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January 25, 2019

Katharine Van Dusen
Coblentz Patch Duffy & Bass LLP
One Montgomery Street, Suite 3000
San Francisco, CA 94104

RE: City Response to Sand Hill Letters Asserting Common Law Conflicts
Against Mayor Scharf, Vice Mayor Chao, and Council Member Willey

Dear Ms. Van Dusen:

This letter responds to the four letters from your firm on behalf of Vallco Property Owner LLC dated December 6 and 12, 2018, and January 6 and 15, 2019 alleging a common law conflict of interest for the Mayor and two Councilmembers.

To summarize, your letters contend that Mayor Scharf, Vice Mayor Chao, and Councilmember Willey (“Councilmembers”) have a common law conflict of interest that disqualifies them from making governmental decisions related to the SB35 litigation and other Vallco projects and matters currently pending with the City.

The City carefully examined these allegations and disagrees with your conclusions.

The City retained the Renee Public Law Group who analyzed the facts and applicable law, and concluded that the facts do not show a disqualifying conflict under the common law conflict doctrine.¹

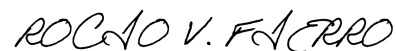
¹ This letter only concerns the alleged conflicts of interest you have raised under the common law applicable to all three Councilmembers. Mayor Scharf has and will continue to recuse himself from governmental actions related to the Measure C litigation, and Vice Mayor Chao has and will continue to recuse herself from governmental actions pertaining to the Vallco site and projects pending the FPPC legal opinion on financial conflicts under the Political Reform Act.

The investigation was completed the week of January 7 – prior to the closed session held by the City Council on January 14, 2019.

Accordingly, the City has determined, based on the facts and the advice of special counsel, that the common law conflict doctrine does not require the Mayor or Councilmembers to recuse themselves from participating in the following matters:

- City Council meeting and any decision on whether to rescind the legislative City Council actions challenged by the four referendum petitions or submit those actions to the voters for approval or disapproval. If the latter, when to call the election.
- Closed session or other decisions about the threatened litigation challenging the referendum petitions.
- Closed session or other decisions about the litigation challenging the ordinance implementing the Vallco Specific Plan and the rezoning ordinance.
- Closed session or other decisions about the SB 35 litigation.
- Closed session or other decisions about the Measure C litigation, which has now concluded.

Very truly yours,



ROCIO V. FIERRO
Acting City Attorney

cc: Cupertino City Council
Robert Perlmutter
Patricia Curtin
Todd Williams