

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO RECOMMENDING CERTIFICATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE VALLCO SPECIAL AREA SPECIFIC PLAN PROJECT, ADOPTION OF FINDINGS AND A STATEMENT OF OVERRIDING CONSIDERATIONS, MITIGATION MEASURES, AND A MITIGATION MONITORING AND REPORTING PROGRAM

SECTION I: PROJECT DESCRIPTION

Application No: EA-2017-05

Applicant: City of Cupertino

Location: 10101 to 10333 N Wolfe Rd

APN#s: 316-20-080, 316-20-081, 316-20-103, 316-20-107, 316-20-101, 316-20-105,
316-20-106, 316-20-104, 316-20-088, 316-20-092, 316-20-094, 316-20-099,
316-20-100, 316-20-095

SECTION II: ENVIRONMENTAL REVIEW PROCESS

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970 (Public Resources Code Section 21000 *et seq.*) (“CEQA”) and the State CEQA Guidelines (Title 14, Sections 15000 *et seq.* of the California Code of Regulations) (“CEQA Guidelines”), the City of Cupertino, as lead agency, prepared an Environmental Impact Report for the Vallco Special Area Specific Plan (SCH No. 2018022021) (“EIR” or “Final EIR”); and

WHEREAS, pursuant to City Council direction, the project consists of a specific plan for the Vallco Special Area, as provided for in the General Plan, in order to plan for future development activity along with any required changes to the adopted General Plan goals, policies and strategies for the Special Area as well as zoning text and map amendments, adoption of a development agreement, and other approvals (the “Project”), all as described in Chapter 3 of the Draft EIR as amended by text revisions in Sections 6.0 and 7.0 of the Responses to Comments Document in the Final EIR, and

WHEREAS, on February 9, 2018, the City issued Notice of Preparation (“NOP”) of an EIR for the Project; and

WHEREAS, the NOP was circulated for review and comment by responsible and trustee agencies and the public for 31 days from February 9, 2018 through March 12, 2018; and

WHEREAS, a scoping meeting was held on February 22, 2018 to provide the public the opportunity to comment on the scope and content of the EIR; and

WHEREAS, a Draft EIR, consisting of one volume (plus Appendices provided on CD), was prepared and issued for public review and comment for a 45-day period beginning on May 24, 2018 and ending on July 9, 2018; and

WHEREAS, a Notice of Completion of the Draft EIR was sent to the State Clearinghouse in the Governor's Office of Planning and Research on May 24, 2018 under State Clearinghouse No. 2018022021, and a Notice of Availability was filed with the Santa Clara County Clerk-Recorder on the same day and was also: (1) sent to other potentially affected agencies as required by CEQA; (2) sent to interested parties registered through the project website by electronic mail and (3) published subsequently in a newspaper of general circulation to announce the availability of the Draft EIR; and

WHEREAS, on June 19, 2018, the City held a duly noticed public meeting during the public comment period to allow the public an additional opportunity to provide input on the Draft EIR and received public testimony; and

WHEREAS, an recirculated amendment to the Draft EIR, the Vallco Special Area Specific Plan Environmental Impact Report Amendment ("EIR Amendment"), consisting of one volume (plus Appendices on CD), was prepared to analyze an additional alternative identified by the City Council at its Study Session on June 4, 2018, as well as revisions to the text of the Draft EIR, and was issued for public review and comment for a 45-day period beginning on July 6, 2018 and ending on August 20, 2018; and

WHEREAS, a Notice of Completion of the EIR Amendment was sent to the State Clearinghouse in the Governor's Office of Planning and Research on July 6, 2018 under State Clearinghouse No. 2018022021, and a Notice of Availability was filed with the Santa Clara County Clerk-Recorder on the same day and was also: (1) sent to other potentially affected agencies as required by CEQA; (2) sent to adjacent property owners as required by CEQA; (3) sent to interested parties registered through the project website by electronic mail; and (4) published subsequently in a newspaper of general circulation to announce the availability of the EIR Amendment; and

WHEREAS, on August 7, 2018, the City held a duly noticed public meeting during the public comment period to receive public comment on the EIR Amendment; and

WHEREAS, following the close of the public review and comment period on both the Draft EIR and the EIR Amendment, responses to written and oral comments on the Draft EIR and the EIR Amendment that were received during the public review and comment

periods and that raised environmental issues were prepared and compiled in the Response to Comments Document, which includes a revised project based on direction from the City Council at its June 4, 2018 study session, text revisions to the Draft EIR and the EIR Amendment (“Response to Comments Document”); and

WHEREAS, the Final EIR was published on August 27, 2018, and includes a revised project and other text revisions that are not considered “significant new information” pursuant to CEQA Guidelines Section 15088.5 because these changes: would not result in a new environmental impact, and would not cause a substantial increase in the severity of an environmental impact; the project sponsor would adopt the revised mitigation measures, if the measures are selected by the City Council; and the revised project and other text revisions are substantially similar to the previously analyzed project alternatives and the measures identified in the Draft EIR and EIR Amendment; herefore, recirculation of EIR pursuant CEQA Guidelines Section 15088.5 is not required; and

WHEREA, the City provided written responses to public agencies that commented on the Draft EIR and/or the EIR Amendment by sending them copies of the Final EIR, which contains responses to comments, on August 27, 2018; and

WHEREAS, the Final EIR consists of the May 2018 Draft EIR, the July 2018 EIR Amendment, the August 2018 Final EIR document which contains responses to comments on the Draft EIR and EIR Amendment, and the August 2018 Supplemental Text Revisions to the Vallco Special Area Specific Plan Final Environmental Impact Report; and

WHEREAS, the City received comments on the EIR following the close of the public review and comment periods (“Late Comments”) and, although written responses are not required pursuant to Public Resources Code Section 21091(d)(1) and CEQA Guidelines Section 15088(a), responses have been provided in the staff report; and

WHEREAS, the Final EIR was presented to the Environmental Review Committee (“ERC”) for review and recommendation on August 31, 2018, and after considering the Final EIR, and Staff’s presentation, the ERC recommended that the City Council certify the EIR; and

WHEREAS, all necessary public notices have been given as required by the procedural ordinances of the City of Cupertino and the Government Code, and the Planning Commission held a duly noticed public hearing on September 4, 2018 to receive testimony on the Final EIR and the Project, and reviewed and considered the information contained in the Final EIR along with staff reports pertaining to the Project, all other

pertinent documents, and all written and oral statements received by the Planning Commission at or prior to the public hearing.

NOW, THEREFORE, BE IT RESOLVED:

That the Planning Commission recommends that the City Council:

1. Certify that the Final EIR for the Project has been completed in compliance with CEQA and reflects the independent judgment and analysis of the City.
 2. Find that no recirculation of the EIR is required.
 3. Adopt the Findings and a Statement of Overriding Considerations for the Project, attached hereto as Exhibit EA-1 and incorporated herein by reference, with regard to the significant environmental effects of the Project as recommended by the Planning Commission on September 4, 2018 for approval by the City Council ("Recommended Project"); .
 4. Adopt and incorporate into the Recommended Project all of the mitigation measures, conditions of approval and standard permit conditions, for the Recommended Project that are within the responsibility and jurisdiction of the City that are identified in the Findings.
 5. Adopt the Mitigation Monitoring and Reporting Program, attached hereto as Exhibit EA-2 and incorporated herein, for the Recommended Project.
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PASSED AND ADOPTED this 4th day of September, 2018, Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

Aarti Shrivastava
Assistant City Manager

Geoff Paulsen, Chair
Planning Commission

**CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS AND STATEMENT
OF OVERRIDING CONSIDERATIONS FOR THE VALLCO SPECIAL AREA
SPECIFIC PLAN PROJECT**

I. INTRODUCTION

The City of Cupertino (“City”), as the Lead Agency under California Environmental Quality Act (“CEQA”), Public Resources Code Section 21000 *et seq.*, has prepared the Final Environmental Impact Report for the Vallco Special Area Specific Plan (State Clearinghouse No. 2018022021) (“Final EIR” or “EIR”). The Final EIR is a project EIR pursuant to section 15161 of the State Guidelines for implementation of the CEQA (“CEQA Guidelines”).¹ The Final EIR consists of the May 2018 Draft Environmental Impact Report (“Draft EIR”), the July 2018 Environmental Impact Report Amendment (“EIR Amendment”), the August 2018 Final Environmental Impact Report volume, and the August 2018 Supplemental Text Revisions to the Vallco Special Area Specific Plan Final Environmental Impact Report.

Pursuant to Public Resources Code Section 21093 and CEQA Guidelines Section 15152, this Final EIR tiers from the City’s certified 2014 *General Plan Amendment, Housing Element Update, and Associated Rezoning EIR* (State Clearinghouse No. 2014032007) (“General Plan EIR”). CEQA Section 21093(b) states that environmental impact reports shall be tiered whenever feasible, as determined by the lead agency. “Tiering” refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) in subsequent EIRs or Initial Studies/negative declarations on narrower projects; and concentrating the later environmental review on the issues specific to the later project. CEQA Guidelines §15152(a). The General Plan EIR evaluated, at a program-level and limited project-level, the environmental impacts of developing the project.

In determining to approve the Vallco Town Center Specific Plan² (the “Project,” referred to as the Final EIR as the “revised project”), which is described in more detail in Section II, below, the Council makes and adopts the following findings of fact and statement of overriding considerations, and adopts and incorporates into the Project the mitigation measures identified in the EIR, all based on substantial evidence in the whole record of

¹ The State CEQA Guidelines are found in California Code of Regulations, Title 14, Section 15000 *et seq.*

² Following publication of the EIR, the Project was renamed from Vallco Special Area Specific Plan to Vallco Town Center Specific Plan.

this proceeding (“administrative record”). Pursuant to CEQA Guidelines § 15090(a), the EIR was presented to the City Council of the City of Cupertino, and the City Council reviewed and considered the information contained in the EIR prior to making the findings in Sections IV to XII, below. The conclusions presented in these findings are based upon the EIR and other evidence in the administrative record.

II. PROJECT DESCRIPTION

The City undertook a community-based planning process to develop a Specific Plan for the Vallco Special Area. The proposed Project, which is described in Section 2.4 of the Draft EIR as revised by Sections 2.1 (Revised Project) and 6.0 (Text Revisions) of the Final EIR, is the adoption of the community-developed Vallco Special Area Specific Plan and associated General Plan and Zoning Code amendments. As defined by Government Code Section 65450, a specific plan is a tool for the systematic implementation of the general plan. It establishes a link between implementing policies of the general plan and the individual development proposals in a defined area.

The project site (“Plan Area”) consists of approximately 70 acres, approximately 58 acres of which is currently available for development. The developable area consists of multiple parcels and is located on both sides of North Wolfe Road, between Vallco Parkway and Interstate 280 (I-280) on the east side of North Wolfe Road and between Stevens Creek Boulevard and Vallco Parkway on the west side of North Wolfe Road, in the City of Cupertino. The locations of the proposed land uses have not been finalized; therefore, for the purposes of the EIR and these Findings, it is assumed the uses could be placed anywhere within the site. The Specific Plan identifies three districts – the Retail/Entertainment Mixed-use District (generally the area south of Vallco Parkway and to the west of North Wolfe Road), the Neighborhood Mixed-use District (generally, the areas to the north of Vallco Parkway and to the west of North Wolfe Road) and the Office Mixed-use District (located north of Vallco Parkway and to the east of North Wolfe Road). It is expected that more of one use than another may be present in each of these districts; for example, while more commercial development is expected on the ground level in the Retail/Entertainment Mixed-use District, the uses on the upper levels may consist of a mix of the other allowed uses on the site. Similarly, while more residential development is expected in the Neighborhood Mixed-use District, office or commercial development could be located here. In addition, while more office development is anticipated in the Office Mixed-use District, residential or commercial development is also allowed without limitation.

The maximum allowable amount of development in the Plan Area is identified in the Specific Plan as a two-tier program. Under the Tier 1 Development Program, as shown

in Table 3.2 of the Specific Plan, the amount of development in the Plan Area would be a maximum of 2,034 residential units, a minimum of 600,000 square feet of commercial/retail uses, a maximum of 750,000 square feet of office uses, a maximum of 191 additional hotel rooms,³ and a minimum of 6 acres of public (at-grade) open space. There is no minimum square footage for civic/cultural uses.

Under the Tier 2 Development Program, a City-defined “community benefits density bonus” is available for projects in the Plan Area, as an alternative to the state Density Bonus law, that provides specified community benefits in addition to complying with the standard requirements of the Specific Plan. As shown in Table 3.3 of the Specific Plan, the amount of Tier 2 development in Plan Area would be a maximum of 2,923 residential units, a minimum of 485,000 square feet of commercial/retail subject uses (which includes 85,000 square feet for civic/cultural uses), a maximum of 1,500,000 square feet of office uses, a maximum of 250,000 square feet of office amenity space, a maximum of 191 additional hotel rooms,⁴ and a minimum of 6 acres of public (at-grade) open space.

Consistent with the adopted General Plan, and as described in Section 2.1 of the Final EIR, the proposed Specific Plan would facilitate a total maximum development capacity of 460,000 square feet of commercial uses (including a 60,000 square foot performing arts theater), 1,750,000 square feet of office uses and office amenity space, 339 hotel rooms, 2,923 residential units, 35,000 square feet of civic space (including 10,000 square foot of governmental use and 25,000 square feet of education space), and a 30-acre green roof. The proposed Specific Plan development reflects the buildout assumptions (including the adopted residential allocation available) for the site in the City’s adopted General Plan.

Centrally located open space, in a Town Square format, would be provided on the site. The balance of the commercial uses would consist of commercial uses, which include, among other uses, retail stores and restaurants. The residential component of the project would be multi-family attached units. It is possible that on-site commercial and residential amenities could include pools. The office development could be occupied by one large tenant or multiple smaller tenants.

In addition, the project includes up to 25,000 square feet of civic spaces in the form of an adult education center and a Science Technology Engineering and Mathematics (STEM)

³ A 148-room Hyatt House Hotel is currently under construction.

⁴ See Footnote 2, above.

lab, as well as roof gardens or green roofs. The roof could include outdoor use areas such as outdoor dining, playgrounds, walking paths, and picnic areas. It is assumed that the green roof would not include active play fields or courts.

The development would also include residential amenities such as club houses, gymnasiums, private open space and pools, while any office development would include amenities such as high volume entry areas, fitness areas, anechoic chamber areas, unoccupied lab areas, server areas, or cafés. Amenities, such as cafés or gymnasiums, may be located on the rooftop and could add up to 20 feet to the height of the buildings so long as they are centrally located on the building.

The maximum building height would be between 45 feet and 120 feet, with taller buildings anticipated to be located closer to North Wolfe Road, on the west side of North Wolfe Road and between 90 feet and 150 feet, with the taller buildings anticipated to be located away from North Wolfe Road and Vallco Parkway. Development would be set back a minimum of 35 feet from face of the curb along Stevens Creek Boulevard. Under the Specific Plan, Perimeter Road and the existing sound wall along the western site boundary would remain.

In addition, the revised project includes construction or funding for the construction of a new City Hall at the Cupertino Civic Center as described in the City's Civic Center Master Plan. The environmental impacts of replacing the existing City Hall building with a new 40,000 square foot City Hall building (as well as expanding the existing library to include a new Program Room) were evaluated in the May 2015 *Cupertino Civic Center Master Plan Initial Study*, incorporated herein by reference. The City adopted a Mitigated Negative Declaration for the Cupertino Civic Center Master Plan project and approved the project in July 2015.⁵

⁵ Mitigated Negative Declaration (July 7, 2015) and City Council Resolution No. 15-060 (July 7, 2015).

The project would require General Plan amendments at the time of adoption of the Specific Plan so that both documents are consistent as of the date of adoption. The amendments would be as follows:

- The footnote to General Plan Table LU-1 would be removed, once the Specific Plan is adopted, because it will be obsolete, and replaced with a footnote applicable to the Specific Plan.⁶
- The Specific Plan would allow for an average residential density of greater than 35 units per acre plus any allowed state density bonus; therefore, the residential density for the Plan Area in the Land Use Element (Table LU-1 and Figure LU-2) and in the Housing Element would be amended to reflect the maximum residential density allowed on the site.
- The General Plan would be amended to ensure that there are no inconsistencies between the General Plan and the development standards in the Specific Plan such as allowed land uses (e.g., civic uses), density and building height, as well as conforming changes to the title of the Specific Plan as referenced throughout the EIR, including amendments to Strategy LU-13.1, Goal LU-19, Policies LU-19.1 through LU 19.1.7 and Figure PA-1.
- The General Plan would be amended to remove the requirement that 30% of the commercial space be entertainment uses.
- The General Plan would be amended to remove the requirement that buildings must meet the 1:1 building slope line along North Wolfe Road.

In addition to General Plan amendments and adoption of a Specific Plan, the revised project would also involve the following discretionary approvals by the City to implement the Specific Plan, including but not limited to:

- Rezoning
- Tentative Map
- Development Permits
- Architectural and Site Approvals

⁶ The footnote in General Plan Table LU-1 states: “Buildout totals for Office and Residential allocation within the Vallco Shopping District are contingent upon a Specific Plan being adopted for this area by May 31, 2018. If a Specific Plan is not adopted by that date, City will consider the removal of the Office and Residential Allocations for Vallco Shopping District.” Source: City of Cupertino. *Cupertino General Plan Community Vision 2015-2040*. October 15, 2015. Table LU-1, footnote**, Page LU-13.

- Tree Removal Permits
- Encroachment Permits
- Development Agreement with Vallco Property Owner LLC (DA-2015-02, which was applied for in 2015 and the application was reactivated in 2017 by Sand Hill Property Company)

As set forth in Section 2.5 of the Draft EIR and Section 2.2 of the Final EIR, the City's objectives for the project are as follows:

1. Create a distinct and memorable mixed use Town Center that is a regional destination and is a focal point for the community involving substantial redevelopment of the Vallco Special Area;
2. Provide adequate development capacity on the project site to help achieve the City's Regional Housing Needs Allocation consistent with the Housing Element;
3. Provide adequate development capacity for a mix of uses that will allow for the development of an economically feasible project;
4. Provide the City with an avenue for generating additional sales tax revenue;
5. Create a pedestrian, bike and transit-friendly environment that enhances mobility and connectivity; and
6. Create a high-quality sustainable development with respect to energy, resources and ecosystems that meets the City's environmental goals and the City's Climate Action Plan.

The EIR identifies standard permit conditions and conditions of approval, which are part of the project description, in addition to identifying mitigation measures to be adopted. Standard permit conditions are measures required by laws and regulations (primarily, the Cupertino Municipal Code) or are required to comply with laws and regulations. While standard permit conditions are not mitigation measures, they may assist in reducing environmental impacts.⁷ Conditions of approval also are not mitigation measures. They are required of the project by the City, but do not necessarily reduce an environmental impact.⁸

⁷ Final EIR, p. 13, fn. 3.

⁸ Final EIR, p. 53, fn. 14.

III. ENVIRONMENTAL REVIEW PROCESS

In accordance with Section 15082 of the CEQA Guidelines, the City of Cupertino prepared a Notice of Preparation (“NOP”) of an EIR for the Vallco Special Area Specific Plan project. The NOP was sent to state and local responsible and trustee agencies and federal agencies on February 9, 2018. The 31-day comment period concluded on March 12, 2018. The NOP provided a description of the project and identified probable environmental effects that could result from implementation of the project. The City also held a public scoping meeting during the comment period on February 22, 2018 to discuss the project and solicit public input as to the scope and content of the EIR. The meeting was held at Cupertino Community Hall located at 10350 Torre Avenue.

The City prepared the Draft EIR for the Vallco Special Area Specific Plan project in compliance with the CEQA and the CEQA Guidelines. The Draft EIR was circulated for public review and comment for 45 days from May 24, 2018 through July 9, 2018. During this period, the Draft EIR was be available to the public and local, state, and federal agencies for review and comment. Notice of the availability and completion of the Draft EIR was sent directly to every agency, person, and organization that commented on the NOP, as well as to the Office of Planning and Research. Written comments from public agencies, organizations and individuals concerning the environmental review contained in the Draft EIR were sent to the Community Development Department of the City of Cupertino during and after the 45-day public review period on the Draft EIR. The City also held a public meeting to take written and oral comments on the Draft EIR on June 19, 2018.

In response to community and City interest in having a greater number of housing units with a greater than 15 percent below-market-rate housing component and the inclusion of substantial community amenities, the City identified a fifth alternative, the Housing Rich Alternative, to be evaluated in a recirculated EIR Amendment. The EIR Amendment also included clarification regarding necessary General Plan amendments; refinements to the proposed Transportation Demand Management (TDM) Program; addition of state density bonus law and City-defined “community benefits density bonus” program to analysis of project and project alternatives; refinements to the discussion of select mitigation measures and a condition of approval; and updated numbers for existing General Plan land use allocations available citywide. These refinements did not substantially change the analysis in the Draft EIR.

The EIR Amendment was circulated for public review and comment for 45 days from July 6, 2018 through August 20, 2018. During this period, the EIR Amendment was available to the public and local, state, and federal agencies for review and comment. Notice of the availability and completion of the EIR Amendment was sent directly to

every agency, person, and organization that commented on the (NOP for the Draft EIR, as well as to the Office of Planning and Research. Written comments from public agencies, organizations, and individuals concerning the environmental review contained in the EIR Amendment were sent to the Community Development Department of the City during and after the 45-day comment period on the EIR Amendment. The City also held a public meeting to take written and oral comments on the EIR Amendment on August 7, 2018.

Following the conclusion of the 45-day public review period on the EIR Amendment, the City prepared a Final EIR in conformance with CEQA Guidelines Section 15132. The Final EIR includes a description of the revised project, which consists of revisions to the previous project analyzed in the Draft EIR to address the City Council's direction to include additional housing (including additional affordable housing) in the project in conjunction with the desire for community benefits including a performing arts center, a new City Hall, and transportation benefits aimed at reducing vehicle miles traveled, as well as text revisions to the Draft EIR and EIR Amendment and responses to comments received by the City of Cupertino on the Draft EIR and EIR Amendment. These revisions do not require recirculation of the EIR because none of the revisions constitute "significant new information" pursuant to CEQA Guidelines Section 15088.5 inasmuch as these changes would not result in a new environmental impact, and would not cause a substantial increase in the severity of an environmental impact; the project sponsor would adopt the revised mitigation measures, if the revised mitigation measures are selected by the City Council; and the revised project and other text revisions are substantially similar to the previously analyzed project alternatives and the mitigation measures identified in the Draft EIR and EIR Amendment. Responses to public agency comments on the EIR were sent to the commenting agencies on August 27, 2018.

On August 31, 2018, the Final EIR was presented to the Environmental Review Committee ("ERC") for review and recommendation on August 31, 2018 and, after considering the Final EIR and Staff's presentation, the ERC recommended that the City Council certify the Final EIR. On September 4, 2018, at a duly noticed public hearing, the Planning Commission recommended that the City Council certify the Final EIR.

IV. FINDINGS

These findings summarize the environmental determinations of the EIR about Project impacts before and after mitigation, and do not attempt to repeat the full analysis of each environmental impact contained in the EIR. Instead, these findings provide a summary description of and basis for each impact in the EIR, describe the applicable

mitigation measures identified in the EIR, and state the City's findings and rationale therefor on the significance of each impact with the adopted mitigation measures. A full explanation of these environmental findings and conclusions can be found in the EIR, and these findings hereby incorporate by reference the discussion and analysis in the EIR supporting the EIR's determinations regarding mitigation measures and the Project's impacts.

In adopting mitigation measures below, the City intends to adopt each of the mitigation measures identified in the Final EIR. Accordingly, in the event a mitigation measure identified in the Final EIR has been inadvertently omitted from these findings, such mitigation measure is hereby referred to, adopted, and incorporated in the findings below by reference. In addition, in the event the language of a mitigation measure set forth below fails to accurately reflect the mitigation measure in the Final EIR due to a clerical error, the language of the mitigation measure as set forth in the Final EIR shall control unless the language of the mitigation measure has been specifically and expressly modified by these findings.

Sections V through IX, below, provide brief descriptions of the impacts the Final EIR identifies as either significant and unavoidable or less than significant with adopted mitigation. These descriptions also reproduce the full text of the mitigation measures identified in the Final EIR for each significant impact.

V. SIGNIFICANT AND UNAVOIDABLE IMPACTS WITH MITIGATION INCORPORATED

The Final EIR identifies the following significant and unavoidable adverse impacts associated with the approval of the Vallco Special Area Specific Plan Project, some of which can be reduced, although not to a less-than-significant level, through implementation of mitigation measures identified in the EIR. Pub. Resources Code § 21081(a)(1). In addition, the City cannot require adoption or implementation for mitigation measures for some impacts, because they are within the responsibility and jurisdiction of other public agencies. Pub. Resources Code § 21081(a)(2). Therefore, as explained below, some impacts will remain significant and unavoidable notwithstanding the adoption of feasible mitigation measures. To the extent that these mitigation measures will not mitigate or avoid all significant effects on the environment, and because the City cannot require mitigation measures that are within the responsibility and jurisdiction of other public agencies to be adopted or implemented by those other agencies, it is hereby determined that these significant and unavoidable adverse impacts are acceptable for the reasons specified in Section XI, below. Pub. Resources Code § 21081(a)(3). As explained in Section XII, below, the

findings in this Section are based on the Draft EIR, the EIR Amendment, and the Final EIR, the discussion and analysis in which is hereby incorporated in fully by this reference.

