DRAFT 5/12/2021 *RLM*

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING THE SPECIFIC PLAN FOR THE LAKESIDE SPECIFIC PLAN AREA.

WHEREAS, the City Council adopted the Lakeside Specific Plan (LSP) in 2005 to facilitate the development of a specific mixed-use hotel and residential project for the 8.83-acre property at 1250 Lakeside Drive; and

WHEREAS, the development project approved in 2005 was never built and the entitlements for the project expired; and

WHEREAS, the City Council amended the LSP in 2016 (Resolution 802-16) to switch the location of the hotel and residential land uses as well as make other changes to the site architecture, design, and building height; and

WHEREAS, Section 6.0 (Implementation) of the LSP provides that: "The project may be phased only in the sense that demolition and new construction may require a particular sequence of actions. However, the development of residential units cannot occur without replacement of the hotel use, as planned"; and

WHEREAS, the hospitality industry suffered severe financial losses throughout 2020 and continues to suffer such losses into 2021 as a result of the global COVID-19 pandemic, which restricted "non-essential" travel and gatherings and caused Silicon Valley businesses to shift to remote work and virtual meetings; and

WHEREAS, the Bay Area is experiencing a severe housing shortage making the residential component of the project essential to the City's effort to meet its share of regional housing needs; and

WHEREAS, construction of the residential component of the project will be substantially completed and the first phase of 125 apartments ready to occupy by the end of June 2021, but initiation of the construction of the hotel has been delayed as a result of the financial impact of the COVID-19 pandemic as noted above; and

WHEREAS, the City Council, in return for the developer's offer of other community benefits to be memorialized in a post-entitlement Development Agreement, wishes to allow the apartments to be occupied in order to provide critically needed housing for residents of the City of Sunnyvale and surrounding community, which requires adoption of an amendment to Section 6.0 of the LSP; and

WHEREAS, the California Environmental Quality Act (Public Resources Code Sections 21000 *et seq*., ("CEQA") and the Guidelines for Implementation of the California Environmental Quality Act (14 California Code of Regulations, Sections 15000 *et seq*.) (the "CEQA

Guidelines") requires local agencies to consider environmental consequences of projects for which they have discretionary authority; and

WHEREAS, in 2016, the City Council certified the 1250 Lakeside Hotel and Residential Project Final Supplement Environmental Impact Report (2016 Final SEIR, SCH# 2016022035), adopted findings, adopted a Mitigation Monitoring and Reporting Program, and adopted a Statement of Overriding Considerations for the amendments to the LSP and the specific development project at 1250 Lakeside Drive (collectively, "the Project"); and

WHEREAS, Section 15164 of the Guidelines to the California Environmental Quality Act (CEQA) provides that an agency shall prepare an Addendum to a previously-adopted EIR if "only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation" and none of the triggers set forth in Section 15162 of the CEQA Guidelines has occurred that would require preparation of a supplemental or subsequent EIR; and

WHEREAS, pursuant to Section 15164 of the CEQA Guidelines, the City prepared an Addendum to the 2016 Final SEIR, which is attached hereto as Exhibit A; and

WHEREAS, by motion adopted following a public hearing on May 24, 2021, the Sunnyvale Planning Commission recommended that the City Council adopt the proposed amendment to the LSP, approve a modification to a condition of approval GC-11 for Special Development Permit 2015-7576, and introduce an ordinance for a post-entitlement Development Agreement; and

WHEREAS, a public hearing was held by the City Council on June 8, 2021, regarding the Project and the Addendum, following notice duly and regularly given as required by law, and all interested persons expressing a desire to comment thereon or object thereto were heard, and the Addendum was considered.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

1. ADDENDUM TO THE 2016 FINAL SEIR. The Addendum was presented to the City Council on June 8, 2021, and considered by the City Council at its regularly scheduled meeting of June 8, 2021, and has been independently reviewed and considered by the members of the City Council. The Addendum was prepared for the Project in compliance with the requirements of CEQA and the CEQA Guidelines and is adequate for the City's use as the Lead Agency under CEQA. Based on the evidence submitted and demonstrated by the analysis included in the Addendum, none of the conditions described in Section 15162 or 15163 of the CEQA Guidelines calling for preparation of a subsequent or supplemental EIR have occurred.

