

DRAFT RESOLUTION NO. 19-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
DECLARING ITS INTENTION TO INITIATE A PROCEEDING TO OBTAIN
APPROVAL OF THE CITY'S 2019 CLEAN WATER AND STORM PROTECTION FEE,
A PROPERTY-RELATED FEE CONFORMING TO ARTICLE XIII, SECTION 6 OF THE
STATE CONSTITUTION

WHEREAS, the City of Cupertino is initiating the 2019 Clean Water and Storm Protection Fee initiative; and

WHEREAS, the City maintains and manages a municipal storm drainage system that includes capital improvements, maintenance and operations, and activities to ensure compliance with all state and federal regulations associated with the National Pollutant Discharge Elimination System ("NPDES"); and

WHEREAS, the City's comprehensive storm drainage system includes man-made drainage elements such as curbs and gutters, ditches, culverts, pipelines, manholes, catch basins (inlets), and outfall structures in addition to the City's natural creek system that serves as an integral part of the system; and

WHEREAS, the City, through its storm drainage system, provides stormwater services ("Services") that include, but are not limited to, collecting, conveying, and managing stormwater runoff from properties within the City, maintaining the storm drainage system, and ensuring compliance of the storm drainage system with all state and federal clean water requirements; and

WHEREAS, the City adopted a Storm Drain Master Plan in January of 2019 to better understand the condition and capacity of this critical infrastructure system, and found there are needs for capital improvements of as much as \$79.28 million, in addition to annual maintenance and operations costs; and

WHEREAS, the City does not have adequate funding to pay for all of the storm drainage system needs identified above, and in order to finance these needs the City would need to enact the 2019 Clean Water and Storm Protection Fee in compliance with Article XIII D of the Constitution, which would require a ballot proceeding; and

WHEREAS, the City Council authorized SCI Consulting Group to perform a rate study and draft a Stormwater Fee Report ("Fee Report") to determine the amount of the fees on various parcels of land that would, in compliance with Article XIII D of the

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Constitution, finance certain capital improvements, operations and maintenance needs and NPDES clean water compliance needs.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cupertino as follows:

SECTION 1. Intention to Seek Approval of a Property Related Fee. The City intends to seek property owner approval of a proposed property related fee to fund the Services ("2019 Clean Water and Storm Protection Fee"), pursuant to Article XIII D, Section 6 of the California Constitution.

SECTION 2. Fee Report. SCI Consulting Group has prepared and submitted to the City a Fee Report concerning the proposed 2019 Clean Water and Storm Protection Fee. The Fee Report has been made, filed with the City, and duly considered by the City Council, and is hereby deemed sufficient and approved. The Fee Report shall stand as the Fee Report for all subsequent proceedings under and pursuant to this resolution. Reference is hereby made to the Fee Report for the following: (a) a description of the Services; (b) the identification of the parcels upon which the 2019 Clean Water and Storm Protection Fee is proposed; (c) the proportional cost of the Services attributable to each parcel; (d) the amount of the Fee proposed for each parcel; and (e) the basis upon which the amount of the proposed Fee was calculated.

SECTION 3. Total Amount of Stormwater Fee. The amount of the proposed 2019 Clean Water and Storm Protection Fee, if approved, that would be collected in Fiscal Year 2019-20 would be approximately \$1,097,787.

SECTION 4. Clean Water and Storm Protection Services. The proposed 2019 Clean Water and Storm Protection Fee will provide funds for operations and maintenance activities, as detailed in the City of Cupertino Storm Drain Master Plan, as well as activities to help ensure City compliance with all state and federal clean water requirements under the National Pollutant Discharge Elimination System permits issued by the San Francisco Bay Regional Water Quality Control Board.

SECTION 5. Public Hearing. A noticed public hearing shall be held before this Council at the City Council chambers at 10350 Torre Avenue, Cupertino CA 95014, and is tentatively planned on May 7, 2019, at 6:45 p.m. for the purpose of conducting a hearing and to consider all protests of property owners regarding the proposed 2019 Clean Water and Storm Protection Fee and this Council's determination whether the public interest, convenience and necessity require the Services. The date set forth above for the public hearing may be delayed without returning for additional approval by the Council,

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provided that such date is not less than forty-five (45) days after the mailing of the notice required and described in Section 6 below.

SECTION 6. Notice of Public Hearing. The City Clerk is hereby directed to cause a notice of the hearing ordered hereof (“Notice”) to be given in accordance with law by mailing, postage prepaid in the United States mail, and such Notice shall be deemed to have been given when so deposited in the mail. The Notice shall be mailed to all record owners, who shall be those persons whose names and addresses appear on the last equalized secured property tax assessment roll for the County of Santa Clara, or in the case of any public entity, the representative of such public entity at the address thereof known to the City Clerk or SCI Consulting Group. The Notice shall be mailed not less than forty-five (45) days before the date of the public hearing.

SECTION 7. Majority Protest. If written protests against the proposed 2019 Clean Water and Storm Protection Fee are presented to the Council by a majority of owners of the identified parcels before the end of the public hearing, the Fee shall not be imposed. Otherwise, this Council may authorize the City to proceed with a property owner ballot proceeding.

SECTION 8. Description of the Proposed 2019 Clean Water and Storm Protection Fee. Information regarding the 2019 Clean Water and Storm Protection Fee, including but not limited to the amount of the Fee proposed to be imposed upon each parcel, the basis upon which the amount of the proposed Fee was calculated, the reason for the Fee, and other elements of the Fee shall be described in the Fee Study, Notice of Public Hearing, Ballot Guide and/or Ballot.

SECTION 9. Fiscal Controls. All revenues received from the proposed 2019 Clean Water and Storm Protection Fee shall be spent only to fund the Services. 2019 Clean Water and Storm Protection Fee revenues received will be deposited into a separate account or fund.

SECTION 10. Cost-of-Living Adjustment Mechanism. If approved by property owners, the 2019 Clean Water and Storm Protection Fee shall be imposed annually. The maximum rate of the 2019 Clean Water and Storm Protection Fee may be adjusted in future years by an amount equal to the annual change in the Consumer Price Index (“CPI”) for All Urban Consumers in the San Francisco Bay Area, not to exceed 3% (three percent) per year without a further vote or balloting process, and any excess CPI may be held in “reserve” to be used in future years when the CPI is less than 3%.

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PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 5th day of March by the following vote:

Vote Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

/s/

/s/

Grace Schmidt, City Clerk

Steven Scharf, Mayor

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