



CITY OF CUPERTINO

AGENDA

CITY COUNCIL

This will be a teleconference meeting without a physical location.

Tuesday, March 1, 2022

5:30 PM

Televised Special Meeting Study Session (5:30) and Regular City Council Meeting (6:45)

TELECONFERENCE / PUBLIC PARTICIPATION INFORMATION TO HELP STOP THE SPREAD OF COVID-19

In accordance with Government Code 54953(e), this will be a teleconference meeting without a physical location to help stop the spread of COVID-19.

Members of the public wishing to observe the meeting may do so in one of the following ways:

- 1) Tune to Comcast Channel 26 and AT&T U-Verse Channel 99 on your TV.**
- 2) The meeting will also be streamed live on and online at www.Cupertino.org/youtube and www.Cupertino.org/webcast**

Members of the public wishing to comment on an item on the agenda may do so in the following ways:

- 1) E-mail comments by 4:30 p.m. on Tuesday, March 1 to the Council at citycouncil@cupertino.org. These e-mail comments will also be forwarded to Councilmembers by the City Clerk's office before the meeting and posted to the City's website after the meeting.**

- 2) E-mail comments during the times for public comment during the meeting to the City Clerk at cityclerk@cupertino.org. The City Clerk will read the emails into the record, and display any attachments on the screen, for up to 3 minutes (subject to the Mayor's discretion to shorten time for public comments). Members of the public that wish to share a document must email cityclerk@cupertino.org prior to speaking.**

3) Teleconferencing Instructions

Members of the public may provide oral public comments during the teleconference meeting as follows:

Oral public comments will be accepted during the teleconference meeting. Comments may be made during “oral communications” for matters not on the agenda, and during the public comment period for each agenda item.

To address the City Council, click on the link below to register in advance and access the meeting:

Online

Register in advance for this webinar:

https://cityofcupertino.zoom.us/webinar/register/WN_4ftuee3STO-XKtvzWFIC0Q

Phone

Dial: 669-900-6833 and enter Webinar ID: 925 9084 3566 (Type *9 to raise hand to speak, *6 to unmute yourself). Unregistered participants will be called on by the last four digits of their phone number.

Or an H.323/SIP room system:

H.323:

162.255.37.11 (US West)

Meeting ID: 925 9084 3566

SIP: 92590843566@zoomcrc.com

After registering, you will receive a confirmation email containing information about joining the webinar.

Please read the following instructions carefully:

1. You can directly download the teleconference software or connect to the meeting in your internet browser. If you are using your browser, make sure you are using a current and up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers, including Internet Explorer.
 2. You will be asked to enter an email address and a name, followed by an email with instructions on how to connect to the meeting. Your email address will not be disclosed to the public. If you wish to make an oral public comment but do not wish to provide your name, you may enter “Cupertino Resident” or similar designation.
 3. When the Mayor calls for the item on which you wish to speak, click on “raise hand,” or, if you are calling in, press *9. Speakers will be notified shortly before they are called to speak.
 4. When called, please limit your remarks to the time allotted and the specific agenda topic.
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In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend this teleconference City Council meeting who is visually or hearing impaired or has any disability that needs special assistance should call the City Clerk's Office at 408-777-3223, at least 48 hours in advance of the Council meeting to arrange for assistance. In addition, upon request, in advance, by a person with a disability, City Council meeting agendas and writings distributed for the meeting that are public records will be made available in the appropriate alternative format.

NOTICE AND CALL FOR A SPECIAL MEETING OF THE CUPERTINO CITY COUNCIL

NOTICE IS HEREBY GIVEN that a special meeting of the Cupertino City Council is hereby called for Tuesday, March 01, 2022, commencing at 5:30 p.m. In accordance with Government Code 54953(e), this will be a teleconference meeting without a physical location to help stop the spread of COVID-19. Said special meeting shall be for the purpose of conducting business on the subject matters listed below under the heading, "Special Meeting."

SPECIAL MEETING

ROLL CALL - 5:30 PM

STUDY SESSION

1. Subject: Consider a Study Session on the proposed ordinance language and phasing for a Single-Use Plastics Ordinance
Recommended Action: Conduct a Study Session on the proposed ordinance language and phasing for a Single-Use Plastics Ordinance
Presenter: Ursula Syrova, Environmental Programs Manager
[Staff Report](#)
[A - Sustainability Commission Staff Report](#)
[B- Single-Use Plastics Ordinance Elements and Phasing](#)
[C - Single-Use Plastics Draft Ordinance](#)
[D - Single-Use Foodware Cost Comparisons](#)

ADJOURNMENT

REGULAR MEETING

PLEDGE OF ALLEGIANCE - 6:45 PM

ROLL CALL

CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Proclamation declaring March as Youth Arts Month on behalf of those who advocate for art education to all elementary, middle and secondary students
Recommended Action: Present proclamation declaring March as Youth Arts Month on behalf of those who advocate for art education to all elementary, middle and secondary students
[A - Proclamation](#)

2. Subject: Proclamation proclaiming March as American Red Cross Month and presentation from the American Red Cross regarding local activities
Recommended Action: Present proclamation proclaiming March as American Red Cross Month and receive presentation from the American Red Cross regarding local activities
[A - Proclamation](#)

POSTPONEMENTS AND ORDERS OF THE DAY

ORAL COMMUNICATIONS

This portion of the meeting is reserved for persons wishing to address the Council on any matter within the jurisdiction of the Council and not on the agenda. The total time for Oral Communications will ordinarily be limited to one hour. Individual speakers are limited to three (3) minutes. As necessary, the Chair may further limit the time allowed to individual speakers, or reschedule remaining comments to the end of the meeting on a first come first heard basis, with priority given to students. In most cases, State law will prohibit the Council from discussing or making any decisions with respect to a matter not listed on the agenda. A councilmember may, however, briefly respond to statements made or questions posed by speakers. A councilmember may also ask a question for clarification, provide a reference for factual information, request staff to report back concerning a matter, or request that an item be added to a future City Council agenda in response to public comment.

REPORTS BY COUNCIL AND STAFF (10 minutes)

3. Subject: Brief reports on councilmember activities and brief announcements
Recommended Action: Receive brief reports on councilmember activities and brief announcements

4. Subject: Report on Committee assignments
Recommended Action: Report on Committee assignments

5. Subject: City Manager update
Recommended Action: Receive City Manager update on emergency response efforts and other City business

CONSENT CALENDAR (Items 6-9)

Unless there are separate discussions and/or actions requested by council, staff or a member of the public, it is requested that items under the Consent Calendar be acted on simultaneously.

6. Subject: Approve the February 15 City Council minutes
Recommended Action: Approve the February 15 City Council minutes
[A - Draft Minutes](#)

7. Subject: Approve the February 17 City Council minutes
Recommended Action: Approve the February 17 City Council minutes
[A - Draft Minutes](#)

8. Subject: Consider resignation of Bicycle Pedestrian Commission member Maanya Condamoor and direct staff on filling the unscheduled vacancy
Recommended Action: 1. Direct staff to initiate a special recruitment and approve the application deadline and interview date for filling the unscheduled vacancy:
 - a. Deadline for applications of 4:30 p.m. on Friday, April 15, 2022 and
 - b. Applicant interview date of 5:30 p.m., Tuesday, April 26, 2022[Staff Report](#)
[A - Resignation Letter](#)

9. Subject: Receive the Government Finance Officers Association (GFOA) Distinguished Budget Presentation Award for Fiscal Year 2021-22 Adopted Budget
Recommended Action: Receive the Government Finance Officers Association (GFOA) Distinguished Budget Presentation Award for Fiscal Year 2021-22 Adopted Budget
[Staff Report](#)
[A - GFOA Budget Award](#)

SECOND READING OF ORDINANCES - None

PUBLIC HEARINGS

10. Subject: Consideration of Vacation of a Public Pedestrian Walkway Easement through Tract 9405, which runs through Campo De Lozano subdivision, located near 20138 Rodrigues Avenue.
Recommended Action: Consider conducting a public hearing, adopting Resolution No. 22-031 (Attachment A) to vacate a public pedestrian walkway easement through Tract 9405.
Presenter: Chad Mosley, Assistant Director/City Engineer
[Staff Report](#)
[A - Draft Resolution](#)
[B - Aerial Exhibit](#)

ORDINANCES AND ACTION ITEMS

11. Subject: Consider accepting the Mid-Year Financial Report for Fiscal Year 2021-22; consider adopting Resolution No. 22-032 approving Budget Modification #2122-189 increasing appropriations by \$9,457,951 and revenues by \$10,220,000
Recommended Action: 1. Consider Accepting the City Manager’s Mid-Year Financial Report for FY 2021-22
2. Consider Adopting Resolution No. 22-032 approving Budget Modification #2122-189 increasing appropriations by \$9,457,951 and revenues by \$10,220,000
3. Consider Approving the Conversion of (One) Limited-Term Project Manager Position to Full-Term Position.
4. Consider Approving Amendments to City's Committed, Unassigned Fund Balance, and Use of One Time Funds Policy which includes the following changes:
 a. Consider Approving \$2,000,000 contribution from the General Fund to the City’s Section 115 Pension Trust
 b. Consider Increasing the City’s General Fund Economic Uncertainty Committed Reserve by \$5,000,000
 c. Consider Establishing a General Fund Capital Project Committed Reserve in the amount of \$10,000,000
Presenter: Kristina Alfaro, Administrative Services Director
[Staff Report](#)
[A - Draft Resolution](#)
[B - Mid-Year Financial Report for Fiscal Year 2021-22](#)
[C – Mid-Year Performance Measures](#)
[D - Mid-Year Budget Adjustment Journal](#)
[E - Budget Transfers Detail as of 12.31.2021](#)
[F – Committed, Unassigned Fund Balance, and Use of One Time Funds Policy \(Clean\)](#)
[G - Committed, Unassigned Fund Balance, and Use of One Time Funds Policy \(Redline\)](#)

12. Subject: Progress update of the Housing Element Update, and review, discuss, and approve selection of stakeholders group
Recommended Action: Receive report and provide feedback on the progress, review the stakeholders selection process, and consider approval of the stakeholders group
Presenter: Ben Fu, Community Development Director
[Staff Report](#)
[Supplemental Staff Report Memo by EMC](#)
[A - 6th Cycle Housing Element Update—Public Engagement Activities to date](#)
[B - Stakeholder group Questions](#)
[C - List of Recommended stakeholder scores and response to primary narrative question](#)
[D - HCD Revision request letter for Monterey Park](#)

ORAL COMMUNICATIONS - CONTINUED (As necessary)

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

ADJOURNMENT

The City of Cupertino has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a final decision of the City Council must be brought within 90 days after a decision is announced unless a shorter time is required by State or Federal law.

Prior to seeking judicial review of any adjudicatory (quasi-judicial) decision, interested persons must file a petition for reconsideration within ten calendar days of the date the City Clerk mails notice of the City's decision. Reconsideration petitions must comply with the requirements of Cupertino Municipal Code §2.08.096. Contact the City Clerk's office for more information or go to <http://www.cupertino.org/cityclerk> for a reconsideration petition form.

In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend this teleconference meeting who is visually or hearing impaired or has any disability that needs special assistance should call the City Clerk's Office at 408-777-3223, at least 48 hours in advance of the meeting to arrange for assistance. In addition, upon request, in advance, by a person with a disability, meeting agendas and writings distributed for the meeting that are public records will be made available in the appropriate alternative format.

Any writings or documents provided to a majority of the Cupertino City Council after publication of the packet will be made available for public inspection in the City Clerk's Office located at City Hall, 10300 Torre Avenue, Cupertino, California 95014, during normal business hours; and in Council packet archives linked from the agenda/minutes page on the Cupertino web site.

IMPORTANT NOTICE: Please be advised that pursuant to Cupertino Municipal Code section 2.08.100 written communications sent to the Cupertino City Council, Commissioners or City staff concerning a matter on the agenda are included as supplemental material to the agenda item. These written communications are accessible to the public through the City's website and kept in packet archives. Do not include any personal or private information in written communications to the City that you do not wish to make public, as written communications are considered public records and will be made publicly available on the City website.



CITY OF CUPERTINO

Agenda Item

21-10165

Agenda Date: 3/1/2022
Agenda #: 1.

Subject: Consider a Study Session on the proposed ordinance language and phasing for a Single-Use Plastics Ordinance

Conduct a Study Session on the proposed ordinance language and phasing for a Single-Use Plastics Ordinance

Presenter: Ursula Syrova, Environmental Programs Manager



PUBLIC WORKS DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3354 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: March 1, 2022

Subject

Consider a Study Session on the proposed ordinance language and phasing for a Single-Use Plastics Ordinance.

Recommended Action

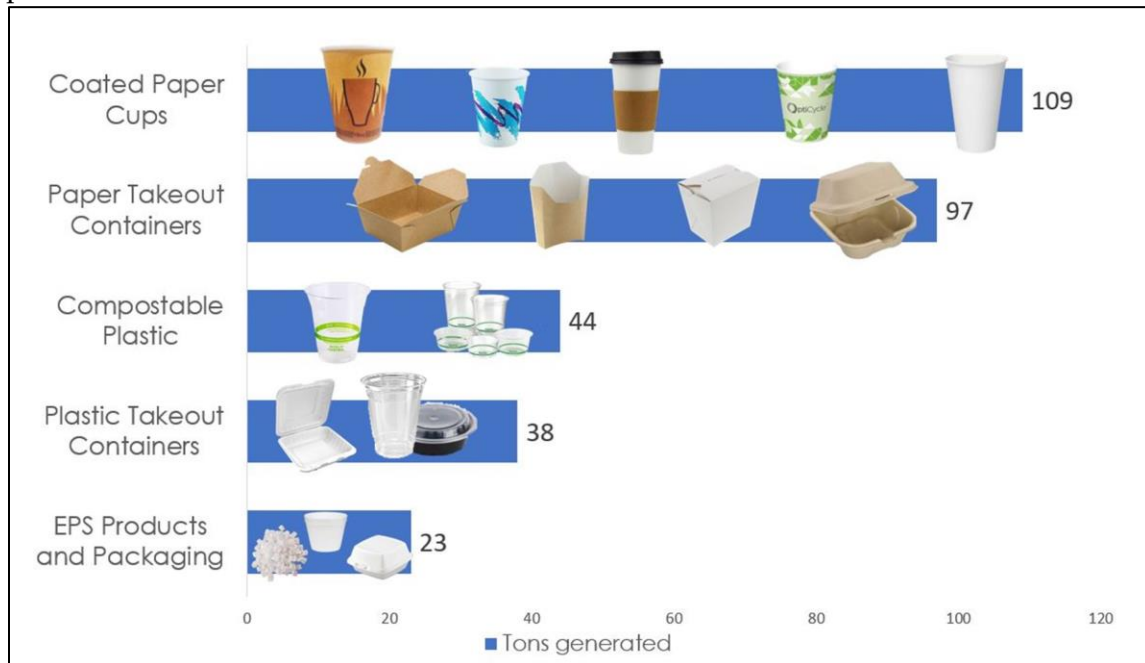
Conduct a Study Session on the proposed ordinance language and phasing for a Single-Use Plastics Ordinance.

Background

Due to concern for litter, marine impact, and chemical migration into food, Cupertino banned restaurant use of expanded polystyrene (EPS) foam foodware in 2014, joining 13 other cities in Santa Clara County who adopted similar ordinances. In 2018, a State law AB 1884 went into effect which required full-service restaurants to only provide plastic straws upon request. This law will expand under AB 1276 in June 2022 to include other accessories such as utensils and condiments at all food facilities. Beginning in January 2023, State law AB 1200 will prohibit foodware containing per- and polyfluoroalkyl substances (PFAS). A detailed history is available in Attachment A.

As shown in Figure 1, Cupertino residents and businesses discard over 300 tons of single-use foodware and expanded polystyrene packing material per year. This tonnage amount has likely increased because of the pandemic and increased takeout food orders. These tonnages include foodware brought in from outside the City.

Figure 1: Tons of single-use disposable foodware being disposed of in Cupertino by type per 2018 and 2019 waste characterization studies



While some plastic foodware containers are currently accepted as recyclable in Cupertino, recycling does not address all problems with plastics. Meanwhile, foodware containers and utensils made from polylactic acid (PLA) or other “compostable plastics” are not accepted in Cupertino’s organics recycling program because they take too long to degrade. Biodegradable Products Institute (BPI)-certified compostable plastic bags are allowed for collecting food scraps. If bio-plastics are disposed in landfill they create methane as they degrade. If they are disposed of as recyclable or compostable they must be sorted out as contaminants and sent to landfill. There is no place for bio-plastics in Cupertino’s waste streams.

Fiber-based foodware items such as paper or bagasse cups and containers, and wood or bamboo utensils are accepted for composting in Cupertino’s organics program. While acceptable, they are not as nutritive for the compost process as food scraps or yard trimmings. Fiber-based items also still require resource inputs during production for just a few minutes of use. Thus, fiber-based items do not fully address environmental concerns arising from single-use foodware. Thus, shifting to reusable foodware wherever possible better addresses resource use, health, economic, and environmental concerns as further described in Attachment A on page 2.

Desiring to go beyond the State laws and the City’s earlier foodware ordinance, Cupertino City Council directed that a Single-Use Plastics foodware ordinance become a City Work Program item. The goal was to reduce the use of single-use plastic foodware such as cups, plates, containers, straws, utensils, and other accessories like spill plugs and stir sticks.

Discussion

Environmental Programs Division staff prepared proposed amendments to Municipal Code Chapter 9.15 that would enact a dramatic shift away from single-use plastic foodware and toward compliant compostable and reusable foodware. Staff is seeking input from City Council on this suite of elements and their phasing to determine the best fit for Cupertino businesses and customers.

Cupertino currently prohibits food service providers from using EPS foam foodware. The amended language proposes to expand on that by banning single-use plastic foodware from use, banning sale of bio-plastic foodware, and requiring reusables for dining in. The two phases and their elements are summarized here and presented in Attachment B, which serves as an index to the draft ordinance itself (Attachment C).

The first phase of the ordinance mirrors the requirements of State law AB 1276 and requires that food service ware accessories such as utensils, chopsticks, condiment cups and packets, straws, stirrers, splash sticks, and cocktail sticks be provided only upon request by customers. These requirements become effective on June 1, 2022.

The second phase of the proposed ordinance includes elements that would go into effect one year later, on June 1, 2023:

1. Prohibit the use of non-complaint food service ware by food providers:
 - Continue to prohibit use of expanded polystyrene foam food service ware.
 - Prohibit use of single-use plastic items (even if accepted as recyclable).
 - Prohibit use of compostable food service ware that contains PFAS (as required by AB1200).
 - Prohibit use of bio-plastics (compostable plastics).
2. Require reusable food service ware for dining on site:
 - Reusable food service ware must be provided for customers dining on site at the food provider's location. This would require sufficient dishwashing capacity or a contract with a dishwashing service.
3. Prohibit the sale of certain non-compliant foodware:
 - Ban local sale of expanded polystyrene foam and bio-plastic food service ware.
4. Exemptions:
 - Paper, wood, bamboo, and other fiber-based compostable food service ware items accepted in the City's compost program would be allowed.
 - Containers made entirely from aluminum and aluminum foil would be allowed.
 - Plastic straws would be allowed for those with medical need.
 - Ordinance does not apply to food prepared and packaged outside of the city.

- Compliant single-use food service would still be allowed for taking home leftovers from dine-in situations.
- Temporary exemptions allowed if additional time needed to comply.
- Temporary exemptions allowed for significant economic hardship.
- Temporary exemptions allowed for unique packaging hardship.
- Allows for compliant paper food liners, wrappers, sleeves, bags, and foil wrappers.

Sustainability Commission Recommendation

The Sustainability Commission reviewed a larger list of proposed elements, exemptions, and phasing on January 20, 2022. The commissioners raised concerns for existing and new businesses and maintaining Cupertino as a desirable place to do business. They also expressed interest in knowing what surrounding cities have done or are planning to do. Ultimately, they recommended the language and phasing presented to them at that time with the addition of:

- Offer technical and financial assistance to businesses during the year before enforcement to enable transition.
- Amend the City's Single-Use Carryout Bag Ordinance to prohibit plastic bags used for takeout food orders and require produce bags to be compostable.
- Enable a pilot of reusable takeout foodware in the city. Business models already exist where reusable containers are provided for takeout orders and then returned by customers, sanitized properly, and re-deployed to restaurants.

From an environmental perspective all the proposed elements originally considered and recommended are valuable. However, after further consideration of what neighboring cities have done and are planning to do, the impact of COVID on the prevalence of takeout food, and staff ability to enforce all the proposed elements, a more measured approach is recommended. The proposed approach described above would place Cupertino as a leader in Santa Clara County for reducing the prevalence of single-use plastic foodware and create a plan for future additional amendments.

Elements Recommended for Future Consideration

Incorporating items suggested by the Sustainability Commission, staff recommends the following elements for consideration in 2024:

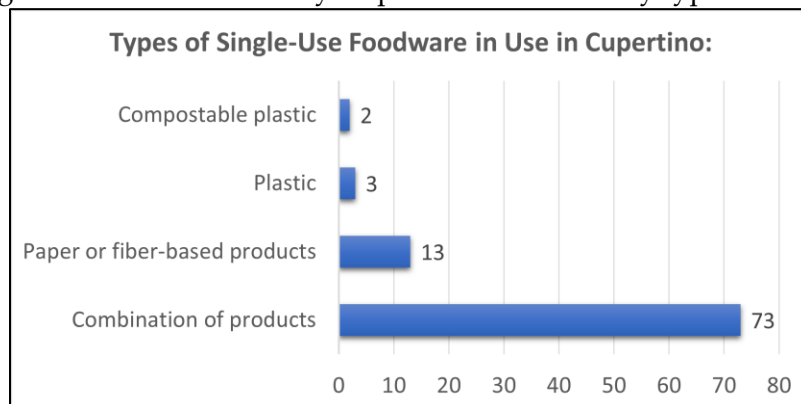
1. Ban local sale of single-use plastic foodware items: This would restrict local sale of plastic cups, utensils, containers, and accessories made from traditional plastic. Stores would still be able to sell fiber-based compostable items.
2. Reusable to-go foodware pilot: Consider the availability of reusable to-go foodware business models and pursue a pilot in partnership with interested local food and beverage providers.
3. Ban local sale and use of other EPS products beyond food service ware:
 - a. Packing materials such as peanuts and blocks

- b. Pool or beach toys, coolers, and ice chests where the foam is not fully encapsulated within a more durable material
- 4. Charges to customers for single-use foodware: Evaluate the state of the COVID pandemic and the use of single-use foodware for pre-ordered takeout dining. Based on that evaluation, consider the idea of requiring a charge for single-use cups, containers, or both to further encourage use of reusable foodware. Adding a charge for a single-use item is a well-established method of increasing use of reusable alternatives, as demonstrated by charges for single-use carryout grocery bags. Concern over proximity to other customers while dining on site at a restaurant or café during COVID has meant a big shift to more takeout orders that are pre-prepared for pickup or delivery. Ordering takeout for pickup or delivery precludes using a cup or container from home, so there is no easy way to avoid the charge the way there is with a grocery bag or walk-in service with a coffee travel mug.
- 5. Reusables at large events: Events of more than 100 attendees would be required to offer a percentage of prepared food and beverages in reusable containers. Containers could for instance be souvenir items or returnable for a deposit refund.
- 6. Amend the City’s Single-Use Carryout Bag Ordinance to prohibit plastic bags used for takeout food orders and require produce bags be compostable.

Impact on food service providers, including City facilities

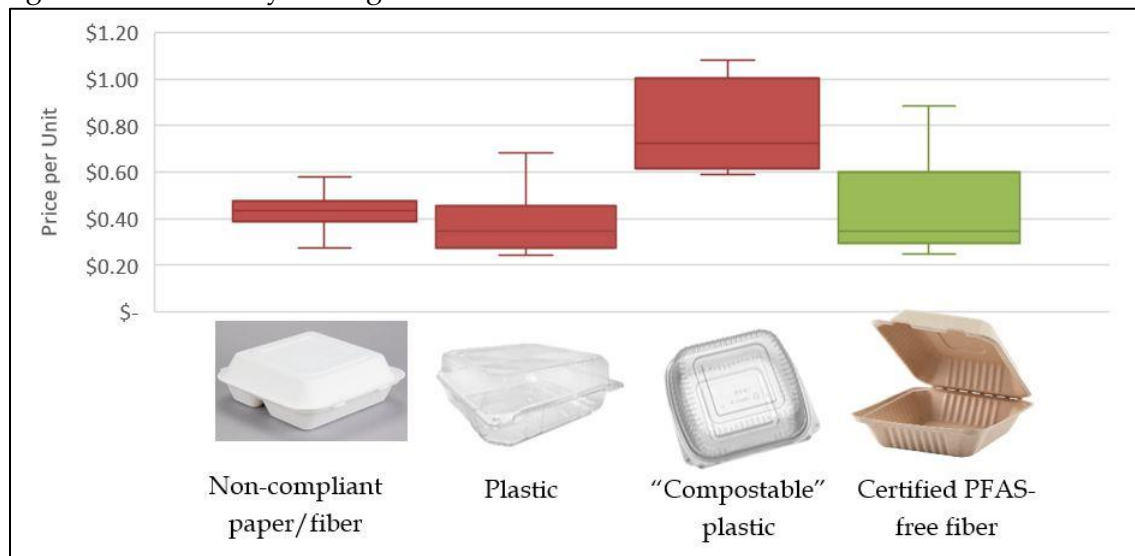
Economically, the impact of the ordinance could be mixed. With the implementation of the first phase per AB 1276 to offer utensils and accessories only on demand, providers could see cost savings from not giving out unwanted items. When the additional foodware requirements go into effect, providers using single-use plastic or bio-plastic food ware will need to begin purchasing and using compliant PFAS-free compostable or aluminum foodware. The cost of transitioning to use compliant products could vary widely and is not universally more expensive. Figure 2 shows what types of single-use items are being used by existing businesses based on the survey conducted in summer 2021. As indicated by the results most providers are using a combination of products.

Figure 2: Single-use foodware used by Cupertino businesses by type



Providers using mostly bio-plastics for takeout orders could see cost savings when switching to fiber-based alternatives versus those providers using traditional single-use plastics which could see a price increase. Attachment D shows cost comparisons for a variety of types of foodware. As a representative example, Figure 3 below shows a hinged container made from different materials and how the cost can vary widely depending on source and volume. Cupertino would like to thank the City of Mountain View for sharing this data and imagery, which was prepared in Fall 2021 and verified to be an accurate representation of current price ranges.

Figure 3: Price survey of hinged containers



Reusables for Dining In - Dishwashing

The requirement to serve food on reusable foodware for dining-in could mean a need for increased dishwashing capacity (including labor) for providers primarily using single-use foodware even when diners stay on site. For providers serving high volumes of meals eaten on site, this shift could require installing additional dishwashers and hiring additional staff or contracting with a dishwashing service. However, case studies¹ from an organization that has assisted several hundred businesses in the Bay Area to switch to reusables for dining in, show savings of thousands of dollars a year with relatively small upfront investment. According to a survey of food businesses conducted in summer 2021, 71% of businesses who responded to the question are using a three-sink system for dishwashing, while 15% have mechanized washers. Businesses needing to install or increase dishwashing capacity may apply for a temporary exemption based on economic hardship or needing extra time to comply.

Based on the items proposed above, Figure 4 provides a high-level summary of potential impacts by common type of food provider.

¹ ReThink Disposable case studies: <http://www.rethinkdisposable.org/businesses>

Figure 4: Summary of Common Food Provider Types in Cupertino and Potential Impacts (based on business license data)

Type of Food Provider	Number of Businesses	% of Total	Expected Impacts
Dine-in (Full-service restaurants)	73	49%	Moderate: <ul style="list-style-type: none"> Over half of full-service restaurants that offer dine-in provide reusables, but some provide only single-use plastic or a combination of both
Fast-food/casual (Includes locations that also offer dine-in with limited seating, but operates primarily through takeout orders)	34	23%	High: <ul style="list-style-type: none"> Majority of fast-food/casual locations offer only single-use items or a combination of products such as single-use plastics and paper/fiber-based items
Café/bakery/dessert	22	15%	Moderate: <ul style="list-style-type: none"> Majority offer only single-use disposables
Boba tea	13	9%	High: <ul style="list-style-type: none"> High-usage of single-use plastic cups and straws
Grocery/Supermarkets	6	4%	Low: <ul style="list-style-type: none"> Single-use items not primarily given out
Catering Trucks	2	1%	Moderate: <ul style="list-style-type: none"> Use only disposables

Grocery stores

Grocery stores selling prepared food would face the same issues as food providers and would additionally need to adjust any on-site packaging of produce, such as the practice of containing fruits or vegetables on EPS trays with plastic film wrap. In other jurisdictions, exemptions have been made for containers of cut fruit or salads prepared by the grocery store and packaged in clear plastic on site and made available for sale. If the store sells single-use plastic foodware, those items will need to be eliminated and compliant alternatives made available for sale.

Retailers

There are stores in Cupertino that sell single-use foodware, including grocery stores, convenience stores, big box stores, and specialty stores. To get an estimate of economic impact if the sale of single-use plastic foodware were prohibited, staff contacted these stores but received limited if any information on the sales numbers. It should be noted

that party supplies tend to be single-use plastic, so stores specializing in those items might feel the impact more strongly while customers might choose to buy the same items online or from stores in neighboring cities.

Customers

Increased costs to food providers would likely be passed on to customers, but it is difficult to estimate because of the wide variety of options and pricing for foodware and as noted above, not all providers may see a cost increase. Food providers surveyed said they were concerned about customer experience with different types of foodware. When customers were surveyed, however, they were strongly in favor of switching away from single-use plastics and said it would not change where they dined.

What are other jurisdictions doing?

A growing number of jurisdictions in California have passed or are considering passing some form of regulation on single-use plastic foodware. No other city in Santa Clara County or the wider Bay Area has yet passed the full suite of elements contemplated in this draft ordinance and the future possible amendments, but Figure 5 shows a survey of neighboring jurisdictions for many of the elements.

Figure 5: Comparison of Foodware Ordinances in Neighboring Jurisdictions

Comparison of Food Service Ware Ordinance Provisions		Cupertino (Recommended)	Mountain View	Palo Alto	Sunnyvale	Berkeley	County of San Mateo	San Francisco	Santa Cruz (City)	Sonoma (County)
Use of Single-Use Foodware Ware	All single-use food service ware must be compostable FC/AL = Fiber-based compostable or aluminum C/R = compostable or recyclable	FC/ AL	FC/ AL	x		x	FC	C/ R	FC /R	C/ R
	Prohibit use of some single-use plastic foodware accessories	x	x	x		x	x	x	x	x
	Prohibit use of expanded polystyrene (EPS) foam foodware	x	x	x	x	x	x	x	x	x
Require Reusable Food Service Ware	Requires reusable foodware for dine-in P = Planned for future phase E = Encouraged	x	P	P		x	E		P	E
	Require events to make reusable beverage cups available							x		
Sale of Single-Use Foodware	Prohibit sale of EPS foam foodware	x	x	x	x			x	x	x
	Prohibit sale of single-use plastic accessories		x							
	Prohibit sale of single-use compostable plastic foodware	x								
	Prohibit sale of single-use traditional plastic foodware									
Sale of other EPS Products	Prohibit sale of EPS ice chests, other items		x	x				x	x	x
	Prohibit sale of EPS packing peanuts, blocks			x				x	x	x
Cup Charges	Require a charge for single-use cups E= Encouraged					x			x	E
Container Charges	Require a charge for single-use containers									
Compostable Produce Bags	Require grocery stores and farmer's markets to use compostable bags for meat and produce. C/R = compostable or recyclable			x				C/R		
No Plastic Bags for Takeout Food Orders	Prohibit use of plastic bags for takeout food orders							x		

Outreach to Businesses and Customers

To understand the current state, needs, and concerns of local businesses on the topic of single-use foodware and some of the other policy elements under consideration, 100 businesses (51% of food service places with active business licenses at the time) were interviewed via surveys, over 80 of which were conducted in person. Survey responses were also received from 111 customers. Staff also presented twice to the Chamber of Commerce and once to the Teen Commission and a dedicated web page is available at

engagecupertino.org/single-use-plastics. A more detailed account of that outreach is on page 6 of Attachment A. More recent outreach includes a postcard and an email about this study session mailed out to food service businesses and an article in the February edition of the Business Connect newsletter.

Next Steps

If so directed by Council, feedback from this study session will be incorporated into the draft language and the ordinance could appear for a first reading on April 5, 2022. The Mayor's Cup Challenge, which is focused this year on the broader topic of plastics, is scheduled for March 26, 2022. While not addressing food service ware specifically, the event will occur before the first reading of the draft ordinance and the two processes will cross-inform and support each other.

Sustainability Impact

The proposed ordinance is consistent with two actions in the Cupertino Climate Action Plan as well as California State law. The proposed ordinance encourages a push towards more reusable foodware which is consistent with Climate Action Plan Measure C-SW-1: Zero Waste Goal. The proposed ordinance promotes the collection of organics from the local waste stream, which will reduce greenhouse gas emissions from the landfill consistent with Climate Action Plan Measure C-SW-2: Food Scrap and Compostable Paper Diversion. Enabling organic items to reach the compost stream supports the diversion requirements of California SB1383, the state's short-lived climate pollutant reduction regulations.

Fiscal Impact

Fiscal impact will depend largely on direction received from Council. If directed to proceed with an ordinance, staff recommends contracting for technical and financial assistance to help Cupertino's food service businesses understand and adjust to the requirements. A consultant who is deeply knowledgeable about food service business requirements, regulations, supplies, and challenges who also has experience with making these types of transitions will best be able to provide such assistance. The cost to hire technical assistance as described is expected to be approximately \$100,000 to cover support both before and after the implementation of the most significant changes, including offering a defined number of small grants to help cover the costs of switching to reusables or purchasing compliant foodware. Of the money budgeted to the Single-Use Plastics Ordinance and Mayor's Cup Challenge City Work Program Item, it is anticipated that approximately \$60,000 will be available that could be allocated for a technical assistance contract. The balance would be drawn from the Resource Recovery Enterprise Fund. Ongoing compliance monitoring and support can be conducted by existing staff conducting inspections and outreach for stormwater pollution prevention program and SB 1383.

Prepared by: Ursula Syrova, Environmental Programs Manager

Reviewed by: Jimmy Tan, Acting Director of Public Works

Approved by: Dianne Thompson, Assistant City Manager

Approved for Submission by: Jim Throop, City Manager

Attachments:

A – Sustainability Commission Staff Report

B – Single-Use Plastics Ordinance Elements and Phasing

C – Single-Use Plastics Draft Ordinance

D – Single-Use Foodware Cost Comparisons



CITY MANAGER'S OFFICE

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

SUSTAINABILITY COMMISSION STAFF REPORT

Meeting: January 20, 2022

Subject

Consider draft ordinance language and phasing for a Single-Use Plastics Ordinance

Recommended Action

Discuss and recommend that City Council adopt the proposed ordinance language and phasing for a Single-Use Plastics Ordinance

Background

- In 2014, Cupertino City Council adopted an ordinance to ban food vendors from selling or otherwise providing prepared food in expanded polystyrene foam food service ware.
- In 2017, Cupertino City Council adopted a Zero Waste Policy, which includes support for policies that demonstrate a preference for less toxic and more durable products over single-use products, acknowledges that reusable foodware is preferable to single-use, and seeks to reduce the proliferation of unnecessary plastic single-use food service ware and packaging.
- In 2018, City staff began participating in regional discussions and working groups on the topic of single-use foodware and model policy language. That work was inspired in part by changes in international markets for recycled plastics in 2018, concerns about plastic waste and microplastics in the environment, and health concerns from chemicals leaching into food.
- In 2018, California adopted Assembly Bill (AB) 1884 to require plastic straws to be provided only upon request.
- In 2019, the Youth Climate Action Team brought a request to restrict single-use plastic food service ware to the Cupertino City Council. The issue was also raised multiple times at Sustainability Commission meetings and was part of the Commission's suggested City Work Program items for Fiscal Year 2020-2021.
- The City Council accepted the Commission's suggestion, and the Single-Use Plastics Ordinance became a City Work Program item for Fiscal Year 2020-2021 and then was continued on to the Fiscal Year 2021-2022 City Work Plan.

- At the October 2021 meeting of the Sustainability Commission, a single-use plastics subcommittee was formed. The Committee met once in December 2021 to consider policy options and phasing.
- Beginning on June 1, 2022, state law will require food facilities to make certain single-use food service ware accessories and standard condiments packaged for single use available only on request.
- Beginning January 1, 2023, AB 1200 will prohibit the sale or distribution of food packaging (including fiber-based food service ware) containing per- and polyfluoroalkyl substances (PFAS).

Discussion

City staff has prepared a proposed ordinance amending Municipal Code Chapter 9.15, which prohibits the use of expanded polystyrene (EPS) foam foodware. The proposed ordinance includes requirements that will reduce the amount of single-use plastic food service ware in Cupertino and encourage a shift toward more reusable food service ware for dining on location, for takeout, and at large events. It also proposes expanding the prohibition on EPS to local sale of certain non-foodware items such as packing peanuts.

Multiple life cycle analyses (LCAs) show reusable food service ware has less environmental impact compared to single-use products once a break-even point of repeated use occurs. LCAs consider metrics such as greenhouse gas emissions, energy inputs, and water consumption from the materials extraction phase through consumption and finally to disposal.¹ LCAs do not consider the impacts when products become litter as opposed to being disposed of properly, the impacts of plastic pollution in the environment, or the human health impacts of chemicals migrating from food service ware into food and beverages.² Reusables do have advantages over single-use products in these areas.

Elements and phases of the proposed ordinance are summarized here and presented in Attachment A.

The first phase of the ordinance mirrors the requirements of state law (AB 1276) and requires that food service ware accessories such as utensils, chopsticks, condiment cups and packets, straws, stirrers, splash sticks, and cocktail sticks be provided only upon request by customers. These requirements become effective on June 1, 2022.