2. AMENDMENT OF SECTION 6.0 OF THE LAKESIDE SPECIFIC PLAN. The City Council concludes that the adoption of the following amendment to the LSP constitutes a suitable and logical change in the plan for the physical development of the City of Sunnyvale, and it is in the public interest to approve the amendments. The City Council finds that the

amended LSP is consistent with the City's General Plan, and supports the City's long-term goals for the area. Based upon the LSP's consistency with the General Plan, and subject to the implementation of the previously adopted Mitigation Monitoring and Reporting Program as a condition of approval, the City Council approves and adopts the amended LSP. Copies of the LSP are on file in the office of the City Clerk.

Section 6.0. IMPLEMENTATION. The project may be phased only in the sense that demolition and new construction may require a particular sequence of actions. However, the development of residential units cannot occur without replacement of the hotel use, as planned, unless alternative timing with community benefits is approved by the City Council.

3. FILING OF NOTICE OF DETERMINATION. The Council hereby directs the Planning Division to file a Notice of Determination regarding the approval of the Project within five business days of adoption of this resolution.

Adopted by the City Council at a regular meeting held on _____, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST: APPROVED:

_____ _____

City Clerk Mayor

(SEAL)

APPROVED AS TO FORM:

_____

City Attorney

EXHIBIT A

1250 Lakeside Hotel and Residential Project
Addendum to the Supplemental Environmental Impact Report

Prepared by:
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Community Development
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Contact: Trudi Ryan, Community Development Director

1. BACKGROUND AND PROJECT DESCRIPTION

In 2005, the City of Sunnyvale certified The Crescent – Lakeside Specific Plan Final EIR (2005 Final EIR, SCH# 2005022089), adopted the Lakeside Specific Plan (LSP), and approved a Special Development Permit (SDP) for a specific hotel and residential development project ("the Project"). The 2005 Final EIR analyzed the hotel use on the western portion of the site ("Hotel") and the market-rate residential use on the eastern portion of the site ("Apartments"). The 2005 Final EIR analyzed a maximum development envelope of 263 hotel rooms, 3,000 square feet of commercial uses, 251 residential units, and buildings of up to 80 feet tall.

After certification of the 2005 Final EIR, the then-existing hotel on the site was demolished, leaving the site vacant and undeveloped. The Special Development Permit and entitlements for the specific development project approved in 2005 expired.

In 2015, Sunnyvale Partners, Ltd. proposed a project to develop the site substantially within the parameters of the LSP and the development project that was analyzed in the 2005 Final EIR. The primary changes to the Project involved the location of the land uses (switching the Hotel to the eastern portion of the site and the Apartments to the western portion of the site), site architecture and design, and building height.

In 2016, the City of Sunnyvale certified the 1250 Lakeside Hotel and Residential Project Final Supplement Environmental Impact Report (2016 Final SEIR, SCH# 2016022035), adopted findings, adopted a Mitigation Monitoring and Reporting Program, and adopted a Statement of Overriding Considerations, adopted amendments to the LSP, and approved a Special Development Permit (SDP) for the Project. The 2016 Final SEIR analyzed a maximum development envelope of 263 hotel rooms, 250 residential units, a Hotel building up to 85 feet tall with rooftop features up to 100 feet tall, Apartment buildings up to 82 feet tall with rooftop features up to 88 feet tall. The 2016 Final SEIR's Project Description (Section 1.5.8) stated that "Construction of the proposed project would take approximately 20 months. The hotel and residential developments would be constructed simultaneously." The LSP and the Project's

Conditions of Approval required that the Hotel and Apartments be constructed at substantially the same time.

Sunnyvale Partners, Ltd. obtained building permits for the Apartments and began construction of the Apartments in 2019. In March 2020, the County of Santa Clara issued emergency orders temporarily halting "non-essential" construction as a result of the global COVID-19 pandemic. Although the County subsequently allowed construction activities to resume, the hotel industry suffered severe financial losses throughout 2020 and 2021 as a result of restrictions on non-essential travel and gatherings, as well as the shift of Silicon Valley businesses to remote work and virtual meetings. At the same time, the Bay Area has continued to experience a severe housing shortage making the residential component of the project essential to the City's effort to meet its share of regional housing needs.

In light of the above factors, City staff allowed Sunnyvale Partners, Ltd. to continue construction of the Apartments without obtaining building permits for the Hotel. Construction of the Apartments continued during 2020 and into 2021. The first phase of the Apartments (125 units) are expected to be completed and ready for occupancy by the end of June 2021. Substantial site work for the Hotel did occur; however, under other permits, and the site is nearly ready for the initiation of Hotel construction upon issuance of a building permit. It is estimated that the construction will be complete and the hotel open for business by June 30, 2027.

