



CITY OF CUPERTINO

AGENDA

CITY COUNCIL

This will be a teleconference meeting without a physical location.

Tuesday, October 6, 2020

5:00 PM

Non-Televised Special Meeting Closed Session (5:00), Televised Special Meeting Study Session (5:30) and Regular Meeting (6:45); Special Public Facilities Corporation Meeting (Immediately Following Regular Meeting)

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

In accordance with Governor Newsom's Executive Order No-29-20, 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 open session 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 comment on an item on the agenda may do so in the following ways:

- 1) E-mail comments for closed or open session by 4:30 p.m. on Tuesday, October 6 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 for closed or open session 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 links below to access the closed and open session meetings:

CLOSED SESSION

Members of the public may provide oral public comments in open session prior to the closed session teleconference meeting as follows:

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

Online

Join Meeting: <https://cityofcupertino.zoom.us/j/93653237642>

Phone

Dial: (888) 788 0099 and enter Meeting ID: 936 5323 7642 (Type *9 to raise hand to speak).

OPEN SESSION

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

Oral public comments will be accepted during the open session 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_tIPy4AQdSK-m9d1jwLvJQQ

Phone

Dial: (888) 788 0099 and enter Webinar ID: 965 4930 2496 (Type *9 to raise hand to speak). 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: 965 4930 2496

SIP: 96549302496@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." 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.

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 (CLOSED SESSION AND STUDY SESSION) AND REGULAR MEETING OF THE CUPERTINO CITY COUNCIL, AND SPECIAL MEETING OF THE CUPERTINO PUBLIC FACILITIES CORPORATION

NOTICE IS HEREBY GIVEN that a special meeting of the Cupertino City Council is hereby called for Tuesday, October 06, 2020, for a closed session commencing at 5:00 p.m and a study session commencing at 5:30 p.m. In accordance with Governor Newsom's Executive Order No-29-20, this will be a teleconference meeting without a physical location. Said special meeting shall be for the purpose of conducting business on the subject matters

listed below under the heading, "Special Meeting." The regular meeting items will be heard at 6:45 p.m. In accordance with Governor Newsom's Executive Order No-29-20, this will be a teleconference meeting without a physical location. The special meeting of the Cupertino Public Facilities Corporation will immediately follow the regular meeting. In accordance with Governor Newsom's Executive Order No-29-20, this will be a teleconference meeting without a physical location. 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 - 5:00 PM

CLOSED SESSION

1. Subject: Conference with Legal Counsel - Anticipated Litigation. Initiation of litigation pursuant to Government Code Section 54956.9(d)(4) (one potential case)

ADJOURNMENT

RECESS

OPEN SESSION

ROLL CALL - 5:30 PM

STUDY SESSION

2. Subject: Study session to receive input on services to be provided in a new 10-year franchise agreement
Recommended Action: Receive and provide input on services to be provided in a new 10-year franchise agreement
[Staff Report](#)
[A - Residential survey in English and Chinese](#)
[B - Commercial survey in English and Chinese](#)

ADJOURNMENT

REGULAR MEETING

PLEDGE OF ALLEGIANCE - 6:45 PM

ROLL CALL

CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Proclamation declaring October 4th to 10th as Mental Illness Awareness Week

Recommended Action: Present proclamation declaring October 4th to 10th as Mental Illness Awareness Week

[A - Proclamation](#)

2. Subject: Proclamation declaring the 2nd week in October as Code Enforcement Officer Appreciation Week

Recommended Action: Present proclamation declaring the 2nd week in October as Code Enforcement Officer Appreciation Week

[A - Proclamation](#)

POSTPONEMENTS

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.

REPORTS BY COUNCIL AND STAFF (10 minutes)

3. Subject: City Manager update on emergency response efforts
Recommended Action: Receive City Manager update on emergency response efforts
4. Subject: Report on Committee assignments
Recommended Action: Report on Committee assignments

CONSENT CALENDAR

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.

5. Subject: Approve the September 15 City Council minutes
Recommended Action: Approve the September 15 City Council minutes
[A - Draft Minutes](#)
6. Subject: Authorize the City Manager to execute an agreement with OpenGov, Inc. to renew a contract for budgeting, performance, communications, and reporting software for a total amount of \$318,520 over five years.

Recommended Action: Authorize the City Manager to execute an agreement with OpenGov, Inc. to renew a contract for budgeting, performance, communications, and reporting software for a total amount of \$318,520 over five years.

[Staff Report](#)

[A – Renewal Agreement with OpenGov, Inc.](#)

7. Subject: Award and authorize the City Manager to execute a construction contract with Spencon Construction, Inc, for the 2020 Reconstruction of Curbs, Gutters and Sidewalks, Project No. 2021-102

Recommended Action: Award a construction contract for the 2020 Reconstruction of Curbs, Gutters and Sidewalks project; and authorize the City Manager to execute a construction contract with Spencon Construction, Inc., in the amount of \$843,713.75 and further authorize the Director of Public Works to execute any necessary change orders up to a 10% construction contingency of \$84,371.00 for a total of \$928,084.75

[Staff Report](#)

[A - Draft Contract](#)

[B - Bid Summary](#)

8. Subject: Approval of a Master Agreement between the City of Cupertino and 4Leaf, Inc. and a separate Master Agreement between the City of Cupertino and CSG Consultants, Inc., to provide construction management services on various Capital Improvement Program (CIP) projects

Recommended Action: 1) Authorize the City Manager to execute a Master Agreement between the City of Cupertino and 4Leaf, Inc. in the amount not to exceed \$500,000 for a term of approximately two years; and

2) Authorize the City Manager to execute a Master Agreement between the City of Cupertino and CSG Consultants, Inc. in the amount not to exceed \$500,000 for a term of approximately two years

[Staff Report](#)

[A - Draft Contract 4 Leaf](#)

[B - Draft Agreement CSG, Inc](#)

SECOND READING OF ORDINANCES

PUBLIC HEARINGS

ORDINANCES AND ACTION ITEMS

9. Subject: Discussion to adopt a position on Proposition 16, Proposition 19, Proposition 21, Measure RR, and Measure S that are on the November 2020 General Election Ballot
- Recommended Action: Discuss and determine whether the City will adopt a position on Proposition 16, Proposition 19, Proposition 21, Measure RR, and Measure S that are on the November 2020 General Election Ballot

[Staff Report](#)

[A - Townsend Report on Proposition 16, 19, and 21 and Measure RR and S](#)

10. Subject: City Council to consider modification of Cupertino Municipal Code Section 2.18.030 to limit the use of City Attorney time by individual City Councilmembers.

Recommended Action: City Council to consider modification of Cupertino Municipal Code Section 2.18.030 to limit the use of City Attorney time by individual City Councilmembers; and if Council decides to proceed, conduct the first reading of Ordinance No. 20-2212: An Ordinance of the City Council of the City of Cupertino Amending City Code Section 2.18.030 (Council-Attorney Relations) of Chapter 2.18 (City Attorney) to Title 2 (Administration and Personnel) to Limit use of City Attorney Time by Individual City Councilmembers.

[Staff Report](#)

[A - Draft Ordinance](#)

11. Subject: COVID-19 Response: Coronavirus Aid, Relief and Economic Security (CARES) Act Framework and Funding Priorities

Recommended Action: 1. Review, discuss, and approve CARES Act Grant Funding and Funding Priorities.

2. Adopt Resolution No. 20-116 amending the budget and authorizing the City Manager to accept \$735,259 Coronavirus Relief Fund (CRF) from the US Treasury (pass-through via the State of California) and \$553,939 in CARES-CV from US Department of Housing and Urban Development (HUD).

[Staff Report](#)

[A – Draft Resolution](#)

ORAL COMMUNICATIONS - CONTINUED (As necessary)

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

ADJOURNMENT

NOTICE AND CALL FOR A SPECIAL MEETING OF THE CUPERTINO PUBLIC FACILITIES CORPORATION

NOTICE IS HEREBY GIVEN that a special meeting of the Cupertino Public Facilities Corporation is hereby called for Tuesday, October 6, 2020, commencing immediately following the Cupertino City Council Regular meeting (which starts at 6:45 p.m.). In accordance with Governor Newsom’s Executive Order No-29-20, this will be a teleconference meeting without a physical location. Said special meeting shall be for the purpose of conducting business on the subject matters listed below under the heading, “Special Meeting.”

SPECIAL MEETING OF THE CUPERTINO PUBIC FACILITIES CORPORATION

ROLL CALL - Immediately following Regular meeting

CONSENT CALENDAR

1. Subject: Approve the September 15, 2020 Public Facilities Corporation minutes
Recommended Action: Approve the September 15, 2020 Public Facilities Corporation minutes
[A - Draft Minutes](#)

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, 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 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 agendized item. These written communications are accessible to the public through the City's website and kept in packet archives. You are hereby admonished not to include any personal or private information in written communications to the City that you do not wish to make public; doing so shall constitute a waiver of any privacy rights you may have on the information provided to the City.



CUPERTINO

CITY OF CUPERTINO

Legislation Text

File #: 20-8194, **Version:** 1

Subject: Conference with Legal Counsel - Anticipated Litigation. Initiation of litigation pursuant to Government Code Section 54956.9(d)(4) (one potential case)



CUPERTINO

CITY OF CUPERTINO

Legislation Text

File #: 20-8179, **Version:** 1

Subject: Study session to receive input on services to be provided in a new 10-year franchise agreement

Receive and provide input on services to be provided in a new 10-year franchise agreement



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: October 6, 2020

Subject

Study session to receive input on services to be provided in a new 10-year franchise agreement.

Recommended Action

Receive and provide input on services to be provided in a new 10-year franchise agreement.

Background

The Franchise Agreement with Recology Cupertino (Recology) for solid waste collection services expires on January 31, 2021. At the April 21, 2020 City Council meeting, Council authorized staff to pursue sole-source negotiations with Recology for a new 10-year agreement. If negotiations are unsuccessful or not completed by the end of the current franchise term, the City and Recology have approved an automatic “bridge agreement” extension of the current agreement of up to 18 months. The Bridge Agreement would include a 5% rate increase for all categories of customers. If needed, the Bridge Agreement would ensure continuation of trash, recycling, and organic materials hauling service during the bridge term until the City could complete negotiations or enter an agreement with a new solid waste collector.

The City, with the assistance of HF&H Consultants, issued a Request for Proposal (RFP) to Recology on July 23rd. Recology submitted their proposal to the City on September 8, 2020.

Requested Services

The City’s RFP request included continuation of current services and pricing of potential new services. Additionally, the RFP included activities required to ensure compliance with SB1383 Short-Lived Climate Pollutants (SB1383) that will go into effect in 2022. Those requirements include extensive work with residential and commercial food generators to divert edible food to food rescue organizations, ensuring proper sorting through regular waste assessments and notices, and robust outreach, education, and reporting. Cupertino is favorably positioned to address the new regulations because the

City is already largely in compliance; however, the additional required education, monitoring, and reporting activities will likely influence rates.

Community Input on Valued Services

As the City moves through the negotiation process, it is important to understand the services our community values. In order to identify these valued services, input from the community is ongoing and has been solicited in several ways.

A statistical survey was developed with Godbe Research (Godbe) and HF&H that collected almost 700 responses from residents. This exceeded the statistically significant target of 400. The survey included questions regarding “extra services” such as Environmental Days, on-call collections of bulky items, and curbside collection of oil, batteries, and fluorescent bulbs. There were also questions regarding satisfaction with Recology’s services. The survey was made available online, including a version translated in Traditional Chinese. A separate version was created specifically for commercial and multi-family property management customers to evaluate their needs and valued services. A webpage is maintained at Cupertino.org/newFA with links to the surveys and FAQs. Notifications about the surveys, online meetings, and this Study Session have been placed in the Scene, on social media, in the Business Buzz newsletter, and sent via direct mail to businesses. Two online community meetings were conducted which offered additional opportunities for direct feedback from the public. The Chamber of Commerce Legislative Action Committee has received two updates: one in March about the intent to negotiate, and another in September about SB1383 and possible rate impacts. The Sustainability Commission received similar updates in February and May, and Sustainability Commissioners were notified of the surveys and online meetings.

Draft results from the Godbe residential survey indicate that the full scope of current services remains popular. Most respondents felt that maintaining the current scope of services was preferable even if it meant some rate increase. Satisfaction with Recology’s services and customer service was rated highly, similar to the results of the last Cupertino Biennial Citywide Community Survey. In the recent Godbe survey, residents were asked about paying for certain services on an as-requested basis rather than including them in the baseline services. While there was interest in that idea, there was comparatively more interest in maintaining the current scope of services. When asked about possible future services, residents expressed the most interest in expanded cardboard collection. Residents were also interested in having organics carts washed once a year or in having the option for a smaller trash cart. Detailed findings from the survey will be discussed during the Study Session. The table below shows a highlight of survey results.

Service	% in Support
Expanded collection of cardboard	81.5%
Annual washing of organics carts	61.7%
Smaller trash cart	43.1%
Pay for certain services as requested	68.9%
Maintain current scope of services included in rates	76.8%

Rates and Comparisons

Potential new maximum rates for collection services are still under negotiation. Rates are anticipated to increase, and further analysis of costs and possible phasing-in of increases is ongoing. It is anticipated that the agreement will include use of a consumer price index (CPI) and two other indices to calculate annual rate adjustments to costs to provide service.

State SB1383 legislation, which goes into effect on January 1, 2022, will contribute to expected rate increases. Rates are also expected to be influenced by reduced recycled material revenue due to the current international recycling markets, and higher labor and operational costs. One goal of negotiations is to keep rates for customers as low as possible. Accordingly, the City is comparing the Recology proposal to similarly-served cities to ensure competitive rates. If it seems that a more favorable proposal could be achieved by going out to bid, the City retains that option.

Current rates charged to customers continue to be among the lowest rates in the region. The table below shows a comparison of current Cupertino rates with five nearby agencies. It is anticipated that other Santa Clara County cities will also be raising rates to address SB 1383.

CITY	32-gal cart	65-gal cart	95-gal cart
Cupertino (2020)	\$29.60	\$56.97	\$84.34
Cupertino (with Nov 2020 CPI increase)*	\$30.50	\$58.71	\$86.91
Campbell (20/21)	\$33.33	\$62.80	\$92.28
Mountain View (20/21)	\$34.95	\$69.90	\$104.85
Sunnyvale (20/21)	\$37.36	\$41.47	\$46.67
Santa Clara (20/21)	\$37.90	\$55.70	\$73.60
AVERAGE (with Cupertino)	\$34.81	\$57.72	\$80.86
AVERAGE (without Cupertino)	\$35.89	\$57.47	\$79.35

Residential: Sorted by 32-gallon rate; Commercial rate comparison is similar.

**Current franchise agreement allows an annual CPI adjustment to occur each year (typically in November). For this year, the increase will be 3.05%*

Next Steps

The City is on an aggressive schedule of negotiation meetings to assess costs, risks, establish base services, and resolve agreement exceptions. The goal is to bring the new agreement with a recommended rate of services to City Council for adoption before the end of the current agreement term in January 2021. If negotiations are unsuccessful, the City retains the option to bid the contract.

Sustainability Impact

State regulations for diverting organic materials from the landfill are intended to reduce greenhouse gas emissions. The Short-Lived Climate Pollutants (SB1383) regulations target a 75% reduction in organics to landfill statewide by 2025, and both the City and Recology will have required actions to ensure diversion is taking place. Effective diversion goals are also reflected in the community solid waste measures in Cupertino's Climate Action Plan. Measure C-SW-1 calls for a community wide diversion rate of 75%, C-SW-2 seeks to increase diversion of food scraps, compostable paper, and yard waste, while C-SW-3 set a goal to divert 60% of construction and demolition waste from landfill. The new 10-year agreement incorporates language to address diversion goals and actions which include outreach, education, auditing, and reporting.

Fiscal Impact

The City is negotiating to keep rates low for residents and businesses. In the current agreement, the City is a customer and pays for landfill fees but not collection fees. In the new agreement, the City will pay for collection. Detailed rate and fee information will be provided when the negotiated agreement is presented to City Council.

Prepared by: Ursula Syrova, Environmental Programs Manager

Reviewed by: Roger Lee, Director of Public Works

Approved for Submission by: Dianne Thompson, Assistant City Manager

Attachments:

A - Residential survey questions in English and Chinese

B - Commercial survey questions in English and Chinese

RESIDENTIAL SURVEY

Thank you for taking our survey! The City of Cupertino is conducting research on garbage services and possible rate increases. Your input will help with the City's decision on a new agreement for these services.

Your individual responses are entirely anonymous and confidential and will be used for research purposes only. Your data will not be sold or provided to anyone. You will not be approached for any other reason - we are only interested in your opinions.