A. Impact AQ-2. The construction of the revised project would violate an air quality standard or contribute substantially to an existing or projected air quality violation.

The EIR finds that the revised project would result in significant air quality impacts related to construction period dust and exhaust emissions. Implementation of the project would result in short-term emissions from construction activities with development, including site grading, asphalt paving, building construction, and architectural coating. Emissions commonly associated with construction activities include fugitive dust from soil disturbance, fuel combustion from mobile heavy-duty diesel- and gasoline-powered equipment, portable auxiliary equipment, and worker commute trips. During construction, fugitive dust, the dominant source of respirable particulate matter (PM₁₀) and fine particulate matter (PM_{2.5}) emissions, is generated when wheels or blades disturb surface materials. Uncontrolled dust from construction can become a nuisance and potential health hazard to those living and working nearby.

Demolition and construction of buildings can also generate PM₁₀ and PM_{2.5} emissions. Off-road construction equipment is often diesel-powered and can be a substantial source of nitrogen oxide (NO_x) emissions, in addition to PM₁₀ and PM_{2.5} emissions. The combination of temporary dust from activities and diesel exhaust from construction equipment poses both a health and nuisance impact to nearby receptors.

Estimated construction emissions for the project would exceed the BAAQMD significance threshold for NO_x emissions during construction. Emissions of ROG, PM₁₀ exhaust, and PM_{2.5} exhaust during construction would be below BAAQMD significance thresholds.

Implementation of MM AQ-2.1, set forth below, which is hereby adopted and incorporated into the project, would reduce construction-related emissions from the project, but not to a less than significant level. Therefore, this impact is considered significant and unavoidable.

MM AQ-2.1: *Future development under the revised project shall implement the following BAAQMD-recommended measures to control dust, particulate matter, and diesel exhaust emissions during construction:*

Basic Measures

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 miles per hour (mph).*
5. *All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.*
6. *Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes unless subject to state law exemptions (e.g., safety issues). 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. *Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.*

Applicable Enhanced Control Measures

9. *All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.*
10. *All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph and visible dust extends beyond site boundaries.*
11. *Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction adjacent to sensitive receptors. Wind breaks should have at maximum 50 percent air porosity.*
12. *Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.*

13. *The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.*
14. *Avoid tracking of visible soil material on to public roadways by employing the following measures if necessary: (1) Site accesses to a distance of 100 feet from public paved roads shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel and (2) washing truck tires and construction equipment of prior to leaving the site.*
15. *Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.*
16. *Minimizing the idling time of diesel powered construction equipment to two minutes unless subject to state law exemptions (e.g., safety issues).*

Exhaust Control Measures

17. *The project shall develop a plan demonstrating that the off-road equipment (more than 25 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a minimum project wide fleet-average 25 percent NO_x reduction and 65 percent PM (particulate matter) exhaust reduction compared to the CalEEMod modeled average used in this report. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available. The following are feasible methods:*
 - *All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet EPA Tier 4 emission standards for NO_x and PM, where feasible.*
 - *If Tier 4 equipment is not feasible, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust.*
 - *Use of alternatively-fueled equipment with lower NO_x emissions that meet the NO_x and PM reduction requirements above.*
 - *Diesel engines, whether for off-road equipment or on-road vehicles, shall not be left idling for more than two minutes, except as provided in exceptions to the applicable state regulations (e.g., traffic conditions, safe operating conditions). The construction sites*

shall have posted legible and visible signs in designated queuing areas and at the construction site to clearly notify operators of idling limit.

- *All on-road heavy-duty diesel trucks with a gross vehicle weight rating of 33,000 pounds or greater (EMFAC Category HDDT) used at the project site (such as haul trucks, water trucks, dump trucks, and concrete trucks) shall be model year 2010 or newer.*
- *Develop a Transportation Demand Management program for construction worker travel that includes transit and carpool subsidies in order to reduce worker trips.*
- *Provide line power to the site during the early phases of construction to minimize the use of diesel powered stationary equipment, such as generators.*

18. A project-specific construction management plan describing the measures to minimize construction emissions shall be required of future development. As part of the construction management plan, the on-site Construction Manager shall ensure and regularly document that equipment, trucks, and architectural coatings meet the above mitigation requirements. The documentation shall be submitted regularly to the City for review and compliance.

B. Impact AQ-3. The operation of the revised project would violate an air quality standard or contribute substantially to an existing or projected air quality violation.

The EIR finds that the revised project would exceed the significance thresholds for all criteria air pollutant emissions (ROG, NO_x, PM₁₀, and PM_{2.5}) on an annual and daily basis, primarily due to the amount of development proposed and the substantial amount of vehicle trips generated by the proposed uses. Accordingly, operational emissions typically represent the majority of a project's air quality impacts. After a project is built, operational emissions, including mobile and area sources (including tire wear and brake wear), are anticipated to occur continuously throughout the project's lifetime.

Implementation of the proposed TDM program and MM AQ-3.1, set forth below, which is hereby adopted and incorporated into the project, would reduce the impact but not to a less than significant level. Therefore, this impact is considered significant and unavoidable.

MM AQ-3.1: *Future development under the revised project shall use low-VOC paint (i.e., 50 g/L or less) on operational architectural coatings and no hearths or fireplaces (including natural gas-powered) shall be installed in the residential units.*

- C. Impact AQ-4. The revised project would result in a cumulatively considerable net increase in criteria pollutants (ROG, NO_x, PM₁₀, and/or PM_{2.5}) for which the project region is non-attainment under an applicable federal or state ambient air quality standard.**

The discussion under Impact AQ-3 addresses cumulatively considerable net increases of criteria pollutants or precursors. The project would have a cumulatively considerable net increase in criteria air pollutants (ROG, NO_x, PM₁₀, and PM_{2.5}) and those emissions are considered significant and unavoidable.

Implementation of MM AQ-4.1, set forth below, which is hereby adopted and incorporated into the project, would reduce the impact but not to a less than significant level. Therefore, this impact is considered significant and unavoidable.

MM AQ-4.1: *Implement MM AQ-3.1.*

- D. Impact AQ-6. The revised project would expose sensitive receptors to substantial construction dust and diesel exhaust emissions concentrations.**

The revised project would expose sensitive receptors to concentrations of NO_x emissions that exceed the BAAQMD's threshold during construction. The exposure of nearby sensitive receptors to construction-related dust and diesel exhaust emissions is discussed under Impact AQ-2, above.

Implementation of MM AQ-6, set forth below, which is hereby adopted and incorporated into the project, would reduce the impact but not to a less than significant level. Therefore, this impact is considered significant and unavoidable.

MM AQ-6-1: *Implement MM AQ-2.1.*

- E. Impact NOI-1. The revised project would expose persons to or generation of noise levels in excess of standards established in the General Plan Municipal code, or applicable standard of other agencies.**

The EIR finds that the revised project would result in construction noise that could expose sensitive receptors to noise levels that exceed noise standards set forth in the City's Municipal Code. Construction activities could generate considerable amounts of noise, especially during demolition, earth-moving, and infrastructure construction

phases when heavy equipment is used. The highest maximum noise levels generated by construction of the project would typically range from about 80 to 90 dBA L_{max} at a distance of 50 feet from the noise source. The Specific Plan includes a 56 foot “no build” zone along the property lines of the single family residences on the west side of the project area. The only types of construction in this zone would be streets, bike lanes, open space and trails, This will help attenuate noise impacts from construction.

Several individual pieces of construction equipment would potentially produce noise levels that would exceed the City’s 87 dBA L_{max} limit at 25 feet; the noisiest of which would be impact pile driving. Impact pile driving would result in maximum noise levels up to 105 dBA L_{max} at 50 feet, which would equate to 111 dBA L_{max} at 25 feet. This would be a potentially significant impact. Further, it is conservatively assumed that construction activities on the project site would exceed the 80 dBA L_{eq} threshold at the property lines of the nearby existing residences.

Implementation of MM NOI-1.1, MM NOI-1.2, MM NOI-1.3, MM NOI-1.4, MM NOI-1.5, set forth below, which are hereby adopted and incorporated into the project, may not mitigate construction noise of individual projects to a less than significant level. Therefore, impacts from construction noise would be significant and unavoidable.

MM NOI-1.1: *Construction activities under the revised project shall be conducted in accordance with provisions of the City’s Municipal Code which limit temporary construction work to daytime hours,⁹ Monday through Friday. Certain types of construction are prohibited on weekends and all holidays pursuant to Municipal Code Sections 10.48.053(B), (C) and (D).¹⁰ Further, the City requires that all equipment have high-quality noise mufflers and abatement devices installed and are in good condition. Additionally, the construction crew shall adhere to the following construction best management practices listed in MM NOI-1.2 below to reduce construction noise levels emanating from the site and minimize disruption and annoyance at existing noise-sensitive receptors in the project vicinity.*

⁹ Pursuant to Municipal Code Section 10.48.010, “daytime” is defined as the period from 7:00 AM to 8:00 PM weekdays.

¹⁰ Municipal Code Section 10.48.053(B): Notwithstanding Section 10.48.053A, it is a violation of this chapter to engage in any grading, street construction, demolition or underground utility work within seven hundred fifty feet of a residential area on Saturdays, Sundays and holidays, and during the nighttime period, except as provided in Section 10.48.030. Municipal Code Section 10.48.053(C): Construction, other than street construction, is prohibited on holidays, except as provided in Sections 10.48.029 and 10.48.030. Municipal Code Section 10.48.053(D): Construction, other than street construction, is prohibited during nighttime periods unless it meets the nighttime standards of Section 10.48.040.

MM NOI-1.2: *Future development shall prepare and submit a construction noise control plan to the City's Building Department and Code Enforcement for review and approval. The on-site Construction Manager shall implement the construction noise control plan, which would include, but is not limited to, the following available controls:*

- *Construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment. Temporary noise barrier fences would provide a five dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receptor and if the barrier is constructed in a manner that eliminates any cracks or gaps.*
- *Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.*
- *Enforce idling limit of two minutes for internal combustion engines unless subject to state law exemptions (e.g., safety issues).*
- *Locate stationary noise-generating equipment, such as air compressors or portable power generators, as far as possible from sensitive receptors as feasible. If they must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used to reduce noise levels at the adjacent sensitive receptors. Any enclosure openings or venting shall face away from sensitive receptors.*
- *Utilize "quiet" air compressors and other stationary noise sources where technology exists.*
- *Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.*
- *Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.*
- *Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.*
- *If impact pile driving is proposed, temporary noise control blanket barriers shall shroud pile drivers or be erected in a manner to shield the adjacent land uses.*
- *If impact pile driving is proposed, foundation pile holes shall be pre-drilled to minimize the number of impacts required to seat the pile. Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile. Notify all adjacent land uses of the construction schedule in writing.*
- *The contractor shall prepare a detailed construction schedule for major noise-generating construction activities and provide it to adjacent land uses. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.*

- Designate a “disturbance coordinator” who would be responsible for responding to any complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g., bad muffler, etc.) and would require that reasonable measures be implemented to correct the problem. The telephone number for the disturbance coordinator shall be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the construction schedule.

MM NOI-1.3: A qualified acoustical consultant shall be retained for development under the revised project to review mechanical noise, as these systems are selected, to determine specific noise reduction measures necessary to ensure noise complies with the City’s noise level requirements. Mechanical equipment shall be selected and designed to reduce impacts on surrounding uses to meet the City’s noise level requirements. Noise reduction measures could include, but are not limited to:

- Selection of equipment that emits low noise levels;
- Installation of noise dampening techniques, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors;
- Locating equipment in less noise-sensitive areas, where feasible.

MM NOI-1.4: Section 10.48.062 prohibits deliveries between 8:00 PM and 8:00 AM on weekdays and between 6:00 PM and 9:00 AM on weekends and holidays, which shall be enforced as part of the revised project. Additionally, the effect of loading zone activities would be evaluated for noise impacts and help determine design decisions once project-specific information for the revised project, such as type and size of the commercial uses, hours of operation, frequency of deliveries, and location of loading zones, is available. Noise reduction measures could include, but are not limited to, the following:

- Move loading zones inside (e.g., within parking structures), where possible, and as far from adjacent residential uses as possible.
- Implement a no idling policy at all locations that requires engines to be turned off after two minutes.
- Recess truck docks into the ground or locate them within parking structures.
- Equip loading bay doors with rubberized gasket type seals to allow little loading noise to escape.

MM NOI-1.5: Prior to issuance of building permits, a noise study shall be completed to determine noise levels due to truck deliveries at the proposed buildings, and the specific noise

control that shall be implemented to reduce noise levels below the City's thresholds at adjacent residential property lines shall be identified.

F. Impact NOI-3. The revised project would result in substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.

The EIR finds that the revised project would generate approximately 39,063 average daily trips and would result in permanent ambient noise increase due to project-generated traffic.

Implementation of MM NOI-3.1, set forth below, which is hereby adopted and incorporated into the project, would reduce the impact but not to a less than significant level because vehicle speed is already limited. Therefore, impacts would be significant and unavoidable.

MM NOI-3.1: *Future development under the revised project shall implement available measures to reduce project-generated noise level increases from project traffic on Perimeter Road. The noise attenuation measures shall be studied on a case-by-case basis at receptors that would be significantly impacted. Noise reduction methods could include the following:*

- *Alternative noise reduction techniques, such as re-paving Perimeter Road with "quieter" pavement types including Open-Grade Rubberized Asphaltic Concrete. The use of "quiet" pavement can reduce noise levels by two to five dBA, depending on the existing pavement type, traffic speed, traffic volumes, and other factors.*
- *Traffic calming measures to slow traffic, such as speed bumps.*
- *Building sound insulation for affected residences, such as sound-rated windows and doors, on a case-by-case basis as a method of reducing noise levels in interior spaces.*

G. Impact NOI-4. The revised project would result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

The EIR finds that the revised project would result in significant temporary increase in ambient noise levels due to construction activities. Pile driving activities are expected to exceed maximum noise thresholds established in the City's Municipal Code for individual pieces of equipment, even with the implementation of the Construction Best Management Practices. Further, the temporary construction noise impact would be considered significant, if project construction activities exceeded 60 dBA L_{eq} at nearby residences or exceeded 70 dBA L_{eq} at nearby commercial land uses and exceeded the

ambient noise environment by five dBA L_{eq} or more for a period longer than one year. Based on the hourly average noise levels, construction activities within 50 feet of the property lines of the nearby residential and commercial land uses would exceed 60 and 70 dBA L_{eq} , respectively, and exceed ambient noise levels by more than five dBA throughout construction. This would result in indoor speech interference and disruption for a period of up to 10 years. Thus, construction noise associated with the project could expose nearby sensitive receptors to elevated noise levels over a period of up to 10 years.

Implementation of MM NOI-4.1, set forth below, which is hereby adopted and incorporated into the project, would reduce construction noise levels emanating from the site and minimize disruption and annoyance to the extent feasible but not to a less than significant level because of the extended period anticipated for the project construction. Therefore, the impact would remain significant and unavoidable.

MM NOI-4.1: *Implement MM NOI-1.1 and -1.2.*

- H. Impact TRN-1. Under existing project conditions, the revised project would conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system; and conflict with an applicable congestion management program, including standards established for designated roads or highways.**

The EIR finds that the revised project would result in a significant intersection level of service impacts under existing with project conditions, defined as existing conditions plus traffic generated by buildout of the project, as the following intersections:

- 12. De Anza Boulevard/McClellan Road (City of Cupertino) – PM peak hour; and
- 43. Stevens Creek Boulevard/Stern Avenue (City of Santa Clara) – PM peak hour.

The revised project would also significantly impact 14 mixed-flow segments in the AM peak hour, 18 mixed-flow segments in the PM peak hour, five HOV segments in the AM peak hour, and five HOV segments in the PM peak hour.

Implementation of MM TRN-1.1, MM TRN-1.2, and MM TRN-1.3, set forth below, are hereby adopted and incorporated into the project, would reduce the impacts but not to a less than significant level. Therefore, the impacts would remain significant and unavoidable.

MM TRN-1.1: *Develop and implement a TDM Program which includes a trip cap that is based on a 34 percent non-SOV rate for the office uses. The TDM program includes the creation of a Transportation Management Association that would:*

- *Provide concierge services to residents and retail owners (for their employees);*
- *Coordinate with the office component; and*
- *Oversee the overall TDM program among property owners and tenants to achieve the office trip caps*

As part of the TDM Program, the City shall require future development to implement the Specific Plan's TDM Monitoring Program to ensure that the TDM reduction goals are achieved. The TDM Monitoring Program shall require a robust Monitoring Program to ensure that this TDM program mitigation measure is implemented and that the required trip caps are achieved. The Monitoring Program shall be subject to review and approval by the City of Cupertino and would include driveway monitoring for all office uses during the AM and PM peak hours. The TDM Monitoring Program would occur in the fall (mid-September through mid-November) after six months occupancy of 50 percent of the total approved buildout. The TDM Monitoring Program shall be conducted annually for the first 10 years. If the monitoring reveals that the peak trip counts have not been exceeded in the last three years of the first 10 years of annual monitoring, the TDM monitoring shall be reduced to once every two years (i.e., year 10, 12, 14, etc.). However, if any biennial report reveals that the peak trip counts have been exceeded, the monitoring shall revert to annual monitoring until such time that the peak trip counts have not been exceeded for three consecutive annual reports. If future development is not able to meet the identified TDM goal, then the City would collect penalties (assigned proportionately between the uses that do not meet the trip cap), as specified in the Specific Plan's TDM Monitoring Program. Penalties collected from the TDM Monitoring Program will be used to improve multimodal access around the site and throughout the City of Cupertino.

MM TRN-1.2: *Intersection 12, De Anza Boulevard/McClellan Road: convert the shared left-turn/through lane on the eastbound approach of McClellan Road to a dedicated through lane (for a total of one left-turn lane, one through lane, and one right-turn lane). This would allow converting the phasing on the east-west approaches from split phasing to protected left-turn phasing. This improvement is included in the City's TIF Program and would improve intersection operations to an acceptable LOS D. Future development under the revised project shall pay transportation mitigation fees as calculated pursuant to the TIF program to mitigate this impact.*

Because the TIF improvements are not fully funding and the timing of implementation is not known at this time, however, the impact to Intersection 12 is considered significant and unavoidable.

MM TRN-1.3: *A fair-share payment contribution of \$3,865,182.00 to improvements identified in VTA's VTP 2040 for freeway segments on SR 85, I-280, and I-880 that the project (or project alternative) significantly impacts shall be paid by future development associated with the revised project.*

The VTA's VTP 2040 identifies several freeway projects that are relevant to the identified freeway segment impacts, including:

- *VTP ID H1: SR 85 Express Lanes: US 101 (South San José to Mountain View). This project would convert 24 miles of existing HOV lanes to express lanes, and allow single-occupancy vehicles access to the express lanes by paying a toll. An additional express lane will be added to create a two-lane express lane along a portion of the corridor. On November 13, 2017, the cities of Cupertino and Saratoga and the Town of Los Gatos entered into a settlement agreement¹¹ with VTA and Caltrans that requires VTA to implement the 2016 Measure B State Route 85 Corridor Program Guidelines which include preparing a Transit Guideway Study for this corridor to identify the most effective transit and congestion relief projects on SR 85 that will be candidates for funding. Upon completion of the study, and implementation plan for these projects will be developed.*
- *VTP ID H11: I-280 Express Lanes: Leland Avenue to Magdalena Avenue. This project converts existing HOV lanes to express lanes.*
- *VTP ID H13: I-280 Express Lanes: Southbound El Monte Avenue to Magdalena Avenue. This project builds new express lanes.*
- *VTP ID H15: I-880 Express Lanes: US 101 to I-280. This project would build new express lanes on I-880.*
- *VTP ID H35: I-280 Northbound: Second Exit Lane to Foothill Expressway. This project constructs a second exit lane from northbound I-280 to Foothill Expressway.*
- *VTP ID H45: I-280 Northbound Braided Ramps between Foothill Expressway and SR 85: This project would conduct preliminary engineering, environmental studies, and design to widen the existing off-ramp to Foothill Expressway from Northbound I-280 from a single-lane exit to a two-lane exit opening at I-280.*

¹¹ As part of the Settlement Agreement, *City of Saratoga, et al. v. California Department of Transportation, et al.* (Santa Clara County Superior Court Case No. 115CV281214), which was a suit by the three cities challenging Caltrans's approval of the State Route 85 Express Lanes Project, was dismissed on November 17, 2017.

- I. Impact TRN-2. Under background with project conditions, the revised project would conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system; and conflict with an applicable congestion management program, including standards established for designated roads or highways.**

The EIR finds that the revised project would result in a significant intersection level of service impact under background with project conditions, defined as background conditions plus traffic generated by buildout of the project, at the following 11 intersections:

- 11. De Anza Boulevard/Stevens Creek Boulevard (City of Cupertino) – PM peak hour;
- 12. De Anza Boulevard/McClellan Road (City of Cupertino) – PM peak hour;
- 31. Wolfe Road and Vallco Parkway (City of Cupertino) – PM peak hour;
- 32. Wolfe Road-Miller Avenue/Stevens Creek Boulevard (City of Cupertino)* – AM and PM peak hours;
- 42. Stevens Creek Boulevard/Tantau Avenue (City of Cupertino) – AM peak hour;
- 43. Stevens Creek Boulevard/Stern Avenue (City of Santa Clara) – AM and PM peak hours;
- 44. Stevens Creek Boulevard/Calvert Drive/I-280 Ramps (west) (City of Santa Clara)* – AM and PM peak hours;
- 45. Stevens Creek Boulevard/Agilent Driveway (City of Santa Clara) – AM peak hour;
- 48. Lawrence Expressway/Homestead Road (Santa Clara County)* – PM peak hour;
- 51. Lawrence Expressway/Calvert Drive-I-280 Southbound Ramp (City of San José)* – AM peak hour; and
- 53. Lawrence Expressway/Bollinger Road (Santa Clara County)* – AM and PM peak hours.

* denotes CMP intersection

The revised project would also result in a significant freeway level of service impacts under background with project conditions at 15 mixed flow lanes in the AM peak hour, 20 mixed flow lanes in the PM peak hour, four HOV lanes in the AM peak hour, and five HOV lanes in the PM peak hour.

Implementation of MM TRN-2.1, MM TRN-2.2, MM TRN-2.3, MM TRN-2.4, MM TRN-2.4, MM TRN-2.5, MM TRN-2.6, MM TRN-2.7, MM TRN-2.8, and MM TRN-2.9, set

forth below, which are hereby adopted and incorporated into the project, would reduce the impacts but not to a less than significant level. Therefore, the impacts would remain significant and unavoidable.

MM TRN-2.1: *Implement MM TRN-1.1.*

The TDM program is expected to reduce the severity of intersection and freeway impacts, although not necessarily to a less than significant level.

MM TRN-2.2: *Intersection 12, De Anza Boulevard/McClellan Road: Implement MM TRN-1.2. Implementation of MM TRN-1.2 would improve intersection the average intersection delay to better than background (without project or project alternative) conditions.*

Because the TIF improvements are not fully funded and the timing of implementation is not known at this time, the impact is considered significant and unavoidable.

MM TRN-2.3: *Intersection 31, Wolfe Road/Vallco Parkway: Provide an overlap phase for the westbound right-turn movement, which would provide for a green right-turn arrow while the southbound left-turn movement has its green phase. Southbound U-turns shall also be prohibited. Implementation of this mitigation measure would improve intersection level of service to an acceptable LOS D.*

MM TRN-2.4: *Intersection 42, Stevens Creek Boulevard/Tantau Avenue: Provide a northbound left-turn lane (for a total of one left-turn lane and one shared through/right-turn lane). This would allow converting the phasing on the east-west approaches from split phasing to protected left-turn phasing. This improvement is included in the City's TIF Program and would improve intersection operations to an acceptable LOS D. Future development under the revised project shall pay transportation mitigation fees as calculated pursuant to the TIF program to mitigate this impact.*

Because the TIF improvements are not fully funding and the timing of implementation is not known at this time, however, the impact is considered significant and unavoidable.

MM TRN-2.5: *Intersections 43-45: Contribute a fair-share of \$96,000.00 to a traffic signal timing study and implementation of the revised timings on Stevens Creek Boulevard at Stern Avenue, Calvert Drive, and Agilent Driveway*

The revised project impacts would likely improve with modifications to the signal timings as traffic volumes change, but the impact is concluded to be significant and

unavoidable because the effectiveness of the improvement would be determined through the signal timing study and because the intersection is under the jurisdiction of another agency and the City cannot guarantee the implementation of the signal timing study.

MM TRN-2.6: *Intersection 48, Lawrence Expressway/Homestead Road: Pay a fair-share contribution of \$219,000.00 to the near-term improvement identified in the Santa Clara County's Expressway Plan 2040 Study for this intersection. The Expressway Plan 2040 Study identifies a near-term improvement of an additional eastbound through lane on Homestead Road. With this improvement, intersection operations would improve, but the intersection would continue to operate at LOS F with delays greater than under background conditions.*

The ultimate improvement identified by the County's Expressway Plan 2040 is to grade-separate the intersection. That is a long-term improvement, however, which would not be implemented within the next 10 years. Furthermore, the improvement is under the jurisdiction of another agency and the City cannot guarantee its implementation. Therefore, the impact is considered significant and unavoidable.