¹ Oregon Department of Environmental Quality. "[Food Service Ware LCA Harmonization](https://www.oregon.gov/deq/FilterDocs/FoodLCareport.pdf)," Prepared for the City of Portland Bureau of Planning and Sustainability (BPS). 2019. Retrieved from <https://www.oregon.gov/deq/FilterDocs/FoodLCareport.pdf>

² Muncke, Jane et al. "Impacts of food contact chemicals on human health: a consensus statement." *Environmental health: a global access science source* vol. 19,1 25. 3 Mar. 2020, doi:10.1186/s12940-020-0572-5. Retrieved from <https://pubmed.ncbi.nlm.nih.gov/32122363/>

The second phase of the ordinance includes elements that would go into effect one year later, on June 11, 2023. These requirements include:

1. Prohibiting the use of non-complaint food service ware by food providers:
 - Continue to prohibit use of expanded polystyrene foam food service ware
 - Prohibit use of single-use plastic items (even if accepted as recyclable)
 - Prohibit use of compostable food service ware that contains PFAS
 - Prohibit use of bio-plastics (compostable plastics)
2. Reusable food service ware required for dining on premises:
 - Reusable food service ware must be provided for customers dining on site at the food provider's location. Requires sufficient dishwashing capacity or a contract with a dishwashing service.
3. Imposing the following nonreusable beverage cup and food container charges:
 - \$0.25 for a disposable cup and \$0.25 for a disposable container
 - Charges kept by the business
4. Prohibiting the sale of non-compliant foodware:
 - Ban local sale of single-use plastic, expanded polystyrene foam, and bio-plastic food service ware
5. Prohibit sale of other expanded polystyrene products beyond food service ware:
 - Packing materials such as peanuts and blocks
 - Pool or beach toys, coolers, and ice chests where the foam is not fully encapsulated within a more durable material
6. Exemptions:
 - Paper, wood, bamboo, and other fiber-based compostable food service ware items accepted in the City's compost program would be allowed
 - Containers made entirely from aluminum and aluminum foil would be allowed
 - Plastic straws allowed for those with medical need
 - Does not apply to food prepared and packaged outside of the City
 - Single-use food service ware still allowed for taking home leftovers from dine-in situations
 - Temporary exemptions allowed if additional time needed to comply
 - Allows for compliant paper food liners, wrappers, sleeves, bags, and foil wrappers
 - Exemption from charges for customers with certain economic hardships
 - Customers are allowed to bring their own containers
 - Businesses may refuse to use a customer's container if it is not suitable or is unsanitary

- Exemption to packaging requirements for shipments received from outside the city or materials reused within the City

The third phase of the ordinance would go into effect on June 1, 2024 and would address prepared beverage and food containers used at events. Covered events would be required to comply with the following requirements:

- 25% of prepared beverage sales in reusable containers, phasing to 50% by June 1, 2026
- 25% of prepared food sales in reusable containers starting 6/1/2026 phasing to 50% by June 1, 2028

Subcommittee Feedback

The Sustainability Commission formed a subcommittee to consider elements of the single-use plastics ordinance, and the subcommittee met on December 16, 2021. Subcommittee members Anna Weber and Meera Ramanathan heard presentations from staff and considered the following questions:

- 1) Who should be covered by the ordinance – all food providers, or just food vendors?
 - Citing concern about food service ware in use by health care providers, subcommittee members suggested focusing on food vendors first with a broader set of food providers considered at a later phase. However, because compliant single-use food service ware could be used in those settings, “providers” is recommended.
- 2) Speed of the phasing
 - The subcommittee suggested allowing more time for businesses to make the required changes called for in phase two, and therefore phase two was pushed to one year after implementation of phase one.
 - The subcommittee had concerns about the dishwashing requirements and economic impacts of reusables for dine-in services with a sensitivity to wanting to remain welcoming to existing and new businesses. The proposed ordinance includes waivers and temporary exemptions in cases of economic hardship or other challenges.
 - The subcommittee was in favor of providing incentives, such as technical assistance and grant funding. There is at least one independent organization that provides financial assistance to restaurants seeking to deploy reusable food service ware. The City could also consider hiring a consultant to provide technical assistance to help make changes, which could include mini grants to purchase reusable food service ware.
- 3) Ban plastic single-use food service ware items, even if recyclable?
 - Strong support for such a ban, which was also recently adopted by the City of Mountain View.

- 4) Mandate charges or credits to encourage use of reusables, either brought in by customers or for dine-in?
 - While the subcommittee voiced support for credits for customers bringing their own cups, charges are more common and have been shown to be more effective than credits.
 - The question of a charge for takeout containers in addition to a charge for single-use cups was not fully considered and requires further discussion.

- 5) Ban the sale of non-compliant food service ware items?
 - The subcommittee supported the idea of banning the sale of compostable plastics first, as those are not accepted for composting in Cupertino, they do not have a better LCA than other plastics, and they create customer confusion and end up contaminating both the recycling and compost streams.
 - After a discussion of economic equity, the suggestion was made to phase in a ban on the sale of traditional plastic food service ware, especially if there is a significant price difference. Note that Mountain View has adopted an ordinance banning the sale of both bio-based and traditional single-use plastic food service ware items beginning January 1, 2023.

- 6) Ban local sale and use of expanded polystyrene foam packing materials?
 - There was support for including such a ban, which would be limited to packing that occurs within the City.

- 7) Require large events of 100 people or more to provide a percent of their beverages and food in reusable containers?
 - The subcommittee supported that idea, and San Francisco has already adopted rules requiring that 10% of prepared beverages be provided in reusable cups at large events.

- 8) Ban City use and purchase of single-use bottled water?
 - While not addressed in the ordinance, this item had support from the subcommittee and could be included in the next update of the Environmentally Preferable Purchasing Policy.

- 9) Reusable Take-Out Food Service Ware
 - While not addressed in the ordinance elements, the subcommittee expressed its desire to learn more about businesses that provide reusables for takeout food and beverages. There are several businesses already providing this service in San Francisco and Berkeley, and as a service available to hire for events. Such a service is planned for demonstration at the 2022 Earth Day and Arbor Day Festival to work in partnership with any food trucks, but the subcommittee members also suggested a pilot of such a third-party business model in Cupertino.

Outreach to Businesses and Customers

In the summer of 2021, City staff contracted with Environmental Innovations (EI) to conduct outreach to food service businesses and customers about single-use plastic foodware and the potential ordinance. EI partnered with the Peninsula Chinese Business Association to do direct food facility outreach, who surveyed 100 businesses (51% of food service businesses with active business licenses), many of them via in-person interviews. EI and City staff also conducted additional interviews with several institutional food service providers such as West Valley Community Services, Apple, and the Forum, seeking to understand the needs of large service providers and the concerns of special interest groups representing youth, low-income, and persons with disabilities. Responses from food facilities included independently owned and franchised, fast food and sit-down, boba tea shops, grocery stores, coffee shops and bakeries. While there was openness to switching to a different type of product, the primary concerns about switching to compostable food service ware were increased cost and availability of compliant products, customer satisfaction, and the administrative burden of imposing fees. 57% of those surveyed indicated they were interested in technical or financial assistance to help make the required changes. When asked about switching to reusable food service ware, businesses were also open to that idea, but worried about changing their operations, had concerns about safety against covid, and thought that staffing for dishwashing or dish storage might be an issue. 65% said they would be interested in receiving information about reusable to-go foodware services.

The survey answers provided by customers showed strong support for limiting single-use plastic food service ware, that environmentally friendly practices are important to customers, and that customers worry about the amount of waste from to-go foodware. 88% of the 111 customers who responded said they have received unwanted single-use foodware when ordering takeout, and 91% said they would still go to a restaurant that stopped using single-use plastic. 39% indicated that they would be interested in a service that provided to-go containers that you could return for sanitizing and reuse. 67% said that being offered a discount would encourage them to bring their own cup or container, although the distinction was not made between a charge and a discount.

Staff and EI presented to the Teen Commission in August 2021 and received supportive feedback. Staff also presented to the Chamber of Commerce in August 2021, and the response was favorable. In September, the City staffed a table at the Fall Festival and promoted community feedback via the customer survey, and the in-person conversations on the topic were largely favorable. Staff plans to present to these groups again with the more specific proposed language and will encourage community attendance at a planned Council Study Session on March 1, 2021. To track the ordinance as it progresses and provide information, the City also launched a dedicated web page at engagecupertino.org/single-use-plastics.

CEQA

This Ordinance is not a project under the requirements of the California Environmental Quality Act, 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 Ordinance 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, the proposed action to regulate the use of single-use foodware by food providers and local sale of prohibited foodware and other expanded polystyrene products would have no or only a de minimis effect on the environment because reducing disposable plastic foodware items such as straws, utensils, and stirrer sticks and having compostable alternatives offered only upon request and other provisions of the ordinance would not have the potential for causing a significant effect on the environment. In addition, if the proposed ordinance were a project under CEQA, the project would be exempt from CEQA under CEQA Guidelines section 15307, which exempts from CEQA actions taken by regulatory agencies for the protection of the environment. The foregoing determination is made by the City Council in its independent judgment.

Next Steps

Staff plans to conduct a Study Session before City Council on March 1, 2022 followed by a first reading of the ordinance on April 5, 2022. The Mayor's Cup Challenge, which is focused this year on the broader topic of plastics, is scheduled for March 26, 2022. While not addressing food service ware specifically, the event will occur before the first reading of the draft ordinance and the two processes will cross-inform and support each other.

Sustainability Impact

The proposed ordinance is consistent with two actions in the Cupertino Climate Action Plan as well as California State law. The proposed ordinance encourages a push towards more reusable foodware which is consistent with Climate Action Plan Measure C-SW-1: Zero Waste Goal. The proposed ordinance promotes the collection of organics from the local waste stream, which will reduce greenhouse gas emissions from the landfill consistent with Climate Action Plan Measure C-SW-2: Food Scrap and Compostable Paper Diversion. Enabling organic items to reach the compost stream supports the diversion requirements of California SB1383, the state's short-lived climate pollutant reduction regulations.

Fiscal Impact

Staff recommends contracting for technical assistance to help Cupertino's approximately 200 food service businesses understand and adjust to the requirements of the ordinance if it is adopted. A consultant who is deeply knowledgeable about food service business requirements, regulations, supplies, and challenges who also has experience with making

these types of transitions will best be able to provide such assistance. In anticipation of ordinance approval, funding for an RFP to hire technical support will be put forward as part of the FY 22-23 budget in the amount of \$80,000 to cover support both before and after the implementation of phase two. Of the \$100,000 budgeted to the Single-Use Plastics Ordinance and Mayor's Cup Challenge City Work Program Item, it is anticipated that approximately \$60,000 could be allocated for a technical assistance contract. The balance would be drawn from the Resource Recovery Enterprise Fund.

Prepared by: Ursula Syrova, Environmental Programs Manager
Reviewed by: Chad Mosley, Acting Director of Public Works
Attachments: Single-Use Plastics Ordinance Elements and Phasing
Draft Single-Use Plastics Ordinance

Attachment B

Cupertino DRAFT PROPOSED Single-Use Plastics Ordinance

REGULATION OF SINGLE-USE FOOD SERVICE WARE BY FOOD PROVIDERS		
6/1/2022		Enforcement date per AB1276
9.15.110	A	ACCESSORIES ONLY UPON CUSTOMER REQUEST
	A.1	Accessories and condiments only on request and unbundled for dine-in, take-out, and delivery apps
	A.2	Disallow self-serve stations?
	A.3	Plastic straws may be retained and provided as an accommodation
	A.4	Encourage bulk condiment dispensers rather than individual packets
	A.5	Online ordering for pickup/delivery must provide option to affirmatively opt in to choosing each accessory piece individually
	A.6	Exceptions for instances of drive-through and food deliveries in which items like cup lids, lid plugs, hot sleeve cups may be offered to prevent spills or safely transport food
	A.7	For delivery orders, accessories allowed to prevent spills and deliver safely.
6/1/2023		1 year after accessories phase
9.15.110	B	USE OF NON-COMPLIANT FOODWARE PROHIBITED
	B.1	No sale or distribution of Prepared packaged by food providers (including City Facility Prepared Food Providers) in Cupertino using:
	B.1.a	Expanded Polystyene (EPS) foam
	B.1.b	Single-use plastics (even if accepted as recyclable)
	B.1.c	Compostables with PFAS Allow PFAS-free paper, wood, bamboo, or fiber-based compostable items
	B.1.d	Bio-plastics ("compostable plastics")
	9.15.120(G)	Prepackaged food from outside the City exempted
	9.15.120(I)	Allow aluminum containers and foil (as exemption)
	B.2	Director of Public Works (or designee) to maintain list of suitable products and/or provide reference to an approved list
	B.3	Exemption for food/beverages prepared and packaged outside of the City
9.15.110	C	REUSABLE FOOD SERVICE WARE FOR DINING ON PREMISES
	C.1	Dine-in requires Reusables
	C.1	Allowable: disposable paper food wrappers, sleeves, and bags; foil wrappers; paper napkins; paper tray and plate liners; and straws if meet requirements.
	C.2	Condiments shall not be in single-service packets
	C.3	Definition of on-premises as belonging to food provider or shared
	C.4	New building permits trigger condition of approval requiring dishwashing capacity to allow reusables on-premises.
	C.4	New and renewed business licenses trigger condition of approval requiring dishwashing capacity to allow reusables on-premises.
	C.5	Dine-in still allows nonreusable containers for leftovers.
	C.6	Waiver/extension option for existing restaurants without dishwashing capacity
9.15.110	D	SALE OR DISTRIBUTION OF NON-COMPLIANT FOODWARE PROHIBITED
	D.1	Ban sale of compostable plastic food service ware

	D.1	Includes ban on sale of EPS foodware
	D.2	Director may adopt or reference a list of compliant products
EXEMPTIONS		
9.15.120	A	Exemptions available for unique packaging hardship, unused inventory, significant economic hardship, or extra time needed to comply
	B	Unique packaging hardship
	C	Unused inventory
	D	Significant economic hardship
	E	Needs additional time
	F	Method of applying for exemption with time limit of 1 year
	G	Prepackaged food is exempt
	H	Food service ware that is entirely aluminum foil-based is exempt
	I	Emergencies are exempt

NEW SECTION 9.15.125 CONCERNING RECORDKEEPING AND INSPECTION		
9.15.125	A	All food providers must keep records of purchase of single-use foodware showing compliance
	B	Records to be made available for inspection by the City
	C	False or incomplete information is a violation

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
AMENDING CITY CODE TO CHANGE THE NAME OF CHAPTER 9.15, ADOPT
NEW SECTIONS 9.15.090 AND 9.15.125, AND AMEND SECTIONS 9.15.100, 9.15.110,
9.15.120, AND 9.15.130 TO REGULATE THE USE OF SINGLE-USE FOOD SERVICE
WARE BY FOOD PROVIDERS AND REGULATE THE SALE OF SINGLE-USE
FOOD SERVICE WARE AND EXPANDED POLYSTYRENE FOAM PACKING
MATERIALS**

1. The City Council of the City of Cupertino finds that:

WHEREAS, on February 5, 2014, the City of Cupertino adopted an ordinance to prohibit food vendors from providing prepared food using food packaging containing polystyrene foam, currently codified as Chapter 9.15 of the City Code; and

WHEREAS, this ordinance continues to prohibit the sale and use of polystyrene foam food service ware and also further regulates nonreusable food service ware and food service ware accessories in Cupertino; and

WHEREAS, the State adopted AB 619 in July 2019, which allows consumers to supply their own reusable containers for filling or refilling and requires that food establishments have an established procedure for safely accepting reusable containers; and

WHEREAS, the State recently adopted Assembly Bill 1200, which prohibits the sale or distribution of food packaging made primarily from paper, paperboard, or other natural fiber that contains per- and polyfluoroalkyl substances (PFAS) in California beginning January 1, 2023; and

WHEREAS, Assembly Bill 1200 does not include a verification mechanism to assist food providers in identifying whether the food packaging contains PFAS; and

WHEREAS, this ordinance requires that food service ware used by a food provider in Cupertino be certified as PFAS-free by an independent third-party certifying organization to assist Cupertino food providers in identifying PFAS-free food service ware; and

WHEREAS, the State also recently adopted Assembly Bill 1276, which prohibits the distribution of single-use food service ware accessories and standard condiments packaged for single use by food providers except upon request by the consumer; and

Ordinance No. _____

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WHEREAS, a prohibition of plastics for specified nonreusable food service ware accessories furthers the City's goals and is more restrictive than the recently enacted State law; and

WHEREAS, this ordinance is consistent with the City of Cupertino's Zero Waste Policy and Climate Action Plan that seek to reduce solid waste at its source and reduce nonreusable food service ware and packaging; and

WHEREAS, the City Council of the City of Cupertino held a duly noticed public hearing on [date], and after considering all testimony and written materials provided in connection with that hearing introduced this ordinance and waived the reading thereof;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CUPERTINO DOES ORDAIN AS FOLLOWS:

SECTION 1. Adoption.

The Cupertino Municipal Code is hereby amended as set forth in Attachment A.

SECTION 2: Severability and Continuity.

The City Council declares that each section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance. If any section, sub-section, paragraph, sub-paragraph, sentence, clause or phrase of this ordinance is held invalid, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, the City Council declares that it would have adopted the remaining provisions of this ordinance irrespective of such portion, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated. To the extent the provisions of this Ordinance are substantially the same as previous provisions of the Cupertino Municipal Code, these provisions shall be construed as continuations of those provisions and not as an amendment to or re-adoption of the earlier provisions.

SECTION 3: California Environmental Quality Act.

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This Ordinance is not a project under the requirements of the California Environmental Quality Act, 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 Ordinance 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, the proposed action to regulate the use of single-use foodware by food providers would have no or only a de minimis effect on the environment because reducing disposable plastic foodware items such as straws, utensils, and stirrer sticks and having compostable alternatives offered only upon request and other provisions of the ordinance would not have the potential for causing a significant effect on the environment. The foregoing determination is made by the City Council in its independent judgment.

SECTION 4: Effective Date.

This Ordinance shall take effect thirty days after adoption as provided by Government Code Section 36937.

SECTION 5: Publication.

The City Clerk shall give notice of adoption of this Ordinance as required by law. Pursuant to Government Code Section 36933, a summary of this Ordinance may be prepared by the City Clerk and published in lieu of publication of the entire text. The City Clerk shall post in the office of the City Clerk a certified copy of the full text of the Ordinance listing the names of the City Council members voting for and against the ordinance.

INTRODUCED at a regular meeting of the Cupertino City Council on [date] and **ENACTED** at a regular meeting of the Cupertino City Council on [date] by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

Ordinance No. _____

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ABSTAIN:

<p>SIGNED:</p> <p>_____</p> <p>Darcy Paul, Mayor City of Cupertino</p>	<p>_____</p> <p>Date</p>
<p>ATTEST:</p> <p>_____</p> <p>Kirsten Squarcia, City Clerk</p>	<p>_____</p> <p>Date</p>
<p>APPROVED AS TO FORM:</p> <p>_____</p> <p>Christopher D. Jensen, City Attorney</p>	<p>_____</p> <p>Date</p>

Attachment A – AN ORDINANCE OF THE CITY OF CUPERTINO TO REGULATE THE USE AND SALE OF SINGLE-USE FOOD SERVICE WARE AND EXPANDED POLYSTYRENE FOAM PACKING MATERIALS

NOTE: The existing chapter language is quite brief, so for the purposes of readability while under development, existing chapter text is highlighted in gray and the rest shows as plain text.

The sections of the Cupertino Municipal Code set forth below are amended or adopted as follows:

*Text added to existing provisions is shown in bold double-underlined text (**example**) and text to be deleted is shown in strikethrough (~~example~~). Text in existing provisions is not amended or readopted by this Ordinance. Text in italics is explanatory and is not an amendment to the Code.*

Where the explanatory text indicates that a new section is being added to the City Code, the new section is shown in plain text.

This ordinance amends several portions of the Municipal Code. For ease of review, the amendments advancing the primary objective are presented first followed by conforming amendments. There is a separate heading in bold italics for each portion of the Code being amended. Each portion is shown beginning on a separate page.

SECTION 1. ADDITION OF SECTION 9.15.090 CONCERNING THE PURPOSES OF REGULATION OF THE USE AND SALE OF SINGLE-USE FOOD SERVICE WARE AND EXPANDED POLYSTYRENE PACKING MATERIALS

9.15.090 Purpose of Chapter

- A. This chapter is determined and declared to be a health, sanitary, and safety measure for the promotion, protection and preservation of the health, safety and general welfare of the people and environment of the City of Cupertino.
- B. Nonreusable disposable food service ware and beverage packaging - including plates, cutlery, cups, lids, straws, “clamshells” and other containers - are major contributors to street litter, ocean pollution, marine and other wildlife harm, depletion of natural resources, and greenhouse gas emissions.

- C. Plastic litter breaks down into smaller pieces that are not biodegradable, persist in the environment on land and sea, and are present in most of the world's oceans.
- D. Among other hazards, plastic debris attracts and concentrates ambient pollutants, such as endocrine disruptors and persistent organic pollutants, in seawater and freshwater that can transfer to fish, other seafood, and salt that is eventually consumed. Nine of the top ten most common debris items found on beaches in the U.S. during International Coastal Cleanup Day are nonreusable food and beverage packaging items, and eight of them are plastic.
- E. Discharge of litter into waters of the United States is prohibited by the Federal Clean Water Act and the City's stormwater pollution prevention permit as issued by the San Francisco Bay Regional Water Quality Control Board.
- F. Even if allowed by the City of Cupertino's approved recyclables processor as recyclable, nonreusable plastic food service ware is often difficult to recycle after use because it is contaminated with food and grease.
- G. Natural fiber-based food service ware can be diverted from landfill, processed into compost, and breaks down in the environment if littered.
- H. Certain synthetic chemicals known as Per- and Polyfluoroalkyl Substances (PFAS), which are commonly used in disposable food service ware to repel water and grease, pose a public health risk as they have been linked to serious health effects.
- I. Approximately 12,000 chemicals are used in food packaging. Many of the chemical additives used in packaging are known to migrate into food and beverages. Hundreds of these chemicals are known to be hazardous to human health and the environment, and many are extremely persistent and bioaccumulative.
- J. Polystyrene foam food service ware and packaging materials are a distinctive litter concern because they are lightweight, break apart easily, are windblown into streets and waterways, and float in water until it reaches the San Francisco Bay and ocean.
- K. The City of Cupertino intends to reduce solid waste at its source and maximize recycling and composting in accordance with Cupertino's Climate Action Plan, Zero Waste Policy, and stormwater pollution prevention permit.

- L. Reducing disposable packaging by eliminating unnecessary items and transitioning to reusable products provides greater environmental benefits than managing the products that become waste, even when recycled or composted.

SECTION 2. AMENDMENTS TO SECTION 9.15.100 CONCERNING DEFINITIONS

9.15.100 Definitions

For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them by this section, unless the context or the provision clearly requires otherwise:

1. "Beverage Provider" means any business, organization, entity, group, or person that offers liquid, slurry, frozen, semi-frozen, or other forms of beverages to the public for consumption. Beverage Provider also includes any organization, entity, group or person that regularly provides beverages to its members or the general public as a part of its activities or services.
2. "Biodegradable Products Institute (BPI)" refers to a certification program that ensures that products and packaging displaying the BPI logo have been independently tested and verified according to scientifically based standards to successfully break down in professionally managed industrial composting facilities. BPI-certified products meet the standards of the American Society for Testing Materials (ASTM) D6400 or D6868 for compostability. As of January 1, 2020, all BPI-certified products are required to have (1) a limit of 100 parts per million (ppm) total Fluorinated Chemicals as the upper threshold for acceptance and (2) no intentionally added Fluorinated Chemicals.
3. "City" means the City of Cupertino.
4. "City Facility" means any building, structure, or vehicle owned or operated by the City.
5. "City Facility Food Provider" means an entity that provides, but does not sell, Prepared Food in City Facilities.
6. "County" means the County of Santa Clara.
7. "Compostable" means that an item or material is (1) accepted in City's available composting collection program as fully compostable; (2) is listed, described, or referenced on the City's website as compostable; and (3) is certified compostable

by the Biodegradable Product Institute or other third party recognized by the Director.

8. "Contractors and Lessees" means any person or entity that has a contract with the City of Cupertino for public works or improvements to be performed, for a franchise, concession, or lease of property, for grant monies or goods and services or supplies to be purchased at the expense of the City of Cupertino.
9. "Director" means the City of Cupertino's Director of Public Works or their designee.
10. ~~"Disposable food service ware" means single use disposable products used in the restaurant and food service industry for serving prepared food and includes, but is not limited to, plates, trays, cups, bowls, and hinged or lidded containers (clamshells). "Disposable food service ware" does not include straws, utensils, drink lids, or ice chests.~~
11. "Distribute" means the sale, offer for sale, or other transfer of possession of an item for compensation, either as a separate transaction or as part of the sale, offer for sale, or other transfer of possession of another item for compensation.
12. "Fluorinated Chemical" means a class of fluorinated organic compounds containing at least one fully fluorinated carbon atom, also known as per- and polyfluoroalkyl substances, or PFAS chemicals.
13. "Food Container" means a container, bowl, plate, tray, or other vessel used to hold Prepared Food.
14. "Food Provider" means any establishment, provider, Non-Profit Vendor, or business, operating within the City that sells Prepared Food (1) to the public for consumption on or off its premises, at a catered event, and/or (2) at cafeterias, schools and places of employment, whether or not such establishments are open to the general public. Food Provider includes but is not limited to, restaurants, retail food establishments, caterers, cafeterias, stores, shops, retail sales outlets, grocery stores, delicatessens serving the public, mobile or temporary food providers, vehicles or carts, or roadside stands.
15. "Food Service Ware" means any products used for serving or consuming prepared food and includes, but is not limited to, cups, bowls, plates, trays, cartons, boxes, wrapper or liners, hinged or lidded containers (clamshells), and other items used as part of food or beverage service or in which Prepared Food is placed or packaged on a Prepared Food Provider's premises.

16. "Food Service Ware Accessory" means any type of accessory or accompanying items usually provided alongside Prepared Food in plates, containers, bowls, or cups, including but not limited to utensils, chopsticks, napkins, cup lids, cup sleeves, food or beverage trays, condiment packets and saucers, straws, stirrers, splash sticks, spill plugs, cocktail sticks, and toothpicks.
17. "Food vendor" means any establishment located in the City of Cupertino that sells or otherwise provides Prepared Food for consumption on or off its premises, and includes, but is not limited to, any shop, sales outlet, restaurant, bar, pub, coffee shop, cafeteria, caterer, convenience store, liquor store, grocery store, supermarket, delicatessen, mobile food truck, vehicle or cart, or roadside stand.
18. "Large Event" means any indoor event at a City facility, or any outdoor event subject to a City permit, where more than 100 people attend or participate.
19. "Large Event Food Provider" means any business selling or providing based on ticket purchase or entrance fee, Prepared Food at a Large Event.
20. "Large Event Producer" means a person or entity who contracts with or obtains a permit from the City, or an agent acting on the City of Cupertino's behalf to hold its own Large Event, or City of Cupertino staff holding a Large Event.
21. "Natural Fiber" means a plant-based, non-synthetic fiber, including but not limited to paper, wood, or bamboo. Natural Fiber does not include plastic of any kind.
22. "Nonreusable" means not meeting the definition of Reusable in these definitions.
23. "Packing Material" means material used to hold, cushion, or protect items packed in a container for shipping, transport, or storage.
24. "Person" means an individual, trust, firm, joint stock company, corporation including a government corporation, partnership, or association.
25. "Per- and Polyfluoroalkyl Substances" means, for the purposes of food packaging, a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.
26. "Polystyrene" means a thermoplastic petrochemical material utilizing a styrene monomer, including but not limited to rigid polystyrene or expanded polystyrene,

processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, expanded polystyrene molding, extrusion-blown molding (extruded polystyrene), and clear or solid polystyrene (oriented polystyrene). Polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, and egg cartons. The resin code for Polystyrene is '6' or 'PS,' either alone or in combination with other letters. This definition applies to all polystyrene food service ware, regardless of whether it exhibits a resin code.

~~27. "Polystyrene foam" means a thermoplastic petrochemical material made from a styrene monomer and expanded or blown using a gaseous agent (expanded polystyrene) including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion blow molding (extruded foam polystyrene). "Polystyrene foam" is commonly made into disposable food service ware products. "Polystyrene foam" does not include clear or solid polystyrene (oriented polystyrene).~~

~~28. "Prepared Food" means food or beverages that are packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared on the premises. "Prepared food" does not include:~~

~~a. Any raw, uncooked meat products, fruits, or vegetables, unless it is intended for consumption without further preparation; or~~

~~b. Prepackaged food that is delivered to the food vendor wholly encased, contained or packaged in a container or wrapper, and sold or otherwise provided by the food vendor in the same container or packaging.~~

27. "Prepared food" means food or beverages that are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared on the premises of a food provider for consumption, including, but not limited to, ready-to-eat, dine-in, take-out or complimentary food or beverage. "Prepared food" does not include: (1) raw eggs and raw, butchered meat, fish or poultry that is sold from a butcher case or a similar retail method; (2) prepackaged food that is delivered to the food provider wholly encased, contained or packaged in a container or wrapper, and sold or otherwise provided by the food provider in the same container or packaging; or (3) nonpolystyrene foam prepackaged items prepared on-site, which are not made to order and sold as "grocery items."

28. "Raw Food" means any uncooked meat, fish, poultry, vegetable, fruit, or egg.

29. "Recyclable" means material that can be sorted, cleansed, and reconstituted and accepted by the City's available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. The term does not include material that will be burned, incinerated, or converted through gasification, pyrolysis, solvolysis, hydrolysis, methanolysis, enzymatic breakdown or a similar chemical conversion process used to transform materials into plastic monomers, chemicals, waxes, lubricants, chemical feedstocks, crude oil, diesel, gasoline, or home heating oil.
30. "Reusable Food Service Ware" means all food service ware, including plates, bowls, cups, trays, glasses, straws, stirrers, condiment cups and utensils, that is manufactured of durable materials and that is specifically designed and manufactured to be washed and sanitized and to be used repeatedly over an extended period of time, and is safe for washing and sanitizing according to applicable regulations.
31. "Standard Condiments and Spices" means relishes, spices, sauces, confections, or seasonings that require no additional preparation and that are usually used on a food item after preparation, including ketchup, mustard, mayonnaise, soy sauce, hot sauce, salsa, salt, pepper, sugar, and sugar substitutes or others as determined by the City.
32. "State" means the State of California.
33. "Takeout Food" means Prepared Food requiring no further preparation, which is purchased to be consumed off a Prepared Food Facility's premises. Takeout Food includes Prepared Food delivered by a Food Facility or by a third-party Takeout Food Delivery Service.
34. "Takeout Food Delivery Service" is a service that delivers Takeout Food from a Food Facility to a customer for consumption off the premises. This service can be provided directly by the Food Facility or by a third-party.
35. "Third Party Food Delivery Platform" means a business engaged in the service of online food ordering and/or delivery from a Prepared Food Provider to a consumer.

SECTION 3. AMENDMENTS TO SECTION 9.15.110 CONCERNING REGULATION OF FOOD SERVICE WARE USED BY FOOD PROVIDERS AND SOLD BY RETAILERS

9.15.110 ~~Polystyrene Foam Disposal Food Service Ware Prohibited~~ Regulation of Food Service Ware Used by Food Providers and Sold by Retailers

~~No food vendor shall sell or otherwise provide prepared food in polystyrene foam disposable food service ware on or after July 1, 2014.~~

A. ACCESSORIES ONLY UPON CUSTOMER REQUEST

Effective 6/1/2022

1. Food Providers shall provide Nonreusable Food Service Ware Accessories and Standard Condiments in single serve packets only upon request by customers during on-premises dining or when using a third-party food delivery platform. Nonreusable Food Service Ware Accessories and Standard Condiments packaged for single use provided by Prepared Food Providers for use by consumers shall not be bundled or packaged in a manner that requires a consumer to take a different type of Nonreusable Food Service Ware Accessory or Standard Condiment
2. Self-serve accessory stations are prohibited.
3. Food Providers and Beverage Providers, as well as City facilities, City-managed concessions, City-sponsored events, and City-permitted events, may plastic straws as an accommodation to people with disabilities who request them to enjoy equal access to food and beverage services within the City.
4. Prepared Food Providers offering Standard Condiments and Spices are encouraged to use dispensers or bulk containers rather than pre-packaged individual serving packets.
5. Takeout Food Delivery Services that utilize digital ordering/point of sale platforms, including but not limited to the internet and smart-phone, shall only offer Disposable Food Service Ware Accessories by providing clear options for customers to affirmatively request these items separate from orders for food and beverages. The default option on the digital ordering/point of sale platforms shall be that no Disposable Food Service Ware Accessories are requested. Each individual Disposable Food Service Ware Accessory (e.g., each fork, knife, condiment packet, napkin, etc.) provided with Prepared Food must be specifically requested by the customer in order for a Food Facility to provide it.
6. A Prepared Food Provider may ask a drive-through consumer if the consumer wants a Nonreusable Food Service Ware Accessory if the Nonreusable Food

Service Ware Accessory is necessary for the consumer to consume ready-to-eat food, or to prevent spills of or safely transport ready-to-eat food.

7. For delivery orders, Prepared Food Providers may choose to include specific accessories, such as cup lids, spill plugs, and trays, in order to prevent spills and deliver food and beverages safely.

B. USE OF NON-COMPLIANT FOOD SERVICE WARE PROHIBITED

Effective 6/1/2023

1. Prepared Food or Beverage Providers, including City Facility Prepared Food Providers, and City Contractors and Lessees may not sell, offer for sale, or otherwise Distribute Prepared Food prepared or packaged in Cupertino using:
 - a. Nonreusable Food Service Ware or Food Ware Accessories made, in whole or in part, from Polystyrene Foam;
 - b. Nonreusable Food Service Ware made, or Food Ware Accessories made, in whole or in part, from plastic including polyethylene, polyethylene terephthalate, polypropylene, polystyrene, even if accepted as recyclable by the City's approved recyclables processing facility;
 - c. Nonreusable Food Service Ware or Food Ware Accessories that are Compostable and not certified free of Fluorinated Chemicals by an independent third-party certifying organization approved by the Director;
 - d. Nonreusable Food Service Ware or Food Ware Accessories made in whole or in part from bio- or plant-based or other "compostable" plastic even if labeled or certified as compostable.
2. The Director may adopt a list, or reference an approved list, of suitable alternative Compostable or Recyclable Nonreusable Food Service Ware products, which means Nonreusable Food Service Ware products that the Director determines serve the same intended purpose as non-compliant products, meet the standards for what is Compostable and/or Recyclable under this Chapter, and are reasonably affordable. If a product is not included on the Director's list or referenced on an approved list, the person using the product as Nonreusable Food Service Ware will have the burden of establishing to the Director's satisfaction that the product complies with this Section.
3. It shall not be a violation of this Section to sell, provide, or purchase Prepared Food or Raw Food or Beverage packaged in Nonreusable Food Service Ware otherwise prohibited by subsection (1) if the Prepared Food or Raw Food or Beverage is

packaged outside the City and is sold or otherwise provided to the consumer in the same Nonreusable Food Service Ware in which it originally was packaged. Businesses packaging Prepared Food outside the City are encouraged to use Nonreusable Food Service Ware that is Compostable or Recyclable, is Compostable and free of Fluorinated Chemicals, and is not made, in whole or in part, from Polystyrene.

C. REUSABLE FOOD SERVICE WARE FOR DINING ON PREMISES

Effective 6/1/2023

1. Prepared Food served for consumption on the Prepared Food Provider's premises shall be served only on Reusable Food Service Ware, except that disposable paper food wrappers, sleeves, and bags, foil wrappers, paper napkins, paper tray and plate liners, and straws shall be permitted, so long as they meet the requirements set forth elsewhere in this Chapter.
2. Condiments, such as sauces, ketchup, or mustard, provided for on-site consumption, shall not be served in disposable, individual-serving packets.
3. Consumption is considered on-premises if it takes place at tables and/or seating provided by the Prepared Food Provider either on its own or in conjunction with another Prepared Food Provider.
4. New building permits and new or renewed business licenses for Food Service Providers applied for, and/or deemed complete after 6/1/2023 shall only be granted to Prepared Food Providers that can demonstrate adequate capacity to comply with subsection (C.1) herein.
5. This requirement does not prohibit a Prepared Food Provider from providing, upon a customer's request, Nonreusable Food Service Ware compliant with subsection (B.1) for the customer to take away leftover Prepared Food after dining on the premises.
6. Prepared Food Providers subject to the requirements of subsection (C.1) that do not have onsite or off-site dishwashing capacity, or are unable to contract for services to wash, rinse, and sanitize Reusable Food Service Ware, in order to comply with applicable provisions of the California Health and Safety Code, may petition the Director for an exemption or extension under 9.15.120.

D. SALE OR DISTRIBUTION OF NON-COMPLIANT FOOD SERVICE WARE PROHIBITED

Effective 6/1/2023

1. No Person may sell, offer for sale, or otherwise Distribute within the City any Nonreusable Food Service Ware prohibited under Section B.1.a. or B.1.d.
2. Per Section B.3, the Director may adopt, maintain, or reference a list of compliant products.

