and tune equipment in accordance with manufacturer specifications.

VTCSF EDF 26 is consistent with the mitigation identified in the General Plan EIR⁵⁷ and with what the City would typically require to reduce significant community risk to nearby sensitive receptors under the standard approval process.

Based on BAAQMD screening tools, future residences at Vallco could be exposed to substantial community risk from existing, surrounding sources of TACs (i.e., I-280, Stevens Creek Boulevard, North Wolfe Road, and stationary sources).⁵⁸ Site-specific modeling and risk assessment are needed to confirm whether future residences at Vallco would be exposed to community risks above the BAAQMD thresholds of significance. The EA includes site-specific modeling and a risk assessment, which concludes that the community risk to future residents on-site from TAC sources is below the BAAQMD thresholds of significance. Given the time constraints for the 9212 Report, the air quality analysis and conclusions in the EA were not peer reviewed. Typically, to reduce significant community risk to future residents on-site from surrounding TAC sources, projects could be required to install air filtration for residential units that have predicted risk above BAAQMD thresholds of significance.

2.2.4.3 Biological Resources

Development of the VTCSF is subject to applicable General Plan policies to protect the City’s urban ecosystem including Policies ES-5.1 and ES-5.6 (refer to Attachment A for referenced policies). Habitats in developed, urban areas such as Vallco are extremely low in species diversity. There are no sensitive habitats or wetlands on or adjacent to Vallco. Due to the lack of sensitive habitats and the developed nature of Vallco, special-status plant and animal species are not expected to occur on-site.

The primary biological resources at Vallco are trees. There is also a potential for nesting birds to be present in trees on or adjacent to Vallco. Nesting birds are protected under provisions of the Migratory Bird Treaty Act and Fish and Game Code Sections. The development of the VTCSF may also impact migratory birds depending on the building materials used.

⁵⁷ City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning EIR*. State Clearinghouse No. 2014032007. Certified December 2014. Page 4.2-63.

⁵⁸ In December 2015, the California Supreme Court issued an opinion in *California Building Industry Association v. Bay Area Air Quality Management District* holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project’s future users or residents unless the project risks exacerbating those environmental hazards or risks that already exist. The CEQA Guidelines and the courts are clear that a CEQA document can include information of interest even if such information is not an “environmental impact” as defined by CEQA. Therefore, where applicable, effects of the environment on the project are discussed as planning considerations. Examples of planning considerations include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a high noise environment, or on/adjacent to sites involving hazardous substances.

The VTCSP includes the following EDFs that would reduce impacts to birds and trees:

27. **Building Materials:** To limit reflectivity and prevent exterior glass from attracting birds, projects shall use low-reflectivity glass to minimize bird collision. Low reflectivity glass shall be used for the entirety of a building's glass surface (not just the lower levels nearest trees where bird collisions may be the most common), and other measures shall be undertaken for avian safety.

28. **Tree Replacement:** Prior to the issuance of the first demolition permit, the Town Center/Community Park applicant and other project applicants for future development shall submit a Tree Management Plan for review and approval by the City of Cupertino. The Tree Management Plan shall be prepared in compliance with the Municipal Code sections that address retention, relocation, and replacement of trees.

29. **Nesting and Migratory Bird Surveys:** The Town Center/Community Park applicant and other project applicants for future development shall retain a qualified biologist to perform nesting bird surveys prior to tree pruning, tree removal, transplantation, ground disturbing activities, or construction activities that could affect nesting and migratory birds. Preconstruction surveys are not required for tree removal, tree pruning, and ground disturbance or construction activities outside the nesting period. All necessary vegetation clearing shall be performed prior to the nesting season, if at all possible. Vegetation can be cleared and maintained to prevent migratory bird nesting. Recommendations of the biologist shall be implemented such that no birds, nests with eggs, or nests with hatchlings are disturbed. An annual report shall be submitted to the City of Cupertino and the California Department of Fish and Wildlife (CDFW) documenting the observations and actions implemented to comply with this Environmental Design Feature.

VTCSF EDFs 27, 28, and 29 are consistent with the mitigation identified in the General Plan EIR⁵⁹ and with what the City would typically require to reduce impacts to birds and trees under the standard approval process. The City would require the preconstruction bird surveys to be completed no more than 14 days prior to initiation of demolition/construction activities (including tree removal and pruning).

The City of Cupertino, including the Vallco site, is not located within an adopted Habitat Conservation Plan or Natural Community Conservation Plan. The redevelopment of Vallco, therefore, would not be subject to fees in the Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan. The VTCSP includes the following EDF to fund mitigation for impacts from vehicle exhaust/nitrogen deposition to serpentine habitat:

30. **Nitrogen Deposition Fee:** The Town Center/Community Park applicant and other project applicants for future development shall pay a Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan Nitrogen Deposition Fee to the Implementing Entity of the Habitat Conservation Plan, the Santa Clara Valley Habitat Agency, even though the fee would not otherwise be legally applicable to the future development. The Town Center/Community Park applicant shall pay the Nitrogen Deposition Fee commensurate with the issuance of building permits within the Town Center/Community Park.

VTCSF EDF 30 exceeds what the City would require as mitigation or as a condition of approval for the development of the VTCSP under the standard approval process.

⁵⁹ City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning EIR*. State Clearinghouse No. 2014032007. Certified December 2014. Pages 4.3-12 and 4.3-13.

2.2.4.4 *Cultural Resources*

The development of the VTCSP would be subject to applicable policies and regulations including General Plan policy LU-6.3 and Municipal Code 19.104.210. The development of VTCSP could result in the cultural resources impacts discussed below.

- **Historical Resources** – The buildings on-site are less than 50 years old and are not listed or appear to be eligible for listing on the National Register or California Register. The Vallco Shopping District is designated as a City Community Landmark in the City’s General Plan.

The General Plan EIR concluded that the redevelopment of the Vallco site would not result in significant impacts to historic resources, if redevelopment is consistent with General Plan Policy LU-6.3.⁶⁰ The VTCSP would be consistent with General Plan Policy LU-6.3 by providing a plaque, reader board and/or other educational tools on the site to explain the historic significance of the resource. The plaque shall include the city seal, name of resource, date it was built, a written description, and photograph. The plaque shall be placed in a location where the public can view the information.

- **Paleontological Resources and Unique Geologic Features** – Paleontological resources are fossils, the remains or traces of prehistoric life preserved in the geologic record. They range from the well-known and well-publicized (such as mammoth and dinosaur bones) to scientifically important fossils. Most of the City of Cupertino, including the Vallco area, is on recent alluvium deposits of Holocene (11,700 years ago to present). Holocene deposits are too recent to contain fossils.⁶¹ There are no recorded paleontological resources in the Vallco area.

The project site is located in an urban, developed, infill area. No unique geologic features such as serpentine outcrops and boulders, pinnacles, or Tafoni sandstone are located on-site.

The VTCSP includes the following EDF to reduce impacts to paleontological resources, if found on-site during construction:

33. **Paleontological monitor:** The Town Center/Community Park applicant and other project applicants for future development shall retain a paleontological monitor to respond on an as-needed basis to address unanticipated paleontological discoveries. In the event that paleontological resources are encountered during grading and construction operations, all construction activities shall be temporarily halted or redirected to permit a qualified paleontologist to assess the find for significance. If paleontological resources are found to be significant, the paleontological monitor shall determine appropriate actions, in coordination with a qualified paleontologist, City staff, and the project applicant(s).

VTCSP EDF 33 is consistent with what the City would typically require to reduce impacts to paleontological resources (if discovered on-site) under the standard approval process.

⁶⁰ City of Cupertino. *General Plan Amendment, Housing Element Update, and Associated Rezoning EIR*. State Clearinghouse No. 2014032007. Certified December 2014. Pages 4.4-17 and 4.4-18.

⁶¹ *Ibid*, page 4.4-16.

- **Archaeological Resources** – An archaeological literature review was completed by *Holman & Associates* at the Northwest Information Center in August 2015. A copy of the report is on file at the City. The archaeological site maps reviewed revealed almost no recorded archaeological resources within a one-mile radius of the Vallco site. The most archaeologically sensitive feature in the area, Calabazas Creek, was systematically surveyed in 1974 with negative findings. Research completed for the Apple Campus 2 in the area did not identify any archaeological resources.⁶² In addition, no cultural resources were found during a recent survey of the KCR Development property within the Vallco area.⁶³ Given the developed nature of Vallco (i.e., most of the site is covered with buildings, pavement, and landscaping), visual inspection of native soils is not possible. Overall, the general vicinity of the Vallco area has a low to, at most, moderate potential for containing archaeological resources.

The VTCSP includes the following EDF that would minimize impacts to archaeological resources, if discovered on-site during construction:

32. **Archaeological monitor:** The Town Center/ Community Park applicant and other project applicants for future development shall retain an archaeological monitor to inspect the ground surface at the completion of demolition activities as they occur to search for archaeological site indicators. If archaeological resources are found to be significant, the archaeological monitor shall determine appropriate actions, in coordination with a qualified archaeologist, City staff, and the project applicant(s).

VTCSP EDF 32 is consistent with what the City would typically require to reduce impacts to unknown buried archaeological resources (if present on-site) under the standard approval process.

2.2.4.5 *Geology and Soils*

Vallco is located in an area that is considered to have relatively low levels of geologic hazard risk, although all of the San Francisco Bay Area is seismically active.⁶⁴ Vallco is not located within an Alquist-Priolo Earthquake Fault Zone. Like all of the San Francisco Bay Area, however, Vallco is located in a seismically active area and subject to strong ground shaking in the event of an earthquake. Based on preliminary analysis, the site has a low liquefaction potential and on-site soils may be potentially expansive.

The VTCSP includes the following EDFs to reduce impacts from geology and soils:

34. **Geotechnical Report Recommendations:** Prior to the issuance of grading permits or improvements plans, the Town Center/Community Park applicant and other project applicants for future development shall demonstrate to the satisfaction of the Director of Public Works that all earthwork operations, including site preparation, and the selection, placement, and compaction of fill materials have incorporated the recommendations and the project specifications set forth in the Geotechnical Investigation (TRC, 2015) to ensure the safety of people and structures.

⁶² Holman & Associates. *Archaeological Literature Review for the Proposed Vallco Project, Cupertino, Santa Clara County, California*. September 4, 2015.

⁶³ Ibid.

⁶⁴ City of Cupertino. *Community Vision 2015-2040*. October 2015. Table HS-1 and Figure HS-5.

35. **Site-Specific Geotechnical Reports:** Prior to the issuance of grading permits or improvements plans, the Town Center/Community Park applicant shall be required to prepare and submit site-specific Geotechnical Reports that would be reviewed and approved by the City of Cupertino. All earthwork operations, including site preparation, and the selection, placement, and compaction of fill materials shall incorporate the recommendations and the project specifications set forth in the site-specific Geotechnical Report to ensure the safety of people and structures.

VTCSF EDFs 34 and 35 are consistent with what the City would typically require to reduce adverse geology and soils effects, as well as ensure structurally sound development, under the standard approval process.⁶⁵

2.2.4.6 Greenhouse Gas Emissions

Development of the VTCSF is subject to applicable General Plan policies to ensure a sustainable future including Policy ES-1.1 (refer to Attachment A for referenced policies). The City of Cupertino Climate Action Plan (CAP) quantifies the City’s share of statewide greenhouse gas emissions and establishes action steps towards achieving a local emissions reduction target. Pursuant to the BAAQMD CEQA Air Quality Guidelines, development (other than stationary sources) consistent with the adopted CAP is considered to have a less than significant greenhouse gas impact.

The CAP is based on the population and development assumptions in the General Plan EIR. The General Plan EIR analyzed more intense development and greater buildout of the City than ultimately approved by the City Council. In other words, the General Plan EIR and adopted CAP assume greater population and development than would occur under the buildout of the General Plan (with or without the Initiative).⁶⁶

According to the CAP, if there is a lesser buildout scenario than what was analyzed in the General Plan EIR, the resulting emissions would be lower than was assumed in the CAP and fewer reduction measures would be required to achieve the City’s emissions targets.⁶⁷ The development of the VTCSF would be required to be consistent with the City’s CAP.

Based on preliminary review, it appears that development of the VTCSF (excluding stationary sources) would be consistent with the City’s CAP, because it would be required to comply with existing plans, policies, and regulations (including the City’s Construction and Demolition Recycling Diversion Requirements) and includes EDFs consistent with the CAP’s goals and measures for reducing energy use, promoting alternative transportation, conserving water, reducing solid waste, expanding green infrastructure. Applicable EDFs include the following:

- 1. **Green Roof & Community Park;**
- 3. **Sustainability Leadership/Recycled Water;**

⁶⁵ See footnote 56.

⁶⁶ The development assumptions in the General Plan EIR and the level of development approved in the adopted General Plan are summarized below.

Land Use	General Plan EIR	Adopted General Plan (with or without Initiative)
Residential (units)	25,833	23,294
Commercial (square feet)	4,975,744	4,430,982
Office (square feet)	12,956,410	11,470,005
Hotel (rooms)	2,455	1,429

⁶⁷ City of Cupertino. *City of Cupertino Climate Action Plan*. January 2015. Page ES-8.

18. **Transportation Demand Management Plan;**
19. **Free Community Shuttle;**
20. **Bike-Pedestrian Trails Funding;**
21. **Bike-Pedestrian Improvements;**
26. **Construction Emissions Minimization;**
47. **Transit/East Side Transit Center & Community Shuttle; and**
48. **Transit/Mobility Hub.**

The VTCSP includes a central plant (a stationary source), which would provide heating, ventilation, and air conditioning for most buildings. The central plant would consist of a condenser water system, cooling towers, and boilers. It is possible that operation of the central plant produce greenhouse gas emissions that would exceed the BAAQMD greenhouse gas threshold of significance for stationary sources. The VTCSP includes the following EDF to reduce greenhouse gas emission impacts from the central plant:

36. **Central Plant Boilers Carbon Offsets:** Prior to completion and operation of any Central Plant Boilers with emissions above 10,000 MT CO₂e/yr., the Town Center/Community Park applicant and other project applicants for future development shall enter into one or more contracts to purchase voluntary carbon credits from a qualified greenhouse gas emissions broker in an amount sufficient to offset the operational emissions above 10,000 MT CO₂e/yr., on a net present value basis in light of the fact that the applicant shall acquire such credits in advance of any creation of the emissions subject to the offset. Pursuant to CARB's Mandatory Reporting Requirements, applicant(s) shall register the Central Plant Boilers in the Mandatory Greenhouse Gas Emissions Reporting Program. The applicant(s) shall provide copies of carbon purchase contracts to CARB during registration.

VTCSP EDF 36 is consistent with what the City would typically require to mitigate greenhouse gas emissions from stationary sources under the standard approval process. The City would likely first require any feasible on-site modifications to the stationary source to reduce greenhouse gas emissions. If the greenhouse gas emissions from the stationary source could not be reduced below the BAAQMD threshold of significance, the City would likely require carbon credits (such as those identified in EDF 36) be purchased and that the credits be locally sourced (i.e., within the City of Cupertino, County of Santa Clara, or same air basin).

2.2.4.7 Hazards and Hazardous Materials

Development of the VTCSP would be subject to applicable plans, policies, and regulations pertaining to the use, handling, storage, and disposal of hazards and hazardous materials including General Plan Policies HS-6.1 and HS-6.2 (refer to Attachment A for referenced policies). Hazards and hazardous materials planning considerations are discussed below.⁶⁸

- **Potential sources of on-site contamination** – The Vallco site was historically used for agricultural purposes, and has been developed and operating as a shopping mall since at least 1979. The site is listed on regulatory agency databases as having leaking underground storage tanks (LUSTs), removing and disposing of asbestos containing materials (ACMs), and a small quantity generator of hazardous materials waste. Surface soils may contain elevated levels of residual pesticides and other chemicals of concern related to past and present use and operations at the site.

⁶⁸ See footnote 56.

The VTCSP includes the following EDF that would reduce adverse effects from possible on-site soil contamination:

39. **Soil Management Plan:** A Soil Management Plan for all redevelopment activities shall be prepared by applicant(s) for future development to ensure that excavated soils are sampled and properly handled/disposed, and that imported fill materials are screened/analyzed before their use on the property.

VTCSP EDF 39 is consistent with mitigation identified in the General Plan EIR⁶⁹ and with what the City would typically require to reduce impacts from on-site soil contamination under the standard approval process. The City's requirements would likely be more explicit about the sampling standards and guidance to be followed and what contaminants should be tested for when exporting or reusing soils, however. The City would likely identify what topic areas would be included in the Soil Management Plan, such as site control procedures, measures to minimize dust generation, protocols for earthwork activities, worker training requirements, stockpiling protocols for clean and impacted soils, and other measures. It is possible that the City would also require an environmental professional monitor excavation activities near potential areas of contamination (e.g., former USTs).

- **Building demolition waste** – The demolition of buildings and existing improvements would generate waste that could include hazardous materials, including lead-based paint and ACMs.

The VTCSP includes the following EDF to reduce adverse effects from building demolition waste:

38. **Renovation or Demolition of Existing Structures:** Before conducting renovation or demolition activities that might disturb potential asbestos, light fixtures, or painted surfaces, the Town Center/Community Park applicant shall ensure that it complies with the Operations and Maintenance Plan for management and abatement of asbestos-containing materials, proper handling and disposal of fluorescent and mercury vapor light fixtures, and with all applicable requirements regarding lead-based paint.

VTCSP EDF 38 is consistent with what the City and regulatory agencies would typically require under the standard approval process. The City would likely clarify that asbestos surveys be completed for existing buildings to be demolished and require the removal of potentially friable ACMs prior to building demolition or renovation that may disturb these materials.

- **Proposed use of hazardous materials** – Development of the VTCSP could include uses that generate, store, use, distribute, or dispose of hazardous materials such as petroleum products, oils, solvents, paint, household chemicals, and pesticides. The VTCSP includes the following EDF to reduce adverse effects from on-site use of hazardous materials:

37. **Hazardous Materials Business Plan:** In accordance with State Code, facilities that store, handle or use regulated substances as defined in the California Health and Safety Code Section 25534(b) in excess of threshold quantities shall prepare and implement, as necessary, Hazardous Materials Business Plans (HMBP) for determination of risks to the community. The HMBP will

⁶⁹ City of Cupertino. *General Plan Amendment, Housing Element Update, and Associated Rezoning EIR*. State Clearinghouse No. 2014032007. Certified December 2014. Pages 4.7-23 and 4.7-24

be reviewed and approved by the Santa Clara County Department of Environmental Health Hazardous Materials Compliance Division through the Certified Unified Program Agencies (CUPA) process.

VTCSF EDF 37 is consistent with what the County of Santa Clara, as the Certified Unified Program Agency by the State, would typically require under the standard approval process.

2.2.4.8 *Noise*

The development of the VTCSF would be subject to applicable noise policies and regulations including those in the General Plan (including Policies HS-8.1, HS-8.2, HS-8.3, and HS-8.4), Municipal Code, and Zoning Ordinance. The development of the VTCSF could result in the noise and vibration impacts discussed below.

- **Construction-related noise** – Noise generated from construction activities associated with the development of the VTCSF would likely result in significant, temporary noise impacts at adjacent residences. The VTCSF includes the following EDFs that would reduce construction-related noise impacts:

40. **On-Site Construction Noise:** The Town Center/Community Park applicant and other project applicants for future development shall be required to adhere to the construction noise limits of the Cupertino Municipal Code. The following items would further reduce the potential for high levels of noise from construction equipment or activities, and ensure that noise complaints are addressed promptly and if necessary, corrective action is taken:

- Along the western boundary of the Town Center/Community Park and Block 14, near the existing residential district, prepare and implement a 24-hour construction noise monitoring program to be installed and operated remotely. The noise monitoring program would continuously monitor construction noise levels at select perimeter locations and alert a designated person(s) when noise levels exceed allowable limits. If noise levels are found to exceed allowable limits, additional noise attenuation measures (i.e., sound walls) will be undertaken.
- Require that all equipment be fitted with properly sized mufflers, and if necessary, engine intake silencers.
- Require that all equipment be in good working order.
- Use quieter construction equipment models if available, and whenever possible, use pneumatic tools rather than using diesel or gas-powered tools.
- Place portable stationary equipment as far as possible from existing residential areas, and if necessary, place temporary barriers around stationary equipment.
- Whenever possible, require that construction contractors lift heavy equipment rather than drag.
- For mobile equipment that routinely operates near residential area (i.e., within approximately 200 feet), consider placement of typical fixed pure-tone backup alarms with ambient-sensing and/or broadband backup alarms.
- Assign a noise control officer to ensure that the above requirements are being implemented.
- Implement a noise complaint hotline and post the hotline phone number on nearby visible signs and online. Require that either the noise control officer or a designated person be available at all times to answer hotline calls and ensure that follow-up and/or corrective action is taken, if necessary.

14. **Prompt Demolition:** To ensure swift completion of the remainder of the Plan Area, a commitment to demolish 100% of the remaining existing Mall improvements within 6 months of receiving a certificate of occupancy for the afore-described initial retail component, subject to existing leases and an appropriate temporary improvement plan for demolished areas.

VTCSF EDFs 40 and 14 are consistent with what the City would typically require to reduce construction-related noise impacts under the standard approval process.

The construction-related truck trips could also result in significant noise increases at sensitive receptors in the area. The VTCSF includes the following EDF that would reduce construction truck noise:

41. **Haul Traffic Noise:** To reduce haul traffic noise, contractors for developments pursuant to the Specific Plan shall require that haul trucks travel at low speeds (e.g., 10 mph) when operating on or adjacent to the Plan Area. The Town Center/Community Park applicant and other project applicants for future development shall ensure that this requirement is included in the construction specifications. In addition, the construction contractor shall ensure that haul trucks be fitted with properly sized and functioning exhaust mufflers.

VTCSF EDF 41 is consistent with what the City would typically require to reduce construction-related truck traffic noise under the standard approval process.

- **Construction-related vibration** – Vibration from construction-related activities could result in significant impacts at adjacent sensitive receptors. Given the fact that the adjacent residences are not historic resources, the identified minimum building setback of 35 feet from the property line with adjacent residences (thereby setting back building construction activity and sources of vibration from adjacent residences), and pile driving is not proposed, it is unlikely that the development of the VTCSF would result in significant construction-related vibration impacts.
- **Operation-related noise** – Operation of the uses at Vallco under the VTCSF could result in significant noise increases at adjacent sensitive receptors. To mitigate operation-related noise impacts at adjacent sensitive receptors, the City requires compliance with the noise standards in the Municipal Code, and could require measures that limit or attenuate noise such as sound barriers, limitations on hours of operations, and orientation of stages and speakers away from sensitive receptors.

Operation of the VTCSF would result in an increase in traffic to and from the site, which could increase noise levels at adjacent sensitive receptors. On Stevens Creek Boulevard and North Wolfe Road in the Vallco vicinity, the existing daily trips are 30,000 and 34,000 respectively. In general, for traffic noise to increase noticeably (i.e., by a minimum of three dBA), existing traffic volumes must double. The development of the VTCSF is estimated to generate approximately 30,365 average daily trips;⁷⁰ therefore, the development of the VTCSF would not result in significant noise increases from project-generated traffic.

⁷⁰ Fehr & Peers. *Memorandum Review of the Vallco Town Center Plan Environmental Assessment, Cupertino, California*. June 13, 2016. Page 7.

- **Other noise effects**⁷¹

The noise and land use compatibility of the proposed uses in the VTCSP with the existing ambient noise environment could also be an issue. Exterior and interior noise levels at future uses at Vallco under the VTCSP would exceed the City's noise standards in the General Plan and Municipal Code.

The VTCSP includes the following EDF to meet the State and City interior noise standard at future residences on-site:

42. **Acoustical Assessment:** Prior to completion of detailed design for dwelling units, the Town Center/Community Park applicant and other project applicants for future development shall prepare an acoustical assessment to demonstrate how interior sound levels would achieve interior sound levels at or below 45 dBA CNEL. The following development standards shall be included in the acoustical assessments:

- Install HVAC systems for all residential units to ensure that windows and doors can remain closed during warm weather;
- Install double-glazed windows, especially on sides of buildings that are adjacent to busy roadways;
- Ensure that all windows and doors are properly sealed; and
- Ensure that exterior wall building materials are of an adequately rated Sound Transmission Class.

VTCSP EDF 42 is consistent with what the City would typically require of proposed residential projects to meet interior noise standards under the standard approval process.

There could also be noise compatibility issues between proposed uses on-site. The interfaces between different uses would typically be evaluated by the City when specific development projects are proposed. Noise attenuation measures (such as enclosing trash compactors and loading docks, limiting cleaning activities in parking lots/garages, and limiting commercial deliveries) could be required.

⁷¹ See footnote 56.

Table 4: Summary of VTCSP EDF Consistency with City’s Typical Mitigation or Conditions of Approval

Environmental Resource	Compared to the City’s typical mitigation or conditions of approval, the VTCSP EDF(s) are:		
	In Excess	Consistent	Inconsistent
Infrastructure			
<ul style="list-style-type: none"> • Transportation <ul style="list-style-type: none"> - Intersection Level of Service - Freeway Level of Service - Transit Facilities - Bicycle and Pedestrian Facilities - Parking* - Neighborhood Intrusion - Safety Hazards and Accessibility - Construction-Related 		X X X X X X	X X
• School Services	X		
• Parks/Open Space	X		
Other Public Services			
• Police Services	X		
• Fire Services	X		
• Library Services	X		
Utilities and Service Systems			
• Wastewater Treatment/ Sanitary Sewer System		X	
• Water		X	
• Energy	X		
Other Environmental Issues			
• Aesthetics/Community Form		X	
• Air Quality		X	
<ul style="list-style-type: none"> • Biological Resources <ul style="list-style-type: none"> - Birds and Trees - Nitrogen Deposition 	X	X	
• Cultural Resources		X	
• Geology and Soils		X	
• Greenhouse Gas Emissions		X	
• Hazards and Hazardous Materials		X	
• Noise		X	

Notes: * The consistency of the parking for the Specific Plan is based on the number of parking spaces identified in the Specific Plan, rather than an EDF. No EDF was identified for parking.

Refer to the body of the report for the complete discussion of the VTCSP EDFs consistency with the City’s typical mitigation or conditions of approval.

SECTION 3.0 REFERENCES

Bay Area Air Quality Management District. *California Environmental Quality Act Air Quality Guidelines*. May 2011.

City of Cupertino. *City of Cupertino Climate Action Plan*. January 2015. Page ES-8.

---. *Community Vision 2015-2040*. October 2015.

---. *General Plan Amendment, Housing Element Update and Associated Rezoning EIR*. State Clearinghouse No. 2014032007. Certified December 2014.

---. *General Plan Amendment, Housing Element Update and Associated Rezoning EIR Final Addendum*. Adopted October 2015.

City of Sunnyvale. *CEQA Addendum to the Mitigated Negative Declaration for the Wolfe Road Recycled Water Project*. Adopted September 24, 2013.

Cupertino Sanitary District. *District Response to your letter dated November 10, 2015*. December 8, 2015.

---. Letter RE: Questions regarding Cupertino Sanitary District Services relative to Vallco Development. Received November 19, 2015.

Fehr & Peers. *Memorandum Review of the Vallco Town Center Plan Environmental Assessment, Cupertino, California*. June 23, 2016.

HydroScience. *City of Sunnyvale Feasibility Study for Recycled Water Expansion Report*. June 2013.

Kimley Horn. *Vallco Town Center Specific Plan Environmental Assessment*. April 2016.

King, Rick. Personal communications with NISL General Manager. February 2012.

Recycled Water Supply and Distribution Agreement Between City of Sunnyvale and Santa Clara Valley Water District. SCVWD Board meeting March 24, 2015 authorized SCVWD CEQ to execute agreement.

Schoolhouse Services. *Enrollment and Fiscal Impact Analysis for The Hills at Vallco*. February 2016.

---. *School Enrollment and Fiscal Impact Analysis General Plan Amendment Alternatives*. June 2014.

Yarne & Associates, Inc. *Vallco Shopping District Specific Plan and The Hills at Vallco Project SB610 Water Supply Assessment Cupertino, California*. March 1, 2016.

ATTACHMENT A: REFERENCED GENERAL PLAN POLICIES

<u>Policies</u>	<u>Description</u>
ES-1.1	Incorporate the principles of sustainability into Cupertino's planning, infrastructure and development process in order to improve the environment, reduce greenhouse gas emissions and meet the needs of the community without compromising the needs of future generations.
ES-2.1	Encourage the maximum feasible conservation and efficient use of electrical power and natural gas resources for new and existing residences, businesses, industrial and public uses.
ES-3.1	Set standards for the design and construction of energy and resource conserving/efficient building.
ES-4.1	Minimize the air quality impacts of new development projects and air quality impacts that affect new development.
ES-4.3	Discourage high pollution fireplace use.
ES-5.1	Manage the public and private development to ensure the protection and enhancement of its urban ecosystem.
ES-5.6	Provide open space linkages within and between properties for both recreational and wildlife activities, most specifically for the benefit of wildlife that is threatened, endangered or designated as species of special concern.
HS-3.2	Involve the Fire Department in the early design stage of all projects requiring public review to assure Fire Department input and modifications as needed.
HS-3.4	Discourage the use of private residential electronic security gates that act as a barrier to emergency personnel.
HS-3.7	Ensure that adequate fire protection is built into the design of multi-story buildings and require on-site fire suppression materials and equipment.
HS-4.2	Consider appropriate design techniques to reduce crime and vandalism when designing public spaces and reviewing development proposals.
HS-4.3	Recognize fiscal impacts to the County Sheriff and City of Cupertino when approving various land use mixes.
HS-6.1	Require the proper storage and disposal of hazardous materials to prevent leakage, potential explosions, fire or the release of harmful fumes. Maintain information channels to the residential and business communities about the illegality and danger of dumping hazardous material and waste in the storm drain system or in creeks.
HS-6.2	Assess future residents' exposure to hazardous materials when new residential development or childcare facilities are proposed in existing industrial and manufacturing areas. Do not allow residential development or childcare facilities if such hazardous conditions cannot be mitigated to an acceptable level of risk.
HS-8.1	Use the Land Use Compatibility for Community Noise Environments chart, the Future Noise Contour Map (see Figure D-1 in Appendix D) and the City Municipal Code to evaluate land use decisions.
HS-8.2	Minimize noise impacts through appropriate building and site design.
HS-8.3	Regulate construction and maintenance activities. Establish and enforce reasonable allowable periods of the day, during weekdays, weekends and holidays for construction activities. Require construction contractors to use the best available technology to minimize excessive noise and vibration from construction equipment such as pile drivers, jack hammers, and vibratory rollers.

<u>Policies</u>	<u>Description</u>
HS-8.4	Ensure that roads and development along Highway 85 and Interstate 280 are designed and improved in a way that minimizes neighborhood noise.
INF-7.2	Ensure that public and private developments build new and on-site facilities and/or retrofit existing on-site facilities to meet the City's waste diversion requirements.
INF-7.3	Encourage public agencies and private property owners to design their operations to meet, and even, exceed regulatory waste diversion requirements.
INF-8.1	Meet or exceed Federal, State and regional requirements for solid waste diversion through implementation of programs.
LU-19.1	Create a Vallco Shopping District Specific Plan prior to any development on the site that lays out the land uses, design standards and guidelines, and infrastructure improvements required.
LU-6.3	Projects on Historic Sites, Commemorative Sites and Community Landmarks shall provide a plaque, reader board and/or other educational tools on the site to explain the historic significance of the resource. The plaque shall include the city seal, name of resource, date it was built, a written description and photograph. The plaque shall be placed in a location where the public can view the information.
M-1.2	Participate in the development of new multi-modal analysis methods and impact thresholds as required by Senate Bill 743. However, until such impact thresholds are developed, continue to optimize mobility for all modes of transportation while striving to maintain the following intersection Levels of Service (LOS) at a.m. and p.m. peak traffic hours: <ul style="list-style-type: none"> • Major intersections: LOS D; • Stevens Creek Boulevard and De Anza Boulevard: LOS E+; • Stevens Creek Boulevard and Stelling Road: LOS E+ • De Anza Boulevard and Bollinger Road: LOS E+
M-1.3	Continue to plan and provide for a comprehensive system of trails and pathways consistent with regional systems, including the Bay Trail, Stevens Creek Corridor and Ridge Trail.
M-2.1	Adopt and maintain street design standards to optimize mobility for all transportation modes including automobiles, walking, bicycling and transit.
M-2.2	Design roadway alignments, lane widths, medians, parking and bicycle lanes, crosswalks and sidewalks to complement adjacent land uses in keeping with the vision of the Planning Area. Strive to minimize adverse impacts and expand alternative transportation options for all Planning Areas (Special Areas and Neighborhoods). Improvement standards shall also consider the urban, suburban and rural environments found within the city.
M-2.3	Promote pedestrian and bicycle improvements that improve connectivity between planning areas, neighborhoods and services, and foster a sense of community.
M-2.4	Reduce traffic impacts and support alternative modes of transportation rather than constructing barriers to mobility. Do not close streets unless there is a demonstrated safety or over-whelming through traffic problem and there are no acceptable alternatives since street closures move the problem from one street to another.
M-2.5	Ensure all new public and private streets are publicly accessible to improve walkability and reduce impacts on existing streets.
M-2.6	Consider the implementation of best practices on streets to reduce speeds and make them user-friendly for alternative modes of transportation, including pedestrians and bicyclists.
M-3.2	Require new development and redevelopment to increase connectivity through direct and safe pedestrian connections to public amenities, neighborhoods, shopping and employment destinations throughout the city.

<u>Policies</u>	<u>Description</u>
M-3.3	Enhance pedestrian and bicycle crossings and pathways at key locations across physical barriers such as creeks, highways and road barriers.
M-3.4	Preserve and enhance citywide pedestrian and bike connectivity by limiting street widening purely for automobiles as a means of improving traffic flow.
M-3.5	Minimize the number and the width of driveway openings.
M-3.6	Require parking lots to include clearly defined paths for pedestrians to provide a safe path to building entrances.
M-3.8	Require new development and redevelopment to provide public and private bicycle parking.
M-4.4	Work with VTA and/or major developments to ensure all new development projects include amenities to support public transit including bus stop shelters, space for transit vehicles as appropriate and attractive amenities such as trash receptacles, signage, seating and lighting.
M-4.7	Vallco Shopping District Transfer Station - Work with VTA and/or other transportation service organizations to study and develop a transit transfer station that incorporates a hub for alternative transportation services such as, car sharing, bike sharing and/or other services.
M-5.1	Promote Safe Routes to Schools programs for all schools serving the city.
M-5.2	Ensure that bicycle and pedestrian safety improvements include projects to enhance safe accessibility to schools.
M-7.1	Follow guidelines set by the VTA related to transportation impact analyses, while conforming to State goals for multi-modal performance targets.
M-8.3	Employ Transportation Systems Management strategies to improve efficiency of the transportation infrastructure including strategic right-of-way improvements, intelligent transportation systems and optimization of signal timing to coordinate traffic flow.
M-8.4	Require large employers, including colleges and schools, to develop and maintain TDM programs to reduce vehicle trips generated by their employees and students and develop a tracking method to monitor results.
M-8.5	Encourage new commercial developments to provide shared office facilities, cafeterias, daycare facilities, lunchrooms, showers, bicycle parking, home offices, shuttle buses to transit facilities and other amenities that encourage the use of transit, bicycling or walking as commute modes to work. Provide pedestrian pathways and orient buildings to the street to encourage pedestrian activity.
M-9.2	Promote effective TDM programs for existing and new development.
M-10.1	Develop and implement an updated citywide transportation improvement plan necessary to accommodate vehicular, pedestrian and bicycle transportation improvements to meet the City's needs.
RPC-2.4	Ensure that each home is within a half-mile walk of a neighborhood park or community park with neighborhood facilities; ensure that walking and biking routes are reasonably free of physical barriers, including streets with heavy traffic; provide pedestrian links between parks, wherever possible; and provide adequate directional and site signage to identify public parks.
RPC-2.5	Provide parks and recreational facilities for a variety of recreational activities.

ATTACHMENT B: TRANSPORTATION MEMO



MEMORANDUM

Date: June 28, 2016
To: Kristy Weis, David J. Powers & Associates
From: Franziska Church, Fehr & Peers
Subject: Review of the Vallco Town Center Specific Plan Environmental Assessment, Cupertino, California

SJ15-1574

The purpose of this memorandum is to present the results of a review of the Transportation and Circulation section of the *Vallco Town Center Specific Plan Environmental Assessment* (April 2016) (EA) prepared by Kimley-Horn. The EA was submitted to the City in April 2016 by Steve Lynch, a representative of Sandhill Property Company. The EA states that it “discloses the potential environmental effects associated with implementation of the Vallco Town Center Specific Plan, and related amendments to the City of Cupertino General Plan, *Community Vision 2015–2040* (General Plan) and the Cupertino Municipal Code, as provided for in the ballot measure to be submitted to the voters, The Vallco Town Center Specific Plan Initiative (Initiative).” (EA, pp. 1-1 and 2-1.)

As part of this review, the results of the EA were compared to the initial results and mitigation measures in the preliminary transportation assessment (PTA) prepared by Fehr & Peers as part preparing an environmental impact report (EIR) for the proposed The Hills at Vallco project. Fehr & Peers is the City’s transportation consultant for the Vallco Shopping District Specific Plan, also known as The Hills at Vallco, planning process. By letter dated December 21, 2015, Applicant requested that the City and its consultants cease work on the Environmental Impact Report in light of the filing of the Cupertino Citizens’ Sensible Growth Initiative (Citizens’ Initiative). At the request of the applicant, information prepared by the City’s consultants, prior to the time that the City and its consultant were asked to stop work on the EIR for the Hills at Vallco project, was released to the applicant’s consultant, Kimley-Horn.



FINDINGS

The findings of the review are:

- The daily and PM peak hour traffic estimates for the Project in the EA are lower than the estimates in the PTA
 - Daily estimates are 14,000 lower and PM peak hour estimates are 850 lower (AM peak hour vehicle trips estimates are 200 higher)
 - EA assumed a higher mall occupancy resulting in fewer net-added trips
- The EA did not include an analysis of intersection operations under Existing with Project Conditions
 - PTA identified 2 significant intersection impacts
- Fewer significant Project intersection impacts are identified in the EA under Background with Project Conditions
 - PTA identified 8 significant intersection impacts and EA identified 4
- Fewer significant Cumulative intersection impacts are identified in the EA
 - PTA identified 15 significant intersection impacts and EA identified 5
- Most EA mitigation measures for intersection impacts comprise modifications to signal operations that are not acceptable to the City
- The EA identified more freeway segments with significant Project impacts
 - Impacts to freeway segments are significant and unavoidable
 - In lieu of physical mitigation measures the City allows project applicants to make voluntary contributions to the VTA
- The EA does not adequately evaluate transit, pedestrian, and bicycle impacts
- The vehicle and bicycle parking estimates in the EA are low and do not meet City requirements



PROJECT BACKGROUND

In 2015, Fehr & Peers commenced work on a Transportation Impact Analysis (TIA) for the "Vallco Shopping District Specific Plan" for inclusion in the Environmental Impact Report (EIR) being prepared by the City of Cupertino. Following the filing of the Citizens' Initiative, Fehr & Peers' work was put on hold at the request of the applicant and the technical analysis was not completed. Subsequently, in March 2016, "The Vallco Town Center Specific Plan Initiative" (VTCSPI Initiative) was filed. Thereafter, the proponents of the VTCSPI Initiative submitted the *Vallco Town Center Specific Plan Environmental Assessment* (Kimley-Horn, April 2016), to the City to disclose the potential environmental effects of the VTCSPI. The EA includes a Transportation and Circulation chapter with a detailed evaluation of the potential effects of the VTCSPI Initiative, which includes the Specific Plan and related General Plan and Municipal Code amendments, on the transportation system. This technical memorandum compares the results presented in the EA's Transportation and Circulation chapter to the preliminary technical assessment (PTA) prepared by Fehr & Peers as part of the initial CEQA process.

PTA WORK COMPLETED TO DATE

Fehr & Peers began work on the TIA for the Vallco Shopping District Specific Plan in Spring 2015. Intersection turning movement and driveway counts were conducted in May 2015 to establish the existing setting. Coordination with City staff continued throughout the next few months with an approximate due date for the Administrative Draft of the TIA of late-December 2015/early-January 2016.

On December 22, 2015, the City and its consultants, including Fehr & Peers, stopped work on the EIR at the request of the applicant. Draft results of following items were prepared, but internal reviews for final delivery had not been conducted:

- Existing Conditions
 - Intersection level of service analysis
 - Freeway level of service analysis
 - Transit service figure and description
 - Bicycle and pedestrian facilities figure and description
 - Field observations
- Project Trip Generation, Distribution and Assignment
 - Weekday daily, morning peak hour, and evening peak hour trip generation
 - Saturday peak hour trip generation
 - Trip distribution pattern



- Trip assignment
- Existing with Project Conditions
 - Intersection level of service analysis
 - Freeway level of service analysis
- Background and Background with Project Conditions
 - Intersection level of service analysis
- Cumulative and Cumulative with Project Conditions
 - Intersection level of service analysis
 - Freeway level of service analysis
- Identification of Transportation Facility Impacts and Mitigation Measures
- Parking Analysis (including bicycle parking)

PROJECT DESCRIPTION

The approximately 58-acre Vallco District Specific Plan area is centered at the intersection of Wolfe Road and Vallco Parkway in Cupertino, California. The project site is generally bounded by I-280 to the north, Perimeter Road to the east and west, and Stevens Creek Boulevard to the south.

A comparison of the land uses assumed under the EA and the PTA is presented in **Table 1**. Overall, the land uses assumed in the EA and PTA are very similar. Any differences are relatively minor, and do not substantially affect the comparison of the results for the EA and the PTA.



TABLE 1: VALLCO TOWN CENTER SPECIFIC PLAN LAND USES

Land Use	Unit	Amount under EA	Amount under PTA	Difference
<i>Vallco Town Center / Community Park</i>				
Office	1,000 sq. ft.	2,000	2,000	0
Retail/Local Fitness Use-Gym ¹	1,000 sq. ft.	640	650	-10
Apartment ²	Dwelling units	760	760	0
Senior Adult Housing ²	Dwelling units	40	40	0
Banquet Hall	1,000 sq. ft.	15	20	-5
High School Innovation Center	Students	100	100	0
Civic Meeting Space	1,000 sq. ft.	5	5	0
Office Event Center	1,000 sq. ft.	20	20	0
Office Cafeteria/Fitness	1,000 sq. ft.	20	15	+5
Additional Office Amenities	1,000 sq. ft.	135	135	0
Loading Facilities and Security Areas	1,000 sq. ft.	75	75	0
Industrial Testing and Workshop	1,000 sq. ft.	175	175	0
Central Plant	1,000 sq. ft.	45	35	-10
Rooftop Garden	Acres	30	30	0
<i>Remaining Vallco Shopping District (Block 14)</i>				
Hotel	Rooms	191	191	0
Retail	1,000 sq. ft.	0	10	-10

Notes:

1. Local Fitness Use-Gym is assumed to be approximately 50,000 square feet under the PTA (the size of the fitness us-gym is not specified the EA).
2. According to the Specific Plan Description in the EA, 160 units of the total 800 residential units would be senior apartments pursuant to state and federal law. However, both the transportation section of the EA and the PTA evaluated 40 units of the 800 total residential units as senior housing. This results in a more conservative trip generation estimate as apartments have a higher trip rate compared to senior housing.

Source: *Vallco Town Center Specific Plan Environmental Assessment*, Kimley-Horn, 2016; Fehr & Peers, 2016.



STUDY LOCATIONS

The study intersection locations presented in the EA are the same study intersections that would have been evaluated by the City in the EIR with the exception of the Wolfe Road and I-280 ramp intersections. Given the on-going Wolfe Road / I-280 interchange analysis that is being undertaken by the City of Cupertino, the Santa Clara Valley Transportation Authority (VTA),¹ and Caltrans, the EA deferred analysis of these two intersections whereas the City was intending to analyze them in the EIR. The EIR analysis would have included a detailed traffic simulation analysis (using VISSIM) of the Wolfe Road corridor between Homestead Road and Stevens Creek Boulevard, including the two Wolfe Road intersections at the I-280 interchange.

The EA evaluated 38 more freeway study segments than were analyzed in the PTA (68 total segments in the EA, and 30 in the PTA). In both the EA and PTA, the freeway segments to be included in the analysis were determined based on thresholds established by VTA. Pursuant to VTA's TIA Guidelines, a freeway segment should be included if a project adds trips that equal at least one percent of the freeway segment's capacity. Both the EA and the PTA applied a manual distribution of the project trips to determine the number of project trips that would enter/exit the freeway system at individual interchanges. In the EA, VTCSP project trips were conservatively assumed to remain on the freeway for a longer distance than was assumed in the PTA, which resulted in additional freeway study segments being considered in the EA. Both the PTA and EA applied standard engineering practices, and both would generally be considered acceptable by the City of Cupertino.

TRAFFIC COUNTS AND FORECASTS

The traffic counts that were conducted as part of the PTA were used by Kimley-Horn for the EA. In addition, freeway forecasts developed using the VTA model by Fehr & Peers were used by Kimley-Horn for the EA. Therefore, both the EA and PTA used the same initial traffic data.

¹ VTA is the congestion management agency for Santa Clara County



ANALYSIS METHODOLOGY

Both the EA and PTA generally followed the guidelines of the City of Cupertino and VTA and used the guidelines of VTA's Congestion Management Program (CMP) *Transportation Impact Analysis (TIA) Guidelines* (adopted October 2014) to evaluate potential transportation impacts.

ANALYSIS METHODS

The intersection and freeway segment level of service calculation methods used in the EA and PTA are consistent with the methods established in VTA *Transportation Impact Analysis Guidelines*.

LEVEL OF SERVICE STANDARDS AND SIGNIFICANT IMPACT THRESHOLDS

The level of service (LOS) thresholds for intersections and freeways used in the EA are consistent with the thresholds applied for projects within Cupertino. The significance criteria used in the EA are consistent as well.

ANALYSIS SCENARIOS

The EA includes five analysis scenarios, while the PTA included six scenarios, to evaluate intersection impacts. The study scenarios and the traffic volume assumptions for each are summarized in **Table 2**. The City-required analysis scenarios missing from the EA and the non-typical scenario included in the EA are described in the following subsections.

ANALYSIS SCENARIOS MISSING IN EA

It is the City's practice to evaluate Existing Conditions to describe intersection operations for the Existing Setting and to evaluate Existing with Project Conditions to determine project-specific impacts. These two scenarios are missing from the EA.

The City would typically evaluate Existing Conditions using existing counts and field observations of intersection operations. Existing Conditions would assume the current occupancy of the mall and would be the basis for which approved and pending projects would be added under Background and Cumulative Conditions, respectively. This scenario relies on the occupancy level (62 percent) that constituted the best available information (May 2015 traffic counts) when the City and its consultants stopped work on the EIR in December 2015.



VTA's *TIA Guidelines* include the Existing with Project scenario as an Optional Scenario and it is not required for CMP purposes, but the VTA Guidelines state that this scenario may be included in a TIA to address local requirements or CEQA. There some debate about the adequacy of Existing Conditions rather than Background Conditions as being representative of "baseline conditions." Jurisdictions in Santa Clara County, including Cupertino, have tended to include both to fully cover all aspects of CEQA's requirements to identify significant project impacts. Therefore, the City's EIR would have included an evaluation of Project impacts under both Existing with Project and Background with Project Conditions.

TABLE 2: ANALYSIS SCENARIOS AND TRAFFIC VOLUME ASSUMPTIONS

Scenario	EA	PTA
Existing	not analyzed	Traffic volumes from May 2015 counts (62% mall occupancy)
Existing with Project	not analyzed	Traffic volumes from May 2015 counts, with net new Project trips
Baseline Existing	Traffic volumes from May 2015 counts plus traffic estimates to account for increased mall occupancy (62% to 82%)	not analyzed – not a City-required analysis scenario
Background	Traffic volumes from May 2015 counts plus traffic estimates to account for increased mall occupancy (62% to 82%), plus traffic estimates for other approved development projects	Traffic volumes from May 2015 counts, plus traffic estimates for other approved development projects
Background with Project	Traffic volumes from May 2015 counts plus traffic estimates to account for increased mall occupancy (62% to 82%), plus traffic estimates for other approved development projects, with net new Project trips	Traffic volumes from May 2015 counts, plus traffic estimates for other approved development projects with net new Project trips
Cumulative	Traffic volumes from May 2015 counts plus traffic estimates to account for increased mall occupancy (62% to 82%), plus traffic estimates for other approved and pending development projects	Traffic volumes from May 2015 counts, plus traffic estimates for other approved and pending development projects
Cumulative with Project	Traffic volumes from May 2015 counts plus traffic estimates to account for increased mall occupancy (62% to 82%), plus traffic estimates for other approved and pending development projects, with net new Project trips	Traffic volumes from May 2015 counts, plus traffic estimates for other approved and pending development projects, with net new Project trips

Source: *Vallco Town Center Specific Plan Environmental Assessment*, Kimley-Horn, 2016; Fehr & Peers, 2016.



ADDITIONAL EA ANALYSIS SCENARIO NOT USED BY THE CITY - BASELINE EXISTING CONDITIONS

The EA evaluated Baseline Existing Conditions, which is defined in Section 17.6 of the EA to consist of an 82 percent occupied mall. Historic mall occupancy data submitted by the applicant shows that the mall was on average occupied at a level of 82 percent from 2009 to 2014. At the time the counts were collected for the study, the mall was approximately 62 percent occupied. The EA estimated traffic for the additional 20 percent occupancy and added it to the surrounding roadway network. This approach results in lower net new Project trip generation due to a higher amount of occupied land use assumed within the project area as the baseline existing condition. This has the potential to show lower incremental increases in critical delay and V/C ratio when evaluating the transportation effects of the Project. This scenario is not a scenario typically included in City studies.

ANALYSIS ASSUMPTIONS

This section discusses the analysis assumptions as they relate to Project trip generation, Project trip distribution, growth in traffic due to approved and pending developments, intersection geometry improvements assumed under the "No Project" scenarios for Background and Cumulative Conditions, and Specific Plan proposed intersection geometry improvements.

TRIP GENERATION

Both the EA and PTA applied "Silicon Valley Office" rates, rather than generic ITE office rates, to develop trip estimates for the office uses. These rates include employee densities and the effects of TDM programs that are typical for office developments in Silicon Valley, and therefore are more representative of type of office development that would be included in the VTCSP. These Silicon Valley office rates are higher than the Apple-specific rates used in the Apple Campus 2 EIR. The use of the Silicon Valley Office rates is consistent with City practices.

Table 3 presents the net new trip generation from the EA and the PTA. The EA's VTCSP's net new trip generation is about 200 trips greater than the PTA estimates in the AM peak hour and about 850 trips less than the PTA in the PM peak hour. The daily trips estimates in the EA are 53 percent of the daily trip estimates from the PTA.



TABLE 3: SPECIFIC PLAN NET NEW TRIP GENERATION COMPARISON

Report	Daily	AM Peak Hour			PM Peak Hour		
		Total	In	Out	Total	In	Out
Preliminary Technical Assessment (PTA)	30,363	2,620	2,066	554	2,435	532	1,903
Environmental Assessment (EA)	16,162	2,805	2,269	537	1,583	132	1,452
Difference (EA minus PTA)	-14,201	185	203	-17	-852	-400	-451

Source: *Vallco Town Center Specific Plan Environmental Assessment*, Kimley-Horn, 2016; Fehr & Peers, 2016.

Besides the slight differences in the land use amounts presented earlier in this memorandum, the differences in the trip generation are primarily related to the following, which are discussed in more detail below:

- Different mixed-use development trip reductions
- Different assumptions for existing site uses

Mixed-Use Development Trip Reduction

Both the EA and the PTA used the MXD Trip Generation Model Version 4 created by Fehr & Peers to determine the vehicle trip reduction percentage due to the proposed mix of land uses. Although the same model was used, different mixed-use trip reduction percentages were estimated. The MXD model requires input of multiple surrounding area parameters such as employment within one mile of the project site, employment with a 30-minute transit trip, average household size near the project site, and average vehicle ownership near the site. For the PTA, Fehr & Peers used the MXD Trip Generation web interface, called MainStreet, which automatically populates these model inputs from available sources, such as VTA's regional travel demand forecasting model and US Census Data. The publically available MXD tool requires users to manually enter the MXD model parameters; which requires greater engineering judgement and discretion than the MainStreet tool. The EA does not present the parameter values applied in their MXD Trip Generation Model; therefore, the inputs cannot be verified.

Also, the Silicon Valley Office rates include reductions due to transit usage; therefore, the mixed-use percentage reduction from the MXD model, which also takes into account transit usage, was reduced in the PTA in order to avoid double counting transit ridership. The EA states that the MXD reduction applied does not assume a built-in transit reduction for the Silicon Valley office land uses. This statement cannot be verified based on the detail presented in the trip generation table.



Existing Land Use

In May 2015, Fehr & Peers collected mid-week (Tuesday through Thursday) 72-hour counts at all of the Vallco Mall's driveways along Perimeter Road, Wolfe Road, and Vallco Parkway. These counts were used to develop trip generation estimates for the existing uses on the project site. At the time the counts were collected, the mall was about 62 percent occupied. In the PTA, trip estimates for these existing uses derived from the driveway counts were subtracted from the Project's trip estimates to develop net new Project trips.

The 82 percent mall occupancy assumed in the EA is higher than the occupancy of Vallco Mall at the time of the counts (62 percent), resulting in a higher number of trips for existing site uses being subtracted from the VTCSP's gross trip estimate. Consequently, the EA includes a lower number of net new project trips than what would have been evaluated by the City in the EIR. The method applied in the EA is not consistent with past City practices. For example, for the Apple Campus 2 project, the occupancy level of the land uses on the site at the time of the counts (~4,800 employees) was used, not the full occupancy (~9,000 employees) or some other level of occupancy, to determine the net new project trips.

TRIP DISTRIBUTION

The trip distribution pattern from the PTA was used to assign the Project trips to the roadway system in the EA. However, the EA used a different trip distribution pattern to assign the added trips to account for increased mall occupancy from 62 to 82 percent to the roadway system for the Baseline Existing scenario. This trip distribution pattern also was used to subtract traffic generated by from existing site land uses from the local roadway network resulting in some negative volumes at some intersection turning movements.

PROJECT INTERSECTION IMPROVEMENTS

As part of the Specific Plan, on-site roadway geometry enhancements would be constructed to accommodate the increase in traffic and changes in travel patterns. The EA lists the geometry enhancements for the project driveways. This information was not reviewed since it represents a modified site plan that is different from the plan used for the PTA.

BACKGROUND AND CUMULATIVE DATA

Traffic volumes for Background and Cumulative Conditions under the EA use estimates of vehicle trips from approved and pending development projects within the City of Cupertino, Santa Clara, and



Sunnyvale. Intersection infrastructure projects that are planned and funded are included as well. This procedure is consistent with the procedure used by the City and for the PTA.

Approved and Pending Projects Trip Generation, Distribution, and Assignment

Fehr & Peers did not review in detail the EA's traffic volume estimates for the approved and pending development projects to determine the "No Project" volumes for the Background and Cumulative scenarios. Engineering judgment must be applied to estimate trip generation, distribution, and assignment for each of the approved and pending projects. Therefore, it is likely that the EA and PTA estimates would be different. Fehr & Peers did review and verify that the appropriate approved and pending projects were included in the EA. Additionally, Fehr & Peers did review in detail the roadway infrastructure adjustments included under Background No Project and Cumulative No Project Conditions, which are discussed below.

Background Intersection Improvements²

The intersection geometry assumptions for the EA were reviewed and compared to the assumptions in the PTA. The geometry assumptions included in the PTA are considered consistent with City practices. Differences between the EA and the PTA are listed below:

- **Intersection #29: Wolfe Road / Apple Campus 2 Driveway** – The EA and the PTA assumed similar geometry intersection except that the EA assumed two northbound through lanes and two westbound left-turn lanes, while the PTA assumed three lanes for each of these movements. The geometry assumptions in the PTA match what was proposed in the Apple Campus 2 TIA and is now constructed. The results presented in the EA are more conservative (i.e., higher delay/worse LOS) due to the reduced number of lanes.
- **Intersection #30: Wolfe Road / Pruneridge Avenue** – The geometry modifications assumed under Background Conditions for the EA would have been assumed under Existing Conditions in the PTA because they were constructed during the time the intersection turning movement counts were performed. However, this does not change the conclusions of the EA.
- **Intersection #33: Wolfe Road / Vallco Parkway** - The EA includes a westbound right-turn overlap phase as stated in the Apple Campus 2 TIA. After discussions with the City, implementation of a right-turn overlap phase is uncertain and was therefore not included in the PTA. The addition of the right-turn overlap phase improves intersection operations and could potentially result in impacts not being identified.

² Includes planned and funded improvements that are included in Background Conditions but not in Existing Conditions.



- **Intersection #42: Tantau Avenue / Pruneridge Avenue** – The geometry modifications assumed under Background Conditions for the EA were assumed under Existing Conditions in the PTA. However, this does not change the conclusions of the EA.

Cumulative Intersection Improvements

The geometry assumptions under Cumulative without and with Project Conditions were compared. There were no differences between the intersection improvements assumed under the EA and the PTA, with the exception of the intersections listed previously under Background Intersection Improvements.

ANALYSIS RESULTS

This section discusses the EA's analysis results and compares them to those from the PTA.

EXISTING CONDITIONS

The EA did not provide an analysis of Existing without and with Project Conditions to determine Project-specific intersection impacts. It used Background and Background with Project Conditions instead. However, the EA freeway segment analysis was conducted for Existing Conditions with and without the Project using the *2014 VTA Conformance and Monitoring Report* and Project traffic estimates. The City would evaluate both intersections and freeway segments under Existing without and with Project Conditions in the EIR.