Sunnyvale Partners, Ltd., is proposing to modify the approved 1250 Lakeside Hotel and Residential Project to allow the Apartments to be completed and fully occupied prior to construction of the Hotel. Certain provisions of the LSP and SDP will be amended in order to allow phasing of the completion of the Hotel and Apartments. The parties will also enter into a Post-Entitlement Development Agreement to ensure the timely occupancy of the Apartments and construction and operation of the Hotel.

The adopted 2005 Final EIR and 2016 Final SEIR considered the environmental effects from construction and operation of the approved Project. Consistent with the requirements of State CEQA Guidelines Section 15162, the City must determine whether the changes to the approved Project would trigger the need for subsequent or supplemental environmental review. Under CEQA Guidelines Section 15162 (a), when an Environmental Impact Report has been certified for a project, no subsequent or supplemental review shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one of more of the following:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR or negative declaration;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR or adopted negative declaration would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

If any of the triggers set forth above occurs, the City would be required to prepare subsequent or supplemental environmental analysis unless "only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation," in which case a "supplement to an EIR" would suffice (see State CEQA Guidelines Section 15163). If there are no grounds for either a subsequent or supplemental EIR, then the City would prepare an addendum pursuant to State CEQA Guidelines Section 15164, explaining why "some changes or additions" to the adopted SEIR are necessary, but none of the conditions described in Section 15162 calling for the preparation of a Subsequent or Supplemental EIR have occurred.

2. ENVIRONMENTAL REVIEW

The proposed changes to Project only affect the timing of construction of the Hotel, but the overall Project remains the same. The construction of the Hotel and Apartments will not occur substantially at the same time, as described in the 2016 Final SEIR. Rather, the Hotel will be

constructed after the completion and occupancy of the Apartments. There will be no difference in the impacts of the built-out Project. Temporary construction will impact surrounding uses over a longer total period of time but, phased construction of the Apartments and Hotel will lessen the severity of the construction-related impacts such as air quality, noise, dust, and traffic. All mitigation measures required by the 2016 Final SEIR remain in effect and no other changes to the project described in the 2016 Final SEIR are proposed. As a result, the conclusions of the 2016 Final SEIR remain valid and there is no evidence that approval of the Project would result in new or substantially more severe significant impacts to the environment in any of CEQA's study categories:

Aesthetics – 2016 Final SEIR, Appendix A, Sec. 4.1
Agriculture and Forest Resources – 2016 Final SEIR, Appendix A, Sec. 4.2
Air Quality – 2016 Final SEIR, Appendix A, Sec. 4.3
Biological Resources – 2016 Final SEIR, Appendix A, Sec. 4.4
Cultural and Tribal Cultural Resources – 2016 Final SEIR, Appendix A, Sec. 4.5
Geology and Soils – 2016 Final SEIR, Appendix A, Sec. 4.6
Greenhouse Gas Emissions – 2016 Final SEIR, Appendix A, Sec. 4.7
Hazards and Hazardous Materials – 2016 Final SEIR, Appendix A, Sec. 4.8
Hydrology and Water Quality – 2016 Final SEIR, Appendix A, Sec. 4.9
Land Use and Planning – 2016 Final SEIR, Appendix A, Sec. 4.10
Mineral Resources – 2016 Final SEIR, Appendix A, Sec. 4.11
Noise and Vibration – 2016 Final SEIR, Appendix A, Sec. 4.12
Population and Housing – 2016 Final SEIR, Appendix A, Sec. 4.13
Public Services – 2016 Final SEIR, Appendix A, Sec. 4.14
Recreation – 2016 Final SEIR, Appendix A, Sec. 4.15
Transportation –2016 Final SEIR, Sec. 2.1
Utilities and Service Systems – 2016 Final SEIR, Appendix A, Sec. 4.17
Mandatory Findings of Significance – 2016 Final SEIR, Appendix A, Sec. 4.18

3. STATEMENT OF OVERRIDING CONSIDERATIONS

The 2016 Final SEIR disclosed the following significant and unavoidable impacts of the project on Transportation:

- Lawrence Expressway and Oakmead Parkway – The project would result in a significant impact at the intersection of Lawrence Expressway and Oakmead Parkway under background plus project conditions (Impact TRAN-1). The project shall pay its fair-share towards the Santa Clara County Expressway Plan 2040 near-term Tier 1 improvement that would change the southbound HOV lane to a general purpose lane (mitigation measures MM TRAN-1.1). This improvement would mitigate the project's impact to a less than significant level. Because payment of a fair share contribution, however, does not guarantee that the full construction price will be obtained by the County or that the

improvement would be constructed concurrently with the project, this impact with the payment of the project's fair-share contribution is considered significant and unavoidable. (Significant and Unavoidable)