SECTION 4. AMENDMENTS TO SECTION 9.15.120 CONCERNING EXEMPTIONS

- A. A Food ~~vendor~~ Provider may seek an exemption from the requirements under Section 9.15.110 due to a "unique packaging hardship" under Subsection B of this section, "unused inventory" under Subsection C of this section, "significant economic hardship" under Subsection D, or request a temporary exemption to request extra time for compliance under Subsection E.
- B. The Food ~~vendor~~ Provider must demonstrate that no reasonably feasible alternative exists for ~~to~~ a specific and necessary prohibited nonreusable food service ware item to qualify for a "unique packaging hardship" exemption.
- C. The Food ~~vendor~~ Provider must demonstrate that before ~~January 1, 2014~~ [new effective date of this ordinance], it purchased the prohibited ~~polystyrene foam~~ food service ware, which cannot be returned to the distributor and, despite the food vendor's best efforts, will remain in inventory on ~~July 1, 2014~~ [date], to qualify for an "unused inventory" exemption.
- D. The Food Provider must demonstrate that the provisions of this Chapter would cause significant economic hardship. "Significant economic hardship" may be based on, but not limited to, demonstrating that suitable Nonreusable Food Service Ware is not available at a commercially reasonable price and the additional cost associated with providing the Disposable Food Service Ware is particularly burdensome to the Food Facility based on the type of operation(s) affected, the overall size of the business/operation, the number, type and location of its facilities, the impact on the overall financial resources of the Food Facility, and other factors. Reasonable added cost for a suitable item as compared to a similar item that the Food Facility can no longer use shall not by itself constitute adequate grounds to support an exemption for such item. In determining whether a significant economic hardship has been established, the Director shall consider the following information: ability of the Food Facility to recover the additional expense by increasing its prices; the availability of tax credits and deductions; outside funding; and other options.

- E. The Food Provider must demonstrate that for other reasons not already stated it needs additional time to comply with the provisions of this Chapter.
- F. ~~The Food vendor Provider may submit a written application for an exemption on a form provided by to the Environmental Programs Division. The Director of Public Works (“Director”) may require the applicant to submit additional information or documentation to make a determination regarding the exemption request. A request for exemption shall be reviewed on a case by case basis, and may be granted in whole or in part, with or without conditions, for a period of up to six (6) months or to January 1, 2015, whichever comes first one year one year. The determination of the Director shall be final and is not subject to appeal.~~
- G. Prepackaged Food delivered from outside the City is exempt from the provisions of this Chapter.
- H. Disposable Food Service Ware that is entirely Aluminum Foil-based including, but not limited to, aluminum trays, aluminum foil wrappers and aluminum foil baskets is exempt from the provisions of this Chapter.
- I. Temporary exemptions due to an emergency are automatic without the submission of a request for an exemption. An emergency is defined as a sudden, unexpected occurrence posing a clear and imminent danger that requires immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. Examples of an emergency include, but are not limited to natural disasters, emergencies due to the release of hazardous materials, emergencies associated with loss of power and/or water, or emergency medical response.

SECTION 5. ADDITION OF NEW SECTION 9.15.125 CONCERNING RECORDKEEPING AND INSPECTION

9.15.125 Recordkeeping and inspection.

- A. Food Providers shall keep complete an accurate record or documents of the purchase of Nonreusable Food Service Ware evidencing compliance with this Chapter.
- B. The record shall be made available for inspection at no cost to the City during regular business hours by city employees or city-designated staff authorized to enforce this Chapter. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be made available at the Food Provider address.

- C. The provision of false or incomplete information, records or documents to the city shall be a violation of this Chapter.

SECTION 5. AMENDMENTS TO SECTION 9.15.130 CONCERNING ADMINISTRATIVE CITATIONS AND FINES

9.15.130 Administrative citations and fines.

(a) Grounds for an administrative citation. An administrative citation may be issued upon findings made by the City Manager, or his or her designee, ~~when any person or food vendor has provided EPS foam food service ware to a customer or for violation ed~~ of any ~~other~~ provision of this Chapter.

(b) Administrative citation fine amounts. Upon findings made under subsection (a), the person or food vendor shall be subject to an administrative citation pursuant to Chapter 1.10 of this Code. Fines for the administrative citation are as follows:

(1) First citation: One hundred dollars (\$100.00).

(2) Second citation for the same violation within the same twelve month period: Two hundred dollars (\$200.00)

(3) Third or any subsequent citation for the same violation within the same twelve month period: Five hundred dollars (\$500.00)

(4) Each day that any person or food vendor violates the provisions of this ~~Chapter~~ is a new and separate violation ~~occurs~~.

(c) Administrative citation appeals and disposition shall be processed in accordance with Chapter 1.10 of this Code.

Attachment D

Food Service Ware Price Comparison

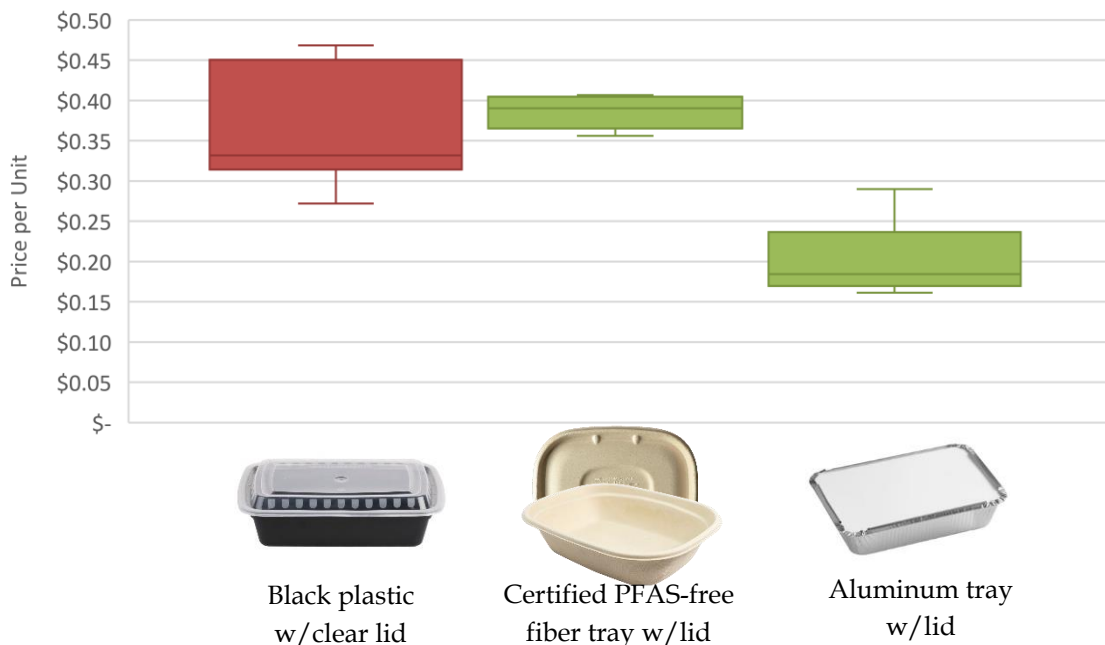
This document contains data and graphics gathered and created by staff at the City of Mountain View in Fall 2021. Follow-up research by City of Cupertino staff showed current pricing largely unchanged. We thank the City of Mountain View for sharing this research work.

This document compares the typical per-item price range of commonly used disposable food service ware items. While this is not an exhaustive price survey, it provides preliminary insight into financial implications of the proposed food service ware regulations on food providers. While traditional plastic cups and containers are currently accepted for recycling in Cupertino, recycling markets for most of these common foodware markets are weak and they may end up contaminating the recycling if they are not empty and wiped clean. Transitioning these items to compostable, fiber-based materials or recyclable aluminum will reduce recycling contamination and landfilled waste. Proposed Single-Use Plastics Ordinance non-compliant items are shown in red and compliant in green.

Box-and-whisker plots divide the data into quartiles. The typical per-item price range is the middle two quartiles, 25th through 75th percentile values of all prices surveyed. The line inside the box is the median. The lines or “whiskers” above and below the bar show the maximum and minimum prices found. The data sets exclude statistical outliers.

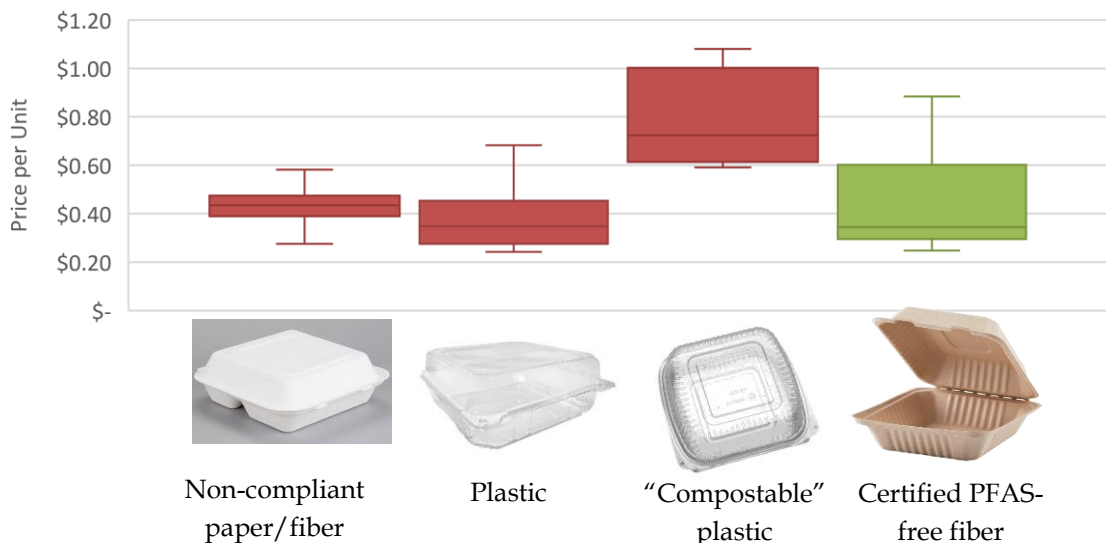
1. Rectangular Tray with Lid (approximately 9"x6")

Black plastic trays with clear lids are a commonly used type of takeout food packaging. As shown, aluminum trays are a cost-effective compliant alternative for this type of container, with significant per-item savings over black plastic.



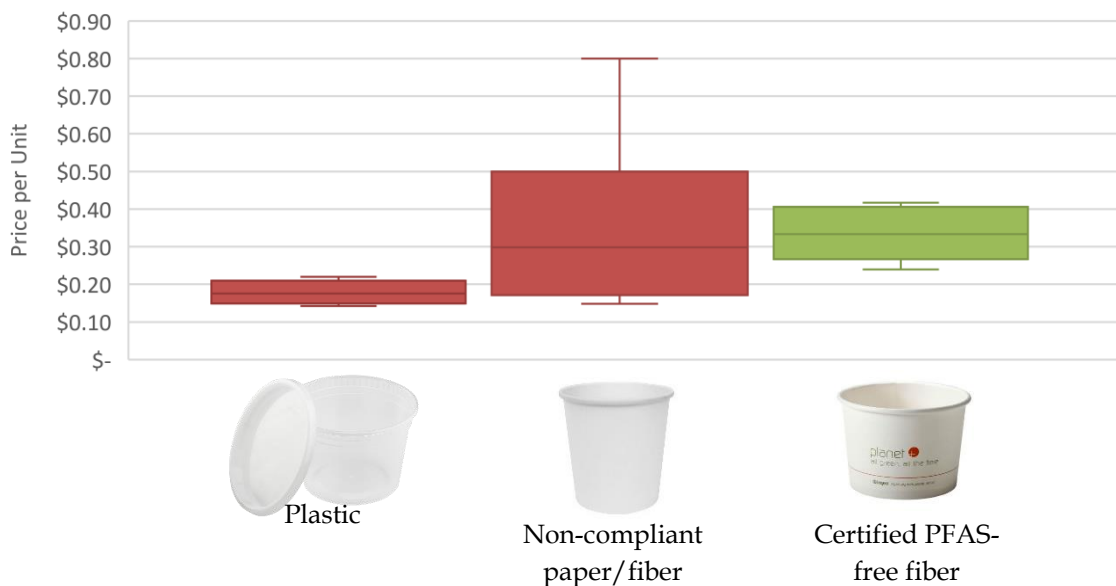
2. Large 9"x9" Hinged Container ("Clamshell")

The median price for certified PFAS-free fiber clamshells is the same as that of plastic, though the typical price ranges differ. Compostable plastic is the most expensive option, so food providers currently using these items will save money by switching to compliant fiber-based alternatives.



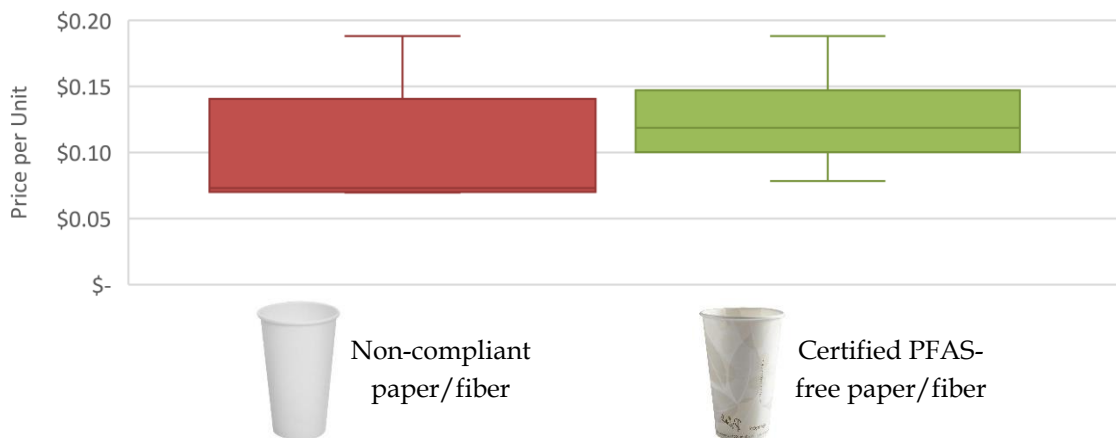
3. Food Containers/Soup Cups (16 oz)

These products are often used to hold soups and other hot, liquid-based items for takeout orders. In this category, plastic containers were significantly cheaper than compliant alternatives, meaning food vendors will likely experience increased costs to comply with the proposed Single-Use Plastics Ordinance regulations.



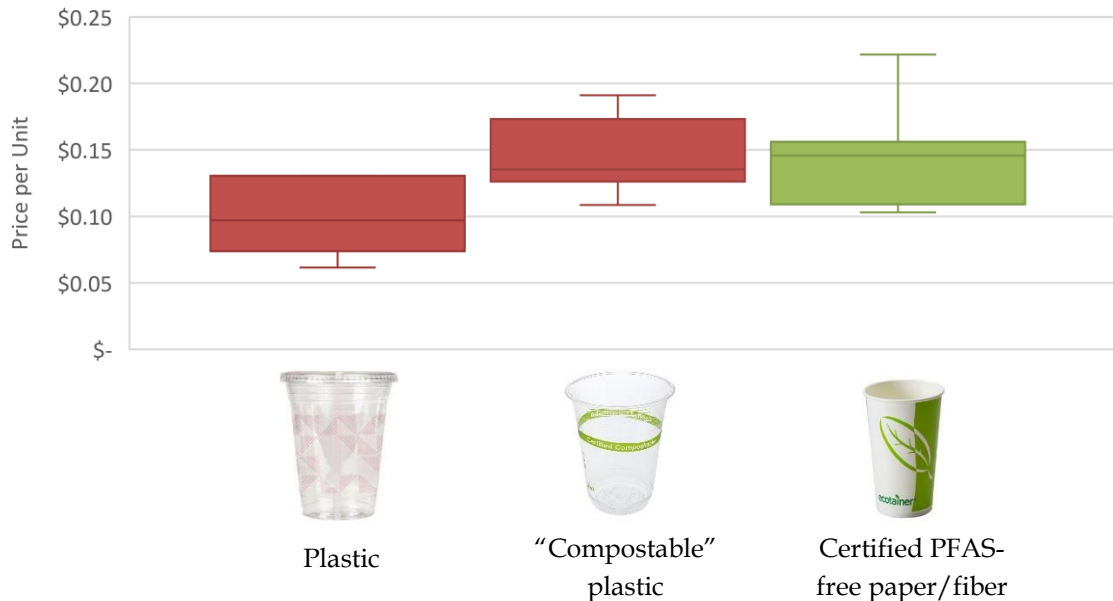
4. Hot Beverage Cups (16 oz)

There are only two primary material types for hot beverage cups: paper that is not certified as PFAS-free, and certified PFAS-free paper or fiber. While certified options are slightly more expensive, many of the cheaper non-compliant products may no longer be allowed when California's PFAS ban takes effect in 2023.



5. Cold Beverage Cups (16 oz)

Cold cups are available in both plastic and fiber options. Under the proposed Single-Use Plastics Ordinance, clear plastic cups will no longer be allowed. Food providers are likely to encounter increased costs in transitioning cold cups to compliant fiber-based options unless they currently use compostable plastic.



Overall trends:

- The impacts of switching to compostable, certified PFAS-free or recyclable aluminum disposable food service ware is likely to be a mix of cost increases and cost savings, depending on the specific foodware item and compliant alternatives.
- Compostable plastic is the most expensive option for many products. Businesses using compostable plastic can save money switching to compliant fiber items.
- This research revealed large variation in price for the same products across different distributors, so food providers should obtain quotes from multiple distributors when searching for compliant food service ware items.
- Confusing labelling and “greenwashing” of non-compliant plastic and fiber products makes it more complicated for food vendors to identify compliant products. For example, some petroleum-based plastic items are labelled “eco-friendly” since they use less plastics than similar products or contain recycled material, but they are not compliant with the proposed ordinance.



CITY OF CUPERTINO

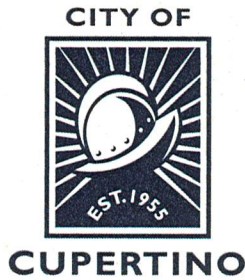
Agenda Item

22-10400

Agenda Date: 3/1/2022
Agenda #: 1.

Subject: Proclamation declaring March as Youth Arts Month on behalf of those who advocate for art education to all elementary, middle and secondary students

Present proclamation declaring March as Youth Arts Month on behalf of those who advocate for art education to all elementary, middle and secondary students



Proclamation

WHEREAS, The City of Cupertino is committed to supporting the arts, in part, in furtherance of the goals of inspiring and preparing students for success in the 21st century, and of helping our youth to develop as productive, contributing members of a strong community;

WHEREAS, Along with the Santa Clara County Office of Education, we share the vision of ensuring that students have access to a high-quality arts education that is culturally relevant and inclusive in all forms as part of a comprehensive education that sparks curiosity, imagination, creativity, and joy;

WHEREAS, The month of March is recognized as Youth Art Month in the State of California, and is an annual celebration to emphasize the value of art education for all children while encouraging support for art programs in schools;

WHEREAS, Arts-learning strategies and arts integration help teachers to recognize and build upon critical thinking skills, curiosity, flexibility, communication, innovation, and collaboration, and are traits required for post-secondary and workplace success;

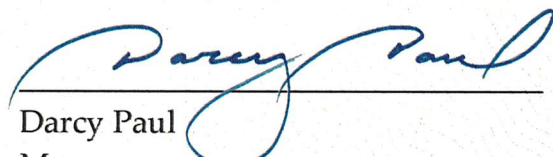
WHEREAS, Each March, art education is celebrated in local schools, school districts, community arts organizations, and larger communities to increase support, understanding, and interest in art education.

THEREFORE, I, Mayor Darcy Paul, and the Cupertino City Council do hereby Proclaim the month of March in the City of Cupertino as:

Youth Arts Month

to support, encourage, and advocate for art education in our local classrooms and to celebrate the creativity, inspiration, and joy of our youth through artistic expression.

IN WITNESS THEREOF, I have hereunto set my hand and caused the seal of the City of Cupertino to be affixed this Tuesday, March First, Two Thousand and Twenty Two.


Darcy Paul
Mayor



CITY OF CUPERTINO

Agenda Item

22-10486

Agenda Date: 3/1/2022
Agenda #: 2.

Subject: Proclamation proclaiming March as American Red Cross Month and presentation from the American Red Cross regarding local activities

Present proclamation proclaiming March as American Red Cross Month and receive presentation from the American Red Cross regarding local activities



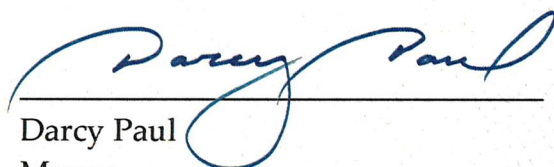
Proclamation

- WHEREAS, In the City of Cupertino, the American Red Cross has a long history of helping our neighbors in need as the organization's dedication has touched millions of lives each year;
- WHEREAS, March is American Red Cross Month, a special time to honor the kindness of Red Cross volunteers and donors who give their time and resources to help families and members of the community;
- WHEREAS, During the continuously trying times of the past year and ongoing COVID-19 pandemic, more people have stepped up to help those in need, as families across Cupertino and the United States have relied on volunteers for blood donations, food, lodging, and more;
- WHEREAS, We applaud our heroes here in the City of Cupertino who aid the American Red Cross as they shelter, feed, and provide emotional support to victims of disasters; supply about 40 percent of the nation's blood; teach skills that save lives; provide international humanitarian aid; and support military members and their families;
- WHEREAS, The City of Cupertino dedicates the month of March to all those who give to and support the American Red Cross in its mission to care for people in need, especially during this challenging time.
- THEREFORE, I, Mayor Darcy Paul, and the Cupertino City Council do hereby Proclaim March 2022 as

American Red Cross Month

in the City of Cupertino, and we encourage the residents of our City and all Americans to support this organization and its noble humanitarian mission.

IN WITNESS THEREOF, I have hereunto set my hand and caused the seal of the City of Cupertino to be affixed this Tuesday, March First, Two Thousand and Twenty Two.



 Darcy Paul
 Mayor



CITY OF CUPERTINO

Agenda Item

21-10215

Agenda Date: 3/1/2022
Agenda #: 3.

Subject: Brief reports on councilmember activities and brief announcements

Receive brief reports on councilmember activities and brief announcements



CITY OF CUPERTINO

Agenda Item

21-10226

Agenda Date: 3/1/2022
Agenda #: 4.

Subject: Report on Committee assignments

Report on Committee assignments



CITY OF CUPERTINO

Agenda Item

21-10237

Agenda Date: 3/1/2022
Agenda #: 5.

Subject: City Manager update

Receive City Manager update on emergency response efforts and other City business



CITY OF CUPERTINO

Agenda Item

22-10417

Agenda Date: 3/1/2022
Agenda #: 6.

Subject: Approve the February 15 City Council minutes

Approve the February 15 City Council minutes



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, February 15, 2022

SPECIAL MEETING

At 5:30 p.m., Mayor Darcy Paul called the Special City Council Meeting to order. This was a teleconference meeting with no physical location.

ROLL CALL

Present: Mayor Darcy Paul, Vice Mayor Liang Chao, and Councilmembers Kitty Moore, Hung Wei, and Jon Robert Willey. Absent: None. All Councilmembers teleconferenced for the meeting.

COUNCIL WORKSHOP

1. Subject: Commissions and Committees Workshop
Recommended Action: Conduct Commissions and Committees Workshop and provide direction to staff
Presenter: Katy Nomura, Deputy City Manager

Written Communications for this item included a staff presentation.

Deputy City Manager Katy Nomura gave a presentation.

Mayor Paul opened the public comment period and the following people spoke.

Jennifer Griffin opposed dissolving or consolidating the Environmental Review Committee (ERC) or Design Review Committee (DRC). (Submitted written comments).

Jean Bedord was concerned about staff time spent on Commissions and Committees and consultant costs and supported streamlining the commissions. (Submitted written comments).

Housing Commissioner Govind Tatachari (representing self) supported expanding the Housing scope to review new housing projects including affordable housing.

Lisa Warren supported maintaining the ERC and DRC and expanding the scope of the Committees.

Peggy Griffin supported maintaining ERC and DRC but removing staff, a Safe Routes Committee, increasing Audit Committee meeting frequency, and other modifications.

Mayor Paul closed the public comment period.

Councilmembers asked questions and made comments.

Paul moved and Willey seconded to:

1. direct staff to prepare a proposed codification of the Economic Development Committee in the Municipal Code, with membership comprised of two members of the City Council and three members from the community representing retail hospitality and the technology industry;
2. prepare a modification to the Municipal Code regarding the Environmental Review Committee, to be comprised of two members of the City Council and one member of the Planning Commission, and refer to the Committee the question of what scope of subject matter they would like to review and bring an update of the latter back to Council;
3. refer to the Planning Commission, the question of what scope of potential subject matter related to transportation it could review;
4. provide options for an expansion of the Audit Committee following referral of the question to a Council Subcommittee formed, comprised Vice Mayor Chao and Councilmember Moore, and bring an update back to Council;
5. refer to the Housing Commission, the question of what scope of subject matter it has been undertaking and what subject matter it would like to review and bring an update back to Council.

Moore made a friendly amendment to appoint Mayor Paul to serve on the Subcommittee instead of Councilmember Moore. (Paul and Willey accepted the friendly amendment); Paul modified his motion to add, "and include consideration of social services" to item 5. (Willey accepted the modification).

Final Motion

Paul moved and Willey seconded to direct staff to:

1. prepare a proposed codification of the Economic Development Committee in the Municipal Code, with membership comprised of two members of the City Council and three members from the community representing retail hospitality and the technology industry;

2. prepare a modification to the Municipal Code regarding the Environmental Review Committee, to be comprised of two members of the City Council and one member of the Planning Commission, and refer to the Committee the question of what scope of subject matter they would like to review, and bring an update of the latter back to Council;
 3. refer to the Planning Commission, the question of what scope of potential subject matter related to transportation it could review;
 4. provide options for an expansion of the Audit Committee following referral of the question to a Council Subcommittee formed tonight, comprised of Mayor Paul and Vice Mayor Chao, and bring an update back to Council; and
 5. refer to the Housing Commission, the question of what scope of subject matter it has been undertaking and what subject matter it would like to review, and include consideration of social services, and bring an update back to Council.
- The amended motion carried unanimously.

ADJOURNMENT

At 6:44 p.m., Mayor Paul adjourned the Special City Council Meeting.

REGULAR MEETING

At 6:45 p.m. Mayor Darcy Paul called the Regular City Council Meeting to order. This was a teleconference meeting with no physical location.

ROLL CALL

Present: Mayor Darcy Paul, Vice Mayor Liang Chao, and Councilmembers Kitty Moore, Hung Wei, and Jon Robert Willey. Absent: None. All Councilmembers teleconferenced for the meeting.

CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Proclamation supporting United Nations Human Rights Council resolution recognizing access to a healthy and sustainable environment as a universal right
Recommended Action: Present proclamation supporting United Nations Human Rights Council resolution recognizing access to a healthy and sustainable environment as a universal right

Students Vansh Mathur and Caroline Cheng, on behalf of Cupertino High School Model United Nations, and District Director Tom Pyke, on behalf the Office of Congressman Ro Khanna, received the presentation.

Mayor Paul presented the proclamation supporting United Nations Human Rights Council resolution recognizing access to a healthy and sustainable environment as a universal right.

2. Subject: Presentation by Captain Rich Urena of the Santa Clara County Sheriff's Department regarding public safety
Recommended Action: Receive presentation by Captain Rich Urena of the Santa Clara County Sheriff's Department regarding public safety

Written Communications for this item included a sheriff presentation.

Captain Rich Urena gave a presentation.

Mayor Paul opened the public comment period and the following people spoke.

Lisa Warren supported the presentation and asked questions about PERT (Psychiatric Emergency Response Team) training and texting 911 calls.

Peggy Griffin asked about the location accuracy of 911 calls from a cell phone, monthly statistic postings on Nextdoor, and contact information about ransomware crimes.

Housing Commissioner Govind Tatachari (representing self) asked about the PERT team covering responses to schools and colleges.

Mayor Paul closed the public comment period.

Councilmembers asked questions and made comments.

Council received the presentation by Captain Rich Urena of the Santa Clara County Sheriff's Department regarding public safety.

Council recessed from 7:46 p.m. to 7:52 p.m.

POSTPONEMENTS AND ORDERS OF THE DAY - None

ORAL COMMUNICATIONS

Jennifer Griffin was concerned about the Housing Element number calculations in cities and rezoning areas for high density housing and supported a study session on these topics.

Lisa Warren requested project updates on Westport, Lawrence-Mitty Park, and Vallco and

supported Council consideration of a vacancy tax.

Louise Saadati supported Council highly prioritizing more Dogs Off Leash Areas (DOLAs) in the 2022-23 City Work Program.

Tony Alexander supported the community benefits of DOLAs and expanding to other areas of the City.

Mary Ellen Chell supported allowing more DOLAs and creating more trails in the City.

Peggy Griffin supported project updates including Mary Avenue ELI and County housing at the Outback site, considering a vacancy tax, and addressing pavement cuts in Cupertino.

REPORTS BY COUNCIL AND STAFF (10 minutes)

- Subject: Brief reports on councilmember activities and brief announcements
Recommended Action: Receive brief reports on councilmember activities and brief announcements

Council received brief reports on councilmember activities and brief announcements.

- Subject: Report on Committee assignments
Recommended Action: Report on Committee assignments

Councilmembers highlighted the activities of their various committees.

- Subject: City Manager update
Recommended Action: Receive City Manager update on emergency response efforts and other City business

Council received the City Manager update on emergency response efforts, development projects, and other City business.

CONSENT CALENDAR (Items 6-17)

Willey moved and Wei seconded to approve the items on the Consent Calendar except for Item Nos. 13 which was pulled for discussion. Ayes: Paul, Chao, Moore, Wei, and Willey. Noes: None. Abstain: None. Absent: None.

- Subject: Approve the January 24 City Council minutes
Recommended Action: Approve the January 24 City Council minutes

7. Subject: Approve the January 27 City Council minutes
Recommended Action: Approve the January 27 City Council minutes
8. Subject: Approve the February 1 (Commission Interviews) City Council minutes
Recommended Action: Approve the February 1 (Commission Interviews) City Council minutes
9. Subject: Approve the February 1 City Council minutes
Recommended Action: Approve the February 1 City Council minutes
10. Subject: Approve the February 7 City Council minutes
Recommended Action: Approve the February 7 City Council minutes
11. Subject: Consider adopting a resolution authorizing continued remote teleconference meetings of the legislative bodies of the City of Cupertino for the period February 15, 2022 through March 16, 2022 pursuant to the Brown Act, as amended by AB 361
Recommended Action: Adopt Resolution No. 22-025 authorizing continued remote teleconference meetings of the legislative bodies of the City of Cupertino for the period February 15, 2022 through March 16, 2022 pursuant to the Brown Act, as amended by AB 361
12. Subject: Consider Planning Commission's recommendation to select Steven Scharf as the Environmental Review Committee representative
Recommended Action: Accept Planning Commission's recommendation to select Steven Scharf as the Environmental Review Committee representative
13. Subject: Consider Accounts Payable for the period ending January 10, 2022
Recommended Action: Adopt Resolution No. 22-026 accepting Accounts Payable for the period ending January 10, 2022

Councilmembers asked questions and made comments.

Mayor Paul opened the public hearing and, seeing no one, closed the public comment period.

Council unanimously consented to table this item to a future meeting pending staff provisions of materials and answers to Councilmember questions.

14. Subject: Consider Accounts Payable for the period ending January 17, 2022
Recommended Action: Adopt Resolution No. 22-027 accepting Accounts Payable for

the period ending January 17, 2022

15. Subject: Consider Accounts Payable for the period ending January 24, 2022
Recommended Action: Adopt Resolution No. 22-028 accepting Accounts Payable for the period ending January 24, 2022
16. Subject: Consider Accounts Payable for the period ending January 31, 2022
Recommended Action: Adopt Resolution No. 22-029 accepting Accounts Payable for the period ending January 31, 2022
17. Subject: Consider approval of the Library Commission's recommendation to extend Jing Jing Yang's appointment as the Cupertino Poet Laureate until the end of 2022
Recommended Action: Adopt Resolution No. 22-030 approving the Library Commission's recommendation to extend Jing Jing Yang's appointment as the Cupertino Poet Laureate until the end of 2022

SECOND READING OF ORDINANCES - None

PUBLIC HEARINGS - None

ORDINANCES AND ACTION ITEMS

18. Subject: Options for Acquisition of Lehigh Cement Plant and Quarry by Santa Clara County
Recommended Action: Provide direction to the City Manager and City Attorney to prepare a letter in support of, and otherwise regarding, efforts by Santa Clara County to explore options for the acquisition of the Lehigh Cement Plant and Quarry and the termination of plant and quarry operations
Presenter: Christopher Jensen, City Attorney

Written Communications for this item included a staff presentation and emails to Council.

City Attorney Christopher Jensen gave a presentation.

Mayor Paul opened the public comment period and the following people spoke.

Jennifer Griffin supported the County plan of purchasing the property, a City annexation, referral to Midpen, and addressing floodplain and fire risks.

Lisa Warren supported the recent actions by the County Board of Supervisors and Council sending a letter of support to the Board.

Peggy Griffin supported Council sending a letter of support and looking into land use and flood risk since the property lies within Cupertino's boundaries.

Mayor Paul closed the public comment period.

Councilmembers asked questions and made comments.

Willey moved and Paul seconded to authorize the City Attorney to draft, prepare, and submit a letter of support of Supervisor Simitian and the County's effort to conduct the study for the next 90 days and to incorporate the comments shared by Councilmembers in the discussion within the draft of that letter. The motion carried unanimously.

19. Subject: Consider an update on the Via-Cupertino On-Demand Community Shuttle Pilot Program and proposed grant application: California State Transportation Agency (CalSTA,) Transit and Intercity Rail Capital Program (TIRCP)
Recommended Action: Receive an update on Via-Cupertino ridership since its re-launch on October 19, 2021 and consider authorization of a competitive grant application to CalSTA to fund 50% of shuttle costs in the future
Presenter: Chris Corrao, Senior Transit & Transportation Planner

Written Communications for this item included a staff presentation.

Senior Transit & Transportation Planner Chris Corrao gave a presentation.

Mayor Paul opened the public comment period and the following people spoke.

Jennifer Griffin supported the program plan but was concerned about any mandates attached to accepting the grant.

Peggy Griffin supported adding the El Camino Hospital and Mountain View Caltrain Station destinations and was concerned about wait times.

Mayor Paul closed the public comment period.

Councilmembers asked questions and made comments.

Paul moved and Chao seconded to authorize a competitive grant application to CalSTA to fund 50% of shuttle costs in the future. The motion carried unanimously.

20. Subject: Consider an update on Stevens Creek Boulevard Steering Committee and consideration of the City of Cupertino's participation in the Stevens Creek Boulevard

Transit Vision Study

Recommended Action: Consider approving participation in the Stevens Creek Boulevard Corridor Transit Study to create a cohesive vision for the Stevens Creek Boulevard Corridor, including a study of the potential for transit

Presenter: Chris Corrao, Senior Transit & Transportation Planner

Written Communications for this item included a staff presentation and emails to Council.

Senior Transit & Transportation Planner Chris Corrao gave a presentation.

Mayor Paul opened the public comment period and the following people spoke.

Jennifer Griffin was concerned about MTC and a Complete Streets Program, giving up car traffic lanes, and traffic impacts from Vallco. (Submitted written comments).

Raania Mohsen, on behalf of San Jose Vice Mayor Chappie Jones, recommended Cupertino participation in the proposed Stevens Creek Corridor Transit Vision Study.

Mayor Paul closed the public comment period.

Councilmembers asked questions and made comments.

Willey moved and Wei seconded to approve participation in the Stevens Creek Boulevard Corridor Transit Study to create a cohesive vision for the Stevens Creek Boulevard Corridor, including a study of the potential for transit. Wei made a friendly amendment for the Cupertino study to extend to Foothill Boulevard. (Willey accepted the friendly amendment). Chao made a friendly amendment to add, "preferably not using general purpose travel lanes or adversely impact vehicular capacity on City surface street." (Willey accepted the friendly amendment and Wei declined the friendly amendment and the amendment was not considered). Council did not vote on this motion.

Final Motion:

Chao moved and Paul seconded a substitute motion to approve participation in the Stevens Creek Boulevard Corridor Transit Study to create a cohesive vision for the Stevens Creek Boulevard Corridor, including a study of the potential for transit, with the amendment of preferably not using general purpose travel lanes nor adversely impacting vehicular capacity on City surface street and extending the study to Foothill Boulevard. The substitute motion carried unanimously.

Council unanimously consented to continue the Regular City Council Meeting and consideration of the remaining agenda items to a Special City Council Meeting on Thursday, February 17 at 7:00 p.m.

21. Subject: FY 2021-2022 City Work Program Q2 Update
Recommended Action: Receive FY 2021-2022 City Work Program Q2 Update
Presenter: Katy Nomura, Deputy City Manager

This item was continued to Thursday, February 17 at 7:00 p.m.

ORAL COMMUNICATIONS - CONTINUED (As necessary)

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

This item was continued to Thursday, February 17 at 7:00 p.m.

ADJOURNMENT

At 11:25 p.m., Mayor Paul adjourned the Regular City Council Meeting.

Kirsten Squarcia City Clerk



CITY OF CUPERTINO

Agenda Item

22-10533

Agenda Date: 3/1/2022
Agenda #: 7.

Subject: Approve the February 17 City Council minutes

Approve the February 17 City Council minutes



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Thursday, February 17, 2022

SPECIAL MEETING

At 7:00 p.m., Mayor Darcy Paul called the Special City Council Meeting to order. This was a teleconference meeting with no physical location.

ROLL CALL

Present: Mayor Darcy Paul, Vice Mayor Liang Chao, and Councilmembers Kitty Moore, Hung Wei, and Jon Robert Willey. Absent: None. All Councilmembers teleconferenced for the meeting.

**FEBRUARY 15, 2022 REGULAR MEETING ORDINANCES AND ACTION ITEMS –
CONTINUED**

Council continued the Regular Meeting held on the Tuesday, February 15 for the purposes of hearing, consideration, deliberation, and decisions for Item #21 and Council and Staff Comments and Future Agenda Items.