Intersections

Two intersections with significant Project impacts are identified in the PTA but not in the EA, because the EA did not include an Existing Conditions analysis:

- Intersection #12 De Anza Boulevard / McClellan Road-Pacifica Drive
- Intersection #55 Lawrence Expressway / Bollinger Road

Freeways

In the PTA, the Project trips are dispersed more rapidly along the freeway network than in the EA. This reduces the number and severity of freeway impacts in the PTA. Therefore, the EA is considered conservative and identifies more freeway segment impacts than the PTA. Both the PTA and EA applied standard engineering practices and both would generally be considered acceptable by the City of Cupertino.



Of the 68 segments evaluated in the EA, a total of 30 segments had significant Project impacts in either the AM or PM peak hour. Of the 30 segments evaluated in the PTA, a total of 20 segments have significant Project impacts in either the AM or PM peak hour. **Table 4** summarizes the number of impacted locations in the PTA and EA.

TABLE 4: IMPACTED FREEWAY SEGMENTS UNDER EXISTING CONDITIONS¹

Freeway	EA		PTA	
	Segments Studied	Segments Impacted ¹	Segments Studied	Segments Impacted ¹
SR 17	7	0	2	2
SR 85	19	14	9	5
SR 237	12	0	Not Analyzed	Not Analyzed
I-280	18	18	15	15
I-880	12	0	4	3

Notes:

1. A segment is determined to be impacted if the detailed impact analysis shows an impact in either direction of the segment, during either peak hour, and/or if the impact is on the HOV lane.

Source: *Vallco Town Center Specific Plan Environmental Assessment*, Kimley-Horn, 2016; Fehr & Peers, 2016.

In the EA, the volume of traffic assigned to the HOV lanes is higher than the currently observed HOV percentages. Applying City practices, the HOV percentage would match what is currently observed; thus, the approach in the EA likely results in more HOV lane impacts compared to the PTA.

BACKGROUND CONDITIONS

The differences in Project intersection impacts identified in the EA and in the PTA for Background Conditions presented below. (More detailed technical explanations are attached.) There are slight volume differences for Background Conditions between the EA and the PTA at all study intersections due to differences in trip assignments for other approved development projects. There are additional volume differences between the EA and the PTA at all study intersections for Background with Project Conditions due to differences in the amount of Project traffic. These volume differences contribute to different delay estimates and ultimately different Project impacts.



Intersections with Project Impacts in the EA and not the PTA

There were two intersections where a potential intersection impact was identified in the EA that was not identified in the PTA.

- Intersection #11 De Anza Boulevard / Stevens Creek Boulevard
- Intersection #13 De Anza Boulevard / Bollinger Road

Intersections with Project Impacts Identified in the PTA but not the EA

There were six intersections where an impact was identified in the PTA that were not identified in the EA:

- Intersection #44 Stevens Creek Boulevard / Tantau Avenue
- Intersection #45 Stevens Creek Boulevard / Calvert Drive-I-280 Ramps (east)
- Intersection #53 Lawrence Expressway / I-280 Southbound Ramps
- Intersection #54 Lawrence Expressway / Mitty Way
- Intersection #55 Lawrence Expressway / Bollinger Road
- Intersection #57 Lawrence Expressway / Prospect Road

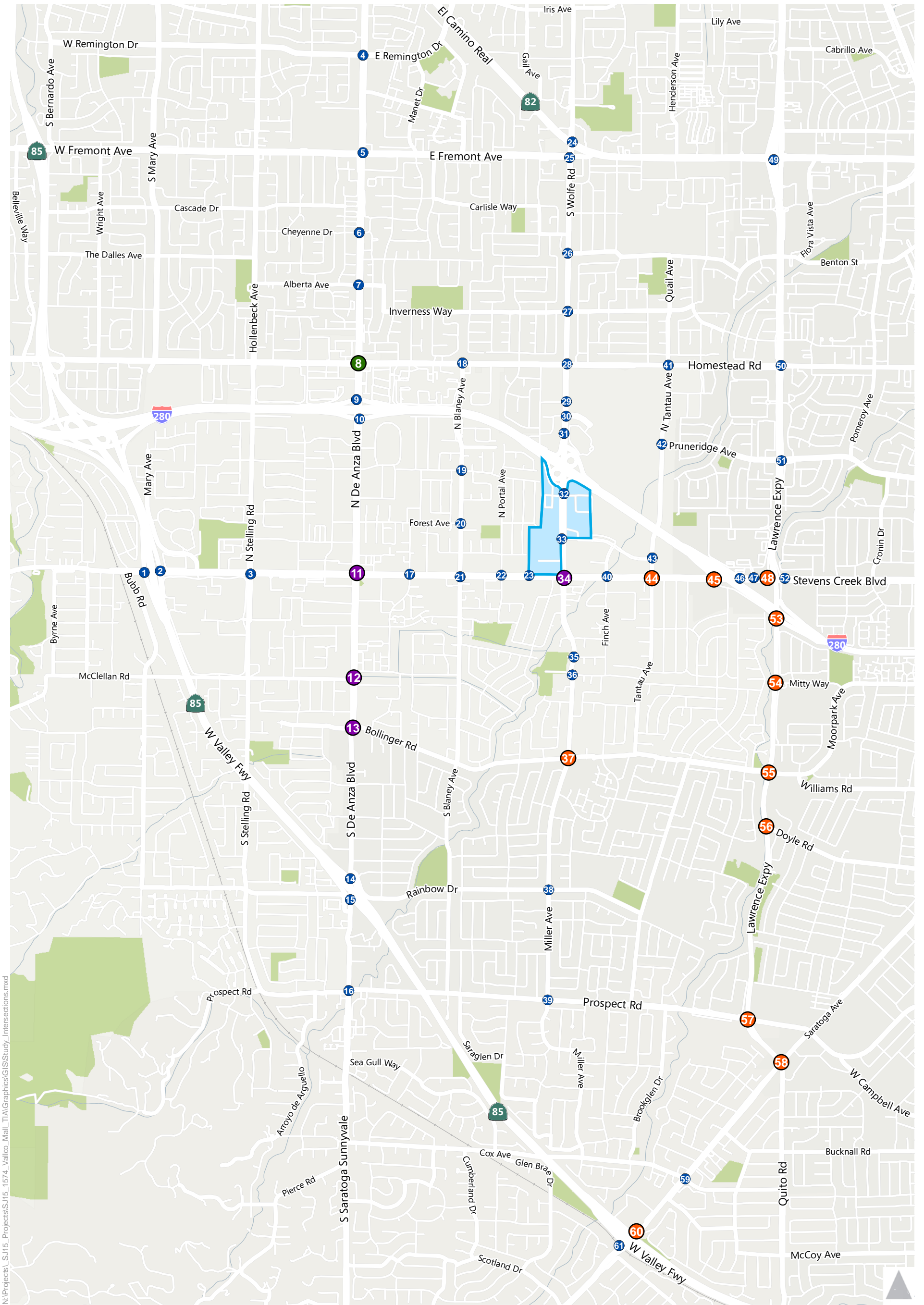
CUMULATIVE CONDITIONS

The differences in number of intersection impacts identified in the EA and in the PTA for Cumulative Conditions are illustrated on **Figure 1** and presented below. (More detailed technical explanations are attached.) Due to the differences between the EA and the PTA in trip assignments for other approved development projects, for pending development projects, and the amount of added Project traffic, there are volume differences at the study intersections between the EA and the PTA. These volume difference contribute to different delay estimates and ultimately different impacts.

Intersections with Cumulative Impacts in the EA and not the PTA

There was one intersection where a potential intersection impact was identified in the EA but not in the PTA.

- Intersection #8 De Anza Boulevard / Homestead Road



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- Study Intersection
- EA only impact
- PTA only impact
- EA + PTA impact
- Project Area



Figure 1

Study Intersections with Significant Impacts



Intersections with Cumulative Impacts Identified in the PTA but not the EA

There were eleven intersections where a Cumulative impact was identified in the PTA but not in the EA, including the six intersections with Project impacts identified under Background Conditions.

- Intersection #37 Miller Avenue / Bollinger Road
- Intersection #44 Stevens Creek Boulevard / Tantau Avenue
- Intersection #45 Stevens Creek Boulevard / Calvert Drive-I-280 Ramps (east)
- Intersection #48 Stevens Creek Boulevard / Lawrence Expressway Ramps (west)
- Intersection #53 Lawrence Expressway / I-280 Southbound Ramps
- Intersection #54 Lawrence Expressway / Mitty Way
- Intersection #55 Lawrence Expressway / Bollinger Road
- Intersection #56 Lawrence Expressway / Doyle Road
- Intersection #57 Lawrence Expressway / Prospect Road
- Intersection #58 Lawrence Expressway / Saratoga Avenue
- Intersection #60 SR 85 (North) / Saratoga Avenue

Freeways

For the PTA, cumulative freeway volumes were estimated using the VTA Year 2040 forecasting model. The EA used the same mixed-flow freeway volumes as presented in the PTA; however, the HOV/HOT volumes were adjusted to match existing HOV/HOT percentages. The volumes presented in the EA are more conservative (i.e., higher) than those in the PTA.

In the PTA, Project trips along the freeway were dispersed more rapidly than in the EA, which means that the PTA assumes that more Project trips would get onto and off of the freeway network closer to the Project site. This reduces the number and severity of freeway impacts; therefore, the EA is considered conservative and identifies more impacts than the PTA.

Of the 68 segments evaluated under the EA, a total of 39 segments would have cumulative impacts during either the AM or PM peak hour. All 30 segments evaluated in the PTA would have cumulative impacts during either the AM or PM peak hour. **Table 5** summarizes the number of freeway segments with Cumulative impacts in the PTA and the EA.



TABLE 5: IMPACTED FREEWAY SEGMENTS UNDER CUMULATIVE CONDITIONS

Freeway	EA		PTA	
	Segments Studied	Segments Impacted ¹	Segments Studied	Segments Impacted ¹
SR 17	7	3	2	2
SR 85	19	18	9	5
SR 237	12	0	Not Analyzed	Not Analyzed
I-280	18	18	15	15
I-880	12	0	4	4

Notes:

1. A segment is determined to be impacted if the detailed impact analysis shows an impact in either direction of the segment, during either peak hour, and/or if the impact is on the HOV lane.

Source *Vallco Town Center Specific Plan Environmental Assessment*, Kimley-Horn, 2016; Fehr & Peers, 2016.

In addition, in the EA, the volume of Project traffic assigned to the HOV lanes is higher than the currently observed HOV percentage. In the PTA, the amount of Project traffic assigned to the HOV lanes would be the same as the currently observed percentage. Thus the approach in the PTA likely results in fewer HOV lane impacts.

IMPROVEMENT MEASURES

The VTCSP identifies Environmental Design Features (EDFs) to address transportation impacts identified in the EA. These are discussed in more detail below.

INTERSECTION IMPROVEMENTS

Under the EA, six intersection improvements are proposed as part of the VTCSP and are presented in **Table 6**. The preliminary intersection mitigation measures identified in the PTA are also presented in **Table 6**. City of Cupertino's *General Plan Amendment, Housing Element Update, and Associated Rezoning Draft EIR* (June 2014) identified several intersection impacts and potential mitigation measures. **Table 6** also identifies whether EDFs and preliminary improvements from the PTA are consistent with the General Plan.

The VTCSP also identifies financial contributions to address potential transportation deficiencies including traffic signal software, freeway segment improvements, and improvements to the Wolfe Road/ I-280 interchange, which are discussed in more detail in the following subsections.



SIGNAL IMPROVEMENTS

To improve overall traffic operations along De Anza Boulevard (between I-280 and SR 85), Wolfe Road (generally between El Camino Real and Stevens Creek Boulevard), select locations on Stevens Creek Boulevard (Agilent Driveway and Perimeter Road) and the intersection of Tantau Avenue and Pruneridge Avenue, the VTCSP identifies a \$2M to \$3M contribution toward new signal software and improved signal coordination. It should be noted that as written in the VTCSP, the \$2M to \$3M contribution would not come solely from the Town Center/Community Park applicant, but also other project applicants in the area; although the other project applicants are not identified. Contributions toward signal software and improved signal coordination would be based on the project's fair share contribution necessary to mitigate its portion of any impacts identified in the EIR, and may be negotiated further in the context of a development agreement.

I-280/WOLFE ROAD INTERCHANGE

The VTCSP identifies payment of \$26M towards the planned transportation improvements at the I-280/Wolfe Road interchange. The total cost of the new interchange is preliminarily estimated at around \$70M to \$80M. The VTCSP contribution equates to approximately 25 percent of the total cost. It should be noted that contributions toward freeway interchange improvements are typically assessed to determine the appropriate fair share contribution and finalized in consultation with the City and other appropriate agencies. This improvement is part of the Traffic Mitigation Fee Program discussed below.

TRAFFIC MITIGATION FEE PROGRAM

The City of Cupertino's *General Plan Amendment, Housing Element Update, and Associated Rezoning Draft EIR* (June 2014) identified several intersection impacts. Under a standard EIR analysis, the Project would be subject to the Traffic Impact Fee mitigation measures identified in the General Plan.

Consistent with General Plan Policy M-10.2 and General Plan EIR Mitigation Measure TRAF-1, the City Public Works Department is currently undertaking the preparation of a nexus study and citywide traffic mitigation fee program (TMFP) for consideration by the City Council. At this time, however, there is no TMFP in place. If the City adopts a TMFP before a developer applies for building permits to develop the Vallco Town Center Specific Plan area, the applicant would pay the amount of the fee applicable to the project. Payment of the fee could either be required as a condition of project approval or issuance of permits, or as a term of a development agreement, if one is entered.

The EA identifies several Environmental Design Features (EDFs) that would mitigate identified transportation impacts. These EDFs include both physical improvements and monetary contributions.



Because the Initiative also requires substantial contributions to some of the same traffic improvements that may be included in the program of improvements funded by the TMFP, the developer's contribution under the future TMFP could be partially or fully offset by the contributions and improvements required by the Initiative to the extent that the fees payable pursuant to the TMFP are intended to fund the same improvements. If, on the other hand, the City has not adopted a TMFP before issuance of building permits, the developer will still be required to contribute those funds and improvements described in the Initiative, including, e.g., \$30 million for freeway infrastructure, specifically the build-out of the roadway improvements planned for North Wolfe Road and 1-280 overpass and interchange and future 1-280 freeway segment improvements, to address traffic congestion, as well as any other transportation mitigation measures identified pursuant to CEQA review for subsequent approvals.

LAWRENCE EXPRESSWAY FACILITIES

The VTCSP identifies a fair share contribution toward planned transportation improvements at Lawrence Expressway intersections with Homestead Road, Pruneridge Avenue, and Prospect Road. Because the fair share calculation would be based on the number of trips added by the VTCSP and the EA had a lower trip generation estimate than the PTA, the EA contribution would be lower than what would be required by the City in the EIR. Under the EA, approximately three to five percent of the total background traffic along Lawrence Expressway is VTCSP traffic. Under the PTA, approximately two to three percent of the total background traffic along Lawrence Expressway is VTCSP traffic. However, the background volumes along Lawrence Expressway are approximately 1,000 vehicles higher under the PTA compared to the EA.

Additionally, the PTA assessment identified potential transportation impacts at other locations on Lawrence Expressway, including the southbound ramps at Stevens Creek Boulevard, Mitty Way, Bollinger Road, Doyle Road, and Saratoga Avenue.



TABLE 6: LIKELY EIR MITIGATIONS / PROPOSED EA IMPROVEMENTS FOR INTERSECTIONS

Intersection	Potential TIF Intersection ¹	PTA		EA			Mitigation Included in GP EIR (PTA/EA)	
		Impact	Mitigation	Impact	Improvement	City Comments		
Existing Conditions								
12	De Anza Boulevard / McClellan Road	Yes	Yes LOS E V/C incr.>0.01	Realign the current off-set intersection and provide double left-turn lanes on the northbound and southbound De Anza Boulevard with associated receiving lanes (<i>City of Cupertino General Plan 2014</i>).	No	No Impact	N/A	Yes / N/A
55	Lawrence Expressway / Bollinger Road	No	Yes LOS F Delay incr.>4s	Construct a third eastbound left-turn lane and third westbound left-turn lane (<i>Santa Clara County Draft Expressway Plan 2040</i>).	No	No Impact	N/A	No / N/A
Background Conditions								
11	De Anza Boulevard / Stevens Creek Boulevard	Yes	No	No Impact	Yes LOS E+ to LOS E-	Provide eastbound right turn and northbound right turn overlap phases Monitor operation to evaluate need for extended westbound left-turn pocket	City would not support this improvement.	N/A / No
12	De Anza Boulevard / McClellan Road	Yes	Yes LOS E V/C incr.>0.01	Realign the current off-set intersection and provide double left-turn lanes on the northbound and southbound De Anza Boulevard with associated receiving lanes (<i>City of Cupertino General Plan 2014</i>).	Yes LOS D to LOS E	Provide an eastbound right turn overlap phase.	City would not support this improvement.	Yes / No



TABLE 6: LIKELY EIR MITIGATIONS / PROPOSED EA IMPROVEMENTS FOR INTERSECTIONS

Intersection	Potential TIF Intersection ¹	PTA		EA			Mitigation Included in GP EIR (PTA/EA)
		Impact	Mitigation	Impact	Improvement	City Comments	
13 De Anza Boulevard / Bollinger Road	No	No	No Impact	Yes LOS D to LOS E	Provide a westbound right turn overlap phase.	City would not support this improvement.	N/A / No
34 Wolfe Road / Stevens Creek Boulevard	Yes	Yes LOS E Delay incr.>4s	Restripe westbound leg to provide designated right-turn lane by narrowing existing lanes (<i>City of Cupertino General Plan 2014</i>).	Yes LOS D to LOS E	Add a second southbound left turn lane. Provide an overlap phase for the southbound right turn and the eastbound right turn OR pay \$250,000 in lieu traffic impact fee.	City supports this improvement. City would not support this improvement.	Yes / No
44 Tantau Avenue / Stevens Creek Boulevard	Yes	Yes LOS E Delay incr.>4s	Construct an additional separate left-turn lane on northbound Tantau Avenue (<i>City of Cupertino General Plan 2014</i>).	No	No Impact	N/A	Yes / N/A
45 Stevens Creek Boulevard / Calvert Drive – I-280 Ramps	Yes	Yes LOS F Delay incr.>4s	Signal improvements	No	Implementation of new traffic signal software	City supports this improvement	Yes / N/A
53 Lawrence Expressway / Calvert Drive – I-280 Southbound Ramp	No	Yes LOS F Delay incr.>4s	Pay fair share contribution toward an overpass from southbound Lawrence Expressway to I-280 southbound on-ramp. (<i>Santa Clara County Draft Expressway Plan 2040</i>).	No	No Impact	N/A	No / N/A



TABLE 6: LIKELY EIR MITIGATIONS / PROPOSED EA IMPROVEMENTS FOR INTERSECTIONS

Intersection	Potential TIF Intersection ¹	PTA		EA			Mitigation Included in GP EIR (PTA/EA)
		Impact	Mitigation	Impact	Improvement	City Comments	
54 Lawrence Expressway / Mitty Way	No	Yes LOS F Delay incr.>4s	Pay fair share contribution toward the widening of Lawrence Expressway between Moorpark Avenue and I-280 Southbound Ramps (<i>Santa Clara County Draft Expressway Plan 2040</i>).	No	No Impact	N/A	No / N/A
55 Lawrence Expressway / Bollinger Road	No	Yes LOS F Delay incr.>4s	Construct a third eastbound left-turn lane and third westbound left-turn lane (<i>Santa Clara County Draft Expressway Plan 2040</i>).	No	No Impact	N/A	No / N/A
57 Lawrence Expressway / Prospect Road	No	Yes LOS F Delay incr.>4s	Pay fair share contribution toward a second eastbound left-turn lane from Prospect Road to Lawrence Expressway (<i>Santa Clara County Valley Transportation Plan 2040</i>).	No	No Impact	N/A	No / N/A
Cumulative Conditions							
8 De Anza Boulevard / Homestead Road	No	No	No Impact	Yes LOS D to LOS E	Provide an eastbound right-turn overlap phase.	City would not support this improvement.	N/A / No
11 De Anza Boulevard / Stevens Creek Boulevard	Yes	Yes LOS E+ to LOS F	Pay fair share contribution to the addition of a separate westbound right-turn lane from Stevens Creek Boulevard to De Anza Boulevard (<i>City of Cupertino General Plan 2014</i>).	Yes LOS E to LOS F	Provide eastbound right turn and northbound right turn overlap phases Monitor operation to evaluate need for extended westbound left-turn pocket	City would not support this improvement.	Yes / No



TABLE 6: LIKELY EIR MITIGATIONS / PROPOSED EA IMPROVEMENTS FOR INTERSECTIONS

Intersection	Potential TIF Intersection ¹	PTA		EA			Mitigation Included in GP EIR (PTA/EA)
		Impact	Mitigation	Impact	Improvement	City Comments	
12 De Anza Boulevard / McClellan Road	Yes	Yes LOS E V/C incr.>0.01	Same mitigation as identified under Background Conditions. (Realign the current off-set intersection and provide double left-turn lanes on the northbound and southbound De Anza Boulevard with associated receiving lanes (<i>City of Cupertino General Plan 2014</i>)).	Yes LOS D to LOS E	Provide an eastbound right turn overlap phase.	City would not support this improvement.	N/A / No
13 De Anza Boulevard / Bollinger Road	No	Yes LOS E Delay incr.>4s	No feasible improvement at this location. (Significant and Unavoidable)	Yes LOS E Delay incr.>4s	Provide a westbound right turn overlap phase.	City would not support this improvement.	N/A / No
34 Wolfe Road / Stevens Creek Boulevard	Yes	Yes LOS F Delay incr.>4s	Same mitigation as identified under Background Conditions. (Restripe westbound leg to provide designated right-turn lane by narrowing existing lanes (<i>City of Cupertino General Plan 2014</i>)).	Yes LOS F Delay incr.>4s	Add a second southbound left turn lane. Provide an overlap phase for the southbound right turn and the eastbound right turn OR pay \$250,000 in lieu traffic impact fee.	City supports this improvement. City would not support this improvement.	Yes / No
37 Miller Avenue/Bollinger	No	Yes LOS E Delay incr.>4s	Pay fair share contribution to provide a dedicated right-turn lane on southbound Miller Avenue.	No	No Impact	N/A	No/No



TABLE 6: LIKELY EIR MITIGATIONS / PROPOSED EA IMPROVEMENTS FOR INTERSECTIONS

Intersection	Potential TIF Intersection ¹	PTA		EA			Mitigation Included in GP EIR (PTA/EA)
		Impact	Mitigation	Impact	Improvement	City Comments	
44 Tantau Avenue / Stevens Creek Boulevard	Yes	Yes LOS D to LOS E	Same mitigation as identified under Background Conditions. (Construct an additional left-turn lane on northbound Tantau Avenue (<i>City of Cupertino General Plan 2014</i>)).	No	No Impact	N/A	Yes / N/A
45 Stevens Creek Boulevard / Calvert Drive – I-280 Ramps	Yes	Yes LOS F Delay incr.>4s	Same mitigation as identified under Background Conditions. (Signal improvements.)	No	Implementation of new traffic signal software	City supports this improvement	Yes / N/A
48 Lawrence Expressway Southbound Ramp / Stevens Creek Boulevard	No	Yes LOS E to LOS F	Pay fair share contribution to the addition of a second southbound right-turn lane from the Lawrence Expressway Ramp to Stevens Creek Boulevard (<i>City of Cupertino General Plan 2014</i>).	No	No Impact	N/A	Yes / N/A
53 Lawrence Expressway / Calvert Drive – I-280 Southbound Ramp	No	Yes LOS F Delay incr.>4s	Same mitigation as identified under Background Conditions. (Pay fair share contribution toward an overpass from southbound Lawrence Expressway to I-280 southbound on-ramp. (<i>Santa Clara County Draft Expressway Plan 2040</i>)).	No	No Impact	N/A	No / N/A



TABLE 6: LIKELY EIR MITIGATIONS / PROPOSED EA IMPROVEMENTS FOR INTERSECTIONS

Intersection	Potential TIF Intersection ¹	PTA		EA			Mitigation Included in GP EIR (PTA/EA)
		Impact	Mitigation	Impact	Improvement	City Comments	
54 Lawrence Expressway / Mitty Way	No	Yes LOS F Delay incr.>4s	Same mitigation as identified under Background Conditions. (Pay fair share contribution toward the widening of Lawrence Expressway between Moorpark Avenue and I-280 Southbound Ramps (<i>Santa Clara County Draft Expressway Plan 2040</i>)).	No	No Impact	N/A	No / N/A
55 Lawrence Expressway / Bollinger Road	No	Yes LOS F Delay incr.>4s	Same mitigation as identified under Background Conditions. (Construct a third eastbound left-turn lane and third westbound left-turn lane (<i>Santa Clara County Draft Expressway Plan 2040</i>)).	No	No Impact	N/A	No / N/A
56 Lawrence Expressway / Doyle Road	No	Yes LOS F Delay incr.>4s	No feasible improvements at this location. (Significant and Unavoidable)	No	No Impact	N/A	No / N/A
57 Lawrence Expressway / Prospect Road	No	Yes LOS F Delay incr.>4s	Same mitigation as identified under Background Conditions. (Pay fair share contribution toward a second eastbound left-turn lane from Prospect Road to Lawrence Expressway (<i>Santa Clara County Valley Transportation Plan 2040</i>)).	No	No Impact	N/A	No / N/A



TABLE 6: LIKELY EIR MITIGATIONS / PROPOSED EA IMPROVEMENTS FOR INTERSECTIONS

Intersection	Potential TIF Intersection ¹	PTA		EA			Mitigation Included in GP EIR (PTA/EA)
		Impact	Mitigation	Impact	Improvement	City Comments	
58 Lawrence Expressway / Saratoga Avenue	No	Yes LOS F Delay incr.>4s	Pay fair share contribution toward a second eastbound left-turn lane from northbound Saratoga Avenue to northbound Lawrence Expressway (<i>Santa Clara County Draft Expressway Plan 2040</i>).	No	No Impact	N/A	No / N/A
60 SR 85 Northbound Ramps / Saratoga Avenue		Yes LOS D Delay incr.>4s	Pay fair share contribution toward reconfiguring the northbound off-ramp approach to include two left-turn lanes and two right-turn lanes (<i>Fehr & Peers 2015</i>).	No	No Impact	N/A	No / N/A

Notes:

1. TIF intersections are those that are currently identified in the General Plan EIR as locations that would be included in the City's pending Traffic Mitigation Fee Program.

Source: Vallco Town Center *Specific Plan Environmental Assessment*, Kimley-Horn, 2016; Fehr & Peers, 2016.



FREEWAY IMPROVEMENTS

For the potential freeway impacts identified in the EA, the VTCSP proposes to pay a contribution of \$4M towards planned transportation improvements identified in VTA's Valley Transportation Plan 2040 that would benefit the affected freeway segments. The PTA had not identified the Project's traffic contribution to the impacted freeway segments to assess the potential magnitude of a fair share financial contribution. Although it should be noted that contributions to the VTA for freeway impacts are voluntary and the amounts are typically finalized in consultation with the City and other appropriate agencies. Overall, the City of Cupertino would request that the freeway fair share contribution be allocated to the I-280/Wolfe Road interchange, discussed below. **Table 7** summarizes the impacted freeway segments for both the PTA and the EA, along with the proposed mitigations that would be required under the PTA or are proposed as part of the EA.

TRANSPORTATION DEMAND MANAGEMENT

The VTCSP includes a detailed TDM Plan for the office components with a required vehicle trip reduction of 30 percent below estimates using ITE's Office (ITE 710) trip generation rates. The Plan does not include trip reduction targets for the residential or commercial components.

The TDM Plan includes appointment of a TDM manager to implement and monitor the TDM Plan through annual driveway counts. The TDM Plan contains specific measures that could be implemented, along with a monitoring plan and penalty system, if goals are not achieved.

The 30 percent trip reduction is applied to estimates based on ITE rates and not the Silicon Valley office rates used to estimate the office trip generation in both the EA and PTA. The Silicon Valley office rates already account for a 17 percent AM peak hour and 19 percent PM peak hour TDM reduction. Thus the TDM Plan proposes to further reduce project trips by only an additional 13 and 11 percentage points for the AM and PM peak hours, respectively.

The TDM Plan is similar to what the City adopted as part of the Apple Campus 2 project and includes annual monitoring for the first ten years. If in the last three years the targets are met, then the frequency of monitoring is reduced to every two years. If TDM goals are not met while biennial monitoring is being conducted, the monitoring frequency reverts back to an annual basis. One difference is that the proposed monitoring starts one year after occupancy, while Apple is required to start monitoring 6 months after occupancy.



TABLE 7: LIKELY EIR MITIGATIONS / PROPOSED EA IMPROVEMENTS FOR FREEWAY SEGMENTS

Freeway Segment	PTA			EA		
	Segments Studied	Segments Impacted	Mitigation	Segments Studied	Segments Impacted	Improvement
Existing Conditions						
SR 17	2	2	Pay a contribution to freeway improvements as negotiated with VTA.	7	0	No impacts.
SR 85	9	5	Pay a contribution to freeway improvements as negotiated with VTA.	19	14	\$4 million toward freeway improvements along I-280 and other freeways.
SR 237	0	0	No impacts	12	0	No impacts.
I-280	15	10	Pay a contribution to freeway improvements as negotiated with VTA.	18	16	\$4 million toward freeway improvements along I-280 (and other freeways) and \$26 million toward Wolfe Road/I-280 interchange improvements.
I-880	4	3	Pay a contribution to freeway improvements as negotiated with VTA.	12	0	No impacts.
Cumulative Conditions						
SR 17	2	2	Pay a contribution to freeway improvements as negotiated with VTA.	7	3	\$4 million toward freeway improvements along I-280 and other freeways.
SR 85	9	9	Pay a contribution to freeway improvements as negotiated with VTA.	19	18	\$4 million toward freeway improvements along I-280 and other freeways.
SR 237	0	0	No impacts	12	0	No impacts.
I-280	15	15	Pay a contribution to freeway improvements as negotiated with VTA.	18	18	\$4 million toward freeway improvements along I-280 (and other freeways) and \$26 million toward Wolfe Road/I-280 interchange improvements.
I-880	4	4	Pay a contribution to freeway improvements as negotiated with VTA.	12	0	No impacts.

Source: Vallco Town Center *Specific Plan Environmental Assessment*, Kimley-Horn, 2016; Fehr & Peers, 2016.



The penalty fee is \$5 per trip, which is the same as required by Apple; however the VTCSP TDM Plan proposes that this penalty is paid every three months until the next monitoring period (i.e., four payments annually). This is not required by Apple.

Some other differences from the Apple Campus 2 TDM Plan is that the VTCSP TDM Plan includes a provision that if the targets are not met and the TDM measures are increased/modified with the goal of meeting the TDM targets, then the penalty would be reduced to \$3 per trip. The revised Plan would require City approval. Additionally, since the office component of the VTCSP will not necessarily be occupied by one company and may have multiple tenants, the TDM Plan includes provisions that the new tenants can amend the TDM Plan per City approval.

Overall, the TDM Plan as outlined in the VTCSP is consistent with past practices in the City of Cupertino. One exception is that the TDM Plan states that if the City and future office development applicants cannot reach an agreement on a revised TDM Plan that that penalty shall accrue at a rate of \$3 per trip per weekday. With no agreement, the City would typically require the penalty to revert back to the original \$5 per trip fee.

In terms of implementation of the TDM Plan it is not clear how the office trip generation will be monitored separately from the remaining VTCSP uses. The offices uses do not have exclusive parking areas with driveways that are discrete from the remaining uses of the VTCSP. Thus any driveway counts would include all uses on the site and it would be difficult to determine trips generated by the office uses alone and whether the TDM goals are being met.

Overall, the TDM Plan would further reduce the trips generated by the Project as compared what was analyzed in the EA and PTA. Thus level of impacts identified in the EA would be further reduced.

TRANSIT EVALUATION

Under the EA, transit ridership was estimated to be approximately 260 peak hour transit riders based on the mixed-use trip generation analysis. Under the EIR, the number of transit riders would be estimated by using the mixed-use trip generation analysis and by taking into account the transit ridership incorporated into the Silicon Valley office trip generation rates. This would most likely result in a higher number of transit riders associated with the Project that may or may not produce transit capacity impacts.

The EA calculates transit delay based on the average speed for each route throughout the study area under Background and Background with Project Conditions. The EA specifies that an impact would result when the average speed reduces by one mph or more when under Background Conditions the average speed is below 15 mph. When the speed is greater than 15 mph under Background Condition, an impact



would result when the speed reduces to below 15 mph, or if the Project results in a 25 percent reduction in the average speed. The City of Cupertino and VTA do not have a specified significance threshold for transit delay; although it is not uncommon for the lead agency to develop impact thresholds for evaluation purposes. Based on the threshold established in the EA, the VTCSP would have no transit delay impacts.

The EIR would have completed a transit delay analysis under Existing, Background, and Cumulative and all With Project Conditions to determine the amount of additional delay along each route throughout the study area. Therefore, the EIR would have evaluated the potential transit delay increases under multiple analysis scenarios and relied on the City to work closely with VTA to determine the need for improvements related to potential in transit delay impacts.

The VTCSP includes the following transit improvements, which would be implemented by the VTCSP and other developments, to the extent not already constructed or funded by other existing commitments:

- Public transit center on the east side of the Specific Plan Area to serve office workers
- Public transit center as part of the Mobility Hub on the north side of Stevens Creek Boulevard

In general these improvements seem reasonable and the VTCSP would need good access to transit to achieve its trip reduction goals. The City would negotiate with VTA transit improvements to be included as part of the Project during its planning and design stage to ensure that they are consistent with VTA's long-term plans and needs. Thus without confirmation with VTA the adequacy of the proposed transit improvements cannot be determined.

BICYCLE AND PEDESTRIAN EVALUATION

According to the 2014 update to the VTA TIA Guidelines, a bicycle and pedestrian quality of service evaluation should be included as part of the EIR process. Therefore, the EIR would have evaluated the bicycle and pedestrian Quality of Service at all intersections where there is a proposed geometric change (including likely EIR mitigation measures). The evaluation would be completed using one of the Quality of Service methods provided within the VTA TIA Guidelines. A qualitative assessment of the current and proposed bicycle and pedestrian infrastructure would have been provided in accordance with City of Cupertino's May 2011 Bicycle Transportation Plan (the City is in the process of updating their Bicycle Plan with an anticipated release date of June 2016), City of Cupertino's April 2002 Pedestrian Transportation Guidelines, and the 2008 Santa Clara Countywide Bicycle Plan (the Countywide Bicycle Plan is currently being updated by VTA with an anticipated release date of Spring 2017).



Under the EA, the current and proposed bicycle and pedestrian infrastructure is described for the proposed site, but there is no Quality of Service evaluation that would be included under the EIR.

The VTCSP includes the following bicycle and pedestrian improvements, to the extent not already constructed or funded by other existing commitments:

- Green color backed sharrows on Tantau Avenue between Stevens Creek Boulevard and Bollinger Road
 - Sharrows are already included on this segment of Tantau Avenue and the City would likely not require them to be modified to green color backed sharrows.
- Marked bike loop-detectors on southbound Portal Avenue at its intersection with Stevens Creek Boulevard.
 - This improvement would likely be required by the City as part of the EIR process.
- Convert all-way stop-control to a two-way stop control at the Portal Avenue/Wheaton Drive intersection, with stops on Wheaton Drive.
 - The City would likely not require this improvement as part of the VTCSP.
- Green color backed sharrows on Portal Avenue between Stevens Creek Boulevard and Wheaton Drive.
 - The City would likely require sharrows on this segment of Portal Avenue, though green backing would not be required.
- Ladder style crosswalk at Amherst Drive/Portal Avenue intersection.
 - The City would likely require this improvement as part of the VTCSP.
- "Neighborhood Greenway" signage on Portal Avenue.
 - The City would likely require this improvement as part of the VTCSP.
- Provide \$6M cash donation to analyze and construct a 2-mile bicycle/pedestrian trail along the southern edge of I-280 between De Anza Boulevard and Wolfe Road
 - The City would likely require this improvement as part of the VTCSP.

In addition to the measures outlined above, the City would likely require additional improvements, such as green or buffered lanes on Wolfe Road, Class IV protected bike lanes on Stevens Creek Boulevard, and removal of pork chop islands at the Stevens Creek Boulevard/Wolfe Road intersection. Additionally, the City would require enhanced pedestrian crossings at the Stevens Creek Boulevard intersections at Perimeter Road and Wolfe Road, as well as the Vallco Parkway intersections at Wolfe Road and Perimeter Road. The Specific Plan requires a developer to "construct and/or fund additional improvements to pedestrian and bike trail(s) throughout the Plan Area, including along the entirety of the existing



Perimeter road, and in the Plan Area vicinity to improve Safe Routes to Schools and address both bike and pedestrian safety and traffic concerns.” (C-90.) Therefore, the Specific Plan contemplates that additional measures, like those the City would typically require, are required community benefits.

PARKING

The VTCSP discusses both proposed vehicle and bicycle parking.

VEHICLE PARKING

In the VTCSP, vehicle parking within the plan area was designed to: a) meet the needs of site while avoiding spillover into adjacent neighborhoods, and b) to limit excess parking supply to support the trip reduction goals of the Project. A major component of the VTCSP’s parking supply recommendations are based on the mixed-use nature of the site. The VTCSP includes a total of 9,060 parking spaces.³

The City of Cupertino’ Municipal Code section 19.124.040 provides minimum parking requirements for mixed-use developments. The EA calculates the parking supply for the plan area by first calculating the parking supply requirements separately for each land use as set forth in the City of Cupertino’s Municipal Code. Then it applies the Municipal Code’s weekday PM peak hour shared use parking reductions to the City’s standard for each separate land use resulting in a parking requirement of 11,215 spaces. This number is further reduced by the 21 percent mixed-use trip reduction factor calculated as part of trip generation, resulting in a parking requirement of 8,860 spaces. The EA concludes that the proposed parking supply of 9,060 spaces exceeds the parking supply by 200 spaces.⁴

The 21 percent reduction used in the EA is based on the MXD reduction for daily trips used within the trip generation calculation. Although trip generation and parking are linked, it is not standard engineering practice to apply vehicle trip reductions to estimate parking supply reductions. Additionally, the EA minimum parking requirements double counts the mixed use reductions as follows: (1) once using the Municipal Code’s shared parking reductions; and (2) again using the 21 percent MXD reduction.

Under the PTA, the City’s shared parking calculations for mixed-use developments established in the Municipal Code would result in a parking requirement of 10,413 parking spaces. It would be

³ Under the Specific Plan, this number may be increased or decreased by 5% (450 stalls) without approval of the Community Development Director. It further contemplates that parking beyond the 5% deviation can be granted by the Community Development Director with “justification for the adjustment being sought.”

⁴ There is an error in the parking supply calculation as presented in the EA. Based on the information presented in Table 17-17 the parking supply requirement for the Retail component would be 1,540 spaces and not 1,440 spaces (640 ksf x 4 spaces/ksf = 2,560 spaces; 2,560 spaces x 60% = 1,540). This would change total parking requirement to 11,315 or 8,939 spaces after applying the MXD reduction.



recommended as part of the EIR that a parking study be conducted to determine the demand for the project. The study could also review sources such as ULI that provide shared parking models. Overall, the EA’s conclusions for parking are not consistent with City practices.

BICYCLE PARKING

As presented in the EA, the City of Cupertino has the following bicycle parking requirements, presented in **Table 8**, which are consistent with what is presented in the City of Cupertino’s Municipal Code.

TABLE 8: CITY OF CUPERTINO BICYCLE PARKING REQUIREMENTS

Land Use	Bicycle Space Rate Requirement	Approximate Bicycle Space Requirement
High Density Multiple-Family	One Class I space for every 0.4 dwelling unit	640 – Class I
Office (Corporate/Administrative/General Multi-Tenant)	One Class I facility for every 0.05 automobile parking space	382 – Class I
Commercial	One Class II facility for every 0.05 automobile parking space	128 – Class II

Source: City of Cupertino Municipal Code (Section 19.124.040).

Applying the rates outlined in **Table 8**, the Project would be required to provide 1,022 Class I parking spaces (640 + 382) and 128 Class II parking spaces. Class I bicycle parking spaces are usually enclosed and are intended for long-term parking, while Class II bicycle parking is more intended for short-term parking and typically includes bike racks.

The EA determined the bicycle parking requirements based on the vehicle parking supply numbers that were reduced for shared parking and mixed use. This resulted in a recommended bicycle supply of 487 Class I facilities and 81 Class II facilities. Although not specified in the Municipal Code, the City typically applies the bicycle parking supply rates to the gross parking supply numbers. Thus the bicycle parking supply calculations presented in the EA are not consistent with City practices.

NEIGHBORHOOD INTRUSION

The VTCSP includes a \$300,000 fund for neighborhood traffic/parking monitoring and for construction of any necessary neighborhood protection measures to ensure there will be no Project parking spill-over or cut through traffic in the adjacent neighborhoods. As part of the environmental review process, the City would require a similar fee to monitor and implement any improvements related to neighborhood intrusion. Apple Campus 2 was required to set aside a \$250,000 fund for monitoring within Santa Clara



and \$500,000 within Sunnyvale. Overall the \$300,000 fund is reasonable, although the City could require a fund up to approximately \$500,000 to monitor traffic and parking intrusion in the surrounding neighborhoods based on Apple Campus 2.

VEHICLE MILES TRAVELED (VMT)

As part of the EIR, an estimate of vehicle miles traveled (VMT) would have been calculated. VMT estimates would have been produced using the MainStreet trip generation tool referenced above for use in the trip generation estimates. Based on this web-based tool, the Project will generate an estimated 321,930 VMT. Using rough estimates of the service population and VMT characteristics, this translates to approximately 29.0 VMT per service population. The existing land uses on the site (at 62 percent occupancy) generate approximately 62.2 VMT per service population (102,870 VMT). Thus, although the total VMT would increase due to the redevelopment of the site; the VMT per service population would decrease.

ATTACHMENT

DETAILED EXPLANATIONS FOR DIFFERENCES IN PROJECT INTERSECTION IMPACTS AND CUMULATIVE INTERSECTION IMPACTS

BACKGROUND CONDITIONS

Detailed technical explanations for the differences in Project intersection impacts identified in the EA and in the PTA are presented below. The primary explanation is volume differences caused by different trip assignments for other approved development projects and due to differences in the amount of Project traffic. These volume differences contribute to the different delay estimates and ultimately different Project impacts.

Intersection with Project Impacts in the EA and not the PTA

There was one intersection where a potential intersection impact was identified in the EA that was not identified in the PTA.

- Intersection #13 De Anza Boulevard / Bollinger Road:
 - For the PTA, intersection level of service calculation factors for CMP intersections were taken from the VTA 2014 CMP Traffic network. The arrival type provided in the CMP Traffic network is different than what was used for the EA. The EA's approach is not consistent with what the City would do for an EIR; however, Fehr & Peers did not test if the application of the appropriate arrival type in combination with the EA's volumes would result in a significant impact.

Intersections with Project Impacts Identified in the PTA but not the EA

There were seven intersections where an impact was identified in the PTA that were not identified in the EA:

- Intersection #44 Stevens Creek Boulevard / Tantau Avenue:
 - The primary reason for the impact difference is the differences in trip assignments for approved development projects and the amount of added Project traffic.
- Intersection #45 Stevens Creek Boulevard / Calvert Drive-I-280 Ramps (east):

- Differences in cycle length used in the EA and the PTA of 160 and 100 seconds, respectively, result in slight differences in delay. The PTA used a 100-second cycle length to match the value used in the Apple Campus 2 TIA. Using a cycle length from previous project is considered consistent with what the City practice for an EIR, however, it is also acceptable to use field observed cycle lengths as well. If the 160 seconds shown in the EA was observed in the field, then it would be considered consistent with City practices.
- Under the EA, the westbound left-turn movement has a minimum green time of 7 seconds under Background Conditions and 23 seconds under Background with Project Conditions. This is most likely a coding error. Fehr & Peers did not test if the application of the correct green time in combination with the EA's volumes would result in a significant impact.
- Intersection #53 Lawrence Expressway / I-280 Southbound Ramps:
 - The arrival type provided in the CMP Traffix network is different than what was used in the level of service calculation for the EA. The EA's approach is not consistent with City practice. Fehr & Peers did not test if the application of the appropriate arrival type in combination with the EA's volumes would result in a significant impact.
- Intersection #54 Lawrence Expressway / Mitty Way:
 - The primary reason is the differences in trip assignments for approved projects and the amount of added Project traffic.
- Intersection #55 Lawrence Expressway / Bollinger Road:
 - Under the EA, the northbound left-turn and southbound through/right-turn movements have different minimum green times for Background with Project Conditions compared to Background No Project Conditions. This is most likely a coding error. Fehr & Peers did not test if the application of the correct green times in combination with the EA's volumes would result in a significant impact.
 - The arrival type in the CMP Traffix network is different than what was used in the level of service calculation for the EA. The EA's approach is not consistent with City practice. Fehr & Peers did not test if the application of the appropriate arrival type in combination with the EA's volumes would result in a significant impact
- Intersection #57 Lawrence Expressway / Prospect Road:
 - Under the EA, the northbound through/right-turn movement has a different minimum green time for Background with Project Conditions compared to Background Conditions. This is most likely a coding error. Fehr & Peers did not test if the application of the correct green times in combination with the EA's volumes would result in a significant impact

CUMULATIVE CONDITIONS

The differences in number of intersection impacts identified in the EA and in the PTA for Cumulative Conditions are presented below. Due to the differences between the EA and the PTA in trip assignments for other approved development projects, for pending development projects, and in the amount of added Project traffic, there are volume differences at the study intersections between the EA and the PTA. These volume differences contribute to different delay estimates and ultimately different impacts.

Intersections with Cumulative Impacts in the EA and not the PTA

There was one intersection where a potential intersection impact was identified in the EA but not in the PTA.

- Intersection #8 De Anza Boulevard / Homestead Road:
 - The arrival type used in the level of service calculation provided in the CMP Traffix network is different than what was used for the EA. The EA's approach is not consistent with City practice. Fehr & Peers did not test whether the application of the appropriate arrival type, in combination with the EA's volumes, would result change the identified impact.

Intersections with Cumulative Impacts Identified in the PTA but not the EA

There were eleven intersections where a Cumulative impact was identified in the PTA but not in the EA, including the six of the intersections with Project impacts. The explanations for the six intersections with Project impacts hold true for Cumulative Conditions.

- Intersection #37 Miller Avenue / Bollinger Road:
 - The primary reasons for the impact difference are the trip assignments for approved/pending development projects and the amount of added Project traffic.
- Intersection #48 Stevens Creek Boulevard / Lawrence Expressway Ramps (west):
 - The differences in cycle length used in the EA and PTA of 160 and 120 seconds, respectively, result in slight differences in delay. The PTA used 120 second cycle length to match the Apple Campus 2 TIA. Using a cycle length from previous project is considered consistent City practice; however, it is also acceptable to use field observed cycle length. If the 160 seconds shown in the EA was observed in the field, then it would be considered consistent with City practice.
 - The EA assumed a minimum green time of 20 seconds for the southbound approach and 100 seconds for the eastbound and westbound approaches during the AM peak hour. This is most

likely a coding error. Fehr & Peers did not test if the application of the correct green time in combination with the EA's volumes would result in a significant impact.

- Intersection #56 Lawrence Expressway / Doyle Road:
 - The primary reasons for the impact difference are the differences in trip assignments for approved/pending development projects and in the amount of added Project traffic.
- Intersection #58 Lawrence Expressway / Saratoga Avenue:
 - The eastbound left-turn and right-turn, and the westbound right-turn movements have a large difference in trip assignment from approved/pending projects between the EA and PTA. Without a detailed review of the trip assignments, it is difficult to determine whether the EA's analysis results are consistent City practices.
- Intersection #60 SR 85 (North) / Saratoga Avenue:
 - The differences in cycle length used in the EA and PTA of 100 and 120 seconds, respectively, result in slight differences in delay. The PTA used 120 second cycle length to match the Apple Campus 2 TIA. A cycle length from previous project is considered consistent with City practice. However, it is also acceptable to use field observed cycle lengths. If the 100 seconds shown in the EA was observed in the field, then it would be considered consistent with City practice.

Vallco Town Center Freeway Impact Comparison

TABLE 1: EXISTING WITH PROJECT FREEWAY IMPACTS

Beginning Segment	End Segment	Peak Hour	Preliminary Traffic Assessment (PTA)		Environmental Assessment (EA)	
			NB/EB Direction ¹	SB/WB Direction ¹	NB/EB Direction ¹	SB/WB Direction ¹
SR 17						
Summit Rd	Bear Creek Rd	AM PM	N/A	N/A	- / - - / -	- / - - / -
Bear Creek Rd	Saratoga	AM PM	N/A	N/A	- / - - / -	- / - - / -
Saratoga	Lark Ave	AM PM	- / - - / -	- / - X / -	- / - - / -	- / - - / -
Lark Ave	SR 85	AM PM	- / - - / -	- / - X / -	- / - - / -	- / - - / -
SR 85	San Tomas Expwy / Camden Ave	AM PM	N/A	N/A	- / - - / -	- / - - / -
San Tomas Expwy / Camden Ave	Hamilton Ave	AM PM	N/A	N/A	- / - - / -	- / - - / -
Hamilton Ave	I-280	AM PM	N/A	N/A	- / - - / -	- / - - / -
SR 85						
US 101	Cottle Rd	AM PM	N/A	N/A	- / - - / -	- / - - / -
Cottle Rd	Blossom Hill Rd	AM PM	N/A	N/A	- / - - / -	- / - - / -
Blossom Hill Rd	SR 87	AM PM	N/A	N/A	X / X - / -	- / - - / -
SR 87	Almaden Expwy	AM PM	N/A	N/A	X / X - / -	- / - - / -
Almaden Expwy	Camden Ave	AM PM	N/A	N/A	X / X - / -	- / - - / -
Camden Ave	Union Ave	AM PM	N/A	N/A	X / - - / -	- / - - / -
Union Ave	S. Bascom Ave	AM PM	- / - - / -	- / - X / -	X / X - / -	- / - X / -
S. Bascom Ave	SR 17	AM PM	- / - - / -	- / - X / -	X / X - / -	- / - X / -
SR 17	Winchester Blvd	AM PM	X / - - / -	- / - - / -	X / X - / -	- / - - / -
Winchester Blvd	Saratoga Ave	AM PM	X / - - / -	- / - - / -	X / - - / -	- / - - / -
Saratoga Ave	Saratoga-Sunnyvale Rd	AM PM	- / - - / -	- / - X / -	- / - - / -	- / - X / -
Saratoga-Sunnyvale Rd	Stevens Creek Blvd	AM PM	- / - - / -	- / - - / -	- / - - / -	- / - - / -
Stevens Creek Blvd	I-280	AM PM	- / - - / -	- / - - / -	X / - - / -	- / - X / -
I-280	W. Homestead Rd	AM PM	- / - - / -	- / - - / -	X / - - / -	- / - - / -
W. Homestead Rd	W. Fremont Ave	AM PM	- / - - / -	- / - - / -	- / X - / -	- / - - / -
W. Fremont Ave	El Camino Real	AM	N/A	N/A	- / X	- / -

TABLE 1: EXISTING WITH PROJECT FREEWAY IMPACTS

Beginning Segment	End Segment	Peak Hour	Preliminary Traffic Assessment (PTA)		Environmental Assessment (EA)	
			NB/EB Direction ¹	SB/WB Direction ¹	NB/EB Direction ¹	SB/WB Direction ¹
		PM			- / -	- / -
El Camino Real	SR 237	AM PM	N/A	N/A	- / - - / -	- / - - / X
SR 237	Central Expwy	AM PM	N/A	N/A	- / - - / -	- / - - / -
Central Expwy	US 101	AM PM	N/A	N/A	- / - - / -	- / - - / -
SR 237						
El Camino Real	SR 85	AM PM	N/A	N/A	- / - - / -	- / - - / -
SR 85	Central Pkwy	AM PM	N/A	N/A	- / - - / -	- / - - / -
Central Pkwy	Maude Ave	AM PM	N/A	N/A	- / - - / -	- / - - / -
Maude Ave	US 101	AM PM	N/A	N/A	- / - - / -	- / - - / -
US 101	Mathilda Ave	AM PM	N/A	N/A	- / - - / -	- / - - / -
Mathilda Ave	N. Fair Oaks Ave	AM PM	N/A	N/A	- / - - / -	- / - - / -
N. Fair Oaks Ave	Lawrence Expwy	AM PM	N/A	N/A	- / - - / -	- / - - / -
Lawrence Expwy	Great America Pkwy	AM PM	N/A	N/A	- / - - / -	- / - - / -
Great America Pkwy	N. First St	AM PM	N/A	N/A	- / - - / -	- / - - / -
N. First St	Zanker Rd	AM PM	N/A	N/A	- / - - / -	- / - - / -
Zanker Rd	McCarthy Blvd	AM PM	N/A	N/A	- / - - / -	- / - - / -
McCarthy Blvd	I-880	AM PM	N/A	N/A	- / - - / -	- / - - / -
I-280						
Alpine Rd	Page Mill Rd	AM PM	- / - - / -	- / - - / -	- / - - / -	- / - - / -
Page Mill Rd	La Barranca Rd	AM PM	- / - - / -	- / - - / -	- / - - / -	- / - X / -
La Barranca Rd	El Monte Rd	AM PM	- / - - / -	- / - - / -	- / - - / -	- / - X / -
El Monte Rd	Magdalena Ave	AM PM	- / - - / -	- / - - / -	- / - - / -	- / - X / -
Magdalena Ave	Foothill Expwy	AM PM	- / - - / -	- / - - / -	- / - - / -	- / - - / -
Foothill Expwy	SR 85	AM PM	- / - - / -	X / - - / -	X / - - / -	- / - - / -
SR 85	De Anza Blvd	AM PM	- / - X / -	X / - - / -	X / - - / -	- / - X / -

TABLE 1: EXISTING WITH PROJECT FREEWAY IMPACTS

Beginning Segment	End Segment	Peak Hour	Preliminary Traffic Assessment (PTA)		Environmental Assessment (EA)	
			NB/EB Direction ¹	SB/WB Direction ¹	NB/EB Direction ¹	SB/WB Direction ¹
			De Anza Blvd	Wolfe Rd	AM PM	- / - X / -
Wolfe Rd	Lawrence Expwy	AM PM	- / - X / -	X / - - / -	X / - - / -	- / - X / -
Lawrence Expwy	Saratoga Ave	AM PM	- / - X / -	X / X - / -	X / X - / -	- / - X / -
Saratoga Ave	Winchester Blvd	AM PM	- / - X / -	X / - - / -	X / - - / -	- / - X / -
Winchester Blvd	I-880	AM PM	- / - X / X	X / X X / -	X / X X / -	- / - X / X
I-880	Meridian Ave	AM PM	- / - X / X	X / X - / -	X / X - / -	- / - X / X
Meridian Ave	Bird Ave	AM PM	- / - X / -	X / - - / -	X / - - / -	- / - X / -
Bird Ave	SR 87	AM PM	- / - X / -	X / - - / -	X / - - / -	- / - X / -
SR 87	10 th St	AM PM	N/A	N/A	X / - - / -	- / - X / -
10 th St	McLaughlin Ave	AM PM	N/A	N/A	X / - - / -	- / - - / -
McLaughlin Ave	US 101	AM PM	N/A	N/A	X / - - / -	- / - - / -
I-880						
I-280	Stevens Creek Blvd	AM PM	- / - - / -	- / - - / -	- / - - / -	- / - - / -
Stevens Creek Blvd	N. Bascom Ave	AM PM	- / - X / -	- / - - / -	- / - - / -	- / - - / -
N. Bascom Ave	The Alameda	AM PM	- / - X / -	- / - - / -	- / - - / -	- / - - / -
The Alameda	Coleman Ave	AM PM	- / - X / -	- / - - / -	- / - - / -	- / - - / -
Coleman Ave	SR 87	AM PM	N/A	N/A	- / - - / -	- / - - / -
SR 87	N. 1 st St	AM PM	N/A	N/A	- / - - / -	- / - - / -
N. 1 st St	US 101	AM PM	N/A	N/A	- / - - / -	- / - - / -
US 101	E. Brokaw Rd	AM PM	N/A	N/A	- / - - / -	- / - - / -
E. Brokaw Rd	Montague Expwy	AM PM	N/A	N/A	- / - - / -	- / - - / -
Montague Expwy	Great Mall Pkwy	AM PM	N/A	N/A	- / - - / -	- / - - / -
Great Mall Pkwy	SR 237	AM PM	N/A	N/A	- / - - / -	- / - - / -
SR 237	Dixon Landing Rd	AM PM	N/A	N/A	- / - - / -	- / - - / -

Notes:

"X" = Project contributes greater than one percent of the segment capacity on a segment already operating at LOS F.

"-" = No Project impact

"N/A" = freeway segment was not evaluated

1. "- / -" = Mixed-flow Lane Impact / HOV Lane Impact

Source: *Vallco Town Center Specific Plan Environmental Assessment*, Kimley-Horn, 2016; Fehr & Peers, 2016.