MM TRN-2.7: *Intersection 51, Lawrence Expressway/Calvert Drive-I-280 Southbound Ramp: Improvements to mitigate the impact would include providing a fourth northbound through lane (for a total of four through lanes and one right-turn lane). This would require four receiving lanes north of Calvert Drive-I-280 Southbound Ramps. With this improvement, the intersection would operate at acceptable LOS E or better. The widening of Lawrence Expressway from three to four lanes in each direction between Moorpark Avenue to south of Calvert Drive is included in the VTP 2040 as a constrained project (VTP 2040 Project# X10). The VTP 2040 does not include widening of Lawrence Expressway at or north of Calvert Drive, however. The fourth northbound through lane on Lawrence Expressway could potentially be provided with an added receiving lane that would connect directly to the off-ramp to Lawrence Expressway (also known as "trap" lane) just north of the I-280 overcrossing. The City shall coordinate with the County of Santa Clara to and Caltrans to determine if a fourth through lane could be provided. Future development under the proposed project shall be required to pay a fair-share contribution of \$133,380.00 if the improvement is feasible.*

The impact would remain significant and unavoidable because the feasibility of the improvement is yet to be determined, and because the intersection is within the responsibility and jurisdiction of another agency and the City cannot guarantee the improvement would be constructed concurrent with the proposed project.

MM TRN-2.8: *Intersection 53, Lawrence Expressway/Bollinger Road: Improvements to mitigate the revised project's impact would include providing a fourth northbound through lane*

(for the PM peak hour impact) and fourth southbound through lane (for the AM peak hour impact). The widening of Lawrence Expressway from three to four lanes in each direction between Moorpark Avenue to south of Calvert Drive is included in the VTP 2040 as a constrained project (VTP 2040 Project# X10). This VTA project also includes the provision of an additional westbound through lane on Moorpark Avenue.

Assuming that both the northbound and southbound approaches would be modified to accommodate four through lanes, the intersection would operate at or better than acceptable LOS E under the revised project during the AM and PM peak hours. Future development under the revised project shall be required to pay a fair-share contribution of \$133,380.00 to VTP Project# X10.

The impact would remain significant and unavoidable, however, because the intersection is within the responsibility and jurisdiction of another agency and the City cannot guarantee the improvement would be constructed concurrent with the proposed project.

MM TRN-2.9: Implement MM TRN-1.2.

The VTP 2040 projects will enhance vehicular travel choices for the project (and project alternatives), and make more efficient use of the transportation roadway network, and the SR 85 Transit Guideway Study will help improve transit options in the SR 85 corridor. These freeway operations enhancements would not improve all impacted freeway segments to less than significant levels, however. The TDM Program proposed under the revised project and mitigation measure MM TRN-2.1 would reduce project-generated vehicle trips, thereby reducing the revised project impact on freeway segments, but it is not anticipated that the freeway impacts would be reduced to a less than significant level. For the above reasons, the revised project would remain significant and unavoidable with the implementation of MM TRN-2.1 and -2.9.

VI. SIGNIFICANT ADVERSE IMPACTS IDENTIFIED IN THE FINAL EIR THAT ARE REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL BY MITIGATION MEASURES ADOPTED AND INCORPORATED INTO THE PROJECT

The Final EIR identifies the following significant impacts associated with the revised project. It is hereby determined that the impacts addressed by these mitigation measures will be mitigated to a less than significant level or avoided by adopting and incorporating these mitigation measures into the project. The findings in this section are based on the Draft EIR, the EIR Amendment, and the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

A. Impact AQ-7. The revised project would expose sensitive receptors to substantial TAC pollutant concentrations.

The EIR finds that the revised project would result in construction-related health risk exposures to sensitive receptors given the timeframe for construction and the amount of development.

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known Toxic Air Contaminant (TAC). The primary community risk impact issues associated with construction emissions are cancer risk and exposure to PM_{2.5} from diesel exhaust. Accordingly, the maximum excess cancer risk would be 26.7 in one million, which exceeds the BAAQMD threshold of significance of 10 in one million. The maximum annual PM_{2.5} concentration, which is based on combined exhaust and fugitive dust emission, is 0.25 micrograms per cubic meter (µg/m³) and does not exceed the BAAQMD threshold of significance of 0.3 µg/m³. The maximum Hazard Index (non-cancer health hazards from TAC exposure) is 0.01, which is below the BAAQMD threshold of significance of 1.0.

Implementation of MM AQ-7.1, set forth below, which is hereby adopted and incorporated into the project, would reduce the impact to a less than significant cumulative health risk impact.

MM AQ-7.1: *Future development under the revised project shall implement mitigation measure MM AQ-2.1 to reduce on-site diesel exhaust emissions, which would thereby reduce the maximum cancer risk due to construction of the project.*

B. Impact CR-2. The revised project would not significantly impact archaeological resources, human remains, or tribal cultural resources.

The EIR finds that the revised project site would have a low to moderate potential for containing buried archaeological resources. To date, no archaeological resources have been recorded on or adjacent to the project site.

Based on a conservative estimate of parking demand, it is anticipated that the project would require multiple levels of below grade parking across most of the site (51 acres). The below ground parking over 51 acres would require a maximum excavation depth of 20 to 50 feet for the project and project alternatives. If any archaeological resource, human remains, or tribal cultural resources be found during project excavation and grading activities, their disturbance would be a significant impact.

Implementation of MM CR-2.1, MM CR-2.2, MM CR-2.3, and MM CR-2.4, set forth below, which are hereby adopted and incorporated into the project, would reduce the impact to a less than significant impact.

MM CR-2.1: *A qualified archaeological monitor shall be retained by the project proponent for future development under the revised project to inspect the ground surface at the completion of demolition activities as they occur to search for archaeological site indicators. Site indicators include, but are not limited to: darker than surrounding soils of a friable nature; evidence of fires (ash, charcoal, fire affected rock or earth); concentrations of stone, bone, or shellfish; artifacts of stone, bone, or shellfish; and burials, either human or animal.*

In the event that any indicators are discovered, work shall be halted within a sensitivity zone to be determined by the archaeologist. The archaeologist shall prepare a plan for the evaluation of the resource to the CRHP and submit the plan to the Cupertino Planning Department for review and approval prior to any construction related earthmoving within the identified zone of archaeological sensitivity. The plan shall also include appropriate recommendations regarding the significance of the find and the appropriate mitigation. The identified mitigation shall be implemented and can take the form of limited data retrieval through hand excavation coupled with continued archaeological monitoring inside of the archaeologically sensitive zone to ensure that significant data and materials are recorded and/or removed for analysis. Monitoring also serves to identify and thus limit damage to human remains and associated grave goods.

MM CR-2.2: *Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California, in the event of the discovery of human remains during construction of the revised project, there shall be no further excavation or disturbance of the site within a 100-foot radius of the remains or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the NAHC within 24 hours. The NAHC shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.*

MM CR-2.3: *If archaeological resources are identified during construction of the revised project, a final report summarizing the discovery of cultural materials shall be submitted to the City's Project Planner prior to issuance of building permits. This report shall contain a description of the mitigation program that was implemented and its results, including a description of the*

monitoring and testing program, a list of the resources found and conclusion, and a description of the disposition/curation of the resources.

MM CR-2.4: *The City of Cupertino shall coordinate with the applicable Native American tribal representatives following approval of a development on-site under the revised project to ensure appropriate cultural sensitivity training is provided to all contractors prior to the start of ground-disturbing activities.*

- C. Impact HAZ-1. The revised project would not create a significant hazard to the public or the environment through routine transport, use, disposal, or foreseeable upset of hazardous materials; or emit hazardous emissions or hazardous materials within one-quarter mile of an existing or proposed school.**

The EIR finds that the revised project would result in a potential for on-site soil, soil vapor, and groundwater contamination above regulatory screening levels for residential and commercial uses due to historic and existing hazardous materials use, generation, and storage.

Construction of the project would result in the demolition of existing structures and excavation up to a maximum dept of 20 to 50 feet for below ground parking. Unless properly handled and disposed of, the removal and transport of on-site hazardous materials could present a risk to the environment (including LP Collins Elementary School/Bright Horizons at Cupertino Pre-School, which are within 0.25 miles of the project site to the west), construction workers, and future occupants.

The revised project does not propose any on-site use of hazardous materials other than small quantities of herbicides and pesticides for landscaping maintenance and cleaning and pool chemicals. The use, storage, and transportation and disposal of pool cleaning and maintenance chemicals would be managed in accordance with federal, state, and local laws and regulations that ensure on-site use, storage, transportation and disposal of chemicals will result in a less than significant impact. No other routine use, storage, transportation, or disposal of hazardous materials is anticipated as part of the project.

Implementation of MM HAZ-1.1, MM HAZ-1.2, MM HAZ-1.3, and MM HAZ-1.4, set forth below, which are hereby adopted and incorporated into the project, would reduce on-site hazardous materials impacts from demolition, excavation, and construction to a less than significant level by creating and implementing an SMP and HSP to establish practices for properly handling contaminated materials, implementing measures during demolition activities to identify, remove, and clean up hazardous materials on-site,

properly closing groundwater monitoring wells, and obtaining site closure from regulatory agencies. Thus, the impact would be reduced to a less than significant impact.

MM HAZ-1.1: *A Site Management Plan (SMP) and Health and Safety Plan (HSP) shall be prepared and implemented for demolition and redevelopment activities under the revised project. The purpose of the SMP and HSP is to establish appropriate management practices for handling impacted soil, soil vapor, and groundwater or other materials that may potentially be encountered during construction activities, especially in areas of former hazardous materials storage and use, and the profiling of soil planned for off-site disposal and/or reuse on-site. The SMP shall document former and suspect UST locations, hazardous materials transfer lines, oil-water separators, neutralization chambers, and hydraulic lifts, etc. The SMP shall also identify the protocols for accepting imported fill materials, if needed. The SMP and HSP shall be submitted to SCCDEH for approval and the approved SMP and HSP shall be submitted to the City Building Division prior to commencement of construction (including demolition) activities.*

MM HAZ-1.2: *The site contains equipment and facilities associated with past activities that are known to or may contain residual hazardous materials. The following measures shall be implemented under the revised project during building demolition and shall be indicated on demolition plans:*

- *Sears and JC Penney Automotive Centers:*
 - *Sears: Remnant piping that appears to have formerly distributed grease, oil and transmission fluid from storage locations to the service bays located along interior building walls, ceilings and within the basement shall be properly removed and disposed, and stains and residual oil shall be cleaned from the interior building surfaces. This work shall be coordinated with the SCCFD.*
 - *Sears: The below ground oil-water separator (connected to floor drains within the building) and an acid neutralization chamber (connected to drains within a former battery storage room) shall be cleaned and removed. This work shall be coordinated with the SCCFD and SCCDEH. Soil quality below each of the structures shall be evaluated via sampling and laboratory analyses.*
 - *Sears: The potential presence of a waste oil UST shall be further investigation by removing the access cover and, if uncertainty remains, the subsequent performance of a geophysical survey. If a UST is identified, it shall be removed in coordination with the SCCFD and SCCDEH, and underlying soil quality shall be evaluated. If no UST is identified, soil quality at the location of the waste oil UST, as depicted on the 1969*

- building plan, shall be evaluated via the collection of soil samples from borings for laboratory analyses.*
- Sears and JC Penney: Each of the below-ground lift casings and any associated hydraulic fluid piping and reservoirs from hydraulic lifts shall be removed and properly disposed. An Environmental Professional shall be retained to observe the removal activities and, if evidence of leakage is identified, soil sampling and laboratory analyses shall be conducted.*
 - JC Penney: The project proponent shall obtain a permit from SCCDEH to properly remove and dispose of the 750 gallon oil-water separator during redevelopment activities. Collection and analysis of confirmation soil samples would be required under oversight of SCCDEH.*
 - Existing staining and spilled oil on-site, including at the Sears Automotive Center and Cupertino Ice Center, shall be properly cleaned. When these facilities are demolished, an Environmental Professional shall be present to observe underlying soil for evidence of potential impacts and, if observed, collect soil samples for laboratory analyses.*
 - If the lead-based paint on-site is flaking, peeling, or blistering, it shall be removed prior to demolition. Applicable OSHA regulations shall be followed; these include requirements for worker training and air monitoring and dust control. Any debris containing lead shall be disposed appropriately.*
 - An asbestos survey shall be completed of the buildings prior to their demolition in accordance with the National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines. NESHAP guidelines require the removal of potentially friable ACMs prior to building demolition or renovation that may disturb the ACM.*
 - Once existing buildings and improvements are removed, soil sampling shall be completed to evaluate if agricultural chemicals and lead are present. The agricultural pesticide sampling shall focus on former orchard and row crop areas, as well as in the vicinity of outbuilding (barns and sheds) that were formerly located on the southeast portion of the site. Testing for lead contamination shall be completed at the former structure locations. The sampling, which shall follow commonly accepted environmental protocols, shall be performed prior to soil excavation activities in order to appropriately profile the soil for off-haul to a disposal facility. The analytical data shall be compared to either residential screening levels and/or the specific acceptance criteria of the accepting facility. If this soil is planned to be reused on-site, it shall be compared to residential screening levels and/or natural background levels of metals.*

MM HAZ-1.3: *Prior to issuance of demolition and/or grading permits, groundwater monitoring wells shall be properly destroyed in accordance with the SCVWD Ordinance 90-1.*

MM HAZ-1.4: *As part of the facility closure process for occupants that use and/or store hazardous materials, the SCCFD and SCCDEH typically require that a closure plan be submitted by the occupant that describes required closure activities, such as removal of remaining hazardous materials, cleaning of hazardous material handling equipment, decontamination of building surfaces, and waste disposal practices, among others. Facility closures shall be coordinated with the Fire Department and SCCDEH to ensure that required closure activities are completed prior to issuance of demolition and/or grading permits.*

D. Impact NOI-2. The revised project would not expose persons to or generate excessive groundborne vibration.

The EIR finds that the revised project may generate vibration when heavy equipment or impact tools (e.g., jackhammers, hydraulic demolition hammer/hoe ram) are used. The revised project construction activities, such as pile driving, drilling, the use of jackhammers, rock drills and other high-power or vibratory tools, and rolling stock equipment (tracked vehicles, compactors, etc.), may generate substantial vibration in the immediate vicinity.

Implementation of MM NOI-2.1, set forth below, which is hereby adopted and incorporated into the project, would reduce the impact to a less than significant level by restricting construction noise/vibration exposure, implementing measure to minimize vibration, monitoring effects (if necessary), and notifying receptors.

MM NOI-2.1: *Where vibration levels due to construction activities under the revised project would exceed 0.3 in/sec PPV at nearby sensitive uses, development shall:*

- *Comply with the construction noise ordinance to limit hours of exposure. The City's Municipal Code allows construction noise to exceed limits discussed in Section 10.48.040 during daytime hours. Certain types of construction are prohibited on weekends and all holidays pursuant to Municipal Code Sections 10.48.053(B), (C) and (D).¹²*

¹² Municipal Code Section 10.48.053(B): Notwithstanding Section 10.48.053A, it is a violation of this chapter to engage in any grading, street construction, demolition or underground utility work within seven hundred fifty feet of a residential area on Saturdays, Sundays and holidays, and during the nighttime period, except as provided in Section 10.48.030. Municipal Code Section 10.48.053(C): Construction, other than street construction, is prohibited on holidays, except as provided in Sections 10.48.029 and 10.48.030. Municipal Code Section 10.48.053(D):

- *In the event pile driving would be required, all receptors within 300 feet of the project site shall be notified of the schedule a minimum of one week prior to its commencement. The contractor shall implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration, or the use of portable acoustical barriers), in consideration of geotechnical and structural requirements and conditions.*
- *To the extent feasible, the project contractor shall phase high-vibration generating construction activities, such as pile driving/ground-impacting operations, so they do not occur at the same time with demolition and excavation activities in locations where the combined vibrations would potentially impact sensitive areas.*
- *The project contractor shall select demolition methods not involving impact tools, where possible (for example, milling generates lower vibration levels than excavation using clam shell or chisel drops).*
- *The project contractor shall avoid using vibratory rollers and packers near sensitive areas.*
- *Impact pile driving shall be prohibited within 90 feet of an existing structure surrounding the project site. Vibratory pile driving shall be prohibited within 60 feet of an existing structure surrounding the project site.*
- *Prohibit the use of heavy vibration-generating construction equipment, such as vibratory rollers or clam shovel, within 20 feet of any adjacent sensitive land use.*
- *If pile driving is required in the vicinity of vibration-sensitive structures adjacent to the project site, survey conditions of existing structures and, when necessary, perform site-specific vibration studies to direct construction activities. Contractors shall continue to monitor effects of construction activities on surveyed sensitive structures and offer repair or compensation for damage.*
- *Construction management plans for substantial construction projects, particularly those involving pile driving, shall include predefined vibration reduction measures, notification requirements for properties within 200 feet of scheduled construction activities, and contact information for on-site coordination and complaints.*

Construction, other than street construction, is prohibited during nighttime periods unless it meets the nighttime standards of Section 10.48.040.

E. Impact UTIL-2. The revised project would require improvements to the existing sewer system, however, the construction of the improvements would not cause significant environmental effects.

The EIR finds that the revised project would generate an estimated net increase of 0.59 mgd of sewage. Development of the project would exceed the current capacity of the 12-, 15-, and 27-inch sewer mains serving the site. In addition, Cupertino Sanitary District flows with flows from the project would exceed the peak flow of 13.8 mgd of the City of Santa Clara interceptor located downstream of the project site.

Implementation of MM UTIL-2.1, MM UTIL-2.2, and MM UTIL-2.3, set forth below, which are hereby adopted and incorporated into the project, would mitigate the project impact to the sewer system by making improvements to the sewer system in order to adequately convey flows from future development. The impact would be reduced to a less than significant level.

MM UTIL-2.1: *Future development under the revised project shall replace the existing 12- and 15-inch sewer mains in Wolfe Road with new mains of an adequate size as determined by CuSD, or shall install an 18- to 21-inch parallel pipe to the existing 12- and 15-inch mains to accommodate existing and project flows.*

MM UTIL-2.2: *Future development under the revised project shall replace the existing 27-inch sewer main in Wolfe Road and Homestead Road with new mains of an adequate size determined by the CuSD, or install a parallel pipe of an adequate size to the existing 27-inch sewer main as determined by CuSD.*

MM UTIL-2.3: *No building permits shall be issued by the City for structures or units that would result in the permitted peak wet weather flow capacity of 13.8 mgd through the Santa Clara sanitary sewer system being exceeded. The estimated sewage generation by the revised project shall be calculated using the sewer generation rates used by the San Jose - Santa Clara Water Pollution Control Plant Specific Use Code & Sewer Coefficient table, and from the City of Santa Clara Sanitary Sewer Capacity Assessment, May 2007,¹³ unless alternative (i.e., lower)*

¹³ The average dry weather sewerage generation rates used by the San Jose - Santa Clara Water Pollution Control Plant Specific Use Code & Sewer Coefficient table, and the City of Santa Clara Sanitary Sewer Capacity Assessment, May 2007, for the different uses within the project are as follows: High Density Residential = 121 gpd/unit; Commercial/Retail = 0.076 gpd/SF; Commercial/Restaurant = 1.04 gpd/SF; Office = 0.1 gpd/SF; Hotel = 100 gpd/Room; Civic Space (office) = 0.21 gpd/SF; Adult Education = 15 gpd/Person; and Civic Space (Auditorium) = 0.11 gpd/SF.

sewer generation rates achieved by future development are substantiated by the developer based on evidence to the satisfaction of the CuSD.

VII. SIGNIFICANT AND UNAVOIDABLE CUMULATIVE IMPACTS WITH MITIGATION INCORPORATED

An EIR is required to discuss the cumulative impacts of a project when the project's incremental effect is cumulatively considerable. CEQA Guidelines § 15130(a)(1). "Cumulatively considerable" means that the incremental effects of the project are significant when viewed in connection with the effects of past projects, other current projects, and probable future projects. CEQA Guidelines § 15065(a)(3); Pub. Resources Code § 21083(b)(2). The Final EIR analyzes the cumulative impacts of the project in combination with reasonably foreseeable probable future projects, which are listed in Table 2.6-1 of the Draft EIR.

The Final EIR identifies the following significant and unavoidable adverse cumulative impacts associated with the approval of the Vallco Special Area Specific Plan Project, some of which can be reduced, although not to a less-than-significant level, through implementation of mitigation measures identified in the EIR. Pub. Resources Code § 21081(a)(1). For the same reasons discussed in Section V, above, some impacts will remain significant and unavoidable notwithstanding the adoption of feasible mitigation measures. To the extent that these mitigation measures will not mitigate or avoid all significant effects on the environment, and because the City cannot require mitigation measures that are within the responsibility and jurisdiction of other public agencies to be adopted or implemented by those other agencies, it is hereby determined that these significant and unavoidable adverse impacts are acceptable for the reasons specified in Section XI, below. Pub. Resources Code §21081(a)(3). As explained in Section XII, below, the findings in this Section are based on the Draft EIR, the EIR Amendment, and the Final EIR, the discussion and analysis in which is hereby incorporated in fully by this reference.

A. Impact AQ-9. Implementation of the revised project would cumulatively contribute to cumulatively significant air quality impacts in the San Francisco Bay Area Air Basin.

The EIR finds that the revised project would result in significant and unavoidable operational emissions (see Impact AQ-3) and would result in significant and unavoidable cumulative air quality impacts to the region's existing air quality conditions.

Implementation of MM AQ-9.1, set forth below, which is hereby adopted and incorporated into the project, would reduce the impact but not to a less than significant level. Therefore, this impact is considered a significant and unavoidable cumulative impact.

MM AQ-9.1: *Implement MM AQ-3.1.*

B. Impact NOI-6. The revised project would result in a cumulatively considerable permanent noise level increase at existing residential land uses.

The EIR finds that the revised project would result in significant cumulatively considerable permanent noise level increase at existing residential land uses. The project would substantially increase cumulative traffic noise levels along several roadway segments on the project site and surrounding area. The project's contribution would be one dBA CNEL, which is considered a significant cumulative traffic noise impact.

Additionally, along Perimeter Road north of Stevens Creek Boulevard, an increase of seven to eight dBA was calculated under the cumulative plus project. The speed limit is expected to remain 15 mph in the future, and the eight-foot sound wall is expected to remain under future cumulative plus project condition. However, given that the increase is expected to exceed five dBA CNEL compared to existing conditions and the project's contribution to the increase is more than one dBA CNEL, a cumulatively considerable contribution to the overall traffic noise increase at the adjacent existing residential land uses would occur under the project and each alternative. This is a significant cumulative impact.

Implementation of MM NOI-6.1, set forth below, which is hereby adopted and incorporated into the project, would reduce the cumulatively considerable contribution to a significant permanent cumulative noise impact at existing residences, but not to a less than significant level. The existing sound wall and sound insulation features of the existing residences may not change as a result of the project. Additionally, due to the 15 mph speed limit along Perimeter Road, quiet pavement and the installation of speed bumps may not reduce the noise level increase to a less than significant level on this street. Therefore, this impact is considered a significant and unavoidable cumulative impact.

MM NOI-6.1: *Implement MM NOI-3.1 to reduce project-generated noise level increases on Perimeter Road north of Stevens Creek Boulevard and Vallco Parkway east of North Wolfe Road.*

C. Impact TRN-6. The revised project would conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities or otherwise decrease the performance or safety of such facilities.

The EIR finds that the revised project would result in delays to transit services in the area for existing with project conditions, background with project conditions, and cumulative with project conditions. These delays are caused by any roadway or intersection geometry changes proposed by the project, taking into account unique considerations of transit vehicles compared to autos, and automobile congestion caused by the project and any changes to signal operations proposed by the project.

Implementation of MM TRN-6.1, set forth below, which is hereby adopted and incorporated into the project, would reduce the cumulative impact, but not to a less than significant level. Therefore, this impact is considered a significant and unavoidable cumulative impact.

MM TRN-6.1: *The VTA's VTP 2040 identifies the Stevens Creek Bus Rapid Transit project (VTP ID T4) as an improvement near the project site. Ultimately, the VTP ID T4 would enhance travel choice for the revised project and make more efficient use of the transportation network. Thus, future development under the revised project would be required to contribute its fair-share contribution of \$4,832,000.00 to VTP ID T4.*

The impact would remain significant and unavoidable, however, because the implementation of the VTP projects are within the responsibility and jurisdiction of another agency and the City cannot guarantee the improvement would be implemented concurrent with the revised project.

D. Impact TRN-7. The revised project would result in a cumulatively considerable contribution to a significant cumulative transportation impact.