- 21.** Subject: FY 2021-2022 City Work Program Q2 Update
Recommended Action: Receive FY 2021-2022 City Work Program Q2 Update
Presenter: Katy Nomura, Deputy City Manager

Written Communications for this item included a staff presentation and emails to Council.

Deputy City Manager Katy Nomura gave a presentation.

Mayor Paul opened the public comment period and, seeing no one, closed the public comment period.

Councilmembers asked questions and made comments.

Council received the Fiscal Year (FY) 2021-2022 City Work Program Q2 Update.

ORAL COMMUNICATIONS - CONTINUED (As necessary) – None

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS - CONTINUED

Councilmembers added the following future agenda items.

- look into addressing vacant housing to be rented out and a vacancy property tax (Willey/Moore)
- discuss issues with General Plan language regarding commercial/commercial residential land use designation (Moore/Willey)
- discuss how information is presented on the City website and the user website experience (Chao/Moore)
- conduct an all-commissions chair meeting (Chao/Moore)

ADJOURNMENT

At 8:44 p.m., Mayor Paul adjourned the Special City Council Meeting.

Kirsten Squarcia City Clerk



CITY OF CUPERTINO

Agenda Item

22-10508

Agenda Date: 3/1/2022
Agenda #: 8.

Subject: Consider resignation of Bicycle Pedestrian Commission member Maanya Condamoor and direct staff on filling the unscheduled vacancy

1. Direct staff to initiate a special recruitment and approve the application deadline and interview date for filling the unscheduled vacancy:

- a. Deadline for applications of 4:30 p.m. on Friday, April 15, 2022 and
- b. Applicant interview date of 5:30 p.m., Tuesday, April 26, 2022



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: March 1, 2022

Subject

Consider resignation of Bicycle Pedestrian Commission member Maanya Condamoor and direct staff on filling the unscheduled vacancy.

Recommended Action

1. Direct staff to initiate a special recruitment and approve the application deadline and interview date for filling the unscheduled vacancy:
 - a. Deadline for applications of 4:30 p.m. on Friday, April 15, 2022 and
 - b. Applicant interview date of 5:30 p.m., Tuesday, April 26, 2022;

Discussion

Maanya Condamoor was serving her first term on the Bicycle Pedestrian Commission which expires on January 30, 2025. She resigned from the commission on February 28, 2022, thereby leaving an unscheduled vacancy for the remaining portion of her term. There are no available alternates to backfill the vacant position, therefore staff is requesting further action from Council to fill the vacancy by appointment. The letter of resignation is attached (Attachment A).

Consistent with Government Code 54973 et seq., the City Clerk is required to post an unscheduled vacancy notice not earlier than 20 days before and not later than 20 days after the vacancy occurs. In addition, appointments must not be made at least 10 working days after the posting. A special vacancy notice for the unscheduled vacancy will be posted in the office of the clerk and on the City's Web site. Vacancy notices are also advertised through social media platforms and the Cupertino Scene.

Sustainability Impact

None

Fiscal Impact

If Council chooses to hold a special recruitment, notices would be published in the Cupertino Courier and the World Journal noting the application deadline and interview date. The cost for the publications would be approximately \$450.

Prepared by: Lauren Sapudar, Deputy City Clerk

Reviewed by: Kirsten Squarcia, City Clerk

Approved for Submission by: Dianne Thompson, Assistant City Manager

Attachments:

A - Resignation Letter

Lauren Sapudar

From: Lauren Sapudar
Sent: Wednesday, February 16, 2022 10:16 AM
Cc: City Clerk; David Stillman; Jim Throop
Subject: Maanya Condamoor Resignation from Bike Ped Commission

Good morning Mayor and Councilmembers, (bcc'd on this)

Forwarding the following letter of resignation from Bike Ped Commissioner Condamoor. Discussion of filling the unscheduled vacancy will be added for your consideration on the March 1st agenda.

Regards,



Lauren Sapudar

Deputy City Clerk
City Manager's Office
LaurenS@cupertino.org
(408) 777-1312



From: Maanya Condamoor <MCondamoor@cupertino.org>
Sent: Wednesday, February 16, 2022 9:00 AM
To: Kirsten Squarcia <KirstenS@cupertino.org>; David Stillman <DavidS@cupertino.org>
Cc: City Clerk <CityClerk@cupertino.org>
Subject: Re: Process to resign from Bike/Ped Commission

Dear Cupertino City Council Members,

Please accept this letter as my formal notice of resignation from the Cupertino Bicycle/Pedestrian Commission, effective 2/28/22. I will be moving away from Cupertino and will no longer be able to serve on the commission. I've really enjoyed my time on the Commission and greatly appreciate all the work that you and my fellow commissioners do to make Cupertino a better place.

Thank you so much for the opportunity.

Best,

Maanya Condamoor



Maanya Condamoor

Bike and Pedestrian Commissioner
MCondamoor@cupertino.org





CITY OF CUPERTINO

Agenda Item

22-10476

Agenda Date: 3/1/2022
Agenda #: 9.

Subject: Receive the Government Finance Officers Association (GFOA) Distinguished Budget Presentation Award for Fiscal Year 2021-22 Adopted Budget

Receive the Government Finance Officers Association (GFOA) Distinguished Budget Presentation Award for Fiscal Year 2021-22 Adopted Budget



ADMINISTRATIVE SERVICES DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3220 • FAX: (408) 777-3109
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: March 1, 2022

Subject

Receipt of the Government Finance Officers Association (GFOA) Distinguished Budget Presentation Award for Fiscal Year 2021-22 Adopted Budget

Recommended Action

Consider the receipt of the Government Finance Officers Association (GFOA) Distinguished Budget Presentation Award for Fiscal Year 2021-22 Adopted Budget

Background

The Government Finance Officers Association (GFOA) represents public finance officials throughout the United States and Canada. Its members are deeply involved in planning, financing, and implementing thousands of governmental operations in each of their jurisdictions. GFOA's mission is to advance excellence in public finance.

Discussion

GFOA awarded the City of Cupertino the Distinguished Budget Presentation Award for its Fiscal Year 2021-22 Adopted Budget. This is the 24th consecutive GFOA Distinguished Budget Presentation Award received by the city. The award represents a significant achievement by the City and reflects the commitment of the government body and staff in meeting the highest principles of governmental budgeting. To receive the budget award, the City satisfied nationally recognized guidelines for effective budget presentation. These guidelines are designed to assess how well an entity's budget serves as a policy document, financial plan, operations guide, and communications device. Budget documents must be rated "proficient" in all four categories, and in the fourteen mandatory criteria within those categories, to receive the award.

When a Distinguished Budget Presentation Award is granted to an entity, a Certificate of Recognition for Budget Presentation is also presented to the individual(s) or department designated as being primarily responsible for having achieved the award. Although this award has been presented to the City's Finance Division of the Administrative Services Department, it is a highly collaborative effort across the entire

organization and the Finance Division extends its sincere appreciation to City staff for their continued efforts.

There are over 1,700 participants in the Budget Awards Program. The most recent Budget Award recipients, along with their corresponding budget documents, are posted quarterly on GFOA's website. Award recipients have pioneered efforts to improve the quality of budgeting and provide an excellent example for other governments throughout North America. The following link provides a listing of all GFOA Award winners: <https://www.gfoa.org/budget-award-winners>

Sustainability Impact

No sustainability impact.

Fiscal Impact

No fiscal impact.

Prepared by: Zach Korach, Finance Manager

Reviewed by: Kristina Alfaro, Director of Administrative Services

Approved for Submission by: Jim Throop, City Manager

Attachments:

A – GFOA Budget Award



GOVERNMENT FINANCE OFFICERS ASSOCIATION

*Distinguished
Budget Presentation
Award*

PRESENTED TO

**City of Cupertino
California**

For the Fiscal Year Beginning

July 01, 2021

Christopher P. Morill

Executive Director



CITY OF CUPERTINO

Agenda Item

22-10450

Agenda Date: 3/1/2022
Agenda #: 10.

Subject: Consideration of Vacation of a Public Pedestrian Walkway Easement through Tract 9405, which runs through Campo De Lozano subdivision, located near 20138 Rodrigues Avenue.

Consider conducting a public hearing, adopting Resolution No. 22-031 (Attachment A) to vacate a public pedestrian walkway easement through Tract 9405.

Presenter: Chad Mosley, Assistant Director/City Engineer



PUBLIC WORKS DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3354 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: March 1, 2022

Subject

Consideration of Vacation of a Public Pedestrian Walkway Easement through Tract 9405, which runs through Campo De Lozano subdivision, located near 20138 Rodrigues Avenue.

Recommended Action

Consider conducting a public hearing, adopting Resolution No. 22-xxx (Attachment A) to vacate a public pedestrian walkway easement through Tract 9405.

Discussion

The Campo De Lozano subdivision, located near 20138 Rodrigues Avenue, was subdivided, and developed around 2002. During the entitlement process, the City requested that the original developer grant the City a 10-foot-wide pedestrian pathway easement through the property, from Rodrigues Avenue to Regnart Creek Trail, to facilitate connectivity from the public right of way to the trail (Attachment B.) When the property was developed, Regnart Creek Trail was situated along the southerly boundary line of the Campo De Lozano subdivision and stretched from the westerly property line of the subdivision, eastward, to the westerly boundary of De Palma Lane, where it connected to publicly accessible sidewalks. The 10-foot-wide pedestrian pathway easement provided this section of trail with a second point of connectivity to the public right of way, ensuring that pedestrian access did not simply end at the westerly end of the trail.

In 2020, the City approved construction of new segments of the Regnart Creek Trail, including an extension of the trail westerly from the Campo De Lozano subdivision to Rodrigues Avenue and the Civic Center property. This extension creates an additional point of connectivity to Rodrigues Avenue, approximately 600-feet west of the Campo De Lozano subdivision.

The Campo De Lozano Homeowner's Association (HOA) requested that the City now vacate the existing 10-foot-wide pedestrian pathway easement that runs through their subdivision, since the extension of the Regnart Creek trail will provide other connectivity options to the west. Further, the residents of the subdivision have concerns

regarding the security of their property related to the existing pedestrian walkway and the expansion of public use of the Regnart Creek Trail. If the City vacates the pedestrian pathway easement, the HOA intends to restrict public access to the pedestrian pathway that runs through their property.

Staff is requesting that the City Council consider adopting a resolution vacating the easement under the California Streets and Highways Code.

Sustainability Impact

Goal two in the Cupertino Climate Action Plan is to encourage alternative transportation. Supporting measure C-T-1 is to continue to encourage multi-modal transportation, including walking and biking, through safety and comfort enhancements in the bicycle and pedestrian environment.

The General Plan includes policies that promote connectivity and mobility:

- POLICY M-2.3: CONNECTIVITY: Promote pedestrian and bicycle improvements that improve connectivity between planning areas, neighborhoods, and services, and foster a sense of community.
- POLICY M-3.2: DEVELOPMENT: Require new development and redevelopment to increase connectivity through direct and safe pedestrian connections to public amenities, neighborhoods, shopping, and employment destinations throughout the city.

Fiscal Impact

The permit application fee for an easement vacation of this type is \$4,368, but the fee is being waived for this application per City Council direction at the February 1, 2022, City Council meeting. City staff time and materials will be absorbed by the City.

Prepared by: Chad Mosley, Assistant Director of Public Works, and City Engineer

Reviewed by: Jimmy Tan, Acting Director of Public Works

Reviewed by: Dianne Thompson, Assistant City Manager

Approved for Submission by: Jim Throop, City Manager

Attachments:

A – Draft Resolution

B – Aerial Exhibit

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
TO ORDER THE VACATION OF A PUBLIC PEDESTRIAN WALKWAY
EASEMENT PURSUANT TO SECTION 8320 ET SEQ. OF THE STREETS
AND HIGHWAYS CODE OF THE STATE OF CALIFORNIA**

WHEREAS, a pedestrian walkway easement dedicated to public use presently exists in the Campo de Lozano subdivision (Tract 9405) located near 20138 Rodrigues Avenue in the City of Cupertino, as described in Exhibit A; and

WHEREAS, on February 1, 2022, the City Council adopted a resolution of intention to vacate the aforementioned walkway easement, and the City Clerk has posted signs and published notice declaring said intention, and the date, time, and place of a public hearing to consider said intention, pursuant to the provisions of Section 8320 *et seq.* of the California Streets and Highways Code; and

WHEREAS, pursuant to Section 8324 of the California Streets and Highways Code, the City Council finds, from all the evidence submitted, that the public walkway easement described in the notice of hearing is unnecessary for present or prospective purposes; and

WHEREAS, it is deemed to be in the public interests that the City Council elects to proceed to order said vacation.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Cupertino hereby vacates the aforesaid public walkway easement, as shown and described on the attached map, pursuant to the provisions of Section 8320 *et seq.* of the California Streets and Highways Code.

BE IT FURTHER RESOLVED that the City Council of the City of Cupertino hereby authorizes the City Clerk to record the executed original Resolution in the Office of the Recorder of the County of Santa Clara.

BE IT FURTHER RESOLVED that this Resolution is exempt from the requirements of the California Environmental Quality Act (“CEQA”) because it involves the minor alteration of existing facilities, involving negligible or no expansion of existing or former use, and is therefore exempt under CEQA Guidelines section 150301 (“Existing Facilities”).

Resolution No. _____

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 1st day of March, 2022, by the following vote:

Members of the City Council

AYES:

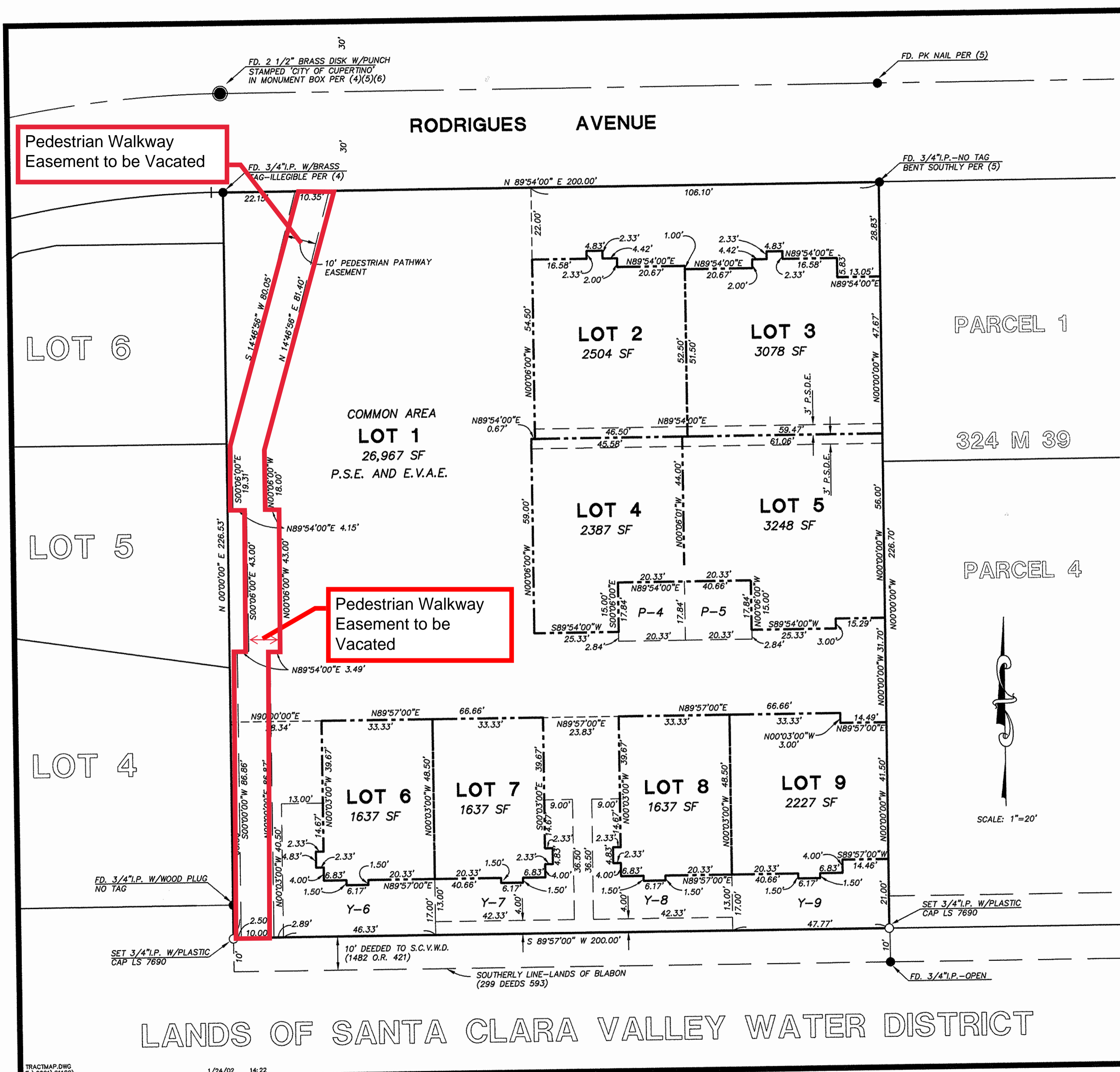
NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ Darcy Paul, Mayor City of Cupertino	 _____ Date
ATTEST: _____ Kirsten Squarcia, City Clerk	 _____ Date

Exhibit A



LEGEND

- DISTINCTIVE BORDER LINE
- - - SUBDIVISION LOT LINE
- - - CENTERLINE
- OTHER EXISTING PROPERTY OR RIGHT-OF-WAY LINES
- INDICATES FOUND MONUMENTATION AS NOTED
- ⊙ INDICATES FOUND MONUMENT AS NOTED
- INDICATES SET 3/4" IRON PIPE, TAGGED L.S. 7690
- P.S.E. PUBLIC SERVICE EASEMENT
- P.S.D.E. PRIVATE STORM DRAIN EASEMENT
- (R) RADIAL BEARING
- R/W RIGHT OF WAY
- E.V.A.E. EMERGENCY VEHICLE ACCESS EASEMENT
- P-# DESIGNATES A PARKING SPACE WHICH IS EXCLUSIVE USE COMMON AREA FOR THE BENEFIT OF THE CORRESPONDINGLY NUMBERED LOT.
- Y-# DESIGNATES A YARD WHICH IS EXCLUSIVE USE COMMON AREA FOR THE BENEFIT OF THE CORRESPONDINGLY NUMBERED LOT.

EXHIBIT A

TRACT 9405 CAMPO DE LOZANO

BEING A SUBDIVISION OF THAT PROPERTY DESCRIBED BY DEED RECORD APRIL 19, 2001, OFFICIAL RECORDS OF SANTA CLARA COUNTY UNDER RECORDER'S SERIAL NUMBER 15642669, AND LYING ENTIRELY WITHIN THE

CITY OF CUPERTINO, CALIFORNIA

APRIL, 2002 SCALE: 1"=20'

GK Giuliani & Kull, Inc.
 Engineers • Planners • Surveyors
 4880 Stevens Creek Blvd. Suite 205 San Jose, CA 95129
 (408) 615-4000 (408) 615-4004(Fax)

LANDS OF SANTA CLARA VALLEY WATER DISTRICT

749/80

10
86

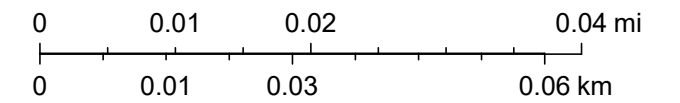
City of Cupertino Property Information



August 27, 2021

- Property Info Poly
- City Boundary
- Green: Band_2
- Blue: Band_3
- Right of Way
- 2020 Aerial
- Red: Band_1

1:1,128



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community



CITY OF CUPERTINO

Agenda Item

22-10457

Agenda Date: 3/1/2022
Agenda #: 11.

Subject: Consider accepting the Mid-Year Financial Report for Fiscal Year 2021-22; consider adopting Resolution No. 22-032 approving Budget Modification #2122-189 increasing appropriations by \$9,457,951 and revenues by \$10,220,000

1. Consider Accepting the City Manager's Mid-Year Financial Report for FY 2021-22
2. Consider Adopting Resolution No. 22-032 approving Budget Modification #2122-189 increasing appropriations by \$9,457,951 and revenues by \$10,220,000
3. Consider Approving the Conversion of (One) Limited-Term Project Manager Position to Full-Term Position.
4. Consider Approving Amendments to City's Committed, Unassigned Fund Balance, and Use of One Time Funds Policy which includes the following changes:
 - a. Consider Approving \$2,000,000 contribution from the General Fund to the City's Section 115 Pension Trust
 - b. Consider Increasing the City's General Fund Economic Uncertainty Committed Reserve by \$5,000,000
 - c. Consider Establishing a General Fund Capital Project Committed Reserve in the amount of \$10,000,000

Presenter: Kristina Alfaro, Administrative Services Director



ADMINISTRATIVE SERVICES DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3220 • FAX: (408) 777-3109
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: March 1, 2022

Subject

Accept the Mid-Year Financial Report for Fiscal Year 2021-22; Consider Adopting Resolution No. 22-XXX approving Budget Modification #2122-189 increasing appropriations by \$9,457,951 and revenues by \$10,220,000.

Recommended Action

1. Consider Accepting the City Manager's Mid-Year Financial Report for FY 2021-22.
2. Consider Adopting a draft resolution 22-XXX approving Budget Modification #2122-189 increasing appropriations by \$9,457,951 and revenues by \$10,220,000.
3. Consider Approving the Conversion of (One) Limited-Term Project Manager Position to Full-Term Position.
4. Consider Approving Amendments to City's Committed, Unassigned Fund Balance, and Use of One Time Funds Policy which includes the following changes:
 - a. Consider Approving \$2,000,000 contribution from the General Fund to the City's Section 115 Pension Trust.
 - b. Consider Increasing the City's General Fund Economic Uncertainty Committed Reserve by \$5,000,000.
 - c. Consider Establishing a General Fund Capital Project Committed Reserve in the amount of \$10,000,000.

Background

On June 15, 2021, the City Council adopted the Fiscal Year (FY) 2021-22 Budget, a \$148,845,235 spending plan for the City of Cupertino that was funded by \$132,850,958 of revenues and \$15,994,277 of fund balance. On November 16, 2021, Council received an update on the City's spending plan as part of the City Manager's First Quarter Financial Report, which revised the budget to account for encumbrances of \$16,868,361 and carryover appropriations of \$53,863,626 from FY 2021-22. These carryover appropriations included \$18.5 million in capital projects, \$19 million for Vallco Town Center, and \$5.9 million for Transportation projects. Encumbrances represent funds for

obligations related to unfilled purchase orders or unfilled contracts that are rolled over from one year to the next until those obligations are fulfilled or terminated. Carryover appropriations are unencumbered funds for unfinished projects that are carried over for use in the following fiscal year in order to complete those projects.

In the first two quarters of FY 2021-22, Council approved \$9.6 million in additional appropriations mostly related to the American Rescue Plan Act of 2021 (\$4.9 million), Junipero Serra Trail (\$1.9 million) and First Quarter Adjustments (\$1.6 million).

This resulted in an amended budget of \$229,162,354. These FY 2021-22 budget adjustments are summarized in the following table:

Mid-Year Financial Report Summary of Budget Adjustments by Fund

Fund	FY 21-22 Adopted	Carryovers	Encumbrances	Adjustments Approved in 1st & 2nd Quarters	FY 21-22 Amended Budget as of December 31, 2021
General	\$ 89,767,034	\$ 22,657,533	\$ 4,906,141	\$ 7,138,606	\$ 124,469,314
Special Revenue	18,597,024	11,749,252	2,414,116	212,681	32,973,073
Debt Service	2,676,000	-	-	-	2,676,000
Capital Projects	19,540,048	18,540,682	9,149,571	1,936,000	49,166,301
Enterprise	9,417,117	855,369	189,833	107,800	10,570,119
Internal Service	8,848,012	60,790	208,700	190,045	9,307,547
Total All Funds	\$ 148,845,235	\$ 53,863,626	\$ 16,868,361	\$ 9,585,132	\$ 229,162,354

Discussion

The Mid-Year Financial Report focuses on the status of the City's budget as of December 31, 2021 and recommends adjustments to ensure the budget reflects the City's current revenue outlook and is responsive to changing spending priorities. As shown in the chart below, \$11.3 million in budget adjustments are being requested that are offset with \$1.8 million in budget reductions and \$10.2 million in revenue. Included in the requested budget adjustments is a \$10,000,000 transfer of excess unassigned fund balance from the General Fund to the Capital Reserve in accordance with the City's Reserve and One Time Use Policy. Also included is the fourth of five annual \$2 million contributions to the Section 115 Pension Trust, increase in Economic Uncertainty Reserve, and establishment of Capital Projects Reserve. If approved, the City's new spending plan would total \$238,620,305 across all funds.

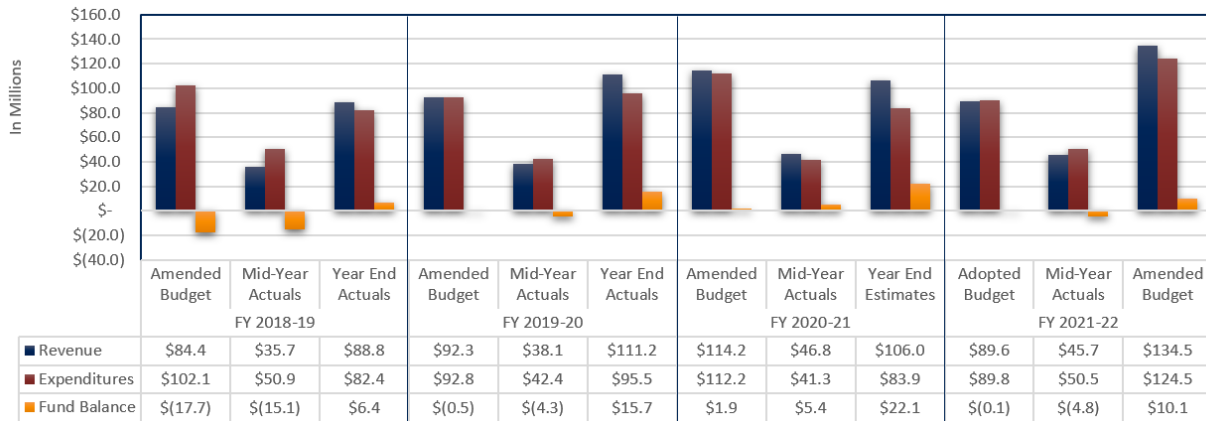
Fund	Amended Budget as of December 31, 2021	Requested Mid-Year Adjustments	Year-End Projections
General	\$ 124,469,314	\$ 10,000,000	\$ 134,469,314
Special Revenue	32,973,073	910,000	33,883,073
Debt Service	2,676,000	-	2,676,000
Capital Projects	49,166,301	(1,847,699)	47,318,602
Enterprise	10,570,119	369,650	10,939,769
Internal Service	9,307,547	26,000	9,333,547
Total All Funds	\$ 229,162,354	\$ 9,457,951	\$ 238,620,305

A projected increase to unassigned fund balance in the amount of \$740,119 across all funds would occur as summarized in the table below.

Recommended Adjustments					
Fund	Department	Expenditure	Revenue	Fund Balance (Use of)	Description
PARKS & RECREATION DEPARTMENT					
560	P&R	10,300	-	(10,300)	Tree Maintenance
560	P&R	9,350	220,000	210,650	Additional Revenue Estimate and Bank Charges
	TOTAL PARKS & RECREATION DEPARTMENT	19,650	220,000	200,350	
PUBLIC WORKS DEPARTMENT					
280	Public Works - CIP	910,000	-	(910,000)	Lawrence-Mitty Park Debris Removal, Clean Up, and Tree Removal
420	Public Works - CIP	(1,847,699)	-	1,847,699	All-Inclusive Play Area Budget Reduction
520	Public Works	350,000	-	(350,000)	New Landfill Agreement and Solid Waste Consulting Services
630	Public Works	26,000	-	(26,000)	Leaf Blower Replacement
	TOTAL PUBLIC WORKS DEPARTMENT	(561,699)	-	561,699	
NON-DEPARTMENTAL					
100	Non-Departmental	10,000,000	-	(10,000,000)	Transfer from General Fund to Capital Reserve
429	Non-Departmental	-	10,000,000	10,000,000	Transfer from General Fund to Capital Reserve
	TOTAL NON-DEPARTMENTAL	10,000,000	10,000,000	-	
	TOTAL ALL DEPARTMENTS	9,457,951	10,220,000	762,049	

General Fund Update

4-Year Comparison of Revenues, Expenditures and Changes to Fund Balance



The City's General Fund historical revenue, expenditures and fund balance demonstrates the City has historically budgeted the use of fund balance. This means the General Fund's amended budget estimated appropriations to exceed revenues. This use was not due to a structural deficit but due to the transfer out of excess fund balance from the General Fund to the Capital Reserve in accordance with the City's One-time use policy. Due to the City's encumbrance and budget carryover process, actual expenditures in FY 2020-21 came in lower than expected which resulted in additional excess fund balance.

Revenue

As of mid-year, General Fund revenue is tracking at \$46 million or 2% lower than the same time last year due to changes in the City's in various revenue sources as shown in the following table.

Comparison of FY 2020-21 and FY 2021-22 General Fund Mid-Year Revenues

Revenue Category	Mid-Year 2021	Mid-Year 2022	Variance	% Change
05 - Sales tax	\$ 24,060,027	\$ 13,818,656	\$ (10,241,371)	-43%
10 - Property tax	7,887,124	8,331,800	444,676	6%
15 - Transient occupancy	879,019	1,336,855	457,837	52%
20 - Utility tax	1,291,056	1,276,177	(14,879)	-1%
25 - Franchise fees	627,465	684,498	57,033	9%
30 - Other taxes	1,704,385	1,056,602	(647,783)	-38%
35 - Licenses and permits	1,951,667	2,188,177	236,511	12%
40 - Use of money and property	891,614	926,372	34,758	4%
45 - Intergovernmental revenue	1,022,927	3,433,481	2,410,554	236%
50 - Charges for services	5,230,311	6,905,845	1,675,534	32%
55 - Fines and forfeitures	53,744	105,865	52,121	97%
60 - Miscellaneous	1,048,256	989,591	(58,665)	-6%
65 - Transfers in	15,000	4,862,387	4,847,387	32316%
70 - Other financing sources	87,567	52,224	(35,342)	-40%
Grand Total	\$ 46,750,161	\$ 45,968,532	\$ (781,629)	-2%

Sales Tax received as of mid-year was \$10.2 million (or 43%) less than last year due to the timing for which payments from the State Board of Equalization are received. Staff anticipate the final second quarter allocation will result in comparable performance year-over-year. Since the start of the pandemic, the City's business-to-business industry group and its County Pool allocation share has increased substantially. HdL, the City's sales tax consultant, recently provided a report on sales tax performance during the period July-September 2021. Restaurants and Hotels, General Consumer Goods, Fuel and Service Stations, Building and Construction, and Autos and Transportation were up 71%, 16%, 75%, 3%, and 4%, respectively, representing substantial recovery from conditions experienced earlier in the pandemic. This strong recovery was vastly overshadowed activities in the business to business and pool allocations. Since the start of the pandemic, the City's business-to-business and county pool allocations have vaulted and as has been expected, we are seeing some tapering of those trends as the State continues to recover and open businesses to the public.

Property Tax revenue has come in higher than the same time last year by \$445,000 (or 6%). Residential use values increased \$829.9 million (or 5%) and represented 84.1% of all growth experienced in the City. Commercial properties posted an increase of \$572.8 million or a year-over-year increase of 7.6%. Unsecured assets in Cupertino decreased \$700 million (or 28.9%) and were primarily attributable to assets owned by Apple Inc. that were transferred to commercial. Overall, the FY 21-22 property tax revenues are anticipated to increase by 3.5% over the previous fiscal year. There is still uncertainty around post-pandemic impacts to property values, such as expanded and/or permanent

telecommuting. Despite the uncertainty, the City’s property tax base remains strong and HdL is currently projecting property taxes over the next five years as presented below:

FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27
\$29,627,822	\$30,897,951	\$32,223,088	\$33,616,114	\$35,072,217

Transient Occupancy Tax continued to be impacted by COVID-19 and the shelter-in-place orders. As of December 31, 2021, the City recognized \$1.3 million in transient occupancy tax, which represents 45% of the total amount budgeted in FY 21-22. It also represents an increase of 52% over the Mid-Year point of FY 2020-21 and indicates recovery consistent with the City’s estimations.

Utility Tax decreased approximately \$15,000 (or 1%) representing consistent performance over the previous year.

Franchise Fees have increased by \$57,000 (or 9%) primarily due to an increase in Recology franchise fees collected.

Other Taxes have decreased by approximately \$648,000 (or 38%) primarily due to a one-time construction tax payment received from PSI Storage in FY 20-21.

Licenses and Permits increased by \$237,000 (or 12%) due to increased volume in building inspection fees.

Use of Money and Property increased by \$35,000 (or 4%) due to increased interest earnings from the City’s investment portfolio.

Intergovernmental Revenue has increased by \$2.4 million (or 236%) due to the American Rescue Plan Act funding received.

Charges for Services have increased by \$1.7 million (or 32%) driven mainly by increases in cost allocation charges. Additionally, charges for services experienced increases due to plan check fees.

Fines and Forfeitures have increased \$52,000 (or 97%) primarily due to increases in citations administered over the prior year.

Miscellaneous revenue has decreased by \$59,000 (or 6%) due primarily to an increase to an ongoing donation from Apple Inc. to fund additional law enforcement services that were offset with decreases in miscellaneous development agreement contributions.

Transfers In have increased by \$4.8 million (or 32,316%) due to a \$4.8 million transfers related to the American Rescue Plan Act.

Other Financing Sources decreased \$35,000 (or 40%) due to a reduction in refundable deposit administrative fees collected over the previous fiscal year.

Expenditures

As of mid-year, overall expenditures in the General Fund are up \$9.2 million (or 22%) when compared to the same time last year due primarily to increases in transfers out for the American Rescue Plan Act. The following table shows the differences between General Fund expenditures as of the mid-year in the current fiscal year and the prior fiscal year:

Comparison of FY 2020-21 and FY 2021-22 General Fund Mid-Year Expenditures

Expenditure Category	Mid-Year 2021	Mid-Year 2022	Variance	% Change
05 - Employee compensation	\$ 8,829,205	\$ 10,018,381	\$ 1,189,176	13%
10 - Employee benefits	4,117,014	4,701,573	584,559	14%
15 - Materials	1,926,628	1,826,518	(100,110)	-5%
20 - Contract services	10,271,661	10,595,937	324,275	3%
25 - Cost allocation	5,236,770	5,974,031	737,261	14%
30 - Capital outlays	23,470	32,700	9,230	N/A
31 - Special projects	658,758	953,489	294,731	45%
45 - Transfer out	10,148,689	16,099,371	5,950,682	59%
50 - Other financing uses	101,433	336,005	234,572	231%
Grand Total	\$ 41,313,629	\$ 50,538,005	\$ 9,224,377	22%

Salary and Benefits increases are approximately \$1.8 million (or 14%). Compensation increases are due primarily to labor negotiations approved by Council on July 16, 2019. Increases in salary, driven by cost-of-living adjustments and equity adjustments, can be anticipated for the span of the negotiation term ending June 30, 2022. Additionally, the FY 21-22 Adopted Budget included 6 new full-time benefitted positions (FTE). Shortly after the start of the fiscal year, the City Attorney’s Office moved from a contract service to in-house which also increased the FTE count. These classifications also experienced increases due to the timing of pay periods year-over-year. In FY 20-21, there were 12 pay periods in the first half of the year and 13 pay periods in FY 21-22. These increases

were offset by increases due to vacancy savings through attrition. Benefit increases were primarily due to retirement, health, and workers' compensation costs.

Materials costs are down approximately \$100,100 (or 5%) due primarily to decreases across Public Works materials accounts, specifically water and electrical charges.

Contract Services have increased approximately \$324,000 (or 3%) due primarily to increases in the City's sheriff contract with the County. The increases were offset by reductions due to the City Attorney function moving from contract to in-house.

Cost Allocation increases are approximately \$737,000 (or 14%) due primarily to increases in I&T and Human Resources charges.

Capital Outlay costs are up approximately \$9,000, due to capitalizable facilities costs that were not incurred in the previous fiscal year.

Special Projects increases are approximately \$295,000 (or 45%) due to fluctuations in one-time expenditures.

Transfers Out increases are approximately \$6.0 million (or 59%) and are due to a one-time transfer out within the General Fund for the American Rescue Plan Act.

Other Financing Uses have increased \$235,000 (or 231%) due to refundable deposit on-call contracts for the Community Development Department.

All Other Funds Update and Year End Projections

Revenue

As of mid-year, revenue in all other funds is tracking at \$40.2 million (or 91%) higher than the same time last year due primarily to an increase in transfers from the General Fund to the Capital Improvement Program and a one-time development agreement contribution to the City's Park Dedication Special Revenue Fund.

Revenue Category	Mid-Year 2021	Mid-Year 2022	Variance	% Change
30 - Other taxes	\$ 263,532	\$ 9,367,692	\$ 9,104,160	3455%
40 - Use of money and property	545,022	646,636	101,614	19%
45 - Intergovernmental revenue	1,706,607	1,689,213	(17,394)	-1%
50 - Charges for services	4,227,676	5,244,077	1,016,401	24%
55 - Fines and forfeitures	3,923	34,133	30,210	770%
60 - Miscellaneous	2,042,549	2,167	(2,040,382)	-100%
65 - Transfers in	12,138,138	23,040,032	10,901,894	90%
70 - Other financing sources	156,140	188,157	32,016	21%
Grand Total	\$ 21,083,588	\$ 40,212,106	\$ 19,128,518	91%

Other Taxes increased approximately \$9.1 million (or 3,455%) due to a one-time development agreement (Westport) received in the Park Dedication Special Revenue Fund.

Use of Money and Property increased by approximately \$102,000 (or 19%) due to increased interest earnings from the City's investment portfolio compared to the previous fiscal year.