TABLE 2: CUMULATIVE WITH PROJECT FREEWAY IMPACTS

Beginning Segment	End Segment	Peak Hour	Preliminary Traffic Assessment (PTA)		Environmental Assessment (EA)	
			NB/EB Direction ¹	SB/WB Direction ¹	NB/EB Direction ¹	SB/WB Direction ¹
SR 17						
Summit Rd	Bear Creek Rd	AM PM	N/A	N/A	- / - - / -	- / - - / -
Bear Creek Rd	Saratoga	AM PM	N/A	N/A	- / - - / -	- / - - / -
Saratoga	Lark Ave	AM PM	X / - - / -	X / - X / -	X / - - / -	- / - - / -
Lark Ave	SR 85	AM PM	X / - - / -	- / - - / -	X / - - / -	- / - - / -
SR 85	San Tomas Expwy / Camden Ave	AM PM	N/A	N/A	- / - - / -	- / - - / -
San Tomas Expwy / Camden Ave	Hamilton Ave	AM PM	N/A	N/A	- / - - / -	- / - - / -
Hamilton Ave	I-280	AM PM	N/A	N/A	X / - - / -	- / - - / -
SR 85						
US 101	Cottle Rd	AM PM	N/A	N/A	- / - - / -	- / - X / -
Cottle Rd	Blossom Hill Rd	AM PM	N/A	N/A	- / - - / -	- / - X / -
Blossom Hill Rd	SR 87	AM PM	N/A	N/A	X / - - / -	- / - X / X
SR 87	Almaden Expwy	AM PM	N/A	N/A	X / - - / -	- / - X / -
Almaden Expwy	Camden Ave	AM PM	N/A	N/A	X / X X / -	- / - X / X
Camden Ave	Union Ave	AM PM	N/A	N/A	X / X X / -	X / - X / X
Union Ave	S. Bascom Ave	AM PM	X / X X / -	X / - X / -	X / X X / -	X / - X / X
S. Bascom Ave	SR 17	AM PM	X / X - / -	- / - X / -	X / - X / -	- / - X / -
SR 17	Winchester Blvd	AM PM	X / X - / -	X / - X / -	X / - X / -	X / - X / X
Winchester Blvd	Saratoga Ave	AM PM	X / - X / -	X / - X / -	X / X X / -	X / - X / X
Saratoga Ave	Saratoga-Sunnyvale Rd	AM PM	X / - X / -	X / - X / -	X / X X / -	X / - X / X
Saratoga-Sunnyvale Rd	Stevens Creek Blvd	AM PM	X / - X / -	X / - X / -	- / - - / -	- / - - / -
Stevens Creek Blvd	I-280	AM PM	X / - X / -	X / - X / -	X / - - / -	X / - X / -
I-280	W. Homestead Rd	AM PM	X / X - / -	X / - X / -	X / - - / -	- / - - / -
W. Homestead Rd	W. Fremont Ave	AM PM	X / X X / -	X / - X / -	X / - X / -	X / - X / X
W. Fremont Ave	El Camino Real	AM	N/A	N/A	X / -	X / -

TABLE 2: CUMULATIVE WITH PROJECT FREEWAY IMPACTS

Beginning Segment	End Segment	Peak Hour	Preliminary Traffic Assessment (PTA)		Environmental Assessment (EA)	
			NB/EB Direction ¹	SB/WB Direction ¹	NB/EB Direction ¹	SB/WB Direction ¹
		PM			X / -	X / X
El Camino Real	SR 237	AM PM	N/A	N/A	- / - - / -	X / - - / -
SR 237	Central Expwy	AM PM	N/A	N/A	- / - - / -	X / - - / X
Central Expwy	US 101	AM PM	N/A	N/A	- / - - / -	X / - - / -
SR 237						
El Camino Real	SR 85	AM PM	N/A	N/A	- / - - / -	- / - - / -
SR 85	Central Pkwy	AM PM	N/A	N/A	- / - - / -	- / - - / -
Central Pkwy	Maude Ave	AM PM	N/A	N/A	- / - - / -	- / - - / -
Maude Ave	US 101	AM PM	N/A	N/A	- / - - / -	- / - - / -
US 101	Mathilda Ave	AM PM	N/A	N/A	- / - - / -	- / - - / -
Mathilda Ave	N. Fair Oaks Ave	AM PM	N/A	N/A	- / - - / -	- / - - / -
N. Fair Oaks Ave	Lawrence Expwy	AM PM	N/A	N/A	- / - - / -	- / - - / -
Lawrence Expwy	Great America Pkwy	AM PM	N/A	N/A	- / - - / -	- / - - / -
Great America Pkwy	N. First St	AM PM	N/A	N/A	- / - - / -	- / - - / -
N. First St	Zanker Rd	AM PM	N/A	N/A	- / - - / -	- / - - / -
Zanker Rd	McCarthy Blvd	AM PM	N/A	N/A	- / - - / -	- / - - / -
McCarthy Blvd	I-880	AM PM	N/A	N/A	- / - - / -	- / - - / -
I-280						
Alpine Rd	Page Mill Rd	AM PM	- / - X / -	- / - - / -	X / - X / -	X / - - / -
Page Mill Rd	La BARRANCA Rd	AM PM	X / - - / -	X / - X / -	X / - - / -	X / - - / -
La BARRANCA Rd	El Monte Rd	AM PM	X / - - / -	X / - X / -	X / - - / -	X / - - / -
El Monte Rd	Magdalena Ave	AM PM	X / - X / -	X / - X / -	- / X - / -	- / - - / -
Magdalena Ave	Foothill Expwy	AM PM	X / - X / -	X / - X / -	X / X X / -	X / - X / -
Foothill Expwy	SR 85	AM PM	X / X X / -	X / - X / -	X / X X / -	X / - X / -
SR 85	De Anza Blvd	AM PM	X / X X / -	X / - X / -	X / X X / -	X / - X / X

TABLE 2: CUMULATIVE WITH PROJECT FREEWAY IMPACTS

Beginning Segment	End Segment	Peak Hour	Preliminary Traffic Assessment (PTA)		Environmental Assessment (EA)	
			NB/EB Direction ¹	SB/WB Direction ¹	NB/EB Direction ¹	SB/WB Direction ¹
			De Anza Blvd	Wolfe Rd	AM PM	X / X X / -
Wolfe Rd	Lawrence Expwy	AM PM	X / - X / -	X / - X / -	X / - - / -	X / - X / -
Lawrence Expwy	Saratoga Ave	AM PM	X / - X / -	X / - X / -	X / X - / -	X / - X / X
Saratoga Ave	Winchester Blvd	AM PM	X / - X / -	X / - X / -	X / X X / -	X / - X / X
Winchester Blvd	I-880	AM PM	X / - X / -	X / - X / -	X / X X / -	X / - X / X
I-880	Meridian Ave	AM PM	X / X - / -	- / - X / -	X / X X / -	X / - X / X
Meridian Ave	Bird Ave	AM PM	X / - - / -	- / - X / -	X / X X / -	X / - X / X
Bird Ave	SR 87	AM PM	X / - - / -	- / - X / -	X / - - / -	- / - X / -
SR 87	10 th St	AM PM	N/A	N/A	X / X - / -	X / - X / X
10 th St	McLaughlin Ave	AM PM	N/A	N/A	X / - - / -	X / - X / X
McLaughlin Ave	US 101	AM PM	N/A	N/A	X / - - / -	- / - X / X
I-880						
I-280	Stevens Creek Blvd	AM PM	X / - - / -	- / - - / -	- / - - / -	- / - - / -
Stevens Creek Blvd	N. Bascom Ave	AM PM	X / - - / -	X / - X / -	- / - - / -	- / - - / -
N. Bascom Ave	The Alameda	AM PM	X / - X / -	X / - X / -	- / - - / -	- / - - / -
The Alameda	Coleman Ave	AM PM	X / - X / -	X / - X / -	- / - - / -	- / - - / -
Coleman Ave	SR 87	AM PM	N/A	N/A	- / - - / -	- / - - / -
SR 87	N. 1 st St	AM PM	N/A	N/A	- / - - / -	- / - - / -
N. 1 st St	US 101	AM PM	N/A	N/A	- / - - / -	- / - - / -
US 101	E. Brokaw Rd	AM PM	N/A	N/A	- / - - / -	- / - - / -
E. Brokaw Rd	Montague Expwy	AM PM	N/A	N/A	- / - - / -	- / - - / -
Montague Expwy	Great Mall Pkwy	AM PM	N/A	N/A	- / - - / -	- / - - / -
Great Mall Pkwy	SR 237	AM PM	N/A	N/A	- / - - / -	- / - - / -
SR 237	Dixon Landing Rd	AM PM	N/A	N/A	- / - - / -	- / - - / -

Notes:

"X" = Project contributes greater than one percent of the segment capacity on a segment already operating at LOS F.

"-" = No Project impact

"N/A" = freeway segment was not evaluated

1. "- / -" = Mixed-flow Lane Impact / HOV Lane Impact

Source: *Vallco Town Center Specific Plan Environmental Assessment*, Kimley-Horn, 2016; Fehr & Peers, 2016.

Appendix 6

Appendix 6A: Donation Agreement Between Vallco Property Owner, LLC
and Cupertino Union School District

Appendix 6B: Donation Agreement Between Vallco Property Owner, LLC
and Fremont Union High School District

APPENDIX 6A

DONATION AGREEMENT

BETWEEN

VALLCO PROPERTY OWNER, LLC

(“DONOR”)

and

CUPERTINO UNION SCHOOL DISTRICT

(“DISTRICT”)

Dated: June 7, 2016

DONATION AGREEMENT

THIS DONATION AGREEMENT (“Agreement”) is made this 7th day of June, 2016 (“Effective Date”), by and between VALLCO PROPERTY OWNER, LLC, a Delaware limited liability company (“Donor”) and the CUPERTINO UNION SCHOOL DISTRICT, a California public school district (“District”). Donor and District are referred to occasionally herein as a “Party” or “Parties.”

RECITALS

WHEREAS, Donor is the owner of certain real property located within District boundaries in the City of Cupertino, County of Santa Clara, State of California, more specifically known as APNs 316-20-080, -081, -082, -094, -095, -099, -100, -101, -103, -104, -105, -106, -107 (“Property”), on which Donor desires to secure entitlements to construct a mixed-use development pursuant to the Vallco Town Center Specific Plan Initiative (“Initiative”), which allows for the development of a minimum of 389 residential units, approximately 2 million square feet of office space, up to 100,000 square feet of civic space, and approximately 640,000 square feet of retail space (“Development”);

WHEREAS, the Property is the subject of the Initiative, which, if approved by the voters of the City of Cupertino (“City”), would enact and require the implementation of the Vallco Town Center Specific Plan (“Specific Plan”), which requires the developer of the Property to provide approximately \$40 million to local school districts; specifically, District and the Fremont Union High School District (“FUHSD”);

WHEREAS, according to student demographic information provided by the District and the City-commissioned Schoolhouse Services Enrollment and Fiscal Impact Report dated February 2016, the addition of 800 new residential units on the Property within the District boundaries is expected to generate 212 additional students to be served by the District. The District currently does not have the facilities to accommodate such an increase in student population while still maintaining the District’s high educational standards;

WHEREAS, California Education Code, section 17620, *et seq.*, and California Government Code, section 65995, *et seq.* (“Developer Fee Statutes”) allow a school district to impose developer impact fees or other requirements to mitigate school-related impacts resulting from residential and non-residential development projects;

WHEREAS, District is currently authorized to impose Level 1 school impact fees at a maximum rate of Three-Dollars-and-Forty-Eight-Cents (\$3.48) per square foot for all residential construction and Fifty-Six-Cents (\$0.56) per square foot for all commercial/industrial construction and senior citizen housing, as defined in the Developer Fee Statutes and Civil Code section 51.3, and pursuant to its agreement with FUHSD, dated January 22, 1993 (“FUHSD Agreement”), District is allowed to collect up to 60% of these maximum fees from the Donor in connection with the Development currently at a rate of Two-Dollars-and-Nine-Cents (\$2.09) per square foot for all residential construction and Thirty-Four-Cents (\$0.34) per square foot for all commercial/industrial construction and senior citizen housing, minus credit for the demolition of existing commercial space (“Developer Fees”);

WHEREAS, the Parties agree that Donor shall pay to District Developer Fees imposed in accordance with the Developer Fee Statutes and the FUHSD Agreement; however, the Parties acknowledge that Donor desires to provide additional funding for the District beyond what is required by state law;

WHEREAS, the Parties understand and agree that new school facilities within the District are a part of the infrastructure that is beneficial to serve the residents of the Development when completed; however, State funds for school construction are limited, thus the procurement of funding for the construction of school facilities has become the responsibility of the local community that desires those facilities;

WHEREAS, Donor wishes to fully mitigate any impacts to District not mitigated by Donor's payment of Developer Fees, and desires that the Development move forward without opposition from District. Additionally, Donor acknowledges the well-recognized impact schools may have on local property values, including the Development, and desires the enhancement of the educational environment for all students in the District;

WHEREAS, in order to fully mitigate any impacts to District not mitigated by Donor's payment of Developer Fees and for facilities and/or to enhance the educational environment or opportunities for students in the District, and in consideration of the effect District schools may have on the property values of the Development that will inure to the benefit of Donor after construction of the Development, Donor will, as provided for herein, make a one-time donation of Nineteen-Million and No/100 Dollars (\$19,000,000.00) to District, or alternatively, if agreed to by the Parties, the Donor will donate school facilities in-lieu of a payment ("Enhancement of Educational Environment Donation" or "EEE Donation");

WHEREAS, in order to fully mitigate any impacts to District not mitigated by Donor's payment of Developer Fees, and in consideration of the effect continuing and additional District school programs may have on the property values of the Development that will inure to the benefit of Donor after construction of the Development, Donor will, as provided for herein, make a one-time donation of One-Million-and-No/100-Dollars (\$1,000,000.00) to District for the purpose of supplementing District's fundraising efforts to ensure the long-term viability of the existing Yosemite Science Program serving the District's middle school students ("Yosemite Endowment");

WHEREAS, in order to fully mitigate any impacts to District not mitigated by Donor's payment of Developer Fees and in order to further contribute to the improvement of existing school facilities or the establishment of new school facilities that would not otherwise be available to students by Donor's payment of Developer Fees, in consideration of the effect District funding may have on the property values of the Development that will inure to the benefit of Donor after construction of the Development, and in response to the proposal from District Superintendent Wendy Gudalewicz, Donor will, on an annual basis as provided for herein, pay an amount equivalent to those parcel taxes established by Measure A, Parcel Tax Renewal, Cupertino Union School District, 2014, ("Measure A") for each unrestricted residential apartment unit constructed as part of the Development as long as the parcel tax remains in effect ("Parcel Tax Equivalency Payments");

WHEREAS, the Parties acknowledge that children of future employees who work at the Development but who do not reside in Cupertino do not have a right to attend District schools, which has no bearing on Donor's obligation to pay Developer Fees;

WHEREAS, according to the Fiscal and Economic Impacts Analysis prepared by Keyser Marston Associates, Inc. dated May 2016, implementation of the Specific Plan and this Agreement is anticipated to result in approximately \$1 million of increased property tax revenue dedicated to the repayment of debt service for outstanding bonds issued by District, representing approximately 4 to 5 percent of the property taxes currently collected for debt service within District, and, if this Agreement's in-lieu option is elected, the Donor's donation of new school facilities would result in a net capital facility surplus of approximately \$21.7 million to District;

WHEREAS, Donor and District desire to memorialize Donor's commitments to District — which include Donor's payment to District of Developer Fees, the EEE Donation, the Yosemite Endowment, and of the Parcel Tax Equivalency Payments ("Donor Commitments") — pursuant to the terms and conditions contained herein;

WHEREAS, Donor represents and agrees that the Donor Commitments shall be entirely funded by private financing, and shall not be funded from public financing or in any way at the expense of taxpayers; and

WHEREAS, such Donor Commitments provided by Donor are offered in consideration for their enhancement of the property values in the Development and desirability of the completed Development that will inure to the benefit of Donor after construction of the Development.

NOW THEREFORE, in consideration of the terms and conditions hereinafter set forth, Donor and District agree as follows:

AGREEMENT

1. Term; Timing of Obligations

1.1 *Effective Date.* This Agreement shall become effective on the date first written above. However, no party shall have any right or obligation under this Agreement unless and until the events described in Section 1.3 have occurred, except as set forth in Section 6.4.

1.2 *Termination.* This Agreement may only be terminated upon the completion of the Donor Commitments, as defined in Section 6.1, unless mutually agreed to by the Parties.

1.3 *Approval of Development.* Except as set forth in Section 6.4, the Parties shall have no rights or obligations under this Agreement unless and until the voters of City approve the Initiative, the City approves Donor's Development to allow a minimum of 389 residential units, approximately 2 million square feet of office space, up to 100,000 square feet of civic space, and approximately 640,000 square feet of retail space, City issues the first building permit for the Development, and all relevant appeal periods and statutes of limitations under CEQA and the State Planning and Zoning Laws (Cal. Gov. Code, section 65000 *et. seq.*) for challenging such

entitlements have run without the filing of a legal challenge (“Approval Date”). The specific timing of the obligations of Donor is as set forth in this Agreement.

2. Developer Fees

2.1 *Calculation of Fees.* The square footages of residential construction, commercial construction, and senior citizen housing associated with the Developer Fees shall be calculated in accordance with the following definitions:

2.1.1 “Residential Construction” shall mean residential “assessable space,” as defined in California Government Code, section 65995(b)(1), as calculated by the City’s Department of Community Development, Building Division, in accordance with the City’s standard practice in calculating structural perimeters.

2.1.2 “Commercial Construction” shall mean commercial/industrial “chargeable covered and enclosed space,” as defined in California Government Code, section 65995(b)(2), as determined the City’s Department of Community Development, Building Division, in accordance with the City’s building standards.

2.1.3 “Senior Citizen Housing,” shall mean the assessable space of “senior citizen housing,” as defined by California Civil Code, section 51.3.

2.2 *Developer Fees.*

2.2.1 *Payment Due Date; Form.* Developer Fees for Residential Construction, Commercial Construction, and Senior Citizen Housing shall be due and payable in conjunction with the issuance of a building permit for each building including such space, but may also be paid at any time prior to that date in the sole discretion of the Donor, but which payment remains subject to the one-year expiration of the Certificate of Compliance issued by District upon payment of Developer Fees. Fees shall only be for the portion of the Development for which the building permit is being issued and credits shall be granted for the commensurate portion of the commercial space that previously existed at the location of the portion of the Development for which the building permit is being issued. Payment of Developer Fees shall be in the form of a cashier’s check or electronic transfer at District’s discretion and instruction.

2.2.2 *Developer Fee Amount.* Donor shall pay to District Developer Fees in effect at the time of payment, including if fees are paid early, however, said payment remains subject to the one-year expiration of the Certificate of Compliance issued by District upon payment of Developer Fees. As of the date of this Agreement, Developer Fees are equal to sixty percent (60%) of the current Level 1 rates; specifically, Two-Dollars-and-Nine-Cents (\$2.09) per square foot of Residential Construction within the Development, and Thirty-Four-Cents (\$0.34) per square foot of Commercial Construction and Senior Citizen Housing within the Development, minus credit in the amount of three hundred and ninety-six thousand dollars (\$396,000.00) for the demolition of 1.2 million square feet of existing commercial space, at a rate of Thirty-Four-Cents (\$0.34) per square foot (or rate in effect of time of payment), consistent with current District policy. In addition to Donor’s payment of the EEE Donation, the Yosemite Endowment, and the Parcel Tax Equivalency Payments as set forth in this Agreement,

Donor's payment of Developer Fees shall constitute the total and full mitigation of any and all impact of Donor's Development on District.

2.3 *Certificate of Compliance.* Upon tender of Developer Fees by Donor, District shall issue to Donor a certificate of compliance evidencing that, with respect to each building containing Residential Construction, Commercial Construction, or Senior Citizen Housing for which Developer Fees have been paid (which shall be identified by unit, lot number, or other appropriate description), Donor has complied with any and all school mitigation requirements of the District, contingent on Donor's payment of the EEE Donation, Yosemite Endowment, and Parcel Tax Equivalency Payments, as applicable. Donor shall have an ongoing obligation to make the Parcel Tax Equivalency Payments as provided for in Section 5.

2.4 *Expenditure of Developer Fees.* Developer Fees may be used for any District expenditures related to the construction or reconstruction of school facilities including, but not limited to, providing additional facilities necessary or desirable to mitigate the impact of other development within District, and/or to enhance existing facilities to better serve District students. The use of Developer Fees shall be in District's sole discretion.

2.5 *No Reduction or Credit.* Donor's obligation to pay Developer Fees shall be absolute as to all Residential Construction, Commercial Construction, and Senior Citizen Housing built in conjunction with the Development after the Effective Date. Donor acknowledges that in the event that District receives funds from the State of California or any other source to accommodate existing or projected students generated from the Development, Donor or its successors or assigns shall not be entitled to any refund or credit or reduction in Developer Fees as a result of the receipt of such State or other funds.

3. The Educational Environment Enhancement (EEE) Donation

3.1 *Amount, Purpose and Donation of Facilities In-lieu of Payment Option.* In consideration of the effect District schools may have on the property values of the Development that will inure to the benefit of Donor after construction of the Development, Donor agrees to make a one-time donation of Nineteen-Million-and-No/100-Dollars (\$19,000,000.00) to District to mitigate any impacts caused by the Development and for facilities and/or the enhancement of the educational environment or opportunities for students of the District. In-lieu of the payment of \$19,000,000.00, if mutually agreed to by the Parties, the Donor shall donate new school facilities at a location or locations determined by the District in District's sole discretion. If the school facilities in-lieu option is elected, such election shall be documented in a mutually agreed to agreement or agreements setting forth the terms of the design, construction and donation of new school facilities by Donor, including any such related site lease(s) or access agreement(s) to District property.

3.2 *Payment Due Date.* The Donor shall pay District the EEE Donation prior to City's issuance of the first final occupancy permit for residential uses in Development. The EEE Donation shall be in the form of a cashier's check or electronic transfer at the District's discretion and instruction.

3.3 *Expenditure of EEE Donation.* The District shall use the EEE Donation to first mitigate impacts caused by the Development and then for the enhancement of facilities and/or

the educational environment or opportunities for District students, in the District's sole discretion. The EEE Donation funds shall not be used for payment of salary or benefits of District staff or employees.

4. Yosemite Endowment Gift

4.1 *Amount.* In consideration for the heightened property values that the District's continuation and expansion of its Yosemite Science Project will generate for the completed Development, Donor agrees to make a one-time donation of One-Million-and-No/100-Dollars (\$1,000,000.00) to District for the purpose of supplementing District's fundraising efforts to ensure the long-term viability of the in-place Yosemite Science Program.

4.2 *Payment Due Date.* The Donor shall pay District the Yosemite Endowment gift prior to the City's issuance of the first final occupancy permit for residential uses in the Development. The Yosemite Endowment gift may be paid at any time prior to that date in the sole discretion of Donor. The Yosemite Endowment gift shall be in the form of a cashier's check or electronic transfer at the District's discretion and instruction.

4.3 *Expenditure of Yosemite Endowment.* The District may use the Yosemite Endowment gift for any District expenditures directly related to the Yosemite Science Program at District's sole discretion.

5. Parcel Tax Equivalency Payments

5.1 *Amount.* Donor shall pay the Parcel Tax Equivalency Payments to District on an annual basis in an amount equivalent to the Measure A parcel tax for each unrestricted apartment unit constructed in the Development, less any parcel taxes Donor is otherwise obligated to pay for the Development. The Parcel Tax Equivalency Payments shall be the same amount as the Measure A parcel tax in effect that year, including any increases, or in the same amount as a substantially similar measure that may be imposed in the future. However, if the Measure A parcel tax expires or is repealed and not replaced with a substantially similar measure, no further payment will be due. No payments will be made on units restricted as affordable units or Senior Housing units.

5.2 *Payment Due Date.* The initial Parcel Tax Equivalency Payment shall be prorated and payable within thirty (30) days of the City's issuance of the first final occupancy permit for residential uses in Development, and shall be in an amount calculated on a per unit basis as provided above. Thereafter, the Parcel Tax Equivalency Payment shall be payable on or before the first installment of property taxes are due each year. Payments will be due only on units with a final certificate of occupancy from the City.

6. Full Mitigation; Successors & Assigns

6.1 *Sole and Exclusive Mitigation.* It is agreed by the parties that Donor's payment of Developer Fees, the EEE Donation (including, if applicable, the donation of new school facilities in-lieu of the \$19,000,000.00 payment), the Yosemite Endowment gift, and the Parcel Tax Equivalency Payments ("Donor Commitments") fully and completely mitigates any and all impacts that the Development may have on District, and creates a net positive impact on District,

and District will not request or require any further school impact mitigation in connection with the Development, regardless of any future change in law, rule, regulation, or policy and shall be in lieu of any and all other school mitigation requirements whatsoever due, payable, or sought by District currently or in the future relating in any manner to school impacts or school facilities. District shall not be prohibited from or limited in levying any general obligation tax or other exaction on the Property (subject to applicable law) in the future, provided such tax is uniformly imposed on all similar property within District boundaries. Notwithstanding the foregoing or anything contained in this Agreement or otherwise, Donor's Donor Commitments shall terminate at the election of either party if the Initiative fails, but shall have no effect on Donor's statutory obligation to pay Developer Fees pursuant to the Developer Fee Statutes.

6.2 *Satisfactory Performance.* Completion and satisfaction of the Donor Commitments (or failure of the Initiative) shall extinguish the burden of this covenant on the Property or part of the Property ("Released Property"), and shall release Donor from the obligations of this Agreement as to the Released Property, but shall have no effect on Donor's statutory obligation to pay Developer Fees pursuant to the Developer Fee Statutes. Upon satisfaction of the Donor Commitments (or due to failure of the Initiative), this Agreement shall be terminated and of no further force or effect and shall not be a matter of record.

6.3 *District Position on Development.* District covenants and agrees that, with respect to the Property, it shall not assist or engage in any of the following actions if the result of any of them, directly or indirectly, would be to require payment of any exaction or imposition of any mitigation measures on the Property (with respect to the Development only) other than or in excess of the Donor Commitments expressly provided for in this Agreement:

6.3.1 Oppose the Development, directly or indirectly, or seek to condition any portion of the Development of the Property on the basis of inadequate school facilities;

6.3.2 Suggest, request, initiate or support, directly or indirectly, litigation to oppose the Development;

6.3.3 Exercise any power or authority (under the School Facilities Act or any other provision of applicable law) to levy a fee, charge, dedication, special tax, or other form of requirement against the Development of the Property for the purpose of funding or financing any school facilities; or

6.3.4 Require any other governmental entity to exercise, or cooperate with any city, county or other governmental entity in the exercise of the power under Title 7, Division 1, Chapter 4.7 of the Government Code (commencing with Section 65970) or any other applicable provision of law, to require the dedication of land, the payment of fees in lieu thereof, and/or the payment of special taxes for interim or permanent school facilities as a condition to the approval of the Development on the Property.

6.3.5 *Donor's Use of District's Name.*

6.3.5.1 *Prohibited Uses of District's Name.* Donor agrees that in no way may Donor state, suggest, or otherwise represent that District (including its Board and individual members thereof whether through written, oral or visual materials) supports or

endorses the Initiative or Development, or the campaign in support thereof, unless the District provides prior written authorization for pre-approved statements regarding the District's support or endorsement. Donor may not use the names of individual Board members, or republish or reissue past statements made prior to the date of this Agreement by District, its Board, or individual Board members, in its campaign materials for any purpose without the District's prior written approval.

6.3.5.2 *Allowed Uses of District's Name.* Donor may use District's name to describe any fact in the public record in a factually accurate manner, specifically this Agreement or any obligations to provide assistance to the District set out in any City approval or any ballot measure.

6.3.5.3 *Applicability of Restrictions.* Donor must adhere to the obligations under this paragraph regardless of whether the events described in Section 1.3 have occurred to trigger other obligations in this Agreement.

6.4 *Running Covenant.* Subject to the limitations set forth herein, the covenants of this Agreement shall run with the land and shall bind and inure to the benefit of the successors and assigns of the Parties. Donor agrees for the benefit of District that the Property shall be held, transferred, and encumbered subject to the provisions of this Agreement which are for the use and benefit of the Development upon it and of each and every person who now or in the future develops the Development, until all of the Development has been completed.

6.5 *Transfer Rights.* Nothing in this Agreement shall in any way limit the ability of Donor to transfer, sell, assign, encumber or in any way convey (collectively, "Transfer") any interest in the Development without the consent of District, provided that, prior to a Transfer, Donor gives written notice of a Transfer to District, which shall include confirmation that the transferee ("Transferee") assumes the obligations of Donor under this Agreement. Upon the Transferee's written assumption of the obligations under this Agreement and the closing of the Transfer, the transferring Donor shall be released from all obligations under this Agreement, and District shall look solely to the Transferee for performance of the obligations hereunder, and the Transferee shall have all rights and benefits of Donor set forth in this Agreement.

7. Breach, Default & Cure

7.1 *Breach, Default and Cure.* If either party materially breaches or fails to comply with any of its obligations under this Agreement, such breaching party shall have thirty (30) days following receipt of written notice of breach from the non-defaulting party ("Breach Notice") to cure such breach or noncompliance ("Cure Period"). If such breaching party shall not have cured such breach or noncompliance within the Cure Period and after the expiration of fifteen (15) days from the later of the expiration of the Cure Period and the date it receives written notice of default ("Default Notice"), it shall be deemed in default ("Default") under this Agreement; provided, that each of the Breach Notice and the Default Notice shall set forth in reasonable detail the nature of the breach, noncompliance or default, as the case may be.

7.2 *Default Remedies.* Upon a Default pursuant to Section 7.1, the non-defaulting party shall have any and all rights and remedies under this Agreement and/or under the law by reason of

such default, provided that such remedies shall not include recovery of any indirect, punitive, special, or consequential damages.

8. Dispute Resolution

8.1 *Informal Discussions; Mediation.* If a dispute arises relating to the interpretation of, enforcement of or compliance with the terms of this Agreement, Donor and the District will first attempt to resolve it through informal discussions or other alternative means of resolving such dispute. Any party may convene such discussions by written notice, and shall reasonably accommodate the other party with respect to scheduling. If the dispute is not resolved in this manner within thirty (30) days, it may be referred to mediation upon the request of either party for a period not to exceed an additional thirty (30) days.

8.2 *No Waiver.* This dispute resolution process shall be undertaken in good faith and exhausted prior to judicial review. However, compliance with this process does not waive any party's obligation to comply with, or right to assert as a defense, any applicable statute of limitations. The parties may agree in writing to toll any applicable statute of limitations for such period as may reasonably be necessary to complete the dispute resolution process.

9. Miscellaneous

9.1 *Recitals.* The recitals above are true and correct, and are incorporated into this Agreement by this reference.

9.2 *Governing Law.* This Agreement shall be construed in accordance with, and governed by, the laws of the State of California applicable to contracts to be performed wholly within the State.

9.3 *Interpretation.* The singular includes the plural, "shall" is mandatory, and "may" is permissive. The Parties acknowledge and agree that each of the Parties have participated fully in the negotiation and drafting of this Agreement. In cases of uncertainty as to the meaning, intent or interpretation of any provision of this Agreement, the Agreement shall be construed without regard to which of the Parties caused, or may have caused, the uncertainty to exist. No presumption shall arise from the fact that particular provisions were or may have been drafted by a specific party, and prior versions or drafts of this Agreement shall not be used to interpret the meaning or intent of this Agreement or any provision hereof.

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9.4 *Notice.* Any notice to be given hereunder to either Party shall be in writing and shall be given either by personal delivery (including express or courier service), or by registered or certified mail, with return receipt requested, postage prepaid (excluding electronic messaging) and addressed as follows:

DONOR:

VALLCO PROPERTY OWNER, LLC
2882 Sand Hill Road, Suite 241
Menlo Park, CA 94025
Attn: Peter Pau

With copy to:
Morrison & Foerster LLP
425 Market St.
San Francisco, CA 94105
Attn: Miles Imwalle

DISTRICT:

CUPERTINO UNION SCHOOL DISTRICT
1309 S. Mary Avenue, Suite 150
Sunnyvale, CA 94087
Attn: Superintendent

With copy to:
Dannis Woliver Kelley
275 Battery Street, Suite 1150
San Francisco, CA 94111
Attn: Deidree Y.M.K. Sakai, Esq.

Any notice personally given shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective five (5) days after deposit in the United States mail.

9.5 *Relationship.* The relationship of the Parties to this Agreement is determined solely by the provisions of this Agreement. This Agreement does not create and shall not be construed to create any agency, partnership, joint venture, trust or other relationship with duties or incidents different from those of parties to an arm's length contract.

9.6 *Independent Contractors.* Each party is an independent contractor and shall be solely responsible for the employment, acts, omissions, control and directing of its employees. Except as expressly set forth herein, nothing contained in this Agreement shall authorize or empower any party to assume or create any obligation or responsibility whatsoever, express or implied, on behalf of or in the name of any other party or to bind any other party or make any representation, warranty or commitment on behalf of any other party.

9.7 *Third Parties.* Nothing in this Agreement, whether express or implied, is intended to or shall do any of the following: (a) confer any benefits, rights or remedies under or by reason of this Agreement on any persons other than the express parties to it; (b) relieve or discharge the obligation or liability of any person not an express party to this Agreement; or (c) give any person not an express party to this Agreement any right of subrogation or action against any party to this Agreement.

9.8 *Cooperation.* Parties shall cooperate fully with each other and any consultants or representatives retained by the other in connection with their commitments and obligations herein.

9.9 *Amendments and Waivers.* No amendment of, supplement to or waiver of any obligations under this Agreement will be enforceable or admissible unless set forth in writing and signed by the Party against which enforcement or admission is sought. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted shall apply solely to the specific instance expressly stated.

9.10 *Further Assurances.* Each party to this Agreement shall perform all acts and execute all documents and instruments that may be necessary or convenient to carry out its obligations and commitments under this Agreement. The Parties shall execute and deliver all such papers and take all such steps as the Parties may require for the purpose of the Parties' performance of their obligations and commitments, and fully vesting in the Parties their respective rights and benefits, under this Agreement.

9.11 *Severability.* If any provision of this Agreement is held invalid, void or unenforceable, the remainder of the Agreement shall not be affected and it shall remain in full force and effect, unless amended or modified by mutual consent of the parties; provided, however, that if the invalidity or unenforceability of any provision of this Agreement results in a material failure of consideration, then the party adversely affected thereby shall have the right in its sole discretion to terminate this Agreement upon providing written notice of such termination to the other party.

9.12 *Attorneys' Fees.* If either party files any action or brings any proceedings against the other arising out of this Agreement, then, as between District and Donor, the prevailing party shall be entitled to recover, in addition to its costs of suit and damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be the party that is entitled to recover its costs of suit, whether or not suit proceeds to final judgment.

9.13 *Entire Agreement.* This Agreement sets forth the entire understanding of the Parties relating to the transactions it contemplates, and supersedes all prior understandings relating to them, whether written or oral.

9.14 *Execution in Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and counterpart signature pages may be assembled to form a single original document. Consolidated signature pages shall be compiled by the District and forwarded to Donor to constitute the Donor's executed copy of the Agreement.

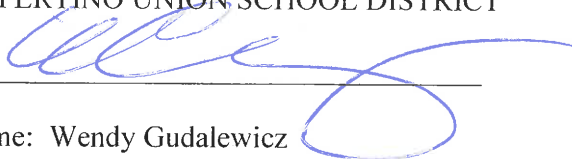
9.15 *Signatures.* By signing below, each of the signatories represents and warrants that he or she has been duly authorized to execute this Agreement on behalf of the Party on whose behalf he or she is signing. The Superintendent of the District further represents and warrants, by her signature, that this Agreement has been duly ratified and approved by the Board of Trustees of the District.

[SIGNATURE BLOCK ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates written below.

DISTRICT:

CUPERTINO UNION SCHOOL DISTRICT

By: 

Name: Wendy Gudalewicz

Title: Superintendent

Date: 6-7-16

DONOR:

VALLCO PROPERTY OWNER, LLC

By: 

Name: PETER TAI

Title: MANAGER

Date: 6-8-16

California All-Purpose Certificate of Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF SANTA CLARA)

On _____, 2016, before me, _____,
Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature of Notary Public

**EDUCATIONAL FACILITIES AND DONATION AGREEMENT FOR
FREMONT UNION HIGH SCHOOL DISTRICT**

This EDUCATIONAL FACILITIES AND DONATION AGREEMENT FOR FREMONT UNION HIGH SCHOOL DISTRICT (“Agreement”) is entered into as of June 17, 2016 (“Effective Date”), by and between VALLCO PROPERTY OWNER, LLC (“Property Owner”) and the FREMONT UNION HIGH SCHOOL DISTRICT (“District”) (together, “Parties”), in reference to the following facts:

RECITALS

WHEREAS, Property Owner is the owner of certain real property located within District boundaries in the City of Cupertino, County of Santa Clara, State of California, more specifically known as APNs 316-20-080, -081, -082, -094, -095, -099, -100, -101, -103, -104, -105, -106, -107 (“Property”), on which Property Owner desires to secure entitlements to construct a mixed-use development pursuant to the Vallco Town Center Specific Plan Initiative (“Initiative”), which allows for the development of a minimum of 389 residential units, approximately 2,000,000 square feet of office space, up to 100,000 square feet of civic space, and approximately 640,000 square feet of retail space (“Development”);

WHEREAS, the Property is the subject of the Initiative, which, if approved by the voters of the City of Cupertino (“City”), would enact and require the implementation of the Vallco Town Center Specific Plan (“Specific Plan”), which requires the developer of the Property to provide approximately \$40 million to local school districts; specifically, District and the Cupertino Union School District (“CUSD”);

WHEREAS, according to student demographic information provided by the District and the City-commissioned Schoolhouse Services Enrollment and Fiscal Impact Report dated February 2016, the addition of 800 new residential units on the Property within District boundaries is expected to generate 46 students to be served by the District. District currently does not have access to the facilities needed to provide the student population with the full breadth of meaningful extracurricular activities that help students relate their comprehensive, high-quality classroom education to the technology activities of Silicon Valley;

WHEREAS, California Education Code, section 17620, *et seq.*, and California Government Code, section 65995, *et seq.* (“Developer Fee Statutes”) allow a school district to impose developer impact fees or other requirements to mitigate school-related impacts resulting from residential and non-residential development projects;

WHEREAS, District is currently authorized to impose Level 1 school impact fees at a maximum rate of three dollars and thirty-nine cents (\$3.39) per square foot for all residential construction and fifty-five cents (\$0.55) per square foot for all commercial construction and senior citizen housing, as defined in the Developer Fee Statutes, and pursuant to its agreement with CUSD, dated January 22, 1993 (“CUSD Agreement”), District is allowed to collect up to 40% of these maximum fees from Property Owner in connection with the Development at a rate of one dollar and thirty-six cents (\$1.36) for all residential units and twenty-two cents (\$0.22) per square

foot for all commercial development and senior citizen housing, minus credit for the demolition of existing commercial space (“Developer Fees”);

WHEREAS, the Parties agree that Property Owner shall pay to District Developer Fees imposed in accordance with the Developer Fee Statutes and the CUSD Agreement, however the Parties acknowledge that Property Owner desires to provide additional funding and facilities for the District beyond what is required by state law;

WHEREAS, the Parties understand and agree that new school programs within the District are a part of the infrastructure that is beneficial to serve the residents of the Development when completed, however State funds for construction of facilities are limited, thus the procurement of funding for the construction of facilities to benefit students has become the responsibility of the local community that desires those facilities;

WHEREAS, Property Owner wishes to improve or establish facilities that would not otherwise be available to students by Property Owner’s payment of Developer Fees, and desires that the Development move forward without opposition from District. Additionally, Property Owner acknowledges the well-recognized impact schools may have on local property values, including the Development, and desires adequate school facilities, curriculum, and extracurricular programming in the District to serve all students in the District;

WHEREAS, in order to fully mitigate any impacts to District not mitigated by Property Owner’s payment of Developer Fees, and in consideration of the continuing and additional effect District school programs may have on the property values of the Development, Property Owner will construct to a turn-key condition, that materially complies with the design specifications to be attached hereto as Exhibit “B,” and at no cost to District, an approximately 10,000 square foot new high school Innovation Center within the Development (“Innovation Center Project”) to be owned by Property Owner and leased to District for extracurricular purposes for a term of thirty-four (34) years at a rent of one dollar (\$1.00) per year on a full service basis by a charitable lease agreement (“Innovation Center Charitable Lease Agreement”);

WHEREAS, in order to fully mitigate any impacts to District not mitigated by Property Owner’s payment of Developer Fees, and in consideration of the continuing and additional effect District school programs may have on the property values of the Development that will inure to the benefit of Property Owner after construction of the Development, Property Owner will construct to a warm shell condition at Property Owner’s sole cost up to 5,000 square feet of administrative and/or instruction space for FUHSD’s Adult Education Center to assist in FUHSD’s mission to prepare its students to achieve educational, career, and personal goals and its commitment to serve the life-long learning needs of the residents of the District’s diverse community (“Adult Education Project”) (together with the Innovation Center Project, “Projects”) to be owned by Property Owner and leased to District for adult education purposes for a term of thirty-four (34) years at a base rent of one dollar (\$1.00) per year on a triple-net (“NNN”) basis by a charitable lease agreement (“Adult Education Charitable Lease Agreement”) (together with the Innovation Center Charitable Lease Agreement, “Charitable Lease Agreements”);

WHEREAS, in order to improve or establish additional District education facilities that would not otherwise be available to students by Property Owner’s payment of Developer Fees,

and in consideration of the effect District funding may have on the property values of the Development that will inure to the benefit of Property Owner after construction of the Development, Property Owner will, on an annual basis as provided for herein, pay an amount equivalent to those parcel taxes established by Measure J, Parcel Tax Renewal, Fremont Union High School District, 2014, (“Measure J”) for each unrestricted residential apartment unit constructed as part of the Development, as long as the parcel tax remains in effect (“Parcel Tax Equivalency Payments”);

WHEREAS, District will not own any portion of the Projects and because District has determined that the Projects are not subject to competitive bidding requirements because the Projects shall be constructed by Property Owner as gifts and at no cost to District, thus advertising the Projects for competitive bidding in efforts to obtain a greater public benefit or better economic result for District would be incongruous and unavailing, undesirable, impractical, or impossible, and would not produce any advantage to, or benefit the best interest of District or the public (*see, e.g., Los Angeles Dredging Co. v City of Long Beach* (1930) 210 Cal. 348, 354–355; *Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal. App. 3d 631, 635–636; *Meakin v. Steveland, Inc.* (1977) 68 Cal. App. 3d 490, 498);

WHEREAS, the Parties acknowledge that children of future employees who work at the Development but who do not reside in Cupertino do not have a right to attend District schools;

WHEREAS, in addition to providing \$40 million to local school districts, the developer of the Property will, as part of the Initiative, spearhead and provide substantial funding for a community shuttle in partnership with other stakeholders, including the local school districts;

WHEREAS, Property Owner has started the effort to organize and design such a community shuttle, which is intended to also serve District students, and the Parties desire to cooperate in the planning, implementation, and operation of that service to ensure it meets the needs of the entire community, including the needs of the District;

WHEREAS, in order to fully mitigate any impacts to District not mitigated by Property Owner’s payment of Developer Fees, and in consideration of the effect continuing and additional District school programs may have on the property values of the Development that will inure to the benefit of Property Owner after construction of the Development, Property Owner commits to including as a condition of its commercial leases that a majority of major office and retail tenants must provide internship or other experiential learning opportunities that will be available to District students (“Commercial Lease Conditions”);

WHEREAS, according to the Fiscal and Economic Impacts Analysis prepared by Keyser Marston Associates, Inc. dated May 2016, implementation of the Specific Plan and this Agreement is anticipated to result in a net direct positive annual fiscal impact of approximately \$3 million to District, a net capital facility surplus of approximately \$31.5 million to District, and approximately \$1 million of increased property tax revenue dedicated to the repayment of debt service for outstanding bonds issued by District, representing approximately 4 to 5 percent of the property taxes currently collected for debt service within District;

WHEREAS, Property Owner and District believe that it is in their mutual interests to cooperate and work together to implement a program to establish facilities and support District programs associated with the Development—which includes Property Owner’s payment of Developer Fees to District, Property Owner’s construction of the Innovation Center Project , Property Owner’s execution of the Innovation Center Charitable Lease Agreement with District, Property Owner’s construction of the Adult Education Project, Property Owner’s execution of the Adult Education Charitable Lease Agreement with District, Property Owner’s commitment to the Commercial Lease Conditions, and Property Owner’s payment of the Parcel Tax Equivalency Payments—and Property Owner and District desire to memorialize Property Owner’s commitments to District pursuant to the terms and conditions contained herein; and

WHEREAS, such commitments provided by Property Owner are offered in consideration for their enhancement of the property values and desirability of the completed Development.

NOW, THEREFORE, in consideration of the terms and conditions hereinafter set forth, Property Owner and District agree as follows:

AGREEMENT

1. Term; Timing of Obligations

1.1 The term of this Agreement shall be from the Effective Date until all of the following events occur:

1.1.1 *Developer Fees.* Property Owner pays the applicable Developer Fees to District, as provided for in this Agreement;

1.1.2 *The Innovation Center Project and Innovation Center Charitable Lease Agreement.* Property Owner completes construction of the Innovation Center Project and executes a Charitable Lease Agreement whereby Property Owner leases the Innovation Center Project to District for a term of thirty-four (34) years at a rate of one dollar (\$1.00) per year.

1.1.3 *The Adult Education Project and Adult Education Charitable Lease Agreement.* Property Owner completes construction of the Adult Education Project and executes a Charitable Lease Agreement whereby Property Owner leases the Adult Education Project to District for a term of thirty-four (34) years at a rate of one dollar (\$1.00) per year.

1.2 *Approval of Development.* The Parties shall have no rights or obligations under this Agreement unless and until Property Owner obtains all discretionary approvals from the City of Cupertino (“City”) required to construct the Development, provided that such approvals allow a minimum of 389 residential units, approximately 2 million square feet of office space, up to 100,000 square feet of civic space, and approximately 640,000 square feet of retail space, and all relevant appeal periods and statutes of limitations for challenging such entitlements have run (“Approval Date”). The specific timing of the obligations of Property Owner is as set forth in this Agreement.

2. Developer Fees

2.1 *Calculation of Fees.* The square footages of residential construction, commercial construction, and senior citizen housing associated with the Developer Fees shall be calculated in accordance with the following definitions:

2.1.1 “Residential Construction” shall mean residential “assessable space,” as defined in California Government Code, section 65995(b)(1); specifically, all of the square footage within the perimeter of a residential structure, not including any carport, covered or uncovered walkway, garage, overhang, patio, enclosed patio, detached accessory structure, or similar area, as calculated by the City’s Department of Community Development, Building Division, in accordance with the City’s standard practice in calculating structural perimeters.

2.1.2 “Commercial Construction” shall mean commercial “chargeable covered and enclosed space,” as defined in California Government Code, section 65995(b)(2); specifically, the covered and enclosed space determined to be within the perimeter of a commercial structure, not including any storage areas incidental to the principal use of the construction, garage, parking structure, unenclosed walkway, or utility or disposal area, as determined the City’s Department of Community Development, Building Division, in accordance with the City’s building standards.

2.1.3 “Senior Citizen Housing,” shall mean the assessable space of “senior citizen housing,” as defined by California Civil Code, section 51.3.

2.2 *Developer Fees.*

2.2.1 *Payment Due Date.* Developer Fees for Residential Construction, Commercial Construction, and Senior Citizen Housing shall be due and payable in conjunction with the issuance of a building permit for each building including such space, but may also be paid at any time prior to that date at the sole discretion of Property Owner. Fees shall only be for the portion of the Development for which the building permit is being issued and credits shall be granted for the commensurate portion of the commercial space that previously existed at the location of the portion of the Development for which the building permit is being issued. Payment of Developer Fees shall be in the form of a cashier’s check or electronic transfer at District’s discretion and instruction.

2.2.2 *Developer Fee Amount.* Property Owner shall pay to District Developer Fees in effect at the time of payment, including if fees are paid early. As of the date of this Agreement, Developer Fees are equal to forty percent (40%) of the current Level 1 rates; specifically, one dollar and thirty-six cents (\$1.36) per square foot of Residential Construction within the Development, and twenty-two cents (\$0.22) per square foot of Commercial Construction and Senior Citizen Housing within the Development, minus credit in the amount of (two hundred and sixty four dollars (\$264,000) for the demolition of 1.2 million square feet of existing commercial space, at a rate of twenty-two cents (\$0.22) per square foot. In addition to Property Owner’s obligation to complete the Projects, to execute the Charitable Lease Agreements with District, and to make the Parcel Tax Equivalency Payments as set forth in this Agreement, Property Owner’s payment of Developer Fees, subject to adjustment pursuant to the inflationary

clause set forth herein, shall constitute the total and full mitigation of the impact of Property Owner's Development on District.

2.3 *Certificate of Compliance.* Upon tender of Developer Fees by Property Owner, District shall issue to Property Owner a certificate of compliance evidencing that, with respect to each building containing Residential Construction, Commercial Construction, or Senior Citizen Housing for which the Developer Fees have been paid (which shall be identified by unit, lot number, or other appropriate description), Property Owner has complied with any and all school mitigation requirements of the District, contingent on Property Owner's completion of the Projects and execution of the Charitable Lease Agreements with District as applicable. Property Owner shall have an ongoing obligation to make the Parcel Tax Equivalency Payments as provided for in Section 5.

2.4 *Expenditure of Developer Fees.* Developer Fees may be used for any District expenditures related to capital facilities including, but not limited to, providing the additional facilities necessary to mitigate the impact of other development within District, and/or to enhance existing facilities to better serve District students. The use of Developer Fees shall be in District's sole discretion.

2.5 *No Reduction or Credit.* Property Owner's obligation to pay Developer Fees shall be absolute as to all Residential Construction, Commercial Construction, and Senior Citizen Housing built within the Development after the Effective Date. Property Owner acknowledges that in the event that District receives funds from the State of California or any other source to house existing or projected students generated from the Development, Property Owner or its successors or assigns shall not be entitled to any refund or credit or reduction in Developer Fees as a result of the receipt of such State or other funds.

3. The Projects and Charitable Lease Agreements

3.1 The Innovation Center Project.

3.1.1 The Innovation Center Project shall be the approximately 10,000 square foot high school Innovation Center to be constructed by Property Owner in connection with the Development on the Property. The Parties agree and understand that the purpose of the Innovation Center Project is for extracurricular activities only so is not considered a "school building" under Education Code section 17283.

3.1.2 *Preparation of Plans and Specifications.* Within 120 days of the Approval Date, District and Property Owner (including Property Owner's architects and consultants, if any) shall coordinate the preparation of plans and specifications for the Innovation Center Project ("Preliminary Plans"). The Preliminary Plans shall designate and include the necessary information for the conceptual design for the Innovation Center Project, identify the approximate site location of the building (which shall be subject to change at the reasonable discretion of Property Owner based on expedient construction and leasing requirements of the Development), and anticipated core facilities and related infrastructure. Property Owner, in coordination with District, shall be responsible for preparation of the final plans and specifications ("Final Plans").

3.1.3 *Timing.* Property Owner shall make good faith efforts to commence construction of the Innovation Center Project prior to commencement of construction of any residential portion of the Development and shall substantially complete the Innovation Center Project not later than the issuance of the first certificate of occupancy for any residential unit in the Development, or at such other time as may be otherwise agreed to by Property Owner and District.

3.1.4 *Innovation Center Project Completion.* The Innovation Center Project shall be deemed complete upon the City's certificate of occupancy of the Innovation Center Project and after all disputes and claims are resolved with contractor(s), consultants, or others performing work, services, or providing supplies to the construction of the Innovation Center Project ("Innovation Center Project Completion").

3.1.5 *Innovation Center Charitable Lease Agreement.* As soon as practicable after Innovation Center Project Completion, Property Owner and District shall execute a Charitable Lease Agreement in a form substantially similar to that attached hereto as Exhibit A. The Parties acknowledge and agree that as of the Effective Date, the Charitable Lease Agreement has not been finalized and that the Parties intend to further negotiate and revise the form agreement.

3.2 *The Adult Education Project.*

3.2.1 The Adult Education Project shall be the administrative and/or instruction space for FUHSD's Adult Education Center to be constructed by Property Owner to a "warm shell" condition in connection with the Development on the Property. The Parties agree and understand that the District remains responsible for building out the space to suit its purposes and that the purpose of the Adult Education Project is for extracurricular activities only so is not considered a "school building" under Education Code section 17283.

3.2.2 *Timing.* Property Owner shall make good faith efforts to commence construction of the Adult Education Project not later than the issuance of the first certificate of occupancy for any residential unit in the Development, or at such other time as may be otherwise agreed to by Property Owner and District.

3.2.3 *Adult Education Project Completion.* The Adult Education Project shall be deemed complete upon the City's certificate of occupancy of the Adult Education Project and after all disputes and claims are resolved with contractor(s), consultants, or others performing work, services, or providing supplies to the construction of the Adult Education Project ("Adult Education Project Completion").

3.2.4 *Adult Education Charitable Lease Agreement.* As soon as practicable after Adult Education Project Completion, Property Owner and District shall execute a Charitable Lease Agreement in a form substantially similar to that attached hereto as Exhibit A.

4. **Commercial Lease Conditions**

4.1 *Commercial Lease Conditions.* Property Owner shall use commercially reasonable efforts to include as a condition of its commercial leases that major tenants must provide internship or other experiential learning opportunities that will be available to District students.

5. Parcel Tax Equivalency Payments

5.1 *Amount.* Property Owner shall pay the Parcel Tax Equivalency Payments to the District on an annual basis in an amount equivalent to the Measure J parcel tax for each unrestricted apartment unit, up to 680 units, less any parcel taxes Property Owner is otherwise obligated to pay. The Parcel Tax Equivalency Payments shall be the same amount as the Measure J parcel tax in effect that year, including any increases, or in the same amount as a replacement measure that may be imposed in the future. However, if the Measure J parcel tax is repealed and not replaced with a substantially similar measure, no further payment will be due. No payments will be made on units restricted as affordable units or senior housing units, and in no event shall the annual payment be greater than 680 times the equivalent parcel tax payment in effect at the time.

5.2 *Payment Due Date.* The initial Parcel Tax Equivalency Payment shall be prorated and payable within thirty (30) days of the City's issuance of the first final occupancy permit for residential uses in Development, and shall be in an amount calculated on a per unit basis as provided above. Thereafter, the Parcel Tax Equivalency Payment shall be payable on or before the first installment of property taxes are due each year. Payments will be due only on units with a final certificate of occupancy from the City.

6. Periodic Reviews. At least once every six (6) months, Property Owner shall demonstrate its good faith compliance with the terms of this Agreement by contacting the District to request a meeting with the District Superintendent or other District staff in order to demonstrate that it has sufficiently followed the terms of this Agreement so as to carry out the intent of the Parties in entering into it.

7. Exclusive Terms Regarding Mitigation. The Parties acknowledge and agree that payment of the Developer Fees, completion of the Projects, execution of the Charitable Lease Agreements, and ongoing payment of the Parcel Tax Equivalency Payments, as provided for in this Agreement, fully and completely mitigate any and all impacts that the Development may have on District, and create a net positive impact on District, and District will not request or require any further school impact mitigation in connection with the Development, regardless of any future change in law, rule, regulation, or policy, or any future change in general plan designation, rezoning, subdivision or other current or future development approval, and shall be in lieu of any and all other school mitigation requirements whatsoever due, payable, or sought by the District or any other entity currently or in the future relating in any manner to the Property. District shall not be prohibited from or limited in levying any general obligation tax or other exaction on the Property (subject to applicable law) in the future, provided such tax or other exaction is not for the purpose of funding the Property Owner's construction of the Projects and is uniformly imposed on all similar property within District boundaries. Property Owner's participation and cooperation in implementing this Agreement and satisfying its commitments hereunder shall constitute full mitigation of the impacts on the District and/or its school facilities resulting from the Development; provided, however, that such mitigation is contingent upon Property Owner's payment of all Development Fees and Property Owner's delivery of the Projects ("Property Owner Commitments"). Notwithstanding the foregoing or anything contained in this Agreement or otherwise, Property Owner's Property Owner Commitments shall terminate at the election of either party if the Initiative fails.

7.1 District covenants and agrees that, with respect to the Property, if Property Owner has not materially defaulted on any obligations hereunder, it shall not assist or engage in any of the following actions if the result of any of them, directly or indirectly, would be to require payment of any exaction or imposition of any mitigation measures on the Property other than or in excess of the Property Owner Commitments expressly provided for in this Agreement:

7.1.1 Exercise any power or authority (under the School Facilities Act or any other provision of applicable law) to levy a fee, charge, dedication, special tax, or other form of requirement against the Property for the purpose of funding or financing any school facilities;

7.1.2 Require any other governmental entity to exercise, or cooperate with any city, county or other governmental entity in the exercise of the power under Title 7, Division 1, Chapter 4.7 of the Government Code (commencing with Section 65970) or any other applicable provision of law, to require the dedication of land, the payment of fees in lieu thereof, and/or the payment of special taxes for interim or permanent school facilities as a condition to the approval of development of the Property;

7.1.3 Oppose or seek to condition any portion of the development of the Property on the basis of inadequate school facilities or seek other forms of mitigation with respect to the adequacy of school facilities to serve the Development, including, but not limited to, the establishment of developer fees, the payment of special taxes, the payment of money, the dedication of land, or the application of an assessment or requirement of any nature against the Property or any portion thereof permitted by present or future state law, rulings, regulations and court decisions; and

7.1.4 Suggest, request, initiate or support litigation to require developer fees, mitigation fees, or any other charges or school impact mitigation in connection with the Property.

8. Indemnification by Property Owner. To the fullest extent permitted by California law, Property Owner, as applicable shall, at its sole cost and expense, defend, indemnify, and hold harmless the District and its respective trustees, officers, directors, employees, agents, attorneys, shareholders, subsidiaries, and affiliates from and against any and all claims, demands, losses, liabilities, suits, and actions of any kind, nature, or description (including, but not limited to, personal injury, death, and property damage, and consultants and/or including all attorneys' fees and expert fees and costs) ("Claims") caused from any activity, work, thing done, or omission by Property Owner to the extent caused by Property Owner's (1) default and/or material breach of any provision of this Agreement, and/or (2) negligence and/or willful misconduct, if either arise out of its performance under this Agreement.

9. Indemnification by District. To the fullest extent permitted by California law, and except as indicated herein, District shall, at its sole cost and expense, defend, indemnify, and hold harmless Property Owner and its respective owners, trustees, officers, members, financial partners, directors, partners, employees, agents, attorneys, shareholders, subsidiaries, and affiliates from and against any and all Claims caused by the use or operation of the Projects or by any breach or failure by District to perform any of its material obligations under this Agreement, except to the extent that such Claims result from any act or omission of Property Owner (the party responsible for such act or omission, the "Responsible Party") or its owners, trustees, officers, directors, partners,

employees, agents, attorneys, shareholders, subsidiaries, and affiliates, in which event the Responsible Party shall defend, indemnify and hold harmless the other Parties against such Claims.