The EIR finds that the revised project would result in significant intersection level of service impacts under cumulative with project conditions, defined as cumulative conditions plus traffic generated by the buildout of the project and transportation network infrastructure proposed by the project, at the following 18 intersections:

2. Stevens Creek Boulevard/SR 85 Northbound Ramps (east) (City of Cupertino)* – AM peak hour;

8. De Anza Boulevard/Homestead Road (City of Cupertino) * – PM peak hour;
11. De Anza Boulevard/Stevens Creek Boulevard (City of Cupertino) – PM peak hour;
12. De Anza Boulevard/McClellan Road/Pacifica Drive (City of Cupertino) – PM peak hour;
23. Wolfe Road/Fremont Avenue (City of Sunnyvale) – PM peak hour;
26. Wolfe Road/Homestead Road (City of Cupertino) – PM peak hour;
31. Wolfe Road/Vallco Parkway (City of Cupertino) – PM peak hour;
32. Wolfe Road-Miller Avenue/Stevens Creek Boulevard (City of Cupertino)* – AM and PM peak hours;
42. Stevens Creek Boulevard/Tantau Avenue (City of Cupertino) – AM peak hour;
43. Stevens Creek Boulevard/Stern Avenue (City of Santa Clara) – AM and PM peak hours;
44. Stevens Creek Boulevard/Calvert Drive/I-280 Ramps (west) (City of Santa Clara)* – AM and PM peak hours
45. Stevens Creek Boulevard/Agilent Driveway (City of Santa Clara) – AM peak hour;
48. Lawrence Expressway/Homestead Road (Santa Clara County)* – PM peak hour;
51. Lawrence Expressway/Calvert Drive-I-280 Southbound Ramp (City of San José)* – AM peak hour;
53. Lawrence Expressway/Bollinger Road (Santa Clara County)* – AM and PM peak hour;
55. Lawrence Expressway/Prospect Road (Santa Clara County)* – AM peak hour;
60. Stevens Creek Boulevard/Cabot Avenue (City of Santa Clara) – PM peak hour; and
66. Lawrence Expressway/Reed Avenue-Monroe Street (Santa Clara County) – PM peak hour.

The revised project would also result in a significant freeway level of service impacts under cumulative with project conditions at 15 mixed flow lanes in the AM peak hour, 22 mixed flow lanes in the PM peak hour, 12 HOV lanes in the AM peak hour, and eight HOV lanes in the PM peak hour.

Implementation of MM TRN-7.1, MM TRN-7.2, MM TRN-7.3, MM TRN-7.4, MM TRN-7.5, MM TRN-7.6, MM TRN-7.7, MM TRN-7.8, MM TRN-7.9, MM TRN-7.10, MM TRN-7.11, MM TRN-7.12, MM TRN-7.13, MM TRN-7.14, MM TRN-7.15, and MM TRN-7.16, set forth below, which are hereby adopted and incorporated into the project, would reduce the cumulative impact, but not to a less than significant level. Therefore, this impact is considered a significant and unavoidable cumulative impact.

MM TRN-7.1: *Implement MM TRN-1.1.*

The TDM program is expected to reduce the severity of intersection and freeway impacts, although not necessarily to a less than significant level.

MM TRN-7.2: *Intersection 2, Stevens Creek Boulevard/SR 85 northbound ramps: The City's TIF Program identifies the addition of an exclusive northbound left-turn lane from the SR 85 off-ramp onto westbound Stevens Creek Boulevard.*

This improvement would mitigate the revised project's impact to a less than significant level. Future development under the revised project shall pay transportation mitigation fees as calculated pursuant to the TIF program to mitigate this impact. However, because the TIF improvements are not fully funding and the timing of implementation is not known at this time, the impact to Intersection 2 is considered significant and unavoidable.

MM TRN-7.3: *Intersection 8, De Anza Boulevard/Homestead Road: The City's TIF Program identifies the widening of De Anza Boulevard to four through lanes between the I-280 interchange and Homestead Road.*

This improvement would mitigate the revised project's impact to a less than significant level. Future development under the revised project shall pay transportation mitigation fees as calculated pursuant to the TIF program to mitigate this impact. However, because the TIF improvements are not fully funding and the timing of implementation is not known at this time, the impact to Intersection 8 is considered significant and unavoidable.

MM TRN-7.4: *Intersection 12, De Anza Boulevard/McClellan Road: Implement MM TRN-1.2.*

Implementation of MM TRN-1.2 would improve intersection operations to better than cumulative (without) revised project conditions. However, because the TIF improvements are not fully funded and the timing of implementation is not known at this time, the impact is considered significant and unavoidable.

MM TRN-7.5: *Intersection 23, Wolfe Road/Fremont Avenue: Provide a dedicated southbound right-turn lane from Wolfe Road onto westbound Fremont Avenue.*

The intersection would continue to operate at unacceptable LOS E under the project, but the delay would be reduced to a level lower than cumulative conditions. Thus, the impact would be mitigated to a less than significant level.

The City of Sunnyvale recently approved improvements to the “Triangle” area of Wolfe Road/El Camino Real, Wolfe Road/Fremont Avenue, and El Camino Real/Fremont Avenue. The “Triangle” improvements include the provision of a southbound right-turn lane from Wolfe Road to Fremont Avenue. Thus, future development under the revised project would be required to contribute their fair-share contribution of \$527,000.00 to the “Triangle” improvement project.

The impact would remain significant and unavoidable, however, because the intersection is within the responsibility and jurisdiction of another agency and the City cannot guarantee the improvement would be constructed concurrent with the proposed project.

MM TRN-7.6: *Intersection 26, Wolfe Road/Homestead Road: Provide a dedicated southbound right-turn lane from Wolfe Road onto westbound Homestead Road. To minimize secondary impacts to pedestrian travel, the right-turn lanes would need to be signal controlled, right-turns on red would be prohibited, and pedestrians should have a leading pedestrian phase (i.e., a pedestrian walk indication is provided several seconds before the right-turning vehicle traffic).*

This mitigation measures would improve intersection operations but not to a less than significant level.

The City’s TIF Program includes the provision of the dedicated southbound right-turn lane. Future development under the revised project shall pay transportation mitigation fees as calculated pursuant to the TIF program to mitigate this impact. However, because the TIF improvements are not fully funding and the timing of implementation is not known at this time, the impact to Intersection 26 is considered significant and unavoidable.

MM TRN-7.7: *Intersection 31, Wolfe Road/Vallco Parkway: Implement MM TRN-2.3.*

Implementation of this measure would mitigate the revised project’s cumulative impact to a less than significant level.

MM TRN-7.8: *Intersection 42, Stevens Creek Boulevard/Tantau Avenue: Implement MM TRN-2.4.*

Because the TIF improvements are not fully funding and the timing of implementation is not known at this time, the impact is considered significant and unavoidable.

MM TRN-7.9: *Intersections 43-45: Implement MM TRN-2.5.*

As discussed under Impact TRN-2, implementation of this measure would reduce the revised project's impact but not to a less than significant level.

MM TRN-7.10: *Intersection 48, Lawrence Expressway/Homestead Road: Implement MM TRN-2.6. As discussed under MM TRN-2.6, the revised project shall pay a fair-share contribution of \$291,000.00 to the long-term improvement identified in the Santa Clara County's Expressway Plan 2040 Study for this intersection.*

The impact would remain significant and unavoidable, however, because the intersection is within the responsibility and jurisdiction of another agency and the City cannot guarantee the improvement would be constructed concurrent with the proposed project.

MM TRN-7.11: *Intersection 51, Lawrence Expressway/Calvert Drive-I-280 Southbound Ramp: Implement MM TRN-2.7.*

The impact is significant and unavoidable because the feasibility of the improvement is yet to be determined, the impact would remain significant and unavoidable, and because the intersection is within the responsibility and jurisdiction of another agency and the City cannot guarantee the improvement would be constructed concurrent with the proposed project.

MM TRN-7.12: *Intersection 53, Lawrence Expressway/Bollinger Road: Implement MM TRN-2.8.*

Implementation of this measure would improve intersection operations to an acceptable LOS E or better. The impact would remain significant and unavoidable, however, because the intersection is within the responsibility and jurisdiction of another agency and the City cannot guarantee the improvement would be constructed concurrent with the proposed project.

MM TRN-7.13: *Intersection 60, Stevens Creek Boulevard/Cabot Avenue: Contribute a fair-share contribution of \$23,000.00 to a traffic signal timing study and implementation of the revised timings on Stevens Creek Boulevard at Cabot Avenue.*

The revised project impact would likely improve with modifications to the signal timings as traffic volumes change. The impact would be significant and unavoidable, however, because the effectiveness of the improvement would be determined through the signal timing study and because the intersection is within the responsibility and jurisdiction of another agency and the City cannot guarantee the implementation of the signal timing study.

MM TRN-7.14: *Intersection 38, Tantau Avenue/Homestead Road: Restripe the southbound approach (Quail Avenue) to provide a separate left-turn lane and shared through/right-turn lane (including removal of on-street parking).*

This improvement is included in the City's TIF Program and would improve intersection operations to an acceptable LOS D. Future development under the revised project shall pay transportation mitigation fees as calculated pursuant to the TIF program to mitigate this impact. However, because the TIF improvements are not fully funded and the timing of implementation is not known at this time, the impact is considered significant and unavoidable.

MM TRN-7.15: *Implement MM TRN-1.3.*

The VTP 2040 projects will enhance vehicular travel choices for the project (and project alternatives), and make more efficient use of the transportation roadway network, and the SR 85 Transit Guideway Study will help improve transit options in the SR 85 corridor. These freeway operations enhancements would not improve all impacted freeway segments to less than significant levels, however. The TDM Program proposed under the revised project and mitigation measure MM TRN-7.1 would reduce project-generated vehicle trips, thereby reducing the revised project impact on freeway segments, but it is not anticipated that the freeway impacts would be reduced to a less than significant level. For the above reasons, the revised project would remain significant and unavoidable with the implementation of MM TRN-7.1 and -7.15.

MM TRN-7.16: *Intersection 3, Stevens Creek Boulevard/Stelling Road: Provide an additional second eastbound left-turn lane from Stevens Creek Boulevard onto northbound Stelling Road.*

This mitigation measure would improve intersection operations to an acceptable LOS D.

The City's TIF Program identifies the addition of a second eastbound left-turn lane from Stevens Creek Boulevard onto northbound Stelling Road as a General Plan Mitigation Measure. Future development under the revised project shall pay transportation

mitigation fees as calculated pursuant to the TIF program to mitigate this impact. However, because the TIF improvements are not fully funded and the timing of implementation is not known at this time, the impact is considered significant and unavoidable.

VIII. SIGNIFICANT ADVERSE CUMULATIVE IMPACTS IDENTIFIED IN THE FINAL EIR THAT ARE REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL BY MITIGATION MEASURES ADOPTED AND INCORPORATED INTO THE PROJECT

The Final EIR identifies the following significant cumulative impacts associated with the revised project. It is hereby determined that the cumulative impacts addressed by these mitigation measures will be mitigated to a less than significant cumulative level or avoided by adopting and incorporating these mitigation measures into the project. The findings in this section are based on the Draft EIR, EIR Amendment, and Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

A. Impact CR-4. The revised project would not result in a cumulatively considerable contribution to a significant cumulative cultural resources impact.

The EIR finds that the development of cumulative projects in proximity to the project site, in conjunction with the development of the revised project could significantly impact unknown buried archaeological resources. The cumulative projects are required to comply with federal, state, and local regulations put in place to protect cultural resources.

Implementation of MM CR-4.1, set forth below, which is hereby adopted and incorporated into the project, would avoid and/or minimize impacts to buried cultural resources to a less than significant level. Thus, the revised project would not have a cumulatively considerable contribution to a significant cumulative cultural resources impact.

MM CR-4.1: *Implement MM CR-2.1 through MM CR-2.4.*

B. Impact GHG-1. The revised project would not generate cumulatively considerable GHG emissions that would result in a significant cumulative impact to the environment.

The EIR finds that the revised project would result in construction-related GHG emissions. The revised project will have annual GHG emissions of 3.5 MTCO₂e/year/service population, which exceeds the significance threshold of 2.6 MTCO₂e/year/service population.

Implementation of MM GHG-1.1, set forth below, which is hereby adopted and incorporated into the project, would reduce the project emissions impact to a less than significant level by implementing a GHG Reduction Plan that would offset and/or reduce GHG emission to below the significance threshold.

MM GHG-1.1: *Under the revised project, the project proponent shall prepare and implement a GHG Reduction Plan to offset the revised project-related incremental increase of greenhouse gas emissions resulting in the exceedance of the significance threshold of 2.6 MTCO₂e/year/service population. Refinement of the estimated GHG emissions from the revised project shall be completed as part of the GHG Reduction Plan in order to reflect the most current and accurate data available regarding the project's estimated emissions (including emission rates). The GHG Reduction Plan shall include the implementation of a qualifying TDM program to reduce mobile GHG emissions. Additional offsets and reductions may include, but are not limited to, the following:*

- *Construct on-site or fund off-site carbon sequestration projects (such as a forestry or wetlands projects for which inventory and reporting protocols have been adopted). If the revised project develops an off-site project, it must be registered with the Climate Action Reserve or otherwise approved by BAAQMD in order to be used to offset project (or project alternative) emissions; and/or*
- *Purchase of carbon credits to offset revised project annual emissions. Carbon offset credits shall be verified and registered with The Climate Registry, the Climate Action Reserve, or another source approved by CARB or BAAQMD. The preference for offset carbon credit purchases include those that can be achieved as follows: 1) within the City; 2) within the San Francisco Bay Area Air Basin; 3) within the State of California; then 4) elsewhere in the United States. Provisions of evidence of payments, and funding of an escrow-type account or endowment fund would be overseen by the City.*

C. Impact HAZ-6. The revised project would not have a cumulatively considerable contribution to a significant cumulative hazardous materials impact.

The EIR finds that the revised project could result in significant cumulative environmental impacts because of existing conditions in the geographic area that could lead to the exposure of people and the environment to hazardous materials.

The geographic area for cumulative hazards and hazardous materials impacts includes the project site and the surrounding area. Some of the projects included in the cumulative analysis are proposed on properties that were previously developed with industrial or commercial uses. It is likely that hazardous materials may have been stored and used on, and/or transported to and from, some of these properties as part of activities on the sites. In addition, many of the properties in Cupertino and surrounding cities were used for agricultural purposes prior to their urban development and agricultural chemicals, such as pesticides and fertilizers, may have been used on these sites in the past. The use of these chemicals can result in residual soil contamination, sometimes in concentrations that exceed regulatory thresholds. Further, development and redevelopment of some of the cumulative projects sites would require demolition of existing buildings that may contain lead-based paint and/or ACMs. Demolition of these structures could expose construction workers or other persons in the vicinity to harmful levels of lead and/or ACMs.

Implementation of MM HAZ-6.1, set forth below, which is hereby adopted and incorporated into the project, would reduce the project impact to a less than significant level. With the inclusion of development-specific mitigation and compliance with existing statutes and regulations, the cumulative projects and revised project would not result in significant cumulative hazardous materials impacts.

MM HAZ-6.1: *Implement MM HAZ-1.1 through -1.4.*

IX. GROWTH INDUCING IMPACTS

An EIR is required to discuss growth inducing impacts, which consist of the ways in which the project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. CEQA Guidelines § 15126.2(d); Pub. Resources Code § 21100(b)(5). Direct growth inducement would result, for example, if a project involves the construction of substantial new housing that would support increased population in a community or establishes

substantial new permanent employment opportunities. This additional population could, in turn, increase demands for public utilities, public services, roads, and other infrastructure. Indirect growth inducement would result if a project stimulates economic activity that requires physical development or removes an obstacle to growth and development (e.g., increasing infrastructure capacity that would enable new or additional development). It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significant to the environment. State CEQA Guidelines §15126.2(d). Section 4.0 of the Draft EIR analyzes the growth inducing impacts of the Vallco Special Area Specific Plan. As explained in Section XII, below, the findings in this Section are based on the Draft EIR, the EIR Amendment, and Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

A. Direct Growth Inducement

The project would result in direct economic growth because the proposed uses include new employment, and other land uses that generate tax revenues for public services. The project would also result in direct population growth. However, the residential population growth from the project would not constitute substantial population growth in the area because it would occur on an infill site, is consistent with General Plan goals for focused and sustainable growth, and supports the intensification of development in an urbanized area currently served by existing roads, transit, utilities, and public services. The revised project would allow 1,399 more residential units than anticipated with the buildout of the City's General Plan, but these additional units are within the *Plan Bay Area Projections* for the City and County. The projected number of employees from the project are anticipated in the citywide buildout of the General Plan. Thus, the direct impact would be less than significant.

B. Indirect Growth Inducement

The project would not result in significant indirect growth-inducing impacts. The project site is located in an urbanized, infill site that is served by existing infrastructure, including roadways and utilities. The growth that could result from development consistent with the specific plan could tax existing community service facilities. The project includes infrastructure improvements to mitigate the impacts on community service facilities to a less than significant level. Utility improvements would be sized to serve the proposed development and would not have excess capacity. Thus, the utility improvements would not remove obstacles to population growth. In addition, the project would pay all applicable impact fees and taxes, which would offset impacts to public facilities and services, including police and fire, schools, and parks. As a result, growth associated with the implementation of the project would not have a significant

impact on community service facilities, nor would it make a cumulatively considerable contribution to such impacts, requiring construction of new facilities that could cause significant environmental effects. Thus, the indirect impact would be less than significant.

X. ALTERNATIVES

The Draft EIR analyzed four alternatives to the previous project (including the No Project Alternative), and the EIR Amendment analyzed a fifth alternative (the Housing Rich Alternative). The previous project was revised in the Final EIR (the “revised project”); therefore, the Final EIR analyzed the revised project, the previous project, four development alternatives, and the No Project Alternative, and compared the alternatives to the revised project as required by CEQA Guidelines Section 15126.6. The alternatives are briefly summarized below and described in Section 7.0 of the Draft EIR, the Sections 3.0 and 8.1 of the EIR Amendment, and Table 2.1-12 and Section 6.0 (Text Revisions) of the Final EIR. Brief summaries of the evaluated alternatives are provided below. As explained in Section XII, below, the findings in this Section are based on the Draft EIR, the EIR Amendment, and the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference, and on the record as a whole.

A. No Project Alternative

CEQA requires consideration of a no project alternative. Consistent with the State CEQA Guidelines, the No Project Alternative assumes the continuation of existing plans and policies. Under the No Project Alternative, the project site could remain as it currently exists (i.e., an existing shopping mall that is approximately 15 percent occupied) with little or no change.

The No Project Alternative would not achieve any of the project objectives, which are set forth in Section II, above, because it does not facilitate the development of the site into a regional, mixed-use housing, multi-modal, sustainable development.

For the foregoing reasons, the No Project Alternative is hereby rejected.

B. Previous Project

The previous project is considered an alternative to the revised project. Consistent with the adopted General Plan, the previous project would facilitate development of a minimum of 600,000 square feet of commercial uses, up to 2.0 million square feet of office uses, up to 339 hotel rooms, and up to 800 residential dwelling units on-site. The previous

project reflects the buildout assumptions (including the adopted residential allocation available) for the site in the City's adopted General Plan. In addition, the previous project includes up to 65,000 square feet of civic spaces in the form of governmental office space, meeting rooms and community rooms and a Science Technology Engineering and Mathematics (STEM) lab, as well as a 30-acre green roof. Compared to the revised project, the previous project proposes the same land uses but contains different amounts of commercial, office, residential, and civic space development proposed. All other aspects of the previous project (including on-site amenities, maximum building height, setbacks, General Plan and zoning amendments, and other programming elements) are the same as the revised project.

The previous project would be less effective in meeting project objective 2 of providing adequate development capacity for more housing to meet the City's Regional Housing Needs Allocation. The previous project would only provide 800 residential dwelling units, which is significantly less housing compared to the revised project proposal for 2,923 residential units. The previous project would, therefore, also fail to address the City's expressed desire to improve the jobs and housing balance, as discussed at the Council's June 4, 2018 Study Session on the Vallco Specific Plan.

For the foregoing reasons, the previous project is hereby rejected.

C. General Plan Buildout with Maximum Residential Alternative

The General Plan Buildout with Maximum Residential alternative consists of the potential development on the site if the residential portion of the project were developed at the General Plan maximum allowable density of up to 35 du/ac. The General Plan, however, controls residential development through an allocation system. This alternative assumes that there are no residential allocation controls in place and development can occur at the maximum density allowed by the General Plan. This alternative assumes the same amount of commercial, hotel, civic, and green roof development as the previous project, and a smaller amount of office development (1.0 million square feet) than the previous project.

While the General Plan Buildout with Maximum Residential Alternative would meet all of the project objectives because the alternative includes a mix of uses (including housing) and sales tax revenue generating commercial uses, and could create a multi-modal, sustainable development, it would not meet the project objectives to the same degree as the revised project because it would not provide all the community benefits desired by the City Council as expressed in their comments at the June 4, 2018 study

session. The General Plan Buildout with Maximum Residential Alternative does not include construction, or funding for construction, of a new City Hall.

For the foregoing reasons, the General Plan Buildout with Maximum Residential Alternative is hereby rejected.

D. Retail and Residential Alternative

The Retail and Residential Alternative consists of developing the site without any office use. The retail commercial component is assumed to be 600,000 square feet, and the residential density is dependent on a preliminary economic feasibility analysis of constructing this alternative.

While the Retail and Residential Alternative could meet all six of the project objectives because the alternative includes a mix of uses (including housing) and sales tax revenue generating commercial uses, and could create a multi-modal, sustainable development, it would not meet the project objectives to the same degree as the revised project. Although the Retail and Residential Alternative addresses the City's desire for further housing, it does not provide community benefits. For the foregoing reasons, the Retail and Residential Alternative is hereby rejected.

E. Occupied/Re-Tenanted Mall Alternative

The Occupied/Re-Tenanted Mall Alternative was discussed in response to the desire by some members of the community to see the existing mall remain and be successfully occupied/re-tenanted. It is assumed under this alternative that no new structures would be constructed on-site and no modifications to the existing building layout and heights would occur. Exterior and interior modifications would likely be made in order to update the mall to current standards for aesthetics and lighting and Americans with Disabilities Act (ADA) compliance. Because this alternative would not meet most of the project objectives and would be economically infeasible, as discussed below, it is discussed in the EIR for informational purposes only.

The Occupied/Re-Tenanted Mall Alternative would meet objective 4 of providing the City with sales tax revenue. However, the Occupied/ Re-Tenanted Mall Alternative would not meet objective 1 or 2 of creating a mixed-use Town Center and providing housing. Because this alternative would not result in the redevelopment of the project site, it would not meet objectives 5 and 6 of creating a multi-modal, sustainable development. Therefore, the Occupied/Re-Tenanted Mall Alternative would not meet most of the project objectives.

In addition, Occupied/Re-Tenanted Mall Alternative would be economically infeasible for the reasons stated in the *Vallco Special Area Real Estate Market Assessment* completed for this site in March 2018 by Economic & Planning Systems, Inc., which is incorporated herein by reference. The *Vallco Special Area Real Estate Market Assessment* concludes that retail reuse of the existing mall would be highly unlikely given its location between well-established regional malls and lifestyle centers (e.g., Westfield Valley Fair, Santana Row, Stanford Shopping Center, and Great Mall).¹⁴ This alternative, therefore, also does not meet objective 3.

For the foregoing reasons, the Occupied/Re-Tenanted Mall Alternative is hereby rejected.

F. Housing Rich Alternative

The Housing Rich Alternative was identified in response to community and City interest in having a greater number of housing units with a greater than 15 percent below-market-rate housing component and the inclusion of substantial community amenities such as a performing arts center, civic space, educational space, a robust transportation contribution, and enough office development on the site to support the additional community amenities and the higher below-market rate component. The Housing Rich Alternative consists of 3,250 residential units, 1.5 million square feet of office uses, 600,000 square feet of commercial uses, 65,000 square feet of civic uses (consisting of a 50,000 square foot City Hall and 15,000 square feet of adult education space), and a 30-acre green roof. It is estimated that the Housing Rich Alternative would require approximately 13,880 parking spaces, most of which would be located below ground. Excavation depths of approximately 20 to 50 feet would be required for below ground parking, which would result in approximately 2.1 million cubic yards of soil being hauled off-site.

While the Housing Rich Alternative would meet all six of the project objectives identified in the Draft EIR because the alternative includes a mix of used (including housing) and sales tax revenue generating commercial uses, and could create a multi-modal, sustainable development, it would not meet the project objectives to the same degree as the revised project because it would not provide all the community benefits desired by the City.

¹⁴ Economic & Planning Systems, Inc. *Vallco Special Area Real Estate Market Assessment*. March 6, 2018. Pages 2-3.

In addition, the Housing Rich Alternative would have greater environmental impacts than the revised project. The Housing Rich Alternative would have higher annual construction emissions than the revised project. As shown in Table 2.1-1 in the Final EIR, the Housing Rich Alternative will produce more ROG and NO_x emissions than the revised project during construction (Impact AQ-2). The Housing Rich Alternative will produce greater operational ROG emissions than the revised project (Impact AQ-3). As shown in Table 2.1-3 in the Final EIR, the Housing Rich Alternative will have a greater demand for natural gas than the revised project during operation (Impact EN-2). The Housing Rich Alternative also would have slightly higher construction-related GHG emissions than the revised project, as shown in Table 2.1-4 of the Final EIR (Impact GHG-1). It will also produce greater average daily trips and PM peak hour trips in comparison to the revised project, as shown in Table 2.1-6 of the Final EIR , and higher net sewage generation, water demand, and solid waste generation, as shown in Tables 2.1-8, 2.1-9, and 2.1-10 of the Final EIR (Impacts UTIL-1, UTIL-2, UTIL-3, UTIL-5, and UTIL-6).