Survey Instructions:

Once you have answered all the questions on a page, click the "Next" button to continue. If you have any technical difficulties with the survey, please email: environmental@cupertino.org

- i. Do you live in the City of Cupertino?
 - a. Yes
 - b. No
 - c. Don't know

HOUSING TYPE AND QUALITY OF LIFE

1. Generally speaking, are you very satisfied, somewhat satisfied, somewhat dissatisfied, or very dissatisfied with the overall quality of life in Cupertino?
 - a) Very satisfied
 - b) Somewhat satisfied
 - c) Somewhat dissatisfied
 - d) Very dissatisfied
 - e) Not sure

2. Please indicate what type of housing in which you currently reside.
 - a. Single family home
 - b. Apartment
 - c. Condominium or Townhome
 - d. Duplex, Triplex, or Fourplex
 - e. Loft
 - f. Other
 - g. Not sure

VALUE AND USE OF SERVICES

3. The City of Cupertino currently contracts with Recology to provide garbage and recycling services within the City of Cupertino. Thinking about the garbage and recycling services provided by Recology specifically at your residence in Cupertino, are you very satisfied, somewhat satisfied, somewhat dissatisfied, or very dissatisfied with each of the following?
 - A. Quality of collection services (being on-time and leaving no mess)
 - B. Quality of customer service when contacting Recology

4. Next is a list of services provided by Recology in addition to the collection of solid waste. Please rate how valuable you feel these services are
 - a. Very valuable, somewhat valuable, somewhat unvaluable, not valuable
 - A. Environmental Days (4x/year document shredding and extra material drop-off events)
 - B. On-call and bulky item pick-up services (2/year per household included in rates)
 - C. Curbside collection of used motor oil and used cooking oil
 - D. Curbside collection of household batteries and compact fluorescent bulbs
 - E. Compost free to residents at the compost site
 - F. Free small containers for collecting food scraps in the kitchen
 - G. Curbside collection of Christmas trees
 - H. Annual Coats for Kids collection

5. Next are two extra services that are not currently provided by Recology, but might be useful to residents. Please rate how valuable you feel these services are:
 - Very valuable/Somewhat Valuable/Not Valuable/Don't Know
 - A. 1 time per year washing of residential organics cart
 - B. Extra cardboard collection at residences

6. Currently the smallest garbage cart available to single-family customers is 32 gallons, which is also the most popular size. Do you think a 20-gallon size at a lower rate should be made available?
 - a. Yes
 - b. No
 - c. Don't Know

7. Residents of Cupertino can place Food scraps and food-soiled paper in their green or brown yard trimmings container to be collected for composting. Do you put food scraps and food-soiled paper in your green or brown cart or container?
- Yes
 - No
 - Not sure

8. What is the primary reason you don't put food scraps and food-soiled paper into the green or brown cart or container specifically at your residence?
- It's too much of an effort
 - I do not believe in recycling or composting in general
 - My landlord or HOA does not provide a cart or container for that
 - It is too messy or dirty
 - I didn't know that I could put food scraps in the cart
 - I compost my yard trimmings/food scraps at home
 - Other (Please specify: _____)
 - Not sure

9. Next is a question about how materials are handled after collection in Cupertino.

Currently in Cupertino:

- Recyclable materials put in the blue cart/container are collected and sent to a processing facility for additional sorting and use.
- Compostable materials such as yard trimmings and food scraps placed in the green or brown cart/container are collected and processed into compost.
- All materials placed in the gray garbage cart/container go directly to landfill with no additional sorting. In 2018 a study in Cupertino found that almost half of residential garbage could have been separated out as organics or as recyclables (by weight).

In the future, would you be willing to pay more for garbage service so that the material you put in your gray cart could be sorted to pull out materials that were not sorted correctly and keep them from going to the landfill?

- Yes
- No
- Not sure

BILLING AND WILLINGNESS TO PAY

10. Recology, the City of Cupertino's garbage and recycling provider, bills property owners directly for garbage and recycling services. Do you pay Recology for your garbage and recycling services directly or are those services paid for by your landlord or someone else?

- a. I/We pay directly
- b. My landlord or someone else pays
- c. Not sure

11. The most common rate paid by residents in single-family homes in Cupertino is \$29.60 per month for a 32 gallon garbage cart and recycling services. Thinking of the amount you pay Recology each month, do you feel that this amount is very reasonable, somewhat reasonable, somewhat unreasonable, or very unreasonable?

- a. Very reasonable
- b. Somewhat reasonable
- c. Somewhat unreasonable
- d. Very unreasonable
- e. Not sure

12. The City of Cupertino is about to negotiate a new garbage and recycling agreement. While Cupertino residents currently pay some of the lowest rates in the region and receive a high level of service, there are several reasons why rates may increase that are beyond the City's control. These include:

- Increased labor rates for garbage and recycling company employees
- New requirements placed on the City of Cupertino and the garbage and recycling company by the State
- Inflation and cost of service
- Reduced prices at which the garbage and recycling company can sell recyclables

This means that rates could go up just to maintain the current services available to Cupertino residents.

Which is more important to you: Maintain all current services at higher rates, or minimize rate increases but potentially reduce services?

- a. Maintain current services
- b. Minimize rate increases even if it means potentially reducing services
- c. Don't know

13. To maintain the same level of service you are currently receiving, would you be willing to pay 20% more for garbage and recycling services knowing that for the average home the potential increase would be approximately \$6 per month?
- a. Yes
 - b. No
 - c. Not sure
14. As a second alternative, to maintain the same level of service you are currently receiving, would you be willing to pay 15% more for garbage and recycling services knowing that for the average home the potential increase would be less than \$5 per month?
- a. Yes
 - b. No
 - c. Not sure
15. As another alternative, to maintain the same level of service you are currently receiving, would you be willing to pay 10% more for garbage and recycling services knowing that for the average home the potential increase would be approximately \$3 per month?
- a. Yes
 - b. No
 - c. Not sure
16. Would you be interested in having a lower basic garbage rate and have the option to pay only as you use any extra services such as on-call collections of bulky items and curbside pickup of batteries, used oil, and Christmas trees?
- a. Yes
 - b. No
 - c. Don't know
17. Currently there is a discounted garbage rate available to low-income senior residents. Would you be willing to pay up to \$1.00/month to subsidize a discounted garbage rate for all low-income residents who qualify?
- a. Yes
 - b. No
 - c. Don't know

DEMOGRAPHICS

Now, just a few background questions for comparison purposes.

A. What is your age?

- a. 18 to 24
- b. 25 to 29
- c. 30 to 34
- d. 35 to 39
- e. 40 to 44
- f. 45 to 49
- g. 50 to 54
- h. 55 to 59
- i. 60 to 64
- j. 65 to 69
- k. 70 to 74
- l. 75 and over
- m. Not sure

B. Do you own or rent your home?

- a. Own
- b. Rent
- c. Not sure

C. How long have you lived in Cupertino? [DON'T READ CHOICES]

- a. Less than 5 years
- b. 5 to 10 years
- c. 11 to 20 years
- d. More than 20 years
- e. Not sure

D. How many adults over the age of 18 currently live at your residence?

- a. One
- b. Two
- c. Three
- d. Four
- e. Five
- f. More than five
- g. Prefer not to answer

- E. How many children under the age of 18 currently live at your residence?
- a. One
 - b. Two
 - c. Three
 - d. Four
 - e. Five
 - f. More than five
 - g. Prefer not to answer
- F. What ethnic group do you consider yourself a part of or feel closest to? [PHONE: IF RESPONDENT HESITATES, READ LIST. DO NOT RANDOMIZE.]
- a. African-American or Black
 - b. American Indian or Alaska Native
 - c. Asian
 - d. Caucasian or White
 - e. Hispanic or Latino
 - f. Native Hawaiian or other Pacific Islander
 - g. Two or more races
 - h. Some other race
 - i. Not sure
- G. For statistical purposes only, what was the approximate total income of your household last year?
- a. Less than \$20,000
 - b. \$20,000 to less than \$40,000
 - c. \$40,000 to less than \$75,000
 - d. \$75,000 to less than \$100,000
 - e. \$100,000 to less than \$125,000
 - f. \$125,000 to less than \$150,000
 - g. \$150,000 or more
 - h. Not sure
- H. Gender:
- a. Male
 - b. Female
 - c. Non-binary

Thank you very much for participating.

住宅問卷調查 - 中文版

感謝您參加此次調查！庫比蒂諾市府正在對垃圾處理服務及其費用可能調漲的問題進行研究。您的意見將有助於市府就這些服務的新措施做出決策。

您的回答是完全匿名且保密的，僅用於研究目的。我們不會將您的資料出售或提供給任何人。我們不會出於任何其他原因接近您 - 我們只對您的意見感興趣。

調查說明：

當您回答完一頁上的所有問題後，請按「下一步」按鈕繼續。如果您在填寫過程中遇到任何技術問題，請發送電子郵件至：environmental@cupertino.org

- i. 您是否住在庫比蒂諾市？
 - a. 是
 - b. 否
 - c. 不知道

住房類型及生活品質

1. 整體來說，您對庫比蒂諾市的生活品質是非常滿意、比較滿意、不太滿意還是很不滿意？

- a) 非常滿意
- b) 比較滿意
- c) 不太滿意
- d) 很不滿意
- e) 不確定

2. 請選擇您目前居住的住房類型。

- a. 獨棟住宅
- b. 公寓
- c. 共租公寓或集合住宅
- d. 雙併屋、三併屋或四併屋
- e. 複式公寓
- f. 其他
- g. 不確定

服務的價值及使用

3. 庫比蒂諾市府目前與 **Recology** 簽約，在庫比蒂諾市內提供垃圾和回收服務。回顧 **Recology** 專門為您在庫比蒂諾的住所提供的垃圾和回收服務，您對以下各項是非常滿意、比較滿意、不太滿意還是很不滿意？
- A. 垃圾收集服務的品質（準時、收拾乾淨）
 - B. 聯絡 **Recology** 時的客戶服務品質
4. 下面是除固體廢物收集外，**Recology** 提供的服務清單。請評價您認為這些服務有多大價值
- a. 很有價值，比較有價值，不太有價值，沒有價值
- A. 環境日（每年 4 次文件粉碎及額外材料定點收集服務）
 - B. 電話預約的大件廢棄物收運服務（收費包含每戶每年 2 次）
 - C. 路邊回收廢棄機油和廢棄食用油
 - D. 路邊回收廢棄家用電池和燈泡
 - E. 堆肥場向居民免費提供堆肥
 - F. 免費提供收集廚餘垃圾的小容器
 - G. 路邊回收聖誕樹
 - H. 一年一度收集兒童外套
5. 下面是 **Recology** 目前尚未提供的兩項額外服務，但可能對居民很有幫助。請評價您認為這些服務有多大價值：
- 非常有價值/比較有價值/沒有價值/不知道
- A. 每年清洗 1 次住宅有機物推車
 - B. 額外收集紙箱瓦楞紙板
6. 目前獨棟住宅客戶所用的垃圾推車是 32 加侖，這也是最受歡迎的尺寸。您認為是否應該以更低的費用提供 20 加侖尺寸垃圾推車？
- a. 是
 - b. 否
 - c. 不知道

7. 庫比蒂諾居民可以將廚餘垃圾和被食物弄髒的紙放在綠色或褐色的庭院剪枝容器中，收集起來用於堆肥。您是否將廚餘垃圾和被食物弄髒的紙放在綠色或褐色的推車或容器裡？

- a. 是
- b. 否
- c. 不確定

8. 您沒有將廚餘垃圾和被食物弄髒的紙放進您住宅的綠色或褐色推車或容器裡，主要原因是什麼？

- a. 那太麻煩了
- b. 我整體上並不相信回收或堆肥-----
- c. 我的房東或 HOA 沒有提供此用途的推車或容器
- d. 那太亂或太髒了
- e. 我不知道可以把廚餘垃圾放進推車 -----
- f. 我在家將庭院剪枝/廚餘垃圾堆肥
- g. 其他（請具體說明：_____）
- h. 不確定

9. 下面是一個關於庫比蒂諾市在收集後如何處理廢棄物的問題。

目前在庫比蒂諾：

- 放在藍色推車/容器中的可回收材料被收集起來送到加工廠進一步分類和使用。
- 可堆肥的材料，如放在綠色或褐色推車/容器中的庭院剪枝和廚餘垃圾被收集起來，加工成堆肥。
- 放置在灰色垃圾推車/容器中的所有材料將直接掩埋，無需另行分類。2018年，庫比蒂諾的一項研究發現，幾乎一半的生活垃圾可以作為有機物或可回收物分離出來（按重量計算）。

未來，您是否願意為垃圾服務多付費用，這樣您放在灰色推車裡的廢棄物就可以加以分類，將沒有正確分類的物品整理出來，以免將這些材料送去掩埋？

- a. 是
- b. 否
- c. 不確定

帳單和付費意願

10. 庫比蒂諾市府的垃圾和回收供應商 **Recology** 直接向業主收取垃圾和回收服務費用。您是直接支付垃圾和回收服務費用，還是由您的房東或其他人支付這些費用？
- 我/我們直接付費
 - 我的房東或其他人付費
 - 不確定
11. 在庫比蒂諾，獨棟住宅居民所支付的最常見費率為 **32** 加侖垃圾推車和回收服務每月 **29.60** 美元。請回想您每月向 **Recology** 支付的金額，您覺得這個金額是非常合理，比較合理，不太合理，還是很不合理？
- 非常合理
 - 比較合理
 - 不太合理
 - 很不合理
 - 不確定
12. 庫比蒂諾市府即將洽談一項新的垃圾與回收協定。雖然庫比蒂諾居民目前支付的費用在本地區屬最低之列，並且享受到了高水準的服務，但因若干原因可能會漲價，非本市所能控制。其中包括：
- 垃圾和回收公司員工的勞動費率提高
 - 州府對庫比蒂諾市府以及垃圾和回收公司施加了新規定
 - 通貨膨脹和服務成本
 - 垃圾和回收公司出售可回收物的價格下降
- 這意味著，為了維持庫比蒂諾居民目前獲得的服務，費用可能會上漲。
- 以下哪項對您而言更重要：提高費用維持所有當前服務，或盡可能少漲價，但可能要減少服務？
- 維持當前服務
 - 盡可能少漲價，即使這意味著有可能減少服務
 - 不知道

13. 為了維持您目前獲得的服務水準，您是否願意為垃圾和回收服務多付 20%的費用？請知悉平均每戶每月漲價可能會在 6 美元左右。
- a. 是
 - b. 否
 - c. 不確定
14. 第二個方案是：為了維持您目前獲得的服務水準，您是否願意為垃圾和回收服務多付 15%的費用？請知悉平均每戶每月漲價可能會在 5 美元以下。
- a. 是
 - b. 否
 - c. 不確定
15. 還有一個方案是：為了維持您目前獲得的服務水準，您是否願意為垃圾和回收服務多付 10%的費用？請知悉平均每戶每月漲價可能會在 3 美元左右。
- a. 是
 - b. 否
 - c. 不確定
16. 您是否對以下做法感興趣：降低基本垃圾費率，並且僅在您使用任何額外服務時付費，如電話預約收集大件物品和在路邊取走電池、廢油和聖誕樹？
- a. 是
 - b. 否
 - c. 不知道
17. 目前，低收入老年居民可以享受垃圾費率優惠。您是否願意每月最多支付 1.00 美元，為符合條件的所有低收入居民提供垃圾費率優惠補貼？
- a. 是
 - b. 否
 - c. 不知道

人口統計資料

以下，為了比較起見，詢問您幾個背景問題。

A. 您的年紀是？

- a. 18 到 24 歲
- b. 25 到 29 歲
- c. 30 到 34 歲
- d. 35 到 39 歲
- e. 40 到 44 歲
- f. 45 到 49 歲
- g. 50 到 54 歲
- h. 55 到 59 歲
- i. 60 到 64 歲
- j. 65 到 69 歲
- k. 70 到 74 歲
- l. 75 歲及以上
- m. 不確定

B. 您的住房是自有的還是租賃的？

- a. 自有
- b. 租賃
- c. 不確定

C. 您在庫比蒂諾生活多長時間了？ [不要讀出選項]

- a. 5 年以下
- b. 5 到 10 年
- c. 11 到 20 年
- d. 20 年以上
- e. 不確定

D. 目前有多少名 18 歲以上的成年人住在您家裡？

- a. 一名
- b. 兩名
- c. 三名
- d. 四名
- e. 五名
- f. 五名以上
- g. 不想回答

- E. 目前有多少名 18 歲以下的子女住在您家裡？
- a. 一名
 - b. 兩名
 - c. 三名
 - d. 四名
 - e. 五名
 - f. 五名以上
 - g. 不想回答
- F. 您認為自己屬於哪個族群，或者覺得最接近哪個族群？【電話：如果受訪者猶豫，則讀出清單。不要隨機。】
- a. 非裔美國人或黑人
 - b. 美洲印地安人或阿拉斯加原住民
 - c. 亞裔
 - d. 高加索人或白人
 - e. 西班牙裔或拉美裔
 - f. 夏威夷原住民或其他太平洋島民
 - g. 兩個或以上種族
 - h. 某個其他種族
 - i. 不確定
- G. 僅出於統計目的，您家去年的總收入大約是多少？
- a. 20,000 美元以下
 - b. 20,000 美元到 40,000 美元以下
 - c. 40,000 美元到 75,000 美元以下
 - d. 75,000 美元到 100,000 美元以下
 - e. 100,000 美元到 125,000 美元以下
 - f. 125,000 美元到 150,000 美元以下
 - g. 150,000 美元或以上
 - h. 不確定
- H. 性別：
- a. 男
 - b. 女
 - c. 非二元

非常感謝您的參與。

Franchise Agreement

Commercial and Multi-Family Property Manager Survey

Thank you for taking our survey! The City of Cupertino is conducting research on garbage services and possible rate increases. Your input will help with the City's decision on a new agreement for these services.