10. Third Party Challenges. If any claim, action or proceeding is brought by any person or entity challenging the validity or enforceability of this Agreement (“Third Party Claim”), the Parties shall cooperate with and assist each other with the intention of vigorously defending against that Third Party Claim and attempting to fully preserve all of the terms of the Agreement and the benefits and obligations secured hereby. All costs and expenses in connection with defending against that Third Party Claim shall be borne by Property Owner.

11. Breach, Default And Cure

11.1 *Breach, Default and Cure.* If either Party materially breaches its obligations under this Agreement and fails to cure such breach within thirty (30) days following receipt of written notice of that breach from the non-defaulting Party, it shall be deemed in default under this Agreement (“Default”); provided, however, that if the nature of the breach reasonably requires more than thirty (30) days to cure, the breaching Party shall not be in Default under this Agreement so long as the breaching Party commences to cure such breach within such thirty (30) day period and diligently prosecutes an effective cure to completion.

11.2 *Default Remedies.* Upon a Default, the non-defaulting Party shall have the following rights and remedies:

11.2.1 To specifically enforce the obligations under this Agreement; provided, however, that the District’s right to specific performance relating to the occupancy of the Innovation Center and/or the Adult Education Center shall be limited to the right to occupy space within the Development once the City has issued its certificate of occupancy for Commercial Space sufficient to accommodate the District’s use contemplated hereunder but only if the Innovation Center and/or the Adult Education Project are not completed by the completion dates contemplated hereunder; and

11.2.2 To exercise any and all rights and remedies the non-defaulting Party may have under the law by reason of such default to the extent that such rights and remedies are not inconsistent with the non-defaulting Party’s right to specifically enforce this Agreement, provided that such remedies shall not include recovery of any indirect, punitive, special, or consequential damages.

11.3 *Limitation on Damages.* Notwithstanding any other provision of this Agreement to the contrary, no Party shall have any liability to any Party under this Agreement for any indirect, punitive, special, or consequential damages.

12. Informal Discussions; Mediation. If a dispute arises relating to the interpretation of, enforcement of or compliance with the terms of this Agreement, Property Owner and District will first attempt to resolve it through informal discussions. Either party may convene such discussions by written notice, and shall reasonably accommodate the other Party with respect to scheduling. If the dispute is not resolved in this manner within twenty-one (21) days, it shall be referred to a mediation process upon election of either of the Parties.

13. No Waiver. The dispute resolution process described in the paragraph immediately above shall be undertaken in good faith and exhausted prior to judicial review. However, compliance with this process does not waive any party's obligation to comply with, or right to assert as a defense, any applicable statute of limitations. The Parties may agree in writing to toll any applicable statute of limitations for such period as may reasonably be necessary to complete the dispute resolution process.

14. Attorneys' Fees. During any dispute(s) between the Parties related to this Agreement, if any, each Party shall pay their own attorneys' fees and related expenses incurred and shall not have a right to recover any of those fees from the other Party.

15. Captions. The headings used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

16. Governing Law. This Agreement shall be construed in accordance with, and governed by, the laws of the State of California applicable to contracts to be performed wholly within the State. The county in which the District administration office is located shall be the venue for any action or proceeding that may be brought or arise out of, in connection with, or by reason of this Agreement.

17. Construction of Agreement. The Parties mutually acknowledge that they and their attorneys have participated in the preparation and negotiation of this Agreement. In cases of uncertainty, this Agreement shall be construed without regard to which of the Parties caused the uncertainty to exist. Prior versions or drafts of this Agreement shall not be used to interpret the meaning or intent of this Agreement or any provision hereof. The words "include" or "including" shall be read as if followed by the phrase "without limitation." All references to this Agreement shall include the Agreement as it may be amended or supplemented in compliance with its terms. Any reference to a statute or regulation shall include any amendment thereto. The words "party" or "parties" refer only to named parties to this Agreement. The definitions in this Agreement apply equally to both singular and plural forms of the defined term.

18. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and counterpart signature pages may be assembled to form a single original document.

19. Days. In this Agreement, "business days" means days other than Saturdays, Sundays, and federal and state legal holidays, and "days" means calendar days. If the time for performance of an obligation under this Agreement that references a business day but falls other than on a business day, the time for performance shall be extended to the next business day.

20. Further Assurances. Each party to this Agreement shall at its own expense perform all acts and execute all documents and instruments that may be necessary or convenient to carry out its obligations under this Agreement. Each party shall pay its own attorneys' fees and other expenses in connection with the negotiation or execution of, or the consummation of the transactions contemplated by, this Agreement.

21. Notices. Any notices, requests, demands or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given

on the date of delivery if delivered personally to the party to whom notice is to be given (including messenger or recognized delivery or courier service) or on the second day after mailing, if mailed to the party to whom notice is to be given, by first-class mail, postage prepaid, and properly addressed as follows:

<p><u>To Property Owner:</u></p> <p>VALLCO PROPERTY OWNER, LLC 2882 Sand Hill Road, Suite 241 Menlo Park, CA 94025 Attn: Peter Pau</p> <p>With copy to: Morrison & Foerster LLP 425 Market St. San Francisco, CA 94105 Attn: Miles Imwalle</p>	<p><u>To the District:</u></p> <p>FREMONT UNION HIGH SCHOOL DISTRICT 589 W. Fremont Ave Sunnyvale, Ca 94087 Attn: Superintendent</p> <p>With a copy to: Orbach Huff Suarez & Henderson LLP 1901 Harrison Street Oakland, CA 94612 Attn: Nancy Taylor</p>
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22. Relationship. The relationship of the Parties to this Agreement is determined solely by the provisions of this Agreement. This Agreement does not create and shall not be construed to create any agency, partnership, joint venture, trust or other relationship with duties or incidents different from those of parties to an arm's length contract. Each party is an entity and/or independent contractor and shall be solely responsible for the employment, acts, omissions, control and directing of its employees. Nothing contained in this Agreement shall authorize or empower any Party to assume or create any obligation or responsibility whatsoever, express or implied, on behalf of or in the name of any other Party or to bind the other Party in a manner or make any representation, warranty or commitment on behalf of the other Party.

23. Assignment. No rights of any Party under this Agreement may be assigned, transferred, hypothecated, or otherwise alienated, whether voluntarily or by operation of law, except with the express written consent of the Party against which such rights are enforceable, which consent shall not be unreasonably withheld or delayed; provided, however, that either Party may assign its rights and delegate its obligations hereunder to a subsidiary, affiliate, or parent company of such Party without the consent of any other Party. Any purported assignment without the required consent shall be null and void. Subject to the foregoing, this Agreement shall be binding on and enforceable against any and all successors and assigns.

24. No Third Party Rights. Nothing in this Agreement shall be construed to give any person other than the express Parties to this Agreement any benefits, rights or remedies.

25. Time of the Essence. Time is of the essence in the performance of each Party's respective obligations under this Agreement.

26. Waiver; Amendment. No amendment of, supplement to or waiver of any obligations under this Agreement will be enforceable or admissible unless set forth in a writing signed by the Party against which enforcement or admission is sought. No delay or failure to require performance

of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted shall apply solely to the specific instance expressly stated.

27. Integration. Except as indicated in this Agreement, this Agreement sets forth the entire understanding of the Parties relating to the transactions it contemplates, and supersedes all prior understandings relating to them, whether written or oral. There are no obligations, commitments, representations or warranties relating to them except those expressly set forth in this Agreement.

28. Severability. Should any portion of any provision of this Agreement be held unenforceable or invalid for any reason, but the remainder of the Agreement can be enforced without failure of material consideration to any Party, then the remaining portions or provisions shall be unaffected.

29. Incorporation of Recitals and Exhibits. The Recitals and the Exhibits attached hereto are hereby incorporated herein and made a part of this Agreement by this reference.

30. Signatories' Warrant. By signing below, each of the signatories represents and warrants that he or she has been duly authorized to execute this Agreement on behalf of the Party on which behalf he or she is signing. District Superintendent further represents and warrants, by her signature, that this Agreement has been duly ratified and approved by the Board of Education of District.

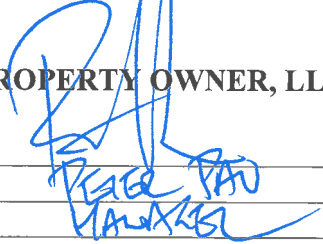
31. Financial Interest Certification. By signing below, each of the signatories represents and warrants that neither it, nor its agents, representatives, officers, consultants, employees or trustees have been offered, given, or agreed to give, receive, accept or agreed to accept, any gift, contribution, or any financial incentive whatsoever to or from any person in connection with the Development or as an inducement to enter into this Agreement. As used in this section, "person" means any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

32. Parties to Bear Their Own Costs. Except as specifically set forth in this Agreement, the Parties shall each bear their own costs, including, without limitation, attorneys' and consultants' fees, incurred in connection with any negotiations, strategic planning, analysis and due diligence relating to this Agreement.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

VALLCO PROPERTY OWNER, LLC

By: 
Name: PETER PAU
Its: VALLCO

FREMONT UNION HIGH SCHOOL DISTRICT, a public school district organized and existing under the laws of the State of California

By: 
Name: Polly Bove
Its: Superintendent

By: 
Name: Hung Wei
Its: President, Board of Trustees

EXHIBIT A

CHARITABLE LEASE AGREEMENT

EXHIBIT B

DESIGN SPECIFICATIONS

EXHIBIT A

CHARITABLE LEASE AGREEMENT

LEASE AGREEMENT

BETWEEN

VALLCO PROPERTY OWNER, LLC

AND

FREMONT UNION HIGH SCHOOL DISTRICT

THIS LEASE ("Lease") is entered into as of the ___ day of _____, 20___, by and between **VALLCO PROPERTY OWNER, LLC**, a [REDACTED] ("Lessor") and **FREMONT UNION HIGH SCHOOL DISTRICT**, a California public school district ("Tenant").

Recitals

WHEREAS, Lessor owns and operates The Hills at Vallco ("Development") located in Cupertino, California.

WHEREAS, [Insert District's statutory authority for entering the Agreement and statement of necessary Board findings made, if any]; and

WHEREAS, the Lessor and Tenant desire to enter into this Agreement whereby Lessor leases the Premises to Tenant, and Tenant leases the Premises from Lessor, pursuant to the terms and conditions contained in this Agreement.

NOW THEREFORE, in consideration of the covenants and agreements hereinafter set forth, Lessor and Tenant hereby agree as follows:

ARTICLE I – EXHIBITS

The exhibits listed below and attached to this Lease are incorporated herein by reference:

EXHIBIT A – Plot Plan of that area of the Development upon which is located the space to be leased to Tenant. This Exhibit is provided for informational purposes only, and shall not be deemed to be a warranty, representation or agreement by Lessor that the Development or buildings and/or any stores will be exactly as indicated on the Exhibit, or that the other tenants which may be drawn on said Exhibit will be occupants in the Development. Lessor reserves unto itself the unlimited right to modify the configuration of the Development at any time for the purpose of incorporating additional buildings within the Development.

EXHIBIT B – Description of Lessor's Work and Tenant's Work.

EXHIBIT C – Lessor's Logo.

EXHIBIT D – Lessor's Contractor Work Standards.

Notwithstanding Exhibit A or anything else contained in this Lease, Lessor reserves the right to change or modify and add to or subtract from the size and dimensions of the Development, or any part thereof, the number, location and dimensions of buildings and stores, the size and configuration of the parking areas, entrances, exits and parking aisle alignments, dimensions of hallways, malls and corridors, the number of floors in any building, the location, size and number of kiosks which may be erected in or fronting on any mall or otherwise (so long as kiosks and use of Lessor's frontage space do not materially and adversely interfere with Tenant's operations or the queuing area of the Premises), the identity, type and location of other stores and tenants, and the size, shape, location and arrangement of Common Areas (hereinafter defined), and to use, design and decorate any portion of the Development as it desires. Except pursuant to Section 2.5 and 2.6, Lessor will not make modifications and/or changes to the Development which would materially and adversely interfere with the access to or visibility of the Premises.

ARTICLE II – PREMISES AND TERM

Section 2.1. Premises.

Lessor hereby leases to Tenant, and Tenant hereby rents from Lessor, the space located at the Development which is designated (by cross-hatching) on Exhibit A attached hereto containing approximately _____ (_____) square feet (the "Premises").

Section 2.2. Floor, Roof, and Walls.

Lessor shall have the exclusive right to use all or any part of the roof, side and rear walls of the Premises for any purpose. including but not limited to erecting signs or other structures on or over all or any part of the same, erecting scaffolds and other aids to the construction and installation of the same, and installing, maintaining, using, repairing and replacing pipes, ducts, conduits and wires leading through, to or from the Premises and serving other parts of the Development. Tenant shall have no right whatsoever in the exterior of exterior side and rear walls or the roof of the Premises. Tenant, with Lessor's advance written approval exercising sole and absolute discretion, may be permitted to install signage on the exterior walls of the Premises but the location, size, design and content of any such signage is subject to Lessor's prior written approval in Lessor's sole and absolute discretion. However, Lessor shall have the unrestricted right to require Tenant to remove such signage at Tenant's sole cost and expense at any time during the Lease Term.

Section 2.3. Lease Term.

This Lease shall be in full force and effect from and after the date executed by Lessor and Tenant, save and except that the term of this Lease (hereinafter called "Lease Term") shall not begin to run until the first day of the month after Tenant opens the Premises for normal occupancy, the applicable date being hereinafter called the "Commencement Date." The term of this Lease shall end on the last day of the thirty-fourth (34th) "Lease Year," as defined herein, after the Commencement Date unless sooner terminated as herein provided.

Section 2.4. Lease Year Defined.

"Lease Year," as used herein, means a period of twelve (12) consecutive months during the Lease Term commencing on the Commencement Date and each subsequent anniversary thereof.

Section 2.5. Relocation of Premises and Termination.

A. Lessor shall have the right on one (1) occasion during the Lease Term, subject to Tenant's right of termination as set forth in subparagraph (B), to relocate Tenant's operation to other premises (the "New Premises") in another part of the Development in accordance with the following:

(i) Lessor shall notify Tenant, at least one hundred twenty (120) days prior to the proposed relocation date, of Lessor's intention to relocate Tenant's operation to the New Premises;

(ii) The proposed relocation date (Tenant shall not be required to cease its normal occupancy of the Premises for a period in excess of ten (10) days and Annual Rent and Monthly Common Area Maintenance Charges shall be abated for any period Tenant is required to be closed) and the size, configuration and location of the New Premises shall be set forth in Lessor's notice; and

(iii) The New Premises shall be located in an area with similar access and be substantially identical in size (not less than ninety percent (90%) of the square footage of the Premises) to the Premises described in the Lease. Lessor shall, at Lessor's cost, construct on the New Premises improvements substantially similar to those constructed pursuant to Tenant's final plans. All reasonable costs of relocation shall be paid for by Lessor, including those fixtures built into walls and not moveable but excluding the purchase or replacement of Tenant's furniture, moveable non-trade fixtures, equipment and inventory, salaries, and other fixed costs for the period Tenant is required to be closed.

(iv) If the New Premises contain more square footage than the Premises, the Annual Rent and the Common Area Monthly Maintenance Charge Will not be increased.

B. In the event the New Premises described in Lessor's relocation notice are unacceptable to Tenant, Tenant shall have the right, exercisable by written notice to Lessor, given sixty (60) days following receipt of Lessor's relocation notice, to terminate this Lease, such termination to be effective as of the proposed relocation date as set forth in Lessor's notice. Failure by Tenant to timely exercise such right shall be deemed a waiver with respect thereto and confirmation that the New Premises are acceptable to Tenant. Tenant shall have the right to accept the New Premises only for the unexpired term of this Lease. Notwithstanding anything hereinabove to the contrary, should Tenant notify Lessor of Tenant's election to terminate this Lease, Lessor shall have the right to rescind Lessor's relocation notice to Tenant, within fifteen (15) days after receipt of Tenant's notice to terminate and Tenant's termination notice shall be of no force and effect.

Section 2.6. Remodel of the Development.

Lessor may, in connection with any remodeling of all or any portion of the Development, change the dimensions or reduce the size of the Premises; provided, however, that (i) Lessor shall notify Tenant, at least one hundred twenty (120) days prior to the proposed commencement of the remodeling work (which notice shall specify the proposed reconfiguration of the Premises), (ii) Lessor shall be responsible for all costs in connection with the remodeling, including all construction work, and (iii) all reasonable out of pocket costs incurred by Tenant in connection with such remodeling, including relocating fixtures, equipment and inventory, salaries, and other fixed costs for the period Tenant is required to be closed, shall be paid for by Lessor. If a reduction in size of the Premises would reduce the Premises to less than ninety percent (90%) of the Premises' original size and if as a result thereof the remaining portion of the Premises is not suitable for the purpose for which Tenant has leased said Premises, or if the proposed reconfiguration of the Premises results in the Premises not being suitable for the purpose for which Tenant has leased said Premises, then in either such case, Tenant may terminate this Lease by written notice to Lessor given within thirty (30) days after Lessor notifies Tenant of Lessor's intention to remodel; provided further, however, that such termination shall not be effective if within thirty (30) days of Tenant's notice thereof, Lessor notifies Tenant of either Lessor's election to relocate Tenant pursuant to Section 2.5 hereof or rescind Lessor's decision to remodel the Premises. In the event of any remodeling pursuant to this Section 2.6, Lessor shall repair any damage to the Premises caused thereby at Lessor's sole cost and expense. In connection with any such remodeling, Lessor may require Tenant to cease its normal occupancy of the Premises for a period not in excess of ten (10) days.

ARTICLE III – LESSOR'S AND TENANT'S WORK

Section 3.1. Lessor's Work.

Prior to the Commencement Date, Lessor agrees to configure and construct the interior finishes of the Premises to suit Tenant's intended use of the leased space. Lessor shall, at Lessor's sole expense, build out the Premises to Tenant's specifications as set forth in

Exhibit B as “Lessor’s Work,” and provide the Premises to Tenant ready to accept Tenant’s furniture, fixtures, and equipment (FF&E) as set forth in Exhibit B as “Tenant’s Work”.

Except as expressly provided otherwise in this Section, Lessor shall only be obligated to provide the Premises to Tenant "as is" in the Premises' present condition. Tenant's taking possession of the Premises shall be conclusive evidence of Tenant's acceptance thereof in good order and satisfactory condition. Lessor shall deliver possession of the Premises to Tenant on _____, 20__ (the "Delivery Date") or such later date as is mutually agreed upon by Lessor and Tenant, such agreement not to be unreasonably withheld, conditioned or delayed. Tenant agrees that no representation respecting the condition of the Premises and no warranties or guarantees, expressed or implied, with respect to workmanship or any defects in material, and no promise to decorate, alter, repair or improve the Premises either before or after the execution hereof (except to the extent expressly provided herein), have been made by Lessor or Lessor's agents to Tenant.

Section 3.2. Tenant's Work.

All work not provided herein to be done by Lessor shall be performed by Tenant (hereinafter called "Tenant's Work") including, but not limited to, providing and installing all FF&E and all other work designated as Tenant's Work in Exhibit B, and Tenant shall do and perform at Tenant's expense all Tenant's Work diligently and promptly and in accordance with the following provisions.

Notwithstanding anything to the contrary contained herein, each and every aspect of Tenant's Work shall be subject to the prior written approval of Lessor and shall be in accordance with the first class standards of the Development. Tenant's Work shall at all times comply with all applicable laws, ordinances, rules and regulations including, but not limited to, the Occupational Safety and Health Act and the Americans with Disabilities Act of 1990. In addition, Tenant’s Work shall at all times be conducted in accordance with Lessor's Contractor Work Standards, a copy of which is attached hereto as Exhibit D.

Tenant shall not contract with any contractors or subcontractors, and Tenant's contractors and subcontractors may not perform any work on the Premises or the Development, unless and until Lessor has, in Lessor's reasonable discretion, approved the general contractor for Tenant’s Work. Further, and in addition to any other indemnity obligation contained herein, Tenant hereby covenants and agrees to indemnify, defend, save, and hold Lessor, and Lessor's parent company, subsidiaries and affiliates, and their officers, directors, shareholders and employees, free, clear and harmless from, and against, any and all liabilities, losses, costs, expenses (including reasonable attorney's fees), judgments, claims, liens, fines, penalties, and demands of any kind whatsoever caused by, resulting from, or in any way connected with, Tenant's use of any particular contractor or subcontractor, or that subcontractor's use of any particular contractor or subcontractor, for any work in connection with the Premises (whether part of Tenant's Work or otherwise)

regardless of whether Lessor approved of such contractor or subcontractor pursuant to this Section.

Section 3.3. Lessor's Obligations Before Commencement Date.

On or before the following dates, Lessor shall complete the following with regard to its build-out of the Premises:

Conceptual Design:
Preliminary Design Documents:
Final Plans & Specifications:
Start Construction:
Finish Construction:

Lessor shall use commercially reasonable efforts to complete Lessor's Work within _____ () days from the date the building permit for the build-out work is issued, (the "Required Completion Date"). Lessor shall submit all of Lessor's planned build-out of the Premises including, but not limited to, all drawings, specifications, color boards and other samples, to Tenant for Tenant's review and guidance. Within five (5) days after receipt of each such submittal from Lessor, Tenant shall notify Lessor of any failure to meet with Tenant's requirements. Lessor shall use its best efforts to reasonably accommodate Tenant's input in the final construction documents, which shall become a part hereof by this reference as Exhibit B-1. Preparation of the construction documents by Lessor shall not constitute the assumption of any responsibility by Lessor for their accuracy or sufficiency, or compliance with applicable laws, ordinances, rules and regulations.

Section 3.4. Failure of Lessor to Perform.

Because of the difficulty or impossibility of determining Tenant's damages resulting from Tenant's failure to open for normal occupancy on the Required Completion Date, Tenant may, upon the failure of Lessor to provide the Premises to Tenant on the Required Completion Date and the expiration of ten (10) days written notice to Lessor without cure or material steps taken by Lessor that are reasonably likely to cause cure within a reasonable amount of time, proceed with completing Lessor's Work using any qualified and licensed contractor Tenant selects and making any changes or revisions to Lessor's Work required because of any delay or failure of Lessor to perform Lessor's obligations hereunder, which changes or revisions shall in any event be made at Lessor's expense (so long as such charges are reasonable and at or below market rates). For purposes of this Lease, the term "business day" shall mean each Monday thru Friday, inclusive, which is not a U.S. and/or State of California designated holiday.

Section 3.5. Governmental Approvals.

Lessor is responsible for obtaining all governmental permits and approvals required in connection with Lessor's Work. Tenant is responsible for obtaining all governmental

permits and approvals required in connection with Tenant's Work and the use of the Premises as permitted herein.

ARTICLE IV – RENT

Section 4.1. Initial Lease Term.

Tenant covenants and agrees to pay to Lessor, without notice or demand, at Lessor's address for notice (Lessor's and Tenant's notice addresses being the addresses specified in Section 23 hereof), as rent for the Premises during the initial Lease Term, Annual Rent in the amount of One Dollar (\$1.00) per annum payable in advance upon the first day of each and every year commencing upon the Commencement Date and continuing thereafter through and including the last month of the initial Lease Term.

Section 4.2. Miscellaneous Rent Provisions.

No Rent or Percentage Rent shall be due for the period of time prior to the Required Completion Date. Any rent or other amounts to be paid by Tenant which are not paid by the thirtieth (30th) day after the date when due shall bear interest as of the first day of the month on which any sum is due and owing at the legal rate of interest in the State of California, or if there is no such legal rate, at a rate equal to two percent (2%) over the prime rate announced by Citibank, N.A.

Section 4.3. Taxes.

A. Real Estate Taxes. Lessor shall pay or cause to be paid all Real Estate Taxes (as hereinafter defined) assessed or imposed upon the Development, which, after all due credits, offsets and exemptions, become due or payable during the Lease Term. As used in this Section 4.4 the term Real Estate Taxes shall mean and include all real estate taxes, public and governmental charges and assessments, including all extraordinary or special assessments, or assessments against any of Lessor's personal property now or hereafter located in the Development, all costs, expenses and attorney's fees incurred by Lessor in contesting or negotiating with public authorities (Lessor having the sole authority to conduct such a contest or enter into such negotiations) as to any of the same; but shall not include taxes on Tenant's operation(s) in the Premises, machinery, equipment, inventory or other personal property or assets of Tenant, or other taxes or assessments from which the Tenant is or otherwise would be exempt, excused or credited; Tenant agreeing to pay, before delinquency, all taxes upon or attributable to such excluded items without apportionment.

B. Other Taxes. Tenant's proportionate share of any governmental tax or charge (other than income tax) levied, assessed, or imposed on account of the Tenant's use of the Premises or payment by Tenant or receipt by Lessor of, or based in whole or in part upon, the rents in this Lease, or upon the Development or the value thereof, shall be paid by Tenant.

Section 4.4. Lessor's Expenses.

If Lessor pays any monies or incurs any expense to correct a breach of this Lease by Tenant or to do anything in this Lease required to be done by Tenant, or incurs any expense (including, but not limited to, reasonable attorney's fees and court costs), as a result of Tenant's failure to perform any of Tenant's obligations under this Lease, all reasonable and necessary amounts so paid or incurred shall, on notice to Tenant, be considered additional rent payable in full by Tenant with the first Minimum Annual Rent installment thereafter becoming due and payable, and may be collected as by law provided in the case of rent.

ARTICLE V – PARKING AND COMMON AREAS AND FACILITIES

Section 5.1. Common Areas.

All parking areas, access roads and facilities furnished, made available or maintained by Lessor in or near the Development, including employee parking areas, truck ways, driveways, loading docks and areas, delivery areas, multi-story parking facilities, package pickup stations, elevators, escalators, pedestrian sidewalks, courts and ramps, landscaped areas, retaining walls, stairways, lighting facilities, sanitary systems, utility lines, water filtration and treatment facilities, those areas within and adjacent to the Development for ingress and egress to and from the Development, which from time to time may be provided by Lessor or others for the convenience, use or benefit of the tenants of the Development, Lessor, the occupants and visitors of the Development and their respective concessionaires, agents, employees, customers, invitees and licensees, those areas, if any, upon which temporary or permanent off-site utility systems or parking facilities serving the Development, may from time to time be located and other areas and improvements provided by Lessor for the general use in common of tenants and their employees and customers in the Development (all herein called "Common Areas") shall at all times be subject to the exclusive control and management of Lessor, and Lessor shall have the right, from time to time, to establish, modify and enforce reasonable rules, regulations and requirements with respect to all Common Areas.

Tenant agrees to comply with, and to cause Tenant's students, employees and contractors to comply with, all rules, regulations and requirements set forth by Lessor, and all amendments thereto, regardless of whether such rules, regulations and requirements relate to the Common Areas, Premises or Development.

Subject to the terms hereof, Lessor shall have the right from time to time to: change or modify and add to or subtract from the sizes, locations, shapes and arrangements of parking areas, entrances, exits, parking aisle alignments and other Common Areas; designate parking areas for Lessor, Lessor's employees and students, and/or limit the total number of such employee spaces; restrict parking by Tenant and Tenant's employees to designated areas; construct surface, sub-surface or elevated parking areas and facilities; establish and from time to time change the level or grade of parking surfaces; add to or subtract from the buildings in the Development; eliminate such access as may, from time

to time, be available to the Development; and do and perform such other acts in and to said Common Areas as Lessor, in Lessor's sole and absolute discretion deems desirable for the use thereof by tenants and their customers. Tenant further acknowledges that this Section 5.1 shall be for the benefit of, and directly enforceable by, Lessor.

In the event that Lessor determines, in Lessor's reasonable discretion, to provide parking or transportation facilities for the Development, Lessor may impose and enforce such rules and regulations concerning the use thereof which shall be applied to all other tenants on a nondiscriminatory basis (including a prohibition of use by Tenant's employees provided the employees of all other similarly situated tenants are also prohibited from using such facilities) as Lessor may, in Lessor's reasonable discretion, deem desirable. Lessor shall have the right at any and all times to utilize portions of Common Areas for promotions, exhibits, entertainments, product and other shows, displays, the leasing of kiosks or food facilities, or such other uses as may in Lessor's judgment tend to attract the public to benefit the Development. Except as specifically otherwise provided, Lessor may do such other acts in and to the Development and those Common Areas located on the Development as in Lessor's reasonable judgment may be desirable, including, but not limited to, the conversion of portions thereof to other uses.

Section 5.2. Use of Common Areas.

Tenant and Tenant's employees, students and invitees shall have the non-exclusive right, in common with Lessor, and all others to whom Lessor has granted or may hereafter grant rights, to use the Common Areas for ingress, egress and parking subject to such reasonable regulations as Lessor or such other person may from time to time impose and the rights of Lessor set forth above. Tenant and Tenant's students and invitees shall also have a non-exclusive right to walk through the Development in order to gain ingress to and egress from the Premises. . Tenant authorizes Lessor to cause any car of Tenant, a concessionaire, employee or agent of Tenant that is parked outside any area designated by Lessor for employee parking to be towed from such undesignated area and Tenant shall reimburse Lessor for the cost thereof upon demand, and otherwise indemnify and hold Lessor harmless with respect thereto. Tenant shall abide by all rules and regulations and use its commercially reasonable efforts to cause Tenant's concessionaires, officers, employees, agents, customers and invitees to abide thereby.

Lessor may at any time close temporarily any Common Areas to make repairs or changes, prevent the acquisition of public rights therein, discourage non-customer parking, or for other reasonable purposes, and Lessor shall in all such cases (except in the event of an emergency) attempt to provide Tenant with prior notice of each such closure. If requested by Lessor, Tenant shall furnish Lessor license numbers and descriptions of cars used by Tenant and Tenant's concessionaires and employees. Tenant shall not interfere with Lessor's or other permitted users' rights to use any part of the Common Areas.

**ARTICLE VI – MAINTENANCE OF COMMON AREAS
AND COMMON AREA MAINTENANCE CHARGE**

Lessor will at all times during the Lease Term operate, manage, maintain and repair, or cause to be operated, managed, maintained or repaired, the Common Areas of the Development including, but not limited to, all parking facilities. In addition to the Annual Rent provided for herein, Tenant shall pay to Lessor in advance on the first day of each year during the Lease Term a Common Area maintenance charge in the amount of _____ (\$_____) per square foot of leased area as set forth in Exhibit A (the "Common Area Maintenance Charge") as Tenant's share of the costs incurred by Lessor to operate, manage, maintain and repair the Common Areas of the Development.

ARTICLE VII – UTILITIES AND SERVICES

Section 7.1. Utilities.

Tenant shall not install any equipment at the Premises or the Development which can exceed the capacity of any utility facilities currently serving, or intended or available to serve, the Premises and if any equipment installed by Tenant, or if Tenant's utility demands for the Premises, require additional utility facilities and/or the relocation or resizing of the existing facilities, the same shall be installed, relocated or resized, as applicable, at Tenant's expense in compliance with all code requirements and plans and specifications which must be approved in writing by Lessor. Except as expressly provided otherwise in Section 7.2 of this Lease, Tenant shall be solely responsible for and promptly pay all charges for the connection and use of sewer, gas, electricity, water, telecommunications and all other utility services relative to the Premises. Lessor will, at Lessor's expense, install electric, gas and water meters on the Premises. Tenant agrees to directly and promptly, but in any event before the date due, pay the utilities providing the sewer, gas, electrical, water or telecommunications service for such services. In the event that Lessor is not able to install separate electric, gas and/or water meters on the Premises, Lessor shall allocate the cost of such unmetered services to the Premises based upon the square footage and usage of the Premises, and Tenant shall promptly reimburse Lessor for such allocated costs for each month of the Term. Lessor may make additional services including, but not limited to, pest control, cleaning and security available to the Premises and, in such event, Tenant shall utilize such services, at Tenant's expense.

Section 7.2. Air Conditioning of Premises.

Lessor, at Lessor's cost, shall provide Tenant with heating and air conditioning for the Premises during the customary periods of the year and during normal business hours when, and to the same extent, as furnished to other portions of the Development and if sufficient capacity exists. If sufficient heating and/or air conditioning capacity does not currently exist at the Development to provide sufficient heating and/or air conditioning for the Premises based upon Tenant's use thereof, any additional facilities and/or the relocation or resizing of existing facilities required to provide sufficient heating and/or air conditioning for the Premises shall be installed, relocated or resized, as applicable, at

Tenant's expense and in compliance with all code requirements and plans and specifications which must be approved of in advance and in writing by Lessor. Tenant acknowledges that because of the nature of the Premises, Tenant might not have access to the controls for heating and air conditioning at the Premises and shall not attempt to make any changes to such controls located outside the Premises.

Section 7.3. Enforcement and Termination.

In the event of any default by Tenant, but subject to Section 17.1 of this Lease, Lessor reserves the right, in addition to all other rights and remedies available to Lessor, to cut off and discontinue, without notice or liability to Tenant, any utilities which are not separately metered and being paid for by Tenant and/or services provided in accordance with the provisions of this Article VII. Lessor shall not be liable to Tenant in damages or otherwise if any utilities or services, whether or not furnished by Lessor here under, are interrupted or terminated because of repair, installation of improvements, or any cause beyond Lessor's reasonable control, nor shall any such termination relieve Tenant of any of Tenant's obligations under this Lease. Tenant shall operate the Premises in such a way as shall not waste fuel, energy or natural resources. Lessor may cease to furnish any one or more of said utilities or services to Tenant without liability for the same and no discontinuance of any utilities or services shall constitute a constructive eviction.

ARTICLE VIII – TENANT’S CONDUCT

Section 8.1. Use of Premises.

The Premises shall be occupied and used by Tenant solely for the purpose of conducting thereon the operation of [FILL IN SPECIFIC PERMITTED USES]:

Tenant shall not use or permit or suffer the use of the Premises for any commercial activities or other business or purpose or purposes whatsoever, without Lessor's written consent therefor first had and obtained, which consent may be withheld at the Lessor's sole discretion. The design, theme and content of the Premises, and any modifications or changes thereto, shall be subject to the prior written approval of Lessor, such approval not to be unreasonably withheld or delayed. This Lease does not grant any exclusive use rights to Tenant nor in any event shall this Lease grant any exclusive use rights with respect to the Development or with respect to any merchandise or goods currently or in the future sold at or from the Premises.

Section 8.2. Prompt Occupancy and Use.

Tenant will occupy the Premises upon the Commencement Date and thereafter continuously operate and conduct the operations permitted under Section 8.1 hereof on such days, and during such hours, as are required in Section 8.3 of this Lease with a full staff and using only such minor portions of the Premises for storage and office purposes as are reasonably required.

Section 8.3. Conduct of Operations.

Tenant's shall at all times keep the Premises open during normal, fixed operating hours at least five (5) days per week throughout the Term ("Minimum Hours of Operation"). Any extension of the Minimum Hours of Operation shall require Lessor's consent which shall not be unreasonably withheld.

Notwithstanding anything to the contrary contained herein, Tenant shall not be subject to penalty or deemed in default hereunder if Tenant fails to open or if Tenant at any time fails to operate within the entirety of the Premises due to events of force majeure, or during any periods of repairs or alteration which cannot be commenced and completed during the hours in which Tenant is normally closed. In such events, Tenant shall be permitted to close or partially close on an "as needed basis" to make whatever repairs or alterations are necessary to maintain the first class facilities that exist at the Commencement Date. Tenant shall use reasonable efforts to commence any and all such work so as to minimize any closure. Except in cases of emergency repairs, Tenant shall provide Lessor with not less than five (5) days prior notice of Tenant's intention to close and reasons therefore. Tenant shall be permitted to close five (5) days per Lease Year for minor refurbishment.

Section 8.4. Operation by Tenant.

A. Tenant covenants and agrees that it will: not place or maintain any merchandise, goods, equipment, machinery or other articles in any vestibule or entry of the Premises or outside the Premises; store garbage, trash, rubbish and other refuse in rat-proof and insect-proof containers inside the Premises, and remove the same frequently and regularly and, if directed by Lessor, by such means and methods and at such times and intervals as are designated by Lessor, all at Tenant's expense; not permit any sound system audible, or objectionable medium visible, outside the Premises; keep all mechanical equipment free of vibration and noise and in good working order and condition; not commit or permit waste or a nuisance upon the Premises; not permit or cause odors to emanate or be dispelled from the Premises; not solicit business in the Common Areas; not distribute advertising matter to, in or upon any Common Areas; not permit the loading or unloading or the parking or standing of delivery vehicles outside any area designated therefor, nor permit any use of vehicles which will interfere with the use of any Common Areas; comply with all laws, recommendations, ordinances, rules and regulations of governmental, public, private and other authorities and agencies, including those with authority over insurance rates, with respect to the use or occupancy of the Premises, and including but not limited to the Occupational Safety and Health Act and the Americans with Disabilities Act of 1990; not permit any noxious, toxic or corrosive fuel or gas, dust, dirt or fly ash on the Premises; and not place a load on any floor, ramp or other surface in the Development which exceeds the load capacity thereof.

B. Tenant acknowledges that Lessor's security department and security officers are not responsible for providing security services in the Premises and that all such responsibility is the obligation of Tenant. In no event shall Lessor be liable to Tenant or any third-party

for the security department's failure to respond to a request for aid or assistance by Tenant.

C. Tenant's method of conducting its operations in the Premises shall at all times be in keeping with and not inconsistent with or detrimental to the operation by Lessor of a first-class mixed-use facility.

D. Tenant acknowledges that Lessor has or will enter into other leases within the Development and that the operations of other tenants may, during the Lease Term, create a conflict with Tenant. In the event of a controversy between Tenant and Lessor or Tenant and the lessee or operator of any other business in the Development, Lessor shall have the sole right to resolve such controversy, so long as Lessor exercises reasonable discretion, and such decision shall be binding on all parties involved. In the event that Tenant fails or refuses to abide by the decision of Lessor, such failure or refusal shall be deemed a material breach, unless Lessor's resolution violates the preceding sentence, in which case the parties shall submit the matter to binding arbitration in accordance with Section 23.16 of this Lease.

E. Tenant shall forthwith notify Lessor in writing each time that the Premises is inspected by, or Tenant receives a citation, notice of violation or citation, or inquiry, from the California Industrial Relations Division or the United States Department of Occupational Safety and Health (each an "OSHA Enforcement Agency") or any other regulatory body. In addition, Tenant shall forthwith provide to Lessor copies of any and all correspondence, violations, citations, documents or other information received from, sent to, or in connection with, the Premises and an OSHA Enforcement Agency. In the event Tenant is cited or notified by an OSHA Enforcement Agency of a violation of any law, recommendation, ordinance, rule, regulation or requirement enforced by an OSHA Enforcement Agency including, but not limited to, the Occupational Safety and Health Act, and without limiting any other provision of this Lease, Tenant shall promptly (but in no event later than the time allowed by the OSHA Enforcement Agency) respond to the citation or violation in writing addressed to the OSHA Enforcement Agency (a copy of which Tenant shall at the same time provide to Lessor) and correct the violation(s) in question to the satisfaction of the OSHA Enforcement Agency and Lessor. All notices, documentation and information to be provided by Tenant to Lessor pursuant to this subsection shall be sent to the Lessor's Risk Management Department.

F. Tenant may not store, use or operate any equipment at the Development which interferes with the operation of any other equipment at the Development by any other tenant, licensee, contractor or subcontractor.

Section 8.5. Vending Machines.

Tenant shall not, without Lessor's prior written approval, operate or permit to be operated on the Premises any coin or token operated vending machines or similar device for the sale or leasing to the public of any goods, wares, merchandise, food, beverages, and/or

service including, without limitation, pay telephones, pay lockers, pay toilets, scales and amusement devices.

Section 8.6. Tenant's Security.

Tenant hereby covenants and agrees to at all times during the Lease Term fully "document" each "Incident," both as defined herein, occurring in, or in connection with, the Premises. For purposes of this Lease, the term "Incident" means any injury, illness, accident, altercation, fight, trespass, theft (including embezzlement), arrest or suppression of, or alleged by, any person in, or in connection with, the Premises. In the event of an Incident, Tenant shall, to the extent any persons involved with, or witnessing, such Incident cooperate, fully document the Incident. For purposes of this Lease, the term "document" shall mean to complete and retain, promptly following an Incident, thorough and accurate Security Incident Reports, Medical Evaluations, witness statements (both of Tenant's employee's and Tenant's students and patrons) and recordings in whatever format including, but not limited to, video tapes, CD Rom and DVD, if applicable, of the Incident (collectively the "Documentation"). Tenant shall (a) within two (2) days of each Incident, notify Lessor's Security Department in writing of such Incident and (b) upon request from Lessor's Security Department, forthwith deliver to Lessor's Security Department a full and complete copy of all Documentation for an Incident. In addition, Tenant shall immediately notify Lessor, by calling Lessor's Security Dispatch, in the event that (a) a physical altercation has taken place in, or in connection with, the Premises, (b) Tenant has called for the police, Fire Department and/or emergency medical technicians/paramedics to respond to the Premises, or (c) Tenant is preparing to eject someone from the Premises (regardless of the reason). In the event of an ejection pursuant to subsection (c) above, Tenant shall notify Lessor's Security Dispatch of such ejection a sufficient time before such ejection takes place to allow Lessor's Security Department to promptly respond and be present near the entrance of the Premises when such person is ejected.

Section 8.7. Public Relations.

Tenant acknowledges that the Development is a first class mixed-use project and that the maintenance of Lessor's and the Development's reputation and the goodwill of all of Lessor's customers, guests and invitees is absolutely essential to Lessor and that any impairment thereof whatsoever will cause great damage to Lessor. Tenant therefore covenants that it shall operate the Premises in accordance with the highest standards of honesty, integrity, quality and courtesy so as to maintain and enhance the reputation and goodwill of Lessor and the Development. Tenant shall continuously monitor the performance of each of Tenant's employees and students at the Premises to insure that such standards are consistently maintained. Tenant therefore further agrees, as a material inducement to Lessor, that repeated failure to maintain such standards or repeated complaints from customers or guests which, in each case, are communicated specifically in writing to Tenant in a timely manner, for which, in Lessor's reasonable judgment, Tenant has no credible explanation, shall be deemed a material breach by Tenant to perform conditions and covenants of this Lease.

Section 8.8. Emissions and Hazardous Materials.

Tenant shall not, without the prior written consent of Lessor, cause or permit, knowingly or unknowingly, any Hazardous Material (hereinafter defined) to be brought or remain upon, kept, used, discharged, leaked, or emitted in or about, or treated at the Premises or the Development. As used in this Lease, "Hazardous Material(s)" shall mean any hazardous, toxic or radioactive substance, material, matter or waste which is or becomes regulated by any federal, state or local law, ordinance, order, rule, regulation, code or any other governmental restriction or requirement, and shall include asbestos, petroleum products and the terms "Hazardous Substance" and "Hazardous Waste" as defined in the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. § 9601 et seq. ("CERCLA"), and the Resource Conservation and Liability Act, as amended, 42 U.S.C. § 6901 et seq. ("RCRA"). To obtain Lessor's consent, Tenant shall prepare an "Environmental Audit" for Lessor's review. Such Environmental Audit shall list: (1) the name(s) of each Hazardous Material and a Material Safety Data Sheet (MSDS) as required by the Occupational Safety and Health Act; (2) the volume proposed to be used, stored and/or treated at the Premises (monthly); (3) the purpose of such Hazardous Material; (4) the proposed on-premises storage location(s); (5) the name(s) of the proposed off-premises disposal entity; and (6) an emergency preparedness plan in the event of a release. Additionally, the Environmental Audit shall include copies of all required federal, state, and local permits concerning or related to the proposed use, storage, or treatment of any Hazardous Material(s) at the Premises.

Tenant shall submit a new Environmental Audit whenever it proposes to use, store, or treat a new Hazardous Material at the Premises or when the volume of existing Hazardous Materials to be used, stored, or treated at the Premises expands by ten percent (10%) during any thirty (30) day period. If Lessor, in Lessor's reasonable judgment, finds the Environmental Audit acceptable, then Lessor shall deliver to Tenant Lessor's written consent. Notwithstanding such consent, Lessor may revoke Lessor's consent if (a) Tenant fails to remain in full compliance with applicable environmental permits and/or any other requirements under any federal, state, or local law, ordinance, order, rule, regulation, code or any other governmental restriction or requirement (including but not limited to CERCLA and RCRA related to environmental safety, human health, or employee safety; (b) Tenant's business operations pose or potentially pose a human health risk to other Tenants; or (c) Tenant expands Tenant's use, storage, or treatment of any Hazardous Material(s) in a manner inconsistent with the safe operation of the Development. Should Lessor consent in writing to Tenant bringing, using, storing or treating any Hazardous Material(s) in or upon the Premises or the Development, Tenant shall strictly obey and adhere to any and all federal, state or local laws, ordinances, orders, rules, regulations, codes or any other governmental restrictions or requirements (including but not limited to CERCLA and RCRA which in any way regulate, govern or impact Tenant's possession, use, storage, treatment or disposal of said Hazardous Material(s)). In addition, Tenant represents and warrants to Lessor that (a) Tenant shall apply for and remain in compliance with any and all federal, state or local permits in regard to Hazardous Materials; (b) Tenant shall report to any and all applicable governmental authorities any release of reportable quantities of any Hazardous Material(s) as required by any and all

federal, state or local laws, ordinances, orders, rules, regulations, codes or any other governmental restrictions or requirements; (c) Tenant, within five (5) days of receipt, shall send to Lessor a copy of any notice, order, inspection report, or other document issued by any governmental authority relevant to Tenant's compliance status with environmental or health and safety laws; and, (d) Tenant shall remove from the Premises all Hazardous Materials at the termination of this Lease.

In addition to, and in no way limiting, Tenant's duties and obligations as set forth in Section 11.6 of this Lease, should Tenant breach any of Tenant's duties and obligations as set forth in this Section, or if the presence of any Hazardous Material(s) on the Premises results in contamination of the Premises, the Development, any land other than the Development, the atmosphere, or any water or waterway (including groundwater), or if contamination of the Premises or of the Development by any Hazardous Material(s) otherwise occurs for which Tenant is otherwise legally liable to indemnify or reimburse Lessor for damages resulting therefrom, Tenant shall indemnify, save harmless and, at Lessor's option and with attorneys approved in writing by Lessor, defend Lessor, and Lessor's parent company, subsidiaries and affiliates, and their respective directors, officers, employees, agents, contractors, partners and mortgagees, if any, from any and all claims, demands, damages, expenses, fees, costs, fines, penalties, suits, proceedings, actions, causes of action, and losses of any and every kind and nature (including, without limitation, diminution in value of the Premises or the Development, damages for the loss or restriction on use of the rentable or usable space or of any amenity of the Premises or the Development, damages arising from any adverse impact on marketing space in the Development, and sums paid in settlement of claims and for attorney's fees, consultant fees and expert fees, which may arise during or after the Lease Term or any extension thereof as a result of such contamination). This includes, without limitation, costs and expenses, incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of the presence of Hazardous Material(s) on or about the Premises or the Development, or because of the presence of Hazardous Material(s) anywhere else which came or otherwise emanated from Tenant or the Premises. Without limiting the foregoing, if the presence of any Hazardous Material(s) on or about the Premises or the Development caused or permitted by Tenant results in any contamination of the Premises or the Development, Tenant shall, at Tenant's sole expense, promptly take all actions and expense as are necessary to return the Premises and/or the Development to the condition existing prior to the introduction of any such Hazardous Material(s) to the Premises or the Development; provided, however, that Lessor's approval of such actions shall first be obtained in writing.

Lessor hereby represents and warrants to Tenant that as of the respective Delivery Date the Premises shall be free from all Hazardous Materials. In the event that Tenant discovers that Hazardous Materials did exist on the Premises as of the respective Delivery Date, Tenant shall promptly provide Lessor with written notice thereof and thirty (30) days in which to remove such Hazardous Materials.

Section 8.9. Tenant's Employees.

A. Tenant shall staff the Premises with such number of Tenant's employees as are reasonably required for the proper and efficient operation thereof. Tenant shall keep Lessor informed about its key personnel and changes thereto. Lessor must give its reasonable advance approval to any prospective manager(s) of the day-to-day operations of the Innovation Center. Each of Tenant's employees working at the Premises shall, at Tenant's reasonable expense, attend an orientation program conducted by Lessor from time to time intended to educate tenant employees about the Development. Further, and in addition to any other indemnity obligation contained herein, Tenant hereby covenants and agrees to indemnify, defend, save, and hold Lessor, and Lessor's parent company, subsidiaries and affiliates, and their officers, directors, shareholders and employees, free, clear and harmless from, and against, any and all liabilities, losses, costs, expenses (including reasonable attorney's fees), judgments, claims, liens, fines, penalties, and demands of any kind whatsoever caused by, resulting from, or in any way connected with, Tenant's failure to comply with, adopt the applicable terms and conditions of, and/or take and accept an assignment of, and/or become a signatory to; as they relate to Tenant's operation of the Premises.

B. Tenant shall not cause or permit Tenant's employees to enter upon those areas of the Development which are designated "Employees Only" as the parties acknowledge that for the purpose of this Section, "Employees" refers to the employees of Lessor and not to the employees of Tenant. However, Tenant shall, at Lessor's discretion, require that Tenant's employees only enter and exit the Development through the Development's employee entrance.

C. Tenant shall, in Tenant's sole discretion, fix the salary rate and provisions of employee benefits of Tenant's employees and shall be responsible for all such salaries, employee benefits, social security taxes, federal and state unemployment insurance and any and all similar taxes relating to Tenant's employees and for workers' compensation coverage with respect thereto pursuant to applicable law. Tenant's employees shall not be entitled to participate in, or to receive, any of Lessor's employee benefit or welfare plans, and they shall not be deemed agents of Lessor for purposes of this Lease.

ARTICLE IX – MAINTENANCE OF PREMISES

Section 9.1. Maintenance by Lessor.

Lessor shall keep or cause to be kept the foundations, roof and structural portions of the walls of the Premises in good order, repair and condition except for damage thereto due to the acts or omissions of Tenant, Tenant's agents, employees or invitees. Lessor shall commence required repairs as soon as reasonably practicable after receiving written notice from Tenant thereof. This Section 9.1 shall not apply in case of damage or destruction by fire or other casualty or condemnation or eminent domain, in which events the obligations of Lessor shall be controlled by Article XVI and XVII. Except as provided in this Section 9.1, Lessor shall not be obligated to make repairs, replacements

or improvements of any kind upon the Premises, or to any leasehold improvements, equipment, merchandise, goods, stock in trade, facilities or fixtures therein, all of which shall be Tenant's responsibility, but Tenant shall give Lessor prompt written notice of any accident, casualty, damage or other similar occurrence in or to the Premises or the Common Areas of which Tenant has knowledge.

Section 9.2. Maintenance by Tenant.

Tenant shall at all times keep the Premises (including all entrances and vestibules) and all partitions, window and window frames and moldings, glass, doors, door openers, fixtures including leasehold improvements, equipment and appurtenances thereof (including lighting, heating, electrical, plumbing (including applicable greasetraps), ventilating and air conditioning fixtures and systems and other mechanical equipment and appurtenances including roto-clones) and all parts of the Premises, and parts of Tenant's Work not on the Premises, not required herein to be maintained by Lessor, in good order, condition and repair and clean, orderly, sanitary and safe, damage by unavoidable casualty excepted (including, but not limited to, doing such things as are necessary to cause the Premises to comply with applicable laws, ordinances, rules, regulations and orders of governmental and public bodies and agencies, such as but not limited to the Occupational Safety and Health Act). If replacement of equipment, fixtures and appurtenances thereto is necessary, Tenant shall replace the same with the new or completely reconditioned equipment, fixtures and appurtenances, and repair all damages done in or by such replacement. Without limiting the foregoing and if applicable, Tenant shall, at Tenant's expense and at such times as Lessor deems appropriate, utilize Lessor's designated contractor to clean any hoods, exhaust systems and ducts on the Premises. All such work shall be performed subject to Lessor's standards and Tenant shall, following each such cleaning, provide Lessor with photographs and other certificates and receipts satisfactory to Lessor evidencing that such cleaning has been conducted. If Tenant fails to perform Tenant's obligations hereunder, Lessor without notice may, but shall not be obligated to perform Tenant's obligations or perform work resulting from Tenant's acts, actions or omissions and add the cost of the same to the next installment of Annual Rent due hereunder to be repaid in full.

Section 9.3. Surrender of Premises.

At the expiration or earlier termination of the Lease Term, Tenant shall surrender the Premises in the same condition as they were required to be in on the Required Completion Date, reasonable wear and tear and damage by unavoidable casualty excepted, and deliver all keys for, and all combinations on locks, safes and vaults in, the Premises to Lessor at Lessor's notice address as specified in Section 23.7.

ARTICLE X – SIGNS, AWNINGS, CANOPIES, FIXTURES, ALTERATIONS

Section 10.1. Fixtures/Requirement to Refurbish.

Except as otherwise required by the nature of the Premises, all fixtures and equipment installed by Tenant shall be new. Upon the request of Lessor, and without limiting the refurbishment obligation provided for in this Section, Tenant shall refurbish all or any portion of the interior of the Premises so that the furnishings, furniture, flooring, wall fixtures and coverings, lighting, equipment and other appurtenances in the Premises are kept in like new order, condition and repair in conformity with the standards of appearance for the Development. In that regard, Tenant hereby agrees to spend on refurbishments of the Premises, excluding the cost of regular and ordinary maintenance and cleaning, an amount equal to or greater than _____ dollars (\$_____) during the fifth (5th) thru fifteenth (15th) Lease Years of the Term and an amount equal to or greater than _____ dollars (\$_____) during the sixteenth (16th) through thirtieth (30th) Lease Years. All refurbishment work to be performed pursuant to this Section shall be deemed Tenant's Work for, and subject to, the approvals and other conditions of Tenant's Work.

Section 10.2. Removal and Restoration by Tenant.

Tenant shall make no alterations, changes, additions or improvements to the Premises without obtaining Lessor's prior written consent. All alterations, changes and additions and all improvements, including leasehold improvements, made by Tenant, or made by Lessor on Tenant's behalf, whether part of Tenant's Work or not and whether or not paid for wholly or in part by Lessor, shall remain Tenant's property for the Lease Term. Any alterations, changes, additions and improvements shall immediately upon the termination of this lease become Lessor's property, be considered part of the Premises, and not be removed at or prior to the end of the lease Term without Lessor's written consent. If Tenant fails to remove any shelving, decorations, equipment, trade fixtures or personal property from the Premises prior to the end of the Lease Term, they shall become Lessor's property and Tenant shall repair or pay for the repair of any damage done to the Premises resulting from removing same but not for painting or redecorating the Premises.

Section 10.3. Tenant's Liens.

A. Tenant acknowledges that Lessor is the Owner of the Development and the Premises and that Tenant neither has, nor at any time hereunder will have, any ownership interest in the Development or the Premises. Tenant shall not permit any mechanics' or materialmen's lien to be filed against the Premises or the Development by reason of work, labor, services or materials performed or furnished to Tenant or anyone holding any part of the Premises under Tenant. If any such lien shall at any time be filed as aforesaid, Tenant may contest the same in good faith, but, notwithstanding such contest, Tenant shall, within fifteen (15) days after the filing thereof, cause such lien to be released of record by payment, bond, order of a court of competent jurisdiction, or otherwise in a manner satisfactory to Lessor and Lessor's mortgagee. In the event of Tenant's failure to

release of record any such lien within the aforesaid period, Lessor may remove said lien by paying the full amount thereof or by bonding or in any other manner Lessor deems appropriate, without investigating the validity thereof, and irrespective of the fact that Tenant may contest the propriety or the amount thereof, and Tenant, upon demand, shall pay Lessor the amount so paid out by Lessor in connection with the discharge of said lien, together with interest thereon at the rate set forth in Section 4.2 herein and reasonable expenses incurred in connection therewith, including reasonable attorneys' fees, which amounts are due and payable in full to Lessor as additional rent on the first day of the next following year. Nothing contained in this Lease shall be construed as consent on the part of Lessor to subject Lessor's estate in the Premises to any lien or liability under the lien laws of the State of California. Tenant's obligation to observe and perform any of the provisions of this Section 10.3 shall survive the expiration of the Lease Term or the earlier termination of this Lease. Lessor shall have the right to post and maintain on the Premises any notices of non-responsibility provided for under applicable law.

B. Tenant shall not create or suffer to be created a security interest or other lien against any improvements, additions or other construction made by Tenant in or to the Premises or against any fixtures installed by Tenant therein (other than a purchase money security interest in favor of an institutional lender and relative to Tenant's fixtures, equipment or furniture), and should any security interest be created in breach of the foregoing, Lessor shall be entitled to discharge the same by exercising the rights and remedies afforded it under paragraph A of this Section.

C. As soon as available after Tenant's opening for business in the Premises, Tenant shall furnish to Lessor lien waivers from all contractors, subcontractors and materialmen who provided work, labor, services equipment or material to Tenant.

Section 10.4. Signs, Awnings and Canopies.

Tenant's signs, placards, and other visual displays must strictly comply with all local regulations and city ordinances. Tenant shall not place or permit on any exterior door or window or any wall of the Premises or otherwise, any sign, awning, canopy, advertising matter, decoration, lettering or other thing of any kind which has not been approved by Lessor. Lessor reserves the right to disapprove in its sole and absolute discretion, any signage or decoration located on the exterior of the Premises or which can be seen outside the Premises which it deems to be inappropriate or offensive and Tenant shall remove such sign or item from the Premises upon Lessor's written notice to Tenant. Tenant agrees not to use any advertising medium, such as flashing lights, searchlights, loudspeakers, phonographs, radios or televisions, which can be heard or experienced outside the Premises. Tenant agrees not to display, paint or place any handbills, bumper stickers, or other advertising fliers on any vehicle in the parking area of the Development. Tenant will not distribute any handbills or other advertising devices within the Development without first obtaining Lessor's written consent.

