



## OFFICE OF THE CITY CLERK

CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255  
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366  
CUPERTINO.ORG

### CITY COUNCIL STAFF REPORT

Meeting: December 18, 2018

#### Subject

Receive the City Clerk's Certification of Sufficiency for referenda petitions against the following resolutions and ordinances, and direct staff to bring back options at the next regular meeting for Council to take as required by California Elections Code Section 9241. (Those actions include (1) repealing any or all of the resolutions or ordinances against which the petition is filed; and (2) submitting any or all of the resolutions or ordinances to the voters, either at the next regular municipal election or at a special election called for the purpose):

Resolution No. 18-085: A Resolution of the City Council of the City Of Cupertino Approving a General Plan Amendment to Development Allocations, the General Plan Land Use Map and Development Standards Related to the Vallco Town Center Special Area

Resolution No. 18-086: A Resolution of the City Council of the City of Cupertino Adopting the Vallco Town Center Specific Plan

Ordinance No. 18-2178: An Ordinance of the City Council of the City of Cupertino Rezoning the Parcels within the Vallco Special Area

Ordinance No. 18-2179: Ordinance of the City Council of the City of Cupertino Approving a Development Agreement by and Between the City of Cupertino and Vallco Property Owner LLC for the Development of Vallco Town Center

#### Recommended Action

Receive the City Clerk's Certification of Sufficiency for referenda petitions against Resolution Nos. 18-085 and 18-086, and Ordinance Nos. 18-2178 and 18-2179, and direct staff to bring back options at the next regular meeting for Council to take as required by California Elections Code Section 9241. (Those actions include (1) repealing any or all of the resolutions or ordinances against which the petition is filed; and (2) submitting any or all of the resolutions or ordinances to the voters, either at the next regular municipal election or at a special election called for the purpose).

### Discussion

On October 29, proponents filed four referendum petitions with the Cupertino City Clerk's Office regarding the Vallco Town Center Specific Plan. On October 31, the Clerk's Office performed a prima facie signature count on each petition as per California Elections Code Sections 9239 and 9210, as well as checking the petition forms per Elections Code Section 9238. The raw count on each petition equaled or exceeded the minimum number of signatures required, were accepted for filing and subsequently filed with the Santa Clara County Registrar of Voters Office on October 31. The Registrar's Office validated the signatures on each petition using 100% signature verification, and has determined that all four petitions have sufficient signatures.

In order to qualify for a referendum, the proponents were required to obtain signatures of 10% of the registered voters in Cupertino, or 2,888 signatures, on each petition.

The petition regarding Resolution No. 18-085 had 4,736 valid signatures; the petition regarding Resolution No. 18-086 had 4,139 valid signatures; the petition regarding Ordinance No. 18-2178 had 4,124 valid signatures; the petition regarding Ordinance No. 18-2179 had 4,115 valid signatures.

On December 6, 2018, the City Clerk received a letter from the Nielsen Merksamer law firm writing on behalf of Vallco Property Owner, LLC. The Nielsen letter contends that the Referendum protesting the City's adoption of Resolution No. 18-085—regarding the General Plan Amendment ("GPA") for the Vallco Project—fails to provide the full text of that GPA. The Nielsen letter accordingly contends that this Referendum is procedurally defective and that the City has a mandatory duty to reject the Referendum petition and not process it any further. The City has asked the attorney for the referendum proponents to respond to this letter. The City Attorney's office is in the process of evaluating the claims in the Nielsen letter and will advise the City Clerk and the City Council regarding the results of that evaluation prior to the Council's next regularly scheduled meeting.

### Fiscal Impact

Information regarding election costs will be brought back at the next regular meeting along with options for Council to take.

