RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO APPROVING THE USE OF DESIGN-BUILD PROJECT DELIVERY PURSUANT TO PUBLIC CONTRACT CODE SECTION 22160 ET SEQ., AND ESTABLISHING A CONFLICT-OF-INTEREST LIMITATION PURSUANT TO PUBLIC CONTRACT CODE SECTION 22162

WHEREAS, Public Contract Code section 22160 et seq. authorizes local agencies, including cities, to use the design-build method of project delivery for qualifying projects in excess of $1,000,000, and sets forth requirements for use of design-build project delivery; and

WHEREAS, the Legislature has declared that the design-build method of project delivery, which may use a best value procurement methodology, has reported benefits, including reduced project costs, expedited project completion, and design features that are not achievable through the traditional design-bid-build method; and

WHEREAS, pursuant to Public Contract Code section 22162(a), City Council approval is required in order to procure design-build contracts for qualifying public works projects in excess of $1,000,000; and

WHEREAS, the City Council now desires to approve the use of design-build project delivery pursuant to Public Contract Code section 22160 et seq. for any qualifying project in excess of $1,000,000 which the Director of Public Works has determined could be delivered more efficiently using design-build instead of design-bid-build procurement; and

WHEREAS, Public Contract Code section 22162(c) requires local agencies to develop conflict-of-interest guidelines, consistent with applicable law, regarding the ability of a person or entity that performs services relating to the solicitation for a design-build project, to submit a proposal as a design-build entity or to join a design-build team.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby approve the use of design-build project delivery pursuant to Public Contract Code section 22160 et seq. for any qualifying project in excess of $1,000,000 which the Director of Public Works has determined could be delivered more efficiently using

design-build instead of design-bid-build procurement, subject to the conflict-of-interest limitation set forth herein.

BE IT FURTHER RESOLVED that any person or entity providing services for the City related to the solicitation of a design-build project, including, but not limited to, services pertaining to preparation of the preliminary documents required pursuant to Public Contract Code section 22164(a), may not submit a proposal as a design-build entity or join a design-build team for that project.

BE IT FURTHER RESOLVED that this Resolution, which pertains to general authorization of use of design-build project delivery for future qualifying projects, is not a project under the requirements of the California Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA") because it has no potential for resulting in physical change in the environment, either directly or ultimately. 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 of a significant effect on the environment. CEQA applies only to projects which have the potential of causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, the authorization would have no or only a de minimis impact on the environment. The foregoing determination is made by the City Council in its independent judgment.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this _____ day of _____ 2019, by the following vote.

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

AYES:
NOES:
ABSENT:
ABSTAIN:

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