Section 10.5. Storefronts.

Tenant shall design, install, illuminate and maintain all storefront window floors, ceilings, and backgrounds/backdrops, which shall be subject to the prior approval of Lessor, to promote and display the active use of the Premises by Tenant and its patrons, while reflecting and maintaining the vitality and first-class standards of the Development.

ARTICLE XI – INSURANCE

Section 11.1. By Lessor.

Lessor shall carry commercial general liability insurance on those portions of the Common Areas included in the Development providing coverage of not less than Ten Million Dollars (\$10,000,000.00) combined single limit against liability for bodily injury including death and personal injury and fire legal liability. Lessor may obtain such coverage through one (1) or more insurance policies including policies of basic and/or excess coverage. Lessor shall also carry insurance for fire, extended coverage, vandalism, malicious mischief and other endorsements deemed advisable by Lessor, insuring all improvements on the Development, including the Premises, appurtenances thereto (excluding Tenant's leasehold improvements, merchandise, goods, trade fixtures, furnishings, equipment, personal property and excluding plate glass) for the full replacement value thereof, with such deductibles as Lessor deems advisable, such insurance coverage to include approved improvements provided by Tenant (excluding wall covering, floor covering, carpeting and drapes) and Lessor's Work.

Section 11.2. By Tenant.

Tenant shall obtain and keep in full force and effect prior to commencement of Tenant's Work and until completion thereof and during the Lease Term a commercial general liability, commercial automobile liability, all risk, and business interruption insurance policies. The commercial general liability insurance policy shall include blanket contractual liability coverage recognizing this Lease and products, completed operations, independent contractors, fire legal damage, and owner's protective liability coverage. Tenant will maintain limits of not less than _____ dollars (\$ _____) combined single limit per occurrence for bodily injury (including death), personal injury, and property damage, and limits of not less than One Million Dollars (\$1,000,000.00) for fire legal damage. Tenant will furnish commercial automobile liability insurance coverage for damage due to bodily injury or death of any person, or property damage arising out of the ownership, maintenance, or use of any motor vehicles whether owned, non-owned, hired, or leased. Tenant will maintain limits of not less than One Million Dollars (\$1,000,000.00) combined single limit per accident for bodily injury and property damage. Tenant also agrees to obtain and keep in full force and effect a standard all risk or special form policy of property insurance protecting against all risks of physical loss or damage including, without limitation, sprinkler leakage coverage and plate glass insurance covering all plate glass in the Premises (including store fronts), in amounts not less than actual replacement cost, covering all of Tenant's leasehold improvements,

merchandise, goods, trade fixtures, furnishing, wall covering, floor covering, carpeting, drapes, equipment and all items of personal property of Tenant located on or within the Premises and all materials stored at the site of Tenant's Work and all materials, equipment, supplies and temporary structures of all kinds incidental to Tenant's Work, and equipment, all while forming a part of or contained in such improvements or temporary structures, or while on the Premises or within the Development, all to the actual replacement cost thereof at all times and on a completed value basis. Tenant further agrees to procure and maintain workers' compensation insurance in accordance with the laws of the State of California including employers' liability insurance with a single limit of liability of not less than One Million Dollars (\$1,000,000.00) for each accident or illness. Tenant is to name Lessor, Lessor's parent company, subsidiaries and affiliates, and their directors, officers and employees as additional insureds or loss payees, as appropriate, on all such policies, except for workers' compensation insurance. Without the prior written consent of Lessor, Tenant's retention (deductible or SIR) under such aforementioned policy or policies shall be no greater than Twenty-Five Thousand Dollars (\$25,000.00). Lessor shall grant Lessor's consent to a higher retention if it determines, in Lessor's reasonable judgment, that a higher retention is prudent based upon (i) Tenant's use of the Premises, (ii) the use and nature of the Development, (iii) applicable insurance rates and premiums, (iv) whether Lessor believes, in Lessor's reasonable judgment, that such an increase could have an adverse or detrimental affect upon Lessor's operation of, or ability to obtain insurance for, the Development and (v) such other factors as Lessor from time to time reasonably deems to be appropriate.

All such insurance shall be in a form and content satisfactory to Lessor and issued by a Carrier licensed to transact business in the State of California with a current A.M. Best Company rating of at least A:VII. Upon the first day of the fifth (5th), tenth (10th), fifteenth (15th), twentieth (20th), twenty-fifth (25th) and thirtieth (30th) Lease Years of the Lease Term, the minimum coverage limits of the commercial general liability, commercial automobile liability and, employers liability insurance policies shall be adjusted upward as agreed by the Parties. Tenant shall thereafter promptly deliver to Lessor certificates of insurance evidencing such coverage in such adjusted amounts.

Tenant shall require all of Tenant's contractors and subcontractors engaged in the performance of Tenant's Work to effect and maintain and deliver to Tenant and Lessor certificates evidencing the existence of, and covering Lessor, Tenant and Tenant's contractors, prior to commencement of Tenant's Work and until completion thereof, of the workers' compensation insurance, employer's liability insurance, commercial general liability insurance and commercial automobile liability insurance policies in the amounts and as described above. Tenant's, Tenant's contractors' and subcontractors', insurance is primary with respect to Lessor; any other insurance maintained by Lessor, Lessor's parent company, subsidiaries and affiliates is excess and non-contributing. Failure of Tenant, Tenant's contractors or subcontractors to take out and/or maintain the required insurance shall not relieve Tenant from any liability under this Lease, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of Tenant under Section 11.6.

Not later than fourteen (14) days before Tenant commences Tenant's Work, Tenant shall furnish to Lessor certificates of insurance evidencing that the required insurance and workers' compensation coverage are in full force and effect. All deductibles and self-insured retentions shall be fully disclosed on the certificates and shall provide Lessor with at least thirty (30) days prior written notice of cancellation or modification of policy limits or coverage. Such certificates shall be delivered to The Hills at Vallco, Risk Management Department. In the event Tenant does not timely provide certificates evidencing such insurance, Lessor may treat such failure as a material breach. Lessor reserves the right to insure Tenant according to Lessor's standards with Tenant being liable for all costs and premium expenses incurred by Lessor.

Section 11.3. Mutual Waiver of Subrogation Rights.

Lessor and Tenant and all parties claiming under them mutually release and discharge each other from all claims and liabilities arising from or caused by any casualty or hazard covered or required hereunder to be covered in whole or in part by insurance on the Premises or in connection with property on or activities conducted on the Premises to the extent of such insurance coverage or required coverage, and waive any right of subrogation which might otherwise exist in or accrue to any person on account thereof to the extent of such insurance coverage or required coverage and evidence such waiver by endorsement to the required insurance policies, provided that such release shall not operate in any case where the effect is to invalidate or increase the cost of such insurance coverage (provided, that in the case of increased cost, the other party shall have the right, within thirty (30) days following written notice, to pay such increased cost, thereby keeping such release and waiver in full force and effect).

Section 11.4. Waiver.

Lessor, Lessor's agents and employees, shall not be liable for, and Tenant waives all claims for damage, including but not limited to consequential damages, to person, property or otherwise sustained by Tenant or any person claiming through Tenant resulting from any accident or occurrence in or upon any part of the Development including, but not limited to, claims for damage resulting from: (a) any equipment or appurtenances becoming out of repair; (b) Lessor's failure to keep any part of the Development in repair; (c) injury done or caused by wind, water, or other natural element; (d) any defect in or failure of plumbing, heating or air conditioning equipment, electric wiring or installation thereof, gas, water, and steam pipes, roof, walls, stairs, porches, escalators, elevators, railings or walks; (e) broken glass; (f) the backing up of any sewer pipe or downspout; (g) the bursting, leaking or running of any tank, tub, washstand, water closet, waste pipe, drain or any other pipe or tank in, upon or about the Premises; (h) the escape of steam or hot water; (i) water, snow or ice upon the Premises; (j) the falling of any fixture, plaster or stucco; (k) damage to or loss by theft or otherwise of property of Tenant or others; (l) acts or omissions of persons in the Premises, other tenants in the Development, occupants of nearby properties, or any other persons; and (m) any act or omission of occupants of adjacent or contiguous property, or of Lessor, Lessor's agents or employees. All property of Tenant kept in the Premises shall be so kept

at Tenant's risk only and Tenant shall save Lessor harmless from claims arising out of damage to the same, including subrogation claims by Tenant's insurance carrier.

Section 11.5. Insurance – Tenant's Operation.

Tenant will not do or suffer to be done anything, which will contravene Lessor's insurance policies or prevent Lessor from procuring such policies in amounts and with companies selected by Lessor. If anything done, omitted to be done or suffered to be done by Tenant in, upon or about the Premises shall cause the rates of any insurance effected or carried by Lessor on the Premises or other property to be increased beyond the regular rate from time to time applicable to the Premises for use for the purpose permitted under this Lease, or such other property for the use or uses made thereof, Tenant will pay the amount of such increase promptly upon Lessor's demand and Lessor shall have the right to correct any such condition at Tenant's expense. In the event that this Lease so permits and Tenant engages in the preparation of food or packaged foods or engages in the use, sale or storage of inflammable or combustible material, Tenant shall install chemical extinguishing devices (such as ansul) approved by Underwriters Laboratories and Factory Mutual Insurance Company and the installation thereof must be approved by the appropriate local authority. Tenant shall keep such devices under service as required by such organizations. If gas is used in the Premises, Tenant shall install gas cut-off devices (manual and automatic).

Section 11.6. Indemnities.

A. Tenant hereby covenants and agrees to indemnify, defend, save, and hold Lessor, and Lessor's parent company, subsidiaries and affiliates, and their officers, directors, shareholders and employees, the Premises and the leasehold estate created by this Lease free, clear and harmless from, and against, any and all liabilities, losses, costs, expenses (including reasonable attorney's fees), judgments, claims, liens, fines, penalties, and demands of any kind whatsoever caused by, resulting from, or in any way connected with (i) any act, omission, or negligence of Tenant, or Tenant's agents, employees, servants, contractors, subtenants, licensees, customers, or business invitees, while in, upon, about, or in any way connected with the Premises or the Development, (ii) arising from any accident, injury or damage, howsoever and by whomsoever caused, to any person or property whatsoever occurring, in, upon, about or in any way connected with Tenant's activities, Tenant's Work or Tenant's use of the Premises or the Development, or any portion thereof, or (iii) Tenant's breach of this Lease or any of Tenant's representations or warranties contained herein.

B. Subject to the terms and conditions of this subsection, Lessor hereby covenants and agrees to indemnify, defend, save and hold Tenant, and Tenant's employees, free, clear and harmless from, and against, any and all liabilities, losses, costs, expenses (including reasonable attorneys' fees), judgments, liens, fines, penalties and demands of any kind whatsoever caused by, resulting from, or in any way connected with (i) any act, omission, or negligence of Lessor, or Lessor's agents or employees, in connection with the Premises or (ii) Lessor's breach of this Lease or any of Lessor's representations or warranties

contained herein. Notwithstanding the foregoing, in no event shall Lessor be liable to Tenant or to any other person whatsoever for any damage to the Premises or Tenant's furniture, fixtures, equipment, inventory or personal property located therein whether caused fire, smoke, falling plaster, electricity, plumbing, gas, water, steam, sprinkler, or other pipe and sewage system or by the bursting, running, or leaking of any tank, washstand, closet, waste or other pipes, nor for any damages occasioned by water being upon or coming through the roof, skylight, vent, trapdoor, or otherwise or for any damage arising from any acts or neglect of co-lessees or other occupants of the Development or of adjacent property, or of the public, nor shall Lessor be liable in damages or otherwise for any failure to furnish, or interruption of, service of any utility.

ARTICLE XII – ESTOPPEL CERTIFICATE, ATTORNMENT, SUBORDINATION

Section 12.1. Estoppel Certificate.

Upon Lessor's written request, Tenant shall deliver, executed in recordable form, Lessor's standard subordination, non-disturbance, and attornment agreement, as well as a declaration to any person designated by Lessor (a) ratifying this Lease; (b) stating the commencement and termination dates; and (c) certifying (i) that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended (except by such writings as shall be stated), (ii) that all conditions under this Lease to be performed by Lessor have been satisfied (stating exceptions, if any), (iii) that no defenses or offsets against the enforcement of this Lease by Lessor exist (or stating those claimed); (iv) as to advance rent, if any, paid by Tenant, (v) the date to which rent has been paid, (vi) as to the amount of security deposited with Lessor, and such other information as Lessor reasonably requires. Persons receiving such statements shall be entitled to rely upon them.

Section 12.2. Attornment.

Tenant shall, in the event of a sale or assignment of Lessor's interest in the Premises or the Development or this Lease, or if the Premises or the Development comes into the hands of a mortgagee or any other person whether because of a mortgage foreclosure, exercise of a power of sale under a mortgage, or otherwise, attorn to the purchaser or such mortgagee or other person and recognize the same as Lessor hereunder. Tenant shall execute, at Lessor's request, any attornment agreement required by any mortgagee or other such person to be executed, containing such provisions as such mortgagee or other person requires. Tenant's occupancy of the Premises hereunder shall not be subject to disturbance if Tenant complies with the requirements hereof (and is not otherwise in default under the terms and conditions of this Lease).

Section 12.3. Subordination.

A. Mortgage. Lessor may, in Lessor's sole and absolute discretion and at any time, finance or refinance, as applicable, any portion of the Development. This Lease shall be secondary, junior and inferior at all times to the lien of any mortgage and to the lien of

any deed of trust or other method of financing or refinancing (hereinafter collectively referred to as "mortgage") now or hereafter existing against all or a part of the Development, and to all modifications, replacements, consolidations and extensions thereof, and Tenant shall execute and deliver all documents requested by any mortgagee or security holder to effect such subordination. If Tenant fails to execute and deliver any such document requested by a mortgagee or security holder to effect such subordination, Lessor is hereby authorized to execute such documents and take such other steps as are necessary to effect such subordination on behalf of Tenant as Tenant's duly authorized irrevocable agent and attorney-in-fact.

B. Construction, Easement Agreements. This Lease is subject and subordinate to one (1) or more construction, or similar agreements that may have been entered into or, hereafter may be entered into, by Lessor and to any and all easements and easement agreements which may be or have been entered into with or granted to any person heretofore or hereafter, whether such persons are located within or upon the Development or not, and Tenant shall execute such instruments as Lessor requests to evidence such subordination.

Section 12.4. Failure to Execute Instruments.

Tenant's failure to execute instruments or certificates provided for in this Article XII within thirty (30) days after the mailing by Lessor of a written request shall be a default under this Lease.

ARTICLE XIII – ASSIGNMENT, SUBLETTING AND CONCESSIONS

Section 13.1. No Assignment or Subletting.

Tenant shall not sell, assign, mortgage, pledge or in any manner transfer this Lease or any interest therein, nor sublet all or any part of the Premises, nor license concessions nor lease departments therein. This prohibition shall include a prohibition against any subletting or assignment by operation of law. If this Lease is nevertheless assigned or the Premises or any part sublet or occupied by anybody other than Tenant, Lessor may collect rent from the assignee, subtenant or occupant and apply the same to the rent herein reserved, but no such assignment, subletting, occupancy or collection of rent shall be deemed a waiver of any restrictive covenant contained in this Section 13.1 or the acceptance of the assignee, subtenant or occupant as tenant, or a release of Tenant from the performance by Tenant of any covenants on the part of Tenant herein contained. Any assignment (a) which is required by reason of a final nonappealable order of a court of competent jurisdiction; or (b) which is made by reason of and in accordance with the provisions of any law or statute, including, without limitation, the laws governing bankruptcy, insolvency or receivership, shall be subject to all terms and conditions of this Lease, and shall not be effective or deemed valid unless, at the time of such assignment:

A. Each assignee or sublessee shall agree, in a written agreement satisfactory to Lessor, to assume and abide by all of the terms and provisions of this Lease, including those which govern the permitted uses of the Premises described in Article VIII herein; and

- B. Each assignee or sublessee has submitted a current financial statement, audited by a certified public accountant, showing a net worth and working capital in amounts determined by Lessor to be sufficient to assure the future performance by such assignee or sublessee of Tenant's obligations hereunder; and
- C. The business reputation of each assignee or sublessee shall meet or exceed generally acceptable commercial standards; and
- D. The use of the Premises by each assignee or sublessee shall not violate, or create any potential violation of applicable laws, codes or ordinances, nor violate any other agreements affecting the Premises, Lessor or other tenants in the Development; and
- E. Tenant shall pay Lessor for all administrative and legal expenses incurred by Lessor in connection with any such assignment or subletting up to a maximum of Five Thousand Dollars (\$5,000.00).
- F. Notwithstanding any assignment or subletting, Tenant shall remain fully liable on this Lease and for the performance of all terms, covenants and provisions of this Lease.

ARTICLE XIV – PROMOTION OF DEVELOPMENT AND PREMISES AND TENANT

Section 14.1. Promotion of Development and Premises.

Tenant shall refer to the Development under the name "The Hills at Vallco" (the "Name"), or such other names as Lessor may designate from time to time, in designating the location of the Premises in all newspaper and other advertising and in all other references to the location of the Premises.

The logo styles, illustrated in Exhibit C attached hereto and made a part hereof, shall be used by Tenant whenever Tenant is entitled to use the Name hereunder, except that, when the Name is being used solely as an address, another style may be used. All signage, advertising and literature of or on behalf of Tenant using the Name shall be submitted to Lessor for Lessor's prior written approval as to form and content, such approval to be at the reasonable discretion of Lessor. Lessor shall either approve such usage or provide the reasons for disapproval within fourteen (14) days of such submission. Lessor's failure to disapprove within such fourteen (14) day period shall be deemed approval.

The rights granted herein shall not be assigned or sublicensed to any third party, other than in accordance with the provisions of this Section or to the assignee or sublessee of Tenant's interest in this Lease pursuant to a permitted assignment or sublease. Should Lessor reasonably determine that any advertising by Tenant adversely affects the image, reputation or operation of the Development, or promotes any competitor of Lessor or Lessor's affiliates, Tenant shall cease such advertising promptly upon receipt of notice to do so from Lessor. Tenant shall not use with respect to the Development a name the same or substantially the same as a name then used by Lessor or Lessor's affiliates at the Development (or any other facility owned and operated by Lessor or Lessor's affiliates).

The prohibitions set forth in this Section 14.1 are for the benefit of and directly enforceable by Lessor.

ARTICLE XV – DAMAGE AND DESTRUCTION

If the Premises are hereafter damaged or destroyed or rendered partially untenantable for their accustomed use by fire or other casualty insured under the coverage which Lessor is obligated to carry pursuant to Section 11.1 hereof, Lessor shall promptly repair the same to substantially the condition which they were in immediately prior to the happening of such casualty (excluding stock in trade, fixtures, furniture, leasehold improvements, furnishings, carpeting, floor covering, wall covering, drapes, ceiling and equipment), and from the date of such casualty until the Premises are so repaired and restored, the Annual Rent payments payable hereunder shall abate in such proportion as the part of said Premises thus destroyed or rendered untenantable bears to the total Premises; provided, however, that Lessor shall not be obligated to repair and restore if such casualty is not covered by the insurance which Lessor is obligated to carry pursuant to Section 11.1 hereof or is caused directly or indirectly by the negligence of Tenant, Tenant's agents, employees and invitees and no portion of the Annual Rent and other payments payable hereunder shall abate, and provided, further, that Lessor shall not be obligated to expend for any repair or restoration an amount in excess of the insurance proceeds recovered therefor, and provided, further, that if the Premises be damaged, destroyed or rendered untenantable for their accustomed uses by fire or other casualty to the extent of more than fifty percent (50%) of the cost to replace the Premises during the last five (5) years of the Lease Term, then Lessor shall have the right to terminate this Lease effective as of the date of such casualty by giving to Tenant, within sixty (60) days after the happening of such casualty, written notice of such termination. If such notice be given, this Lease shall (without further obligation or liability) terminate and Lessor shall promptly repay to Tenant any rent theretofore paid in advance, which was not earned at the date of such casualty. Any time that Lessor repairs or restores the Premises after damage or destruction, then Tenant shall promptly repair or replace Tenant's stock in trade, fixtures, furnishings, furniture, leasehold improvements, carpeting, wall covering, floor covering, drapes, ceiling and equipment to the same condition as they were in immediately prior to the casualty, and if Tenant has closed the Premises, Tenant shall promptly reopen for business upon the completion of such repairs. Should Lessor not repair the Premises to substantially the condition which they were in immediately prior to the casualty, as hereinabove described, within one hundred eighty (180) days of the casualty, Tenant shall have the right to terminate this Lease if Tenant provides written notice to Lessor within ten (10) days after the expiration of the one hundred eighty (180) day period.

Notwithstanding anything to the contrary set forth herein, in the event all or any portion of the Development shall be damaged or destroyed by fire or other cause (notwithstanding that the Premises may be unaffected thereby), to the extent the cost of restoration thereof would exceed fifteen percent (15%) of the amount it would have cost to replace the Development in the Development's entirety at the time such damage or destruction occurred, then Lessor may terminate this Lease (without further obligation or liability) by giving Tenant thirty (30) days prior notice of Lessor's election to do so,

which notice shall be given, if at all, within ninety (90) days following the date of such occurrence. In the event of the termination of this Lease as aforesaid, this Lease shall cease thirty (30) days after such notice is given, and the rent and other charges hereunder shall be adjusted as of that date.

ARTICLE XVI – EMINENT DOMAIN

Section 16.1. Condemnation.

If ten percent (10%) or more of the floor area for the Premises and/or fifteen percent (15%) or more of the Development shall be acquired or condemned by right of eminent domain for any public or quasi-public use or purpose, then Lessor may terminate this Lease by giving notice to Tenant of Lessor's election, and in such event rentals shall be apportioned and adjusted as of the date of termination. If the Lease shall not be terminated as aforesaid, then it shall continue in full force and effect, and Lessor shall within a reasonable time after possession is physically taken (subject to delays due to shortage of labor, materials or equipment, labor difficulties, breakdown of equipment, government restrictions, fires, other casualties or other causes beyond the reasonable control of Lessor) repair or rebuild what remains of the Premises for Tenant's occupancy; and a just proportion of the Annual Rent shall be abated, according to the nature and extent of the injury of the Premises until such repairs and rebuilding are completed, and thereafter for the balance of the Lease Term.

Section 16.2. Damages.

Lessor reserves, and Tenant assigns to Lessor, all rights to damages on account of any taking or condemnation or any act of any public or quasi-public authority for which damages are payable. Tenant shall execute such instruments of assignment as Lessor requires, join with Lessor in any action for the recovery of damages, if requested by Lessor, and turn over to Lessor any damages recovered in any proceeding. If Tenant fails to execute instruments required by Lessor, or undertake such other steps as requested, Lessor shall be deemed the duly authorized irrevocable agent and attorney-in-fact of Tenant to execute such instruments and undertake such steps on behalf of Tenant. However, Lessor does not reserve any damages payable for trade fixtures installed by Tenant at Tenant's own cost, which are not part of the realty.

ARTICLE XVII – DEFAULT BY TENANT

Section 17.1. Tenant Default.

The following shall be considered for all purposes to be defaults under and breaches of this Lease: (i) any failure of Tenant to pay any rent or other amount when due following ten (10) days written notice to Tenant specifying the amount overdue hereunder, (ii) any failure by Tenant to perform or observe any other of the terms, provisions, conditions or covenants of this Lease for more than thirty (30) days after written notice of such failure provided; however, that if the default complained of in such notice is of such a nature that

the same can be rectified or cured, but cannot with reasonable diligence be cured within said thirty (30) day period, then such default shall be deemed to be rectified or cured if Tenant shall, within said thirty (30) day period, commence to rectify and cure the same and shall thereafter complete such rectification and cure with all due diligence; (iii) a determination by Lessor that Tenant has submitted any false report required to be furnished hereunder; (iv) anything done by Tenant upon or in connection with the Premises or the construction, remodeling, or refurbishment of any part thereof which directly or indirectly interferes in any way with, or results in a work stoppage in connection with, construction, remodeling, or refurbishment of any part of the Development or any other tenant's space; (v) the bankruptcy or insolvency of Tenant or the filing by or against Tenant of a petition in bankruptcy or for reorganization or arrangement or for the appointment of a receiver or trustee of all or a portion of Tenant's property, or Tenant's assignment for the benefit of creditors; (vi) if Tenant abandons or vacates or does not utilize the Premises when required to do so under this Lease; (vii) if Tenant, except as otherwise allowed in this Lease, does not use the Premises for its intended purposes when required to do so under this Lease; provided, however, Tenant shall not be considered in default under this provision for occasional, de minimis late openings and early closings; (viii) this Lease or Tenant's interest herein or in the Premises or any improvements thereon or any property of Tenant are executed upon or attached; or (ix) the Premises come into the hands of any person other than expressly permitted under this Lease. In any such event, and without grace period, demand or notice (the same being hereby waived by Tenant), Lessor, in addition to all other rights or remedies it may have, and notwithstanding Section 23.16 of this Lease, shall have the right thereupon or at any time thereafter (without first submitting the dispute, controversy or claim to arbitration pursuant to Section 23.16 of this Lease) to terminate this Lease.

In addition, and notwithstanding anything to the contrary set forth above or elsewhere in this Lease, if written notice has been sent to Tenant pursuant to this Section 17.1 with respect to (i) the timely payment of any Rent due Lessor from Tenant or the payment of any other money due Lessor from Tenant under the terms of this Lease, or (ii) the failure of Tenant to provide Lessor with a current set of keys to the Premises as required by Section 20.1 of this Lease, two (2) or more times in any period of twelve (12) consecutive months during the Term, then, notwithstanding that such deficiencies may have been cured, any further written notice to Tenant of an event as set forth in this Section within a twelve (12) month period shall be deemed to be a "Repeated Event of Default". In the event of a Repeated Event of Default, Lessor, without affording Tenant an opportunity to cure such Repeated Event of Default, may terminate this Lease forthwith by notice to Tenant given within ninety (90) days of such Repeated Event of Default.

Section 17.2. Late Charge.

If any installment of rent or any other sum payable by Tenant hereunder is not received by Lessor within thirty (30) days of the date when due, a late charge of ten percent (10%) of such overdue installment or other payment shall be immediately and automatically payable by Tenant to Lessor, without the necessity of delivery of any notice.

Section 17.3. Set-Off.

The covenants to pay rent and other amounts hereunder are independent covenants and Tenant shall have no right to hold back, offset or fail to pay any such amounts for default by Lessor or any other reason whatsoever. Notwithstanding the foregoing, though, Tenant hereby agrees that Lessor may, in Lessor's sole and absolute discretion, hold back, offset and fail to pay to Tenant any amount due from Lessor to Tenant hereunder in exchange for any amount due from Tenant to Lessor hereunder which was not paid by Tenant. In the event of any such offset by Lessor, Lessor shall provide to Tenant in writing an explanation of such offset and a copy of the supporting documentation in connection with such offset.

Section 17.4. Waiver of Rights of Redemption.

To the extent permitted by law, Tenant waives any and all rights of redemption granted by or under any present or future laws if Tenant is evicted or dispossessed for any cause, or if Lessor obtains possession of the Premises due to Tenant's default hereunder or otherwise.

Section 17.5. Bankruptcy.

A. Assumption of Lease. In the event Tenant shall become a Debtor under Chapter 9 of the Bankruptcy Code ("Code") or a petition for reorganization or adjustment of Tenant's debts is filed, the Trustee as Debtor may not elect to assume this Lease unless, at the time of such assumption, the Trustee has:

(i) Cured or provided Lessor "Adequate Assurance" (as defined below) that:

(a) Within ten (10) days from the date of such assumption the Trustee or Tenant will cure all monetary defaults under this Lease and compensate Lessor for any actual pecuniary loss resulting from any existing default, including without limitation, Lessor's reasonable costs, expenses, accrued interest as set forth in Section 4.2 of the Lease, and attorneys' fees incurred as a result of the default;

(b) Within thirty (30) days from the date of such assumption the Trustee will cure all non-monetary defaults under this Lease; and

(c) The assumption will be subject to all of the provisions of this Lease.

(ii) For purposes of this Section 17.5, Lessor and Tenant acknowledge that, in the context of a bankruptcy proceeding of Tenant, at a minimum "Adequate Assurance" shall mean:

(a) The Trustee has and will continue to have sufficient unencumbered assets after the payment of all secured obligations and administrative expenses to assure Lessor that the Trustee or Tenant will have sufficient funds to fulfill the obligations of Tenant under this

Lease, and to keep the Premises properly staffed with sufficient employees to conduct full operations in the Premises; and

(b) The Bankruptcy Court shall have entered an Order segregating sufficient cash payable to Lessor and/or the Trustee shall have granted a valid and perfected first lien and security interest and/or mortgage in property of Trustee acceptable as to value and kind to Lessor, to secure to Lessor the obligation of the Trustee to cure the monetary and/or non-monetary defaults under this Lease within the time periods set forth above; and

(c) The Trustee at the very least shall deposit a sum, sufficient to fund the Tenant's then-current Refurbishment obligations under Section, 10.1, above, to be held by Lessor (without any allowance for interest thereon) to secure Tenant's future performance under the Lease.

B. Assignment of Lease. If the Trustee has assumed the Lease pursuant to the provisions of this Section 17.5 for the purpose of assigning Tenant's interest hereunder to any other person or entity, such interest may be assigned only after the Trustee or the proposed assignee have complied with all of the terms, covenants and conditions of Section 13.1 herein, including, without limitation, those with respect to additional rent and the use of the Premises only as permitted in Article VIII herein; Lessor and Tenant acknowledging that such terms, covenants and conditions are commercially reasonable in the context of a bankruptcy proceeding of Tenant. Any person or entity to which this Lease is assigned pursuant to the provisions of the Code shall be deemed without further act or deed to have assumed all of the obligations arising under this Lease on and after the date of such assignment. Any such assignee shall upon request execute and deliver to Lessor an instrument confirming such assignment.

C. Adequate Protection. Upon the filing of a petition by or against Tenant under the Code, Tenant, as Debtor, and any Trustee who may be appointed agree to adequately protect Lessor as follows:

(i) To perform each and every obligation of Tenant under this Lease until such time as this Lease is either rejected or assumed by Order of the Bankruptcy Court; and

(ii) To pay all monetary obligations required under this Lease, including without limitation, the payment of Annual Rent, and such other additional rent charges payable hereunder, which is considered reasonable compensation for the use and occupancy of the Premises; and

(iii) Provide Lessor a minimum thirty (30) days prior written notice, unless a shorter period is agreed to in writing by the parties, of any proceeding relating to any assumption of this Lease or any intent to abandon the Premises, which abandonment shall be deemed a rejection of this Lease.

(iv) To perform to the benefit of Lessor otherwise required under the Code.

The failure of Tenant to comply with the above shall result in an automatic rejection of this Lease.

D. Accumulative Rights. The rights, remedies and liabilities of Lessor and Tenant set forth in this Section 17.5 shall be in addition to those which may now or hereafter be accorded, or imposed upon, Lessor and Tenant by the Code.

ARTICLE XVIII – DEFAULT BY LESSOR

Section 18.1. Default Defined, Notice.

Lessor shall in no event be charged with default in any of Lessor's obligations hereunder unless and until Lessor shall have failed to perform such obligations within thirty (30) days (or such additional time as is reasonably required to correct any such default) after written notice as set forth in Section 23.7 to Lessor by Tenant, specifically describing such failure.

ARTICLE XIX – TENANT'S PROPERTY

Section 19.1. Taxes on Leasehold.

Tenant shall be responsible for and shall pay before delinquent all municipal, county, federal or state taxes whether enacted now or in the future coming due during or after the Lease Term against Tenant's interest in this Lease or against personal property of any kind owned or placed in, upon or about the Premises by Tenant.

ARTICLE XX – ACCESS BY LESSOR

Section 20.1. Right of Entry.

Lessor and Lessor's agents and employees shall have the right to enter the Premises at any reasonable times including, but not limited to, during the conduct of Tenant's Work and/or the right of immediate entry at any time in the case of an emergency or to protect access to the Development, to examine the Premises and show them to prospective purchasers and other persons and to post notices as Lessor may deem reasonably necessary or appropriate for protection of Lessor, Lessor's interests, the Premises or the Development. Lessor shall attempt in all such cases to provide Tenant with prior notice. Lessor and Lessor's respective agents and employees shall have the further right to enter the Premises from time to time at reasonable times and upon prior notice to Tenant to (i) make such repairs, alterations, improvements or additions to the Premises or other portions of the Development as Lessor deems desirable or (ii) to verify that Tenant is operating in the Premises in compliance with this Lease and the standards set forth herein. Rent shall not abate while any such repairs, alterations, improvements, or additions are being made. During the last six (6) months of the Lease Term, Lessor may exhibit the Premises to prospective tenants and maintain upon the Premises notices deemed advisable by Lessor. In addition, during any apparent emergency, Lessor or

Lessor's agents may enter the Premises forcibly without liability therefor and without in any manner affecting Tenant's obligations under this Lease. Nothing herein contained, however, shall be deemed to impose upon Lessor any obligation, responsibility or liability whatsoever, for any care, maintenance or repair except as otherwise herein expressly provided. Tenant shall ensure that Lessor at all times during the Term has the correct keys necessary to gain access to the Premises in the event of an emergency.

ARTICLE XXI – HOLDING OVER, SUCCESSORS

Section 21.1. Holding Over.

If Tenant holds over or occupies the Premises beyond the Lease Term (it being agreed there shall be no such holding over or occupancy without Lessor's written consent), Tenant shall pay Lessor for each day of such holding over a sum equal to the Annual Rent prorated for the number of days of such holding over. If Tenant holds over with or without Lessor's written consent, Tenant shall occupy the Premises on a tenancy at sufferance but all other terms and provisions of this Lease shall be applicable to such period.

Section 21.2. Successors.

All rights and liabilities herein given to or imposed upon the respective parties hereto shall bind and inure to the several respective heirs, successors, administrators, executors and assigns of the parties, except that no rights shall inure to the benefit of any assignee or subtenant of Tenant unless the assignment or sublease was authorized as provided in Section 13.1 hereof. Lessor, at any time and from time to time, may make an assignment of Lessor's interest in this Lease and, in the event of such assignment, Lessor and Lessor's successors and assigns (other than the assignee of Lessor's interest in this Lease) shall be released from any and all liability thereafter.

ARTICLE XXII – QUIET ENJOYMENT

Section 22.1. Lessor's Covenant.

If Tenant pays the rents and other amounts herein provided, observes and performs all the covenants, terms and conditions hereof, Tenant shall peaceably and quietly hold and enjoy the Premises for the Lease Term without interruption by Lessor or any person or persons claiming by, through or under Lessor; subject, nevertheless, to the terms and conditions of this lease.

ARTICLE XXIII – MISCELLANEOUS

Section 23.1. Waiver.

No waiver by Lessor or Tenant of any breach of any term, covenant or condition hereof shall be deemed a waiver of the same or any subsequent breach of the same or any other

term, covenant or condition. The acceptance of rent by Lessor shall not be deemed a waiver of any earlier breach by Tenant of any term, covenant or condition hereof, regardless of Lessor's knowledge of such breach when such rent is accepted. No covenant, term or condition of this Lease shall be deemed waived by Lessor or Tenant unless waived in writing.

Section 23.2. Accord and Satisfaction.

Lessor is entitled to accept, receive and cash or deposit any payment made by Tenant for any reason or purpose or in any amount whatsoever, and apply the same at Lessor's option to any obligation of Tenant and the same shall not constitute payment of any amount owed except that to which Lessor has applied the same. No endorsement or statement or any check or letter of Tenant shall be deemed an accord and satisfaction or otherwise recognized for any purpose whatsoever. The acceptance of any such check or payment shall be without prejudice to Lessor's right to recover any and all amounts owed by Tenant hereunder and Lessor's right to pursue any other available remedy.

Section 23.3. Entire Agreement.

There are no representations, covenants, warranties, promises, agreements, conditions or undertakings, oral or written, between Lessor and Tenant other than herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon Lessor or Tenant unless in writing, signed by them.

Section 23.4. No Partnership.

Lessor does not, in any way or for any purpose, become a partner, employer, principal, master, agent or joint venturer of, or with, Tenant.

Section 23.5. Force Majeure.

If either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under this Lease, the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Notwithstanding the foregoing, an informational or recognitional picket line shall not be deemed a force majeure event. In addition, the provisions of this Section 23.5 shall not operate to excuse Tenant from any obligations for payment of Annual Rent or any other payments required by the terms of this Lease when the same are due, and all such amounts shall be paid when due.

Section 23.6. Submission of Lease.

Submission of this Lease to Tenant does not constitute an offer to lease; this Lease shall become effective only upon execution and delivery thereof by Lessor and Tenant. The effective day of this Lease shall be the date filled in on Page 1 hereof by Lessor, which shall be the date of execution by the last of the parties to execute the Lease.

Section 23.7. Notices.

All notices from Tenant to Lessor required or permitted by any provision of this Agreement shall be directed to Lessor as follows:

[NAME]
[CONTACT INFO]

With a copy to:

[NAME]
[CONTACT INFO]

All notices from Lessor to Tenant required or permitted hereunder shall be directed as follows:

[NAME]
[CONTACT INFO]

With a copy to:

[NAME]
[CONTACT INFO]

All notices to be given hereunder by any person shall be written and sent by registered or certified mail, return receipt requested, postage pre-paid or by an express mail delivery service, addressed to the person intended to be notified at the address set forth above.

Any person may, at any time, or from time to time, notify the other persons named herein in writing of a substitute address for that above set forth, and thereafter notices shall be directed to such substitute address. Notice given as aforesaid shall be sufficient service thereof and shall be deemed given as of the date received, as evidenced by the return receipt of the registered or certified mail or the express mail delivery receipt, as the case may be.

Section 23.8. Lessor's Parent Company Liability.

Tenant hereby agrees that in the event (a) there is any default or alleged default by Lessor under this Lease or (b) Tenant has, or may have, any claim arising from, or relating to, the terms of this Lease, Tenant shall not commence any lawsuit or otherwise seek to

impose any liability whatsoever against any person or entity other than Lessor. Tenant shall not assert or permit any party claiming through Tenant to assert a claim or impose any liability against any person or entity other than Lessor as to any matter or thing arising out of, or relating to, this Lease or any alleged breach or default of this Lease by Lessor.

Section 23.9. Captions and Section Numbers.

This Lease shall be construed without reference to titles of Articles and Sections, which are inserted only for convenience of reference.

Section 23.10. Number and Gender.

The use herein of a singular term shall include the plural and use of the masculine, feminine or neuter genders shall include all others.

Section 23.11. Objection to Statements.

Notwithstanding the provisions of Section 23.1, Tenant's failure to object to any statement, invoice or billing rendered by Lessor within a period of thirty (30) days after receipt thereof shall constitute Tenant's acquiescence with respect thereto and shall render such statement, invoice or billing an account stated between Lessor and Tenant.

Section 23.12. Representation by Tenant.

Tenant hereby covenants and warrants that all future forms, reports, fees and other documents necessary to comply with applicable laws will be filed when due, and the person signing this Lease on behalf of the Tenant is duly authorized to sign and execute this Lease.

Section 23.13. Lessor's Limitation of Liability.

Notwithstanding anything to the contrary herein, there shall be absolutely no personal liability on persons, firms or entities who constitute Lessor with respect to any of the terms, covenants, conditions and provisions of this Lease, and Tenant shall, subject to the rights of any first mortgagee, look solely to the interest of Lessor, Lessor's successors and assigns, in the Development for the satisfaction of each and every remedy of Tenant in the event of default by Lessor hereunder; such exculpation of personal liability is absolute and without any exception whatsoever.

Section 23.14. Broker's Commission.

Each party represents and warrants that it has caused or incurred no claims for brokerage commissions or finder's fees in connection with the execution of this Lease, and each party shall indemnify and hold the other harmless against and from all liabilities arising

from any such claims caused or incurred by it {including without limitation, the cost of attorney's fees in connection therewith.

Section 23.15. Partial Invalidity.

If any provision of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 23.16. Arbitration.

Any controversy or claim arising out of, or relating to, this Lease, or the breach thereof, shall be settled by binding arbitration in accordance with the commercial arbitration rules then in effect of the American Arbitration Association, and judgment upon the award rendered may be entered in any court having jurisdiction thereof. The arbitration proceedings shall be conducted in Santa Clara County, California. Lessor on the one hand and Tenant on the other hand shall select an arbitrator from a list provided by the American Arbitration Association that is mutually satisfactory to them. If Lessor and Tenant are unable to agree on an arbitrator, Lessor and Tenant shall each choose an arbitrator from a list provided by the American Arbitration Association. The two arbitrators so selected shall then select a third arbitrator mutually satisfactory to them from the list provided by the American Arbitration Association. The single arbitrator so selected by the aforesaid procedure shall hear the dispute and decide it. The award of the arbitrator shall be binding and final on all parties. Any and all legal, accounting and other costs and expenses incurred by the prevailing party shall be borne by the non-prevailing party. This Lease shall be governed by and construed under and pursuant to the laws of the State of California applicable to contracts made and to be performed entirely within such State without regard to the conflicts of laws principles of such State. Subject to the terms of this Section, any and all litigation concerning any dispute arising under or in connection with this Lease shall be filed and maintained only in a state or federal courts located in Santa Clara County, California.

Section 23.17. Mortgagee's Approval.

If any mortgagee of the Development requires any modification of the terms and provisions of this Lease as a condition to such financing as Lessor may desire, then Lessor shall have the right to cancel this Lease if Tenant fails or refuses to approve and execute such modification(s) within thirty (30) days after Lessor's request therefore, provided such request is made at least thirty (30) days prior to delivery of possession. Upon such cancellation by Lessor, this lease shall be null and void and neither party shall have any liability either for damages or otherwise to the other by reason of such cancellation. In no event, however, shall Tenant be required to agree, and Lessor shall not have any right of cancellation for Tenant's refusal to agree, to any modification of the provisions of this Lease relating to: the amount of rent or other charges reserved herein;

the size and/or location of the Premises; the duration and/or Commencement Date of the Lease Term; or a modification which will result in a material decrease in Tenant's rights or a material increase in Tenant's obligations under this Lease .

Section 23.18. Reservation of Air Rights.

There has been no representation or warranty by Lessor and Tenant acknowledges that there is no inducement or reliance to lease the Premises on the basis that the existing access to light, air and views from the Premises would continue unabated. Tenant acknowledges and understands that it shall have no rights to the airspace above the Development and those rights shall be the sole property of Lessor.

Section 23.19. Delay in Delivery.

Notwithstanding anything to the contrary contained in this lease, Lessor shall not be liable in any manner to Tenant for damages or any other claim resulting from failure to deliver the Premises or for any delay in commencing or completing any work Lessor is to perform or is authorized by Tenant to perform under Exhibit B or with respect to the Development, save and except that all obligations of Tenant with time limits under this Lease including, but not limited to, the Commencement Date, will be tolled for the same number of days and any delay described above, and Tenant hereby waives all such liability provided that in the event that the Commencement Date shall not have occurred within one (1) year after the effective date of this Lease (unless such failure shall be due to Tenant's fault), then Tenant shall have the right to terminate this Lease upon written notice to Lessor in which case this Lease shall become null and void (except that items which have been theretofore accrued and not yet paid shall remain outstanding), and both parties hereto shall be relieved of all obligations hereunder, in which event each party will, at the others request, execute an instrument in recordable form containing a release and surrender of all right, title and interest in and to this Lease.

Section 23.20. Construction/Remodeling or Redesign of Development.

In addition to any other provision contained herein, Tenant acknowledges that Lessor may conduct construction at or upon, or remodel or redesign all or any portion of, the Development (excluding the Premises), and that such work will not result in a breach of this Lease or, as long as Tenant is not prevented by such work from enjoying a substantial portion of Tenant's occupancy of the Premises, an abatement of Annual Rent except as otherwise provided herein, Lessor shall have no liability to Tenant relative to such work.

Section 23.21. Definition of Days.

Except as otherwise expressly provided herein, the term day shall mean a single calendar day, whether or not a working or business day.

Section 23.22. Confidentiality.

Lessor and Tenant agree that all information furnished by one party to the other or obtained by a party through such party's own investigation, shall be treated as confidential information.

IN WITNESS WHEREOF,

Each individual executing the Agreement on behalf of a Party represents and warrants that he or she is duly authorized to execute and deliver the Agreement on behalf of the Party that the individual is executing the Agreement and that the Agreement is binding upon that Party in accordance with its terms.

ACCEPTED AND AGREED on the date first indicated above:

Dated: _____, 20__

Dated: _____, 20__

VALLCO PROPERTY OWNER LLC

FREMONT UNION HIGH SCHOOL DISTRICT

By: _____

By: _____

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____

DRAFT

EXHIBIT A

DIAGRAM OF THE LEASED AREA OF THE DEVELOPMENT

[To Be Provided]

DRAFT

EXHIBIT B

DESCRIPTION OF LESSOR'S WORK AND TENANT'S WORK

[To Be Provided]

DRAFT

EXHIBIT C
LESSOR'S LOGO

[To Be Provided]

DRAFT

EXHIBIT D

LESSOR'S CONTRACTOR WORK STANDARDS

[To Be Provided]

DRAFT

EXHIBIT B

DESIGN SPECIFICATIONS

INNOVATION FACILITIES (“THE SIXTH CAMPUS”) AT VALLCO SHOPPING DISTRICT FREMONT UNION HIGH SCHOOL DISTRICT

SUMMARY

Provide a newly constructed, turn-key educational facilities of approximately 10,000 SF within the proposed “Hills at Vallco” project (Project) with the following elements:

1. Located within the Project to maximize both visibility to and access for the community.
2. Located within the project near business and retail establishments. That is, the facility shall be fully integrated with the other business and retail activities.
3. Located within the Project to provide easy access to outdoor area/s that can be developed into outdoor learning areas.
4. The facility shall be multi-level so that different program spaces can overlook others. That is, the facility shall be two-stories with the possibility of intermediate levels between the upper and lower levels. The lower level should be approximately 70% of the total area.
5. The facility shall have natural light as well as the ability to darken and control the light.
6. The building systems shall maximize flexibility and minimize the effort necessary to reconfigure and/or adapt the space as the innovation program evolves over time. For example, movable walls/partitions and ceiling pipe grids to support production lighting and power drops.
7. Building utilities, at a minimum, shall include water, sewer, gas, vacuum, and compressed air.
8. Complete building HVAC as well as natural ventilation. Additional exhaust requirements will also be necessary.
9. Electrical systems, at a minimum, shall include power, lighting, data, communication, clock/speaker, audio visual, and fire alarm system.
10. The facility will have the following program spaces:

- Large, flexible multi-use space with double height ceiling and promenade and overlooks for viewing below
- Flexible laboratory and maker spaces
- Conference and collaboration spaces
- Administration and office space
- Support spaces including restrooms and storage

**ADULT EDUCATION FACILITY AT VALLCO SHOPPING DISTRICT
FREMONT UNION HIGH SCHOOL DISTRICT**

SUMMARY

Provide for the District's use as Adult Educational facilities a newly constructed space of up to 5,000 SF within the proposed "Hills at Vallco" project (Project) with the following elements:

1. Located within the Project for easy access from parking and vehicular drop-off and pick-up area.
2. Located where there is direct access to the outside for outdoor play area.
3. Located within the Project to maximize both visibility to and access for the community.
4. Located within the Project where expansion can occur into adjacent lease space. Expanded space does not need to be contiguous but must be in close proximity.
5. The facility shall have natural light.
6. Building utilities, at a minimum, shall include stub-outs for water, sewer, and gas.
7. Electrical systems, at a minimum, shall be sufficient to accommodate District's power, lighting, data, communication, clock/speaker, audio visual, and fire alarm system.
8. Complete building HVAC as well as natural ventilation.
9. The facility shall be available to accommodate the following program spaces;
 - Administration and office space
 - Classrooms (3-4)
 - Support spaces including restrooms and storage
 - Play area

**Appendix 7 Table 1
Summary of Development Scenarios
City of Cupertino 9212 Report**

Development Type	Current Built/ Approved ^a	Without Initiative		With Initiative	
		Adopted General Plan (389 Units)	Adopted General Plan Assuming Sand Hill Proposal (800 Units)	Amended General Plan and Specific Plan (389 Units)	Amended General Plan and Specific Plan (800 Units)
Development Buildout^b					
Residential (units)	21,412	23,294	23,294	23,294	23,294
<i>Vallco</i>	0	389	800	389	800
<i>Senior Housing (Included in Total)</i>	0	0	40	80	160
<i>Other Residential</i>	21,412	22,905	22,494	22,905	22,494
Non-Residential (Allowable)					
Office (sq.ft.)	8,916,179	11,470,005	11,470,005	11,470,005	11,470,005
<i>Vallco</i>	0	2,000,000	2,000,000	2,000,000	2,000,000
<i>Other Office</i>	8,916,179	9,470,005	9,470,005	9,470,005	9,470,005
Commercial/Retail (sq.ft.)	3,632,065	4,430,982	4,430,982	4,430,982	4,430,982
<i>Vallco</i>	1,200,000	1,200,000	650,000	640,000	640,000
<i>Other Retail/Commercial</i>	2,432,065	3,230,982	3,780,982	3,790,982	3,790,982
Hotel (rooms)	1,116	1,429	1,429	1,429	1,429
<i>Vallco</i>	148	339	339	339	339
<i>Other Hotel</i>	968	1,090	1,090	1,090	1,090
Net Increase in Potential Development^c					
Residential (units)		1,882	1,882	1,882	1,882
<i>Market Rate (units)</i>		1,768	1,748	1,807	1,828
<i>BMR (units)</i>		114	134	75	54
Vallco (units)		389	800	389	800
<i>Market Rate</i>		350	720	389	800
<i>On-Site BMR (units)^d</i>		39	80	0	0
<i>Senior Housing (Included in Total)</i>		0	40	80	160
Other Residential (units)		1,493	1,082	1,493	1,082
<i>Market Rate (units)</i>		1,418	1,028	1,418	1,028
<i>BMR (units)^e</i>		75	54	75	54
Non-Residential (sq.ft.)		3,509,243	3,509,243	3,509,243	3,509,243
Office (sq.ft.)		2,553,826	2,553,826	2,553,826	2,553,826
<i>Vallco</i>		2,000,000	2,000,000	2,000,000	2,000,000
<i>Other Office</i>		553,826	553,826	553,826	553,826
Retail/Commercial (sq.ft.)		798,917	798,917	798,917	798,917
<i>Vallco</i>		0	(550,000)	(560,000)	(560,000)
<i>Other Retail/Commercial</i>		798,917	1,348,917	1,358,917	1,358,917
Hotel (room)^f		313	313	313	313
<i>Vallco</i>		191	191	191	191
<i>Other Hotel</i>		122	122	122	122
Hotel (sq.ft.)		156,500	156,500	156,500	156,500
<i>Vallco</i>		95,500	95,500	95,500	95,500
<i>Other Hotel</i>		61,000	61,000	61,000	61,000
Vallco Non-Residential		2,095,500	1,545,500	1,535,500	1,535,500

- a. Figures for "Current Built/Approved" are from the "Current Built" column of General Plan Table LU-1, which represents existing development and all development approved as of 12/10/14. Table LU-1 is included in the Adopted General Plan and the Initiative.
- b. Figures for "Development Buildout" are from the "Buildout" column in Table LU-1.
- c. Net increase is calculated for each scenario compared against the "Current/Built Approved" figures.
- d. For purposes of the assessed valuation assumptions for the fiscal analysis, 10% of total units are assumed to be affordable as Below Market Rate (BMR) units (consistent with what was proposed in the 2015 Sand Hill proposal) because the onsite provision of BMR units could reduce the assessed value for residential units.
- e. Assumes 5% BMR for citywide projects based on the amount of on-site affordable housing provided in 5 recent pipeline projects not including Vallco.
- f. Average size of a hotel room assumed to be 500 sq.ft.

Source: City of Cupertino, Keyser Marston Associates, Inc.

Appendix 7 Table 2
Annual Sales Tax Generated from Retail Space
In Constant FY 2015/16 Dollars
City of Cupertino 9212 Report

	Current Built/ Approved	Without Initiative		With Initiative	
		Adopted General Plan (389 Units)	Adopted General Plan Assuming Sand Hill Proposal (800 Units)	Amended General Plan and Specific Plan (389 Units)	Amended General Plan and Specific Plan (800 Units)
Vallco^a					
Retail Space at Buildout	1,200,000 sq.ft.	1,200,000 sq.ft.	650,000 sq.ft.	640,000 sq.ft.	640,000 sq.ft.
Occupancy Rate ^b	66%	92%	92%	92%	92%
Occupied Retail Space	796,500 sq.ft.	1,104,000 sq.ft.	598,000 sq.ft.	588,800 sq.ft.	588,800 sq.ft.
Taxable Retail Sales per sq.ft. ^{b, c}	\$124	\$149	\$300	\$300	\$300
Estimated Taxable Sales	\$99,060,000	\$164,500,000	\$179,400,000	\$176,640,000	\$176,640,000
Increase in Taxable Sales		\$65,440,000	\$80,340,000	\$77,580,000	\$77,580,000
Other Retail/Commercial^a					
New Retail Space		798,917 sq.ft.	1,348,917 sq.ft.	1,358,917 sq.ft.	1,358,917 sq.ft.
Occupancy Rate ^b		92%	92%	92%	92%
Occupied Retail Space		735,004 sq.ft.	1,241,004 sq.ft.	1,250,204 sq.ft.	1,250,204 sq.ft.
Taxable Retail Sales per sq.ft. ^c		\$149	\$149	\$149	\$149
Taxable Retail Sales		\$109,500,000	\$184,900,000	\$186,300,000	\$186,300,000
Citywide Increase in Taxable Retail Sales		\$174,940,000	\$265,240,000	\$263,880,000	\$263,880,000
Citywide Projected Sales Tax Revenues^d		\$1,750,000	\$2,650,000	\$2,640,000	\$2,640,000
<i>Vallco Only</i>		\$650,000	\$800,000	\$780,000	\$780,000

Note: Dollar figures rounded to the nearest thousand. Numbers may not add up precisely due to rounding.

- a. Does not include sales tax generated from hotels.
- b. Average occupancy rate for current built and approved retail based on 2014 occupancy at Vallco, projected occupancy for development scenarios assumed at 92% based on typical shopping center occupancy levels.
- c. Historical data on taxable retail sales was reviewed for Vallco and other establishments throughout the City. The estimates used in the analysis are based on actual performance from 2014, adjusted as necessary to appropriately reflect each retail area and scenario. Taxable sales at Vallco in 2014 were used alongside occupancy data of the mall to estimate the average retail sales per sq. ft. of occupied space. The same type of analysis was done for the areas located outside of Vallco, based on 2.4 million sq.ft. and 92% occupancy. Reported sales are adjusted to 2015 dollars.
- d. Projected sales tax revenues assumes City receives 1% of taxable sales, according to sales tax data.

Source: City of Cupertino, MuniServices, Strategic Economics, Seifel Consulting Inc.

Appendix 7 Table 3
Annual Sales Tax Revenues from Business-to-Business (B-to-B) Transactions
In Constant FY 2015/16 Dollars
City of Cupertino 9212 Report

	Without Initiative		With Initiative	
	Adopted General Plan (389 Units)	Adopted General Plan Assuming Sand Hill Proposal (800 Units)	Amended General Plan and Specific Plan (389 Units)	Amended General Plan and Specific Plan (800 Units)
Office				
Increase in Office Space				
Vallco	2,000,000	2,000,000	2,000,000	2,000,000
Other Office	<u>553,826</u>	<u>553,826</u>	<u>553,826</u>	<u>553,826</u>
Citywide	2,553,826	2,553,826	2,553,826	2,553,826
Taxable B-to-B Sales per sq.ft. ^a	\$40	\$40	\$40	\$40
Estimated Taxable B-to-B Transactions	\$102,200,000	\$102,200,000	\$102,200,000	\$102,200,000
Citywide Projected Sales Tax Revenues^b	\$1,020,000	\$1,020,000	\$1,020,000	\$1,020,000
<i>Vallco Only</i>	<i>\$800,000</i>	<i>\$800,000</i>	<i>\$800,000</i>	<i>\$800,000</i>

Note: Dollar figures rounded to the nearest thousand. Numbers may not add up precisely due to rounding.

- a. Based on recently reported B-to-B sales for businesses (exclusive of Apple) most likely to occupy office space and the current leasable office square footage (excluding Apple) in Cupertino, taxable B-to-B sales ranges \$37 to \$53 per sq.ft. for the past three fiscal years.
- b. Projected sales tax revenues assumes City receives 1% of taxable sales.

Source: City of Cupertino, MuniServices, Seifel Consulting Inc.