Your individual responses are entirely anonymous and confidential and will be used for research purposes only. Your data will not be sold or provided to anyone. You will not be approached for any other reason - we are only interested in your opinions.

Survey Instructions:

Once you have answered all the questions on a page, click the "Next" button to continue. If you have any technical difficulties with the survey, please email: environmental@cupertino.org

1. Is the business or multi-family property you own, operate, or manage located within Cupertino? This survey is only for businesses and multi-family property managers operating in Cupertino.
 - a. Yes
 - b. No
 - c. Don't know

BUSINESS TYPE

2. How many full-time personnel are currently employed by your business, counting yourself?
 - a. 1-5
 - b. 6-10
 - c. 11-15
 - d. 16-20
 - e. 21+
3. In what industry or sector does your organization primarily operate?
 - a. Retail
 - b. Restaurant
 - c. Grocery store or food market
 - d. Multi-family property (apartments)
 - e. Gas Station/Auto repair
 - f. Office
 - g. Other: please specify
4. If you are managing a multi-family property, how many units are there?

- a. 4-8
 - b. 9-20
 - c. 21-40
 - d. 41-100
 - e. 100+
5. In what type of building is your business located?
- a. Shared commercial building with multiple units (such as a shopping center)
 - b. Shared residential and commercial building (such as Main Street or City Center)
 - c. Single unit commercial building
 - d. Multi-family property with multiple trash enclosures
 - e. Multi-family property with a single trash enclosure
 - f. Other: please specify

USE OF SERVICES

6. Does your business make its own decisions about how trash, recycling, and composting are handled or are these decisions made by a property manager or owner outside of your company?
- a. We have our own garbage service account and make our own decisions
 - b. A property manager or owner makes these decisions
 - c. We share service with another business that has the garbage service account
 - d. Other: Please tell us _____
 - e. Not sure
7. How does the garbage and recycling get taken out to the trash enclosure or trash collection area?
- a. Our employees take out the garbage
 - b. There is a custodial service that takes out the trash
 - c. Both – we take materials out to the trash enclosure as needed, but a custodial service also removes trash and recyclables.
 - d. We are a multi-family property and residents take out their own garbage and recyclables
 - e. We are a multi-family property with a “concierge” trash service that collects garbage and recyclables from residents and transports it to the trash enclosure(s).
 - f. Not sure
8. If a custodial service is used, are they hired by your business or someone outside your business, such as the property manager?
- a. Hired by my business
 - b. Hired by someone outside of my business
 - c. Not sure
 - d. Not applicable- our employees or multi-family residents take out the trash
9. Businesses and multi-family residents in Cupertino are instructed to place food scraps and food-soiled paper in their green container to be collected for composting. If you do

not put food scraps and food-soiled paper in your green or brown cart or container, what is the primary reason?

- a. - It's too much of an effort
- b. - I do not believe in recycling or composting in general
- c. My property manager does not provide a cart or container for that
- d. It is too messy or dirty
- e. I'm not sure which materials are okay to put in the green bin
- f. Our multi-family property has the green containers and signage, but we can't control how the residents use them
- g. Not applicable. We put food scraps and food- soiled paper in the green cart/container
- h. Other (Please specify: _____)

VALUE OF SERVICES

10. The City of Cupertino currently contracts with Recology to provide garbage and recycling services within the City of Cupertino. Thinking about the garbage and recycling services provided by Recology specifically at your business or multi-family property in Cupertino, are you very satisfied, somewhat satisfied, somewhat dissatisfied, or very dissatisfied with each of the following?
 - a. Quality of collection services (being on-time and leaving no mess)
 - b. Quality of customer service when contacting Recology

11. How valuable do you find the following services? Very valuable, somewhat valuable, somewhat not valuable, not valuable/don't know
 - a. Assistance with getting the right size bins and service levels for your needs
 - b. Assistance with understanding proper sorting of recyclables and organics and help with signs and training to meet State and local requirements
 - c. Providing a bin for the indoor collection of food scraps if requested

12. If you manage a multi-family property, how valuable do you consider the following services? Very valuable, somewhat valuable, somewhat not valuable, not valuable/don't know
 - a. On-call collection of extra materials – 2 times per year per unit
 - b. Collection of batteries and small e-waste items such as cell phones for proper disposal
 - c. Providing small containers for kitchen food scraps collection to any residents who request them
 - d. Providing each unit with a "Recycling Tote Bag" for the in-home storage of recyclables
 - e. Pickup of Christmas trees

13. Has your business experienced problems with illegal dumping, where someone other than your employees have put materials in your bins and containers?
- Yes, and we got a locked bin or enclosure to deal with it
 - Yes, and it's still a problem
 - No
 - Not sure

14. Next is a question about how materials are handled after collection in Cupertino.

Currently in Cupertino:

Recyclable materials put in the blue cart/container are collected and sent to a processing facility for additional sorting and use.

Compostable materials such as food scraps placed in the green cart/container are collected and processed into compost.

All materials placed in the gray garbage bin go directly to landfill with no additional sorting. In 2019 a study in Cupertino found that about 70% of commercial and multi-family garbage could have been separated out as organics or as recyclables (by weight).

The majority of commercial and multi-family garbage collected in Cupertino has been found to be improperly separated with up to 70% (by weight) of the material being organics or recyclables.

State regulations require this to improve. In addition to sorting these materials at the business or multi-family, some cities have this garbage processed (sorted) which "rescues" materials that accidentally end up in the wrong bin. In the future, would you be willing to pay more for garbage service so that all materials placed in it are sorted to maximum extent possible instead of it going straight to the landfill?

- Yes
- No
- Not sure

BILLING AND WILLINGNESS TO PAY

17. Do you pay Recology for your garbage and recycling services directly or are those services paid for by your property manager or someone else?
- Our business pays directly
 - A property manager or someone else pays

c. Not sure

18. If your business pays directly for garbage service, do you think the current garbage rates for businesses are a fair price for the services provided?

- a. Yes
- b. No
- c. Not sure

19. The City of Cupertino is negotiating a new garbage and recycling agreement. While Cupertino residents currently pay some of the lowest rates in the region and receive a high level of service, there are several reasons why rates may increase that are beyond the City's control. These include:

- Increased labor rates for garbage and recycling company employees
- New requirements placed on the City of Cupertino and the garbage and recycling company by the State
- Inflation and cost of service
- Reduced prices at which the garbage and recycling company can sell recyclables

This means that rates could go up just to maintain the current services available to Cupertino businesses.

Which is more important to you: Maintain all current services at higher rates, or minimize rate increases but potentially reduce services?

- a. Maintain current services
- b. Minimize rate increases even if it means potentially reducing services
- c. Don't know

20. To maintain the same level of service you are currently receiving and not reduce any services, would you be willing to pay 15% more for garbage and recycling services? For a 3 cubic yard bin picked up once per week, that would be an increase of about \$43 per month. For a 3 cubic yard bin picked up 5 times per week, that would be an increase of about \$216/month.

- a. Yes
- b. No
- c. Not sure

21. Your garbage service rates are based on the amount of garbage and organics service you subscribe to. The collection and processing of recyclable materials is included in your subscription rate and is not separated out. Would you prefer to see the rates separated out by garbage, recycling, and organics?

- a. No, I prefer one rate that includes recycling.

- b. Yes, I would prefer to see the rates separated by garbage, recycling, and organics.
- c. Not sure.

Thank you again for taking our survey. We appreciate your time and input! For questions regarding the survey, please email: environmental@cupertino.org

特許加盟協議 商用和多單元物業經理調查

感謝您參加此次調查！庫比蒂諾市府正在對垃圾處理服務及其費用可能調漲的問題進行研究。您的意見將有助於市府就這些服務的新措施做出決策。

您的回答是完全匿名且保密的，僅用於研究目的。我們不會將您的資料出售或提供給任何人。我們不會出於任何其他原因接近您 - 我們只對您的意見感興趣。

調查說明：

當您回答完一頁上的所有問題後，請按「下一步」按鈕繼續。如果您在填寫過程中遇到任何技術問題，請發送電子郵件至：environmental@cupertino.org

1. 您擁有、經營或管理的企業或多單元物業是否位於庫比蒂諾？本次調查僅面向在庫比蒂諾經營的企業和多單元物業經理。
 - a. 是
 - b. 否
 - c. 不知道

企業類型

2. 算上您自己，貴企業目前雇用多少全職人員？
 - a. 1-5 名
 - b. 6-10 名
 - c. 11-15 名
 - d. 16-20 名
 - e. 21 名以上
3. 貴公司主要經營哪個行業或產業？
 - a. 零售
 - b. 餐廳
 - c. 食品雜貨店或食品市場
 - d. 多單元物業（公寓）
 - e. 加油站/汽車修理
 - f. 辦公室
 - g. 其他：請說明

4. 如果您管理的是多單元物業，請問有多少個單元？
 - a. 4-8 個
 - b. 9-20 個
 - c. 21-40 個
 - d. 41-100 個
 - e. 100 個以上

5. 您的企業位於哪類大廈中？
 - a. 有多個單元的共用商用大廈（如購物中心）
 - b. 共用商住大廈（如主街或城市中心）
 - c. 單間單元商用大廈
 - d. 有多個垃圾房的多單元物業
 - e. 有單一垃圾房的多單元物業
 - f. 其他：請說明

服務的使用

6. 貴企業是自行決定如何清運垃圾、回收和堆肥，還是由貴公司以外的物業經理或業主決定？
 - a. 我們有自己的垃圾服務帳戶，並自行決定。
 - b. 物業經理或業主做出這些決定
 - c. 我們與另一家有垃圾服務帳戶的企業共用服務。
 - d. 其他：請說明 _____
 - e. 不確定

7. 如何將垃圾和回收物倒到垃圾房或垃圾收集區？
 - a. 由我們的員工倒垃圾
 - b. 有倒垃圾的託管服務
 - c. 兩者兼而有之 - 我們在需要時將材料倒到垃圾房，但託管服務也會清運垃圾和可回收物
 - d. 我們是多單元物業，居民自己倒垃圾和可回收物。
 - e. 我們是多單元物業，有「禮賓」垃圾服務，他們會從居民那裡收集垃圾和可回收物，再運到垃圾房。
 - f. 不確定

8. 如果使用託管服務，他們是由您的企業還是由您企業外部的人（如物業經理）聘請的？
 - a. 由我的企業聘請
 - b. 由我的企業外部的人聘請
 - c. 不確定

- d. 不適用 - 由我們的員工或多單元居民倒垃圾
9. 庫比蒂諾的企業和多單元居民被要求將廚餘垃圾和被食物弄髒的紙放進綠色容器，收集起來用於堆肥。如果您沒有將廚餘垃圾和被食物弄髒的紙放進綠色或棕色的推車或容器，主要原因是甚麼？
- a. - 那太麻煩了
 - b. - 我總體上不相信回收或堆肥
 - c. 我的物業經理沒有提供那種用途的推車或容器
 - d. 那太亂或太髒了
 - e. 我不知道哪些材料可以放進綠色垃圾箱裡
 - f. 我們的多單元物業有綠色容器和標誌牌，但我們無法控制居民如何使用這些容器
 - g. 不適用。我們將廚餘垃圾和被食物弄髒的紙放進綠色推車/容器。
 - h. 其他（請具體說明：_____）

服務的價值

10. 庫比蒂諾市府目前與 **Recology** 簽約，在庫比蒂諾市內提供垃圾和回收服務。回顧 **Recology** 專門為貴企業或庫比蒂諾的多單元物業提供的垃圾和回收服務，您對以下各項是非常滿意、比較滿意、不太滿意還是很不滿意？
- a. 垃圾收集服務的品質（準時，收拾乾淨）
 - b. 聯絡 **Recoology** 時的客戶服務品質
11. 您認為以下服務多有價值？非常有價值、比較有價值、不太有價值、沒有價值/不知道
- a. 根據您的需求，協助您獲得大小合適的垃圾箱和服務水準。
 - b. 協助您了解可回收物和有機物的正確分類，並幫助製作標誌和提供培訓，達到州府和地方的要求。
 - c. 如有人索要，會提供垃圾桶用於室內收集廚餘垃圾。
12. 如果您管理多單元物業，您認為以下服務有多大價值？非常有價值、比較有價值、不太有價值、沒有價值/不知道
- a. 隨叫隨到收集多餘物 - 每個單元每年 2 次
 - b. 收集電池和手機等小型電子廢物，以便妥善處置
 - c. 向索要垃圾桶的任何居民提供小型容器，用於收集廚餘垃圾
 - d. 為每個單元提供一個「回收袋」，用於家中存放可回收物。
 - e. 取走聖誕樹
13. 貴企業是否遇到過非法傾倒問題，即企業外部的人將材料丟入貴企業的垃圾箱和容器中？
- a. 是的，我們配備了一個上鎖的垃圾箱或垃圾房來解決這個問題。
 - b. 是的，這個問題仍未得到解決
 - c. 否

d. 不確定

14. 下面是一個關於庫比蒂諾在收集後如何處理材料的問題。

目前在庫比蒂諾：

放在藍色推車/容器中的可回收材料被收集起來送到加工廠進一步分類和使用。

可堆肥的材料，如放進綠色推車/容器的廚餘垃圾，是收集起來後處理成堆肥。

放進灰色垃圾箱的所有材料直接送去填埋場，無需另行分類。2019 年，庫比蒂諾的一項研究發現，大約 70% 的商用和多單元大廈的垃圾可以作為有機物或可回收物分離出來（按重量計算）。

在庫比蒂諾收集的大部分商用和多單元大廈的垃圾被發現分類不當，最多 70%（按重量）的材料是有機物或可回收物。

州府法規要求改善這種情況。除了對企業或多單元大廈的這些材料進行分類外，一些城市還對這些垃圾進行處理（分類），「拯救」出那些不小心丟錯垃圾箱的材料。今後，您是否願意在垃圾服務上多付一些錢，使丟進垃圾箱的所有材料都最大限度加以分類，而不是直接送去填埋？

- a. 是
- b. 否
- c. 不確定

帳單和付費意願

17. 您是直接支付垃圾和回收服務費用，還是由您的物業經理或其他人支付這些費用？

- a. 本企業直接支付
- b. 物業經理或其他人支付
- c. 不確定

18. 如果貴企業直接支付垃圾服務費，您認為目前的企業垃圾費率，相對於其提供的服務而言，定價是否公平？

- a. 是
- b. 否
- c. 不確定

19. 庫比蒂諾市府即將洽談一項新的垃圾與回收協定。雖然庫比蒂諾居民目前支付的費率在本地區屬最低之列，並且享受到了高水準的服務，但可能漲價的原因有若干，非本市所能控

制。其中包括：

- 垃圾和回收公司員工的勞動力費率提高
- 州府對庫比蒂諾市府以及垃圾和回收公司施加了新規定
- 通貨膨脹和服務成本
- 垃圾和回收公司出售可回收物的價格下降

這意味著，為了維持庫比蒂諾企業目前獲得的服務，費率可能會上漲。

以下哪項對您而言更重要：提高費率維持所有當前服務，或盡可能少漲價，但可能要減少服務？

- a. 維持當前服務
- b. 盡可能少漲價，即使這意味著有可能減少服務
- c. 不知道

20. 為了維持目前的服務水準而不減少任何服務，您是否願意為垃圾和回收服務多付 15%的費用？這相當於，一個 3 立方碼的垃圾箱，每週取一次垃圾，每月提價約 43 美元。一個 3 立方碼的垃圾桶，每週取 5 次垃圾，每月提價約 216 美元。

- a. 是
- b. 否
- c. 不確定

21. 您的垃圾服務費率是根據您所訂購的垃圾和有機物服務的數量而定的。可回收材料的收集和處理包含在您的訂購費率中，沒有分開計算。您是否希望按垃圾、回收和有機物分開收費？

- a. 不，我希望統一收費，將回收包括在內。
- b. 是的，我希望按垃圾、回收和有機物分開收費。
- c. 不確定。

再次感謝您參加我們的調查。謝謝您抽時間分享看法！有關調查的疑問，請發電子郵件：
environmental@cupertino.org



CITY OF CUPERTINO

Legislation Text

File #: 20-8190, **Version:** 2

Subject: Proclamation declaring October 4th to 10th as Mental Illness Awareness Week

Present proclamation declaring October 4th to 10th as Mental Illness Awareness Week



Proclamation

- WHEREAS,** Mental health is part of overall health, and one in five adults experiences a mental health problem in any given year; and
- WHEREAS,** Approximately one-half of chronic mental illness begins by the age of 14 and three-quarters by age 24; and
- WHEREAS,** Suicide is the tenth leading cause of death in the United States and the second leading cause among young adults, and 90% of people who die by suicide have an underlying mental illness; and
- WHEREAS,** Long delays often occur between the time symptoms first appear and when individuals get help, while early identification and treatment can make a difference in successful management of mental illness and recovery; and
- WHEREAS,** It is important to maintain mental health and learn the symptoms of mental illness in order to get help when it is needed; and
- WHEREAS,** Every citizen and community can make a difference in helping end the silence and stigma that has surrounded mental illness for too long and discouraged people from getting help; and
- WHEREAS,** Public education and civic activities can encourage mental health and help improve the lives of individuals and families affected by mental illness.
- THEREFORE,** I, Mayor Steven M. Scharf, and the Cupertino City Council do hereby proclaim the week of October 4th to 10th, 2020, and every first full week of October as

Mental Illness Awareness Week

in the City of Cupertino to shine a light on mental illness and fight stigma, as well as to provide support, educate the public, and advocate for equal care.

