



## CITY ATTORNEY'S OFFICE

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### CITY COUNCIL STAFF REPORT

Date: July 7, 2026

#### Subject

Approval of the Exchange Agreement for 10480 Finch Avenue ("Finch Property") and Allocation of \$10.4 Million for Acquisition of the Finch Property ("Exchange Agreement"), and find the action to qualify for a categorical exemption from CEQA review

#### Recommended Action

1. Adopt Resolution No. 26-XXX (Attachment D) approving the Exchange Agreement between the City of Cupertino and Cupertino Union School District for the Finch Property, authorizing the City Manager to execute the agreement and related documents, and approving allocation of \$10.4 million from the Parkland Dedication Fund for acquisition of the property; and
2. Find that the acquisition is categorically exempt from the California Environmental Quality Act ("CEQA")

#### Background

The Finch property is an approximate 1.5-acre vacant parcel currently owned by the Cupertino Union School District ("CUSD"). The property is adjacent to Sedgwick Elementary School and is located in the eastern portion of the City in the Rancho Rinconada neighborhood. It is situated between Stevens Creek Boulevard to the north, Miller Avenue to the west, Bollinger Road to the south, and Tantau Avenue to the east.

On July 1, 2025, the City Council appointed the City Manager and Interim City Attorney as negotiators to negotiate a potential purchase of the Finch Property for purposes of creating a new City park in a neighborhood that is currently underserved by parkland. Since that time, City negotiators and CUSD staff have successfully negotiated the terms of the Exchange Agreement, including a purchase price of \$10.4 million. The purchase price is supported by an appraisal of the property concluding the value to be the same amount. (Attachment A)

CUSD has requested the use of an Exchange Agreement as opposed to a Purchase and Sale Agreement, as such mechanism provides CUSD with more flexibility. This does not require the City to do more than provide the names of three real estate brokers to CUSD,

which CUSD may or may not use in its efforts to identify property that it plans to acquire with the funds from the sale of the Finch Property, thereby perfecting the exchange requirements.

Due to the property's prior history of contamination due to its former agricultural use and historical presence of pesticides, the City initiated a Phase One Environmental Site Assessment to update the environmental review, which report was finalized on February 2, 2026 (Attachment B). That document revealed no evidence of recognized environmental conditions and recommended no further investigation of the property. The prior contamination at the site, which included pesticide residue, lead, and hydrocarbon deposits from an underground fuel tank, was remediated under the oversight of the Department of Toxic Substances Control ("DTSC") beginning in October 2018. Removal action activities between October 2, through October 18, 2018, included the excavation and transport of approximately 257 tons (12 truckloads) of soils classified as non-hazardous waste from the Property to a landfill for disposal. Thereafter, confirmation soil sampling and chemical analyses showed the objectives and cleanup goals of the response action had been met. Consequently, in 2019 DTSC issued a Removal Action Certification (Attachment C) for the property, which certified the completion of the remedial work.

Additional documentation from DTSC can be found on their website here:  
<https://www.envirostor.dtsc.ca.gov/public/>

#### Reasons for Recommendation and Available Options

City Council directed the City Manager and Interim City Attorney to negotiate an agreement whereby the City would purchase the Finch Property from CUSD. The City and CUSD have now completed negotiations and reached agreement on price and material terms. Approval of the agreement would authorize the City to proceed with acquisition of the property for the appraised value of \$10.4 million on the negotiated terms set forth in the agreement.

In the alternative, the Council may decline to approve the Exchange Agreement. Council may also direct staff to return with revised terms or additional information. Those options would delay the transaction and might impact the City's ability to acquire the property.

#### Sustainability Impact

No sustainability impact.

#### Fiscal Impact

The purchase price for the Finch Property is \$10.4 million, plus customary closing costs, including title and escrow fees, due diligence costs, and any other related transactional expenses. Funding would come from the Parkland Dedication Fund. At the time of this report the fund balance is approximately \$21.0 million. A supplemental memo to provide available funding will be provided before the meeting. Upon approval, staff will process the necessary budget allocation in the amount of \$10.4 million plus closing costs.

City Work Program (CWP) Item/Description

None.

Council Goal:

Quality of Life

California Environmental Quality Act

The proposed acquisition is categorically exempt from CEQA pursuant to CEQA Guidelines section 15316 and 14 CCR and 15316, because it consists of the acquisition of land in a natural condition in order to establish a park and no management plan for the park has been prepared. The proposed acquisition is also categorically exempt from CEQA pursuant to CEQA Guidelines section 15325, 14 CCR section 15325, because the project consists of the acquisition of interests in land in order to preserve open space or lands for park purposes. The proposed acquisition is also categorically exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3), 14 CCR section 15061(b)(3), because it can be seen with certainty that there is no possibility that the acquisition of the property, as proposed, may have a significant effect on the environment. Further, the record reflects prior environmental review and remediation overseen by the DTSC and resulting in an approved Removal Action Completion Report, which concluded that all necessary response actions had been completed and that further removal/remediation actions were not necessary. On May 3, 2019 DTSC concluded the remediation process by issuing a Removal Action Certification for the Property. Finally, the City is not approving a development project at this time, and any future use of the property will be subject to separate CEQA review, if required.

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Prepared by: Priyanka Shah, Special Counsel

Reviewed by: Floy Andrews, Interim City Attorney

Approved for Submission by: Tina Kapoor, City Manager

Attachments:

- A - Appraisal
- B - Phase 1 Environmental Assessment
- C - DTSC Removal Action Certification
- D - Draft Resolution
- E - Exchange Agreement