Intergovernmental Revenue remained relatively consistent over the previous fiscal year.

Charges for services increased approximately \$1.0 million (or 24%) primarily due to increases in Youth, Teen, and Recreation and Sports Center compared to the previous fiscal year.

Fines and forfeitures increased approximately \$30,000 (or 770%) due to an increased volume in citations administered over the prior year.

Miscellaneous revenue decreased approximately \$2.0 million (or 100%) due primarily to a relative reduction year-over-year in Apple donations received for various City bike/ped capital projects as these projects near completion.

Transfers In increased approximately \$10.9 million (or 90%) due to an increase in new Capital Improvement Program projects in FY 21-22 require a transfer out of the Capital Reserve.

Other financing sources increased approximately \$32,000 (or 21%) due to an increase in cost allocation revenues received by Human Resources for Workers' Compensation.

Expenditures

As of mid-year, overall expenditures are tracking at \$28.0 million (or 40%) higher than the same time last year due primarily to increases in transfers out and contract services.

Expenditure Category	Mid-Year 2021	Mid-Year 2022	Variance	% Change
05 - Employee compensation	\$ 2,187,881	\$ 2,347,874	\$ 159,993	7%
10 - Employee benefits	1,592,695	1,719,788	127,093	8%
15 - Materials	933,459	928,387	(5,072)	-1%
20 - Contract services	1,513,681	2,577,781	1,064,100	70%
25 - Cost allocation	1,095,270	1,210,435	115,165	11%
30 - Capital outlays	6,282,774	5,109,770	(1,173,005)	-19%
31 - Special projects	2,348,076	1,609,569	(738,507)	-31%
40 - Debt services	1,726,694	398,000	(1,328,694)	-77%
45 - Transfer out	2,004,449	11,803,048	9,798,599	489%
Grand Total	\$ 19,974,936	\$ 27,991,803	\$ 8,016,867	40%

Salary and Benefits increases are approximately \$287,000 (or 7.6%). Compensation increases are due primarily to labor negotiations approved by Council on July 16, 2019. Increases in salary, driven by cost-of-living adjustments and equity adjustments, can be anticipated for the span of the negotiation term ending June 30, 2022. These classifications also experienced increases due to the timing of pay periods year-over-year. In FY 20-21, there were 12 pay periods in the first half of the year and 13 pay periods in FY 21-22.

Materials have remained relatively consistent over the previous fiscal year.

Contract Services have increased approximately \$1.1 million (or 70%) due, but not limited, to increased services provided at the Sports Center.

Cost Allocation increased approximately \$115,000 (or 11%) due primarily to increases in Innovation & Technology, Human Resources, and Finance charges.

Capital Outlays decreased approximately \$1.2 million (or 19%) due to a relative reduction in the number of projects progressing compared to last year including, but not limited to, the Library Expansion and the acquisition of Lawrence Mitty Park.

Special Projects decreased approximately \$739,000 (or 31%) due to decreases in annual asphalt project spending.

Debt Service decreased approximately \$1.3 million (or 77%) due to the refinancing of the City's Certificates of Participation.

Transfers Out increased \$9.8 million (or 489%) due to an increase in new Capital Improvement Program projects in FY 21-22 that require a transfer out of the Capital Reserve.

Budget Adjustment Requests

As of the mid-year a few departments are requesting budget adjustments to ensure they end the year within budget appropriations. The recommended adjustments are summarized in the table below:

Fund	Department	Expenditure	Recommended Adjustments		Description
			Revenue	Fund Balance (Use of)	
GENERAL FUND					
100	Non-Departmental	10,000,000	-	(10,000,000)	Transfer from General Fund to Capital Reserve
TOTAL GENERAL FUND		10,000,000	-	(10,000,000)	
SPECIAL REVENUE FUND					
280	CIP	910,000	-	(910,000)	Lawrence-Mitty Park Debris Removal, Clean Up, and Tree Removal
TOTAL SPECIAL REVENUE FUND		910,000	-	(910,000)	
CAPITAL PROJECTS FUND					
420	CIP	(1,847,699)	-	1,847,699	All-Inclusive Play Area Budget Reduction
429	Non-Departmental	-	10,000,000	10,000,000	Transfer from General Fund to Capital Reserve
TOTAL CAPITAL PROJECTS FUND		(1,847,699)	10,000,000	11,847,699	
ENTERPRISE FUND					
520	Public Works	350,000	-	(350,000)	New Landfill Agreement and Solid Waste Consulting Services
560	Parks & Recreation	10,300	-	(10,300)	Tree Maintenance
560	Parks & Recreation	9,350	220,000	210,650	Additional Revenue Estimate and Bank Charges
TOTAL ENTERPRISE FUND		369,650	220,000	(149,650)	
INTERNAL SERVICE FUND					
630	Public Works	26,000	-	(26,000)	Leaf Blower Replacement
TOTAL INTERNAL SERVICE FUND		26,000	-	(26,000)	
TOTAL ALL FUNDS		9,457,951	10,220,000	762,049	

Lawrence-Mitty Park (CIP) (280-99-009)

The future site of the Lawrence Mitty Park is a vacant parcel of land that is easily accessible and attracted numerous trespassers to congregate on the property. Although the Lawrence Mitty Park and Trail Master plan is underway, some pre-development work is necessary to secure the site and make it less attractive to trespassers until construction commences. Since the site was mainly used by the County as a storage yard, there are stockpiles of construction and demolition debris on site which create barriers for trespassers to be fully obstructed from Lawrence Expressway. The removal

of the debris and enhancing security measures would make it less attractive for those trespassers currently residing on the property. The pre-development work includes coordination efforts to relocate the trespassers, removal, and disposal of approximately 3,300 cubic yards of debris, clean-up of the materials left onsite by trespassers, and tree trimming. The total cost is estimated to be approximately \$910,000.

All-Inclusive Play Area (CIP) (420-99-051)

All-Inclusive Play Area Budget Reduction – On February 19, 2021, staff issued a memorandum to City Council to provide an update on Jollyman Park All-Inclusive Playground and Grant. As stated, a Request for Proposals (RFP) was issued in December 2019 for professional fundraising services for the Jollyman Park Playground. Three firms were found qualified to provide services. Further evaluation following this process concluded that the fundraising goal for the Playground was too high. During this time, the COVID-19 pandemic shutdowns commenced and it was not appropriate to proceed with designing a project that might substantially exceed the available funding. Experiences by other similar all-inclusive projects elsewhere in the County indicated that the greater than \$2 million donation goal was too high. After this conclusion, staff contacted the County to inquire about adjusting the project to structure it for success. Collaboration continued with County staff to identify lower, more realistic fundraising target, associated adjustment of project features to meet goals while reducing total project cost, and longer timeline for project delivery. As a result, staff are recommending a reduction to the fundraising goal of \$1 million and an associated reduction of the total project budget of \$1,847,699.

Resource Recovery (520-81-801)

New Landfill Agreement and Solid Waste Consulting Services – The City’s current landfill agreement expires in November 2023. All available options for waste disposition need to be considered, including renewing the current agreement, routing construction and demolition debris to a separate facility, and routing materials through a materials recovery facility. Additionally, the current Franchise Agreement with Recology requires a cost-based rate adjustment review process to inform the maximum rates for year four, which begins February 1, 2024, and recommends a performance review during rate year four. Originally anticipated to begin in July 2022, review of timelines and deadlines suggests an earlier start to this long process is advisable, so creation of this special project and one-time appropriations of \$350,000 are being requested as a mid-year adjustment to allow preliminary work to begin during FY 21-22.

Blackberry Farm Golf Course (560-63-616)

Tree Maintenance - \$10,300 in additional appropriations are being requested for tree maintenance, including preventative tree work to remove dense or dead trees at the

Blackberry Farm Golf Course. Due to the recent drought, more tree maintenance has been needed to reduce risk to the golf course users.

Additional Revenue Estimate and Bank Charges - The Blackberry Farm (BBF) Golf Course requires \$9,350 of additional appropriations for bank charges that have resulted due to unanticipated increases in program revenues. Due to the pandemic, golf continues to be popular and one of the safer outdoor activities available to the community. Revenue received from club and cart rentals, merchandise sold at the pro shop, and green fees have exceeded what was originally estimated. The program requires additional funds to continue to cover the excess bank charges from the additional revenue earned and the projected revenue (\$220,000) for the rest of the fiscal year.

Equipment Maintenance (630-85-849)

Leaf Blower Replacement – Staff are requesting \$26,000 in additional appropriations to replace the City’s numerous leaf blowers. These funds will be used to comply with Cupertino's new blower noise ordinance that goes into effect November 2022 and reduce noise pollution in the community. This request will replace 55 blowers for service center maintenance staff. Due to supply shortages, staff are recommending the request at this time as opposed to waiting to include in the FY 22-23 Proposed Budget.

Non-Departmental (100-90-001 & 420-90-001)

Transfer to Capital Reserve – Staff are recommending a \$10,000,000 transfer of excess General Fund fund balance to the Capital Reserve for purpose of funding current and future capital projects. This request does not appropriate these dollars for specific projects; rather, it simply moves the cash out of the General Fund and into the Capital Reserve.

Section 115 Trust (PRSP) – Staff are recommending an additional contribution of \$2,000,000 to the City’s Section 115 Trust (Pension Rate Stabilization Program). The City established this trust with PARS in 2018 for purposes of 1) maintaining local control over assets, 2) mitigating impact of large pension cost fluctuations, 3) potential for higher investment returns than General Fund, and 4) asset diversification. The trust’s assets are required to be used to pay CalPERS for related retirement costs; however, at this time, staff do not anticipate drawing down from this trust in the near future. In 2018, the City made an additional contribution of \$8,000,000 and had recommended funding \$2 million annually for five (5) years. With this strategy, the trust would accumulate sufficient funds to pay the difference between a 7% and 6.25% discount rate, or approximately \$42 million. With a total principal contribution amount of \$14 million to date, approving this \$2 million additional contribution will allow the City to be on schedule to address this funding gap by 2037. This transfer request moves

funds from the General Fund's unassigned fund balance classification to the restricted fund balance classification and therefore does not require a budget adjustment or appropriation. Per the City's Committed, Unassigned Fund Balance, and Use of One Time Funds Policy, funds in this trust may be used only at the discretion of City Council.

Staffing

The Amended Budget as of December 31, 2021, has a total of 203.75 FTEs (208.75 including City Council). Staff are recommending the following changes which will have no fiscal impact for the remainder of FY 21-22.

Reclassify (One) Limited-Term Project Manager Position to Full Term Position - The majority of active projects residing with the CIP group are longer than 1 - 2 year projects. Presently there are two limited term CIP Project Manager positions, expiring November 2022 and June 2023, that we'd ask to convert into regular term positions. The project manager in this position is working on long term projects, as are all the Project Managers, and it would be a disruptive and financially ineffective to the progress of the projects if CIP were to lose this Project Manager positions. CIP Group staff strive to complete the numerous projects in the City's Work Plan and having talented, dependable, and experienced Project Managers is important. The reclassification of this position will allow the City to continue utilizing the Project Managers to complete their projects and take on additional projects without any disruption.

Fund Balance

The City's General Fund ended FY 2020-21 with \$96.9 million in total fund balance. As part of the FY 2021-22 Adopted Budget, the City projected ending the fiscal year with \$83.1 million in total fund balance. As of the First Quarter Report, the City updated its year-end projections for FY 2021-22 to \$111.9 million in total fund balance, an increase of \$28.8 million due to increases in revenues received and lower expenditures in FY 2020-21. Projected year-end fund balance as of mid-year FY 2021-22 is estimated to be \$101.8 million. The \$101.8 million projection includes a one-time transfer out of \$10 million to the Capital Improvement Program Reserve Fund, a \$2 million contribution to the Section 115 Pension Trust, an increase to the Economic Uncertainty Reserve from \$19 million to \$24 million, and the establishment of a \$10 million Committed Capital Projects Reserve. If approved, projected ending unassigned fund balance will be \$37.2 million.

General Fund Classification of Fund Balance

CLASSIFICATION	Actuals	Year End	Adopted	1st Quarter	Mid-Year End
	2019-20	Projection	Budget	Year End	Projection
	2019-20	2020-21	2021-22	2021-22	2021-22
Non Spendable	3.45	3.44	3.44	3.44	3.44
Restricted	14.32	20.14	21.87	21.92	22.20
Committed	19.13	19.13	19.13	19.13	34.13
Assigned	3.18	4.91	3.00	4.91	4.91
Unassigned	34.43	49.23	35.70	62.47	37.15
TOTAL FUND BALANCE	74.51	96.85	83.13	111.87	101.84

To date, the City’s external auditors have not completed their review of the City’s financials. Revenue, expenditure, and fund balance totals listed in this report are preliminary and subject to change after a full review by the City’s auditors. City Staff does not anticipate many, if any, changes to these figures.

Per the City’s Committed, Unassigned Fund Balance, and Use of One Time Funds Policy, unassigned fund balance over \$500,000 are to be used in the following order to replenish committed fund balances with any remaining balances to be placed in the Capital Reserve:

1. Economic Uncertainty – **increasing from \$19 million to \$24 million**
2. PERS - **\$2 million contribution (4th of 5 contributions)**
3. Sustainability Reserve
4. **Capital Projects - \$10 million**
5. Unassigned

Staff recommend increasing the Economic Uncertainty Reserve from \$19 million to \$24 million. This increase more accurately reflects the formula stated in the City’s “Committed, Unassigned Fund Balance, and Use of One Time Funds Policy” (page 105 of the Adopted Budget).

	FY			Monthly Average	1.5 Month Average	Two Month Average
	2019	2020	2021			
General Fund Revenue	\$ 88,802,313	\$ 111,064,590	\$ 106,217,493	\$ 8,502,344	\$ 12,753,517	\$ 17,004,688.67
General Fund Expenditures	\$ 63,014,100	\$ 64,589,176	\$ 68,723,837	\$ 5,453,531	\$ 8,180,296	\$ 10,907,061.83
Economic Uncertainty Reserve Calculation						
\$	23,660,578.33					

Staff are also recommending the establishment of a Committed Capital Projects Reserve with a starting balance of \$10 million. The City’s Capital Improvement Program (CIP), while it has been funded with grants and donations, has primarily been funded with General Fund resources (\$68 million over the last 6 fiscal years). As a result, the CIP has

become heavily reliant on a funding source that may not always have similar levels of funding from one year to the next. Establishing a Committed Reserve will provide financial planning support to ensure resources are readily available to fund future CIP projects. This reserve will be established at \$10 million and, only with City Council authority, will be used to fund future capital projects.

Performance Measures & Workload Indicators

Updated performance measures and workload indicators that align with government and private industry best practices have been included in the Mid-Year Financial Report. Attachment C represents the status of the performance measures as of Mid-Year.

City Manager Discretionary Fund

As part of the FY 2021-22 Adopted Budget, City Council recommended and approved the reduction of the City Manager Discretionary Fund to an annual amount of \$75,000. The quarterly budget reports will detail the City Manager's use of the discretionary fund and may include recommendations to replenish depending on the extent and nature of use. As of December 31, 2021, \$2,400 was used to assist with funding a Tripepi Smith contract for the Housing Op-Ed.

American Rescue Plan Act of 2021 (ARP)

On September 7, 2021, City Council approved use of American Rescue Plan Act of 2021 funding allocation and approved budget modification #2122-162 increasing appropriations in the General Fund (100-90-001 page 583 of the FY 2021-22 Adopted Budget) by \$4,847,386.50 and revenues in the General Fund by \$4,847,386.50. Of the four (4) allowable uses of funds:

1. Public Health/Negative Economic Impacts,
2. Premium Pay,
3. Revenue Loss, and
4. Investments in Water, Sewer, and Broadband

Staff recommended, and City Council approved the allocation of use towards Revenue Loss. City staff anticipate realizing these "losses" before December 31, 2023, the end of the period of availability. This action allows the City to maintain current levels of operations and government services and affords City Council the continued ability to consider new projects and initiatives in the future. The budget modification moves dollars from the General Fund's Non-Departmental Department to all other Departments in the General Fund for purposes of substantiating and reporting the use of grant dollars received. As expenditures are incurred, and revenue losses are realized, the City will recognize the \$4,847,386.50 in revenues on a matching basis. As of

December 31, 2021, the City has recognized \$3,054,213 of ARP revenues (\$286,248 in Q2). Below is the status of the specific items as of December 31, 2021, that were approved by ARP funding.

Project Title	Budgeted Amount	Expenditures as of September 30, 2021*	Expenditures as of December 31, 2021*	Total Expenditures Life-to-Date	Budget Remaining
CWP - Climate Action Plan	\$ 78,000	\$ 40,465.94	\$ 37,534	\$ 78,000	\$ -
CWP - Personal Preparedness	\$ 10,000	\$ -	\$ -	\$ -	\$ 10,000
Administration Overhead (Cost Allocation)	\$ 249,106	\$ 62,276.50	\$ 62,277	\$ 124,553	\$ 124,553
Administration Overhead (Cost Allocation)	\$ 134,039	\$ 33,509.75	\$ 33,510	\$ 67,020	\$ 67,020
Internal Audit	\$ 150,000	\$ -	\$ 50,425	\$ 50,425	\$ 99,575
General Liability Insurance	\$ 182,112	\$ 182,112.00	\$ -	\$ 182,112	\$ -
CWP - Homeless Jobs Program	\$ 200,000	\$ -	\$ 5,187	\$ 5,187	\$ 194,813
CWP - General Plan and Muni Code Update	\$ 250,000	\$ 8,264.74	\$ 10,787	\$ 19,052	\$ 230,948
CWP - RHNA	\$ 295,000	\$ -	\$ 59,645	\$ 59,645	\$ 235,355
CWP - Encouraging Dark Sky Compliance	\$ 10,000	\$ -	\$ -	\$ -	\$ 10,000
CWP - Development Accountability	\$ 10,000	\$ -	\$ -	\$ -	\$ 10,000
CWP - Sign Ordinance Update	\$ 25,000	\$ -	\$ -	\$ -	\$ 25,000
Regulating Diversified Retail Use	\$ 4,862	\$ -	\$ -	\$ -	\$ 4,862
Community Funding	\$ 82,396	\$ 82,396.00	\$ -	\$ 82,396	\$ -
Accela Business License	\$ 17,500	\$ -	\$ 17,500	\$ 17,500	\$ -
Customer Service Solution	\$ 65,000	\$ 42,180.00	\$ 7,163	\$ 49,343	\$ 15,658
ERP exploration	\$ 50,000	\$ -	\$ -	\$ -	\$ 50,000
Performance Management Application	\$ 13,808	\$ -	\$ -	\$ -	\$ 13,808
Law Enforcement Services (SCC)	\$ 972,987	\$ 972,987.00	\$ -	\$ 972,987	\$ -
CWP - Municipal Water System	\$ 10,000	\$ 10,000.00	\$ -	\$ 10,000	\$ -
CWP - Revisit 5G	\$ 250,000	\$ -	\$ -	\$ -	\$ 250,000
Replenish Transfer to Fund 270 for Pavement Maintenance	\$ 1,333,773	\$ 1,333,773.00	\$ -	\$ 1,333,773	\$ -
CWP - Mental Health Support	\$ 10,000	\$ -	\$ -	\$ -	\$ 10,000
CWP - Senior Strategy	\$ 34,000	\$ -	\$ 2,221	\$ 2,221	\$ 31,779
CWP - Dogs Off Leash Area	\$ 5,000	\$ -	\$ -	\$ -	\$ 5,000
CWP - Revamping Block Leader and Neighborhood Watch	\$ 1,500	\$ -	\$ -	\$ -	\$ 1,500
Library Services	\$ 403,304	\$ -	\$ -	\$ -	\$ 403,304
TOTAL	\$ 4,847,387	\$ 2,767,965	\$ 286,248	\$ 3,054,213	\$ 1,793,174

* To the extent of ARP allocations that have been budgeted.

Conclusion

The Mid-Year Financial Report shows the City is well-positioned to move forward. City staff recommend adjustments of \$9,457,951 in new appropriations funded by \$10,220,000 in revenues. If approved, the City's fund balance will increase by \$762,049.

Prepared by: Zach Korach, Finance Manager

Reviewed by: Kristina Alfaro, Director of Administrative Services

Approved for Submission by: Jim Throop, City Manager

Attachments:

A – Draft Resolution

B – Mid-Year Financial Report for Fiscal Year 2021-22

C – Mid-Year Performance Measures

D – Mid-Year Budget Adjustment Journal

E – Budget Transfers Detail as of 12.31.2021

F – Committed, Unassigned Fund Balance, and One Time Funds Policy (Clean)

G – Committed, Unassigned Fund Balance, and One Time Funds Policy (Redline)

Attachment A

RESOLUTION NO. 22-XXX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
AMENDING THE OPERATING BUDGET FOR FISCAL YEAR 2021-22 BY
APPROPRIATING, TRANSFERRING, AND UNAPPROPRIATING MONIES
FOR SPECIFIED FUNDS**

WHEREAS, the orderly administration of municipal government depends on a sound fiscal policy of maintaining a proper ratio of expenditures within anticipated revenues and available monies; and

WHEREAS, accomplishing City Council directives, projects and programs, and performing staff duties and responsibilities likewise depends on the monies available for that purpose; and

WHEREAS, the City Manager has determined that the balances from the funds specified in this resolution are adequate to cover the proposed amended appropriations, and therefore recommends the fund reallocations described herein.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby approve the recommended fund reallocations and ratifies the attached amended appropriations as set forth in Exhibit A.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 1st day of March 2022, by the following vote:

<u>Vote</u>	<u>Members of the City Council</u>
-------------	------------------------------------

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ Darcy Paul, Mayor City of Cupertino	_____ Date
ATTEST: _____ Kirsten Squarcia, City Clerk	_____ Date

Attachment A

Appropriation Amendment by Fund	Appropriation Amendment	Revenue Amendment	Fund Balance (Use of)
General Fund	\$10,000,000	\$-	(\$10,000,000)
Special Revenue Fund	\$910,000	\$-	(\$910,000)
Capital Projects Funds	(\$1,847,699)	\$10,000,000	\$11,847,699
Enterprise Fund	\$369,650	\$220,000	(\$149,650)
Internal Service Fund	\$26,000	\$-	(\$26,000)
Total Appropriation Amendment All Funds	\$9,457,951	\$10,220,000	\$762,049

(Exhibit A)

CITY OF CUPERTINO

FY 2021-22 Mid-Year Financial Report

The following is the Mid-Year Financial Report, submitted by the Administrative Services Department for the period of July 1, 2021 to December 31, 2021 for the 2021-22 Fiscal Year. It has been prepared to inform the City Council, City leadership and the public of the City's fiscal status.

This [Financial Report](#) is interactive. Click on a chart to learn more.

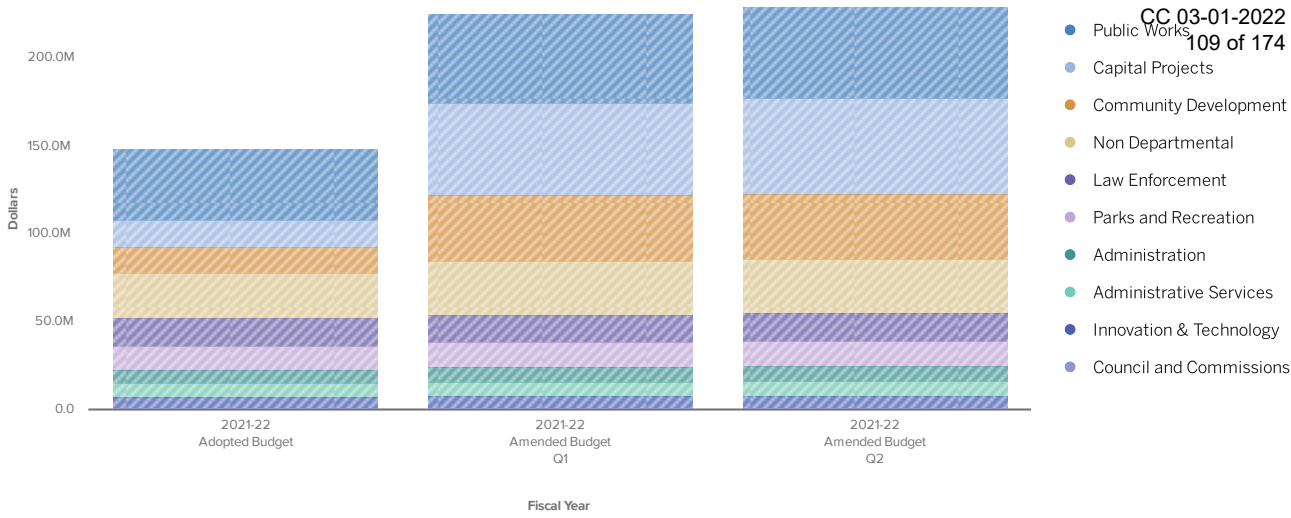
Background

On June 15, 2021, the City Council adopted the Fiscal Year (FY) 2021-22 Budget, a \$148,845,235 spending plan for the City of Cupertino that was funded by \$132,850,958 of revenues and \$15,994,277 of fund balance. On November 16, 2021, Council received an update on the City's spending plan as part of the City Manager's First Quarter Financial Report, which revised the budget to account for encumbrances of \$16,868,361 and carryover appropriations of \$53,863,626 from FY 2021-22. These carryover appropriations included \$18.5 million in capital projects, \$19 million for Vallco Town Center, and \$5.9 million for Transportation projects. Encumbrances represent funds for obligations related to unfilled purchase orders or unfilled contracts that are rolled over from one year to the next until those obligations are fulfilled or terminated. Carryover appropriations are unencumbered funds for unfinished projects that are carried over for use in the following fiscal year in order to complete those projects.

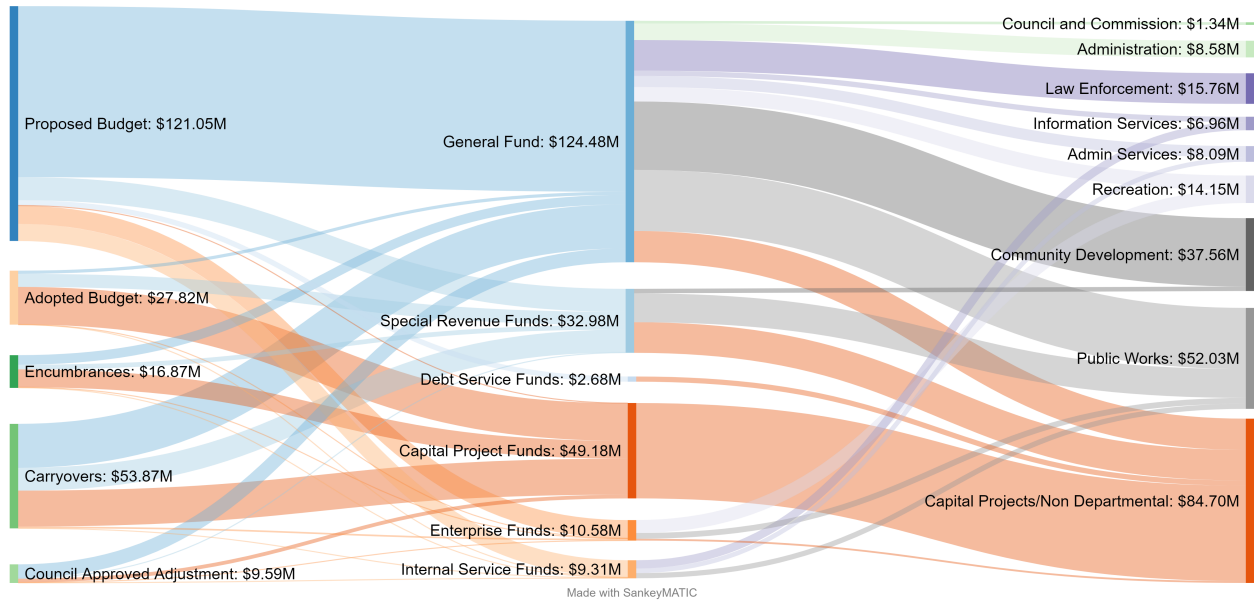
In the first two quarters of FY 2021-22, Council approved \$9.6 million in additional appropriations mostly related to the American Rescue Plan Act of 2021 (\$4.9 million), Junipero Serra Trail (\$1.9 million) and First Quarter Adjustments (\$1.6 million).

This resulted in an amended budget of \$229,162,354.

Amended Budget

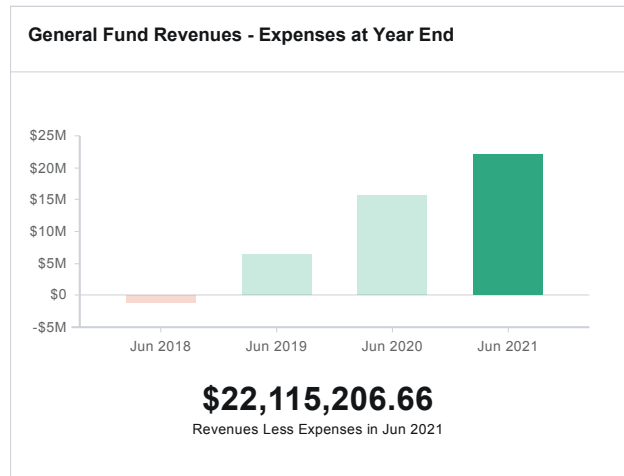
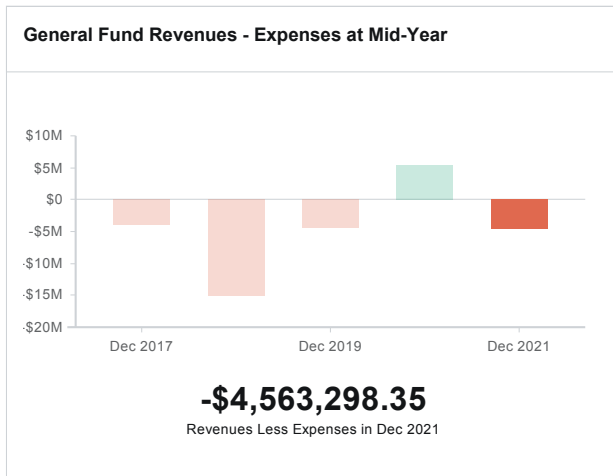
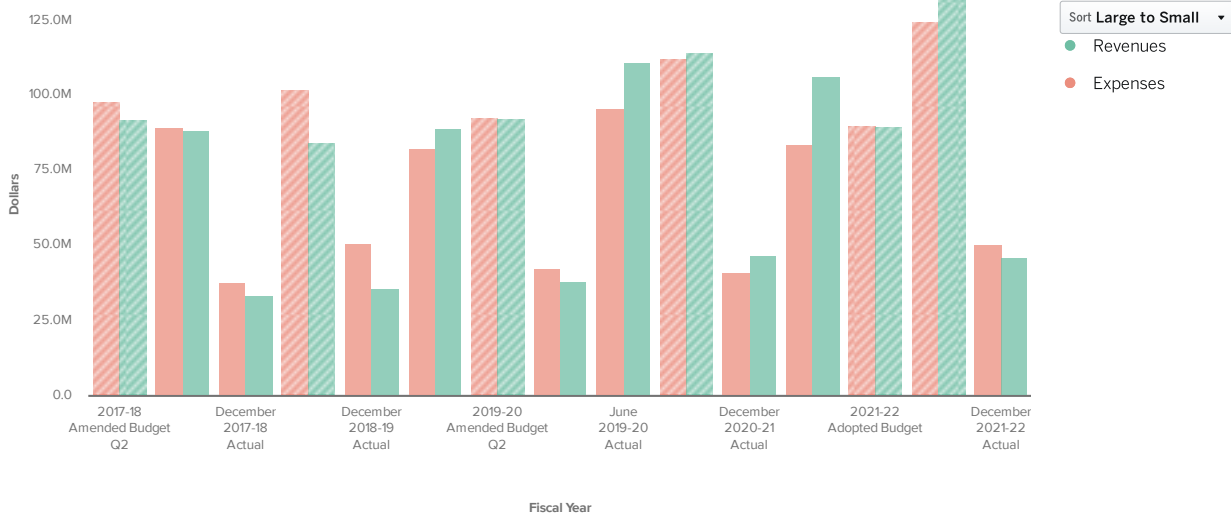


Flow of Funds Chart (in Millions)



General Fund Revenues, Expenditures, and Fund Balance

To date the City’s financial statement audit has yet to be issued and revenue, expenditure, and fund balance totals listed in this report are preliminary and subject to change after a full review by the City’s auditors. City staff does not anticipate many if any changes from the auditors.

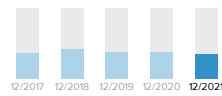


General Fund Revenue and Expenditure Trends

As of December 31, 2021, General Fund expenditures are \$50.5 million; this represents 41% of budgeted appropriations. Expenditures at the mid-year point of the prior three years ranged between 44% and 62% of the final actual expenditures which places current mid-year actuals slightly below the range. General Fund revenues are at \$46.0 million; this represents 34% of the budgeted revenue. Revenues at the mid-year point of the prior three years were between 34% and 44%, placing this year within the range. Staff will continue to monitor its leading revenue sources as the year progresses.

General Fund Revenues - Mid-Year Actuals vs Budget

Data Updated today

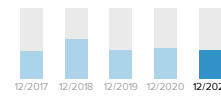


34.17%

In Revenues of \$134,543,590.00 Budgeted through Dec 2021

General Fund Expenses - Mid-Year Actuals vs Budget

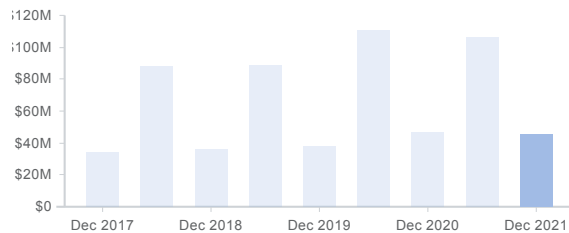
Data Updated today



40.60%

In Expenses of \$124,469,314.00 Budgeted through Dec 2021

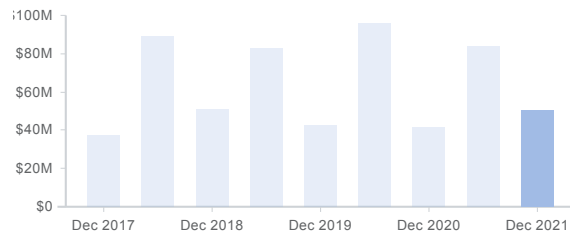
General Fund Revenues - Mid-Year vs Year End Actuals



\$45,974,707.03

Revenues in Dec 2021

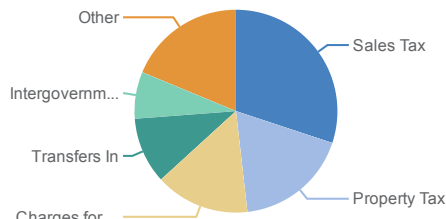
General Fund Expenses - Mid-Year vs Year End Actuals



\$50,538,005.38

Expenses in Dec 2021

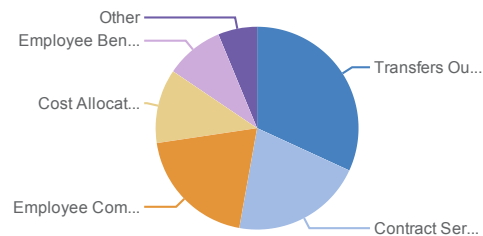
General Fund Revenues by Type



\$45,974,707.03

Revenues in Dec 2021

General Fund Expenses by Type



\$50,538,005.38

Expenses in Dec 2021

General Fund Classification of Fund Balance

Projected year-end fund balance as of mid-year FY 2021-22 is estimated to be \$101.8 million. The \$101.8 million projection includes a one-time transfer out of \$10 million to the Capital Improvement Program Reserve Fund, a \$2 million contribution to the Section 115 Pension Trust, an increase to the Economic Uncertainty Reserve from \$19 million to \$24 million, and the establishment of a \$10 million Committed Capital Projects Reserve. If approved, projected ending unassigned fund balance will be \$37.2 million.