Appendix 7 Table 4
Growth in Annual General Fund Property Tax Revenue
In Constant FY 2015/16 Dollars
City of Cupertino 9212 Report

Development Type	Incremental Assessed Value per Unit/Sq.Ft./Room ^a	Without Initiative		With Initiative	
		Adopted General Plan (389 Units)	Adopted General Plan Assuming Sand Hill Proposal (800 Units)	Amended General Plan and Specific Plan (389 Units)	Amended General Plan and Specific Plan (800 Units)
Estimated Incremental Assessed Value					
Residential					
Vallco					
Market Rate	\$560,000 /unit	350	720	350	720
Affordable	\$273,000 /unit	39	80	39	80
Market Rate ^b	\$560,000 /unit ^c	\$196,000,000	\$403,200,000	\$196,000,000	\$403,200,000
On-Site BMR ^d	\$273,000 /unit	<u>\$10,647,000</u>	<u>\$21,840,000</u>	<u>\$10,647,000</u>	<u>\$21,840,000</u>
Total		\$206,647,000	\$425,040,000	\$206,647,000	\$425,040,000
Other Residential					
Market Rate ^b	\$560,000 /unit	\$794,100,000	\$575,700,000	\$794,100,000	\$575,700,000
BMR ^d	\$273,000 /unit	<u>\$20,500,000</u>	<u>\$14,700,000</u>	<u>\$20,500,000</u>	<u>\$14,700,000</u>
Total		\$814,600,000	\$590,400,000	\$814,600,000	\$590,400,000
Citywide Total					
Market Rate ^b	\$560,000 /unit	\$990,100,000	\$978,900,000	\$990,100,000	\$978,900,000
BMR ^d	\$273,000 /unit	<u>\$31,147,000</u>	<u>\$36,640,000</u>	<u>\$31,147,000</u>	<u>\$36,540,000</u>
Citywide Net Growth in Assessed Value		\$1,021,247,000	\$1,015,540,000	\$1,021,247,000	\$1,015,440,000
Non-Residential					
Office^e					
Vallco	\$520 /sq.ft.	\$1,040,000,000	\$1,040,000,000	\$1,040,000,000	\$1,040,000,000
Other Office	\$520 /sq.ft.	<u>\$288,000,000</u>	<u>\$288,000,000</u>	<u>\$288,000,000</u>	<u>\$288,000,000</u>
Citywide Total		\$1,328,000,000	\$1,328,000,000	\$1,328,000,000	\$1,328,000,000
Commercial/Retail^f					
Vallco - New Development	\$640 /sq.ft.	\$768,000,000	\$416,000,000	\$409,600,000	\$409,600,000
Vallco - Existing	\$160 /sq.ft.	\$195,400,000	\$195,400,000	\$195,400,000	\$195,400,000
Vallco - Net Increase ^c	\$480 /sq.ft.	\$572,600,000	\$220,600,000	\$214,200,000	\$214,200,000
Other Retail/Commercial ^d	\$480 /sq.ft.	<u>\$383,500,000</u>	<u>\$647,500,000</u>	<u>\$652,300,000</u>	<u>\$652,300,000</u>
Citywide Total		\$956,100,000	\$868,100,000	\$866,500,000	\$866,500,000
Hotel^g					
Vallco	\$300,000 /room	\$57,300,000	\$57,300,000	\$57,300,000	\$57,300,000
Other Office	\$300,000 /room	<u>\$36,600,000</u>	<u>\$36,600,000</u>	<u>\$36,600,000</u>	<u>\$36,600,000</u>
Citywide Total		\$93,900,000	\$93,900,000	\$93,900,000	\$93,900,000
Citywide Net Growth in Assessed Value		\$2,378,000,000	\$2,290,000,000	\$2,288,400,000	\$2,288,400,000
Citywide Incremental Assessed Value		\$3,399,247,000	\$3,305,540,000	\$3,309,647,000	\$3,303,840,000
<i>Vallco Only^f</i>		<i>\$1,876,547,000</i>	<i>\$1,742,940,000</i>	<i>\$1,518,147,000</i>	<i>\$1,736,540,000</i>
Estimated Incremental Property Tax Revenues to the City					
Citywide Annual Property Tax Revenues	City's Share: 5.60%	\$1,900,000	\$1,850,000	\$1,850,000	\$1,850,000
<i>Vallco Only^f</i>		<i>\$1,050,000</i>	<i>\$980,000</i>	<i>\$850,000</i>	<i>\$970,000</i>

Note: Dollar figures rounded to the nearest hundred thousand for projected assessed values and to the nearest thousand for property tax revenues. Numbers may not add up precisely due to rounding.

- a. Incremental assessed value represents the increase in property value added by new development, calculated by subtracting existing land value from total development value. Non-residential values include estimated value for personal property / tenant improvements (\$100 per sq.ft. of office, \$50 per sq.ft. of commercial/retail, and \$30,000 per hotel room).
- b. Assumes mid-range development at \$650 per sq.ft. value, unit size of 1,200 sq.ft., 25 units per acre, and land value of \$5.5 million per acre based on "City of Cupertino, Residential Below Market Rate Housing Nexus Analysis" by Keyser Marston Associates, Inc. (April 2015).
- c. 10% of market rate units under scenarios with Initiative are assumed to be BMR units under the scenarios with Initiative.
- d. Affordable unit value is assumed to be \$259,000 for very low income units and \$287,000 for low income units in "City of Cupertino, Residential Below Market Rate Housing Nexus Analysis" by Keyser Marston Associates, Inc. (April 2015).
- e. Incremental assessed value calculated based on prototype #2 (commercial/retail), prototype #4 (office), prototype #6 (hotel) from "City of Cupertino, Non-Residential Jobs-Housing Nexus Analysis" by Keyser Marston Associates, Inc. (April 2015).
- f. As the Adopted General Plan would allow more development to occur at Vallco than is proposed by the Initiative or was proposed by Sand Hill in 2015, the projected increase in revenues to the City's General Fund varies by scenario when compared to the Adopted General Plan.

Source: City of Cupertino, Keyser Marston Associates, Inc, Seifel Consulting Inc.

Appendix 7 Table 5
Net Increase in Annual Transient Occupancy Tax (TOT) Revenues
In Constant FY 2015/16 Dollars
City of Cupertino 9212 Report

	Assumption ^a	Without Initiative		With Initiative	
		Adopted General Plan (389 Units)	Adopted General Plan Assuming Sand Hill Proposal (800 Units)	Amended General Plan and Specific Plan (389 Units)	Amended General Plan and Specific Plan (800 Units)
Hotel					
Number of Rooms					
Vallco		191	191	191	191
Other Office		<u>122</u>	<u>122</u>	<u>122</u>	<u>122</u>
Citywide Total		313	313	313	313
Occupancy Rate	80%				
Number of Occupied Rooms		250	250	250	250
Estimated Room Charge	\$215				
Estimated Annual Room Revenues		\$19,700,000	\$19,700,000	\$19,700,000	\$19,700,000
City's TOT Rate	12%				
Citywide Annual TOT Revenues		\$2,360,000	\$2,360,000	\$2,360,000	\$2,360,000
<i>Vallco Only</i>		<i>\$1,440,000</i>	<i>\$1,440,000</i>	<i>\$1,440,000</i>	<i>\$1,440,000</i>

a. Based on typical hotel occupancy and room rates in Cupertino based on TOT data. Projected TOT revenues assumes City receives 12% of taxable sales.

Source: City of Cupertino, Seifel Consulting Inc.

Appendix 7 Table 6
Annual Taxable Sales Generated from Retail Space
In Constant FY 2015/16 Dollars
City of Cupertino 9212 Report

Regional Shopping Centers	Data Source	Valley Fair	Stanford S.C.
Taxable Retail Sales			
Taxable Sales	<i>Per MuniServices data^a</i>	\$482,470,000	\$588,420,000
Sq.Ft. at Buildout		1,477,000 sq.ft.	1,364,000 sq.ft.
Occupancy Rate	<i>92%^b</i>		
Occupied Sq.Ft.		1,359,000 sq.ft.	1,255,000 sq.ft.
Taxable Sales per Occupied Sq.Ft.		\$360 /sq.ft.	\$470 /sq.ft.

Vallco	Retail Assumptions for 9212 Report	Vallco
Sq.Ft. at Buildout		
Vallco Total	<i>650,000 sq.ft.</i>	
Occupancy Rate	<i>92%</i>	
Occupied Sq.Ft.		598,000 sq.ft.
Retail/Restaurant	<i>70% of total retail space</i>	419,000 sq.ft.
Entertainment/Fitness	<i>30% of total retail space</i>	179,000 sq.ft.
Taxable Retail Sales	<u>Taxable Retail Sales per Occupied Sq.Ft.</u>	
Retail/Restaurant	<i>Sales mid point of Valley Fair and Stanford S.C. at 70% of total retail space</i>	\$415 /sq.ft.
Entertainment/Fitness	<i>Assumes lower average sales at 10% of above at 30% of total retail space</i>	<u>\$42 /sq.ft.</u>
Total	<i>Weighted average of above</i>	\$303 /sq.ft.
	<i>Rounded</i>	\$300 /sq.ft.
Taxable Retail Sales		\$179,400,000

a. 2014 data adjusted to constant 2015 dollars by CPI.

b. Typical occupancy rate for shopping malls per Greensfelder Commercial Real Estate.

Source: City of Cupertino, MuniServices, Keyser Marston Associates, Greensfelder Commercial Real Estate, Seifel Consulting Inc.

Appendix 8

- Appendix 8A: Sand Hill Development Company
The Hills at Vallco
Project Description
- Appendix 8B: The Hills at Vallco Draft EIR Project Description
- Appendix 8C: Referenced General Plan Policies

The Hills at Vallco
Project Description
September 2015



Carpenter

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Figure 1. The Hills at Vallco; a mixed-use town center and rooftop open space for Cupertino.

Executive Summary

Every community aspires to have a physical place that distills and embodies the values of its past and aspirations for its future. The Hills at Vallco is just such a place. It will create both a vibrant mixed-use town center — the social heart of Cupertino's emerging downtown — and a vast rooftop open space inspired by the natural ecology of the Cupertino foothills. The Hills at Vallco will uniquely connect landscape, buildings and infrastructure and infuse them with the best qualities of life in Cupertino.

The Hills at Vallco has been designed to fulfill Cupertino's General Plan and integrate the wishes and wisdom of the community to revitalize Vallco and ensure its success for future generations. It will create spaces that nurture vibrancy and encourage relaxation. It will embrace forward thinking innovation while respecting historical stewardship. It finds a balance between a modern need for technology and eternal need for nature. By celebrating local strengths, The Hills at Vallco will attain a global reach.

Sand Hill Property Company, through Vallco Property Owner, LLC, acquired and unified the fragmented 50-acre Vallco Shopping Mall site in November 2014. For the first time in its history, this consolidation allowed the rare opportunity to replace the failing, outdated, 40-year old indoor shopping mall, with a vibrant mixed-use town center and a community park and nature preserve. The property owner has selected internationally renowned design firms Rafael Viñoly Architects and OLIN Landscape Architects as master planners to ensure excellence in the visionary design of The Hills at Vallco.

The Hills at Vallco will include 625,000 square feet of commercial and civic areas. The design features family friendly entertainment, retail, sports and recreation, apartments for multi-generational living including 680 market rate, 80 below market rate, and 40 senior apartments, two million square feet of office space serving incubator, startups, emerging or established Silicon Valley companies, and supporting public, residential, and office amenity areas including a

high school Innovation Center and transit center. The groundbreaking publicly accessible rooftop open space — 30-acres of landscaping floating above the buildings — will comprise the largest green roof in the world and include nearly four miles of walking/jogging trails, vineyards, orchards, organic gardens, an amphitheater, children's play areas, single level amenities pavilions, and a refuge for native fauna.

The sustainability goal for the Hills at Vallco is LEED Platinum certification; globally recognized as the highest level of environmentally conscious construction. The monumental scale of the green roof will improve resource efficiency and mitigate climate change. It will reduce the urban heat island effect, improve public health, minimize water run-off, improve water and air quality, improve energy efficiency of the buildings, and promote bio-diversity. In the long run, The Hills at Vallco ambitiously targets a Net-Zero Water policy. Water conservation efforts will include the extension of the recycled water line from Sunnyvale to The Hills at Vallco, a partnership with many public stakeholders.

The Hills at Vallco aligns with Cupertino's General Plan and framework for the Vallco Shopping District. The Hills at Vallco will create a net positive impact on the already world class schools in Cupertino. It will also provide significant traffic solutions, including spearheading the rebuilding of the Wolfe Road/ Hwy. 280 bridge and interchange, the implementation of intersection and signal timing improvements, and a complimentary community shuttle for Cupertino residents.

The majority of the approximately 9,175 parking spaces will be located underground to maximize the opportunities for community engagement throughout the ground level footprint.

The Hills at Vallco represents a nearly \$3 billion investment in the Cupertino community and the Silicon Valley region. It will produce substantial net positive impacts on the order of hundreds of millions of dollars to the City in fees, property taxes and retail sales taxes.

Property History

In the 1960s, 25 Cupertino families and property owners came together to launch the overall scheme for the 300-acre Vallco Park, whose name was constructed from the first initials of each of the primary developers: Varian Associates and the Leonard, Lester, Craft, and Orlando families. Ten years later, Vallco Shopping Mall was established as a retail component within the business park. Development plans dating from the early 1970s, document the formation of a mixed-use district, including offices and the regional shopping mall that was eventually built. Vallco Shopping Mall opened under the brand Vallco Fashion Park in September 1976. At the time of its launch, it was one of the largest shopping malls in Silicon Valley, drawing visitors from throughout the region. Vallco Shopping Mall thrived from the mid-1970s to the mid-1980s.

Community Pride

Vallco Shopping Mall was once a source of immense community pride and identity for Cupertino – a destination with a distinct sense of place, where a diverse community of people gathered, connected, and shared a variety of experiences from shopping to skating, eating to bowling, or simply strolling. Unfortunately for the community, for many decades and for many reasons, Vallco Shopping Mall is no longer that place of pride.

Challenges

By the mid-1980s, Vallco Shopping Mall had begun to suffer from an inherent inability to respond to the ever-changing demands of consumers and markets. Constraining factors included:

- Fragmented Vallco ownership between the mall owner and the three other property owners – Sears, Macy's, and JC Penney's.
- An Operation and Reciprocal Easement Agreement signed onto by all four owners at the outset, which handcuffed each party from

pursuing improvements without unanimous consent.

- Outdated infrastructure in combination with a confusing and inefficient parking layout which began to take its toll.
- Demand for mid-market mass merchandizers, such as those department stores at Vallco Shopping Mall, began not only to contract, but to plummet throughout the nation, ultimately resulting in the closure of thousands what had been anchor stores for malls.
- Regional competition from Westfield's Valley Fair and Stanford Shopping Center, other sub-regional malls, and revitalized downtowns began to shift shoppers away from Vallco Shopping Mall.

Regional Competition

Since the 1980s, regional competition has only increased. Two of the top performing, super-regional malls in the San Francisco Bay Area located near Vallco Shopping Mall are the Stanford Shopping Center and Westfield's Valley Fair. Today, both of them are thriving and expanding. Not only is it difficult for the flagship retailers who have become tenants at these two malls to justify an additional location at Vallco Shopping Mall, many are prohibited from doing so due to lease radius restrictions. Vallco Shopping Mall must also compete with more than a dozen other shopping districts, revitalized malls and walkable downtown neighborhoods including Palo Alto, Los Gatos, Mountain View, Los Altos, and Campbell.

Failed Redevelopment Efforts

Vallco Shopping Mall ownership has turned over many times since the original developers, with multiple foreclosures and a bankruptcy, staggered between efforts to redevelop the aging mall. Occupancy began to deteriorate at an accelerated rate in the 1990s. Mall tenancy continued its steady decline into the mid-2000s.

In September 2009, a Vietnamese food processing company purchased the mall. As absentee speculators, they did nothing to reinvest in the mall, and so the mall languished further.

By 2014, Vallco Shopping Mall had distinguished itself as the most delinquent property tax payer in Cupertino with over \$7 million in unpaid back taxes, due to increasing operating losses year over year. In 2015, occupancy had dwindled to the point where vacant and papered storefronts outnumbered active storefronts throughout the mall.

A handful of mall tenants including AMC Theater, have continued to perform well even throughout Vallco Shopping Mall's leanest years. They cannot, however, be expected to support 1.2 million square feet of obsolete retail space.

General Plan Vision for Revitalization of the Vallco Shopping Mall

The City of Cupertino has long recognized the failures of Vallco Shopping Mall, and has spent the past several years working with the community to establish a new vision for revitalizing it.

In December 2014, the City Council adopted new General Plan goals, policies and strategies specifically relating to the Vallco Shopping District Special Area, within which Vallco Shopping Mall is located. The City vision outlined a complete revitalization of Vallco Shopping Mall site into a "vibrant mixed-use town center" that is a focal point for regional visitors and the community. This new district will become a destination for shopping, dining and entertainment in the City.

Unified Ownership

To realize this community vision, the General Plan "requires a master developer in order to remove the obstacles to the development of a

cohesive district with the highest levels of urban design."

In December 2014, after years of negotiations with multiple ownership groups, Sand Hill Property Company, who has been an integral part of the community for 20 years, was able to assemble all 50 acres of Vallco Shopping Mall - a first in the mall's 40 years history. Single ownership will finally allow the implementation of a unified vision to revitalize Vallco. The property owner is making an investment in Cupertino to both own and operate the property for multiple generations.

The company has experience with numerous properties throughout Cupertino, including retail, residential, offices, and hotel. All four of these uses will be on display at Main Street Cupertino – a multi-year collaboration with the City of Cupertino and the community currently under construction on approximately 18 acres, which the property owner will continue to own and operate once completed.

Within a block of this successful collaboration, the failed Vallco Shopping Mall will give way to a re-envisioned Vallco, called The Hills at Vallco.



Chime In...

YES! I want to share my thoughts on revitalizing Vallco

I have the following questions or comments:

- I support a revitalized Vallco with a mix of retail, housing and office
- Please keep me informed

Name

Address

City State Zip Code

Phone Email

Visit us online at VallcoVision.com or email info@vallcovision.com

Figure 2. 50,000 response card invitations were sent out in March and April 2015.

Community Engagement

In February 2015, the property owner initiated an unprecedented and comprehensive community engagement process with Cupertino residents encouraging them to “Chime In” on a future vision for a revitalized Vallco, also launching the website Vallco Vision to serve as a community portal for idea gathering.

In March 2015, and again in April, the property owner sent 25,000 response card invitations to every home and business in Cupertino, asking community members to share their ideas and wishes for what a new Vallco could be.

Throughout April, May, and June 2015, the property owner hosted more than 20 community meetings, open houses and presentations to collect community feedback. Residents shared what they liked and didn't like about the current mall, and what they wanted to see incorporated into a revitalized Vallco. They also had an opportunity to address ancillary concerns in the community.

In July 2015, the property owner sent a four-page report summarizing the comments gathered to each of the 25,000 homes and business in Cupertino. The property owner expressed gratitude for the opportunity to meet personally with more than 1,000 Cupertino residents and receive more than 3,800 ideas from everyone who “Chimed In”. The property owner was encouraged by the community's willingness to engage in dialogue and inspired by the quality of ideas expressed. The major themes revealed during the first six months of community engagement included:

Offer Entertainment and Family Friendly Retail

Top requests were to keep and improve upon well-loved and successful community touchstones; the AMC Theater, bowling alley, and ice rink, as well as to improve upon current fitness uses, and attract and retain more family friendly businesses.

Attract New and Diverse Restaurants

More than 50 restaurant recommendations were received, ranging from requests to keep a few popular establishments, to adding outdoor dining options, and hosting a farmers' market for Cupertino.

Increase Open Space

The current Vallco Shopping Mall is composed of fortress type buildings with no connection to the outside. Residents strongly agreed that any new project should offer exterior landscaped gathering spaces open to the community, particularly given that this part of Cupertino is below par in overall green space. Residents wanted to keep as many existing healthy trees as possible on the perimeter of the site.

Provide Traffic Solutions

Traffic improvements including rebuilding and widening the Wolfe Road/Hwy. 280 interchange, a community shuttle, and improved biking and walking options to and through the revitalized shopping district were requested.

Protect Cupertino's World-Class Schools

Suggestions were given by the community that any revitalization contribute to making Cupertino schools even better by building educational facilities on site, by replacing outdated portable classrooms with new permanent ones, by upgrading existing school facilities, or by building a new school and/or directly funding existing programs.

Create a New Town Center

Many wonderful memories of the Vallco Shopping Mall when it was “the” community-gathering place during its hey-day were shared. Many observed that Cupertino has never truly had a downtown, and suggested that a revitalized Vallco would be the ideal place to create one.



Figure 3. A variety of retail, dining, and entertainment venues are connected through walkable streets.



Figure 4. Town Square West at twilight — the active heart of The Hills at Vallco in Cupertino.

Mixed-Use Town Center

Synthesizing the community input and the aspirations of the General Plan into a mixed-use town center vision, The Hills at Vallco is conceived around the core elements essential for creating a vibrant community life – a program that begins with the ambience of the streets and public squares, and extends throughout all venues; supporting real connections between residents, employees, businesses, students and visitors.

The Hills at Vallco will elevate the quality of community life in Cupertino and beyond. It will facilitate healthy lifestyles by creating a mix of thoughtfully designed public places of various scales: intimate enclaves, broad public squares, and generous community venues that support a year-round calendar of experiences, exhibits and events. It will include the amenities of a market hall, movie theater, and recreational venues. The Hills at Vallco will provide walkable streets that allow for the serendipity of social encounters, places to sit and take in the day, settings that accommodate all of the community: families, friends, and individuals of all ages.

Town Center with Heart and Soul

The Hills at Vallco offers two interconnected town squares with two distinct experiences. Town Square West and Town Square East, to be the heart and soul of the town center. These are located on the west side and east side of Wolfe Road.

As the active heart of public life, Town Square West will be the focal point of the retail, entertainment, and residential district, and welcome Cupertino residents, employees, and visitors to an actively programmed and flexible green space that is both civic amenity and local park. As the heart, it will activate, circulate and energize the life of the entire city. In the center of Town Square West is gently sloping lawn that will flow from the north side of the space down to the South creating a lush gathering space for relaxation and for outdoor concerts, cultural events, outdoor performances and movies. The

lawn will connect to the below-grade parking garage, providing a direct visual link and path for visitors arriving by car and illuminating the garage with light and views of a rich green landscape. Surrounding the lawn, hardscape terraces shaded by large plane trees that can host large public events and festivals or serve as exterior dining or social space, will make the Town Square West a vibrant destination and community activator throughout the day and into the evening.

As a quiet compliment to the active heart of Town Square West, Town Square East has been designed as a place to nourish the soul. Town Square East is a serene and contemplative green space that will serve as central focal point and a shared exterior amenity for the mixed-use retail and office district. Along the central axis of Town Square East will be a linear low flow water feature designed for use with recycled water or other seasonal non-potable sources. It will be a thin sheet of moving water framed by large canopy trees, will create a cool, quiet oasis within the town center. Surrounding this sculptural water element and formal tree geometry, informal plantings of olive trees and grasses will provide a beautiful texture and muted color palette that move in the breeze, creating a sound buffer to the noise of the city.

Entertainment, Recreation and Retail Promenade

The successful existing community touchstones including the AMC Theater, bowling alley, ice rink, and fitness center, will be co-located to the northwestern corner of The Hills at Vallco. Freshly designed as an integrated multilevel complex, the south facing facade of this block will be embellished with terraced gardens and dining patios looking out over the open air activities of Town Square West.

Extending south from the entertainment and recreation venues to Stevens Creek Boulevard, the family friendly district will be designed as a nine-block retail promenade that makes a loop to

and from Stevens Creek Boulevard, where the new transit center and community shuttle stop will be located. Two parallel tree-lined avenues supporting this shopping loop, lined with a mixture of unique boutiques and national brand stores, will create an experience district differentiated from the surrounding shopping malls. Stores will be curated from around the country with Cupertino's lifestyle in mind. The retail promenade will have a genuine downtown atmosphere, supported by upper level residential buildings that create a unique sense of place and create scale.

The retail promenade is a pedestrian-focused circulation zone that envelopes the west side ground-level retail into an iconic shopping district, providing clear wayfinding and access from the surrounding streets and parking garage. The retail promenade is designed to enhance the retail shopping experience by providing a vibrant and comfortable space for walking, sitting, eating and socializing throughout the day and evening. This circulation space will have a rich texture of paving patterns, lighting, and outdoor spaces. Large canopy trees are limbed up to enhance views to the storefronts and provide dappled light and shade along the sidewalks and seating areas.

Along Stevens Creek Boulevard, glass facades of multi-level spaces will animate The Hills at Vallco with a line-up of leisure, fashion and technology flagship stores that epitomize the lifestyle of Cupertino, and identify it as a place that celebrates recreational, casual and creative activities.

Market Hall

The chefs, restaurants, grocery stores, markets and farms of the San Francisco Bay Area have pioneered the celebration of fresh, local and organic food, and spawned a food movement known internationally as "California Cuisine," and have linked farm to table dining, specifically to this region. The Hills at Vallco will capture this spirit by introducing Market Hall; a food hall with

local, artisan offerings. Located at the eastern edge of the retail district, Market Hall will provide fresh and healthy food with broad economic access, community gardens and urban agriculture to educate the community on how to meet the basic dietary needs for active lives. Market Hall will act as a community amenity and meeting place, populated in the mornings with people stopping in for coffee and fresh baked goods or market style breakfast; at lunch by residents and the local work force for a mix of food stand offerings; and at regular intervals for regional farmers market offerings.

Active Public Streets

The Hills at Vallco will activate today's car-dominated streets - Stevens Creek Boulevard, Wolfe Road, and Vallco Parkway - with enhanced sidewalks, bicycle lanes, and transit facilities. Sidewalks will be designed to make walking easier and more attractive, allowing neighbors, visitors, and employees to meet and interact on their walks, and to foster economic activity, such as window shopping and sidewalk cafes. The Hills at Vallco preserves the healthy existing street trees at all edges of the site that serve as a buffer to the Portal Neighborhood residences to the West and to enhance Cupertino's urban tree cover and associated ecosystem services. The perimeter streetscapes will be enhanced to create landscapes and a comfortable pedestrian and bike-friendly realm and to provide clear, safe connections to Main Street Cupertino and other destinations in South Vallco Park Gateway.

The existing site slopes gently from Stevens Creek Boulevard towards Hwy. 280 to the North. New buildings in The Hills at Vallco will step down to echo the natural topography of the site.

Wolfe Road Crossing

Town Square East and Town Square West are visually and physically linked by a linear garden space that spans Wolfe Road and connects the mezzanine levels of the surrounding buildings. In conjunction with the floating roof, this creates a gateway for Cupertino.

Community Scale

The wavelike silhouette of the Hills at Vallco will minimize any perception of mass and bulk of the town center in response to the scale of the existing City context. Not only does the rooftop landscape blend into the existing trees around the site, but also the setbacks, street level landscape, and varying building heights will reduce the visual impact on the adjacent neighborhoods and public streets.

The western edge, where the roof meets the street at Stevens Creek Boulevard thereby providing a trail head to access the public park and nature preserve, will begin at grade level, respecting the residential scale and privacy of the Portal Neighborhood. The roof will rise at the center of the site west of Wolfe Road, staying under the existing building height of the existing AMC Theater. The roof will lower down and cross

Wolfe Road to unify the 30-acre open space at roof level and create a dynamic Wolfe Road gateway and entrance for Cupertino at street level while also addressing the arrival and departure from Hwy. 280.

The buildings east of Wolfe Road will step up towards the east side of The Hills at Vallco along Hwy. 280 and Perimeter Road.

The Stevens Creek Boulevard frontage will conform with the wide landscape easement requirement of the Heart of the City Special Area. This will create a generous pedestrian entrance plaza, provide a well located transit center, and respect the existing ash grove.



Figure 5: The wavelike shape of the rooftop open space is responding to Cupertino's community scale.



Figure 6. Rooftop community park of The Hills at Vallco looking south towards the Cupertino foothills.



Figure 7. Vineyards, oak, meadow, and chaparral landscapes on the rooftops of The Hills at Vallco.

Community Park and Nature Preserve

The landscape design for The Hills at Vallco will be based on the native ecologies of Santa Clara Valley which allows to provide a range of natural ecosystems within an urban context and be resilient to challenging climate conditions such as extended periods of drought and increasing global temperatures.

The Hills at Vallco will provide approximately 30 acres of open space and landscape floating over building structures, layering on top of a vibrant, mixed-use town center that replaces the existing 50 acres of primarily impervious surface. In addition to protecting the majority of existing trees on Wolfe Road, Stevens Creek Boulevard, and the Perimeter Road landscaped buffer, The Hills at Vallco will be adding approximately 900 trees to the site which are either native or drought tolerant species.

The plant palette has been selected to thrive with little or no irrigation. Small areas of planting with specific programmatic uses or historical references such as lawns and orchards will be maintained using only non-potable water sources such as municipal recycled water or on-site greywater and stormwater capture and reuse.

The Hills at Vallco will be a high performance landscape and model of green infrastructure that creates a highly sustainable center for civic, social, and community life and will serve as a model of transformative twenty-first century sustainable growth.

Flowing over the town center will be an approximately 30-acre community park and nature preserve. This spectacular landscape will interweave social and natural systems to create a one-of-a kind green amenity in Cupertino. The community park and nature preserve will immerse visitors in the naturally occurring oak, meadow, and chaparral landscapes of Santa Clara Valley and provide an uninterrupted visual connection to the surrounding mountain ranges of San Francisco Bay. The rooftop open space will host a diverse set of programmatic uses ranging from active public spaces for community gathering, civic engagement, public

performance, cultural festival and casual dining, to quiet intimate spaces for relaxation, to a nature preserve providing habitat for local flora and fauna such as songbirds migrating along the Pacific Flyway.

Vegetation from the Oak, Meadow, and Chaparral ecotones is ideally suited to the light-weight and free draining soils of a landscape over structure. The plant species that will make up the roof landscape are characterized by drought-hardy trees, woody shrubs and grass species such as Coast Live Oak, Valley Oak, California Black Oak, California Sycamore, California Buckeye, Western Redbud, Monterey Cypress, and Torrey Pine, Ceanothus, Manzanita, Needlegrass, Creeping Wild Rye and native sedges. These are plantings that thrive on summer drought and occasional winter rains.

The community park and nature preserve are organized around several major spaces:

Oak Grove

The oak grove will be located on the western edge of the site provides at-grade public pedestrian access to the community park and nature preserve from Stevens Creek Boulevard. At this location the roof meets the street to create a convenient and accessible trail connection to the roof at ground level. This edge will be planted with large canopy trees to create an iconic gateway space and to serve as visual buffer to the adjacent private residential neighborhood. This public landscape will be a serene retreat, providing a visual respite from the City and encouraging walking and hiking amongst the native oaks and grasses of the region.

Community Activities

The community activities will be located in the center of the community park and provide a concentration of active programmatic uses including a large play space and garden for children, indoor and outdoor community meeting

spaces, amenities such as a cafe and wine bar, and amphitheater and performance spaces.

Adjacent to the community activities will be two areas that celebrate the region's unique cultural and historic agricultural landscapes — the vineyards and the orchards. Santa Clara Valley lies between Santa Cruz Mountains and Diablo Range which shelter the area from the cold, damp San Francisco Bay climate creating the perfect Mediterranean environment for the orchards and vineyards that emerged in the late nineteenth century.

Vineyards

The vineyards will provide a stunning visual form as it undulates along the slopes of the roof. This educational landscape will engage visitors with walking trails and gathering and performance spaces set within the vines.

Orchards

The orchards will showcase fruit trees that recall the turn of the century agricultural forms and colors of Santa Clara Valley.

The orchard and vineyard will reconnect residents to the seasonal cycles of agriculture, provide educational and seasonal family friendly activities, and provide meaningful context for the role it played in the early economic and social life of Santa Clara Valley. From the first white and pink flush of flowering apricot and cherry trees to the harvesting of fruits and grapes and brilliant fall colors, these productive landscapes will become spaces of annual celebration and gathering, creating lasting memories for visitors of all ages.

Nature Preserve

The rooftop open space of The Hills at Vallco will be the largest public-access landscape ever built over structure and its establishment represents a unique opportunity to infuse a large natural system in an urban context for the mutual benefit

and improved health of people and the environment. The large area on the eastern roof will provide a significant number of ecosystems services including improved biodiversity and habitat for migratory birds and pollinating insects, improved air quality, enhanced storm water management, reducing carbon emissions by reducing the urban heat island effect, and numerous opportunities for physical health benefits from exercise and interaction with nature.



Figure 8. Conceptual landscape plan for the 30-acre community park and nature preserve.

Cupertino Schools

The property owner proposes to establish and improve quality education facilities and programs for both current students attending Cupertino K-12 schools and for new students residing in The Hills at Vallco. While state law limits fees a school district can charge to mitigate school impacts, the property owner will pay more than is required to not only protect, but improve, upon the educational successes of Cupertino Union and Fremont Union High School Districts.

In collaboration with both districts, the property owner proposes a net positive impact to more than mitigate any potential impacts related to an increase in overall student population from the project, by funding and delivering the following unprecedented facilities and programs:

Cupertino Union School District K-8 Educational Facilities, Programs and Funding

- Ground-up construction of a new 700-student elementary school at the former site of the Nan Allen Elementary School.
- Replacement of all portable/temporary classrooms at Collins Elementary School with permanent classrooms.
- Improvement and expansion of school playing fields at the former Nan Allen and Collins Elementary School sites.
- Creation and funding of a \$1 million endowment for the 8th grade Yosemite Science Program.
- Payment of the full statutory requirement “Level 1 Fee” obligation.

The new school will not only accommodate new students from The Hills at Vallco, but provide classrooms for hundreds of existing students, and relieve pressure from existing schools.

The property owner proposes a total education facilities and programs investment for Cupertino Union School District of approximately \$20 million, roughly 10 times the amount required by Senate Bill 50.

Fremont Union High School District 9-12 Facilities, Programs and Funding

A new 10,000 square foot, turn-key Innovation Center at The Hills at Vallco will be delivered to Fremont Union High School District. This flexible, multi-use space will be used by district high school students to build projects together while collaborating with members of the greater community. The Innovation Center will serve as an incubator for student inventions, plans, and the seeds of bold, new ideas that are increasingly indigenous to the Silicon Valley with programs and facilities including:

- Student led businesses incubator
- Work-based learning initiatives hub
- Robotics team competition arena
- Multi-disciplinary student maker creativity brainstorming and prototyping space
- Centrally located classroom for students from all five campuses within the district.
- Performance space.
- An exhibition space.
- Charitable lease of the Innovation Center for a term of 34 years at a nominal rent of \$1 per year.
- Payment of the full statutory requirement “Level 1 Fee” obligation.

The property owner proposes a total education facilities and programs investment for Fremont Union High School District of approximately \$20 million, approximately 20 times the amount required by Senate Bill 50.

Transportation Solutions

The multi-generational commitment of The Hills at Vallco to be a vibrant mixed-use town center and amenity for the community at large well into the future, requires forward thinking solutions to problems yet unseen, but anticipated. Therefore, the Hills at Vallco, will take proactive measures to incorporate transportation solutions for existing Cupertino residents and employees from the outset along key transportation corridors and Hwy. 280 including the following:

Improve Wolfe Road/Hwy. 280 Interchange

The Hills at Vallco will spearhead the widening and rebuilding of the Wolfe Road/Hwy. 280 bridge and interchange. This will include improvements to the pedestrian and bicycle connections across Hwy. 280 that connect North Vallco, where The Hamptons and Apple Campus 2 are located, with South Vallco, where The Hills of Vallco and Main Street Cupertino are located.

Improve Wolfe Road Intersections

A new signalized intersection is proposed along Wolfe Road between Vallco Parkway and the Hwy. 280 interchange. This intersection is intended to facilitate vehicular access to and from the east and west side of The Hills at Vallco. This intersection will improve public access to The Hills at Vallco by replacing the outdated existing on and off ramps from Wolfe Road to Perimeter Road.

This intersection improvement will also modify the existing tunnel under Wolfe Road to allow east-west access for fire, emergency, and service vehicles, which does not exist today due to the low tunnel height.

In addition, this new intersection will provide a new and safe bicycle and pedestrian crossing at grade across Wolfe Road to create strong walkable connections to integrate the east and west sides of the emerging downtown at South Vallco.

Included as these Wolfe Road improvements, will be additional traffic signal timing upgrades

between Stevens Creek Boulevard and Hwy. 280, to improve the vehicular traffic flow on Wolfe Road.

Introduce a Community Shuttle

The Hills at Vallco will lead a partnership with the City of Cupertino, VTA, and corporate employers to fund a complimentary community shuttle for Cupertino residents and employees, to connect numerous destinations within the community including the library, Civic Center, Memorial Park, De Anza College, one or more high schools, the Apple campuses, and more. This will improve residents' access to key community destinations, while giving office workers exposure to businesses in the community.

Establish a Multi-Modal Transit Center

The Hills at Vallco will be designed with the north side of Stevens Creek Boulevard between Wolfe Road and Perimeter Road as transit center location. The complimentary community shuttle, VTA local and express buses, future Bus Rapid Transit, corporate shuttles, and sharing economy transportation services will all make regular stops at the transit center. The transit center will specifically accommodate the existing VTA's existing Stevens Creek Boulevard bus lines 23 and 323. The Hills at Vallco will have an entrance plaza along Stevens Creek Boulevard that will accommodate pedestrian access to a curbside station.

Expand Community Connectivity

The Hills at Vallco will improve the quality of public spaces surrounding the site so as to enhance the pedestrian and bicycle experience and connect The Hills at Vallco with the broader community. Through an understanding of the surrounding community needs, an integrated multimodal network will be implemented that focuses on aesthetics, access, and connectivity within South Vallco Park, Apple Campus 2, and the greater Cupertino community.



Figure 9. Vallco Park Special Areas identified in Cupertino's General Plan.

Entitlements and Approvals

The property owner is seeking from the City of Cupertino following entitlements and approvals:

Legislative Approvals

- Specific Plan
- Conformance Zoning
- Development Agreement

Project Level Approvals

- Development Permits
- Conditional Use Permit
- Vesting Tentative Map
- New and Modified Easements, Air Rights and Other Related Agreements
- Tree Removal Permit
- Architecture and Site Approvals
- Environmental Review

Primary Objectives

- Carry out the vision in the City's General Plan to transform the outdated Vallco Shopping Mall into a vibrant and healthy mixed-use town center by balancing retail, employment, residential, civic and ancillary uses with a focus on providing significant open space features, views, and a gateway to Cupertino.
- Revitalize this critical urban infill site with a strong and complementary mixed-use program, including retail, office, residential, civic and ancillary uses, at an intensity and density that both promotes visitor activity and interest and is able to financially support an innovative open space, transit center, and civic programs, as well as achieve a high level of sustainability.

Secondary Objectives

- Create an innovative and active gathering place with a vitality in design that integrates and encourages walking and cycling and that is compatible with, and complementary to, recent well-designed projects proximate to the project site.
- Capitalize on the opportunity to utilize existing infrastructure in a manner which furthers local, regional and state compact and sustainable

growth goals, including the extension of recycled water.

- Provide sufficient local serving and destination retail uses to enable Cupertino and South Bay residents and shoppers to reduce vehicle miles travelled and associated greenhouse gas emissions.
- Create an active, inviting and comfortable place for people to visit, shop, and enjoy dining and entertainment.
- Provide greater residential variety and density, including additional affordable residential and life-cycle residential.
- Reduce distances between residential, workplaces, retail businesses, and other entertainment amenities.
- Improve local access to fresh and healthy foods by integrating more traditional food retail with the vibrancy of local farmers markets, and the heightened awareness of seasonal cycles as well as education opportunities through urban farming.
- Provide adequate parking and vehicular access that meets the needs of future project visitors, employees, and residents, while encouraging the use of transit, bicycle, and other alternative modes of transportation.
- Create new residential opportunities in close proximity to employment centers, public transit, shops, restaurants and entertainment uses.
- Create a new regional civic gathering place that has a strong neighborhood character that is informed by and responding to the ideas, input and concerns of the local community.

The property owner may supplement this list with additional approvals from appropriate local, regional, state and federal agencies.

The Hills at Vallco community amenities, including community park and nature preserve, transportation improvements, education facilities and programs funding, and other benefits outlined in this Project Description are proposed to be included as part of legally binding and enforceable Development Agreement between the property owner and the City of Cupertino.

General Plan Conformance

The Hills at Vallco fulfills, implements and complies with Cupertino's General Plan, the policies for the Vallco Shopping District Special Area, and the South Vallco Connectivity Plan:

1. General Plan Conformance

The City of Cupertino has been working with the community over the past two years to update its General Plan - the overarching policy document that guides all future growth and development decisions made by the city. On December 4, 2014, the Cupertino City Council formally adopted an updated General Plan called "Community Vision 2040".

The Hills at Vallco follows the strategic direction set by the City of Cupertino to focus future change within Special Areas, such as the Vallco Shopping District. These Special Areas are located on Cupertino's major mixed-use corridors with a mix of commercial, office, hotel and residential uses. At the same time, The Hills at Vallco will also protect and enhance Cupertino's neighborhoods to ensure the community's great quality of life in these largely residential areas.

Planning for changing demographics. The City needs to plan not only for existing families which form a larger percentage of our population, but also for the growing demographic of seniors and younger workers through new residential, services, shopping, entertainment and community facilities.

Local and regional land use planning and collaboration. The City will take an active part in regional collaborative planning processes related to residential, transportation, sustainability, health, transportation and infrastructure financing in order to ensure local land use and transportation decisions are coordinated with regional efforts.

Integrating community health into land use planning. The City will enhance and improve health of people who live and work in our community. This includes integrating land use and transportation networks to reduce reliance on auto usage and improving alternative choices

for transportation by focusing growth and change in corridors that support all modes of transit, providing neighborhoods with easy access to schools, parks and neighborhood centers.

Land use and economics. The City will look to diversify the City's tax base, support and retain existing businesses, increase the vitality of aging commercial centers with redevelopment, seek to diversify shopping opportunities so that the community has the opportunity to satisfy their shopping needs within Cupertino.

Urban design, form and character. The City will seek high-quality development to achieve desired physical environment in Planning Areas, including walkable, connected neighborhoods, inviting streets that allow for different modes of transportation, and vibrant and walkable special areas, and neighborhood centers in keeping with Community Vision 2040.

Preservation of natural environment and hillsides. Cupertino is blessed with an abundance of natural resources, including hillsides, creek corridors, and sensitive animal and plant habitats along the foothills. Much of this land is preserved in low-intensity residential and agricultural uses or open space. As redevelopment occurs, the City will strive to preserve these natural areas through land use and building design decisions.

Economic Vitality and Fiscal Stability. As Cupertino's population grows and ages, demands on community resources will increase. In order to maintain and enhance the community's quality of life, the City will ensure that existing businesses are encouraged to reinvest and grow in Cupertino, and that the City continues to attract new businesses and investment."

2. Vallco Shopping District Special Area Conformance

As part of the "Community Vision 2040", the City Council adopted new General Plan goals, policies and strategies for Vallco Shopping District Special Area, where Vallco Shopping Mall is located. The City envisions a complete

redevelopment of the existing Vallco site into a vibrant mixed-use “town center” that is a focal point for regional visitors and the community. This new district will become a destination for shopping, dining and entertainment in Santa Clara Valley. The Hills at Vallco fulfills, implements and complies with the Vallco Shopping District Special Area objectives and goals of the General Plan:

Policy LU-19.1: Specific Plan: Create a Specific Plan prior to any development on the site that lays out the land uses, design standards and guidelines, and infrastructure improvements required. The Specific Plan will be based on the following strategies:

Strategy LU-19.1.1: Master Developer.

Redevelopment will require a master developer in order to remove obstacles to the development of a cohesive district with the highest levels of urban design.

Strategy LU-19.1.2: Parcel Assembly. Parcel assembly and a plan for complete redevelopment of the site is required prior to adding residential and office uses. Parcelization is highly discouraged in order to preserve the site for redevelopment in the future.

Strategy LU-19.1.3: Complete

Redevelopment. The “town center” plan should be based on complete redevelopment of the site in order to ensure that the site can be planned to carry out the community vision.

Strategy LU-19.1.4: Land Use. The following uses are allowed on the site:

Retail: High-performing retail, restaurant and entertainment uses. Maintain a minimum of 600,000 square feet of retail that provide a good source of sales tax for the City. Entertainment uses may be included but shall consist of no more than 30 percent of retail uses.

Hotel: Encourage a business class hotel with conference center and active uses including main entrances, lobbies, retail and restaurants on the ground floor.

Residential: Allow residential on upper floors with retail and active uses on the ground floor.

Encourage a mix of units for young professionals, couples and/or active seniors who like to live in an active “town center” environment.

Office: Encourage high-quality office space arranged in a pedestrian-oriented street grid with active uses on the ground floor, publicly accessible streets and plazas/green space.

Strategy LU-19.1.5: “Town Center”

Layout. Create streets and blocks laid out using “transect planning” (appropriate street and building types for each area), which includes a discernible center and edges, public space at center, high quality public realm, and land uses appropriate to the street and building typology.

Strategy LU-19.1.6: Connectivity. Provide a newly configured complete street grid hierarchy of streets, boulevards and alleys that is pedestrian-oriented, connects to existing streets, and creates walkable urban blocks for buildings and open space. It should also incorporate transit facilities, provide connections to other transit nodes and coordinate with the potential expansion of Wolfe Road bridge over Interstate 280 to continue the walkable, bike-friendly boulevard concept along Wolfe Road. The project should also contribute towards a study and improvements to a potential Interstate 280 trail along the drainage channel south of the freeway and provide pedestrian and bicycle connections from the project sites to the trail.

Strategy LU-19.1.7: Existing Streets. Improve Stevens Creek Boulevard and Wolfe Road to become more bike and pedestrian-friendly with bike lanes, wide sidewalks, street trees, improved pedestrian intersections to accommodate the connections to Nineteen800 and Main Street.

Strategy LU-19.1.8: Open Space. Open space in the form of a central town square on the west and east sides of the district interspersed with plazas and “greens” that create community gathering spaces, locations for public art, and event space for community events.

Strategy LU-19.1.9: Building Form. Buildings should have high-quality architecture, and an

emphasis on aesthetics, human scale, and create a sense of place. Additional heights may be approved in specific areas by the City Council as part of the Community Benefits Program. Taller buildings should provide appropriate transitions to fit into the surrounding area.

Strategy LU-19.1.10: Gateway Character. High-quality buildings with architecture and materials befitting the gateway character of the site. The project should provide gateway signage and treatment.

Strategy LU-19.1.11: Phasing Plan. A phasing plan that lays out the timing of infrastructure, open space and land use improvements that ensures that elements desired by the community are included in early phases.

Strategy LU-19.1.12: Parking. Parking in surface lots shall be located to the side or rear of buildings. Underground parking beneath buildings is preferred. Above grad structures shall not be located along major street frontages. In cases, where above-grade structures are allowed along internal street frontages, they shall be lined with retail, entries and active uses on the ground floor. All parking structures should be designed to be architecturally compatible with a high-quality “town center” environment.

Strategy LU-19.1.13: Trees. Retain trees along the Interstate 280, Wolfe Road and Stevens Creek Boulevard to the extent feasible, when new development are proposed.

Strategy LU-19.1.14: Neighborhood Buffers. Consider buffers such as setbacks, landscaping and/or building transitions to buffer abutting single-family residential areas from visual and noise impacts.

3. South Vallco Connectivity Plan Conformance

In accordance with the General Plan, South Vallco is envisioned to become a vibrant mixed-use downtown. In order to support these changes, the Connectivity Plan calls for the City of Cupertino to work with property owners to improve connectivity within Vallco and the adjacent areas. The property owner is

collaborating with the City of Cupertino and will include the plan's connectivity goals and objectives in the The Hills at Vallco:

Connectivity Goal

Create an efficient, safe, pleasant, well-designed and complete multi-modal network that improves aesthetics, access and internal connectivity within South Vallco.

Connectivity Objectives

Vehicular Circulation. Create logical, identifiable and safe automobile connections between public roadways and private parking areas throughout South Vallco.

Bicycle Connectivity. Improve internal bicycle circulation throughout South Vallco through new bicycle lanes and paths, bicyclist amenities, and the potential trail along the northern boundary of the area.

Pedestrian Connectivity. Enhance pedestrian walkways and pathways so they are better connected to buildings and parking areas in order to support retail uses, create a more welcoming environment and improve safety.

Transit Opportunities. Work with Santa Clara Valley Transportation Authority (VTA) to improve bus transit shelters and amenities, and identify opportunities to establish new Park-and-Ride locations within South Vallco.

Streetscapes. Enhance the visual appeal of public and private streetscapes to create a more pleasant and inviting environment for motorists, pedestrians and bicyclists.

Image and Brand. Identify a strategy to create a unified theme and brand for streetscapes throughout South Vallco, including new signage, landscaping palette, lighting, street furniture and other design elements.

Reduced Traffic Impacts. Minimize traffic impacts on local neighborhoods by improving internal circulation, creating a multi-modal network to encourage bicycling and transit, fostering a “park once” atmosphere, and allowing for the efficient flow of traffic through South Vallco.

Specific Plan Development

In December 2014, the City Council directed the property owner to embark on a comprehensive community engagement process and develop a detailed project proposal and Specific Plan for consideration by the City Council.

The purpose of the Specific Plan is to lay out the land uses, design standards and guidelines, and infrastructure improvements required for the revitalization of the Vallco Shopping District Special Area. This Specific Plan will be based on the land use strategies set forth in the General Plan Amendment, including the establishment of a town center for the Cupertino community, and containing a vibrant and connected mix of retail, entertainment, residential, offices, and open space.

An expert planning consulting firm will assist in the development of the Specific Plan that will conform to the policies and strategies of the General Plan Amendment, adapt to and inform the planning and design approach currently being developed by the property owner's master planners, and accommodate future changes as well as maintain flexibility for evolving development strategies that will respond to market conditions over time.

The Specific Plan will serve as the zoning umbrella for the Vallco Shopping District, conform to and inform master plans, and is anticipated to include, but is not limited to the following:

- **Land Use/Residential:** The plan will define land use designations, including total number of units, densities, square footage of non-residential uses, mixed-use, and employment generating land uses. Population and job projections, and possibly student generation projections will be included.
- **Transportation and Parking:** Description of circulation for vehicles, transit, bicycles, and pedestrians. New streets, paths and connections shall be included. Parking management strategies and transit oriented development parking ratios will be identified, based on the prior or other similar parking demand analysis and the anticipated mix of uses.
- **Design and Streetscape Standards:** Policies and standards to promote pedestrian and bicycle-friendly design to increase pedestrian and bicyclist comfort and safety, and intended to transform the suburban, auto oriented layout of the mall.
- **Open Space Plan:** The plan will address the provision of adequate public and private open space as an integral part of the conceptual land-use plan.
- **Public Services:** Information about services and infrastructure needed to implement the plan, including specific policies regarding utilities, public safety, parks, schools, and cultural facilities.
- **Sustainability Opportunity Analysis:** A detailed, long-range strategy to achieve project sustainability in the sectors of greenhouse gas emissions, energy, transportation and land use, solid waste, water, and economic development.
- **Technical Studies for the Specific Plan:** Technical studies could include but are not limited to assessment of strategies and necessary improvements for development projects, mobility, and streetscape design such as:
 - Infrastructure implementation.
 - Financing plan and market analysis.
 - Alternatives analysis for floor area allocations and land uses across the Specific Plan area.
 - Transportation Demand Management plan/memo, which may include a parking policy and management plan.
- **Community Involvement:** Community engagement will continue to take place during the Specific Plan development.

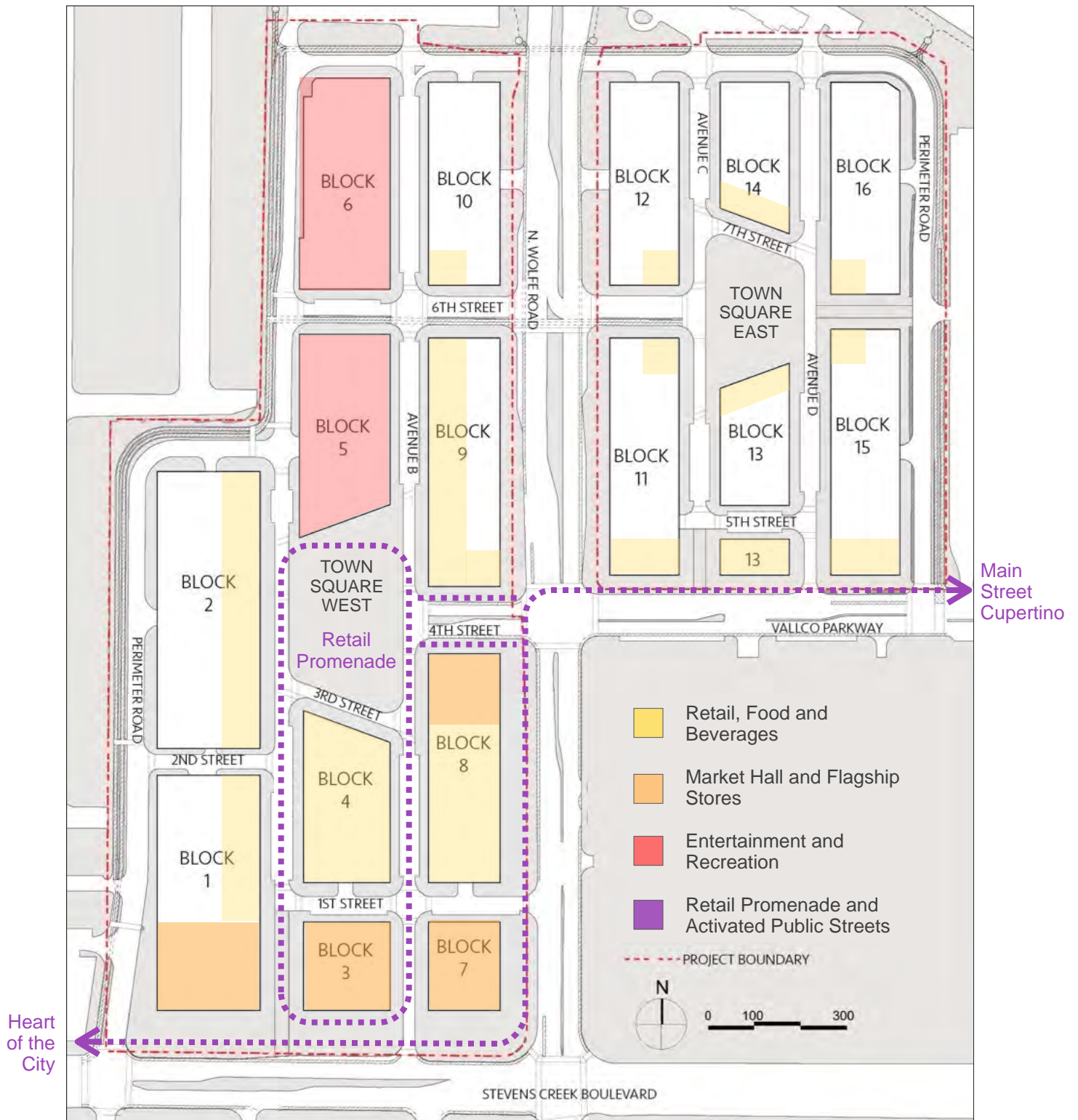


Figure 10. Conceptual town center layout and strategic retail, entertainment and recreation zones.

Revitalization Plan

Mixed Land Uses

The sixteen-block town center layout will provide a flexible framework that allows a vibrant mix of uses be distributed both horizontally and vertically across the sites west and east of Wolfe Road. The highest priority for the success of The Hills at Vallco is the location and distribution of the family friendly retail and entertainment, followed by the integration of complementary apartments, offices, and parking. The ground floor level across the site will have ample spaces for small, medium and large retail uses. On top of the ground floor retail will be at least one of following uses: a second retail level to provide double height spaces for flagship stores, apartments, offices, or parking.

Vibrant Retail

There will be multiple types and sizes of retail space to serve The Hills at Vallco located at and near the most walkable and transit connected places within the site. Stevens Creek Boulevard is a major pedestrian town center entrance. From there, the retail promenade, which connects Stevens Creek Boulevard with Town Square West, will form a walkable shopping loop. Additional retail will be located along Stevens Creek Boulevard, Town Square East, Wolfe Road and Vallco Parkway to activate the public streets with pedestrian life.

Stevens Creek Boulevard Entrance

Commuters, pedestrians, and bicyclists will enter The Hills at Vallco from Stevens Creek Boulevard. They will arrive at a generous entrance plaza, lined with two-story flagship retailers with prominent facades in Blocks 1, 3, and 7, all of which face and address the scale of Stevens Creek Boulevard. The entrance plaza will provide two pedestrian entry points to the retail promenade at Avenues A and B.

Retail Promenade

The ground floor retail promenade along Avenues A and B extending from Stevens Creek Boulevard north will be complemented above by apartments on the upper floors of Blocks 1, 2, 3, 4, 7, 8, and 9, and will join up with the AMC Theater and additional entertainment and recreational programming at the northern edge of the Town Square West.

Market Hall

Block 8 will contain a signature space for various specialty and artisanal food venues. The Market Hall will activate the entrance to The Hills at Vallco at the Wolfe Road and Vallco Parkway intersection.

Town Square East

The group floor corners of Blocks 11, 12, 13, 14, 15, and 16 will contain a mixture of small to medium-sized retail as well as destination food and beverage venues that provide support during the day and evening to the employees and visitors of the mixed-use retail and office district.

Vital Entertainment and Recreation

On the north side of Town Square West, situated in Blocks 5 and 6, the primary entertainment, sports, and recreation spaces, including the AMC Theater, a bowling alley, a fitness center, and an ice rink, will be located.

AMC Theater

The centerpiece of the entertainment zone will be a state-of-the-art, multi-screen AMC Theater. The theater faces south onto Town Square West with a mezzanine overlooking the square that is complemented by various food and beverage venues, outdoor seating, and retail shopping.

Bowling Alley

The next generation, multi-use bowling alley will be located adjacent to the AMC Theater.

Ice Rink

The regulation sized ice rink will be located at the northern-most position of this block, with viewing stands built alongside.

Fitness Center

The new fitness center will be located on the upper floors to provide direct access to rooftop community wellness activities.

Active Civic Spaces

The 10,000 square feet high-school Innovation Center will serve as an innovation and collaboration hub, project space, art gallery, and competition arena for robotics tournaments.

About 5,000 square feet of space will be reserved for community group activities and local nonprofit organizations.

The Hills at Vallco will continue to collaborate with the community to identify and create first-class civic and cultural destinations.

Attractive and Integrated Residential

The Hills at Vallco proposes mixed-use residential over ground floor retail. The residential mix promotes an inclusive town center lifestyle and will serve a range of household types and income levels inclusive of singles, couples, young families, active seniors, visiting executives, and low income households. The residential unit mix will include:

Apartments with parking and residential amenities will be situated in Blocks 1, 2, 3, 4, 7, 8, and 9.

Cutting Edge Offices

Two million square feet Class-A office space will provide the most up-to-date, efficient and flexible spaces for incubators or start-ups, emerging or established companies across the lifecycle of Silicon Valley companies.