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

A handwritten signature in blue ink that reads 'Steven M. Scharf'. The signature is written in a cursive style and is positioned above a horizontal line.

Steven M. Scharf
Mayor



CITY OF CUPERTINO

Legislation Text

File #: 20-8191, **Version:** 1

Subject: Proclamation declaring the 2nd week in October as Code Enforcement Officer Appreciation Week

Present proclamation declaring the 2nd week in October as Code Enforcement Officer Appreciation Week



Proclamation

- WHEREAS,** Code Enforcement Officers provide for the safety, health, and welfare of citizens throughout the State of California through the enforcement of local, state, and federal laws and ordinances dealing with various issues of building, zoning, housing, animal control, environmental, health, and life safety; and
- WHEREAS,** Code Enforcement Officers have challenging and demanding roles and often do not receive recognition for the job they do in improving quality of life for residents and businesses of local communities; and
- WHEREAS,** These dedicated officers are highly qualified and highly trained professionals who share the goals of preventing neighborhood deterioration, enhancing communities, ensuring safety, and preserving property values through knowledge, training, and application of housing, zoning, and nuisance laws; and
- WHEREAS,** The State of California and the City of Cupertino want to recognize and honor Code Enforcement Officers that serve our communities and acknowledge their role in leading the way to improve quality of life within our communities.
- THEREFORE,** I, Mayor Steven M. Scharf, and the Cupertino City Council do hereby proclaim the week of October 4th to 10th, 2020, and every second week of October as

Code Enforcement Officer Appreciation Week

in the City of Cupertino and encourage all people to join in recognizing and expressing their appreciation for the dedication and service of those who serve as Code Enforcement Officers.

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

A handwritten signature in blue ink that reads 'Steven M. Scharf'. The signature is written in a cursive style and is positioned above a horizontal line.

Steven M. Scharf
Mayor



CITY OF CUPERTINO

Legislation Text

File #: 20-7676, **Version:** 1

Subject: City Manager update on emergency response efforts

Receive City Manager update on emergency response efforts



CITY OF CUPERTINO

Legislation Text

File #: 19-6420, **Version:** 1

Subject: Report on Committee assignments

Report on Committee assignments



CUPERTINO

CITY OF CUPERTINO

Legislation Text

File #: 19-6444, **Version:** 1

Subject: Approve the September 15 City Council minutes

Approve the September 15 City Council minutes



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, September 15, 2020

SPECIAL CITY COUNCIL MEETING

At 5:30 p.m. Mayor Steven Scharf called the Special City Council meeting to order. This was a teleconference meeting without a physical location.

ROLL CALL

Present: Mayor Steven Scharf, Vice Mayor Darcy Paul, and Councilmembers Liang Chao, Rod Sinks, and Jon Robert Willey. Absent: None. All Councilmembers teleconferenced for the meeting.

STUDY SESSION

1. Subject: Study Session on Proposed Revisions to the Permitting Guidelines for Small Cell Facilities within the Public Right-of-Way
Recommended Action: Conduct a study session on proposed revisions to the permitting guidelines for small cellular facilities in the public Right-of-Way and provide recommendations

Written communications for the item included emails to Council and a staff presentation.

Assistant Director of Public Works Chad Mosely gave a presentation.

Councilmembers asked questions and made comments.

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

Jennifer Griffin was concerned about the volume of applications received and equal distribution among the vendors and adding more poles.

Planning Commissioner Kitty Moore (representing self) supported dark sky model lighting and was concerned about the rear-yard setbacks for ADUs (Accessory Dwelling Units) with proximity to poles.

Bicycle Pedestrian Commissioner Muni Madhhipatla (representing self) was concerned about allowances for adding poles in proximity to ADUs in backyards.

Alex Leupp, on behalf of Verizon, said demand during the shelter-in-place has stressed the network and the new network will provide equal access and lower cost broadband.

Nori was concerned about the number of applications received from certain vendors, new 5G permit requirements, and City verification of testing measurements.

Bicycle Pedestrian Commissioner Ilango Ganga (representing self) was concerned about evaluating site options, towers in backyards, and the basis for locating small cells by existing macro towers.

Mayor Scharf closed the public comment period.

Council provided a recommendation to create an online portal where residents can notify the City of their preferences for, or against, installation of small cell facilities in their immediate neighborhood.

ADJOURNMENT

REGULAR CITY COUNCIL MEETING

At 7:10 p.m. Mayor Steven Scharf called the Regular City Council meeting to order. This was a teleconference meeting with no physical location.

ROLL CALL

Present: Mayor Steven Scharf, Vice Mayor Darcy Paul, and Councilmembers Liang Chao, Rod Sinks, and Jon Robert Willey. Absent: None. All Councilmembers teleconferenced for the meeting.

Scharf moved and Willey seconded to reorder the agenda to hear Item No. 1 before Oral Communications. The motion carried unanimously.

CEREMONIAL MATTERS AND PRESENTATIONS – None

POSTPONEMENTS - None

REPORTS BY COUNCIL AND STAFF (10 minutes)

Council heard Item No. 1 before Oral Communications.

1. Subject: City Manager update on emergency response efforts
Recommended Action: Receive City Manager update on emergency response efforts

City Manager Deborah Feng gave updates on the state's revised COVID-19 tier system, Cupertino case statistics, and upcoming testing events; upcoming blood donation events, Parks & Recreation related reopening's and online class attendance; the County's COVID-19 concerns website at sccCOVIDconcerns.org, wildfires, heat events, air quality data website at www.airnow.gov; and homeless encampments.

Santa Clara County Office of Supportive Housing Acting Director Consuelo Hernandez addressed housing placement options for homeless encampments.

Council received the City Manager update on emergency response efforts.

ORAL COMMUNICATIONS

Rhoda Fry was concerned about slope instability at the Lehigh Permanente Quarry and the Permanente Creek Watershed, and health and safety. (Submitted written comments).

Jean Bedord was concerned about City funds used to support fees for litigation and legal actions and the length of City Council meetings. (Submitted written comments).

Lisa Warren addressed previous comments regarding closed sessions and late City Council meetings and talked about past decisions not relative to the current Council membership.

Jim Moore was concerned about the homeless encampment on north Wolfe Rd. and the logistics of moving the residents due to a notice to vacate the site.

Bicycle Pedestrian Commissioner Muni Madhhipatla (representing self) addressed previous comments about the current Council and legal fees.

Library Commissioner Liana Crabtree (representing self) was concerned about the residents being relocated from the Wolfe Road encampment and confirmed housing options for them.

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

Written communications for this item included written comments from Vice Mayor Paul.

Councilmembers highlighted the activities of their various committees.

CONSENT CALENDAR

Paul moved and Scharf seconded to approve the items on the Consent Calendar as presented. Ayes: Scharf, Paul, Chao, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

3. Subject: Approve the August 18 City Council minutes
Recommended Action: Approve the August 18 City Council minutes
4. Subject: Approve and authorize the City Manager to execute a Master Agreement between the City of Cupertino and Starbird Consulting, LLC to provide environmental consulting services on various Capital Improvement Program (CIP) projects
Recommended Action: Approve a Master Agreement between the City of Cupertino and Starbird Consulting, LLC and authorize the City Manager to execute a Master Agreement in the amount not-to-exceed \$400,000 for a term of three years with an option to extend for an additional period of up to two years
5. Subject: Temporary rent reductions for Coffee Society lease of library storefront space and for Blue Pheasant lease of restaurant space adjacent to the Blackberry Farm Golf Course to address hardships from COVID-19 impacts
Recommended Action: Authorize the City Manager to execute all documentation necessary to temporarily reduce rental payments by 50-percent (50%) for the Coffee Society and Blue Pheasant lessees during State and County mandated Shelter-in-Place orders and restrictions on indoor dining

Written Communications for this item included an email to Council.

STUDY SESSION

6. Subject: Study session regarding policy options to reduce secondhand smoke exposure in Cupertino

Recommended Action: Provide direction on policy options to reduce exposure to secondhand smoke, including in multi-unit housing

Written communications a presentation.

Santa Clara County consultant Leslie Zellers gave a presentation.

Councilmembers asked questions and made comments.

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

Carol Baker, on behalf of the American Cancer Society Action Network and the Santa Clara County Tobacco-Free Coalition, supported extending the ordinance beyond single family homes.

Mayor Scharf closed the public comment period.

Council provided direction to move forward with exploring all five options as presented.

SECOND READING OF ORDINANCES

7. Subject: Second reading of Ordinance No. 20-2200 Municipal Code Amendments to regulate Short-Term Rental activity in the City and other minor clarification edits in Title 19. (Application No(s): MCA-2018-02; Applicant (s): City of Cupertino; Location: Citywide)

Recommended Action: Conduct the second reading and enact Ordinance No. 20-2200: "An Ordinance of the City Council of the City of Cupertino Amending Title 3, Revenue and Finance: Chapter 3.12 (Transient Occupancy Tax), Revenue and Finance, Amending Title 5, Business License and Regulations: Chapter 5.08 (Short-Term Rental Activity), Amending specified chapters of Title 19, Zoning, of the Cupertino Municipal Code Chapter 19.08 (Definitions), Chapter 19.12 (Administration), and Chapter 19.120 (Home Occupations), to regulate Short-Term Rental uses in Residential Zoning Districts."

Written communications for the item included an email to Council.

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

City Clerk Kirsten Squarcia read an email on behalf of Jennifer Griffin to publicly provide the contact information for the compliance monitoring service.

Mayor Scharf closed the public comment period.

City Clerk Kirsten Squarcia read the title of Ordinance No. 20-2200: "An Ordinance of the City Council of the City of Cupertino Amending Title 3, Revenue and Finance: Chapter 3.12 (Transient Occupancy Tax), Revenue and Finance, Amending Title 5, Business License and Regulations: Chapter 5.08 (Short-Term Rental Activity), Amending specified chapters of Title 19, Zoning, of the Cupertino Municipal Code Chapter 19.08 (Definitions), Chapter 19.12 (Administration), and Chapter 19.120 (Home Occupations), to regulate Short-Term Rental uses in Residential Zoning Districts."

Paul moved and Scharf seconded to read the title of Ordinance No. 20-2200 by title only and that the City Clerk's reading would constitute the second reading thereof.

Ayes: Scharf, Paul, Chao, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

Paul moved and Scharf seconded to enact Ordinance No. 20-2200.

Ayes: Scharf, Paul, Chao, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

PUBLIC HEARINGS

8. Subject: Consider amending the Fiscal Year 2020-21 Fee Schedule to establish a new fee for Short-Term Rental Registration
Recommended Action: Adopt Resolution No. 20-113 (Attachment A) amending the Fiscal Year 2020-21 Fee Schedule to establish a new fee for Short-Term Rental Registration

Written communications for the item included emails to Council and a staff presentation.

Councilmembers asked questions and made comments.

Mayor Scharf opened the public hearing and the following people spoke.

Jennifer Griffin asked about TOT (Transient Occupancy Tax) collections on hotels for short term rentals and ADUs (Accessory Dwelling Units). (Submitted written comments).

Mayor Scharf closed the public hearing period.

Paul moved and Sinks seconded to adopt Resolution No. 20-113 amending the Fiscal Year 2020-21 Fee Schedule to establish a new fee for Short-Term Rental Registration as amended to adopt an initial fee of \$200 per year and a recital to subsidize associated costs from the City's General Fund for cost recovery; and directed staff to use reactive code enforcement. The motion carried unanimously.

Council recessed from 9:36 p.m. to 9:42 p.m.

ORDINANCES AND ACTION ITEMS

9. Subject: Consideration of installing a rainbow crosswalk or intersection on City streets and other alternatives

Recommended Action: Receive report on the consideration of installing a rainbow crosswalk or intersection on City streets or alternative locations and provide input

Written communications for the item included an email to Council and a staff presentation.

Transportation Manager David Stillman gave a presentation.

Councilmembers asked questions and made comments.

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

Drew Lloyd, on behalf of the Bay Area Municipal Elections Committee (BAYMEC), supported installation of rainbow crosswalk. (Submitted written comments).

Pat Tietgens supported making a difference, sending a message to community, and a crosswalk installation at Stevens Creek and Finch.

Lisa Warren supported a location in the city center and discussing other options.

Justin, on behalf of Cupertino Association of Youth LGTBQ+ (CAYLA), supported a crosswalk at Cupertino High School and exploring legal and safety concerns.

J.R. Fruen supported a rainbow crosswalk with the Traverse City coloration to address the MTC's (Metropolitan Transportation Commission) safety standards.

Sophie supported a rainbow crosswalk for diversity and inclusion, a location at Civic Center, and exploring safety studies.

Mayor Scharf closed the public comment period.

Sinks moved and Willey seconded to approve a crosswalk with a Traverse City, Michigan pattern on the east side of Finch across Stevens Creek Boulevard. The motion carried with Chao voting no.

Paul moved and Chao seconded to form a task force to explore further LGTBQ diversity options in the city and provide recommendations and outreach support. The motion carried unanimously.

10. Subject: Authorizing the sale and delivery of 2020A Certificates of Participation (“Certificates”) to refinance outstanding Certificates of Participation (2012 Refinancing Project) (“2012 Certificates” or “Refunded Certificates”) for debt service savings and authorizing related documents and actions.

Recommended Action: Adopt Resolution No. 20-114 of the City Council of the City of Cupertino authorizing the sale and delivery of 2020A Certificates of Participation in a principal amount not to exceed \$27 million, authorizing execution and delivery of certain documents relating thereto, and directing certain actions in connection therewith.

Written communications for the item included a staff presentation.

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

Bicycle Pedestrian Commissioner Ilango Ganga (representing self) asked about the calculation of interest rates.

Mayor Scharf closed the public comment period.

Paul moved and Sinks seconded to Adopt Resolution No. 20-114 of the City Council of the City of Cupertino authorizing the sale and delivery of 2020A Certificates of Participation in a principal amount not to exceed \$27 million, authorizing execution and delivery of certain documents relating thereto, and directing certain actions in connection therewith. The motion carried unanimously.

11. Subject: Presentation on the 2020 Blackberry Farm Entrance Road (Entrance Road) Improvements Feasibility Study Report and request that the City Council endorse an alternative to improve pedestrian and bicycle access to Blackberry Farm for environmental review

Recommended Action: Endorse an alternative to improve pedestrian and bicycle visitor access improvements to the Blackberry Farm Entrance Road for review under the California Environmental Quality Act

Written communications for the item included emails to Council and a staff presentation.

Park Restoration and Improvement Manager Gail Seeds gave a presentation.

Councilmembers asked questions and made comments.

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

Seema Lindskog supported a separated uphill and downhill path for bikers as recommended by the Bicycle Pedestrian Commission.

Bicycle Pedestrian Commissioner Ilango Ganga (representing self) supported a separate shared-use path as recommended by the Bicycle Pedestrian Commission.

Bicycle Pedestrian Commissioner Erik Lindskog (representing self) supported a separate mixed-use path as recommended by the Bicycle Pedestrian Commission.

City Clerk Kirsten Squarcia read an email on behalf of JR Fruen supporting a modified Alternative B as recommended by the Bicycle-Pedestrian Commission.

Mayor Scharf closed the public comment period.

Sinks moved and Scharf seconded to endorse Alternatives A, B, and B as recommended by the Bicycle Pedestrian Commission to improve pedestrian and bicycle visitor access improvements to the Blackberry Farm Entrance Road for review under the California Environmental Quality Act.

Sinks amended his motion to endorse Alternative's B and B as recommended by the Bicycle Pedestrian Commission. (Scharf accepted the friendly amendment). The amended motion carried unanimously.

12. Subject: An Urgency Ordinance temporarily waiving permit fees for certain temporary commercial signs and banners.

Recommended Action: That the City Council:

1. Find that the proposed actions are exempt from CEQA; and,
2. Conduct the only reading and enact Urgency Ordinance No. 20-2211: "An Urgency Ordinance of the City Council of the City of Cupertino temporarily waiving permit fees for certain temporary commercial signs and banners."

Mayor Scharf recused himself from this item and left the meeting.

Written communications for the item included a staff presentation.

Economic Development Manager Angela Tsui gave a presentation.

Councilmembers asked questions and made comments.

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

Bicycle Pedestrian Commissioner Muni Madhhipatla (representing self) asked about the rationale for a discussion on the item of business.

Vice Mayor Paul closed the public comment period.

City Clerk Kirsten Squarcia read the title of Urgency Ordinance No. 20-2211: "An Urgency Ordinance of the City Council of the City of Cupertino temporarily waiving permit fees for certain temporary commercial signs and banners."