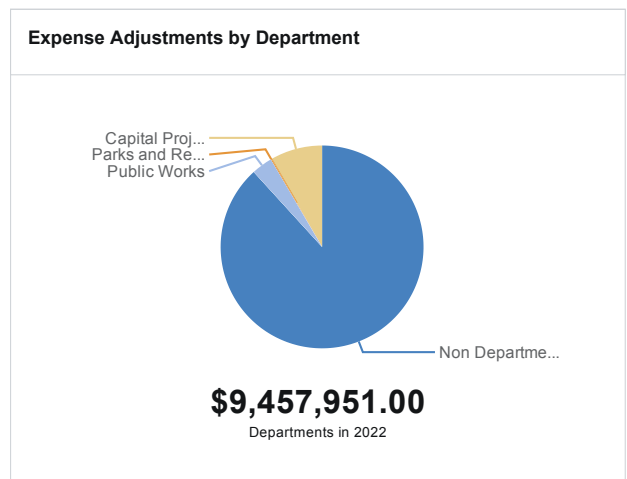
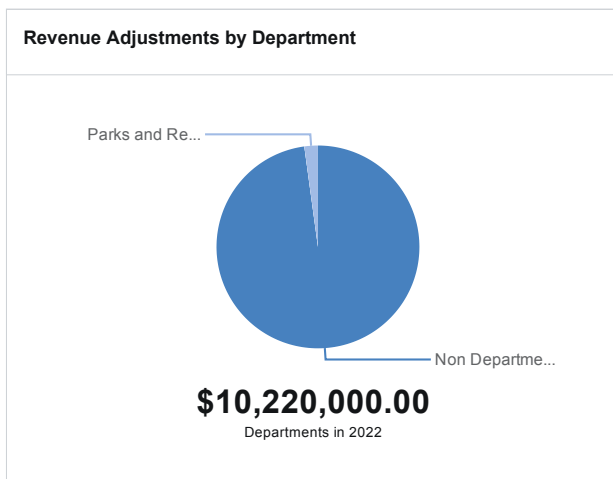
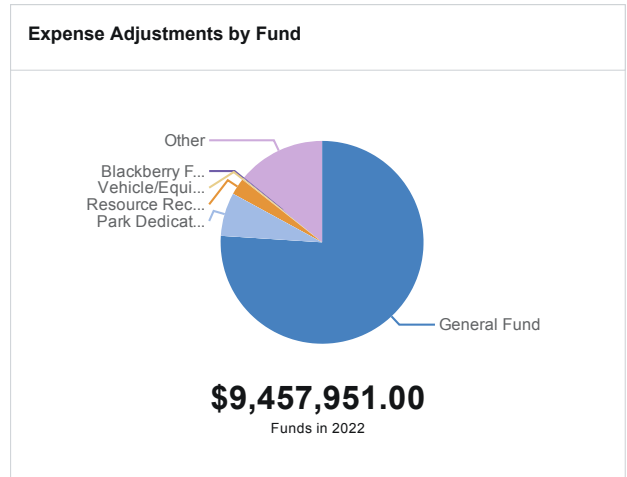
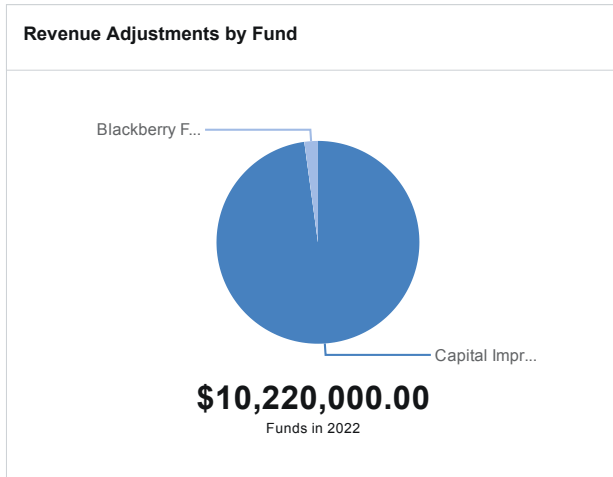
To date, the City's outside auditors have not completed their review of the City's financials. Revenue, expenditure, and fund balance totals listed in this report are preliminary and subject to change after a full

CLASSIFICATION	Actuals	Year End	Adopted	1st Quarter	Mid-Year End
	2019-20	Projection	Budget	Year End	Projection
	2020-21	2021-22	2021-22	2021-22	2021-22
Non Spendable	3.45	3.44	3.44	3.44	3.44
Restricted	14.32	20.14	21.87	21.92	22.20
Committed	19.13	19.13	19.13	19.13	34.13
Assigned	3.18	4.91	3.00	4.91	4.91
Unassigned	34.43	49.23	35.70	62.47	37.15
TOTAL FUND BALANCE	74.51	96.85	83.13	111.87	101.84

Recommended Adjustments

As of Mid-Year, departments are requesting budget adjustments to ensure they end the year within budget appropriations. The recommended adjustments are summarized in the table below:

Fund	Department	Recommended Adjustments			Description
		Expenditure	Revenue	Fund Balance (Use of)	
GENERAL FUND					
100	Non-Departmental	10,000,000	-	(10,000,000)	Transfer from General Fund to Capital Reserve
TOTAL GENERAL FUND		10,000,000	-	(10,000,000)	
SPECIAL REVENUE FUND					
280	CIP	910,000	-	(910,000)	Lawrence-Mitty Park Debris Removal, Clean Up, and Tree Removal
TOTAL SPECIAL REVENUE FUND		910,000	-	(910,000)	
CAPITAL PROJECTS FUND					
420	CIP	(1,847,699)	-	1,847,699	All-Inclusive Play Area Budget Reduction
429	Non-Departmental	-	10,000,000	10,000,000	Transfer from General Fund to Capital Reserve
TOTAL CAPITAL PROJECTS FUND		(1,847,699)	10,000,000	11,847,699	
ENTERPRISE FUND					
520	Public Works	350,000	-	(350,000)	New Landfill Agreement and Solid Waste Consulting Services
560	Parks & Recreation	10,300	-	(10,300)	Tree Maintenance
560	Parks & Recreation	9,350	220,000	210,650	Additional Revenue Estimate and Bank Charges
TOTAL ENTERPRISE FUND		369,650	220,000	(149,650)	
INTERNAL SERVICE FUND					
630	Public Works	26,000	-	(26,000)	Leaf Blower Replacement
TOTAL INTERNAL SERVICE FUND		26,000	-	(26,000)	
TOTAL ALL FUNDS		9,457,951	10,220,000	762,049	



Summary

The Mid-Year Financial Report shows the City is well-positioned to move forward. City staff recommend adjustments of \$9,457,951 in new appropriations funded by \$10,220,000 in revenues. If approved, the City's fund balance will increase by \$762,049.



[City of Cupertino, California](#)

Cupertino City Hall
10300 Torre Avenue
Cupertino, CA 95014-3202

[View the City Council Meeting Agenda](#)
[View the City's Budgets](#)
[View the City's Financial Transparency Portal](#)

City of Cupertino
 FY 21-22 Budget Performance Measures
 Department: City Manager's Office, City Clerk Division

GOAL: Streamline information processing for Council, staff and community members for compliance with State requirements and facilitate independent and transparent access to public information.

Enabled by...	Measure	FY20 Jul-Jun	FY21 Jul-Jun	FY22 Jul-Dec	Ongoing Target
 <p>Online information and updated records that can be easily accessed in a timely manner.</p>	<p>City Council minutes for meetings presented for Council approval by the following regular meeting</p>	100%	100%	100%	100%
	<p>Adopted City Council resolutions and ordinances processed and scanned to Laserfiche within a week of Clerk's office receipt of final, signed document</p>	60%	80%	80%	100%
 <p>Response to records requests to comply with State law of 10 days.</p>	<p>Public Record Act requests responded to by the Statutory deadline date</p>	100%	100%	100%	100%

So that...

All can fully participate in local government to achieve the community & organizational goals.




City of Cupertino
 FY 21-22 Budget Performance Measures
 Department: Administration, City Manager's Office, Sustainability Division

GOAL: Implement Cupertino's Climate Action Plan and General Plan Sustainability Element to achieve quantifiable emissions reductions, conserve finite resources, and achieve utility cost avoidance and savings across municipal operations and community partners.

Enabled by...

An agency implementing Council and community sustainability goals to effectively safeguard shared resources.

Engaged community partners and volunteers supporting CAP implementation

Measure	FY20	FY21	FY22	Ongoing
	Jul-Jun	Jul-Jun	Jul-Dec	Target
 % community-wide emissions reduced from baseline of 307,288 MT CO2e/yr	2018 inventory: 24% decrease in emissions from baseline (258,659 MT CO2e/yr)			15% reduction by 2020 (261,195 MT CO2e/yr)
 Initiate and implement all Climate Action Plan near-term measures				
% initiated	100%	100%	100%	100%
% complete or ongoing	79%	79%	79%	100%
 % municipal operations emissions reduced from baseline of 1,865 MT CO2e/yr	2018 inventory: 66% reduction in emissions from baseline: 642 MTCO2e			15% reduction by 2020

¹ Cupertino's GHG inventories are conducted roughly every 3-5 years.

So that...



Cupertino is a thriving City to live, work, learn and play.

City of Cupertino
 FY 21-22 Budget Performance Measures
 Department: Administration, City Manager's Office, Office of Communications Division

GOAL: Promote and increase interest and participation in City services, programs, initiatives, and projects while building community pride and positive identification with the City among its residents.

Enabled by...

Leveraging the communication skills, knowledge, and experience of employees while utilizing existing and emerging technologies to enhance, improve, and streamline the communication process.

	Measure	FY20	FY21	FY22	Ongoing
		Jul-Jun	Jul-Jun	Jul-Dec	Target
	Social media engagement: total number of followers including City Hall Nextdoor, Facebook, Twitter, and Instagram accounts	31,906	35,177	37,367	10% annual increase
	Social media engagement: average number of engagements (reactions, comments, shares, and clicks) per post on City Hall Facebook account	72.3	66.5	85.1	10% annual increase
	Cupertino 311: Average response time to customers organization-wide (in days):	2.8 Days	3.5 Days	3.3 Days	Average Close Time 5 Days

So that...

Residents have access to timely, engaging, and important information

Clicks have now been added to the engagement metric, which will bump up the average number. The performance measure for "Access Cupertino: Average response time to customers organization-wide" was revised as Access Cupertino was replaced by Cupertino 311 in September 2017. The target has been revised to "Average Close Time," which reflects how many days it took to handle a request. The Cupertino 311 Application is administered through the IT Department, but each individual department is responsible for responding to its own requests. Response times are organized by request category.

City of Cupertino
 FY 21-22 Budget Performance Measures
 Department: Administration, City Manager's Office, Video Division

GOAL: Video Division oversees numerous outreach projects, public meetings, internal equipment upgrades, and public events. These activities coincide with the City Council and City's expectation for a positive presence in the community and communications and transparency to residents.

Enabled by...

24/7 government access channel, radio station, digital signage network, City website, and numerous online video platforms.

Measure	FY20	FY21	FY22	Ongoing
	Jul-Jun	Jul-Jun	Jul-Dec	Target
Percentage of total video productions performed vs scheduled productions (city meetings excluded)	145% 32/22	522% 47/9	362% 29/8	100%
Percentage of total engineering projects vs scheduled projects	233% 7/3	250% 15/6	300% 6/2	100%
Total video views on YouTube and Granicus platforms combined*	215,607	246,313	83,417	5% annual increase

* Percentage skewed due to pandemic - more overall views due to daily press conference postings

So that...



Public awareness, interest, understanding, and participation in the issues, programs, and services presented by the City of Cupertino can be enhanced.

City of Cupertino
 FY 21-22 Budget Performance Measures
 Department: City Manager's Office, Economic Development Division

GOAL: To actively pursue opportunities in the areas of business attraction, retention, and expansion as a means of promoting economic vitality, and strengthening the City's sales tax base to support Cupertino's excellent quality of life for its residents, businesses, and daytime population.

Enabled by...

Effective partnerships and proactive Economic Development programs to support local businesses.

Measure	FY20	FY21	FY22	Ongoing Target
	Jul-Jun	Jul-Jun	Jul-Dec	
 Maintain Economic Development Business Connect Subscribers	2,000	2,500	2,500	2,800
 Economic Development Business Workshops & Events	11	3*	2	12 per year

*limited due to COVID

So that...

Cupertino's economy and sales tax revenue base are diversified to further enhance the City's financial stability and its ability to provide quality amenities to the community.

City of Cupertino
FY 21-22 Budget Performance Measures
Department: Law Enforcement

Law Enforcement

Goal: Maintain a safe environment to live, work, learn and play.

Enabled by...

All members of the community are safe, informed, empowered and supported.

	Measure	FY20	FY21	FY22	Ongoing	
		Jul-Jun	Jul-Jun	Jul-Dec	Target	
i	Response time for emergency calls	Priority 1	3.51	3.40	4.31	5 minutes
		Priority 2	6.37	6.07	6.52	9 minutes
		Priority 3	11.96	11.80	11.28	20 minutes
	% programs maintaining minimum attendance	Teen Academy	83%	92%	90%	80%
		Citizen Academy	65%	N/A	N/A	80%

City of Cupertino
FY 21-22 Budget Performance Measures
Department: Innovation & Technology

Innovation & Technology

Goal: Provide superior delivery of information and technology services to city employees and constituents while continually enhancing levels of engagement.

Enabled by...

Tools and services leverage existing, emerging and innovative technologies to enhance, improve, and streamline business and communications processes

Integrated information services enable customers' access to the tools and information they need, when and where they need it



	Measure	FY20 Jul-Jun	FY21 Jul-Jun	FY22 Jul-Dec	Ongoing Target
i	GIS: % of time spent Developing Application	10%	25%	25%	35%
	GIS: % of time Maintaining applications	90%	75%	70%	65%
	GIS: Met Requests within SLA (map, data, Web maps, Cityworks, schema, other) completed	97%	98%	100%	100%
	GIS: Increase Property Information (Internal/External) site visits per month	665/2,671	691/533	838/575	900/600
	GIS: Cityworks utilization - # of assets Cupertino maintains vs # of assets maintained in Cityworks. Also the % increase of work units completed (WOs, INSP,SRs)	45/31 70%	45/31 20%	45/35 50%	45/45 20%
	Infrastructure: Percentage based upon number of scheduled projects/Number of projects completed on time	80%	86%	71%	100%
	Infrastructure: Percentage based upon number of HelpDesk tickets/SLA measurements	93%	94%	93%	90%
🤝	Infrastructure: % Customer satisfaction based upon Satisfaction Rate from helpdesk tickets	99.1%	98.7%	100.0%	85%
i	Infrastructure: % of network uptime (not including planned maintenance)	99.9%	99.9%	100.0%	99%
	Applications: % of citywide-enterprise application project management performed on time and on budget	96%	95%	95%	95%
	Applications: Number of website site visits/Number of site hits	1,624,377	800,164	823,496	5% annual increase
	Applications: Number of support request for the applications support per month	45	65	55	20

* Not tracked

City of Cupertino
FY 21-22 Budget Performance Measures
Department: Administrative Services

Finance




Goal: Financial Stability - Provide a sustainable level of core services that are funded from ongoing and stable revenue sources.

So that...		Measure	FY20 Jul-Jun	FY21 Jul-Jun	FY22 Jul-Dec	Ongoing Target
The City is financially responsible.		General Fund fund balance as a % of budgeted appropriations	69%	103%	78%	35%
		Credit Rating	AA+	AA+	AA+	AA+
The City can invest in Community priorities.		Actual revenue vs. budget (% below budget)	-7%	-19%	-35%	10%
		Actual expenditures (% below budget)	17%	15%	23%	5%
		Funding allocated to high priority services (Public Works, Community Development, Law Enforcement)	43%	53%	53%	63%

**So that...
Citizens can enjoy high quality services that meet community priorities.**

Human Resources

Goal: To create a thriving organization with meaningful careers in public service.

So that...		Measure	FY20 Jul-Jun	FY21 Jul-Jun	FY22 Jul-Dec	Ongoing Target
The City can ensure a safe working environment for all employees		# of Worker's Compensation Cases	15	10	13	0
		Total recordable Injury Rate YTD	5.70%	LM	LM	0%
		% absenteeism (% of total annual work hours)	3%	2%	2%	2%
		% turnover rate	3%	5%	3%	1%
The City attracts and retains a talented workforce		% Employee satisfaction	N/A	N/A	N/A	100%
		% Employee participation in wellness activities	47%	43%	47%	75%
The agency builds a flexible and productive work arrangement.		Average # of applications received per recruitment	41	70	48	50
		Recruitment timeline - # days from hiring request to offer letter	85	78	70	60
		# of employees using the Telework program	N/A	N/A	N/A	17
		% Utilization of full-service employee portal	100%	N/A*	N/A*	100%



*Data not applicable

**So that...
Citizens can enjoy high quality services that meet community priorities.**

City of Cupertino
FY 21-22 Budget Performance Measures
Department: Community Development Department

Community Development

Goal: Review and guide development activity to ensure compliance with relevant codes and policies, and alignment with community values to promote and enhance Cupertino's community-wide quality of life.

Enabled by...	Measure	FY20	FY21	FY22	Ongoing Target	
		Jul-Jun	Jul-Jun	Jul-Dec		
Efficient planning and building services and enhanced customer service.		Building permit applications shall be plan reviewed within 15 business days.	92%	93%	93%	80%
		Customer/Applicants visiting the Building Permit Counter shall be assisted within 15 minutes	93%	**	100%***	80%
		Applicants visiting the Planning Counter shall be assisted within 15 minutes	91%	**	100%***	50%
		Building permit applications reviewed/issued over-the-counter (OTC)	63%	**	**	75%
		Below market rate rental and purchase vacancies filled	11	14	11	15 per year
		Housing resources and referrals provided	109	129	82	100 per year
		Complimentary/courtesy prelim app reviews completed within 4 weeks	83%	79%	69%	80%
Effective code enforcement services.		Average number of days to initiate investigation of code complaints	0.21	0.077	0.059	< 7
		Code enforcement cases resolved without issuance of citations	85%	98%	91%	80%
		Landlord-tenant counseling and dispute resolution cases provided	28	46	23	100 per year
		Public Outreach Events	4	**	**	12 per year
Affordable and Below Market Rate Housing programs and public service grants.						

*Data provided from July 2019 - February 2020 due to shelter-in-place mandate.

** No data due to closure of city hall.

*** In-person appointment started July 15, 2021, the counters were temporary closed in January 10, 2022 due to the surge of the COVID-19 Omicron variant.

So that... Cupertino is a thriving City to live, work, learn and play.

City of Cupertino
FY 21-22 Budget Performance Measures
Department: Parks and Recreation



Parks and Recreation

Goal: Create a positive, healthy and connected community.

Enabled by...

City investment in quality recreation and community programs

Improved business processes to improve customer experience

		FY20	FY21	FY22	Ongoing
	Measure	Jul-Jun	Jul-Jun	Jul-Dec	Target
	% of Parks and Recreation Department customers surveyed who rate services as good or excellent	98%	94%	91%	85%
	% of programs maintaining minimum registration	62%	46%	79%	80%
	% Department's total cost recovery for all (direct and indirect) costs	37%	39%	50%	40%
	% change in participants*	-16%	-39%	117%	+1%
	# of new programs or events offered	89	37	4	50

*Increase due to more programs offered and partial reopening of services.

So that...

Cupertino has an exceptional system of parks and services that align with community values.

City of Cupertino
FY 21-22 Budget Performance Measures
Department: Public Works

Capital Project Delivery

Goal: Develop and deliver projects on time and within budget that serve the resident's needs and supports the City's stability and growth

So that...

City funds capital improvement projects.

Projects are utilized by the community.

	Measure	FY20 Jul-Jun	FY21 Jul-Jun	FY22 Jul-Dec	Ongoing Target
i	Percentage of projects completed on budget	95%	90%	100%	95%
	Percentage of construction projects completed on time	78%	90%	100%	95%

*FY21: 10 projects completed, 9 projects on budget and time

*FY22: 2 projects completed

Benefit: Residents and businesses are assured their community is being improved by insightful, targeted and efficient use of taxes and fees towards maintaining and improving the City's facilities and assets.

Environment

Goal: Protect our natural environment for current and future generations.




So that...

City is responsible for a comprehensive storm water pollution prevention program.

Potential pollutants are stopped before entering the storm drain system.

City implements solid waste collection services that encourage diversion of waste from landfills.

Diversion of solid waste from landfill is maximized, compost is produced for community use, recyclable material is sold to help offset collection costs and methane gas emissions at landfills are reduced.

	Measure	FY20 Jul-Jun	FY21 Jul-Jun	FY22 Jul-Dec	Ongoing Target
	Percent of businesses in compliance during annual proactive stormwater pollution prevention inspections	95%	96%	N/A*	75%
	Percent of non-exempt businesses and multi-family accounts separating organics	CY 2019 64%	79%**	81%***	100% by 7/1/2022 (SB1383)
	Percent trash/litter reduction achieved to meet Stormwater Permit requirements	92%	88%	N/A****	100% by 7/1/2022
	Diversion rate from all single-family, multi-family, and commercial accounts as reported by Recology tonnage reports	54%	53%	52%	55%
	Respond to reports of actual or potential discharge the same business day	89%	89%	97%	95%
	% of plan reviews completed in required number of days	83%	90%	91%	100%
	Cubic yards of compost distributed via compost site	740 CY	1,165 CY	240 CY	1,000 CY
	% of vegetation obstructions resolved within 15 days from time of report*	38%	31%	35%	100%

*Inspections occur in the spring only

**as of 12/31/2020

***as of 9/7/2021

****calculated for Annual Report in September

Benefit: Current and future residents enjoy a healthy, sustainable environment.

Development Services

Goal: Provide timely review and permitting of privately completed improvements within the public right of way.

So that...

Improvements within the public right of way have engineering oversight and are constructed to City standards.

	Measure	FY20 Jul-Jun	FY21 Jul-Jun	FY22 Jul-Dec	Ongoing Target
i	Respond to complete plan submittals or applications within two (2) weeks	95%	93%	95%	90%
	Respond to complete encroachment permit applications within two (2) weeks	93%	92%	94%	90%
	Respond to public inquiries at the Public Works counter in City Hall within 15 minutes	95%	*	*	95%

*In-person counter closed starting March 2020

Benefit: Customers can expect quality reviews and permitting on a defined schedule, and the community can expect quality public facilities.

Public improvements are consistent and meet the needs of the community.

Grounds Division

Goal: Provide well maintained, clean, and safe areas for the community's recreational use and enjoyment at optimal life cycle costs.

So that...

The City consistently funds park maintenance and safety improvement programs.

	Measure	FY20 Jul-Jun	FY21 Jul-Jun	FY22 Jul-Dec	Ongoing Target
i	Percentage of 311 requests that are responded to and closed within 3 business days	72%	74%	85%	80%
	Percentage of the 2,964 park inspections, including play grounds, performed 3 times weekly	100%	100%	50%	100%
	Percentage of Backflow Prevention Devices inspected, tested and repaired annually	100%	100%	50%	100%

Benefit: Cupertino has a well maintained public park system that meets the needs of the community and is beneficial to personal wellness.

Parks are maintained in good, usable condition; safety programs are effective.

Streets Division

Goal: Timely maintenance of public sidewalks, streets, streetlights and storm drain system in good condition to ensure safe, environmentally compliant, and accessible infrastructure that minimizes liability and has an optimal life cycle cost.

So that...

The City consistently funds street and storm drain maintenance and safety improvement programs.

Street and storm drain systems are maintained in a good condition; safety programs are effective.

	Measure	FY20 Jul-Jun	FY21 Jul-Jun	FY22 Jul-Dec	Ongoing Target
i	Pavement condition index (PCI) > or equal to 82	85	85	85	82
	Percent of the 2199 storm drain inlets inspected and cleaned in fiscal year	94%	95%	1%	100%
	Percent of Inlets with Trash Capture Screens inspected and cleaned twice yearly	100%	100%	50%	100%
	Percentage of roadway regulatory & street name signs repaired or replaced	5.1%	5.5%	2.8%	7%
	Percentage of trip and fall complaints investigated and mitigated within 2 business days	100%	100%	100%	98%
	Percentage of reported streetlight outages investigated and repaired in 3 business days	89%	90%	90%	90%

Benefit: Cupertino has well maintained street and storm drain systems that meet the needs of the community.

Trees and Right of Way Division

Goal: Maintain and enhance the City's street trees and medians to ensure a safe, healthy and environmentally conscious Urban Forest.

So that...

The City consistently funds street tree and median maintenance and safety programs

Street trees and medians remain in good health and condition

	Measure	FY20 Jul-Jun	FY21 Jul-Jun	FY22 Jul-Dec	Ongoing Target
i	Percentage of 311 requests that are responded to and closed within 3 business days	96%	95%	83%	95%
	Percentage of trees inspected and maintained in the yearly maintenance zone (8 year maintenance cycle)	76%	97%	23%	100%
	Percentage of trees planted versus trees removed # planted/# removed	76% 69/91	92% 187/202	78% 66/84	101%

Benefit: Cupertino has a healthy and safe urban forest and medians provide good aesthetic and environmental value.

Facilities and Fleet Division

Goal: Timely maintain City Facilities and City Fleet to meet staff, community and environmental requirements at an optimal life cycle cost.

So that...

The City consistently funds facility and fleet maintenance, fleet procurement, and safety improvement programs.

Facilities and Fleet remain in good and operable condition.

	Measure	FY20 Jul-Jun	FY21 Jul-Jun	FY22 Jul-Dec	Ongoing Target
i	Percentage of preventative maintenance work orders completed for Fleet assets within 14 days of the due date.	82%	83%	97%	85%
	Percentage of facilities maintenance requests closed within 30 days.	90%	89%	83%	90%

Benefit: Cupertino has well maintained, usable, and safe facilities and fleet in order to meet the needs of staff and the community.

Transportation Division

Goal: Ensure the efficiency and safety of the transportation system for all modes of travel.

So that...

Infrastructure indicates good condition; safety programs are effective.

	Measure	FY20 Jul-Jun	FY21 Jul-Jun	FY22 Jul-Dec	Ongoing Target
i	Percentage of non-emergency traffic signal requests addressed within 72 hours.	90%	90%	93%	100%
	Percentage of emergency traffic signal requests addressed within 2 hours.	100%	100%	100%	100%
	Percentage of traffic engineering requests responded to within 72 hours	95%	95%	95%	95%
	Annual mileage increase of separated bicycle lanes and pedestrian paths.	0.72	1.30	0.66	1 mile

Benefit: Having a safe and efficient transportation system that is inviting for all modes of travel.

Mid-Year FY 2021-22 Recommended Adjustments					
Fund	GL Account	Expenditures	Revenues	Fund Balance	Description
GENERAL FUND					
100 General Fund	100-90-001-800-902	10,000,000	-	(10,000,000)	Transfer from General Fund to Capital Reserve
TOTAL GENERAL FUND		10,000,000	-	(10,000,000)	
SPECIAL REVENUE FUND					
280 Park Dedication	280-99-009 700-702	910,000	-	(910,000)	Lawrence-Mitty Park Debris Removal, Clean Up, and Tree Removal
TOTAL CAPITAL PROJECTS FUND		910,000	-	(910,000)	
CAPITAL PROJECTS FUND					
420 Capital Improvement Projects	420-99-051-900-905	(1,847,699)	-	1,847,699	All-Inclusive Play Area Budget Reduction
429 Capital Reserve	429-90-001-421-401	-	10,000,000	10,000,000	Transfer from General Fund to Capital Reserve
TOTAL CAPITAL PROJECTS FUND		(1,847,699)	10,000,000	11,847,699	
ENTERPRISE FUNDS					
520 Resource Recovery	520-81-801-750-XXX	350,000	-	(350,000)	New Landfill Agreement and Solid Waste Consulting Services
560 Blackberry Farm Golf Course	560-63-616-420-433	-	7,700	7,700	Additional Revenue Estimate and Bank Charges
560 Blackberry Farm Golf Course	560-63-616-420-444	-	6,300	6,300	Additional Revenue Estimate and Bank Charges
560 Blackberry Farm Golf Course	560-63-616-450-403	-	206,000	206,000	Additional Revenue Estimate and Bank Charges
560 Blackberry Farm Golf Course	560-63-616-700-702	10,300	-	(10,300)	Tree Maintenance
560 Blackberry Farm Golf Course	560-63-616-700-707	9,350	-	(9,350)	Additional Revenue Estimate and Bank Charges
TOTAL ENTERPRISE FUNDS		369,650	220,000	(149,650)	
INTERNAL SERVICE FUNDS					
630 Vehicle Replacement	630-85-849-600-608	26,000	-	(26,000)	Leaf Blower Replacement
TOTAL INTERNAL SERVICE FUNDS		26,000	-	(26,000)	
TOTAL ALL FUNDS		9,457,951	10,220,000	762,049	

Budget Transfers as of December 31, 2021		
GL Account	Amount	Description
100-10-100 700-702 - Contract Services General Service Agreement	\$ 2,400	Housing Op Ed Tripepi Smith - CM Discretionary
100-14-123 719-705 - Contingencies Contingencies	\$ (2,400)	Housing Op Ed Tripepi Smith - CM Discretionary
	\$ -	
100-12-120 600-642 - Materials Telephone and Data Services	\$ (1,040)	Divisional transfer to fund satellite phone with County
100-12-633 600-642 - Materials Telephone and Data Services	\$ 1,040	Divisional transfer to fund satellite phone with County
	\$ -	
100-71-705 500-501 - Employee Compensation Salaries Full Time	\$ 115,115	Economic Development Manager Transfer from Contract Services
100-71-705 501-500 - Employee Benefits Retirement System	\$ 36,019	Economic Development Manager Transfer from Contract Services
100-71-705 501-502 - Employee Benefits Pers 1959 Surv Empr	\$ 41	Economic Development Manager Transfer from Contract Services
100-71-705 501-505 - Employee Benefits Health Insurance	\$ 12,473	Economic Development Manager Transfer from Contract Services
100-71-705 501-506 - Employee Benefits Dental Insurance	\$ 918	Economic Development Manager Transfer from Contract Services
100-71-705 501-507 - Employee Benefits Medicare	\$ 1,669	Economic Development Manager Transfer from Contract Services
100-71-705 501-508 - Employee Benefits Life Insurance	\$ 482	Economic Development Manager Transfer from Contract Services
100-71-705 501-509 - Employee Benefits Long Term Disability	\$ 438	Economic Development Manager Transfer from Contract Services
100-71-705 501-511 - Employee Benefits Vision Insurance	\$ 120	Economic Development Manager Transfer from Contract Services
100-71-705 501-513 - Employee Benefits Rec Bucks	\$ 335	Economic Development Manager Transfer from Contract Services
100-71-705 700-702 - Contract Services General Service Agreement	\$ (167,610)	Economic Development Manager Transfer from Contract Services
	\$ -	
100-15-141 600-642 - Materials Telephone and Data Services	\$ 432	Senior Assistant CAO Cell Phone
100-15-141 700-702 - Contract Services General Service Agreement	\$ (432)	Senior Assistant CAO Cell Phone
	\$ -	
100-15-141 600-642 - Materials Telephone and Data Services	\$ 432	CAO Cell Phone
100-15-141 700-702 - Contract Services General Service Agreement	\$ (432)	CAO Cell Phone
	\$ -	
100-15-141 600-613 - Materials General Supplies	\$ 10,425	CAO annual subscriptions
100-15-141 700-702 - Contract Services General Service Agreement	\$ (10,425)	CAO annual subscriptions
	\$ -	
100-15-141 500-501 - Employee Compensation Salaries Full Time	\$ 158,398	Senior Assistant City Attorney reclass for salary and benefits
100-15-141 501-500 - Employee Benefits Retirement System	\$ 49,563	Senior Assistant City Attorney reclass for salary and benefits
100-15-141 501-502 - Employee Benefits Pers 1959 Surv Empr	\$ 42	Senior Assistant City Attorney reclass for salary and benefits
100-15-141 501-505 - Employee Benefits Health Insurance	\$ 12,426	Senior Assistant City Attorney reclass for salary and benefits
100-15-141 501-506 - Employee Benefits Dental Insurance	\$ 915	Senior Assistant City Attorney reclass for salary and benefits
100-15-141 501-507 - Employee Benefits Medicare	\$ 2,297	Senior Assistant City Attorney reclass for salary and benefits
100-15-141 501-508 - Employee Benefits Life Insurance	\$ 480	Senior Assistant City Attorney reclass for salary and benefits
100-15-141 501-509 - Employee Benefits Long Term Disability	\$ 436	Senior Assistant City Attorney reclass for salary and benefits
100-15-141 501-511 - Employee Benefits Vision Insurance	\$ 120	Senior Assistant City Attorney reclass for salary and benefits
100-15-141 501-513 - Employee Benefits Rec Bucks	\$ 334	Senior Assistant City Attorney reclass for salary and benefits
100-15-141 700-702 - Contract Services General Service Agreement	\$ (225,011)	Senior Assistant City Attorney reclass for salary and benefits
	\$ -	
100-15-141 500-501 - Employee Compensation Salaries Full Time	\$ 255,000	City Attorney reclass for salary and benefits
100-15-141 500-506 - Employee Compensation Car Allowance	\$ 4,200	City Attorney reclass for salary and benefits
100-15-141 501-500 - Employee Benefits Retirement System	\$ 79,790	City Attorney reclass for salary and benefits
100-15-141 501-502 - Employee Benefits Pers 1959 Surv Empr	\$ 62	City Attorney reclass for salary and benefits
100-15-141 501-505 - Employee Benefits Health Insurance	\$ 4,500	City Attorney reclass for salary and benefits
100-15-141 501-506 - Employee Benefits Dental Insurance	\$ 1,372	City Attorney reclass for salary and benefits
100-15-141 501-507 - Employee Benefits Medicare	\$ 3,698	City Attorney reclass for salary and benefits
100-15-141 501-508 - Employee Benefits Life Insurance	\$ 720	City Attorney reclass for salary and benefits
100-15-141 501-509 - Employee Benefits Long Term Disability	\$ 654	City Attorney reclass for salary and benefits
100-15-141 501-511 - Employee Benefits Vision Insurance	\$ 179	City Attorney reclass for salary and benefits
100-15-141 501-513 - Employee Benefits Rec Bucks	\$ 500	City Attorney reclass for salary and benefits
100-15-141 501-517 - Employee Benefits Deferred Comp	\$ 19,500	City Attorney reclass for salary and benefits
100-15-141 700-702 - Contract Services General Service Agreement	\$ (370,175)	City Attorney reclass for salary and benefits
	\$ -	
100-32-308 600-606 - Materials Software	\$ (8,000)	Software purchase to contract service
100-32-308 700-702 - Contract Services General Service Agreement	\$ 8,000	Software purchase to contract service
	\$ -	
100-32-308 600-606 - Materials Software	\$ (15,000)	Software purchase to contract service
100-32-308 700-702 - Contract Services General Service Agreement	\$ 15,000	Software purchase to contract service
	\$ -	
100-88-846 700-702 - Contract Services General Service Agreement	\$ (435,185)	Transfer to specific contract service account for tracking purposes
100-88-846 700-709 - Contract Services Crossing Guard	\$ 435,185	Transfer to specific contract service account for tracking purposes
TOTAL	\$ -	

Fiscal Policies – Committed, Unassigned Fund Balance, and Use of One Time Funds Policy

PURPOSE

To establish assigned and unassigned fund balance and one time use policies.

SCOPE

The General Fund and Capital Funds.

POLICY

To maintain sufficient committed and unassigned fund balance (general fund only) in each fund for the ability to meet following economic uncertainties:

Economic Uncertainty – \$24,000,000 and represents two months of General Fund (GF) operating expenditures excluding transfers out plus a two year drop in total general fund revenue of 13% or approximately 1.5 months, excluding the use of reserves. Transfers out are primarily used to fund Capital Projects and do not represent on-going expenditures. This assignment will change from year to year based on budgeted general fund expenditures and revenues.

- Mitigate short-term economic downturns and volatility in revenues (2 years or less)
- Sustain city services in the event of an emergency
- Meet requirements for debt reserves
- Meet operating cash flow requirements as a result of delay in the receipt of taxes, grant proceeds and other operating revenues

PERS – \$20,491,004 and represents the initial investment into the City's Pension Rate Stabilization Program (PRSP). As a result of the significant increase in retirement costs based on the most recent actuarial forecast, the City elects to establish and fund a secondary pension trust to assist in stabilizing the potential impact of pension cost volatility on the City's operating budget. Annual contributions subsequent to the initial funding are determined by calculating the difference between CalPERS' current discount rate and a more conservative rate determined by the City. This difference is to be transferred to the pension trust and to be used solely for the benefit of members in the plan. Funds in this trust are technically "restricted" under Governmental Accounting Standards Board (GASB) Statement No. 54 in that the funds are legally restricted to be used for retirement costs; however, the timing for which these funds may be used is only at the discretion of City Council.

Capital Projects - \$10,000,000 and represents the amount of General Fund resources readily available to fund future capital projects in the City's Capital Improvement Program (CIP). The City's Capital Projects Funds has a \$5,000,000 reserve threshold; however, establishing a secondary reserve in the City's General Fund will enable more efficient and accurate short- and long-term capital budgeting and planning.

Sustainability Reserve – Cupertino's Sustainability Division oversees the City's Climate Action Plan (CAP), which defines strategies to reduce greenhouse gas emissions, and provides residents, businesses and schools with programs and services focused on energy efficiency, renewable energy, water conservation, alternative transportation and other sustainable actions. The City receives rebates for projects that successfully meet the eligibility requirements such as energy or water efficiency. If the rebates were not initially budgeted, they are categorized as committed fund balance in the General Fund. The purpose of this reserve is to help support future sustainability projects/programs.

Unassigned – \$500,000 and represents 1% of the total general fund operating budget. This assignment may change from year to year based on budgeted general fund expenditures.

- Absorb unanticipated operating needs that arise during the fiscal year that were not anticipated during the budget process
- Absorb unexpected claims or litigation settlements

Capital Improvement – \$5,000,000 and represents average dollars spent for capital projects in the last three fiscal years. This assignment may change from year to year based on actuals dollars spent on capital projects and anticipated future capital project needs.

- Meet future capital project needs so as to minimize future debt obligations

The City shall not use fund balances/reserves in lieu of revenues to pay for ongoing expenses except as specifically provided in the City's reserve policy.

The chart below summarizes reserve policy levels as described above:

Funding Priority	Reserve	Reserve Level	Escalator ¹	Description
GENERAL FUND				
1	Economic Uncertainty	\$24,000,000	GF Budgeted Operating Expenditures ² GF Budget Revenue ³	For economic downturns and major revenue changes.
2	PERS	\$20,491,004	Budgeted Citywide Retirement Costs	For pension cost increases.
3	Capital Projects	\$10,000,000	None	For future capital project funding.
4	Sustainability Reserve	\$127,891	GF Budget Revenue ³	For future sustainability projects/programs.
5	Unassigned	\$500,000	Budgeted GF Operating Expenditures ²	For mid-year budget adjustments and redeployment into the five year budget.
CAPITAL PROJECTS FUNDS				
6	Capital Improvement	\$5,000,000	None	Reserves set aside for future capital projects.

¹ Rounded to the nearest hundred thousand

² Excludes Transfers Out

³ Excludes the use of reserves

Changes to Committed Fund Balance – All reserves listed in this policy, with the exception of the PERS restricted reserve, are classified as Committed Fund Balance under GASB Statement No. 54. Committed fund balance is comprised of amounts that can be used only for the specific purposes determined by a formal action of the government’s highest level of decision-

making authority. Changes to committed fund balances must be approved by City Council. This policy will be reviewed annually as part of the budget process.

