

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO  
AMENDING BELOW MARKET RATE HOUSING MITIGATION FEES**

WHEREAS, to mitigate the impact of new development on the need for affordable housing within its boundaries, the City of Cupertino (the "City") has since 1993 implemented a Below Market Rate (BMR) Housing Mitigation Program, comprising a non-residential Program and a residential Program, as described in the Housing Element of the General Plan, which requires the payment of housing mitigation fees by non-residential development and residential projects with six units or less or with fractional unit requirements and requires the provision of moderate-income and median-income housing in residential developments with seven or more units (collectively the "Housing Mitigation Program"); and

WHEREAS, the City Council of the City of Cupertino initiated the Nexus Study Update project with the approval of the 2014-2015 Work Program on May 6, 2014, and on March 27, 2015, the City published notice of the initiation of proceedings in the form required by Government Code Section 66474.2(b); and

WHEREAS, the City's existing housing mitigation fees for non-residential development are divided into the following land use categories: Office/Research & Development (R&D)/Industrial, Hotel, and Commercial/Retail; and

WHEREAS, the City has included self-storage and warehouse land uses in the Office/R&D/Industrial category, but in light of the characteristics of those uses, many jurisdictions implementing similar housing mitigation fee programs have recognized separate categories for those uses;

WHEREAS, to further implement the affordable housing goals, objectives, policies, and programs of the City's Housing Element, and to ensure that the housing mitigation fees do not exceed the actual affordable housing impacts attributable to the types of development projects on which the fees are imposed, the City Council has received and considered the report from Keyser Marston Associates, Inc. (KMA) dated January 2020 and entitled "Supplement to the Non-Residential Jobs-Housing Nexus Study" (KMA Report) evaluating

the impact of self-storage and warehouse land uses on demand for affordable housing in the City; and

WHEREAS, the KMA Report uses a widely accepted, appropriate methodology to determine the maximum amount of a fee needed to fully mitigate the burdens on affordable housing created by the types of development evaluated in the Report; and

WHEREAS, the housing mitigation fees set forth in Section 2 below are the maximum amounts identified in the KMA report to fully mitigate the burdens created by new self-storage and warehouse development on the need for affordable housing; and

WHEREAS, at least ten days prior to the date this resolution is being heard, data was made available to the public indicating the amount of cost, or estimated cost, required to provide the service for which the fee or service charge is levied and the revenue sources anticipated to provide the service, including general fund revenues, consistent with Government Code Section 66019; and

WHEREAS, at least fourteen days prior to the date this resolution is being heard, notice was provided to any persons or organizations who had requested notice, consistent with Government Code Section 66019; and

WHEREAS, notice of the hearing on the proposed fees was published twice in a newspaper of general circulation in the manner set forth in Government Code Section 6062a consistent with Government Code Section 66018; and

WHEREAS, a duly and properly noticed public hearing was conducted by the City Council on April 21, 2020.

NOW, THEREFORE, BE IT RESOLVED:

**Section 1.** After careful consideration of the KMA Report, facts, exhibits, staff report, testimony and other evidence submitted in this matter, the City Council finds as follows:

1. The foregoing recitals are true and correct and incorporated into this resolution by this reference.

2. The purpose of the housing mitigation fee is to mitigate the burdens created by new self-storage and warehouse development projects on the need for extremely low, very low, low, median, and moderate-income housing.
3. All housing mitigation fees collected shall be deposited into the City's BMR Affordable Housing Fund (AHF) to be used to increase and preserve the supply of housing affordable to households of extremely low, very low, low, median, and moderate incomes (including necessary administrative costs).
4. The KMA Report utilized a widely used, appropriate methodology to determine the maximum justified fees and inclusionary percentages.
5. The findings of the KMA Report have been considered and are hereby incorporated by this reference into this resolution, and the City Council finds that new non-residential development will create a need for affordable housing by:
  - a. Aggravating the existing shortage of affordable housing by reducing the supply of land for affordable housing and increasing the price of remaining land.
  - b. Increasing local employment at extremely low, very low, low, median, and moderate-income wage levels, which increases the demand for and exacerbates the shortage of housing available to persons at those income levels.
6. As shown in the Housing Element, there is a need in the City for housing affordable to households of extremely low, very low, low, median, and moderate incomes.
7. The facts and substantial evidence in the record establish that there is a reasonable relationship between the need for affordable housing and the impacts of the types of development described in the KMA Report for which the corresponding fee is charged, and that there is also a reasonable relationship between the fee's use and the type of development for which the fee is charged, as is described in more detail in the KMA Report.

8. The KMA Report set forth cost estimates that are reasonable for constructing affordable housing, and the fees expected to be generated by new development will not exceed their share of contribution to these costs.
9. Adoption of this resolution is exempt from the California Environmental Quality Act because the fee amendment is not a project, in that it is a government funding mechanism which does not involve any commitment to any specific project (CEQA Guidelines Section 15378(b)(4)).
10. Because self-storage and warehouse development projects are already subject to the City's housing mitigation fee, the fee amounts set forth in section 2 do not constitute new fees, but rather reflect a reduction in existing fees as applicable to those types of development.

**Section 2.**

1. City Council hereby adopts the following non-residential housing mitigation fee categories and amounts, while retaining all existing mitigation fees adopted with Resolution 15-036, as follows:

<b>Non-Residential Housing Mitigation Fees</b>	
Self-storage, employee unit provided	*\$0.56/sq. ft.
Self-storage, employee unit not provided	*\$1.18/sq. ft.
Warehouse	*\$41.67/sq. ft.

\*Fee amounts shall be adjusted annually on July 1 of each calendar year based on the percentage increase in the Consumer Price Index for All Urban Consumers for San Francisco, California

2. Annual Adjustment to Housing Mitigation Fees. Fees shall be evaluated annually in accordance with the City's review of all fee schedules.
3. Effective Date. This Resolution shall go into full force and effect on July

1, 2020

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ Steven Scharf, Mayor City of Cupertino	_____ Date
ATTEST: _____ Kirsten Squarcia, City Clerk	_____ Date