Paul moved and Chao seconded to read the title of Urgency Ordinance No. 20-2211 by title only and that the City Clerk's reading would constitute the only reading thereof.

Ayes: Paul, Chao, Sinks, and Willey. Noes: None. Abstain: Scharf. Absent: None.

Paul moved and Chao seconded to enact Urgency Ordinance No. 20-2211.

Ayes: Paul, Chao, Sinks, and Willey. Noes: None. Abstain: Scharf. Absent: None.

- 13.** Subject: An Emergency Order authorizing the outdoor operations of qualifying establishments (retail uses, personal care services uses, and gym and fitness facilities) pursuant to a Special Temporary Outdoor Operations Permit.

Recommended Action: Ratify the Emergency Order authorizing the outdoor operations of qualifying establishments (retail uses, personal care services uses, and gym and fitness facilities) pursuant to a Special Temporary Outdoor Operations Permit.

City Manager Deborah Feng reviewed the staff report.

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

Anjali Kauser, on behalf of the Chamber of Commerce, supported the emergency order to help local businesses.

Vice Mayor Paul closed the public comment period.

Paul moved and Chao seconded to ratify the Emergency Order authorizing the outdoor operations of qualifying establishments (retail uses, personal care services uses, and gym and fitness facilities) pursuant to a Special Temporary Outdoor Operations Permit. The motion carried unanimously (Scharf absent).

14. Subject: Resolution amending the City of Cupertino Conflict of Interest Code for officials and designated employees and requiring electronic filing of all Statements of Economic Interest (Form 700s); 2020 Local Agency Biennial Notice
Recommended Action: a.) Adopt Resolution No. 20-115 rescinding Resolution No. 18-092 and amending the City of Cupertino Conflict of Interest Code for officials and designated employees and requiring electronic filing of all Statements of Economic Interest; and b.) Authorize the City Manager to sign the required 2020 Local Agency Biennial Notice

Written communications for the item included a staff presentation.

City Clerk Kirsten Squarcia gave a presentation.

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

Paul moved and Sinks seconded to a.) Adopt Resolution No. 20-115 rescinding Resolution No. 18-092 and amending the City of Cupertino Conflict of Interest Code for officials and designated employees and requiring electronic filing of all Statements of Economic Interest; and b.) Authorize the City Manager to sign the required 2020 Local Agency Biennial Notice. The motion carried unanimously (Scharf absent).

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

- Added a future agenda item regarding homelessness and employment (Willey/Chao)

ADJOURNMENT

At 12:13 a.m., on Wednesday, September 16, Mayor Scharf adjourned the meeting. Note: A special meeting of the Cupertino Public Facilities Corporation followed the regular City Council meeting.

Kirsten Squarcia, City Clerk



CITY OF CUPERTINO

Legislation Text

File #: 20-8209, **Version:** 1

Subject: Authorize the City Manager to execute an agreement with OpenGov, Inc. to renew a contract for budgeting, performance, communications, and reporting software for a total amount of \$318,520 over five years.

Authorize the City Manager to execute an agreement with OpenGov, Inc. to renew a contract for budgeting, performance, communications, and reporting software for a total amount of \$318,520 over five years.



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: October 6, 2020

Subject

Authorize the City Manager to execute an agreement with OpenGov, Inc. to renew a contract for budgeting, performance, communications, and reporting software for a total amount of \$318,520 over five years.

Recommended Action

Authorize the City Manager to execute an agreement with OpenGov, Inc. to renew a contract for budgeting, performance, communications, and reporting software for a total amount of \$318,520 over five years.

Discussion

OpenGov Overview

OpenGov is an integrated cloud-based Software-as-a-Service (“SaaS”) solution for budgeting, performance, communications, and reporting. Founded in 2012, OpenGov has over 1,000 customers in the nation across cities, counties, state agencies, special districts, and higher education. Based in Redwood City, OpenGov has over 230 customers in California alone including Menlo Park, San Jose, Palo Alto, Milpitas, Campbell, Portola Valley, Redwood City, and many others in the Bay Area.

OpenGov and Cupertino History

In 2014, the City wanted to be able to provide both the public and City Council with on-demand access to accurate financial information. After evaluating multiple vendors, the City partnered with OpenGov to launch a transparency portal. Since then, the City has implemented additional OpenGov products, as OpenGov offers the only integrated solution for reporting, budgeting, workforce planning, communications, and citizen engagement. The City’s use of OpenGov products has helped the City achieve the following strategic goals:

- Accuracy and Collaboration
- Timeliness and Efficiency
- Transparency
- Community Engagement

The following provides a brief timeline of the City's use of OpenGov products:

- November 2014
 - The City implemented an OpenGov transparency portal to provide both the public and City Council with on-demand access to financial information.
- September 2016
 - The City entered into a four-year contract for both Reporting and Transparency and Budgeting and Planning. The City added the Budgeting and Planning module to improve collaboration, increase efficiency, and give staff on-demand access to the budget.
- December 2016
 - The City added Integrations to automatically synchronize data with the City's enterprise resource planning system.
- January 2019
 - The City added Workforce Planning to help the City calculate personnel costs efficiently and accurately.
- September 2019
 - The City added Open Town Hall to help the City to gather feedback from the public.
- December 2019
 - The City added Stories to add narrative context to budget and financial data.

OpenGov Products Overview

The goal of using OpenGov products is to increase collaboration, efficiency, transparency, and engagement. The following section provides a brief overview of the City's OpenGov products and how they help the City achieve its goals.

Reporting and Transparency Platform

Reporting and Analytics

The Reporting and Analytics module allows the City to create and share financial and non-financial data with staff, residents, and City Council. The public-facing transparency portal can be accessed at <https://www.cupertino.opengov.com/>. Since the launch of the transparency portal, the City has received positive feedback from staff, residents, and City Council regarding the platform's ease of use and transparency. In 2016, the City earned a First Place Best of OpenGov award for its use of OpenGov for reporting.

Integrations

OpenGov integrates directly with the City's New World enterprise resource planning system, which contains all of the City's financial and human resources data. The integration increases reporting timeliness and efficiency, while improving data quality and integrity.

Stories and Dashboards

The Stories module enables the City to easily create and share content that combines data with images, maps, and narrative context. Over the past year, the City has used the Stories module to create interactive quarterly financial reports and an interactive Budget at a Glance. Over the next year, City plans to use Stories to provide more narrative context around the City's financial information.

Open Town Hall

The Open Town Hall module enables the City to broaden citizen engagement. The City has used Open Town Hall to gather public feedback with digital surveys and budget simulations.

Budgeting and Planning Platform

Operating Budgets and Capital Planning

The Budgeting and Planning platform enables the City to build budgets with greater collaboration, efficiency, and accuracy. The platform enables a collaborative, coordinated budget process by offering a central place for departments to submit proposals, budget teams to review submissions, and management to present the budget to City Council. The City has been using this product to build the budget since 2017.

Workforce Planning

The Workforce Planning module allows the City to calculate personnel costs efficiently and accurately. Staff can calculate the fully burdened labor costs of an individual or overall workforce, perform scenario analysis to inform budget decisions, and request new positions using accurate, updated costs.

OpenGov Contract

The City's current contract with OpenGov began on September 1, 2016 and ended on September 1, 2020. The recommended new contract with OpenGov would renew all of the City's products until June 30, 2025 and align the billing dates for all products with the start of the fiscal year. The contract would include the following products:

- Reporting and Transparency
 - Reporting and Analytics
 - Integration
 - Stories and Dashboards
 - Open Town Hall

- Budgeting and Planning
 - Operating Budgets
 - Capital Planning
 - Workforce Planning.

Next Steps

If the contract is renewed, the City will be able to continue leveraging OpenGov products to increase collaboration, efficiency, transparency, and engagement. The City plans to keep residents, Council, and staff informed and engaged through increased use of reports, stories, and surveys.

Sustainability Impact

No sustainability impact.

Fiscal Impact

The total cost of the five year contract is \$318,520, with an annual cost of \$67,188. There are sufficient funds budgeted for year one in the FY 2020-21 Adopted Budget. The costs for years two through five will be included in future budgets.

Fiscal Year	Billing Date	Term	Amount
FY 2020-21	September 1, 2020	Pro-rated	\$35,250
FY 2020-21	December 1, 2020	Pro-rated	\$14,518
FY 2021-22	July 1, 2021	Annual	\$67,188
FY 2022-23	July 1, 2022	Annual	\$67,188
FY 2023-24	July 1, 2023	Annual	\$67,188
FY 2024-25	July 1, 2024	Annual	\$67,188
Total			\$318,520

No additional funding is needed.

Prepared by: Thomas Leung, Senior Management Analyst

Reviewed by: Kristina Alfaro, Administrative Services Director

Approved for Submission by: Dianne Thompson, Assistant City Manager

Attachments:

A – Renewal Agreement with OpenGov, Inc.



OpenGov Inc. 955 Charter Street
Redwood City, CA 94063
United States

Created On: 8/26/2020
Order From Expiration: 9/1/2020
Subscription Start Date: 9/1/2020
Subscription End Date: 6/30/2025

Prepared By: Zach Garelik
Email: zgarelik@opengov.com

Customer Information		
Customer:	City of Cupertino, CA	Contact Name: Thomas Leung
Bill To/Ship To:	10300 Torre Avenue Cupertino, CA 95014 United States	Email: thomasl@cupertino.org Phone: (778) 968-4846
		Billing Contact: Kristina Alfaro Email: kristinaa@cupertino.org Phone: (408) 777-3220

Order Details	
Billing Frequency: Annual	Description: See Billing Table Below
Payment Terms: Net Thirty (30) Days	

SOFTWARE SERVICES:

Product / Service	Start Date	End Date	Annual Term	Annual Fee
OpenGov Reporting & Analytics, Operating and Capital Budgeting, Integration, Open Town Hall	9/1/2020	6/30/2021	Prorated Term	\$35,250.00
OpenGov Story Builder, Performance Measures	12/1/2020	6/30/2021	Prorated Term	\$14,518.00
OpenGov Budgeting & Planning Suite	7/1/2021	6/30/2025	4	\$67,188.00
			Annual Subscription:	See Billing Table

Billing Table:

Billing Date	Amount Due
September 1, 2020	\$35,250.00
December 1, 2020	\$14,518.00
July 1, 2021	\$67,188.00
July 1, 2022	\$67,188.00
July 1, 2023	\$67,188.00
July 1, 2024	\$67,188.00

Order Form Legal Terms

Welcome to OpenGov! Thanks for using our Software Services. This Order Form is entered into between OpenGov, Inc., with its principal place of business at 955 Charter Street, Redwood City, 94063 ("OpenGov"), and you, the entity identified above ("Customer"), as of the Effective Date. This Order Form includes and incorporates the OpenGov Software Services Agreement, signed between the parties, effective September 1, 2016 as amended on November 5, 2019. The Order Form and SSA and shall hereafter be referred to as the "Agreement". Unless otherwise specified above, fees for the Software Services and Professional Services shall be due and payable, in advance, on the Effective Date. By signing this Agreement, Customer acknowledges that it has reviewed, and agrees to be legally bound by, the OpenGov Software Services Agreement. Each party's acceptance of this Agreement is conditional upon the other's acceptance of the terms in the Agreement to the exclusion of all other terms.

City of Cupertino, CA

Signature: _____
Name: _____
Title: _____
Date: _____

OpenGov, Inc DocuSigned by:

Signature: 
Name: Sean Wani
Title: General Counsel
Date: 9/8/2020

APPROVED AS TO FORM:

City Attorney
Heather M. Minner

ATTEST:

City Clerk
Date: _____

OPENGOV, INC. SOFTWARE AGREEMENT



OpenGov, Inc.
955 Charter Street
Redwood City, CA 94063
United States

Quote Number: OG-000003113
Created Date: 8/19/2016
Expiration Date:

Prepared By: Brendan Carry
Phone: 650-489-9074
Email: bcarry@opengov.com
Contract Dates: Effective: 9/1/2016
Ends on: 9/1/2020

Customer Information

Contact Name Kristina Alfaro
Phone 408-777-3200
Email kristinaa@cupertino.org

Bill To Name City of Cupertino, CA
Bill To 10300 Torre Ave
Cupertino, CA 95014

Fax

Order Details

Description OpenGov Intelligence™ allows customers to easily create and share internal operational reports, combining unlimited financial (e.g., general ledger, chart of accounts, current year and month spending, transactions, and balance sheet) and non-financial data (performance metrics, operational data, census data, custom financial projections, etc.) from numerous sources to help governments make better financial decisions and operate more efficiently. OpenGov Intelligence includes the features of OpenGov Transparency, allowing multiple years of financial and non-financial data to be accessible by citizens through an online portal.

Fees

Product	Discount	Quantity	Annual Subscription
OpenGov Transparency and Intelligence	-	4 years	\$20,425
OpenGov Budget Builder	51%	4 years	\$9,575
OpenGov Intelligence Deployment	100%		waived

Billing Frequency: Annual

Welcome to OpenGov! Thanks for using our software. This Software Agreement ("Agreement") is entered into between OpenGov, Inc., with its principal place of business at 955 Charter Street, Redwood City, 94063 ("OpenGov"), and you, the entity identified above ("Customer"), as of the Effective Date. This Agreement includes and incorporates the OpenGov Terms and Conditions attached as Appendix A, B and C. By signing this Agreement, Customer acknowledges that it has reviewed, and agrees to be legally bound by, the OpenGov Terms and Conditions. Each party's acceptance of this Agreement is conditional upon the other's acceptance of the terms in the Agreement to the exclusion of all other terms.

Signature

City of Cupertino, CA

OpenGov, Inc.

Signature: Kristina Alfaro
Name: Kristina Alfaro
Title: Dir of Admin Svcs
Date: 8/22/2016

DocuSigned by:
Ainslie Mayberry
16DA3024253342D...
Signature: _____
Name: Ainslie Mayberry
Title: CFO
Date: 8/23/2016

OPENGOV, INC. SOFTWARE AGREEMENT

Terms and Conditions

Appendix A

OpenGov Terms and Conditions

1. SOFTWARE SERVICES

1.1 Subject to the terms and conditions of these OpenGov Terms and Conditions (the "Agreement"), OpenGov will use commercially reasonable efforts to perform the software services (the "Software Services") identified in the applicable Software Agreement entered into by OpenGov and Customer ("Software Agreement").

1.2 Customer understands that OpenGov's performance depends on Customer timely providing OpenGov with a copy of the Customer's chart of accounts in .csv or .xls format. In addition, Customer agrees to provide OpenGov with five or more years of general ledger data, also in .csv or .xls format, including budget data for the current year and actual expense and revenue data for past years. Any dates or time periods relevant to OpenGov's performance will be extended appropriately and equitably to reflect any delays caused by Customer's failure to timely deliver any such materials. OpenGov shall not be liable for any delays in performance under this Agreement resulting from Customer's failure to meet these obligations.

2. RESTRICTIONS AND RESPONSIBILITIES

2.1 This is a contract for access to the Software Services and Customer agrees not to, directly or indirectly: reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms of the Software Services, documentation or data related to the Software Services, except to the extent such a restriction is limited by applicable law; modify, translate, or create derivative works based on the Software Services; or copy, rent, lease, distribute, assign, sell, or otherwise commercially exploit, transfer, or encumber rights to the Software Services; or remove any proprietary notices.

2.2 Customer will use the Software Services only in compliance with all applicable laws and regulations (including, but not limited to, any export restrictions).

2.3 Customer shall be responsible for obtaining and maintaining any equipment and other services needed to connect to, access or otherwise use the Software Services and Customer shall also be responsible for (a) ensuring that such equipment is compatible with the Software Services, (b) maintaining the security of such equipment, user accounts, passwords and files, and (c) for all uses of Customer user accounts with or without Customer's knowledge or consent.

3. OWNERSHIP. OpenGov retains all right, title, and interest in the Software Services and all intellectual property rights (including all past, present, and future rights associated with works of authorship, including exclusive exploitation rights, copyrights, and moral rights, trademark and trade name rights and similar rights, trade secret rights, patent rights, and any other proprietary rights in intellectual property of every kind and nature) therein.

4. CONFIDENTIALITY. Each party (the "Receiving Party") agrees not to disclose (except as permitted herein) any Confidential Information of the other party (the "Disclosing Party") without the Disclosing Party's prior written consent. "Confidential Information" means all confidential business, technical, and financial information of the disclosing party that is marked as "Confidential" or an equivalent designation or that should reasonably be understood to be confidential given the nature of the information and/or the circumstances surrounding the disclosure (including the terms of the applicable Software Agreement). OpenGov's Confidential Information includes, without limitation, the software underlying the Software Services and all documentation relating to the Software Services. "Confidential Information" does not include "Public Data," which is data that the Customer has previously released or would be required to release according to applicable federal, state, or local public records laws. The Receiving Party agrees: (i) to use and disclose the Confidential Information only in connection with this Agreement; and (ii) to protect such Confidential Information using the measures that Receiving Party employs with respect to its own Confidential Information of a similar nature, but in no event with less than reasonable care. Notwithstanding the foregoing, Confidential Information does not include information that: (i) has become publicly known through no breach by the receiving party; (ii) was rightfully received by the receiving party from a third party without restriction on use or disclosure; or (iii) is independently developed by the Receiving Party without access to such Confidential Information.