- Lawrence Expressway/US 101 Southbound Off-Ramp – The project would result in a significant cumulative impact at the intersection of Lawrence Expressway/US 101 southbound off-ramp in the PM peak hour under cumulative plus project conditions (Impact TRAN-2). Construction of an additional right turn lane would improve the PM Cumulative Plus Project operations from an unacceptable LOS F to an acceptable LOS D- (mitigation measure MM TRAN-2.1). Implementation of the above improvement would reduce the project's contribution to the significant cumulative impact at the intersection of Lawrence Expressway/US 101 southbound off-ramp to a less than significant level. This intersection, however, is under the jurisdiction of Santa Clara County and implementation of improvements at this intersection is not under the City of Sunnyvale's control. Because it is unknown if/when the County will implement the above improvement, this impact is considered significant and unavoidable. (Significant and Unavoidable Cumulative Impact)

- Lawrence Expressway/Oakmead Parkway – The project would result in a significant cumulative impact at the intersection of Lawrence Expressway/Oakmead Parkway in the AM peak hour under cumulative plus project conditions (Impact TRAN-2). A grade separation at the intersection (mitigation measure MM TRAN-2.2) planned at this intersection in the County's Expressway Plan 2040 in combination with MM TRAN-1.1 would significantly improve the north-south flow of traffic and mitigate the project's impact to a less than significant level. The project shall pay its fair-share contribution towards the grade separation. Because payment of a fair share contribution, however, does not guarantee that the full construction price will be obtained by the County or that the improvement would be constructed concurrently with the project, this impact with the payment of the project's fair-share contribution is considered significant and unavoidable. (Significant and Unavoidable Cumulative Impact)

- Central Expressway/Oakmead Parkway – The project would result in a significant cumulative impact at the intersection of Central Expressway/Oakmead Parkway in the AM peak hour under cumulative plus project conditions (Impact TRAN-2). There is an identified Tier 3 improvement in the County's Expressway Plan 2040 of widening Central Expressway that would reduce the project's significant cumulative impact at the intersection to a less than significant level. However, there is no established implementation timeline for Tier 3 improvements and there is currently no mechanism in place to collected fees for such improvements. In addition, this intersection is outside the City of Sunnyvale's jurisdiction and implementation of the mitigation measure cannot be guaranteed. For these reasons, the project's cumulative impact at Central

Expressway/Oakmead Parkway is considered significant and unavoidable. (Significant and Unavoidable Cumulative Impact)

Upon certifying the 2016 Final SEIR, the City Council adopted a Statement of Overriding Considerations pursuant to Section 15093 of the CEQA Guidelines, finding that specific economic, fiscal, social, housing, and other overriding considerations outweighed the Project's unavoidable adverse environmental effects. The Statement of Overriding Considerations listed ten factors, including four directly related to the Hotel:

B. The City Council finds that the development of the site with a 250-unit residential use and 263-room hotel use and a supporting public park area is consistent with the policies and buildout of the City of Sunnyvale's General Plan and the Lakeside Specific Plan. The development will create much needed housing to contribute to the housing needs of the City, and will provide a high-quality hotel.

E. The proposed project would provide a landmark project that showcases the City from a highly visible location along US-101.

F. The City would receive transient occupancy tax (TOT) revenue from the hotel use which can be used for public benefit.

G. The proposed project would provide meeting space and space for special events onsite.

The other considerations listed in the Statement of Overriding Considerations included improvements to bicycle and pedestrian safety; addition of new residents to support local businesses; traffic impact fees to fund improvements to nearby roads and other City transportation projects; removal and disposal of contaminated soils on the site; and creation of the 3.44 acre public park. In addition, the Statement of Overriding Considerations noted that all feasible mitigation measures had been adopted to mitigate the Project's significant transportation impacts, but implementation of these mitigation measures was outside of the City's jurisdiction.

The Statement of Overriding Considerations remains valid to support the approval of the Project because the construction of the Hotel will only be delayed and it remains as a component of the Project. In addition, the Statement of Overriding Considerations includes a statement that each one of the ten considerations listed was sufficient on a "a separate and independent basis" upon which to approve the Project. Therefore, the other factors listed in the Statement of Overriding Considerations justify the approval of the Project even if the construction of the Hotel is delayed.