Replenishment process – Should the City need to utilize any of the committed fund balances listed in this policy, recommendation will be brought to City Council for approval and a plan to replenish the committed balance will be developed in conjunction with its use.

Excess – Funding of these reserves will come generally from one-time revenues, annual net income, and transfers from other reserves that exceed policy levels. They will be funded in the following priority order with any remaining funds to be placed in the Capital Reserve:

- 1) Economic Uncertainty
- 2) PERS
- 3) Capital Projects
- 3) Sustainability Reserve
- 4) Unassigned

Fiscal Policies – Committed, Unassigned Fund Balance, and Use of One Time Funds Policy

PURPOSE

To establish assigned and unassigned fund balance and one time use policies.

SCOPE

The General Fund and Capital Funds.

POLICY

To maintain sufficient committed and unassigned fund balance (general fund only) in each fund for the ability to meet following economic uncertainties:

Economic Uncertainty – \$1924,000,000 and represents two months of General Fund (GF) operating expenditures excluding transfers out plus a two year drop in total general fund revenue of 13% or approximately 1.5 months, excluding the use of reserves. Transfers out are primarily used to fund Capital Projects and do not represent on-going expenditures. This assignment will change from year to year based on budgeted general fund expenditures and revenues.

- Mitigate short-term economic downturns and volatility in revenues (2 years or less)
- Sustain city services in the event of an emergency
- Meet requirements for debt reserves
- Meet operating cash flow requirements as a result of delay in the receipt of taxes, grant proceeds and other operating revenues

PERS – \$20,491,004 and represents the initial investment into the City's Pension Rate Stabilization Program (PRSP). As a result of the significant increase in retirement costs based on the most recent actuarial forecast, the City elects to establish and fund a secondary pension trust to assist in stabilizing the potential impact of pension cost volatility on the City's operating budget. Annual contributions subsequent to the initial funding are determined by calculating the difference between CalPERS' current discount rate and a more conservative rate determined by the City. This difference is to be transferred to the pension trust and to be used solely for the benefit of members in the plan. Funds in this trust are technically "restricted" under Governmental Accounting Standards Board (GASB) Statement No. 54 in that the funds are legally restricted to be used for retirement costs; however, the timing for which these funds may be used is only at the discretion of City Council.

Capital Projects - \$10,000,000 and represents the amount of General Fund resources readily available to fund future capital projects in the City's Capital Improvement Program (CIP). The City's Capital Projects Funds has a \$5,000,000 reserve threshold; however, establishing a secondary reserve in the City's General Fund will enable more efficient and accurate short- and long-term capital budgeting and planning.

Sustainability Reserve – Cupertino’s Sustainability Division oversees the City’s Climate Action Plan (CAP), which defines strategies to reduce greenhouse gas emissions, and provides residents, businesses and schools with programs and services focused on energy efficiency, renewable energy, water conservation, alternative transportation and other sustainable actions. The City receives rebates for projects that successfully meet the eligibility requirements such as energy or water efficiency. If the rebates were not initially budgeted, they are categorized as committed fund balance in the General Fund. The purpose of this reserve is to help support future sustainability projects/programs.

Unassigned – \$500,000 and represents 1% of the total general fund operating budget. This assignment may change from year to year based on budgeted general fund expenditures.

- Absorb unanticipated operating needs that arise during the fiscal year that were not anticipated during the budget process
- Absorb unexpected claims or litigation settlements

Capital Improvement – \$5,000,000 and represents average dollars spent for capital projects in the last three fiscal years. This assignment may change from year to year based on actuals dollars spent on capital projects and anticipated future capital project needs.

- Meet future capital project needs so as to minimize future debt obligations

The City shall not use fund balances/reserves in lieu of revenues to pay for ongoing expenses except as specifically provided in the City’s reserve policy.

The chart below summarizes reserve policy levels as described above:

Funding Priority	Reserve	Reserve Level	Escalator ¹	Description
GENERAL FUND				
1	Economic Uncertainty	\$ <u>1924</u> ,000,000	GF Budgeted Operating Expenditures ² GF Budget Revenue ³	For economic downturns and major revenue changes.
2	PERS	\$20,491,004	Budgeted Citywide Retirement Costs	For pension cost increases.
<u>3</u>	<u>Capital Projects</u>	<u>\$10,000,000</u>	<u>None</u>	<u>For future capital project funding.</u>

4	Sustainability Reserve	\$127,891	GF Budget Revenue ³	For future sustainability projects/programs.
5	Unassigned	\$500,000	Budgeted GF Operating Expenditures ²	For mid-year budget adjustments and redeployment into the five year budget.
CAPITAL PROJECTS FUNDS				
6	Capital Improvement	\$5,000,000	None	Reserves set aside for future capital projects.

¹ Rounded to the nearest hundred thousand

² Excludes Transfers Out

³ Excludes the use of reserves

Changes to Committed Fund Balance – All reserves listed in this policy, with the exception of the PERS restricted reserve, are classified as Committed Fund Balance under Government Accounting Standards Board (GASB) Statement No. 54. Committed fund balance is comprised of amounts that can be used only for the specific purposes determined by a formal action of the government’s highest level of decision-making authority. Changes to committed fund balances must be approved by City Council. This policy will be reviewed annually as part of the budget process.

Replenishment process – Should the City need to utilize any of the committed fund balances listed in this policy, recommendation will be brought to City Council for approval and a plan to replenish the committed balance will be developed in conjunction with its use.

Excess – Funding of these reserves will come generally from one-time revenues, annual net income, and transfers from other reserves that exceed policy levels. They will be funded in the following priority order with any remaining funds to be placed in the Capital Reserve:

- 1) Economic Uncertainty
- 2) PERS
- 3) Capital Projects
- 3) Sustainability Reserve

4) Unassigned



CITY OF CUPERTINO

Agenda Item

22-10456

Agenda Date: 3/1/2022
Agenda #: 12.

Subject: Progress update of the Housing Element Update, and review, discuss, and approve selection of stakeholders group

Receive report and provide feedback on the progress, review the stakeholders selection process, and consider approval of the stakeholders group

Presenter: Ben Fu, Community Development Director



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3308 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: March 1, 2022

Subject

Progress update report from EMC Planning Group regarding the Housing Element update process. Discussion and approval of the Housing Element update Stakeholders group.

Recommended Action

Receive report and provide feedback on the progress of the Housing Element update, review the Stakeholders selection process, and consider approval of the Stakeholders group membership.

Discussion

Background

The City is currently preparing its 6th Cycle Housing Element update, which covers the planning period of 2023 to 2031. The Housing Element is part of Cupertino's General Plan and identifies policies and programs intended to meet the housing needs of the City's current and future residents, at all levels of income. State law requires that every city and county in California adopt a Housing Element every eight years to reflect the Regional Housing Needs Allocation (RHNA) established for each jurisdiction by the State. The City's RHNA is 4,588 units for the 2023-2031 planning period.

Once a jurisdiction's RHNA has been determined cities must demonstrate that they have adequate housing sites to accommodate their RHNA. There are guidelines and specific requirements on site selection, that ensure the City has policies in place to support the development of housing for persons at all income levels, as specified by State law. The City is presently in the process of refining and finalizing its site selection inventory, which has been the focus of two Planning Commission study sessions on January 25, and February 22, 2022, with a follow up study session on February 28, 2022. Completing the site selection inventory is a key step in the housing Element update process that will enable the City to define the scope of the Housing Element update and assess the update in accordance with the California Environmental Quality Act (CEQA).

Analysis

On September 21, 2021, the City Council awarded a consultant agreement to prepare the 6th Cycle Housing Element update to EMC Planning Group (EMC). Since that time EMC and City staff have held two City Council study sessions, on September 28 and November 16, 2021, focusing on the overall Housing Element update process and State requirements that have greatly expanded the role and extent of public outreach required for the 6th Cycle. Additionally, a separate Housing Commission study session and community workshop were held on December 9, 2021. These meetings were followed by the three previously mentioned Planning Commission study sessions in January and February 2022 that focused on the site selection inventory process.

Attached to this brief staff report is a memorandum prepared by EMC that discusses the principal State requirements of the Housing Element update process, the current status of the City's Housing Element update, and the sites selection inventory guidance received from the Planning Commission at the Commission's recent study sessions. Additionally, EMC's memorandum provides an update on the Stakeholders Group application and selection process. The formation of a Stakeholders Group is part of an extensive ongoing outreach effort by EMC to solicit input from and include a broad spectrum of community members' ideas and perspectives into the Housing Element update.

Next Steps

EMC's scope of work includes a robust public engagement plan, including public meetings and study sessions, community workshops, stakeholder group meetings, online engagement, and translation/interpretation services to be completed in a manner ensuring that a State-compliant Housing Element can be presented to the City Council by the State's January 31, 2023 deadline.

The next immediate step in the Housing Element update process is a City Council work session scheduled for March 15, 2022 to further discuss the sites selection process.

Sustainability Impact

No sustainability impacts.

Fiscal Impact

No fiscal impact.

Prepared by: Luke Connolly, Senior Planner
Piu Ghosh, Planning Manager

Reviewed by: Benjamin Fu, Director of Community
Dianne Thompson, Assistant City Manager
Christopher Jensen, City Attorney

Approved by: Jim Throop, City Manager

Attachments:

Supplemental Staff Report Memo by EMC

A - 6th Cycle Housing Element Update—Public Engagement Activities to date

B - Stakeholder group Questions

C - List of Recommended stakeholder scores and response to primary narrative question

D - HCD Revision request letter for Monterey Park



To: Planning Commission
From: Ande Flower, EMC Planning Group;
Date: March 1, 2022
Re: Public outreach update and recommended Stakeholder Group list

SUMMARY

This memorandum describes public outreach to date for the Housing Element update process and presents a list of recommended candidates for the Stakeholder Group.

ACTION REQUEST

Receive the report for current and planned public outreach, review the proposed list of stakeholders, and provide guidance for next steps.

BACKGROUND

The success of the 6th Cycle Housing Element Update process hinges in part on a community outreach and engagement program that is robust, inclusive, and meaningful. In 2018, Assembly Bill 686 (AB 686) established a state mandate that expanded the duty of all California's public agencies to affirmatively further fair housing (AFFH). This mandate included outreach to equitably include all stakeholders in the Housing Element public participation program. Through our process, we encourage capacity-building for those who have not traditionally been part of policy discussions to better understand the housing need in the region in a way that helps create long-term engagement

Staff and consultants continue to strive to engage all economic segments of the community within and surrounding Cupertino (including residents and/or their representatives) in the development and update of the housing element thus far. To date, this public participation effort has included:

- Developing Housing Element Update webpages in 5 languages
- Developing a mapping exercise for the public (Cupertino Housing Simulator tool)
- Providing updates to City Council, Planning Commission, and Housing Commission
- Contributing Housing Element Updates to the Scene and Items of Interest Newsletters
- Hosting a December 9th Virtual Community Workshop
- Distributing a mailed postcard to all Cupertino residents
- Creating a Stakeholder Group
- Distributing letters to property owners for the sites inventory process

Additionally, our team has worked directly with West Valley Community Services (WVCS) to better understand the housing needs of the region. Working regionally is particularly important because understanding the needs of those who are not able to currently live in Cupertino, but would like to, is essential for HCD requirements for our next steps with policy discussions. Our engagement with WVCS includes a current survey of needs.

EMC Planning Group is also working directly with the ABAG Santa Clara Collaborative Steering Committee for AFFH. By participating with this Committee, we are positioned to provide Cupertino with the most current information for AFFH data integration, particularly with the draft Lawyers' Committee AFH report for Civil Rights work for Santa Clara County, which may be reviewed this spring by Council.

DISCUSSION

Increased participation is encouraged and we remain open to discovering additional ways to bring people to the Housing Element update discussion. The numbers of people who have joined the December Workshop and who have submitted draft housing plans with the Cupertino Housing Simulator tool have, however, been less than anticipated.

PUBLIC OUTREACH NEXT STEPS:

- We welcome ideas for additional attention for the public to become engaged with this Housing Element update process, such as a banner similar to what has been used in Saratoga.
- Streamline communications from EMC Planning Group to the public subscribed the housing website: <https://engagecupertino.org/housingelement>.
- EMC Planning Group provide bi-weekly updates to the City Council.
- The second Cupertino Housing Simulator tool iteration will soon be available.
 - We invite all decision-makers to use the tool to submit a proposed plan, and to act as ambassadors to encourage others in the community to participate and share their comments and ideas.
 - Those who have submitted plans will be invited to test out the beta version of Cupertino Housing Simulator 2.0 and to provide feedback for how we may be able to improve the experience.
 - Companion documents will be available for participants to take notes in preparation for a plan submittal.
 - The website will include detailed information about areas, sites, and addresses for the Cupertino Housing Simulator 2.0 mapping exercise.

STAKEHOLDER GROUP

We received thirty (30) excellent applications with the online form and paper copies available at the Library and Senior Center. There was one double entry, which explains the strikethrough for number SHapp 21. Using a point system, and a blind-review so that reviewers could not see candidate names or contact information, we had four (4) staff members of EMC Planning Group select the top ten (10) candidates, as follows:

- John Zhao
- Abdullah Memon
- Jennifer Shearin
- Joseph Fruen

- Shankar Krishnan
- Sean Hughes
- Janet Van Zoeren
- Ava Pai-Chi Chiao
- Elizabeth Moore
- Lisa Warren

A point system was initiated to assess potential applicants for the 6th Cycle Housing Element Stakeholder Group. Selection criteria is intended to result in a diverse cross-section of perspectives with people willing to be dedicated to the process. Collaboration with this stakeholder group will be focused on meeting goals of affirmatively furthering fair housing. Residents of all incomes, races, and ethnic backgrounds as well as employees of local businesses, community- and faith-based organizations, and public agencies are encouraged to participate. Throughout the lifespan of the regulatory update process, stakeholders are encouraged to provide meaningful input on how the City may achieve the overarching goal of accommodating the increased housing needs allocation for the 6th RHNA cycle in a responsible manner that considers the needs of existing and future residents.

Stakeholders are anticipated to inform the planning process and review draft plan materials. The goal for selection of this group is that it consists of a representative group of residents, local employees, community-based organizations, service providers, and/or other involved community members in the plan area. A minimum of three Stakeholder meetings will be organized throughout the planning process, including, but not limited to: (1) Plan Kickoff & Goal-Setting Meeting, (2) Policies & Strategies Meeting, and (3) Draft Plan Meeting.

Attached is the list of application questions with corresponding points dedicated to each response. A primary goal involved with this selection process is to minimize barriers to increase opportunity for a more diverse group of participants to support inclusion of those who may have not contributed to land-use decisions for their community in the past. A commitment and dedication to the role of stakeholder is recognized as essential for a potential applicant. Points are weighted to favor those who may represent either an under-represented role in the community for policy discussion, or embody a cross-section of perspectives. Description of qualifications and a check-box for self-identification are equally weighted evaluation criteria, with this goal for inclusive participation for the Stakeholder Group selection.

Staff suggests that Council consider adding three (3) additional stakeholders, specifically Applicants numbered 18, 26, and 28 to more fully include a variety of directly represented stakeholders.

EXAMPLE OF AN HCD REVISION-REQUEST LETTER

As requested from Vice-Mayor Chao, we have included a revision request letter from an Asian majority city within southern California City that has achieved certification. Following is a link for Monterey Park's final Housing Element:

<https://mpkhousingupdate.com/wp-content/uploads/2022/01/Monterey-Park-Final-Housing-Element.pdf>

ATTACHMENTS:

Attachment A: 6th Cycle Housing Element Update—Public Engagement Activities to date

Attachment B: Stakeholder group Questions

Attachment C: List of Recommended stakeholder scores and response to primary narrative question

Attachment D: HCD Revision request letter for Monterey Park

6th Cycle Housing Element Update—Public Engagement Activities to date

This attachment provides more detail on the public engagement and outreach activities for the 6th Cycle Housing Element Update.

Housing Element Update pages on EngageCupertino.org

Through the existing www.EngageCupertino.org website, distinctive Housing Element Update pages were created in [English](#), [Spanish](#), [Vietnamese](#), [Simplified Chinese](#), and [Russian](#). The initial pages launched in September 2021 and an updated and improved version of the pages launched December 6, 2021. Providing access to new contributors to this policy discussion in Cupertino is in keeping with goals for meeting AB 686 equity and inclusiveness requirements.

These dedicated Housing Element pages serve as the project hub of online activity, including important information, updates, engagement opportunities, and more. It is updated regularly and users can subscribe for updates.

Cupertino Housing Simulator Tool (Balancing Act)

To date, Cupertino residents have submitted 20 responses to the [Cupertino Housing Simulator tool](#) (Balancing Act), and there have been a total of 602 pageviews.

The first version of the Cupertino Housing Simulator was introduced at the December 9, 2021 Community Workshop. This initial version allowed residents to distribute housing across Cupertino's Neighborhoods and Special Areas that are designated in the General Plan.

To gain additional feedback, the mapping exercise and instructional video will remain active and online for approximately one additional month. As intended, more mapping exercises will follow the initial Balancing Act version with iterative maps becoming more focused on specific potential sites based on feedback from the community.

Working with West Valley Community Services (WVCS)

Since September, EMC has met with WVCS on a bi-weekly basis to develop outreach materials and engagement opportunities for their homeless and low-income clients. This includes:

- Developing a dedicated webpage on the [WVCS website](#);
- Distributing educational fliers in 5 languages at the 12/11/21 Gift of Hope drive-through event;
- Distributing a Housing Needs & Desires survey in 5 languages at WVCS mobile food markets;
- Working with WVCS staff to leverage contacts at other community-based organizations that serve Cupertino-area residents

City Council, Planning Commission, and Housing Commission Meetings

EMC has provided Housing Element progress updates on the at the following meetings:

- October 5, 2021 City Council Study Session
- November 16, 2021 City Council Meeting
- December 9, 2021 Housing Commission Meeting
- December 9, 2021 Housing Element Update Community Workshop
- January 25, 2022 Planning Commission Meeting
- February 22, 2022 Planning Commission
- February 28, 2022 Planning Commission

EMC will provide additional progress updates at public meetings for the City Council, Planning Commission, and Housing Commission through adoption of the final, certified Housing Element. It is anticipated that decision-making bodies will provide input at four stages: Sites Inventory; Housing Policy; Draft Housing Element adoption and Final Housing Element adoption.

December 9, 2021 Virtual Community Workshop

The purpose of this workshop was to introduce the public to the Housing Element Update process, help them understand the importance of their participation, and show them how to contribute their feedback on potential sites in the Cupertino Housing Simulator tool.

The following posts were made on relevant Cupertino social media channels to promote the workshop:

	Facebook	Nextdoor	Twitter	eNotification
Post 1 (11/30/21) Housing Element Community Workshop	Reach: 453 Engagement: 10	Reach: 1013 Engagement: 1	Reach: 783 Engagement: 1	Reach: 15010 Engagement: 594
Post 2 (12/6/21) Workshop Reminder	Reach: 303 Engagement: 1	Reach: 656 Engagement: 1	Reach: 1096 Engagement: 16	Reach: 1444 Engagement: 118

Reach refers to the number of people who saw the post, and engagement refers to any clicks, likes, comments, and shares.

A total of 40 residents attended the workshop and approximately 7 submissions were made to the Housing Simulator tool during or soon after the workshop.

Scene Newsletter and Items of Interest Newsletter

Housing Element updates were featured in the Scene Newsletter that went out on December 1, 2021 and February 1, 2022. Updates were also featured in the City Manager’s Items of Interest newsletter, which is provided to City Council and 685 email subscribers, on December 9 and December 22, 2021.

Mailed Postcards

Postcards introducing the Housing Element Update website were mailed to 23,351 Cupertino households the week of January 10-14, 2022. The postcard focused on announcing the Housing Element webpages, promoting the Stakeholder Group application process, and inviting residents to participate in the Cupertino Housing Simulator tool.

Stakeholder Group

The Stakeholders Group application period was extended from its original deadline of January 31 to February 11, 2022, due to an initially slow response. However, by February 11, 30 applications for the Stakeholder Group were received. The Stakeholders Group application was made available online on January 10. Hard copies of the application were also made available at the Library and Senior Center.

Letters to Property Owners and Property Interest Form

EMC and City staff also sent out letters of interest to groups of property owners throughout Cupertino to gauge their interest in adding housing opportunities on their property. These letters focused on prior

housing opportunity sites, sites between 0.5-10 acres in area (a size range specified by HCD) and sites located along major transportation corridors.

Stakeholder Group Application



The Stakeholder Group will include up to 10 community members representative of a cross-section of Cupertino residents. It is anticipated that the Stakeholder Group will have three meetings throughout the Housing Element update process. Meetings will include discussions of possible housing site locations, policy for increasing probability that future units will include an appropriate ratio of affordable units, and general topics related to drafting updates to Cupertino's Housing Element in the General Plan.

1. Name _____
2. Email address _____
3. Physical address _____
4. I am interested in contributing to the discussion for Cupertino's Housing Element update process.
 - Yes
 - No
 - Maybe, I need more information
5. I would like to be an ambassador to share information about Cupertino's Housing Element update process.
 - Yes
 - No
 - Maybe, I need more information
6. I am willing to commit, on average, 8 hours for each Stakeholder meeting (3-5 anticipated meetings) to prepare for discussing many different aspects of the Housing Element update.
 - Yes
 - No
 - Maybe, I need more information

Stakeholder Group Application

7. I believe that I should be considered as a candidate for Cupertino's Stakeholder group for the Housing Element update.
 - Yes
 - No
 - Maybe, I need more information

8. Please state in less than 200 words why you are qualified to be a member of Cupertino's Stakeholder group (please use back of page if additional space is needed for writing).

Stakeholder Group Application

9. Have you participated in a policy advisory group either in Cupertino or another location?
- Yes
 - No
 - If yes, what role and where?

10. Please check all of the following that apply to you:

- Renter
- Property owner
- Major employer
- Small business owner
- Landlord
- School Employee
- Service Industry employee
- Long-term Cupertino resident
- Recent resident
- Faith-based organization Leader
- Parent group Leader
- Older Adult
- Lived experience of being unhoused
- Non-profit housing developer
- De Anza Community College student
- Advocacy Group Leader

8. Do you speak a language in addition to English? (check all that apply)

- No
- Spanish
- Russian
- Chinese
- Vietnamese
- Hindi
- Other?

Email address	I am interested in contributing to the discussion for Cupertino's Housing Element update process.	I would like to be an ambassador to share information about Cupertino's Housing Element update process.	I am willing to commit to prepare for and attend Stakeholder meeting (3-5 anticipated meetings) to prepare for discussing many different aspects of the Housing Element update.	I believe that I should be considered as a candidate for Cupertino's Stakeholder group for the Housing Element update.	Please state in less than 200 words why you are qualified to be a member of Cupertino's Stakeholder group.	Have you participated in a policy advisory group either in Cupertino or another location?	Please check all of the following that apply to you:	Do you speak a language in addition to English?	Total
SHapp-02	5	5	5	5	24.25	Yes	22.25	22	88.75
SHapp-17	5	5	5	5	23.50	Yes	22.50	23	88.50
SHapp-07	5	5	5	5	23.00	No	21.75	22	86.50
SHapp-06	5	5	5	5	22.25	No	21.50	22	85.25
SHapp-20	5	5	5	5	22.25	Yes	21.25	21	84.75
SHapp-24	5	5	5	5	23.50	Yes	20.50	24	84.50
SHapp-11	5	5	5	5	23.75	No	20.00	20	83.75
SHapp-01	5	5	5	5	21.75	Yes	20.00	20	81.75
SHapp-30	5	5	5	5	21.75	Yes	19.75	20	81.25
SHapp-22	5	5	5	5	19.50	Yes	19.25	19	78.00
SHapp-15	5	5	5	5	19.00	No	19.25	19	77.50
SHapp-18	5	5	5	5	21.25	No	18.00	18	77.25
SHapp-29	5	5	5	5	18.25	Yes	19.25	20	77.25
SHapp-16	5	5	5	5	20.25	No	18.00	18	76.25
SHapp-28	5	5	5	5	18.25	Yes	18.75	19	75.75
SHapp-23	5	5	5	5	15.00	No	20.25	20	75.50
SHapp-10	5	5	5	3	22.25	No	16.75	17	73.75
SHapp-25	5	5	0	5	16.50	Yes	21.00	21	73.50
SHapp-04	5	5	5	5	21.50	Yes	15.25	15	72.00
SHapp-27	5	5	5	5	17.00	No	15.50	16	68.00
SHapp-24	5	5	5	5	16.75	Yes	15.50	16	67.75
SHapp-03	5	5	5	5	15.75	No	15.25	15	66.25
SHapp-09	5	5	5	5	16.75	No	13.75	14	64.25
SHapp-19	5	5	5	5	17.00	No	12.50	13	62.00
SHapp-14	5	5	5	5	14.25	Yes	13.75	14	61.75
SHapp-12	5	5	5	5	11.75	No	13.25	13	58.25
SHapp-13	5	5	5	5	14.25	No	12.00	12	58.25
SHapp-08	5	5	5	5	10.00	No	9.50	10	49.00
SHapp-26	0	5	0	0	9.25	No	12.50	13	39.25
SHapp-05	0	5	0	0	6.25	No	13.25	13	37.75

ID	Please state in less than 200 words why you are qualified to be a member of Cupertino's Stakeholder group.	Scorer's Narrative/Bullet Point Response for Column B				Total	
SHapp-02	<p>I am 16 years old and a lifelong resident of Cupertino. I am also from a low-income, immigrant, and Muslim family that has lived in BMR housing for close to twenty years. We were recently given the opportunity to be part of the Section 8 Housing Voucher program, where I was personally exposed to housing discrimination. I believe I am qualified to be in the Stakeholder Group because I am a direct result of our housing crisis and understand how to get young people involved. I understand how the lack of housing affects families, young people, and our culture, while also understanding what needs to be done to bring change and improve the quality of life for students and families. I will use my experience as a community and youth leader, as well as my lived experiences, to tackle to complexities of our housing crisis as well as public opinion of the crisis. It is important to have a younger, minority voice on the stakeholder group, to make sure we get all opinions and perspectives, to make sure the group makes appropriate</p>	<p>This is someone with a lived experience of BMR housing during formative years, with a minority perspective of what it's like to live in Cupertino. Including this person with our stakeholder group may help us better understand housing need from this unique perspective. Having diverse team members for brainstorming solutions may help our programs be more inclusive and may give us better insight for our approach.</p>	<p>voice is one that hasn't always been represented and needs to be. fresh first hand insight into specifics we are trying to address.</p>	<p>Representative of youth and lived immigrant experience in BMR housing and Section 8 program. Energetic and well articulated.</p>	<p>Current student, experience with housing, represents an important stakeholder group that is usually not directly represented (under 18)</p>	88.75	93.42%
SHapp-17	<p>I am a Asian American millennial / Gen Z young adult who grew up in the City of Cupertino. I have experience with planning, housing, and transportation in various contexts: as a student advocate as part of Stanford Coalition for Planning an Equitable 2035 (SCoPE 2035); as a Housing Commissioner from 2017 to 2019 (Vice Chair in 2018 and Chair in 2019); as a practitioner who recently got a Masters in Community and Regional Planning from University of British Columbia, and previously interned with the Metropolitan Transportation Commission (MTC) and San Francisco Municipal Transportation Agency (SFMTA). I have a nuanced understanding of issues relevant to housing and development from my past experiences. I believe that youth perspectives are critical in the conversation on housing, since this will have long lasting impacts in our community and regionally. I am a youth organizer in my paid work, so I have connections and relationships to young people not just in Cupertino but throughout the South Bay. I hope that I can leverage those connections to effectively represent the interests of</p>	<p>This person represents voices of those who may not otherwise participate in policy-making discussions though they are likely the people in need of increased housing opportunities.</p> <ul style="list-style-type: none"> - Lived experience as an Asian American millennial/Gen Z and planning advocate in the community - Strong likelihood of ambassador multiplier communication effects, particularly with youth 	<p>potentially a unique voice and perspective unheard in the past, wide reach for and to youth (another voice that needs to be boosted, also, a wide range of experience with issues pertaining to housing and transportation.</p>	<p>Representative of young adults. Education and experience with equity, housing and transportation.</p>	<p>Represents a group significantly affected by rising housing costs, has experience within the government and transportation. Is willing to work</p>	88.50	93.16%
SHapp-07	<p>I have a multitude of qualifications that make me an excellent candidate. My 12+ years of home rental in Cupertino give me a strong understanding of the needs and wants of those seeking housing in Cupertino. Secondly, as Senior Warden (Board of Directors Chairperson) at Saint Jude's Episcopal Church in Cupertino, I regularly discuss housing with a wide variety of local residents. Recently, I helped organize a series of forums at the church on local housing standards and housing allocations, working with local resident groups and advocacy organizations to discuss the complicated issues surrounding housing in Cupertino.</p> <p>I've acted to bring positive change to Cupertino for over a decade, with a focus on creating safe and enjoyable means of using alternative transport, which affects residents wherever they live and work. I've served as a Bike/Ped Commissioner and am currently a boardmember for Walk-Bike Cupertino, a local advocacy group. I'm also a Cupertino High School PTSA boardmember and Safe Routes to School Parent Champion. Furthermore, I avoid partisanship in local issues, consistently discussing community concerns with residents with diverse views on local politics. I care deeply about this city's future, and would welcome the opportunity to share in its shaping.</p>	<p>This person represents voices of those who may not otherwise participate in policy-making discussions though they are likely the people in need of increased housing opportunities.</p> <ul style="list-style-type: none"> - It may be helpful to partner with the faith-based community (St. Jude's Episcopal Church) - Lived experience as a renter - This person brings a wealth of dialogue with the community about housing issues - This person has a strong dedication to the school system - Strong likelihood of ambassador multiplier communication effects, particularly among the faith-based community 	<p>long term renter perspective, has connection with local community and voices that may not have been heard in the past, seems to have experience with gathering information and dialogueing with community, also seems to really care about this community and the work</p>	<p>Represents rental community constituency. Involved in local housing issues with St. Jude's and other advocacy organizations. Expresses a desire to work together and avoid divisiveness on contentious issues.</p>	<p>Well connected with important constituent groups, connected to parent groups and renter who lives the challenges in today's economy and high cost of living</p>	86.50	91.05%

SHapp-06	<p>As a member of Cupertino's Stakeholder group, I would represent a number of stakeholders. I am the Public Policy Coordinator at West Valley Community Services (WVCS), a nonprofit serving Cupertino residents with significant focus on housing. I work directly with clients, and would be sure to gather information from and give information to our clients, many of whom are most in need of housing in Cupertino. I am 24 years old, and as a young person still advancing my career, I experience firsthand the struggle to find affordable housing and have unique desires in terms of housing, such as proximity to downtown, walkability, and type of housing. I am also a member of the Valley Transit Authority (VTA)'s Citizens Advisory Committee, giving me a unique and deep understanding of transportation, which greatly intersects with housing and will be crucial to consider in the Housing Element process. Last, I am knowledgeable about the Housing Element, and am tracking the process for four other municipalities through my role at WVCS. I serve as a Los Gatos Planning Commissioner and am a member of many community groups, all of whom I would be happy to serve as a liaison for.</p>	<p>This person represents voices of those who may not otherwise participate in policy-making discussions though they are likely the people in need of increased housing opportunities.</p> <ul style="list-style-type: none"> - It may be helpful to increase our partnership with West Valley Community Services - This is a younger person within the community who wants to increase opportunities for inclusive housing - This person brings transportation experience with an understanding of how it relates to housing needs - Strong likelihood of ambassador multiplier communication effects, particularly with those with highest housing needs in the region 	<p>huge range of experience and expertise - specifically with HE process, also has a unique age perspective with a wide scope of outreach and resource.</p>	<p>Representative of young adult population. Experience with services and clients that are in need of housing. Function as a representative for Cupertino and other West Vally cities and bring more regional knowledge.</p>	<p>Great connections with critical stakeholders, is an age usually not well represented but significantly impacted by housing costs, as connection with VTA and is knowledgeable in the HE process.</p>	85.25	89.74%
SHapp-20	<p>I am an attorney by training and trade, which gives me an additional toolset in evaluating which sites and what policy changes would make the greatest impact in helping Cupertino equitably site and sufficiently encourage housing growth in the city. As Policy Director for Cupertino for All, I've hosted local events—including a joint town hall with West Valley Community Services—to bring people up to speed on the new Housing Element process, including explaining such laws that directly impact this process as AB 686 and AB 1397. Many residents approach this process with trepidation—a problem I've successfully confronted before as part of CUSD's Citizens Advisory Committee, which was tasked with the difficult and emotionally charged challenge of helping the board decide which schools to consolidate to address declining enrollment. As a younger professional who recently made the transition from renter to homeowner, I'm deeply and personally familiar with the challenges people struggling to afford to live here face. As a third generation resident, whose grandfather still lives here, I also daily witness what older seniors endure in a car-centric city. I want to help Cupertino achieve an HCD-compliant Housing Element so we can</p>	<p>This person represents voices of those who may not otherwise participate in policy-making discussions though they are likely the people in need of increased housing opportunities.</p> <ul style="list-style-type: none"> - It may be helpful to partner with Cupertino for all to better understand housing needs - This person brings knowledge of AB 686 as an attorney - This person brings a lived-experience of transitioning from renter to home-owner - This person brings a lived-experience for a multi-generational perspective of housing needs - This person brings a nuanced understanding of school consolidation process 	<p>experience bring folks together to discuss fears and challenges, experience with HE process, interesting perspective as a new homeowner and insight to the senior experience.</p>	<p>Knowledgeable about housing legislation. Recently navigated renter and homeowner transition. Mentions seniors Special Needs group. Expresses collaborative efforts.</p>	<p>Brings knowledge on policy which could be a key addition to the stakeholders; is younger and can represent both recent renter and homeowner.</p>	84.75	89.21%
SHapp-21	<p>I represent an important constituency in Cupertino that should be of great concern—young adults and emerging professionals, who are in many ways the backbone of our future as a city. Currently, we are bleeding this demographic; they are fleeing to cities that are more conducive of young adult preferences—walkability, transit-oriented, night life options, and also full of other young adults. This is not a strong foundation for our future.</p> <p>Additionally, I am a 15 year+ renter of Cupertino and have spent the last several years of my life advocating for the needs of renters in our community. In doing so, I was elected to be the President of Cupertino for All—a non-profit here in Cupertino focused on housing. I have done extensive community organizing in Cupertino, when I was a student at De Anza College, building essential relationships with the district and other advocacy groups.</p> <p>I work with policy, its implementation, and the steps necessary to ensure its passage—in my capacity as a fulltime staff member at Working Partnerships USA. I have also done work in the Federal Government at the Consumer Financial Protection Bureau, the California Legislature, and worked minimum wage at multiple jobs right here in Cupertino.</p> <p>I believe this array of experiences makes me a strong candidate for this stakeholder group.</p>	<p>This person represents voices of those who may not otherwise participate in policy-making discussions though they are likely the people in need of increased housing opportunities.</p> <ul style="list-style-type: none"> - It may be helpful to partner with Cupertino for all to better understand housing needs - This person brings an employed position with Working Partnerships USA to build the capacity of workers, low-income neighborhoods and communities of color to lead and govern. - This person brings a lived-experience of being a renter - This person brings a lived-experience of attending De Anza College - This person brings a lived-experience of being employed at minimum wage in Cupertino - This person brings a nuanced understanding of policy implementation processes - Strong likelihood of ambassador multiplier communication effects, particularly with disenfranchised clients of Working Partnerships USA 	<p>interesting perspective of young adults and emerging professionals, long time renter experience, professional experience focused on housing</p>	<p>Representative of young adults, renters, and shows knowledge of challenges faced by emerging professionals related to housing. Part of a non-profit related to housing.</p>	<p>Important representation for the age demographic and experienced in renting in the city. Will be very knowledgeable about policy and implementation.</p>	84.50	88.95%
SHapp-11	<p>As clergy and a faith leader, not to mention renter myself. I am keenly interested in how Cupertino can provide equitable and affordable housing for every member of our community. The crisis in housing is the preeminent social justice issue we are facing as a community in the Bay Area. I want to see us on the leading edge of creatively addressing this problem.</p>	<p>This person represents voices of those who may not otherwise participate in policy-making discussions though they are likely the people in need of increased housing opportunities.</p> <ul style="list-style-type: none"> - Lived experience as a renter - Appreciate the sentence "I want to see us on the leading edge of creatively addressing this problem" - Strong likelihood of ambassador multiplier communication effects through the faith-based community 	<p>unique perspective as a clergy and faith leader and framing with social justice, may offer another voice and perspective that may not have been included in the past.</p>	<p>Represents renter community. Sees housing crisis as a social justice issue and recognizes the crisis in alignment with State messaging. Cites wanting to bring creativity to problem.</p>	<p>As a faith leader, has access to many opinions and has an interest in social justice; would provide an important stakeholder voice.</p>	83.75	88.16%