OPENGOV, INC. SOFTWARE AGREEMENT

Notwithstanding the above, the Receiving Party may disclose Confidential Information to the extent required by law or court order.

5. DATA LICENSE. Customer grants OpenGov a non-exclusive, transferable, perpetual, worldwide, and royalty-free license to use any data or information submitted by Customer to OpenGov for the development of new software or the provision of the Software Services.

6. PAYMENT OF FEES. The fees for the Software Services ("Fees") are set forth in the applicable Software Agreement. Customer shall pay all Fees within thirty (30) days after the date of OpenGov's invoice, which shall be billed as of the effective date.

7. TERM & TERMINATION

7.1 Subject to compliance with all terms and conditions, the term of this Agreement shall be from the Effective Date and shall continue until the End date specified on page one (1) of the Agreement. The Customer will be billed according to the Billing Frequency as specified above. If either party materially breaches any term of this Agreement and fails to cure such breach within thirty (30) days after notice by the non-breaching party (ten (10) days in the case of non-payment), the non-breaching party may terminate this Agreement immediately upon notice.

7.2 Upon termination, Customer will pay in full for all Software Services performed up to and including the effective date of termination. Upon any termination of this Agreement: (a) all Software Services provided to Customer hereunder shall immediately terminate; and (b) each party shall return to the other party or, at the other party's option, destroy all Confidential Information of the other party in its possession.

7.3 All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

8. WARRANTY AND DISCLAIMER

8.1 OpenGov represents and warrants that: (i) it has all right and authority necessary to enter into and perform this Agreement; and (ii) the Software Services shall be performed in a professional and workmanlike manner in accordance with generally prevailing industry standards.

8.2 Customer represents and warrants that (i) it has all right and authority necessary to enter into and perform this Agreement; (ii) it owns all right, title, and interest in and to all data provided to OpenGov for use in and in connection with this Agreement, or possesses the necessary authorization thereto; and (iii) OpenGov's use of such materials in connection with the Software Services will not violate the rights of any third party.

8.3 OPENGOV DOES NOT WARRANT THAT THE SOFTWARE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SOFTWARE SERVICES. EXCEPT AS SET FORTH IN THIS SECTION 8, THE SOFTWARE SERVICES ARE PROVIDED "AS IS" AND OPENGOV DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

9. LIMITATION OF LIABILITY. NEITHER PARTY, NOR ITS SUPPLIERS, OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES, SHALL BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR RELATED TERMS AND CONDITIONS UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES; OR (C) FOR ANY MATTER BEYOND SUCH PARTY'S REASONABLE CONTROL, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. IN NO EVENT SHALL EITHER PARTY'S AGGREGATE, CUMULATIVE LIABILITY FOR ANY CLAIMS ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT EXCEED THE FEES PAID BY CUSTOMER TO OPENGOV (OR, IN THE CASE OF CUSTOMER, PAYABLE) FOR THE

OPENGOV, INC. SOFTWARE AGREEMENT

SOFTWARE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY.

10. MISCELLANEOUS. Capitalized terms not otherwise defined in these Terms and Conditions have the meaning set forth in the applicable Software Agreement. Neither party shall be held responsible or liable for any losses arising out of any delay or failure in performance of any part of this Agreement, other than payment obligations, due to any act of god, act of governmental authority, or due to war, riot, labor difficulty, failure of performance by any third party service, utilities, or equipment provider, or any other cause beyond the reasonable control of the party delayed or prevented from performing. OpenGov shall have the right to use and display Customer's logos and trade names for marketing and promotional purposes in connection with OpenGov's website and marketing materials, subject to Customer's trademark usage guidelines (as provided to OpenGov). If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is not assignable or transferable by either party without the other party's prior written consent, provided however that either party may assign this Agreement to a successor to all or substantially all of its business or assets. This Agreement (including the Software Agreement) is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications, and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties. No agency, partnership, joint venture, or employment is created as a result of this Agreement and neither party has any authority of any kind to bind the other party in any respect. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. This Agreement shall be governed by the laws of the State of California without regard to its conflict of laws provisions

**Appendix B
OpenGov Service Level Metrics**

1. SCHEDULED DOWNTIME. When needed, OpenGov will schedule downtime for routine maintenance or system upgrades ("**Scheduled Downtime**") for its Services. OpenGov shall exercise commercially reasonable efforts to schedule Scheduled Downtime outside of peak traffic periods. OpenGov will notify Customer's designated contact at least twenty-four (24) hours prior to the occurrence of Scheduled Downtime.

2. SYSTEMS ACCESSABILITY WARRANTY.

A. The Services will be accessible 99.9% of the time, 7 days of the week, and 24 hours per day, as calculated over a calendar month ("**Systems Accessibility Warranty**"). Such System Accessibility Warranty shall not apply to, and OpenGov will not be responsible for, any inaccessibility which: 1) results from Scheduled Downtime, including a maintenance period every Tuesday from 6:00pm Pacific Time to 11:00pm Pacific Time; 2) results from a failure of equipment, software or services not under the direct control of OpenGov; 3) results from the failure of communication or telephone access service or other outside service or equipment not the fault of OpenGov; 4) is caused by a third party not under OpenGov' control; or 5) is a result of causes beyond the reasonable control of OpenGov, including any force majeure event. To the extent solely under OpenGov' control, OpenGov shall be responsible for monitoring and maintaining adequate controls over Customer Data transmissions and storage. OpenGov shall be solely responsible for setting applicable data processing and transmission parameters.

B. If the Services experience Downtime, then as Customer's sole and exclusive remedy, and OpenGov' sole and exclusive financial liability and obligation, Customer is entitled to a Service Level Credit equal as follows:

Monthly Uptime Percentage	Percentage of monthly bill for Services to be credited to future monthly bills of Customer
99.00% - < 99.9%	10%
95.00% - < 99.00%	25%
< 95.00%	50%

OPENGOV, INC. SOFTWARE AGREEMENT

- **“Downtime”** means that for a valid request by our external verification service, made on no less than a minutely basis, results in a server error (HTTP status 5XX or the server response takes 3 or more minutes).
- **“Downtime Period”** means a period of fifteen consecutive minutes of Downtime. Intermittent Downtime for a period of less than fifteen minutes will not be counted towards any Downtime Periods.
- **“Monthly Uptime Percentage”** means total number of minutes in a month, minus the number of minutes of Downtime suffered from all Downtime Periods in a month, divided by the total number of minutes in a month.

C. To receive a Service Level Credit, Customer must submit a written request for Service Level Credits to Customer's designated account manager or the OpenGov support team. To be eligible, the request must (i) include the dates and times of each incident of Downtime experienced by Customer in the preceding month; and (ii) be received by OpenGov within thirty days after the end of the current monthly period in which the Downtime occurred.

EXHIBIT A**OpenGov Service Level Metrics**

D. Upon receipt of a Service Level Credit request in compliance with the above requirements, OpenGov shall have 30 days to review the request and to validate the information provided. If OpenGov determines in good faith that the Services failed to meet the Systems Accessibility Warranty as alleged in such a request, then OpenGov will apply such Service Level Credits to Customer's next billing period. Customer's failure to comply with the provisions of Section 2.C. above will disqualify it from receiving a Service Level Credit.

E. Customers whose accounts are past due, delinquent, and/or not in good standing at any time during the service month of a given service outage are not eligible for a credit.

APPENDIX C**OpenGov Support Services**

1. **Support.** Customer support is available via email 12 hours per day, Monday through Friday, excluding OpenGov corporate designated holidays. See below for a list of holidays observed by OpenGov. Problems may be reported any time, however, OpenGov will not be obligated to assign work after business hours (9 a.m. to 5 p.m. Pacific Time).
2. **Liaisons.** On or before the Activation Date, Customer and OpenGov shall each designate a liaison as a respective point of contact for technical issues. Each party may change such liaison upon written notice from time to time at reasonable intervals. OpenGov will not be obligated to provide support to any person other than the Customer's designated liaison.
3. **Holidays.** OpenGov observes the following holidays: New Year's Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving Day, Christmas Eve Day, Christmas Day, and New Year's Eve.



CITY OF CUPERTINO

Legislation Text

File #: 20-7954, **Version:** 1

Subject: Award and authorize the City Manager to execute a construction contract with Spencon Construction, Inc, for the 2020 Reconstruction of Curbs, Gutters and Sidewalks, Project No. 2021-102

Award a construction contract for the 2020 Reconstruction of Curbs, Gutters and Sidewalks project; and authorize the City Manager to execute a construction contract with Spencon Construction, Inc., in the amount of \$843,713.75 and further authorize the Director of Public Works to execute any necessary change orders up to a 10% construction contingency of \$84,371.00 for a total of \$928,084.75

Contract

This public works contract (“Contract”) is entered into by and between the City of Cupertino (“City”), a municipal corporation, and Spenco Construction, Inc. (“Contractor”), for work on the **2020 Reconstruction of Curbs, Gutters and Sidewalks** (“Project”).

The parties agree as follows:

1. **Award of Contract.** In response to the Notice Inviting Bids, Contractor has submitted a Bid Proposal and accompanying Bid Schedule, a copy of which is attached for convenience as Exhibit A, to perform the Work to construct the Project. On _____, 20____, City authorized award of this Contract to Contractor for the amount set forth in Section 4 below.
2. **Contract Documents.** The Contract Documents incorporated into this Contract include and are comprised of all of the documents listed below. The definitions provided in Article 1 of the General Conditions apply to all of the Contract Documents, including this Contract:
 - 2.1 Notice Inviting Bids;
 - 2.2 Instructions to Bidders;
 - 2.3 Addenda, if any;
 - 2.4 Bid Proposal and attachments thereto;
 - 2.5 Contract;
 - 2.6 Payment Bond, and Performance Bond;
 - 2.7 General Conditions;
 - 2.8 Special Conditions;
 - 2.9 Project Plans and Specifications;
 - 2.10 Change Orders, if any;
 - 2.11 Notice of Award;
 - 2.12 Notice to Proceed;
 - 2.13 City of Cupertino Standard Details; and
 - 2.14 The following: Traffic Control Requirements
3. **Contractor’s Obligations.** Contractor will perform all of the Work required for the Project, as specified in the Contract Documents. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, supplies, tools, equipment, transportation, onsite facilities and utilities, unless otherwise specified in the Contract Documents. Contractor must use its best efforts to diligently prosecute and complete the Work in a professional and expeditious manner and to meet or exceed the performance standards required by the Contract Documents.
4. **Payment.** As full and complete compensation for Contractor’s timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, City will pay Contractor \$_____ (“Contract Price”) for all of Contractor’s direct and indirect costs to perform the Work, including all labor, materials, supplies, equipment, taxes, insurance, bonds and all overhead costs, in accordance with the payment provisions in the General Conditions.
5. **Time for Completion.** Contractor will fully complete the Work for the Project May 1, 2021. By signing below, Contractor expressly waives any claim for delayed early completion.
6. **Liquidated Damages.** If Contractor fails to complete the Work within the Contract Time, City will assess liquidated damages in the amount of \$1,000 per day for each day of unexcused delay in completion, and such liquidated damages may be deducted from City’s payments due or to become due to Contractor under this Contract.

7. Labor Code Compliance.

7.1 General. This Contract is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, including requirements pertaining to wages, working hours and workers' compensation insurance, as further specified in Article 9 of the General Conditions.

7.2 Prevailing Wages. This Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available online at <http://www.dir.ca.gov/DLSR>.

7.3 DIR Registration. City may not enter into the Contract with a bidder without proof that the bidder and its Subcontractors are registered with the California Department of Industrial Relations to perform public work pursuant to Labor Code section 1725.5, subject to limited legal exceptions.

8. Workers' Compensation Certification. Pursuant to Labor Code section 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code section 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work on this Contract."

9. Conflicts of Interest. Contractor, its employees, Subcontractors and agents, may not have, maintain or acquire a conflict of interest in relation to this Contract in violation of any City ordinance or requirement or in violation of any California law, including Government Code section 1090 et seq., or the Political Reform Act, as set forth in Government Code section 81000 et seq. and its accompanying regulations. No officer, official, employee, consultant, or other agent of the City ("City Representative") may have, maintain, or acquire a "financial interest" in the Contract, as that term is defined under the Political Reform Act (Government Code section 81000, et seq., and regulations promulgated thereunder); or under Government Code section 1090, et seq.; or in violation of any City ordinance or requirement while serving as a City Representative or for one year thereafter. Any violation of this Section constitutes a material breach of the Contract.

10. Independent Contractor. Contractor is an independent contractor under this Contract and will have control of the Work and the means and methods by which it is performed. Contractor and its Subcontractors are not employees of City and are not entitled to participate in any health, retirement, or any other employee benefits from City.

- 11. Notice.** Any notice, billing, or payment required by or pursuant to the Contract Documents must be made in writing, signed, dated and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, or by email as a PDF file. Notice is deemed effective upon delivery, except that service by U.S. Mail is deemed effective on the second working day after deposit for delivery. Notice for each party must be given as follows:

City:

Name: City of Cupertino
Address: 10300 Torre Avenue
City/State/Zip: Cupertino, CA 95014
Phone: 408-777-3354
Attn: Director of Public Works
Email: joannej@cupertino.org
Copy to: pwinvoices@cupertino.org

Contractor:

Name: Spencon Construction, Inc.
Address: PO Box 1220
City/State/Zip: Danville, CA 94526
Attn: Steve Stahl
Email: Steve@spenconconstruction.com
Copy to: Spencer@spenconconstruction.com

12. General Provisions.

- 12.1 Assignment and Successors.** Contractor may not assign its rights or obligations under this Contract, in part or in whole, without City's written consent. This Contract is binding on Contractor's and City's lawful heirs, successors and permitted assigns.
- 12.2 Third Party Beneficiaries.** There are no intended third party beneficiaries to this Contract.
- 12.3 Governing Law and Venue.** This Contract will be governed by California law and venue will be in the Santa Clara County Superior Court, and no other place. Contractor waives any right it may have pursuant to Code of Civil Procedures Section 394, to file a motion to transfer any action arising from or relating to this Contract to a venue outside Santa Clara County, California.
- 12.4 Amendment.** No amendment or modification of this Contract will be binding unless it is in a writing duly authorized and signed by the parties to this Contract.
- 12.5 Integration.** This Contract and the Contract Documents incorporated herein, including authorized amendments or Change Orders thereto, constitute the final, complete, and exclusive terms of the agreement between City and Contractor.
- 12.6 Severability.** If any provision of the Contract Documents, or portion of a provision, is determined to be illegal, invalid, or unenforceable, the remaining provisions of the Contract Documents will remain in full force and effect.
- 12.7 Iran Contracting Act.** If the Contract Price exceeds \$1,000,000, Contractor certifies, by signing below, that it is not identified on a list created under the Iran Contracting Act, Public Contract Code § 2200 et seq. (the "Act"), as a person

ATTACHMENT A – DRAFT CONTRACT

engaging in investment activities in Iran, as defined in the Act, or is otherwise expressly exempt under the Act.

- 12.8 Authorization.** Each individual signing below warrants that he or she is authorized to do so by the party that he or she represents, and that this Contract is legally binding on that party. If Contractor is a corporation, signatures from two officers of the corporation are required pursuant to California Corporation Code section 313.

[Signatures are on the following page.]