For the foregoing reason, the Housing Rich Alternative is hereby rejected.

G. Environmentally Superior Alternative

On the basis of the analysis of the Draft EIR, the City finds that the No Project Alternative is the environmentally superior alternative. The No Project Alternative would avoid all of the project's significant impacts. CEQA Guidelines Section 15126.6(e)(2), however, states that "if the environmentally superior alternative is the No Project Alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives." Therefore, the Retail and Residential Alternative is the environmentally superior alternative, because it would result in reduced impacts for the alternative compared to the revised project for the following impacts: Impact AQ-, Impact AQ-3, Impact AQ-4, Impact AQ-6, Impact AQ-9, Impact EN-1, Impact EN-3, Impact GHG-1, Impact NOI-3, Impact NOI-6, Impact TRN-1, Impact TRN-2, Impact TRN-6, Impact TRN-7, Impact UTIL-3, Impact UTIL-5, Impact UTIL-6, and Impact UTIL-7.

XI. STATEMENT OF OVERRING CONSIDERATIONS

As set forth above, the City has found that some of the adverse environmental impacts of the Vallco Special Area Specific Plan project remain significant following adoption and implementation of mitigation measures described in the EIR and incorporated into the Project. Section 15093(b) of the CEQA Guidelines provides that when the decision of the public agency results in the occurrence of significant impacts that are not avoided or

substantially lessened, the agency must state in writing the reasons to support its actions. Having balanced the benefits of the revised project against its significant and unavoidable environmental impacts, the City finds that the project's benefits outweigh its unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable. The City further finds that each of the project benefits discussed below is a separate and independent basis for these findings. The reasons set forth below are based on the Final EIR and other information in the administrative record.

- A. The revised project will occur on an infill site in an existing urbanized area in Cupertino, which will result in environmental benefits because it will not directly or indirectly lead to development of greenfield sites in the San Francisco Bay Area.
- B. The revised project is consistent with the General Plan in that it will increase the number of places to live within the Plan Area. The plan supports infill development, conversion of vacant and outdated buildings, and location of housing near employment centers to reduce the use of single occupancy cars, increase commute choices reduce long commutes, reduce the use of fossil fuels, improve energy efficiency, reduce carbon dioxide emissions, and help meet air quality standards. Thus, the project will further the General Plan goals expressed in Policies LU-1 through LU-9 and Strategies LU-1.19.3 through LU-1.19.6 and LU-1.19.9 through LU-1.19.9 through LU-1.19.14.
- C. The revised project will meet and exceeds the City's Regional Housing Needs Allocation (RHNA) of 1,064 units by providing 2,923 residential units.
- D. Twenty percent of the residential units will be affordable at the following percentages: 15% will be a mix of units affordable at very low and low income levels, and 5% will be affordable at a moderate income level.
- E. The revised project will provide additional non-single occupancy vehicular transportation opportunities under the Tier 2 Development Program, including an approximately 1,000 square foot mobility hub with bicycle facilities; funding of up to \$1,000,000 for a one-year Pilot Community Shuttle, with additional \$750,000 per year for ongoing operations if the project is successful; an areawide Transportation Demand Management program which will be implemented by the areawide Transportation Management Association that would provide services to all users of the site and also ensure that office trips meet specified caps with a goal of 34 percent non-single occupancy vehicle rate; and a total of \$11,000,000 to fund work on the 1-280/Wolfe Road interchange and the Junipero Serra/Pedestrian Trail (a bike and pedestrian trail along I-280).

- F. The revised project will provide additional open space, including publicly accessible pedestrian walkways, open space provided on the bridge over Wolfe Road, and public park and plazas designed in accordance with the Specific Plan.
- G. The revised project will provide multiple civic improvements in the Plan Area under the Tier 2 Development Program, including a “warm shell” performing arts center for the City (or an in lieu payment of \$22,800,000, if the City opts out); rebuilding existing City Hall (or if not approved and available for construction within 24 months, an in lieu payment of \$30,000,000); providing a 25,000 square foot “warm shell” space for adult school and high school innovation space to the Fremont Union High School District (or an in lieu payment of \$9,500,000), and donation of \$9,500,000 to Cupertino Union School District; and using good faith efforts to provide approximately 40,000 square feet in co-working or incubator space.

XII. INCORPORATION BY REFERENCE

These findings incorporate the text of the Final Program Environmental Impact Report for the Vallco Special Area Specific Plan project by reference and in their entirety. Without limitation, this incorporation is intended to elaborate on the scope and nature of mitigation measures, the basis for determining the significance of impacts, the comparative analysis of alternatives, the determination of the environmentally superior alternative, and the reasons for approving the Project in spite of the potential for associated significant and unavoidable adverse impacts.

XIII. RECIRCULATION NOT REQUIRED

No significant new information was added to the Draft EIR, the EIR Amendment, or the Final EIR as a result of the public comment process. The Final EIR responds to comments, and clarifies, amplifies, and makes insignificant modifications to the Draft EIR and EIR Amendment. It does not identify any new significant effects on the environment or a substantial increase in the severity of an environmental impact requiring major revisions to the Draft EIR and EIR Amendment. Similarly, the revised project would not result in new or substantially more severe significant impacts than disclosed previously in the Draft EIR and EIR Amendment. The Supplemental Text Revisions memo makes additional clarifications, amplification and insignificant modifications to the EIR, including minor corrections to the text. Therefore, recirculation of the EIR is not required.

XIV. RECORD OF PROCEEDINGS

Various documents and other materials related to the revised project constitute the record of proceedings upon which the City bases its findings and decisions contained herein. Those documents and materials are located in the offices of the custodian for the documents and materials, which is the City of Cupertino Community Development Department, Cupertino City Hall, 10300 Torre Avenue, Cupertino, CA 95014-3202.

XV. SUMMARY

- A. Based on the foregoing Findings and the information contained in the record, the City has made one of more of the following Findings with respect to each of the significant effects of the Project:
 - 1. Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effects identified in the Final EIR.
 - 2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other public agency.
 - 3. Specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or alternatives identified in the Final EIR that would otherwise avoid or substantially lessen the identified significant environmental effects of the Project.
- B. Based on the foregoing Findings and the information contained in the record, the City determines that:
 - 1. All significant effects on the environment due to the approval of the Project have been eliminated or substantially lessened where feasible.
 - 2. Any remaining significant effects on the environment found to be unavoidable are acceptable due to the factors described in the Statement of Overriding Considerations, above.

MITIGATION MONITORING OR REPORTING PROGRAM

Vallco Town Center Specific Plan

CITY OF CUPERTINO

August 2018

P R E F A C E

Section 21081 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring or Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring or reporting program is to ensure compliance with the mitigation measures during project implementation.

On September X, 2018, the City Council certified the Environmental Impact Report (EIR) for the Vallco Special Area Specific Plan project. The Final EIR concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were adopted and incorporated into the project or are required as a condition of project approval. This Mitigation Monitoring or Reporting Program addresses those measures in terms of how and when they will be implemented.

The attached table includes columns that show: 1) each mitigation measure identified in the Final EIR as finally adopted; 2) the procedure for implementing each mitigation measure; 3) the City entity responsible and procedure for monitoring and reporting implementation of each mitigation measure; and 4) the timing for implementation of each mitigation measure.

In addition, this Mitigation Monitoring or Reporting Program lists Standard Permit Conditions, which are measures required to comply with laws and regulations, and City Conditions of Approval, for purposes of tracking responsibility for and timing of implementation of each, even though these conditions are not mitigation measures.

This document does *not* discuss those subjects for which the EIR concluded that mitigation measures would not be required to reduce significant impacts.

**Mitigation Monitoring or Reporting Program
Vallco Town Center Specific Plan**

Mitigation Measure	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
Air Quality				
<p>MM AQ-2.1: Future development under the revised project shall implement the following BAAQMD-recommended measures to control dust, particulate matter, and diesel exhaust emissions during construction:</p> <p><i>Basic Measures</i></p> <ol style="list-style-type: none"> 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 miles per hour (mph). 5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. 6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes unless subject to state law exemptions (e.g., safety issues). Clear signage shall be provided for construction workers at all access points. 	<p>Project applicant shall prepare a comprehensive Construction Management Plan to ensure that the air pollution control measures identified in Mitigation Measure AQ-2.1 are incorporated into the construction plans for the project and implemented at the project site. The project applicant will submit periodic audit reports prepared by the construction manager.</p>	<p>During Demolition, Grading and Construction</p>	<p>City of Cupertino - Public Works Department and Environmental Services and Community Development Department - Building</p>	<p>Construction Management Plan Review and Approval and review of monthly reports submitted/Prior to issuance of grading, building, or occupancy permits, periodic reporting as required and periodic inspections during scheduled construction site inspections by building and Public Works Inspectors.</p>

**Mitigation Monitoring or Reporting Program
Vallco Town Center Specific Plan**

Mitigation Measure	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<p>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.</p> <p>8. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.</p> <p><i>Applicable Enhanced Control Measures</i></p> <p>9. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.</p> <p>10. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph and visible dust extends beyond site boundaries.</p> <p>11. Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction adjacent to sensitive receptors. Wind breaks should have at maximum 50 percent air porosity.</p> <p>12. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.</p>				

**Mitigation Monitoring or Reporting Program
Vallco Town Center Specific Plan**

Mitigation Measure	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<p>13. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.</p> <p>14. Avoid tracking of visible soil material on to public roadways by employing the following measures if necessary: (1) Site accesses to a distance of 100 feet from public paved roads shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel and (2) washing truck tires and construction equipment of prior to leaving the site.</p> <p>15. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.</p> <p>16. Minimizing the idling time of diesel powered construction equipment to two minutes unless subject to state law exemptions (e.g., safety issues).</p> <p>17. The project shall develop a plan demonstrating that the off-road equipment (more than 25 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a minimum project wide fleet-average 25 percent NO_x reduction and 65 percent PM (particulate matter) exhaust reduction compared to the CalEEMod modeled average used in this report. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate</p>				

**Mitigation Monitoring or Reporting Program
Vallco Town Center Specific Plan**

Mitigation Measure	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<p>filters, and/or other options as such become available. The following are feasible methods:</p> <ul style="list-style-type: none"> • All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet EPA Tier 4 emission standards for NO_x and PM, where feasible. • If Tier 4 equipment is not feasible, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust. <p><i>Exhaust Control Measures</i></p> <ul style="list-style-type: none"> • Use of alternatively-fueled equipment with lower NO_x emissions that meet the NO_x and PM reduction requirements above. • Diesel engines, whether for off-road equipment or on-road vehicles, shall not be left idling for more than two minutes, except as provided in exceptions to the applicable state regulations (e.g., traffic conditions, safe operating conditions). The construction sites shall have posted legible and visible signs in designated queuing areas and at the 				

**Mitigation Monitoring or Reporting Program
Vallco Town Center Specific Plan**

Mitigation Measure	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<p>construction site to clearly notify operators of idling limit.</p> <ul style="list-style-type: none"> • All on-road heavy-duty diesel trucks with a gross vehicle weight rating of 33,000 pounds or greater (EMFAC Category HDDT) used at the project site (such as haul trucks, water trucks, dump trucks, and concrete trucks) shall be model year 2010 or newer. • Develop a Transportation Demand Management program for construction worker travel that includes transit and carpool subsidies in order to reduce worker trips. • Provide line power to the site during the early phases of construction to minimize the use of diesel powered stationary equipment, such as generators. • A project-specific construction management plan describing the measures to minimize construction emissions shall be required of future development. As part of the construction management plan, the on-site Construction Manager shall ensure and regularly document that equipment, trucks, and architectural coatings meet the above mitigation requirements. The documentation shall be submitted regularly to the City for review and compliance. 				

**Mitigation Monitoring or Reporting Program
Vallco Town Center Specific Plan**

Mitigation Measure	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
MM AQ-3.1: Future development under the revised project shall use low-VOC paint (i.e., 50 g/L or less) on operational architectural coatings and no hearths or fireplaces (including natural gas-powered) shall be installed in the residential units.	Project applicant shall indicate compliance with AQ-3 on all construction plans prior to issuance of building permits.	During Construction	City of Cupertino Community Development Department – Planning and Building	Plan Review and Approval/Prior to issuance of building, permits
MM AQ-4.1: Implement MM AQ-3.1.	Same as MM AQ-3.1.	Same as MM AQ-3.1.	Same as MM AQ-3.1.	Same as MM AQ-3.1.
MM AQ-6.1: Implement MM AQ-2.1.	Same as MM AQ-2.1	Same as MM AQ-2.1	Same as MM AQ-2.1	Same as MM AQ-2.1
MM AQ-7.1: Future development under the revised project shall implement mitigation measure MM AQ-2.1 to reduce on-site diesel exhaust emissions, which would thereby reduce the maximum cancer risk due to construction of the project.	Same as MM AQ-2.1	Same as MM AQ-2.1	Same as MM AQ-2.1	Same as MM AQ-2.1
MM AQ-9.1: Implement MM AQ-3.1.	Same as MM AQ-3.1	Same as MM AQ-3.1	Same as MM AQ-3.1	Same as MM AQ-3.1
Cultural Resources				
MM CR-2.1: A qualified archaeological monitor shall be retained by the project proponent for future development under the revised project to inspect the ground surface at the completion of demolition activities as they occur to search for archaeological site indicators. Site indicators include, but are not limited to: darker than surrounding soils of a friable nature; evidence of fires (ash, charcoal, fire affected rock or earth); concentrations of stone, bone, or shellfish; artifacts of stone, bone, or shellfish; and burials, either human or animal.	Project applicant shall provide a report prior to final demolition inspection for each phase of demolition to indicate compliance with MM CR-2.1. If indicators are found, a plan must be prepared and submitted to the City pursuant to MM CR-2.1.	During Demolition, Grading and Construction	Consulting Archaeologist and City of Cupertino Community Development Department – Planning and Building	Report and Plan Review and Approval/Prior to demolition final inspection and if resources unearthed, as needed

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<p>In the event that any indicators are discovered, work shall be halted within a sensitivity zone to be determined by the archaeologist. The archaeologist shall prepare a plan for the evaluation of the resource to the CRHP and submit the plan to the Cupertino Planning Department for review and approval prior to any construction related earthmoving within the identified zone of archaeological sensitivity. The plan shall also include appropriate recommendations regarding the significance of the find and the appropriate mitigation. The identified mitigation shall be implemented and can take the form of limited data retrieval through hand excavation coupled with continued archaeological monitoring inside of the archaeologically sensitive zone to ensure that significant data and materials are recorded and/or removed for analysis. Monitoring also serves to identify and thus limit damage to human remains and associated grave goods.</p>				
<p>MM CR-2.2: Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California, in the event of the discovery of human remains during construction of the revised project, there shall be no further excavation or disturbance of the site within a 100-foot radius of the remains or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the NAHC within 24 hours. The NAHC shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be</p>	<p>Project applicant to ensure that excavation or disturbance of the site within 100-feet of any remains found. Notify SCC Coroner.</p>	<p>During demolition, grading and construction</p>	<p>Santa Clara County Coroner/NAHC/City of Cupertino – Community Development Department – Building</p>	<p>Ensure proper internment of remains/if and when remains are found.</p>

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reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.				
MM CR-2.3: If archaeological resources are identified during construction of the revised project, a final report summarizing the discovery of cultural materials shall be submitted to the City's Project Planner prior to issuance of building permits. This report shall contain a description of the mitigation program that was implemented and its results, including a description of the monitoring and testing program, a list of the resources found and conclusion, and a description of the disposition/curation of the resources.	Project applicant to retain a project archaeologist in the event cultural materials are found and ensure that a report including items included in MM CR-2.3 is prepared.	During demolition, grading and construction	City of Cupertino – Community Development Department – Planning	Review and approve report/ if and when cultural material is found.
MM CR-2.4: The City of Cupertino shall coordinate with the applicable Native American tribal representatives following approval of a development on-site under the revised project to ensure appropriate cultural sensitivity training is provided to all contractors prior to the start of ground-disturbing activities.	Project applicant to ensure that appropriate measures are incorporated into the Construction Management Plan to address this	During demolition, grading and construction	City of Cupertino – Community Development Department - Planning	Coordinate with Native American tribal representatives and ensure measures incorporated into Construction Management Plan
MM CR-4.1: Implement MM CR-2.1 through MM CR-2.4.	Same as MM CR-2.1 through MM CR-2.4	Same as MM CR-2.1 through MM CR-2.4	Same as MM CR-2.1 through MM CR-2.4	Same as MM CR-2.1 through MM CR-2.4
Greenhouse Gas Emissions				
MM GHG-1.1: Under the revised project, the project proponent shall prepare and implement a GHG Reduction Plan to offset the revised project-related incremental increase of greenhouse gas emissions resulting	Project applicant shall prepare and submit a GHG Reduction Plan for review and approval.	During Construction and Operation	City of Cupertino Community – Environmental Services and	Prior to issuance of building and/or occupancy permits, as applicable.

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<p>in the exceedance of the significance threshold of 2.6 MTCO₂e/year/service population. Refinement of the estimated GHG emissions from the revised project shall be completed as part of the GHG Reduction Plan in order to reflect the most current and accurate data available regarding the project's estimated emissions (including emission rates). The GHG Reduction Plan shall include the implementation of a qualifying TDM program to reduce mobile GHG emissions. Additional offsets and reductions may include, but are not limited to, the following:</p> <ul style="list-style-type: none"> • Construct on-site or fund off-site carbon sequestration projects (such as a forestry or wetlands projects for which inventory and reporting protocols have been adopted). If the revised project develops an off-site project, it must be registered with the Climate Action Reserve or otherwise approved by BAAQMD in order to be used to offset project (or project alternative) emissions; and/or • Purchase of carbon credits to offset revised project annual emissions. Carbon offset credits shall be verified and registered with The Climate Registry, the Climate Action Reserve, or another source approved by CARB or BAAQMD. The preference for offset carbon credit purchases include those that can be achieved as follows: 1) within the City; 2) within the San Francisco Bay Area Air Basin; 3) within the State of California; then 4) elsewhere in the United States. Provisions of evidence of payments, and funding of an escrow-type account or endowment fund would be overseen by the City. 			Sustainability; A source approved by CARB or BAAQMD for verification of carbon offsets.	Annually by December 31 st in conjunction with TDM monitoring report.

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Hazards and Hazardous Materials				
<p>MM HAZ-1.1: A Site Management Plan (SMP) and Health and Safety Plan (HSP) shall be prepared and implemented for demolition and redevelopment activities under the revised project. The purpose of the SMP and HSP is to establish appropriate management practices for handling impacted soil, soil vapor, and groundwater or other materials that may potentially be encountered during construction activities, especially in areas of former hazardous materials storage and use, and the profiling of soil planned for off-site disposal and/or reuse on-site. The SMP shall document former and suspect UST locations, hazardous materials transfer lines, oil-water separators, neutralization chambers, and hydraulic lifts, etc. The SMP shall also identify the protocols for accepting imported fill materials, if needed. The SMP and HSP shall be submitted to SCCDEH for approval and the approved SMP and HSP shall be submitted to the City Building Division prior to commencement of construction (including demolition) activities.</p>	<p>Project applicant shall prepare and submit a SMP and HSP to the Santa Clara County Department of Environmental Health (SCCDEH) for review and approval. The approved SMP and HSP shall be submitted to the City of Cupertino Community Development Department – Building for implementation by the Santa Clara County Fire District.</p>	<p>Prior to demolition, grading and/or construction.</p>	<ul style="list-style-type: none"> • (SCCDEH) -SMP and HSP • (SCCFD) - Verification of implementation of approved SMP and HSP 	<p>SCCDEH to approve SMP and HSP /Prior to issuance and grading, demolition, or building permits and prior to final occupancy.</p>
<p>MM HAZ-1.2: The site contains equipment and facilities associated with past activities that are known to or may contain residual hazardous materials. The following measures shall be implemented under the revised project during building demolition and shall be indicated on demolition plans:</p> <ul style="list-style-type: none"> • Sears and JC Penney Automotive Centers: <ul style="list-style-type: none"> – Sears: Remnant piping that appears to have formerly distributed grease, oil and transmission fluid from storage locations to the service bays located along interior building walls, ceilings and within the basement shall be properly removed and 	<p>Project Applicant to indicate the specific items identified in demolition plans and coordinate removal of the pipes, USTs etc.</p>	<p>During demolition</p>	<p>Santa Clara County Department of Environmental Health, Santa Clara County Fire District</p>	<p>SCCDEH and SCCFD to ensure removal of all identified equipment. Reports to indicate compliance to be submitted to the City of Cupertino Building Department/ prior to issuance of grading permits</p>

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<p>disposed, and stains and residual oil shall be cleaned from the interior building surfaces. This work shall be coordinated with the SCCFD.</p> <ul style="list-style-type: none"> – Sears: The below ground oil-water separator (connected to floor drains within the building) and an acid neutralization chamber (connected to drains within a former battery storage room) shall be cleaned and removed. This work shall be coordinated with the SCCFD and SCCDEH. Soil quality below each of the structures shall be evaluated via sampling and laboratory analyses. – Sears: The potential presence of a waste oil UST shall be further investigation by removing the access cover and, if uncertainty remains, the subsequent performance of a geophysical survey. If a UST is identified, it shall be removed in coordination with the SCCFD and SCCDEH, and underlying soil quality shall be evaluated. If no UST is identified, soil quality at the location of the waste oil UST, as depicted on the 1969 building plan, shall be evaluated via the collection of soil samples from borings for laboratory analyses. – Sears and JC Penney: Each of the below-ground lift casings and any associated hydraulic fluid piping and reservoirs from hydraulic lifts shall be removed and properly disposed. An Environmental Professional shall be retained to observe the removal activities and, if evidence of leakage is identified, soil sampling and laboratory analyses shall be conducted. 				

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<ul style="list-style-type: none"> – JC Penney: The project proponent shall obtain a permit from SCCDEH to properly remove and dispose of the 750 gallon oil-water separator during redevelopment activities. Collection and analysis of confirmation soil samples would be required under oversight of SCCDEH. • Existing staining and spilled oil on-site, including at the Sears Automotive Center and Cupertino Ice Center, shall be properly cleaned. When these facilities are demolished, an Environmental Professional shall be present to observe underlying soil for evidence of potential impacts and, if observed, collect soil samples for laboratory analyses. • If the lead-based paint on-site is flaking, peeling, or blistering, it shall be removed prior to demolition. Applicable OSHA regulations shall be followed; these include requirements for worker training and air monitoring and dust control. Any debris containing lead shall be disposed appropriately. • An asbestos survey shall be completed of the buildings prior to their demolition in accordance with the National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines. NESHAP guidelines require the removal of potentially friable ACMs prior to building demolition or renovation that may disturb the ACM. • Once existing buildings and improvements are removed, soil sampling shall be completed to evaluate if agricultural chemicals and lead are present. The agricultural pesticide sampling shall focus on former orchard and row crop areas, as well as in the vicinity of 				

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<p>outbuilding (barns and sheds) that were formerly located on the southeast portion of the site. Testing for lead contamination shall be completed at the former structure locations. The sampling, which shall follow commonly accepted environmental protocols, shall be performed prior to soil excavation activities in order to appropriately profile the soil for off-haul to a disposal facility. The analytical data shall be compared to either residential screening levels and/or the specific acceptance criteria of the accepting facility. If this soil is planned to be reused on-site, it shall be compared to residential screening levels and/or natural background levels of metals.</p>				
<p>MM HAZ-1.3: Prior to issuance of demolition and/or grading permits, groundwater monitoring wells shall be properly destroyed in accordance with the SCVWD Ordinance 90-1.</p>	<p>Project applicant to coordinate with SCVWD on groundwater monitoring well removal</p>	<p>During demolition and grading</p>	<p>Santa Clara Valley Water District/City of Cupertino – Public Works and/or Building Department</p>	<p>Review and approve removal of groundwater monitoring wells/prior to issuance of demolition and grading permits, clearance must be approved from the SCVWD to ensure that this work is being completed in compliance with their requirements prior to issuance of demolition and/or grading permits. A</p>

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				letter indicating satisfaction with the removal must be submitted to the City prior to issuance of building permits.
MM HAZ-1.4: As part of the facility closure process for occupants that use and/or store hazardous materials, the SCCFD and SCCDEH typically require that a closure plan be submitted by the occupant that describes required closure activities, such as removal of remaining hazardous materials, cleaning of hazardous material handling equipment, decontamination of building surfaces, and waste disposal practices, among others. Facility closures shall be coordinated with the Fire Department and SCCDEH to ensure that required closure activities are completed prior to issuance of demolition and/or grading permits.	Project applicant to submit a closure plan	During demolition and/or grading as appropriate	SCCDEH and SCCFD/City of Cupertino – Community Development – Building	Review and approve closure plan/accept final approved closure plan and ensure implementation
MM HAZ-6.1: Implement MM HAZ-1.1 through -1.4.	Same as MM HAZ-1.1 through MM HAZ 1.4	Same as MM HAZ-1.1 through MM HAZ 1.4	Same as MM HAZ-1.1 through MM HAZ 1.4	Same as MM HAZ-1.1 through MM HAZ 1.4
Noise and Vibration				

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MM NOI-1.1: Construction activities under the revised project shall be conducted in accordance with provisions of the City’s Municipal Code which limit temporary construction work to daytime hours, ¹ Monday through Friday. Certain types of construction are prohibited on weekends and all holidays pursuant to Municipal Code Sections 10.48.053(B), (C) and (D). ² Further, the City requires that all equipment have high-quality noise mufflers and abatement devices installed and are in good condition. Additionally, the construction crew shall adhere to the following construction best management practices listed in MM NOI-1.2 below to reduce construction noise levels emanating from the site and minimize disruption and annoyance at existing noise-sensitive receptors in the project vicinity.	Project applicant shall prepare a comprehensive Construction Management Plan to ensure compliance with MM NOI-1.1. Notes shall be included on all construction documents to ensure adherence to noise limitations.	During demolition, grading and/or construction	Cupertino Community Development Department – Building and Cupertino – Public Works Department	Review and approve construction management plan and ensure implementation of the construction management plan/Prior to issuance of demolition, grading, building permit and periodically during project construction activities
MM NOI-1.2: Future development shall prepare and submit a construction noise control plan to the City’s Building Department and Code Enforcement for review and approval. The on-site Construction Manager shall implement the construction noise control plan, which would include, but not be limited to, the following available controls:	Project applicant shall prepare a comprehensive Construction Management Plan to ensure compliance with MM NOI-1.2. Notes shall be included on all construction documents to ensure adherence to noise limitations.	During demolition, grading and/or construction	Cupertino Community Development Department – Building and Planning and Cupertino – Public Works Department	Review and approve construction management plan and ensure implementation of the construction management plan/Prior to issuance of demolition, grading, building permit and

¹ Per Municipal Code Section 10.48.010, daytime is defined as the period from 7:00 AM to 8:00 PM weekdays.