SHapp-01	<p>During the nearly 25 years that I have been advocating for low-income housing, I helped found Housing Choices, an organization that very successfully functions as a catalyst to create very low and extremely very low-income housing, with preference for people who have IDD (Intellectual Disabilities). As a board member for this organization, I learned a great deal about the multitude of housing related issues people face, far beyond having enough money to cover their rent. Understanding the needs and many of the issues the developers face in trying to provide extremely low-income units has been important too. Funding is another big piece of the puzzle as is understanding the bureaucracy of city governments and the politics of its city leaders. Most important of all has been creatively thinking about ways to meet housing challenges.</p> <p>I have a PhD in neurophysiology and have done research at Michigan State University, Roswell Park Cancer Institute in Buffalo NY and at the University of Pittsburgh, where I taught and received tenure before moving to Cupertino in 1976. Here I taught at both West Valley and DeAnza Community Colleges. I have also been a leader of several parent advocacy groups in this area.</p> <p>My volunteer work in affordable housing and training as a scientific problem solver qualify me to be a member of Cupertino's stakeholder group.</p>	<p>This person represents voices of those who may not otherwise participate in policy-making discussions though they are likely the people in need of increased housing opportunities.</p> <ul style="list-style-type: none"> - It may be helpful to partner with Housing Choices to better understand housing needs - This person has had experience as a teacher and parent in the community - This person has experience and dedication to being an inclusive problem-solver for affordable housing, with a needs-based approach - Strong likelihood of ambassador multiplier communication effects, particularly with Housing Choice members 	<p>experience with housing - founded Housing Choices. highly engaged with housing related issues.</p>	<p>Very knowledgeable about low income housing issues and needs including Special Needs groups. Highlighted issues with funding and local government bureaucracy.</p>	<p>Long-term resident, knowledgeable in affordable housing policies and barriers, connected to parent advocacy.</p>	81.75	86.05%
SHapp-30	<p>My family owns the house I live in for more than twenty five years. I am an educator and see that our students and their families have moved due to the high cost of rent and to buy a house to live in. We have teachers who commute to teach in Cupertino and cannot afford to live near where they work.</p> <p>I know first hand, we have many seniors who live in large houses and properties alone or with their partners.</p> <p>I want to help us Cupertino move forward to keep our city alive with people who can afford to live here.</p>	<p>This is someone with a lived experience of being an educator while living in Cupertino. Including this person with our stakeholder group may help us better understand housing need from this unique perspective. Having diverse team members for brainstorming solutions may help our programs be more inclusive and may give us better insight for our approach.</p> <ul style="list-style-type: none"> - Lived experience as an educator - This person brings knowledge about experiences for older adults with large homes (potential lack of movement in housing market) 	<p>this is a voice that needs to have a space to be heard: commute to teach there, but cannot afford to live there.</p>	<p>Represents teachers/essential workers. Mentions seniors Special Needs group.</p>	<p>This candidate is interested on several different demographic fronts, making them a good choice both as a community member, but someone that can advocate for seniors and teachers.</p>	81.25	85.53%
SHapp-22	<p>I am a long-time advocate for innovation in housing and development, with a focus on creating greater opportunities for diversity and equity. I have a long volunteer history in Cupertino including terms as a Planning and Parks & Recreation Commissioner. I have been an energetic participant in the local and regional discussions around housing policy and have a great deal of experience in engaging and promoting the discussion around policy.</p>	<p>This reply does not contain enough information for further analysis, though we thoroughly encourage participation going forward with our update process. We hope to hear more from this person through the many engagement opportunities as they unfold. It may be that this person's experience and expressed devotion would make them a viable candidate for a Citizens Advisory Committee (CAC) if such a group is formed for focused concentration on zoning changes and specific plan updates.</p> <p>We value the sentence: "I have been an energetic participant in the local and regional discussions around housing policy and have a great deal of experience in engaging and promoting the discussion around policy" and remain curious about the advocacy groups that have been led by this person.</p>	<p>seems creative - use of innovative. mentioned diversity and equity, i wanted to know more. has experience engaging - that's helpful with this work.</p>	<p>Mentions diversity and equity related to housing and experience as a Commissioner. Policy experience related to housing.</p>	<p>Already engaged in housing issues and experience with local government. Interested in innovation, which may be a benefit for this process.</p>	78.00	82.11%

SHapp-15	<p>I have participated in local planning and 'politics' for decades. I have spent many long nights attending city council and commission meetings. I am someone who very closely follows our City's public process. I often notice that there are areas others have overlooked, or have difficulty understanding. I have a familiarity with the issues and often an eye for details.</p> <p>I would bring to the group a working relationship with the real-estate community, as I have worked in local residential real estate for 19 years.</p> <p>I work well with others and I have the trust of our community and elected officials. I believe that I can accurately represent a good cross section of current and future residents.</p> <p>I'd like to be involved to help ensure that this process is successful. There is always more to learn.</p> <p>I have two adult children in their early 30's who have navigated the rental market in the Bay Area and hope to be home owners at some point.</p> <p>I have a close family member who, within the last five years, held positions at two nonprofit organizations focused on housing the unhoused.</p>	<p>This person's experience and expressed devotion appears to make them a viable candidate for a Citizens Advisory Committee (CAC) if such a group is formed for focused concentration on zoning changes and specific plan updates.</p> <p>- Lived experience as a long-term Cupertino resident - Lived experience as a Property owner</p> <p>Thank you for your declared dedication to following complex processes such as these. We hope to hear more from this person through the many engagement opportunities as they unfold.</p>	<p>unique real estate perspective, familiarity with city council and commission meetings</p>	<p>Represents realtor group that plays a fundamental role in housing and equity. Claims to work well with others and has adult children navigating the rental market. Follows City process and participated in planning and associated politics.</p>	<p>As both a real estate professional and having children in rental market can provide two important data points as we discuss what affordability means and how the housing crisis has impacted home sale prices and rental costs.</p>	77.50	81.58%
SHapp-29	<p>As owner and developer of the former Valco Shopping Mall and numerous other properties in Cupertino, Sand Hill Property Company is uniquely positioned to make a significant contribution to Cupertino's Housing Element process. From the Cupertino Village revitalization in the 1990's to the Main Street Cupertino infill development completed in 2017, the company is among Cupertino's longest-standing and most active landowners, developers and housing providers in this community. Even though the Valco Town Center redevelopment project is approved and underway, the City might value our participation in the Housing Element stakeholder process (1) given our knowledge of prevailing housing development market conditions, (2) in order to explore opportunities to align the Valco project in real time with the City's Housing Element strategy, and (3) so that we are in position to serve as a Housing Element ambassador vis a vis the thousands of community members registered with us for Valco and related updates, as appropriate.</p> <p>Reed Moulds, Managing Director of Sand Hill Property Company, would participate on behalf of the company. We wish the City success in achieving its Housing Element goals and in the planning and eventual permitting of its 6th Cycle regional housing needs allocation.</p>	<p>This person's representative experience for Sand Hill Property Company makes them a viable candidate for supplying a Developer's perspective of constraints to housing development. Such information would be valuable for background analysis. Throughout our public engagement process, we strongly encourage feedback, including policy and program suggestions.</p>	<p>They have an interesting perspective as a business and someone involved in this process</p>	<p>Developer knowledge with experience within Cupertino. Large developer perspective is important to include. Shows knowledge of HE and RHNA.</p>	<p>This candidate would provide a key perspective from the development side to help isolate constraints and solve issues from the perspective of those that would potentially build the housing.</p>	77.25	81.32%
SHapp-18	<p>I grew up in Cupertino attending McAuliffe, Kennedy, & Monta Vista schools. Also, I taught kindergarten & first grade at two CUSD schools. Currently, I am at substitute in the district and take care of my two pre-school age children. I care deeply about the Cupertino Community and want it to thrive.</p>	<p>This is someone with a lived experience of being a school teacher while living in Cupertino. Including this person with our stakeholder group may help us better understand housing need from this unique perspective. Having diverse team members for brainstorming solutions may help our programs be more inclusive and may give us better insight for our approach.</p>	<p>unique perspective of someone working in schools with children - may have broad outreach some unheard voices.</p>	<p>Represents teachers/essential workers and families with young children. Grew up in Cupertino.</p>	<p>A teacher and parent can bring an important dimension to the stakeholders.</p>	77.25	81.32%
SHapp-16	<p>I am a retired Registered Nurse and worked at Stanford Hospital and Clinics and Palo Alto Medical Foundation. I have lived in Cupertino for over 40 years and before that went to school and worked in Los Altos, Mt View, and Santa Clara. My Children have gone to Cupertino Schools. I am interested in maximizing affordable housing in and around our city. I am not affiliated with any real estate or property development business. I am an average citizen of our city and wish to help.</p>	<p>This is someone with a lived experience of raising a family as a nurse while living in Cupertino. Including this person with our stakeholder group may help us better understand housing need from this unique perspective. Having diverse team members for brainstorming solutions may help our programs be more inclusive and may give us better insight for our approach.</p> <p>- Appreciate the sentence "I am interested in maximizing affordable housing in and around our city."</p>	<p>may have a unique perspective from wide range of locations both lived in and attended school in.</p>	<p>Representative of First Responders and critical essential workforce that has lived in Cupertino for 40 years. Expresses interest in maximizing affordable housing.</p>	<p>Will understand the long-term history of how Cupertino has formed and could provide an important community voice.</p>	76.25	80.26%

SHapp-28	I have been a Cupertino resident for 25 years and seen the city grow. Next, I have worked at HP in Cupertino for more than 10 years and know the business interests. Also as an active member of multiple volunteer organizations and Cupertino Sports center, I have interacted with a number of Cupertino residents and understand their concerns. Finally, as a resident of Cupertino West (Monta Vista), I can provide inputs on the unique concerns of residents in this neighborhood.	This is someone with a 25-year lived experience of operating a small business and being a landlord while residing in the Monta Vista neighborhood. Including this person with our stakeholder group may help us better understand housing need from this unique perspective. Having diverse team members for brainstorming solutions may help our programs be more inclusive and may give us better insight for our approach. We hope to hear more from this person through the many engagement opportunities as they unfold. If this person does not qualify for the ten stakeholder positions, then this person's experience and expressed devotion appears to make them a viable candidate for a Citizens Advisory Committee (CAC) if such a group is formed for focused concentration on zoning changes and specific plan updates.	seems to have a broad reach of residents and community members	Works for HP and claims can represent business interests. Mentions member of volunteer organizations and Sports Center. Could represent broader cross section.	This candidate lives, works and recreates in the city, and has been active in city organizations and can advocate for a neighborhood.	75.75	79.74%
SHapp-23	First and foremost, longevity. I have been a resident of Cupertino for over 20 years. I have seen buildings and businesses come and go. I would love to contribute my knowledge.	This reply does not contain enough information for further analysis, though we thoroughly encourage participation going forward with our update process. We hope to hear more from this person through the many engagement opportunities as they unfold. It may be that this person's experience and expressed devotion would make them a viable candidate for a Citizens Advisory Committee (CAC) if such a group is formed for focused concentration on zoning changes and specific plan updates.	my bring an interesting pov from a business and building perspective	Represents long time homeowners. More information related to their knowledge would be helpful.	Not enough information to understand how best this individual can contribute.	75.50	79.47%
SHapp-10	I am deeply interested in a future where Cupertino is more sustainable and accessible than it is today, and I believe housing is the main tool through which we can create a more inclusive, stronger, and sustainable community. I grew up in Cupertino, living 15 years here throughout primary, middle and high school, in addition to 2019 to 2021 as well. Leaving for college after high school showed me just how sheltered and isolated Cupertino is from the rest of the Bay, and country. I care deeply about climate change and equity outcomes for all citizens, and academic, professional, and personal experience have convinced me that housing and the built environment are crucial determinants on the success of climate-related and equity-concerned government policies. Personally, I also want to rent and live car-free, and Cupertino is neither a place I can afford to rent-in, nor a place that is enjoyable to live in without a car. I hope that we can use the HE process to build a Cupertino that is more accessible for more socio-economic classes, and more prepared for a climate-impacted future.	This is someone with a lived experience of being a young person who has been educated in Cupertino. Including this person with our stakeholder group may help us better understand housing need from this unique perspective. Having diverse team members for brainstorming solutions may help our programs be more inclusive and may give us better insight for our approach. - Lived experience as a renter - Appreciate the sentence "I hope that we can use the HE process to build a Cupertino that is more accessible for more socio-economic classes, and more prepared for a climate-impacted future."	unique perspectives on climate, sustainability and equity. Could be a unique voice to hear around ability to rent or live in without a car in Cupertino	Articulates how climate change and housing are related. Mentions equity and grew up in Cupertino and represents young adults.	Appreciate a focus on sustainability as this is a critical question on how the city approaches HE solutions. The respondent has a long history in the city and cares about equity.	73.75	77.63%
SHapp-25	I work with a non profit agency working on ending homelessness	This reply does not contain enough information for further analysis, though we thoroughly encourage participation going forward with our update process. We hope to hear more from this person through the many engagement opportunities as they unfold. It may be that this person's experience and expressed devotion would make them a viable candidate for a Citizens Advisory Committee (CAC) if such a group is formed for focused concentration on zoning changes and specific plan updates.	experience with homelessness specifically	Homeless are part of Special Needs group.	Would like to know more - we need advocates for homelessness.	73.50	77.37%

SHapp-04	<p>I'm part of the Age Friendly Cupertino task force, and president of the Cupertino Senior Center Advisory Council. Our members are deeply engaged in addressing the lack of senior housing and services for our aging population. Currently approximately 1 in 3 households has a resident over the age of 60, with minimal availability of facilities to address their needs. Our school enrollment is declining at the rate of an elementary school a year due to lack of housing for new families.</p> <p>The Housing Element is an opportunity to plan for badly needed housing to fit community needs as our community changes. As a resident of over 30 years, I can be a strong contributor to that conversation from my knowledge of the community, the city and civic operations. In my professional career, I've worked in universities, government and corporate positions as well as publishing. I served two terms on the Cupertino Library Commission and have been active in professional library roles, as well as a community volunteer. I look forward to participating in the Housing Element process.</p>	<p>This person represents voices of those who may not otherwise participate in policy-making discussions though they are likely the people in need of increased housing opportunities.</p> <ul style="list-style-type: none"> - It may be helpful to partner with Age Friendly task force and Cupertino Senior Center Advisory Council to better understand diverse housing needs - This person appears to understand connections between needs for new family housing, schools, and specific housing needs for older adults - Strong likelihood of ambassador multiplier communication effects, particularly with older adults 	<p>experience with addressing issues pertaining to senior housing and services, seems to be engaged and interested with and in the process.</p>	<p>Has experience with Special Needs group - seniors. Also expresses concern with lack of family housing and large families also a Special Needs group. Has previous local government volunteer experience.</p>	<p>Represents an important constituent group that has significant affordable housing needs and requires representation through the process. Previous experience working on housing elements and city operations</p>	72.00	75.79%
SHapp-27	<p>I believe that as a renter who has recently moved to Cupertino from a much less expensive housing market, I can provide helpful input from a different perspective than many of the other stakeholders are likely to have. I am an engaged citizen who is willing to put in the work in order to help the city develop in an inclusive and equitable way for all of its residents.</p>	<p>This person's experience and expressed devotion appears to make them a viable candidate for a Citizens Advisory Committee (CAC) if such a group is formed for focused concentration on zoning changes and specific plan updates.</p>	<p>interesting perspective and may represent voices that might not be heard</p>	<p>Represents renter community. Mentions equity for residents.</p>	<p>Eager to help, brings a perspective from outside the city which would be helpful.</p>	68.00	71.58%
SHapp-24	<p>Cupertino needs more housing but not more traffic. I want to help Cupertino figure out how to build housing and allow growth without increasing traffic or adversely affecting the quality of life in the neighborhoods.</p> <p>I lived in Cupertino for 3 years and on the border for 2 years. I've worked in Cupertino at Apple for almost 11 years as a manufacturing engineer. My daughter goes to high school at Monta Vista HS and my other one graduated from there last year. I want them to be able to live and work here when they grow up, even if they have a minimum wage job.</p> <p>I've lived in different cities in the US and China and have some ideas on how to make cities more livable, walkable, environmentally friendly, and able to handle growth comfortably. I want to hear other people's ideas on planning for the future and get feedback on some of my own ideas.</p> <p>When I lived in Pacifica in 2009 I worked on a climate action committee that put together policy recommendations for the city council, and hope to get the chance to contribute in a similar way to tackling the biggest issue & opportunity in Cupertino.</p>	<p>This is someone with a lived experience of being an Apple employee while renting a home to raise a family in Cupertino. Including this person with our stakeholder group may help us better understand housing need from this unique perspective. This person has had experiences in Pacifica that may translate to this opportunity to participate with policy. Having diverse team members for brainstorming solutions may help our programs be more inclusive and may give us better insight for our approach.</p> <p>We hope to hear more from this person through the many engagement opportunities as they unfold. It may be that this person's experience and expressed devotion would make them a viable candidate for a Citizens Advisory Committee (CAC) if such a group is formed for focused concentration on zoning changes and specific plan updates.</p>	<p>climate action work, has some experience with engagement at the city council level</p>	<p>Expresses interest in solving housing/traffic issues and overall livability. Mentions listening and willingness to hear others ideas and the ties with climate action.</p>	<p>Interested in policy, sustainability, and has some experience living in the city.</p>	67.75	71.32%
SHapp-03	<p>I have lived in Cupertino for 37 years and am very familiar with our city, the various areas, traffic, issues and the general Housing Element process. I have been active and participated in many city meetings, housing element/general plan amendments and would commit to attending and participating in these meetings to help come up with the best solution for all of Cupertino.</p>	<p>This person's experience and expressed devotion appears to make them a viable candidate for a Citizens Advisory Committee (CAC) if such a group is formed for focused concentration on zoning changes and specific plan updates.</p> <ul style="list-style-type: none"> - Long-term Cupertino resident - Actively engaged in policy conversations <p>Appreciate the partial sentence: "... would commit to attending and participating in these meetings to help come up with the best solution for all of Cupertino."</p> <p>We hope to hear more from this person through the many engagement opportunities as they unfold.</p>	<p>has lived in Cupertino for a good bit of time, has experience with culture and experience living there. has some knowledge of HE process - active and engaged. Not very specific in the experience or engagement</p>	<p>Long time Cupertino resident that expressed familiarity with key issues.</p>	<p>Longtime resident and familiar with the City; frequent contributor. Other candidates have similar backgrounds.</p>	66.25	69.74%

SHapp-09	<p>1) Understand the need of increased housing density to sustain population and economic growth for Cupertino and California; 2) understand, suggest, and propose new building code changes to support higher housing density in Cupertino area; 3) Make people at all income levels benefit from higher housing density.</p>	<p>This person's comprehension of the task at hand, experience, and expressed devotion appears to make them a viable candidate for a Citizens Advisory Committee (CAC) if such a group is formed for focused concentration on zoning changes and specific plan updates.</p> <p>- Lived experience as a long-term Cupertino resident - Lived experience as a Property owner</p> <p>We hope to hear more from this person through the many engagement opportunities as they unfold.</p>	<p>the third point of making people at all income levels benefit feels like a valuable perspective</p>	<p>Expressed three succinct points related to housing.</p>	<p>Understands the competing issues for housing and that changes to planning may be required.</p>	64.25	67.63%
SHapp-19	<p>I am an active local citizen and lifelong Cupertino resident. I have served as a community block leader, attended city meetings, and would love to bring my perspective as a parent of two young children to the city's housing efforts.</p>	<p>This person's experience and expressed devotion appears to make them a viable candidate for a Citizens Advisory Committee (CAC) if such a group is formed for focused concentration on zoning changes and specific plan updates.</p> <p>- Past experience as community block leader - Past experience with city meeting attendance - Lived experience as a long-term Cupertino resident - Lived experience as a Property owner</p> <p>We hope to hear more from this person through the many engagement opportunities as they unfold.</p>	<p>experience and engagement on a city and community level.</p>	<p>Represents young families. Shows interest in engaging and being active.</p>	<p>Similar to other parents, can bring perspective of raising children in the city and has a history of being connected with the community.</p>	62.00	65.26%
SHapp-14	<p>At City level, I have participated in General plan and Housing element related meetings since 2014. In April 2018, I organized a Silicon Valley Housing Forum in Cupertino which had a five member (four elected council members and a moderator) panel from three different bay area counties. I also attended and spoke at ABAG/MTC CASA and RHNA meetings in 2018. I currently serve as a Cupertino City Housing Commissioner.</p>	<p>This person's experience and expressed devotion appears to make them a viable candidate for a Citizens Advisory Committee (CAC) if such a group is formed for focused concentration on zoning changes and specific plan updates.</p> <p>- Lived experience as a long-term Cupertino resident - Lived experience as a Property owner</p> <p>We look forward to this person's continued participation in the process via the Housing Commission and through the many engagement opportunities as they unfold.</p>	<p>wide range of experience with housing in the bay area, position as CCHC.</p>	<p>Deep experience working on housing related issues in Cupertino and current Housing Commissioner. Could be good Commissioner rep if City wants Housing Commissioner members on the Stakeholder Group.</p>	<p>Up to date with housing issues and serves as a commissioner. Could be an important voice and knowledgeable on the more technical matters</p>	61.75	65.00%
SHapp-12	<p>I am fairly engaged resident of the community on local issues that affect our community. Housing is an important part of the discussion in our city. I believe I can contribute to solving this problem.</p>	<p>This person's experience and expressed devotion appears to make them a viable candidate for a Citizens Advisory Committee (CAC) if such a group is formed for focused concentration on zoning changes and specific plan updates.</p> <p>- Lived experience as a long-term Cupertino resident - Lived experience as a Property owner</p> <p>We value and support the sentence: "I believe I can contribute to solving this problem." We hope to hear more from this person through the many engagement opportunities as they unfold.</p>	<p>engaged with community and process. not alot of detail about what they will bring to the process, but is interested</p>	<p>More information about knowlegdge of some of the local issues this person is engaged on would be helpful.</p>	<p>Not much information regarding specific contributions or concerns.</p>	58.25	61.32%

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



December 6, 2021

Steven Sizemore
Interim Director of Community & Economic Development
City of Monterey Park
320 W Newmark Avenue
Monterey Park, CA 91754

Dear Steven Sizemore:

RE: The City of Monterey Park of 6th Cycle (2021-2029) Draft Housing Element

Thank you for submitting the City of Monterey Park's (City) draft housing element received for review on October 7, 2021. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from the Public Counsel and Linda Tang pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describe the revisions needed to comply with State Housing Element Law.

As a reminder, the City's 6th cycle housing element was due October 15, 2021. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (October 15, 2021), then any rezoning to accommodate the regional housing needs allocation (RHNA), including for lower-income households, shall be completed no later than one year from the statutory deadline. Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i).

Steven Sizemore
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Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the County to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf and http://opr.ca.gov/docs/Final_6.26.15.pdf.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City meets housing element requirements for these and other funding sources.

We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Tristan Lanza, of our staff, at tristan.lanza@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Melinda Coy", with a long horizontal flourish extending to the right.

Melinda Coy
Housing Accountability

Enclosure

APPENDIX CITY OF MONTEREY PARK

The following changes are necessary to bring the City of Monterey Park's (City) housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> and includes the Government Code addressing State Housing Element Law and other resources.

A. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

The element must provide a cumulative evaluation of the effectiveness of past goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness).

B. Housing Needs, Resources, and Constraints

1. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction (Gov. Code, § 65583, subd. (c)(10)(A))*

General: The element provides data regarding various socio-economic characteristics across all components of the required analysis (e.g., segregation and integration, access to opportunity, displacement). However, the element must discuss and analyze this data for trends and patterns.

Local Data and Knowledge: The element must include local data and knowledge to discuss and analyze any unique attributes about the City related to fair housing issues. The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers. Also, the element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element can analyze historical land use and investment practices or other information and demographic trends.

Outreach: While the element included some information on public engagement and outreach efforts (Appx. C, pg.6), to address outreach requirements of AB 686 (Chapter 958, Statutes of 2018), the element must describe meaningful; frequent,

and ongoing public participation with the community including key stakeholders. The element should describe any specific outreach efforts to organizations that represent special needs populations or members of protected classes. The element could also describe targeted efforts to engage specific communities that are experiencing several fair housing issues.

Enforcement: While the element included a summary of fair housing complaints on a county-wide basis, the element needs to include information on fair housing complaints specific to the City and analyze those complaints for trends, patterns, and impact on protected classes. The element must also include an analysis of any findings, lawsuits, or judgements related to enforcement actions regarding fair housing. In addition, the element must discuss compliance with existing fair housing laws and regulations. For more information and guidance on this analysis, please visit pages 28-30 of the HCD's AFFH guidance memo: [Affirmatively Furthering Fair Housing \(ca.gov\)](#).

Racial/Ethnic Areas of Concentration of Poverty (R/ECAP): The element includes information relative to R/ECAP, but the analysis must also provide a regional comparison. In addition, the City has not fully addressed its concentrated areas of affluence. The combination of the R/ECAP and areas of affluence analyses will help guide goals and actions to address fair housing issues. The analysis should evaluate the patterns and changes over time at a local and regional level. Furthermore, the element does list one area of high poverty and segregation therefore the City should analyze this concentration and consider relevant factors such as past policies, practices, and investments as well as whether or not there is a concentration of subsidized housing units in that area.

Sites Inventory: The element must include an analysis demonstrating whether sites identified to meet the regional housing needs allocation (RHNA) are distributed throughout the community in a manner that AFFH. Most of the sites identified in the inventory are concentrated in the northern part of the City. The element illustrated in Figure C-13 and C-18 that sites in the northern section of the City are areas that have higher concentrations of segregation and poverty. A full analysis should discuss this concentration and address the income categories of identified sites with respect to location, the number of sites and units by all income groups and how that effects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). The element should also discuss whether the distribution of sites improves or exacerbates conditions. If sites exacerbate conditions, the element should identify further program actions that will be taken to mitigate this (e.g., anti-displacement strategies).

Contributing Factors: The element identifies many contributing factors to fair housing issues. In addition, the element should consider prioritizing these factors to better formulate policies and programs and carry out meaningful actions to AFFH.

Goals, Priorities, Metrics, and Milestones: While the element provides additional analysis and identifies contributing factors to fair housing issues in the City, it does not

include sufficient action to overcome patterns of segregation and foster inclusive communities. As a result, programs must be added as appropriate to sufficiently respond to contributing factors to fair housing issues. The element must add, and revise programs based on a complete analysis and listing and prioritization of contributing factors to fair housing issues. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results. For more information, please see HCD's guidance at <https://www.hcd.ca.gov/community-development/affh/index.shtml#guidance>.

2. *Include an analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition. (Gov. Code, § 65583, subd. (a)(2).)*

Cost-Burden: The element must quantify and analyze the total number of cost burdened households including cost burdened households by tenure.

3. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

Progress in Meeting the RHNA: The element indicates (page 4-4) that 229 units including 40 units affordable to lower-income households are planned, approved, or pending. The element must include additional information on the status of these units including any remaining entitlement that are needed prior to approval; and for projects approved, but not yet built, the jurisdiction must demonstrate the units are expected to be built in the planning period. The element must also include an analysis to demonstrate the affordability of the 40 units affordable to lower-income households based on actual or projected sales prices, rent levels, or other mechanisms establishing affordability in the planning period.

Sites Identified in Prior Planning Periods: The sites inventory indicates that there are no sites that were included from previous planning period. However, pursuant to third party comments, there may be several sites that were included in the current sites inventory that had been utilized in past elements. The element should clarify and identify if sites were identified in prior planning periods.

Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory, it must also provide support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions. The City lists maximum density allowed in a zone multiplied by the size of the parcel. The estimate of the number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

In addition, the element appears to assume residential development on sites with zoning that allow 100 percent non-residential uses. While the element mentions the identified sites represent a substantial opportunity for housing and the area is located near employment, it must still account for the likelihood of non-residential uses. The element should include analysis based on factors such as development trends, performance standards or other relevant factors. For example, the element could analyze all development activity in these nonresidential zones, how often residential development occurs and adjust residential capacity calculations, policies, and programs accordingly.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. The analysis mentioned a list of factors that were considered to determine development potential including improvement-to-land value ratio of less than one, the parcel's existing use vs. zoned use, age of structure and underutilization. However, the analysis should describe why and how the factors demonstrate that these sites are suitable for development. In addition, the element needs to also analyze the extent that existing uses may impede additional residential development. The element can summarize past experiences converting existing uses to higher density residential development, include current market demand for the existing use, provide analysis of existing leases or contracts that would perpetuate the existing use or prevent additional residential development and include current information on development trends and market conditions in the City and relate trends to the sites identified.

In addition, specific analysis and actions are necessary if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Small Sites: Sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless the housing element describes other evidence the site is adequate to accommodate lower income housing. While the element lists some recent development on smaller sites, it should relate these trends to identified sites. For example, almost all of the recent developments had at least 40 units, but lots to be consolidated result in projects at smaller scale. In addition, it is unclear whether the examples result in housing affordable to lower-income households. The element should relate these example projects to the site strategy for lot consolidation, particularly as it relates to facilitating housing affordable to lower-income households. The analysis should include conditions rendering parcels suitable and ready for consolidation.

Zoning for Lower-Income Households: The element must demonstrate densities appropriate to accommodate housing for lower-income households. The element is relying on sites within the R-3 zone which currently have a maximum density of 25 units per acre. The site inventory assumes the maximum allowable density in these zones will be 30 units per acre, but the element only states that it will “consider” increasing the density to 30. Unless the element commits to increasing the zoning to 30 units per acre, the element must contain the analysis demonstrating that 25 units per acre is appropriate for facilitating development affordable to lower-income households in the City. Please note because zoning is not already in place at the beginning of the planning period, rezoning for these sites must be consistent with Government Code, § 65583.2, subdivision (h) and (i).

Sites with Zoning for a Variety of Housing Types:

- **Emergency Shelters:** The element mentions emergency shelters are permitted in the Office Professional (O-P) Zone. The element must discuss available acreage in the OP zone, including typical parcel sizes and the presence of reuse opportunities and compare that capacity to identified need for emergency shelter. In addition, the analysis should address proximity to transportation and services and any conditions inappropriate for human habitability. "In addition, the element should describe how emergency shelter parking requirements are in line with AB139/Government Code section 65583, subdivision (a)(4)(A) or include a program to comply with this requirement."
 - **Employee Housing:** Employee Housing: The element must demonstrate zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.) or add or modify programs. Specifically, section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone.
4. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). Transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).)*

Development Standards: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. The analysis should analyze land use controls independently and cumulatively with other land use controls. Specifically, the element must analyze floor area ratio requirements and describe the requirements for the mixed-use projects including any requirements for commercial uses or if 100 percent residential is allowed.

Housing Overlay Zone: The element relies on sites Housing Overlay Zones that was adopted through the 2020 General Plan update. While some information was provided on how the overlay allows residential the element must include a complete description and analysis of the Overlay, including whether further zoning must be adopted to implement the overlay zones and the permitting procedure for access to the overlay. The element should also detail any affordability requirements, whether 100 percent residential uses are allowed, development standards, and what incentives or concessions for utilization.

Parking Standards: The element must analyze studio and one bedroom parking requirement and requirement for enclosed parking for its impact as a potential constraint on housing including project cost. The analysis should examine whether parking standards impede a developer's ability to achieve maximum densities, and if there are provisions in place to provide parking reductions where less need is demonstrated, particularly for persons with disabilities, the elderly, affordable housing, and infill and transit-oriented development.

Development Fees: The element has identified planning fees; however, the element must describe all required fees including impact and building fees. For example, the analysis could identify the total amount of fees and their proportion to the development costs for both single family and multifamily housing.

Zoning and Fee Transparency: The element must clarify its compliance with new transparency requirements for posting all zoning and development standards for each parcel on the jurisdiction's website pursuant to Government Code section 65940.1(a)(1).

Local Ordinances: The element must specifically analyze locally adopted ordinances such as inclusionary ordinances or short-term rental ordinances that directly impact the cost and supply of residential development. The analysis should demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters.

Constraints on Housing for Persons with Disabilities: The element briefly describes its reasonable accommodation procedures including that a reasonable accommodation must be in general conformance with the City's development and municipal codes and comply with the California Environmental Quality Act. However, the purpose of the reasonable accommodation is to provide exception to zoning and land use. As a result, the element must include a program to address this constraint. In addition, group homes for seven or more persons appears to be excluded from several zones allowing

residential uses and subject to a conditional use permit (CUP). The element should evaluate these requirements as constraints and include programs as appropriate.

5. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)*

Approval Time and Requests Lesser Density: The element must be revised to analyze requests to develop housing at densities below those anticipated in the sites inventory, including hinderance on the construction of the City's share of the regional housing need and include programs as appropriate.

6. *Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions. (Gov. Code, § 65583, subd. (a)(9) through 65583(a)(9)(D).)*

While the element identifies 441 assisted units, the element lists three properties that are at-risk of expiring within the next ten years for a total of 251 units. The element must identify local public agencies, public or private nonprofit corporations, and for-profit organizations with the legal and managerial capacity to acquire and manage at-risk projects pursuant to Government Code Section 65583, subdivision (a)(8)(C)). In addition, the element must list potential federal, state, and local funding sources that can be used to preserve the units.

While the element analyzes the cost of replacement for units designated high risk, the element must analyze replacement costs for all units with expiring restrictions in the next ten years. Furthermore, the analysis should contain the following:

- Estimate the costs of producing new rental housing (comparable in size and rent levels to existing at-risk units) to replace units converting from affordable to market rate. The analysis should consider current land costs and either current construction costs (square footage rates for multifamily development) or the actual cost of recently completed units.
- Estimate the cost of preserving the identified assisted housing developments including acquisition and rehabilitation costs long-term affordability controls and project-based rent subsidies.

A project-by-project replacement/preservation cost estimate is not required (Government Code Section 65583(a)(8)(B)). The element can make an assessment of the appropriate strategy (replace vs. preserve) based on sample cost estimates.

C. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)*

To address the program requirements of Government Code section 65583, subdivision (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the City's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Programs to be revised include the following:

- General: The element must provide discrete timing for all programs (e.g., month, year) to account for how often the action will occur as well as to ensure a beneficial impact throughout the planning period and quantify objectives where feasible. In addition, all programs should be evaluated to ensure meaningful and specific actions and objectives. Programs containing unclear language (e.g., "Evaluate"; "Consider"; "Encourage"; etc.) should be amended to include more specific and measurable actions.
- Program 1 (Residential Rehabilitation Program): The program must be revised to include a timeframe for implementation.
- Program 4 (Housing for Special Needs Population): The program must be revised to specify the incentives for developers and clarify what actions will "nurture partnerships" to educate and execute the development of supportive and transitional housing.
- Program 5 (Flexibility in Development Standards): The program must be revised to specify a timeline for implementing the actions of the program.
- Program 6 (Monterey Park Municipal Code): The program must be revised to remove the "if required" language from its objectives and actions.
- Program 9 (Sites Used in Previous Planning periods Housing Elements): The element must be revised to remove the "consider" language from its objective for rezoning or amending the MPMC.
- Program 10 (Mixed-Use Sites): The program must be revised to include the timing for each of its objectives.

- Program 14 (Affordable Housing Development Incentives): The program must specify the actions that the city will take to “actively promote” housing development and to include timeframes with listed actions.
2. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city’s or county’s share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding B.3, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

Program 7 (Ensure Adequate Sites to Accommodate Regional Fair Share of Housing Growth): The program must be revised to clarify with specific actions and language how the city will “promote residential density” and list the measures that will be adopted to encourage affordability by design with timing. Also, if the element is relying on the R-3 zone and the City will need rezoning to allow up to 30 units per acre then the element will need a rezoning program for these sites that meet 65583.2(h) and (i).

Lot Consolidation: As the element relies on consolidated small sites to accommodate the RHNA for lower-income households, it should include a program(s) to facilitate lot consolidation and development of housing on small sites. For example, the program could commit to (1) granting density bonuses above state density bonus law (Gov. Code, § 65915.); (2) deferring fees specifically for consolidation; (3) expediting permit processing; (4) identifying and targeting specific financial resources; and (5) modifying development standards.

3. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Finding(s) B.4. and B.5, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results

of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

Specifically, the element recognizes that minimum lot size, high standards, and other standards in the MU-1 and MU-II zones are a constraint to achieving densities. However, the element lacks specific program commitments to mitigate or remove these constraints. The element could amend Program 6 (Monterey Park Municipal Code) to expressly state how that these standards will be modified or removed. This is especially critical because there are many sites identified in the inventory that do not meet minimum size requirements and would require lot consolidation to be developed.

4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding B1, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs. While the element include Program 19 (Fair Housing Program) goals and actions must create meaningful impact to overcome contributing factors to fair housing issues and actions must have specific metrics and milestones. For example, Table 6-1 states the city will “incentives the development of more housing to accommodate the varied needs of different populations,” but does not describe how this action will be implemented. The program and its actions must each be concrete in affirmatively furthering fair housing (AFFH).

In addition, currently the element only addresses AFFH in Program 19. The element could revise other program actions to address the City’s obligation to AFFH including how programs address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection.

5. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance. (Gov. Code, § 65583, subd. (c)(6).)*

The element includes Program 2 (Conserve At-Risk Housing) and specifies actions to monitor at-risk units. However, the element must include contacting property owners within at least one year of the affordability expiration dates on projects. Also, the program should be modified to include noticing requirements within three years and six

months of the affordability expiration dates, in addition to coordinating with qualified entities such as non-profit organizations and establish specific time parameters around such actions. In addition, the element should be revised to adhere to current State Preservation Notice Law (Gov. Code 65863.10, 65863.11, 65863.13) which requires owners to provide tenants and affected public entities (including the City) notices regarding expiring rental restrictions starting three years before expiration.

D. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)

The element must include quantified objectives to establish an estimate of housing units by income category that can be conserved over the planning period.

E. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(8).)

While the City made effort to include the public through workshops and surveys, moving forward, the City should employ additional methods for public outreach efforts, particularly including lower-income and special needs households and neighborhoods with higher concentrations of lower-income and special needs households. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income and special needs households in future public outreach efforts. HCD also received comments with many meaningful suggestions and other issues related to zoning and AFFH. HCD encourages the City to consider these comments which will be provided under a separate cover.

In addition, HCD understands the City made the element available to the public concurrent with its submittal to HCD. By not providing an opportunity for the public to review and comment on a draft of the element in advance of submission, the City has not yet complied with statutory mandates to make a diligent effort to encourage the public participation in the development of the element and it reduces HCD's ability to consider public comments in its review. The availability of the document to the public and opportunity for public comment prior to submittal to HCD is essential to the public process and HCD's review. The City must proactively make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including making revisions to the document where appropriate. HCD's future review will consider the extent to which the revised element documents how the City solicited, considered, and addressed public comments in the element. The City's consideration of public comments must not be limited by HCD's findings in this review letter.