ATTACHMENT A – DRAFT CONTRACT

The parties agree to this Contract as witnessed by the signatures below:

CONTRACTOR

Spencon Construction, Inc.
<insert full name of Contractor above>

CITY OF CUPERTINO
A Municipal Corporation

By _____
Name _____
Title _____
Date _____

By _____
Deborah L. Feng
City Manager
Date _____

By _____
Name _____
Title _____
Date _____

APPROVED AS TO FORM:

By _____
Name _____
City Attorney
Date _____

ATTEST:

Kirsten Squarcia
City Clerk
Date _____

Contract Amount: \$843,713.75
P.O. No. _____
Account No. 270-85-820 750-020

END OF CONTRACT

Bid Results
 2020 Reconstruction of Curbs, Gutters and Sidewalks
 Bid Opening 9.1.20, 2:00 PM

One CY YD to Six CU YD	Unit	Est Qty	Spenco Construction		J.J.R. Construction		Guerra Construction Group		Burch Construction Company		McKim Corporation		Rosas Brothers Construction		
			Unit Cost	Total Cost	Unit Cost	Total Cost	Unit Cost	Total Cost	Unit Cost	Total Cost	Unit Cost	Total Cost	Unit Cost	Total Cost	
1	Remove and Replace Sidewalk	SF	29,000	\$13.00	\$377,000.00	\$13.00	\$377,000.00	\$14.25	\$413,250.00	\$15.00	\$435,000.00	\$13.17	\$381,930.00	\$15.50	\$449,500.00
2	Remove and Replace Driveway	SF	9,455	\$14.25	\$134,733.75	\$16.55	\$156,480.25	\$16.00	\$151,280.00	\$13.00	\$122,915.00	\$18.32	\$173,215.60	\$20.00	\$189,100.00
3	Remove and Replace Curb and Gutter (Detail 1-16 Type A2-6 or Type E)	LF	3,010	\$62.00	\$186,620.00	\$60.00	\$180,600.00	\$59.00	\$177,590.00	\$75.00	\$225,750.00	\$54.11	\$162,871.10	\$80.00	\$240,800.00
4	Remove Park Strip Improvements	SF	4,755	\$2.00	\$9,510.00	\$4.35	\$20,684.25	\$5.00	\$23,775.00	\$10.00	\$47,550.00	\$6.74	\$32,048.70	\$8.00	\$38,040.00
5	Valley Gutter	SF	290	\$20.00	\$5,800.00	\$22.05	\$6,394.50	\$25.00	\$7,250.00	\$35.00	\$10,150.00	\$36.31	\$10,529.90	\$50.00	\$14,500.00
6A	Depressed Curb Ramp (Caltrans Type A)	EA	1	\$3,900.00	\$3,900.00	\$3,440.00	\$3,440.00	\$2,900.00	\$2,900.00	\$3,200.00	\$3,200.00	\$7,250.00	\$7,250.00	\$5,100.00	\$5,100.00
6B	Depressed Curb Ramp (Caltrans Type B)	EA	1	\$3,900.00	\$3,900.00	\$3,440.00	\$3,440.00	\$4,700.00	\$4,700.00	\$3,200.00	\$3,200.00	\$7,250.00	\$7,250.00	\$5,100.00	\$5,100.00
6C	Depressed Curb Ramp (Caltrans Type C)	EA	8	\$3,900.00	\$31,200.00	\$3,440.00	\$27,520.00	\$4,900.00	\$39,200.00	\$3,500.00	\$28,000.00	\$7,085.00	\$56,680.00	\$5,100.00	\$40,800.00
6D	Depressed Curb Ramp (Caltrans Type D)	EA	1	\$3,000.00	\$3,000.00	\$3,440.00	\$3,440.00	\$3,200.00	\$3,200.00	\$3,200.00	\$3,200.00	\$7,260.00	\$7,260.00	\$5,100.00	\$5,100.00
6E	Depressed Curb Ramp (Caltrans Type E)	EA	1	\$3,000.00	\$3,000.00	\$3,440.00	\$3,440.00	\$3,000.00	\$3,000.00	\$3,500.00	\$3,500.00	\$7,260.00	\$7,260.00	\$5,100.00	\$5,100.00
6F	Depressed Curb Ramp (Caltrans Type F)	EA	3	\$3,000.00	\$9,000.00	\$3,440.00	\$10,320.00	\$2,500.00	\$7,500.00	\$3,200.00	\$9,600.00	\$5,333.33	\$15,999.99	\$5,100.00	\$15,300.00
6G	Depressed Curb Ramp (Caltrans Type G)	EA	3	\$3,000.00	\$9,000.00	\$3,440.00	\$10,320.00	\$2,900.00	\$8,700.00	\$3,200.00	\$9,600.00	\$5,333.33	\$15,999.99	\$5,100.00	\$15,300.00
7	Upgrade Existing Ramp	EA	2	\$500.00	\$1,000.00	\$450.00	\$900.00	\$1,300.00	\$2,600.00	\$2,000.00	\$4,000.00	\$600.00	\$1,200.00	\$1,200.00	\$2,400.00
8	Retaining Curb	LF	110	\$15.00	\$1,650.00	\$20.00	\$2,200.00	\$90.00	\$9,900.00	\$75.00	\$8,250.00	\$44.55	\$4,900.50	\$40.00	\$4,400.00
9	Root Barriers	LF	200	\$7.00	\$1,400.00	\$5.00	\$1,000.00	\$34.00	\$6,800.00	\$35.00	\$7,000.00	\$22.00	\$4,400.00	\$80.00	\$16,000.00
10	Median Island Curb	LF	100	\$50.00	\$5,000.00	\$32.00	\$3,200.00	\$41.00	\$4,100.00	\$85.00	\$8,500.00	\$55.00	\$5,500.00	\$100.00	\$10,000.00
11	Reconstruct Catch Basin Top	EA	2	\$1,500.00	\$3,000.00	\$1,000.00	\$2,000.00	\$3,800.00	\$7,600.00	\$500.00	\$1,000.00	\$1,500.00	\$3,000.00	\$5,200.00	\$10,400.00
12	Asphalt Replacement	EA	200	\$275.00	\$55,000.00	\$300.00	\$60,000.00	\$370.00	\$74,000.00	\$150.00	\$30,000.00	\$333.80	\$66,760.00	\$480.00	\$96,000.00
				\$843,713.75		\$872,379.00		\$947,345.00		\$960,415.00		\$964,055.78		\$1,162,940.00	



CITY OF CUPERTINO

Legislation Text

File #: 20-8148, **Version:** 1

Subject: Approval of a Master Agreement between the City of Cupertino and 4Leaf, Inc. and a separate Master Agreement between the City of Cupertino and CSG Consultants, Inc., to provide construction management services on various Capital Improvement Program (CIP) projects

- 1) Authorize the City Manager to execute a Master Agreement between the City of Cupertino and 4Leaf, Inc. in the amount not to exceed \$500,000 for a term of approximately two years; and
- 2) Authorize the City Manager to execute a Master Agreement between the City of Cupertino and CSG Consultants, Inc. in the amount not to exceed \$500,000 for a term of approximately two years



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: October 6, 2020

Subject

Approval of a Master Agreement between the City of Cupertino and 4Leaf, Inc. and a separate Master Agreement between the City of Cupertino and CSG Consultants, Inc., to provide construction management services on various Capital Improvement Program (CIP) projects.

Recommended Action

- 1) Authorize the City Manager to execute a Master Agreement between the City of Cupertino and 4Leaf, Inc. in the amount not to exceed \$500,000 for a term of approximately two years; and
- 2) Authorize the City Manager to execute a Master Agreement between the City of Cupertino and CSG Consultants, Inc. in the amount not to exceed \$500,000 for a term of approximately two years.

Description

The recommended Master Agreements will allow staff to utilize construction management resources on an as-needed basis to support the delivery of CIP projects.

Background

Anticipating the need for on-call construction management services, staff completed a qualifications-based selection process in March in accordance with State and City public contract codes. In response to a request for qualifications issued by the City on January 8, 2020, twelve Statements of Qualification (SOQ) were received from firms within the Bay Area, which were evaluated for relevant skills and experience. However, one firm did not formally accept the City of Cupertino (City) requirements for indemnification and insurance coverage and was disqualified, which resulted in a list of eleven qualified consultants.

The City's CIP projects are generally in the public right-of-way (e.g. sidewalk installation, bike lanes, storm drainage, paving, and traffic signal work) or at publicly owned facilities, such as parks and civic buildings. Based on the SOQs received, each firm's experience and strength typically focused on one of these two types of projects.

The selected firms were chosen based on the range of experience in overseeing construction of these types of public infrastructure projects.

Discussion

Staff recommends that 4Leaf, Inc. (4Leaf) and CSG Consultants, Inc. (CSG) each be awarded a master agreement. Both 4Leaf and CSG were identified as the best fit to manage several public right-of-way construction projects in the next two years. 4Leaf has consistently provided plan review services for the Community Development Department since 2014 and has extensive experience performing construction management services for several municipalities in the Bay Area. CSG has provided reliable construction management services to the City since March of 2016. Both firms were selected based on relevant experience, depth and breadth of skills, and accessibility of the firm.

The Master Agreements establish a menu of typical services performed for the administration and management of construction contracts and define a maximum authorized compensation. No funds are encumbered by the Master Agreements. Project-specific services are authorized on a project-by-project basis by the issuance of a Service Order, and are funded directly from the appropriate project budget. In this way, the costs for construction management services for any given project are charged to a specific project, with funds previously approved and allocated in each project budget. There is no fiscal impact caused by approving the recommended Master Agreements.

Through the proposed Master Agreements, Public Works Project Managers can expeditiously bring required construction management personnel onto a project team as needed, further enabling staff to effectively and efficiently deliver capital projects.

Sustainability Impact

No sustainability impact

Fiscal Impact

No fiscal impact. No additional appropriation is required for this action. Subject to Council approval of the Master Agreements between the City and 4leaf, Inc. and the City and CSG Consulting, Inc., the requisite funds will be encumbered from each CIP project budget.

Prepared by: Chad Mosley, Assistant Director of Public Works

Reviewed by: Roger Lee, Director of Public Works

Approved for Submission by: Dianne Thompson, Assistant City Manager

Attachments:

A - Draft Master Agreement for Construction Management Services with 4Leaf, Inc.

B - Draft Master Agreement for Construction Management Services with CSG Consultants, Inc.

Embedded Secure Document

The file <https://cupertino.legistar.com/View.ashx?M=F&ID=8820316&GUID=BA62C1E5-1C93-4D9C-8842-E50DE7ECFD10> is a secure document that has been embedded in this document. Double click the pushpin to view.



Embedded Secure Document

The file <https://cupertino.legistar.com/View.ashx?M=F&ID=8820317&GUID=267F9BC3-023D-4988-B983-8D495BC9B6AB> is a secure document that has been embedded in this document. Double click the pushpin to view.





CITY OF CUPERTINO

Legislation Text

File #: 20-8189, **Version:** 1

Subject: Discussion to adopt a position on Proposition 16, Proposition 19, Proposition 21, Measure RR, and Measure S that are on the November 2020 General Election Ballot

Discuss and determine whether the City will adopt a position on Proposition 16, Proposition 19, Proposition 21, Measure RR, and Measure S that are on the November 2020 General Election Ballot



CITY MANAGER'S OFFICE

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

CITY COUNCIL STAFF REPORT

Meeting: October 6, 2020

Subject

Discussion to adopt a position on Proposition 16, Proposition 19, Proposition 21, Measure RR, and Measure S that are on the November 2020 General Election Ballot

Recommended Action

Discuss and determine whether the City will adopt a position on Proposition 16, Proposition 19, Proposition 21, Measure RR, and Measure S that are on the November 2020 General Election Ballot

Discussion

Mayor Scharf requested that Proposition 16, 19, and 21 and Measure RR and S be discussed by the full Council in order to assist him in voting on these matters as Cupertino's representative at the Cities Association of Santa Clara County. Attached is a summary of each ballot measure prepared by Townsend Public Affairs. It is recommended that Council collectively choose whether or not to adopt a support or oppose position on these measures.

Prepared by: Katy Nomura, Assistant to the City Manager

Approved for Submission by: Dianne Thompson, Assistant City Manager

Attachments:

A – Townsend Report on Proposition 16, 19, and 21 and Measure RR and S

To: City of Cupertino
City Council

From: Townsend Public Affairs, Inc.
Casey Elliott, State Capitol Director

Date: October 6, 2020

Subject: Discussion to adopt a position on Proposition 16, Proposition 19, Proposition 21, Measure RR, and Measure S that are on the November 2020 General Election Ballot

Recommended Action: Discuss and determine whether the City will adopt a position on Proposition 16, Proposition 19, Proposition 21, Measure RR, and Measure S that are on the November 2020 General Election Ballot

PROPOSITION 16

Allows Diversity as a Factor in Public Employment, Education, and Contracting Decisions. Legislative Constitutional Amendment

This measure, placed on the ballot by the State Legislature through ACA 5 (Weber), would permit government decision-making policies to consider race, sex, color, ethnicity, or national origin in order to address diversity by repealing constitutional provisions prohibiting such policies.

In 1996, California voters passed Proposition 209, a constitutional amendment that generally prohibits state and local governments from discriminating against, or granting preferential treatment to, individuals or groups on the basis of race, sex, ethnicity, or national origin in the operation of public employment, education or contracting. Proposition 16 would amend the State Constitution to repeal the provisions of Proposition 209.

Proposition 16 would remove the ban on affirmative action involving race-based or sex-based preferences from the State Constitution, thereby allowing federal law to define the parameters of affirmative action. Courts have ruled that strict racial quotas and racial point systems in higher education admissions are unconstitutional, but that individualized, holistic reviews that consider race, when tailored to serve a compelling interest, are constitutional.

Proposition 16 has been endorsed by a large number of federal and state legislators, as well as locally elected officials. The measure has also been endorsed by a number of organizations, including: California Teachers Assn; California Federation of Teachers; California Labor Federation; California Nurses Assn; the ACLU of California; California State Assn of Counties; California Charter School Assn; California Black Chamber of Commerce; California Hispanic Chambers of Commerce; and, the California NAACP State Conference. In addition to these organizations, the editorial boards for the San Francisco Chronicle, the Mercury News & East Bay Times, and the Los Angeles Times have published in support of the measure.



Proposition 16 is opposed by several state and locally elected officials, as well as by many of the individuals that previously supported Proposition 209. In addition, Proposition 16 is opposed by the following organizations: American Civil Rights Institute; American Freedom Alliance; Chinese American Civic Action Alliance; and the Students for Fair Admissions.

PROPOSITION 19

Changes Certain Property Tax Rules. Legislative Constitutional Amendment

This measure, placed on the ballot by the State Legislature through ACA 11 (Mullin), would allow homeowners who are over 55, disabled, or victims of wildfire or natural disaster to transfer their primary residence's property tax base value to a replacement residence of any value, anywhere in the state. An individual could use these rules up to three times in their lifetime. The measure would also limit the ability of new homeowners who inherit properties to keep their parents' or grandparents' low property tax payments. The measure would allocate most resulting state revenue to fire protection services and reimbursement to local governments for taxation-related changes.

In California, eligible homeowners can transfer their tax assessments to a different home of the same or lesser market value, which allows them to move without paying higher taxes. Homeowners who are eligible for tax assessment transfers are persons over 55 years old, persons with severe disabilities, and victims of natural disasters and hazardous waste contamination. The ballot measure would allow eligible homeowners to transfer their tax assessments anywhere within the state and allow tax assessments to be transferred to a more expensive home with an upward adjustment. The number of times that a tax assessment can be transferred would increase from one to three for persons over 55 years old or with severe disabilities (disaster and contamination victims would continue to be allowed one transfer).

Additionally, in California, parents or grandparents can transfer primary residential properties to their children or grandchildren without the property's tax assessment resetting to market value. Other types of properties, such as vacation homes and business properties, can also be transferred from parent to child or grandparent to grandchild with the first \$1 million exempt from re-assessment when transferred.

Proposition 19 would eliminate the parent-to-child and grandparent-to-grandchild exemption in cases where the child or grandchild does not use the inherited property as their principal residence, such as using a property a rental house or a second home. When the inherited property is used as the recipient's principal residence but has a market value above \$1 million, an upward adjustment in assessed value would occur. The ballot measure would also apply these rules to certain farms.

Proposition 19 has been endorsed by Governor Gavin Newsom, State Treasurer Fiona Ma, State Controller Betty Yee, and Senate President Pro Tempore Toni Atkins. Additionally, the measure is supported by a number of organizations, including: California Professional Firefighters; California Nurses Assn; California State Federation of Labor; California Statewide Law Enforcement Assn; CalAsian Chamber of Commerce; California Black Chamber of Commerce; California Forestry Assn; California NAACP State Conference; Congress of California Seniors;



California Assn of Realtors; California Business Roundtable; California Hispanic Chambers of Commerce; and Californians for Disability Rights.

Proposition 19 is opposed by the Howard Jarvis Taxpayers Association and has received opposing editorials from the Los Angeles Times; The Bakersfield Californian; Mercury News & East Bay Times; and the Orange County Register.

PROPOSITION 21

Expands Local Governments' Authority to Enact Rent Control on Residential Property. Initiative Statute

Proposition 21 would replace the Costa-Hawkins Rental Housing Act, which was approved in 1995. Prior to the enactment of Costa-Hawkins, local governments were permitted to enact rent control ordinances, provided that landlords would receive just and reasonable returns on their rental properties. Costa-Hawkins continued to allow local governments to use rent control, except on housing that was first occupied after February 1, 1995; and, housing units with distinct titles, such as condos, townhouses, and single-family homes.

Proposition 21 would allow local governments to adopt rent control on housing units, except on housing that was first occupied within the last 15 years; and, units owned by people who own no more than two housing units with separate titles, such as single-family homes, condos, and some duplexes, or subdivided interests, such as stock cooperatives and community apartment projects.

Under Costa-Hawkins, landlords are allowed to increase rent prices to market rates when a tenant moves out. Proposition 21 would require local governments that adopt rent control ordinances to allow landlords to increase rental rates by up to 15 percent during the first three years following a vacancy.

Proposition 21 is supported by a number of elected officials, most notably Vermont Senator Bernie Sanders and Congresswoman Maxine Waters. Additionally, the measure is supported by the California Nurses Assn; SEIU State Council; AFSCME California; AIDS Healthcare Foundation; Eviction Defense Network; ACLU of Southern California; and the Los Angeles Tenants Union.

Proposition 21 is opposed by Governor Gavin Newsom, as well as a number of organizations, including: State Building and Construction Trades Council of California; California State Pipe Trades Council; California Conference of Carpenters; American Legion; AMVETS; California Chamber of Commerce; California Council for Affordable Housing; California Seniors Advocates League; Congress of California Seniors; California Taxpayers Assn; and the Howard Jarvis Taxpayers Assn.