² Municipal Code Section 10.48.053(B): Notwithstanding Section 10.48.053A, it is a violation of this chapter to engage in any grading, street construction, demolition or underground utility work within seven hundred fifty feet of a residential area on Saturdays, Sundays and holidays, and during the nighttime period, except as provided in Section 10.48.030. Municipal Code Section 10.48.053(C): Construction, other than street construction, is prohibited on holidays, except as provided in Sections 10.48.029 and 10.48.030. Municipal Code Section 10.48.053(D): Construction, other than street construction, is prohibited during nighttime periods unless it meets the nighttime standards of Section 10.48.040.

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<ul style="list-style-type: none"> • Construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment. Temporary noise barrier fences would provide a five dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receptor and if the barrier is constructed in a manner that eliminates any cracks or gaps. • Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment. • Enforce idling limit of two minutes for internal combustion engines unless subject to state law exemptions (e.g., safety issues). • Locate stationary noise-generating equipment, such as air compressors or portable power generators, as far as possible from sensitive receptors as feasible. If they must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used to reduce noise levels at the adjacent sensitive receptors. Any enclosure openings or venting shall face away from sensitive receptors. • Utilize “quiet” air compressors and other stationary noise sources where technology exists. • Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction. 				periodically during project construction activities

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<ul style="list-style-type: none"> • Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors. • Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site. • If impact pile driving is proposed, temporary noise control blanket barriers shall shroud pile drivers or be erected in a manner to shield the adjacent land uses. • If impact pile driving is proposed, foundation pile holes shall be pre-drilled to minimize the number of impacts required to seat the pile. Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile. Notify all adjacent land uses of the construction schedule in writing. • The contractor shall prepare a detailed construction schedule for major noise-generating construction activities and provide it to adjacent land uses. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance. 				

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<ul style="list-style-type: none"> Designate a “disturbance coordinator” who would be responsible for responding to any complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g., bad muffler, etc.) and would require that reasonable measures be implemented to correct the problem. The telephone number for the disturbance coordinator shall be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the construction schedule. 				
<p>MM NOI-1.3: A qualified acoustical consultant shall be retained for development under the revised project to review mechanical noise, as these systems are selected, to determine specific noise reduction measures necessary to ensure noise complies with the City’s noise level requirements. Mechanical equipment shall be selected and designed to reduce impacts on surrounding uses to meet the City’s noise level requirements. Noise reduction measures could include, but are not limited to:</p> <ul style="list-style-type: none"> Selection of equipment that emits low noise levels; Installation of noise dampening techniques, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors; Locating equipment in less noise-sensitive areas, where feasible. 	Project applicant to submit reports prior to installation of mechanical systems to ensure compliance	During construction	City of Cupertino – Community Development Department – Planning	Review report and approve building permits/prior to issuance of building permits for mechanical equipment.

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<p>MM NOI-1.4: Section 10.48.062 prohibits deliveries between 8:00 PM and 8:00 AM on weekdays and between 6:00 PM and 9:00 AM on weekends and holidays, which shall be enforced as part of the revised project. Additionally, the effect of loading zone activities would be evaluated for noise impacts and help determine design decisions once project-specific information for the revised project, such as type and size of the commercial uses, hours of operation, frequency of deliveries, and location of loading zones, is available. Noise reduction measures could include, but are not limited to, the following:</p> <ul style="list-style-type: none"> • Move loading zones inside (e.g., within parking structures), where possible, and as far from adjacent residential uses as possible. • Implement a no idling policy at all locations that requires engines to be turned off after two minutes. • Recess truck docks into the ground or locate them within parking structures. • Equip loading bay doors with rubberized gasket type seals to allow little loading noise to escape. 	<p>Project applicant to include appropriate measures on plans prior to issuance of Master Site Development Permit, Architectural and Site Approvals and/or building permits as appropriate. Project applicant to ensure appropriate signage is included on site and that site design is sensitive to ensure compliance.</p>	<p>During project review, construction and operation</p>	<p>City of Cupertino – Community Development Department – Planning and Recreation and Community Services Department - Code Enforcement</p>	<p>Review plans for compliance/prior to approval of planning entitlements and/or building permits as appropriate</p>
<p>MM NOI-1.5: Prior to issuance of building permits, a noise study shall be completed to determine noise levels due to truck deliveries at the proposed buildings, and the specific noise control that shall be implemented to reduce noise levels below the City’s thresholds at adjacent residential property lines shall be identified.</p>	<p>Project applicant to provide acoustical report if regular truck deliveries and loading is expected adjacent to the residential property lines prior to issuance of building permits</p>	<p>During project review, construction and operation</p>	<p>City of Cupertino – Community Development Department – Planning and Recreation and Community Services Department – Code Enforcement</p>	<p>Review plans for compliance/prior to approval of building permits</p>

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<p>MM NOI-2.1: Where vibration levels due to construction activities under the revised project would exceed 0.3 in/sec PPV at nearby sensitive uses, development shall:</p> <ul style="list-style-type: none"> • Comply with the construction noise ordinance to limit hours of exposure. The City’s Municipal Code allows construction noise to exceed limits discussed in Section 10.48.040 during daytime hours. Certain types of construction are prohibited on weekends and all holidays pursuant to Municipal Code Sections 10.48.053(B), (C), and (D). • In the event pile driving would be required, all receptors within 300 feet of the project site shall be notified of the schedule a minimum of one week prior to its commencement. The contractor shall implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration, or the use of portable acoustical barriers), in consideration of geotechnical and structural requirements and conditions. • To the extent feasible, the project contractor shall phase high-vibration generating construction activities, such as pile driving/ground-impacting operations, so they do not occur at the same time with demolition and excavation activities in locations where the combined vibrations would potentially impact sensitive areas. • The project contractor shall select demolition methods not involving impact tools, where possible (for example, milling generates lower vibration levels than excavation using clam shell or chisel drops). • The project contractor shall avoid using vibratory rollers and packers near sensitive areas. 	<p>Project applicant shall prepare a comprehensive Construction Management Plan to ensure compliance with MM NOI-1.2. Notes shall be included on all construction documents to ensure adherence to noise limitations.</p>	<p>During demolition, grading and/or construction</p>	<p>Cupertino Community Development Department – Building and Planning and Cupertino – Public Works Department</p>	<p>Review and approve construction management plan and ensure implementation of the construction management plan/Prior to issuance of demolition, grading, building permit and periodically during project construction activities.</p>

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<ul style="list-style-type: none"> Impact pile driving shall be prohibited within 90 feet of an existing structure surrounding the project site. Vibratory pile driving shall be prohibited within 60 feet of an existing structure surrounding the project site. Prohibit the use of heavy vibration-generating construction equipment, such as vibratory rollers or clam shovel, within 20 feet of any adjacent sensitive land use. If pile driving is required in the vicinity of vibration-sensitive structures adjacent to the project site, survey conditions of existing structures and, when necessary, perform site-specific vibration studies to direct construction activities. Contractors shall continue to monitor effects of construction activities on surveyed sensitive structures and offer repair or compensation for damage. <p>Construction management plans for substantial construction projects, particularly those involving pile driving, shall include predefined vibration reduction measures, notification requirements for properties within 200 feet of scheduled construction activities, and contact information for on-site coordination and complaints.</p>				
<p>MM NOI-3.1: Future development under the revised project shall implement available measures to reduce project-generated noise level increases from project traffic on Perimeter Road. The noise attenuation measures shall be studied on a case-by-case basis at receptors that would be significantly impacted. Noise reduction methods could include the following:</p> <ul style="list-style-type: none"> Alternative noise reduction techniques, such as re-paving Perimeter Road with “quieter” pavement types 	Project applicant shall indicate the noise reduction methods included in the improvement plans for the project during Master Site Development Permit	During construction.	Cupertino Community Development Department – Building and Public Works Department	Prior to issuance of grading, building, or occupancy permit and on a complaint basis.

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<p>including Open-Grade Rubberized Asphaltic Concrete. The use of “quiet” pavement can reduce noise levels by two to five dBA, depending on the existing pavement type, traffic speed, traffic volumes, and other factors.</p> <ul style="list-style-type: none"> • Traffic calming measures to slow traffic, such as speed bumps. <p>Building sound insulation for affected residences, such as sound-rated windows and doors, on a case-by-case basis as a method of reducing noise levels in interior spaces.</p>	<p>review and approval to ensure that project noise is below the City’s thresholds. If complaints are received despite incorporation of the noise reduction techniques, a third party consultant will conduct an acoustical study to determine whether additional sound insulation (such as sound-rated windows and doors) is necessary for that affected residence to reduce noise levels in interior spaces and shall identify the minimum required improvements. If study indicates this is required, the applicant shall bear the cost of the required minimum improvements.</p>			
MM NOI-4.1: Implement MM NOI-1.1 and -1.2.	Same as MM NOI-1.1. and -1.2	Same as MM NOI-1.1. and -1.2	Same as MM NOI-1.1. and -1.2	Same as MM NOI-1.1. and -1.2

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MM NOI-6.1: Implement MM NOI-3.1 to reduce project-generated noise level increases on Perimeter Road north of Stevens Creek Boulevard and Vallco Parkway east of North Wolfe Road.	Same as MM NOI-3.1	Same as MM NOI-3.1	Same as MM NOI-3.1	Same as MM NOI-3.1
Transportation/Traffic				
<p>MM TRN-1.1: Develop and implement a TDM Program which includes a trip cap that is based on a 34 percent non-SOV rate for the office uses. The TDM Program includes the creation of a Transportation Management Association that would:</p> <ul style="list-style-type: none"> • Provide concierge services to residents and retail owners (for their employees); • Coordinate with the office component; and • Oversee the overall TDM program among property owners and tenants to achieve the office trip caps <p>As part of the TDM Program, the City shall require future development to implement the Specific Plan's TDM Monitoring Program to ensure that the TDM reduction goals are achieved. The TDM Monitoring Program shall require a robust Monitoring Program to ensure that this TDM program mitigation measure is implemented and that the required trip caps are achieved. The Monitoring Program shall be subject to review and approval by the City of Cupertino and would include driveway monitoring for all office uses during the AM and PM peak hours. The TDM Monitoring Program would occur in the fall (mid-September through mid-November) after six months occupancy of 50 percent of the total approved buildout. The TDM Monitoring Program shall be conducted annually for the first 10 years. If the monitoring reveals that the peak trip counts have not been exceeded in the last</p>	Project applicant shall submit a TDM program for review and approval by the City prior to occupancy. The Applicant will establish a TMA for all users of the site. The Program will outline the measures that will be implemented at the outset. See also Condition of approval related to TDM Program below.	Occupancy. See also condition of approval related to TDM Program below	Third-party consultant and City of Cupertino Community Development Department - Public Works. See also condition of approval related to TDM Program below.	The TDM Monitoring Program would occur in the fall (mid-September through mid-November) after six months occupancy of 50 percent of the total approved buildout. The TDM Monitoring Program shall be conducted annually for the first 10 years. If the monitoring reveals that the peak trip counts have not been exceeded in the last three years of the first 10 years of annual monitoring, the TDM monitoring shall be reduced to once every two years (i.e., year 10, 12, 14, etc.). However, if

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<p>three years of the first 10 years of annual monitoring, the TDM monitoring shall be reduced to once every two years (i.e., year 10, 12, 14, etc.). However, if any biennial report reveals that the peak trip counts have been exceeded, the monitoring shall revert to annual monitoring until such time that the peak trip counts have not been exceeded for three consecutive annual reports. If future development is not able to meet the identified TDM goal, then the City would collect penalties (assigned proportionately between the uses that do not meet the trip cap), as specified in the Specific Plan's TDM Monitoring Program. Penalties collected from the TDM Monitoring Program will be used to improve multimodal access around the site and throughout the City of Cupertino.</p> <p>The TDM program is expected to reduce the severity of intersection and freeway impacts, although not necessarily to a less than significant level. (Significant and Unavoidable Impact with Mitigation Incorporated)</p>				<p>any biennial report reveals that the peak trip counts have been exceeded, the monitoring shall revert to annual monitoring until such time that the peak trip counts have not been exceeded for three consecutive annual reports. See also condition of approval related to TDM Program below.</p>
<p>MM TRN-1.2: Intersection 12, De Anza Boulevard/McClellan Road: convert the shared left-turn/through lane on the eastbound approach of McClellan Road to a dedicated through lane (for a total of one left-turn lane, one through lane, and one right-turn lane). This would allow converting the phasing on the east-west approaches from split phasing to protected left-turn phasing. This improvement is included in the City's TIF Program and would improve intersection operations to an acceptable LOS D. Future development under the revised project shall pay transportation mitigation fees as calculated pursuant to the TIF program to mitigate this impact. However, because the TIF improvements are not</p>	<p>Project applicant shall pay the TIF.</p>	<p>Prior to issuance of building permit</p>	<p>City of Cupertino - Public Works Department</p>	<p>Accept TIF.</p>

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fully funding and the timing of implementation is not known at this time, the impact to Intersection 12 is considered significant and unavoidable. (Significant and Unavoidable Impact with Mitigation Incorporated)				
<p>MM TRN-1.3: A fair-share payment contribution of \$3,865,182.00 to improvements identified in VTA's VTP 2040 for freeway segments on SR 85, I-280, and I-880 that the project (or project alternative) significantly impacts shall be paid by future development associated with the revised project.</p> <p>The VTA's VTP 2040 identifies several freeway projects that are relevant to the identified freeway segment impacts, including:</p> <ul style="list-style-type: none"> • VTP ID H1: SR 85 Express Lanes: US 101 (South San José to Mountain View). This project would convert 24 miles of existing HOV lanes to express lanes, and allow single-occupancy vehicles access to the express lanes by paying a toll. An additional express lane will be added to create a two-lane express lane along a portion of the corridor. On November 13, 2017, the cities of Cupertino and Saratoga and the Town of Los Gatos entered into a settlement agreement³ with VTA and Caltrans that requires VTA to implement the 2016 Measure B State Route 85 Corridor Program Guidelines which include preparing a Transit Guideway Study for this corridor to identify the most effective transit and 	Project applicant shall pay its fair share contribution of \$3,865,182.00 to the City until such time as VTA initiates the project.	Prior to the entering into a street improvement agreement with the City of Cupertino.	City of Cupertino - Public Works Department	Amount must be paid prior to entering into a street improvement agreement. The amount will be held by the City until such time as the VTA initiates the project at which time it shall be remitted to VTA.

³ As part of the Settlement Agreement, *City of Saratoga, et al. v. California Department of Transportation, et al.* (Santa Clara County Superior Court Case No. 115CV281214), which was a suit by the three cities challenging Caltrans's approval of the State Route 85 Express Lanes Project, was dismissed on November 17, 2017.

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<p>congestion relief projects on SR 85 that will be candidates for funding. Upon completion of the study, and implementation plan for these projects will be developed.</p> <ul style="list-style-type: none"> • VTP ID H11: I-280 Express Lanes: Leland Avenue to Magdalena Avenue. This project converts existing HOV lanes to express lanes. • VTP ID H13: I-280 Express Lanes: Southbound El Monte Avenue to Magdalena Avenue. This project builds new express lanes. • VTP ID H15: I-880 Express Lanes: US 101 to I-280. This project would build new express lanes on I-880. • VTP ID H35: I-280 Northbound: Second Exit Lane to Foothill Expressway. This project constructs a second exit lane from northbound I-280 to Foothill Expressway. • VTP ID H45: I-280 Northbound Braided Ramps between Foothill Expressway and SR 85: This project would conduct preliminary engineering, environmental studies, and design to widen the existing off-ramp to Foothill Expressway from Northbound I-280 from a single-lane exit to a two-lane exit opening at I-280. 				
MM TRN-2.1: Implement MM TRN-1.1. The TDM program is expected to reduce the severity of intersection and freeway impacts, although not necessarily to a less than significant level. (Significant and Unavoidable Impact with Mitigation Incorporated)	See MM TRN – 1.1 See also Condition of Approval related to TDM below.	See MM TRN-1.1 See also Condition of Approval related to TDM below.	See MM TRN-1.1 See also Condition of Approval related to TDM below.	See MM TRN-1.1 See also Condition of Approval related to TDM below.
MM TRN-2.2: Intersection 12, De Anza Boulevard/McClellan Road: Implement MM TRN-1.2. Implementation of MM TRN-1.2 would improve	Project applicant shall pay the TIF.	Prior to issuance of building permit.	City of Cupertino - Public Works Department	Accept TIF prior to issuance of building permit

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intersection the average intersection delay to better than background (without project or project alternative) conditions. However, because the TIF improvements are not fully funded and the timing of implementation is not known at this time, the impact is considered significant and unavoidable. (Significant and Unavoidable Impact with Mitigation Incorporated)				
MM TRN-2.3: Intersection 31, Wolfe Road/Vallco Parkway: Provide an overlap phase for the westbound right-turn movement, which would provide for a green right-turn arrow while the southbound left-turn movement has its green phase. Southbound U-turns shall also be prohibited. Implementation of this mitigation measure would improve intersection level of service to an acceptable LOS D. (Less than Significant Impact with Mitigation Incorporated)	Applicant shall provide engineering plans to ensure construction of these improvements	Prior to the entering into a street improvement agreement with the City of Cupertino.	City of Cupertino – Public Works Department	Prior to issuance of occupancy permit.
MM TRN-2.4: Intersection 42, Stevens Creek Boulevard/Tantau Avenue: Provide a northbound left-turn lane (for a total of one left-turn lane and one shared through/right-turn lane). This would allow converting the phasing on the east-west approaches from split phasing to protected left-turn phasing. This improvement is included in the City’s TIF Program and would improve intersection operations to an acceptable LOS D. Future development under the revised project shall pay transportation mitigation fees as calculated pursuant to the TIF program to mitigate this impact. However, because the TIF improvements are not fully funding and the timing of implementation is not known at this time, the impact is	Project applicant shall pay the TIF.	Prior to issuance of building permit.	City of Cupertino - Public Works Department	Accept TIF prior to issuance of building permit

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considered significant and unavoidable. (Significant and Unavoidable Impact with Mitigation Incorporated)				
MM TRN-2.5: Intersections 43-45, Contribute a fair-share contribution of \$96,000.00 to a traffic signal timing study and implementation of the revised timings on Stevens Creek Boulevard at Stern Avenue, Calvert Drive, and Agilent Driveway. The revised project impacts would likely improve with modifications to the signal timings as traffic volumes change, but the impact is concluded to be significant and unavoidable because the effectiveness of the improvement would be determined through the signal timing study and because the intersection is under the jurisdiction of another agency and the City cannot guarantee the implementation of the signal timing study. (Significant and Unavoidable Impact with Mitigation Incorporated)	Project applicant shall pay its fair share contribution of \$96,000.00 to the City which will be held by the City until such time as the project is initiated.	Prior to the entering into a street improvement agreement with the City of Cupertino.	City of Cupertino - Public Works Department	Amount must be paid prior to entering into a street improvement agreement. The amount will be held by the City until such time as the project is initiated at which time it shall be remitted to the agency.
MM TRN-2.6: Intersection 48, Lawrence Expressway/Homestead Road: Pay a fair-share contribution of \$291,000.00 to the near-term improvement identified in the Santa Clara County's Expressway Plan 2040 Study for this intersection. The Expressway Plan 2040 Study identifies a near-term improvement of an additional eastbound through lane on Homestead Road. With this improvement, intersection operations would improve, but the intersection would continue to operate at LOS F with delays greater than under background conditions. The ultimate improvement identified by the County's Expressway Plan 2040 is to grade-separate the	Project applicant shall pay its fair share contribution of \$291,000.00 to the City which will be held by the City until such time as the project is initiated.	Prior to the entering into a street improvement agreement with the City of Cupertino.	City of Cupertino - Public Works Department	Amount must be paid prior to entering into a street improvement agreement. The amount will be held by the City until such time as the project is initiated at which time it shall be remitted to the agency.

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intersection. That is a long-term improvement, however, which would not be implemented within the next 10 years. Therefore, the impact is considered significant and unavoidable. (Significant and Unavoidable Impact with Mitigation Incorporated)				
<p>MM TRN-2.7: Intersection 51, Lawrence Expressway/Calvert Drive-I-280 Southbound Ramp: Improvements to mitigate the impact would include providing a fourth northbound through lane (for a total of four through lanes and one right-turn lane). This would require four receiving lanes north of Calvert Drive-I-280 Southbound Ramps. With this improvement, the intersection would operate at acceptable LOS E or better. The widening of Lawrence Expressway from three to four lanes in each direction between Moorpark Avenue to south of Calvert Drive is included in the VTP 2040 as a constrained project (VTP 2040 Project# X10). The VTP 2040 does not include widening of Lawrence Expressway at or north of Calvert Drive, however. The fourth northbound through lane on Lawrence Expressway could potentially be provided with an added receiving lane that would connect directly to the off-ramp to Lawrence Expressway (also known as “trap” lane) just north of the I-280 overcrossing.</p> <p>The City shall coordinate with the County of Santa Clara to and Caltrans to determine if a fourth through lane could be provided. Future development under the proposed project shall be required to pay a fair-share contribution of \$133,380.00 if the improvement is feasible. The impact would remain significant and unavoidable because the</p>	Project applicant shall pay its fair share contribution of \$133,380.00 to the City which will be held by the City until such time as the project is initiated.	Prior to the entering into a street improvement agreement with the City of Cupertino.	City of Cupertino - Public Works Department	Amount must be paid prior to entering into a street improvement agreement. The amount will be held by the City until such time as the project is initiated at which time it shall be remitted to the agency.

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feasibility of the improvement is yet to be determined, and because the intersection is within the responsibility and jurisdiction of another agency and the City cannot guarantee the improvement would be constructed concurrent with the proposed project. (Significant and Unavoidable Impact with Mitigation Incorporated)				
<p>MM TRN-2.8: Intersection 53, Lawrence Expressway/Bollinger Road: Improvements to mitigate the revised project's impact would include providing a fourth northbound through lane (for the PM peak hour impact) and fourth southbound through lane (for the AM peak hour impact). The widening of Lawrence Expressway from three to four lanes in each direction between Moorpark Avenue to south of Calvert Drive is included in the VTP 2040 as a constrained project (VTP 2040 Project# X10). This VTA project also includes the provision of an additional westbound through lane on Moorpark Avenue.</p> <p>Assuming that both the northbound and southbound approaches would be modified to accommodate four through lanes, the intersection would operate at or better than acceptable LOS E under the revised project during the AM and PM peak hours. Future development under the revised project shall be required to pay a fair-share contribution of \$133,380.00 to VTP Project# X10. The impact would remain significant and unavoidable, however, because the intersection is within the responsibility and jurisdiction of another agency and the City cannot guarantee the improvement would be constructed concurrent with the proposed project.</p>	Project applicant shall pay its fair share contribution of \$133,380.00 to the City which will be held by the City until such time as the project is initiated.	Prior to the entering into a street improvement agreement with the City of Cupertino.	City of Cupertino - Public Works Department	Amount must be paid prior to entering into a street improvement agreement. The amount will be held by the City until such time as the project is initiated at which time it shall be remitted to the agency.

