

RESOLUTION NO. 19-____

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL AMENDING THE
FY 2019-20 GENERAL FUND BUDGET IN THE AMOUNT OF \$173,400 FOR
CONSULTANT SERVICES FOR THE UPDATE ON IMPLEMENTATION OF
SB 743 (100-88-844 700-702).**

WHEREAS, on September 27, 2013, former Governor Jerry Brown signed SB 743 into law, starting a process to change transportation impact analysis as part of California Environmental Quality Act (CEQA) compliance, eliminating auto delay, as described by Level of Service (LOS) or similar measures of vehicular capacity and traffic congestion as a basis for determining significant transportation impacts under CEQA; and

WHEREAS, Public Resources Code section 21009 directed the Governor's Office of Planning and Research to update the CEQA Guidelines to include new performance criteria for determining the significance of transportation impacts; and

WHEREAS, the Governor's Office of Planning and Research selected Vehicle Miles Traveled (VMT) as the new transportation impact metric to be used in CEQA to encourage infill development and reduce greenhouse gas emissions; and

WHEREAS, the Governor's Office of Planning and Research prepared updates to the CEQA Guidelines, which were certified by the Natural Resources Agency in December 2018;

WHEREAS, SB 743 does not prevent lead agencies from using LOS as part of other planning processes (such General Plan consistency, land use permits), fee programs, or on-going network monitoring; however, LOS can no longer constitute the basis for determining whether there are significant transportation impacts due to land use projects for purposes of CEQA; and

WHEREAS a budget adjustment of \$173,400 in the FY 2019-20 General Fund Budget will enable staff to execute a contract with Fehr & Peers immediately to provide consultant services and expertise in the transition from LOS to VMT.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby authorize a budget adjustment of the FY2019-20 General Fund budget, appropriating \$173,400 to account 100-88-844 700-702 for consultant services for the transition from LOS to VMT as required by SB 743, which takes effect on July 1, 2020.

BE IT FURTHER RESOLVED that this Resolution is not a project under the requirements of the California Quality Act of 1970, together with related State CEQA

Guidelines (collectively, "CEQA") because it has no potential for resulting in physical change in the environment. In the event that this Resolution is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a significant effect on the environment. CEQA applies only to actions which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, authorizing a budget adjustment for consultant services to advise the City on transitioning from the use of LOS to VMT as the measures of transportation impacts in CEQA environmental review documents would have no or only a de minimis effect on the environment because the transition is required by CEQA in order to reduce the significant environmental effects of land use projects including impacts due to greenhouse gas emissions. The foregoing determination is made by the City Council in its independent judgment.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 1st day of October, 2019, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ Steven Scharf, Mayor City of Cupertino	_____ Date
ATTEST: _____ Grace Schmidt, City Clerk	_____ Date