### Sustainability Impact

None

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Prepared by: Grace Schmidt, City Clerk

Approved for Submission by: Amy Chan, Interim City Manager

Attachments:

A – Validation Letters from the Registrar of Voters Office

# County of Santa Clara

Registrar of Voters

1555 Berger Drive, Bldg. 2  
San Jose, CA 95112  
Mailing Address: P.O. Box 611360, San Jose, CA 95161-360  
(408) 299-VOTE (8683) 866-430-VOTE (8683) FAX: (408) 998-7314  
www.sccvote.org



December 6, 2018

Ms. Grace Schmidt  
City Clerk  
City of Cupertino  
10300 Torre Ave  
Cupertino, CA 95014

RE: Signature Verification Results for Resolution No. 18-085

Dear City Clerk Schmidt:

The petition submitted to our office on October 31, 2018 contained a raw count of 5,140 signatures. Pursuant to your request, the petition needs 2,888 valid signatures to pass.

Your jurisdiction requested that the Registrar of Voters' Office conduct a full check of all signatures submitted. The Registrar of Voters' Office verified the necessary number of signatures filed in accordance with Elections Code Section 9114.

The full check of the signatures resulted in the verification of 5,140 signatures with 4,736 signatures found valid.

The attached Petition Result Breakdown reflects a raw count of 5,142 signatures instead of 5,140, with a total of 2 signatures not checked. This is due to a typographical error. The total raw count is 5,140. The incorrect quantity for signatures to verify was entered into the system. The system does not allow for edits after signature verification has begun.

Please contact us to make arrangements to pick up your petition. If you have any questions concerning this matter, please feel free to contact our office at (408) 282-3009.

Sincerely,

Julia Saenz, Elections Process Supervisor II  
Voter Registration Division  
County of Santa Clara

Attachments: Petition Result Breakdown Report



## Petition Result Breakdown

JobD89 City of Cupertino -Resolution 18-085

JobD89 -Resolution No. 18-085, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO APPROVING A (

Signatures Required	2888		
Raw Count	5,142		
Sample Size	5,142	<i>Percent of Sigs</i>	<i>Percent of</i>
Sigs Checked	5,140	<i>Checked</i>	<i>Sample Size</i>
Sigs Not Checked	2		0.0 %
Sigs Valid	4,736	92.1 %	92.1 %
Sigs Invalid	404	7.9 %	7.9 %
Duplicated	124	2.4 %	2.4 %
Non-duplicate Invalids	280	5.0 %	5.4 %

RESULT ABBR	RESULT DESCRIPTION		
Approved	Approved	4,736	92.1 %
NotReg	Not Registered	117	2.3 %
OutOfDist	Out of District	7	0.1 %
Duplicate	Signed more than once	124	2.4 %
RegLate	Registered Late	4	0.1 %
RegDiffAdd	Registered at a Different Address	37	0.7 %
CantIdentfy	Cannot Identify	2	0.0 %
NoResAdd	No Residence Address Given	3	0.1 %
NoSig	No Signature	1	0.0 %
PrintedSig	Printed Signature	1	0.0 %
SigNoMatch	Signatures Don't Match	88	1.7 %
NotCompBySignr	Not Completed by Signer	20	0.4 %

STATISTICS SUMMARY	Value	% Raw	% Req	
Pages Processed	79	100.0 %		
Total Checked	5140	100.0 %	178.0 %	
Uncorrected Valid	4736	92.1 %	164.0 %	
Duplicate Adjustment	0			Min Required (95%): 2743.6
Estimated Valid	4736	92.1 %	164.0 %	Min Required to pass Based on Sample (110%): 3176.8

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December 6, 2018

Ms. Grace Schmidt  
City Clerk  
City of Cupertino  
10300 Torre Ave  
Cupertino, CA 95014

RE: Signature Verification Results for Resolution No. 18-086

Dear City Clerk Schmidt:

The petition submitted to our office on October 31, 2018 contained a raw count of 4,331 signatures. Pursuant to your request, the petition needs 2,888 valid signatures to pass.

Your jurisdiction requested that the Registrar of Voters' Office conduct a full check of all signatures submitted. The Registrar of Voters' Office verified the necessary number of signatures filed in accordance with Elections Code Section 9114.