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(Significant and Unavoidable Impact with Mitigation Incorporated)				
<p>MM TRN-2.9: Implement MM TRN-1.3. The VTP 2040 projects will enhance vehicular travel choices for the project (and project alternatives), and make more efficient use of the transportation roadway network, and the SR 85 Transit Guideway Study will help improve transit options in the SR 85 corridor. These freeway operations enhancements would not improve all impacted freeway segments to less than significant levels, however. The TDM Program proposed under the revised project and mitigation measure MM TRN-2.1 would reduce project-generated vehicle trips, thereby reducing the revised project impact on freeway segments, but it is not anticipated that the freeway impacts would be reduced to a less than significant level. For the above reasons, the revised project would remain significant and unavoidable with the implementation of MM TRN-2.1 and -2.9.</p> <p>(Significant and Unavoidable Impact with Mitigation Incorporated)</p>	MM TRN-1.3 - Project applicant shall pay its fair share contribution of \$3,865,182.00 to the City which will be held by the City until such time as the project is initiated.	MM TRN-1.3 - Prior to the entering into a street improvement agreement with the City of Cupertino.	MM TRN-1.3 - City of Cupertino - Public Works Department	MM-TRN-1.3 - Amount must be paid prior to entering into a street improvement agreement. The amount will be held by the City until such time as the VTA initiates the project at which time it shall be remitted to the agency.
<p>MM TRN-6.1: The VTA's VTP 2040 identifies the Stevens Creek Bus Rapid Transit project (VTP ID T4) as an improvement near the project site. Ultimately, the VTP ID T4 would enhance travel choice for the revised project and make more efficient use of the transportation network. Thus, future development under the revised project would be required to contribute its fair-share of \$4,832,000.00 to VTP ID T4. However, the impact would remain significant and unavoidable because the implementation of the VTP projects are within the responsibility and</p>	Project applicant shall pay its fair share contribution of \$4,832,000.00 to the City which will be held by the City until such time as the project is initiated.	Prior to the entering into a street improvement agreement with the City of Cupertino.	City of Cupertino - Public Works Department	Amount must be paid prior to entering into a street improvement agreement. The amount will be held by the City until such time as the VTA initiates the project at which time it shall be

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jurisdiction of another agency and the City cannot guarantee the improvement would be implemented concurrent with the revised project. (Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)				remitted to the agency.
MM TRN-7.1: Implement MM TRN-1.1. The TDM program is expected to reduce the severity of intersection and freeway impacts, although not necessarily to a less than significant level. (Significant and Unavoidable Impact with Mitigation Incorporated)	Same as MM TRN-1.1	Same as MM TRN-1.1	Same as MM TRN-1.1	Same as MM TRN-1.1
MM TRN-7.2: Intersection 2, Stevens Creek Boulevard/SR 85 northbound ramps: The City's TIF Program identifies the addition of an exclusive northbound left-turn lane from the SR 85 off-ramp onto westbound Stevens Creek Boulevard. This improvement would mitigate the revised project's impact to a less than significant level. Future development under the revised project shall pay transportation mitigation fees as calculated pursuant to the TIF program to mitigate this impact. However, because the TIF improvements are not fully funding and the timing of implementation is not known at this time, the impact to Intersection 2 is considered significant and unavoidable. (Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)	Project applicant shall pay the TIF.	Issuance of first building permit.	City of Cupertino - Public Works Department	Accept TIF prior to issuance of building permit
MM TRN-7.3: Intersection 8, De Anza Boulevard/Homestead Road: The City's TIF Program identifies the widening of De Anza Boulevard to four through lanes between the I-280 interchange and Homestead Road. This improvement would mitigate the	Project applicant shall pay the TIF.	Prior to issuance of building permit.	City of Cupertino Community Development Department - Public Works.	Accept TIF prior to issuance of building permit

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revised project's impact to a less than significant level. Future development under the revised project shall pay transportation mitigation fees as calculated pursuant to the TIF program to mitigate this impact. However, because the TIF improvements are not fully funding and the timing of implementation is not known at this time, the impact to Intersection 8 is considered significant and unavoidable. (Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)				
MM TRN-7.4: Intersection 12, De Anza Boulevard/McClellan Road: Implement MM TRN-1.2. Implementation of MM TRN-1.2 would improve intersection operations to better than cumulative (without) revised project conditions. However, because the TIF improvements are not fully funded and the timing of implementation is not known at this time, the impact is considered significant and unavoidable. (Significant and Unavoidable Impact with Mitigation Incorporated)	Project applicant shall pay the TIF.	Prior to issuance of building permit.	City of Cupertino Community Development Department - Public Works.	Accept TIF prior to issuance of building permit
MM TRN-7.5: Intersection 23, Wolfe Road/Fremont Avenue: Provide a dedicated southbound right-turn lane from Wolfe Road onto westbound Fremont Avenue. This would improve intersection delay to lower than cumulative conditions under the revised project. Thus, the impact would be mitigated to a less than significant level. The City of Sunnyvale recently approved improvements to the "Triangle" area of Wolfe Road/El Camino Real, Wolfe Road/Fremont Avenue, and El Camino Real/Fremont Avenue. The "Triangle" improvements include the provision of a southbound right-turn lane from Wolfe	Project applicant shall pay its fair share contribution of \$527,000.00 to the City which will be held by the City until such time as the project is initiated.	Prior to the entering into a street improvement agreement with the City of Cupertino.	City of Cupertino Public Works.	Amount must be paid prior to entering into a street improvement agreement. The amount will be held by the City until such time as the project is initiated at which time it shall be remitted to the agency.

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<p>Road to Fremont Avenue. Thus, future development under the revised project would be required to contribute their fair-share contribution of \$527,000.00 to the “Triangle” improvement project. However, the impact would remain significant and unavoidable because the intersection is within the responsibility and jurisdiction of another agency and the City cannot guarantee the improvement would be constructed concurrent with the proposed project. (Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)</p>				
<p>MM TRN-7.6: Intersection 26, Wolfe Road/Homestead Road: Provide a dedicated southbound right-turn lane from Wolfe Road onto westbound Homestead Road. To minimize secondary impacts to pedestrian travel, the right-turn lanes would need to be signal controlled, right-turns on red would be prohibited, and pedestrians should have a leading pedestrian phase (i.e., a pedestrian walk indication is provided several seconds before the right-turning vehicle traffic). This mitigation measures would improve intersection operations but not to a less than significant level.</p> <p>The City’s TIF Program includes the provision of the dedicated southbound right-turn lane. Future development under the revised project shall pay transportation mitigation fees as calculated pursuant to the TIF program to mitigate this impact. However, because the TIF improvements are not fully funding and the timing of implementation is not known at this time, the impact to Intersection 26 is considered significant and unavoidable.</p>	<p>Project applicant shall pay the TIF.</p>	<p>Prior to issuance of building permit.</p>	<p>City of Cupertino Community Development Department - Public Works.</p>	<p>Accept TIF prior to issuance of building permit</p>

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(Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)				
MM TRN-7.7: Intersection 31, Wolfe Road/Vallco Parkway: Implement MM TRN-2.3. Implementation of this measure would mitigate the revised project's cumulative impact to a less than significant level. (Less than Significant Cumulative Impact with Mitigation Incorporated)	Same as MM TRN-2.3	Same as MM TRN-2.3	Same as MM TRN-2.3	Same as MM TRN-2.3
MM TRN-7.8: Intersection 42, Stevens Creek Boulevard/Tantau Avenue: Implement MM TRN-2.4. However, because the TIF improvements are not fully funding and the timing of implementation is not known at this time, the impact is considered significant and unavoidable. (Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)	Same as MM TRN-2.4	Same as MM TRN-2.4	Same as MM TRN-2.4	Same as MM TRN-2.4
MM TRN-7.9: Intersections 43-45: Implement MM TRN-2.5. As discussed under Impact TRN-2, implementation of this measure would reduce the revised project's impact but not to a less than significant level. (Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)	Same as MM TRN-2.5	Same as MM TRN-2.5	Same as MM TRN-2.5	Same as MM TRN-2.5
MM TRN-7.10: Intersection 48, Lawrence Expressway/Homestead Road: Implement MM TRN-2.6. As discussed under MM TRN-2.6, the revised project shall pay a fair-share contribution of \$291,000.00 to the long-term improvement identified in the Santa Clara County's Expressway Plan 2040 Study for this intersection. The impact would remain significant and unavoidable, however, because the intersection is within the responsibility and jurisdiction of another agency and the	Same as MM TRN-2.6	Same as MM TRN-2.6	Same as MM TRN-2.6	Same as MM TRN-2.6

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City cannot guarantee the improvement would be constructed concurrent with the proposed project. (Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)				
MM TRN-7.11: Intersection 51, Lawrence Expressway/Calvert Drive-I-280 Southbound Ramp: Implement MM TRN-2.7. The impact is significant and unavoidable because the feasibility of the improvement is yet to be determined, the impact would remain significant and unavoidable, and because the intersection is within the responsibility and jurisdiction of another agency and the City cannot guarantee the improvement would be constructed concurrent with the proposed project. (Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)	Same as MM TRN-2.7	Same as MM TRN-2.7	Same as MM TRN-2.7	Same as MM TRN-2.7
MM TRN-7.12: Intersection 53, Lawrence Expressway/Bollinger Road: Implement MM TRN-2.8. Implementation of this measure would improve intersection operations to an acceptable LOS E or better. The impact would remain significant and unavoidable, however, because the intersection is within the responsibility and jurisdiction of another agency and the City cannot guarantee the improvement would be constructed concurrent with the proposed project. (Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)	Same as MM TRN-2.8	Same as MM TRN-2.8	Same as MM TRN-2.8	Same as MM TRN-2.8
MM TRN-7.13: Intersection 60, Stevens Creek Boulevard/Cabot Avenue: Contribute a fair-share contribution of \$23,000.00 to a traffic signal timing study and implementation of the revised timings on Stevens	Project applicant shall pay its fair share contribution of \$23,000.00 to the City	Prior to the entering into a street improvement	City of Cupertino Public Works.	Amount must be paid prior to entering into a street improvement agreement. The

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Creek Boulevard at Cabot Avenue. The revised project impact would likely improve with modifications to the signal timings as traffic volumes change. The impact would be significant and unavoidable, however, because the effectiveness of the improvement would be determined through the signal timing study and because the intersection is within the responsibility and jurisdiction of another agency and the City cannot guarantee the implementation of the signal timing study. (Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)	which will be held by the City until such time as the project is initiated.	agreement with the City of Cupertino.		amount will be held by the City until such time as the project is initiated at which time it shall be remitted to the agency.
MM TRN-7.14: Intersection 38, Tantau Avenue/Homestead Road: Restripe the southbound approach (Quail Avenue) to provide a separate left-turn lane and shared through/right-turn lane (including removal of on-street parking). This improvement is included in the City's TIF Program and would improve intersection operations to an acceptable LOS D. Future development under the revised project shall pay transportation mitigation fees as calculated pursuant to the TIF program to mitigate this impact. However, because the TIF improvements are not fully funded and the timing of implementation is not known at this time, the impact is considered significant and unavoidable. (Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)	Project applicant shall pay the TIF.	Prior to issuance of building permit.	City of Cupertino Community Development Department - Public Works.	Accept TIF prior to issuance of building permit
MM TRN-7.15: Implement MM TRN-1.3. The VTP 2040 projects will enhance vehicular travel choices for the project (and project alternatives), and make more efficient use of the transportation roadway network, and the SR 85	Same as MM TRN-1.3	Same as MM TRN-1.3	Same as MM TRN-1.3	Same as MM TRN-1.3

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<p>Transit Guideway Study will help improve transit options in the SR 85 corridor. These freeway operations enhancements would not improve all impacted freeway segments to less than significant levels, however. The TDM Program proposed under the revised project and mitigation measure MM TRN-7.1 would reduce project-generated vehicle trips, thereby reducing the revised project impact on freeway segments, but it is not anticipated that the freeway impacts would be reduced to a less than significant level. For the above reasons, the revised project would remain significant and unavoidable with the implementation of MM TRN-7.1 and -7.15.</p> <p>(Significant and Unavoidable Impact with Mitigation Incorporated)</p>				
<p>MM TRN-7.16: Intersection 3, Stevens Creek Boulevard/Stelling Road: Provide an additional second eastbound left-turn lane from Stevens Creek Boulevard onto northbound Stelling Road. This mitigation measure would improve intersection operations to an acceptable LOS D-.</p> <p>The City's TIF Program identifies the addition of a second eastbound left-turn lane from Stevens Creek Boulevard onto northbound Stelling Road as a General Plan Mitigation Measure. Future development under the revised project shall pay transportation mitigation fees as calculated pursuant to the TIF program to mitigate this impact. However, because the TIF improvements are not fully funded and the timing of implementation is not known at this time, the impact is considered significant</p>	<p>Project applicant shall pay the TIF.</p>	<p>Prior to issuance of building permit.</p>	<p>City of Cupertino Community Development Department - Public Works.</p>	<p>Accept TIF prior to issuance of building permit</p>

**Mitigation Monitoring or Reporting Program
Vallco Town Center Specific Plan**

Mitigation Measure	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
and unavoidable. (Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)				
Utilities and Service Systems				
MM UTIL-2.1: Future development under the revised project shall replace the existing 12- and 15-inch sewer mains in Wolfe Road with new mains of an adequate size as determined by CuSD, or shall install an 18- to 21-inch parallel pipe to the existing 12- and 15-inch mains to accommodate existing and project flows.	Project applicant shall work with the Cupertino Sanitary District to determine the appropriate mitigation requirements.	Prior to issuance of improvement plans and/or building permits	City of Cupertino - Public Works Department shall review and coordinate improvement plans with Cupertino Sanitary District.	Prior to issuance of final inspections for improvement plans, building finals and occupancy permits, as appropriate.
MM UTIL-2.2: Future development under the revised project shall replace the existing 27-inch sewer main in Wolfe Road and Homestead Road with new mains of an adequate size determined by the CuSD, or install a parallel pipe of an adequate size to the existing 27-inch sewer main as determined by CuSD.	Project applicant shall work with the Cupertino Sanitary District to determine the appropriate mitigation requirements.	Prior to issuance of improvement plans and/or building permits	City of Cupertino - Public Works Department shall review and coordinate improvement plans with Cupertino Sanitary District.	Prior to issuance of final inspections for improvement plans, building finals and occupancy permits, as appropriate.
MM UTIL-2.3: No building permits shall be issued by the City for structures or units that would result in the permitted peak wet weather flow capacity of 13.8 mgd through the Santa Clara sanitary sewer system being exceeded. The estimated sewage generation by the revised project shall be calculated using the sewer generation rates used by the San Jose - Santa Clara Water Pollution Control Plant Specific Use Code & Sewer Coefficient table, and from the City of Santa Clara Sanitary Sewer Capacity Assessment, May 2007, ⁴ unless alternative (i.e., lower)	Project applicant shall work with the City and Cupertino Sanitary District to ensure that any proposed project does not exceed the contracted peak wet weather capacity	Prior to approval of the Master Site Development Permit	City of Cupertino - Public Works Department shall review and coordinate improvement plans with Cupertino Sanitary District.	Ensure that any proposed project does not exceed the contracted peak wet weather capacity through the Santa Clara sanitary sewer system/prior to issuance of Master

⁴ The average dry weather sewerage generation rates used by the San Jose - Santa Clara Water Pollution Control Plant Specific Use Code & Sewer Coefficient table, and the City of Santa Clara Sanitary Sewer Capacity Assessment, May 2007, for the different uses within the project are as follows: High Density

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sewer generation rates achieved by future development are substantiated by the developer based on evidence to the satisfaction of the CuSD.	through the Santa Clara sanitary sewer system			Site Development Permit

Residential = 121 gpd/unit; Commercial/Retail = 0.076 gpd/SF; Commercial/Restaurant = 1.04 gpd/SF; Office = 0.1 gpd/SF; Hotel = 100 gpd/Room; Civic Space (office) = 0.21 gpd/SF; Adult Education = 15 gpd/Person; and Civic Space (Auditorium) = 0.11 gpd/SF.

In addition to the above mitigation measures, future development implementing the Specific Plan shall also implement the following as Conditions of Approval and Standard Permit Conditions:

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<p><u>Conditions of Approval</u></p> <ul style="list-style-type: none"> Future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) that includes sensitive receptors (such as residences or daycare centers) located within the setback distances identified in Section 3.3 of the Draft EIR and shown in Figure 3.3-1, Figure 3.3-2, and Figure 3.3-3 of the Draft EIR from I-280 and local roadways shall require site-specific analysis to quantify the level of TAC and PM_{2.5} exposure. This analysis shall be conducted following procedures outlined by BAAQMD. If the site-specific analysis reveals significant exposures, such as cancer risk greater than 10 in one million acute or chronic hazards with a HI greater than 1.0, or annual PM_{2.5} exposures greater than 0.3 µg/m³, or a significant cumulative health risk in terms of excess cancer risk greater than 100 in one million, acute or chronic hazards with a HI greater than 10.0, or annual PM_{2.5} exposures greater than 0.8 µg/m³, additional measures such as those detailed below shall be implemented to reduce the risk to below the threshold. If this is not possible, the sensitive receptors shall be relocated. <ul style="list-style-type: none"> For significant cancer risk exposure, as defined by BAAQMD, indoor air filtration systems shall be installed to effectively reduce particulate levels to below the significance threshold. <p>Project sponsors shall submit performance</p>	Project applicant will provide reports, plans and information on compliance.	Prior to approval of Master Site Development Permit	City of Cupertino – Community Development Department – Planning	Review reports and assess compliance

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<p>specifications and design details to demonstrate that lifetime residential exposures would result in less than significant cancer risks (less than 10 in one million chances or 100 in one million for cumulative sources), HI, and PM_{2.5} concentration. To reduce significant community health risk exposure, future development shall implement the following measures:</p> <ul style="list-style-type: none"> ▪ Air filtration systems installed at significantly impacted sensitive receptor buildings shall be rated MERV-13 or higher and a maintenance plan for the air filtration system shall be implemented. ▪ Trees and/or vegetation shall be planted between sensitive receptors and pollution sources, if feasible. Trees that are best suited to trapping particulate matter shall be planted, including the following: pine (<i>Pinus nigra</i> var. <i>maritime</i>), cypress (<i>X Cupressocyparis leylandii</i>), hybrid poplar (<i>Populus deltoids X trichocarpa</i>), and redwoods (<i>Sequoia sempervirens</i>). ▪ Sites shall be designed to locate sensitive receptors as far as possible from any freeways, roadways, diesel generators, and distribution centers. ▪ Operable windows, balconies, and building air intakes shall be located as far away from TAC sources as feasible. If future residences are located near a distribution center, residences shall not be located immediately adjacent to a 				

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<p>loading dock or where trucks concentrate to deliver goods.</p> <ul style="list-style-type: none"> • Future development that would include TAC sources (such as diesel backup generators) would likely be evaluated through the CEQA environmental review process or BAAQMD permit process to ensure they do not cause a significant health risk in terms of excess cancer risk greater than 10 in one million, acute or chronic hazards with a HI greater than 1.0, or annual PM_{2.5} exposures greater than 0.3 µg/m³, or a significant cumulative health risk in terms of excess cancer risk greater than 100 in one million, acute or chronic hazards with a HI greater than 10.0, or annual PM_{2.5} exposures greater than 0.8 µg/m³. • Future development shall pay its fair-share contribution of \$1,679,600.00 towards the City's share for the cost of constructing the I-280/Wolfe Interchange project. • Future development shall be visually compatible (including minimizing noise, traffic, light, and visual intrusive effects) with adjacent residences by including appropriate buffers such as landscaping, screening, building transitions, and other privacy measures between the project site and adjacent residential land uses. • Future development shall provide bicycle enhancements in the vicinity, including buffered bike lanes on Wolfe along the project site frontage. 				

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<p><u>Condition of Approval:</u></p> <p>The Specific Plan would include a Transportation Demand Management (TDM) program, which shall provide sitewide TDM support services to coordinate TDM efforts for all users and includes an office-specific trip cap to reduce vehicle trips and vehicle miles of travel. The non-office portion of the project is not subject to a trip cap. The office trips cap related to the TDM program of the project shall be measured at the peak commute hours, when roadways are most congested.</p> <p>OFFICE TRIP CAP</p> <p>Trip caps for the office uses were developed assuming full buildout of the office uses for the revised project. The office trip cap is designed to reduce single-occupancy vehicle trips from office uses. Specifically, the office trips caps assume that at a minimum 34 percent of office trips would be by non-single-occupancy vehicle (non-SOV) modes (i.e., the percentage of employees traveling to the site via walking, bicycling, riding in private shuttle or public transit vehicles, or ridesharing).</p> <p>A target of 34 percent non-SOV has been identified as a reasonable target because it is considered aggressive but achievable for office developments in suburban locations greater than one-half (½) mile from a rail station. While higher alternative mode share rates have been established for a few corporate campuses in the Bay Area, such rates have generally been in areas more urban than Cupertino with proximity to mass transit facilities.</p>	<p>TMA Formation –</p> <p>Project applicant will submit TMA formation and TDM programs information.</p> <p>TDM Monitoring:</p> <p>The TMA would submit an annual report to the City to report on TDM measures implemented and assess effectiveness of the TDM program in terms of non-SOV mode split for the office uses.</p>	<p>The Final TDM program for future development shall be prepared to the satisfaction of the City’s Director of Public Works prior to approval of any occupancy permits.</p>	<p>City Department of Public Works - Transportation</p>	<p>MONITORING PLAN</p> <p>Annual TDM program monitoring consists of two main elements: (1) Summary of Implemented TDM Measures to be provided by the Vallco Specific Plan Area TMA, and (2) office driveway counts and TDM Monitoring Report for office uses to be prepared by an independent city-approved transportation planning/engineering firm. Each of these components is described below.</p> <p><i>Summary of Implemented TDM Measures</i></p> <p>The TMA (including the office TMA, if any) shall submit a report to the City by December 31st each year describing the specific TDM measures that are being implemented by the TMA and by their members (including the office TMA, if any) and the amount of occupied space for each land use (i.e., office/commercial/hotel rooms/dwelling units).</p> <p>To assess the effectiveness of the TDM program in increasing non-SOV trips, the TMA (including the</p>

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency						
<p>As the Specific Plan develops, annual trip caps for the office uses will be established based building square footage rate of 1.05 for the AM peak hour and 1.04 for the PM peak hour. Peak hours are defined as the time periods on the adjacent streets with the highest hourly volumes occurring during the morning and evening commute periods. At full buildout, the office uses in the revised project shall be required to meet the trip caps presented in the following table:</p> <table><tr><td></td><td>AM Peak Hour</td><td>PM Peak Hour</td></tr><tr><td>Office Trip Caps</td><td>1,830 vehicle trips</td><td>1,820 vehicle trips</td></tr></table> <p>FORMATION OF TMA</p> <p>The purpose of the Transportation Management Association (TMA) is to coordinate sitewide TDM measures, collect fees from members to finance site-wide measures and monitoring activities, conduct TMA administration activities, and coordinate with members to add measures as needed to meet the office trip caps.</p> <p>The TMA for the Specific Plan Area shall be established using a legal arrangement approved by the City. The TMA shall hire a qualified Transportation Coordinator. The fees paid by each member shall be determined as part of TMA formation documentation. All commercial property owners and tenants, apartment management companies, hotel operators, and home owners associations shall be required to be members, unless an enhanced TDM program covers all office uses in the</p>		AM Peak Hour	PM Peak Hour	Office Trip Caps	1,830 vehicle trips	1,820 vehicle trips				<p>office TMA, if any) may also be required to collect the following data and provide it in a report to the City:</p> <ul style="list-style-type: none">– Private Shuttle Ridership - Counted electronically on vehicles and visually verified at the transit hub– Public Transit Ridership - Counted at area VTA stops– Cycling/Walking Volumes - Counted via bike/pedestrian entrances to office facilities– Office Carpool Volumes - Counted at entrances to office parking facilities <p>Additional TDM measures may be required by the City if the TDM measures are not effective as determined by a regular monitoring program.</p> <p><i>Driveway Counts and TDM Monitoring Report</i></p> <p>An independent city-approved transportation planning/engineering firm shall be retained by the City to collect vehicle counts and present the results in a written report. Vehicle counts shall be conducted</p>
	AM Peak Hour	PM Peak Hour								
Office Trip Caps	1,830 vehicle trips	1,820 vehicle trips								

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<p>Plan Area, in which case there may be a separate TMA for offices uses. However, the office TMA is still required to be a member of the sitewide TMA and coordinate activities and monitoring with the sitewide TMA.</p> <p>TDM PROGRAM STRUCTURE</p> <p>The TDM program would include the formation of a TMA to help implement TDM strategies sitewide and coordinate the office trip cap requirements. The TMA shall include a qualified on-site transportation coordinator that would help implement TDM strategies. TDM strategies that are highly encouraged include, but are not limited to:</p> <ul style="list-style-type: none"> – Maximum parking requirements per the Specific Plan – Concierge services for all employees, residents, guests, and patrons, to provide information on transit connections, opportunities for alternative modes of transit and transportation services. – Free transit passes for residents and retail employees – Ride-share marketing and promotion – Evaluation, identification, and implementation of bikeshare program for travel within, to, and from the site – On-site availability of carshare – Guaranteed ride home programs <p>Other TDM strategies that could be considered include:</p> <ul style="list-style-type: none"> – Unbundling parking, – Other a transit incentive programs 				<p>at all entrances/exits to parking facilities for the office space. The numbers of vehicles entering and exiting each location shall be counted in 15-minute increments from 7:00AM to 10:00AM and from 3:00PM to 7:00PM on a Tuesday, Wednesday, and Thursday over a two-week period. Counts shall be performed between mid-September and mid-November. Counts shall avoid school holidays, as well as days immediately before or after holidays or long weekends, and shall not be performed on days with inclement weather.</p> <p>The count data for the driveways to the office parking facilities shall be analyzed using standard traffic engineering practice to derive office-generated AM and PM peak hour traffic volumes. The results shall be compared to the office trip caps.</p> <p>The data collection methodology, raw data, data analysis procedures, and resulting AM and PM peak hour vehicle trips for the office uses shall be written up in a report and submitted to the City of</p>