MEASURE RR

Caltrain 1/8 Cent Sales Tax

On August 6th, the Caltrain Board of Directors unanimously voted to place a 1/8 cent sales tax on the November 3, 2020 ballot. The ballot measure requires two-thirds voter approval across the three counties to pass.

If approved, Measure RR would add a 1/8-cent sales tax for the three counties that would last for 30 years, raising an estimated \$108 million annually to maintain and expand Caltrain's operations following the launch of electrified service in 2022. The tax measure was made possible by legislation authored by State Senator Jerry Hill, which was signed into law in 2017 (SB 797). The legislation allows the Caltrain Board of Directors to place a measure on the ballot in San Francisco, San Mateo, and Santa Clara counties, provided that the transportation agency and board of supervisors in each county concurs.

Historically, Caltrain has received more than 70% of its funding from fare box revenue, but this has been severely reduced in recent months due to ridership decline from the coronavirus pandemic. Despite not having a dedicated funding source, the system has become the seventh largest commuter railroad in the country, and the largest carrier of bikes of any American transit system. The pandemic has highlighted the need for Caltrain to establish a more diverse set of revenues to absorb the impacts of the pandemic and to grow to meet the region's demands. Many feel that dependence on fare revenue is not a reliable means of supporting a system of Caltrain's size. Prior to the pandemic, Caltrain's average weekday ridership was 65,000 passengers, but since shelter-in-place orders were issued earlier this year, Caltrain ridership has dipped significantly.

Currently, Caltrain's service is supported by Federal pandemic relief funding provided by the CARES Act, but those funds are not expected to last through the end of the year. Without new sources of funding, or a significant increase in ridership Caltrain would need to reduce or suspend service altogether.

Measure RR is supported by San Francisco Mayor London Breed, Senator Diane Feinstein, the Caltrain Board, and a number of organizations, including the Cities Association of Santa Clara County, San Francisco Transit Riders, and Seamless Bay Area. Additionally, the editorial boards of the San Francisco Chronicle and the Mercury News have published in support of Measure RR.

MEASURE S

Santa Clara Valley Water District Parcel Tax

Measure S, the Safe, Clean Water and Natural Flood Protection Program, would make permanent an annual tax of \$67.67 per home, that voters approved in 2012 and is currently scheduled to expire in 2028. The permanent funding would help ensure public health and safety by protecting drinking water supply from earthquakes and climate change; reducing pollution in waterways; and providing flood protection.



The measure contains \$263 million for flood control projects, \$54 million to help with seismic upgrades to Anderson Dam, \$155 million for creek restoration and wildlife projects, \$51 million for creek clean-up projects, and \$53 million in community grants for environmental education and conservation projects.

In 2012, the current parcel tax passed with 74% of the vote. Measure S renews the Santa Clara County Water District's existing parcel tax, which averages \$.006 per square foot annually. The existing parcel tax raises approximately \$45.5 million annually for the District and provides for qualifying senior exemptions, annual audits, and an independent citizen oversight committee.

Measure S has been endorsed by the Santa Clara County Farm Bureau, San Jose Water Company, Cities Association of Santa Clara County, San Jose/Silicon Valley NAACP, and several city chambers of commerce. Supporters say that the measure is critical for the quality of life in the South Bay, as the population grows, and climate change makes weather extremes more volatile.

A coalition of environmental groups, including the Sierra Club and Santa Clara Valley Audubon Society, have raised concerns about the measure, as they wanted the District to streamline and improve its environmental grants program, dedicate more money to conservation programs, and remove funding for a new dam and reservoir that the District is hoping to build at Pacheco Pass. Additionally, opponents of Measure S, including taxpayer protection groups, believe that the District already has enough money from water rates and other taxes and should not be extending the current tax in the current economic climate.





CITY OF CUPERTINO

Legislation Text

File #: 20-7211, **Version:** 1

Subject: City Council to consider modification of Cupertino Municipal Code Section 2.18.030 to limit the use of City Attorney time by individual City Councilmembers.

City Council to consider modification of Cupertino Municipal Code Section 2.18.030 to limit the use of City Attorney time by individual City Councilmembers; and if Council decides to proceed, conduct the first reading of Ordinance No. 20-2212: An Ordinance of the City Council of the City of Cupertino Amending City Code Section 2.18.030 (Council-Attorney Relations) of Chapter 2.18 (City Attorney) to Title 2 (Administration and Personnel) to Limit use of City Attorney Time by Individual City Councilmembers.



CITY OF CUPERTINO

Legislation Text

File #: 20-8238, **Version:** 1

Subject: COVID-19 Response: Coronavirus Aid, Relief and Economic Security (CARES) Act Framework and Funding Priorities

1. Review, discuss, and approve CARES Act Grant Funding and Funding Priorities.
2. Adopt Resolution No. 20-116 amending the budget and authorizing the City Manager to accept \$735,259 Coronavirus Relief Fund (CRF) from the US Treasury (pass-through via the State of California) and \$553,939 in CARES-CV from US Department of Housing and Urban Development (HUD).



ADMINISTRATIVE SERVICES DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
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CITY COUNCIL STAFF REPORT

Meeting: October 6, 2020

Subject

COVID-19 Response: Coronavirus Aid, Relief and Economic Security (CARES) Act Framework and Funding Priorities

Recommended Action

1. Review, discuss, and approve CARES Act Grant Funding and Funding Priorities.
2. Adopt Resolution No. XXX amending the budget and authorizing the City Manager to accept \$735,259 Coronavirus Relief Fund (CRF) from the US Treasury (pass-through via the State of California) and \$553,939 in CARES-CV from US Department of Housing and Urban Development (HUD).

Discussion

Since the beginning of the pandemic, cities have incurred millions of dollars in unanticipated emergency spending to protect their residents and prevent further spread of the virus. Through the Coronavirus Relief Fund, the CARES Act provides for payments to State, Local, and Tribal governments navigating the impacts of COVID-19. The Act has three different funding streams, including the Coronavirus Relief Fund (CRF), Community Development Block Grant (CDBG) funding through the Federal Department of Housing and Urban Development (HUD), and Unemployment Insurance (UI) Benefits costs reimbursement up to 50% of actual costs.

The City submitted a form to the California Department of Finance on July 6, 2020 which certified the appropriate use of the funds and adherence to federal guidance, the State's stay-at-home requirements, and other health requirements as directed. Cities with populations between 300,000 and 500,000 were allocated \$225 million, and cities with populations of less than 300,000 were allocated \$275 million. Generally, the population of the city was used to determine the share of the allocation, with no city receiving less than \$50,000. The City of Cupertino's allocated share was \$735,259. Federal law specifies that these funds may only be used for unbudgeted costs incurred between March 1, 2020 and December 30, 2020. All funds must be spent (not merely encumbered) by the end of the calendar year.

The allocations, however, do not address the serious situation cities face given the revenue shortfalls caused by COVID-19 and the resulting public safety orders. The California League of Cities will continue to advocate for the resources that cities need to address this revenue loss and which are needed to continue to provide core services to residents and help kick start recovery.

There are six eligible expenditure categories for appropriate use of the CARES Act funding:

1. Medical Expenses
 - Treatment of COVID-19 and related expenses in public hospitals or clinics
 - Temporary medical facilities
 - Testing, including serological/anti-body testing
 - Emergency medical response, including emergency medical transportation
 - Establishing and operating public telemedicine capabilities
2. Public Health Expenses
 - Communication/enforcement-public health orders
 - Acquisition and distribution of medical and protective supplies (PPE/cleaning supplies) for various public health and safety staff
 - Disinfection of public areas and other facilities
 - Technical assistance on mitigation
 - Public safety measures in response to COVID-19
 - Quarantining individuals
3. Substantially Dedicated Payroll Expenses
 - Includes: public safety, public health, health care, human services, and similar employees
 - Public health and public safety are presumed to be “substantially dedicated”
4. Comply with Public Health Measures and Mitigate the Effects of COVID-19
 - Food delivery to seniors and vulnerable populations
 - Telework capabilities for public employees
 - Providing paid sick, paid family, and medical leave to public employees
 - Caring for homeless
5. Economic Support
 - Grants to small businesses for costs of business interruption
 - Grant or financial assistance – payment of overdue rent/mortgage to avoid eviction or funeral expense
 - Payroll support program
 - Unemployment insurance (UI)
6. Other: Any other COVID-19 expenses “reasonably necessary” to the function of government that satisfies the broader eligibility criteria:
 - Hazard pay and overtime if substantially dedicated
 - Increases workers compensation costs due to COVID-19

- Leases renewed solely to respond to COVID-19
- Public health emergency recovery planning
- Enrollment in government benefit programs

The following items are limitations and rules for the use of CARES Act funding:

- Funds cannot be used to backfill lost revenue
- Cannot be used as non-federal share of Medicaid
- Payroll or benefits for employee duties not “substantially dedicated” to COVID-19
- Workforce bonuses
- Damages covered by insurance
- Assistance to owners to pay property taxes
- Unspent funds must be returned to the US Treasury
- Subrecipients are bound by this requirement; all expenses must be incurred during the covered period

The Treasury’s Office of Inspector General (OIG) is responsible for compliance monitoring and oversight of the receipt, disbursement, and use of Coronavirus Relief Fund payments. For administrative convenience purposes, the OIG is operating under the presumption that public safety employees (and public health, health care, and human services) are substantially dedicated to mitigating and responding to COVID-19. As a result, all of Cupertino’s public safety costs contracted through the County Sheriff’s Office are allowable to the extent of the \$735,259 available funding.

The City has already incurred these public safety costs and because they would otherwise be unallowable for reimbursement through other funding sources, staff believe it is financially prudent to relieve the General Fund of the costs already incurred. As such, staff recommend the City’s share of CARES funding be allocated and reported for public safety costs.

Staff also recommend moving forward, as originally planned, to fund other COVID-19 mitigation and response measures. It is likely these proposed requests may be deemed allowable for reimbursement through subsequent relief funding (CARES Act, FEMA, or other). Once the COVID-19 emergency period has ended, the City will have sixty (60) days to submit remaining eligible expenses for FEMA reimbursement.

To date the City has spent approximately \$81,000, \$24,500, and \$50,000 on Category 2, Category 4, and Category 5 expenses, respectively. Category 2 primarily consisted of cleaning, sanitation, and personal protective equipment (PPE) costs. Category 4 included homeless encampment, employee telework, and senior meal delivery. Lastly, Category 5 comprised a grant contribution to West Valley Community Services for emergency assistance funds for tenants at risk of eviction. The City is proposing to spend an additional \$580,300 as follows:

Category 2 – Proposed Requests:

Amount	Description
\$ 20,000	Installation of door openers across all City-owned facility. Acrylic shields for facility cubicles
\$ 60,000	Hands-free plumbing fixtures throughout City facilities
\$ 50,000	Installation of occupancy sensors for lighting systems
\$ 50,000	Disinfecting and sanitary coating to plenums at City Hall
\$ 79,300	Touchless drinking fountain replacements at various park sites
\$ 50,000	Disinfection of public areas, facilities, and sanitizing wipes
\$ 309,300	

Category 4 – Proposed Requests:

Amount	Description
\$ 50,000	Distance learning for Recreation programs
\$ 35,000	Technology for Seniors (hotspots, iPads)
\$ 5,000	Multiple wall mount sanitizers
\$ 16,000	Touchless ice machines
\$ 18,000	Senior meal delivery
\$ 28,800	Daycare distance learning equipment
\$ 200	Sanikeys for public employees
\$ 8,000	Signage, stickers, decals for public awareness and outreach
\$ 50,000	Telework capabilities
\$ 211,000	

Category 5 – Proposed Requests:

Amount	Description
\$ 60,000	Emergency assistance for Cupertino tenants impacted by COVID-19

Community Development Block Grant (CDBG)

In addition to the City of Cupertino’s \$735,259 Coronavirus Relief Fund (CRF) allocation, the City has been awarded a Community Development Block Grant (CDBG) to prevent, prepare for, and respond to COVID-19 through providing quality subsidized housing and expanding economic opportunities for low-and-moderate persons through the Department of Housing and Urban Development (HUD) programs. The City has confirmed that these CARES Act funds will not count toward the \$735,259 allocation, but will be in addition to the \$735,259 allocation.

On May 19, 2020, Council considered authorization of the initial CDBG funding award of \$229,017. The funds were authorized to establish the Cupertino Small Business Emergency Relief Grant Program in collaboration with the Enterprise Foundation, which provides economic development educational and referral services through the Silicon Valley Small Business Development Center (SBDC). As of September 2020, the City received its third round of CARES Act funding, an additional \$324,922 of CDBG CARES-CV funds. City Council has the option to continue the Cupertino Small Business

Emergency Relief Grant Program by allocating these additional funds toward a second round of grants to local small businesses.

Unemployment Insurance

The Employment Development Department (EDD) issued a letter on July 24, 2020, notifying the City of its eligibility for tax relief under the federal CARES Act. The City is eligible to recuperate up to 50% of unemployment insurance costs incurred as a result of COVID-19. To date, the City effectively realized \$106,230 in costs of which \$53,115 or 50% have been reimbursed by the State of California's Employment Development Department (EDD) in the form of a credit.

Sustainability Impact

No sustainability impact.

Fiscal Impact

The City will be receiving \$1,289,198 in CARES Act relief funding excluding unemployment insurance reimbursement (\$735,259 primary CARES Act allocation and \$553,939 for CDBG-CV). These grant revenues will be offset with expenditures incurred for public safety and additional proposed requests as discussed above. The net financial impact on the City would be minimal.

Prepared by: Zach Korach, Finance Manager

Reviewed by: Kristina Alfaro, Administrative Services Director

Approved for Submission by: Dianne Thompson, Assistant City Manager

Attachments:

A – Resolution No. 20-XXX

Attachment A

RESOLUTION NO. 20-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
AMENDING THE OPERATING BUDGET FOR FISCAL YEAR 2020-21 BY
APPROPRIATING 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 is authorized to accept Coronavirus Relief Fund (CRF) monies from the US Treasury (pass-through via the State of California) and CARES-CV monies from US Department of Housing and Urban Development (HUD).

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 ratify the attached amended appropriations.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 6th day of October 2020, by the following vote:

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

AYES:

NOES:

ABSENT:

ABSTAIN:

<p>SIGNED:</p> <p>_____</p> <p>Steven Scharf, 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>

Appropriation Amendment by Fund	Appropriation Amendment	Revenue Amendment	Fund Balance (Use of)
General Fund	735,259	735,259	-
Special Revenue Fund	553,939	553,939	-
Total Appropriation Amendment All Funds	1,289,198	1,289,198	-



CITY OF CUPERTINO

Legislation Text

File #: 20-8174, **Version:** 1

Subject: Approve the September 15, 2020 Public Facilities Corporation minutes

Approve the September 15, 2020 Public Facilities Corporation minutes



CUPERTINO

**DRAFT MINUTES
CUPERTINO PUBLIC FACILITIES CORPORATION
Tuesday, September 15, 2020**

**SPECIAL MEETING OF THE CUPERTINO
PUBLIC FACILITIES CORPORATION**

At 12:13 a.m. on Wednesday, September 16, Vice Chair Darcy Paul called the Special Cupertino Public Facilities Corporation meeting to order. This was a teleconference meeting without a physical location.

ROLL CALL

Present: Chair Steven Scharf, Vice Chair Darcy Paul, and Board members Liang Chao, Rod Sinks, and Jon Robert Willey. Absent: None. All Board members teleconferenced for the meeting.

CONSENT CALENDAR

Sinks moved and Scharf seconded to approve the items on the Consent Calendar as presented. Ayes: Scharf, Paul, Chao, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

1. Subject: Approve the April 17, 2012 Public Facilities Corporation minutes
Recommended Action: Approve the April 17, 2012 Public Facilities Corporation minutes
2. Subject: Approve the January 19, 2016 Public Facilities Corporation minutes
Recommended Action: Approve the January 19, 2016 Public Facilities Corporation minutes
3. Subject: Approve the July 5, 2017 Public Facilities Corporation minutes
Recommended Action: Approve the July 5, 2017 Public Facilities Corporation minutes

ORDINANCES AND ACTION ITEMS

4. Subject: Authorizing the execution and delivery of documents relating to the sale and delivery of the City of Cupertino's 2020A Certificates of Participation ("Certificates") to refinance the City's outstanding Certificates of Participation (2012 Refinancing Project) ("2012 Certificates" or "Refunded Certificates") for debt service savings and authorizing related actions.

Recommended Action: Adopt Resolution No. 20-01 of the Board of Directors of the Cupertino Public Facilities Corporation authorizing the execution and delivery of documents relating to the sale and delivery of 2020A Certificates of Participation in a principal amount not to exceed \$27 million and authorizing and directing certain actions in connection therewith.

Scharf moved and Paul seconded to Adopt Resolution No. 20-01 of the Board of Directors of the Cupertino Public Facilities Corporation authorizing the execution and delivery of documents relating to the sale and delivery of 2020A Certificates of Participation in a principal amount not to exceed \$27 million and authorizing and directing certain actions in connection therewith. The motion carried unanimously.

ADJOURNMENT

At 12:17 a.m., on Wednesday, September 16, the Chair adjourned the meeting.

Kirsten Squarcia, Recording Secretary