The full check of the signatures resulted in the verification of 4,331 signatures with 4,139 signatures found valid.

Please contact us to make arrangements to pick up your petition. If you have any questions concerning this matter, please feel free to contact our office at (408) 282-3009.

Sincerely,

Julia Saenz, Elections Process Supervisor II  
Voter Registration Division  
County of Santa Clara

Attachments: Petition Result Breakdown Report







## Petition Result Breakdown

JobD90 City of Cupertino - Resolution No. 18-086

JobD90 -Resolution No. 18-086, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO ADOPTING THE

Signatures Required	2888		
Raw Count	4,331		
Sample Size	4,331	<i>Percent of Sigs</i>	<i>Percent of</i>
Sigs Checked	4,331	<i>Checked</i>	<i>Sample Size</i>
Sigs Not Checked	0		0.0 %
Sigs Valid	4,139	95.6 %	95.6 %
Sigs Invalid	192	4.4 %	4.4 %
Duplicated	18	0.4 %	0.4 %
Non-duplicate Invalids	174	4.0 %	4.0 %

RESULT ABBR	RESULT DESCRIPTION		
Approved	Approved	4,139	95.6 %
NotReg	Not Registered	64	1.5 %
OutOfDist	Out of District	3	0.1 %
Duplicate	Signed more than once	18	0.4 %
RegLate	Registered Late	4	0.1 %
RegDiffAdd	Registered at a Different Address	28	0.6 %
CantIdentfy	Cannot Identify	1	0.0 %
NoResAdd	No Residence Address Given	5	0.1 %
PrintedSig	Printed Signature	1	0.0 %
SigNoMatch	Signatures Don't Match	56	1.3 %
NotCompBySignr	Not Completed by Signer	12	0.3 %

STATISTICS SUMMARY	Value	% Raw	% Req	
Pages Processed	24	100.0 %		
Total Checked	4331	100.0 %	150.0 %	
Uncorrected Valid	4139	95.6 %	143.3 %	
Duplicate Adjustment	0			<b>Min Required (95%): 2743.6</b>
Estimated Valid	4139	95.6 %	143.3 %	<b>Min Required to pass Based on Sample (110%): 3176.8</b>

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December 6, 2018

Ms. Grace Schmidt  
City Clerk  
City of Cupertino  
10300 Torre Ave  
Cupertino, CA 95014

RE: Signature Verification Results for Ordinance No. 18-2178

Dear City Clerk Schmidt:

The petition submitted to our office on October 31, 2018 contained a raw count of 4,333 signatures. Pursuant to your request, the petition needs 2,888 valid signatures to pass.

Your jurisdiction requested that the Registrar of Voters' Office conduct a full check of all signatures submitted. The Registrar of Voters' Office verified the necessary number of signatures filed in accordance with Elections Code Section 9114.

The full check of signatures resulted in the verification of 4,333 signatures with 4,124 signatures found valid.

Please contact us to make arrangements to pick up your petition. If you have any questions concerning this matter, please feel free to contact our office at (408) 282-3009.

Sincerely,

Julia Saenz, Elections Process Supervisor II  
Voter Registration Division  
County of Santa Clara

Attachments: Petition Result Breakdown Report



## Petition Result Breakdown

JobD88 City of Cupertino -Ordinance 18-2178

JobD88 -Ordinance No. 18-2178, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO REZONING TI

Signatures Required	2888		
Raw Count	4,333		
Sample Size	4,333	<i>Percent of Sigs</i>	<i>Percent of</i>
Sigs Checked	4,333	<i>Checked</i>	<i>Sample Size</i>
Sigs Not Checked	0		0.0 %
Sigs Valid	4,124	95.2 %	95.2 %
Sigs Invalid	209	4.8 %	4.8 %
Duplicated	18	0.4 %	0.4 %
Non-duplicate Invalids	191	4.0 %	4.4 %