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<ul style="list-style-type: none"> – Safe routes to school support programs, – Transit subsidy for employees, – Vanpool subsidy for employees, – Workplace parking pricing, – Employee parking cash-out, – Alternative work schedules and telecommute programs, and. – Shuttle services for employees <p>Additional details about possible TDM measures are included in Table 28 in Appendix H.</p>				<p>Cupertino Department of Public Works.</p> <p><i>TDM Program Compliance</i></p> <p>If the AM and PM peak hour vehicle trip generation of the office uses is less than the office trip caps (1,830 AM peak hour trips and 1,820 PM peak hour trips at full buildout of revised project), the TDM program is in compliance and no additional TDM measures shall be required. As the Specific Plan develops, annual trip caps for the office uses will be established based building square footage rate of 1.05 for the AM peak hour and 1.04 for the PM peak hour.</p> <p><i>Actions if TDM Program Compliance is Not Achieved</i></p> <p>The City would notify the Vallco Specific Plan Area TMA (including the office TMA, if any) if the trip caps are exceeded. The TMA (including the office TMA, if any) shall be required to meet with the City to identify new TDM measures to be implemented to achieve the trip caps.</p>

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
				<p>Once the TMA (including the office TMA, if any) and the City agree on new TDM measures, the TMA (including the office TMA, if any) shall implement them within 60 days of the notification date, unless new TDM measures cannot reasonably be implemented within 60 days, then within a later date that can reasonably be achieved, acceptable to the City. Follow-up counts shall be conducted by an independent City-approved transportation planning/engineering firm 60 days after the new measures are implemented to evaluate the effectiveness of the new TDM program. If the peak hour trip caps are still exceeded, the TMA (including the office TMA, if any) would pay a fee of \$3 per day per extra vehicle trip (adjusted annually starting in 2018 per the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose area) for ninety days. The funds from these fees shall be used to provide for City-wide implementation of TDM measures and improvement of bicycle and pedestrian facilities. Payments of these penalties are</p>

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
				<p>due to the City within 30 days of issuance of an invoice with reasonable supporting documentation. After ninety days, the TMA (including the office TMA, if any) shall be required to meet with the City to identify additional City-approved TDM measures to be added. If the Plan is still unable to meet the trip caps during the next annual monitoring period, penalties would continue to be levied, until the peak trip caps are met.</p> <p>If the TMA (including the office TMA, if any) does not agree to implement the City approved new TDM measures after the initial meeting, then the TMA shall be assessed a \$5 per day per extra vehicle trip penalty (adjusted annually starting in 2018 per the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose area) through the end of the calendar year. Payments of these penalties are due to the City within 30 days of issuance of an invoice with reasonable supporting documentation. The funds from</p>

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
				<p>these penalties shall be used at the City's discretion.</p> <p><i>Monitoring Program Funding</i></p> <p>The TMA (including the office TMA, if any) shall pay the City for the annual monitoring costs including City staff time to review the annual monitoring reports.</p> <p><i>Monitoring Program Duration</i></p> <p>Annual monitoring shall be conducted starting the fall (mid-September through mid-November) after six months of 50 percent occupancy of total approved buildout and continuing annually for 10 years. The annual trip caps for the office uses will be established based building square footage rate of 1.05 for the AM peak hour and 1.04 for the PM peak hour. The trip cap will be proportionally adjusted based on the occupancy of the sitewide office use to determine the trip cap applicable to that monitoring cycle up to full occupancy. In no event shall the trip cap exceed 1,830 AM peak hour trips and 1,820 PM peak hour trips. If the monitoring</p>

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				reveals that the peak trip counts have not been exceeded in the last three years of the first 10 years of annual monitoring, the TDM monitoring shall be reduced to once every two years (i.e., year 12, 14, etc.). However, if any biennial report reveals that the peak trip counts have been exceeded, the monitoring shall revert to annual monitoring until such time that the peak trip counts have not been exceeded for three consecutive annual reports.
<u>Conditions of Approval:</u> <ul style="list-style-type: none"> • Future development shall reduce the heat island effect by implementing measures such as cool surface treatments for parking facilities, cool roofs, cool paving, and landscaping to provide well-shaded areas. • Future buildings shall install advanced meter infrastructure, commonly referred to as Smart Meters, to allow two-way communication between the utility company and the meter in order to more closely manage energy use and operating cost. • Future buildings shall install solar photovoltaic power, where feasible. • Future buildings with high hot water heating load shall install solar thermal (i.e., solar water heaters) to decrease natural gas use. • Future development shall provide Electric Vehicle (EV) charging stations, infrastructure for EV 	Project applicant will indicate compliance on plans and indicate on lease documents and sale documents that use of 100 carbon free sources of energy is a requirement.	Prior to issuance of building permits	City of Cupertino – Department of Community Development – Building	Ensure appropriate measures are incorporated in appropriate plans prior to issuance of permits.

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
charging, compressed natural gas charging stations, and/or preferential parking requirements for alternative-fuel vehicles. <ul style="list-style-type: none"> • Future residential development shall pre-wire units to accommodate future installation of EV charging or provide EV charging systems. • Future development shall install water-efficient fixtures, such as low-flow faucets, showerheads, and toilets, and water-efficient landscapes that utilize drought-tolerant plans and climate-sensitive/water efficient irrigation systems. • Electricity for future development would be provided by Silicon Valley Clean Energy (SVCE) or another provider that sources electricity from 100 percent carbon free sources. 				
<u>Condition of Approval:</u> <ul style="list-style-type: none"> • Future development that generates substantial food waste and compostable paper (i.e., food soiled paper) shall support food waste collection services and/or provide collection bins for food waste. 	Project applicant shall indicate compliance on plans and provide required reports	Prior to issuance of Architectural and Site Approvals and relevant building permits (including tenant improvements)	City of Cupertino – Public Works Department – Environmental Services	Review and approve plans and reports/Prior to issuance of Architectural and Site Approvals and relevant building permits.
<u>Conditions of Approval:</u> <ul style="list-style-type: none"> • Future development shall incorporate bird safe building design measures such as the following: <ul style="list-style-type: none"> – Avoiding large, uninterrupted expanses of glass near open areas, – Prohibiting glass skyways and freestanding glass walls, – Avoiding transparent glass walls coming together at building corners, 	Project applicant shall indicate compliance on plans	Prior to approval of relevant Architectural and Site Approval Permits	City of Cupertino – Community Development Department – Planning	Plan and report verification to ensure compliance/ prior to issuance of relevant Architectural and Site Approval permits.

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<ul style="list-style-type: none"> – Prohibiting up-lighting or spotlights, – Shielding outdoor lights, – Utilizing fritted, glazed, and/or low reflective glass. • Consistent with General Plan Policy LU-6.3, future development shall provide a plaque, reader board and/or other educational tools on the site to explain the historic significance of the mall. The plaque shall include the city seal, name of resource (i.e., Vallco Shopping District), date it was built, a written description, and photograph. The plaque shall be placed in a location where the public can view the information. • Outdoor dining areas and playgrounds shall demonstrate that appropriate design and noise attenuation measures including, but not limited to, setbacks and/or sound walls have been incorporated to meet the daytime threshold of 65 dBA and the nighttime threshold of 55 dBA in the City's Municipal Code at the existing, adjacent residences. 				
Biological Resources				
<u>Standard Permit Conditions:</u> <ul style="list-style-type: none"> • Bird and Nest Safety: <ul style="list-style-type: none"> – Construction and tree removal/pruning activities shall be scheduled to avoid the nesting season to the extent feasible. If feasible, tree removal and/or pruning shall be completed before the start of the nesting season to help preclude nesting. The nesting season for most birds and raptors in the San Francisco Bay area extends from February 1 through August 31. 	Project applicant to incorporate requirements on plans and provide appropriate reports	Prior to issuance of demolition/tree removal permits and prior to initiation of demolition/grading/construction activities (including tree removal and pruning)	City of Cupertino – Community Development Department – Planning	Ensure requirements are incorporated in appropriate plans prior to issuance of permits. Review final report for compliance with mitigation measure, prior to issuance of grading permit.

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<ul style="list-style-type: none"> – If it is not possible to schedule construction activities between September 1 and January 31 then a qualified ornithologist shall conduct a preconstruction survey to identify active bird nests that may be disturbed during project construction. This survey shall be completed no more than seven days prior to the initiation of demolition/construction activities (including tree removal and pruning). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. – If the survey does not identify any nesting birds that would be affected by construction activities, no further mitigation is required. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist (in consultation with the CDFW) shall designate a construction-free buffer zone (typically 300 feet for raptors and 100 feet for non-raptors) to be established around the nest to ensure that no nests of species protected by the MBTA and California Fish and Game Code will be disturbed during construction activities. The buffer shall remain in place until a qualified ornithologist has determined that the nest is no longer active. – A final report on nesting birds and raptors, including survey methodology, survey date(s), map of identified active nests (if any), and protection measures (if required), shall be submitted to the Planning Manager and be completed to the satisfaction of the Community 				

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency												
Development Director prior to the start of grading.																
<p><u>Standard Permit Conditions:</u></p> <ul style="list-style-type: none">Protected Trees:<ul style="list-style-type: none">An updated arborist report shall be prepared by a certified arborist and submitted to the City. The updated arborist report shall include updated tree assessments and tree maintenance and protection measures for trees to be preserved. The development project shall be required to implement the recommendations in the arborist report to protect trees identified to be preserved.Per Municipal Code Chapter 14.18.190, trees removed shall be replaced as follows: <table><tr><th>Trunk Size of Removed Tree</th><th>Corresponding Replacement Tree</th></tr><tr><td>Up to 12 inches</td><td>One 24-inch box tree</td></tr><tr><td>Over 12 inches and up to 18 inches</td><td>Two 24-inch box trees</td></tr><tr><td>Over 18 inches and up to 36 inches</td><td>Two 24-inch box trees or one 36-inch box tree</td></tr><tr><td>Over 36 inches</td><td>One 36-inch box tree</td></tr><tr><td>Heritage Tree of any size</td><td>One 48-inch box tree</td></tr></table> <p>The species and location of the replacement trees and monitoring of replanting success shall be approved by the City of Cupertino Arborist and</p>	Trunk Size of Removed Tree	Corresponding Replacement Tree	Up to 12 inches	One 24-inch box tree	Over 12 inches and up to 18 inches	Two 24-inch box trees	Over 18 inches and up to 36 inches	Two 24-inch box trees or one 36-inch box tree	Over 36 inches	One 36-inch box tree	Heritage Tree of any size	One 48-inch box tree	Project applicant to submit updated arborist report and provide appropriate tree replacements	Prior to Master Site Development Permit and relevant Architectural and Site Approval Permits	City of Cupertino – Community Development Department – Planning	A third party consultant will be hired, at the applicant’s expense, to ensure that tree protection measures have been installed and being adhered to through construction. Review reports, ensure appropriate replacement trees are being provided, when trees are removed.
Trunk Size of Removed Tree	Corresponding Replacement Tree															
Up to 12 inches	One 24-inch box tree															
Over 12 inches and up to 18 inches	Two 24-inch box trees															
Over 18 inches and up to 36 inches	Two 24-inch box trees or one 36-inch box tree															
Over 36 inches	One 36-inch box tree															
Heritage Tree of any size	One 48-inch box tree															

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<p>Community Development Director, in conformance with the City's Protected Tree Ordinance requirements.</p> <p>If a replacement tree for the removal of a non-heritage tree or tree with trunk size equal to or less than 36-inches cannot be reasonably planted on the project site, an in-lieu tree replacement fee shall be paid to the City's tree fund to add or replace trees on public property in the vicinity of the Specific Plan area or add trees or landscaping on City property.</p>				
Hydrology and Water Quality				
<p><u>Standard Permit Conditions:</u></p> <p><i>During Construction</i></p> <ul style="list-style-type: none"> The revised project shall comply with the NPDES General Construction Activity Storm Water Permit administered by the Regional Water Quality Control Board. Prior to construction grading the applicant shall file a Notice of Intent (NOI) and receive a Waste Discharger Identification (WDID) number to comply with the General Permit and prepare a Storm Water Pollution Prevention Plan that includes storm water quality best management practices (BMPs). The Storm Water Management Plan shall detail how runoff and associated water quality impacts resulting from the revised project will be controlled and/or managed. The Plan shall be submitted to the Director of Public Works for review and approval. The specific BMPs to be used in each phase of development shall be determined based on design and site-specific considerations and shall be 	Project applicant to prepare a SWPP, identify BMPs and pest resistant planting to be incorporated in the project. Identify annual monitoring of BMPs.	Prior to issuance of grading and building permits	City of Cupertino – Public Works Department – Engineering and Environmental Services	Review and approve SWPP, BMPs and plants. Conduct annual monitoring as required by the City's C.3 permit.

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<p>determined prior to issuance of building and grading permits.</p> <p><i>Post-Construction</i></p> <ul style="list-style-type: none"> The revised project shall comply with Provision C.3 of the MRP NPDES permit, which provides enhanced performance standards for the management of storm water for new development. Prior to issuance of building and grading permits, each phase of development shall include provisions for post-construction storm water controls in the project design in compliance with the MRP Provision C.3 requirements, and shall include source control and on-site treatment control BMPs for reducing contamination in stormwater runoff as permanent features of the project. The revised project shall include a stormwater management plan that incorporates Low Impact Development (LID) measures such as bioretention areas, porous concrete, infiltration facilities, and water harvesting devices to reduce the pollutant loads and volumes of stormwater runoff from the site. The stormwater management plan shall be consistent with the landscaping plan and trees to be preserved. To protect groundwater from pollutant loading of urban runoff, BMPs that are primarily infiltration devices (such as infiltration trenches and infiltration basins) must meet, at a minimum, the following conditions: <ul style="list-style-type: none"> Pollution prevention and source control BMPs shall be implemented to protect groundwater; 				

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<ul style="list-style-type: none"> – Use of infiltration BMPs cannot cause or contribute to degradation of groundwater; – Infiltration BMPs must be adequately maintained; – Vertical distance from the base of any infiltration device to the seasonal high groundwater mark must be at least 10 feet. In areas of highly porous soils and/or high groundwater table, BMPs shall be subject to a higher level of analysis (considering potential for pollutants such as on-site chemical use, level of pretreatment, similar factors); and – Infiltration devices shall be located a minimum of 100 feet horizontally from any water supply wells. – Class V injection wells are not permitted. • BMPs shall be selected and designed to the satisfaction of the Director of Public Works in accordance with the requirements contained in the most recent versions of the following documents: <ul style="list-style-type: none"> – City of Cupertino Post-Construction BMP Section Matrix; – SCVURPPP “Guidance for Implementing Storm water Regulations for New and Redevelopment Projects;” – NPDES Municipal Storm water Discharge Permit issued to the City of Cupertino by the California Regional Water Quality Control Board, San Francisco Bay Region; – California BMP Handbooks; 				

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<ul style="list-style-type: none"> – Bay Area Stormwater Management Agencies Association (BASMAA) “Start at the Source” Design Guidance Manual; – BASMAA “Using Site Design Standards to Meet Development Standards for Storm water Quality – A Companion Document to Start at the Source;” and – City of Cupertino Planning Procedures Performance Standard. • To maintain effectiveness, all storm water treatment facilities shall include long-term maintenance programs. • The applicant, project arborist, and landscape architect, shall work with the City and the SCVURPPP to select pest resistant plants to minimize pesticide use, as appropriate, and the plant selection will be reflected in the landscape plans. 				
Noise and Vibration				
<u>Standard Permit Conditions:</u> <ul style="list-style-type: none"> • An acoustical study shall be completed during the application process when project-specific information, such as building elevations, layouts, floor plans, and position of buildings on the site, is known. The study shall determine compliance with the noise and land use compatibility standards, identify potential noise impacts, and propose site-specific measures to reduce exposure to exterior and interior noise levels that exceed maximum permissible levels. • To reduce exterior noise levels to meet the normally acceptable thresholds of 65 dBA CNEL at multi-family residences or 70 dBA CNEL at commercial 	Project applicant to provide acoustical study and incorporate noise attenuating measures into plans.	Prior to issuance of relevant Architectural and Site Approval Permits	City of Cupertino – Community Development Department - Planning	Ensure appropriate conditions of approval are incorporated per the recommendations of the acoustical report and ensure incorporation of the measures in building plans/Prior to issuance of Architectural and Site Approval Permits and building permits.

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<p>uses, locate noise-sensitive outdoor use areas away from major roadways or other significant sources of noise when developing site plans. Shield noise-sensitive spaces with buildings or other methods to reduce exterior noise levels. The final detailed design of these measures shall be completed at the time that the final site and grading plans are submitted.</p> <ul style="list-style-type: none"> • The following shall be implemented to reduce interior noise levels to meet the normally acceptable thresholds of 45 dBA CNEL at multi-family residences or 50 dBA Leq(1-hr) at commercial uses during hours of operations: <ul style="list-style-type: none"> – If future exterior noise levels at residential building facades are between 60 and 65 dBA CNEL, incorporate adequate forced-air mechanical ventilation to reduce interior noise levels to acceptable levels by closing the windows to control noise. – If future exterior noise levels at residential building facades exceed 65 dBA CNEL, forced-air mechanical ventilation systems and sound-rated construction methods are normally required. Such methods or materials may include a combination of smaller window and door sizes as a percentage of the total building façade facing the noise source, sound-rated windows and doors, sound-rated exterior wall assemblies, and mechanical ventilation so 				

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<p>windows may be kept closed at the occupant's discretion.</p> <ul style="list-style-type: none"> If the 50 dBA Leq(1-hr) threshold would not be met, other site-specific measures, such as increasing setbacks of the buildings from the adjacent roadways, or using shielding by other buildings to reduce noise levels, implementing additional sound treatments to the building design, etc. shall be considered to reduce interior noise levels to meet the Cal Green Code threshold. 				
Public Services and Recreation				
<p>Standard Permit Condition: Future development under the revised project shall dedicate land through compliance with Municipal Code Chapter 13.08 and Title 18, which help ensure the provision of parklands in compliance with the City standard of a minimum of three acres per 1,000 residents.</p>	Project applicant to indicate compliance with the Open Space requirements of the Vallco Town Center Specific Plan	Prior to approval of the Master Site Development Permit	City of Cupertino – Public Works Department – Engineering and Community Development Department – Planning	Review plans for compliance with Vallco Town Center Specific Plan
Transportation				
<p>Conditions of Approval:</p> <ul style="list-style-type: none"> To ensure neighborhood cut-through traffic and parking intrusion are minimized, future development under the revised project shall fund neighborhood cut-through traffic monitoring studies and provide fees in the amount of \$500,000 to the City of Cupertino, \$150,000 to the City of Santa Clara, and \$250,000 to the City of Sunnyvale to monitor and implement traffic calming improvements and a residential parking permit program to minimize neighborhood cut-through traffic and parking intrusion, if determined to be needed by the 	Project applicant to provide the appropriate funds to be held by the City until such time as a project is initiated.	Prior to approval of Master Site Development Permit	City of Cupertino – Public Works Department – Engineering and Transportation	A third party consultant will be hired to monitor neighborhood parking and traffic, if it is deemed to be an issue by the Director of Public Works. The neighborhood parking and traffic monitoring program shall include the following components: (1) identifying the monitoring areas (roadways where the monitoring would occur), (2) setting baseline conditions, such as, number of

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<p>respective City’s Public Works Department. The details of the neighborhood parking and traffic intrusion monitoring program shall be determined when the conditions of approval for project development are established. The monitoring program shall include the following components: (1) identifying the monitoring areas (roadways where the monitoring would occur), (2) setting baseline conditions, such as, number of parked vehicles and traffic volumes on the roadways, (3) determining thresholds requiring action, (4) establishing the monitoring schedule, and (5) creating reporting protocols. The baseline conditions shall be established prior to but within one year of initial occupancy. Monitoring shall then occur annually for five years.</p> <ul style="list-style-type: none"> • For left-turn storage deficiencies at Intersections #11 (De Anza Boulevard/Stevens Creek Boulevard), #31 (Wolfe Road/Vallco Parkway), #41 (Tantau Avenue/Vallco Parkway), #42 (Stevens Creek Boulevard/Tantau Avenue), contribute one payment of \$100,000 to citywide ITS improvements (such as adoptive signal control, advanced signal loop detectors or video image detectors) to improve signal operations and queuing. • Intersection #53 – Lawrence Expressway / Bollinger Road: Coordinate with the County of Santa Clara and pay fair share contribution of \$450,000 to reduce the median width on the northbound approach of Lawrence Expressway to provide for approximately 325 feet of additional capacity. 				<p>parked vehicles and traffic volumes on the roadways, (3) determining thresholds requiring action, (4) establishing the monitoring schedule, and (5) creating reporting protocols. The baseline conditions shall be established prior to but within one year of initial occupancy. Monitoring shall then occur annually for five years.</p>

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<ul style="list-style-type: none"> Intersection #56 – Lawrence Expressway / Saratoga Avenue: Coordinate with the County of Santa Clara and pay fair share contribution of \$425,000 needed to reduce the median width on the eastbound approach of Saratoga Avenue to maximize the left-turn queuing capacity. 				
<ul style="list-style-type: none"> Consistent with VTA Guidelines, the project proponent shall coordinate with the City and VTA to identify feasible transit priority measures near the affected facility and include contributions to any applicable projects that improve transit speed and reliability. 	Project applicant shall coordinate with the City and VTA and contribute to any applicable projects that improve transit speed and reliability	Prior to issuance of Master Site Development Permit	City of Cupertino – Department of Public Works – Transportation	Coordinate with applicant and VTA to identify feasible transit priority measures near affected facility that improve transit speed and reliability
<ul style="list-style-type: none"> Intersection #21 – Stevens Creek Boulevard / Perimeter Road: Reconfigure the median on Stevens Creek Boulevard to reduce the westbound left-turn lane to Portal Avenue to accommodate an additional 80 feet of capacity for the eastbound left turn from Stevens Creek Boulevard to Perimeter Road. Intersection #31 – Wolfe Road / Vallco Parkway: Reconfigure the median on Vallco Parkway between Wolfe Road and Perimeter Road to provide a continuous median with a 325-foot westbound left-turn lane at Wolfe Road and a 220-foot eastbound left-turn lane at Perimeter Road. Intersection #32 – Wolfe Road-Miller Avenue / Stevens Creek Boulevard: Extend the inner eastbound left-turn lane from Stevens Creek Boulevard to Wolfe Road to the same length as the outer left-turn lane to provide approximately 260 feet of additional capacity. 	Project applicant shall provide engineering plans to ensure construction of these improvements	Prior to entering into a street improvement agreement, including bonds or other surety to guarantee the improvements, the project applicant shall have plans approved by the City.	City of Cupertino – Department of Public Works – Engineering and Transportation	Review and approve plans to ensure compliance/ Prior to issuance of street improvement plans.

Conditions of Approval or Standard Permit Conditions	Implementing Procedure	Timeframe for Implementation	Agency Responsible for Monitoring	Monitoring Action/Frequency
<u>Standard Permit Conditions:</u> <ul style="list-style-type: none"> Construction truck access to the site shall be prohibited during peak commute times (7:00 AM to 9:00 AM and 4:00 PM to 7:00 PM) and conform the City's Municipal Code requirements. 	Project applicant shall incorporate these requirements into the Construction Management Plan and demolition, grading and building permits. Project applicant shall indicate how compliance will be achieved – options include via signage, notices and construction agreements.	Prior to issuance of demolition, grading and building permits	City of Cupertino – Community Development Department – Building, Planning and Public Works Department – Engineering	Ensure requirements are incorporated in the approved plans.
<ul style="list-style-type: none"> Future development under the revised project shall be subject to City development review to ensure that minimum design standards are met, including adequate sight distance and configurations (including adequate width and turn radii for continuous unimpeded circulation through the site for passenger vehicles, emergency vehicles, and large trucks). The final design of roadways, driveways, and access points shall be approved by the City. 	Project applicant shall provide engineering plans to ensure construction of these improvements	Prior to entering into a street improvement agreement, including bonds or other surety to guarantee the improvements, the project applicant shall have plans approved by the City.	City of Cupertino – Department of Public Works – Engineering and Transportation	Review and approve plans to ensure compliance/ Prior to issuance of street improvement plans.

Sources:

City of Cupertino. *Draft Environmental Impact Report Vallco Special Area Specific Plan*. May 2018

---. *Environmental Impact Report Amendment Vallco Special Area Specific Plan*. July 2018.

---. *Final Environmental Impact Report Vallco Special Area Specific Plan*. August 2018.

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