75 percent of the office spaces will be located in the mixed-use retail and office district East of Wolfe Road. Blocks 11, 12, 13, 14, 15, and 16 will provide the flexibility to be connected by pedestrian bridges at the upper floors.

The other 25 percent will be located West of Wolfe Road in Blocks 9 and 10.

Office entrances, lobbies and some of the employee amenities will be located at ground floor in such a manner that they enhance the active use of the walkable town center streets and town squares.

Signature Rooftop Amenities

The community garden and nature preserve of The Hills at Vallco will contain a multitude of community-based, educational, and civic-oriented spaces to serve the citizens of Cupertino. It will also provide residential amenities required by City code, and reserved amenity spaces for office uses.

The single level rooftop pavilions will serve community, residential, and office functions. The community banquet hall, with a capacity of more than 2,000 occupants, and wine garden adjacent to the vineyards will be used for large community gatherings such as weddings, fundraisers, cultural events and festivals.

The rooftop amenity program will be further considered in collaboration with the local community and future users.

Distributed Parking

Approximately 9,175 parking spaces will be located below-grade, at grade, and in parking structures. The parking is allocated to each location as appropriate for the needs of the adjacent users and is separated where required and shared where possible. The basement levels will provide approximately 6,000 parking spaces.

Basement Level 2

Basement Level 2 will have a floor to floor height of 12 feet, and will cover approximately 670,000 square feet on east of Wolfe Road to serve the offices. Basement Level 2 will be accessed from grade via ramps through basement level 1.

Basement Level 1

Basement Level 1 will have a 15 foot floor to floor height. Basement Level 1 is accessed by multiple parking structure ramps from grade along Perimeter Road, Wolfe Road, and various on-site streets.

At-Grade Parking

Distributed around The Hills at Vallco is short term, at-grade parking along the various on-site streets for ease of access to the retail and entertainment venues.

Parking Structures

Residential parking will be provided in the resident only parking structures that are integrated with the apartments in Blocks 1, 2, 4, and 8.

Office parking will be provided in Block 16.

Efficient Central Plant

A central plant will be located at the upper portion of Block 16 adjacent to the Hwy. 280. It will provide centralized heating and cooling to all blocks in the town center. Each town center block will contain mechanical support spaces in the interstitial spaces between the buildings and the green roof above. The mechanical equipment will be screened from public views by the roof structure.

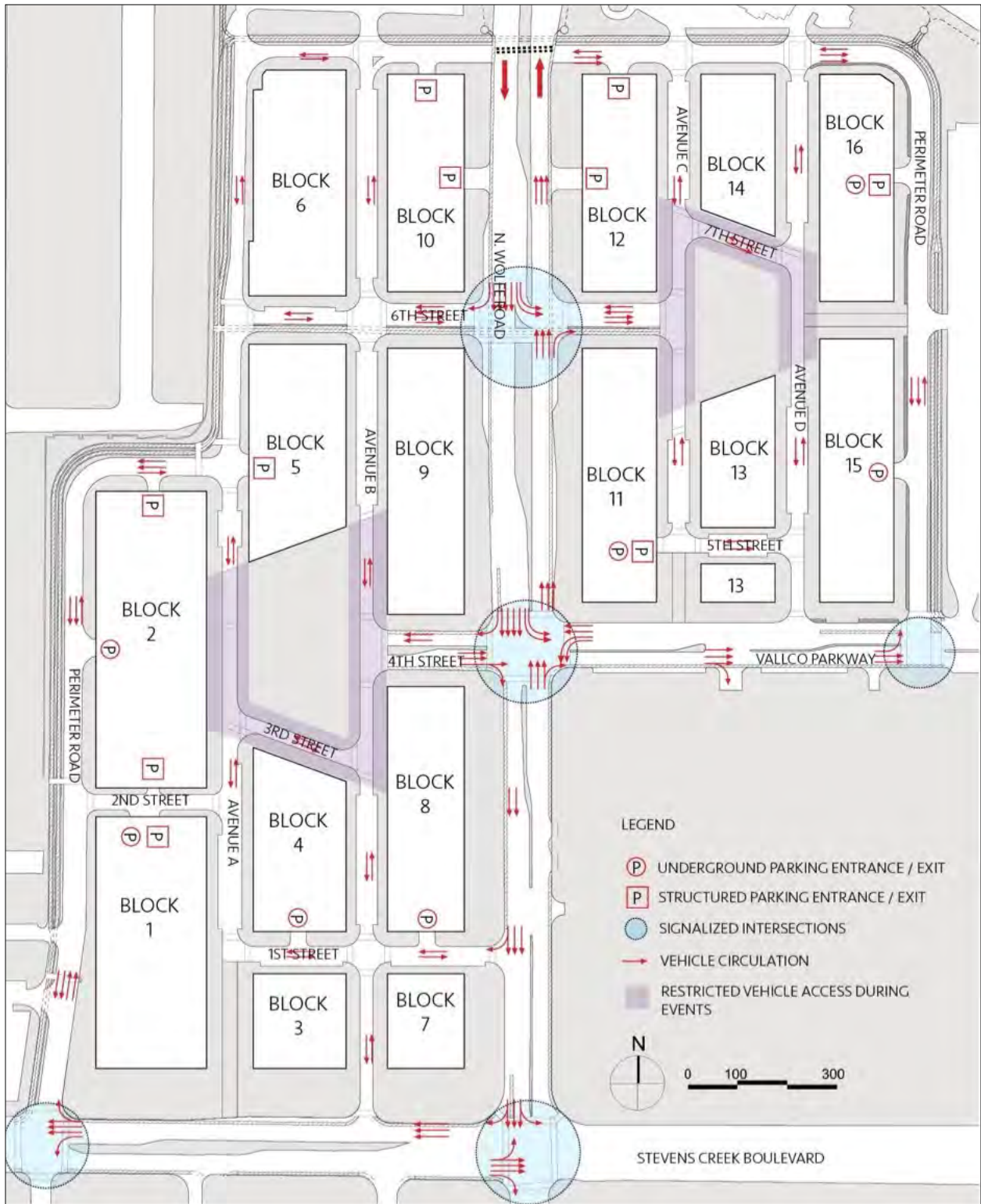


Figure 10. Conceptual site and parking access plan.

Mobility and Parking

The Hills at Vallco recognizes the existing traffic conditions in the area and strategic location near Hwy. 280 and along key transportation corridors. The Hills at Vallco will incorporate following transportation strategies for Cupertino residents, employees, and visitors:

Right Land Uses in the Right Place

The Hills at Vallco is at the geographic center of the west side of Silicon Valley, near the intersection of two major freeways. Stevens Creek Boulevard is a key transit corridor in Santa Clara County and is served by local and limited-stop bus service at a combined rate of one bus every 5-10 minutes on weekdays to downtown San Jose and to De Anza College, with 15-minute frequency on weekends and weeknights. The stop at Stevens Creek Boulevard and Wolfe Road is served now by both local and limited-stop service and is slated by VTA to receive rapid service within the next several years and eventually, a bus rapid transit station. There is no better location for a long-needed town center for Cupertino. Locating jobs, residential, retail and education uses in a town center can significantly reduce driving distances for jobs and necessary services, particularly compared to single-use office districts east of Hwy.101. By providing a mix of retail, residential, and offices, The Hills at Vallco makes it possible to live and work on site, and increases opportunities for shorter commutes.

Daily Life Within Walking Distance

The Hills at Vallco is a mixed-use shop, live, work, learn, and play environment. Employees will not need to get in their cars to run errands or go to lunch. Residents will be able to shop, dine, and get groceries on foot. Even those who do drive will be able to park once and take care of several activities, significantly reducing traffic demand compared to single-use destinations.

First Class Alternatives to Driving

As detailed in other sections, The Hills at Vallco will offer a high level of transportation services, including shuttles, on-site bike commuter amenities, car-share, and other features, in keeping with best practices elsewhere in Silicon Valley. The intention is to create a transportation mode shift away from single-occupancy vehicles and into alternative transportation modes that will minimize traffic and congestion in the City.

Information Technology

In order to help motorists find the closest available parking space, transit riders find their bus or shuttle, bike commuters identify the best route, and carpoolers join together, we will use the smart information technologies, tailored to The Hills at Vallco.

Transportation Demand Management

The approach to transportation demand management at The Hills at Vallco is to systematically and actively remove the reasons a person has to drive, including a multitude of subsidized services for residents, workers, visitors, and the community at large. The investments in transportation options are intended to generate benefits in terms of minimizing congestion, and improving health and environment. We will actively work to reach our goals.

Further, the following transportation demand management features are planned:

- Bicycle Friendly

Creating a safe, relaxing place to bicycle. Cyclists will have a first class ticket to ride at The Hills at Vallco. The many support services offered on-site further prove our commitment to cycling, such as repair stations, bike racks, wayfinding and other features.

- Circulation Improvements

Becoming a more multimodal city transcends the initiatives of any single neighborhood. To that end, we are invested in improving conditions for pedestrians, cyclists, and transit riders in Cupertino.

- Carpool, Carshare, and Rideshare

Carshare, vehicle pods, an online ridematching service, and priority parking for carpoolers at The Hills at Vallco will encourage people to share vehicles and rides. No longer will carpoolers have to worry about finding others who are interested and conveniently located. Some people will give up car ownership entirely.

- Multimodal Financial Incentives

The Hills at Vallco understand that the bottom line of finances often determines a person's ability to switch to healthier, more sustainable transportation modes. The Hills at Vallco and its future tenants and employers will help with a variety of on-going financial incentives to encourage walking, biking, and riding transit.

- Robust Transportation Management

The transportation demand management program at The Hills at Vallco will be robust and comprehensive. It will provide free and subsidized services for residents, employees, and even the public at large. It starts with having people who can effectively generate excitement for and participation in the multitude of services available, and coordinate with other organizations in the community to multiply the effectiveness of the programs offered.

Site Access

The Hills at Vallco will be integrated into the surrounding existing and planned roadway, bicycle and pedestrian, and transit networks. Roadway access points along Stevens Creek Boulevard, Wolfe Road, and Vallco Parkway will be located similarly to today but will provide safe pedestrian and bicycle crossings, transit access,

and will connect to thoughtful internal street grids that allow for efficient and safe circulation. The access points and internal roadway network will provide redundant routes for internal circulation to minimize the amount of traffic.

Vehicular Traffic Improvements

One new signalized intersection is proposed along Wolfe Road between Vallco Parkway and the Hwy. 280 interchange. This intersection is intended to facilitate bicycle, pedestrian, and vehicular access to and from the east side of the property.

Transit Improvements

The Hills at Vallco has been designed to embrace the intersection of Stevens Creek Boulevard and Wolfe Road as a transit center to service the proposed complimentary Cupertino community shuttle, VTA buses, corporate shuttles, sharing economy transportation services. The transit center will specifically accommodate the VTA's existing Stevens Creek bus line 23 and 323. The Hills at Vallco will have an entrance plaza along Stevens Creek Boulevard that will accommodate pedestrian access to curbside station. The new plaza will improve the pedestrian experience to the existing curbside stop along Stevens Creek Boulevard. Given the anticipated ridership generated by The Hills at Vallco, the stop will likely qualify to be a major bus stop; the specific palette of amenities will be specified in VTA's forthcoming (fall 2015) Transit Passenger Environment Plan. The existing bus stops along Wolfe Road near Vallco Parkway will also be upgraded with improved passenger waiting areas and pedestrian access into the site.

High-quality commuter shuttle services are now offered by numerous employers in Silicon Valley in an effort to reduce the number of car trips generated by their office workers. Each shuttle has seating capacity for 50 to 70 passengers. The Hills at Vallco will also feature a transit center for the offices located near the

intersection of Vallco Parkway and Perimeter Road that will accommodate the loading or unloading of up to several shuttles at once. The location of the transit center has been selected to provide easy access to and from Hwy. 280, but also the ability to travel in all directions.

Emergency Vehicular Traffic

The onsite roadway network will support emergency vehicle access by providing sufficient roadway width for emergency vehicles on all interior streets, sufficient turning radii for large vehicles, adequate height clearances including in the Wolfe Road tunnel crossing, and a well-organized street network with numerous access points to the surrounding network.

Parking

There will be approximately 9,175 parking spaces that will be distributed between underground parking structures, surface parking, and above-grade parking structures. Parking access points are strategically located to intercept incoming cars and to facilitate efficient egress to minimize interior on-street traffic in order to prioritize pedestrians and bikes. Circulation will be provided within the underground parking to reduce unnecessary entries and exits and to minimize circling at street level.

Street Parking Flexibility

Similar to how other urban areas in the South Bay have adapted their use of street parking, the street parking at The Hills at Vallco will be used flexibly. Street parking space, in addition to its original use, could be adapted to provide restaurant and café seating areas, parklets, additional sidewalk amenities, or could be used for temporary events such as farmers markets and art and craft festivals.

Parking Dimensions

The Hills at Vallco will comply with Cupertino's zoning regulations which require uni-size parking stalls of 8'-6"x18'-0". Other than parallel surface street parking, 90 degree parking stalls for maximum efficiency will be proposed, which will require a 24'-0" drive aisle.

Accessibility Parking

Accessible parking will be provided per the American's with Disabilities Act and the Building Code.

Electric Vehicle Parking

The Hills at Vallco anticipates that EV charging stations at the opening will far exceed the minimum Cupertino code requirements.

Parking Guidance System

The Hills at Vallco will incorporate a state-of-the-art parking guidance system that will direct vehicles to open spaces. This system will provide sensors for every parking space that provides accurate counting to a signage system and to mobile and web based technology to communicate parking count status and to direct patrons to where parking is available. This reduces the amount of circulation necessary to find a parking stall which in turn reduces emissions, and makes the visitor experience more convenient and pleasant.

Connectivity and Public Improvements

Pedestrian Connectivity

The Hills at Vallco will provide safe and comfortable connections for all pedestrians. Sidewalks will be continuous, accessible, and tree-lined with signalized crosswalks safely connecting the street grid. The at-grade pedestrian-friendly streets will support universal access with gentle slopes. Bulb-outs will protect pedestrians at public streets accessing the site, and the narrow streetscapes and bulb-outs within the property will provide an environment to facilitate comfortable walking. The South Vallco Connectivity Plan was used to guide the development of these features, including intersection improvements and prioritization of streetscape design for better walkability.

Town Squares West and East

Town Squares East and West will highlight The Hills at Vallco's walkability and focus on community life. The streets surrounding the town squares are intended to extend the area of each town square by emphasizing the shared nature of the street, through use of different paving materials, color, height differences, or other street design features. These town squares will form the focal point for temporary street closure events.

Wolfe Road Crossing

Connecting Town Squares West and East will be a landscaped pedestrian bridge that will extend over Wolfe Road for a variety of activities, such as walking, jogging, and hiking. This will replace the existing heavy and enclosed bridge.

Bicycle Connectivity

The Hills at Vallco will prioritize access and circulation for bicyclists of all comfort levels. The existing bicycle network on Wolfe Road, Vallco Parkway, and Stevens Creek Boulevard will continue onto the site with additional bike lanes on 4th and 6th Streets. The Perimeter Road tunnel will provide a through, grade-separated route across the property, as it has in the past, but with improved functionality and environment for bicyclists. Further within the site, bicycle striping, green bike lanes, and bike boxes will continue to highlight a multimodal street network. There will be a network for everyone, from commuters who prefer the fastest route to shoppers and park visitors who want to take their time exploring the green roof and bridge.

Perimeter Road Shared Use Path

The existing sidewalk surrounding The Hills at Vallco will be improved and expanded into a shared use, off-street path. As envisioned in the South Vallco Connectivity Plan, the path will be separated from Perimeter Road and will support both bicyclists and pedestrians. Where existing trees beautify the streetscape, the path will split, minimizing disturbance to the trees and allowing the path to be shaded. Any trees that cannot remain along Perimeter Road will be relocated or new trees will be planted in place of trees that must be removed. The shared use path will allow for multiple connection points to future paths at the northern project border, as identified in the South Vallco Connectivity Plan.

Minimizing Conflict

Intersection design will ease pedestrians, bicyclists, and vehicles to their destination with minimal conflict. For example, a new intersection proposed at Wolfe Road and 6th Street will provide an east-west bidirectional bike lanes along the south edge that allows bicyclists and pedestrians to cross without conflicts with southbound vehicles turning left from Wolfe to 6th and westbound vehicles turning right from

6th to Wolfe. Along Perimeter Road, crossings will be clearly marked to facilitate connections from the shared use path into the internal street grid. Interior streets will be designed as low-speed shared streets that feature a healthy mixing of bicycle, auto, and street parking activity.

Bicycle Amenities

Bolstering the bicycle network will be amenities for secure, comfortable bicycling. In addition to the short term bike parking located throughout the property, cyclists will have access to bike lockers, indoor bike parking, and charging for electric bike users. Bike repair stations will also be provided at various locations in around the Hills at Vallco. Within offices, employees will have showers and changing facilities to comfortably continue the day after an active commute to work. Coordinating with retail services on site, cyclists could access a bike shop with a professional bicycle mechanic to help with maintenance needs or to purchase supplies.

Programming for Walking and Biking

Programming through strong transportation management will incentivize and support active transportation. Commuters who bike or walk to work will receive incentives and personalized trip planning support. Residents and employees will be able to take part in bicycle and helmet giveaway programs. For active travelers who would rather go with a group, walk and bike pool clubs could offer guided tours to work. Employees, residents, and shoppers will be able to participate in site-wide events to celebrate bicycling and walking. Together, these amenities align perfectly with many of the South Vallco Connectivity Plan objectives, including emphases on bicycle and pedestrian connectivity, streetscapes, and image and brand.

Vehicle Connectivity

While connectivity for pedestrians and bicyclists will be prioritized, efficient vehicle flow enables efficient travel for everyone. The Hills at Vallco will have a clear roadway hierarchy that directs most vehicles to the parking garages efficiently, reducing potential conflicts with pedestrians and bicyclists on the at-grade street network. The existing public roads of Wolfe Road, Stevens Creek Boulevard, and Vallco Parkway are designed to handle the most vehicle capacity. Connectors are second in the hierarchy with 4th St, portions of 6th St, and Perimeter Road directing vehicles towards the primary roadways. Vehicles most easily access the site from Stevens Creek Boulevard at Perimeter Road, from northbound Wolfe at 4th Street/Vallco Parkway, and from southbound Wolfe Road straight into the parking garages north of 6th Street. Vehicles that venture further into the site will encounter narrower, slower streets with greater bicycle and pedestrian activity. In general, the small block street network envisioned in the South Vallco Connectivity Plan will encourage the objective of efficient and safe multimodal circulation.

Public Improvements

Public Improvements to adjacent roadways include:

Wolfe Road

- Create an urban-style setting with logical and accessible pedestrian-scale roads.
- Create logical, identifiable, and safe vehicular, pedestrian, and bicycle connections between public roadways and the parking areas throughout the South Vallco area.
- Improve sidewalks along Wolfe Road from Stevens Creek Boulevard to Hwy. 280.
- Restripe and color bike lanes along Wolfe Road from Stevens Creek Boulevard to Hwy. 280.
- Preserve majority of mature, healthy trees along Wolfe Road while relocating and planting new trees.
- Provide pedestrian-scale lighting and street furniture along Wolfe Road to encourage pedestrian access to commercial venues.
- Rebuild the Perimeter Road tunnel to provide adequate height clearance to permit service vehicles, trucks, emergency vehicles, and other taller vehicles so that these necessary service activities can move across the property without crossing Wolfe Road at grade.
- Build additional tunnel under Wolfe Road to improve the parking circulation, connecting the parking basements east and west of Wolfe Road.

Stevens Creek Boulevard

- Provide retail shopping front door entry point accessed directly from Stevens Creek Boulevard. There will be both a vehicular entry and a pedestrian-only entry with easy connections to rapid transit buses and community shuttle.

- Create logical, identifiable, and safe vehicular, pedestrian, and bicycle connections between public roadways and the parking areas throughout South Vallco.
- Preserve vast majority of healthy, mature trees along Stevens Creek Boulevard while relocating and planting new trees.

Vallco Parkway

- Create a multi-use street that allows for ground floor retail and comfortable pedestrian experience, a private shuttle stop, continuous bike lanes, and entry and exit points to the property, while accommodating traffic turning movements onto Wolfe Road.
- Create a smooth transition to and from the proposed bidirectional shared-use path along Perimeter Road.
- Convert the street west of Wolfe Road from a underground parking garage and basement entry into an open air, accessible ceremonial entrance to The Hills at Vallco and connecting it to Main Street Cupertino and the South Vallco Park area.

Utilities

The property owner has analyzed both the new project needs and the greater community needs in terms of utilities and their impact on the currently available capacity. As such, The Hills at Vallco strives to have the smallest impact on the current public infrastructure by sustainably reusing, recycling, and reclaiming many of the power, water, and sanitary for reuse back into The Hills at Vallco.

Storm Drain

The majority of rain that falls on The Hills at Vallco will land on the green roof structure above street level. This water will be cleansed and, to the fullest extent possible, collected and reused on site for irrigation and other recycled water uses to reduce the domestic water dependency of the project. By dealing with storm water runoff in this manner the project will go above and beyond storm water cleansing and LEED requirements. This will also greatly reduce the runoff from the current conditions which is above and beyond the minimum requirements for stormwater treatment.

Rain that falls on the podium area and Perimeter Road will be treated and reused depending upon the location and the irrigation demand requirements.

The existing public storm drain runs north down Wolfe Road and cuts through a portion of the property where the proposed development will be located. The plan for this public storm drain is to rework the drainage on Wolfe Road to flow to Vallco Parkway and then east down Vallco Parkway to the intersection with Perimeter Road. A new public storm drain will be installed in Perimeter Road located in the public utility easement for discharge into the Junipero Serra Channel owned by Santa Clara Valley Water District along Hwy. 280. All existing laterals and catch basins along The Hills at Vallco will be reconnected to the new line.

Sanitary Sewer

Sanitary sewer will be separated into grey water and black water, with grey water being used to the fullest extent possible for irrigation and potentially other uses as allowed by code. This will reduce the impact on the public sanitary sewer system and The Hills at Vallco's future demand. Black water treatment and reuse will be explored during the design phases given the extent of the green roof and the need to fertilize and irrigate the vegetation.

The existing public sanitary sewer is owned and operated by Cupertino Sanitation District and runs north down Wolfe Road and cuts through a portion of the property where the proposed development will be located. The proposed plan for the public sanitary sewer main is to reroute the main that flows North on Wolfe Road to flow back south to Vallco Parkway and then East down Vallco Parkway to the intersection with Perimeter Road. A new public sanitary sewer will be installed in Perimeter Road located in the public utility easement around the development and reconnected to the existing sewer main that crosses Hwy. 280. All existing laterals along Vallco Parkway will be reconnected to the new line.

Domestic Water Lines

Public water lines are owned and operated by California Water Service Company and mains exist down Wolfe Road from North to South, and enter into the property where the proposed development will be located. There are also public water main lines running in Perimeter road, both on the East and West.

The proposed development will reroute the main line that runs down Wolfe Road and direct it all to new public main lines that surround the project in Perimeter Road. These lines will be reconnected to the main loop that runs under Hwy. 280. The Hills at Vallco will be serviced from a new public water main line installed in Perimeter Road by this project and located in an easement to the California Water Company.

Fire Water Lines

Cupertino and California Water Service Company have a combined fire and domestic water system. All of the work laid out in the Domestic Water Lines section will also be applicable for Fire water service, and all buildings fire water will be served off or Perimeter Road and meet Fire Code Requirements.

Recycled Water Lines

The property owner is collaborating and pursuing a public private partnership with the necessary agencies, California Department of Transportation, Santa Clara Valley Water District, Sunnyvale, California Water Service Company and Cupertino to provide recycled water from Sunnyvale, north of the site, across Hwy. 280. This analysis has proven that a connection to the Sunnyvale recycled water system is feasible and will continue to be pursued. The Hills at Vallco will be plumbed to accept recycled water to accommodate the public recycled water system installed in the future near the site.

Gas Lines

Public gas is owned and operated by Pacific Gas and Electric and these lines run underground on the east side of Wolfe Road from north to south. There are no proposed changes to these lines. The Hills at Vallco will pull public gas lines from Wolfe Road, and down Perimeter Road. Service lines for the buildings will be pulled off of this new public line.

Communication Lines

Public communication lines run underground on the east side of Wolfe Road from north to south, there are no proposed changes to these lines. The proposed development will pull its communications lines from Wolfe Road and serve the proposed buildings off of Perimeter Road.

Electric Lines

Public high voltage electric is owned and operated by Pacific Gas and Electric and these lines run underground on the east side of Wolfe Road from north to south, there are no proposed changes to these lines. The Hills at Vallco will pull public underground lines from Wolfe Road, and down Perimeter Road. Service lines for the buildings will be pulled off of this new public line.

Grading and Construction

The Hills at Vallco will create a pleasant and safe pedestrian-oriented town center by replacing the existing surface parking lots of the Vallco Shopping Mall with below-grade parking structures. Through the careful analysis of the existing grading and using the naturally occurring slope of the site, The Hills at Vallco will minimize the amount of excavation required to create the parking basement levels.

Grading

The site is approximately 50 acres and is bisected by Wolfe Road with a bridging structure over the top of the public road. Existing grades around the perimeter of the site range from an elevation of about 195 feet above sea level along Stevens Creek Boulevard to an elevation of about 175 feet above sea level to the north of Perimeter Road. There is also an existing tunnel at Perimeter Road that runs in the east - west direction under Wolfe Road. The site has a large concrete building that will be demolished as a part of this project that includes basements and retaining walls.

The Hills at Vallco will follow the natural slope of the site, stepping down towards the north so as to minimize excavation and reworking of roads in the most efficient and cost effective manner. This will allow for smooth transitions to the public right of way, all vehicular access points, and provide easily accessible pedestrian and bicycle-friendly circulation.

Parking and Excavation

The Hills at Vallco will include about two-thirds of the vehicular parking below-grade. It will be located in two below-grade parking garages, one on each side of Wolfe Road. The proposed floor to floor sections for both garages are 15 feet for the first basement level and 12 feet for the second basement level, which only occurs on the east side of Wolfe Road. The basement will have a four foot thick slab.

The basement level on the west side of Wolfe Road is roughly 26.3 acres and each basement level on the East side of Wolfe is roughly 15 acres. The remainder of the required parking will be located as surface street parking as well as structured parking integrated within buildings where feasible.

This parking approach will create great improvements to the public realm for the community, and the creation of the parking basement will inevitably cause excavation and off-haul of soils. Demolition materials that can be recycled and reused on site will be stockpiled, including concrete from the building and asphalt and base rock. Some of the soil excavation from the project site will be used on the green roof and in landscaped areas at grade.

Construction

The property owner anticipates commencing construction immediately after approval and expects the completion of the first construction phase in the second half of 2018. The first construction phase is intended to include the relocation and enhancement of the existing entertainment, sports, and recreation venues serving Cupertino - AMC Theater, the bowling alley, and the ice rink. The start of the subsequent construction phases will overlap with the first phase by about six months, starting in the first half of 2018.

The property owner's construction protocol will promote emissions reduction measures, including the use of fuel efficient vehicles, and clean-burning fuels.

Environmental Sustainability

The property owner's environmental sustainability goal for The Hills at Vallco is to achieve LEED Platinum certification. This objective will go significantly beyond the City of Cupertino's LEED Silver requirement for new construction. Given the scale and complexity of The Hills at Vallco, the property owner will collaborate with the Green Building Certification Institute to establish the appropriate LEED certification approach.

Green Roof

The core of the property owner's environmental sustainability strategy is the commitment to the world's largest green roof, which will result in climate responsive and high performance buildings, infrastructure, and landscape. The 30 acres will improve resource efficiency and mitigate climate change, resulting in unprecedented public and private benefits:

- reduced stormwater runoff
- improved water quality
- reduced urban heat island
- improved air quality
- improved thermal insulation
- reduced energy consumption
- reduced noise
- extended life of building roof
- improved carbon storage
- improved bio-diversity

In addition, the green roof will improve outdoor comfort and user experience.

Water Conservation

The property owner will explore the feasibility of a Net-Zero Water initiative with the intent to maximize water conservation and will extend the recycled water line from Sunnyvale to The Hills at Vallco. The property owner is currently

pursuing a public-private partnership with Sunnyvale, Santa Clara Valley Water District, California Water Services Company and Cupertino. Conservation measures under consideration are:

- Utilize the municipal recycled water supply for irrigation, cooling towers and toilet flushing, while sending greywater and blackwater to the local sewage treatment plant that supplies the recycled water, thereby closing the loop.
- Collect rainwater and minimally treat to offset some of the recycled water and also meet storm water goals.
- Obtain potable water for drinking, sinks and showers from the utility. This will include the monitoring of the hydrology purification advances by the utility.
- Reduce water consumption through building energy efficiency, as significant water is wasted through the generation of energy.

Landscape Irrigation

The local climate is characterized by warm, dry summers and cool, moist winters. Average rainfall has been historically about 15 inches/year, falling from November through March. Recent drought conditions have been accounted for in the planning and irrigation planning. The Hills at Vallco plant palette is focused on a native species mix that can adapt to fluctuations in seasonal rainfall. Efficient drip irrigation is planned for all landscape trees. After establishment, the meadows and woody shrubs on the roof will need irrigation primarily to supplement seasonal lack of rainfall and to maintain a fire-safe landscape environment.

Water Sources

Recycled water from the Sunnyvale Water treatment facility will be used as a primary source of landscape irrigation. Periodic testing of water chemistry, primarily for salts and chemical solutes will be necessary to monitor any

variations in suitability for irrigation and to support long-term plant health. The use of potable water will be avoided wherever feasible and any usage will comply with all state and local water restrictions. Additional sources of water for landscape use might include seasonal storm water capture and reuse and/or residential greywater.

Water Use Efficiency

The Hills at Vallco seeks to reduce the consumption of potable water. The foundation of this is the use of low flow and ultra-low flow plumbing fixtures with the goal of achieving a reduction in potable water usage below the baseline of the California Green Building Standards Code, which is already a 30 percent reduction compared to the performance of typical buildings in the United States.

An optimized heating, ventilation, and air conditioning strategy will reduce water use, saving millions of gallons of water each year. Shifting cooling production from warm days to cooler nights may allow for air cooled chillers to operate with efficiency that approaches the performance of water cooled equipment while avoiding the tens of millions of gallons of annual evaporation that would come with water cooled equipment.

Improved energy efficiency of The Hills at Vallco will benefit the region by avoiding water use in power plants, which consume an average of two gallons of water for each kilowatt hours of energy spent on site.

Climate Responsive Design

The Hills at Vallco will prioritize and integrate climate responsive design strategies that leverage the exceptional Mediterranean climate of Cupertino to improve user comfort and to reduce energy use of mechanical, electrical and information technology systems. This will result in energy and water conservation, and lower carbon emissions. A combination of the geometry

of the compact town center layout, the vast green roof, high performance building envelopes, thermal mass, natural ventilation, natural daylight, and internal load reduction will accomplish these goals.

Active energy design strategies, such as low energy systems, displacement ventilation, heat recovery, efficient mechanical, electrical and information technology equipment, LED lighting, load scheduling, and other strategies will complement the climate responsive design.

Renewable Energy

The property owner will explore strategies to maximize the use of renewable energy for the overall energy needs of The Hills at Vallco. This will include on-site and grid provided solutions.

Green Building Codes and Regulations

All buildings will be designed and constructed to meet or exceed the requirements of the current 2013 California Green Building Standards Code and the 2013 California Energy Code. The Hills at Vallco will use green building, high performance, and environmental sustainable strategies to meet or exceed the code required benchmarks for energy efficiency, water efficiency and carbon emission reduction.

Site Map

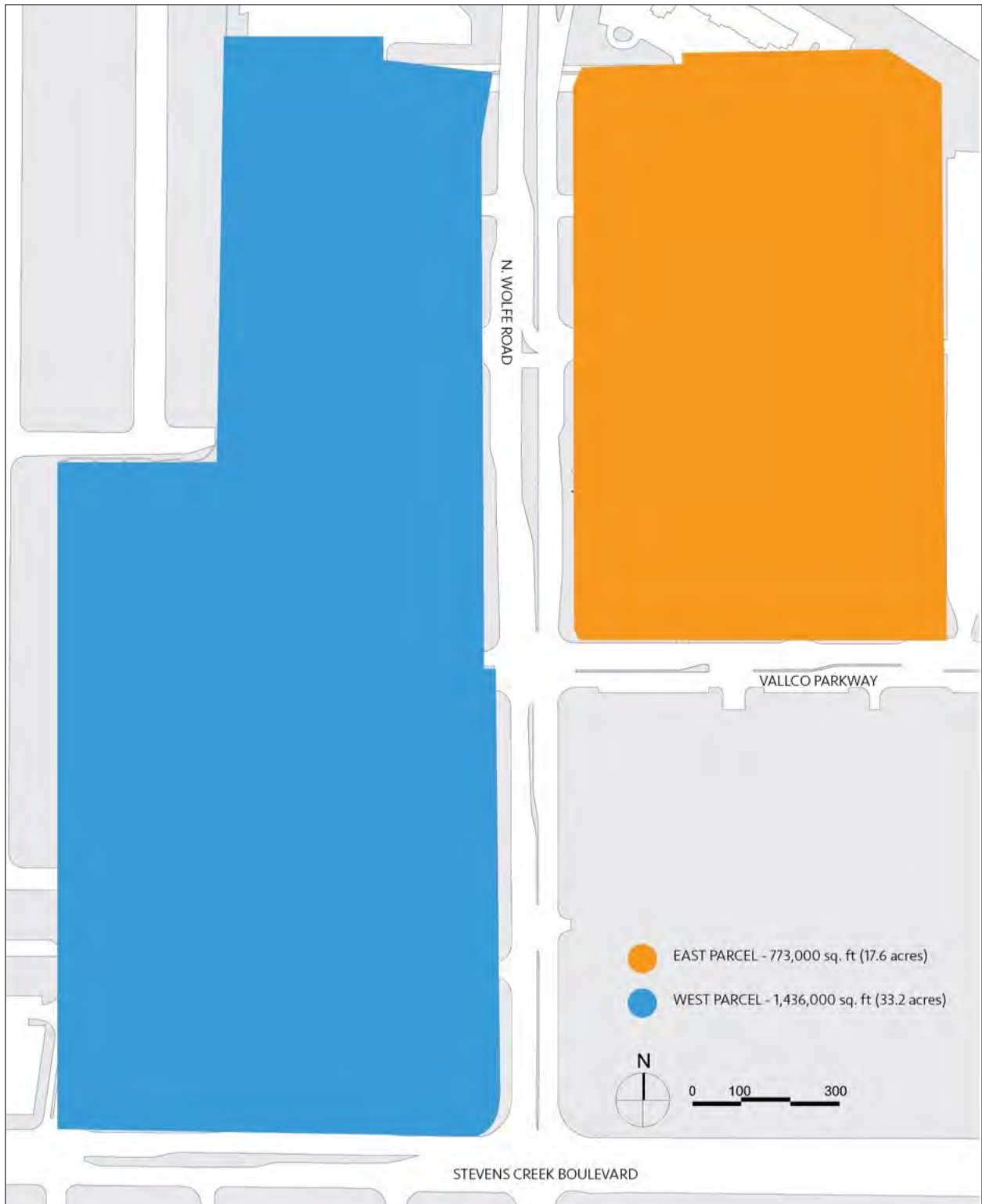


Figure 10. Map and areas of The Hills at Vallco sites.

Site Description

The parcels that will be combined to create The Hills at Vallco currently contain the existing Vallco Shopping Mall, inclusive of its anchor stores, parking structures, and pad buildings. They are all located within the Vallco Shopping District Special Area as designated in the General Plan for Cupertino, which describes the area as a major regional and community destination, envisioned to become a new mixed-use town center and gateway for Cupertino.

West of Wolfe Road

This site is bounded by Stevens Creek Boulevard on the south, Wolfe Road on the east, and the outside edge of Perimeter Road on the west and north (of which it is inclusive). It contains three buildings, including the primary mall building (with two anchor stores, formerly Macy's and Sears), an automotive center, and a restaurant building, and two parking structures.

10101 Wolfe Road

APNs: 316-20-080 and 316-20-081

10123 Wolfe Road

APNs: 316-20-105, 316-20-106 and 316-20-107

10333 Wolfe Road

APNs: 316-20-101

Site Area: 33.2 acres

East of Wolfe Road

This site is bounded by Vallco Parkway to the south, Wolfe Road to the west, and Perimeter road to the north and east (of which it is inclusive). It contains two buildings, including the secondary mall building (with one anchor store, JC Penney's) and one parking structure

10150 Wolfe Road

APNs: 316-20-094 and 316-20-095

2074 Vallco Parkway

APN: 316-20-100

Site Area: 17.6 acres

Note: 10333 North Wolfe Road, APN: 316-20-088

This site is owned by Wolfe Properties, LLC and is currently utilized as existing Vallco Shopping Mall parking under an Operation and Reciprocal Easement Agreement. It will not be developed, but will be available as parking for The Hills at Vallco under the agreement. It is bounded by the Wolfe Road off-ramp from southbound Hwy. 280 on the North and East, by the northernmost edge of Perimeter Road on the South, and the Portal Neighborhood on the West.

Block Description

Blocks 1 and 2

Mixed-Use Blocks 1 and 2 are connected at the upper floors across 2nd Street and face Town Square West and Stevens Creek Boulevard. They are comprised of approximately 415,000 square feet of retail, residential, and parking. Block 1 is approximately 470 feet by 205 feet, Block 2 about 555 feet by 205 feet. They house ground floor retail along the retail promenade with residential entry lobbies and ground floor amenities with 16 feet floor to floor height. Above the ground floor are three stories of approximately 130 residential apartments containing a mix of studios, one bedrooms, two bedrooms, and penthouse units. Above-grade parking is located to the rear of the residential units.

There is a below grade parking structure entrance at the mid-point between Block 1 and 2 that permits retail visitors easy and quick access to the parking structure from Perimeter Road

Block 3

Mixed-Use Block 3 faces Town Square West and Stevens Creek Boulevard and is comprised of approximately 160,000 square feet of retail and residential. The approximately 175 feet long by 175 feet wide block houses a ground floor of retail as part of the Retail promenade with a residential entry lobby and ground floor amenity that has a floor to floor height of 16 feet. Above the ground floor are 4 stories of approximately 75 residential apartments containing a mix of studios, one bedrooms, two bedrooms, and penthouse units with various residential amenities.

Block 4

Mixed-Use Block 4 has the prominent face opposite the AMC Theater on Town Square West and is comprised of approximately 400,000 square feet of retail, residential, and parking. The approximately 335 feet long and 175 feet wide block houses ground floor retail as part of the

retail promenade. Ground level residential entrance lobbies, amenities, and retail have a floor to floor height of 16 feet. Above are six stories of approximately 200 residential apartments containing a mix of studios, one bedrooms, two bedrooms, and penthouse units. Planned in this block is an above-grade structured parking to the rear of the residential units.

Blocks 5 and 6

Mixed-Use Blocks 5 and 6 are connected at the upper floors across 6th Street. They are located at the northwest corner at Perimeter Road and are comprised of approximately 310,000 square feet of the most up-to-date entertainment, recreation, sports, and dining. The approximately 920 feet by 175 feet block houses the entertainment and recreation heart, including AMC Theater, bowling alley, ice rink, and fitness center.

The basement parking for Blocks 5 and 6 will be accessible via Perimeter Road.

Block 7

Mixed-Use Block 7 is at the corner of Vallco and Wolfe Road and is comprised of approximately 130,000 square feet of retail, residential, and amenity spaces. The approximately 175 feet by 145 feet block houses a ground floor of retail as part of the retail promenade and a residential entry lobby that has a floor to floor height of 16 feet. Above the ground floor there are four stories of residential apartments containing a mix of studios, one bedroom, two bedroom, and penthouse apartments. Approximately 70 units are planned in this block with various residential amenities such as storage, fitness, and other functions for the local residents.

Block 8

Mixed-Use Block 8 is comprised of approximately 440,000 square feet of retail,

residential, and above grade parking. The approximately 465 feet by 140 feet block houses a ground floor of retail, residential entry lobbies, and amenities that have a floor to floor height of 16 feet. Above the ground floor are six stories of residential apartments containing a mix of studios, one bedrooms, two bedrooms, and penthouse units. Approximately 235 units are planned in this block with structured parking to the rear of the residential units. Market Hall is located at the ground floor on the north side of Block 8.

Block 9

Mixed-Use Block 9 has prime frontage along Wolfe Road, Vallco Parkway, and Town Square West, and is comprised of approximately 360,000 square feet of retail, residential, and offices. The approximately 495 feet by 140 feet block houses ground floor retail and commercial offices with a floor to floor height of 16 feet. Above the ground floor will be six stories of most up-to-date, efficient and flexible Class-A office space with a floor to floor height of 15 feet.

Connecting through Block 9 is the pedestrian Wolfe Road crossing that takes visitors from Town Square West to the roof and to Town Square East across Block 11.

Above the ground floor are 4 to 6 stories of residential apartments containing a mix of studios, one bedrooms, two bedrooms, and penthouse units. The approximate 90 units are mixed with various residential amenities.

Block 10

Mixed-Use Block 10 has prime frontage along Wolfe Road and is comprised of approximately 315,000 square feet of retail and offices. The approximately 405 feet by 140 feet block houses ground floor retail and commercial offices with a floor to floor height of 16 feet. Above the ground floor will be four stories of most up-to-date Class-A office space with a floor to floor height of 15 feet.

Similar to Block 12, Block 10 has two primary entry points to the below-grade parking structure.

Block 11

Mixed-Use Block 11 has prime frontage along Town Square East, Wolfe Road, and Vallco Parkway and is comprised of approximately 265,000 square feet of retail and offices. The approximately 475 feet by 140 feet block houses ground floor retail and commercial offices with a floor to floor height of 16 feet. Above the ground floor will be three stories of most up-to-date, efficient and flexible Class-A office space with a floor to floor height of 15 feet.

Connecting through Block 11 is the pedestrian Wolfe Road crossing that takes visitors from Town Square East to the roof and to Town Square East across Block 9.

Block 11 has an entrance to the underground parking structure serving the office structures and mitigates traffic flow back onto Vallco Parkway.

Block 12

Mixed-Use Block 12 has prime frontage along Town Square East and Wolfe Road and is comprised of approximately 240,000 square feet of retail and offices. The approximately 405 feet by 140 feet block houses ground floor retail and commercial offices with a floor to floor height of 16 feet. Above the ground floor will be three stories of most up-to-date, efficient, and flexible Class-A office space with a floor to floor height of 15 feet.

Block 12 has two entry points to the below-grade parking structure. The first is along Perimeter Road where the decline in grade to go beneath Wolfe Road provides an easy and convenient access point to the parking basement. The at-grade parking exiting along Wolfe Road will assist in providing egress from the parking structure without congesting the Hills at Vallco with cueing vehicles.

Block 13

Mixed-Use Block 13 has prime frontage along Town Square East and Vallco Parkway and is comprised of approximately 330,000 square feet of retail and offices. The approximately 375 feet by 140 feet block integrates ground floor retail and commercial offices with a floor to floor height of 16 feet. Above the ground floor will be five levels of most up-to-date Class-A office space with a floor to floor height of 15 feet that is flexible for a multitude of tenant fit-outs and different leasing configurations.

integrates ground floor retail and parking with a floor to floor height of 16 feet. Above, there are eight parking levels containing approximately 1,000 cars with a floor to floor height of 10 feet. On the top floors is the Central Plant located, which will be shielded from views from the adjacent neighborhoods.

Block 14

Mixed-Use Block 14 has prime frontage along Town Square East and is comprised of approximately 280,000 square feet of retail and offices. The approximately 260 feet by 140 feet block integrates ground floor retail and commercial offices with a floor to floor height of 16 feet. Above the ground floor will be five stories of most up-to-date Class-A office space with a floor to floor height of 15 feet that is flexible for a multitude of tenant fit-outs and different leasing configurations.

Block 15

Mixed-Use Block 15 has frontage along Vallco Parkway and is comprised of approximately 460,000 square feet of retail and offices. This approximately 490 feet by 140 feet block integrates ground floor retail and most up-to-date Class-A offices with a floor to floor height of 16 feet. Above, there are six levels of Class-A office space with a floor to floor height of 15 feet. This block is adjacent to the transit center serving the offices.

Block 16

Mixed-Use Block 16 is comprised of approximately 390,000 square feet of retail, parking, and central plant spaces. The approximately 425 feet by 140 feet block

Buildings	Mixed-Use
Block 1	Retail, Residential, Amenities, Parking
Block 2	Retail, Residential, Amenities, Parking
Block 3	Retail, Residential, Amenities
Block 4	Retail, Residential, Amenities, Parking
Block 5	Retail, Entertainment, Recreation, Sports, Amenities
Block 6	Retail, Entertainment, Recreation, Sports, Amenities
Block 7	Retail, Residential, Amenities
Block 8	Retail, Residential, Amenities, Parking
Block 9	Retail, Residential, Office, Amenities
Block 10	Retail, Office, Amenities
Block 11	Retail, Office, Amenities
Block 12	Retail, Office, Amenities
Block 13	Retail, Office, Amenities
Block 14	Retail, Office, Amenities
Block 15	Retail, Office, Amenities
Block 16	Retail, Parking, Amenities, Central Plant

Data Table

Site Information		
Site Area (acres)	50.8 acres	
Site Net Area (acres)	to be determined	in collaboration with Cupertino
Site Coverage (percent)	to be determined	in collaboration with Cupertino
Total Hardscape Area (acres)	to be determined	in collaboration with Cupertino
Total Softscape Area (acres)	to be determined	in collaboration with Cupertino
Accessible Open Space Area (acres)	30 acres	
Entitlements and Planning		
General Plan Land Use Designation	Commercial, Office, Hotel, Residential	
Zoning Designation	Specific Plan, Conformance Zoning	
General Plan Special Area	Vallco Shopping District	adjacent to Heart of the City and South Vallco Park Gateway
Proposed Uses	Commercial, Office, Residential, Civic, Open Space, Amenities	
Hours of Operation	to be determined	
Number of Employees	to be determined	
Parking Spaces	9,175	total per Cupertino Zoning Code
Basement Parking	6,000	included in total spaces
LEED Goal	Platinum	Cupertino requires Silver
Number of Existing Trees	894	
Number of Retained Trees	522	
Number of Protected Trees	6	all 6 to be transplanted on site
Number of Proposed Trees	1,807	including retained trees
Site Grade Elevations (feet above sea level)	175' - 195'	following existing topography
Soil Excavation/Off-Haul (cubic yards)	2,200,000	
Top Soil Import (cubic yards)	168,000	

Building Information		
Program Allocation		
Commercial and Civic Area (square feet)	625,000	family friendly retail and entertainment, including restaurants, shops, AMC Theater, ice rink, bowling alley, community center, high school Innovation Center, transit center, or public amenities
Market Rate Apartments	680	10 % studios
Below Market Rate Apartments	80	40 % one bedroom
Senior Apartments	40	10 % one bedroom + den
		38 % two bedroom
		2 % penthouse
Office Area (square feet)	2,000,000	potential for incubators, start-ups, emerging, or established Silicon Valley companies
Hotel Rooms	0	148 rooms are existing in Vallco Shopping District
Ancillary and Amenity Program		
Residential and Office Amenities Area (square feet)	200,000	fitness center, conference center, cafeteria, atrium, pedestrian bridge, transit center, or rooftop amenity spaces
Testing and Workshop Area (square feet)	175,000	office support spaces
Central Plant Area (square feet)	35,000	
Loading, Facility and Security Management Area (square feet)	75,000	
Building Heights		
West of Wolfe Road Building Blocks	0' Perimeter Road 80' center of site 70' Wolfe Road	83' - existing AMC Theater height at Wolfe Road
East of Wolfe Road Building Blocks	60' Wolfe Road 110' Hwy. 280	
Rooftop Open Space Amenity Spaces	single level pavilions in select locations	

Acknowledgements

Owner

Vallco Property Owner, LLC

Architect

Rafael Viñoly Architects

Landscape Architect

OLIN Partnership, LTD.

Civil Engineer

Sandis Civil Engineers Surveys Planner, Inc.

Transportation Engineer

ARUP North America, LTD.

Parking Planner

Watry Design, Inc.

Masterplan Consultant

Wolfgang Wagener

Retail Consultant

MRA International, Inc.

Open Space Consultant

HR&A Advisors, Inc.

School Consultant

SCI Consulting

Economic Impact Consultant

Keyser Marston Associates

Connectivity Consultant

Nelson Nygaard Consulting

Greenhouse Gas Emissions Consultant

Ramboll Environ

Recycled Water Consultant

Luk and Associates

Structural Engineer

Nabih Youssef Associates

Consulting Structural Engineer

DCI Engineers

Mechanical Engineer

ME Engineers

Climate Responsive Design Consultant

Transsolar

Sustainability Consultant

ARUP

LEED Consultant

Brightworks

THE HILLS AT VALLCO DRAFT EIR PROJECT DESCRIPTION

The attached Draft EIR Project Description (December 8, 2015) was a working draft by the City and its consultants for The Hills at Vallco EIR. The CEQA process (including the finalization of the EIR project description) was placed on-hold indefinitely due to the Initiative. For this reason, the attached project description is in draft form.

SECTION 1.0 PROJECT INFORMATION

1.1 PROJECT LOCATION AND EXISTING DEVELOPMENT/USES

The approximately 58-acre Specific Plan area consists of multiple parcels¹ and is located at the North Wolfe Road/Vallco Parkway and North Wolfe Road/Stevens Creek Boulevard intersections in the City of Cupertino. The Specific Plan area is developed with the Vallco Shopping Mall. Regional and vicinity maps of the Specific Plan area are shown on Figures 1.1-1 and 1.1-2, respectively.

The western portion of the Specific Plan area, west of North Wolfe Road, is approximately 38 acres in size and bounded by Interstate 280 (I-280) to the north, North Wolfe Road to the east, Stevens Creek Boulevard to the south, and Perimeter Road to the west. The western portion of the Specific Plan area is currently developed with several buildings: a primary mall building which connects two former anchor stores (Macy's and Sears), a fitness gym (a satellite building formerly a Sears Auto Center), a satellite restaurant building (formerly TGI Fridays), three parking structures, and surface parking lots.

The eastern portion of the Specific Plan area, east of North Wolfe Road, is approximately 19 acres in size and bounded by I-280 to the north, Perimeter Road to the east, Vallco Parkway to the south, and North Wolfe Road to the west. The eastern portion of the Specific Plan area is developed with a secondary mall building with an ice skating rink, bowling alley, and one anchor store (JCPenney), mall retail shops, food court, a satellite restaurant building (Alexander's Steakhouse), a parking structure, and surface parking lots. A 148-room hotel was recently approved on the northern portion of the eastern portion (Hyatt House Hotel²) on land owned by KCR Development (refer to Figure 1.1-3).

An enclosed, pedestrian bridge connects the mall buildings on the east and west sides of North Wolfe Road. The enclosed bridge consists of retail shops on either side of an enclosed pedestrian walkway.

An aerial photograph of the Specific Plan area and the surrounding land uses is shown on Figure 1.1-3. The surrounding land uses include residential and commercial uses to the west; a freeway (I-280), hotel, residential, and office uses to the north; commercial, office, and residential mixed-uses to the east; and commercial uses to the south.

¹ Assessor Parcel Numbers: 316-20-080, -081, -082, -088, -092, -094, -095, -099, -100, -101, -103, -104, -105, -105, and -107.

² Application Nos. DP-2014-04, ASA-2014-06, U-2014-04, EXC-2014-07, TR-2014-28, TR-2014-40.

1.2 EXISTING GENERAL PLAN AND ZONING DESIGNATIONS

The City of Cupertino is organized into 21 General Plan “Planning Areas,” consisting of nine “Special Areas” and 12 “Neighborhoods.” The Vallco Shopping District Special Area is the Specific Plan area. The Vallco Shopping District Special Area is designated as *Commercial/Office/Residential* in the City’s Land Use Map. The *Commercial/Office/Residential* land use designation applies to mixed-use areas that are predominantly commercial and office uses. Supporting residential uses may be allowed to offset job growth, to better balance the citywide jobs to housing ratio, and when they are compatible with the primarily non-residential character of the area. Development, both residential and non-residential, is subject to the numerical caps and other policies in the City’s General Plan.

The Vallco Shopping District is also identified as a Priority Housing Element Site (Site A2) with 389 units allocated to the site in the General Plan Housing Element. Assuming a Specific Plan for the site is adopted by May 31, 2018, pursuant to General Plan Housing Element Strategy 1, the Vallco Shopping District is allocated 1.2 million square feet of commercial uses (which consists of a minimum 600,000 square feet of retail uses, of which a maximum of 30 percent may be entertainment uses), 2.0 million square feet of office uses, 339 hotel rooms, and 389 residential dwelling units as specified in the City’s Housing Element. Pursuant to General Plan Strategy LU-1.2.1, development allocations may be transferred between Planning Areas provided no significant environmental impacts are identified beyond those already studied in the Community Vision 2040 Final EIR (SCH# 2014032007).³

The Specific Plan area is zoned *P(Regional Shopping) – Planned Development Regional Shopping* north of Vallco Parkway, and *P(CG) – Planned Development General Commercial* south of Vallco Parkway (west of North Wolfe Road).

³ Community Vision 2040 Final EIR analyzed the development of up to 1.2 million square feet of commercial uses, 2.0 million square feet of office uses, 339 hotel rooms, and 800 residential dwelling units within the Vallco Shopping District area. There is residential allocation available in other Planning Areas which may be transferred to the Vallco Shopping District without the need to amend the General Plan.

1.3 BACKGROUND INFORMATION

In the 1960s, 25 Cupertino families and property owners came together to develop the overall scheme for the 300-acre business park known as Vallco Park. The name “Vallco” was constructed from the first initials of each of the primary developers: Varian Associates and the Leonard, Lester, Craft, and Orlando families. This included properties to the north and south of I-280 – currently both the North Vallco Park Planning Area, South Vallco Park Planning Area, and the Vallco Shopping District.

Ten years later, Vallco Shopping Mall was established as an approximately 50-acre retail component within the larger 300-acre business park. Vallco Shopping Mall opened under the brand Vallco Fashion Park in September 1976. When it was opened, Vallco Fashion Park was one of the largest shopping malls in Silicon Valley, drawing visitors from throughout the region. Vallco Shopping Mall thrived from the mid-1970s to the mid-1980s.

By the mid-1980s, Vallco Shopping Mall had begun to suffer from the inability to respond to the changing demands of consumers and markets. Constraining factors included fragmented ownership, reciprocal real estate agreements that restricted improvements unless agreed upon by all owners, outdated infrastructure, inefficient parking layout, closure of anchor stores, and regional and sub-regional competition.

Occupancy began to deteriorate at an accelerated rate in the 1990s and mall tenancy and quality of tenants continued steadily declining into the mid-2000s. In the early 1990’s the mall had tried to increase the mall occupancy by adding tenant space in the basement of the mall structure, however, by the mid 2000’s due to the undesirability of these spaces, the mall boarded off access to this area of the mall. In 2015, occupancy has dwindled to the point where vacant and papered storefronts outnumber active storefronts. A handful of mall tenants, including AMC Theater, have continued to perform well even throughout Vallco Shopping Mall’s leanest years.

In December 2014, the City Council adopted new General Plan goals, policies, and strategies specifically relating to the Vallco Shopping District Special Area, within which Vallco Shopping Mall is located. The City envisions a complete redevelopment of Vallco Shopping Mall site into a “vibrant mixed-use town center” that is a focal point for regional visitors and the community.⁴ To realize this community vision, the General Plan “requires a master developer in order to remove the obstacles to the development of a cohesive district.”⁵

In December 2014, Sand Hill Property Company assembled approximately 50 acres within the Vallco Shopping District. The remaining seven acres within the Vallco Shopping District are owned by SIMEON and KCR Development. In October 2014, the City Council approved the development of a 148-room, five-story hotel on the KCR Development property.⁶

⁴ City of Cupertino. *Cupertino Community Vision 2040*. December 4, 2014. Page LU-54.

⁵ General Plan Strategy LU-19.1.1.

⁶ Application Nos. DP-2014-04, ASA-2014-06, U-2014-04, EXC-2014-07, TR-2014-28, TR-2014-40.

1.4 PROJECT DESCRIPTION

The proposed project consists of two components: 1) the Vallco Shopping District Specific Plan and 2) The Hills at Vallco project. These two components are described in detail below.

1.4.1 Vallco Shopping District Specific Plan

[Note to City: This section to be completed pending submittal of Specific Plan, which will include assumptions for the SIMEON parcel]

1.4.2 The Hills at Vallco Project

The Hills at Vallco is a redevelopment project proposed on the southern 50 acres of the Specific Plan area (hereinafter referred to as the “project site”). Development of the northern seven acres of the Specific Plan area is not proposed as part of The Hills at Vallco project.⁷

The Hills at Vallco project would include demolishing the existing buildings (mall, fitness gym, and restaurant buildings) and parking facilities on-site and removing the existing pattern of internal driveways and constructing a mixed-use “Town Center” with up to 650,000 square feet of commercial uses (including retail, restaurant, event, entertainment, and fitness uses),⁸ 2.0 million square feet of office uses, and 800 residential units. The proposed office and residential uses would include additional amenity space, which is described in *Section 1.4.2.1* below. In addition, approximately 40,000 square feet of civic/community space is proposed.

The Hills at Vallco project includes 411 more residential units than allocated to the Vallco Shopping District area in the City’s Housing Element. However, the City’s General Plan has additional housing units available in other Planning Areas that are not allocated to specific Housing Element sites. Pursuant to General Plan Strategy LU-1.2.1, development allocations may be transferred among Planning Areas provided no significant environmental impacts are identified beyond those already studied in the Community Vision 2040 Final EIR (SCH# 2014032007). While the General Plan Housing Element allocation for the site is 389 units, the Community Vision 2040 Final EIR analyzed the development of up to 800 residential dwelling units on the site and there is adequate allocation in the General Plan to consider 411 additional units.