RESULT ABBR	RESULT DESCRIPTION		
Approved	Approved	4,124	95.2 %
NotReg	Not Registered	73	1.7 %
OutOfDist	Out of District	3	0.1 %
Duplicate	Signed more than once	18	0.4 %
RegLate	Registered Late	3	0.1 %
RegDiffAdd	Registered at a Different Address	23	0.5 %
CantIdentfy	Cannot Identify	1	0.0 %
NoResAdd	No Residence Address Given	3	0.1 %
NoSig	No Signature	3	0.1 %
PrintedSig	Printed Signature	1	0.0 %
SigNoMatch	Signatures Don't Match	74	1.7 %
NotCompBySignr	Not Completed by Signer	7	0.2 %

STATISTICS SUMMARY	Value	% Raw	% Req	
Pages Processed	24	100.0 %		
Total Checked	4333	100.0 %	150.0 %	
Uncorrected Valid	4124	95.2 %	142.8 %	
Duplicate Adjustment	0			Min Required (95%): 2743.6
Estimated Valid	4124	95.2 %	142.8 %	Min Required to pass Based on Sample (110%): 3176.8



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December 6, 2018

Ms. Grace Schmidt  
City Clerk  
City of Cupertino  
10300 Torre Ave  
Cupertino, CA 95014

RE: Signature Verification Results for Ordinance No. 18-2179

Dear City Clerk Schmidt:

The petition submitted to our office on October 31, 2018 contained a raw count of 4,332 signatures. Pursuant to your request, the petition needs 2,888 valid signatures to pass.

Your jurisdiction requested that the Registrar of Voters' Office conduct a full check of all signatures submitted. The Registrar of Voters' Office verified the necessary number of signatures filed in accordance with Elections Code Section 9114

The full check of the signatures resulted in the verification of 4,332 signatures with 4,115 signatures found valid.

Please contact us to make arrangements to pickup your petition. If you have any questions concerning this matter, please feel free to contact our office at (408) 282-3009.

Sincerely,

A handwritten signature in blue ink, appearing to read "Julia Saenz", with a large, flowing flourish at the end.

Julia Saenz, Elections Process Supervisor II  
Voter Registration Division  
County of Santa Clara

Attachments: Petition Result Breakdown Report



## Petition Result Breakdown

JobD91- City of Cupertino - Ordinance 18-2179

JobD91 -Ordinance No. 18-2179, ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO APPROVING A DE

Signatures Required	2888		
Raw Count	4,332		
Sample Size	4,332	<i>Percent of Sigs Checked</i>	<i>Percent of Sample Size</i>
Sigs Checked	4,332		
Sigs Not Checked	0		0.0 %
Sigs Valid	4,115	95.0 %	95.0 %
Sigs Invalid	217	5.0 %	5.0 %
Duplicated	17	0.4 %	0.4 %
Non-duplicate Invalids	200	5.0 %	4.6 %

RESULT ABBR	RESULT DESCRIPTION		
Approved	Approved	4,115	95.0 %
NotReg	Not Registered	74	1.7 %
OutOfDist	Out of District	3	0.1 %
Duplicate	Signed more than once	17	0.4 %
RegLate	Registered Late	3	0.1 %
RegDiffAdd	Registered at a Different Address	22	0.5 %
NoResAdd	No Residence Address Given	1	0.0 %
NoSig	No Signature	1	0.0 %
SigNoMatch	Signatures Don't Match	89	2.1 %
NotCompBySignr	Not Completed by Signer	7	0.2 %

STATISTICS SUMMARY	Value	% Raw	% Req	
Pages Processed	25	100.0 %		
Total Checked	4332	100.0 %	150.0 %	
Uncorrected Valid	4115	95.0 %	142.5 %	
Duplicate Adjustment	0			<b>Min Required (95%): 2743.6</b>
Estimated Valid	4115	95.0 %	142.5 %	<b>Min Required to pass Based on Sample (110%): 3176.8</b>