

**RESOLUTION NO. 22-XXXX**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF  
CUPERTINO FINDING THE PROPOSED CAPITAL IMPROVEMENT  
PROGRAM FISCAL YEAR 2022-23 CONSISTENT WITH THE CITY OF  
CUPERTINO GENERAL PLAN**

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WHEREAS, the City of Cupertino's Capital Improvement Program (CIP) guides the funding and scheduling of infrastructure improvement projects over the coming Fiscal Year. The current CIP recommendations have been updated for the Fiscal Year (FY) 2022-2023 time period for City Council review and consideration; and

WHEREAS, California Government Code Section 65401 requires that City's Planning Commission make a determination that the annual CIP is in conformance with the City's General Plan; and

~~WHEREAS, pursuant to the provisions of the California Environmental Quality Act (CEQA) of 1970 (Public Resources Code section 21000 et seq.) ("CEQA"), together with the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.) (hereinafter, "CEQA Guidelines"), City staff has independently studied the proposed action and has determined that the finding of consistency with the General Plan is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) in that "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." Furthermore, the finding of consistency with the General Plan is not a "project" in that it has no "potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect change in the environment." CEQA Guidelines § 15378(a); and~~

WHEREAS, on April 12, 2022, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by the City, city staff, and other interested parties.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Cupertino hereby finds, determines, and resolves as follows:

Section 1: The Planning Commission has duly considered the full record before it, including the staff report and presentation, maps, facts, exhibits, public testimony and other evidence and materials submitted or provided to the Commission. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

Section 2: The Planning Commission hereby exercises its independent judgment and determines that the action is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3). CEQA Guidelines section 15061(b)(3) states that a project is exempt from CEQA if "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." The action is a determination of consistency with the General Plan and therefore it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment.

Section 3: The Planning Commission finds in accordance with the Cupertino Municipal Code (CMC) section 2.32.070 (C) and state law based on the evidence in the public record that the City's CIP (FY 2022-2023) conforms to the City's General Plan (Community Vision 2015-2040.)

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~~BE IT FURTHER RESOLVED that this Resolution is not a project under the requirements of the California Environmental Quality Act, together with related State CEQA Guidelines (collectively, "CEQA") because it has no potential for resulting in physical change in the environment. In the event that this Resolution is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a significant effect on the environment. CEQA applies only to actions which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.~~

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Cupertino this 12 day of April 2022, by the following vote:

Members of the Planning Commission

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:	
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<div>_____</div> <div>Benjamin Fu</div> <div>Director of Community Development</div>	<div>_____</div> <div>Date</div>
<div>APPROVED:</div> <div>_____</div> <div>Steven Scharf, Chair, Planning Commission</div>	<div>_____</div> <div>Date</div>