The Hills at Vallco project would consist of a 16-block layout of buildings, two central town square plazas, and open space along a system of surface streets with the proposed land uses mixed both vertically and horizontally. For all the blocks, the ground floor level would include retail uses and the upper floors would have commercial (including entertainment), residential, and/or office uses. In Blocks 9-16, office uses would also occupy the ground floor level. A map showing the blocks and proposed uses for each block is shown on Figure 1.4-X.

⁷ The northern seven acres consists of two parcels, one owned by SIMEON and the other by KCR Development. A 148-room hotel (Hyatt House Hotel) was recently approved on the two-acre parcel owned by KCR Development.

⁸ The total 650,000 square feet of proposed commercial uses would be broken down as follows: a minimum of 420,000 square feet would be retail/restaurant uses, food establishments, and limited personal services; 180,000 square feet of which could be entertainment uses, and 50,000 square feet could be fitness uses.

It is intended that blocks at the southwest corner of the project site (Blocks 1-4, 7, and 8) would consist of a mix of commercial and residential uses. Blocks 5 and 6 at the northwest corner of the development site are proposed for commercial uses, including entertainment and retail uses (including a movie theater, bowling alley, fitness center, and ice rink). Block 9 would consist of a mix of commercial, office, and residential uses. Blocks 10-15 would consist of a mix of commercial and office uses. Block 16 would consist of commercial uses and a Central Plant, which is discussed in detail under *Utility Improvements*.

The proposed building heights would be within the maximum building heights identified for the Vallco Shopping District Specific Plan. Buildings on the western portion of the site, on the west side of North Wolfe Road, would be up to seven stories tall with a maximum building height of 80 feet. The green roof on the western portion of the site would be up to 92 feet above ground level, with rooftop buildings up to 102 feet above ground level. Buildings on the eastern portion of the site, on the east side of North Wolfe Road, would be up to nine stories tall with a maximum building height of 109 feet. The green roof on the eastern portion of the site would be up to 116 feet above ground, with rooftop buildings up to 131 feet above ground.

The proposed building setbacks would be within the setbacks in the proposed Specific Plan. Buildings would be setback at least 35 feet from the curb on Stevens Creek Boulevard, at least 25 feet from the curb on Vallco Parkway, at least 41 feet from the predominate curb line on North Wolfe Road, and at least eight feet from the curb on Perimeter Road.

The Hills at Vallco project includes common open space (including two town squares totaling approximately three acres and a 30-acre green roof) and landscaping, utility and transportation infrastructure improvements, and school improvements. The proposed land uses and these other project components are described below. A summary of the proposed project is provided in Table 1.4-1 at the end of this section.

1.4.2.1 *Land Uses*

Commercial Uses

The Hills at Vallco proposes 650,000 square feet of commercial uses on-site in the following categories:

- 600,000 square feet would be retail/restaurant/event/entertainment uses, of which:
 - 420,000 square feet would be retail/restaurant uses including large and small retail stores, food establishments and limited personal services; and
 - 180,000 square feet of which could be entertainment uses such as a movie theater (AMC Theater), ice rink, and bowling alley.
- 50,000 square feet of indoor fitness uses.

Office Uses

Two million square feet of “Class-A” office space, including ancillary amenity spaces consisting of fitness centers, shower and changing facilities for employees, a conference/event center, and cafeterias, is proposed on-site. There would be an additional 345,000 square foot office amenity space including:

- A 20,000 square foot conference hall on the green roof,
- A 15,000 square foot cafeteria/fitness center on the green roof,
- 175,000 square feet of testing and workshop area distributed throughout Blocks 11-16, and
- 135,000 square feet of meeting facilities, atrium, and other amenity spaces distributed throughout Blocks 11-16.

Residential Uses

The Hills at Vallco would include 800 residential units consisting of 680 market-rate apartments, 80 below-market rate apartments, and 40 market-rate senior apartments. The residential uses would include in-building amenities such as fitness, clubhouse, small format meeting rooms, resident lounges, multi-media rooms, communal kitchens, and bike rooms within the residential mixed use building. An additional 25,000 square feet of ancillary amenity space for the residential uses is proposed on the green roof and would include a fitness center, clubhouse, and pool.

Other Uses

Civic/Community Uses

The Hills at Vallco would include approximately 40,000 square feet of civic/community uses including an approximately 20,000 square foot community serving banquet hall on the green roof, an approximately 10,000 square foot high school “Innovation Center” located on the western portion of the site, approximately 5,000 square feet of civic meeting space located on the western portion of the site, and an approximately 5,000 square foot building for the “Multi-Modal Transit Center.” The high school Innovation Center is described in more detail in *Section 1.4.2.6* and the Multi-Modal Transit Center is described in more detail in *Section 1.4.2.5*.

Loading and Facility Management Uses

The Hills at Vallco would include approximately 75,000 square feet of loading, storage, facility, and security management space integrated into each block to serve the retail, office, and residential uses on-site.

1.4.2.2 *Common Open Spaces and Landscaping*

Town Squares

The Hills at Vallco would include two town squares: Town Square West on the west side of North Wolfe Road and Town Square East on the east side of North Wolfe Road (refer to Figure 1.4-X). Town Square West would be approximately 1.8 acres in size and Town Square East would be approximately 1.1 acres in size. Both town squares would be programmable green space that would act as a civic/community amenity and park.

Town Square West would be designed with a lawn, enhanced hardscape, landscaping (including trees), and seating that would create a gathering space for outdoor events such as concerts, cultural events, outdoor performances, and movies. These areas would be surrounded by hardscape that could also host events and festivals or serve as exterior dining or social space. The applicant proposes to have the flexibility to close some of the streets around the Town Square West to host events and festivals.

Town Square East would be an open green space area that would serve as an amenity for the surrounding retail and office blocks. Town Square East would include public open space features such as a water feature, landscaping (including trees), and seating.

Direct pedestrian access to the below-ground parking garages would be provided from both town squares.

Green Roof

The Hills at Vallco project would include a 30-acre green roof. The topography of the green roof would vary and expand over the tops of the buildings on-site, and would eventually come to existing grade at the western boundary of the site at Stevens Creek Boulevard. The green roof would include landscaping and active and passive open spaces. The rooftop landscaping would consist of native and/or drought tolerant species such as native oak trees, manzanita, needlegrass, and native sedges. Not all areas of the green roof would be accessible to the public. The proposed green roof would consist of the following five open space areas:

1. **Oak Grove** – The oak grove would be located on the western edge of the site and would provide at-grade public pedestrian access to the green roof from Stevens Creek Boulevard. This edge would be planted with canopy trees that would serve as a visual buffer to the adjacent residential neighborhood.
2. **Community Activities** – The community activities would be located in the center of the green roof and include active programmatic uses including a large play space and garden for children, community meeting spaces, and amphitheater and performance spaces. Amenities such as a café and wine bar may also be located within this area.
3. **Vineyards** – The vineyards would be located in the northeastern portion of the roof and would include trails, as well as gathering and performance spaces.

4. Orchards – The orchards would include fruit trees and be located on the roof at the northwest corner of Stevens Creek Boulevard and Wolfe Road. It is envisioned that the orchards, together with the vineyards, would provide the community with agricultural-related educational and seasonal activities.
5. Nature Preserve – The nature preserve would be located on the eastern and western portions of the roof. The nature preserve would include open areas, landscaping, and trails, as well as stormwater treatment control measures.

The green roof would include nine pavilions totaling approximately 115,000 square feet at various locations on the roof (see Figure 1.4-X). These pavilions would serve a variety of purposes and would be for community use, retail use, residential use, or office use.

Much of the green roof would be accessible to the general public. Some areas, however, would be limited to the residents and office employees. The building square footages on the green roof would be allocated as follows:

- A total of 35,000 square feet for commercial uses (i.e., 5,000 square foot wine tasting area, 20,000 square feet of retail pavilions, and a 10,000 square foot fitness area);
- 35,000 square feet for office uses (20,000 square foot conference hall and 15,000 cafeteria/fitness area); and
- 25,000 square feet for residential uses (e.g., fitness center, clubhouse, and pool)
- 20,000 square feet for a civic/community banquet hall.

The proposed open space areas and amenities on the green roof are shown on Figure 1.4-X.

Landscaping

Most of the landscaping on-site would be on the green roof, with additional landscaping in the town squares and along the perimeter of the site and internal streets. The Hills at Vallco project would preserve over 500 existing trees on-site and plant approximately 900 new trees on-site. The landscaping and trees on-site would be irrigated with non-potable water from sources such as municipal recycled water or on-site greywater and stormwater capture. Conceptual landscape plans are shown on Figures 1.4-X – X.

1.4.2.3 Site Access, Circulation, and Parking

Vehicular Access and Parking

As shown on Figure 1.4-X, vehicles would access the site from driveways on Stevens Creek Boulevard, Perimeter Road, Vallco Parkway, and North Wolfe Road. The Hills at Vallco would be designed with a grid street pattern within the site, with Avenues A through D running north to south and 1st through 7th Streets running east to west.

The Hills at Vallco would provide parking in accordance with the City’s Municipal Code parking regulations outlined in Municipal Code Chapter 19.124. It is estimated that the project would include a total of approximately 9,175 parking spaces, which would be provided in a below-ground parking structure, on-street, and above-ground parking structures with a parking guidance system that would direct vehicles to available parking spaces. Access to the parking facilities would be provided from North Wolfe Road, Perimeter Road, and proposed internal streets, as shown on Figure 1.4-X.

Below-Ground Parking Structures

Parking for the proposed commercial uses, as well as some residential and office uses, would be provided in two large underground parking garages connected by a tunnel. The underground parking garages would be located under the entire project site and would include approximately 6,580 parking spaces. The below-ground parking garage on the west side of North Wolfe Road would be one level and the below-ground parking garage on the east side of North Wolfe Road would be two levels. A new tunnel under North Wolfe Road would be constructed to allow vehicular circulation between two below-ground parking garages.

On-Street Parking and Above-Ground Parking Structures

The remaining 2,595 parking spaces would be provided on streets within the project site and in above-ground parking structures. The on-street parking on-site is proposed to be short-term parking. Long-term parking for the proposed residential and office uses would be provided in designated parking structures that would be integrated into the blocks where the uses are proposed (Blocks 1, 2, 4, 8, and 16).

The parking facilities on-site are shown on Figures 1.4-X – X.

Transit Access

The proposed transit circulation for The Hills at Vallco is shown on Figure 1.4-X. As part of The Hills at Vallco, the existing VTA bus stops on Stevens Creek Boulevard, Wolfe Road, and Vallco Parkway would be improved by providing duck-outs and enhanced bus shelters per VTA recommendations and lengthening the stops where necessary to accommodate multiple buses at one time. It is intended that the existing bus stop on the north side of Stevens Creek Boulevard between Wolfe Road and Perimeter Road would function as part of the proposed “Multi-Modal Transit Center” where the proposed community shuttle (described below under *Infrastructure Improvements*), VTA buses (specifically bus route 23 and 323), future Bus Rapid Transit, corporate shuttles, and sharing economy transportation services (e.g., rideshare, bikeshare, and Zipcar) would stop. It is envisioned that the Multi-Modal Transit Center would be an information center, drop-off point, bike sharing distribution point, and stop for the community shuttle and other forms public transit.

In addition, The Hills at Vallco would include dedicated curbside areas for commuter shuttles and a complementary community shuttle (in coordination and partnership with the City, VTA, and corporate employers) near the intersection of Vallco Parkway and Perimeter Road. The proposed

transportation infrastructure improvements are described in more detail below in *Section 1.4.2.5* below.

Bicycle Access

The proposed bicycle facilities on-site are shown on Figure 1.4-X. Bicycle facilities, including bike trails and Class I-III bikeways, would follow the proposed street grid pattern. The proposed bicycle facilities on-site would connect to the existing bikeways on North Wolfe Road, Vallco Parkway, and Stevens Creek Boulevard. Within the project site, bike improvements such as bike lanes painted green, bike lane sharing arrows (sharrows), and bike boxes are proposed.⁹ A shared use path for bicyclists and pedestrians is proposed on Perimeter Road.

Short-term bicycle parking racks would be provided in areas accessible to the public and other users of the site. In addition, bicycle lockers, indoor bicycle parking, and charging areas for electric bicycles would be provided throughout the project site. Bicycle repair stations, which would include tools necessary to perform basic bike repairs and maintenance such as bike pumps and work stands, are also proposed throughout the site. Within the proposed mixed-use office buildings, showers and changing facilities for office employees would be provided. A bike hub is proposed on the western portion of the project site and would include community space, bike repair services, and retail services operated by a third party vendor.

Pedestrian Access

The proposed pedestrian facilities on-site are shown on Figure 1.4-X. All pedestrian connections and facilities would meet Americans with Disabilities Act (ADA) accessibility standards.

Pedestrian sidewalks would follow the proposed street grid pattern. To accommodate the proposed bicycle lanes and designated commuter shuttle curbside stop areas on Perimeter Road, the sidewalks on the opposite side of the development site on Perimeter Road would be reconfigured. The Hills at Vallco project includes replacing the existing enclosed bridge over North Wolfe Road with a pedestrian bridge that would connect the town squares East and West (refer to Figure 1.4-X).

Pedestrians would be able to access the proposed green roof from the town squares, at the intersection of Perimeter Road and Stevens Creek Boulevard, and near the intersection of North Wolfe Road and Vallco Parkway. Figure 1.4-X shows the pedestrian access points to the green roof, as well as the meandering pedestrian pathways on the roof. In addition, the proposed green roof would also connect across North Wolfe Road above the pedestrian bridge. The project also would include pedestrian connections to the two properties north of Perimeter Road (the SIMEON property and the KCR Development/Hyatt House property) and the future I-280 trail.

⁹ A bike box is a designated area at the head of a traffic lane at a signalized intersection that provides bicyclists with a safer and more visible way to get in front of queuing traffic during the red signal phase.

Transportation Demand Management Program

The Hills at Vallco includes a Transportation Demand Management (TDM) program to encourage alternative modes of transportation to single-occupancy vehicle trips. Specifically, the TDM program may include trip reduction features such as:

- Carpool, carshare, and rideshare;
- Complementary community shuttle in coordination and partnership with the City, VTA, and corporate employers;
- Bicycle repair stations, hub, parking, and wayfinding features on-site;
- Shower and changing facilities for office employees on-site;
- A Multi-Modal Transit Center on-site that supports carpool, carshare, and rideshare programs;
- Electric vehicle parking on-site; and
- Financial incentives for future tenants and employees to walk, bicycle, or take transit.

1.4.2.4 Utility Improvements

Central Plant

The Hills at Vallco includes a “Central Plant” at the northern portion of Block 16, adjacent to I-280. The Central Plant would provide centralized heating and cooling to the project. The Central Plant would consist of a 10,000 ton condenser water system which would serve as a heat sink/source for individual water cooled HVAC systems throughout the development. In addition, a 16,000 ton per hour ice plant would be used for off hour thermal storage.

The Central Plant would contain cooling towers in the upper stories of the parking structure on the northeast corner of the project site. The Central Plant would house conventional cooling and heating equipment including a boiler plant, a pump house, and switchgear. The heat pumped water for heating and cooling of the buildings on-site would be distributed throughout the site from the Central Plant via piping installed in the below-ground parking area.

Emergency Back-Up Generators

The project includes back-up generators to power the site in the event of a power outage. It is anticipated that the project would include 20 back-up building generators and two back-up parking garage generators.

Storm Drain

Currently, there is an existing storm drain line that runs north down North Wolfe Road and cuts through a portion of the project site. The Hills at Vallco would redirect the existing stormwater drainage on North Wolfe Road to flow to Vallco Parkway (instead of through the project site) and then east down Vallco Parkway to the intersection with Perimeter Road. A new public storm drain is proposed to be installed in Perimeter Road in the public utility easement for discharge into the Santa

Clara Valley Water District Junipero Serra Channel located along I-280. All existing laterals and catch basins at the project site are proposed to be reconnected to this new line. Figure 1.4-X shows the existing and proposed storm drain system serving the project site.

Sanitary Sewer

Currently, there is an existing sewer main that runs north on North Wolfe Road and cuts through a portion of the project site. The Hills at Vallco would reroute the main that flows north in North Wolfe Road to flow to Vallco Parkway to the intersection with Perimeter Road. A new sewer main is proposed in Perimeter Road within the public utility easement. The new pipe in Perimeter Road would be connected to a pipe system that crosses I-280. All existing laterals in Vallco Parkway are proposed to be reconnected to the new sewer main in Perimeter Road.

The existing pipe that crosses I-280 is not of sufficient size to serve the proposed development. The existing sewer main line would need to be upsized, or a parallel pipe system would need to be installed, in order to provide adequate sewer for the development and other properties currently served by the main. Upsized (or parallel line) would need to extend from Perimeter Road, across I-280, north on North Wolfe Road to the intersection of Pruneridge Ave. Sizing and extent of improvements are dictated by the Cupertino Sanitary District's sewer model. Figure 1.4-X shows the existing and proposed options (upsizing and parallel line) for sewer service for the project site.

Water

Currently, there is an existing water main that runs north to south in North Wolfe Road and enters the project site. The Hills at Vallco would reroute the main line that runs down North Wolfe Road and direct it to new main lines in Perimeter Road. These new main lines would be reconnected to the water main in I-280. All building fire water is proposed to be served by the new water mains in Perimeter Road. Figure 1.4-X shows the existing and proposed water lines serving the project site.

Recycled Water

Recycled water infrastructure is currently being extended to serve the planned Apple Campus 2 and Hamptons Apartments project north of the project site. The project includes the extension of the recycled water infrastructure approximately 0.8 miles from Pruneridge Avenue, under I-280 to the project site. Recycled water would be used on-site for irrigation and heating and cooling systems.

Other

The Hills at Vallco would connect to existing underground gas lines, communication lines, and electric lines in the project area. **[Note to Applicant: Are any PG&E upgrades required?]**

1.4.2.5 *Transportation Improvements*

Roadway/Vehicular Circulation Improvements

The Hills at Vallco includes a new signalized intersection on North Wolfe Road between Vallco Parkway and the I-280 interchange to allow for left turns into the eastern portion of the project from southbound North Wolfe Road. This intersection would replace the existing on and off ramps from North Wolfe Road to Perimeter Road and would include bicycle and pedestrian crossings at grade across North Wolfe Road. Adaptive traffic signal management improvements (i.e., traffic signal timing upgrades) would also be completed between Stevens Creek Boulevard and I-280 to improve vehicular traffic flow on North Wolfe Road.

The Hills at Vallco would modify the existing Perimeter Road tunnel to provide adequate height clearance for service vehicles, trucks, and emergency vehicles and to build an additional tunnel under North Wolfe Road to connect the parking basements on the east and west sides of North Wolfe Road.

Transit Improvements

The project proponent proposes to coordinate and partner with the City, VTA, and corporate employers to fund a complimentary community shuttle for Cupertino residents and employees with stops at key locations within the City including, but not limited to, the library, Civic Center, Memorial Park, De Anza College, local high school(s), and Apple Campus 2.

The Hills at Vallco includes the improvement of the existing VTA bus stops on Stevens Creek Boulevard, North Wolfe Road, and Vallco Parkway by constructing bus duck-outs and enhanced bus shelters per VTA recommendations and lengthening the stops where necessary to accommodate multiple buses at one time. The Hills at Vallco would establish a “Multi-Modal Transit Center” where the existing bus stop is currently located on the north side of Stevens Creek Boulevard between North Wolfe Road and Perimeter Road. The Multi-Modal Transit Center would include an approximately 5,000 square foot building, seating areas, information kiosks, and state of the art real-time transit information. A pedestrian entrance plaza to the Transit Center would be located on Stevens Creek Boulevard.

Dedicated curbside areas for commuter shuttles near the intersection of Vallco Parkway and Perimeter Road are also proposed. The dedicated curbside areas would be large enough for several commuter shuttles to load/unload at one time.

Bicycle and Pedestrian Improvements

To facilitate bicycle and pedestrian movement, the Hills at Vallco would restripe and color bicycle lanes on North Wolfe Road from Stevens Creek Boulevard to I-280 where appropriate as determined by the City; improve sidewalks along North Wolfe Road from Stevens Creek Boulevard to I-280 by installing pedestrian-scale lighting and street furniture; and replace the existing, enclosed bridge over North Wolfe Road with an open pedestrian bridge.

1.4.2.6 *School Improvements*

Cupertino Union School District

The Hills at Vallco project includes an education facilities and programs investment for Cupertino Union School District consisting of the following:

- Construction of a new 700-student elementary school at the former site of the Nan Allan Elementary School located at 10255 North Portal Avenue in Cupertino;
- Replacement of all portable/temporary classrooms at Collins Elementary School located at 10300 North Blaney Avenue with permanent classrooms;
- Improvement of school playing fields at the former Nan Allan Elementary School and Collins Elementary School;
- Creation and funding of a \$1 million endowment for the 8th grade Yosemite Science Program; and
- Payment of the required school impact fee pursuant to California Government Code Section 65996.

A conceptual site plan of the improvements at Collins Elementary School and the former Nan Allan Elementary School is shown on Figure 1.4-X.

Fremont Union High School District

The Hills at Vallco project includes an education facilities and programs investment for Fremont Union High School District that includes a new 10,000 square foot, turn-key “Innovation Center” at the development site. The Innovation Center would be a flexible, multi-use space that would be leased to the Fremont Union High School for high school students to build projects in collaboration with the community.¹⁰ The Innovation Center is envisioned to serve as:

- Student-led business incubator;
- Work-based learning initiatives hub;
- Robotics team competition arena;
- Multi-disciplinary brainstorming and prototyping space;
- Centrally-located classroom for students from all five high school campuses within the school district;
- Performance space; and
- Exhibition space.

In addition, the project would pay the required school impact fee pursuant to California Government Code Section 65996.

¹⁰ The project would lease the Innovation Center to the Fremont Union High School District for a term of 34 years at for \$1 per year.

1.4.2.7 *Green Building Measures*

The Hills at Vallco is proposed to be designed and constructed to meet or exceed the requirements of the current 2013 California Green Building Standards Code and the 2013 California Energy Code. It is proposed that The Hills at Vallco achieve LEED Platinum certification. The Hills at Vallco would achieve LEED Platinum by incorporating green building measures including, but not limited to:

- Constructing a 30-acre green roof;
- Incorporating water conservation measures (e.g., utilizing municipal recycled water for landscape irrigation, cooling towers, and toilet flushing; collecting rainwater for irrigation; utilizing drip irrigation for all landscape trees; and installing low-flow and ultra-low flow plumbing fixtures);
- Designing the buildings to utilize natural ventilation and daylight;
- Implementing energy design strategies such as low energy systems, displacement ventilation, LED lighting, load scheduling, and others; and
- Installing on-site photovoltaic systems.

1.4.2.8 *Construction*

It is anticipated that the project would be constructed over five years, commencing in 2017 and concluding in 2022. Staging of construction equipment and vehicles would primarily be on-site with some staging within the public right-of-way for the improvement/construction of the tunnels under North Wolfe Road and the bridge over North Wolfe Road. Details about the construction phasing, demolition, grading, and excavation are provided below.

Phasing

According to the applicant, the demolition of Vallco Shopping Mall and construction of The Hills at Vallco would be phased as follows:

- Phase 1 – The demolition and construction activities would start at the northwestern portion of the development site, in the location of the former Macy’s and Macy’s parking structure. Demolition and construction would occur concurrently on the east side of North Wolfe Road where JCPenney and parking areas are located.
- Phase 2 – Once Blocks 5 and 6 are constructed on the northwest portion of the site, the existing movie theaters (AMC Theater), bowling alley, fitness center, and ice rink would be relocated to the newly constructed mixed-use buildings on these blocks. The construction is planned to be phased this way to minimize disruption in operation for these businesses. Once the movie theaters, bowling alley, fitness center and ice rink are relocated, demolition and construction would continue south towards Stevens Creek Boulevard and on the remaining areas on the east side of North Wolfe Road. The applicant intends to construct the proposed residential mixed-use blocks (Blocks 1-9) in the final phase of the project.

Demolition, Grading, and Excavation

The Hills at Vallco would require demolition of the existing improvements on-site including the large shopping mall that includes basements and retaining walls. Demolition materials including concrete, asphalt, and base rock may be recycled and reused on-site. A concrete crusher would be used on-site and located on the eastern portion of the project site, east of North Wolfe Road.

The site elevations would generally follow the existing topography of the site in order to minimize grading, excavation, and reworking of the existing roads.

The Hills at Vallco would include two large below-ground parking garages. The maximum depth of excavation for the below-ground parking garage on the west side of North Wolfe Road would be approximately 20 feet and approximately 31 feet for the below-ground parking garage on the east side of North Wolfe Road. It is anticipated that approximately 2.2 million cubic yards of soil would be excavated for the proposed below-ground garages and most of the excavated soil would be hauled off-site. The applicant anticipates that the soiled hauled off-site would be used at another construction site within 20 miles of the project site.

Some of the soil excavated is proposed to be used on the green roof and at-grade landscaped areas. It is estimated that 168,000 cubic yards of soil would need to be imported to the site. The imported soil would be used as topsoil on the green roof and mixed with existing soil on-site.

Table 1.4-X: Summary of The Hills at Vallco Project*

Table 1.4-X: Summary of The Hills at Vallco Project*	
Land Use	
Commercial	<p>Total of 650,000 square feet of commercial uses located in all blocks of the project, consisting of:</p> <ul style="list-style-type: none"> • 600,000 square feet of retail/restaurant/event/entertainment uses, of which: <ul style="list-style-type: none"> – A minimum of 420,000 square feet would be retail/restaurant uses including large and small retail stores, food establishments, and limited personal services; and – 180,000 square feet of which could be entertainment uses such as a movie theater, ice rink, and bowling alley. • 50,000 square feet of fitness uses (10,000 square feet of which would be located on the green roof).
Office	<ul style="list-style-type: none"> • A total of 2.0 million square feet of office uses located in Blocks 9-16. • An additional 345,000 square feet of amenity space solely for the office uses including a 20,000 square foot conference hall on the green roof, 15,000 square foot cafeteria/fitness area on the green roof, a total of 175,000 square foot testing and workshop space in Blocks 11-16, and a total of 135,000 square feet of other amenity spaces in Blocks 11-16.
Residential	<p>Total of 800 residential dwelling units located in Blocks 1-4 and 7-9, consisting of:</p> <ul style="list-style-type: none"> • 680 market-rate apartments; • 80 below-market rate apartments; and • 40 market-rate senior apartments.

Table 1.4-X: Summary of The Hills at Vallco Project*

	<ul style="list-style-type: none"> An additional 25,000 square feet of amenity space solely for residents on the roof including a fitness center, clubhouse, and pool.
Civic/Community	<ul style="list-style-type: none"> 20,000 square foot community banquet hall on the green roof, 10,000 square foot high school Innovation Center located in the western portion of the site, 5,000 square foot civic meeting space located in the western portion of the site, and 5,000 square foot “Multi-Modal Transit Center.”
Common Open Spaces/Landscaping	
Town Squares	Approximately 1.8-acre Town Square West and approximately 1.1-acre Town Square East. Both town squares would have programmable green space for community events and activities.
Green Roof	<p>30-acre green roof would include landscaping, active and passive open spaces, and nine pavilions totaling approximately 115,000 square feet. The pavilions would serve a variety of purposes and would either be for community, retail, residential, or office uses.</p> <ul style="list-style-type: none"> Green roof would have five distinct areas: oak grove, community activities, vineyards, orchards, and nature preserve. Much of the green roof would be accessible to the public. The building square footages on the green roof would be allocated as follows: <ul style="list-style-type: none"> A total of 35,000 square feet for commercial uses (i.e., 5,000 square foot wine tasting area, 20,000 square feet of retail pavilions, and a 10,000 square foot fitness area); 35,000 square feet for office uses (20,000 square foot conference hall and 15,000 cafeteria/fitness area); and 25,000 square feet for residential uses (e.g., fitness center, clubhouse, and pool) 20,000 square feet for a civic/community banquet hall.
Landscaping	Most landscaping would be on the green roof with additional landscaping in the town squares and along the perimeter of the site and internal streets.
Access, Circulation, and Parking	
Vehicular Access and Parking	<p>Grid street pattern proposed throughout site with Avenues A-D running north and south and 1st-7th Streets running east and west. Vehicles would be able to access the on-site street network from Stevens Creek Boulevard, Perimeter Road, and North Wolfe Road.</p> <p>Parking would be provided in a large below-ground parking garage, on-street, and at-grade parking structures. Proposed residential and office uses would have designated at-grade parking structures.</p>
Transit Access	Existing bus stops on the project site frontage on Stevens Creek Boulevard, North Wolfe Road, and Vallco Parkway would be improved with duck-outs and enhanced bus shelters per VTA recommendations. The existing bus stop on the north side of Stevens Creek Boulevard between North Wolfe Road and Perimeter Road would function as a “Multi-Modal Transit Center.” Dedicated curbside areas for commuter shuttles are proposed near the intersection of Vallco Parkway and Perimeter Road.
Bicycle Access and Parking	New bike trails and Class I-III bikeways are proposed to follow the street grid pattern on-site. The proposed bicycle facilities would connect to existing bikeways on North Wolfe Road, Vallco Parkway, and Stevens Creek Boulevard. Bicycle parking racks, lockers, and charging areas for electric bicycles are proposed on-site. A bike hub is proposed on the western portion of the site.
Pedestrian Access	New pedestrian trails and sidewalks are proposed to follow the street grid pattern on-site. The existing enclosed bridge over North Wolfe Road would be replaced with a landscaped

Table 1.4-X: Summary of The Hills at Vallco Project*

	pedestrian bridge that would connect the two proposed town squares. The green roof would be accessible from the town squares, at the western site boundary at Stevens Creek Boulevard, and near the intersection of North Wolfe Road and Vallco Parkway.
Transportation Demand Management Program	Encourage alternative modes of transportation by including features such as: <ul style="list-style-type: none"> • Carpool, carshare, and rideshare; • Complementary community shuttle in coordination and partnership with the City, VTA, and corporate employers; • Bicycle repair stations, hub, parking, and wayfinding features on-site; • Shower and changing facilities for office employees on-site; • A Multi-Modal Transit Center on-site that supports carpool, carshare, and rideshare programs; • Electric vehicle parking on-site; and • Financial incentives for future tenants and employees to walk, bicycle, or take transit.
Utility Improvements	
Central Plant	A central heating, ventilation, and air conditioning system for the entire project consisting of a 10,000 ton condenser water system and 16,000 ton per hour ice plant located in Block 16.
Back-Up Generators	20 back-up building generators and two back-up parking garage generators
Storm Drain, Sanitary Sewer, Water	<ul style="list-style-type: none"> • Rerouting the existing stormwater drainage on North Wolfe Road to flow to Vallco Parkway to a new, proposed storm drain line in Perimeter Road. The new storm drain line would discharge into the Junipero Serra Channel. • Rerouting the sewer main that flows north in North Wolfe Road to flow to Vallco Parkway to a new, proposed sewer main in Perimeter Road. The new sewer main would connect to an existing sewer main that crosses I-280. • Rerouting the water main in North Wolfe Road that enters the project site to new water main lines proposed in Perimeter Road. These new water mains would connect to an existing water main in I-280.
Recycled Water	<ul style="list-style-type: none"> • Extending the existing recycled water infrastructure that is located north of the site under I-280, south on North Wolfe Road to Stevens Creek Boulevard.
Transportation Improvements	
Roadway/Vehicular Circulation	<ul style="list-style-type: none"> • Constructing a new signalized intersection on North Wolfe Road between Vallco Parkway and the I-280 interchange. • Modifying the existing tunnel under North Wolfe Road to allow for east-west access for emergency and service vehicles, by providing adequate height clearances. • Building an additional tunnel under North Wolfe Road to connect the proposed parking basements on the east and west sides of North Wolfe Road.
Transit	<ul style="list-style-type: none"> • Funding a complementary community shuttle in coordination and partnership with the City, VTA, and corporate employers. • Improving existing bus stops along the project site frontage. • Designating the existing bus stop on the north side of Stevens Creek between North Wolfe Road and Perimeter Road as a “Multi-Modal Transit Center,” which would include an associated 5,000 square foot building. • Dedicating curbside areas for commuter shuttles near the intersection of Vallco Parkway and Perimeter Road.
Bicycle and Pedestrian	<ul style="list-style-type: none"> • Restriping and coloring bicycle lanes on North Wolfe Road from Stevens Creek Boulevard to I-280.

Table 1.4-X: Summary of The Hills at Vallco Project*	
	<ul style="list-style-type: none"> Improving sidewalks along North Wolfe Road from Stevens Creek Boulevard to I-280 by installing pedestrian-scale lighting and street furniture. Replacing the existing, enclosed bridge over North Wolfe Road with a pedestrian bridge.
School Improvements	
Cupertino Union School District	<ul style="list-style-type: none"> Constructing a new 700-student elementary school located at 10255 North Portal Avenue in Cupertino; Replacing all portable/temporary classrooms at Collins Elementary School with permanent classrooms; Improving the existing play fields at Collins Elementary School; Creating and funding of \$1 million endowment for the 8th grade Yosemite Science Program; and Paying the required school impact fee pursuant to California Government Code Section 65996.
Fremont Union High School District	<ul style="list-style-type: none"> Constructing a 10,000 square foot High School “Innovation Center” on-site available to the High School District for rent for 34 years; and Paying the required school impact fee pursuant to California Government Code Section 65996.
Building and Construction Details	
LEED Platinum (or equivalent)	Incorporate green building measures including, but not limited to, a 30-acre green roof, water conservation measures, building design to utilize natural ventilation and daylight, energy design strategies, and on-site photovoltaic systems.
Demolition and Construction	The existing Vallco Shopping Mall would be demolished. Construction would be phased and the development project is estimated to be completed in a total of five years. Staging of construction equipment and vehicles would primarily be on-site. Approximately 2.2 million cubic yards of soil would be excavated and most of the excavated soil would be hauled off-site. Approximately 168,000 cubic yards of clean soil would be imported to the site.
<p>Note: * This table provides a summary of the main details of The Hills at Vallco project proposal. Refer to the text of the project description (<i>Section 1.4.2</i>) for complete details.</p>	

1.5 PROJECT OBJECTIVES

1.5.1 City Objectives

According to the City’s Community Vision 2040, the City envisions the Vallco Shopping District as a new mixed-use “town center” and gateway for Cupertino. The area will become a primary regional destination for shopping, dining and entertainment, providing the City with additional sales tax revenue generators.

The vision for the site includes an interconnected street grid network of bicycle and pedestrian-friendly streets, more pedestrian-oriented buildings with active uses lining Stevens Creek Boulevard and North Wolfe Road, and publicly-accessible parks and plazas that support a pedestrian-oriented feel of the revitalized area.

New development in the Vallco Shopping District will provide buffers between adjacent single-family neighborhoods in the form of boundary walls, setbacks, landscaping, and/or building transitions.

The project will leverage Cupertino’s centralized location between the Peninsula and South Bay Area, providing travelers with high-quality lodging accommodations. Guests would be located conveniently just steps away from various retail stores and service establishments located along the ground floor. Nearby anchor restaurants would provide opportunities for formal or informal engagements.

The Shopping District will place an emphasis on human scale, providing public spaces and activity nodes that are easily accessible by active modes of travel through an intuitively connected street grid network. High-quality materials and architectural elements will aid in creating a sense of place and enhance the “town center” aesthetic. Pedestrian-oriented buildings differentiated by appropriate street, block and building typology will distinguish public realms, transition areas and areas of open space. This will elicit interest, exploration and interaction from both residents of the new development and visitors alike.

The Vallco Shopping District will provide dwelling units on the upper floors of the mixed-use development above the commercial and active uses on the ground floor. The residential units will bolster the supply of available housing for all socio-economic segments and help the City to meet the identified regional housing need as detailed in the Housing Element of the 2040 General Plan.

The intimate town center environment will appeal to active seniors seeking to improve their quality of life, allowing them to be in close proximity to goods and services.

The allure of reduced commute times, accessibility to public transit and variety of food and entertainment options will attract both employers and professionals to work for the companies occupying the amenity rich office space incorporated into the Town Center.

In summary, the City’s project objectives are to adopt a Vallco Shopping District Specific Plan that will facilitate the following:

- Creation of a new mixed-use Town Center involving complete redevelopment of the Vallco Shopping Mall site; and
- Implement the Goals, Policies and Strategies of the General Plan listed below.

<u>Strategies/ Policies/Goals</u>	<u>Description</u>
Goal LU-19	Create a distinct and memorable mixed-use “Town Center” that is a regional destination and a focal point for the community.
Policy LU-19.1	Create a Vallco Shopping District Specific Plan prior to any development on the site that lays out the land uses, design standards and guidelines, and infrastructure improvements required.
Strategy LU-19.1.1	Redevelopment will require a master developer in order to remove the obstacles to the development of a cohesive district with the highest levels of urban design.
Strategy LU-19.1.2	Parcel assembly and a plan for complete redevelopment of the site is required prior to adding residential and office uses. Parcelization is highly discouraged in order to preserve the site for redevelopment in the future.
Strategy LU-19.1.3	The “town center” plan should be based on complete redevelopment of the site in order to ensure that the site can be planned to carry out the community vision.
Strategy LU-19.1.4	The following uses are allowed on the site: Retail: High-performing retail, restaurant, and entertainment uses. Maintain a minimum of 600,000 square feet of retail that provides a good source of sales tax for the City. Entertainment uses may be included but shall consist of no more than 30 percent of retail uses. Hotel: Encourage a business class hotel with conference center and active uses including main entrances, lobbies, retail, and restaurants on the ground floor. Residential: Allow residential on upper floors with retail and active uses on the ground floor. Encourage a mix of units for young professionals, couples and/or active seniors who like to live in an active “town center” environment. Office: Encourage high-quality office space arranged in a pedestrian-oriented street grid with active uses on the ground floor, publicly-accessible streets and plazas/green space.
Strategy LU-19.1.5	Create streets and blocks laid out using “transect planning,” which includes a discernible center and edges, public space at center, high quality public realm, and land uses appropriate to the street and building typology.
Strategy LU-19.1.6	Provide a newly configured complete street grid hierarchy of streets, boulevards and alleys that is pedestrian-oriented, connects to existing streets, and creates walkable urban blocks for buildings and open space. It should also incorporate transit facilities, provide connections to other transit nodes and coordinate with the potential expansion of Wolfe Road bridge over Interstate 280 to continue the walkable, bike-able boulevard concept along Wolfe Road. The project should also contribute towards a study and improvements to a potential Interstate 280 trail along the drainage channel south of the freeway and provide pedestrian and bicycle connections from the project sites to the trail.

<u>Strategies/ Policies/Goals</u>	<u>Description</u>
Strategy LU-19.1.7	Improve Stevens Creek Boulevard and Wolfe Road to become more bike and pedestrian-friendly with bike lanes, wide sidewalks, street trees, improved pedestrian intersections to accommodate the connections to Rosebowl and Main Street.
Strategy LU-19.1.8	Open space in the form of a central town square on the west and east sides of the district interspersed with plazas and “greens” that create community gathering spaces, locations for public art, and event space for community events.
Strategy LU-19.1.9	Buildings should have high-quality architecture, and an emphasis on aesthetics, human scale, and create a sense of place. Additional heights may be approved in specific areas by the City Council as part of the Community Benefits Program and per heights allowed in the Community Form Diagram. Taller buildings should provide appropriate transitions to fit into the surrounding area.
Strategy LU-19.1.10	High-quality buildings with architecture and materials befitting the gateway character of the site. The project should provide gateway signage and treatment.
Strategy LU-19.1.11	A phasing plan that lays out the timing of infrastructure, open space and land use improvements that ensures that elements desired by the community are included in early phases.
Strategy LU-19.1.12	Parking in surface lots shall be located to the side or rear of buildings. Underground parking beneath buildings is preferred. Above grade structures shall not be located along major street frontages. In cases, where above-grade structures are allowed along internal street frontages, they shall be lined with retail, entries and active uses on the ground floor. All parking structures should be designed to be architecturally compatible with a high-quality “town center” environment.
Strategy LU-19.1.13	Retain trees along the Interstate 280, Wolfe Road and Stevens Creek Boulevard to the extent feasible, when new development are proposed.
Strategy LU-19.1.14	Consider buffers such as setbacks, landscaping and/or building transitions to buffer abutting single-family residential areas from visual and noise impacts.

The project should also be consistent with the following General Plan strategies, policies, and goals listed below.

<u>Strategies/ Policies/Goals</u>	<u>Description</u>
Strategy LU-13.7.1	Provide active uses along the street frontage, bike lanes, sidewalks that support pedestrian-oriented activity, improved pedestrian crossings at street intersections, and attractive transit facilities (e.g., bus stops, benches, etc.).
Goal HE-1	An adequate supply of residential units for all economic segments.
Goal HE-2	Housing is affordable for a diversity of Cupertino households.

<u>Strategies/ Policies/Goals</u>	<u>Description</u>
Strategy HE-1	Provide adequate capacity through the Land Use Element and Zoning Ordinance to accommodate the RHNA of 1,064 units while maintaining a balanced land use plan that offers opportunities for employment growth, commercial/retail services, and amenities.
Policy HE-1.1	Designate sufficient land at appropriate densities to accommodate Cupertino’s Regional Housing Needs Allocation of 1,064 units for the 2014-2022 projection period.
Policy HE-1.2	Provide a full range of densities for ownership and rental housing.
Policy ES-7.2	Strategies for the use of pervious walkways and driveways should be explored.
Policy HE-1.3	Encourage mixed-use development near transportation facilities and employment centers.
Strategy ES-7.11.4	Encourage and promote the use of recycled water in public and private buildings, open space and streetscape planting.
Strategy ES-7.11.5	Encourage on-site water recycling including rainwater harvesting and gray water use.
Policy HS-3.7	Ensure that adequate fire protection is built into the design of multi-story buildings and require on-site fire suppression materials and equipment.
Strategy HS-8.2.1	Locate delivery areas for new commercial and industrial developments away from existing or planned homes.
Strategy HS-8.2.3	Exercise discretion in requiring sound walls to be sure that all other measures of noise control have been explored and that the sound wall blends with the neighborhood. Sound walls should be designed and landscaped to fit into the environment.
Goal INF-4	Implement best practices in stormwater management to reduce demand on the stormwater network, reduce soil erosion, and reduce pollution into reservoirs and the bay.
Strategy INF-7.3.2	Encourage recycling and reuse of building materials during demolition and construction of City, agency and private projects.
Strategy INF-7.3.3	Encourage the use of recycled materials and sustainably harvested materials in City, agency and private projects.
Strategy INF-2.4.2	Require undergrounding of all utility lines in new developments and highly encourage undergrounding in remodels or redevelopment of major projects.
Strategy INF-2.5.2	Encourage private and public projects to incorporate the use of recycled water for landscaping and other uses.
Strategy INF-5.1.2	Require developers to pay their fair share of costs for, or in some cases construct, infrastructure upgrades to ensure that service levels are met.
Policy RPC-2.4	Ensure that each home is within a half-mile walk of a neighborhood park or community park with neighborhood facilities; ensure that walking and biking routes are reasonably free of

<u>Strategies/ Policies/Goals</u>	<u>Description</u>
	physical barriers, including streets with heavy traffic; provide pedestrian links between parks, wherever possible; and provide adequate directional and site signage to identify public parks.
Strategy RPC-3.1.1	Maximize the use of native plants and drought-tolerant planting.
Strategy RPC-8.1.2	Encourage schools to meet their expansion needs without reducing the size of their sports fields.
Policy M-2.1	Adopt and maintain street design standards to optimize mobility for all transportation modes including automobiles, walking, bicycling and transit.
Policy M-2.2	Design roadway alignments, lane widths, medians, parking and bicycle lanes, and sidewalks to complement adjacent land uses to keep with the aesthetic vision of the Planning Area. Improvement standards shall also consider the urban, suburban and rural environments found within the City.
Policy M-2.3	Promote pedestrian and bicycle improvements that improve connectivity between planning areas, neighborhoods and services, and foster a sense of community.
Policy M-2.4	Reduce traffic impacts and support alternative modes of transportation in neighborhoods and around schools, parks and community facilities rather than constructing barriers to mobility. Do not close streets unless there is a demonstrated safety or over-whelming through traffic problem and there are no acceptable alternatives since street closures move the problem from one street to another.
Policy M-2.5	Ensure all new public and private streets are publicly accessible to improve walkability and reduce impacts on existing streets.

1.5.2 Applicant Objectives

The applicant's primary objectives for the project are as follows:

1. Implement the vision in the City's General Plan to redevelop the outdated Vallco Shopping Mall into a vibrant and healthy mixed-use town center by balancing retail, employment, residential, civic and ancillary uses with a focus on providing significant open space features, views, and a gateway to Cupertino.
2. Revitalize this critical urban infill site with a strong and complementary mixed-use program, including retail, office, residential, civic and ancillary uses, at an intensity and density that both promotes visitor activity and interest and is able to financially support an innovative open space, transit center, and civic programs, as well as achieve a high level of sustainability.

The applicant's secondary objectives are as follows:

3. Create an innovative and active gathering place with vitality in design that integrates and encourages walking and cycling and that is compatible with, and complementary to, recent well-designed projects proximate to the project site.
4. Capitalize on the opportunity to utilize existing infrastructure in a manner which furthers local, regional and state compact and sustainable growth goals, including the extension of recycled water.
5. Provide sufficient local serving and destination retail uses to enable Cupertino and South Bay residents and shoppers to reduce vehicle miles travelled and associated greenhouse gas emissions.
6. Create an active, inviting and comfortable place for people to visit, shop, and enjoy dining and entertainment.
7. Provide greater residential variety and density, including additional affordable residential and life-cycle residential.
8. Reduce distances between residential, workplaces, retail businesses, and other entertainment amenities.
9. Improve local access to fresh and healthy foods by integrating more traditional food retail with the vibrancy of local farmers markets, and the heightened awareness of seasonal cycles as well as education opportunities through urban farming.
10. Provide adequate parking and vehicular access that meets the needs of future project visitors, employees, and residents, while encouraging the use of transit, bicycle, and other alternative modes of transportation.
11. Create new residential opportunities in close proximity to employment centers, public transit, shops, restaurants and entertainment uses.
12. Create a new regional civic gathering place that has a strong neighborhood character that is informed by and responding to the ideas, input and concerns of the local community.

1.6 USES OF THE EIR

This EIR provides decision makers in the City of Cupertino and the general public with relevant environmental information to use in considering the proposed project in accordance with the requirements of CEQA and the CEQA Guidelines. This EIR will be used for appropriate discretionary approvals necessary to implement the project, as proposed. As lead agency for the proposed project, the City of Cupertino would be responsible for most of the approvals required for development. Other agencies may also have some authority related to the project and its approvals. The discretionary actions, permits, and approvals that may be required by the City and other agencies is listed in Table 1.5-1 below. This EIR is intended to be used by the City and other agencies when deliberating on required permits and approvals.

Table 1.5-1: Summary of Required Discretionary Actions, Permits, and Approvals	
Lead Agency	Discretionary Action, Permit, Approval
City of Cupertino	<ul style="list-style-type: none"> • Specific Plan Approval • Rezoning • Development Agreement • Development Permits • Conditional Use Permit • Tentative Map • New and Modified Easements, Air Rights, and other Related Agreements • Tree Removal Permits • Architecture and Site Approvals • Encroachment Permits
Responsible Agencies	
Cupertino Sanitary Sewer District	<ul style="list-style-type: none"> • Improvement Plan Approval
Caltrans	<ul style="list-style-type: none"> • Encroachment Permit
<p>Note: The community amenities proposed as part of the project (the community park and nature preserve, transportation improvements, educational facilities and programs funding) are proposed to be included as part of a legally binding and enforceable Development Agreement between the property owner and the City.</p>	

1.7 SUBSEQUENT ENVIRONMENTAL REVIEW

There are uses proposed as part of the project that may require subsequent environmental review because specific details about the construction and/or operation of those uses (e.g., new off-site 700 student elementary school) are unknown at this time. The process followed could include use of this EIR, preparation of an Addendum to this EIR, preparation of a Negative Declaration that tiers from this EIR, or preparation of a supplemental or subsequent EIR. The uses/actions that could require subsequent environmental review include, but are not limited to, the following:

- Construction of a new elementary school at the former Nan Allan Elementary School site located at 10255 North Portal Avenue in Cupertino;
- Development of *more* than 650,000 square feet of commercial uses, 2.0 million square feet of office uses, 800 residential units on the site, 40,000 square feet of civic/community space, and amenities as described in *Section 1.4.2*; and
- Construction of a modified or new interchange at North Wolfe Road and I-280.

REFERENCED GENERAL PLAN POLICIES

<u>Policies</u>	<u>Description</u>
M-1.2	<p>Participate in the development of new multi-modal analysis methods and impact thresholds as required by Senate Bill 743. However, until such impact thresholds are developed, continue to optimize mobility for all modes of transportation while striving to maintain the following intersection Levels of Service (LOS) at a.m. and p.m. peak traffic hours:</p> <ul style="list-style-type: none"> • Major intersections: LOS D; • Stevens Creek Boulevard and De Anza Boulevard: LOS E+; • Stevens Creek Boulevard and Stelling Road: LOS E+ • De Anza Boulevard and Bollinger Road: LOS E+
M-1.3	<p>Continue to plan and provide for a comprehensive system of trails and pathways consistent with regional systems, including the Bay Trail, Stevens Creek Corridor and Ridge Trail.</p>
M-2.1	<p>Adopt and maintain street design standards to optimize mobility for all transportation modes including automobiles, walking, bicycling and transit.</p>
M-2.2	<p>Design roadway alignments, lane widths, medians, parking and bicycle lanes, crosswalks and sidewalks to complement adjacent land uses in keeping with the vision of the Planning Area. Strive to minimize adverse impacts and expand alternative transportation options for all Planning Areas (Special Areas and Neighborhoods). Improvement standards shall also consider the urban, suburban and rural environments found within the city.</p>
M-2.3	<p>Promote pedestrian and bicycle improvements that improve connectivity between planning areas, neighborhoods and services, and foster a sense of community.</p>
M-2.4	<p>Reduce traffic impacts and support alternative modes of transportation rather than constructing barriers to mobility. Do not close streets unless there is a demonstrated safety or over-whelming through traffic problem and there are no acceptable alternatives since street closures move the problem from one street to another.</p>
M-2.5	<p>Ensure all new public and private streets are publicly accessible to improve walkability and reduce impacts on existing streets.</p>
M-2.6	<p>Consider the implementation of best practices on streets to reduce speeds and make them user-friendly for alternative modes of transportation, including pedestrians and bicyclists.</p>
M-3.2	<p>Require new development and redevelopment to increase connectivity through direct and safe pedestrian connections to public amenities, neighborhoods, shopping and employment destinations throughout the city.</p>

<u>Policies</u>	<u>Description</u>
M-3.3	Enhance pedestrian and bicycle crossings and pathways at key locations across physical barriers such as creeks, highways and road barriers.
M-3.4	Preserve and enhance citywide pedestrian and bike connectivity by limiting street widening purely for automobiles as a means of improving traffic flow.
M-3.5	Minimize the number and the width of driveway openings.
M-3.6	Require parking lots to include clearly defined paths for pedestrians to provide a safe path to building entrances.
M-3.8	Require new development and redevelopment to provide public and private bicycle parking.
M-4.4	Work with VTA and/or major developments to ensure all new development projects include amenities to support public transit including bus stop shelters, space for transit vehicles as appropriate and attractive amenities such as trash receptacles, signage, seating and lighting.
M-4.7	Vallco Shopping District Transfer Station - Work with VTA and/or other transportation service organizations to study and develop a transit transfer station that incorporates a hub for alternative transportation services such as, car sharing, bike sharing and/or other services.
M-5.1	Promote Safe Routes to Schools programs for all schools serving the city.
M-5.2	Ensure that bicycle and pedestrian safety improvements include projects to enhance safe accessibility to schools.
M-7.1	Follow guidelines set by the VTA related to transportation impact analyses, while conforming to State goals for multi-modal performance targets.
M-8.3	Employ Transportation Systems Management strategies to improve efficiency of the transportation infrastructure including strategic right-of-way improvements, intelligent transportation systems and optimization of signal timing to coordinate traffic flow.
M-8.4	Require large employers, including colleges and schools, to develop and maintain TDM programs to reduce vehicle trips generated by their employees and students and develop a tracking method to monitor results.
M-8.5	Encourage new commercial developments to provide shared office facilities, cafeterias, daycare facilities, lunchrooms, showers, bicycle parking, home offices, shuttle buses to transit facilities and other amenities that encourage the use of transit, bicycling or walking as commute modes to work. Provide pedestrian pathways and orient buildings to the street to encourage pedestrian activity.
M-9.2	Promote effective TDM programs for existing and new development.

<u>Policies</u>	<u>Description</u>
RPC-1.1	Prepare a citywide Parks and Recreation Master Plan that outlines policies and strategies to plan for the communities open space and recreational needs.
RPC-1.2	Continue to implement a parkland acquisition and implementation program that provides a minimum of three acres per 1,000 residents.
RPC-2.1	The City's parkland acquisition strategy should be based upon three broad objectives: <ul style="list-style-type: none"> • Distributing parks equitably throughout the City; • Connecting and providing access by providing paths, improved pedestrian and bike connectivity and signage; and • Retaining and restoring creeks and other natural open space areas.
RPC-2.3	Strive for an equitable distribution of parks and recreational facilities throughout the city. Park acquisition should be based on the following priority list. Accessibility to parks should be a component of the acquisition plan. <ul style="list-style-type: none"> • High Priority: Parks in neighborhoods or areas that have few or no park and recreational areas. • Medium Priority: Parks in neighborhoods that have other agency facilities such as school fields and district facilities, but no City parks. • Low Priority: Neighborhoods and areas that have park and recreational areas which may be slightly less than the adopted City's parkland standard. • Private Development: Consider pocket parks in new and renovated projects to provide opportunities for publicly-accessible park areas.
RPC-2.4	Ensure that each home is within a half-mile walk of a neighborhood park or community park with neighborhood facilities; ensure that walking and biking routes are reasonably free of physical barriers, including streets with heavy traffic; provide pedestrian links between parks, wherever possible; and provide adequate directional and site signage to identify public parks.
RPC-2.5	Provide parks and recreational facilities for a variety of recreational activities.
RPC-5.1	Dedicate or acquire open space land along creeks and utility through regional cooperation, grants and private development review.
RPC-6.2	Enhance the city's recreational programs through partnerships with other agencies and non-profit organizations.
RPC-8.1	Partner with school districts to allow community use of their sports fields and facilities.
HS-4.1	Continue to support the Neighborhood Watch Program and other similar programs intended to help neighborhoods prevent crime through social interaction.

<u>Policies</u>	<u>Description</u>
HS-4.2	Consider appropriate design techniques to reduce crime and vandalism when designing public spaces and reviewing development proposals.
HS-4.3	Recognize fiscal impacts to the County Sheriff and City of Cupertino when approving various land use mixes.
HS-3.1	Coordinate wildland fire prevention efforts with adjacent jurisdictions. Encourage the County and the Midpeninsula Open Space District to implement measures to reduce fire hazards, including putting into effect the fire reduction policies of the County Public Safety Element, continuing efforts in fuel management, and considering the use of “green” fire break uses for open space lands.
HS-3.2	Involve the Fire Department in the early design stage of all projects requiring public review to assure Fire Department input and modifications as needed.
HS-3.3	Ensure adequate emergency access is provided for all new hillside development.
HS-3.4	Discourage the use of private residential electronic security gates that act as a barrier to emergency personnel.
HS-3.7	Ensure that adequate fire protection is built into the design of multi-story buildings and require on-site fire suppression materials and equipment.
HS-3.8	Encourage the water companies to extend water service into the hillside and canyon areas and encourage cooperation between water utility companies and the Fire Department in order to keep water systems in pace with growth and firefighting service needs.
ES-1.1	Incorporate the principles of sustainability into Cupertino’s planning, infrastructure and development process in order to improve the environment, reduce greenhouse gas emissions and meet the needs of the community without compromising the needs of future generations.
ES-2.1	Encourage the maximum feasible conservation and efficient use of electrical power and natural gas resources for new and existing residences, businesses, industrial and public uses.
ES-3.1	Set standards for the design and construction of energy and resource conserving/efficient building.
ES-7.1	In public and private development, use low impact development (LID) principles to mimic natural hydrology, minimize grading and protect or restore natural drainage systems.
ES-7.2	Minimize stormwater runoff and erosion impacts resulting from development and use low impact development (LID) designs to treat stormwater or recharge groundwater.

<u>Policies</u>	<u>Description</u>
ES-7.4	Review long-term plans and development projects to ensure good stewardship of watersheds.
ES-7.5	Support the Santa Clara Valley Water District efforts to find and develop groundwater recharge sites within Cupertino and provide public recreation where possible.
ES-7.6	Encourage the research of other water sources, including water reclamation.
ES-7.7	Encourage industrial projects, in cooperation with the Cupertino Sanitary District, to have long-term conservation measures, including recycling equipment for manufacturing and water supplies in the plant.
ES-7.8	Retain and restore creek beds, riparian corridors, watercourses and associated vegetation in their natural state to protect wildlife habitat and recreation potential and assist in groundwater percolation. Encourage land acquisition or dedication of such areas.
ES-7.9	Continue to coordinate citywide water conservation and regional water supply problem solving efforts with the Santa Clara Valley Water District (SCVWD), San Jose Water Company and California Water Company.
ES-7.10	Provide public information regarding resource conservation.
ES-7.11	Promote efficient use of water throughout the City in order to meet State and regional water use reduction targets.
INF-7.1	Coordinate with solid waste system providers to utilize the latest technology and best practices to encourage waste reduction and meet, and even, exceed State targets.
INF-7.2	Ensure that public and private developments build new and on-site facilities and/or retrofit existing on-site facilities to meet the City's waste diversion requirements.
INF-7.3	Encourage public agencies and private property owners to design their operations to meet, and even, exceed regulatory waste diversion requirements.
INF-8.1	Meet or exceed Federal, State and regional requirements for solid waste diversion through implementation of programs.